

Closed Consultation

Looking to the Future: Accounts Rules review

12 June 2017

- The deadline for submission of responses was **21 September 2016**
- Download the consultation paper [#download]
- This consultation ran in parallel with our consultation on Looking to the Future - flexibility and public protection
[<https://www.sra.org.uk/sra/consultations/consultation-listing/code-conduct-consultation/>]

Next steps

- Download our response to consultation [#download]
- Download all consultation responses [#download]

Introduction

The SRA is the regulator of solicitors and law firms in England and Wales, protecting consumers and supporting the rule of law and the administration of justice. The SRA does this by overseeing all education and training requirements necessary to practise as a solicitor, licensing individuals and firms to practise, setting the standards of the profession and regulating and enforcing compliance against these standards.

Our regulatory reform programme includes a review of the SRA Accounts Rules 2011 ('the Accounts Rules'), which govern the handling of client money by those we regulate. The core purpose of the Accounts Rules is to ensure that money belonging to clients is kept safe. Our objective is to rationalise and simplify the rules. We aim to remove any unnecessary restrictions, prescription and detail while, at the same time, maintaining appropriate consumer protections. We have followed the same drafting principles as for our wider review of our Handbook.

Background

This is the third (and final) phase of our review of the Accounts Rules. Phase one came into effect in October 2014. This made minor changes to the format of the annual accountant's report that firms were required to obtain, and introduced an exemption for certain firms from the need to obtain that report. We also removed the requirement for firms to submit to us reports where these found no failure to comply with the Accounts Rules. Phase two was implemented in November 2015, and encouraged reporting

accountants to apply an outcomes-based approach to assessing compliance, with a greater focus on risks to client money. We also extended the exemption from the obligation to obtain an accountant's report to firms that have an average client account balance of no more than £10,000 and a maximum balance of no more than £250,000 over the accounting period.

The third phase has looked more widely at the existing Accounts Rules and makes proposals for broader change. The current Accounts Rules have not changed significantly for many years. They are prescriptive and restrictive, and focused on ensuring all firms handle money in the same way. In our view, the rules currently in force would not pass any assessment against the better regulation principles.

Effective mitigation of the risk that client money will be misused has always been, and remains, a priority for the SRA. This is done through a combination of outcomes in the Code of Conduct; detailed provisions in the Accounts Rules for the separation and handling of client money, and obligations placed on a firm's managers and Compliance Office for finance and administration (COFA).

However, the length and complexity of the current Accounts Rules makes it difficult for new entrants to the market to understand what is required of them as well as consumers to understand what to expect when a firm handles their money. Further, many firms find themselves in technical breach of the Accounts Rules in circumstances where there are no real risks to client money. For example, as highlighted in our earlier consultation on reporting accountant's requirements, of the approximately 9000 firms that hold client money, in the period June 2012 to December 2013, over 50% received a qualified accountant's report but only 179 were referred to consideration for further regulatory action. This suggests that our Accounts Rules are too complicated and are not focussed on the key risks to client money.

Proposals for change

We propose to:

- **Simplify the Accounts Rules:** by focusing on key principles and requirements for keeping client money safe, including:
 - keeping client money separate from firm money
 - ensuring client money is returned promptly at the end of a matter
 - using client money only for its intended purpose
 - proportionate requirements for firms to obtain an annual accountant's report.

This will put the focus on what is important and allow firms greater flexibility to manage their business. The Accounts Rules will also be simpler and

easier to understand - increasing compliance and reducing compliance costs. A draft of the proposed Accounts Rules is provided at Annex 1.1. The Accounts Rules will be supported by an online toolkit which will comprise of guidance and case studies to aid compliance.

- **Change the definition of client money:** to allow money paid for all fees and disbursements for which the solicitor is liable (for example counsel fees) to be treated as the firm's money. Money held for payments for which the client is liable, such as stamp duty land tax, will continue to be treated as client money and therefore required to be held in client account. The impact of the proposed change in definition is expected to remove the need to have a client account for some firms and therefore reduce the associated compliance costs. The changes may also reduce the number of firms required to obtain an accountant's report through the subsequent reduction in the client account balance.
- **Provide an alternative to the holding of client money:** through the introduction of clear and consistent safeguards around the use of third party managed accounts (TPMA) as a mechanism for managing payments and transactions.

Download full consultation below [\[#download\]](#) .

Consultation questions

Question 1

Do you consider that the draft Accounts Rules (Annex 1.1) are clearer and simpler to understand and easier to comply with?

Question 2

Do you agree with our proposals for a change in the definition of client money? In particular do you have any comments on the draft definition of client money as set out in the draft Rule 2.1?

Question 3

Do you have any views on the use of credit cards to pay for legal services? If you are a firm, do you accept credit card payments? If not, why not? If you are a consumer, do you use a credit card to pay for legal services? If not, why not?

Question 4

Do you consider it appropriate that only client money (as defined in draft Rule 2.1) should be held in a client account?

Question 5



Do you agree with our proposal that mixed monies can be paid into client or business account as long as the funds are then allocated promptly to the correct account ? In particular do you have any the new draft Rule 4.2 (see Annex 1.1)?

Question 6

Having regard to our proposed definition of client money, do you agree that we can safely dispense with the specific Accounts Rules relating to payments from the Legal Aid Agency (LAA)?

Question 7

Do you agree with our approach to allowing TPMA's as an alternative to holding money in a client account?

Question 8

If not, can you identify any specific risks or impacts of allowing TPMA that might inform our impact assessment?

Question 9

Do you consider it appropriate for TPMA's to be used for transactional monies – particularly in relation to conveyancing? Or should the use of TPMA be restricted to certain areas of law? If so, why?

Question 10

Do you have any views on whether we need to retain the requirement to have a published interest policy?

Question 11

Do you have any comments on the draft Accounts Rules, either as a whole or in relation to specific Accounts Rules?

Question 12

Are there other areas relating to the Accounts Rules that should be included in the toolkit for firms through guidance or case studies? If yes, please provide further details.

Question 13

Are there other areas relating to the Accounts Rules that should be included in the toolkit for firms through guidance or case studies? If yes, please provide further details.

Question 14

Is there any information, data or evidence that you can provide or direct us towards that will assist us in finalising our impact assessment?

Downloadable document contents

Accounts Rules consultation

Consultation - Looking to the Future: SRA Accounts Rules Review

Accounts Rules consultation annexes

Annex 1.1 - Draft Accounts Rules

Annex 1.2 - Draft SRA Account Rules glossary

Annex 1.3 - Destination table

Annex 1.4 - Consumer Protection analysis

Annex 1.5 - Indicative list of guidance areas and example case studies

Accounts rules initial impact assessment

Accounts rules initial impact assessment: Overall approach - assessing the impact

Downloadable document(s)

- Our response to consultation: Accounts Rules review (PDF 36 pages, 435KB) [<https://www.sra.org.uk/globalassets/documents/sra/consultations/accounts-rules-our-response.pdf?version=4a1acc>]
- Consultation responses (PDF 460 pages, 8MB) [<https://www.sra.org.uk/globalassets/documents/sra/consultations/accounts-rules-responses.pdf?version=4a1acd>]
- Annex 1 - Draft Accounts Rules (PDF 7 pages, 124KB) [<https://www.sra.org.uk/globalassets/documents/sra/consultations/accounts-rules-annex1-draft-accounts-rules.pdf?version=49da03>]
- Annex 2 - Glossary for Principles Codes and Accounts Rules (PDF 14 pages, 162KB) [<https://www.sra.org.uk/globalassets/documents/sra/consultations/accounts-rules-annex2-glossary.pdf?version=4a1acc>]
- Impact assessment (PDF 17 pages, 195KB) [<https://www.sra.org.uk/globalassets/documents/sra/consultations/accounts-rules-response-impact-assessment.pdf?version=4a1acd>]

- Closed consultation - Accounts Rules (PDF 21 pages, 263KB)
[<https://www.sra.org.uk/globalassets/documents/sra/consultations/accounts-rule-consultation.pdf?version=49d9da>]
- Accounts Rules - closed consultation annexes (PDF 34 pages, 375KB)
[<https://www.sra.org.uk/globalassets/documents/sra/consultations/accounts-rules-annexes.pdf?version=4a1ab0>]
- Accounts rules initial impact assessment (PDF 10 pages 169KB)
[<https://www.sra.org.uk/globalassets/documents/sra/consultations/accounts-rules-impact-assessment.pdf?version=4a1ad4>]