

The Accounts Rules

Tuesday 14 May 2024

2.30pm to 4.00pm

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 1

Scenario

Your employer is Premier LLP. The firm has a practice office located in Edinburgh, which is also the firm's designated administration centre, plus multiple other practice units across Scotland. The business is a network which developed through organic business growth.

As an ambitious business, the firm will expand further after absorbing/merging with an independent solicitors' partnership (Burke & Hare). The firm combining with Premier has an office in Scotland and another in England to support its clients in the respective locations.

Once the formal amalgamation process is completed, one partner of Burke & Hare will retire and a partner from Premier will also retire (the retiree is currently the designated Cashroom Manager at Premier).

You are a trainee with Premier with circa 18 months service.

The managing partner regards you highly and asked that you be part of the team working on the integration tasks. Specifically, you are to be involved in the administration aspects of consolidating the businesses to unify procedures and working practice across the merged business.

Required:

In respect of your remit, identify and discuss the practical considerations, in respect of the Law Society of Scotland's Rules (specifically B6 and B9), which will arise due to combining the firms –

- 1) What matters should be considered now, prior to completing the merger process to combine the two organisations, and why?
- 2) In order to satisfy your remit, identify and discuss specific tasks which need to be completed.

Explain –

- a) why the appointment of a Cashroom Manager is a priority for the merged business; and
- b) when an individual should be appointed; and
- c) if you could be appointed to the role.

- 3) What are the responsibilities and competencies and skills of a Cashroom Manager?
- 4) A Cashroom Manager will interface with multiple parties in the course of business; identify those who might assess the performance of a Cashroom Manager?

Question 2

- 1) List the obligations in the Accounts Rules relating to client balances held after the conclusion of matter.
- 2) Detail the rules within the Accounts Rules relating to drawings from clients' accounts.
- 3) What are your firm's obligations before entering into a bridging loan on behalf of a client?
- 4) A client pays you £5,000 as a payment to account in anticipation of various outlays and fees. Explain what your firm's obligations are in respect of this money.
- 5) With the Money Laundering Regulations in mind, explain for each of the following scenarios what it is that you should identify and verify:
 - a) You wish to take on a new corporate client. The company has two shareholders each of whom owns 50 per cent of the company.
 - b) You wish to take on a new corporate client. Mr Chalmers wholly owns the prospective client however you have been advised that instructions will be taken from his Managing Director, Mr Jackson.
 - c) The MacPherson Trust for Children wishes you to take over the Trust administration from the current law firm. The Trust is a discretionary trust, the beneficiaries being the whole class of children of the settler. Currently, there are three Trustees appointed by the Trust.
 - d) Mr Henderson is a sole trader. He wishes to instruct you to incorporate a company for him.

Question 3

Required:

Consider the scenario below and discuss in detail, all matters arising and any actions which the Law Society of Scotland might regard as being appropriate/inappropriate for a member of the Society.

Scenario

William is employed by a medium size law firm and is the designated solicitor for a number of important clients from whom the firm earns a large portion of its income.

As a junior partner in the firm, William has the role of Cashroom Manager for the firm.

One of William's key clients is his brother-in-law.

That client operates a retail business with multiple outlets and a trading name of "Classic Ltd".

Classic Ltd operates in the UK and in overseas markets.

Classic Ltd purchases component from overseas which are assembled in the UK and the finished product is sold domestically and exported overseas.

As part of the export sales activity, Classic Ltd sells to customers based in the European Union, including Croatia.

William's brother-in-law has asked if the law firm, acting as an honest broker, would accept the transfer of payments from an overseas customer. The receipt of a payment is to be regarded as a commitment by the customer to pay for the goods once shipped by Classic Ltd. The monies will be an advance payment and it is anticipated that the monies will be received one month or more before the customer receives the goods.

The intention is that the monies would not be available to Classic Ltd until there was evidence that the customer in Croatia is in receipt of the goods.

The proposal is that the customer would confirm receipt of the goods to Classic Ltd at which point the monies, less a fee, would be remitted to Classic Ltd's bank account.

The value of the fee will be agreed in advance and would be in settlement of the anticipated legal service to be provided by the law firm.

The procedure being proposed is not dissimilar to the established procedure of using a Letter of Credit.

William's brother-in-law mentioned that as the funds would be received in advance of shipment, the monies could be deposited in a 30-day Cash Deposit (CD) account and thereby attract interest.

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