

Designating Approved Regulators as Licensing Authorities

Decision document

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Executive summary

1. The Legal Services Board (“the **LSB**”) was created by the Legal Services Act 2007 (“**the Act**”) and is responsible for overseeing legal regulators, (referred to as the approved regulators (“**ARs**”) in the Act) 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. The Act sets out a new regulatory framework for regulators and the ownership of legal service providers. It gives the LSB a new power to designate competent licensing authorities (“**LAs**”). These are ARs who have also been approved by the LSB to license and regulate a particular type of legal service provider, called alternative business structures (“**ABS**”). The LAs will regulate ABS according to their licensing rules, the requirements for which are set out in the Act.
3. On 10 December 2009 the LSB published a consultation on the rules that it proposed to adopt to govern the process of applications for designation as a LA. This paper explains how the LSB has considered the responses to that consultation (see **Annex 1**) and made some minor modifications as a result. It also contains the rules that the LSB has made (see **Annex 2**).
4. The LSB has consulted on draft guidance on the approach to and content of a LA’s licensing rules¹. The appropriateness of the potential LA’s licensing rules will form a crucial part of the LSB’s assessment of the application. We anticipate that final guidance will be published in March 2010.
5. Other than the Board, there are two sorts of body which may apply for designation as a new LA. These are:
 - existing ARs; and
 - new bodies who have made an application to become an AR under schedule 4 Part 2 to the Act.
6. The Act requires the LSB to make decisions on applications to become a LA and also requires the LSB to make rules on how these applications should be dealt with².

¹www.legalservicesboard.org.uk/what_we_do/consultations/2009/pdf/consultation_181009.pdf.

² It also requires the LSB to make rules as to the cancellation of designation as a LA which is published today alongside this document. Also published today is an impact assessment that covers both cancellation and designation.

7. An applicant must be able to demonstrate how it has prepared properly and thoroughly for its role as a LA and has appropriate arrangements in place to license competently ABS, in particular it must:
- Show that it has appropriate regulatory arrangements to ensure that it can act, so far as reasonably practicable, in a way which is compatible with the regulatory objectives, and have regard to standards of openness, accountability and transparency and best regulatory practice;
 - demonstrate an understanding of the types of ABS it will be regulating and the services provided by those ABS. In particular it must show that it has suitable processes and systems in place to identify and dealing with the complexity, risk and volume of expected ABS; and
 - demonstrate that it is a solid, stable, well structured, adequately financed and professionally operated body with the governance and institutional stability to discharge its functions on a proper basis. This includes (but is not limited to) sufficient and appropriate staffing and staffing arrangements to ensure good quality regulation and a sufficiently robust and flexible business plan including appropriate contingency arrangements that is able to adapt to:
 - changes in demand for licences;
 - changes in complexity of ABS models;
 - new threats to the regulatory objectives; and
 - changes in the operating and/or regulatory environment.
8. As an aid to develop the required capability, we expect that any AR that wishes to become a LA will share an implementation plan with the LSB which sets out a timetable and milestones to be met in relation to achieving the competencies that the LSB expects from a LA. The targets should include interim targets which will be used to help address the issue of whether a LA is a 'potentially competent LA' within the meaning of schedule 12 to the Act.
9. The Act requires the LSB to seek advice about the application from the Office of Fair Trading, the Consumer Panel, the Lord Chief Justice and anyone else that the LSB considers it reasonable to consult³. The LSB can retain specialist advisors on areas where it does not have in house competence. The cost of those advisors will be included as an increase in the prescribed fee.

³ See paragraph 3 of schedule 10 to the Act.

10. A joint application may be made for designation as an AR and designation as a LA.

Legal framework and drafting principles

Legal framework

11. The legal framework for how ARs are designated as LAs is largely set out in part 1 of schedule 10 (Designation of ARs as LAs) to the Act. Part 2 of schedule 10 deals with cancellation of that designation. Cancellation of designation is dealt with in a separate decision document (published on the same day as this one) which forms part of the Board's enforcement strategy.
12. Section 82 of the Act requires each LA to prepare and issue a statement of policy as to how, in exercising its functions under Part 5 of the LSA 2007 (regulation of ABS), it will comply with the requirements of section 28 of the Act (ARs' duty to promote regulatory objectives etc.)⁴. It must then have regard to that policy statement when carrying out its licensing functions. The Board must approve the statement before the AR can exercise its functions as a LA⁵.
13. The Act (sections 83 and schedule 11) provides details about the licensing rules which LAs have to develop and submit with the application to become designated as a LA. The LSB has consulted on draft guidance about what those licensing rules should contain⁶. The LSB will issue guidance on licensing rules from time to time which we expect LAs to have regards to.
14. Once a LA has been designated, if it wishes to change its licensing rules or to increase the number of reserved legal activities for which it is a LA, it will have to go through the same rule change application or new reserved legal activity application, as applicable, that applies to changes to its other regulatory arrangements. The LSB has published its approach to this process⁷.
15. Applications by ARs to be designated as LAs (or bodies that have applied to become an AR and a LA at the same time) must be made to the LSB. If appropriate, the LSB will then recommend that an order is made by the Lord Chancellor designating the applicant as a LA in relation to one or more reserved legal activity.

⁴ Section 82(1) of the Act.

⁵ Section 82(2) of the Act.

⁶ http://www.legalservicesboard.org.uk/what_we_do/consultations/2009/pdf/consultation_181009.pdf

⁷ http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/response_lsb_101209_3.pdf

16. It is envisaged that the provisions that will enable the designation of LAs will go live in 2010 and that ARs will be able to apply for designation as a LA thereafter. It is anticipated that the LSB will receive the first application for designation as a LA in autumn 2010. If the LSB decides that the AR would be a competent LA then it should be able to make a recommendation to the Lord Chancellor in early 2011.

Principles followed in drafting the rules

17. In drafting these rules, the LSB has complied with the obligations imposed on it by the Act⁸ by having had regard to:
- the regulatory objectives (section 1 of the Act);
 - the Better Regulation Principles⁹;
 - the desirability of current or potential ARs making well considered applications that have already been consulted on with other ARs, related regulators from other sectors and other relevant stakeholders, in particular consumers and their representatives;
 - the need to be efficient, rapid, transparent and cost effective in considering applications; and
 - its aim to be strategic in its consideration of any applications. This means that the LSB will focus principally on key areas of ambiguity, uncertainty, disagreement, non compliance and risk.
18. In drafting the rules, the LSB has also had regard to the Regulators' Compliance Code – Statutory Code of Practice for Regulators published by the Department for Business, Innovation and Skills¹⁰.

On-line applications

19. The LSB will make its processes as streamlined as possible and it envisages that in due course all of the initial application process will be undertaken by submitting the necessary documents through a link on the LSB's website.
20. The LSB will be working on the technology to allow applications to be made in this manner. In the meantime the rules provide that the applications may be submitted by e-mail, post or courier.

⁸ See section 3 of the Act.

⁹ The five principles of good regulation are proportionality, accountability, consistency, transparency and targeting as set out in Section 3(3) of the Act.

¹⁰ <http://www.berr.gov.uk/files/file45019.pdf>.

Applications for designation as a LA

Application process - requirements in the Act

29. The Act requires the LSB to make some rules and gives it the discretion to make other rules to govern applications from ARs to become LAs. The rules required are:
- rules specifying the form and manner of applications by applicants. These rules must specify the amount of the prescribed fee that must accompany the application¹¹;
 - rules about the procedures and criteria that the LSB will apply when determining whether to refuse to consider, or refuse to continue its consideration of, an application¹²;
 - rules governing the making of oral and written statements by the applicant¹³; and
 - rules specifying how the LSB will determine applications¹⁴.
30. The Act further provides that the LSB's rules specifying how it will determine applications, must in particular provide that the LSB may only grant an application if the LSB is satisfied of the following¹⁵:
- the applicant's proposed licensing rules in relation to the activity comply with the requirements of section 83 of the Act ("licensing rules");
 - if an order were to be made designating the applicant as a LA in relation to the reserved legal activity, there would be a body with power to hear and determine appeals against decisions of the LA;
 - if an order were to be made designating the applicant as a LA in relation to the reserved legal activity, the applicant would have appropriate internal governance arrangements in place at the time the order takes effect. In particular the LSB must be satisfied that if the body has or proposes to have representative as well as regulatory functions: (a) that the exercise of the applicant's regulatory functions would not be prejudiced by any of its representative functions and (b)

¹¹ See paragraph 1 of schedule 10 to the Act.

¹² See paragraph 2(2) of schedule 10 to the Act.

¹³ See paragraph 9(3) of schedule 10 to the Act.

¹⁴ See paragraph 11(1) of schedule 10 to the Act.

¹⁵ See paragraph 11(2) of schedule 10 to the Act.

that decisions relating to the exercise of its regulatory functions would so far as reasonably practicable be taken independently from decisions relating to its exercise of its representative functions¹⁶; and

- that, if an order were to be made designating the applicant as a LA in relation to the reserved legal activity, the applicant would be competent, and have sufficient resources, to perform the role of LA in relation to the activity at the time the order takes effect¹⁷.
31. The rules that the LSB has made, which deal with each of these items, are set out at **Annex 2**. Consistent with its role as an oversight regulator the LSB will adopt a strategic approach to the applications process. The rules are drafted on this basis. They aim to provide a principles-based approach, which is clear about main criteria for approval, but is not prescriptive about the precise form of evidence in order to enable each case to be assessed on a proportionate basis.
32. The LSB expects these rules to evolve over time, both in the light of the experience of considering applications and as other elements of the regulatory process take shape. It is also probable that development work on the approval of new ARs and the process of regulatory reviews will produce lessons that should, over time, be reflected in the process of approving applications for designating LAs. We will re-consult on any significant proposals to change the rules.

The Prescribed Fee

33. Paragraphs 1(4) and (5) of Schedule 10 to the Act state that the application for designation as a LA must provide for a prescribed fee to accompany any application. The fee can only be set with the consent of the Lord Chancellor. Once received, the LSB must pay the prescribed fee into the Consolidated Fund¹⁸.
34. The LSB has previously consulted on what the appropriate level of (and method of calculation of) the prescribed fee should be for applications to become an AR. The decision on the level of prescribed fee has been published. The LSB has adopted the same prescribed fee methodology that it has adopted for an application to become an AR.

¹⁶ See paragraph 11(3) of schedule 10 to the Act.

¹⁷ See paragraph 11(2)(d) of schedule 10 to the Act

¹⁸ HM Treasury's account with the Bank of England through which much of the Government's expenditures and receipts pass.

Additional requirements

21. The application must be accompanied by a statement signed by executives and/or honorary officers of the AR (and, where applicable, their independent external advisors) to certify that certain key points are true, accurate, or reasonable to the best of their belief.

Annex 1: Consideration of responses to consultation

The following is a summary of the key points made by respondents. Full copies of all non-confidential responses are on the LSB's website. If the responses covered issues that will be included in the LSB's guidance on licensing rules then these will be considered as part of that consultation process.

Respondent organisations

- ILEX Professional Standards Limited
- The Bar Standards Board
- The Council for Licensed Conveyancers
- The Law Society
- The Master of the Faculties
- The Solicitors Regulation Authority
- Tunbridge Wells, Tonbridge and District Law Society

Summary and LSB's response

Question 1 – What are the competencies that you would expect a Licensing Authority to demonstrate?

There was general support for the competencies that the LSB suggested. In addition, most respondents suggested that the LSB should require applicants to be able to demonstrate an understanding of the types of services and providers that they would be regulating.

In addition, the SRA considered that a LA should be able to demonstrate how it would support consumers using a risk-based, outcomes focussed approach.

The Faculty Office is concerned that if a notary works in an ABS the LA must have the competence to regulate notarial activities; it proposed that it should be consulted in such circumstances. It also proposed that there should be a fit and proper test for a LA.

The Law Society does not consider that the LSB should allow simultaneous applications to be a AR and a LA. It proposed that there should be a five year period between the designation of a new AR and it being able to apply to be a LA. It considered that this would enable the LSB to be confident in the AR's ability to regulate.

LSB position

All LAs must, as far as reasonably practicable, act in a way that is compatible with the regulatory objectives and have regard to the better regulation principles. The LSB expects applicants to be able to demonstrate how they will comply with these requirements. We also consider it reasonable that potential LAs must be able to demonstrate an understanding of the types of ABS they will be regulating and the services provided by those ABS. In our draft guidance on licensing rules we have proposed that all LAs should be governed by the same outcomes, and that there should be a risk-based approach to regulation. We agree that, where possible, there should be a level playing field between the regulatory frameworks for ABS and non-ABS. (There are additional requirements for ABS specified in the Act.) However it will be for an individual AR/LA to decide how best to regulate within these broad parameters.

In the case of notaries, currently only the Master of the Faculties can regulate notarial activities. Since LAs can only regulate those reserved legal activities for which they have been designated, it would not be possible at the moment for a LA other than the Master of the Faculties to regulate ABS notarial activities. In the event that another AR applies to the LSB to be able to regulate notarial activities we would expect it to have discussed the issue in detail with the Master of the Faculties (and the other ARs) before making the application. We realise that the current position may restrict the type of services that can be offered by ABS. We will therefore discuss with the ARs how this situation might be dealt with. Many notaries are also solicitors and our current thinking is that it might be possible to adopt a similar approach to that proposed by the BSB in its recent rule change application. Such an approach would allow notaries to be employed by an ABS in their capacity as a solicitor but to be regarded as self-employed (and regulated by the Master of the Faculties) when they perform notarial activities.

There is no requirement in the Act to require ARs to wait for a period of time before they can apply to be a LA. We do not consider that it is proportionate to introduce such a requirement. Nor do we consider that it is appropriate for there to be a specific fit and proper test to become a LA. We consider that the processes set out in the Act and the requirements that we have specified in our rules for dealing with applications to become an AR and to become a LA will provide sufficient information for the LSB to assess the applications. It remains open to us to require any additional information from an applicant if we need to and to decide to authorise only the AR part of a joint application if that is judged appropriate.

Question 2 – What are your views on the continuity/transfer of licences and the alternative approaches suggested?

This question is relevant to the LSB's guidance on licensing rules. Responses will be considered as part of that consultation exercise.

Question 3 – Bearing in mind the Regulatory Objectives and the Better Regulation Principles, do you agree with the Board’s approach to its requirements for the content of Applications?

There was general support for the LSB’s proposed approach. The Master of the Faculties considered that in addition to the proposed requirements there should be a fit and proper test for LAs and that there should be an obligation to consult it if a LA proposed to license ABS carrying out notarial activities.

LSB position

In relation to the points raised by the Master of the Faculties, see the answer to question 1 above for both issues.

Question 4 – If you do not agree with the Board’s approach to its requirements for the content of Applications, what alternative approaches would you suggest and why?

There was general support for the LSB’s proposed approach; other than the above concerns of the Master of the Faculties no other points were suggested.

LSB position

In relation to the points raised by the Master of the Faculties, see the answer to question 1 above for both issues.

Question 5 – What additions to or alterations to the application process would you suggest?

The SRA suggested that the application process should be flexible enough for discussions to take place between the LSB and the applicant at different stages. The Master of the Faculties suggested that the LSB should consult an AR if another body applies to regulate ABS which offer the reserved legal activities regulated by that AR.

LSB position

We agree that dialogue between the applicant and the LSB will be an important part of the process of considering an application to be a LA. We expect that any AR that wishes to become a LA will share an implementation plan with the LSB which sets out a timetable and targets to be met in relation to achieving the competencies that the LSB expects from a LA.

There is currently a broad overlap between the reserved legal activities that the ARs are permitted to regulate. The LSB will publish on its website details of all applications to be a LA. This will enable any other AR to comment on the application. We do not therefore consider it necessary to ask ARs separately for their views. In addition, the LSB has published the process it will follow when an AR applies to it to be designated in relation to one or more additional reserved legal activities. That process includes a requirement on the AR to have consulted the other ARs and so they will all have had the opportunity to comment on proposed changes before the LSB makes its decision.

Question 6 – What do you think the appropriate level of, and method of calculation of the Prescribed Fee should be?

There was general support for the principle that the cost of assessing LA applications should be borne by the applicant and that as far as possible it should reflect the LSB's actual costs. There was also general support for the proposal that the LSB should be able to charge additional costs if necessary. The Law Society considered that this would encourage good quality applications in order to keep costs down. The BSB considers that the LSB should publish details of how the fee level was calculated.

Some respondents suggested that there should be provision for the LSB to refund elements of the prescribed fee in the event that the LSB's costs were lower. A respondent suggested that a daily or hourly rate might be appropriate and would incentivise applicants to produce good quality applications.

A joint response from IPReg, ITMA and CIPA expressed concern about the proposed level of the fee given the relatively small number of intellectual property practices and the potential for a high fee to be a barrier to becoming a LA.

ILEX professional standards suggested that the LSB should review its timescales and costs after the first year of their operation.

LSB position

Linking the prescribed fee to the LSB's actual costs will help to ensure that, as far as possible, the cost of ABS, including assessing LA applications, is ring-fenced and not borne by other parties. We agree that it would be desirable to be able to refund the prescribed fee if our actual costs are lower than anticipated. However, we have been told by the Ministry of Justice that Treasury Fees and Charges Guidance means that this is not possible; the only approach permitted is to charge a fixed fee with the ability to increase it on a cost per day basis.

We will ensure that we explain clearly why any additional costs need to be levied on the applicant. Details of how we calculated the level of the fee were circulated to members of the ABS Implementation Group. We will monitor as closely as we can the actual cost of processing applications and will re-consult on the prescribed fee level if it appears that it is not reflective of our actual costs.

Question 7 – Do you think we should reduce the Prescribed Fee for Applications from (i) existing Licensing Authorities to take on additional Reserved Legal Activities; and (ii) AR Applicants?

Respondents generally considered that applications made by an existing LA or AR are likely to need less work by the LSB since we would already be aware of or have approved many aspects of their regulatory arrangements and that such bodies should be able to demonstrate more easily how they meet the requirements. However the Law Society said it was not clear why a lower fee should be charged for a dual application to become an AR/LA.

LSB position

For dual applications, there is some overlap in the information required (for example on internal governance arrangements). The LSB therefore considers it reasonable to adjust the fee to ensure that applicants are not charged twice for the same process.

Question 8 – Do you agree that the Board should be able to use external advisors when necessary with the cost of these being met by way of an adjustment to the Prescribed Fee?

Respondents generally consider that this was appropriate. However the Tunbridge Wells, Tonbridge and District Law Society's view is that if the LSB decides to outsource its work there should not be an additional charge to applicants. The SRA emphasised the importance of early dialogue to minimise the likelihood of needing external advice. The BSB suggested that the LSB should make clear when external advisors will be used, the process for retaining them and the rate they will be paid. The BSB proposed that the applicant should be involved in the process of selecting the advisor since they would be paying for them, or to propose an advisor to the LSB.

LSB position

In general, providing there has been a constructive dialogue between the LSB and an applicant prior to the application being made, we consider it unlikely that we would need to get external advice. Because of this we do not consider that we could accurately anticipate the circumstances in which we would need such advice. We would want to discuss with the applicant the type of advice we considered necessary

and the types of advisor we were considering. However the final decision on who to use must be the LSB's alone, since it will inform the decision on whether to make a recommendation to the Lord Chancellor. We remain of the view that the cost of this advice must be borne in full by the applicant.

Question 9 – Do you agree with the approach taken to oral representations?

The Law Society made the point that oral representations can be useful in obtaining a feel for whether an application is soundly based. Having them as part of the application process would minimise the risk of the LSB being presented with a slickly written application that was not well founded in substance.

The BSB considers that an oral hearing should be held at the request of the applicant, not at the discretion of the LSB.

The Tunbridge Wells, Tonbridge and District Law Society's view is that there should always be a right to make oral representations (to ensure consistency with its position on cancellation of designation).

LSB position

The LSB accepts that oral representations can be useful as a way to clarify certain aspects of an application and to get a better understanding of an applicant. The Act states that an applicant can make oral representations if the Board authorises it to do so. Oral representations can be made in response to advice received from consultees such as the OFT, the Consumer Panel and the Lord Chief Justice. We expect the applicant to have discussed its application with these bodies before it is submitted to the LSB. It may therefore be appropriate that if an application is made that has not had the benefit of these types of discussions, an oral hearing should be arranged.

The LSB will consider in each case whether it is appropriate to hold oral hearings but we do not consider that they should be held automatically since this may not be a good use of resources for either the LSB or the applicant. Although we do not consider that a hearing should automatically be held at the applicant's request, we will always explain why we think a hearing is or is not necessary and take into account the applicant's views when reaching a decision about whether to hold one.

We consider that it is reasonable to adopt the same rules for oral representations for the designation as a LA as we have done for the designation as an AR in order for there to be consistency for applicants.

Question 10 – Bearing in mind the Regulatory Objectives, the Better Regulation Principles and the need to operate efficiently in relation to the

Freedom of Information Act, are there any changes you wish to suggest to the proposed process.

No responses made significant points, other than those already considered above.

Question 11 – Do you consider that these are the appropriate criteria [for determining applications]?

ILEX Professional Standards queried who an appeal could be made to if the LSB decided not to make a recommendation to the Lord Chancellor. Apart from this point, no responses made significant points, other than those already considered above.

LSB position

Other than seeking leave for judicial review, there is no right of appeal against the LSB's decision. However, the Board would always give reasons for a decision to turn down an application and would reconsider a fresh application from the same body in which those issues were addressed.

Other issues

1. The Law Society questioned whether the LSB had made a legitimate decision when it varied the requirements on internal governance for ARs for whom legal services regulation forms only a small part of its activities. It considers that a LA should not be designated unless its internal governance rules are consistent with those required of a purely legal regulator.

LSB position

The LSB will assess all applicants against the requirements of its published requirements for internal governance as they apply to the relevant AR/LA.

2. ILEX Professional Standards emphasised the importance of ensuring that consultees provided their advice within an appropriate timescale. It queried whether the advice of the Lord Chief Justice would be published.

LSB position

The LSB agrees that it is important that applications are assessed and advice given in a reasonable time and, as we have done for new AR applications, we will work with the mandatory consultees to agree timescales. We will publish all the advice we receive, subject to considering any confidentiality issues.

Annex 2: Rules for applications to be designated as a LA

RULES FOR LICENSING AUTHORITY DESIGNATION APPLICATIONS

A. PREAMBLE

1. These Rules are made by the Board (as defined below) under paragraphs 1(4), 1(5), 2(2), 9(3) and 11 of part 1 of schedule 10 to the Act (as defined below).

B. DEFINITIONS

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

Act	the Legal Services Act 2007
Applicant	a body who submits an Application
Application	an application to be designated as a Licensing Authority in relation to one or more Reserved Legal Activities that is submitted to the Board in accordance with these Rules
Approved Regulator	has the meaning given in Section 20(2) of the Act
AR Applicant	a body who submits an application to be designated as an Approved Regulator in relation to one or more Reserved Legal Activities that is submitted to the Board in Accordance with the Board's Rules for Approved Regulator Designation Applications, as in force from time to time
Authorised Person	has the meaning given in Section 18 of the Act
Board	the Legal Services Board
Consultees	the Mandatory Consultees and any Optional

	Consultee
Consumer Panel	the panel of persons established and maintained by the Board in accordance with Section 8 of the Act
Existing LA Applicant	an Applicant that is already a Licensing Authority in respect of certain Reserved Legal Activities and who is submitting an Application to be designated as a Licensing Authority in relation to one or more additional Reserved Legal Activities
Licensable Body	has the meaning given in Section 72 of the Act
Licensed Activity	has the meaning given in Section 111 of the Act
Licensed Body	has the meaning given in Section 71 of the Act
Licensing Authority	has the meaning given in Section 73 of the Act
Licensing Rules	has the meaning given in Section 83 of the Act
Mandatory Consultees	the OFT, the Consumer Panel and the Lord Chief Justice
OFT	the Office of Fair Trading
Optional Consultee	any person (other than a Mandatory Consultee) who the Board considers it reasonable to consult regarding an Application
Prescribed Fee	the fee that must accompany an Application as described in Section D of these Rules
Regulatory Objectives	has the meaning given in Section 1 of the Act
Reserved Legal Activity	has the meaning given in Section 12 and Schedule 2 of the Act
Reserved Legal Services	has the meaning given in section 207 of the Act
Schedule	the schedule to these Rules

C. WHO DO THESE RULES APPLY TO?

3. These are the Rules that apply if a body wishes to apply to the Board, under Part 1 of Schedule 10 of the Act, for the Board:
 - to make a recommendation to the Lord Chancellor that an order be made that the body be designated as a Licensing Authority in relation to one or more activities which constitute one or more Reserved Legal Activities; and
 - to approve what the body proposes as its Licensing Rules if such an order is made.
4. A body may only make an Application under these Rules in relation to a Reserved Legal Activity if:
 - it is an Approved Regulator in relation to the Reserved Legal Activity which is the subject of the Application under these Rules; or
 - it has made an application under Part 2 of Schedule 4 of the Act for the Board to recommend that an order be made by the Lord Chancellor designating the body as an Approved Regulator in relation to the Reserved Legal Activity which is the subject of the Application under these Rules.
5. These Rules set out:
 - the required content of any Application to the Board and some guidance in relation to that content (**see Section D**);
 - the amount of the Prescribed Fee that must accompany any Application (**see Section e**);
 - the processes and procedures that the Board will undertake in considering the Application (**see Section F**);
 - the manner in which the Applicant can make representations to the Board about its Application (**see Section G**);
 - the Board's criteria for determining Applications (see **Section H**); and
 - whom a body should contact if it has a question in relation to the Application process (see **Section I**).

6. 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 Act.

D. CONTENTS OF APPLICATION

Content

7. The 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 are:
 - (a) the administrative information needed 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; and
 - (b) the items that the Act mandates should be included in a Licensing Authority's Licensing Rules (see Part 2 of the Schedule).
8. 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.

E. PRESCRIBED FEE

10. Any Application must be accompanied by the Prescribed Fee set out in Rule 11 below. The Prescribed Fee must be paid by electronic funds transfer to the bank account specified from time to time by the LSB using the following reference:

Reference: [Insert Applicant name]/Licensing Authority Designation Application

11. 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) if the Applicant is an Existing LA Applicant, or if the Applicant is also an AR Applicant, the Prescribed Fee is £16,000; and
 - b) if the Applicant is not an Existing LA Applicant the Prescribed Fee is £22,000.
12. The amounts specified in Rule 11(a) and Rule 11(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 LA 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 LA Applicant, this is based on a day rate of £562 over 39 business days.
13. The Board reserves the right to charge an additional amount in excess of the amounts set out in Rule 11 in the following circumstances:
- a) if the Board requests further information from the Applicant in accordance with Rule 17 and the Board's costs in processing this information exceeds the relevant amount specified in Rule 11. In these circumstances, any such additional costs will be charged at the day rate of £562; or
 - 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 11. In this case, the full cost of the advice will be charged to the Applicant.

F. PROCESSES AND PROCEDURE

Sending the Application

14. Subject to Rule 15 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:
- If by email to: schedule10approvals@legalservicesboard.org.uk

- If by post or courier to:

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

For the attention
of: LA Designations Administrator

15. 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, once this has been developed.
16. On receipt of the Application and the Prescribed Fee, an acknowledgement email will be sent to the Applicant by the Board.
17. The Board will consider the Application and may ask the Applicant for such additional information as the Board may reasonably require.
18. 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.
19. 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.
20. An Applicant may at anytime withdraw or amend their Application by giving notice to that effect to the Board.

Obtaining advice

21. On receipt of an Application (including the prescribed fee), and all further information that the Board may require under Rule 17, the Board will send a copy of the Application (together with any further information received) to the Consultees. 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 depending on the volume and complexity of the Application received.

22. 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.
23. 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.
24. 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.
25. The Lord Chief Justice will then consider the Application and will provide his advice to the Board.
26. Once the Board has received the advice of the Lord Chief Justice, it will provide a copy of all the advice that has been given by the Consultees to the Applicant.

Representations

27. The Applicant has **28 days** beginning on the day on which a copy of the advice referred to in Rule 26 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 of these Rules.

Publication of Advice

28. As soon as practicable after the end of the period within which representations under Rule 27 may be made, the Board will publish on its website:
 - the advice received from the Consultees; and
 - subject to Rule 29, any written representations duly made by the Applicant (and the report of oral representations (if any) prepared under Rule 47).

29. Prior to the publication of any written representations (and the report of oral representations (if any) prepared under Rule 47) the Board will decide whether any parts of the representations shall remain private and, if so why, taking account of representations from the Applicant.
30. 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

31. After considering the items listed at paragraph 12(1) of schedule 10 to the Act, the Board will decide whether to grant the Application.
32. If the Board decides to grant the Application, it will notify the Applicant and will recommend to the Lord Chancellor that an order be made.
33. If the Board decides not to grant the Application, the Board will write to the Applicant with the reasons for its decision.
34. The Board will publish on its website a copy of any decision that it gives to the Applicant.
35. Where an Application relates to more than one Reserved Legal Activity, the Board may grant the Application in relation to all or any one of them.

The Lord Chancellor's Decision

36. The Lord Chancellor has up to 90 days from the date on which the Board makes its recommendation in accordance with Rule 30 to notify the Applicant of whether or not he will make an order in accordance with the recommendation.
37. 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.
38. 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 35.

Timing

39. Under the provisions of the Act the Board has 12 months from the date of the Application to give its decision to the Applicant 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.
40. Notwithstanding Rule 38, the Board will aim to deal with an Application within six months from the later of:
 - the date upon which the Board accepts submission of the Application (it being understood that the Board will not accept an Application if a submission is made which the Board regards as being incomplete and/or in a format that is not reasonably practicable to consider efficiently); and
 - the final date of submission of any further information that the Board may request under Rule 17.

G. FORM OF REPRESENTATIONS

Written representations

41. Subject to Rules 41 and 43, all representations made to 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 14.
42. The Applicant must, unless otherwise agreed with the Board, submit all representations to the Board using the online tool at www.legalservicesboard.org.uk, once this has been developed.
43. All representations must be received by the Board within the period set out in Rule 27. 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

44. 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.
45. 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 usually 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.
46. 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.
47. 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.
48. 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 46. Before preparing the report, the Board:
 - must give the Applicant a reasonable opportunity to comment on a draft of the report; and
 - must have regard to any comments duly made by the Applicant.

49. Subject to complying with the timing requirements set out in Rule 38, the Board reserves the right to extend processes to take account of the need to transcribe and verify oral submissions.
50. The Board may from time to time adjourn the hearing.
51. For the avoidance of doubt, this Section G only applies to representations made to the Board by the Applicant in relation to the advice provided by the Consultees.

H. CRITERIA FOR DETERMINING APPLICATIONS

52. In accordance with paragraph 11(2) and 11(3) of Schedule 10 to the Act, the Board will grant an Application in relation to a particular Reserved Legal Activity only if it is satisfied that:
 - the Applicant's proposed Licensing Rules in relation to the Reserved Legal Activity comply with the requirements of Section 83 of the Act;
 - if the Lord Chancellor were to make an Order designating the Applicant as a Licensing Authority in relation to the particular Reserved Legal Activity, there would be a body with power to hear and determine appeals which, under Part 1 of Schedule 10 of the Act or the Applicant's proposed Licensing Rules, may be made against the decisions of the Applicant;
 - if the Lord Chancellor were to make an Order designating the Applicant as a Licensing Authority in relation to the particular Reserved Legal Activity, 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;
 - if such an Order, were to be made, the Applicant would be competent, and have sufficient resources, to perform the role of Licensing Authority in relation to the Reserved Legal Activity at that time;
53. In addition, when considering an Application the Board will consider how consistent an Applicant's proposed Licensing Rules are with the requirements of Section 28 of the Act (duty to promote the Regulatory Objectives, pursue best regulatory practice etc.) and with the LSB's

guidance on licensing rules. In this regard, and in accordance with the requirements of section 82, an applicant must also prepare and issue a statement of policy as to how, in exercising its functions under Part 5 of the Act, it will comply with the requirements of section 28 of the Act.

I. FURTHER INFORMATION

54. 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
 7th Floor Victoria House
 Southampton Row
 London WC1B 4AD

Email: schedule10approvals@legalservicesboard.org.uk

Telephone: 020 7271 0050

SCHEDULE

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

	What is required	Section of Act	Possible Evidence
1.	Background information	N/A	Contact details in relation to 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	Sch. 10, paragraph 1(4) (a)	Specification of which of the Reserved Legal Activities set out in Section 12 and Schedule 2 of the Act the Application applies to
3.	Details of the Applicant's proposed Licensing Rules	Sch. 10, paragraph 1(4) (b)	An explanation of how the proposed Licensing Rules comply with Section 83(5), Schedule 11 to the Act (see Part 2 of this Schedule for further details) and the LSB's guidance on licensing rules.
4.	Such explanatory material as the Applicant considers is likely to be needed for the purposes of Part 1 of Schedule 10	Sch. 10, paragraph 1(4) (c)	<p>An applicant must be able to demonstrate how it has prepared properly and thoroughly for its role as a LA and has appropriate arrangements in place to license competently ABS, in particular it must:</p> <ul style="list-style-type: none"> - show that it has appropriate regulatory arrangements to ensure that it can act,

What is required	Section of Act	Possible Evidence
		<p>so far as reasonably practicable, in a way which is compatible with the regulatory objectives, and have regard to standards of openness, accountability and transparency and best regulatory practice;</p> <ul style="list-style-type: none"> - demonstrate an understanding of the types of ABS it will be regulating and the services provided by those ABS. In particular it must show that it has suitable processes and systems in place to identify and dealing with the complexity, risk and volume of expected ABS; - demonstrate that it is a solid, stable, well structured, adequately financed and professionally operated body with the governance and institutional stability to discharge its functions on a proper basis. This includes (but is not limited to) sufficient and appropriate staffing and staffing arrangements to ensure good quality regulation and a sufficiently robust and flexible business plan, including appropriate contingency arrangements that is able to adapt to: <ul style="list-style-type: none"> - changes in demand for licences; - changes in complexity of ABS models; - new threats to the regulatory objectives; and - changes in the operating and/or regulatory environment. <p>An applicant must also provide an assessment of its progress against its implementation plan to become a LA</p>
5.	In deciding what advice to give, the OFT must, in particular, have	Sch. 10, paragraph 4(2) 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 Act	Possible Evidence
	regard to whether an order ... would (or would be likely to) prevent, restrict or distort competition within the market for Reserved Legal Services to any significant extent		
6.	In deciding what advice to give, the Consumer Panel must, in particular, have regard to the likely impact on consumers of the making of an order	Sch. 10, paragraph 5(2)	<p>Explanation of how the proposed Licensing Rules will:</p> <ul style="list-style-type: none"> • protect and promote the interests of consumers generally • meet the specific requirements in terms of indemnification and complaint handling
7.	A selected consultee may give the Board such advice as the selected consultee thinks fit in respect of the Application	Sch. 10, paragraph 8	Information on any matters specified by a selected consultee
8.	The Lord Chief Justice must, in particular, have regard to the likely impact on the courts in England and Wales of the making of an order	Sch. 10, paragraph 7(3)	Information on any matters specified by the LCJ

	What is required	Section of Act	Possible Evidence
9.	The Board may grant an Application in relation to a particular Reserved Legal Activity only if it is satisfied that, the Applicant's proposed Licensing Rules in relation to the Reserved Legal Activity comply with the requirements of Section 83 of the Act	Sch.10, paragraph 11(2)(a)	See Item 3
10.	The Board may grant an Application in relation to a particular Reserved Legal Activity only if it is satisfied that, if an order were to be made designating the Applicant in relation to the Reserved Legal Activity, there would be a body with power to hear and determine appeals which, under Part 1 of Schedule 10 of the Act or under the Applicant's proposed Licensing Rules, may be made against decisions of the Applicant	Sch. 10, paragraph 11(2)(b)	<p>The Applicant must include a statement about the appellate body that the Applicant proposes to use for appeals against financial penalties and conditions imposed on a Licensable Body.</p> <p>The Applicant should also include a statement for the appellate body that it agrees to hear those appeals</p>
11.	The Board may grant an Application in relation to a particular Reserved Legal Activity only if it is	Sch. 10, paragraph 11(2)(c)	Such explanatory material (including material about the Applicant's constitution and activities) as the Applicant considers is likely to be

	What is required	Section of Act	Possible Evidence
	satisfied that, if an order were to be made designating the Applicant in relation to the Reserved Legal Activity , the Applicant would have appropriate internal governance arrangements in place at the time the order takes effect		needed to show how its internal governance arrangements comply with the Board’s most recently published policy on internal governance
12.	The Board may grant an application in relation to a particular Reserved Legal Activity only if it is satisfied that, if an order were to be made designating the Applicant in relation to the Reserved Legal Activity, the Applicant would be competent, and have sufficient resources, to perform the role of Licensing Authority in relation to the Reserved Legal Activity at the time the order takes effect	Sch. 10, paragraph 11(2)(d)	<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>
13.	The rules made for the purposes of sub-paragraph 2(c) must in particular require the Board to be satisfied that the exercise of the Applicant’s regulatory	Sch. 10, paragraph 11(3)(a)	Statement on how the arrangements comply with the principles of the Act and such rules as the Board may make from time to time

What is required				Section of Act		Possible Evidence	
	functions would not be prejudiced by any of its representative functions						
14.	The rules made for the purposes of sub-paragraph 2(c) 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 taken independently from decisions relating to the exercise of the Applicant's representative functions	Sch. 10, paragraph 11(3)(b)				See Item 13	

Part 2 – Licensing Rules Requirements

	What is required	Section of Act	Guidance
<p>SECTION 83 REQUIREMENTS</p>			
<p><i>For all these points, Applicants must explain how their licensing rules are likely to achieve the outcomes and other requirements that may be specified in any Guidance issued by the LSB. If the LA’s rules are inconsistent with the Guidance, there should be an explanation together with evidence to explain why.</i></p>			
<p><i>We will publish a cross referenced updated version of this part of the schedule once we have finalised our guidance on licensing rules.</i></p>			
1.	Licensing Rules of a Licensing Authority MUST contain appropriate qualification regulations in respect of Licensable Bodies to which the Licensing Authority proposes to issue licences	Section 83(5)(a)	
2.	Licensing Rules of a Licensing Authority MUST contain provision as to how the Licensing Authority, when considering the Regulatory Objectives (in compliance with its duties under Section 3(2) or 28(2)) in connection with an application for a licence, should take account of the objective of	Section 83(5)(b)	

What is required				Section of Act	Guidance
	improving access to justice				
3.	Licensing Rules of a Licensing Authority MUST contain appropriate arrangements (including conduct rules, discipline rules and practice rules) under which the Licensing Authority will be able to regulate the conduct of bodies licensed to it, and their managers and employees	Section 83(5)(c)			—
4.	Licensing Rules of a Licensing Authority MUST contain appropriate indemnification arrangements	Section 83(5)(d)			
5.	Licensing Rules of a Licensing Authority MUST contain appropriate compensation arrangements	Section 83(5)(e)			
6.	Licensing Rules of a Licensing Authority MUST contain the provision required by	Section 83(5)(f)			

	What is required	Section of Act	Guidance
	Sections 52 and 54 (resolution of regulatory conflict) (including those provisions as applied by Section 103)		
7.	Licensing Rules of a Licensing Authority MUST contain the provision required by Sections 112 and (145) (requirements imposed in relation to the handling of complaints)	Section 83(5)(g)	
8.	Licensing Rules of a Licensing Authority MUST contain any other provision required to be contained in Licensing Rules by the Act	Section 83(5)(h)	—
SCHEDULE 11 REQUIREMENTS			
<i>Applications for licences</i>			
9.	Licensing Rules MUST make provision about the form and manner in which applications for licences are to be made, and the fee (if any) which is to be accompany any application	Sch.11, paragraph1 (1)	

	What is required	Section of Act	Guidance
10.	<p>Licensing Rules MAY make provision about:</p> <ul style="list-style-type: none"> the information which applications must contain; and the documents which must accompany applications 	Sch. 11, paragraph 1(2)	—
<i>Determination of applications</i>			
11.	<p>Licensing Rules MUST make provision for those items set out in Schedule 11, paragraph 2</p>	Sch. 11, paragraph 2(1)	—
<i>Review of determination</i>			
12.	<p>Licensing Rules MUST make provision for review by the Licensing Authority of:</p> <ul style="list-style-type: none"> a decision to refuse an application for a licence; if a licence is granted, the terms of the licence 	Sch. 11, paragraph 3	

	What is required	Section of Act	Guidance
<i>Period of licence and renewal</i>			
13.	<p>The Licensing Rules MAY make provision:</p> <ul style="list-style-type: none"> • limiting the period for which any licence is (subject to the provision of Part 1 of Schedule 11 and of the Licensing Rules) to remain in force; • about the renewal of licences, including provision about the form and manner in which an application for renewal is to be made, and the fee (if any) which is to accompany an application 	Sch. 11, paragraph 4(1)	
14.	<p>The Licensing Rules MAY make provision about:</p> <ul style="list-style-type: none"> • the information which applicants for renewal must contain; and 	Sch. 11, paragraph 4(2)	—

What is required				Section of Act	Guidance
	<ul style="list-style-type: none"> the documents which must accompany applications. 				
15.	Licensing Rules MUST provide that a licence issued to a Licensed Body by the Licensing Authority ceases to have effect if the Licensed Body is issued with a licence by another Licensing Authority	Sch. 11, paragraph 4(3)		—	
<i>Continuity of licences</i>					
16.	Licensing Rules MAY make provision about the effect, on a licence issued to a partnership or other unincorporated body (“the existing body”), of any change in the membership of the existing body	Sch. 11, paragraph 5(1)			
17.	Such provision referred to above includes provision for the existing body’s licence to be transferred where the existing body ceases to exist and another body succeeds to the whole or substantially the	Sch. 11, paragraph 5(2)			

What is required				Section of Act		Guidance	
	whole of its business.						
<i>Modification of licences</i>							
18.	Licensing Rules MUST make provision about the form and manner in which applications are to be made for modifications of the terms of a licence under Section 86, and the fee (if any) which is to accompany the application	Sch.11, paragraph 6(1)					
19.	Licensing Rules MAY make provision as to the circumstances in which the Licensing Authority may modify the terms of a licence under Section 86 without an application being made	Sch. 11, paragraph 6(2)					
20.	Licensing Rules MUST make provision for review by the Licensing Authority of: <ul style="list-style-type: none"> a decision to refuse an application for modification of the terms of a licence; 	Sch. 11, paragraph 6(3)					

	What is required	Section of Act	Guidance
	<ul style="list-style-type: none"> if the Licensing Authority makes Licensing Rules under sub-paragraph 6(2), a decision under those rules to modify the terms of a licence 		
<p><i>Modifications under section 106 – the LSB has proposed in its consultation on guidance licensing rules that the transitional arrangements for Special Bodies should remain in place for 12 months after other ABS have been permitted. We do not, therefore, expect LAs’ licensing rules to incorporate consideration of special Bodies. We will consult separately on this issue, depending on the outcome of the consultation on our guidance.</i></p>			
<p><i>Management</i></p>			
21.	<p>Licensing Rules MUST require a Licensed Body to comply with the requirements set out in Schedule 11, paragraph 9</p>	Sch.11, paragraph 9(1)	—
22.	<p>Licensing Rules MAY make further provision as to:</p> <ul style="list-style-type: none"> the managers of licensed bodies; and the arrangements for the management by them of the Licensed Body and its 	Sch. 11, paragraph 10(1)	

What is required				Section of Act		Guidance	
	activities						
23.	Licensing Rules MUST NOT require all managers of a Licensed Body to be authorised persons in relation to Reserved Legal Activity	Sch. 11, paragraph 10(2)					—
<i>Head of Legal Practice</i>							
24.	Licensing Rules MUST include the requirements set out in Schedule 11, paragraph 11	Sch. 11, paragraph 11(1)					—
25.	<p>Licensing Rules MUST make provision:</p> <ul style="list-style-type: none"> • about the procedures and criteria that will be applied by the Licensing Authority when determining under Schedule 11, paragraph 11(4) whether an individual is a fit a proper person; • for a review by the Licensing Authority of a determination 	Sch. 11, paragraphs 12(1) and (2)					

	What is required	Section of Act	Guidance
	<p>under Schedule 11, paragraph 11(4) that an individual is not a fit and proper person;</p> <ul style="list-style-type: none"> • about the procedures and criteria that will be applied by the Licensing Authority under Schedule 11, paragraph 11(6) whether to withdraw its approval; • for a review by the Licensing Authority of a determination under Schedule 11. paragraph 11(6) to withdraw its approval; • about the procedure which is to apply where a Licensed Body ceases to comply with the requirement imposed by virtue of Schedule 11, paragraph 11(2). Rules made MAY in particular provide that the requirement imposed by virtue of Schedule 11, paragraph 11(2) is suspended until such time as may be 		

	What is required	Section of Act	Guidance
	specified by the Licensing Authority if the Licensed Body complies with such other requirements as may be specified in the rules		
<i>Head of Finance and Administration</i>			
26.	Licensing Rules MUST include the requirements set out in Schedule 11, paragraph13	Sch. 11, paragraph13(1)	—
27.	<p>Licensing Rules MUST make provision:</p> <ul style="list-style-type: none"> • about the procedures and criteria that will be applied by the Licensing Authority when determining under Schedule 11, paragraph13(4) whether an individual is a fit and proper person; • for a review by the Licensing Authority of a determination under Schedule 11, paragraph13(4) that an individual is not a 	Sch. 11, paragraph14(1)	

	What is required	Section of Act	Guidance
	<p>fit and proper person;</p> <ul style="list-style-type: none"> • about the procedures and criteria that will be applied by the Licensing Authority in determining under Schedule 11, paragraph13(6) whether to withdraw its approval; • for a review by the Licensing Authority of a determination under Schedule 11, paragraph13(6) to withdraw its approval; • about the procedure which is to apply where a Licensed Body ceases to comply with the requirement imposed by virtue of Schedule 11, paragraph13(2). Rules made MAY in particular provide that the requirement imposed by virtue of Schedule 11, paragraph13(2) is suspended until such time as may be specified by the Licensing Authority if 		

	What is required	Section of Act	Guidance
	the Licensed Body complies with such other requirements as may be specified in the rules		
<i>Practising address</i>			
28.	<p>Licensing Rules MUST require a Licensed Body at all times to have a practising address in England and Wales.</p> <p>The above does not apply to a Licensed Body:</p> <ul style="list-style-type: none"> • which is a company or limited liability partnership; and • the registered office of which is situated in England and Wales (or in Wales) 	Sch. 11, paragraph 15(1)	
<i>Licensed activities</i>			
29.	Licensing Rules MUST provide that a Licensed Body may carry on a Licensed Activity only through a person who is entitled to carry on the	Sch. 11, paragraph 16	

What is required		Section of Act	Guidance
	activity.		
<i>Compliance with regulatory arrangements etc</i>			
30.	Licensing Rules MUST include the requirements set out in Schedule 11, paragraph 17	Sch. 11, paragraph 17(1)	—
<i>Disqualified employees</i>			
31.	Licensing Rules MUST include the requirement that a Licensed Body may not employ a person who under Part 3 of Schedule 11 is disqualified from being an employee of a Licensed Body	Sch. 11, paragraphs 18(1) and (2)	
<i>Indemnification arrangements and compensation arrangements</i>			
32.	For the purpose of giving effect to indemnification arrangements and compensation arrangements, Licensing Rules MAY : <ul style="list-style-type: none"> • authorise or require 	Sch. 11, paragraph 19(1)	

	What is required	Section of Act	Guidance
	<p>the Licensing Authority to establish and maintain a fund or funds;</p> <ul style="list-style-type: none"> • authorise or require the Licensing Authority to take out and maintain insurance with authorised insurers; • require Licensed Bodies or Licensed Bodies or any specific description to take out and maintain insurance with authorised insurers. 		
<i>Accounts</i>			
33.	<p>The Licensing Rules MUST make provision:</p> <ul style="list-style-type: none"> • as to the treatment of money (including money held on trust) which is received, held or dealt with by the Licensed Body, its managers and employees for clients or other persons; and 	Sch. 11, paragraph 20(1)	—

	What is required	Section of Act	Guidance
	<ul style="list-style-type: none"> the keeping of accounts in respect of such money. 		
<i>Fees</i>			
34.	The Licensing Rules MUST require Licensed Bodies to pay periodical fees to the Licensing Authority	Sch. 11, paragraph 21(1)	
35.	The Licensing Rules MAY provide for the payment of different fees by different descriptions of Licensed Body.	Sch. 11, paragraph 21(2)	
<i>Financial penalties</i>			
36.	<p>The Licensing Rules MUST make provision as to:</p> <ul style="list-style-type: none"> the acts and omissions in respect of which the Licensing Authority may impose a penalty under Section 95; the criteria and 	Sch.11, paragraph 22	

	What is required	Section of Act	Guidance
	<p>procedure to be applied by the Licensing Authority in determining whether to impose a penalty under that section, and the amount of any penalty</p>		
<i>Disqualifications</i>			
37.	<p>Licensing Rules MUST make provision as to the criteria and procedure to be applied by the Licensing Authority in determining whether a person should be disqualified under Section 99</p>	Sch. 11, paragraph 23(1)	
38.	<p>Licensing Rules MUST make provision:</p> <ul style="list-style-type: none"> • for a review by the Licensing Authority of a determination by the Licensing Authority that a person should be disqualified; • as to the criteria and procedure to be applied by the 	Sch. 11, paragraph 23(2)	

	What is required	Section of Act	Guidance
	<p>licensing authority in determining whether a person's disqualification should cease to be in force; and</p> <ul style="list-style-type: none"> requiring the Licensing Authority to notify the Board of any determination by the Licensing Authority that a person should be disqualified, of the result of any review of that determination, and of any decision by the Licensing Authority that a person's disqualification should cease to be in force. 		
<i>Supervision or revocation of licence under section 101</i>			
39.	Licensing Rules MUST make provision for the items set out in Schedule 11, paragraph. 24	Sch. 11, paragraph 24(1)	—
40.	Licensing Rules MAY make provision about other circumstances in which the Licensing	Sch. 11, paragraph 25	

	What is required	Section of Act	Guidance
	Authority may exercise its powers under Section 101 to suspend or revoke a licence		
41.	Licensing Rules MUST make provision about the criteria and procedure the Licensing Authority will apply in deciding whether to suspend or revoke a licence, or to end the suspension of a licence, under Section 101	Sch. 11, paragraph 26(1)	
42.	Licensing Rules MUST make provision for a review by the Licensing Authority of a decision by the Licensing Authority to suspend or revoke a licence.	Sch. 11, paragraph 26(2)	

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) confirm 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 the Schedule would be less relevant to an Applicant that is already a Licensing Authority which is applying to add an additional Reserved Legal Activity to its competences. 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 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 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 reserves the right to retain advisors to consider the information supplied. The retention of advisors may result in an increase to the Prescribed Fee as described in Rule 13. 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.
5. 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.
6. Board approval of a new body as a Licensing Authority, or of an existing Licensing Authority as a Licensing Authority in relation to an additional Reserved Legal Activity represents an assessment that:

- the Applicant appears well prepared and appears to understand the roles and responsibilities granted to Licensing Authorities under the Act; and
- no valid objections have been made to the Applicant's Application by the Consultees.

