

As easy as A-B-S

Becoming an Alternative Business Structure (ABS) can be a painstaking process. But you don't have to bear the burden on your own, finds **Marek Handzel**

Speaking at the Westminster Legal Policy Forum on 18 October, the Solicitors Regulation Authority's (SRA) chief executive, Antony Townsend, revealed that the introduction of the Alternative Business Structure (ABS) model had resulted in a range of applications from a very diverse pool of business models.

"ABS applicants have proved to be highly innovative and forward thinking," he told his audience.

"They are [from] existing legal bodies taking external investment to grow successful business models, proposing to grow by acquisition or creating joint ventures, or entirely new entrants to the legal services market wanting to take market share in areas of law traditionally serviced purely by all-lawyer firms. Seventy per cent of applications are from existing regulated entities, but what they're doing is very different from each other and extremely interesting."

Townsend also said that the experience of granting licences to ABSs (31 as of 18 October) had helped the regulator to form new guidance notes for fresh applicants.

"The authorisation process is now being revised to enable the SRA to concentrate upon the areas of real risk, thus reducing the burdens on applicants, streamlining the process, and improving regulatory effectiveness," he explained.

He also admitted that the SRA had seen a significant number of applications drop out of the entire process for a number of reasons: "not least because further down the line some realise there are issues they failed to consider fully," he said, urging ABS applicants to consult with the SRA from the beginning.

As a result, he also said, the SRA has been looking to adapt its processes to

reflect the changing nature of applications and the wider legal services market.

A smooth ride

The SRA's frank assessment of the ABS process to date chimes with much anecdotal evidence about the laborious application stages that firms have to go through.

Jonathon Bray, who offers a project management service for law firms wishing to undertake an ABS application (as well as a number of other compliance-related issues) says that the SRA makes applicants "jump through hoops".

"[At the moment] it's a good system," he says. "How good it will be if they get too overwhelmed with applications, I don't know."

Consequently, there has been an element of "wait-and-see" from hesitant law firms, but Bray says that the actual process itself should not be enough to put people off.

For starters, there are services such as the one he offers, which can give applicants a far smoother journey to ABS status than would otherwise be the case.

"The process itself is heavily compliance-based," explains Bray. "It's time-consuming and means firms have to spend a lot of management time, in particular, getting all the systems in place, dealing with all the paperwork and everything the SRA wants to see. What I do is make that process a little bit simpler by running that application for them."

Stages

Bray helps clients from multi-million companies through to two-partner law firms; many of whom he has worked with before on other matters related to compliance. For each, the initial application process is identical.

"A stage one application is just an expression of interest online - you put down the basic model of what the ABS is going to be, which allows the SRA to create your bespoke stage two application," he says. "So every application will be different from that point on."

Ticking the right boxes

It's from there, he says, that things can get a bit tricky.

"A small firm which wants to take on a non-lawyer partner is probably going to be quite simple because, although it's going to change into a new entity, the business will essentially remain the same.

"But where you've got an AA or a Saga entering the market - that's going to be a very heavily-documented stage two process. They're going to want to go into the ins and outs of the business plan and model, making sure that consumers are protected at every stage."

The main challenges are the time the application can take and demonstrating how a firm is compliant. This can be a stumbling block for some. Even firms that have practised for a long time and comply with the Code of Conduct can struggle at that stage, particularly if they cannot show evidence of their compliance.

"They may have their own informal procedures in place, which have been there for donkey's years, which are perfectly OK and work in practice. But then demonstrating that to the SRA might be a bit of a challenge," says Bray.

Persevering is worth it for many, however. With some 30% of applications from non-regulated businesses to date, law firms could be missing the most obvious trick out there by not becoming an ABS, simply because the application process is an administrative nightmare. ■