

Draft SRA Recognised Bodies Regulations 2009 (Annex F4)

Rules dated 31 March 2009 commencing 31 March 2009 (and then amended on 1 and 14 July 2010 and further amended on [6 October 2011]) made by the Solicitors Regulation Authority Board under sections 79 and 80 of the Solicitors Act 1974 and sections 9 and 9A of the Administration of Justice Act 1985, with the concurrence of the Master of the Rolls and the Lord Chancellor under paragraph 16 of Schedule 22 to the Legal Services Act 2007, making provision as to:

- the procedures for, and the circumstances in which, bodies may be recognised by the *SRA* 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by the *SRA* as suitable to be *managers* of *recognised bodies*, and the circumstances in which such approval may be withdrawn;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 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;
- 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 register of *recognised bodies*.

PART 1 – APPLICATIONS, CONDITIONS AND APPEALS

Regulation 1 – Form, timing and fees for applications

- 1.1 Applications under *these regulations*, or under any other rule which applies to a *recognised body*, its *manager* or *employee*, must comprise:
- (a) the *prescribed form*, correctly completed;
 - (b) the fee or fees for the application, as determined from time to time by the *SRA* Board;

- (c) if the application is for recognition or for renewal of recognition, any prescribed contribution to the SRA Compensation Fund;
- (d) such additional information, documents and references as may be specified by the *SRA*; and
- (e) any additional information and documentation which the *SRA* may reasonably require.

It is not necessary to submit all documents, information and payments simultaneously, but an application will only have been made once the *SRA* has received all of the documentation, information and payments comprising that application.

- 1.2 An application for renewal of recognition must be sent to the *SRA* so as to arrive on or before the renewal date.
- 1.3 A *recognised body* must notify the *SRA* on or before the renewal date if it does not intend to apply for renewal of recognition.
- 1.4 The *SRA* shall determine the amount of any fees required under *these regulations* and the *SRA*'s decision shall be final.
- 1.5 The *SRA* may prescribe from time to time a fee moderation process under which a *recognised body* may make an application for the fee for renewal of recognition to be varied. A decision under this process shall be final.

Regulation 2 – Initial recognition and renewal of recognition

- 2.1 The *SRA* may grant an application for initial recognition or renewal of recognition, if it is satisfied that the applicant body is a *partnership*, *LLP* or *company* which meets the conditions in (a) to (d) below:
 - (a) the body complies with rule s 15 and 16 of the *Practice Framework Rules* in relation to:
 - (i) its formation as a *body corporate* or *partnership*;
 - (ii) its composition and structure, including any necessary approval of a participant under Regulation 3; and
 - (iii) its practising address (and if appropriate, its registered office) in England and Wales;
 - (b) the body complies with the SRA Indemnity Insurance Rules;
 - (c) the body complies with (or has a waiver of) rule 12 of the Practice Framework Rules; and
 - (d) if the body is a *partnership*, it has adopted a name under which it is to be registered, and which complies with Chapter 8 of the Code of Conduct (Publicity).
- 2.2 The *SRA* may refuse an application for initial recognition if:

- (a) the SRA 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;
- (b) the SRA is not satisfied that the body's *managers* or owners are suitable, as a group, to operate or control a business providing regulated legal services; or
- (c) for any other reason the SRA reasonably considers that it would be against the public interest to grant recognition.

2.3 In reaching a decision under 2.2 the SRA may take into account:

- (a) any event listed in regulation 3.1 of the *SRA Practising Regulations* applying to a manager of the applicant body;
- (b) any other conduct on the part of a *manager* of the applicant body which calls into question his or her honesty, integrity or respect for law;
- (c) failure or refusal to disclose, or attempts to conceal, any matter within (a) or (b) above in relation to the application;
- (d) that the SRA is not satisfied that the *managers* of the applicant body, taken together, have sufficient skills and knowledge to run and manage a business which provides regulated legal services,

and any other facts which the SRA reasonably considers should be taken into account.

2.4 An application for initial recognition of a body which will not comply with 2.1(c) will be treated as including an application for a waiver of rule 12 of the Practice Framework Rules (Persons who must be qualified to supervise).

2.5 If, when considering an application for renewal of recognition, the SRA:

- (a) is not satisfied that the body's *managers*, taken together, are suitable to run and manage a business providing regulated legal services; or
- (b) considers that for any other reason it would not be in the public interest to renew the body's recognition,

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

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

2.7

- (a) When granting an application for recognition or for renewal of

recognition the *SRA* may impose a condition in accordance with regulation 4.

- (b) The granting of recognition free of conditions under regulation 2 does not prevent the *SRA* subsequently imposing a condition under regulation 4.

Regulation 2A – Fee determinations for acquisitions, mergers and splits

The turnover of a *recognised body* for the purpose of determining the fee for renewal of recognition is based on a historic *turnover figure* submitted to the *SRA*. Where in the 12 months following the submission of that figure a *recognised body* merges or splits, a notice of succession identifying all *recognised bodies*, *licensed bodies* and *recognised sole practitioners* affected by the merger or split and any resulting apportionment of the historic *turnover figures* for those *firms* will enable the *SRA* to ensure that the *turnover figure* on which the fee is based reflects the impact of the merger or split.

2A.1 A *recognised body* which has succeeded to the whole or a part of one or more *recognised bodies*, *licensed bodies* or *recognised sole practitioners* must within 28 days of the change taking place deliver to the *SRA* a notice of succession in the *prescribed form*.

2A.2 For the purposes of regulation 2A.1, "succeeded" includes any taking over of the whole or any part of a *recognised body*, *licensed body* or *recognised sole practitioner*, for value or otherwise.

2A.3 A *recognised body* which:

- (a) has split or ceded part of the *practice* to a *recognised body*, *licensed body* or *recognised sole practitioner*; and
- (b) wishes this change to be considered by the *SRA* when determining the *recognised body's* next fee for renewal of recognition

must within 28 days of the change taking place deliver to the *SRA* a notice of succession in the *prescribed form*.

2A.4 A notice of succession delivered under these regulations must:

- (a) identify all *recognised bodies*, *licensed bodies* and *recognised sole practitioners* affected by the succession; and
- (b) provide details of any resulting apportionment of the *turnover figures* for those *recognised bodies*, *licensed bodies* and *recognised sole practitioners*.

- 2A.5** A *recognised body* delivering a notice of succession under *these regulations* must seek the agreement of all affected *recognised bodies*, *licensed bodies* or *recognised sole practitioners* to the contents of the notice of succession.
- 2A.6** Where a notice of succession is delivered to the SRA which has not been agreed by all affected *recognised bodies*, *licensed bodies* or *recognised sole practitioners*, the *recognised body* delivering the notice of succession shall be treated as having made an application for the SRA to apportion the turnover figures of the affected *recognised bodies*, *licensed bodies* or *recognised sole practitioners* for the purposes of determining the fee for renewal of recognition.
- 2A.7** Before apportioning the *turnover figures* under regulation 2A.6, the SRA will contact any affected *recognised body*, *licensed body* or *recognised sole practitioner* identified in the notice of succession who has not agreed with the notice of succession and may require the production of additional information.

Regulation 3 – Approval of an individual as suitable to be a manager

- 3.1** An individual who is not a *lawyer of England and Wales*, an *REL*, an *RFL* or an exempt European lawyer must be approved by the SRA under this regulation in order to be:
- (a)** a *manager* or owner of a *recognised body*; or
 - (b)** a *manager* of a *body corporate* which is a *manager* of a *recognised body*.
- 3.2** The following are not eligible for approval under this regulation:
- (a)** a member (*practising* or non-practising) of any profession coming within the meaning of *lawyer of England and Wales* (including a *solicitor*);
 - (b)** an *REL*;
 - (c)** an *RFL*;
 - (d)** an exempt European lawyer; and
 - (e)** a member (*practising* or non-practising) of any profession eligible for approval by the SRA under paragraph 2(2) of Schedule 14 to the Courts and Legal Services Act 1990;

except that an individual who is not a *solicitor* or a *practising* member of any profession of *lawyers*, but is a non-practising barrister or a non-practising member of another profession of *lawyers*, and who is prevented by his or her professional rules or training regulations from changing status so as to be able to *practise* through the *recognised body* as

a *practising lawyer*, may apply for approval under this regulation.

3.3 The *SRA* has a discretion to reject an application under regulation 3 if it is not 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 because:

(a) the applicant, the individual concerned or any *recognised body*, *licensed body* or *authorised non-SRA firm* in which that individual has previously been a *manager*, or owner, *compliance officer* or *employee*, has been:

(i) reprimanded, made the subject of disciplinary sanction or made the subject of an order under section 43 of the Solicitors Act 1974, ordered to pay costs or made the subject of a recommendation to the Law Society or the *SRA* to consider imposing a condition by the Solicitors Disciplinary Tribunal, or struck off or suspended by the Court;

(ii) made the subject of an order under section 43 of the Solicitors Act 1974 by the Law Society or the *SRA* or rebuked or fined by the *SRA* under section 44D of the Solicitors Act 1974 or paragraph 14B of Schedule 2 to the Administration of Justice Act 1985;

(iii) intervened in by the *SRA* (or previously by the Law Society) or by any other *approved regulator*;

(iv) notified in writing by the *SRA* (or previously by the Law Society) that it does not regard as satisfactory an explanation given at the *SRA's* (or the Society's) request; or

(v) made the subject of disciplinary sanction by, or refused registration with or authorisation by, another *approved regulator*, professional or regulatory tribunal, or regulatory authority, whether in England and Wales or elsewhere,

in respect of a matter involving the individual concerned;

(b) the individual concerned:

(i) has been committed to prison in civil or criminal proceedings;

(ii) has been disqualified from being a *company* director;

(iii) has been removed from the office of charity trustee or trustee for a charity by an order within the terms of section 72(1)(d) of the Charities Act 1993;

(iv) is an undischarged bankrupt;

- (v) has been adjudged bankrupt and discharged;
 - (vi) has entered into an individual voluntary arrangement or a partnership voluntary arrangement under the Insolvency Act 1986;
 - (vii) has been a *manager* of a *recognised body* or *licensed body* which has entered into a voluntary arrangement under the Insolvency Act 1986;
 - (viii) has been a *director* of a *company* or a *member* of an *LLP* which has been the subject of a winding up order, an administration order or administrative receivership; or has entered into a voluntary arrangement under the Insolvency Act 1986; or has been otherwise wound up or put into administration in circumstances of insolvency;
 - (ix) lacks capacity (within the meaning of the Mental Capacity Act 2005) and powers under sections 15 to 20 or section 48 of that Act are exercisable in relation to that individual;
 - (x) is the subject of outstanding judgments involving the payment of money;
 - (xi) is currently charged with an indictable offence, or has been convicted of an indictable offence or any offence under the Solicitors Act 1974, the Financial Services and Markets Act 2000, the Immigration and Asylum Act 1999 or the Compensation Act 2006;
 - (xii) has been the subject of an order under section 43 of the Solicitors Act 1974;
 - (xiii) has been disqualified under section 99 of the Legal Services Act 2007 by the *SRA* or any other *approved regulator* from acting as a compliance officer or from being a *manager* of, or being employed by, a *licensed body* or an *authorised non-SRA firm*;
 - (xiv) has been the subject of an equivalent circumstance in another jurisdiction to those listed in (i) to (xiii); or
 - (xv) has been involved in other conduct which calls into question his or her honesty, integrity or respect for law;
- (c) the applicant or the individual concerned fails to disclose, refuses to disclose or seeks to conceal any matter within (a) or (b) above in relation to the application.

3.4

- (a) The application for approval must be made by the *recognised*

body or prospective *recognised body* concerned and may be made:

- (i) when applying for initial recognition; or
 - (ii) at any time after recognition has been granted.
- (b) It is for the applicant body to demonstrate that the individual concerned meets the criteria for approval.
- (c) The applicant body must:
- (i) co-operate, and secure the co-operation of the individual concerned, to assist the *SRA* to obtain all information and documentation the *SRA* requires in order to determine the application;
 - (ii) obtain all other information and documentation in relation to that individual which the *prescribed form* requires the body to obtain and keep; and
 - (iii) keep all information and documentation under (ii) above for a period of not less than 6 years after the individual concerned has ceased to be a manager of the body.
- (d) The individual concerned must confirm in the application that the information supplied about him or her is correct and complete.

3.5

- (a) Approval takes effect from the date of the decision unless otherwise stated.
- (b) The *SRA*'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 continues until:
 - (i) it is withdrawn; or
 - (ii) two years have elapsed during which the individual has not been a *manager* of a *recognised body*;

whichever is the sooner.

- 3.6 The *SRA* may at any time require the production of information or documentation from:

- (a) an approved individual;
- (b) a *recognised body* in which an approved individual is a *manager*,
or
- (c) the body which originally obtained approval for that individual
and holds information and documentation under 3.4(c)(iii) above;

in order to satisfy the *SRA* that the individual met the criteria for approval
or continues to meet the criteria for approval.

3.7

- (a) The *SRA* may decide to withdraw approval if it is not satisfied
that an approved individual met the criteria for approval or
continues to meet the criteria for approval or if information or
documentation is not promptly supplied in response to a request
made under regulation 3.6.
- (b) Subject to (c) below, 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.
- (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, unless in the
opinion of the *SRA* the proceedings on that appeal have been
unduly protracted by the appellant or are unlikely to be
successful.

- 3.8 Where withdrawal of approval relates to a *director* of a *company*, the *SRA*
may set separate dates for that individual ceasing to be a *director* and
disposing of his or her *shares*.

Guidance note

The approval process under regulation 3 will cease when recognised bodies are
transitioned to be regulated under the *SRA* Authorisation Rules. Non-lawyers who are
managers of recognised bodies at that time will be deemed approved as managers for the
purpose of rule 8.6 of the *SRA* Authorisation Rules. The regulation 3 approval of
non-lawyers who are not managers at that time will lapse. A fresh approval will need to be
applied for under the *SRA* Authorisation Rules.

Regulation 4 – Conditions on recognition

- 4.1 The *SRA* 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 purposes for which the *SRA* may impose a condition are set out in (a) to (g) below.

- (a) The *SRA* 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 to 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 *SRA* 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 *SRA* considers that:
 - (i) the condition would limit, halt or prevent a risk to clients, third parties or the public arising from a business agreement or association which the body has or is likely to enter into, or a business practice 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 *SRA* considers that it is in the public interest to impose the condition.
- (e) The *SRA* considers that imposing the condition will, in the public interest, facilitate closer monitoring by the *SRA* of compliance with rules and regulations on the part of the body.
- (f) The *SRA* considers that imposing the condition will, in the public

interest, require the body concerned to take specified steps conducive to the carrying on of efficient practice by that body.

- (g) The SRA 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 from the date on which the condition is imposed unless a later date is specified in the condition.
- 4.4 A *manager* of a *recognised body* and a shareowner of a *recognised body company* must not create any charge or other third party interest over their interest in the *recognised body*.

Regulation 5 – Change in composition of a partnership and temporary emergency recognition following a partnership split

- 5.1 Recognition may continue despite a change in the composition of a *recognised body* which is a *partnership*, subject to 5.2 to 5.6 below.
- (a) A *recognised body* which is a *partnership* must cease to practise from the date of any failure to comply with Part 3 of the *Practice Framework Rules*.
- (b) A *recognised body* which is a *partnership* 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; the 28 day period in 5.5(a) below does not apply.
- 5.2 If a *partnership* change results in there being only one remaining principal who or which needs to be recognised as a *recognised sole practitioner* but could not reasonably have commenced an application in advance of the change, the *firm* need not cease to practise if the remaining principal:
- (a) is a *solicitor* or *REL*;
- (b) notifies the SRA within seven days;
- (c) is granted temporary emergency recognition under the SRA *Practising Regulations*.
- 5.3 If a *partnership* split of a *recognised body* brings into being a new *partnership* which is not a *recognised body* but is a legal services body which satisfies the requirements of rule 13 of the *Practice Framework Rules*:
- (a) the SRA must be notified within 7 days; and
- (b) temporary emergency recognition may be granted, under *these regulations*, subject to 5.2 to 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.

- 5.4** An application for temporary emergency recognition must be made on the *prescribed form* within 7 days of the change and accompanied by all information and documentation the *SRA* reasonably requires.
- 5.5** The *SRA* may grant an application for temporary emergency recognition if the following conditions are met.
- (a)** The *SRA* must be satisfied that the *partners* could not reasonably have commenced an application for recognition in advance of the change.
 - (b)** The *partnership* must otherwise comply with rules 15 and 16 of the *Practice Framework Rules* in relation to its composition and structure and its practising address in England and Wales.
 - (c)** The *partnership* must comply with the *SRA* Indemnity Insurance Rules, and must have adopted a name under which it is to be registered and which complies with chapter 8 of the *Code of Conduct*.
- 5.6** Temporary emergency recognition:
- (a)** may be granted initially for 28 days;
 - (b)** may be granted to have effect from the date of the *partnership* split or any other appropriate subsequent date;
 - (c)** may be extended in response to a reasonable request by the applicant;
 - (d)** must be extended (subject to (g) below) pending determination of a substantive application for initial recognition commenced during the currency of a temporary emergency recognition;
 - (e)** may be granted or extended subject to such conditions as the *SRA* thinks fit, in circumstances falling within regulation 4;
 - (f)** is to be treated as initial recognition for the purpose of these regulations;
 - (g)** if granted, cannot prejudice the discretion of the *SRA* 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); and
 - (h)** in exceptional circumstances, and for reasonable cause, may be revoked at any time.
- 5.7** If a *partner* in a *partnership* which is a *recognised 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 inform the SRA within seven days.

Guidance note

If a partnership split brings into being a new partnership which is a licensable body (see rule 14 of the Practice Framework Rules) an application may be made for temporary emergency authorisation under rule 25 of the SRA Authorisation Rules.

Regulation 6 – Notification of decisions by the SRA

6.1

- (a) The SRA must notify its reasons in writing when it:
 - (i) refuses an application;
 - (ii) grants an application subject to a condition; or
 - (iii) refuses a permission required under a condition on a body's recognition.
- (b) The reasons must be given to the applicant body and to the individual concerned, when refusing approval of an individual under regulation 3.

6.2

The SRA must give 28 days written notice, with reasons:

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

6.3

The SRA may shorten or dispense with the 28 day period under 6.2 in imposing a condition if it is satisfied on reasonable grounds that it is in the public interest to do so.

Regulation 7 – Appeals

- 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 *SRA* to approve a step which, under a condition on the body's recognition, requires such prior approval,
- a body may invoke the *SRA*'s own appeals procedure.
- 7.2** A body may appeal to the High Court against the *SRA*'s decision to revoke the body's recognition, but must first invoke the *SRA*'s own appeals procedure.
- 7.3** A body, and/or the individual concerned, may appeal to the High Court against the *SRA*'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 *SRA*'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 *SRA* has received the application and all additional information and documentation required, and duly notified to the applicant on that day, if by the end of that day the *SRA* 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 *SRA* has received the application and all additional information and documentation required, and duly notified to the applicant on that day, if by the end of that day the *SRA* has not notified the applicant body, and the individual concerned, of its decision.
- 7.5**
- (a)** Appeals under the *SRA*'s own appeals procedure must be made within 28 days of notification of the *SRA*'s reasons for its decision, or within 28 days of deemed refusal under 7.4 above.
 - (b)** Unless otherwise provided in rules of Court, an appeal to the High Court must be made:

- (i) within 21 days of notification of the relevant decision; or
- (ii) within 21 days of notification of refusal of an appeal under the *SRA's* own appeals procedure,

as appropriate.

- 7.6 An appeal under the *SRA's* own appeals procedure under 7.3(a) above shall be treated as an application for the purpose of these regulations.

PART 2 – DURATION OF RECOGNITION, RENEWAL DATE, REVOCATION AND EXPIRY

Regulation 8 – Duration of recognition and renewal date

- 8.1 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.

Guidance note

When firms recognised under these regulations are transitioned to be recognised bodies regulated under the *SRA* Authorisation Rules their recognition will become a lifetime recognition and annual renewal of recognition will not be necessary. Other requirements will apply annually, including rule 8.3 (Payment of periodical fees) and 8.7 (Information requirements) of the *SRA* Authorisation Rules.

Regulation 9 – Revocation of recognition

- 9.1 The *SRA* may revoke a body's recognition, if:
 - (a) recognition was granted as a result of error or fraud;
 - (b) the body would not be eligible to be recognised if it were at that time applying for initial recognition;
 - (c) the renewal date has passed and the *SRA* 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 within the initial 28 day period or any extension of that period commenced a substantive application for recognition;
 - (e) the body has ceased to *practise*;
 - (f) an *approved regulator* other than the *SRA* has authorised the body;
 - (g) the *SRA* has decided under regulation 2.5 not to renew the body's recognition; or

- (h) 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 the *recognised body* which has not triggered expiry of recognition under regulation 10,
- and the SRA 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) Subject to (b) below, 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.
- (b) If an appeal is made before the revocation takes effect, the revocation is suspended pending determination or discontinuance of the appeal, unless in the opinion of the SRA the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.

Regulation 10 – Expiry of recognition

10.1

If due to an event which could not reasonably have been foreseen, a *recognised body* is no longer a legal services body because the body no longer has at least one *manager* who is:

- (a) a *solicitor*;
- (b) an *REL*; or
- (c) a *legally qualified body* with at least one *manager* who is a *solicitor* or an *REL*;

but the SRA is informed of the fact within 7 days of the event first occurring and the body becomes a legal services body again within 28 days of the event first occurring, then the *recognised body* will be deemed to have remained a legal services body and to that extent will not be liable to have its recognition revoked under regulation 9.1(b).

- 10.2 If an event which could not reasonably have been foreseen results in an *LLP* having fewer than two *members*, and therefore being in breach of Rule 16.3 (requirement to have at least two members) of the *Practice Framework Rules*, but within six months the situation is remedied, the *LLP* will be deemed to have remained in compliance with Rule 16.3 of the *Practice Framework Rules* and to that extent will not be liable to have its recognition revoked under regulation 9.1(b) .

- 10.3** If a *recognised body* is a *company* with *shares* and a *member* or shareowner 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:
- (a) 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;
 - (b) no personal representative may hold or own a *share* in that capacity for longer than 12 months from the date of death;
 - (c) 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* or shareowners, but without this resulting in *RFLs* being the only shareowners; and
 - (d) 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.
- 10.4** If, following the death of a *member* or shareowner, a *company* meets the requirements of 10.3 above the *company* will be deemed to have remained in compliance with Part 3 of the *Practice Framework Rules* as to membership and *share* ownership, and to that extent will not be liable to have its recognition revoked under regulation 9.1(b).
- 10.5** If a *recognised body* 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:

- (a) no vote may be exercised or accepted on the *shares* held by or on behalf of that *member* or shareowner;
- (b) 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
- (c) 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* or shareowners in compliance with Part 3 of the *Practice Framework Rules*.

10.6 If 10.5 above applies and a *company* meets its requirements, the *company* will be deemed to have remained in compliance with Part 3 of the *Practice Framework Rules* as to membership and *share* ownership, and to that extent will not be liable to have its recognition revoked under regulation 9.1(b).

10.7 If a *recognised body* 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:

- (a) 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;
- (b) 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;
- (c) 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* or shareowners in compliance with Part 3 of the *Practice Framework Rules*; and
- (d) 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.

10.8 If 10.7 above applies and a *company* meets its requirements, the *company* will be deemed to have remained in compliance with Part 3 of the *Practice Framework Rules* as to membership and *share* ownership, and to that extent will not be liable to have its recognition revoked under regulation 9.1(b).

10.9 A Court of Protection deputy appointed under section 19 of the Mental Capacity Act 2005 may be a *member* or shareowner in that capacity, without breaching Part 3 of the *Practice Framework Rules* as to membership and *share* ownership, provided that:

- (a) the person in respect of whom the deputy has been appointed remains eligible to be a *member* or shareowner; and
- (b) if the deputy is not eligible to be a *member* or shareowner, no vote is exercised or accepted on the *shares*.

10.10 If 10.9 above applies and a *company* meets its requirements, the *company* will be deemed to have remained in compliance with Part 3 of the *Practice Framework Rules* as to membership and *share* ownership, and to that extent will not be liable to have its recognition revoked under regulation 9.1(b).

10.11 If the only, or last remaining, *solicitor* or *REL* whose role in the body ensures compliance with the *lawyer manager* requirement under Rule 13 of the *Practice Framework Rules*:

- (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 *lawyer manager* within the body,

the body must inform the *SRA* within seven days and must within 28 days either ensure that the body can fulfil the *lawyer manager* requirement without reference to that person, or cease to *practise*.

10.12 Subject to Rules 10.1 to 10.11 above, a body's recognition will automatically expire if the body is wound up or for any other reason ceases to exist.

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 SRA 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 and registered number, 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*, 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*;
 - (h) a list of the body's *managers*, and in respect of each *manager*, whether that *manager* is:
 - (i) a *lawyer of England and Wales*, and if so the nature of his or her qualification;
 - (ii) an *REL*, and if so his or her professional title and jurisdiction of qualification;
 - (iii) an exempt European lawyer registered with the Bar Standards Board, and if so his or her professional title

and jurisdiction of qualification;

- (iv) an exempt European lawyer based entirely at an office or offices outside England and Wales, and if so his or her professional title and jurisdiction of qualification;
- (v) an *RFL*, and if so his or her professional title and jurisdiction of qualification;
- (vi) an individual approved under regulation 3;
- (vii) a *company*, and if so whether it is a *recognised body*, a European corporate practice or an *authorised non-SRA firm*;
- (viii) an *LLP*, and if so whether it is a *recognised body*, a European corporate practice or an *authorised non-SRA firm*; and
- (ix) a *partnership* with separate legal personality, and if so whether it is a *recognised body*, a European corporate practice or an *authorised non-SRA firm*;

- (i) any condition to which the body's recognition is subject; and
- (j) any other reasonable information, necessary for carrying out the *SRA's* statutory objectives, from time to time prescribed by the *SRA*.

12.3

- (a) Entries in the register must be available for inspection by any member of the public, except that the *SRA* may withhold an address in exceptional circumstances where the *SRA* 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 *SRA* 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 *societas 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, WAIVERS, RECONSIDERATION AND NOTIFYING THIRD PARTIES

Regulation 14 – Interpretation

In these regulations:

- (a) "*Code of Conduct*" means the SRA Code of Conduct [2011];
- (b) *commencing an application* means submitting a completed application form, together with the prescribed fee and any Compensation Fund contribution required;
- (c) "compliance officer" has the meaning given to it in the SRA Authorisation Rules
- (d) references to a Court of Protection deputy appointed under section 19 of the Mental Capacity Act 2005 include a Court of Protection receiver appointed under the Mental Health Act 1983, and equivalents in other *Establishment Directive states*.
- (e) all *italicised* terms are to be interpreted in accordance with chapter 14 of the *Code of Conduct* unless otherwise specified;
- (f) "*legally qualified*" and "*legally qualified body*" have the meanings given to them in the *Practice Framework Rules*
- (g) 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*.
- (h) "*Practice Framework Rules*" means the SRA Practice

Framework Rules [2011];

- (i) "*prescribed form*" means a form prescribed from time to time by the *SRA*;
- (j) "*prescribed fee*" means the fee prescribed from time to time by the *SRA*;
- (k) "*SRA Practising Regulations*" means the *SRA Practising Regulations 2009*;
- (l) "*turnover figure*" means as prescribed from time to time by the *SRA*;
- (m) the date of any notification or notice given under *these regulations* is deemed to be:
 - (i) the date on which the communication is delivered to or left at the recipient's address or is sent electronically to the recipient's e-mail or fax address; or
 - (ii) seven days after the communication has been sent by post or document exchange to the recipient's last notified contact address; and
- (n) "*these regulations*" means the *Recognised Bodies Regulations 2009* (as amended).

Regulation 15 – Waivers

In any particular case or cases the *SRA* 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.

Guidance note

Waivers granted in respect of these regulations will expire on the repeal of the regulations on [31 March 2012]. Firms with the benefit of such waivers should consider whether they need to apply for a new waiver of the equivalent provisions of the *SRA Authorisation Rules* and, if so, should contact the Professional Ethics Guidance Team.

Regulation 16 – Reconsideration

- 16.1 The *SRA* may reconsider or rescind a decision made under *these regulations* when it appears that the decision maker:
- (a) was not provided with material evidence that was available to the *SRA*;
 - (b) was materially misled;
 - (c) failed to take proper account of material facts or evidence;
 - (d) took into account immaterial facts or evidence;

- (e) made a material error of law;
- (f) made a decision which was otherwise irrational or procedurally unfair;
- (g) made a decision which was otherwise ultra vires; or
- (h) failed to give sufficient reasons.

16.2

- (a) A decision may be reconsidered under 16.1 only on the initiative of the *SRA* and if a person duly authorised by the *SRA* gives a direction to that effect.
- (b) That person may also give directions:
 - (i) for further investigations to be undertaken;
 - (ii) for further information or explanation to be obtained; and
 - (iii) for the reconsideration to be undertaken by the original decision maker or by a different decision maker or panel.

Regulation 17 – Notifying third parties of decisions

The *SRA* may, if it considers it in the public interest to do so, notify any or all of the following persons of a decision made under these regulations:

- (a) a *recognised body*, or *licensed body* or *authorised non-SRA firm* of which the body or individual concerned is a *manager* or has an ownership interest;
- (b) a *recognised sole practitioner*, *recognised body*, or *licensed body* or *authorised non-SRA firm* of which the individual concerned is an *employee*;
- (c) any *approved regulator*;
- (d) the Legal Services Board;
- (e) the Legal Ombudsman;
- (f) the regulatory body for any profession of which the individual concerned is a *member* or which regulates the body concerned;
- (g) any law enforcement agency.

Regulation 18 – Commencement and repeal

- 18.1 *These regulations* come into force on 31 March 2009 and repeal the Solicitors' Recognised Bodies Regulations 2007.
- 18.2 From [6 October 2011], the amendments to *these regulations* shall have

the effect of repealing Rule 14.04(2) to (9) and 14.06(5) to (8) of the Solicitors' Code of Conduct 2007.