

# Rules for applications for Qualifying Regulator status

---

*Consultation paper on the draft rules required by schedule 18 of the Legal Services Act 2007 enabling regulation of immigration advice and services*

This consultation will close at 5pm on Friday 28 January 2011

*Note: minor changes have been made to pages 3 and 5 post-publication and are shown in red.*

## Contents

1. Executive summary .....	3
2. Background.....	5
3. Summary of proposed changes to the LSB's Rules for Approved Regulator Designation .....	6
4. The consultation questions.....	8
5. The consultation process.....	9
6. How to respond .....	10
Annex A – Proposed changes to rules for Approved Regulator Designation applications .....	11
Annex B – Rules made by the LSB .....	33

## 1. Executive summary

- 1.1 Under schedule 18 paragraph 5 (1) of the Legal Services Act 2007 (the 2007 Act), the Legal Services Board (LSB) is required to make rules specifying how it will determine applications to allow a body to apply to become a “Qualifying Regulator.” This is for the purposes of Part 5 of the Immigration and Asylum Act 1999 (the 1999 Act) which enables a body to regulate providers of immigration advice and services. However, it should be noted that schedule 18 only applies to Approved Regulators under the 2007 Act and will not apply to the Office for the Immigration Services Commissioner (OISC), which will continue to regulate those individuals directly **regulated by** it.
- 1.2 Once an application has been approved by the LSB, Qualifying Regulators may then be ‘designated’ by the Home Secretary under the 1999 Act. Once a body becomes a “Designated Qualifying Regulator” under the 1999 Act it may regulate immigration advice and services with oversight from the LSB.
- 1.3 Under Section 205 (2) of the 2007 Act, if the LSB proposes to make any rules it must first publish a draft of the proposed rules. This consultation therefore sets out the rules the LSB proposes to make to determine applications from potential Qualifying Regulators for the purposes of Part 5 of the 1999 Act once schedule 18 is commenced on 1 April 2011.
- 1.4 Given the similarities between the statutory requirements for applications for Qualifying Regulators and Approved Regulators, we propose to revise our *Rules for Approved Regulator Designation Applications*<sup>1</sup> to allow for applications from potential Qualifying Regulators. Our proposed changes are shown in amendments to the Rules at **Annex A**. Schedule 1 of **Annex A** shows the detailed requirements for applications and the relevant section of schedule 18 of the 2007 Act.
- 1.5 The proposed rules for determining applications for Qualifying Regulator status will apply to existing or potential Approved Regulators. However, schedule 18 ‘passports’ The Law Society, The General Council of the Bar (The Bar Council) and the Institute of Legal Executives (ILEX) (and their regulatory arms) for the purposes of the 1999 Act and they need not apply to the LSB to undertake the regulation of their members who currently provide immigration advice and services.
- 1.6 Oversight of their regulation of their members who undertake immigration advice and services will automatically transfer to the LSB with commencement of schedule 18 on 1 April 2011 and the LSB will absorb the cost of the **fee** currently paid by these bodies to the OISC.<sup>2</sup>

---

<sup>1</sup> The current version of these rules is available at: <http://www.legalservicesboard.org.uk>.

<sup>2</sup> These bodies will still receive a bill for any OISC activities carried out in 2009/10 and 2010/11. According to the *Immigration Services Commissioner (Designated Professional Body) (Fees) Order 2010 made in March 2010*, the **fee** paid by The Law Society, The Bar Council and ILEX to OISC amounted to approximately £110k in 2009/10 for work carried out in 2008/09.

- 1.7 Schedule 18 sets out a number of matters for the Board to consider in order to determine applications from potential Qualifying Regulators and their proposed regulatory arrangements.
- 1.8 Specifically the Board is required to make rules about:
- the conditions for applications and how they will be determined (schedule 18, paragraphs 3, 5 and 6)
  - how it consults with others about an application (schedule 18, paragraph 4)
  - what the effect of the application will be (schedule 18, paragraph 7).
- 1.9 This consultation paper provides a summary of the proposed changes to the LSB's *Rules for Approved Regulator Designation Applications* which will include changes to sections about the conditions for regulation, the Prescribed Fee, consultation and representations, the Board's decision and 'Transitioned Applications.'

## 2. Background

- 2.1 The Legal Services Board (the LSB) was created by the Legal Services Act 2007 (the 2007 Act) and is responsible for overseeing legal regulators, referred to as Approved Regulators, in England and Wales. The LSB's mandate is to ensure that regulation in the legal services sector is carried out in the public interest and that the interests of consumers are placed at the heart of the system.
- 2.2 As well as being Approved Regulators under the 2007 Act, The Law Society of England and Wales, The Bar Council of England and Wales and ILEX (and their regulatory arms) are "Designated Professional Bodies" under the Immigration and Asylum Act 1999 (the 1999 Act). This means that as well as being regulated by the LSB in their regulation of the legal services sector, they are subject to oversight regulation by the Immigration Services Commissioner (ISC). The ISC largely discharges this function by monitoring and reporting on the handling of complaints about immigration advisers regulated by these bodies.
- 2.3 In his review of legal services, upon which the 2007 Act is based, Sir David Clementi proposed that: "the dual role of the ISC should cease, and the oversight function in respect of the designated bodies within England and Wales (The Law Society, The Bar Council and ILEX) moved to the LSB."<sup>3</sup> This intention is reflected in schedule 18 of the 2007 Act.
- 2.4 Commencement of schedule 18 will transfer responsibility for oversight of regulation of immigration advice and services to the LSB for the Designated Professional Bodies at 2.2 above. This means that The Law Society, The Bar Council and ILEX (and their regulatory arms) will be defined under the 1999 Act as Designated Qualifying Regulators, rather than Designated Professional Bodies and other Approved Regulators will be able to apply to regulate immigration advice and services. However, the ISC will continue to directly regulate OISC regulated advisers as well as having oversight regulation of the other Designated Professional Bodies not covered by schedule 18.<sup>4</sup>
- 2.5 In order to create a clear and consistent regulatory framework and ensure that The Law Society, The Bar Council and ILEX are not subject to dual regulation, the LSB has asked Ministers to commence schedule 18. The LSB and the Parliamentary Under-Secretary of State have agreed that the commencement of schedule 18 should take place with effect from 1 April 2011. In the interim, the LSB is making new rules to take account of the changed LSB regulatory regime for immigration advice and services.

---

<sup>3</sup> Sir David Clementi, *Report of the Review of the Regulatory Framework for Legal Services in England and Wales*, December 2004, p43.

<sup>4</sup> The other Designated Professional Bodies listed in the 1999 Act which will retain oversight from the ISC after commencement of schedule 18 are: The Law Society of Scotland, The Law Society of Northern Ireland, The Faculty of Advocates and The General Council of the Bar of Northern Ireland.

### 3. Summary of proposed changes to the LSB's Rules for Approved Regulator Designation

- 3.1 A summary of our proposed changes to the LSB's *Rules for Approved Regulator Designation Applications* is set out below.

#### *Conditions for regulation*

- 3.2 A body may only apply to the LSB to become a Qualifying Regulator for the purposes of Part 5 of the 1999 Act if it is already an Approved Regulator or in the parallel process of applying for Approved Regulator designation. Specifically, schedule 18 sets out a number of conditions for the potential Qualifying Regulators regulatory arrangements that replicate the regulatory arrangements required for those applying to become an Approved Regulator.
- 3.3 The exception to this is that the potential Qualifying Regulator must ensure that those it intends to regulate are unable to provide immigration advice or services unless they are also authorised by the regulator to carry out reserved legal activities. The Rules have therefore been amended to reflect this (see Rule 57).

#### *The Prescribed Fee*

- 3.4 While commencing schedule 18 does not provide for immigration advice and services to become a 'reserved legal activity' under the 2007 Act, the conditions that applicants must meet to enable the LSB to grant a body Qualifying Regulator status broadly reflect those that an applicant must meet when applying to regulate a reserved legal activity under Part 2 of schedule 4 to the 2007 Act.
- 3.5 Therefore the LSB proposes that the fee for Qualifying Regulator applications should reflect the fee for existing Approved Regulators applying for new reserved legal activities. The basis for setting the fee and the fee amount is set out at Rules 13 and 14.

#### *Consultation and representations*

- 3.6 The LSB is required to seek advice from the mandatory consultees (the Legal Services Consumer Panel, the Office of Fair Trading and the Lord Chief Justice) on Qualifying Regulator applications as it would for an application submitted under Part 2 of schedule 4 to the 2007 Act. However, it must ask consultees to consider applications from potential Qualifying Regulators with specific regard to immigration advice and services. Therefore the Schedule to the Rules has been revised to reflect this.

#### *The Board's decision*

- 3.7 Under schedule 18, a body will only be able to regulate immigration advice and services once its application for Qualifying Regulator status has been granted by the LSB, and it has then been designated by the Home Secretary by order and added to the list of Designated Qualifying Regulators in the 1999 Act. The Home Secretary can only make such an order following consultation with the ISC and the Lord Chancellor. We have amended the rules to reflect this and included an additional obligation on the LSB to make a recommendation to the Home Secretary once it has granted an application from a qualifying regulator that it

should be designated by order of the Home Secretary under the 1999 Act (subject to approval from the Lord Chancellor) (see Rule 36).

- 3.8 Where a body applies for Approved Regulator and Qualifying Regulator status at the same time, the order by the Home Secretary and the approval by the Board of the regulatory arrangements for Qualifying Regulator applications are conditional upon the Lord Chancellor making an order under Part 2 of schedule 4 to the 2007 Act to designate the applicant as an Approved Regulator in relation to one or more reserved legal activity. The Rules have therefore been amended to reflect this (see Rule 37).

*Other LSB Rules*

- 3.9 We have concluded that we do not have to amend our other rules to specifically refer to Qualifying Regulators. This is because in order to become a Qualifying Regulator, a body must also be an Approved Regulator. Therefore our other rules as they relate to Approved Regulators will apply to Qualifying Regulators. A list of the LSB's rules is attached at **Annex B**.

- 3.10 It should be noted that the LSB's *Cancellation of designation: rules for applications to cancel designation*<sup>5</sup> do not apply to Designated Qualifying Regulator status. However, under section 86A of the 1999 Act, which will be commenced by schedule 18, a Designated Qualifying Regulator may ask the Home Secretary to remove its name by order from the list of Designated Qualifying Regulator at any time.

- 3.11 Under schedule 18, where a Qualifying Regulator ceases to be an Approved Regulator or ceases to be a Designated Qualifying Regulator, it also ceases to be a Qualifying Regulator under the 2007 Act.

*Other changes*

- 3.12 The current *Rules for Approved Regulator Designation Applications* include a definition of "Transitioned Applications". This was included to facilitate the transfer to the LSB of Applications that had been made but not concluded by ILEX to the Ministry of Justice when the Rules took effect. All of the applications covered by this definition have now been submitted to the LSB and the definition and related Rules are no longer needed. We propose to take the opportunity of this consultation to propose to delete the definition and the related Rules.

---

<sup>5</sup> Available at: <http://www.legalservicesboard.org.uk>.

## 4. The consultation questions

**Question 1** - Do you agree that adapting the existing *Rules for Approved Regulator Designation Applications* to allow for Qualifying Regulators is the correct approach to reflect the requirements of schedule 18? If not, please provide reasons for your answer (see paragraph 4).

**Question 2** - Do you agree that the proposed amendments to the Rules shown at **Annex A** accurately reflect the requirements of schedule 18? If not, please provide reasons for your answer (see paragraph 8).

**Question 3** - Do you agree that the LSB should treat applications for Qualifying Regulator status on the same basis as applications for new reserved legal activities for the purposes of the Prescribed Fee? If not, please provide reasons for your answer (see paragraphs 18 and 19).

**Question 4** - Do you agree that the LSB should make a recommendation to the Home Secretary once it has granted an application from a Qualifying Regulator? If not, please provide reasons for your answer (see paragraph 21).

**Question 5** - Do you agree that changes to LSB Rules, other than the *Rules for Approved Regulator Designation Applications*, for the purposes of schedule 18 are unnecessary? If not, please provide reasons for your answer (see paragraph 23).

**Question 6** – Do you have any comments about our proposal to delete the definition “Transitioned Applications” and the related Rules (see paragraph 26)?



## 5. The consultation process

- 5.1 Consistent with section 205 (5) of the 2007 Act, the LSB will publish an amended version of the Rules if there are material changes as a result of the consultation responses, before the rules take effect.
- 5.2 We believe that a nine week consultation for these changes is proportionate since the substance of the Rules has already been consulted upon. This also takes into account the fact that the consultation runs during the Christmas holiday period.
- 5.3 We intend to work to the following timetable:

Date	Activity
29 November 2010	Launch consultation for nine weeks. Publish consultation on the LSB's website and send it to stakeholder organisations. Meetings with stakeholders during the consultation period, if requested.
5pm, 28 January 2011	End of formal consultation period.
February 2011	Rules submitted to Board for approval.
March 2011	Minister to consent to rules.
1 April 2011	Schedule 18 commencement comes into effect.

## 6. How to respond

- 6.1 The consultation period ends at 5pm on Friday 28 January 2011.
- 6.2 In accordance with section 205(3) of the 2007 Act, notice is hereby given that any representation about the proposed Rules must be made to the LSB by the end of the consultation period.
- 6.3 We would prefer to receive responses electronically (in Microsoft Word format) but hard copy responses by post or fax are also welcome. Responses should be sent to:

**Email:** [consultations@legalservicesboard.org.uk](mailto:consultations@legalservicesboard.org.uk)

**Post:** Karen Marchant  
Legal Services Board  
7<sup>th</sup> Floor, Victoria House  
Southampton Row  
London  
WC1B 4AD

**Fax:** 020 7271 0051

- 6.4 We intend to publish all responses to this consultation on our website unless a respondent explicitly requests that a specific part of the response, or its entirety, should be kept confidential. We will record the identity of the respondent and the fact that they have submitted a confidential response in our decision document.
- 6.5 We are also keen to engage in other ways and we would welcome contact with stakeholders during the consultation period. Please send all requests to: [consultations@legalservicesboard.org.uk](mailto:consultations@legalservicesboard.org.uk).

## Annex A – Proposed changes to rules for Approved Regulator Designation applications

### Annex 1—Rules for applications for Approved Regulator and Qualifying Regulator Designation Applications

#### A. PREAMBLE

1. These Rules apply to applications under Part 2 of schedule 4 and Part 1 of schedule 18 to the Legal Services Act 2007.
2. Under Part 2 of schedule 4 to the Legal Services Act 2007, a body must apply to the Board for the Board to recommend to the Lord Chancellor that the body be designated as an Approved Regulator in relation to one or more activities which constitute one or more Reserved Legal Activities.
3. The Board must also approve what the body proposes as its Regulatory Arrangements if such an order is made.
4. Under Part 1 of schedule 18 of the Legal Services Act 2007, a body must apply to the Board for the Board to grant it Qualifying Regulator status for the purposes of Part 5 of the Immigration and Asylum Act 1999.
5. The Board must approve what the body proposes as its regulatory arrangements if such an order is made.
6. Schedule 18, paragraph 7 (3) of the Legal Services Act 2007 requires that an application under Part 1 of schedule 18 can only be granted to a body that is designated an Approved Regulator in relation to one or more reserved legal activities.
7. There are therefore four categories of bodies that these Rules may apply to:
  - a. potential new Approved Regulators
  - b. current Approved Regulators wishing to regulate additional reserved legal activities
  - c. current Approved Regulators wishing to regulate immigration advice and services
  - d. potential new Approved Regulators wishing to regulate immigration advice and services in addition to a reserved legal activity.

#### A-B. DEFINITIONS

4.8. Words defined in these Rules have the following meanings:

<b><u>1999 Act</u></b>	<a href="#">the Immigration and Asylum Act 1999</a>
<b><u>2007 Act</u></b>	the Legal Services Act 2007
<b>Applicant</b>	a body who submits an Application
<b>Application</b>	an application to be designated as an Approved Regulator in relation to one or more Reserved Legal Activities ( <a href="#">“Approved Regulator Application”</a> ) and an <a href="#">application to become a Qualifying Regulator for the purposes of Part 5 of the 1999 Act<sup>6</sup></a> that is submitted to the Board in accordance with these Rules ( <a href="#">“Qualifying Regulator Application”</a> )
<b>Approved Regulator</b>	has the meaning given in section 20(2) of the <a href="#">2007 Act</a>
<b>Authorised Person</b>	has the meaning given in section 18 of the <a href="#">2007 Act<sup>7</sup></a>
<b>Better Regulation Principles</b>	the five principles of good regulation (being proportionality, accountability, consistency, transparency and targeting) as set out in both sections 3(3) and 28(3) of the <a href="#">2007 Act</a>
<b>Board</b>	the Legal Services Board
<b>Consultees</b>	the Mandatory Consultees and any Optional Consultee
<b>Consumer Panel</b>	the panel of persons established and maintained by the Board in accordance with section 8 of the <a href="#">2007 Act</a>
<b>Existing AR Applicant</b>	an Applicant who is already an Approved Regulator in respect of certain Reserved Legal Activities and who is submitting an Application to be designated as an Approved Regulator in relation to one or more additional Reserved Legal Activities <a href="#">or to become a Qualifying Regulator for the purposes of Part 5 of the 1999 Act</a>
<b><del>ILEX</del></b>	<del><a href="#">the Institute of Legal Executives</a></del>
<b>Mandatory Consultees</b>	the OFT, the Consumer Panel and the Lord Chief Justice
<b>OFT</b>	the Office of Fair Trading
<b>OLC</b>	the Office of Legal Complaints established in accordance with section 114 of the <a href="#">2007 Act</a>
<b>Ombudsman Scheme</b>	the scheme referred to in section 115 of the <a href="#">2007 Act</a>

<sup>6</sup> Part 5 of the 1999 Act relates to the regulation of immigration advisers and immigration service providers.

<sup>7</sup> Under schedule 18 paragraph 5 (2) (c) of the Act 2007, a person may only be authorised to provide immigration advice and services if they are also an Authorised Person.

<b>Optional Consultee</b>	any person (other than a Mandatory Consultee) who the Board considers it reasonable to consult regarding an Application. <a href="#">This may include the Immigration Services Commissioner for applications to become a Qualifying Regulator</a>
<b>Prescribed Fee</b>	the fee that must accompany an Application as described in Section <a href="#">ED</a> of these Rules
<b><a href="#">Qualifying Regulator</a></b>	<a href="#">means a body which is a Qualifying Regulator for the purposes of Section 86A of the 1999 Act by virtue of Part 1 of Schedule 18 to the Act 2007 (Approved Regulators approved by the Board in relation to immigration matters)</a>
<b>Regulatory Arrangements</b>	has the meaning given in section 21 of the <a href="#">2007</a> Act
<b>Regulatory Objectives</b>	has the meaning given in section 1 of the <a href="#">2007</a> Act
<b>Reserved Legal Activity</b>	has the meaning given in section 12 of and schedule 2 to the <a href="#">2007</a> Act
<b>Reserved Legal Services</b>	has the meaning given in section 207 of the <a href="#">2007</a> Act
<b>Schedule</b>	the schedule to these Rules
<b><a href="#">Transitioned Applications</a></b>	<del>means any one of the following Applications, a form of which was originally submitted to the Ministry of Justice for approval prior to the date of these Rules coming into force:</del> <ul style="list-style-type: none"> <li><del>a) an Application in respect of the exercise of a right of audience and the conduct of litigation in respect of associate prosecutor members of ILEX;</del></li> <li><del>b)a) an Application in respect of Probate Activities</del></li> </ul>

**B.C. WHAT DO THESE RULES SET OUT APPLY TO?**

~~2. These are the Rules that apply if a body wishes to apply to the Board, under Part 2 of schedule 4 to the Act, for the Board:~~

~~a) to make a recommendation to the Lord Chancellor that an order be made that the body be designated as an Approved Regulator in relation to one or more activities which constitute one or more Reserved Legal Activities; and~~

~~b) to approve what the body proposes as its Regulatory Arrangements if such an order is made.~~

3.9. These Rules set out:

- a) the required content of any Application to the Board and some guidance in relation to that content (see **Section DC**);
- b) the amount of the Prescribed Fee that must accompany any Application (see **Section ED**);
- c) the processes and procedures that the Board will undertake in considering the Application (see **Section FE**);
- d) the manner in which the Applicant can make representations to the Board about its Application (see **Section GF**);
- e) the Board's criteria for determining Applications (see **Section HG**); and
- f) whom a body should contact if it has a question in relation to the Application process (see **Section IH**).

4-10. The Board reserves the right to amend these Rules from time to time. If the amendments made to the Rules are, in the opinion of the Board, material the Board will publish a draft of the amended rules and will invite consultations in accordance with section 205 of the 2007 Act.

#### **C.D. CONTENTS OF APPLICATION**

6-11. The 2007 Act requires the Board to consider certain factors and to consult with other parties in order to reach its determination. Accordingly, the Application must contain sufficient information to allow the Board to make a proper consideration of the Application and to provide sufficient information to the Consultees to enable them to consider the Application in a meaningful way. Attached as a Schedule to these Rules is:

- a) details of the administrative information that must be provided to enable processing of an Application (see Part 1 of the Schedule) and guidance on the possible evidence that could be provided to satisfy these requirements;
- b) guidance on the kind of evidence which the Board may consider in determining whether an Applicant's proposed Regulatory Arrangements are sufficient to guarantee delivery of the Regulatory Objectives (see Part 2 of the Schedule); and
- c) guidance on how the Board expects to treat Applications (see Part 3 of the Schedule).

6-12. The Board does not prescribe the form which an Application should take. The onus is on the Applicant to supply all materials completely and accurately in the format that it thinks fit.

#### **D.E. PRESCRIBED FEE**

~~7-13.~~ Any Application must be accompanied by the Prescribed Fee set out in Rule 148 below. The Prescribed Fee must be paid by electronic funds transfer to the following bank account:<sup>8</sup>

Bank: NatWest  
Sort code: 60-70-80  
Account No: 10012680  
Account Name: GBS Re Legal Services Board  
Reference: [*Insert Applicant name*]/ ~~AR~~ Designation Application

~~8-14.~~ The Prescribed Fee that must accompany an Application will depend on the type of Application being made. The different levels of the Prescribed Fee are as follows:

- a) ~~subject to Rule 8(c) below,~~ if the Applicant is an Existing AR Applicant applying to regulate a new reserved activity, the Prescribed Fee is £16,000;
- b) ~~if the Applicant is applying for Approved Regulator status not an Existing AR Applicant~~ the Prescribed Fee is £22,000;
- c) ~~if the Applicant is an existing Approved Regulator applying for Qualifying Regulator status~~ the Prescribed Fee is £16,000
- ~~b)d) if the Applicant is applying simultaneously for Approved Regulator status and Qualifying Regulator status~~ the Prescribed Fee is £22,000
- e) ~~if the Applicant is ILEX and the Application is one or more of the Transitioned Applications, the Prescribed Fee is £20.~~

~~9-15.~~ The amounts specified in Rule 148(a) and Rule 8(b) are each the average costs that the Board anticipates it will incur in considering these different types of Application. In respect of the Prescribed Fee for an Existing AR Applicant this is based on a day rate of £562 over 28.5 business days. In respect of a Prescribed Fee for an Applicant who is not an Existing AR Applicant, this is based on a day rate of £562 over 39 business days

~~10-16.~~ The Board reserves the right to charge an additional amount in excess of the amounts set out in Rule 148 in the following circumstances:

- a) if the Board requests further information from the Applicant in accordance with Rule 2014 and the Board's costs in processing this information exceeds the relevant

<sup>8</sup> Bank details updated 2 August 2010

amount specified in Rule [148](#). In these circumstances, any such additional costs will be charged at the day rate of £562;

- b) the nature of the Application means that the Board has to seek external advice and the cost of this advice would mean that the Board's cost in processing the Application would exceed the relevant amount specified in Rule [148](#).

## **E.F. PROCESSES AND PROCEDURE**

### ***Sending the Application***

[44.17.](#) Subject to Rule [182](#) below, the Applicant must submit their Application (and, proof of transmission of the Prescribed Fee) either by email, post or courier to the relevant address shown below:

- a) If by email to: [schedule4approvals@legalservicesboard.org.uk](mailto:schedule4approvals@legalservicesboard.org.uk)
- b) If by post or courier to:

Address: Legal Services Board  
7<sup>th</sup> Floor Victoria House  
Southampton Row  
London WC1B 4AD

For the attention of: ~~\_\_\_\_\_~~ [AR](#) Designations Administrator

[42.18.](#) The Applicant must, unless otherwise agreed with the Board, submit their Application (and, proof of transmission of the Prescribed Fee) to the Board using the online tool at [www.legalservicesboard.org.uk](http://www.legalservicesboard.org.uk), once this has been developed.

[43.19.](#) On receipt of the Application and the Prescribed Fee, an acknowledgement email will be sent to the Applicant by the Board.

[44.20.](#) The Board will consider the Application and may ask the Applicant for such additional information as the Board may reasonably require.

[45.21.](#) The Board has the discretion to refuse to consider, or to continue its consideration of, an Application. The Board will exercise this discretion if it believes that it has not received all the information it requires.

[46.22.](#) Where the Board decides to refuse to consider, or to continue its consideration, of an Application it will give the Applicant notice of that decision and the reasons for it. Any such notice will be published by the Board on its website.

[47.23.](#) An Applicant may at anytime withdraw or amend their Application by giving notice to that effect to the Board.



## **Obtaining advice**

~~18-24.~~ On receipt of an Application, and all further information that the Board may require under Rule ~~20~~44, the Board will send a copy of the Application (together with any further information received) to the Consultees.

~~19-25.~~ The Board will specify to the OFT, the Consumer Panel and any Optional Consultee a time period in which each body must provide their advice on the Application to the Board. The Board intends to request that these bodies provide their advice within a time period which is reasonable, published and variable dependent on the volume and complexity of the Application received.

~~20-26.~~ The OFT, the Consumer Panel and any Optional Consultee will then each consider the Application within the specified time period and will provide its advice to the Board.

~~21-27.~~ In providing its advice to the Board, each Consultee may ask the Applicant (or any other person) to provide such additional information as may be required.

~~22-28.~~ The Board will then provide the advice it receives from the OFT, the Consumer Panel and any Optional Consultee to the Lord Chief Justice and will specify to the Lord Chief Justice a time period in which he must provide his advice on the Application to the Board. Again, the time period that the Board will specify will depend on the particular circumstances of the Application.

~~23-29.~~ The Lord Chief Justice will then consider the Application and will provide his advice to the Board.

~~24-30.~~ Once the Board has received the advice of the Lord Chief Justice, it will provide to the Applicant a copy of all the advice that has been given by the Consultees.

## **Representations**

~~25-31.~~ The Applicant has **28 days** beginning on the day on which a copy of the advice referred to in Rule ~~30~~24 is given to the Applicant, or such longer period as the Board may specify in a particular case, to make representations to the Board about the advice. Any representations made by the Applicant must be made in accordance with Section ~~G~~F of these Rules.

## **Publication of Advice**

~~26-32.~~ As soon as practicable after the end of the period within which representations under Rule ~~31~~25 may be made, the Board will publish on its website:

- a) the advice received from the Consultees; and

- b) subject to Rule [3327](#), any written representations duly made by the Applicant (and the report of oral representations (if any) prepared under Rule [5345](#)).

~~27-33.~~ Prior to the publication of any written representations (and the report of oral representations (if any) prepared under Rule [5345](#)) the Board will decide whether any parts of the representations shall remain private and, if so why, taking account of representations from the Applicant. The Board will so far as practicable exclude any material which relates to the private affairs of a particular individual the publication of which, in the opinion of the Board, would or might seriously and prejudicially affect the interests of that individual.

### ***The Board's Decision***

~~28-34.~~ After considering the items listed in paragraph 14(1) of schedule 4 to the [2007 Act for Approved Regulator and Reserved Legal Activity Applications and the items listed in paragraph 6 \(1\) of schedule 18 to the 2007 Act for Qualifying Regulator Applications](#), the Board will decide whether to grant the Application.

~~35.~~ If the Board decides to grant [an Approved Regulator](#) the Application, it will notify the Applicant and will recommend to the Lord Chancellor that an order be made.

~~36.~~ [If the Board decides to grant a Qualifying Regulator Application it will notify the Applicant and will recommend to the Home Secretary that an order be made under Section 86A of the 1999 Act. Under that part of the 1999 Act, the Home Secretary can only make such an order following consultation with the Immigration Services Commissioner and with the approval of the Lord Chancellor.](#)

~~29-37.~~ [If the Board decides to grant an Approved Regulator Application and a Qualifying Regulator Application to the same applicant at the same time, the order by the Home Secretary and approval by the Board of the regulatory arrangements for Qualifying Regulator Applications are conditional upon the Lord Chancellor making an order under schedule 4 of the 2007 Act to designate the applicant as an Approved Regulator in relation to one of more Reserved Legal Activities.](#)

~~30-38.~~ If the Board decides not to grant the Application, the Board will write to the Applicant with the reasons for its decision.

~~31-39.~~ The Board will publish on its website a copy of any decision that it gives to the Applicant.

~~32-40.~~ Where an Application relates to more than one Reserved Legal Activity, the Board may grant the Application in relation to all or any of them.

### ***The Lord Chancellor's Decision [for Approved Regulator Applications](#)***

33-41. The Lord Chancellor has up to 90 days from the date on which the Board makes its recommendation in accordance with Rule 3529 to notify the Applicant of whether or not he will make an order in accordance with the recommendation.

34-42. Where the Board's recommendation relates to more than one Reserved Legal Activity, the Lord Chancellor may make an order in relation to all or any of them.

35-43. If the Lord Chancellor decides not to make an order in accordance with the Board's recommendation, the Lord Chancellor's notice to the Applicant must state the reasons for that decision. The Lord Chancellor will publish any notice given under Rule 4133.

### **Timing**

36-44. Under the provisions of the 2007 Act the Board has 12 months from the date of the Application to give its decision to the Applicant. The Board will also make a recommendation to the Lord Chancellor (or Home Secretary) and its recommendation to the Lord Chancellor (if appropriate). The Board may extend this period up to a maximum of 16 months from the date of Application by giving notice to the Applicant. The Board may only give such a notice if it has first consulted with the Mandatory Consultees in relation to such an extension. Such notice will state the Board's reasons for extending the period and will also be published by the Board on its website.

37-45. Notwithstanding Rule 4436, the Board will aim to deal with an Application within six months from the later of:

- a) the date of submission of the Application; and
- b) the final date of submission of any further information that the Board may request under Rule 2044.

### **F.G. FORM OF REPRESENTATIONS**

#### ***Written representations***

38-46. Subject to Rules 4739 and 494, all representations made to the Board about advice received by the Board must be in writing and must be submitted to the Board either by email, post or courier to the relevant address set out at Rule 1744.

39-47. The Applicant must, unless otherwise agreed with the Board, submit all representations to the Board using the online tool at [www.legalservicesboard.org.uk](http://www.legalservicesboard.org.uk), once this has been developed.

40-48. All representations must be received by the Board within the period set out in Rule 3125. Representations out of this time will not be considered unless, exceptionally and at the sole discretion of the Board, they appear to raise matters

of substance relevant to the Application which are not already under consideration.

### **Oral representations**

[41.49.](#) The Board may, at its sole discretion authorise an Applicant to make oral representations about advice received by the Board. On grounds of cost, efficiency, transparency and consistency of treatment between Applicants, the Board will not normally accept oral representations unless the particular circumstances of the Applicant or the complexity of the issues merit an exception to the normal process in individual cases. If the Board grants such an exception, it will publish its reasons for doing so.

[42.50.](#) Should the Board authorise an Applicant to make oral representations, the representations will take place at a hearing to be held either by telephone, video conference or in person. The Board will give the Applicant not less than ten business days notice that there will be a hearing. If the hearing is to be held in person the notice will specify the place and time at which the hearing will be held. If the hearing is to be held by telephone or video conference, the notice will specify the time of the telephone call or video conference and also the arrangements for facilitating the telephone call or video conference.

[43.51.](#) Hearings conducted in person (rather than by telephone or video conference) will normally be open to the public. However, within the period ending four business days prior to the scheduled date of the hearing, the Applicant may submit to the Board a written request, with reasons, that aspects of the hearing be held in private. The Board will consider the reasons given and will then publish the reasons for any decision that it reaches. Where the hearing is held in private, the Board will only admit persons, other than representatives of the Applicant and the Board, after obtaining the agreement of the Applicant.

[44.52.](#) The Applicant must appear at the hearing, either in person, by telephone or by video conference (as the case may be), and may be represented by any persons whom it may appoint for the purpose. The proceeding of the hearing will be recorded on behalf of the Board and will be transcribed onto paper.

[45.53.](#) Where oral representations are made, the Board will prepare a report of those representations which will be based on the transcription of the hearing made in accordance with Rule [5244](#). Before preparing the report, the Board:

- a) must give the Applicant a reasonable opportunity to comment on a draft of the report; and
- b) must have regard to any comments duly made by the Applicant.

[46.54.](#) Subject to complying with the timing requirements set out in Rule [4436](#), the Board reserves the right to extend processes to take account of the need to transcribe and verify oral submissions.

[47-55.](#) The Board may from time to time adjourn the hearing.

[48-56.](#) For the avoidance of doubt, this Section [GF](#) only applies to representations made to the Board by the Applicant in relation to the advice provided by the Consultees.

## **[G-H.](#) CRITERIA FOR DETERMINING APPLICATIONS**

[49-57.](#) In accordance with paragraphs 13(2) and 13(3) of schedule 4 to the [2007 Act for Approved Regulator and Reserved Legal Activity Applications, and paragraphs 5 \(2\) \(3\) of schedule 18 for Qualifying Regulator Applications](#), the Board will only grant an Application if it is satisfied:

- a) that, if the Lord Chancellor were to make an order designating the Applicant [as an Approved Regulator](#) in relation to the particular Reserved Legal Activity, [or if an order were made under section 86A of the 1999 Act to make the applicant a Designated Qualifying Regulator](#), the Applicant would have appropriate internal governance arrangements in place at the time the order takes effect and, in particular that the exercise of the Applicant's regulatory functions would not be prejudiced by its representative functions and, so far as is reasonably practicable, regulatory decisions would be taken independently of representative ones;
- b) that, if such an order, were to be made, the Applicant would be competent, and have sufficient resources, to perform the role of Approved Regulator in relation to the Reserved Legal Activity [or the role of Designated Qualifying Regulator \(within the meaning of section 86A of the 1999 Act\)](#) at that time;
- c) that the Applicant's proposed Regulatory Arrangements make appropriate provision for the regulation of those it wishes to authorise. Details of the kind of evidence that the Board may consider in determining whether an Applicant's proposed Regulatory Arrangements make such provision can be found in Part 2 of the Schedule to these Rules;
- d) that the Applicant's proposed Regulatory Arrangements comply with the requirements of section 52 of the [2007 Act](#) in that they must make such provision as is reasonably necessary to prevent regulatory conflicts;
- e) that the Applicant's proposed Regulatory Arrangements comply with requirements of section 54 of the [2007 Act](#) in that they must make such provision as is reasonably practicable and, in all the circumstances appropriate: (a) to prevent external regulatory conflicts; (b) to provide for the resolution of any external regulatory conflicts that arise; and (c) to prevent unnecessary duplication or regulatory provisions made by an external regulatory body;
- f) that the Applicant's proposed Regulatory Arrangements comply with the requirements of section 112 of the [2007 Act](#) in that they must make provision requiring each relevant Authorised Person: (a) to establish and maintain procedures

for the resolution of relevant complaints; or (b) to participate in, or to make arrangements to be subject to, such procedures established and maintained by another person, and provision for the enforcement of that requirement;

g) that the Applicant's proposed Regulatory Arrangements comply with the requirements of section 145 of the 2007 Act in that they must make: (a) provision requiring each relevant Authorised Person to give ombudsmen all such assistance requested by them, in connection with the investigation, consideration or determination or complaints under the Ombudsman Scheme, as that person is reasonably able to give; and (b) provision for the enforcement of that requirement;

g)h) that, for Qualifying Regulator Applications, the arrangements made by the Applicant for authorising persons to provide immigration advice or services provide that persons may not be so authorised unless they are persons also authorised by the applicant to carry on activities which are reserved legal activities.

50-58. In addition, when considering an Application the Board will consider how consistent an Applicant's proposed Regulatory Arrangements are with the requirements of section 28 of the 2007 Act (duty to promote the Regulatory Objectives, pursue best regulatory practice etc).

#### **IH. FURTHER INFORMATION**

54-59. If you have any questions about the Application process or the preparation of an Application, you should contact the Board at:

Address: Legal Services Board  
7<sup>th</sup> Floor Victoria House  
Southampton Row  
London WC1B 4AD

Email: [schedule4approvals@legalservicesboard.org.uk](mailto:schedule4approvals@legalservicesboard.org.uk)

Telephone: 020 7271 0050

## SCHEDULE

### Part 1 - Administrative Information Needed to Enable Processing of an Application

	What is required	Section of <a href="#">2007 Act</a>	Possible Evidence
1.	Background information	N/A	Contact details <del>in relation for to</del> the person(s) the Board should contact in relation to the Application, including job title, email address and phone number, a physical address for communication and the Applicant's registered office address (if different from communication address) and company registration number if applicable
2.	A statement of the Reserved Legal Activity or Activities to which the Application relates <a href="#">and/or whether the application relates to immigration advice and services</a>	Sch. 4, paragraph 3(3)(a) <a href="#">Sch.18 paragraph 3(4)(b)</a>	Specification of: <ul style="list-style-type: none"> <li>• Which of the Reserved Legal Activities set out in section 12 and schedule 2 to the <a href="#">2007 Act</a> the Applicant proposes to regulate<sup>9</sup></li> <li>• The context within which the Applicant proposes to regulate such Activities (i.e. will the Applicant only be providing authorisation to provide the Reserved Legal Activities <a href="#">or immigration advice and services</a> in limited circumstances?)</li> </ul>
3.	Details of the Applicant's proposed Regulatory Arrangements	Sch. 4, paragraph 3(3)(b) <a href="#">Sch.18 paragraph 3(4)(a)</a>	Relevant documentation on how the Applicant proposes to establish and discharge its Regulatory Arrangements, as defined in section 21 of the <a href="#">2007 Act</a> i.e.: <ul style="list-style-type: none"> <li>• Authorisation processes</li> <li>• Practice rules</li> <li>• Code of conduct</li> <li>• Disciplinary arrangements</li> <li>• Qualification regulations</li> <li>• Indemnification arrangements</li> <li>• Compensation arrangements</li> <li>• Licensing rules</li> <li>• Other related rules</li> </ul> A clear explanation of how the Applicant's Regulatory Arrangements actively contribute to the achievement of the Regulatory Objectives and remove risks to their delivery

<sup>9</sup> [For applications under schedule 18, Part 1, Applicants should state their intention to regulate immigration advice and services.](#)

What is required	Section of <a href="#">2007 Act</a>	Possible Evidence
4.	Such explanatory material (including material about the Applicant's constitution and activities) as the Applicant considers is likely to be needed for the purposes of Part 2 of schedule 4 <a href="#">and for applications under Part 1 of schedule 18 if relevant</a>	<p>Sch. 4, paragraph 3(3)(c)  <a href="#">Sch.18, paragraph 3(4)(b)</a></p> <p>Memorandum and articles of association or equivalent constitutional documentation</p> <p>Current details of legal entity structure, ownership, list of directors</p> <p>Statement of the non-regulatory activities the Applicant intends to carry out and how these will be managed in accordance with the requirements of the <a href="#">2007 Act</a> -and such rules as the Board shall make from time to time</p> <p>A business plan for the activity to be regulated, demonstrating the proposed governance and funding arrangements and sensitivity analysis showing how it relates to different forecasts</p>
5.	Details of the authority which the Applicant proposes to give persons to carry on activities which are Reserved Legal Activities	Sch. 4, paragraph 3(5)(a) See Item 3
6.	Details of the nature of the persons to whom <i>each aspect</i> of the authority is to be given	Sch. 4, paragraph 3(5)(a) See Item 3
7.	Regulations (however they may be described) as to the education and training which persons must receive, and any other requirements which must be met by or in respect of them, in order for them to be authorised	<p>Sch. 4, paragraph 3(5)(b)  <a href="#">Sch.18 paragraph 5(2)(d)</a></p> <p>Details might include:</p> <ul style="list-style-type: none"> <li>• Split between general principles (i.e. duty to the Supreme Court) and specific activity (i.e. staff training, client money handling etc)</li> <li>• Split between mandatory elements and guidance</li> <li>• Explanation of any variation with the practices adopted by others currently regulating the activity</li> </ul>
8.	Rules (however they may be described) as to the conduct required of persons in carrying on any activity by virtue of the authority	Sch. 4, paragraph 3(5)(c) Details of the activities within each relevant Reserved Legal Activity <a href="#">and, where relevant, immigration advice and services</a> , (e.g. conducting CPD eligible training, handling client money, supervising trainees, supervising lawyers or other disciplines)
9.	In deciding what advice to give, the <b>OFT</b> must, in particular, have regard to whether an order ... would (or would be likely to) prevent, restrict or distort competition within the market for reserved legal services ( <a href="#">or immigration advice and services for Qualifying Regulator Applications</a> ) to any significant	Sch. 4, paragraph 6(2) <a href="#">Sch.18, paragraph 4(b)</a> The OFT is considering whether to issue its own guidance on the issues to which it is likely to have regard in giving advice



	What is required	Section of <a href="#">2007 Act</a>	Possible Evidence
	extent		
10.	In deciding what advice to give, the <b>Consumer Panel</b> must, in particular, have regard to the likely impact on consumers of the making of an order	Sch. 4, paragraph 7(2) <a href="#">Sch.18, paragraph 4(a)</a>	Explanation of how the Regulatory Arrangements will: <ul style="list-style-type: none"> <li>• Protect and promote the interests of consumers generally</li> <li>• Meet the specific requirements in terms of indemnification and complaint handling</li> </ul>
11.	An <b>optional-selected consultee</b> may give the Board such advice as the selected consultee thinks fit in respect of the Application	Sch. 4, paragraph 8 <a href="#">Sch.18, paragraph 4</a>	Information on any matters specified by a selected consultee
12.	The <b>Lord Chief Justice</b> must, in particular, have regard to the likely impact on the courts in England and Wales of the making of an order	Sch. 4, paragraph 9(3) <a href="#">Sch.18, paragraph 4(a)</a>	Information on any matters specified by the LCJ
13.	The Board may grant an Application in relation to a particular Reserved Legal Activity only if it is satisfied that, if <a href="#">the relevant an</a> order were to be made <del>designating the body in relation to that activity</del> , the Applicant would have appropriate internal governance arrangements in place at the time the order takes effect	Sch.4, paragraph 13(2)(a) <a href="#">Sch.18, paragraph 5(2)(a)</a>	See Item 4

What is required	Section of <a href="#">2007 Act</a>	Possible Evidence
14.	<p>The Board may grant an Application <del>in relation to a particular Reserved Legal Activity</del> only if it is satisfied that, if <del>such an</del> <a href="#">the relevant</a> order were to be made, the Applicant would be competent, and have sufficient resources, to perform the role of Approved Regulator in relation to the Reserved Legal Activity at that time <a href="#">or the role of Designated Qualifying Regulator within the meaning of section 86A of the 1999 Act</a></p>	<p>Sch. 4, paragraph 13(2)(b)</p> <p><a href="#">Sch.18, paragraph 5(2)(b)</a></p> <p>Statement from authorised staff/officeholders in the organisation that there are sufficient resources, an explanation of how this has been assessed</p> <p>Documents signed off by an external accountant as being calculated, presented and supported to a standard that could pass a statutory audit</p> <p>Business Plan for coming year and 3 year forward look</p> <p>Risk management strategy</p> <p>Staff development and retention strategies</p>
15.	<p>The Board may grant an Application <del>in relation to a particular Reserved Legal Activity</del> only if it is satisfied that, the Applicant's proposed Regulatory Arrangements make appropriate provision</p>	<p>Sch. 4, paragraph 13(2)(c)</p> <p><a href="#">Sch.18, paragraph 5(2)(d)</a></p> <p>Assessment of how the proposed Regulatory Arrangements are consistent with Better Regulation Principles</p>
16.	<p>Compliance with the requirement imposed by sections 52 and 54 (resolution of regulatory conflict)</p>	<p>Sch. 4, paragraph 13(2)(d)</p> <p>A statement identifying regulators with whom conflict might arise and the work undertaken to date and proposed to avoid this, in particular in relation to the interaction between an individual regulated by one Approved Regulator and an employing entity regulated by another Approved Regulator</p>
17.	<p>Compliance with the requirements imposed by sections 112 and 145 (requirements imposed in relation to the handling of complaints)</p>	<p>Sch. 4, paragraph 13(2)(e)</p> <p><a href="#">Sch.18, paragraph 5(2)(e)</a></p> <p>Current or draft policies showing compliance with any rules made under sections 112 and 145 of the <a href="#">2007 Act</a> and any OLC guidance</p>
18.	<p>The rules made for the purposes of <del>sub-paragraphs 2 and 4 (a) of these Rules</del> must in particular require the Board to be satisfied that the exercise of the Applicant's regulatory functions would not be prejudiced by any of its representative functions</p>	<p>Sch. 4, paragraph 13(3)(a)</p> <p><a href="#">Sch.18, paragraph 5(3)(a)</a></p> <p>Statement on how the arrangements comply with the principles of the <a href="#">2007 Act</a> and such rules as the Board may make from time to time</p>
19.	<p>The rules made for the purposes of <del>sub-paragraphs 2 and 4 (a) of these Rules</del> must in particular require the Board to be satisfied that decisions relating to the exercise of the Applicant's regulatory functions would so far as reasonably practicable be</p>	<p>Sch. 4, paragraph 13(3)(b)</p> <p><a href="#">Sch.18, paragraph 5(3)(b)</a></p> <p>See Item 18</p>

	What is required	Section of <a href="#">2007 Act</a>	Possible Evidence
	taken independently from decisions relating to the exercise of the Applicant's representative functions		
<a href="#">20</a>	<a href="#">For Qualifying Regulator Applications the Board must additionally be satisfied that the arrangements made by the Applicant for authorising persons to provide immigration advice and services provide that persons may not be so authorised unless they are also authorised by the applicant to carry on activities which are reserved legal activities.</a>	<a href="#">Sch.18 paragraph 5(2)(c)</a>	<a href="#">Relevant documentation, such as a Code of Conduct.</a>

## Part 2 – Evidence in relation to Regulatory Arrangements

Principles (each principle may relate to more than one risk)	Risks	Relates to Regulatory Objectives (see section 1(1))	Relates to Regulatory Arrangement (see section 21(1))	Evidence to underpin approval of designation as an Approved Regulator
Clients money must be protected	Clients money is misused by regulated person or unprotected from entity failure	(d), (f), (h)	(h)	Approved Regulators must ensure that Authorised Persons must keep clients money separate from own  Approved Regulators must be able to compensate clients as per section 21(2)  May involve client account rules; insurance requirements; compensation fund or insurance <i>or alternatives</i>
Authorised Persons must act in clients' interests subject to duty to court	Authorised Persons do not or are unable to act in the clients interest	(a), (b), (d), (e), (h)	(g), (d)	Approved Regulators must demonstrate how regulated persons and entities are indemnified against losses arising from claims in relation to any description of civil liability incurred by them, or by employees or former employees of theirs, in connection with their activities as such regulated persons or entities  Approved Regulators must have a code of conduct that enshrines the primacy of acting in the client interest and subjugates other pressures, be they commercial or otherwise to that principle
Reserved Legal Services <a href="#">and immigration advice and services</a> should only be delivered by regulated persons of appropriate skill and competence	Reserved Legal Services <a href="#">and/or immigration advice and services</a> are not of the appropriate quality	(c), (d), (e), (h)	(a), (b), (c)	Approved Regulators must ensure that definitions of appropriate skill and competence are proportionate in order to ensure both value and professionalism  Easily accessible redress should be in place
Compliance with professional principles should be enshrined in regulation	Reserved Legal Services <a href="#">and/or immigration advice and services</a> are not delivered in accordance with professional principles	(a), (d), (h)	(d), (f)	Approved Regulators must have a code of conduct that defines the professional principles that are compulsory for regulated community

Principles (each principle may relate to more than one risk)	Risks	Relates to Regulatory Objectives (see section 1(1))	Relates to Regulatory Arrangement (see section 21(1))	Evidence to underpin approval of designation as an Approved Regulator
<del>Ditto above</del> <a href="#">Compliance with professional principles should be enshrined in regulation</a>	Authorised Persons and entities do not comply with regulation	(a), (b), (c), (d), (e), (f), (g), (h)	(e)	Approved Regulator must have a disciplinary remit and processes that allow for setting standards and managing compliance of Authorised Persons and entities, efficient investigatory systems and disciplinary powers in the event of breaches of the regulatory framework
Responsibilities for front line complaints handling and interactions with the OLC should be clear	Consumers do not receive timely complaint investigation or redress when justified	(a), (b), (c), (d), (h)	(c), (d), (h)	Approved Regulator must have rules specifying how rights to complain and redress can be accessed, including the right of access to the OLC at an appropriate stage
Regulatory Arrangements should advance the objective of supporting competition	Regulatory requirements act as a barrier to competition by restricting legitimate entry	(d), (e)	(c), (d)	Approved Regulator should be able to demonstrate that their rules are the minimum necessary to address the full set of objectives and do not have unintended consequences in terms of restricted entry
Representative and regulatory functions should be discharged and decisions made, so far as reasonably practicable, independently of each other	Decisions lack credibility and independence because of actual or perceived influence from the representative arm of an Approved Regulator	(a), (d), (f)	(c), (d)	Approved Regulators should have arrangements which implement the <a href="#">2007</a> Act and such rules as the LSB make on the issue in relation to regulatory strategy, decisions and resourcing of the regulatory arm
Regulation should clearly support the rules of law	Commercial considerations undermine duty to the court	(b), (c), (d), (f)	(a), (c), (d)	Approved Regulators' rules and processes should unequivocally give priority to this duty
The legal professions make up should reflect the population it serves	Public confidence is lost if the profession appears to be a "closed shop"	(c), (d), (f)	(a), (b), (f)	Approved Regulators should be able to demonstrate processes which address diversity concerns
Consumers should be actively involved in decision making throughout their dealings with the	Consumers poor understanding restricts their ability to access justice	(a), (c), (d), (g)	(a), (d), (h)	Approved Regulators can demonstrate how their processes address public legal education

Principles (each principle may relate to more than one risk)	Risks	Relates to Regulatory Objectives (see section 1(1))	Relates to Regulatory Arrangement (see section 21(1))	Evidence to underpin approval of designation as an Approved Regulator
profession				

### Part 3 – How the Board expects to treat Applications

1. The Board expects carefully prepared documentation which the executives and/or honorary officers of the Applicant (and the Applicant's independent advisors when applicable) are prepared to put their name to in stating that the information supplied is accurate or, in the case of forecast data, is a best estimate based on good research and informed professional judgement. If the Applicant cannot demonstrate this level of executive and advisory confidence then it is not appropriate for an Application to be made.
2. The Board expects that some parts of this Schedule will be less relevant to an Applicant who is already an Approved Regulator which is applying to add an additional Reserved Legal Activity [or immigration advice and services](#) to its competences or to a new Applicant which has a strong record of regulatory performance in a related sector than to a wholly new organisation. Hence, the Board will take a proportionate view of risk in deciding precisely how much information to seek in any given case.
3. All documents supplied will be subject to publication and to the scrutiny of the Consultees whom the [2007 Act](#) prescribes must consider Applications. Consequently Applicants should have regard to this in relation, in particular, to supplying information which might be commercially sensitive and/or contain personal data. The Board will consider limited requests for redaction of information from documents that are published on these grounds but will not be able to redact information from materials sent to the Mandatory Consultees. The Board requires successful Applicants to maintain a publicly accessible internet space containing all of the materials that are submitted by the Applicant in its Application.
4. The Board will normally expect to see evidence of consultation with other Approved Regulators and the OLC on matters (such as code of conduct) where there is likely to be an interaction between the Applicant and the existing Approved Regulators. The Applicant should also consult with members of, and representative bodies for, professions that may be affected by the Application and with the regulators of these professions. The Board will also normally expect the Applicant to consider, and if appropriate consult with, any other relevant stakeholders including consumers.
5. The Board reserves the right to retain advisors to consider the information supplied. The retention of such advisers may result in an increase to the Prescribed Fee as described in Rule [169](#). Applicants are encouraged to consider how in preparing, presenting and in certifying the information that they submit, they can minimise the need for the Board to take external advice.
6. The Board's decision will take account of professional guidance, Consultee responses received and on the overall competence, completeness and executive and advisor endorsement of the Applications received. The Board, as an oversight regulator, will not usually reanalyse the information supplied unless there are compelling reasons for doing so.

7. Board approval of a new body as an Approved Regulator [and/or Qualifying Regulator](#), or of an Existing AR Applicant as an Approved Regulator in relation to an additional Reserved Legal Activity, [or a Qualifying Regulator in relation to immigration advice and services](#) represents an assessment that:
  - a) the Applicant appears well prepared and appears to understand the roles and responsibilities granted to Approved Regulators [and/or Qualifying Regulators](#) under the [2007 Act](#); and
  - b) no valid objections have been made to the Applicant's Application by the Consultees.



## Annex B – Rules made by the LSB

### Schedule 4 Rules

**Rules for Approved Regulator Designation Applications** – These rules apply if a body wishes to apply to become designated as an Approved Regulator.

**Rules for Rule Change Applications** – These rules apply if an Approved Regulator wishes to make an application to change its regulatory arrangements.

### Enforcement Rules

**Rules on Oral and Written Representations** – These rules apply if a person wishes to make oral or written representation to the LSB in relation to the LSB's exercise of certain of its enforcement functions.

**Intervention Directions: Section 41(5) and 42(10) Rules** – These rules apply if the Board wishes to nominate a person to exercise the regulatory function of an Approved Regulator in accordance with an Intervention Direction. These rules also provide for who may be appointed to enter and search the premises of an Approved Regulator as a result of an Intervention Direction.

**Intervention Directions: Rules for Applications to Revoke** – These rules apply if an Approved Regulator wishes to apply to the LSB to revoke an Intervention Directions.

### Cancellation of Designation Rules

**Rules for Applications to Cancel Designation** – These rules apply if an Approved Regulator wishes to apply to have its designation as an Approved Regulator cancelled.

**Section 48(9) Rules** – These rules provide for who may be appointed to enter and search the premises of a former Approved Regulator if their designation is cancelled.

### Schedule 6 Rules

**Rules for Making Oral and Written Representations and Giving Oral and Written Evidence under Schedule 6** – These rules apply if a person wishes to make oral and written representations or give oral and written evidence in relation to an investigation to extend the scope of reserved legal activities or reduce the scope of reserved legal activities.

## **Internal Governance Rules**

**Section 30 Internal Governance Rules** – These are the rules that the LSB has made setting out the requirements to be met by Approved Regulators in ensuring an adequate split between their regulatory and representative functions.

**Section 51(3) and (6) Practising Fees Rules** – These are the rules that the LSB has made to specify the permitted purposes to which an Approved Regulator can apply amounts raised by practising fees and to obtain the LSB's approval to the level of a practising fee.