



Solicitors
Regulation
Authority

Consultation: Reporting Accountant

Proportionate regulation: changes to reporting
accounting requirements

May 2014

Summary of our proposals

- **Remove the mandatory requirement that firms must have their client accounts reviewed by an independent accountant and submit an annual accountant's report to the SRA**
- **At the annual PC renewal stage, require COFAs to sign a declaration that they are satisfied that the firm is managing its client account in accordance with the SRA Accounts Rules**

These policy proposals are part of a programme of reforming initiatives designed to ensure that, while we continue to regulate in a way which protects consumers of legal services and supports the rule of law, what we require of individuals and firms is no more than is necessary, appropriate, and proportionate to meet these objectives.

It is our view that the cost to firms of engaging a reporting accountant, followed by the cost to the SRA in processing all annual accounts, can no longer be justified by the risks identified through this exercise. These policy proposals will reduce the unnecessary regulatory burden of a compulsory report and will give firms the flexibility to decide the best methods to satisfy themselves that the SRA requirements of good financial management and protection of client money are met.

In turn, the changes will enable the SRA to release resources and focus them on targeted regulation where we have concerns over a firm's management of client money. This will include the SRA imposing a requirement for an accountant's report where necessary either on an annual basis or as part of supervisory, investigative, or enforcement activity.

Background

1. Each and every firm holding client money is currently required to submit an accountant's report to the SRA on an annual basis. This obligation, including detailed requirements for the style and content of the accountant's report, predates the introduction of the SRA Handbook in October 2011 and, in our view, is not best aligned with regulatory objectives as set out in the Legal Services Act 2007 or the better regulation principles.¹ In our view, the current prescriptive approach is neither sufficiently targeted nor proportionate. Because it is retrospective, sometimes by a considerable period, it adds cost with only limited benefits by way of consumer protection and overall management of the risk to client money. There is also some overlap with the COFA's recording and reporting function, thus this change presents an opportunity to clarify the scope of this role in terms of client money and, more broadly, financial accountability.

¹ Five principles were identified by the Better Regulation Task Force in 1997 as the basic tests of whether any regulation is fit for purpose. *Proportionality* (Regulators should intervene only when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.) *Accountability* (Regulators should be able to justify decisions and be subject to public scrutiny.) *Consistency* (Government rules and standards must be joined up and implemented fairly.) *Transparency* (Regulators should be open, and keep regulations simple and user-friendly.) *Targeting* (Regulation should be focused on the problem and minimise side effects.)

2. We also acknowledge that there is a wider issue regarding the handling of client money and the prescriptive nature of the SRA Accounts Rules (the Rules). These may not satisfactorily or optimally support the requirement to meet desired outcomes and manage risks appropriately. We are embarking on a more general review of the Rules in the coming months to ensure that they are fit for our regulatory purposes. Our proposals in this consultation are narrow, but we are also interested in wider views about holding client money and the construction and operation of the SRA Accounts Rules.

How should the risks associated with holding client money be managed?

3. Around 9,000 law firms hold client money and this triggers the need for them to comply with the reporting requirements in the Rules. This includes the requirement that the firm must hire a reporting accountant who produces a form of report which is prescribed by the SRA and is designed to assess compliance with very detailed requirements against a series of checklist questions.
4. We understand the cost to the firm of meeting the existing mandatory reporting requirements varies depending on the number of transactions and scale of each client account. We understand from practitioners that a small firm may pay around £800 for each annual accountant's report, but that larger firms may pay several thousand pounds.
5. The SRA receives almost 9,000 reports annually and over 50% of them are qualified. Qualification may occur for a range of reasons from minor breaches through to more significant problems. Minor breaches may include short delays in posting money to the client account, wrongly posting a payment that is subsequently corrected, or an amount being wrongly allocated between office and client account. From the total number of reports received, about 200 are referred for further examination after internal processing and risk assessment, and usually only about 10 result in a referral to supervision for further investigation. Additionally, the SRA also stores hard copies of the last 6 years of reports. We estimate that processing, assessing, storing, and ultimately destroying accountants' reports costs the SRA as much as £200,000 a year.
6. Furthermore, accountants' assessments and therefore reports to the SRA are historic in their nature as they are completed at the end of an accounting year and submitted within six months of the year-end. This means that each report is dealing with transactions that are 6 to 18 months old. We do recognise that reporting accountants are required "immediately" to report evidence of fraud or theft or other issues of material significance as to whether a regulated person is fit to hold client money. However, through our reporting requirements for COFA and COLP, we also expect that material breaches² or serious misconduct³ are notified as soon as reasonably practicable. Thus there is a potential duplication between the duties of the compliance officers and the reporting accountant.

² Rule 8.5 SRA Authorisation Rules 2011

³ Outcome (10.4) SRA Code of Conduct 2011

7. We do recognise that an awareness of the need for an independent review of client account and the overall discipline of producing an accountant's report may provide both a deterrent and a mechanism by which breaches are identified, thus modifying behaviour and mitigating risks.
8. Given the cost to firms in complying with the reporting accountant requirements and to the SRA in processing these reports, we do not consider the current approach provides enough benefits to justify its retention as a blanket requirement.

Proposal 1 - We propose the removal of the mandatory requirement that firms must provide an annual accountant's report to the SRA.

9. Our proposal applies to all SRA regulated firms, those which operate in England and Wales, as well as overseas practices. Draft changes to the SRA Handbook reflecting this proposal are attached in **Annex 1**. In addition, consequential changes in other parts of the SRA Handbook where these reports are referred to may be needed. These will be considered together with changes proposed by in Annex 1 by the SRA Board when making the final decision.
10. While we propose to remove that compulsory requirement, we do continue to require firms to maintain proper standards of compliance and management of client money. Responsibility for these matters has always quite rightly rested with the firm and its managers⁴ and not with the accountant preparing a report. The firm's COFA also has important, related responsibilities that need to be considered.
11. Rule 8.5 of the SRA Authorisation Rules 2011 requires all authorised bodies to have suitable arrangements in place to ensure that its compliance officers are able to discharge their duties. COFAs are required to take all reasonable steps to:
 - ensure that the authorised body, its employees and managers, comply with any obligations imposed under the SRA Accounts Rules;
 - keep a record of any failure to comply and make this record available to the SRA;
 - report any material failure (either taken on its own or as part of a pattern of failures) to the SRA as soon as reasonably practicable. Licensed bodies (ABS firms) must also report non-material breaches in accordance with the Legal Services Act 2007.
12. The COFA's duties relate to compliance by the law firm, its managers, and its employees with the SRA Accounts Rules. There clearly is an overlap with the SRA Accounts Rules requirement of compliance "*...the Principles set out in the Handbook, and the outcomes in Chapter 7 of the SRA Code of Conduct in relation to the effective financial management of the firm...*"⁵. COFAs will be unable to effectively fulfil their duties without access to financial management information, and in order to ensure compliance with Rule 1.2 of the SRA Accounts Rules, COFAs will need to consider whether they are able to access information on the practice's overall financial status and be in a position to make an assessment of that status.

⁴ See for example Rule 8.2 SRA Authorisation Rules 2011 and Outcome (7.4) SRA Code of Conduct 2011.

⁵ Rule 1.2 of the SRA Accounts Rules

13. It is our assessment that the current requirements set out above, put a clear responsibility on the COFA to ensure the client account is managed and protected in accordance with the SRA Account Rules. The COFA must ensure the firm has systems and controls in place to enable the firm, along with all its managers and employees, to comply with the requirements on them.
14. We do acknowledge that firms developed their management systems and appointed current COFAs when an independent accountant report was required. However with the removal of the requirement to submit annual accountant reports, we consider that it is appropriate for the firm's COFA to declare that the firm's accounts are compliant with the SRA Accounts Rules with effect from the date of implementation of these proposals.

Proposal 2 – We propose that, at the annual PC renewal stage, COFAs will be required to sign a declaration that they are satisfied that the firm is managing its client account in accordance with the SRA Accounts Rules.

15. Both proposals are planned for implementation in October 2014, subject to the consultation's outcome. This means that we do not expect that firms whose reports are due after October will need to submit them. At the same time, the PC renewal process will include a declaration from the COFA.

What powers can be deployed to ensure targeted regulation and appropriate client protection?

16. The misuse of client money is one of the key risks to consumer protection and the achievement of regulatory objectives. Monitoring this risk effectively is therefore a regulatory priority.
17. There are risks involved in removing the requirement for accountant's reports which need to be clearly identified and managed:
 - potential deterrence of dishonesty, as firms know that there will be an external assessment of compliance;
 - potential deterrence or discovery of disorganisation and lack of appropriate systems of control and governance.
18. The SRA will lose a source of intelligence coming from accountants who treat their duties of reporting to us seriously. In addition, firms, will lose regulatory and compliance advice provided by accountants on an annual basis if they decide not to continue with external assessment.
19. However, the reality is that the risks in relation to client money will not be the same for all firms and in all sectors. In order to take a more targeted approach, we will need to ensure we are able to identify these areas and firms of concern and engage with them in a measured way. We will use all our current data sources, as well as our engagement with COFAs, to identify these areas and

respond appropriately with either supervisory action or enforcement tools which are appropriate and proportionate where necessary.

20. We propose to deploy a variety of approaches to mitigate the risk of financial impropriety, such as:
- A condition , on an authorisation or practicing certificate, if certain risk circumstances are present, requiring an accountant's report for a period and in a form stipulated by us.
 - A condition requiring an accountant's report following problems with client money;
 - If we identify that a firm is getting into difficulty in dealing with types of work where there is risk to client money (such as conveyancing or probate), conditions may be imposed not only for the production of an accountant's report but, if necessary, to prevent the firm from practicing that form of work. Such conditions are already deployed where necessary.
21. We are proposing to remove the detailed provisions in the Accounts Rules that dictate the form an accountant's report will take when we require it. This will allow us to prescribe the format and issues that should be addressed on a case-by-case basis in accordance with the particular risks that have been identified.
22. Draft changes to the SRA Handbook reflecting this proposal are attached in **Annex 1**. Any consequential changes to other parts of the Handbook arising from terminology changes will be presented to the SRA Board with main recommendations following this consultation.

Proposals

Proposal 1 - We propose the removal of the mandatory requirement that firms must submit an annual accountant's report to the SRA

Proposal 2 – We propose that, at the annual PC renewal stage, COFAs will be required to sign a declaration that they are satisfied that the firm is managing its client account in accordance with the SRA Account Rules.

Impact of our proposals

23. Regulatory systems cannot be managed in ways that completely remove any possible risk. Imposing a blanket requirement for an accountant's report imposes extra costs on all firms regardless of these particular risks. Regulatory costs are likely to be reflected in the prices all consumers pay. An excessive burden of regulation overall can reduce competition, further impacting on consumers.
24. While, there are potential risks to consumers in removing the universal requirement for a report, as we have acknowledged, we believe that a more

targeted approach, including requiring reports in particular cases and the strengthening of the reporting duties of the COFA, is the best way to deal with those risks.

25. We will continue to require firms which hold client money to have systems, policies, and internal controls which provide protection to their clients and which are appropriate in the context of their business, clients, and type and value of work undertaken. Firms are already obliged to have systems in place to ensure financial governance and effective management of financial risk issues.
26. The advantages of removing the blanket compliance requirement to hire a reporting accountant and submit an annual report to us, and substituting this with a risk-based response, are clear in the sense of reducing the cost of regulation. Some firms may decide that it is appropriate to continue using the services of an external accountant to provide an independent review of their accounts and support the firm's compliance culture. However, they will now be able to do so in a format that suits their individual practice.
27. Overall we estimate therefore that the net effect of these changes will be positive on the profession and consumers.

Consultation questions

1. Do you agree with the removal of the mandatory requirement that all firms holding client money must submit an annual accountant's report?
2. Do you agree with the proposed amendment to the role of the Compliance Officer for Finance and Administration?
3. Do you agree with the proposed changes to the SRA Account Rules (attached in Annex 1)?
4. Do you have (or are you aware of) any evidence, analysis, or views that will assist us in completing an impact assessment on these proposals?

How to respond to this consultation

Online

Use our online consultation questionnaire—<https://forms.sra.org.uk/s3/consult-cofa>— to compose and submit your response. (You can save a partial response online and complete it later.)

Email

Please send your response to consultation@sra.org.uk. You can download and attach a Consultation questionnaire.

Please ensure that

- you add the title "Reporting Accountant" in the subject field,
- you identify yourself and state on whose behalf you are responding (unless you are responding anonymously),
- you attach a completed About You form,
- you state clearly if you wish us to treat any part or aspect of your response as confidential.

If it is not possible to email your response, hard-copy responses may be sent instead to

Solicitors Regulation Authority
Policy and Strategy Unit – Reporting Accountant
The Cube
199 Wharfside Street,
Birmingham,
B1 1RN

Deadline

Please send your response by 18 June 2014.

Confidentiality

A list of respondents and their responses may be published by the SRA after the closing date. Please express clearly if you do not wish your name and/or response to be published. Though we may not publish all individual responses, it is SRA policy to comply with all Freedom of Information requests.

ANNEX 1 - Proposal to remove the role of the reporting accountant

We propose to amend the SRA Accounts Rules to reflect this change:

Rule 1: The overarching objective and underlying principles

1.1

The purpose of these rules is to keep *client money* safe. This aim must always be borne in mind in the application of these rules.

1.2

You must comply with the Principles set out in the Handbook, and the outcomes in Chapter 7 of the *SRA Code of Conduct* in relation to the effective financial management of the *firm*, and in particular must:

(a)

keep other people's money separate from money belonging to *you* or *your firm*;

(b)

keep other people's money safely in a *bank* or *building society* account identifiable as a *client account* (except when the rules specifically provide otherwise);

(c)

use each *client's* money for that *client's* matters only;

(d)

use money held as *trustee* of a *trust* for the purposes of that *trust* only;

(e)

establish and maintain proper accounting systems, and proper internal controls over those systems, to ensure compliance with the rules;

(f)

keep proper accounting records to show accurately the position with regard to the money held for each *client* and *trust*;

(g)

account for *interest* on other people's money in accordance with the rules;

(h)

co-operate with the SRA in checking compliance with the rules; and

(i)

ensure that the COFA facilitates, monitors and reports on compliance with these rules as required by the Handbook and in particular that material failures to comply with these rules are reported to the SRA as soon as reasonably practicable~~deliver annual accountant's reports as required by the rules.~~

.....

Rule 32: Delivery of accountant's reports

- 32.1 The SRA may impose a condition requiring the delivery of an accountant's report by you under rule 9 of the SRA Authorisation Rules or regulation 7 of the SRA Practising Regulations. Subject to rule 32.2 below, accountant's reports shall be prepared and delivered in accordance with these rules. ~~If you have, at any time during an accounting period, held or received client money, or operated a client's own account as signatory, you must deliver to the SRA an accountant's report for that accounting period within six months of the end of the accounting period. This duty extends to the directors of a company, or the members of an LLP, which is subject to this rule.~~
- 32.2 A decision to impose a condition requiring the delivery of an accountant's report may specify, among other things, that Part 6 and rule 50 of these rules and appendices 4 and 5 to these rules shall apply with such additions and modifications as may be prescribed in that decision. ~~In addition the SRA may require the delivery of an accountant's report in circumstances other than those set out in rule 32.1 above if the SRA has reason to believe that it is in the public interest to do so.~~
- 32.3 Rules 33 to 45 make additional provisions which apply when a person is required to deliver an accountant's report under rule 32.1 above.

~~Guidance notes~~

~~(i)~~

~~Examples of situations under rule 32.2 include:~~

~~(a)~~

~~when no report has been delivered but the SRA has reason to believe that a report should have been delivered;~~

~~(b)~~

~~when a report has been delivered but the SRA has reason to believe that it may be inaccurate;~~

~~(c)~~

~~when your conduct gives the SRA reason to believe that it would be appropriate to require earlier delivery of a report (for instance three months after the end of the accounting period);~~

~~(d)~~

~~when your conduct gives the SRA reason to believe that it would be appropriate to require more frequent delivery of reports (for instance every six months);~~

~~(e)~~

~~when the SRA has reason to believe that the regulatory risk justifies the imposition on a category of firm of a requirement to deliver reports earlier or at more frequent intervals;~~

~~(f)~~

~~when a condition on a solicitor's practising certificate requires earlier delivery of reports or the delivery of reports at more frequent intervals.~~

~~(ii)~~

~~For accountant's reports of limited scope see rule 8 (liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes), rule 9 (joint accounts) and rule 10 (operation of a client's own account). For exemption from the obligation to deliver a report, see rule 5 (persons exempt from the rules).~~

~~(iii)~~

~~The requirement in rule 32 for a registered foreign lawyer to deliver an accountant's report applies only to a registered foreign lawyer practising in one of the ways set out in paragraph (vi)(C) of the definition of "you" in the Glossary.~~

~~(iv)~~

~~The form of report is dealt with in rule 44.~~

~~(v)~~

~~When client money is held or received by an unincorporated practice, the principals in the practice will have held or received client money. A salaried partner whose name appears in the list of partners on a firm's letterhead, even if the name appears under a separate heading of "salaried partners" or "associate partners", is a principal.~~

~~(vi)~~

~~In the case of an incorporated practice, it is the company or LLP (i.e. the recognised body or licensed body) which will have held or received client money. The recognised body/licensed body and its directors (in the case of a company) or members (in the case of an LLP) will have the duty to deliver an accountant's report, although the directors or members will not usually have held client money.~~

~~(vii)~~

~~Assistant solicitors, consultants and other employees do not normally hold client money. An assistant solicitor or consultant might be a signatory for a firm's client account, but this does not constitute holding or receiving client money. If a client or third party hands cash to an assistant solicitor, consultant or other employee, it is the sole principal or the partners (rather than the assistant solicitor, consultant or other employee) who are regarded as having received and held the money. In the case of an incorporated practice, whether a company or an LLP, it would be the recognised body or licensed body itself which would be regarded as having held or received the money.~~

~~(viii)~~

~~If, exceptionally, an assistant solicitor, consultant or other employee has a client account (as a trustee), or operates a client's own account as signatory, the assistant solicitor, consultant or other employee will have to deliver an accountant's report. The assistant solicitor, consultant or other employee can be included in the report of the practice, but will need to ensure that his or her name is added, and an explanation given.~~

~~(ix)~~

~~If a cheque or draft is made out to you, and in the course of practice you endorse it over to a client or employer, you have received (and paid) client money. You will have to deliver an accountant's report, even if no other client money has been held or received.~~

~~(x)~~

~~Rule 32 does not apply to a solicitor or registered European lawyer, employed as an in-house lawyer by a non-solicitor employer, who operates the account of the employer or a related body of the employer.~~

~~(xi)~~

~~When only a small number of transactions is undertaken or a small volume of client money is handled in an accounting period, a waiver of the obligation to deliver a report may sometimes be granted. Applications should be made to the Information Directorate.~~

~~(xii)~~

~~If a firm owns all the shares in a recognised body or licensed body which is an executor, trustee or nominee company, the firm and the recognised body/licensed body may deliver a single accountant's report (see rule 28.1(b)).~~

Rule 33: Accounting periods

The norm

33.1

An "accounting period" means the period for which *your* accounts are ordinarily made up, except that it must:

(a)

begin at the end of the previous *accounting period*; and

(b)

cover twelve months.

Rules 33.2 to 33.5 below set out exceptions.

First ~~and resumed~~ reports

33.2

~~If you are under a duty to deliver your first report, t~~The accounting period for your first report must begin on the date of the decision under 32.1 above, or such other date as may be specified by the SRA when you first held or received client money (or operated a client's own account as signatory), and may cover less than twelve months.

~~33.3~~

~~If you are under a duty to deliver your first report after a break, the accounting period must begin on the date when you for the first time after the break held or received client money (or operated a client's own account as signatory), and may cover less than twelve months.~~

Change of accounting period

33.4

If you change the period for which your accounts are made up (for example, on a merger, or simply for convenience), the *accounting period* immediately preceding the change may be shorter than twelve months, or longer than twelve months up to a maximum of 18 months, provided that the *accounting period* shall not be changed to a period longer than twelve months unless the SRA receives written notice of the change before expiry of the deadline for delivery of the accountant's report which would have been expected on the basis of your old *accounting period*.

Final reports

33.5

If you for any reason stop holding or receiving *client money* (and operating any *client's* own account as signatory) during a period in which you are required to deliver an accountant's report under rule 32.1, you must deliver a final report. The *accounting period* must end on the date upon which you stopped holding or receiving *client money* (and operating any *client's* own account as signatory), and may cover less than twelve months.

Guidance notes

(i)

In the case of persons joining or leaving a continuing partnership, any accountant's report for the firm as a whole will show the names and dates of the principals joining or leaving. For a person who did not previously hold or receive client money, etc., and has become a principal in the firm, the report for the firm will represent, from the date of joining, that person's first report for the purpose of rule 33.2. For a person who was a principal in the firm and, on leaving, stops holding or receiving client money, etc., the report for the firm will represent, up to the date of leaving, that person's final report for the purpose of rule 33.5 above.

(ii)

When a partnership splits up, it is usually appropriate for the books to be made up as at the date of dissolution, and for an accountant's report to be delivered within six months of that date. If, however, the old partnership continues to hold or receive client money, etc., in connection with outstanding matters, accountant's reports will continue to be required for those matters; the books should then be made up

on completion of the last of those matters and a report delivered within six months of that date. The same would be true for a sole practitioner winding up matters on retirement.

(iii)

When a practice is being wound up, you may be left with money which is unattributable, or belongs to a client who cannot be traced. It may be appropriate to apply to the SRA for authority to withdraw this money from the client account - see rule 20.1(k) and guidance note (vi)(a) to rule 20.

.....

[no changes to rules 34.1-34.3]

34.4

~~Written notice of disqualification must be left at or sent by recorded delivery to the address of the accountant shown on an accountant's report or in the records of the accountant's professional body. If sent through the post, receipt will be deemed 48 hours (excluding Saturdays, Sundays and Bank Holidays) after posting.~~

34.5

~~An accountant's disqualification may be notified to any firm likely to be affected and may be printed in the Society's Gazette or other publication.~~

Guidance note

(i)

It is not a breach of the rules for you to retain an outside accountant to write up the books of account and to instruct the same accountant to prepare the accountant's report. However, the accountant will have to disclose these circumstances in the report - see the form of report in Appendix 5.

Rule 35: Reporting accountant's rights and duties - letter of engagement

35.1

If you are required to deliver an accountant's report under rule 32.1, you must ensure that the reporting accountant's rights and duties are stated in a letter of engagement incorporating the following terms:

"In accordance with rule 35 of the SRA Accounts Rules 2011, you are instructed as follows:

(a)

I/this firm/this company/this limited liability partnership recognises that, if during the course of preparing an accountant's report:

(i)

you discover evidence of fraud or theft in relation to money

(A)

held by a solicitor (or registered European lawyer, or registered foreign lawyer, or recognised body, or licensed body, or employee of a solicitor or registered European lawyer, or manager or employee of a recognised body or licensed body) for a client or any other person (including money held on trust), or

(B)

held in an account of a client, or an account of another person, which is operated by a solicitor (or registered European lawyer, registered foreign lawyer, recognised body, licensed body, employee of a solicitor or registered European lawyer, or manager or employee of a recognised body or licensed body); or

(ii)

you obtain information which you have reasonable cause to believe is likely to be of material significance in determining whether a solicitor (or registered European lawyer, or registered foreign lawyer, or recognised body, or licensed body, or employee of a solicitor or registered European lawyer, or manager or employee of a recognised body or licensed body) is a fit and proper person

(A)

to hold money for clients or other persons (including money held on trust), or

(B)

to operate an account of a client or an account of another person,

you must immediately give a report of the matter to the Solicitors Regulation Authority in accordance with section 34(9) of the Solicitors Act 1974 or article 3(1) of the Legal Services Act 2007 (Designation as a Licensing Authority) (No. 2) Order 2011 as appropriate;

(b)

you may, and are encouraged to, make that report without prior reference to me/this firm/this company/this limited liability partnership;

(c)

you are to report directly to the Solicitors Regulation Authority should your appointment be terminated following the issue of, or indication of intention to issue, a qualified accountant's report, or following the raising of concerns prior to the preparation of an accountant's report;

(d)

you are to deliver to me/this firm/this company/this limited liability partnership with your report the completed checklist required by rule 43 of the SRA Accounts Rules 2011; to retain for at least three years from the date of signature a copy of the completed checklist; and to produce the copy to the Solicitors Regulation Authority on request;

(e)

you are to retain these terms of engagement for at least three years after the termination of the retainer and to produce them to the Solicitors Regulation Authority on request; and

(f)

following any direct report made to the Solicitors Regulation Authority under (a) or (c) above, you are to provide to the Solicitors Regulation Authority on request any further relevant information in your possession or in the possession of your firm.

To the extent necessary to enable you to comply with (a) to (f) above, I/we waive my/the firm's/the company's/the limited liability partnership's right of confidentiality. This waiver extends to any report made, document produced or information disclosed to the Solicitors Regulation Authority in good faith pursuant to these instructions, even though it may subsequently transpire that you were mistaken in your belief that there was cause for concern."

[No change to rules 35.2 to rule 36]

Rule 37: Place of examination

37.1

[If you are required to deliver an accountant's report under rule 32.1, unless](#) there are exceptional circumstances, the place of examination of *your* accounting records, files and other relevant documents must be *your* office and not the office of the accountant. This does not prevent an initial electronic transmission of data to the accountant for examination at the accountant's office with a view to reducing the time which needs to be spent at *your* office.

Rule 38: Provision of details of bank accounts, etc.

38.1

[If you are required to deliver an accountant's report under rule 32.1](#), the accountant must request, and *you* must provide, details of all accounts kept or operated by *you* in connection with *your* practice at any *bank*, *building society* or other financial institution at any time during the *accounting period* to which the report relates. This includes *client accounts*, *office accounts*, accounts which are not *client accounts* but which contain *client money*, and *clients'* own accounts operated by *you* as signatory.

Rule 39: Test procedures

39.1

[If you are required to deliver an accountant's report under rule 32.1](#), the accountant must examine *your* accounting records (including statements and passbooks), *client* and *trust* matter files selected by the accountant as and when appropriate, and other relevant documents, and make the following checks and tests:

(a)

confirm that the accounting system in every office complies with:

(i)

rule 29 - accounting records for client accounts, etc;

(ii)

rule 30 - accounting records for clients' own accounts;

and is so designed that:

(A)

an appropriate client ledger account is kept for each *client* (or other person for whom *client money* is received, held or paid) or *trust*;

(B)

the client ledger accounts show separately from other information details of all *client money* received, held or paid on account of each *client* (or other person for whom *client money* is received, held or paid) or *trust*; and

(C)

transactions relating to *client money* and any other money dealt with through a *client account* are recorded in the accounting records in a way which distinguishes them from transactions relating to any other money received, held or paid by *you*;

(b)

make test checks of postings to the client ledger accounts from records of receipts and payments of *client money*, and make test checks of the casts of these accounts and records;

(c)

compare a sample of payments into and from the *client accounts* as shown in *bank* and *building society* or other financial institutions' statements or passbooks with *your* records of receipts and payments of *client money*, including paid cheques;

(d)

test check the system of recording *costs* and of making transfers in respect of *costs* from the *client accounts*;

(e)

make a test examination of a selection of documents requested from *you* in order to confirm:

(i)

that the financial transactions (including those giving rise to transfers from one client ledger account to another) evidenced by such documents comply with Parts 1 and 2 of the rules, rule 27 (restrictions on transfers between clients) and rule 28 (executor, trustee or nominee companies); and

(ii)

that the entries in the accounting records reflect those transactions in a manner complying with rule 29;

(f)

subject to rule 39.2 below, extract (or check extractions of) balances on the client ledger accounts during the *accounting period* under review at not fewer than two dates selected by the accountant (one of which may be the last day of the *accounting period*), and at each date:

(i)

compare the total shown by the client ledger accounts of the liabilities to the *clients* (and other persons for whom *client money* is held) and *trusts* with the cash account balance; and

(ii)

reconcile that cash account balance with the balances held in the *client accounts*, and accounts which are not *client accounts* but in which *client*

money is held, as confirmed direct to the accountant by the relevant *banks*, *building societies* and other financial institutions;

(g)

confirm that reconciliation statements have been made and kept in accordance with rule 29.12 and 29.17(a);

(h)

make a test examination of the client ledger accounts to see whether payments from the *client account* have been made on any individual account in excess of money held on behalf of that *client* (or other person for whom *client money* is held) or *trust*;

(i)

check the office ledgers, office cash accounts and the statements provided by the *bank*, *building society* or other financial institution for any *office account* maintained by *you* in connection with the practice, to see whether any *client money* has been improperly paid into an *office account* or, if properly paid into an *office account* under rule 17.1(b) or rule 19.1, has been kept there in breach of the rules;

(j)

check the accounting records kept under rule 29.17(d) and 29.19 for *client money* held outside a *client account* to ascertain what transactions have been effected in respect of this money and to confirm that the *client* has given appropriate instructions under rule 15.1(a);

(k)

make a test examination of the client ledger accounts to see whether rule 29.10 (accounting records when acting for both lender and borrower) has been complied with;

(l)

for liquidators, trustees in bankruptcy, *Court of Protection deputies* and trustees of occupational pension schemes, check that records are being kept in accordance with rule 29.15, 29.17(c) and 29.20, and cross-check transactions with *client* or *trust* matter files when appropriate;

(m)

check that statements and passbooks and/or duplicate statements and copies of passbook entries are being kept in accordance with rule 29.17(b)(ii) and 29.21 (record-keeping requirements for joint accounts), and cross-check transactions with *client* matter files when appropriate;

(n)

check that statements and passbooks and/or duplicate statements, copies of passbook entries and cheque details are being kept in accordance with rule 30 (record-keeping requirements for clients' own accounts), and cross-check transactions with *client* matter files when appropriate;

(o)

for money withdrawn from *client account* under rule 20.1(j), check that records are being kept in accordance with rule 29.16, 29.17(a) and 29.22, and cross-check with *client* or *trust* matter files when appropriate;

(p)

in the case of private practice only, check that for the period which will be covered by the accountant's report the *firm* was covered for the purposes of the *SRA's* indemnity insurance rules in respect of its offices in England and Wales by:

(i)

certificates of qualifying insurance outside the assigned risks pool; or

(ii)

a policy issued by the assigned risks pool manager; or

(iii)

certificates of indemnity cover under the professional requirements of an *REL's* home jurisdiction in accordance with paragraph 1 of Appendix 3 to those rules, together with the *SRA's* written grant of full exemption; or

(iv)

certificates of indemnity cover under the professional requirements of an *REL's* home jurisdiction plus certificates of a difference in conditions policy with a qualifying insurer under paragraph 2 of Appendix 3 to those rules, together with the *SRA's* written grant of partial exemption; and

(q)

ask for any information and explanations required as a result of making the above checks and tests.

[No change to rules 39.2 to 45]

Rule 46: Waivers

46.1

The *SRA* may waive in writing in any particular case or cases any of the provisions of Part 6 of the rules, and may revoke any waiver.

Guidance note

(i)

~~Applications for waivers should be made to the Information Directorate. In appropriate cases, firms may be granted a waiver of the obligation to deliver an accountant's report (see rule 32, and guidance note (xi) to that rule). The circumstances in which a waiver of any other provision of Part 6 would be given must be extremely rare.~~

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Accountants' reports

50.4

If you are required to deliver an accountant's report under rule 32.1, you must deliver an accountant's report in respect of any period during which you or your *firm (overseas)* have held or received *client money (overseas)* and you were subject to rule 50.3 above, within six months of the end of that period.

50.5

If you are required to deliver an accountant's report under rule 32.1, the accountant's report must be signed by the reporting accountant, who must be an accountant qualified in England and Wales or in the overseas jurisdiction where your office is based, or by such other person as the *SRA* may think fit. The *SRA* may for reasonable cause disqualify a person from signing accountants' reports.

50.6

If you are required to deliver an accountant's report under rule 32.1, the accountant's report must be based on a sufficient examination of the relevant documents to give the reporting accountant a reasonable indication whether or not you have complied with rule 50.3 above during the period covered by the report, and must include the following:

(a)

your name, practising address(es) and practising style and the name(s) of the *firm's (overseas) managers (overseas)*;

(b)

the name, address and qualification of the reporting accountant;

(c)

an indication of the nature and extent of the examination the reporting accountant has made of the relevant documents;

(d)

a statement of the total amount of money held at banks or similar institutions on behalf of clients and trusts, and of the total liabilities to clients and trusts, on any date selected by the reporting accountant (including the last day), falling within the period under review; and an explanation of any difference between the total amount of money held for clients and trusts and the total liabilities to clients and trusts;

(e)

if the reporting accountant is satisfied that (so far as may be ascertained from the examination) you have complied with rule 50.3 above during the period covered by the report, except for trivial breaches, or situations where you have been bound by a local rule not to comply, a statement to that effect; and

(f)

if the reporting accountant is not sufficiently satisfied to give a statement under (e) above, details of any matters in respect of which it appears to the reporting accountant that you have not complied with rule 50.3 above.

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