



## COVID-19

# Staying Compliant with the SRA Accounts Rules

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## Introduction



**Robert Blech**  
Director  
MHA MacIntyre Hudson

- Who I am
- What this webinar will cover
- The effect of COVID-19 on law firms
- Changing working conditions
- The importance of systems & controls
- The difficulty of segregation of duties
- The role of the SRA at this time
- The link between compliance and financial pressure



## 2. What do the SRA mean by compliance?



**Robert Blech**  
Director  
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The SRA have split compliance into separate categories with regards to the current climate.

### 1. Accounts Rules (which this webinar will be about)

2. Client Confidentiality
3. Wills
4. Loss of key role holder
5. Client Due Diligence and ID checks
6. Conveyancing
7. Appearances in court
8. PII Insurance



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## 3. Accounts Rules compliance issue



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- Missing the Accountants Report filing/sign off deadline
- Delays in banking client's cheques
- Posting of transactions in a timely manner
- Payment slips where signed by fee earner to authorise
- Processing of bank payments
- Delay in preparation of five weekly bank reconciliations



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#### 4. SRA's approach to compliance at this time



**Robert Blech**  
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SRA 'expect solicitors and firms to continue to meet the high standards the public expect'.

- They must do everything they '*reasonably can*' to comply with the rules and follow the principles.
- Included within this is serving the best interests of clients and upholding the rule of law.
- Firms are expected to have '*contingency plans in place for disruption*'.
- However, the SRA recognise that these are '*exceptional circumstances*' and that the coming months may present '*particularly challenging issues*'.
- SRA '*We must all remain pragmatic*'.
- A '*proportional approach*' will be taken by the SRA including that of enforcement.

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#### 4. SRA's approach to compliance at this time contd.



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Director  
MHA MacIntyre Hudson



The SRA will focus on serious misconduct and distinguishing between those who are doing the right thing and those who are not.

- Documentation is the key – If there is a complaint/matter that the SRA investigate relating to this time, it is vital that the processes and steps taken are recorded and why they were done so.
- If solicitors are unsure, they should contact the Professional Ethics helpline and ask for advice.
- We recommend that you ask the advisors name and document the time and date of the call as well as the details of the conversation.
- You can do a webchat with an advisor and ask for a copy of the transcript at the end.
- Or you can e-mail

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## 5. Accountants Report filing deadlines



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Accountants Report (where required) are due to be completed within six months of the end of the reporting period.

- If qualified or the SRA require it, the report must be filed with them.
- If not qualified, the report must be given to the firm and filed.
- Under the old rules, cessation reports always had to be filed, so look to see when period end is.
- SRA have said they will take a '*pragmatic and proportionate*' approach to any delay in the preparation of the report due to the 'exceptional circumstances'.
- If there are good reasons why the reporting accountant needs longer to prepare the report during this time, it is unlikely the SRA would take any subsequent disciplinary action.

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## 5. Accountants Report filing deadlines continued...



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- A delay in itself would not be viewed as a serious breach which would need self reporting by the COFA to the SRA.
- It is important that the reasons for the delay are documented and the approach 'you and your reporting accountants have taken'.
- Remember it is the firm's obligation to have a report prepared where necessary, not the accountants.
- This is not a blanket approach to delay the report being done, or not doing it at all.
- My instinct is that previous compliance history may be important.

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## 5. Accountants Report filing deadlines continued...



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- Within my firm, we are carrying out all work on preparation of the accountants report remotely where possible.
- Documents can be uploaded and e-mailed.
- On most systems, the accounts package can be accessed remotely and ledgers/reconciliations etc. printed off.
- Access to physical file testing may cause a delay, but it is beneficial to try and complete as much of the work as possible during this time.

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## 6. Delays in banking client cheques



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Rule 2.3 of new Accounts Rules states that client money is paid promptly into a client account.

- If your firm has been impacted by the coronavirus and are unable to promptly pay a cheque into a client account, you must:
  - i. Inform your client as to the position
  - ii. Establish with the client if the funds can be paid electronically into your client account
  - iii. If funds cannot be electronically transferred, document any decision as to why the cheque cannot be banked promptly
- The cheque should be banked as soon as it is possible to do so.
- The SRA will take all of the circumstances into consideration if they receive a complaint and would be unlikely to conclude there has been a material breach of the rules.

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## 7. Posting of transactions in a timely manner



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Most firms are continuing to work albeit in a reduced capacity and from home.

- Safeguarding client money is always the paramount consideration.
- There may be situations where the person posting the ledger is not working due to being furloughed or illness and matter postings are not done in a timely manner.
- Segregation of duties is not always possible at this time.
- If this is the case, alternative arrangements should be formulated.
- This may involve appointing a dedicated 'gatekeeper' of client money who monitors the client account regularly.



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## 7. Posting of transactions in a timely manner



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- They should ensure that money is not paid out of client account which exceeds the amount held for each individual client.
- This can be achieved by:
  - I. Printing a matter listing at the specific date
  - II. Recording next to each matter any money received
  - III. Noting the combined balance of the above
  - IV. Ensuring that there are sufficient funds held before any payments are made
- All documentation relating to the above should be kept in chronological order and posted at the earliest possible date.
- If there is a delay, it is advisable that if available, the postings should be reviewed by another member of staff.



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## 8. Payment slips where signed by fee earner to authorise



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Rule 5.2 says that you must appropriately authorise and supervise the withdrawal of client funds.

- It does not specify that the request for withdrawal needs to be signed.
- However, it is good practice to have a signed authority and many firms do so.
- During these difficult times, an email should suffice.
- The actual payment from the bank will still need to be actioned by the appropriate person as per your firm's policies and procedures once authorisation has taken place.



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## 8. Payment slips where signed by fee earner to authorise



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- It is important that that such transactions are done in accordance with the firms policies and procedures even if the methodology is slightly different.
- It may be appropriate to attach a copy of the ledger with the request to show that sufficient funds are held for that particular client or third party.
- Again document what has been done, and keep copies where appropriate.



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## 9. Processing of bank payments



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- Many firms have a process where bank payments are processed by the accounts department and then authorised by a partner or director.
- This is unlikely to be possible in the current climate.
- It is advised that another responsible individual is given access to the banking facility.
- This would need to be set up with the bank.
- It is advisable that one login is not used for numerous individuals.

## 9. Processing of bank payments



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- An audit trail should be kept of who has access to login to the bank and when they have logged in.
- Processes for checking that sufficient funds are held on client account will still need to be strictly adhered to before any payment is made.
- Cyber crime more than ever needs to be watched out for.
- The different personnel and circumstances make it an easier target.

## 10. Delay in preparation of five weekly bank reconciliations



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- Under Rule 8.3 a client bank reconciliation needs to be completed and signed off by the COFA or manager of the firm at least once every five weeks.
- If due to the absence of key staff a reconciliation cannot be carried out at regular intervals, a firm should have a contingency in place to enable any differences to be highlighted and then investigated promptly by the COFA or manager.
- If the contingency plans are unable to be put in place due to the virus, the SRA have recommended that firms take all necessary steps to ensure individual solicitors and their firms are dealing with client money properly.



## 10. Delay in preparation of five weekly bank reconciliations



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- All actions taken should be documented.
- This may include a partner reconciling the bank (where they normally do not), and it being double checked by another member of staff before sent to the COFA or manager.
- If the member of staff responsible for carrying out the bank reconciliation has been furloughed for an indefinite amount of time, an alternative arrangement should be put in place rather than an ongoing delay.
- Even if it seems not much activity has occurred due to the slow down of work, the reconciliation should still be undertaken.



## 11. Cash flow difficulties and compliance



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There can be a link between cash flow difficulties/profit reduction and compliance.

- The improper use of client funds can be the result of strains on the resources of the business.
- It is imperative that in these times, the protection of client money remains paramount.
- Where feasible (as we have seen) segregate duties as much as possible.
- Use all available help from government to help your business and cashflow.

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## 12. Risks in working from home



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- During this time, the majority of people are working from home.
- This means that they are relying on the systems and controls in place at their firm.
- The systems must be updated with anti virus software used on desktops and laptops.
- Back up processes should be in place.
- Mobile devices should be encrypted with a system to track and delete data if it is lost.

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## 12. Risks in working from home



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- Make sure everyone in the firm knows how to create secure passwords which should be changed regularly.
- Staff should be trained to recognise the signs of e-mail modification fraud and common phishing scams.
- Firms should plan how to respond to an attack or other incident.
- Losses of client data and money may be serious breaches of the rules or misconduct so it is imperative when working at home, controls are tight.

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## 13. Resources to help



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- SRA coronavirus update.  
<https://www.sra.org.uk/sra/news/coronavirus-update/>
- The Law Society COVID-19 advice and updates  
<https://www.lawsociety.org.uk/support-services/advice/articles/coronavirus-covid-19-advice-and-updates/>
- HMRC COVID-19: guidance for employees, employers and businesses  
<https://www.gov.uk/government/publications/guidance-to-employers-and-businesses-about-covid-19>



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### 13. Resources to help



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- ICAEW – Employer advice around coronavirus

<https://www.icaew.com/coronavirus/employer-advice>

- MHA MacIntyre Hudson Spotlight On: COVID-19

<https://www.macintyreHUDSON.co.uk/spotlight-on/covid-19-update>



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### 14. Conclusion



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- Processes and controls are the key to staying compliant during this time.
- Documentation is vital to explain why individuals (or the firm) did or did not do something.
- Remember the SRA will take a 'proportional approach'.
- For example, if residual balances are taking slightly longer than normal to be sent back to the client due to the current working environment and ensuring security procedures are adhered to, documenting this may be sufficient.
- Communication between staff is really important.



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## 14. Conclusion



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- Remember impact of cyber security especially when working from home.
- Be pragmatic
- Get professional advice if unsure
- Also use SRA Professional Ethics service  
0370 606 2577  
[professional.ethics@sra.org.uk](mailto:professional.ethics@sra.org.uk)
- Stay positive!



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