

## Old and draft new rules highlights list by V.G. Woodhouse & Co.

New solicitors accounts rules 2011 with effect from 6 October 2011 are to be - with "old rule number" references:

### Highlights list

- [Rule 1 Key principles restated.](#)
- [Rule 2\(1\) Notes to the rules classified into either binding or explanatory.](#)
- [Rule 6 Must appoint a compliance officer for finance and administration, COFA, who "... must report any material breaches of the accounts rules to the SRA as soon as reasonably practicable."](#)
- [Rule 15 Solicitors may not provide banking facilities for clients; emphasised.](#)
- [Rule 19 Electronic bank authorities and electronic client bills. May retain electronic copies of bank statements in place of paper copies.](#)
- [Rule 23 Required controls on withdrawals from the client accounts.](#)
- [Rules 24 to 27 Fair and reasonable interest must be paid; prescriptive details and tables repealed.](#)
- [Rule 32 Five weekly reconciliations on passbook designated client accounts - from fourteen weekly now.](#)
- [Multi Disciplinary Practices MDP's: clarifying funds outside the scope of Solicitors' Accounts Rules SAR.](#)

### Old to new rules layout and equivalents

Generally rule numbering is condensed to close gaps from rules previously repealed; numbers 8, 18 and 28.

- Part A - General
  - Rules 1 to 7 are not renumbered but some are renamed.
  - Rules 9 to 13 become 8 to 12.
- Part B - Client money and operation of a client account
  - Rules 14 to 23 become 13 to 21.
- Part C - Interest
  - Rules 24 to 27 become 22 to 25.
- Part D - Accounting systems and records
  - Rules 29 to 33 become 26 to 30.
- Part E - Monitoring and investigation by the SRA
  - Rule 34 becomes 31.
- Part F - Accountants' reports
  - Rules 35 to 49 become 32 to 46.
- old Part G was Rule 50 the 1998 commencement - is reused and the 2011 commencement is in the new Part H.
- new Part G is Overseas practice - Rules 47 to 52.
- new Part H Transitional provisions is Rule 53.
- Appendices are not renumbered but some are renamed:
  - Appendix 2 - Special situations - What applies - has a new item: 10 - Non-SRA regulated activities of an MDP Multi Disciplinary Practices.

## SRA Handbook

### Draft SRA Accounts Rules [2011]

*Note: The changes displayed on this page (insertions in blue and underlined, deletions in red and strikethrough) have been automatically generated and compare the Solicitors' Accounts Rules 1998 with the draft SRA Accounts Rules [2011]. These changes are shown for illustrative purposes only and should not be relied upon. Please refer to the consolidated draft.*

Authority: made by the Solicitors Regulation Authority Board under sections 32, 33A, 34, 37, 79 and ~~37~~80 of the Solicitors Act 1974 ~~and~~, section 9 of the Administration of Justice Act 1985 ~~with the concurrence, where requisite, of the Master of the Rolls under those~~, sections 83(5)(h) and 93 of, and ~~of the Lord Chancellor under~~ paragraph ~~16~~20 of Schedule ~~22~~11 to the Legal Services Act 2007 with the approval of the Legal Services Board;

date: ~~22nd July 1998~~; 6 October 2011;

replacing: the Solicitors' Accounts Rules ~~1991, the Solicitors' Accounts (Legal Aid Temporary Provision) Rule 1992 and the Accountant's Report Rules 1991~~1998;

regulating: the accounts of solicitors and their employees, registered European lawyers and their employees, registered foreign lawyers, ~~and~~ recognised bodies and their managers and employees, and licensed bodies and their managers and employees, in respect of practice in England and Wales: ~~;~~ and

regulating: the accounts of solicitors, lawyer-controlled recognised bodies and their managers, lawyers of England and Wales who are managers of overseas law firms controlled by lawyers of England and Wales, solicitors who are named trustees, and managers of a lawyer-controlled recognised body who are named trustees, in respect of practice outside the UK; and

regulating: the accounts of solicitors and registered European lawyers, lawyer-controlled and registered European lawyer-controlled recognised bodies and their managers, lawyer of England and Wales and registered European lawyer managers of overseas law firms controlled by lawyers of England and Wales and/or registered European lawyers, solicitors and registered European lawyers who are named trustees, and managers of a lawyer-controlled recognised body or a registered European lawyer-controlled body who are named trustees, in respect of practice from Scotland or Northern Ireland.

For the definition of words in italics in Parts A-F see rule 2 - Interpretation. For the definition of words in italics in Part G see rule 48 – Application and Interpretation (overseas provisions).

#### Introduction

The Principles set out in the Handbook apply to all aspects of practice, including the handling of client money. Those which are particularly relevant to these rules are that you must:

protect client money and assets;

act with integrity;

behave in a way that maintains the trust the public places in you and in the provision of legal services;

comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner; and

run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial and risk management principles.

The desired outcomes which apply to these rules are that:

[client money is safe:](#)

[clients and the public have confidence that client money held by firms will be safe:](#)

[firms are managed in such a way, and with appropriate systems and procedures in place, so as to safeguard client money:](#)

[client accounts are used for appropriate purposes only; and](#)

[the SRA is aware of issues in a firm relevant to the protection of client money.](#)

[Underlying principles which are specific to the accounts rules are set out in rule 1 below.](#)

[These rules apply to all those who carry on or work in a firm and to the firm itself \(see rules 4 and 5\). In relation to a multi-disciplinary practice, the rules apply only in respect of those activities for which the practice is regulated by the SRA, and are concerned only with money handled by the practice which relates to those regulated activities.](#)

## Part A – General

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### Rule 1 – **Principles**[The overarching objective and underlying principles](#)

~~A solicitor~~(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.](#)

(2)

[You](#) must comply with the ~~requirements of rule 1 of the Solicitors'~~[Principles set out in the Handbook, and the outcomes in Chapter 7 of the SRA Code of Conduct 2007](#)~~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 ~~the solicitor~~[you](#) or ~~the practice;~~[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)

deliver annual accountant's reports as required by the rules.

## Rule 2 – Interpretation

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(1)

The [guidance](#) notes [do not](#) form part of the rules ~~and are mandatory~~.

(2)

In ~~the~~ [Parts A to F of these](#) rules, unless the context otherwise requires:

(a)

"accounting period" has the meaning given in rule ~~36;~~[33](#);

(b)

"agreed fee" has the meaning given in rule ~~49~~[17](#)(5);

~~(ba)~~ [c](#);

["AJA" means the Administration of Justice Act 1985;](#)

[\(d\)](#)

"approved regulator" means any body listed as an approved regulator in paragraph 1 of Schedule 4 to the ~~Legal Services Act 2007 (whether or not that paragraph has been brought into force);~~[LSA](#), or designated as an approved regulator by an order under paragraph 17 of that Schedule;

~~(be)~~

["authorised body" means a body that has been authorised by the SRA to practise as a licensed body or a recognised body;](#)

[\(f\)](#)

"authorised non-SRA firm" means a firm which is ~~not authorised to practise by the SRA but is~~ authorised to ~~practise~~[carry on legal activities](#) by ~~another~~[an](#) approved regulator, ~~other than the SRA;~~

~~(eg)~~

"bank" has the meaning given in section 87(1) of the ~~Solicitors Act 1974;~~[SA](#);

~~(eh)~~

"building society" means a building society within the meaning of the Building Societies Act 1986;

~~(ei)~~

"client" means the person for whom ~~a solicitor acts;~~[you act](#);

~~(fi)~~

"client account" has the meaning given in rule ~~44~~[13](#)(2);

~~(gk)~~

"client money" has the meaning given in rule ~~43;~~[12](#);

~~(hl)~~

~~[deleted]~~

~~(it)~~

~~[deleted]~~

~~f~~"COFA" means the compliance officer for finance and administration in accordance with rule 8.5 of the SRA Authorisation Rules, and in relation to a *licensable body* is a reference to its Head of Finance and Administration within the meaning of the *LSA*;

~~(m)~~

"Companies Acts" means the Companies Act 1985 and the Companies Act 2006;

~~(n)~~

"company" means a company registered under the *Companies Acts*, an *overseas company* incorporated in an *Establishment Directive state* and registered under the Companies Act 1985 and/or the Companies Act 2006 or a *societas Europaea*;

~~(o)~~

"costs" means ~~a solicitor's~~your fees and *disbursements*;

~~(p)~~

"Court of Protection deputy" includes a deputy who was appointed by the Court of Protection as a receiver under the Mental Health Act 1983 before the commencement ~~day~~date of the Mental Capacity Act 2005;

~~(q)~~

"director" means a director of a *company*; and in relation to a *societas Europaea* includes:

~~(i)~~

in a two-tier system, a member of the management organ and a member of the supervisory organ; and

~~(ii)~~

in a one-tier system, a member of the administrative organ;

~~(r)~~

"disbursement" means in respect of those activities for which the practice is regulated by the SRA, any sum spent or to be spent ~~by a solicitor~~ on behalf of the *client* or *trust* (including any VAT element);

~~(s)~~

"Establishment Directive" means the Establishment of Lawyers Directive 98/5/EC;

~~(t)~~

"Establishment Directive profession" means any profession listed in Article 1.2(a) of the *Establishment Directive*, including a solicitor, barrister or advocate of the *UK*;

~~(u)~~

"Establishment Directive state" means a state to which the *Establishment Directive* applies;

~~(v)~~

"fees" ~~of a solicitor~~ means ~~the solicitor's~~your own charges or profit costs (including any VAT element);

~~(w)~~

"firm" means ~~a sole practitioner, partnership, LLP or company operating as a legal practice; an authorised body, a recognised sole practitioner or a body or person which should be authorised by the SRA as a recognised body or recognised sole practitioner (but which could not be authorised by another approved regulator), but can also include in-house practice;~~

(mx)

"general client account" has the meaning given in rule ~~44~~13(5)(b);

(may)

"interest" includes a sum in lieu of interest;

(z)

"lawyer" ~~includes~~ means a member of one of the following professions, entitled to practise as such:

(a)

the profession of solicitor, barrister, ~~notary~~, or advocate of the UK;

(b)

a profession whose members are authorised to carry on legal activities by an approved regulator other than the SRA;

(c)

an Establishment Directive profession other than a UK profession;

(d)

a legal ~~executive~~, profession which has been approved by the SRA for the purpose of recognised bodies in England and Wales; and

(e)

any other regulated legal profession specified by the SRA for the purpose of this definition;

(za)

"legal activity" has the meaning given in section 12 of the LSA and includes any reserved legal activity and any other activity which consists of the provision of legal advice or assistance, or representation in connection with the application of the law or resolution of legal disputes;

(zb)

"licensable body" means a body which meets the criteria in rule 14 (Eligibility criteria and fundamental requirements for licensed ~~conveyancer, patent agent, trade mark agent or costs draftsman~~; bodies) of the SRA Practice Framework Rules;

(mbzc)

"licensed body" means a body licensed by the SRA under Part 5 of the LSA;

(zd)

"licensing authority" means an approved regulator which is designated as a licensing authority under Part 1 of Schedule 10 to the LSA, and whose licensing rules have been approved for the purposes of the LSA;

(ze)

"LLP" means a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000;

(mezf)

"local authority" means any of those bodies which are listed in section 270 of the Local Government Act 1972 or in section 21(1) of the Local Government and Housing Act 1989;

(zg)

"LSA" means the Legal Services Act 2007:

(zh)

"manager" means:

(i)

a member of an LLP;

(ii)

a director of a company;

(iii)

a partner in a partnership; or

~~(iv)~~ iv)

in relation to any other body, a member of an LLP; or its governing body;

~~(zi)~~ zi)

~~a director of a company;~~

~~(zj)~~ zj) "MDP" means a licensed body which is a multi-disciplinary practice providing a range of different services, some only of which are regulated by the SRA;

(zk)

"mixed payment" has the meaning given in rule ~~20~~18(1);

~~(zl)~~ zl)

"non-solicitor employer" means any employer other than a ~~solicitor or~~ recognised body, recognised sole practitioner, licensed body or authorised non-SRA firm;

~~(zm)~~ zm)

"office account" means an account of the ~~solicitor or the practice firm~~ firm for holding *office money* and/or out-of-scope money, or other means of holding *office money* or out-of-scope money (for example, the office cash box); or an account holding money regulated by a regulator other than the SRA;

~~(zn)~~ zn)

"office money" has the meaning given in rule ~~43~~12;

~~(zo)~~ zo)

"out-of-scope money" means money held or received by an MDP in relation to those activities for which it is not regulated by the SRA;

(zp)

"overseas" means outside England and Wales;

(zq)

"partner" means a person who is or is held out as a partner in a partnership;

(zr)

"partnership" means an unincorporated practice;

~~(zs)~~ zs)

~~"partnership" means an unincorporated partnership, and includes any unincorporated practice body~~ in

which persons are or are held out as *partners*, ~~but~~and does not include [a body incorporated as](#) an *LLP*;

~~(r)~~ [zr](#)

"principal" means:

(i)

*a sole practitioner*;

(ii)

*a partner in a partnership*;

~~(ii a)~~

in the case of a *recognised body* which is an *LLP* or *company*, the *recognised body* itself;

~~(iii)~~ [iv](#)

[in the case of a licensed body which is an LLP or company, the licensed body itself](#);

[v](#)

the principal *solicitor* ~~of the Supreme Court or registered European lawyer~~ [or REL](#) (or any one of them) employed by a *non-solicitor employer* (for example, in a law centre or in commerce and industry);

~~(s)~~

~~"professional disbursement" means the fees of counsel or other lawyer, or of a professional or other agent or expert instructed by the solicitor;~~

~~(t)~~

~~"recognised body" means a partnership, company or LLP recognised by the SRA under section 9 of the Administration of Justice Act 1985;~~

~~(ta)~~

~~"recognised sole practitioner" means a solicitor of the Supreme Court or registered European lawyer authorised by the SRA under section 1B of the Solicitors Act 1974 to practise as a sole practitioner;~~

~~(tb)~~

~~"registered European lawyer" means a person registered by the SRA under regulation 17 of the European Communities (Lawyer's Practice) Regulations 2000;~~

~~(t)~~

~~"registered foreign lawyer" means a person registered by the SRA under section 89 of the Courts and Legal Services Act 1990;~~

~~(ua)~~

~~"regular payment" has the meaning given in rule 21;~~

~~(v)~~

~~"separate designated client account" has the meaning given in rule 14(5)(a);~~

~~(w)~~

~~{deleted}~~

~~(x)~~



"solicitor" means:

(i)

a solicitor of the Supreme Court;

(ii)

a registered European lawyer;

(iii)

a registered foreign lawyer practising:

(A)

as a partner in a partnership which is a recognised body or authorised non-SRA firm; or in a partnership which should be a recognised body but has not been recognised by the SRA;

(B)

as the director of a company which is a recognised body or authorised non-SRA firm; or as the director of a company which is a manager of a recognised body or authorised non-SRA firm;

(C)

as a member of an LLP which is a recognised body or authorised non-SRA firm; or as a member of an LLP which is a manager of a recognised body or authorised non-SRA firm;

(D)

as a partner in a partnership with separate legal personality which is a manager of a recognised body or authorised non-SRA firm;

(E)

as an employee of a recognised body or recognised sole practitioner; or

(F)

as an employee of a partnership which should be a recognised body but has not been authorised by the SRA, or of a sole practitioner who should be a recognised sole practitioner but has not been authorised by the SRA;

(iv)

a recognised body;

(v)

a manager of a recognised body;

(vi)

an employee in relation to any other body, a member of a its governing body;

(zs)

"private loan" means a loan other than one provided by an institution which provides loans on standard terms in the normal course of its activities;

(zt)

"professional disbursement" means, in respect of those activities for which the practice is regulated by the SRA, the fees of counsel or other lawyer, or of a professional or other agent or expert instructed by

you, including the fees of interpreters, translators, process servers, surveyors and estate agents but not travel agents' charges;

(zu)

"recognised body or " means a body recognised by the SRA under section 9 of the AJA;

(zv)

"recognised sole practitioner;" means a solicitor or

(vii)

an employee of a partnership which should be a recognised body but has not been REL authorised by the SRA, or of under section 1B of the SA to practise as a sole practitioner who should be a recognised ;

(zw)

"regular payment" has the meaning given in rule 19;

(zx)

"REL" means registered European lawyer, namely, an individual registered with the SRA under regulation 17 of the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000 no. 1119);

(zy)

"reserved legal activity" has the meaning given in section 12 of the LSA, and includes the exercise of a right of audience, the conduct of litigation, reserved instrument activities, probate activities, notarial activities and the administration of oaths, as defined in Schedule 2 to the LSA;

(zz)

"RFL" means registered foreign lawyer, namely, an individual registered with the SRA under section 89 of the Courts and Legal Services Act 1990;

(zza)

"SA" means the Solicitors Act 1974;

(zzb)

"separate designated client account" has the meaning given in rule 13(5)(a);

(zzc)

"societas Europaea" means a European public limited liability company within the meaning of Article 1 of Council Regulation 2157/2001/EC;

(zzd)

"Society" means the Law Society, in accordance with section 87 of the SA;

(zze)

"sole practitioner but has not been authorised by the SRA;

(xa)

"solicitor-manager", in rule 22(8)(b);" means a solicitor of the Supreme Court (or registered European lawyer) appointed by the personal representatives of a deceased or REL practising as a sole practitioner to carry on the practice;

(xb)

"principal, and does not include a solicitor of the Supreme Court" means an individual who is a solicitor of

~~the Supreme Court of England and Wales; and, with effect from the coming into force of section 59(1) of the Constitutional Reform Act 2005, all references to a solicitor of the Supreme Court are to be replaced by references to a solicitor of the Senior Courts; or [REL practising in-house](#);~~

~~(x)zzf)~~

["solicitor" means a person who has been admitted as a solicitor of the Senior Courts of England and Wales and whose name is on the roll kept by the Society under section 6 of the SA;](#)

[\(zzg\)](#)

"SRA" means the Solicitors Regulation Authority, and reference to the SRA as an *approved regulator* [or licensing authority](#) means the SRA carrying out regulatory functions assigned to the ~~Law~~ Society as an *approved regulator* [or licensing authority](#);

[\(yzzh\)](#)

["SRA Authorisation Rules" means the SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies 2011;](#)

[\(zzi\)](#)

["SRA Code of Conduct" means the SRA Code of Conduct 2011;](#)

[\(zzj\)](#)

["SRA Practice Framework Rules" means the SRA Practice Framework Rules 2011;](#)

[\(zzk\)](#)

["statutory undertakers" means:](#)

(i)

[any persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power; and](#)

(ii)

[any licence holder within the meaning of the Electricity Act 1989, any public gas supplier, any water or sewerage undertaker, the Environment Agency, any public telecommunications operator, the Post Office, the Civil Aviation Authority and any relevant airport operator within the meaning of Part V of the Airports Act 1986;](#)

[\(zzl\)](#)

"trustee" includes a personal representative (i.e. an executor or an administrator), and "trust" includes the duties of a personal representative;

~~(zzm)~~

["UK" means United Kingdom;](#)

[\(zzn\)](#)

"without delay" means, in normal circumstances, either on the day of receipt or on the next working day; and

~~(zza)zzo)~~

["you" means:](#)

(i)

[a solicitor, or](#)

(ii)

an RFL:

in either case who is:

(A)

a sole practitioner;

(B)

a partner in a partnership which is a recognised body, licensed body or authorised non-SRA firm or in a partnership which should be a recognised body but has not been recognised by the SRA;

(C)

an assistant, associate, professional support lawyer, consultant, locum or person otherwise employed in the practice of a recognised body, licensed body, recognised sole practitioner or authorised non-SRA firm; or of a partnership which should be a recognised body but has not been recognised by the SRA, or of a sole practitioner who should be a recognised sole practitioner but has not been authorised by the SRA; and "employed" in this context shall be interpreted in accordance with the definition of "employee" for the purposes of the SRA Code of Conduct;

(D)

employed as an in-house lawyer by a non-solicitor employer (for example, in a law centre or in commerce and industry);

(E)

a director of a company which is a recognised body, licensed body or authorised non-SRA firm, or of a company which is a manager of a recognised body, licensed body or authorised non-SRA firm;

(F)

a member of an LLP which is a recognised body, licensed body or authorised non-SRA firm, or of an LLP which is a manager of a recognised body, licensed body or authorised non-SRA firm; or

(G)

a partner in a partnership with separate legal personality which is a manager of a recognised body, licensed body or authorised non-SRA firm;

(iii)

an RFL practising:

(A)

as a partner in a partnership which is a recognised body, licensed body or authorised non-SRA firm, or in a partnership which should be a recognised body but has not been recognised by the SRA;

(B)

as the director of a company which is a recognised body, licensed body or authorised non-SRA firm, or as the director of a company which is a manager of a recognised body, licensed body or authorised non-SRA firm;

(C)

as a member of an LLP which is a *recognised body, licensed body or authorised non-SRA firm*, or as a member of an LLP which is a *manager of a recognised body, licensed body or authorised non-SRA firm*;

(D)

as a *partner* in a *partnership* with separate legal personality which is a *manager of a recognised body, licensed body or authorised non-SRA firm*;

(E)

as an employee of a *recognised body, licensed body or recognised sole practitioner*, or

(F)

as an employee of a *partnership* which should be a *recognised body* but has not been authorised by the SRA, or of a *sole practitioner* who should be a *recognised sole practitioner* but has not been authorised by the SRA;

(iv)

a *recognised body*;

(v)

a *licensed body*;

(vi)

a *manager or employee of a recognised body or licensed body, or of a partnership* which should be a *recognised body* but has not been authorised by the SRA; or

(vii)

an employee of a *recognised sole practitioner*, or of a *sole practitioner* who should be a *recognised sole practitioner* but has not been authorised by the SRA;

and "you" includes "your" as appropriate;

(zpz)

the singular includes the plural and vice versa, and references to the masculine or feminine include the neuter.

## Notes

### Guidance notes

(i)

~~Although many of the rules are expressed as applying to an individual solicitor, the~~ The effect of the definition of "~~solicitor~~you" in rule 2(2)(~~x~~zpz) is that the rules apply equally to all those who carry on or work in a ~~practice~~firm and to the ~~practice~~firm itself. See also rule 4 (persons governed by the rules) and rule 5 (persons exempt from the rules). ~~Note however that, until [1 July 2009], rules which are stated to apply to a recognised sole practitioner, or the employee of a recognised sole practitioner, will apply to a sole practitioner or the employee of a sole practitioner.~~

(ii)

~~A client account must be at a bank or building society's branch in England and Wales – see rule 14(4).~~

(iii)

~~For the full definition of a "European authorised institution" (rule 2(2)(c)), see the Banking Co-ordination~~

(Second Council Directive) Regulations 1992 (S.I. 1992 no. 3218).

~~o— [deleted]~~

~~(v)~~

~~The fees of interpreters, translators, process servers, surveyors, estate agents, etc., instructed by the solicitor are professional disbursements (see rule 2(2)(s)). Travel agents' charges are not professional disbursements.~~

~~(vi)~~

The general definition of "office account" is wide (see rule 2(2)(p)). However, rule 4917(1)(b) (receipt and transfer of costs) and rule 2419(1)(b) and 2419(2)(b) (payments from the Legal Services Commission) specify that certain money is to be placed in an office account at a bank or building society. Out-of-scope money can be held in an office account (which could be an account regulated by another regulator); it must not be held in a client account.

~~(viii)~~

~~An index is attached to the rules but it does not form part of the rules. For the status of the For a flowchart (summarising the effect of the rules, see Appendix 1) and . For more details of the treatment of different types of money, see the chart dealing with special "Special" situations (- what applies" at Appendix 2), see note (xiii) to rule 13. These two appendices do not form part of the rules but are included to help solicitors and their staff find their way about the rules.~~

### Rule 3 — Geographical scope

The Parts A to F of these rules apply to practice carried on from an office in England and Wales.

#### Note

Accounts Part G of these rules applies to practice carried on from an office outside England and Wales ~~are governed by the Solicitors' Code of Conduct 2007 rule 15.27 (accounts), rule 15.15 (deposit interest) and rule 20.08 (production of documents and information).~~

### Rule 4 — Persons governed by the rules

(1)

~~The~~ Save as provided in paragraph (2) below, Parts A to F of these rules apply to: you.

~~(a2)~~

~~solicitors of~~ In relation to an MDP, the Supreme Court or registered European lawyers who are:

~~(i)~~

~~sole practitioners;~~

~~(ii)~~

~~partners~~ rules apply to you only in a partnership respect of those activities for which the MDP is a recognised body or authorised non-SRA firm, or in a partnership which should be a recognised body but has not been recognised regulated by the SRA;

~~(iii) 3)~~

~~assistants, associates, professional support lawyers, consultants, locums or persons otherwise employed in the practice of a recognised body, recognised sole practitioner or authorised non-SRA firm; or of a partnership which should be a recognised body but has not been recognised by the SRA, or of a sole practitioner who should be a recognised sole practitioner but has not been authorised by the SRA;~~

(iv)

~~employed as in-house lawyers by a non-solicitor employer (for example, in a law centre or in commerce and industry);~~

(v)

~~directors of companies which are recognised bodies or authorised non-SRA firms, or of companies which are managers of recognised bodies or authorised non-SRA firms;~~

(vi)

~~members of LLPs which are recognised bodies or authorised non-SRA firms, or of LLPs which are managers of recognised bodies or authorised non-SRA firms; or~~

(vii)

~~partners in a partnership with separate legal personality which is a manager of a recognised body or authorised non-SRA firm;~~

(b)

~~registered foreign lawyers who are practising in any of the ways set out in rule 2(2)(x)(iii);~~

(c)

~~recognised bodies;~~

(d)

~~managers and employees of a recognised body, or of a partnership which should be a recognised body but has not been authorised by the SRA; and~~

(e)

~~employees of a recognised sole practitioner, or of a sole practitioner who should be a recognised sole practitioner but has not been authorised by the SRA.~~

(2)

Part F of the rules (accountants' reports) also applies to reporting accountants.

## Notes

(4)

[If you have held or received client money, but no longer do so, whether or not you continue in practice, you continue to be bound by some of the rules.](#)

## Guidance notes

(i)

["You" is defined in rule 2\(2\)\(zzo\).](#) All employees of a recognised body [or licensed body](#) are directly subject to the rules, following ~~the amendment of section 9 of the Administration of Justice Act 1985~~ [changes made](#) by the Legal Services Act 2007. All employees of a recognised sole practitioner are also directly subject to the rules ~~as from the coming into force of new~~ [under](#) sections 1B and 34A of the Solicitors Act 1974. Non-compliance by any member of staff will also lead to the principals being in breach of the rules - see rule 6. Misconduct by an employee can also lead to an order of the SRA or the Solicitors Disciplinary Tribunal under section 43 of the Solicitors Act 1974 imposing restrictions on his or her employment.

(ii)

~~Solicitors who have held or received client money, but no longer do so, whether or not they continue in practice, continue to be bound by some of the rules – for instance:~~

Rules which continue to apply to you where you no longer hold client money include:

rule 7 (duty to remedy breaches);

~~rule 19~~rules 17(2), and ~~note (xi) to rule 19, rule 32(8) to~~ ), rule 29(15) to (24) and rule ~~33~~30 (retention of records);

rule ~~34~~31 (production of records);

Part F (accountants' reports), and in particular rule ~~35~~32 and rule ~~36~~33(5) (delivery of final report), and rule ~~38~~35 (2) and rule ~~46~~43 (completion of checklist).

(iii)

The rules do not cover ~~a solicitor's~~ trusteeships carried on in a purely personal capacity outside any legal practice. It will normally be clear from the terms of the appointment whether ~~the solicitor is you are~~ being appointed ~~trustee~~ in a purely personal capacity or in ~~his or her~~your professional capacity. If ~~a solicitor is you are~~ charging for the work, it is clearly being done ~~as solicitor in a professional capacity~~. Use of professional stationery may also indicate that the work is being done in a professional capacity.

(iv)

A solicitor who wishes to retire from private practice ~~must~~will need to make a decision about any professional trusteeship. There are three possibilities:

(a)

continue to act as a professional trustee (as evidenced by, for instance, charging for work done, or by continuing to use the title "solicitor" in connection with the trust). In this case, the solicitor must continue to hold a practising certificate, and money subject to the trust must continue to be dealt with in accordance with the rules.

(b)

continue to act as trustee, but in a purely personal capacity. In this case, the solicitor must stop charging for the work, and must not be held out as a solicitor (unless this is qualified by words such as "non-practising" or "retired") in connection with the trust.

(c)

cease to be a trustee.

(v)

A licensed body may undertake a range of services, comprising both "traditional" legal services and other, related, services of a non-legal nature, for example, where a solicitor, estate agent and surveyor set up in practice together. Where a licensed body practises in this way (an MDP), only some of the services it provides (reserved and other legal activities, and other activities which are subject to one or more conditions on the body's licence) are within the regulatory reach of the SRA. Other, "non-legal", activities of the licensed body may be regulated by another regulator, and some activities may not fall within the regulatory ambit of any regulator.

## **Rule 5 – Persons exempt from the rules**

The rules do not apply to:

\_\_\_\_\_

~~(a)~~

~~a solicitor~~ you when:



[\(a\)](#)

practising as an employee of:

(i)

a *local authority*;

(ii)

*statutory undertakers*;

(iii)

a body whose accounts are audited by the Comptroller and Auditor General;

(iv)

the Duchy of Lancaster;

(v)

the Duchy of Cornwall; or

(vi)

the Church Commissioners; or

(b)

~~a solicitor who practises~~ [practising](#) as the Solicitor of the City of London; or

(c)

~~a solicitor when~~ carrying out the functions of:

(i)

a coroner or other judicial office; or

(ii)

a sheriff or under-sheriff; or

(d)

~~a solicitor when~~ practising as a *manager* or employee of an *authorised non-SRA firm*, and acting within the scope of that *firm's* authorisation to practise.

## Notes

~~(f)~~

~~"Statutory undertakers" means:~~

~~(a)~~

~~any persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power; and~~

~~(b)~~

~~any licence holder within the meaning of the Electricity Act 1989, any public gas supplier, any water or sewerage undertaker, the Environment Agency, any public telecommunications operator, the Post Office, the Civil Aviation Authority and any relevant airport operator within the~~

~~meaning of Part V of the Airports Act 1986.~~

~~(ii)~~

~~"Local authority" means any of those bodies which are listed in section 270 of the Local Government Act 1972 or in section 21(1) of the Local Government and Housing Act 1989.~~

~~(iii)~~

### Guidance note

- o A ~~solicitor~~ **person** practising as a manager or employee of an authorised non-SRA firm is exempt from the **Solicitors'** Accounts Rules when ~~the solicitor is~~ acting within the scope of the firm's authorisation. Thus if a solicitor is a partner or employee in a firm authorised by the Council for Licensed Conveyancers, the rules will not apply to any money received by the solicitor in connection with conveyancing work. However if the solicitor does in-house litigation work - say collecting money owed to the firm - the **Solicitors'** Accounts Rules will apply to any money received by the solicitor in that context. This is because, whilst in-house litigation work is within the scope of the solicitor's authorisation as an individual, it is outside the scope of authorisation of the firm.

## **Rule 6 -- Principals' responsibility for compliance**

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All the *principals* in a **practice firm** must ensure compliance with the rules by the *principals* themselves and by everyone employed in the **practice firm**. This duty also extends to the *directors* of a *recognised body* or licensed body which is a *company*, or to the members of a *recognised body* or licensed body which is an *LLP*. It also extends to the COFA of a firm (whether a manager or non-manager).

### Guidance note

Rule 8.5(c) of the SRA Authorisation Rules requires all firms to have a COFA. The appointment of a COFA satisfies the requirement under section 92 of the Legal Services Act 2007 for a licensed body to appoint a Head of Finance and Administration. Under rule 6 of the accounts rules, the COFA must ensure compliance with the accounts rules. This obligation is in addition to, not instead of, the duty of all the principals to ensure compliance (the COFA may be subject to this duty both as COFA and as a principal). Under rule 8.5(d) of the SRA Authorisation Rules, the COFA must report any material breaches of the accounts rules to the SRA as soon as reasonably practicable. (See also outcomes 10.3 and 10.4 of Chapter 10 of the SRA Code of Conduct in relation to the general duty to report serious financial difficulty or serious misconduct.)

## **Rule 7 -- Duty to remedy breaches**

(1)

Any breach of the rules must be remedied promptly upon discovery. This includes the replacement of any money improperly withheld or withdrawn from a *client account*.

(2)

In a private practice, the duty to remedy breaches rests not only on the person causing the breach, but also on all the *principals* in the **practice firm**. This duty extends to replacing missing *client money* from the *principals'* own resources, even if the money has been misappropriated by an employee or another *principal*, and whether or not a claim is subsequently made on the ~~Solicitors' Indemnity firm's insurance~~ or ~~the Compensation Funds or on the firm's insurance.~~ Fund.

### **Note**

~~— For payment of interest when money should have been held in a client account but was not, see rule 24(2).~~

## **Rule 8 --[repealed]**

## **Rule 9 – Liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes**

(1)

A solicitor who ~~if~~ in the course of practice ~~acts~~ you act as:

a liquidator,

a trustee in bankruptcy,

a Court of Protection deputy, or

a trustee of an occupational pension scheme which is subject to section 47(1)(a) of the Pensions Act 1995 (appointment of an auditor) **and** section 49(1) (separate bank account) **and** regulations under section 49(2)(b) (books and records),

you must comply with:

(a)

the appropriate statutory rules or regulations;

(b)

the [Principles referred to, and the underlying](#) principles set out, in rule 1; and

(c)

the requirements of paragraphs (2) to (4) below;

and will then be deemed to have satisfactorily complied with the **Solicitors'** Accounts Rules.

(2)

In respect of any records kept under the appropriate statutory rules, there must also be compliance with:

(a)

rule ~~32(8)~~[29\(15\)](#) - bills and notifications of costs;

(b)

rule ~~32(9)~~[29\(17\)](#)(c) - retention of records;

(c)

rule ~~32(12)~~[29\(20\)](#) - centrally kept records;

(d)

rule ~~34~~[31](#) - production of records; and

(e)

rule ~~42~~[39](#)(1)(l) and (p) - reporting accountant to check compliance.

(3)

If a liquidator or trustee in bankruptcy uses any of the ~~practice's firm's~~ *client accounts* for holding money pending transfer to the Insolvency Services Account or to a local bank account authorised by the Secretary of State, he or she must comply with the **Solicitors'** Accounts Rules in all respects whilst the money is held in the *client account*.

(4)

If the appropriate statutory rules or regulations do not govern the holding or receipt of *client money* in a particular situation (for example, money below a certain limit), ~~the solicitor~~ you must comply with the **Solicitors'** Accounts Rules in all respects in relation to that money.

## Notes

### Guidance notes

(i)

The Insolvency Regulations 1994 (S.I. 1994 no. 2507) regulate liquidators and trustees in bankruptcy.

(ii)

The Court of Protection Rules 2007 (S.I. 2007 no. 1744 (L.12)) regulate Court of Protection deputies (see rule 2(2)(jap)).

(iii)

Money held or received by **solicitor** liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes is client money but, because of the statutory rules and rule 98(1), it will not normally be kept in a client account. If for any reason it is held in a client account, the **Solicitors' Accounts Rules** apply to that money for the time it is so held (see rule 98(3) and (4)).

### Rule ~~10-9~~ – Joint accounts

(1)

If **a solicitor, when** acting in a *client's* matter **holds, you hold** or receives money jointly with the *client*, another **solicitors'** practice or another third party, the rules in general do not apply, but the following must be complied with:

(a)

rule ~~32(9)~~29(11) - statements from banks, building societies and other financial institutions:

(b)

rule 29(15) - bills and notifications of costs;

(bc)

rule ~~32(9)~~29(17)(b)(ii) - retention of statements and passbooks;

(ed)

rule ~~32(13)~~29(21) - centrally kept records;

(de)

rule ~~34~~31 - production of records; and

(ef)

rule ~~42~~39(1)(m) and (p) - reporting accountant to check compliance.

A joint account is not a *client account* but money held in a joint account is *client money*.

### Operation of the joint account by **the solicitor you** only

(2)

If the joint account is operated only by **the solicitor, the solicitor you, you** must ensure that **he or she receives you receive** the statements from the *bank, building society* or other financial institution, **and has in accordance with rule 29(11), and have** possession of any passbooks.

### Shared operation of the joint account

(3)

If ~~the solicitor shares~~ you share the operation of the joint account with the *client*, another ~~solicitor's~~ practice or another third party, ~~the solicitor~~ you must:

(a)

ensure that ~~he or she receives~~ you receive the statements or duplicate statements from the *bank*, *building society* or other financial institution in accordance with rule 29(11), and retains them in accordance with rule ~~32(9)~~ 29(17)(b)(ii); and

(b)

ensure that ~~he or she~~ you either has have possession of any passbooks, or takes copies of the passbook entries before handing any passbook to the other signatory, and retains them in accordance with rule ~~32~~ 29(17)(b)(ii).

#### Operation of the joint account by the other account holder

(4)

If the joint account is operated solely by the other account holder, ~~the solicitor~~ you must ensure that ~~he or she receives~~ you receive the statements or duplicate statements from the *bank*, *building society* or other financial institution in accordance with rule 29(11), and retains them in accordance with rule ~~32(9)~~ 29(17)(b)(ii).

#### Note

~~— Although a joint account is not a client account, money held in a joint account is client money.~~

#### Rule ~~11-10~~ – Operation of a client's own account

(1)

If ~~a solicitor~~, in the course of practice operates, you operate a *client's* own account as signatory (for example, as donee under a power of attorney), the rules in general do not apply, but the following must be complied with:

(a)

rule ~~33~~ 30(1) to ~~(34)~~ - accounting records for clients' own accounts;

(b)

rule ~~34~~ 31 - production of records; and

(c)

rule ~~42~~ 39(1)(n) and (p) - reporting accountant to check compliance.

#### Operation by ~~the solicitor~~ you only

(2)

If the account is operated by ~~the solicitor~~ you only, ~~the solicitor~~ you must ensure that ~~he or she receives~~ you receive the statements from the *bank*, *building society* or other financial institution in accordance with rule 30, and has have possession of any passbooks.

#### Shared operation of the account

(3)

If ~~the solicitor shares~~ you share the operation of the account with the *client* or a co-attorney outside ~~the solicitor's practice~~, ~~the solicitor~~ your firm, you must:

(a)

ensure that ~~he or she receives~~ you receive the statements or duplicate statements from the *bank*, *building society* or other financial institution and retains them in accordance with rule 3330(1) to (34); and

(b)

ensure that ~~he or she~~ you either ~~has~~ have possession of any passbooks, or takes copies of the passbook entries before handing any passbook to the *client* or co-attorney, and retains them in accordance with rule 3330(1) to (34).

### Operation of the account for a limited purpose

(4)

If ~~the solicitor is~~ you are given authority (whether as attorney or otherwise) to operate the account for a limited purpose only, such as the taking up of a share rights issue during the *client's* temporary absence, ~~the solicitor~~ you need not receive statements or possess passbooks, provided that ~~he or she retains~~ you retain details of all cheques drawn or paid in, and retains copies of all passbook entries, relating to the transaction, and retains them in accordance with rule 3330(1) ~~and (2) to (3)~~.

### Application

(5)

This rule applies only to ~~solicitors in~~ private practice. It does not cover money held or received by a donee of a power of attorney acting in a purely personal capacity outside any legal practice (see rule 4, notes (iii)-(iv)).

### Notes

(6)

A "client's own account" covers all accounts in a client's own name, whether opened by the client himself or herself, or by you on the client's instructions under rule 15(1)(b). A "client's own account" also includes an account opened in the name of a person designated by the client under rule 15(1)(b).

### Guidance notes

(i)

Money held in a client's own account (under a power of attorney or otherwise) is not "client money" for the purpose of the rules because it is not "held or received" by ~~the solicitor~~ you. If ~~the solicitor closes~~ you close the account and receives the closing balance, this becomes client money ~~and must be paid into a client account, unless the client instructs~~ subject to the contrary in accordance with rule 16(1)(a): all the rules.

(ii)

~~A solicitor who merely pays~~ Merely paying money into a client's own account, or helpsing the client to complete forms in relation to such an account, is not "operating" the account.

(iii)

~~A solicitor~~ If as executor ~~who operates~~ you operate the deceased's account (whether before or after the grant of probate), you will be subject to the limited requirements of rule 4410. If the account is subsequently transferred into ~~the solicitor's~~ your name, or a new account is opened in ~~the solicitor's~~ your name, ~~the solicitor~~ you will have "held or received" client money and is/are then subject to all the rules.

~~(iv)~~

~~The rules do not cover money held or received by a solicitor/attorney acting in a purely personal capacity outside any legal practice. If a solicitor is charging for the work, it is clearly being done in the~~

~~course of legal practice. See rule 4, note (iv) for the choices which can be made on retirement from private practice.~~

~~(v)~~

~~"A client's own account" covers all accounts in a client's own name, whether opened by the client himself or herself, or by the solicitor on the client's instructions under rule 16(1)(b).~~

~~(vi)~~

~~"A client's own account" also includes an account opened in the name of a person designated by the client under rule 16(1)(b).~~

~~(vii)~~

~~Solicitors should also remember the requirements of rule 32(8) -- bills and notifications of costs.~~

~~(viii)~~

~~For payment of interest, see rule 24, note (iii).~~

## **Rule 12 – ~~Solicitor's~~ 11 – Firm's rights not affected**

Nothing in these rules deprives ~~a solicitor~~ you of any recourse or right, whether by way of lien, set off, counterclaim, charge or otherwise, against money standing to the credit of a *client account*.

## **Rule ~~13~~–12 – Categories of money**

~~All~~ (1)

These rules do not apply to out-of-scope money, save to the limited extent specified in the rules. All other money held or received in the course of practice falls into one or other of the following categories:

(a)

"*client money*" - money held or received for a *client* or as *trustee*, and all other money which is not *office money*, or

(b)

"office money" - money which belongs to ~~the solicitor~~ you or ~~the practice~~ your firm.

### **Notes**

f (2)

"Client money" includes money held or received:

~~(aa)~~ a)

as *trustee*;

~~(a)~~ b)

as agent, bailee, stakeholder, or as the donee of a power of attorney, or as a liquidator, trustee in bankruptcy, *Court of Protection deputy* or trustee of an occupational pension scheme;

~~(b)~~ c)

for payment of unpaid *professional disbursements* ~~(for definition of "professional disbursement" see rule 2(2)(s));~~

~~(c)~~ d)

for payment of stamp duty land tax, Land Registry registration fees, telegraphic transfer fees and court

fees; this is not office money because the solicitor has not incurred an obligation to the Inland Revenue, the Land Registry, the bank or the court to pay the duty or fee (contrast with note (xi)(c)(C) below); (on the other hand, if the solicitor has already paid the duty or fee out of his or her own resources, or has received the service on credit, payment subsequently received from the client will be office money – see note (xi)(c)(B) below); [\(but see also guidance note \(i\)\)](#);

(de)

as a payment on account of costs generally;

(ef)

as ~~commission~~ [a financial benefit](#) paid in respect of a ~~solicitor's~~ *client*, unless the *client* has given ~~the~~ [solicitor you](#) prior authority to retain it ~~in accordance with rule 2.06 (see Chapter 1, outcome 1.15 and indicative behaviour 1.18 of the Solicitors' SRA Code of Conduct 2007, or unless it falls within the £20 de minimis figure specified in that rule.)~~;

(#)

~~A solicitor to whom a cheque or draft is made out, and who in the course of practice endorses it over to a client or employer, has received client money. Even if no other client money is held or received, the solicitor will be subject to some provisions of the rules, e.g.:~~

~~rule 7 (duty to remedy breaches);~~

~~rule 32 (accounting records for client money);~~

~~rule 34 (production of records);~~

~~rule 35 (delivery of accountants' reports).~~

(iii)

~~Money held by solicitor liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes is client money, subject to a limited application of the rules – see rule 9.~~

(iv)

~~Money held jointly with another person outside the *practice* (for example, with a lay trustee, or with another *firm* of solicitors) is client money subject to a limited application of the rules – see rule 10.~~

(v3)

Money held to the sender's order is *client money*.

(a)

If money is accepted on such terms, it must be held in a *client account*.

(b)

However, a cheque or draft sent to ~~a~~ [solicitor you](#) on terms that the cheque or draft (as opposed to the money) is held to the sender's order must not be presented for payment without the sender's consent.

(c)

The recipient is always subject to a professional obligation to return the money, or the cheque or draft, to the sender on demand.

(vi4)

An advance to a *client* ~~from the solicitor~~ which is paid into a *client account* under rule ~~15~~ [14](#)(2)(b) becomes *client money*. ~~For~~

(5)

[A cheque in respect of damages and costs, made payable to the \*client\* but paid into a \*client account\* under rule 14\(2\)\(e\), becomes \*client money\*.](#)



(6)

Endorsing a cheque or draft over to a *client* or employer in the course of practice amounts to receiving *client money*. Even if no other *client money* is held or received, *you* must comply with some provisions of the rules, e.g.:

- o rule 7 (duty to remedy breaches);
- o rule 29 (accounting records for client money);
- o rule 31 (production of records);
- o rule 32 (delivery of accountants' reports).

(7)

"Office money" includes:

(a)

money held or received in connection with running the *firm*; for example, PAYE, or VAT on the *firm's fees*;

(b)

~~interest~~; on *general client accounts*; the *bank* or *building society* should be instructed to credit such *interest* to the *office account* - but see also rule ~~24~~14(2)(d); and

(c)

payments received in respect of:

(A)

*fees* due to the *firm* against a bill or written notification of *costs* incurred, which has been given or sent in accordance with rule 17(2);

(B)

*disbursements* already paid by the *firm*;

(C)

*disbursements* incurred but not yet paid by the *firm*, but excluding unpaid *professional disbursements*;

(D)

money paid for or towards an *agreed fee*; and

(d)

money held in a *client account* and earmarked for *costs* under rule 17(3)~~(e)~~; and

~~(vi)~~e)

~~{deleted}~~

~~(viii)~~

money held or received from the Legal Services Commission as a *regular payment* (see rule 19(2)).

(8)

If a *firm* conducts a personal or office transaction - for instance, conveyancing - for a *principal* (or for a number of *principals*), money held or received on behalf of the *principal(s)* is *office money*. However, other circumstances may mean that the money is *client money*, for example:

(a)

If the firm also acts for a lender, money held or received on behalf of the lender is client money.

(b)

If the firm acts for a principal and, for example, his or her spouse jointly (assuming the spouse is not a partner in the practice), money received on their joint behalf is client money.

(c)

If the firm acts for an assistant solicitor, consultant or non-solicitor employee, or (if it is a company) a director, or (if it is an LLP) a member, he or she is regarded as a client of the firm, and money received for him or her is client money - even if he or she conducts the matter personally.

### Guidance notes

(i)

Money held or received for payment of stamp duty land tax, Land Registry registration fees, telegraphic transfer fees and court fees is not office money because you have not incurred an obligation to HMRC, the Land Registry, the bank or the court to pay the duty or fee: (on the other hand, if you have already paid the duty or fee out of your own resources, or have received the service on credit, or the bank's charge for a telegraphic transfer forms part of your profit costs, payment subsequently received from the client will be office money):

(ii)

Money held:

by liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes;

jointly with another person outside the practice (for example, with a lay trustee, or with another firm);

is client money, subject to a limited application of the rules - see rules 8 and 9. The donee of a power of attorney, who operates the donor's own account, is also subject to a limited application of the rules (see rule 10), although money kept in the donor's own account is not "client money" because it is not "held or received" by the donee.

(iii)

If the SRA intervenes in a practice, money from the practice is held or received by the SRA's intervention agent subject to a trust under Schedule 1 paragraph 7(1) of the Solicitors Act 1974, and is therefore client money. The same provision requires the agent to pay the money into a client account.

(~~iv~~)

~~A solicitor who, as the donee of a power of attorney, operates the donor's own account is subject to a limited application of these rules - see rule 11. Money kept in the donor's own account is not "client money", because it is not "held or received" by the solicitor.~~

(~~x~~)

~~Money held or received by a solicitor in the course of his or her~~ Money held or received in the course of employment when practising in one of the capacities listed in rule 5 (persons exempt from the rules) is not "client money" for the purpose of the rules, because the rules do not apply at all.

(~~x~~) v)

~~Office~~ The receipt of out-of-scope money includes:

(a)

~~money held or received in connection~~ of an MDP which is mixed with ~~running the practice; for example, PAYE, or VAT on the firm's fees;~~

(b)

~~interest on general client accounts; the bank or building society should be instructed to credit such interest to the office account – but see also rule 15(2)(d);~~ [other types of money is dealt with in rules 17 and 18.](#)

(e) [vi](#)

payments received in respect of:

(A)

~~fees due to the practice against a bill or written notification of costs incurred, which has been given or sent in accordance with rule 19(2);~~

(B)

~~disbursements already paid by the practice (for definition of "disbursement" see rule 2(2)(k));~~

(C)

~~disbursements incurred but~~ [See Appendices 1 and 2 \(which do not yet paid by the practice, but excluding unpaid professional disbursements \(for definition of "professional disbursement" see rule 2\(2\)\(s\), and note \(v\) to rule 2\);](#)

(D)

~~money paid for or towards an agreed fee – see rule 19(5); and~~

(d)

~~money held in a client account and earmarked for costs under rule 19(3) (transfer of costs from client account to office account); and~~

(e)

~~money held or received from the Legal Services Commission as a regular payment (see rule 21(2));~~

(xii)

~~A solicitor cannot be his or her own client for the purpose~~ [form part of the rules\) for a summary](#) ~~of the rules, so that if a practice conducts a personal or office transaction – for instance, conveyancing – for a principal (or for a number of principals), money held or received on behalf of the principal(s) is office money. However, other circumstances may mean that the money is client money, for example:~~

(a)

~~If the practice also acts for a lender, money held or received on behalf of the lender is client money.~~

(b)

~~If the practice acts for a principal and, for example, his or her spouse jointly (assuming the spouse is not a partner in the practice), money received on their joint behalf is client money.~~

(c)

~~If the practice acts for an assistant solicitor, consultant or non-solicitor employee, or (if it is a company) a director, or (if it is an LLP) a member, he or she is regarded as a client of the practice, and money received for him or her is client money – even if he or she conducts the matter personally.~~

(xiii)

~~For a flowchart summarising the effect of the rules, see Appendix 1. For more details of~~ [and](#) ~~the treatment of~~

different types of money, ~~see the chart "Special situations – what applies" at Appendix 2. These two appendices are included to help solicitors and their staff find their way about the rules. Unlike the notes, they are not intended to affect the meaning of the rules.~~

## Part B – Client money and operation of a client account

### Rule ~~14~~-13 – Client accounts

(1)

~~A solicitor who holds~~ if you hold or receives ~~client money,~~ you must keep one or more *client accounts* (unless all the *client money* is always dealt with outside any *client account* in accordance with rule 8, ~~rule 9~~, ~~rule 10~~, ~~rule 16~~, ~~rule 15~~ or rule 17).

(2)

A "client account" is an account of a practice kept at a *bank* or *building society* for holding *client money*, in accordance with the requirements of this part of the rules.

(3)

The *client account(s)* of:

(a)

a *sole practitioner* must be ~~either~~ in the ~~solicitor's~~ name under which the *sole practitioner* is recognised by the SRA, whether that is the *sole practitioner's* own name or in the *practice firm* name;

(b)

a *partnership* must be in the ~~firm name;~~ name under which the *partnership* is recognised by the SRA;

(c)

an incorporated practice must be in the company name, or the name of the *LLP*, as registered at Companies House;

(d)

in-house *solicitors* or RELs must be in the name of the current *principal solicitor/REL* or *solicitors/RELs*;

(e)

*trustees*, where all the *trustees* of a *trust* are *managers* and/or employees of the same *recognised body* or licensed body, must be either in the name of the *recognised body/licensed body* or in the name of the *trustee(s)*;

(f)

*trustees*, where all the *trustees* of a *trust* are the *sole practitioner* and/or his or her employees, must be either in the name under which the *sole practitioner* is recognised by the SRA or in the name of the *trustee(s)*;

and the name of the account must also include the word "client" in full (an abbreviation is not acceptable).

(4)

A *client account* must be:

(a)

a *bank* account at a branch (or a *bank's* head office) in England and Wales; or

(b)

a *building society* ~~deposit or share~~ account at a branch (or a society's head office) in England and

Wales.

(5)

There are two types of *client account*:

(a)

a "separate designated client account", which is ~~a deposit or share~~an account for money relating to a single *client*, other person or *trust*, and which includes in its title, in addition to the requirements of rule ~~44~~13(3) above, a reference to the identity of the *client*, other person or *trust*; and

(b)

a "general client account", which is any other *client account*.

## Notes

\_\_\_\_\_

(i)

~~For the client accounts of an executor, trustee or nominee company owned by a practice, see rule 31.~~

(ii)(6)

Before opening a *client account*, a *licensed body* must enter into a written agreement with the *bank* or *building society* acknowledging that the account will hold *client money*, and that the *bank* or *building society* shall not have any recourse or right against the money standing to its credit in respect of any liability of the *licensed body* to the *bank* or *building society*, other than a liability in connection with the account. This requirement must also be complied with by a *firm* which becomes a *licensed body*, whether opening new *client accounts* or using its existing *client accounts*. The *licensed body* must ensure that the agreement is kept on foot.

(7)

The *clients* of a *licensed body* must be informed at the outset of the retainer, or during the course of the retainer as appropriate, if the *licensed body* is (or becomes) owned by a *bank* or *building society* and its *client account* is held at that *bank* or *building society* (or another *bank* or *building society* in the same group).

(8)

Money held in a *client account* must be immediately available, even at the sacrifice of *interest*, unless the *client* otherwise instructs, or the circumstances clearly indicate otherwise.

## Guidance notes

(i)

In the case of in-house ~~solicitors~~practice, any client account should include the names of all solicitors ~~of the Supreme Court~~ or registered European lawyers held out on the notepaper as principals. The names of other employees who are solicitors ~~of the Supreme Court~~ or registered European lawyers may also be included if so desired. Any person whose name is included will ~~be subject to the full Compensation Fund contribution and his or her name will~~ have to be included on the accountant's report.

(iii)

~~"Bank" and "building society" are defined in rule 2(2)(c) and (d) respectively.~~

(iv)

A ~~practice~~firm may have any number of separate designated client accounts and general client accounts.

(v)

~~The word "client" must appear in full; an abbreviation is not acceptable.~~

~~(vi)~~ (iii)

Compliance with rule ~~14~~13(1) to (4) ensures that clients of a recognised body or recognised sole practitioner, as well as the bank or building society, have the protection afforded by section 85 of the Solicitors Act 1974. Rule 13(6) seeks to give protection, similar to that afforded by section 85, to clients of licensed bodies. It will be repealed on the coming into force of the Order referred to in rule 53 which will give the equivalent statutory protections to client money held by a licensed body.

~~(vii)~~

~~Money held in a client account must be immediately available, even at the sacrifice of interest, unless the client otherwise instructs, or the circumstances clearly indicate otherwise.~~

## Rule ~~15~~14 – Use of a client account

(1)

*Client money* must *without delay* be paid into a *client account*, and must be held in a *client account*, except when the rules provide to the contrary (see rules 8, 9, ~~10~~15, 16, 17, ~~19~~ and 219).

(2)

Only *client money* may be paid into or held in a *client account*, except:

(a)

an amount of the ~~solicitor's~~ firm's own money required to open or maintain the account;

(b)

an advance from the ~~solicitor~~ firm to fund a payment on behalf of a *client* or *trust* in excess of funds held for that *client* or *trust*; the sum becomes *client money* on payment into the account (for *interest* on *client money*, see rule ~~24(3)(e)~~; 22(2)(c));

(c)

money to replace any sum which for any reason has been drawn from the account in breach of rule ~~22-20~~; the replacement money becomes *client money* on payment into the account; ~~and~~

(d)

~~a sum in lieu of~~ *interest* which is paid into a *client account* to enable ~~the solicitor to make~~ payment from the *client account* of all money owed to the *client* ~~as an alternative~~; and

(e)

a cheque in respect of damages and costs, made payable to the client, which is paid into the client account pursuant to making separate payments the Society's Conditional Fee Agreement; the sum becomes client money on payment into the account (but see rule 17(1)(e) for the transfer of the costs element from the office and client accounts);

and except when the rules provide to the contrary (see note ~~(vi)~~ (ii) below).

(3)

*Client money* must be returned to the *client* (or other person on whose behalf the money is held) promptly, as soon as there is no longer any proper reason to retain those funds. Payments received after ~~the solicitor has you~~ have already accounted to the *client*, for example by way of a refund, must be paid to the *client* promptly.

(4)

~~A solicitor~~ You must promptly inform a *client* (or other person on whose behalf the money is held) in writing of the amount of any *client money* retained at the end of a matter (or the substantial conclusion of a matter), and the

reason for that retention. ~~The solicitor~~ You must inform the *client* (or other person) in writing at least once every twelve months thereafter of the amount of *client money* still held and the reason for the retention, for as long as ~~the solicitor continues~~ you continue to hold that money.

## Notes

\_\_\_\_\_

(i)

~~See rule 13 and notes for the definition and examples of client money.~~

(ii)

~~"Without delay" is defined in rule 2(2)(z).~~

(iii)

(5)

You must not provide banking facilities through a *client account*. Payments into, and transfers or withdrawals from, a *client account* must be in respect of instructions relating to an underlying transaction (and the funds arising therefrom) or to a service forming part of *your* normal regulated activities.

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## Guidance notes

(i)

Exceptions to rule ~~45~~14(1)(client money must be paid into a client account) can be found in:

rule ~~9~~8 - liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes;

rule ~~10~~9 - joint accounts;

rule ~~46~~15 - client's instructions;

rule ~~47~~16 - cash paid straight to client, beneficiary or third party;

cheque endorsed to client, beneficiary or third party;

money withheld from client account on the SRA's authority;

money withheld from client account in accordance with a trustee's powers;

rule ~~49~~17(1)(b) - receipt and transfer of costs;

rule ~~24~~19(1) - payments by the Legal Services Commission.

(iv)

Rule ~~45~~14(2)(a) to (d) provides for exceptions to the principle that only client money may be paid into a client account. Additional exceptions can be found in:

rule ~~49~~17(1)(c) - receipt and transfer of costs;

rule ~~20~~18(2)(b) - receipt of mixed payments;

rule ~~24~~19(2)(c)(ii) - transfer to client account of a sum for unpaid professional disbursements, where ~~the solicitor receives~~ regular payments are received from the Legal Services Commission.

(viii)

Only a nominal sum will be required to open or maintain an account. In practice, banks will usually open (and, if instructed, keep open) accounts with nil balances.

(vi) iv

~~[deleted]~~

(vii)

If client money is invested in the purchase of assets other than money - such as stocks or

shares - it ceases to be client money, because it is no longer money held by the ~~solicitor~~ firm. If the investment is subsequently sold, the money received is, again, client money. The records kept under rule ~~32~~ 29 will need to include entries to show the purchase or sale of investments.

(viii)

~~Some schemes proposed by banks would aggregate the sums held in a number~~ Rule 14(5) reflects decisions of client accounts, including one or more separate designated client accounts, in order to maximise the interest payable. This is acceptable only if:

~~each client account remains a separate account;~~

~~the rate of interest applied by the bank is the same for each client account; and~~

~~the bank credits the total amount of the interest earned in respect of each separate designated client account to that account (see rule 24(1)), and credits the interest earned on any general client account to the office account (see note (xi)(b) to rule 13).~~

(ix)

~~In the case of Wood and Burdett (case number 8669/2002 filed on 13 January 2004), the Solicitors Disciplinary Tribunal said that it is not a proper part of a solicitor's everyday business or practice to operate a banking facility for third parties, whether they are clients of the firm or not. Solicitors should not, therefore, provide banking facilities through a client account. Further, solicitors are likely to lose the~~ be noted that any exemption under the Financial Services and Markets Act 2000 is likely to be lost if a deposit is taken in circumstances which do not form part of ~~a solicitor's~~ your practice. It should also be borne in mind that there are criminal sanctions against assisting money launderers.

(xvi)

As with rule 7 (Duty to remedy breaches), "promptly" in rule ~~45~~ 14(3) and (4) is not defined but should be given its natural meaning in the particular circumstances. Accounting to a client for any surplus funds will often fall naturally at the end of a matter. Other retainers may be more protracted and, even when the principal work has been completed, funds may still be needed, for example, to cover outstanding work in a conveyancing transaction or to meet a tax liability. (See also paragraphs 4.8 and 4.9 of the Guidelines for accounting procedures and systems at Appendix 3.)

(xvii)

There may be some instances when, during the course of a retainer, the specific purpose for which particular funds were paid no longer exists, for example, the need to instruct counsel or a medical expert. Rule ~~45~~ 14(3) is concerned with returning funds to clients at the end of a matter (or the substantial conclusion of a matter) and is not intended to apply to ongoing retainers. However, ~~solicitors must always~~ in order to act in the best interests of ~~their clients and~~ your client, you may need to take instructions in such circumstances to ascertain, for instance, whether the money should be returned to the client or retained to cover the general funding or other aspects of the case.

(xviii)

~~(See rule 22(1)(ga)-(h)-(k) for withdrawals from a client account when the rightful owner of funds cannot be traced.)~~ The obligation to report regularly under rule 14(4) ceases to apply if you are no longer able to trace the client, at which point rule 20(1)(j) or (k) would apply.

## **Rule ~~16~~ 15 – Client money withheld from client account on client's instructions**

(1)

*Client money* may be:

(a)



held by ~~the solicitor~~[you](#) outside a *client account* by, for example, retaining it in the ~~solicitor's firm's~~ safe in the form of cash, or placing it in an account in the ~~solicitor's firm's~~ name which is not a *client account*, such as an account outside England and Wales; or

(b)

paid into an account at a *bank*, *building society* or other financial institution opened in the name of the *client* or of a person designated by the *client*;

but only if the *client* instructs ~~the solicitor~~[you](#) to that effect for the *client's* own convenience, and only if the instructions are given in writing, or are given by other means and confirmed by ~~the solicitor~~[you](#) to the *client* in writing.

(2)

It is improper to seek blanket agreements, through standard terms of business or otherwise, to hold *client money* outside a *client account*.

## Notes

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(i)

~~For advance payments from the Legal Services Commission, withheld from a client account on the Commission's instructions, see rule 21(1)(a).~~

(ii)

If a *client* instructs ~~the solicitor~~[you](#) to hold part only of a payment in accordance with rule ~~46~~[15](#)(1)(a) or (b), the entire payment must first be placed in a *client account*. ~~The , before transferring the~~ relevant part ~~can then be transferred~~ out and dealt ~~ing~~[ing](#) with ~~it~~ in accordance with the *client's* instructions.

(iii)

[A payment on account of costs received from a person who is funding all or part of your fees may be withheld from a client account on the instructions of that person given in accordance with rule 15\(1\).](#)

## Guidance notes

(i)

Money withheld from a client account under rule ~~46~~[15](#)(1)(a) remains client money, and [all](#) the record-keeping provisions of rule ~~32, including monthly reconciliations, must be complied with.~~[29 will apply.](#)

(ii)

Once money has been paid into an account set up under rule ~~46~~[15](#)(1)(b), it ceases to be client money. Until that time, the money is client money and [under rule 29](#), a record ~~must therefore be kept of the solicitor's~~[is required of your](#) receipt of the money, and its payment into the account in the name of the client or designated person, ~~in accordance with rule 32.~~ If ~~the solicitor~~[you](#) can operate the account, ~~the solicitor must comply with~~ rule ~~44~~[10](#) (operating a client's own account) and rule ~~33~~[30](#) (accounting records for clients' own accounts) ~~;~~ [will apply.](#) In the absence of instructions to the contrary, [rule 14\(1\) requires](#) any money withdrawn [must to](#) be paid into a client account ~~—see rule 15(4).~~

(iii)

[Clients' Rule 29\(17\)\(d\) requires clients'](#) instructions under rule ~~46~~[15](#)(1) [must to](#) be kept for at least six years ~~—see rule 32(9)(d).~~

~~(vi)~~

~~A payment on account of costs received from a person who is funding all or part of the solicitor's fees may be withheld from a client account on the instructions of that person given in accordance with rule 16(1) and (2).~~

~~(vii)~~

~~For payment of interest, see rule 24(6) and notes (ii) and (iii) to rule 24.~~

## **Rule ~~17~~-16 – Other client money withheld from a client account**

The following categories of *client money* may be withheld from a *client account*:

(a)

cash received and *without delay* paid in cash in the ordinary course of business to the *client* or, on the *client's* behalf, to a third party, or paid in cash in the execution of a *trust* to a beneficiary or third party;

(b)

a cheque or draft received and endorsed over in the ordinary course of business to the *client* or, on the *client's* behalf, to a third party, or *without delay* endorsed over in the execution of a *trust* to a beneficiary or third party;

(c)

money withheld from a *client account* on instructions under rule ~~16~~15;

~~(e)~~d)

money which, in accordance with a *trustee's* powers, is paid into or retained in an account of the *trustee* which is not a *client account* (for example, an account outside England and Wales), or properly retained in cash in the performance of the *trustee's* duties;

~~(d)~~e)

unpaid *professional disbursements* included in a payment of *costs* dealt with under rule ~~19~~17(1)(b);

~~(e)~~f)

(i)

advance payments from the Legal Services Commission withheld from *client account* (see rule ~~21~~19(1)(a)); and

(ii)

unpaid *professional disbursements* included in a payment of *costs* from the Legal Services Commission (see rule ~~21~~19(1)(b)); and

~~(f)~~g)

money withheld from a *client account* on the written authorisation of the *SRA*. The *SRA* may impose a condition that the ~~solicitor pay the~~ money *is paid* to a charity which gives an indemnity against any legitimate claim subsequently made for the sum received.

### **Notes**

### **Guidance notes**

(i)

~~"Without delay" is defined in rule 2(2)(z).~~

~~If money is withheld from a client account under rule 16(a) or (b), rule 29 requires records to be kept of the receipt of the money and the payment out.~~

(ii)

~~If money is withheld from a client account under rule 17(a) or (b) 16(d), rule 32 requires records to be kept of the receipt of the money and the payment out.~~

~~(iii)~~

~~If money is withheld from a client account under rule 17(ca), rule 32 29 requires a record to be kept of the receipt of the money, and requires the inclusion of the money in the monthly reconciliations. (Money held by a trustee jointly with another party is subject only to the limited requirements of rule 9.)~~

(iii)

It makes no difference, for the purpose of the rules, whether an endorsement is effected by signature in the normal way or by some other arrangement with the bank.

(iv)

The circumstances in which authorisation would be given under rule 17(f) 16(g) must be extremely rare. Applications for authorisation should be made to the Professional Ethics Guidance Team.

## **Rule 18 – [repealed]**

## **Rule 19 – 17 – Receipt and transfer of costs**

(1)

~~A solicitor who receives~~ When you receive money paid in full or part settlement of ~~the solicitor's~~ your bill (or other notification of costs) you must follow one of the following ~~four~~ five options:

(a)

**determine the composition of the payment *without delay*, and deal with the money accordingly:**

(i)

if the sum comprises *office money* ~~and/or~~ *out-of-scope money* only, it must be placed in an *office account*;

(ii)

if the sum comprises only *client money* ~~(for example an unpaid professional disbursement – see rule 2(2)(s), and note (v) to rule 2),~~ the entire sum must be placed in a *client account*;

(iii)

if the sum includes both *office money* and *client money* ~~(such as unpaid professional disbursements; purchase money; or payments in advance for court fees, stamp duty land tax, Land Registry registration fees or telegraphic transfer fees),~~ the solicitor must follow rule 20, ~~or~~ *client money* and *out-of-scope money*, ~~or~~ *client money, out-of-scope money* and *office money*, you must follow rule 18 (receipt of mixed payments); ~~or~~

(b)

ascertain that the payment comprises only *office money and/or out-of-scope money*, and/or *client money* in the form of *professional disbursements* incurred but not yet paid, and deal with the payment as follows:

(i)

place the entire sum in an *office account* at a *bank* or *building society* branch (or head office) in England and Wales; and

(ii)

by the end of the second working day following receipt, either pay any unpaid *professional disbursement*, or transfer a sum for its settlement to a *client account*; or

(c)

pay the entire sum into a *client account* (regardless of its composition), and transfer any *office money and/or out-of-scope money* out of the *client account* within 14 days of receipt; or

(d)

on receipt of costs from the Legal Services Commission, follow the option in rule [24+19 \(1\)\(b\)-\); or](#)

~~(2)~~

~~A solicitor who (e)~~

in relation to a cheque paid into a *client account* under rule 14(2)(e), transfer the costs element out of the *client account* within 14 days of receipt.

[\(2\)](#)

If you properly requires payment of ~~his or her~~your fees from money held for a *client* or *trust* in a *client account*, you must first give or send a bill of *costs*, or other written notification of the *costs* incurred, to the *client* or the paying party.

(3)

Once ~~the solicitor has~~you have complied with paragraph (2) above, the money earmarked for *costs* becomes *office money* and must be transferred out of the *client account* within 14 days.

(4)

A payment on account of *costs* generally in respect of those activities for which the practice is regulated by the SRA is *client money*, and must be held in a *client account* until ~~the solicitor has~~you have complied with paragraph (2) above. (For an exception in the case of legal aid payments, see rule [24+19 \(1\)\(a\)-\);](#). See also rule 18 on dealing with mixed payments of *client money* and/or *out-of-scope money* when part of a payment on account of *costs* relates to activities not regulated by the SRA.)

(5)

A payment for an *agreed fee* must be paid into an *office account*. An "agreed fee" is one that is fixed - not a *fee* that can be varied upwards, nor a *fee* that is dependent on the transaction being completed. An *agreed fee* must be evidenced in writing.

## Notes

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(f)

~~For~~(6)

You will not be in breach of rule 17 as a result of a misdirected electronic payment or other direct

transfer from a *client* or paying third party, provided:

(a)

appropriate systems are in place to ensure compliance;

(b)

appropriate instructions were given to the ~~definition~~*client* or paying third party;

(c)

the *client's* or paying third party's mistake is remedied promptly upon discovery; and ~~further examples of office~~

(d)

appropriate steps are taken to avoid future errors by the *client* or paying third party.

(7)

Costs transferred out of a *client account* in accordance with rule 17(2) and ~~client money, see rule 13(3)~~ must be specific sums relating to the bill or other written notification of costs, and covered by the amount held for the particular *client* or *trust*. Round sum withdrawals on account of costs are a breach of the rules.

(8)

In the case of a *trust* of which the only *trustee(s)* are within the *firm*, the paying party will be the *trustee(s)* themselves. You must keep the original bill or notification of costs on the file, in addition to complying with rule 29(15) (central record or file of copy bills, etc.).

(9)

Undrawn costs must not remain in a *client account* as a "cushion" against any future errors which could result in a shortage on that account, and cannot be regarded as available to set off against any general shortage on *client account*.

**Guidance notes :**

~~(i)~~

(i)

Money received for paid disbursements is office money.

Money received for unpaid professional disbursements is client money.

Money received for other unpaid disbursements for which ~~the solicitor has~~you have incurred a liability to the payee (for example, travel agents' charges, taxi fares, courier charges or Land Registry search fees, payable on credit) is office money.

Money received for disbursements anticipated but not yet incurred is a payment on account, and is therefore client money.

~~(ii)~~

The option in rule 4917(1)(a) allows ~~a solicitor~~you to place all payments in the correct account in the first instance. The option in rule 4917(1)(b) allows the prompt banking into an office account of an invoice payment when the only uncertainty is whether or not the payment includes some client money in the form of unpaid professional disbursements. The option in rule 4917(1)(c) allows the prompt banking into a client account of any invoice payment in advance of determining whether the payment is a mixture of office and client money (of whatever description), or client money and out-of-scope money, or client money, out-of-scope money and office money, or is only office money: and/or out-of-scope money.

~~(iii)~~

~~A solicitor who is~~ If you are not in a position to comply with the requirements of rule 49.17(1)(b), you cannot take advantage of that option.

(vii)

The option in rule 49.17(1)(b) cannot be used if the money received includes a payment on account - for example, a payment for a professional disbursement anticipated but not yet incurred.

(viii)

In order to be able to use the option in rule 49.17(1)(b) for electronic payments or other direct transfers from clients, ~~a solicitor~~ you may choose to establish a system whereby clients are given an office account number for payment of costs. The system must be capable of ensuring that, when invoices are sent to the client, no request is made for any client money, with the sole exception of money for professional disbursements already incurred but not yet paid.

(ix)

Rule 49.17(1)(c) allows clients to be given a single account number for making direct payments by electronic or other means - under this option, it has to be a client account.

(x)

~~A solicitor will not be in breach of rule 19 as a result of a misdirected electronic payment or other direct transfer, provided:~~

~~(A)~~

~~appropriate systems are in place to ensure compliance;~~

~~(B)~~

~~appropriate instructions were given to the client;~~

~~(C)~~

~~the client's mistake is remedied promptly upon discovery; and~~

~~(D)~~

~~appropriate steps are taken to avoid future errors by the client.~~

(xi)

"Properly" in rule 49.17(2) implies that the work has actually been done, whether at the end of the matter or at an interim stage, and that ~~the solicitor is entitled to appropriate the money for costs~~ you are entitled to appropriate the money for costs. For example, the costs set out in a completion statement in a conveyancing transaction will become due on completion and should be transferred out of the client account within 14 days of completion in accordance with rule 17(3). The requirement to transfer costs out of the client account within a set time is intended to prevent costs being left on client account to conceal a shortage.

(xii)

~~Costs transferred out of a client account in accordance with rule 19(2) and (3) must be specific sums relating to the bill or other written notification of costs, and covered by the amount held for the particular client or trust. Round sum withdrawals on account of costs will be a breach of the rules.~~

(xiii)

~~In the case of a trust of which the only trustee(s) are within the firm, the paying party will be the trustee(s) themselves. The solicitor must keep the original bill or notification of costs on the file; in addition to complying with rule 32(8) (central record or file of copy bills, etc.);~~

(xii)

~~Undrawn costs must not remain in a client account as a "cushion" against any future errors which could result in a shortage on that account, and cannot be regarded as available to set off against any general shortage on client account.~~

~~(xiii)~~ (vii)

Money is "earmarked" for costs under rule 17(2) and (3) when you decide to use funds already held in client account to settle your bill. If you wish to obtain the client's prior approval, you will need to agree the amount to be taken with your client before issuing the bill to avoid the possibility of failing to meet the 14 day time limit for making the transfer out of client account. If you wish to retain the funds, for example, as money on account of costs on another matter, you will need to ask the client to send the full amount in settlement of the bill. If, when submitting a bill, you fail to indicate whether you intend to take your costs from client account, or expect the client to make a payment, you will be regarded as having "earmarked" your costs.

(ix)

An amendment to section 69 of the Solicitors Act 1974 by the Legal Services Act 2007 permits a solicitor or recognised body to sue on a bill which has been signed electronically and which the client has agreed can be delivered electronically.

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(x)

The rules do not require a bill of costs for an agreed fee, although ~~a solicitor's~~your VAT position may mean that in practice a bill is needed. If there is no bill, the written evidence of the agreement must be filed as a written notification of costs under rule ~~32(829(15))~~(b).

(xi)

The bill of an MDP may be in respect of costs for work of the SRA-regulated part of the practice, and also for work that falls outside the scope of SRA regulation. Money received in respect of the non-SRA regulated work, including money for disbursements, is out-of-scope money and must be dealt with in accordance with rule 17.

(xii)

See Chapter 1, indicative behaviour 1.21 of the SRA Code of Conduct in relation to ensuring that disbursements included in a bill reflect the actual amount spent or to be spent.

## **Rule ~~20-18~~ – Receipt of mixed payments**

(1)

A "mixed payment" is one which includes *client money* as well as *office money* ~~and/or out-of-scope money~~.

(2)

A *mixed payment* must either:

(a)

be split between a *client account* and *office account* as appropriate; or

(b)

be placed *without delay* in a *client account*.

(3)

If the entire payment is placed in a *client account*, all *office money* ~~and/or out-of-scope money~~ must be transferred out of the *client account* within 14 days of receipt.

#### [4 Guidance notes](#)

o

(i)

See rule [49-17](#)(1)(b) and (c) for additional ways of dealing with (among other things) mixed payments received in response to a bill or other notification of costs.

(5i)

See rule [21-19](#)(1)(b) for (among other things) mixed payments received from the Legal Services Commission.

#### Note

~~"Without delay" is defined in rule 2(2)(z):~~

~~(iii)~~

~~[Some out-of-scope money may be subject to the rules of other regulators which may require an earlier withdrawal from the client account operated under these rules.](#)~~

### Rule ~~21-19~~ – Treatment of payments to legal aid practitioners

#### Payments from the Legal Services Commission

(1)

Two special dispensations apply to payments (other than *regular payments*) from the Legal Services Commission:

(a)

An advance payment ~~in anticipation of work to be carried out, although,~~ [which may include](#) *client money*, may be placed in an *office account*, provided the Commission instructs in writing that this may be done.

(b)

A payment for *costs* (interim and/or final) may be paid into an *office account* at a *bank* or *building society* branch (or head office) in England and Wales, regardless of whether it consists wholly of *office money*, or is mixed with *client money* in the form of:

(i)

advance payments for *fees* or *disbursements*; or

(ii)

money for unpaid *professional disbursements*;

provided all money for payment of *disbursements* is transferred to a *client account* (or the *disbursements* paid) within 14 days of receipt.

(2)

The following provisions apply to *regular payments* from the Legal Services Commission:

(a)

"*Regular payments*" (which are *office money*) are:

(i)



standard monthly payments paid by the Commission under the civil legal aid contracting arrangements;

(ii)

[standard](#) monthly payments paid by the Commission under the criminal legal aid contracting arrangements; and

(iii)

any other payments for work done or to be done received from the Commission under an arrangement for payments on a regular basis.

(b)

*Regular payments* must be paid into an *office account* at a *bank* or *building society* branch (or head office) in England and Wales.

(c)

A [solicitor](#) [You](#) must within 28 days of submitting a report to the Commission, notifying completion of a matter, either:

(i)

pay any unpaid *professional disbursement(s)*, or

(ii)

transfer to a *client account* a sum equivalent to the amount of any unpaid *professional disbursement(s)*,

relating to that matter.

(d)

In cases where the Commission permits [solicitors](#) [you](#) to submit reports at various stages during a matter rather than only at the end of a matter, the requirement in paragraph (c) above applies to any unpaid *professional disbursement(s)* included in each report so submitted.

### Payments from a third party

(3)

If the Legal Services Commission has paid any *costs* to [a solicitor](#) [you](#) or a previously nominated [solicitor](#) [firm](#) in a matter (advice and assistance or legal help *costs*, advance payments or interim *costs*), or has paid *professional disbursements* direct, and *costs* are subsequently settled by a third party:

(a)

The entire third party payment must be paid into a *client account*.

(b)

A sum representing the payments made by the Commission must be retained in the *client account*.

(c)

Any balance belonging to [the solicitor](#) [you](#) must be transferred to an *office account* within 14 days of [the solicitor](#) [your](#) sending a report to the Commission containing details of the third party payment.

(d)

The sum retained in the *client account* as representing payments made by the Commission must be:

(i)

**either** recorded in the individual *client's* ledger account, and identified as the Commission's money;

(ii)

**or** recorded in a ledger account in the Commission's name, and identified by reference to the *client* or matter;

**and** kept in the *client account* until notification from the Commission that it has recouped an equivalent sum from subsequent payments due to ~~the solicitor~~ you. The retained sum must be transferred to an *office account* within 14 days of notification.

## Notes

(4)

Any part of a third party payment relating to unpaid professional disbursements or outstanding costs of the client's previous firm is client money, and must be kept in a client account until you pay the professional disbursement or outstanding costs.

## Guidance notes

(i)

This rule deals with matters which specifically affect legal aid practitioners. It should not be read in isolation from the remainder of the rules which apply to ~~all solicitors~~ everyone, including legal aid practitioners.

(ii)

~~Franchised~~ In cases carried out under public funding certificates, firms can apply for advance payments ("Payments on Account" under the ~~issue of a certificate~~ Standard Civil Contract). The Legal Services Commission has ~~issued instructions~~ agreed that these payments may be placed in office account. ~~For regular payments, see notes (vii)-(x) below.~~

(iii)

Rule ~~24~~ 19(1)(b) deals with the specific problems of legal aid practitioners by allowing a mixed or indeterminate payment of costs (or even a payment consisting entirely of unpaid professional disbursements) to be paid into an office account, which for the purpose of rule ~~24~~ 19(1)(b) must be an account at a bank or building society. However, it is always open to ~~the solicitor~~ you to comply with rule ~~19~~ 17(1)(a) to (c), which are the options for ~~all solicitors~~ everyone for the receipt of costs. For regular payments, see notes ~~(v) - (vii)~~ (v) - (x) below.

(iv)

~~Solicitors~~ Firms are required by the Legal Services Commission to report promptly to the Commission on receipt of costs from a third party. It is advisable to keep a copy of the report on the file as proof of compliance with the Commission's requirements, as well as to demonstrate compliance with the rule.

(v)

~~A third party payment may also include unpaid professional disbursements or outstanding costs of the client's previous solicitor. This part of the payment is client money and must be kept in a client account until the solicitor pays the professional disbursement or outstanding costs.~~

(vi)

~~In rule 24, and elsewhere in the rules, references to the Legal Services Commission are to be read, where appropriate, as including the Legal Aid Board.~~

(vii)

~~Regular payments are office money and are defined as such in the rules (rule 13, note (xi)(e)). They are neither advance payments nor payments of costs for the purposes of the rules. Regular payments must be paid into an office account which for the purpose of rule 21(2)(b) must be an account at a bank or building society.~~

~~(viii)~~

~~Firms in receipt of regular payments must deal with unpaid professional disbursements in the way prescribed by rule 21 Rule 19(2)(c). The rule~~ permits a ~~solicitor who firm, which~~ is required to transfer an amount to cover unpaid professional disbursements into a client account, to make the transfer from ~~his or her its~~ own resources if the regular payments are insufficient.

~~(xvi)~~

The 28 day time limit for paying, or transferring an amount to a client account for, unpaid professional disbursements is for the purposes of these rules only. An earlier deadline may be imposed by contract with the Commission or with counsel, agents or experts. On the other hand, ~~a solicitor you~~ may have agreed to pay later than 28 days from the submission of the report notifying completion of a matter, in which case rule 24 19(2)(c) will require a transfer of the appropriate amount to a client account (but not payment) within 28 days. ~~Solicitors are reminded of their professional obligation to pay the fees of foreign lawyers (see rule 10.07 of the Solicitors' Code of Conduct).~~

~~(xvii)~~

For the appropriate accounting records for regular payments, see ~~note (v) to rule 32-29(7).~~

## Rule ~~22-20~~ – Withdrawals from a client account

(1)

*Client money* may only be withdrawn from a *client account* when it is:

(a)

properly required for a payment to or on behalf of the *client* (or other person on whose behalf the money is being held);

~~(aa)~~ b)

properly required for a payment in the execution of a particular *trust*, including the purchase of an investment (other than money) in accordance with the *trustee's* powers;

~~(bc)~~

properly required for payment of a *disbursement* on behalf of the *client* or *trust*;

~~(ed)~~

properly required in full or partial reimbursement of money spent by ~~the solicitor you~~ on behalf of the *client* or *trust*;

~~(de)~~

transferred to another *client account*;

~~(ef)~~

withdrawn on the *client's* instructions, provided the instructions are for the *client's* convenience and are given in writing, or are given by other means and confirmed by ~~the solicitor you~~ to the *client* in writing;

~~(eag)~~

transferred to an account other than a *client account* (such as an account outside England and Wales), or retained in cash, by a *trustee* in the proper performance of his or her duties;

(fh)

a refund to ~~the solicitor~~you of an advance no longer required to fund a payment on behalf of a *client* or *trust* (see rule ~~15~~14(2)(b));

(gi)

money which has been paid into the account in breach of the rules (for example, money paid into the wrong *separate designated client account*) - see paragraph (45) below;

~~(gai)~~

money not covered by (a) to (gi) above, where ~~the solicitor complies~~you comply with the conditions set out in rule ~~22~~2A20(2); or

(hk)

money not covered by (a) to (gi) above, withdrawn from the account on the written authorisation of the SRA. The SRA may impose a condition that ~~the solicitor~~you pay the money to a charity which gives an indemnity against any legitimate claim subsequently made for the sum received.

(2)

~~[deleted]~~

~~(2A)~~

A withdrawal of *client money* under paragraph (1)(~~gai~~) above may be made only where the amount ~~withdrawn~~held does not exceed £50 in relation to any one individual *client* or *trust* matter and ~~the solicitor~~you.

(a)

establishes the identity of the owner of the money, or makes reasonable attempts to do so;

(b)

makes adequate attempts to ascertain the proper destination of the money, and to return it to the rightful owner, unless the reasonable costs of doing so are likely to be excessive in relation to the amount held;

(c)

pays the funds to a charity;

(d)

records the steps taken in accordance with paragraphs (a)-(c) above and retains those records, together with all relevant documentation (including receipts from the charity), in accordance with rule ~~32~~8A29(16) and (917)(a); and

(e)

keeps a central register in accordance with rule ~~32~~13A29(22).

(3)

*Office money* may only be withdrawn from a *client account* when it is:

(a)

money properly paid into the account to open or maintain it under rule ~~15~~14(2)(a);

(b)

properly required for payment of ~~the solicitor's~~your costs under rule ~~19~~17(2) and (3);

(c)

the whole or part of a payment into a *client account* under rule ~~19~~17(1)(c);

(d)

part of a *mixed payment* placed in a *client account* under rule ~~20~~18(2)(b); or

(e)

money which has been paid into a *client account* in breach of the rules (for example, *interest* wrongly credited to a *general client account*) - see paragraph (45) below.

(4)

[Out-of-scope money must be withdrawn from a client account in accordance with rules 17\(1\)\(a\), 17\(1\)\(c\) and 18 as appropriate.](#)

(5)

Money which has been paid into a *client account* in breach of the rules must be withdrawn from the *client account* promptly upon discovery.

(56)

Money withdrawn in relation to a particular *client* or *trust* from a *general client account* must not exceed the money held on behalf of that *client* or *trust* in all ~~the solicitor's~~ your *general client accounts* (except as provided in paragraph (67) below).

(67)

~~A solicitor~~ You may make a payment in respect of a particular *client* or *trust* out of a *general client account*, even if no money (or insufficient money) is held for that *client* or *trust* in ~~the solicitor's~~ your *general client account(s)*, provided:

(a)

sufficient money is held for that *client* or *trust* in a *separate designated client account*; and

(b)

the appropriate transfer from the *separate designated client account* to a *general client account* is made immediately.

(78)

Money held for a *client* or *trust* in a *separate designated client account* must not be used for payments for another *client* or *trust*.

(89)

A *client account* must not be overdrawn, except in the following circumstances:

(a)

A *separate designated client account* ~~of solicitor-operated in your capacity as trustee(s)~~ can be overdrawn if ~~the trustee(s)~~ you make payments on behalf of the *trust* (for example, inheritance tax) before realising sufficient assets to cover the payments.

(b)

If a *sole practitioner* dies and his or her *client accounts* are frozen, ~~the solicitor-manager can operate overdrawn client accounts which are overdrawn~~ can be operated in accordance with the rules to the extent of the money held in the frozen accounts.

## Notes

### [Guidance notes](#)

Withdrawals in favour of ~~solicitor~~ firm, and for payment of disbursements

(i)

Disbursements to be paid direct from a client account, or already paid out of ~~the solicitor's~~ your own money, can be withdrawn under rule 2220(1)(bc) or ~~(c) (or rule 22(2)(b) or (c))~~ d) in advance of preparing a bill of costs. Money to be withdrawn from a client account for the payment of costs (fees and disbursements) under rule 4917(2) and (3) becomes office money and is dealt with under rule 2220(3) (b).

(ii)

Money is "spent" under rule 2220(1)~~(c) (or rule 22(2)(c))~~ d) at the time when ~~the solicitor despatches~~ you ~~despatch~~ a cheque, unless the cheque is to be held to ~~the solicitor's~~ your order. Money is also regarded as "spent" by the use of a credit account, so that, for example, search fees, taxi fares and courier charges incurred in this way may be transferred to ~~the solicitor's~~ your office account.

(iii)

See rule 23321(4) for the way in which a withdrawal from a client account in ~~your~~ your favour ~~of the solicitor~~ must be effected.

#### **Cheques payable to banks, building societies, etc.**

(iv)

In order to protect client money against misappropriation when cheques are made payable to banks, building societies or other large institutions, it is strongly recommended that ~~solicitors~~ you add the name and number of the account after the payee's name.

#### **Drawing against uncleared cheques**

(v)

~~A solicitor~~ You should use discretion in drawing against a cheque received from or on behalf of a client before it has been cleared. If the cheque is not met, other clients' money will have been used to make the payment in breach of the rules: ~~S~~(see rule 7 (duty to remedy breaches): ~~A solicitor~~)). You may be able to avoid a breach of the rules by instructing the bank or building society to charge all unpaid credits to ~~the solicitor's~~ your office or personal account.

#### **Non-receipt of ~~telegraphic transfer~~ electronic payments**

(vi)

If ~~a solicitor acting for a client withdraws~~ you ~~withdraw~~ money from a general client account on the strength of information that ~~a telegraphic transfer~~ an ~~electronic payment~~ is on its way, but the ~~telegraphic transfer~~ ~~electronic payment~~ does not arrive, ~~the solicitor~~ you will have used other clients' money in breach of the rules. See also rule 7 (duty to remedy breaches).

#### **Withdrawals on instructions**

(vii)

One of the reasons why a client might authorise a withdrawal under rule 2220(1)(ef) might be to have the money transferred to a type of account other than a client account. If so, the requirements of rule 4615 must be complied with.

#### **Withdrawals where the rightful owner cannot be traced, on the SRA's<sup>2</sup> authorisation and without SRA authorisation**

(viii)

Applications for authorisation under rule 2220(1)(hk) should be made to the Professional Ethics Guidance Team, who can advise on the criteria which must normally be met for authorisation to be given. ~~Solicitors~~ You may under rule 2220(1)(gai) pay to a charity sums of £50 or less per client or trust matter without the SRA's<sup>2</sup> authorisation, provided the safeguards set out in rule 222A20(2) are followed. ~~Solicitors~~ You may, however, if ~~they~~ you prefer, apply to the SRA for prior authorisation in all cases.

~~(viii)~~ ix)

~~Solicitors~~ You will need to apply to the SRA, whatever the amount involved, if the money to be withdrawn is not to be paid to a charity. This situation might arise, for example, if ~~a solicitor has you have~~ been unable to deliver a bill of costs because the client has become untraceable and so cannot make a transfer from client account to office account in accordance with rule ~~19~~ 17(2)-(3).

~~(k)~~ x)

After a practice has been wound up, ~~bank surplus balances are~~ sometimes ~~discover unclaimed balances~~ ~~discovered~~ in an old client account. This money remains subject to rule ~~22~~ 20 and rule ~~23~~ 21. An application can be made to the SRA under rule ~~22~~ 20(1)(~~h~~)-~~k~~).

~~(x)~~

~~See rule 15(3) and notes (x)-(xi) to rule 15 on the return of client money when there is no longer any reason for its continued retention. See also rule 15(4) on reporting to the client when client money is retained at the end of a matter.~~

## Rule ~~23~~ 21 – Method of and authority for withdrawals from client account

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(1)

A withdrawal from a *client account* may be made only after a specific authority in respect of that withdrawal has been signed by ~~at least one of the following: an appropriate person or persons in accordance with the firm's procedures for signing on client account. An authority for withdrawals from client account may be signed electronically, subject to appropriate safeguards and controls.~~

~~(a)~~

~~a solicitor who holds a current practising certificate or a registered European lawyer;~~

~~(b)~~

~~a Fellow of the Institute of Legal Executives or licensed conveyancer who is a manager of the practice, where the practice is a recognised body;~~

~~(c)~~

~~a Fellow of the Institute of Legal Executives or licensed conveyancer who is an employee of the practice, where the practice is a recognised body or recognised sole practitioner;~~

~~(d)~~

~~a registered foreign lawyer who is a manager of the practice, where the practice is a recognised body; or~~

~~(e)~~

~~any other individual who is a manager of the practice.~~

~~(2)~~

~~(2)~~

~~Firms must put in place appropriate systems and procedures governing withdrawals from client account, including who should be permitted by the firm to sign on client account. A non-manager owner or a non-employee owner of a licensed body is not an appropriate person to be a signatory on client account and must not be permitted by the firm to act in this way.~~

~~(3)~~

~~There is no need to comply with paragraph (1) above when transferring money from one general client account to another general client account at the same bank or building society.~~

~~(3)~~ 4)

A withdrawal from a *client account* in your favour ~~of the solicitor or the practice~~ must be either by way of a cheque ~~to the solicitor or practice~~, or by way of a transfer to the *office account* or to ~~the solicitor's~~your personal account. The withdrawal must not be made in cash.

## Notes

~~(a)~~

~~Reference should also be made to paragraph 4.1.A of the Guidelines for accounting procedures and systems at Appendix 3.~~

~~(f)~~

## Guidance notes

(i)

A firm should select suitable people to authorise withdrawals from the client account. Firms will wish to consider whether any employee should be able to sign on client account, and whether signing rights should be given to all managers of the practice or limited to those managers directly involved in providing legal services. Someone who has no day-to-day involvement in the business of the practice is unlikely to be regarded as a suitable signatory because of the lack of proximity to client matters. An appropriate understanding of the requirements of the rules is essential – see paragraph 4.2 of the Guidelines for accounting procedures and systems at Appendix 3.

(ii)

Instructions to the bank or building society to withdraw money from a client account (rule ~~23~~21(1)) may be given over the telephone, provided a specific authority has been signed in accordance with this rule before the instructions are given. ~~If a solicitor decides to take advantage of this arrangement, it is~~ of paramount importance that ~~the scheme has~~there are appropriate in-built safeguards, such as passwords, to give the greatest protection possible for client money. Suitable safeguards will also be needed for practices which operate a CHAPS terminal: or other form of electronic instruction for payment.

(iii)

In the case of a withdrawal by cheque, the specific authority (rule ~~23~~21(1)) is usually a signature on the cheque itself. Signing a blank cheque is not a specific authority.

~~(iii)~~ iv)

A withdrawal from a client account by way of a private loan from one client to another can only be made if the provisions of rule ~~30~~27(2) are complied with.

~~(iv)~~

~~It is advisable that a withdrawal for payment to or on behalf of a client (or on behalf of a trust) be made by way of a crossed cheque whenever possible.~~

(v)

~~Solicitor-trustees who~~ lf, in your capacity as trustee, you instruct an outside administrator to run, or continue to run, on a day-to-day basis, the business or property portfolio of an estate or trust, you will not need to comply with rule ~~23~~21(1), provided all cheques are retained in accordance with rule ~~32~~40~~29~~18. (See also rule ~~32~~29, note (ii)(d).)

~~(vi)~~

~~Where the sum due to the client is sufficiently large, the solicitor should consider whether it should not~~



~~appropriately be transferred to the client by direct bank transfer. For doing this, the solicitor would be entitled to make a modest administrative charge in addition to any charge made by the bank in connection with the transfer.~~

#### Land Registry application fees paid by "direct debit"

(vi)

~~Solicitors~~ You may set up a "direct debit" system of payment for Land Registry application fees on either the office account or a client account. If a direct debit payment is to be taken from a client account for the payment of Land Registry application fees, ~~the a~~ signature ~~of a person, within one of the categories listed in, which complies with the firm's systems and procedures set up under~~ rule ~~23(1);21~~, on the application for registration will constitute the specific authority required by rule ~~2321~~(1). As with any other payment method, care must be taken to ensure that sufficient uncommitted funds are held in the client account for the particular client before signing the authority. ~~Solicitors~~ You should also bear in mind that should the Land Registry take an incorrect amount in error from a firm's client account (for example, a duplicate payment), the firm will be in breach of the rules if other clients' money has been used as a result.

(vii)

If ~~a solicitor fails~~ you fail to specify the correct Land Registry fee on the application for registration (either by specifying a lesser amount than that actually due, or failing to specify any fee at all), ~~the solicitor~~ you will be in breach of rule ~~2321~~(1) if the Land Registry takes a sum from ~~the solicitor's~~ your client account greater than that specified on the application, without a specific authority for the revised sum being in place as required by rule ~~2321~~. In order that ~~the solicitor~~ you can comply with the rules, the Land Registry will need to contact ~~the solicitor~~ you before taking the revised amount, so that the necessary authority may be signed prior to the revised amount being taken.

~~(viii)~~

Where the Land Registry contacts ~~the solicitor~~ you by telephone, and ~~the solicitor wishes~~ you wish to authorise an immediate payment by direct debit over the telephone, ~~the solicitor~~ you will first need to check that there is sufficient money held in client account for the client and, if there is, that it is not committed to some other purpose.

~~(ix)~~ ix)

The specific authority required by rule ~~2321~~(1) can be signed after the telephone call has ended but must be signed before the additional payment (or correct full payment) is taken by the Land Registry. It is advisable to sign the authority promptly and, in any event, on the same day as the telephone instruction is given to the Land Registry to take the additional (or correct full) amount. If ~~the solicitor decides~~ you decide to fund any extra amount from the office account, the transfer of office money to the client account would need to be made, preferably on the same day but, in any event, before the direct debit is taken. ~~The solicitor's~~ Your internal procedures would need to make it clear ~~to unqualified staff~~ how to deal with such situations; for example, who ~~they~~ should ~~consult~~ be consulted before a direct debit for an amount other than that specified on the application can be authorised, and the mechanism for ensuring the new authority is signed by a person ~~within one of the categories listed in rule 23(1); permitted by the firm to sign on client account.~~

~~(x)~~ x)

~~A solicitor~~ You may decide to set up a direct debit system of payment on the office account because, for example, ~~he or she does~~ you do not wish to allow the Land Registry to have access to the firm's client account. Provided ~~the solicitor is~~ you are in funds, a transfer from the client account to the office account may be made under rule ~~2220~~(1)(ed) to reimburse ~~the solicitor~~ you as soon as the direct debit has been taken.

(xi)

Variable "direct debit" payments to the Land Registry, as described in paragraphs (vi)-(x) above, are not direct debits in the usual sense as each payment is authorised and confirmed individually. A traditional

[direct debit or standing order should not be set up on a client account because of the need for a specific authority for each withdrawal.](#)

## Part C – Interest

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### Rule **2422** – When interest must be paid

(1)

When ~~a solicitor holds you hold~~ money in a ~~separate designated~~ client account for a client, or for a person funding all or part of ~~the solicitor's your~~ fees, or for a trust, ~~the solicitor you~~ must account to the client or that person or trust for ~~all interest earned on the account.~~

~~(2)~~

~~When a solicitor holds money when it is fair and reasonable to do so in a general client account for a client, or for a person funding all or part of the solicitor's fees, or for a trust (or all the circumstances. (This also applies if money should have been held for a client or such other person or trust in a client account but was not), the solicitor must account to the client or that person or trust for a sum in lieu of interest calculated . It also applies to money held in an account in accordance with rule 25:15(1)(a) (or which should have been held in such an account), or rule 16(d).)~~

~~(3)~~

~~A solicitor is You are not required to pay a sum in lieu of interest under paragraph (2) above.:~~

~~(a)~~

~~if the amount calculated is £20 or less;~~

~~(b)~~

~~(i)~~

~~if the solicitor holds a sum of money not exceeding the amount shown in the left hand column below for a time not exceeding the period indicated in the right hand column:~~

<del>Amount</del>	<del>Time</del>
<del>£1,000</del>	<del>8 weeks</del>
<del>£2,000</del>	<del>4 weeks</del>
<del>£10,000</del>	<del>2 weeks</del>
<del>£20,000</del>	<del>1 week</del>

~~(ii)~~

~~if the solicitor holds a sum of money exceeding £20,000 for one week or less, unless it is fair and reasonable to account for a sum in lieu of interest having regard to all the circumstances;~~

~~(e)~~

~~on money held for the payment of ~~counsel's fees~~ a professional disbursement, once counsel etc. has requested a delay in settlement;~~

~~(db)~~

~~on money held for the Legal Services Commission;~~

~~(ec)~~

on an advance from ~~the solicitor~~you under rule ~~15~~14(2)(b) to fund a payment on behalf of the *client* or *trust* in excess of funds held for that *client* or *trust*; or

(fd)

if there is an agreement to contract out of the provisions of this rule under rule ~~27~~25.

(43)

~~If sums of money are held intermittently during the course of acting, and the sum in lieu of interest calculated under rule 25 for any period is £20 or less, a sum in lieu of interest should still be paid if it is fair and reasonable in the circumstances to aggregate the sums in respect of the individual periods.~~

(5)

~~If money is held for a continuous period, and for part of that period it is held in a separate designated client account, the sum in lieu of interest for the rest of the period when the money was held in a general client account may as a result be £20 or less. A sum in lieu of interest should, however, be paid if it is fair and reasonable in the circumstances to do so.~~

(6)

(a)

~~If a solicitor holds money for a client (or person funding all or part of the solicitor's fees) in an account opened on the instructions of the client (or that person) under rule 16(1)(a), the solicitor must account to the client (or that person) for all interest earned on the account.~~

(aa)

~~If a solicitor-trustee, whether or not in strict accordance with rule 17(ca), holds money for a trust in an account of the solicitor-trustee which is not a client account, the solicitor-trustee must account to the trust for all interest earned on the account.~~

(b)

~~If a solicitor has failed to comply with instructions to open an account under rule 16(1)(a), the solicitor must account to the client (or the person funding all or part of the solicitor's fees) for a sum in lieu of any net loss of interest suffered by the client (or that person) as a result.~~

(7)

~~[deleted]~~

Notes You must have a written policy on the payment of *interest*, which seeks to provide a fair outcome. The terms of the policy must be drawn to the attention of the *client* at the outset of a retainer, unless it is inappropriate to do so in the circumstances.

## Guidance notes

### o Requirement to pay interest

(i)

The whole Money is normally held for a client as a necessary, but incidental, part of the *retainer*, to facilitate the carrying out of the client's instructions. The main purpose of the rules is to keep that money safe and available for the purpose for which it was provided. The rules also seek to provide for the payment of a fair sum of interest, when appropriate, which is unlikely to be as high as that obtainable by the client depositing those funds.

(ii)

An outcomes-focused approach has been adopted in this area, allowing firms the flexibility to set their own interest policies in order to achieve a fair outcome for both the client and the firm.

(iii)

In addition to your obligation under rule 22(3), it is good practice to explain your interest arrangements to clients. These will usually be based on client money being held in an instant access account to facilitate a transaction. Clients are unlikely to receive as much interest as might have been obtained had they held and invested the money themselves. A failure to explain the firm's policy on interest may lead to unrealistic expectations and, possibly, a complaint to the Legal Ombudsman.

(iv)

The Legal Services Act 2007 has abolished the distinction in the Solicitors Act 1974 between interest earned on client money held in a general client account or a separate designated client account ~~must be credited to the account. However, the obligation to pay a sum in lieu of interest for amounts held in a general client account is subject to the de minimis provisions in rule 24(3)(a) and (b).~~ Section 33(3) of the Solicitors Act 1974 ~~permits solicitors to retain any~~ and therefore interest earned on ~~client money held in~~ the latter type of account is to be accounted for like interest on any other client money on a "fair and reasonable" basis. In practice, a firm which wishes to retain any part of the interest earned on client money will need to hold that money in a general client account ~~over and above that which they have to pay under these rules. (See also note~~ and continue to have interest paid to the office account (see rule 12(7)(b)). The tax regime still requires banks to deduct tax at source from interest earned on separate designated client accounts based on the tax status of the individual clients, making it impracticable to retain any part of the interest earned on that type of account.

(v)

Some firms may wish to apply a *de minimis* by reference to the amount held and period for which it was held, for example, providing that no interest is payable if the amount calculated on the balance held is £20 or less. Any *de minimis* will need to be set at a reasonable level and regularly reviewed in the light of current interest rates.

(vi)

It is likely to be appropriate for firms to account for all interest earned in some circumstances, for example, where substantial sums of money are held for lengthy periods of time.

(vii)

If sums of money are held in relation to separate matters for the same client, it is normally appropriate to treat the money relating to the different matters separately but there may be cases when the matters are so closely related that they ought to be considered together, for example, when you are acting for a client in connection with numerous debt collection matters. Similarly, it may be fair and reasonable in the circumstances to aggregate sums of money held intermittently during the course of acting for a client.

(viii) ~~rule 15 on aggregation of accounts.)~~

(ii)

There is no requirement to pay ~~a sum in lieu of~~ interest on money held on instructions under rule ~~16~~15(1)(a) in a manner which attracts no interest.

(iii)

Accounts opened in the client's name under rule ~~16~~15(1)(b) (whether operated by ~~the solicitor~~you or not) are not subject to rule ~~24~~22, as the money is not held by ~~the solicitor~~you. All interest earned belongs to the client. The same applies to any account in the client's own name operated by ~~the solicitor~~you as signatory under rule ~~14~~10.

(iv)

~~Money subject to a trust is client money (see rule 13), and rule 24 therefore applies to it.~~

o— **De minimis provisions (rule 24(3)(a) and (b))**

(v)

The sum in lieu of interest is calculated over the whole period for which money is held (see rule 25(2)); if this sum is £20 or less, the solicitor need not account to the client, other person or trust. If sums of money are held in relation to separate matters for the same client, other person or trust, it is normally appropriate to treat the money relating to the different matters separately, so that, if any of the sums calculated is £20 or less, no sum in lieu of interest is payable. There will, however, be cases when the matters are so closely related that they ought to be considered together — for example, when a solicitor is acting for a client in connection with numerous debt collection matters.

o — **Administrative charges**

(vi)

It is not improper to charge a reasonable fee for the handling of client money when the service provided is out of the ordinary:

o **Interest policy (rule 22(3))**

(x)

It is important that your clients should be aware of the terms of your interest policy. This should normally be covered at the outset of a retainer, although it may be unnecessary where you have acted for the client previously. It is open to you and your client to agree that interest will be dealt with in a different way (see rule 25).

o **Unpresented cheques**

(vii x)

A client may fail to present a cheque to his or her bank for payment. Whether or not it is reasonable to recalculate the amount due will depend on all the circumstances of the case. A reasonable charge may be made for any extra work carried out if ~~the solicitor is~~ you are legally entitled to make such a charge.

o **Liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes**

(viii xii)

Under rule 98, Part C of the rules does not normally apply to ~~solicitors who are~~ liquidators, etc. ~~Solicitors~~ You must comply with the appropriate statutory rules and regulations, and rules 98(3) and (4) as appropriate.

o **Joint accounts**

(ix xiii)

Under rule ~~109~~ 99, Part C of the rules does not apply to joint accounts. If ~~a solicitor holds~~ you hold money jointly with a client, interest earned on the account will be for the benefit of the client unless otherwise agreed. If money is held jointly with another ~~solicitors'~~ practice, the allocation of interest earned will depend on the agreement reached.

(x)

[deleted]

o **Failure to pay interest**

(x xiv)

A client, including one of joint clients, or a person funding all or part of ~~a solicitor's~~ your fees, may complain to the Legal ~~Complaints Service~~ Ombudsman if he or she believes that interest, ~~or a sum in lieu of interest~~, was due and has not been paid, or that the amount paid was insufficient. It is advisable for

the client (or other person) to try to resolve the matter with ~~the solicitor~~[you](#) before approaching the Legal ~~Complaints Service~~[Ombudsman](#).

o **Role of the reporting accountant**

(xv)

Paragraph 2.8 of the Guidelines for accounting procedures and systems at Appendix 3 states the need for policies and systems in relation to the payment of interest.

(xvi)

The reporting accountant does not check for compliance with the interest provisions but has a duty under rule 40 to report any substantial departures from the Guidelines discovered whilst carrying out work in preparation of the accountant's report. The accountant is not, however, required to determine the adequacy of a firm's interest policy (see rule 41(d)).

## **Rule ~~25~~[23](#) – Amount of interest**

~~(1)~~

~~Solicitors must aim to obtain a reasonable rate of interest on money held in a separate designated client account, and must account for a fair sum in lieu of interest on money held in a general client account (or on money which should have been held in a client account but was not). The sum in lieu of interest need not necessarily reflect the highest rate of interest obtainable but it is not acceptable to look only at the lowest rate of interest obtainable.~~

~~(2)~~

~~The sum in lieu of interest for money held in a general client account (or on money which should have been held in a client account but was not) **must be calculated**~~

~~**on the balance or balances held over the whole period for which cleared funds are held**~~

~~at a rate not less than (whichever is the higher of) the following~~ The interest paid must be a fair and reasonable sum calculated over the whole period for which the money is held.

### Guidance notes

(i)

~~the rate of interest payable on a separate designated client account for the amount or amounts held; or~~

(ii)

~~the rate of interest payable on the relevant amount or amounts if placed on deposit on similar terms by a member of the business community~~

~~**at the bank or building society where the money is held.**~~

~~(3)~~

~~If the money, or part of it, is held successively or concurrently in accounts at different banks or building societies, the relevant bank or building society for the purpose of paragraph (2) will be whichever of those banks or building societies offered the best rate on the date when the money was first held.~~

~~(4)~~

~~If, contrary to the rules, the money held for a client or other person is not held in a client account, the relevant bank or building society for the purpose of paragraph (2) will be a clearing bank or building society nominated by the client (or other person).~~

~~(5)~~

~~If, contrary to the rules, money held by a solicitor-trustee is not held in a client account, the solicitor-trustee has a particular obligation to comply with the requirement in paragraph (1) to account for a fair sum in lieu of interest.~~

## Notes

\_\_\_\_\_

(i)

~~The sum in lieu of interest has to be calculated over the whole period for which money is held – see rule 25(2). The solicitor~~ You will usually account to the client [for interest](#) at the conclusion of the client's matter, but might in some cases consider it appropriate to account to the client at intervals throughout.

(ii)

[The sum paid by way of interest need not necessarily reflect the highest rate of interest obtainable but it is unlikely to be appropriate to look only at the lowest rate of interest obtainable. A firm's policy on the calculation of interest will need to take into account factors such as:](#)

[the amount held;](#)

[the length of time for which cleared funds were held;](#)

[the need for instant access to the funds;](#)

[the rate of interest payable on the amount held in an instant access account at the bank or building society where the client account is kept;](#)

[the practice of the bank or building society where the client account is kept in relation to how often interest is compounded.](#)

(iii)

[A firm needs to have regard to the effect of the overall banking arrangements negotiated between it and the bank, on interest rates payable on individual balances. A fair sum of interest is unlikely to be achieved by applying interest rates which are set at an artificially low level to reflect, for example, more favourable terms in relation to the firm's office account.](#)

(iv)

[A firm might decide to apply a fixed rate of interest by reference, for example, to the base rate. In setting that rate, the firm would need to consider \(and regularly review\) the level of interest it actually receives on its client accounts, but also take into account its overall banking arrangements so far as they affect the rates received.](#)

(v)

When looking at the period over which ~~the sum in lieu of~~ interest must be calculated, it will usually be unnecessary to check on actual clearance dates. When money is received by cheque and paid out by cheque, the normal clearance periods will usually cancel each other out, so that it will be satisfactory to look at the period between the dates when the incoming cheque is banked and the outgoing cheque is drawn.

(~~iii~~vi)

Different considerations apply when payments in and out are not both made by cheque. So, for example, the relevant periods would normally be:

from the date when ~~a solicitor receives~~ you receive incoming money in cash until the date when the outgoing cheque is sent;

from the date when an incoming telegraphic transfer begins to earn interest until the date when the outgoing cheque is sent;

from the date when an incoming cheque or banker's draft is or would normally be cleared until the date when the outgoing telegraphic transfer is made or banker's draft is obtained.

(iv ~~vii~~)

~~The sum in lieu of interest is calculated by reference to the rates paid by the appropriate bank or building society (see rule 25(2) to (5)). Solicitors will therefore follow the practice of [Rule 13\(8\)](#) requires that bank or building society in determining how often interest is compounded over the period for which the cleared funds are held.~~

(v)

~~Money~~ [money](#) held in a client account must be immediately available, even at the sacrifice of interest, unless the client otherwise instructs, or the circumstances clearly indicate otherwise. The need for access can be taken into account in assessing the appropriate rate for calculating ~~the sum to be paid in lieu of interest, or in assessing whether a reasonable rate of interest has been obtained for a separate designated client account.~~ [interest to be paid.](#)

(vi ~~viii~~)

For failure ~~by the solicitor~~ to pay a sufficient sum by way of interest, ~~or in lieu of interest~~, see note (~~ix~~ [xiv](#)) to rule [24.22](#).

## Rule [26.24](#) – Interest on stakeholder money

When ~~a solicitor holds~~ [you hold](#) money as stakeholder, ~~the solicitor~~ [you](#) must pay ~~interest, or a sum in lieu of interest~~, on the basis set out in rule [24.22](#) to the person to whom the stake is paid.

### Note

~~For contracting, unless the parties have contracted~~ out of this provision; ~~(see rule 27(2) and the notes to rule 27.25 (3)).~~

## Rule [27.25](#) – Contracting out

(1)

In appropriate circumstances ~~a you and your~~ [client and his or her solicitor](#) may by a written agreement come to a different arrangement as to the matters dealt with in rule [24.22](#) (payment of interest).

(2)

~~A solicitor~~ [You must act fairly towards your clients when entering into an agreement to depart from the interest provisions, including providing sufficient information at the outset to enable them to give informed consent.](#)

(3)

~~When~~ acting as stakeholder [you](#) may, by a written agreement with ~~his or her~~ [your](#) own *client* and the other party to the transaction, come to a different arrangement as to the matters dealt with in rule [24.22](#).

### Notes

#### [Guidance notes](#)

(i)

~~Solicitors should act fairly towards their clients and provide sufficient information to enable them to give informed consent if it is felt appropriate to depart from the interest provisions.~~ Whether it is appropriate to contract out depends on all the circumstances, for example, the size of the sum involved or the nature, status or bargaining position of the client. It might, for instance, be appropriate to contract out by standard terms of business if the client is a substantial commercial entity and the interest involved is modest in relation to the size of the transaction. The larger the sum of interest involved, the more there would be an onus on ~~the solicitor~~ [you](#) to show that a client who had accepted a contracting out provision was properly informed and had been treated fairly. ~~Contracting out is never appropriate if it is against the client's interests.~~



(ii)

Contracting out which on the face of it appears to be against the client's interests is permissible where the client has given informed consent. For example, some clients may wish to contract out for reasons related to their tax position or to comply with their religious beliefs.

(iii)

A firm which decides not to receive or pay interest, due to the religious beliefs of its principals, will need to ensure that clients are informed at the outset, so that they can choose to instruct another firm if the lack of interest is an issue for them.

(iv)

Another example of contracting out is when the client stipulates, and the firm agrees, that all interest earned should be paid to the client despite the terms of the firm's interest policy.

(v)

In principle, ~~a solicitor-stakeholder is~~ you are entitled to make a reasonable charge to the client for acting as stakeholder in the client's matter.

(~~iii~~vi)

Alternatively, it may be appropriate to include a special provision in the contract that ~~the solicitor-stakeholder retains~~ you retain the interest on the deposit to cover ~~his or her~~ your charges for acting as stakeholder. This is only acceptable if it will provide a fair and reasonable payment for the work and risk involved in holding a stake. The contract could stipulate a maximum charge, with any interest earned above that figure being paid to the recipient of the stake.

(~~iv~~vii)

Any right to charge the client, or to stipulate for a charge which may fall on the client, would be excluded by, for instance, a prior agreement with the client for a fixed fee for the client's matter, or for an estimated fee which cannot be varied upwards in the absence of special circumstances. It is therefore not normal practice for a stakeholder in conveyancing transactions to receive a separate payment for holding the stake.

(~~v~~viii)

A ~~solicitor~~-stakeholder who seeks an agreement to exclude the operation of rule ~~26~~24 should be particularly careful not to take unfair advantage either of the client, or of the other party if unrepresented.

## **Rule 28 – [repealed]**

### **Part D – Accounting systems and records**

#### **Rule ~~29–26~~ – Guidelines for accounting procedures and systems**

The SRA may from time to time publish guidelines for accounting procedures and systems to assist ~~solicitors~~ you to comply with Parts A to D of the rules, and ~~solicitors~~ you may be required to justify any departure from the guidelines.

#### **Notes**

##### Guidance notes

(i)

The current guidelines appear at Appendix 3.

(ii)

The reporting accountant does not carry out a detailed check for compliance, but has a duty to report on any substantial departures from the guidelines discovered whilst carrying out work in preparation of his or her report (see rules [4340](#) and [4441](#)(e)).

### Rule ~~30-27~~ – Restrictions on transfers between clients

(1)

A paper transfer of money held in a *general client account* from the ledger of one *client* to the ledger of another *client* may only be made if:

(a)

it would have been permissible to withdraw that sum from the account under rule [2220](#)(1); and

(b)

it would have been permissible to pay that sum into the account under rule [4514](#);

(but there is no requirement in the case of a paper transfer for ~~the~~[a](#) written authority ~~of a solicitor, etc.~~; under rule [2321](#)(1)).

(2)

No sum in respect of a *private loan* from one *client* to another can be paid out of funds held for the lender either:

(a)

by a payment from one *client account* to another;

(b)

by a paper transfer from the ledger of the lender to that of the borrower; or

(c)

to the borrower directly,

except with the prior written authority of both *clients*.

### Notes

\_\_\_\_\_

(i)

~~"Private loan" means a loan other than one provided by an institution which provides loans on standard terms in the normal course of its activities -- rule 30(2) does not apply to loans made by an institutional lender. See also the Solicitors' Code of Conduct 2007 rule 3.16(2)(b), which prohibits a solicitor from acting for both lender and borrower in an individual mortgage at arm's length.~~

(ii)

~~If the~~[\(3\)](#)

~~If a~~ [private loan](#) is to be made by (or to) joint *clients*, the consent of each *client* must be obtained.

### Rule ~~31-28~~ – Executor, trustee or nominee companies

(1)

If ~~a solicitors' practice~~[your firm](#) owns all the shares in a *recognised body* ~~or a licensed body~~ which is an executor, trustee or nominee company, ~~the practice~~[your firm](#) and the *recognised* ~~body or licensed~~body must not operate shared *client accounts*, but may:

(a)

use one set of accounting records for money held, received or paid by the *practice firm* and the *recognised body or licensed body*; and/or

(b)

deliver a single accountant's report for both the *practice firm* and the *recognised body or licensed body*.

(2)

If such a *recognised body or licensed body* as nominee receives a dividend cheque made out to the *recognised body or licensed body*, and forwards the cheque, either endorsed or subject to equivalent instructions, to the share-owner's *bank or building society*, etc., the *recognised body or licensed body* will have received (and paid) *client money*. One way of complying with rule ~~32~~29 (accounting records) is to keep a copy of the letter to the share-owner's *bank or building society*, etc., on the file, and, in accordance with rule ~~32~~(~~14~~29(23)), to keep another copy in a central book of such letters. (See also rule ~~32~~(~~9~~29(17))(f) (retention of records for six years)).

**Notes [deleted]**

## **Rule ~~32~~-29 – Accounting records for client accounts, etc.**

### **Accounting records which must be kept**

(1)

~~A solicitor~~ You must at all times keep accounting records properly written up to show ~~the solicitor's~~ your dealings with:

(a)

*client money* received, held or paid by ~~the solicitor~~ you; including *client money* held outside a *client account* under rule ~~16~~15(1)(a) or rule ~~17~~(~~ea~~16(d)); and

(b)

[deleted]

~~(c)~~

any *office money* relating to any *client* or *trust* matter.

(2)

All dealings with *client money* must be appropriately recorded:

(a)

in a *client cash account* or in a record of sums transferred from one *client ledger account* to another; and

(b)

on the *client* side of a separate *client ledger account* for each *client* (or other person, or *trust*).

No other entries may be made in these records.

(3)

If *separate designated client accounts* are used:

(a)

a combined cash account must be kept in order to show the total amount held in *separate designated client accounts*; and

(b)

a record of the amount held for each *client* (or other person, or *trust*) must be made either in a deposit column of a client ledger account, or on the client side of a client ledger account kept specifically for a *separate designated client account*, for each *client* (or other person, or *trust*).

(4)

All dealings with *office money* relating to any *client* matter, or to any *trust* matter, must be appropriately recorded in an office cash account and on the office side of the appropriate client ledger account.

(5)

A cheque or draft received on behalf of a *client* and endorsed over, not passing through a *client account*, must be recorded in the books of account as a receipt and payment on behalf of the *client*. The same applies to cash received and not deposited in a *client account* but paid out to or on behalf of a *client*.

(6)

Money which has been paid into a *client account* under rule 17(1)(c) (receipt of costs), or rule 18(2)(b) (mixed money), and for the time being remains in a *client account*, is to be treated as *client money*; it must be appropriately identified and recorded on the client side of the client ledger account.

(7)

Money which has been paid into an *office account* under rule 17(1)(b) (receipt of costs), rule 19(1)(a) (advance payments from the Legal Services Commission), or rule 19(1)(b) (payment of costs from the Legal Services Commission), and for the time being remains in an *office account* without breaching the rules, is to be treated as *office money*. Money paid into an *office account* under rule 19(2)(b) (regular payments) is *office money*. All these payments must be appropriately identified and recorded on the office side of the client ledger account for the individual *client* or for the Legal Services Commission.

(8)

*Client money* in a currency other than sterling must be held in a separate account for the appropriate currency, and you must keep separate books of account for that currency.

- **Current balance**

(~~5~~) 9

The current balance on each client ledger account must always be shown, or be readily ascertainable, from the records kept in accordance with paragraphs (2) and (3) above.

- **Acting for both lender and borrower**

(~~6~~) 10

When acting for both lender and borrower on a mortgage advance, separate client ledger accounts for both *clients* need not be opened, provided that:

(a)

the funds belonging to each *client* are clearly identifiable; and

(b)

the lender is an institutional lender which provides mortgages on standard terms in the normal course of its activities.

- **Statements from banks, building societies and other financial institutions**

(11)

You must, at least every 5 weeks:

(a)

[obtain hard copy statements \(or duplicate statements permitted in lieu of the originals by rule 9\(3\) or \(4\)\) from banks, building societies or other financial institutions, or](#)

[\(b\)](#)

[obtain and save in the firm's accounting records, in a format which cannot be altered, an electronic version of the bank's, building society's or other financial institution's on-line record.](#)

[in respect of:](#)

[\(i\)](#)

[any general client account or separate designated client account;](#)

[\(ii\)](#)

[any joint account held under rule 9;](#)

[\(iii\)](#)

[any account which is not a client account but in which you hold client money under rule 15\(1\)\(a\) or rule 16\(d\); and](#)

[\(iv\)](#)

[any office account maintained in relation to the firm;](#)

[and each statement or electronic version must begin at the end of the previous statement.](#)

[This provision does not apply in respect of passbook-operated accounts, nor in respect of the office accounts of an MDP operated solely for activities not subject to SRA regulation.](#)

- **Reconciliations**

[\(712\)](#)

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~~The solicitor [You](#) must, at least once every fourteen weeks in the case of money held by solicitor-trustees in passbook-operated separate designated client accounts, and at least once every five weeks in all other cases:~~

[\(a\)](#)

~~compare the balance on the client cash account(s) with the balances shown on the statements and passbooks (after allowing for all unrepresented items) of all general client accounts and separate designated client accounts, and of any account which is not a client account but in which the solicitor holds you hold client money under rule 1615(1)(a) or rule 17(ea16(d), and any client money held by the solicitor you in cash; and~~

[\(b\)](#)

~~as at the same date prepare a listing of all the balances shown by the client ledger accounts of the liabilities to clients (and other persons, and trusts) and compare the total of those balances with the balance on the client cash account; and also~~

[\(c\)](#)

~~prepare a reconciliation statement; this statement must show the cause of the difference, if any, shown by each of the above comparisons.~~

[\(13\)](#)

[Reconciliations must be carried out as they fall due, or at the latest by the due date for the next reconciliation. In the case of a separate designated client account operated with a passbook, there is no need to ask the bank, building society or other financial institution for confirmation of the balance held. In the case of other separate designated client accounts, you must either obtain statements at least monthly or written confirmation of the balance direct from the bank, building society or other financial institution. There is no requirement to check that](#)

interest has been credited since the last statement, or the last entry in the passbook.

(14)

All shortages must be shown. In making the comparisons under rule 29(12)(a) and (b), you must not, therefore, use credits of one client against debits of another when checking total client liabilities.

- **Bills and notifications of costs**

(815)

~~The solicitor~~ You must keep readily accessible a central record or file of copies of:

(a)

all bills given or sent by ~~the solicitor;~~ you (other than those relating entirely to activities not regulated by the SRA); and

(b)

all other written notifications of costs given or sent by ~~the solicitor;~~

~~in both cases distinguishing between fees, disbursements~~ you (other than those relating entirely to activities not yet paid at the date of the bill, and paid disbursements regulated by the SRA).

- **Withdrawals under rule ~~22 20~~(1)(ga)**

(8A16)

~~A solicitor who withdraws~~ If you withdraw client money under rule ~~22 20~~(1)(ga) ~~], you~~ must keep a record of the steps taken in accordance with rule ~~22(2A 20(2)~~(a)-(c), together with all relevant documentation (including receipts from the charity).

- **Retention of records**

(917)

~~The solicitor~~ You must retain for at least six years from the date of the last entry:

(a)

all documents or other records required by paragraphs (1) to ~~(8A 10) and (12) to (16)~~ above;

(b)

all statements required by paragraph (11)(a) above and passbooks, as printed and issued by the *bank, building society* or other financial institution; and/or all ~~duplicate statements on-line records obtained~~ and ~~copies of passbook entries permitted~~ saved in lieu of the originals by rule 10(3) or (4); electronic form under paragraph (11)(b) above.

for:

(i)

any *general client account* or *separate designated client account*;

(ii)

any joint account held under rule ~~40 9~~;

(iii)

any account which is not a *client account* but in which ~~the solicitor holds~~ you hold client money under rule ~~46 15~~(1)(a) or rule ~~47~~(~~ca 16~~(d)); and

(iv)

~~{deleted}~~

~~(v)~~

any *office account* maintained in relation to the practice, but not the office accounts of an MDP operated solely for activities not subject to SRA regulation;

(c)

any records kept under rule 98 (liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes) including, as printed or otherwise issued, any statements, passbooks and other accounting records originating outside ~~the solicitor's~~*your* office;

(d)

any written instructions to withhold *client money* from a *client account* (or a copy of ~~the solicitor's~~*your* confirmation of oral instructions) in accordance with rule ~~16~~*15*;

(e)

any central registers kept under paragraphs ~~(11~~*19*) to ~~(13A~~*22*) below; and

(f)

~~any~~ copy letters kept centrally under rule ~~34~~*28*(2)~~(1)~~ (dividend cheques endorsed over by nominee company).

~~(10~~*18*)

~~The solicitor~~*You* must retain for at least two years:

(a)

originals or copies of all authorities, other than cheques, for the withdrawal of money from a *client account*; and

(b)

all original paid cheques (or digital images of the front and back of all original paid cheques), unless there is a written arrangement with the *bank, building society* or other financial institution that:

(i)

it will retain the original cheques on ~~the solicitor's~~*your* behalf for that period; or

(ii)

in the event of destruction of any original cheques, it will retain digital images of the front and back of those cheques on ~~the solicitor's~~*your* behalf for that period and will, on demand by ~~the solicitor, the solicitor's~~*you, your* reporting accountant or the SRA, produce copies of the digital images accompanied, when requested, by a certificate of verification signed by an authorised officer.

(c)

The requirement to keep paid cheques under paragraph (b) above extends to all cheques drawn on a *client account*, or on an account in which *client money* is held outside a *client account* under rule 15(1) (a) or rule 16(d).

(d)

Microfilmed copies of paid cheques are not acceptable for the purposes of paragraph (b) above. If a *bank, building society* or other financial institution is able to provide microfilmed copies only, you must obtain the original paid cheques from the *bank* etc. and retain them for at least two years.

- **Centrally kept records for certain accounts, etc.**

~~(11)~~ [19](#)

Statements and passbooks for *client money* held outside a *client account* under rule ~~46~~[15](#)(1)(a) or rule ~~47~~~~(ea)~~[16](#)(d) must be kept together centrally, or ~~the solicitor~~[you](#) must maintain a central register of these accounts.

~~(12)~~ [20](#)

Any records kept under rule [9](#)[8](#) (liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes) must be kept together centrally, or ~~the solicitor~~[you](#) must maintain a central register of the appointments.

~~(13)~~ [21](#)

The statements, passbooks, duplicate statements and copies of passbook entries relating to any joint account held under rule ~~40~~[9](#) must be kept together centrally, or ~~the solicitor~~[you](#) must maintain a central register of all joint accounts.

~~(13A)~~ [22](#)

A central register of all withdrawals made under rule ~~22~~[20](#)(1)(~~ga~~) must be kept, detailing the name of the *client*, other person or *trust* on whose behalf the money is held (if known), the amount, the name of the recipient charity and the date of the payment.

~~(14)~~ [23](#)

If a nominee company follows the option in rule ~~31~~[28](#)(2) (keeping instruction letters for dividend payments), a central book must be kept of all instruction letters to the share-owner's *bank* or *building society*, etc.

- **Computerisation**

~~(15)~~ [24](#)

Records required by this rule may be kept on a computerised system, apart from the following documents, which must be retained as printed or otherwise issued:

(a)

original statements and passbooks retained under paragraph [\(917\)](#)(b) above;

(b)

original statements, passbooks and other accounting records retained under paragraph [\(917\)](#)(c) above;  
and

(c)

original cheques and copy authorities retained under paragraph ~~(40)~~[18](#) above.

There is no obligation to keep a hard copy of computerised records. However, if no hard copy is kept, the information recorded must be capable of being reproduced reasonably quickly in printed form for at least six years, or for at least two years in the case of digital images of paid cheques retained under paragraph ~~(40)~~[18](#) above.

- **Suspense ledger accounts**

~~(16)~~ [25](#)

Suspense client ledger accounts may be used only when ~~the solicitor~~[you](#) can justify their use; for instance, for temporary use on receipt of an unidentified payment, if time is needed to establish the nature of the payment or the identity of the *client*.

## Notes

### Guidance notes

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(i)

It is strongly recommended that accounting records are written up at least weekly, even in the smallest practice, and daily in the case of larger firms.

(ii)

Rule ~~32~~29(1) to ~~6~~10 (general record-keeping requirements) and rule ~~32~~~~7~~29(12) (reconciliations) do not apply to:

(a)

~~solicitor~~ liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes operating in accordance with statutory rules or regulations under rule ~~9~~8(1)(a);

(b)

joint accounts operated under rule ~~40~~9;

(c)

a client's own account operated under rule ~~44~~10; the record-keeping requirements for this type of account are set out in rule ~~33~~30;

(d)

~~solicitor-trustees who~~ you in your capacity as a trustee when you instruct an outside administrator to run, or continue to run, on a day-to-day basis, the business or property portfolio of an estate or trust, provided the administrator keeps and retains appropriate accounting records, which are available for inspection by the SRA in accordance with rule ~~34~~31. (See also note (v) to rule ~~23~~1.)

(iii)

~~When a cheque or draft is received on behalf of a client and is endorsed over, not passing through a client account, it must be recorded in the books of account as a receipt and payment on behalf of the client. The same applies to cash received and not deposited in a client account but paid out to or on behalf of a client.~~ A cheque made payable to a client, which is forwarded to the client by ~~the solicitor~~you, is not client money and falls outside the rules, although it is advisable to record the action taken. See rule 14(2)(e) for the treatment of a damages cheque, made payable to the client, which you pay into a client account under the Law Society's Conditional Fee Agreement.

(iv)

~~For the purpose of rule 32, money which has been paid into a client account under rule 19(1)(c) (receipt of costs), or under rule 20(2)(b) (mixed money), and for the time being remains in a client account, is to be treated as client money; it should be recorded on the client side of the client ledger account, but must be appropriately identified.~~

(v)

~~For the purpose of rule 32, money which has been paid into an office account under rule 19(1)(b) (receipt of costs), rule 21(1)(a) (advance payments from the Legal Services Commission), or under rule 21(1)(b) (payment of costs from the Legal Services Commission), and for the time being remains in an office account without breaching the rules, is to be treated as office money. Money paid into an office account under rule 21(2)(b) (regular payments) is office money. All these payments should be recorded on the office side of the client ledger account (for the individual client or for the Legal Services Commission), and must be appropriately identified.~~

(vi)

Some accounting systems do not retain a record of past daily balances. This does not put ~~the~~ solicitoryou in breach of rule ~~32~~(5)-~~29~~(9).

(vii)

"Clearly identifiable" in rule ~~32(6)~~[29\(10\)](#) means that by looking at the ledger account the nature and owner of the mortgage advance are unambiguously stated. For example, if a mortgage advance of £100,000 is received from the ABC Building Society, the entry should be recorded as "£100,000, mortgage advance, ABC Building Society". It is not enough to state that the money was received from the ABC Building Society without specifying the nature of the payment, or vice versa.

(vi)

Although ~~the solicitor does~~[you do](#) not open a separate ledger account for the lender, the mortgage advance credited to that account belongs to the lender, not to the borrower, until completion takes place. Improper removal of these mortgage funds from a client account would be a breach of rule ~~22~~[20](#).

~~(x)~~ [vii](#)

~~Reconciliations should be carried out as they fall due, and in any event no later than the due date for the next reconciliation. In the case of a separate designated client account operated with a passbook, there is no need to ask the bank, building society or other financial institution for confirmation of the balance held. In the case of other separate designated client accounts, the solicitor should either obtain statements at least monthly, or should obtain written confirmation of the balance direct from the bank, building society or other financial institution. There is no requirement to check that interest has been credited since the last statement, or the last entry in the passbook.~~

~~(x)~~

~~In making the comparisons under rule 32(7)(a) and (b), some solicitors use credits of one client against debits of another when checking total client liabilities. This is improper because it fails to show up the shortage.~~

~~(xi)~~

~~The effect of rule 32(9)(b) is that the solicitor must ensure that the bank issues hard copy statements. Statements sent from the bank to its solicitor customer by means of electronic mail, even if capable of being printed off as hard copies, will not suffice.~~

~~(xii)~~

~~[Section 67 of the Solicitors Act 1974 permits a solicitor or recognised body to include on a bill of costs any disbursements which have been properly incurred but not paid before delivery of the bill, subject to those disbursements being described on the bill as unpaid.](#)~~

[viii](#)

Rule ~~32(9)~~[29\(17\)](#)(d) - retention of client's instructions to withhold money from a client account - does not require records to be kept centrally; however this may be prudent, to avoid losing the instructions if the file is passed to the client.

~~(xiii)~~ [ix](#)

~~A solicitor who holds client money in a currency other than sterling should hold that money in a separate account for the appropriate currency. Separate books of account should be kept for that currency.~~

~~(xiv)~~

~~The requirement to keep paid cheques under rule 32(10)(b) extends to all cheques drawn on a client account, or on an account in which client money is held outside a client account under rule 16(1)(a) or rule 17(ca).~~

~~(xv)~~

[Solicitors You](#) may enter into an arrangement whereby the bank keeps digital images of paid cheques in place of the originals. The bank should take an electronic image of the front and back of each cheque in black and white and agree to hold such images, and to make printed copies available on request, for at

least two years. Alternatively, ~~solicitors~~you may take and keep ~~their~~your own digital images of paid cheques.

~~(xvi)~~ x)

~~Microfilmed copies of paid cheques are not acceptable for the purposes of rule 32(10)(b). If a bank is able to provide microfilmed copies only, the solicitor must obtain the original paid cheques from the bank and retain them for at least two years.~~

~~(xvii)~~

Certificates of verification in relation to digital images of cheques may on occasion be required by the SRA when exercising its investigative and enforcement powers. The reporting accountant will not need to ask for a certificate of verification but will be able to rely on the printed copy of the digital image as if it were the original.

(xi)

These rules require an MDP to keep accounting records only in respect of those activities for which it is regulated by the SRA. Where an MDP acts for a client in a matter which includes activities regulated by the SRA, and activities outside the SRA's regulatory reach, the accounting records should record the MDP's dealings in respect of the SRA-regulated part of the client's matter. It may also be necessary to include in those records dealings with out-of-scope money where that money has been handled in connection with, or relates to, the SRA-regulated part of the transaction. An MDP is not required to maintain records in respect of client matters which relate entirely to activities not regulated by the SRA.

## **Rule ~~33-30~~ – Accounting records for clients' own accounts**

(1)

When ~~a solicitor operates~~you operate a *client's* own account as signatory under rule ~~44~~,the solicitor~~10~~, you must retain, for at least six years from the date of the last entry, the statements or passbooks as printed and issued by the *bank, building society* or other financial institution, and/or the duplicate statements, copies of passbook entries and cheque details permitted in lieu of the originals by rule ~~44~~10(3) or (4); and any central register kept under paragraph (2) below.

(2)

~~The solicitor~~ You must either keep these records together centrally, or maintain a central register of the accounts operated under rule ~~44~~10.

(3)

If you use on-line records made available by the bank, building society or other financial institution, you must save an electronic version in the firm's accounting records in a format which cannot be altered. There is no obligation to keep a hard copy but the information recorded must be capable of being reproduced reasonably quickly in printed form for at least six years.

(4)

If, when ~~the solicitor ceases~~you cease to operate the account, the *client* requests the original statements or passbooks, ~~the solicitor~~you must take photocopies and keep them in lieu of the originals.

~~(45)~~

This rule applies only to ~~solicitors in~~ private practice.

### **Note**

~~Solicitors should remember the requirements of rule 32(8) (central record of bills, etc.):~~

## **Part E – Monitoring and investigation by the SRA**

## Rule 34-31 – Production of ~~records~~ documents, information and explanations

(1)

~~Any solicitor~~ You must at the time and place fixed by the SRA produce to any person appointed by the SRA any records, papers, *client* and *trust* matter files, financial accounts and other documents, and any other information, necessary to enable preparation of a report on compliance with the rules.

(2)

A requirement for production under paragraph (1) above must be in writing, and left at or sent by ~~the "recorded signed for" post~~ or ~~"special delivery next day" service~~ document exchange to the most recent address held by the SRA's Information Directorate, or sent electronically to the firm's e-mail or fax address, or delivered by the SRA's appointee. ~~If sent through the post, receipt will be~~ A notice under this rule is deemed ~~48 hours (excluding Saturdays, Sundays and Bank Holidays) after posting.~~ to be duly served:

(a)

on the date on which it is delivered to or left at your address;

(b)

on the date on which it is sent electronically to your e-mail or fax address; or

(c)

48 hours (excluding Saturdays, Sundays and Bank Holidays) after it has been sent by post or document exchange.

(3)

Material kept electronically must be produced in the form required by the SRA's appointee.

(4)

The SRA's appointee is entitled to seek verification from *clients* and staff, and from the *banks, building societies* and other financial institutions used by ~~the solicitor.~~ The solicitor you. You must, if necessary, provide written permission for the information to be given.

(5)

The SRA's appointee is not entitled to take original documents away but must be provided with photocopies on request.

(6)

~~A solicitor~~ You must be prepared to explain and justify any departures from the ~~g~~ Guidelines for accounting procedures and systems published by the SRA (see rule 296).

(7)

Any report made by the SRA's appointee may, if appropriate, be sent to the Crown Prosecution Service or the Serious Fraud Office and/or used in proceedings before the Solicitors Disciplinary Tribunal. In the case of ~~a registered European lawyer an REL~~ or ~~registered foreign lawyer RFL~~, the report may also be sent to the competent authority in that lawyer's home state or states. In the case of a ~~solicitor of the Supreme Court~~ who is established in another state under the ~~Establishment of Lawyers Directive 98/5/EC~~, the report may also be sent to the competent authority in the host state. The report may also be sent to any of the accountancy bodies set out in rule 3734(1)(a) and/or taken into account by the SRA in relation to a possible disqualification of a reporting accountant under rule 3734(3).

(8)

Without prejudice to paragraph (1) above, ~~any solicitor~~ you must produce documents relating to any account kept by ~~the solicitor~~ you at a *bank* or with a *building society*:

(a)

in connection with ~~the solicitor's~~your practice; or

(b)

in connection with any *trust* of which ~~the solicitor is~~you are or formerly ~~was/were~~ a *trustee*,

for inspection by a person appointed by the SRA for the purpose of preparing a report on compliance with the rules or on whether the account has been used for or in connection with a breach of any of the Principles or other rules, codes or mandatory guidanceSRA Handbook requirements made or issued by the SRA. Paragraphs (2)-(7) above apply in relation to this paragraph in the same way as to paragraph (1).

## Notes

### Guidance notes

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(i)

~~"Solicitor" in rule 34 (as elsewhere in the rules) includes any person to whom the rules apply -- see rule 2 (2)(x), rule 4 and note (ii) to rule 4.~~

~~(ii)~~

The SRA's powers override any confidence or privilege between ~~solicitor~~you and ~~the~~ client.

~~(iii)~~

The SRA's monitoring and investigation powers are exercised by Forensic Investigations.

~~(iv)~~

~~Reasons are never given for a visit by Forensic Investigations, so as:~~

~~(a)~~

~~to safeguard the SRA's sources~~The SRA will normally give a brief statement of the reasons for its investigations and inspections but not if the SRA considers that there is a risk that disclosure could:

(a)

breach any duty of confidentiality;

(b)

disclose, or risk disclosure of, a confidential source of information; ~~and~~

(b.c)

~~not to alert a defaulting manager or employee to conceal or compound his or her misappropriations;~~

~~(v)~~

~~{deleted}~~

significantly increase the risk that those under investigation may destroy evidence, seek to influence witnesses, default, or abscond; or

(d)

otherwise prejudice or frustrate an investigation or other regulatory action.

## Part F ~~—~~ Accountants' reports

## Rule ~~35-32~~ – Delivery of accountants' reports

(1)

~~A solicitor who or which has~~ 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.

(2)

In addition the SRA may require the delivery of an accountant's report in circumstances other than those set out in paragraph (1) above if the SRA has reason to believe that it is in the public interest to do so.

### Notes

#### Guidance notes

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(i)

Examples of situations under rule ~~3532~~(2) include:

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

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

when the your conduct ~~of the solicitor~~ 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);

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

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

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 ~~98~~ (liquidators, trustees in bankruptcy, Court of Protection deputies and trustees of occupational pension schemes), rule ~~409~~ (joint accounts) and rule ~~4410~~ (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 ~~3532~~ 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 rule 2(2)(~~xzo~~)(iii).

(iv)

The form of report is dealt with in rule ~~47-44~~.

(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.

~~(va)~~ 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 ~~must~~[will need to](#) ensure that his or her name is added, and an explanation given.

(~~viii~~ix)

~~A solicitor to whom~~ If a cheque or draft is made out [to you](#), and ~~who~~ in the course of practice ~~endorses~~[you endorse](#) it over to a client or employer, ~~has you have~~ received (and paid) client money. ~~That solicitor~~ [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 ~~solicitors'~~[practice firm](#) owns all the shares in a recognised body [or licensed body](#) which is an executor, trustee or nominee company, the ~~practice firm~~ and the recognised body/[licensed body](#) may deliver a single accountant's report (see rule ~~31~~[28](#)(1)(b)).

## Rule ~~36~~[33](#) – Accounting periods

- **The norm**

(1)

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

(a)

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

(b)

cover twelve months.

Paragraphs (2) to (5) below set out exceptions.

- **First and resumed reports**

(2)

~~For a solicitor who is~~ if you are under a duty to deliver ~~his or her~~ your first report, the *accounting period* must begin on the date when ~~the solicitor~~ you first held or received *client money* (or operated a *client's* own account as signatory), and may cover less than twelve months.

(3)

~~For a solicitor who is~~ if you are under a duty to deliver ~~his or her~~ your first report after a break, the *accounting period* must begin on the date when ~~the solicitor~~ 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**

(4)

If ~~a practice changes~~ you change the period for which ~~its~~ 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 ~~the firm's~~ your old *accounting period*.

- **Final reports**

(5)

~~A solicitor who~~ if you for any reason stops holding or receiving *client money* (and operating any *client's* own account as signatory), you must deliver a final report. The *accounting period* must end on the date upon which ~~the solicitor~~ you stopped holding or receiving *client money* (and operating any *client's* own account as signatory), and may cover less than twelve months.

## Notes

### Guidance notes

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(i)

In the case of ~~solicitors~~ persons joining or leaving a continuing partnership, any accountant's report for the ~~practice~~ firm as a whole will show the names and dates of the principals joining or leaving. For a ~~solicitor~~ person who did not previously hold or receive client money, etc., and has become a principal in the firm, the report for the ~~practice~~ firm will represent, from the date of joining, ~~the solicitor's~~ that person's first report for the purpose of rule 3633(2). For a ~~solicitor~~ person who was a principal in the firm and, on leaving, stops holding or receiving client money, etc., the report for the ~~practice~~ firm will represent, up to the date of leaving, ~~the solicitor's~~ that person's final report for the purpose of rule 3633(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, ~~the solicitor~~ 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 ~~solicitor's~~ client account - see rule 2220(1)(h)-k) and note (viii) to rule 22-20.



## Rule ~~37-34~~ – Qualifications for making a report

(1)

A report must be prepared and signed by an accountant

(a)

who is a member of:

(i)

the Institute of Chartered Accountants in England and Wales;

(ii)

the Institute of Chartered Accountants of Scotland;

(iii)

the Association of Chartered Certified Accountants;

(iv)

the Institute of Chartered Accountants in Ireland; or

(v)

the Association of Authorised Public Accountants; **and**

(b)

who is also:

(i)

an individual who is a registered auditor within the terms of section ~~35(1)(a)~~1239 of the Companies Act ~~1989~~2006; or

(ii)

an employee of such an individual; or

(iii)

a *partner* in or employee of a *partnership* which is a registered auditor within the terms of section ~~35(1)(a)~~1239 of the Companies Act ~~1989~~2006; or

(iv)

a director or employee of a company which is a registered auditor within the terms of section ~~35(1)(a)~~1239 of the Companies Act ~~1989~~2006; or

(v)

a member or employee of an *LLP* which is a registered auditor within the terms of section ~~35(1)(a)~~1239 of the Companies Act ~~1989~~2006.

(2)

An accountant is not qualified to make a report if:

(a)

at any time between the beginning of the *accounting period* to which the report relates, and the completion of the report:

(i)

he or she was a *partner* or employee, or an officer or employee (in the case of a company), or a member or employee (in the case of an *LLP*) in the [practice firm](#) to which the report relates; or

(ii)

he or she was employed by the same *non-solicitor employer* as the *solicitor or REL* for whom the report is being made; or

[\(iii\)](#)

[he or she was a partner or employee, or an officer or employee \(in the case of a company\), or a member or employee \(in the case of an LLP\) in an accountancy practice which had an ownership interest in, or was part of the group structure of, the licensed body to which the report relates; or](#)

(b)

he or she has been disqualified under paragraph (3) below and notice of disqualification has been given under paragraph (4) (and has not subsequently been withdrawn).

(3)

The *SRA* may disqualify an accountant from making any accountant's report if:

(a)

the accountant has been found guilty by his or her professional body of professional misconduct or discreditable conduct; or

(b)

the *SRA* is satisfied that ~~a solicitor~~ [you have](#) not complied with the rules in respect of matters which the accountant has negligently failed to specify in a report.

In coming to a decision, the *SRA* will take into account any representations made by the accountant or his or her professional body.

(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.

(5)

An accountant's disqualification may be notified to any [solicitor firm](#) likely to be affected and may be printed in the ~~Law~~ *Society's* Gazette or other publication.

### Note

#### [Guidance note](#)

It is not a breach of the rules for ~~a solicitor~~ [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 [38-35](#) – Reporting accountant's rights and duties - letter of engagement

(1)

~~The solicitor~~ [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 [3835](#) of the ~~Solicitors'~~ [SRA](#) Accounts Rules ~~4998~~ [2011](#), you are instructed as follows:

(i)

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

(a)

you discover evidence of fraud or theft in relation to money

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 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

(b)

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

to hold money for clients or other persons (including money held on trust), or 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~~ [if required to do so under](#) section 34(9) of the Solicitors Act 1974;

(ii)

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

(iii)

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;

(iv)

you are to deliver to me/this firm/this company/this limited liability partnership with your report the completed checklist required by rule [4643](#) of the ~~Solicitors'~~ [SRA](#) Accounts Rules ~~1998~~ [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;

(v)

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

(vi)

following any direct report made to the Solicitors Regulation Authority under (i) or (iii) 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 (i) to (vi) 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."

(2)

The letter of engagement and a copy must be signed by ~~the solicitor (or by a partner, or in the case of a company by a director, or in the case of an LLP by a member)~~ you and by the accountant. ~~The solicitor~~ You must keep the copy of the signed letter of engagement for at least three years after the termination of the retainer and produce it to the SRA on request.

## Notes

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(i)

~~Any direct report by the accountant to the SRA under rule 38(1)(i) or (iii) should be made to the Fraud and Confidential Intelligence Bureau.~~

(ii)

~~Rule 38(1) envisages that the specified terms are incorporated in a letter from the solicitor to the accountant. Instead, the [\(3\)](#)~~

The specified terms may be included in a letter from the accountant to ~~the solicitor~~ you setting out the terms of the engagement. ~~If so,~~ but the text must be adapted appropriately. The letter must be signed in duplicate by both parties ~~–the solicitor will keep, with you keeping~~ the original; and the accountant the copy.

## Guidance note

- [Any direct report by the accountant to the SRA under rule 35\(1\)\(i\) or \(iii\) should be made to the Fraud and Confidential Intelligence Bureau.](#)

## Rule ~~39–36~~ – Change of accountant

On instructing an accountancy practice to replace that previously instructed to produce accountant's reports, ~~the solicitor~~ you must immediately notify the SRA of the change and provide the name and business address of the new accountancy practice.

## Rule ~~40–37~~ – Place of examination

Unless there are exceptional circumstances, the place of examination of ~~a solicitor's~~ your accounting records, files and other relevant documents must be ~~the solicitor's~~ 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 ~~the solicitor's~~ your office.

## Rule ~~41–38~~ – Provision of details of bank accounts, etc.

The accountant must request, and ~~the solicitor~~ you must provide, details of all accounts kept or operated by ~~the solicitor~~ you in connection with ~~the solicitor's~~ 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 ~~the solicitor~~ you as signatory.

## Rule ~~42–39~~ – Test procedures

(1)

The accountant must examine ~~the~~ your accounting records (including statements and passbooks), *client* and *trust* matter files selected by the accountant as and when appropriate, and other relevant documents ~~of the solicitor~~, and make the following checks and tests:

(a)

confirm that the accounting system in every office ~~of the solicitor~~ complies with:

rule ~~32~~ 29 - accounting records for client accounts, etc;

rule ~~33~~30 - accounting records for clients' own accounts;

and is so designed that:

(i)

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

(ii)

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

(iii)

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 ~~the solicitor~~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 ~~the solicitor's~~you 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 ~~the solicitor~~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 A and B of the rules, rule ~~30~~27 (restrictions on transfers between clients) and rule ~~31~~28 (executor, trustee or nominee companies); and

(ii)

that the entries in the accounting records reflect those transactions in a manner complying with rule ~~32~~29;

(f)

subject to paragraph (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 ~~32(7)~~29(12) and (917)(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 ~~the solicitor~~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 4917(1)(b) or rule 2419(1), has been kept there in breach of the rules;

(j)

check the accounting records kept under rule ~~32(9)~~29(17)(d) and (4419) 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 4615(1)(a);

(k)

make a test examination of the client ledger accounts to see whether rule ~~32(6)~~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 ~~32(8), (9)~~29(15), (17)(c) and (4220), 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 ~~32(9)~~29(17)(b)(ii) and (4321) (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 3330 (record-keeping requirements for clients' own accounts), and cross-check transactions with *client* matter files when appropriate;

~~(nao)~~

for money withdrawn from *client account* under rule 2220(1)(~~gaj~~), check that records are being kept in accordance with rule ~~32(8A), (9)~~29(16), (17)(a) and (43A22), and cross-check with *client* or *trust* matter files when appropriate;

~~(e)~~

~~check that interest earned on separate designated client accounts, and in accounts opened on clients' instructions under rule 16(1)(a), is credited in accordance with rule 24(1) and (6)(a), and note (i) to rule 24;~~

(p)

in the case of private practice only, check that for the period which will be covered by the accountant's report the [practice firm](#) was covered for the purposes of the [Solicitors' SRA](#) Indemnity Insurance Rules in respect of its offices in England and Wales by:

certificates of qualifying insurance outside the assigned risks pool; or

a policy issued by the assigned risks pool manager; or

certificates of indemnity cover under the professional requirements of [a registered European lawyer's 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

certificates of indemnity cover under the professional requirements of [a registered European lawyer's 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.

- **Extracting balances**

(2)

For the purposes of paragraph (1)(f) above, if [a solicitor uses you use](#) a computerised or mechanised system of accounting which automatically produces an extraction of all client ledger balances, the accountant need not check all client ledger balances extracted on the list produced by the computer or machine against the individual records of client ledger accounts, provided the accountant:

(a)

confirms that a satisfactory system of control is in operation and the accounting records are in balance;

(b)

carries out a test check of the extraction against the individual records; and

(c)

states in the report that he or she has relied on this exception.

## Notes

### Guidance notes

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(i)

The rules do not require a complete audit of [the solicitor's your](#) accounts nor do they require the preparation of a profit and loss account or balance sheet.

(ii)

In making the comparisons under rule [42.39\(1\)\(f\)](#), some accountants improperly use credits of one client against debits of another when checking total client liabilities, thus failing to disclose a shortage. A debit balance on a client account when no funds are held for that client results in a shortage which must be disclosed as a result of the comparison.

(iii)

The main purpose of confirming balances direct with banks, etc., under rule [42.39\(1\)\(f\)\(ii\)](#) is to ensure that [the solicitor's your](#) records accurately reflect the sums held at the bank. The accountant is not expected to conduct an active search for undisclosed accounts.

(iv)

In checking compliance with rule ~~22~~20(1)(gaj), the accountant should check on a sample basis that ~~the solicitor has~~you have complied with rule ~~22~~(2A)20(2) and ~~is~~are keeping appropriate records in accordance with rules ~~32~~(8A), ~~(9~~29(16), (17)(a) and ~~(13~~A)22). The accountant is not expected to judge the adequacy of the steps taken to establish the identity of, and to trace, the rightful owner of the money.

### **Rule ~~43~~40 – Departures from guidelines for accounting procedures and systems**

The accountant should be aware of the SRA's guidelines for accounting procedures and systems (see rule ~~29~~26), and must note in the accountant's report any substantial departures from the guidelines discovered whilst carrying out work in preparation of the report. (See also rule ~~44~~41(e).)

### **Rule ~~44~~41 – Matters outside the accountant's remit**

The accountant is not required:

- (a)  
to extend his or her enquiries beyond the information contained in the documents produced, supplemented by any information and explanations given by ~~the solicitor~~you;
- (b)  
to enquire into the stocks, shares, other securities or documents of title held by ~~the solicitor~~you on behalf of ~~the solicitor's~~your clients;
- (c)  
to consider whether ~~the~~your accounting records ~~of the solicitor~~ have been properly written up at any time other than the time at which his or her examination of the accounting records takes place;
- (d)  
to check compliance with the provisions in rule ~~24~~(2) to (5) and ~~(6)~~(b)22 on ~~payment of sums in lieu of interest, nor to determine the adequacy of your interest policy;~~
- (e)  
to make a detailed check on compliance with the guidelines for accounting procedures and systems (see rules ~~29~~26 and ~~43~~40); or
- (f)  
to determine the adequacy of the steps taken under paragraphs (a) and (b) of rule ~~22~~(2A)20(2).

### **Rule ~~45~~42 – Privileged documents**

~~A solicitor~~When acting on a *client's* instructions, ~~you~~ will normally have the right on the grounds of privilege as between *solicitor* and *client* to decline to produce any document requested by the accountant for the purposes of his or her examination. In these circumstances, the accountant must qualify the report and set out the circumstances.

#### **Note**

#### **Guidance note**

In a recognised body or licensed body with one or more managers who are not legally qualified, legal professional privilege may not attach to work which is neither done nor supervised by a legally qualified individual - see Legal Services Act 2007, section 190(3) to (7), and Schedule 22, paragraph 17.

### **Rule ~~46~~43 – Completion of checklist**

The accountant should exercise his or her professional judgment in adopting a suitable "audit" programme, but must also complete and sign a checklist in the form published from time to time by the SRA. ~~The solicitor~~You must obtain the completed checklist, retain it for at least three years from the date of signature and produce it to the SRA on request.



## Notes

### Guidance notes

- - (i)

The current checklist appears at Appendix 4. It is issued by the SRA to [solicitors firms](#) at the appropriate time for completion by their reporting accountants.
  - (ii)

The letter of engagement required by rule [3835](#) imposes a duty on the accountant to hand the completed checklist to the [solicitor firm](#), to keep a copy for three years and to produce the copy to the SRA on request.

### **Rule [47-44](#) – Form of accountant's report**

The accountant must complete and sign his or her report in the form published from time to time by the SRA. [An explanation of any significant difference between liabilities to clients and client money held, as identified at section 4 of the report, must be given by either the accountant or you.](#)

## Notes

### Guidance notes

- - (i)

The current form of accountant's report appears at Appendix 5.
  - (ii)

The form of report is prepared and issued by the SRA to [solicitors firms](#) at the appropriate time for completion by their reporting accountants. Separate reports can be delivered for each principal in a partnership but most firms deliver one report in the name of all the principals. For assistant solicitors, consultants and other employees, see rule [3532](#), notes [\(vii\)](#) and [\(viii\)](#).
  - ~~(ii a)~~

An incorporated practice will deliver only one report, on behalf of the company and its directors, or on behalf of the LLP and its members - see rule [3532](#)(1).
  - ~~(iii)~~ [iv](#)

Although it may be agreed that the accountant send the report direct to the SRA, the responsibility for delivery is that of the [solicitor firm](#). The form of report requires the accountant to confirm that either a copy of the report has been sent to each of the persons (including bodies corporate) to whom the report relates, or a copy of the report has been sent to a named partner on behalf of all the partners in the firm. A similar confirmation is required in respect of the directors of a recognised body/[licensed body](#) which is a company, or the members of a recognised [body/licensed](#) body which is an LLP.
  - ~~(iv)~~ [v](#)

A reporting accountant is not required to report on trivial breaches due to clerical errors or mistakes in book-keeping, provided that they have been rectified on discovery and the accountant is satisfied that no client suffered any loss as a result.
  - ~~(v)~~ [vi](#)

In many practices, clerical and book-keeping errors will arise. In the majority of cases these may be classified by the reporting accountant as trivial breaches. However, a "trivial breach" cannot be precisely defined. The amount involved, the nature of the breach, whether the breach is deliberate or accidental,

how often the same breach has occurred, and the time outstanding before correction (especially the replacement of any shortage) are all factors which should be considered by the accountant before deciding whether a breach is trivial.

(vi)

~~The SRA receives a number of reports which are qualified only by reference to trivial breaches, but which show a significant difference between liabilities to clients and client money held in client and other accounts. An explanation for this difference, from either the accountant or the solicitor, must be given.~~

(vii)

Accountants' reports should be sent to the Information Directorate.

(viii)

For direct reporting by the accountant to the SRA in cases of concern, see rule [38.35](#) and note (i) to that rule.

## **Rule 48 – Practices [45 – Firms](#) with two or more places of business**

If a [practice firm](#) has two or more offices:

•

(a)

separate reports may be delivered in respect of the different offices; and

(b)

separate *accounting periods* may be adopted for different offices, provided that:

(i)

separate reports are delivered;

(ii)

every office is covered by a report delivered within six months of the end of its *accounting period*; and

(iii)

there are no gaps between the *accounting periods* covered by successive reports for any particular office or offices.

## **Rule ~~49–46~~ – Waivers**

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

### **Note**

#### **Guidance note**

Applications for waivers should be made to the Information Directorate. In appropriate cases, [solicitors firms](#) may be granted a waiver of the obligation to deliver an accountant's report (see rule [35.32](#), and [note \(xi\)](#) to that rule). The circumstances in which a waiver of any other provision of Part F would be given must be extremely rare.

## **Part G – ~~Commencement~~ – Overseas practice**

### **Rule 47 – Purpose of the overseas accounts provisions**

The purpose of applying different accounts provisions to overseas practice is to ensure similar protection for client

money but by way of rules which are more adaptable to conditions in other jurisdictions.

## **Rule 48 – Application and Interpretation**

(1)

Part G of these rules applies to your practice from an office outside England and Wales to the extent specified in each rule in this Part. If compliance with any applicable provision of Part G of these rules would result in your breaching local law, you may disregard that provision to the extent necessary to comply with that local law.

(2)

In Part G of these rules:

(a)

"AJA" means the Administration of Justice Act 1985;

(b)

"approved regulator" means any body listed as an approved regulator in paragraph 1 of Schedule 4 to the LSA, or designated as an approved regulator by an order under paragraph 17 of that Schedule;

(c)

"authorised body" means a body that has been authorised by the SRA to practise as a *licensed body* or a *recognised body*;

(d)

"authorised non-SRA firm" means a firm which is authorised to carry on *legal activities* by an *approved regulator other than the SRA*;

(e)

"body corporate" means a company, an *LLP*, or a *partnership* which is a legal person in its own right;

(f)

"BSB" means the Bar Standards Board;

(g)

"client account" means an account at a bank or similar institution, subject to supervision by a public authority, which is used only for the purpose of holding *client money* and/or *trust money*, and the title or designation of which indicates that the funds in the account belong to the client or clients of a *solicitor* or *REL* or are held subject to a *trust*;

(h)

"client money" means money received or held for or on behalf of a client or *trust* (but excluding money which is held or received by a multi-disciplinary practice - a *licensed body* providing a range of different services - in relation to those activities for which it is not regulated by the SRA);

(i)

"Establishment Directive" means the Establishment of Lawyers Directive 98/5/EC;

(j)

"Establishment Directive profession" means any profession listed in Article 1.2(a) of the *Establishment Directive*, including a *solicitor*, *barrister* or *advocate of the UK*;

(k)

"firm" means any business through which a *solicitor* or *REL* carries on practice other than in-house practice;

(l)

"lawyer-controlled body" means an authorised body in which lawyers of England and Wales constitute the national group of lawyers with the largest (or equal largest) share of control of the body either as individual managers or by their share in the control of bodies which are managers;

(m)

"lawyer of England and Wales" means a solicitor, or an individual who is authorised to carry on legal activities in England and Wales by an approved regulator other than the SRA, but excludes a member of an Establishment Directive profession registered with the BSB under the Establishment Directive;

(n)

"legal activity" has the meaning given in section 12 of the LSA and includes any reserved legal activity and any other activity which consists of the provision of legal advice or assistance, or representation in connection with the application of the law or resolution of legal disputes;

(o)

"licensed body" means a body licensed by the SRA under Part 5 of the LSA;

(p)

"licensing authority" means an approved regulator which is designated as a licensing authority under Part 1 of Schedule 10 to the LSA, and whose licensing rules have been approved for the purposes of the LSA;

(q)

"LLP" means a limited liability partnership incorporated under the Limited Liability Partnerships Act 2000;

(r)

"LSA" means the Legal Services Act 2007;

(s)

"manager" means:

(i)

a member of an LLP;

(ii)

a director of a company;

(iii)

a partner in a partnership; or

(iv)

in relation to any other body, a member of its governing body;

(t)

"non-lawyer" means:

(i)

an individual who is not a lawyer practising as such; or

(ii)

a body corporate or partnership which is not;

(a)

an authorised body;

(b)

an authorised non-SRA firm; or

(c)

a business, carrying on the practice of lawyers from an office or offices outside England and Wales, in which a controlling majority of the *owners* and *managers* are *lawyers*;

(u)

"owner", in relation to a body, means a person with any ownership interest in the body;

(v)

"partner" means a person who is or is held out as a partner in a *partnership*;

(w)

"partnership" means an unincorporated body in which persons are or are held out as *partners*, and does not include a body incorporated as an *LLP*;

(x)

"practice from an office" includes practice carried on:

(i)

from an office at which you are based; or

(ii)

from an office of a *firm* in which you are the *sole practitioner*, or a *manager*, or in which you have an ownership interest, even if you are not based there,

and "practising from an office" should be construed accordingly;

(y)

"recognised body" means a body recognised by the *SRA* under section 9 of the *AJA*;

(z)

"REL" means registered European lawyer, namely, an individual registered with the *SRA* under regulation 17 of the European Communities (Lawyer's Practice) Regulations 2000 (S.I. 2000 no. 1119);

(za)

"REL-controlled body" means an *authorised body* in which *RELS*, or *RELS* together with *lawyers of England and Wales* and/or European lawyers registered with the *BSB*, constitute the national group of lawyers with the largest (or equal largest) share of control of the body, either as individual *managers* or by their share in the control of bodies which are *managers*, and for this purpose *RELS* and European lawyers registered with the *BSB* belong to the national group of England and Wales;

(zb)

"reserved legal activity" has the meaning given in section 12 of the *LSA*, and includes the exercise of a right of audience, the conduct of litigation, reserved instrument activities, probate activities, notarial activities and the administration of oaths, as defined in Schedule 2 of the *LSA*;

(zc)

"SA" means the Solicitors Act 1974;

(zd)

"Society" means the Law Society, in accordance with section 87 of the SA;

(ze)

"sole practitioner" means a *solicitor* or *REL* practising as a sole principal, and does not include a *solicitor* or *REL* practising in-house;

(zf)

"solicitor" means a person who has been admitted as a solicitor of the Senior Courts of England and Wales and whose name is on the roll kept by the *Society* under section 6 of the SA;

(zg)

"SRA" means the Solicitors Regulation Authority, and reference to the SRA as an *approved regulator* or *licensing authority* means the SRA carrying out regulatory functions assigned to the *Society* as an *approved regulator* or *licensing authority*;

(zh)

"trustee" includes a personal representative (i.e. an executor or an administrator), and "trust" includes the duties of a personal representative;

(zi)

"UK" means United Kingdom.

## **Rule 49 – Interest**

(1)

You must comply with (2) below, if you hold *client money* and you are:

(a)

a *solicitor sole practitioner* practising from an office outside England and Wales, or an *REL sole practitioner* practising from an office in Scotland or Northern Ireland;

(b)

a *lawyer-controlled body* or (in relation to *practice from an office* in Scotland or Northern Ireland) a *lawyer-controlled body*, or an *REL-controlled body*;

(c)

a *lawyer of England and Wales* who is a *manager* of a *firm* which is *practising from an office* outside the UK, and *lawyers of England and Wales* control the *firm*, either directly as *partners*, members or owners, or indirectly by their ownership of *bodies corporate* which are *partners*, members or owners; or

(d)

a *lawyer of England and Wales* or *REL* who is a *manager* of a *firm* which is *practising from an office* in Scotland or Northern Ireland, and *lawyers of England and Wales* and/or *RELS* control the *firm*, either directly as *partners*, members or owners, or indirectly by their ownership of *bodies corporate* which are *partners*, members or owners.

(2)

If it is fair and reasonable for interest to be earned for the client on that *client money*, you must ensure that:

(a)

the *client money* is dealt with so that fair and reasonable interest is earned upon it, and that the interest

is paid to the client;

(b)

the client is paid a sum equivalent to the interest that would have been earned if the *client money* had earned fair and reasonable interest; or

(c)

any alternative written agreement with the client setting out arrangements regarding the payment of interest on that money is carried out.

(3)

In deciding whether it is fair and reasonable for interest to be earned for a client on *client money*, you must have regard to all the circumstances, including:

(a)

the amount of the money;

(b)

the length of time for which you are likely to hold the money; and

(c)

the law and prevailing custom of lawyers practising in the jurisdiction in which you are practising.

## **Rule 50—Commencement**

**~~The Solicitors' – Accounts Rules 1998 took effect on 22 July 1998 and had to be implemented by 1 May 2000. They replaced the Solicitors' Accounts Rules 1991, the Solicitors' Accounts (Legal Aid Temporary Provision) Rule 1992 and the Accountant's Report Rules 1991.~~**

### Practice from an office outside the UK

(1)

You must comply with (3) and (4) below in relation to *practice from an office outside the UK* if you are:

(a)

a *solicitor sole practitioner* who has held or received *client money*;

(b)

a *lawyer-controlled body* which has held or received *client money* as a *firm*;

(c)

a *lawyer of England and Wales*, or a *non-lawyer*, who is a *manager* of a *lawyer -controlled body* which holds or receives *client money*;

(d)

a *lawyer of England and Wales* who is a *manager* of any other *firm* which is controlled by *lawyers of England and Wales*, either directly as *partners*, members or *owners*, or indirectly by their ownership of *bodies corporate* which are *partners*, members or *owners*, if the *firm* holds or receives *client money*;

(e)

a *solicitor* who holds or receives *client money* as a named *trustee*;

(f)

a lawyer of England and Wales, or a non-lawyer, who is a manager of a lawyer-controlled body and who holds or receives client money as a named trustee.

### **Practice from an office in Scotland or Northern Ireland**

(2)

You must comply with (3) and (4) below in relation to practice from an office in Scotland or Northern Ireland if you are:

(a)

a solicitor or REL sole practitioner who has held or received client money.

(b)

a lawyer-controlled body, or an REL-controlled body, which has held or received client money as a firm;

(c)

a lawyer of England and Wales, an REL, a European lawyer registered with the BSB or a non-lawyer, who is a manager of a lawyer-controlled body, or an REL-controlled body, which holds or receives client money.

(d)

a lawyer of England and Wales or REL who is a manager of any other firm which is controlled by lawyers of England and Wales and/or RELs, either directly as partners, members or owners, or indirectly by their ownership of bodies corporate which are partners, members or owners, if the firm holds or receives client money.

(e)

a solicitor or REL who holds or receives client money as a named trustee;

(f)

a lawyer of England and Wales, a European lawyer registered with the BSB or a non-lawyer, who is a manager of a lawyer-controlled body, or an REL-controlled body, and who holds or receives client money as a named trustee.

### **Dealings with client money**

(3)

In all dealings with client money, you must ensure that:

(a)

it is kept in a client account, separate from money which is not client money.

(b)

on receipt, it is paid without delay into a client account and kept there, unless the client has expressly or by implication agreed that the money shall be dealt with otherwise or you pay it straight over to a third party in the execution of a trust under which it is held;

(c)

it is not paid or withdrawn from a client account except:

(i)

on the specific authority of the client;

(ii)



where the payment or withdrawal is properly required:

(A)

for a payment to or on behalf of the client;

(B)

for or towards payment of a debt due to the *firm* from the client or in reimbursement of money expended by the *firm* on behalf of the client; or

(C)

for or towards payment of costs due to the *firm* from the client, provided that a bill of costs or other written intimation of the amount of the costs incurred has been delivered to the client and it has thereby (or otherwise in writing) been made clear to the client that the money held will be applied in payment of the costs due; or

(iii)

in proper execution of a *trust* under which it is held;

(d)

accounts are kept at all times, whether by written, electronic, mechanical or other means, to:

(i)

record all dealings with *client money* in any *client account*;

(ii)

show all *client money* received, held or paid, distinct from any other money, and separately in respect of each client or *trust*; and

(iii)

ensure that the *firm* is able at all times to account, without delay, to each and every client or *trust* for all money received, held or paid on behalf of that client or *trust*; and

(e)

all accounts, books, ledgers and records kept in relation to the *firm's client account(s)* are preserved for at least six years from the date of the last entry therein.

### **Accountants' reports**

(4)

(a)

You must deliver an accountant's report in respect of any period during which you or your *firm* have held or received *client money* and you were subject to (3) above within six months of the end of that period.

(b)

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.

(c)

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 (3) above during the period covered by the report, and must include the following:

(i)

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

(ii)

the name, address and qualification of the reporting accountant:

(iii)

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

(iv)

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:

(v)

if the reporting accountant is satisfied that (so far as may be ascertained from the examination) you have complied with (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

(vi)

if the reporting accountant is not sufficiently satisfied to give a statement under (v) above, details of any matters in respect of which it appears to the reporting accountant that you have not complied with (3) above.

## **Rule 51 – Production of documents, information and explanations**

(1)

You must promptly comply with:

(a)

a written notice from the SRA that you must produce for inspection by the appointee of the SRA all documents held by you or held under your control and all information and explanations requested:

(i)

in connection with your practice; or

(ii)

in connection with any trust of which you are, or formerly were, a trustee;

for the purpose of ascertaining whether any person subject to Part G of these rules is complying with or has complied with any provision of this Part of these rules, or on whether the account has been used for or in connection with a breach of any of the Principles or other SRA Handbook requirements made or issued by the SRA; and

(b)

a notice given by the SRA in accordance with section 44B or 44BA of the LSA or section 93 of the LSA for the provision of documents, information or explanations.

(2)

You must provide any necessary permissions for information to be given so as to enable the appointee of the

SRA to:

(a)

prepare a report on the documents produced under (1) above; and

(b)

seek verification from clients, staff and the banks, building societies or other financial institutions used by you.

(3)

You must comply with all requests from the SRA or its appointee as to:

(a)

the form in which you produce any documents you hold electronically; and

(b)

photocopies of any documents to take away.

(4)

A notice under this rule is deemed to be duly served:

(a)

on the date on which it is delivered to or left at your address;

(b)

on the date on which it is sent electronically to your e-mail or fax address; or

(c)

48 hours (excluding Saturdays, Sundays and Bank Holidays) after it has been sent by post or document exchange to your last notified practising address.

### **Guidance notes**

(i)

If your firm has offices in and outside England and Wales, a single accountant's report may be submitted covering your practice from offices both in, and outside, England and Wales—such a report must cover compliance both with Parts A to F of these rules, and with Part G of these rules.

(ii)

The accounting requirements and the obligation to deliver an accountant's report in this part of the rules are designed to apply to you in relation to money held or received by your firm unless it is primarily the practice of lawyers of other jurisdictions. The fact that they do not apply in certain cases is not intended to allow a lower standard of care in the handling of client money—simply to prevent the "domestic provisions" applying "by the back door" in a disproportionate or inappropriate way.

(iii)

In deciding whether interest ought, in fairness, to be paid to a client, the fact that the interest is or would be negligible, or it is customary in that jurisdiction to deal with interest in a different way, may mean that interest is not payable under rule 49(2).

### **Rule 52 – Waivers**

The SRA may waive in writing in any particular case or cases any of the provisions of Part G of the rules, may place conditions on, and may revoke, any waiver.

## Guidance note

Applications for waivers should be made to the Professional Ethics Guidance Team. You will need to show that your circumstances are exceptional in order for a waiver to be granted.

## Part H – Transitional provisions

### Rule 53 – Transitional provisions

(1)

From 31 March 2012, rule 2(2) of these rules shall have effect subject to the following amendments:

(a)

in sub-paragraph (zk) ("*non-solicitor employer*"), omit the words "*, recognised sole practitioner*";

(b)

omit sub-paragraph (zv) ("*recognised sole practitioner*");

(c)

in sub-paragraph (zzo) ("*you*");

(i)

in sub-paragraph (ii)(C), omit the words "*, recognised sole practitioner*" and "*, or of a sole practitioner who should be a recognised sole practitioner, but has not been authorised by the SRA*";

(ii)

in sub-paragraph (iii)(E), delete the comma and insert the word "or" between the words "*recognised body*" and "*licensed body*", and omit the words "*or recognised sole practitioner*";

(iii)

for sub-paragraph (iii)(F), substitute "*as an employee of a partnership or a sole practitioner which should be a recognised body but has not been authorised by the SRA*";

(iv)

in sub-paragraph (vi), insert the words "*or a sole practitioner*" after the word "*partnership*"; and

(v)

omit sub-paragraph (vii).

(2)

With effect from the coming into force of the Order giving equivalent statutory protections to client money held by a licensed body, rule 13 shall have effect subject to the following amendments:

(a)

delete rule 13(6); and

(b)

in note (iii) to rule 13, omit the words "*of a recognised body or recognised sole practitioner*" in the first sentence, and delete the second and last sentences.

## **Appendix 1 – Flowchart – effect of SRA Accounts Rules 2011**

### **Tabular version**

This document uses hypertext links in order to present a text representation of the flowchart used in the [Solicitors' SRA Accounts Rules 1998/2011](#).

[A diagram of the flowchart \(PDF 70KB\)](#) ~~A diagram of the flowchart can be -~~  
[is available.](#)

## Preliminary Questions

1. Is money held or received by a <a href="#">solicitor practice</a> ?	
In a purely personal capacity?	go to A
In course of practice?	go to 2 or, for a <a href="#">solicitor practice</a> operating a client's own account, go to F

2. How is the money held?	
The <a href="#">solicitor practice</a> is alone entitled to the money	go to I
<del>In his or her capacity as solicitor on</del> <a href="#">On</a> account of a person or trust for whom <a href="#">solicitor practice</a> is acting	go to <del>II</del>
As stakeholder	go to <del>II</del>
As liquidator, trustee in bankruptcy or Court of Protection deputy	go to <del>IV</del>
As trustee of an occupational pension scheme	go to <del>IV</del>
As the holder of a joint account	go to <del>IV</del>
<a href="#">As part of non-SRA regulated activities of an MDP</a>	<a href="#">go to V</a>

## Nature of money

I. Office money	Go to B
-----------------	---------

<del>II.</del>	<del>{Deleted}</del>
----------------	----------------------

<del>III.</del> Client <del>M</del> money	Go to C
<del>IV.</del> Client <del>m</del> Money	Go to D

<del>V.</del>	<del>{Deleted}</del>
---------------	----------------------

<del>VI.</del> Client <del>M</del> money	Go to E
--	---------

<a href="#">V. Out-of-scope money</a>	Go to G
---------------------------------------	---------

### Treatment under the **Solicitors' SRA** Accounts Rules **1998/2011**

A	Not subject to Accounts Rules - must not be paid into a client account
B	Must not be paid into a client account unless allowed under <a href="#">rule 17 (receipt and transfer of costs)</a>
C	Must be paid into a client account
D	Modified application of Accounts Rules - <a href="#">see rule 8</a>
E	Limited application of Accounts Rules - <a href="#">see rule 9</a>
F	Not client money but subject to limited application of Accounts Rules - <a href="#">see rule 10</a>
G	<a href="#">Not subject to Accounts Rules – must not be paid into a client account, other than as permitted by rules 17(1)(c) and 18</a>
For all other aspects of the <b>Solicitors' SRA</b> Accounts Rules go to 1	

### Downloadable document(s)

#### Appendix 2 – Special **S**situations – What **A**pplies?

[A](#) table of appendix 2 (PDF 54KB) [is available](#).

#### **1 – R.15(1 - )(a)** a/cs in **solicitor's practice** name (not client a/c)

**Is it client money?**

Yes

**Subject to reconciliations?**

Yes

**Keep books?**

Yes – [r.29\(1\)\(a\)](#) and [29\(2\)](#)

**Retain statements?**

Yes – [r.29\(17\)](#)

**Subject to accountant's report?**

Yes

**Produce records to SRA?**

Yes

**Interest?**

Yes – [r.22](#)

**Retain records generally?**

Yes – [r.29\(17\)](#)

**Central records?**

Statements or register – [r.29\(19\)](#), bills – [r.29\(15\)](#)

**Subject to reporting accountant's comparisons?**

Yes – [r.39\(1\)\(f\)](#)

**2 - [R.15\(1\)\(b\)](#) a/cs in name of client – not operated by ~~solicitor~~[practice](#)**

**Is it client money?**

No

**Subject to reconciliations?**

No

**Keep books?**

No – record ~~solicitor's~~ receipt and payment only

**Retain statements?**

No

**Subject to accountant's report?**

No

**Produce records to SRA?**

No

**Interest?**

No – all interest earned for client – [r.22, note\(ix\)](#)

**Retain records generally?**

No – except record of ~~solicitor's~~ receipt and payment

**Central records?**

Bills – [r.29\(15\)](#)

**Subject to reporting accountant's comparisons?**

No

**3 - [R.15\(1\)\(b\)](#) a/cs in name of client – operated by ~~solicitor~~[practice](#)**

**Is it client money?**

No

**Subject to reconciliations?**

No

**Keep books?**

No – [record solicitor's receipt and payment only](#)

**Retain statements?**

Yes – [r.30](#)

**Subject to accountant's report?**

Limited – [r.39\(1\)\(n\)](#)

**Produce records to SRA?**

Yes – [r.10](#)

**Interest?**

No – all interest earned for client – [r.22, note\(ix\)](#)

**Retain records generally?**

No – except record of [solicitor's receipt and payment](#)

**Central records?**

Statements – [r.30](#)

Bills – [r.29\(15\)](#)

**Subject to reporting accountant's comparisons?**

No

**4 – Liquidators, trustees in bankruptcy and Court of Protection deputies**

**Is it client money?**

Yes – [r.8](#)

**Subject to reconciliations?**

No – [r.8](#)

**Keep books?**

Modified – statutory records – [r.8](#)

**Retain statements?**

Yes – [r.8](#) and [r.29\(17\)\(c\)](#)

**Subject to accountant's report?**

Limited – [r.39\(1\)\(l\)](#)

**Produce records to SRA?**

Yes – [r.8](#)

**Interest?**

No – [r.8](#) – comply with statutory rules ([but see rules 8\(4\) and 22, note \(xii\)](#))

**Retain records generally?**

Yes – modified [r.29\(17\)\(c\)](#)

**Central records?**



Yes – [r.29\(20\)](#) Bills – [r.29\(15\)](#)

**Subject to reporting accountant's comparisons?**

No – [r.8](#)

## **5 – Trustees of occupational pension schemes**

**Is it client money?**

Yes – [r.8](#)

**Subject to reconciliations?**

No – [r.8](#)

**Keep books?**

Modified – statutory records – [r.8](#)

**Retain statements?**

Yes – [r.8](#) and [r.29\(17\)\(c\)](#)

**Subject to accountant's report?**

Limited – [r.39\(1\)\(l\)](#)

**Produce records to SRA?**

Yes – [r.8](#)

**Interest?**

No – [r.8](#) – comply with statutory rules ([but see rules 8\(4\) and 22, note \(xii\)](#))

**Retain records generally?**

Yes – modified [r.29\(17\)\(c\)](#)

**Central records?**

Yes – [r.29\(20\)](#) Bills – [r.29\(15\)](#)

**Subject to reporting accountant's comparisons?**

No – [r.8](#)

## **6 – Joint accounts – [r.9](#)**

**Is it client money?**

Yes – [r.9](#)

**Subject to reconciliations?**

No – [r.9](#)

**Keep books?**

No – [r.9](#)

**Retain statements?**

Yes – [r.9](#) and [29\(17\)\(b\)\(ii\)](#)

**Subject to accountant's report?**

Limited – [r.39\(1\)\(m\)](#)

**Produce records to SRA?**

Yes – [r.9](#)

**Interest?**

No. For joint a/c with client, all interest to client ~~(r.22. note (xiii))~~; for joint a/c with ~~sol:~~[another practice or other third party](#) depends on agreement

**Retain records generally?**

No – [r.9](#)

**Central records?**

Statements – [r.29\(21\)](#) Bills – [r.29\(15\)](#)

**Subject to reporting accountant's comparisons?**

No – [r.9](#)

**~~7--~~Solicitor acting ~~7 – Acting~~ under power of attorney**

**Is it client money?**

Yes

**Subject to reconciliations?**

Yes

**Keep books?**

Yes

**Retain statements?**

Yes

**Subject to accountant's report?**

Yes

**Produce records to SRA?**

Yes

**Interest?**

Yes

**Retain records generally?**

Yes

**Central records?**

Bills – [r.29\(15\)](#)

**Subject to reporting accountant's comparisons?**

Yes

**8 – ~~Solicitor operates client's~~ Operating client's own a/c e.g. under power of attorney  
– r.10**

**Is it client money?**

No

**Subject to reconciliations?**

No

**Keep books?**

No

**Retain statements?**

Yes – r.30

**Subject to accountant's report?**

Limited – r.39(1)(n)

**Produce records to SRA?**

Yes – r.10

**Interest?**

No – all interest earned for client (r.22. note (ix))

**Retain records generally?**

No – r.10

**Central records?**

Statements – r.30

Bills – r. 29(15)

**Subject to reporting accountant's comparisons?**

No

**9 – Exempt ~~solicitors~~ persons under r.5**

**Is it client money?**

No

**Subject to reconciliations?**

No

**Keep books?**

No

**Retain statements?**

No

**Subject to accountant's report?**

No

**Produce records to SRA?**

No

**Interest?**

No

**Retain records generally?**

No

**Central records?**

No

**Subject to reporting accountant's comparisons?**

No

## **10 – Non-SRA regulated activities of an MDP**

[Back to VGW&Co Highlights list](#)

**Is it client money?**

[No – out-of-scope money – r.12](#)

**Subject to reconciliations?**

[No](#)

**Keep books?**

[No – but see note \(xi\) to r. 29](#)

**Retain statements?**

[No](#)

**Subject to accountant's report?**

[No](#)

**Produce records to SRA?**

[Yes – r.31 – only to extent needed to check rule compliance](#)

**Interest?**

[No](#)

**Retain records generally?**

[No – but see note \(xi\) to r. 29](#)

**Central records?**

[No](#)

**Subject to reporting accountant's comparisons?**

[No](#)

## **Appendix 3 – SRA Guidelines – Accounting Procedures and Systems**

### **1. Introduction**

## 1.1

These guidelines, published under [rule 26](#) of the [Solicitors' SRA Accounts Rules 1998/2011](#), are intended to be a benchmark or broad statement of good practice requirements which should be present in an effective regime for the proper control of client money. They should therefore be of positive assistance to firms in establishing or reviewing appropriate procedures and systems. They do not override, or detract from the need to comply fully with, the Accounts Rules.

## 1.2

References to [pmanagers](#) or firms in the guidelines are intended to include sole practitioners, [and](#) recognised bodies and [their licensed bodies, and the managers of those bodies](#).

## 2. General

### 2.1

Compliance with the Accounts Rules is the equal responsibility of all [pmanagers](#) in a firm. [This responsibility also extends to the Compliance Officer for Finance and Administration, whether or not a manager \(see rule 6\)](#). They should establish policies and systems to ensure that the firm complies fully with the rules, [including procedures for verifying that the controls are operating effectively](#). Responsibility for day to day supervision may be delegated to one or more [pmanagers](#) to enable effective control to be exercised. Delegation of total responsibility to a cashier or book-keeper is not acceptable.

### 2.2

The firm should hold a copy of the current version of the [Solicitors'](#) Accounts Rules and/or have ready access to the current on-line version. The person who maintains the books of account must have a full knowledge of the requirements of the rules and the accounting requirements of [solicitors'](#) firms.

### 2.3

Proper books of account should be maintained on the double-entry principle. They should be legible, up to date and contain narratives with the entries which identify and/or provide adequate information about the transaction. Entries should be made in chronological order and the current balance should be shown on client ledger accounts, or be readily ascertainable, in accordance with rule 29(9).

### 2.4

Ledger accounts for clients, other persons or trusts should include the name of the client or other person or trust and contain a heading which provides a description of the matter or transaction.

### 2.5

~~Separate designated client accounts should be brought within the ambit of the systems and procedures for the control of client money, including reconciliations (see below).~~

### 2.6

Manual systems for recording client money are capable of complying with these guidelines ~~and there is no requirement on firms to adopt computerised systems~~. A computer system, with suitable support procedures will, however, [usually](#) provide an efficient means of producing the accounts and associated control information.

### 2.7

~~If a computer system is introduced~~ [When introducing new systems](#), care must be taken to ensure:

(1)

that balances transferred from the ~~old~~ books of account [of the old system](#) are reconciled with the opening balances held on the new system before day to day operation commences;

(2)

that the new system operates correctly before the old system is abandoned. This may require a period of

parallel running of the old and new systems and the satisfactory reconciliation of the two sets of records before the old system ceases.

#### 2.87

The firm should ensure that office account entries in relation to each client or trust matter are maintained up to date as well as the client account entries. Credit balances on office account in respect of client or trust matters should be fully investigated.

#### 2.98

The firm should [establish policies and](#) operate ~~a system to identify promptly situations which may require~~ [systems](#) for the payment of [fair and reasonable](#) interest to clients [in accordance with rules 22 and 23](#).

### 3. Receipt of client money

#### 3.1

The firm should have procedures for identifying client money, including cash, when received in the firm, and for promptly recording the receipt of the money either in the books of account or a register for later posting to the client cash book and ledger accounts. The procedures should cover money received through the post, electronically or direct by fee earners or other personnel. They should also cover the safekeeping of money prior to payment to bank.

#### 3.2

The firm should have a system which ensures that client money is paid promptly into a client account.

#### 3.3

The firm should have a system for identifying money which should not be in a client account and for transferring it without delay.

#### 3.4

The firm should determine a policy and operate a system for dealing with money which is a mixture of office money and client money, [or client money and out-of-scope money, or client money, out-of-scope money and office money](#), in compliance with rules 17- 19.

### 4. Payments from client account

#### 4.1

The firm should have clear procedures for ensuring that all withdrawals from client accounts are properly authorised. In particular, suitable persons, ~~consistent with rule 23(1)~~, should be named for the following purposes:

- (1)  
authorisation of internal payment vouchers;
- (2)  
signing client account cheques;
- (3)  
authorising telegraphic or electronic transfers.

No other personnel should be allowed to authorise or sign the documents.

#### 4.1A2

The firm should establish clear procedures and systems for ensuring that persons permitted to authorise the withdrawal of client money from a client account have an appropriate understanding of the requirements of the

rules, including rules 20 and 21 which set out when and how a withdrawal from client account may properly be made.

#### 4.23

Persons nominated for the purpose of authorising internal payment vouchers should, for each payment, ensure there is supporting evidence showing clearly the reason for the payment, and the date of it. Similarly, persons signing cheques and authorising transfers should ensure there is a suitable voucher or other supporting evidence to support the payment.

#### 4.34

The firm should have clear systems and procedures for authorising withdrawals from client accounts by electronic means, with appropriate safeguards and controls to ensure that all such withdrawals are properly authorised.

#### 4.5

The firm should have a system for checking the balances on client ledger accounts to ensure no debit balances occur. Where payments are to be made other than out of cleared funds, clear policies and procedures must be in place to ensure that adequate risk assessment is applied.

*N.B. If incoming payments are ultimately dishonoured, a debit balance will arise, in breach of the rules, and full replacement of the shortfall will be required under rule 7. See also rule 2220, notes (v) and (vi).*

#### 4.46

The firm should establish systems for the transfer of costs from client account to office account in accordance with rule 17(2) and (3). Normally transfers should be made only on the basis of rendering a bill or written notification. The payment from the client account should be by way of a cheque or transfer in favour of the firm or sole principal – see rule 21(4).

#### 4.57

The firm should establish policies and operate systems to control and record accurately any transfers between clients of the firm. Where these arise as a result of loans between clients, the written authority of both the lender and borrower must be obtained in accordance with rule 27(2).

#### 4.68

The firm should establish policies and operate systems for the timely closure of files and the prompt accounting for surplus balances in accordance with rule 14(3).

#### 4.79

The firm should establish systems in accordance with rule 14(4) to keep clients (or other people on whose behalf money is held) regularly informed when funds are retained for a specified reason at the end of a matter or the substantial conclusion of a matter.

## 5. Overall control of client accounts

### 5.1

The firm should maintain control of all its bank and building society accounts opened for the purpose of holding client money. In the case of a joint account, a suitable degree of control should be exercised.

### 5.2

Central records or central registers must be kept in respect of:

(1)

accounts held for client money, which are not client accounts (rules 15(1)(a), 16(d) and 29(19));

(2)

practice as a liquidator, trustee in bankruptcy, Court of Protection deputy or trustee of an occupational pension scheme (rules 8 and 29(20));

(3)

joint accounts rules 9 and 29(21));

(4)

dividend payments received by an executor, trustee or nominee company as nominee (rules 28(2) and 29(23)); and

(5)

clients' own accounts (rules 10, 15(1)(b) and 30(3)).

### 5.3

In addition, there should be a master list of all:

- general client accounts;
- separate designated client accounts;
- accounts held in respect of 5.2 above; and
- office accounts.

The master list should show the current status of each account; e.g. currently in operation or closed with date of closure.

### 5.4

The firm should operate a system to ensure that accurate reconciliations of the client accounts are carried out at least every five weeks ~~or, in the case of passbook-operated separate designated client accounts for money held by solicitor-trustees, every 14 weeks.~~ In particular it should ensure that:

(1)

a full list of client ledger balances is produced. Any debit balances should be listed, fully investigated and rectified immediately. The total of any debit balances cannot be "netted off" against the total of credit balances;

(2)

a full list of unrepresented cheques is produced;

(3)

a list of outstanding lodgements is produced;

(4)

formal statements are produced reconciling the client account cash book balances, aggregate client ledger balances and the client bank accounts. All unresolved differences must be investigated and, where appropriate, corrective action taken;

(5)

~~a partner~~ a manager or the Compliance Officer for Finance and Administration checks the reconciliation statement and any corrective action, and ensures that enquiries are made into any unusual or apparently unsatisfactory items or still unresolved matters.

### 5.5

~~Where a computerised system is used, the~~ The firm should have clear policies, systems and procedures to control access to computerised client accounts by determining the personnel who should have "write to" and "read only" access. Passwords should be held confidentially by designated personnel and changed regularly to



maintain security. Access to the system should not unreasonably be restricted to a single person nor should more people than necessary be given access.

5.6

The firm should establish policies and systems for the retention of the accounting records to ensure:

books of account, reconciliations, bills, bank statements and passbooks are kept for at least 6 years;  
paid cheques, digital images of paid cheques and other authorities for the withdrawal of money from a client account are kept for at least 2 years;  
other vouchers and internal expenditure authorisation documents relating directly to entries in the client account books are kept for at least two years.

5.7

The firm should ensure that unused client account cheques are stored securely to prevent unauthorised access. Blank cheques should not be pre-signed. Any cancelled cheques should be retained.

## **Appendix 4 – Reporting Accountant's Checklist**

Reporting Accountant's Checklist (PDF 154K)

## **Appendix 5 – Accountant's Report Form (AR1)**

Appendix 5 – Accountant's Report Form (AR1) (PDF 190K) ~~Appendix 6 – Accountant's Report Form for overseas offices (AR2)~~