

**SRA BOARD**

9 March 2016

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**Rule change on reserved activities**

**Purpose**

- 1 To implement rule changes which the Board agreed in September 2015 and which were approved by the Legal Services Board (LSB) on 27 January 2016.

**Recommendation**

- 2 The Board is asked to:
  - a) make the SRA Commencement Rules [2016] to implement changes to the SRA Authorisation Rules 2011 relating to the regulation of firms' intention to carry out reserved legal activities from 1 April 2016 (paragraphs 3 to 8).

**If you have any questions about this paper please contact: Crispin Passmore, Executive Director, [crispin.passmore@sra.org.uk](mailto:crispin.passmore@sra.org.uk).**

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### Background

- 3 From April to June 2015 we consulted on a package of reforms called *Improving regulation: targeted and proportionate measures*. These proposals flowed mainly from:
  - suggestions made by our stakeholders, for example through our red tape challenges and initiatives to support small firms
  - reviewing our internal processes as part of our continuous improvement programme.
- 4 Following consultation the Board decided to take forward many of the proposals and made the relevant rules to implement these changes at its meeting in September 2015.
- 5 Subsequently, the LSB approved all but one of the measures for implementation in November 2015 – setting out its support for our drive to:

'remove unnecessary regulatory barriers and restrictions (which can inhibit economic growth in the sector) while at the same time making [our] regulatory framework targeted and proportionate.'
- 6 The LSB decided that it needed more time to consider the following proposed amendments to the SRA Authorisation Rules:
  - Removal of rule 4.2 and a consequential change to rule 4.3, so that an application by a licensable body for authorisation will no longer need to include a statement of the reserved legal activities for which the body seeks authorisation
  - Removal of rule 22.1(a)(iii) to remove the power to revoke or suspend a body's authorisation on the grounds that the body has no intention of carrying out the legal activities for which it has been authorised
- 7 These changes make clear that once a firm is authorised to be entitled to carry out reserved legal activities, it will not need to demonstrate that it is actively doing so. This gives firms greater flexibility to decide where to focus their business at any point in time.
- 8 Having taken time to consider the issues raised and our further comments, the LSB approved these rule changes on 27 January 2017. These were originally due to commence in November 2015 along with the other changes arising from the consultation, therefore we are proposing that the Board makes rules providing for a new commencement date of 1 April 2016.

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**Recommendation: the Board is asked to make the SRA Commencement Rules [2016] at Annex 1. make the draft Commencement Rules [2016] at Annex 1 to implement changes to the SRA Authorisation Rules 2011 relating to the regulation of firms' intention to carry out reserved legal activities from 1 April 2016..**

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### Supporting information

#### Links to the Strategic Plan

9 The rules link to the first objective in the [Strategic Plan](#) which is as follows:

“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.”

10 The changes may grow the regulated market to a limited extent they allow firms that meet standards and other criteria to be entitled to deliver reserved legal activities to be authorised even if they cannot demonstrate that they are actually delivering these services. We know previously that some potential applicants have been put off applying because they are not set up to deliver reserved legal activities at the outset, despite meeting the criteria for doing so.

11 The changes remove unnecessary regulatory barriers to an authorised firm from organising itself in a way that works best for them, their consumers and potential consumers.

#### How the issues support the regulatory objectives and best regulatory practice

12 The rules implement changes that were part of a package aimed at reducing unnecessary burdens, costs and restrictions on regulated firms.

13 The specific change that the rules will allow to be implemented make clear that once a firm is authorised to be entitled to carry out reserved legal activities, it will not need to demonstrate that it is actively doing so. This provides proportionate regulation, removing an unnecessary restriction to give firms greater flexibility to decide where to focus their business at any point in time.

14 The change supports two regulatory objectives. It promotes competition by removing barriers to firms operating in the regulated market. It protects and promotes the consumer interest by potentially increasing choice in regulated provider.

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

15 There was wide engagement and consultation around the original policy proposals, which the Board considered when making the relevant rules in September 2015. Since then there have been detailed discussions with the LSB on the policy proposals and their relationship with the legislative framework. This helped the LSB reach its decision to approve the rule

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changes. Their implementation will be communicated through the normal Handbook release channels.

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

16 The Board considered the impact assessments for the substantive proposals in September 2015. No significant equality and diversity considerations were identified.

**If you have any questions about this paper please contact: Crispin Passmore, Executive Director, Policy, [crispin.passmore@sra.org.uk](mailto:crispin.passmore@sra.org.uk); 0121 329 6687.**

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**Annexes**

**Annex 1** SRA Commencement Rules [2016]

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## **SRA Commencement Rules [2016]**

Rules made by the Solicitors Regulation Authority Board on [9 March 2016]

under sections 79 and 80 of the Solicitors Act 1974, sections 9 and 9A of the Administration of Justice Act 1985 and section 83 of, and Schedule 11 to, the Legal Services Act 2007.

### **Rule 1**

The provisions in the SRA Amendment to Regulatory Arrangements (Regulatory Reform Programme) Rules 2015 amending Rule 4.3 of the SRA Authorisation Rules 2011 and deleting Rules 4.2 and 22.1(a)(iii) of those rules shall come into force on 1 April 2016.

### **Rule 2**

These rules shall come into force on the date on which they are made.