



01 September 2010

Our ref: ICAEW Rep 85/10

By post and by email to margaret.hope@sra.org.uk

Ms Bronwen Still
Head of Policy
Solicitors Regulation Authority
Ipsley Court
Berrington Road
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Dear Ms Still

Review of the Solicitors Accounts Rules

The ICAEW writes with reference to the draft Solicitors Accounts Rules. This letter contains comments on the SAR which we trust will be of assistance to the SRA.

In general terms the new Code is intended to be principles based but beyond the principle of safeguarding clients' money (which has always existed), we believe that the rules remain largely prescriptive and would benefit from a more comprehensive review to update them to reflect changes in the modern environment.

This view is the considered conclusion of our

- Solicitors Special Interest Group, which comprises accountants and solicitors who deal with law firms (and the SAR) at an operational level
- SRAP – the Special Reports of Accountants Panel - which deals with special reports required from accountants and auditors
- Legal Services Working Party which has amongst its members accountants and solicitors who have worked at a very senior level within law firms and accountancy practices

The comments are not presented in terms of particular importance, but we have divided them in to three categories which we describe as;

- *“Future proofing”*

These comments take into account growing computerisation and changes in the banking industry generally which affect all businesses, not just law firm practices

- *Operational*

Comments here are from the perspective of the reader of the SAR (most usually an accountant advising or performing an SAR engagement on a firm of solicitors)

- *Specific*

Particular issues that require attention, such as updating rules in the light of changes elsewhere

Please contact me should you wish to discuss any of the points raised in the attached response.

Yours sincerely

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Section 1 - Future proofing

1. Even with the proposed amendments, the SAR are still largely written on the assumption that firms operate paper based systems. In reality the vast majority of firms will operate some form of computerised accounting system for client money. Opportunity now exists and should be taken to update the rules for the modern office in a number of areas.
2. On line banking arrangements/ internet only accounts are becoming increasingly common in business generally. The SAR need to clarify whether these accounts are available to practitioners and if so upon what terms.
3. Some time limits in the SAR are inconsistent and others also fail to recognise modern banking practices. A wholesale review of all time limits is advisable.

Section 2 – Operational issues

4. There seem to be opportunities for firms to cherry pick which rules it applies to money received. Client monies may be treated differently in different firms, even though the underlying circumstances are identical. These anomalies should be identified and eliminated to ensure consistency in approach.
5. The ICAEW has made a number of representations to the SRA (and in the past, the Law Society) about the value of having a declaration by solicitors on the accountant's report and it is disappointing to see that this issue has not been explored in the latest consultation paper – the Architecture of Change. Solicitors are required to comply with the SAR but they currently give no declaration to the SRA to this effect. A useful analogy to draw would be with the financial statements of a company. While auditors will audit the financial information in the financial statements and provide an opinion, the directors of a company are, in law, responsible for preparing the financial information and they must approve and sign the financial statements to confirm that they have met their responsibilities. Auditors are also required under International

Standard on Auditing 580, to obtain written representations from management that they believe that they have fulfilled their responsibility for the preparation of the financial statements and for the completeness of the information provided to the auditor. If management does not provide representations to this effect, the auditor must disclaim an opinion. The objective of a declaration by solicitors that they have complied with the SARs has nothing to do with the liability of accountants; it is about ensuring that solicitors are fully aware of, and accept the responsibilities placed on them by the SARs.

6. Rule 32 of the SARs (Annex E) on accounting records for client accounts looks at requirements in relation to statements from banks and building societies. It requires that solicitors must, at least every 5 weeks obtain hard copy statements (or duplicate statements permitted in lieu of the originals by rule 10(3) or (4)) from banks, building societies or other financial institutions, or obtain and save in the firm's computerised accounting system, 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. It is not clear what is meant by 'in a format which cannot be altered' and how this might be proven.
7. It would have been helpful at this stage to have the relevant accountant's report form and reporting accountant's checklist available for consideration.
8. SAR provisions in reports for initial and final periods could be relaxed to allow longer or shorter reporting periods without having to seek SRA written approval.

Section 3 - Specific issues

9. SAR numbering remains confused and clumsy in places. A thorough renumbering as part of this review process would be beneficial and is overdue.
10. A new category of "out of scope" money has been added but the guidance and rules accompanying it are inadequate. For example there are no requirements to record transactions in out of scope money on an out of scope part of the client ledger whereas there is for client money. There could be practical difficulties for firms and their accountants when billing, dealing with receipts of mixed monies on an out of scope part of the client ledger whereas there is for office money. Firms and accountants will find the rules on client money more difficult to adhere to in practice.
11. Many firms pay professional fees on proforma invoices and there is no guidance on the VAT treatment of such payments.
12. The SAR still refer to a Registered Auditor but the correct reference is Statutory Auditor.
13. Client account monies can be received and held in foreign currencies. Record keeping and reconciliation arrangements are unclear and do not state whether the foreign currency or sterling should apply
14. There is a conflict between the SAR and guidance on the treatment of interest in designated client deposit accounts. This follows relaxation of the rules on interest earned but not paid to the client. It is unclear whether interest paid on such accounts is client money that should be paid directly into the client account, or is office money and should be treated in the same way as interest earned on general client account and paid into office account.