



Summary of Decision

The following table is a high level summary of the decision of the Legal Services Board. It is not a formal part of the decision notice.

Purpose of notice
To set out the LSB's decision to grant the application from the ACCA in which it applied to introduce regulatory arrangements for probate activities.
Alterations that are being approved by this decision
Introduction of regulatory arrangements which will create a framework for the ACCA to be able to authorise individuals to carry on probate activities. This includes amendments to the ACCA's <i>Additional Practising Regulations for the United Kingdom, Jersey, Guernsey and Dependencies of the Isle of Man</i> and the introduction of the <i>Legal Activities Regulations 2018</i> .

Decision notice

The Association of Chartered Certified Accountants (ACCA) rule change application for approval of the introduction of regulatory arrangements for probate activities.

The Legal Services Board (“**LSB**”) has granted an application from the Association of Chartered Certified Accountants (“**ACCA**”) for approval of the introduction of regulatory arrangements to regulate and authorise probate activities. The LSB is required by Part 3 of Schedule 4 to the Legal Services Act 2007 (the Act) to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.

The ACCA was added to the list of approved regulators within Part 1 of Schedule 4 to the Act, by the Legal Services Act 2007 (Approved Regulators) Order 2009 (S.I. 2009/3233) “the ACCA Order”. The ACCA Order came into force on 30 December 2009 and confirmed that the ACCA was to be recognised as an approved regulator for the reserved legal activity of probate.

This decision notice sets out the decision taken, including a brief description of the changes. The chronology for the LSB’s handling of this application is also set out at the end of this decision notice.

Proposed changes

1. As set out above, the ACCA is an approved regulator for probate activities. However, since the ACCA Order came into force, the ACCA has not carried out this function. In making its application to the LSB the ACCA sought to introduce regulatory arrangements that will enable it to perform the function granted under the ACCA Order for the first time.
2. The changes proposed in this application include amending the ACCA’s *Additional Practising Regulations for the United Kingdom, Jersey, Guernsey and Dependencies of the Isle of Man* (which are at Annex 1 to the Global Practising Regulations 2003) and introducing the new *Legal Services Regulations 2018*.

Key issues considered in the assessment of the application

3. The ACCA is proposing to use its status as an approved regulator for the first time. The LSB must consider a new set of regulatory arrangements, and be satisfied that the ACCA will perform its function as an approved regulator in accordance with the Act’s “designation requirements”.
4. The designation requirements are relevant because the LSB may only refuse an application to alter regulatory arrangements (or introduce new ones) if it is satisfied that one or more of the grounds for refusal in paragraph 25 of Schedule 4, including the ground for refusal set out in paragraph 25(3)(b):

*“granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or **would result in any of the designation**”*

requirements ceasing to be satisfied in relation to the approved regulator
[emphasis added].

Governance and independence

5. We considered whether the ACCA's arrangements to secure compliance with the LSB's Internal Governance Rules (**IGRs**)¹ were satisfactory. We did this because one of the designation requirements for an approved regulator is that the applicant must have appropriate internal governance arrangements at the point of designation; regulatory functions must not be prejudiced by its representative functions; and, as far as reasonably practical, regulatory decisions are to be taken independently of representative ones.²
6. The LSB has concluded that the ACCA is not an applicable approved regulator (**AAR**)³ under the terms of the LSB's current IGRs. Consequently, the full IGRs schedule (which includes, for example, the requirement for a lay majority on the governing body of the regulatory body) does not apply to the ACCA.
7. The ACCA's proposed arrangements are that its **Regulatory Board** will be the body to oversee ACCA's legal regulatory functions. The top of the ACCA's governance structure is the **Council**, which determines ACCA's overall objectives, strategy and budget. The **Executive Team** is the most senior decision-making team in ACCA's management structure and has overall responsibility for the delivery of ACCA's strategy and plans on behalf of the Council. The **Governance Leadership Team** is led by the Executive Director – Governance, who is also a member of the Executive Team, and has responsibility for the governance of ACCA and of its members and students. These bodies support the Council. In contrast, while the Regulatory Board does report to the Council, it is independent from the Council as set out below in paragraph 8.
8. The ACCA stated that its Regulatory Board was established in 2008 to carry out independent oversight of the regulatory functions then exercised by ACCA and to support the ACCA in discharging its public interest responsibilities. The ACCA expressed in its application that the Regulatory Board operates impartially and at "arm's length" from the governance of ACCA's representative functions, which are led by the Council. The application also stated that the Board's responsibilities include independent oversight of the ACCA's regulatory and disciplinary committees and of matters relating to the integrity of the qualifications process. The Board reports to the Council on the fairness and impartiality of those activities. It is required to have a non-accountant majority, which, in the ACCA's terms, is considered a lay majority. However, although it is not required to, the Board also has a non-lawyer majority at

¹ For further information, please refer to the LSB's IGRs which are published on the LSB's website at this link: http://www.legalservicesboard.org.uk/Projects/pdf/internal_governance_rules%202009_final_km.pdf

² As set out in paragraphs 13(2)(a) and 13(3)(a)-(b) of Schedule 4 to the Act respectively, for approved regulator and reserved legal activity applications.

³ An "applicable approved regulator" as defined in the LSB Internal Governance Rules is an approved regulator that is responsible for the discharge of regulatory and representative functions in relation to legal activities in respect of persons whose primary reason to be regulated by that approved regulator is those person's qualifications to practise a reserved legal activity that is regulated by that approved regulator.

present. The Board comprises a non-accountant Chair, a further five non-accountant members (three of which are lawyers currently) and two Council (accountant) members.

9. The ACCA's application also sets out that the Regulatory Board provides oversight through three sub-Boards: Appointments Board, Qualifications Board and Standards Board. Each sub-Board has a clear programme of work, directed at strengthening the public interest elements of the ACCA's activities. Although the sub-Boards are appointed by the Council, they report to the Regulatory Board through their chairmen.
10. The LSB met the Chair of the Regulatory Board as part of our assessment of the application to seek further re-assurance of the regulatory independence of the Regulatory Board. The Chair explained that the Board went through change about three years ago, which expanded its scope to be what the ACCA calls a fully-functioning public interest board. The Regulatory Board regularly looks at the risk register and performance against KPIs, as well as considering bigger strategic issues.
11. The LSB is satisfied that the ACCA governance arrangements are sufficient to comply with the current LSB IGR. The LSB is currently reviewing the IGRs.⁴ One of the issues being explored as part of this review is whether the definition of AAR in the IGR (which, at the moment and as set out in paragraph 6 above, means that ACCA is excluded from the more detailed requirements set out in the Schedule to the IGR) continues to be appropriate.

Professional indemnity insurance and compensation

12. The LSB also wanted to be sure that there is protection for consumers and that appropriate insurance and compensation arrangements are in place. For this reason, we looked at the ACCA's requirements for professional indemnity insurance (PII) and fidelity guarantee insurance (FGI) included in the application, as well as asking for some additional information.
13. The PII requirements, according to the ACCA's regulations, are that there must be a minimum of £100,000 of cover, but PII cover must also be at least 25 times the firm's largest fee. Additionally, the regulations state that "PII must provide cover in respect of all civil liabilities incurred".
14. A concern we initially had was the relatively low minimum PII requirement compared to other approved regulators. However, the additional requirements to have cover for all civil liabilities incurred and at a level of 25 times the largest fee addresses the concerns about the minimum cover required. Furthermore, the ACCA provided additional information that the ACCA's Practice Monitoring department, in many years of monitoring experience, does not recall having seen any PII claims that have been close to or in excess of 25 times the largest fee of the practice.

⁴ http://www.legalservicesboard.org.uk/what_we_do/consultations/open/pdf/2017/IGR_consultation_doc_-_final_version.pdf

15. The LSB raised the matter of the ACCA having no compensation fund. Although most of the approved regulators have compensation funds, it is not a statutory requirement. We sought further information from the ACCA about the decision not to have a fund. The response stated that the ACCA does not operate a compensation scheme due, in part, to the requirement to hold FGI as well as PII. While ACCA's Global Practising Regulations set out that PII must provide cover in respect of all civil liabilities incurred in connection with the firm's business, they also set out that FGI must include cover against any acts of fraud or dishonesty by any partner, director or employee in respect of money or goods held in trust by the firm.⁵ In this way, FGI has a similar role to a compensation fund in that it offers protection for consumers in situations that are not covered by PII. In addition, the orders available to an ACCA Disciplinary Committee include the payment of compensation to the complainant and a waiver or reduction of fees.
16. The LSB is satisfied that the ACCA's PII and compensation arrangements are appropriate.

Education and training

17. In the application, the ACCA appears to have misinterpreted the LSB's role regarding education and training providers. The LSB does not approve or accredit training providers or courses, which we have since clarified with the ACCA.

Consultation

18. In the LSB's communications with the ACCA prior to its submission of its application, we noted that, while the ACCA had consulted its members to gauge interest in providing probate services, it was not intending to consult on the proposed regulations themselves. Subsequently, the ACCA consulted on the draft regulations more widely, in particular with the other regulators, the Competition and Markets Authority (CMA), the Legal Services Consumer Panel and the Lord Chief Justice,⁶. The ACCA received 24 responses to the consultation from ACCA members in practice. The ACCA told us that these responses were supportive of the application and any issues raised were not significant and were not relevant to the final application. The result was that the CMA provided comments on the draft application to the LSB, which we have considered in our assessment of the application, but did not provide a formal response to the ACCA. The Consumer Panel, the Lord Chief Justice and the other approved regulators did not provide responses to the ACCA.

⁵ Regulation 9 of the ACCA's Global Practising Regulations addresses PII and FGI requirements. This can be found at page 76 of the ACCA Rulebook 2017:

http://www.accaglobal.com/content/dam/ACCA_Global/Members/Doc/rule/ACCA%20Rulebook%202017.pdf

⁶ The CMA, the Legal Services Consumer Panel and the Lord Chief Justice are mandatory consultees, meaning the LSB must consult them when assessing a designation application. This is not a designation application, but these organisations make up a key group of stakeholders who we thought should be offered the opportunity to comment. Therefore we encouraged the ACCA consult them directly.

The ACCA's Legal Activities Regulations 2018

19. The LSB sought clarification from the ACCA on articles 6(2) and 6(3) of the Regulations. Article 6(2)(b) and its three subsections relate to non-members becoming authorised to carry on a reserved legal activity. Subsections (i) and (ii) relate to section 13(2)(a) of the Act and set out the ways in which a person can be “authorised” by either the ACCA or another approved regulator. There are no other means under the Act by which a person can be “authorised”, but subsection (iii) originally referred to being “otherwise authorised” under the Act. We raised this with the ACCA, who amended the Regulations to say “otherwise entitled”, which aligns with the language used in section 13(2) of the Act.
20. We sought additional information about article 6(3) of the Regulations, which refers to waiving the requirements of 6(2), and the circumstances in which this article may be used. The ACCA responded that, in respect of a waiver from the requirements of 6(2), there may conceivably be a situation in which an applicant has been unable to complete part of the course or, for some reason, may be unable to provide evidence of competence ‘in a manner prescribed by the Association’. The ACCA further explained that such occurrences would be unlikely, but it is a proportionate measure to allow a waiver in limited situations. The ACCA’s Admissions and Licensing Committee hearings are attended by a legal adviser, who would be able to stop the Committee issuing a waiver if a waiver would contravene the requirements of the Act.
21. Additionally, article 6(3) originally stated that article 6(2) could be waived to the extent permitted by the Legal Services Act and the Legal Services Board. We notified the ACCA that the reference to the LSB here is technically incorrect as we have no role in permitting case-by-case waivers of an approved regulator’s rules and regulations. Our key interest would be to seek assurance that such waivers would not breach the Act, which was already clearly set out in the drafting of article 6(3) in the Regulations. The ACCA has since amended the drafting of 6(3) to remove the reference to the LSB.

Remaining tasks for implementation

22. The ACCA’s application included an implementation timetable with high level milestones. The LSB asked the ACCA what else remained to be done outside of the application process. We sought information on how the remaining tasks would fit alongside the implementation timetable. The ACCA has shared with the LSB a detailed implementation plan of what remains to be done and by when. Key actions from this are summarised in the following paragraphs.
23. The ACCA explained that, outside of this application process, discussions were taking place with an education and training provider to develop a probate training course as an additional route to probate authorisation. This does not need to be finalised prior to the ACCA beginning authorisation as there are other courses, such as the ICAEW course, that individuals can take to meet the ACCA’s authorisation requirements.

24. The practising fees that the ACCA will charge also have yet to be set. This will occur outside of this application process through a PCF application to the Board, but the fees must be approved before authorisation begins.
25. The ACCA will need to have a working relationship established with the Legal Ombudsman prior to starting to authorise individuals and firms. The ACCA has confirmed that a memorandum of understanding and Operational Protocol are almost finalised and awaiting signature, but will be in place before the ACCA begins authorisation for probate activities.

Decision

26. The LSB has considered the ACCA's application against the criteria in paragraph 25(3) of Schedule 4 to the Act. It considers that there is no reason to refuse this application; and accordingly, the application is granted.
27. Annexes A and B to this decision notice contain the regulatory arrangements approved by the LSB.

Chronology

- The LSB confirmed receipt of an application from the ACCA on 24 October 2017.
- The 28 day initial decision period for considering the application ended on 17 November 2017.
- Following the extension notice sent to the ACCA on 17 November 2017, the new decision period ends on 19 January 2018.
- This decision notice is effective from 18 January 2018.
- This decision notice will be published on our website on 18 January 2018.

Neil Buckley, Chief Executive

**Acting under delegated authority granted by the Board of the Legal Services Board
17 January 2018**

Notes:

1. The LSB is required by Part 3 of Schedule 4 to the Act to review and grant or refuse applications by approved regulators to make alterations to their regulatory arrangements.
2. Paragraph 25(3) of Schedule 4 to the Act explains that the LSB may refuse an application setting out a proposed change to the regulatory arrangements only if it is satisfied that
 - (a) granting the application would be prejudicial to the regulatory objectives
 - (b) granting the application would be contrary to any provision made by or by virtue of this Act or any other enactment or would result in any of the designation requirements ceasing to be satisfied in relation to the approved regulator
 - (c) granting the application would be contrary to the public interest
 - (d) the alteration would enable the approved regulator to authorise persons to carry on activities which are reserved legal activities in relation to which it is not a relevant approved regulator
 - (e) the alteration would enable the approved regulator to license persons under Part 5 [of the Act] to carry on activities which are reserved legal activities in relation to which it is not a licensing authority, or
 - (f) the alteration has been or is likely to be made otherwise than in accordance with the procedures (whether statutory or otherwise) which apply in relation to the making of the alteration.
3. The designation requirements referred to in paragraph 2(b) above are set out in paragraph 25(4) of Schedule 4 to the Act and are
 - (a) a requirement that the approved regulator has appropriate internal governance arrangements in place
 - (b) a requirement that the applicant is competent, and has sufficient resources to perform the role of approved regulator in relation to the reserved legal activities in respect of which it is designated, and
 - (c) the requirements set out in paragraphs 13(2)(c) to (e) of Schedule 4, namely that the regulatory arrangements are appropriate, comply with the requirements in respect of resolution of regulatory conflict (imposed by sections 52 and 54 of the Act) and comply with the requirements in relation to the handling of complaints (imposed by sections 112 and 145 of the Act).
4. In accordance with paragraphs 20(1) and 23(3) of Schedule 4 to the Act, the LSB has made rules⁷ about the manner and form in which applications to alter regulatory arrangements must be made. Amongst other things, the rules highlight the applicant's obligations under section 28 of the Act to have regard to the Better Regulation Principles. They also require applicants to provide information about each proposed change and details of the consultation undertaken.
5. If the LSB is not satisfied that one or more of the criteria for refusal are met, then it must approve the application in whole, or the parts of it that can be approved.

⁷ Rules for Rule Change Applications – Version 2 (November 2010)

Additional Practising Regulations for the United Kingdom, Jersey, Guernsey and Dependencies and the Isle of Man

Annex 1 to The Chartered Certified Accountants' Global Practising Regulations 2003

1. Application

The regulations contained in this annex form part of The Chartered Certified Accountants' Global Practising Regulations 2003, and shall apply to all members and to all persons who otherwise agree to be bound by them.

2. Interpretation

(1) In these regulations, unless the context otherwise requires:

ACCA student means a registered student who is undertaking the ACCA Qualification examinations;

agent, in relation to a person, means any person (including an employee) who acts on that person's behalf;

appropriate qualification means a qualification in accordance with section 1219 of the Companies Act 2006 of the United Kingdom;

approved regulator means a body designated as an approved regulator by Part 1 of Schedule 4 or under Part 2 of that Schedule (or both) and whose regulatory arrangements are approved for the purposes of the Legal Services Act 2007 in respect of one or more reserved legal activities;

Audit Directive means Directive 2006/43/EC of the European Parliament and of the Council on statutory audits of annual accounts and consolidated accounts;

audit qualification means an audit qualification to the practising certificate issued by the Association to individuals holding the Association's recognised professional qualification and referred to in regulation 6 of Appendix 1, which authorises the individual to hold himself out as an auditor and to carry on audit work;

audit report means a report on accounts or financial statements which is described as an audit report or having been made by an auditor or is given in true and fair terms or which states that the accounts present fairly the financial position;

audit working papers and investigation reports means:

- (a) any documents which are or have been held by a statutory auditor, an EEA auditor or a third country auditor and which are related to the conduct of an audit conducted by that auditor,
- (b) any report of an inspection into the conduct of an audit by a statutory auditor, an EEA auditor or a third country auditor, or
- (c) any report of an investigation into the conduct of a statutory auditor, and EEA auditor or a third country auditor;

auditing certificate means an auditing certificate issued by the Association to firms and referred to in regulation 5 of Appendix 1;

auditor means a person who signs or holds himself out as being available to sign an audit report whether or not that report is required by statute;

authorised person has the meaning given in section 18 of the Legal Services Act 2007;

contentious probate business means probate business done in, or for the purposes of, proceedings begun before a court or before an arbitrator appointed under the Arbitration Act 1950;

controller has the meaning given in paragraph 8(4) of Schedule 10 of the Companies Act 2006 of the United Kingdom;

EEA auditor means an individual who is approved in accordance with the Audit Directive by an EEA competent authority to carry on audit work;

EEA competent authority means a competent authority within the meaning of article 2.10 of the Audit Directive of an EEA state other than the United Kingdom;

EEA state means a state which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992 (as it has effect from time to time);

exempt regulated activities has the meaning given in The Chartered Certified Accountants' Designated Professional Body Regulations 2001;

group means a parent undertaking and its subsidiary undertakings;

group auditor means a person appointed as auditor to conduct an audit of group accounts;

insolvency licence means the licence issued by the Association which authorises the holder in accordance with section 390(2) of the Insolvency Act 1986 of the United Kingdom to act as an insolvency practitioner, and referred to in regulations 5 and 6 of Appendix 4;

insolvency practitioner means a person acting as such in accordance with section 388 of the Insolvency Act 1986 of the United Kingdom;

Legal Ombudsman means the scheme established by the Office for Legal Complaints under Part 6 of the Legal Services Act 2007 to resolve complaints about legal services according to the scheme rules;

Legal Services Board means the body responsible for legal services regulation constituted under section 2 and Schedule 1 of the Legal Services Act 2007;

licensable body has the meaning given in section 72 of the Legal Services Act 2007;

major audit means a statutory audit conducted in respect of:

- (a) a company any of whose securities have been admitted to the official list (within the meaning of Part 6 of the Financial Services and

Annex A

Markets Act 2000 of the United Kingdom); or

(b) any other person in whose financial condition there is a major public interest;

non-contentious probate business means any probate business which is not contentious probate business;

non-member means a person who is not registered as a student, affiliate or member of the Association;

probate activities has the meaning given in paragraph 6 of Schedule 2 of the Legal Services Act 2007;

public interest entity means:

(a) an issuer whose transferable securities are admitted to trading on a regulated market;

(b) a credit institution within the meaning given by Article 4(1)(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council, other than one listed in Article 2 of Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and investment firms; or

(c) an insurance undertaking within the meaning given by Article 2(1) of Council Directive 1991/674/EEC of the European Parliament and of the Council on the annual accounts and consolidated accounts of insurance undertakings;

qualified person means:

(a) in relation to an individual a person qualified to hold:

(i) a practising certificate with an audit qualification; or

(ii) a corresponding qualification to audit accounts under the law of an EEA state, or part of an EEA state, other than the United Kingdom; and

(b) in relation to a firm:

(i) a firm that is eligible to be appointed as an auditor; or

(ii) a firm that is eligible for a corresponding appointment as an auditor under the laws of an EEA state, or part of an EEA state, other than the United Kingdom;

recognised professional qualification means a qualification declared as such for the purpose of Part 2 of Schedule 11 of the Companies Act 2006 of the United Kingdom;

regulated work means work conducted under an insolvency licence, an auditing certificate, or a legal activities certificate;

reserved legal activities has the meaning given by section 12(1) and Schedule 2 of the Legal Services Act 2007;

senior statutory auditor means a person acting as such in accordance with section 504 of the Companies Act 2006 of the United Kingdom;

statutory auditor has the meaning given by section 1210 of the Companies Act 2006 of the United Kingdom;

supervisory body has the meaning given by section 1217(1) of the Companies Act 2006 of the United Kingdom;

third country means a country or territory that is not an EEA state or part of an EEA state;

third country auditor means a person, other than a person eligible for appointment as a statutory auditor, who is eligible to conduct audits of the accounts of bodies corporate incorporated or formed under the law of a third country in accordance with the law of that country;

third country competent authority means a body established in a third country exercising functions related to the regulation or oversight of auditors;

UK competent authority means the Financial Reporting Council Limited.

(2) For the purposes of these regulations, unless the context otherwise requires, a reference to the Companies Act 2006 of the United Kingdom or any of the provisions of that Act shall, in relation to the carrying on of public practice in Northern Ireland, the eligibility, the qualifications and other conditions in relation thereto and the functions of the Association as a supervisory body (or corresponding concept) in Northern Ireland, be deemed to be a reference to the corresponding legislation or provision of the law of Northern Ireland.

(3) Words importing the masculine gender include the feminine and words in the singular include the plural and vice versa.

(4) Any reference to a statutory provision shall include where the context permits the subordinate legislation made from time to time under that provision and any reference to a statutory provision or regulation shall include that provision or regulation as from time to time modified or re-enacted so far as such modification or re-enactment applies or is capable of applying to such reference.

(5) The Interpretation Act 1978 of the United Kingdom shall apply to these regulations in the same way as it applies to an enactment.

3. Meaning of public practice

(1) Activities

Public practice has the meaning described by regulation 4 of the Global Practising Regulations.

(2) Supervision for anti-money laundering

Members who provide accountancy services within the terms of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 by way of business, including those that fall outside the meaning described by regulation 4 of the Global Practising Regulations (for example book-keeping) will be subject to supervision for compliance with the anti-money laundering provisions under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. In such cases, eligible members should consider obtaining a practising certificate from the Association in order to be supervised by the Association. Alternatively, members must register with HM Revenue and Customs or another body recognised for such purposes.

4. Restrictions on carrying on public practice

(1) Members

- (a) A member holding an insolvency licence may not carry on an activity constituting public practice which is outside the practice of acting as an insolvency practitioner unless he holds a practising certificate.
- (b) A member who holds an insolvency licence who does not carry on an activity constituting public practice which is outside the practice of acting as an insolvency practitioner, but who is a partner or director of a firm where such an activity is carried on, is not required to hold a practising certificate.

(2) Members and firms

- (a) Firms that wish to accept an appointment as statutory auditor, or to be held out as available to accept such an appointment, and members who intend to be responsible for a firm's statutory audit work are required to comply with the requirements of Appendix 1.
- (b) Firms that wish to carry on reserved legal activities, or to be held out as available to carry on such activities, and individuals who intend to be responsible for a firm's reserved legal activities work, are required to comply with the requirements of Appendix 5.

5. Qualifications

(1) Qualifications required to hold a practising certificate

To be qualified to hold a practising certificate, members will need to meet the requirements of regulation 7 of the Global Practising Regulations.

(2) Qualifications required to obtain an audit qualification

To be qualified to hold an audit qualification, an individual must meet one of the following requirements:

- (a) where the audit qualification is to relate to the United Kingdom, the requirements of regulation 6 in Appendix 1;
- (b) where the audit qualification is to relate to Jersey, Guernsey and Dependencies, or the Isle of Man:
 - (i) comply with the relevant requirements in Appendix 3 of these regulations; or
 - (ii) have previously held an equivalent certificate issued by the Association. However, individuals will be required, prior to the audit qualification being granted, to demonstrate adequate competence in audit work by providing to the Association details of recent audit experience and recent audit-related CPD.

(3) To be qualified to carry on a reserved legal activity in England and Wales, an individual must meet the requirements of regulation 4 in Appendix 5.

(4) Professional competence

Members are reminded that they are required to attain professional competence appropriate to the professional services that they intend to provide. As described in section 130 of the Code of Ethics and Conduct, members must maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service.

6. Restriction on carrying on exempt regulated activities

No member, nor any firm in relation to which he is a sole proprietor, partner or director, may carry on, or purport to carry on, exempt regulated activities in the United Kingdom unless he or, as the case may be, it is registered by the Association to carry on exempt regulated activities or is otherwise authorised, or exempted from the need for authorisation, in respect of such exempt regulated activities for the purposes of the Financial Services and Markets Act 2000 of the United Kingdom. However, any member, or firm, satisfying the eligibility requirements contained in regulation 3 of the Designated Professional Body Regulations can register to conduct exempt regulated activities in accordance with and from the effective date of those regulations. The exempt regulated activities must be the only regulated activities carried out, other than regulated activities in relation to which the member or firm is an exempted person. Exempt regulated activities are as defined in the Designated Professional Body Regulations.

7. Professional indemnity insurance

(1) Practising certificates

Regulation 9 of the Global Practising Regulations applies to applicants for and holders of practising certificates.

(2) Continuity following cessation

Regulation 9(5) of the Global Practising Regulations applies to persons subject to regulation 7(1) in respect of their ceasing to engage in public practice, insolvency work, reserved legal activities, exempt regulated activities or investment business services or investment advice.

(3) Insurance mediation

Regulation 9 of the Global Practising Regulations sets out the limits of indemnity in respect of all holders of practising certificates. In addition, firms wishing to carry on insurance mediation activities must comply with the special requirements set out in regulation 4(3) of The Chartered Certified Accountants' Designated Professional Body Regulations 2001.

8. Continuing professional development

Firms which carry on regulated activities must require the individuals who are partners or directors or agents of the firm who are not members but who carry on regulated activities in the United Kingdom on behalf of the firm to comply with Membership Regulation 4(4) as if they were members.

9. Conduct

Members reporting on an entity which is a member of a regulatory body shall comply with the requirements of that regulatory body and adhere to any guidance issued by it for the preparation and presentation of their reports.

10. Disclosure of information

Individuals and firms must supply the Association with all the necessary information to enable the Association to comply with its obligations with respect to any legal and regulatory requirements in accordance with regulation 15 of the Global Practising Regulations.

11. Monitoring

Individuals holding practising certificates shall be subject to monitoring by the Association in accordance with regulation 14 of the Global Practising Regulations.

Appendix 5

Legal Activities Regulations 2018

1. Application

- (1) The regulations contained in this Appendix form part of Annex 1 to The Chartered Certified Accountants' Global Practising Regulations 2003, and shall apply to all members and to all persons who otherwise agree to be bound by them.
- (2) These regulations apply to the reserved legal activity of probate, and extend to non-contentious probate business only.
- (3) These regulations extend to England and Wales only.

2. Restrictions on carrying on public practice

- (1) Where public practice is carried on in the name of a firm, or otherwise in the course of a firm's business, and that public practice involves reserved legal activities, or the holding out of the firm as being available to carry on such activities, no member shall be a sole proprietor, partner or director of that firm, or a member or designated member of a limited liability partnership, unless the firm holds a legal activities certificate issued by the Association and is thereby authorised by the Association to carry on the reserved legal activities authorised by the issue of that certificate.
- (2) A firm required by regulation 2(1) to hold an appropriate legal activities certificate may instead hold another certificate or authorisation from another approved regulator which is in the opinion of the Admissions and Licensing Committee equivalent.

3. Where public practice is carried on

Where the public practice consists of accepting engagements for reserved legal activities, or holding oneself out as available to do so, it shall be taken to be carried on in England and Wales, whose laws apply to the engagements, or would apply to the potential engagements, in question.

4. Eligibility for legal activities authorisation

Members

(1) Members responsible for a firm's engagements to provide reserved legal activities shall be required to obtain the relevant legal activities qualification or qualifications in accordance with regulation 6 in addition to complying with regulation 5 of the Global Practising Regulations as regards their practising certificate. A legal activities qualification will convey to the holder the necessary authorisation to carry on that reserved legal activity.

Non-members

(2) Non-members responsible for engagements to provide reserved legal activities in a firm holding an appropriate legal activities certificate shall be required to obtain the relevant legal activities qualification or qualifications in accordance with regulation 6(2), or otherwise demonstrate their authorisation to carry on those reserved legal activities. A legal activities qualification will convey to the holder the necessary authorisation to carry on that reserved legal activity.

(3) In addition to complying with regulation 4(2), non-members shall be required to provide undertakings to be bound by the following regulations as if they were members of the Association:

- (a) the Global Practising Regulations;
- (b) the continuing professional development requirements of Membership Regulation 4(4);
- (c) the Authorisation Regulations, including the requirement at Authorisation Regulation 3(1)(a) to pay such fees as Council may from time to time require when applying for a legal activities authorisation;
- (d) the Charter, bye-laws and regulations of the Association insofar as they are appropriate and applicable (other than those relating to members' rights to attend and vote at meetings of the Association and obligations to pay subscriptions); and
- (e) the disciplinary procedures of the Association and penalties which may be imposed under such provisions insofar as such penalties could be applicable to a person who is not a member of the Association.

5. Eligibility for a firm's legal activities certificate

A firm's legal activities certificate will convey to the holder the necessary authorisation to carry on the reserved legal activity or activities to which the certificate relates. A firm shall be eligible for authorisation to carry on a reserved legal activity if:

- (1) each of the individuals responsible for the firm's reserved legal activities holds a legal activities qualification, or, in the case of non-members of the Association, holds an equivalent authorisation; and
- (2) it is controlled by authorised persons within the meaning of regulation 7; and
- (3) it is fit and proper within the meaning of regulation 8; and
- (4) it holds the necessary PII and FGI in accordance with regulation 9; and
- (5) it has made arrangements for the continuity of its practice in accordance with regulation 11; and
- (6) it undertakes to be bound by the Global Practising Regulations including this Annex 1, the Complaints and Disciplinary Regulations, the Membership Regulations and the Charter and bye-laws insofar as they are applicable to it.

6. Legal activities qualifications

(1) Qualifications required to hold a practising certificate

To be qualified to hold a practising certificate, members will need to meet the requirements of regulation 7 of the Global Practising Regulations.

(2) Qualifications required to carry on a reserved legal activity

Annex B

To be qualified to carry on a reserved legal activity, an individual must:

- (a) if he is a member of the Association, have successfully completed a course of training and assessment in the reserved legal activity, as prescribed by the Association, and provided the Association with evidence of his skill and competence in the reserved legal activity in a manner prescribed by the Association; or
- (b) if he is not a member of the Association, be a member of another member body of the International Federation of Accountants, and be entitled to practise accountancy; and
 - (i) have successfully completed a course of training and assessment in the reserved legal activity, as prescribed by the Association, and provided the Association with evidence of his skill and competence in the reserved legal activity in a manner prescribed by the Association; or
 - (ii) hold, or be eligible to hold, authorisation to carry on the reserved legal activity with another approved regulator; or
 - (iii) be otherwise entitled to carry on the reserved legal activity under the Legal Services Act 2007.

(3) Waiver

In exceptional circumstances, to the extent permitted by the Legal Services Act 2007, the requirements of regulation 6(2) may be waived, varied or suspended at the direction of the Admissions and Licensing Committee in its absolute discretion.

7. Meaning of firm controlled by authorised persons

- (1) Firms controlled by authorised persons are authorised for carrying on reserved legal activities in accordance with regulation 5.
- (2) A firm shall only be regarded as controlled by authorised persons for the purposes of regulation 5 where:
 - (a) all of the partners or all of the directors and shareholders of the firm, or all of the members and designated members of a limited liability partnership, are authorised persons; and
 - (b) if the firm's affairs are managed by a board of directors, committee or other management body, all of that body are authorised persons.
- (3) References in regulation 7(2) above to a person being authorised are, in relation to an individual, to his being qualified to carry on reserved legal activities in accordance with regulation 6(2).

8. Fit and proper persons

- (1) Regulation 8 of the Global Practising Regulations applies to members. Additionally, where authorisation to carry on a reserved legal activity is concerned, this regulation 8 shall apply to the Admissions and Licensing Committee's determination.
- (2) In determining whether a person is "fit and proper", the Admissions and Licensing Committee:
 - (a) may take into account whether that person has contravened any provision of law relating to the carrying on of reserved legal activities;
 - (b) shall take into account whether that person has contravened any law or regulation or undertaken any practices or conduct referred to in relevant law, regulation or guidance issued by a body with responsibility for the regulation of the activities of the holder of the certificate or of the Association in its regulation of such activities;
 - (c) may take into account any matter which relates to him or it and any matter relating to any person who is or will be employed by or associated with him or it for the purposes of or in connection with public practice.

9. Professional indemnity insurance

(1) Legal activities certificates held by firms

Regulation 9 of the Global Practising Regulations applies to applicants for, and firms holding, legal activities certificates.

(2) Limits

Firms wishing to hold, or continue holding, a legal activities certificate that authorises the firm to carry on the reserved legal activity of probate must effect professional indemnity insurance with minimum limits of indemnity of £100,000 in respect of each and every claim.

(3) Continuity following cessation

Regulation 9(5) of the Global Practising Regulations applies to persons subject to regulation 9(1) in respect of their ceasing to engage in public practice. In addition, firms that have effected a higher level of indemnity in respect of probate activities should ensure that such cover remains for a period of six years after they cease to engage in probate activities.

10. Continuing professional development

- (1) Firms holding a legal activities certificate must require all those responsible for the firm's reserved legal activities who are partners or directors or, in the case of a limited liability partnership, members or designated members, or agents, who are not members but who are responsible for the firm's reserved legal activities to comply with Membership Regulation 4(4) as if they were members. This includes compliance with regulation 10(2) below.
- (2) Individuals authorised to carry on one or more reserved legal activities must maintain competence in those reserved legal activities, and obtain an appropriate proportion of CPD units in each of those areas.

11. Continuity of practice

Regulation 11 of the Global Practising Regulations shall be applicable to all firms holding a legal activities certificate.

12. Notification

- (1) Firms holding a legal activities certificate must comply with regulation 12 of the Global Practising Regulations.
- (2) Additionally, firms shall give written notice forthwith of the commencing of proceedings against any authorised person of the firm or any actions for damages, injunctions or restitution orders connected with regulated work carried on by the individual in question.

13. Conduct of reserved legal activities

In the conduct of reserved legal activities, authorised individuals and firms holding a legal activities certificate shall comply with all applicable laws and regulations, including:

- (1) all applicable sections of the Association's Rulebook, including the Code of Ethics and Conduct; and
- (2) the Legal Services Act 2007.

14. Monitoring

Authorised individuals and firms holding a legal activities certificate shall be subject to monitoring by the Association in accordance with regulation 14 of the Global Practising Regulations.

15. Complaints handling by firms

- (1) Firms holding a legal activities certificate shall establish procedures to deal with complaints.
- (2) The firm's procedures to deal with complaints shall require that:
 - (a) at the beginning of an engagement (and existing clients, at the next appropriate opportunity), clients are notified, in writing, of
 - (i) the client's right to complain to the firm, including how to complain and the name of the individual to be contacted in the event of a complaint; and
 - (ii) the client's right to complain to the Legal Ombudsman at the end of the firm's complaints-handling process if the client is not satisfied with the outcome; and
 - (iii) the point at which a complaint may be made to the Legal Ombudsman, and how to contact the Legal Ombudsman; and
 - (iv) the client's right to complain to the Association if the complaint does not fall within the Legal Ombudsman Scheme Rules;
 - (b) complaints received are acknowledged promptly;
 - (c) complaints made orally are acknowledged in writing, stating the firm's understanding of the nature of the complaint;
 - (d) complaints are investigated by a person of sufficient experience, seniority and competence who, where possible, was not directly involved in the particular act or omission giving rise to the complaint;
 - (e) complaints are investigated in a fair, prompt, constructive and honest manner;
 - (f) records are maintained of the way in which each complaint is handled;
 - (g) the client is notified promptly, in writing, of the outcome of the investigation of the complaint and, if the client is not satisfied with the outcome, of:
 - (i) the client's right to complain to the Legal Ombudsman, the time limit for doing so, and how to contact the Legal Ombudsman; and
 - (ii) the client's right to complain to the Association if the complaint does not fall within the Legal Ombudsman Scheme Rules;
 - (h) any appropriate remedial action is promptly taken;
 - (i) if, after eight weeks following the making of the complaint, the client has not been notified, in writing, of the outcome of the investigation, the client is informed, in writing, of
 - (i) the client's right to complain to the Legal Ombudsman, the time limit for doing so, and how to contact the Legal Ombudsman; and
 - (ii) the client's right to complain to the Association if the complaint does not fall within the Legal Ombudsman Scheme Rules.

16. Investigation of complaints

- (1) Authorised individuals and firms holding a legal activities certificate shall cooperate with any investigation by the Legal Ombudsman and promptly comply with any decision or remedy ordered by the Legal Ombudsman.
- (2) Authorised individuals and firms holding a legal activities certificate must comply with the Association's investigation arrangements, which may be performed by another approved regulator, and shall be subject to the Association's disciplinary procedures and processes in accordance with the requirements of The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014.

17. Disclosure of information

Authorised individuals and firms holding a legal activities certificate must supply the Association with all necessary information to enable the Association to comply with its obligations to the Legal Services Board, the Legal Ombudsman and other bodies in its capacity as an approved regulator under the Legal Services Act 2007.