

Public practice regulations



Approved by the IFA Board on 8 November 2017

Effective from 1 January 2018

Contents

1	Citation, commencement and application	3
2	Definitions and interpretation	3
3	Notices	4
4	Practising Certificate	4
5	Professional Indemnity Insurance.....	4
6	Clients' Money	6
7	Arrangements for Death or Incapacity	7

1 Citation, commencement and application

- 1.1 These regulations may be cited as the Institute of Financial Accountants (IFA) Public Practice Regulations 2017. They shall take effect on 1 January 2018 and replace previous regulations.
- 1.2 These regulations apply to all members and member member firms who wish to engage in public practice in the United Kingdom, irrespective of where they are resident.
- 1.3 Please see the Institute Statement on Engaging in Public Practice included in these regulations for further guidance.

2 Definitions and interpretation

- 2.1 In these Regulations, unless the context otherwise requires, the following words and phrases shall have the following meanings:

“Bank” means an ‘approved bank’ in accordance with the Financial Conduct Authority’s Handbook. This includes building societies and credit institutions.

“Bye-laws” means the bye-laws of the Institute as amended from time to time.

“Client Bank Account” means an account at a bank in the name of the firm separate from other accounts of the firm. Client bank account must have the word client in the title of the account. The accounts can be general client accounts or an account designated to a particular client.

“Clients’ Money” means money of any currency which a firm holds or receives for or from clients, and which is not immediately due and payable on demand to the firm for its own account. Fees paid in advance for professional work agreed to be performed and clearly identifiable as such are excluded.

“Institute” means Institute of Financial Accountants.

“Member” means a member of the Institute and membership shall be construed accordingly in accordance with the Institute bye-laws.

“Member firm” means a member firm of the Institute which shall be construed accordingly in accordance with the Institute bye-laws.

“Minimum limit of indemnity” means the amount of insurance required each year under these regulations.

“Practising Certificate” means a certificate issued to a Member under the Institute’s Public Practice regulations in force from time to time authorising the Member to engage in Public Practice.

“Practice or Public Practice” means practice as a public accountant in the United Kingdom, whether in the capacity of sole practitioner, in partnership or through the medium of a body corporate or otherwise, other than as an employee. “Practising” as applied to a person shall be construed accordingly.

“Principal” means a member who is a sole practitioner or who is a partner in a firm which is a partnership or who is a director of a firm which is a body corporate or who is a member of a limited liability partnership.

“United Kingdom” means the United Kingdom of Great Britain and Northern Ireland and includes the Channel Islands and the Isle of Man.

- 2.2 Headings and sub-headings are for convenience only and shall not affect the interpretation of these regulations.

3 Notices

- 3.1 For the purposes of these regulations, a notice or other document may be given to a member or member firm in accordance with bye-law 15.

4 Practising Certificate

- 4.1 Subject to regulations 4.3, in accordance with bye-law 10.2 (public practice), a member, shall be entitled to engage in public practice in the United Kingdom only if they hold a current practising certificate from the Institute.
- 4.2 The Institute's Statement on Engaging in Public Practice included in these regulations clarifies what is meant by "engaging in public practice" for the purposes of holding a practicing certificate.
- 4.3 A member shall be eligible to hold an Institute practising certificate only if the member has satisfied the Institute of the following:
- (a) has not less than three years' UK experience in at least three of these main areas: financial accounting, management accounting, assurance, taxation and data processing . The experience must have been gained within 10 years of applying for a practicing certificate years;
 - (b) been compliant with the requirements of bye-law 8 Continuing Professional Development and the Institute's Continuing Professional Development Regulations;
 - (c) understands the Fundamental Principles set out in the Institute's Code of Ethics;
 - (d) has undertaken to comply with the Public Practice Regulations included in the annual practice return to the Institute;
 - (e) is a fit and proper person in accordance with bye-law 2 (membership); and
 - (f) has submitted an application in such form as prescribed by the Institute including payment of prescribed fees.
- 4.4 In accordance with bye-law 10.5 (public practice), a member who ceases to be eligible for an Institute practising certificate shall return his practising certificate to the Institute.

5 Professional Indemnity Insurance

- 5.1 Subject to the exemptions listed in paragraph 5.3, every member in public practice must have professional indemnity insurance in accordance to the terms set out in paragraphs 5.5 - 5.10.
- 5.2 Those members who do not make their own professional indemnity insurance arrangements must ensure that the arrangements of their member firm comply with these regulations.

Exemptions

- 5.3 The Institute may, at its absolute discretion, and in such terms as it decides may grant an exemption in the following circumstances:
- (a) a member who is a principal/partner/director in a firm regulated by another professional body and has in place the professional indemnity insurance required by that body;
 - (b) a member who is an employee of a firm and holds a practising certificate due to the regulatory requirements of that firm but who is not engaged in public practice, on his own or in another member firm;
 - (c) a member who holds a practising certificate but is not engaged in public practice; and
 - (d) a member who is self-employed and works as a consultant for a member firm, provided they have written confirmation from the contracting member firm that the member firm's professional indemnity insurance policy covers the member and meets the Institute's regulations.

- 5.4 Members who are not engaged in public practice but provide accountancy services on a voluntary basis must indicate in writing to the recipient of those services that they do not have professional indemnity insurance cover.

Terms of cover

- 5.5 The professional indemnity insurance cover should be on 'any one claims basis' not an annual aggregate.

- 5.6 The annual minimum amount of indemnity for a member in public practice shall be:

- (a) where the member firm's gross fee income is less than £400,000, the required annual minimum limit of indemnity for each and every claim or in all is the greater of two and a half times its gross annual fee income or £100,000;
- (b) where the member firm's gross fee income is £400,000 or more, the required annual minimum limit of indemnity shall be £1,000,000 for any one claim or in all.

The professional indemnity insurance must provide six years' retroactive cover, which provides cover for past acts. The date of the cover must be at least six years before the date of the current policy or when the practice started if sooner.

- 5.7 The professional indemnity insurance must cover all civil liability, with costs and expenses being in addition to the limit on indemnity. The professional indemnity cover must cover all services provided in connection with the member firm.

- 5.8 Member firms must conduct a risk assessment to establish the level of professional indemnity insurance that the member firm requires. As part of this risk assessment, member firms should consider the following areas:

- (a) the minimum level of cover required by these regulations as per paragraph 5.6;
- (b) the likely exposure of the member firm to claims, taking into account changes in the composition of the member firm, clients and services;
- (c) whether cover is consistent with that of similar member firms with similar risk profiles and resources;
- (d) advice from experts, including your insurers;
- (e) external economic climate and types of businesses facing difficulties;
- (f) the availability of member firm and personal resources to meet claims.

- 5.9 Member firms must review their risk assessments on an annual basis to ensure that the level of professional indemnity cover for the member firm is adequate.

- 5.10 The professional indemnity insurance cover may include an excess, where the insured bears the first part of any claim. The member firm must ensure that it would be able to meet the costs of any excess that may arise out of claims.

Monitoring and compliance

- 5.11 Member firms are required to complete a return to the Institute each year confirming compliance with these regulations.

- 5.12 All members in public practice who are required to hold professional indemnity insurance must confirm to the Institute each year that they hold professional indemnity insurance cover and must make available to the Institute copies of the professional indemnity insurance certificate and insurance policy on request.

- 5.13 Member firms and members who fail to comply with the requirements in these regulations may be liable to disciplinary action. In addition, members may no longer be eligible to hold a practicing certificate.

Cessation of practice

- 5.14 Members who cease to be in public practice must ensure that they have arrangements for professional indemnity insurance ("run-off cover") for a period of not less than six years after they cease to engage in public practice. The terms of the professional indemnity insurance policy should satisfy the requirements of these regulations as applied to the member firm during the year immediately preceding such cessation.
- 5.15 Members who change practice member firms, are involved in a merger of two or more practices or other changes in the composition of the member firm, should also ensure that they have adequate retroactive professional indemnity insurance for the new and old member firms.

6 Clients' Money

- 6.1 Clients' money must be kept separate from money belonging to the member firm.
- 6.2 Members are reminded that concealing or making arrangements to conceal criminal property or terrorist funds are offences under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended or re-enacted from time to time or the equivalent legislation in other jurisdictions and its requirement for anti-money laundering supervision..
- 6.3 Before a member firm opens a clients' bank account it must verify the identity of the client to ensure that the client bank account is being used for lawful and legitimate purposes. A clients' bank account should only be used for receiving and making payments relating to the services being provided by the firm to the clients.
- 6.4 When opening a client bank account, the firm must provide written notice to the bank concerned that:
- (a) all money standing to the credit of that account is held by the firm as clients' money and that the bank is not entitled to combine the account with any other account or exercise any right to set off or counterclaim against money in that account in respect of any sum owed to it or any other account of the firm;
 - (b) any interest payable on the money in the account shall be credited to that account;
 - (c) the bank must include in its records that the money in the account belongs to the firm's client(s);
 - (d) the bank must acknowledge in writing that it accepts the above terms.
- 6.5 If the bank does not provide the written acknowledgement in accordance with paragraph 6.4, the member firm should follow this up with the bank. If no written acknowledgement is forthcoming from the bank after 1 month of making the request, the firm must withdraw all the money from the bank account, close the bank account and deposit the money with another bank. As a last resort, the member firm must return the money to the client.
- 6.6 Clients' money received by the member firm must be paid into the client's bank account or as otherwise directed by the client.

- 6.7 If money received includes client and firm's money, the money can be paid into a client bank account. As soon as the funds have cleared, non-client money must be withdrawn from the client bank account.
- 6.8 Clients' money must be placed in an interest bearing account with a fair rate of interest, unless the amount concerned is not material or the client makes other arrangements with the firm.
- 6.9 Where money of any one client exceeds £10,000 for more than 30 days, it is recommended that the money should be paid into a separate interest-bearing bank account designated to the client.
- 6.10 Money held in a clients' bank account may be withdrawn by the member firm when:
- (a) making payments on or behalf of the client;
 - (b) making payments to the firm relating to fees or commission earned by the firm with written authorization from the client;
 - (c) transferring money to another client bank account;
 - (d) making payments to a registered charity in accordance with paragraph 6.11.
- 6.11 A member firm may cease to treat as clients' money, any money that remain unclaimed by a client after 5 years. The member firm must demonstrate that they have taken reasonable steps to trace the client. In such circumstances, the monies involved can be donated to any registered charities. If the monies are above £10,000 per client, the firm must request the registered charity to provide an indemnity against claim subsequently made by the client for the money.
- 6.12 A member firm must keep clients' money records which show details of the transactions in the client bank accounts and details of all transactions in the clients' ledger accounts. The firm must reconcile the clients' bank account to the clients' ledger account at minimum every month. These records must be kept for at least six years from the date of the last transaction in the clients' account.
- 6.13 Member firms must confirm in their annual return that they meet the requirements of these regulations and will supply evidence to the Institute as requested to support this confirmation.
- 6.14 All the principals of the member firm will be responsible for ensuring the firm adheres to these regulations. If disciplinary proceedings arise as a result of breach of these regulations, all principals of the member firm may be subject to disciplinary proceedings unless the evidence suggests that the responsibility for the breach was the responsibility of particular principal in the member firm.

7 Arrangements for Death or Incapacity

- 7.1 All members in public practice must make adequate arrangements to ensure the continuity of the management of the practice at all times in the event of holidays, sickness, ill-health and death. Members have a duty of care to their clients and without these arrangements serious difficulties may arise, prejudicing the interests of clients.
- 7.2 It is mandatory for sole practitioners to have a nominated person or firm (an 'alternate') to discharge the obligations of the firm in the event of ill-health or death. Failure to appoint such a nominated person or firm may result in the Institute not issuing a practising certificate to the member and may also lead to disciplinary action.

- 7.3 Members in a partnership or corporate practice may nominate other directors or partners directors in that practice to act as their alternate providing these persons are competent and have the capacity to undertake the additional work to continue the practice.

- 7.4 When making arrangements for the continuity of practice, members must consider the competency and capacity of the individual or firm and whether arrangements require specific legal measures such as powers of attorneys, wills or other legally binding arrangements. These arrangements should be in writing and periodically reviewed by relevant parties.

Institute Statement on Engaging in Public Practice

- 1 The Institute has issued this Statement to help members determine whether or not they are engaged in public practice and whether they need a practising certificate. The eligibility for obtaining a practising certificate is set out in the Institute bye-law 10 (Public Practice) and the Public Practice Regulations.
- 2 Members may be eligible to apply for a tax practising certificate only if less than 5% of the member firm or group's fees are derived from the provision of other accountancy services referred to in Appendix 1 of this Statement.

Public Practice

- 3 Members are engaged in public practice when personally and directly they provide or hold themselves out to provide accountancy services to the public for reward in the United Kingdom, whether in the capacity of sole practitioner, in partnership or through the medium of a body corporate or otherwise, other than as an employee. Appendix 1 provides guidance on types of services which the Institute would regard as accountancy services.
- 4 Members will be held out to be engaged in public practice if they are employed in a public practice member firm and either:
 - (a) there are no other professional accountants in positions of seniority or supervision over you within the organisation whom have responsibility and supervisory duties for the work; or
 - (b) the clients of the public practice member firm are otherwise led to believe that you are the partner or director of the member firm.
- 5 Subject to 4, a member who is employed in a public practice member firm does not by virtue of their employment engage in public practice. However, such a member would be engaged in public practice if they provide accountancy services for reward to the public in the United Kingdom as a director or partner of a member firm outside their duties of employment.
- 6 The following are circumstances in which members are not required to hold an Institute practising certificate:
 - (a) employees of public practice member firms, subject to 4 and 5.
 - (b) directors, trustees or other officer of a not for profit organisation who provide their services without reward.
 - (c) persons who gratuitously or for a nominal amount and not in anticipation of reward applies their skills for the benefit of friends, family and small not for profit organisations. The nominal amount must not exceed £100 per appointment to cover travel and other ancillary expenses.

Use of designatory letters and member firm descriptions

- 7 In accordance with bye-law 2 (Membership) and bye-law 3 (Member Firms) members and member firms may use the designatory letters, logos and descriptions irrespective of whether they hold a practising certificate.

Anti-Money Laundering Supervision

- 8 If you conclude that you are not in public practice, members must still consider whether they are included in the scope of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended or re-enacted from time to time or the equivalent legislation in other jurisdictions and its requirement for anti-money laundering supervision. Such supervision can be provided by another supervisor as appropriate.

Retired and Life Members

- 9 Retired and life members may qualify for reduced membership fees provided all remunerated business and professional activities have ceased and practising certificates have been surrendered. Retired and Life Members can still undertake voluntary activities in accordance with 6 c).

Appendix 1 – Accountancy Services

The following list of services is considered by the Institute to be accountancy services.

- bookkeeping
- client payroll
- preparation of management or financial accounts
- preparation of client budgets, forecasts, cash flows and business plans
- management consultancy on accountancy activities
- assurance services, including independent examination for charities, certification of income, ATOL reporting and other services which may be relied upon by third parties.
- internal audit of accounting and internal control systems
- advice or consultancy on accounting and financial reporting systems
- dealing with personal/business tax returns
- providing tax advice
- representing a client in a tax situation (eg client under investigation needing someone to deal with the tax authorities)
- estate administration
- acting as an executor or administrator in a will
- business funding advice, with the exception of where advice is to seek or negotiate the source of funds
- valuations of businesses, shares, related instruments and intangible assets
- due diligence (i.e. investigations into the accounting or financial aspects of a transaction such as a company take-over)
- debt counselling
- forensic accounting
- expert witness services where they are related to accountancy services
- compliance services supplied to member firms of accountants

The following list of services is not regarded as accountancy services:

- acting as a trustee
- advising on governance
- advising on general business strategy which does not include financial advice
- training services
- business funding advice in order to seek or negotiate the source of funds
- management consulting on non-accounting matters
- company secretarial services or other company services such as company formation, providing correspondence/registered office address.
- computer hardware and software installation
- computer training