



# Response to SRA consultation: Client money in legal services

## 1. Introduction

We thank the SRA for opening their latest instalment in the consultation on client money in legal services for response. Whilst we are not a firm of solicitors, Kreston Reeves is a top 40 accountancy firm in the UK, with offices across London, Kent and Sussex and global reach across more than 100 countries through its membership of Kreston Global. We pride ourselves on being in regular contact with our clients to discuss ongoing compliance and commercial matters, as well as proactively discussing with our clients potential upcoming changes and how they can mitigate the risks to client money, before the regulator makes any changes mandatory.

We are actively engaged with the consultation and the SRA on their proposals to improve consumer protection, and have been responding directly to the SRA at each stage of the consultation so far. We have set out below our comments on the key areas outlined in the latest instalment under individual headings, taking into consideration the impact on solicitor firms (using the benefit of our clients' input and our own anecdotal evidence), reporting accountants, and ultimately the scale of improvement in consumer protection that is likely to result.

## 2. Proposed improvements to the accountants' reports regime

### SRA summary:

The SRA proposes strengthening the accountants' report framework to improve the detection of risk, enhance the quality of financial assurance, and ensure quicker identification of client account irregularities.

### Our thoughts:

- *We agree that further scrutiny of accountants' reports by the SRA is necessary, as well as increased guidance in some areas.*
- *There is a need for further clarification surrounding cease to hold reports. Where firms are changing structure, and need to submit a cease to hold report, issues are unlikely to be identified in a timely manner. This should be addressed.*

- *We acknowledge that the regulator would have better oversight of firms under the proposal for all reports for non-exempted firms (regardless of whether they are qualified or unqualified) to be submitted to the SRA. The same is true of introducing an annual declaration for all firms regarding the requirements to obtain an AR1, or whether they are exempt. We believe this should not create a significant administrative burden for firms.*
- *However, concerns remain surrounding staff restrictions and the increased burden on the regulator in being able to appropriately sift through the increased number of submissions, identify matters requiring further attention and act swiftly. There may also be an increased burden on the Reporting Accountants, should they be required to submit directly to the SRA.*
- *There need to be suitable means for Reporting Accountants to be able to make submissions directly, for example through an agent portal on mySRA. There is no such system at present, meaning this can only be done via email or through the client's own mySRA account. Where Reporting Accountants are the ones submitting, there could also be an option for the COFA to agree (or otherwise) with the wording.*
- *If this is not the case, and firms continue to submit their own reports, then there should be a requirement for copy wording to be sent to the Reporting Accountant to confirm the appropriate wording has been used, as well as the Reporting Accountant's signature on the AR1.*
- *Increased guidance is required for accountants on increased checks, for instance, on more routine requirements for obtaining bank confirmations.*



### 3. Strengthening internal checks and compliance officer responsibilities

#### SRA summary:

The consultation seeks views on enhancing the internal oversight responsibilities of COLPs and COFAs, including strengthened checks, clearer accountability, and better reporting pathways. This includes increased requirements/ separation of roles where there are higher risks, e.g. for firms with turnover > £600k and client money > £500k, unilateral decision makers would not be able to be the COLP and the COFA. For sole owner managed firms with turnover < £600k and client money > £500k, it is proposed that unilateral decision makers could not hold the COFA role but would still be able to hold the COLP role.

#### Our thoughts:

- *We previously acknowledged, in response to the initial consultation, that it would be beneficial to build support packages for compliance officers, to aid them in their duties and to help improve their effectiveness and impact. We felt that there should be compulsory training courses, with ongoing CPD requirements being logged with the SRA. Many of our clients agreed, feeling that there should be training and certification requirements for ongoing professional development on those holding the COFA role. Training requirements are especially important where non-directors/ partners hold the COFA role.*
- *However, the proposals to impose restrictions on the compliance roles are likely to create significant cost burdens. This cost burden will be, naturally, skewed towards smaller firms, where it is more likely that the COFA and COLP role are held by the same person, who is also the unilateral decision maker, as the SRA feel this is where higher risk may lie. It may be, therefore, that firms would need to bring someone in, or contract roles out. The cost burden of additional compliance could cause financial difficulties for some firms. Further guidance is required by the SRA as to how this would be practically implemented, managed, and monitored.*

### 4. Oversight of firms with emerging or changing risk profiles

#### SRA summary:

The SRA intends to deepen its risk monitoring approach, particularly when firms undergo growth, restructuring, or events that may signal financial instability. The SRA are working on proposals for consultation on this next year, including the risk indicators that should be used and what information should be required, in order to improve oversight in this area.



## Our thoughts:

- *There is a general consensus that greater oversight of firms changing structure is required. This could mean increased requirements for notifications to be made to the SRA, as well as additional requirements regarding mergers and acquisitions. Given that mergers and acquisitions can sometimes involve failing firms, it would seem logical to us that greater risk could be involved, and therefore a more hands-on approach from the regulator may be appropriate.*
- *There have been generally positive responses to the suggestion of a more proactive oversight approach to acquisitions. However, there are concerns about the impact of information gathering, approval requirements, and how these matters could affect business activity. Many of our clients previously raised concerns about the administrative burden of additional oversight, and the privacy of information.*
- *Early intervention, and ultimately prevention, are what is ideally required here, in our opinion. This would create the greatest impact on consumer protection.*
- *We believe a traffic light system should be engaged to assess risk factors and would encourage such a process to be considered for the upcoming consultation. For example, assessing risk factors such as changes in control or structure and attaching a higher risk-level to these. In such higher-risk circumstances, firms could be required to provide more information.*

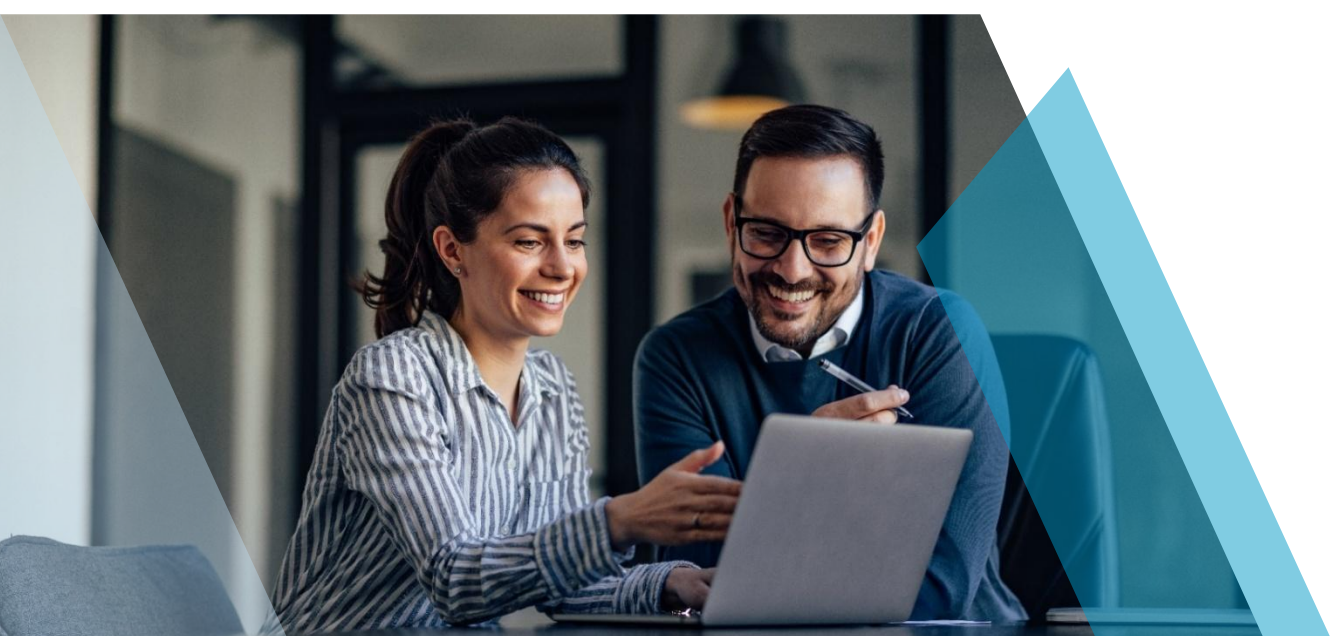


## 5. Updates on further areas

### SRA summary:

The SRA has now decided their position on three areas that were previously consulted on, with a fourth being consulted on by the Ministry of Justice separately.

- *Residual balances - There will be no prescribed timeframe for returning funds. However, greater clarity around the requirements to return 'promptly' will be provided, with supporting case studies. We would welcome a bank of case studies to provide COFAs with increased information regarding acceptable/ unacceptable circumstances and timeframes, as this is in line with our comments about providing COFAs with more resources.*
- *Advanced fees – The SRA will not be tightening rules around how much money firms can request in advance of work being undertaken. This approach appears to be in line with many of our clients' concerns about the risk exposure of legal firms if not properly able to request appropriate funds on account. We would highlight that firms should remain vigilant, ensuring that proper calculations are conducted, and documentation is held on file, in relation to monies requested in advance.*
- *Moving money between client and office account – A number of changes will be made to rules 2.1(d), 4.3, 4.3(a,c) and a new rule 4.4 will be brought in, to the effect that firms are not required to deliver a bill or written notification of costs before reimbursing the office account from the client account, for expenses incurred on behalf of clients. This should make guidance clearer for firms, and reduce some administrative burden.*
- *Interest – We note that the latest SRA consultation is silent on the treatment of interest, due to the Ministry of Justice proposals, which is being consulted on separately. Our latest thought piece on this can be found separately here: <https://www.krestonreeves.com/news/ministry-of-justice-consultation-interest-on-lawyers-client-accounts-scheme/>*



## 6. Overall reflections and conclusion

Several of the changes which were put forward by the SRA have not come into effect. This aligns with our clients viewpoints that many of the proposals initially consulted on were premature, reactionary, and in a number of cases did not appear to result in greater protection to the end consumer.

We welcome the changes to the requirements to submit all reports, but further clarification is needed on the responsibility and mechanism for submission, as well as for cease to hold reports.

We reaffirm our belief that there should be increased focus on firms' systems and procedures, in order to protect consumers at the earliest opportunity. The SRA's systems and procedures to monitor firms and to ensure intervention at the earliest possible point, where required, are also pivotal to consumer protection. Improvements here would afford a significant increase in better monitoring and therefore protection. We believe that increased training requirements for COFAs would be a useful starting point here. Furthermore, a risk-based, traffic light, approach could be implemented to steer the SRAs limited resources in the direction of higher risk areas.

This will help the SRA to focus on the minority of non-compliant firms which, given limited resources, seems to us to be the most efficient and practicable solution to improving consumer protection.



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