

SRA BOARD

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SRA Regulatory Arrangements (EU Exit) (Post Implementation Period) Regulations 2020

Regulations made by the Solicitors Regulation Authority Board on 16 December 2020.

Made under sections 2, 13, 28, 31 and 44D of the Solicitors Act 1974, section 89 of, and paragraphs 2 and 3 of Schedule 14 to, the Courts and Legal Services Act 1990, section 9 of, and paragraph 14B of Schedule 2 to, the Administration of Justice Act 1985, section 83 of, and Schedule 11 to, the Legal Services Act 2007 and section 332 of the Financial Services and Markets Act 2000.

Regulation 1

The SRA Authorisation of Firms Rules shall be amended as follows:

(a) replace rule 1.3(a) with

“(a) if you are a company, be incorporated and registered in England and Wales, Scotland or Northern Ireland under Parts 1 and 2 of the Companies Act 2006; and”;

(b) in rule 13.7(b), delete “and”, and at the end of (c) delete “.” and insert “; (d) expires when the *person* ceases to be eligible under rule 8.2.”; and

(c) replace Annex 1 with

Annex 1: Transitional arrangements under paragraph 7(3) of Schedule 5 to the LSA

1 A *licensable body* will be eligible to be a *recognised body* if as at 6 October 2011, it has been recognised by the *SRA* under section 9 of the *AJA* but has an *interest holder* or *manager* that is not a *lawyer* or a legally qualified body. It shall continue to be treated as a *recognised body* for the purposes of these rules and the *SRA's regulatory arrangements* until:

(a) such time as it ceases to comply with the management and control requirements set out in paragraph 2 below; or

(b) the end of the transitional period under Part 2 of Schedule 5 to the *LSA*, or such earlier time as the body may elect,

at which time it must apply for authorisation as a *licensed body*.

2 The management and control requirements are:

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- (a) at least 75% of the body's *managers* must be:
- (i) individuals who are, and are entitled to practise as, *lawyers of England and Wales*, advocates or solicitors in Scotland, members of the Bar of Northern Ireland, solicitors of the Court of Judicature of Northern Ireland or *RFLs*; or
 - (ii) *bodies corporate* which are legally qualified bodies,
- although a legally qualified body cannot be a *director* of a body which is a *company*;
- (b) individuals who are, and are entitled to practise as, *lawyers of England and Wales*, advocates or solicitors in Scotland, members of the Bar of Northern Ireland, solicitors of the Court of Judicature of Northern Ireland or *RFLs* must make up at least 75% of the ultimate beneficial ownership of the body; and
- (c) individuals who are, and are entitled to practise as, *lawyers of England and Wales*, advocates or solicitors in Scotland, members of the Bar of Northern Ireland, solicitors of the Court of Judicature of Northern Ireland or *RFLs*, and/or legally qualified bodies, must:
- (i) exercise or control the exercise of at least 75% of the *voting rights* in the body; and
 - (ii) if the body is a *company* with shares, hold (as registered *members* of the *company*) at least 75% of the shares.
- (d) every *interest holder* of the *recognised body*, and every *person* who exercises or controls the exercise of any *voting rights* in the body, must be:
- (i) an individual who is, and is entitled to practise as, a *lawyer of England and Wales*, an advocate or solicitor in Scotland, a member of the Bar of Northern Ireland, a solicitor of the Court of Judicature of Northern Ireland or an *RFL*;
 - (ii) a legally qualified body; or
 - (iii) an individual who is approved by the *SRA*, and is a *manager* of the body;
- (e) an individual who is not entitled under paragraph 2(d)(i) may be an *interest holder* of a *recognised body* without being a *manager* of the body if:

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- (i) the *recognised body* is a *company* which is wholly or partly owned by a *partnership* or *LLP* which is a *legally qualified body*;
- (ii) the individual is approved by the *SRA* and is a *manager* of the *partnership* or *LLP*; and
- (iii) the individual is precluded under the *partnership* agreement or *members'* agreement from exercising or authorising any vote in relation to the *company*.

For the purposes of this annex, "legally qualified body" means a body which is:

- A. a *recognised body*; or
- B. an *authorised non-SRA firm* of which individuals who are, and are entitled to practise as, *lawyers of England and Wales*, advocates or solicitors in Scotland, members of the Bar of Northern Ireland or solicitors of the Court of Judicature of Northern Ireland or *RFLs* make up at least 75% of the ultimate beneficial ownership.

Regulation 2

The SRA Authorisation of Individuals Regulations shall be amended as follows:

- (a) in the title to regulation 3 delete "and part-qualified lawyers";
- (b) delete regulation 3.3;
- (c) in regulation 3F.2 replace "3F.3" with "3F.3A, 3F.3B,";
- (d) replace 3F.3 with:

"3F.3A If you are:

- (a) a solicitor or barrister qualified in Northern Ireland;
- (b) a solicitor or advocate qualified in Scotland; or
- (c) a *barrister*,

the *SRA* may grant you an exemption from one or more of the *QLTS assessments*, or parts of them, as we consider appropriate based upon your qualification and experience.

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3F.3B If regulation 3F.3A does not apply, the **SRA** may grant you an exemption from such of either those **QLTS assessments** which together comprise the multiple choice test, or those **QLTS assessments** which together form the objective structured clinical examination, or both, as we consider appropriate based upon your qualifications and experience.”; and

(e) replace regulation 4.1 with:

“European Communities (Lawyer’s Practice) Regulations 2000

4.1 If you are an **REL** or you were an **REL** immediately before the end of IP completion day, you will be eligible for admission as a **solicitor** under Part V of the European Communities (Lawyer’s Practice) Regulations 2000 to the extent that they continue to have effect in accordance with the Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2020, if:

- (a) you satisfy the requirements of those regulations; and
- (b) the **SRA** is satisfied as to your **character and suitability** to be a **solicitor**.”;

(f) at the beginning of regulation 6.3 insert “Subject to regulation 6.3A” and replace “You” with “you”;

(g) in regulation 6.3(a) delete “who is not a barrister of the Republic of Ireland” and insert “and you are a Swiss lawyer as defined in paragraph 2 of regulation 6 of The Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2020”;

(h) in regulation 6.3(b) replace “home professional title” with “your Swiss professional title as defined in the European Communities (Lawyer’s Practice) Regulations 2000”;

(i) in regulation 6.3(c) replace “your home Member State” with “Switzerland”;

(j) after regulation 6.3 insert:

“6.3A At the end of the period of four years beginning with IP completion day, you will be eligible for registration in the **register of European lawyers** if you satisfy the requirements of regulation 6.3 and you fall within paragraph 4 but not

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paragraph 5 of regulation 6 of The Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2020”;

(k) in regulation 9.10(a) replace “Directive 2005/36” with “the European Union (Recognition of Professional Qualifications) Regulations 2015”; and

(l) After regulation 11.7 insert:

“11.8 If you are:

- (a) an *RFL*;
- (b) were an *REL* immediately prior to IP completion day; and
- (c) have made an application under regulation 29 of the European Communities (Lawyer’s Practice) Regulations 2000 to which regulation 9 of The Services of Lawyers and Lawyer’s Practice (Revocation etc.) (EU Exit) Regulations 2020 applies

you are entitled to continue to carry on or undertake those activities and that work you were entitled to do immediately prior to IP completion day under regulation 9 of these regulations until your application referred to in (c) has been finally determined or withdrawn.

Regulation 3

In paragraph 2 of Annex 3 to the SRA Application, Notice, Review and Appeal Rules replace “legislation implementing the *Establishment Directive* in the *UK*.” with “Part V of the European Communities (Lawyer’s Practice) Regulations 2000”.

Regulation 4

The SRA Financial Services (Conduct of Business) Rules shall be amended as follows:

(a) replace rule 13.1 with:

“13.1 You must not use, or propose to use, the services of another *person* consisting of:

- (a) *insurance distribution*;
- (b) *reinsurance distribution*;
- (c) *insurance distribution activity*; or
- (d) *home finance mediation activity*;

unless the *person*:

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- (i) has permission to carry on the activity under Part 4A *FSMA*;
- (ii) is permitted to carry on the activity under an exemption made in or under *FSMA*, to the general prohibition set out in section 19 of *FSMA*;
- (iii) in relation to *insurance distribution activity*, is not carrying on this activity in the *UK*; or
- (iv) in relation to *home finance mediation activity*, is not carrying on this activity in the *UK*.”;

(b) replace rule 13.2 with:

“13.2 Before using the services of the intermediary, you must check the *Financial Services Register* and use the services of that person only if the relevant register indicates that the person is registered for that purpose.”; and

(c) replace rule 24.1(b) with:

“when providing such explanations, comply with the requirements of the *FCA* Consumer Credit sourcebook 4.2.5R.”.

Regulation 5

Delete paragraph 12 of the Solicitors Qualifying Examination (SQE): approach to qualified lawyers seeking admission as a solicitor of England and Wales, the principles.

Regulation 6

The SRA Glossary shall be amended as follows:

(a) the definition of “ancillary insurance intermediary” shall be replaced with:

“has the meaning given to “IDD ancillary insurance intermediary” in the *FCA Handbook*”;

(b) the definition of “authorised insurer” shall be replaced with:

“has the meaning given in section 87(1A), (1B) and (1C) of the *SA*”;

(c) the definition of “insurance-based investment product” shall be replaced with:

“has the meaning given in the *FCA Handbook*”;

(d) the definition of “insurance intermediary” shall be replaced with:

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- “has the meaning given to “IDD insurance intermediary” in the *FCA* Handbook”;
- (e) the definition of “Insurance Product Information Document” shall be replaced with:
- “has the meaning given in the *FCA* Handbook”;
- (f) the definition of “insurance undertaking” shall be replaced with
- “has the meaning given to “IDD insurance undertaking” in the *FCA* Handbook”;
- (g) in the definition of “lawyer” replace sub-paragraph c with “c. any profession approved by the SRA for *RFL* status; and”;
- (h) in the definition of “lawyer of England and Wales” replace “a member of an Establishment Directive profession registered with the Bar Standards Board under the Establishment Directive” with “an individual registered with the Bar Standards Board under the European Communities (Lawyer’s Practice) Regulations 2000”;
- (i) the definition of “reinsurance distribution” shall be replaced with:
- “has the meaning given in the *FCA* Handbook”;
- (j) In the definition of “third party managed account”
- i. after “authorised payment institution” delete “,” and insert “or”
 - ii. delete the words “or an *EEA* authorised payment institution” and
 - iii. after “Payment Services Regulations” insert “2017”; and
- (k) The following definitions shall be deleted:
- EEA
 - Establishment Directive
 - Establishment Directive profession
 - Establishment Directive state
 - European corporate practice

Regulation 7

The following regulations are revoked:

- (a) The SRA Regulatory Arrangements (EU Exit) (Amendment) Regulations

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- (b) The SRA Regulatory Arrangements (EU Exit Switzerland etc) (Amendment) Regulations
- (c) The SRA Regulatory Arrangements (EU Exit Financial Services) (Amendment) Rules 2019
- (d) The SRA Regulatory Arrangements (EU Exit) (Amendment No 2) Regulations 2019
- (e) The SRA Regulatory Arrangements (EU Exit) (Amendment No 3) Regulations 2019
- (f) The SRA Regulatory Arrangements (EU Exit) (Amendment No 4) Regulations 2019

Regulation 8

These regulations shall come into force at 11pm on IP completion day.