Overseas Accounts Rules Consultation

Summary

This consultation is designed to seek views on proposed changes to the accounts rules applicable to entities and individual authorised persons 'practising overseas'. We are proposing to move the accounts rules that apply to overseas practice from the SRA Accounts Rules section of the SRA Handbook into the Overseas Rules and to simplify their application and content. The changes we are proposing are outlined below and we are seeking views from interested parties on the impact that such changes might have, whether positive or negative. The consultation will be open until ***22 December 2014***.

Introduction

1. The SRA is currently considering a series of changes to the SRA Accounts Rules 2011(the Rules) with the objective, in particular, of simplifying reporting requirements and making them more proportionate and targeted. As part of this general review of the Rules, we are also reflecting on how the accounts provisions affecting overseas practice can be improved.

2. When the SRA Handbook 2011 was designed, the preference at the time was for a consolidation of content thematically. As a result, the accounts rules applying to overseas practice were moved from old Rule 15 of the Solicitors Code of Conduct where they sat with other provisions affecting overseas practice, into the main body of the new SRA Accounts Rules 2011. The overseas accounts provisions, however, remain quite separate from the rest of the Rules in what is effectively a stand-alone section 7, and are quite distinct from other provisions in the Rules in their form and content. The overseas accounts rules, for example, cover only four issues: the payment of interest (rule 49), the holding and treatment of client money (rule 50.3), the preparation and submission of accountants' reports (rules 50.4-50.6) and the production of information at the SRA's request (rule 51) but are each prefaced with different application rules.

3. This consultation is part of a series of consultations on the SRA Accounts Rules 2011 but it focuses specifically on the distinct question of overseas accounts, which can be treated as a separate issue, as it is within the structure of the SRA Handbook.

Purpose

4. We believe that changes to the overseas accounts rules would be desirable, for the following reasons:

    - The application rules in section 7 of the SRA Accounts Rules are very complex. This complexity was introduced in order to prevent overseas branch offices of English firms having to apply the Accounts Rules in circumstances in which there were no solicitors in these offices. However, this makes the rules difficult to understand and has generated many

enquiries on their interpretation and requests for waivers. It can also result in the application of the rules to overseas offices changing simply because the composition of the management of that office has changed. We therefore believe that there is significant scope for simplification in the application of these rules.

- We believe that the application of the Overseas Rules, introduced in 2013, reflects the appropriate extent and level of application of accounts provisions for solicitors and firms practising overseas. Although extending the application provisions of the Overseas Rules to include accounts rules, would result in a wider application, it would also make this application more consistent. All offices under the control of a 'responsible authorised body' would then be covered by the same rules.

- The principles based approach of the Overseas Rules, which provides a good balance of oversight and flexibility, could also be applied to the accounts rules. There is, in our view, scope to make the overseas accounts rules more proportionate and reduce duplication of effort and expense for firms with offices in countries which have their own client account requirements. In turn, by making the rules more proportionate, any issues which might arise in relation to wider application become less significant.

- We think, in the light of experience, that it makes sense to bring as many of the rules applying to overseas practice together in one place within the SRA Handbook.

What we are proposing

5. We are therefore proposing the following amendments:

- The removal of section 7 of the SRA Accounts Rules 2011 and the insertion into the Overseas Rules of a new Part 3 which would cover overseas accounts.

- The simplification of the application of these rules. They would now apply to solicitors practising overseas (and to Registered European Lawyers (RELs) practising in Scotland and Northern Ireland) and to 'overseas practices'. An 'overseas practice' is any entity outside England and Wales which is under the control of an SRA authorised body, as defined in the glossary. Unlike the current rules, this application would not vary from rule to rule. Although this represents a broader application than the existing rules, it is more consistent and logical. It would, for example, avoid what can happen under the current rules, when the appointment of a new solicitor partner can change the application of the SRA Accounts Rules to an overseas office because an 'English solicitor majority' threshold has been crossed.

- Although our proposed application of the overseas accounts rules would be wider than at present, in order to bring it into line with the application of

the Overseas Rules themselves; the approach taken in these new rules would be more principles based, also in line with the Overseas Rules. The overseas accounts would now be encapsulated in a single rule consisting of eight requirements. These eight requirements are universally understood, justifiable and proportionate and are drafted as an expansion on Overseas Principle 10, which states "You must protect *client money* and assets", covering the separate issue of *client money (overseas)*. The requirements in detail include, for example: Keep client money separate; pay it into client account without undue delay; use it for that client's matters only etc.

- We are proposing to remove the requirement for overseas offices holding client money to have to obtain accountants' reports. Whilst this requirement might on the face of it appear to offer a level of client protection, in reality it tends to encourage offices to find other ways of excluding themselves from the scope of application of the Rules. The value of such reports which are received to the SRA is also questionable and the costs to firms of obtaining an accountant's report on an office by office basis can be significant. Firms often feel frustrated since there are often local reporting requirements in relation to client money which differ in form and content from the SRA's requirements. The added value of the SRA's requirements in these circumstances is debatable. As far as overseas practices are concerned, the SRA is most likely to become aware of issues of concern in relation to client monies by evidence emerging from the authorised body in England and Wales which is responsible for the overseas practice, or from information passed to it from that source. The concern that early warning information might be lost by removing the automatic requirement for an accountant's report is therefore not convincing in relation to overseas practices.

- We are also proposing an important change in the definition of *client money overseas*. The current definition states:

> ***client money (overseas)***
> *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).*

We are proposing to replace this with the following definition:

> ***client money (overseas)***
> *means money received or held outside of England and Wales which is neither office money nor money which belongs to you or to a third party.*

This new definition is more restrictive since it does not cover all money held or received on behalf of a client and therefore excludes money received from clients for onward disbursement to third parties.

Although it could be argued that this reduces the level of protection offered to clients, the more restrictive interpretation allows us to apply our rules more widely across all overseas practices. The proposed overseas accounts rules allow us to distinguish between firms which only hold disbursements and those which also hold client money and the rules in full will only apply to those offices in which client money is held.

All overseas practices will however have to apply the aspects of the overseas accounts rules that go beyond handling of client money (e.g. maintenance of proper accounting systems and controls and supplying documents to the SRA for inspection etc).

This differs from the current application in which any office overseas with a majority of solicitors has to apply section 7 of the Rules in full, which includes submission of accountants' reports etc, regardless of whether or not the money they are holding is simply client disbursements. These offices will also no longer find that what they have to do changes from year to year, depending on whether or not they receive a disbursement which would have been captured under the old definition of *client money (overseas)*.

Views Sought

6. We are now seeking views on the changes proposed, which are set out in full in **annex 1**. In particular we would welcome views on the following questions:

    1. Do you agree with our proposal to relocate the new overseas accounts provisions from the SRA Accounts Rules 2011 into the Overseas Rules? Is anything lost in doing so?

    2. Do you agree with the proposed changes to the application of these overseas accounts rules? More practices will be covered by the new rules, but it should be easier to understand what does and does not apply.

    3. Do you agree with our proposed simplification of the substance of the overseas accounts rules, as set out in new overseas rule 5.1, when compared to rules 50.3-50.6 in the existing Solicitors Accounts Rules?

    4. Do you agree with our proposed new definition of *client money overseas*? Are there any concerns about risks this might pose either to consumers or third parties?

    5. Do you agree with our proposal to eliminate the requirement for accounts to be automatically submitted in respect of overseas practices?

Conclusions

7. This consultation aims to bring the accounts provisions applying to overseas practice into line with the rest of the Overseas Rules. In doing so, it would result in a broader application of simpler rules. It is our view that such an approach would benefit those to whom the rules apply and that the changes would not have any negative impact on clients or consumers. We would however, welcome the views of others on this in addition to the specific issues on which we have sought comments.

8. If we receive positive feedback on these proposals, it would be our intention to submit the proposed amendments to the Legal Services Board with a view to introducing them in the Handbook update anticipated for April 2015. We believe that this timing would give firms a reasonable window to prepare for the impact of any changes (which in any case would not be significant).

9. The consultation will be open until 22 December 2014. Responses should be sent by email to international@sra.org.uk. Where this is not possible, hard-copy responses may be sent instead to:

   Overseas Accounts Rules Consultation
   Solicitors Regulation Authority
   24 Martin Lane
   London
   EC4R 0DR

Annex 1 Proposed amendments to Overseas Rules incorporating the Overseas Accounts Rules

Annex 2 Section 7 of the Solicitors Accounts Rules (current application)

ANNEX 1: PROPOSED CHANGES TO THE SRA HANDBOOK IN RELATION TO ACCOUNTS RULES APPLYING TO OVERSEAS PRACTICE

The following version of the SRA Overseas Rules contains the new accounts provisions which we are proposing to apply to the overseas practices of Responsible Authorised Bodies and to solicitors and RELs practising overseas. The changes proposed are highlighted and underlined and are based on the most recent version of the Handbook (version 9), published on 1 April 2014. Some additional small changes will be introduced to the Overseas Rules on 31 October.

SRA Overseas Rules 2013 (Including overseas accounts provisions)

Rules dated 30 August 2013 made by the Solicitors Regulation Authority Board under sections 31, 79 and 80 of the Solicitors Act 1974, sections 9 and 9A of the Administration of Justice Act 1985 and section 83 of the Legal Services Act 2007, with the approval of the Legal Services Board under paragraph 19 of Schedule 4 to the Legal Services Act 2007 regulating the conduct of solicitors and their employees, registered European lawyers and their employees, registered foreign lawyers, recognised bodies and their managers and employees and licensed bodies and their managers and employees.

Part 1: The Overseas Principles

Rule 1: Overseas Principles

1.1 You

(a) as a *regulated individual practising overseas* must ensure that you; or

(b) as a *responsible authorised body* must ensure that your *overseas practice*, and individual *managers*, and *members* and *owners* of your *overseas practice* (who are, for the purposes of these rules, 'those for whom you are responsible');

comply with the Overseas Principles stated below.

1.2 Each of the Overseas Principles stated below, is supplemented by a note to assist individuals and bodies to determine how best to comply with each Principle. These notes do not form part of the Principles and are for guidance only.

1.3 Overseas Principle 1: You must uphold the rule of the law and the proper administration of justice in England and Wales.

Guidance note

(i) Your obligations to *clients*, the *court* and third parties in England and Wales with whom you are dealing on behalf of your *clients* are unaffected by the location outside England and Wales from which you practise or by the location of your *overseas practice*.

1.4 Overseas Principle 2: You must act with integrity.

Guidance note

(i) Personal integrity is central to your role as the *client's* trusted adviser and should characterise all of your professional dealings with *clients*, the *court*, other *lawyers* and the public, wherever they are being

conducted. You should use your judgment when considering how best to maintain your integrity at all times and avoid any behaviour outside England and Wales which undermines your character and suitability to be an *authorised person*. A *responsible authorised body* should ensure that its *overseas practices* observe comparable standards.

1.5 Overseas Principle 3: You must not allow your independence or the independence of your *overseas practice* to be compromised.

Guidance note

(i) "Independence" means your own independence and that of your firm and your *overseas practice*, and not merely your ability to give independent advice to a *client*. You should avoid giving control of your *overseas practice* to a third party beyond any local legal or regulatory ownership requirements.

1.6 Overseas Principle 4: You must act in the best interests of each *client*.

Guidance note

(i) You should act in good faith and do your best for each of the *clients* for whom you are (or your *overseas practice* is) acting. In particular, you should follow the local legal or regulatory requirements of the jurisdiction in which you or your *overseas practice* are practising in relation to confidentiality and conflicts of interest. If no such requirements exist, you should be guided by what you consider to be the best interests of each *client* in the circumstances.

1.7 Overseas Principle 5: You must provide a proper standard of service to your *clients*/the *clients* of your *overseas practice*.

Guidance note

(i) You should provide a proper standard of client care and work. This includes exercising competence, skill and diligence and taking into account the individual needs and circumstances of each *client* as well as the particular requirements and circumstances of the jurisdiction in which you are working. If your *client* meets the definition of a complainant under Section 128(3) of the Legal Services Act 2007 or the Legal Services Act 2007 (Legal Complaints) (Parties) Order 2010, you should inform the *client* who is regulating the legal services you or your *overseas practice* is providing to the *client*, what client protections are in place and whether they have the benefit of professional indemnity insurance or other indemnity.

1.8 Overseas Principle 6: You must not do anything which will or will be likely to bring into disrepute the *overseas practice*, yourself as a *regulated individual* or *responsible authorised body* or, by association, the legal profession in and of England and Wales.

Guidance note

(i) This includes any behaviour which occurs within or outside your professional *practice* which undermines your own reputation, that of the *practice* within which you are a *manager* or solicitor employee, or the wider reputation of the legal profession in and of England and Wales.

1.9 Overseas Principle 7: You must comply with your legal and regulatory obligations in England and Wales, and deal with your regulators and ombudsmen in England and Wales in an open, timely and co-operative manner and assist and not impede any *authorised person* or *authorised body* practising in England and Wales in complying with their legal and regulatory obligations and dealings with their regulators and ombudsmen.

Guidance note

(i) As a *responsible authorised body*, you should ensure that you, and those for whom you are responsible, comply with all of the reporting and notification requirements that apply to you and respond promptly and substantively to communications. You should ensure that you (and those for whom you are responsible) do not cause, contribute or facilitate a failure to comply with the *SRA's* regulatory arrangements by any *authorised person* or *authorised body* practising in England and Wales. *Regulated individuals practising overseas* should assist their *responsible authorised body* to comply with its regulatory obligations to the *SRA*.

1.10 Overseas Principle 8: You must run your business/the business of your *overseas practice* or carry out your/their role in the business effectively and in accordance with proper governance and sound financial and risk management principles.

Guidance note

(i) As a *responsible authorised body* you are required to ensure that your relations with your *overseas practice* accord with sound governance, financial and risk management principles. You should ensure that those for whom you are responsible under these rules assist you in meeting your obligations to the *SRA* in relation to managing any risks that your *overseas practice* might pose to your operations.

1.11 Overseas Principle 9: You must run your business/the business of your *overseas practice* or carry out your/their role in the business in a way that encourages equality of opportunity and respect for diversity.

Guidance note

(i) Every jurisdiction has its own legal, regulatory and cultural framework for equality and diversity. The *SRA* does not expect, or require, *regulated individuals* or bodies *practising overseas* to approach these issues as they would in England and Wales. It does, however, expect that *SRA regulated individuals* and bodies will do what they reasonably can to encourage equality of opportunity and respect for diversity, within the legal, regulatory and cultural context in which they are *practising overseas*.

1.12 Overseas Principle 10: You must protect *client money* and assets.

Guidance note

(i) You and those for whom you are responsible should comply with local regulatory requirements in relation to *client money*, documents and assets and, in any event, you should ensure that they are protected appropriately.

Part 2: Application

Rule 2: Application

2.1 With regard to the Overseas Principles set out in Rule 1:

(a) they apply in full to you if you are a *regulated individual practising overseas*, or a *responsible authorised body* in relation to each of its *overseas practices*;

(b) you will be committing a breach if you permit another person to do anything on your behalf which, if done by you, would constitute a breach of these rules;

(c) you should ensure that you and those for whom you are responsible under these rules comply with all legal and regulatory obligations applicable in the jurisdiction outside England and Wales in which you or they are practising. You, and those for whom you are responsible under these rules, should not cause, contribute to or facilitate a failure to comply with those legal or regulatory obligations by any other person or body subject to them;

(d) where there is a conflict between compliance with the Overseas Principles set out in Rule 1 and/or the Reporting Requirements set out in Rule 3 on the one hand, and any requirements placed upon you or those for whom you are responsible under these rules by local law or regulation on the other hand, the latter shall prevail, with the exception of Overseas Principle 6, which must be observed at all times;

(e) nothing in these rules removes or modifies the requirements under the Legal Services Act 2007, for authorisation to be obtained for the delivery of *reserved legal activities*.

(f) if you are a *solicitor* and your *practice* predominantly comprises the provision of legal services in England and Wales then, regardless of where you are established, the *SRA* will apply the full *SRA Handbook* to your *practice*;

(g) if you are a *regulated individual practising overseas*, or a *responsible authorised body*, you must ensure that you, or those for whom you are responsible under these rules, comply with any requirements under:

(i) the SRA Property Selling Rules 2011;

(ii) the *SRA Insolvency Practice Rules*;

(iii) the *SRA European Cross-border Practice Rules*;

(iv) the *SRA Financial Services (Scope) Rules*;

(v) the SRA Financial Services (Conduct of Business) Rules 2001; and

(vi) the SRA Quality Assurance Scheme for Advocates (Crime) Regulations [2013]; which apply to you or your *overseas practice*.

Part 3: Overseas accounts rules

Rule 3: Purpose of the overseas accounts provisions

The purpose of Part 3 of these rules is to describe how Overseas Principle 10 applies to *client money (overseas)* in order to ensure that it is used for appropriate and proper purposes only.

Rule 4: Application

4.1 You

(a) As a *solicitor* or *REL practising overseas*; or
(b) As a r*esponsible authorised body*

Must ensure that your *overseas practice* and those for whom you are responsible, as defined in Rule 1, comply both with the Overseas Accounts Rules and any applicable requirements in local law or regulation relating to handling of client money or assets. If compliance with any applicable provision of these rules would result in you breaching local law or regulation, you may disregard that provision to the extent necessary to comply with the local requirements subject to the overriding obligations of Principle 6.

Rule 5: Dealings with client money

5.1 In all dealings with *client money (overseas)*, you must comply with the Principles set out in Rule 1 and in particular you must:
(a) keep *client money (overseas)*, separate from money which is not *client money (overseas)* ;
(b) on receipt, pay client money (overseas) into a *client account (overseas*) without undue delay and keep it there, unless the client has agreed otherwise, or it is paid directly to a third party in the execution of a *trust* under which it is held;
(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 these rules;
(f) keep accounting records to show accurately the position with regard to the money held for each client and trust for a minimum period of six years.
(g) Account for interest on *client money (overseas)* in accordance with local law and customs;
(h) Promptly comply with a written notice from the *SRA* that you must produce for inspection all documents held by you or under your control for the purpose of ascertaining whether Part 3 of these rules has been complied with.

Part 4: Reporting requirements

Rule 6: Reporting requirements

6.1 The *SRA* does not expect or require the same level of detailed monitoring, reporting and notification from those *practising overseas* as it would expect of *authorised persons* and *authorised bodies* in England and Wales. The level of reporting the *SRA* expects is proportionate to the level of regulatory risk posed by an *overseas practice*.

6.2 You, as a *regulated individual practising overseas* or as a *responsible authorised body*, must monitor any material or systemic breaches of the Overseas Principles that apply to you or to those for whom you are responsible and report them to the *SRA* when they occur, or as soon as reasonably practicable thereafter. In relation to an *overseas practice*, a material or systemic breach will relate either to the character and suitability of an individual, the financial vulnerability of an *overseas practice* outside of established business planning, or a pattern of behaviour within an *overseas practice* that infringes Overseas Principle 6. Notifications by the compliance officer of a *responsible authorised body*, or by another person on behalf of an *overseas practice* will satisfy these requirements without separate notifications from each individual or body who has knowledge of the breach. For example, you will be required to:

(a) notify the *SRA*, if you, or any of the *partners*, *members*, *managers*, solicitor employees or other professionally qualified employees in your *overseas practice*, are convicted by any *court* of a criminal offence or become subject to disciplinary action by another regulator;

(b) notify the *SRA* immediately if you believe that your firm or your *overseas practice* is in serious financial difficulty;

(c) provide the *SRA* with documents held by you or your *overseas practice*, to which it is entitled, and any necessary permissions to access information as soon as possible following a notice from the *SRA* to do so.

(d) provide the *SRA*, if you are a *responsible authorised body*, with an annual return which:

(i) identifies the contact details of the office(s) from which you are, or your *overseas practice* is, practising, and

(ii) confirms that you have fulfilled your reporting and notification obligations.

6.3 The *SRA* may additionally require the delivery of an accountant's report by you *as a responsible authorised body or solicitor* in respect of your *overseas practice(s)* or in relation to your practice as a *REL* from an office in Scotland or Northern Ireland under rule 9 of the *SRA Authorisation Rules* or regulation 7 of the *SRA Practising Regulations*. This report must:
(a) be signed by a qualified accountant approved by the SRA;
(b) contain the information specifically requested by the SRA in relation to the protection and movement of *client money (overseas)*;
(c) contain an explanation of the reporting accountant's examination of your records and relevant documentation;
(d) contain a statement from the reporting accountant which confirms that you have complied with rule 6 except for trivial breaches or situations in which you have been bound by local law or regulation not to comply.

6.4 You must promptly comply with 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.

Part 5: Commencement

Rule 7: Commencement

7.1 These Rules shall come into force as follows:

(a) Rules 5 and 6 of these rules shall come into force on 1 April 2015

~~(a)~~(b) Rules 1, 2 and 4 of these rules shall come into force on 1 October 2013, for:

(i) *regulated individuals* falling within the definition of *practising overseas*, and **(ii)** persons falling within paragraph (i)(a) and (e) of the definition of *overseas practice*,

~~(b)~~(c) Otherwise, these rules shall come into force on 1 October 2014.

Glossary Terms

client account (overseas)

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 (overseas)* and/or *trust* money, and the title, designation or account details allow the account to be identified as belonging to the client or clients of a *solicitor* or *REL* or that they are being held subject to a *trust*.

client money (overseas)

means money received or held outside of England and Wales which is neither *office money* nor which belongs to you or to a third party.

Solicitors Regulation Authority

ANNEX 2: CURRENT PROVISIONS ON OVERSEAS ACCOUNTS

SOLICITORS ACCOUNTS RULES 2011

Part 7: Practice from an office outside England and Wales

Rule 47: Purpose of the overseas accounts provisions

47.1 The purpose of applying different accounts provisions to practice from an office outside England and Wales is to ensure similar protection for *client money (overseas)* but by way of rules which are more adaptable to conditions in other jurisdictions.

Rule 48: Application and Interpretation

48.1 Part 7 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 7 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.

48.2 The *SRA* Handbook Glossary 2012 shall apply and, unless the context otherwise requires:

(a) all italicised terms shall be defined; and

(b) all terms shall be interpreted, in accordance with the *Glossary*.

Rule 49: Interest

49.1 You must comply with rule 49.2 below, if you hold *client money (overseas)* 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 (overseas)* of a *firm (overseas)* which is *practising from an office* outside the *UK*, and *lawyers of England and Wales* control the *firm (overseas)*, 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 (overseas)* of a *firm (overseas)* which is *practising from an office* in Scotland or Northern Ireland, and *lawyers of England and Wales* and/or *RELs* control the *firm (overseas)*, either directly as *partners*, members or *owners*, or indirectly by their ownership of *bodies corporate* which are *partners*, members or *owners*.

49.2 If it is fair and reasonable for interest to be earned for the client on that *client money (overseas)*, you must ensure that:

(a) the *client money (overseas)* 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 (overseas)* 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.

49.3 In deciding whether it is fair and reasonable for interest to be earned for a client on *client money (overseas)*, 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: Accounts

Practice from an office outside the UK

50.1 You must comply with rule 50.3 and 50.4 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 (overseas)*;

(b) a *lawyer-controlled body* which has held or received *client money (overseas)* as a *firm (overseas)*;

(c) a *lawyer of England and Wales*, or a *non-lawyer*, who is a *manager (overseas)* of a *lawyer controlled body* which holds or receives *client money (overseas)*;

(d) a *lawyer of England and Wales* who is a *manager (overseas)* of any other *firm (overseas)* 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 (overseas)* holds or receives *client money (overseas)*;

(e) a *solicitor* who holds or receives *client money (overseas)* as a named *trustee*;

(f) a *lawyer of England and Wales*, or a *non-lawyer*, who is a *manager (overseas)* of a *lawyer controlled body* and who holds or receives *client money (overseas)* as a named *trustee*.

Practice from an office in Scotland or Northern Ireland

50.2 You must comply with rule 50.3 and 50.4 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 (overseas)*;

(b) a *lawyer-controlled body*, or an *REL-controlled body*, which has held or received *client money (overseas)* as a *firm (overseas)*;

(c) a *lawyer of England and Wales*, an *REL*, a European lawyer registered with the *BSB* or a *non lawyer*, who is a *manager (overseas)* of a *lawyer-controlled body*, or an *REL-controlled body*, which holds or receives *client money (overseas)*;

(d) a *lawyer of England and Wales* or *REL* who is a *manager (overseas)* of any other *firm (overseas)* 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 (overseas)* holds or receives *client money (overseas)*;

(e) a *solicitor* or *REL* who holds or receives *client money (overseas)* 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 (overseas)* of a *lawyer-controlled body*, or an *REL-controlled body*, and who holds or receives *client money (overseas)* as a named *trustee*.

Dealings with client money

50.3 In all dealings with *client money (overseas)*, you must ensure that:

(a) it is kept in a *client account (overseas)*, separate from money which is not *client money (overseas)*;

(b) on receipt, it is paid without delay into a *client account (overseas)* 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 (overseas)* 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 (overseas)* from the client or in reimbursement of money expended by the *firm (overseas)* on behalf of the client; or

(C) for or towards payment of costs due to the *firm (overseas)* 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 (overseas)* in any *client account (overseas)*;

(ii) show all *client money (overseas)* received, held or paid, distinct from any other money, and separately in respect of each client or *trust*; and

(iii) ensure that the *firm (overseas)* 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 (overseas) client account(s) (overseas)* are preserved for at least six years from the date of the last entry therein.

Accountants' reports

50.4 You must deliver an accountant's report in respect of any period during which you or your *firm (overseas)* have held or received *client money (overseas)* and you were subject to rule 50.3 above, within six months of the end of that period.

50.5 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.

50.6 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 rule 50.3 above during the period covered by the report, and must include the following:

(a) your name, practising address(es) and practising style and the name(s) of the *firm's (overseas) managers (overseas)*;

(b) the name, address and qualification of the reporting accountant;

(c) an indication of the nature and extent of the examination the reporting accountant has made of the relevant documents;

(d) 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*;

(e) if the reporting accountant is satisfied that (so far as may be ascertained from the examination) you have complied with rule 50.3 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

(f) if the reporting accountant is not sufficiently satisfied to give a statement under (e) above, details of any matters in respect of which it appears to the reporting accountant that you have not complied with rule 50.3 above.

Rule 51: Production of documents, information and explanations

51.1 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 7 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.

51.2 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 rule 51.1 above; and

(b) seek verification from clients, staff and the banks, building societies or other financial institutions used by you.

51.3 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.

51.4 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 1 to 6 of these rules, and with Part 7 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

52.1 The *SRA* may waive in writing in any particular case or cases any of the provisions of Part 7 of the rules, may place conditions on, and may revoke, any waiver.

Guidance note

(i) 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.