



However, it was acknowledged that the proposed changes could result in a reduction in consumer protection. Many of the delegates took issue with this as it seemed to be at odds with the overall regulatory position of 'Treating Customers Fairly'. There was also a strong reaction from the delegates that the simplification would in fact generate considerably more work for firms in the short-term, including software and training costs to the detriment of the consumer.

Delegates raised the possibility of allowing the rule changes to give them the option to continue holding client money as they do today. Other issues discussed related to VAT (ie the point at which VAT becomes payable) and the potential for what is currently client money to be at risk in an insolvency.

### ***Third Party Managed Accounts***

The possible use of Third Party Managed Accounts (TPMAs) was also discussed, however the SRA stressed that if introduced they would be optional and would be only be provided by FCA regulated firms. They did, however, acknowledge that they had received very little interest from potential providers of this service.

### ***Revised Code of Conduct / Accounts Rules***

The SRA reminded delegates that the requirement to have a current Interest Policy would be moved to the revised Code of Conduct, but that the rules surrounding residual balances and charitable donations would remain within the Accounts Rules. The SRA also stressed that any changes to the Accounts Rules would not be introduced until 2018 at the earliest.

## **Risk Outlook**

### ***The Potential Impact of Brexit***

Risk Outlook was the key subject of another well attended workshop and it was no surprise that the opening of the presentation included the potential impact of Brexit. For obvious reasons this is going to be an ongoing topic for the next two years or more, and the SRA confirmed that until the details of Brexit had been finalised, solicitors in England and Wales would still be allowed to practice in the EU.

### ***Risk of Cyber Crime***

The risk of firms falling victim to cyber-crime was again identified as a significant risk. Delegates were advised that a third of all crimes now committed in the UK relate to cyber-crime at a cost of £1bn in the year ending March 2016.

Money laundering continues to be a problem with 3,600 suspicious activity reports filed with the NCA by solicitor firms. The thematic review into money laundering was published in May 2016 and some of the findings revealed that the MLRO's (Money-Laundering Reporting Officer) knowledge and experience of the issues varied significantly from firm to firm – specifically a lack of specific training in this area by some firms. There was also a marked difference in how firms viewed what constituted 'high-risk work'.



That said, client due diligence procedures in this area were generally applied well with many firms using automated solutions. Lack of regular training was, however, a concern other than for finance staff, and some firms were still failing to record all information relating to potential incidents of money laundering. In some cases, individuals working within the firm were uncertain who to approach if they had a suspicion about a transaction.

### **Professional Indemnity Minimum Terms Cover**

The final session of the day was a plenary covering the potential reform of the Professional Indemnity Minimum Terms Cover (MTC). Unsurprisingly, the SRA advised delegates that Professional Indemnity Insurance was expensive - for sole practitioners it represented 7% of their revenue, but only 3.2% of revenue for firms with 5 to 10 partners.

Run-off cover continues to increase in cost and part of the problem is that approximately 50% of firms exiting the market do not buy run-off cover. The rest of the profession are being made to cover this cost through their own premiums. The regulator suggested that based on all the evidence, six years would still appear to be the right period for covering run-off.

### ***Reflecting on Solicitors PII – market trends and analysis of historic claims data***

The SRA, as part of their review process, included a really interesting presentation from Crispin Passmore, Executive Director, Policy, entitled '*Reflecting on Solicitors PII – market trends and analysis of historic claims data*'.

10 years of claims data had been examined (Source: *Insurer Claims Data 2004-2014*) that had resulted in 142,000 negligence claims equating to c £2bn of paid claims. The majority of the claims related to conveyancing transactions and one-in-five claims resulted in indemnity payment.



The SRA posed the question that if 98% of claims are made for less than £580,000: *Why do they not make this the minimum term?* However, it was pointed out by many delegates that for firms engaged in conveyancing this level would not be sufficient. It was also acknowledged that firms providing conveyancing services are already paying a higher premium to their insurers.

Perhaps most interestingly, the possibility of cyber-crime cover being excluded from the MTCs was raised. This would almost certainly revolutionise the way cover is provided to firms in the future. The consultation into MTCs is expected to take place next year.

**To discuss any point of the above report in more detail, including a discussion with regard to a risk management review for your firm, please contact the team at Financial Eye.**



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