Solicitors Regulation Authority (SRA) Accounts Rules: interim guidance for reporting accountants following changes to the accountant’s report requirements

October 2019 update:

This Technical Release is currently being updated to reflect the new SRA Accounts Rules guidance issued by the SRA. The new rules and guidance takes effect from 25 November 2019.


The new rules may be found here: https://www.sra.org.uk/sra/news/press/standards-regulations-start-date-2019 while the updated guidance can be found at: https://www.sra.org.uk/solicitors/guidance/guidance
ABOUT THIS GUIDANCE

This guidance has been prepared by a working group of ICAEW Solicitors Special Interest Group Committee Members who have detailed knowledge and practical experience of the SRA Accounts Rules. The Solicitors Group Committee is made up of experts in solicitors’ accounts from accountancy practices and those working in industry. The committee benefits from working relationships with other bodies and interested parties in the legal environment. This working group has worked under the guidance of a steering group comprising representatives of relevant ICAEW Committees and the ICAEW Audit and Assurance Faculty.

The ICAEW Audit and Assurance Faculty is a leading authority on external audit and other assurance activities and is recognised internationally as a source of expertise on audit issues. It is responsible for ICAEW technical audit and assurance leadership and provides a range of information sources to its members which gives practical assurance in key audit and assurance areas.

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INTRODUCTION

1. This interim guidance (referred to as ‘guidance’ throughout this Technical Release) has been prepared in December 2015 for ICAEW members where they are involved in the preparation of an Accountant’s Report on behalf of law firms in respect of the Solicitors Regulation Authority (SRA) Accounts Rules requirements.

2. The guidance has been prepared following an announcement by the SRA of changes to the form of the Accountant’s Report and the background under which Reporting Accountants are undertaking their role.

3. These changes affect Accountant’s Reports being prepared for law firms whose accounting period ends on or after 1 November 2015.

4. This guidance explains the background to and summary of the changes in the Accountant’s Report, considers the SRA objectives for these changes, and provides additional guidance to members on the impact the changes might have on their day to day work in this area.

5. In developing this guidance ICAEW has worked with, and taken on board comments from, the SRA and the SRA is supportive of the guidance contained in this ICAEW Technical Release.

Background

6. Up to 31 October 2014 the Accountant’s Report prepared by a Reporting Accountant was required to be filed with the SRA by the law firm on an annual basis irrespective of whether the report was ‘qualified’ or ‘unqualified’.

7. The SRA, and previously the Law Society have from time to time shared data with ICAEW and our understanding is that annually in the region of 50% to 55% of the reports that were filed were qualified by the Reporting Accountant.

8. The SRA’s and previously the Law Society’s policy was for all qualified reports to be reviewed in some form upon receipt in order to determine whether the information provided in the report (namely the breaches noted by the accountant) were sufficiently serious to warrant further review — ie, whether or not the SRA considered them to be ‘material breaches’. ICAEW understands that these reports were considered as part of the sum of intelligence from various sources available to the SRA.

9. The detailed nature of the SRA Accounts Rules themselves, the prescriptive nature of rule 39 (test procedures) and the lack of framework around the concept of material breaches left Reporting Accountants exposed to risk if they failed to report all breaches that were found as a result of the tests, regardless of their nature. As a result, for many years, the Accountant’s Report was often qualified as a result of breaches that, were a more risk-based approach taken to these engagements, with only material breaches reportable, would not be reportable.

10. The SRA’s forensic investigations team has previously indicated to ICAEW that while information received from the Accountant’s Report forms part of its wider intelligence on law firms it is only one of the elements it considers. Furthermore, ICAEW understands that frequently law firms investigated by the SRA have not previously received a qualified Accountant’s Report. This is not necessarily to say that the Accountant’s Report should have been qualified, more that the items sample checked by the Reporting Accountant may not have contained the issues identified and being investigated by the SRA.

11. Nonetheless, the SRA’s experience combined with feedback from its consultation processes in recent years has confirmed that the Accountant’s Report has an important role in upholding the quality of management and protection of client funds in law firms. This has a longer term impact of safeguarding the integrity and reputation of the legal sector and regulation by the SRA.
CHANGES TO THE ACCOUNTANT’S REPORT REQUIREMENTS

12. There have been a number of significant changes introduced by the SRA; the two key changes covered by this guidance are:
   - A requirement for law firms to submit only qualified Accountant’s Reports; and
   - Changes to the Accountant’s Report and removal of SRA Accounts Rule 39.

13. Information and guidance on changes to exemptions from preparing Accountant’s Reports and to the overseas provisions, neither of which are covered in this guidance, is available at: www.sra.org.uk/AR1 and http://www.sra.org.uk/solicitors/handbook/introoverseasrules/content.page

Requirement to submit only qualified reports

14. Since 1 November 2014 SRA Regulated Bodies (law firms undertaking reserved legal services) have only been required to submit Accountant’s Reports to the SRA if they contain qualifications. While the obligation to submit the Accountant’s Report rests with the law firm in practice Reporting Accountants will often undertake the process of formal submission. A clean Accountant’s Report is retained by the law firm for inspection on request by the SRA.

15. ICAEW’s understanding is that part of the drive by the SRA for this initial change was simply to reduce the burden and costs of administration resulting from receiving unqualified reports. The change was also consistent with the Outcomes Focused Regulation (OFR) regime being implemented by the SRA; that is law firms take responsibility for complying with the need for the Accountant’s Report to be prepared without the requirement for formal submission to the SRA in the case where there were no non-compliance matters to report.

Changes to the Accountant’s Report and removal of SRA Accounts Rule 39

16. These changes are primarily a further step by the SRA to reinforce the OFR regime for law firms in respect of client money and from a practical viewpoint to further reduce the level of resource it invests in reviewing the Accountant’s Reports.

17. These changes took effect for Accountant’s Reports being prepared for reporting periods ending on or after 1 November 2015.

18. The SRA has made significant changes to the format of the Accountant’s Report and to the Rules under which it is prepared; specifically the SRA has:
   a) Removed SRA Accounts Rule 39 which previously included a wide range of prescriptive testing that a Reporting Accountant was required to undertake in order to provide the Accountant’s Report.
   b) Introduced a requirement for the Reporting Accountant to:
      i) Determine for themselves what is the correct type and level of work to be performed for each particular law firm – based on their professional assessment of risk, the size of the law firm and the range of services provided; and
      ii) Qualify the report only in respect of ‘material breaches of the Accounts Rules ... ... , and/or significant weaknesses in the firm’s systems and controls for compliance with the Accounts Rules’ (wording from the revised AR1 form).

19. To replace SRA Accounts Rule 39 a new Rule 43A.1 has been issued which states:

   ‘43A.1 The accountant should exercise his or her professional judgement in determining the work required for the firm they are instructed to obtain the report on in order to assess risks to client money arising from compliance with these rules. This should cover the work that the
accountant considers is appropriate to enable completion of the report required by the SRA at the date the report is commissioned.

(Rule 43A. 1) Guidance notes

(i) The purpose of the accountant’s report is to enable a proportionate degree of oversight by the SRA over risks to clients’ funds. It may also help the firm to identify any improvements in its control systems that are required. The form of the report … is intended to provide assurance that client funds are properly safeguarded. If the accountant forms the judgement that these Rules have not been complied with such that the safety of client money is at risk, then the accountant is required to “qualify” the report and set out in the report details of the areas where risks have been identified. Rule 32A.1 sets out which firms are required to obtain a report but only qualified reports have to be delivered to the SRA within the time frame set out.’

(ii) The types of work that the accountant is required to undertake will depend on a number of factors including the size and complexity of the firm, the nature of the work undertaken, the number of transactions and amount of client funds held. The accountant may also want to consider the firm’s existing systems and for example, the numbers and types of breaches of these Rules that the firm’s COFA has recorded under his/her reporting obligations. Separate guidance as to the work that might be considered as part of a work programme has been issued by the SRA and will be updated from time to time; see the SRA’s ‘Guidance to Reporting Accountants and firms on planning and completion of the annual Accountants’ Reports, under Rule 32A of the SRA Accounts Rules 2011’.

20. ICAEW understands that the SRA’s primary objectives for these changes are to promote an OFR approach among its Regulated Bodies as well as ensuring the best use of its internal resources as a Regulator of law firms.

21. In effect the objective is to ensure that client funds are protected and safeguarded but reduce significantly the volume of Accountant’s Reports it receives and needs to review where there is no significant risk to client funds identified from the work Reporting Accountants have undertaken in their role.

New Accountant’s Report form and guidance notes

22. The new Accountant’s Report form (AR1) together with guidance notes prepared by the SRA can be located at www.sra.org.uk/AR1.

23. ICAEW members should closely consider both the contents of the new form and the guidance notes and examples of what are considered likely to be qualifications contained therein prior to completing SRA Accounts Rules engagements for periods ending on or after 1 November 2015. The SRA has emphasised that the examples in the guidance are intended to be helpful but are not definitive nor prescriptive, and the Reporting Accountant is expected to exercise professional judgement in completing the AR1 Accountant’s Report form, whether qualified or not.

24. The SRA recorded a webinar in October 2015, Exemptions and changing arrangements for the Reporting Accountant requirements – 15 October 2015 which provides further information and the SRA’s views on the changes as well as a Q&A session: http://www.sra.org.uk/sra/news/events/webinar-2015-10-15-reporting-accountant-requirements.page
THE ROLE OF THE REPORTING ACCOUNTANT

25. The SRA guidance notes make it clear that there is no expectation that the new regime will increase the scope of the role for the Reporting Accountant or indeed increase any actual or perceived risk exposure for the Reporting Accountant.

26. There is however an expectation from the SRA (and law firms) of the following impacts:
   • It might change the nature of the work the Reporting Accountant undertakes; and
   • There will be fewer qualified reports submitted to the SRA.

What is the Reporting Accountant’s role?

27. This ICAEW Technical Release only considers the role of the Reporting Accountant to prepare an Accountant’s Report in accordance with the SRA’s regulatory requirements.

28. However, some law firms may also engage Reporting Accountants to carry out an independent review of compliance generally, to help the client improve standards within its own legal practice(s). This will impact on the work the Reporting Accountant undertakes and the Reporting Accountant will need to be clear about its responsibilities here. The requirements may not be the same for each law firm client a Reporting Accountant is engaged with and will depend on the requirements of the individual practice and COFA.

Fulfilling the Reporting Accountant’s role in accordance with the SRA requirements

29. Fundamentally if Reporting Accountants have been carrying out the SAR review work diligently and professionally up until now, in the vast majority of cases these Reporting Accountants will, when they carry out the work in future, find the same sort of issues they have found in the past. There is no reason to believe that Reporting Accountants will, under the new regime, start to identify different types of risks to client money or serious breaches. If the Reporting Accountant had uncovered serious breaches previously they would have been deemed reportable. So the majority of issues found by Reporting Accountants in the future will most likely be the same as have been found in the past—the key difference is that there is now guidance from the SRA to help Reporting Accountants conclude on which of the breaches/weaknesses they identify are material/significant and reportable to the SRA on revised AR1 Accountant’s Report form under the new regime, and which are reportable only to the law firm by way of management letter or discussions with the COFA and/or COLP.

30. The most notable impact from the new regime is that it does fall to the Reporting Accountant, under Rule 43A.1, to decide on the actual work and to report based explicitly on risk assessment and judgement. Previously this was determined (to a large extent) by the prescriptive requirements under Rule 39.

31. The requirement of the role of the Reporting Accountant within the new SRA Accounts Rules has a number of risk factors most of which are not new. The risks are that the Reporting Accountant:
   • Lacks detailed knowledge of the SRA Accounts Rules themselves;
   • Does not understand or identify where the underlying risks lie in respect of the handling and holding of client money both generally, and more specifically with regard to the particular law firm;
   • Does not gain a sufficient understanding of the law firm’s systems of controls to perform enough work/testing or enough of the ‘right’ work, for example, coverage of the high risk areas, work on areas of regular or common breaches;
   • Does not actually identify the breaches and come to a reasoned judgement as to their severity and requirement for reporting on AR1 Accountant’s Report form report or simply to the COFA/COLP; and
   • Fails to report to the SRA in circumstances where the breaches or weaknesses are ‘material’ or ‘significant’ respectively, and directly affect the SRA’s role in regulating the protection of client money.
32. The questions for the Reporting Accountant are:

- How do I assess the risks within each individual reporting engagement—what are the key factors, such as system procedures and controls, sign off authorities, management approach to compliance, types of work undertaken including value and regularity of transactions, day to day protection of client money?
- How do I carry out the work to ensure that I have addressed those risks, as well as checking the law firm’s compliance with the detailed SRA Accounts Rules?
- If I do find non-compliance with the SRA Accounts Rules, how much additional work should I do to ascertain how material or significant the issue is and risk to protection of client money?
- What would constitute ‘material breaches of the Accounts Rules, .... and/or significant weaknesses in the firm’s systems and controls for compliance with the SRA Accounts Rules’?
- What are the implications for me/the law firm if I don’t report non-compliance because I have judged it not to be reportable or putting protection of client money at risk but which the SRA later consider to have been reportable as material/significant?

33. Many Reporting Accountants have been working with this risk based approach for a number of years and so will not be doing anything very different, other than making a decision as to the items of non-compliance to include on the AR1 Accountant’s Report form, and those which are for management and/or the COFA/COLP.

34. A fundamental challenge for Reporting Accountants is that on the face of it their perceived risk and exposure to the SRA will be deemed to be reduced if they qualify the Accountant’s Report under the new regime. On the other hand, the Reporting Accountant may also come under pressure from law firms not to qualify the Accountant’s Report and may not come to the same conclusion as the law firm about whether a breach/weakness is considered material/significant or not (see paragraph 68).

35. ICAEW understands that the SRA carefully considers the information received in the Accountant’s Report and this forms an important element of their wider intelligence gathering processes.

36. The SRA considers that the role the Reporting Accountant undertakes provides an important incentive to law firms to have proper systems and procedures in place to safeguard client funds.

37. The SRA acknowledges the challenges and risks for Reporting Accountants under the new regime and that it is not possible to replicate an equivalent framework to that which surrounds the statutory audit under the Companies Act 2006 so that there is an equivalent for Reporting Accountants reporting under the SRA Accounts Rules. This is because the SRA wants Reporting Accountants to exercise professional judgement in the work they do and the qualifications reported in the AR1 Accountant’s Report form, thus following the principles in the Solicitors Rule Book which is based on Outcomes Focused Regulation rather than being prescriptive.

38. The SRA has re-iterated that it is not seeking any change in the responsibility or risk to Reporting Accountants in performing this SRA Accounts Rules work. The SRA has pointed to the historical evidence which shows that it is rare for the SRA to take action against Reporting Accountants unless there have been blatant or deliberate deficiencies in their work or they have been complicit in fraud.

39. The SRA has offered further assurance in this area by explaining that typically on average less than ten events a year arise where the SRA would contact the Reporting Accountant and question the quality and nature of the work they have undertaken. The outcome of these discussions in the most extreme cases might lead to the SRA approaching the Reporting Accountant’s professional body to prevent the Reporting Accountant completing future
Accountant’s Reports, where for example, the Reporting Accountant failed to report to the SRA any of the following:

- A lack of existence of any reconciliations of client funds;
- Unresolved shortages on client funds;
- Un-cleared lodgements on the client account reconciliations; or
- Evidence of fraud.

40. While not an exhaustive list the main point is that these are instances that simply indicate the Reporting Accountant had not actually properly undertaken the work they were expected to complete as opposed to questioning a judgement decision.

41. We believe that the SRA would give strong consideration to the factors listed below in the event that there was an adverse client funds issue with a law firm where no qualification had been issued in the Accountant’s Report by the Reporting Accountant.

42. Reporting Accountants should be able to demonstrate:

- **The breadth of experience of the team undertaking the work** – e.g. degree of experience in undertaking SRA Accounts Rules engagements and general statutory audit experience in the team as a measure of ability to form professional judgements of this nature.
- **The strength of the planning process** – Evidence that the work undertaken by the Reporting Accountant had been planned, was relevant to the law firm and type of work undertaken, proportionate and that there had been appropriate, documented consideration as to the risk assessment of the law firm in question prior to work commencing.
- **Training** – The extent to which key engagement team members are receiving training in the SRA Accounts Rules, Accountant’s Report requirements and with auditing techniques more generally.
- **Work programme** – The existence of a formal programme of work which is relevant both in nature and tailoring to the law firm concerned.
- **Review process** – The existence of a robust internal review process by the Reporting Accountant with an appropriate level of senior resource in the engagement team and a methodology for review by more experienced team members and assessment of conclusions.
- **The quality of conclusions** – With the evidence available and provided to the Reporting Accountant there is a logical and supported conclusion reached on all matters of concern. This is set in the context of the Reporting Accountant completing a commercially reasonable level of investigation and without relying on specialist legal knowledge. The whole process should involve a level of professional scepticism in the judgement process being applied.

43. Clearly the above is not exhaustive; the broad direction of these comments and discussion with the SRA in this area has been to reach a position where if a Reporting Accountant can demonstrate:

- A reasonable understanding of the systems, procedures, transactions and control systems that the law firm has in place and were operative in the relevant period;
- That they have planned and undertaken an appropriate level of work in completing the Accountant’s Report; and
- That they have formed reasonable and well supported conclusions based upon the information received and matters of concern identified,

the SRA would not take the view that the work they have performed nor conclusions reached were inadequate in the event that the law firm or the SRA subsequently identifies a risk to or actual loss of client funds in the law firm concerned.
PRACTICAL IMPLICATIONS FOR REPORTING ACCOUNTANTS AND LAW FIRMS

Developing risk assessment procedures

44. It is assumed that Reporting Accountants providing Accountant’s Reports at present will already have formal systems in place to support the work they undertake e.g. system and controls checking and sample sizes. Moving forwards we believe that Reporting Accountants will need to be more focused on this area and documenting their methodology to support both the type of work they are undertaking and the volume in the context of the risk profile of their client.

45. Example risk factors here might include:

- History of significant breaches (and areas in which the breaches arose);
- History of client money frauds or Solicitors Disciplinary Tribunal (SDT) findings against fee earners / partners;
- The nature and volume of current year breaches on the law firm’s own register of breaches (maintained by the COFA);
- Types of fee earning work the law firm undertakes, for example, probate and conveyancing are likely to be high risk;
- The nature and volume of complaints and PII claims against the law firm;
- The existence and effectiveness of control systems in the law firm;
- The law firm’s attitude to compliance and ethical standards;
- The volume and complexity of the financial transactions undertaken by the law firm’s clients;
- Experience and qualifications of the law firm’s accounts team;
- Training provided for the law firm’s accounts team and fee earners;
- Financial performance of the law firm; and
- Any known financial or personal circumstances of the law firm fee earners or partners.

Changes to the programme of work

46. Perhaps the most notable area of focus in the short term for Reporting Accountants will be the revisions needed to their internal work programmes; many of which are in electronic form.

47. Under the new Rule 43A.1 more time will be required at the planning stage in tailoring the work programmes to match the specific law firm involved. This will be important to ensure that the work of the Reporting Accountant is directed in the most appropriate areas for the law firm concerned and its specific risk profile. It will also be important for the Reporting Accountant in terms of being able to justify to the SRA the sufficiency of the work undertaken.

48. Planning processes including planning memorandums and planning meetings for the engagement team and client will be an important feature for such engagements.

49. Control systems and their evaluation, which are considered below, will be an important feature for Reporting Accountants’ work. For all engagements there will now be more work involved in this area than previously required and some Reporting Accountants may wish to consider a more radical shift in their work programme overall to place far greater reliance upon law firm’s control systems where they can be successfully evaluated and tested.

50. The requirements of the new Rule 43A.1 may well result in more or less work being undertaken for a particular law firm and this may vary over time as the Reporting Accountants assessment of the risk profile of that law firm changes from year to year.

51. There will be some client management issues for Reporting Accountants as well; most law firms are used to the Reporting Accountant undertaking the same type of work and asking
for the same types of information each year. Under the new regime the work of a Reporting Accountant could vary with both the nature and volume of such work changing notably between successive years.

Control systems

52. Under the new regime there is a specific requirement to consider the control systems and procedures that a law firm has in place. This involves some consideration and work being directed to:

- Documenting the control systems (both IT and non IT controls);
- Assessing their adequacy / effectiveness for their intended purpose; and
- Testing the application of the control systems.

53. For some engagements, there is likely to be a higher time cost to this process in the first year under the new regime and on an annual basis there will be a need to revisit this area and consider changes that have taken place (or perhaps that should have been implemented) as well as testing areas for continued effectiveness in accordance with the risk assessments undertaken at the planning stage.

54. The SRA has confirmed that there is no intention within the new guidance to drive the work of the Reporting Accountant towards a controls-based approach. The SRA expects the Reporting Accountant to undertake a risk-based approach towards planning the work and expects substantive testing to form a significant element of the Reporting Accountants work. The SRA has also confirmed that there is not an expectation that the work of the Reporting Accountant will be increased overall as a result of the need to consider the control systems that exist within a law firm.

55. The practical implications for Reporting Accountants here include the evolution of work programme systems, sufficiently trained and experienced staff to undertake the work, time scheduled within the overall work scheme, and law firm engagement in the process which for some will present a different approach that will need to be explained to the law firm.

Reduced areas of work

56. For Reporting Accountants currently working with a standard commercially available work programme for SRA Accounts Rules work it is possible that some work they were required to undertake as a result of the old Rule 39 could now be reduced or removed under the new Rule 43A.1 regime.

57. In order to be efficient and effective under the new regime the work that is carried out by the Reporting Accountant should be tailored for each engagement. Reporting Accountants may need to tailor any standardised work programmes that they are using. This may mean carrying out some additional work in some areas and allow for reductions in others, depending on both the overall risk assessment performed by the Reporting Accountant and the risk areas identified within that particular law firm.

58. Some possible areas where less work may be required by the Reporting Accountant and some suggestions of areas where more focus might be needed are detailed at paragraphs 60 and 63 respectively. This cannot be prescriptive. For Reporting Accountants to reach a decision on work reductions and the key focus for their work, it may be constructive for them to undertake their work in the following order, allowing their work to evolve during the course of the engagement:

a) Document and test the control systems for client money;
b) Detailed checks on the three way client account reconciliations:

- Properly reconciled, reviewed and signed off client account reconciliations help provide evidence of the completeness and accuracy of the system;
• Reconciliations with unresolved, unexplained or uncorrected errors, numerous reconciling items and many going back several months, unsigned (or signed where differences are not corrected or explained) will point the Reporting Accountant to the areas where they are likely to need to focus their efforts; and

c) Detailed client file review work:
• The results of this work would help inform suitable sample sizes for the work on transactions and whether efficiencies can be considered by combining testing areas.

59. It is difficult to be prescriptive here simply because it will be for the Reporting Accountant to assess the nature and amount of work they should perform given the risk profile of their law firm client. However, in broad terms, it seems likely that areas of work where historically few breaches have arisen would be considered low risk and therefore not reviewed in as much detail or depth as a high risk area.

60. Examples ICAEW believes may fall into this risk based category, and where less work might be undertaken by the Reporting Accountant in future might include:
• Checking transactions from the bank statements to transaction records or nominal ledger;
• Detailed testing of bills of costs to transaction records;
• Paid cheque testing;
• Detailed transactional testing work at reconciliation dates; and
• Reliance on bank audit letters.

61. Equally in the above list it may well be that in some cases the Reporting Accountant may have a core work programme tailored to the law firm and then sporadically undertake other tests e.g. in the absence of any breaches being identified and strong control systems in place a paid cheque audit every three years might be appropriate.

New areas of work

62. This is subjective. The most pertinent point here is that it is clear under the new regime that work will be required to be undertaken in the area of control systems, and this has been considered above. This is likely to represent the greatest area of focus for most Reporting Accountants in conjunction with the risk profile and planning elements mentioned elsewhere in this guidance.

63. Outside the area of internal controls; example areas that ICAEW considers may involve additional work under the new regime include:
• Review of monthly client funds three way reconciliations across the year;
• Greater focus on the office account and office account reconciliations as a source of breaches;
• Review of client funds reconciliation to look for shortfalls / differences compared to the bank balances and how these are managed and dealt with (as opposed to the current regime of examining two specific dates in detail);
• Reviewing instances of suspense accounts being used and compliance of their use with the SRA Accounts Rules; and
• Testing treatment of old residual balances – specifically for sweeping up, acting as banker and charging of inappropriate expenses.

Material Breaches and significant weaknesses

64. The SRA guidance gives examples in this area and we anticipate the extent and nature of this guidance may evolve over time. Clearly this guidance runs hand in hand with the perceived more onerous requirement for Reporting Accountants to exercise their professional judgement over the inclusion of qualifications when completing the Accountant’s Report.
65. Appendix 1 includes information from the SRA guidance notes (with the permission of the SRA) which set out when the SRA would expect a qualification and situations when the SRA might (rather than would) expect a qualification in the Accountant’s Report. It will be important for the Reporting Accountant to clearly document and be able to support their conclusion on whether or not an identified breach or control weakness (or combination of breaches and weaknesses) should result in a qualified opinion.

66. ICAEW has prepared a more comprehensive list of practical examples that Reporting Accountants may also find themselves facing. The examples are included in Appendix 2 of this guidance. These examples give a base scenario and then provide further information that may change the view of the Reporting Accountant as to whether they represent a qualification.

67. Clearly examples of this nature cannot be definitive and are an over simplification of what may be seen in real situations. Nevertheless the collective input of ICAEW volunteers and committees and review of these scenarios by the SRA during the process of the ICAEW developing this guidance is intended to provide some assurance to members in the process they may adopt in reaching conclusions in practice.

Whistleblowing

68. As noted in paragraph 34, the reduction in the number of Accountant’s Reports being submitted to the SRA and the backdrop to these regime changes may place increased pressure upon Reporting Accountants not to add a qualification to their report. This pressure may come directly from law firms who will perceive a higher risk of investigation from the SRA arising from the submission of a qualified report in future.

69. The SRA guidance notes to Reporting Accountants (which are available to law firms as well) have been very strong in reminding the profession that Reporting Accountants would be expected to use the whistleblowing provisions in appropriate circumstances such as where it was considered that client money was at risk and where commercial pressure is exerted by the law firm surrounding the potential qualification of the report resulting in the appointment of an alternative Reporting Accountant. The SRA has also confirmed that there have been no changes under the rights and obligations of the Reporting Accountant in this area.

70. Clearly the Reporting Accountant also needs to consider their own professional integrity and position in such circumstances. If there is undue commercial pressure surrounding the completion of the Accountant’s Report should the Reporting Accountant continue with the appointment? This is a matter on which the Reporting Accountant will need to make a professional judgement.

71. In any event the Reporting Accountant must report according to the findings from the work undertaken and on the basis of its professional view as to whether a qualification in the Accountant’s Report is appropriate or not. The key point here is that the Accountant’s Report is prepared by the Reporting Accountant and not by the law firm.

72. There is also an education process here for COFAs and law firms; primarily that an Accountant’s Report with no qualification does not necessarily mean the Reporting Accountant has not been in contact with the SRA surrounding the report.

73. The SRA has re-iterated that safeguards are in place to ensure the confidential disclosure of information received from Reporting Accountants under the whistleblowing procedures.

74. Overall both the SRA and Reporting Accountants have an important role to play in the whistleblowing framework by continuing to exercise the rights and obligations of the Reporting Accountant in this respect.
Terms of engagement

75. The SRA does not contract with individual Reporting Accountants and, therefore, does not sign up to any terms of engagement. The Accountant’s Report is, however, addressed to the SRA and the SRA expects that it will be owed a duty of care in respect of the Accountant’s Report.

76. Terms of engagement will need to be agreed with the law firm to include:
   • The scope of services to be provided by the Reporting Accountant;
   • The identity of the law firm for whose benefit the services are to be provided;
   • The fees to be paid by the law firm for the services;
   • The purpose for which the Reporting Accountant is to provide the services;
   • Any responsibilities of the law firm in relation to the services;
   • The rights and obligations on Reporting Accountants to report directly to the Solicitors Regulation Authority;
   • Following any direct report made to the Solicitors Regulation Authority under the above, to provide to the Solicitors Regulation Authority on request any further relevant information in the Reporting Accountant’s possession or in the possession of the law firm; and
   • Any limitations on the Reporting Accountant’s liability to the law firm.

Refer to ICAEW Technical Release 09/15BL Managing the professional liability of accountants for further details.

77. Reporting Accountants will need to review and most likely revise the wording of any existing engagement terms for reporting periods ending on or after 1 November 2015 for example to address the requirement to keep a copy of the report for six years (increased from three years) and the requirement to report to the SRA if the Reporting Accountant discovers that an Accountant’s Report has not been prepared previously, or if qualified has not been filed with the SRA when it should have been. Alongside any specific agreements between the law firm and the reporting accountants regarding work outside the scope of the SRA Accounts Rules engagement, the engagement letter should also include all the issues referred to in Rule 35 Reporting accountant’s rights and duties - letter of engagement.
Evolving Guidance for Reporting Accountants

SRA guidance

78. We understand that the SRA envisages that its guidance to Reporting Accountants surrounding the completion of Accountants’ Reports and, specifically, the circumstances in which the SRA might expect the Accountant’s Report to be qualified will evolve over time.

79. This approach would be consistent with that adopted by the SRA in respect of law firms themselves under OFR and the reporting of material breaches by the COFA. Here the SRA has given initial guidance and then added to it with additional examples over time.

80. We are therefore anticipating the same will arise for the Reporting Accountant such that over time the initial examples the SRA has given in their guidance notes to Reporting Accountants will be developed and fine-tuned to better ensure that Reporting Accountants are reporting at a level to meet SRA expectations. This evolution is particularly important to the Reporting Accountant given the absence of any specific framework for this work which is in stark contrast to the position applicable to an auditor in a statutory Companies Act audit environment.

Future ICAEW guidance

81. This interim guidance is prepared in December 2015 at the commencement of the new regime for Reporting Accountants; consequently ICAEW guidance to members and views on this subject is likely to evolve over time in conjunction with the SRA and practical implementation of the new requirements from the SRA, including the future planned revisions to the Accounts Rules as part three of the SRA review.
APPENDIX 1: MATERIAL BREACHES AND SIGNIFICANT WEAKNESSES

The following information has been reproduced with the permission of the SRA from its guidance notes that seek to inform Reporting Accountants of key examples where the SRA would expect a report to receive a qualification (serious factors) or where there is ambiguity and the SRA might, depending on the Reporting Accountants assessment expect to receive a qualification (moderate factors).

It is also worth noting that in our view many if not all of these marked below as either * or ** would also fall under the Reporting Accountants whistle blowing duties (and hence a requirement to report to the SRA immediately outside of the AR1 regime). Those marked ** under Accounts Rule 35.1(a)(i) and those marked * under Accounts Rule 35.1(a)(ii).

Serious factors – Likely to be deemed reportable:
1. Significant and/or un-replaced shortfall on client account, unless caused by bank error and remedied in a timely manner;*
2. Evidence of wilful disregard for the safety of client money such as deliberately overriding the rules;*
3. Actual or suspected fraud or dishonesty by the managers or employees of the firm (if they may impact on client funds);**
4. Material breaches or serious failure to comply with the rules not being reported by the COFA to the SRA (where Reporting Accountant becomes aware of it as a result of carrying out work in respect of client money);*
5. No or wholly inadequate accounting records or records not retained;*
6. Significant failure to provide documents to Reporting Accountant;
7. Three way client account reconciliations not carried out; and
8. Banking facilities through client account.

Moderate factors – one of which or more may be material and/or represent a significant weakness in the firm’s systems and controls, and lead to a potential qualification:
1. Significant fully replaced shortfall unless caused by bank error and remedied in a timely manner;
2. Actual or suspected fraud or dishonesty by third party that may impact client funds;
3. Material breaches not reported by COFA within a month;
4. Insufficient or unreliable accounting records or not retained for 6 years;
5. Three way client account reconciliations not regularly performed at least every 5 weeks;
6. Poor control environment;
7. Performance or review of three way client account reconciliations not adequate;
8. Long standing residual balances due to clients; and
9. Improper use of suspense accounts.

The full guidance issued by the SRA is available at www.sra.org.uk/ar1.
APPENDIX 2: EXAMPLES OF POTENTIAL CONCLUSIONS ON THE QUALIFICATION OF AN ACCOUNTANT’S REPORT

Whether or not the rule breaches and weaknesses in the control systems identified by the Reporting Accountant should be included in the report to the SRA is of course a judgement to be made by the Reporting Accountant. The purpose of this Appendix is to provide the Reporting Accountant with some guidance when considering some of the most common and in some cases potentially more serious breaches of the Rules. These examples are neither definitive nor exhaustive. The Reporting Accountant may be making the judgement on whether or not to report the issues by considering a particular breach/weakness in systems and controls or as a result of the collective impact of several breaches/weaknesses in systems and controls. Any examples provided cannot, therefore, address the full breadth of situations that Reporting Accountants might be dealing with.

<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
<th>What is the risk to client money and what considerations are required by the Reporting Accountant to assess whether the breaches/weaknesses in systems and controls are material and or significant?</th>
<th>Is it likely the Reporting Accountant would qualify on this information alone?</th>
<th>Is it likely that the additional information would point the Reporting Accountant towards a potential qualification?</th>
</tr>
</thead>
</table>

**EXAMPLE 1 - OVERDRAWN CLIENT LEDGER BALANCES**

A number of overdrawn client ledger balances have been identified during the engagement. Rule 20.9 That there are insufficient controls in place to ensure that one client’s money cannot be used for another client’s matter or be inappropriately taken from the client account. Do the breaches noted indicate to the Reporting Accountant an ongoing risk to client money? No

**EXAMPLE ADDITIONAL INFORMATION** (viewing each in isolation)

9% of the client ledgers viewed during the RA’s work identified overdrawn ledgers. Potential ongoing risk? Yes

A number of breaches identified took in excess of 14 days to be rectified. Potential ongoing risk as procedures not sufficient to recognise and rectify promptly? Yes
<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
<th>What is the risk to client money and what considerations are required by the Reporting Accountant to assess whether the breaches/weaknesses in systems and controls are material and or significant?</th>
<th>Is it likely the Reporting Accountant would qualify on this information alone?</th>
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</tr>
</thead>
<tbody>
<tr>
<td>The breaches were spread across a wide range of fee earners in the law firm.</td>
<td>Systemic and therefore increased risk?</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>The breaches were focused on a couple of fee earners who were not following the law firm’s procedures correctly.</td>
<td>If law firm takes corrective action likely to be material or any ongoing risk?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>The vast majority of the breaches were of a small nature (less than £100) and were identified by the law firm’s weekly control procedures and corrected promptly.</td>
<td>Do amounts of breaches and correction procedures indicate significant risk?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>The vast majority of the breaches were in excess of £1,000, and were not identified by the law firm’s control procedures and were not corrected at all.</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

**EXAMPLE 2 - COSTS NOT TRANSFERRED WITHIN 14 DAYS**

A number of instances were identified where client funds earmarked for the settlement of costs notified to clients were not transferred from the client to office account within 14 days.  

| Rule 17.1 (c.) | The risk that client monies that are not properly transferred in respect of work done on one matter could either deliberately or inadvertently be covering up shortfalls elsewhere. Risk of teeming and lading? | No | |

**EXAMPLE ADDITIONAL INFORMATION (viewing each in isolation)**
<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
<th>What is the risk to client money and what considerations are required by the Reporting Accountant to assess whether the breaches/weaknesses in systems and controls are material and or significant?</th>
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<th>Is it likely that the additional information would point the Reporting Accountant towards a potential qualification?</th>
</tr>
</thead>
<tbody>
<tr>
<td>2% of client ledgers viewed during the RA’s work identified such instances where Rule 17.1(c) had been breached.</td>
<td>Material breaches or risk to client money?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>The breaches were primarily identified by the Reporting Accountant and had not been corrected by the law firm indicating a lack of control over fee transfers.</td>
<td>Nature of the ongoing risk (how the breaches arose and why they hadn’t been corrected) significant?</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>The law firm has control systems to identify costs that should be transferred but they failed to work in 8% of the cases reviewed during the work of the RA.</td>
<td>Significant ongoing risk?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>The breaches were focused on a small number of fee earners who were not following the law firms procedures correctly</td>
<td>Significant ongoing risk? Corrective action taken e.g. retraining, supervision?</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

**EXAMPLE 3 - DEFICIENCY IN 3 WAY RECONCILIATION PROCEDURES**

<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
<th>What is the risk to client money and what considerations are required by the Reporting Accountant to assess whether the breaches/weaknesses in systems and controls are material and or significant?</th>
<th>Is it likely the Reporting Accountant would qualify on this information alone?</th>
<th>Is it likely that the additional information would point the Reporting Accountant towards a potential qualification?</th>
</tr>
</thead>
<tbody>
<tr>
<td>The law firm prepares 3 way client fund reconciliations but Reporting Accountant work identified deficiencies in the accuracy of 2 out of 12 monthly reconciliations</td>
<td>The risk that a key control over client monies is not properly undertaken and as a result, client money is at ongoing risk</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

**EXAMPLE ADDITIONAL INFORMATION**
*(viewing each in isolation)*
<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
<th>What is the risk to client money and what considerations are required by the Reporting Accountant to assess whether the breaches/weaknesses in systems and controls are material and or significant?</th>
<th>Is it likely the Reporting Accountant would qualify on this information alone?</th>
<th>Is it likely that the additional information would point the Reporting Accountant towards a potential qualification?</th>
</tr>
</thead>
<tbody>
<tr>
<td>The two reconciliations included differences in client funds of £50,000 and £4.12 on total client balances of £3,400,000 and £3,900,000 and they were subsequently rectified on a timely basis.</td>
<td>Fully explained differences, promptly corrected, one-off? Material breaches or indications of ongoing risk to client money?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>The differences arose from cut off issues - receipts posted late to the ledger system. They were resolved within 2 working days of the month end.</td>
<td>Fully explained differences promptly corrected, one-off? Material breaches or indications of ongoing risk to client money?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>There was evidence that the individual reviewing the reconciliation did not fully understand the process or what to consider on their review.</td>
<td>Significant weakness in the law firm’s control systems for dealing with client money?</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Two further reconciliations showed no evidence of review by the COFA or a partner.</td>
<td>Weakness in the law firm’s control systems that leads to an ongoing risk to client money?</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>The differences remain unresolved.</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>The differences identified a shortfall of client monies as a result of misappropriation of funds which had been replenished by the law firm.</td>
<td>Replenishment does not mitigate the original breach</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>The differences identified a shortfall of client monies as a result of misappropriation of funds which had not been replenished by the law firm.</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>
### EXAMPLE 4 - INSTANCES OF PARTNERS MONEY BEING INCORRECTLY TREATED AS OFFICE MONEY

During the engagement for a law firm (an LLP) 3 instances were identified where residential conveyance transactions were completed on behalf of members of the LLP. All the transactions were completed on the office ledger only.

<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
<th>Risk that all client money is not held correctly, and therefore protected, in a client bank account?</th>
<th>Is it likely the Reporting Accountant would qualify on this information alone?</th>
<th>Is it likely that the additional information would point the Reporting Accountant towards a potential qualification?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rule 12.8</td>
<td>No</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### EXAMPLE ADDITIONAL INFORMATION (viewing each in isolation)

- The matters all involved the receipt of money from third party lenders. **Yes**
- The law firm did not have a system for appropriately engaging members of the law firm and clients of the law firm. **Yes**
- The 3 instances were matters for the same member. The law firm has 75 members and of the client ledgers reviewed during the RA’s work only 1% of ledgers identified such a breach. **No**
- The 3 instances were matters for different members. The law firm has 5 members and the **Yes**
<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
<th>What is the risk to client money and what considerations are required by the Reporting Accountant to assess whether the breaches/weaknesses in systems and controls are material and or significant?</th>
<th>Is it likely the Reporting Accountant would qualify on this information alone?</th>
<th>Is it likely that the additional information would point the Reporting Accountant towards a potential qualification?</th>
</tr>
</thead>
<tbody>
<tr>
<td>instances identified reflected a breach rate of 6% given the number of client ledgers reviewed during the RA’s work.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**EXAMPLE 5 - CLIENT MONEY NOT HELD ON INSTANT ACCESS**

Engagement work identifies client money held in a client account which is a term deposit account which indicates it is not a breakable deposit and no evidence was provided to the contrary by the bank.  

**Rule 13.8** The risk that client money is not properly protected under the Rules and the Solicitors Act 1974 by being held in an account that is not a proper client account.  

Yes

**EXAMPLE ADDITIONAL INFORMATION (viewing each in isolation)**

Further evidence of the account type rules suggests that the underlying bank account is not actually breakable on demand but the law firm has a formal bank letter stating it is breakable.

Material breach?  
No

**EXAMPLE 6 - CLIENT MONEY HELD ON THE OFFICE ACCOUNT - BANK ERROR**

Engagement work identifies a bank error where client money has been paid into the office account.  

**Rule 14.1** The risk that client money is not afforded the protection of the Rules or the 1974 Solicitors Act by being held in a non-client account? The risk that client money will be used.  

No
<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
<th>What is the risk to client money and what considerations are required by the Reporting Accountant to assess whether the breaches/weaknesses in systems and controls are material and or significant?</th>
<th>Is it likely the Reporting Accountant would qualify on this information alone?</th>
<th>Is it likely that the additional information would point the Reporting Accountant towards a potential qualification?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>inappropriately as it is not separated from office monies?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**EXAMPLE ADDITIONAL INFORMATION**
* (viewing each in isolation)

| The amount involved is £150,000 and relates to completion monies on a mortgage transaction; information provided to the bank from the firm was correct and the error was on the bank’s behalf. It was rectified 1 working day later. | Law firm’s own systems and controls indicating any significant ongoing risk? | No |
| The amount involved is £150,000 and relates to closure of a client designated deposit account. The error was not corrected but identified by the Reporting Accountant. | Law firm’s own systems and controls indicating significant ongoing risk? | Yes |
| The £150,000 had been sitting in office account for over 3 months when the Reporting Accountant identified it, at a time when the practice was trading near to its overdraft limit and was short of funds to pay its creditors as they fell due. |                                                  | Yes |

**EXAMPLE 7 - NARRATIVE ON CLIENT LEDGERS IS INCORRECT**

Engagement work identifies a number of apparent administrative errors on client ledgers.  
Rule 29.1  
No
<table>
<thead>
<tr>
<th>EXAMPLE ADDITIONAL INFORMATION (viewing each in isolation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>In 35% of the ledgers viewed during the RA’s work instances were noted when the cheque numbers on client ledger payments were incorrect.</td>
</tr>
<tr>
<td>In 6% of the ledgers viewed during the RA’s work instances were noted where the law firm acted for a third party lender in a conveyance transaction which did not clearly identify on the ledger that the monies were a mortgage advances.</td>
</tr>
<tr>
<td>In 50% of the ledgers viewed during the RA’s work instances were noted where the law firm acted for a third party lender in a conveyance transaction which did not clearly identify on the ledger that the monies were mortgage advances.</td>
</tr>
<tr>
<td>An office to client transfer to remedy overdrawn client ledgers was backdated to the date the ledgers became overdrawn even though the transfer was at a later date. The amount of the transfer involved was £348. This breach arose on less than 0.5% of the ledgers viewed by the RA during their work.</td>
</tr>
<tr>
<td>Relevant SRA Accounts Rule</td>
</tr>
<tr>
<td>---------------------------</td>
</tr>
<tr>
<td>An office to client transfer to remedy overdrawn client ledgers was backdated to the date the ledgers became overdrawn even though the transfer was at a later date. This breach arose in 5% of the ledgers viewed by the RA during their work.</td>
</tr>
<tr>
<td>The chronological order of transactions on the client ledgers and office ledgers in a number of matters were not correct.</td>
</tr>
<tr>
<td><strong>EXAMPLE 8 - OFFICE PAYMENTS MADE FROM CLIENT ACCOUNT BY MISTAKE</strong></td>
</tr>
<tr>
<td>Engagement work identifies a payment from the client account which is settlement of a liability of the law firm.</td>
</tr>
<tr>
<td><strong>EXAMPLE ADDITIONAL INFORMATION (viewing each in isolation)</strong></td>
</tr>
<tr>
<td>The payment represents the quarterly VAT payment. The law firm is running an overdraft on the office account and close to its limit. There is no evidence of a bank error involved. Corrected 4 working days later.</td>
</tr>
<tr>
<td>Relevant SRA Accounts Rule</td>
</tr>
<tr>
<td>----------------------------</td>
</tr>
<tr>
<td>The payment represents quarterly bank charges from the newly appointed bankers to the law firm. The amount is £2,500 and is corrected 3 working days after on discovery by the law firm.</td>
</tr>
<tr>
<td>The amount represents the quarterly VAT payment. The law firm is running an overdraft on the office account and is near to its limit. There is no evidence of a bank error involved. It is not corrected after many months, and is identified by the Reporting Accountant.</td>
</tr>
<tr>
<td><strong>EXAMPLE 9 - SWEEPING UP</strong></td>
</tr>
<tr>
<td><strong>EXAMPLE ADDITIONAL INFORMATION (viewing each in isolation)</strong></td>
</tr>
<tr>
<td>Reporting Accountant. This breach arose in less than 1% of the total ledgers viewed by the RA during their work.</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>1 instance was identified where a fee earner wrote off a residual balance of £1.35. Contact details were available for the client but the amount was donated to charity. This breach arose in less than 1% of the total ledgers viewed by the RA during their work.</td>
</tr>
<tr>
<td>7 instances were identified where various fee earners wrote off a residual balance ranging from £1.35 to £18.50 by donating the balances to charity. Contact details for the clients were available. This breach arose in around 4% of the total ledgers viewed by the RA during their work.</td>
</tr>
<tr>
<td>7 instances were identified where various fee earners wrote off a residual balance ranging from £1.35 to £18.50 by donating the balances to charity. Contact details for the clients were NOT available and costs to trace would be excessive. This breach arose in around 4% of the total ledgers viewed by the RA during their work.</td>
</tr>
<tr>
<td>7 instances were identified where various fee earners wrote off a residual balance ranging from £1.35 to £18.50 by raising a &quot;photocopying disbursement&quot; to clear the balance without notifying the client. This breach</td>
</tr>
<tr>
<td>Engagement work identifies the incorrect use of a suspense account.</td>
</tr>
</tbody>
</table>

**EXAMPLE ADDITIONAL INFORMATION (viewing each in isolation)**

| 1 suspense ledger was identified and it had been used for billing Will preparation fees of £100 plus VAT per Will. There were 5 such transactions on the suspense ledger. The law firm operated 7,000 client matters, with 150 fee earners. | Material? Posing significant risk to client money due? Number of breaches of this nature? | No |

<p>| 3 suspense ledgers were identified and in each case they had been used for billing Will | Material? Does number of breaches indicate a lack of appropriate separation of clients’ | No |</p>
<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
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</thead>
<tbody>
<tr>
<td>preparation fees of £200 plus VAT per Will. There were 5 such transactions on each suspense ledger. The suspense accounts were operated by the same fee earner. The law firm operated 1,000 client matters, with 10 fee earners.</td>
<td>money and/or lack of clear understanding of reason for the Rule? Does the breach indicate risk to client funds or administrative breaches?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The law firm uses a suspense account to hold unidentified client bank receipts. The balance held on the ledger was £1,467 and was in relation to a single bank receipt which is 14 months old. Efforts are still being made with the bankers to identify the source of the receipt.</td>
<td>Material? Posing significant risk to client money due? Number of breaches of this nature? Justified use of ledger?</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>The law firm uses a suspense account to hold unidentified client bank receipts. The balance held on the ledger was £7,435 and was in relation to multiple receipts which range from 1 month to 38 months old.</td>
<td>Material? Significant risk that client money will be held or used inappropriately as it is not properly identified and/or separated in the accounting system from other client's money? Risk that the law firm will not be able to identify the money held for every individual client?</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

**EXAMPLE 11 - LAA MONIES HELD ON OFFICE ACCOUNT FOR IN EXCESS OF 14 DAYS**

Engagement work has identified LAA money received and banked in the office account which relates to money on account of future fees or unbilled disbursements (certificated matter). | Rule 19.1(b) | No |  |

27
<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
<th>What is the risk to client money and what considerations are required by the Reporting Accountant to assess whether the breaches/weaknesses in systems and controls are material and or significant?</th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>EXAMPLE ADDITIONAL INFORMATION</strong> (viewing each in isolation)</td>
<td>The breach arose in around 3% of the ledgers viewed by the RA during their work. The maximum value was £350 and in all instances they had been rectified on discovery by the law firm.</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The breach arose in around 12% of the ledgers viewed by the RA during their work. The maximum value was £2,350 and in some instances they had been rectified on discovery by the law firm.</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td><strong>EXAMPLE 12 – PROVIDING BANKING FACILITIES</strong></td>
<td>At the completion of a residential conveyancing matter the law firm used the proceeds, under instruction from the client, to pay school fees, purchase a new motor vehicle and pay off a long standing credit card.</td>
<td>Rule 14.5</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>EXAMPLE ADDITIONAL INFORMATION</strong> (viewing each in isolation)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
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</tr>
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<td>---------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>The matter identified represented an isolated event; the law firm had identified the breach and included it in its own breach register.</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The breach arose in around 4% of the ledgers viewed by the RA during their work. They were predominately for a single fee earner in the law firm who had not appreciated the significance of the transactions. Systems and training have now been provided to the fee earner concerned.</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The breach arose in around 13% of the ledgers viewed by the RA during their work. They were across a range of fee earners in the law firm.</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Additional ledgers were identified where the fee earner had also banked cheques on behalf of a client in the law firm’s client account because the client did not have a bank account of their own.</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

**EXAMPLE 13 – SECRET PROFITS**

Rule 17

An instance is identified where the telegraphic transfer (TT) fee is shown as a disbursement on the fee to the client at £25 plus VAT. In this case the cost to the law firm from the bank for the TT was £5. No
<table>
<thead>
<tr>
<th>Relevant SRA Accounts Rule</th>
<th>What is the risk to client money and what considerations are required by the Reporting Accountant to assess whether the breaches/weaknesses in systems and controls are material and or significant?</th>
<th>Is it likely the Reporting Accountant would qualify on this information alone?</th>
<th>Is it likely that the additional information would point the Reporting Accountant towards a potential qualification?</th>
</tr>
</thead>
<tbody>
<tr>
<td>The breach arose in around 5% of the ledgers viewed by the RA during their work.</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>The breach arose in around 38% of the ledgers viewed by the RA during their work. The law firm had identified the issue and had returned £20 plus VAT to each of the breaches identified.</td>
<td></td>
<td>No</td>
<td></td>
</tr>
<tr>
<td><strong>EXAMPLE 14 – ACTING UNDER POWER OF ATTORNEY</strong></td>
<td>Rule 10 / Rule 14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A matter is identified where the solicitor is acting under a general power of attorney and the solicitor transfers money from the client’s own account into the law firm’s general client account where no underlying legal transaction is involved.</td>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td><strong>EXAMPLE ADDITIONAL INFORMATION (viewing each in isolation)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>It is identified that the matter involved is actually a Lasting (Enduring) Power of Attorney and the client has become mentally incapacitated. The monies being transferred from their own account are to meet medical costs and the reason for the transfer via the client account is to maintain better control over the matter.</td>
<td></td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Relevant SRA Accounts Rule</td>
<td>What is the risk to client money and what considerations are required by the Reporting Accountant to assess whether the breaches/weaknesses in systems and controls are material and or significant?</td>
<td>Is it likely that the Reporting Accountant would qualify on this information alone?</td>
<td>Is it likely that the additional information would point the Reporting Accountant towards a potential qualification?</td>
</tr>
</tbody>
</table>

It is identified that the matter involved is actually a Lasting (Enduring) Power of Attorney and the client has not at this point become mentally incapacitated. There is no evidence to conclude that the client does not have sufficient capacity at this point to manage their financial affairs.
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