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March 30, 2016

Mr. Ross Ernshaw  
Chair, LSUC Compliance-Based Entity Regulation Task Force  
Law Society of Upper Canada  
130 Queen Street West  
Toronto, ON  
M5H 2N6

Re: Call for Input on Compliance-Based Entity Regulation

Dear Mr. Ernshaw,

In response to the Law Society of Upper Canada's call for input on Compliance-Based Entity Regulation I am pleased to provide you with the County of Carleton Law Association's (CCLA) comments on Task Force's consultation paper.

Our comments are attached to this letter and represents some of the preliminary thoughts and views on this topic from the CCLA. We had an opportunity to seek input from our membership and from our Board of Trustees.

We appreciate the opportunity to review the consultation paper and to provide our preliminary comments at this stage of the process. We will also look forward to being part of the ongoing consultation process.

Thank you.

Sincerely,

Lawrence Silber  
Chair, CCLA Compliance-Based Entity Regulation Ad-Hoc Committee

Cc. D.Lynne Watt, President, CCLA  
Eldon Horner, Chair, FOLA



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## **CCLA COMMENTS**

The CCLA wishes to provide comments to the introduction of Compliance –Based Entity Regulation (“CBER”) and we thank the Law Society for seeking our input.

As a preliminary comment, the CCLA recognizes that the Task Force is in the initial stages of its mandate and has yet to develop a proposal detailing the elements and structure of CBER. While the CCLA welcomes the opportunity to comment on the key components and principles of a CBER model, its capacity to provide meaningful feedback is limited at this early stage. From the perspective of the CCLA, it is imperative that the Task Force solicit the input of the profession after developing a detailed proposal for CBER.

The CCLA acknowledges the potential benefits of a proactive model in reducing client complaints and improving the conduct of lawyers. However, any new regulatory measures should reflect a proportionate response to the risks targeted by such measures and should not unduly burden practitioners.

Furthermore, from the CCLA’s perspective, there may be opportunities for the LSUC to integrate CBER with existing regulatory requirements. For example, a compliance-based reporting mechanism for a firm might include much if not all of the information currently contained in a lawyer’s annual report. In developing compliance and entity-based regulation, the LSUC should examine its entire suite of regulatory measures to identify other, similar opportunities for streamlining the regulatory burden.

It is also imperative that we understand how this program will be funded. If the program is to have the effect of reducing complaints and improving lawyers conduct, this will reduce Law Society costs, and that reduction in costs should be passed on to lawyers. It has been suggested that the program may be funded by lawyers/law firms paying a percentage of billings. The large firms will therefore be bearing a significant proportion of the cost, and this is unfair. Careful consideration should be made as to how the cost, if any, should be allocated.

The Task Force is also seeking views on the role and responsibility of the Designated Practitioner. The suggested responsibilities are most likely currently shared by one or more lawyers in a firm, probably a managing partner. Once we have been advised of the actual responsibilities and the manner in which compliance will be required, we can provide more input.

As to entity registration, the CCLA would be pleased to provide comments as part of its feedback on a detailed proposal for CBER. Lastly, you have asked for views the program in general. In addition to



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comments above, we feel that reporting requirements need to be integrated into the current reporting responsibilities so as to reduce compliance costs to lawyers and firms.

Respectfully Submitted

Lawrence Silber  
Chair, Compliance-Based Entity Regulation Ad-Hoc Committee  
March 30, 2016