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7 November 2012

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Dear Miss Wong,

Legal Practitioners Ordinance (Cap. 159)
Solicitors' Accounts (Amendment) Rules 2012 (L.N. 151)
Accountant's Report (Amendment) Rules 2012 (L.N. 152)
Solicitors (Professional Indemnity) (Amendment) Rules 2012 (L.N. 153)
Solicitors' Practice (Amendment) Rules 2012 (L.N. 154)
Foreign Lawyers Practice (Amendment) Rules 2012 (L.N. 155)

I refer to your letter of 29 October 2012 to our Secretary General Ms. Heidi Chu.

I would like to set out the following views of the Law Society's Working Party on Solicitors' Accounts Rules ("the Working Party").

(A) Rule 1A – Principles

The Working Party prefers to keep the words in both texts i.e. "client account (當事人帳戶)" in the title, bank statements and cheques.

Secretary General
秘書長

Heidi K.P. Chu
朱潔冰

Deputy Secretary General
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Christine W.S. Chu
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(B) Rule 2 - Definition of "client account"

The expression of "a current or deposit account" is used in the definition of "client account" in both Cap.159A and Cap.159F. It is desirable to maintain consistency between the two sets of Rules. The term "savings account" mentioned in the proposed Rule 6A(1) is only used in conjunction with "The Hongkong and Shanghai Banking Corporation Limited" and serves as a reference point only. Also, the meaning of a "deposit account" is wider than that of a "savings account". The Working Party considers that it is not necessary to make any change.

(C) Rule 6A - Interest on client account

- **Rule 6A(1)**
"must" and "failing which"

The expression of "failing which" is preceded by a comma, linguistically speaking, the underlined "which" refers to both of the antecedent requirements signified by the word "must" in the preceding phrase. There is no ambiguity at all. This is very clear from the context.

It would be inappropriate to use the word "may" in place of "must" in respect of the two antecedent requirements since the requirements mentioned in the three places are all 'obligatory' in nature.

- **Rule 6A(6)**
"interest earned"

The meanings of "interest earned" and "interest accrued" are the same. "衍生" is a proper rendition for "accrued" in Rule 6A when both terms of "interest earned" and "interest accrued" appear in the same context. The use of the terms "interest earned" and "interest accrued" does not appear to be clearly distinguished throughout Rule 6A. They are used even interchangeably sometimes. Hence, when only "interest earned" is used in Rule 6A(6), "衍生的利息" is adopted for a more general usage.

- **Rule 6A(3)(b) and Rule 9(2A)**
"on receipt of"

The Chinese renditions are different in the two places because the contexts are different. In Rule 6A(3)(b), it is "on receipt of the client's request", hence "接獲" is used to match with "要求"; and in Rule 9(2A), it is "on receipt of any payment", so "收取" is used to match with "付款". The renditions are proper.

- **Rule 6A(4)(b)**
"or" and "及"

The expression of "nothing ... or" is used in the English text and the expression of "均 ...及" is used in the Chinese text to achieve the same legal effect of 'across the board' application to all of sub-rule (4)(a), (b) and (c). The renditions are proper.

For reference, "nothing ... or" is rendered as "並不 ... 亦不" in section 13(1) of Cap. 48 which may serve as an example of the conjunctive effect of an antecedent "nothing" to a subsequent "or" in a sentence.

(D) Rule 9 - Exceptions

- **Rule 9(2)(c)(i)**
"告知交付"

The words "告知交付" are not a term to be read in isolation. The relevant English text is "other written intimation .. has been delivered" and the Chinese rendition is "已有 ... 其他書面告知交付". There should be no problem in reading the bilingual texts.

- **Rule 9(2A)(c)(ii)**
"not later than"

"在 ... 或之前" is a common rendition for "not later than" in our legislation e.g. section 32(1) of Cap. 542.

The rendition of "不遲於" is not desirable in the context as the words "4 個工作日" are placed far apart from the words "不遲於" which would affect readability of the text. Also, your suggested Chinese version may not be appropriate since it does not sit well with the leading word of "將".

"作為"

Even though the word "act" does not appear in the English text, it is readily understood that "作為" in the Chinese text refers to "存入律師行帳戶" and "繳付代墊付費用" instead of "該部分付款" and "代墊付費用". The text runs smooth.

(E) Rule 9(2A)(b) and (c)(i)

The Working Party proposed to add "without delay" after "client account" in the proposed rule 9(2A)(b) and after "client account" in the proposed rule 9(2A)(c)(i).

(F) Rule 10 - Obligation to keep accounts

Rule 10(5)

The qualification "that are necessary for the operation of a mechanical or computerized system of book-keeping" modifies "such cards", "other permanent documents" and "the information stored in a computer and retrievable in a permanent and visible form".

The "須" in "而亦須視乎情況，包括..." is appropriate in the context to link up the word "shall" in the earlier part of the provision with the words "as the case may be" in the latter part of the provision.

(G) Rule 15 - Waiver

The expression of "it may impose" in a phrase like "subject to the conditions that it may impose ..." is consistently rendered as "它所施加" in our legislation e.g. section 41U of Cap 556B.

(H) Rule 3(2) of the Accountant's Report Rules

"instructions" and "representations"

The subject matter is about disciplining an accountant, the Council should not be obliged to take the "instructions (指示)" of the relevant accountant into consideration. Hence, the present change of words is desirable which helps better reflect the actual position.

(I) Consultation by the Law Society

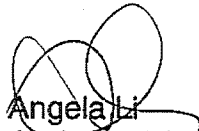
The 5 Amendment Rules have been approved by the Law Society's Working Party and the Council. The members of the Working Party consist of legal practitioners of law firms of diverse practice and various sizes, a regional chief operating officer, Asia Pacific of an international law firm and a university academic in this field. The Council members are the representatives of the members of the Law Society. The 5 Amendment Rules have also been approved by the Chief Justice. The proposed amendments deal with the practical accounting issues of the law firms.

(J) Definition of “principal” in rule 2 of the Solicitors’ Accounts Rules

The meaning of “principal” can be amended as follows:

“principal (主管)” means a sole practitioner or partner of a firm and shall also include any solicitor who is held out or holds himself out as such a partner or sole practitioner.

Yours sincerely,



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