



LAW SOCIETY
of ALBERTA

Other Peoples' Money: Trust Account Compliance

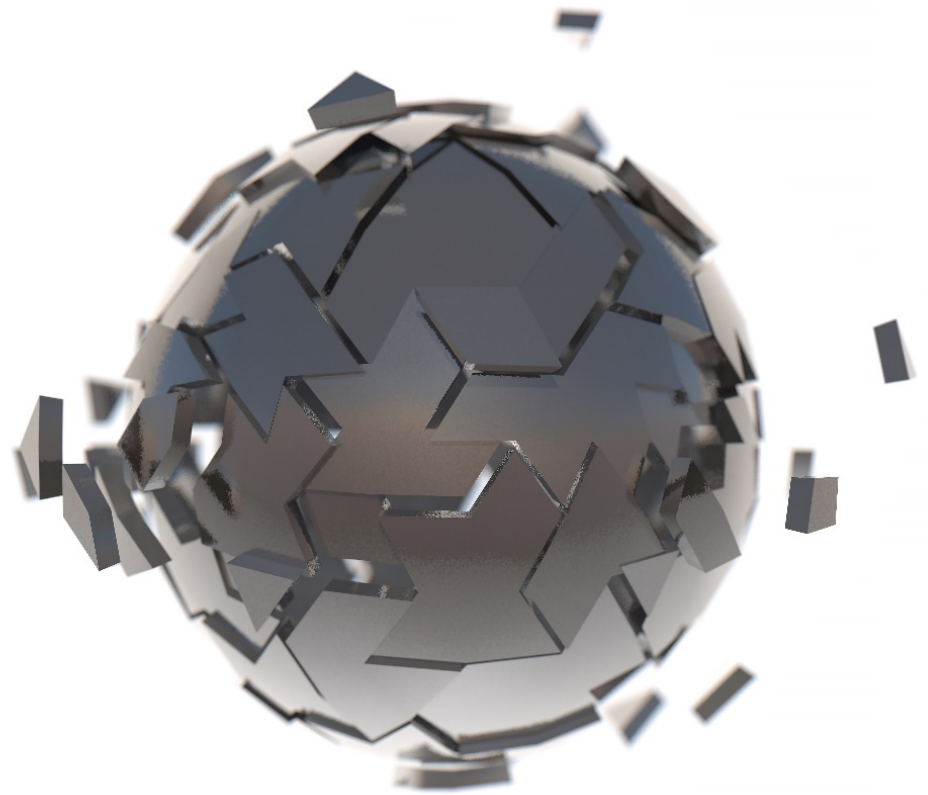
Trust Account Reconciliation

May 23, 2019

Agenda

- Trust Account Overview
- Top Compliance Challenges
- Completing a Trust Bank Reconciliation
- Group Exercise
- Q & A

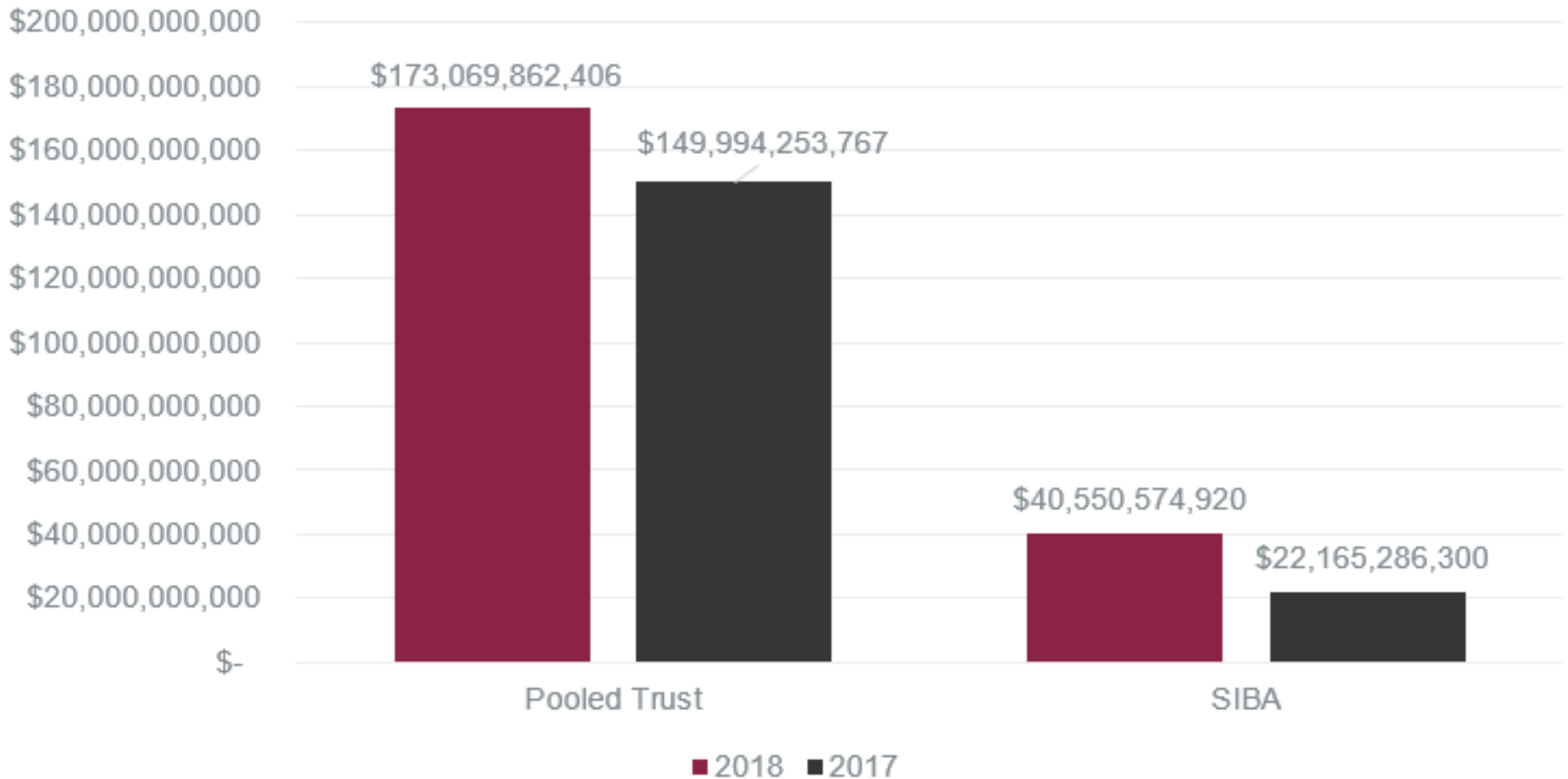




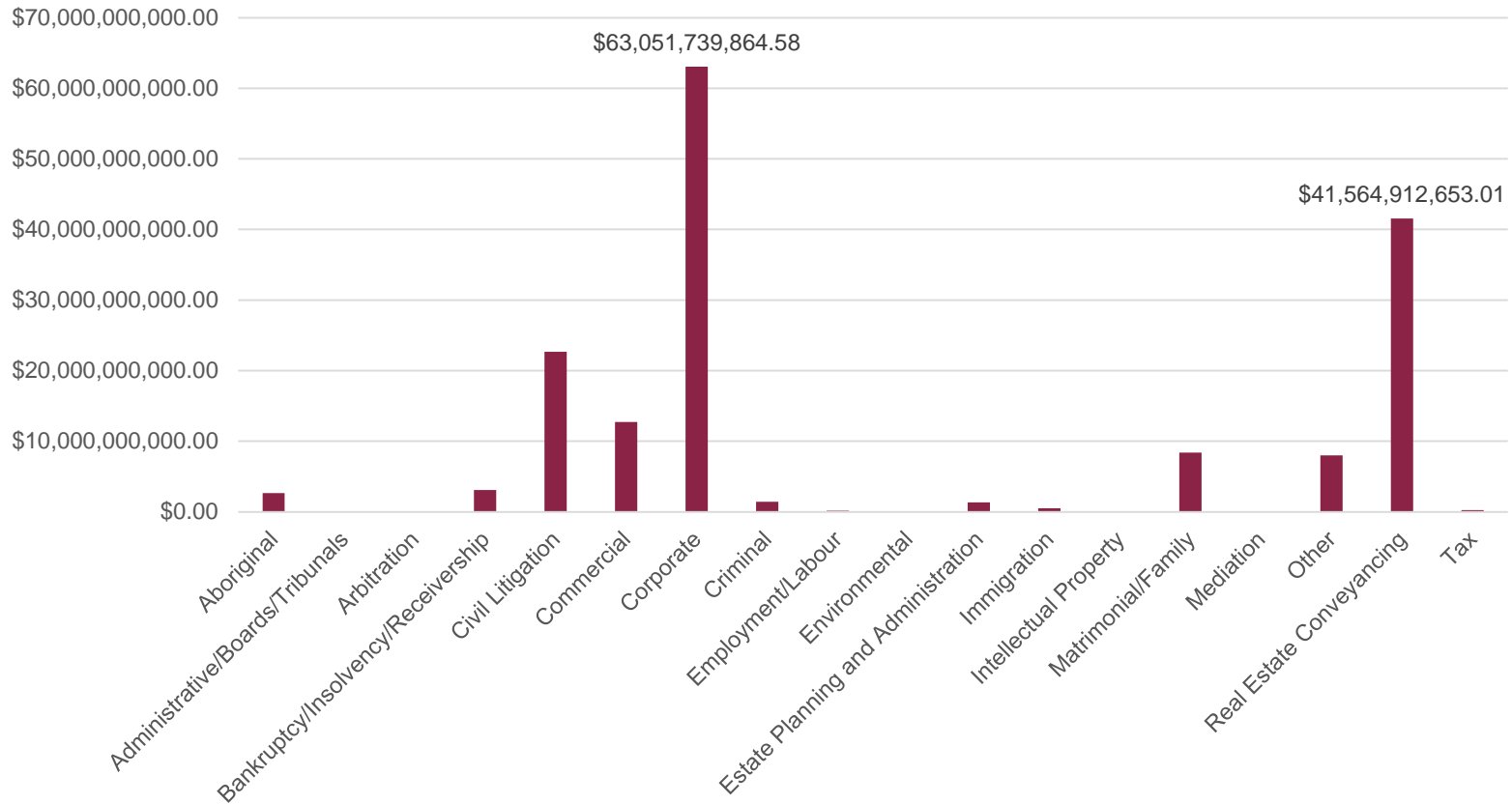
Trust Account Overview

2017 vs. 2018

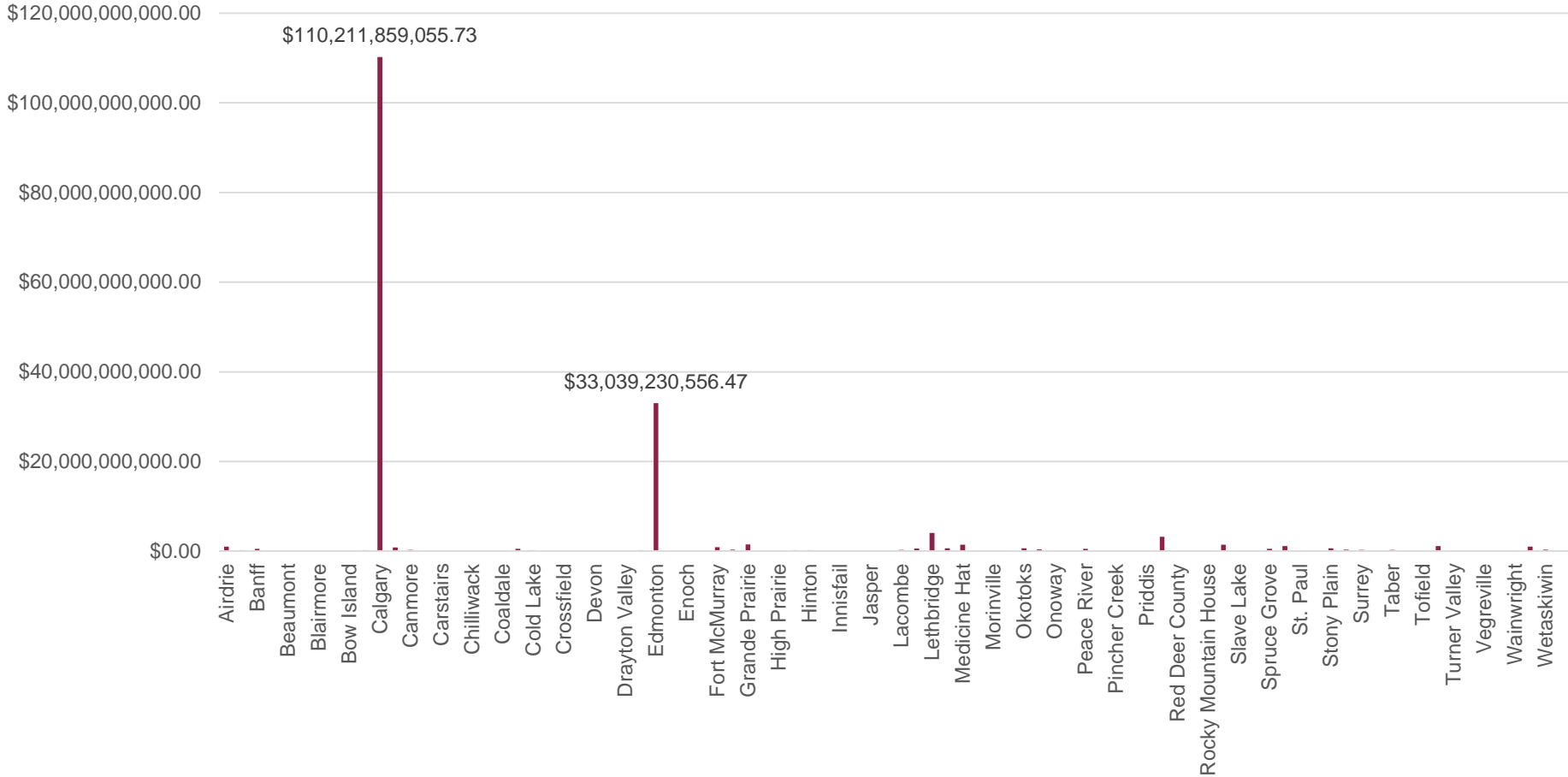
Flow of Funds in AB Trust Accounts



Total Receipts by Firm Practice Area



Total Receipts by City



Interesting Bank Account Facts

- 3,383 Pooled Trust Accounts
- 2,173 Separate Interest Bearing Accounts (SIBA)
- CIBC holds the most trust accounts at 52%
- Oldest Pooled Trust Account - 71 years old, opened in 1948 and held at RBC
- Trust Account with the most receipts - \$20B

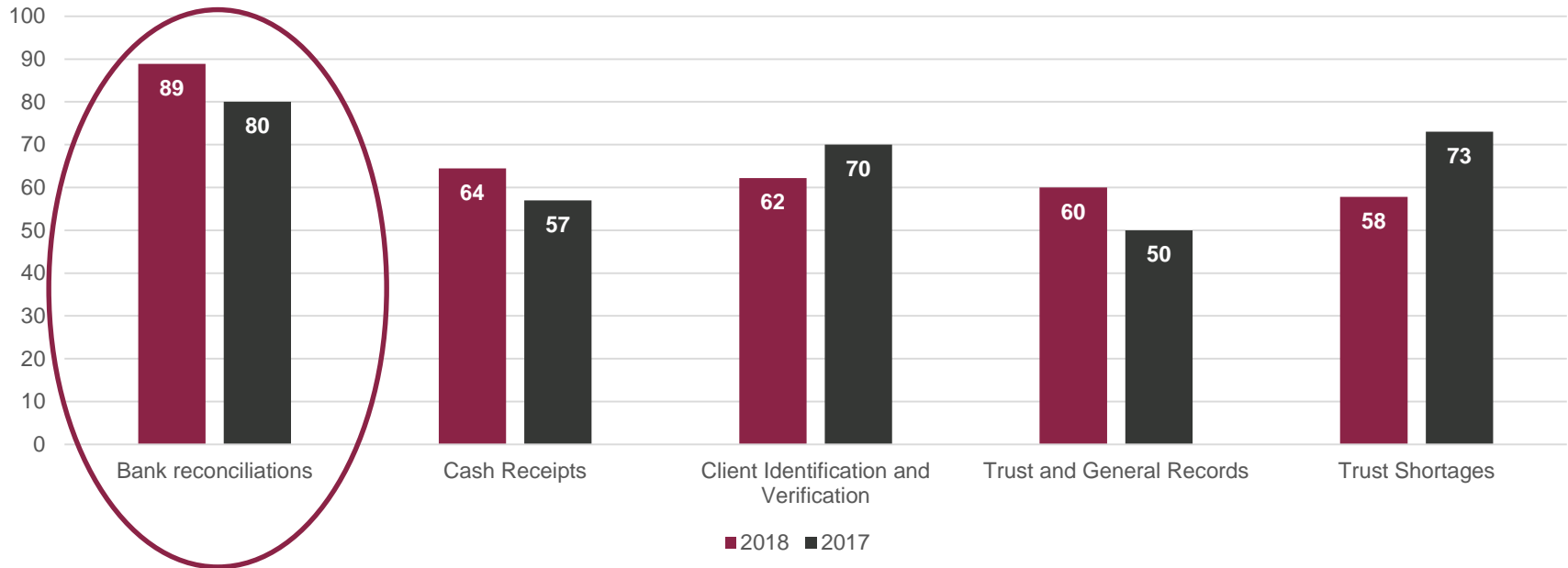


Top Five Compliance Challenges

Field Audit Analysis

Top Findings

% of Law firms



Bank reconciliation: reconciliation is not completed in a timely manner (within the next month) or completed with errors

Cash receipts: Law firm has collected cash in excess of \$7,500 for purposes other than those listed in rule 119.38(5), or duplicate receipt not properly maintained.

Client ID & Verification: government issued ID and other steps to verify identity of the client (corporate search for corporate clients, contact information) not completed

Trust and general records: receipts and/or withdrawals are not posted to the correct matter, posted with wrong descriptions, etc.

Trust Shortages: withdrawal from client matter/ trust account without sufficient funds, bank charges and other non-trust related withdrawals from trust account that were unreported.



Trust Account Reconciliation

Purpose of a Reconciliation

- Very important record
- Key internal control over the firm's assets
- Proof that there are sufficient funds in trust
- Comparison of what should be in trust to what is in trust
- Firm can locate mistakes in the books or bank
- Track problematic transactions e.g. long outstanding transactions
- Identify fraud or accounting errors

What Accounts Should be Reconciled?

- Pooled Trust Account – Rule **119.36 (4)(d)**
- Separate Interest Bearing Account (SIBA)
Rule **119.20 (2)**
- General Account - Rule **119.40**
- Credit Card Accounts

Trust Account Reconciliation Rules

- Must be done monthly
- The Trust bank balance and the Client Trust Listing must be the same.
- Must perform even if no activity or zero balance in the account
- Any shortages must be corrected immediately
- RL should review, sign and date within 30 days

The Process: Three-way Reconciliation

1. Trust Bank Balance – Trust Assets
2. Client Trust Listing – Trust Liabilities
3. Trust Journal – receipts and disbursements journal (Control Account)

****ALL 3 MUST BALANCE**

What Should be Included for Review & Retained?

1. The bank reconciliation report with supporting documents (such as uncleared cheques, uncleared deposits, detailed list of adjustments with description)
2. The Trust Bank Statement (Pooled and SIBA)
3. The Trust Bank Journal
4. The Client Trust Listing

What Should be Included for Review & Retained?

5. Trust transfer journal – Include only transactions for the month being reconciled
6. Save a PDF copy of the bank reconciliation
7. RL must review, sign and date within 30 days

What to Look for in a Bank Reconciliation

Trust Bank Account

1. List of “**Uncleared Deposits.**” Why are these deposits in your books not showing at the bank?

Pay special attention to:

- Reoccurring outstanding deposits carried over from month to month.
- That the deposit book confirms any outstanding deposits listed on the trust bank reconciliation were deposited the next banking day.

What to Look for in a Bank Reconciliation

Trust Bank Account

2. List of “**Uncleared Cheques.**” If sufficient time has passed, why do these cheques remain uncleared?
 - Less than 30 days. Were the transactions near the statement closing date?
 - Greater than 31 days. Determine why transactions have not cleared.
 - *Contact parties, e.g. outstanding cheques*
 - *Confirm entries are correct, e.g. duplicate entries*

What to Look for in a Bank Reconciliation

Trust Bank Account

- 3. Stale-dated** cheques - Cheques are stale-dated six months after the issue date Consider putting a stop-payment and re-issuing the cheque(s) to your client(s).
- 4. Are there bank service charges or posting errors?** If so, ensure that they are corrected.

What to Look for in a Bank Reconciliation

Trust Bank Account

- 5. Adjustments** should be clearly explained and not simply carried over into the next month.
- 6. Review all cancelled cheques** attached to the bank statement

What to Look for in a Bank Reconciliation

Client Trust Listing

1. Identify Balances.
2. Are there any closed matters with retainer balances less than two years? If so, formulate a plan to **issue refunds**.
3. Are there any client files that have been **inactive** for more than two years?

If so, consider returning funds to the client or remitting funds to the Law Society under the provisions of Rule 119.27.

What to Look for in a Bank Reconciliation

Client Trust Listing

4. Are there any files with **large balances** in trust for a long period of time?

If so, consider whether it would be appropriate to open a Separate Interest Bearing Trust account.

Note: Obtain written client authorization prior to opening a Separate Interest Bearing Trust account and the preferred investment vehicle.

What to Look for in a Bank Reconciliation

Client Trust Listing

5. Are there any **shortages or overdraft**? Per Rule 119.24 the shortage should be reported if:
 - a) the law firm does not correct the deficiency within seven days of the time the shortage arose, or
 - b) the deficiency is an amount greater than \$2500, regardless of when the deficiency is corrected.
 - c) If the cause of the shortage cannot be immediately identified, it is the RL's obligation to replace the funds from the General Account as soon as possible.

What to Look for in a Bank Reconciliation

Client Trust Listing

6. Is the “float” within the allowable limit of \$500 per Rule 119.19?

If not, issue a trust cheque payable to the general account for the excess amount over \$500.

Funds that Should Never be in a Trust Account

- Personal funds
- Earned income
- Payroll
- Excess float > \$500
- Transactions not related to legal services

What to Look for in a Bank Reconciliation

Trust Bank Journal

1. Ensure the **ending balance** of the Trust Bank Journal agrees with the Client Trust Listing and Adjusted Bank balances.
2. **Adjustments** should be clearly explained and not simply carried over into the next month.

**Print to PDF and archive
monthly reconciliation reports**



Trust Bank Reconciliation Exercise

Do the balances, deposits and disbursements make sense?

Remember that good documentation doesn't mean something happened, only that someone said it happened. So look for patterns of unusual transactions and trust your instinct. If you're surprised, investigate!

See Something, Say Something!

Theft by staff is not covered by Part B insurance so do your part in monitoring your trust account!

Examples



See Something, Say Something!

- Report irregularities to Trust Safety, specifically if you suspect:
 - someone is asking you to do something contrary to the Rules or Code.
 - someone (regardless of rank or position) is committing fraud.
 - serious accounting irregularities and breaches of good accounting practices.
 - misappropriation of trust funds.
 - theft of money by any person from the law firm's trust accounts or general accounts.

How to Report Fraud

Phone: 403-620-6011

Email: InformTrustSafety@lawsociety.ab.ca

Mail: Confidential: Law Society of Alberta
Attention: Manager, Investigations
Suite 500
919 11th Avenue SW
Calgary, Alberta T2R 1P3

Continuing Professional Development

- Consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society.



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Thank you!

Watch out for the next
Trust Accounting 101
session!

