



GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNT REQUIREMENTS

FOR BUSINESS PROPERTY PRACTITIONERS

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**GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING
REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS**

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1. DEFINITIONS

1.1 “accounting records” –

- a. Means information in written or electronic form concerning the trust accounts of the property practitioner as required in terms of the Property Practitioners Act, including but not limited to, records of all transactions involving trust monies, general and subsidiary ledgers and other documents and books used in the administration of the trust accounts; and
- b. in relation to the property practitioner’s business as such, means information in written or electronic form concerning the financial affairs of the business as required in terms of the Property Practitioners Act or any other Act that may be applicable to the business of the property practitioner, including but not limited to, records of assets, liabilities, income and expenses, general and subsidiary ledgers and other documents and books used in the preparation of financial statements of the business.

1.2 **“audit”** has the meaning ascribed to it in the Auditing Profession Act, 26 of 2005, as amended;

1.3 **“auditor”** means an individual or firm registered in terms of section 37 or 38 of the Auditing Profession Act, No 26 of 2005, as amended;

1.4 **“Act”** means the Property Practitioners Act, No 22 of 2019;

1.5 **“Authority”** means the Property Practitioners Regulatory Authority, established under section 5 of the Act;

1.6 **“Body corporate”** bears the meaning assigned to it in the Sectional Titles Schemes Management Act, 8 of 2011;

1.7 **“Business property practitioner”** means a partnership, company, trust, close corporation or similar organisational entity that carries on the activities of a property practitioner;

1.8 **“Estate Agency Affairs Act”** means the Estate Agency Affairs Act, No 112 of 1976;

1.9 **“estate agent”** means any person who performs any act referred to in subparagraphs (i), (ii) and (iii) of paragraph (a) of the definition of “property

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practitioner” in the Property Practitioners Act, other than in so far as it relates to any business undertaking or the management of any property;

1.10 **“Fidelity Fund”** means the Property Practitioners Fidelity Fund contemplated in section 34 of the Act;

1.11 **“property practitioner”**

- a. means any natural or juristic person who or which for the acquisition of gain on his, her or its own account or in partnership, in any manner holds himself, herself or itself out as a person who or which, directly or indirectly, on the instructions of or on behalf of any other person—
- i. by auction or otherwise sells, purchases, manages or publicly exhibits for sale property or any business undertaking or negotiates in connection therewith or canvasses or undertakes or offers to canvas a seller or purchaser in respect thereof;
 - ii. lets or hires or publicly exhibits for hire property or any business undertaking by electronic or any other means or negotiates in connection therewith or canvasses or undertakes or offers to canvass a lessee or lessor in respect thereof;
 - iii. collects or receives any monies payable on account of a lease of a property or a business undertaking;
 - iv. provides, procures, facilitates, secures or otherwise obtains or markets financing for or in connection with the management, sale or lease of a property or a business undertaking, including a provider of bridging finance and a bond broker, but excluding any person contemplated in the definition of “financial institution” in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);
 - v. in any other way acts or provides services as intermediary or facilitator with the primary purpose to, or to attempt to effect the conclusion of an agreement to sell and purchase, or hire or let, as the case may be, a property or business undertaking, including, if performing the acts mentioned in this subparagraph, a home ownership association, but does not include—

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(aa) a person who does not do so in the ordinary course of business;

(bb) where the person is a natural person and that person in the ordinary course of business offers a property for sale which belongs to him or her in his or her personal capacity;

(cc) an attorney or candidate attorney as defined in section 1 of the Attorneys Act, 1979 (Act No. 53 of 1979); or

(dd) a sheriff as defined in section 1 of the Sheriffs Act, 1986 (Act No. 90 of 1986), when he or she performs any functions contemplated in paragraph (a) of this definition, irrespective of whether or not he or she has been ordered by a court of law to do so; or

- vi. renders any other service specified by the Minister on the recommendation of the Board from time to time by notice in the *Gazette*;
- b. includes any person who sells, by auction or otherwise, or markets, promotes or advertises any part, unit or section of, or rights or shares, including time share and fractional ownership, in a property or property development;
- c. includes any person who for remuneration manages a property on behalf of another;
- d. includes a trust in respect of which the trustee, for the acquisition of gain on the account of the trust, directly or indirectly in any manner holds out that it is a business which, on the instruction of or on behalf of any other person, performs any act referred to in paragraph (a);
- e. for the purposes of sections 34, 46, 48, 59, 60, 61 and 65 of the Property Practitioners Act includes—
 - i. any director of a company or a member of a close corporation who is a property practitioner as defined in paragraph (a);
 - ii. any person who is employed by a property practitioner as envisaged in paragraph (a) and performs on his, her or its behalf any act referred to in subparagraph (i), (ii), (iv), (v) or (vi) of that paragraph;

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- iii. any trustee of a trust which is a property practitioner as envisaged in paragraph (d);
 - iv. any person who is employed by a property practitioner as envisaged in paragraph (b) and performs on its behalf any act referred to in subparagraph (i), (ii), (iv), (v) or (vi) of paragraph (a); and
 - v. any person who is employed by a property practitioner contemplated in paragraph (a) or (b) to manage, supervise or control the day-to-day operations of the business of that property practitioner;
- f. includes any person who is employed by or renders services to an attorney or a professional company as defined in section 1 of the Attorneys Act, 1979, other than an attorney or candidate attorney, and whose duties consist wholly or primarily of the performance of any act referred to in subparagraph (i), (ii), (iii), (iv), (v) or (vi) of paragraph (a), on behalf of such attorney or professional company whose actions will be specifically covered by the Attorneys' Fidelity Fund and not the Property Practitioners Fidelity Fund;
- g. for the purposes of section 61 of the Property Practitioners Act and any regulation made under section 70 of the Property Practitioners Act, includes any person who was a property practitioner at the time when he or she was guilty of any act or omission which allegedly constitutes sanctionable conduct referred to in section 62 of the Property Practitioners Act,

but does not include an attorney who, on his own account or as a partner in a firm of attorneys or as a member of a professional company, as defined in section 1 of the Attorneys Act, 1979, or a candidate attorney as defined in that section, who performs any act referred to in paragraph (a), in the course of and in the name of and from the premises of such attorney's or professional company's practice, provided that such an act may not be performed—

- i. in partnership with any person other than a partner in the practice of that attorney as defined in section 1 of the Attorneys Act, 1979; or
- ii. through the medium of or as a director of a company other than such professional company;

1.12 **“managing agent”** means –

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- a. any person who manages property as referred to in subparagraph (a) (i) of the definition of "property practitioner" in the Property Practitioners Act;
- b. any person who carries out any activity referred to in subparagraph (c) of the definition of "property practitioner" in the Property Practitioners Act; and
- c. includes –
 - i. a managing agent in terms of rule 28 of Annexure 1 of Sectional Titles Schemes Management Regulations published under GNR.1231 of 7 October 2016 or any amendment thereto; and
 - ii. a scheme executive under the Regulations on Community Schemes Ombud Service published under GNR.1233 of 7 October 2016 or any amendment thereto;

1.13 **“trust money”** means –

- a. money entrusted to a property practitioner in his or her capacity as a property practitioner;
- b. money collected or received by a property practitioner and payable in respect of or on account of any act referred to in subparagraph (i), (ii), (iii) or (iv) of paragraph (a) of the definition of a “property practitioner”;
- c. any other money, including insurance premiums, collected or received by a property practitioner and payable in respect of any immovable property, business undertaking or contract for the building or erection of any improvements on immovable property.

2. ABBREVIATIONS

EAA	:	Estate Agency Affairs Act, No 112 of 1976
EAAB	:	Estate Agency Affairs Board
PPA	:	Property Practitioners Act, No 22 of 2019
PPFF	:	Property Practitioners Fidelity Fund
PPRA	:	Property Practitioners Regulatory Authority
PPR	:	Property Practitioners Regulations, 2022

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3. PURPOSE

- 3.1 The purpose of this guideline is to assist all stakeholders in understanding the requirements to be complied with by all business property practitioners with regards to audit, accounting records and trust accounts.
- 3.2 This guideline is also a reference point for auditors, independent reviewers, banks and accountants of business property practitioners.
- 3.3 This guideline is also intended to provide information and guidance on the criteria and procedures applied by the PPRA when enforcing compliance with the legislated audit, accounting records and trust account requirements.
- 3.4 This guideline is not exhaustive of all the audit, accounting records and trust account provisions in the Property Practitioners Act and therefore should be read in conjunction with the PPA and the Regulations.

4. APPLICABILITY

- 4.1 This guideline is applicable to all business property practitioners.

5. ENABLING PROVISION

- 5.1 Sections 54 and 55 of the PPA and Regulations 2, 19, 27, 28, 29, 30, 31 and 32 of the PPR provides the enabling provisions for the audit, accounting records and trust account requirements and provides the foundation for this guideline.

6. ANNUAL FINANCIAL STATEMENTS

- 6.1 Every business property practitioner¹ must maintain accounting records that fairly reflect the financial transactions and financial position of the business² and these

¹ Natural property practitioners operating as sole proprietors are also business property practitioners for purposes of the audit, accounting records and trust account requirements and must comply with the requirements of this Guideline

² Section 55(4)(a)(ii) and (iii) of the PPA

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accounting records must be used to produce a set of annual financial statements prepared in accordance with a recognised financial reporting framework³.

- 6.2 The annual financial statements of a business property practitioner must be audited⁴ by an auditor within six months after financial year-end of the business property practitioner, which financial year-end may not be altered without the prior written approval of the Authority⁵.
- 6.3 A business property practitioner with an annual revenue below R2,5 million may have its annual financial statements independently-reviewed⁶ and the independent review of the annual financial statements⁷ must be performed by:
- 6.3.1 an auditor, where a business property practitioner has not been granted an exemption from keeping a trust account; or
 - 6.3.2 an auditor or a chartered accountant, where a business property practitioner is a company, has been granted an exemption⁸ from holding a trust account and its Public Interest Score⁹, calculated in terms of the Companies Act, is 100 or above¹⁰; or
 - 6.3.3 an auditor, chartered accountant or any person qualified to be an accounting officer of a close corporation, where a business property practitioner is a company, has been granted an exemption from holding a trust account and its Public Interest Score, calculated in terms of the Companies Act, is below 100¹¹; or

³ Recognised financial reporting standards for business property practitioners operating as companies must be determined in accordance with Regulation 27(4) of the Companies Regulations, 2011. Business property practitioners not operating as companies must use either IFRS for SMEs or IFRS as their financial reporting framework

⁴ The audit report on the annual financial statements must be in accordance with the *South African Auditing Practice Statement 3 (Revised) Illustrative Reports (SAAPS 3)* issued by the Independent Regulatory Board for Auditors

⁵ Section 55(4)(b) of the PPA

⁶ Section 23(1) of the PPA

⁷ An independent review of annual financial statements must be performed in accordance with the International Standard on Review Engagements 2400 (Revised) and Regulation 29 of Companies Regulations, 2011

⁸ Exemption granted in terms of Regulation 2 of PPR

⁹ Regulation 26(2) of the Companies Regulations, 2011

¹⁰ Regulation 29(4)(a) of the Companies Regulations, 2011

¹¹ Regulation 29(4)(b) of the Companies Regulations, 2011

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- 6.3.4 an auditor, chartered accountant or any person qualified to be an accounting officer of a close corporation, where a business property practitioner is not a company and has been granted an exemption from holding a trust account;
- 6.4 In addition to the requirements in 6.3 of this Guideline, a business property practitioner operating as a company or close corporation must have its annual financial statements audited, irrespective of the annual revenue, if:
- 6.4.1 the aggregate of trust monies held at an particular point during the financial year exceeded R5 million¹²; or
- 6.4.2 its Public Interest Score, calculated in terms of the Companies Act, is 350 or more¹³; or
- 6.4.3 its Public Interest Score, calculated in terms of the Companies Act, is above 100 and its annual financial statements are internally compiled¹⁴.
- 6.5 The audited or independently-reviewed annual financial statements must only be submitted to the Authority when requested in writing and do not need to be submitted to the Authority on an annual basis.

7. TRUST ACCOUNTS

Opening of trust accounts

- 7.1 Every business property practitioner, who has not been granted an exemption¹⁵ from keeping a trust account, must open and keep open at least one trust account with a bank and the trust account must contain a reference to section 54(1) of the PPA and all trust money received or held by or held on behalf of that business property practitioner must immediately be deposited in the trust account opened.¹⁶
- 7.2 A business property practitioner, who has not been granted an exemption¹⁷ from keeping a trust account, may invest trust money not immediately required for any particular purpose in a separate savings or other interest-bearing trust account

¹² Regulation 28(2)(a) of the Companies Regulations, 2011

¹³ Regulation 28(3)(c)(i) of the Companies Regulations, 2011

¹⁴ Regulation 28(3)(c)(ii) of the Companies Regulations, 2011

¹⁵ Section 23(2) of the PPA and Regulation 2 of the PPR

¹⁶ Sections 54(1)(a) and 54(1)(d) of the PPA

¹⁷ Section 23(2) of the PPA and Regulation 2 of the PPR

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opened with a bank and this savings or interest-bearing trust account must contain a reference to section 54(2) of the PPA¹⁸.

- 7.3 The reference to trust accounts and naming conventions contemplated in section 54(1) and 54(2) of the PPA must be agreed in writing between each bank and the PPRA.
- 7.4 Any bank that opens a trust account in terms of section 54(1) and/or 54(2) of the PPA must issue a letter to the business property practitioner, in a format agreed in writing between each bank and the PPRA, to enable the business property practitioner to submit the letter to the PPRA and the opened trust account must be reserved by the bank before being made active for 30 days or until the business property practitioner has furnished the bank with a valid Fidelity Fund Certificate issued by the PPRA, whichever occurs first.

Administering of trust accounts

- 7.5 Every business property practitioner, who has not been granted an exemption from keeping a trust account, must keep all the money in the trust accounts opened in terms of section 54(1) and 54(2) of the PPA until he, she or it is lawfully entitled to the trust money or until he, she or it is lawfully instructed in writing to make payment therefrom to any person.¹⁹
- 7.6 Every business property practitioner, who has not been granted an exemption²⁰ from keeping a trust account, must keep separate accounting records, using cash basis accounting, for all trust monies received and deposited in a trust account opened in terms of section 54(1) of the PPA and invested in a trust account opened in terms of section 54(2) of the PPA, and must balance these separate accounting records on a monthly basis²¹.
- 7.7 Bank charges on trust accounts opened in terms of section 54(1) and 54(2) of the PPA are a normal business operating expense, are for the account of the business property practitioner and must be charged to the business property practitioner's business account and not the section 54(1) and 54(2) trust accounts.
- 7.8 The monthly balancing of the separate trust accounting records referred to in 7.6 of this Guideline refers to the comparison of:

¹⁸ Section 54(2)(a) of the PPA

¹⁹ Section 54(3) of the PPA

²⁰ Section 23(2) of the PPA and Regulation 2 of the PPR

²¹ Section 54(5) of the PPA

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- 7.8.1 The aggregate of trust money owed to the clients of the business property practitioner as recorded in the trust creditors ledger and trust creditors age-analysis; and
- 7.8.2 The aggregate of balances of trust bank accounts opened in terms of section 54(1) and 54(2) of the PPA
- 7.9 A business property practitioner, who has not been exempted from keeping a trust account, must administer the trust accounts using a digital or manual bookkeeping system which must²²:
 - 7.9.1 Include a record all pertinent information regarding trust accounts and movements of trust monies;
 - 7.9.2 Include the general and subsidiary ledgers, cash books and all other documents and books of entry required for the proper maintenance of trust accounts;
 - 7.9.3 Include all safeguards to protect the records from unauthorised access, alteration, destruction or manipulation;
 - 7.9.4 Be kept in a format readily retrievable should the PPRA, the auditor, or any other person entitled to the records require access to the bookkeeping system.

Audit of trust accounts

- 7.10 Every business property practitioner, who has not been exempted²³ from keeping a trust account, must appoint an auditor²⁴ who must perform an audit of the separate trust accounting records within six months of the financial year end of the business property practitioner²⁵.
- 7.11 An auditor who performs an audit as contemplated in 7.10 of this Guideline must:
 - 7.11.1 validate himself/herself and successfully register on the Auditors Portal, accessible on the PPRA's website;

²² Regulation 30 of the PPR

²³ Section 23(2) of the PPA and Regulation 2 of the PPR

²⁴ Section 54(1)(b) of the PPA

²⁵ Section 54(5)(b) of the PPA

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- 7.11.2 report on his/her audit on the trust accounts in the format included in Annexure 2 of this Guideline; and
- 7.11.3 electronically submit the audit report on the trust accounts to the PPRA on the Auditors Portal, within six months²⁶ of the financial year-end of the business property practitioner.
- 7.12 A business property practitioner whose auditor submits the audit report contemplated in 7.11.3 of this Guideline after six months of its financial year-end will be liable for a late submission penalty of R20.00 a day, up to a maximum of R5 000.00²⁷. The business property practitioner, and not the auditor, will be liable for this late submission penalty.
- 7.13 After the occurrence of the following events²⁸, a business property practitioner who operates a trust account must wind up the trust accounts in the manner prescribed in Regulation 31 of the PPR:
- 7.13.1 If the PPRA refuses under the provisions of the PPA to issue a Fidelity Fund Certificate to the business property practitioner;
- 7.13.2 If a Fidelity Fund Certificate issued to the business property practitioner has been withdrawn or lapsed without being renewed;
- 7.13.3 If the business property practitioner ceases to act as such; or
- 7.13.4 If the business property practitioner becomes subject to any disqualification contemplated in section 50 of the PPA.

Unclaimed or unidentified trust monies

- 7.14 Any business property practitioner, who winds up an account as contemplated in section 54(9) of the PPA and 7.13 of this Guideline or who has held trust monies in the trust accounts opened in terms of section 54(1) and 54(2) of the PPA of which the owner or beneficiary could not be identified for longer than 3 years, must pay that trust money to PPFF to be held in trust²⁹.

²⁶ Section 54(5)(b) and 54(6) of the PPA

²⁷ Section 54(6) of the PPA and Regulation 38(20) of the PPR

²⁸ Section 54(9) of the PPA

²⁹ Section 54(10) of the PPA

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- 7.15 The owner or beneficiary of such money paid over to the PPF must apply to the PPF on the prescribed form in Regulation 19 of the PPR, with the provision of sufficient proof and within 30 years, and after successful consideration of the application, the PPF must pay such money to the owner or beneficiary³⁰.
- 7.16 The auditor of a business property practitioner holding unclaimed or unidentified trust monies for longer than three years as contemplated in 7.14 of this Guideline, must disclose the aggregate of such trust money in the table in the audit report on the trust accounts to be submitted to the PPRA annually based on the template in Annexure 2 of this Guideline.
- 7.17 The PPF must issue an invoice, within 30 days of receiving an audit report on the trust accounts, to the business property practitioner, indicating the unclaimed or unidentified trust money payable to the PPF as disclosed by the auditor in the submitted audit report, and such invoiced amount must be paid to the PPF by the business property practitioner within 30 days of the invoice date.

Interest earned on trust money

- 7.18 Any bank which manages trust accounts opened in terms of section 54(1) and 54(2) of the Act must submit to the Authority³¹, on 31 August 2022 and 31 May of every year from 2023, a report, in a format and manner agreed in writing between each bank and the PPRA, of the gross interest earned on the section 54(1) and 54(2) trust accounts held at the bank for year starting on 1 March of the preceding year to 28 February of the year of submission.
- 7.19 The details to be included on the report contemplated in 7.18 of this Guideline should be in accordance with Regulation 29 of the PPR.
- 7.20 A business property practitioner must not solicit or influence any person entitled to trust funds held to pay over to the business property practitioner, directly or indirectly, any interest earned on the trust monies deposited or invested in terms of section 54(1) and 54(2) of the PPA³².
- 7.21 Every business property practitioner, who has not been granted an exemption³³ from keeping a trust account, must, before he/she/it receives trust money, disclose to the parties that unless agreed in writing to whom interest earned must be paid, that such

³⁰ Section 54(10) and 54(11) of the PPA

³¹ Section 54(4) of the PPA

³² Regulation 34.2.1.8 of the PPR

³³ Section 23(2) of the PPA and Regulation 2 of the PPR

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interest earned on section 54(1) and 54(2) trust accounts will accrue and be payable to the PPF³⁴.

- 7.22 Every business property practitioner who has not been granted an exemption³⁵ from keeping a trust account, must invest, at the best available interest rate, trust money not immediately required for any particular purpose in a trust account opened in terms of section 54(2) of the PPA at the same bank where he opened his/her/its trust account in terms of section 54(1) of the PPA³⁶.
- 7.23 The auditor of a business property practitioner must disclose the interest earned on trust money in the table in the audit report on the trust accounts to be submitted to the PPRA annually based on the template in Annexure 2 of this Guideline.
- 7.24 The PPF must issue an invoice, within 30 days of receiving an audit report on the trust accounts, to the business property practitioner, indicating the interest earned on trust money that is payable to the PPF, if any, as disclosed by the auditor in the submitted audit report, and such invoiced amount must be paid to the PPF by the business property practitioner within 30 days of the invoice date.

Exemption from keeping a trust account

- 7.25 The following business property practitioners qualify for exemption from keeping a trust account in terms of section 23(2) of the PPA:
- 7.25.1 a business property practitioner that has never received any trust monies³⁷;
- 7.25.2 a business property practitioner that no longer receives any trust monies³⁸;
- 7.25.3 a business property practitioner that has mandated one or more other property practitioners that specialise in collecting and distributing trust money (payment processing agents)³⁹, provided:
- 7.25.3.1 the mandated payment processing agent is registered as a business property practitioner and is in possession of a valid Fidelity Fund Certificate issued by the PPRA;

³⁴ Regulation 34.2.1.9 of the PPR

³⁵ Section 23(2) of the PPA and Regulation 2 of the PPR

³⁶ Regulation 34.2.1.10.1 of the PPR

³⁷ Regulation 2.1.1.1 of the PPR

³⁸ Regulation 2.1.1.2 of the PPR

³⁹ Regulation 2.4 of the PPR

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- 7.25.3.2 the mandated payment processing agent operates a trust account environment that complies with the PPA and the PPR⁴⁰;
- 7.25.3.3 the trust account environment is audited annually as contemplated in the template in Annexure 8 of this Guideline and the trust accounts operated by the mandated payment processing agent are audited annually in compliance with the PPA and the PPR and the audit report on the trust accounts, in accordance with the template in Annexure 2 of this Guideline, is submitted to the PPRA by the auditor, annually on the Auditors Portal accessible on the PPRA website, within six months of the financial year-end of the payment processing agent⁴¹; and
- 7.25.3.4 the business property practitioner mandating the payment processing agent holds no trust monies other those held by the payment processing agent⁴².
- 7.25.4 a business property practitioner is a managing agent and all funds of the bodies corporate under its management are held in bank accounts opened in the names of the bodies corporate concerned in terms of section 21(4) of the Sectional Titles Schemes Management Act 8 of 2011⁴³.
- 7.26 A business property practitioner who meets all of the following requirements must only submit to the Authority a completed and sworn affidavit in the same format as Annexure 1 of this Guideline in order to be granted an exemption from keeping a trust account:
- 7.26.1 who has never been registered as an estate agency under the provisions of the EAAA;
- 7.26.2 who has never been issued with a Fidelity Fund Certificate under the provisions of the EAAA;
- 7.26.3 who has never held trust monies;
- 7.26.4 who does not intend to mandate any payment processing agent; and

⁴⁰ Regulation 2.4.2 of the PPR

⁴¹ Regulation 2.4.4 of the PPR

⁴² Regulation 2.4.5 of the PPR

⁴³ Regulation 2.6 of the PPR

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- 7.26.5 who intends to be granted an exemption from keeping a trust account
- 7.27 A business property practitioner who was previously registered and issued with a Fidelity Fund Certificate under the provisions of the EAAA, who is not a managing agent, who does not intend to mandate any payment processing agent and who intends to be granted an exemption from keeping a trust account must adhere to the following process, in chronological sequence, in order to be granted an exemption from keeping a trust account:
- 7.27.1 Disbursement of all trust monies held⁴⁴, if any, to the persons entitled to the money and in accordance with the requirements of the law;
- 7.27.2 Closure of all trust accounts currently held⁴⁵;
- 7.27.3 Submission by the auditor to the PPRA, using the Auditors Portal accessible on the PPRA website, a winding up audit report on the closed trust accounts⁴⁶;
- 7.27.4 Submission to the PPRA of a completed and sworn affidavit in the same format as Annexure 1 of this Guideline; and
- 7.27.5 Submission to the PPRA of letter(s) from the bank confirming closure of all trust accounts.
- 7.28 A business property practitioner who was previously registered and issued with a Fidelity Fund Certificate under the provisions of the EAAA, who is not a managing agent, who intends to mandate a payment processing agent and who intends to be granted an exemption from keeping a trust account must adhere to the following process, in chronological sequence, in order to be granted an exemption from keeping a trust account:
- 7.28.1 Transfer of all trust monies held, if any, to the payment processing agent;
- 7.28.2 Closure of all trust accounts currently held;
- 7.28.3 Submission by the auditor to the PPRA, using the Auditors Portal accessible on the PPRA website, a winding up audit report on the closed trust accounts;

⁴⁴ Regulation 2.1.1.3.3 of the PPR

⁴⁵ Regulation 2.1.1.3.3 of the PPR

⁴⁶ Regulation 2.1.1.3.3 and 2.2 of the PPR

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- 7.28.4 Submission to the PPRA of a completed and sworn affidavit in the same format as Annexure 1 of this Guideline; and
 - 7.28.5 Submission to the PPRA of a letter(s) from the bank confirming closure of all trust accounts.
 - 7.28.6 Submission to the PPRA of a letter from the payment processing agent confirming receipt of trust monies and mandate to handle future trust monies and the format of such letter should be in accordance with Annexure 6 of this Guideline.
- 7.29 A business property practitioner who was previously registered and issued with a Fidelity Fund Certificate under the provisions of the EAAA, who is a managing agent and who intends to be granted an exemption from keeping a trust account must adhere to the following process, in chronological sequence, in order to be granted an exemption from keeping a trust account:
- 7.29.1 Transfer of all trust monies held, if any, to the bank accounts in the name of the bodies corporate and opened in terms of the Sectional Title Schemes Management Act;
 - 7.29.2 Closure of all trust accounts currently held;
 - 7.29.3 Submission by the auditor to the PPRA, using the Auditors Portal accessible on the PPRA website, a winding up audit report on the closed trust accounts;
 - 7.29.4 Submission to the PPRA of the full list of the managing agent's bodies corporate clients;
 - 7.29.5 Submission to the PPRA of letter(s) from each of the body corporate client on the list in 7.29.4 of this Guideline, in a format that is in accordance with Annexure 7 of this Guideline.
 - 7.29.6 Submission to the PPRA of a completed and sworn affidavit in the same format as Annexure 1 of this Guideline; and
 - 7.29.7 Submission to the PPRA of a letter(s) from the bank confirming closure of all trust accounts.
- 7.30 On successful submission of documents and compliance with the procedures referred to in 7.26 to 7.29 of this Guideline to the PPRA, the PPRA must consider and, if

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satisfied, issue the business property practitioner with a letter as contemplated in Annexure 10 of this Guideline and this letter serves as confirmation of the exemption from keeping a trust account and also confirmation of the effective date of the exemption.

- 7.31 Business property practitioners exempted from keeping a trust accounts in terms of 7.25.3 of this Guideline must obtain and keep a copy of the valid Fidelity Fund Certificate of the payment processing agent and on an annual basis obtain from the payment processing agent the documents contemplated in 7.38 of this Guideline, which documents must be available to their auditors/independent reviewers or the PPRA on request or during an inspection.

Payment processing agents

- 7.32 Payment processing agents must be registered with the PPRA as property practitioners and be in possession of valid Fidelity Fund Certificates issued by the PPRA before accepting any mandates from other property practitioners relating to the handling of trust monies and must avail a copy of the valid Fidelity Fund Certificate to each of their mandating client business property practitioners. In addition, payment processing agents must either be authorised by or registered with the Payments Association of South Africa (PASA) as System Operators (SO) and/or Third Party Payment Providers (TPPP). PASA is the payment system management body recognised by the South African Reserve Bank in terms of the National Payment System Act to organise, manage and regulate the participation of its members in the national payment system.

- 7.33 Payment processing agents must either:

7.33.1 open and keep open one trust account with a bank opened in the name of the payment processing agent in terms of section 54(1) of the PPA; or

7.33.2 open different trust accounts or sub accounts with the same bank in the name of the payment processing agent in terms of section 54(1) of the PPA,

Provided the payment processing agent operates a trust accounting environment and a digital bookkeeping or accounting system that:

- 7.33.2.1 Include a record all pertinent information regarding trust accounts and movements of trust monies for not only each mandating client business property practitioner but also all pertinent information regarding the movement of trust monies for all the individual

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parties dealt with by each mandating client business property practitioner;

7.33.2.2 Include the general and subsidiary ledgers, cash books, mandates and all other documents and books of entry required for the proper maintenance of trust accounts, maintained for each of its mandating client property practitioner businesses;

7.33.2.3 Include all safeguards to protect the records from unauthorised access, alteration, destruction or manipulation;

7.33.2.4 Is in a format readily retrievable should the PPRA, the auditor, the client business property practitioner or any other person entitled to the records require access to the bookkeeping system.

7.34 Payment processing agents must ensure that their mandating client business property practitioners are in possession of a valid Fidelity Fund Certificate issued by the PPRA at all times.

7.35 The auditor of a payment processing agent must:

7.35.1 Audit, within six months of the financial year end of the payment processing agent, the trust accounts environment⁴⁷ of the payment processing agent for purposes of completing the audit report on the trust environment contemplated in Annexure 8 of this Guideline; and in addition

7.35.2 also audit, within six months of the financial year end of the payment processing agent, the trust accounts and individual transactions of the mandating client business property practitioners⁴⁸ to enable the auditor to form an audit conclusion on whether the trust accounts were administered in accordance with the requirements of the PPA and the PPRA for purposes of completing the audit report on the trust accounts contemplated in Annexure 2 of this Guideline.

7.36 The scope of the audit of a payment processing agent mentioned in 7.35 of this Guideline will require the auditor of the payment processing agent to be given unrestricted access to not only documentation of the payment processing agent, but also underlying documentation that might have been concluded by or with the

⁴⁷ Regulation 2.4.4 of the PPR

⁴⁸ Regulation 2.4.4 of the PPR

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assistance of the mandating client business property practitioners, which underlying documentation support movements of trust moneys and such underlying documentation includes, but is not limited to, contracts of sale and lease and mandates.

7.37 The auditor of a payment processing agent, in the same way as an auditor of any other business property practitioner, must submit to the PPRA one single annual audit report on the trust accounts for the payment processing agent on the Auditors Portal accessible on the PPRA website (and receive emailed proof of submission from the PPRA), in the same format as the template in Annexure 2 of this Guideline. However, in addition and during the online submission, the auditor of a payment processing agent must also upload and attach:

7.37.1 A list of all its mandating client business property practitioners in the format contemplated in Annexure 9 of this Guideline; and

7.37.2 An audit report in the format contemplated in Annexure 8 of this Guideline.

7.38 The payment processing agent must annually submit to each of its mandating client business property practitioner:

7.38.1 a copy of the audit report contemplated in 7.37.2 of this Guideline; and

7.38.2 the PPRA emailed proof of submission as contemplated in 7.37 of this Guideline,

and each mandating client business property practitioner must avail the above documents and the letter contemplated in Annexure 10 of the Guideline to its auditor/independent reviewer/PPRA inspector to serve as evidence of the mandating client business property practitioner's continuing eligibility for the exemption from keeping a trust account.

8. COMPLIANCE WITH FICA

8.1 The PPRA is listed in Schedule II of the Financial Intelligence Centre Act (FICA) as a supervisory body with the responsibility to supervise compliance with the provisions of FICA by business property practitioners.

8.2 All business property practitioners must register with the Financial Intelligence Centre (FIC) as accountable institutions. It is important to note that the head office, the branches and the franchise holders are regarded as separate accountable institutions

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and consequently, are required to register separately with FIC. The FIC introduced a new registration and reporting web-based platform called goAML in 2016⁴⁹. The FIC has issued PCC05B which deals with registration with the FIC.

- 8.3 All business property practitioners have a duty to establish and verify the identity of clients⁵⁰. This is commonly referred to “Know your client” or “KYC” requirements. Customer due diligence should be applied in line with the property practitioner’s risk based approach. Risk based approach requires accountable institutions to understand their exposure to money laundering and terrorist financing risk in relation to their clients, products etc. The FIC issued Guidance Note 7 which provides guidance on the risk based approach.
- 8.4 All property practitioner businesses have a duty to report the following to FIC:
- 8.4.1 The cash transactions over the prescribed limit (currently set at R24 999.99)⁵¹. Cash for purposes of Cash Threshold Reporting refers to domestic and foreign notes and coins as well as travellers cheques;
- 8.4.2 Suspicious and unusual activities and transactions⁵². There are no clear cut, established rules as to when a transaction or receipt of money will give rise to suspicion and each property practitioner business must evaluate its transactions, taking into account normal practices. The FIC has issued Guidance Note 4A which provide guidance on suspicious and unusual activities and transaction reports. The FIC has also issued user guides in relation to such reports.
- 8.4.3 Terrorist Property Reports in terms of section 28A of the FIC Act. The FIC has issued Guidance Note 6 which provides guidance on terrorist property reporting to the FIC.
- 8.5 All business property practitioners should keep record of clients and transactions⁵³.
- 8.6 All business property practitioners must develop, document, maintain and implement a Risk Management and Compliance Programme.
- 8.7 All business property practitioners must train staff to enable them to comply with the FICA

⁴⁹ https://goweb.fic.gov.za/goAMLWeb_PRD/Home

⁵⁰ FICA S21(1)

⁵¹ FICA S28(1) and regulation x

⁵² FICA S29

⁵³ FICA S22

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- 8.8 All business property practitioners must have a compliance function (if a legal person) or appoint a person (if not a legal person) responsible for ensuring compliance with the FIC Act and the Risk Management and Compliance Programme.
- 8.9 As part of the audit report on trust accounts, in Annexure 2 of this Guideline, to be annually submitted to the PPRA on the Auditors Portal accessible on the PPRA website, the auditor is required to confirm that:
- 8.9.1 The business property practitioner is registered with the FIC as an accountable institution; and
- 8.9.2 The business property practitioner reported cash transactions above the prescribed limit to FIC.

9. COMPLIANCE WITH DEBT COLLECTORS ACT

- 9.1 The Debt Collectors Act (DCA) was enacted to regulate the debt collection industry and prescribes maximum fees or recoveries which may be demanded by a registered debt collector.
- 9.2 The definition of a debt collector is wide and could include the functions of a property practitioner business⁵⁴. Property managers who collect arrear rent or levies are debt collectors.
- 9.3 A business property practitioner will be allowed to use their trust bank accounts opened in terms of the PPA to register with the Council for Debt Collectors.
- 9.4 The Council for Debt Collectors will accept the auditor's report that is issued to the PPRA as compliance with section 20 of the DCA.
- 9.5 The DCA requirement to pay over the interest earned on the trust bank account to the Council for Debt Collectors will not be enforced on business property practitioners registered with the PPRA.

⁵⁴ Debt collector means:

- a) a person, other than an attorney or his or her employee or a party to a factoring arrangement, who for reward collects debts owed to another on the latter's behalf
- b) a person who, other than a party to a factoring arrangement, in the course of his or her regular business, for reward takes over debts referred to in paragraph (a) in order to collect them for his or her own benefit
- c) a person who, as an agent or employee of a person referred to in paragraph (a) or (b) or as an agent of an attorney, collects the debts on behalf of such person or attorney, excluding an employee whose duties are purely administrative, clerical or otherwise subservient to the actual occupation of debt

10. COMPLIANCE WITH THE AUDITING PROFESSION ACT

- 10.1 The Auditing Profession Act, as amended, places a duty on the auditor to report reportable irregularities⁵⁵ to the Independent Regulatory Board for Auditors (IRBA)⁵⁶.
- 10.2 In this regard, the auditors of property practitioner businesses and trust accounting records must evaluate the various potential contraventions of relevant legislation, and if they are satisfied or have reason to believe that a reportable irregularity has taken place or is taking place, report such to the IRBA without delay.
- 10.3 As part of the audit report on trust accounts, in Annexure 2 of this Guideline, to be annually submitted to the PPRA on the Auditors Portal accessible on the PPRA website, the auditor is required to confirm whether there were any reportable irregularities reported to the IRBA.

11. COMPLIANCE WITH TAX LEGISLATION

- 11.1 Business property practitioners must be registered in terms of the Income Tax Act and ensure that their employees are registered for Pay-As-You-Earn (PAYE), Unemployment Insurance Fund (UIF) and Skills Development Levy (SDL), if so required.
- 11.2 The business property practitioner must also register for Value Added Tax (VAT), if so required by the VAT Act or if the business property practitioner decides to do so on a voluntary basis.

⁵⁵ Section 1 of the APA defines a reportable irregularity as follows:

—reportable irregularity means any unlawful act or omission committed by any person responsible for the management of an entity, which —

- a) has caused or is likely to cause material financial loss to the entity or to any partner, member, shareholder, creditor or investor of the entity in respect of his, her or its dealings with that entity; or
- b) is fraudulent or amounts to theft; or
- c) represents a material breach of any fiduciary duty owed by such person to the entity or any partner, member, shareholder, creditor or investor of the entity under any law applying to the entity or the conduct or management thereof.

⁵⁶ Section 45 of the Auditing Profession Act

12. TRANSITIONAL PROVISIONS

- 12.1 Section 23(1) relating to the independent review of annual financial statements for business property practitioners will be applicable to financial years ending on or after 1 February 2022, which is the effective date of the PPA.
- 12.2 The submission deadline of audit reports on trust accounts and completing of an audit of financial statements of estate agencies for financial years that ended on or before 30 September 2021 remains four months after the relevant financial year-end of the estate agency, in terms of the EAAA.
- 12.3 The new six months submission deadline of audit reports on trust accounts and completing of an independent review/audit of financial statements applies for business property practitioners with financial year ending on or after 31 October 2021.
- 12.4 Interest earned on trust accounts before 1 February 2022 will be accounted for in terms of the EAAA and interest earned on trust accounts on or after 1 February 2022 will be accounted for in accordance with the provisions of the PPR.
- 12.5 Audit reports on trust accounts for the financial years indicated in the table below must have audit conclusions on compliance with both EAAA and the PPA due to the overlapping of the applicability of both Acts:

Financial year-end	Applicability of the EAAA	Applicability of the PPA
28 February 2022	First 11 months	Last 1 month
31 March 2022	First 10 months	Last 2 months
30 April 2022	First 9 months	Last 3 months
31 May 2022	First 8 months	Last 4 months
30 June 2022	First 7 months	Last 5 months
31 July 2022	First 6 months	Last 6 months
31 August 2022	First 5 months	Last 7 months
30 September 2022	First 4 months	Last 8 months
31 October 2022	First 3 months	Last 9 months
30 November 2022	First 2 months	Last 10 months
31 December 2022	First 1 month	Last 11 months

**ANNEXURE 1 – FORM OF AFFIDAVIT BY BUSINESS PROPERTY
PRACTITIONER IN RESPECT OF TRUST MONIES**

**FORM OF AFFIDAVIT BY BUSINESS PROPERTY PRACTITIONER IN RESPECT OF
TRUST MONIES**

- 1 I, [insert name] (identity number [insert identity number]), in my capacity as [insert capacity] of [insert the name of the business property practitioner concerned] (registration number [insert registration number]) (the "business property practitioner") solemnly affirm that –
- 1.1 I am duly authorised to make this affidavit on behalf of the business property practitioner;
- 1.2 the business property practitioner has never received any trust monies / no longer receives any trust monies (delete whichever is not applicable);
- 1.3 should these circumstances change, we undertake not to receive any trust monies after the date hereof without first –
- 1.3.1 opening a trust account;
- 1.3.2 giving the Authority no less than 60 days' notice prior to such receipt of any trust monies; and
- 1.3.3 furnishing all details pertaining to the trust account to the Authority, which details must comprise at least the name of the financial institution at which the trust account is held, and the trust account number.

_____ Signature

_____ Full name of signatory

_____ Identity or registration number of signatory

_____ Date of signature

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ANNEXURE 2 – AUDIT REPORT TEMPLATE ON TRUST ACCOUNTS

Auditor's Letterhead

Firm Name:

Trading Name:

Address:

Suburb:

Postal Code:

Firm Pin number:

FORM OF REPORT BY INDEPENDENT AUDITOR

Report of the Independent Auditor of _____ [Insert the Name of the Business property practitioner] in respect of the Property Practitioner's Trust Accounts

To the <Practitioner / Members / Partners / Directors⁵⁷>, and the Property Practitioners Regulatory Authority

We have completed our engagement to determine whether the property practitioner's trust accounts of _____ [insert the name of firm] were maintained in compliance with Sections 32(1), (2) and (3) of the Estate Agency Affairs Act, No. 112 of 1976 (the "EAAA") / Sections 54(1), (2) and (5) of the Property Practitioners Act, No. 22 of 2019 (the "PPA"), for the period from _____ to _____ / or year ended _____

and report our conclusion thereon together with any instances of non-compliance that came to our attention (Section A). We are also required to report on certain additional matters of compliance with other Acts (Section B) and report on certain information extracted from the accounting records (Section C).

Our engagement arises from our appointment as auditor of _____ [insert the name of the Business property practitioner]. Our audit/ independent review of the annual financial statements for the year ended _____ was conducted in accordance with International Standards on Auditing/ Review Engagements and in our report of _____ [insert date] we expressed an *unqualified / qualified / adverse⁵⁸ opinion/ conclusion or / a disclaimer of opinion/ conclusion* on the financial statements prepared in accordance with <IFRS / IFRS for SMEs> [specify financial reporting framework]⁵⁹.

<Practitioner/Partners/Directors> responsibility for the trust accounts

The <practitioner/partners/directors> of _____ [insert the name of the Business property practitioner] is/are responsible for ensuring that the Property practitioner's trust accounts are maintained in compliance with the EAAA/PPA. The <practitioner/partners/directors> is/are also responsible for the implementation of accounting and internal control systems that ensure compliance with the EAAA/PPA to ensure the Trust Accounts and extracts therefrom included in this report are free of material misstatement whether due to fraud or error.

⁵⁷ Throughout the report - delete whichever: "proprietor/members partners/directors" is "not applicable"

⁵⁸ Delete whichever is not applicable.

⁵⁹ It is assumed that the registered auditor appointed to audit/ perform independent review and report on the annual financial statements of the property practitioner's business for the year / period specified above, also audits the property practitioner's trust accounts, which engagement is performed having an "audit knowledge" of the business.

GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS

Auditor's responsibility

Our responsibility is to *report our conclusions and findings/matters coming to our attention* regarding the _____'s [*insert the name of the Business property practitioner*] maintenance of its trust account(s) in compliance with the EAAA/PPA, and extraction of certain information from the accounting records, based on our work performed.

We have relied on evidence obtained in the course of our audit of the annual financial statements for the year ended _____ [*insert date*], and exercised our judgement regarding matters coming to our attention in the course of our audit, together with evidence obtained from such additional procedures as we considered necessary in the circumstances.

A. Compliance with the EAAA/PPA

Summary of work performed

Our additional procedures included:

1. Inquiries of the <*practitioner/members/partners/ directors/management/personnel*> responsible for financial matters and compliance with the EAAA/PPA and the inspection of supporting documents to determine whether for the period reported on:
 - the property practitioner's trust accounts were properly referenced and the requisite details furnished to the board, as required by section 32(1) of the EAAA / 54(1)(a) of the PPA;
 - the property practitioner had invested moneys deposited in a trust account in accordance with the requirements of section 32(2) of the EAAA / 54(2)(a) of the PPA;
 - the property practitioner had kept separate accounting records, as required by section 32(3) (a) of the EAAA / 54(5) (a) of the PPA;
 - the property practitioner balanced the accounting records relating to any trust account at intervals of not more than one month, as required by section 32(3)(b) of the EAAA / 54(5)(b) of the PPA;
 - the property practitioner administered the trust accounts in the prescribed manner, as required by section 32(3)(c) of the EAAA / 54(5)(c) of the PPA ;
 - the system employed when transferring amounts (including interest earned) from the property practitioner's trust banking account to the property practitioner's business account appears to ensure that on each occasion any such transfer is made, the balance remaining to the credit of such trust banking amount or other interest-bearing account referred to in section 32(2)(a) of the EAAA / 54(2)(a) of the PPA, together with any trust moneys held in cash on hand, amounts to not less than the trust balances.

Conclusion on compliance with the EAAA/PPA

2. Based on our work performed, we found that the property practitioner's trust accounts were maintained in compliance with Sections 32(1), (2) and (3) of the EAAA / 54(1), (2) and (5) of the PPA during the *period from _____ to _____ / or year ended _____* except for the contraventions set out below:

	Section of the EAAA/PPA	Details of Contravention/s of the Property Practitioners Act in respect of Trust Accounts ⁶⁰

⁶⁰ Any contravention of the items detailed in the bullet points above are regarded as material and should be reported. Specify sections of the Act and Rules contravened and provide details of contravention/s.

**GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING
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B. Additional compliance

Property Practitioners Act, No. 22 of 2019

We have inspected a valid fidelity fund certificate -in the name of *[insert the name of the Business property practitioner]*,as required by Section 48, *Prohibition of rendering of services as property practitioner in certain circumstances*.

Financial Intelligence Centre Act, No 38 of 2001

We have seen evidence that *[insert the name of the Business property practitioner]* has registered as an accountable institution.

The FIC no of the **Property Practitioner** is _____:

We have made inquiries and seen evidence to determine whether *[insert the name of the Business property practitioner]* has reported cash transactions for the period reported on in accordance with the requirements of Section 28, Cash transactions above prescribed limit.

Auditing Profession Act

We *<have / have not>* reported a reportable irregularity to the Independent Regulatory Board for Auditors as defined in, and in accordance with Section 45 of, the Auditing Profession Act.

C. Information extracted from the accounting records

- I. Monies deposited in a trust banking account in compliance with Sections 32(1) and 32(2)(a) of the EAAA / 54(1) and 54(2)(a) of the PPA:

		Monies held in terms of EAAA (before 1st Feb 2022) R	Monies held in terms of PPA (after 31st Jan 2022) R	Total R
1.	Total interest received			
2.	Less: Payable in terms of express written mandates (Section 32(2)(c) of the EAAA/ (Regulation 34.2.1.9 of PPA))			
3.	Balance			
4.	Less: Amount payable to the Fidelity Fund (Government Notice R1415 of 3 July 1981 – 50% / Regulation 34.2.1.10.2 of the PAA 100% of above balance)			
5.	Amount retained by estate agent			

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- II. Unidentified and/or unclaimed trust monies held longer than three years and due to the Property Practitioners Fidelity Fund (Section 54(10) of the PPA)

	Monies held in terms of Section 54(1)(a) R	Monies held in terms of Section 54(2)(a) R	Total R
1. Balance at the beginning of the period/ year			
2. Unidentified and/or unclaimed monies received into trust			
3. Monies identified and/or claimed and accounted for			
4. Monies paid to the Fund in terms of Section 54(10)			
5. Balance at the end of the period/year			

Procedures performed

1. We agreed the total interest received in to IT3(b) certificates addressed to the property practitioner to determine that the total interest received has been correctly extracted, but have not performed any additional procedures to substantiate the completeness or accuracy of the underlying amounts.
2. We agreed the total amount payable in terms of express written mandates to the balance(s) reflected in the underlying trust accounting records to determine that the total amount paid out has been correctly extracted, but have not performed any additional procedures to substantiate the completeness or accuracy of the underlying amounts.
3. We agreed the amounts amount payable to the Fidelity Fund to the balance(s) reflected in the underlying trust accounting records to determine that the total amount paid out has been correctly extracted, but have not performed any additional procedures to substantiate the completeness or accuracy of the underlying amounts.
4. We agreed the amount retained by the property practitioner to the balance recorded in the general ledger, but have not performed any additional procedures to substantiate the completeness or accuracy of the underlying amounts.
5. We agreed the balance of unclaimed or unidentifiable trust monies at the beginning of the period/year to the trust creditor's age analysis for unclaimed or unidentifiable trust monies held longer than four (4) years, but have not performed any additional procedures to substantiate the completeness or accuracy of the underlying amounts.
6. We agreed the amount of unidentified and/or unclaimed monies received into trust to the trust creditor's age analysis for unclaimed or unidentifiable trust monies held longer than three (3) years and not greater than four (4) years, but have not performed any additional procedures to substantiate the completeness or accuracy of the underlying amounts.
7. We agreed the monies identified and/or claimed and accounted for to the payment(s) reflected in the underlying trust accounting records to determine that the total amount paid out has been correctly extracted, but have not performed any additional procedures to substantiate the completeness or accuracy of the underlying amounts.
8. We agreed the total amount paid to the Fidelity Fund in terms of Section 54(10) to the balance(s) reflected in the underlying trust accounting records to determine that the total amount paid out has been correctly extracted, but have not performed any additional procedures to substantiate the completeness or accuracy of the underlying amounts
9. We agreed the balance at the end of the period/year to the balance(s) reflected in the underlying trust accounting records to determine that the total balance due to Fidelity Fund has been correctly extracted, but have not performed any additional procedures to substantiate the completeness or accuracy of the underlying amounts.

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The above information has been extracted from the underlying trust accounting records which were subject to our audit of the financial statements as a whole. With the exception of those procedures performed, as described above, the underlying information is unaudited and does not form part of our conclusion regarding compliance with Sections 32(1), (2) and (3) of the EAAA/ 54(1), (2) and (5) of the PPA set out in Section A, and accordingly, we express no conclusion thereon.

Restriction on use and distribution of the report

The layout and wording of our report is in compliance with the requirements of the Estate Agency Affairs Board and may not be suitable for any other purpose, consequently, it is intended solely for the use of principals of the property practitioner and the Property Practitioners Regulatory Authority and should not be distributed to any other parties without our prior written consent.

Auditor's Signature: _____

[Insert: Name of audit firm and IRBA Registration Number, if report is not on letterhead of firm]

Per: _____

[Insert name of sole practitioner, partner or director]
Registered Auditor

Registration Number: _____

Address:

Contact number: _____

Date: _____

**GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING
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**ANNEXURE 3 – SUMMARISED AUDIT REQUIREMENTS
APPLICABLE TO BUSINESS PROPERTY PRACTITIONERS**

		BUSINESS ACCOUNTING RECORDS	TRUST ACCOUNTING RECORDS
Document to be audited/reviewed		Annual Financial Statements	Trust Accounts
Category 1	Business property practitioners that have not been granted an exemption from holding a trust account	Audit (Above R2,5 million revenue) - International Standards on Auditing (ISAs) - Registered Auditor	Assurance engagement - Registered Auditor
		Independent Review (Below R2,5 million revenue) - International Standards on Review Engagements (ISRE 2400) (Revised) - Registered Auditor	
Category 2	Business property practitioners that have been granted an exemption from holding a trust account	Audit (If the business property practitioner is a company or close corporation and meets the Companies Act requirements for an audit) - International Standards on Auditing (ISAs) - Registered Auditor	N/A
		Independent Review - International Standards on Review Engagements (ISRE 2400) (Revised) - Registered Auditor or a Chartered Accountant if the business property practitioner is a company or close corporation and its Public Interest Score is 100 or above or by a Registered Auditor, Chartered Accountant or any person qualified to be an accounting officer of a close corporation if the business property practitioner is a company or close corporation with a Public Interest Score of less than 100 or is a partnership, trust or sole proprietor.	
Formats of reports to be prepared by auditor/independent reviewer		Audit - Format as per South African Auditing Practice Statement 3 (Revised) - Illustrative Reports, issued by the Independent Regulatory Board for Auditors	Format available on the Auditors Portal
		Independent Review - Format as per ISRE 2400 (Revised)	

**ANNEXURE 4 – REQUIREMENTS FOR EXEMPTION FROM KEEPING
A TRUST ACCOUNT**

	Business Property Practitioners Not Previously Registered As Estate Agencies	Business Property Practitioners Previously Registered As Estate Agencies	Business Property Practitioners Previously Registered As Estate Agencies Using/Intending to Payment Processing Agents	Managing Agents Previously Registered As Estate Agencies And Holding Trust Monies But Now Intending to Use the Bodies Corporate Bank Accounts
Affidavit signed by the principal(s) of the business in the format in Regulation 2	✓	✓	✓	✓
Disbursements of all trust monies held, if any, in accordance with the requirement of the law		✓		✓
Closure of all previously existing trust accounts held		✓	✓	✓
Winding up audit report		✓	✓	✓
Letter(s) from the bank confirming closure of all trust account(s)		✓	✓	✓
Transfer of all trust monies held, if any, to the trust account held with the Payment Processing Agent			✓	
Letter from the Payment Processing Agent confirming the trust account.			✓	
Full list of the Managing Agent's Body Corporate clients				✓
Letters from each of the Body Corporate client confirming that the funds are held in a bank account opened in the name of the body corporate in terms of section 21(4)(a) of the Sectional Titles Management Act and that no funds of the body corporate are deposited in a trust account opened in the name of the managing agent.				✓

**GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING
REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS**

**ANNEXURE 5 – MAXIMUM FINES FOR CONTRAVENTIONS OF THE
PPA REPORTED IN SUBMITTED AUDIT REPORTS**

Contravention	Maximum fine
The property practitioner's trust accounts were not properly referenced and the requisite details were not furnished to the PPRA, as required by section 54(1)(a) of the Act.	R7 500.00
The property practitioner did not invest moneys deposited in a trust account in accordance with the requirements of section 54(2)(a) of the Act.	R750.00
The property practitioner did not keep separate accounting records, as required by section 54(5) (a) of the Act, and did not balance the accounting records relating to any trust account at intervals of not more than one month, as required by section 54(5)(b) of the Act, and did not administer the trust accounts in the prescribed manner, as required by section 54(5)(c) of the Act	R25 000.00
The system employed when transferring amounts (including interest earned) from the property practitioner's trust banking account to the property practitioner's business account did not ensure that on each occasion any such transfer is made, the balance remaining to the credit of such trust banking amount or other interest-bearing account referred to in section 54(2)(a) of the Act, together with any trust moneys held in cash on hand, amounts to not less than the trust balances	R25 000.00
The business property practitioner did not have a valid fidelity fund certificate as required by Section 48, <i>Prohibition of rendering of services as property practitioner in certain circumstances</i>	R25 000.00
The business property practitioner was not registered as an accountable institution, as required in terms of the Financial Intelligence Centre Act	Disciplinary action to be instituted
The business property practitioner did not report cash transactions in accordance with the requirements of Section 28 of the Financial Intelligence Centre Act	Disciplinary action to be instituted

**ANNEXURE 6 – TEMPLATE OF LETTER BY PAYMENT
PROCESSING AGENT**

Payment Processing Agent's Letterhead

Date:

The Property Practitioners Regulatory Authority

63 Wierda Road East

Wierda Valley

SANDTON

2169

PPA TRUST ACCOUNT CONFIRMATION LETTER

We confirm that _____ (Company Name) ("Mandating Client Business Property Practitioner") with PPRA Firm PIN number _____ has transferred trust monies to us and has mandated us to administer trust monies on its behalf in terms of Regulation 2.4.1 of the Property Practitioners Regulations, 2022 and the following trust account opened in our name in terms of section 54(1) of the Property Practitioners Act will be used for this purpose.

Account Type		Account Number	
Account Status		Date Opened	
Branch Code		Branch Name	
Account Designation	Trust Account Designated In Terms of Section 54(1)/54(2) of the PPA		

We also confirm that the above-mentioned has a valid Fidelity Fund Certificate.

Should you have any queries, please contact us on

Yours faithfully,

**ANNEXURE 7 – TEMPLATE OF LETTER FROM A BODY
CORPORATE**

Body Corporate's Letterhead

Date:

The Property Practitioners Regulatory Authority

63 Wierda Road East

Wierda Valley

SANDTON

2169

**CONFIRMATION OF FUNDS HELD BY MANAGING AGENT ON BEHALF OF BODY
CORPORATE**

We confirm that our managing agent _____ (Company Name) with PPRA Firm Pin number _____ has transferred all the money that they held on our behalf to our bank account opened in terms of section 21(4)(a) of the Sectional Title Schemes Management Act and/or does not hold and will not receive any monies on our behalf from the date of this letter. All monies due to our Body Corporate will all be deposited in our bank account and we undertake to advise the Property Practitioners Regulatory Authority if in future we decide to give the above-mentioned managing agent or any other managing agent the mandate to handle our monies in a bank account opened in the name of the managing agent.

This letter is issued to enable the PPRA to evaluate the managing agent's compliance with Regulation 2.6 of the Property Practitioners Regulations, 2022.

Should you have any queries, please contact us on

Yours faithfully,

ANNEXURE 8 – TRUST ENVIRONMENT AUDIT REPORT TEMPLATE BY A PAYMENT PROCESSING AGENT

Auditor's Letterhead

Independent Auditor's Limited Assurance Report in Accordance with the Requirements of Regulation 2.4.4 of the Property Practitioners Regulations, 2022 issued in terms of section 70 of the Property Practitioners Act No 22 of 2019

To the Board of Directors of [name of Payment Processing Agent]

We have undertaken our engagement in accordance with the requirements of Regulation 2.4.4 of the Property Practitioners Regulations issued in terms of the Property Practitioners Act (the Regulations) in order to provide the Property Practitioners Regulatory Authority (the Authority) with reasonable assurance that the trust environment of (the Payment Processing Agent) was maintained and operated, in all material respects, in compliance with the Regulations specified below (the specified Regulations) for the year ended <insert date>.

1. Regulation 30.1, relating to the bookkeeping system used by the Payment Processing Agent;
2. Regulation 30.2.1, relating to the recording of all pertinent information regarding trust accounts and the movements of all trust monies, including the general and subsidiary ledgers, cash books, and all other documents and books of entry necessary for the proper maintenance of trust accounts;
3. Regulation 30.2.2, relating to the safeguards for the protection of trust accounting records against unauthorised access, alteration, destruction or manipulation; and
4. Regulation 30.2.3, relating to the keeping of trust accounting records in a format that renders them readily retrievable or making extracts or copies thereof.

Directors' Responsibility for the trust environment

The directors are responsible for ensuring that the trust environment is maintained and operated in compliance with the Property Practitioners Act and the specified Regulations; and for such internal control as they determine is necessary to maintain the integrity of the trust environment in accordance with the mandates of the client business property practitioners, including such controls as they determine as necessary to prevent fraud and theft.

Our independence and quality control

We have complied with the independence and other ethical requirements of Sections 290 and 291 of the Independent Regulatory Board for Auditors' *Code of Professional Conduct for Registered Auditors (Revised January 2018)* and Parts 1 and 3 of the Independent Regulatory Board for Auditors' *Code of Professional Conduct for Registered Auditors (Revised November 2018)* (together the IRBA Codes), which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour. The IRBA Codes are consistent with the corresponding sections of the International Ethics Standards Board for Accountants' *Code of Ethics for Professional Accountants* and the International Ethics

GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS

Standards Board for Accountants' *International Code of Ethics for Professional Accountants (including International Independence Standards)* respectively.

The firm applies International Standard on Quality Control 1 (ISQC 1), *Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements*, and accordingly maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

Auditor's Responsibility

Our responsibility, in accordance with Regulation 2.4.4, is to express a reasonable assurance opinion on whether the trust environment of (the Payment Processing Agent) was maintained and operated, in all material respects, in compliance with the specified Regulations, based on our assurance procedures performed. We conducted our engagement in accordance with the International Standard on Assurance Engagements (ISAE) 3000 (Revised), *Assurance Engagements Other Than Audits or Reviews of Historic Financial Information*, issued by the International Auditing and Assurance Standards Board. That standard requires that we plan and perform this engagement to obtain reasonable assurance about whether the trust environment of (the Payment Processing Agent) was maintained and operated, in all material respects, in compliance with the specified Regulations, based on our assurance procedures performed; and to report, as required, to the Authority.

A reasonable assurance engagement in accordance with ISAE 3000 (Revised) involves performing procedures to obtain evidence about whether the legal practitioners' trust accounts were maintained in compliance with the Act and the Rules. The nature, timing and extent of the procedures selected depended on our professional judgement, including the assessment of the risks of non-compliance with the specified Regulations, whether due to fraud, theft and error. In making those risk assessments, we considered internal control that was relevant to the engagement in order to design procedures that were appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control. Our engagement included the following procedures:

- Making inquiries of the Payment Processing Agent's management primarily responsible for financial and accounting matters and regulatory compliance;
- Re-performance of calculations;
- Performance of substantive analytical review procedures; and
- Inspection of supporting documentation considered necessary to assess compliance with the specified Regulations.
- Obtaining written representations from management regarding matters that are relevant to this engagement.

We believe that the evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS

Basis for qualified opinion

The payment processing agent's trust environment was not maintained and operated in compliance with the specified Regulations, as follows⁶¹:

List ...<insert instances of non-compliance identified, including those subsequently resolved>

Qualified opinion

In our opinion, except for the instances of non-compliance listed in the preceding paragraph, the trust environment of <insert the name of the payment processing agent> for the <period from <insert date> to <insert date>>/<year ended <insert date>> was maintained and operated, in all material respects, in compliance with the specified Regulations.⁶²

OR

Opinion

In our opinion, trust environment of (<insert the name of the payment processing agent>) for the <period from <insert date> to <insert date>>/<year ended <insert date>> were maintained and operated, in all material respects, in compliance with the specified Regulations.⁶³

Restriction on distribution and use

This report is for the purpose of meeting the auditor reporting requirements of the Property Practitioners Act and the specified Regulations. Consequently, it is not suitable for any other purpose. It is intended solely for the use of the directors of <insert the name of the payment processing agent>, the Property Practitioners Regulatory Authority, the mandating client business property practitioners of <insert the name of the payment processing agent> , and should not be distributed to other parties.

Auditor's Signature

Name of the individual registered auditor

IRBA registration number of the firm and/or auditor

Registered audit firm

Date of the auditor's assurance report

Auditor's address (if not on a firm letterhead)

⁶¹ Delete this paragraph if the opinion is unqualified

⁶² Delete this paragraph if the opinion is unqualified

⁶³ Delete this paragraph if the opinion is qualified

**GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING
REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS**

**ANNEXURE 9 – LIST OF MANDATING CLIENT BUSINESS
PROPERTY PRACTITIONERS BY A PAYMENT PROCESSING
AGENT**

Auditor's Letterhead

The Property Practitioners Regulatory Authority
63 Wierda Road East
Wierda Valley
SANDTON
2169

Dear Sir/Madam

RE: LIST OF MANDATING CLIENT BUSINESS PROPERTY PRACTITIONERS FOR
_____ (Name of Payment Processing Agent),

with PPRA FIRM PIN NUMBER _____

We confirm that as part of the audit of the trust accounts of the above-mentioned payment processing agent, the following is a complete list of the mandating client business property practitioners of the payment process agent for the financial year ended _____.

No.	Mandating Client Business Property Practitioner Name	Company Registration Number	Firm Pin Number	Fidelity Fund Certificate Number
1.				
2.				
3.				
4.				
5.				

- *Add additional rows as required*

Should you have any queries, please contact us on

Yours faithfully,

[Auditor's Signature]

[Name of individual registered auditor]

[Capacity, if not a sole practitioner: e.g. Director or Partner]

Registered Auditor

[Date of auditor's report]

[Auditor's address]

ANNEXURE 10 – TRUST ACCOUNT EXEMPTION LETTER



Date

The Principal
Name:
Firm PIN:

Dear Principal

EXEMPTION FROM KEEPING A TRUST ACCOUNT

This letter serves to acknowledge receipt of the documents submitted for the above mentioned entity in support of the exemption from keeping a trust account as per section 23(2)(b) of the Property Practitioners Act 22 of 2019 and Regulation 2 of the Property Practitioners Regulation, 2022.

Your submitted documents confirm the following:

You have never received trust monies	
You no longer receive trust monies	
You have mandated the following payment processing agent to process trust monies on your behalf: Name: _____ Firm PIN Number: _____	
You are a managing agent and all funds for your body corporate clients are held in the bank accounts opened by your body corporate clients in terms of section 21(4) of the Sectional Title Schemes Management Act	

You are required to comply with the undertakings made in your submitted affidavit. Your exemption is applicable from the date of this letter.

SIGNED AND ISSUED FOR AND ON BEHALF OF THE PPRA

ANNEXURE 11 – FREQUENTLY ASKED QUESTIONS (FAQs)

1. Which business property practitioner must have their accounting records audited?

The Property Practitioners Act, No. 22 of 2019 (the Act), section 55(4)(b), states that every non-exempt business property practitioner shall, in respect of its activities as a property practitioner, cause its accounting records to be audited. Property practitioner activities can be performed under different legal forms of business, such as a sole proprietorship, a company, a trust, a close corporation or a partnership. The accounting records to be audited are, therefore, those of the relevant legal form of business through which the property practitioner conducts the property practitioner activities.

However, in terms section 23(1) of the Act, a business property practitioner whose annual turnover is below R2,5 million, may have its annual financial statements independently reviewed and not audited, but in addition, if it has not been exempted from holding a trust account, in terms of section 23(2)(a), then the trust accounting records should be audited as contemplated in section 54(5)(b) of the Act.

2. Which accounting records must be audited?

According to section 55(4)(b), every non-exempt business property practitioner shall cause the accounting records mentioned in section 55(4)(a) to be audited. Section 55(4)(a) refers to accounting records as those that are necessary to fairly reflect and explain the state of affairs

-

- i. of all moneys received or expended by the business property practitioner, including moneys deposited to a trust account referred to in section 54(1) or invested in a savings or other interest-bearing account referred to in section 54(2);
- ii. of all the business property practitioner's assets and liabilities; and
- iii. of all the business property practitioner's financial transactions and the financial position of the business.

The auditor is therefore required to annually audit the trust accounting records, unless the business property practitioner has been exempted from holding a trust account in accordance with section 23(2)(a).

The annual financial statements (business accounting records) of the business property practitioner, as they relate to any legal form of business under which property practitioner activities are performed, should be audited annually or, if the business property practitioner's annual turnover is below R2,5 million, independently reviewed in accordance with section 23(1).

GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS

- 3. What report should be submitted to the PPRA within six months after the financial year by a business property practitioner that has been granted an exemption in terms of section 23(2)(a) of the Act regarding keeping a trust account?**

No audit report will be required to be submitted to the PPRA. However, when applying for an fidelity fund certificate, an affidavit as prescribed in Regulation 2.1.1.3 will be required.

- 4. Can the auditor perform an independent review instead of an audit when a business property practitioner is a private company and its financial statements are not required to be audited in terms of the new Companies Act, 2008?**

Yes, only if the private company's annual turnover is below R2,5 million and the independent review can only be performed on the business accounting records (annual financial statements). This is in accordance with section 23(1) of the Act. Business property practitioners not exempted from keeping a trust accounts and which operate as companies or close corporations and with an annual turnover of R2,5 million and above must have their annual financial statements audited, irrespective of the whether or not they meet the Companies Act requirements for an audit.

However, if the private company has not been exempted from holding a trust account, in terms of section 23(2)(a), then, in addition, the trust accounting records should be audited as contemplated in section 54(5)(b) of the Act.

- 5. Can the PPRA grant an exemption from having the business accounting records audited/independently-reviewed if the property practitioner did not have or closed a trust account during the financial year?**

No. The legal requirement of having the business accounting records (annual financial statements) either audited (if the annual turnover is above R2,5 million) or independently reviewed (if the annual turnover is below R2,5 million) and the trust accounting records audited remains as long as the business property practitioner is registered with the PPRA and has not been granted an exemption.

- 6. Can the PPRA grant an exemption from having the business accounting records audited/independently reviewed if the business property practitioner cannot afford the audit fees or the trust account was dormant throughout the financial year?**

Yes, only if the business property practitioner applies and is granted an exemption by the PPRA under section 4 of the PPA.

GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS

7. Do the requirements to have business accounting records audited/independently reviewed apply to a property practitioner operating as a sole proprietor?

Yes. Unless granted an exemption, the audit/independent review requirements of business accounting records apply to all legal forms of business under which a business property practitioner performs property practitioner activities, and a sole proprietorship is no exception.

8. Who must perform the audit/independent-review of a business property practitioner?

The audit/independent-review of a business property practitioner's business accounting records and the audit of trust accounting records must be performed by a Registered Auditor who is registered with the Independent Regulatory Board for Auditors, for all those business property practitioners who have not been exempted from keeping a trust account.

However, for those business property practitioners who have been granted an exemption in terms of section 23(2)(a) in relation to keeping a trust account and who are not required to be audited in terms of the Companies Act,

a. the independent review of financial statements for business property practitioners operating as companies or close corporations must be performed by:

- i. A Registered Auditor or Chartered Accountant if the Public Interest Score calculated in terms of the Companies Act is 100 or above; or
- ii. A Registered Auditor, Chartered Accountant or any person qualified to be an accounting officer of a close corporation, if the Public Interest Score calculated in terms of the Companies Act is less than 100.

b. the independent review of financial statements for business property practitioners who are not companies or close corporation must be performed by a Registered Auditor, Chartered Accountant or any person qualified to be an accounting officer of a close corporation.

9. When must the audit be performed and audit report submitted to the PPRA?

According to section 54(5)(b), 55(6) and 55(4)(b) of the Act, the audit of the business accounting records and the trust accounting records shall be performed and finalised and the auditor's report on the trust accounting records submitted to the PPRA within a period of six months after the financial year end of the business property practitioner. Audit reports submitted outside the six month deadline attract a fine of R20 a day, up to a maximum of R5 000 in accordance with Regulation 38.

GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS

10. Who must submit the auditor's report to the PPRA?

The auditor of the business property practitioner shall submit the auditor's report on the trust accounting records to the PPRA after completing such an audit.

11. How must the auditor's report be submitted to the PPRA?

The auditor's report on the trust accounting records is to be submitted to the PPRA by the auditor of the business property practitioner in the form from time to time determined by the PPRA.

The form of submission currently determined by the PPRA is for the auditor's report to be submitted online through the **Auditors Portal** accessible via the PPRA's website.

The auditor is required to first register on the **Auditors Portal** on the PPRA's website in order to be able to log in, complete and submit the auditor's report on the trust accounting records.

The PPRA does not accept auditor's reports that are emailed, hand-delivered or posted.

12. Should the audited/independently reviewed financial statements of the business accounting records also be submitted when submitting the auditor's report on the trust accounting records to the PPRA?

No. Only the auditor's report on the trust accounting records in the format determined by the PPRA should be submitted by the auditor.

However, the PPRA may request the audited/independently-reviewed financial statements directly from a business property practitioner. In this respect, auditors/independent reviewers must ensure that they submit to the business property practitioner their audit/independent review report for inclusion in the audited/independently-reviewed financial statements after completing their audit/independent review.

13. Should an auditor report a reportable irregularity to the IRBA when performing an audit of the business accounting records and / or the trust accounting records of an property practitioner?

A registered auditor has an obligation to report reportable irregularities in respect of an audit client. A client of a registered auditor is classified as an audit client if the auditor provides professional services to that client that meet the definition of an "audit" in terms of section 1 of the Auditing Profession Act, 2005, as amended (the APA).

The obligation to report a reportable irregularity then arises when the individual registered auditor (or individual registered auditors in the case of joint audits) responsible and

GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS

accountable for an audit of an entity is satisfied or has reason to believe that an unlawful act or omission committed by any person responsible for the management of that entity, and which meets the requirements of the definition of a reportable irregularity, has taken place or is taking place in respect of that entity, based on the evidence (information) which comes to the knowledge of the registered auditor from any source¹.

Since section 55(4)(b) of the Property Practitioners Act requires a property practitioner to cause the accounting records to be audited, a registered auditor who has been engaged to be the auditor of a property practitioner (an audit client) has a duty to report a reportable irregularity should one exist in terms of the APA.

Further guidance on reporting a reportable irregularity can be found in “*Reportable Irregularities: A Guide for Registered Auditors*” which can be found on the IRBA website.

14. Can the PPRA grant extensions on the prescribed timeframe for submitting auditor’s report on the trust accounting records?

No. Audit reports submitted outside the prescribed six month period will attract a fine of R20 per day, up to a maximum of R5 000.

15. What are the consequences of submitting the auditor’s report outside the prescribed timeframe?

A fine of R20 per day, up to a maximum of R5 000

16. What are the consequences of submitting the auditor’s report on the trust accounting records via email, post or hand-delivery instead of online via the Auditors Portal?

The auditor’s report will not be accepted as having been received in terms of the Property Practitioners Act as the PPRA has determined the sole manner of submission of an auditor’s report to be online through the **Auditors Portal**.

**GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING
REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS**

17. **What are the consequences for the business property practitioner if the form and content of the auditor’s report on the trust accounting records includes contraventions of the Property Practitioners Act?**

In terms of Regulation 38, the following fines will be imposed for the various contraventions

Contravention	Maximum fine
The property practitioner’s trust accounts were not properly referenced and the requisite details were not furnished to the PPRA, as required by section 54(1)(a) of the Act.	R7 500.00
The property practitioner did not invest moneys deposited in a trust account in accordance with the requirements of section 54(2)(a) of the Act.	R750.00
The property practitioner did not keep separate accounting records, as required by section 54(5) (a) of the Act, and did not balance the accounting records relating to any trust account at intervals of not more than one month, as required by section 54(5)(b) of the Act, and did not administer the trust accounts in the prescribed manner, as required by section 54(5)(c) of the Act	R25 000.00
The system employed when transferring amounts (including interest earned) from the property practitioner’s trust banking account to the property practitioner’s business account did not ensure that on each occasion any such transfer is made, the balance remaining to the credit of such trust banking amount or other interest-bearing account referred to in section 54(2)(a) of the Act, together with any trust moneys held in cash on hand, amounts to not less than the trust balances	R25 000.00
The business property practitioner did not have a valid fidelity fund certificate as required by Section 48, <i>Prohibition of rendering of services as property practitioner in certain circumstances</i>	R25 000.00
The business property practitioner was not registered as an accountable institution, as required in terms of the Financial Intelligence Centre Act	Disciplinary action to be instituted
The business property practitioner did not report cash transactions in accordance with the requirements of Section 28 of the Financial Intelligence Centre Act	Disciplinary action to be instituted

GUIDELINE ON AUDIT, ACCOUNTING RECORDS AND TRUST ACCOUNTING REQUIREMENTS FOR BUSINESS PROPERTY PRACTITIONERS

- 18. What are the consequences for a property practitioner when a qualified or adverse opinion/conclusion or disclaimer of opinion is expressed in the auditor's/independent reviewer's report on the annual financial statements?**

The audited/independently-reviewed financial statements of the business accounting records will be requested by the PPRA and the basis for the qualified or adverse opinion/conclusion or disclaimer of opinion will be analysed by the PPRA to determine if there are instances of non-compliance with any provision of the Property Practitioners Act and the Financial Intelligence Centre Act (FICA).

Any identified non-compliance issues relating to the Property Practitioners Act will attract a prescribed fine in terms of Regulation 38.

As PPRA is a Supervisory Body of property practitioners in terms of the FICA, any identified non-compliance issues relating to the FICA will be considered, investigated and/or shared with the Financial Intelligence Centre, South African Revenue Service, other supervisory body or any other relevant authority, as required by section 36(1) of the FICA.

- 19. Is an IT3b certificate mandatory when submitting the auditor's report on the trust accounting records?**

No. The PPRA will receive the IT3b certificates directly from banks in accordance with section 54(4) of the Act.

- 20. What additional responsibilities does the auditor of a payment processing agent have?**

The auditor of a payment processing agent must audit not only the trust accounts and trust monies held by the payment processing agents on behalf of the mandating client business property practitioners but must also audit and provide a separate audit report on the trust environment of the payment processing agent. In addition, when submitting the annual audit report of the payment processing agent to the PPRA on the Auditors Portal, the auditor of the payment processing agent must also upload and attach the list of mandating client business property practitioners covered by the audit and also the separate audit report on the trust environment.