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# ARE YOU SRA HANDBOOK COMPLIANT?

Notwithstanding the highly publicised delay to the introduction of alternative business structures ('ABSs') the new SRA Handbook will take effect on 6th October. The Handbook represents a complete re-writing of all of the SRA regulations for firms that are subject to its jurisdiction and so includes a revised Code of Conduct and Accounts Rules. For the most part the new provisions are very much in line with those that they replace, but some degree of updating is required and there are some new important obligations which all firms should address. My main suggestions would be as follows:

## 1. CoLP and CoFA

The appointments of 'COLP' (*Compliance Officer Legal Practice*) and 'COFA' (*Compliance Officer Finance and Administration*) have received a good deal of attention. In existing law firms, however, the nominations for these potentially onerous roles do not need to be notified to the SRA until March 2012. Bear in mind, however, that one of the new principles that now applies is that firms and their personnel must deal with their regulator in an '*open, timely and co-operative manner*'. This, coupled to the obligation at O(10.3) to '*notify the SRA promptly*' of '*serious financial difficulty*' or '*serious failure to comply with or achieve the Principles, outcomes and other requirements of the Handbook*', suggests that the wider obligation to report problems to the SRA is already in place and should not await these key appointments being in place.

## 2. A Compliance Plan

If you have responsibility for compliance issues within your firm as good a starting point as any is the suggestion for a '*compliance plan*' to be found in the guidance notes to the Authorisation Rules at page 213 of the Handbook. Some firms might find it helpful to draw up a document to this agenda, but in most it will be better used as a checklist to note the arrangements that are already in place. The suggestions range from noting '*governance arrangements*' and accounts procedures to risk management, file reviews and training.

## 3. The SRA Accounts Rules

The main change of note to the new Accounts Rules is that, in place of the former provision allowing firms to retain sums up to £20 earned by way of interest on client funds, all firms are now required to have adopted

a policy which is '*fair and reasonable*' as to how they propose to deal with the issue. The suggestion made in the revised guidance is that firms may well wish to adopt a policy much in line with the current position and suggest to their clients that they will be retaining sums earned up to £20. In doing so the net position to the client is not greatly changed, but references to the former 1998 rules in any terms of business document or retainer letters will need to be updated.

## 4. Authorisation

As highlighted by the SRA in its alerts to firms last month there is a requirement to update the more familiar references to firms being regulated by the SRA on their notepaper, e-mail footers and fax paper to now being '*authorised and regulated by the Solicitors Regulation Authority*'. The costs and relevance of this seemingly cosmetic change was the subject of correspondence to the Gazette last month and it might well be questioned quite what the consumer achieves from the change. It may be no coincidence that this is the preferred wording at the FSA with most of the recent high level appointments at the SRA having come from this source.

## 5. Other management issues

As highlighted in this column in the June issue there is more emphasis now on the systematic checking for conflicts of interests in relation to both client and '*own*' conflicts (ie those where the interests of the firm or someone within it might be seen to conflict with the client's). The sophistication of such checks should take into account the size and complexity of the firm, and much the same might apply to the requirement at IB(4.1) for the monitoring of issues of confidentiality.

Those with responsibility for management would also be well advised to consult chapter 7 of the new Code of Conduct and, in particular, the enhanced obligations on outsourcing at O(7.9-10).

More generally, we await to see whether the promised approach by the SRA to '*effective, risk-based supervision and enhancement*' will become a reality. Time will no doubt soon tell. ■

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