One of the purposes of the *Travel Industry Act, 2002* (the Act) is the protection of customer monies received for the purchase of travel services. "Trust Accounting" recognizes this purpose by considering that all customer monies received for travel services are deemed to be held in trust to be used only for the purchase of the travel services contracted for by the customer when the booking is accepted and the payment received. Any monies in a trust account are considered to not belong to the travel agent or wholesaler. These monies are received "with a direction", which by the nature of the transaction need not be specific, since a direction is deemed to exist when the customer books a specific flight or tour package, and the agency or wholesaler shall recognize that money was paid to him for an express purpose and shall pay it out only for the purpose intended in that direction. Use of such "trust funds" for any other purpose may be considered to be "theft" under Section 322 of the *Criminal Code of Canada*, R.S.C. 1985, c. C-46, as amended.

The following comments and procedures are provided to assist in setting up and maintaining a Registrant’s Trust Account. They should help you to understand the requirements, in recording transactions by customer booking, that is, the receipts, disbursements, and related profit or loss on that booking. The accounting and banking records are complementary to each other and both must be maintained.

The accounting records also will be used to determine the "Customer Deposit Position" or to prepare reconciliation, (sample format on Page 4) - (total receipts from customers for travel services sold less payments to suppliers for the related travel services compared with cash in the trust bank accounts).

These records will also provide the information that will be used to determine the surplus, if any, of the receipts from customers that may be transferred to the General Bank Account for payments for operating and/or any other overhead expenses.

To maintain effective and meaningful information, the accounting records must be kept up-to-date, and must be reconciled (compared with "Trust Account" bank statements on a regular basis, and the differences listed and corrections made of any errors) at least monthly. In order to maintain the integrity of the Trust, the funds held in the Trust bank account must be identifiable.
The process for operating Trust Accounts is as follows:

**BANKING**

- The Registrant must establish at least two bank accounts in Ontario in a Canadian chartered bank or in another institution authorized to accept deposits. The accounts would be designated as a **General Account** and a Travel Industry Act, **Trust Account**. The registrar must be notified of the location and account numbers.

- The "Trust" Bank Account or Accounts (*if more than one account, it must be approved by the Registrar*) will be used to deposit all customer receipts received for travel services and the payments for those travel services. These transactions must be made in accordance with section 27 of Regulation 26/05 made under the Act, and as set out in the "Terms and Conditions of Registration" issued by the Registrar and agreed upon by you.

- Annually, the Trust Declaration must be signed by the Registrant acknowledging that they understand the requirements of Section 27 and will maintain the trust accordingly.

- The bank must acknowledge in writing to TICO that the Trust Account has been designated as a **Travel Industry Act** trust account. The name on this Trust bank account should contain the words "**Travel Industry Act** Trust Account" as well as the registered name of the Registrant.

- Sometimes it is difficult for the Bank to fit, “Travel Industry Act Trust Account” on the bank statement, therefore at a minimum the Trust Account should indicate that it is a Trust Account. For example: “XYZ Travel Limited - Travel Industry Act Trust Account”

- Payments issued on the Trust account must be restricted to those paying for travel services purchased on behalf of the customer who has paid for an accepted booking, refunds to customers or the transfer of the surplus component to the General Account to be used to cover operating expenses. The transfer of the profit may be made only after receipt of the full payment from the customer and the supplier has been paid in full.

- The trust bank account may **not** be used to make payments for **operating costs** such as salaries and wages, rent, advertising, telephone or other overhead costs.

- Payment must be received from the customer before a payment can be made from the trust bank account for the travel services purchased for that booking.

- Payments from the trust account on behalf of a customer may not in any case exceed the total amount held in the trust account for that customer. Similarly, receipts in the trust account may not be withdrawn to purchase travel services not sold, i.e. "risk airline seats", or to pay for services for other customers who have not yet paid.

- When funds are transferred from the trust account of an agency’s branch to its main office, the money may only be deposited to the trust account of the main office.
• Only consumer funds should be deposited to the Trust Bank Account. Other funds such as shareholder injections should not be deposited to the Trust Bank Account.

• Any credit card receipts where you are the merchant must be deposited directly to the trust bank account.

• Any debit card receipts must be deposited directly to the trust bank account.

**RECORD KEEPING / ACCOUNTING**

• An accounting record of all booking contracts by booking must be maintained. This record must be in sufficient detail to provide a monetary record of all receipts and payments relating to that particular booking. This is called the audit trail. Deposits received from consumers should be cross-referenced to the specific invoice or booking for which the payment was made. The audit trail should be sufficient so that deposits can be clearly traced to the booking and will assist in reconciling all funds received from customers.

• If you accept credit card receipts where you are the merchant, debit card receipts or direct deposits, you must have a system in place in order to identify these transactions on a booking by booking basis and a proper audit trail exists.

• Periodically, a calculation must be made of the "surplus component" remaining in the Trust Account for travel sales that have been fully paid for by the customer. This calculation will show the amount paid by each customer and the amount paid out for travel services on their behalf. The difference between these two amounts represents the "surplus component". A transfer of this "surplus component" may be made from the Trust Account to the General Operating Account(s) of the Registrant, but only after full payment has been received from the customer and the supplier has been paid in full.

• No money should ever be transferred as surplus to the general bank account unless a calculation of the surplus has been prepared.

• Records shall be kept of all deposits and withdrawals from the Trust Account(s) for periodic inspection by an Inspector appointed by the Registrar.

• BSP payments that have not yet been withdrawn at the date of the Trust Reconciliation, but where receipts from consumers have been received must be included in the calculation of the Trust Reconciliation.

• Any financial statements submitted to TICO, pursuant to section 22 of the Regulation, must also disclose the reconciliation of customer funds compared to the trust bank balance. This information can either be disclosed on the balance sheet or in the notes to the financial statement. If the disclosure is on the balance sheet the balance of funds held in trust bank account (s) should be disclosed separately from other cash or bank
assets as well as any prepayments to suppliers that relate to the customer deposits. The customer deposits on hand at the balance sheet date should be disclosed in the liability section. Even if there are no deposits on hand, a nil balance should be disclosed. If the customer funds are disclosed in the notes to the financial statements, the balance in the trust bank account should be disclosed along with the customer deposits and any related supplier prepayments. It is the Registrant’s responsibility to ensure this information is properly disclosed and should be discussed with the Registrant’s accountant.

**SAMPLE RECONCILIATION**

A customer deposit position must be prepared at least monthly, as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer Deposits</td>
<td>$0,000.00</td>
<td>- Total receipts from customers whose funds have not yet been passed to suppliers.</td>
</tr>
<tr>
<td>Covered by:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bank balance</td>
<td>$0,000.00</td>
<td>- Bank balance in accounting records, takes into account cheques that have been issued but not yet cashed.</td>
</tr>
<tr>
<td>Prepaid travel</td>
<td>$0,000.00</td>
<td>- Partial or full payments made to suppliers for future travel related to current bookings by customers. (Only for those customers who are included in customer deposits figure (A) above</td>
</tr>
<tr>
<td>(D)</td>
<td>(B+C)</td>
<td>$0,000.00</td>
</tr>
<tr>
<td>Surplus/Deficiency</td>
<td>(D-A)</td>
<td>$(00,000.00)</td>
</tr>
</tbody>
</table>
**DEFINITIONS**

**Customer Deposits** include all cash receipts for travel services received by the registrant.

**Cash Receipts** include cash, cheque, and credit or debit receipts processed through the registrant’s merchant accounts. Cash receipts do not include consumers’ credit card payments where the credit card has been charged directly by the supplier merchant’s facility.

**Customer Funds** are the same as customer deposits.

**Prepaid Travel** relates to the corresponding deposit for this prepaid amount which has been included in the customer deposits (for example there is $500 payment to the supplier for the related deposit of $1,000 – the remaining balance of $500 may be in the process of being paid or will be paid at some future date and is therefore considered a customer liability.) Prepaid travel unrelated to customer deposits included in the reconciliation as these amounts are not considered part of the trust. If Registrants choose to pay on behalf of their customers in advance of receiving money from the customer, they may only do so with their surplus money.

**Surplus** is the positive balance left over after you have accounted for all the customer deposits compared to funds in the trust account and represent your profits that may be transferred to the general account.

**Deficiency** is the negative balance when reconciling the customer deposits to the funds in the trust account. If there is a deficiency, meaning that this balance is negative, you are in breach of Section 27 of the Regulation. The trust account should never have negative balance.

**Trust Account Reconciliation** is sometimes confused with a bank reconciliation. The Trust Account Reconciliation is a reconciliation of all customer receipts and payments to the balance in the trust account. Trust receipts less trust payments may never exceed your trust account balance which takes into account cheques that have been issued but not cashed.

**Trust Account Surplus** may only be transferred after receipt of the full payment from the customer and all suppliers of travel services for that booking have been paid.

**Audit Trail** is a step by step record leading to the accounting source. For the purpose of these guidelines it shows the steps from the customer invoice showing payment to the registrant and then payment to the supplier. The audit trail includes but is not limited to a reference to the invoice number related to the deposit and a record of payment to the supplier of the travel service.

**Gift Certificates** are considered to be customer deposits and any cash receipts for customer deposits must be kept in the trust bank account until the gift certificate is redeemed.
FAQ (FREQUENTLY ASKED QUESTIONS)

Q. I never receive consumer funds as I only accept credit cards that are passed to the Supplier. Do I still need to maintain a Trust Bank Account?
A. As long as you never receive any consumer funds, then you would not have to maintain a trust bank account. However, should you receive even one dollar of consumer funds directly you are required to maintain a trust account.

Q. I prepay all the suppliers in full before I receive the funds from the consumers. When I receive the funds from the consumers, do I need to deposit those funds into the Trust Bank Account?
A. As long as all the suppliers have been paid in full then subsequent payments from consumers do not need to be deposited into the trust account.

Q. Can I use Trust Account funds to prepay suppliers?
A. You can only use surplus money to prepay suppliers. Preparing a trust reconciliation will determine whether you have enough surplus to prepay suppliers. If there is no surplus in the trust account and the consumer has not yet paid you must use money in the general account to prepay suppliers.

Q. Do payments received from consumers for travel insurance have to be deposited to the Trust Account?
A. Yes payments for travel insurance sales received directly from consumers must be deposited to the trust account. Travel insurance sales are included in your gross sales for contributions to the Compensation Fund.

Q. Should only the customer deposits received in the month, for which the reconciliation is prepared, be included in the reconciliation?
A. The customer deposits listing should be a running total as the liability to the customer whose money has been received does not extinguish until the supplier is paid. Therefore the reconciliation should include all of the customer deposits received but not yet paid to the suppliers even if they relate to previous periods.