



Guideline (Revised)
The Assurance of Legal Practitioners' Trust
Accounts
In terms of the
Legal Practitioners Act (CAP. 61:01) of
1996.

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PREFACE

This booklet has been developed by The Botswana Institute of Chartered Accountants (BICA) primarily to provide guidance on provision of assurance on legal practitioners' trust accounts and to highlight the assurance issues in this area.

The booklet assumes that the assurance is carried out in accordance with International Standard on Assurance Engagements (ISAE) 3000 (Revised) *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*. It is supplementary to, and should be read in conjunction with the standard.

This booklet does not have the authority of an accounting or auditing standard. It is issued for the information of members and is intended to assist them in identifying special aspects relating to this type of engagement.

This booklet has been prepared by the BICA, in consultation with the Law Society of Botswana.

Every effort is made to ensure that the advice given in this guide is correct. Nevertheless that advice is given purely as guidance to members of BICA to assist them with particular problems relating to the subject matter of the guideline and BICA will have no responsibility to any person for any claim of any nature whatsoever which may arise out of or relate to the contents of this guide.

GUIDANCE (REVISED) FOR AUDITORS: ASSURANCE OF LEGAL PRACTITIONERS' TRUST ACCOUNTS IN TERMS OF THE LEGAL PRACTITIONERS ACT (CAP. 61:01) 1996

1.0. Introduction

- 1.1.** The Institute intends to ensure that sufficient and appropriate assurance procedures have been performed to comply with ISAE 3000 (Revised) and the provisions of the Legal Practitioners Act, 1996. The main objective of this guidance is to enable the member practitioners (the 'auditor') of the Institute to issue a report in terms of Section 45(7) of the Legal Practitioners Act.
- 1.2.** The auditor should provide assurance of the Legal Practitioners Trust Accounts in terms of the 'International Standards on Assurance engagement (ISAE) - 3000', which provides a framework on Assurance engagements other than audits or reviews of historical financial information.
- 1.3.** Appendix (v) of this guidance contains the minimum procedures to be performed by an auditor engaged to provide assurance of the Legal Practitioners Trust Accounts. The auditor may perform additional procedures, if deemed necessary, based on the auditor's professional judgement.

2.0. General principles

- 2.1.** The auditor is to comply with the requirements of Parts A and B of the IFAC Code of Ethics for Professional Accountants (adopted by BICA) and such other pronouncements as, from time to time, published by the Institute to that effect. The engagement is to be staffed with personnel that have attained and maintain the technical standards and professional competence required to enable them to fulfil their responsibilities with due care, and who have complied with the continuing professional educational requirements for auditors engaged in assurance of Legal Practitioners' Trust Accounts.
- 2.2.** The auditor is to conduct the engagement in accordance with the provisions of Section 45 (7) of the Legal Practitioners Act 1996 and Regulations 29, 30 and 31 of the Law Society of Botswana.

3.0. Agreeing nature of the engagement

- 3.1.** Before undertaking the assignment, the auditor shall ensure that there is agreement as to the exact nature of the engagement, and the form and content of the report to be issued. The form and the content of the report to be issued are contained in Appendix (i) of this guide.

4.0. Planning

- 4.1.** The auditor plans the work so that the engagement will be performed in an effective manner to meet the objective of the engagement.

- 4.2.** The auditor shall familiarise himself with the requirements of the Legal Practitioners Act, 1996.
- 4.3.** The auditor is to obtain knowledge of the legal practitioner's practice sufficient to enable the auditor to identify and understand the events, transactions and practices that, in the auditor's judgement, may have a significant effect on the subject matter of the engagement. This understanding is usually acquired through experience with the client or from enquiry of the client's staff, and will normally include an understanding of
- the nature of the legal and other processes that the legal practitioner undertakes to satisfy the client's instructions, and
 - particular factors relating to the legal practitioner's practice and the legal profession, such as:
 - the accounting and internal control systems;
 - use of electronic banking facilities;
 - the qualifications of the accounting personnel;
 - the accounting policies applied;
 - offices opened or closed since the last report;
 - any changes in the partnership or proprietorship;
 - specimen signatures of new partners and other authorised signatories;
 - changes in relevant legislation affecting the legal profession; and
 - changes in the rules of the Law Society of Botswana.

5.0. Fraud and error

- 5.1.** When planning the engagement the auditor is to consider the risk of fraud or error.
- 5.2.** The auditor is to plan the engagement and maintain an attitude of professional scepticism. An attitude of professional scepticism means that the auditor makes a critical assessment, with a questioning mind, of the validity of evidence obtained, and is alert to evidence that contradicts or brings into question the reliability of documents or management representations.
- 5.3.** In planning and performing the engagement, the auditor neither assumes that management is dishonest nor assumes unquestioned honesty. Accordingly, representations from management are not a substitute for obtaining sufficient appropriate audit evidence to be able to report.

6.0. Enquiries of management

- 6.1.** When planning the engagement, the auditor is to make enquiries of management:
- to obtain an understanding of:
 - i. management's assessment of the risk of fraud;

ii. the accounting and internal control systems management has put in place to address such risk;

- to obtain knowledge of management's understanding regarding accounting and internal control systems in place to prevent and detect fraud and error;
- to determine whether management is aware of any known fraud that has affected the practice or suspected fraud that the practice is investigating; and
- to determine whether management has discovered any material errors.

6.2. Since management is responsible for the practice's accounting and internal control systems, it is appropriate for the auditor to enquire of management how it is discharging these responsibilities.

6.3. The nature, extent and frequency of management's assessment of such systems and risk vary from practice to practice. In some practices, management may make detailed assessments on an annual basis or as part of continuous monitoring. In other practices, management's assessment may be less formal and less frequent. The nature, extent and frequency of management's assessments are relevant to the auditor's understanding of the practice's control environment. For example, the fact that management has not made an assessment of the risk of fraud may be indicative of the lack of importance that management places on internal controls.

6.4. The internal control questionnaire is to be completed by the auditor, in consultation with management. (*Refer Appendix II) for a specimen internal control questionnaire.*

7.0. Management representation letter

7.1. The auditor is to obtain written representations from management on matters relating to the Legal Practitioner's Trust Accounts when other sufficient appropriate evidence cannot reasonably be expected to exist. Even in these circumstances the auditor is to regard these representations with professional scepticism. The possibility of misunderstandings between the auditor and management is reduced when oral representations are confirmed by management in writing. Minimum matters that might be included in a letter from management or in a confirmatory letter to management are contained *in the specimen management representation letter in Appendix IV.*

8.0. Reporting

8.1. The report shall be addressed to the Council of the Law Society of Botswana.

APPENDIX I

Date

The Council
The Law Society of Botswana
Gaborone

INDEPENDENT ASSURANCE REPORT REGARDING THE COMPLIANCE WITH SECTION 45 OF THE LEGAL PRACTITIONERS ACT [CAP.61:01] IN RESPECT OF *FIRM NAME*' TRUST ACCOUNTS FOR THE YEAR ENDED (DD/MM/YY)

We have performed our reasonable assurance engagement on the trust accounts of *Firm name* ("the entity") in accordance with Section 45 of the Legal Practitioners Act for the year ended (dd/mm/yy) and as stipulated in the engagement letter dated (dd/mm/yy). A copy of this report is shared with the Legal Practitioner.

Section 45 of the Legal Practitioners Act comprise the criteria by which the entity's compliance was evaluated for purposes of our reasonable assurance engagement.

Delete if not relevant: Where appropriate, include description of any significant inherent limitations in evaluation of the firm's compliance with the Act or regulations

Responsibilities of the Legal Practitioner

The legal practitioner is responsible for designing, implementing and maintaining internal controls relevant to compliance of the trust account in accordance with the Legal Practitioners Act, 1996. The legal practitioner is responsible for ensuring compliance with all relevant sections of the Legal Practitioners Act, 1996 with respect to the Trust Accounts and for maintenance of adequate records.

It is the responsibility of the legal practitioner to ensure establishment and maintenance of an internal control system, necessary to provide reasonable assurance that adopted policies and prescribed procedures are adhered to for the prevention of errors and irregularities, including fraud and illegal acts.

Assurance practitioner's responsibility

Our assurance procedures were conducted in accordance with the International Standard on Assurance Engagements (ISAE) 3000 (Revised), *Assurance Engagements Other Than Audits or Reviews of Historical Financial Information*. This standard, read with the Legal Practitioners Act, sets out the minimum assurance procedures to be performed in evaluating a legal practitioner's trust accounts and these include:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the trust and related accounts.
- Assessing the accounting and internal control practices adopted by the legal practitioner related to the trust accounts.

We shall not be responsible for reporting on any trust account transactions beyond the period covered by our reasonable assurance engagement

We have not performed any assurance procedures on records or documents relating to accounting for the business of the firm taken as a whole. Accordingly, we do not express any conclusion in this regard.

Our assurance engagement does not constitute an audit or review of any of the underlying information conducted in accordance with International Standards on Auditing or International Standards on Review Engagements and accordingly, we do not express an audit opinion or review conclusion.

Quality Control

Our firm applies International Standard on Quality Control 1 (“ISQC 1”) and, accordingly, maintains a comprehensive system of quality control including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

Independence and other ethical requirements

We have complied with the independence and other ethical requirements of the Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants (Part A and B) and as adopted by Botswana Institute of Chartered Accountants, which is founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behavior.

Conclusion

We have examined the trust account records, trust account transactions, the system of internal control relating to trust accounts and examined other related records of the firm to enable us to report in terms of Section 45(7) of the Act. A summary of the trust account transactions is attached to this report.

In our opinion, *firm name* has complied, in all material respects, with provisions of section 45 of the Legal Practitioners Act 1996 and Regulations 29, 30 and 31 of the Law Society of Botswana for the year ended (dd/mm/yy).

Where a modified conclusion is issued (delete as appropriate):

Qualified Conclusion

In our opinion, *firm name* has not complied, in all material respects, with provisions of section 45 of the Legal Practitioners Act 1996 and Regulations 29, 30 and 31 of the Law Society of Botswana for the year ended (dd/mm/yy). (Should include Basis for Qualified Conclusion paragraph)

OR

Adverse Conclusion

Because of the significance of the matter described in the Basis for Adverse Conclusion section of our report, *firm name*, is not in compliant with provisions of section 45 of the Legal Practitioners Act 1996 and Regulations 29, 30 and 31 of the Law Society of Botswana for the year ended (dd/mm/yy). (Should include Basis for Adverse Conclusion paragraph)

OR

Disclaimer of Conclusion

Because of the significance of the matter described in the Basis for Disclaimer of Conclusion section of our report, we have not been able to obtain appropriate evidence to form a conclusion on compliance of *firm name's* compliance with provisions of sections 45 of the Legal Practitioners Act 1996 and Regulations 29, 30 and 31 of the Law Society of Botswana for the year ended (dd/mm/yy). Accordingly we do not express a conclusion on compliance. (Should include Basis for Disclaimer of Conclusion paragraph)

Delete if not relevant: Where a modified conclusion is expressed because of a scope limitation but the practitioner is aware of a matter(s) that cause compliance of the Trust account to be materially misstated, a clear description of both the scope limitation and the matter(s) that cause the non-compliance should be included in the report.

We further report that:

1. We have inspected the books for the year ended (dd/mm/yy), as at (date of last inspection), being the date of our last inspection and report that:
 - a. The books have been written up to (dd/mm/yy).
 - b. The trial balance was last balanced on (dd/mm/yy).
2. We have compared the list of trust balances shown on the trust accounts in the ledger of the firm with the respective ledger account at yearend on (dd/mm/yy) and;
 - a. On each of such date the firm was in compliance with the provisions of Regulation 30.3
 - b. After examining the bank statement of the firm for such period as we deemed it necessary (being not less than one week) in light of the circumstances following each such dates we report that where negotiable instruments which had been deposited in the trust banking account and which had not been met, the circumstances were considered necessary.
3. We have extracted the following information from the trust accounting records of the firm and report that the amount during the period under review which the trust account record of the firm;
 - a. Has earned on moneys deposited in trust savings or interest bearing accounts in terms of Section 45(2) of the Act from the previous financial year is P _____ gross of withholding tax on interest.

- b. Has deducted in respect of actual costs incurred by the firm in the performance of any duty imposed upon it under Part VI of the Act, P _____. This amount includes P _____ towards withholding tax on interest earned, P _____ towards bank charges, P _____ towards audit fees and P _____ towards management fees for the year ended (DD/MM/YY).
 - c. Payable to the Fund in terms of Section 45(3) of the Act is P _____.
4. On enquiry made we were informed that the following changes in the composition of the firm occurred during the period covered by this report, namely;

List as appropriate

5. The following additional information which in our opinion should be brought to the attention of the Council:
- a. Our scope of review was limited only to the trust records and was not extended to the business account or its systems and controls which has an impact on the trust account and its transactions
 - b. Practitioner is of the view that the withholding tax deducted on interest earned from the Trust monies cannot be claimed from the business tax returns submitted to BURS and has thus considered the same as expenditure in the trust records.

Restrictions on use and distribution

This report is intended solely for the use of the Law Society of Botswana in terms of Section 45(7) of the Act and therefore may not be suitable for another purpose. We assume no liability to use of this report other than as intended.

Yours faithfully

Name of the audit firm
Certified Auditor: XXX (BICA membership number)
Date:
Location:

APPENDIX II

INTERNAL CONTROL QUESTIONNAIRE

The Internal Control Questionnaire is to be completed by the auditor, in consultation with management of the legal practitioner.

The questions have been designed so that a “yes” answer indicates that the desired control exists. A “no” answer indicates a weakness. In the case of a “no” answer, actions to be undertaken by management are to be included in the “remarks” column. Should a question be considered to be not applicable, the reason thereof is to be noted in the “remarks” column.

Where the firm’s accounting records are computerised and/or where the firm is making use of electronic fund transfers, the auditor is to adapt the questions accordingly. For example, in the case of funds being transferred electronically, no paid cheques and/or deposit slips will be available for payments made, however, reference could be made to electronic fund transfer confirmation sheets. In the case of funds received electronically, no duplicate receipt might be available, and reference could be made to a copy of the electronic fund transfer confirmation sheet that was forwarded by the client to the firm and/or the bank statement of the firm.

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- M Computerised accounting
- N Investment of clients’ funds
- O Money Laundering
- P Sign off

	Yes/No/N/A	W/P Ref	Remarks
A. ACCOUNTING RECORDS AND GENERAL			
Objective			
To ensure that proper accounting records are kept and that duties of employees are clearly defined to guarantee adequate control over accounting functions.			
1. Are the accounting records, including lists of trust ledger balances, retained for at least five years from the date of the last entry therein?			
2. Are accounting records balanced within two months after the dates on which lists of trust creditors are required to be extracted?			
3. Are all accounting records written up monthly?			
4. Are all accounting records kept in a neat, legible and comprehensive fashion?			
5. Is the accounting department completely divorced from the cash receipts department?			
6. Is an up-to-date organisation chart showing the detailed division of accounting department duties maintained?			
7. Are employees' duties clearly defined?			
8. Are employees' duties reasonably fixed as to responsibility so that no one person can dominate or unduly influence others not normally responsible to him/her in the performance of their work?			
9. Are the duties of accounting staff rotated?			
10. Are all employees required to take regular holidays and are their duties then assumed by other employees?			
11. Are all employees in positions of trust covered by adequate fidelity insurance?			

B. BANKING ACCOUNTS			
Objective			
To ensure that proper banking accounts are maintained.			
1. Are separate trust and business banking accounts maintained in terms of Section 45(1) of the Act read with Regulation 29.5?			
2. Are there any interest-bearing trust accounts in operation?			
2.1. If so, does the interest is paid over to the Trust in the manner prescribed in Section 45(3) of the Act.			
3. Has the firm notified the Council of the Law Society of Botswana of the name and address of the bank or banks at which its trust banking account or accounts are kept and any changes during the year?			
C. REMITTANCES RECEIVED BY MAIL			
Objective			
To ensure that incoming moneys and mail are adequately controlled and accounted for.			
1. Have arrangements been made for mail collected from the post office to be in a locked container?			
1.1 If not, is the mail collected from the post office by a responsible official?			
2. Is all mail opened by at least two persons?			
3. Are the mail openers independent of the bookkeeping and cash receipt functions?			
4. Is there a record of all moneys received by mail?			
5. Is this record subsequently checked with actual receipts by an independent person?			
5.1 Is this checking function adequately evidenced?			
6. Are all cheques received made payable to the firm?			
7. Are all cheques, money orders etc. received immediately			

stamped "Not Negotiable" if not already so marked?			
8. Are post-dated cheques received adequately controlled?			
9. Are statements of account, fee notes advice of payment slips or "letters enclosing payment" retained on a special file in support of receipts?			
10. Do the mail openers hand all moneys received through the mail directly to the cashier?			
11. Does a partner/director determine which moneys are trust and which are business?			
11.1 If not done by a partner/proprietor, is the allocation checked and evidence of the check maintained?			
D. RECEIPTS AND BANKING			
Objective			
To ensure that all moneys are properly receipted and banked in the firm's banking accounts.			
1. Is the trust account cash kept separate from business account cash?			
2. Are receipts made out immediately for all amounts received?			
3. Are full particulars always shown on receipts?			
4. Is there proper supervision over altered or cancelled receipts?			
5. Are the originals of all cancelled receipts stapled to the cancelled copies?			
6. Is the issue of duplicate receipts adequately supervised?			
7. Are properly printed pre-numbered receipt books with an adequate number of copies used?			
8. Is a register of receipt books maintained?			
9. Are unused receipt books under the control of a responsible official, who has nothing to do with cash receipts?			

10. Does a responsible official ensure that all receipt numbers are accounted for?			
10.1. Is this check evidenced?			
11. Does the cashier have exclusive control over cash and responsibility thereof?			
12. Are satisfactory arrangements made for taking over the cashier's duties during lunch break?			
13. Is there a rule that cashiers must not make entries in the accounting records?			
14. Is the cash office secure against access by anybody other than the cashier?			
15. Is the cashing of cheques for partners/directors or employees and clients prohibited?			
16. Are all receipts banked intact daily?			
17. Has the person going to the bank adequate protection while enroute where considered necessary?			
18. Is the cash in transit adequately insured?			
19. Are receipts regularly compared with details of the bank stamped deposit slips by an independent employee?			
19.1 Is this check evidenced?			
20. Are unpaid cheques returned by the bank investigated by a responsible official other than the cashier?			
20.1 Are details of such investigation recorded?			
E. CHEQUE PAYMENTS			
Objective			
To ensure that cheques are properly made out in respect of authorised transactions and signed by authorised persons.			
Cheque preparation			
1. Are cheque preparers independent of the persons who:			

a) approve vouchers for payment, or b) sign cheques?			
2. Are cheques made payable to third parties such as banks and building societies etc. always made payable to "ABC for credit of account XYZ"?			
3. Are all trust account cheques pre-printed to "order"?			
4. Are cash cheques and bearer cheques prohibited?			
5. Are all cheques pre-printed with the crossing "Not Transferable"?			
6. Are cancelled cheques marked "Cancelled" and kept available for subsequent inspection?			
Cheque signing			
1. Are all cheques accompanied by properly authorised vouchers when presented for signature?			
2. Do vouchers contain evidence of examination and approval by the persons signing cheques, as well as those authorising the vouchers for payment?			
3. Are all supporting documents marked "Paid" and identified by cheque number at time of signature to prevent re-use?			
4. Are the authorised signatories independent of: a) voucher preparation and approval for payment; b) cheque preparation; c) cash receiving; d) petty cash; e) ordering functions; and f) bookkeeping.			
5. Are all cheques required to be signed by two signatories?			
6. If two signatories are required, are supporting vouchers submitted to both signatories?			
7. Is the signing of cheques in blank prohibited?			
8. Are cheques mailed promptly after they have been signed?			

9. Are cheque requesters, preparers and signatories required to satisfy themselves, in respect of cheques drawn on the trust banking account, that the payment will not cause that client's trust account to go into debit?			
9.1. If so, is the carrying out of this function evidenced?			
9.2. Have arrangements been made to identify and correct such occurrences?			
10. Are all transfers from the trust to the business banking account only requested and authorised after the transfer journal entry has been made (see J) and strictly in compliance with Regulation 29.6.			
11. Where an electronic funds transfer system is in operation, are all transfers from trust accounts supported by written authority signed by two cheque signatories?			
F. BANK RECONCILIATIONS			
Objective To ensure that bank reconciliations are properly carried out on a regular basis (<i>at least once in a month</i>).			
1. Are bank reconciliations prepared monthly on all accounts by employees independent of cash receipt and payment functions?			
2. Are bank statements received unopened, directly from the bank, together with paid cheques etc. by the reconciler, who maintains physical control over the statements until the reconciliation is complete?			
3. Do bank reconciliation procedures include the following:			
3.1 A comparison of paid cheques with the cash book as to names, dates and amounts?			
3.2 Accounting for numerical sequence of paid cheques?			
3.3 An enquiry into any contra items?			
3.4 Regular follow-up on long outstanding cheques?			
3.5 A follow up of outstanding deposits?			

3.6 A review at month end of inter-bank transfers for propriety of such transfers?			
3.7 Comparing deposit slips (on a test basis) in detail with receipts and receipts cash book?			
4. Are bank reconciliations reviewed and approved by a responsible independent employee promptly upon completion thereof?			
4.1. If so, is such check evidenced?			
G. PETTY CASH			
Objective			
To ensure that petty cash disbursements and receipts are properly carried out and supervised			
1. Is the petty cashier independent of cash receipts, payments and bookkeeping functions?			
2. Does the petty cashier have exclusive control over the petty cash and responsibility thereof?			
3. Are all payments supported by properly authorised petty cash slips and vouchers (where applicable)?			
4. Are all paid slips and vouchers marked "Paid" to prevent re-use?			
5. Has a reasonable limit been set for individual payments?			
6. Is the float fixed at a reasonable level having regard to the level of expenditure?			
7. Is the petty cash book periodically examined and signed by a responsible official?			
8. Is the cash counted and agreed to the petty cash book at irregular intervals?			
8.1 If so, is this check evidenced?			
9. Is the petty cash on the imprest basis?			
10. When the float is reimbursed, are the petty cash book and vouchers presented to the cheque signatory?			

H. CLIENTS' LEDGERS			
<p>Objective</p> <p>To ensure that clients' ledgers are properly written up, balanced and reviewed on a regular basis.</p>			
1. Are the clients' ledgers maintained by persons that are independent of cash receipts and payments and the bookkeeper responsible for the nominal ledger?			
2. Are lists of balances extracted at least quarterly?			
3. Are the balances extracted clearly and legibly recorded in the ledgers?			
4. Are the lists of balances kept for at least five years?			
5. Do the lists of balances clearly indicate the clients' names and ledger folios?			
6. Are the lists totalled and agreed to the control accounts kept in the nominal ledger?			
7. Is the total of the lists also agreed to the total of the trust bank balance, trust savings accounts, trust investments and trust cash on hand?			
8. Are the balances mentioned in 6 and 7 above recorded in a register and signed by a partner/director?			
9. Are statements sent to clients within a reasonable time of completion of the work?			
10. Does a responsible official compare statements with the clients' ledger with regard to details, amounts and dates?			
11. Is there a system to ensure that statements to clients are not suppressed?			
12. Are disputes on fees with clients and queries on statements all dealt with by a partner/director?			
13. Are all adjustments to clients' accounts properly authorised by a partner/director?			
14. Are all entries to clients' accounts supported by entries in the accounting records of prime entry?			

15. Are all postings to the ledgers clearly referenced to indicate their source?			
16. Are all "suspense" or " sundries" accounts analysed each month?			
16.1 Does a responsible official review these analyses to ensure that debits for one client are not being offset against credits of a different client?			
16.2 Is such check evidenced?			
17. Are all amounts owing to the firm, which are held in trust, withdrawn and transferred to the business account.			
I. FEES JOURNAL			
Objective			
To ensure that fees are properly accounted for.			
1. Are fee notes and credit notes prepared from actual records of services performed?			
2. Are fee notes and credit notes pre-numbered and treated as controlled stationery?			
3. Are extensions and additions of fee notes and credit independently checked?			
4. Are fee notes and credit notes entered in the fees journal in numerical order and are all numbers accounted for?			
5. Are credit notes authorised by a responsible official other than the bookkeeper?			
6. Is the fees journal periodically examined and signed by a partner/director?			
J. TRANSFER JOURNAL			
Objective			
To ensure that all transfers between trust and business ledger accounts and the equivalent transfer of funds from the trust to the business banking accounts are strictly controlled.			

1. Are all entries to clients' business and trust ledger accounts entered up to date before a transfer journal entry is made?			
2. In respect of all entries in the transfer journal (except for reverse transfers) does the person making the entry ensure that:			
2.1 each business account debit balance is equal to or greater than the amount transferred, and			
2.2 each trust account credit balance is equal to or greater than the amount transferred?			
3. Is it clear from the transfer journal which clients' accounts have been debited or credited?			
4. Is the transfer journal totalled at the end of each batch of entries before a trust cheque is drawn to be deposited in the business banking account?			
5. Is each total cross-referenced to the trust cheque drawn?			
6. Does the person signing the transfer cheque ensure that the amount agrees with the total in the transfer journal and clearly record next to such total, the fact that a cheque has been drawn?			
7. Are reverse transfer entries recorded in the journal as soon as a debit balance on a client's trust account is discovered?			
8. Are reverse transfer entries clearly distinguishable from normal entries in the transfer journal?			
9. Except where debit balances on trust account are discovered while normal transfers are being processed, is a cheque immediately drawn on the business banking account and deposited to the trust banking account for the amount of the reverse transfer?			
9.1 If debit balances are discovered while normal transfers are being processed, is the amount of the reverse transfer arising there from deducted from the first cheque to be drawn? (This should only be done if the transfer cheque is going to be drawn without delay).			

K. TRUST AND BUSINESS JOURNALS			
Objective			
To ensure that all journal entries are properly accounted for and authorised.			
1. Is it clear that transfers between trust accounts must be made by way of an entry properly recorded in the trust journal?			
2. Are all journal entries authorised by a responsible official other than the bookkeeper?			
3. Does this authorisation consist of either a signature or adequate reference to supporting documentation or both where possible?			
4. Is a suitable explanatory narration recorded in the journal for each entry?			
5. Is it clear from the journal entry which accounts have been debited and credited?			
L. CONTROL OF PRENUMBERED STATIONERY			
Objective			
To ensure security over stock and use of stationery.			
1. Is the following stationery consecutively pre-numbered and numerically and physically controlled?			
1.1 Receipt books <ul style="list-style-type: none"> • Business • Trust 			
1.2 Cheque books <ul style="list-style-type: none"> • Business • Trust 			
1.3 Fee notes			
2. Are all orders for the printing of controlled stationery authorised by a responsible official?			
3. Is the physical control of such stationery vested in a responsible official or a person divorced from the			

effecting or recording of transactions?			
4. Is the controlled stationery kept in a safe place to which only the authorised custodian has access?			
5. Is a proper register maintained that records full details of receipts and issues of such stationery?			
6. Do recipients of the stationery sign the register for receipt thereof?			
7. Are unused and in-use stocks of stationery as well as order and delivery quantities checked at irregular intervals against the register by an independent responsible official?			
7.1 If so, is such check evidenced?			
8. Are all issues made in strict numerical sequence?			
9. Does the custodian only issue controlled stationery to persons that have been authorised to requisition such stationery?			
10. Are used stationery forms and books checked from time to time for completeness of usage by the stationery custodian and such check recorded in writing in the stationery register?			
11. Are used stationery forms checked (or test checked if a full check is not feasible) for completeness of usage and of numerical sequence at irregular intervals against the register by an independent responsible official?			
11.1 If so, is such check evidenced?			
12. Is proof of usage of previously issued stationery required from persons seeking to draw new controlled stationery?			
13. Are controls exercised over trust and business stationery the same in all respects?			
14. Is all controlled stationery printed especially for the firm on protected paper to prevent unauthorised stationery from being used and to highlight unauthorised alterations?			
15. Is trust stationery clearly distinguishable from business stationery?			

M. COMPUTERISED ACCOUNTING			
Objective			
To ensure that computerised accounting systems are properly controlled to ensure the validity, accuracy and completeness of accounting data.			
The risks of confidentiality and fraudulent transactions should be considered in which case the control procedures should pertain to both the physical security of the reports and the information resident on the hard drive. Where the legal practitioner's computer system is linked through electronic funds transfer with any bank, an additional risk is created and adequate security measures should be in place.			
Data capture			
1. Are all source entries independently totaled prior to being captured?			
2. Is a permanent record kept in a register of these batch totals together with a description of the entries processed?			
3. Are those totals checked against the batch total after processing?			
3.1. Are these computer batch totals also permanently recorded in the same register?			
4. If these totals do not agree, is the error searched for immediately and rectified before any further entries are processed?			
4.1. Does the register record these differences, the cause thereof and how they have been rectified?			
5. Are all batch print-outs retained and permanently filed in sequence?			
6. Are all source documents or source entries:			
6.1. sequentially numbered?			
6.2. processed in sequence?			

7. Where computer postings are made directly from the source document (i.e. where there is no book of prime entry), are all prime documents sequentially numbered, batched and permanently filed?			
8. Is it clear from the ledger accounts the exact source of each entry, whether it be from a book of prime entry or from source documents?			
9. Is it clear from the ledger accounts the type of each entry posted, e.g. cash, journal, petty cash, fees, etc.?			
10. Are all audit trails sequentially numbered and permanently filed in sequence (either all together or according to nature of entries)?			
11. Are all batch print-outs clearly marked with a heading indicating the period involved, the nature of the entries and the source of the entries, including batch numbers where applicable?			
12. Are lists of business and trust balances extracted at regular intervals (at least quarterly but preferably monthly)?			
13. Is the total of these lists agreed to the control accounts kept as part of the computerised system?			
14. Are the balances on the computer control accounts agreed monthly by an independent responsible official with the control accounts in the nominal ledger?			
15. Is a permanent record maintained of the monthly balances detailed in 12, 13 and 14?			
Security of information/data resident on the computer			
16. Does the computerised system automatically produce an extraction of all trust client ledger balances? Is a reconciliation done to ensure the completion of the extraction?			
17. Does the extract record client names?			
18. Does the computerised system generate an audit trail of the following: a) Transfers between the trust accounts and business accounts. b) Transactions processed to the trust accounts (both			

debits and credits). c) All deleted, amended and/or inactive trust accounts?			
19. Are the reports above reviewed periodically by a senior person?			
20. Are audit reports generated daily, weekly or monthly and can such audit trails be regenerated? (i.e. if the information reported on an audit trail cannot be reprinted at any point in time there is a risk associated with the loss of such audit trails.)			
21. Can the printing or generation of audit reports be suppressed through a parameter in the application?			
Security over programs (where programs are developed or amended in-house)			
22. Are there defined responsibilities regarding testing, documenting and approving the implementation or modification of computer programs? (Where computer programs are maintained by an external third party there is less risk involved than where they are maintained in-house.)			
23. Is access to the source code of the computer programs and the compilers adequately restricted to prevent unauthorised changes to the program?			
24. Can users of the system create their own reports, based on their parameters, of transactions relating in particular to trust accounts (less reliance may be placed on self-specified programs).			
25. Can modifications be made to the live/production programs or can they only be made in a test environment with appropriate change controls over the move to the production environment?			
26. Are backups of the current versions of the production programs created and stored in a safe alternative location?			
Security over data access			
27. Is there effective security against unauthorised access to programs and data files?			
28. Are there controls to ensure that computer programmers			

do not have access to the live data files?			
29. Is access restricted by an effective password control			
a) Is there a formal password standard?			
b) How often are passwords changed?			
c) Are users free to assign their own passwords?			
d) Are measures taken to ensure passwords are random rather than systematic values such as birth dates or family names?			
e) Are measures taken to ensure that passwords are encrypted?			
f) Are user IDs suspended after a specified number of unsuccessful attempts at access?			
g) Do terminals deactivate after a specified period of inactivity?			
h) Is access to highly sensitive functions or powerful utilities restricted by dual passwords?			
Back up			
30. Is there a formal backup procedure that is followed?			
31. Are data files backed-up regularly on some external media like external hard drive/spool/CD etc.?			
32. Are multiple versions of the backup maintained (e.g. Grandfather, Father, Son)?			
33. Are backup files stored in a safe alternative location?			
34. Are backup files frequently tested to ensure that they are not corrupt?			
35. Is confidential hard drive information removed when computers are maintained/repaired/upgraded?			
N. INVESTMENT OF CLIENTS' FUNDS			
Objective			
To ensure that clients' investments are properly authorised and accounted for and held under strict security arrangements.			
Authorisation			
1. Where trust moneys are invested on behalf of a client in pursuance with Section 45(2) of the Act read with			

Regulation 30.8, is there a procedure to ensure that the client's prior written consent to the specific investment has been obtained?			
Physical control over investments			
1. Are the securities under the physical control of a responsible person?			
2. Are the securities inaccessible to persons other than those responsible for their safekeeping?			
3. Are adequate precautions taken to protect the client's title to investments (e.g. by registering them in the name of the client or, in the case of those registered in the name of nominees, obtaining declarations of trust)?			
4. Are documents transferring the ownership of investments executed by a responsible official:			
a) to whom this authority has been formally delegated, and			
b) who is not responsible for the safekeeping of investments?			
Detailed records			
1. Is a register of all investments held for clients maintained showing:			
a) specific description and identification,			
b) name in which registered,			
c) amounts,			
d) who has signing powers, and			
e) dates invested and disinvested.			
2. Are there adequate procedures to ensure that all funds invested for clients are recorded in the register (i.e. control account)?			
3. Is a regular review made by a responsible official of the register to ensure that it is up to date and accurate?			
3.1 If so, is this check evidenced?			
3.2 Is the review either performed or checked by persons other than those that:			
a) Maintain the register,			
b) Maintain the related control account,			

c) Are responsible for custodianship functions.			
Custodian of securities			
1. Is the function of custodian of securities carried out by a person other than those that: a) perform cash functions, b) maintain the related control account, and c) maintain the detailed records of investments?			
Verification			
1. Is the accuracy of the detailed records (register) of investments verified by a responsible official at least annually: a) by physical inspection of related certificates, bonds or other documents, or b) by direct confirmation for investments held by banks or others for safekeeping or as collateral?			
1.1. If so, are such checks evidenced?			
2. Is the verification carried out by persons other than those who: a) perform cash functions; b) maintain the detailed records of investments; c) maintain the related control account; or d) perform custodianship functions.			
O. MONEY LAUNDERING			
1. Have manuals, policies and procedures been developed and implemented to ensure compliance with provisions of anti-money laundering legislation?			

P. SIGN OFF

This questionnaire was completed on *(insert date)* by *(insert name of auditor)*,
in consultation with *(insert name of representative of attorney's firm)*.

To be signed by the auditor

Date

I (*insert name of representative of attorney's firm*) confirm that the representations made to the auditor are true and correct.

To be signed by the representative of the attorney's firm

Date

APPENDIX III

ILLUSTRATION OF AN ENGAGEMENT LETTER (for an assurance engagement on a legal practitioner's trust account.)

The following letter is for use as a guide together with International Standard on Auditing 210 *Agreeing the Terms of Audit Engagements*. The form and content of this guide may be varied to meet individual circumstances.

(Auditors letterhead)

(Date)

(To (insert name of legal practitioner's firm))
(Address)

Dear Sir(s)

We are pleased to confirm our acceptance of the assurance engagement of (*insert name of legal practitioner's firm*) in terms of section 45(7) of the Legal Practitioners Act. This letter sets forth our understanding of the terms and objectives of our engagement, and the nature and scope of the services that we will provide.

Our Responsibilities

We have been engaged to conduct an assurance engagement and report on whether the trust accounts of (*insert name of legal practitioner's firm*) were maintained in compliance with the Legal Practitioners Act and the Regulations of the Law Society of Botswana. In terms of Section 45(7), our report will be submitted to the Council of the Law Society of Botswana.

Our engagement will be conducted in accordance with International Standard on Assurance Engagements 3000 (Revised) *Assurance Engagements Other Than Audits or Reviews of Historical Financial Information* and any other procedures deemed necessary based on our professional judgement. Our assurance procedures will include:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the trust and related accounts.
- Assessing the accounting and internal control practices adopted by the legal practitioner related to the trust accounts.

Responsibilities of the Partners/Practitioners

The establishment and maintenance of an internal control system, necessary to provide reasonable assurance that adopted policies and prescribed procedures are adhered to for the prevention of errors and irregularities, including fraud and illegal acts, rests with you as partners/proprietors. However, should you at any time require a specific investigation for the purpose of providing affirmation with regard to the operation of any aspect of your internal control system, or for any other purpose, this would be undertaken at your request.

We look forward to full co-operation with your staff, and we trust that they will make available to us whatever records, documentation and other information requested in connection with our engagement.

Reporting to partners/ practitioners

We shall report to you, normally in writing, any significant weaknesses in, or our observations on, the internal control systems and other issues that come to our attention during the performance of the engagement that we consider should be brought to your attention.

Use of the report

The report is intended solely for the use of the Law Society of Botswana in terms of Section 45 (7) of the Legal Practitioner’s Act and therefore may not be suitable for another purpose. We assume no liability to use of this report other than as intended.

Representations by partners/practitioners

As part of our normal assurance procedures, we will request you to provide written confirmation of oral representations that we receive from yourselves during the course of the engagement. .

Fees

Our fees, which will be billed as work progresses, are based on the time necessarily spent on the assignment by the engagement team plus disbursements.

Acknowledgement and acceptance

Once agreed, this letter will remain effective until it is replaced. Please sign and return the attached copy of this letter to indicate that it is in accordance with your understanding of the terms of the engagement.

Yours faithfully

Name of firm of Certified Auditors

Certified Public Auditors

Acknowledged on behalf of (*insert name of attorney’s firm*)

.....

Name and title

Date

APPENDIX IV

ILLUSTRATION OF A MANAGEMENT REPRESENTATION LETTER

The following letter is for use as a guide in conjunction with the considerations outlined in this guide, and will need to be varied according to individual requirements and circumstances. Reference should be made to International Standard on Auditing ISA 580 “*Written Representations*”

(Attorney letterhead)

(Date)

(To auditor)

(Address)

Dear Sir(s)

We confirm that we have performed such assessments as we considered necessary to enable us to conclude that the relevant sections of the Legal Practitioners Act regarding the accounting records, including the trust accounts, have been complied with.

We confirm to the best of our knowledge and belief, the following representations made to you during the performance of the engagement for the year ended (*insert date*) for purpose of reporting to the Law Society of Botswana in terms of the Legal Practitioners Act:

- Our responses to the Internal Control Questionnaire reflect the true status of our internal control system.
- All clients’ files, accounting records and related data have been made available to you.
- Accounting records have been kept as required by the Legal Practitioners Act.
- All trust money received has been promptly banked intact in properly designated, separate trust bank accounts.
- Money has only been transferred from the trust bank account to the business bank account in respect of fees and disbursements due and only when permitted, in terms of the Legal Practitioners Act.
- At no stage during the year under review, did the total amount of money in trust bank accounts, trust investment accounts and trust cash not equal the total amount of trust creditors, other than fees that were transferable, but have not yet been transferred.
- The firm complied with investment practices as set out in Section 45(2) of the Legal Practitioners Act.
- All interest received has been properly accounted for and the excess of interest over the costs incurred in performing the duties per section 45 of the Legal Practitioners Act was paid over to the Law Society of Botswana for the account of the Fidelity Guarantee Fund.
- The disclosure of facts relating to any frauds or possible frauds known to us that may have affected the firm.
- The following changes occurred in the composition of the firm during the year under review:

(Insert list indicting names of partners/directors that joined the firm and names of partners/directors that resigned from the firm).

It is our understanding that providing you with these representations forms an important of completing the engagement.

Yours faithfully

.....
Partner/practitioner Date

.....
Senior Financial Officer* Date

* Delete if not applicable

APPENDIX V

MINIMUM PROCEDURES TO BE CARRIED OUT ON AN ASSURANCE ENGAGEMENT FOR LEGAL PRACTITIONERS' TRUST ACCOUNTS

Adaptation

Where the firm's accounting records are computerised and/or where the firm is making use of electronic fund transfers, the practitioner is to adapt the minimum assurance procedures accordingly. For example, in the case of funds being transferred electronically, no paid cheques and/or deposit slips will be available for payments made. However, reference could be made to electronic fund transfer confirmation sheets. In the case of funds received electronically, no duplicate receipt might be available and reference could be made to a copy of the electronic fund transfer confirmation sheet that was forwarded by the client to the firm and/or the bank statement of the firm.

MINIMUM ASSURANCE PROCEDURES	WORKING PAPER REF/COMMENT
Internal Controls	
1. Complete, in consultation with management, the internal control questionnaire contained in Appendix II to the guide issued by BICA “ <i>Audit Guideline (Revised) The Audit of Legal Practitioners’ Trust Accounts in terms of the Legal Practitioners Act (Ch. 61:01) of 1966 and the Regulations framed there under</i> ”. The results of the questionnaire are to be taken into account when performing the audit.	
Accounting records	
2. Ensure that the accounting records are kept at the main and/or branch offices and enquire if the prescribed retention period is adhered to.	
3. Examine the accounting records to ascertain whether or not the accounting records separate the records of: <ul style="list-style-type: none"> • the firm’s financial transactions relating to its practice, • particulars and information of trust account transactions: <ul style="list-style-type: none"> - all moneys received, held or paid by the attorney for the account of any person - of all money invested by the attorney in a trust savings account or other interest bearing account - and of all interest on money so invested that is paid over or credited to the attorney • assets and liabilities. 	
4. Ensure that the firm has opened a separate trust bank account at a bank in Botswana and the Law Society has been informed of the name and address of the bank and any changes during the period.	
5. On a test basis, agree receipts and payments on the business account with bank deposit books or slips or cheques in order to ascertain whether any trust items have been erroneously dealt with as business items.	
Deposit/Receipts	
6. On a test basis, check that moneys received in advance to cover fees and/or disbursements are treated as trust moneys.	
7. On a test basis, agree copies of trust receipts with authentic proof of deposit, to ensure that all trust receipts are being banked intact and by not later than the first banking day on which it might reasonably be expected that such money would be banked.	
8. Check the sequence of the trust receipt numbers and agree with the stationery register.	
9. Check that the originals of cancelled receipts are attached to the copies thereof.	
10. On a test basis, check receipts to clients’ covers (matter files) and authenticate the correctness of the ledger account credited.	
Reconciliation of trust ledger	
11. Check that:	

<ul style="list-style-type: none"> • the firm has extracted lists of clients' trust ledger balances at least quarterly during the period, • the lists of balances have been totalled, • the totals of such lists have been agreed or reconciled to the total of trust funds, and • the lists are retained for a period of five years. 	
12. At the closing date and at least one other date, agree on a test basis the individual balances from the trust ledgers with the quarterly balance book or quarterly schedules, ensuring that the selected balances are clearly indicated in each ledger account.	
13. At the closing date and the date selected in procedure 12 above, identify all trust debit balances, and determine the cause thereof.	
14. At the closing date and the date selected in procedure 12, agree the total of the trust ledger credit balances with the aggregate of: <ul style="list-style-type: none"> • balances in trust bank accounts, • balances in savings accounts, • trust cash on hand. 	
15. Obtain certificates of the balances referred to in procedure 14 direct from the financial institutions at the closing date and the date selected in procedure 12.	
16. Check that all trust cash on hand, included in the trust funds at the closing date and the date selected in procedure 12, is represented by trust receipts issued prior to that date, and that such moneys were deposited on the next banking day after receipt.	
17. Scrutinise the lists of trust ledger balances at the closing date and the date selected in procedure 12, and enquire into any ledger accounts in the name of the firm.	
18. Scrutinise trust ledger balances at the closing date and the date selected in procedure 12, and identify balances that are not in the names of individuals/trust creditors. Investigate balances in the name of the firm, suspense accounts and unidentified deposits. Check activity for unusual or abnormal items.	
19. Cast the lists of balances on the closing date and the date selected in procedure 12.	
20. On a test basis, cast the accounts in the trust ledgers.	
21. On a test basis, check posting to the trust ledger from all sources, scrutinising the ledger account tested, ensuring that entries therein appear to be relevant.	
Withdrawals/payments/transfers from trust accounts	
22. On a test basis, check that amounts withdrawn from the trust investment account are deposited promptly in the trust bank account.	
23. On a test basis, check that withdrawals from the trust bank account are made only: <ul style="list-style-type: none"> • to or for a trust creditor (validity), and • as transfers to its business bank account. 	
24. On a test basis, agree payments from the trust bank account with: <ul style="list-style-type: none"> • paid cheques (ensuring that all such paid cheques were also 	

<p>made payable to or to the order of a payee specifically designated), and</p> <ul style="list-style-type: none"> • vouchers, requisitions or clients' covers (matter files) (some of the latter to establish authority for payment and the accuracy of the corresponding debit), • ensuring that the payment for the disbursement has physically been made by the firm. 	
25. Scrutinise a representative batch of paid cheques looking for payees that would not in the normal course of events be the recipients of the attorney's trust cheques. Examples could be payments in favour of the local butcher or supermarket.	
26. On a test basis, agree transfers from the trust to the business accounts through the cashbook with appropriate schedules of transfers or the transfer journal. If transfers are made in respect of fees, ensure that the amount transferred corresponds to identifiable and properly recorded fees.	
27. Check the reconciliation between the cashbooks and the bank statements at the closing date and at least one other date, ensuring that items appearing on such reconciliations, for both the business and the trust account, have been cleared subsequently.	
28. Scrutinise the bank statements for at least one week after the closing date and the date selected in procedure 27 for unpaid cheques and/or negotiable instruments previously deposited in the trust bank account and for extraordinary debits.	
29. Compare (on a test basis) the list of trust balances shown on the trust accounts in the ledgers of the attorney's firm with the respective ledger accounts at the year end and date of test and report that after examining the bank statements of the attorney's firm for such period as we deemed necessary, (being not less than one week) following each of the dates mentioned above, the circumstances in which any negotiable instruments were deposited in the trust banking account but had not been met, were considered to be satisfactory.	
30. Examine all "reverse" transfers and, if these were passed to correct debit balances on trust ledger accounts, record details and check for validity.	
Investment practices	
31. Check that formalities and procedures relative to clients' trust investments in terms of section 45 of the Legal practitioners Act and section 30 of the Regulations of the law society of Botswana have been followed.	
32. Check that an investment mandate is available from each client whose moneys are invested.	
33. Check that each client is supplied with a schedule reflecting all relevant details of his/her investment.	
34. Check that money market transactions are with a bank licensed under the Banking Act or a Building Society registered under the Building Societies Act.	

<p>35. Check that where investments have been made in:</p> <ul style="list-style-type: none"> • unlisted shares/debentures in a company other than a subsidiary of a listed company, or • money market type of transactions, or • loans without adequate security <p>the client's written authorisation was obtained before the investment was made.</p>	
General procedures	
36. Report any instances where access to accounting records was deemed necessary, but was denied.	
37. Test check client's files for supporting vouchers and compare file transactions with ledger transactions.	
38. Report any material queries regarding the accounting records that have been raised with the firm, but which have not been dealt with satisfactorily.	
39. Examine records of savings accounts, and check deposits and withdrawals with trust cashbook, particularly immediately before and after the closing date and at one other date.	
40. Examine the trust account bank statement for the whole year. Ensure that interest has been accounted for in accordance with section 45(3) of the Legal Practitioners Act.	
41. Check that trust account bank charges are not debited to the trust account, but to the business account or to a separate bank account set up for this purpose.	
42. Check that savings or other interest-bearing accounts are designated properly.	
43. Identify transfers that have been made directly from the trust account of one client to the trust account of another client, and ensure that there are valid reasons for these transfers.	
44. Examine all material entries in suspense, sundry or miscellaneous accounts, ensuring that there are valid reasons for such entries.	
45. Examine the accounting records for the period subsequent to the date on which the agreed procedures have been performed; report the date at which the latest trial balance was extracted and balanced; the latest date that lists of clients' balances were extracted and agreed to nominal ledger control accounts (if any) and to the trust funds.	
46. Cast appropriate accounting records for the periods examined.	