How other regulators and jurisdictions hold client money

Research to inform the SRA's Consumer Protection Review

Jemma Macfadyen

Vicki Summerhayes

Helen Allingham

Spinnaker Research

November 2024

1 Executive Summary

This independent research aims to consider the following questions:

- How do other regulators and professions handle client money?
- What are the rules around client money?
- What are the levels of consumer protection?
- How do the rules make it easy for practitioners to do business? How is transparency ensured?
- Are there any models or aspects of any alternative models to the current system that the SRA could consider?

The alternative models that have been identified in this research can be broadly organised into two categories.

1. **Third party solutions** for handling client money including:

- escrow providers
- Third Party Managed Account (TPMA) providers
- trust accounts managed by financial institutions
- alternative banking solutions (virtual accounts)
- portals or platforms for managing client money where the regulator may also have access to information (Canada).

  Current legal practice management and cashiering software providers may also have an opportunity to enter this category.

2. **Reduced or no client money handling** where law firms are not permitted to hold client money (eg France, and an option for conveyancing money in Singapore). With these models, law firms are not required to contribute to compensation funds as there is very limited risk of client money being mis-handled. Similarly there is the potential for reduced costs of professional indemnity insurance (PII)[1] given the reduced risk. Although it is rare for jurisdictions to exempt a law firm from some level of PII, in Canada and Australia some smaller law firms can seek to reduce their PII coverage (and therefore cost) if they do not hold client money.

The research has not to date identified any easily applicable models that could be lifted wholesale from other jurisdictions or professions and applied to the legal sector in England and Wales. However, there are several areas worth exploring further that may work in isolation or in combination. When evaluating whether the models are worth exploring further by the SRA, the criteria were: is it sufficiently different to SRA rules? Has this model got 'traction' elsewhere, is it tried and tested – for example number of users, amount of money handled, number of transactions? Are there significant (and measurable) consumer/law firm benefits?

Research has identified several elements of alternative solutions where technology is being used to improve client money handling processes. These could help to meet the SRA's aims of improving the protection of client money by increasing transparency; reducing the risk of misappropriation or misallocation of client money; improving governance and traceability of transactions; and improving efficiency. From the broader review of various jurisdictions, professions and providers in Appendices 1–3, five models have been selected to cover in more detail:

- CARPA in France, see **4.2.1**
- Client Accounting Service Providers (CASPs) and Client Money Protection (CMP) insurance in the UK property sector see **4.2.2**
- Royal Institution of Chartered Surveyors (RICS) approach of Third-Party Transaction Service Providers (TPTSPs) in the UK see **4.2.3**
- My Trust Account (Canada Revenue Agency) see **4.2.4**
- PEXA conveyancing platform in Australia see **4.2.5.**

---

1 Although, according to Miller Insurance's response to the SRA consumer protection review discussion paper: "*Having had discussions with several established insurers on this matter, they suggest that the impact of implementing Third Party Managed Accounts (TPMA) across the profession would have minimal impact on their risk considerations and possibly the overall claims (by number or value). Therefore, such a change would have no immediate impact on the insurance premiums charged*." Thoughts on the SRA's Protecting the public: our consumer protection review

In addition to examining the offerings of TPMA providers and escrow paying agents, offerings have been explored from:

- virtual account and Bank-as-a-Service (BaaS) providers
- payment and settlement platforms and exchanges
- vendor offerings both in the legal sector and those focused on anti-money laundering (AML)/anti-fraud solutions.

Data are not available (in the public domain) for exactly how the value and volume of client money held and moved differs across the profession but it could be useful to understand in more detail. With these data it could be possible for the SRA to take a sector-based approach, applying different client money handling rules to different situations based on the risk involved, whether that is size of firm, type of firm, practice area of the firm and/or transaction type.

2 Introduction

The SRA outlined that its Consumer Protection Review will look at what can be done to reduce the risks that consumers suffer harm in the first place. This includes if there should be changes to SRA rules around firms holding client money. As part of the Review, the SRA has commissioned this research to explore different approaches to managing the risks of holding client money. The SRA seeks to understand more about arrangements for client money used by other regulators and similar organisations, sectors and/or jurisdictions including the high-level benefits and disadvantages of those options for consumers and practitioners.

This research, whilst necessarily limited in scope, seeks to identify alternatives to client money handling and to evaluate the benefits and disadvantages of these models (to consumers, law firms and the SRA) and any other factors to consider.

Using alternative approaches to handling client money may mean that regulation can be reduced for the profession, lowering the overall cost of regulation and potentially delivering cost savings for law firms that can be passed on to consumers.

3 Methodology

Desk research was conducted by a team of three researchers experienced in the legal and financial sectors, informed by existing SRA internal documents around policy and handling client money and a review of available literature. Some of the relevant institutions, escrow finance providers, tech vendors, industry associations and/or regulators were also contacted directly to fact check and to bring additional context to the findings. There are separate appendices with findings for the following (see Appendices 1 to 3):

A1: Research into the regulation of client money handling in other jurisdictions:

- Common law jurisdictions[2]: Australia, Canada and New Zealand
- Civil and/or mixed legal systems: France, Singapore and the UAE

A2: Client money handling in UK financial services sector and other professions:

- Financial services: insurance intermediaries and investment managers
- Professions: accounting, architecture, property management and agency, surveyors

A3: Identification and review of third-party providers in this space or adjacent (illustrative not exhaustive, and inclusion in this report is not an endorsement or recommendation for any provider[3])

- Third Party Managed Account (TPMA) providers: ShieldPay, dospay
- Bank integrated payment systems and reconciliation platforms: Payprop, AccessPay
- Virtual account providers: Cashfac, Barclays, Starling[2], Tietovry (Nordic)
- Escrow/paying agents: LawDebenture, Shieldpay, dospay, Transpact, Cashfac

---

2 Common law systems have a body of law based on court decisions (Australia, Canada, New Zealand) rather than civil law or mixed jurisdictional systems which are based on codes or statutes (France, Singapore, UAE).

3 Providers within each category were identified via desk-based research and are included as examples of different provider types. Within each category there are likely to be other major players that have not been included in this research.

* At the time of publication, some control failings at Starling banks had been reported: https://www.fca.org.uk/news/press-releases/fca-fines-starling-bank-failings-financial-crime-systems-and-controls

- Settlement exchange and digital fund management systems: PEXA, SureFund (Canada)
- Bank-as-a-Service (BaaS): Griffin, Starling, ABN Amro
- Blockchain and real-time settlements: Coadjute, Project Meridian
- Onboarding/know your client (KYC)/ anti-money laundering (AML)/anti-fraud vendors: Thirdfort, Verify 365
- Legal sector practice management /accounting software: Quill, Clio, Cashroom, LawWare

Within each area of interest, the research aimed to identify reliable, accurate and up-to-date sources.

- Primary sources: statutes, regulations and rules. These were accessed through regulators' own websites and relevant professional bodies and institutions (primarily English language).
- Interviews conducted with Shieldpay and Council for Licensed Conveyancers to assist with initial scope.
- Secondary sources: included interpretations, analyses, and commentaries on the rules and guidance, including legal journals, law reviews, blog posts, technology providers' own websites and other sources of professional commentary and guidance including handbooks4.
- Out of scope: client account rules textbooks[5], practice guides and commentary.

4 Research Findings

4.1 How do other regulators and professions handle client money? What are the rules?

In terms of client money, the common law jurisdictions[2] that were researched had fairly similar rules and regulations to the approach in England and Wales governed by the SRA and the Financial Conduct Authority (FCA). In many legal jurisdictions there is also some considerable overlap with the regulation and practices around money laundering and prevention of financial crime. There were some similarities in the approaches adopted by the various professions. When looking at the rules and definitions around client money and how that is managed, consistent principles across the jurisdictions and sectors include:

- requirement to segregate client money from other funds and to have written assurance from banking providers that the client money will not be offset against any unauthorised debts incurred by the provider
- need to hold client money in separate designated client accounts at authorised institutions or an approved finance company under a financial regulator (for example in Australia one of the regulators approves a list of Authorised Deposit-taking Institutions (ADIs))
- pooled client accounts are common practice, though if the balance exceeds a certain threshold there may be the requirement to have an account specific to the client
- obligations around reconciliation, reporting, record-keeping, and prompt moving of money (client account is not a banking facility)
- some type of annual audit whether this is submitting documents to a regulator and/or conducting a third-party external audit using an accountant or examiner
- obligations around client consent and access to the funds (the terms under which the money will be held)
- rules on how payments are authorised and managed by the firm and with the client and/or third parties, management of withdrawals
- supporting elements to protect against loss and/or fraud, either preventative (cyber security) or compensatory such as professional indemnity insurance (PII), separate bond or insurance policy and/or a compensation fund such as the Client Money Protection (CMP) scheme in the property sector.

Definitions of client money across the jurisdictions are conceptually consistent although the terminology varies (for example trust money, trust accounts or controlled money) and there is not a single accepted definition of client money across areas outside legal services. Typically, client money is defined as currency, assets or funds wholly owned by the client that is entrusted to a law practice and directly related to legal services.

---

4 For example, The Law Society of New South Wales: Legal Accounting Handbook.

5 For example, LexisNexis Australia: Client Money: Trust Account Management for Australian Lawyers.

Examples of types of client money in the legal sector include:

- Client damages or settlement money received by a firm through litigation
- Mortgage, probate or other transaction money received from a lender or third party on behalf of the client
- Money for a firm's fees that are received on account
- Money intended for specific costs associated with a client's matter eg court fees, barrister fees, surveyor costs or other professional disbursements
- Funds held in trust for clients (wills, estates).

Once funds are determined as 'client money' or equivalent, they must be managed according to specific central or state/provincial regulations. There are some differences in jurisdictions when client money can be pooled, co-mingled or must be held separately:

- For barristers in England and Wales, a fixed fee paid in advance is not classed as client money6 and in any event, barristers are not permitted to hold client money although they may use a third-party payment service if it meets with the Bar Standards Board's (BSB's) approval.
- Costs lawyers cannot receive client money either, unless they are working in a firm authorised by the SRA or using a TPMA, so professional fees are excluded from the definition of client money by the Costs Lawyer Standards Board (CLSB)7.
- Under the CILEx Regulation Accounts Rules8, practitioners must pay client money into a Client Account. Withdrawals must be made according to clients' authority, records must be kept and retained and practitioners must deliver to the regulator an Accountant's Report every year.

Not all professions regard advanced payment for services as client money. Examples of client money outside of the legal sector include:

- Property: rental deposits, funds for property works, funds for reference checks.
- Insurance: insurance premiums collected by brokers to be paid to the underwriters.
- Investment: funds for investments paid to investment managers.
- Accountancy: collecting tax rebates for clients, paying wages to staff for clients, handling Construction Industry Scheme (CIS) subscriptions.

4.2 Professional models

The research investigated client money handling procedures in the financial services sector, namely insurance brokers and investment managers, and in professions including accountancy, architecture, property management and surveying.

The client money handling requirements for the financial services sector, as detailed in the Client Asset Sourcebook (CASS) were not considered by the researchers to be proportionate for law firms. The rules in place for insurance brokers and investment managers are highly complex, given that holding client money is intrinsic to the nature of the business conducted and the risk profile of the sector. The volume and value of transactions are much higher than in the legal sector and any breaches would be considered a systemic issue for the sector as a whole. As such, the approaches taken towards client money were considered disproportionate to the needs of law firms, which are not handling comparable volumes of client money as the primary function of their business nor holding client money over the longer-term.

The financial services sector also operates the Financial Services Compensation Scheme (FSCS), which reimburses consumers holding certain regulated products when firms fail. This can include funds lost to fraud, where the firm cannot meet those obligations directly and ceases to operate. The FSCS does not improve client money handling processes directly but acts as safety net to protect customers of authorised firms. The client money requirements for accountants and architects are broadly similar to the current approach used by law firms and the research did not find any materially different models to investigate. However, the property sector offered examples of three models, which could be investigated further for use, potentially with some adaptation, for the legal sector. See paras **4.2.2, 4.2.3** and **4.2.5**.

6 Part 6: Definitions - BSB Handbook
7 Scenario: You're asked to handle your client's money – CLSB
8 https://cilexregulation.org.uk/wp-content/uploads/2018/11/CILEx-Accounts-Rules.pdf

Property sector

Within the property sector there are several initiatives and technology driven offerings that could transform the nature of client money management in future.

- **PayProp**'s automated rental payment platform for letting agents aims to significantly reduce the length of time that money is held in a client account related to these transaction types (payment of rent, payments to landlords, contractors etc). In addition to reducing administrative burdens and the risks of holding client money, there is likely to be an insurance cost benefit, given that most CMP providers base the cost partly on the highest amount of money a letting agency has sitting in their client account throughout the year[9].
- **Project Meridian** - was a project run jointly between the Bank of England and the Bank for International Settlements' London innovation hub to build a digital settlement prototype that speeds up payments in conveyancing by linking banks, conveyancers and HM Land Registry (completed in April 2023). To reduce the possibility of payment failure, the project used Bank of England money in a Real-Time Gross Settlement (RTGS) system, using distributed ledger technology, to switch assets at an agreed time. Rather than deposit funds being sent to the conveyancer's client account and mortgage funds disbursed, cash funds were put on hold at source[10].
- **PEXA Pay**, a payment system developed by the UK-based arm of **PEXA Group**, is dedicated to property settlement. PEXA Pay leverages the Bank of England's RTGS system to settle residential and buy to let remortgage transactions, and will be extended to cover sale and purchase transactions in the future[11]. PEXA UK is regulated by the Council for Licenced Conveyancers.
- **PEXA** Australia, also part of PEXA Group, is an electronic conveyancing platform which digitises the process of property settlement, aiming to make it more efficient and secure. PEXA is regulated by the Registrar in each Australian state where it is active and according to investor data, handles transactions for 22,000 properties a week and has 89% penetration in the Australian Exchange[12]. The PEXA source account is maintained by PEXA with an Authorised Deposit Institution (ADI) regulated by the banking regulator.
- The introduction of enhanced data requirements for **CHAPS** payments (the high-value payment system operated by the Bank of England) means that from May 2025 all property-related transactions will need to include purpose codes (from a predefined list). This is part of a wider initiative to improve payment transparency and combat financial crime[13].

Third party managed solutions

Property agents and managers can outsource client money management and accounting with registered companies known as Client Accounting Service Providers (CASPs). CASPs are regulated by Propertymark and collect money in line with regulatory requirements, conduct reconciliations and make payments. Firms regulated by the Royal Institution of Chartered Surveyors (RICS) (in property and surveying) can use Third-Party Transaction Service Providers (TPTSPs) to process client money. The RICS-regulated firm authorises the TPTSP to control the client account on its behalf and outsources accounting, documentation and the movement of money. Desk research has not revealed any companies that describe themselves as TPTSPs at this stage, but companies that operate under the CASP model above could fulfil this function.

There are some similar models to TPMAs introduced in other jurisdictions. New Zealand provides some guidance on outsourcing client money to third parties in that the outsource provider needs to identify with the FSPR but there is limited evidence so far that these types of providers are being used by law firms. Canadian lawyers and bookkeepers can use My Trust Account which is a service for secure online management of trust information provided by the Canadian Revenue Agency (see **4.2.4**). In Singapore, TPMAs have been introduced for conveyancing which removes the solicitor from the handling of money as set out in the Conveyancing and Law of Property Rules 2011, making it an offence for solicitors to hold conveyancing money or anticipatory conveyancing money except in an escrow agreement or Central Provident Fund (CPF) account[14]. PEXA, the electronic conveyancing platform in Australia is covered in more detail at **4.2.5** below.

---

9 How PayProp can help with CMP insurance | Propertymark

10 All-digital trial sounds death knell for paper-based conveyancing - Legal Futures

11 All-digital trial sounds death knell for paper-based conveyancing - Legal Futures

12 https://www.pexa-group.com/staticly-media/2024/08/Investor-Presentation-vF-sm-1724195453.pdf

13 Additional Guidance: Detail on Mandating ISO 20022 Enhanced Data in CHAPS.

14 CPF is a compulsory savings and pension plan for working Singaporeans and permanent residents to fund retirement, healthcare and housing, much like the National Insurance and State Pension schemes in the UK.

The next section considers the five models identified in the research in more depth, see Appendix 1 for more detail on CARPA.

4.2.1 CARPA (France)

Model - broad description including mechanics, exclusions/limits

- It is mandatory for French lawyers to pay client money into a CARPA, a centralised system under dual oversight of bar associations and Tracfin (Financial Intelligence Unit). The CARPA initiates transactions and provides reporting and reconciliation. In 2020 there were 122 CARPAs in France handling 8,500 transactions daily.
- Lawyers who handle client funds in connection with their legal practice have an obligation to deposit funds into CARPA, including clients who have made advance payments for fees. It is a disciplinary offence not to hand over client money to CARPA, this is enforced by the relevant bar association.
- Law firm employees are trained to use the system as they need to understand how it works, but it is relatively straightforward and the training is delivered by the Bar team in charge of CARPA.

Benefits (consumers, firms and regulator)

- Compliance with GDPR, money laundering regulations and risk management surrounding politically-exposed persons (PEPs) and counter-terrorist financing are assured.
- Reduced risk of fraud or loss by the profession as all funds are held centrally and securely and the source and destination of the funds is tightly controlled.
- For law firms, CARPA streamlines financial management and reduces cost of administering funds in-house.
- The interest allows the Bar Association to make investments or (as was the case this year in Paris) to lower the bar fees for lawyers and to finance legal aid.

Disadvantages (consumers, firms and regulator)

- The speed of transactions can vary due to complexity, documentation required and the internal procedures of the specific bar association managing the CARPA.
- As the purpose of the system is to generate interest, it is required that the funds are invested for a few days or weeks.
- Centralising client funds, even at bar association level, increases the risk of being a target for hackers seeking access to funds and personal data.
- It is possible that users may encounter service disruptions or performance issues. Whilst any financial management system can experience technical issues, any downtime or outages have not been identified relating to CARPA.
- Some firms pass on the administrative costs of using CARPA to clients.
- Harder for law firms to manage cash flow and firms/clients do not receive the benefit of interest on their funds.
- CARPA may face challenges in efficiently managing transactions involving international clients and cross-border deals and may not hedge effectively against fluctuations in exchange rates.

Factors to be considered by the SRA were it to explore this model further

- Added expense of establishing a centralised system, run centrally or by each local law society, and in driving cultural change for law firms to adopt a new way of working.
- Cost of compliance - the system needs to be set up in such a way that it is completely secure, easy to use, efficient, safe and immediate. Likely to incur significant initial investment as well as ongoing operational cost.
- Firms would not be receiving interest therefore a centralised system may be less commercially beneficial unless savings are delivered in cost of compliance, insurance or reduced compensation fund payments.
- Unlikely to be suitable for the complexity and value of transactions in the UK legal sector especially magic circle, commercial and cross-border transactions including multiple currencies, stakeholders and exchange rates.
- The French regulatory framework does not currently specify a minimum service level for speed of transactions of CARPA, but a regulator could put a speed/delivery of funds requirement in place.

Any impact on firms and consumer access to justice of this model

- Whilst a full-sector CARPA model may not be feasible, small firms or sole practitioners may benefit from a central or other more secure way to manage client funds.
- Regulators would be able to monitor and identify misconduct more easily and compliance would be built-in to the system.
- Education and communication would be essential to ensure that clients and law firms understand the benefits and new ways of working.

4.2.2 Client Accounting Service Providers (CASPs) and Client Money Protection (CMP) Insurance in the UK property sector

Model - broad description including mechanics, exclusions/limits

- Property agents and managers have the option of outsourcing client money handling to third parties referred to as Client Accounting Services Providers (CASPs)[3]. CASPs must be regulated by Propertymark or RICS[4].
- CASPs can manage all aspects of client money handling, including account opening, collection, processing, reconciliation and payments. Depending on the provider used, CASPs can open a designated client account with their own bank or access the property company's client bank with permission.
- Property agents and managers are not obliged to use a CASP and can manage client money in-house. However, they are legally required to belong to a registered Client Money Protection (CMP) scheme that reimburses client money in the event of misappropriation of client funds, although cover levels vary between the different approved CMP schemes. Agents typically pay an annual levy to belong to a CMP, with the levy determined by the total value of client funds held. Most CMP schemes require members to submit an annual accountant's report that checks if the company is following client money handling requirements. If using a named CASP, that is stated clearly in terms of business and tenancy agreements, the accountant's report requirement is normally waived as the liability falls on the CASP.
- The CMP does not remove the need for property managers and agents to also hold PII.
- Examples of CASPs include Abode Accounting, The Letting Partnership and RatioBox Lettings.

Benefits (consumers, firms and regulator)

- Alleviates the administrative burden, both in terms of managing client money on an ongoing basis and meeting regulator or member body compliance requirements. They are particularly useful for smaller organisations, with less bandwidth for managing accounts.
- Overcomes the challenge that some property agents are facing in opening/holding pooled client accounts. Some institutions are refusing or closing these accounts due to concerns of falling foul of anti-money laundering requirements.
- Reduces the risk of fraud and misappropriation of funds. Money is paid straight to the client account run by the CASP, rather than transferred from the agency account to the client account run by the agency.
- Consumers have clear information on the CASP used and have greater transparency on their funds - depending on the CASP used and the information provided to the customer.
- Agencies can monitor and view account transactions, but do not manage the account or funds directly thereby reducing the risk of mis-use.

Disadvantages (consumers, firms and regulator)

- The agency has to bear the administrative burden of updating tenancy agreements and all paperwork detailing the CASP used. Although in the long-term, they will have a reduced administrative workload through using a CASP.
- The agency might only be able to view account activity but might not be able to manage the account activities.

3 Propertymark, Accountant's Report
4 Propertymark, Accountant's Report

- Consumers may be uncertain about an unknown third party holding their money. However, that CASPs are regulated should provide some reassurance.

Factors to be considered by the SRA were it to explore this model further

- What regulatory framework the SRA would put in place for a firm to be a CASP? Would the SRA directly authorise CASPs and the regulatory requirements they would have to meet? Or authorise the use of regulated CASPs from the property sector?
- Whether CASPs would be able to access the firm's client account or would be required to hold the account.
- Regulatory ability to identify misconduct more readily.
- If mandating the use of CASPs, there is the question of whether CASPs or the regulator would maintain any compensation fund or hold insurance policies given the liability would fall with them rather than the law firm in the event of misuse of funds.
- How consumers would be informed and made aware of third-party providers, so that consumers know how the system works and that they are using a regulated provider.
- How law firms would be enabled to adopt and implement the CASP model (education, knowledge and support).

Any impact on firms and consumer access to justice of this model

- Education and communication would be essential to ensure that consumers understand the process and to ensure they are using a regulated provider, and that law firms understand how to implement this model effectively and amend working practices as needed.

4.2.3 RICS - Third Party Transaction Service Providers (TPTSPs) in the UK5

Model - broad description including mechanics, exclusions/limits

- RICS-regulated firms have the option of using a TPTSP to manage client money. RICS defines a TPTSP as a company entirely unconnected with the regulated firm that provides payment processing services.
- TPTSPs can collect client money, hold it in their accounts, manage reconciliations and payments. They are not regulated, but in its March 2024 guidance on the use of TPTSPs, RICS reminds firms of their obligation to meet RICS's client money standard and to ensure that the use of TPTSPs does not put them in breach. In particular, it highlights the importance of the firm retaining the ability to gain exclusive control of client money.
- Where TPTSPS are used, RICS firms are obliged to inform their clients and provide details as to exactly how the TPTSP operates. Firms must also ensure that TPTSPs hold insurance to cover the misappropriation of client funds.
- RICS members are not required to use a third-party, but its members must also belong to a registered Client Money Protection (CMP)[6] scheme that reimburses client money in the event of misappropriation of client funds. RICS also operates a CMP for surveyor and estate agency members.
- The CMP does not remove the need for property managers and agents to also hold PII.
- TPTSP is a term used by RICS, but no firms appear to use this terminology to describe themselves. One example of a TPTSP is PayProp, which is a property management and rental payment platform for letting agents (see para **4.2**).

Benefits (consumers, firms and regulator)

- Alleviates the administrative burden for firms, once set up, both in terms of managing client money on an ongoing basis and meeting regulatory or member body compliance requirements. They are particularly useful for smaller organisations with less bandwidth for managing accounts.
- As with CASPs, overcomes the challenge that some property agents are facing in opening/holding pooled client accounts. Some institutions are refusing or closing these accounts due to concerns of falling foul of AML requirements.
- Reduces the risk of fraud and misappropriation of funds. Money is paid straight to the client account.

---

5 Guidance for UK RICS-regulated firms handling client money using third-party transaction service providers.
6 Protecting clients' money if you're a property agent.

- Consumers have clear information on the TPTSP used and may have greater transparency on their funds - depending on the TPTSP used and the information provided to the customer.

Disadvantages (consumers, firms and regulator)

- The liability does not shift from the firm to the TPTSP, as such the firm has to conduct due diligence to ensure that the use of the TPTSP will not put it in breach of any industry regulations.
- TPTSPs are not regulated by RICS, as such there will be less confidence in which providers to use.
- Consumers may be uncertain about an unknown third party holding their money, particularly if they are not regulated.

Factors to be considered by the SRA were it to explore this model further

- Whether firms would be permitted to work with unregulated TPTSPs and perform their own due diligence that ensure that expected standards are met. This model offers greater freedom in choice, but reduced consumer confidence.
- Whether a minimum set of standards would need to be established for law firms to meet when selecting and working with TPTSPs.
- Whether it would require the use of a compensation fund or require firms to hold an insurance policy to reimburse consumers in the event of misuse of funds.
- How consumers would be informed about third-party providers, so that consumers know how the system works and that they have confidence and trust in the TPTSP used.
- How law firms would be supported to work with TPTSPs, in terms of following standards and best practice.

Any impact on firms and consumer access to justice of this model

- Education and communication would be essential to ensure that consumers understand the process and to ensure they are using a regulated provider, and that law firms understand how to implement this model effectively and amend working practices as needed.
- TPTSPs are unregulated so would have a different risk profile to CASPs for example. Consumer recourse and/or protection would be reduced under this model.

4.2.4 My Trust Account, Canada Revenue Agency

Model – broad description including mechanics, exclusions/limits

My Trust Account in Canada is a secure service provided by the Canada Revenue Agency (CRA) which enables legal representatives, accountants, bookkeepers or someone with power of attorney to manage client money online with three levels of authorisation. Level 1 access can view balances and ownership. Level 2 access can also request remittance vouchers and submit documents. Level 3 can arrange direct deposits, make payments online and view and update contact details. Funds are not held in My Trust Account, rather it is an overlaid portal to enhance accessibility and transparency, to which the regulator has access.

Benefits (including to consumers, firms and regulator)

- The CRA keeps audit trails of all access to the trust account information and can make use of this information[7].
- Practitioners can reduce exposure to risk through the use of the secure online system.
- The CRA has increased visibility into trust accounts.
- The client also has the ability to authorise practitioners to access their account although it is not clear whether the client has access to information and can view transactions.
- Alleviates the administrative burden for firms, once set up, both in terms of managing client money on an ongoing basis and meeting regulatory or member body compliance requirements.

Disadvantages (including to consumers, firms and regulator)

- Consumers may need reassurance that their funds are secure and may be uncertain about a third party holding their money unless known that the service is provided by the regulator.

---

7 My Trust Account Terms and Conditions - Canada.ca

Factors to be considered by the SRA were it to explore this model further

- This might be particularly useful for sole practitioners who handle client money. A simple and secure online platform or portal that connects with financial institutions that hold the funds could enable the SRA to have visibility of size and volume of transactions and identify risk proactively.
- It would not need to be a legally qualified practitioner, an authorised individual could use the system.
- Platform or portal could be provided by an existing provider such as a TPMA, bank and/or tech provider.

Any impact on firms and consumer access to justice of this model

- Costs of initial development and ongoing operation.
- Changes to processes, systems and culture could be disruptive in the short term.
- Access for clients and consumers would promote transparency and enable them to view progress of their funds.
- Firms would need guidance on how to use the online system and may require a change to working practices.
- Must not exclude consumers who do not have access to digital services – a smartphone app could assist but would not be sufficient to address non-digital users.

4.2.5 Property Exchange Australia (PEXA) conveyancing platform, Australia

Model – broad description including mechanics, exclusions/limits

- PEXA provides a secure digital solution that facilitates property transactions for conveyancers, lawyers and financial institutions. Funds and documents are exchanged securely and instantly, reducing the need to handle paper documents and replacing the need for hard copy signatures with digital signatures.
- Licensed conveyancers can use their own trust account linked to PEXA or transfer funds to a PEXA subscribed financial institution. Purchasers can deposit into PEXA or into the law firm's trust account.

Benefits (including to consumers, firms and regulator)

- Stakeholders can track the progress of settlements, reducing uncertainty and improving client outcomes.
- Transactions are more transparent with real-time updates.
- PEXA integrates with banking and financial institutions allowing for easy transfer of funds.
- The platform is compliant with regulatory requirements.
- Reduced time and cost compared with traditional paper-based conveyancing.

Disadvantages (including to consumers, firms and regulator)

- Reliance on digital platform means that any outages or system failures can potentially disrupt transactions – although no evidence of this so far.
- Training and adaptation to a digital way of working may be an overhead for smaller firms.
- Risk of cyber-attack and/or data breaches – data and funds could be vulnerable if adequate protections are not in place (but probably less risk than practitioners and conveyancers handing funds themselves).
- Fees associated with using the platform could add up for frequent users or smaller transactions.

Any impact on firms and consumer access to justice of this model

- Consumers need reliable internet and devices which can be a barrier for some – putting some buyers or sellers at a disadvantage.

4.3 What are the rules on interest for client money?

Interest on client money in the legal sector is treated in two main ways (although there are some exceptions): either for the public good or paid to the client and/or law firm. In Canada, France and Australia, interest on client money is used for the public good including the provision of legal aid, access to justice and legal education although there is the possibility of setting up certain types of client accounts in Australia (eg CMA) and Canada (eg SIBTA) which pay the interest to the client. In some instances the interest is kept by the provider that is facilitating the transaction. In Canada, mixed trust accounts (e-reg trust accounts) set up to enable fees and taxes for land registry matters must pay interest to the Law Foundation of Ontario. Although when the Singapore Academy of Law (SAL) provides stakeholding services in place of a law firm, no interest can be earned. Escrow interest in New Zealand is kept by the law firm.

Typically, interest in the legal services sector is viewed as belonging to the client in the UK, Canada and Australia, although there may be circumstances when the client agrees otherwise or the interest is minimal and is kept by the legal services provider. In England and Wales it is at the discretion of the regulated law firms to decide on the 'fair sum' of interest paid to the client and/or retaining it by the firm, as long as the practitioner can account to the client. Typically firms will pay clients a specified rate which they themselves consider fair, with some kind of de minimis amount set eg withholding interest if it is less than £20 a year. In the USA, the rules vary by state, some firms can retain interest under certain conditions and this must be specified in client engagement agreements. In most jurisdictions law firms need to be transparent with clients about how interest is handled and obtain consent and must also comply with any tax implications.

Amongst other professions in the UK, material interest earned on client money is typically considered to belong to the client. In the accountancy profession, regulatory guidance states client funds should be placed in an interest-bearing account unless the interest earned would not be material. Whether interest would be material is determined according to the number of weeks the funds are to be held and the minimum balance. For example, a £1,000 balance held for eight weeks should be placed in an interest-bearing account, while a £20,000 balance would need to be placed in an interest-bearing account if held for one week[8]. Accrued interest is paid to the client. In all professions examined, firms can agree alternative arrangements with clients.

4.4 Accountability

Typically across the jurisdictions under consideration, accountability approaches are shared in three main areas:

- individuals having direct responsibility for handling client money eg bookkeeper or trust account supervisor
- support roles or functions including finance and compliance
- managing partners/sole practitioners having oversight of the process to comply with client money regulations and being accountable for this being conducted responsibly.

In some areas this means that the responsibility for managing client money falls on the firm's partners or senior management collectively, rather than a single designated individual. Lawyers can delegate responsibility to non-lawyer employees in some countries which may either expose additional vulnerabilities or be a better use of time and expertise. In New Zealand for example, the role of the Trust Account Supervisor (TAS) is a key component of the regulatory framework. The TAS is a nominated individual who has clear accountability within the specific framework of trust account regulations and must be trained and certified accordingly. In UK insurance, brokers need to appoint a client money manager to manage the non-statutory trust client bank account to ensure additional controls.

4.5 Enforcement and compliance

In terms of enforcement and annual checks, many jurisdictions have a model whereby an annual inspection or compliance check of client money accounting is conducted by an external auditor. Some firms fund the inspection themselves (Australia), for others the cost is borne centrally (Canada) unless extra work or subsequent visits are needed in which case the cost may be borne by the legal practice (New Zealand). Australia in particular has strict audit requirements. In the UAE, there are annual audits plus regulatory authorities such as the DLAD (Dubai Land Department) or ADJD (Abu Dhabi Judicial Department) may conduct spot inspections to ensure compliance.

Most jurisdictions have a mix of annual independent audits plus inspections or reviews at the discretion of the regulator as part of a risk-based approach in response to specific concerns or referrals. Firms must also submit audit reports and maintain records for regulatory review. Regulatory bodies also have mechanisms for handling client complaints relating to the handling of client money which can trigger enforcement action.

In most jurisdictions under anti-money laundering and financial crime legislation there are set limits on the amount of cash that legal practitioners can receive and these rules may give rise to the need to report a suspicious transaction.

The SRA does not directly approve specific financial institutions for handling client money, whereas in some jurisdictions the regulator approves a limited number of institutions that are authorised to hold money on behalf of law firms (Australia, New Zealand, Singapore).

4.6 Use of technology to either reduce risk or to assess compliance

The SRA could consider the use of a dedicated technology solution by learning lessons from existing solutions, such as: PayProp which collects money for letting agents, holding dedicated client accounts with banks and offers automated client accounting and reporting; PEXA UK, or MyTrustAccount in Canada which provides lawyers with a secure online management system for trust information and to which the regulator has access.

From July 2024, law firms in New Zealand are required to use Audit Assistant, a cloud-based auditing tool that the Law Society's Inspectorate uses to conduct trust account reviews and to assist in detection and enforcement – both by increasing the number of reviews that can be conducted and streamlining the process of receiving documents and information required for a review. An Australian regulator, the Law Society of New South Wales, has vetted trust money software for compliance and issued certificates to 23 providers.

The advantages of technology include real-time tracking and reporting which could be integrated with the SRA's own oversight systems to provide an early-warning system and prompt spot checks or audits.

Client transparency

Providing clients with visibility over their money increases transparency, trust and reduces the risk of misappropriation or misallocation. Shieldpay's platform, used by some law firms, enables end-clients to see transactions on their accounts[9]. Other digital platforms that offer end-clients this visibility are in evidence.

- In addition to providing letting agents with real-time visibility of their client accounts, property payment and bank reconciliation platform, PayProp, enables landlords to view any money processed on their properties via a free 'Owner' app[10].
- Nordic virtual account provider, Tietoevry enables end-clients to view balances and transactions, while operational control of holdings remains with the client money account holder, including asset managers, pension funds, insurance providers and real estate agents[11].

Traceability and governance

Many digital platforms offer authorisation and tracking processes that increase oversight over client money and protect against misappropriation of client funds. Readily visible, real-time client and office transaction histories and account balances are common features, along with built-in warning systems and automatic anomaly reports.

- Shieldpay provides notifications when funds flow to assigned parties. It also has transaction monitoring procedures in place and undertakes spot checks on transfers between TPMAs and the law firms' operational accounts to identify unusual transactions[12].
- Virtual account providers such as Cashfac offer an audit trail of activities, with transaction traceability from origin through initiation[13]. It also enables businesses to create user controls via customisable authorisation models[14].
- Payprop similarly allows customers to set custom user permissions for every type of system action, and see detailed, date-stamped audit logs of all users' actions[15].
- Corporate-to-bank integration providers, AccessPay, connects accounting systems with banking portals, so that payments are made from the AccessPay platform and registered on the accounting ledger. This reduces the potential for fraud and error, as fewer individuals have access to the bank portal to make payments and manually downloaded statement data cannot be manipulated when reconciling accounts.[16]
- Legal sector software providers such as Quill and Cashroom validate bank accounts and sort codes of payees for every transaction. Cashroom's authorisation workflows enable law firms to establish robust approval processes, with configurable authorisation levels and real-time tracking capabilities[17].

Improving efficiency

Technology is also reducing the burden of handling client money, simplifying and automating workflows and reducing reliance on manually intensive, error-prone processes. Examples include automatic matching and allocation functionality[18], along with continuous and instant reconciliation of client accounts. This is offered by a range of providers including legal sector practice management and accounting vendors, virtual account providers, bank integrated property payment systems and reconciliation platforms and TPMAs.

---

9 Legal Futures webinar: 'Should solicitors continue to hold client money?', May 2024
10 How PayProp can help with CMP insurance | Propertymark
11 https://www.tietoevry.com/en/banking/transaction-banking/cash-management/client-money-management/
12 Third-Party Managed Accounts: Your questions answered
13 Platform - Cashfac
14 Virtual accounts: a convenient and efficient way to manage client funds
15 PayProp | Industry Supplier | Propertymark
16 AccessPay: Your flexible and secure bank integration solution
17 Law Firms of the Future – Cashroom's Cashiers Embracing Cutting-Edge Technology
18 Protecting Client Money: Best Practices | Cashfac, https://www.tietoevry.com/siteassets/files/banking/tietoevry_client-money-management.pdf

Virtual accounts held with an electronic money institution and managed online are sub-accounts of a primary account. Virtual accounts are an option for entities that want to reduce the number of physical accounts they manage. Virtual accounts are different to online accounts offered by traditional banks (online banking) and often more cost effective. When virtual accounts are linked to a single physical bank account also simplify and speed up the process of opening and managing designated client bank accounts, while offering greater visibility and control. Self-service functionality means that firms can create and maintain these virtual accounts, which can be consolidated into a single view[19] providing real-time visibility and operational control of client funds. Providers like Cashfac claim to offer continuous compliance with complex client money rules requiring segregation and reconciliation, meeting the client money protection requirements of different sectors such as accountants, lawyers, bookmakers, pension providers and property managers[20].

Other notable technology-enabled features or benefits offered by third party providers include:

- eliminating emails when it comes to communicating on transfer of monies[21] (reducing the risk of email-initiated cybercrime) and the need for rekeying data[22]
- dashboards, shared workspaces and apps that allow firms to track the progress of transactions, have visibility over all parties' actions and gain oversight of their accounts quickly and efficiently
- integration with open banking technology and/or internal back-office systems streamlining processes and ensuring accuracy and reliability
- automated anti-money laundering (AML) and know-your-client (KYC) checks.

4.7 What are the levels of consumer protection?

Compensation funds operate in Australia, New Zealand, Quebec and Singapore in which practitioners who hold client money make a modest annual contribution in order to provide a fund for consumers to seek redress if they have suffered financial loss due to a law firm's dishonesty, fraud or failure to account. The primary purpose of compensation funds is to provide a safety net for clients who have experienced financial loss through unethical or unlawful actions by their law firm. In the UAE, lawyers may be required to obtain a bond or insurance policy as there is no central fund. No compensation fund is needed in France as under the CARPA system lawyers do not have access to client money. Some payments to compensation funds are linked to the practising certificate or annual membership. Exemptions for those practices that do not hold client money are in place in the UK, New Zealand, Australia and Canada. Even if a firm does not handle client money, PII needs to be maintained. Although where client money is held centrally eg in France, PII costs are much lower.

Other consumer protection measures are in place including guarantees under consumer law in Australia and the UK (the Financial Compensation Scheme in the UK as well as statutory provision under the Consumer Rights Act 2015), consumer protection statutes in Canada, and Quebec has a legal warranty of quality in the civil code. Consumers of legal services in New Zealand are also protected by the Consumer Guarantees Act and the Fair Trading Act. Most jurisdictions have a process for complaints handling and resolution as well as standards around professional conduct. In addition, clients across all jurisdictions can seek recourse through the judicial system. Legal aid to consumers is available for this in Australia, Canada, Singapore and New Zealand.

Turning to other sectors, property managers and agents are legally obliged to belong to an approved Client Money Protection (CMP) scheme, which covers consumers in the event of misappropriation of funds. Companies pay an annual levy and must display their membership logo. In the financial services sector, the Financial Services Compensation Scheme (FSCS) provides consumer protection in the event of a regulated firm failing and in certain instances, mis-sold products or fraud.

5 Future of handling client money

When looking at future developments in how client money is handled by professions and jurisdictions, there are innovations and developments that have been identified as potential enablers of change.

In the short term,

20 Client Money Management and Compliance - Cashfac
21 Law Firms of the Future – Cashroom's Cashiers Embracing Cutting-Edge Technology
22 Legal Accounting Software for Solicitors | Law Society Approved | Quill

- the use of **blockchain** (secure distributed digital ledger) enhances security as client funds are transferred outside of traditional banking systems which are vulnerable to hacks. The risk of fraud is reduced as the transaction history cannot be changed, making the audit trail transparent and immutable.
- **Outsourcing** certain aspects of client money handling, such as account reconciliation or audit preparation, to specialised providers can reduce costs and free up internal resources for firms. This can also include delegating responsibility to non-lawyers for aspects of client money management.
- **Centralisation** of client money handling within a firm or across multiple offices can improve oversight and reduce the risk of fraud or misappropriation. This can be combined with an individual with nominated responsibility for the client accounts such as the TAS in New Zealand, delegating responsibility to non-lawyers.
- Firms can make use of **open banking technology** to automate the connection between online banking and their accounting software. For large firms, where open banking rules do not apply, corporate-to-bank integration technology that connects bank portals and accounting systems can be used. This eliminates the need for manual transfer of data from bank portals or paper statements to the accounting system, which is a common point for data to be manually manipulated or re-keyed to carry out fraud. This can also improve efficiency and reduce the risk of errors and fraud in managing client funds.
- **New payment regulations and requirements**: new standards and initiatives such as Confirmation of Payee (CoP)[23] technology and the ISO 20022[24] financial messaging framework, which is being rolled out worldwide and enables detailed data to be attached to transactions, are contributing to the fight against fraud. These initiatives are being led by the financial services industry but will also impact corporate entities. CoP technology is increasingly used by finance teams in companies to avoid misdirection of funds, while all firms will need to collect more detailed and structured data for transactions as part of the transition to ISO 20022.
- **Legal practice management** providers such as Clio and cashiering platforms could move into the client account management space as the market develops given their existing platform capabilities and would have the ability to provide transparency, accessibility and help to support audit requirements.

Blockchain and open banking in particular put control of financial data in the hands of consumers and enable them to share information with trusted third-party providers as well as financial institutions.

In the medium to longer-term:

- **Smart contracts** where payment terms are directly written into code so funds could automatically be released once certain conditions are met – so payments could be self-executing, reducing risk of human error (although there are questions whether regulation applies to smart contracts and how enforceable they are).
- **Artificial Intelligence** may well offer benefits in detecting and reducing fraud, KYC checks, streamlining existing workflows and further reshaping the payments industry.

6 Conclusions

Having reviewed the evidence from other jurisdictions and professions, these common themes emerge as key considerations, should the SRA wish to further explore alternative models for holding client money.

- Any model must have **robust regulatory oversight** or built-in structures that work to protect client money without the need for a central authority, if client money is held.
- **Consumer protection** from fraud, misuse or mis-management must be built in such as the provision of PII and/or compensation funds proportionate to the risk of holding client money.
- **Administrative efficiency** is important - to reduce the burden of compliance on law firms, to enable non-lawyers to have administrative responsibility and to reduce overheads in audits and reporting.
- **Technology** – such as open banking technology, blockchain and other portals and systems can be deployed by regulators and firms to help manage the process of outsourcing client money handling and reduce costs by using existing platforms.

23 Confirmation of Payee
24 ISO 20022

- **Visibility** for regulators - some online portals for client money (eg My Trust Account, Canada) enable the regulator to have visibility of all the transactions made, providing an early warning system for error and/or fraud.
- **Accessibility and transparency** for clients - visibility of their money, any interest earned, dates that payments are made, self-service portals where disbursements can be made directly to the third party rather than via the law firm.
- **Data** on transactions and compliance checks must be resistant to alteration - making information sharing transparent and secure.
- **Security** of any client money system – safe from hacking, from data breaches, from bad actors as well as resilient and protected from downtime, outages and service failure.

There are of course challenges for law firms in shifting to new models including changes to processes, systems and culture, and potential cost implications. For the regulator and for firms there is a requirement to provide reassurances for consumers about the security of other models. However, it is possible that some of the models identified could be applied to sub-sets of the legal sector in the UK with the aim of calibrating the approach to compliance to the size or type of the firm (and proportionate to the risk). Existing technology platforms can play a fundamental role in this.

It could be useful to conduct a deeper dive into alternative models and elements of technology enabled solutions to try to understand the current size and scope, for example number of firms using these services. Similarly, it could be useful to access data on the number of firms that actually manage client accounts in jurisdictions where firms can opt out of handling client money – either by approaching regulators directly and/or an open access data request as this information is not yet in the public domain. Finally, data are not available (in the public domain) for exactly how the value and volume of client money held and moved differs across the profession which could be useful to understand in more detail. With thee data it might be possible for the SRA to assess whether to take a sector-based approach, applying different client money handling rules to different situations based on the risk involved, whether that is size of firm and/or type of firm. Some of the models outlined in this research could be considered either wholesale or in combination. Options include:

- Requiring some sectors of the profession to use client money protection through **third party services**. Examples include TPMAs, escrow services, virtual accounts and/or even dedicated client money management platforms managed by regulators (My Trust Account in Canada).
- **Client account insurance models** – separate client account insurance policies required at firm level to cover any misappropriation which could provide a separate layer of protection for clients over and above PII and Compensation Funds. (In the UAE a separate bond or insurance coverage is required, determined based on the scale of the legal practice and the nature of the services provided and designed to be sufficient to cover potential claims arising from any mishandling of client money).
- As part of a **tiered approach**, imposing more stringent requirements on firms that hold a higher value or volume of client money, potentially even removing the option of a client account for specific firms deemed to be high risk. A tiered approach could ensure that compliance overheads and consumer protections are proportionate to risk.
- Some or all firms could be required to use SRA-approved financial management platform that provide built-in compliance. Client money could be **centralised** by certain firm size for example sole practitioners could pool client money in a regulator-mandated single technology platform eg CARPA.

Our recommendations would be to consider these options in light of the findings of the Consumer Protection Review, and together with the data, consider the feasibility of applying a segment or sector-based approach to the handling of client money and consider implementing, or piloting, alternative models where the greatest areas of risk are identified (size or type of organisation, practice area etc), provided that law firms are not overly burdened with compliance costs and consumers are fully protected. It is suggested that the SRA consider the use of existing third-party technology solution(s) as part of this approach.

Appendix 1: How client money is handled in other jurisdictions

Appendix 2: How other professions and the financial services sector in the UK handle client money
Appendix 3: Third-party providers reviewed

The SRA commissioned this research from an independent research agency, Spinnaker Research & Consulting. Set up by Jemma Macfadyen, Spinnaker specialises in in-depth qualitative research in the legal sector and has been providing market research, data analysis and strategic support to publishers, regulators and membership organisations in the UK and Europe for over 25 years. Spinnaker provides research expertise to a range of legal regulators, professional bodies and membership associations to contribute to policy evaluation and development. Spinnaker also works closely with

leading online legal information providers to support commercial decision-making and to develop online products and services.

Appendix 1: How client money is handled in other jurisdictions

Common law (Australia, Canada, New Zealand)

A1.1 Australia

Who regulates the legal profession?

- National bodies: The Law Council of Australia; The Australian Bar Association
- The Legal Profession Uniform Law (UL) of 2015 harmonises regulation of the legal profession between participating jurisdictions. The UL established the Legal Services Council which oversees the regulatory framework and makes the rules which are enacted in each territory with designated regulatory authority.
- Law Societies, Legal Services Boards and Bar Associations operate by territory (Tasmania, Victoria, NSW etc) with largely consistent rules, although they may vary.
- There are specific professional conduct rules depending on the legal body (eg Law Institute of Victoria). The LPUL replaced the Legal Profession Act 2004 in which part 3.3 dealt with trust money regulations.

If regulated lawyers don't hold client money, who does and how? What is the typical model?

- Funds that are entrusted to a law practice in the course of legal practice or in connection with the provision of legal services are regulated as **trust money** and must be secured with an **ADI** (Authorised Deposit-taking Institution under the Banking Act). Including: money received for legal costs in advance; money received where the client provides a written direction as to how that money is to be deposited and dealt with; money received from a client with instructions to pay or deliver it to a third party (**transit money** eg stamp duty, barristers' fees); and money received that is subject to a power exercisable by the law practice as to how the money is to be dealt with (proceeds of court or **power money**). Money entrusted to or held by a law practice in connection with a managed investment scheme or mortgage financing is not trust money.
- **Controlled money** is in a dedicated account, known as client money account (**CMA**). General trust account money can be pooled.
- Barristers are not permitted to hold client money.
- Many law practices in Australia have decided not to maintain trust money accounts.
- Those that do hold trust accounts must: open it with an **ADI**, clearly named as client trust account, deposit promptly, disburse with authorisation, keep records including monthly listing statement, client reporting and annual external examination (External Examiner's Report). There are 120 ADIs (including trading names) as at August 2024.
- Institutions licenced as ADIs including CBA, Westpac and the NAB offer **Statutory Trust Accounts** to conveyancers, solicitors and estate agents. Practitioners must comply with their relevant statutory/governing body.

What are the controls/security features?

- A **CMA** must include the name of the law practice and the abbreviation CMA in the name of the account. Withdrawal must be authorised by the client. The law practice must prepare a monthly listing and report a trust account statement to the client.

If law firms hold client money, what are the monitoring and inspection obligations?

- Trust accounts are examined once a year by an **External Examiner** approved by the Board and paid for by the practice.

What are the vulnerabilities?

- Fraudulent trust accounting practice (criminal behaviour).
- Poor trust accounting practices.

Any exceptions/ exclusions? Type of client money, type of work, value etc

- If a law practice receives cash in a transaction > AUD $10k it is required by the Financial Transactions Reports Act 1988 to report the transaction to AUSTRAC (Australian Transaction Reports and Analysis Centre).

Does the regulator maintain a fund to compensate clients for the theft of client monies by a lawyer?

- Yes. Solicitors are required to make an annual financial contribution to a **Fidelity Fund** which provides a means of redress for clients and others who have suffered financial loss as a result of a misappropriation of trust money.
- The interest that is generated on monies held in trust accounts is deposited into public purpose funds. That money can be used for a variety of purposes including to fund the cost of regulation, for community and public education about the legal system and to meet the funding needs of Fidelity Funds. Each state and territory has its own fidelity fund and the administration varies.

Are there other consumer protection measures in place?

- The Australia Consumer Law (ACL) applies to all legal practices and contains consumer guarantees for services under $40,000 prohibiting misleading conduct, false representation, unfair terms etc.
- Authorised deposit-taking institutions (ADIs) are all covered under the **Financial Claims Scheme** (the FCS). The FCS protects money held by an account-holder with an ADI, whether in one or more protected accounts, up to a total value of AUS $250,000. It costs an institution at least AUS $110,000 to apply for ADI status, payable to the regulator APRA.

Is there any evidence for the use of TPMAs or other similar models?

- Not so far but there are several trust accounting software packages available on the market of which the regulator in NSW has certified 23 as compliant

Benefits/disadvantages for legal service providers

- **Benefit**: Interest on client accounts goes to legal aid, the professional standards divisions, Offices of the legal services commission and the Bar Association as well as community legal education.
- **Benefit**: Law practices know they will be able to cover fees and costs as money already received
- **Disadvantage**: Legal Practitioners' Liability Committee sees many claims made against firms that have, in error, paid trust money to clients as instructed but without first checking whether the clients are entitled to receive the funds.

Benefits/disadvantages for consumers

- **Benefit**: Clients receive the interest if invested in a Controlled Money Account

Is this model different to the SRA's and, if so, how could it inform the review?

Some advantages of this model:

- Regulation is **risk based** – in that regulations only apply to those who manage client money. Firms can opt out and reduce their payments to compensation fund and compliance overheads
- Regulator has in some states **checked trust accounting software for compliance** and issued certificates for many providers
- ADIs bear the costs of applying to be a regulated institution to handle client money rather than the law firm

Further references

- Policy Risk-based regulation of lawyers' trust accounts (Victoria)

- Queensland Law Society | Trust Accounting Guide (Queensland)
- Legal Profession Uniform General Rules (New South Wales)
- Legal Practice Board of Western Australia – Controlled Money Accounts
- Trust and controlled money accounts (New South Wales)

A1.2 Canada

Who regulates the legal profession?

- Law societies govern Canada's legal profession of over 136,000 lawyers. There are 14 provincial and territorial law society, supported by the Federation of Law Societies of Canada at federal level. The Model Code of Professional Conduct has been adopted by all the law societies excepting Québec, but duties concerning safekeeping, preserving, and accounting for clients' monies and other property are set out in the rules of the relevant law societies.
- Québec has a different legal system based on the French civil law system, in which lawyers are regulated by the Barreau de Quebec.
- Canadian Bar Association is a voluntary membership body and has provincial branches.
- Much of the controls and requirements relating to client money are set by the Canada Revenue Agency rather than individual regulators or law societies.

If regulated, do lawyers hold client money? If so, how? What is the typical model?

- Rules differ across provinces. A lawyer can deposit funds into a trust account if they are directly related to legal services (eg payment of fees in advance, settlement for a PI case, third party funds such as property sale). Trust accounts can be **mixed** or **pooled**, interest on pooled accounts goes to the Law Foundation. A pooled account is kept in the name of the firm and designated as **Trust**. Financial institutions selected must comply with bank rules.
- In Ontario, lawyers may place funds in **SIBTAs/SIBAs** (separate interest bearing accounts) where interest goes to the client rather than to the Law Foundation.
- E-reg trust accounts are special mixed trust accounts that lawyers use in relation to land registry.
- Electronic payment systems are not restricted (such as ACSS and LVTS) but may have an impact on the trust accounting.
- In Québec, lawyers can hold money or property on behalf of clients.

What are the controls/security features?

- Accounting records must be kept, monthly trust reconciliations, trust shortage notifications, annual accountants' report.

If law firms hold client money, what are the monitoring and inspection obligations?

- Compliance audit is funded by the trust administration fee and is at no additional cost to law firms. Audits are randomly selected with the goal to audit each firm within a 4–6 year cycle. Spot audits may be triggered by failure to file reports or a referral.

What are the vulnerabilities?

- Client trust funds are vulnerable to theft by lawyer dishonesty which may go undetected between random spot audits or during the course of an audit.
- A lawyer may authorise disbursements to personal benefit that appear to be legitimate or may withdraw funds on account of fees without providing services
- Trust account records that are not kept up to date can result in bank overdrafts and debit balances.

Any exceptions/exclusions?

- The Model Rule on Cash Transactions adopted in 2004 and amended in 2018, prohibits legal professionals from receiving cash in amounts > $7,500 and requires them to keep a record of cash transactions as part of their accounting record-keeping,

Does the regulator maintain a fund to compensate clients for the theft of client monies by a lawyer?

- Yes, although in some areas. In BC, the **Trust Assurance Program** is funded through the collection of the trust administration fee (TAF), $15 NZ per client matter which is remitted to the Law Society quarterly. Each province or territory has its own compensation fund managed by the LS or bar association in each area.
- Québec has a **Compensation Fund** established by the Barreau de Québec to compensate clients whose lawyer misued money or property handed over to them. For 2024, each practising lawyer contributes CAN $125. This includes professional liability insurance and annual membership fees.

Are there other consumer protection measures in place?

- The Competition Bureau, a federal agency, is responsible for administering and enforcing the Competition Act to ensure fair competition and protect consumers from deceptive marketing practices.
- The main collection of consumer protection laws is found in provincial and territorial consumer protection statutes regulating common consumer transactions ('**Consumer Protection Statutes**'. In Quebec, which is a civil law jurisdiction, there is also a legal warranty of quality in the **Civil Code of Quebec.** Some, but not all of the provincial Consumer Protection Statutes also include provisions relating to "unfair practices", including prohibitions on misrepresentations. The federal **Competition Act** prohibits the making of representations to the public that are false or misleading in a material respect.

Is there any evidence for the use of TPMAs or other similar models?

- The Canada Revenue Agency and Canadian Bookkeeping Association provide **My Trust Account**, a secure portal to manage information relating to client money securely.

Benefits/disadvantages for legal service providers

- **Benefit**: Law practices know they will be able to cover fees and costs as client money is already received
- **Benefit**: interest goes to Law Foundation to improve access to justice, legal education, legal aid, law libraries

Benefits/disadvantages for consumers

- **Benefit**: Clients receive interest on SIBTA
- **Benefit**: Compensation Fund can provide recompense for consumers defrauded by lawyers

Is this model different to the SRA's and, if so, how could it inform the review?

- Regulator has approved a single service for secure online trust management system which may be worth exploring but otherwise the model is not significantly different to that of England & Wales.

Further references

- Federation of Law Societies of Canada
- Trust Accounts - Paralegal | Law Society of Ontario
- The Trust Accounting Handbook - British Columbia
- Trust Account Regulations FAQs - Nova Scotia Barristers' Society
- Rules of the Law Society of Alberta, Part 5, Trust Accounting

A1.3 New Zealand

Who regulates the legal profession?

- The New Zealand Law Society is the statutory regulator of the legal profession (including solicitors, in-house and barristers) as well as professional membership association. Lawyers are required to follow rules of conduct: Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.
- The Law Society differentiates lawyers practising on their own account with a trust account from lawyers practising on their own account without a trust account, requiring the former group to pay a contribution to the Fidelity Fund.

- Note that the current regulatory structure is under review.

If regulated, do lawyers hold client money? If so, how?

- Solicitors may hold client (trust) money but must follow the **trust account** provisions of the Lawyers and Conveyancers Act 2006 and the Lawyers and Conveyancers Act (Trust Account) Regulations 2008 and deposit client money into a trust account at a bank.
- A trust account is, in relation to a practitioner or incorporated firm, 'any trust account at a bank in New Zealand that is a trust account in the name of that practitioner or incorporated firm'. Trust bank accounts must be designated **trust account**, and the bank and other interested parties must be notified that the money in each trust bank account is trust money.
- The law firm must have **a Trust Account Supervisor** (TAS) with up-to-date training. Every practitioner in a practice to which section 112(1) of the Act applies must, complete a course of training, and pass an examination in trust accounting, prescribed by and to a standard set by the relevant society.

If regulated lawyers don't hold client money, who does and how? What is the typical model?

- Solicitors may choose not to hold money, in which case they will need to make a declaration to the NZLS to that effect, however they will be deemed to have received money belonging to another person if: that person, or a bank or other agency acting for or on behalf of that person, deposits funds by telegraphic or electronic transfer into the bank account of the lawyer or firm; or a person or body related to the lawyer; or a lawyer takes control of money belonging to that person.
- Barristers cannot receive or hold money or other valuable property for or on behalf of another person as they are not permitted to operate a trust account. Any advance fees are either held by the instructing solicitor in a trust account or held in an escrow agreement. Any interest on escrow moneys goes to the law firm.

What are the controls/security features?

- The Lawyers and Conveyancers Act (Trust Account) Regulations 2008 contain obligations relating to the holding, accounting, withdrawal etc from a trust account.
- Lawyers (the **TAS**) must submit monthly and quarterly certificates as a statutory requirement to the Law Society Inspectorate under the Financial Assurance Scheme.

If law firms hold client money, what are the monitoring and inspection obligations?

- Compliance duties include monthly balance reporting to NZLS, annual reporting to clients.
- All lawyers practising on own account and operating a trust account are visited by a member of the Inspectorate, determined by a risk-based framework. All legal services providers pay annual inspectorate fee of NZ$482, and Annual Inspectorate fee enables the inspectorate to carry out all of its functions and to visit and review lawyers. Additional visits may be charged to the practice.
- From July 2024, the Law Society are using a new cloud-based software tool Audit Assistant to enhance trust account reviews.

What are the vulnerabilities?

- In 2013-14, the NZLS Inspectorate conducted 389 reviews of trust accounts. Of these, 43 were referred to the Lawyers Complaints Service.
- Lawyers can defer responsibility to non-lawyer employees which may either expose additional vulnerabilities or be a better use of time and expertise.

Any exceptions/ exclusions?

- New Zealand has introduced a specific limit on cash transactions in certain contexts. Under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act), law firms are prohibited from accepting cash payments of NZD 10,000 or more (or the equivalent in another currency) unless certain conditions are met, such as performing enhanced due diligence.

Does the regulator maintain a fund to compensate clients for the theft of client monies by a lawyer?

- Yes, the **Lawyers Fidelity Fund** provides compensation to consumers who suffer theft of any money or property entrusted to lawyers or incorporated law firms while providing legal services or acting as solicitor-trustee. The Fund is held in trust by the Society and is funded by solicitors in practice on own

account, with the exception of those who elect not to receive money or other valuable property in trust. Barristers (14% of NZ legal profession as most practitioners are both solicitors and advocates) do not have to contribute.

- Those who handle client money with a trust account pay an additional $200 to the Fidelity Fund (2034/5 fees) which is managed centrally by the NZLS.
- The maximum amount which can be paid to an individual claimant is $100,000 (Regulation 11, Lawyers and Conveyancers Act (Lawyers: Fidelity Fund) Regulations 2008). The contribution for each practitioner in 2019/20 was NZ$ 320 (other than those who elect not to receive trust money).

Are there other consumer protection measures in place?

- Consumers of legal services in New Zealand are protected by the Consumer Guarantees Act 1993 (CGA) and the Fair Trading Act 1986 (FTA). The FTA prohibits misleading representation and unfair contract terms.

Is there any evidence for the use of TPMAs or other similar models?

- Consultation paper from the FMA in 2022 provides some guidance when outsourcing of client money to third parties. Outsource provider is required to register on the Financial Service Providers Register (FSPR) as providing these services, but will not have any client money and property services obligations under the FMC Act if it is acting on behalf of the other provider's business. Practitioners must do their own due diligence.

Benefits/disadvantages for legal service providers

- Compulsory training both certification of TAS and refresher courses
- Nominated individual is a non-lawyer so may be more fit for purpose/less costly

Benefits/disadvantages for consumers

- Potential risk of controls of funds being vested in a single individual
- Nominated individual is a non-lawyer so may be more fit for purpose/less costly
- High standards of conduct are actively promoted by regulator
- Intention to ensure the profession has robust risk management and compliance monitoring processes in place

Is this model different to the SRA's and, if so, how could it inform the review?

Some advantages of this model:

- Regulation is risk based – in that regulations only apply to those who manage client money. Firms can opt out and reduce their payments to compensation fund and compliance overheads
- Lawyers may choose not to hold client money and in that case are not subject to compliance costs and compensation fee payments – firms self-certify on an annual basis
- Regulation of a named individual at the firm (TAS) as well as the firm being regulated by the legal regulator may be beneficial

Further references

- Lawyers and Conveyancers Act (Lawyers: Fidelity Fund) Regulations 2008 (SR 2008/190) Contents
- The Law Society: trust account management
- NZLS | Lawyers Fidelity Fund
- Lawyers and Conveyancers Act (Trust Account) Regulations 2008
- NZLS | Looking after a client's bank account

Civil law and/or mixed law jurisdictions (France, Singapore, UAE)

A1.4 France

Who regulates the legal profession?

- The CNB is the regulatory authority for French lawyers. The profession is regulated by the **National Internal Regulation** (*Règlement Intérieur National*) (RIN). Some Bar associations have adopted additional rules. For example, the Paris Bar has its own internal rules combining the RIN with other provisions.

If regulated lawyers don't hold client money, who does and how? What is the typical model?

- Lawyers are not permitted to hold client money. When they need to handle client monies, they must go through an independent fund – the CARPA.
- The French bars' client money arrangements are handled through an organisation called CARPA (*la Caisse autonome des règlements pécuniaires des avocats*, or Fund for Lawyers' Pecuniary Settlements). Each bar has one. The Paris bar's CARPA, the first to be set up in 1957, employs 40 people.
- There are 173 CARPAs throughout the country, united in UNCA (*Union Nationale des Caisses d'Avocats*, or National Union of Lawyers' Funds).
- Use of CARPA is mandatory for French avocats and notaries. A highly centralised system, CARPA handles c €10M in transactions daily, and annually controls flow of more than €64 billion.
- Online delivery (e-carpa) and multi-jurisdictional capability with 8,300 transactions daily.
- Professional indemnity insurance for lawyers in France is handled almost entirely through a single broker run by the bars (*la Société de Courtage des Barreaux*), which is able to negotiate insurance policies collectively for French lawyers.
- Lawyers who handle client funds in connection with their legal practice have an obligation to deposit funds into CARPA, including clients who have made advance payments for fees. It is a disciplinary offence not to hand over client money to CARPA, this is enforced by the relevant bar association. Failure to comply could lead to disciplinary sanctions, fines, suspension of practicing license or disbarment.

What are the controls/security features?

- CARPAs all have specific software for managing and handling funds, CARPA must be certified under GDPR. CARPA play a role in preventing fraud by controlling the source of the funds, the destination, the link to the work conducted by the lawyer. CARPA must be able to verify the compliance of any handling of funds and data is cross-checked with Politically Exposed Persons (PEPs) and CFT (Counter-Terrorist Financing).

If law firms hold client money, what are the monitoring and inspection obligations?

- Not applicable

What are the vulnerabilities?

- Like any system handling financial transactions, CARPA is a potential target for hackers to access sensitive client information and/or funds. Ransomware attacks could delay payments and damage trust in the system
- CARPA may face challenges in efficiently managing transactions involving international clients or cross-border deals and may not hedge effectively against fluctuations in exchange rates.
- Although rare, there have been incidents of fraud or financial mismanagement involving lawyers misusing client funds under CARPA. Such cases highlight the need for stricter auditing protocols and more regular scrutiny to prevent future misconduct.

Any exceptions/ exclusions? Type of client money, type of work, value etc

- Certain specialised lawyers or law firms may be authorised to manage client funds independently under specific conditions set by professional regulations or agreements with clients.
- In-house lawyers are exempt (but generally do not exist in the same way in France in terms of independence or legal privilege).

Does the regulator maintain a fund to compensate clients for the theft of client monies by a lawyer?

- No compensation fund is needed, because lawyers don't have access to client money.

Are there other consumer protection measures in place?

- The Unfair Terms Commission or *Commission des Clauses Abusives* (CAA) exists to protect consumers from contractual positions that create imbalances between consumers and businesses, with the aim of ensuring fairness and transparency.
- The CAA operates under the French Consumer Code

Is there any evidence for the use of TPMAs or other similar models?

- Unlikely as not needed

Benefits/disadvantages for legal service providers

Benefits

- No compliance obligations, no audit visits, no annual reports or costs of compliance
- System self-finances through the financial proceeds it generates
- Transactions are traceable, reducing the possibility of money laundering and other financial crime
- Interest remains with CARPA which then supports public interest activities eg free legal advice clinics
- CARPA monitors compliance, provides guidance and conducts audits and inspections.
- Reduced cost of PII equivalent as the risk is much less of misuse of funds

Disadvantages

- Advocates need to acquire the necessary means to operate the system including staff but this is not a significant overhead in practice
- Lack of control over the system in case of breakdown/outages: there is a vulnerability in having a single centralised system but no outages or issues of CARPA have been evidenced to date.
- The speed of transactions is not always optimised as CARPA requires a minimum term for funds to be allocated, due to the need to generate sufficient interest.

Benefits/disadvantages for consumers

- Minimal risk of legal malpractice, misconduct or fraud.
- Safety guarantee of funds for clients and third parties.
- Clients do not have transparency as direct access to CARPA is not available – information about the status of funds held in CARPA must come directly from the lawyer who is the intermediary.

Is this model different to the SRA's and, if so, how could it inform the review?

- Unlikely to work in UK due to significantly larger legal market, greater complexity and diversity of transactions eg City law firms and would be seen to reduce autonomy of firms' decision making and deal control and pace.
- Civil v common law – CARPA is deeply integrated into the French civil law system and may not align with principles and culture of common law in England & Wales.
- System would be expensive to set up, require significant cultural change, as well as change to existing regulatory framework. Cost is likely to outweigh benefit.

Further references

- Lawyers' Compliance and Clients' Funds Handling Services
- THE FIGHT AGAINST MONEY LAUNDERING AND THE FINANCING OF TERRORISM THE CARPA SYSTEM
- Client accounts – French connection | Opinion | Law Gazette
- Acknowledgement of the decisive role of the CARPAs and of the incentives to continue the efforts undertaken
- Regulation of the Legal Profession in France: Overview, Practical Law Country Q&A

- Controls carried out - CARPA
- CARPA de Paris: Le Dispositif

2.2 Singapore

Who regulates the legal profession?

- The Legal Services Regulatory Authority is the regulator established in 2015 and oversees compliance with law practice and professional conduct rules.
- All lawyers are required to be members of the **Law Society of Singapore**.
- Monetary Authority of Singapore (MAS) is Singapore's primary regulator for banks and payment services and is responsible for Anti-Money Laundering (AML) and CFT (Countering the Financing of Terrorism) as well as safeguarding consumer interests and promoting the development of FinTech.

If regulated, do lawyers hold client money? If so, how?

- The Ministry of Law implemented new measures on 1 August 2011 to further protect conveyancing money without compromising the efficiency of conveyancing practice. After two rounds of public consultation and two pilot trials, **The Conveyancing and Law of Property Rules 2011** made it a disciplinary offence for solicitors to hold conveyancing money.
- Any conveyancing money received by a lawyer in connection with a conveyancing transaction2[36] must be paid into (a) a conveyancing account maintained with an Appointed Bank; (b) SAL; or (c) an escrow account in accordance with an escrow agreement. This typically relates to purchase money from the client, legal fees and disbursements can be paid into client account in the normal way.
- Lawyers who choose to hold **client money** must deposit it in a current or deposit account maintained in the name of the lawyer at a bank or **approved finance company**. The title of the account should have the word 'client' appearing.
- Singapore Academy of Law (SAL) provides stakeholding services as an independent depository for property development and for conveyancing in place of a law firm's account. Interest is retained by SAL (estimated S$2-S$3M per annum).
- The Law Society encourages firms not to have a client account and incentivises this by exempting lawyers from contributing to the Compensation Fund if they do not maintain client accounts. Lawyers need to seek exemption when renewing practice certificate.
- $5,000 threshold amount on which interest is due to the client if funds not used for 4m.

If regulated lawyers don't hold client money, who does and how? What is the typical model?

- Only lawyers can hold client monies. Some lawyers chose not to in which case the client hold their own monies and make out payments as and when required directly to the relevant parties in the transaction.
- The lawyer can opt to pay over stakeholding money or conveyancing money received on behalf of clients to be held by the Singapore Academy of Law (statutory body formed as a promotion and development agency for Singapore's legal industry).

What are the controls/security features?

- In respect of conveyancing monies, the lawyer is required to open a separate conveyancing account and no money can be withdrawn from it without the signature of the other party in the transaction.
- Lawyers must produce an accountant's report on their accounts before a practising certificate can be renewed.
- Law practices can engage a book-keeper who must be qualified and approved by the Council of the Law Society by statutory declaration.

If law firms hold client money, what are the monitoring and inspection obligations?

- The Law Society can conduct inspections randomly or based on a complaint and can withdraw access to accounts.

[36] https://www.mlaw.gov.sg/files/linkclick9205.pdf

Any exceptions/ exclusions? Type of client money, type of work, value etc

- The Model Rule on Cash Transactions adopted in 2004 and amended in 2018, prohibits legal professionals from receiving cash in amounts over $7,500 and requires them to keep a record of cash transactions as part of their accounting record-keeping.

Does the regulator maintain a fund to compensate clients for the theft of client monies by a lawyer?

- Every lawyer in private practice contributes S$100 per year to the **Law Society Compensation Fund**. The Fund is a discretionary fund administered by the Council of the Law Society to mitigate loss suffered by any consumer due to dishonesty of a lawyer or staff or other loss (excluding professional negligence).

Is there any evidence for the use of TPMAs or other similar models?

- In conveyancing, solicitors must use escrow agreements and pay client money into a separate account.

Benefits/disadvantages for legal service providers

- Benefit: money is held in segregated accounts at regulated banks

Benefits/disadvantages for consumers

- Benefit: funds are ring-fenced in the event of bank liquidation
- Benefit: fund exists to compensate consumers in the event of dishonesty
- Significantly reduced risk of practitioners absconding with conveyancing money due to restrictions now in place.

Is this model different to the SRA's and, if so, how could it inform the review?

- Similar model to the UK in terms of guidelines for handling client money. Although Singapore has a smaller, more centralised market the regulatory environment is strict. The UK market is more diverse and complex.
- In Singapore The Law Society encourages firms not to have a client account and incentivises this by exempting lawyers from contributing to the **Compensation Fund** if they do not maintain client accounts.

Further references

- SAL Conveyancing Money Service Comparative Table | Singapore Academy of Law
- The Law Society of Singapore: Practice note on Ethics & Responsibility, Client and Conveyancing Accounts (S3, 3)
- Legal Profession (Professional Conduct) Rules 2015 - Singapore Statutes Online
- Compensation Fund – The Law Society of Singapore
- The Conveyancing and Law of Property Rules 2011

2.3 UAE

Who regulates the legal profession?

- Lawyers and law firms regulated by the UAE Ministry of Justice at federal level. Dubai Legal Affairs Department (LAD) is responsible for regulating the legal profession in Dubai. Local regulatory bodies differ in other emirates of the UAE. Law firms may be regulated by the MOJ, the Dubai Financial Services Authority or in Abu Dhabi the FRSA all of which share common principles.
- The Dubai International Financial Centre Courts have their own regulatory framework under which legal practitioners' regulations provide guidelines on the management of client accounts (record keeping, reporting, compliance). The DIFC oversees compliance.
- Every law firm in UAE (known as a **DNFBP** – designated non-financial business or profession) must be registered with the UAE Financial Intelligence Unit and is subject to AML and CTF regulations (counter terrorist financing).

If regulated lawyers don't hold client money, who does and how? What is the typical model?

- Lawyers are required to maintain separate client accounts with an authorised **Third Party Agent** (may be a bank or broker). Accounts must use the name of the firm and include client account in the name. Law firms may use trust accounts or escrow arrangements.
- UAE does not have uniformly applied regulations regarding client money – the rules vary by jurisdiction and regulatory body.

Does the regulator maintain a fund to compensate clients for the theft of client monies by a lawyer?

- No, but lawyers and law firms in certain jurisdictions within the UAE, such as the DIFC, may be required to obtain a bond or insurance policy as part of their licensing and regulatory compliance. This requirement ensures that a financial safety net is in place to protect client funds. The amount of the bond or insurance coverage is typically determined based on the scale of the legal practice and the nature of the services provided. It is designed to be sufficient to cover potential claims arising from the mishandling of client money.
- Regulatory bodies, such as the Dubai Legal Affairs Department (LAD) and the DIFC Authority, oversee the implementation and enforcement of bonding requirements.

Benefits/disadvantages for legal service providers

- Benefit: suitable model for international and cross-border work, similar to escrow model in the US

Benefits/disadvantages for consumers

- Benefit: bond/insurance cover is in place to cover payments if needed in some instances
- Disadvantage: UAE lacks a comprehensive client compensation scheme and clients who suffer financial loss may have to seek recourse through court

Further references

- DIFC-Courts-Code-of-Best-Legal-Professional-Practice.pdf
- Payment of Client Money into Client Accounts | Rulebook

Appendix 2: How other professions and the financial services sector in the UK handle client money

A2.1 Insurance intermediaries

Who regulates the profession/sets standards?

- Since 2013 insurance intermediaries have been regulated by the Financial Conduct Authority (FCA), which replaced the Financial Services Authority. The FCA oversees both the prudential regulation of these firms i.e., that they are sound and safe, and their conduct.
- Other industry bodies include membership bodies the Association of British Insurers (ABI), the Chartered Institute of Insurance (CII) and the British Insurers' Brokers Association, which provide guidelines, campaign on behalf of the industry or provide qualifications in the case of the CII.

Do practitioners hold client money? If so, how?

- Yes. When a client takes out an insurance policy with a broker, they pay the broker, who in turn pays the insurer for the policy. The broker may need to hold the client's money in an account during the transaction process. The broker can hold the money in two ways: risk transfer and client money trust.
- **Risk transfer money** should be held in an Insurer Non-Statutory Trust per BIBA guidelines. Risk transfer is when the insurer agrees to let the broker hold client money on its behalf. In agreeing to this, the insurer assumes the credit risk. This process is managed through a Terms of Business Agreement (TOBA), where the insurer assumes all risk of client money. If funds paid to the broker are not available to meet the costs of the premium, the insurer is held responsible. From the broker's perspective, the money held is now risk transfer money and is no longer deemed client money.
- **Client money trust**: if the broker does not have a risk transfer agreement with the insurer, the money should be held as client money in accordance with the FCA's Client Asset Sourcebook (CASS). The specific requirements for insurance intermediaries are detailed in CASS Chapter 5 (CASS 5).
- The money can be held in a **Statutory Trust Client Bank Account**, which prohibits advances of credit to insurers or clients. This means that any premium received from a client can only be discharged to the insurer for that specific insurance policy.
- Alternatively, it can be held in a **Non-Statutory Trust Client Bank Account**, which permits the broker to extend credit from the account to clients or insurers but not to themselves. A formally appointed client money manager must manage the Non-Statutory Trust Client Bank Account. It also brings additional controls and may increase capital requirements, given the higher risks involved.
- Both types of accounts must be held with an authorised institution as a client account. There must be no co-mingling of client money with non-client money. Insurance intermediaries also need to ensure they receive the correct paperwork from banks acknowledging the money is held in trust.

If practitioners don't hold client money, who does and how? What is the typical model?

- No third-party examples have been found as yet.

What are the controls/security features?

- Both Statutory and Non-Statutory Trust Client Bank Accounts must be operated in accordance with trust law. This ensures client funds are ringfenced and in the event of liquidation cannot be used to liquidators to repay any liabilities.

- A broker can extract commission income from the client money account by preparing a Client Money Calculation (CMC) as set out in CASS 5. This can be done at most every 25 business days. Bank balances must be reconciled within 10 business days of a CMC.
- The FCA requires all insurance intermediaries that have a non-statutory trust account or a statutory trust account, where the balance has exceeded £30K during the course of the year, to arrange their own client money audit and ensure compliance with CASS 5.
- The audit report can be clean, qualified (in compliance but with some breaches) or adverse, which means the firm has systemic issues in managing client money and ensuring compliance with CASS 5. Adverse reports are sent to the FCA.
- CASS audits must take place within 53 weeks of the previous CASS audit.
- There may be additional reporting requirements depending on the size of the firm. Every December, firms are required to complete a classification questionnaire, which determines if the firm is considered small, medium or large based on total client money held. Medium and Large Firms must complete a Client Money and Asset Return (CMAR) each month and make a director or senior manager responsible for CASS. Small firms do not have fulfil either of these requirements.

What are the vulnerabilities?

- Client money handling requirements under CASS are stringent and subject to more controls than in sectors outside of financial services. However, the rules are complex, and one challenge is ensuring compliance.
- A July 2021 Dear CEO letter from the FCA highlighted several issues in insurance intermediary handling and reminded insurers of their obligations. Common issues include incorrect application of the CMC, inappropriate withdrawal of commissions, failure to ensure the correct paperwork was in place for client bank accounts and co-mingling of money.
- Regular staff training and checks are essential to ensure firms are compliant.

Any exceptions/ exclusions? Type of client money, type of work, value etc

- See the Risk Transfer process detailed in the 'Do Practitioners Hold Client Money' section above.

Are there other consumer protection measures in place?

- The Financial Services Compensation Scheme (FSCS) provides cover to consumers if authorised firms fail and cannot meet their obligations. Firms pay an annual levy to the FSCS, which is determined by the FCA.

Does the regulator maintain a fund to compensate clients for the theft of client monies?

- If the firm fails and cannot refund monies lost to the fraud, the FSCS may compensate customers subject to the specifics of the case. The firm must be authorised and the product must be regulated and fall under the remit of the FSCS.

Is there any evidence for the use of TPMAs or other similar models?

- No.

Is this model different to the SRA's and, if so, how could it inform the review?

- The client money handling requirements for insurance brokers are significantly different to the those set out by the SRA, especially in terms of the risk transfer option. Where client money is held, the requirements for insurance intermediaries are more stringent than in other sectors given the application of trust law and auditing requirements. This is understandable, given that the transfer of money via the broker is intrinsic to their business model. If there were any breaches, this would be considered a systemic issue for the insurance sector. However, it needs to be considered whether this approach would be proportionate to the needs of the legal sector.

- While client money handling requirements similar to the FCA's CASS may not be appropriate, the FSCS model is an exemplar of a compensation fund to protect consumers. It is not specifically set up to protect against the theft of client monies, rather it protects holders of certain regulated products against authorised firms failing. If the SRA were to investigate a compensation fund, it would not prevent fraud but could act as a final safety net.

Further references

- Aviva Client Money – A Guide
- Baker McKenzie Who regulates banking and financial services
- CII Good Practice Guide: Client Money for Brokers
- FCA Client Asset Sourcebook
- FCA Dear CEO, Maintaining adequate client money arrangements – general insurance.
- FSCS What we cover

A2.2 Investment managers

Who regulates the profession/sets standards?

- Since 2013, investment managers have been regulated by the Financial Conduct Authority (FCA), which replaced the Financial Services Authority. The FCA oversees both the prudential regulation of these firms i.e., that they are sound and safe, and their conduct.
- Other industry bodies include The Investment Association (IA) and The Institute of Asset Management (IAM), which are member associations which campaign on behalf of the industry and provide training, guidance and qualifications.

Do practitioners hold client money? If so, how?

- Yes. Where client money is held it must be done so in line with the FCA's Client Asset Sourcebook (CASS). Chapter 7 of CASS details the specific requirements for client money handling.
- Firms must segregate client money by paying it into a client account with a central bank, a credit institution, a bank in an authorised country, or a money market fund.
- There are two approaches they can take to make sure this segregation takes place. The **normal** approach and the **alternative** approach, these are covered at a high level below, but there are numerous and extensive rules that accompany each approach.

Normal approach

- Under the normal approach, client money is paid directly into the client money accounts. It is not paid to the firm and distributed to the client account. The accounts must be identified as client accounts and held separately from any accounts belonging to the firm. Firms may use general client accounts, designated client accounts, or designated client funds. Designated accounts can only be used where the client has agreed to them.

Alternative approach

- In some circumstances, the normal approach may not be appropriate. For example, when the client has numerous, complex transactions. In this case, the alternative approach may be used, where the client's money is paid into and out of the firm's own bank account.

If practitioners don't hold client money, who does and how? What is the typical model?

- No third-party examples have been found as yet

What are the controls/security features?

- CASS 7 details numerous and extensive controls and record keeping requirements. The firm must be able to identify how much money it holds for each client and be able to distinguish it from other client money and its own client money. There are extensive reconciliation requirements that must be understood and met. It must perform regular internal reconciliations where it holds money and external reconciliations where money is held with third parties.
- Firms must arrange a CASS audit, where a report is prepared by the auditor. The report may have a 'reasonable assurance' outcome, which is essentially a positive opinion of whether the firm is compliant or a 'limited assurance' opinion if there are concerns. An audit must take place every 53 weeks and within four months of the end of the period covered.
- There may be additional reporting requirements depending on the size of the firm. Every December, firms are required to complete a classification questionnaire, which determines if the firm is considered small, medium or large based on total client money held. Medium and Large Firms must complete a Client Money and Asset Return (CMAR) each year and make a director or senior manager responsible for CASS. Small firms do not have fulfil either of these requirements.

What are the vulnerabilities?

- Under the normal approach, where money is paid directly into client accounts, client money may be at risk of if those organisations fail. Investment firms are required to ensure diversification of client money distribution and must also monitor counterparties for creditworthiness.
- Under the alternative approach, where money is paid for into and out of the firm's account, there is heightened risk. To use this approach, firms must detail extensively why this has been adopted.

Any exceptions/exclusions? Type of client money, type of work, value etc

- Under CASS 8, where investment managers have a mandate from the client to manage the money on their behalf, they do not have to apply with CASS 7.

Are there other consumer protection measures in place?

- The Financial Services Compensation Scheme (FSCS) provides cover to consumers if authorised firms fail and cannot meet their obligations. Firms pay an annual levy to the FSCS, which is determined by the FCA.

Does the regulator maintain a fund to compensate clients for the theft of client monies?

- If the firm fails and cannot refund monies lost to the fraud, the FSCS may compensate customers subject to the specifics of the case. The firm must be authorised and the product must be regulated and fall under the remit of the FSCS.

Is there any evidence for the use of TPMAs or other similar models?

- No.

Is this model different to the SRA's and, if so, how could it inform the review?

- No. The management of client money in the investment sector is highly complex and likely involves sums much higher than those held by solicitors. It would also require solicitors to put in new processes to manage counterparties. It is unlikely this approach is proportionate to the needs of the legal sector. However, the principle of arranging for clients to pay sums directly to client accounts rather than to the firm's account and being disbursed is lower risk and should be considered. The auditing and reporting requirements may also be worth some consideration.
- While client money handling requirements similar to the FCA's CASS may not be appropriate, the FSCS model is an exemplar of a compensation fund to protect consumers. It is not specifically set up to protect against the theft of client monies, rather it protects holders of certain regulated products

against authorised firms failing. If the SRA were to investigate a compensation fund, it would not prevent fraud but could act as a final safety net.

Further references

- Baker McKenzie Who regulates banking and financial services
- FCA Client Asset Sourcebook
- FSCS What we cover
- IRS What is CASS and Who does it Apply to
- TISA CASS Best Practice Guide

A2.3 Accountancy

Who regulates the profession/sets standards?

- There are six chartered accountancy bodies, each of which sets standards and regulations for its members. The six chartered bodies are:
    - Association of Chartered Certified Accountants (ACCA)
    - Chartered Accountants Ireland (CAI)
    - Chartered Institute of Management Accountants (CIMA)
    - Chartered Institute of Public Finance and Accountancy (CIPFA)
    - Institute of Chartered Accountants England and Wales (ICAEW)
    - Institute of Chartered Accountants Scotland (ICAS)

- The Financial Reporting Council (FRC) has a non-statutory role for oversight of the regulation by the chartered bodies of their members.

- In addition, there is the Association of Accounting Technicians (AAT). The AAT qualification is considered a gateway to accounting and individual members may later progress to chartered status with the other bodies.

- The AAT is supervised by the Office for Professional Body Anti-Money Laundering Supervision (OPBAS), which sits within the Financial Conduct Authority (FCA).

Do practitioners hold client money? If so, how?

- Accountants can hold money for clients, this must be done in line with the client money handling rules set by the various accounting bodies. The rules from the different bodies are aligned.

- Accountants are required to open a designated client bank account or accounts, which must be separate from the rest of the firm's accounts.

- Accountants must inform their bank in writing that the client account(s) cannot be combined with any other account, and the bank cannot affect any counterclaim against the account.

- The bank must acknowledge this request in writing. If the bank does not respond within 20 working days of the firm sending the notice, the firm must withdraw all client money, close the account, and deposit it in another bank in a client account—or, in the worst case, return it to the client.

If practitioners don't hold client money, who does and how? What is the typical model?

- No third-party examples have been found as yet.

What are the controls/security features?

- Before accepting new client money, the firm must verify the client's identity. The firm must also gather and retain sufficient information to demonstrate that the account is being used for lawful transactions that relate to the accountancy services to be provided.
- Withdrawals may only be made under set circumstances. They can only be approved by the firm principal or a signed account signatory.
- Firms must keep detailed records of money paid in and money paid out. These must be recorded on a client ledger and the firm must be readily able to identify the balance held by the client and the total balance across all clients.
- Reconciliation must be performed at least every five weeks.
- Firms should retain evidence of compliance with the regulations and may be required to submit an accountant's report.
- Where the firm is controlled by a sole individual, it must put in place arrangements with another suitably qualified firm to process and distribute client money in the case of incapacity or death. It may not accept client money without these arrangements in place.

What are the vulnerabilities?

- Misappropriation of client funds, whether a theft or borrowing the money for another purpose. One case example from March 2022 is here: ICAEW member excluded for unauthorised withdrawals of client money.

Are there any exceptions/exclusions? Type of client money, type of work, value etc

- Client payments of £10,000 plus that are held for 30 days or more should be held in a designated, named client account rather than a pooled client account.
- Fees paid in advance for professional work agreed to be performed and easily identifiable as such are not considered client money.

Are there other consumer protection measures in place?

No.

Does the regulator maintain a fund to compensate clients for the theft of client monies?

No.

Is there any evidence for the use of TPMAs or other similar models?

Not so far.

Is this model different to the SRA's and, if so, how could it inform the review?

No – this is not sufficiently different to SRA rules on standard client money handling.

Further references

AAT Clients' Money Policy

ACCA Code of Ethics and Conduct (section 350)

ICAEW Client Money Regulations

A2.3 Architecture

Who regulates the profession/sets standards?

- The Architects Registration Board (ARB) is the industry regulator for the architecture profession. It is a statutory body that is accountable to the government, which was created through the Architects Act in 1997. It sets standards, codes of conduct and professional qualifications for the industry.

- The Royal Institute of British Architects (RIBA) is a professional membership body. It also a code of conduct.

Do practitioners hold client money? If so, how?

- Architects can hold client money. However, the ARB notes in Standard 7 of its Code of Conduct that it is not a common requirement for architects to do so.

- Where architects hold client money, they are required to hold it in designated, interest-bearing client accounts. Client accounts should be kept separate from any business or personal account. Interest earnt is paid to the client, unless agreed otherwise.

- Architects are expected to inform their bank in writing that the client account(s) cannot be combined with any other account, nor can the bank effect any counterclaim against the account.

- Architects are expected to maintain clear records of client money held.

- RIBA's Code of Professional Conduct also references client money holding. This aligns with the ARB practices.

If practitioners don't hold client money, who does and how? What is the typical model?

- No third-party examples have been found as yet.

What are the controls/security features?

- Withdrawal from client accounts can only be made with specific written instructions from the client.

What are the vulnerabilities?

- Misappropriation of client funds, whether a theft or borrowing the money for another purpose. One case example from 2020 is here: Essex architect removed from the Register following unacceptable conduct.

Are there any exceptions/exclusions? Type of client money, type of work, value etc

- None detailed.

Are there other consumer protection measures in place?

- No.

Does the regulator maintain a fund to compensate clients for the theft of client monies?

- No.

Is there any evidence for the use of TPMAs or other similar models?

- No.

Is this model different to the SRA's and, if so, how could it inform the review?

- No – this is not sufficiently different to SRA rules on standard client money handling.

Further references

ARB Standards of Professional Conduct and Practice

RIBA's Code of Professional Conduct

A2.5 Property management and agency

Who regulates the profession/sets standards?

- The National Trading Standards Estate and Letting Agency Team (NTSELAT) regulates estate agents and enforces lettings agency work in England. It enforces the Estate Agents Act 1979 and the Tenant Fees Act 2019. It is operated by Powys County Council and Bristol County Council on behalf of National Trading Standards.

- Many estate agents also belong to one of the following professional bodies: the Royal Institute of Chartered Surveyors (RICS) or Propertymark (formerly the National Association of Estate Agents). These bodies set standards and offer professional qualifications. However, there is no legal requirement for property agents to be members.

Do practitioners hold client money? If so, how?

- Yes. The Estate Agents Act 1979 and the Estate Agents (Accounts) Regulations 1981 set out the detailed requirements for handling client money.

- Property agents that collect deposits for property purchases must hold the deposits in a client account at an authorised financial institution. They must not pay any other client money into this account.

- Property agents and managers who collect other types of client money, such as rents, should hold this in a client account at an authorised financial institution.

- Estate agents that are members of RICS will also be subject to its Client Money Handling Regulations, which are in line with the legal requirements and also set out other expected practices of its members.

If practitioners don't hold client money, who does and how? What is the typical model?

- Property agents and managers can outsource client money management and accounting. Propertymark refers to these companies as **Client Accounting Service Providers** (CASPs). Its members can only work with CASPs that are regulated by Propertymark or RICS.

- CASPs collect client money in line with the legislative and regulatory requirements, perform regular reconciliations, make client payments and provided detailed accounts. Some providers, such as The Letting Partnership, will also open a client account on behalf of the letting agent. Other examples of CASPs include Abode Accounting and Ratiobox Lettings.

- The use of a CASP must be detailed in contract agreements with the landlord and in tenancy agreements. Where the CASP is named, liability for client money holding transfers to them.

- RICS acknowledges the use of **Third-Party Transaction Service Provider** (TPTSP) to manage client monies. They do not have to be regulated, but the RICS members should ensure the use of a TPTSP does not put them in breach of client money regulations. The use of a TPTSP should be communicated to the client and the RICS member should check the TPTSP has insurance in place to cover misappropriation of funds. No firms have been found with describe themselves as a TPTSP.

- There are also dedicated technology solutions such as PayProp, which collects money for letting agents, holds it dedicated client accounts with NatWest and offers automated client accounting and reporting. Payprop does not describe itself as a TPTSP but could be considered to fall under this bracket.

What are the controls/security features?

- Property agents and managers are expected to maintain records of funds received, ensure that reconciliations are performed regularly and maintain up-to-date balances. Withdrawals can only be made with the client written permission.

- Property agents that are RICS members will follow detailed control procedures, as detailed in the Property Surveyor section in **A2.6.**

What are the vulnerabilities?

- Misappropriation of client funds, whether a theft or borrowing the money for another purpose. Propertymark provides examples of rogue agents. However, the additional protection offered by Client Money Protection (CMP) – see other consumer protection measures below – helps to mitigate this.

- Some property agents are experiencing difficulties opening pooled client accounts (PCAs), or they are being debanked by their banking institution over concerns of falling foul over anti-money laundering regulations. Propertymark states the issues stem from the introduction of the Money Laundering and Terrorist Financing (Amendment) Regulations 2019 in January 2020, which brought letting agents who manage rental properties with a monthly income of €10,000 (or equivalent) under the scope of AML regulations. This only affects a minority of agents, but, in some instances, banking institutions have applied them to all agents and are debanking businesses for non-compliance. Propertymark is lobbying the government and HMRC to resolve this issue.

Are there any exceptions/exclusions? Type of client money, type of work, value etc

- Tenant deposits held for properties let on an assured shorthold tenancy must be kept in a government-approved tenancy deposit scheme and not in a client money account. There are three approved schemes:
    - Deposit Protection Service
    - MyDeposits
    - Tenancy Deposit Scheme

- The deposit must be placed in a scheme within 30 days of receipt and returned within 10 days of the landlord and tenant agreeing on the amount to be returned. There are specific criteria for acceptable deductions.

Are there other consumer protection measures in place?

- As of April 2019, all estate agents involved in letting residential property are legally obliged to be members of a CMP scheme. These schemes are a form of insurance that ensures tenants and landlords are reimbursed in the event that the letting agents cannot repay the money, e.g., if it falls into administration or funds are misappropriated. If this happens, the individual must submit a claim to the CMP.

- There are six approved schemes:
    - Client Money Protect
    - MoneyShield
    - Propertymark
    - RICS
    - Safeagent
    - UKALA Client Money Protection

- To join a CMP scheme, letting agents must demonstrate that they have effective client money-handling procedures in place. The CMP inspects members accounts annually or requests an accountant's report.

- Failure to join a CMP scheme carries a fine of £30,000. Members are also legally required to display a membership certificate. Failure to do so can result in a fine of up to £5,000.

- Property agents and managers are also legally required to be members of a complaints redress scheme. In England and Wales, there are two schemes: The Property Redress Scheme (PRS) and The Property Ombudsman (TPO). These are both commercial entities, though the service is free to consumers. Where consumers have struggled to resolve complaints with their estate agent, the redress schemes can be called on to advise, adjudicate and award compensation.

Does the regulator maintain a fund to compensate clients for the theft of client monies?

- No – but claims can be submitted through the CMP scheme; see details above.

Is there any evidence for the use of TPMAs or other similar models?

- See details on the use of CASPs for letting agents above

Is this model different to the SRA's and, if so, how could it inform the review?

- Yes. CASPs are an established business model; they also offer letting agents an alternative if they are struggling to open or maintain a client money account with their bank.

- However, letting agents typically need to provide monthly account updates to landlords, as there is a regular inflow and disbursement of money. Depending on their field of practice, this degree of regular accounting may not necessarily be a requirement for solicitors.

- The use of a CMP is also noteworthy. While the firms themselves may have some recourse to compensation for team members' fraudulent practices through their professional indemnity insurance, the CMP provides consumers with a direct route for reclaiming lost funds.

- The obligation to be a member of a CMP also acts as a deterrent, as it requires agents to submit accounts to scrutiny on sign-up and on an annual basis thereafter.

- The success of CMPs, in part, relies on building consumer awareness of CMP protection so they know to look for it, avoid rogue agents, and report them if they are not compliant.

Further references

Government Protecting Clients' Money if You're a Property Agent

Government Estate Agents Act 1979

Government Tenancy Deposit Protection

Government Tenant Fees Act 2019

Propertymark Client Money Protection Scheme

RICS Client Money Handling, 1st Edition

A2.6 Property surveyors

Who regulates the profession/sets standards?

- The Royal Institute of Chartered Surveyors (RICS) regulates surveyors and is a professional association that promotes the property and construction sector. The regulatory aspect of RICS' work is carried out through its Standards and Regulation Board, which operates independently of its governance committee.

Do practitioners hold client money? If so, how?

- Yes. RICS Client Money Handling regulations state that client money can be held in either a **general client money** account that holds funds for more than one client or a **discrete client money account** for a single client of the firm. Client money accounts must be under the full control of the firm and held with a regulated bank.

- Firms must confirm in writing with their bank that funds will not be combined with or transferred to any other account held by the firm. Nor is the bank entitled to exercise any counterclaim against the account for any sum owed from another firm account.

If practitioners don't hold client money, who does and how? What is the typical model?

- Firms may also use what RICS terms as a **Third-Party Transaction Service Provider** (TPTSP) to process client money. The RICS firm authorises the TSTSPs exclusive control of the client account on its behalf and outsources the movement of money and associated accounting and documentation.

- In March 2024, RICS set out its expectations for the use of TSTSPs. It highlighted the need to ensure that the regulated firm should provide full documentation on the nature of the relationship and the movement of funds. Regulated firms should also ensure that they can assume exclusive control of the bank account if needed and ensure that they also have copies of bank documentation. TSPSPs should also have the appropriate insurance in place to protect client money.

- As of yet, desk research has not revealed details of any companies that describe themselves as TSTSPs but companies that operate under the CASP model described in the property agency sector could fulfil this role, as could technology providers such as PayProp.

- Unlike CASPs in the property agency sector, TPTSPs do not have to be regulated by RICS. However, the liability for client money remains with the surveyor even if outsourced.

What are the controls/security features?

- Where money is held directly, RICS has detailed requirements for record-keeping, payment and banking controls.

- **Record keeping**: for general money accounts, firms should maintain a client ledger detailing all receipts and payments for each specific client. Current balances at total and individual client level should be readily available. Copies of supporting statements and documents should be kept for six years – or longer if required.

- **Bank controls**: the firm should keep evidence that the bank account is under the firm's control and who can authorise transactions. The current bank mandate for each client account should be readily available.

- Or the firm must obtain a letter from the bank detailing the names of client account signatories, any limits, joint signing signatories and individuals authorised for online access. Only the firm's principal should be able to authorise new signatories. Sole signatories should be either the firm principal or a senior leader who is not involved in the account's day-to-day operations.

- **Payment controls**: Firms should ensure there is segregation of duties between the client accounting and payment process. Dual authorisation should be in place for adding new suppliers to the system.
- **Reconciliation**: reconciliations should be performed at least once per month and no more than six weeks after the last reconciliation.
- **Written procedures**: all processes relating to client money management should be fully documented and available to clients on request.

What are the vulnerabilities?

- Where client money is held directly, misappropriation of client funds, whether a theft or borrowing the money for another purpose.

- The use of the CMP should mitigate this to some degree, as adherence with client money rules and CMP rules are checked.

Are there any exceptions/exclusions? Type of client money, type of work, value etc

- Fees paid in advance for professional work agreed to be performed and easily identifiable as such are not considered client money.

Are there other consumer protection measures in place?

- RICS provides Client Money Protection (CMP) for Surveying Services. It is a form of insurance that ensures consumers are provided with some form of recourse if a surveyor is unable to repay client money eg, if it falls into administration or funds are misappropriated.

- The RICS CMP for surveying services is separate from the RICS CMP for residential letting agents. Surveyors who hold client money are obliged to be members of the scheme and follow the rules.

Does the regulator maintain a fund to compensate clients for the theft of client monies?

- No – but claims can be submitted through the CMP scheme; see details above.

Is there any evidence for the use of TPMAs or other similar models?

- See details on the use of TSTSPs for surveyors above.

Is this model different to the SRA's and, if so, how could it inform the review?

- Yes. The guidelines on the use of TSTSPs are a useful benchmark for guidance on working with third-party services.

- The role TSTSPs play compared to CASPs in the property management space should be investigated more thoroughly. Broadly, CASPs are regulated, TPTSPs are not. With a TPTSP the liability for client money remains the with the regulated party; it is their responsibility to ensure working with a TPTSP does not put them in breach of standards. In contrast, with a named CASP, the liability shifts from the regulated party to the CASP.

- The use of a CMP is also noteworthy. While the firms themselves may have some recourse to compensation for team members' fraudulent practices through their professional indemnity insurance, the CMP provides consumers with a direct route for reclaiming lost funds.

- The obligation to be a member of a CMP also acts as a deterrent, as it requires surveyors to submit accounts to scrutiny on sign-up and on an annual basis thereafter.

- The success of CMPs, in part, relies on building consumer awareness of CMP protection so they know to look for it, avoid rogue operators, and report them if they are not compliant.

Further references

RICS Client Money Handling, 1st Edition

RICS Client Money Protection Scheme Rules

RICS Guidance for RICS-regulated firms handling client money using third-party transaction service providers

Appendix 3: Third-party providers reviewed

A3.1 TPMA providers

Examples – Shieldpay, dospay (both FCA regulated)

Jurisdictions – UK

Typical offerings and client money benefits

TPMAs allow solicitors to outsource the management of client funds to an independent provider.

These services help ensure regulatory and accounting compliance and are liable for money management. Funds are safeguarded by the TPMA on behalf of the payer.

Payments from these accounts are only processed when authorised, and users receive notifications and alerts, maintaining oversight and control.

These platforms also offer Know Your Customer (KYC) and verification checks, ensuring compliance with Anti-Money Laundering (AML) regulations.

Some platforms offer solicitor clients full transparency and visibility over accounts through digital interfaces and provide transaction monitoring for activity.

Shieldpay is regulated by the FCA and usage of Shieldpay is compliant with SRA rules 2.5 and other regulators including the CLC and CILEx have provided for TPMA usage.

A3.2 Bank-integrated payment and reconciliation platforms

Examples – Payprop (not FCA regulated)

Jurisdictions – UK, US, Canada, South Africa

Typical offerings and client money benefits

PayProp is an automated payment and reconciliation platform specifically designed for the lettings industry. Tenants pay rent into the platform and commission, contractors, landlords and others are automatically paid

PayProp supports 2,500 companies globally and reported annual revenues of £9.6 million in 2024.

Bank-integrated, PayProp holds all client money in Client Money Protection (CMP) recognised NatWest client accounts that provide Financial Services Compensation Scheme (FSCS) protection. It is described as ‘an integrated trust environment covering all agency clients and their clients’ that reduces the administrative burden typically associated with opening and managing separate designated accounts.

PayProp has separate professional indemnity insurance.

Automated payments and the tracking and auditing of transactions on a secure digital platform, with real-time visibility and an in-house reconciliation team of accountants who flag any issues with accounts.

Letting agents can set custom user permissions for every type of system action, and see detailed, date-stamped audit logs of all users’ actions, an undeletable audit trail.

Transparency for letting agent clients - landlords can track processed funds via an owner app.

PayProp is priced via a service fee calculated as a percentage of processing volume (<1%), plus a one-off set up fee based on portfolio size and a monthly £49 licence fee.

A3.3 Virtual account providers

Examples – Cashfac (FCA regulated) (UK and AUS based - global), Barclays Multi-Account Platform (FCA regulated) Tietoevry (Nordic)

Jurisdictions – UK, Australia, Nordics

Typical offerings and client money benefits

Virtual account providers simplify the management of client money via software that creates virtual accounts with a single interface, eliminating the need for multiple separate designated accounts.

They allow users to self-serve in the creation and management of client accounts. Streamlining processes and reducing the associated time and costs of client money handling are key benefits.

They also help to ensure compliance with KYC/AML regulations and client money rules regarding segregation and reconciliation.

These platforms typically provide real-time visibility and operational control of client funds and some offer transparency/viewing access to the end customer.

Transaction traceability and automation are key features, enabling efficient matching/allocations, and providing real-time reconciliation solutions.

A3.4 Escrow/Paying Agents

Examples – LawDebenture (UK, USA), Shieldpay (UK), dospay (UK), Transpact (UK), Cashfac (all FCA regulated)

Jurisdictions – UK, USA (Law Debenture)

Typical offerings and client money benefits

Escrow agents act as trusted intermediaries, releasing funds to predetermined parties once contractual conditions are met.

Escrow agents are equipped to handle complex payment flows and unique transaction requirements. These platforms offer a secure method for managing payments in high-value and multifaceted legal and financial arrangements.

These services are typically used in alternative dispute resolution, mergers and acquisitions, asset financing, real-estate and construction.

Although being an escrow agent in the UK is not a regulated activity, many escrow agents are regulated due to the other activities they perform, (eg legal, trustee, payment and banking services).

Escrow services include KYC and AML verification checks to maintain compliance.

A3.5 Settlement Exchange/Digital Fund Management Systems

Examples – PEXA (property - AUS/UK), SureFund powered by Teranet (property - Canada)

Jurisdictions – UK, Australia, Canada

Typical offerings and client money benefits

Settlement exchange systems, such as those offered by PEXA, provide secure platforms for the digital management of funds but do not yet offer full client account services.

These online property settlement platforms can integrate with existing customer systems through APIs.

PEXA, which handles over 80% of real estate transactions in Australia, is planning to expand its services in the UK with a new Sale & Purchase product launching in December 2024.

One of the key advantages of these platforms is the secure digital transfer of funds, offering enhanced protection against fraud through tools like PEXA Key, which safeguards bank details with encryption rather than relying on phone or email communication.

In addition, they can provide a workspace dashboard for users to track the progress of transactions in real-time, with visibility for all parties.

A3.6 Bank-as-a-Service (BaaS) providers

Examples – Griffin Bank (UK), Starling Bank (UK), ABN AMRO Clearing (global)

Jurisdictions – UK, global

Typical offerings and client money benefits

Bank-as-a-Service (BaaS) platforms enable non-banking entities to offer banking products and services provided by regulated financial institutions, using APIs to integrate with client solutions.

In the UK, such services are covered by Financial Services Compensation Scheme (FSCS) protection, ensuring client funds are secure.

Some BaaS providers, like Griffin, are specifically targeting client money services by offering Client Assets Sourcebook (CASS) -compliant bank accounts for sectors including: solicitors, law firms, PropTech companies, e-money and payment institutions, investment firms, wealth-tech and asset managers.

These accounts include features such as virtual or dedicated accounts, simplified reconciliation processes, automated KYC/KYB checks, and anti-money laundering compliance.

A3.7 Blockchain and real-time settlements

Examples – Coadjute, Project Meridian

Jurisdictions – UK

Typical offerings and client money benefits

Blockchain technology is being used to improve property transactions, with open ecosystems like Coadjute creating a secure network for conveyancers, lenders, estate agents, and buyers/sellers.

This system allows all parties to share data securely in common formats, ensuring transparency in property deals.

Project Meridian built a digital settlement prototype to speed up payments in conveyancing by linking banks, conveyancers, and HM Land Registry.

The system operates with Real-Time Gross Settlements (RTGS), using distributed ledger technology to hold cash funds at the source and switch assets at an agreed time, rather than transferring money into conveyancers' client accounts. This approach minimises the risk of payment failures and enhances transaction security.

A3.8 Onboarding KYC, AML, Anti-fraud vendors

Examples – Thirdfort (UK) Verify 365 (UK/AUS), Armalytix (UK, conveyancing)

Jurisdictions – UK, Australia

Typical offerings and client money benefits

These vendors do not provide client money services directly, but they offer critical compliant and automated solutions for verifying client identities and ongoing monitoring.

These vendors specialise in automating ID verification, KYC, KYB (Know Your Business), AML and Source of Funds checks.

They ensure that client data is constantly monitored and updated, with tools for ongoing tracking. Live data sources are updated every few minutes, with automated notifications if a client's status changes.

Some vendors also offer additional features such as e-signature technology and secure e-payment options, facilitating compliant money transfers.

A3.9 Legal sector practice management/ accounting software

Examples – Quill (UK) Clio (US, UK, Ire, Aus) Cashroom (UK) LawWare (UK) CosmoLex (US, UK)

Jurisdictions – UK, US, Australia, Ireland

Typical offerings and client money benefits

Practice management, accounting software and cashiering service providers in the legal sector often offer services related to client money management, though many do not yet provide full client account services.

These platforms support solicitors by offering automated workflows and tools for tracking client funds, reconciling accounts, and maintaining compliance with KYC, AML, and accounting regulations.

They provide a high level of transparency with readily accessible transaction histories, account balances, and real-time notifications.

Advanced features may include validation of bank accounts for every transaction in real-time, integration with online banking for authorising payments, along with authorisation tracking, alert management and configurable workflows.

Encrypted and secure portals eliminate the need for email communication for money transfers, reducing cyber-crime risk.