# Auditor’s guide

A guide for auditors to completing the Auditor’s report on estate agent’s trust account(s), as required under section 64 of the *Estate Agents Act 1980* (the Act).

## Introduction

In Victoria, all estate agents who hold or receive money for or on behalf of others relating to any transaction are required to open and maintain trust account(s). Section 64 of the Act requires within three months after 30 June in each year, every person who carried on business as an estate agent during the whole or any part of the previous financial year shall cause his accounts of trust money for the whole or part of that financial year to be audited.

As an auditor you are required to complete the audit report in the form approved by the Director of Consumer Affairs Victoria. The Act requires that you take all reasonable steps to complete the audit report within three months of 30 June of the relevant year. As soon as the audit report is completed you must deliver it to the estate agent.

## Purpose of the audit

The purpose of an audit of an estate agent’s trust account(s) is to report on whether:

* accounting and other records relating to trust money have been properly kept
* there is no loss or deficiency of trust money or failure to pay or account for trust money, and
* there has been no failure to comply with a provision of the Act or the Estate Agent (General, Accounts and Audit) Regulations 2018 (the Regulations).

## Who can conduct the audit

To conduct the audit a person must be a practising public accountant who is a member of at least one of these professional bodies:

* CPA Australia
* Institute of Public Accountants, or
* Chartered Accountants Australia and New Zealand

and **not:**

* be an estate agent or the employee of an estate agent
* be a partner of the estate agent whose trust account(s) are being audited
* have been, in the last two years, an employee or partner of the estate agent whose trust account(s) are being audited
* be a member, director, employee or officer of an estate agency corporation, or
* keep, control or have custody of estate agent trust account(s).

## Important information about the scope of the audit

When auditing an estate agent’s trust account(s), it is essential for the auditor to be aware of:

* the nature of the estate agent’s business
* the workings of trust account(s)
* the reporting requirements and statutory obligations placed on trust account(s) and on the estate agent by the Act and the Regulations, and
* the legislation governing estate agents in respect of trust account audits.

Under the Act, the estate agent is required to produce to the auditor all books, papers, accounts, documents, securities, statements and reports reasonably necessary for the audit, and any information they reasonably require. The estate agent must also prepare, certify and produce for the auditor a statement detailing; trust money held on the last day of the audit period; and negotiable or bearer securities or deposit receipts held that day, which represent money drawn from the trust account(s).

The auditor should use appropriate test examinations of the transactions recorded in the trust account(s), in accordance with generally accepted auditing standards and practice, to form an opinion as to whether the accounting records have been maintained in accordance with the Act and Regulations.

In conducting the audit, it is recommended that the auditor:

* obtain a trial balance from the estate agent’s accounting system
* identify all the financial institutions the estate agent uses
* identify all the estate agent’s trust account(s)
* obtain a letter from each financial institution the estate agent uses detailing the number and types of accounts they hold.

## Common problem areas

We have identified a number of common problem areas in management of trust money and accounts by estate agents. Auditors need to be aware of these problem areas so that, if a problem is present, it is identified and reported to Consumer Affairs Victoria.

* Failure to maintain required trust account records – An Officer in Effective Control will not be able to identify suspicious or inappropriate transactions if all required records are not kept up to date and in a manner that may be easily interpreted.
* Absence or repeated lateness of monthly reconciliations or unexplained items or adjustments in monthly reconciliations – These are indicators of poor record keeping practices and may indicate that a deficiency in trust money has occurred.
* Routing of trust money through non-trust accounts – This is unlawful and increases the risk of loss of trust money as it is mixed with general business funds.
* Use of buffer funds by agents and undrawn commission – Some estate agents prefer to maintain a surplus amount within their trust ledger to absorb any inadvertent deficiencies that may arise from dishonoured bank cheques and bank charges. The keeping of buffer funds in a trust account can effectively mask any deficiency, disguise overdrawn trust accounts and reduces the likelihood that poor trust management practices and other errors will be easily identified.
* Client’s trust ledger account in debit – An estate agent must not allow a client’s trust ledger to be overdrawn. The auditor is required to report any debit balance identified in a client’s trust ledger account.
* Delay in banking of trust money by estate agent – This is unlawful and increases the risk of loss of trust money.

## Guide to completing the auditor’s report

* You can obtain the approved form for the audit report from our website at [consumer.vic.gov.au/estateagentstrustaccounts.](https://www.consumer.vic.gov.au/estateagentstrustaccounts) Download the [Audit report on estate agent’s trust account(s) (Word, 141KB)](https://www.consumer.vic.gov.au/library/forms/businesses/estate-agents/auditors-report-on-estate-agents-trust-accounts.docx).
* This guide provides a list of trust accounting requirements to guide you through designing the scope of your audit and in respect of these requirements make reference to the appropriate sections or regulations that are applicable under the Act and the Regulations respectively (see the Audit Checklist below).
* This guide has been prepared to assist auditors in their examination of the books, records, accounts and documents maintained by estate agents in respect of trust money and to assess the compliance of those records with the Act and the Regulations. Any trust account(s), which held trust money during the audit period, form part of the examination.
* You must provide a summary of your findings in respect of breaches of the estate agent’s trust account obligations under the Act and/or the Regulations:
* details of any breaches are to be included in Schedule 2 of the audit report
* a written summary of your audit’s findings, the reasons for finding that breaches have occurred and details of actions taken to remediate the breaches found are to be included in Schedule 3, and
* enter ‘Nil’ in Schedules 2 and 3 when no breaches were found.
* Where a breach has been identified, unless it would be impracticable, the audit report should include quantification of the possible effect(s) of the breach on the estate agent’s trust account(s).
* The Act and Regulations can be accessed at [legislation.vic.gov.au](file:///C%3A/Users/ddarragh/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/N1F80D1T/legislation.vic.gov.au).

## Audit checklist

This checklist will help auditors to audit trust account(s) that have been opened, maintained and/or closed by estate agents.

**Important note:** This checklist includes a range of matters auditors should consider, including relevant provisions of the Act and the Regulations, when auditing an agent’s trust account(s). Do not treat the checklist as being a comprehensive list of relevant regulatory requirements under the Act and the Regulations, or as a replacement for the auditing requirements contained in the Standard on Assurance Engagements ASAE 3100 Compliance Engagements, or any other relevant standard, issued by the **Auditing and Assurance Standards Board**.

S on the following pages refers to a Section(s) from the Act

R on the following pages refers to a Regulation(s) from the Regulations

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| Guide to completing the Audit Report |  |
| General trust account record keeping |  |
| Have full and accurate accounting records of all transactions of trust money been kept? - S.63(1)Have all details of trust money transactions been entered into the accounting records before the end of the next business day after the transaction? - S.63(1) |  |
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| Notifications to Director of Consumer Affairs Victoria |  |
| If the estate agent has opened or closed a trust account during the auditing period, has the estate agent notified the Director of Consumer Affairs Victoria? - S.59(7)(a) & (b) |  |
| Banking requirements and deficiencies (bank statements) |  |
| Have all payments to the trust account been made by the end of the next business day following receipt (or by the end of the third day, where an authorised deposit taking facility is more than 16 kilometres away)? - S.59(1)Have all withdrawals of trust money been made by either Electronic Funds Transfer (EFT) or cheque? - S.59(1)Have all trust funds been retained in the trust account until they are paid out to the entitled person or at that person’s direction? - S.59(1) |  |
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| End of month reconciliation statements |  |
| Have the trust accounts been correctly balanced and reconciled at the end of each month? - S.63(1) & R.26(1) |  |
| Trust account journals |  |
| Have journal references been kept in sequence (and if a computerised accounting system is being used, under the control of that system)? - R.21 |  |
| Trust account cash receipts journals |  |
| Has a cash receipts journal which records all daily receipts of money into the estate agent’s trust account been kept? - R.22(1) |  |
| Have all details required by the Regulations been recorded in each cash receipt journal entry? - R.14(2), R.14(3) & R.22(2)  |  |
| Have the receipts in the cash receipts journal been recorded in the order that trust money was received? - R.22(3) |  |
| Trust account cash payments journals |  |
| Has a cash payments journal which records all daily payments of money out of the estate agent’s trust account been maintained? - R.23(1) |  |
| Payments by cheque |  |
| If a payment is made out of the estate agent’s trust account by cheque, have all the details required by the Regulations been recorded in each trust account cash payment journal entry? - R.19(2) & R.23(2)  |  |
| Have the payments in the cash payments journal been recorded in the order that cheques were issued? - R.19(5) & R.23(3) |  |
| Payments by EFT |  |
| If a payment is made out of the estate agent’s trust account by EFT, have all the details required by the Regulations been recorded in each cash payment journal entry? - R.20(1) & R.23(2) |  |
| Have the payments in the cash payments journal been recorded in the order that EFTs were made? - R.20(4) & R.23(3) |  |
| Have the EFT payments made from the trust account been authorised in the manner required by the Regulations? - R.20(3) |  |
| Transfer journals |  |
| If the estate agent has transferred money between accounts in their trust ledger, were they entitled to do so? - R.25(1) |  |
| Have all transfers of trust money between accounts in the trust ledger been recorded in a transfer journal? - R.25(2) |  |
| If a transfer of trust money between accounts in the trust ledger has been made, have all the details required by the Regulations been recorded in each transfer journal entry? - R.25(3) |  |
| Have the transfers in the transfer journal pages or entries been consecutively numbered? - R.25(4) |  |
| Trust ledgers |  |
| Has a trust ledger been kept that consists of a separate identifiable account, for each person on whose behalf the estate agent held trust money, and for each transaction for which the estate agent held trust money? - R.24(1) |  |
| Have all the details required by the Regulations been included in the title of each trust ledger account? - R.24(2) |  |
| Have all the details required by the Regulations been included in the trust ledger account in respect of each receipt of trust money? - R.24(3) |  |
| If a payment is made out of the estate agent’s trust account by cheque, have all the details required by the Regulations been recorded in the trust ledger account in respect of each payment of trust money by cheque? - R.24(4) |  |
| If a payment is made out of the estate agent’s trust account by EFT, have all the details required by the Regulations been recorded in the trust ledger account in respect of each payment of trust money by EFT? - R.24(5) |  |
| If a transfer of trust money between accounts in the trust ledger has been made, have all the details required by the Regulations been recorded in the trust ledger account in respect of each transfer of money made by a journal entry? - R.24(6) |  |
| Have the transaction details on trust ledger accounts been recorded in the order in which they occurred? - R.24(7) |  |
| Has the estate agent kept a continuous running balance for each trust ledger account? - R.24(8) |  |
| Trust receipts and trust receipts register |  |
| Has the estate agent complied with the trust receipt requirements under the Act? - S.63(3) & S.63(3B) |  |
| Have all trust receipts been issued in the numerical sequence of the series to which they belong? - R.14(1) |  |
| Have all the details required by the Regulations been included on the trust receipts issued by the estate agent? - R.14(2) & (3) |  |
| Has the estate agent retained the original copies of any cancelled or undelivered trust receipts? - R.14(4) |  |
| Have all the details required by the Regulations been included on the trust receipts register in respect of each receipt issued by the estate agent? - R.13(1) |  |
| Trust cheques and trust cheques register |  |
| Have all the details required by the Regulations been included on the trust cheques issued by the estate agent? - R.19(1) |  |
| Have all the details required by the Regulations been included on the trust cheque butts or other printed record kept by the estate agent? - R.19(2) & (3) |  |
| Have all trust cheques been signed by the estate agent, the officer in effective control or an employee who is a signatory to the trust account of the estate agency business kept at an AFI? - R.19(4) |  |
| Have all the details required by the Regulations been included in the trust cheques register in respect of each trust cheque issued by the estate agent? - R.18(1) & (2) |  |
| Trust account deposit forms |  |
| Did the estate agent make and give to their AFI a completed trust account deposit form at the time each deposit was made, other than for a deposit made directly by electronic means? - R.17(1) |  |
| Have all the details required by the Regulations been included on the trust account deposit forms made by the estate agent? - R.17(2) |  |
| Has the estate agent kept copies of all completed trust account deposit forms? - R.17(3) |  |
| Computerised accounting system |  |
| Has the estate agent ensured that the computerised accounting system used to keep their trust account records complies with the requirements of the Regulations? - R.29 & 30 |  |
| Trust files |  |
| Have all the details required by the Regulations been included in the trust files kept by the estate agent? - R.31 |  |