

23 May 2014

Solicitors Regulation Authority  
Residual client balances consultation  
Policy and Strategy Unit  
The Cube  
199 Wharfside Street,  
Birmingham,  
B1 1RN

(By post and email: [consultation@sra.org.uk](mailto:consultation@sra.org.uk))

Dear Sirs

**Response of the CLLS Professional Rules and Regulation Committee to the Red Tape Initiative: Residual client balances consultation (the "Consultation")**

The City of London Law Society ("CLLS") represents approximately 15,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients, from multinational companies and financial institutions to Government departments, often in relation to complex multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its specialist committees. This response to the Consultation has been prepared by the CLLS Professional Rules and Regulation Committee.<sup>1</sup>

**Question 1**

The CLLS supports a proposal to increase the level at which practitioners can self-certify transfers of residual client balances but there are differing views within the CLLS about the level at which SRA authorisation should be required. The limited data provided in the Consultation suggests that increasing the level of self-certification to £350 or higher would reduce the regulatory burden on firms.

**Question 2**

The CLLS is concerned that a significant increase in the self-certification level should be balanced by appropriate but proportional checks and balances. It is important in the interests of public trust and confidence that significant amounts of client money are not perceived as being at risk. Firms may be dealing with a large volume of historic residual balances and this proposal may therefore lead to firms transferring a significant aggregate amount without any SRA or independent oversight.

Therefore, and although we support the SRA's attempt to reduce the regulatory burden on firms, we do think that the SRA should ensure some proportionate oversight of these transfers on an annual basis. This could be achieved by requiring the reporting accountant to audit compliance with SRA

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<sup>1</sup> A list of the members of the CLLS Professional Rules and Regulation Committee can be found here:  
[http://www.citysolicitors.org.uk/index.php?option=com\\_content&view=category&id=151&Itemid=469](http://www.citysolicitors.org.uk/index.php?option=com_content&view=category&id=151&Itemid=469)

Accounts Rules 20.1 and 20.2, the viability of which depends upon the outcome of the consultation on changes to the annual reporting requirements.

Allowing recovery of out of pocket expenses in residual balance cases (albeit with SRA consent because it would require a transfer to office account) is unlikely to be well received by the public because such expenses arise out of a failure by the firm to return client monies promptly. The CLLS does not agree with the guidance in Annex 2 to the extent it promotes the recovery of such expenses other than (a) in accordance with the contractual terms of engagement agreed with the relevant client or (b) in extremis. Self-certification would in any event not apply to the consequent transfers to office account.

### Question 3

We agree with the SRA's view that it ought not to restrict the charities to which residual balances should be transferred.

We think the term charity is sufficiently defined and understood and firms are already required to act with integrity and behave in a way that maintains public trust in complying with the relevant SRA Accounts Rules. As a practical matter we are concerned that the number of charities to which transfers can be paid should not be restricted; many charities will not provide the indemnity that the SRA requires in approving transfers above the self-certification level and further restriction may cause difficulties in dealing with residual balances. In any event, we do not think it is within the SRA's remit to determine the charitable cause to which client monies should be donated.

Yours faithfully



*pp.* Tracey Butcher  
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On behalf of the Professional Rules & Regulation Committee