

# **Analysis of the Changes to the Legal Profession relevant to Accountants and Auditors**

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## Preface

The Legal Practice Act, 28 of 2014 (the LPA) was enacted on 22 September 2014 (Government Gazette No 38022). The remaining chapters of the LPA were implemented on 1 November 2018 (Government Gazette No 42003), thereby replacing the Attorneys Act 53, 1979 (the Attorneys Act) in its entirety (with some exclusions). The final South African Legal Practice Council Rules (the LPC Rules) made under the authority of Section 95(1), 95(3) and 109(2) of the LPA were gazetted on 20 July 2018 (Government Gazette No 41781) and replaced the Rules for the Attorneys' Profession (Uniform Rules).

The Legal Practice Council (the LPC) has now assumed regulation over all legal practitioners, as defined in the LPA and includes attorneys and advocates.

The purpose of this document is to assist SAICA members who are involved in the accounting or audit of legal practitioner trust accounts, and their support staff, including audit managers, supervisors, trainee accountants and engagement quality reviewers in identifying the changes that have arisen and determine the impact on the related work performed.

This document is divided into two parts. Part A provides an overview of the key differences between the Attorneys Act and the LPA relevant to accountants and auditors. Part B includes a tabular comparison between the Uniform Rules and the LPC Rules.

Although special attention was given to the correctness of the information it is possible that legislation and the content may change from time to time. The list of regulatory requirements is also not exhaustive and in no way represents all applicable reporting duties. Please also note that the information contained herein serves as a guide only and readers are advised to consult the full text of the legislation for further information. This document or any part thereof may not be copied.

## **PART A : LEGAL PRACTICE ACT: CHANGES RELEVANT TO ACCOUNTANTS AND AUDITORS**

### **Proclamation 31 of 2018**

Chapter 2 of the LPA, with the exclusion of section 14, came into effect on 31 October 2018.

The following sections of the LPA come into effect on 1 November 2018:

- Chapter 1
- Chapter 3, excluding section 35(1), (2), (3) and (7) up to and including (12) (fees in respect of legal services)
- Chapter 4, with the exclusion of sections 37(5)(e)(ii), 40(1)(b)(ii) and (7)(b), 41 and 42
- Chapter 6 and 7
- Chapter 8, with the exclusion of section 93(5)
- Chapter 9, with the exclusion of section 95(2)
- Parts 3 and 4 of Chapter 10

Chapter 5 has not come into effect as it relates to the establishment of the Legal Services Ombud and the related sections noted above also did not come into effect.

Rules made under the authority of sections 95(1), 95(3) and 109(2) of the LPA came into effect on 1 November 2018, replacing the previous Uniform Rules in terms of the Attorneys Act.

The paragraphs that follow provide an overview of matters contained in the LPA that are of relevance to accountants and auditors.

### **Legal practitioners**

Legal practitioners means an advocate or attorney admitted and enrolled as such in terms of sections 24 and 30, respectively. The LPA now includes advocates in the definition of a legal practitioner whereas the Attorney's Act definition was limited to attorneys, notaries and conveyancers. The result of this is that advocates practicing with trust accounts will be subject to the same rules that apply to attorneys with trust accounts.

### **Trust account practice**

Trust account practice means a practice conducted by one or more attorneys who are; or an advocate referred to in section 34(2)(b) who is, in terms of the LPA, required to hold a fidelity fund certificate.

### **Legal Practice Council**

The LPA provides for the establishment of the South African LPC as a body corporate with full legal capacity, and to exercise jurisdiction over all legal practitioners and candidate legal practitioners as contemplated in the LPA.

The objects and powers of the LPC is set out in section 5 and 6 of the LPA. The LPA does allow for the LPC to delegate powers to the Provincial Councils – see regulations under section 109(1)(a) of the LPA in this regard. **Fidelity Fund Certificate**

The Attorney’s Fidelity Fund established by section 25 of the Attorneys Act continues to exist as a juristic person under the name Legal Practitioner’s Fidelity Fund (LPFF) in accordance with section 53 of the LPA.

Section 86(1) of the LPA requires that every attorney or any advocate referred to in section 34(2)(b) who practices or is deemed to practice for his/her own account either alone or in partnership or as a director of a practice which is a juristic entity must be in possession of a fidelity fund certificate.

Requirements for the issuing of a fidelity fund certificate include:

- Settle all outstanding monies due to the LPC
- Audit/inspection report approved by the LPC
- Compliance with practice management training requirements

**Accounting records**

Section 87(3) of the LPA determines that accounting records include any record or document kept by or in the custody or under the control of any trust account practice which relates to—

- a) money held in trust;
- b) money invested in terms of section 86(2), (3) or (4) and interest thereon;
- c) any estate of a deceased person or any insolvent estate or any estate placed under curatorship, in respect of which an attorney in the trust account practice is the executor, trustee or curator or which he or she administers on behalf of the executor, trustee or curator; or
- d) the affairs of the trust account practice.

**Trust accounts and interest**

Section 78 (2)(b) of the Attorneys Act required that any trust savings or interest-bearing account referred to in section 78(2)(a) contain a reference to this subsection. Section 86 of the LPA does not contain such a requirement. The effect of this is in the change of account designations from that in the previous Attorneys Act.

The treatment of interest has also changed. Interest is no longer collected by the law societies but now vests with the LPFF. Rules 54.14.16.1 to 54.14.16.5 of the LPC Rules determine the payment of interest to the LPFF.

An overview of the relevant trust account and related interest is presented as follows:

Description	Attorneys Act	LPA	Interest

Trust account	Section 78(1)	Section 86(2)	Interest vests with the LPFF
General trust account where funds are not immediately required	Section 78(2)(a)	Section 86(3)	Interest vests with the LPFF
Trust monies invested on instructions	Section 78(2A)	Section 86(4)	5% of the Interest vests with the LPFF (effective 1 March 2019)

Rules 54.14.16.1 to 54.14.16.5 of the LPC Rules determine the payment of interest to the LPFF.

The legal practitioner's annual statement on trust accounts includes a comprehensive reconciliation of all trust interest sources.

The requirement of section 63(1)(g)(i) are important to highlight. This section provides that the LPFF's Board may make an arrangement with any bank for the keeping of trust accounts and to provide for the payment of interest to the LPFF, reporting on the trust accounts, the auditing of interest and any other relevant matter.

### **Inspections**

The nature of trust accounting records remained unchanged.

Section 87(2)(a) of the LPA determine that the LPC or their Board may inspect the accounting records of any trust accounting practice in order to satisfy itself that the provision of section 86 and 87(1) are being complied with. Section 87(2)(b) allows the LPC or their Board to write up the accounting records of the trust account practice in the event of non-compliance and to recover the cost of the inspection and the writing up of the accounting records for the trust account practice concerned.

Section 87(5) compels any attorney or advocate referred to in terms of section 34(2)(b) or an employee, at the request of the LPC or their Board or the person authorized by them to produce the information and documentation required for the inspection.

Section 87(6) place a responsibility on the person conducting the inspection on not disclosing the information except under specific circumstances.

Refer to Rule 50 of the LPC Rules, *Inspections of accounting records* for detailed process.

### **Unclaimed and unknown monies**

In terms of section 87(4) of the LPA, any money held in the trust account practice in respect of which the identity of the owner is unknown or which is unclaimed after one year, must after the second annual closing of the accounting records of the trust account practice following the date upon which those funds

were deposited in the trust account of the trust account practice, be paid over to the LPFF by the trust account practice.

This was previously a voluntary arrangement to ensure the safeguarding of these monies and reducing risk to the LPFF.

### **Curatorship**

In terms of section 89 of the LPA, the High court may, on application made by the LPC or their Board, and on good cause shown, prohibit any legal practitioners referred to in section 84(1) from operating in any way on his/her trust account, and may appoint a *curtor bonis* to control and administer that trust account, with any rights, powers and functions in relation thereto as the court may deem fit.

### **Bank statements**

Section 91(4) of the LPA determines that any bank at which a trust account practice keeps its trust accounting or any separate account forming part of its trust account, must, if so directed by the LPC or their Board, furnish the LPC or their Board with a signed statement of that trust account for the period determined.

Previously the Attorneys Act only allowed the bank to provide a balance on the trust account to the Law Society.

## **PART B**

### **COMPARISON OF THE RULES FOR THE ATTORNEYS' PROFESSION (UNIFORM RULES) AND THE FINAL RULES MADE UNDER THE AUTHORITY OF SECTIONS 95(1), 95(3) AND 109(2) OF THE LEGAL PRACTICE ACT (LPC RULES)**

#### **Introduction**

The LPC Rules apply to all legal practitioners (attorneys and advocates) as well as all candidate legal practitioners and juristic entities as defined. They consist of the following parts:

- I. Definitions
  - II. Fees and Charges
  - III. The Council
  - IV. Provincial Councils
  - V. Professional Practice
  - VI. Education and Training
  - VII. Administration and Enrolment
  - VIII. Rendering of Legal Services
  - IX. Law Clinics
  - X. Disciplinary Rules
  - XI. Legal Practitioners Fidelity Fund: Procedural Rules
  - XII. Accounting Rules
- Schedules to the Rules

#### **Scope of the comparison**

Our comparison is solely focus on Part XII: Accounting Rules, specifically Rule 54 to 56.



### Tabular comparison

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
<b>Accounting requirements general</b>	35.5	54.6	<p>The Uniform Rules required a firm shall keep in an official language of the Republic such accounting records as are necessary to enable the firm to satisfy its obligations in terms of the Act, these rules and any other law with respect to the preparation of financial statements that present fairly and in accordance with an acceptable financial reporting framework in South Africa the state of affairs and business of the firm and to explain the transactions and financial position of the firm including, without derogation from the generality of this rule:</p> <p>The LPC Rules require that, a firm shall keep in an official language of the Republic such accounting records, <b>which record both business account transactions and trust account transactions</b>, as are necessary to enable the firm to satisfy its obligations in terms of the Act, these rules and any other law with respect to the preparation of financial statements that present fairly and in accordance with an acceptable financial reporting framework in South Africa the state of affairs and business of the firm and to explain the transactions and financial position of the firm including, without derogation from the generality of this rule.</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
<b>Acceptable Financial reporting framework</b>	35.6.2	54.7.2	<p>The Uniform Rules state –</p> <p>35.6.2 In determining what is meant by "acceptable financial reporting frameworks" regard shall be had, <i>inter alia</i>, to any rulings of the Council published to <b>members</b> with respect to specific additional disclosures required to be made in the financial statements or trust account schedules.</p> <p>The LPC Rules state-</p> <p>54.7.2 In determining what is meant by "acceptable financial reporting frameworks" regard shall be had, <i>inter alia</i>, to any rulings of the Council published to <b>trust account practitioners</b> with respect to specific additional disclosures required to be made in the financial statements or trust account schedules.</p>
<b>Retention of accounting records and files</b>	35.8.1	54.9.1	<p>The Uniform Rules required a retention period of at least five years from the date of the last entry recorded in each particular book/ other document of record /file.</p> <p>The LPC Rules require that a firm shall retain its accounting records, and all files and documents relating to matters dealt with by the firm on behalf of clients:</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			54.9.1 for <b>at least seven years</b> from the date of the last entry recorded in each particular book or other document of record or file.
<b>Retention of accounting records and files</b>	35.8	54.9.2.3	In the LPC Rules, a new rule was added which states:  Where the accounting records are required to be made available elsewhere than as provided for in this rule to enable an auditor or inspector to comply with the provisions of rule 54.24, the accounting records may be removed temporarily to the premises of the auditor or inspector, as the case may be, for that purpose, but shall be returned to the place referred to in rule 54.9.2 as soon as the accounting records have served that purpose.
<b>Payments to clients</b>	35.12	54.13	The Uniform Rules stated that a firm shall, unless otherwise instructed, pay any amount due to a client within a reasonable time.  In addition to the above, the LPC Rules expands on this by indicating that:  Prior to making any such payment the firm shall take adequate steps to verify the bank account details provided to it by the client for the payment of amounts due. Any subsequent changes to the bank account details must be similarly verified.

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
<b>Payments to clients – Accounting records</b>	35.13.2	54.14.2	<p>The Uniform rules require the firm to report to the society forthwith in writing any loss, theft or destruction of accounting records.</p> <p>The LPC Rules, in 54.14.2, indicate that the firm shall report to the <b>Council</b> forthwith in writing, any loss, theft or destruction of any such records.</p>
<b>Prompt depositing of trust monies</b>	35.13.7.1.5	54.14.7.2	<p>The Uniform Rules required that all money received by it on account of any person is deposited intact into its trust banking account on the date of its receipt or the first banking day following its receipt on which it might reasonably be expected that it would be banked;</p> <p>In addition to the above, the LPC Rules expand on this by indicate that:</p> <p>Provided that a firm which does not deposit trust money into a banking product at his registered bank in South Africa with which the Fund has made an arrangement as contemplated in section 63(1)(g) of the Act without the prior written consent of the Council shall be guilty of misconduct; provided further that if any arrangement made by the Fund with a bank in terms of section 63(1)(g) is withdrawn or cancelled, the firm shall forthwith withdraw its trust funds from that bank with immediate effect, or on maturity of the investments concerned, as the case may be.</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
<p><b>Uniform Rules: Reports to Society of non-compliance</b></p> <p><b>Final Rules: Reports to Council of non-compliance</b></p>	<p>35.13.10 35.13.11</p>	<p>– 54.14.10 – 54.14.11</p>	<p>The Uniform Rules state –</p> <p>35.13.10 A firm shall immediately report in writing to the <b>society</b> should the total amount of money in its trust bank accounts and money held as trust cash be less than the total amount of credit balances of the trust creditors shown in its accounting records, together with a written explanation of the reason for the debit and proof of rectification.</p> <p>35.13.11 A firm shall immediately report in writing to the <b>society</b> should an account of any trust creditor be in debit, together with a written explanation of the reason for the debit and proof of rectification.</p> <p>The LPC Rules refer –</p> <p>54.14.10 A firm shall immediately report in writing to the <b>Council</b> should the total amount of money in its trust bank accounts and money held as trust cash be less than the total amount of credit balances of the trust creditors shown in its accounting records, together with a written explanation of the reason for the debit and proof of rectification.</p> <p>54.14.11 A firm shall immediately report in writing to the <b>Council</b> should an account of any trust creditor be in</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			debit, together with a written explanation of the reason for the debit and proof of rectification.
<b>Interest accrued on trust banking account</b>	35.13.16	54.14.16	<p>The Uniform Rules require the trust interest earned on a firm's trust banking account to be paid over to the Attorney's Fidelity Fund or its nominees at such time and in such a manner as prescribed.</p> <p>In the LPC Rules – rule 54.14.16 refers -</p> <p>54.14.16.1 Any interest referred to in section 86(5) of the Act which relates to a trust banking account opened in terms of section 86(2) of the Act which has accrued on money deposited during the course of a calendar month, shall be paid over to the Fund or its nominee on or before the last day of the next succeeding calendar month; provided that the Fund may, in its discretion, exempt a practitioner from this obligation.</p> <p>54.14.16.2 Where exemption has been granted as contemplated in rule 54.14.16.1, any interest referred to in section 86(5) of the Act which relates to a trust banking account opened in terms of section 86(2) of the Act, accrued on monies deposited in respect of any period ending on the last day of February in each year shall, on or before the last day of May in that year, be paid to the Fund or its nominee.</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			<p>54.14.16.3 Any interest referred to in section 86(5) of the Act which relates to an account opened in terms of section 86(3) of the Act accrued on money deposited in respect of any period ending on the last day of February in each year shall, on or before the last day of May in that year, be paid to the Fund or its nominee.</p> <p>54.14.16.4 Any interest referred to in section 86(5) of the Act which relates to an account opened in terms of section 86(4) of the Act, accrued on money deposited during the course of a calendar month or on maturity shall be paid over to the Fund or its nominee on or before the last day of the next succeeding calendar month.</p> <p>54.14.16.5 A legal practitioner shall be guilty of misconduct if he or she fails to pay over, in accordance with this rule 54.14.16, any interest that vests in the Fund.</p>
<b>List of balances</b>	35.14.1	54.15.1	<p>The Uniform Rules required that:</p> <p>Every firm shall extract at intervals of <b>not more than three calendar months</b>, and in a clearly legible manner, a list showing all persons on whose account money is held or has been received and the amount of all such moneys standing to the credit of each such person, who shall be identified therein by name, and shall total such list and compare the said total with the total of the balance standing to the credit of the firm's trust banking account,</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			<p>trust investment account and amounts held by it as trust cash, in order to ensure compliance with Rule 35.13.7.</p> <p>The LPC Rules require that:</p> <p>Every firm shall extract <b>monthly</b>, and in a clearly legible manner, a list showing all persons on whose account money is held or has been received and the amount of all such moneys standing to the credit of each such person, who shall be identified therein by name, and shall total such list and compare the said total with the total of the balance standing to the credit of the firm's trust banking account, trust investment account and amounts held by it as trust cash, <b>in the estates of deceased persons and other trust assets</b> in order to ensure compliance with <b>the accounting rules</b>.</p>
<b>Notification of trust banking account</b>	35.15 and 35.15.1	54.16 and 54.16.1	<p>The Uniform Rules state-</p> <p>35.15 Every firm shall:</p> <p>35.15.1 immediately notify the <b>society</b> in writing of the name and address of the bank or banks at which its trust banking account or accounts are kept and shall thereafter notify the Council immediately of any change in the name and address of such bank or banks;</p> <p>The LPC Rules refer –</p>



Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			<p>54.16 Every firm shall:</p> <p>54.16.1 immediately notify the <b>Council</b> in writing of the name and address of the bank or banks at which its trust banking account or accounts are kept and shall thereafter notify the Council immediately of any change in the name and address of such bank or banks;</p>
<p><b>Trust account investments in terms of section 86(4)</b></p>	<p>35.17</p>	<p>54.18</p>	<p>The Uniform Rules state that a member shall not, in connection with any mandate which the member has accepted to invest trust funds, agree or arrange to receive from a bank any commission, fee or other reward, without having disclosed such commission, fee or reward <b>to the client</b> in writing.</p> <p>In terms of the Final Rules, a firm shall not, in connection with any mandate which the firm has accepted to invest trust funds, agree or arrange to receive from a bank any commission, fee or other reward, without having disclosed, in writing, such commission, fee or reward to the <b>person who has given the firm the mandate</b> to invest.</p>
<p><b>Responsibility for ensuring compliance</b></p>	<p>35.18</p>	<p>54.19</p>	<p>The Uniform Rules state that every partner of a firm, and <b>every director of a personal liability company</b>, will be responsible for ensuring that the provisions of the Act and those Rules relating to trust accounts of the firm are complied with.</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			<p>In terms of the LPC Rules, every partner of the firm, and <b>every director of a juristic entity referred to in section 34(7)<sup>i</sup> of the Act, and every advocate</b> referred to in section 34(2) (b)<sup>ii</sup> of the Act, will be responsible for ensuring that the provisions of the Act and those Rules relating to trust account of the firm are complied with.</p>
<b>Reporting requirements</b>	35.19.3	54.20.3	<p>The Uniform Rules required that on the written application of a firm the Council may authorise the firm to appoint a person who in the opinion of the Council is suitably qualified as an inspector to perform the functions of an auditor in terms of these rules, subject to such terms as the Council in its discretion may determine;</p> <p>In addition to the above, the LPC Rules expand on this to indicate that:</p> <p>Provided that the mere appointment of a person who is not an auditor as an inspector in terms of this rule will not imply that that inspector is engaging in public practice or holding himself or herself out as a registered auditor in public practice.</p>
<b>Reporting requirements</b>	35.20	54.21	<p>The Uniform Rules state that a firm which commences practice for the first time shall, within six months of so commencing practice, furnish the Council with a report substantially in the form of the <b>Fourth Schedule</b> to these Rules covering the first four months of that firm's practice.</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			<p>The LPC Rules require that:</p> <p>A firm which commences practice for the first time shall, within six months of so commencing practice, furnish the Council with a report substantially in the form of the <b>Eighth Schedule</b> to these rules (or in such other form as the Council may determine after consultation with the Independent Regulatory Board for auditors) covering the first four months of that firm's practice.</p>
<b>Reporting requirements</b>	35.23 and 35.23.1.	54.24. and 54.24.1	<p>35.23 The Uniform Rules state that <b>every auditor or inspector</b> who has accepted an appointment in terms of rule 35.19 shall:</p> <p>35.23.1 within six months of the annual closing of the accounting records of the firm concerned or at such other times as the Council may require and subject to any conditions that the Council may impose, furnish the Council with a report which shall be in the form of the <b>Fourth Schedule</b> to these rules or in such other form as the Council may determine after consultation with the Independent Regulatory Board for Auditors;</p> <p>The LPC Rules require that</p> <p>54.24 <b>A firm shall ensure that</b> every auditor or inspector who has accepted an appointment in terms of accounting rule 54.20 shall:</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			54.24.1 within six months of the annual closing of the accounting records of the firm concerned or at such other times as the Council may require and subject to any conditions that the Council may impose, furnish the Council with a report which shall be in the form of the <b>Eighth Schedule</b> to these rules or in such other form as the Council may determine after consultation with the Independent Regulatory Board for Auditors;
<b>Reporting requirements</b>	35.23.2.3	54.24.2.3	<p>Uniform Rules state-</p> <p>any reasonable request made by the <b>auditor</b> for access to the firm's records or for any authority referred to in rule 35.20 has not been met to his or her satisfaction;</p> <p>The LPC Rules refer-</p> <p>any reasonable request made by the <b>auditor or inspector</b> for access to the firm's records or for any authority referred to in accounting rule 54.24 has not been met to his or her satisfaction;</p>
<b>Reporting requirements</b>	35.24.1	54.25.1	<p>The Uniform Rules state-</p> <p>The Council may reject a report in terms of rule 35.23 from an <b>auditor</b> whose appointment the Council has refused to recognise, as provided in rule 35.19.1, or which is not in the prescribed format.</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			<p>The LPC Rules refer-</p> <p>The Council may reject a report in terms of accounting rule 54.24 from an <b>auditor or inspector</b> whose appointment the Council has refused to recognise, as provided in accounting rule 54.20.1, or which is not in the prescribed format.</p>
<b>Reporting requirements</b>	35.24.2	54.25.2	<p>The Uniform Rules states-</p> <p>A copy of the report on the prescribed form required under rule 35.23.1 and any report made in terms of rule 35.23.2 shall be sent by the <b>auditor</b> to the firm concerned.</p> <p>The LPC Rules refer-</p> <p>A copy of the report on the prescribed form required under accounting rule 54.24.1 and any report made in terms of accounting rule 54.24.2 shall be sent by the <b>auditor or inspector</b> to the firm concerned.</p>
<b>Reporting requirements</b>	35.26	54.27	<p>The Uniform Rules state that the Council may <b>by notice to members</b> amend the schedule or audit report form as may be required from time to time to report such information as may be required,</p> <p>In terms of the Final Rules, the Council <b>may by notice to trust account practices</b> amend the Schedule or the</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			audit report form as may be required from time to time to report such information as may be required.
<b>Reporting requirements</b>	35.28	54.29	<p>The Uniform Rules state that in order to qualify for the issue of Fidelity Fund certificate, a member must ensure that an unqualified audit or inspector's report is issued in respect of any firm or firms of which he or she was a partner or director during the financial period under review and is delivered timeously to the society.</p> <p>In terms of the Final Rules, In order to qualify for the issue of a Fidelity Fund certificate, a <b>trust account practitioner</b> must ensure that an unqualified audit or inspector's report is issued in respect of any firm or firms of which he or she was a partner or director or <b>sole practitioner</b> during the financial period under review, and is delivered timeously to the Society.</p>
<b>Closure of firm</b>	35.30, 35.31 and 35.32	54.31, 54.32 and 54.33	<p>Under the Uniform Rules –</p> <p>35.30 A <b>member</b> who practices for his or her own account and who intends to cease practising shall, before the member so ceases to practice, provide the society, in writing, with the following information:</p> <p>35.31 A <b>member</b> shall be required to submit, within three months of the date that such member ceases to practise:</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			<p>35.32 In the event of non-compliance with this rule, or <b>if at any time the society</b> has reason to believe that adequate provision has not been made for the winding up of the practice or for the protection of the interests of clients affairs, the society may take such steps as it deems necessary to wind up the practice subject to the society being entitled to recover the reasonable expenses incurred and reasonable compensation for work done in connection therewith from the member concerned.</p> <p>The Final Rules refer –</p> <p>54.31 A <b>trust account practitioner</b> who practises for his or her own account and who intends to cease practising shall, before he or she so ceases to practice, provide the Council, in writing, with the following information:</p> <p>54.32 A <b>trust account practitioner</b> shall be required to submit, within three months of the date such practitioner ceases to practice:</p> <p>54.33 In the event of non-compliance with accounting rule 54.31 or 54.32, or <b>if at any time the Council</b> has reason to believe that adequate provision has not been made for the winding up of the practice or for the protection of the interests of clients' affairs, the Council may take such steps as it deems necessary to wind up the practice subject to the Council being entitled to recover the</p>

Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			reasonable expenses incurred and reasonable compensation for work done in connection therewith from the trust account practitioner concerned.
<b>Opening of practice</b>	35.33 and 35.34	54.34 and 54.35	<p>The Uniform Rules state that –</p> <p>35.33 an office opened by a firm, which for the first time operates a practice within the jurisdiction of the <b>society</b> shall be designated as a main office of the firm in that jurisdiction, and the firm shall ensure that:</p> <ul style="list-style-type: none"> <li>- banking accounts for the firm are open in that jurisdiction</li> <li>- the trust interest on those accounts is paid to the society</li> <li>- a separate set of books is kept for the office</li> <li>- an audit or inspector's report for that firm is submitted to the society.</li> </ul> <p>35.34 The Council may at any time inspect or cause to be inspected the accounting records of the firm to satisfy itself that the provisions of section 78(5) of the Act, read with these rules, have been or are being complied with.</p> <p>In terms of the LPC Rules –</p> <p>54.34 an office opened by a firm, which for the first time opens a practice with the jurisdiction of the a <b>Provincial</b></p>



Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			<p><b>Council</b> shall be designated as a main office of the firm in that jurisdiction, and the firm shall ensure that:</p> <ul style="list-style-type: none"> <li>- banking accounts for the firm are opened in that jurisdiction</li> <li>- a separate set of accounting records is kept for each office.</li> </ul> <p>54.35 The Council may at any time inspect or cause to be inspected the accounting records of any firm to satisfy itself that the provisions of section 86 and 87 of the Act<sup>1</sup>, read with these rules, have been or are being complied with.</p>
<p><b>Compliance with requirements of Financial Advisory and Intermediary Services (FAIS) Act</b></p>	n/a	55.12	<p>In terms of the LPC Rules, every firm carrying on an investment practice must comply with all the applicable requirements of the Financial Advisory and Intermediary Services FAIS, 37 of 2002 and the regulations thereunder.</p>
<p><b>Investment of funds by members on behalf of persons, otherwise than in terms of investment practice rules</b></p>	37.3	56.3	<p>The Uniform Rules state:</p> <p>If the <b>member</b> does not receive the written instructions to be obtained by him or her in terms of rule 37.2 within one month after his or her written request he or she shall forthwith notify the <b>secretary</b> in writing and at the same</p>

<sup>1</sup> Trust accounts  
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Subject	Uniform Rule reference	LPC Rule reference	Description of change from the Uniform Rules to LPC Rules
			<p>time furnish him or her with copies of all relevant letters of request and Responses, if any.</p> <p>In terms of the LPC Rules :</p> <p>If the <b>firm</b> does not receive the written instructions to be obtained by it in terms of rule 56.2 within one month after its written request the firm shall forthwith notify the <b>Council</b> in writing and at the same time furnish the Council with copies of all relevant letters of request and responses, if any.</p>

<sup>i</sup> Form of legal practice

Section 34 (7) A commercial juristic entity may be established to conduct a legal practice provided that, in terms of its founding documents—

- (a) its shareholding, partnership or membership as the case may be, is comprised exclusively of attorneys;
- (b) provision is made for legal services to be rendered only by or under the supervision of admitted and enrolled attorneys; and
- (c) all present and past shareholders, partners or members, as the case may be, are liable jointly and severally together with the commercial juristic entity for—
  - (i) the debts and liabilities of the commercial juristic entity as are or were contracted during their period of office; and
  - (ii) in respect of any theft committed during their period of office.

<sup>ii</sup> Forms of practice

Section 34 (2) (b) An advocate contemplated in paragraph (a)(ii) may only render those legal services rendered by advocates before the commencement of this Act as determined by the Council in the rules, if he or she—

- (i) is in possession of a Fidelity Fund certificate and conducts his or her practice in accordance with the relevant provisions of Chapter 7, with particular reference to sections 84, 85, 86 and 87;

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(ii) has notified the Council thereof in terms of section 30(1)(b)(ii).