

Freedom of Information request
LSB reference: 20140507

1	Regulation: What is the minimum permitted number of managers of a licensable body?
2	Regulation: Is a licensable body permitted to have no “non-lawyer” manager?
3	Regulation: by necessity, a licensable body might need to change its personnel. What is the regulatory position where an authorised and regulated manager leaves the licensed body? What must the licensed body regulator [SRA] do to ensure compliance where a non-lawyer stops being an approved manager and director, and the licensable body has no “non-lawyer” manager?
4	Regulation: what must SRA do when any ABS changes its management structure?
5	Regulation: What must [regulation] SRA do when an ABS seeks a loan from a bank such as a mortgage or charge? Must [regulation] the investor [<i>as this is basically what the lender is as a charge on assets of a company is a legal transaction</i>] have to be authorised by the SRA to do so, and, by so doing, become <i>de facto</i> an SRA-approved “non-lawyer” manager of the ABS?
6	Must [regulation] an ABS have a non-lawyer investment and/ or a non-lawyer “material interest”?
7	Must [regulation] the SRA remove the licence of a licensable body if there is no “non-lawyer manager” or any “non-lawyer” material interest at all?
8	Regulation: if and when a licensable body ceases to have any non-lawyer manager and/or non-lawyer investment, does it stop being <i>de facto</i> a licensable body? If so, how does the Regulator control such a body to ensure compliance? This is important, say, when a firm changes personnel for whatever reason.
9	Regulation: How is a non-lawyer “material interest” determined? If a company makes a financial arrangement with a lending bank to provide a mortgage or a charge on that company, does this bank or lender have to be regulated and authorised by the SRA to do so, as it would appear to me that it would make such a lender <i>de facto</i> a non-lawyer manager of this firm and perforce the ABS itself? This is crucial as clients might have a potential conflict of interest if, say, they did not know who was actually investing in the ABS.
10	Regulation: Does an ABS have to seek re-registration if it makes a financial arrangement to secure a charge on its property, in return for financial loans to the company? Or does the SRA just allow the ABS to make whatever arrangements it chooses without saying that there is a new charge or a mortgage on the ABS company?
11	Regulation: is there a specific requirement for a licensable body to have a “non-lawyer” involvement at all? Is it permissible to have a licensable body where the sole investors holding “material interest” are lawyers [lawyers as defined by definition of the Legal Services Act 2007]?
12	Regulation: Please confirm than a licensable body [ABS] does not REQUIRE to have a non-lawyer manager.
13	Regulation: Please confirm that a licensable body [ABS] does not REQUIRE to have non-

	lawyer investment/ hold a material interest.
14	Regulation: Can an ABS have just 1 SRA-approved Manager and still be a licensable body
15	Regulation: Can a sole practitioner regulated lawyer [eg Solicitor] own and run and manage a licensable body [ABS] without any “non-lawyer” Manager and/or “non-lawyer” investment?
16	Regulation: what are the essential differences between the ABS regulations governing England and Wales and those governing Scotland? What happens when people from two different countries such as England/Wales and Scotland wish to set up an ABS? Which legislation prevails? How many instances has the Law Society/SRA had where this has been mooted? Have any ABS structures been created using either one or the other legislation where it was a clear choice between the two? If yes, how many went to be regulated in Scotland and how many went to be regulated in England/Wales?

I have sent this to the SRA on 5 May 2014 but as they may have different data from that held by the Legal Services Board, I am now making this a formal Freedom of Information Request to the Legal Services Board who, as I understand, regulate the regulators who authorise and regulate Licensable Bodies [Alternative Business Structures].

As I understand it, the original intention of the Legal Services Act 2007 was a radical restructuring of the entire legal services from top to bottom. I also understand that there is currently debate as to whether or not there should be one sole Regulator of Legal Services and, as such, the questions I am asking are important in regards to all Licensable Bodies and not just those controlled by the Solicitors Regulation Authority.

From: [Adewale Kadiri](#)
To: [REDACTED]
Cc: [Julie Myers](#); [Bryony Sheldon](#); [Fran Gillon](#); mail@islandmp.com
Subject: Response to FOI requests
Date: 30 May 2014 16:58:00

Dear [REDACTED]

I write in response to your emails of 6 and 7 May 2014 in which you request, under the Freedom of Information Act, information about how the Solicitors Regulation Authority (SRA) regulates Alternative Business Structures (ABS), and about the LSB's legal status.

In response to the queries raised in your emails of 6 May:

1. The LSB's legal status: the LSB was established by the Legal Services Act 2007 (the Act). It is an Executive Non-Departmental Public Body. It is independent of government and answerable to Parliament through the Lord Chancellor. The LSB does not receive funding from the public purse; it is funded by a levy upon the legal profession.

2. The LSB's responsibilities under the Freedom of Information Act: The LSB is defined as a public authority in Part VI of Schedule 1 to the Freedom of Information Act (FoIA) which means that it is bound by the provisions of the FoIA. In this regard, a complaint could be made to the Information Commissioner's Office if it is felt that the provisions of the FoIA have not been complied with. The link below to the ICO website provides further information on this point:

http://ico.org.uk/for_organisations/freedom_of_information/guide/complaints. Neither the SRA nor the Law Society are public authorities, and they are therefore not bound by the provisions of the Act.

In your email of 7 May, you raised a number of detailed questions about the regulation of ABS. As you know, the LSB's remit as oversight regulator does not extend to the authorisation and frontline regulation of such bodies; rather these questions are best referred to the SRA. I am aware that you have sent an identical list of questions to them – their responses would be based on their policies, procedures and practices in authorising and regulating ABS.

The responses below are based on the provisions of the Act. You can access all the sections referred to below by clicking on this link: <http://www.legislation.gov.uk/ukpga/2007/29/contents>:

1. The minimum permitted number of managers (defined in section 207 of the Act) of a licensable body is 1.
2. Yes. The requirements for a body to be licensable are set out in section 72 of the Act. A body is licensable if a non-authorised person (defined in section 18 of the Act) is a manager or has an interest in the body, or another body is a manager or has an interest in it.
3. This will depend on whether the body remains a licensable body under section 72, as explained above. Section 18 of the Act (see link) sets out the position when an authorised body ceases to be licensable. The SRA will be able to inform you of the steps that they would take in the situation that you describe
4. In the event that an ABS changes its management structure, any new person who has a material interest (defined in paragraph 3 of schedule 13 of the Act) would become subject to approval by the licensing authority. Again you would need to enquire of the SRA about the specific steps that they as a licensing authority would take in granting this approval
5. This is a matter to be taken up with the SRA
6. See section 72 of the Act, as discussed above
7. Section 18(6) of the Act sets out the position where a body ceases to be a licensable body

8. Again section 18(6) addresses this point
9. As explained above, material interest in this regard is defined in paragraph 3 of Schedule 13 to the Act
10. This is a matter to be taken up with the SRA
11. See section 72 above
12. See section 72 above
13. See section 72 above
14. See section 72 above
15. See section 72 above
16. The LSB does not hold information about the legal regulatory framework in Scotland. Questions about the approval requirements if someone from Scotland wishes to set up an ABS would need to be referred to the SRA.

I hope that this has been of assistance, but if you are dissatisfied with this response to your request for information, you have the right to ask for an internal review / to submit a complaint (see LSB's Freedom of information – Complaints procedure:

http://www.legalservicesboard.org.uk/can_we_help/lsb_policies_procedures/freedom_of_information/index.htm
)

Yours sincerely

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