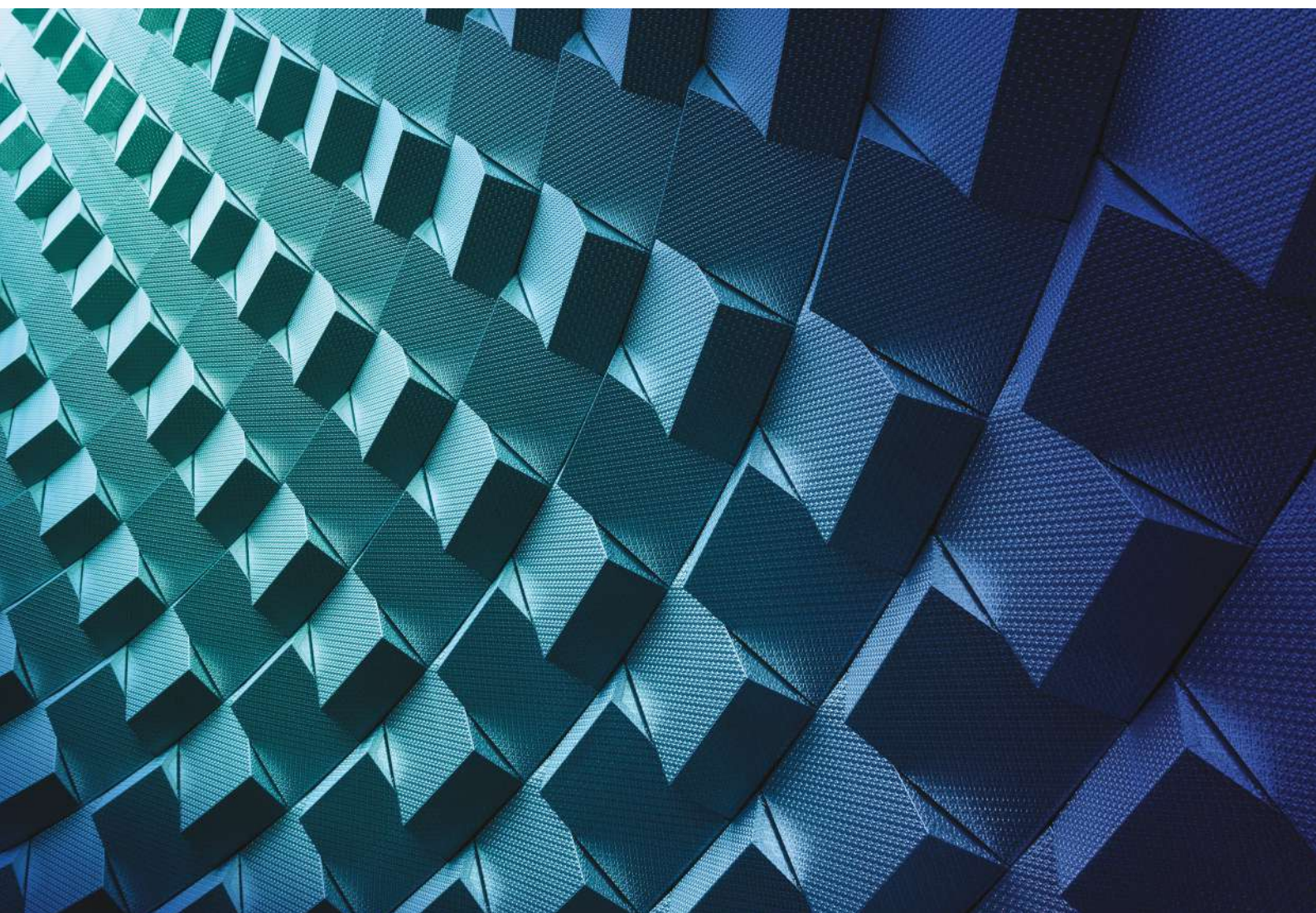




## Client Money Protection

With effect from 1 April 2019



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In this document we set out the details of the various RICS client money protection provisions which apply to RICS Registered Firms.

### **1. RICS Client Money Protection Scheme for Surveying Services**

Except in respect of client money covered by the Property Agents Scheme to which paragraph 2 refers, the client money protection arrangements set out in Appendix 1 apply in respect of client money held by RICS Registered Firms .

### **2. RICS Client Money Protection Scheme for Property Agents**

Specific provisions apply in respect of Property Agents from 1 April 2019 in respect of Client Money (as defined in Appendix 2) held in connection with letting agency work and property management work in England (as set out in the Property Agent definition in Appendix 2). Please note therefore that the specific provisions relating to client money protection for Registered Firms which are Property Agents undertaking such activities in England will apply as set out in Appendix 2 for the handling of such Client Money and for possible compensation for loss of such Client Money.

The Rules of the RICS Client Money Protection Scheme for Property Agents are set out in their entirety in Appendix 2 and comprise the rules of that Scheme which have been approved by the Secretary of State of the Ministry of Housing Communities and Local Government and comply with the specific provisions of the Client Money Protection Schemes for Property Agents (Approval and Designation of Schemes) Regulations 2018.

### **3. TDS Deposits**

Tenancy Deposit Claims for which there is protection either under by a scheme operated by the Dispute Service Limited (TDS) or by TDS Northern Ireland (TDSNI) relating to the collection of holding tenancy deposits for agents and landlords are administered separately from the above schemes.

# Appendix 1: Rules of the RICS Client Money Protection Scheme for Surveying Services

This Appendix sets out the rules (the Rules") of the generally applicable RICS Client Money Protection Scheme for Surveying Services ("the Scheme") .

These are the specific provisions which apply in relation to protection of client money held by RICS Registered Firms in connection with all of their activities in the United Kingdom which the RICS requires all of its Registered Firms to follow.

This is subject to an exception for any RICS Registered Firm which, as all or part of its business, conducts the business of acting as residential property agents in England. Such a Registered Firm will, in respect of client money which falls within the terms of that Scheme as defined in Appendix 2 (client money held by a Property Agent in respect of letting agency work and property management work in England), instead be subject to the specific rules of the RICS Client Money Protection Scheme for Property Agents set out in Appendix 2.

These Rules are additional to the RICS Rules of Conduct which apply to an RICS Registered Firm.



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# Rules of the RICS Client Money Protection Scheme for Surveying Services

## 1 Defined Terms

**1.1** In these Rules relating to the generally applicable RICS Client Money Protection Scheme for RICS Registered Firms for all of their activities, the following terms and expressions shall have the following meanings (unless the context otherwise requires):

|                       |  |
|-----------------------|--|
| <b>"Claim"</b>        | a claim for compensation by a Client of a Member under the Scheme in accordance with the claims procedures in Rule 11  |
| <b>"Client"</b>       | <p>a member of the public which is a client of an RICS Registered Firm</p> <p>A member of the public includes any person, firm, trust, body corporate or other organisation.</p>   |
| <b>"Client Money"</b> | <p>money of any currency (whether in the form of cash, cheque, draft or electronic transfer)</p> <p>a. which a Registered Firm holds or receives for or from a Client, including money held by a Registered Firm as stakeholder; and</p> <p>b. which is not immediately due and payable on demand to the Registered Firm for its own Account</p> <p>but excluding for the purposes of this Scheme</p> <p>a. money of any currency (whether in the form of cash, cheque, draft or electronic transfer) held by an RICS Registered Firm as TDS Deposits for details of which please refer to Appendix 3;</p> <p>b. fees paid in advance for professional work agreed to be performed, and clearly identifiable as such. However, commissions or other pecuniary reward or other advantage received from anyone other than the Client which are not permitted by any relevant regulator to be received or retained by the Registered Firm, and for which the Registered Firm has to account to such Client, will be regarded as client money for the purposes of this Scheme and so will not be excluded by reason of this sub-paragraph.</p> |

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|--|--|
| <b>"Client Money Account"</b>                          | <p>in respect of the Scheme, an account which:</p> <ul style="list-style-type: none"> <li>a. does not contain any sums other than the whole or any part of client money paid into it, or such sums of money as may be necessary to replace any sum which by error has been withdrawn from the account, together with accrued interest on such amounts; and</li> <li>b. includes in its title the word "client" or an appropriate abbreviation of that word,</li> </ul> <p>and whether such account is held in the name of the Registered Firm or a wholly owned subsidiary company of the Registered Firm that holds money in respect of the Registered Firm</p> |
| <b>"Client Money Levies"</b>                           | in respect of the Scheme, levies paid by a Member of the Scheme pursuant to Rule 5   |
| <b>"Closing Date"</b>                                  | the date on which the Scheme ceases to provide client money protection in accordance with the terms of the Scheme, and so the date on which the Scheme is closed in accordance with Rule 12  |
| <b>"Compensation Limits"</b>                           | the compensation limits determined by the Scheme Administrator on the basis set out in Rule 9.3, and set out in the Annex to these Rules, as amended by the Scheme Administrator from time to time   |
| <b>"Financial Year"</b>                                | in respect of the Scheme, each period of twelve months beginning on 1 April  |
| <b>"Insurer"</b>                                       | CMP Insurance PCC Limited of PO Box 155, Mill Court, La Charroterie, St Peter Port, Guernsey GY1 4ET, a subsidiary of the RICS which is an insurer authorised by the Guernsey Financial Services Authority, or such other insurer as the Scheme Administrator may from time to time select as an appropriate insurer for providing insurance cover, as required pursuant to Rule 10  |
| <b>"Member" or "Scheme Member"</b>                     | a member of the Scheme   |
| <b>"Property Agents Client Money Protection Claim"</b> | a claim made pursuant to the Rules of the RICS Client Money Protection Scheme for Property Agents set out in Appendix 2  |
| <b>"RICS"</b>  | The Royal Institution of Chartered Surveyors   |
| <b>"RICS Registered Firm"</b>                          | a firm which is registered with RICS for regulation and which is therefore subject to the RICS Rules of Conduct  |
| <b>"RICS Rules of Conduct"</b>                         | the RICS rules of conduct as determined by the RICS from time to time and any other applicable mandatory requirements set out by RICS, and any other specific and individual requirements notified to any particular RICS Registered Firm as appropriate   |





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| <p><b>"RICS Registration Renewal Date"</b></p> | <p>in respect of a Member, the date in each year on which its registration as an RICS Registered Firm is due for renewal, as notified by RICS</p>  |
| <p><b>"Scheme"</b></p>                         | <p>the "RICS Client Money Protection Scheme for Surveying Services"</p>  |
| <p><b>"Scheme Administrator"</b></p>           | <p>the person appointed to administer the Scheme in accordance with Rule 13</p>  |
| <p><b>"Scheme Funds"</b></p>                   | <p>funds held by the Scheme Administrator in respect of its functions as Scheme Administrator of the Scheme, including the proceeds of insurance cover maintained by the Scheme pursuant to Rule 10, any other funds deriving from Levies received from Scheme Members and any other cover held in respect of the Scheme provided that this calculation of Scheme Funds is intended only for the purposes of assessing the amount of funds available to meet claims liability for loss of Client Money under Rule 8. It shall in no way imply any ring fencing of such funds, which shall otherwise remain Scheme Administrator's monies for it to apply as it thinks appropriate in all circumstances at its discretion</p> |
| <p><b>"Scheme Website"</b></p>                 | <p>the website maintained by the Scheme Administrator in respect of the Scheme at <a href="https://rics.org/clientmoneyprotectionscheme">rics.org/clientmoneyprotectionscheme</a></p>  |
| <p><b>"TDS Deposit"</b></p>                    | <p>means:</p> <ul style="list-style-type: none"> <li>a. tenancy deposits protected by TDS from agents and landlords who are registered with it as members of the Insurance Based Tenancy Deposit Protection Scheme (IBTDP) in England and Wales and who are also a <b>RICS Member</b> or <b>Registered Firm</b> ; or</li> <li>b. tenancy deposits protected by TDSNI from agents and landlords who are registered with it as members of the Insurance Based Tenancy Deposit Protection Scheme (IBTDP) in Northern Ireland and who are also a <b>RICS Member</b> or <b>Registered Firm</b>.</li> </ul>  |
| <p><b>"UK"</b></p>                             | <p>the United Kingdom of Great Britain and Northern Ireland, the Isle of Man and the Channel Islands</p>   |

## Scheme purpose and approval

- 2.1** The main purposes of the Scheme are:
- a** to allow RICS Registered Firms to offer client money protection in accordance with the Rules; and
  - b** to compensate Clients of an RICS Registered Firm for the losses of its Clients resulting from of the RICS Registered Firm failing to account for Client Money (as defined in paragraph 1.1) to the person entitled to it in accordance with the Rules.
- 2.2** The Scheme only applies to Registered Firms with respect to its activities in the United Kingdom.
- 2.3** The Scheme is designed to give some protection to members of the public by making funds available for their reimbursement when all other avenues have been exhausted. RICS Registered Firms which are members of the Scheme can themselves receive no financial benefit or protection under the Scheme. In the event of a loss, the primary duty is on the defaulting RICS Registered Firm to make full restitution from its own resources (whether by paying the loss out of its own assets or its own relevant insurance cover or otherwise). It is only in cases where the firm concerned is unable to make full restitution that the Scheme can take effect and so its Clients may consider whether they can make a claim under Rule 11.
- 2.4** Any questions relating to the terms of the Rules of the Scheme, Scheme Membership and claims under the Scheme, should be referred to the Scheme Administrator.

## Scheme Membership

### 3. Participation by RICS Registered Firms

- 3.1** Membership of this Scheme forms part of the package of provisions which apply to RICS Registered Firms.
- 3.2** Each RICS Registered Firm which holds Client Money must, as part of its RICS registration, become a Member of the Scheme. Each RICS Registered Firm is subject to the general rules applicable to RICS Registered Firms and in addition, in respect of Client Money (as defined in Rule 1.1), the specific provisions set out in these Rules which form the "RICS Client Money Protection Scheme for all Surveying Surveys".

### 4. Duration of coverage under the Scheme

- 4.1** Coverage for a Member under the terms of the Scheme shall continue for such time as an RICS Registered Firm remains an RICS Registered Firm and provided that Levies invoiced under Rule 5 are paid.
- 4.2** When seeking to become an RICS Registered Firm and thereafter on each RICS Registration Renewal Date, the Scheme Administrator shall review the RICS Registered Firm's eligibility to be a Member of the Scheme and its continued membership of the Scheme.
- 4.3** The Scheme Administrator shall review a Member's continued membership of the Scheme on an annual basis. If, in respect of a Member at its particular RICS Registration Renewal Date re registration, the RICS intends to terminate its status as an RICS Registered Firm, RICS shall notify the Member accordingly.

### 5. Scheme Levies

- 5.1** Levies are payable by a Member for the duration of its Scheme Membership.



**5.2** The rate or amount of the Levies in respect of each Financial Year of the Scheme will be published on the Scheme's Website and notified to the then current Scheme Members in good time before the commencement of the Financial Year to which they relate.

**5.3** Each Member must pay the Levy for Scheme Membership of such amount as is determined by the Scheme Administrator and notified to the Member promptly. The amount of the Levy for a Member will be invoiced as part of the invoice for levies payable for RICS Registered Firm status on each RICS Registration Renewal Date. The Levy paid as at the RICS Registration Renewal Date is intended to be the Levy for the forthcoming twelve month period after that Renewal Date. It is noted however that the Financial Year of the Scheme will likely differ from the twelve month period which will apply to each Member of the Scheme. Should the Scheme Administrator determine that the Levies determined pursuant to Rule 5.2 in respect of a forthcoming Financial Year of the Scheme (or part of a Financial Year) are materially higher than were contemplated when a Member's Levy was invoiced in respect of a period which in part falls in that Financial Year or should the insurance cover be revised during the course of the Financial Year, the Scheme Administrator may at its discretion issue an additional invoice for an additional amount of Levy.

**5.4** Payment of any Levy invoiced must be made by a Member as a precondition for its coverage under the terms of the Scheme remaining in full force and effect for the purposes of Rule 4.

## **6. Termination of Membership**

**6.1** Membership of the Scheme shall be coterminous with the duration of a Member's registration as an RICS Registered Firm. A Member which fails or is reasonably aware that it may fail to meet any of the qualifying conditions to be an RICS Registered Firm must notify the Scheme Administrator promptly.

**6.2** Membership of a Member will cease if:

- a** the Member ceases to be an RICS Registered Firm.

Deregistration as an RICS Registered Firm shall be determined pursuant to the terms of the RICS Rules of Conduct and will result in cancellation of the firm's membership of the Scheme with effect from the date that the firm is deregistered.

- b** the Scheme Administrator (at its sole discretion) determines, whether at the firm's RICS Registration Renewal Date or otherwise, not to continue a Member's membership of the Scheme.

**6.3** Should membership of a Member be terminated, the Scheme Administrator will cancel the Member's Membership of the Scheme promptly by notice in writing to the Member. Cancellation of membership of the Scheme will mean that protection under the Scheme will cease with effect from the date that membership is cancelled.

## **Client money**

### **7. Handling of Client Money**

**7.1** Client Money must be held in a Client Money Account with a bank or building society authorised by the Prudential Regulatory Authority (PRA), the Bank of England and the Financial Conduct Authority (the FCA) in England, Scotland, Wales and Northern Ireland, or, in the case of Client Money held in Guernsey, with a bank authorised in Guernsey, the Guernsey Financial Services Commission or, in the case of Client Money held in Jersey, with a bank authorised by the Jersey Financial Services Commission or, in the case of Client Money held in the Isle of Man, with a bank authorised by the Isle of Man Financial Services Authority

**7.2** A Scheme Member must:

- a** maintain one or more Client Money Accounts into which all Client Money of the Member is paid;

- b** a Client Money Account must be designated as such and easily distinguished from other accounts of the Member;
- c** all clients of the Member must be advised that Client Money will be held in a Client Money Account and be notified of the details of that account;
- d** confirm in writing with the bank with which it holds a Client Money Account that the bank acknowledges that monies in the Client Money Account must not be combined with, or transferred to, any other account maintained by the Member, and the bank shall not be entitled to exercise any right of set up or counterclaim against money in that Client Money Account in respect of any sum owed to it in respect of any other account of the Member firm;
- e** keep records and accounts which show all dealings with Client Money, and demonstrate that all Client Money held by the firm is held in a Client Money Account.

**7.3** As regards handling Client Money, a Scheme Member must:

- a** have and comply with written procedures for handling Client Money, which must comply with any RICS requirement to which Rule 7.4 refers;
- b** publish their procedures for handling Client Money on their website (if any);
- c** provide a copy of their procedures for handling Client Money to any person who may reasonably require a copy, free of charge;
- d** keep records and accounts that show all dealings with Client Money;
- e** repay any Client Money, including where feasible any interest earned, without delay if there is no longer any requirement to retain that money or the relevant client requests it; and
- f** hold and maintain professional indemnity insurance cover that is appropriate for the Member's size, income, type of work and the amount of Client Money held.

**7.4** In addition to the specific provisions set out in Rules 7.1, 7.2 and 7.3, the Scheme Administrator may from time to time issue advice and guidance as to how RICS Registered Firms should best comply with RICS Rules of Conduct which may include guidance to, or prescription of additional required procedures for, RICS Registered Firms which are members of the Scheme relating to key aspects of best practice as to the handling of Client Money.

## Compensation for loss of Client Money

### 8. Liability for loss of Client Money

- 8.1** In the event that a Member fails to account for Client Money to a person entitled to it whilst remaining an RICS Registered Firm (each Member having a primary duty to make full restitution as set out in Rule 2.3), the Scheme Administrator shall, out of the Scheme Funds, make good the Member's liability to that person or persons as soon as reasonably practicable on the terms set out in Rules 8 – 11.
- 8.2** The Scheme Administrator shall, usually on an annual basis prior to the commencement of each Financial Year of the Scheme:
- a** determine the relevant limits and risks in respect of which cover is to be provided, further details of which are explained in Rule 9 below, and
  - b** obtain insurance cover under Rule 10 accordingly.
- 8.3** No amount payable shall be subject to a deduction of a fee by the Scheme Administrator and no Client claimant shall be made to bear all, or any part of any, excess amount which may be applicable to the insurance cover obtained under Rule 10.



## 9. Compensation Limits

- 9.1** The Scheme provides for members of the public who are Clients of Members of the Scheme to be reimbursed for any pecuniary direct loss of Client Money. It does not cover any indirect or consequential loss which a Client may suffer.
- 9.2** The Scheme is designed to offer some protection to Clients where all other avenues have been exhausted, as explained in Rules 2.3 and 8.1. (Each Member has a primary duty to make full restitution, as set out in Rule 2.3.) Any Client considering making a Claim should in the first instance, explore all other avenues, principally by seeking restitution from the defaulting Member, as is reasonable in all the circumstances. Possible sources of restitution may include financial indemnity insurance maintained by the Member or access to other assets of the Member.
- 9.3** The Scheme Administrator may determine, as it thinks appropriate, any or all of the following: limits per claim: a cap on liability of the Scheme as a whole in respect of any single Financial Year of the Scheme and/or coverage of, or exclusion of, certain risks. Details of the current limits, caps and relevant risks (the "Compensation Limits") are set out in the Annex to these Rules as amended by the Scheme Administrator from time to time. Any aggregate cap set as a Compensation Limit shall be determined by the Scheme Administrator with the intention that it shall be in excess of the maximum probable loss which the Scheme Administrator reasonably expects might arise for the Scheme.
- 9.4** The Scheme Administrator shall maintain policies and procedures with a view to mitigating the risk of losses for Clients exceeding any Compensation Limits it sets pursuant to Rule 9.3. The Scheme Administrator may impose, whether through the RICS Rules of Conduct or by individual notification, controls with a view to ensuring that the prospect of a Member losing Client Money in excess of the Compensation Limits set by the Scheme Administrator under Rule 9.3 is sufficiently remote.
- 9.5** The Compensation Limits set pursuant to Rule 9.3 shall be reviewed, alongside the adequacy of insurance cover under Rule 10.5, periodically as the Scheme Administrator considers appropriate in all the circumstances. They will be reviewed in respect of each forthcoming Financial Year of the Scheme by the Scheme Administrator prior to the commencement of that Financial Year and should any exceptional circumstances arise to which Rule 10.5 refers. Should the Scheme Administrator determine to change the limits and/or risks covered within the Compensation Limits, the Scheme Administrator will update the Annex to these Rules and Scheme's Website promptly and any changes will also be notified to Scheme Members promptly so that, if they wish to review their status as an RICS Registered Firm, and consequently their membership of the Scheme, they will have the opportunity to do so, and to make alternative arrangements to join another Property Agents Client Money Protection Scheme.
- 9.6** In no circumstances may the individual limit, aggregate limit or risks covered within the Compensation Limits be amended retrospectively. Any adjustments shall only apply with effect from a date on or after the date of the adjustment as published on the Scheme's Website and notified to Scheme Members.

## 10. Insurance cover

- 10.1** The Scheme Administrator shall, in respect of each Financial Year of the Scheme, secure insurance cover with an Insurer that:
- a** covers any foreseeable liability which may arise in connection with failure of Scheme Members to account for Client Money to persons entitled to that money under Rules 8 and 9; and
  - b** is appropriate with regard to the size and number of Scheme Members and the amount of Client Money held by Scheme Members.
- 10.2** The insurance cover obtained for a Financial Year shall be determined by the Scheme Administrator with the intention that it shall be sufficient to allow the

Scheme to pay out in the case of maximum probable loss which the Scheme Administrator might reasonably expect might arise in the particular Financial Year.

- 10.3** The Scheme Administrator shall ensure that the terms for compensation under Rules 8 and 9 of the Scheme and the terms for the insurance cover obtained under this Rule 10 are consistent with each other. Liability of the Scheme to pay a Claim only arises in relation to a risk in respect of which such insurance cover has been obtained.
- 10.4** Adequacy of insurance cover shall be monitored periodically during each Financial Year as the Scheme Administrator thinks appropriate in all the circumstances. (Should exceptional circumstances arise during any Financial Year such that the Scheme Administrator reasonably considers that the insurance cover is, or may become, inadequate for the purposes set out in Rule 10.1, it may determine to seek changes to the insurance cover in respect of the remainder of that then current Financial Year.)

## 11. Claims procedures

- 11.1** This Rule sets out the process for making Claims for compensation under the Scheme and the procedures that will apply in relation to the investigation and determination of such Claims and any complaints under the Scheme.
- 11.2** Claims for compensation for loss of Client Money shall be made in accordance with such procedures as the Scheme Administrator may determine and notify to Scheme Members from time to time.
- 11.3** Conditions are kept to the minimum but two important conditions are that
- a** a Member must report any known or suspected loss to the Scheme Administrator as soon as possible after a Member becomes aware of it. Even if the Member does not know the full extent or details of the Client loss, the Member should advise the Scheme Administrator as soon as it becomes aware of the problem.
  - b** where fraud or dishonesty is suspected, then the details must also be reported to the police and other relevant authorities.
- 11.4** In respect of a Claim or a potential Claim, a Member must:
- a** Submit a notice in writing of any potential claim as soon as practicable giving all reasonable and necessary information assistance and proof of any Claim as the Scheme Administrator may reasonably require;
  - b** agree to cooperate fully with any investigation by the Scheme Administrator or their nominated representative;
  - c** agree to onsite visits to the addresses in which their records and accounts showing all dealings with Client Money are held;
  - d** produce, in response to all reasonable requests by the Scheme Administrator, all records and/or documents relating to matters pertinent to the Scheme for the Scheme Administrator and any nominated representative;
  - e** respond to all communications promptly when requested to do so by the Scheme Administrator;
  - f** make every reasonable effort to minimise any Client Money loss and to take appropriate measures immediately if they are required to reduce any Claim; and
  - g** give the Scheme Administrator all reasonable assistance which may reasonably be required to pursue compliance with the terms of the Rules.
- 11.5** Claims will only be accepted by the Scheme Administrator in respect of a Member which occurred during such time as the Member is a Member of the Scheme.
- 11.6** The Scheme Administrator shall accept notification of Claims for compensation under the Scheme for twelve months after the date on which the circumstances giving rise to a Claim occurred.





- 11.7** Any Claims should be submitted in writing to the Head of Registration and Compliance, RICS Regulation, 55 Colmore Row, Birmingham B3 2AA. The Scheme Administrator will acknowledge receipt of any Claim within seven working days.
- 11.8** Upon receipt of all information needed to substantiate a Claim, the Scheme Administrator hopes to be able to settle the claim quickly. Clients who are claimants will be kept informed of progress and advised of any reasons for any delay in the process. The Scheme Administrator will only make payment of any Claim to a Client once it has followed the terms of the claims procedure set out in this Rule and the Insurer has paid out to the Scheme Administrator in respect of that Claim under the terms of the insurance cover obtained under Rule 10.
- 11.9** Upon payment of any Claim to a Client by the Scheme Administrator out of the Scheme Funds, the debt/loss will be assigned to the RICS for them to pursue any recovery against the firm or persons responsible. The Scheme Administrator may require payment by a Member into the Scheme of an amount additional to its Levies which is equal to the detriment suffered by Scheme Funds as a result of the Member's failure to comply with any conditions in these Rules.
- 11.10** The Scheme Administrator shall maintain a Claims complaints handling policy which it shall apply in the event of any complaints arising from Clients who make Claims under the Scheme. Details of the Claims complaints handling policy shall be made available on request to Scheme Members and Clients.

## General matters

### 12. Duration of the Scheme

- 12.1** The Scheme Administrator shall continue to offer the Scheme for so long as RICS, at its discretion and for any reason, decides to do so and provided that appropriate insurance cover can be obtained for the purposes of Rule 10 and renewed on an annual basis which matches the liability for loss of Client Money pursuant to Rules 8 and 9.
- 12.2** The Scheme Administrator may at its discretion determine to close the Scheme with effect from the Scheme Closure Date having given due written notice to Scheme Members and having provided details of the plans for an orderly closure of the Scheme.
- 12.3** The Scheme Administrator may determine to close the Scheme should it fail to obtain the type and amount of insurance pursuant to Rule 10 in respect of any prospective renewal of the Scheme's insurance for the forthcoming Financial Year of the Scheme.
- 12.4** The Scheme Administrator shall not accept any new member or any membership renewal once it has determined to close the Scheme and, in any event, on no occasion after the Scheme Closure Date.

### 13. Scheme Administrator

- 13.1** The first Scheme Administrator is RICS itself.
- 13.2** RICS may determine to appoint an alternative Scheme Administrator, in which event it shall notify Scheme Members and update the Website accordingly.

### 14. Rule Amendments

- 14.1** These Rules are the rules in force as at 1 April 2019. These Rules replace the terms of any rules and other documents in respect of the Scheme issued prior to 1 April 2019 (including The RICS Clients' Money Protection Scheme Firms' Guide and The RICS Clients' Money Protection Scheme Clients' Guide, each dated 1 February 2011).

- 14.2** The Scheme Administrator may revise the terms of any Compensation Limits as it considers it appropriate on the basis set out in Rule 9.3 and the adequacy of the insurance cover on the basis set out in Rule 10.4 as it considers it appropriate from time to time. These provisions will be reviewed by the Scheme Administrator prior to the commencement of each Financial Year of the Scheme and should any exceptional circumstances arise during a Financial Year.
- 14.3** The Rules may also be amended as determined by the Scheme Administrator in any other respect.
- 14.4** If and when the Rules are amended Members shall be notified promptly before the Rule changes come into force and they shall be made available on the Scheme's Website. Scheme Members should ensure that at all times they are referring to the most up to date copy of the Rules of the Scheme.

## Annex: Compensation Limits

This Annex sets out the current Compensation Limits for the purposes of Rule 9.3.

- 1 Direct loss:** Rule 9 makes it clear that the Scheme provides for reimbursement only in respect of direct loss of client money and covers no indirect or consequential loss. In addition there are specific exclusions as follows. These are determined by the Scheme Administrator for the purposes of Rule 9.2 and as set out in this document.
- 2 Limit per claim:** £50,000
- 3 Cap on liability of the Scheme as a whole in respect of any single Financial Year:** £10,300,000.

This amount is not however exclusively for payment of claims in respect of Surveying Services Client Money Protection Claims: it also includes any amount payable in respect of TDS Claims (for which there is a specific lower maximum limit of £3,000,000) to which Appendix 3 refers and any amount payable in respect of Property Agent Client Money Protection Claims to which Appendix 2 refers.

#### 4 Risks covered / excluded

##### Exclusions from cover are as follows:

- a** Loss of client money that is jointly held by a Client and a Scheme Member where the Client has contributed to such loss. However this exclusion will not apply to innocent Clients.
- b** Loss arising or occurring elsewhere than in the United Kingdom of Great Britain and Northern Ireland, the Channel Islands or the Isle of Man.
- c** Loss of any consequential nature including but not limited to loss of potential income interest and dividends not realised by the Client because of a loss covered by the Scheme.
- d** Penalties, fines or similar impositions.
- e** Losses arising due to the failure of any bank or deposit taker in which a Client Money Account is held
- f** Loss due to investment, where the investment is specifically agreed in writing with the client
- g** Loss of investment income
- h** Loss or damage directly or indirectly occasioned by, happening through or in the consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or acquisition or destruction of or damage to property by or under the order of any government or public or local authority.
- i** Loss, damage, cost or expense of whatsoever nature directly or indirectly caused by resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any sequence to the loss.

Loss, damage, costs or expense of whatsoever nature directly or indirectly caused by, or resulting from or in connection with any action taken in controlling, preventing, expressing or in any way relating to any act of terrorism.

For this purpose, an "act of terrorism" means an act including but not limited to the use of force or violence and/or the threat thereof, or any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s) committed for political, religious, ideological or similar purposes including the intention to influence any government and/or put the public, or any section of the public, in fear.

# Appendix 2: Rules of the RICS Client Money Protection Scheme for Property Agents

This Appendix sets out the rules ("the Rules") of the RICS Client Money Protection Scheme for Property Agents ("the Scheme").

These Rules set out the specific provisions which apply in relation to Client Money held by Property Agents in respect of letting agency work and property management work in England. It therefore concerns client money held in connection with business activities when acting as residential letting agents in England.

These Rules are additional to the RICS Rules of Conduct which apply to an RICS Registered Firm.

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## Rules of the RICS Client Money Protection Scheme for Property Agents

### 1. Defined Terms

1.1 In these Rules relating to the RICS Client Money Protection Scheme for Property Agents, the following terms and expressions shall have the following meanings (unless the context otherwise requires):

|                               |   |
|-------------------------------|---|
| <b>"the Act"</b>              | the Housing and Planning Act 2016   |
| <b>"Certificate"</b>          | in respect of a Scheme Member, a certificate confirming its membership of the Scheme issued in accordance with Rule 4   |
| <b>"Claim"</b>                | a claim for compensation by a Client of a Member under the Scheme in accordance with the claims procedures in Rule 11   |
| <b>"Client"</b>               | a member of the public which is a client of an RICS Registered Firm which is a Member of the Scheme<br><br>A member of the public includes any person, firm, trust, body corporate or other organisation  |
| <b>"Client Money"</b>         | in respect of the Scheme, money<br><br>a. received by the Member in the course of English letting agency work within the meaning of Section 54 of the Housing and Planning Act 2016, or English property agency work within the meaning of Section 55 of that Act; and<br><br>b. held on behalf of another person<br><br>but excluding any money held in accordance with an authorised tenancy deposit scheme within the meaning of Chapter IV of Part 6 of the Housing Act 2004 [see Section 212 of that Act]  |
| <b>"Client Money Account"</b> | in respect of the Scheme, an account which:<br><br>a. does not contain any sums other than the whole or any part of client money paid into it, or such sums of money as may be necessary to replace any sum which by error has been withdrawn from the account, together with accrued interest on such amounts; and<br><br>b. includes in its title the word "client" or an appropriate abbreviation of that word<br><br>and whether such account is held in the name of the Registered Firm or a wholly owned subsidiary company of the Registered Firm, or a sister company of the Registered Firm that holds money in respect of the Registered Firm |
| <b>"Client Money Levies"</b>  | in respect of the Scheme, levies paid by a Member of the Scheme pursuant to Rule 5  |

|                                    |   |
|------------------------------------|---|
| <b>"Closing Date"</b>              | the date on which the Scheme ceases to provide client money protection for Property Agents in accordance with the terms of the Scheme, and so the date on which the Scheme is closed in accordance with Rule 12   |
| <b>"Commencement Date"</b>         | the date on which the Scheme commences to provide client money protection for Property Agents in accordance with the terms of the Scheme  |
| <b>"Compensation Limits"</b>       | the compensation limits determined by the Scheme Administrator on the basis set out in Rule 9.3, and set out in the Annex to these Rules, as amended by the Scheme Administrator from time to time  |
| <b>"Financial Year"</b>            | in respect of the Scheme, each period of twelve months beginning on 1 April   |
| <b>"Insurer"</b>                   | CMP Insurance PCC Limited of PO Box 155, Mill Court, La Charroterie, St Peter Port, Guernsey GY1 4ET, a subsidiary of the RICS which is an insurer authorised by the Guernsey Financial Services Authority, or such other insurer as the Scheme Administrator may from time to time select as an appropriate insurer for providing insurance cover, as required pursuant to Rule 10 |
| <b>"Member" or "Scheme Member"</b> | a member of the Scheme  |





|                                |  |
|--------------------------------|--|
| <p><b>"Property Agent"</b></p> | <p>in respect of the Scheme</p> <p>a. a person who engages "in English letting agency work" within the meaning of Section 54 of the Act.</p> <p>"Letting agency work" means things done by a person in the course of a business in response to instructions received from:</p> <ul style="list-style-type: none"> <li>i. a prospective landlord seeking to find another person to whom to let housing, or</li> <li>ii. a prospective tenant seeking to find housing to rent</li> </ul> <p>but does not include any of the following things when done by a person who does nothing else within the above descriptions:</p> <ul style="list-style-type: none"> <li>– publishing advertisements or disseminating information;</li> <li>– providing a means by which a prospective landlord or a prospective tenant can, in response to an advertisement or dissemination of information, make direct contact with a prospective tenant or prospective landlord;</li> <li>– providing a means by which a prospective landlord and a prospective tenant can communicate directly with each other</li> </ul> <p>"English letting agency work" means letting agency work that relates to housing in England</p> <p>or</p> <p>b. a person who engages in "English property management work" within the meaning of Section 55 of the Act.</p> <p>"English property management work" means things done by a person in the course of a business in response to instructions received from the client where</p> <ul style="list-style-type: none"> <li>i. the client wishes the person to arrange services, repairs, maintenance, improvements or insurance in respect of, or to deal with any other aspect of the management of, premises on the client's behalf, and</li> <li>ii. the premises consist of housing in England, let under a tenancy.</li> </ul> <p>other than a person who engages in that work in the course of the person's employment under a contract of employment.</p> |
|--------------------------------|--|

|   |   |
|---|---|
| <b>"Property Agents Client Money Protection Scheme"</b> | a scheme which enables a person on whose behalf a Property Agent holds money to be compensated if all or part of that money is not repaid in circumstances in which the scheme applies, this meaning being given as set out in Section 133[4] of the Act, and which is approved by the Secretary of State of the Ministry of Housing, Communities and Local Government, and complies with the terms of the Regulations  |
| <b>"Regulations"</b>                                    | the Client Money Protection Schemes Property Agents (Approval and Designation of Schemes) Regulations 2018 [SI 2018 No. 751] as amended   |
| <b>"RICS"</b>   | The Royal Institution of Chartered Surveyors  |
| <b>"RICS Registered Firm"</b>                           | a firm which is registered with RICS for regulation and which is therefore subject to the RICS Rules of Conduct   |
| <b>"RICS Rules of Conduct"</b>                          | the RICS rules of conduct as determined by the RICS from time to time and any other applicable mandatory requirements set out by RICS , and any other specific and individual requirements notified to any particular RICS Registered Firm as appropriate   |
| <b>"RICS Registration Renewal Date"</b>                 | in respect of a Member, the date in each year on which its registration as an RICS Registered Firm is due for renewal, as notified by RICS  |
| <b>"Scheme"</b>   | the "RICS Client Money Protection Scheme for Property Agents" which is approved as a Property Agents Client Money Protection Scheme by the Secretary of State of the Ministry of Housing, Communities and Local Government for the purposes of the Regulations  |
| <b>"Scheme Administrator"</b>                           | the person appointed to administer the Scheme in accordance with Rule 13  |
| <b>"Scheme Funds"</b>                                   | funds held by the Scheme Administrator in respect of its functions as Scheme Administrator of the Scheme, including the proceeds of insurance cover maintained by the Scheme pursuant to Rule 10, any other funds deriving from Levies received from Scheme Members and any other cover held in respect of the Scheme provided that this calculation of Scheme Funds is intended only for the purposes of assessing the amount of funds available to meet claims liability for loss of Client Money under Rule 8. It shall in no way imply any ring fencing of such funds, which shall otherwise remain Scheme Administrator's monies for it to apply as it thinks appropriate in all circumstances at its discretion |
| <b>"Scheme Website"</b>                                 | the website maintained by the Scheme Administrator in respect of the Scheme at <a href="https://rics.org/clientmoneyprotectionscheme">rics.org/clientmoneyprotectionscheme</a>  |



## 2. Scheme purpose and approval

- 2.1** The main purposes of the Scheme are:
- a** to allow RICS Registered Firms which are Property Agents to offer client money protection in accordance with the Rules; and
  - b** to compensate Clients of an RICS Registered Firm for the losses of its Clients resulting from of the RICS Registered Firm failing to account for Client Money (as defined in paragraph 1.1) to the person entitled to it in accordance with the Rules.
- 2.2** The Scheme only applies to Registered Firms with respect to their Property Agent activities in England.
- 2.3** The Scheme is designed to give some protection to members of the public by making funds available for their reimbursement when all other avenues have been exhausted. RICS Registered Firms which are members of the Scheme can themselves receive no financial benefit or protection under the Scheme. In the event of a loss, the primary duty is on the defaulting RICS Registered Firm to make full restitution from its own resources (whether by paying the loss out of its own assets or its own relevant insurance cover or otherwise). It is only in cases where the firm concerned is unable to make full restitution that the Scheme can take effect and so its Clients may consider whether they can make a claim under Rule 11.
- 2.4** The Scheme has been approved by the Secretary of State of the Ministry of Housing, Communities and Local Government and complies with the terms of the Client Money Protection Schemes Property Agents (Approval and Designation of Schemes) Regulations 2018 ("the Regulations").
- 2.5** Any questions relating to the terms of the Rules of the Scheme, Scheme Membership and claims under the Scheme, should be referred to the Scheme Administrator.

## Scheme Membership

### 3. Participation by RICS Registered Firms

- 3.1** Membership of this Scheme forms part of the package of provisions which apply to RICS Registered Firms.
- 3.2** Each RICS Registered Firm which is a Property Agent which holds Client Money must, as part of its RICS registration, become a Member of the Scheme. Each RICS Registered Firm is subject to the general rules applicable to RICS Registered Firms and in addition, in respect of Client Money (as defined in Rule 1.1) held as a Property Agent, the specific provisions set out in these Rules which form the Property Agents Client Money Protection Scheme offered by RICS.
- 3.3** When seeking to become an RICS Registered Firm and thereafter on each RICS Registration Renewal Date, the Scheme Administrator shall review the RICS Registered Firm's eligibility to be a Member of the Scheme and its continued membership of the Scheme.

### 4. Issue of Membership Certificate

- 4.1** Coverage for a Member under the terms of the Scheme shall continue for such time as a Certificate continues to be an issue in respect of the Member.
- 4.2** A Certificate of Membership shall be issued:
- a** in the case of a firm which is an RICS Registered Firm as at the Commencement Date, as soon as practicable after the Commencement Date; and

- b** in respect of a firm which becomes registered as an RICS Registered Firm after the Commencement Date, as soon as practicable after the date of its registration.
- 4.3** The Scheme Administrator shall review a Member's continued membership of the Scheme on an annual basis. If, in respect of a Member at its particular RICS Registration Renewal Date, RICS intends to terminate its status as an RICS Registered Firm and/or to rescind its Member's Membership Certificate, RICS shall notify the Member accordingly. Unless otherwise specifically so notified, the Membership Certificate issued under paragraph 4.2 shall continue in full force and effect.
- 4.4** The Certificate of Membership issued to a Member should be displayed by the Member at each of the Member's premises at which the agent deals face to face with persons using or proposing to use the Member's services as a Property Agent; and at a place in each of those premises where the Certificate is likely to be seen by such persons. In addition, the Member will make available a copy of the Certificate on the Member's website (if any). The Member must produce a copy of the Certificate to any person who may reasonably request a copy of it, free of charge.

## 5. Scheme Levies

- 5.1** Levies are payable by a Member for the duration of its Scheme Membership.
- 5.2** The rate or amount of the Levies in respect of each Financial Year of the Scheme will be published on the Scheme's Website and notified to the then current Scheme Members in good time before the commencement of the Financial Year to which they relate.
- 5.3** Each Member must pay the Levy for Scheme Membership of such amount as is determined by the Scheme Administrator and notified to the Member promptly. The amount of the Levy for a Member will be invoiced as part of the invoice for levies payable for RICS Registered Firm status on each RICS Registration Renewal Date. The Levy paid as at the RICS Registration Renewal Date is intended to be the Levy for the forthcoming twelve month period after that Renewal Date. It is noted however that the Financial Year of the Scheme will likely differ from the twelve month period which will apply to each Member of the Scheme. Should the Scheme Administrator determine that the Levies determined pursuant to Rule 5.2 in respect of a forthcoming Financial Year of the Scheme (or part of a Financial Year) are materially higher than were contemplated when a Member's Levy was invoiced in respect of a period which in part falls in that Financial Year or should the insurance cover be revised during the course of the Financial Year, the Scheme Administrator may at its discretion issue an additional invoice for an additional amount of Levy.
- 5.4** Payment of any Levy invoiced must be made by a Member as a precondition for its Certificate remaining in full force and effect for the purposes of Rule 4.

## 6. Termination of Membership

- 6.1** Membership of the Scheme shall be coterminous with the duration of a Member's registration as an RICS Registered Firm and for so long as it remains a Property Agent. A Member which fails or is reasonably aware that it may fail to meet any of the qualifying conditions to be an RICS Registered Firm, or ceases to be a Property Agent, must notify the Scheme Administrator promptly.
- 6.2** Membership of a Member will cease if:
- a** the Member ceases to be an RICS Registered Firm.
- Deregistration as an RICS Registered Firm shall be determined pursuant to the terms of the RICS Rules of Conduct and will result in cancellation of the firm's membership of the Scheme with effect from the date that the firm is deregistered.



**b** the Scheme Administrator (at its sole discretion) determines, whether at the firm's RICS Registration Renewal Date or otherwise, not to continue a Member's membership of the Scheme.

**6.2** Should membership of a Member be terminated, the Scheme Administrator will cancel the Member's Certificate promptly by notice in writing to the Member. Cancellation of membership of the Scheme will mean that protection under the Scheme will cease with effect from the date that membership is cancelled. In the event that membership is cancelled, a former member must stop using and/or remove where displayed any RICS branded material relating to the Scheme including, but not limited to, the Certificate of membership.

**6.3** In the event of the Scheme's closure pursuant to Rule 12, the Member must notify its clients promptly and seek replacement coverage by an alternative Property Agents Client Money Protection Scheme.

## Client money

### 7. Handling of Client Money

**7.1** Client Money must be held in a Client Money Account with a bank or building society authorised by the Prudential Regulatory Authority (PRA), the Bank of England and the Financial Conduct Authority (the FCA).

**7.2** A Scheme Member must:

- a** maintain one or more Client Money Accounts into which all Client Money of the Member is paid;
- b** a Client Money Account must be designated as such and easily distinguished from other accounts of the Member;
- c** all clients of the Member must be advised that Client Money will be held in a Client Money Account and be notified of the details of that account;
- d** confirm in writing with the bank with which it holds a Client Money Account that the bank acknowledges that monies in the Client Money Account must not be combined with, or transferred to, any other account maintained by the Member, and the bank shall not be entitled to exercise any right of set up or counterclaim against money in that Client Money Account in respect of any sum owed to it in respect of any other account of the Member firm;
- e** keep records and accounts which show all dealings with Client Money, and demonstrate that all Client Money held by the firm is held in a Client Money Account.

**7.3** As regards handling Client Money, a Scheme Member must:

- a** have and comply with written procedures for handling Client Money, which must comply with any RICS requirement to which Rule 7.4 refers;
- b** publish their procedures for handling Client Money on their website (if any);
- c** provide a copy of their procedures for handling Client Money to any person who may reasonably require a copy, free of charge;
- d** keep records and accounts that show all dealings with Client Money;
- e** repay any Client Money, including where feasible any interest earned, without delay if there is no longer any requirement to retain that money or the relevant client requests it; and
- f** hold and maintain professional indemnity insurance cover that is appropriate for the Member's size, income, type of work and the amount of Client Money held.

**7.4** In addition to the specific provisions set out in Rules 7.1, 7.2 and 7.3, the Scheme Administrator may from time to time issue advice and guidance as to how RICS Registered Firms should best comply with RICS Rules of Conduct, which may include guidance to, or prescription of additional required procedures for, RICS

Registered Firms which are members of the Scheme relating to key aspects of best practice as to the handling of Client Money.

## Compensation for loss of Client Money

### 8. Liability for loss of Client Money

- 8.1** In the event that a Member fails to account for Client Money to a person entitled to it whilst remaining an RICS Registered Firm (each Member having a primary duty to make full restitution as set out in Rule 2.3), the Scheme Administrator shall, out of the Scheme Funds, make good the Member's liability to that person or persons as soon as reasonably practicable on the terms set out in Rules 8 – 11.
- 8.2** The Scheme Administrator shall, usually on an annual basis prior to the commencement of each Financial Year of the Scheme:
- a** determine the relevant limits and risks in respect of which cover is to be provided, further details of which are explained in Rule 9 below, and
  - b** obtain insurance cover under Rule 10 accordingly.
- 8.3** No amount payable shall be subject to a deduction of a fee by the Scheme Administrator and no Client claimant shall be made to bear all, or any part of any, excess amount which may be applicable to the insurance cover obtained under Rule 10.

### 9. Compensation Limits

- 9.1** The Scheme provides for members of the public who are Clients of Members of the Scheme to be reimbursed for any direct pecuniary loss of Client Money. It does not cover any indirect or consequential loss which a Client may suffer.
- 9.2** The Scheme is designed to offer some protection to Clients where all other avenues have been exhausted, as explained in Rules 2.3 and 8.1. (Each Member has a primary duty to make full restitution, as set out in Rule 2.3.) Any Client considering making a Claim should in the first instance, explore all other avenues, principally by seeking restitution from the defaulting Member, as is reasonable in all the circumstances. Possible sources of restitution may include financial indemnity insurance maintained by the Member or access to other assets of the Member.
- 9.3** The Scheme Administrator may determine, as it thinks appropriate, any or all of the following: limits per claim: a cap on liability of the Scheme as a whole in respect of any single Financial Year of the Scheme and/or coverage of, or exclusion of, certain risks. Details of the current limits, caps and relevant risks (the "Compensation Limits") are set out in the Annex to these Rules as amended by the Scheme Administrator from time to time. Any aggregate cap set as a Compensation Limit shall be determined by the Scheme Administrator with the intention that it shall be in excess of the maximum probable loss which the Scheme Administrator reasonably expects might arise for the Scheme.
- 9.4** The Scheme Administrator shall maintain policies and procedures with a view to mitigating the risk of losses for Clients exceeding any Compensation Limits it sets pursuant to Rule 9.3. The Scheme Administrator may impose, whether through the RICS Rules of Conduct or by individual notification, controls with a view to ensuring that the prospect of a Member losing Client Money in excess of the Compensation Limits set by the Scheme Administrator under Rule 9.3 is sufficiently remote.
- 9.5** The Compensation Limits set pursuant to Rule 9.3 shall be reviewed, alongside the adequacy of insurance cover under Rule 10.5, periodically as the Scheme Administrator considers appropriate in all the circumstances. They will be reviewed in respect of each forthcoming Financial Year of the Scheme by the Scheme Administrator prior to the commencement of that Financial Year and should any exceptional circumstances arise to which Rule 10.5 refers. Should the Scheme Administrator determine to change the limits and/or risks covered within the Compensation Limits, the Scheme Administrator will update the Annex to these





Rules and Scheme's Website promptly and any changes will also be notified to Scheme Members promptly so that, if they wish to review their status as an RICS Registered Firm, and consequently their membership of the Scheme, they will have the opportunity to do so, and to make alternative arrangements to join another Property Agents Client Money Protection Scheme.

- 9.6** In no circumstances may the individual limit, aggregate limit or risks covered within the Compensation Limits be amended retrospectively. Any adjustments shall only apply with effect from a date on or after the date of the adjustment as published on the Scheme's Website and notified to Scheme Members.

## **10. Insurance cover**

- 10.1** The Scheme Administrator shall, in respect of each Financial Year of the Scheme, secure insurance cover with an Insurer that:
- a** covers any foreseeable liability which may arise in connection with failure of Scheme Members to account for Client Money to persons entitled to that money under Rules 8 and 9; and
  - b** is appropriate with regard to the size and number of Scheme Members and the amount of Client Money held by Scheme Members.
- 10.2** The insurance cover obtained for a Financial Year shall be determined by the Scheme Administrator with the intention that it shall be sufficient to allow the Scheme to pay out in the case of maximum probable loss which the Scheme Administrator might reasonably expect might arise in the particular Financial Year.
- 10.3** The Scheme Administrator shall ensure that the terms for compensation under Rules 8 and 9 of the Scheme and the terms for the insurance cover obtained under this Rule 10 are consistent with each other. Liability of the Scheme to pay a Claim only arises in relation to a risk in respect of which such insurance cover has been obtained.
- 10.4** Insurance cover must be obtained in respect of each Financial Year of the Scheme. The Scheme Administrator shall use all reasonable endeavours to obtain the approval of the Secretary of State as to the type and amount of insurance cover obtained in respect of each forthcoming Financial Year in respect of the Scheme in good time before the commencement of that Financial Year.
- 10.5** Adequacy of insurance cover shall be monitored periodically during each Financial Year as the Scheme Administrator thinks appropriate in all the circumstances. (Should exceptional circumstances arise during any Financial Year such that the Scheme Administrator reasonably considers that the insurance cover is, or may become, inadequate for the purposes set out in Rule 10.1, it may determine to seek changes to the insurance cover and, if so, shall seek the approval of the Secretary of State as to the revised type and amount of insurance cover to be obtained in respect of the remainder of that then current Financial Year.)

## **11. Claims procedures**

- 11.1** This Rule sets out the process for making Claims for compensation under the Scheme and the procedures that will apply in relation to the investigation and determination of such Claims and any complaints under the Scheme.
- 11.2** Claims for compensation for loss of Client Money shall be made in accordance with such procedures as the Scheme Administrator may determine and notify to Scheme Members from time to time.
- 11.3** Conditions are kept to the minimum but two important conditions are that
- a** a Member must report any known or suspected loss to the Scheme Administrator as soon as possible after a Member becomes aware of it. Even if the Member does not know the full extent or details of the Client loss, the Member should advise the Scheme Administrator as soon as it becomes aware of the problem.

- b** where fraud or dishonesty is suspected, then the details must also be reported to the police and other relevant authorities.
- 11.4** In respect of a Claim or a potential Claim, a Member must,:
- a** Submit a notice in writing of any potential Claim as soon as practicable giving all reasonable and necessary information assistance and proof of any Claim as the Scheme Administrator may reasonably require;
  - b** agree to cooperate fully with any investigation by the Scheme Administrator or their nominated representative;
  - c** agree to onsite visits to the addresses in which their records and accounts showing all dealings with Client Money are held;
  - d** produce, in response to all reasonable requests by the Scheme Administrator, all records and/or documents relating to matters pertinent to the Scheme for the Scheme Administrator and any nominated representative;
  - e** respond to all communications promptly when requested to do so by the Scheme Administrator;
  - f** make every reasonable effort to minimise any Client Money loss and to take appropriate measures immediately if they are required to reduce any Claim; and
  - g** give the Scheme Administrator all reasonable assistance which may reasonably be required to pursue compliance with the terms of the Rules.
- 11.5** Claims will only be accepted by the Scheme Administrator in respect of a Member which occurred during such time as the Member is a Member of the Scheme.
- 11.6** The Scheme Administrator shall accept notification of Claims for compensation under the Scheme for twelve months after the date on which the circumstances giving rise to a Claim occurred.
- 11.7** Any Claims should be submitted in writing to the Head of Registration and Compliance, RICS Regulation, 55 Colmore Row, Birmingham B3 2AA. The Scheme Administrator will acknowledge receipt of any Claim within seven working days.
- 11.8** Upon receipt of all information needed to substantiate a Claim, the Scheme Administrator hopes to be able to settle the claim quickly. Clients who are claimants will be kept informed of progress and advised of any reasons for any delay in the process. The Scheme Administrator will only make payment of any Claim to a Client once it has followed the terms of the claims procedure set out in this Rule and the Insurer has paid out to the Scheme Administrator in respect of that Claim under the terms of the insurance cover obtained under Rule 10.
- 11.9** Upon payment of any Claim to a Client by the Scheme Administrator out of the Scheme Funds, the debt/loss will be assigned to RICS for them to pursue any recovery against the firm or persons responsible. The Scheme Administrator may require payment by a Member into the Scheme of an amount additional to its Levies which is equal to the detriment suffered by Scheme Funds as a result of the Member's failure to comply with any conditions in these Rules.
- 11.10** The Scheme Administrator shall maintain a Claims complaints handling policy which it shall apply in the event of any complaints arising from Clients who make Claims under the Scheme. Details of the Claims complaints handling policy shall be made available on request to Scheme Members and Clients.

## General matters

### 12. Duration of the Scheme

- 12.1** The Scheme Administrator shall continue to offer the Scheme for so long as RICS, at its discretion and for any reason, decides to do so and provided that appropriate insurance cover can be obtained for the purposes of Rule 10 and renewed on an annual basis which matches the liability for loss of Client Money pursuant to Rules 8 and 9.



- 12.2** The Scheme Administrator may at its discretion determine to close the Scheme with effect from the Scheme Closure Date having given due written notice to the Secretary of State and to Scheme Members and having provided details of the plans for an orderly closure of the Scheme.
- 12.3** The Scheme Administrator may determine to close the Scheme should it fail to obtain the approval of the Secretary of State to the type and amount of insurance pursuant to Rule 10 in respect of any prospective renewal of the Scheme's insurance for the forthcoming Financial Year of the Scheme.
- 12.4** The Scheme may also be required to be closed should the Secretary of State withdraw the approval of the Scheme pursuant to Regulation 9 of the Regulations.
- 12.5** In the event of the Scheme's closure pursuant to the above revisions of this Rule 12, the Scheme Administrator:
- a** will, in devising its plans for closure of the Scheme, have due regard to the need to enable an orderly transfer of Scheme Members to an alternative Property Agents Client Money Protection Scheme before the Scheme Closure Date. (Determination of the Scheme Closure Date shall have due regard to such need to enable the orderly transfer of Scheme Members.)
  - b** give written notice to each Scheme Member of the fact of closure; the reasons why the Scheme is being closed; and the Scheme Closure Date;
  - c** in the written notice to which paragraph (b) refers, set out procedures which are designed to facilitate the smooth transfer of the Scheme's Members to an alternative designated or approved Client Money Scheme which shall be intended to be at no additional cost to scheme members before the Scheme Closure Date.
- 12.6** The Scheme Administrator shall not accept any new member or any membership renewal once it has determined to close the Scheme and, in any event, on no occasion after the Scheme Closure Date.

### **13 Scheme Administrator**

- 13.1** As required by the Regulations, the Scheme Administrator shall be independent from the Scheme Members, offering protections such that:
- a** the Scheme shall not be subject to interference from Members and Members will not be able to influence the payment of any claims; and
  - b** the decision making process for the appointment of the Scheme Administrator shall be taken by RICS in accordance with its own procedures and therefore not subject to the risk of influence of any Members which are subject to a potential Claim or investigation.
- 13.2** The first Scheme Administrator is RICS itself.
- 13.3** RICS may determine to appoint an alternative Scheme Administrator, in which event it shall notify Scheme Members and update the Website accordingly.

### **14 Rule Amendments**

- 14.1** These Rules are the rules in force as at 1 April 2019.
- 14.2** The Scheme Administrator may revise the terms of any Compensation Limits as it considers it appropriate on the basis set out in Rule 9.3 and the adequacy of the insurance cover on the basis set out in Rule 10.5 as it considers it appropriate from time to time. These provisions will be reviewed by the Scheme Administrator prior to the commencement of each Financial Year of the Scheme and should any exceptional circumstances arise during a Financial Year.
- 14.3** The Rules may also be amended as determined by the Scheme Administrator in any other respect, subject to such amendments not prejudicing approval of the Scheme as a Property Agents' Client Money Protection Scheme by the Secretary of State.

**14.4** If and when the Rules are amended Members shall be notified promptly before the Rule changes come into force and they shall be made available on the Scheme's Website. Scheme Members should ensure that at all times they are referring to the most up to date copy of the Rules of the Scheme.

## Annex: Compensation Limits

This Annex sets out the current Compensation Limits for the purposes of Rule 9.3.

**1 Direct loss:** Rule 9 makes it clear that the Scheme provides for reimbursement only in respect of direct loss of client money and covers no indirect or consequential loss. In addition there are specific exclusions as follows. These are determined by the Scheme Administrator for the purposes of Rule 9.2 and as set out in this document.

**2 Limit per claim:** £50,000

**3 Cap on liability of the Scheme as a whole in respect of any single Financial Year: The Total Aggregate Limit available to pay Claims is £30,300,000.**

**The initial amount of £10,300,000 is also available to meet any Surveying Services Client Money Protection Claims payable under the Appendix 1 Scheme and any TDS Claims to which Appendix 3 refers. This initial amount of £10,300,000 can be utilised for any of the three types of cover.**

**The additional sum of £20,000,000 is only available for Property Agent Client Money Protection Claims.**

**4 Risks covered / excluded**

Exclusions from cover are as follows:

- a** Loss of client money that is jointly held by a Client and a Scheme Member where the Client has contributed to such loss. However this exclusion will not apply to innocent Clients.
- b** Loss arising or occurring elsewhere than in the United Kingdom of Great Britain and Northern Ireland, the Channel Islands or the Isle of Man.
- c** Loss of any consequential nature including but not limited to loss of potential income interest and dividends not realised by the Client because of a loss covered by the Scheme.
- d** Penalties, fines or similar impositions.
- e** Losses arising due to the failure of any bank or deposit taker in which a Client Money Account is held
- f** Loss due to investment, where the investment is specifically agreed in writing with the client
- g** Loss of investment income
- h** Loss or damage directly or indirectly occasioned by, happening through or in the consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or acquisition or destruction of or damage to property by or under the order of any government or public or local authority.
- i** Loss, damage, cost or expense of whatsoever nature directly or indirectly caused by resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any sequence to the loss.

Loss, damage, costs or expense of whatsoever nature directly or indirectly caused by, or resulting from or in connection with any action taken in controlling, preventing, expressing or in any way relating to any act of terrorism.

For this purpose, an "act of terrorism" means an act including but not limited to the use of force or violence and/or the threat thereof, or any person or group(s) of persons, whether acting alone or on behalf of or in connection with any

organisation(s) or government(s), committed for a political, religious, ideological or similar purposes including the intention to influence any government and/or put the public, or any section of the public, in fear.



## Appendix 3: TDS Deposits

The Dispute Service Limited (TDS) has been appointed by the Secretary of State for Communities and Local Government under the provisions of Schedule 10 of the Housing Act 2004 to collect and hold Tenancy Deposits from agents and landlords who are registered with it as members of the Insurance Based Tenancy Deposit Protection Scheme (IBTDP) in England and Wales and to distribute such deposits in accordance with any adjudication made by TDS or by the Courts or by any other body appointed by TDS to adjudicate in such cases.

TDS has a wholly owned subsidiary Tenancy Deposit Scheme Northern Ireland Limited (TDSNI) which has been appointed by Ministers in the Department of Social Development in Northern Ireland under The Tenancy Deposit Schemes Regulations (Northern Ireland) 2012 to operate both a custodial tenancy deposit protection scheme and an IBTDP Scheme in Northern Ireland. TDSNI is appointed to collect and hold disputed tenancy deposits from agents and landlords who are registered with it as members of the IBTDP Scheme in Northern Ireland and to distribute such deposits in accordance with any adjudication made by TDSNI or by the Courts or by any other body appointed by TDSNI to adjudicate in such cases.

RICS has agreed with TDS that Claims by TDS or TDSNI, or their appointed insurer representatives, made against RICS Members and RICS Registered Firms will be paid in accordance with an insurance policy taken out by RICS, up to an aggregate limit of £3,000,000 in respect of any Financial Year – being each period of twelve months beginning on 1 April. RICS has made such an appropriate insurance arrangement with CMP Insurance PCC Limited, a subsidiary of RICS which is an insurer authorised by the Guernsey Financial Services Authority.

It should be noted that the agreement between RICS and TDS for RICS to meet Claims up to an aggregate limit of £3,000,000 in any one Financial Year is limited to claims for protected tenancy deposit monies made against RICS Members and RICS Registered Firms by TDS or TDSNI and shall not be taken to include any associated legal costs or advisory costs, damages or interest incurred by TDS or TDSNI or their appointed insurer representatives.

For any amount over £3,000,000, the claim amount remains with TDS or TDSNI, as appropriate.

RICS may from time to time issue guidance or additional required procedures for RICS Registered Firms which are members of TDS or TDSNI relating to the above matters if it thinks it appropriate.



## Confidence through professional standards

RICS promotes and enforces the highest professional qualifications and standards in the valuation, development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to markets and effecting positive change in the built and natural environments.

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