

Paper 12 (27) Annex A IGR Compliance Assessment 2011						Annex A
Rules	SRA/TLS Non-compliant but potential for proposed arrangements to achieve compliance. S55 being used to ensure the proposed arrangements being implemented effectively.	BSB/BC Not entirely compliant, but given progress and commitments made we were willing to accept the position.	IPS/ILEX Compliant	IPReg/CIPA/ITMA Compliant but several points to address during the year raised.	CLSB/ACL Non-compliant in all areas in 2011 as a new body but action plan developed and progressed during the year in order to have in place fully compliant arrangements.	

Principle 1: Governance

Nothing in an Applicable Approved Regulator's (AAR's) arrangements should impair the independence or effectiveness of the performance of its regulatory functions

1.1	Each AAR must delegate responsibility for performing all regulatory functions to a body or bodies without any representative functions.	Non-compliant. However, as the required changes to the General Regulations were made and SRA is on track for lay majority by 2013. The LSB accepted this position last year, as long as changes are implemented to an appropriate timescale.				
1.2	The regulatory body or, if more than one, each of the regulatory bodies, must be governed by a board or equivalent structure.				New AR Forum for IPReg, CIPA and ITMA created in 2011. We said that in 2012 we would take a view on appropriateness and effectiveness of the arrangements, seek an update on the revised delegation agreement and its operation, and the operation of the AR Forum.	
1.3	In appointing persons to regulatory boards, AARs must ensure that: <ul style="list-style-type: none"> • a majority of members of the regulatory board are lay persons; and • the selection and appointment of a chair is not restricted by virtue of any legal qualification that person may or may not hold, or have held. 		Non-compliant. Lay majority on the BSB's board was not in place in 2011. LSB required that this be resolved for 2012 exercise. LSB also required change to BSB requirements that "one (but not both)" of the BSB chair and vice- chair must be a practising barrister - selection and appointment of a chair must not be restricted by virtue of legal qualification.			

Principle 2: Appointments - (1) Processes in place for regulatory board members' appointments, reappointments, appraisals and discipline must be demonstrably free of undue influence from persons with representative functions. (2) All persons appointed to regulatory boards must respect the duty to comply with the requirements of the Legal Services Act 2007.

2.1	All appointments to a regulatory board must be made on the basis of selection on merit following open and fair competition, with no element of election or nomination by any particular sector or interest groups.	Non-compliant: we were unable to conclude unequivocally that TLS and SRA codified arrangements on appointments, remuneration and dismissal were in compliance with the requirements in 2011. However, the new arrangements if implemented in line with assurances provided by SRA have the potential to comply.				
2.2	The selection of persons so appointed must itself respect the principle of regulatory independence and the principles relating to "appointments etc" set out in the Schedule.					
2.3	Decisions in respect of the remuneration, appraisal, reappointment and discipline of persons appointed to regulatory boards must respect the principle of regulatory independence and the principles relating to "appointments					

2.4	Except insofar as an AAR would be, or would reasonably be considered likely to be, exposed to any material legal liability (other than to pay wages, salaries etc) as a consequence of the delay required to obtain the concurrence of the Board, no person appointed to a regulatory board must be dismissed except with the concurrence of the Board.					
2.5	No person appointed to and serving on a regulatory board must also be responsible for any representative function(s).					

Principle 3 - strategy and resources etc: Subject only to the oversight permitted under Part 4 of this Schedule, persons performing regulatory functions must have the freedom to define a strategy for the performance of those functions and work to implement that strategy independently of representative control or undue influence.

3.1	A. Defining and implementing a strategy should include: <ul style="list-style-type: none"> • access to the financial and other resources reasonably required to meet the strategy it has adopted; • effective control over the management of those resources; and • the freedom to govern all internal processes and procedures. 	Non-compliant - The arrangements in place during 2011 could not be reasonably said to have achieved complete compliance in practice with the requirements. No agreement on shared services, lack of transparency in budget approval and reporting. New arrangements, if effective, will address these issues comprehensively.	Non-compliant - In our 2011 review of the finance manual we were concerned about the provision of access to the financial and other resources reasonably required to meet the strategy adopted by the BSB, effective control of those resources, and the BSB's freedom to govern all internal procedures. Also the arrangements for Finance and Audit Committee gave potential for undue influence. We said that we consider 'all options for action as open' should there still be outstanding issues in 2012. LSB content with new Service Level Agreements put into place in 2011 but said that we would probably review how the agreements have been working in practice.		For 2012 we said we wanted to see the next budget and business plan process run smoother than the previous year, stating that it is up to the regulatory arm to determine the activities it deems necessary to address the risks to the ROs and consult on this. We also noted the dissatisfaction about communication between the organisations and said that we would ask for an update on this for 2012.	
3.2	B. The regulatory body (or each of the regulatory bodies) must have the power to do anything within its allocated budget calculated to facilitate, or incidental or conducive to, the carrying out of its functions.					
3.3	C. Insofar as provision of resources is concerned, arrangements must provide for transparent and fair budget approval mechanisms.					
3.4	D. Insofar as provision of any non-financial resources is concerned (for example, services from a common corporate service provider, or staff), arrangements must provide for transparent and fair dispute resolution mechanisms.					

Principle 4 - Oversight etc: Oversight and monitoring by the AAR (which is ultimately responsible and accountable for the discharge of its regulatory functions) of persons performing its regulatory functions must not impair the independence or effectiveness of the performance of those functions.

4.1	A. Arrangements in place must be transparent and	No view reached - we did not	Non-compliant - original 2011			
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4.2	B. Arrangements in place must prohibit intervention, or the making of directions, in respect of the management or performance of regulatory functions unless with the concurrence of the Board.	complete the work to form a view as to whether the actions of the Law Society during 2010/11 constituted a breach of oversight because of the apparent willingness of both bodies to work together to reach a new settlement. Effectiveness of new arrangements will only become clear when they are operational.	arrangements for Finance and Audit Committee did not provide us with assurance that systems and controls are in place that are appropriate. We said that for 2012 we would seek details of the new arrangements and an account of how they are working in practice.			
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