THE INSTITUTE OF CHARTERED ACCOUNTANTS IN ENGLAND AND WALES

21 April 2008

Our ref: ICAEW Rep 51/08

Your ref:

Margaret Hope
Solicitors Regulation Authority
Berrington Close
Ipsley Court
Redditch
Worc B98 0TD

By email: LSA@SRA.org.uk

Dear Ms Hope

CONSULTATION PAPER 5: CHANGES TO THE RECOGNISED BODIES REGULATIONS

The Institute of Chartered Accountants in England and Wales (the Institute) welcomes the opportunity to comment on the consultation paper *Changes to the Recognised Bodies Regulations* published by The Solicitors' Regulation Authority in February 2008.

The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 130,000 members in more than 140 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 700,000 members worldwide.

Key points

We support the SRA's efforts to make a practical and workable regime for recognition and renewal of recognition. However we have some fundamental objections to the basis for approving and recognising non-lawyer managers. These are set out in our responses to other SRA consultations, in particular our response to Consultation paper 1: Character and Suitability test for non-lawyer managers of LDPs (our ref ICAEW rep 42/08).

We strongly urge the SRA to build in flexibility into the processes introduced that can be carried through to the licensing of ABSs when Part 5 comes into force. We also urge the SRA to resist introducing or retaining regulatory requirements which are not required by the Legal Services Act unless for clear regulatory or public interest reasons. The regulatory burden on firms should be kept to a minimum.

Chartered Accountants' Hall
PO Box 433 Moorgate Place London EC2P 2BJ
www.icaew.com

T +44 (0)20 7920 8100
F +44 (0)20 7920 0547
DX DX 877 London/City

Specific questions in respect of which the Institute has comments

1. **Do you agree with the basic criteria for approval of non-lawyers as managers?**

We agree that the SRA should be satisfied that proposed non-lawyer managers are suitable to be managers of a recognised body.

We strongly disagree that non-lawyers who have been approved under new rules should be made to reapply for approved status when they move between firms or when a new firm emerges following temporary emergency recognition. It should be sufficient to seek a declaration that nothing has changed since approval (eg, no unsatisfied judgment debts) and endorsement from the firm into which the non-lawyer manager will be appointed/transferred.

Any rules applied to non-lawyers moving between firms, or following temporary emergency recognition, should also be applied to solicitor managers moving between firms. See also ICAEW rep 42/08 and ICAEW rep 49/08.

3. **Do you think the regulations should give the Solicitors' Regulation Authority discretion to require or to undertake checks on the suitability of proposed managers who are authorised by other approved regulator?**

It is not clear from the consultation paper what circumstances the SRA envisages as being necessary or appropriate to consider the adequacy of the approval process of other approved regulators. Nor is it clear whether the SRA have in mind only non-lawyer managers, other lawyers or both. We can see no circumstances in which it would be appropriate to restrict the freedom of other approved regulators to set their own suitability criteria. If the SRA introduce provisions to challenge the appropriateness of classes of manager approved by other approved regulators it could amount to such a restriction.

In our view any concerns about the licensing and regulatory requirements of other approved regulators should be raised in the first instance with the approved regulator in question and, in the absence of a solution, with the LSB. If any inadequacies in another approved regulator's rules are such that the SRA's ability to appropriately regulate is frustrated these should be resolved by using the provisions for regulatory conflict management in the Act.

4. **Do you think we have adequately covered the circumstances in which it may be necessary to impose conditions on a recognised body? If not, please give further details.**

We agree that revocation of recognition should be used as a last resort when other sanctions and measures are inadequate. We agree that the circumstances in which it may be necessary to impose conditions are adequately covered.

5. **Do you agree that temporary emergency recognition should be possible when an unrecognised partnership has come into being as a result of a sudden partnership split? If not, please explain.**

Yes we agree this is a practical and sensible step which will assist in preventing unnecessary disruption, harm or prejudice to clients, firms and the individual managers.

6. **Do you agree that a non-lawyer manager of a body with a temporary emergency recognition should have to be approved in relation to the new recognised body before its substantive application for recognition can be determined? If not, please explain.**

No we do not agree. We cannot identify any benefit arising from requiring an approved non-lawyer manager to reapply for approval simply by virtue of moving firms or as a result of emergency recognition being granted. See also our comments in response to question 1.

7. **Do you think the limitations on temporary emergency recognition strike the right balance between helping a partnership brought into being by unexpected events and ensuring that it is suitable? If not, please explain.**

Subject to the above comments, we agree.

8. **Do you think it is appropriate, in the public interest, to require the register of recognised bodies to state all a firm's practising styles? If not, please explain.**

In our response to Consultation paper 3 (see ICAEW Rep 49/08) we stated that we believe it is appropriate that consumers can identify the name of the legal entity with which they are contracting or from whom they are receiving services and where applicable be able to identify who the partners/directors/members are.

The two most important elements are that clients and others are able to identify with whom they are doing business or receiving services and identify whether that entity comes under the jurisdiction of the SRA. The provision of the trading styles of all recognised bodies for a register which may be publicly available could aid in transparency and the SRA's ability to regulate the practices of their regulated population.

Requiring all practising styles to be registered implies there will be a sanction for failing to do so. Therefore, if the SRA decides to require an exhaustive register we would recommend that you give some thought and, in due course, guidance to recognised bodies about what constitutes a 'practising style'. Logos, acronyms and other colloquialisms can be adopted by firms and/or their clients without the entity officially adopting and using a "practising style". It should be clear when registration is necessary.

Whilst we support this suggestion we do believe that the absence of an exhaustive list is not contrary to the public interest provided the key identifying information about

a recognised body is available. Therefore we recommend that the burden a register will place on firms against the benefit of transparency is kept under review.

We also recommend that in an increasingly flexible market where individuals can operate through virtual offices and utilise distant/home working methods that guidance is given on what constitutes a "practising address".

9. Do you think we have struck the right balance between transparency and the protection of individuals in reserving discretion to allow a body's practising address to be kept private? If not, please explain.

We believe there may be circumstances in which it is in the *firm's* or an *individual's* interest to withhold certain details about their practising address (particularly if all practicing addresses must be registered) without being contrary to the public interest. By requiring the circumstances of withholding such details to be *in* the public interest the circumstances as opposed to not being *contrary* to the public interest may be more restrictive than intended. We recommend that an appropriate alternative wording would be:

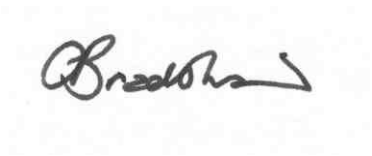
"…the Authority may withhold an address at the recognised body's request in circumstances where it believes there is a strong argument to do so and where it considers withholding such details would not be contrary to the public interest."

10. Do you believe any of the proposed amendments to the regulations annexed will; have a particular impact (adverse of otherwise) on any group or category of persons? If so please give further details.

Please see answer to question 1. We believe that non-lawyers managers moving between firms or following emergency temporary recognition are subject to an undue burden which is disproportionate to the risks.

Please contact me should you wish to discuss any of the points raised in this response.

Yours sincerely



Caron Bradshaw
Business Law Manager
Direct dial: 020 7920 8579
Email:caron.bradshaw@icaew.com