

Frequently Asked Questions

Regulation respecting trust accounting by chartered professional accountants and the indemnity fund of the Ordre des comptables professionnels agréés du Québec

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16. The enterprise I work for holds trust accounts and my duties involve keeping the records of these accounts although I am not a signatory (e.g. controller for a law firm). Am I subject to the Regulation?

17. I own a condominium and sit on the condominium corporation's board of directors. Am I subject to the Regulation?

18. I act as mandatory in an incapacity mandate that has been homologated. Am I subject to the Regulation?

19. I am a retired CPA who carries out various activities covered by the Regulation for friends, former clients and my family. Am I subject to the Regulation?

20. I am responsible for an estate and the bank account was opened in the name of the estate. Do I need to open a trust account?

21. I am the signatory or one of the signatories on a trust for a client or a family member, am I subject to the Regulation?

22. I am a sole practitioner or I work for a firm in charge of payroll for several companies. Am I subject to the Regulation?

23. I hold the CPA designation, am a lawyer and a partner or shareholder in a law firm, as well as the signatory on a trust account. Am I subject to the Order's Regulation even if I already comply with the Regulation respecting accounting and standards of professional practice of advocates of the Barreau du Québec?

24. I am a CPA and a trustee in bankruptcy with a firm or working as a sole practitioner and am a signatory on a trust account. Am I subject to the Regulation even if I already comply with a similar regulation under the Bankruptcy and Insolvency Act and report to the Office of the Superintendent of Bankruptcy of Canada (OSB)?

25. I am a liquidator of a succession. Am I subject to the Regulation?

26. I carry out various mandates for the community (e.g. volunteer at my child's school).
Am I subject to the Regulation?

Questions?

27. I can't find answers to my questions in this FAQ.

Definitions and obligations of CPA

- 1. Which CPA activities are governed by the Regulation respecting trust accounting by chartered professional accountants and the indemnity fund of the Ordre des comptables professionnels agréés du Québec (the “Regulation”)?**

The administration and/or holding of property belonging to a third party as defined in section 1 of the Regulation (e.g. sums of money or other securities when selling assets or shares for clients, outsourcing payroll services, paying taxes or other levies, and acting as receiver, liquidator, trustee, liquidator of a succession, mandatory in an incapacity mandate, or proxy) in the **practice of the CPA profession, against remuneration or without charge.**

- 2. Which activities are included in the practice of the CPA profession?**

The practice of the profession is defined in section 4 of the Chartered Professional Accountants Act. The definition includes, but is not limited to, audit, review and compilation engagements, personal and corporate taxation, bookkeeping, financial planning, forensic investigation, management consulting and acting as a trustee in bankruptcy when they are offered to the public.

- 3. What constitutes a family mandate?**

A family mandate constitutes a mandate where you act for a spouse (or equivalent), dependant, parent, non-dependent child, or sibling.

- 4. In the practice of my profession, I hold sums of money belonging to a third party. What are my obligations?**

These funds **must** be deposited in an account clearly labelled as a “trust account”. **Under no circumstances are they to be deposited in a personal or business chequing or savings account.** The member must complete the opening of a general trust bank account or the opening of a special trust bank account form, as the case may be, which must be submitted to the financial institution and to the Order.

- 5. What are my obligations with respect to the investment of sums held for third parties?**

As indicated in section 10 of the Regulation, the investment must be described as an investment that is presumed sound within the meaning of article 1339, paragraphs 2 and 3 of the Civil Code of Québec. The account may be opened with an unrestricted practice investment dealer duly accredited by the Autorité des marchés financiers or a similar organization and member of the Investment Dealers Association of Canada. In

addition, unless the member holds a general power of attorney, he must also obtain written authorization from the client specifying the type of investment, its maturity and the terms and conditions.

6. What do I have to do if I am subject to the Regulation?

- Complete the Annual mandatory declaration on the Order's website and answer the questions on the Regulation in section 5 (paper declaration) or in section 5 (Web declaration);
- Complete the annual Accountability report on the Order's website before March 31.

7. What about the confidentiality of the information contained in the Accountability report that CPAs submit to the Order?

The Order has established confidentiality measures for all information gathered in the practice of the profession. The Order is subject to various privacy laws and all Order employees have committed to keep any information that comes to their attention confidential. Applicable legislation, as well as the obligation to protect information covered by professional secrecy, provides for strict rules to ensure the confidentiality of information collected.

8. What happens if a CPA fails to produce the annual Accountability report as required under the Regulation?

Any violation of the Regulation may be reported to the Order's syndic. According to section 24 of the Regulation, a member will keep, and provide upon request to the Order in a readable format, up-to-date information pertaining to trust accounting. Furthermore, section 26 of the Regulation provides that failure to comply with the provisions of the Regulation may result in the Order appointing a chartered professional accountant of its choice to audit the trust accounting records at the member's expense and compel the member to provide the information required by the Order.

Trust bank accounts

9. Where can I easily open a trust account and what do I need to do?

To date, the Order has signed agreements with the following financial institutions:

BMO Bank of Montreal	CIBC
Desjardins	National Bank of Canada
Royal Bank of Canada	Scotiabank

To open a trust account, you simply have to complete the opening of an account form on the Order's website and go to a branch of one of the above-mentioned financial institutions.

10. Can I open a trust account at a financial institution other than those on the previous list?

Yes, provided that, as stipulated in section 8 of the Regulation, the account is made up of deposits covered by deposit insurance pursuant to the Canada Deposit Insurance Corporation Act (R.S. 1985, c. C-3) or guaranteed under the Deposit Insurance Act (R.S.Q., c. A-26), in which you deposit funds in Canadian dollars or foreign currencies. The trust account must be opened in Quebec with a financial institution governed by the Act respecting trust companies and savings companies (R.S.Q., c. S-29.01), the Bank Act (S.C. 1991, c. 46), the Act respecting financial services cooperatives (R.S.Q., c. C-67.3) or the Trust and Loan Companies Act (S.C. 1991, c. 45).

11. What is a general trust bank account?¹

A general trust bank account is an account opened in the name of one or several CPAs or of the partnership or joint-stock company within which the CPA practices his profession, in which are deposited funds that do not belong to the CPA and for which the CPA has waived his rights to the interest in favour of the Order.

12. What is a special trust bank account?²

A special trust bank account is an account opened on behalf of a client requiring such an account and in which are deposited the funds and interest belonging to the client. There are also special consolidated trust accounts, i.e. having the same characteristics as special accounts, but that are opened in the name of the firm or joint-stock company (see question number 13).

13. Are consolidated trust accounts held by trustees in bankruptcy special or general trust accounts?³

Accounts that are consolidated for the trustees' activities are considered **special** consolidated trust accounts that are separate from the firm's general trust accounts.

¹ see Step 1 of the Accountability Report

² see Step 2 of the Accountability Report

³ see Step 3 of the Accountability Report

Other questions and particular cases

- 14. In the practice of my profession, I administer the property of a third party, but I do not hold a trust account in my name and I am not a signatory (or cosignatory) on any trust account. Am I subject to the Regulation?**

CPAs may be subject to the Regulation if they administer the property of a third party, even though they do not hold or sign for a trust account.

- 15. I am a member of a board of directors. Am I subject to the Regulation?**

As a member of a board of directors or an organization, CPAs are subject to the Regulation only if they are treasurers, signatories or cosignatories on one or several bank accounts, whether or not these accounts are trust accounts (since they are administering property for a third party).

- 16. The company where I work holds trust accounts and my tasks involve keeping the records of these accounts although I am not a signatory or cosignatory (e.g. controller for a law firm). Am I subject to the Regulation?**

No, since you have no control over the funds.

- 17. I own a condominium and sit on the condominium corporation's board of directors. Am I subject to the Regulation?**

The administration of a contingency account (held by the condominium corporation) as treasurer or signatory (or cosignatory) of the account, is subject to the Regulation.

- 18. I act as mandatory in an incapacity mandate that has been homologated. Am I subject to the Regulation?⁴**

All mandatories are subject to the Regulation. However, if the mandate is family related, see question number 3 above.

- 19. I am a retired CPA who carries out various activities covered by the Regulation for friends, former clients and my family. Am I subject to the Regulation?**

In these circumstances, even retired CPAs are subject to the Regulation. However, if the mandate is family related, see question number 3 above.

⁴ see Step 4 of the Accountability Report

20. I am responsible for an estate and the bank account was opened in the name of the estate. Do I need to open a trust account?

Yes, it would be advisable in order to protect your client, the beneficiaries and yourself.

21. I am the signatory or one of the signatories on a trust for a client or a family member, am I subject to the Regulation?

Members are subject to the Regulation if they are signatory or co-signatory on the trust because they administer, against remuneration or without charge, a property or group of properties belonging to a third party.

22. I am a sole practitioner or I work for a firm in charge of payroll for several companies. Am I subject to the Regulation?

Where outsourcing payroll services are concerned, the member (or firm) is subject to the Regulation and must hold a trust account. However, if the payroll service is limited to bookkeeping, i.e. it does not involve handling sums of money, the member (or firm) is not subject to the Regulation.

23. I hold the CPA designation, am a lawyer and a partner or shareholder in a law firm, as well as the signatory (or cosignatory) on a trust account. Am I subject to the Order's Regulation even if I already comply with the Regulation respecting accounting and standards of professional practice of advocates of the Barreau du Québec?

Yes, you are, except if the professional services you provide to your clients are not included within the practice of the CPA profession. **In this situation, CPAs are required to make a statement to this effect annually.** In addition, each year, they are required to declare having a trust account on the Order's Collection of information questionnaire, as the case may be. The Order will notify the CPA in writing if we decide to suspend, until further notice, the obligation to produce the Accountability report. The Order will validate some of the information with the Barreau du Québec.

24. I am a CPA and a trustee in bankruptcy with a firm or working as a sole practitioner and I am a signatory (or cosignatory) on a trust account. Am I subject to the Regulation even if I already comply with a similar regulation under

the Bankruptcy and Insolvency Act and report to the Office of the Superintendent of Bankruptcy of Canada (OSB)?⁵

CPAs who are trustees in bankruptcy with a firm or who work as sole practitioners are subject to the Regulation even if they also report to the OSB since they are also members of the Order and the professional activities of a trustee in bankruptcy are included within the practice of the CPA profession. A simplified accountability report form is acceptable; please contact the Order for more details.

25. I am a liquidator of an estate. Am I subject to the Regulation?⁶

All liquidators of an estate are subject to the Regulation. However, if the mandate is family related, see question number 3 above.

26. I carry out various mandates for the community (ex.: volunteering for my child's school). Am I subject to the Regulation?⁷

CPAs who carry out various mandates for their community are subject to the Regulation if they act as treasurer or fulfill similar functions that require them to handle or hold sums of money.

27. I can't find answers to my questions in this FAQ.

For more information, you may contact us at the Professional practice department by e-mail at redditiondecomptes@cpaquebec.ca.

⁵ see Step 3 of the Accountability Report

⁶ see Step 4 of the Accountability Report

⁷ see Step 4 of the Accountability Report