

## Law Firm Regulation Consultation: FAQs

### **(a) What is law firm regulation?**

Law firm regulation is a limited form of “entity regulation.” It amounts to a shift in some of the Law Society’s regulatory focus from individual lawyers to the law firms or other entities in which lawyers practice. However, the statutory definition of “law firm” includes sole practitioners so the Task Force is considering the implications for one-lawyer firms and even for groups of sole practitioners in space-sharing arrangements.

### **(b) What is “proactive regulation?”**

Proactive regulation refers to steps taken by the regulator, or aspects built into the structure of regulation, that attempt to eliminate potential problems before they may surface in the form of actual complaints to the Law Society. The opposite course may be described as “reactive regulation,” which may include both the creation of additional rules after problematic behaviour has been identified and the investigation of complaints after they are received, as well as any subsequent disciplinary steps. Proactive regulation generally involves the setting of standards or principles with which compliance is expected or required. Reactive regulation may be focused more on specific prohibitions and what happens when such prohibitions are violated.

### **(c) Is the Law Society’s law firm regulation going to be the same as what has been developed in other jurisdictions? (England/New South Wales/Nova Scotia/Ontario)**

Although there may be some similarities with some aspects of the law firm regulation systems that have been developed in other jurisdictions, the intention of the Task Force is not to simply recreate those systems. The Task Force has proceeded on the basis that they need to create a framework that will fit well with the existing regulatory system in the British Columbia context.

### **(d) Is the Task Force considering the implications of law firm regulation for small firms and sole practitioners?**

Yes; the Task Force has been aware that they need to take the circumstances of small law firms and sole practitioners into account in creating the law firm regulation framework. Some of the discussion in this ‘Consultation Paper’ is aimed specifically at this issue.

**(e) Does law firm regulation imply ABSs<sup>1</sup>?**

Not necessarily and certainly not initially. The ABS question (whether to allow non-lawyer controlling ownership of legal services providers) is a separate matter from law firm regulation. The Task Force’s recommendations on law firm regulation will focus on what components of regulation law firm regulation should cover, what kind of regulatory framework is most suitable for law firm regulation, and what kind of support and resources may be required in support of law firm regulation. At least initially, these aspects of law firm regulation can be addressed independently of questions such as whether law firm ownership restrictions should be changed or whether the Law Society should be engaged in the regulation of other kinds of entities.

**(f) Will there be support and assistance available for law firms who may struggle with meeting new compliance requirements?**

The intention of the Task Force is that any new requirements must be set so they can be met by all of the law firms for which they would have a practical application. It is anticipated that there will be some amount of assistance available from the Law Society to help firms where needed. The specifics and extent of that assistance have yet to be developed but it may include the creation of model policies and systems that firms may adopt and implement.

**(g) Where can I find out more about law firm regulation in general or about efforts to develop law firm regulation in other Jurisdictions?**

There is a significant and growing amount of written material focused on law firm regulation or “entity regulation,” as it is sometimes called. Here is a sampling of written perspectives on the topic:

- [“Regulating Law Firms in Canada,”](#) by Adam M. Dodek
- [“Transforming Regulation and Governance in the Public Interest,”](#) by Victoria Rees of the Nova Scotia Barristers Society
- Canadian Bar Association’s [“Assessing Ethical Infrastructure in Your Law Firm: A Practical Guide”](#)

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<sup>1</sup> “ABSs” is short for alternative business structures, which are usually identified as business vehicles that do not have the ownership restrictions that currently apply to law corporations and law firms in British Columbia. Most significant from a regulatory perspective is that ABSs would allow the separation of the ownership and control of the business of a law firm from those lawyers who have the professional and ethical obligations that go along with handling the firm’s files and advising and representing the clients.

**(h) Will there be additional consultation opportunities in the future?**

The Task Force is considering the potential for further consultation opportunities beyond the present Consultation Brief but the extent and shape of such consultation has not been finalized. If you are interested in participating in further consultation on the development of law firm regulation in BC, please email your name and contact information to [firmregulation@lsbc.org](mailto:firmregulation@lsbc.org).

This information is collected for the purposes of contacting you about future consultation opportunities and will not be used for any other purpose. If you have any questions about the collection of this information, please contact the Law Society's Privacy Compliance Officer at [privacy@lsbc.org](mailto:privacy@lsbc.org)