Submission on Construction Trust Accounts and Industry Productivity

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Trading as E2EFi Trusts
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Company Overview

Our organization is a financial technology company based in Brisbane that has created specialized software for trust account management and regulatory compliance, known as E2EFi Trusts. Our platform is specifically designed to support the mandatory project and retention trust requirements established under Queensland legislation.

Our E2EFi Trusts platform was developed to ease the regulatory compliance workload for principal contractors, subcontractors, and project owners under the Building Industry Fairness (Security of Payment) Act (BIF Act). Development commenced in June 2022, and the software is currently operational while undergoing continuous enhancement based on user input.

Context: Construction Industry Reform

Queensland's trust account framework was implemented progressively over several years, with major changes taking effect from 1 March 2021 and continuing through additional phases. These regulations target principal contractors engaged in qualifying projects, with eligibility criteria steadily broadening to encompass additional projects and enterprises.

There has been considerable discussion regarding bureaucratic processes and administrative requirements hindering productivity, particularly claims that contractors experience reduced efficiency due to legislative mandates like the BIF Act.

These regulations were established to tackle persistent challenges within the construction sector, such as: • Delayed or withheld payments to subcontractors • Insufficient visibility into project fund management • Principal contractors utilizing subcontractor payments as operational capital

Trust accounts serve to safeguard subcontractor funds by segregating payments due to them, ensuring that money designated for subcontractors cannot be diverted to support other business operations. While this creates direct cash flow consequences for builders, these effects are deliberate – intended to promote more financially viable business practices and enhance trust and transparency throughout the industry.

Effects on Industry Productivity

Initially, trust accounts may seem like regulatory overhead, creating additional compliance requirements, expanded record-keeping obligations, and increased administrative workload for companies. However, although trust accounts do introduce complexity and require additional time and resources to manage, they are essential for enhancing trust, transparency, and equity in an industry that has relied on a flawed business model for far too long.

Beneficial Effects

Enhanced Subcontractor Assurance: Subcontractors develop greater confidence to purchase materials and deploy resources promptly, knowing their payments are secured.

Strengthened Financial Oversight and Discipline: Builders must now estimate project costs more precisely, project expenses accurately, and manage cash flow with increased rigor. Trust accounts promote financial discipline by making it more difficult to depend on subcontractor funds as cost-free working capital.

Project-Specific Financial Management: Trust accounts mandate that each project be managed as an independent financial entity, preventing the transfer of funds from one project to settle obligations from another. This ensures payments serve their designated purpose and minimizes financial exposure.

Fairer Industry Standards: During insolvency situations, subcontractors have improved prospects of recovering outstanding payments, which helps prevent cascading insolvencies throughout the supply chain.

Financially Viable Business Operations: Trust accounts encourage businesses to function in a financially sustainable manner, avoiding substantial financial risk with funds that ultimately belong to others.

Challenging Effects

Expanded Administrative Requirements
Managing trust accounts creates substantial additional documentation, reporting, and system enhancement needs for businesses. This stems from the obligation to oversee multiple accounts, distribute payments into and out of each project-specific account, and meet additional notification and record-keeping duties to the QBCC, contracting parties, and trust account beneficiaries. A primary difficulty has been maintaining compliant records, particularly since accounting software has been slow to evolve and accommodate these new trust account obligations.

Immediate Cash Flow Difficulties
Builders and principal contractors must modify their financial frameworks to ensure adequate working capital availability, rather than depending on subcontractor payments as cost-free working capital for their operations. This can generate immediate cash flow

difficulties, especially for businesses lacking sufficient cash reserves. The impact becomes particularly severe when a company faces payment disputes or when a project underperforms and operates at a deficit.

Complicated Implementation Process
Trust account implementation can be difficult for many businesses, particularly smaller ones, due to variations in business models, systems, and procedures. Each company operates with distinct financial management and workflow approaches, making it challenging to align new trust account obligations with existing systems. For smaller businesses with constrained time and resources, managing these transitions can be overwhelming and perplexing.

Recommended Actions

To ensure trust accounts genuinely enhance productivity, the following approaches are suggested:

Maintain Current Framework:

Preserve Project Trust Account Requirements
The current requirements at the $10 million threshold for private sector and local government projects and $1 million for State Government and Hospital and Health Service projects impact businesses that possess the capability and capacity to manage the required trusts.

Maintain Record-Keeping Standards
The separate ledger requirements, specific to trust accounting, represent a crucial component of the framework. They ensure clear documentation of outstanding obligations from the trust account at any point, protecting subcontractor payments and improving the probability of subcontractors receiving full and timely payment.

Provide Software Development Time
Most software providers have only recently completed their software solutions. All require time for contractor adoption.

Expansion Opportunities:

Wider Retention Trust Account Implementation
Consider separating the retention trust account requirement from its current restriction to project trust projects only. This would enable deployment across a broader industry segment, further protecting retention funds and ensuring payment to rightfully entitled parties. It would also align Queensland with other jurisdictions implementing similar requirements such as Western Australia which applies retention trust accounts to projects exceeding $20,000, and New Zealand requires retention trusts on all commercial building projects regardless of value.

Multi-Signatory Operations for Enhanced Control
Operating a trust account with multi-signatory requirements enables the integration of duty separation into financial transactions at virtually no additional cost while providing significant payment security for recipients (payees). This approach is implemented in Wales, United Kingdom. It is available in our E2EFi Trusts as a straightforward extension to the electronic payment module.

The Critical Nature of Trust Accounts

Unlike other regulatory requirements, trust accounts drive positive and essential change. They represent more than additional bureaucracy. Trust accounts make it challenging for principal contractors to continue using subcontractor payments as cost-free working capital, which has long represented a problematic financial practice in the construction industry.

This responsibility and transformation are vital for our industry, and Queensland is clearly pioneering progress in this area. By enforcing payment are separated, trust accounts protect subcontractors from financial collapse when principal contractors fail, they restore confidence, improve supply chain stability, and ultimately support a more financially sustainable and productive industry.

Compliance and accounting software makes this possible. Please let it work. It needs stability of legislative environment now and time to show that it can.

Sincerely,

Richard McKeon CA
Director
E2EFi Platforms