

FAQs

The Law Society is introducing a Designated Filing Date of December 31 for all Trust Safety filing requirements to ensure a robust process for risk identification, mitigation and response. It enables the Law Society to quickly respond to emerging risks and identify opportunities to provide proactive support to mitigate those risks.

General

1. Why are you making changes to the Trust Safety Program?

The Law Society's processes are constantly exposed to changes in regulation or risk. And these changes impact the effectiveness of our program, so we must strive for continuous improvement to allow for the early identification of risk or problems.

- Our regulatory risk has increased and we are also seeing an increase in fraudulent activity. In the 1990s, we saw claims being paid as low as \$30,000 annually. But by the 2010s, claims as high as \$2 million annually are being paid.
- The number of Responsible Lawyers has doubled since 2010 which means there are increased risks associated with a growing number of lawyers as more law firms are operating trust accounts with a greater volume of trust accounting transactions. Limited or no insight into the compliance activities of the growing population of our Responsible Lawyers poses some risk to safety and security of trust property.
- The number of late filers is increasing and there is a poor response rate from delinquent filers.
- Our Trust Regulation costs are increasing and it is time consuming to follow up with late filers. We estimated approximately \$200,000 in annual direct and indirect costs – this is money we could be spending on risk management activities including audits, training and outreach programs for Responsible Lawyers.

2. What changes are you making to the Trust Safety Program?

Changes to the Trust Safety Program include:

- introducing a Designated Filing Date of December 31 for all Annual Reports with a filing due date of March 31 each year;
- imposing late filing fees which begin after the due date (March 31) up to a maximum of three months late or \$1,500 in late fees; and
- implementing an administrative suspension where the Responsible Lawyer is administratively suspended on July 1 if the Annual Report is still not filed three months after the due date and any late fees remain unpaid.

Designated Filing Date of December 31

3. What documents are included in the Annual Report and what must be submitted to Trust Safety?

The Annual Report includes the following:

- **Law Firm Self-Report** – prepared by the law firm in accordance with subrule 119.30(3)
- **Accountant's Report** – prepared by the law firm's accountant in accordance with subrule 119.30(4)
- **Electronic Data Upload** – prepared by the law firm in accordance with subrule 119.30(5) or (6)

Law firms must submit the Law Firm Self-Report and either the Accountant's Report or the Electronic Data Upload.

4. Why do you need to change the Annual Report filing date? Can't you just continue to collect information the same way based on the law firms' desired filing dates?

Introducing a Designated Filing Date of December 31 has the following advantages:

- It gives us the ability to accurately depict the overall risk profile of a Responsible Lawyer or law firm at a point in time as all sources of data are received within the same timeframe. Based on the risk profiles, it allows us to effectively devise a risk response strategy and establish a more effective audit-plan.
- It allows us to apply consistent measurements to the data provided by all law firms and we can do more accurate benchmarking. We can assign a risk score, prioritize the order of review and audits, identify trends, and appropriately resource and budget for the work, while ensuring a comprehensive triage of which lawyers or firms pose the greatest risk.
- It reduces the number of year-round follow-ups with late filers because we can perform compliance checks at a point in time rather than randomly throughout the year. We hope this will help foster better communication between lawyers and the Law Society.

5. What is the most common Annual Report filing date? How many law firms will this impact?

Our data shows that the most common Annual Report filing date is December 31 (68% or 1453 law firms); therefore, the proposed change will impact about a third (32% or 678 law firms) of firms operating a trust account.

**6. What is the current non-compliance rate for filing Annual Reports?
Why is this of concern?**

Currently, the average rate of non-compliance in Alberta is about 8 to 10% for Annual Report filing. This is a concern because we are a self-regulated profession and compliance is an important part of all lawyers' professional obligation.

If non-compliance is allowed, we undermine the security of trust money because currently our processes don't allow us to detect non-compliance issues earlier which can lead to practice management issues or trust theft.

7. Why are you so concerned about late filers? What's the big deal?

Recent research conducted by Trust Safety regarding trust thefts in Alberta shows a direct correlation between failing to file the required Annual Reports and misappropriation of trust funds.

By moving all law firms to the Designated Filing Date, it will allow us to more effectively track non-compliance and detect trust theft earlier.

8. Why do law firms fail to file their Annual Reports on time?

Law firms fail to file their Annual Reports on time for many reasons. If we can identify the low risk firms and lawyers who file late for no other reason than being unorganized, then we can focus on the lawyers and firms that are deliberately not filing to elude the detection of inappropriate trust account activity.

9. How long do we have to make the transition to the Designated Filing Date?

The Designated Filing Date will come into effect as of September 1, 2017. Law firms making changes to the reporting period will go through a transitional reporting period before starting the new January 1 to December 31 reporting period.

10. What is the transitional reporting period?

The transitional reporting period will allow law firms flexibility and adequate time to adjust their internal processes to the new reporting requirements. For example, if Law Firm A has a year-end reporting date of July 31 then:

- Law Firm A must file its Annual Report for August 1, 2016 to July 31, 2017 by the end of August 2017.
- To move to the new designated reporting period, August 1, 2017 to December 31, 2017 becomes the transitional reporting period and must be filed by March 31, 2018.
- Law Firm A can now move to the new designated reporting period of January 1 to December 31 so January 1 to December 31, 2018 must be filed by March 31, 2019.

11. Where can I get help to make this transition?

A guide to Transitional Year-End Reporting has been developed to assist with your transition and can be found in the Law Society of Alberta's website under [Trust Accounting & Safety](#).

Trust Safety staff is available answer questions and provide any information you require to help your firm smoothly transition to the new reporting period. Do not hesitate to contact us, we are here to help. Please email AskTrustSafety@lawsociety.ab.ca or call 403-228-5632.

12. When is the Annual Report due if the Designated Filing Date is December 31?

With a Designated Filing Date of December 31, the Annual Report is due March 31 each year.

13. How much is this going to cost me if I must file twice? Is the Law Society going to cover costs to bring my accountants in twice?

Law firms **will not** have to file twice within one year to move to the new designated reporting period.

For example, if Law Firm A has a year-end reporting date of July 31 then:

- Law Firm A must file its Annual Report for August 1, 2016 to July 31, 2017 by the end of August 2017.
- To move to the new designated reporting period, August 1, 2017 to December 31, 2017 becomes the transitional reporting period and must be filed by March 31, 2018.
- Law Firm A can now move to the new designated reporting period of January 1 to December 31 so January 1 to December 31, 2018 must be filed by March 31, 2019.

14. Is there an easier way to submit our Annual Report?

All Law firms must submit the Law Firm Self-Report and either the Accountant's Report or the Electronic Data Upload.

Since 2011, law firms have been able to electronically submit their trust accounting data to the Law Society through secure software. Submitting trust accounting data through the secure trust accounting software can eliminate the need to pay for external accountants to file the Annual Accountant's Report. This is estimated to be an annual savings of up to \$2,000.

Trust Safety staff is available answer questions and provide any information you require to help your firm smoothly transition to the new reporting period. Do not hesitate to contact us, we are here to help. Please email AskTrustSafety@lawsociety.ab.ca or call 403-228-5632.

15. How will this impact my other year end filing for financials?

The Designated Filing Date of December 31 for the Trust Safety Program is not to be confused with the fiscal corporate year-end date for income tax requirements or financial statement purposes. **The Designated Filing Date has no implications on those other filing dates.**

Late Filing Fee and Administrative Suspension

16. How does the late filing fee structure and administrative suspension work?

Law firms that do not comply and file by the due date (March 31) will be subject to the following late fees and administrative suspension:

Date	Event	Fees	Cumulative Fees
Dec 31	Designated Filing Date (Year-End)	\$0	\$0
March 31	Annual Report due date	\$0	\$0
April 1	1 month late	\$250	\$250
May 1	2 months late	\$500	\$750
June 1	3 months late	\$750	\$1,500
July 1	Responsible Lawyer is administratively suspended*		
Post-July 1	Firm files Annual Report which terminates Responsible Lawyer's administrative suspension	\$225**	\$1,725
Total Late Filing Penalties - \$250 (Minimum) - \$1,725 (Maximum)			
* The Responsible Lawyer is automatically suspended if the firm is more than three months late filing its Annual Reports and remains suspended until the Annual Reports and all related fees are paid.			
** In addition to late filing fees, a reinstatement transaction fee is required when the Responsible Lawyer returns from suspension.			

17. You already tried to get money from us through the Trust Transaction Fee. Is this just another way to collect fees?

The introduction of this fee structure is not intended to generate additional revenue. It is intended to help change the behaviours of lawyers who do not file on time. These fees are completely avoidable if you are compliant with the Rules of the Law Society of Alberta.

Our goal is to improve compliance and focus our resourcing on proactive initiatives such as education, support, risk mitigation, audits and early intervention.

18. This is just another fee that will put solo practitioners or small firms out of business. What is the Law Society doing to protect these lawyers?

The introduction of this fee structure is not intended to generate additional revenue. It is intended to help change the behaviours of lawyers who do not file on time. These fees are completely avoidable if you are compliant with the Rules of the Law Society of Alberta.

Our goal is to improve compliance and focus our resourcing on proactive initiatives such as education, support, risk mitigation, audits and early intervention.

19. With the recent increase to the professional fees and insurance levy, why would you implement another fee now?

The fee is only charged if you are non-compliant. We have implemented this fee structure to improve compliance and focus our resourcing on proactive initiatives such as risk mitigation, audits and early intervention.

20. The Law Society has implemented fees and administrative suspensions in other areas like Continuing Professional Development and Membership. What's with all the fees and suspensions?

The introduction of this fee structure is not intended to generate additional revenue. It is intended to help change the behaviours of lawyers who do not file on time. These fees and suspension are completely avoidable if you are compliant with the Rules of the Law Society of Alberta.

Our goal in all areas of the Law Society is to improve compliance and focus our resourcing on proactive initiatives such as risk mitigation and early intervention.

21. How will the Law Society use the money collected from these late fees?

Like in other jurisdictions, the fees collected will get reinvested in to the Trust Safety Program for other risk mitigation and proactive measures.

22. Who will be suspended if the law firm is not compliant?

The Responsible Lawyer will be suspended.

23. Will others in the firm be suspended as well or just the Responsible Lawyer (RL)?

No, only the Responsible Lawyer will be suspended. The Responsible Lawyer is responsible not only for the accuracy of the reporting provided but also to ensure that reporting is actually done and that all payments to the Law Society are made.

24. How can I get reinstated if I get an administrative suspension?

The Annual Report must be filed and then the Responsible Lawyer can apply for reinstatement through the Membership department. A \$225 re-instatement fee will be charged. The Responsible Lawyer will be immediately reinstated upon payment of the late filing fees and the reinstatement fees.

25. What happens to firms that are already delinquent in their filing?

If they are still delinquent as of March 31, they will be subject to the late filing fee and administrative suspension.