

Use for year ends
between Dec. 1/08
and Nov. 30/09.



Practice Declaration (TA-3) Completion

Questions and Answers

This listing will be updated periodically based on inquiries by members regarding completion of TA-3 (Practice Declaration) form. Refer to Law Society of Saskatchewan website for updates.

1. QUESTION: (#6(a)(ii), #6(a)(iii) and #7(b))

Questions 7(a)(ii) and 7(b) in the TA-3 refer to requirements regarding the Canadian Deposit Insurance Corporation (CDIC). I have discussed the annual reporting requirements with my bank and they were not familiar with these requirements. What is the correct procedure?

ANSWER:

Although annual reporting of client trust amounts has been a requirement of CDIC and the Law Society of Saskatchewan and other provinces for many years, many firms have not been meeting this requirement. Accordingly, some bank branches are not familiar with the requirements. A brief summary of these requirements along with a suggested sample reporting letter and format follows. Please keep in mind that the reporting format is the responsibility of each bank so that the format shown below should only be used after checking with your bank to determine if they have specific formatting requirements.

CANADA DEPOSIT INSURANCE CORPORATION (CDIC)

CDIC provides insurance to depositors in the event that a member financial institution is unable to meet its debt obligations. The depositor is generally covered for up to \$100,000.00. Although all financial institutions may not be CDIC insured, major banks are covered whereas credit unions have their own guarantee mechanism. Deposits with credit unions are 100% guaranteed by Credit Union Deposit Guarantee Corporation.

Law firms holding trust funds on behalf of clients must remit an annual client listing to the financial institution (except for credit unions - no report required). This is to ensure that each client is eligible for the \$100,000.00 insurance coverage. If a listing is not provided, the \$100,000.00 coverage must be shared amongst the clients within the trust bank account. The listing must be prepared as of April 30 and sent by the law firm to the financial institution by May 30 each year.

In the event that a law firm commences practice after April 30, the law firm should send the listing to the financial institution after the first trust reconciliation has been completed. Some points to remember when preparing the client listing for CDIC coverage purposes:

1. The client listing must be as of April 30, and must be remitted within 30 days of that date (by May 30).
2. The client listing should include a client number and a dollar amount. The client name is not required to be disclosed under *The CDIC Act* and as such cannot be disclosed under the *Code of Professional Conduct*.
3. The onus is on the law firm to remit the client listing to the financial institution.

4. The client listing is to be sent to the financial institution not the CDIC.
5. Separate interest-bearing accounts (SIBA) should also be included in the listing submitted to the financial institution as the client may be eligible for additional coverage. If the client has funds in the mixed trust bank account and in a SIBA, both deposits could qualify for the \$100,000.00 coverage. To be eligible, the law firm must demonstrate that more than one "distinct trust arrangement" exists. Otherwise, the trust funds for the client will be aggregated and coverage limited to \$100,000.00.
6. SIBA deposits with a maturity of greater than five years are not eligible for coverage under the CDIC Act.
7. U.S. dollar and all other foreign currency accounts are not eligible for coverage under the CDIC Act.

May 15, 20_____

Bank of _____
Anywhere, Saskatchewan

Dear Sirs:

Re: Annual CDIC Report

In accordance with CDIC reporting requirements and as set out in the Rules of the Law Society of Saskatchewan (Rule 991), I am attaching a listing of client trust amounts on deposit with your branch as at April 30, 20_____.

If any further information is required, please contact me.

Signed _____
Member

LAW FIRM Client Trust Listing April 30, 20_____	
Client	Amount in Trust
#603	\$ 500.00
#894	1,000.00
#897	800.00
#901	200.00
#902	600.00
#903	400.00
#904	<u>500.00</u>
Balance Mixed Trust Account - April 30, 20____	\$ 4,000.00
Separate Interest Bearing Accounts (SIBA's)	
#894	\$ 50,000.00
#903	<u>46,000.00</u>
Total - April 30, 20____	<u>\$100,000.00</u>
Date: _____	Signed: _____ Member

2. QUESTION: (#6(a)(iii))

I did not have more than \$100,000.00 in my trust account last year and I do not expect to have more than \$100,000.00 in trust at any time in the coming year. Must I provide the annual CDIC report to the financial institution?

ANSWER:

Yes. Report is required by the Rules regardless of the balance in trust. This provides coverage just in case more trust activity is experienced than anticipated.

3. QUESTION: (#12(c))

What is meant by "are restore procedures in place"?

ANSWER:

If your system should go down, does someone know exactly how to restore the information back on your computer system from the backup (i.e. has procedure been tested)?

4. QUESTION: (#13(i))

The form asks questions regarding cash transactions. Why?

ANSWER:

Rules governing cash transactions were developed by the Federation of Law Societies and adopted by Saskatchewan (Rule 909) in June 2005 with mailing of information to members taking place in September 2005. Questions have been included to assist members in meeting requirements as well as to ensure requirements are met.

5. QUESTION: (#13(n))

What is a "double entry system"?

ANSWER:

This is the accounting practice whereby each financial transaction is recorded as both a "debit" and a "credit" entry. Accordingly, total "debits" must equal total "credits" and the books must always be in "balance".

6. QUESTION: (#13(aa), (bb), (cc) and (dd))

What is meant by depositing trust monies received via credit card or debit card "directly and firstly" to the pooled trust account?

ANSWER:

All **trust** funds received via credit card must be deposited directly to a pooled trust account. They cannot be deposited to another account (i.e. the general account) and then transferred or paid over to trust, even if the transfer or payment is done immediately. Also, **general** monies must be deposited "directly and firstly" to the general account. They cannot be deposited to a trust account and then paid over or transferred to the general account even if the transfer or payment is done immediately. This will require the use of two separate credit card systems - one for trust receipts and another for general receipts.

Please note that the receipt of trust funds via debit card is currently not approved by Law Society Rules.

In short, the Rule for credit card receipts is the same as for other receipts - "trust receipts to trust and general receipts to general."

7. QUESTION: (#13(gg))

Our firm has difficulty completing trust reconciliations by the 20th of the month because in many cases bank statements are not received by this date or at least not in enough time preceding this date to allow for the reconciliation to be completed.

ANSWER:

This is a rule that has been in effect for many years but we are aware that banks are not distributing bank statements and cancelled cheques to their customers in as timely a manner as in the past. If this rule causes you or your firm difficulty, please discuss this matter with your bank to see if arrangements can be made for the information to be provided on a more timely basis.

8. QUESTION: (#14)

Does this question refer to family members as well as regular clients of the member/firm?

ANSWER:

Yes. It is suggested that if it is a family member that a note to that effect explaining the relationship be included in the package and referenced to the question.

9. QUESTION: (#15)

Do we list **only** estate files the member is executor for?

ANSWER:

No. You must **list all** estate files whether member is executor or not.

10. QUESTION: (#17)

Who is required to sign the form here ("Signature of Bookkeeper/Accountant)?

ANSWER:

This refers to the person responsible for the day to day accounting for the firm. Depending on the size of the firm, the person to sign here may be the secretary, the bookkeeper or the head of the accounting department. Please note that it is not the independent accounting firm that conducts the annual review and completes the TA-5(S).

11. QUESTION: (#18)

This question requires me to formalize the succession plan for my practice. Why is so much emphasis being placed on this issue?

ANSWER:

The costs of any trusteeship required may be the responsibility of the member's estate. If there is no succession plan and/or there has not been adequate planning done, these costs may escalate substantially and result in a greater expenditure than necessary by your estate and possibly the Law Society.

Also, the average age of our membership is increasing and therefore the potential for problems in this area is also increasing.

(Refer to Law Society website - Publications/Law Office Management/Succession Plan for further information.)

12. QUESTION: (#19)

Who is required to sign the TA-3 (Practice Declaration) form?

ANSWER:

This form must be signed by all members having signing authority on any firm trust account(s).

13. QUESTION: (#19)

Who is required to sign this form in the case of a personal corporation or a member of a firm that is a personal corporation?

ANSWER:

Each member having signing authority on any firm **trust** account(s) is required to sign the TA-3 (Practice Declaration) form. The fact that a member/firm may be a personal corporation has no bearing on the requirement.

14. QUESTION: (GENERAL)

I was not aware that there was an accounting rule in regard to some questions included on the TA-3 (Practice Declaration) form.

ANSWER:

In some cases, there is no rule that pertains directly to the question. These questions have been included as "reminders" for the member and/or are based on good business practice.

15. QUESTION: (GENERAL)

The form refers to "pooled" trust accounts in a number of points. Are these the same as a "mixed" trust account?

ANSWER:

Yes. The terms are interchangeable. We are trying to convert to the use of the term "pooled" trust account to be consistent with neighboring provinces.