

## Chapter 2

# Recognition requirements

2.14 Rules and consultation

2.14.1 UK Schedule to the Recognition Requirements Regulations, paragraph 7

(1) The [UK RIE] must ensure that appropriate procedures are adopted for it to make rules, for keeping its rules under review and for amending them.

(2) The procedures must include procedures for consulting users of the [UK RIE's ] facilities in appropriate cases.

(3) The [UK RIE ] must consult users of its facilities on any arrangements it proposes to make for dealing with penalty income in accordance with paragraph 8(3) ... (or on any changes it proposes to make to those arrangements).

2.14.2 UK [deleted]

2.14.3 G In determining whether a UK recognised body has appropriate procedures for it to make rules, for keeping its rules under review and for amending them, the FCA may have regard to:

- (1) the arrangements made for taking decisions about making and amending rules in the UK recognised body, including the level at which the decisions are taken and any provision for the delegation of decisions by the governing body;
- (2) the arrangements made for determining whether or not it is appropriate to consult members or other users of the UK recognised body's facilities;
- (3) the procedures for consulting members and other users of its facilities in appropriate cases; and
- (4) the arrangements for notifying members (and other appropriate persons) of rule changes.

2.14.4 G (1) In determining whether a UK recognised body's procedures include procedures for consulting users of its facilities in appropriate cases, the FCA may have regard to whether those procedures include provision for consulting users of those facilities before changes are made to any rules relating to its regulatory functions.

(2) In the FCA's view, a UK recognised body's procedures may not need to contain provision for consulting users of its facilities before making

- 2.14.5 **G** minor changes to any rules of an administrative or commercial character.
- (1) In determining whether a *UK recognised body's* procedures for consulting *members* and other users of its *facilities* are appropriate, the *FCA* may have regard to the range of persons to be consulted by the *UK recognised body* under those procedures.
  - (2) In the *FCA's* view, consultation with a smaller range of persons may be appropriate where limited, technical changes to a *UK recognised body's* rules are proposed.
  - (3) In the *FCA's* view, a *UK recognised body's* procedures may include provision to restrict consultation where it is essential to make a change to the rules without delay in order to ensure continued compliance with the *recognition requirements* or other obligations under the *Act*.

- 2.14.6 **G** In determining whether a *UK recognised body's* procedures for consulting *members* and other users of its *facilities* are appropriate, the *FCA* may have regard to the extent to which the procedures include:
- (1) informal discussions at an early stage with users of its *facilities* or appropriate representative bodies;
  - (2) publication to users of its *facilities* of a formal consultation paper which includes clearly expressed reasons for the proposed changes and an appropriately detailed assessment of the likely costs and benefits;
  - (3) adequate time for users of its *facilities* to respond to the consultation paper and for the *UK recognised body* to take their responses properly into account;
  - (4) adequate arrangements for making responses to consultation available for inspection by users of its *facilities*, unless the respondent requests otherwise;
  - (5) adequate arrangements for ensuring that the *UK recognised body* has proper regard to the representations received; and
  - (6) publication, no later than the publication of the amended rules, of a reasoned account of the *UK recognised body's* decision to amend its rules.