Section 32(2)(a):

- Moneys deposited in his/her trust account;
- Not immediately required for any particular purpose;
- May be invested in a separate savings or other interest-bearing account;
- all such savings/investment accounts are to be designated in terms of this Section and registered with the EAAB;

Sections 32(2)(c) and Regulation 9.2 of the Code of Conduct :

- Interest payable to Fidelity Fund;
- On moneys deposited in a trust / savings or other interest-bearing account;
- When receiving trust moneys in respect of a contract of sale or lease, estate agents ***must disclose to the parties*** that unless they agree, in writing (in a separate document or provision in the agreement), to whom the interest earned on the trust money is to be paid, the interest so earned ***will accrue in favour of the Estate Agents Fidelity Fund;***

Estate agents may deduct and retain ***50% of interest*** earned (where there is no mandate) when payment is made to the EAAB

Section 29:

- Every estate agent to keep accounting records relating to:
- ***all monies received or expended***, including moneys deposited to trust account or invested in a savings or other interest-bearing account (Section 32(2)(a);
- all ***assets and liabilities***;
- ***all financial transactions*** and financial position of the business;
- accounting records to be ***audited within four months*** after the final date of the financial year;
- ***There is no distinction*** between the type / size of business entity or level of activity on trust account;
- Auditor's report ***includes audit on the annual business financial statements and trust account;***
- Appointed auditor to be ***registered with the Independent Regulatory Board for Auditors (IRBA);***
- ***Estate agent and auditor*** must ensure the correct and updated auditor report form is used;
- ***Principal*** to ensure auditor report is submitted to EAAB in time.

Estate Agency Affairs Board
Block A & B
63 Wierda Road East
Wierda Valley, Sandton
Tel: 011 731 5600 www.eaab.org.za



TRUST ACCOUNT AND AUDIT COMPLIANCE

ESTATE AGENCY AFFAIRS BOARD
OF SOUTH AFRICA

TRUST ACCOUNT AND AUDIT COMPLIANCE

Trust money has been ***entrusted*** to an estate agent and is retained in trust until the estate agent is lawfully entitled to it or instructed to make payment therefrom to any person.

Applicable provisions & revised auditor report

- Section 29 and 32 of the Estate Agency Affairs Act, 112 of 1976
- Trust account regulations: GNR 1472 of 1977

Section 32(1):

- Every estate agent to open and keep one or more separate trust accounts;
- Account/s shall contain a reference to this section;
- Estate agent or his / her employee to deposit all trust money held or received herein;
- EAAB to be notified of all accounts;
- Employee estate agents need not open a separate trust account;



The Estate Agency Affairs Board (EAAB) has, in consultation with the Independent Regulatory Board for Auditors (IRBA), introduced a revised auditor's report which estate agents are required to submit to the EAAB annually, within four months of an estate agent's financial year-end, in order to be granted their license to practice. The revised auditor's report replaces the previous auditor's report and with effect from 1 September 2011, only, the revised report will be accepted (refer Section 32(4) of the Estate Agency Affairs Act, 112 of 1976) (hereafter referred to as "the Act").

The provisions of Sections 29 and 32 of the Act stating that every estate agent must have accounting records as are necessary to fairly reflect and explain the state of affairs of all monies received or expended, including monies deposited to the trust account or interest-bearing account, remains in force. These accounting records (of both the business and the trust accounts) must be audited within 4 (four) months of the financial year-end of the estate agent's business. It is specifically to be noted that the Act draws no distinction whether the estate agent is operated as a sole proprietor, partnership, close corporation or company and the requirements for the audit of the business and trust accounts remain irrespective.

Estate agents are alerted to the fact that the report contains additional disclosures required by the EAAB to address legislative requirements affecting trust accounts held by estate agents, that may require additional work by auditors performing such engagements and in this respect, estate agents are required to give their appointed auditor reasonable access to such books and records as the auditor considers necessary, to perform their duties in terms hereof. The EAAB reserves the right, at its sole discretion, to institute formal processes relating to any non-compliance with the provisions of the Act.

Submission of Auditors' Reports

Before submitting your auditor's report please ensure the following:

- The report is completed in full and signed by the appointed registered auditor, who is registered with IRBA and has accepted their appointment for the relevant estate agency, as per the EAAB records;
- Name of the agency / firm which is registered with the EAAB;
- The report reflects the details of all Section 32 accounts held by the agency;
- The report indicates the FIC registration number (Registration is a legal requirement in terms of Section 43B of the FIC Act, as an accountable institution. Visit: **www.fic.gov.za**

The revised auditor's report is available in both PDF and Word formats and may be downloaded from either:

www.eaab.org.za alternatively from www.irba.co.za

Auditor's Report submission and proof of payment for penalty fees are to be submitted to: audit@eaab.org.za

Important:

Ensure sufficient funds in trust account to cover bank charges or arrange for these to be deducted from the business account to prevent a shortage in the trust account and/or closure by the bank due to inactivity.