

# Regulation Report

## The Revised SRA Accounts Rules

**The SRA recently published the results of its consultation on the SRA Accounts Rules with accompanying draft rules. The drafts remove what the SRA regards as unnecessary prescription and duplication.**

The headline grabbing proposal in last year's consultation was a new definition of client money which would have excluded from the definition money held on account of costs generally so that this money could be placed, on receipt, directly into office account. The Law Society and many other respondents to the consultation were vehemently opposed to this proposed change on grounds of the perceived risks for clients and the Compensation Fund and also the expense which would have been forced on all firms in changing their procedures. As a result, the SRA has decided not to go ahead with this proposal.

The other proposed changes largely remain – so, what will the new Accounts Rules look like? In summary, very concise indeed. The SRA certainly meant what it said about reducing rules it regards as overly complex and prescriptive. It states that the new rules are more proportionate – focusing on the key objective of keeping client money safe, rather than prescribing how firms should run their accounts. It wants firms to use their professional judgment as to what is appropriate in terms of, for example, timescales for actions such as paying in cheques or transferring funds where mixed payments are received. Instead of fixed timescales, the requirement now is that all such actions should be undertaken *"promptly"*.

This may sound all well and good, but it leaves open the risk that in places the rules will be so general and high level that firms could adopt accounting practices which the SRA regards as unacceptable. With this in mind, therefore, the SRA has promised that a toolkit will be published before the rules take effect to help firms understand the parameters within which they should operate.

The rules comprise just seven pages. They have been compressed into four short parts, these being: 1. General; 2. Client money and client accounts; 3. Dealings with other money belonging to clients and third party managed accounts; and 4. Accountants reports and retention of accounting records.

Where the only client money firms hold is that for outstanding professional disbursements and fees they have an obligation to discharge – e.g. experts' fees – there is an exemption from the requirement that this money must be paid into client account. However, clients must be told in advance where and how the money will be held. For firms that only hold this type of client money this will remove the need to obtain an accountant's report.

The section dealing with payments to legal aid practitioners has gone. In its place, there is an

exemption to the requirement that fees and disbursements must be paid into a client account for payments made by the Legal Aid Authority, which is in fact very much in line with the current rule 19. This precludes the need for unpaid disbursements to be transferred to a client account.

The reference to the COFA being jointly liable with the managers has been removed as the COFA's responsibilities will be covered in the new Code of Conduct for firms and are limited to taking *"all reasonable steps to ensure compliance with the Accounts Rules by the firm and its managers and employees"*. This is in line with the COFA's obligations currently set out in the SRA Authorisation Rules.

*"Cease to hold"* accountants' reports which are currently required within 6 months of a firm closing will no longer be required unless expressly requested by the SRA.

There is no requirement to have a policy on interest as currently required by rule 22. Firms will instead have to pay a fair sum in respect of interest, although this requirement can be varied by agreement and with the clients' informed consent.

The SRA is working on proposals for firms to be able to use TPMA (third party managed accounts).

Areas that have not changed include the need to carry out three way reconciliations every five weeks and the need to account promptly to clients at the end of their matters.

Although the rules are unlikely to take effect until autumn 2018 at the earliest it is probably worthwhile for COFAs and key accounts staff to become familiar with them now to decide what, if any changes, could be advantageous to their firm in the future. Here is the link - <http://www.sra.org.uk/sra/consultations/accounts-rules-review.page#download> where you will find the draft rules as a downloadable document.

In training staff and adopting new procedures, firms should remember at all times that the disadvantage of these shorter non-prescriptive rules is that the onus falls firmly on firms and their staff to interpret and implement them. There is always room for disagreement with the SRA. As a result there is much work to be done to ensure that staff are fully trained and ready to justify the steps they take in applying these new rules.



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