Observation report

**Name: Course date/s:**

[ ]  **Stepping Up**

[ ]  **Trust Account Supervisor**

*Note: If this template is being used or updated for the Trust Account Supervisor course a more comprehensive standard will be expected. This observation calls for more than just a recital of the subject firm’s arrangements; some objective assessment is also expected.*

**Question set 1**

* What is the size of the firm? Approximately the number of partners, solicitors, legal executives and support staff.
* What staff are involved in the trust accounting record keeping?
* Does the firm have a procedures manual in respect of the trust account and/or the general running of the office? If so, how is this maintained?
* Do they maintain manual or computerised records? Give details of either. Include the name of the software package. If manual, is the firm active in property law, ie conveyancing?

**Question set 2**

* Describe the procedures for raising and recording receipts in the trust account records.
* Describe and evaluate any separation of duties or responsibilities and the level of supervision (in receipting).
* Identify any deficiencies in the procedures and explain what changes you might suggest to make for improvement.

**Question set 3**

* Describe the procedures for raising and authorising **payments**, with emphasis on electronic payments, ie who does what.
* Describe what measures and checks are made to establish the validity of a payment and to ensure it goes to the correct payee.
* Describe and evaluate any separation of duties or responsibilities and the level of supervision.
* Identify any deficiencies in the procedures and explain what changes you might suggest to make for improvement.

**Question set 4**

* Describe the procedures for raising and authorising journal entries.
* What checks are made to establish the validity of a journal entry?
* What controls operate to prevent or detect unauthorised journal entries?
* Could someone complete an inter client journal without a principal’s authority?
* When journals are between clients and payments are made that are not implicitly required does the firm always record a narration that records the client’s instructions or authority?
* Identify any deficiencies in the procedures and explain what changes you might suggest to make for improvement?

**Question set 5**

* Do the reconciliation workpapers include the following:
	+ Bank reconciliation / Control account summary
	+ Copy of month-end trust account bank statement
	+ Unpresented cheques list detailing for each cheque number the date drawn, payee and value – *if applicable*
	+ Details of other reconciling items, eg unbanked receipts – *if applicable*
* List of ledger balances
* Bank reconciliation / Control account summary (IBD account)
* Copy of month-end trust account listing (IBD)
* Copy of month-end bank listing (IBD)
* Details of any controlled bank accounts and/or foreign currency accounts
* Stale balance report
* Journal transaction report for the month
* Firm’s interest in trust ledger for the month.
* Are the reconciliations such that someone unfamiliar could understand them?
* How often are the bank accounts reconciled?
* Who prepares the reconciliations?
* Who checks the reconciliations?
* Identify any deficiencies in the procedures and explain what changes you might suggest to make for improvement.

**Question set 6**

* Does the firm have a firm’s interest in trust ledger (aka float or advance account) in the trust account? (If so, have a look at the entries for the last month and familiarise yourself with what they are.)
* What procedure does this firm have in the event that their firm’s interest in trust ledger/float account is overdrawn?

**Question set 7**

* How are fees rendered and in particular paid from client funds held in the trust account?
* When fees are taken by deduction, approximately what proportion are taken by explicit client authority and what proportion are taken by authority conferred in client care/terms of engagement?
* If fees are taken by deduction pursuant to authority conferred in client care/terms of engagement, does the firm take any steps to bolster such authority, eg advise the client of the fee and their intention to deduct the fee before the fee is deducted?
* What procedures are in place to monitor and complete reporting to clients at least every 12 months for longstanding trust account balances as well as IBD ledger balances?
* Ask whether the firm is confident they are aware of and meeting their various obligations under the AML-CFT regime.

**Question set 8**

* Do you consider the separation of duties and level of supervision relative to the size of the firm is adequate in respect of the trust account? (Give your reasons for your answer.)

**Question set 9**

* Does the firm have file closure or file review procedures?
* Ask the Trust Account Supervisor or one of the partners whether there are any controlled bank accounts in the practice. Controlled bank accounts are client’s bank accounts (not part of the trust account) that a lawyer (or staff member) can operate autonomously. Ask that person (Trust Account Supervisor or one of the Principals) **how they know that there are no undeclared controlled bank accounts in the practice**, ie that they are not aware of.

**Question set 10**

* What controls are in place for computer access?
* What back-up and restore procedures are in place?
* What is the level of awareness of cybercrime risks – high, medium or low?
* Do you consider these to be adequate?

**Question set 11**

* What review procedures does the trust account supervisor have at the month end before signing of the monthly certificate?
* Is there a month-end checklist in use?

**Question set 12**

* Overall what do you consider the main strengths are for this particular trust account? State your reasons.

**Question set 13**

* Overall what do you consider the main weaknesses and risks are for this particular trust account? State your reasons.