



TAB 5

Report to Convocation October 29, 2015

Compliance-Based Entity Regulation Task Force

Task Force Members
Ross Earnshaw (Chair)
Gavin MacKenzie (Vice-Chair)
Raj Anand
Robert Burd
Teresa Donnelly
Howard Goldblatt
Joseph Groia
Carol Hartman
Malcolm Mercer
Peter Wardle

Purpose of Report: Information

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FOR INFORMATION

COMPLIANCE-BASED ENTITY REGULATION TASK FORCE

1. The Compliance-Based Entity Regulation Task Force is providing this status report following its meetings on August 12, 2015, and on September 24, 2015. The members of the Task Force are Ross Earnshaw, (Chair), Gavin MacKenzie (Vice-Chair), Raj Anand, Robert Burd, Teresa Donnelly, Howard Goldblatt, Joseph Groia, Carol Hartman, Malcolm Mercer, and Peter Wardle.
2. The Task Force was established by Convocation on June 25, 2015 pursuant to terms of reference approved by Convocation.¹
3. As indicated in the June 2015 Report establishing the Task Force, compliance-based regulation (which is also referred to as outcomes-based or proactive regulation) is an approach to professional regulation that is based on the encouragement and support of improved practices by the regulator. These improved practices are based on goals and expectations set by the regulator, which provides support and information as needed to law firms and legal practices.
4. Entity regulation refers to the regulation of entities that provide legal services (firms) in addition to individual licensees.
5. Among the issues which the Task Force is considering are:
 - a. the value and merits of a compliance-based entity regulation scheme;
 - b. how demographic information regarding Ontario lawyers and paralegals can be used to assist this review;
 - c. the extent to which the impact of compliance-based entity regulation would be justified by the resources which would be required to implement it;
 - d. the implementation of compliance-based entity regulation by other regulators;
 - e. the range of possible approaches to compliance-based entity regulation; and
 - f. the cost of compliance-based entity regulation.
6. At the August 12 meeting, the Task Force received an overview of research and analysis on compliance-oriented entity regulation, discussed a schedule for future meetings and began to consider how a consultation phase should be framed. The Task Force's terms of reference include consultation with the professions which will take place at the appropriate time.

¹ The report may be accessed at http://www.lsuc.on.ca/uploadedFiles/For_the_Public/About_the_Law_Society/Convocation_Decisions/2015/convocation-june-2015-treasurer.pdf for the terms of reference (beginning at paragraph 24).

7. Jill Perry, President, Nova Scotia Barristers Society (NSBS) and Darrel Pink, CEO, NSBS attended the September 24 Task Force meeting to discuss the Nova Scotia Transforming Regulation project. Entity regulation is one component of this initiative.
8. NSBS Council approved guiding principles for the Society's regulatory framework which were framed as Regulatory Objectives. Council has also approved a series of policies which provide, among other things, that the Society's role is to undertake public interest regulation of the delivery of legal services. In doing so, the Society will qualify and authorize lawyers and legal entities to deliver legal services. The Society will promote access to legal services in a way that encourages innovation in legal service delivery by legal entities and lawyers.
9. NSBS's Transforming Regulation initiative includes the development of a Management System for Ethical Legal Practice, a document that identifies ten core elements for effective and ethical practice management. Lawyers and legal entities will be required to have all of the elements in place that apply to the specific legal entity in order to have an effective management system for ethical legal practice.
10. The Task Force will continue to speak with other Canadian Law Societies in order to formulate a proposal for consultation with the professions. The Task Force is also considering elements of compliance-based entity regulation in other jurisdictions and assessing whether they might have some merit in Ontario.
11. The Task Force will continue to report to Convocation on the status of its work from time to time in the months that follow.