

# Legal Services Act: New forms of practice and regulation

Consultation paper 5

## Changes to the Recognised Bodies Regulations

25 February 2008

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## Introduction

This consultation invites you to comment on proposed amendments to the [Solicitors' Recognised Bodies Regulations 2007](#). The amendments relate to the development by the SRA of a regulatory framework:

- to facilitate firm-based regulation and
- to allow the legal disciplinary practices (LDPs), and participation by non-lawyers, as permitted under the [Legal Services Act](#).

We hope that LDPs can become available as early as March 2009.

The paper can be read in conjunction with our initial policy paper [Legal Services Act: New forms of practice and regulation](#), published in November 2007.

The paper also relates closely to our consultation on amendments to the "framework of practice" rules in the Solicitors' Code of Conduct 2007 – [Legal Services Act - consultation paper 2](#) – especially the amendments to rules 14, 20 and 25 of the Code, which are annexed to this paper for ease of reference.

The changes discussed are of importance to all private practice firms (solicitors' firms providing services to the public in England and Wales). In future all such firms will have to be recognised bodies, recognised sole practitioners or firms authorised and regulated by another approved regulator. Failure to obtain and renew recognition will have serious consequences.

The Solicitors' Recognised Bodies Regulations 2007 (the Regulations) govern the procedures for recognition of a recognised body. The regulations currently cover applications, appeals, the period of recognition and when recognition can be revoked or expires. They also lay down what information is kept on the register of recognised bodies, and what is shown on a certificate of recognition.

There are four annexes to this paper:

- Annex 1 – (the subject of this consultation) the Regulations, showing proposed amendments,
- Annex 2 – (for reference) the amended rule 14 of the Solicitors' Code of Conduct (the Code) shown in consultation paper 2,
- Annex 3 – (for reference) an extract from the amended rule 20 of the Code shown in consultation paper 2, and
- Annex 4 – (for reference) the amended rule 25 of the Code shown in consultation paper 2.

This consultation is aimed at all those interested in the provision and regulation of legal services, including consumers.

Some of the detail is technical but the changes proposed will affect all firms which will be recognised bodies and those practising in them. For example:

- paragraph 6 (temporary emergency recognition) may be of limited interest to firms which are not partnerships; but
- paragraph 4 (approval of non-lawyer managers) may raise issues not only for those firms which intend to bring in non-lawyer managers, but also those which may want to bring in a foreign lawyer manager from a state-regulated profession.

**The closing date for responses is 21 April 2008.**

## **1. The current regime for recognised bodies**

- 1.1 There is a statutory scheme for firm based regulation of solicitors and RELs who practise in bodies corporate – companies or limited liability partnerships (LLPs). A body corporate must be a recognised body in order to carry on the practice of a solicitor in England and Wales.
- 1.2 The rules of the Solicitors Regulation Authority apply to a recognised body and to the solicitors, RELs, RFLs or other recognised bodies participating in it. So do the regulatory powers of the Solicitors Regulation Authority.
- 1.3 Rule 14 of the Solicitors' Code of Conduct governs the composition and structure of a recognised body. Rule 14 currently restricts the management and ownership of a recognised body to:
  - solicitors,
  - registered European lawyers (RELs),
  - European lawyers based outside England and Wales
  - registered foreign lawyers (RFLs),
  - recognised bodies
  - overseas companies owned by such persons

At least one solicitor or REL must be involved in both the management and ownership of a recognised body.

- 1.3 The Solicitors' Recognised Bodies Regulations govern procedural matters relating to recognised bodies.

## **2. The main changes the Legal Services Act will bring about**

- 2.1 The Legal Services Act makes it possible for us to
  - allow a recognised body to be an LDP and have new types of “manager” and owner,
  - apply our rules to all a recognised body's managers and employees, whether they are lawyers or not, and
  - extend the “recognised bodies” regime to unincorporated partnerships (including partnerships with legal personality)

In this way all solicitors' partnerships, companies and LLPs will be capable of becoming LDPs.

- 2.2 The new types of lawyer who can be allowed to participate in an LDP are
  - barristers,
  - notaries,
  - patent and trade mark agents,
  - licensed conveyancers,
  - legal executives, and
  - law costs draftsmen.

These lawyers (together with solicitors) are defined for the purpose of the Regulations as “lawyers of England and Wales”.

- 2.2 In addition, an LDP can have up to 25% non-lawyer managers. Non-lawyer managers must be individuals the Solicitors Regulation Authority has approved for the purpose.
- 2.3 In our consultation paper [Legal Services Act - consultation paper 2](#) we have proposed
  - amending rule 12 to require all solicitors’ partnerships, companies and LLPs with offices in England and Wales to be recognised bodies, and
  - amending rule 14 to provide that a recognised body may in future include managers who are “lawyers of England and Wales” other than solicitors, and up to 25% non-lawyers, who must be individuals approved by the Solicitors Regulation Authority.

“Manager” means a partner in a partnership, a member of an LLP or a director of a company. At least one director must be a solicitor or an REL. A non-lawyer who is not a manager cannot have an interest in the company. Non-lawyer managers may not exercise more than 25% of the voting rights in a firm or own more than 25% of a firm. At least one manager must be a solicitor, REL or a body corporate with a solicitor or REL manager.

### **3. Regulations 1 and 2 – applications, and recognition**

- 3.1 The existing Regulations covered only applications for recognition and renewal of recognition. In future they will cover more types of application. Regulation 1 introduces general requirements for all applications under the regulations and under related rules.
- 3.2 The criteria for obtaining initial recognition and renewal of recognition have been changed to reflect the fact that recognised bodies will now include partnerships.
- 3.3 All firms regulated by the Solicitors Regulation Authority will in future have to be recognised in order to practise, so refusal to renew recognition will have serious consequences. Recognition will in future expire only if there is no body to be recognised (paragraph 9).
- 3.4 In all other circumstances the body’s recognition will continue until a specific decision is made to revoke recognition. Determination of an application to renew may be deferred pending a decision whether the body's existing recognition should be revoked under regulation 9.

### **4. Regulation 3 – approval of a non-lawyer manager**

- 4.1 This regulation is new, and covers a new procedure – the approval of a non-lawyer to be a manager of a recognised body. Approval under this regulation is also required for a non-lawyer who is to be a manager of a body corporate which is itself a manager of a recognised body.

#### **The criteria for approval**

- 4.2 The criteria for approval are that the person concerned must not be a lawyer, and must be suitable to be a manager of a recognised body (to the satisfaction of the Solicitors Regulation Authority). There is a separate consultation about

the detail of the checks which should be undertaken – see [Consultation paper 1: Character and suitability test for LDP non-lawyer managers](#).

### **The effect of the criteria on foreign lawyers**

4.3 The criteria exclude any person who is a lawyer. See also paragraphs 5.3 to 5.6 of our consultation paper [Legal Services Act - consultation paper 2](#). A lawyer can participate in a recognised body as:

- a lawyer of England and Wales,
- an REL,
- a European lawyer based outside England and Wales, or
- an RFL

– but not as a non-lawyer.

4.4 Thus, a foreign lawyer who is not a member of one of the European legal professions must (as now) be an RFL in order to be a manager or owner of a recognised body. However, RFLs must belong to professions approved by the Solicitors Regulation Authority and current criteria for approval of professions may create a problem. They include a requirement that a profession must have a strong element of self-regulation. As a result, if a lawyer's profession is insufficiently self-regulated, that lawyer cannot become an RFL. These criteria were set some years ago and in a different regulatory environment. It seems inappropriate to exclude lawyers from recognised bodies because they are insufficiently self-regulated at home, especially as we intend to allow persons who are subject to no regulatory scheme at all to be managers. The best way forward may be to change the criteria for approval of a legal profession so as to allow such lawyers to become RFLs.

### **Other matters covered in regulation 3**

4.5 Other points to note about regulation 3 are as follows.

- An application for approval of a non-lawyer manager must be made by the body concerned.
- The onus is on the body to demonstrate that the individual concerned meets the criteria. This means that the body must provide all information and documentation necessary to demonstrate suitability. The body must secure the individual's co-operation in obtaining such information.
- Approval is not transferable except in the narrow circumstances in which a temporary emergency recognition is granted under regulation 5.
- Approval may be withdrawn if the Solicitors Regulation Authority is not satisfied that an approved individual continues to meet the criteria for approval.
- If an appeal against withdrawal of approval is lodged the withdrawal of approval will be suspended pending the outcome of the appeal.

### **Approval of managers authorised by other regulators**

4.6 The Regulations as drafted do not provide for an approval process for managers who are authorised by other regulators. The Legal Services Act makes no such requirement, and it was clearly not envisaged. However, if it transpires that an approved regulator either make no checks to confirm suitability, or checks which we consider inadequate, we might wish to provide

for supplemental checks to be undertaken by the firm or by the Solicitors Regulation Authority.

## **5. Regulation 4 – conditions on recognition**

- 5.1 Revocation of recognition should arguably be used as a last resort, when other sanctions or measures would be inadequate. The power to impose a condition on recognition may therefore prove important.
- 5.2 The AJA as amended requires the Solicitors Regulation Authority to set out in rules the circumstances in which (if we consider it in the public interest to do so) we may impose a condition on a body's recognition. We have framed those circumstances to focus on the *effect* of the condition. We can impose a condition in order to:
- limit or prevent activities presenting a risk to clients, third parties or the public,
  - limit the activities of a manager or employee, or
  - limit or prevent a risk to clients, third parties or the public arising from a business agreement, business practice or business model, and
  - provide appropriate restrictions when a recognised body is insolvent.

We may also impose a condition on a currently recognised body in any circumstance where we consider that it would be in the public interest to impose that condition.

## **6. Regulation 5 – Temporary emergency recognition following a partnership split**

- 6.1 Sometimes a partnership split can bring a new firm into being. Normally this will be a planned event, but occasionally it can take least some partners by surprise. It is not in the interests of the clients of such a partnership that the partnership should be prevented from providing continuity for clients because the partners have not had time to get it recognised. In our consultation paper [Legal Services Act - consultation paper 2](#) we have proposed amending rule 14 to allow for temporary emergency recognition in this situation. Regulation 5 sets out the procedures involved.
- 6.2 It is, however, very much in the public interest that applications for recognition receive proper scrutiny. We have sought to strike a balance as follows.
- Granting temporary emergency recognition will not prejudice our discretion to refuse the new firm's substantive application for recognition.
  - Temporary emergency recognition will be available only if we are satisfied the partners could not reasonably have foreseen the circumstances arising.
  - Temporary emergency recognition will last initially for 28 days. At the end of that time we will have discretion to revoke it.
  - We will have discretion to extend temporary emergency recognition pending determination of a substantive application for recognition.



- A non-lawyer partner who is already approved in relation to the partnership which existed before the split will not have to be approved again until the new partnership's substantive application for recognition.

## **7. Regulations 6 and 7 – notifications and appeals**

- 7.1 Regulation 6 is new. It will ensure that those affected by decisions which can be appealed are given reasons. The period of notice required for withdrawal of approval or revocation of recognition will allow time to appeal the decision.
- 7.2 The provisions about appeal reflect the procedures provided for in the AJA. They also provide for some additional appeals. A person aggrieved by any of the listed decisions may invoke the Solicitors Regulation Authority's own appeals procedure, without prejudice to any statutory right to appeal to the High Court.

## **8. Regulation 8 – Duration of recognition and renewal date**

- 8.1 The basic provision of regulation 8 is relatively simple – recognition is renewable yearly, every 31 October, and continues in force unless it is revoked, expires, or is suspended by the High Court. There are also some transitional provisions.
- All partnerships practising in England and Wales and regulated by the Solicitors Regulation Authority on 1 March 2009 will become recognised bodies on that day, provided their composition and structure complies with rule 14 of the Code. Their first renewal date will be 31 October 2009.
  - Existing recognised bodies are moved from three-yearly to yearly recognition, with appropriate adjustments to deal with overpayment of recognition fees.
- 8.2 All firms “passported” on 1 March 2009 will have to apply for renewal of recognition on 31 October 2009.

## **9. Regulations 9 and 10 – revocation and expiry of recognition**

- 9.1 The provisions relating to revocation and expiry of recognition have been supplemented. When in the future all private practice regulated by the Solicitors Regulation Authority has to be carried on through a recognised body (or as a recognised sole practitioner) the circumstances in which recognition expires automatically must be very limited. Before considering revocation of a body's recognition we will wish to consider whether the matter can be dealt with by a lesser sanction such as a fine or rebuke, or by imposing a condition on its recognition.
- 9.2 Under regulation 10, recognition will expire only if the body has ceased to exist. Regulation 9 provides that the Solicitors Regulation Authority may revoke recognition if satisfied that to do so would not present a risk to clients, to the protection of client money or to any investigative process, and:
- recognition was granted as a result of error or fraud (as now),
  - the body is no longer eligible to be recognised (as now – because, for example, it no longer has a solicitor or REL manager),
  - the body has failed to apply for renewal of recognition (as now),

- the body has a temporary emergency recognition but has not, within the 28 day period, put in a substantive application for recognition,
- the body has ceased to practise, or
- the body has become authorised by another approved regulator.

A decision to revoke recognition is subject to 28 days notice, and the body has a right of appeal. The decision to revoke cannot be implemented until any appeal is determined or abandoned.

## **10. Regulation 11 – Name of a recognised body**

An unincorporated partnership does not have a corporate name. Regulation 11 provides that a partnership must choose a name under which it is to be recognised. This name will appear on its certificate of recognition and on the register of recognised bodies. The obligation to choose a name for recognition will not prevent a recognised body having other practising styles.

## **11. Regulations 12 and 13 – The register and certificates of recognition**

11.1 The register will contain broadly the same information as at present, plus some additional information:

- the name and number under which the body is recognised;
- any other practising styles used by the body;
- its registered office, if it is an LLP or company;
- its principal practising address in England and Wales;
- all its other practising addresses;
- whether it is a partnership, an LLP, or a company; and
- if it is a company, its registered number and the type of company
- any condition on the body's recognition.

Although the register will be available for inspection by any member of the public, we will have discretion to withhold one or more of a body's practising addresses at the body's request, in exceptional circumstances. For example, we could use this discretion if we consider it is in the public interest in order to provide protection from violence for individuals and firms who would otherwise be at risk.

11.2 Certificates of recognition will contain broadly the same information as at present, plus any condition on the body's recognition.

## **Questions**

1. Do you agree with the basic criteria for approval of non-lawyers as managers? (See paragraph 4.2.)
2. Do you think a foreign lawyer whose profession has no strong element of self-regulation should be allowed to participate in a recognised body? If so, should such a foreign lawyer be permitted (and required) to participate as an RFL? (See paragraphs 4.3 – 4.4.)

2. Do you think the Regulations should give the Solicitors Regulation Authority discretion to require or to undertake checks on the suitability of proposed managers who are authorised by other approved regulators? (See paragraph 4.6.)
3. Do you think we have adequately covered the circumstances in which it may be necessary to impose conditions on a recognised body? If not, please give further details. (See paragraph 5.2.)
4. Do you agree with that temporary emergency recognition should be possible when an unrecognised partnership has come into being as a result of a sudden partnership split? If not, please explain. (See paragraphs 6.1 – 6.2.)
5. Do you agree that a non-lawyer manager of a body should be able to carry his or her approval over to a body which is benefiting from a temporary emergency recognition? If not, please explain. (See paragraph 6.2.)
6. Do you agree that a non-lawyer manager of a body with a temporary emergency recognition should have to be approved in relation to the new recognised body before its substantive application for recognition can be determined? If not, please explain. (See paragraph 6.2.)
7. Do you think the limitations on temporary emergency recognition strike the right balance between helping a partnership brought into being by unexpected events and ensuring that it is suitable? If not, please explain. (See paragraph 6.2.)
8. Do you think it is appropriate, in the public interest, to require the register of recognised bodies to state all a firm's practising styles? If not, please explain. (See paragraph 11.1.)
9. Do you think we have struck the right balance between transparency and the protection of individuals in reserving discretion to allow a body's practising address to be kept private? If not, please explain. (See paragraph 11.1.)
10. Do you believe any of the proposed amendments to the Regulations annexed will have a particular impact (adverse or otherwise) on any group or category of persons? If so please give further details.
11. Have you any other comments on the draft amendments to the Regulations?

## How to respond

For information about [How to respond](#), please visit our website.

- Go to [www.consultations.sra.org.uk](http://www.consultations.sra.org.uk).
- Select **Changes to the Recognised Bodies Regulations**.
- Click **How to respond**.
- Alternatively, go to [www.sra.org.uk/consultations/477.article#respond](http://www.sra.org.uk/consultations/477.article#respond).

## Annex 1 – the Regulations showing proposed amendments

### Solicitors' Recognised Bodies Regulations 2007

Rules dated 10 March 2007 commencing 1 July 2007 made under section 9 of the Administration of Justice Act 1985, with the concurrence of the Master of the Rolls under that section and the concurrence of the Lord Chancellor under paragraph 16 of Schedule 22 to the Legal Services Act 2007 ~~under section 9(2) of the Administration of Justice Act 1985~~, making provision as to:

- the procedures for, and the circumstances in which, bodies may be recognised by the Solicitors Regulation Authority as suitable to undertake the provision of legal services, the duration of recognition and the circumstances in which recognition will expire or may be revoked,
- the procedures for, and the circumstances in which, individuals who are not legally qualified may be approved by the Authority as suitable to be managers of recognised bodies, and the circumstances in which such approval may be withdrawn,
- the form and manner of applications relating to the recognition of a **recognised** body, the approval of an individual, and other applications under rules applying to recognised bodies, their managers and employees, and the fees to accompany such applications, ~~and as to~~
- the circumstances in which a body's recognition may be made subject to a condition,
- appeals relating to recognition of a body, conditions on recognition, or approval of an individual,
- the names used by recognised bodies, and
- the ~~list register~~ of recognised bodies, ~~the duration of recognition and revocation of recognition.~~

#### Part 1 – APPLICATIONS, CONDITIONS AND APPEALS

##### **Regulation 1 – Form, timing and fees for Applications for recognition and for renewal of recognition**

- 1.1 Any applications for initial recognition and for renewal of recognition made under these regulations or under any other rule which applies to a recognised body, its manager or employee must be
- (a) made on the prescribed form, and accompanied by the prescribed fee and such information and documentation as the Solicitors Regulation Authority may require, and
  - (b) supplemented by any additional information and documentation which the Authority may reasonably require.
- ~~1.2—A recognised body wishing to continue in practice after the renewal date must send its application for renewal of recognition so as to be received by the Solicitors Regulation Authority on or before the renewal date.~~
- ~~1.3—A recognised body not wishing to renew its recognition must notify the Solicitors Regulation Authority on or before the renewal date that it does not seek renewal of recognition.~~
- 1.3 An application for renewal of recognition must be sent to the Authority so as to

arrive on or before the renewal date.

- 1.4 A recognised body must notify the Authority on or before the renewal date if it does not intend to apply for renewal of recognition.

**Regulation 2 – ~~Discretion to grant or refuse applications~~ Initial recognition and renewal of recognition**

- 2.1 The Solicitors Regulation Authority may grant an application for initial recognition or renewal of recognition, if it is satisfied that the applicant body ~~corporate~~: is a partnership, LLP or company which meets the conditions in (a) to (c) below.
- ~~(a) — is registered under the Companies Act 1985 or the Limited Liability Partnerships Act 2000 either in England and Wales or in Scotland, or registered outside England, Wales and Scotland as a *societas Europaea*~~
- ~~(b) — complies with rule 14 (Incorporated practice of the Solicitors' Code of Conduct in relation to its internal structure, direction and ownership~~
- ~~(c) — has a name that complies with rule 7 (Publicity) of the Solicitors' Code of Conduct; and~~
- ~~(d) — complies with or is exempt from the Solicitors' Indemnity Insurance Rules as to qualifying insurance and top-up insurance.~~
- (a) the body complies with rule 14 of the Solicitors' Code of Conduct in relation to
- (i) its formation as a body corporate or partnership,
- (ii) its composition and structure, including any necessary approval under Regulation 3 in respect of a non-lawyer participant. and
- (iii) its practising address (and if appropriate, its registered office) in England and Wales;
- (b) the body complies with the Solicitors' Indemnity Insurance Rules; and
- (c) if the body is a partnership, it has adopted a name under which it is to be registered, and which complies with rule 7 of the Solicitors Code of Conduct.
- 2.2 The ~~Solicitors Regulation~~ Authority may refuse an application for initial recognition ~~or renewal of recognition~~ if:
- (a) the Authority is not satisfied that a ~~director, member manager shareowner or a person with an interest in the body~~ is ~~not~~ a suitable person to be engaged in the ~~direction management~~ or ownership of a recognised body, ~~by reason of taking into account~~ that person's history, character, conduct or associations; or
- (b) for any other reason the Authority thinks it proper in the public interest not to recognise the body.
- 2.3 If, when considering an application for renewal of recognition, the Authority:
- (a) is not satisfied that a manager or a person with an interest in the body is a suitable person to be engaged in the management or ownership of a recognised body, taking into account that person's history, character, conduct or associations; or
- (b) considers that for any other reason it would not be in the public interest to

renew the body's recognition,

the Authority may defer renewal of recognition pending a decision whether the body's recognition should be revoked under regulation 9.

2.4 A grant of initial recognition takes effect from the date of the decision unless otherwise stated.

### **Regulation 3 – Approval of a non-lawyer to be a manager of a recognised body**

3.1 A individual who is not a lawyer must be approved by the Solicitors Regulation Authority under this regulation in order to be

(a) a manager of a recognised body, or

(b) a manager of a body within 14.04(1)(f) or (g) of the Solicitors' Code of Conduct.

3.2 (a) The Authority may approve an individual for the purpose of 3.1 above if:

(i) the individual concerned is not a member (practising or non-practising) of any profession specified in the definition of "lawyer" in rule 24 of the Solicitors' Code of Conduct;

(ii) the Authority is satisfied that the individual concerned is suitable to be involved in the provision of legal services, and to exercise influence over the conduct of the recognised body concerned.

(b) The application for approval must be made by the recognised body or prospective recognised body concerned and may be made

(i) in advance of an application for initial recognition,

(ii) when applying for initial recognition, or

(iii) at any time after recognition has been granted.

(c) It is for the applicant body to demonstrate that the individual concerned meets the criteria for approval.

(d) The applicant body must co-operate, and secure the co-operation of the individual concerned, to assist the Authority to obtain all information and documentation necessary to determine the application.

(e) The individual concerned must confirm in writing on the face of the application that the information supplied about him or her is correct and complete.

3.3 (a) Approval takes effect from the date of the decision unless otherwise stated.

(b) The Authority's decision to approve or refuse approval must be notified in writing to the applicant body and, separately, to the individual concerned.

(c) If the applicant body is a recognised body it must not allow the individual concerned to become a manager until it has received written notice that the individual has been approved.

(d) Approval under this regulation relates to the applicant body only and is not transferable, except as set out in (e) below

(e) Where an application is made under regulation 5 for temporary emergency recognition of a new partnership following a partnership split,:

- (i) an individual who was and remains approved to be a manager in the partnership which existed before the split is to be treated as approved to be a manager of the new partnership while the temporary emergency recognition continues, but
  - (ii) if the new partnership wishes that individual to continue as a manager following determination of a substantive application for recognition, it must first obtain approval for that individual under regulation 5.
- 3.4 The Authority may at any time request an approved individual or the body concerned to provide such information or documentation as it considers necessary to satisfy the Authority that the individual continues to meet the criteria for approval.
- 3.5 (a) The Authority may decide to withdraw approval if it is not satisfied that an approved individual continues to meet the criteria for approval.
  - (b) Withdrawal of approval takes effect on expiry of the notice period under regulation 6.2(b) or on such later date as may be stated in the notice, but
  - (c) if an appeal is made before the withdrawal of approval takes effect, the withdrawal of approval is suspended pending determination or discontinuance of the appeal.
- 3.6 Where withdrawal of approval relates to a director of a company, the Authority may set separate dates for that individual ceasing to be a director and disposing of his or her shares.

#### **Regulation 4 – Conditions on recognition**

- 4.1 The Solicitors Regulation Authority may impose one or more conditions on a recognised body's recognition:
  - (a) when granting initial recognition,
  - (b) when granting renewal of recognition,
  - (c) when granting approval of an individual under regulation 3,
  - (d) when deciding to withdraw approval of an individual under regulation 3, or
  - (e) at any other time.
- 4.2 The circumstances in which the Authority may impose a condition are as follows:
  - (a) The Authority considers that:
    - (i) the condition would limit, restrict, halt or prevent an activity or activities on the part of the body, or of a manager or employee of the body, which is putting or is likely put at risk the interests of clients, third parties or the public, and
    - (ii) it is in the public interest to impose the condition.
  - (b) The Authority considers that:
    - (i) the condition would limit the activities of a manager or employee of the body who is considered unsuitable to undertake a particular activity, either at all or save as specified in the condition, and
    - (ii) it is in the public interest to impose the condition.

- (c) The Authority considers that:
  - (i) the condition would limit, halt or prevent a risk to clients, third parties or the public arising from a business agreement which the body has or is likely to enter into, or a business practice or business model which the body has or is likely to adopt, and
  - (ii) it is in the public interest to impose the condition.
- (d) A relevant insolvency event within the meaning of paragraph 32(1A) of Schedule 2 to the Administration of Justice Act 1985 has occurred in relation to a recognised body and
  - (i) the event has not triggered expiry of recognition under regulation 10, and
  - (ii) the Authority considers that it is in the public interest to impose the condition.
- (e) where the Authority considers, in any other case concerning a body which is currently recognised, that it would be in the public interest to impose the condition.

4.3 A condition imposed under this regulation takes effect immediately unless otherwise stated in the condition.

#### **Regulation 5 – Temporary emergency recognition following a partnership split**

- 5.1 If a partnership split brings into being in a new partnership which is not a recognised body, emergency temporary recognition may be granted, subject to 5.2 - 5.4 below, so as to enable the partners in the new partnership to practise through the new partnership for a limited period without breach of the law.
- 5.2 An application for emergency temporary recognition may be made by telephone, provided that details given by telephone are confirmed in writing the same day; and must be made (or confirmed) on the prescribed form at the earliest possible opportunity, and accompanied by all information and documentation the Solicitors Regulation Authority may require.
- 5.3 The Authority may grant an application for emergency temporary recognition if the following conditions are met:
  - (a) The Authority must be satisfied that the partners could not reasonably have foreseen the circumstances under which the body requires emergency temporary recognition.
  - (b) Any partner, and any manager of a partner, who is a non-lawyer, must have been approved under regulation 3 in relation to the partnership which existed before the split.
  - (c) The partnership must otherwise comply with rule 14 of the Solicitors' Code of Conduct in relation to its composition and structure and its practising address in England and Wales.
  - (d) The partnership must comply with the Solicitors' Indemnity Insurance Rules, and must have adopted a name under which to be registered which complies with rule 7 of the Solicitors' Code of Conduct.
- 5.4 Emergency temporary recognition:
  - (a) may be granted initially for no longer than 28 days but may be revoked after 28 days if no substantive application for initial recognition has been



made under regulation 2;

- (b) may be extended after the expiry of 28 days for a further specified period or until the determination of a substantive application for initial recognition;
- (b) may be granted subject to such conditions as the Authority thinks fit, in circumstances falling within regulation 4;
- (c) is to be treated as initial recognition for the purpose of these regulations; and
- (d) if granted, cannot prejudice the discretion of the Authority to refuse a substantive application for recognition of the body under regulation 2 (which is also, for the purpose of these regulations, to be treated as initial recognition).

### **Regulation 6 – Notification of decisions by the Authority**

6.1 The Solicitors Regulation Authority must notify its reasons in writing:

- (a) to the applicant body, when refusing an application for initial recognition under regulation 2;
- (b) to the applicant body and to the individual concerned, when refusing approval of an individual under regulation 3;
- (c) to the body concerned, when imposing a condition under regulation 4;
- (d) to the body concerned, when refusing to approve a step which, under a condition on the body's recognition, requires such prior approval.

6.2 The Authority must give 28 days written notice, with reasons:

- (a) to the recognised body concerned, when the Authority decides to revoke the body's recognition under regulation 9;
- (b) to the body and the individual concerned, when the Authority decides to withdraw an approval granted under regulation 3.

### **Regulation 37 – Appeals**

~~3.1—If the Solicitors Regulation Authority refuses an application for initial recognition or renewal of recognition, the applicant is entitled to receive notice in writing of the grounds for refusal, and may appeal to the Master of the Rolls under paragraph 2 of Schedule 2 to the Administration of Justice Act 1985.~~

~~3.2—If the Solicitors Regulation Authority neither grants nor refuses recognition within three months of the date an application was received, the applicant may appeal to the Master of the Rolls under paragraph 2 of Schedule 2 to the Administration of Justice Act 1985 as if the application had been refused.~~

7.1 Before exercising its right of appeal to the High Court:

- (a) under paragraph 2(1)(a) of Schedule 2 to the Administration of Justice Act 1985, against refusal of initial recognition,
- (b) under paragraph 2(1)(b) or (c) of that Schedule, against the imposition of a condition, or
- (c) under paragraph 2(2) of that Schedule, against refusal by the Solicitors Regulation Authority to approve a step which, under a condition on the body's recognition, requires such prior approval,

- a body may invoke the Authority's own appeals procedure.
- 7.2 A body may appeal to the High Court against the Authority 's decision to revoke the body's recognition, but must first invoke the Authority's own appeals procedure.
- 7.3 A body, and/or the individual concerned, may appeal to the High Court against the Authority 's decision:
- (a) not to approve the individual under regulation 3, or
- (b) to withdraw its approval of the individual under regulation 3,
- but must first invoke the Authority's own appeals procedure.
- 7.4 (a) An application for initial recognition under regulation 2 is deemed, for the purpose of any appeal under 7.1(a) above, to be refused on the 90th day after the Authority has received the application and all additional information and documentation required, if by the end of that day the Authority has not notified the applicant body of its decision.
- (b) An application for approval of an individual under regulation 3 is deemed, for the purpose of any appeal under 7.3(a) above, to be refused on the 90th day after the Authority has received the application and all additional information and documentation required, if by the end of that day the Authority has not notified the applicant body, and the individual concerned, of its decision.
- 7.5 Appeals under the Authority's own appeals procedure must be made within 28 days of receipt of the Authority's reasons for refusal, or within 28 days of deemed refusal under 7.4 above.

## **PART 2 – DURATION OF RECOGNITION, RENEWAL DATE, RVOICATION AND EXPIRY**

### **Regulation 48 – Duration of recognition and renewal date**

- ~~4.1—Recognition lasts for three years and continues in force until it is revoked.~~
- ~~4.2—Renewal of recognition commences on the day following the renewal date.~~
- ~~4.3—The renewal date following initial recognition is the last day of the last calendar month of the three-year period; and thereafter, the day before the end of each subsequent three-year period of~~
- 8.1 Except where transitional provisions in 8.5 - 8.7 apply, recognition is renewable yearly and the renewal date is 31 October in each successive year.
- 8.2 Recognition continues in force unless it is revoked, or unless it expires under regulation 10 or is suspended by the High Court.
- 8.3 Renewal of recognition commences on the day following the renewal date.

#### *Passporting*

- 8.4 (a) All partnerships carrying on the practice of solicitors and/or RELs on [1 March 2009] will be recognised as recognised bodies on 1 March 2009 provided that
- (i) the composition and structure of the partnership complies with rule 14 of the Solicitors' Code of Conduct; and
- (ii) the partnership is practising from an office in England and Wales.

- (b) The first renewal date for partnerships recognised under this provision is 31 October 2009.

Transitional provisions

- 8.5 If a body's recognition commenced on or before 1 November 2006, recognition lasts for three years and the renewal date is that stated on the certificate of recognition.
- 8.6 If a body's recognition commenced after 1 November 2006 but before [1 March 2009],
- (a) recognition lasts until 31 October 2009 and the renewal date is not that stated on the certificate of recognition but 31 October 2009; and
- (b) when applying for renewal of recognition the body will be given credit for fees and contributions already paid in respect of the cancelled period of recognition after 31 October 2009.
- 8.7 If the body's recognition commenced on or after [1 March 2009] but before 1 November 2009, the renewal date will be 31 October 2009.

**Regulation 5— The list of recognised bodies**

- ~~5.1 The Solicitors Regulation Authority shall keep a list of recognised bodies.~~
- ~~5.2 The list of recognised bodies may be kept in electronic form and must contain, for each recognised body:~~
- ~~(a) the recognised body's name;~~
- ~~(b) the recognised body's registered office;~~
- ~~(c) all the recognised body's practising addresses; and~~
- ~~(d) whether it is a company limited by shares, a company limited by guarantee, an unlimited company, an overseas company registered in England and Wales, an overseas company registered in Scotland, or a *societas Europaea*.~~
- ~~5.3 The Solicitors Regulation Authority must make a copy of any entry in the list under 5.2(a)-(c) and (e)-(f) available for inspection on request by any member of the public.~~

**Regulation 6 – Certificates of recognition**

- ~~6.1 Once a body is granted initial recognition or its recognition is renewed, the Solicitors Regulation Authority shall issue a certificate of recognition.~~
- ~~6.2 Each certificate of recognition shall state, in respect of the recognised body:~~
- ~~(a) its name;~~
- ~~(b) its registered office (or its principal practising address in England and Wales, if it is a company or LLP incorporated in Scotland, an overseas company, or a *societas Europaea* registered outside England and Wales);~~
- ~~(c) whether it is a company limited by shares, a company limited by guarantee, an unlimited company, an overseas company registered in England and Wales, an overseas company registered in Scotland, a *societas Europaea*, or an LLP;~~
- ~~(e) the date from which recognition is granted or renewed; and~~
- ~~(f) the next renewal date.~~

## Regulation 79 – Revocation of recognition

~~79.1 Recognition may be revoked~~ The Solicitors Regulation Authority may revoke a body's recognition at any time, if:

- (a) recognition was granted as a result of error or fraud; ~~or~~
- (b) ~~the Authority is satisfied that~~ the body would not be eligible to be recognised if it were at that time applying for initial recognition, ~~or~~
- (c) the renewal date has passed and the Authority has not received an application for renewal of recognition and all required fees, information and documentation,
- (d) the body has a temporary emergency recognition but has not after 28 days made a substantive application for recognition,
- (e) the body has ceased to practise; or
- (f) an approved regulator other than the Solicitors Regulation Authority has authorised the body,

and the Authority is satisfied that revocation would not present a risk to clients, to the protection of client money or to any investigative process.

9.2 (a) Revocation takes effect on expiry of the notice period under regulation 6.2(a) or on such later date as may be stated in the notice, but

- (b) if an appeal is made before the revocation takes effect, the revocation is suspended pending determination or discontinuance of the appeal.

## Regulation 810 – Expiry of recognition

Subject to 14.04(2) of the Solicitors' Code of Conduct, a body's recognition will automatically expire if the body is wound up or for any other reason ceases to exist.

~~8.1 Recognition will automatically expire if a recognised body which is a company or LLP ceases to be registered, either:~~

- ~~(a)—under Part I of the Companies Act 1985 as an unlimited company, a company limited by shares or a company limited by guarantee;~~
- ~~(b)—under section 690A or 691 of the Companies Act 1985 as an overseas company incorporated in an Establishment Directive state;~~
- ~~(c)—under the Limited Liability Partnerships Act 2000 as an LLP; or~~
- ~~(d)—as a *societas Europaea*.~~

~~8.2 Recognition will automatically expire if a winding-up order or administration order is granted under Part II of the Insolvency Act 1986, or a resolution is passed for voluntary winding-up, or an administrative receiver is appointed, in respect of a recognised body.~~

~~8.3 Recognition will expire if:~~

- ~~(a)—the renewal date stated on the last certificate of recognition has passed;~~
- ~~(b)—the Solicitors Regulation Authority has not received an application for renewal of recognition and all required fees, information and documentation; and~~
- ~~(c)—the Solicitors Regulation Authority has decided that recognition will not be renewed.~~

## **PART 3 – NAME, THE REGISTER AND CERTIFICATE OF RECOGNITION**

### **Regulation 11 – Name of a recognised body**

11.1 A body corporate will be recognised under its corporate name.

11.2 A partnership must elect to have a name under which it is to be recognised.

### **Regulation 12 – The register of recognised bodies**

12.1 The Solicitors Regulation Authority must keep a register of recognised bodies, which may be kept in electronic form.

12.2 The register of recognised bodies must contain, for each recognised body:

- (a) the name and number under which the body is recognised;
- (b) any other practising styles used by the body;
- (c) the recognised body's registered office, if it is an LLP or company;
- (d) the recognised body's principal practising address in England and Wales;
- (e) all the recognised body's other practising addresses;
- (f) whether the recognised body is a partnership, an LLP, or a company; and
- (g) if the recognised body is a company, its registered number and whether it is
  - (i) a company limited by shares,
  - (ii) a company limited by guarantee,
  - (iii) an unlimited company,
  - (iv) an overseas company registered in England and Wales,
  - (v) an overseas company registered in Scotland, or
  - (vi) a societas Europaea; and
- (h) any condition to which the body's recognition is subject.

12.3 (a) Entries in the register must be available for inspection by any member of the public, except that the Authority may withhold an address at a recognised body's request in exceptional circumstances where the Authority considers that to do so would be in the public interest.

(b) The date on which, and the circumstances in which, a recognised body's recognition expired or was revoked must be made available to a member of the public on request.

### **Regulation 13 – Certificates of recognition**

13.1 When a body is granted initial recognition or its recognition is renewed, the Solicitors Regulation Authority must issue a certificate of recognition.

13.2 Each certificate of recognition must state, in respect of the recognised body:

- (a) the name and number under which the body is recognised;
- (b) its registered office, if it is an LLP or company;
- (c) its principal practising address in England and Wales
- (d) whether it is a partnership, an LLP, or a company; and if it is a company,

whether it is:

- (i) a company limited by shares,
  - (ii) a company limited by guarantee,
  - (iii) an unlimited company,
  - (iv) an overseas company registered in England and Wales,
  - (v) an overseas company registered in Scotland,
  - (vi) a societates Europaea, or
  - (vii) an LLP;
- (e) the date from which recognition is granted or renewed;
- (f) the next renewal date; and
- (g) any condition to which the body's recognition is subject.

#### **PART 4 – INTERPRETATION AND WAIVERS**

##### **Regulation ~~9~~14 – Interpretation**

~~9.1~~ All terms in these regulations are to be interpreted in accordance with rule 24 (~~Interpretation~~) of the Solicitors' Code of Conduct.

##### **Regulation ~~10~~15 – Waivers**

~~10.1~~ In any particular case or cases the ~~Board of the~~ Solicitors Regulation Authority shall have power to waive in writing the provisions of these regulations for a particular purpose or purposes expressed in such waiver, and to revoke such waiver.

## Annex 2 – Rule 14 of the Code, showing proposed amendments

### Introduction

~~Under the Solicitors Act 1974, a body corporate – that is, a company or an LLP – may not carry on the practice of a solicitor unless it is a recognised body. A solicitor or an REL may only practise from an office in England and Wales through a body corporate if it is a recognised body.~~

~~Rule 14 sets out the requirements which apply specifically to a recognised body and its members, directors, shareowners and employees. There are provisions which exclude non-lawyers from being directors, members or shareowners of a recognised body. These are necessary because section 9 of the Administration of Justice Act 1985 restricts the management and control of recognised bodies to lawyers.~~

Under rule 12 (Framework of practice) solicitors and RELs must not provide services to the public in England and Wales except through a firm which is a recognised body or a recognised sole practitioner (both regulated by the Solicitors Regulation Authority) or through an authorised non-SRA firm (regulated by another approved regulator). Rule 14 governs the composition and structure of a recognised body and the services a recognised body may provide, and is to large extent based on the requirements of sections 9 and 9A of the Administration of Justice Act 1985.

### **Rule 14 – ~~Incorporated practice~~Recognised bodies**

#### **14.01 Fundamental requirements for all recognised bodies**

##### Services requirement

- (1) The business of a recognised body may consist only of the provision of:
- (a) professional services of the sort provided by individuals practising as solicitors and/or lawyers of other jurisdictions, and
  - (b) professional services of the sort provided by notaries public, but only if a notary public is a manager or employee of a recognised body.
- but this does not prevent a recognised body providing services within 21.03, or having an ownership interest in a company which is a separate business.

##### Relevant lawyer requirement

- (2) (a) At all times at least one manager of a recognised body must be
- (i) a solicitor with a current practising certificate,
  - (ii) an REL, or
  - (iii) (in the case of a partnership or LLP) a qualifying body as defined in rule 24.
- (b) If an event which could not reasonably have been foreseen would put a recognised body in breach of the relevant lawyer requirement but within 28 days the situation is remedied, the recognised body will be deemed to have remained in compliance with the relevant lawyer requirement and to that extent will not be liable to have its recognition revoked under regulation 9(b) of the Solicitors' Recognised Bodies Regulations.
- (c) If the only, or last remaining, solicitor or REL whose role in the body ensures compliance with the relevant lawyer requirement:

- (i) is committed to prison in civil or criminal proceedings;
- (ii) becomes and continues to be unable to attend to the practice of the body because of incapacity caused by illness, accident or age;
- (iii) becomes and continues to be a person who lacks capacity under Part 1 of the Mental Capacity Act 2005;
- (iv) abandons the practice of the body; or
- (v) is made subject to a condition on his or her practising certificate or registration which would be breached by continuing to fulfil the role of relevant lawyer within the body,

the body must immediately inform the Solicitors Regulation Authority and must within 28 days either ensure that the body can fulfil the relevant lawyer requirement without reference to that person, or cease to practise.

Management requirement

- (3) (a) (i) At least 75% of the body's managers must be
  - (A) individuals who are, and are entitled to practise as, lawyers of England and Wales, lawyers of Establishment Directive states or RFLs, or
  - (B) (if the body is a partnership or LLP) qualifying bodies, or bodies which would be qualifying bodies except that they have no solicitor or REL as a manager, and:
- (ii) at least 75% of the voting rights in the body must be exercisable by or controlled by persons within (i)(A) or (B) above, and
- (iii) if the body has shares, such persons must hold at least 75% of the shares.
- (b) If an event which could not reasonably have been foreseen would put a recognised body in breach of the management requirement but within 28 days the situation is remedied, the recognised body will be deemed to have remained in compliance with the management requirement and to that extent will not be liable to have its recognition revoked under regulation 9(b) of the Solicitors' Recognised Bodies Regulations.
- (c) If the only, or last remaining, solicitor, REL whose role in the body ensures compliance with the management requirement:
  - (i) is committed to prison in civil or criminal proceedings;
  - (ii) becomes and continues to be unable to attend to the practice of the body because of incapacity caused by illness, accident or age;
  - (iii) becomes and continues to be a person who lacks capacity under Part 1 of the Mental Capacity Act 2005;
  - (iv) abandons the practice of the body; or
  - (v) is made subject to a condition on his or her practising certificate or registration which would be breached by continuing to fulfil that role,

the body must immediately inform the Solicitors Regulation Authority and must within 28 days either ensure that the body can fulfil the management requirement without reference to that person, or cease to practise.



## **14.012 General Duties in relation to compliance**

### *Compliance duties*

- (1) (a) A recognised body and its managers and employees must comply with rule 14.
  - ~~(b) A recognised body must: (a) — comply with rule 14; and (b) — so far as possible ensure that its directors, members and shareowners managers, members and owners comply with 14.03, 14.04 and 14.05 rule 14.~~
- (2) A ~~director~~ manager of a recognised body ~~which is a company-~~
  - (a) must so far as possible ensure that the body complies with rule 14;
  - (b) must ensure that the body complies with any condition imposed on its recognition; and
  - (c) must not cause, instigate or connive at any breach of these rules by the recognised body or any of its managers or employees.
- ~~(3) A member of a recognised body which is an LLP must take all reasonable steps to ensure that the body complies with rule 14.~~
- (3) A solicitor, REL or RFL who is a member of, or the owner of a share in, a recognised body which is a company must not cause, instigate or connive at any breach of these rules by the recognised body or any of its managers or employees.
- (4) A ~~director, member or shareowner of a recognised body and a~~ person employed to work in the practice of a recognised body must not cause, instigate or connive at any breach of these rules.
- (5) The partners in a recognised body which is a partnership are responsible not only as managers but also, jointly and severally, as the recognised body.

### *Mental Health Act equivalents*

- ~~(5) — In rule 14, references to a "patient" as defined by section 94 of the Mental Health Act 1983, a person made the subject of emergency powers, and a receiver appointed under that Act include equivalents in other Establishment Directive states.~~
- (4) The partners in a recognised body which is a partnership are responsible not only as managers but also, jointly and severally, as the recognised body.

## **14.02 Scope of practice**

### *General business of a recognised body*

- ~~(1) — The business of a recognised body may consist only of professional services of the sort provided by individuals practising as solicitors and/or lawyers of other jurisdictions.~~

## **14.03 Formation, office in England and Wales and registered office**

### *Law of formation*

- (1) (a) A recognised body which is a partnership may be formed under the law of any country and may be a legal person.

- (b) A recognised body which is an LLP must be incorporated and registered in England and Wales or in Scotland under the Limited Liability Partnerships Act 2000.
- (c) A recognised body which is a company must be
  - (i) incorporated and registered in England and Wales or in Scotland under Part I of the Companies Act 1985
  - (ii) incorporated in an Establishment Directive state and registered as an overseas company under Part I of the Companies Act 1985, or
  - (iii) incorporated and registered in an Establishment Directive state as a *societas Europaea*.

#### Practising address in England and Wales

- (2) A recognised body must have at least one practising address in England and Wales.

#### Registered office of a company or LLP

- (3) A recognised body must have its registered office at a practising address in England and Wales if the recognised body is registered in England and Wales:
  - (a) under Part I of the Companies Act 1985;
  - (b) under the Limited Liability Partnerships Act 2000; or
  - (c) as a *societas Europaea*.

#### *Conveyancing and probate*

- ~~(2) — A recognised body must not undertake any work which includes a conveyancing or probate service reserved to qualified persons by the Solicitors Act 1974, unless:~~
  - ~~(a) — if the recognised body is a company, at least one director is a solicitor with a practising certificate or an REL qualified to provide that service under regulation 12 or 13 of the European Communities (Lawyer's Practice) Regulations 2000 (SI 2000/1119); and, if the company is a *societas Europaea* with a two-tier system, at least one member of both the management organ and the supervisory organ is such a person; or~~
  - ~~(b) — if the recognised body is an LLP, at least one member is a solicitor with a practising certificate, an REL qualified to provide that service under regulation 12 or 13 of the European Communities (Lawyer's Practice) Regulations 2000 (SI 2000/1119), or a recognised body qualified to undertake the work under (a) above.~~

### **14.04 Recognised bodies which are partnerships**

#### Who may be a partner

- (1) Provided that the fundamental requirements for all recognised bodies set out in 14.01 are met, a recognised body which is a partnership may have all or any of the following as a partner:
  - (a) a lawyer of England and Wales (including a solicitor with a current practising certificate),
  - (b) an REL,
  - (c) an RFL,

- (d) a non-registered European lawyer,
- (e) an individual approved under regulation 3 of the Recognised Bodies Regulations,
- (f) a qualifying body as defined in rule 24 (including another recognised body),
- (g) a body which would be qualifying body except that it has no solicitor or REL as a manager.

*Change to the composition of the partnership*

- (2) Recognition may continue despite a change in the composition of a recognised body which is a partnership, subject to (3) to (5) below.
- (3) (a) A recognised body must cease to practise from the date of any failure to comply with 14.01(2)(a) or (b) (relevant lawyer requirement), and with 14.01(3)(a) or (b) (management requirement) which results from the change.
  - (b) A recognised body must cease to practise from the date of any change which results in there being no remaining partner who was a partner before the change, and the 28 day period under 14.01(2) (b) and 14.01(3)(b) does not apply.
- (4) If a partnership change which could not reasonably have been foreseen results in there being only one remaining principal, and that principal is a solicitor, REL or qualifying body, the firm need not cease to practise provided that all the following conditions are met:
  - (a) the Solicitors Regulation Authority is notified forthwith and grants the remaining principal emergency temporary recognition;
  - (b) within 28 days from the date of the change the firm either ceases to practise or an application is made for the firm to be recognised as a recognised sole practitioner or as a recognised body.
- (5) Emergency temporary recognition may be granted for an initial period of 28 days and may be extended pending determination of an application for recognition under (4)(b) above, but the grant or extension of an emergency temporary recognition is without prejudice to the discretion of the Solicitors Regulation Authority to refuse an application under (4)(b) above.

*Partnership splitting into two or more firms*

- (6) Subject to (7) to (9) below, if a recognised body which is a partnership splits so that there will be a new partnership or sole practice in addition to the continuing recognised body:
  - (a) any such new partnership must, before commencing practice, obtain recognition as a recognised body, and
  - (b) any such new sole practitioner must, before commencing practice, obtain recognition as a recognised sole practitioner.
- (7) If two or more groups of partners cannot agree, following a split, which group will carry on the practice of the existing recognised body and which must apply for recognition, the Solicitors Regulation Authority may determine the issue and may apportion recognition fees and Compensation Fund contributions between the groups.

- (8) A new partnership or sole practice brought into being as a result of a partnership split may practise from the date of the split provided that the following conditions are met:
- (a) the Solicitors Regulation Authority is notified forthwith and grants the new partnership or sole practice emergency temporary recognition, and
  - (b) within 28 days from the date of the partnership split the new partnership or sole practitioner either ceases to practise or makes an application for recognition as a recognised body or as a recognised sole practitioner.
- (9) Emergency temporary recognition under (8)(a) above may be granted for an initial period of 28 days and may be extended pending determination of an application for recognition under (8)(b) above, but the grant or extension of an emergency temporary recognition is without prejudice to the discretion of the Solicitors Regulation Authority to refuse an application under (8)(b) above.

*Only one active partner remaining*

- (10) If a partner in the body:
- (a) is committed to prison in civil or criminal proceedings;
  - (b) becomes and continues to be unable to attend to the practice of the body because of incapacity caused by illness, accident or age;
  - (c) becomes and continues to be a person who lacks capacity under Part 1 of the Mental Capacity Act 2005;
  - (d) abandons the practice of the body; or
  - (e) is made subject to a condition on his or her practising certificate or registration which would be breached by continuing as a partner,  
and this results in there being only one active partner, that partner must immediately inform the Solicitors Regulation Authority.

*Prohibition on creating third party interests*

- (11) A partner in a partnership must not create any charge or other third party interest over his or her interest in the partnership.

**14.05 Members of an Recognised bodies which are LLPs**

*Persons who may be members*

- ~~(1) — A recognised body which is an LLP must ensure that all the members are:~~
- ~~(a) — solicitors with practising certificates;~~
  - ~~(b) — RELs;~~
  - ~~(c) — RFLs;~~
  - ~~(d) — non-registered European lawyers;~~
  - ~~(e) — recognised bodies; and/or~~
  - ~~(f) — European corporate practices.~~

*Who may be a member*

- (1) Provided that the fundamental requirements for all recognised bodies set out in 14.01 are met, a recognised body which is an LLP may have all or any of the following as a member:

- (a) a lawyer of England and Wales (including a solicitor with a current practising certificate),
- (b) an REL,
- (c) an RFL,
- (d) a non-registered European lawyer,
- (e) an individual approved under regulation 3 of the Recognised Bodies Regulations,
- (f) a qualifying body as defined in rule 24 (including another recognised body),
- (g) a body which would be qualifying body except that it has no solicitor or REL as a manager.

Minimum number of members

- (2) (a) A recognised body which is an LLP must have at least two members.
- (b) If ~~a death~~ an event which could not reasonably have been foreseen results in an LLP having fewer than two members, but ~~a person within (1) above becomes a member~~ within six months, the situation is remedied, the LLP it will be deemed to have remained in compliance with (a) above and to that extent will not be liable to have its recognition revoked under regulation ~~7.19~~(b) of the Solicitors' Recognised Bodies Regulations.
- ~~(3) (a) A recognised body which is an LLP must have at least one member who is:~~
  - ~~(i) a solicitor with a practising certificate;~~
  - ~~(ii) an REL ;~~
  - ~~(iii) a recognised body which is a company with a director who is a solicitor with a practising certificate or an REL ; or~~
  - ~~(iv) a recognised body which is an LLP with a member who is a solicitor with a practising certificate or an REL .~~
  - ~~(b) ————— If a member dies and this would put the company in breach of (a) above, but a person within (a) above becomes a member within 14 days, the LLP will be deemed to have remained in compliance with (a) above as to membership, and to that extent will not be liable to have its recognition revoked under regulation 7.1(b) of the Solicitors' Recognised Bodies Regulations.~~

~~Member incapacitated, abandoning the practice, etc.~~

- ~~(4) — If the last remaining solicitor or REL within (3)(a) above:~~
  - ~~(a) — is committed to prison in civil or criminal proceedings;~~
  - ~~(b) — becomes and continues to be unable to attend to the practice of the LLP because of incapacity caused by illness, accident or age;~~
  - ~~(c) — becomes and continues to be a "patient" as defined by section 94 of the Mental Health Act 1983 or is made the subject of powers exercised under section 98 of that Act and continues to be subject to those powers;~~
  - ~~(d) — abandons the practice of the LLP ; or~~

~~(e) — the member's practising certificate or registration (or director's, as the case may be) is made subject to a condition which would be breached by continuing as a member or director;~~

~~the LLP must ensure that an additional or replacement solicitor with a practising certificate or REL within (3)(a) above is in place within 14 days.~~

*Prohibition on creating third party interests*

~~(5)(3) A member must not create any charge or other third party interest over the member's interest in the LLP .~~

**14.03 Directors of a company 14.06 Recognised bodies which are companies**

*Persons who may be directors*

~~(1) — A recognised body which is a company must ensure that at all times:~~

~~(a) — all the directors are solicitors with practising certificates, REL s, RFL s and/or non-registered European lawyers; and~~

~~(b) — at least one director is a solicitor with a practising certificate or an REL, and, if the company is a societas Europaea with a two-tier system, at least one member of both the management organ and the supervisory organ is a solicitor with a practising certificate or an REL.~~

*Death of director*

~~(2) — If a director dies and this would put a company in breach of (1)(b) above, the company must ensure that a director who is a solicitor with a practising certificate or an REL is appointed within 14 days. If this is done the company will be deemed to have remained in compliance with (1)(b) above, and to that extent will not be liable to have its recognition revoked under regulation 7.1(b) of the Solicitors' Recognised Bodies Regulations.~~

*Who may be a director*

(1) Provided that the fundamental requirements for all recognised bodies set out in 14.01 are met, a recognised body which is a company may have all or any of the following as a director:

(a) a lawyer of England and Wales (including a solicitor with a current practising certificate),

(b) an REL,

(c) an RFL,

(d) a non-registered European lawyer,

(e) an individual approved under regulation 3 of the Recognised Bodies Regulations,

*Director incapacitated, abandoning the practice, etc:*

~~(3) — If the company's only, or last remaining, director who is a solicitor with a practising certificate or an REL or, if the company is a societas Europaea with a two-tier system, the only or last remaining member of either the management organ or the supervisory organ who is a solicitor with a practising certificate or an REL:~~

~~(a) — is committed to prison in civil or criminal proceedings;~~

- ~~(b) — becomes and continues to be unable to attend to the practice of the company because of incapacity caused by illness, accident or age;~~
  - ~~(c) — becomes and continues to be a "patient" as defined by section 94 of the Mental Health Act 1983 or is made the subject of powers exercised under section 98 of that Act and continues to be subject to those powers;~~
  - ~~(d) — abandons the practice of the company; or~~
  - ~~(e) — the director's practising certificate or registration is made subject to a condition which would be breached by continuing as a director,~~
- ~~the company must ensure that an additional or replacement director who is a solicitor with a practising certificate or an REL is appointed within 14 days.~~

#### **14.04 Members and shareowners of a company**

##### *Persons who may be members or shareowners*

- ~~(1) — A recognised body which is a company must ensure that all members and all shareowners are:
  - ~~(a) — solicitors with practising certificates;~~
  - ~~(b) — REL s;~~
  - ~~(c) — RFL s;~~
  - ~~(d) — non-registered European lawyers;~~
  - ~~(e) — recognised bodies; and/or~~
  - ~~(f) — European corporate practices.~~~~
- ~~(2) — A recognised body which is a company with shares must have at least one shareowner who is a solicitor with a practising certificate, an REL , a recognised body, or a European corporate practice which is at least partly owned by a solicitor with a practising certificate or an REL.~~
- ~~(3) — A recognised body which is a company without shares must have at least one member who is a solicitor with a practising certificate, an REL , a recognised body, or a European corporate practice which is at least partly owned by a solicitor with a practising certificate or an REL.~~

##### Who may be a member or shareowner

- (2) Provided that the fundamental requirements for all recognised bodies set out in 14.01 are met, a recognised body which is a company may have all or any of the following as a member or shareowner:
  - (a) a lawyer of England and Wales (including a solicitor with a current practising certificate),
  - (b) an REL,
  - (c) an RFL,
  - (d) a non-registered European lawyer,
  - (e) an individual approved under regulation 3 of the Recognised Bodies Regulations,
  - (f) a qualifying body as defined in rule 24 (including another recognised body),

(g) a body which would be qualifying body except that it has no solicitor or REL as a manager.

*Prohibition on creating third party interests*

~~(4)~~(3) A member or shareowner must not create any charge or other third party interest over his or her interest in the company, except by holding a share as nominee for a non-member shareowner who is eligible to be a member or shareowner under (1) above.

*Record of non-member shareowners*

- ~~(5)~~(4) (a) A recognised body which is a company with shares must keep a record of any non-member shareowners, and retain the record for at least three years after their ownership ceases; and
- (b) A member who holds a share as nominee for a non-member shareowner must keep the recognised body informed of all facts necessary to keep an accurate and up-to-date record.

*Death of member or shareowner of a company*

- ~~(6)~~(5) (a) If a recognised body is a company with shares and a member or shareowner ~~of a company with shares~~ dies and is eligible to be a member or shareowner at the date of death, then, whether or not the personal representatives are themselves eligible to be members or shareowners, the personal representatives may replace the deceased member or shareowner in their capacity as personal representatives, provided that:
- (i) no vote may be exercised by or on behalf of a personal representative (and no such vote may be accepted) unless all the personal representatives are eligible to be members or shareowners;
  - (ii) no personal representative may hold or own a share in that capacity for longer than 12 months from the date of death;
  - (iii) within 12 months of the death the recognised body must cancel or acquire the shares or ensure that they are held and owned by persons eligible to be members and shareowners, but without this resulting in RFL s being the only shareowners; and
  - (iv) no vote may be exercised by or on behalf of any personal representative (and no such vote may be accepted) after the 12 month period has expired.
- (b) If, following the death of a member or shareowner, a company meets the requirements of (a) above the company will be deemed to have remained in compliance with ~~(1)~~(2) above as to membership and share ownership, and to that extent will not be liable to have its recognition revoked under regulation 7.19(b) of the Solicitors' Recognised Bodies Regulations.

*Member or shareowner ceasing to be eligible to be a member or shareowner*

- ~~(7)~~(6) (a) If a ~~member or shareowner of a~~ recognised body ~~which~~ is a company with shares and a member or shareowner ceases to be eligible to be a member or shareowner, or ceases to exist as a body corporate, then:
- (i) no vote may be exercised or accepted on the shares held by or on behalf of that member or shareowner;



- (ii) in the case of a member or shareowner becoming ineligible, a trustee in bankruptcy or liquidator may (whether or not eligible to be a member or shareowner) replace that member or shareowner in the capacity of trustee or liquidator for a period which must not exceed six months from the date the member or shareowner became ineligible; and
  - (iii) the company must cancel or acquire the shares within six months, or within that time ensure that the shares are held and owned by persons eligible to be members and shareowners, but without this resulting in ~~RFL-s being the only shareowners~~ [breach of the relevant lawyer requirement or the management requirement in 14.01\(2\) or \(3\)](#).
- (b) If (a) above applies and a company meets its requirements, the company will be deemed to have remained in compliance with ~~(1)(2)~~ above as to membership and share ownership, and to that extent will not be liable to have its recognition revoked under regulation ~~7.49~~(b) of the Solicitors' Recognised Bodies Regulations.

*Member or shareowner becoming insolvent but not ineligible*

- ~~(8)(7)~~ (a) If a ~~member or shareowner of a~~ recognised body ~~which~~ is a company with shares and [a member or shareowner](#) becomes insolvent but remains eligible to be a member or shareowner, then the trustee in bankruptcy or liquidator (whether eligible or not) may replace the insolvent member or shareowner in the capacity of trustee in bankruptcy or liquidator, provided that:
- (i) no vote may be exercised by or on behalf of a trustee in bankruptcy or liquidator (and no such vote may be accepted) unless the trustee or liquidator is eligible to be a member or shareowner;
  - (ii) no trustee in bankruptcy or liquidator may hold or own a share in that capacity for longer than six months from the date of the insolvency;
  - (iii) within six months of the insolvency the company must cancel or acquire the shares or ensure that they are held and owned by persons eligible to be members and shareowners, ~~and but~~ without this resulting in ~~RFLs being the only shareowners~~ [breach of the relevant lawyer requirement or the management requirement in 14.01\(2\) or \(3\)](#); and
  - (iv) no vote may be exercised by or on behalf of any trustee in bankruptcy or liquidator (and no such vote may be accepted) after the six month period has expired.
- (b) If (a) above applies and a company meets its requirements, the company will be deemed to have remained in compliance with ~~(1)(2)~~ above as to membership and share ownership, and to that extent will not be liable to have its recognition revoked under regulation ~~7.49~~(b) of the Solicitors' Recognised Bodies Regulations.

*Mental health receiver for a member or shareowner in a company*

- ~~(9)(8)~~ (a) A ~~receiver appointed under the Mental Health Act 1983~~ [Court of Protection deputy appointed under section 19 of the](#) may be a member or shareowner in that capacity, without breach of these rules, provided that:

- (i) the "patient" (as defined in the Mental Health Act 1983) person in respect of whom the deputy has been appointed remains eligible to be a member or shareowner; and
  - (ii) if the receiver deputy is not eligible to be a member or shareowner, no vote is exercised or accepted on the shares.
- (b) If (a) above applies and a company meets its requirements, the company will be deemed to have remained in compliance with (1)(2) above as to membership and share ownership, and to that extent will not be liable to have its recognition revoked under regulation 7.19(b) of the Solicitors' Recognised Bodies Regulations.

*Proxies and corporate representatives*

~~(10) Only a solicitor with a practising certificate, an REL, an RFL or a non-registered European lawyer may be appointed as a proxy or corporate representative for the purpose of attending and voting at meetings.~~

**14.05 Members of an LLP**

*Persons who may be members*

~~(1) A recognised body which is an LLP must ensure that all the members are:~~

- ~~(a) solicitors with practising certificates;~~
- ~~(b) REL s;~~
- ~~(c) RFLs;~~
- ~~(d) non-registered European lawyers;~~
- ~~(e) recognised bodies; and/or~~
- ~~(f) European corporate practices.~~

~~(2) (a) A recognised body which is an LLP must have at least two members.~~

~~(b) If a death results in an LLP having fewer than two members, but a person within (1) above becomes a member within six months, the LLP will be deemed to have remained in compliance with (a) above and to that extent will not be liable to have its recognition revoked under regulation 7.1(b) of the Solicitors' Recognised Bodies Regulations.~~

~~(3) (a) A recognised body which is an LLP must have at least one member who is:~~

- ~~(i) a solicitor with a practising certificate;~~
- ~~(ii) an REL ;~~
- ~~(iii) a recognised body which is a company with a director who is a solicitor with a practising certificate or an REL ; or~~
- ~~(iv) a recognised body which is an LLP with a member who is a solicitor with a practising certificate or an REL .~~

~~(b) If a member dies and this would put the company in breach of (a) above, but a person within (a) above becomes a member within 14 days, the LLP will be deemed to have remained in compliance with (a) above as to membership, and to that extent will not be liable to have its recognition revoked under regulation 7.1(b) of the Solicitors' Recognised Bodies Regulations.~~

*Member incapacitated, abandoning the practice, etc.*

- (4) — If the last remaining solicitor or REL within (3)(a) above:
- (a) — is committed to prison in civil or criminal proceedings;
  - (b) — becomes and continues to be unable to attend to the practice of the LLP because of incapacity caused by illness, accident or age;
  - (c) — becomes and continues to be a "patient" as defined by section 94 of the Mental Health Act 1983 or is made the subject of powers exercised under section 98 of that Act and continues to be subject to those powers;
  - (d) — abandons the practice of the LLP ; or
  - (e) — the member's practising certificate or registration (or director's, as the case may be) is made subject to a condition which would be breached by continuing as a member or director,
- the LLP must ensure that an additional or replacement solicitor with a practising certificate or REL within (3)(a) above is in place within 14 days.

*Prohibition on creating third party interests*

- (5) — A member must not create any charge or other third party interest over the member's interest in the LLP.

**14.07 Information and documentation**

- (1) A recognised body must supply any information and documentation relating to ~~the ownership, its composition and~~ structure or to any of its managers, employees, members or owners, directors, members or shareowners of the recognised body as and when requested to do so by the Solicitors Regulation Authority.
- (2) A recognised body must notify the Solicitors Regulation Authority immediately of any change to:
- (a) its name;
  - (b) its registered office and/or any of its practising addresses; or
  - (c) its ~~directors~~ managers,
  - (d) its members and/or shareowners if it is a company.
- (3) A recognised body must notify the Solicitors Regulation Authority immediately if it is an unlimited company and it is re-registered as limited under the Companies Act 1985.
- ~~(4) — If a recognised body's recognition expires automatically under regulation 8.2 of the Solicitors' Recognised Bodies Regulations, the directors (if it is a company) or the members (if it is an LLP ) must notify the Solicitors Regulation Authority immediately.~~
- (4) If a relevant insolvency event within the meaning of paragraph 32(1A) of Schedule 2 to the Administration of Justice Act 1985 occurs in relation to a recognised body its managers must notify the Solicitors Regulation Authority immediately.
- (5) If a recognised body which is an overseas company or a *societas Europaea* registered outside England, Wales and Scotland is subject to an event in its country of incorporation analogous to a winding-up order or administration

order under Part II of the Insolvency Act 1986, a resolution for voluntary winding-up, or the appointment of an administrative receiver, the directors must notify the Solicitors Regulation Authority immediately.

#### **14.08 Mental Health Act equivalents**

In this rule:

- (a) references to a person who lacks capacity under Part 1 of the Mental Capacity Act 2005 include a "patient" as defined by section 94 of the Mental Health Act 1983 and a person made the subject of emergency powers under that Act, and equivalents in other Establishment Directive states; and
- (b) references to a Court of Protection deputy appointed under section 19 of the Mental Capacity Act 2005 include a Court of Protection deputy appointed under the Mental Health Act 1983, and equivalents in other Establishment Directive states.

## Annex 3 – extracts from rule 20 showing propose amendments

### Rule 20 **Requirements** Rights and obligations of practice

#### Introduction

Rule 20 sets out the requirements for certification, ~~the types of work which you are permitted to do, and co-operation with,~~ and provision of information to, the Solicitors Regulation Authority, and authorises solicitors, RELs and an RFLs to do certain reserved work and immigration work.

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#### 20.04 Participation in legal practice

(1) If you are a solicitor, REL or RFL employed in England and Wales by

(a) a recognised sole practitioner, recognised body, or authorised non-SRA firm, or

(b) a body corporate which is a manager of a recognised body or an authorised non-SRA firm,

in connection with the provision of legal services, it must be in your capacity as a solicitor, REL or RFL.

(2) If you are a solicitor, REL, RFL or recognised body participating in an authorised non-SRA firm as:

(a) a manager, member or owner of the firm, or

(b) a manager, member or owner of a body corporate which is a manager of the firm,

it must be in your capacity as a solicitor, REL, RFL or recognised body or as an individual authorised by an approved regulator other than the Solicitors Regulation Authority (subject to section 1A of the Solicitors Act 1974, which would require a solicitor director of an authorised non-SRA firm to practise through that firm in the capacity of solicitor, even if also practising in some other capacity).

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#### 20.10 Compliance with conditions

If you are a solicitor, REL, RFL or recognised body you must comply with any condition which the Solicitors Regulation Authority imposes on your practising certificate, registration or recognition.

## Annex 4 – Rule 24 showing proposed amendments

### Rule 24 – Interpretation

#### 24.01

In these rules, unless the context otherwise requires, all references to legislation include existing and future amendments to that legislation and:

<a href="#">approved regulator</a>	<a href="#">means a body listed in paragraph 1 of Schedule 4 to the Legal Services Act 2007 (whether or not that paragraph has been brought into force), or designated as an approved regulator by an order under paragraph 17 of that Schedule, and reference to the Solicitors Regulation Authority as an approved regulator means the Solicitors Regulation Authority carrying out regulatory functions assigned to the Law Society as an approved regulator;</a>
“arrangement”	in relation to financial services, fee sharing and the introduction of clients, means any express or tacit agreement between you and another person, whether contractually binding or not;
“associated companies”	means two companies which are subsidiary companies of the same holding company;
“associated firms”	means two or more partnerships with at least one partner in common; two or more companies without shares with at least one member in common; two or more LLPs with at least one member in common; two or more companies with shares with at least one owner in common, or any combination of these;
<a href="#">authorised “non-SRA firm”</a>	<a href="#">means a sole practitioner, partnership, LLP or company authorised to practise by another approved regulator and not by the Solicitors Regulation Authority;</a>
<a href="#">“body corporate”</a>	<a href="#">means</a> <a href="#">(a) a company,</a> <a href="#">(b) an LLP, or</a> <a href="#">(c) a partnership which is a legal person in its own right,</a>
“CCBE”	means the Council of the Bars and Law Societies of Europe;
“CCBE Code”	means the CCBE’s Code of Conduct for European Lawyers;
“CCBE state”	means any state whose legal profession is a full member, <a href="#">an associate member</a> or an observer member of the CCBE;

"charity"	has the same meaning as in section 96(1) of the Charities Act 1993;
<a href="#">"claim for redress"</a>	<a href="#">in rule 20, has the same meaning as in section 158 of the Legal Services Act 2007;</a>
"client account"	in rule 15 (Overseas practice), means an account at a bank or similar institution, subject to supervision by a public authority, which is used only for the purpose of holding client money and/or controlled trust money, and the title or designation of which indicates that the funds in the account belong to the client or clients of a solicitor or REL or are held subject to a trust;  (for the definition of "client account" in relation to practice from an office in England and Wales, see the Solicitors' Accounts Rules 1998);
"client money"	in rule 15 (Overseas practice), means money you receive or hold for or on behalf of a client <a href="#">or trust</a> ;  (for the definition of "client money" in relation to practice from an office in England and Wales, see the Solicitors' Accounts Rules 1998);
"company"	in rule 14 ( <del>Incorporated practice</del> <a href="#">Recognised bodies</a> ), means a company registered under Part I of the Companies Act 1985, <del>or</del> an overseas company incorporated in an Establishment Directive state and registered under section 690A or 691 of the Companies Act 1985, or a <i>societas Europaea</i> ;
"contentious proceedings"	is to be construed in accordance with the definition of "contentious business" in section 87 of the Solicitors Act 1974;
"contingency fee"	except in 9.01(4) to (6), means any sum (whether fixed, or calculated either as a percentage of the proceeds or otherwise) payable only in the event of success;
<del>"controlled trust"</del>	<del>in rule 15 (Overseas practice), means a trust of which:</del>  <del>(a) — you are the sole trustee; or</del>  <del>(b) — you are co-trustee only with one of more of your, or your firm's, employees, partners; officers (in the case of a company, including a recognised body); or members (in the case of an LLP, including a recognised body); or</del>  <del>(c) — you are co-trustee only with your firm (in the case of a partnership with a separate legal identity, a company or LLP, including a recognised body);</del>  <del>(for the definition of "controlled trust" in relation to practice</del>

	<del>from an office in England and Wales, see the Solicitors' Accounts Rules 1998);</del>
<del>"controlled trust money"</del>	<del>in rule 15 (Overseas practice), means money which is subject to a controlled trust of which you are a trustee; (for the definition of "controlled trust" in relation to practice from an office in England and Wales, see the Solicitors' Accounts Rules 1998);</del>
<del>"corporate firm"</del>	<del>means a body corporate which carries on the practice of a solicitor or an REL but is not an in-house practice;</del>
"court"	in rule 11 (Litigation and advocacy) means any court, tribunal or enquiry of England and Wales, or a British court martial, or any court of another jurisdiction;
"director"	means a director of a company, and includes the director of a recognised body which is a company; and in relation to a <i>societas Europaea</i> includes: (a) in a two-tier system, a member of the management organ and a member of the supervisory organ; and (b) in a one-tier system, a member of the administrative organ;
"documents"	in rule 20 (Requirements of practice) includes documents, whether written or electronic, relating to the solicitor's client and office accounts;
"eligible to be a member and eligible to be a shareowner"	in rule 14 (Incorporated practice), mean a person who falls within one of the following categories: (a) a solicitor with a practising certificate; (b) a registered European lawyer; (c) a registered foreign lawyer; <del>(d) a non-registered European lawyer;</del> (d) <a href="#">a lawyer of an Establishment Directive state (including the UK),</a> (e) <a href="#">a lawyer of England and Wales,</a> (f) <a href="#">an individual approved under regulation X of the Solicitors' Recognised Bodies Regulations 2007 as suitable to be a manager of a recognised body</a> (g) <a href="#">a qualifying body (including another recognised body).</a> <del>(e) a recognised body; or</del> <del>(f) a European corporate practice;</del> and "ineligible" must be construed accordingly;
"employee"	except in rule 6 (Equality and diversity) includes, <del>in the case</del>



	<p><del>of a solicitor or an REL</del> <u>an individual who is:</u></p> <p>(a) <del>a solicitor or REL who is</del> <u>employed as</u> a director of a company;</p> <p>(b) <del>a solicitor or REL who is</del> engaged under a contract of service (for example, an assistant solicitor) <u>by a firm or its wholly owned service company;</u> or</p> <p>(c) <del>a solicitor or REL who is</del> engaged under a contract for services (for example, a consultant or a locum), <u>made between the employer and:</u></p> <p><u>(i) that individual,</u></p> <p><u>(ii) an employment agency, or</u></p> <p><u>(iii) a company which is not held out to the public as providing legal services and is wholly owned and directed by that individual;</u></p> <p>and “employer” and “employment” must be construed accordingly</p>
“Establishment Directive”	means the Establishment of Lawyers Directive 98/5/EC;
“Establishment Directive Regulations”	means the European Communities (Lawyer’s Practice) Regulations 2000 (SI 2000/1119);
“Establishment Directive state”	means a state to which the Establishment of Lawyers Directive 98/5/EC applies – currently all the states of the EU plus Iceland, Liechtenstein, Norway and Switzerland;
“EU”	means the European Union;
<del>“European corporate practice”</del>	<p><del>means a lawyers’ practice incorporated in or formed under the law of an Establishment Directive state, which does not have an office in England and Wales, and is either:</del></p> <p><del>(a) a body corporate wholly owned (whether directly or indirectly) and directed by RELs and/or non-registered European lawyers, or by such persons together with solicitors with practising certificates, RFLs and/or barristers of England and Wales; or</del></p> <p><del>(b) a lawyers’ partnership with separate legal identity whose partners are all RELs and/or non-registered European lawyers, or such persons together with solicitors with practising certificates, RFLs and/or barristers of England and Wales.</del></p>
“European cross-border practice”	has the meaning assigned by 16.01(1);
“firm”	means any business <u>through</u> which <u>a solicitor or REL</u> carries on <del>the practice of a solicitor or an REL,</del> <u>except other</u>

	<a href="#">than</a> in-house practice;
“foreign lawyer”	means a person who is not a solicitor or barrister of England and Wales, but who is a member, and entitled to practise as such, of a legal profession regulated within a jurisdiction outside England and Wales;
“holding company”	has the meaning assigned by the Companies Act 1985;
<a href="#">"Immigration tribunal"</a>	<a href="#">means</a> (a) <a href="#">the asylum support adjudicators;</a> (b) <a href="#">the Asylum and Immigration Tribunal, and</a> (c) <a href="#">a tribunal hearing an appeal from (a) or (b);</a>
“in-house practice”	means <a href="#">a solicitor's practice within 12.01(1)(g) or 12.01(2)(f), or an REL's practice within 12.02(1)(g) or 12.02(2)(e);:</a> <del>(a)—a solicitor's employment in England and Wales as a solicitor, or an REL's employment in England and Wales as a lawyer of an Establishment Directive state, by any business which is not:  (i)—the business of a solicitor or an REL practising as a sole principal;  (ii)—a recognised body; or  (iii)—a partnership with at least one partner who is:  (A)—a practising solicitor;  (B)—an REL practising as such; or  (C)—a recognised body; and  (b)—a solicitor's employment outside England and Wales as a solicitor, or an REL's employment in Scotland or Northern Ireland as a lawyer of an Establishment Directive state, by any business which is not:  (i)—the business of a lawyer practising as a sole principal;  (ii)—a partnership of lawyers, or of lawyers together with other persons, within rule 12; or  (iii)—a body corporate wholly owned, for the purpose of practising law, by lawyers, or by lawyers together with other persons, within rule 12;</del>
“lawyer”	<del>except in rule 12 (Framework of practice),</del> means a member of one of the following professions, entitled to practise as such: (a) the profession of solicitor, barrister or advocate of the UK;

	<p>(b) <a href="#">a profession whose members are authorised to practise by an approved regulator other than the Solicitors Regulation Authority;</a></p> <p>(bc) a legal profession of an Establishment Directive state other than the UK;</p> <p>(ed) a legal profession which has been approved by the Solicitors Regulation Authority for the purpose of multi-national partnerships in England and Wales; or</p> <p>(de) any other regulated legal profession which is recognised as such by the Solicitors Regulation Authority;</p> <p><del>(for the definition of “lawyer” for the purpose of rule 12 (Framework of practice) see 12.05);</del></p>
“lawyer of an Establishment Directive state”	means a member, and entitled to practise as such, of a legal profession which is covered by the Establishment of Lawyers Directive 98/5/EC, and includes a solicitor or a barrister of England and Wales;
<a href="#">“lawyer of England and Wales”</a>	<a href="#">means a solicitor with a current practising certificate or an individual who is authorised to practise in England and Wales by an approved regulator other than the Solicitors Regulation Authority;</a>
“legal profession”	means a profession whose members are lawyers as defined in this rule;
“LLP”	means a limited liability partnership formed by being incorporated under the Limited Liability Partnerships Act 2000;
<a href="#">manager means</a>	<a href="#">means:</a> <p>(a) <a href="#">a partner in a partnership;</a></p> <p>(b) <a href="#">a member of an LLP; or</a></p> <p>(c) <a href="#">a director of a company;</a></p>
“member”	in relation to a recognised body, means: <p>(a) a person who has agreed to be a member of a company and whose name is entered in the company’s register of members; or</p> <p>(b) a member of an LLP;</p>
“MNP”	means a multi-national partnership as defined in section 89(9) of the Courts and Legal Services Act 1990;
“non-lawyer”	means: <p>(a) an individual who is not a lawyer <del>as defined in this rule</del> <a href="#">practising as such</a>; or</p>

	<p>(b) a body corporate <del>which includes an individual who is not a lawyer as defined in this rule;</del> or</p> <p>(c) <del>a partnership which includes as a partner an individual who is not a lawyer as defined in this rule;</del> or partnership which is not:</p> <p>(i) a recognised body,</p> <p>(ii) an authorised non-SRA firm, or</p> <p>(iii) a business, carrying on the practice of lawyers from an office or offices outside England and Wales, in which a controlling majority of the owners and managers are lawyers</p>
“non-registered European lawyer”	<p>means a lawyer of an Establishment Directive state who is based at an office or offices outside England and Wales and who is not: (a) a solicitor, REL or RFL; or</p> <p>(b) <del>a barrister of England and Wales, Northern Ireland or the Irish Republic, or a Scottish advocate;</del></p>
“notary public”	<p><u>means a duly certificated notary authorised to practise by the Master of Faculties;</u></p>
“officer”	<p>in relation to a company, means a director or the company secretary;</p>
“overseas”	<p>means in or of a jurisdiction other than England and Wales;</p>
“overseas practice”	<p>means:</p> <p>(a) the practice <del>of a solicitor or a recognised body</del> from an office <del>or offices</del> outside England and Wales; <del>and of:</del></p> <p>(i) a solicitor</p> <p>(ii) a recognised body,</p> <p>(iii) a manager of a recognised body who is a lawyer of England and Wales;</p> <p>(b) <u>the activities of an individual non-lawyer as a manager of a recognised body practising from an office outside England and Wales,</u></p> <p>(c) <u>the activities of a body corporate as a manager of a recognised body practising from an office outside England and Wales, and</u></p> <p>(d) <u>the practice of an REL from an office or offices in Scotland or Northern Ireland;</u></p>
“owner”	<p>in relation to a body <del>corporate</del>, means a person with any ownership interest in the body <del>corporate</del>;</p>
“partner”	<p><del>includes both an equity partner and a salaried partner in a partnership</del> means a person who is or is held out as a partner in an unincorporated firm</p>
“partnership”	<p><del>means an unincorporated body falling within the definition of partnership in section 1 of the Partnership Act 1890, and does not include an LLP</del> means an unincorporated</p>

	<p><u>partnership, and includes any unincorporated firm in which persons are or are held out as partners, but does not include an LLP;</u></p>
“person”	<p>includes an individual, <u>and a body corporate,</u> <del>or other legal person;</del></p>
“ <u>person qualified to direct reserved work</u> ”	<p><u>means an individual who is qualified under statute to do the relevant reserved work and who is:</u></p> <p>(a) <u>a fellow-manager, or</u></p> <p>(b) <u>the employer, a manager of the firm or a fellow-employee, if the person doing the work is not a manager</u></p>
“practice”	<p>(a) the activities of a solicitor, in that capacity;</p> <p>(b) the activities of an REL in the capacity of lawyer of an Establishment Directive state, from an office or offices within the UK;</p> <p><del>(c) the activities of an RFL from an office or offices in England and Wales as:</del></p> <p><del>(i) a partner in an MNP;</del></p> <p><del>(ii) a director of a recognised body which is a company; or</del></p> <p><del>(iii) a member of a recognised body which is an LLP; and</del></p> <p>(c) <u>the activities of an RFL from an office or offices in England and Wales as:</u></p> <p>(i) <u>the employee of a recognised sole practitioner,</u></p> <p>(ii) <u>a manager, employee, member or owner of a recognised body or of an authorised non-SRA firm,</u></p> <p>(iii) <u>a manager, member or owner of a body corporate which is a manager, member or owner of a recognised body or of an authorised non-SRA firm.</u></p> <p>(d) the activities of a recognised body;</p> <p>(e) <u>the activities of an individual non-lawyer as a manager of a recognised body practising from an office outside England and Wales,</u></p> <p>(f) <u>the activities of a body corporate as a manager of a recognised body practising from an office outside England and Wales,</u></p> <p>(g) <u>the activities of a lawyer of England and Wales, in that capacity; and</u></p> <p>(h) <u>the activities of an authorised non-SRA firm,</u></p> <p>and "practise" and "practising" should be construed</p>

	accordingly;
“practice from an office”	includes practice carried on: (a) from an office at which you are based; or (b) from an office of a firm in which you are a principal, director, member or an owner, even if you are not based there; and “practising from an office in England and Wales”, etc. should be construed accordingly;
“practice through a body <del>corporate</del> ”	includes having an ownership interest in a body <del>corporate</del> <b>or and</b> being a director <del>of</del> <b>if the body is a</b> a company, even if you yourself undertake no work for <u>body's</u> clients <del>of the body corporate</del> ; and “practising through <del>a body corporate</del> <u>an authorised non-SRA firm</u> ” should be construed accordingly;
“principal”	means a sole practitioner or a partner in a partnership;
<del>“principal in a firm”</del>	<del>means:</del> (a) <del>a solicitor or recognised body practising either as a sole principal or as a partner;</del> (b) <del>an REL practising in the UK either as a sole principal or as a partner; or</del> (c) <del>an RFL practising from an office in England and Wales as a partner in an MNP;</del>
“providing a service through a separate business”	means having any active involvement in a separate business which provides that service, and includes: (a) any substantial ownership in the business; (b) any direct control over the business, and any indirect control through another person such as a spouse; and (c) any active participation in the business or the provision of its services to customers; (being a non-executive director or providing services under rule 13 (In-house practice) does not, on its own, constitute active involvement);
“publicity”	includes all promotional material and activity, including the name or description of your firm, stationery, advertisements, brochures, websites, directory entries, media appearances, promotional press releases, and direct approaches to potential clients and other persons, whether conducted in person, in writing, or in electronic form, but does not include press releases prepared on behalf of a client;
<u>“qualifying body”</u>	<u>means a body corporate which meets all the following conditions:</u> (a) <u>it provides only such services as a recognised body</u>

	<p><u>may provide,</u></p> <p>(b) <u>it has at least one manager who is a solicitor or REL,</u></p> <p>(c) <u>lawyers of England and Wales, lawyers of Establishment Directive states (including the UK), and/or RFLs:</u></p> <p>(i) <u>constitute at least 75% of the managers,</u></p> <p>(ii) <u>exercise or control the exercise of at least 75% of the voting rights in the body, and</u></p> <p>(iii) <u>if the body has shares, hold at least 75% of the shares in the body;</u></p> <p>(d) (i) <u>every manager who is not within (c) above is an individual approved under regulation XX of the Solicitors' Recognised Bodies Regulations 2007; and</u></p> <p>(ii) <u>every member or owner who is not within (c) above is also a manager.</u></p>
"recognised body"	means a <del>body corporate (which can be a company or an LLP)</del> <u>partnership, company or LLP</u> for the time being recognised by the Solicitors Regulation Authority under section 9 of the Administration of Justice Act 1985 and the Solicitors' Recognised Bodies Regulations 2007;
<u>"recognised sole practitioner"</u>	<u>means a solicitor or REL authorised by the Solicitors Regulation Authority under section 1B of the Solicitors Act 1974 to practise as a sole practitioner;</u>
"REL (registered European lawyer)"	means an individual registered with the Solicitors Regulation Authority under regulation 17 of the Establishment Directive Regulations;
<u>REL-controlled recognised body"</u>	<u>means a recognised body in which RELs, or RELs together with lawyers of England and Wales, constitute the national group of lawyers with the largest (or equal largest) share of control of the recognised body either as individual managers or by their share in the control of bodies which are managers, and for this purpose RELs belong to the national group of England and Wales.</u>
"register of European lawyers"	means the register of European lawyers maintained by the Solicitors Regulation Authority under regulation 15 of the Establishment Directive Regulations;
<u>"Reserved work"</u>	<p><u>means the following activities:</u></p> <p>(a) <u>advocacy before a court or immigration tribunal,</u></p> <p>(b) <u>the conduct of proceedings in a court or immigration tribunal,</u></p> <p>(c) <u>the preparation of documents in proceedings before a</u></p>

	<p><a href="#">court or immigration tribunal,</a></p> <p>(d) <a href="#">the preparation of instruments and the lodging of documents relating to the transfer or charge of land, and the preparation of trust deeds disposing of capital, within paragraph 5 of Schedule 2 to the Legal Services Act 2007,</a></p> <p>(e) <a href="#">the preparation of papers on which to found or oppose a grant of probate or a grant of letters of administration,</a></p> <p>(f) <a href="#">the administration of oaths and statutory declarations,</a></p> <p>(g) <a href="#">notarial activities within paragraph 7 of Schedule 2 to the Legal Services Act 2007.</a></p>
“RFL (registered foreign lawyer)”	means an individual registered with the Solicitors Regulation Authority under section 89 of the Courts and Legal Services Act 1990;
register of foreign lawyers	means the register of foreign lawyers maintained by the Solicitors Regulation Authority under the Courts and Legal Services Act 1990;
<del>“right of audience and right to conduct litigation”</del>	<del>are to be construed in accordance with Part II and section 119 of the Courts and Legal Services Act 1990;</del>
“separate business”	means a business which <del>does not carry on the practice of a solicitor, REL or</del> <a href="#">is not a recognised body, a recognised sole practitioner, an authorised non-SRA firm or a firm within 12.01(3)(a)-(c) or 12.02(3)(a)-(c)</a> but which offers a service or services that could properly be offered by a <del>solicitor, REL or</del> recognised body <del>in the course of practice;</del>
“shareowner”	<p>(a) a member of a recognised body which is a company with a share capital, who owns a share in the body; or</p> <p>(b) a person who is not a member of a company with a share capital, but owns a share in the body, which is held by a member as nominee;</p>
“societas Europaea”	means a European public limited liability company within the meaning of article 1 of Council Regulation 2157/2001/EC;
<a href="#">“sole practitioner”</a>	<a href="#">means a solicitor or REL practising as a sole principal, and does not include a solicitor or REL practising in-house;</a>
<a href="#">solicitor-controlled recognised body</a>	<a href="#">means a recognised body in which lawyers of England and Wales constitute the national group of lawyers with the largest (or equal largest) share of control of the recognised body either as individual managers or by their share in the control of bodies which are managers;</a>
“Solicitors’ Recognised Bodies	means the Solicitors’ Recognised Bodies Regulations 2007



Regulations”	
“subsidiary company”	has the meaning assigned by the Companies Act 1985;
“UK”	means United Kingdom; and
“undertaking“	in 10.05 and 15.10, means a statement made by you or your firm to someone who reasonably relies upon it, that you or your firm will do something or cause something to be done, or refrain from doing something. The undertaking can be given orally or in writing and need not include the words “undertake” or “undertaking”.