

# Business continuity – client and office accounts

For RICS regulated firms ("**Firms**") with a sole Principal, the COVID-19 crisis has the potential to cause business continuity issues where an authorised individual is unable or otherwise restricted in carrying out bank account functions due to sickness-related absence.

This advice memorandum is designed to assist Firms in continuing to manage business accounts throughout the COVID-19 crisis. It sets out additional guidance which should be read in conjunction with the established terms of the Professional Statement regarding Client Money Handling, the Rules of Conduct for Firms, and any obligations under the RICS Client Money Protection Scheme Rules which may be relevant to your business (with which Firms should already be in compliance and with which Firms must remain in compliance). **In particular, note that, for client money accounts, only Options 1 and 2 below are relevant.**

## Options available to you to authorise others to act

If your business accounts are currently operated by one authorised individual, **which may be relevant for office money or client money accounts**, you have the following options available to ensure those accounts can continue to operate:

1. you can add **additional authorised signatories** to the mandates for the accounts;
2. you can put a **power of attorney** in place which delegates authority to specified individuals to deal with matters relating to the accounts.

If your accounts are held in the name of the sole Principal (as opposed to being in the name of the Firm), **which may be relevant for office money but will not be relevant for client money**, a third option would be to open **joint accounts** with another individual, or make the accounts already in existence joint accounts. However, unless there are specific reasons for doing so, this option is not recommended for the reasons set out in this advice.

The following paragraphs expand upon each of these three options. You should speak to your bank account provider to determine which option is the most suitable for you and whether the bank account provider has particular limitations or requirements in relation to any of them, before incurring time and/or costs pursuing a particular course of action.

### Option 1: Additional authorised signatories

You can add additional individuals to an account mandate to authorise the bank account provider to accept instructions from those individuals, which means that they can run the bank account on behalf of the account holder.

Given the nature of the COVID-19 crisis, it would be prudent to identify more than one suitable individual who can be added to the account mandate to mitigate the risk that several authorised individuals are affected by the virus at any one time, and it may be necessary (particularly in relation to client money accounts) for two signatories to act in conjunction in relation to certain account functions.

Advantages	Disadvantages
The actions that can be taken by each authorised signatory can be limited to certain agreed account functions	Your bank account provider may require "know your customer" information in respect of any additional signatories, and satisfying these requirements can take time. Check specific requirements with your bank account provider
Several individuals can be authorised at any one time in relation to each account	The signatories will be added to the accounts indefinitely and will need to be removed from the mandates once they are no longer needed
	Ensure that your bank account provider knows that you are not turning an account into a joint account (for the reasons sets out below) to avoid unintended consequences.

## Option 2: Powers of attorney

By making a power of attorney, you are appointing others to act on your behalf. In situations where you want to give individuals authority to deal with specified account tasks over a relatively short period, an **ordinary power of attorney** should be sufficient; however, the power will be invalidated if you lose your mental capacity at any point. Losing your mental capacity means that you lose the ability to make your own decisions (for example, if you were to suffer a brain injury or stroke). If you have any concerns in relation to mental capacity generally, you may wish to consider a **lasting power of attorney** instead. A lasting power of attorney operates on a long-term basis and even in circumstances where the appointing party loses mental capacity. If you think this may suit your circumstances, you should speak to a solicitor for advice on putting this in place in the correct form. A lasting power of attorney will need to be registered with the Office of the Public Guardian and this may take up to ten weeks.

In the same way as for additional authorised signatories, it is prudent (and may be necessary) to identify more than one suitable individual who can act as an attorney in relation to the accounts.

<b>Advantages</b>	<b>Disadvantages</b>
The actions that can be taken by each attorney can be limited to certain agreed account functions (i.e. a limited power of attorney)	Your bank account provider may require "know your customer" information in respect of any attorneys, and satisfying these requirements can take time. Check specific requirements with your bank account provider
The powers can be time limited (i.e. expire automatically on a certain date) or revoked at any time	Before incurring any legal costs, you would need to check with your bank account provider whether it would be prepared to accept a power of attorney from an operational perspective
Several attorneys can be authorised in relation to each account	

You can find a template form of an ordinary power of attorney on the RICS website – if you wish to proceed with a power of attorney you should contact your solicitor to ensure this template suits your circumstances.

### Bank accounts for client money

In respect of client money accounts, if you adopt Option 1 or 2 set out above, you must consider how to keep client money secure. RICS provides guidance in paragraph 3.5.2 of the RICS Professional Statement on Client Money Handling. In particular:

- if you are appointing a signatory to a client money account who does not have an employment or consultancy contract with the Firm, a locum agreement in an appropriate form must be entered into with the individual(s) to set out the role and responsibility of the individual. This is also advisable when appointing a signatory for an office account;
- if a Firm selects a sole signatory to a client money account, this should either be a Principal of the Firm or a person in a senior position in the company and remote from the day to day operation of the client account. Those who do not meet these criteria should only be able to

authorise withdrawals from the client account with a second signatory. If you are appointing a signatory under a locum agreement, consider whether a second signatory from the Firm's staff would increase the security of client money;

- the Firm must be able to demonstrate that all signatories understand the requirements of the Professional Statement and the Firm's procedures for handling client money and the signatories agree to comply with the Professional Statement; and
- the Firm's professional indemnity insurance should be updated to cover all signatories. Check your policy carefully as your insurer may also have specific requirements relating to account arrangements (for example, requiring that all payments have dual authorisation) and failure to comply may invalidate your cover.

**You should ensure that you keep your Firm's written procedures for handling client money up to date and, in the light of any action you take in the current circumstances, ensure that they are revised if necessary.**

### Option 3: Joint Accounts

**As mentioned above, this option is only relevant in respect of office money (not client money).**

It is possible to convert your existing account into a joint account with another suitable individual, or otherwise you can set up a new joint account with that individual. This is not recommended unless there are specific reasons for doing so; opening joint accounts solely to enable account flexibility can give rise to unintended consequences (as set out below) and complications if one of the account holders dies. Joint accounts are usually more appropriate for arrangements between family members.

Advantages	Disadvantages
The joint account holder will be given the same rights and control over the account as the original account holder – the money in the account is owned jointly	You will be liable for any mismanagement of the accounts by the joint account holder – the money in the account is owned jointly and each joint account holder is jointly liable (for example if the account becomes overdrawn)
	A joint bank account creates an association with the other account holders in any credit report – if your joint account holder has a

	poor credit rating, this can in turn affect your credit rating
	You may not be able to appoint more than one other account holder at the same time (although some bank account providers will accept up to four account holders). If all of your account holders are absent due to illness, your ability to continue to operate the account will still be affected
	Your bank account provider will require "know your customer" information in respect of any additional account holders, and satisfying these requirements can take time. Check specific requirements with your bank account provider
	Once the requirement for the joint account holder has ceased, it is procedurally time consuming to change the account back to a single account holder and whether this can be done will depend on the bank account provider

This option is available only if your office money is held in accounts in the name of the sole Principal as opposed to being in the name of the Firm. For the reasons explained above, creating a joint account can be problematic and in most cases is unlikely to be the best option.

## Online banking

In addition to the above, from an operational perspective authorised individuals (signatories, attorneys or account holders) should be set up for online access to business accounts, to the extent appropriate. If you do not already have online access to your accounts, you should take steps to enable online access with your bank account provider as soon as possible.

If additional signatories are added to your accounts over the coming days and weeks, they should also be set up for online access so that payments can be made remotely where, for example, individuals are self-isolating or showing symptoms but are otherwise able to work.

**Firms should note that, where online banking is undertaken, in order to comply with the Professional Statement on Client Money Handling, it is necessary for the Firm to ensure that appropriate safeguards to give adequate protection to client money are always in place and followed.**

## Further information

The information provided on the options set out above should be treated as temporary additional guidance for the purposes of paragraph 3.5 of the Professional Statement and is issued by the RICS in order to assist Firms in the current exceptional circumstances arising from COVID-19.

As set out at the beginning of this advice memorandum, you must at all times ensure that your Firm remains in full compliance with the terms of the Professional Statement regarding Client Money Handling and the RICS Client Money Protection Scheme Rules (the Scheme Rules) insofar as they are applicable to you.