



**Applications by the Institute of Chartered Accountants in England and Wales (ICAEW) to the Legal Services Board for a recommendation to the Lord Chancellor that it be designated as an approved regulator and licensing authority for reserved legal activities**

**August 2016**

*Background*

The ICAEW is a body founded by a Royal Charter in May 1880 and which received a supplementary Charter in 1948. It is a regulator and professional membership body for the accountancy profession in England and Wales. It provides leadership and practical support to its UK and international members and professional standards are maintained through working closely with governments, regulators and the industry. It also undertakes education and training to support students studying to become chartered accountants.

In 2014 the ICAEW was granted designation as an approved regulator and licensing authority for probate activities. It started accrediting firms for probate activities in September 2014 and the number of applications for authorisation and licensing received in its first 18 months exceeded its expectations. According to the ICAEW, research conducted by it shows that work currently carried out by accountancy firms would be complemented by all the further reserved legal activities. In making the applications for designation as an approved regulator and licensing authority, ICAEW hope to provide consumers with access to a complete service of legal activities through their authorised members.

The ICAEW have made two applications to the Legal Services Board (**LSB**) to become an approved regulator and licensing authority. The first application has been made under Part 2 of Schedule 4 to the Act for designation as an approved regulator, and the second application is for designation as a licensing authority under Part 1 of Schedule 10 to the Act.

In preparing for both applications the ICAEW have developed a single regulatory framework that will apply for the most part equally to authorised firms and ABS wishing to undertake reserved legal activities.

## Scope

The applications if granted, will allow the ICAEW to authorise firms to undertake the following reserved legal activities as an authorised firm in which all principals and owners are individually authorised; or a licensed firm (Alternative Business Structure (**ABS**)) in which not all principals and owners are authorised:

- Rights of audience
- Conduct of litigation
- Reserved instrument activities
- Notarial activities
- Administration of oaths

The scope of both the ICAEW's applications is restricted to the activities of conduct of litigation, rights of audience and reserved instrument activities solely to services relating to taxation. 'Tax' is defined in the ICAEW's proposed regulations as:

*Any taxes, duties (including customs and excise duties), like contributions (including in particular national insurance contributions) and levies (including apprenticeship levy) whether in the United Kingdom or any part of the United Kingdom or in any other jurisdiction and including any interest, surcharges and penalties relating to such liabilities.*

## Structure of the application

The main part of the **applications** consists of:

- **Executive summary** – Introduction and structure of the application (page 8); scope of regulation, business case (page 10); proposed regulations (pages 10-13)
- **Who we are** - the ICAEW's Royal Charter and constitution; overview of the organisational structure, governance and membership requirements (pages 14-15)
- **ICAEW as regulator and monitoring body** – the ICAEW's current regulatory responsibilities and oversight bodies (page 16); regulatory governance (pages 16-23); broader regulatory activity (pages 24-27)
- **ICAEW's applications to regulate reserved legal activities** – the reserved activities (page 29); business case (pages 29-34); how the ICAEW will ensure that accredited legal services firms will differentiate between tax services which relate to reserved legal activities and those that do not (pages 35-38); entitlement to carry out a reserved legal activity (page 38)
- **How ICAEW will build upon the current regulatory arrangements and procedures for the reserved legal activity of probate** – applications process and staff resources (page 40); Legal Services Committee (pages 40-44)
- **ICAEW Legal Services Applications and Qualifications Framework** Introduction (page 45); Applications for individual authorisation (page 46); Continuing Professional Development (page 50).

- **Designation as an approved regulator** – Rationale (page 54): Who it will accredit as authorised firms (page 54); The authorisation process (pages 55-62); Post-authorisation arrangements pages (pages 62-64); Monitoring compliance (page 64); Modification and dispensations (pages 65-66); Complaints-handling arrangements (pages 66-67); Enforcement and discipline (pages 69-71)
- **Designation as a licensing authority** – who it will accredit as licensed authority; proposed regulations: regulatory arrangements (pages 73-100)
- **The regulatory objectives and better regulation principles** (pages 100-108)
- **Business Plan and funding and draft timetable** (pages 107-110)
- **Internal governance** – background; compliance with the LSB Internal Governance Rules as an approved regulator; proposed arrangements and applicable approved regulator statement (pages 111-123)
- **Regulatory conflict** (pages 123-125)
- **Charter and Statutory Powers** (page 126)
- **Consultation** including responses (pages 127- 136)
- **Statement, contact details, glossary of defined abbreviations**(pages 137 - 138)

This is supported by **33 annexes** listed at the end of this synopsis.

### *Consultation*

The ICEAW consulted on the application for 12 weeks between the end of January and early May 2016 and contacted the top 30 member firms and 44 internal and external stakeholders. It also conducted a research project to ascertain member firms' likely interest in applying to ICAEW to carry out the further reserved legal activities applied for. Seven responses were received from member firms, and there were also responses from:

- The Legal Ombudsman
- Financial Reporting Council
- The Society of Scrivener Notaries
- The Notaries Society
- The Master of the Faculties
- The Law Society

The ICAEW also had meetings with the Lord Chief Justice, the Law Society and the Master of the Faculties to discuss the draft application.

### *Timetable*

The Act requires the LSB to make a decision on a designation application within 12 months of the application being made (which can be extended to a maximum of 16 months). **The applications were received on 20 July 2016 and the LSB will therefore make a decision by 19 July 2017** (or no later than 19 November 2017 if an extension notice is issued).

The LSB has set itself an internal target of making a decision on whether to make a recommendation to the Lord Chancellor within 6 months of the application being deemed

complete. This is of course dependent on what emerges from the detailed consideration of the application.

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