

Open letter to all approved regulators
and regulatory arms

By email only

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Dear colleague,

Implementing the Internal Governance and Practising Fee Rules

On 10 December, the LSB published its Internal Governance Rules and its Practising Fee Rules. In the recently published *Response to Consultation* document¹, we said in Chapter 6 that we would be writing to all approved regulators to set out immediate next steps.

Internal Governance Rules

All approved regulators need to ensure compliance with the IGRs. So each approved regulator will need to put in place arrangements to meet the relevant requirements and in particular the requirements of Rules 6 and 7.

Designation (or otherwise) as an 'Applicable Approved Regulator' (AAR) under the rules will also help to determine which requirements are relevant for your particular body. So all AARs will need also:

- to comply (or bring themselves into compliance) with the principles and rules – as supported by the illustrative guidance – contained in the Schedule to the rules; and
- to comply with the requirements of the dual self-certification mechanism, in accordance with Rule 9 of the IGR and the timelines set out in the Response document.

The Regulatory Independence Project Team here at the LSB will be emailing AARs in the New Year to see what if any support from the LSB would be of help during the period until the end of April, when certificates and/or action plans need to be submitted.

While the timetable is now fixed, and the rules are made, we will seek to work with you in terms of making the mechanism work. For example, if some or all AARs would like to hone the template certificate, published at Annex C of the recent Response document, our team will be happy to engage on the details. We are also happy to discuss any other issues with individual

¹ http://www.legalservicesboard.org.uk/what_we_do/consultations/closed/pdf/response_lsb_101209_2.pdf

AARs if and as helpful. We expect however that the focus will be on implementation rather process from now on.

For those regulators that will become approved regulators under the Act in January 2010, the LSB will have to agree individually what arrangements will be appropriate and by when those arrangements should be established. This will be particularly important in respect of the approved regulators that are principally supervised by oversight regulators from other sectors but which do have representative functions as defined by the Legal Services Act. Paragraph 4.7 of our Response document set out some issues that will be important to consider in this context, and that consideration should begin as soon as possible in the New Year.

Practising Fee Rules

The framework provided by the PFRs is a high-level one, designed to meet the varying needs of the approved regulator community. As such, it leaves a lot of detail to be decided under the framework of the rules. It will be important for us to work with each approved regulator from early in the New Year if we are to ensure effective determination of applications submitted under the rules.

Rule 9 of the PFRs requires the LSB to set out the requirements for approved regulators in respect of:

- (a) timetables;
- (b) any necessary consultation;
- (c) criteria against which to judge applications; and
- (d) the evidence required to so judge.

We have always envisaged that we would set out those details after working with approved regulators to ensure the requirements made fit with respective bodies needs. First, therefore, we need to understand those needs. Then we need to try to make the necessary approval mechanisms work in practise around those needs.

Again, the Project Team here will email each approved regulator with a view to arranging how best to discuss the details that need to be settled.

While issues like criteria and evidence requirements are to a large extent dealt with in the rules, the issue of timetables is likely to be of central importance at this early stage. If final applications are to be considered and approved once submitted in as effective and efficient a way as possible, close working at project team / working group level is likely to be useful at the front-end of the process. It will be useful to make clear when approved regulators expect:

- to have a broad idea about the framework which will govern their fee-collection mechanisms (including how any such mechanisms might deal with the distinction between entities and individual practitioners/registrants);
- to know what regulatory (and other permitted) budgets might look like and so what the practising fee burden will be on the respective regulated communities as a whole;
- to settle and submit their PFR applications; and
- to need to send out practising fee bills to practitioners/registrants.

Around that information, it should become clear when the key submission and decision points are for the LSB and for the approved regulators, both in respect of the informal pre-application stage and for the final determination stage. So long as a 'no surprises' culture is maintained by all sides, we expect the framework set by the rules to prove practical and effective.

We will be in touch in the New Year to discuss specific arrangements with each approved regulator, in respect of both sets of rules. Until then, I wish you a happy New Year!

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