

**SRA BOARD**

21 October 2015

**CLASSIFICATION – PUBLIC**



**Charging for Deemed Approved Compliance Officers in Alternative Business Structure (ABS) New Firm Applications**

**Purpose**

- 1 This paper seeks Board approval to remove the charge which would apply to Compliance Officers for Legal Practice ("COLP") or Compliance Officers for Finance and Administration ("COFA") nominees within Alternative Business Structures who meet the new deeming criteria in Rule 13.3 of the SRA Authorisation Rules.

**Recommendations**

- 2 The Board is asked to:
  - a) amend the Fee Determination for Licensed Bodies to ensure that no application fee is paid for the approval of COLP/ COFA nominees in ABS who meet the new deeming criteria under Rule 13.3. of the SRA Authorisation Rules (paras 4 - 7 and Annex 1).

**If you have any questions about this paper please contact: Robert Loughlin, Executive Director, Operations and Quality, [robert.loughlin@sra.org.uk](mailto:robert.loughlin@sra.org.uk) or 0121 329 6576**

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**Charging for Deemed Approved Compliance Officers in ABS New Firm Applications**

**Background**

- 3 The Board agreed at its meeting on 9 September 2015 to introduce deemed approval of certain compliance officers (COLPs and COFAs) in sole practices and small firms. The proposal was part of the Improving Regulation measures which are currently awaiting Legal Services Board (LSB) approval.
- 4 The Fee Determination for Licensed Bodies specifies ABS new firm applications must include a charge of £150 for each role holder that needs approval. That excludes proposed managers who meet the deeming criteria under Rule 13.2 of the SRA Authorisation Rules for Legal Services Bodies and Licensable Bodies 2011 ("the Authorisation Rules") (see Annex 1 for the wording of Rule 13.2). This is because we do not consider it appropriate to charge in circumstances where we carry out no assessment of the candidate and do no work to justify a fee.
- 5 We therefore propose that the Fee Determination is amended to exclude, on the same basis, compliance officers that meet the deeming criteria under the new Rule 13.3 of the Authorisation Rules from 1 November 2015.

**Proposed Change to the Fee Determination**

- 6 Only a simple amendment to the Fee Determination for Licensed Bodies is required:

*£150 in relation to each candidate subject to approval by the SRA under Part 4 of the SRA Authorisation Rules, excluding those deemed to be approved under Rule 13.2 or 13.3 of the SRA Authorisation Rules*

- 7 Subject to Board approval, we will apply for the proposed change to be approved by the LSB under Part 3 of the Legal Services Act 2007.

**Impact on Fees**

- 8 The change will lead to a small reduction in fees. Based on the last 12 months, 84 ABSs were licensed. 29 of those firms would meet the new deemed approved criteria for compliance officers (with a total of 50 individuals nominated for COLP, COFA or both roles). With the proposed change to the Fee Determination, those 50 nominations will no longer incur the £150 fee (a total of £7,500). The total fees from COLP/ COFA approvals from 84 ABSs licensed is £10,950.

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**Recommendation: the Board is asked:**

**(a) to amend the Fee Determination for Licensed Bodies to ensure that no application fee is paid for the approval of COLP/ COFA nominees in ABS who meet the new deeming criteria under Rule 13.3. of the SRA Authorisation Rules**

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**Links to the Strategic Plan and / or Business Plan**

- 9 This proposal contributes to achievement of strategic objectives 1 and 3:
- We will reform our regulation to enable growth and innovation in the market and to strike the right balance between reducing regulatory burdens and ensuring consumer protection.
  - We will improve our operational performance and make fair and justifiable decisions promptly, effectively and efficiently.

**How the issues support the principles of better regulation**

- 10 The proposal will reduce the financial costs for small firms applying for authorisation.

**How the action will be evaluated**

- 11 The issue will be considered as part of the routine consideration of the Fee Determination.

**What engagement approach has been used to inform the work (and what further communication and engagement is needed)**

- 12 No engagement necessary.

**What equality and diversity considerations relate to this issue**

- 13 Equality and diversity considerations were assessed in developing the overall policy change of deemed approved COLP/ COFAs.

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**Date** 1 October 2015

**Annexes**

**Annex 1** Rules 13.2 and 13.3 of the Authorisation Rules

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**Rule 13.2 of the Authorisation Rules**

**13.2** The *SRA* will deem a *person* to be approved as suitable to be a *manager* or *owner* of an *authorised body* under this Part if:

(a) that *person* is:

- (i) a *solicitor* who holds a current practising certificate;
- (ii) an *authorised body*;
- (iii) an *REL*; or
- (iv) an *RFL*;

(b) there is no condition on the *person's* practising certificate, registration or *authorisation* as appropriate, preventing or restricting them from being a *manager*, *owner* or *interest holder* of an *authorised body* or being a *sole practitioner*;

(c) the *SRA* is notified on the *prescribed* form at least seven days in advance of the *person* becoming a *manager* or *owner* of the *authorised body*; and

(d) the *SRA* has not withdrawn its approval of that *person* to be a *manager* or *owner* under Rule 17.

**Rule 13.3 of the Authorisation Rules**

**13.3** The *SRA* will deem a *person* to be approved as suitable to be a *compliance officer* of an *authorised body* under this Part if:

(a) that *person* is an individual who is a *sole practitioner* or a *lawyer* who is a *manager* of the *authorised body*;

(b) the *authorised body* has an annual turnover of no more than £600,000;

(c) the *SRA* is notified of the appointment of the *person* as a *compliance officer* on the *prescribed* form, correctly completed, in advance of the appointment commencing;

(d) that *person* is not subject to a regulatory investigation or finding, including a *discipline investigation* of which they have received notice, a *disciplinary decision* or a *SRA finding*, or an application to or a finding of the *Tribunal*, or any equivalent investigation or finding of another regulatory body;

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(e) notwithstanding the generality of sub paragraph (d), the *SRA* has not previously refused or withdrawn its approval of that *person* to be a *compliance officer* under rule 17; and

(f) the *person* is not a *compliance officer* of any other *authorised body*