

Administration of client funds and clients' valuable documents and accounting etc in legal practice as a Member of the Swedish Bar Association
issued by the Board of the Swedish Bar Association in June 1994

Having consulted the Council of the Swedish Bar Association, the Board of the Swedish Bar Association has issued the following regulations under section 35, paragraph 2 and section 46, paragraph 1 of the Charter of the Bar Association. These regulations apply in addition to provisions of law and the Charter of the Bar Association.

Introductory provisions

Section 1

Members of the Swedish Bar Association ("Members") are obliged to keep a journal of engagements received in a bound book.

Members using electronic data processing (EDP) in their accounting, including comprehensive systems for recording engagements received, are not obliged to keep a register in a bound book provided register lists of new and concluded engagements are printed out in numerical order at least once a month, and these lists are kept in unbroken numerical sequence.

For the purpose of these regulations, the term "client funds" means money delivered to a Member, for which he is under a duty to account, including funds paid in advance for disbursements or fees.

For the purpose of these regulations, the term "valuable documents" means shares, bonds, debentures, bank books belonging to clients and which the Member has no right to dispose, pledge and mortgage documents, charges and instruments of debt, and any similar documents.

Administration of client funds

Section 2

Client funds must be separated without delay.

Separation is to be achieved by deposit in a bank account or postal giro account as described below.

In addition to situations where the law so provides, a bank or postal giro account as mentioned in the second paragraph must be opened in the client's name where this must be considered appropriate in view of the size of the amount, the period of administration or other circumstances. Otherwise separation may take place by deposit in a bank account opened in the Member's or the law firm's name, the name of which account clearly shows that the funds deposited therein constitute client funds (client bank account), or a postal giro account for such funds opened in the same way (client postal giro account).

Section 3

Only funds of this kind may be held in a bank or postal giro account intended for client funds. Accounts of the kind mentioned in section 2, paragraph three, item 2 opened in the name of the Member or law firm may contain funds belonging to one or more clients.

Section 4

Client funds may be used only for payments to the client or for his account, or for covering disbursements made by the Member for the client, and fees charged to the client on an invoice or statement of account made out to the client, or other equivalent document.

Withdrawals of separate client funds may be made only for the purposes mentioned in the first paragraph. If an account contains funds belonging to several clients, only the sum held for a given client may be withdrawn for his account.

Section 5

Before 1 April each year a Member must submit an account of administration of funds during the preceding calendar year to each client towards whom he has been under a duty to account for a sum exceeding the "base amount" (*basbelopp*) for the year in question pursuant to the National Insurance Act (1962:381) on any occasion during that year, unless a final account has been submitted prior to that date.

If client funds have been held on deposit in a bank account or postal giro account in the client's name, an account submitted under the first paragraph must be accompanied by a statement of account issued by the bank or Postgirot and showing deposits and withdrawals during the year and the balance at the end of the year.

Instead of submitting an account in accordance with the first paragraph, a Member is entitled to agree with the client that the part of the Member's accounts for the preceding calendar year relating to the client will be examined by an authorised or approved public accountant appointed by the client. A certified audit statement must be submitted to the client within the time limit stipulated in the first paragraph.

The provisions of this section do not apply where other rules governing periodic accounting are provided by law.

Administration of clients' valuable documents

Section 6

Valuable documents belonging to clients must be listed and kept separate from the Member's own documents of this kind and must be stored in a satisfactory manner.

Securities that are publicly traded must be placed in custody at a bank within two months of receipt. However, this need not occur where the total value of the documents of this kind received from a single client does not exceed the "base amount" (*basbelopp*) under the

National Insurance Act (1962:381). The value must be determined when the documents are received and subsequently when the annual statement of account is issued.

Section 7

Unless the Member has issued a final statement of account prior to 1 April, the Member must provide each client towards whom, at the end of the preceding calendar year, he was under a duty to account for valuable documents received, with a custody account statement issued by a bank, and also a statement of account signed by the Member for other valuable documents in his custody. There is no duty to provide the client with a statement of account where the value of the documents in the Member's custody does not exceed the "base amount" pursuant to the National Insurance Act (1962:381) or regarding proof of debt for debt collection measures or court proceedings.

The provisions of this section do not apply where other examination of the administration is arranged by law.

Accounting and auditing

Section 8

A Member conducting his own business must keep his accounts in accordance with generally accepted accounting principles and the provisions of these regulations.

Members are not entitled to rely on section 1, paragraph 4 of the Accounting Act (1976:125). Members are under a duty to keep a separate account intended solely for client funds (client funds account) in their book of first entry. All client funds received by the Member must be credited to that account.

A client funds account may not be debited sums other than:

1. payment of client funds to the client or for the client's account;
2. client funds credited by the Member to himself to cover disbursements he has made on the client's behalf; and
3. client funds credited by the Member to himself in the form of fees as set out on an invoice or account statement or equivalent document supplied to the client.

The accounts must include separate accounts for the bank and postal giro accounts in which client funds received are kept separate.

Client funds must be accounted for on the balance sheet of, or in a note to, the annual statement of account as a separate item among assets as well as liabilities.

Where a Member administers a bankruptcy or insolvency, the affairs of the "bankruptcy estate" (*konkursbo*) may be accounted for separately, whereby separate accounts are created outside the current recording of transactions by the law firm (*advokatbyrå*). If this is done, however, changes in the client funds balance must be transferred to the law firm's accounts each quarter.

Section 9

A Member conducting his own business must ensure that an authorised or approved public accountant is appointed, whose task it is to perform auditing in accordance with generally accepted auditing standards, to certify that the accounts comply with the law and these regulations, and that other provisions of the regulations have also been observed (audit report).

Duty of information vis-à-vis the Board

Section 10

A Member conducting his own business must file an audit report at the office of the Bar Association pursuant to section 9 above within six months after the end of each financial year.

If an audit report is not received within the specified time, the Board is entitled to appoint an authorised or approved public accountant to perform an audit pursuant to section 9 above at the Member's expense and to submit a certified audit report to the Board.

The Board has also decided to impose the following obligation to submit a certified statement as to holdings of shares in limited liability law firms (*advokataktiebolag*), to apply as of 1 October 1994.

A Member practising as an *Advokat* in the form of a limited liability company must ensure that an authorised or approved public accountant issues a certified statement as to the information contained in the share register concerning holdings of shares in the limited liability law firm, and that the certified statement is filed at the office of the Bar Association within six months after the end of each financial year.