

Controlled Money

General information

- Written direction from the client to deposit funds to controlled money account.
- Deposited to controlled money account in name of {firm} CMA{client}. Does not have to pass through general trust account (but can).
- Controlled money receipt issued-posted to controlled money control account (records all receipts / payments for all controlled money account-like a cashbook) and controlled money movement account (client ledger).
- Written direction from client to withdraw funds from controlled money account.
- Funds are withdrawn from controlled money account to the entitled beneficiary or as directed. Does not have to pass through general trust account (but can).

A controlled money account is more suitable than an investment account when there is a need to regularly transact on the account.

Example of controlled money

A client has engaged the firm to expand a multi-million-dollar dog-grooming practice. The client has been advised that any funds in the general trust account will not accrue interest for their benefit. The client has provided the firm with a written direction instructing the firm not to place a \$2,000,000 deposit into the general trust account but instead to place it in a separate trust account exclusively for their sole benefit, but which the law practice will have exclusive control.

Refer to section 224 of the LPA, and sections 51-55 of the LPR.

Section 51(1) of the LPR states that a controlled money account must be kept under the name that includes the following particulars:

- The name of the law practice concerned;
- The expression “controlled money account” or the abbreviation “CMA” or “CMA/c”;
- Other particulars sufficient to identify the purpose of the account and to distinguish the account from any other account maintained by the law practice.

Receipting controlled money

The law practice must operate a single controlled money receipt system for the receipt of controlled money for all its controlled money accounts.

A receipt is not required to be made out for interest received, although it is best practice to do so

This documents refers to section 226 of the *Legal Profession Act 2006* (‘LPA’), and sections 60 and 61 of the *Legal Profession Regulations 2007* (‘LPR’).

Questions?

If you have any questions about this topic, please contact the ACT Law Society on (02) 6274 0300 or trustaccounts@actlawsociety.asn.au.

Controlled Money (continued)

Controlled Money Register

A law practice that receives controlled money must maintain a register of controlled money consisting of the separate records of controlled money movements for the CMAs of the practice.

The controlled money movement record must record details of the CMA and its transactions in accordance with section 55 of the LPR.

Not later than 15 working days after each named month, the law practice must prepare and keep as permanent record a statement (showing the date the statement was prepared) as at the end of the named month.

The statement must contain a list of the practice's controlled money accounts, and show:

- The name, number and balance of each account in the register,
- The name of the person on whose behalf the controlled money in each account was held; and
- A short description of the matter to which each account relates; and
- The date the statement was prepared.