

How other regulators and jurisdictions hold client money

14 November 2024

Published as part of our [Consumer Protection Review Consultation](https://referral.sra.org.uk/home/hot-topics/consumer-protection-review/#consultation)
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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) 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.

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 is 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.

[Read the full report \(PDF 46 pages, 1MB\).](https://referral.sra.org.uk/globalassets/documents/sra/research/spinnaker---holding-client-money-comparisons.pdf)

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