

CILEx Regulation: ACCA Probate Regulation Application

FOREWORD FROM SAM YOUNGER ON BEHALF OF THE BOARD

CILEx Regulation, as the regulator for Chartered Legal Executives, shares with CILEX a commitment to the purpose of enriching the legal services sector, serving the public and consumer interest by opening up the provision of legal services to the most diverse possible range of practitioners, so providing greater competition and wider consumer choice.

From gaining independent practice rights, winning the right to regulate firms and most recently being able to license Alternative Business Structures (ABSs), Chartered Legal Executives have made great strides in the past decade, challenging a status quo in which becoming solicitors and barristers was seen as providing the only route to being considered a 'real' lawyer.

CILEX and CILEx Regulation believe that individuals and firms focused on areas in which they are specialist practitioners enrich the legal services landscape and provide consumers with wider choice and a guarantee of competence in the practitioners' chosen areas of service. As a regulator, CILEx Regulation has always had a clear focus on the actual work lawyers do rather than only on title, creating a specialist and proportionate regulatory regime for the protection of the public. We are as a result sympathetic to the recommendation of the Mayson Report that the future of legal services regulation should lie in the authorisation and risk-based regulation of specific activities rather than of titles.

It is in that context that CILEx Regulation responded positively to an approach from The Association of Certified Chartered Accountants (ACCA) in 2019. Of course, CILEx Regulation already has experience of regulating practitioners other than Chartered Legal Executives, as we regulate conveyancing and probate practitioners who are not Chartered Legal Executives, and we have for many years regulated Associate Prosecutors for the Crown Prosecution Service. Equally, ACCA has experience of working in partnership with other regulators (e.g., the Insolvency Service) to provide the widest opportunities to its members.

The addition to our portfolio of ACCA practitioners and firms providing probate services is a natural development. Our proposed approach makes use of the skills and experience of CILEx Regulation, to ensure that ACCA members and firms can continue to provide cost-effective and proportionate probate services and will also give ACCA firms the opportunity to extend their legal services offer after ACCA itself withdraws from regulation.

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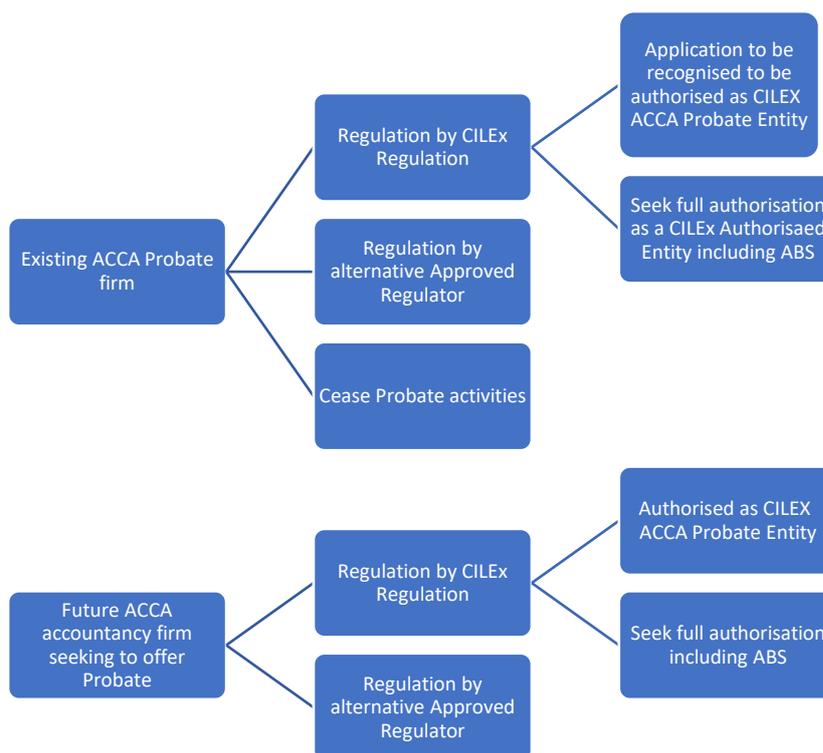
GLOSSARY

ACCA Accountancy practice	Those firms that continue to be regulated by ACCA for accountancy work, and upon which the existence of the CILEx-ACCA Probate Entity is contingent.
ACCA Rulebook	Includes the ACCA Global Practising Regulations (GPR) which be downloaded from the ACCA website here . The ACCA (Legal Activities Regulations) 2018 can be found at Appendix 1, Annex 4 of the GPR.
CILEX	The Chartered Institute of Legal Executives. The Approved Regulator named in the Legal Services Act 2007 and the professional body representing Chartered Legal Executives and other CILEX members.
CILEx ABS	An entity authorised to become an alternative business structure under the CILEx Regulation licensing rules.
CILEX-ACCA Code of Conduct	The code, which mirrors the CILEX Code of Conduct, which governs the standards by which CILEx Regulation assesses the conduct of individuals (CILEx Practitioner (ACCA-Probate) and firms (CILEX-ACCA Probate Entity).
CILEX-ACCA Probate Entity	A new class of entity created to describe the situation whereby the conduct of probate activities, currently undertaken by an ACCA Accountancy Practice, is performed by a unique legal entity under the supervision of CILEx Regulation.
CILEx Authorised Entity	An entity authorised by CILEx Regulation to conduct reserved legal work.
CILEx Practitioner (ACCA-Probate)	An authorised ACCA-Probate individual
CILEx Regulation	The independent regulatory body for CILEx, regulating Chartered Legal Executives, CILEx Practitioners, Chartered Legal Executive Advocates, Associate Prosecutors and other CILEX members.
CILEx Regulation-ACCA Handbook	The rules covering the actions of a CILEX-ACCA Probate Entity

Summary of the proposal

1. This application sets out the proposal for CILEx Regulation to provide a route for the regulation of ACCA-Probate Practitioners and ACCA-Probate firms following the decision of the ACCA to withdraw from legal services regulation.
2. ACCA currently regulates ACCA practitioners to deliver the reserved activity of probate (non-contentious) through ACCA firms. The rules which underpin this regulation can be found in the Legal Activities Regulations (GPR, Appendix 1, Annex 4) in the ACCA Rulebook. These rules will be replaced by:
 - a. The CILEx Regulation-ACCA Handbook
 - b. The handbook is supported by specific CILEx Regulation rules, including the CILEx Regulation Enforcement Rules and the Strategic Risk Committee Rules (full details of the new rules can be found at paras 90-135).
3. This application provides information on the current regulatory approach taken by ACCA, the CILEx Regulation proposal to provide a route for existing ACCA-Probate firms (where they have not chosen to be regulated by an alternative approved regulator) and how future ACCA applicants will be authorised and regulated. The process set out in the application covers the authorisation and regulation of both individuals and firms and sets out how the consumer protections will operate for individuals and firms.

Proposed Process for existing ACCA-Probate Firms and future ACCA accountancy firms who wish to seek authorisation to deliver probate activities detailed below:



4. The application comprises of the following appendices:
 - Appendix 1 – CILEx Regulation-ACCA Handbook
 - Appendix 2 – Enforcement Rules – Draft ACCA Clean
 - Appendix 2 – Enforcement Rules – Draft ACCA Track

- Appendix 3 – Strategic Risk Committee Rules - Draft ACCA Clean
- Appendix 3 – Strategic Risk Committee Rules – Draft ACCA Track
- Appendix 4 – Admissions and Licensing Committee Rules
- Appendix 5 – ACCA consultation document
- Appendix 6 – ACCA consultation analysis
- Appendix 7 – ACCA Probate roundtable QA analysis
- Appendix 8 – ACCA CRL CILEX MOU 160721 Clean
- Appendix 9 – Combined Consultation responses – NOT FOR PUBLICATION
- Appendix 10 – Framework for the guidance to CILEX-ACCA Probate Entities
- Appendix 11 – Process for the transfer of existing ACCA Probate firms to CRL

Introduction to the proposal

5. The Association of Chartered Certified Accountants (ACCA) is intending to withdraw from legal services regulation. This application proposes that CILEx Regulation will provide a route for Chartered Certified Accountants seeking to continue to offer probate services through a similar regulatory structure to that currently offered through the ACCA.
6. This application, made on behalf of CILEX (as the approved regulator), sets out CILEx Regulation's proposed route to offer regulation for Chartered Certified Accountants to become regulated for, or to continue to be regulated for, the reserved activity of probate (non-contentious). The creation of this route does not preclude ACCA members from applying for probate regulation from other legal services providers.
7. This will be achieved by the creation of:
 - a) a new class of individual (CILEx Practitioner (ACCA-Probate), and
 - b) a new type of entity: the CILEX-ACCA Probate Entity.
8. Although this new form of entity regulation largely mirrors the existing approach to the regulation of ACCA probate firms, CILEx Regulation has taken the opportunity to enhance the consumer protection available to consumers of these firms through an increase in the minimum PII requirements and the requirement to comply with the transparency rules.
9. Our experience of specialist legal regulation, both within and outside of the CILEX membership and as a regulator of law firms since 2016, means that CILEx Regulation is uniquely positioned to offer this regulatory alternative to ACCA firms that wish to practise the reserved activity of probate following the withdrawal of ACCA from legal services regulation. We believe that this can be achieved with minimal disruption and increased benefit to both the affected entities and the consumer.

Why this model of regulation for ACCA-Probate Practitioners and CILEX-ACCA firms?

10. Unlike ACCA, CILEx Regulation is not able to authorise individuals undertaking probate activities unless they are working in a regulated firm or in-house. ACCA was granted an Order in 2009 which exempted ACCA authorised individuals from section 15 of the Legal Services Act, this will fall away once ACCA is de-designated, as they will no longer be an Approved Regulator. This means that in order to regulate ACCA-probate practitioners after the de-designation, accountants authorised to provide probate activities must work in an authorised firm.
11. The current ACCA rules, which govern the authorisation of ACCA probate practitioners, require that all accountants within an ACCA firm that deliver probate activities must be authorised. To meet this requirement, many ACCA accountants that deliver probate activities have already set up a separate company to administer the probate work so as to avoid creating an ABS type structure.

12. CILEx Regulation has created a scheme, which is as similar as possible to the current ACCA arrangements (including keeping fees as similar as possible to the current ACCA practising fees) whilst being compliant with section 15 of the Legal Services Act.
13. We have proposed to mandate that ACCA probate individuals must deliver probate services through a separate limited company.
14. This has a number of benefits:
 - a. It ensures that CILEx Regulation and ACCA can keep the reserved activity of probate entirely separate from the main accountancy business in an effective way. This satisfies the requirements of section 15 without CRL having to authorise the accountancy firm as a whole and also enables a clear delineation between legal work and accountancy work.
 - b. It enables the CILEx Regulation firm to operate without the need to hold client money and this will remove the requirement for AML supervision, leaving this function with the ACCA accountancy firm (this has been agreed with OPBAS).
 - c. It avoids the need for regulatory duplication, where both regulators would be required to check the same issues (holding of client money, office policies and procedures, anti-money laundering checks).
15. Not all ACCA probate firms are currently set up to deliver probate separately from the remainder of their services and CILEx Regulation recognises that this may be an issue for some firms. However, setting up a limited company is quick and cost-effective, and the firms are likely to be exempt from Companies House filing requirements. Whereas to keep the activities within a single entity would increase the costs to the ACCA firms significantly (as outlined above) to deliver probate activities and ultimately could increase the costs to the consumer.
16. Other options for the transfer of ACCA-Probate firms would be:
 - a. ACCA retaining its designation but delegating its regulatory functions to CILEx Regulation in a similar arrangement to that which exists between CILEx Regulation and CILEX. This would mean ACCA retained the power to authorise probate individuals and hence dispense with the need to regulate the firms. ACCA has confirmed that it does not want to pursue this option.
 - b. ACCA-Probate firms could become ABS with CILEx Regulation. This would enable existing ACCA firms to operate both accountancy and legal activities within a single firm regulated by CILEx Regulation. The fees for this are significantly higher than those proposed under the agreed ACCA/CILEx Regulation scheme and would require legal PII (which is very difficult to source in the present market) and access to the CILEX Compensation arrangements (which would further increase the costs to the ACCA-Probate practitioners).

Background

17. Since 2009, the ACCA has been authorised to regulate the reserved activity of probate and has actively been regulating probate activities since the Legal Services Board approved ACCA's regulatory arrangements for this purpose in 2018. In 2020, ACCA announced its intention to withdraw from legal services regulation, and as such it will no longer regulate any reserved legal activity undertaken by ACCA firms once it has surrendered its designation.
18. CILEx Regulation was approached by ACCA in the latter half of 2019 to discuss the development of a replacement regulatory route for ACCA firms, which would enable ACCA firms to continue to access regulation for ancillary probate activities if desired. CILEx Regulation and ACCA have since come to an agreement whereby CILEx Regulation will offer a broadly similar route to the current arrangements for ACCA firms wishing to provide probate as an ancillary service to their accountancy activities.

19. This will enable ACCA firms wanting to continue to conduct the reserved activity of probate as an ancillary service to be regulated by CILEx Regulation. Equally, ACCA firms will have the option to approach any other legal services regulator who offers probate as a regulated activity to have their firm regulated by them.
20. As of 18 June 2021, there are 65 authorised ACCA Accredited Probate firms and 88 authorised individuals.

CILEX and CILEx Regulation

21. The Chartered Institute of Legal Executives (CILEX) is the professional membership body for Chartered Legal Executives and other legal professionals.
22. CILEX is an approved regulator under section 20 of the Legal Services Act 2007 ('the Act'). CILEx Regulation was established by CILEX in accordance with the provisions of the Act and clause 13 of its Charter, to carry out regulatory activities in October 2008.
23. CILEx Regulation's independence is safeguarded under existing Internal Governance Rules as well as the Legal Services Act itself. In addition to the Internal Governance Rules, there are protocols in place to govern the arrangements between CILEX and CILEx Regulation to ensure the independence of regulatory functions.
24. CILEx Regulation has powers to authorise the following:
 - rights to administer Oaths since 1995;
 - rights of audience to Chartered Legal Executives since 1998;
 - rights of audience and rights to conduct litigation to Associate Prosecutors since 2011;
 - rights to conduct litigation to Chartered Legal Executives since 2014;
 - reserved instrument and probate rights since 2014; and
 - entity regulation since 2015.
25. CILEX was a designated professional body under the Immigration and Asylum Act 1999 for the purpose of awarding immigration practice rights. Under Schedule 18 of the Legal Services Act, approved regulators who award immigration practice rights became designated qualifying regulators. CILEx Regulation has had the power to authorise immigration practitioners since 2001 and immigration practice rights since 2014.
26. In this application legal practices are referred to as entities in accordance with The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Modification of Functions) Order 2014.
27. CILEx Regulation is currently responsible for the regulation of CILEX members, CILEx Practitioners and entities. It develops and promotes standards of conduct and ensures compliance with them by its regulated community with them. It has a strong record for robust and proportionate regulation in the public interest.
28. CILEx Regulation regulates the education and training requirements for Chartered Legal Executives and CILEx Practitioners and currently has oversight of the CILEx qualification schemes which deliver the academic requirements for admission as a Chartered Legal Executive and CILEx Practitioner. It is responsible for assessing the qualifying employment and work-based learning schemes for Chartered Legal Executives, the qualification schemes for practice rights and the continuing professional development scheme for CILEX members and CILEx Practitioners.

Expanding choices for lawyers and consumers

29. Access to legal services and diversity are known problems in the legal services market.

30. From the LSB online 2019 legal needs survey, 55% of individuals with a legal issue got professional help and those respondents getting professional help were more likely to get better outcomes than those who did not. An estimated three in ten respondents (31%) had an unmet legal need for a contentious legal issue, where either they did not receive any help or wanted more help to resolve their issue.
31. Views on cost effectiveness of lawyers have not improved with just 11% of small businesses agreeing that lawyers provide a cost-effective means to resolve legal issues. Almost 50% of respondents strongly agreed or agreed with the statement that they use legal service providers as a last resort to solve business problems.
32. CILEX provides an accessible route to qualifying as a lawyer. Members can begin the study of law at a low cost while working full-time, providing a route to qualification as a lawyer which does not require university attendance. This has always offered accessibility and a diversity of opportunity which is borne out by the make-up of the CILEX membership. For example, the 2019 data published by the LSB showed that:
 - 78% of the total membership are female;
 - 54% of respondents were the first generation of their family to go to university;
 - only 7% attending a fee-paying school; and
 - the percentage for those starting in each grade who have a parent who is a lawyer is; graduates 4.6%, students 2.7%, affiliates 2.7% and associates 2.9%.
33. Unusually CILEX lawyers tend to develop from a very junior level and work their way up, learning 'on the job'.
34. Since 2015, CILEX members have been able to work towards setting up their own law firms, providing reserved legal services through authorisation by CILEX Regulation. This was a significant step forward in opening up opportunities to CILEX's diverse membership. More importantly for regulatory purposes, it is also an opportunity to expand the diversity of service providers available to consumers.

About ACCA:

35. The Association of Chartered Certified Accountants ('ACCA') is the global body for professional accountants. They support 233,000 members and 536,000 students in 178 countries. ACCA promotes the appropriate regulation of accounting and conducts relevant research to ensure accountancy continues to grow in reputation and influence.
36. ACCA became an approved regulator in respect of probate activities under the Legal Services Act 2007 (the Act) and was included on the list of approved regulators in the table in paragraph 1 of Schedule 4 to the Act, as a result of the Legal Services Act 2007 (Approved Regulators) Order 2009.
37. ACCA can authorise individuals and firms for non-contentious probate only. The Legal Activities Regulations (found at GPRs, Appendix 1, Annex 4 of the ACCA Rulebook) apply to the provision of non-contentious probate business in England and Wales. The ACCA Rulebook states that 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.
38. ACCA works in the public interest, assuring that its members are appropriately regulated for the work they carry out, and promoting principles-based approaches to regulation.

Current approach to regulating and authorising ACCA firms & proposed CILEx-ACCA firms (including application process and supervision) where they are seeking recognition on similar terms.

ACCA's current approach to regulation of probate activities

39. The ACCA's approach to regulation is that probate is offered as an ancillary activity to general accountancy practice. That allows it to be supervised within the normal regulation that they apply to their accountancy firms. The regulatory arrangements comprise the ACCA Rulebook, the ACCA Admissions and Licensing Rules and the course outcomes for individuals to meet in order to be authorised as a probate practitioner.
40. Individuals wishing to apply for authorisation for probate are required to hold a legal activities qualification¹. Members of ACCA must hold a practising certificate and have successfully completed a relevant course and assessment covering specific areas of probate work.
41. Individuals who are not members of ACCA, but are a member of another accountancy body, can also apply for probate authorisation. They must hold (or be eligible to hold) probate authorisation with another approved regulator or have completed a relevant course and assessment covering specific areas of probate work or be otherwise entitled to carry on probate activities under the Legal Services Act 2007. All individuals owning the firm must be authorised for probate.
42. Firms wishing to apply for probate authorisation must apply for a Firm's Legal Activities Certificate (FLAC). Individuals are not eligible to undertake probate work through ACCA unless the firm(s) in which they practice holds a FLAC.

Our Proposed Approach to regulating and authorising ACCA Probate activities

In Summary

43. ACCA Accountancy Practices currently conduct the reserved activity of probate in very limited circumstances, so this fits well with CILEx Regulation being a regulator by specialism.
44. By becoming authorised as a CILEX-ACCA Probate Entity, CILEx Regulation will provide a convenient route for the affected ACCA Accountancy Practices to conduct probate activities via a distinct legal entity, while taking appropriate measures to protect the consumer.
45. To provide a proportionate alternative for existing ACCA firms, CILEx Regulation has sought to adopt regulatory requirements consistent with those of the 'Legal Activities Regulations' currently contained in the ACCA Rulebook. These proposed regulations govern the conduct of the reserved activity of probate by ACCA Accountancy Practices under the regulatory supervision of ACCA.
46. Where a CILEX-ACCA Probate Entity wishes to expand into other areas of reserved legal work, they may become authorised as a CILEx Authorised Entity and subsequently licensed as an ABS, as per CILEx Regulation rules.
47. All CILEX-ACCA Probate Entities will:
 - make annual information returns, informing each entity's risk profile.
 - be subject to first-tier complaints handling rules within the Code of Conduct which require entities to signpost clients to the Legal Ombudsman for service matters (and to CILEx Regulation for conduct matters), enabling the escalation of high-risk events where these have not been resolved informally.
 - have in place appropriate Professional Indemnity Insurance, and Fidelity Guarantee Insurance.
 - comply with required transparency rules; and

¹ The qualification referred to here is an approved course of study and assessment, currently administered by Altior by BARBRI. CRL intends to take over the oversight of this course under the revised arrangements.

- be subject to the requirement for an affiliated ACCA Accountancy Practice.

48. Our approach to the regulation of CILEx Practitioners (ACCA-Probate) is set out at para 62 onwards.

49. The following table sets out the current regulatory requirements governing an ACCA firm that is registered for probate and allows a comparison with our proposed approach to a CILEX-ACCA Probate Entity.

	ACCA FIRMS REGISTERED FOR PROBATE	CILEX-ACCA PROBATE ENTITIES
TYPE OF ENTITY	All partners, directors & shareholders must be authorised for probate. No ABS. Once authorised, any new partners, directors & shareholders required to be Authorised Legal Activities Individual (ALAI). Must have an ACCA Accountancy Practice	All partners, directors & shareholders must be authorised for probate. No ABS. Once authorised, any new partners, directors & shareholders required to be a CILEx Practitioner (ACCA-Probate). Must have an ACCA Accountancy Practice
AUTHORISED AREAS OF PRACTICE	Non-contentious probate.	Non-contentious probate.
LIMITATION ON FEE INCOME RELATED TO PROBATE	No more than 20% of total fee income of accountancy firm as otherwise outside PII scheme.	No more than 20% of total fee income of accountancy firm as otherwise outside PII scheme.
AUTHORISED PERSON	<p><u>ACCA Members</u> Require legal activities qualification. Must hold PC & completed course. Must register as an Authorised Legal Activities Individual (ALAI).</p> <p><u>Non-ACCA Members</u> Must be entitled to practise accountancy and be authorised person or approved by another regulator. Register as an ALAI. Non-contentious probate. Required to have a proportion of CPD in probate.</p>	<p><u>ACCA Members</u> Require legal activities qualification. Must hold PC & completed course. Must register as a CILEx Practitioner (ACCA-Probate).</p> <p><u>Non-ACCA Members</u> Must be entitled to practise accountancy and be authorised person or approved by another regulator. Register as a CILEx Practitioner (ACCA-Probate). Non-contentious probate. Required to have a proportion of CPD in probate.</p>
PII	<p><u>Legal Activities</u> Minimum £100k</p> <p>No restriction on firms used.</p> <p>No minimum wording required.</p>	<p><u>Legal Activities</u> Minimum £500k</p> <p>No restriction on firms used.</p> <p>No minimum wording required.</p>
COMPENSATION ARRANGEMENTS	<p>Require a Fidelity Guarantee Insurance as part of PII to cover partnership /directors / employs FT or PT staff.</p> <p>Covers acts of Fraud or dishonesty by any partner, director or employee in respect of money or goods held in</p>	<p>Require a Fidelity Guarantee Insurance as part of PII to cover partnership /directors / employs FT or PT staff.</p> <p>Covers acts of Fraud or dishonesty by any partner, director or employee in respect of money or goods held in trust by a firm.</p>

	trust by a firm. And GPR 9(2) PII shall cover civil liability in addition to FGI.	Min FGI cover £50k in respect of each and every claim.
	Min FGI cover £50k in respect of each and every claim.	
COMPLAINTS HANDLING	To Legal Ombudsman	To Legal Ombudsman
AML SUPERVISION	ACCA supervises accountancy firm	Due to limited activity, CILEx ACCA firm does not require supervision (agreed with OPBAS)
CLIENT MONEY HELD	Yes Covered by ACCA Code.	No Not permitted (but may be held in the linked ACCA regulated firm and covered by ACCA Code)
TRANSPARENCY	No requirements to comply	Required to comply
ANNUAL RETURN	Renew on 31 December and are valid only for year.	Renew on 31 December and are valid only for year.
ANNUAL COSTS	Fees for 2020 Firm's Legal Activities Certificate - £250 per Authorised Legal Activities Individual (ACCA member and non-ACCA member).	Proposed fees 2022 Individual Practising Certificate Fee £100 Firm fee £200 Total £300 per firm minimum based on 1 CILEx Practitioner (ACCA-Probate)

Explanation of proposed approach

50. We have established a route whereby the conduct of reserved probate activities would no longer be carried on by the authorised ACCA Accountancy Practice. Instead, these activities would be delegated to a distinct legal entity that is separate from the accountancy practice.
51. This distinct entity and its bespoke regulatory arrangements would be defined under a new entity class: the 'CILEX-ACCA Probate Entity', which would be contingent upon the existence of an ACCA Accountancy Practice. The CILEX-ACCA Probate Entity will be authorised by CILEx Regulation to carry on the reserved legal activity of probate (non-contentious) only, and that this supervision will not extend to unreserved activities, contentious probate, or any activities relating to estate administration. The responsibility for unreserved activities will remain with ACCA, as the primary regulator of the firm's activities. This is to mitigate risk to the consumer and promote greater clarity of regulatory structure.
52. The rules currently governing ACCA Accountancy Practices in their carrying on of the reserved activity of probate are contained in the Legal Activities Regulations of the ACCA Rulebook. We have sought not to depart significantly from the existing rules and regulations contained in the Legal Activities Regulations.
53. The proposed rules governing the authorisation and supervision of CILEX-ACCA Probate Entities are contained in the CILEx Regulation-ACCA Handbook. They have been modified only for the purposes of clarity and the avoidance of inconsistency in regulatory practice. We believe this to be the most effective approach to maintaining current standards and promoting clarity.

54. We intend that this handbook will contain all appropriate rules and responsibilities to which an CILEX-ACCA Probate Entity must comply and that it will be a regulatory arrangement approved by the Legal Services Board as part of the application. This handbook is outlined in detail as part of this application.
55. ACCA Accountancy Practices conducting the reserved activity of probate are currently required to hold a 'Firms Legal Activities Certificate' ('FLAC'), which will cease on de-designation or move to another regulator, and any individual performing probate activities therein must also be registered as an Authorised Legal Activities Individual ('ALAI') with ACCA. All new and existing partners, directors and shareholders must also be authorised for probate. The requirements necessary for authorisation meet those of CILEx Regulation and are also outlined in the CILEx Regulation-ACCA Handbook.
56. CILEx Regulation will adopt a consistent and proportionate approach to the authorisation and supervision of CILEX-ACCA Probate Entities by using the same risk framework for authorisation and supervision, with additions to address risks specific to CILEX-ACCA entities. This will be overseen by our Strategic Risk Committee as for our other Authorised Entities.
- 57.

Impact on existing ACCA firms

The ACCA advised us on 5 March 2021 that they had 55 firms conducting reserved probate activities.

Out of those, there are already 29 which operate a separate entity for probate.

Of those 29, 2 probate entities conduct estate administration and hold client monies within that separate firm, and they believe that there may be another 4 firms that could be set up in this way.

This would suggest that:

- 26 firms will need to create a new entity to carry out the limited probate activities.
- 23 firms already have a structure in place that will suit this proposal.
- 6 firms may need to:
 - obtain authorisation from CILEx Regulation as a CILEx Authorised Entity, or
 - restructure their estate administration activities within their Accountancy firm.

For those firms wishing to maintain probate as an ancillary service we do not believe that this is an onerous process for an accountant to establish a new entity and the application process is set out from para 133 onwards.

The ACCA have advised that they have 65 firms (as at 18 June 2021). We do not have the details for the additional 10 firms (since March 2021 data above) as to whether they will require a new entity.

58. The current ACCA requirements for PII cover start from a low level of £100k and the cover required rises based upon the turnover in the firm. We will be looking to increase this to a minimum level of £500k in line with comparable standards required by the ICAEW.
59. The PII arrangements provide the equivalent of a compensation scheme for consumers who have suffered through dishonesty and this is covered at para 112 onwards.
60. There is currently no requirement for ACCA firms to comply with any rules on the provision of information to consumers in respect of price, service and regulatory information. Our intention is that our Transparency rules are incorporated within the CILEx Regulation – ACCA Handbook so that CILEX-ACCA Probate Entities now are required to provide this information to consumers.

The option to apply for full authorisation and regulation of ACCA firms as Authorised Entities (including ABS):

CILEx Regulation as a regulator of entities and ABS

61. CILEx Regulation is an experienced activity-based regulator, awarding practice rights and entity authorisation by specialism. We use this experience and the information gathered to understand our businesses, be proportionate in our approach and always remain open to innovation in the delivery of legal services.
62. In assessing applications for the authorisation of entities, CILEx Regulation assesses the risks to delivery of the principles and supporting outcomes set out in the Code of Conduct. Our risk assessment framework forms the basis for assessment of applications for entity authorisation. The framework forms part of existing regulatory arrangements.
63. The frameworks will be developed further through the Strategic Risk Committee (see paras 123-126 for more information) to take into consideration risks associated with CILEX-ACCA Probate Entities and regularly reviewed to take into account emerging risks.
64. After authorisation, CILEx Regulation gathers intelligence on risks on an ongoing basis. This is used to identify areas for supervision activity and to provide alerts to entities on risks that might affect them. This is fed into the work of the Strategic Risk Committee. Our recent work has covered the risks of cybercrime and fraud, as well as the increased demands that the Money Laundering Regulations 2017 (as amended 2020) present to the supervised community.

Route to full authorisation for ACCA firms

65. The proposed route to CILEX-ACCA Probate Entity authorisation as outlined above also opens several further options for full authorisation to conduct a wider remit of reserved legal activities. This is because the creation and authorisation of a CILEX-ACCA Probate Entity will establish a distinct legal entity.
66. In this way, any CILEX-ACCA Probate Entity will be eligible to apply for full authorisation as a CILEx Authorised Entity or licensed as an Alternative Business Structure (ABS).
67. In order to become authorised as a CILEx Authorised Entity, a CILEX-ACCA Probate Entity would need to follow the CILEX Authorisation Rules. A firm's status as a CILEX-ACCA Probate Entity would not positively or negatively impact their application for authorisation. Following authorisation, the CILEx Authorised Entity would be eligible to conduct any of the reserved legal activities, provided they meet the requirements per reserved activity, as prescribed by CILEx Regulation.
68. After becoming authorised as a CILEx Authorised Entity, the firm's existence would no longer be contingent upon the ACCA Accountancy Practice and would operate as an independent legal entity.
69. In order to become licensed as an ABS, a CILEX-ACCA Probate Entity would need to meet the requirements of the CILEx Regulation Licensing Rules. A firm's status as a CILEX-ACCA Probate Entity would not impact their application for licensing in any way.
70. These routes to authorisation would be available to the legal arm of an ACCA Accountancy Practice should they elect to pursue the CILEx Regulation route to authorisation following the withdrawal of the ACCA from legal services regulation. While these routes to full authorisation are available under the proposed rules, they are not expected nor required by CILEx Regulation.

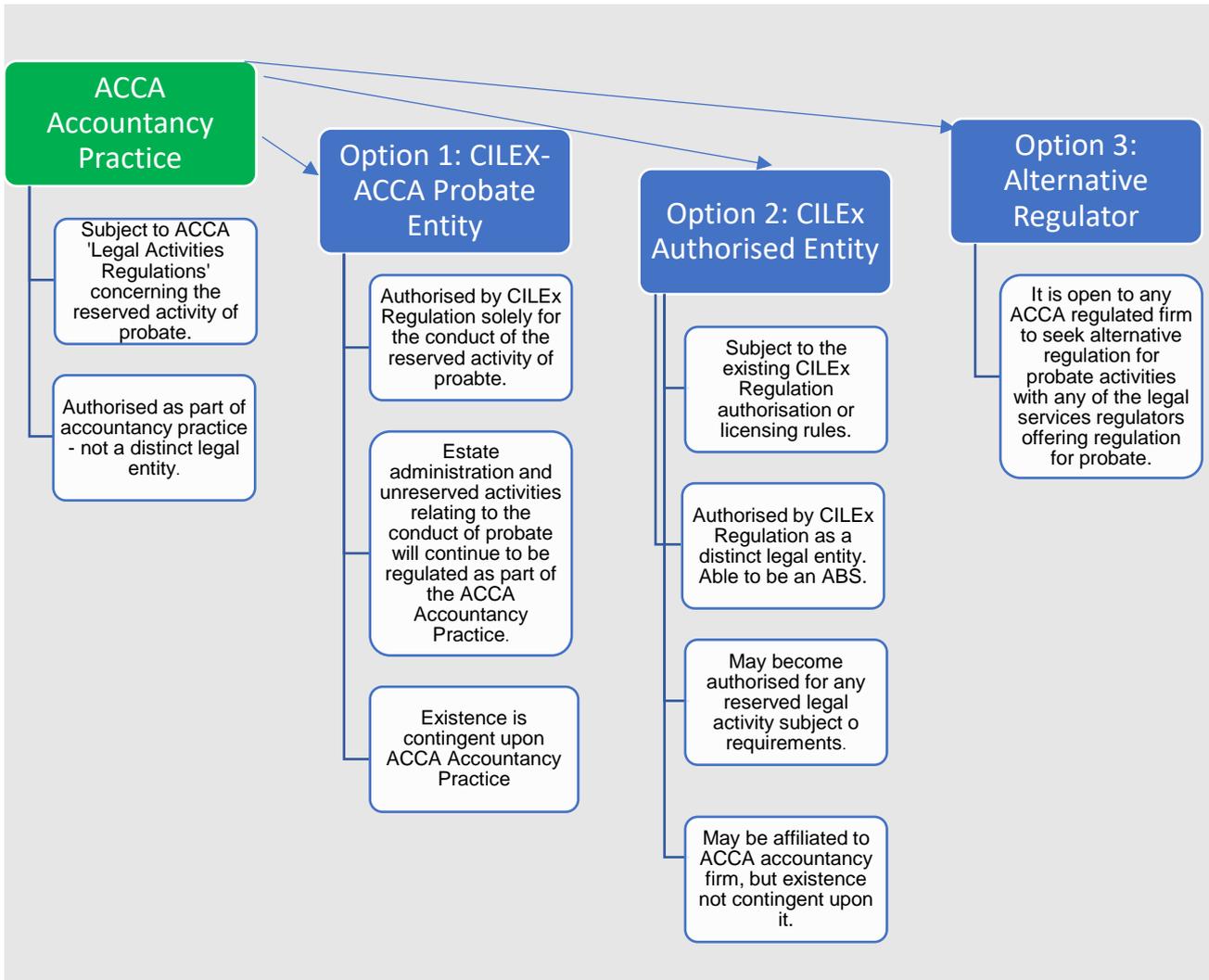
71. The following table sets out the differences between the regulatory requirements governing the proposed CILEX-ACCA Probate Entity and a CILEx Authorised Entity:

	CILEX-ACCA PROBATE ENTITIES	CILEX AUTHORISED ENTITIES
TYPE OF ENTITY	All partners, directors & shareholders must be authorised for probate. No ABS. Once authorised, any new partners, directors & shareholders required to be a CILEx Practitioner (ACCA-Probate). Must have an ACCA Accountancy Practice	ABS (non-authorised person owners) & non-ABS allowed
AUTHORISED AREAS OF PRACTICE	Non-contentious probate.	Probate Litigation (Civil, Criminal, Family), Conveyancing, Immigration
LIMITATION ON FEE INCOME RELATED TO PROBATE	20% of total fee income of accountancy firm	None
AUTHORISED PERSON	<u>ACCA Members</u> Require legal activities qualification. Must hold PC & completed course. Must register as a CILEx Practitioner (ACCA-Probate). <u>Non-ACCA Members</u> Must be entitled to practise accountancy and be authorised person or approved by another regulator. Register as a CILEx Practitioner (ACCA-Probate). Non-contentious probate. Required to have a proportion of CPD in probate	Any Authorised Person – CILEx Practitioner, Solicitors, Conveyancer, Barrister. For ABS owners can be non-authorised persons. CPD requirements
PII	<u>Legal Activities</u> Minimum £500k (<i>new requirement introduced by CILEx Regulation</i>) No restriction on firms used. No minimum wording required.	<u>Legal Activities</u> £2M Qualifying Insurer only CILEx Minimum Wording
COMPENSATION ARRANGEMENTS	Require a Fidelity Guarantee Insurance as part of PII to cover partnership/directors / employs FT or PT staff. Covers acts of Fraud or dishonesty by any partner, director or employee in respect of money or goods held in trust by a firm and civil liability (see above table). Min FGI cover £50k in respect of each and every claim.	Required to contribute to Compensation Arrangements. Maximum of £500,000 for one claim Maximum of £2 million for all claims against one firm (subject to review)
COMPLAINTS HANDLING	To Legal Ombudsman	To Legal Ombudsman
AML SUPERVISION	ACCA supervises accountancy firm	Due to limited activity, CILEX ACCA firm does not Supervised by CILEx Regulation

		require supervision (agreed with OPBAS)	
CLIENT MONEY HELD	Yes (in linked ACCA firm) Covered by ACCA Code.	No (in CILEX-ACCA firm) Not permitted	Yes Covered by Accounts Rules with an Accountants Report required. TPMA allowed
ANNUAL RETURN	Renew on 31 December and are valid only for year.		Renew on anniversary of authorisation.
ANNUAL COSTS	Proposed fees 2022 Individual Practising Certificate Fee £100 Firm fee £200 Total £300 per firm minimum based on 1 partner		Authorisation/Renewal Fee Non-ABS £761/£611 Compensation Fund contribution Non-ABS £500 <i>Based on up to £100k t/o.</i>

72. Finally, it is open to any ACCA firm currently offering probate activities through the ACCA regulation to switch to another legal services regulator for regulation of their practice.

Summary of Available Routes to Authorisation



Approach to regulating and authorising ACCA individuals (including application and supervision)

Current approach of ACCA to authorising individuals for probate activities

73. ACCA has been approved to authorise individuals to carry out probate work and their approach is set out in The Legal Activities Regulations 2018, which are in the current ACCA Rulebook and form part of the UK annex to the Chartered Certified Accountants' Global Practising Regulations 2003 (GPRs).
74. A member holding a ACCA practising certificate and having completed a relevant course and assessment in probate is eligible to apply to register as an Authorised Legal Activities Individual (ALAI).
75. Members are not eligible to undertake probate work through ACCA unless the firm(s) in which they practise hold a firm's legal activities certificate (FLAC) from ACCA and they have completed an application form to register as an ALAI.
76. A non-ACCA member is eligible if they:
- are a member of another IFAC body.
 - are entitled to practise accountancy.
 - hold, or are eligible to hold, probate authorisation with another approved regulator, or demonstrate an appropriate level of competence to carry out probate work.
 - intend to undertake probate work in a firm that holds, or is applying for, a FLAC from ACCA, and
 - complete an application form to register as an ALAI.
77. The ACCA requests the following information from individuals:
- their practising details,
 - previous authorisations,
 - details of their probate authorisation or course completed (including certificate of assessment),
 - PII details,
 - continuity of practice arrangements, and
 - declaration of compliance with their requirements under the Global Practising Regulations and the Legal Activities Regulations.
78. They are then authorised and supervised for probate alongside their supervision for accountancy practice.

Approach of CILEx Regulation to authorising individuals for probate activities

79. CILEx Regulation awards practice rights in the reserved and regulated legal activities, by specialism. Applicants must demonstrate competence in their specialist area of practice. There is a competence framework for each reserved and regulated area which sets out the knowledge, skills and experience that applicants must demonstrate.

CILEx Regulation proposed approach for ACCA individuals currently authorised for probate

80. As existing ACCA individuals authorised for probate (ALAI) are authorised persons, then subject to approval of the new exemptions policy, (which forms part of the education standards application currently under consideration by the LSB) CILEx Regulation would be able to transfer their competence from ACCA without any further assessment.
81. They would be subject to the usual annual Continuing Professional Development (CPD) requirements with CILEx Regulation, to provide for the ongoing development of knowledge and skills to ensure competence to deliver legal services to consumers.
82. CILEx Regulation operates an outcomes-focused CPD scheme, requiring nine CPD Outcomes including at least one Professionalism Outcome (an activity linked to an individual as a professional person, such as client care, equality & diversity issues, or business management). The CPD year runs

from 1 October to 30 September of each year. At least five of the CPD Outcomes must come from planned activities. Where similar activities have been undertaken as CPD as part of the ACCA requirements, CILEX Practitioners (ACCA-Probate) will be able to count this towards their CILEX Regulation CPD requirements.

83. The following list are example of activities that would count as CPD:
- a) CILEX Law School Updates, course manuals and self-assessment questions
 - b) Reading articles: Including the CILEX Journal or other reputable sources including the internet
 - c) Attending a course or seminar
 - d) Completing a distance learning course
 - e) In-house training by your employer
 - f) Training provided by a local CILEX or Law Society branch
 - g) Academic or professional study
 - h) Research: Related to legal topics or relevant to your place of work
 - i) Putting in place new or revised procedures as a result of the research outcomes
 - j) Producing a dissertation
 - k) Work shadowing
 - l) Giving or receiving coaching or mentoring
 - m) Preparation and delivery of training courses
 - n) Participation in development of specialist areas of law: By attending meetings of specialist committees/working parties of relevant organisations undertaking such work.
 - o) Writing on Law or Practice: Including material written for journals, law books, publications, newspapers, magazines, internet
 - p) Reflection on learning you have gained from being involved in a "critical incident".
 - q) Reflection on learning gained through the experience of new tasks.

CILEX Regulation proposed approach for ACCA individuals seeking authorisation for probate activities

84. Under the current ACCA regulatory arrangements, an authorised person responsible for providing reserved legal activities shall be required to obtain a legal activities qualification in the relevant practice area.
85. The intention is that the existing qualification route through Altior by BARBRI will continue to be made available for ACCA members and non-members in ACCA firms enabling them to become authorised individuals as now. This will require them to successfully complete a course of training and assessment in the reserved legal activity, now to be prescribed by CILEX Regulation, rather than ACCA, and to continue to be awarded with a Legal Activities Certificate ('LAC'). It will be open to other training providers to operate a course and assessment in this area and the process to apply is outlined in the new CILEX Regulation-ACCA Handbook at Annexes 9 and 10. On successful completion of the course, and having met the other requirements for admission (e.g. prior conduct assessment) they will be admitted as CILEX Practitioners (ACCA-Probate).

Changes to the regulatory arrangements

Transposing ACCA's Existing Regulations

86. The regulations currently enforced by ACCA are embodied in the 'ACCA Rulebook' (the Rulebook). This contains the relevant byelaws, regulations and the Code of Ethics and Conduct with which ACCA members are expected to comply.
87. The rules governing the reserved activity of probate are contained in Annex 5 of the Rulebook under the 'Legal Activities Regulations'. These regulations apply to the reserved activity of probate and extend to non-contentious probate only.

88. As far as is reasonably possible, CILEx Regulation has sought to replicate the wording contained within the Legal Activities Regulations, so as to reduce the burden on affected firms. We have made reasonable adjustments to the rules for the purposes of clarity and ease of adoption.
89. By the date of ACCA de-designation all firms must either have transferred to CILEx Regulation, to another legal services regulator or cease offering probate activities.
90. If a firm elects to become a CILEX-ACCA Probate Entity, they will no longer be bound by the Legal Activities Regulations in the ACCA Rulebook but will instead be required to follow the regulations contained within the 'CILEx Regulation-ACCA Handbook' ('the Handbook').
91. The Handbook mirrors the Legal Activities Regulation as far as possible, however CILEx Regulation will assume regulatory responsibility for the authorisation and supervision of CILEx-ACCA Probate Entities conducting the reserved legal activity of probate as defined therein. We seek to regulate only non-contentious probate activities for CILEx-ACCA Probate firms and none of the work associated with the administration of an estate (which will be covered by ACCA as an unreserved activity).
92. While operating in a CILEX-ACCA Probate Entity, ACCA members will individually still be required to follow the rules and regulations as specified in the ACCA Rulebook. This includes all byelaws, regulations, and the ACCA Code of Ethics and Conduct.
93. In addition, those operating within a CILEX-ACCA Probate Entity will be expected to comply with their obligations under the CILEx Regulation-ACCA Handbook. These include:
- Compliance with the CILEX-ACCA Code of Conduct, which has been derived from the CILEX Code of Conduct.
 - The CILEx Regulation continuing professional development (CPD) regulations.
 - The CILEx Regulation Enforcement Rules.
94. CILEx Regulation will be responsible for continually maintaining the CILEx Regulation-ACCA Handbook. The scope of the Handbook does not extend to ACCA members practising solely in the ACCA Accountancy Practice, nor will it govern or supersede any existing obligations relating to the provision of accountancy services arising from the ACCA Rulebook.
95. We do not foresee any areas of inconsistency in regulatory practice arising from the responsibilities imposed upon an authorised person operating in a CILEX-ACCA Probate Entity. We have sought to alleviate that by the approach adopted in having a separate entity. Whilst this approach has been approved by OPBAS for AML supervision, it does not impact on consumer protections as we have established that PII cover can extend across two firms (as is the case currently for certain ACCA firms) and will also include named individuals where this is deemed preferable by both insurer and the firm.
96. In the event of a regulatory conflict, we have included specific provisions within the CILEx Regulation-ACCA Handbook as to how we would expect these to be addressed, as per the requirements of section 54 of the Legal Services Act. Additionally, CILEx Regulation and ACCA will determine the best course of action on a case-by-case basis as governed by our Memorandum of Understanding².
97. By adopting this approach, alongside the enhancements to the level of PII cover and extension of the transparency rules, we can continue to allow ACCA firms to offer more choice to consumers for their legal services.

² An MoU will be provided as part of the final application

Rule changes (including ancillary rule changes)

98. This table sets out the changes that we have made to the ACCA (Legal Activities Regulations) 2018 in putting together the CILEx Regulation-ACCA Handbook and how we have adapted wording from the ACCA (Global Practising Regulations) to provide a pathway for ACCA and non-ACCA individuals to apply for an ACCA Accountancy firm to be regulated as a CILEX-ACCA Probate Entity.

99. The ACCA Global Practising Regulations (GPR) can be downloaded from the ACCA website [here](#). The Legal Activities Regulations (LAR) referenced in the below table can be found in Annex 4 of the GPR, with the relevant sections listed against their equivalent section in the CILEx Regulation-ACCA Handbook.

ACCA (Legal Activities Regulations) Rule	CILEx Regulation-ACCA Handbook Rule	Did it stay the same?	What are the changes?	Why have we changed it?	Where is it found?	
					ACCA rule	CILEx Regulation-ACCA Handbook rule
n/a	Interpretation	No	Interpretation section (glossary of terms) added.	To provide clarity regarding new and existing terms including new entity types and abbreviations.	n/a	Interpretation section
Application (scope)	Application, Citation and Commencement	No	Section amended to describe the scope of the CILEx Regulation-ACCA Handbook.	Enhance understanding of regulatory obligations under new entity type and provide clarity on scope.	S1 Legal Activities Regulations (LAR) 2018	S2
Rules governing requirements for Public Practice	n/a	No	Section removed.	Terms regarding public practice will not apply to CILEx-ACCA firms under the proposed regime. Obligations concerning public practice will continue to be monitored by ACCA.	S2/3 LAR 2018	n/a
Eligibility for Legal Activities Authorisation (s4.1, 4.2)	Eligibility for Legal Activities Authorisation (s2.1, 2.2)	No	Requirements in ACCA rules to comply with Regs 5 & 6 of Global Practising Regulations (GPRs) have been removed.	Relevant sections of the GPRs have been incorporated into the CILEx Regulation-ACCA Handbook. This section concerns Practising Certificate requirements, which have been altered to align with the requirements of CILEx Regulation.	S4.1-4.2 LAR 2018	S2 Annex 1
Eligibility for Legal Activities Authorisation (s4.3)	Eligibility for Legal Activities Authorisation (s2.3)	No	This section in the CILEx Regulation-ACCA Handbook applies to both members and non-members of ACCA. Requirements to be bound by the GPRs, ACCA CPD requirements, ACCA Authorisation Regulations, ACCA Charter, bye-laws and regulations, and disciplinary procedures have been removed. These have been replaced with a requirement to be bound by the CILEx Regulation CPD requirements, CILEX-ACCA Code of Conduct, CILEx Regulation-ACCA Handbook, and the CILEx Regulation Enforcement rules.	CILEx Regulation have agreed with ACCA that members and non-members working in a CILEX-ACCA firm will no longer be bound by the requirements as described. CILEx Regulation will assume responsibility for supervision, enforcement and CPD of authorised persons working in a CILE-ACCA firm as described.	S4.3 LAR 2018	S2.3
Eligibility for a Firm's Legal Activities Certificate (s5)	Eligibility for a Firm's Legal Activities Certificate (s3.1)	No	3.1 (a)-(e) remain the same. 3.1(f) has been amended to remove reference to GPRs, ACCA complaints and disciplinary regulations, ACCA membership regulations and the ACCA Charter and bye-laws. This was replaced with an obligation be bound by the CILEx Regulation-ACCA Handbook.	The requirements as described have been incorporated with the CILEx Regulation-ACCA Handbook, and relevant obligations to ACCA have been transferred to CILEx Regulation.	S5 LAR 2018	S3.1
Legal Activities Qualifications (s6)	Legal Activities Qualifications (s4)	No	4.1 Amended to read 'CILEx Regulation Practising Certificate'. References to GPR 7 removed, replaced with 'Annex 1'.	4.1 Under the proposed system, practicing certificates will be issued by CILEx Regulation. This is covered in Annex 1 of the CILEx Regulation-ACCA Handbook, which mirrors Reg 7 GPR.	S6.1 LAR 2018	S4.1 Annex 2

			4.2 Amended to require compliance with 'Annex 2' of CILEx Regulation-ACCA Handbook. 4.3 Authority to issue waiver amended to be CILEx Regulation	4.2 Clarification regarding the necessary qualifications required to hold a practising certificate from ACCA or CILEx Regulation will be covered under Annex 2. 4.3 CILEx Regulation will possess the requisite authority to issue rule waivers under the proposed system.		
Meaning of Firm Controlled by Authorised Persons (s7)	Meaning of Firm Controlled by Authorised Persons (s5)	Yes	References to regulation numbers altered accordingly	Clarity Rule 5(2)(a) and (b) replicate exactly the current ACCA requirements. This was included at the time of the 2018 application to prevent ACCA accountancy firms inadvertently becoming ABS.	S7 LAR 2018	S5
Fit and Proper Persons (s8)	Fit and Proper Persons (s6)	No	References to 'Regulation 8 GPR' have been removed and replaced with 'Annex 3' of the Handbook. References to ACCA 'admissions and licensing committee' have been removed.	Annex 3 sets out the full rules concerning CILEx Regulations approach to the 'fit and proper persons' test with regard to CILEx-ACCA firms. The admissions and licensing committee for CILEx Regulation deals with appeals only. Any such determinations shall be made by the relevant department in CILEx Regulation under the usual channels.	S8 LAR 2018	S6 Annex 3
Professional Indemnity Insurance (s9)	Professional Indemnity Insurance (s7)	No	References to 'Regulation 9 GPR' have been removed and replaced with 'Annex 4' of the Handbook. 7.3 Wording amended to remove reference to public practice and refer to those ceasing to operate a CILEX-ACCA firm.	Terms regarding public practice will not apply to CILEx-ACCA firms under the proposed regime. A minimum level of cover of £500,000 put in place. Rule 7(2) – the detail of the limits is set out in Annex 4(3) of the handbook.	S9 LAR 2018	S7 Annex 4
Continuing Professional Development (s10)	Continuing Professional Development (s8)	No	Removed reference to ACCA Membership Regulation.	Authorised persons operating in a CILEx-ACCA firm will not be subject to ACCA membership regulations by virtue of this Handbook.	S10 LAR 2018	S8
Continuity of Practice (s11)	Continuity of Practice (s9)	Yes	Removed reference to GPR Regulation 11 and replaced with 'Annex 5'.	Included in Annex 5 (Continuity of Practice) of the CILEx Regulation-ACCA Handbook	S11 LAR 2018	S9 Annex 5
Notification (s12)	Notification (s10)	Yes	Removed reference to GPR Regulation 12 and replaced with 'Annex 6'.	Included in Annex 6 (Notification) of the CILEx Regulation-ACCA Handbook	S12 LAR 2018	S10 Annex 6
Conduct of Reserved Legal Activities (s13)	Conduct of Reserved Legal Activities (s11)	No	Removed reference to ACCA Rulebook and the ACCA Code of Ethics and Conduct. Replaced with the CILEX-ACCA Code of Conduct, found in Annex 8 of the Handbook.	All authorised persons operating within a CILEx-ACCA firm will need to follow the CILEX-ACCA Code of Conduct as set out in Annex 8 of the Handbook. Persons authorised by ACCA will still be required to follow the Code of Ethics and Conduct as prescribed by ACCA, however this will not form part of the Handbook.	S13 LAR 2018	S11 Annex 8
Monitoring (s14)	Monitoring (s12)	No	Removed reference to GPR Regulation 14 and replaced with 'Annex 7'. Amended to 'being monitored by CILEx Regulation'.	Included in Annex 7 (Monitoring and Compliance) of the CILEx Regulation-ACCA Handbook Monitoring of CILEX-ACCA Firm and authorised persons therein will be carried out by CILEx Regulation under the proposed regime.	S14 LAR 2018	S12
Complaints Handling by Firms (s15)	Complaints Handling by Firms (s13)	Yes	References to 'the Association' have been amended to 'CILEx Regulation'.	Existing requirements concerning the right to complain to the Legal Ombudsman match those of CILEx Regulation. (Para 104) We have maintained ACCA's existing requirements as regards complaints procedures, which are contained in Section 13 of the CILEx Regulation-ACCA Handbook. These procedures outline the right of the consumer to complain to the Legal Ombudsman and broadly align with the policies and procedures of CILEx Regulation in this regard. (Para 105) The Legal Ombudsman has confirmed that a consumer will be able to be referred to them, whether the work is carried out in the CILEx-ACCA Probate Entity or ACCA Accountancy practice. They will work with us and ACCA on ways to ensure clarity for the consumer on their rights to raise a complaint. Service complaints relating to individuals and firms authorised by ACCA to undertake the reserved legal activity of non-contentious probate are covered by the LeO. ACCA understands that service complaints that fall within LeO's jurisdiction are not limited to the reserved legal activity of non-contentious probate and may cover some mainstream accountancy activities connected to the reserved legal activity of non-contentious probate, such as estate	S15 LAR 2018	S13

				administration and taxation. Complaints that indicate potential misconduct are covered by ACCA.		
Investigation of Complaints (s16)	Investigation of Complaints (s14)	No	References to 'the Association' have been amended to 'CILEx Regulation'. Reference to the investigation of complaints to be able to be carried out 'by another approved regulator' has been removed. Reference to 'The Chartered Certified Accountants Complaints and Disciplinary Regulations 2014' has been replaced with the CILEx Regulation Enforcement Rules.	CILEx Regulation will investigate complaints made with regard to a CILEX-ACCA firm. Any such complaints will be dealt with under the CILEx Regulation Enforcement Rules.	S16 LAR 2018	S14
Disclosure of Information (s17)	Disclosure of Information (s15)	Yes	References to 'the Association' have been amended to 'CILEx Regulation'.	Existing requirements concerning the disclosure of information match those of CILEx Regulation.	S17 LAR 2018	S15
n/a	Transparency Rules (s16)	No	Section added.	All CILEx Regulation firms are required to comply with the CILEx Regulation Transparency Rules with regard to price and service information. CILEX-ACCA Firms will not be exempt from this requirement. The adapted rules are provided in S16 of the Handbook. This is not currently required under ACCA supervision and constitutes a new requirement. In relation to Annex 4(1), the PII/FGI policy is primarily an ACCA accountancy policy with legal additions, it is not written to CRL minimum terms as this would increase the regulatory costs significantly (this could mean increase in premiums of £000s based on our current experience of the market – this is even if they could access a legal services policy on minimum terms at all).	n/a	S16
n/a	Appeals (s17)	No	Section added.	An appeals mechanism has been added concerning decisions made by CILEx Regulation regarding authorisation as a CILEX-ACCA firm and CILEx Practitioner (ACCA-Probate). This mechanism mirrors the existing appeals process for CILEx Authorised Entities and has been tailored toward CILEX-ACCA firms. For individuals it mirrors our existing arrangements under the Admissions & Licensing Rules allowing for an appeal for a reconsideration of the decision and then a further appeal to the Appeals Panel. All appeals will be considered by the Appeals Panel, which comprises a professional member and two lay members.	n/a	S17
n/a	Interventions (s18)	No	Section added	To allow CILEx Regulation to be able to intervene in a CILEx-ACCA firm	n/a	s18
n/a	Regulatory conflict (s19)	No	Section added	We have also added at 19.1 and 19.2 to address section 54 of the Legal Services Act in relation to regulatory conflict. The MoU supports this (appendix 8)	n/a	S19

ACCA (Global Practising Regulations) Rule	CILEx Regulation-ACCA Handbook Rule	Did it stay the same?	What are the changes?	Why have we changed it?
S6 Global Practising Regulations (GPRs) (Eligibility for a Practising Certificate)	Annex 1 (Eligibility for a Practising Certificate)	Yes	Wording changed to reflect equivalent GPR sections in Annexes of CILEx Regulation-ACCA Handbook.	
S7 GPRs (Qualifications)	Annex 2 (Qualifications)	No	References to 'public practice' removed.	Issuing of practising certificates will need to satisfy the requirements of CILEx Regulation under the proposed scheme.

			Aligned practising certificate qualifications to those prescribed by CILEx Regulation, to provide CILEx Regulation with evidence of the individual's skill and competence in the reserved legal activity of probate. Wording changed to reflect equivalent GPR sections in Annexes of CILEx Regulation-ACCA Handbook.	
S8 GPRs (Fit and Proper Persons)	Annex 3 (Fit and Proper Persons)	Yes	Wording changed to reflect equivalent GPR sections in Annexes of CILEx Regulation-ACCA Handbook.	
S9 GPRs (Professional Indemnity Insurance)	Annex 4 (Professional Indemnity Insurance)	Yes	Wording changed to reflect equivalent GPR sections in Annexes of CILEx Regulation-ACCA Handbook.	The definitions under (3) amended to provide a minimum level of cover of £500,000.
S11 GPRs (Continuity of Practice)	Annex 5 (Continuity of Practice)	No	Wording changed to reflect equivalent GPR sections in Annexes of CILEx Regulation-ACCA Handbook.	The waiver policy under 12(4)GPR will not apply to CILEX-ACCA firms.
S12 GPRs (Notification)	Annex 6 (Notification)	Yes	Wording changed to reflect equivalent GPR sections in Annexes of CILEx Regulation-ACCA Handbook.	
S14 GPRs (Monitoring and Compliance)	Annex 7 (Monitoring and Compliance)	Yes	Wording changed to reflect equivalent GPR sections in Annexes of CILEx Regulation-ACCA Handbook.	

CILEx Regulation-ACCA Handbook and Regulatory Arrangements

100. To promote maximum clarity, CILEx Regulation intends that there is clear differentiation between the rules that govern CILEx Authorised Entities and those that govern CILEx-ACCA Probate Entities. We want to ensure that CILEx-ACCA Probate Entities can continue to operate under the existing arrangements that have been previously agreed by the Legal Services Board as far as possible.
101. To facilitate this, we have created a new 'CILEx Regulation-ACCA Handbook', which will apply to the CILEx-ACCA Probate Entities. As set out in the table above, we have transposed the wording of the existing rules that apply to ACCA Accredited firms from the ACCA (Legal Activities Regulations) 2018 and amended these to promote clarity and avoid inconsistency in regulatory practice. As far as is possible, the Handbook mirrors the rules currently enforced by ACCA in the Legal Activities Regulations of the ACCA Rulebook. The Handbook can be found at [Appendix 1](#).
102. We have incorporated the principles and outcomes enshrined within the CILEx Code of Conduct into the CILEx Regulation-ACCA Handbook so that CILEx ACCA firms and any CILEx Practitioner (ACCA-Probate) are operating to the same expectations concerning their conduct as our CILEx members, CILEx practitioners and CILEx Authorised Entities.
103. We have increased the existing minimum requirements for PII cover from a lower level of £100k to £500k. This is to bring cover in line with comparable standards required by the ICAEW, and bolster consumer protections. We recognise that the majority of risks associated with these protections will continue to be supervised by ACCA along with the accountancy activities.
104. We will amend the definitions within the CILEx Regulation Enforcement Rules to allow us to deal with any complaints about CILEx-ACCA Probate Entities and CILEx Practitioners (ACCA-Probate). With the limited authorisation that we are providing and information from ACCA, we do not believe that we should be receiving a large number of complaints. Our approach to dealing with these complaints will be addressed under our MoU and data sharing agreements with ACCA.
105. CILEx Regulation requires its authorised entities to comply with the requirements set out by the Competition and Markets Authority on price and service information. We will incorporate appropriate parts of the CILEx Regulation Transparency Rules in to the CILEx Regulation - ACCA Handbook so that they will extend to CILEx-ACCA Probate Entities. As the relevant activity carried out in these entities will be limited, we do not believe that the information they will have to supply will be onerous. We have set out draft guidance that we will supply to CILEx-ACCA Probate Entities in Appendix 10.

Regulatory Arrangements

106. In order to ease the transition to becoming authorised as a CILEx-ACCA Probate Entity, CILEx Regulation has endeavoured to preserve the rules in ACCA's Legal Activities Regulations as far as is possible. In this section, we will highlight where the rules have remained consistent, where they have been amended, and if so, for what purpose.

Regulation of Conduct

107. ACCA members operating within a CILEx-ACCA Probate Entity will be required to meet the appropriate standards set by both ACCA and CILEx Regulation. The ACCA Code of Ethics and Conduct sets out the standards expected of individual ACCA members, while the CILEx

Regulation-ACCA Handbook will determine the standards expected of authorised persons operating within a CILEX-ACCA Probate Entity.

108. CILEx Regulation expects those operating in a CILEX-ACCA Probate Entity, whether or not they are a member of ACCA and regardless of whether they are member of another professional body, to comply with the CILEX-ACCA Code of Conduct. This is included in Annex 8 of the CILEx Regulation-ACCA Handbook and mirrors the requirements applicable CILEx Practitioners and CILEx Authorised Entities.
109. The wording contained in the CILEX-ACCA Code of Conduct will be amended to include reference to CILEX-ACCA Probate Entity. The code already has reference to CILEx Practitioners contained within it.
110. The CILEX-ACCA Code of Conduct rests upon nine core professional principles to which those operating within a CILEX-ACCA Probate Entity must adhere. This includes their conduct, practice and professional performance, and the outcomes they must meet.
111. The CILEX-ACCA Code of Conduct will take precedence for any legal matter on any other obligation imposed upon an individual or firm by another regulator or professional membership organisation and will operate in conjunction with any such obligations.

Complaints Handling

112. We have maintained ACCA's existing requirements as regards complaints procedures, which are contained in Section 13 of the CILEx Regulation-ACCA Handbook. These procedures outline the right of the consumer to complain to the Legal Ombudsman and broadly align with the policies and procedures of CILEx Regulation in this regard.
113. The Legal Ombudsman has confirmed that a consumer will be able to be referred to them, whether the work is carried out in the CILEX-ACCA Probate Entity or ACCA Accountancy practice. They will work with us and ACCA on ways to ensure clarity for the consumer on their rights to raise a complaint.

Practising Certificate

114. CILEx Regulation will be responsible for issuing practising certificates to authorise the holder to carry on the reserved activity of probate in the CILEX-ACCA Probate Entity for 12 months. Depending on the timescale in 2021 for ACCA to cease authorising probate firms and individuals, we will issue practising certificates for those existing ACCA individuals seeking to move their authorisation to CILEx Regulation to ensure that they have a continuing authorisation.
115. To be eligible to hold a practising certificate providing authorisation for the carrying on of the reserved activity of probate, an individual must meet certain requirements as stated in the CILEx Regulation-ACCA Handbook. Broadly, these are:
- If the individual is an ACCA member, they must hold an ACCA practising certificate, and have completed a course of probate training as prescribed by CILEx Regulation.
 - If the individual is not an ACCA member, they must hold a practising certificate of another member body of the International Federation of Accountants, have completed a course of probate training as prescribed by CILEx Regulation, and must be able to hold authorisation to carry on the reserved activity of probate with another approved regulator.

For existing ACCA ALAI (authorised persons) we are proposing that there will be an exemption process in place³.

116. In determining whether a person is eligible to be issued a practising certificate, CILEx Regulation employs the “fit and proper” test. In determining whether a person is “fit and proper”, CILEx Regulation:

- may take into account whether that person has contravened any provision of law relating to the carrying on of the reserved legal activities;
- 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 CILEx Regulation in its regulation of such activities;
- may consider any matter which relates to the person and any matter relating to any person who is or will be employed by or associated with the person for the purposes of or in connection with the operation of a CILEX-ACCA Probate Entity.

117. Authorised persons will still need to make prior conduct declarations. Matters relating to prior conduct declarations will be dealt with under existing CILEx Regulation Enforcement Rules.

118. This approach is consistent with current standards required by CILEx Regulation and does not depart from those obligations currently required by the ACCA. A full explanation of requirements can be found in the CILEx Regulation-ACCA Handbook.

Holding Client Money/Anti-Money Laundering (AML) Compliance

119. CILEX-ACCA Probate Entities will not be permitted to hold client money under the new rules. As mentioned previously, this will reduce the risk as we will not regulate for estate administration, as this unreserved activity will fall within the remit of ACCA.

120. Any non-reserved legal activity may be carried out by the ACCA Accountancy Practice, and the supervision thereof will not form part of CILEx Regulation-ACCA Handbook, nor fall within the remit of the supervisory responsibilities of CILEx Regulation. As such, the holding of client money by the ACCA accountancy practice will be permitted insofar as is currently allowed under the ACCA Rulebook and governed by the ACCA Code of Ethics and Conduct.

121. These arrangements have been raised with the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) and they are content that this is a sensible approach to ensuring clarity on AML supervision. Given that ACCA is already an AML supervisor, all AML supervisory responsibilities will remain with ACCA. This is because we assess any key money laundering risks would rest with the holding of client money with the ACCA Accountancy Practice. This will also fit with an additional levy that is proposed.

PII and Compensation Fund Arrangements

122. The ACCA regulations state that holders of a practising certificate must hold Professional Indemnity Insurance (‘PII’) for the duration of their practice in a firm. Currently, the level of indemnity required is calculated in relation to their annual fee income. However, ACCA observes a set of minimum requirements, which are as follows:

³ This is part of the education standards application recently approved by the Legal Services Board

- Must hold Fidelity Guarantee Insurance (FGI), which must cover against any acts of fraud or dishonesty by any partner, director or employee in respect of money or goods held in trust by a firm.
- FGI cover must amount to £50k in respect of each and every claim.
- PII should provide cover in respect of all civil liability incurred in connection with the conduct of a firm's business by the partners (or members and designated members of a limited liability partnership), directors or employees.
- 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.

123. PII does not only cover negligence in relation to actions around client money but also relates to costs incurred through other negligent actions. Two probate examples would be loss to the consumer in relation to the negligent completion of probate forms relating to taxation and also in relation to incorrect valuation of estate property (resulting in incorrect payment of SDLT).

124. However, the CILEX-ACCA probate firm will not hold client money therefore the risk to the consumer of dishonest loss would be minimal (which would usually be covered under the compensation fund). The FGI under the PII extends across both the probate firm and linked accountancy firm. The accountancy firm may well hold client money and the ACCA requirements are for FGI, which would cover the client as under the current scheme⁴. The requirement to have both FGI and compensation arrangements would be a duplication of costs to the individual regulated by both ACCA and CILEx Regulation.

125. We are aiming to keep the arrangements for CILEX-ACCA Probate firms as far as possible in line with the current arrangements at ACCA. If we were to introduce this requirement, the increase to a firm delivering probate activities as part of the CILEx Regulation compensation arrangements would be at least £500 (with no client money held and less than £250k annual turnover).

126. The increase to the PII requirements also brings the consumer protection for clients of CILEx Practitioners (ACCA-Probate) into line with probate delivered through other types of accountancy firms. ACCA has confirmed that the LSB expressed concern about the level of PII cover compared to other approved regulators, and therefore they increased the minimum PII from £50k to £100k. In the end the LSB was satisfied that the PII and compensation arrangements within the application to regulate probate were appropriate. However, they agreed to keep this under review as there were concerns that the ACCA cover was below other approved regulators.

127. CILEx Regulation performed a risk assessment of the minimum terms relating to PII as currently required by ACCA. In line with the feedback from our consultation, we have determined that the levels at which consumer protections are set merited increasing to a minimum level of £500k, subject to other existing requirements. This would provide equivalence with the levels set by the ICAEW for their firms offering probate as an ancillary service.

⁴ ACCA firms are required to hold cover for civil liability (which covers third party loss of client monies) and FGI (which covers first party loss of client monies). The minimum FGI cover is £50,000.

Impact of PII increase

Unfortunately, ACCA cannot provide PII information for all probate firms, so we would have to assume that **all** probate firms would be affected by an increase in PII to £500k.

However, based upon the limited information they hold, they estimate that 75% of probate firms already hold a minimum of £500k PII cover, and the impact would be an increase in the annual PII premium of **£126**.

This is based upon premiums provided by Locktons who we have consulted with as part of the reworking of the PII cover.

All probate firms face rising PII premiums as the PII market is hardening in general, and if they move to any other approved regulator for probate authorisation. they would be required to hold minimum PII cover of at least £500k.

128. By increasing cover to a minimum indemnity level of £500k, it may also provide an increase in the Fidelity Guarantee Insurance (FGI) as in 130 below. This is the coverage that is in place for first party loss (an employee stealing from an employer).
129. The current minimum level of FGI cover as set out by the ACCA is £50k in any one loss. Some insurers will only offer the £50k in their policy and as such cover will only ever be afforded to £50k any one loss.
130. However, the Locktons ACCA Scheme policy offers FGI to the full limit of indemnity (i.e. the limit they purchase on the PII) so in that case will offer increased protection to consumers on a limited basis. We have not investigated how requiring this of all insurers would impact the market. ACCA has advised us that insurance has been arranged through about 27 different insurance companies, although these may include brokers.
131. A CILEx-ACCA Probate Entity will not be required to contribute to the CILEx Regulation Compensation Arrangements. The risk of third-party loss of money (an employee stealing from a client) is covered within the existing PII cover already in place.

Interventions

132. We have been unable to establish that the ACCA ever was granted full intervention powers either when they were originally designated for probate activities or when they subsequently took up the designation. The ACCA has advised us that they do not have similar enforcement powers for accountancy practices. For the protection of the public and the reputation of the profession, matters of concern are referred to the ACCA Admissions and Licensing Committee for immediate consideration and, if necessary, to suspend or place conditions on the certificate or licence through an Interim Order to prevent the member from carrying out certain activities. These powers are set out in their Complaints and Disciplinary Regulations and Guidance for Disciplinary Sanctions. However, these do not provide a power to intervene in a firm.
133. They have confirmed to us that they have not used these powers in an accountancy practice that is authorised for probate.
134. Subsequent to our designation to regulate entities, we gained the right to intervene in a firm under The Legal Services Act 2007 (Chartered Institute of Legal Executives) (Modification of Functions) Order 2014. In order that this can apply to a CILEx-ACCA Probate Entity, we have added a wording to the CILEx Regulation-ACCA Handbook at section 18 setting out that for

the purposes of intervention under rule 5 (2) (a) of the above Act a CILEX-ACCA Probate Entity will be treated in this instance as a CILEx Authorised Entity.

135. This will therefore provide some additional protection to consumers.

136. Because of the limited activity being carried out within the CILEX-ACCA Probate Entity, the absence of client money in the CILEX-ACCA Probate Entity, and the historic risk profile of ACCA firms, we believe that there is a low risk of intervention being instigated by CILEx Regulation. It would seem more likely that this would be as a result of any action taken by ACCA in respect of the ACCA Accountancy firm. We will agree with ACCA how this might be managed.

Strategic Risk Committee

137. The Strategic Risk Committee provides oversight on the development and application of our risk frameworks, as well as providing an internal review of decisions to refuse or revoke an authorisation or licence. Their role covers the risk frameworks for both entities and individuals, as well as oversight for our compliance activities for other oversight regulators such as OPBAS.

138. The committee comprises a mix of CILEx Fellows and independent members, who will have a background in risk management.

139. The committee has been involved in assessing any risk with the proposed approach and have questioned us on the way that consumer protections will be cover work across both firms and how they will be effectively communicated to consumers.

140. The CILEX-ACCA Probate Entity application process will continue to be informed by the Strategic Risk Committee and we will be extending the scope of their role to review risks associated with these entities and to provide an internal review of decisions to refuse or revoke an authorisation. We believe that the existing rules will allow this with a minor change.

Ancillary Rules changes

141. By creating a new 'CILEx Regulation-ACCA Handbook' and adopting different titles, we are able to draw a clear distinction between those of our existing rules that apply only to a CILEx Authorised Entity (and its Approved Manager(s)) and those that apply to a CILEX-ACCA Probate Entity.

142. We are only seeking minor changes to the CILEx Regulation Enforcement Rules and the Strategic Risk Committee Rules.

143. In the CILEx Regulation Enforcement Rules this is adding a new definition in the section on Interpretation 3 (1) for a CILEX-ACCA Probate Entity and extending the definition of a Relevant Person to include a CILEX-ACCA Probate Entity. The effect of this is to allow our Enforcement Rules to apply to these new entities and their owners.

144. We are also taking the opportunity to correct one drafting error at 24 (2) where the numbering was incorrect. The draft Enforcement Rules can be found at [Appendix 2](#).

145. In the Strategic Risk Committee Rules, we are adding CILEx Practitioner (ACCA-Probate) to the scope of Rules 2 and 3 to allow the committee to review decisions relating to decisions by the office on the roles of a CILEx Practitioner in a CILEX-ACCA Probate Entity. The draft Strategic Risk Committee Rules can be found at [Appendix 3](#).

146. We have set out in the following table how our rules will apply:

Rules	CILEx Authorised Entity	CILEX-ACCA Probate Entity
CILEx Authorisation Rules	Yes	No
CILEx Regulation Licensing Rules	Yes	No
CILEx Accounts Rules	Yes	No
CILEX Code of Conduct	Yes	No but the CILEx Regulation-ACCA Handbook covers these issues with new rules
CILEx Regulation Transparency Rules	Yes	
CILEx Professional Indemnity Rules	Yes	
CILEx Regulation Compensation Arrangements Rules	Yes	
Strategic Risk Committee Rules	Yes	Yes (once rules amended)
CILEx Regulation Enforcement Rules	Yes	Yes (once rules amended)

147. We are also taking the opportunity to request a general change to all our regulatory arrangements, including this application. The Chartered Institute of Legal Executives has recently taken the decision to change their branding and, where the acronym CILEx with a small x has historically been used, to now adopt the form CILEX, with a capital X. We will continue to use CILEx, with a small x, in our own title. Our intention is that we will make the changes on a phased basis throughout our rules, guidance and website.

Application Process

Specific Risks Identified for CILEX-ACCA Probate Entities

148. In considering our approach to offering the CILEX-ACCA Probate Entity route to authorisation, CILEx Regulation is aware that there could be a perceived risk of creating a two-tier system of regulation for firms and individuals wishing to carry out probate as an ancillary service, and those regulated as a legal practice offering one of the reserved legal activities. We intend that there is a clear differentiation between the route that an ACCA Accountancy Practice may pursue in becoming authorised for non-contentious probate as an ancillary activity, from that of an applicant seeking to become a CILEx Authorised Entity providing legal services as their main role, the latter being able to become authorised for any of the reserved and regulated activities.

149. The regulation of our CILEx Authorised Entities authorised for probate covers all aspects of estate administration, usually the holding of client money, and their supervision for compliance with the Money Laundering Regulations. We have sought to create an approach to the regulation of ACCA firms that does not conflict with our current approach concerning the regulation and supervision of all the reserved and regulated legal activities. As such, this route will be available only to ACCA firms electing to become authorised as a CILEX-ACCA Probate Entity and will not act as a standalone option for firms seeking probate-only authorisation via CILEx Regulation. Regulation of estate administration will remain the responsibility of the ACCA for CILEX-ACCA Probate Entities.

150. CILEx Regulation has also identified that there may be a perceived risk as regards inconsistency of regulatory practice between CILEx Regulation and ACCA. For example, there

is considerable importance placed on the differences between an ACCA Accountancy Practice and a CILEX-ACCA Probate Entity with regard to their respective obligations under money laundering regulations, PII cover, and the ability to hold client money. To avoid any uncertainty over responsibilities in this area, CILEX-ACCA Probate Entities will not be permitted to hold client money, and all areas of risk associated with AML supervision will continue to be supervised by ACCA under the ACCA Accountancy Practice.

151. Furthermore, CILEx Regulation will not seek to regulate or supervise any non-reserved activities associated with the reserved activity of probate, for example the administration of an estate. In this sense, we are looking the interpret Schedule 2 LSA 2007 such that the firm will solely carry out the work involved in preparing the probate papers. It will not carry out any work connected with the administration of the estate nor hold any client money.
152. We are aware that the legal services market has a number of firms carrying out unreserved activities linked to estate administration who are not subject to regulation by an approved regulator. In this instance, the work that the ACCA accountancy firms carry out will still be subject to regulation and supervision by ACCA, so the consumer will continue to have the protections available of seeking redress and making a complaint. Because the PII is set up to cover two firms, as has been confirmed by Locktons, the activities of the individual whether in the ACCA firm or the ACCA-Probate firm will be covered meaning that there is no complexity regarding claims for the consumer.
153. If an ACCA accountancy firm wishes to hold client money and carry out the full estate administration activities within the CILEX-ACCA firm, then they will need to become authorised as a CILEx Authorised Entity and meet the usual requirements of our firms.
154. The approach to regulation of the new CILEX-ACCA Probate firm has been designed to enable existing firms to transfer into a scheme which broadly mirrors the current ACCA approach to regulation. This will create the 'backstop' position for firms who choose not to be regulated by an alternative Approved Regulator or cease delivering probate activities. Each firm and individual transferring in to CILEx Regulation will be asked to demonstrate that they meet the entry requirements. There may be some individuals who do not want to be regulated by CILEx Regulation or any other approved regulator. In this case, they would be required to cease undertaking probate activities on the date of the ACCA de-designation. There is a risk that these individuals would continue to offer probate activities illegally. This risk is considered to be remote as under the current ACCA regulations probate fees must not exceed 20% of turnover, to continue to offer services illegally would jeopardise the majority of the firm's income as well as being both a criminal offence and a disciplinary matter for ACCA.
155. ACCA is committed to ensuring that the requirements have been communicated to all existing firms and individuals to ensure that the steps required for admission to CILEx Regulation have been taken. We have set out the requirements for admission at para 153 onwards. ACCA certificates will be recognised until 1 January 2022 (first renewal) after which CILEx Regulation certificates will be issued.
156. We have asked our Strategic Risk Committee to consider the risks associated with this approach and they believe that this creates a clear distinction between the types of authorisation that we will offer. They have approved the approach of a separate entity through which this should be delivered. We will look to add to the risk framework any specific risks related to non-compliance with the CILEX-ACCA Code of Conduct.

How we will deal with an application in practice

157. We have established procedures in place for dealing with initial enquiries and the assessment of applications and have used the experience that we have gained over the past 6 years to develop the application process.

158. We have set out in the following table the information that we will request from:

- a) Existing ACCA Probate firms applying to become CILEX-ACCA Probate Entities.
- b) New ACCA Accountancy firms applying to become CILEX-ACCA Probate Entities.
- c) Firms at first renewal at the end of 2021.
- d) Firms at renewal at the end of 2022.

159. This shows how we will build on the initial information gathered from these firms, requiring the increased level of PII, compliance with transparency requirements, individuals meeting their CPD obligations and Equality & Diversity information.

Existing ACCA Firms / Individuals applying during 2021	At their first renewal for 2021/22	New Firms / Individuals applying during 2021	At their first renewal for 2021/22	All Firms / Individuals renewal for 2022/3
Separate entity structure in place				
CILEX-ACCA Probate Entity Application		CILEX-ACCA Probate Entity Application		
	Entity Renewal forms required		Entity Renewal forms required	Entity Renewal forms required
CILEx Practitioner (ACCA-Probate) Application (including details of course completed to comply with any exemption under the new education standards).		CILEx Practitioner (ACCA-Probate) Application (including details of course completed to comply with any exemption under the new education standards)		
	Individual Renewal forms		Individual Renewal forms	Individual Renewal forms
PII acceptable at current level that is in place	PII at £500k min required at first renewal	PII at £500k min required	PII at £500k min required	PII at £500k min required
				Individuals to have completed first CPD.
Prior conduct declaration from each CILEx Practitioner (ACCA-Probate)	DBS required from each CILEx Practitioner (ACCA-Probate)	DBS and prior conduct declaration required from each CILEx Practitioner (ACCA-Probate)	Prior conduct declaration required from each CILEx Practitioner (ACCA-Probate)	Prior conduct declaration required from each CILEx Practitioner (ACCA-Probate)
		Fit & Proper checks required on each CILEx Practitioner (ACCA-Probate)	Fit & Proper declaration required from each CILEx Practitioner (ACCA-Probate)	Fit & Proper declaration required from each CILEx Practitioner (ACCA-Probate)
Confirmation from ACCA re membership / Accountancy firm				

	Equality & Diversity return required from CILEX-ACCA Probate Entity	Equality & Diversity return required from CILEX-ACCA Probate Entity	Equality & Diversity return required from CILEX-ACCA Probate Entity	Equality & Diversity return required from CILEX-ACCA Probate Entity
	Transparency Requirements in place on entity website by Q1 2022	Transparency Requirements in place on entity website by Q1 2022	Transparency Requirements in place on entity website by Q1 2022	Transparency requirements reviewed on entity website

Initial enquiry stage

160. We will create a separate section on our website for CILEX-ACCA firms so we can be clear to applicants of the requirements to be authorised as this type of firm and that this is only available to ACCA Accountancy practices. We will arrange a link from the ACCA website to this section so they can direct applicants to the appropriate information. ACCA will be providing information to their members of the opportunities that are available by offering legal services and the differences between CILEX-ACCA Probate Entities and CILEx Authorised Entities.

161. This will provide access to the handbook and link to our online portal necessary to submit an application, alongside details of the course that is available to become a CILEx Practitioner (ACCA-Probate).

162. Our intention is that we will work with the ACCA to develop resources to support firms in communicating how they are regulated and the protections that are available to a consumer. For example, we believe that a single client care letter should be issued with the addition of appropriate clauses to cover the work carried out by the ACCA Accountancy practice and the CILEX-ACCA Probate Entity. This could cover the following information:

- The extent of the work carried out by the CILEX-ACCA Probate Entity
- Who would carry out the work and their qualifications
- That they are regulated by CILEx Regulation for this work
- That the ACCA Accountancy practice and the CILEX-ACCA Probate Entity will share information to enable this work to be completed
- The consumer protections that will cover all this work, regardless of the firm that it is carried out in.
- How a consumer may make a complaint.
- The right to take an unresolved complaint to the Legal Ombudsman.

163. We have provided example guidance at Appendix 10, which covers client care information and transparency requirements.

164. We have set out at Appendix 11 how ACCA and CILEx Regulation will work together to manage the process of firms looking to move to CILEx Regulation and who will take responsibility for specific actions. Whilst an ACCA probate firm's authorisation with ACCA will run until 31 December 2021, we are both suggesting a date of 30 November 2021 to submit an online application to enable the processing of all applications for commencement of authorisation as a CILEX-ACCA Probate Entity prior to 1 January 2022.

165. ACCA will confirm to their existing ACCA Probate firms that taking no action is not an option and the date at which they will be in breach of their GPRs with ACCA if they continue to offer probate without having sought authorisation by another regulator.

166. Appendix 11 also sets out:

- the information that ACCA currently requests from applicant firms,
- the information that ACCA currently requests from applicant individuals,
- the information ACCA currently requests from firms for renewal,
- the additional information we will request from applicant firms and individuals.

Receipt of application and authorisation

167. In considering the information required with the application, we are mindful that there will already be a regulated ACCA Accountancy practice in place and that the applicant(s) will have already been subject to assessment and regulation by another regulatory body.

168. Consequently, we believe that the information requested within the application forms can be similar to that already requested by the ACCA, namely:

- Registration details with ACCA including connected Accountancy practice.
- PII and Continuity of Practice.
- Office details.
- Firm details including expected levels of activity for Probate.
- Any previous authorisations.
- Composition of Firm (including any non-ACCA partners/directors, who hold a probate qualification).
- Fit & Proper person declaration.
- DBS check.
- Declaration that policies are in place and rules observed.

169. For an individual they will need to provide the following information:

- Personal Information
- Practising details
- Any previous authorisations
- Evidence of eligibility
- PII and Continuity of Practice
- The primary contact for compliance matters
- DBS check
- Declaration including prior conduct

170. We will be expecting that a firm will have the majority of systems and policies in place as part of the requirements from the ACCA but this will be covered within the declaration.

171. Prior to authorisation, we will be confirming information with ACCA to ensure that there are no ongoing issues that would make an applicant unsuitable and after authorisation we will be advising ACCA that a firm has been authorised.

172. Once the firm is authorised, we will issue a formal letter and authorisation certificate. We will be reconfirming the extent of their authorisation and their requirements under the CILEX Regulation-ACCA handbook.

173. Our intention is to maintain a register with both the CILEX-ACCA Probate Entity and the ACCA Accountancy practice listed. This will provide full transparency to consumers and other stakeholders of the relationship and how consumer protections including PII cover both firms.

174. We will provide a digital logo to CILEX-ACCA Probate Entities so that consumers may receive the similar benefits around reassurance of regulation and knowledge on the protections that are available to them.

Application Process - Individuals

175. Once an individual has completed the Alitor by BARBRI course, they will then be able to submit an application to become authorised as a CILEx Practitioner (ACCA – Probate).

176. For an individual they will need to provide the following information:

- Personal Information
- Practising details
- Any previous authorisations
- Evidence of eligibility
- PII and Continuity of Practice
- DBS check
- Declaration including prior conduct.
- Certified copy of the qualification certificate

177. We will then assess the information submitted to establish whether they are eligible and appropriate to be granted legal activities authorisation and be approved as a CILEx Practitioner (ACCA-Probate). If approved, they will be issued with a Practising Certificate for the current year and be subject to the rules as set out in the CILEx Regulation-ACCA Handbook. The requirements for CPD submissions will commence from 2022/3.

178. If their application is not approved, then the individual is able to submit an appeal under the two-stage process set out below:

179. For those individuals who are already authorised persons and owners of existing ACCA Probate firms, then the draft exemptions policy (known as the CILEx Regulation Recognition of Prior Legal Qualifications Policy) as submitted as part of the education standards application (currently under consideration at the LSB) will allow us to recognise their designation for probate.

180. They will be able to meet the requirements by submitting:

- a. certified copy of practising certificate
- b. an application form and completed prior conduct declaration.

181. As we have set out in the table at 159, we will be expecting each individual to complete a DBS check.

Supervision

182. We will be looking to create communications similar to those provided to CILEx Authorised Entities, to ensure that firms are aware of risk matters that will be relevant to their area of work.

183. CILEX-ACCA Probate Entities will be required to submit an annual return to apply for re-authorisation each year. This is the same requirement that ACCA has in place for their existing probate entities (Accountancy firms have no requirement for an annual return). We will be asking for similar information to that set out above alongside the number of probate matters they have dealt with in the past year and the split between accountancy turnover and probate

turnover. We will be using this information to monitor whether probate activities are remaining an ancillary service and the appropriate levels of consumer protection are in place.

184. We will be utilising the Strategic Risk Committee to review our risk frameworks to ensure that they remain appropriate for CILEX-ACCA Probate Entities.

Appeals and revoking approvals.

185. We will adopt the same appeals process that is in place for existing authorised entities. These will provide a review of the decision by Strategic Risk Committee and ultimate appeal to appeals panel. This appeals process has been added to the handbook and we are proposing minor changes to the wording within the CILEx Regulation Enforcement Rules and the Strategic Risk Committee Rules to replicate the existing arrangements.

186. For individuals we have adopted the existing appeals process that is based on the Admissions and Licensing Committee (ALC) Rules. Rule 2 allows for the ALC to consider and determine applications by applicants for reserved or regulated legal activity rights. This allows for an appeal within 20 days to a decision by the ALC, requesting that they reconsider their decision.

187. There is then a further right of appeal to an appeals panel within a similar timeframe. We have attached a copy of the Admissions and Licensing Committee Rules as [Appendix 4](#).

Managing the separate entities for regulatory purposes

188. Although for the purposes of regulatory activity the 2 entities will be separate, we are aiming to provide a streamlined process for some aspects of the process. For example:

- a. Client care letter information is set out at para 157,
- b. the information on the entity directory will include a reference to both the CILEX-ACCA Probate Entity and the linked ACCA accountancy firm (see para 164).
- c. We have included the requirement to publish transparency data and full information in relation to PII coverage across both firms (para 164).
- d. We will provide access to a digital logo (para 165).
- e. The CILEX-ACCA Probate Entity will be required to submit an annual return to CILEx Regulation each year which will include evidence that the probate matters remain an ancillary service (as required by their PII) and the number of matters/turnover dealt with during the year.

Costs

189. Currently, there is no fee payable to ACCA to register as an Authorised Legal Activities Individual, but the fee for a Firm's Legal Activities Certificate in 2020 is £250 per Authorised Legal Activities Individual (ACCA member and non-ACCA member).

190. CILEx Regulation proposes the fee structure at paragraph 171 in full consideration of the level of risk posed by a CILEx-ACCA Probate Entity model. This is due the restricted reservation for which we will be authorising and supervising any such entity, and the fact that the associated accountancy firm continue to be regulated for unreserved estate administration activities, the holding of client money, and anti-money laundering compliance.

191. The majority of affected firms operate as sole traders, with the remainder primarily being two partner firms.

192. With this in mind, we are proposing the following fee structure to be in place for 2021:

- Individual Practising Certificate Fee £100 (covering prior conduct and CPD compliance as well as complaints if received)
 - Firm fee £200 (covering annual return checks)
- Total **£300** per firm *minimum*.

193. These proposed fees are subject to PCF approval.

194. In setting the fees we were mindful that we have a regulatory infrastructure already in place which will enable the absorption of the additional regulated individuals and firms with limited additional costs. We believe that the majority of risks will remain with the accountancy firm, which will remain under the regulation of ACCA, and therefore we are able to reduce our regulatory costs to the firm.

195. CILEx Regulation also requires a DBS check prior to authorisation of a CILEx Practitioner. This will increase the cost of first renewal to individuals by £37 (incl VAT).

196. There will be an additional cost with the increase in PII, for which an indicative figure of £126 has been provided to us by Locktons, plus the cost, if required, of setting up an additional entity.

197. Further some activities and support, such as practice advice, will be provided by CILEx which will be outside of the practising certificate fee.

Consultations

198. CILEx Regulation has conducted a consultation in relation to the proposed changes. The consultation ran from 12 August 2020 to 7 October 2020, and we received 6 responses. The consultation document can be found at [Appendix 5](#).

199. Whilst the number of responses may appear modest, the responses do reflect a range of stakeholder views, including the Consumer Panel, Altior by BARBRI, the Council of Licensed Conveyancers and ICAEW. Whilst the consultation was promoted to ACCA members, the main consultation received no responses from them. The analysis of responses is attached at [Appendix 6](#) and the full responses provided at Appendix 9 (Not for Publication).

200. To provide an opportunity to ACCA practitioners, CILEx Regulation and ACCA held a practitioners' roundtable on 16 October 2020. This gave all ACCA practitioners the opportunity to submit questions prior to the event as well as ask questions of ACCA and CILEx Regulation staff. There was also a representative from Locktons present to answer questions on the proposed PII changes. The Q & A responses can be found at [Appendix 7](#).

201. Where specific issues have been raised within the consultation responses, CILEx Regulation has explained its response in CILEx Regulation's response to the consultation.

Consultation outcomes

202. Choice of regulator:

The offer has been developed to enable ACCA probate practitioners to continue to offer probate as an ancillary activity to their accountancy work under a similar regulatory framework to that currently offered by the ACCA. Each ACCA firm will have the opportunity to make its own decision as to their future regulator if they wish to continue to offer probate services. There will be no requirement on ACCA firms to choose CILEx Regulation and we are aware that other regulators have already been in contact with firms.

203. Risks to consumer protection/separation of the probate activities from non-reserved activities

The proposal is founded upon the principle that the probate activities are an ancillary service to the main accountancy activities. The regulation of the distinct activities will be managed via an MoU with ACCA and will cover not only probate but any issues arising in relation to any other supervisory and disciplinary matters, such as AML.

204. CILEx Regulation and ACCA have been working with stakeholders to ensure that there are adequate consumer protections to cover the risks. We will also extend the transparency rules to CILEX-ACCA firms so improving the provision of information to consumers.

205. We have discussed with ACCA that the boundaries between the non-reserved and reserved activities will be a back-office process, which should not impact on consumer protections. These will be offered through a single insurance product and therefore the issue of where liability falls for this purpose will be unaffected. The proposed scheme mirrors the one already in place at ACCA.

206. Creating a two-tier regulation:

We have been very careful to ensure that there is a clear distinction between firms which are regulated only by CILEx Regulation and those that are regulated jointly by ACCA and CILEx Regulation for different elements of the process.

207. Resources and costs:

CILEx Regulation has a regulatory infrastructure which will enable the absorption of the additional regulated individuals and firms with limited additional costs.

How the proposal meets our strategic and regulatory objectives

Meeting our Strategic Objectives

208. By assuming regulatory responsibility for the reserved activity of probate as described above, CILEx Regulation will be better able to meet its objectives as set out in the CILEx Regulation 2019-2021 strategy. These objectives are:

- strengthening accessibility in the profession,
- ensuring high standards, and
- protecting consumers.

209. How this proposal is in line with these objectives is summarised below:

Strengthening Diversity and Accessibility in the Profession:

- CILEx Regulation is offering a brand-new route to authorisation for ACCA entities wishing to continue to conduct the reserved activity of probate. By virtue of CILEx Regulation's position as a regulator by specialism, the proposed route is accessible and convenient to the affected entities and practitioners and will cause minimal disruption to the market and profession. We are enabling those wishing to continue to offer probate services an authorised track under which they may do so.

- By expanding our offering in this way, we are adopting a flexible approach to meet changing sector needs. As a regulator by specialism, we are well-equipped for such an undertaking. ACCA entities electing to take the proposed route to authorisation by CILEx Regulation will be granted access to a wide variety of options, including future authorisation as a CILEx Authorised Entity or licensed as an ABS. Offering this route will allow us to increase our reach as regards entity supervision and open up the full range of legal services to those wishing to become authorised as CILEx Authorised Entities.

Ensuring High Standards:

- The supervisory rules governing the CILEX-ACCA Probate Entity are contained in the CILEx Regulation-ACCA Handbook. These rules ensure a continuation of the current standards enforced by the ACCA. We will therefore anticipate at least a continuation of the current standard of practice in operation under ACCA supervision.
- The CILEx Regulation-ACCA Handbook also requires that an authorised person must act to the professional conduct standards of CILEx Regulation by following the CILEX-ACCA Code of Conduct. In this way, we intend to avoid inconsistency in regulatory practice, while effectively safeguarding the current standard of practice. This will ensure that high standards will continue to be met in the future.

Protecting Consumers:

- When a firm becomes authorised as a CILEX-ACCA Probate Entity, we will require that consumer protections be increased to a minimum level of £500k. This will remain subject to at least the current level of protection afforded by ACCA authorisation in all other aspects. Under this scheme, consumers will enjoy greater surety of protection.
- We will not be permitting CILEX-ACCA Probate Entities to hold client money, as this will remain regulated under existing money laundering directives, supervised by ACCA in the ACCA Accountancy Practice. We acknowledge that the protections in place under supervision of the accountancy practice are sufficient, and we do not think it necessary to subject the consumer to unnecessary risk by allowing the holding of client money in the CILEX-ACCA Probate Entity.
- We will focus solely on the reserved activity of probate, promoting clarity of remit to the consumer and avoiding any regulatory conflict. Whilst we will not be regulating the conduct of all contentious probate activities, estate administration services, and any unreserved activities associated with the practice of probate therein, the unreserved activities will be carried out within the ACCA Accountancy practice and subject to their rules and regulations.

How the proposal meets the regulatory objectives and better regulation principles

210. Protecting and promoting the public interest and the interests of consumers

- a) By creating a novel route to authorisation as a CILEX-ACCA Probate Entity, CILEx Regulation is ensuring that consumers may continue to access probate services at the time most convenient to them, as part of their engagement with the ACCA accountancy practice or by directly instructing a CILEX-ACCA Probate Entity, CILEx Authorised

Entity or CILEx ABS. This approach enables a more convenient, more accessible point of entry to legal services.

- b) Following authorisation as a CILEX-ACCA Probate Entity, we are broadening the routes to authorisation available to ACCA Accountancy Practices. By offering wider routes to authorisation, we are ensuring that consumer needs are met, both with regard to ensuring consistency in current practices (allowing ACCA practices a substantive route to continuing to offer probate services), and by leveraging the potential for growth and meeting wider demand for legal services.
- c) By requiring new CILEX-ACCA Probate Entities to adhere to price and transparency rules, we are ensuring a more transparent and competitive regulatory environment, thereby empowering the consumer to better understand their options in instructing a legal adviser.
- d) By increasing the minimum cover required for PII to £500k, we will bring the standards for CILEX-ACCA Probate Entities in line with comparable offerings in the sector, up from what is currently required under ACCA minimum terms. This will better ensure that consumer protections are sufficient and available.

211. Promoting competition in the provision of services provided by Authorised Persons

- a) By offering the new route to becoming authorised as a CILEX-ACCA Probate Entity, we are enabling the continuation of probate practice for the 65 ACCA Accountancy Practices currently authorised under the ACCA for probate work. This will also allow for us to authorise more CILEX-ACCA Probate Entities in the future. Providing a variety of authorisation options will better ensure healthy competition in the future.
- b) A CILEX-ACCA Probate Entity may elect to continue operation contingent to the ACCA Accountancy Practice, explore options for full authorisation by CILEx Regulation or seek regulation from an alternative legal services regulator. By offering the choice to become fully authorised as a CILEx Authorised Entity or CILEx ABS, we are broadening the authorisation options available to the profession, and better ensuring future competition in an evolving professional services environment.
- c) By offering the option to become licensed as a CILEx ABS, we are making available all the benefits that come therein: increased innovation, more collaborative working practices, and greater room for expansion. This will allow for greater competition at the confluence of professional services.
- d) Under this approach, we are at least maintaining the number of entities operating in the sector, and we hope that by offering this route, more ACCA practices will consider carrying on reserved probate work in the future. It may also be possible for them as a first step to expand the scope of their legal services offer through the opportunities offered by CILEx Regulation.
- e) By mandating transparency requirements for CILEX-ACCA Probate Entities, we will help facilitate increased competition in the sector by virtue of enabling greater consumer choice and confidence.

212. Encouraging an independent, strong, diverse and effective legal profession

- a) By offering a convenient route to authorisation as a CILEX-ACCA Probate Entity, we are preserving the link of an ACCA Accountancy Practice to its reserved legal work whilst improving consumer protections or operational effectiveness.
- b) Where the CILEX-ACCA Probate Entity will sit at the confluence of supervision between ACCA and CILEx Regulation, greater professional standards will be ensured by the CILEX-ACCA Code of Conduct, while independence and effectiveness will be safeguarded by existing rules.
- c) By requiring a CILEX-ACCA Probate Entity to become an independent legal entity, we are ensuring an appropriate level of independence from the ACCA Accountancy Practice, while mandating an appropriate delegation of responsibility to rest with either the CILEX-ACCA Probate Entity or the ACCA Accountancy Practice, respectively. For example, responsibility for AML supervision will be retained by the ACCA Accountancy Practice, while the CILEX-ACCA Probate Entity will be prohibited from holding client money.
- d) By providing the option for a CILEX-ACCA Probate Entity to become authorised as a CILEx Authorised Entity, we are making available alternative routes to authorisation, and increasing the options available to those wishing to practice. Furthermore, we are not making exceptions for those seeking full authorisation. We will require full compliance with the rules and regulations of CILEx Regulation. In this way, while there is a diversity of options available with regard to authorisation; strength, effectiveness and independence will not be diminished.
- e) By offering the option to become licensed as a CILEx ABS, we are making available all the benefits that come therein. These include more effective operation at the confluence of professional services offerings, a greater focus on the gains to be made from diverse offerings, and increased opportunities for innovation that are associated therewith.
- f) By offering qualification exemptions to those individuals having satisfied the existing requirements of ACCA in becoming authorised for probate practice, we are ensuring a diversity of professional experience in the delivery of probate activities, whilst maintaining strict adherence to our Code of Conduct, thereby ensuring effectiveness and preventing the erosion of standards.

213.Promoting and maintaining adherence to the professional principles

- a) CILEx Regulation and ACCA will provide guidance to those authorised persons affected by the de-designation of ACCA as a regulator of a reserved legal activity under the Legal Services Act. We have worked with ACCA to develop the CILEx Regulation-ACCA Handbook to avoid any occurrences of inconsistency of regulatory practice.
- b) In order to maintain sufficient professional standards, we have mandated that ACCA authorised persons will be required to continue to act to the standard of conduct as set out in the ACCA Code of Ethics and Conduct. In addition, authorised persons operating in a CILEX-ACCA Probate Entity (whether or not they are bound by the ACCA Code of Ethics and Conduct), will also be bound by the CILEX-ACCA Code of Conduct. These Codes, individually and in combination, have been assessed to ensure strict adherence to the professional principles as listed in the Legal Services Act 2007.

214. Proportionate

- a) We have made a number of considerations in orchestrating our approach to the de-designation of ACCA as a regulator of legal services and the creation of a new route to authorisation as a CILEX-ACCA Probate Entity. In particular, we have sought to create a route to authorisation that is coherent, undistruptive, adherent to broader standards as required, and sensitive to the needs of the consumer. This has been achieved in a number of ways:
- I. With regard to the authorisation and supervision of CILEX-ACCA Probate Entities and the authorised persons employed therein, we have created the CILEx Regulation-ACCA Handbook. We intend that this handbook contains all the necessary rules and regulations to effectively continue the reserved activity of probate contingent to an ACCA Accountancy Practice. By consolidating the rules to a single handbook, we believe our approach to be proportionate and effective.
 - II. Further, in drafting the CILEx Regulation-ACCA Handbook we have not sought to depart significantly from the rules currently governing the carrying on of the reserved activity of probate, as contained the Legal Activities Regulations of the ACCA Rulebook. The reasons for this are to promote clarity, avoid inconsistency in regulatory practice, and protect the consumer. Any alterations have been made to that end. We believe this to be the most proportionate approach.
 - III. We are offering exemptions to the qualifications of those authorised persons currently responsible for the conduct of the reserved activity of probate in the ACCA Accountancy Practice. Having assessed the probate qualifications having been achieved, we believe that the qualifications provide an appropriate level of experience equivalent to those of our CILEX authorised persons having gained probate practice rights.
 - IV. CILEX-ACCA Probate Entities will not be permitted to hold client money, and CILEx Regulation will not be regulating any unreserved aspects of probate work. We believe this to be a proportionate approach due to the fact that ACCA is an existing AML supervisor. Any activities associated with the risks covered by AML supervision will be carried out by the ACCA Accountancy Practice, and as such will not require duplication of supervision by CILEx Regulation.

215. Consistent

- a) By consolidating the rules to a single handbook, we intend that our approach will avoid unnecessary duplication of regulation and responsibility. By and large, we are offering a regulatory approach consistent with that currently offered by ACCA. Any alterations made to the handbook have been done to promote clarity, avoid inconsistency in regulatory practice, and protect the consumer. In this way, obligations have remained consistent, and alterations serve to smooth the transition to a new regulatory regime.
- b) Further, we have adopted a consistent approach to the authorisation of CILEX-ACCA Probate Entities. While we are offering a new route to authorisation, our approach is consistent with the existing CILEx Regulation authorisation rules and will not affect the practice of our CILEx Authorised Entities. Crucially, application for authorisation as a CILEX-ACCA Probate Entity is available only to those current and future ACCA

Accountancy Practices seeking to carry on the reserved activity of probate. Our approach will not create a two-tier track to probate authorisation, nor will it be open to applicants other than those stated above.

- c) Any CILEX-ACCA Probate Entity that applies for full authorisation as a CILE - Authorised Entity or a CILEx ABS in the future will not be granted any specific exemption or be unfairly advantaged or prejudiced in any such application. In this way, we are ensuring consistence in applications on equal ground to those applying for authorisation under the existing routes.
- d) CILEx Regulation requires all its entities to comply with our transparency rules. A CILEX-ACCA Probate Entity will not be exempt from this requirement. As such, they will be expected to take reasonable steps to display price and transparency information as required in our rules, to the same standard expected of our existing CILEx Authorised Entities.

216.Transparent

- a) Following the de-designation of ACCA as a regulator for legal services, a mutual searchable registry will be established by both ACCA and CILEx Regulation to display information relating to any CILEX-ACCA Probate Entity, including clear information concerning the relationship between any such entity and the adjoining ACCA Accountancy Practice.
- b) We issued an open consultation on our proposed approach to the authorisation of CILEX-ACCA Probate Entities from August 2020 to October 2020, and where appropriate, have incorporated the responses, concerns and suggestions into this application, and have amended sections of the CILEx Regulation-ACCA Handbook where necessary,

217.Targeted

- a) Our intention in entering into an arrangement with ACCA to create a viable path for persons authorised by ACCA for the reserved activity of probate following the withdrawal of ACCA from legal services regulation has been targeted to include only those elements necessary to ensure practice may continue unaffected, with sufficient supervision and strong consumer protection. As such, we believe that our approach to this opportunity has been targeted and measured.
- b) This scope of the new route to authorisation as a CILEx-ACCA Probate Entity is narrow by design. This route will not be offered wider than those ACCA Accountancy Practices already authorised for the reserved activity of probate. It will not therefore contravene or interfere with current entity authorisation practices, nor create a two-tier system for the carrying on of reserved probate activities.
- c) In drafting the CILEx Regulation-ACCA Handbook we have not sought to depart significantly from the rules governing reserved probate activities as detailed in the Legal Activities Regulations of the ACCA Rulebook. The reasons for this are primarily: to promote clarity, to avoid inconsistency in regulatory practice, and to ensure consumer protections. Any alterations that have been made from the Legal Activities Regulations have been considered in light of this targeted scope of activity.

Impact assessments

Equality Impact assessment

218. ACCA has been unable to provide data on all of the protected characteristics of its regulated individuals as it does not currently routinely collect this data. Available data is limited to age and gender. Although ethnicity is requested this is optional and there is no available data on this group for the ACCA-Probate practitioners. The data available is as follows:

ACCA Authorised Individuals – Probate As at 18 June 2021			
	ACCA members	Non-ACCA members	Total
Sex			
Male	50	6	56
Female	28	4	32
	78	10	88
Age			
30-39	15		15
40-49	23	3	26
50-59	24	3	27
60-69	16	2	18
Unknown		2	2
	78	10	88
Ethnic Origin	No data returned		

219. From this limited data it is difficult to assess the full implications of the changes as they pertain to the protected characteristics. The key changes to the proposal from the existing route are:

- Requiring a limited company to be established to conduct probate activities
- Increasing minimum PII cover
- Compliance with the transparency rules
- Additional regulatory submissions to CILEx Regulation on the running of the firm

220. The key consequence of these changes may be an increase in costs, which may disproportionately impact on females. However, as far as possible these have been kept in line with the current costs to the ACCA Probate firms with the fee for a sole practitioner firm changing from £250 to £300 and the increase in PII premiums likely to be in the region of £126. These changes are not considered to be significant even where the individual works part-time (female workers are more likely to have caring responsibilities and work part-time). However, CILEx Regulation will commit to evaluating the actual impacts based on EDI data collected on these individuals once the regulatory responsibility shifts to us from ACCA.

Regulatory impact assessment

221. This change to regulatory arrangements to bring ACCA-Probate practitioners into regulation with CILEx Regulation is required to ensure that there is a cost-effective replacement regulation

for ACCA members once ACCA is de-designated as a regulator for probate activities. The proposal has (as far as possible) mirrored the approach currently taken to the regulation of these firms and has only created changes where it is in the interests of the consumer to do so.

222. CILEx Regulation's approach to regulating CILEX-ACCA Probate firms has been to ensure that any regulatory change required when transferring to CILEx Regulation will be the minimum required to ensure that the consumer is protected in line with comparable delivery from other parts of the sector. The application makes clear throughout that this proposal is to enable ACCA firms to continue to offer probate activities but that it is not the only available option to existing ACCA-Probate firms.

223. The alternatives open to ACCA-Probate firms would be to:

- Join CILEx Regulation as an CILEX-ACCA Probate firm
- Join CILEx Regulation as a CILEx Authorised entity
- Join another approved regulator authorised to regulate probate firms
- Withdraw from the delivery of probate activities

224. The increased regulatory cost of the approach put forward is designed to have minimal impact on firms transferring from ACCA. The current costs for an ACCA firm is £250 per regulated individual (and all individuals within the firm must be regulated for probate and pay this fee). The CILEx Regulation proposal is for each firm to pay £200 and a further £100 per regulated individual. This is only £50 more when compared with current fees for a sole practitioner and becomes more cost effective as the numbers within the firm increase. As ACCA has not increased the practising fee for several years, this is not considered to be a change to the current fee.

225. At para 122, we have set out the changes to the PII requirement. Having spoken with the broker who arranges PII for many ACCA firms we understand that the increase proposed to £500k would increase the fee by £126. However, it should also be noted that based on the limited information ACCA have supplied 75% of firms are already covered to £500k.

226. The cost to set up a new limited company can be as little as £10 and as previously stated it is highly unlikely that the new company would have to file information with Companies House as it will not hold client money and the turnover will be a maximum of 20% of total turnover of the ACCA accountancy firm. The requirement to establish an additional company would (when we last received data from ACCA) affect 26 firms. As the increased costs of duplicative regulation would likely outweigh the costs of this approach (owing to the need to review information also reviewed by ACCA, AML supervision etc.) we consider that this approach will impose the least additional regulatory burden on ACCA firms.

227. Having considered the options, CILEx Regulation considers that the option presented to existing and potential ACCA-Probate firms is a proportionate, safe and cost-effective model with which to replace the current ACCA offer.

Evaluation and monitoring

228. We will be able to work with ACCA on the evaluation and monitoring of the implementation of this proposed route for their firms and members, in the following ways:

- i. Assessing the number of firms that wish to transfer to become a CILEX-ACCA firm at the time that the ACCA propose to withdraw from legal services.
- ii. Assessing the number of firms that choose an alternative regulator.
- iii. Assessing the number of firms that withdraw from legal services.
- iv. Monitor year on year growth of CILEX-ACCA firms against the previous experience of ACCA.

- v. Monitor the numbers of ACCA firms that become a CILEx Authorised Entity.
- vi. Collect and analyse EDI data across the full LSB required data.
- vii. Monitor and reconcile ACCA individuals with practising certificates to our list of authorised practitioners.

229. During the first year we will work closely with the ACCA to refine the working arrangements between ourselves and them, particularly to address any issues related to:

- i. Consumer protections.
- ii. Client information.
- iii. Disciplinary matters.
- iv. Any inconsistency in regulatory practice related to the separation of work for both firms and CILEx Regulation and ACCA.

230. This will be dealt with under the draft Memorandum of Understanding that we will have in place to deal with all matters associated to CILEX-ACCA Probate Entities and those Accountancy Professionals working within them. This will allow for the ACCA to withdraw (if required) from the Framework Memorandum of Understanding (1 March 2019) but will in addition will set out in more detail our ability to exchange information related to their members and firms.

231. We believe that the Framework Memorandum of Understanding (1 March 2019) will allow us to exchange information with the ICAEW if any of their members are involved in a CILEX-ACCA Probate Entity.

232. We believe that the above will allow us to ascertain whether the proposed approach enables firms to deliver probate activities in a secure and proportionate way to consumers.

233. The oversight arrangements for CILEX-ACCA firms will come under our existing governance arrangements for CILEx Authorised Entities, including oversight of decisions by our Strategic Risk Committee.

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I am working from home until further notice. You can contact me via email, Teams, Skype or mobile 07887 613398.