



Legal Services Board  
The Rookery  
2 Dyott Street  
London WC1A 1DE

[www.legalservicesboard.org.uk](http://www.legalservicesboard.org.uk)

### FoI request (Ref: 20210121-01)

Further to your request for information regarding 'minutes of meetings and papers where ACCA / Probate was discussed and its de registration', I confirm that the LSB holds information pertinent to your request, as set out below.

- Although there has been no specific reference to ACCA in meeting minutes or papers because no application for cancellation of designation has been made, at its 4 June 2020 meeting, the LSB Board considered a paper on regulatory exit which touched on voluntary exit. [The paper](#) can be found on our website and at **Annex A** to this response, with the relevant sections extracted.
- We have published specific information on the LSB website regarding authorisation issued to ACCA for non-compliance with the Internal Governance Rules 2019 and [our letter](#) can be found on our website and at **Annex B** to this response.
- On 2 October 2020, the LSB wrote to ACCA explaining the status of ACCA under the Legal Services Act. 2007. This letter is at **Annex C** to this response.

We hope you find this information helpful. Do please come back to us if you have any further questions.

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](#)).

If you are dissatisfied with the outcome of your complaint, you may refer the matter to the Information Commissioner for a decision. Please be aware that the Commissioner will be unlikely to make a decision until you have been through our internal complaints procedure first. You can write to the Commissioner at:

FOI/EIR Complaints Resolution  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow

Cheshire  
SK9 5AF

The reference for your request, which should be quoted in all correspondence, is: 20210121-01.

Yours sincerely

**Annexes:**

Annex A: extracts from LSB Board Paper (20) 29 - *Contingency planning for regulator exit*, 4 June 2020

Annex B: LBS letter regarding authorisation issued to ACCA for non-compliance with the Internal Governance Rules 2019, 22 July 2020

Annex C: LSB letter issued to ACCA regarding the status of ACCA under the Legal Services Act 2007, 2 October 2020

**Annex A LSB Board Paper (20) 29 - *Contingency planning for regulator exit***

## *Modes of Exit*

8. As the board are aware, regulatory exit can take several forms, some more precipitous than others. We have categorised these as voluntary exit, largely unforeseen collapse and a managed exit relating to a persistent inability to meet regulatory performance standards.

## *Voluntary exit*

- 9 Voluntary exit is the most straightforward in terms of process. Co-operation is assumed and a plan of action will be required from the approved regulator wishing to exit the market. The process from there is governed by existing LSB rules for applications to cancel designation as an approved regulator<sup>1</sup>.

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[https://www.legalservicesboard.org.uk/what\\_we\\_do/regulation/pdf/New%20folder%20\(2\)/FINAL\\_Rules\\_for\\_applications\\_to\\_cancel\\_designation\\_as\\_an\\_approved\\_regulator.pdf](https://www.legalservicesboard.org.uk/what_we_do/regulation/pdf/New%20folder%20(2)/FINAL_Rules_for_applications_to_cancel_designation_as_an_approved_regulator.pdf)

- 10 A summary of requirements can be found on Page 4 of **Annex A**.

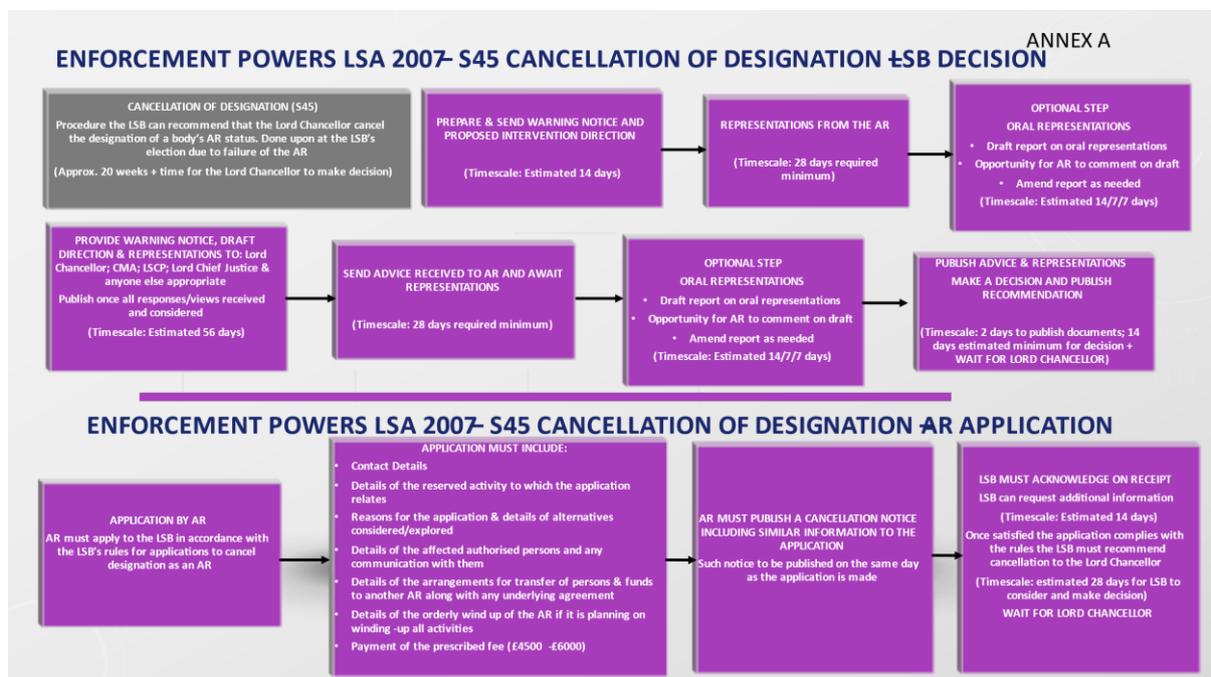
## *Unforeseen Collapse*

- 11 The LSB has regularly undertakes a series of actions to minimise the risk of any unforeseen collapse of a regulator and the subsequent need to make use of contingency plans.
- 12 The LSB's ongoing Regulatory Performance work has key outcomes that are assessed in relation to the Governance and Leadership of the regulatory bodies. This work ensures that we gather up to date evidence on how the regulators function. By seeking to ensure that regulators are well-led, we should be reducing the likelihood of failure.
- 13 The identification of concerns and intervention of the LSB through this framework ensures that we are able to engage bodies and escalate as appropriate.
- 14 In addition the LSB considers the resources of regulatory bodies on a yearly basis through the PCF approval process. This annual exercise provides the LSB with an opportunity to assess the financial position of the regulatory bodies, including in relation to reserves, and to identify concerns.

15 If an approved regulator did collapse then immediate action would need to be taken in order to ensure the continuity of regulation and protection of consumers. We have identified a need to make use of Intervention (s41) and in due course Cancellation of Designation (s45).

16 We have further established that in the case of insolvency the S51 funds would be ring-fenced and could only be used for their statutory purpose.

17 It is expected that we would work initially with the relevant insolvency practitioner to ensure continuity of regulation and would then advance discussions with another regulatory body for them to take over the regulatory function.



## Annex B

Sent by email

Maggie McGhee  
Executive Director - Governance  
ACCA



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22 July 2020

Dear Maggie

### **Internal Governance Rules 2019 – Rule 16 authorisation**

Thank you for submitting ACCA's request to the Legal Services Board (LSB) of 31 March 2020 made under Rule 16 (Saving Provisions) of the Internal Governance Rules (IGR) that came into effect on 24 July 2019.

You have requested prior written authorisation for non-compliance with the IGR due to your decision to withdraw from legal services regulation and consequently to apply for de-designation as an approved regulator of probate activities under the Legal Services Act 2007 (the Act). Our understanding is that you intend to effectively cease regulating authorised persons by 1 January 2021.

We have taken into account the particular circumstances which apply to ACCA, including what would be proportionate and in the public interest having regard to any risk to consumers, noting that you regulate a very small number of authorised persons for one reserved activity. We have also taken into account the fact that significant changes to ACCA's regulatory arrangements would likely be required to achieve full compliance with the IGR, when your intention is to exit the legal services market in 6 months' time and cease regulating authorised persons.

In view of these considerations, we can confirm that your request for the LSB's authorisation under Rule 16(1)(c) (Saving Provisions) is granted until 1 January 2021. The effect of this authorisation is that ACCA will not be required to comply in full with all provisions of the IGR during this period. This authorisation is granted on the basis of all the matters set out above. We consider that this time limited authorisation is proportionate and appropriate in the circumstances.

In granting this authorisation the LSB reminds ACCA that it must continue to comply with all other obligations as an approved regulator under the Act. Specifically, and in regard to the IGR, notwithstanding this authorisation, ACCA must meet the obligations set out in Rule 1: Overarching duty, and ensure that the exercise of its regulatory functions is not prejudiced by any representative functions, while it is an approved regulator.

This authorisation has effect from 24 July 2020 and will expire on 1 January 2021.

This authorisation together with certificates of compliance for all other approved regulators and regulatory bodies will be published on the LSB website on 28 July 2020.

Yours sincerely

Chris Nichols

Director, Policy and Regulation

## Annex C

Sent by email

Laura Murphy  
Standards Manager  
ACCA



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2 October 2020

Dear Laura

### **Status of ACCA as an approved regulator under the Legal Services Act 2007**

I am writing to confirm ACCA's status as an approved regulator for probate services under the Legal Services Act 2007 (the Act).

ACCA is and continues to be an approved regulator under the Act until its designation is cancelled by Order approved by Parliament. ACCA has indicated it wishes to make an application to cancel its designation as approved regulator. No such application has been made to the LSB at the time of writing this letter.

Against that background, we are aware that ACCA authorised persons have received correspondence from the ICAEW offering itself as an approved regulator. To clarify any misunderstanding arising from that correspondence we confirm:

- To cancel designation as an approved regulator ACCA must make an application to the LSB in accordance with the Act and prescribed [rules](#). On receipt of an application, if the requirements are met the LSB must recommend designation cancellation to the Lord Chancellor. In turn, the Lord Chancellor may make a draft Order cancelling designation, subject to approval by Parliament. That process is unlikely to happen in the near future, particularly as no application has in fact been made.
- An application for cancellation will require ACCA to have in place arrangements for its authorised persons who consent, to transfer to another regulator. To comply with this requirement, ACCA has informed the LSB that it is in discussions with another approved regulator to put in place arrangements before making an application.
- ACCA must ensure that consumers continue to be protected and that there is no regulatory gap for persons it has authorised to provide probate services. These are key requirements for the LSB in any cancellation application.
- An authorised person is free to apply to become authorised by any other approved regulator at any time in accordance with that regulator's requirements.
- Until its designation as an approved regulator is cancelled by Order, ACCA must continue to comply with its obligations under the Act for persons it regulates.

In its letter ICAEW made reference to the LSB's limited authority for non-compliance by ACCA under the LSB's [Internal governance rules](#) (IGR). This approval has no bearing on the status of the ACCA as an approved regulator and any dates connected to this approval apply only to IGR compliance.

I hope this helps clarify the status of ACCA as an approved regulator and the designation cancellation process. I am happy for you to forward this letter to ACCA authorised persons if you think it would assist to clarify any misunderstanding or confusion.

Please contact me if you require any further clarification.

Yours sincerely

**Angela Latta Head, Performance and Oversight**