SRA Consumer Protection Review:
Shieldpay Response to Discussion Paper

27 June 2024

Contents

Headlines

- While Axiom Ince may represent an inflection point when it comes to the question of law firms handling client money, there needs to be a clear articulation of the problem statement that the Consumer Protection Review (**CPR**), and any subsequent consultation, is intended to address. Enhancing consumer protection requires a wider analysis of the challenges firms face in handling client money, not just 'bad actors'.
- As part of defining the problem statement, having a deep understanding of the different ways law firms facilitate client money transactions will form a critical part of the discovery phase. Whilst the types of transactions are too exhaustive to list, the key areas for consideration are: corporate transactions; dispute settlements and awards; commercial real estate transactions; conveyancing; private client (in particular probate); family; intellectual property; and energy.
- Although the focus of the CPR is on how to ensure that client money is protected against loss, there is an opportunity to consider the wider challenges which include client money management, AML and sanctions compliance, foreign exchange, bank verification, fraud prevention and cybersecurity. It is unrealistic to expect all firms, regardless of their size, to achieve the same standards of compliance and assurance.
- While the take-up of third-party managed accounts (**TPMAs**) has been lower than anticipated, the benefits associated with TPMAs are clear when compared with the relative costs and risks associated with client accounts. However, there is still a lack of understanding within the profession on how TPMAs should function and how the payment institutions providing them are regulated.

- Given the small number of TPMA providers in the marketplace, and the need to encourage competition between banks and non-bank service providers, a phased approach is needed, with due consideration given to allowing firms to continue handling client money subject to additional guardrails being put in place.

Introduction

1. Shieldpay Ltd is authorised and regulated by the Financial Conduct Authority (**FCA**) as an authorised payment institution (**API**) under the Payment Services Regulations 2017 (**PSRs**).

2. The PSRs, together with other materials published by the FCA, establish a prescriptive set of rules for the provision of payment services, with APIs also being subject to the FCA Principles for Businesses[1] which are not entirely dissimilar to those framed within the SRA Principles[2].

3. We have a specific focus on facilitating payments within the UK legal services sector, specialising in delivering seamless, compliant, payment journeys for a range of firms; from small private client firms to boutique firms in the group litigation space and top 50 firms. In the past 12 months, we have facilitated £4 billion of payments for the legal industry through our escrow agent, paying agent and TPMA services.

4. We are the leading provider of TPMAs, having offered them since they were introduced in November 2019. It is acknowledged by the SRA that take-up of TPMAs has not been at the levels anticipated since their inception[3]. We are therefore very interested in contributing to the CPR and any subsequent consultation process regarding the handling of client money.

5. Since the CPR was launched, we have hosted roundtable events in London and Manchester with senior personnel responsible for overseeing the handling of client money within firms, including Finance Managers, Lead Cashiers, COLPs, COFAs, Compliance & Risk Managers and external auditors. The feedback that we have received from these roundtables has been incorporated into this response.

6. It is understood that at this stage in the CPR, the SRA is seeking input on the actions it should consider in both the immediate and longer-term, first and foremost, to deliver the best results in the public interest, but also considering the pressures faced by the industry and small firms, in particular. This will inform the proposals that will be the subject of a consultation process later this year.

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1 FCA, *Principles for Businesses, PRIN 2.1* (Last updated 31 July 2023): https://www.handbook.fca.org.uk/handbook/PRIN/2/1.html

2 SRA, *SRA Principles* (Effective 25 November 2019): https://www.sra.org.uk/solicitors/standards-regulations/principles/

3 SRA, *Standards and Regulations – Year Three evaluation of SRA Reforms* (3 May 2024): https://www.sra.org.uk/sra/research-publications/year-three-evaluation-sra-reforms/

7. However, based on our roundtables, engagement with the SRA to date and attendance at various webinars on the topic, we believe that there is value in clearly articulating the problem statement before considering the most effective means of enhancing consumer protection. For example:

    a. Is the problem dishonest, rogue, legal professionals, such that more stringent monitoring of their character and suitability is needed?

    b. While there appears to be clear understanding of the Accounts Rules amongst COLPs and COFAs, is there a balance to be struck between prescriptive rules and outcomes-focussed regulation?

    c. Should there be a different 'regulatory lane' for aggregator businesses and change of control scenarios?

8. While the CPR covers the policy and operational arrangements for identifying and managing the risks of holding client funds, as well as compensation fund arrangements, the focus of our response will be on the former.

Reasons and drivers for handling client money

9. Law firms use client accounts for three main purposes:

    a. **receiving payments on account** of fees and disbursements by way of providing comfort that a client, in particular a client with whom a firm has not had previous dealings, has the resources to pay them, thereby improving cashflow as those funds may be transferred to office account immediately upon an invoice being raised;

    b. **facilitating transactions**, such as conveyancing, dispute settlements and corporate transactions, where funds are typically held in a firm's client account subject to an undertaking to transfer the funds upon exchange or completion or some other event; and

    c. **holding assets** in connection with probate matters and, less commonly for the reasons noted below, other types of transactions.

10. While the handling of client money may be perceived as secondary to the delivery of legal services, the purposes outlined above are deemed by many legal services professionals with whom we have spoken as fulfilling an 'essential function' in the delivery of legal services, such that removing the ability for firms to hold client money could be disruptive both for firms and their clients.

11. At our recent roundtable sessions, there was a sense amongst attendees that the objectives of the CPR fail to recognise that most solicitors and firms use client accounts effectively and in accordance with the Accounts Rules. There was a mix of irritation and frustration that, having moved from a prescriptive, albeit complex, set of rules, to the current outcomes-focussed approach – a move not dissimilar to that witnessed in the banking industry in the aftermath of the global financial crisis – the SRA is coming full circle and seeking to tar all firms with the same brush as Axiom Ince, Metamorph, SSB and other firms that have grabbed the headlines in recent times.

12. While it was acknowledged by attendees that the number of SRA interventions had increased, attendees felt that there was insufficient evidence to support any correlation between the number of interventions involving the handling of client money and dishonest or incompetent solicitors as the root cause. Attendees felt that the 'solicitor brand' could be damaged further if a message is sent to consumers that solicitors can no longer be trusted to hold their money, and that the risk of holding client money is as much a risk to solicitors (in terms of the risk of regulatory action and reputational damage) as it is for consumers.

13. For sole practitioners and small firms with practices built around conveyancing, the threat of stopping them from holding client money altogether was seen as presenting an existential threat. We have heard from these firms that the interest earned on client account balances, combined with the fees they charge to facilitate payments using payment rails such as CHAPS/telegraphic transfer or Faster Payments, has in some cases made the difference between having to shut their businesses or continue to service the consumer legal market.

14. At the other end of the scale, the view of some of the major US firms that we have spoken to is very different, because many US firms moved away from handling client money years ago. This view is increasingly being shared by large UK firms, with the flow of monies in relation to a transaction regarded as presenting too great a risk, not to mention a burden, which firms are often unable to recover from clients by way of the fees they charge (we have heard of some firms writing off six-figure sums in billable time when handling transaction payments in-house). This is where banks, escrow and paying agents and custodian services providers are being seen to play a vital role.

15. There is more to handling client money than meets the eye. We know from supporting firms on transactions that they are often unique and complex and challenge existing payments and banking infrastructure. Handling client money not only involves receiving and holding funds, but includes treasury management, AML and sanctions compliance, foreign exchange, bank verification, cybersecurity, fraud prevention and having a relationship with banking partners that are able to respond to the challenges that complex transactions bring.

16. In our view, given the status and role which solicitors have in society, the real-world consequences for clients when deliberate or inadvertent breaches of the Accounts Rules occur, and the increasing cost of interventions to the SRA[4], it is right that the SRA examines how those it regulates handle client money. However, we have some sympathy for the views expressed by attendees at our roundtables and, as expanded upon further below, consider that a one-size-fits-all approach may be unwise.

[4] For the financial year 2023/24, intervention costs (excluding staff costs related to intervention activities) were budgeted to be £7.13 million (a 7% increase on 2022/23): SRA, *Business Plan and Budget (November 2023 to October 2024:* https://www.sra.org.uk/sra/corporate-strategy/business-plans/business-plan/business-plan-2023-24/

The challenges of handling client money

17. The key challenges of handling client money have been well-documented[5], however may be summarised as follows:

    a. Administrative burden: Handling client money requires firms to maintain a separate client account, undertake bank reconciliations between the client account and office account to ensure that the ledgers accord with the bank account balances, and to deal with any unreconciled items promptly. While this work falls to legal cashiers in some firms, and may even be outsourced to specialist cashiering providers, many firms we speak to do not have legal cashiers and the burden often falls on fee-earning solicitors who are wearing multiple hats.

    b. Compliance burden: It seems that not a day goes by without a decision notice being published about a solicitor or firm that has breached the Solicitors' Accounts Rules. Very often, these are inadvertent breaches that would have been spotted if a firm had sufficient systems and controls in place, such as breaches of the 'residual balances rule' (rule 2.5) and the 'banking facility rule' (rule 3.3). The 'banking facility rule' can be especially problematic for more transactional practice areas, with most firms refusing to provide any kind of escrow facility for their clients.

    While logic would dictate that this should be much less of a concern for firms with a dedicated risk and compliance function, attendees at our roundtables shared that, despite their systems and controls, the risk often emerged from more senior solicitors within the business who held client relationships for many years and therefore trusted what was being asked of them by clients, who were perhaps not alive to the risks presented by the threat landscape within which they now operate or who perceived compliance activities as getting in their way. There was also a clear message that alongside any rule changes, firms need to embed a proactive risk culture which can be a challenge especially within firms that have long serving staff due to the behavioural changes needed.

[5] For an overview, see our report on the cost of client money management for firms based on a survey of 104 junior and senior legal professionals from top 100 UK firms: Shieldpay, *Time is money* (September 2023): https://www.shieldpay.com/time-is-money

c. Cybersecurity threats: In a recent industry survey, cybersecurity threats were second only to macro-economic volatility in the list of threats perceived by the top 100 firms in meeting or exceeding their growth ambitions through to 2025[6]. Amongst other factors, the continued uptake of hybrid working habits and the increasing sophistication of social engineering and ransomware attacks were cited. We are also aware that identity and address verification documents and bank details are frequently shared by email which further increases the risk. While the largest firms can hire dedicated cybersecurity teams and spend millions on risk mitigation, most firms are striving to do the best they can with limited resources. In our roundtables, there was a concern that this may not be good enough.

d. Financial crime risks: In addition to the need to comply with ever-evolving sanctions restrictions and embargoes, the use of client accounts presents a significant risk of fraud, money laundering, terrorist financing and other financial crime, including through client money being misappropriated by employees due to poor internal controls and oversight ('insider fraud') and malicious third-party actors leveraging their relationship with firms or individual lawyers, or purposefully exploiting transactions whether genuine or not[7] ('outsider fraud'). The SRA has written extensively about the risks of money laundering and terrorist financing within the legal sector[8] and has been taking action against firms for failing to comply with their obligations in this regard[9].

6 PwC, *Bold steps to sustainable transformation: Annual Law Firms' Survey 2023:* https://www.pwc.co.uk/industries/legal-professional-business-support-services/law-firms-survey.html

7 For a thorough review of some high-profile examples and an analysis of the methods deployed by fraudsters and factors creating opportunities for fraud within firms, see Benson K., & Bogica D. *Occupation, Organisation, Opportunity, and Oversight: Law Firm Client Accounts and (Anti)Money Laundering* (7 May 2024): https://link.springer.com/article/10.1007/s10610-024-09581-1

8 SRA, *Sectoral Risk Assessment: Anti-money laundering and terrorist financing* (Updated 5 March 2024): https://www.sra.org.uk/sra/research-publications/aml-risk-assessment/

9 Law Society Gazette, *Fines mount up as SRA cracks down on AML breaches* (8 March 2024): https://www.lawgazette.co.uk/news/revealed-fines-mount-up-as-sra-cracks-down-on-aml-breaches/5118978.article

e. Payment complexity: Within the world of corporate transactions in particular, funds flows are becoming increasingly complex, with transacting parties spread across multiple jurisdictions expecting to be paid in their own currencies. In our research, 73% of all legal professionals surveyed expressed concern about the risks and time costs associated with holding client monies, with 42% expressing that the most time-intensive aspect of handling client funds and managing payments is due diligence on payers and payees. Sanctions compliance has become incredibly challenging for firms that lack the resources to keep up to date with changes to the rules and daily updates to lists and ensure they effectively calibrate their sanction screening tools to mitigate the sanction risks that they face. Firms we have spoken to have voiced their frustration at the number of billable hours spent on managing payments for clients that they have been unable to recover.

f. PII costs: A survey of 915 firms (95% of which held client money) conducted on behalf of the Legal Services Board indicated that firms holding higher peak amounts of money at any point during the year were likely to pay higher premium rates, predicting that a law firm holding 5x its average amount will pay a 13% higher premium compared to a law firm holding 2x its average amount[10].

Risk profiles of different firms

18. As a specialist legal payments provider, we spend a lot of time listening to prospective and current clients on their attitude towards risk and how they manage it. As might be expected, this varies considerably depending on the size of firm. For example:

a. a sole practitioner specialising in corporate transactional work, where the principal is also the COLP, COFA and MLRO, uses our TPMA service as they have no interest in holding client money at all due to the administrative and compliance burden and the need for them to focus on delivering services to their clients;

b. large full-service regional firms, with ILFM-accredited legal cashiers, have a differing view – some firms wish to use a TPMA to remove the risk of breaching the Account Rules and focus their resources elsewhere, while other firms feel confident in the robustness of their systems and controls and would welcome further reporting obligations (e.g. monthly client account reconciliations) if it meant that they could continue using their client account;

c. full-service international firms, with compliance and risk teams, are now setting their own risk appetite in terms of the type and values of payments that they will allow via their client accounts. As part of defining their risk appetite these firms are onboarding a preferred set of specialist third-party payment providers to provide TPMAs alongside their client accounts and also escrow and paying agent services in respect of transactions that fall outside of their risk threshold.

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[10] Frontier Economics, *Econometric analysis of professional indemnity insurance costs for legal service providers* (September 2023): https://legalservicesboard.org.uk/wp-content/uploads/2023/09/econometric-analysis-of-solicitors-pii.pdf

19. As a general theme, we have found that larger firms are more risk-averse when it comes to handling client money, with those firms refusing to process payment transactions by default regardless of value. The difference between those firms and other firms is perhaps in the nature of the work that they do, with smaller and medium-sized firms that handle volume conveyancing and probate work keen to retain the sense of control that operating a client account gives them, retain the interest income earned on the client money they hold, and provide an end-to-end service to their clients who tend to be private individuals rather than corporates.

20. At one of our roundtables, we discussed the single most important thing that firms can do to mitigate the risk of handling client monies, with most agreeing that implementing proper internal controls and avoiding a single person having control over the client account was key.

TPMAs and associated benefits

21. In a 2015 briefing paper compiled by various legal services regulators in England and Wales, the misuse of client money was identified as one of the biggest regulatory risks in the legal sector[11]. Stopping short of proposing a prohibition on firms handling client money, the paper considered the "attractions" for firms of continuing to hold client money (largely consistent with what we heard at our roundtables), the benefits to consumers, firms and regulators of alternatives being used, and the potential risks of using alternatives. It was concluded that the consumer protection features of any alternative model should be at least equivalent to those offered by the current regulation of client accounts, taking a risk-based approach, and that the "desirable generic features" of such alternative models aligned most closely with the regulatory framework for APIs overseen by the FCA.

22. In June 2016, the SRA launched two consultations in parallel under the banner *'Looking to the Future'*. The focus of one of those consultations was making changes to the Accounts Rules with a view to bringing to life the alternatives to handling client money explored in the 2015 briefing paper, in the form of TPMAs (**AR Consultation**)[12].

23. While the responses to the AR Consultation were made at a time when TPMAs were untested, we still see many of those views holding true today. The table below compares some common themes from those responses with our comments:

[11] Bar Standards Board et. al. *Alternatives to handling client money* (June 2015): https://www.legalservicesboard.org.uk/what_we_do/pdf/20150720_Proposals_For_Alternatives_To_The_Handling_Of_Client_Money.pdf

[12] SRA, *Looking to the future: Accounts Rules review* (June 2017): https://www.sra.org.uk/sra/consultations/consultation-listing/accounts-rules-review/

Consultation response	Shieldpay comments
TPMAs risk slowing transactions down and are unlikely to be suitable for conveyancing transactions, where the ability to move money quickly is vital	Our TPMA solution is being used for conveyancing transactions. As with banks that provide client accounts, we have different cut-off times for executing payment transactions based on currency and whether the payment is within or outside Single European Payments Areas (SEPA). If we receive a payment transaction before our cut-off times with all the correct information, we will ensure that it is made on the same working day or as soon as possible the next working day.
Solicitors cannot provide undertakings when funds are held in a TPMA	If an undertaking is given on terms that the firm will authorise their TPMA provider to execute payment upon certain conditions being met, then this should be sufficient provided that the authorisation is given before the cut-off time for executing payment transactions.
TPMAs will lead to increased costs to firms and therefore to the consumer	Law firms, like any other business, must consider the financial implications of any decision they take regarding the outsourcing of a business function. However, we would expect the costs of using a TPMA to compare favourably to the direct and indirect costs of operating a client account.
Misappropriation of client funds is just as likely with a TPMA as with a client account	We cannot guarantee that funds held in a TPMA will never be misappropriated. We have heard from client account auditors who have explained the lengths that some individuals will go to in order to cover their tracks when defrauding clients. However, we believe that as an FCA-regulated API that is in the business of facilitating payments, we are well-placed to identify and prevent fraud and other financial crimes from taking place via a TPMA. We are subject to strict internal and external audits, vet all our staff when joining and annually, and implement robust transaction monitoring controls to avoid monies from being misappropriated.

Consultation response	Shieldpay comments
Using a TPMA does not avoid the need for client account reconciliations	As a TPMA is not a client account, there is no need for client account reconciliations. Our TPMA solution enables firms to set up incoming and outgoing payments at a matter level so that legal professionals have visibility of all payments relating to a matter and can extract the data from our system to reconcile their system to ours, if necessary. We also offer customers a full suite of APIs that enable integration directly into practice management or accounting packages, to further streamline reconciliations and reporting, providing firms with a 'single source of truth'.
Managing a TPMA will be just as burdensome as managing a client account	Client accounts are nothing more than ordinary current accounts with often more preferential interest rates. We know from speaking to customers that banking portals for client accounts are unsophisticated and liable to result in errors. Once we have onboarded a law firm and those of its staff who are required to authorise payment transactions, using our purpose-specific TPMA solution is straightforward and is intended to provide an enhanced experience versus using a regular client account. For example, our TPMA solution enables bulk payments to be uploaded and authorised at the same time, which can be time consuming when using a bank's online portal.
Funds held in a TPMA are less secure than funds held in a client account	TPMAs offer at least the same degree as protection as client accounts. Monies held in client accounts are treated as being held on trust for clients (according to *Twinsectra Limited v. Yardley [2002] UKHL 12* and confirming in *Bell v. Birchall and others [2015] EWHC 1541 (Ch)*) such that they do not form part of a law firm's assets on insolvency. Funds held by APIs must be held using one of two safeguarding methods: the segregation method (being the most common method and the one that Shieldpay uses) or the insurance method. Funds held in a designated safeguarded account are therefore ringfenced in the event of a TPMA provider's insolvency. If a bank becomes insolvent, FSCS protection protects client monies up to the £85,000 limit and since 12 March 2023, this protection as extended to funds held by APIs. TPMA providers are also likely to hold higher levels of professional indemnity, financial crime and cyber insurance than a majority of firms.

24. Having resolved to permit firms to use TPMAs[13], Rule 11 of the Accounts Rules came into effect in November 2019 which, when read together with the SRA's guidance on TPMAs[14], provides that:

    a. money held in a TPMA does not fall under the definition of 'client money', such that all but Rule 11 on TPMAs does not apply;

    b. a TPMA may only be held with an API that is subject to mandatory safeguarding arrangements or a small payment institution that has voluntarily adopted safeguarding arrangements (small payment institutions being subject to an average monthly transaction limit of €3 million in any 12-month period);

    c. clients need to be informed about a law firm's use of a TPMA, including how TPMAs differ from client accounts, their right to dispute any payments made by the law firm, and who will be responsible for the costs associated with the arrangement;

    d. firms are required to have 'suitable arrangements' in place for the use and monitoring of TPMAs, including internal systems for monitoring transactions on the account and keeping appropriate records; and

    e. firms should notify the SRA if they are using a TPMA, including by providing details of the TPMA provider.

25. The benefits associated with TPMAs include:

    a. the administrative burden is alleviated, due to payments being reconciled at matter level, making it easier for legal professionals to track all payments relating to a matter;

    b. the compliance burden is reduced, as the risk of breaching the Accounts Rules all but falls away;

    c. TPMAs are not subject to the requirement for an accountant's report, saving time and expense;

    d. firms that do not operate a client account are not required to contribute to the compensation fund (with contributions for 2024/25 proposed to increase from £660 to £2,220) in addition to the periodic fee;

    e. cybersecurity risk is reduced through using a provider with more adequate resources to implement appropriate measures to mitigate threats;

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13 SRA, *Our response to consultation: Accounts Rules review* (June 2017): https://www.sra.org.uk/globalassets/documents/sra/consultations/accounts-rules-our-response.pdf

14 SRA, *Third-party managed accounts* (Updated 25 November 2019): https://www.sra.org.uk/solicitors/guidance/third-party-managed-accounts/

f. while firms will always be required to undertake KYC on their clients and due diligence on any transactions, the risk of fraud, money laundering, terrorist financing and other financial crime is significantly reduced through using an FCA-regulated payments provider with expertise in identifying and mitigating such risks; and

g. TPMA providers should have transaction monitoring in place to identify unusual transactions and undertake spot checks on transfers between TPMAs and the law firm operational accounts.

26. As a technology-driven API that is specifically focussed on facilitating payments in the legal industry, we believe that our solution may offer firms a competitive advantage both in terms of providing their clients and transacting parties with a digital client experience which is constantly being developed in response to new, advanced, technologies, and also in terms of future-proofing firms against regulatory change, wherever that change comes from.

27. While there is insufficient evidence to suggest that PII premiums would be reduced through use of TPMAs, which was one of the key benefits anticipated in the 2015 briefing paper and 2017 consultation response, we believe that the benefits outlined above are likely to exceed the costs of operating a client account over a sustained period if firms are to meet the ever-increasing challenges of handling client money summarised at paragraph 17. In any case, we understand from speaking to brokers in the solicitors' PII market that insurers are increasingly looking for firms to adopt more robust AML and client money management solutions as loss ratios are beginning to diminish their gross written premium, resulting in lost revenues.

28. With all the heralded benefits of TPMAs, this poses the question as to why take-up of TPMAs has been limited. We believe is down to three key factors:

a. a lack of understanding about TPMAs and how they differ from client accounts (which is perhaps inconsistent with the findings from the SRA's Year Three Evaluation of its reforms, where 68% of COLPs and COFAs reported that the rules relating to TPMAs were clear[15]);

b. concern that outsourcing the risks associated with handling client money to a TPMA provider will result in a loss of control over client monies and the timely execution of payment transactions; and

c. the limited take-up of TPMAs by the industry itself, with firms anxious about doing something that is still not widely accepted as a viable alternative to handling client money.

[15] SRA, *Standards and Regulations – Year Three evaluation of SRA reforms* (3 May 2024): https://www.sra.org.uk/sra/research-publications/year-three-evaluation-sra-reforms/

29. Ultimately, whether the solution is TPMAs or other alternatives, we acknowledge that spurring change within an industry that has been used to certain ways of working brings with it significant implications for the operating models of firms, especially larger firms that have invested significantly in their client money management and related risk and compliance functions. Bringing about change will require collaboration between regulatory, third-party providers and the market.

Enhancing consumer protection

30. While we of course believe in the value that TPMAs can bring to firms as an alternative to operating client accounts, we are pragmatic about the challenges of moving to a position where firms are prohibited from handling client money entirely, not least due to the lack of APIs in the market that have the capability to serve the needs of almost 10,000 firms which would create a 'concentration risk'. As noted in the 2015 briefing paper, *"it is important that regulators do not choose 'winners' by designing their regulations around a specific alternative model for handling client money, or a specific service provider.*[16]*"*

31. It is clear that when it comes to handling client money and enhancing consumer protection, the challenge is both a regulatory and a cultural one. Regulatory change is arguably easier to bring about than cultural change, however there is question over how long consumers should have to wait for cultural norms within a profession to catch up with the pace of change in the complex environment within which they operate. When scandals such as Axiom Ince are the subject of a special feature on one of the UK's most popular morning magazine programmes[17], with questions being asked about how £64 million of client money can go missing, it is clear that some soul-searching is needed and for regulatory change to drive the cultural change necessary to protect consumers effectively.

32. Based on our discussions with current and prospective customers and our roundtable events, we believe the following measures are worthy of further consultation by way of making short to medium-term improvements in the way firms handle client money (in no particular order):

    a. requiring those responsible for handling client money within firms to hold a recognised legal cashiering qualification or complete a recognised training course from an accredited provider;

    b. in the same way as organisations can outsource the mandatory 'data protection officer' role established under the GDPR, enable law firms to outsource the COLP and COFA roles to third party providers entirely, perhaps with an accreditation scheme for those third party providers;

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16 Bar Standards Board et. al. *Alternatives to handling client money* (June 2015), para 17: https://www.legalservicesboard.org.uk/what_we_do/pdf/20150720_Proposals_For_Alternatives_To_The_Handling_Of_Client_Money.pdf

17 BBC, Morning Live, Series 6 (10 June 2024): https://www.bbc.co.uk/iplayer/episode/m002029w/morning-live-series-6-10062024

c. developing a risk-based framework that establishes limits on individual payment amounts or average annual balances through the client account, by reference to a law firm's turnover or some other criteria. For example, where a firm has a turnover of less than £X million, requiring that the firm does not hold any single client balance in excess of £1 million for more than six months, which would potentially mean that those funds are protected by the 'temporary high balance' protection afforded by the FSCS, or requiring that where payments need to be made to more than Y number of payees, or outside the UK, that a third-party payments provider must be used. Encouraging the use of alternative methods of handling client money in this could have a catalysing effect on the market – both from banking and non-banking service providers – and create competition for the provision of those services;

d. requiring firms operating client accounts to submit monthly or quarterly client account (and potentially office account) reconciliations via a secure portal (the frequency could be shortened according to criteria based on how long a firm has been established, the nature of the work undertaken by it, its turnover and any reported breaches of qualifications made in accountants' reports);

e. requiring firms to report more regularly on their financial and non-financial resources, to identify 'at risk' firms and allow early intervention, monitoring and supervision. This would also mitigate a known internal fraud typology whereby firms invoice clients at an earlier stage in a project or transaction to legitimate the transfer of funds from client account to office account;

f. requiring firms to submit an annual business plan in a prescribed format, identifying matters such as proposed M&A deals and succession risks;

g. revising the SRA's 'change of control' process to align it more closely to the FCA's approach, requiring firms to explain how other firms they are acquiring will be integrated with their systems and processes and providing the SRA with an opportunity to impose additional reporting obligations, requirements or restrictions (for example, requiring funds to be held with a third party) which would be consistent with the powers that the FCA may exercise;

h. imposing an obligation on firms to honour client requests for information on client monies held by them, including by way of providing a copy of the client account ledger.

33. In summary, we believe that there are several approaches that the SRA may want to consider as part of the next stage in the CPR process, with TPMAs forming an important, but not exclusive, part of those proposals. It is evident that there are many firms that are all too aware of the importance of protecting client money and that have invested significantly in people, processes and technology, to mitigate internal and external threats. Until such time as handling client monies internally becomes an exception rather than a rule, the impact of any change that would be tantamount to restricting firms from handling client money would be significant, both for firms and for consumers, who would inevitably bear the increased costs of those changes. We look forward to engaging with the SRA further in helping to shape future of client money for the legal industry and ensuring that TPMAs and other solutions are fit for purpose.