



## **eRegistration: Law Society Rules & Requirements Frequently Asked Questions**

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- 1) Can I have more than one deposit account at Teranet Manitoba LP ("Teranet") – one for searches and the other for eRegistration?
- 2) Why are we not allowed to just use the pooled trust account?
- 3) Ontario also has eRegistration through Teranet. Are there differences between here and Ontario?
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- 15) If we're running multiple offices, and they each have a pooled trust account, must they each have a restricted trust account?

- 16) On foreclosure transactions, the land transfer tax is often received and paid out of trust, while the registration fees for other documents filed in the series are paid from the general account. The Teranet system does not allow a split payment, with a portion (such as Land Transfer Tax) by EFT and a portion (like the fees) from the deposit account. Will the Law Society allow firms to write a cheque on the general account for the fees, deposit it to the pooled trust account, and then use a pooled trust cheque to move the land transfer tax (trust money) and the other fees (general money paid into trust) to the restricted trust account?
- 17) Can a lawyer keep a float of general account money in the restricted trust account, even just at the start while everyone gets used to the new system, to help prevent insufficient funds?
- 18) Will I have to do the same reconciling and reporting on the restricted trust account in the Annual Trust Account Report?
- 19) Does a lawyer need to do the annual report for Canada Deposit Insurance Corporation for the restricted trust account?
- 20) Can we prepare a pooled trust cheque that would cover multiple registrations - a batch cheque?
- 21) With a restricted trust account, how many cheques will I be writing from that account? Do I need to order cheque stock for it?
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- 31) Does my client's Order to Pay need to separately itemize the transfer of funds from the pooled to the restricted trust account and then from the restricted trust account to Teranet?

- 32) Would my client's written Order to Pay be sufficient authority for me to pay eRegistration costs from my general account and then recover those costs by a payment from trust to the general account, without my having to render a statement of account?

### Miscellaneous Law Society Requirements

- 33) What is the Law Society's requirement for retention of forms scanned and uploaded to Teranet as part of eRegistration?
- 34) Do I open two files on the Teranet portal if the firm is acting for both the vendor and the purchaser?
- 35) On Teranet's portal, I have the option to zip and download documents from the portal (before or after submitting) for firm records. Does the Law Society require me to do so?

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### Questions with Answers:

#### **Overview**

- 1) Can I have more than one deposit account at Teranet Manitoba LP ("Teranet") – one for searches and the other for eRegistration?

Yes.

- 2) Why are we not allowed to just use the pooled trust account?

*eRegistration in Manitoba involves a pre-authorized debit, allowing Teranet to electronically withdraw funds from an account specified by the lawyer. Keeping the funds for eRegistration separated in a restricted trust account helps reduce the risk associated with a third party initiating transactions on a trust account.*

*The Teranet model also allows non-lawyers to complete the registration process, which simultaneously authorizes the withdrawal of funds if electronic funds transfer ("EFT") is selected as the payment method. One of the fundamental principles of the Society's Rules is that all trust transactions are done on the authorization of a lawyer, who bears ultimate responsibility for the proper handling of trust money. The lawyer's authorization for both the eRegistration itself and any related EFT is implicit in the signature on the pooled trust cheque that moves trust money to the restricted trust account.*

- 3) Ontario also has eRegistration through Teranet. Are there differences between here and Ontario?

*While there are a number of similarities between the Law Society of Ontario's requirements and those in Manitoba, lawyers who practice in both jurisdictions should not assume the rules and requirements are*

*identical and therefore must be familiar with the requirements of the regulator in the province where the transaction occurs.*

- 4) I already have a deposit account. Why would I need to set up a restricted trust account?

*A deposit account is different than a restricted trust account. A restricted trust account is a bank account set up and controlled by a law firm in order to accommodate electronic funds transfer of trust money to Teranet for eRegistration. A deposit account is an account that a law firm would apply for at Teranet.*

## **Selecting a Payment Method**

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- 5) Do I have to use a restricted trust account or can I use my general account if I choose?

*Yes, you can use your general account.*

- 6) Can a client's cheque payable to Teranet be used?

*The Law Society does not prohibit use of such a cheque. As to whether Teranet will accept such a cheque, and any implications for the lawyer should this cheque be returned for insufficient funds, this is a policy question better directed to Teranet.*

- 7) How many bank accounts do we need? A general, a pooled trust and a restricted trust account?

*All law firms who handle client trust money must have a pooled trust account and a general bank account. If you want to electronically transfer trust funds to Teranet for eRegistration, you must also have a restricted trust account.*

## **Movement of Money**

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- 8) If a client sends me money and I put it all into my pooled trust account, do I need a cheque to move it into the restricted trust account?

*Yes.*

- 9) Why not allow lawyers to transfer funds electronically between the pooled trust account and the restricted trust account?

*While the Society recognizes the interest of many Manitoba lawyers in being able to transact electronically, an undertaking of that magnitude was beyond the scope of the eRegistration project.*

- 10) When I move money from the pooled trust to the restricted trust account, funds may not be available to me that same day. Since I can't move forward with a Teranet eRegistration until the funds are in the restricted trust account, does that mean I cannot proceed with the eRegistration until another day?

*Firms wanting to use a restricted trust account will need to review their internal processes, and to have a discussion with their savings institution, to determine the speed of movement between the accounts and availability of the money in the restricted account. Note however that funds for eRegistration may be moved from the pooled trust account to the restricted trust account in advance of the closing date. They remain in the firm's control until eRegistration is submitted and the EFT is authorized.*

- 11) Do refunds go back into the firm's restricted trust account or into its deposit account?

*Teranet has advised that if a registration is rejected, the refund is directed to the firm's deposit account at Teranet.*

## **Restricted Trust Account**

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- 12) Does a restricted trust account have to be at the same bank as the savings institution I'm currently working with?

*No, but as with a pooled trust account, a restricted trust account must be at a Manitoba branch of:*

- a) a chartered bank or a trust company that is authorized by law to receive money on deposit and is insured by the Canada Deposit Insurance Corporation, or*
- b) a credit union or caisse populaire incorporated under The Credit Unions and Caisses Populaires Act.*

- 13) If the lawyer receives funds from a client days or weeks ahead of closing, can they move the registration fees over to the restricted trust account as soon as they please?

*Yes. However, if excess funds remain after the transaction is completed or if the lawyer becomes aware that the transaction will not be proceeding, any trust funds remaining in the restricted trust account for the matter are to be moved back forthwith to the pooled trust account, using a trust cheque from the restricted trust account.*

- 14) Will the Law Society have an issue with how long the funds sit in the restricted trust account? It could be months.

*As long as the related matter is pending and the eRegistration payment is expected to occur in the foreseeable future, the funds can remain in the restricted trust account.*

- 15) If we're running multiple offices, and they each have a pooled trust account, must they each have a restricted trust account?

*No.*

- 16) On foreclosure transactions, the land transfer tax is often received and paid out of trust, while the registration fees for other documents filed in the series are paid from the general account. The Teranet system does not allow a split payment, with a portion (such as Land Transfer Tax) by EFT and a portion (like the fees) from the deposit account. Will the Law Society allow firms to write a cheque on the general account for the fees, deposit it to the pooled trust account, and then use a pooled trust cheque to move the land transfer tax (trust money) and the other fees (general money paid into trust) to the restricted trust account?

*General account funds are not to be deposited to trust for the purpose of paying a disbursement. In a situation where only some of the money to complete eRegistration is in trust, firms are advised to use payment option B, as follows: after the transaction is closed but before eRegistration, a pooled trust cheque is provided to Teranet for deposit to the firm's deposit account. Payment of the remaining funds to complete the eRegistration can either come from a float maintained in the deposit account with funds originating from the firm's general account, or by a general account cheque provided to Teranet at the same time as the trust cheque.*

- 17) Can a lawyer keep a float of general account money in the restricted trust account, even just at the start while everyone gets used to the new system, to help prevent insufficient funds?

*No.*

- 18) Will I have to do the same reconciling and reporting on the restricted trust account?

*Yes.*

- 19) Does a lawyer need to do the annual report for Canada Deposit Insurance Corporation for the restricted trust account?

*Yes, unless the trust account is located at a credit union or caisse populaire.*

- 20) Can we prepare a pooled trust cheque that would cover multiple registrations - a batch cheque?

*Yes, as long as the underlying accounting records reflect the amounts related to the individual matters.*

- 21) With a restricted trust account, how many cheques will I be writing from that account? Do I need to order cheque stock for it?

*While the EFT to Teranet does not use a cheque, you will still need cheque stock for situations where you need to move money back to the pooled trust account.*

- 22) What happens if I authorize the EFT withdrawal from the restricted trust account but I haven't moved enough money and the pull happens anyway? What if what is pulled is someone else's money?

*One of the last steps prior to authorizing the withdrawal from the restricted trust account should be to check the firm's accounting records for the client trust ledger balance in the restricted trust account for the matter, to confirm available funds. This would prevent the type of situation described. All trust account supervisors should ensure this step is included in firm procedures for submission of eRegistration documents in Teranet's online system.*

## Accounting Processes

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- 23) If I overpay to Teranet, how do I get the excess returned? How do I restore the money to trust?

*If you are using EFT as your method of payment, there will be no overpayment, as the EFT will only be for the actual cost of the documents submitted for registration. If you are using a trust cheque, sent to Teranet after the transaction closed but before completing the eRegistration process, you will reconcile and rectify the difference in the same way you do today. The method to use varies based on a number of factors. For more detailed information, please refer to the Law Society's educational materials.*

- 24) How do I get the money out of the deposit account and back into the restricted trust account?

*Any deposit account refund requisitioned from Teranet should be deposited to the pooled trust account and not to the restricted trust account. Only money originating from the pooled trust account should ever be deposited to the restricted trust account.*

- 25) If I decide to use the EFT out of the general account, is the accounting process similar to what I would use for the restricted trust account?

*There are a number of specific requirements for each payment method option. For more detailed information, please refer to the Law Society's educational materials.*

- 26) Does the requirement to save in a universally readable format or print the Confirmation apply only when I use the restricted trust account, or would that apply to the general account method too?

*As a source document that replaces a cheque in many of the eRegistration payment options, a Confirmation must be saved in a universally readable format or printed in most situations. Whether or not it is required when general account money is used will depend on how the general account money was provided to Teranet. For more detailed information, please refer to the Law Society's educational materials.*

- 27) Why does land transfer tax have to be shown as a second transaction on my restricted trust account?

*Since Teranet collects and remits land transfer tax monies separately from its registration fees, those land transfer tax amounts will be withdrawn by way of a separate pull on all EFT transactions, whether from a restricted trust account or the general account. Because of that two-step withdrawal, law firm accounting records must reflect the land transfer tax separately so that the individual EFT withdrawals can be reconciled to firm accounting records.*

## **Client File Report**

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- 28) How fast do I have to deal with a variation on the Client File Report?

*Rule 5-47(4) requires reconciling and correcting discrepancies upon receipt of a client file report from Teranet.*



## Billing Practices

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- 29) If I use funds from the general account to pay for eRegistration costs, can I render a statement of account for fees and disbursements earlier than I normally would so that I can recover the costs sooner?

*A statement of account rendered before services are substantially complete can only be an interim account for services completed thus far and disbursements already incurred. Accordingly, if firms want to immediately recover the eRegistration costs alone and not wait for legal services to be concluded, they will need to render a separate, interim account.*

## Client Authorization & Accounting

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- 30) Will we need client authorization to move money from the pooled trust account to the restricted trust account?

*No.*

- 31) Does my client's Order to Pay need to separately itemize the transfer of funds from the pooled to the restricted trust account and then from the restricted trust account to Teranet?

*The Order to Pay does not need to specify the method of payment to be used to complete the registrations.*

- 32) Would my client's written Order to Pay be sufficient authority for me to pay eRegistration costs from my general account and then recover those costs by a payment from trust to the general account, without my having to render a statement of account?

*No, a client cannot exempt you from Law Society Rules and requirements.*

## Miscellaneous Law Society Requirements

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- 33) What is the Law Society's requirement for retention of forms scanned and uploaded to Teranet as part of eRegistration?

*Document retention of eRegistered documents should be the same as for any other file documents for a matter. The Society has specific requirements for the Confirmation received after eRegistration, as well as other documents received from Teranet as part of eRegistration. For more detailed information, please refer to the Law Society's educational materials.*

- 34) Do I open two files on the Teranet portal if the firm is acting for both the vendor and the purchaser?

*Yes, because you must have a separate client matter number and maintain a separate client trust ledger for each.*

- 35) On Teranet's portal, I have the option to zip and download documents from the portal (before or after submitting) for firm records. Does the Law Society require me to do so?

*The Law Society does not require use of the download feature on the Teranet portal.*

*The Society requires complete documentation in your paper or electronic client file. Keep in mind that all documents originating from your firm and uploaded to Teranet's system should already be in the firm's paper or electronic client file.*

*Any documents received from another law firm through the "change file ownership" feature on Teranet's system will also need to be maintained in the firm's paper or electronic client file, not unlike any other correspondence or document received from another law firm today.*