

PART 13

Accounting

A. Definitions

Definitions

900. In this Part,

“**cash**” means coins referred to in section 7 of the *Currency Act*, notes issued by the Bank of Canada pursuant to the *Bank of Canada Act* that are intended for circulation in Canada and coins or bank notes of countries other than Canada;

“**client**” includes a person or unincorporated body on whose behalf a member receives funds in connection with the member’s practice of law;

“**currency**” includes current coins, government or bank notes of Canada or any other country;

“**firm**” means a partnership of members carrying on the practice of law where one set of the books, records and accounts described in this Part is maintained;

“**funds**” means cash, currency, securities and negotiable instruments or other financial instruments or other financial instruments that indicate the person’s title or interest in them;

“**general account**” means an account in a savings institution maintained by a member into which is deposited funds received by the member in connection with the member’s practice of law, which are not trust funds;

“**member**” includes a member of the Law Society as defined in *The Legal Profession Act*;

“**mixed trust account**” means an account referred to in section 78(1) of the *Act*, into which is deposited money received or held in trust for or on account of clients generally;

“**money**” includes cash, cheques, drafts, credit card sales slips, post office orders and express and bank money orders;

“**public body**” means:

- (a) a department or agent of Her Majesty in right of Canada or of a province;
- (b) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them, or
- (c) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act* or an agent of the organization,

“**savings institution**” means:

- (a) the Bank of Canada;
- (b) a bank included in Schedule I or II to the *Bank Act* (Canada) which is insured by the Canada Deposit Insurance Corporation;
- (c) a credit union incorporated, continued or registered under the *Credit Union Act, 1985*; or
- (d) a trust company which:
 - (i) is incorporated under the *Trust Companies Act* (Canada); or
 - (ii) has net assets in excess of \$10,000,000;

“**separate trust account**” means an interest-bearing trust account or a savings, deposit, investment or similar form of account in a savings institution in Saskatchewan;

“**trust funds**” means any monies received by a lawyer, in his/her capacity as a lawyer, which are not intended to immediately become property of the lawyer and include:

- (a) funds from a client for services to be performed or for disbursements to be made on behalf of the client; or
- (b) funds which belong in part to a client and in part to the member, and it is not practicable to split the funds;
- (c) funds received from or held on behalf of a third party which relate to a transaction in which a client is involved, but does not include funds which are to be remitted to any government by way of taxes or employee payroll deductions.

B. Delegation and Accountability

Member Remains Personally Responsible

901. (1) A member who:

- (a) is authorized by the sole proprietorship, partnership or association through which the member practises law to open, maintain or deal with funds which are in a trust or general account; and
- (b) delegates to another person any of the duties or responsibilities assigned to that member under this Part

remains personally responsible to ensure that those duties and responsibilities are carried out.

(2) A firm of members, an association of members or a professional corporation may maintain a trust or general account in the name of the firm, association or professional corporation, however, the individual members practicing through the firm, association or professional corporation remain personally responsible to ensure compliance with these Rules.

(3) At least one signatory of any cheque drawn on a trust account must be a member.

[next rule is Rule 909]

C. Receipt of Trust Funds

Cash Transactions

909. (1) A member shall not receive or accept from a person, cash in an aggregate amount of \$7,500 or more Canadian dollars in respect of any one client matter or transaction.

(2) For the purposes of this Rule, when a member receives or accepts cash in a foreign currency from a person the member shall be deemed to have received or accepted the cash converted into Canadian dollars at:

- (a) the official conversion rate of the Bank of Canada for the foreign currency as published in the Bank of Canada's Daily Noon Rates that is in effect at the time the member receives or accepts the cash, or
- (b) if the day on which the member receives or accepts cash is a holiday, the official conversion rate of the Bank of Canada in effect on the most recent business day preceding the day on which the member receives or accepts the cash.

(3) Paragraph 1 applies when a member engages on behalf of a client or gives instructions on behalf of a client in respect of the following activities:

- (a) receiving or paying funds;
- (b) purchasing or selling securities, real properties or business assets or entities;
- (c) transferring funds by any means.

(4) Despite paragraph 3, paragraph 1 does not apply when the member receives cash

- (a) from a financial institution or public body;
- (b) from a peace officer, law enforcement agency or other agent of the Crown acting in his or her official capacity;
- (c) pursuant to a court order, or to pay a fine or penalty, or
- (d) in an amount of \$7,500 or more for professional fees, disbursements, expenses or bail, provided that any refund out of such receipts is also made in cash.

(5) Every member, in addition to existing financial recordkeeping requirements to record all money and other property received and disbursed in connection with the member's practice, shall maintain:

- (a) a book of original entry identifying the method by which money is received in trust for a client, and
 - (b) a book of original entry showing the method by which money, other than money received in trust for a client, is received.
- (6) Every member who receives cash for a client shall maintain, in addition to existing financial recordkeeping requirements, a book of duplicate receipts, with each receipt identifying the date on which cash is received, the person from whom cash is received, the amount of cash received, the client for whom cash is received, any file number in respect of which cash is received and containing the signature authorized by the member who receives cash and of the person from whom cash is received.
 - (7) The financial records described in paragraphs 5 and 6 may be entered and posted by hand or by mechanical or electronic means, but if the records are entered and posted by hand, they shall be entered and posted in ink.
 - (8) The financial records described in paragraphs 5 and 6 shall be entered and posted so as to be current at all times.
 - (9) A member shall keep the financial records described in paragraphs 5 and 6 for at least the six year period immediately preceding the member's most recent fiscal year end.

[Rule 909 added February 10th, 2005]
 [Rule 909 amended June, 2005; December, 2005]

[next rule is Rule 910]

Deposit of Trust Funds

910. (1) Subject to subrule (2), a member who receives trust funds shall forthwith deposit the funds in trust either into:

- (a) a mixed trust account described in Rule 911; or
 - (b) a separate trust account described in Rule 912.
- (2) (a) A member who receives trust funds with written instructions as to where they are to be placed shall place the funds in accordance with appropriate instructions, but a member may not hold or invest monies on behalf of a client outside the Province of Saskatchewan unless the member's primary practice is outside of Saskatchewan, and the trust funds are handled in accordance with the Rules of the Law Society of the member's primary practice, and the monies are received pursuant to that practice.
 - (b) Subsection (a) does not prevent a member from forwarding monies pursuant to a client's written instructions or obligations in furtherance of a specific transaction, where such monies are thereafter no longer held in trust on behalf of the client.
- (3) A member may receive funds in trust by credit card for retainers only provided:
 - (a) trust funds are deposited forthwith to a mixed trust account described in Rule 911;
 - (b) associated services charges, fees and discounts are withdrawn from the member's general account;
 - (c) charge card sales slips are signed by the payor at the time of the transaction or, if this is not possible, a copy of the completed charge card sales slip containing the client's faxed signature is obtained prior to depositing and is retained on file;
 - (d) the client name and file number are recorded on the charge card sales slip;
 - (e) the word "trust" appears on the charge card sales slip; and
 - (f) the receipt is recorded in the trust deposit book and the charge card sales slip is attached to the deposit slip therein.

(4) A member who receives trust funds which belong in part to a client and in part to a member shall:

- (a) deposit them into a separate trust account; and
- (b) as soon as it is practicable to split the funds, withdraw the member's funds from the trust account.

(5) Active members whose primary practice is outside Saskatchewan are not required to hold trust monies in Saskatchewan, however, must comply with the trust account rules in the jurisdiction in which they practice.

(6) In this Rule:

- (a) the cities of Lloydminster, Alberta, and Flin Flon, Manitoba, are deemed to be in Saskatchewan and the deposit of trust monies in a savings institution located in those two cities is deemed compliance with Rule 911 and Rule 912;
- (b) Alberta or Manitoba credit unions located in Lloydminster, Alberta or Flin Flon, Manitoba, which are incorporated, continued or registered under the Alberta or Manitoba equivalent to *The Credit Union Act (1985)* are deemed to be savings institutions.

[Rule 910 amended June 8, 1994]

[Rule 910(3) added June, 2004]

Mixed Trust Account

911. (1) A mixed trust account referred to in Rule 910 shall be in a savings institution in Saskatchewan, and shall be:

- (a) an account which is readily available to be drawn upon by the member, and in respect of which the member receives cancelled cheques and bank statements each month;
- (b) an account in respect of which the savings institution has agreed with the member to pay interest to the Law Foundation in accordance with subrule (2);
- (c) kept in the name of:
 - (i) the individual member;
 - (ii) the firm of which the individual member is a partner; or
 - (iii) the member or firm by which the individual member is employed; and
- (d) designated as a "trust" or "client" account on the records of the savings institution and of the member;
- (e) insured by the Canada Deposit Insurance Corporation or the Credit Union Deposit Guarantee Corporation.

(2) A member who opens or maintains a mixed trust account shall:

- (a) instruct the savings institution in writing to remit to the Law Foundation at least quarterly the interest earned on the account; and
- (b) if the account is opened or maintained at a bank or trust company, notify the institution in writing that the account is a trust account which will contain the funds of more than one client.

(3) Subject to subrule (4) and Rule 971(1), a member shall not deposit into a mixed trust account any funds which are not trust funds.

(4) A member shall pay out of his or her own funds any service fees or charges levied by the savings institution arising out of the operation of a mixed trust account, and for that purpose may maintain in a mixed trust account a sufficient amount of the member's own funds to meet reasonably anticipated service fees or charges.

[Rule 911(e) added February 6, 1997]

Separate Trust Account

912. (1) A separate trust account referred to in Rule 910 shall be designated as a "trust" or "client" account on the records of the savings institution and of the member, and shall be:

- (a) kept in the name of:
 - (i) the individual member;
 - (ii) the firm of which the individual member is a partner; or
 - (iii) the member or firm by which the individual member is employed; or
- (b) kept in the name of the trust; or
- (c) identified by a number which, from an inspection of the member's books, records and accounts, will identify the client;

- (d) unless otherwise directed in writing by the client, insured by the Canada Deposit Insurance Corporation or the Credit Union Deposit Guarantee Corporation.
- (2) A member who opens or maintains a separate trust account shall instruct the savings institution in writing to deposit into the account when due the interest earned on the account.
- (3) Subject to Rule 971(1), a member shall not deposit into a separate trust account any funds which are not trust funds.

[Rule 912(d) added February 6, 1997]

Written Record of Receipt and Disbursement of Trust Funds

913. A member who:
- (a) receives monies in trust via cash or cheque or credit card made payable to the member which in the ordinary course of business upon receipt is paid to the client or to a third party on behalf of the client in the form in which it was received; or
 - (b) disburses trust funds which were received with written instructions under Rule 910(2)
- shall keep a written record of the transaction.

[next rule is Rule 920]

D. Receipt of Non-Trust Funds

Types of Funds which may be Deposited into a Member's General Account

920. A member may deposit into a general account only those funds received in connection with the member's practice of law, which are not trust funds.

Types of Transactions which must be Recorded in Non-Trust Books, Records and Accounts

921. (1) A member shall record in the member's non-trust books, records and accounts:
- (a) funds received from the practice of law which belong entirely to the member or to other persons associated with the member in the practice of law;
 - (b) funds which are a general retainer for which the member is not obligated either to account or to render legal services;
 - (c) funds received by the member on account of fees for services already performed; and
 - (d) funds received to reimburse the member for disbursements already made or expenses already incurred on behalf of a client.
- (2) A member who receives funds under subrule (1) shall forthwith deliver a bill or issue a receipt for the funds received, containing sufficient particulars to identify the services performed and disbursements incurred.
- (3) For the purposes of Rule 963(1)(c), a bill delivered or a receipt issued under subrule (2) constitutes a billing.

[next rule is Rule 930]

E. Balance in Trust Accounts

Maintaining a Sufficient Balance

930. (1) A member shall at no time permit his or her mixed or separate trust account to be overdrawn.
- (2) In this Rule, an account is overdrawn when, according to the member's books, records and accounts, the member holds less funds to the credit of each client or other person on whose behalf an account is maintained, than the member owes to that client or other person under that account.

[next rule is Rule 940]

F. Withdrawal of Funds from Trust

Circumstances when Withdrawal is Permitted

940. (1) A member shall not withdraw or authorize the withdrawal from a trust account of any trust funds unless there are sufficient funds held in that account to the credit of the client on whose behalf of the funds are withdrawn, and:

- (a) the funds are properly required for payment to or on behalf of a client;
- (b) the funds belong to the member;
- (c) the funds are properly payable to the member in respect of a liability of the client to the member for fees, disbursements or other expenses;
- (d) the withdrawal is to correct a deposit which was mistakenly made to the account;
- (e) the funds are being transferred from one mixed trust account to another mixed trust account, to a separate trust account in accordance with Rule 943, or to a mixed trust account in accordance with Rule 950;
- (f) the funds are unclaimed trust funds which are being paid to the Law Society in accordance with Part 16 of these Rules;
- (g) the withdrawal is in accordance with Rule 992; or
- (h) the withdrawal is authorized in writing by the Chairperson of the Finance Committee.

(2) A member shall, as soon as practicable after becoming entitled to funds held in the member's trust account, withdraw those funds from trust.

(3) A member shall not withdraw funds from his or her trust account without written confirmation from the financial institution in which the trust account is held that the funds held to the credit of the matter for which the withdrawal is made are sufficient to cover the withdrawal. Such written confirmation may be:

- (a) bank statements;
- (b) bank deposit slips which have been initialed by an employee of the financial institution;
- (c) a letter or facsimile message confirming that the financial institution has received the funds by means of electronic transfer.

[Rule 940(3) added October 27, 1994]

Withdrawal for Payment of Fees

941. (1) A member who withdraws or authorizes the withdrawal of trust funds under Rule 940(1)(c), where the liability of the client to the member is for fees earned by the member, must first prepare a bill for those fees and, unless the client directs otherwise in writing, deliver the bill or other written notification to the client forthwith following the withdrawal.

- (2) A bill is delivered within the meaning of subrule (1) if it is:
 - (a) mailed by regular or registered mail to the client at the client's last known address;
 - (b) delivered personally to the client; or
 - (c) transmitted by electronic facsimile to the client.

Procedure for Withdrawing Funds from a Mixed or Separate Trust Account

942. (1) Subject to subrule (2), a member who makes or authorizes the withdrawal or transfer of funds from a mixed or separate trust account:

- (a) shall effect the withdrawal or transfer by a cheque marked "trust";
 - (b) shall not make the cheque payable to "cash" or "bearer"; and
 - (c) shall, notwithstanding Rule 901 and subject to subrule (4), ensure that the cheque is signed by a member.
- (2) Money may be electronically transferred by a law firm subject to the following conditions:
- (a) the withdrawal from trust must be greater than or equal to twenty-five million dollars;
 - (b) the transfer system used must be able to produce within one banking day of the transfer a confirmation from the financial institution showing the details on the transfer;
 - (c) the confirmation from the financial institution must be in hardcopy form and must contain the following details: date of transfer, source trust account information (account name, financial institution and account number), destination account

information (account name, financial institution and account number), authorizing lawyer reference and amount of the transfer;

- (d) the law firm must complete a \$25 Million Non-Cheque Transfer Requisition Form in Form T-8. The requesting lawyer and authorizing lawyer sections of Form TA-8 must be signed and dated by an active member of the firm;
- (e) the law firm must obtain the confirmation from the financial institution and within two banking days an active member of the firm:
 - (i) must write the name of the client and file number on the confirmation;
 - (ii) must sign and date the confirmation;
 - (iii) must agree the particulars from the confirmation to the \$25 Million Non-Cheque Transfer Requisition Form;
 - (iv) must verify that the money was properly transferred in accordance with the requisition; and
 - (v) must sign and date the verifying lawyer section of Form TA-8.

(3) A member who withdraws or authorizes the withdrawal of trust funds for the payment of fees, disbursements or other expenses, or for payment to or on behalf of the client, shall effect the withdrawal by a cheque payable to the member's general account.

(4) The Executive Director may, on application, authorize in writing a person other than a member to sign a cheque drawn on the member's mixed or separate trust account, subject to any conditions, including bonding and signing authority, that the Executive Director considers appropriate.

(5) Subrule (1) does not apply to the interest earned on a mixed trust account which the member has instructed the savings institutions to pay to the Law Foundation under Rule 911(3).

[Rule 942(2) added February, 2003]

Procedure for Transferring Funds to a Separate Trust Account

943. A member who makes or authorizes the transfer of funds from a mixed trust account to a separate trust account shall ensure that:

- (a) the transfer is authorized in writing; and
- (b) the written authorization is signed by a member.

[next rule is Rule 950]

G. Withdrawal of Funds from a Separate Trust Account

Transfer of Funds to a Mixed Trust Account

950. (1) A member who makes or authorizes the withdrawal of funds from a separate trust account in respect of which cancelled cheques and bank statements are not received from the savings institution monthly and kept in the member's records, shall do so by transferring the funds into the member's mixed trust account.

(2) Rules 940 to 943 apply to funds which have been transferred into a mixed trust account in accordance with subrule (1).

[next rule is Rule 960]

H. Books, Records and Accounts Required to be Maintained

Object of Maintaining Books, Records and Accounts

960. (1) A member shall maintain an adequate accounting system, including the books, records and accounts described in this Part, in order to record all funds and other negotiable property received and disbursed in connection with the member's law practice.

(2) A member shall, at the written direction of the Executive Director, make such modifications to the member's accounting system as the Executive Director considers necessary.

Form of Books, Records and Accounts

961. (1) A member's books, records and accounts shall be maintained in Saskatchewan, and shall be:

- (a) in legibly handwritten form, in ink or other duplicated or permanent form;
- (b) in printed form; or
- (c) subject to the approval in writing of the Executive Director, in an electronic form which can readily be transferred to printed form upon demand.

(2) The transactions recorded in a member's books, records and accounts shall be in chronological order, and in an easily-traceable form.

Types of Trust Books, Records and Accounts Required to be Maintained

962. A member shall maintain at least the following trust books, records and accounts:

- (a) a **daily journal** or other book of original entry, which may be in synoptic form, recording:
 - (i) for all funds received in trust for each client, the date of receipt, the source of the funds and the identity of the client on whose behalf the trust funds are received;
 - (ii) for all funds disbursed out of trust for each client, the cheque or voucher number, the date of each disbursement, the name of each recipient and the identity of the client on whose behalf the trust funds are disbursed;
- (b) a **clients' trust ledger** recording separately for each client on whose behalf trust funds have been received, all such trust funds received and disbursed, and the unexpended balance;
- (c) a **transfer record** showing each transfer of funds between clients' trust ledgers, and:
 - (i) containing an explanation of the purpose for which each transfer is made; and
 - (ii) containing the member's written approval of the transfer;
- (d) the **monthly trust reconciliations** required to be prepared under Rule 970(1), and the detailed listings and reconciliations described in Rule 970(2);
- (e) a **negotiable valuable property record** showing all negotiable valuable property, other than money, held in trust from time to time for clients; and
- (f) all **supporting records**, including bank statements, pass books, cancelled cheques, detailed duplicate deposit slips or other records of all deposits, bank vouchers and similar documents and invoices.

Types of Non-Trust Books, Records and Accounts Required to be Maintained

963. (1) A member shall maintain at least the following non-trust books, records and accounts:

- (a) a **daily journal** or other book of original entry, which may be in synoptic form, recording:
 - (i) for all non-trust funds received relating to the law practice, the date of receipt and the source of the funds; and
 - (ii) for all non-trust funds disbursed, the cheque or voucher number, the date of each disbursement and the name of each recipient;
- (b) an **accounts receivable ledger** or other suitable system to record, for each client, the member/client position on all non-trust transactions with respect to which a bill has been delivered or a disbursement made, and including:
 - (i) a record of all transfers from a trust account;
 - (ii) any other receipts from or on behalf of the client; and
 - (iii) the balance, if any, owed by the client;
- (c) copies of **billings** filed in chronological, alphabetical or numerical order, showing all fees charged or other billings made to clients, the dates such charges are made, and the identification of the clients charged; and
- (d) all **supporting records**, including bank statements, pass books, cancelled cheques, detailed duplicate deposit slips or other records of all deposits, bank vouchers and similar documents and invoices.

(2) The information required to be recorded on the accounts receivable ledger referred to in subrule (1)(b) may be recorded on the clients' trust ledger referred to in Rule 962(b), provided that the entries are clearly identified and are not combined with trust account information.

[Rule 963(1)(c) amended April 23, 1998]

Recording of Transactions in Books, Records and Accounts

964. (1) A member shall record each trust transaction promptly, and in any event not more than 3 business days after the transaction.

(2) A member shall record each non-trust transaction promptly, and in any event not later than the month end of the month in which the transaction occurred.

[Rule 964(2) amended October 23, 1997]

Adding and Balancing Daily Journals

965. (1) A member shall add and balance each trust daily journal at least monthly, and in any event not more than 20 days after the effective date of the trust reconciliation prepared in accordance with Rule 970.

(2) A member shall add and balance each non-trust daily journal at least monthly, and in any event not more than 20 days after the end of the month in which the transaction was required to be recorded.

[Rule 965(2) amended October 23, 1997]

Disclosure by Financial Institution

966. (1) A member who maintains a trust account or trust accounts in any financial institution shall execute an authorization in Form TA-3 or its equivalent, permitting the institution to disclose to the Law Society any of the following:

- (a) an overdraft in that trust account;
- (b) the presentation of a cheque to the financial institution which if honoured would result in an overdraft;
- (c) any other circumstance which may indicate that the balance of the trust account may be insufficient to satisfy the legitimate claims against it.

(2) The authorization referred to in (a) above shall contain a release and waiver by the member of any claim whatever which the member may have as against the financial institution or any of its officers, agents or employees arising from such disclosure.

[Rule 966 added February 6, 1997]

[next rule is Rule 970]

I. Monthly Trust Reconciliations

Preparation of Monthly Trust Reconciliation

970. (1) A member shall prepare a monthly trust reconciliation of:

- (a) the total of all unexpended balances of funds held in trust for clients, as they appear in the clients' trust ledger; and
- (b) the total of trust fund balances held in all trust accounts, as they appear in the records of the savings institution

together with the reasons for any differences between the totals.

(2) The monthly trust reconciliation shall be supported by:

- (a) a detailed monthly listing showing the unexpended balance of trust funds held for each client and, in respect of each such amount, identifying the client for whom the trust funds are held;
- (b) a detailed monthly bank reconciliation for each mixed trust account;
- (c) a listing of balances of each separate trust account or savings, deposit, investment or similar form of account, identifying the client for whom each is held; and

(d) a listing of balances of all other trust funds received pursuant to Rule 910(2), identifying the client for whom each is held.

(3) The listings and reconciliations described in subrule (2) shall be retained as records supporting the monthly trust reconciliation.

(4) The trust reconciliation required under subrule (1) shall be made not more than 20 days after the end of the period to which it pertains.

Duty on Member to Eliminate a Trust Shortage and to Report to the Society

971. (1) A member who discovers a trust shortage shall forthwith pay funds into the account sufficient to eliminate the shortage.

(2) Where the trust shortage referred to in subrule (1) exceeds \$100, the member shall forthwith report the shortage, and the circumstances surrounding it, to the Executive Director in writing.

Duty to Report to the Society an Inability to Deliver up Trust Funds when Due

972. A member who discovers that he or she will be unable to deliver up when due any trust funds held by the member shall forthwith report that fact, and the reasons for it, to the Executive Director in writing.

[next rule is Rule 980]

J. Retention Period for Trust and Non-Trust Books, Records and Accounts

Retention Period

980. (1) Subject to subrule (2), a member shall retain for at least 6 years all the books, records and accounts required to be maintained under this Part.

(2) Notwithstanding subrule (1), a member shall retain for at least 10 years the books, records and accounts referred to in Rule 962(a) and (b) and Rule 963(c), unless the Executive Director authorizes in writing a shorter retention period.

[Note: The *Income Tax Act*, s. 230, may require a member to retain certain records for a longer period of time than is required under Rule 980].

Retention Location

981. (1) Subject to subrules (2) and (3), a member shall retain:

- (a) at his or her chief place of practice in Saskatchewan the books, records and accounts referred to in Rule 980 pertaining to the most recent 5-year period; and
- (b) at a location in Saskatchewan the other books, records and accounts required to be retained under Rule 980.

(2) A member practising in Lloydminster, Alberta or Flin Flon, Manitoba shall retain:

- (a) at his or her chief place of practice in Lloydminster or Flin Flon, as the case may be, the books, records and accounts referred to in Rule 980 pertaining to the most recent 5-year period; and
- (b) at a location in Lloydminster or Flin Flon, as the case may be, the other books, records and accounts required to be retained under Rule 980.

(3) A member of the Society who practices law as a member of an interjurisdictional law firm shall ensure that, with respect to the firm's practice of law in Saskatchewan, the firm's books, records and accounts, wherever maintained, are available on demand by the Society or its designated agent.

[next rule is Rule 990]

K. Modification of Requirements

Executive Director's Modification

990. (1) The Executive Director may, in writing, modify the requirements of Rules 962, 963 and 980 in respect of a member, having regard to the accounting and storage systems employed by that member, and the Executive Director may, in writing, cancel or amend the modification at any time.

(2) A member who receives a written modification from the Executive Director under subrule (1) shall retain it as long as the books, records and accounts to which it relates are retained.

L. Annual CDIC Report

Filing Annual CDIC Report with Each Savings Institution

991. A member who maintains a mixed trust account in a savings institution which is insured by the Canada Deposit Insurance Corporation ("CDIC") shall file an annual report for each such account with that institution in accordance with section 3(3) of the Schedule to the *Canada Deposit Insurance Corporation Act*, so that each client's funds, rather than the account itself, is insured up to the limit of CDIC insurance.

M. Member's Right to Claim Trust Funds

Rules do not Deprive Member of Right to Claim Funds

992. Nothing in this Part deprives a member of any recourse or right, whether by way of lien, set-off, counterclaim, charge or otherwise, against funds standing to the credit of a client in a trust account maintained by the member.

[next rule is Rule 995]

N. Inspection of a Member's Records

Spot Audits

995. (1) The auditor inspector employed by the Law Society is authorized to attend at the offices and branch offices of any member to review all of the member's books and records required to be kept pursuant to the *Act* and the Rules.

(2) Members are required to co-operate with the auditor inspector and to comply with all reasonable requests.

[Rule 995 added October 23, 1992]

[next rule is Rule 1000]

Person Designated to Make a Demand

1000. (1) The person designated by the Benchers to make a demand under section 63(1) of the *Act* is the Executive Director.

Contents of Service of a Demand

1001. A demand under section 63(1) of the *Act* shall:

- (a) be in writing, signed by the Executive Director;
- (b) state:
 - (i) the nature of the investigation in respect of which the demand is made;
 - (ii) which categories of the member's records or other property are to be produced;
 - (iii) the time by which and the person to whom the member's records or other property are to be produced; and
 - (iv) the text of sections 60 and 63 of the *Act*; and
- (c) be given personally to the member or served on the member in accordance with section 85 of the *Act*.

Production of a Member's Records or Other Property

1002. A person to whom a member's records or other property are produced under section 63(1) of the *Act* shall, where practicable, conduct the investigation or inspection at the location at which the records or other property are produced.

Duty to Preserve Confidentiality

1003. A person who, in the course of acting under section 63(4) of the *Act*, becomes privy to information, files or records that are confidential or are subject to solicitor and client privilege, has the same obligation respecting the disclosure of that information as the member from whom the information, files or records were obtained.

Costs

1004. (1) Where, as a result of section 10(t)(i) and proceedings under section 63 of the *Act*, the Chairperson of the Discipline Committee determines that the member has not complied with the Rules in this Part respecting the keeping of books, records and accounts, the Chairperson may order that the member pay, by the date specified in the order, part or all of the expense of the investigations.

(2) In subrule (1), "investigations" include:

- (a) the inspection of the member's books, records and accounts by the officers, auditors or agents of the Society or by any other person designated by the Benchers or appointed by the Chairperson of the Discipline Committee;
- (b) an application under section 63(2) of the *Act* and any appeal therefrom;
- (c) action taken under section 63(3) of the *Act*; and
- (d) the copying, transportation, retention and disposition of the member's records or other property.

(3) A member who has not paid the full amount owing under subrule (1) by the date fixed or extended by the Chairperson of the Discipline Committee is suspended from the practice of law until the amount owing is paid in full.

(4) The costs of any proceedings under section 63 of the *Act* which are not recovered from the member under subrule (1) shall, at the direction of the Chairperson of the Finance Committee, be recovered from the Special Fund.

[Rule 1004(1) amended December 10, 1992]

[next rule is Rule 1010]

O. Bankruptcy of a Member

Definitions

1010. In Rules 1010 to 1013, "a member who is the subject of bankruptcy proceedings" means a member who as defined by *The Bankruptcy and Insolvency Act*:

- (a) is bankrupt;
- (b) is an insolvent person;
- (c) commits an act of bankruptcy;
- (d) has made a proposal; or
- (e) has applied for a consolidation order

pursuant to *The Bankruptcy and Insolvency Act*, as amended.

[Rule 1010 amended September 17, 1993 and April 15, 1994]

Duty to Report Bankruptcy to the Society

1011. A member who is the subject of bankruptcy proceedings shall forthwith:

- (a) notify the Executive Director in writing of that fact; and
- (b) provide to the Executive Director such information and documents in the member's possession or control relating to the bankruptcy that the Executive Director reasonably requests.

Practice Conditions

1012. (1) Subject to subrule (2), the following conditions apply to a member who is the subject of bankruptcy proceedings:

- (a) the member shall not be the sole signatory on any trust account while remaining an undischarged bankrupt; and
- (b) the additional signatory on any trust account shall be a member of the Law Society in good standing who is not the subject of bankruptcy proceedings.

(2) The Chairperson of the Discipline Committee may, by order in writing, relieve a member from compliance with subrule (1), subject to any conditions stated in the order which the Chairperson considers appropriate.

Notification to the Membership

1013. There will be no notification to the membership that a member has become the subject of bankruptcy proceedings unless the Chairperson of the Discipline Committee is of the opinion that there is a significant reason to do so. In that event, the Chairperson shall direct the Executive Director to promptly notify the membership of:

- (a) the identity of the member who becomes the subject of bankruptcy proceedings;
- (b) any practice conditions imposed on the member under Rule 1012; and
- (c) the identity of a member who has ceased to be the subject of bankruptcy proceedings, where that member's identity was published under clause (a).

[Rule 1013 amended February 4 & 5, 1993]

[next rule is Rule 1100]

PART 14

Annual Practice Certificate

Issuance of Annual Practice Certificate

1100. (1) The Executive Director shall, in respect of each practice year, issue a practicing certificate to an active member who, before the commencement of that practice year:

- (a) has paid the fees fixed under Rule 800;
- (b) has filed a completed Annual Practice Declaration in a form approved by the Benchers;
- (c) has complied with the *Act*, these Rules and all requirements made under them; and
- (d) is otherwise in good standing.

(2) An active member who is not eligible for a practicing certificate under subrule (1) becomes, effective January 1, a suspended member.

(3) A member who does not pay the administration fee and quarterly payments on December 1 and on March 1, June 1 and September 1 fixed under Rule 800(3) becomes effective January 1, March 2, or June 2 or September 2, a suspended member.

[Rule amended February 5, 2001]

Disqualified Member

1101. (1) A member who fails to pay fees as an active or inactive member is disqualified from the rights and privileges accorded to membership of any kind and must apply for reinstatement pursuant to Rule 212.

(2) Notwithstanding the above any member of the Society who is subject of an investigation by an Investigation Committee, Complaints Counsel or has been named in a formal complaint which has not yet been before a Hearing Committee remains subject of any outstanding discipline matters regarding him or her.

[Rule 1101(1) amended March 27, 1992; Rule 1101(3) added April 15, 1994; Rule 1101(2) amended June 9, 1994]

[Rule 1101(3) amended September, 2006]

[Rule 1101(1) amended; (2) deleted then renumbered and amended December 7, 2007]

Notification

1102. The Executive Director shall, promptly after each January 1:

- (a) notify all members who have become disqualified members of that fact, the consequences flowing from their being disqualified members and the procedure to be followed in becoming an inactive member or seeking reinstatement as an active member;
- (b) give notification to those persons who have become disqualified members to:
 - (i) the Chief Justice of Saskatchewan;
 - (ii) the Chief Justice of the Saskatchewan Court of Queen's Bench;
 - (iii) the Chief Judge of the Provincial Court of Saskatchewan;
 - (iv) the Minister of Justice for Saskatchewan; and
 - (v) the Master of Titles; and
- (c) cause a notice to be published in the *Saskatchewan Gazette*, identifying those persons who have become disqualified members.

[Rule 1102(a) amended, (b) removed and replaced; (c) amended December 7, 2007]

Liability Insurance Coverage

1103. A member who becomes disqualified under Rule 1100(2) and who is reinstated as an active member prior to March 1 of the current practice year is deemed to have been insured, while a disqualified member, for errors or omissions occurring before the member became or while the member was disqualified.

Designated Contact Person

1104. Where a member is, or is held out to be:

- (a) an employee, associate or partner of a law firm; or
- (b) an employee of a person or entity that is not a member of the Law Society of Saskatchewan, hereinafter referred to as the employer;

the member shall promptly advise the Society:

- (i) of the name and address of the law firm or employer from which he or she derives his or her income, or part thereof, by virtue of his or her having a current practising certificate;
- (ii) of the name and address of at least one person designated by the law firm or employer to receive such information as the Society, in its sole discretion, deems advisable to provide to the law firm or employer relating to the member's involvement with the Society including, without limitation:
 - (1) Discipline Committee investigations and rulings;
 - (2) Professional Standards Committee investigations;
 - (3) professional liability insurance reports, claims or processes;
 - (4) Special Fund reports, claims or processes;
 - (5) failure to pay monies owing to the Society;
 - (6) complaints against the member;
 - (7) general correspondence from the administration office.

[Rule 1104 added June 9, 1994]

[next rule is Rule 1200]

Part 15

Accountant's Report

Definitions

1200. In this Part, "fiscal period" means the time period, not exceeding 12 months, for which the accounts of a member have been or ordinarily are made up; "firm" means a partnership of members carrying on the practice of law where one set of the books, records and accounts described in Part 13 is maintained; "member" includes a member of the Society, a firm and an association of members who carry on the practice of law together other than as a firm.

Filing of Report on Commencement of Practice

1201. (1) A member shall, within 30 days after commencing to practise law, or within 30 days after ceasing to practise law with a firm covered by an Accountant's Report, deliver to the Executive Director:

- (a) Trust Account Commencement Report, in Form TA-1 approved by the Benchers;
- (b) an Exemption Report, in Form TA-7 approved by the Benchers, that the member is exempt from compliance with subrule (a) on the basis that the member does not:
 - (i) provide legal services to the public; or
 - (ii) receive or handle trust funds within the course of his or her practice.

[Rule 1201(2) added April 15, 1994]
[Rule 1201(1)(c) amended April 27, 1995]
[Rule 1201 amended May, 2002]

Change in Fiscal Period

1202. A member who changes the fiscal period shown in the Trust Account Commencement Report or the Annual Practice Declaration filed most recently with the Executive Director shall, within 30 days of the change, notify the Executive Director in writing of the member's new fiscal period.

[Rule 1202 amended May, 2002]

Filing of Annual Accountant's Report

1203. (1) A member shall, within 3 months after each fiscal period of the member's practice:

- (a) deliver to the Executive Director:
 - (i) an Annual Practice Declaration, in a form approved by the Benchers; and
 - (ii) a Power of Attorney, in a form approved by the Benchers; and
- (b) cause his or her accountant to deliver to the Executive Director an Accountant's Report, in a form approved by the Benchers, unless exempt under Rule 1204.

(2) A member shall, within 3 months after termination of practice or termination of the existence of the firm or association in or with which the member formerly practised:

- (a) deliver to the Executive Director an Annual Practice Declaration; and
- (b) cause his or her accountant to deliver to the Executive Director an Accountant's Report.

(3) A member whose practice termination as described in subrule (2) coincides with the end of the fiscal period is not required to comply with subrule (2).

(4) The Executive Director may approve a member's written request that his or her Accountant's Report cover a time period of less than 12 months.

[Rule 1203(1)(a) amended February, 2003]

Exemption from Filing an Accountant's Report

1204. (1) A member who satisfies the Executive Director that he or she, during the most recent completed fiscal period or during the partial fiscal period immediately preceding termination of practice:

- (a) has not received any funds in trust;

- (b) has not withdrawn any funds held in trust;
- (c) has complied with Part 13 of these Rules; and
- (d) within the time referred to in Rule 1203(1), has delivered to the Executive Director a statutory declaration in a form approved by the Executive Director

is exempt from the filing of the documents referred to in Rule 1203(1) for that time period.

(2) The Law Society of Saskatchewan may establish criteria upon which it may exempt a member from the filing of documents referred to in Rule 1203 (1)(b).

[Rule 1204(1) amended; (2) added December 7, 2007]

Late Filing of Accountant's Report

1205. (1) A member who does not comply with Rule 1201 is in breach of these Rules and is liable to an assessment of \$100 per month.

(2) A member who does not comply with Rule 1203:

- (a) is in breach of these Rules and is liable to an assessment of \$100 for the first month and \$400 for every subsequent month, multiplied by the number of partners in respect of whom the Accountant's Report applies; and
- (b) shall, when the member delivers the Accountant's Report, include a copy of listings and reconciliations referred to in Rule 970(2) for each month subsequent to the period to which the Accountant's Report applies.

(3) A member who does not comply with Rule 1203(1) within 4 months after the end of the fiscal period shall, unless the Executive Director authorizes in writing to the contrary, deliver to the Executive Director by the end of each month until Rule 1203(1) is complied with, the monthly trust reconciliation referred to in Rule 970(1).

[Rule 1205(1) and (2)(a) amended February 7, 2008]

Credentials to Complete Accountant's Report

1206. (1) An Accountant's Report shall be completed and signed by:

(a) a person who is:

- (i) a chartered accountant registered as a member in good standing of the Institute of Chartered Accountants of Saskatchewan and in public practice;
- (ii) a Certified General Accountant registered as a member in good standing of the Association of Certified General Accountants of Saskatchewan and in public practice; or
- (iii) a Certified Management Accountant registered as a member in good standing of the Association of Certified Management Accountants of Saskatchewan and in public practice;

(b) a person without the credentials referred to in subrule (a), if the member satisfies the Executive Director that:

- (i) no person so qualified is reasonably available; and
- (ii) the person proposed by the member has adequate accounting credentials.

(2) The Executive Director may at any time require a member, whose Accountant's Report was completed and signed by a person described in subrule (1)(b), to deliver a new Accountant's Report by a person who has the credentials specified by the Executive Director.

Instructions Respecting Minimum Standards

1207. An Accountant's Report shall be completed in accordance with the minimum standards published by the Benchers.

Prohibited from the Practice of Law

1208. (1) The Executive Director shall not issue to a member who is in breach of Rules 1203 or 1205(2)(b) or (3) a practising certificate.

(2) The practising certificate of a member who is in breach of Rules 1203 or 1205(2)(b) or (3) ceases to be valid 7 days after the Executive Director delivers to the member a written notification to that effect.

- (3) A member prohibited from the practice of law under subrule (1) or (2) who:
 - (a) complies with Rules 1203 or 1205 within 5 months after the fiscal period or termination of practice referred to in Rule 1203(1); and
 - (b) pays to the Society any fees, assessments, fines, costs or other amounts owing to the Society

is deemed to be insured, during the period of prohibition, for errors or omissions arising before or during the prohibition.

Monthly Reports

1220. (1) A member shall deliver to The Law Society of Saskatchewan, on a monthly basis, any of the books, records and accounts described in Part 13 if required by:

- (a) Rule 1201, Trust Account Commencement Report;
- (b) any penalty or requirement assessed under sections 53(3) or 55(2) of the *Act*, or
- (c) The Law Society of Saskatchewan, at its discretion.

(2) The books, records and accounts to be delivered under subrule (1) shall be delivered not more than 20 days after the end of the period to which they pertain, unless otherwise permitted in writing by the Law Society of Saskatchewan.

Late Filing of Monthly Reports

1225. A member who does not comply with Rule 1220 is in breach of these Rules and is liable to an assessment of \$100 per month multiplied by the number of partners.

Appeal of Late Filing Assessment

1230. A member assessed a penalty pursuant to Rule 1205(1), 1205(2)(a), or 1225 may appeal the penalty in writing to the Executive Director within 15 days of the member's receipt of the assessment.

[Rules 1220, 1225 and 1230 added February 7, 2008]

[next rule is Rule 1300]

Part 16

Unclaimed Trust Funds

[Rule 1300 "committee" definition deleted December 7, 2007]

Payment of Unclaimed Trust Funds to the Society

1301. (1) Subject to subrule (2), a member who has held funds in his or her trust account for more than 3 years and who is unable to pay the funds to the person who is entitled to them, shall pay those funds to the Society under section 14 of the *Act*, unless the member has previously received written direction from the client to hold the funds for a longer period of time or has previously received written permission from the Society to continue to hold the funds for a specific period, provided that the member advises the Executive Director in writing of:

- (a) the full name and last known mailing address of each person on whose behalf the funds were held;
- (b) the exact amount being paid to the Society in respect of each person; and
- (c) the efforts made by the member to locate each such person.

(2) Where the member intends to pay to the Society under subrule (1) more than \$500 in respect of any one person the member shall, in addition to the information described in subrule (1), advise the Executive Director in writing of:

- (a) any unfulfilled undertakings given by the member in relation to the funds; and
- (b) the details of the transaction in respect of which the funds were deposited with the member.

(3) A member who cannot provide all of the information described in subrule (1) or (2) may, with the consent of the Executive Director, pay the funds to the Society under section 14 of the *Act* provided that the member:

- (a) advises the Executive Director in writing of:
 - (i) such information described in subrule (1) or (2) as the member does have; and
 - (ii) the reasons why the member does not have the other information described in subrule (1) or (2); and
- (b) delivers to the Executive Director copies of all records within the member's power or possession that relate to the ownership and source of the funds.

(4) Notwithstanding anything in this Rule, where a member holds funds in his or her trust account for a period of one year on behalf of any single person which funds total an amount of less than \$10, those funds shall be paid to the person or to the Society.

[Rule 1301(1) amended, 1301(4) added October 27, 1994]
[Rule 1301(1) and (4) amended December 7, 2007]

Procedure for Investigation of Claims

1302. (1) A person or his or her legal representative who claims entitlement to funds held by the Society under section 14 of the *Act* may make a claim in writing to the Society.

(2) A claimant shall provide the Society with information and documents relating to the claim which the Society reasonably requires.

(3) In order to determine the validity of a claim, the Society may make or authorize such inquiries or further investigations as it considers desirable.

[Rule 1302(1), (2) and (3) amended December 7, 2007]

Procedure for Adjudication of Claims

1303. (1) The Executive Director may:

- (a) approve or reject a claim based on the information received under Rule 1302; or
- (b) appoint a hearing committee to conduct an oral hearing to determine the validity of the claim.

(2) Where an oral hearing is ordered:

- (a) the Society shall notify the claimant in writing of the date, time and place of the hearing;
- (b) a notice referred to in (a) shall be served in accordance with section 85 of the *Act* and, unless the claimant consents in writing to a shorter time, not less than 30 days before the date set for the commencement of the hearing;
- (c) the hearing shall be conducted in private unless the hearing committee determines, in the public interest, that a specific individual or the public generally may be present for part or all of the hearing;
- (d) the hearing committee may determine, subject to the *Act* and these Rules, the practice and procedure to be followed at the hearing;
- (e) any witness who is competent to do so shall, before testifying, take an oath or make a solemn affirmation;
- (f) if the hearing committee decides that the proceedings at a hearing shall be recorded by a Court Reporter, a person may obtain, at his or her expense, a transcript of any part of the hearing which he or she was entitled to attend; and
- (g) the hearing committee may:
 - (i) make such inquiries of a witness as it considers desirable; and
 - (ii) accept any evidence that it considers appropriate, and is not bound by the rules of law concerning evidence.

(3) Following the hearing of the evidence and submissions, the hearing committee shall determine whether the claimant is entitled to the funds held in trust by the Society.

(4) Where a claim is approved under subrule (1)(a) or (3), the amount owing to the claimant shall be determined by the Executive Director or the hearing committee, as the case may be, and the Executive Director shall pay that amount to the claimant out of the trust account referred to in section 14(2)(a) of the *Act*.

[Rule 1303(1) and (b), (2)(a), (c), (d), (f) and (g), (3) and (4) amended December 7, 2007]

[next rule is Rule 1400]