

## Annex C: Regulatory Reform Programme: Regulatory Simplification (April 2015)

### *Summary of Rule changes*

The rule changes set out in Annex C follow the same chronological order as the proposals set out in the consultation document, and are included under the same headings as have been used in the consultation document for ease of reference. The reference to the relevant section of the handbook is included at each section.

#### **Simplifying Compliance Officer approval process for small firms (1-4 managers)**

#### **SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies (2011)**

#### **Part 4: Approval of managers, owners and compliance officers**

#### **Rule 13: Application for approval**

#### **New Rule 13.3**

13.3 The SRA will deem a *person* to be approved as suitable to be a *compliance officer* of an *authorised body* under this Part if:

- (a) that *person* is a *sole practitioner* or a *lawyer* who is a *manager*;
- (b) the *authorised body* is a recognised sole practice or a *recognised body* with no more than 4 *managers*;
- (c) the SRA is notified on the *prescribed form* in advance of the *person* becoming a *compliance officer* of the *authorised body*; and
- (d) the SRA has not previously withdrawn its approval of that *person* to be a *compliance officer* under Rule 17.

### ***Other consequential changes***

#### **Rule 17: Withdrawal of approval**

17.1 Where the SRA has granted an approval of a *person* to be a *manager*, *owner* or *compliance officer* of a body (including a deemed approval under Rule 13.2 or **Rule 13.3**), it may subsequently withdraw that approval if:...

#### **Rule 18: Temporary emergency approvals for compliance officer**

18.1 If an *authorised body* ceases to have a *COLP* or *COFA* whose designation has been approved by the SRA (**including a deemed approval under Rule 13.3**), the *authorised body* must immediately and in any event within seven days:...

## Simplify candidate declaration and notification processes

### SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies (2011)

#### Part 4: Approval of managers, owners and compliance officers

#### Rule 14: Approval process and production of information or documentation

##### Rule 14.3

~~14.3—The candidate must declare in the application that the information supplied about them is correct and complete.~~

##### Rule 14.4

14.4 The SRA's decision to approve or refuse approval must be notified in writing to the *applicant body* or *authorised body* as appropriate, and ~~separately~~ to the *candidate*, as soon as possible.

## Revise the rules relating to reserved legal activity

### SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies (2011)

#### Part 5: Notification, effect and duration of authorisation

#### Rule 22: Revocation and suspension of authorisation

22.1 Subject to Rule 23, the SRA may revoke or suspend a body's authorisation, where:

- (a) in the case of an authorised body:
  - (i) authorisation was granted as a result of error, misleading or inaccurate information, or fraud;
  - (ii) the body is or becomes ineligible to be authorised in accordance with the criteria set out in Rule 6;
  - ~~(iii) the SRA is satisfied that the body has no intention of carrying on the legal activities for which it has been authorised under these rules;~~

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## Part 3: Authorisation applications and decision period

### Rule 4: Applications for authorisation

**Rule 4.2:**

~~4.2 An application by a licensable body for authorisation must include a statement about what reserved legal activities the body seeks authorisation for.~~

**Rule 4.3**

~~4.3 Where an application by a licensable body for authorisation relates to more than one reserved legal activity, the~~ The SRA may grant the application in relation to ~~one or more reserved legal activity all or any of them.~~

**ABS authorisation - operational changes and improvements**

a) Remove requirement for approval of managers in ABS corporate owners

**SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies (2011)****Part 3: Conditions of authorisation****Rule 8.6: Management and control****8.6 (a) (ii)**

8.6 Management and control

(a) An *authorised body* must ensure that:

~~(i) any manager or owner of the authorised body; or~~

~~(ii) any manager of a body corporate which is a manager or owner of the authorised body;~~

has been approved by the SRA under Part 4

**ABS authorisation - operational changes and improvements**

b) Remove the 7 day notification requirement for an authorised manager or owner of an ABS

**SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies (2011)****Part 4: Approval of managers, owners and compliance managers****Rule 13: Application for approval****Rule 13.2**

13.2 The SRA will deem a *person* to be approved as suitable to be a *manager* or *owner* of an *authorised body* under this Part if:

(a) that *person* is:

(i) a *solicitor* who holds a current practising certificate;

(ii) an *authorised body*;

(iii) an *REL*; or

- (iv) an *RFL*;
- (b) there is no condition on the *person's* practising certificate, registration or *authorisation* as appropriate, preventing or restricting them from being a *manager*, *owner* or *interest holder* of an *authorised body* or being a *sole practitioner*;
- (c) the *SRA* is notified on the *prescribed* form **at least seven days** in advance of the *person* becoming a *manager* or *owner* of the *authorised body*; and
- (d) the *SRA* has not **previously** withdrawn its approval of that *person* to be a *manager* or *owner* under Rule 17.

## Changes to insolvency rules

### SRA Practising Regulations 2011

#### Part 1: Applications, conditions and appeals

#### Regulation 3: Application following certain events

##### 3.1 (k) (iii)

- (k) The applicant:
  - (i) has been adjudged bankrupt and discharged;
  - (ii) has entered into an individual voluntary arrangement or a partnership voluntary arrangement under the Insolvency Act 1986;
  - (iii) has at any time during the last 36 months of trading of a recognised body, a licensed body or an authorised non-SRA firm 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 voluntarily wound up in circumstances of insolvency**, been a manager of that recognised body, licensed body or authorised non-SRA firm;
  - (iv) has at any time during the last 36 months of trading of a company or 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 voluntarily wound up in circumstances of insolvency, been a director of that company or a member of that LLP.

## Alternatives to Client Accounts

(Please see Annex D)

### Guidance on recording of non-material breaches

#### SRA Authorisation Rules (2011)

#### Part 3: Conditions of authorisation

#### Rule 8: General conditions on Authorisation

#### Rule 8.5: Compliance Officers

##### **Guidance note to 8.5<sup>1</sup>**

The obligation to record non-material breaches under Rule 8.5(c)(i)(C) and Rule 8.5(e)(i)(B) do not require a record to be kept in any particular form nor do they require the COLP or COFA to make a separate record of each non-material breach of which a record already exists in the firm's papers. How such breaches are recorded and monitored is a matter for firms to decide as part of their compliance plan bearing in mind that it is necessary for a firm to be able to detect patterns of non-material breaches which when taken together amount to material non-compliance which the firm is required to report with suitable immediacy. (Licensed bodies also need to bear in mind the obligations upon the COLP and COFA to report non-material failures as part of the annual information report reflecting statutory obligations imposed under S91 and S92 of the LSA respectively).

### Cloud computing and law firms

#### SRA Code of Conduct 2011

#### 2nd section - You and your business

#### Chapter 7: Management of your business

#### Outcome 7.10

- O(7.10) subject to Outcome 7.9, where you outsource legal activities or any operational functions that are critical to the delivery of any legal activities, you ensure such outsourcing:
- (a) does not adversely affect your ability to comply with, or the SRA's ability to monitor your compliance with, your obligations in the Handbook;
  - (b) is subject to contractual arrangements that enable the SRA or its agent, **to enable it to monitor compliance with your obligations in the Handbook**

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<sup>1</sup> Suggested additional guidance note to be added at the end of (x).

- (i) to obtain information from, **and** inspect the records (including electronic records) ~~of, or enter the premises of,~~ of the third party in relation to the outsourced activities or functions;
  - (ii) to enter such premises as may be appropriate in order to do so; and
  - (iii) to require the third party to provide to the SRA or its agent, copies of such records and information;
- (c) does not alter your obligations towards your clients; and
  - (d) does not cause you to breach the conditions with which you must comply in order to be authorised and to remain so;

#### **Guidance note to Outcome 7.10**

The purpose of O(7.10) is to ensure that the SRA is able to exercise its regulatory powers in respect of the authorised person notwithstanding the outsourcing of legal activities or operational functions to a third party. You must ensure that your contractual arrangements with third parties are adequate for these purposes which will depend on the nature of the activities or operations outsourced. It will not be necessary for all such arrangements to include a right to enter the third party's premises depending on the nature of the activities or operations outsourced and the arrangements in place for carrying these out.

## **Recording and reporting of diversity data**

### **SRA Code of Conduct 2011**

#### **1st section: You and your client**

#### **Chapter 2: Equality and Diversity**

#### **Outcomes**

O(2.1) you do not discriminate unlawfully, or victimise or harass anyone, in the course of your professional dealings;

O(2.2) you provide services to *clients* in a way that respects diversity;

O(2.3) you make reasonable adjustments to ensure that disabled *clients*, *employees* or *managers* are not placed at a substantial disadvantage compared to those who are not disabled, and you do not pass on the costs of these adjustments to these disabled *clients*, *employees* or *managers*;

O(2.4) your approach to recruitment and employment encourages equality of opportunity and respect for diversity;

O(2.5) *complaints* of discrimination are dealt with promptly, fairly, openly, and effectively; and

O(2.6) you have appropriate arrangements in place for monitoring, reporting and publishing workforce diversity data'.

**Note: For more information on collecting, reporting and publishing diversity data, including compliance with data protection legislation, [please see guidance](#).**

### Indicative behaviours

Acting in the following way(s) may tend to show that you have achieved these outcomes and therefore complied with the *Principles*:

**IB(2.1)** having a written equality and diversity policy (which may be contained within one or more documents, including one or more other policy documents, as appropriate) which is appropriate to the size and nature of the *firm* and includes the following features:

- (a) a commitment to the principles of equality and diversity and legislative requirements;
- (b) a requirement that all employees and managers comply with the outcomes;
- (c) provisions to encompass your recruitment and interview processes;
- (d) details of how the firm will implement, monitor, evaluate and update the policy;
- (e) details of how the firm will ensure equality in relation to the treatment of employees, managers, clients and third parties instructed in connection with client matters;
- (f) details of how complaints and disciplinary issues are to be dealt with; and
- ~~(g) deleted details of the firm's arrangements for workforce diversity monitoring, and~~
- (h) details of how the firm will communicate the policy to employees, managers and clients;

### Enable qualification as a solicitor through an apprenticeship route

#### SRA Training Regulations 2014 - Qualification and Provider Regulations

#### Part 2: Education and training requirements

2.1 We will admit *you* as a *solicitor* if:

(a) *you*

- i. have completed the *academic stage and vocational stage*; or
- ii. *you have completed an apprenticeship*;

(c) *you* have complied with the *SRA Admission Regulations*; and

(d) we are satisfied as to *your character and suitability* to be a *solicitor* in accordance with Part 1 of the *SRA Suitability Test*.

2.2 We may admit you as a *solicitor* if you have completed all or any part of 2.1(a)(i) by equivalent means.

2.3 Where 2.2 applies you must apply to us in writing in the *prescribed form* and support your application with such evidence as we consider necessary.

2.4 If you are subject to the *QLTSR* those regulations apply to your admission as a *solicitor* and you are not subject to these regulations.

2.5 You will have completed an apprenticeship for the purposes of (a)(ii) if you have met the requirements set out in the assessment plan for the *Apprenticeship Standard for a Solicitor (England)* or set out in the Apprenticeship Framework specified in the *Level 7 Higher Apprenticeship in Legal Practice (Wales)*, including successfully passing an assessment which is either conducted by the SRA or approved by the SRA as suitable for the purpose.

### Regulation 5: Recognised training

5.1 ~~Subject to regulation 2.2~~, Unless you fall within regulation 2.1(a)(ii) or 2.2, you must complete a period of recognised training before we admit you as a solicitor.

#### Glossary

**The Apprenticeship Standard for a Solicitor (England)** means the standard approved by the Department for Business, Innovation and Skills in 2014 and as varied from time to time.

**The Level 7 Higher Apprenticeship in Legal Practice (Wales)** means the standard approved by the Welsh Government in March 2015 and as varied from time to time.

## Fee sharing and referrals

### SRA Code of Conduct 2011

#### 2nd section: You and your business

#### Chapter 9: Fee sharing and referrals<sup>2</sup>

O(9.6) you do not make payments to an introducer in respect of clients who are the subject of criminal proceedings or who have the benefit of public funding;

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<sup>2</sup> We have asked an open consultation question on Outcome 9.6 - as to whether it should be retained or removed.