

**THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT**

THE ACCOUNTS RULES

7 November 2023

**1300 – 1430
(90 minutes)**

Candidates are required to answer TWO out of three questions.

Throughout this paper The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 are referred to as the Money Laundering Regulations.

When applicable, an answer should refer to The Accounts Rule identifier.

Question A

1. You set up in your own firm in mid-March 2021 and are operating as a sole practitioner. During the most recent 12 months, business activity and revenues have been considerably less than projected in the business' financial forecast. Hence, you are concerned about the firm's cashflow. You happen to mention your concerns to a friend for whom you are currently carrying out some conveyancing work. He offers to make a loan available to you.

What do the Accounts Rules say about this?

2. In terms of the Accounts Rules permissions, when may a firm withdraw monies from a client account?
3. In what circumstances can the Council of the Law Society of Scotland (LSS) carry out a routine "inspection" and/or an "investigation"?

How might the LSS notify the firm of their pending visit?

4. With regard to money laundering and terrorist financing risks and controls, what are the risk factors that a legal firm should address when assessing the possible impacts on the firm?

What risk methodology is appropriate for regulated firms/members?

What is the terminology/jargon applied to the recommended methodology?

5. Your firm undertakes work as estate agents. A client proposes to instruct your firm to put their house on the market and complete the subsequent conveyancing work.

Do you have any obligations under the Money Laundering Regulations regarding the client instruction and if so, what are they?

6. In a conveyancing transaction your client advises you that funds will be coming from his account with the Bank of Scotland. Four days prior to the settlement date, funds arrive in your client account by electronic transfer. The funds have come from HSBC.

What is your response, and how should transactions be recorded in the accounting records?

7. You have just won a new client, Sparks Electrical Limited. The company is a family owned business. Mr Brown Senior owns 30 per cent, Mrs Brown owns 10 per cent, a family Trust owns 30 per cent and Mr Brown Junior owns 30 per cent.

Explain whose identity you will require to verify and why, then list the documentation which you will require to obtain.

8. Mr Campbell instructs your firm to put an offer in for a house in Edinburgh. Three days before settlement, he instructs you take title in the name of his wife instead.

What are the implications under The Account Rules? What is your response to the client following this latest instruction?

Question B

You first acted for John Smith some 10 years ago but you have had no contact with the client during the last 5 years.

The individual now lives in Edinburgh, but you understand that, as he was employed in the oil and gas industry, he worked overseas for long periods of time. Working as an expatriate, his remuneration was paid in US dollars to an offshore bank. He contacted you recently by telephone to advise that his father, being his last surviving parent, had died and that he and his sister Sarah, who lives in Australia, are the appointed Executors under the Will. They wish to appoint you to act.

1. Explain what your duties are under the anti-money laundering regulations in relation to John and Sarah, in each case providing reasoning for your answers; explain in each case what, if any, documents or other paperwork you would require to see.
2. During the same telephone conversation John tells you that although provision has been made for both himself and Sarah in the Will, most of the Estate has been left by specific request to John's children and Sarah's children (the deceased's 4 grandchildren), the youngest of whom is one year old and the eldest of whom is 25 years of age. You should assume that the Estate is worth circa £600,000 with each grandchild inheriting around £100,000.

What anti-money laundering related obligations do you have in relation to the grandchildren as beneficiaries, and what documentation if any do you need to see? You realise that the deceased was never a client of your firm. Are you under any obligation to check his identity and source of wealth? Please explain your answers.

3. The progress of the executry was delayed considerably because of the illiquidity of some assets. However, two and a half years later you have now successfully ingathered the Estate and paid all necessary outgoings. You are now in a position to make a distribution to the beneficiaries. In the meantime, you have had no contact from any of them. All your dealings have been through John and Sarah, the two Executors.

Explain what checks you are required to make at this stage in respect of the identity of the beneficiaries and explain what steps you would take prior to transferring any monies to the beneficiaries.

4. After enquiry it transpires that the eldest grandson is now living and working overseas. Does this in any way change your answer to the preceding question?

5. In addition to the legacies to the grandchildren there is a specific legacy of £30,000 to an organisation named in the Will. You have no knowledge of this beneficiary which is based Ethiopia. John tells you that he knows of the organisation which has a fund raising office based in Scotland. Fund raising is intended for regeneration projects in Islamic countries adversely affected by war or natural disaster. The deceased's interest in this charity is due to their working for many years in Syria and other Middle Eastern countries.
- Do you have any obligations to check the nature of this organisation?
Explain your answer. If you do have an obligation to check, what checks will you carry out and why?

Question C

1. A friend who is setting up a new legal firm has asked you for guidance on the main requirements of The Accounts Rules.

Please provide a response on the following:-

- i) The Books of Account which must be maintained.
 - ii) The Bank Accounts which must be set up in respect of dealing with monies of clients and others.
 - iii) The Rules regarding reconciliation of accounts and the process which must be followed to complete such reconciliations. Describe in outline an illustrative reconciliation to show the accounts being checked for accuracy.
 - iv) How should client balances be dealt with in the accounting records and when, according to the Law Society guidance, is it necessary for a firm to tidy up ledger accounts?
 - v) What are the minimum roles and responsibilities of a Cashroom Manager?
2. Detail the stipulations in The Accounts Rules which relate to drawings from client accounts.
3. When is the use of a Holding Account appropriate?
4. What are a firm's obligations if facilitating a bridging loan on behalf of clients?
5. A client pays you £5,000 as a payment to account in expectation of various outlays and fees being incurred. Explain what your firm's obligations are in respect of that money.
6. Explain the need to conduct an Enhanced Customer Due Diligence check.

7. Provide an example of a role which would suggest the post holder is a Politically Exposed Person. Explain what is a Politically Exposed Person.
8. List a solicitor's obligations in The Accounts Rules relating to client balances held after the conclusion of a matter. Highlight a solicitor's actions when the client cannot be traced.

END OF QUESTION PAPER