

Proportionate regulation: changes to reporting accounting requirements A response by the BSA

About the Building Societies Association

1. The Building Societies Association (BSA) represents mutual lenders and deposit takers in the UK including all 45 UK building societies. Mutual lenders and deposit takers have total assets of over £330 billion and, together with their subsidiaries, hold residential mortgages of over £230 billion, 18% of the total outstanding in the UK. They hold over £230 billion of retail deposits, accounting for 19% of all such deposits in the UK. Mutual deposit takers account for over 30% of cash ISA balances. They employ approximately 39,000 full and part-time staff and operate through approximately 1,600 branches.

Key points

2. We welcome this opportunity to respond to the suite of SRA consultation papers into the future regulation of solicitors. This response should be read in conjunction with responses to the other SRA consultations issued in May of 2014. The current high levels of qualified accountants' reports received by the SRA, as well as the upcoming review into client accounts rules make this a particularly inappropriate time to remove the requirement for the accountant's report. We believe that the external oversight of client accounts provided by the accountant is vital in deterring and detecting fraud.

Consultation questions

Do you agree with the removal of the mandatory requirement that all firms holding client money must submit an individual annual accountant's report?

3. No, we do not agree with the removal of the requirement to submit an accountant's report and believe that such a move would be detrimental to the users of legal services. Ensuring the protection of clients' money is one of the most important functions of a regulator, and removing the only external oversight of how these funds are held would be damaging to the reputation and the integrity of the profession.

4. The targeting of client accounts by fraudsters is a key concern for mortgage lenders and we believe that an element of external oversight in the operation of client accounts is an essential anti-fraud measure, both as a deterrent and to detect any wrongful activity. We believe that without any external party auditing the accounts once a year, that the instances of fraud on client accounts would increase, but the detection level of fraud would decrease, possibly creating a misleading picture about levels of solicitor fraud.

5. An argument could have been made for removing the accountant's report, should all such reports currently received by the SRA be unqualified, however the fact that around half of all reports are qualified would suggest that there needs to be more oversight in this area, not less. We do note that a number of the qualifications are relatively minor, and that the SRA is currently undertaking a review of its client accounts rules, however to remove the requirement for the accountant's report ahead of reviewing the rules would appear to pre-determine the results of this consultation. We believe that it would be more favourable to first review the rules on holding clients money and once new rules are in place, to consider the monitoring and oversight of these rules in the round.

6. We note that the processing, assessing, storing and destroying of accountants' reports is a costly exercise for the SRA, but do not believe that this is a suitable reason to do away with them.

7. We note that the risk levels posed by different firms vary, in particular in relation to their size and activities. We suggest that following the review of the client accounts rules by the SRA, it might be appropriate to consider whether all firms holding clients' money should

be required to submit an accountant's report, or whether this could be reduced to conveyancing firms and other high risk sectors.

Do you agree with the proposed amendment to the role of the Compliance officer for Finance and Administration?

8. We agree that it would be useful for the Compliance Officer for Finance and Administration (CoFA) to sign a declaration that they are satisfied that the firm is managing its client account in accordance with the SRA Accounts rules. This seems like a sensible declaration to include as part of the annual practicing certificate renewal, however it should be in addition to, not instead of the submission of the accountant's report.

Do you agree with the proposed changes to the SRA Account Rules?

9. No, we do not agree with the proposed changes to the SRA account rules. For the reasons above, we do not believe that the case to remove the requirement for an accountant's report has been made, nor sufficient information provided as to what, if anything, would be put in place to provide sufficient oversight in its place.

Other comments

10. We note that the consultation into the changes to regulation by the SRA has a short consultation period of six weeks, with an intention to implement in October 2014. We do not believe that these periods are sufficiently long enough to consult adequately and to prepare for any changes made to the regulatory regime.

Further information and contact

11. This response has been prepared in consultation with BSA members. If you have any queries regarding the document, please contact colette.best@bsa.org.uk.