

**Minutes and actions arising from the CLLS Professional Rules & Regulation
Committee held on 24 April 2017**

- Location:** Freshfields Bruckhaus Deringer
- Present:** Jonathan Kembery (Freshfields, Chair)
Antoinette Jucker (Pinsent Masons)
Clare Wilson (Herbert Smith Freehills)
Chris Vigrass (Ashurst)
David Hobart (CLLS)
Jo Riddick (MacFarlanes LLP)
Mickael Laurans (The Law Society)
Raymond Cohen (Linklaters)
Roger Butterworth (Bird & Bird)
Tracey Butcher (Mayer Brown)
Sonya Foulds (Freshfields, Committee Secretary)
- Apologies:** Annette Fritze-Shanks (Allen & Overy)
Hilary Foulkes (Skadden, Arps, Slate, Meagher & Flom)
Julia Adams (Slaughter & May)
Mike Pretty (DLA Piper)

1. Update from Mickael Laurens about the Law Society and Brexit

The Law Society has been looking at market access, the position around EU law advice and privilege and has also been engaging with EU bars, building on its existing relationships. It has researched the rules regarding foreign lawyers in each jurisdiction of the EU and has published a paper summarising its understanding so far. (Paper to be published on CLLS website). This should be considered a work in progress and the Law Society is eager to hear from firms if they are aware of differences in practice or if there are any changes. Whilst a pan-European solution for legal services post Brexit would be best, we may need to look at a bi-lateral level.

In addition, the Law Society has been working with the Law Society of Ireland and have agreed to put together a session on compliance with the regulatory regime there. This will take place on 8 and 9 May.

The Law Society is talking to the UK government and the Korean bar about continuing access for existing firms in South Korea. In addition, they are happy to talk to any firm about international market access matters in any jurisdiction.

There was further discussion about work being done around Brexit generally. The CLLS is involved in two working groups – one looking at the legal technicalities and soft power of English law; the other looking at articulating the need for market access

to government. A paper on market access would be sent to the government mid-June.

2. SRA Handbook

It was noted that the SRA would make a decision about SQE at this month's board meeting. Implementation would not be until 2020.

The SRA is due to publish its response to the consultation about "Part 1" of the Handbook in June. The Committee noted the extensive work it had done on feeding into that consultation and asked that contact be made with Juliet Oliver to ascertain the SRA's responses to the comments made by the CLLS during the consultation.

3. Rule 14.5 Accounts Rules

Some members had become aware that the SRA appears to be taking an increasingly restrictive view of the application of Rule 14.5 of the Accounts Rule. One firm had recently been advised by the SRA that receiving deferred consideration as per an SPA where acting for the vendor and where there is no payment checking obligation in respect of the deferred tranche is a breach. They had also been told by the SRA Ethics helpline that the SRA is discussing the question of how restrictively Rule 14.5 should be interpreted internally. New guidance will be issued shortly..

The Committee expressed concern at any potential narrowing of the interpretation of Rule 14.5 ("must be in respect of instructions relating to an underlying transaction (and the funds arising therefrom) or to a service forming part of your normal regulated activities") and agreed to seek urgent clarification from the SRA. The Committee agreed to provide the SRA with examples of long-accepted practice to assist this discussion.

4. Law Society Practice Note on "Who Owns the File?"

The Committee noted the recent publication of this Practice Note and welcomed the clarification.

5. AOB

- The Committee noted the Legal Services Board has opened a formal investigation into the governance arrangements between the Law Society and the Solicitor's Regulation Authority.
- There was discussion about the membership of The Committee, in relation to whether its composition reflected the membership of the CLLS in relation to US firms. It was agreed to consider the matter further and to revert for discussion at the next meeting.
- Next meeting early July 17.