

**THE LAW SOCIETY OF SINGAPORE**

**Unclaimed Money Fund  
Framework  
(wef 1 November 2019)**

**Information Pack**

# Topics Covered

A. Overview

B. Application Process for Transfer into the Fund

C. Post-Approval Matters

D. Application Process for Payment out of the Fund

E. Informing the Client About the Fund

# **A. OVERVIEW**

# Overview

- Purpose of Unclaimed Money Fund (UMF) framework is to address what happens **when client money is left unclaimed in client account** e.g. if client becomes uncontactable.
- Amendments to the Legal Profession Act (LPA) were passed in March 2018: Part VB of the LPA sets out the general UMF framework, which will be implemented on **1 November 2019** together with the following:
  - Legal Profession (Unclaimed Money Fund) Rules 2019 (“Rules”)
  - Council Practice Direction 3.14.1 on the Unclaimed Money Fund framework (“Council Practice Direction”)

*[Note: Rules will prevail over Council Practice Direction to the extent of any inconsistency – Rule 11 of the Rules.]*

# Overview

- In essence, Singapore law practices will be able to **transfer unclaimed client money to the Law Society** upon making an application and satisfying certain requirements.
- This is a **voluntary** scheme.
- The application process is intended to be **administratively efficient** for law practices to transfer the unclaimed client money to the Law Society.
- Council will have the power to **waive any application requirement** if it thinks that it is impractical for an applicant or a claimant to comply with that provision (Rule 10 of the Rules).

## **B. APPLICATION PROCESS FOR TRANSFER INTO THE FUND**

# Transfer of Unclaimed Client Money

- Section 70K(1) LPA:

“A solicitor or Singapore law practice may apply to pay into the Fund any money that is held by the solicitor or Singapore law practice for or on account of a client (except any money held in a trust account), if that solicitor or Singapore law practice:

(a) intends to pay money to the client; but

(b) is unable to do so, despite making such **reasonable efforts** as the Society may require.”

- A “client” is defined in section 70K(6) LPA (see next slide).

# Transfer of Unclaimed Client Money

- Section 70K(6) LPA:

Meaning of “client” includes:

- Any person mentioned in the definition of “client” in section 2(1) LPA;
- A person for or on behalf of whom is held any money that was transferred, directly or indirectly to a solicitor or Singapore law practice from another solicitor or Singapore law practice; and
- the estate or personal representative of a deceased client.



# Transfer of Unclaimed Client Money

- Section 70K(2) LPA:

“The Society may approve an application made under *[section 70K(1) LPA]*, subject to any conditions imposed by the Society, if the solicitor or Singapore law practice making the application satisfies such requirements as may be prescribed under section 70N *[i.e. the Legal Profession (Unclaimed Money Fund) Rules 2019]* ...”

# Application Requirements

## Rule 4(1) of the Rules:

- in the form specified on the Society's website
- contain the following information:
  - Identifying particulars of client(s)
  - Details of every matter or transaction between the applicant and the client in respect of the money to which the application relates, including:
    - The date of each matter or transaction;
    - The amount of money received by the applicant for each matter or transaction; and
    - The amount of money to which each client is entitled if 2 or more clients are entitled to the money; and
    - The total amount of money that the applicant proposes to pay into the Fund.

# Application Requirements

## Rule 4(1) of the Rules:

- accompanied by evidence of the effort made by the applicant to pay the money to the client
- conform with the requirements of the LPA, Rules and Council's Practice Direction

## Note:

- Society may require applicant to provide further necessary information or document (Rule 4(2) of the Rules).
- Application may be rejected if incomplete, not made in accordance with Rules or applicant fails to provide further necessary information or document (Rule 4(3) of the Rules).

# Categories of Money

Category	Definition	Timeframe
<b>Legacy amounts</b>	<p>Sums held in the applicant’s client account immediately before 1 November 2019 and for which no transaction (other than an excluded transaction) with respect to such money had occurred during the period of 6 years immediately before 1 November 2019 (i.e. from 1 November 2013 to 31 October 2019).</p> <p><b>Monies held on or about 1 November 2013 are legacy amounts if dormancy requirement satisfied.</b></p>	<p><b>Within Initial Period (between 1 November 2019 and 31 October 2021 – both dates inclusive)</b></p> <p><b>Written confirmation of dormancy sufficient</b></p>
		<p><b>After Initial Period (i.e. 1 November 2021 onwards)</b></p> <p><b>Requirements in rule 4(1) of the Rules apply</b></p>

# Categories of Money

Category	Definition	Timeframe
<b>Small amounts</b>	Sums not exceeding \$200 held for a client in the client account	At all times (no Initial Period applies) <b>Written confirmation of reasonable effort made sufficient</b>
<b>All other amounts</b>	Sums which are neither small nor legacy amounts	At all times (no Initial Period applies) <b>Requirements in rule 4(1) of the Rules apply</b>

# Reasonable Efforts

Paragraph 3.1 of Council Practice Direction:

- You must make reasonable efforts to return unclaimed money to your client. Suggested steps to locate your client include:
  - sending letters, faxes or e-mails to the client;
  - making phone calls to the client;
  - carrying out internet searches of the client's name;
  - contacting appropriate third parties (e.g. client's family members, employers, banks/creditors);
  - where the client is a corporate entity, conducting an ACRA search; and/or
  - for estate matters, contacting the Personal Representatives or Executors.

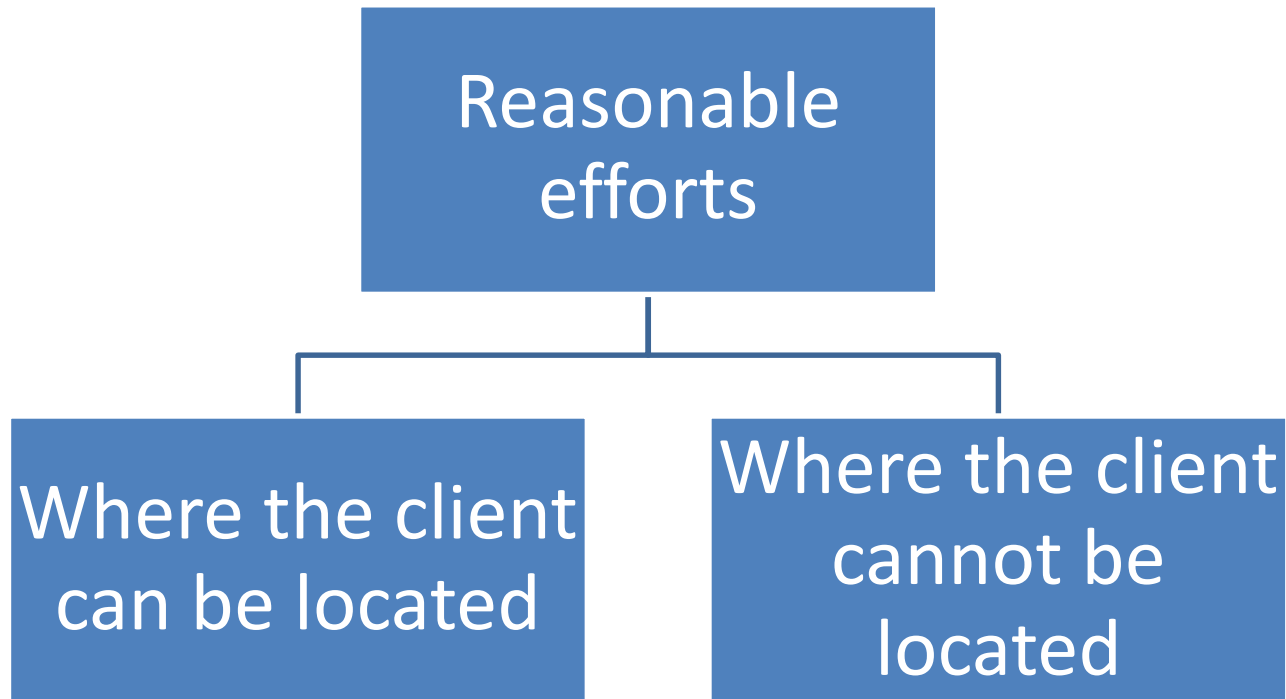
# Reasonable Efforts

Paragraph 3.2 of the Council Practice Direction:

- The Society will consider the circumstances of each case in determining whether reasonable efforts were undertaken, including whether the costs of undertaking such efforts are **proportionate** to the amount of unclaimed client money held.
- For **small sums**, reasonable efforts should be proportionate to the amount held.
- For **large sums**, the Society may require additional measures to be taken as may be appropriate, such as by placing an advertisement in print media and/or engaging professional services from private investigators.
- The Society will notify you if such additional measures are required.

# Reasonable Efforts

Paragraphs 3.4 and 3.5 of Council Practice Direction:





# Reasonable Efforts

## Where the client can be located

- But the client **fails to cash a cheque** or to **give instructions**;  
and
  - **No prior agreement** has been made as to the disposal of the unclaimed client money
- You should write to **advise the client that you will apply to transfer such money** to the Fund, unless you hear to the contrary within a stated and reasonable period of time

# Reasonable Efforts

## Where the client cannot be located

- If you have exhausted all reasonable attempts to trace your client, you will need to **provide evidence** of the effort made by you, **except in two cases**:
  - (a) Transferring legacy amounts to the Fund during Initial Period; and
  - (b) Transferring small amounts to the Fund

# Reasonable Efforts

## Paragraph 3.5 of Council Practice Direction:

In determining whether to approve your application, the Society may consider if you have made reasonable efforts based on all the circumstances of the case, including the **non-exhaustive factors set out under Rule 5(2)** of the Rules:

- Information in the application form, including any supporting documents;
- The length of time that the applicant has held the money;
- The costs incurred by the applicant, and any other solicitor or Singapore law practice that previously held the money for or on account of the client (if any), in attempting to pay the money to the client;
- Where the money was held in the applicant's client account immediately before 1 November 2019, whether any transaction (other than an excluded transaction) occurred in respect of the money during the 6 years immediately before that date (i.e. from 1 November 2013 to 31 October 2019).

# Application forms

Category of Money	Forms
Transfer of legacy amounts during Initial Period (1 November 2019 to 31 October 2021)	1 + 2a
Transfer of legacy amounts after Initial Period (from 1 November 2021 onwards)	1
Transfer of small amounts	1 + 2b
Transfer of all other amounts	1

- All of the above forms can only be completed by a **sole proprietor, partner or director** of a Singapore law practice.

## **C. POST-APPROVAL MATTERS**

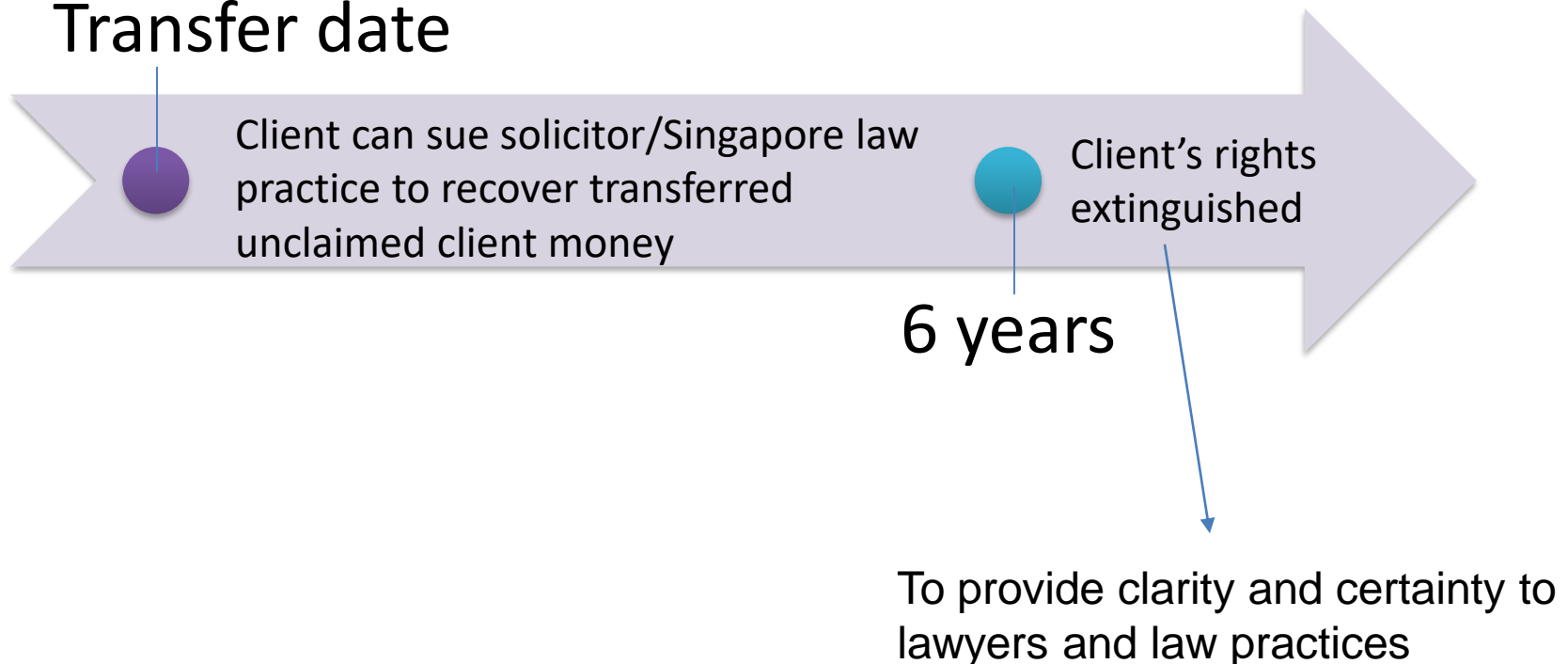
# Post-Approval Matters

1. Continuing liability to client for 6 years
2. Record-keeping requirements
3. Inspection

# Continuing liability to client: 6 years from transfer date

Section 70K(4) LPA

Transfer date



# Continuing liability to client: 6 years from transfer date

If your application is approved, please note that:

- your client still has a statutory right to sue you or your law practice for the transferred unclaimed client money anytime **on or before the expiry of 6 years after the transfer date** of the transferred unclaimed client money (section 70K(4) LPA) – **if the client does not lodge a suit within the 6-year limitation period, the client’s statutory right will be extinguished.**
- your liability to the claimant is **discharged only after the Society pays** the relevant amount to the claimant (section 70L(4) LPA) – **this scenario only applies if the claimant turns up to apply to the Society (within 6 years after the transfer date) for the payment of the transferred unclaimed client money.**



# Record-Keeping Requirements

- Rule 8(1) of the Rules:

Following approval of the application, the solicitor or Singapore law practice must keep records of the following for **6 years** beginning on the date of payment of the unclaimed money into the Fund (“record-keeping period”):

- (a) the file reference number of the matter to which the money relates;
- (b) the name of the solicitor in charge of the matter;
- (c) the identifying information of the client;
- (d) the date on which the money was paid to the solicitor or Singapore law practice;
- (e) the amount of the money (excluding any accrued interest) in the client account of the solicitor or Singapore law practice immediately before the transfer;
- (f) the amount deducted from the money for expenses incurred by the solicitor or Singapore law practice in attempting to return the money to the client, if any;
- (g) the amount of the money paid into the Fund;
- (h) the date on which the money was paid into the Fund;
- (i) the effort made by the solicitor or Singapore law practice to pay the money to the client.

# Record-Keeping Requirements

- Solicitor or Singapore law practice must **produce the records** to the Society, or a person authorised by the Society, upon request. (Rule 8(2) of the Rules)
- Requirements in Rule 8(1) and 8(2) continue to apply to the solicitor for the remainder of the record-keeping period even if he or she **ceases to practise at any time during the record-keeping period.** (Rules 8(3) of the Rules)
- Requirements in Rule 8(1) and 8(2) cease to apply to Singapore law practice that is **dissolved** or **goes into liquidation** or has its **licence revoked** during the record-keeping period, but apply to **every person who is a responsible officer** of the Singapore law practice immediately before dissolution, liquidation or revocation for the remainder of the record-keeping period. (Rule 8(4) of the Rules)

# Transfer of accrued interest to the Fund

Paragraph 3.11 of Council Practice Direction:

- You may apply to transfer to the UMF **both the principal amount and accrued interest (if any)** pertaining to the unclaimed client money.
- If you retain the accrued interest, you must ensure that the **terms of engagement** with the client permit you to do so.
- Post-transfer, Rule 8(1) of the Rules requires you to **keep records of the principal amount, but not the accrued interest**, in your client account immediately before the transfer.

# Deduction of amount for expenses incurred in making efforts to return the money

Paragraph 3.12 of Council Practice Direction:

- You must ensure that that the **terms of engagement** with your client allow you to deduct an amount for expenses incurred in attempting to return the money to the client.
- Before you apply to transfer the unclaimed client money into the Fund, you must **take into account any authorised deductions** made for such expenses incurred.
- Post-transfer, Rule 8(1)(f) of the Rules requires you to **keep records of the amount deducted, if any.**

# Powers of inspection

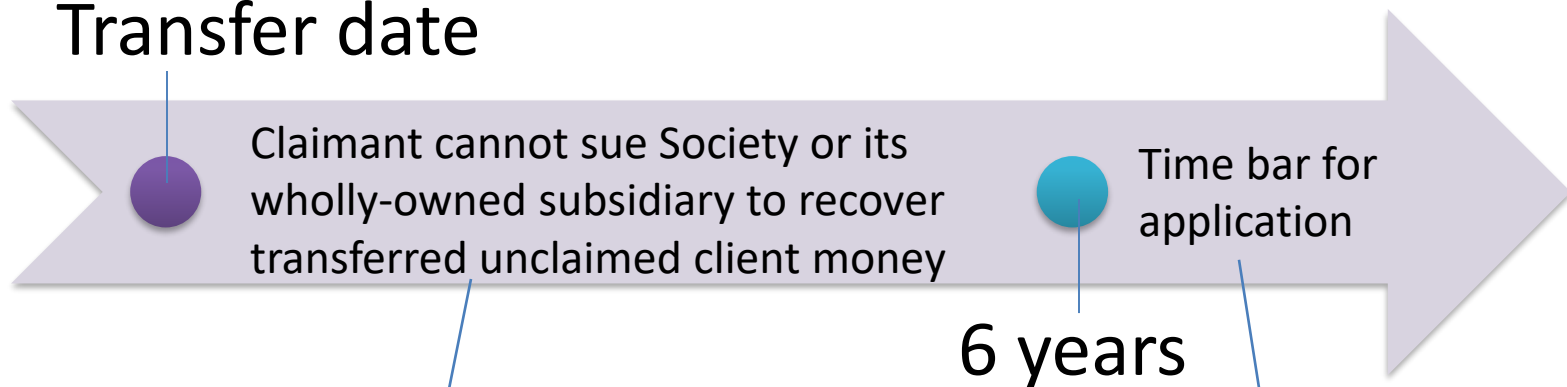
Rule 9 of the Rules:

- For the purpose of an inspection by the Council, the Council will have powers to require the solicitor or responsible officer of the Singapore law practice to:
  - produce any document or record; or
  - provide any information or explanation.
- Please refer to rule 9(2)-(7) for details.

## **D. APPLICATION PROCESS FOR PAYMENT OUT OF THE FUND**

# Applications to Society for payment out of the Fund

Transfer date



But claimant can apply to Society for payment of transferred unclaimed client money if requirements are met

But Society can make *discretionary/ex gratia* payments to claimant

# Application Requirements

## Rule 6(1) of the Rules:

- in the form specified on the Society's website
- contain the following information:
  - Identifying particulars of:
    - Claimant
    - Solicitor/Singapore law practice that held the money immediately before the money was paid into the Fund, or any other solicitor/Singapore law practice that held the money at any time before the money was paid into the Fund
    - Person who authorised the claimant to receive the money
  - The date on which the money was paid to the solicitor or Singapore law practice mentioned above



# Application Requirements

## Rule 6(1) of the Rules:

- Application must be accompanied by a **court order** or **statutory declaration** setting out the **relevant amount** payable by the Society to the claimant, as set out in section 70L(3)(a) or (b) of the LPA
- Application must also conform with the requirements of the LPA and Rules

## Note:

- Society may require claimant to provide further necessary information or document (Rule 6(2) of the Rules).
- Application may be rejected if incomplete, not made in accordance with Rules or claimant fails to provide further necessary information or document (Rule 6(3) of the Rules).

# Applications made within 6 years of transfer date

Paragraph 4.1 of Council Practice Direction:

- If a **claimant seeks your assistance** to apply to the Society on the claimant's behalf for payment of transferred unclaimed client money from the Fund within 6 years of the transfer date, please note:
  - The Society will **not accept an application by a solicitor or Singapore law practice as the claimant**. The claimant must be the client entitled to the payment.
  - The Society will **not reimburse** you if you choose to pay the claimant and subsequently make an application for reimbursement.
  - The Society will only accept an application form that has been completed and signed by a **sole proprietor/partner/director** of a Singapore law practice.

# Applications made within 6 years of transfer date

- A claimant is defined in section 70L(1) of the LPA to mean any person who claims:
  - to be entitled to any transferred unclaimed client money; or
  - to be authorised to receive any transferred unclaimed client money.

# Applications made within 6 years of transfer date

Paragraph 4.2 of Council Practice Direction:

- The Law Society requires a solicitor or Singapore law practice advising the claimant to give the claimant all material information before the claimant takes action to recover any transferred unclaimed client money pursuant to section 70K(4) of the LPA.
- In this regard, you must **advise the claimant on the alternative procedure of applying directly to Society** for payment of the transferred unclaimed client money and conduct a cost-benefit analysis with the claimant.
- This will enable the claimant to make an informed decision.

# Application forms

- Form 3 (claimant's application form)

# **E. INFORMING THE CLIENT ABOUT THE FUND**

# Obligation to inform client

Paragraph 5.1 of Council Practice Direction:

- Society requires you to inform your client about the UMF for **all new matters commencing from 1 November 2019**, as well as **matters which are ongoing as of 1 November 2019**.
- You must **inform them** about the circumstances under which:  
(a) unclaimed client money can be transferred to the Fund;  
and (b) they can apply for the payment of transferred unclaimed client money from the Fund.
- Sample information sheet is available on the Society's website.

# Summary of key points

- Easier to transfer:
  - (a) Legacy Amounts (during Initial Period – only written confirmation of dormancy required); and
  - (b) Small Amounts (only written confirmation of reasonable efforts required)
- Post-approval matters:
  - Continuing liability to claimant for 6 years
  - Record-keeping requirements



# Summary of key points

- Applications for payment out of the Fund
  - Application by solicitor/Singapore law practice as claimant will be rejected
  - No reimbursement to solicitor/Singapore law practice
  - Application form must be signed by sole proprietor/partner/director of Singapore law practice
  - Solicitor/Singapore law practice advising claimant must advise on alternative procedure of applying directly to Society for payment and conduct cost-benefit analysis with claimant
- Informing the client about the Fund
  - Obligation applies to all matters commenced or ongoing as of 1 November 2019

# Queries to Law Society

Please send your queries on  
the Unclaimed Money Fund  
framework to

[umf@lawsoc.org.sg](mailto:umf@lawsoc.org.sg)

# Website Links

For Lawyers:

<https://www.lawsociety.org.sg/For-Lawyers/Running-Your-Practice/Unclaimed-Money-Fund>

For Public:

<https://www.lawsociety.org.sg/For-Public/Unclaimed-Money-Fund>