

SRA BOARD
7 December 2016

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Risk Outlook 2016/17: Autumn update and topic papers

Purpose

- 1 This paper provides a summary of the Risk Outlook Autumn Update and confirms the release of two Risk Outlook topic papers about information security and investment fraud.

Recommendations

- 2 The Board is asked to note:
 - (a) the online release of the Risk Outlook Autumn Update (paragraphs 12 to 14)
 - (b) the release of a Risk Outlook topic paper about information security (paragraphs 15 to 18 and Annex 1)
 - (c) the release of a Risk Outlook topic paper about investment fraud (paragraphs 19 to 24 and Annex 2).

Next steps

- 3 We will host a roundtable on information security and cybercrime in the New Year. We want to hear the views of a range of people and organisations to share best practice and help us better understand how law firms can mitigate the risk of cybercrime.

If you have any questions about this paper please contact: Crispin Passmore, Executive Director of Policy, crispin.passmore@sra.org.uk or 0121 329 6687

Risk Outlook 2016/17: Autumn update and topic papers

Background

- 4 We released our fourth annual Risk Outlook on 25 July 2016. The report is available on our website together with an online tool.
- 5 The Risk Outlook provides an overview of risks to the protection of people who use legal services, the rule of law and the proper administration of justice. Its overriding purpose is to:
 - set out our position on risk in the legal services market
 - show the priorities to which we will allocate our resources
 - explain how we will control these risks and act in the public interest
 - help solicitors and firms manage risk.
- 6 It sets out the main trends in the legal market and discusses the following priority risks:
 - lack of access to legal services
 - standards of service including considering vulnerability
 - information security
 - independence and integrity
 - protecting client money
 - money laundering
 - diversity.
- 7 For each risk we explain why it matters to us, any relevant trends we have observed and how the risk can be managed.
- 8 We update the online tool twice-yearly which allows us to add in any pertinent information that emerges during the year. Alongside the updates, we publish topic papers which bring together useful information on specific risks. For example, we released a paper on the possible consequences on lawyers of the UK exiting the EU in September this year.

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- 9 This year's Autumn Update is accompanied by the release of two topic papers on information security and investment fraud.

Discussion

Risk Outlook 2016/16 – engagement update

- 10 We reported on the early impact of the Risk Outlook 2016/17 at the SRA Board meeting on 13 September 2016. Interest in the Risk Outlook has continued, most notably at our annual Compliance Officer conference where our breakout session on anti-money laundering, cybercrime and Brexit attracted over three hundred people.
- 11 The Risk Outlook content on our website remains popular. The Risk Outlook 2016/17 has received almost 5,000 views in four months. The most commonly viewed risk on the online tool is information security (861 views) followed by anti-money laundering (528 views). Our paper on the UK exiting the EU has had over 1,600 views since its release in September. The online Periscope broadcasts we conducted to launch the Risk Outlook have been viewed by over 300 people.

The Autumn Update to the Risk Outlook online tool

- 12 We have continued to monitor the legal market and have now updated the online tool with the latest information.
- 13 The Autumn Update to the Risk Outlook 2016/17 includes:
- a summary of our latest research into the personal injury market
 - the latest trends in anti-money laundering including tips from the National Crime Agency on how to write Suspicious Activity Reports.
 - information about investment fraud, including a link to our latest Warning Notice and Public Notice on this issue.
- 14 We want to make the Risk Outlook information as accessible as possible. We will conduct two five-minute Periscope broadcasts to support the Autumn Update and the release of the topic papers on information security and investment fraud.

Recommendation: the Board is asked to note the online release of the Risk Outlook Autumn Update.

The release of a topic paper about the information security

- 15 At the September Board meeting we confirmed our intention to publish a topic paper on information security, focusing on cybercrime. From conversations with practitioners, enforcement agencies and other organisations such as insurers,

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we know this risk is of increasing importance. It is the most commonly visited risk on the online tool as discussed in paragraph 11.

- 16 The paper we are releasing today, *Information security: keeping money and information safe* is our first in-depth report on cloud computing, data protection and cybercrime for two years and updates our previous papers on these issues.
- 17 The key messages arising from the paper can be summarised as follows:
- Cloud computing is now the data storage system of choice for the majority of businesses and law firms are no different.
 - We do however expect law firms to understand and mitigate the risks of cloud computing. For example, they need to make sure that files and information can be made available to us for inspection, on request.
 - We set out the most common cybercrime threats.
 - We discuss the steps that can be taken to successfully combat cybercrime, focusing on business culture, policies and systems, training and IT support.
 - There is underreporting of cybercrime. We set out the importance of reporting any loss of client money and information to us. We also explain why we are also interested in hearing about failed cybercrimes as the information can be used by us to warn others.
- 18 In the New Year we intend to host a roundtable to discuss the challenges law firms face in preventing and dealing with cybercrime. We expect to host firms, law enforcement agencies, insurers, IT specialists and others.

Recommendation: the Board is asked to note the release of a Risk Outlook topic paper about information security.

The release of a topic paper about investment fraud

- 19 Our Risk Outlook 2016/17 highlights the importance of solicitors acting with independence and integrity at all times. We have become aware of an increasing trend of solicitor involvement in the promotion and administration of investment scams. Although the numbers of solicitors involved is thought to be very small, the impact on consumers and the trust placed in solicitors can be significant. We are aware that consumers have lost over £100m to investment scams where solicitors have been involved in some way.
- 20 On 21 September we released a Warning Notice to solicitors about involvement with investment schemes and the use of client account. This received extensive coverage in the legal press.

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- 21 We followed this with a Public Warning Notice on 3 November. This was reported in the national press including the Times, Daily Express and Mirror. It also received support from publications such as Money Observer and Money Wise. We have conducted targeted social media on this issue and released an easy read version of the Notice for people who may be vulnerable. By communicating directly to the people most at risk of investment scams we are demonstrating our commitment to public protection through targeted and proportionate regulation.
- 22 The topic paper we are releasing today, *solicitors and investment fraud*, provides more information to help solicitors spot investment scams. It also includes good practice tips and demonstrates through case studies the impact that investment fraud can have on the public.
- 23 The key messages from the paper can be summarised as follows:
- Solicitors should be aware that promoters of investment scams often try and legitimise them through the involvement of solicitors and law firms.
 - Examples we have seen where solicitors have been used to legitimise a scam include diamond trading, advanced fee fraud and land banking.
 - Solicitors' involvement has included acting for the promoter in order to make the scheme appear legitimate, acting for or claiming to look after the interests of investors and passing investors' money through their client account.
 - We have well established principles and rules that set out solicitor duties to their clients, third parties and to the proper administration of justice and public interest.
 - We have taken cases to the Solicitors Disciplinary Tribunal and significant sanctions have been imposed. The paper includes case studies demonstrating the serious consequences solicitors have faced due to their involvement.
 - Good practice includes reading our Warning Notices, conducting due diligence on any promoter who requests legal services, remaining independent of clients and not allowing client account to be used as a banking facility.
- 24 We will continue to monitor risks in the legal market and will update the Risk Outlook online tool again in the Spring of 2017.

Recommendation: the Board is asked to note the release of a Risk Outlook topic paper about investment fraud.

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Supporting information

Links to the Strategic Plan and / or Business Plan

- 25 This work links directly to strategic objective two in the Corporate Strategy, to work with solicitors and firms to raise standards and uphold core professional principles. The Risk Outlook communicates what is important to us and helps solicitors manage risks to the rule of law and their professional standards.
- 26 The production of the Risk Outlook updates and topic papers form part of the risk analysis and research business plan for 2016, under our new Market Intelligence work stream.

How the issues support the regulatory objectives and best regulatory practice

- 27 Proportionality includes the requirement to ensure action and remedy is appropriate to the risk posed. This is also relevant to the principle of being targeted. By communicating with solicitors about the risks and providing case studies, trends and information about controls, we are able to be transparent about when regulatory intervention is and isn't necessary. In respect of the topic papers, we seek to support the legal market by providing the latest information in a clear and open way, demonstrating our commitment to making regulation user friendly and easy to follow.

Public/Consumer impact

- 28 We work with the consumer affairs team to incorporate consumer views into the Risk Outlook programme of work. By highlighting the fact that people have had their information and money stolen due to cybercrime, and others have had their money lost to investment scams it is clear our focus is on reducing levels of public harm through encouraging high professional standards and good regulatory practice. We have made our Risk Outlook and online tool easier to read and in many cases shorter, which is also likely to have a beneficial impact on people using our services.

What equality and diversity considerations relate to this issue

- 29 The Risk Outlook, online tool and topic papers can be made available in paper form on request. One of our priority risks relates to the diversity of the profession and we have worked with the EDI team to ensure an appropriate approach to these messages. We are not aware of any adverse impacts on equality and diversity.

How the work will be evaluated

- 30 Following release of each Risk Outlook update we hold a post project evaluation meeting where lessons learned are carried forward to the next iteration. We also monitor media coverage and web hits. We will continuously use horizon scanning to monitor risk in the legal market.

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Author	Crispin Passmore
Contact Details	crispin.passmore@sra.org.uk or 0121 329 6687
Date	23 November 2016
Annexes	
Annex 1	IT Security: Keeping money and information safe
Annex 2	Solicitors and investment fraud