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Finance and tax information for legal professionals

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CHARTERED ACCOUNTANTS

Are you ready for the new Solicitors' Account Rules?

The much awaited regulatory reforms from the Solicitors Regulation Authority (SRA) under its "Looking to the Future" programme were recently approved by the Legal Services Board.

These included an overhaul of the Solicitors' Accounts Rules (SARs), moving from 52 prescriptive rules across 80 pages to just 13 rules, which are far more outcome-focused and risk-based and span less than seven pages.

The focus now is for COFAs (compliance officers for finance and administration) to consider their firm's current procedures and work out the best approach for their firm and its clients.

The key changes to the new SARs

1. There are now only 13 rules and less detail.

2. The new rules no longer include detailed guidance notes clarifying certain points. At an ICAEW conference last year, the SRA had promised to provide toolkits in order to help guide firms through the revised SARs. However, we do not know when they will be released nor what they will contain.

3. All timescales (14 days, two days, next working day, etc) have been removed and it is down to individual firms to decide on their own appropriate time frames. Individual firms will also need to define what "prompt" means for them.

4. Where a firm only receives client money in relation to money received in advance of fees and disbursements, this can now be held as office money in the office account, provided the client is notified in advance. This could mean that some firms could decide not to operate a client account.

5. The concept of agreed fees has been removed. Under the new rules, money received from clients that would previously have been classified as agreed fees must now be held in a client account until a bill is raised. However, the firm may be able to take advantage of the change noted in (4) above.

6. There is now the option of using a third-party managed account (TPMA), rather than operating a client account.

7. Money received from the Legal Aid Agency for costs can be held in the office account.

8. One of the more notable changes is in relation to the transfer for costs and disbursements. Under the new rule 4.3, firms will have to give a bill of costs, or notify the client of costs incurred, before they can transfer funds from the client account.

   The definition of costs includes disbursements, which means firms will no longer be able to reimburse themselves for amounts incurred on disbursements without first issuing an invoice.

9. Additionally, the concept of professional disbursements has been removed, meaning all disbursements will be treated in the same way.

10. The new rule 8.3 requires the COFA or manager to review and sign off the client reconciliations with all differences investigated and resolved promptly. This is already being done as good practice by many firms, but it is now clearly defined by the SRA.

11. If firms currently operate clients' own accounts, these remain subject to a limited part of the rules. However, under the new rules these accounts will need to be reconciled every five weeks. It is unclear the form the reconciliation will take.

12. Unless the SRA specifically requests one, cease to hold Accountants' Reports are no longer required when a firm ceases to trade or changes status.

13. The exemption limits for obtaining an accountants' report are unchanged. However, the definition for calculating the statement balance has been extended to include joint accounts and clients' own accounts operated by the firm. This may bring some firms that have previously been exempt into the scope of the changed rules.

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What action is needed?

- Currently, there is no confirmed date for when the changes are to be effective from, but this is widely expected to be in April or May 2019.
- Considering this, firms will need to review their procedures to ensure that the practice remains compliant with the revised rules.
- Firms will also need to give some thought to appropriate time frames to include in their procedures. Some may want to define the time frame that is acceptable for the transfer of costs from the client account to office account, but it may be that 14 days is decided as the most appropriate. It may be that time frames set in the old rules remain appropriate in many cases.
- Once decided, these changes will need to be documented and communicated to staff to ensure they are aware of the changes. We also advise that staff are given training to ensure they are kept up-to-date on the rule changes and have an understanding particularly in relation to (8) above as this is one of the more drastic changes.

How McBrides can help

Our specialist legal services team has been looking after legal clients ranging from individuals to multi-office, multi-partner firms for over 20 years across London, Kent and the south east.

As members of the ICAEW Solicitors Special Interest Group, we are fully up-to-date in the developing business issues, SARs developments, tax issues, partnership planning and merger and acquisition activity impacting the legal profession.

Please feel free to contact us on 020 8309 0011 or email info@mcbridesllp.com.

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