



The Law Society of
Upper Canada

Barreau
du Haut-Canada

May 26, 2016
9:00 a.m.

CONVOCATION MATERIAL

PUBLIC COPY

*THIS PAGE CONTAINS
IN CAMERA MATERIAL*

CONVOCATION AGENDA May 26, 2016

Convocation Room – 9:00 a.m.

Committee of the Whole

Treasurer's Remarks

- [Treasurer's Engagement Report \[Tab 1\]](#)

Consent Agenda - [Motion \[Tab 2\]](#)

- **Confirmation of Draft Minutes of Convocation** – [April 28, 2016](#)
- **Motions** – [Committee Appointments](#)
– [Tribunal Appointments](#)
- **Report of the Director of Professional Development and Competence** - [Deemed Call Candidates](#)

[Report of the Task Force on Compliance-Based Entity Regulation \(R. Earnshaw\) \[Tab 3\]](#)

[Professional Regulation Committee Report \(M. Mercer\) \[Tab 4\]](#)

- Proposed Amendments to the Rules of Professional Conduct
For Information
- Professional Regulation Division Quarterly Report January to March 2016

[Paralegal Standing Committee Report \(M. Haigh\) \[Tab 5\]](#)

- Proposed Amendments to the Paralegal Rules of Professional Conduct
For Information
- Update on Enhancements to Licensing Process

Address by Claudia P. Prémont, bâtonnière du Québec

[Audit & Finance Committee Report \(C. Bredt, P. Wardle\) \[Tab 6\]](#)

- Updated Investment Policy
- Retention of the Portfolio Manager
- Retention of the Investment Custodian
For Information
- Report on Investment Returns
- Law Society of Upper Canada Financial Statements for the three months ended March 31, 2016
- Investment Compliance Reporting for the period ending March 31, 2016

[Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones Report \(P. Schabas/J. Falconer\) \[Tab 7\]](#)

- In Camera Item
- Human Rights Monitoring Group Request for Interventions
For Information
- Statistical Snapshots of the Professions
- Equity Legal Education and Rule of Law Series Calendar 2016

[Tribunal Committee Report \(D. Wright\) \[Tab 8\]](#)

- Law Society Tribunal 2015 Annual Report
- Tribunal 2016 First Quarter Statistics

[Federation of Law Societies of Canada Update \(L. Pawlitza\) \[Tab 9\]](#)

REPORT FOR INFORMATION ONLY

Report from The Action Group on Access to Justice (TAG) [Tab 10]

Lunch – Benchers' Dining Room

MATERIALS TO FOLLOW WHEN AVAILABLE

Tab 2

THE LAW SOCIETY OF UPPER CANADA

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON MAY 26, 2016

MOVED BY:

SECONDED BY:

THAT Convocation approve the consent agenda set out at Tab 2 of the Convocation Materials.

Tab 2.1

DRAFT

MINUTES OF CONVOCATION

Thursday, 28th April, 2016
9:00 a.m.

PRESENT:

The Treasurer (Janet E. Minor), Anand, Armstrong (by telephone), Banack, Beach, Bickford, Boyd, Braithwaite, Bredt, Burd (by telephone), Callaghan, Chrétien, Clément, Conway (by telephone), Cooper, Copeland (by telephone), Corbiere, Corsetti, Criger, Donnelly, Earnshaw, Epstein, Evans, Falconer, Furlong (by telephone), Galati, Go, Goldblatt, Gottlieb, Groia, Haigh, Hartman, Horvat, Krishna, Lawrie, Leiper (by telephone), Lem (by telephone), Lerner, Lippa, MacKenzie (by telephone), MacLean, Manes (by telephone), McDowell, McGrath, Merali, Mercer, Murchie, Murray, Nishikawa, Papageorgiou (by telephone), Pawlitza, Porter (by telephone), Potter (by telephone), Richardson (by telephone), Richer, Rosenthal, Ross, Schabas, Sharda, Sheff, Sikand, Spurgeon, C. Strosberg, H. Strosberg, Swaye (by telephone), Troister, Udell, Vespry, Wardle, Wright and Yachetti.

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Secretary: James Varro

The Reporter was sworn.

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IN PUBLIC

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TREASURER'S REMARKS

The Treasurer welcomed everyone viewing Convocation by webcast.

The Treasurer welcomed Federation of Law Societies of Canada President Jeff Hirsch to Convocation.

The Treasurer welcomed Canadian Bar Association President Janet M. Fuhrer to Convocation.

The Treasurer welcomed Kathleen Waters and Steve Jorgensen from LAWPRO to Convocation.

The Treasurer reported to Convocation on the Law Society's new approach to matters related to heritage, by which heritage issues will be dealt with by Law Society operations with Professor Constance Backhouse as Special Heritage Liaison, with reference to the report at Tab 13 of the Convocation Materials.

The Treasurer advised that LibraryCo Inc. has retained a consulting group to perform a needs analysis which will provide important information as a foundation to determine future needs and effective, quality resources to licensees.

The Treasurer noted her activity report in the Convocation Materials and highlighted several events for the information of Convocation.

The Treasurer congratulated Michelle Haigh on her re-election as Chair of the Paralegal Standing Committee.

The Treasurer congratulated bencher Jerry Udell on being awarded the Ontario Bar Association Distinguished Service Award.

The Treasurer congratulated bencher Robert Evans, life bencher Roger Yachetti and former bencher Mary-Louise Dickson, Q.C. on becoming life members of the Law Society. The Treasurer also congratulated Law Society member Howard E. Staats, Q.C. on receiving life member status.

The Treasurer reminded benchers of the Annual General Meeting on May 11, 2016.

The Treasurer advised that the Federation of Ontario Law Associations will be holding its plenary meetings on May 11 to 13, 2016 and benchers are invited to attend.

The Treasurer noted upcoming Law Society roundtable events with the professions.

The Treasurer reminded Convocation of the Law Society Awards ceremony on May 25, 2016.

MOTION – CONSENT AGENDA – Tab 2

It was moved by Ms. Murchie, seconded by Mr. Braithwaite, that Convocation approve the consent agenda set out at Tab 2 of the Convocation Materials.

Carried

Tab 2.1 – DRAFT MINUTES OF CONVOCATION

The draft minutes of Convocation of February 25, 2016 were confirmed.

Tab 2.2 – MOTION – APPOINTMENT

THAT Robert Evans be appointed to the Real Estate Issues Working Group.

Carried

Tab 2.3 – REPORT OF THE EXECUTIVE DIRECTOR OF PROFESSIONAL DEVELOPMENT AND COMPETENCE

THAT the Report of the Executive Director of Professional Development and Competence listing the names of the call to the bar candidates be adopted.

Carried

Tab 2.4 – TREASURER'S REPORTS

Re: LAWPRO Annual Shareholder Resolutions

That Convocation authorize the Treasurer to sign the shareholder resolutions for the Lawyers' Professional Indemnity Company (LAWPRO) set out at Tab 2.4.1 of the report.

Carried

Re: LibraryCo Inc. Annual Meeting

That Convocation authorize the Treasurer to sign the proxy in favour of the proposed shareholder resolutions set out at Tab 2.4.4 of the report.

Carried

MENTAL HEALTH STRATEGY TASK FORCE REPORT

Mr. McDowell presented the Report.

Re: Proposed Mental Health Strategy

It was moved by Mr. McDowell, seconded by Ms. Strosberg, that Convocation approve:

- a. the proposed Mental Health Strategy, the component parts of which are set out at pages 4 to 8 of the Report; and
- b. the approach to funding for the Strategy, set out in paragraphs 27 to 34 of the Report.

Carried Unanimously

ADDRESS BY THE PRESIDENT OF THE FEDERATION OF LAW SOCIETIES OF CANADA

Jeff Hirsch addressed Convocation on the work of the Federation.

AUDIT & FINANCE COMMITTEE REPORT

Mr. Bredt presented the Report.

Re: Law Society of Upper Canada Audited Annual Financial Statements for the Year Ended December 31, 2015

It was moved by Mr. Bredt, seconded by Mr. Wardle, that Convocation approve the audited Annual Financial Statements for the Law Society for the financial year ended December 31, 2015, including the interfund transfers listed in Note 13 of the notes to the financial statements.

Carried

Re: LAWPRO REPORT

Ms. McGrath presented the LAWPRO 2015 Annual Report for information.

For Information

- In Camera Item
- LAWPRO Annual Financial Statements for the year ended December 31, 2015
- LibraryCo Annual Financial Statements for the year ended December 31, 2015
- Investment Compliance Reporting for the year ended December 31, 2015
- Other Committee Work
- LAWPRO Report

PARALEGAL STANDING COMMITTEE REPORT

Ms. Haigh presented the Report.

Re: Amendment to *Paralegal Rules of Conduct*: Incriminating Physical Evidence

It was moved by Ms. Haigh, seconded by Ms. McGrath, that Convocation approve the addition of subrule (5.2) regarding incriminating physical evidence to Rule 4 of the *Paralegal Rules of Conduct*, as set out at paragraph 8 of the Report.

Carried

For Information

- Election of the Chair of the Paralegal Standing Committee

PROFESSIONAL REGULATION COMMITTEE REPORT

Mr. Mercer presented the Report.

Re: By-Law Amendments – New Process for Administrative Surrender of Licence

It was moved by Mr. Mercer, seconded by Mr. Schabas, that Convocation make the amendments to By-Laws 4 and 8 as set out in the motions at Tab 6.1.1 and 6.1.2 of the Report respecting the new administrative surrender process.

Carried

Re: National Discipline Standards Pilot Project

Mr. Mercer presented the report for information.

Re: Report of the Acting Executive Director, Professional Regulation Division, Regarding Complaints Received in 2014

Mr. Mercer presented the report for information.

For Information

- National Discipline Standards
- Executive Director's Report – Analysis of Complaints Received by the Professional Regulation Division in 2014

TREASURER'S REMARKS

The Treasurer advised that the report on the Federation of Law Societies of Canada will be deferred to May Convocation.

The Treasurer advised that the report on statistical snapshots of the profession in the report of the Equity and Aboriginal Issues Committee will be presented in May.

The Treasurer congratulated Jacqueline Horvat on the opening of her new law firm, SPARK LLP.

ADDRESS BY THE PRESIDENT OF THE CANADIAN BAR ASSOCIATION

Janet M. Fuhrer addressed Convocation on the work of the Canadian Bar Association.

ADDRESS BY THE PRESIDENT OF THE ONTARIO BAR ASSOCIATION

Ed Upenieks addressed Convocation on the work of the Ontario Bar Association.

TRIBUNAL COMMITTEE REPORT

Ms. Murchie presented the Report.

Re: Amendments to Law Society Tribunal Hearing Divisions Rules of Practice and Procedure

It was moved by Ms. Murchie, seconded by Mr. Wardle, that Convocation approve the proposed French and English amendments to the Law Society Tribunal Hearing Division Rules of Practice and Procedure set out in the motion at Tab 7.1.1: Motion – Law Society Tribunal Rules of Practice and Procedure – Hearing Division (English and French).

Carried

Re: Tribunal 2015 Third and Fourth Quarter Statistics

Ms. Murchie presented the report for information.

Ms. Murchie invited benchers to provide input on any additional information for data collection, in relation to the data collection project arising from the Tribunal three-year review.

For Information

- Tribunal 2015 Third and Fourth Quarter Statistics

EQUITY AND ABORIGINAL ISSUES COMMITTEE/COMITÉ SUR L'ÉQUITÉ ET LES AFFAIRES AUTOCHTONES REPORT

Mr. Schabas presented the Report.

Re: Human Rights Monitoring Group Request for Interventions

It was moved by Mr. Schabas, seconded by Ms. Donnelly, that Convocation approve the letters and public statements in the cases as described in the Report, as set out at Tabs 8.1.1 to 8.1.6.

Carried

For Information

- Statistical Snapshots of the Professions
- Public Education Equality and Rule of Law Series Calendar 2016

PROFESSIONAL DEVELOPMENT AND COMPETENCE COMMITTEE REPORT

Mr. Goldblatt presented the Report.

Re: Enhancements to Licensing Process

Mr. Goldblatt presented the report for information, and advised that the proposal is to present the report for decision at May Convocation.

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REPORTS FOR INFORMATION ONLY

REPORT FROM THE ACTION GROUP ON ACCESS TO JUSTICE (TAG)

LAW SOCIETY OPERATIONAL HERITAGE PLAN

CONVOCATION ROSE AT 12:50 P.M.

Tab 2.2.1

THE LAW SOCIETY OF UPPER CANADA

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON MAY 26, 2016

THAT the following be reappointed to the Proceedings Authorization Committee:

Paul Schabas, Chair
Jacqueline Horvat
Brian Lawrie
Jeffrey Lem
Jonathan Rosenthal
Gerald Sheff

Explanatory note:

Under By-Law 11 [Regulation of Conduct, Capacity and Professional Competence], members of the Proceedings Authorization Committee are appointed for a one year term and serve at the pleasure of Convocation. The current term of appointment expires May 28, 2016 requiring the appointment of members of the Committee.

Tab 2.2.2

THE LAW SOCIETY OF UPPER CANADA

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON MAY 26, 2016

REAPPOINTMENTS TO THE LAW SOCIETY TRIBUNAL Pursuant to Section 49.21 of the *Law Society Act*

MOVED BY:

SECONDED BY:

THAT Marian Lippa be reappointed to the Hearing Division of the Law Society Tribunal for a term ending April 24, 2018.

THAT the following be reappointed to the Hearing Division of the Law Society Tribunal for a term ending June 29, 2018:

Eva Krangle
Sabita Maraj
John F. Spekkens
Marilyn Thain
Eric Whist

Explanatory Note

The individuals named in this motion, with the exception of elected paralegal benchers Marian Lippa, are all non-licencee adjudicators approved for reappointment by the Attorney General pursuant to s. 49.21 (3)(c) of the *Law Society Act*. These are reappointments of individuals originally appointed following a merit-based, competitive process in 2014. The Tribunal Chair has recommended them for reappointment following a performance evaluation. The reappointment term of benchers Marian Lippa corresponds with her term as an elected paralegal benchers and will expire at the same time as other paralegal benchers.

Tab 2.3

To the Benchers of the Law Society of Upper Canada Assembled in Convocation

The Executive Director of Professional Development and Competence reports as follows:

CALL TO THE BAR AND CERTIFICATE OF FITNESS

Licensing Process and Transfer from another Province – By-Law 4

Attached is a list of candidates who have successfully completed the Licensing Process and have met the requirements in accordance with section 9.

All candidates now apply to be called to the bar and to be granted a Certificate of Fitness on Thursday, May 26th 2016

ALL OF WHICH is respectfully submitted

DATED this 26th day of May, 2016

CANDIDATES FOR CALL TO THE BAR
May 26th 2016

Transfer from another province (Mobility)

Caroline Grace Kiva
Diana Vasilescu

Transfer from another province (Quebec)

Marie Aziz

L3

Alnashir Salim Tharani

Licensing Candidates

Natalia Kroukova



TAB 3

Report to Convocation May 26, 2016

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: Decision

**Prepared by the Policy Secretariat
Margaret Drent (416-947-7613)**

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FINAL REPORT OF THE TASK FORCE ON COMPLIANCE-BASED ENTITY REGULATION

EXECUTIVE SUMMARY

The legal professions in Ontario are undergoing tremendous change. Globalization, downward pressure on the cost of providing legal work, an increasingly complex environment, and the proliferation of new forms of legal service delivery are creating not only new opportunities for the public to access legal services, but also new challenges for regulators. Existing regulatory approaches do not fully reflect significant changes in practice over the decades.

The Law Society of Upper Canada's Task Force on Compliance-Based Entity Regulation was established in June 2015 by Convocation to consider how best to meet some of these challenges. After careful study, it is recommending that Convocation approve:

1. that the Law Society seek an amendment to the *Law Society Act* to permit Law Society regulation of entities through which legal services are provided; and
2. that Convocation approve development of a regulatory framework for consideration by Convocation based on the principles of compliance-based regulation set out in this report.

"Entity regulation" refers to the regulation of the business entity through which lawyers and paralegals provide services. For example, a partnership or a professional corporation would be an entity.

"Compliance-based" regulation is a proactive approach, in which the regulator identifies practice management principles and establishes goals, expectations, and tools to assist lawyers and paralegals in demonstrating compliance with these principles in their practices. This approach recognizes the increased importance of the practice environment in influencing professional conduct, and how practice systems can help to guide and direct professional standards.

With the advent of paralegal regulation and legislative change in 2007, the Law Society began regulating the provision of legal services and the individuals who provide them, as well as those who practise law. The regulation of entities is consistent with this approach.

Entity regulation has three main benefits:

1. It enhances the efficiency and effectiveness of professional regulation;
2. It harmonizes Ontario's legislation with that of other Canadian Law Societies;
3. It positions the Law Society of Upper Canada to respond more effectively to innovations in legal service delivery that may be required in the public interest.

The Task Force considers as a general principle that all lawyers and paralegals should be obliged to adopt and abide by appropriate policies and procedures in their practices to fulfil their professional obligations as reflected in seven practice management principles. These principles

were circulated to the professions as part of the Call for Input earlier this year and are as follows:

- a. Practice Management;
- b. Client Management;
- c. File Management;
- d. Financial Management and Sustainability;
- e. Professional Management;
- f. Equity, Diversity and Inclusion; and
- g. Access to Justice.

The Task Force proposes to continue its work on compliance-based regulation by developing one or more options, which would be the subject of focused consultation with the professions to obtain feedback on their potential impact.

In formulating these options, the Task Force would take into consideration the Law Society's existing competence mandate and current Quality Assurance and Quality Improvement programs. In developing and evaluating these options, the Task Force will also be aware of the need for proportionality in the regulation of the professions. To that end, the Task Force will consider the reduction or elimination of some current regulatory requirements as part of new compliance-based initiatives.

Elements of these approaches could include mechanisms for

1. providing sample policies and procedures that lawyers and paralegals may consider useful in the management of their practices;
2. periodic self-assessment of compliance with the practice management principles described in the report, based on a tool to be developed by the Law Society;
3. reporting to the Law Society that paralegals and lawyers have either i) considered the self-assessment tool and the extent to which they are in compliance with it; or ii) the result of their self-assessment;
4. an appropriate regulatory response from the Law Society in the event of a lack of compliance with one or more regulatory obligations. One possible Law Society response might be to contact the entity to discuss the reasons for non-compliance. Another might be a compliance audit to assist the entity to ensure that it has implemented the practice management principles.

FINAL REPORT OF THE TASK FORCE ON COMPLIANCE-BASED ENTITY REGULATION

MOTION

1. That Convocation approve:
 - a. that the Law Society seek an amendment to the *Law Society Act* to permit Law Society regulation of entities through which legal services are provided; and
 - b. the development of a regulatory framework for consideration by Convocation based on the principles of compliance-based regulation set out in this report.

NATURE AND PURPOSE OF THIS REPORT

2. In June, 2015 Convocation established the Task Force on Compliance-Based Entity Regulation.¹ The Task Force's purpose is to study and make recommendations on options for proactive regulation of entities, or organizations, through which lawyers and paralegals provide legal services.²
3. Since September 2015, the Task Force has considered this subject in depth and has had a number of opportunities to engage with members of the professions. Further information regarding outreach conducted by the Treasurer and by Task Force members is attached as **Tab 3.1** to this report. The Task Force wishes to acknowledge and thank the participants in these meetings for their contributions and insights.
4. In January, 2016, the Task Force launched a Call for Input with lawyers, paralegals and others on a series of questions described in its consultation paper ("Promoting Better Legal Practices"). Responses were requested by March 31, 2016. The responses are summarized in an appendix to this document at **Tab 3.4**.

¹ The Task Force's Terms of Reference are available in the Treasurer's Report to Convocation, June 25, 2015, (Part 2), Proposed Task Force on Compliance-Based Entity Regulation, paragraph 49, online at http://www.lsuc.on.ca/uploadedFiles/For_the_Public/About_the_Law_Society/Convocation_Decisions/2015/convocation-june-2015-treasurer.pdf.

² The Task Force is chaired by Ross Earnshaw. The Vice-Chair is Gavin MacKenzie. The members of the Task Force are Raj Anand, Robert Burd, Teresa Donnelly, Howard Goldblatt, Joseph Groia, Carol Hartman, Malcolm Mercer, and Peter Wardle. Kathleen Waters, C.E.O of LawPRO, and Dan Pinnington, Vice-President, Claims Prevention and Stakeholder Relations, LawPRO, also attended the Task Force's meetings and participated in its deliberations.

5. The Task Force recommends that the Law Society be authorized to regulate entities through which legal services are provided. The report also describes the Task Force's proposals for continued examination of proactive compliance-based regulation, based on a recognition that lawyers and paralegals should adopt and abide by appropriate policies, procedures and practices in their legal practices to fulfil their professional obligations.
6. In developing and evaluating these initiatives, the Task Force will be aware of the need for proportionality in the regulation of the professions. To that end, the Task Force will also consider the reduction or elimination of some current regulatory requirements as part of new compliance-based initiatives.

DEFINING THE CONCEPTS

What is Entity Regulation?

7. "Entity regulation" refers to the regulation of the business entity through which lawyers and paralegals practise law or provide legal services. For example, a partnership or professional corporation would be an entity.
8. In 2016, it is not realistic to treat law or paralegal firms as mere collections of autonomous individual practitioners who happen to share a firm name. Firms owe fiduciary and other legal obligations to their clients. Clients look to firms, as well as individual practitioners within those firms, to serve their legal needs. Firms exist because individual practitioners recognize that many aspects of professional practice should be undertaken on a collective basis. Yet, Law Society authority, By-Laws and Rules of Professional Conduct are framed without acknowledging the relevance of law and paralegal firms to the manner in which clients, the administration of justice, and the public are served by the legal professions. Entity regulation recognizes that failing to acknowledge the reality of modern practice can affect the efficiency, effectiveness, and sometimes even the fairness of professional accountability.
9. Entity regulation recognizes that many professional decisions that were once made by an individual practitioner are increasingly determined by firm policies and procedures and firm decision-making processes. The organization in which a lawyer or a paralegal works plays an increasingly significant role in determining an individual's professional conduct. Entity regulation recognizes that both improvement and assurance of professional conduct are better achieved by addressing both individual practitioners and legal organizations.

What is Compliance-Based Regulation?

10. Compliance-based regulation emphasizes a proactive approach in which the regulator identifies practice management principles and establishes goals, expectations and tools to assist lawyers and paralegals in demonstrating compliance with these principles in their practices. This approach recognizes the increased importance of the practice

environment in influencing professional conduct and how practice systems can help to guide and direct professional standards.

11. Compliance-based regulation proceeds on the basis that lawyers and paralegals should have autonomy in deciding how to meet these expectations and in determining the policies and procedures they adopt to achieve effective and compliant practice management. But compliance-based regulation also contemplates assistance so that practitioners do not have to “reinvent the wheel” and can better understand what is expected.

How Do Compliance-Based Regulation and Entity Regulation Fit Together?

12. These two initiatives do not necessarily have to be implemented together. Recognizing and reflecting the importance of legal organizations to modern professional practice has obvious value whether or not compliance-based regulation is adopted. But if compliance-based regulation is adopted, it would be more effective if it applied to both entities and individual practitioners.

WORK OF THE TASK FORCE

13. The Task Force’s work is being undertaken in the context of tremendous change for the Ontario legal professions. The Law Society was one of the first regulators in the world to introduce paralegal regulation approximately ten years ago. Since that time, globalization, downward pressure on the cost of providing legal work, an increasingly complex environment and the proliferation of new ways of providing legal services are creating not only new opportunities for the public to access legal services, but also new challenges for regulators. Existing regulatory approaches do not fully reflect significant changes in practice over the decades.
14. The Task Force is also aware that, given the presence of national law firms, any new regulatory approaches, such as entity regulation, would benefit from collaboration with other Canadian Law Societies to ensure harmonized national standards. The Task Force has held a number of meetings with colleagues in other Canadian Law Societies to discuss the issues raised in this report. Details regarding these meetings are available at [Tab 3.1.1](#).

Call for Input

15. The Call for Input provided an opportunity for lawyers, paralegals and others to respond to a series of questions about proactive regulation. These included questions about proposed practice management principles, the appointment of a Designated Practitioner, or representative, and entity registration.³

³ The Call for Input paper may also be accessed online at <http://www.lsuc.on.ca/better-practices/>.

16. For the first time, respondents were offered an opportunity to respond using an online form, in addition to email and regular mail. A list of individual respondents is available at [Tab 3.2](#). A list of legal organization respondents appears at [Tab 3.3](#). A summary of the responses appears at [Tab 3.4](#).
17. The responses to the Call for Input provided a wide range of views, and occasionally disparate perspectives, on the various questions. The following themes emerged from the responses:
 - a. Respondents were in general agreement with the Practice Management Principles proposed in the Call for Input paper. Some expressed concerns about a lack of detail regarding the equity, diversity and inclusion principle, as well as the access to justice principle.
 - b. Some respondents believed that all lawyers and paralegals in private practice should be subject to identical requirements, irrespective of practice size. However, the majority of respondents emphasized while the principles would apply to all, the application of the principles would vary depending on the nature of the practice. Lawyers and paralegals in sole practice and in small firms have unique challenges and new requirements should be designed accordingly.
 - c. Each law or paralegal firm should be able to choose the practitioner most appropriate for the Designated Practitioner (DP) role. The DP should not be made responsible for any sanction that might be imposed against a firm.
 - d. Entities should be required to register with the Law Society, rather than having to go through a licensing process.
 - e. While supportive of the general concept of compliance-based entity regulation, some respondents wanted more information about the nature of any new regulatory obligations. Others questioned why entity regulation was necessary. Some respondents urged the Law Society to develop more detailed regulatory proposals as the basis for further consultation.

RECOMMENDATION FOR ENTITY REGULATION

18. For the reasons outlined below, the Task Force believes that the Law Society should seek authority under the *Law Society Act* to permit Law Society regulation of entities through which law is practised and legal services are provided. While the Act currently authorizes regulation of professional corporations, the Act does not authorize the regulation of ordinary partnerships or Limited Liability Partnerships (including multi-disciplinary partnerships).
19. The amendments may include the following:

- a. a requirement that entities register with the Law Society;
 - b. authority for the Law Society to create a register for entities;
 - c. a requirement to appoint a Designated Practitioner, or representative;
 - d. authority that would permit the Law Society to investigate, discipline, and impose a sanction on an entity.
- 20. Section 61.0.4(2) of the Act currently permits the audit, investigation and prosecution of a professional corporation, as well as of individuals. Proposed amendments for entity regulation would extend the Law Society's regulatory reach to other entities that provide legal services. This means that an entity could be the subject of a complaint, investigation or discipline, in addition to or instead of an individual.
- 21. Regulating entities will require new approaches to regulation, which will require further work and consideration including the development of By-Laws and Rules of Professional Conduct that would be specific to entities. The Task Force believes obtaining authorization to regulate entities need not await completion of this work.

Enhancing Regulatory Efficiency

- 22. The Task Force believes that increased regulatory efficiency and effectiveness would result from entity regulation in the following ways:
 - a. The confidentiality requirements of section 49.12 of the Act do not currently permit the Law Society to notify members of a firm that a member of the firm is under investigation. Where such notification is appropriate and necessary, law firm regulation would address this issue.
 - b. Appointing a designated person in a firm to respond to the Law Society or to ensure that a response is obtained would result in more efficient and effective responses.
 - c. With respect to the production of documents, the obligation to produce documents and information could include the firm as well as any individual whose conduct is being investigated. Commencing an investigation of the firm can be an effective tool for achieving regulatory compliance.
 - d. In certain circumstances, sanction of an entity may be an appropriate regulatory response.
 - e. For book-keeping and accounting responsibilities and compliance, one person would be responsible to report to the Law Society about trust accounting matters and to ensure that the firm's record-keeping is current.
 - f. If a regulatory issue relates to responsibility to a firm's client, dealing with the partnership or the professional corporation is ordinarily appropriate. In some cases,

an investigation addresses the interaction of a number of practitioners with the client, and may most appropriately be considered a regulatory issue for the firm. Examples include a lack of competence on the part of the lawyer or paralegal to whom client work is assigned or conflicts of interest that involve a number of individuals in the firm.

- g. In cases where a lawyer or paralegal has subsequently left a firm, their former employer currently has no obligation to provide client files or information to the Law Society – and the departed lawyer or paralegal may not have any documents relevant to the allegations under investigation. Obtaining cooperation from the previous firm has been resource-intensive for the Law Society. Entity regulation would enable a more effective method to obtain necessary information.
- h. Entity regulation may also be a more effective means of response for regulation of entities that provide legal services both within and outside of Ontario (such as Internet providers) and multi-jurisdictional law firms.
- i. Entity regulation may permit the public to access information about the regulated entities through the Law Society website;
- j. Entity regulation would be valuable for the implementation of recommendations that may be made by the Challenges Faced by Racialized Licensees Working Group that relate to organizational policies or processes.⁴

Consistency

- 23. An amendment to the *Law Society Act* to enable the Law Society to regulate entities would also be consistent with Law Society regulatory authority over law firms in other provinces, described below.
- 24. The Law Society of British Columbia (LSBC) has had statutory authority to investigate a law firm, and to discipline a law firm by reprimand, fine, or other order since 2012.⁵ In 2015, the LSBC established a Task Force on Law Firm Regulation.⁶ⁱ The LSBC consultation included the publication of a discussion paper and request for comment as well as focus groups in ten cities around the province held in February, 2016.

⁴ The Challenges Faced by Racialized Licensees Working Group has been considering equity, diversity and inclusion issues for Racialized Licensees in the legal professions. It is expected that the Working Group will report to Convocation in 2016.

⁵ *Legal Profession Act*, S.B.C. 1998, c. 9, online at http://www.bclaws.ca/civix/document/id/complete/statreg/98009_01. The relevant statutory provisions are ss. 11(1) and (3), 26(2), 27(2)(e), 32, 33 and 36, cited in CBA Futures Inquiry: Ethics and Regulatory Issues Team, Final Report, April 1, 2014, p. 14.

⁶ Further information regarding the Law Society of British Columbia Task Force is available at <https://www.lawsociety.bc.ca/page.cfm?cid=3966&t=Law-Firm-Regulation-Task-Force>.

25. Initiatives are currently being undertaken by the Prairie Law Societies in this area, which have published a paper (*Innovating Regulation: A Collaboration of the Prairie Law Societies*), and have launched a consultation with the profession.⁷
26. The Law Society of Saskatchewan has legislative authority over law firms.⁸ On November 5, 2015, the *Legal Profession Amendment Act* received Third Reading in the Legislative Assembly of Manitoba. The bill provides benchers of the Law Society of Manitoba with the legislative authority to regulate law firms.⁹
27. The Barreau du Québec (Barreau) requires firms to provide a detailed undertaking to facilitate the ethical behaviour of advocates working in the firm. The signed undertaking lists the members of the firm and provides that:
 - a. The entity ensures that all members who engage in professional activities in the firm have a working environment that allows them to comply with any law applicable to the carrying on of their professional activities.
 - b. The partnership or company, as well as all persons within it, shall comply with applicable legislation and regulations.
28. The Barreau requires firms to designate a representative to deal with the regulator.¹⁰
29. The Nova Scotia Barristers' Society (NSBS) has had authority over law firms since 2005. Since 2013, NSBS has been involved in an extensive review of all aspects of its regulatory scheme which is more wide-reaching than Ontario's, and includes both entity and compliance-based regulation.¹¹
30. As noted in the Call for Input paper, the regulation of lawyers and paralegals by the Law Society is currently based on the regulation of the individual practitioner. With the commencement of paralegal regulation and the legislative change implemented in 2007, the Law Society began regulating the provision of legal services, in addition to regulating the individuals who provide them, as well as those who practise law. The regulation of entities is consistent with this approach.

⁷ See <http://www.lawsocietylistens.ca/>.

⁸ *Legal Profession Act*, 1990, S.S. 1990-91, c. L-10.1, online at <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/L10-1.pdf>.

⁹ *Legal Profession Amendment Act*, 4th Sess., 40th Leg., Manitoba, online at <http://web2.gov.mb.ca/bills/40-4/b019e.php>.

¹⁰ Regulation respecting the practice of the profession of advocate within a limited liability partnership or joint-stock company and in multidisciplinary, CQLR c. B-1, r. 9, online at <https://www.canlii.org/en/qc/laws/regu/cqlr-c-b-1-r-9/latest/cqlr-c-b-1-r-9.html> cited in Adam Dodek, "Regulating Law Firms in Canada", (2011) 90 Canadian Bar Review 383 at 410.

¹¹ *Legal Profession Act*, S.N.S. 2004, c. 28, online at <http://cdn2.nsbs.org/sites/default/files/cms/menu-pdf/legalprofessionact.pdf>. Regarding the NSBS Legal Services regulation project, see <http://nsbs.org/legal-services-regulation>.

Recognizing the Organizational Dynamic

31. There has been increasing recognition that firms, including firm culture, have an impact on individual practice. Professor Amy Salyzyn of the University of Ottawa notes with respect to client service issues in particular that “there may...be underlying workplace culture issues that contribute to client service problems but which are outside the jurisdiction of the conventional approach”.¹²
32. Despite this, until recently, law firms have not been regulated in Canada. Adam Dodek suggests that “the proper question is not, ‘why should law firms be regulated?’ but “why do they largely escape law society regulation?”¹³
33. As observed by LawPRO in their submission to the Task Force,

It cannot be ignored that in most cases it is the law firm standing behind the lawyer or paralegal that is providing the infrastructure that supports and assists the work the practitioner is doing. This infrastructure includes everything from the physical office, to staff, policies and procedures, technology support, and so on. Firm infrastructure and culture can have an impact on client service and practice management and, in turn, malpractice claims.
34. The Task Force has not yet determined whether and when an entity should include a sole practitioner. On the one hand, it is clear that some aspects of entity regulation, such as a requirement to appoint a Designated Practitioner, or representative, would ordinarily not be practical in sole practice. However, as pointed out during the Call for Input, “sole practice” may not mean a one person firm; in some instances, a firm may consist of one lawyer or paralegal supervising many employees and/or contractors. This latter type of sole practice may be more appropriately regulated as an entity through which legal services are provided, similar to a partnership or a professional corporation.
35. Call for Input respondents were generally supportive of entity regulation, although some requested more information about what might be involved.

Summary

36. In summary, the Task Force is recommending entity regulation on the basis that:
 - a. It would enhance the efficiency and effectiveness of professional regulation.
 - b. It would harmonize Ontario’s legislation with that of other Canadian Law Societies.
 - c. It would position the Law Society of Upper Canada to respond more effectively to innovations in legal service delivery that may be required in the public interest.

¹² Amy Salyzyn, “What if We Didn’t Wait? Canadian Law Societies and the Promotion of Ethical Infrastructure in Law Practices”, (2015) 92 Canadian Bar Review 507 at 522.

¹³ See, for example, Adam Dodek, “Regulating Law Firms in Canada”, (2011) 90 Canadian Bar Review 383

COMPLIANCE-BASED REGULATION: NEXT STEPS

37. As a result of the Call for Input responses and discussion among Task Force members on the various issues arising from consideration of a compliance-based regulatory model, the Task Force has concluded that more focused attention is required on options for this type of regulatory approach. It proposes to further examine proactive regulation and, once more specific frameworks are defined, seek further input from the professions.
38. As a starting point, the Task Force considers as a general principle that all lawyers and paralegals should be obliged to adopt and abide by appropriate policies and procedures in their practices to fulfil their professional obligations as reflected in the seven practice management principles that were the subject of the Call for Input.
39. The seven principles are:
 - a. Practice Management,
 - b. Client Management,
 - c. File Management,
 - d. Financial Management and Sustainability,
 - e. Professional Management,
 - f. Equity, Diversity and Inclusion; and
 - g. Access to Justice.

The principles are described in greater detail in [Tab 3.4](#) at paragraph 5.

40. A proposed approach may include the following components:
 - a. the development and provision of model policies and procedures that could be adopted or modified as considered useful by practitioners;
 - b. periodic self-assessment of compliance with management principles through a standard checklist or form;
 - c. periodic reporting requirements, whether annually or less frequently, which could simply confirm self-assessment or compliance or alternatively could provide more detail;
 - d. a review or auditing process to discuss and review compliance. This type of meeting could be held on a regular basis, or arranged on a targeted basis following a risk assessment;
 - e. a representative in each entity who would not be personally responsible for an entity's failure to comply, but would be required to monitor compliance and liaise with the Law Society on behalf of the entity;

- f. assistance from Law Society staff to lawyers and paralegals who have questions about the requirements.

41. A number of issues require further consideration, as discussed below, as the Task Force considers a framework for proactive regulation.

Proportionality

- 42. Submissions received from the professions supported the general proposition that a proactive approach was appropriate. There was also general agreement among respondents with the proposed practice management principles described in the Call for Input paper.
- 43. The Task Force believes that any new regulatory requirements should be designed to ensure that no undue burden is placed on sole practitioners or small firms. A key consideration is proportionality. The *Law Society Act* requires the Society to consider that “standards of learning, professional competence, and professional conduct for licensees and restrictions on who may provide particular legal services should be proportionate to the significance of the regulatory objectives sought to be realized”.¹⁴
- 44. In order to ensure this, the Task Force is recommending a series of additional consultations, described later in this report.
- 45. Proportionality may mean that consideration should be given to ensuring that any new requirements are harmonized with the following existing requirements:
 - a. Trust account reporting;
 - b. Completion of the Lawyer and Paralegal Annual Reports;
 - c. Reporting of status changes and changes in contact information to the Law Society;
 - d. Compliance with client identification and verification requirements;
 - e. Continuing Professional Development requirements;
 - f. Cooperation with a practice audit or practice review, if selected.
- 46. It may also mean the possible reduction of existing requirements. For example, the Designated Practitioner could be responsible for reporting on compliance with Continuing Professional Development (CPD) requirements on behalf of all lawyers and paralegals in the entity similar to the way that firm trust account obligations are now reported.

Building on the Law Society’s Competence Mandate in the Way Forward

- 47. The Law Society of Upper Canada has supported a proactive approach to practice management development and compliance since at least 2001, when Convocation adopted a competence mandate for the Law Society. The Professional Development & Competence Committee proposed the adoption of a Professional Development Model for

¹⁴ *Law Society Act*, R.S.O. 1990, c. L.8, s. 4.2, online at [http://www.lsuc.on.ca/uploadedFiles/For the Public/About the Law Society/Convocation Decisions/2015/convocation-january-2015-PDC.pdf](http://www.lsuc.on.ca/uploadedFiles/For%20the%20Public/About%20the%20Law%20Society/Convocation%20Decisions/2015/convocation-january-2015-PDC.pdf).

the Law Society of Upper Canada. The recommended model had the following five components:

- a. Practice Guidelines;
- b. Remedial Components Mandated by Statute (that is, focused practice review and competence hearings);
- c. Practice Enhancement;
- d. Continuing Legal Education requirements (post-call education and requalification); and
- e. A reformulated Specialist Designation.¹⁵

48. The Law Society's approach contains both Quality Assurance (QA) and Quality Improvement (QI) elements. While QA focuses on ensuring compliance with established standards, QI measures address both compliance with established standards and the development of tools designed to facilitate improved practices. Current QA and QI initiatives are described below. The Law Society of Upper Canada has already implemented the following proactive initiatives:

- a. Practice Management Review (PMR) – Lawyers in their first eight years of practice may be referred to the program because of random risk-based selection by the Law Society. The selection reflects the percentage of firms represented in Law Society conduct matters (53 percent sole practitioners; 26 percent of firms of between two and five lawyers, etc). A PMR covers all aspects of practice, including file management, time, client and financial management. In the course of conducting the review, Law Society staff may speak with firm leadership, managing partners, and firm administrators if any issues are uncovered that relate to firm-wide matters.
- b. Re-entry Review: Lawyers re-entering the private practice of law after a hiatus of five years are required to undergo a review within 12 months of their return to small firm practitioner.
- c. Focused Practice Review: Lawyers whose practices are showing significant signs of deterioration, as suggested by increases in complaints or other indicia, may be required to participate in such a review.

49. Licensed paralegals may also be selected for participation in Practice Audit by random selection. Like the PMR for lawyers, the practice audit program is described as a holistic review and covers all aspects of practice. Unlike PMR, it is not confined to the first eight years of practice. These programs may be described as QA initiatives.

¹⁵ Professional Development & Competence Committee, Implementing the Law Society's Competence Mandate: Report and Recommendations, March 22, 2001, online at http://www.lsuc.on.ca/media/competence_report.pdf

50. Lawyers and paralegals have provided very positive feedback about these proactive initiatives. A 2015 report indicated that over 96 percent of lawyers who underwent a PMR indicated that they found the process to be constructive and helpful to the management of their practice.¹⁶
51. The Law Society of Upper Canada's Professional Development & Competence Division (PDC) has also implemented a variety of QI programs. Some of these are listed below.
 - a. Continuing Professional Development (CPD) – approximately 130 course are offered each year, in various practice areas and formats.
 - b. A Presenter Resource Centre has been developed, including guidelines, resources and tips for CPD chairs, presenters, and study group facilitators.
 - c. Eight Practice Management Guidelines are practical online tools that provide a general framework for conducting various aspects of legal work, and assist practitioners in assessing, maintaining, and enhancing their quality of service.¹⁷
 - d. The Law Society of Upper Canada's website also contains a variety of articles and resources about opening, operating, or closing a practice, the practitioner-client relationship, managing files, managing money, trust accounts, and a variety of other issues.
 - e. Technology practice tips have been made available in MP3 format.
 - f. The e-Bulletin resources for Lawyers is emailed to all lawyers ten times a year and provides information about practice management topics.
 - g. "How-to" Briefs have been developed to assist lawyers and paralegals to understand and apply procedures and practices applicable to various areas of law.¹⁸
 - h. The Great Library of the Law Society of Upper Canada offers numerous online and print research resources, including an App for online access.
 - i. The Practice Review Basic Management Checklist and Paralegal Practice Audit Checklist are available online and assist practitioners in identifying deficiencies in their practice. These resources are discussed in greater detail below.
 - j. The Practice Management Helpline provides lawyers and paralegals with assistance regarding the application of the Rules of Professional Conduct, Paralegal Rules of Conduct, and other Law Society By-Laws and regulations.

¹⁶ Professional Development and Competence Division Resource and Program Report to Convocation, January 2015, p. 20, online at [http://www.lsuc.on.ca/uploadedFiles/For the Public/About the Law Society/Convocation Decisions/2015/convocation-january-2015-PDC.pdf](http://www.lsuc.on.ca/uploadedFiles/For%20the%20Public/About%20the%20Law%20Society/Convocation%20Decisions/2015/convocation-january-2015-PDC.pdf).

¹⁷ The topics include client service and communication; file management, financial management, technology, professional management, time management, personal management, and closing your law practice.

¹⁸ These include administrative law, business law, civil litigation, criminal law, estates and trusts, family law, and real estate law.

- k. The Practice Mentoring Initiative connects lawyers or paralegals with experienced practitioners in relevant areas of law to help them address a complex substantive legal issue or a specific procedural issue outside of the Law Society's Practice Management Helpline mandate.

52. The 2001 Report to Convocation noted the following:

(c)ompetence is not a static status. It must be nurtured and maintained throughout a lawyer's career in order that the lawyer continues to provide quality service and meet professional obligations, in the public interest.¹⁹

- 53. The Task Force agrees. It also believes that there is particular merit to building on these successful proactive initiatives that are directed to individuals in private practice, especially those in smaller practices.
- 54. It is a fact that the majority of complaints to the Law Society concern sole practitioners and small firms. Similarly, LawPRO's data indicates that sole practitioners have a higher rate of claims by count than the Ontario lawyer population at large. For example, in 2015, 99 claims per 1000 insured lawyers were reported in LawPRO's primary professional liability program. For the subset of lawyers who are sole practitioners, the claims count is about 115 per 1000 practitioners. Further, 13.9 percent of claims against sole practitioners result in an indemnity payment, as compared to 13.2 percent of firms with 2-5 lawyers, and 9.4 percent in firms of six or more lawyers.
- 55. Further, the majority of complaints about lawyers and paralegals relate to practice management issues. Four thousand, seven hundred and eighty-one complaints were referred to the Law Society's Professional Regulation Division in 2014. More than half of these complaints involved client services (52 percent) and other issues relating to practice management infrastructure, including financial matters. LawPRO data also suggests that there is room for improvement in practice and file management standards. Only one in eight claims involve a failure to know and apply the law. Year after year, one-third of claims involve lawyer/client communication issues (miscommunication, poor communication, or lack of communication). Eighteen percent of claims involve missed deadlines and procrastination issues.
- 56. While available data regarding complaints to the Law Society of Upper Canada suggests a concentration of complaints among sole practitioners and small firms, the Task Force acknowledges that given the complexities of the current environment, these practitioners could be challenged by additional regulation if new requirements were not streamlined with existing ones and designed with a view to their unique practice circumstances. The Task Force sees this as an important concern which should inform any new proactive requirement.

¹⁹ Professional Development & Competence Committee, *Implementing the Law Society's Competence Mandate: Report and Recommendations*, March 22, 2001, *supra* note 15, paragraph 89.

Self-Assessment

57. The complaints and discipline process is primarily reactive. Practice issues, such as client service issues and questions about the lawyer's and paralegal's integrity, are commonly identified after the fact through complaints and investigations. Issues may not come to the practitioner or regulator's attention because the client chooses not to make a complaint about them.²⁰
58. Acknowledging that the regulatory process always has, and will continue to include, both proactive and reactive components, the Task Force believes that it is important to explore the feasibility of placing a positive obligation on lawyers and paralegals to ensure that they have implemented principles of practice management.
59. Effective practice management could be supported by a self-assessment tool that includes examples of possible systems against which an entity can assess its own practice management system. In considering how this might work, the Task Force has reviewed the Law Society's current practices.
60. The Practice Review (for lawyers) and Practice Audit program (for paralegals) of the Law Society of Upper Canada already use a similar approach, by requiring the lawyer or paralegal selected for this program to complete a detailed Basic Management Checklist.²¹ The checklist must be returned to the Law Society before the audit.
61. The Lawyer Basic Management Checklist covers the following topics:
 - a. "your law practice" (including elements such as practice status, the names of lawyers or paralegals with whom the licensee practices; the name of the legal entity which provides and bills the services provided by the practitioner and his or her firm);
 - b. client service and communication;
 - c. file management;
 - d. financial management;
 - e. technology;
 - f. professional management;
 - g. time management;
 - h. personal management; and
 - i. certification (i.e. the lawyer is asked to indicate that to the best of their knowledge and belief, the information given in the checklist and in any attached documents is correct and complete).
62. The Paralegal Basic Management Checklist covers the following topics:

²⁰ Amy Salyzyn, "What If We Didn't Wait", *supra* note 12, p. 524.

²¹ The Paralegal Basic Management Checklist may be accessed at <http://www.lsuc.on.ca/Practice-Review/Paralegal-Basic-Management-Checklist/>. The Lawyer Basic Management Checklist may be accessed at [http://www.lsuc.on.ca/uploadedFiles/PDC/Practice_Review/Basic%20Management%20Checklist%20\(BMC\)%20-%20LAWYER%20-%20October%202014.pdf](http://www.lsuc.on.ca/uploadedFiles/PDC/Practice_Review/Basic%20Management%20Checklist%20(BMC)%20-%20LAWYER%20-%20October%202014.pdf).

- a. “your paralegal practice” (practice status, names of paralegals or lawyers with whom the paralegal practices)
- b. client service and communication;
- c. file management;
- d. financial management;
- e. technology;
- f. professional management;
- g. time management;
- h. personal management; and
- i. certification (the lawyer or paralegal is asked to indicate that the information provided in the checklist and attached documents is correct and complete).

63. The elements in these self-assessment tools “checklists” have been taken into consideration by the Task Force in developing the proposed Practice Management principles that were published in the Call for Input paper. The Task Force notes that almost all of the individual respondents, and all of the legal organizations, agreed with the principles as drafted. The Task Force considers it appropriate to explore how self-assessment tools may be utilized in a proactive regulatory model.²²

²² One of the legal organizations participating in the Call for Input noted that real estate lawyers are already subject to a form of compliance-based regulation, as they are required to provide certain acknowledgements and statements on the Lawyer Annual Report (LAR). The 2015 LAR for example, included six questions that must be answered by lawyers who indicate that in 2015, they acted on a real estate transaction (the Real Estate Declaration).

The first question is, “I declare that I complied in 2015 with my professional obligations to not permit anyone to use my lawyer’s e-reg diskette/key and to not disclose to anyone my personalized e-reg pass phrase, as set out at Rule 6.1-5 of the Rules of Professional Conduct and at subsection 6(2) of By-Law 7.1. The other questions relate to supervision of non-lawyers to whom tasks are assigned, acknowledgement of the professional obligations in the Rules of Professional Conduct in various areas, as well as acknowledgement of certain obligations under the Electronic Land Transfer Agreement.

The Real Estate Declaration was approved by Convocation in February, 2013. The Professional Regulation Committee on this subject notes that the Law Society and LawPRO devote significant resources to complaints and claims arising mortgage fraud. In 2012, real estate practice, including mortgage fraud, generated 17% of the complaints to the Law Society (the third largest area of complaints).²² The prosecution of these matters required the expenditure of significant lawyer and paralegal resources.

The real estate declaration is an example of a proactive regulatory initiative, and may offer a model for further consideration.

The Task Force notes that the LAR contains various questions about trust accounting, including the following:

- a. In 2015, did you receive trust funds and/or trust property on behalf of your firm in connection with the practice of law in Ontario?
- b. In 2015, did you disburse (pay out), or did you have signing authority to disburse, trust funds or trust property on behalf of your firm in connection with the practice of law in

64. In addition to encouraging practitioners to reflect on issues such as practice supervision, file, client, financial, and professional management, self-assessment may also provide an opportunity for lawyers and paralegals to indicate their awareness of equity, diversity and inclusion and access to justice principles.

Development of Options for Further Consultation

65. The Task Force proposes that in the coming year, it continue to further develop one or more options for compliance-based entity regulation, based on the elements described above and others that may necessarily flow from their consideration. The Task Force would be assisted by appropriate staff in carrying out this work.
66. These options would then be the subject of focused consultations with the professions.
67. Elements likely to be included are as follows:
- a. providing sample policies and procedures that lawyers and paralegals may consider useful in the management of their practices;
 - b. periodic self-assessment of compliance with the practice management principles described in this report, based on a tool to be developed by the Law Society;
 - c. lawyers and paralegals to report to the Law Society that they have either i) considered the self-assessment tool and the extent to which they are in compliance with it; or ii) the results of their self-assessment;
 - d. appropriate regulatory response from the Law Society in the event of lack of compliance with one or more regulatory requirements. One possible response might be to contact the entity to discuss the reason for non-compliance. Another might be a compliance audit to assist the entity to ensure that it has implemented the practice management principles.

Consultation Proposal

68. The Task Force contemplates that a series of consultations be held with the professions to:
- a. explain the options once they are fully developed;
 - b. obtain practical feedback on the impact of proposed compliance-based amendments arising from the options; and
 - c. determine how the input obtained from the consultations can be best utilized in forming prospective recommendations.

Ontario?

- c. In 2015, did you hold trust funds or trust property on behalf of your firm in connection with the practice of law in Ontario?

69. The consultations involving lawyers, paralegals, legal organizations and other interested parties, may be organized according to practice size (that is, sole practitioners and/or small firms, medium-sized firms, large firms, and national or international firms).
 70. The Task Force also suggests that:
 - a. a consultation paper be developed to include options for proactive compliance regulation to provide context for discussions, which would include sufficiently detailed explanation of the possible elements of a proactive scheme and possible methods of implementation;
 - b. regional meetings be held throughout the province. These meetings could be organized by practice size, or by type of practice;
 - c. legal organizations be offered an opportunity to participate in face-to-face meetings throughout the province;
 - d. the Law Society's existing competence mandate be taken into consideration, including current Quality Assurance and Quality Improvement initiatives. The Task Force should consider the impact of any new initiatives on these existing programs.
 71. A report resulting from these consultations with recommendations for next steps would be provided to Convocation in 2017.
-

Tab 3.1

COMPLIANCE-BASED ENTITY REGULATION TASK FORCE OUTREACH ACTIVITIES

OTHER LAW SOCIETIES

1. The Task Force held the following meetings with colleagues in other provinces as part of its information-gathering phase:
 - a. On September 24, 2015, representatives of the Nova Scotia Barristers Society (NSBS) attended a Task Force meeting to discuss Nova Scotia's Transforming Regulation project.¹
 - b. On October 16, 2015, Ross Earnshaw, Chair, and Policy Counsel to the Task Force attended an NSBS Council regulatory workshop in Halifax, to discuss Nova Scotia's work in this area, described later in this report.
 - c. On October 28, 2015, the Task Force met by telephone with representatives of the Prairie Law Societies to discuss their consideration of entity and compliance-based regulation.
 - d. On November 4, 2015, the Task Force held a telephone meeting with representatives of the Law Society of British Columbia (LSBC).
 - e. On November 30, 2015, the Chair and Policy Counsel attended a meeting of benchers and staff from Canadian Law Societies organized by the Law Society of Manitoba in Winnipeg. The meeting was also attended by representatives of the LSBC and NSBS, as well as by the Canadian Bar Association (CBA).

LAW SOCIETY OF UPPER CANADA

2. The Treasurer and members of the Task Force participated in a number of events organized by the Law Society, legal organizations, and local law associations to discuss the concepts in this report with members of the profession. A list of events appears in **Tab 3.1.1** to this report and includes
 - a. a continuing development program organized by the OBA Business Law section ("Entity Regulation: What Lies Ahead for Ontario?");
 - b. the Treasurer's Liaison Group, which includes approximately 22 legal organizations;

¹ This meeting is described in an Interim Report to Convocation (October 29, 2015) which may be accessed at https://www.lsuc.on.ca/uploadedFiles/For_the_Public/About_the_Law_Society/Convocation_Decisions/2015/convocation-october-2015-compliance-regulation.pdf.

- c. the Treasurer's Early Careers Roundtable, which involves approximately thirty newly-licensed practitioners;
 - d. The Treasurer's In-House Corporate Counsel Roundtable, which involves approximately fifteen representatives from a variety of organizations including the Association of Corporate Counsel, the Canadian Corporate Counsel Association and the Ontario Bar Association.
 - e. the Equity Advisory Group, which includes both individual members and legal organizations;
 - f. meetings of various County and District Law Associations in Stratford, St. Catharines, Brantford, Cayuga, Windsor, and Simcoe;
 - g. Treasurer's Regional Dinners in Cambridge and North Bay;
 - h. the Ontario Bar Association Council meeting on April 1, 2016;
 - i. the Federation of Law Associations (FOLA) spring plenary on May 12, 2016.
3. The Task Force wishes to express its appreciation to all lawyers and paralegals who have attended these events, as well as to FOLA for the opportunity to engage in a dialogue with their membership about these issues. The Task Force hopes that this report will inspire further dialogue between the profession and the Law Society.

Informational Webcast

4. On February 8, 2016, the Task Force held a webcast. The Treasurer, Task Force Chair, Vice-Chair and Task Force member Raj Anand gave short presentations at this event, followed by a question and answer period. Eight hundred and forty-three lawyers and paralegals participated in the webcast, including members of other Canadian Law Societies. One hundred and twenty questions were asked. Due to time constraints, the Task Force was not able to respond to all of the inquiries; responses were provided to all of the questions following this event and may be reviewed at <https://www.lsuc.on.ca/better-practices/>.
5. An archived version of the webcast, as well as materials, may also be viewed on the "better practices" web page at <https://www.lsuc.on.ca/better-practices/>.

Convocation

6. Anticipating a January launch of the Call for Input paper, on December 4, 2015, the Task Force Chair provided a report to Convocation describing the consultation paper. A copy of this report may be accessed at [https://www.lsuc.on.ca/uploadedFiles/For the Public/About the Law Society/Convocation Decisions/2015/convocation%20december%202015%20compliance.pdf](https://www.lsuc.on.ca/uploadedFiles/For%20the%20Public/About%20the%20Law%20Society/Convocation%20Decisions/2015/convocation%20december%202015%20compliance.pdf).

Launch of the Call for Input

7. On January 13, 2016, the Task Force released a Call for Input paper, which was made available on the Law Society web site at the dedicated web page created for the Task Force (<https://www.lsuc.on.ca/better-practices/>). Responses were requested by March 31, 2016.

8. In addition, the Task Force Chair advised legal organizations by email, and advertisements appeared in the Ontario Reports on January 13, 2016, indicating that the Call for Input paper and materials were available for review. Additional advertisements appeared in the Ontario Reports in February and March.
9. Law Society of Upper Canada licensees received an “ebblast” on January 15, which was followed up by a reminder on March 11, to advise them of the launch of the Call for Input. A targeted email was sent to webcast participants on March 14 informing them that responses to questions asked during the webcast had been made available on the Law Society’s web site. Webcast participants were also encouraged to participate in the Call for Input.
10. Notices regarding the Call for Input appeared in Law Society e-newsletters during the comment period.

Tab 3.1.1

**COMPLIANCE-BASED ENTITY REGULATION TASK FORCE LIST OF SPEAKING
ENGAGEMENTS JANUARY- MAY 2016**

Name of Event and Speaker	Details
Treasurer's Regional Dinner – Cambridge Treasurer and Ross Earnshaw	January 14, 2016
Treasurer's Liaison Group - Toronto Treasurer and Ross Earnshaw	January 19, 2016
Early Careers Roundtable - Toronto Treasurer and Teresa Donnelly	January 25, 2016
Equity Advisory Group - Toronto Grant Wedge	February 4, 2016
Webcast Treasurer Ross Earnshaw, Raj Anand, Gavin MacKenzie Chair: Margaret Drent	February 8, 2016
County of Perth Law Association AGM - Stratford Ross Earnshaw	February 11, 2016
Lincoln County Law Association AGM – St. Catharines Treasurer	February 25, 2016
Brant Law Association - Brantford Ross Earnshaw	February 29, 2016

Name of Event and Speaker	Details
Haldimand Law Association AGM - Cayuga Ross Earnshaw	March 3, 2016
Norfolk Law Association - Simcoe Ross Earnshaw	March 10, 2016
OBA Council Meeting - Toronto Treasurer	April 1, 2016
North East Regional Dinner – North Bay Treasurer	April 4, 2016
Essex Law Association AGM - Windsor Treasurer	April 23, 2016
Brant Law Association AGM - Brantford Treasurer	April 26, 2016
Treasurer's Liaison Group – Toronto Treasurer	May 2, 2016
Federation of Law Associations Spring Plenary Teresa Donnelly	May 12, 2016

TAB 3.2

RESPONDENTS TO THE CALL FOR INPUT – INDIVIDUALS¹

Abboud, Rania
Anderson, Stephanie J.
Andriessen, Inga
Bellefeuille, Kristen
Béliveau, Louis
Benjamin, Sheldon
Buchan-Terrell, Grant
Burlew, Edward
Cannings, John
Chasse, Ken
Conod, Shirley
Dunphy, Charles
Farr, Rhonda
Flint, Ann
Gunn, Douglas G.
Guttmann, Sandra
Hameed, Faisal
Han, Biao
Ha-Redeye, Omar
Hobson, Timothy O.
Holland, Julia
Hosseini, Farhan
Howard, Megan
Jain, Alok
Johnston, Donald B.
Kopala, Stanley

¹Includes all respondents who agreed that their responses may be made public.

Lesage, Michael

Little, John

Minkowski, Michal Edmund

Muto, Peter

Muttart, Daved

Ng, Johnathan

Oriuwa, Chukwuma Chuks

Osman, Muna

Ridgeway, Brooke

Salyzyn, Amy and Dodek, Adam

Scott, Barry R.

Selbie, Raymond G.

Stubbs, Maggie

Tjonasan, Jacques

Vaughan, Steven

Waseem, Abmed Sohaib

Wilson, Robert

TAB 3.3

RESPONDENTS TO THE CALL FOR INPUT - LEGAL ORGANIZATIONS

Advocates Society (TAS);
Association of Community Legal Clinics of Ontario (ACLO).
Canadian Association of Black Lawyers (CABL);
Canadian Defence Lawyers (CDL);
Canadian Hispanic Bar Association (CHBA);
County of Carleton Law Association (CCLA);
Criminal Lawyers Association (CLA);
Family Lawyers Association (FLA);
Federation of Ontario Law Associations (FOLA);
Hamilton Law Association (HLA);
Legal Aid Ontario (LAO);
Thunder Bay Law Association (TBLA);
Law Society of Upper Canada Equity Advisory Group (EAG);
Lawyers Professional Indemnity Company (LawPRO);
Northumberland County Law Association (NCLA);
Ontario Bar Association (OBA);
Ontario Paralegal Association (OPA);
Ontario Trial Lawyers Association (OTLA);
Parry Sound Law Association (PSLA);
Roundtable on Diversity Associations (RODA);
Waterloo Region Law Association (WRLA).

TAB 3.4

SUMMARY OF THE CALL FOR INPUT RESPONSES*Individuals*

1. The Law Society received 97 responses to the Call for Input paper from individuals and legal organizations. Of those responses, 61 were provided using the online form. Seventy-seven respondents were individuals. The remainder were legal organizations.
2. The Task Force is grateful to all of the respondents for their thoughtful comments. A list of individual respondents who consented to the publication of their name is available at **Tab 3.2**. The submissions of individual respondents who agreed that their responses may be made public is available on the Law Society's "Better Practices" page at <http://www.lsuc.on.ca/better-practices/>. Submissions from legal organizations are also available on the page.

Legal Organizations

3. Twenty-one legal organizations provided submissions in response to the Call for Input paper. These organizations are listed at **Tab 3.3**.
4. The responses are summarized under main headings below corresponding to the questions posed in the discussion paper and the online form.

OVERVIEW OF RESPONSES TO THE CALL FOR INPUT

5. The Call for Input paper was divided into two major components. The first part of the paper included a discussion of general concepts and developments in other jurisdictions. The paper then asked respondents to comment on a series of questions, listed below. Respondents were also invited to provide general submissions on issues not specifically raised in the paper, if they wished to do so. The first question related to a proposed set of practice management principles, listed below.

Proposed Practice Management Principles

6. The first question related to a proposed set of practice management principles, listed below.
 - a. **Practice Management**, which refers to the active supervision of
 - The practice;
 - Practitioners; and
 - Staff to ensure competent delivery of legal services.
 - b. **Client Management**, which refers to
 - Conflicts of interest;
 - Client communication; and
 - Management of client expectations at each stage of a client matter in an effective, timely and courteous way to ensure delivery of quality legal services;

- c. **File Management**, which refers to
 - Consistent opening of client files;
 - Client file documentation; and
 - Consistent policies regarding file closure to ensure the physical integrity and confidentiality of the file and to increase efficiency in the handling of client matters;
- d. **Financial Management and Sustainability**, which refers to
 - Business planning and budgeting;
 - The entity's management of its finances in accordance with Law Society By-Law 9;
 - Adoption of consistent billing practices to ensure that both firm and client needs are met;
 - Appropriate consideration of insurance needs; and
 - Adoption of business continuity and succession planning/ wind-down plans as appropriate.
- e. **Professional Management**, which refers to the entity's support of practitioners in
 - Efforts to maintain currency in their chosen practice areas;
 - Initiatives to build competence and capacity in new practice areas; and
 - Maintenance of collegial relationships within the profession.
- f. **Equity, Diversity and Inclusion**, which refers to the entity's policies regarding matters such as
 - A respectful workplace environment that appropriately accommodates equity, diversity, inclusion, and disabilities;
 - Equality of opportunity and respect for diversity and inclusion in recruitment and hiring;
 - Equality of opportunity and respect for diversity and inclusion in decision-making regarding advancement; and
 - Cultural competency in the delivery of legal services.
- g. **Access to Justice** (the entity plays a role in improving the administration of justice and enhancing access to legal services).

Comments Regarding Proposed Principles for the Effective Management of a Legal Practice

- 7. Most respondents agreed with the proposed Practice Management Principles as drafted, and thought they captured the elements of a law practice that impact how lawyers and paralegals fulfil the duties owed to their clients, the public, and the justice system.

8. A number of individuals and legal organizations were supportive of the inclusion of these principles and indicated that they looked forward to working with the Law Society in developing them.
9. Other respondents expressed concern about the proposed equity, diversity, and inclusion principle, as well as access to justice. Some thought these principles were too vague. For example, one legal organization observed that “the principles are too broadly identified for the purpose of a regulatory system which requires predictability, certainty and balance”.
10. Some respondents suggested that it did not make sense to impose an equity, diversity and inclusion principle on a sole practitioner. Further, it was also submitted that these two principles were quite different from practice management issues, and ought to be considered separately.
11. Ensuring that any new requirements are customized to the needs of particular segments of the profession was a recurring theme. Several legal organizations noted that because racialized lawyers and paralegals are overrepresented in sole practice and small firms, the Law Society should ensure that they were not overly burdened. Otherwise, compliance-based entity regulation would have a detrimental impact on these practitioners.
12. Another legal organization noted that lawyers in small communities are relied upon to accept legal aid certificates and to provide *per diem* duty counsel service, and urged the Task Force to carefully consider the costs of any new requirements for sole practitioners and small firms, since a failure to do so could make it more difficult for these practitioners to accept legal aid work.
13. Respondents were also concerned that new requirements could result in an increase in Law Society fees. The Law Society was urged to keep the cost of any regulatory changes in mind.

Comments Regarding Practice Arrangements to which Compliance-Based Entity Regulation Could Apply

14. The Call for Input paper also asked respondents whether the Law Society of Upper Canada should seek to implement compliance-based entity regulation for lawyers and paralegals in a variety of practice settings. Respondents were also asked about considerations that should be kept in mind to ensure that compliance-based entity regulation did not create an additional regulatory burden for sole practitioners and small firms.
15. As noted above, the impact of additional requirements on sole practitioners and small firms was frequently mentioned by individual respondents to the Task Force, as well as by legal organizations. Some were opposed to proactive measures, suggesting that the existing system works well. These respondents believed that the Law Society should not become involved in firm management issues, which, it was suggested, undermined the principles of a “free economy and normal market drivers”.

16. The Task Force was urged to consider harmonizing any new requirements with existing ones. Some suggestions included
 - a. amending the Annual Report to include self-assessment questions;
 - b. making additional staff resources available to lawyers and paralegals who may have questions about any new requirements, particularly those within the first five years of practice; and
 - c. developing checklists and templates, which would be available online, and could be consulted by practitioners considering how to implement a particular principle in their practice.
17. With respect to the application of proactive regulation to sole practitioners and small firms, LawPRO commented that

...it is not safe to assume all solo practitioners and firms of a few lawyers have small and simple practices. Many solo practices are more than one lawyer and one or two staff people...there is a real estate firm with 2 lawyers and 39 staff members at 7 offices across the Greater Toronto area.
18. One legal organization told the Task Force that

The membership did not express a view that the sole and small firms should be excluded from the system, and were in fact supportive of the importance of including sole and small firms, given the proportion of complaints to the Law Society in those categories. Many members felt it is critical for all lawyers to ultimately have the same professional reporting responsibilities, but they should be appropriately tailored to the specific firm size and practice.
19. Another suggested that compliance-based entity regulation should not be applied to sole practitioners and small firms, since “they are not organizations that exist beyond the lawyer, law partners, or handful of support staff”.
20. Many respondents emphasized that the Law Society should consult with particular segments of the Bar about a more detailed regulatory proposal(s). For example, one legal organization said

...we find it extremely difficult to comment and provide feedback on the concept of compliance-based entity regulation without looking at the specific draft guidelines that are being contemplated. This is where ‘the devil is in the details’.
21. Another asked whether it might be better for the Law Society to focus on ways to assist sole practitioners and small firms in avoiding or minimizing complaints, rather than on the regulation of entities.
22. The Task Force was asked to consider harmonizing any new regulatory requirements with existing reporting requirements on legal clinics.

Comments Regarding the Role and Responsibilities of a Designated Practitioner

23. Respondents were asked to consider whether a lawyer or paralegal should be designated by each entity to have particular regulatory responsibilities. The following questions were asked:
- a. In an entity other than a sole practice, who should be the designated practitioner?
 - b. If an entity already has a managing partner, should the managing partner have these responsibilities?
 - c. Given the above list, do you have any views about what the responsibilities of the designated practitioner should be?
24. There were a number of comments on the appropriate roles and responsibilities of a Designated Practitioner (DP). Some said that it would not be appropriate to require firm below a certain size to have a DP. Others suggested that the person in the firm who already has responsibility for Law Society filing would be appropriate for this role. Their responsibilities could include receiving complaints and ensuring that practice management principles were implemented in the firm.
25. It was suggested that the DP should be a senior member of the legal team.
26. Most, if not all, respondents thought that the DP should not be made responsible for any sanction that might be imposed against a firm. An individual participant cautioned the Task Force that otherwise, the DP would be a “sacrificial lamb”.
27. LawPRO suggested that it was best to let each firm identify the lawyer and paralegal who had the time and skills to take on the role and responsibilities of a DP. In smaller firms, this might be the managing partner, but in larger firms it would make sense to have someone able to dedicate time to the required staff. As firm size grows, LawPRO suggests that it will be more likely that the DP would be assisted by other lawyers or staff.

Comments Regarding Entity Registration

28. Respondents were asked a series of questions about entity registration, including the following:
- a. Should entities be required to be registered?
 - b. Should entity registration requirements for sole practitioners and small firms be different?
 - c. What information should an entity be required to provide, and how often?
 - d. Are there any challenges that might arise for practitioners in providing this information to the Law Society?
29. The majority of respondents agreed that entities should be required to register with the Law Society. One legal organization suggested that the Society review the Professional Engineers of Ontario directory as a model. Information about the individual licensee and

their employer appears on the same page. The information provided includes the status of past disciplinary action as well as current employment and practice status.

30. LawPRO pointed out that

Entity registration could also be helpful when an entity is providing legal services that aren't clearly from an identifiable lawyer. This could be helpful with a 'factory firm' or the growing numbers of websites providing Ontario residents with legal information and automated or intelligent online forms. Sometimes these sites have an obvious relationship with an existing law firm, in other cases there is no apparent relationship with a lawyer or law firm. Entity regulation could allow the Law Society to intervene to deal with an entity that has recurring problems with client service or practice management where there is not an obvious individual lawyer or paralegal that is directed responsible.

31. Respondents urged the Society to make it easy for practitioners to comply with this requirement (such as through the Annual Report). The majority of sole practitioners thought that entity registration requirements should be different for them.

General Comments – Regulation of Entities

32. Several respondents urged the Law Society to keep in mind that entity regulation should not be confused with a reduction in individual professional responsibility. Professor Stephen Vaughan of the University of Birmingham has interviewed 135 solicitors, compliance officers, and others from UK law firms about the impact of regulatory changes on law firms, including entity and compliance-based regulation. In a submission to the Task Force, he recommended the following:

- a. There should be clear, separate codes of conduct/professional rules, some of which apply to individuals and others that apply to firms/designated practitioners.
- b. It should be clear that the introduction of compliance-based entity regulation is not intended to lessen the importance of individual professional responsibility.
- c. Law firms should be required to undertake mandatory annual training regarding professional obligations. Topics to be emphasized include professional independence and integrity.

33. A legal organization asked whether entity regulation would apply to sole practitioners who participate in franchise or other marketing partnerships, such as www.realestatelawyers.ca.

34. LawPRO commented that

The ability of a small operation with a few people to serve many clients will be magnified in coming years as firms making greater use of automation, artificial intelligence and other emerging technologies. Their ability to make the same error for many clients will also be magnified. LawPRO suggests that entity regulation is crucial for firms such as these.

35. Several respondents commented on the relationship between entity regulation and Alternative Business Structures (ABS). The Law Society was strongly encouraged to ensure that entity regulation did not become a “back door” for ABS. Another legal organization said that the Law Society of Upper Canada should continue to consider both topics separately.

Other Comments on Compliance-Based Entity Regulation

36. Under the heading “Your Views on Compliance-Based Entity Regulation”, the Call for Input paper asked the following questions:
- a. In your view, what are the practical benefits or drawbacks of compliance-based entity regulation?
 - b. Are there other benefits that you see, beyond those listed above?
 - c. Are there aspects of compliance-based entity regulation that are particularly appealing to you, or not?
 - d. What are the key challenges or problems that you foresee with this type of regulatory approach?
37. Many of the individual respondents, as well as legal organizations, expressed support for the concept of proactive regulation. One legal organization stated that it was
- broadly supportive of the concept of compliance-based entity regulation as a potential avenue for encouraging improvements to practice management that would benefit the management and culture of the firm as a whole, and promote and improve ethical best practices of both the firm and the lawyers associated with it.
38. The Law Society was encouraged to assist practitioners with new requirements, and to be mindful of the risk of “box-ticking” exercises. This respondent, which was a legal organization, commented that “lawyers and law firms should be permitted to self-assess their compliance, reporting to the Law Society as required on their results, and on plans to address areas where they are not fully compliant”.
39. A few respondents were not convinced that it was necessary to regulate the entity in order to achieve these benefits. For example, one legal organization indicated that in its view, the Law Society already has sufficient regulatory tools with respect to entities, or firms, and amendment of the legislation is unnecessary.
40. One legal organization indicated that it was generally supportive of the concept of developing practice management principles intended to proactively identify potential issues before they come up. However, the organization urged the Society to continue its dialogue with the profession as it further develops compliance-based entity regulation.
41. The Law Society’s Practice Review Program was cited by one legal organization respondent as an example of existing regulatory authority over entities. The program involves lawyers in the first eight years of practice, who may be referred to the program on the basis of random risk-based selection. It was suggested that in some cases, the

associate lawyer subject to the Review may not have access to firm accounts or systems. In those instances, the Law Society of Upper Canada looks to the partnership for compliance. As a result, the respondent suggested that additional statutory authority was unnecessary.

42. One regional law association said

There has not been sufficient time for us to consult with our own membership or hold a thorough discussion of the issues and consider all of the practical consequences of implementing the proposed changes, and we rather suspect other local law associations will find themselves in the same position.

43. Another legal organization asked about the relationship between the compliance and disciplinary functions within the Law Society. The respondent requested clarification about whether information provided during the self-assessment process could be used in a disciplinary proceeding involving the licensee.



TAB 4

Report to Convocation May 26, 2016

Professional Regulation Committee

Committee Members

Malcolm Mercer (Chair)
Susan Richer (Vice-Chair)
Paul Schabas (Vice-Chair)
Robert Armstrong
Peter Beach
Suzanne Clément
Paul Cooper
Cathy Corsetti
Janis Criger
Seymour Epstein
Robert Evans
Julian Falconer
Patrick Furlong
Carol Hartman
Jacqueline Horvat
Brian Lawrie
William C. McDowell
Ross Murray
Jan Richardson
Heather Ross

Purpose of Report: Decision and Information

**Prepared by the Policy Secretariat
(Margaret Drent (416-947-7613))**

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COMMITTEE PROCESS

1. The Professional Regulation Committee (“the Committee”) met on May 12, 2016. In attendance were Malcolm Mercer (Chair), Susan Richer (Vice-Chair), Peter Beach (by telephone), Suzanne Clément (by telephone), Cathy Corsetti (by telephone), Janis Criger, Seymour Epstein, Robert F. Evans, Patrick Furlong (by telephone), Carol Hartman, Jacqueline Horvat, Ross Murray (by telephone), and Heather Ross.
2. The Committee met jointly with the Paralegal Standing Committee and the Professional Development and Competence Committees to discuss the report of the Task Force on Compliance-Based Entity Regulation.
3. The following Law Society staff members attending the joint meeting with the Professional Development and Competence Committee: Lesley Cameron, Elliot Spears, Diana Miles, Grant Wedge, James Varro, Naomi Bussin, Sharon Greene, Sophia Spurdakos, Julia Bass, and Margaret Drent.

Tab 4.1

FOR DECISION

AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT REGARDING TRANSACTIONS WITH CLIENTS

MOTION

4. That Convocation approve amendments to Rules 3.4-27 to 3.4-37 of the Rules of Professional Conduct, as set out in [Tab 4.1.1](#).

NATURE OF THE ISSUE

5. The Federation of Law Societies of Canada's Standing Committee on the Model Code has developed the Model Code of Professional Conduct (the Model Code).
6. In 2013, Convocation accepted the Committee's recommendations to amend the Rules regarding Doing Business with a Client to implement the Model Code. The amendments came into force on October 1, 2014. On September 15, 2014, Council of the Federation amended the Rules of Professional Conduct in various areas, including the Rules regarding Doing Business with a Client.¹
7. According to materials provided by the Standing Committee, the goal of the 2014 amendments was to ensure that the Model Code Rules in this area were consistent, logical, and clear.
8. After reviewing these changes, the Committee conducted a Call for Input regarding corresponding amendments to the Law Society's Rules of Professional Conduct to implement the Model Code.² The Committee is grateful to all respondents to the Call for Input for their interest, including the Advocates Society, the Federation of Ontario Law Associations, the Lawyers Professional Indemnity Company, the Ontario Trial Lawyers Association, and the Toronto Lawyers Association.
9. The Committee also wishes to acknowledge the drafting assistance of Don Revell, the Law Society's Rules drafter, Don Revell.
10. A "clean" version of the Rules appears at [Tab 4.1.2](#).

¹ The Model Code of Professional Conduct Rules regarding conflict of interest, including transferring lawyers, incriminating physical evidence, language rights, and short-term summary legal services were also amended in 2014.

² The Law Society of Upper Canada Call for Input also requested feedback on amendments to the conflicts of interest, incriminating physical evidence, and short-term limited legal services rules, as well as advertising.

Summary of Proposed Amendments

11. The Committee has taken the Call for Input responses into consideration in drafting these proposed Rules. The Committee agreed that a general statement of the policy concerns that underlie the rules on transactions with clients would be helpful. As noted in the Call for Input document, the Rules in this area are complex. The Committee has endeavoured to develop Rules that are as clear as possible, that address the need to protect the public and the risk of conflict of interest.
12. This approach has been followed in the proposed revision. Some of the key features are
 - a. Rule 3.4-27 defines the terms that apply in these Rules, including the term “transaction with a client”. The definition of “syndicated mortgage” has been moved from its current position before Rule 3.4-34.1 so that all definitions that apply in these Rules appear together.
 - b. Rule 3.4-28 provides “a lawyer shall not enter into a transaction with a client unless the transaction is fair and reasonable to the client”.
 - c. Rule 3.4-28.1 provides that a lawyer shall not borrow from a client, unless the lawyer is borrowing from a regulated lender or from a related person.
 - d. Rule 3.4-28.2 prohibits the lawyer from circumventing the Rules by doing indirectly what the lawyer cannot do directly.
 - e. Rule 3.4-29 itemizes the obligations that a lawyer has when entering into a transaction with their client.
 - f. Commentary paragraph [5] to Rule 3.4-29 provides guidance about when a person is considered a client when lending money to a lawyer.
 - g. Paragraphs [6] and [7] of the Commentary to Rule 3.4-29 provide guidance regarding the documentation of a client’s decision to decline Independent Legal Advice or Independent Legal Representation.
 - h. Paragraph [8] of the Commentary to Rule 3.4-29 addresses the possibility that the client is vulnerable and declines independent legal advice and independent legal representation. In that circumstance, the Commentary cautions the lawyer not to enter into the transaction.

PARTICULARS OF THE AMENDMENTS

Title

13. The Committee accepted the suggestion of Douglas Palmateer of Aird & Berlis that the title “Transactions with Clients” is a more descriptive term than “Doing Business with a Client”.

14. The term “transaction with a clients” is defined in Rule 3.4-27 as follows:

‘transaction with a client’ means a transaction to which a lawyer and a client of the lawyer are parties, whether or not other persons are also parties, including lending or borrowing money, buying or selling property or services having more than nominal value, giving or acquiring ownership, security or other pecuniary interest in a company or other entity, recommending an investment, or entering into a common business venture.

15. This definition is new. The Committee recommends to Convocation that some of the current rules that apply to a particular type of transaction (such as Rule 3.4-31 – Borrowing from Clients) be deleted; all of the requirements that would apply to a transaction with a client would be consolidated into Rule 3.4-29, and are described in greater detail below.

Indirect Transactions

16. With the exception of provisions regarding syndicated mortgages, the current Rules of Professional Conduct regarding Doing Business with a Client do not currently regulate indirect transactions. According to materials provided by the Federation Standing Committee, the 2014 amendments to the Model Code were intended to “prevent lawyers from doing indirectly what they are prohibited from doing directly”.
17. The Committee agrees with this approach and proposes a new Rule 3.4-28.2 for the Law Society’s Rules of Professional Conduct which provides “a lawyer shall not do indirectly what the lawyer is prohibited from doing directly under Rules 3.4-28 to 3.4-36”.

Definition of “related person”

18. Rules 3.4-34.1 to 3.4-34.3 (Borrowing from Clients) currently refer to the *Income Tax Act* definition of the Rules, which is quite broad.³ The Committee recommends the

³ The ITA definition reads:

For the purpose of this Act, **related persons**, or persons related to each other, are

- (a) individuals connected by blood relationship, marriage or common-law partnership or adoption;
- (b) a corporation and
 - (i) a person who controls the corporation, if it is controlled by one person,
 - (ii) a person who is a member of a related group that controls the corporation,
 - or
 - (iii) any person related to a person described in subparagraph 251(2)(b)(i) or 251(2)(b)(ii); and
- (c) any two corporations
 - (i) if they are controlled by the same person or group of persons,
 - (ii) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,

following narrower definition to Convocation for its approval, which has been incorporated into Rule 3.4-27, and would apply to Rule 3.4-27 to 3.4-36:

‘related person’ in relation to a lawyer means

- (a) a spouse, child, grandparent, parent, or sibling of the lawyer,
- (b) a corporation that is owned or controlled directly or indirectly by a lawyer or that is owned or controlled directly or indirectly by the lawyer’s spouse, child, grandparent, parent, or sibling, or
- (c) an associate or partner of the lawyer.

19. The Committee wishes to emphasize that narrowing the definition of “related person” also restricts the range of circumstances in which a lawyer may borrow from a client, and should better protect the public.

Determining When a Lawyer is a Party to a Transaction

20. The Committee recognizes that an overly broad approach to indirect transactions is problematic, as it would not be reasonable for the regulatory framework to anticipate that a lawyer is in a position to influence all transactions between a person related to the lawyer and the lawyer’s client.
21. The Commentary to Rule 3.4-28.2 is intended to address this issue by providing guidance about the circumstances in which a lawyer will be considered to be a party to a transaction involving a person related to the lawyer and a client. It provides

[1] Transactions between a client and

- (a) A related person to the lawyer;
- (b) A trust or estate for which a lawyer is a beneficiary; or
- (c) A trust or estate for which the lawyer acts as both trustee and lawyer

will ordinarily be treated as if the lawyer is a party to the transaction. However, if such a transaction is genuinely independent of the lawyer and does not involve the lawyer, the transaction would be outside the scope of this Rule. Factors such

-
- (iii) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,
 - (iv) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,
 - (v) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or
 - (vi) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation.

as the proportion of the lawyer's interest in the trust and the relationship between the lawyer and the trustee may be considered.

Independent Legal Advice and Independent Legal Representation

22. Rule 3.4-29 describes the requirements that apply to transactions with clients. The essential requirements are
 - a. disclosure of the nature of any conflicting interest and how and why it might develop later;
 - b. independent legal advice and independent legal representation;
 - c. consent.
23. Some respondents to the Call for Input emphasized the need to clearly articulate the scope of application of these requirements.
24. Rule 3.4-29 has been redrafted in response to these concerns. Whether Independent Legal Advice or Independent Legal Representation is required will vary depending on the nature of the transaction.
25. If a lawyer lends money to a client who is not a related person, the lawyer shall require that the client receives Independent Legal Representation (Rule 3.4-29(b)(i)).
26. If a lawyer lends money to a client who is a related person, the lawyer shall require that the client receive Independent Legal Advice (Rule 3.4-29(b)(ii)).
27. Rule 3.4-29(b)(iii) provides that if a lawyer borrows money from a client who is a "regulated lender", the lawyer need not recommend independent legal advice or independent legal representation. A "regulated lender" is defined in Rule 3.4-27 as a "bank, trust company, insurance company, credit union or finance company that lends money in the ordinary course of business".
28. The circumstance in which a corporation, syndicate, or partnership borrows money from a client of the lawyer and the lawyer's spouse have a direct or indirect substantial interest is currently addressed in Rule 3.4-33. The Committee proposes to move the subject matter of this Rule to Rule 3.4-29(b)(iv). In that situation, the lawyer shall require that the client receives Independent Legal Representation.
29. In all other cases not described in Rule 3.4-29(b)(i) through (iv), the lawyer shall recommend that the client receive Independent Legal Advice. If the circumstances reasonably require, the lawyer shall recommend or require that the client receives Independent Legal Representation (see proposed Rule 3.4-29(b)(v)).
30. Rule 3.4-29(c) requires a lawyer to obtain the client's consent to the transaction.

Additional Guidance

31. Paragraph [1] of the Commentary to Rule 3.4-29 notes that the relationship between the lawyer and the client is a fiduciary one (this sentence currently appears in the

Commentary below Rule 3.4-28). The Commentary also reminds the lawyer of their duty to act in good faith; the lawyer should be able to demonstrate that the transaction with the client is fair and reasonable.

32. Paragraph [2] of the Commentary to Rule 3.4-29 provides guidance regarding conflict of interest. Consistent with the Commentary to Rule 3.4-1 (Conflicts of Interest), the Commentary provides

...the lawyer cannot act in a transaction with a client where there is a substantial risk that the lawyer's loyalty to or representation of the client would be materially and adversely affected by the lawyer's own interest, unless the client consents and the lawyer reasonably believes that he or she is able to act for the client without having a material adverse effect on loyalty or on the representation.

33. Paragraph [4] of the Commentary provides that in disciplinary proceedings under the Rule, the burden will rest upon the lawyer to show good faith. (This paragraph currently appears in the Commentary to Rule 3.4-29 in a different location).

34. Paragraph [5] of the Commentary has been moved from its current position in the Commentary to Rule 3.4-31 (Borrowing from Clients) (as noted earlier, the Committee proposes to delete this Rule, since the subject matter is covered in revised Rule 3.4-29). The Commentary provides

Whether a person is considered a client within this rule when lending money to a lawyer on that person's own account or investing money in a security in which the lawyer has an interest is determined having regard to all circumstances. If the circumstances are such that the lender or investor might reasonably feel entitled to look to the lawyer for guidance and advice about the loan or investment, the lawyer is bound by the same fiduciary obligation that attaches to a lawyer in dealings with a client.

35. Paragraphs [6], [7] and [8] of the Commentary to Rule 3.4-29 provide guidance regarding the documentation of Independent Legal Advice, as well as a client's decision to decline Independent Legal Advice or Independent Legal Representation.

Gifts and Testamentary Instruments

36. In his submission to the Call for Input, Mr. Palmateer suggested that this title (which currently provides "Testamentary Instruments and Gifts) be reordered to reflect the Model Code. The Committee accepted this suggestion.

Redline Showing Proposed Amendments to the Rules Regarding Doing Business With a Client

~~Doing Business with a Client~~ Transactions With Clients

3.4-27 ~~{FLSC—not in use}~~

For the purposes of rules 3.4-27 to 3.4-36,

“regulated lender” means a bank, trust company, insurance company, credit union or finance company that lends money in the ordinary course of business;

“related person” in relation to a lawyer means

- (a) a spouse, child, grandparent, parent, or sibling of the lawyer,
- (b) a corporation that is owned or controlled directly or indirectly by a the lawyer or that is owned or controlled directly or indirectly by the lawyer’s spouse, child, grandparent, parent, or sibling, or
- (c) an associate or partner of the lawyer;

“syndicated mortgage” means a mortgage having more than one investor;

“transaction with a client” means a transaction to which a lawyer and a client of the lawyer are parties, whether or not other persons are also parties, including lending or borrowing money, buying or selling property or services having other than nominal value, giving or acquiring ownership, security or other pecuniary interest in a company or other entity, recommending an investment, or entering into a common business venture.

3.4-28 A lawyer must not enter into a transaction with a client unless the transaction is fair and reasonable to the client, ~~the client consents to the transaction and the client has independent legal representation with respect to the transaction.~~

3.4-28.1 Except for borrowing from a regulated lender or from a related person, a lawyer shall not borrow from a client.

3.4-28.2 A lawyer shall not do indirectly what the lawyer is prohibited from doing directly under Rules 3.4-28 to 3.4-36.

Commentary

[1] Transactions between a client and

- (a) a related person to the lawyer;

- (b) a trust or estate for which a lawyer is a beneficiary, or
- (c) a trust or estate for which the lawyer acts as both trustee and lawyer

will ordinarily be treated as if the lawyer is a party to the transaction. However, if such a transaction is genuinely independent of the lawyer and does not involve the lawyer, the transaction would be outside the scope of this rule. Factors such as the proportion of the lawyer's interest in the trust and the relationship between the lawyer and the trustee may be considered.

[2] A lawyer who acts as a trustee for a trust or estate should take care to comply with the strict trust obligations that apply in respect of any dealings with the trust or estate. These trust obligations are in addition to the obligations imposed by these rules.

Commentary

~~[1] This provision applies to any transaction with a client, including~~

- ~~(a) — lending or borrowing money;~~
- ~~(b) — buying or selling property;~~
- ~~(c) — accepting a gift, including a testamentary gift;~~
- ~~(d) — giving or acquiring ownership, security or other pecuniary interest in a company or other entity;~~
- ~~(e) — recommending an investment; and~~
- ~~(f) — entering into a common business venture.~~

~~[2] The relationship between lawyer and client is a fiduciary one, and no conflict between the lawyer's own interest and the lawyer's duty to the client can be permitted. The remuneration paid to a lawyer by a client for the legal work undertaken by the lawyer for the client does not give rise to a conflicting interest.~~

Transactions with Clients

3.4-29 In any transaction with a client that is permitted under Rules 3.4-28 to 3.4-26, ~~Subject to rule 3.4-30, if a client intends to enter into a transaction with their lawyer or with a corporation or other entity in which the lawyer has an interest other than a corporation or other entity whose securities are publicly traded, before accepting any retainer, the lawyer shall in sequence must~~

- (a) ~~disclose and explain the nature of the any conflicting interest or to the client or, in the case of a potential conflict, how and why it might develop later;~~

- (b) ~~with respect to recommend and require that the client receive independent legal advice and independent legal representation; and~~
- (i) in the case of a loan to a client who is not a related person, the lawyer shall require that the client receive independent legal representation;
- (ii) in the case of a loan to a client who is a related person, the lawyer shall require that the client receive independent legal advice;
- (iii) in the case of borrowing money from a client who is a regulated lender, the lawyer need not recommend independent legal advice or independent legal representation;
- (iv) in the case of a corporation, syndicate, or partnership borrowing money from a client of the lawyer where either or both of the lawyer and the lawyer's spouse has a direct or indirect substantial interest in the corporation, syndicate or partnership, the lawyer shall require that the client receive independent legal representation;
- (v) in all other cases, the lawyer shall recommend that the client receive independent legal advice and, where the circumstances reasonably require, recommend or require that the client receive independent legal representation; and
- (c) ~~if the client requests the lawyer to act,~~ obtain the client's consent to the transaction.
- (i) after the client receives the disclosure, legal advice or representation required under paragraph (b) and before proceeding with the transaction, or
- (ii) where a recommendation required under paragraph (b) is made and not accepted, before proceeding with the transaction.

Commentary

[1] The relationship between lawyer and client is a fiduciary one. The lawyer has a duty to act in good faith. A lawyer should be able to demonstrate that the transaction with the client is fair and reasonable to the client.

[2] In some circumstances, a lawyer may be retained to provide legal services for a transaction in which the lawyer and a client participate. The lawyer should not uncritically accept a client's decision to have the lawyer act. It should be borne in mind that, if the lawyer accepts the retainer, the lawyer's first duty will be to the client. If the lawyer has any misgivings about being able to place the client's interests first, the retainer should be declined. This is because the lawyer cannot act in a transaction with a client where there is a substantial risk that the lawyer's loyalty to or representation of the client would be materially and adversely affected by the lawyer's own interest, unless the client consents and the lawyer reasonably

believes that he or she is able to act for the client without having a material adverse effect on loyalty or on the representation.

[3] If the lawyer does not choose to disclose the conflicting interest or cannot do so without breaching confidence, the lawyer must decline the retainer.

[4] Generally, in disciplinary proceedings under Rules 3.4-29 to 3.4-36, the burden will rest upon the lawyer to show good faith, that adequate disclosure was made in the matter, that independent legal advice was received by the client, where required, and that the client's consent was obtained.

[5] Whether a person is considered a client within this rule when lending money to a lawyer on that person's own account or investing money in a security in which the lawyer has an interest is determined having regard to all circumstances. If the circumstances are such that the lender or investor might reasonably feel entitled to look to the lawyer for guidance and advice about the loan or investment, the lawyer is bound by the same fiduciary obligation that attaches to a lawyer in dealings with a client.

Documenting Independent Legal Advice

[6] A lawyer retained to give independent legal advice relating to a transaction should document the independent legal advice by:

(a) providing the client with a written certificate that the client has received independent legal advice;

(b) obtaining the client's signature on a copy of the certificate of independent legal advice; and

(c) sending the signed copy to the lawyer with whom the client proposes to transact business.

Documenting a Client's Decision to Decline Independent Legal Advice or Independent Legal Representation

[7] If the client declines the recommendation to obtain independent legal advice or independent legal representation, the lawyer should obtain the client's signature on a document indicating that the client has declined the advice or representation.

[8] If the client is vulnerable and declines independent legal advice or independent legal representation, the lawyer should not enter into the transaction. Some signs that the client may be vulnerable include cognitive decline, disabilities such as impaired vision and hearing, financial insecurity, and major changes in life circumstances that may make the client more susceptible to being unduly influenced.

Borrowing by Related Entities

[9] Rule 3.4-29(b)(iv) addresses situations where a conflicting interest may not be immediately apparent to a potential lender. As such, the lawyer is required to make disclosure and require that the client from whom the entity in which the lawyer or the lawyer's spouse has a direct or indirect substantial interest in borrowing has independent legal representation.

~~[2] A lawyer should not uncritically accept a client's decision to have the lawyer act. It should be borne in mind that, if the lawyer accepts the retainer, the lawyer's first duty will be to the client. If the lawyer has any misgivings about being able to place the client's interests first, the retainer should be declined.~~

~~[3] Generally, in disciplinary proceedings under this rule, the burden will rest upon the lawyer to show good faith, that adequate disclosure was made in the matter, and that the client's consent was obtained.~~

~~[4] If the investment is by borrowing from the client, the transaction may fall within the requirements of rule 3.4-31.~~

~~3.4-30 When a client intends to pay for legal services by transferring to a lawyer a share, participation or other interest in property or in an enterprise, other than a non-material interest in a publicly traded enterprise, the lawyer must recommend but need not require that the client receive independent legal advice.~~

Borrowing from Clients

~~3.4-31 A lawyer must not borrow money from a client unless~~

~~(a) the client is a lending institution, financial institution, insurance company, trust company or any similar corporation whose business includes lending money to members of the public, or~~

~~(b) the client is a related person as defined in section 251 of the Income Tax Act (Canada) and the lawyer is able to discharge the onus of proving that the client's interests were fully protected by the nature of the matter and by independent legal advice or independent legal representation.~~

Certificate of Independent Legal Advice

~~3.4-32 A lawyer retained to give independent legal advice relating to a transaction in which funds are to be advanced by the client to another lawyer must do the following before the client advances any funds:~~

~~(a) provide the client with a written certificate that the client has received independent legal advice,~~

and

~~(b) obtain the client's signature on a copy of the certificate of independent legal advice and send the signed copy to the lawyer with whom the client proposes to transact business.~~

~~3.4-33 Subject to rule 3.4-31, if a lawyer's spouse or a corporation, syndicate or partnership in which either or both of the lawyer and the lawyer's spouse has a direct or indirect substantial interest borrow money from a client, the lawyer must ensure that the client's interests are fully protected by the nature of the case and by independent legal representation.~~

In Rules 3.4-34.1 and 3.4-34.3

~~"related persons" means related persons as defined in section 251 of the *Income Tax Act* (Canada); and~~

~~"syndicated mortgage" means a mortgage having more than one investor [moved to 3.4-27]. .~~

3.4-334.1 A lawyer engaged in the private practice of law in Ontario shall not directly, or indirectly through a corporation, syndicate, partnership, trust, or other entity in which the lawyer or a related person has a financial interest, other than an ownership interest of a corporation or other entity offering its securities to the public of less than five per cent (5%) of any class of securities

- (a) hold a syndicated mortgage or loan in trust for investor clients unless each investor client receives
 - (i) a complete reporting letter on the transaction,
 - (ii) a trust declaration signed by the person in whose name the mortgage or any security instrument is registered, and
 - (iii) a copy of the duplicate registered mortgage or security instrument,
- (b) arrange or recommend the participation of a client or other person as an investor in a syndicated mortgage or loan where the lawyer is an investor unless the lawyer can demonstrate that the client or other person had independent legal advice in making the investment, or
- (c) sell mortgages or loans to, or arrange mortgages or loans for, clients or other persons except in accordance with the skill, competence, and integrity usually expected of a lawyer in dealing with clients.

Commentary

ACCEPTABLE MORTGAGE OR LOAN TRANSACTIONS

[1] A lawyer may engage in the following mortgage or loan transactions in connection with the practice of law

- (a) a lawyer may invest in mortgages or loans personally or on behalf of a related person or a combination thereof;
- (b) a lawyer may deal in mortgages or loans as an executor, administrator, committee, trustee of a testamentary or inter vivos trust established for purposes other than mortgage or loan investment or under a power of attorney given for purposes other than exclusively for mortgage or loan investment; and
- (c) a lawyer may collect, on behalf of clients, mortgage or loan payments that are made payable in the name of the lawyer under a written direction to that effect given by the client to the mortgagor or borrower provided that such payments are deposited into the lawyer's trust account.

[2] A lawyer may introduce a borrower (whether or not a client) to a lender (whether or not a client) and the lawyer may then act for either, and when rule 3.4-14 applies, the lawyer may act for both.

Disclosure

3.4-34.2 Where a lawyer sells or arranges mortgages for clients or other persons, the lawyer shall disclose in writing to each client or other person the priority of the mortgage and all other information relevant to the transaction that is known to the lawyer that would be of concern to a proposed investor.

No Advertising

3.4-34.3 A lawyer shall not promote, by advertising or otherwise, individual or joint investment by clients or other persons who have money to lend, in any mortgage in which a financial interest is held by the lawyer, a related person, or a corporation, syndicate, partnership, trust or other entity in which the lawyer or related person has a financial interest, other than an ownership interest of a corporation or other entity offering its securities to the public of less than five per cent (5%) of any class of securities.

Guarantees by a Lawyer

3.4-34.5 -Except as provided by rule 3.4-36, a lawyer must not guarantee personally, or otherwise provide security for, any indebtedness in respect of which a client is a borrower or lender.

3.4-35.6 -A lawyer may give a personal guarantee in the following circumstances

- (a) the lender is a lending institution, financial institution, insurance company, trust company or any similar corporation whose business includes lending money to members of the public, and the lender is directly or indirectly providing funds solely for the lawyer, the lawyer's spouse, parent or child;

- (b) the transaction is for the benefit of a non-profit or charitable institution, and the lawyer provides a guarantee as a member or supporter of such institution, either individually or together with other members or supporters of the institution; or
- (c) the lawyer has entered into a business venture with a client and a lender requires personal guarantees from all participants in the venture as a matter of course and
 - (i) the lawyer has complied with the rules in Section 3.4 (Conflicts), in particular, rules 3.4-27 to 3.4-36 (Doing Business with a Client), and
 - (ii) the lender and participants in the venture who are clients or former clients of the lawyer have independent legal representation.

Payment for Legal Services

3.4-36 When a client intends to pay for legal services by transferring to a lawyer a share, participation or other interest in property or in an enterprise, other than a non-material interest in a publicly traded enterprise, the lawyer shall recommend but need not require that the client receive independent legal advice before accepting a retainer.

Commentary

[1] The remuneration paid to a lawyer by a client for the legal work undertaken by the lawyer for the client does not give rise to a conflicting interest.

~~Testamentary Instruments and Gifts~~ and Testamentary Instruments

3.4-37 [FLSC – not in use].

3.4-38 If a will contains a clause directing that the lawyer who drafted the will be retained to provide services in the administration of the client's estate, the lawyer should, before accepting that retainer, provide the trustees with advice, in writing, that the clause is a non-binding direction and the trustees can decide to retain other counsel.

3.4-39 Unless the client is a family member of the lawyer or the lawyer's partner or associate, a lawyer must not prepare or cause to be prepared an instrument giving the lawyer or an associate a gift or benefit from the client, including a testamentary gift.

[New – October 2014]

Judicial Interim Release

3.4-40 Subject to Rule 3.4-41, a lawyer shall not in respect of any accused person for whom the lawyer acts

- (a) act as a surety for the accused;
- (b) deposit with a court the lawyer's own money or that of any firm in which the lawyer is a partner to secure the accused's release;
- (c) deposit with any court other valuable security to secure the accused's release; or
- (d) act in a supervisory capacity to the accused.

3.4-41 A lawyer may do any of the things referred to in rule 3.4-40 if the accused is in a family relationship with the lawyer and the accused is represented by the lawyer's partner or associate.

[New – October 2014]

Tab 4.1.2

**EXCERPTS FROM THE RULES OF PROFESSIONAL CONDUCT – CLEAN VERSION
SHOWING PROPOSED CHANGES RESULTING FROM ADOPTION OF MODEL
CODE AMENDMENTS**

Transactions With Clients

3.4-27 For the purposes of rules 3.4-27 to 3.4-36,

“regulated lender” means a bank, trust company, insurance company, credit union or finance company that lends money in the ordinary course of business;

“related person” in relation to a lawyer means

- (a) a spouse, child, grandparent, parent, or sibling of the lawyer,
- (b) a corporation that is owned or controlled directly or indirectly by a the lawyer or that is owned or controlled directly or indirectly by the lawyer’s spouse, child, grandparent, parent, or sibling, or
- (c) an associate or partner of the lawyer;

“syndicated mortgage” means a mortgage having more than one investor;

“transaction with a client” means a transaction to which a lawyer and a client of the lawyer are parties, whether or not other persons are also parties, including lending or borrowing money, buying or selling property or services having other than nominal value, giving or acquiring ownership, security or other pecuniary interest in a company or other entity, recommending an investment, or entering into a common business venture.

3.4-28 A lawyer must not enter into a transaction with a client unless the transaction is fair and reasonable to the client.

3.4-28.1 Except for borrowing from a regulated lender or from a related person, a lawyer shall not borrow from a client.

3.4-28.2 A lawyer shall not do indirectly what the lawyer is prohibited from doing directly under Rules 3.4-28 to 3.4-36.

Commentary

[1] Transactions between a client and

- (a) a related person to the lawyer;
- (b) a trust or estate for which a lawyer is a beneficiary, or
- (c) a trust or estate for which the lawyer acts as both trustee and lawyer

will ordinarily be treated as if the lawyer is a party to the transaction. However, if such a transaction is genuinely independent of the lawyer and does not involve the lawyer, the transaction would be outside the scope of this rule. Factors such as the proportion of the lawyer's interest in the trust and the relationship between the lawyer and the trustee may be considered.

[2] A lawyer who acts as a trustee for a trust or estate should take care to comply with the strict trust obligations that apply in respect of any dealings with the trust or estate. These trust obligations are in addition to the obligations imposed by these rules.

3.4-29 In any transaction with a client that is permitted under Rules 3.4-28 to 3.4-26-the lawyer shall in sequence

- (a) disclose the nature of any conflicting interest or how and why it might develop later;
- (b) with respect to independent legal advice and independent legal representation;
 - (i) in the case of a loan to a client who is not a related person, the lawyer shall require that the client receive independent legal representation;
 - (ii) in the case of a loan to a client who is a related person, the lawyer shall require that the client receive independent legal advice;
 - (iii) in the case of borrowing money from a client who is a regulated lender, the lawyer need not recommend independent legal advice or independent legal representation;
 - (iv) in the case of a corporation, syndicate, or partnership borrowing money from a client of the lawyer where either or both of the lawyer and the lawyer's spouse has a direct or indirect substantial interest in the corporation, syndicate or partnership, the lawyer shall require that the client receive independent legal representation;
 - (v) in all other cases, the lawyer shall recommend that the client receive independent legal advice and, where the circumstances reasonably require, recommend or require that the client receive independent legal representation; and
- (c) obtain the client's consent to the transaction.

- (i) after the client receives the disclosure, legal advice or representation required under paragraph (b) and before proceeding with the transaction, or
- (ii) where a recommendation required under paragraph (b) is made and not accepted, before proceeding with the transaction.

Commentary

[1] The relationship between lawyer and client is a fiduciary one. The lawyer has a duty to act in good faith. A lawyer should be able to demonstrate that the transaction with the client is fair and reasonable to the client.

[2] In some circumstances, a lawyer may be retained to provide legal services for a transaction in which the lawyer and a client participate. The lawyer should not uncritically accept a client's decision to have the lawyer act. It should be borne in mind that, if the lawyer accepts the retainer, the lawyer's first duty will be to the client. If the lawyer has any misgivings about being able to place the client's interests first, the retainer should be declined. This is because the lawyer cannot act in a transaction with a client where there is a substantial risk that the lawyer's loyalty to or representation of the client would be materially and adversely affected by the lawyer's own interest, unless the client consents and the lawyer reasonably believes that he or she is able to act for the client without having a material adverse effect on loyalty or on the representation.

[3] If the lawyer does not choose to disclose the conflicting interest or cannot do so without breaching confidence, the lawyer must decline the retainer.

[4] Generally, in disciplinary proceedings under Rules 3.4-29 to 3.4-36, the burden will rest upon the lawyer to show good faith, that adequate disclosure was made in the matter, that independent legal advice was received by the client, where required, and that the client's consent was obtained.

[5] Whether a person is considered a client within this rule when lending money to a lawyer on that person's own account or investing money in a security in which the lawyer has an interest is determined having regard to all circumstances. If the circumstances are such that the lender or investor might reasonably feel entitled to look to the lawyer for guidance and advice about the loan or investment, the lawyer is bound by the same fiduciary obligation that attaches to a lawyer in dealings with a client.

Documenting Independent Legal Advice

[6] A lawyer retained to give independent legal advice relating to a transaction should document the independent legal advice by:

- (a) providing the client with a written certificate that the client has received

independent legal advice;

(b) obtaining the client's signature on a copy of the certificate of independent legal advice; and

(c) sending the signed copy to the lawyer with whom the client proposes to transact business.

Documenting a Client's Decision to Decline Independent Legal Advice or Independent Legal Representation

[7] If the client declines the recommendation to obtain independent legal advice or independent legal representation, the lawyer should obtain the client's signature on a document indicating that the client has declined the advice or representation.

[8] If the client is vulnerable and declines independent legal advice or independent legal representation, the lawyer should not enter into the transaction. Some signs that the client may be vulnerable include cognitive decline, disabilities such as impaired vision and hearing, financial insecurity, and major changes in life circumstances that may make the client more susceptible to being unduly influenced.

Borrowing by Related Entities

[9] Rule 3.4-29(b)(iv) addresses situations where a conflicting interest may not be immediately apparent to a potential lender. As such, the lawyer is required to make disclosure and require that the client from whom the entity in which the lawyer or the lawyer's spouse has a direct or indirect substantial interest in borrowing has independent legal representation.

3.4-30 [FLSC – not in use].

3.4-31 [FLSC – not in use].

3.4-32 [FLSC – not in use].

3.4-33 [FLSC – not in use].

3.4-33.1 A lawyer engaged in the private practice of law in Ontario shall not directly, or indirectly through a corporation, syndicate, partnership, trust, or other entity in which the lawyer or a related person has a financial interest, other than an ownership interest of a corporation or other entity offering its securities to the public of less than five per cent (5%) of any class of securities

- (a) hold a syndicated mortgage or loan in trust for investor clients unless each investor client receives
 - (i) a complete reporting letter on the transaction,
 - (ii) a trust declaration signed by the person in whose name the mortgage or any security instrument is registered, and
 - (iii) a copy of the duplicate registered mortgage or security instrument,
- (b) arrange or recommend the participation of a client or other person as an investor in a syndicated mortgage or loan where the lawyer is an investor unless the lawyer can demonstrate that the client or other person had independent legal advice in making the investment, or
- (c) sell mortgages or loans to, or arrange mortgages or loans for, clients or other persons except in accordance with the skill, competence, and integrity usually expected of a lawyer in dealing with clients.

Commentary

ACCEPTABLE MORTGAGE OR LOAN TRANSACTIONS

[1] A lawyer may engage in the following mortgage or loan transactions in connection with the practice of law

- (a) a lawyer may invest in mortgages or loans personally or on behalf of a related person or a combination thereof;
- (b) a lawyer may deal in mortgages or loans as an executor, administrator, committee, trustee of a testamentary or inter vivos trust established for purposes other than mortgage or loan investment or under a power of attorney given for purposes other than exclusively for mortgage or loan investment; and
- (c) a lawyer may collect, on behalf of clients, mortgage or loan payments that are made payable in the name of the lawyer under a written direction to that effect given by the client to the mortgagor or borrower provided that such payments are deposited into the lawyer's trust account.

[2] A lawyer may introduce a borrower (whether or not a client) to a lender (whether or not a client) and the lawyer may then act for either, and when rule 3.4-14 applies, the lawyer may act for both.

Disclosure

3.4-33.2 Where a lawyer sells or arranges mortgages for clients or other persons, the lawyer shall disclose in writing to each client or other person the priority of the mortgage and all other information relevant to the transaction that is known to the lawyer that would be of concern to a proposed investor.

No Advertising

3.4-33 A lawyer shall not promote, by advertising or otherwise, individual or joint investment by clients or other persons who have money to lend, in any mortgage in which a financial interest is held by the lawyer, a related person, or a corporation, syndicate, partnership, trust or other entity in which the lawyer or related person has a financial interest, other than an ownership interest of a corporation or other entity offering its securities to the public of less than five per cent (5%) of any class of securities.

Guarantees by a Lawyer

3.4-34 Except as provided by rule 3.4-36, a lawyer must not guarantee personally, or otherwise provide security for, any indebtedness in respect of which a client is a borrower or lender.

3.4-35 A lawyer may give a personal guarantee in the following circumstances

- (a) the lender is a lending institution, financial institution, insurance company, trust company or any similar corporation whose business includes lending money to members of the public, and the lender is directly or indirectly providing funds solely for the lawyer, the lawyer's spouse, parent or child;
- (b) the transaction is for the benefit of a non-profit or charitable institution, and the lawyer provides a guarantee as a member or supporter of such institution, either individually or together with other members or supporters of the institution; or
- (c) the lawyer has entered into a business venture with a client and a lender requires personal guarantees from all participants in the venture as a matter of course and
 - (i) the lawyer has complied with the rules in Section 3.4 (Conflicts), in particular, rules 3.4-27 to 3.4-36 (Doing Business with a Client), and
 - (ii) the lender and participants in the venture who are clients or former clients of the lawyer have independent legal representation.

Payment for Legal Services

3.4-36 When a client intends to pay for legal services by transferring to a lawyer a share, participation or other interest in property or in an enterprise, other than a non-material interest in

a publicly traded enterprise, the lawyer shall recommend but need not require that the client receive independent legal advice before accepting a retainer.

Commentary

[1] The remuneration paid to a lawyer by a client for the legal work undertaken by the lawyer for the client does not give rise to a conflicting interest.

Gifts and Testamentary Instruments

3.4-37 [FLSC – not in use].

3.4-38 If a will contains a clause directing that the lawyer who drafted the will be retained to provide services in the administration of the client's estate, the lawyer should, before accepting that retainer, provide the trustees with advice, in writing, that the clause is a non-binding direction and the trustees can decide to retain other counsel.

3.4-39 Unless the client is a family member of the lawyer or the lawyer's partner or associate, a lawyer must not prepare or cause to be prepared an instrument giving the lawyer or an associate a gift or benefit from the client, including a testamentary gift.

[New – October 2014]

Judicial Interim Release

3.4-40 Subject to Rule 3.4-41, a lawyer shall not in respect of any accused person for whom the lawyer acts

- (a) act as a surety for the accused;
- (b) deposit with a court the lawyer's own money or that of any firm in which the lawyer is a partner to secure the accused's release;
- (c) deposit with any court other valuable security to secure the accused's release; or
- (d) act in a supervisory capacity to the accused.

3.4-41 A lawyer may do any of the things referred to in rule 3.4-40 if the accused is in a family relationship with the lawyer and the accused is represented by the lawyer's partner or associate.

[New – October 2014]

Tab 4.2

FOR DECISION

AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT REGARDING DUTY TO REPORT

MOTION

37. That Convocation approve amendments to the commentary to Rule 3.2-1 (Quality of Service) and Rule 7.1-3 and Commentary (Duty to Report Misconduct) as set out in [Tab 4.2.1](#).

NATURE OF THE ISSUE

38. The Federation of Law Societies of Canada's Standing Committee on the Model Code has developed a Model Code of Professional Conduct (Model Code).
39. On March 10, 2016, the Standing Committee approved amendments to the commentary to Model Code Rule 3.2-1 (Quality of Service) and to Rule 7.1-3 and Commentary (Duty to Report Misconduct).
40. The Committee has considered the proposed amendments and is recommending their adoption to Convocation. In the Committee's view, these amendments clarify when the duty to report is initiated. They also address concerns that the current Rule and Commentary stigmatize mental health issues.
41. A "clean" version of the Rules appears at [Tab 4.2.2](#).

Proposed Changes - Quality of Service

42. In March 2016 Council of the Federation of Law Societies of Canada amended paragraph [6] of the Commentary to Model Code Rule 3.2-1 to replace the word "prosecuting" with "handling". The sentence would now provide "whether or a not a specific deadline applies, a lawyer should be prompt in handling a matter, responding to communications, and reporting developments to the client".
43. The Committee recommends this amendment to Convocation for adoption in the Law Society's Rules of Professional Conduct.

Proposed Changes – Duty to Report

44. Rule 7.1-3 currently requires a lawyer to report certain issues to the Law Society, unless doing so would be a breach of solicitor-client privilege. Rule 7.1-3(d) currently provides "A lawyer shall report to the Law Society, unless to do so would be unlawful or would involve a breach of solicitor-client privilege, the mental instability of a licensee of such a nature that the lawyer's clients are likely to be materially prejudiced".

45. The Committee recommends that the Model Code wording be adopted and that Rule 7.1-3(d) of the Rules of Professional Conduct be amended to provide as follows:

Unless to do so would be unlawful or would involve a breach of solicitor-client privilege, a lawyer shall report to the Law Society conduct that raises a substantial question as to another lawyer's honesty, trustworthiness, or competency as a lawyer.

46. The Committee also recommends the further amendment of Rule 7.1-3(e), consistent with the Model Code, to provide

Unless to do so would be unlawful or would involve a breach of solicitor-client privilege, a lawyer shall report to the Law Society conduct that raises a substantial question about the lawyer's capacity to provide professional services.

47. According to materials provided by the Standing Committee, some law societies and legal ethics academics have expressed concerns about the current language, in which "mental instability" is described as "misconduct". It is suggested that this language could be perceived as discriminatory. The Committee has considered these proposed changes and agrees that the amendment addresses this concern.

48. Consistent with this approach, the Committee recommends the removal of the word "misconduct" from the title to the Rule, which currently reads "Duty to Report Misconduct".

49. The Committee is also recommending the following amendments to the Commentary to Rule 7.1-3:

- a. The words "or competence" would be added to the first line of paragraph [1]. This amendment would harmonize the Law Society's Commentary with changes made to the Model Code.
- b. The phrase "in all cases, the report must be made without malice or ulterior motive" would be moved from paragraph [2], and added to the end of paragraph [1].
- c. Consistent with the concern described earlier that current wording may be discriminatory, paragraph [3] of the Commentary would be amended to remove the word "improper" from the first line, where it currently appears in front of "conduct". The phrase "suffer from such problems" would be replaced by "face such challenges". The words "by other lawyers" would also be added so the sentence would provide "lawyers who face such challenges should be encouraged by other lawyers to seek assistance as early as possible".
- d. Also in paragraph [3], consistent with the Model Code, the Commentary would be amended to recommend reporting if there is a substantial risk that the lawyer may in the future engage in serious misconduct or in criminal activity related to the lawyer's practice.

Consultation Conducted by the Standing Committee

50. The Committee notes that between July and November 2014, the Standing Committee sought input on these proposed Rule amendments from Canadian Law Societies, the Canadian Bar Association, legal academics, the Department of Justice and the Public Prosecution Service of Canada. The Law Society of Upper Canada also provided input on the proposed amendments, together with other Law Societies. Individuals engaged in legal ethics issues as well as other interested members of the public also provided feedback on these changes, which were in draft at the time.

EXCERPTS FROM THE RULES OF PROFESSIONAL CONDUCT – REDLINE SHOWING PROPOSED CHANGES RESULTING FROM ADOPTION OF MODEL CODE AMENDMENTS

SECTION 3.2 QUALITY OF SERVICE

Quality of Service

3.2-1 A lawyer has a duty to provide courteous, thorough and prompt service to clients. The quality of service required of a lawyer is service that is competent, timely, conscientious, diligent, efficient and civil.

[New – October 2014]

Commentary

[1] This rule should be read and applied in conjunction with the rules in Section 3.1 regarding competence.

[2] An ordinarily or otherwise competent lawyer may still occasionally fail to provide an adequate quality of service.

[3] to [5] [FLSC – not in use]

[6] A lawyer should meet deadlines, unless the lawyer is able to offer a reasonable explanation and ensure that no prejudice to the client will result. Whether or not a specific deadline applies, a lawyer should be prompt in ~~prosecuting~~ handling a matter, responding to communications and reporting developments to the client. In the absence of developments, contact with the client should be maintained to the extent the client reasonably expects.

[New – October 2014]

(...)

Duty to Report ~~Misconduct~~

7.1-3 ~~Unless to do so would be unlawful or would involve a breach of solicitor-client privilege,~~
A lawyer shall report to the Law Society, ~~unless to do so would be unlawful or would involve a breach of solicitor-client privilege,~~

- (a) the misappropriation or misapplication of trust monies;
- (b) the abandonment of a law or legal services practice;
- (c) participation in serious criminal activity related to a licensee's practice;

- (d) ~~the mental instability of a licensee of such a serious nature that the licensee's clients are likely to be materially prejudiced; and~~ conduct that raises a substantial question as to another licensee's honesty, trustworthiness, or competency as a licensee;
- (e) ~~[FLSC – not in use]~~ conduct that raises a substantial question about the licensee's capacity to provide professional services; and
- (f) any ~~other~~ situation where a licensee's clients are likely to be severely prejudiced.

[Amended – June 2007, October 2014]

Commentary

[1] Unless a licensee who departs from proper professional conduct or competence is checked at an early stage, loss or damage to clients or others may ensue. Evidence of minor breaches may, on investigation, disclose a more serious situation or may indicate the commencement of a course of conduct that may lead to serious breaches in the future. It is, therefore, proper (unless it is privileged or otherwise unlawful) for a lawyer to report to the Law Society any instance involving a breach of these rules or the rules governing paralegals. If a lawyer is in any doubt whether a report should be made, the lawyer should consider seeking the advice of the Law Society directly or indirectly (e.g., through another lawyer). In all cases, the report must be made without malice or ulterior motive.

[2] Nothing in this rule is meant to interfere with the lawyer-client relationship ~~traditional solicitor-client relationship. In all cases the report must be made bona fide without malice or ulterior motive.~~

[Amended – June 2007]

[3] ~~Often, instances of improper conduct~~ described in this rule can arise from a variety of stressors, physical, mental or emotional conditions, disorders, or addictions. emotional, mental, or family disturbances or substance abuse. Lawyers who face such challenges ~~suffer from such problems~~ should be encouraged by other lawyers to seek assistance as early as possible. The Law Society supports Homewood Human Solutions (HHS) and similar support services that are committed to the provision of confidential counselling for licensees. Therefore, lawyers acting in the capacity of peer counsellors for HHS, the Ontario Lawyers Assistance Program (OLAP) or corporations providing similar support services will not be called by the Law Society or by any investigation committee to testify at any conduct, capacity, or competence hearing without the consent of the lawyer from whom the information was received. Notwithstanding the above, a lawyer counselling another lawyer has an ethical obligation to report to the Law Society upon learning that the lawyer being assisted is engaging in or may in the future engage in serious misconduct or criminal activity related to the lawyer's practice or there is a substantial risk that the lawyer may in the future engage in such conduct or activity. The Law Society cannot countenance such conduct regardless of a lawyer's attempts at rehabilitation.

[Amended – January 2013]

EXCERPTS FROM THE RULES OF PROFESSIONAL CONDUCT – CLEAN VERSION SHOWING PROPOSED CHANGES RESULTING FROM ADOPTION OF MODEL CODE AMENDMENTS

SECTION 3.2 QUALITY OF SERVICE

Quality of Service

3.2-1 A lawyer has a duty to provide courteous, thorough and prompt service to clients. The quality of service required of a lawyer is service that is competent, timely, conscientious, diligent, efficient and civil.

[New – October 2014]

Commentary

[1] This rule should be read and applied in conjunction with the rules in Section 3.1 regarding competence.

[2] An ordinarily or otherwise competent lawyer may still occasionally fail to provide an adequate quality of service.

[3] to [5] [FLSC – not in use]

[6] A lawyer should meet deadlines, unless the lawyer is able to offer a reasonable explanation and ensure that no prejudice to the client will result. Whether or not a specific deadline applies, a lawyer should be prompt in handling a matter, responding to communications and reporting developments to the client. In the absence of developments, contact with the client should be maintained to the extent the client reasonably expects.

[New – October 2014]

(. . .)

Duty to Report

7.1-3 Unless to do so would be unlawful or would involve a breach of solicitor-client privilege, a lawyer shall report to the Law Society,

- (a) the misappropriation or misapplication of trust monies;
- (b) the abandonment of a law or legal services practice;
- (c) participation in serious criminal activity related to a licensee's practice;

- (d) conduct that raises a substantial question as to another licensee's honesty, trustworthiness, or competency as a licensee;
- (e) conduct that raises a substantial question about the licensee's capacity to provide professional services; and
- (f) any situation where a licensee's clients are likely to be severely prejudiced.

[Amended – June 2007, October 2014]

Commentary

[1] Unless a licensee who departs from proper professional conduct or competence is checked at an early stage, loss or damage to clients or others may ensue. Evidence of minor breaches may, on investigation, disclose a more serious situation or may indicate the commencement of a course of conduct that may lead to serious breaches in the future. It is, therefore, proper (unless it is privileged or otherwise unlawful) for a lawyer to report to the Law Society any instance involving a breach of these rules or the rules governing paralegals. If a lawyer is in any doubt whether a report should be made, the lawyer should consider seeking the advice of the Law Society directly or indirectly (e.g., through another lawyer). In all cases, the report must be made without malice or ulterior motive.

[2] Nothing in this rule is meant to interfere with the lawyer-client relationship.

[Amended – June 2007]

[3] Instances of conduct described in this rule can arise from a variety of stressors, physical, mental or emotional conditions, disorders, or addictions. . Lawyers who face such challenges should be encouraged by other lawyers to seek assistance as early as possible. The Law Society supports Homewood Human Solutions (HHS) and similar support services that are committed to the provision of confidential counselling for licensees. Therefore, lawyers acting in the capacity of peer counsellors for HHS, the Ontario Lawyers Assistance Program (OLAP) or corporations providing similar support services will not be called by the Law Society or by any investigation committee to testify at any conduct, capacity, or competence hearing without the consent of the lawyer from whom the information was received. Notwithstanding the above, a lawyer counselling another lawyer has an ethical obligation to report to the Law Society upon learning that the lawyer being assisted is engaging in or may in the future engage in serious misconduct or criminal activity related to the lawyer's practice or there is a substantial risk that the lawyer may in the future engage in such conduct or activity. The Law Society cannot countenance such conduct regardless of a lawyer's attempts at rehabilitation.

[Amended – January 2013]

Tab 4.3

FOR DECISION**AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT REGARDING ERRORS AND OMISSIONS****MOTION**

51. That Convocation approve amendments to the Rules of Professional Conduct regarding the reporting to clients of errors and omissions in Rules 7.8-1 and 7.8-2 as set out in [Tab 4.3.1](#).

NATURE OF THE ISSUE

52. The Federation of Law Societies of Canada's Standing Committee on the Model Code has developed a Model Code of Professional Conduct (Model Code).
53. Council of the Federation of Law Societies of Canada adopted amendments to the Model Code rules on errors and omissions in this area on March 10, 2016. The Committee has reviewed these amendments, and is of the view that they enhance clarity in the Law Society's Rules of Professional Conduct regarding the relationship between a lawyer's ethical duties and a lawyer's obligations under mandatory liability insurance contracts. The proposed amendments also make it clear that a lawyer's ethical duty to report may arise regardless of whether the lawyer believes the claim has merit.
54. A "clean" version of the Rules appears in [Tab 4.3.2](#).

SUMMARY OF PROPOSED AMENDMENTS**Informing Client of Error or Omission**

55. Under the current regulatory framework, if a lawyer discovers an error or omission in connection with a matter for which the lawyer is responsible, Rule 7.8-1 currently requires the lawyer to
- a. promptly inform the client of the error or omission without admitting legal liability;
 - b. recommend that the client obtain independent legal advice concerning the matter including any rights that the client may have arising from the error or omission; and
 - c. advise the client of the possibility that, in the circumstances, the lawyer may no longer be able to act for the client.
56. The Committee has reviewed the Model Code amendment to Rule 7.8-1 and agrees with it. The Committee proposes the following paragraph of Commentary to Rule 7.8-1 to provide additional guidance:

In addition to the obligations imposed by Rule 7.8-1, the lawyer has the contractual obligation to report to the lawyer's insurer. Rule 7.8-2 also imposes an ethical duty to report to the insurer(s). Rule 7.8-1 does not relieve a lawyer from the duty to report to the insurer or other indemnitor even if the lawyer attempts to rectify.

Notice of Claim

57. Rule 7.8-2 currently provides "a lawyer shall give prompt notice of any circumstance that the lawyer may reasonably expect to give rise to a claim to an insurer or other indemnitor so that the client's protection from the source will not be prejudiced".
58. As a result of the March 2016 amendments, the words "reasonably expect to" have been removed from Model Code Rule 7.8-2. The Committee agrees with this amendment. If adopted by Convocation, Rule 7.8-2 would provide "a lawyer shall give prompt notice of any circumstance that may give rise to a claim to an insurer or other indemnitor so that the client's protection from that source will not be prejudiced".
59. As amended, Rule 7.8-2 would provide that "a lawyer shall give prompt notice of any circumstance that may give rise to a claim to an insurer or other indemnitor so that the client's protection from that source will not be prejudiced". The Committee is of the view that amendment would clarify that a lawyer's ethical duty to report may arise regardless of whether the lawyer believes the claim has merit.
60. The Committee also proposes the addition of a paragraph of Commentary to Model Code Rule 7.8-2 to provide

Under the lawyer's compulsory professional liability policy, a lawyer is contractually required to give written notice to the insurer, including an optional excess insurer, immediately after the lawyer becomes aware of any actual or alleged error or any circumstances that could give rise to a claim. The duty to report is also an ethical duty which is imposed on the lawyer to protect clients. The duty to report in this rule arises whether or not the lawyer considers the claim to have merit.

61. The Committee is proposing the addition of the words "in this rule", which do not appear in the Model Code version.
62. The Committee asked the Lawyers Professional Indemnity Company (LawPRO) to provide input on the proposed amendments and wishes to acknowledge LawPRO's contributions to its deliberations. LawPRO has indicated that it believes a stronger emphasis in the Rules of Professional Conduct on the obligation to report a real or potential claim is helpful.
63. LawPRO also suggested that lawyers be reminded in the Commentary of their obligations to an optional excess insurer, if applicable. The Committee accepted this recommendation, and proposes to add the words "including an optional excess insurer" to the new Model Code Commentary, reproduced above.

EXCERPT FROM THE RULES OF PROFESSIONAL CONDUCT

SECTION 7.8 ERRORS AND OMISSIONS

Redline Showing Proposed Changes to the Rules of Professional Conduct – March 2016 Model Code Amendments

Informing Client of Error or Omission

7.8-1 When, in connection with a matter for which a lawyer is responsible, the lawyer discovers an error or omission that is or may be damaging to the client and that cannot be rectified readily, the lawyer shall

- (a) promptly inform the client of the error or omission being careful not to prejudice any rights of indemnity that either of them may have under an insurance, client's protection or indemnity plan, or otherwise;
- (b) recommend that the client obtain legal advice from an independent lawyer concerning any rights the client may have arising from the error or omission; and
- (c) advise the client that in the circumstances, the lawyer may no longer be able to act for the client.

[Amended – October 2014]

Commentary

[1] In addition to the obligations imposed by Rule 7.8-1, the lawyer has the contractual obligation to report to the lawyer's insurer. Rule 7.8-2 also imposes an ethical duty to report to the insurer(s). Rule 7.8-1 does not relieve a lawyer from the duty to report to the insurer or other indemnitor even if the lawyer attempts to rectify.

Notice of Claim

7.8-2 A lawyer shall give prompt notice of any circumstance that ~~the lawyer~~ may ~~reasonably expect to~~ give rise to a claim to an insurer or other indemnitor so that the client's protection from that source will not be prejudiced.

Commentary

[1] Under the lawyer's compulsory professional liability insurance policy, a lawyer is contractually required to give written notice to the insurer, including an optional excess insurer, immediately after the lawyer becomes aware of any actual or alleged error or any circumstances that could give rise to a claim. The duty to report in this Rule is also an ethical duty which is imposed on the lawyer to protect clients. The duty to report arises whether or not the lawyer considers the claim to have merit.

[12] Compulsory insurance imposes obligations on a lawyer, but these obligations must not impair the relationship and duties of the lawyer to the client. The insurer's rights must be preserved. There may well be occasions when a lawyer believes that certain actions or the failure to take action have made the lawyer liable for damages to the client when, in reality, no liability exists. Further, in every case a careful assessment will have to be made of the client's damages arising from the lawyer's negligence.

[12.1] Many factors will have to be taken into account in assessing the client's claim and damages. As soon as a lawyer becomes aware that an error or omission may have occurred, that may reasonably be expected to involve liability to the client for professional negligence, the lawyer should take the following steps:

[Amended - January 2009]

- (a) immediately arrange an interview with the client and advise the client that an error or omission may have occurred, that may form the basis of a claim by the client against the lawyer;
- (b) advise the client to obtain an opinion from an independent lawyer and that, in the circumstances, the first lawyer might no longer be able to act for the client;
- (c) subject to the rules in Section 3.3 (Confidentiality), inform the insurer of the facts of the situation;
- (d) co-operate fully and as expeditiously as possible with the insurer in the investigation and eventual settlement of the claim; and
- (e) make arrangements to pay that portion of the client's claim that is not covered by the insurance immediately upon completion of the settlement of the client's claim. This would include payment of the deductible under a policy of insurance in accordance with By-Law 6 (Professional Liability Insurance).

[Amended - January 2009]

**EXCERPT FROM THE RULES OF PROFESSIONAL CONDUCT - SECTION 7.8
ERRORS AND OMISSIONS - CLEAN VERSION OF PROPOSED CHANGES TO THE
RULES OF PROFESSIONAL CONDUCT – MARCH 2016 MODEL CODE
AMENDMENTS**

Informing Client of Error or Omission

7.8-1 When, in connection with a matter for which a lawyer is responsible, the lawyer discovers an error or omission that is or may be damaging to the client and that cannot be rectified readily, the lawyer shall

- (a) promptly inform the client of the error or omission being careful not to prejudice any rights of indemnity that either of them may have under an insurance, client's protection or indemnity plan, or otherwise;
- (b) recommend that the client obtain legal advice from an independent lawyer concerning any rights the client may have arising from the error or omission; and
- (c) advise the client that in the circumstances, the lawyer may no longer be able to act for the client.

[Amended – October 2014]

Commentary

[1] In addition to the obligations imposed by Rule 7.8-1, the lawyer has the contractual obligation to report to the lawyer's insurer. Rule 7.8-2 also imposes an ethical duty to report to the insurer(s). Rule 7.8-1 does not relieve a lawyer from the duty to report to the insurer or other indemnitor even if the lawyer attempts to rectify.

Notice of Claim

7.8-2 A lawyer shall give prompt notice of any circumstance that may give rise to a claim to an insurer or other indemnitor so that the client's protection from that source will not be prejudiced.

Commentary

[1] Under the lawyer's compulsory professional liability insurance policy, a lawyer is contractually required to give written notice to the insurer, including an optional excess insurer, immediately after the lawyer becomes aware of any actual or alleged error or any circumstances that could give rise to a claim. The duty to report in this Rule is also an ethical duty which is imposed on the lawyer to protect clients. The duty to report arises whether or not the lawyer considers the claim to have merit.

[2] Compulsory insurance imposes obligations on a lawyer, but these obligations must not impair the relationship and duties of the lawyer to the client. The insurer's rights must be preserved. There may well be occasions when a lawyer believes that certain actions or the failure to take action have made the lawyer liable for damages to the client when, in reality, no liability exists. Further, in every case a careful assessment will have to be made of the client's damages arising from the lawyer's negligence.

[2.1] Many factors will have to be taken into account in assessing the client's claim and damages. As soon as a lawyer becomes aware that an error or omission may have occurred, that may reasonably be expected to involve liability to the client for professional negligence, the lawyer should take the following steps:

[Amended - January 2009]

- (a) immediately arrange an interview with the client and advise the client that an error or omission may have occurred, that may form the basis of a claim by the client against the lawyer;
- (b) advise the client to obtain an opinion from an independent lawyer and that, in the circumstances, the first lawyer might no longer be able to act for the client;
- (c) subject to the rules in Section 3.3 (Confidentiality), inform the insurer of the facts of the situation;
- (d) co-operate fully and as expeditiously as possible with the insurer in the investigation and eventual settlement of the claim; and
- (e) make arrangements to pay that portion of the client's claim that is not covered by the insurance immediately upon completion of the settlement of the client's claim. This would include payment of the deductible under a policy of insurance in accordance with By-Law 6 (Professional Liability Insurance).

[Amended - January 2009]

Tab 4.4

FOR INFORMATION

**PROFESSIONAL REGULATION DIVISION
QUARTERLY REPORT**

64. The Professional Regulation Division's Quarterly Report (first quarter 2016), provided to the Committee by Lesley Cameron, Acting Executive Director of the Professional Regulation Division, appears at [Tab 4.4.1](#). The report includes information on the Division's activities and responsibilities, including file management and monitoring, for the period January to March 2016. The report was also considered by the Paralegal Standing Committee on May 11, 2016.



The Professional Regulation Division

Quarterly Report

January – March 2016

The Law Society of Upper Canada
The Professional Regulation Division
Quarterly Report (January 1 – March 31, 2016)

The Quarterly Report

The Quarterly Report provides a summary of the Professional Regulation Division's activities and achievements during the past quarter, January 1 to March 31, 2016. The purpose of the Quarterly Report is to provide information on the production and work of the Division during the quarter, to explain the factors that may have influenced the Division's performance, and to provide a description of exceptional or unusual projects or events in the period.

The Professional Regulation Division

Professional Regulation is responsible for responding to complaints against licensees, including the resolution, investigation and prosecution of complaints which are within the jurisdiction provided under the *Law Society Act*. In addition the Professional Regulation provides trusteeship services for the practices of licensees who are incapacitated by legal or health reasons. Professional Regulation also includes the Compensation Fund which compensates clients for losses suffered as a result of the wrongful acts of licensees.

See Appendices for a case flow chart describing the complaints process as well as a description of the Professional Regulation division processes and organization.

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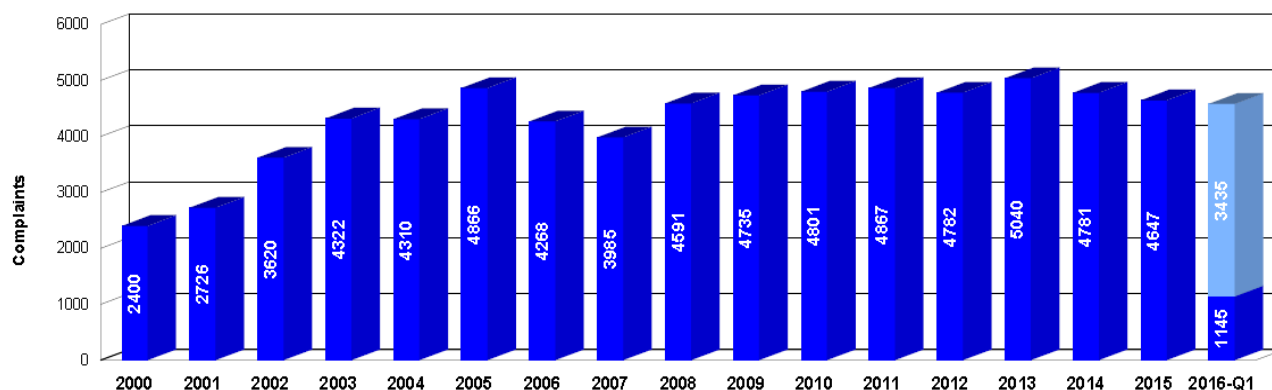
SECTION 1

DIVISIONAL PERFORMANCE DURING THE QUARTER

The Law Society of Upper Canada
The Professional Regulation Division
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PERFORMANCE IN THE PROFESSIONAL REGULATION DIVISION

Graph 1A: Complaints¹ Received in the Division



For 2016, the graph displays actual complaints received in Q1 and a projected value for complaints to be received in Q2 to Q4. As at the end of Q1, the projected number of complaints to be received in 2016 is 4580.

Detailed Analysis of Complaints Received in the Division

	2007	2008	2009	2010	2011	2012	2013	2014	2015	Q1 2016
Complaints against Lawyers	3481	3946	3891	3791	3920	3820	3896	3734	3646	932
Lawyer Applicant Cases ★	44	48	70	86	92	99	115	115	106	5
Complaints against Licensed Paralegals	0	164	351	490	494	480	584	543	544	150
Paralegal Applicant Cases ★	333	175	146	124	144	155	205	180	165	33
Complaints against Non-Licensees/Non-Applicants*	127	258	277	310	217	228	240	209	186	25
TOTAL	3985	4591	4735	4801	4867	4782	5040	4781	4647	1145

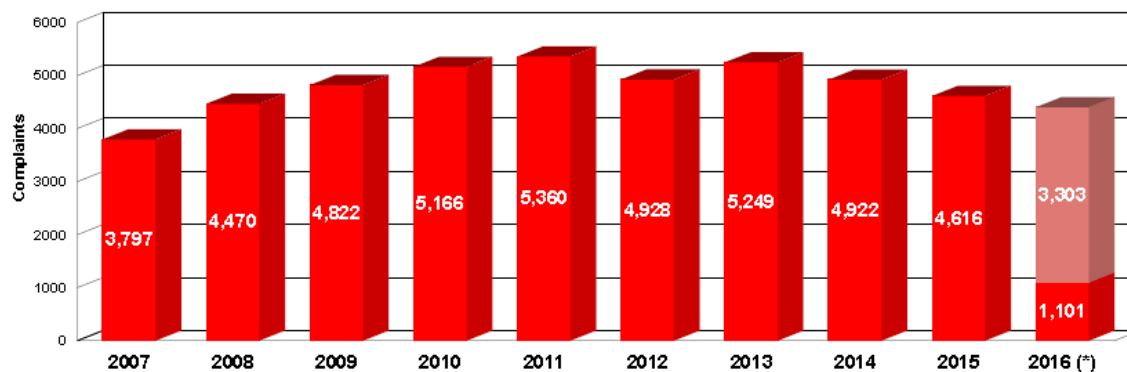
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 2.4.

¹ Includes all complaints received in PRD from Complaints Services.

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Graph 1B: Complaints Closed² in the Division



For 2016, the graph displays the actual number of complaints closed in Q1 and a projected value for complaints to be closed in Q2 to Q4. As at the end of Q1, the projected number of complaints to be closed in 2016 is 4404.

Detailed Analysis of Complaints Closed in the Division

	2009	2010	2011	2012	2013	2014	2015	Q1 2016
Complaints against Lawyers	4107	4303	4312	3932	4174	3813	3650	904
Lawyer Applicant Cases ★	0	0	108	88	122	112	107	10
Complaints against Licensed Paralegals	459	536	536	486	487	570	494	104
Paralegal Applicant Cases ★	0	0	160	163	206	195	155	35
Complaints against Non-Licensees/Non-Applicants*	256	327	244	259	260	232	210	48
TOTAL	4822	5166	5360	4928	5249	4922	4616	1101

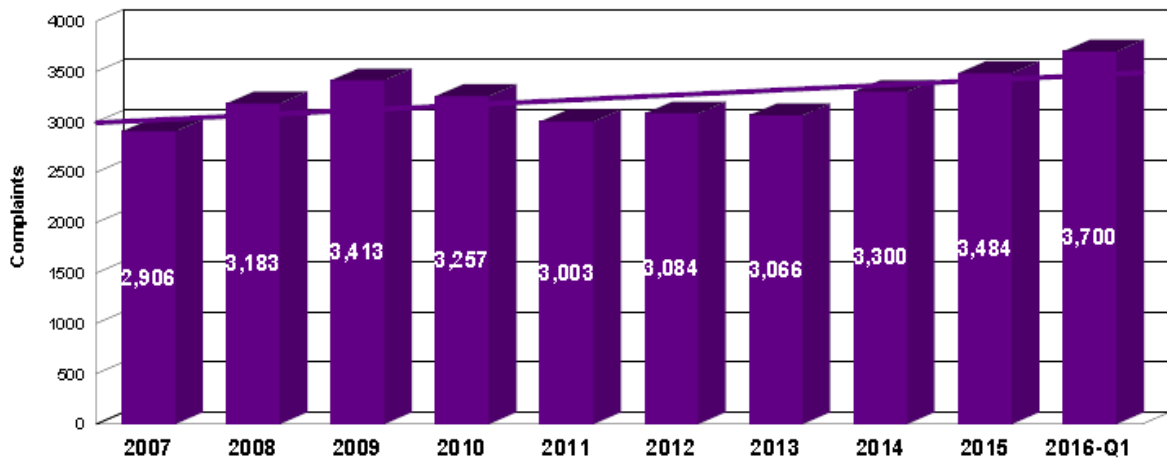
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 2.4.

²This graph includes all complaints closed in Intake, Complaints Resolution, Investigations and Discipline.

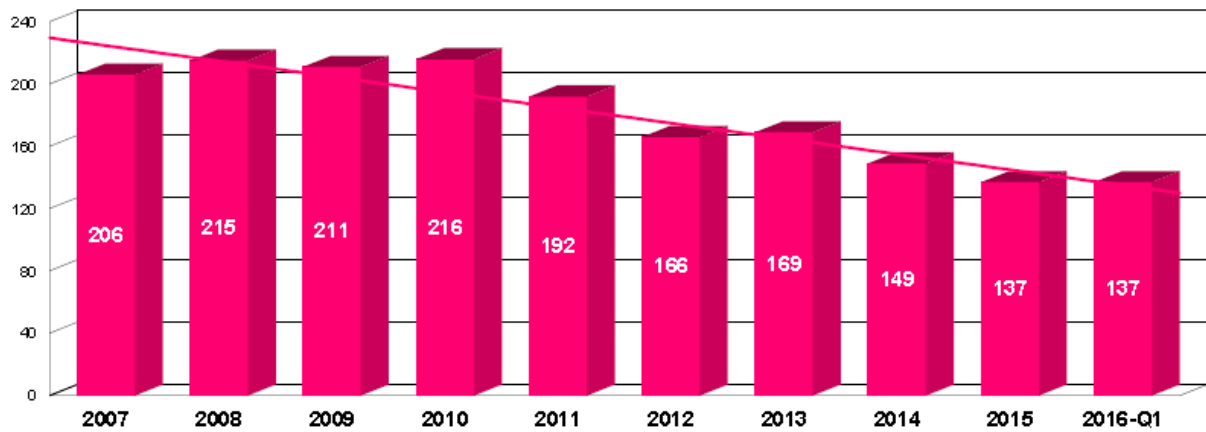
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Graph1C: Total Inventory³



2016: as at March 31, 2016

Graph 1D: Median Age of Closed Complaints (days)³



2016: as at March 31, 2016

³ These graphs do not include active complaints (enforcement matters) in the Monitoring & Enforcement Department.

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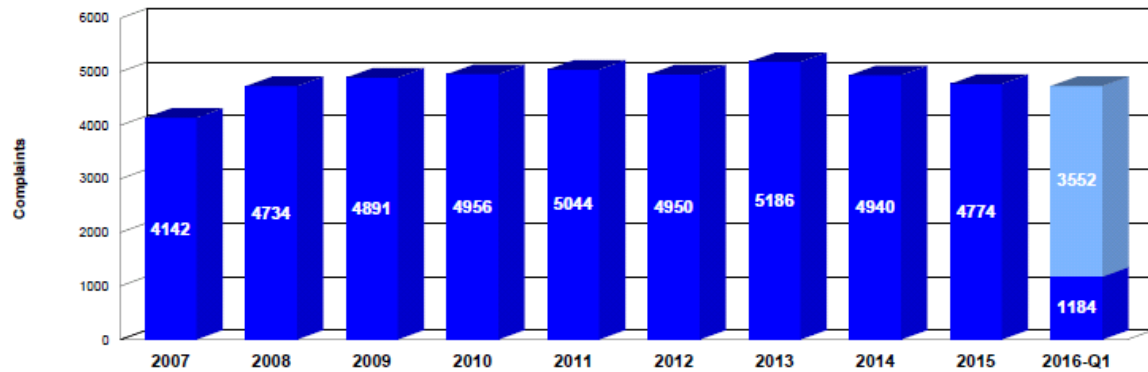
SECTION 2

DEPARTMENTAL PERFORMANCE DURING THE QUARTER

The Law Society of Upper Canada
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 Quarterly Report (January 1 – March 31, 2016)

2.1 – Intake Department

Graph 2.1A: Input⁴



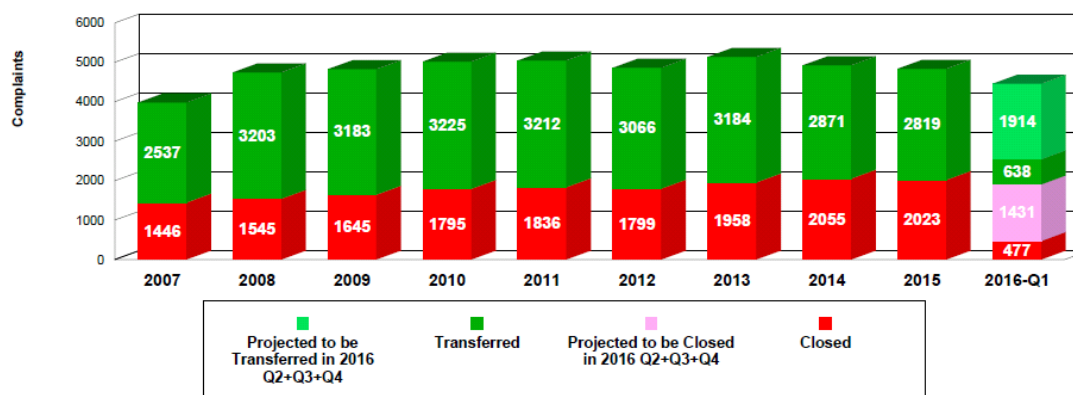
For 2016, the graph displays actual complaints received in Q1 (including reactivated complaints) and a projected value for complaints to be received in Q2 to Q4. As at the end of Q1, the projected number of complaints to be received (including reactivated) in 2016 is 4736.

⁴Includes new complaints received and re-opened complaints

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2.1 – Intake (cont'd)

Graph 2.1B: Complaints Closed and Transferred Out



For 2016, the graph displays the actual number of complaints closed and transferred in Q1 and a projected value for complaints to be closed and transferred in Q2 to Q4. As at the end of Q1, the projected number of complaints to be completed by Intake in 2016 is 4460 (1908 closed and 2552 transferred).

Detailed Analysis of Complaints Closed and Transferred From Intake

	2009	2010	2011	2012	2013	2014	2015	Q1 2016
Complaints against Lawyers	4023	3974	4062	3895	3991	3851	3807	917
Lawyer Applicant Cases ★	32	51	94	98	113	119	106	5
Complaints against Licensed Paralegals	427	555	508	483	568	556	550	128
Paralegal Applicant Cases ★	61	71	150	157	197	188	165	32
Complaints against Non-Licensees/Non-Applicants*	285	369	234	232	273	212	214	33
TOTAL	4828	5020	5048	4865	5142	4926	4842	1115

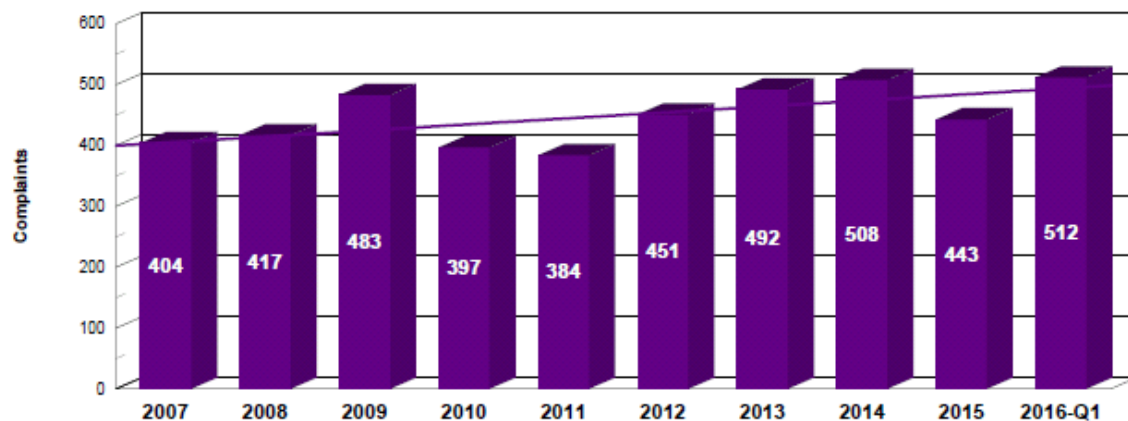
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 2.4.

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2.1 – Intake (cont'd)

Graph 2.1 C: Department Inventory



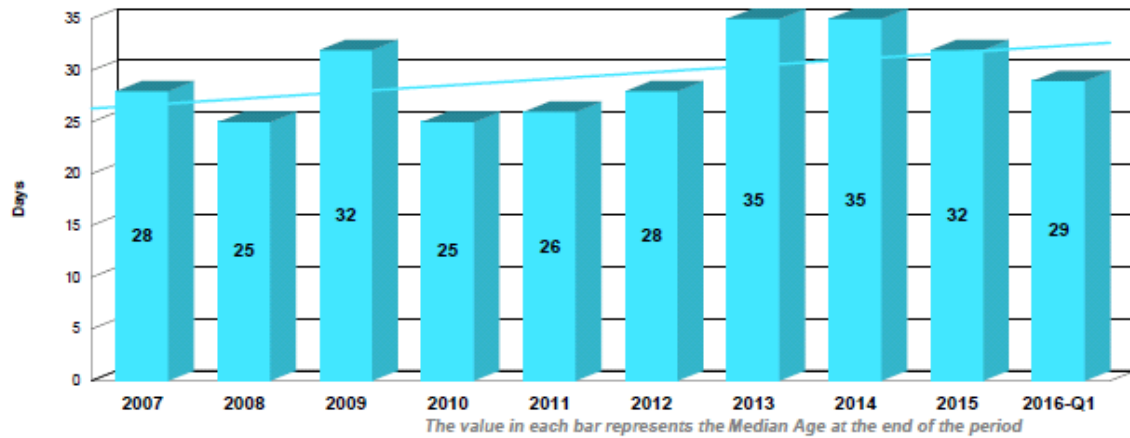
The value in each bar represents the Inventory at the end of the period

2016: as at March 31, 2016

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The Professional Regulation Division
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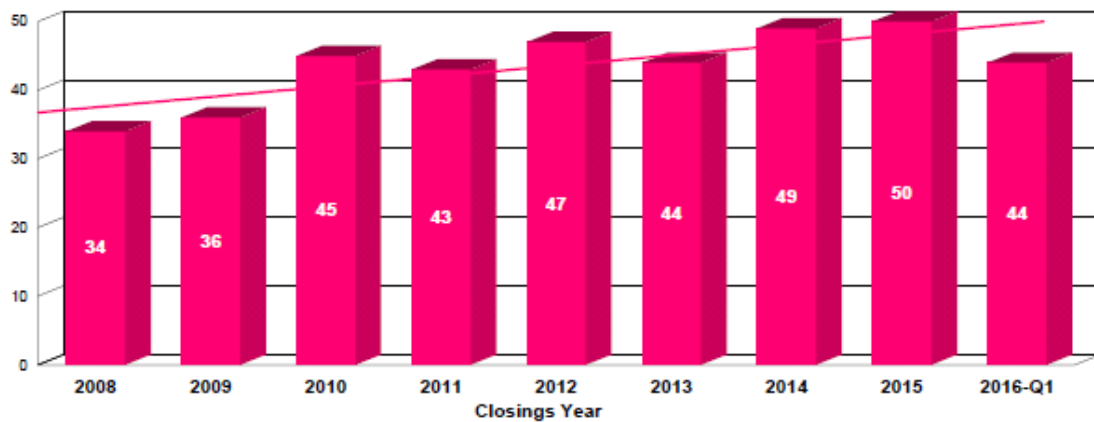
2.1 – Intake (cont'd)

Graph 2.1D: Median Age of Active Complaints



2016: as at March 31, 2016

Graph 2.1E: Median Age of Closed Complaints (days)

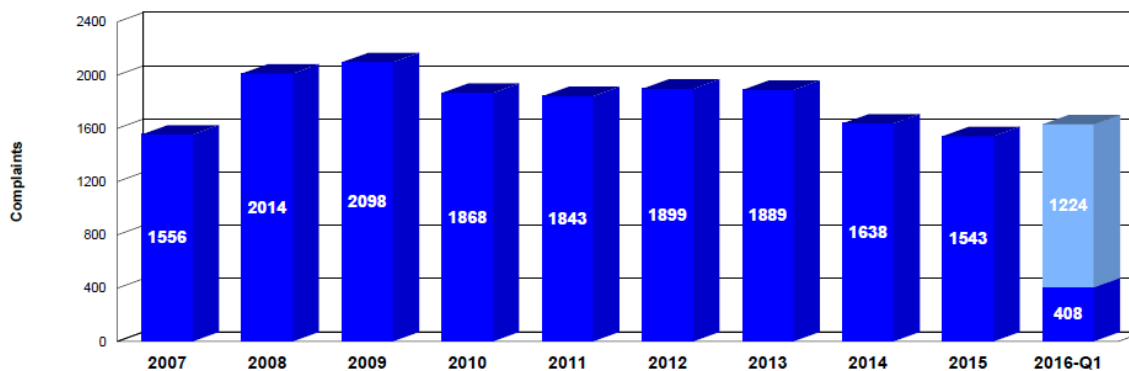


2016: as at March 31, 2016

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2.2 – Complaints Resolution Department

Graph 2.2A: Input⁵



For 2016, the graph displays actual complaints received in Q1 and a projected value for complaints to be received in Q2 to Q4. As at the end of Q1, the projected number of complaints to be received in Complaints Resolution in 2016 is 1632.

Detailed Analysis of New and Re-opened Complaints in Complaints Resolution

	2007	2008	2009	2010	2011	2012	2013	2014	2015	Q1 2016
Complaints against Lawyers	1493	1901	1896	1693	1692	1736	1683	1426	1377	355
Lawyer Applicant Cases ★	8	0	1	0	0	0	0	0	0	0
Complaints against Licensed Paralegals	0	63	137	171	149	163	205	210	165	53
Paralegal Applicant Cases ★	6	5	2	0	0	0	0	0	0	0
Complaints against Non-Licensees/Non-Applicants*	49	45	62	4	2	0	1	2	1	0
TOTAL	1556	2014	2098	1868	1843	1899	1889	1638	1543	408

★ Applicant cases include good character cases and UAP complaints

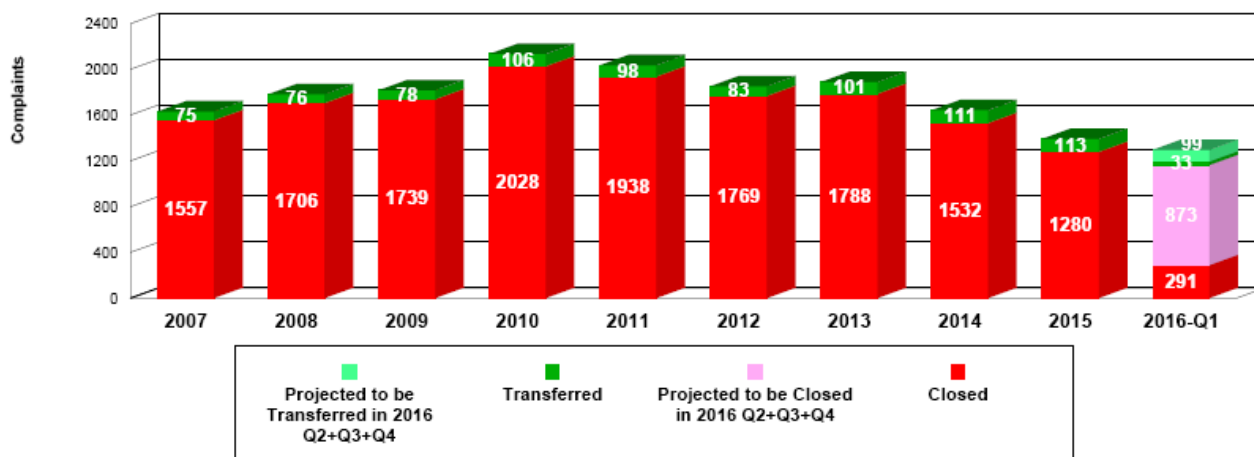
* For a complete analysis of UAP complaints see section 2.4.

⁵Includes new complaints received into the department as well as complaints re-opened during the Quarter.

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2.2 – Complaints Resolution (cont'd)

Graph 2.2B: Complaints Resolution - Complaints Closed and Transferred Out



For 2016, the graph displays the actual number of complaints closed and transferred in Q1 and a projected value for complaints to be closed and transferred in Q2 to Q4. As at the end of Q1, the projected number of complaints to be completed by Complaints Resolution in 2016 is 1296 (1164 closed and 132 transferred).

Detailed Analysis of Complaints Closed and Transferred From Complaints Resolution

	2009	2010	2011	2012	2013	2014	2015	Q1 2016
Complaints against Lawyers	1684	1938	1864	1698	1709	1460	1214	293
Lawyer Applicant Cases ★	1	0	0	0	0	0	0	0
Complaints against Licensed Paralegals	91	162	179	154	179	183	178	31
Paralegal Applicant Cases ★	3	0	0	0	0	0	0	0
Complaints against Non-Licensees/Non-Applicants*	38	34	3	0	1	0	1	0
TOTAL	1817	2134	2036	1852	1889	1643	1393	324

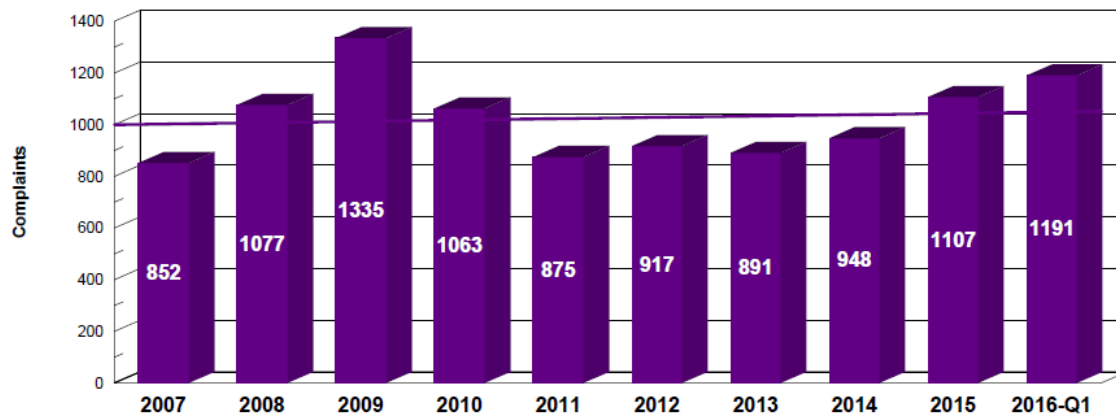
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 2.4.

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2.2 – Complaints Resolution (cont'd)

Graph 2.2C: Department Inventory



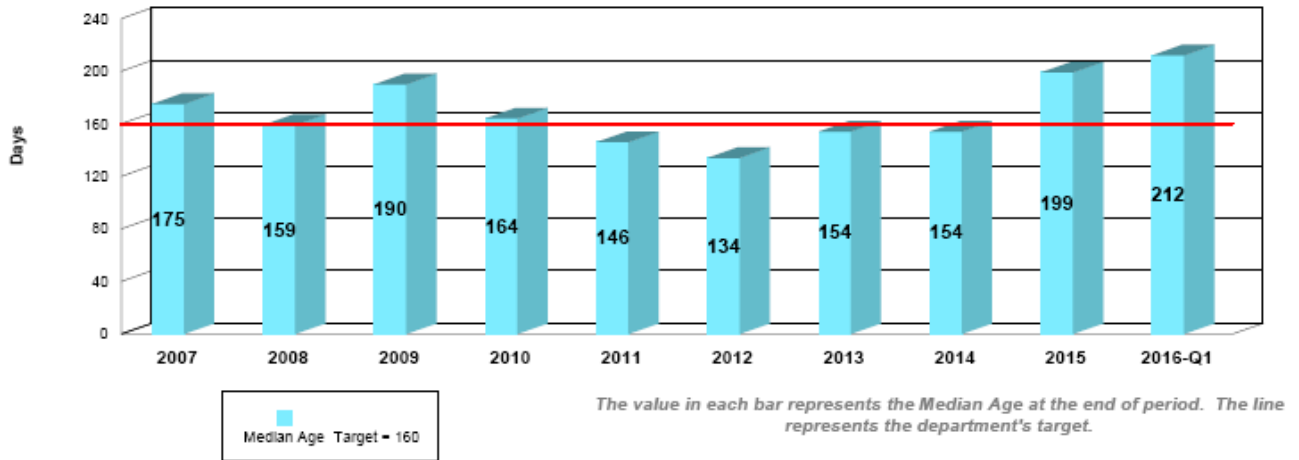
The value in each bar represents the inventory at the end of the period

2016: as at March 31, 2016

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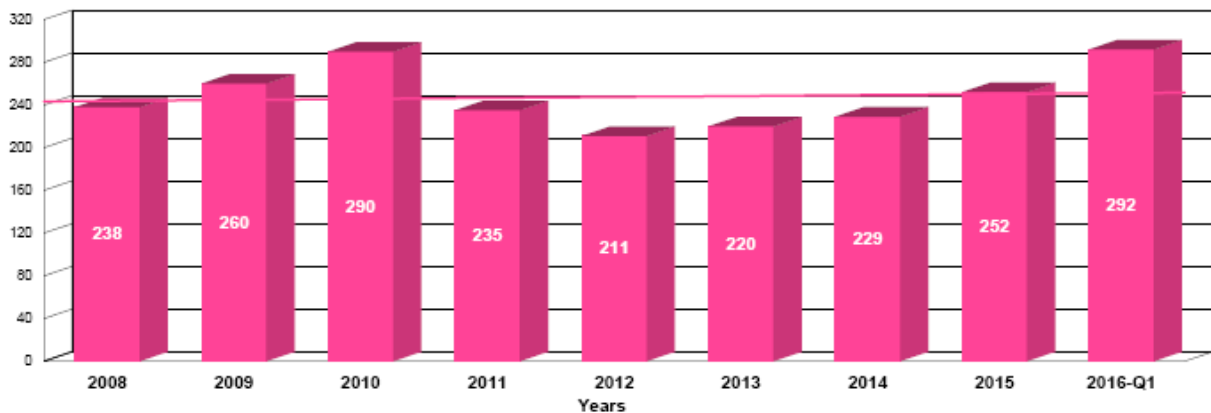
2.2 – Complaints Resolution (cont'd)

Graph 2.2D: Median Age of Active Complaints



2016: as at March 31, 2016

Graph 2.2E: Median Age of Completed⁶ Complaints



2016: as at March 31, 2016

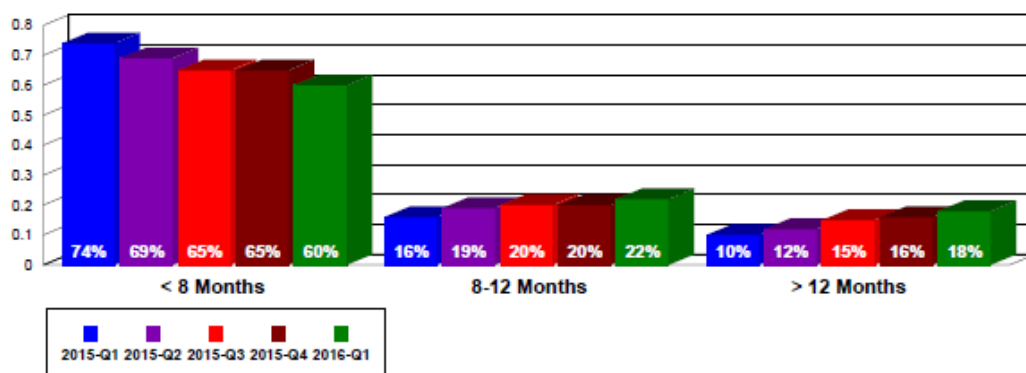
⁶ Included are complaints closed by Complaints Resolution or transferred by the department to Discipline.

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2.2 – Complaints Resolution (cont'd)

Graph 2.2F: Aging of Complaints

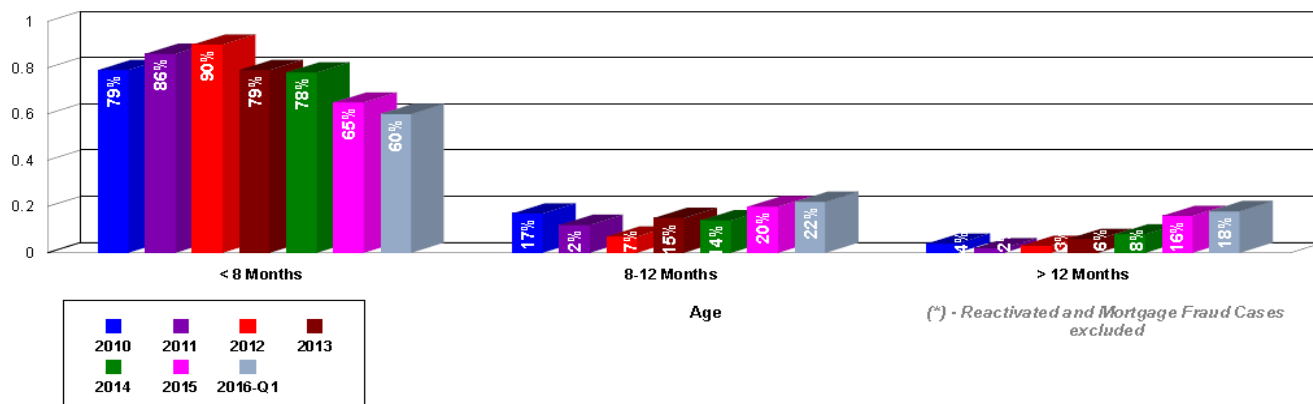
a) By Quarters



(*) - Reactivated Cases Excluded

	<8 months	8 to 12 months	>12 months
Q1 2015	679 cases involving 625 subjects	147 cases involving 137 subjects	94 cases involving 70 subjects
Q2 2015	627 cases involving 579 subjects	177 cases involving 168 subjects	107 cases involving 78 subjects
Q3 2015	638 cases involving 584 subjects	201 cases involving 190 subjects	144 cases involving 108 subjects
Q4 2015	667 cases involving 610 subjects	203 cases involving 191 subjects	160 cases involving 132 subjects
Q1 2016	672 cases involving 620 subjects	242 cases involving 224 subjects	197 cases involving 160 subjects

b) By Years



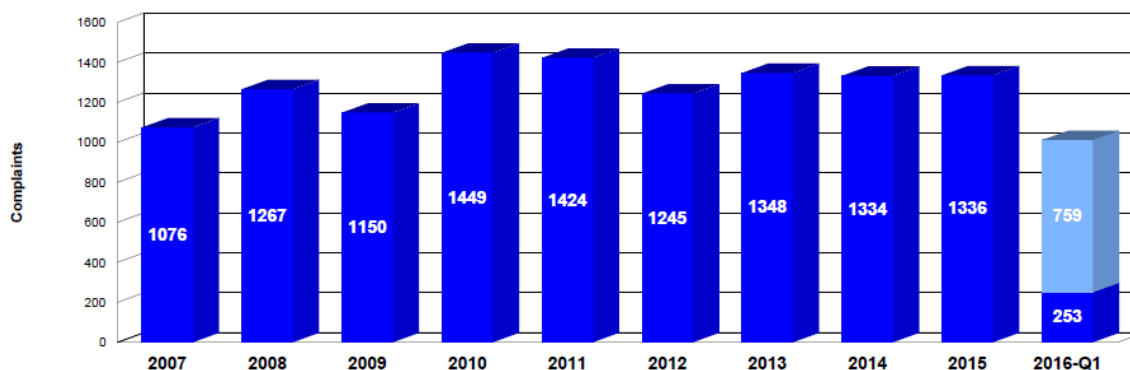
(*) - Reactivated and Mortgage Fraud Cases excluded

	<8 months	8 to 12 months	>12 months
2010	766 cases involving 712 subjects	165 cases involving 130 subjects	39 cases involving 35 subjects
2011	676 cases involving 614 subjects	93 cases involving 82 subjects	19 cases involving 16 subjects
2012	765 cases involving 679 subjects	55 cases involving 48 subjects	29 cases involving 19 subjects
2013	658 cases involving 600 subjects	124 cases involving 119 subjects	51 cases involving 43 subjects
2014	673 cases involving 620 subjects	120 cases involving 112 subjects	73 cases involving 60 subjects
2015	667 cases involving 610 subjects	203 cases involving 191 subjects	160 cases involving 132 subjects
Q1 2016	672 cases involving 620 subjects	242 cases involving 224 subjects	197 cases involving 160 subjects

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2.3 –Investigations Department

Graph 2.3A: Input



For 2016, the graph displays actual complaints received in Q1 and a projected value for complaints to be received in Investigations in Q2 to Q4. As at the end of Q1, the projected number of complaints to be received in the department in 2016 is 1012.

Detailed Analysis of New and Re-opened Complaints Received in Investigations

	2007	2008	2009	2010	2011	2012	2013	2014	2015	Q1 2016
Complaints against Lawyers	818	893	810	935	930	798	821	927	879	178
Lawyer Applicant Cases ★	30	27	39	0	34	37	47	28	28	3
Complaints against Licensed Paralegals	0	29	87	288	237	190	230	192	252	48
Paralegal Applicant Cases ★	174	196	125	0	66	77	85	53	55	10
Complaints against Non-Licensees/Non-Applicants*	54	122	89	226	155	141	163	134	122	14
TOTAL	1076	1267	1150	1449	1422	1243	1346	1334	1336	253

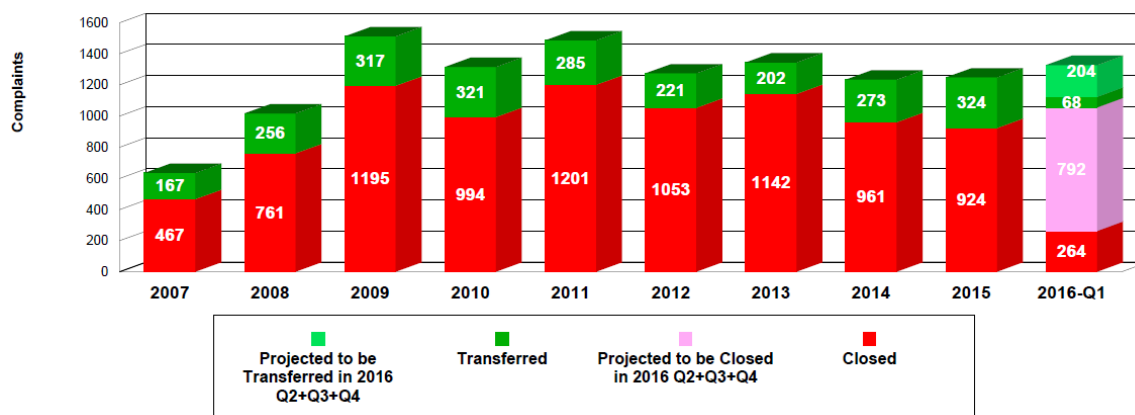
★Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 2.4.

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2.3 –Investigations (cont'd)

Graph 2.3B Complaints Closed and Transferred Out



For 2016, the graph displays the actual number of complaints closed and transferred in Q1 and a projected value for complaints to be closed and transferred in Q2 to Q4. As at the end of Q1, the projected number of complaints to be completed by Investigations in 2016 is 1328 (1056 closed and 272 transferred).

Detailed Analysis of Complaints Closed and Transferred Out of Investigations

	2009	2010	2011	2012	2013	2014	2015	Q1 2016
Complaints against Lawyers	1083	930	1012	815	875	808	832	243
Lawyer Applicant Cases ★	38	22	40	27	52	20	30	10
Complaints against Licensed Paralegals	139	136	219	206	175	195	240	36
Paralegal Applicant Cases ★	174	51	60	69	96	48	43	13
Complaints against Non-Licensees/Non-Applicants*	78	176	155	157	147	164	104	30
TOTAL	1512	1315	1486	1274	1344	1235	1248	332

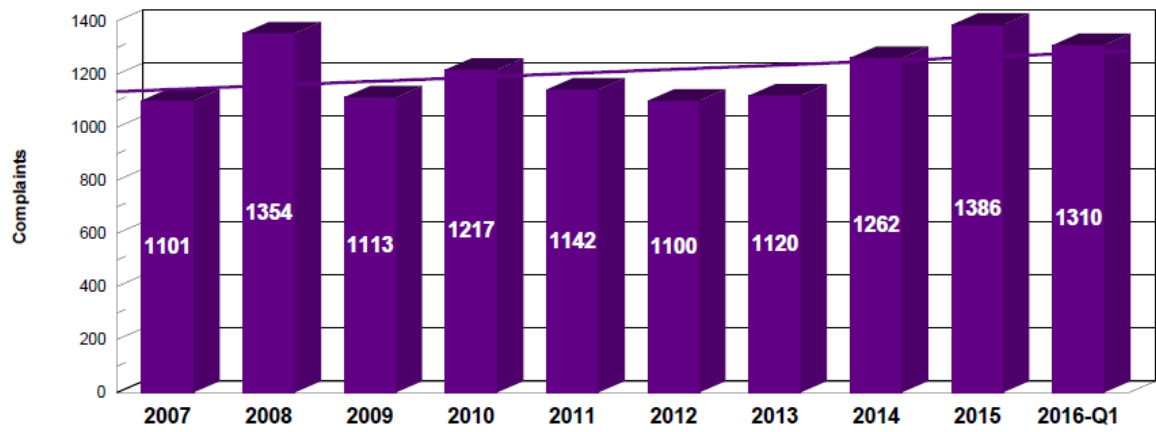
★Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 2.4.

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2.3 – Investigations (cont'd)

Graph 2.3C: Department Inventory



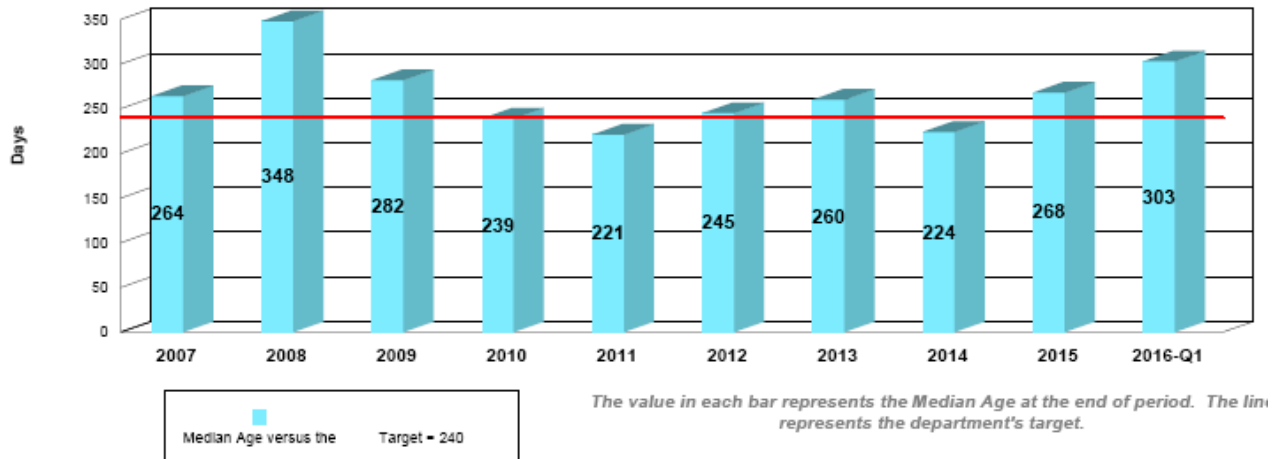
The value in each bar represents the Inventory at the end of the period

2016: as at March 31, 2016

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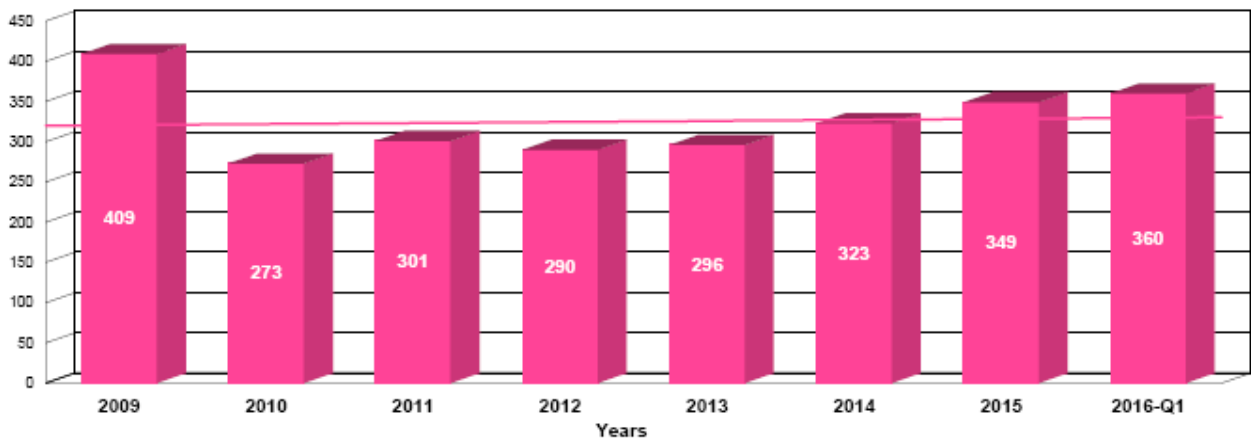
2.3 – Investigations (cont'd)

Graph 2.3D: Median Age of Active Complaints



2016: as at March 31, 2016

Graph 2.3E: Median Age of Completed⁷ Complaints



2016: as at March 31, 2016

⁷ Included are complaints closed by Investigations or transferred by the department to Discipline.
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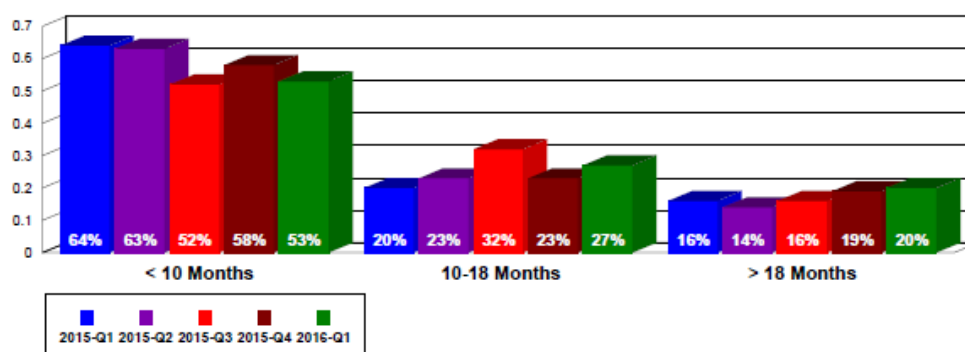
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2.3 – Investigations (cont'd)

Graph 2.3F: Aging of Complaints

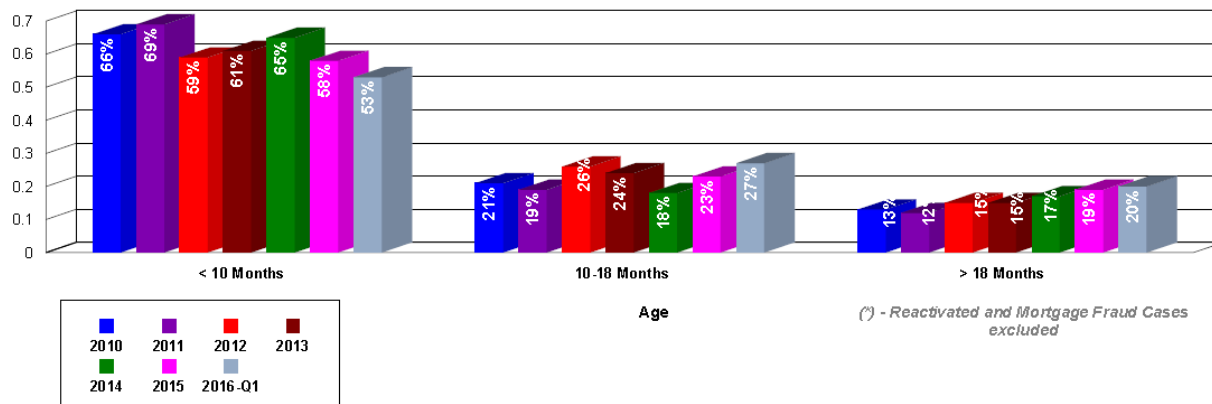
a) Core Cases

(i) By Quarter



	<10 months	10 to 18 months	>18 months
Q1 2015	740 cases involving 476 subjects	226 cases involving 186 subjects	185 cases involving 125 subjects
Q2 2015	787 cases involving 548 subjects	284 cases involving 190 subjects	183 cases involving 121 subjects
Q3 2015	676 cases involving 539 subjects	408 cases involving 211 subjects	205 cases involving 124 subjects
Q4 2015	695 cases involving 543 subjects	282 cases involving 222 subjects	230 cases involving 148 subjects
Q1 2016	612 cases involving 458 subjects	312 cases involving 251 subjects	236 cases involving 155 subjects

(ii) By Year



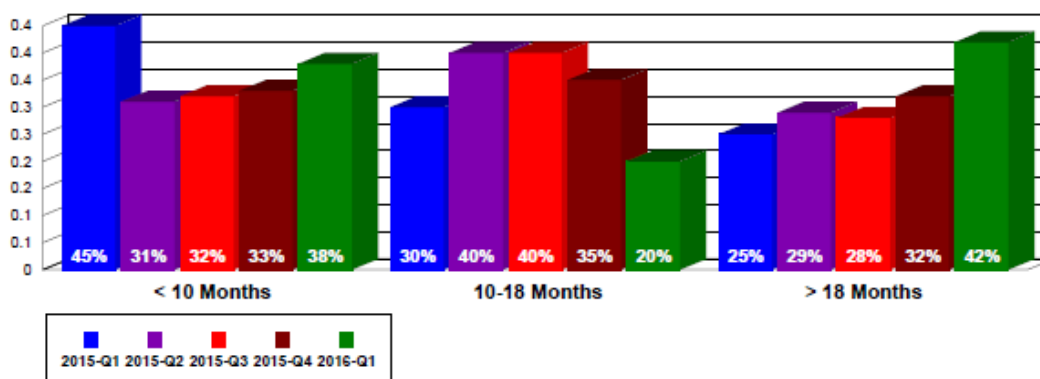
	<10 months	10 to 18 months	>18 months
2010	659 cases involving 526 subjects	210 cases involving 151 subjects	130 cases involving 96 subjects
2011	669 cases involving 529 subjects	181 cases involving 145 subjects	113 cases involving 87 subjects
2012	550 cases involving 457 subjects	245 cases involving 208 subjects	142 cases involving 113 subjects
2013	591 cases involving 451 subjects	228 cases involving 177 subjects	147 cases involving 109 subjects
2014	693 cases involving 451 subjects	193 cases involving 152 subjects	181 cases involving 191 subjects
2015	695 cases involving 543 subjects	282 cases involving 222 subjects	230 cases involving 148 subjects
Q1 2016	612 cases involving 458 subjects	312 cases involving 251 subjects	236 cases involving 155 subjects

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2.3 – Investigations (cont'd)

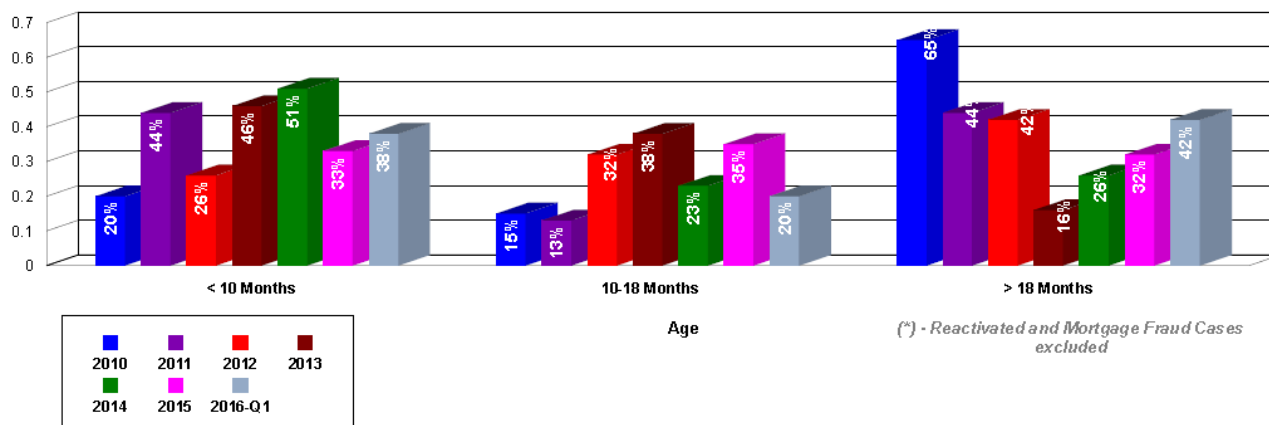
b) Mortgage Fraud Cases

(i) By Quarter



	<10 months	10 to 18 months	>18 months
Q1 2015	46 cases involving 32 subjects	31 cases involving 28 subjects	26 cases involving 23 subjects
Q2 2015	30 cases involving 25 subjects	39 cases involving 31 subjects	28 cases involving 25 subjects
Q3 2015	29 cases involving 28 subjects	36 cases involving 22 subjects	26 cases involving 23 subjects
Q4 2015	30 cases involving 22 subjects	32 cases involving 19 subjects	29 cases involving 25 subjects
Q1 2016	26 cases involving 22 subjects	14 cases involving 13 subjects	23 cases involving 19 subjects

(ii) By Year



	<10 months	10 to 18 months	>18 months
2010	19 cases involving 15 subjects	14 cases involving 11 subjects	61 cases involving 49 subjects
2011	42 cases involving 31 subjects	13 cases involving 9 subjects	41 cases involving 30 subjects
2012	14 cases involving 10 subjects	17 cases involving 16 subjects	21 cases involving 17 subjects
2013	35 cases involving 28 subjects	29 cases involving 19 subjects	26 cases involving 21 subjects
2014	57 cases involving 41 subjects	26 cases involving 21 subjects	29 cases involving 26 subjects
2015	30 cases involving 22 subjects	32 cases involving 19 subjects	29 cases involving 25 subjects
Q1 2016	26 cases involving 22 subjects	14 cases involving 13 subjects	23 cases involving 19 subjects

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2.4 – Unauthorized Practice (UAP)

Graph 2.4A: Unauthorized Practice Complaints in Intake

Quarter	New	Closed/Transferred			Inventory at Year End
		Closed	Transfer to CR	Transfer to Investigations	
2010	330	151	1	249	18
2011	255	87	2	206	15
2012	256	86	0	182	19
2013	260	102	0	197	11
2014	223	77	0	154	21
2015	196	79	0	151	6
Q1 2016	29	16	0	22	3

Graph 2.4B: Unauthorized Practice investigations (in Complaints Resolution and Investigations)

	New		Closed ⁸		Inventory	
	CR	INV	CR	INV	CR	INV
2010	1	249	28	190	124	
2011	2	206	0	188	140	
2012	0	182	1	185	131	
2013	0	197	0	187	137	
2014	0	154	0	206	90	
2015	0	151	0	129	112	
Q1 2016	0	22	0	35	98	

Graph 2.4D: UAP Enforcement Actions

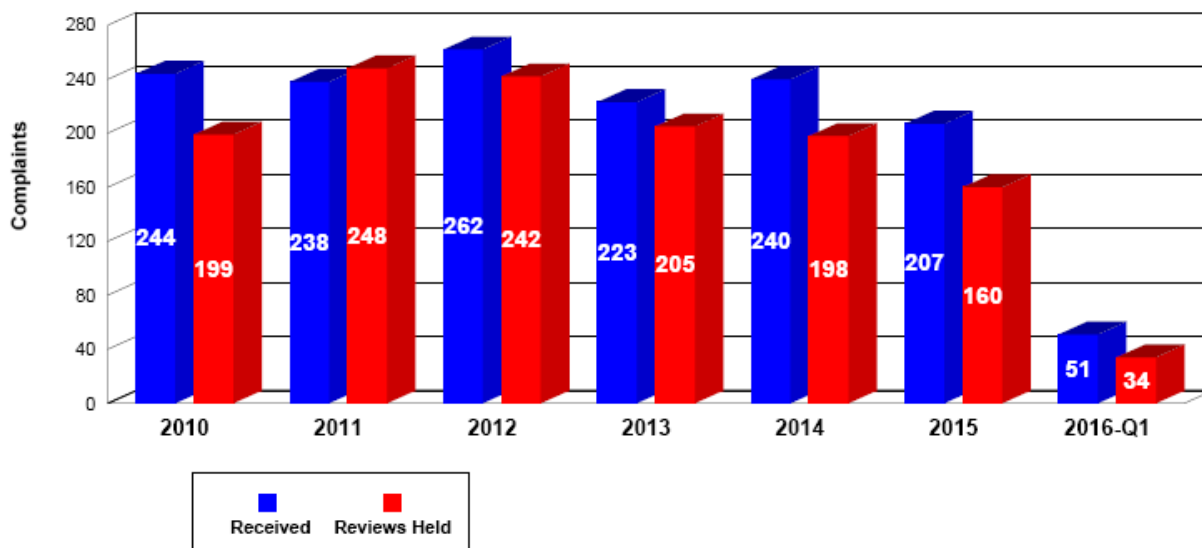
There were no new UAP enforcement matters commenced in Q1 2016. As at March 31, 2016, there were 5 active UAP matters.

⁸“Closed” refers to completed investigations and therefore consists of both those investigations that were closed by the Law Society and those that were referred for prosecution/injunctive relief.

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2.5 – Complaints Resolution Commissioner

Graph 2.5A: Reviews Requested and Files Reviewed (by Quarter)



Graph 2.5B: Decisions Rendered, by Year

Year	Decisions Rendered	Files to Remain Closed	Files Referred Back to PRD
2009	194	174 (90%)	20 (10%)
2010	193	160 (83%)	33 (17%)
2011	260	248 (95%)	12 (5%)
2012	242	224 (93%)	18 (7%)
2013	205	192(94%)	13(6%)
2014	167	160 (96%)	7 (4%)
2015	161	150 (93%)	11 (7%)
Q1 2016	47	45 (96%)	2 (4%)

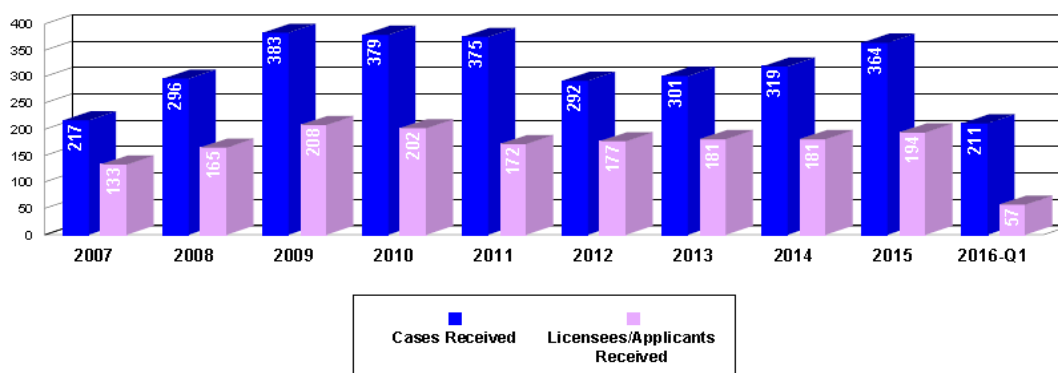
Of the 47 decisions rendered in Q1 2016, the Commissioner referred 2 files back to Professional Regulation with a recommendation for further investigation. In one file, the Commissioner was not satisfied that the decision to close was reasonable. In the other file, the Commissioner felt that the decision to close was reasonable but referred the matter back for further investigation based on submissions made by the Complainant at the review meeting.

With respect to the 2 cases referred back, the Executive Director of Professional Regulation, as at March 31, 2016: adopted the recommendation in 1 case; had not rendered a decision with respect to the other case.

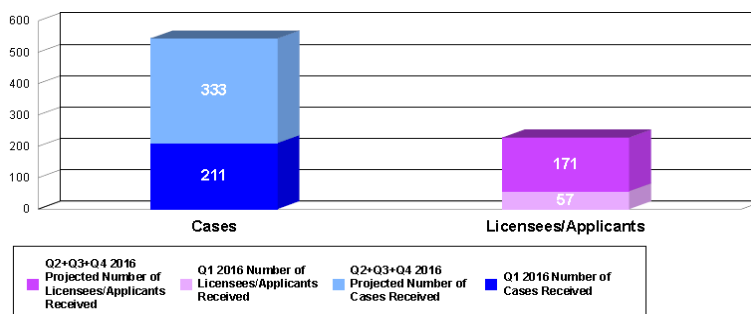
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2.6 – Discipline Department

Graph 2.6A: Input⁹



For 2016, the above graph displays the number of cases and licensees/applicants received in Q1. The graph below displays projected numbers of cases and licensee/applicants to be received in Discipline in Q2 to Q4. As at the end of Q1, the projected number of cases to be received in the department in 2016 is 544 and the projected number of licensees/applicants to be received in the department in 2016 is 228.



Detailed Analysis of New Cases Received in Discipline

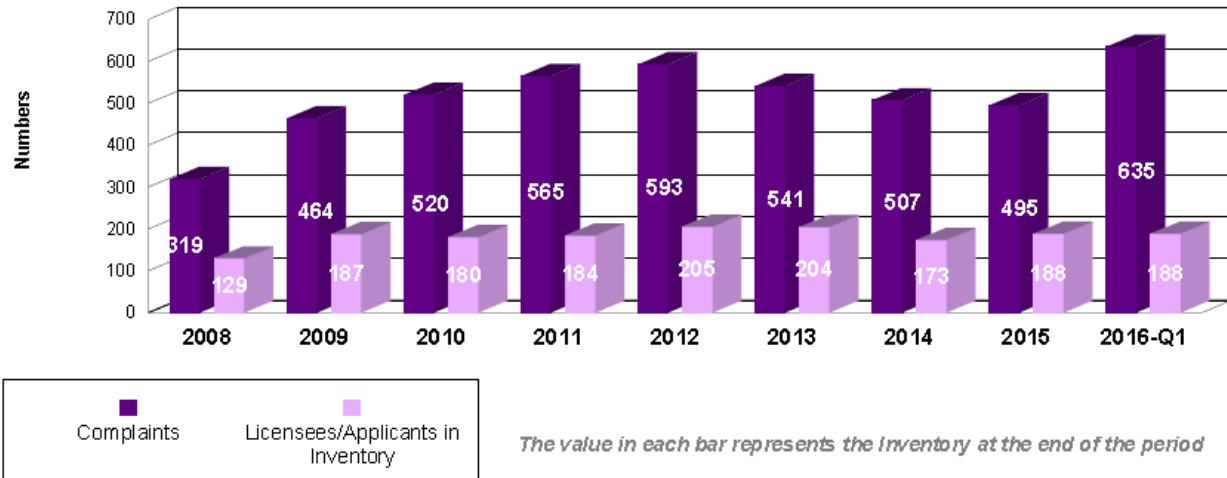
		2007	2008	2009	2010	2011	2012	2013	2014	2015	Q1 2016
Lawyers	Cases	200	252	248	304	317	226	238	267	242	188
	Lawyers	117	129	139	162	137	143	135	150	132	47
Lawyer Applicants	Cases	17	11	4	0	5	4	1	1	3	2
	Applicants	16	6	6	1	3	4	1	1	3	1
Licensed Paralegals	Cases	0	0	123	74	35	56	49	46	108	14
	Paralegals	0	0	7	25	25	26	37	25	52	6
Paralegal Applicants	Cases	0	33	8	1	18	6	13	5	11	7
	Applicants	0	30	56	14	7	4	8	5	7	3
TOTAL	Cases	217	296	383	379	375	292	301	319	364	211
	All Subjects	133	165	208	202	172	177	181	181	194	57

⁹“Input” refers to complaints that were transferred into Discipline from various other departments during the specific quarter. It includes new complaints/cases received in Discipline and the lawyers/applicants to which the new complaints relate. New appeals commenced in the period are not included in these numbers.

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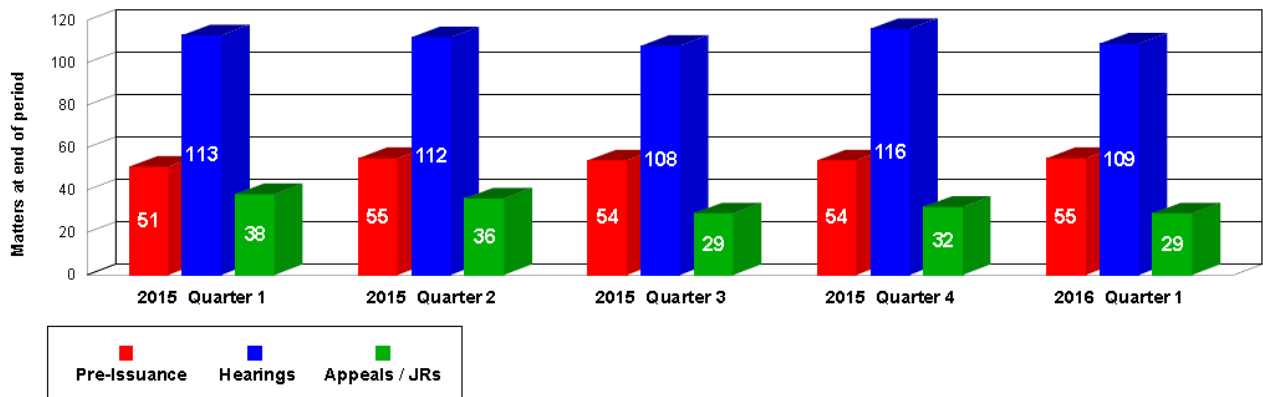
2.6 – Discipline (cont'd)

Graph 2.6B: Department Inventory¹⁰



2016: as at March 31, 2016

Graph 2.6C: Inventory of Discipline Matters¹¹

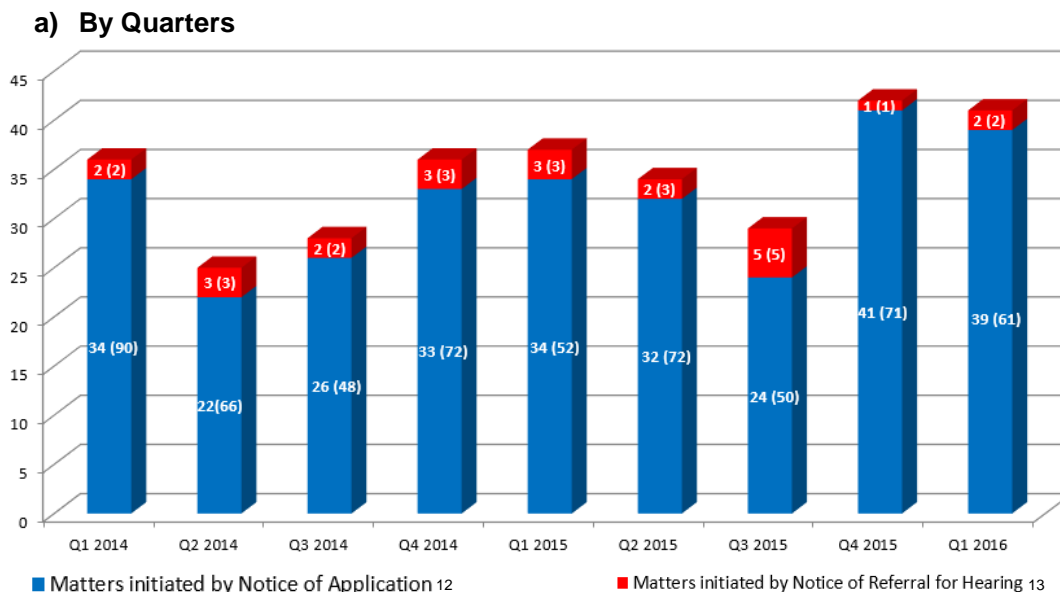


¹⁰ Consists primarily of complaints and lawyers/applicants that are in scheduling and are with the Hearing Panel or on appeal.

¹¹ A licensee may have more than one matter ongoing at a time (e.g. a licensee may have an ongoing hearing before the Hearing Division and a judicial review in Divisional Court).

2.6 – Discipline (cont'd)

Graph 2.6D: Notices Issued in the Hearing Division



The numbers in each bar indicate the number of notices issued and, in brackets, the number of cases relating to those notices. One notice may relate to more than one case. For example, in Q1 2016, 39 Notices of Application were issued (relating to 61 cases) and 2 Notices of Referral for Hearing were issued (relating to 2 cases).

The National Discipline Standards require that 75% of Notices be issued within 60 days of authorization and 95% of Notices be issued within 90 days of authorization. In Q1, 2016, with respect to the 39 Notices of Application¹⁴/Notices of Motion for Interim Suspension Order and 1 Notice of Referral for Hearing (licensing matters) which were issued¹⁵:

- 87.5% were issued within 60 days of PAC Authorization;
- 95% were issued within 90 days of PAC Authorization.

¹² Matters which are initiated by Notice of Application include conduct, capacity, non-compliance and competency matters. Also included in this category are interlocutory suspension/restriction motions

¹³ Matters which are initiated by Notice of Referral for Hearing (formerly Notice of Hearing) include licensing (including readmission matters), reinstatement and restoration matters

¹⁴ Notices of Application are issued with respect to conduct, competency, capacity and non-compliance matters and require authorization by the Proceedings Authorization Committee (PAC).

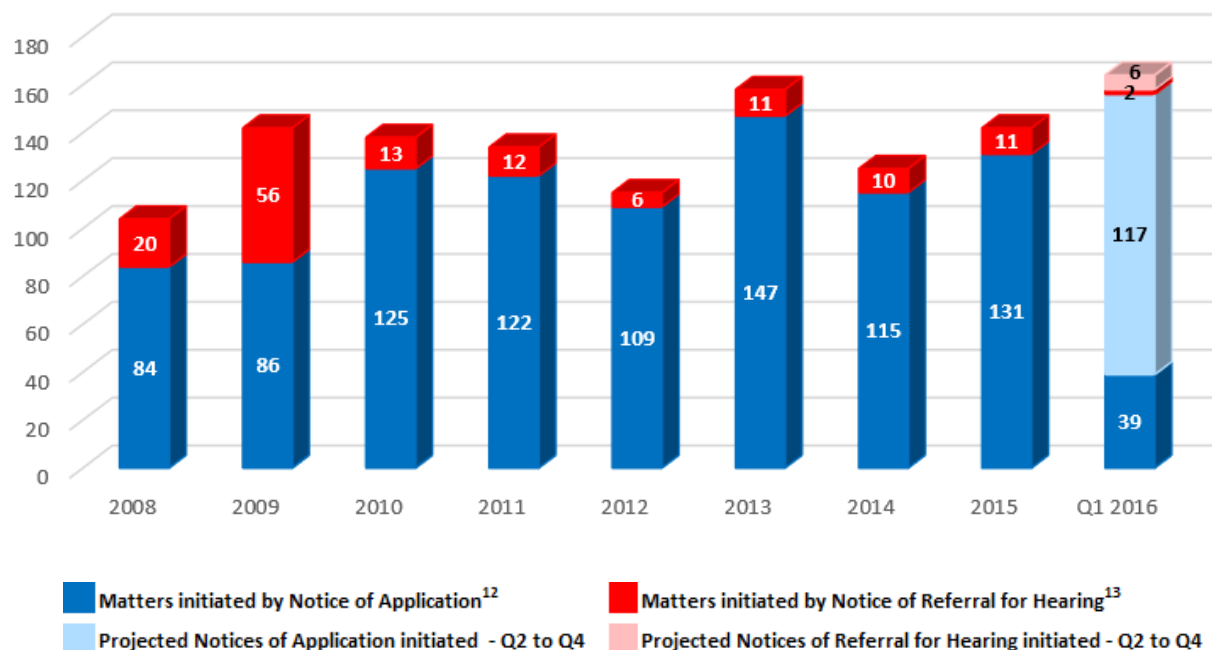
¹⁵ The other Notice of Referral for Hearing was issued in relation to a reinstatement matter which does not require PAC authorization.

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2.6 – Discipline (cont'd)

b) By Years

	2008	2009	2010	2011	2012	2013	2014	2015	Q1 2016
Notices of Application issued	84	86	125	122	109	147	115	131	39
Notices of Application	79	79	117	118	104	142	101	117	34
Interlocutory Suspension/Restriction motions	5	7	8	4	3	5	14	14	5
Notices of Referral for Hearing issued	20	56	13	12	6	11	10	11	2
Total Notices Issued	104	142	138	134	115	158	125	142	41



For 2016, the graph displays the actual number of Notices of Application and Notices of Referral for Hearing issued in Q1 and a projected value for Notices to be issued in Q2 to Q4. As at the end of Q1, the projected number of all Notices to be issued in 2016 is 164 (156 Notices of Application and 8 Notices of Referral for Hearing).

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2.6 – Discipline (cont'd)

Graph 2.6E: Discipline – Completed Matters in the Hearing Division

		Total 2010	Total 2011	Total 2012	Total 2013	Total 2014	Total 2015	Q1 2016
Conduct Hearings	Lawyers	85	84	82	94	101*	77	29
	Paralegal Licensees	3	17	20	18	23	21	5
Interlocutory Suspension Hearings/Orders	Lawyers	10	5	4	3	11	8	5
	Paralegal Licensees	-	-	1	-	3	3	2
Capacity Hearings	Lawyers	-	-	5	2	3	5	-
	Paralegal Licensees	-	-	-	-	-	-	-
Competency Hearings	Lawyers	-	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-	-
Non-Compliance Hearings	Lawyers	-	-	1	-	1*	1	-
	Paralegal Licensees	-	-	-	-	-	-	-
Reinstatement Hearings	Lawyers	3	5	3	1	3	2	2
	Paralegal Licensees	-	-	-	1	1	1	-
Restoration	Lawyers	-	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-	-
Licensing Hearings (including Readmission)	Lawyer Applicants	7	4	4	4	2	4	1
	Paralegal Applicants	33	7	5	3	4	7	2
TOTAL NUMBER OF HEARINGS	Lawyers*	105	98	101	104	120	97	37
	Paralegals*	36	24	26	22	31	32	9
	TOTAL	141	122	125	126	151	129	46

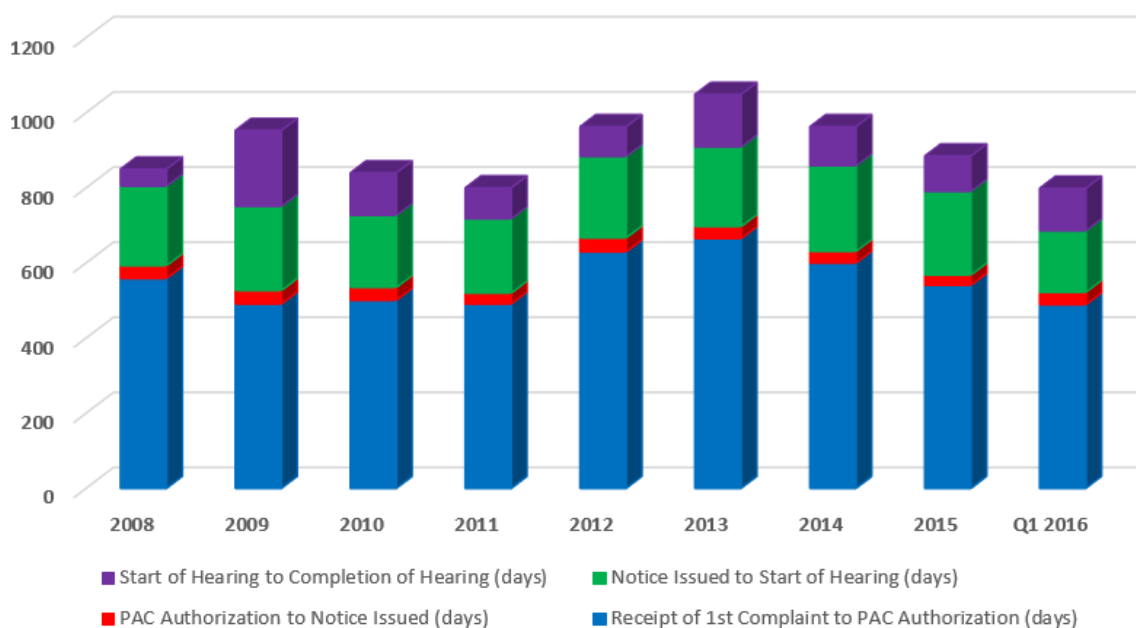
*In Q2 2014, there was one hearing in which a conduct application and a non-compliance application were heard together. Both are included in the totals for lawyer conduct and lawyer non-compliance categories. However, it is only counted once in the total numbers for the quarter and for the year.

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2.6 – Discipline (cont'd)

Graph 2.6F: Age of Completed Matters in the Hearing Division

	Total Completed Hearings	Date 1 st Complaint Received to Date Hearing Completed	Total Completed Hearings less Completed Mortgage Fraud Hearings	Date 1 st Complaint Received to Date Hearing Completed
2008	108	847 days	100	770 days
2009	102	841 days	98	813 days
2010	131	833 days	117	727 days
2011	114	770 days	102	652 days
2012	110	940 days	92	693 days
2013	123	1031 days	103	805 days
2014	135	896 days	126	797 days
2015	128	861 days	116	789 days
Q1 2016	46	813 days	44	732 days



	2008	2009	2010	2011	2012	2013	2014	2015	Q1 2016
Receipt of 1st Complaint to PAC Authorization (days)	559	491	501	491	630	665	600	541	489
PAC Authorization to Notice Issued (days)	34	36	34	29	37	32	31	27	33
Notice Issued to Start of Hearing (days)	212	224	192	198	217	212	228	223	164
Start of Hearing to Completion of Hearing (days)	45	202	113	82	79	140	104	104	113

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2.6 – Discipline (cont'd)

Graph 2.6G: Appeals and Judicial Reviews

The following chart sets out the number of appeals filed with the Appeal Division, the Divisional Court or the Court of Appeal in the calendar years 2010 to Q1 2016.

Quarter/Year	Appeal Division	Divisional Court	Court of Appeal
2010	27	3 appeals; 2 judicial reviews	4 motions for leave
2011	18	6 appeals; 2 judicial reviews	2 motions for leave
2012	23	4 appeals; 5 judicial reviews	2 motions for leave
2013	20	3 appeals; 3 judicial reviews	
2014	23	14 appeals; 5 judicial reviews	4 motions for leave
2015	16	6 appeals; 1 judicial review	5 motions for leave; 1 appeal; 2 other motions ¹⁶
Q1 2016	3	2 appeals; 1 judicial review	2 motions for leave

As of March 31, 2016, there are 9 appeals pending before the Appeal Division, 1 appeal in which the Appeal Division has reserved on judgment, 1 appeal that has been adjourned sine die and 5 appeals in which costs or penalty decisions remain outstanding.

With respect to matters before the Divisional Court, there are 6 appeals and 3 judicial review matters pending. In the Court of Appeal, there are 2 motions for leave to appeal, 1 motion for a review of the Court's dismissal of a leave application and 1 appeal pending.

¹⁶ 1 motion to extend time for leave to appeal; 1 motion for review of denial of leave application

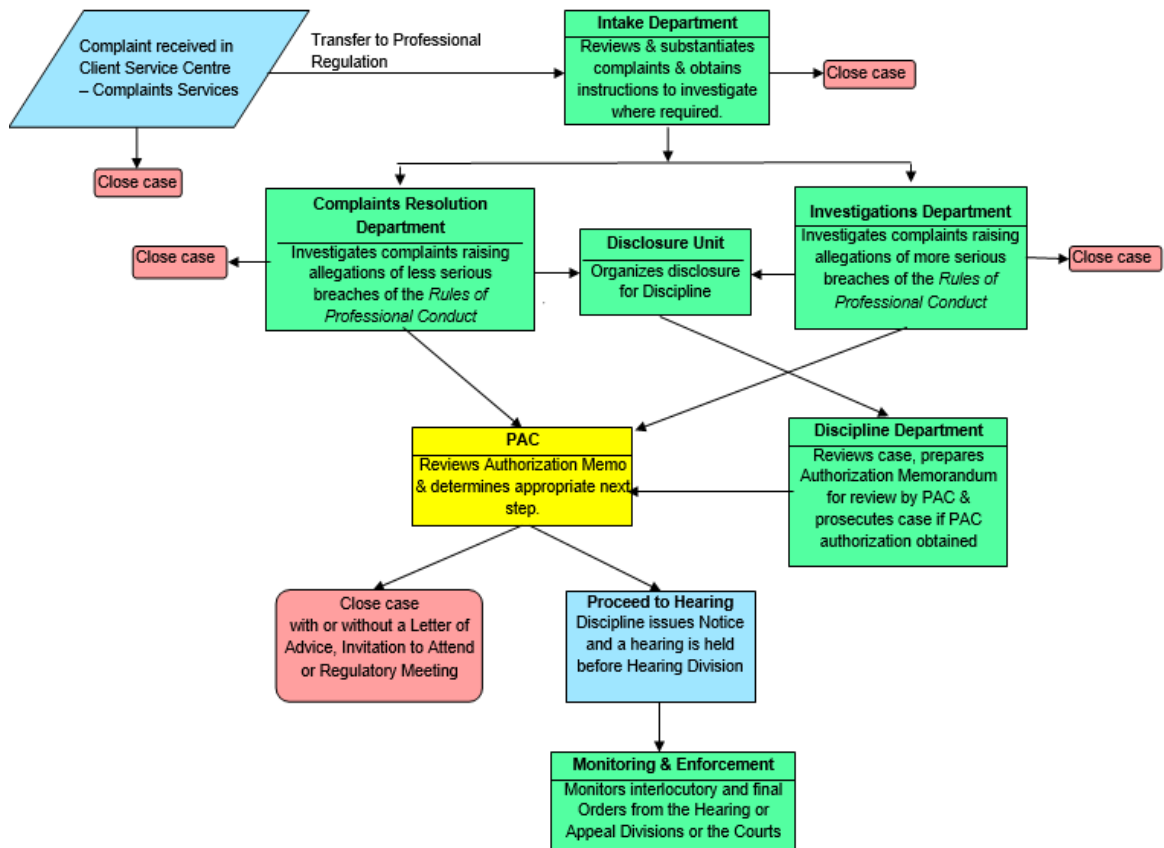
The Law Society of Upper Canada
The Professional Regulation Division
Quarterly Report (January 1 – March 31, 2016)

SECTION 3

APPENDICES

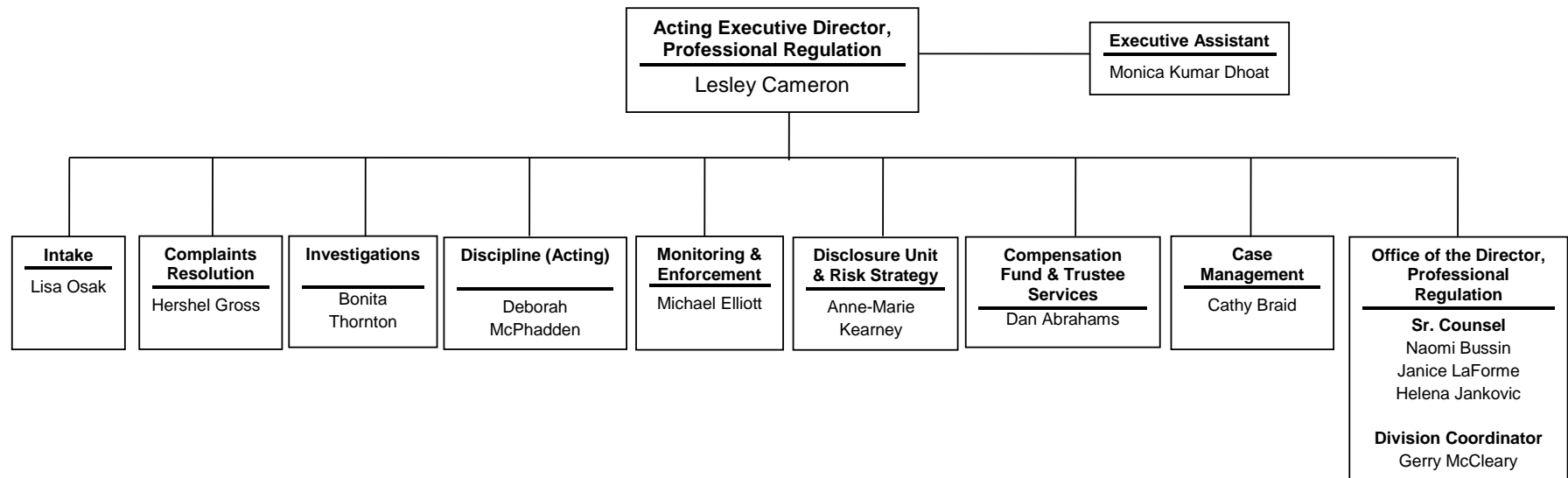
The Law Society of Upper Canada
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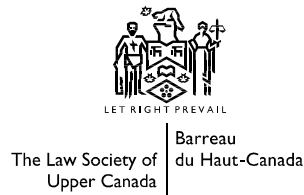
Appendix A: The Professional Regulation Complaint Process



The Law Society of Upper Canada
The Professional Regulation Division
Quarterly Report (January 1 – March 31, 2016)

Appendix B: Professional Regulation Organizational Chart





TAB 5

**Report to Convocation
May 26th, 2016**

Paralegal Standing Committee

Committee Members
Michelle Haigh, Chair
Susan McGrath, Vice-Chair
Marion Boyd
Robert Burd
Cathy Corsetti
Janis Criger
Brian Lawrie
Marian Lippa
Malcolm M. Mercer
Barbara Murchie
Baljit Sikand
Catherine Strosberg
Anne Vespry

Purpose of Report: Decision and Information

**Prepared by the Policy Secretariat
Julia Bass 416 947 5228**

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For Decision

Amendments to *Paralegal Rules of Conduct*:..... **TAB 5.1**

- Transactions with Clients
- Duty to Report
- Errors & Omissions Insurance

For Information

Enhancements to Paralegal Licensing Process **TAB 5.2**

COMMITTEE PROCESS

1. The Committee met on May 11th, 2016. Committee members present were: Michelle Haigh (Chair), Susan McGrath (Vice-Chair), Marion Boyd (by telephone) , Robert Burd (by telephone), Cathy Corsetti, Janis Criger, Brian Lawrie, Marian Lippa, Malcolm Mercer, Barbara Murchie, Baljit Sikand (by telephone) Catherine Strosberg and Anne Vespry. Staff in attendance were: Lesley Cameron, Naomi Bussin, Diana Miles, Jim Varro and Julia Bass.
2. The Committee met to give further consideration to the Rules amendments on May 12th 2016. This meeting was Chaired by Malcolm Mercer and also attended by Cathy Corsetti (by telephone), Janis Criger, Baljit Sikand, Catherine Strosberg and Anne Vespry. Staff in attendance were: Lesley Cameron, Naomi Bussin, Margaret Drent and Julia Bass.
3. The Committee also attended a joint meeting on May 12th with the Professional Development & Competence and Professional Regulation Committees, to discuss the report from the Task Force on Compliance-Based Entity Regulation.

TAB 5.1

FOR DECISION

PROPOSED AMENDMENTS TO THE *PARALEGAL RULES***Motion**

4. That Convocation approve the amendments to the *Paralegal Rules of Conduct* set out at [TABS 5.1.1](#), [5.1.3](#). and [5.1.4](#).

Issue

5. The Paralegal Standing Committee and the Professional Regulation Committee have been considering a number of proposed amendments to the *Rules* for lawyers and paralegals, arising from the work on the Federation of Law Societies' *Model Code* Committee. There are now further amendments for consideration set out below.
6. The proposed changes for both sets of Rules were considered on May 12th. The corresponding changes to the lawyers' *Rules of Professional Conduct* are being recommended to Convocation by the Professional Regulation Committee.
7. These proposals address the paralegal *Rules* only - if the amendments are approved, it would then be appropriate to consider whether companion changes to the *Paralegal Guidelines* are necessary.

Transactions with Clients

8. The Committee is recommending a redraft of the rule formerly called "Doing Business with a Client", which has been renamed "Transactions with Clients", shown at [TAB 5.1.1](#). The current version of these provisions is shown at [TAB 5.1.2](#).
9. The revised wording is regarded as consistent, logical and clear and able to provide better guidance to the profession.
10. The new, narrower definition of "related person" will restrict the range of circumstances in which a paralegal may borrow from a client, providing better protection to the public.
11. The new title "Transactions with Clients" is regarded as more descriptive than the previous title "Doing Business with a Client".

TAB 5.1**Duty to Report**

12. The Federation is proposing an amendment to the rule currently called “Duty to Report Misconduct” – *Paralegal Rule 9*. This amendment would, among other things, address issues of mental capacity in a more appropriate manner.
13. According to materials provided by the Federation’s Standing Committee, some law societies and legal ethics academics have expressed concerns about the current language, in which “mental instability” is described as “misconduct”. It is suggested that this language could be perceived as discriminatory. The amendment would also rename the provision “Duty to Report” instead of “Duty to Report Misconduct”. Again, this is regarded as less discriminatory.
14. The Committee also recommends the further amendment of Rule 9.01 (2), consistent with the *Model Code*, to provide

Unless to do so would be unlawful or would involve a breach of confidentiality between the paralegal and his or her client, a paralegal shall report to the Law Society conduct that raises a substantial question about a licensee’s capacity to provide professional services.

15. A redline version of the Rule is shown at **TAB 5.1.3**.

Errors & Omissions Insurance

16. The Federation is proposing an amendment to the rule on giving notice of a potential insurance claim - *Paralegal Rule 8.04*.
17. This amendment would clarify that a paralegal’s ethical duty to report may arise regardless of whether the paralegal believes the claim has merit.
18. A redline version is shown at **TAB 5.1.4**.

TAB 5.1.1**Transactions with Clients**

3.06 For the purposes of subrules 3.06 (1) to (7),

“regulated lender” means a bank, trust company, insurance company, credit union or finance company that lends money in the ordinary course of business

“related person” in relation to a paralegal means

- (a) a spouse, child, grandparent, parent, or sibling of the paralegal,
- (b) a corporation that is owned or controlled directly or indirectly by the paralegal or that is owned or controlled directly or indirectly by the paralegal’s spouse, child, grandparent, parent, or sibling,
- (c) an associate or partner of the paralegal.

“transaction with a client” means a transaction to which a paralegal and a client of the paralegal are parties, whether or not other persons are also parties, including lending or borrowing money, buying or selling property or services having other than nominal value, giving or acquiring ownership, security or other pecuniary interest in a company or other entity, recommending an investment, or entering into a common business venture;

- (1) A paralegal shall not enter into a transaction with a client unless the transaction is fair and reasonable to the client.
- (2) Except for borrowing from a regulated lender or from a related person, a paralegal shall not borrow from a client.
- (3) A paralegal shall not do indirectly what the paralegal is prohibited from doing directly under subrules (1) to (7).
- (4) In any transaction with a client that is permitted under subrules (1) to (7), the paralegal shall,
 - a. disclose the nature of any conflicting interest or how and why it might develop later;
 - b. with respect to independent legal advice and independent legal representation:
 - i. in the case of a loan to a client who is not a related person, the paralegal shall require that the client receive independent legal representation;
 - ii. in the case of a loan to a client who is a related person, the paralegal shall require that the client receive independent legal advice;
 - iii. in the case of a corporation, syndicate or partnership borrowing money from a client of the paralegal where either or both the paralegal and the paralegal’s spouse has a direct or indirect substantial interest in the

TAB 5.1.1

corporation, syndicate or partnership, the paralegal shall require that the client receive independent legal representation;

- iv. in all other cases, the paralegal shall recommend that the client receive independent legal advice and, where the circumstances reasonably require, recommend or require that the client receive independent legal representation; and

- c. obtain the client's consent to the transaction

- (i) after the client receives the disclosure, legal advice or representation required under subrule (4), or
- (ii) where a recommendation required under subrule (4) is made and not accepted, before proceeding with the transaction.

- (5) Despite subrule (4), a paralegal need not recommend independent legal advice or independent legal representation if the paralegal is borrowing money from a client who is a regulated lender.

No Advertising

- (6) A paralegal shall not promote, by advertising or otherwise, individual or joint investment by clients or other persons who have money to lend, in any mortgage in which a financial interest is held by the paralegal, a related person, or a corporation, syndicate, partnership, trust or other entity in which the paralegal or related person has a financial interest, other than an ownership interest of a corporation or other entity offering its securities to the public of less than five per cent (5%) of any class of securities.

Guarantees by a Paralegal

- (7) Except as provided by subrule (8), a paralegal shall not guarantee personally, or otherwise provide security for, any indebtedness in respect of which a client is a borrower or lender.
- (8) A paralegal may give a personal guarantee in the following circumstances:
 - a. the lender is a regulated lender, and the lender is directly or indirectly providing funds solely for the paralegal, the paralegal's spouse, parent or child;
 - b. the transaction is for the benefit of a non-profit or charitable institution, and the paralegal provides a guarantee as a member or supporter of such institution, either individually or together with other members or supporters of the institution; or
 - c. the paralegal has entered into a business venture with a client and a lender requires personal guarantees from all participants in the venture as a matter of course and
 - i. the paralegal has complied with subrules (1) to (7) and

TAB 5.1.1

- ii. the lender and participants in the venture who are clients or former clients of the paralegal have independent legal representation.

Payment for Legal Services

- (9) When a client intends to pay for legal services by transferring to a paralegal a share, participation or other interest in property or in an enterprise, other than a non-material interest in a publicly traded enterprise, the paralegal shall recommend but need not require that the client receive independent legal advice before accepting a retainer.

Judicial Interim Release

- (10) Subject to subrule (11), a paralegal shall not in respect of any accused person for whom the paralegal acts,
 - a. act as a surety for the accused;
 - b. deposit with a court the paralegal's own money or that of any firm in which the paralegal is a partner to secure the accused's release;
 - c. deposit with any court other valuable security to secure the accused's release; or
 - d. act in a supervisory capacity to the accused.
- (11) A paralegal may do any of the things referred to in subrule (10) if the accused is in a family relationship with the paralegal and the accused is represented by the paralegal's partner or associate.

CURRENT WORDING**3.06 DOING BUSINESS WITH A CLIENT**

3.06 (1) A paralegal must not enter into a transaction with a client unless the transaction is fair and reasonable to the client, the client consents to the transaction and the client has independent legal representation with respect to the transaction.

Transactions with Clients

(2) Subject to subrule (3), if a client intends to enter into a transaction with a paralegal who is representing the client, or with a corporation or other entity in which the paralegal has an interest other than a corporation or other entity whose securities are publicly traded, the paralegal, before accepting any retainer,

(a) shall disclose and explain the nature of the conflicting interest to the client, or, in the case of a potential conflict, how and why it might develop later;

(b) shall recommend independent legal representation and shall require that the client receive independent legal advice; and

(c) if the client requests the paralegal to act, shall obtain the client's written consent.

(3) If a client intends to pay for legal services by transferring to a paralegal a share, participation or other interest in property or in an enterprise, the paralegal shall recommend, but need not require, that the client receive independent legal advice before agreeing to act for the client.

(4) This rule does not apply to a transfer of a non-material interest in a publicly traded enterprise.

(5) If the paralegal does not choose to make disclosure of the conflicting interest or cannot do so without breaching a confidence, the paralegal shall decline the retainer.

Borrowing from Clients

(6) A paralegal shall not borrow money from a client unless,

(a) the client is a lending institution, financial institution, insurance company, trust corporation or any similar institution whose business includes lending money to members of the public; or

(b) the client is a related person as defined in section 251 of the *Income Tax Act* (Canada) and the paralegal is able to discharge the onus of proving that the client's interests were fully protected by the nature of the case and by independent legal advice or independent legal representation.

Guarantees by Paralegal

(7) Subject to subrule (8), a paralegal shall not guarantee personally, or otherwise provide security for, any indebtedness in respect of which a client is a borrower or lender.

(8) A paralegal may give a personal guarantee if,

(a) the lender is a lending institution, financial institution, insurance company, trust company or any similar corporation whose business includes lending money to members of the public, and the lender is directly or indirectly providing funds solely for the paralegal, the paralegal's spouse, parent or child;

(b) the transaction is for the benefit of a non-profit or charitable institution where the paralegal as a member or supporter of such institution is asked, either individually or together with other members or supporters of the institution to provide a guarantee; or

(c) the paralegal has entered into a business venture with a client and the lender requires personal guarantees from all participants in the venture as a matter of course and,

(i) the paralegal has complied with the requirements of these Rules regarding the avoidance of conflicts of interest, and

(ii) the lender and the participants in the venture who are or were clients of the paralegal have received independent legal representation.

Judicial Interim Release

(9) Subject to subrule (10), a paralegal shall not in respect of any accused person for whom the paralegal acts

(a) act as a surety for the accused;

(b) deposit with a court the paralegal's own money or that of any firm in which the paralegal is a partner to secure the accused's release;

(c) deposit with any court other valuable security to secure the accused's release; or

(d) act in a supervisory capacity to the accused.

(10) A paralegal may do any of the things referred to in subrule (9) if the accused is in a family relationship with the paralegal and the accused is represented by the paralegal's partner or associate.

TAB 5.1.3

9.01 RESPONSIBILITY TO THE LAW SOCIETY

Communications from the Law Society

9.01 (1) A paralegal shall reply promptly and completely to any communication from the Law Society and shall provide a complete response to any request from the Law Society.

Duty to Report **Misconduct**

(2) A paralegal shall report to the Law Society, unless to do so would be unlawful or would involve a breach of confidentiality between the paralegal and his or her client,

- (a) the misappropriation or misapplication of trust monies by a licensee;
- (b) the abandonment of a law practice by a lawyer or a legal services practice by a paralegal;
- (c) participation in serious criminal activity related to a licensee's practice;
- ~~(d) the mental instability of a licensee of such a serious nature that the licensee's clients are likely to be materially prejudiced;~~
- (d) conduct that raises a substantial question as to another licensee's honesty, trustworthiness or competency as a paralegal;
- (e) conduct that raises a substantial question about a licensee's capacity to provide professional services; and
- (f) any other situation where a licensee's clients are likely to be severely prejudiced.

TAB 5.1.4

8.04 COMPULSORY ERRORS AND OMISSIONS INSURANCE

Duty to Obtain and Maintain Insurance

8.04 (1) All paralegals practising in Ontario shall obtain and maintain adequate errors and omissions insurance as required by the Law Society.

(2) A paralegal shall give prompt notice of any circumstance that ~~the paralegal~~ may ~~reasonably expect to~~ give rise to a claim to an insurer or other indemnitor so that the client's protection from that source will not be prejudiced.

TAB 5.2

FOR INFORMATION

**ENHANCEMENTS TO THE PARALEGAL LICENSING
PROCESS**

19. In October 2012, Convocation approved the first major changes to the paralegal licensing process since the introduction of paralegal regulation. The report approved by Convocation at that time is shown at [TAB 5.2.1](#)
20. The Executive Director of Professional Development & Competence, Diana Miles, attended the Committee meeting to provide information on the result of the changes, including the raising of the standards at paralegal colleges and the more rigorous 7-hour examination.

REPORT TO CONVOCATION OCTOBER 2012 - EXCERPT

PROPOSED REVISION OF THE PARALEGAL LICENSING PROCESS

Motion

- 15. That Convocation approve the proposed project for revision of the paralegal licensing process.**

Background

16. After the conclusion of the Law Society's Five Year Review of Paralegal Regulation, and taking into account the information from the associated submissions and surveys, together with the information from stakeholders in connection with the Legal Needs Analysis, an important theme that the Committee has noted is a desire to strengthen the initial licensing process for paralegals, including the addition of substantive legal knowledge to the licensing examination.
17. Accordingly, at the Committee's request, the Director of Professional Development & Competence prepared the Report shown at **TAB 5.2.1.** , as the first step in a proposed approach towards a strengthened competence basis for the paralegal profession.
18. The report forms part of an approach to address the strategic priorities related to paralegal members, with a framework for working through those matters methodically, reflecting strategic directions arising from Convocation's priority-setting exercises and the Committee's focus on competence issues.
19. The identified needs include enhancement of the entry level requirements for paralegals, including the addition of substantive legal knowledge to the licensing examination. Further steps will include consideration of the current field placement system to determine the interest in, and feasibility of a lengthier experiential component with greater emphasis on the demonstrated application of core skills and tasks during the work term.

TAB 5.2.1

20. These steps will form the background to any future development of the profession.
21. The process for the revision of the licensing examination will require two steps:
 - a. Part one proposes to add substantive and procedural law concepts to the existing licensing examination. This would be an expansion of the examination that will be focused at broadly-based substantive and procedural law concepts to ensure that the testing platform has more breadth while still maintaining standardized, fair, transparent and defensible criteria.
 - b. Part two of this revision then requires that the expanded scope of validated competencies for testing be traced back to the college program curricula. Colleges will be required to confirm and or make changes to their learning outcomes to ensure that these new competencies are embedded within their course structures.
22. The revision of the licensing examination to incorporate substantive legal topics is a major project requiring the redefinition of required competencies; altogether this process will require three years for full implementation. The budget for the work in the first year is estimated at \$200,000 and has been included in the draft 2013 budget. The total budget and timeline is set out in the Director's Report. The total estimated cost over three years would be \$457,000.
23. The Committee has reviewed the approach in the Director's Report and recommends it to Convocation for approval.



TAB 6

**Report to Convocation
May 26, 2016**

Audit & Finance Committee

Committee Members

Christopher Bredt (Co-Chair)

Peter Wardle (Co-Chair)

Michelle Haigh (Vice-Chair)

John Callaghan

Suzanne Clément

Paul Cooper

Teresa Donnelly

Seymour Epstein

Rocco Galati

Vern Krishna

Janet Leiper

Catherine Strosberg

Purpose of Report: Decision and Information

Prepared by the Finance Department

Wendy Tysall, Chief Financial Officer, 416-947-3322 or wtysall@lsuc.on.ca

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COMMITTEE PROCESS

1. The Audit & Finance Committee (“the Committee”) met on May 11, 2016. Committee members in attendance were Peter Wardle, (Co-Chair), Michelle Haigh (Vice-Chair), Suzanne Clément, Paul Cooper (phone), Teresa Donnelly, Seymour Epstein, Vern Krishna, Janet Leiper and Catherine Strosberg.
2. Also in attendance: Brian White and Aisling Doherty from AON Hewitt.
3. Law Society staff in attendance: Robert Lapper, Wendy Tysall, Fred Grady and Andrew Cawse.
4. The Committee also held a joint meeting with the Compensation Fund Committee after the Audit & Finance Committee meeting.
5. Compensation Fund Committee members in attendance: Carol Hartman (Chair), Michelle Haigh (Vice-Chair), Joe Groia, Jan Richardson and Catherine Strosberg.
6. Also in attendance at the joint meeting was Brian Pelly from Eckler Partners.
7. Additional staff in attendance at the joint meeting were Jim Varro, Lesley Cameron and Dan Abrahams.

TAB 6.1

FOR DECISION

INVESTMENT POLICY

Motion:

8. **That Convocation approve the updated Investment Policy.**
9. A copy of the draft Investment Policy follows.
10. In the “Accountabilities and Responsibilities” section of the Investment Policy it states that “Convocation shall.... review the administration of the Portfolios in the context of this policy. This shall be done on at least an annual basis.” This was last completed in April 2015.
11. The Investment Policy governs the investment portfolios of the General, Compensation and Errors & Omissions Insurance (“E&O”) Funds. At December 31, 2015, excluding cash and short-term investments, these investments had a total market value of \$66 million comprising \$53 million in fixed income investments and \$13 million in equity investments.
12. The General Fund is the Law Society’s operating fund, accounting for the Law Society’s program delivery and administrative activities related to the regulation and licensing of members. The Law Society maintains the Compensation Fund pursuant to section 51 of the Law Society Act to relieve or mitigate loss sustained by any person in consequence of dishonesty on the part of a member. The E&O Fund accounts for insurance-related transactions between LAWPRO, the Society and insured lawyers.

Revisions

13. The current investment policy has been reviewed by the Portfolio Manager, AON Hewitt and Law Society staff. Apart from edits characterized as housekeeping, such as updating balances at December 31, 2015 the only change implemented is in Paragraph 12. The current investment policy states “retain the services of a firm registered as an Investment Counsel and Portfolio Manager with the Ontario Securities Commission”. The OSC now defines and uses the term “Portfolio Manager” rather than “Investment Counsel and Portfolio Manager”, so this term is being updated.

LAW SOCIETY OF UPPER CANADA

INVESTMENT POLICY

April 2015

Purpose

1. The Law Society, has adopted the following Investment Policy governing the management of the General Fund Long-Term Funds, the Compensation Fund Long-Term Funds and the Errors & Omissions Insurance Fund Long-Term Funds ("the Portfolios") and short-term investments. The Portfolios comprise the funds not required to finance the short-term obligations of the Law Society's operations. Descriptions of these Funds can be found in the Law Society's Annual Financial Statements.

Accountabilities and Responsibilities

2. Convocation

Convocation shall:

- review and approve the Investment Policy
- approve investment performance objectives
- approve the appointment and continuing retention of the Portfolio Manager and Custodian
- review the Portfolios' investment returns, and the administration of the Portfolios in the context of this policy. This shall be done on at least an annual basis

3. Audit & Finance Committee

The Audit & Finance Committee shall:

- review and recommend approval of the Investment Policy to Convocation
- review the Portfolios and monitor their performance
- review and recommend the appointment and continuing retention of the Portfolio Manager and Custodian
- review and recommend investment performance objectives
- periodically report to Convocation on the investment returns of the Portfolios, and the administration of the Portfolios. This shall be done on at least an annual basis.

4. Law Society Management

Law Society management, supplemented by professional assistance when required, has overall responsibility for:

- preparing and recommending changes to the Policy
- recommending the selection of the Portfolio Manager and Custodian
- recommending investment performance objectives
- monitoring the Portfolios to ensure compliance with legislative requirements and this policy
- periodically evaluating the Portfolio Manager and Custodian

- accounting for transactions in the Portfolios
- reviewing the Portfolios' investment returns and the administration of the Portfolios in the context of this policy. This shall be done on at least a quarterly basis.
- periodically report to Audit & Finance Committee on the investment returns of the Portfolios, and the administration of the Portfolios. This shall be done on at least an annual basis

5. Portfolio Manager

The Portfolio Manager directs the business of the Portfolios' purchases and sales, has full investment discretion subject to the Investment Policy, and has responsibility for:

- Managing the Portfolios in terms of this Investment Policy, and in the best interests of the Law Society
- Providing written notification to management of the Law Society of any violations of this Investment Policy
- Adhering to the best standards of industry practice
- Required communications as described in Section 35

6. Custodian

The Custodian shall:

- store and protect all ownership documentation for the Portfolios
- execute all transactions for the Portfolios as directed by the Portfolio Manager
- collect all income of the Portfolios
- provide monthly statements to the Law Society
- make all required filings to government, regulatory, taxation or other authorities

and shall be one of the following:

- A bank listed in Schedule I or II of the Bank Act (Canada)
- A trust company that is incorporated under the laws of Canada, and that has shareholders' equity of not less than \$10,000,000
- A company that is incorporated under the laws of Canada and that is an affiliate of a bank or trust company referred to above and has shareholders' equity, of not less than \$10,000,000

Philosophy

7. The Law Society is of the belief that:

- superior rates of return over longer time periods will be achieved through active management of a broadly diversified portfolio of high quality securities
- high-risk securities, which could lead to excessive volatility and the possibility of a reduction in the capital value of the Portfolios in a depressed market, are to be avoided

- extreme positions in either individual securities or in an asset class are to be avoided

Business Characteristics

8. In order to establish an appropriate Investment Policy for the Portfolios, the following characteristics of the Law Society, relevant to the Portfolios, are noted.
- The Law Society is the governing body of Ontario's legal profession
 - Governance of the Law Society is regulated by *The Law Society Act*
 - The Law Society is a not-for-profit corporation and is not subject to income or capital taxes
 - The primary revenue source for both the General Fund and the Compensation Fund is member fees, mainly received between December and April of each year
 - The primary revenue source for the E&O Fund is premiums and levies from members received in the period November to January and then in quarterly increments
 - Total revenue for the Law Society for the year ended December 31, 2015 was \$218 million
 - The General Fund finances the day-to-day operation of the Law Society.
 - The Compensation Fund is maintained to mitigate losses sustained by clients because of the dishonesty of a member. It is a discretionary fund, and claim payments have a maximum of \$150,000
 - The Errors & Omissions Insurance Fund accounts for insurance related transactions between Lawyers' Professional Insurance Company, the Law Society and insured lawyers
 - Balances for investments at 31 December 2015 were:

CATEGORY	2015 (\$mill)
Total Cash and Short-Term Investments	49.9
Errors & Omissions Insurance Fund - Long-Term Investments	21.5
General Fund – Long-Term Investments	15.1
Compensation Fund – Long-Term Investments	29.4
TOTAL	115.9

- Withdrawals from the Portfolios will depend on operating conditions and capital requirements and therefore the Portfolios should be sensitive to short-term volatility.

Objectives

9. The primary objective is to preserve and enhance the real capital base of the Portfolios.
10. The secondary objective is to generate investment returns to assist the Law Society in funding its programs.
11. Even with the guidelines outlined in this Policy, the investment returns from the Portfolios will vary from year to year, reflecting market and economic conditions, levels of inflation, government policies and many other factors which are beyond the control of the Portfolio Manager. These outside factors should not deter the Portfolio Manager from exercising due diligence and using its best efforts to achieve the long-term primary investment objective for the Portfolios as set out above, and the following benchmarks:
 - By asset class
 - to outperform the appropriate market index return
 - By benchmark portfolio
 - To outperform the benchmark asset mix noted below (i.e., a portfolio consisting of 85% of the FTSE TMX Short-Term Bond Index total return, and 15% of the total return of the S&P/TSX Composite Index, over a four year moving average or complete market cycle)

Portfolio Manager

12. To achieve these objectives the Law Society will retain the services of a firm registered as Investment Counsel and Portfolio Manager with the Ontario Securities Commission to manage the investment Portfolios on a discretionary basis within the constraints outlined in this document. The Portfolio Manager is to be guided by the following:

Asset Mix

13. The following asset mix guidelines, based on market values, constitute the acceptable range of exposure for the various asset classes, which comprise each Portfolio:

	% of Total Fund		
	Minimum	<i>Benchmark Asset Mix</i>	Maximum
Cash and Short-Term	0%	0%	15%
Bonds	60%	85%	95%
Total Fixed Income	75%	85%	95%
Canadian Equity	5%	15%	25%

Diversification

14. The investment risk of the Portfolios shall be reduced by maintaining a diversified selection of industries and companies which places primary emphasis on value, long-term growth, and safety of capital. All percentages are based on market values, except where indicated.

Short-Term Investments

15. Short-term investments with a maximum term to maturity at purchase of 364 days may be held in the Portfolios when appropriate as an alternative to bond and equity investments. Appropriate short-term investments are:
- (a) Treasury bills issued by the Government of Canada and provincial governments and their agencies
 - (b) Obligations of trust companies and Canadian and foreign banks chartered to operate in Canada, including bankers' acceptances
 - (c) Commercial paper issued by Canadian corporations with a rating of "R1" or better as established by The Dominion Bond Rating Service or equivalent rating by another recognized bond rating service, at the time of purchase.
16. No more than 8% of each of the portfolios may be invested in the securities of any one single issuer permitted in 15(b) and (c) above.
17. Where the Portfolio Manager operates a pooled money market fund, which meets the requirements set out in 15(a), (b) and (c), this pooled money market fund may be used as an alternative in order to achieve better rates and liquidity.

Bonds

18. Investment instruments allowed include:
- bonds, debentures, notes, non-convertible preferred stock, term deposits and guaranteed investment certificates
 - bonds of foreign issuers denominated in Canadian dollars
 - NHA-insured mortgage-backed securities or collateralized mortgage-backed securities
 - Marketable private placements of bonds.

19. Each bond portfolio may be invested within the following parameters:

Bond Holdings	Asset Mix		
	Maximum	Target	Minimum
Federal and Federally Guaranteed Bonds	100%	46%	26%
Provincials, Provincially Guarantees and Municipals	38%	18%	0%
Total Corporate Issues	56%	36%	0%
Total BBB Issues with Corporate issues	18%	8%	0%
Cash or Money Market	5%	0%	0%

20. Investment in any one security or issuer shall not exceed 10% of each Bond portfolio with the exception of Government of Canada and provincial government bonds and their guarantees.
21. In line with the benchmark portfolio of the FTSE TMX Short Term Bond Index, the normal Duration range for the bond portfolio administered under this policy should be between 1 and 5 years. The Duration of a portfolio is a measure of the portfolio's sensitivity to changes in the general level of interest rates (Duration multiplied by change in interest rates gives change in value of bond portfolio).
22. The emphasis within the bond portfolio will be on quality, with a minimum rating "BBB" for bonds and debentures or "P2" for preferred shares by The Dominion Bond Rating Service or equivalent rating by another recognized bond rating service, at the time of purchase.
23. In the event of a downgrade below "BBB" for bonds and debentures, "P2" for preferred shares or "R-1" for short-term investments, the Portfolio Manager will advise of an appropriate course of action.
24. In cases where the recognized bond rating agencies do not agree on the credit rating, the bond will be classified according to the methodology used by FTSE TMX, which states:
- If two agencies rate a security, use the lower of the two ratings
 - If three agencies rate a security, use the most common; and
 - If all three agencies disagree, use the middle rating.
25. In the event that an individual bond, debenture, short-term investment or preferred share is no longer rated by a recognized bond rating agency, that security will no longer be considered to be investment grade and the Portfolio Manager will place the asset on a watch list subject to monthly review by the Portfolio Manager with the Law Society until such time as the security matures, is sold or until it is upgraded to a level consistent with the purchase quality standards as expressed in the guidelines listed above. The Manager may not infer a rating for an individual unrated security from ratings of other securities issued by the same issuer.

Equities

26. The intent is to provide a diversified selection of Canadian common stocks, also allowing any of the following, provided that they are listed on a recognized stock exchange:
 - Convertible preferred stock and convertible debentures
 - Real estate investment trusts (“REITs”).
27. The market value of any one issuer cannot represent more than 10% of the market value of the total Portfolios, or that equity's weight in the S&P/TSX Composite Index, whichever is greater.

Other Investments

28. Investments in open or closed-ended pooled or mutual funds are permitted provided that the assets of such funds are permissible investments under this Policy.
29. Deposit accounts of the custodian or Schedule 1 banks can be used to invest surplus cash holdings.
30. With the exception of rights, warrants and special warrants or instruments used for exposure purposes, no derivative investments will be permitted without the prior written approval of the Audit & Finance Committee.
31. No venture capital financing or non-conventional investments will be permitted without the prior written approval of the Audit & Finance Committee.
32. In the event any investment has no active market, the Portfolio Manager will advise of an appropriate course of action for the valuation of that investment.

Discretion

33. The Portfolio Manager is to have full discretion in the management of the assets of the Portfolios, selecting the appropriate asset mix, and the individual securities, within the guidelines set out herein.

Delegation of Voting Rights

34. The Portfolio Manager has been delegated the responsibility of exercising all voting rights acquired through the Portfolios' investments. The Portfolio Manager will exercise acquired voting rights with the intent of fulfilling the investment policies and objectives of the Fund. The Portfolio Manager is expected to act in good faith and to exercise the voting rights in a prudent manner that will maximize returns for the Portfolios, and to act against any proposal which will increase the risk level or reduce the investment value of the relevant security.

Communications

35. The Communications process between the Portfolio Manager and Law Society Management is flexible, but at a minimum will include the following:
- monthly transaction statements
 - a quarterly written summary listing of all portfolio transactions from the Portfolio Manager
 - a complete quarterly portfolio listing
 - a quarterly written assessment of the North American economies and the financial markets, and impact on the Portfolios
 - annual investment meetings with the Portfolio Manager. The agenda at these meetings would include an overview of the economy and the outlook for the financial markets, the current investment strategy, and a review of the performance results
 - an annual review of the Investment Policy and the Portfolios' quality and diversification guidelines.
 - immediate notification of change with respect to the organization, investment professionals or investment process.
36. Any time that the Portfolio Manager is not in compliance with this policy, they are required to advise the Chief Financial Officer of the Law Society immediately, detailing the breach and recommending a course of action to remedy the situation.

Standard of Professional Conduct

37. All investment activities of the Portfolio Manager and their employees shall be conducted in accordance with the Code of Ethics and Standards of Professional Conduct of the CFA Institute.

The Portfolio Manager will manage the Portfolios with the care, diligence and skill that a Portfolio Manager of ordinary prudence would use in dealing with institutional assets. The Portfolio Manager will also use all relevant knowledge and skill that it possesses or ought to possess as a prudent expert in investment management.

Securities Lending

38. No lending of securities is permitted.

Borrowing

39. The Portfolios shall not borrow money.

Conflicts of Interest – Investment Policy

40. Conflict of interest standards apply to all members of Convocation, Law Society management and the Portfolio Manager, as well as to all Agents employed by the Law Society, in the execution of their fiduciary responsibilities.
41. An 'Agent' is defined to mean a company, organization, association or individual, as well as its employees, retained by the Law Society to provide specific services with respect to the administration and management of the Law Society's investment assets.
42. In carrying out their fiduciary responsibilities, these parties must act at all times in the best interests, and for the benefit, of the Law Society. All parties must act in the manner that a "prudent person" would in matters related to the investment strategy and portfolio management.
43. No affected person shall accept a gift or gratuity or other personal favour, other than one of nominal value, from an individual with whom the person deals in the course of performance of his or her duties and responsibilities.
44. In the execution of their duties, all of the parties listed in Section 40 above shall disclose any material conflict of interest relating to them, or any material ownership of securities, which could impair their ability to render unbiased decisions, as it relates to the administration of the investment assets.
45. Further, it is expected that none of the parties listed in Section 40 above shall make any personal financial gain (direct or indirect) because of their fiduciary position. However, normal and reasonable fees and expenses incurred in the discharge of their responsibilities are permitted if documented and approved by the Law Society.
46. It is incumbent on any party affected by this Policy who believes that he/she may have a material conflict of interest, or who is aware of any conflict of interest, to notify the CEO or the CFO of the Law Society. Disclosure should be made promptly after the affected person becomes aware of the conflict. The CEO or CFO, in turn, will decide what action is appropriate under the circumstances but, at a minimum, will table the matter at the next regular meeting of the Audit & Finance Committee.
47. No affected person who has or is required to make a disclosure as contemplated in this Policy shall participate in any discussion, decision or vote relating to any proposed investment or transaction in respect of which he or she has made or is required to make disclosure.

Changes to Policy

48. This Investment Policy may only be changed by Convocation on the specific recommendation of the Audit & Finance Committee.

TAB 6.2

FOR DECISION

PORTFOLIO MANAGER

Motion:

14. **That Convocation approve the continued retention of the Portfolio Manager, Foyston Gordon & Payne.**
15. Foyston Gordon & Payne (“FGP”) has been the Law Society’s Portfolio Manager since 2003.
16. The Investment Monitoring Report as at December 31, 2015 from AON Hewitt, assessing the performance of the investment manager forms part of this material.
17. The Law Society’s investments are currently primarily invested in FGP’s Short Term Bond Fund and FGP’s Canadian Equity Fund with risk profiles aligned with the objectives set out in the Investment Policy. As noted below, the portfolio is delivering excess returns without introducing unnecessary risks.
18. According to the Investment Policy, the performance objective of the Portfolio Manager is:
 - By asset class:
 - to outperform the appropriate market index return
 - By benchmark portfolio
 - To outperform the benchmark asset mix i.e., a portfolio consisting of 85% of the FTSE TMX Short-Term Bond Index total return, and 15% of the total return of the S&P/TSX Composite Index, over a four year moving average or complete market cycle

The portfolio manager is exceeding the benchmark portfolio objective, but is slightly underperforming the appropriate market index return over the last year.
19. The Law Society currently enjoys a favourable management fee on the portfolio under management at FGP. In addition, FGP currently provides investment management services for the Law Society Foundation at no cost.

Aon Hewitt
Investment Consulting

Detailed Performance Review and Investment Manager Evaluation

*Law Society of Upper Canada:
Errors & Omissions Insurance Fund, Compensation Fund and General Fund*

Semi-Annual Period Ending 31 December 2015

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Executive Summary

Executive Summary

Commentary and Recommendations

As of 31 December 2015

	Comments	Recommendations
E&O Insurance Fund Performance	<ul style="list-style-type: none"> ▪ The overall gross return over the 4-year period ending 31 December 2015 was 3.45%, outperforming the benchmark by 0.62%. ▪ Over the most recent 6-month period, the Fund underperformed its benchmark by 0.41%, with a return of -1.40%. ▪ Underperformance was driven by asset allocation. An overweight to Canadian equities and an underweight to Canadian fixed income weighed on returns. <ul style="list-style-type: none"> – FGP Canadian equities outperformed the Index due to asset allocation decisions. A zero weight to Health Care, the worst performing sector, added considerable value. Stock Selection was negative, led by weak picks in the Materials and Consumer Discretionary sectors. Stronger picks in the Energy sector acted as a partial offset. – Fixed income underperformance was primarily due to an underweight to Provincials, the top performing sector, in favour of Corporates. The portfolio's shorter-than-benchmark duration detracted somewhat. 	<ul style="list-style-type: none"> ▪ No action is required.
Compensation Fund Performance	<ul style="list-style-type: none"> ▪ The overall gross return over the 4-year period ending 31 December 2015 was 3.44%, outperforming the benchmark by 0.61%. ▪ Over the most recent 6-month period, the Fund underperformed its benchmark by 0.47% with a return of -1.46%. ▪ Performance attribution comments for this Fund are the same as the E&O Insurance Fund comments above. 	<ul style="list-style-type: none"> ▪ No action is required.
General Fund Performance	<ul style="list-style-type: none"> ▪ The overall gross return over the 4-year period ending 31 December 2015 was 3.44%, outperforming the benchmark by 0.61%. ▪ Over the most recent 6-month period, the Fund underperformed its benchmark by 0.46% with a return of -1.45%. ▪ Performance attribution comments for this Fund are the same as the E&O Insurance Fund comments above. 	<ul style="list-style-type: none"> ▪ No action is required.

Executive Summary

Commentary and Recommendations		
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As of 31 December 2015		
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Portfolio Rebalancing	<ul style="list-style-type: none"> All asset classes were within their allowable ranges as at 31 December 2015. 	<ul style="list-style-type: none"> No action is required.
Statement of Investment Policies and Procedures (SIPP)	<ul style="list-style-type: none"> The SIPP was last updated in April 2015. The Compliance Summary was revised, accordingly. 	<ul style="list-style-type: none"> The SIPP should be reviewed and updated annually and any changes to the Plan's investment policies should be reflected accordingly.
Foyston, Gordon & Payne (FGP)	<ul style="list-style-type: none"> Tom Duncanson was promoted to Senior Research Analyst & Portfolio Manager of Canadian equities effective 1 January 2016. He will co-manage FGP's small cap mandates with Bryan Pilsworth who will retain the lead responsibility on portfolio decision-making. 	<ul style="list-style-type: none"> Continue to monitor.

Executive Summary

E&O Insurance Fund Asset Allocation and Annualized Performance

As of 31 December 2015

	Market Value (\$000)	%	Performance (%)							
			6 Months	1 Year	2 Years	3 Years	4 Years	5 Years	Since Inception	Inception Date
E&O Insurance Fund (Gross)	22,642	100.0	-1.40	-0.19	2.01	3.22	3.45	3.47	3.88	1/04/2006
E&O Insurance Fund Benchmark			-0.99	0.95	2.56	2.84	2.83	2.80	3.32	
Value Added			-0.41	-1.14	-0.55	0.38	0.62	0.67	0.56	
E&O Insurance Fund (Net)	22,642	100.0	-1.46	-0.31	1.88	3.09	3.32	3.34	3.73	1/04/2006
E&O Insurance Fund Benchmark			-0.99	0.95	2.56	2.84	2.83	2.80	3.32	
Value Added			-0.47	-1.26	-0.68	0.25	0.49	0.54	0.41	
E&O Canadian Equities	3,998	17.7	-8.63 (78)	-9.71 (90)	-1.39 (88)	6.23 (75)	7.82 (65)	4.94 (47)	4.79 (51)	1/04/2006
S&P/TSX Capped Composite			-9.14 (83)	-8.32 (86)	0.68 (74)	4.62 (88)	5.26 (92)	2.30 (92)	3.68 (83)	
Value Added			0.51	-1.39	-2.07	1.61	2.56	2.64	1.11	
E&O Canadian Fixed Income	17,489	77.2	0.26	2.09	2.76	2.69	2.72	3.12	4.28	1/04/2006
FTSE TMX Short Term Bond			0.49	2.61	2.84	2.47	2.35	2.81	3.91	
Value Added			-0.23	-0.52	-0.08	0.22	0.37	0.31	0.37	
E&O Short-Term	1,156	5.1	0.33 (71)	0.77 (73)	0.92 (71)	0.98 (71)	1.00 (70)	1.00 (77)	0.92 (74)	1/10/2009
FTSE TMX 91-Day T-Bill			0.23 (95)	0.63 (94)	0.77 (97)	0.85 (94)	0.89 (91)	0.91 (90)	0.83 (90)	
Value Added			0.10	0.14	0.15	0.13	0.11	0.09	0.09	

The total fund performance prior to 30 June 2009 includes a U.S. equities component.
 Parentheses contain percentile rankings.
 Returns for periods greater than one year are annualized.

Executive Summary

E&O Insurance Fund Annual Performance

As of 31 December

	Performance (%)										
	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005
E&O Insurance Fund (Gross)	-0.19	4.26	5.67	4.14	3.54	7.34	11.22	-5.26	1.91	-	-
E&O Insurance Fund Benchmark	0.95	4.19	3.39	2.83	2.65	5.69	8.15	-3.15	2.70	-	-
Value Added	-1.14	0.07	2.28	1.31	0.89	1.65	3.07	-2.11	-0.79	-	-
E&O Insurance Fund (Net)	-0.31	4.12	5.55	4.00	3.42	7.22	11.02	-5.43	1.74	-	-
E&O Insurance Fund Benchmark	0.95	4.19	3.39	2.83	2.65	5.69	8.15	-3.15	2.70	-	-
Value Added	-1.26	-0.07	2.16	1.17	0.77	1.53	2.87	-2.28	-0.96	-	-
E&O Canadian Equities	-9.71 (90)	7.69 (85)	23.30 (26)	12.71 (21)	-5.82 (22)	16.65 (47)	37.96 (27)	-31.09 (37)	4.06 (82)	-	-
S&P/TSX Capped Composite	-8.32 (86)	10.55 (59)	12.99 (97)	7.19 (79)	-8.71 (41)	17.61 (29)	35.06 (46)	-33.00 (59)	9.83 (38)	17.26 (52)	24.13 (50)
Value Added	-1.39	-2.86	10.31	5.52	2.89	-0.96	2.90	1.91	-5.77	-	-
E&O Canadian Fixed Income	2.09	3.43	2.55	2.82	4.71	5.58	7.02	4.82	3.97	-	-
FTSE TMX Short Term Bond	2.61	3.06	1.74	2.01	4.65	3.56	4.54	8.55	4.09	4.00	2.37
Value Added	-0.52	0.37	0.81	0.81	0.06	2.02	2.48	-3.73	-0.12	-	-
E&O Short-Term	0.77 (73)	1.07 (71)	1.09 (66)	1.08 (66)	1.00 (80)	0.62 (61)	-	-	-	-	-
FTSE TMX 91-Day T-Bill	0.63 (94)	0.91 (97)	1.01 (86)	1.01 (78)	1.00 (80)	0.54 (80)	0.62 (89)	3.33 (72)	4.43 (71)	3.98 (57)	2.58 (85)
Value Added	0.14	0.16	0.08	0.07	0.00	0.08	-	-	-	-	-

The total fund performance prior to 30 June 2009 includes a U.S. equities component.
 Parentheses contain percentile rankings.

Executive Summary

Compensation Fund Asset Allocation and Annualized Performance

As of 31 December 2015

	Market Value (\$'000)	%	Performance (%)								Inception Date
			6 Months	1 Year	2 Years	3 Years	4 Years	5 Years	Since Inception		
Compensation Fund (Gross)	31,003	100.0	-1.46	-0.28	1.97	3.19	3.44	3.46	4.96	1/06/2003	
Compensation Fund Benchmark			-0.99	0.95	2.56	2.84	2.83	2.80	4.55		
Value Added			-0.47	-1.23	-0.59	0.35	0.61	0.66	0.41		
Compensation Fund (Net)	31,003	100.0	-1.52	-0.40	1.84	3.06	3.31	3.34	4.85	1/06/2003	
Compensation Fund Benchmark			-0.99	0.95	2.56	2.84	2.83	2.80	4.55		
Value Added			-0.53	-1.35	-0.72	0.22	0.48	0.54	0.30		
Compensation Canadian Equities	5,748	18.5	-8.74 (79)	-9.72 (90)	-1.33 (88)	6.28 (71)	7.85 (64)	4.97 (47)	9.28 (38)	1/06/2003	
S&P/TSX Capped Composite			-9.14 (83)	-8.32 (86)	0.68 (74)	4.62 (88)	5.26 (92)	2.30 (92)	8.04 (83)		
Value Added			0.40	-1.40	-2.01	1.66	2.59	2.67	1.24		
Compensation Canadian Fixed Income	23,702	76.5	0.26	2.16	2.79	2.72	2.74	3.13	4.74	1/06/2003	
Compensation Fixed Income Benchmark			0.49	2.61	2.84	2.47	2.35	2.81	4.32		
Value Added			-0.23	-0.45	-0.05	0.25	0.39	0.32	0.42		
Compensation Short-Term	1,553	5.0	0.33 (72)	0.77 (73)	0.93 (70)	0.98 (70)	1.00 (69)	1.00 (76)	1.72 (96)	1/06/2003	
FTSE TMX 91-Day T-Bill			0.23 (95)	0.63 (94)	0.77 (97)	0.85 (94)	0.89 (91)	0.91 (90)	1.91 (88)		
Value Added			0.10	0.14	0.16	0.13	0.11	0.09	-0.19		

The total fund performance prior to 30 June 2009 includes a U.S. equities component.
 Parentheses contain percentile rankings.
 Returns for periods greater than one year are annualized.

Executive Summary

Compensation Fund Annual Performance

As of 31 December

	Performance (%)										
	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005
Compensation Fund (Gross)	-0.28	4.28	5.68	4.18	3.52	7.43	9.74	0.92	2.16	6.23	7.22
Compensation Fund Benchmark	0.95	4.19	3.39	2.83	2.65	6.37	7.82	0.82	3.06	5.88	7.45
Value Added	-1.23	0.09	2.29	1.35	0.87	1.06	1.92	0.10	-0.90	0.35	-0.23
Compensation Fund (Net)	-0.40	4.14	5.54	4.06	3.44	7.43	9.70	0.82	2.03	6.10	7.08
Compensation Fund Benchmark	0.95	4.19	3.39	2.83	2.65	6.37	7.82	0.82	3.06	5.88	7.45
Value Added	-1.35	-0.05	2.15	1.23	0.79	1.06	1.88	0.00	-1.03	0.22	-0.37
Compensation Canadian Equities	-9.72 (90)	7.83 (84)	23.30 (26)	12.71 (21)	-5.82 (22)	16.65 (47)	37.96 (27)	31.09 (37)	4.06 (82)	14.53 (80)	27.52 (19)
S&P/TSX Capped Composite	-8.32 (86)	10.55 (59)	12.99 (97)	7.19 (79)	-8.71 (41)	17.61 (29)	35.06 (46)	33.00 (59)	9.83 (38)	17.26 (52)	24.13 (50)
Value Added	-1.40	-2.72	10.31	5.52	2.89	-0.96	2.90	1.91	-5.77	-2.73	3.39
Compensation Canadian Fixed Income	2.16	3.43	2.57	2.82	4.71	5.81	7.34	4.82	3.93	4.37	7.93
Compensation Fixed Income Benchmark	2.61	3.06	1.74	2.01	4.65	4.40	5.41	6.41	3.68	4.06	6.46
Value Added	-0.45	0.37	0.83	0.81	0.06	1.41	1.93	-1.59	0.25	0.31	1.47
Compensation Short-Term	0.77 (73)	1.08 (70)	1.09 (66)	1.08 (66)	1.00 (80)	0.64 (58)	-4.60 (100)	9.37 (1)	1.73 (100)	3.82 (87)	2.05 (99)
FTSE TMX 91-Day T-Bill	0.63 (94)	0.91 (97)	1.01 (86)	1.01 (78)	1.00 (80)	0.54 (80)	0.62 (89)	3.33 (72)	4.43 (71)	3.98 (57)	2.58 (85)
Value Added	0.14	0.17	0.08	0.07	0.00	0.10	-5.22	6.04	-2.70	-0.16	-0.53

The total fund performance prior to 30 June 2009 includes a U.S. equities component.
 Parentheses contain percentile rankings.

Executive Summary

General Fund Asset Allocation and Annualized Performance

As of 31 December 2015

	Market Value (\$000)	%	Performance (%)								Inception Date
			6 Months	1 Year	2 Years	3 Years	4 Years	5 Years	Since Inception		
General Fund (Gross)	15,877	100.0	-1.45	-0.26	1.97	3.19	3.44	3.45	4.03	1/04/2004	
General Fund Benchmark			-0.99	0.95	2.56	2.84	2.83	2.80	3.83		
Value Added			-0.46	-1.21	-0.59	0.35	0.61	0.65	0.20		
General Fund (Net)	15,877	100.0	-1.50	-0.37	1.85	3.07	3.31	3.34	3.94	1/04/2004	
General Fund Benchmark			-0.99	0.95	2.56	2.84	2.83	2.80	3.83		
Value Added			-0.51	-1.32	-0.71	0.23	0.48	0.54	0.11		
General Canadian Equities	2,940	18.5	-8.75 (79)	-9.72 (90)	-1.35 (88)	6.27 (71)	7.84 (64)	4.96 (47)	7.70 (46)	1/04/2004	
S&P/TSX Capped Composite			-9.14 (83)	-8.32 (86)	0.68 (74)	4.62 (88)	5.26 (92)	2.30 (92)	6.44 (88)		
Value Added			0.39	-1.40	-2.03	1.65	2.58	2.66	1.26		
General Canadian Fixed Income	12,143	76.5	0.26	2.16	2.79	2.72	2.75	3.14	3.76	1/04/2004	
FTSE TMX Short Term Bond			0.49	2.61	2.84	2.47	2.35	2.81	3.69		
Value Added			-0.23	-0.45	-0.05	0.25	0.40	0.33	0.07		
General Short-Term	793	5.0	0.33 (71)	0.78 (72)	0.92 (71)	0.96 (72)	0.98 (77)	0.97 (80)	2.13 (18)	1/04/2004	
FTSE TMX 91-Day T-Bill			0.23 (95)	0.63 (94)	0.77 (97)	0.85 (94)	0.89 (91)	0.91 (90)	1.83 (89)		
Value Added			0.10	0.15	0.15	0.11	0.09	0.06	0.30		

The total fund performance prior to 30 June 2009 includes a U.S. equities component.
 Parentheses contain percentile rankings.
 Returns for periods greater than one year are annualized.

Executive Summary

General Fund Annual Performance

As of 31 December

	Performance (%)										
	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005
General Fund (Gross)	-0.26	4.26	5.67	4.18	3.52	5.22	8.33	2.88	2.22	6.47	2.97
General Fund Benchmark	0.95	4.19	3.39	2.83	2.65	5.62	7.06	2.58	3.40	5.83	3.94
Value Added	-1.21	0.07	2.28	1.35	0.87	-0.40	1.27	0.30	-1.18	0.64	-0.97
General Fund (Net)	-0.37	4.12	5.54	4.06	3.44	5.22	8.32	2.78	2.08	6.37	2.85
General Fund Benchmark	0.95	4.19	3.39	2.83	2.65	5.62	7.06	2.58	3.40	5.83	3.94
Value Added	-1.32	-0.07	2.15	1.23	0.79	-0.40	1.26	0.20	-1.32	0.54	-1.09
General Canadian Equities	-9.72 (90)	7.80 (84)	23.30 (26)	12.71 (21)	-5.82 (22)	16.65 (47)	37.96 (27)	-31.09 (37)	4.06 (82)	14.53 (80)	27.52 (19)
S&P/TSX Capped Composite	-8.32 (86)	10.55 (59)	12.99 (97)	7.19 (79)	-8.71 (41)	17.61 (29)	35.06 (46)	-33.00 (59)	9.83 (38)	17.26 (52)	24.13 (50)
Value Added	-1.40	-2.75	10.31	5.52	2.89	-0.96	2.90	1.91	-5.77	-2.73	3.39
General Canadian Fixed Income	2.16	3.43	2.58	2.83	4.71	3.07	5.54	7.31	4.00	4.32	2.13
FTSE TMX Short Term Bond	2.61	3.06	1.74	2.01	4.65	3.56	4.54	8.55	4.09	4.00	2.37
Value Added	-0.45	0.37	0.84	0.82	0.06	-0.49	1.00	-1.24	-0.09	0.32	-0.24
General Short-Term	0.78 (72)	1.07 (71)	1.04 (79)	1.02 (77)	0.95 (92)	2.29 (1)	-1.60 (100)	11.50 (1)	1.29 (100)	3.99 (55)	1.81 (99)
FTSE TMX 91-Day T-Bill	0.63 (94)	0.91 (97)	1.01 (86)	1.01 (78)	1.00 (80)	0.54 (80)	0.62 (89)	3.33 (72)	4.43 (71)	3.98 (57)	2.58 (85)
Value Added	0.15	0.16	0.03	0.01	-0.05	1.75	-2.22	8.17	-3.14	0.01	-0.77

The total fund performance prior to 30 June 2009 includes a U.S. equities component.
 Parentheses contain percentile rankings.

Capital Market Performance

Capital Market Performance

Major Capital Markets' Returns

As of 31 December 2015

	6 Months	Year To Date	1 Year	2 Years	3 Years	4 Years	5 Years	10 Years
Canadian Equity								
S&P/TSX Composite	-9.1	-8.3	-8.3	0.7	4.6	5.3	2.3	4.4
Foreign Equity								
S&P 500 (CAD)	11.4	21.6	21.6	22.8	28.6	24.7	20.4	9.2
S&P 500 (USD)	0.2	1.4	1.4	7.4	15.1	15.3	12.6	7.3
MSCI EAFE (Net) (CAD)	4.6	19.0	19.0	11.0	17.3	16.7	10.8	4.8
MSCI World (Net) (CAD)	7.5	18.9	18.9	16.6	22.5	20.1	15.0	6.8
Real Estate								
REALpac / IPD Canada Property Index	3.3	5.8	5.8	6.5	8.0	9.5	10.7	10.1
Fixed Income								
FTSE TMX Universe Bond	1.1	3.5	3.5	6.1	3.6	3.6	4.8	5.0
FTSE TMX Long Term Bond	1.5	3.8	3.8	10.4	4.6	4.7	7.3	6.4
FTSE TMX 91-Day T-Bill	0.2	0.6	0.6	0.8	0.8	0.9	0.9	1.7
Consumer Price Index								
Canadian CPI, unadjusted	-0.6	1.6	1.6	1.5	1.4	1.3	1.5	1.6

Canadian Equities

The S&P/TSX Composite Index returned -9.1% over the last six months and -8.3% for 2015. The best performing sectors in the second half of 2015 were Information Technology (13.4%), Consumer Staples (8.9%) and Utilities (1.0%). The worst performing sectors were Health Care (-46.9%), Materials (-21.4%) and Energy (-18.6%). For the year, the best performers were Information Technology (15.6%), Consumer Staples (12.4%) and Telecoms (3.6%), while the worst performers were Energy (-22.9%), Materials (-21.0%) and Health Care (-15.6%).

U.S. Equities

The S&P 500 Index rose 0.2% in U.S. dollar terms and 11.4% in Canadian dollar terms as the currency continued to depreciate relative to the U.S. dollar in the last six months of 2015. U.S. equity returns were further strengthened as the U.S. Federal Reserve raised the discount rate for the first time since 2006. The best performing sectors in Canadian dollar terms were Consumer Staples (19.5%), Utilities (18.5%) and IT (17.0%). The worst performing sectors were Energy (-7.9%), Materials (1.4%) and Health Care (8.6%). For the year, the Index returned 21.6% in Canadian dollar terms, with the best performers being Consumer Discretionary (32.1%), Health Care (28.2%) and Consumer Staples (27.8%), while the worst performers were Energy (-5.4%), Materials (9.9%) and Utilities (14.1%).

Non-North American Equities

The MSCI EAFE Index (Net Dividend) was up 4.6% over the last six months in Canadian dollar terms. The best performing sectors in Canadian dollar terms were Consumer Staples (15.4%), Health Care (11.1%) and IT (9.9%), while the worst performers were Materials (-9.6%), Energy (-6.5%) and Financials (1.3%). For the year, the Index gained 19.0% in Canadian dollar terms led by Consumer Staples (30.4%), Health Care (29.3%) and IT (25.3%), with Energy (-2.2%) the only negative sector.

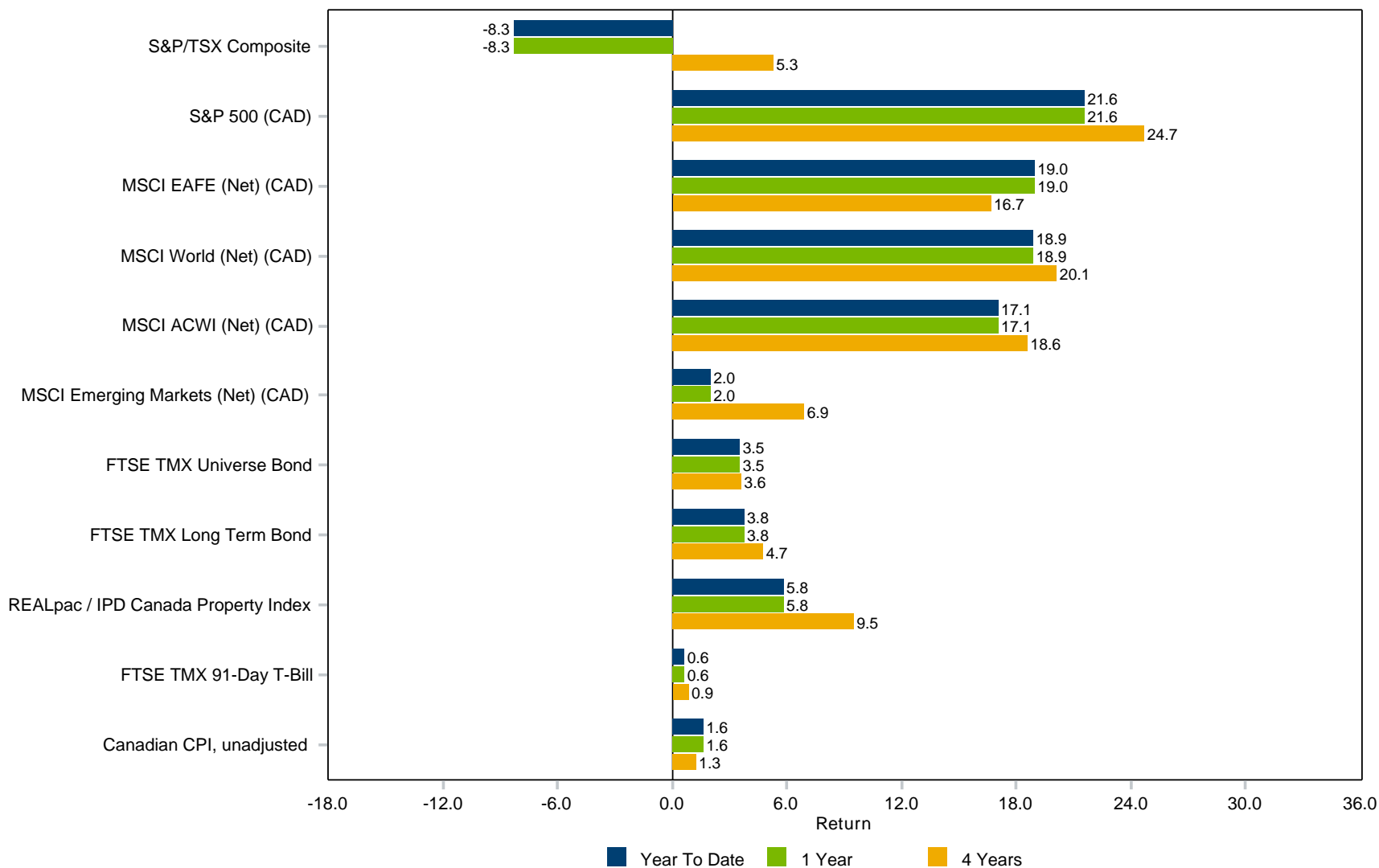
Fixed Income

The FTSE TMX Universe Bond Index gained 1.1% in the last six months of 2015, led by Federal bonds (1.7%), followed by Provincial bonds (1.3%) and Corporate bonds (0.5%). For the year the Index gained 3.5%, led by Provincial bonds (4.1%), followed by Federal bonds (3.7%) and Corporate bonds (2.7%). On July 15, 2015 the Bank of Canada lowered its overnight interest rate to 0.5%.

Capital Market Performance

Comparative Performance

As of 31 December 2015



E&O Insurance Fund Analysis

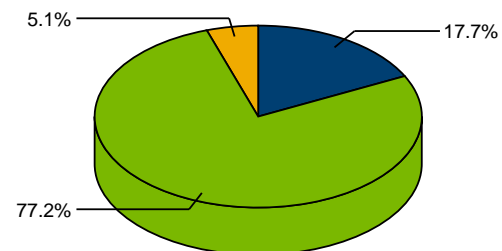
E&O Insurance Fund

Asset Allocation by Segment

E&O Insurance Fund

Segments	Market Value (\$)	Allocation (%)
Canadian Equity	3,997,819	17.7
Canadian Fixed Income	17,488,873	77.2
Short-Term	1,155,679	5.1

31 December 2015 : \$22,642,371



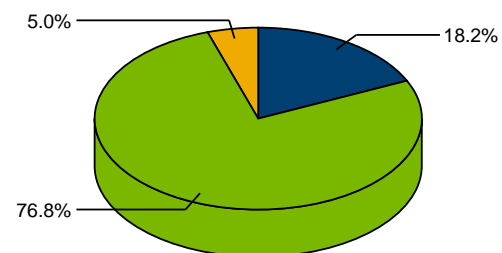
Segments	Market Value (\$)	Allocation (%)
Canadian Equity	4,169,213	18.2
Canadian Fixed Income	17,642,675	76.8
Short-Term	1,151,841	5.0

Canadian Equity

Canadian Fixed Income

Short-Term

30 June 2015 : \$22,963,729



Canadian Equity

Canadian Fixed Income

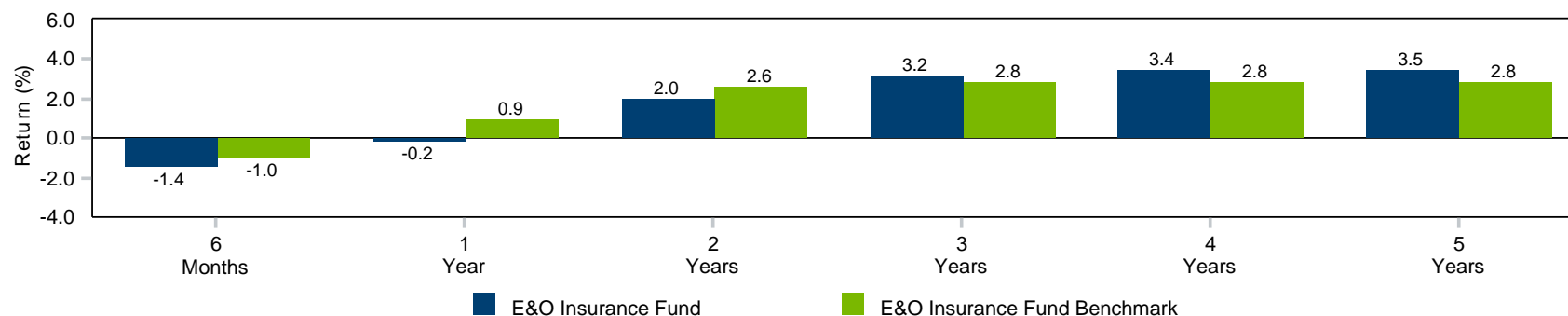
Short-Term

E&O Insurance Fund

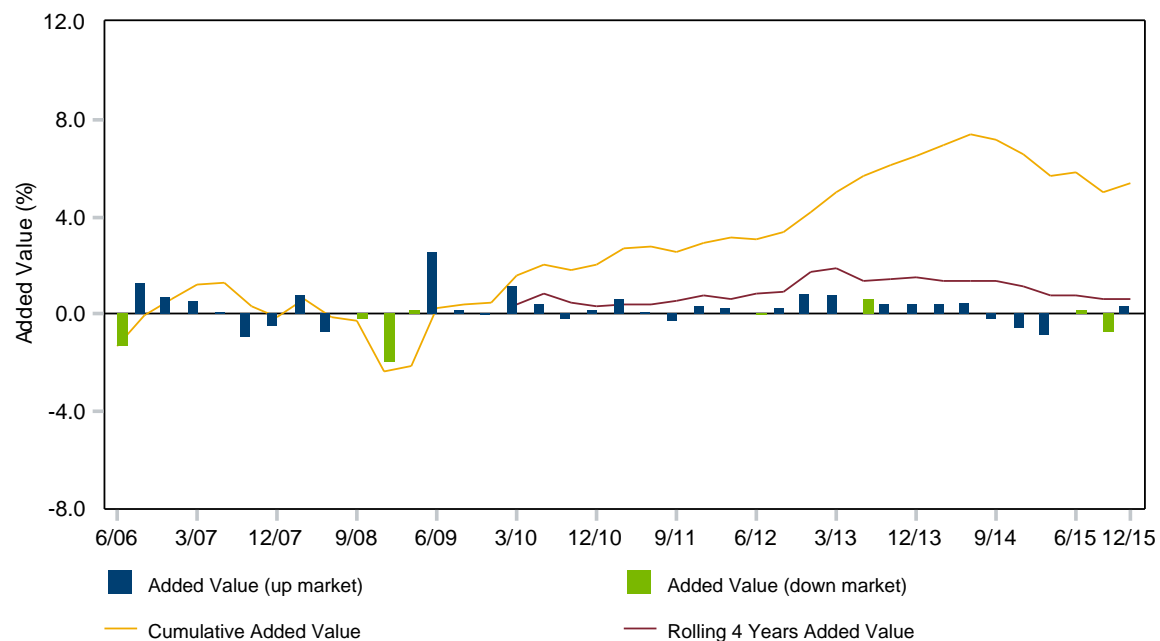
E&O Insurance Fund Performance Summary

As of 31 December 2015

Return Summary



Added Value History (%)



Performance Statistics

	Quarters	%
Market Capture		
Up Markets	31	121.6
Down Markets	8	136.9
Batting Average		
Up Markets	31	74.2
Down Markets	8	37.5
Overall	39	66.7

Six Months

Asset allocation was the primary contributor to underperformance. An overweight to Canadian equity and an underweight to Canadian fixed income weighed on returns.

FGP Canadian equities outperformed the Index due to positive asset allocation. A zero weight to Health Care, the worst performing sector, added considerable value. Weak stock picks in the Materials and Consumer Discretionary sectors acted as a partial offset.

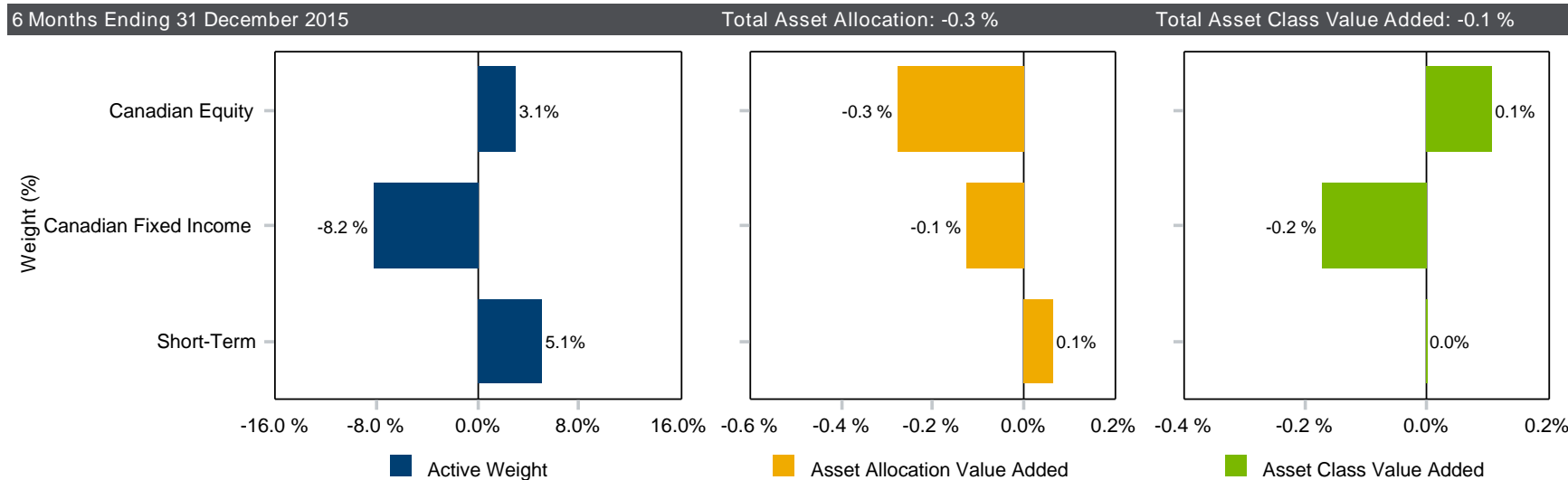
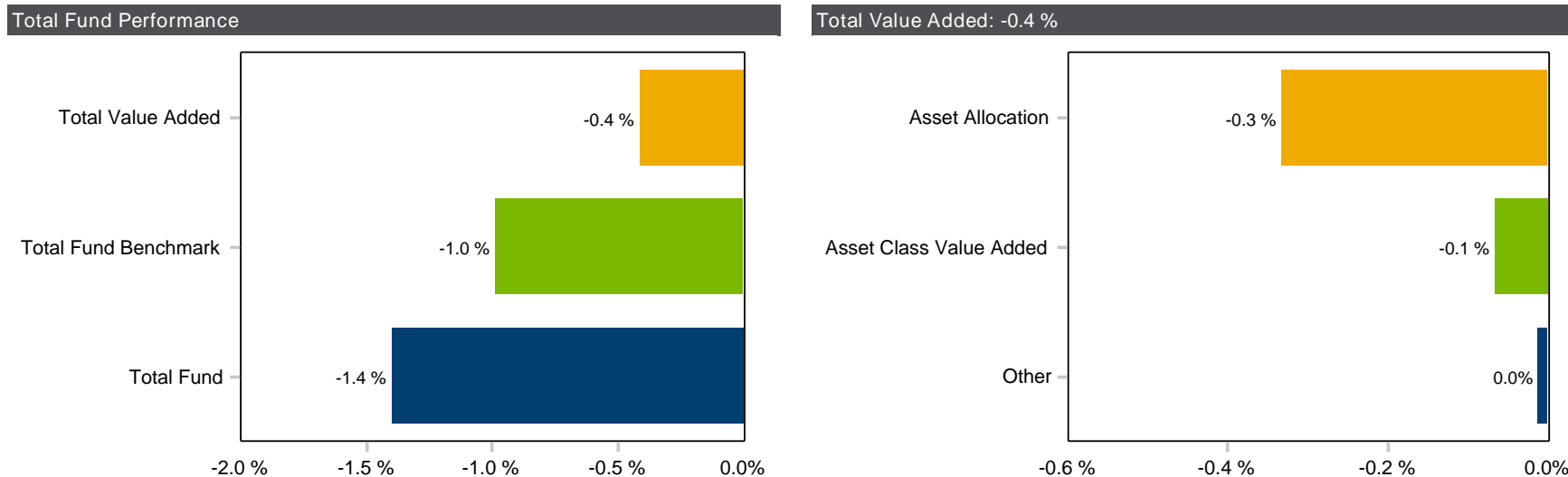
Fixed income underperformance was due primarily to an underweight allocation to Provincials, the top performing sector, in favour of Corporates. The portfolio's shorter-than-benchmark duration also detracted.

E&O Insurance Fund

E&O Insurance Fund Performance Attribution

6 Months Ending 31 December 2015

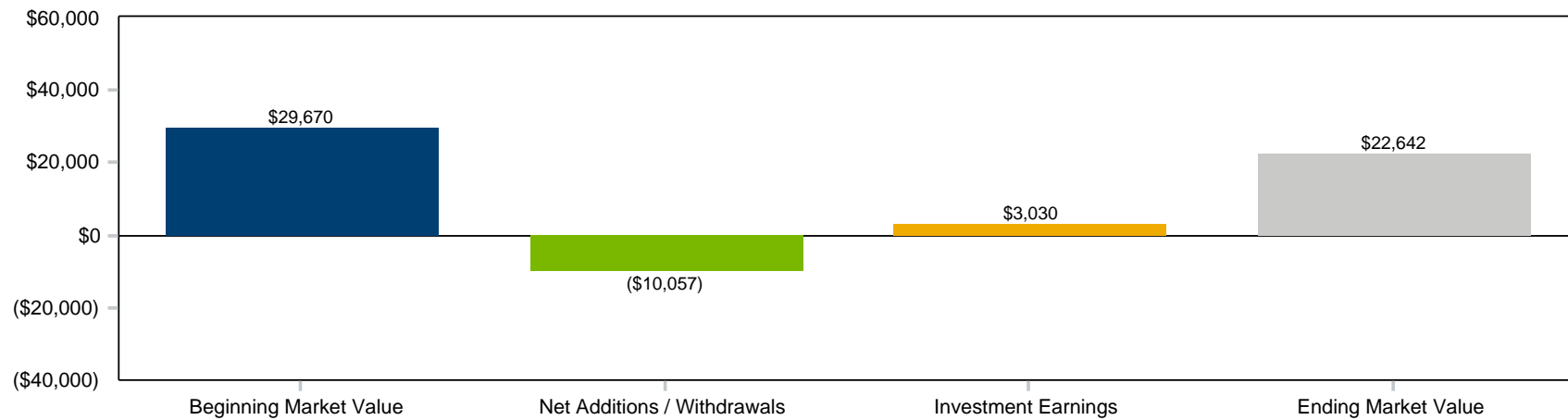
Total Fund vs. Benchmark



E&O Insurance Fund

E&O Insurance Fund Asset Summary

As of 31 December 2015

Change in Market Value (\$000)
From 1 January 2013 to 31 December 2015**Summary of Cash Flows (\$000)**

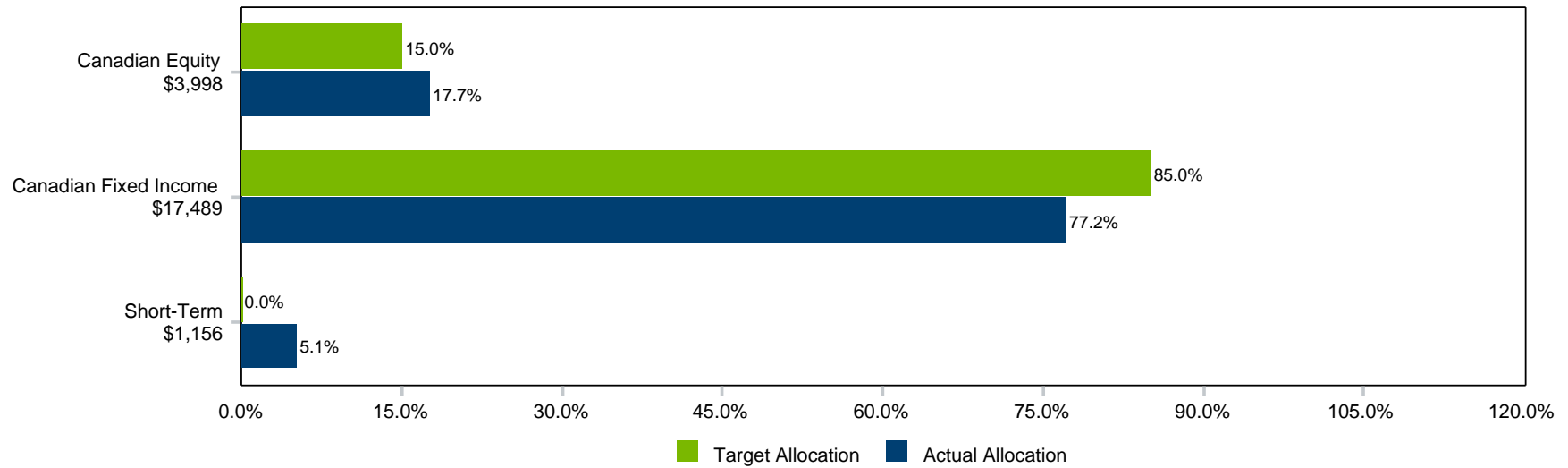
	Jan-2013 To Dec-2015
E&O Insurance Fund	
Beginning Market Value	29,670
+/- Net Cash Flows	-10,057
+/- Income	2,838
+/- Capital Gains / Losses	191
= Ending Market Value	22,642

Note: Capital Gains / Losses also includes Accretion / Amortization

E&O Insurance Fund

Asset Allocation Compliance

As of 31 December 2015 (\$000)



	Market Value (\$000)	Market Value (%)	Target Allocation (%)	Differences (%)	Minimum Allocation (%)	Maximum Allocation (%)
Total Fund	22,642	100.0	100.0	0.0		
Canadian Equity	3,998	17.7	15.0	2.7	5.0	25.0
Canadian Fixed Income	17,489	77.2	85.0	-7.8	60.0	95.0
Short-Term	1,156	5.1	0.0	5.1	0.0	15.0

Compensation Fund Analysis

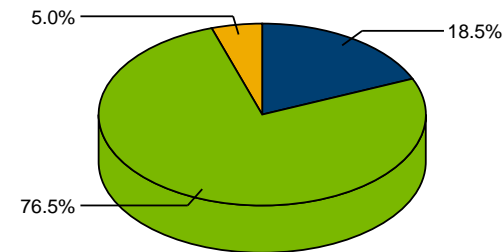
Compensation Fund

Asset Allocation by Segment

Compensation Fund

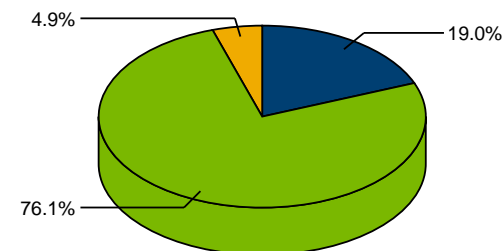
Segments	Market Value (\$)	Allocation (%)
■ Canadian Equity	5,748,147	18.5
■ Canadian Fixed Income	23,702,349	76.5
■ Short-Term	1,552,928	5.0

31 December 2015 : \$31,003,424



Segments	Market Value (\$)	Allocation (%)
■ Canadian Equity	6,928,507	19.0
■ Canadian Fixed Income	27,787,188	76.1
■ Short-Term	1,795,000	4.9

30 June 2015 : \$36,510,695



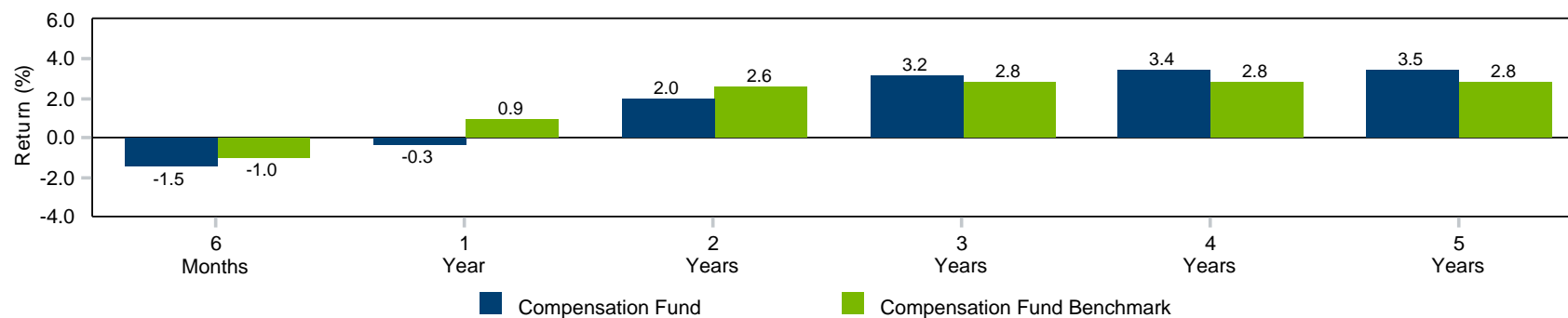
■ Canadian Equity ■ Canadian Fixed Income ■ Short-Term

Compensation Fund

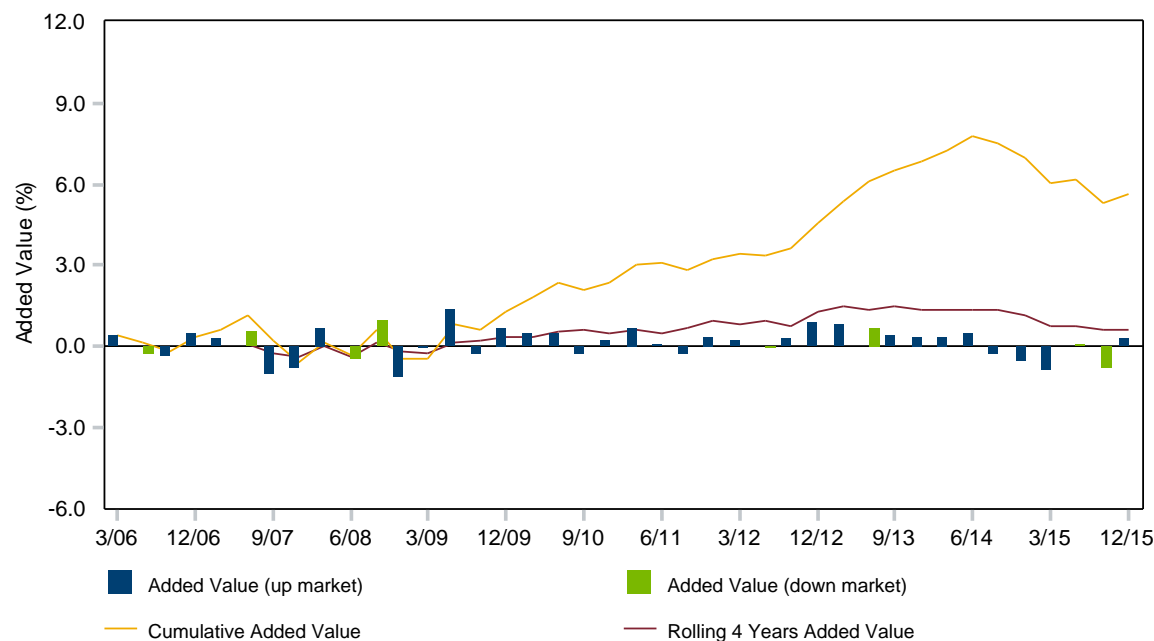
Compensation Fund Performance Summary

As of 31 December 2015

Return Summary



Added Value History (%)



Performance Statistics

	Quarters	%
Market Capture		
Up Markets	32	110.7
Down Markets	8	89.2
Batting Average		
Up Markets	32	65.6
Down Markets	8	50.0
Overall	40	62.5

Six Months

Asset allocation was the primary contributor to underperformance. An overweight to Canadian equity and an underweight to Canadian fixed income weighed on returns.

FGP Canadian equities outperformed the Index due to positive asset allocation. A zero weight to Health Care, the worst performing sector, added considerable value. Weak stock picks in the Materials and Consumer Discretionary sectors acted as a partial offset.

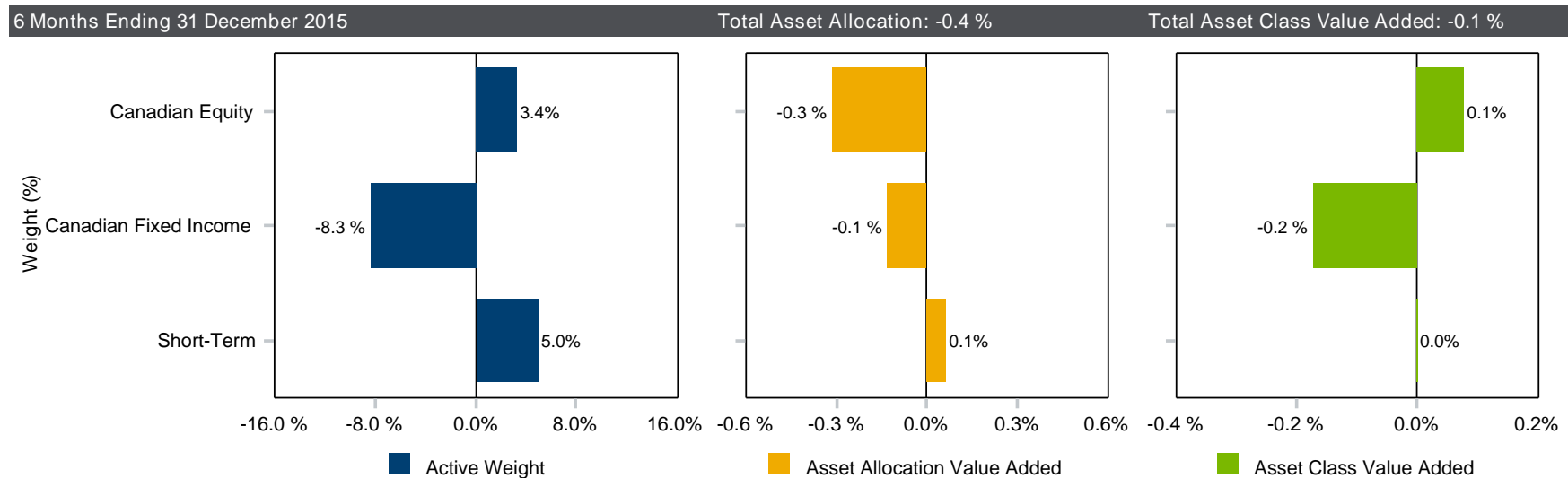
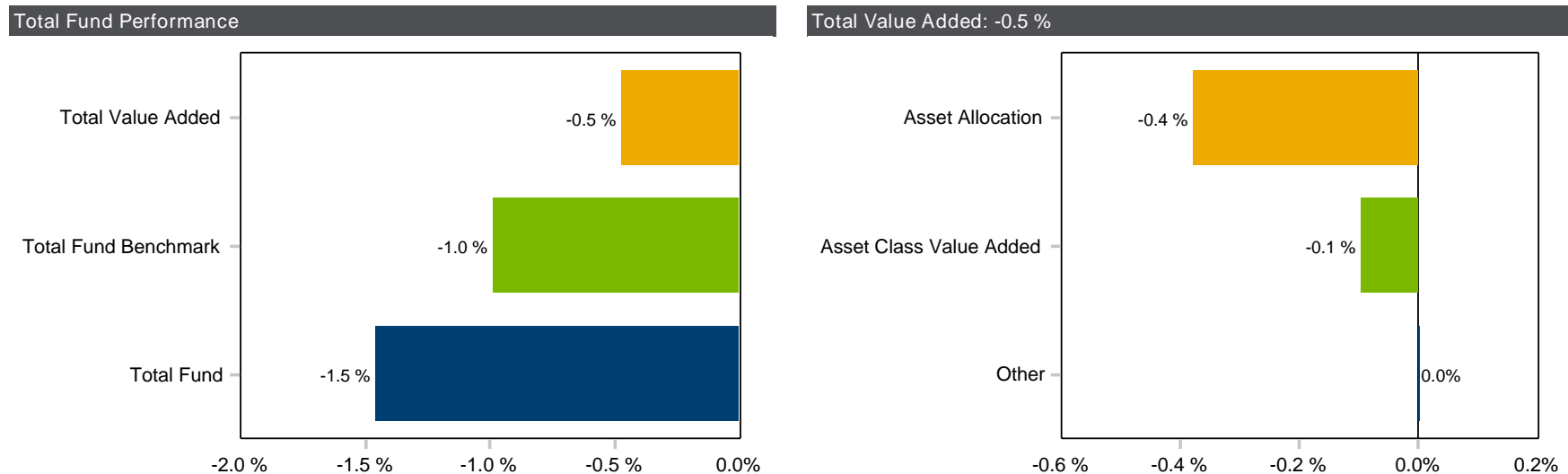
Fixed income underperformance was due primarily to an underweight allocation to Provincials, the top performing sector, in favour of Corporates. The portfolio's shorter-than-benchmark duration also detracted.

Compensation Fund

Compensation Fund Performance Attribution

6 Months Ending 31 December 2015

Total Fund vs. Benchmark

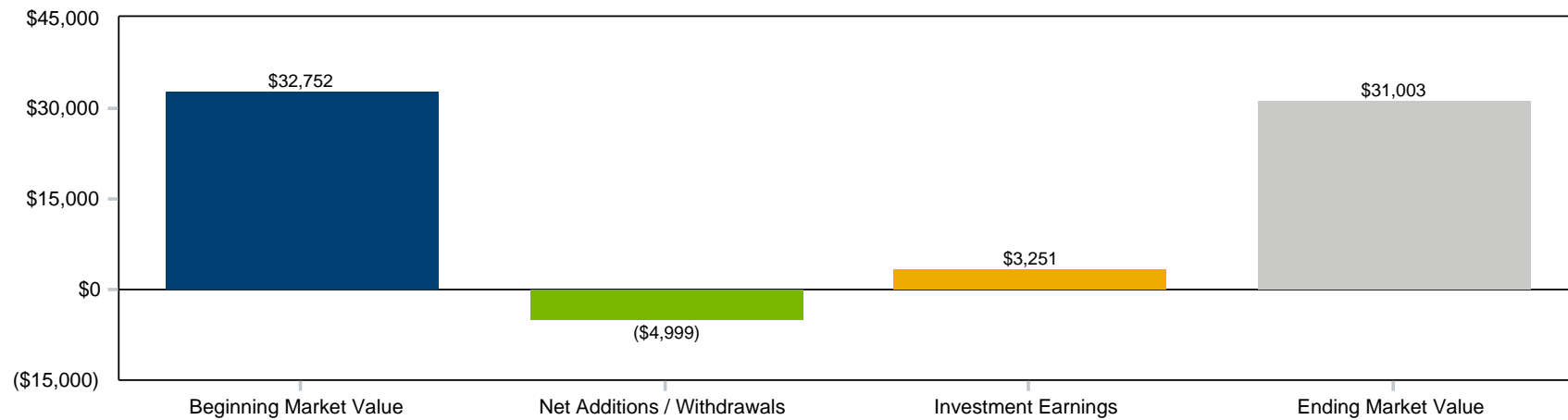


Compensation Fund

Compensation Fund Asset Summary

As of 31 December 2015

Change in Market Value (\$000)
From 1 January 2013 to 31 December 2015



Summary of Cash Flows (\$000)

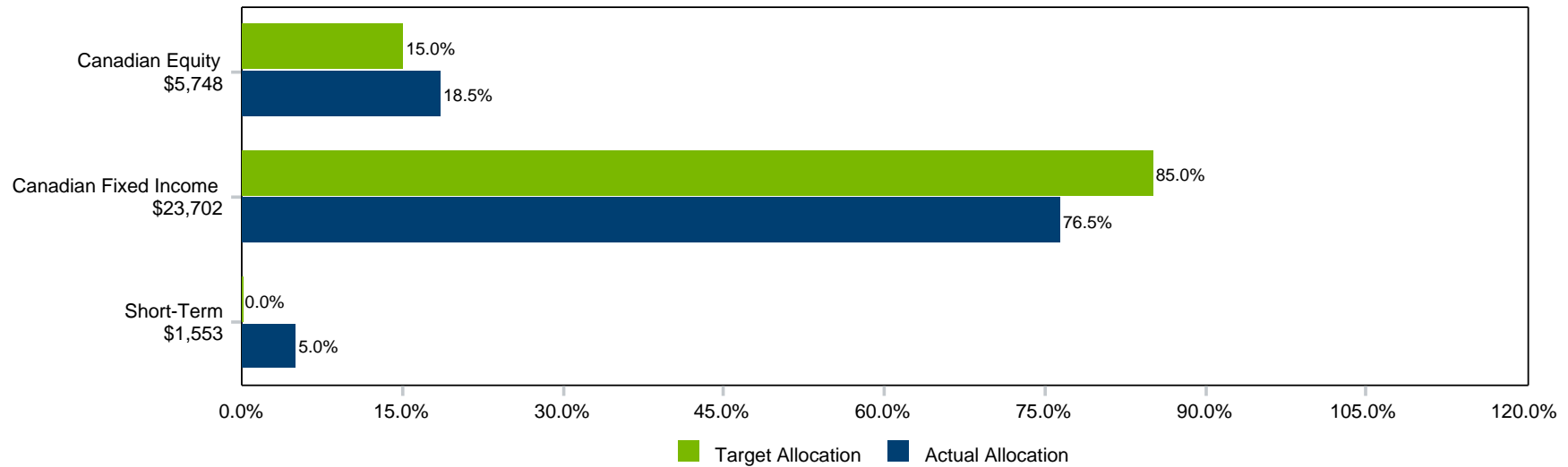
	Jan-2013 To Dec-2015
Compensation Fund	
Beginning Market Value	32,752
+/- Net Cash Flows	-4,999
+/- Income	3,120
+/- Capital Gains / Losses	130
= Ending Market Value	31,003

Note: Capital Gains / Losses also includes Accretion / Amortization

Compensation Fund

Asset Allocation Compliance

As of 31 December 2015 (\$000)



	Market Value (\$000)	Market Value (%)	Target Allocation (%)	Differences (%)	Minimum Allocation (%)	Maximum Allocation (%)
Total Fund	31,003	100.0	100.0	0.0		
Canadian Equity	5,748	18.5	15.0	3.5	5.0	25.0
Canadian Fixed Income	23,702	76.5	85.0	-8.5	60.0	95.0
Short-Term	1,553	5.0	0.0	5.0	0.0	15.0

General Fund Analysis

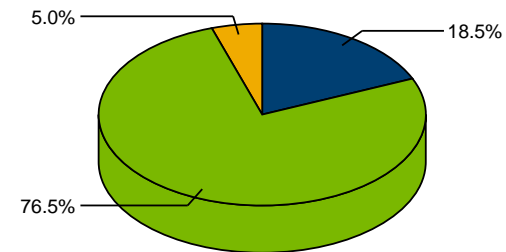
General Fund

Asset Allocation by Segment

General Fund

Segments	Market Value (\$)	Allocation (%)
■ Canadian Equity	2,940,408	18.5
■ Canadian Fixed Income	12,143,419	76.5
■ Short-Term	793,447	5.0

31 December 2015 : \$15,877,274



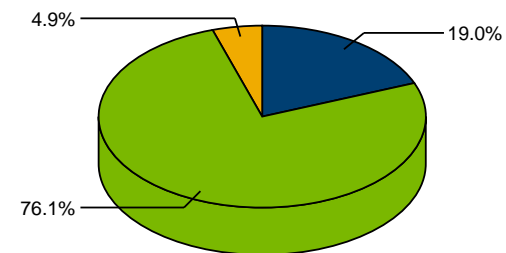
Segments	Market Value (\$)	Allocation (%)
■ Canadian Equity	3,057,368	19.0
■ Canadian Fixed Income	12,261,029	76.1
■ Short-Term	790,813	4.9

■ Canadian Equity

■ Canadian Fixed Income

■ Short-Term

30 June 2015 : \$16,109,210



■ Canadian Equity

■ Canadian Fixed Income

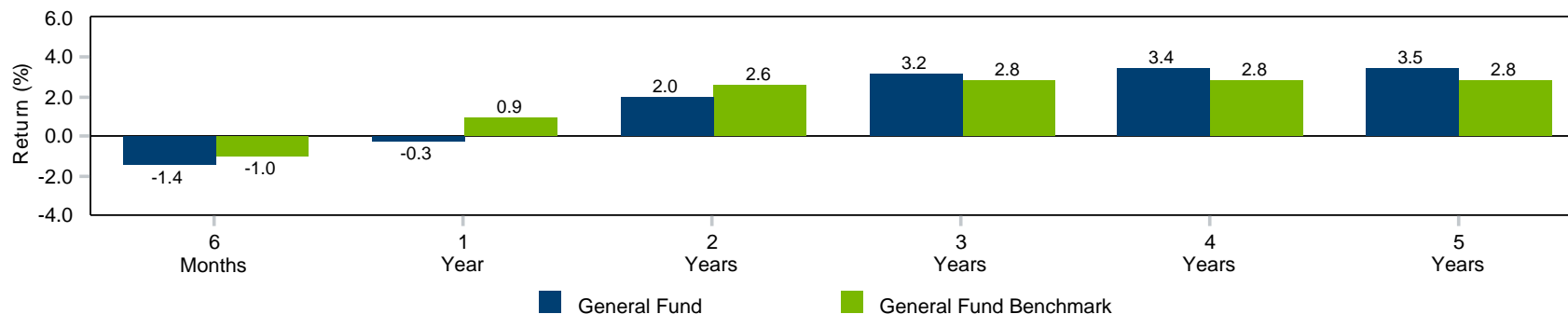
■ Short-Term

General Fund

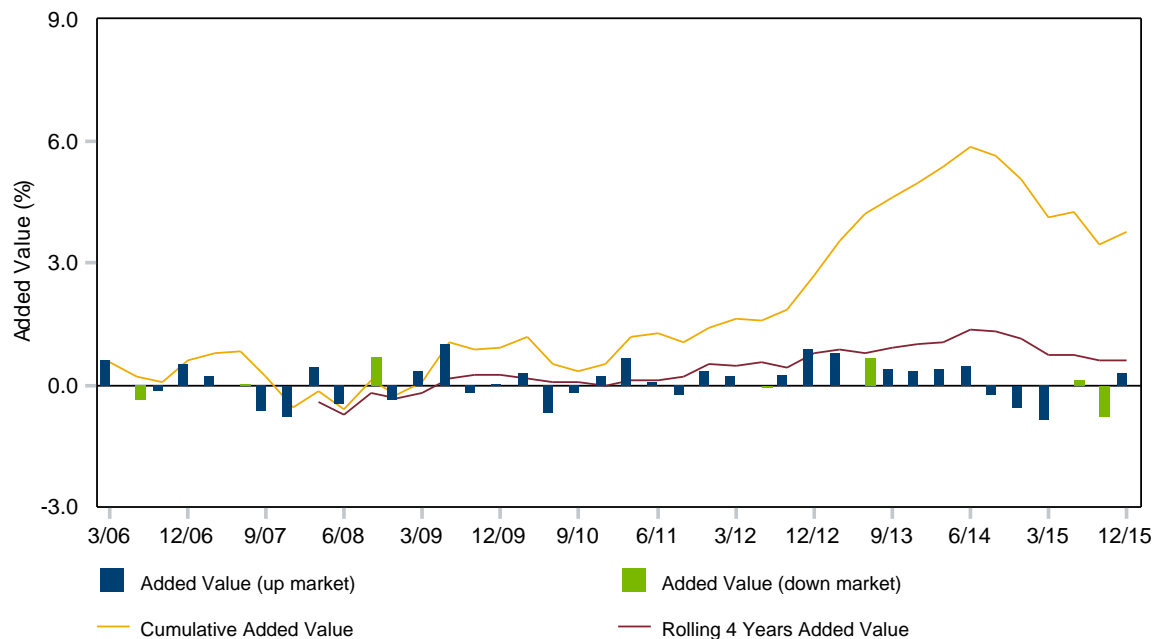
General Fund Performance Summary

As of 31 December 2015

Return Summary



Added Value History (%)



Performance Statistics

Quarters

%

Market Capture

Up Markets 39 102.6

Down Markets 8 74.2

Batting Average

Up Markets 39 59.0

Down Markets 8 62.5

Overall 47 59.6

Six Months

Asset allocation was the primary contributor to underperformance. An overweight to Canadian equity and an underweight to Canadian fixed income weighed on returns.

FGP Canadian equities outperformed the Index due to positive asset allocation. A zero weight to Health Care, the worst performing sector, added considerable value. Weak stock picks in the Materials and Consumer Discretionary sectors acted as a partial offset.

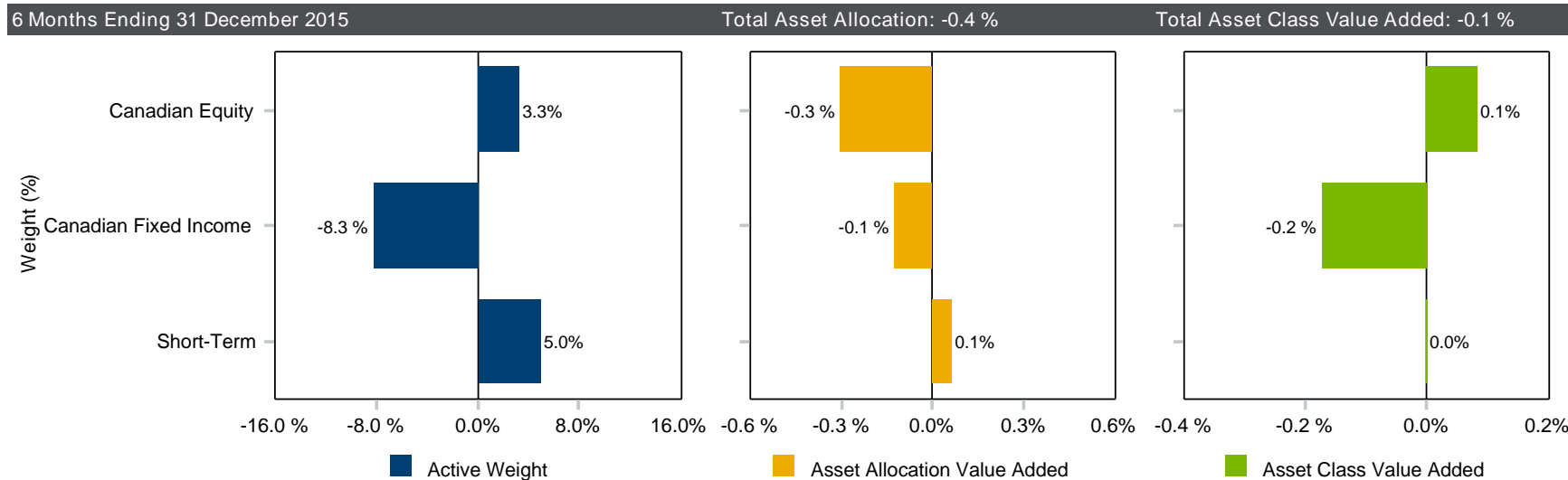
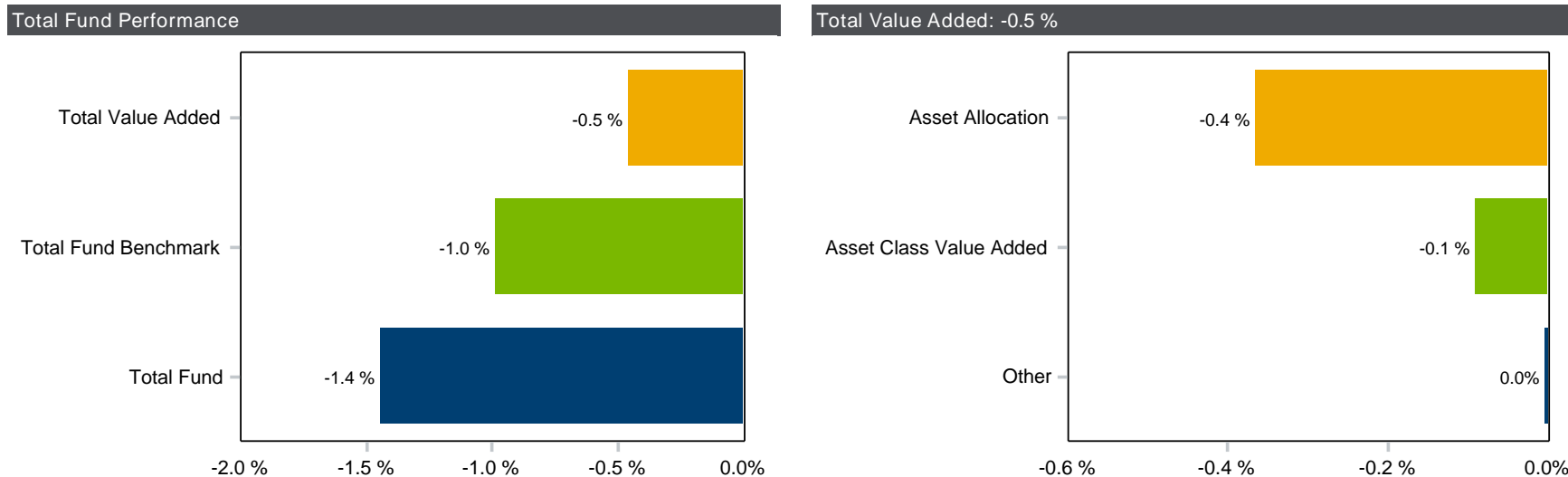
Fixed income underperformance was due primarily to an underweight allocation to Provincials, the top performing sector, in favour of Corporates. The portfolio's shorter-than-benchmark duration also detracted.

General Fund

General Fund Performance Attribution

6 Months Ending 31 December 2015

Total Fund vs. Benchmark

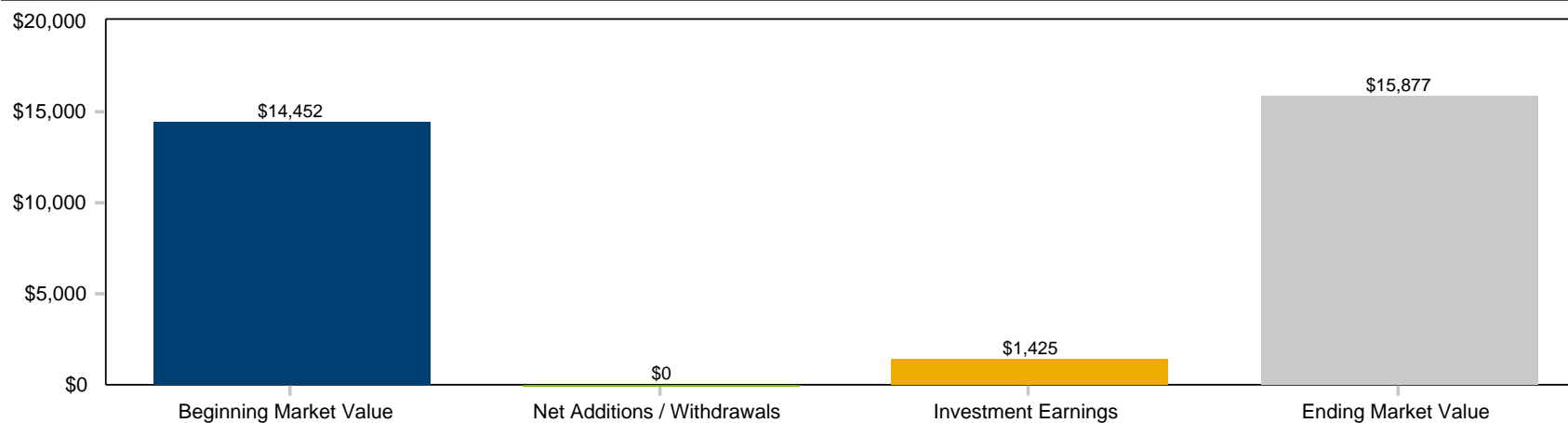


General Fund

General Fund Asset Summary

As of 31 December 2015

Change in Market Value (\$000)
From 1 January 2013 to 31 December 2015



Summary of Cash Flows (\$000)

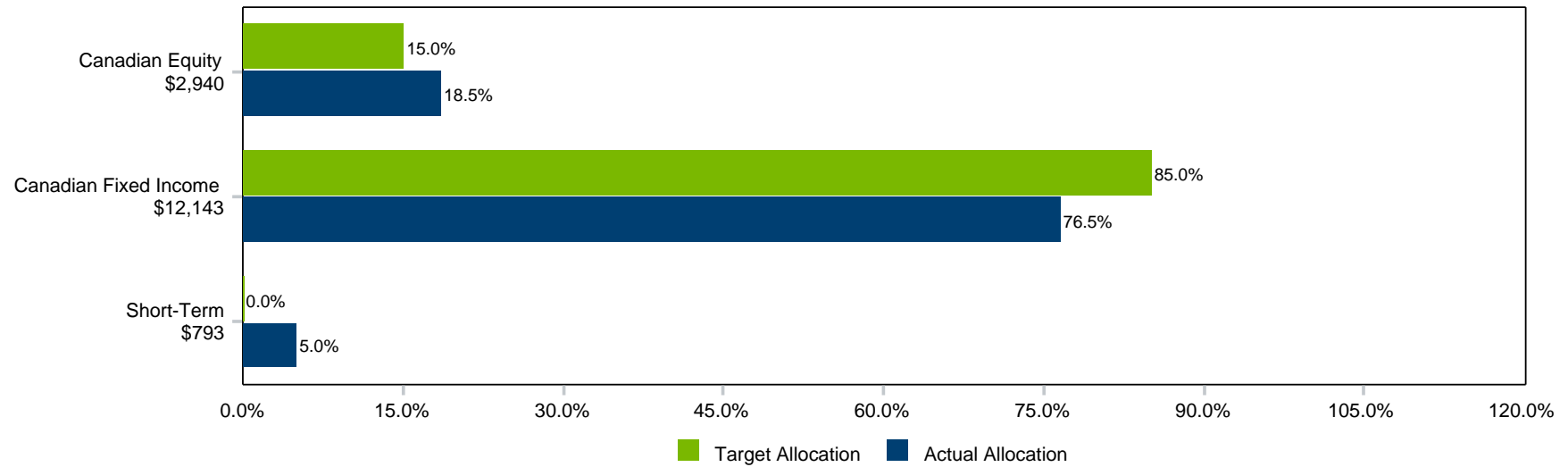
	Jan-2013 To Dec-2015
General Fund	
Beginning Market Value	14,452
+/- Net Cash Flows	-
+/- Income	1,386
+/- Capital Gains / Losses	39
= Ending Market Value	15,877

Note: Capital Gains / Losses also includes Accretion / Amortization

General Fund

Asset Allocation Compliance

As of 31 December 2015 (\$000)



	Market Value (\$000)	Market Value (%)	Target Allocation (%)	Differences (%)	Minimum Allocation (%)	Maximum Allocation (%)
Total Fund	15,877	100.0	100.0	0.0		
Canadian Equity	2,940	18.5	15.0	3.5	5.0	25.0
Canadian Fixed Income	12,143	76.5	85.0	-8.5	60.0	95.0
Short-Term	793	5.0	0.0	5.0	0.0	15.0

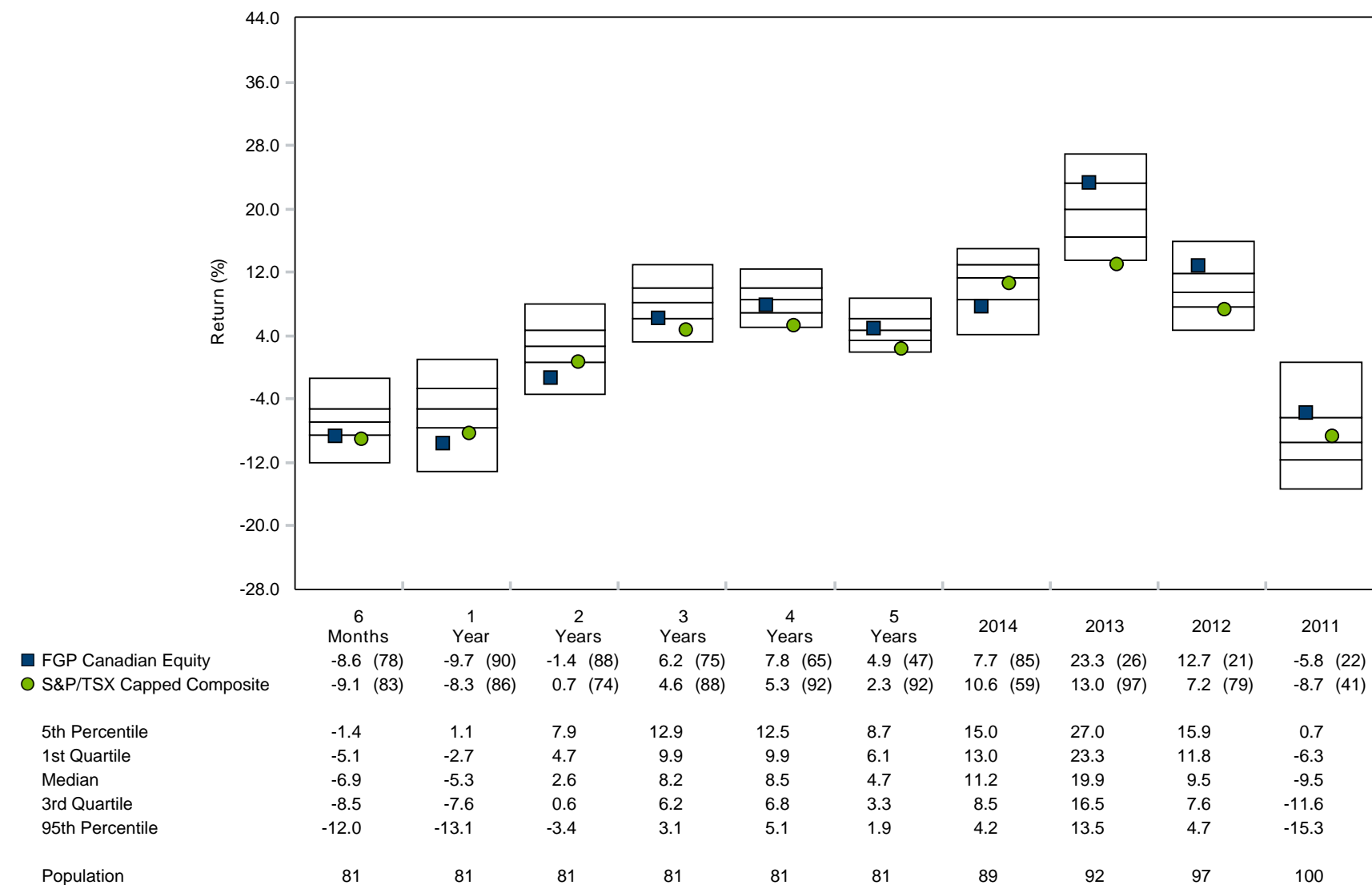
Asset Class Analysis

Canadian Equity Funds

Peer Group Analysis

As of 31 December 2015

Canadian Equity



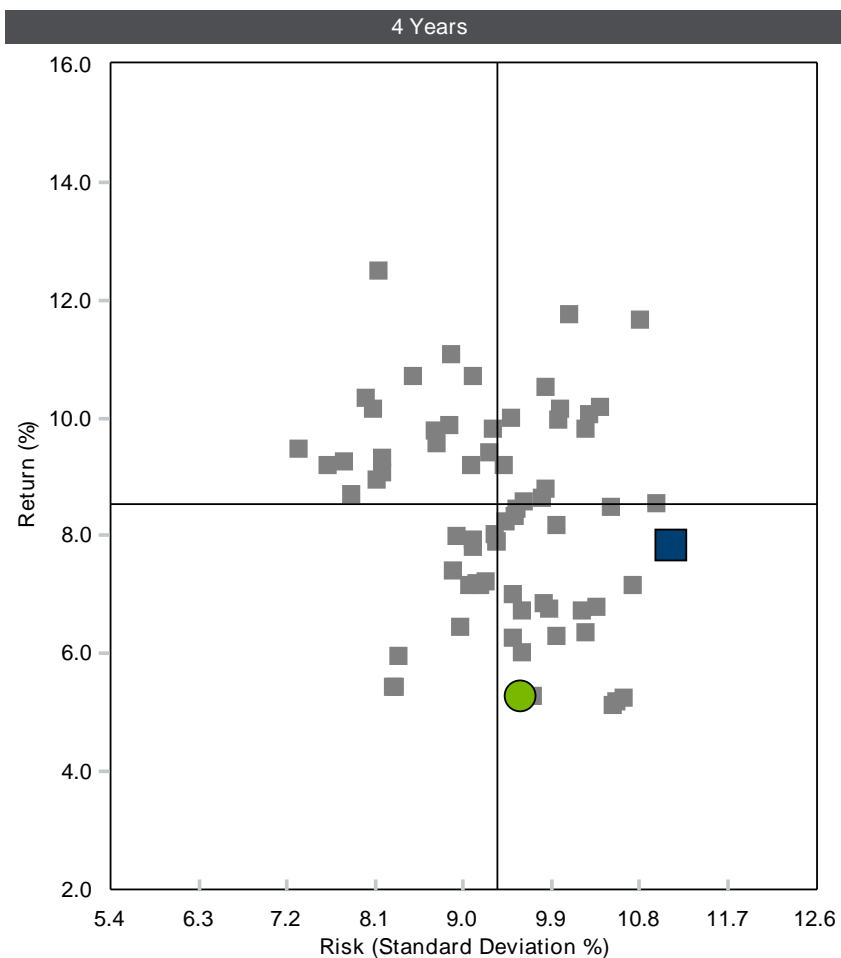
Parentes contain percentile rankings.
 Returns for periods greater than one year are annualized.
 Source: Aon Hewitt Manager Universe.

Canadian Equity Funds

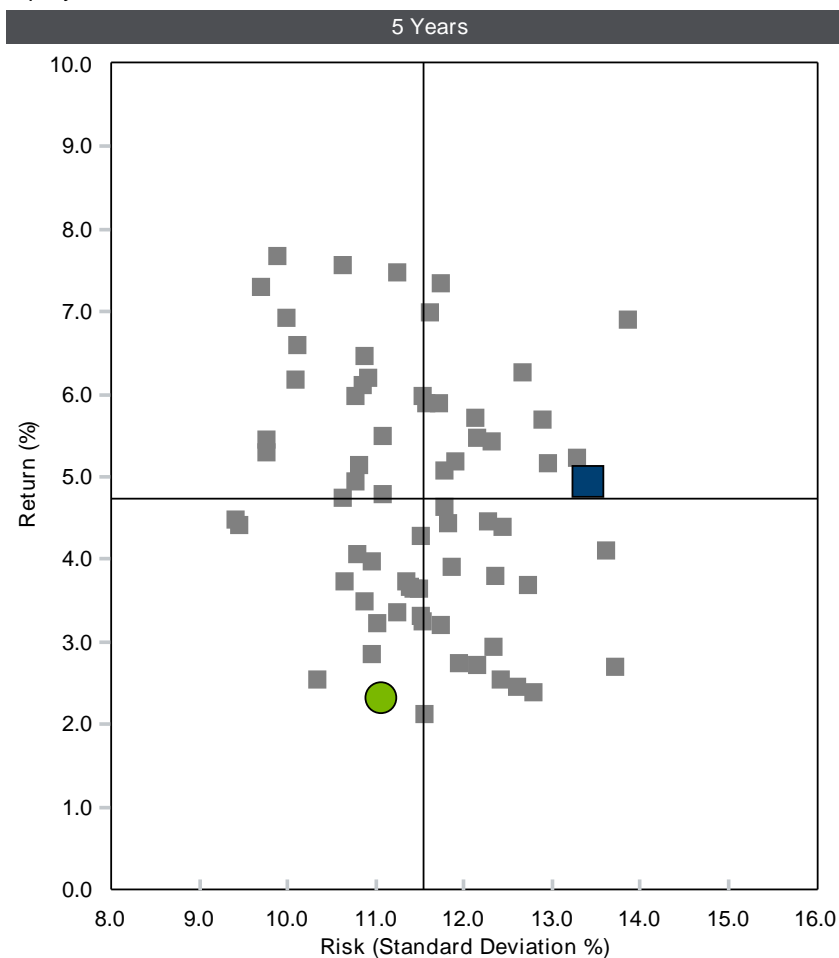
Peer Group Scattergram

Periods Ending 31 December 2015

Canadian Equity



	Return	Standard Deviation
■ FGP Canadian Equity	7.8	11.1
● S&P/TSX Capped Composite	5.3	9.6
— Median	8.5	9.4



	Return	Standard Deviation
■ FGP Canadian Equity	4.9	13.4
● S&P/TSX Capped Composite	2.3	11.1
— Median	4.7	11.5

Returns for periods greater than one year are annualized.
Source: Aon Hewitt Manager Universe.



Canadian Equity Funds

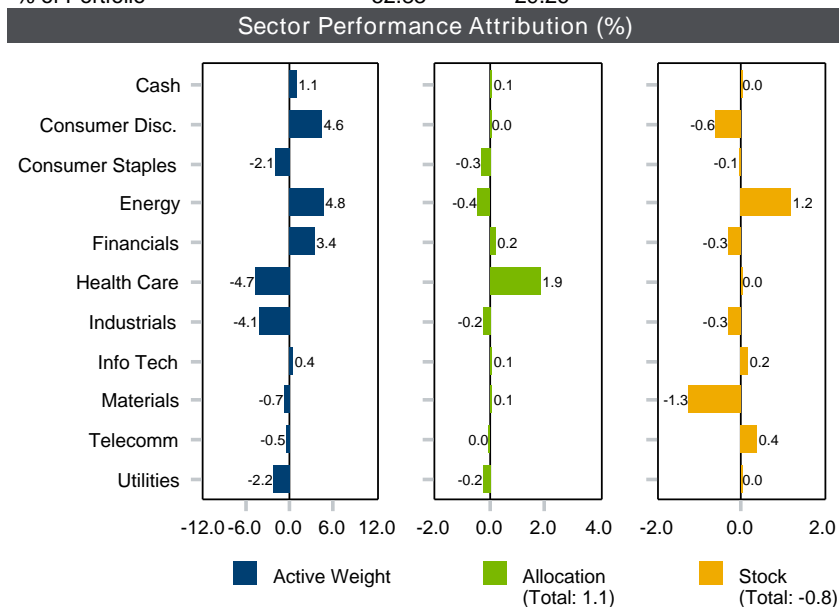
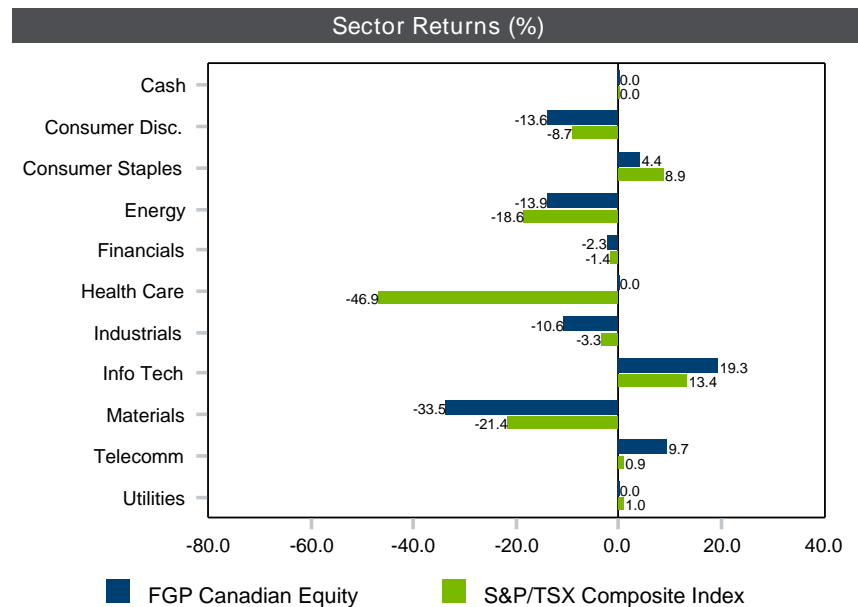
FGP Canadian Equity Portfolio Characteristics

6 Month Period Ending 31 December 2015

Portfolio Characteristics		
	Portfolio	Benchmark
Wtd. Avg. Mkt. Cap (\$M)	26,349	25,970
Median Mkt. Cap (\$M)	10,157	1,770
Price/Earnings ratio	14.1	15.8
Price/Book ratio	1.6	1.9
5 Yr. EPS Growth Rate (%)	3.8	7.5
Current Yield (%)	3.6	3.3
Debt to Equity	1.2	2.0
Number of Holdings	36	242

Manager Top Ten Holdings			
	Portfolio Weight (%)	Benchmark Weight (%)	Active Weight (%)
Royal Bank of Canada	7.46	6.73	0.73
Bank of Nova Scotia	7.45	4.11	3.34
Toronto-Dominion Bank	6.33	6.15	0.18
Suncor Energy	5.48	3.16	2.32
CIBC	5.37	2.21	3.16
Imperial Oil	5.22	0.70	4.52
Canadian Natural Resources	5.08	2.02	3.06
Manulife Financial	4.05	2.50	1.55
Rogers Communications	3.44	1.04	2.40
Power Corporation of Canada	2.95	0.64	2.31

% of Portfolio 52.83 29.26

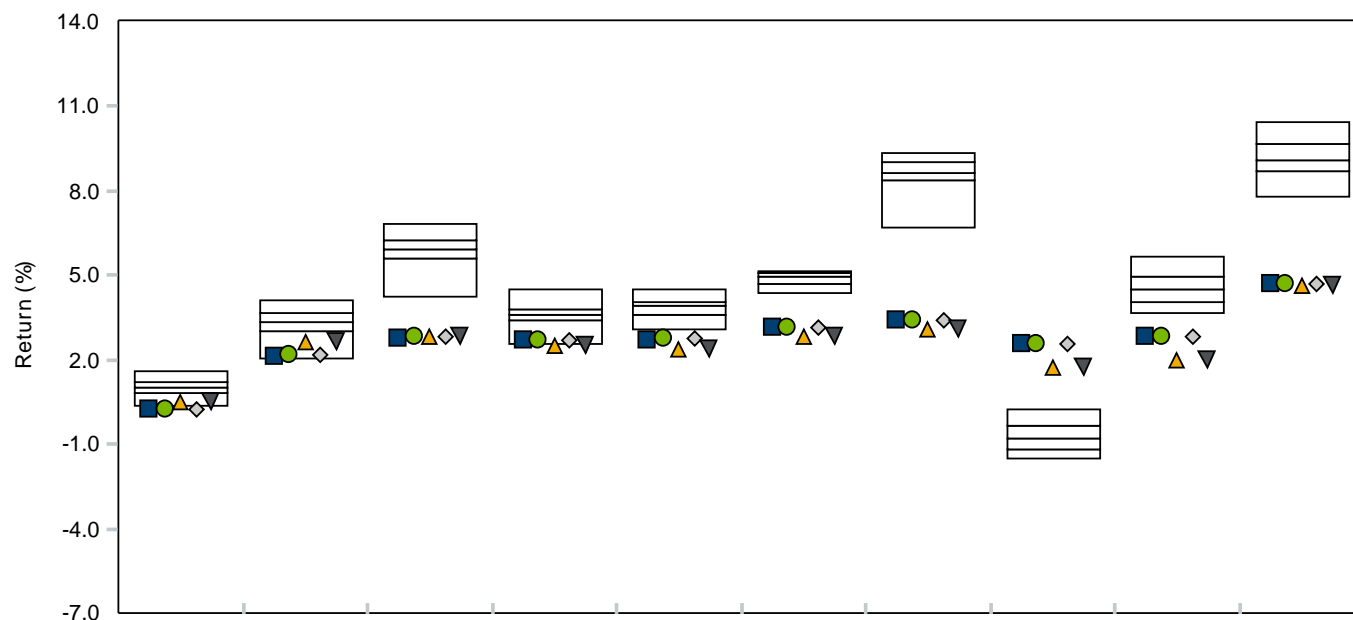


Fixed Income Funds

Peer Group Analysis

As of 31 December 2015

Canadian Bonds



	6 Months	1 Year	2 Years	3 Years	4 Years	5 Years	2014	2013	2012	2011
■ E&O Fixed Income	0.3 (98)	2.1 (95)	2.8 (100)	2.7 (95)	2.7 (98)	3.1 (100)	3.4 (100)	2.5 (1)	2.8 (100)	4.7 (100)
● General Fixed Income	0.3 (98)	2.2 (94)	2.8 (100)	2.7 (95)	2.7 (98)	3.1 (100)	3.4 (100)	2.6 (1)	2.8 (100)	4.7 (100)
▲ FTSE TMX Short Term Bond	0.5 (94)	2.6 (85)	2.8 (100)	2.5 (96)	2.4 (100)	2.8 (100)	3.1 (100)	1.7 (1)	2.0 (100)	4.7 (100)
◆ Compensation Fixed Income	0.3 (98)	2.2 (94)	2.8 (100)	2.7 (95)	2.7 (98)	3.1 (100)	3.4 (100)	2.6 (1)	2.8 (100)	4.7 (100)
▼ Compensation Fixed Income Benchmark	0.5 (94)	2.6 (85)	2.8 (100)	2.5 (96)	2.4 (100)	2.8 (100)	3.1 (100)	1.7 (1)	2.0 (100)	4.7 (100)
5th Percentile	1.6	4.1	6.8	4.5	4.5	5.2	9.4	0.2	5.7	10.4
1st Quartile	1.2	3.7	6.2	3.8	4.1	5.1	9.0	-0.4	4.9	9.7
Median	1.0	3.3	5.9	3.6	3.9	5.0	8.6	-0.8	4.5	9.1
3rd Quartile	0.8	3.0	5.6	3.4	3.6	4.7	8.4	-1.2	4.1	8.7
95th Percentile	0.4	2.0	4.3	2.6	3.1	4.4	6.7	-1.5	3.7	7.8
Population	44	44	44	44	44	44	50	51	55	57

Parentheses contain percentile rankings.

Returns for periods greater than one year are annualized.

For illustrative purposes, Aon Hewitt has used the FTSE TMX Universe Bond Index for the purpose of a peer group analysis.

Note, this is not a direct comparison between FGP's Canadian fixed income mandate and the Canadian bonds universe.

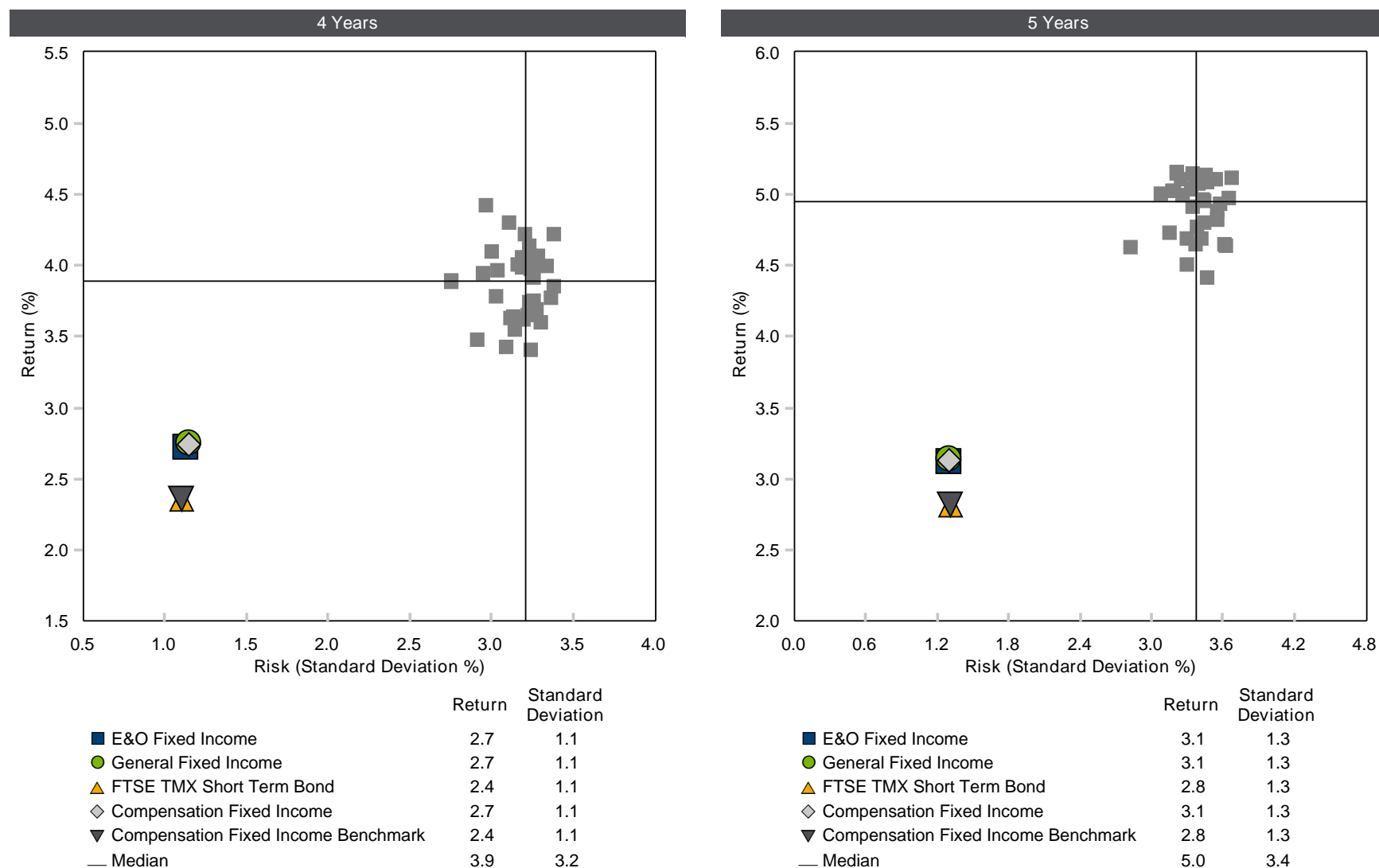
Source: Aon Hewitt Manager Universe.

Fixed Income Funds

Peer Group Scattergram

Periods Ending 31 December 2015

Canadian Bonds



Returns for periods greater than one year are annualized.

For illustrative purposes, Aon Hewitt has used the FTSE TMX Universe Bond Index for the purpose of a peer group analysis.

Note, this is not a direct comparison between FGP's Canadian fixed income mandate and the Canadian bonds universe.

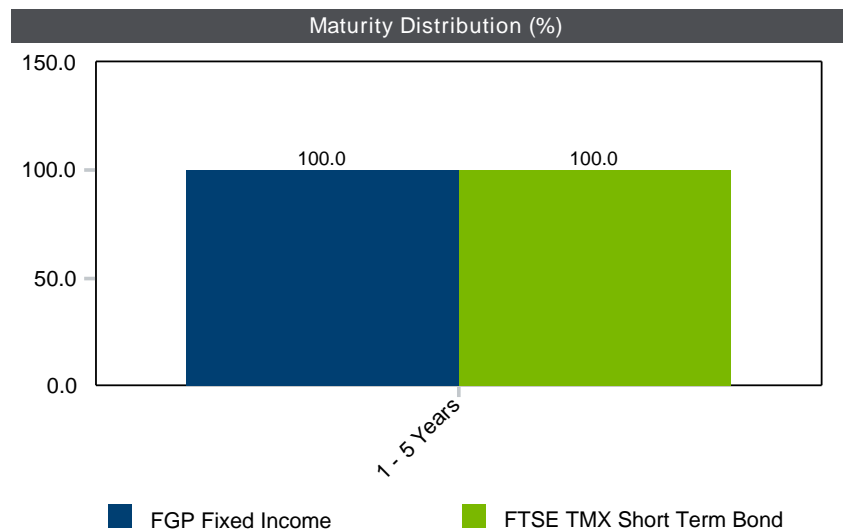
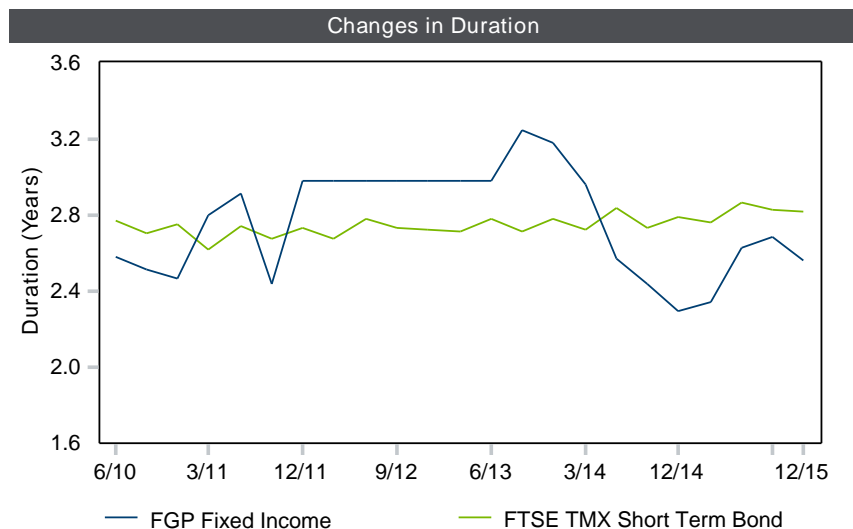
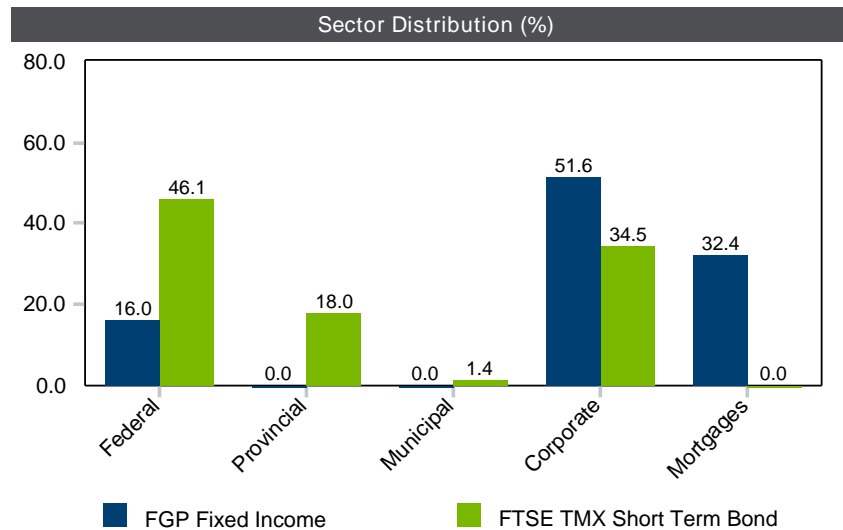
Source: Aon Hewitt Manager Universe.

Fixed Income Funds

FGP Fixed Income Fund Characteristics

As of 31 December 2015

Portfolio Characteristics		
	Portfolio	Benchmark
Modified Duration	2.6	2.8
Avg. Maturity	2.7	3.0
Avg. Quality	AA	AA
Yield To Maturity (%)	1.7	1.2

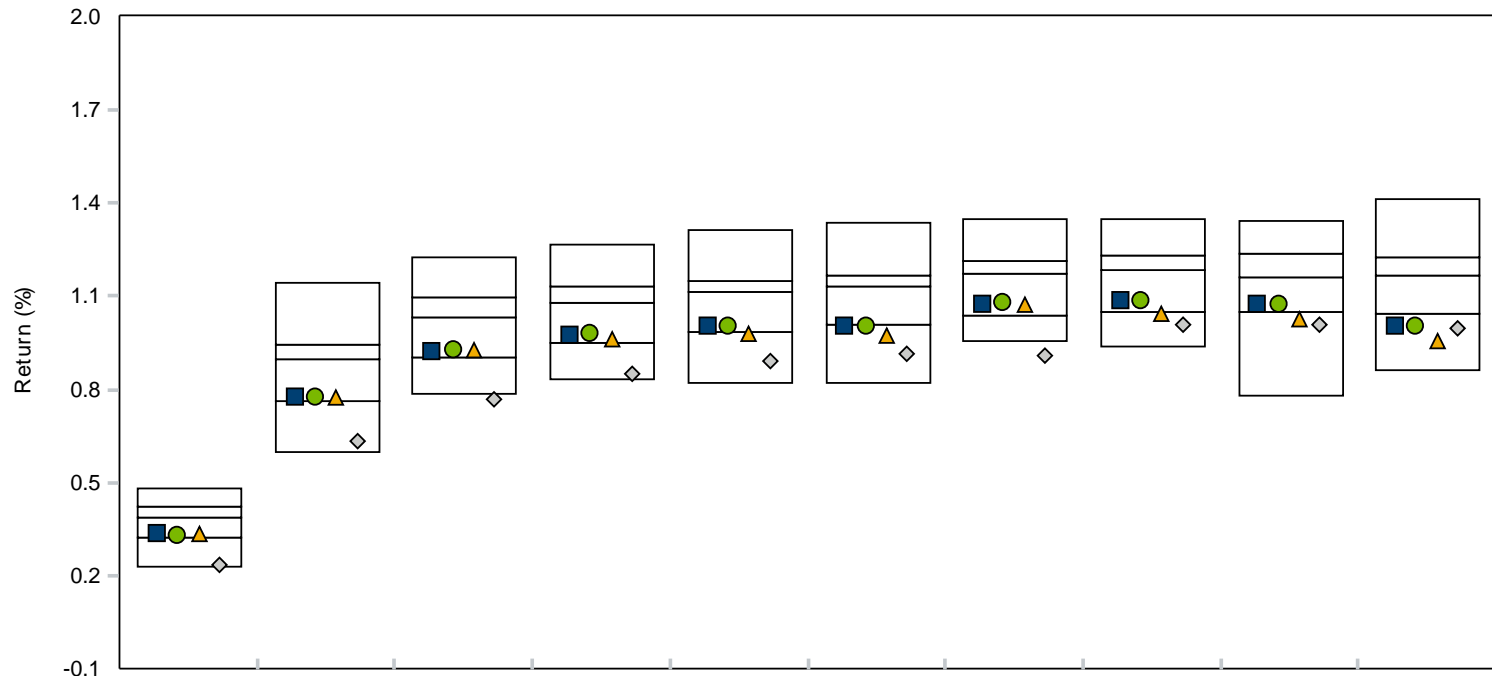


Money Market Funds

Peer Group Analysis

As of 31 December 2015

Money Market



	6 Months	1 Year	2 Years	3 Years	4 Years	5 Years	2014	2013	2012	2011
■ E&O Short-Term	0.3 (71)	0.8 (73)	0.9 (71)	1.0 (71)	1.0 (70)	1.0 (77)	1.1 (71)	1.1 (66)	1.1 (66)	1.0 (80)
● Compensation Short-Term	0.3 (72)	0.8 (73)	0.9 (70)	1.0 (70)	1.0 (69)	1.0 (76)	1.1 (70)	1.1 (66)	1.1 (66)	1.0 (80)
▲ General Short-Term	0.3 (71)	0.8 (72)	0.9 (71)	1.0 (72)	1.0 (77)	1.0 (80)	1.1 (71)	1.0 (79)	1.0 (77)	1.0 (92)
◆ FTSE TMX 91-Day T-Bill	0.2 (95)	0.6 (94)	0.8 (97)	0.8 (94)	0.9 (91)	0.9 (90)	0.9 (97)	1.0 (86)	1.0 (78)	1.0 (80)
5th Percentile	0.5	1.1	1.2	1.3	1.3	1.3	1.3	1.3	1.3	1.4
1st Quartile	0.4	0.9	1.1	1.1	1.2	1.2	1.2	1.2	1.2	1.2
Median	0.4	0.9	1.0	1.1	1.1	1.1	1.2	1.2	1.2	1.2
3rd Quartile	0.3	0.8	0.9	0.9	1.0	1.0	1.0	1.1	1.0	1.0
95th Percentile	0.2	0.6	0.8	0.8	0.8	0.8	1.0	0.9	0.8	0.9
Population	28	28	28	28	28	28	30	32	34	36

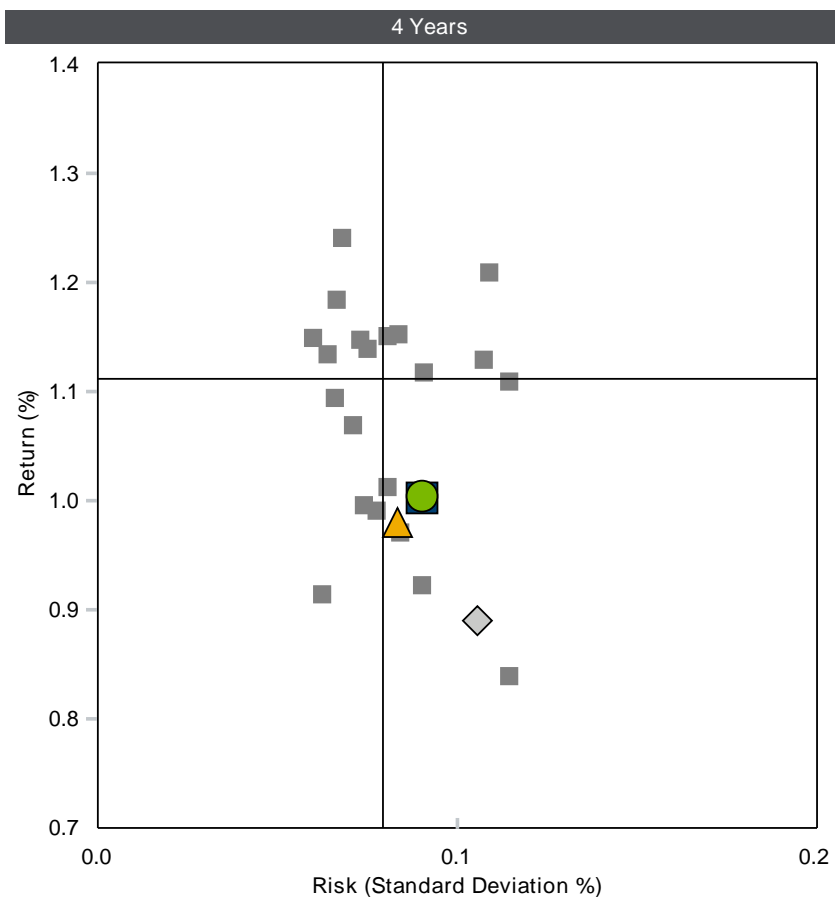
Parenteses contain percentile rankings.
Returns for periods greater than one year are annualized.
Source: Aon Hewitt Manager Universe.

Money Market Funds

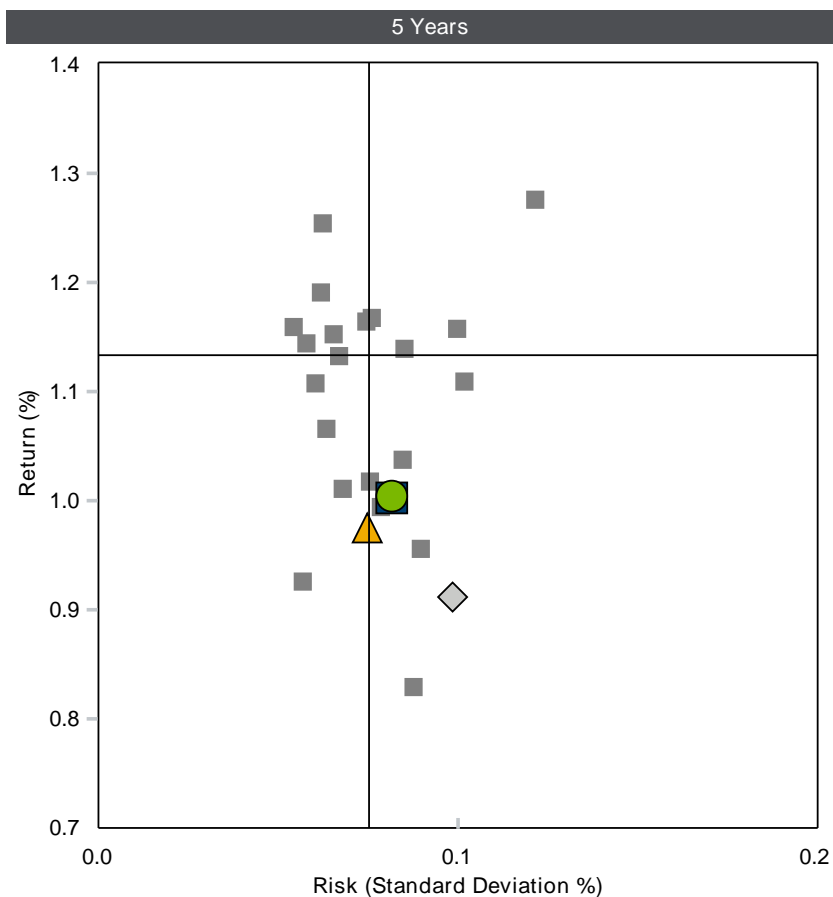
Peer Group Scattergram

Periods Ending 31 December 2015

Money Market



	Return	Standard Deviation
■ E&O Short-Term	1.0	0.1
● Compensation Short-Term	1.0	0.1
▲ General Short-Term	1.0	0.1
◆ FTSE TMX 91-Day T-Bill	0.9	0.1
— Median	1.1	0.1



	Return	Standard Deviation
■ E&O Short-Term	1.0	0.1
● Compensation Short-Term	1.0	0.1
▲ General Short-Term	1.0	0.1
◆ FTSE TMX 91-Day T-Bill	0.9	0.1
— Median	1.1	0.1

Returns for periods greater than one year are annualized.
Source: Aon Hewitt Manager Universe.

Appendix A - Plan Information

Plan Information**Summary of Investment Objectives**

The investment policy contains specific performance objectives for the fund and for the investment manager.

Investment rates of return are reported on a calendar basis and include realized and unrealized capital gains and losses, plus income.

Returns are calculated on a time-weighted basis and are compared to the objectives described below in order to assess the performance of the investment manager.

The primary objective is to outperform a benchmark portfolio over moving four-year periods. The specific benchmark weights are provided on the following page.

Management Mandates: Active management of the asset allocation
 Active management of the asset classes

Management Structure: One Short-Term bond mandate
 One Canadian equity mandate

Management Firm: Foyston, Gordon & Payne Inc. (FGP)

Investment Products:	Prior to 30 June 2009	From 1 July 2009 to 21 May 2010	From 21 May 2010 23 June 2014	After 23 June 2014
<u>E&O Insurance Fund</u>				
Short-Term	-	Pooled	Pooled	Pooled
Canadian Bonds	Pooled	Pooled	Segregated	Pooled
Canadian Equities	Pooled	Pooled	Pooled	Pooled
Private U.S. Equities	Pooled	-	-	-
<u>Compensation & General Fund</u>				
Short-Term	Pooled	Pooled	Pooled	Pooled
Canadian Bonds	Segregated	Segregated	Segregated	Pooled
Canadian Equities	Pooled	Pooled	Pooled	Pooled
Private U.S. Equities	Segregated	-	-	-

Note: Segregated = Individual Securities

Plan Information

Summary of Investment Objectives

Blended Benchmark Composition

E&O Insurance Fund Benchmark		Compensation Fund Benchmark	
Components	Weight (%)	Components	Weight (%)
Mar-2006		Jun-2003	
S&P/TSX Composite	15.00	S&P/TSX Composite	7.50
S&P 500 (CAD)	15.00	S&P 500 (CAD)	7.50
FTSE TMX Short Term Bond	70.00	FTSE TMX Short Term Bond	85.00
Jul-2009		Jan-2004	
S&P/TSX Composite	15.00	S&P/TSX Composite	7.50
FTSE TMX Short Term Bond	85.00	S&P 500 (CAD)	7.50
FTSE TMX 91-Day T-Bill	0.00	FTSE TMX Universe Bond	85.00
		Jul-2009	
		S&P/TSX Composite	13.00
		FTSE TMX Universe Bond	87.00
		Apr-2010	
		S&P/TSX Composite	15.00
		FTSE TMX Short Term Bond	85.00
		FTSE TMX 91-Day T-Bill	0.00
General Fund Benchmark		Compensation Fund Fixed Income Benchmark	
Components	Weight (%)	Components	Weight (%)
Mar-2004		Jun-2003	
S&P/TSX Composite	7.50	FTSE TMX Short Term Bond	100.00
S&P 500 (CAD)	7.50	Jan-2004	
FTSE TMX Short Term Bond	85.00	FTSE TMX Universe Bond	100.00
Jul-2009		Apr-2010	
S&P/TSX Composite	13.00	FTSE TMX Short Term Bond	100.00
FTSE TMX Short Term Bond	87.00		
Apr-2010			
S&P/TSX Composite	15.00		
FTSE TMX Short Term Bond	85.00		
FTSE TMX 91-Day T-Bill	0.00		

Appendix B - Manager Updates

Manager Updates

Manager Updates

As of 31 December 2015

Foyston, Gordon & Payne ("FGP")

Q4 2015

Business

There were two new product offerings: the FGP Preferred Share Fund and the FGP Core Plus Fund.

Staff

Tom Duncanson was promoted to Senior Research Analyst & Portfolio Manager - Canadian Equities effective 1 January 2016. He will co-manage FGP's small cap mandates with Bryan Pilsworth who will retain the lead responsibility on portfolio decision-making for small cap mandates. Duncanson has been a research analyst at FGP since 2006. He will continue to cover the Materials and Consumer Staples sectors for all FGP Canadian equity portfolios.

Q3 2015

Business

There were no significant events.

Staff

Dave Chan joined FGP in August as a Senior Research Analyst within the Global equities team. Chan has been assigned to focus on the Industrials sector. Prior to joining FGP, Chan was also a Senior Investment Analyst within the Global equity team at Mackenzie Investments.

Appendix C - Capital Markets Environment

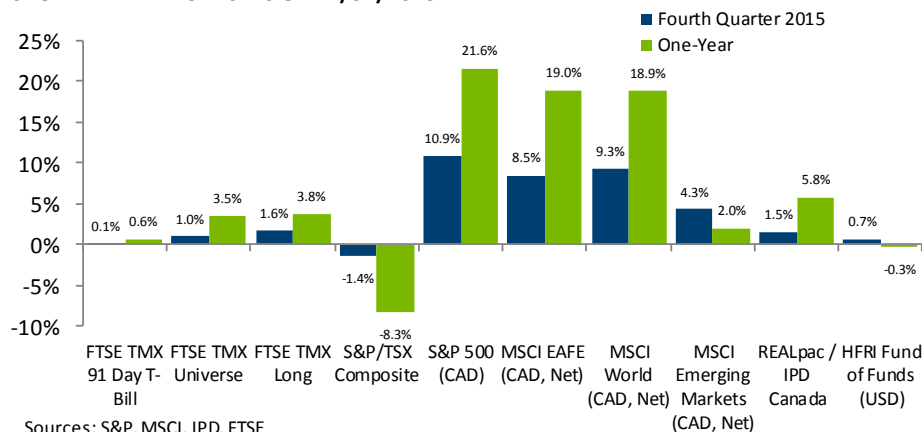
Capital Markets Environment

Capital Markets Environment

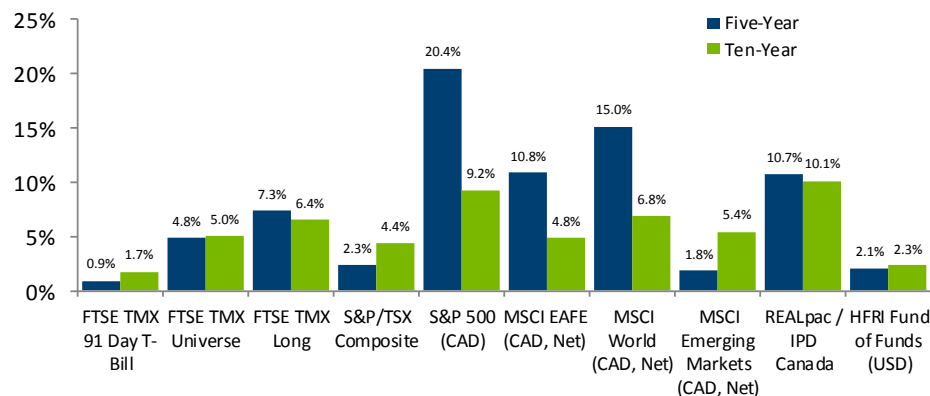
As of 31 December 2015

- After a dismal third quarter, global equities rebounded somewhat in the fourth quarter in an environment where U.S. and European markets were supported by decent economic data but Chinese growth remained subdued. The MSCI All Country World Index ("ACWI") returned 5.8% in local currency terms and 8.8% in Canadian dollar terms.
- The European Central Bank ("ECB") extended its quantitative easing program in December, cutting the deposit rate to -0.3%. However, markets had built up expectations of a more extensive set of easing measures, so the euro retraced some of its previous weakness. Also in December, the U.S. Federal Reserve ("Fed") gave its vote of confidence to the U.S. economy by raising the discount rate for the first time in almost a decade. Since this move was generally expected, the market reaction was muted.
- The Canadian economy grew at an annualized rate of 2.3% in the third quarter of 2015, exiting its technical recession. GDP growth was driven by a surge in exports, assisted by weakness in the Canadian dollar, which significantly offset the decline in business investment by energy companies.
- The Bank of Canada ("BoC") kept the monetary policy unchanged over the quarter, but downgraded their economic growth forecast for 2016 and 2017 as falling energy and commodity prices are likely to weigh on the resource heavy economy.

SHORT TERM RETURNS AS OF 12/31/2015



LONG TERM ANNUALIZED RETURNS AS OF 12/31/2015



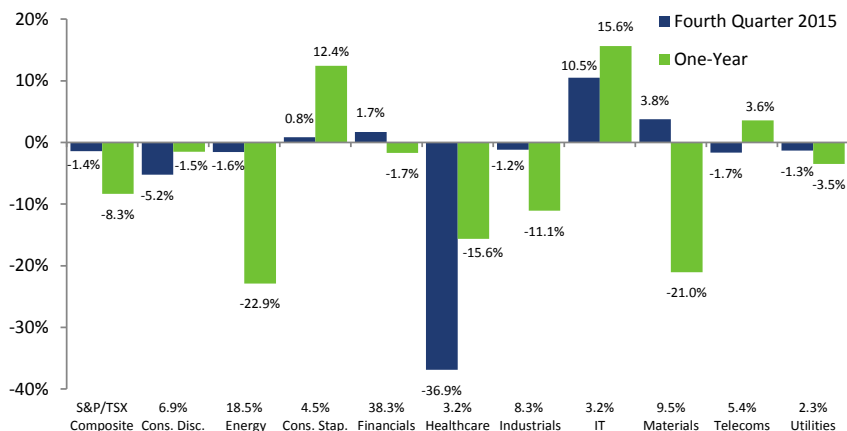
Capital Markets Environment

Capital Markets Environment

As of 31 December 2015

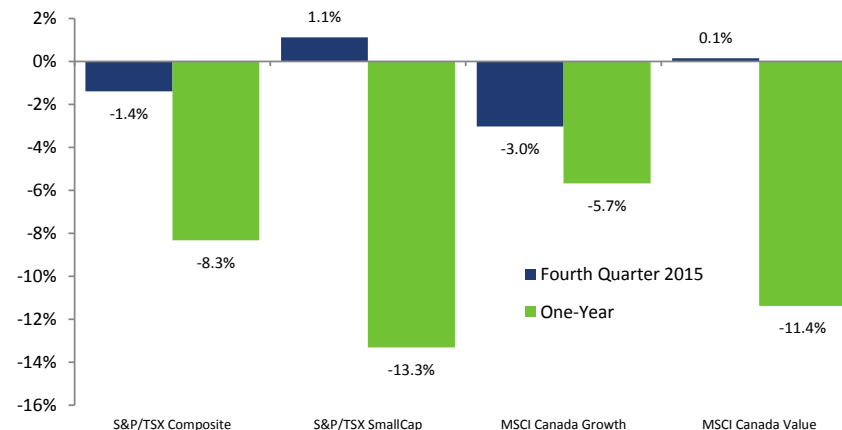
Canadian Equity Markets

S&P/TSX COMPOSITE GICS SECTOR RETURNS (CAD) AS OF 12/31/2015



Source: S&P

CANADIAN EQUITY STYLE/SIZE RETURNS (CAD) AS OF 12/31/2015



Source: S&P, MSCI

- The S&P/TSX Composite Index fell -1.4% during the quarter and fell -8.3% over the one-year period.
- Only four of the 10 sectors posted positive returns in the final quarter of 2015. The best performing sectors were IT (10.5%), Materials (3.8%) and Financials (1.7%). Healthcare was the worst performing sector (-36.9%) as one of the largest holdings in the Index, Valeant Pharmaceuticals was accused of inflating revenue using fraudulent accounting practices. Consumer Discretionary (-5.2%) was another poorly performing sector.
- In the most recent quarter, Canadian growth stocks fell by 3.0% while the value stocks rose marginally by 0.1%.
- Canadian small cap stocks outperformed large cap stocks in the fourth quarter of 2015.

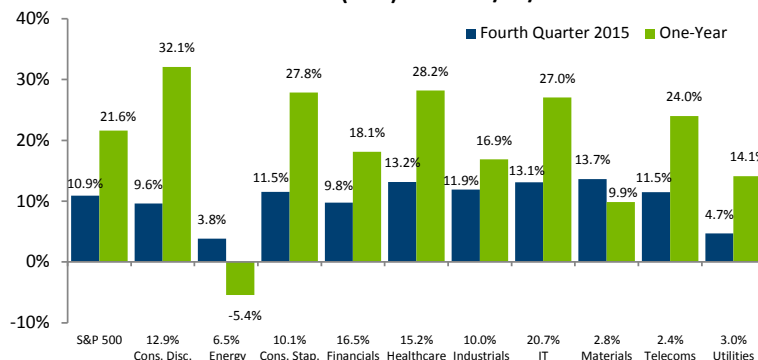
Capital Markets Environment

Capital Markets Environment

As of 31 December 2015

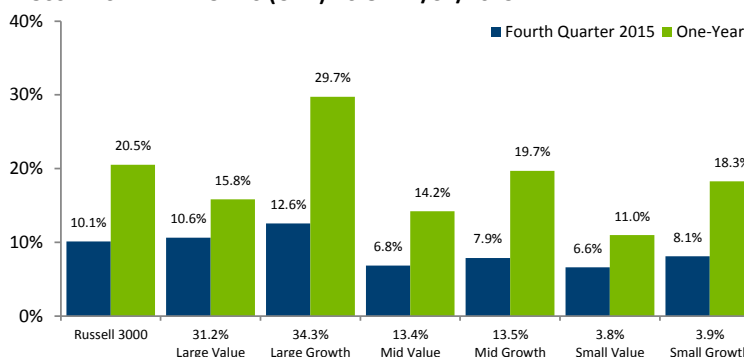
U.S. Equity Markets

S&P 500 GICS SECTOR RETURNS (CAD) AS OF 12/31/2015



Source: S&P

RUSSELL STYLE RETURNS (CAD) AS OF 12/31/2015



Source: Russell Indexes

- U.S. equity returns were strong as the market gained from a more sure-footed Fed. Not only did the Fed raise short-term interest rates, but an optimistic set of minutes from prior meetings was released. Over the quarter, the S&P 500 Index returned 7.0% in local currency terms and 10.9% in Canadian dollar terms as the Canadian dollar continued to weaken against the U.S. dollar. The Index returned 21.6% in Canadian dollar terms in 2015.
- All the 10 sectors posted positive returns in Canadian dollar terms in the quarter. The top performing sectors were Materials (13.7%), Healthcare (13.2%) and IT (13.1%) while the worst performing sectors were Energy (3.8%) and Utilities (4.7%).
- By style, growth outperformed value in the quarter and in 2015. U.S. large cap stocks outperformed medium and small cap stocks during the quarter.

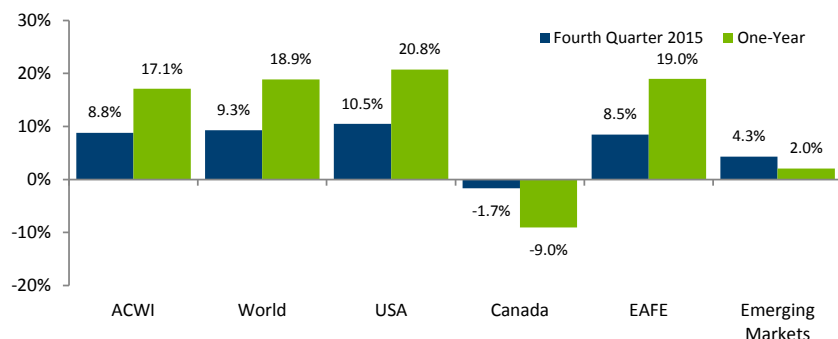
Capital Markets Environment

Capital Markets Environment

As of 31 December 2015

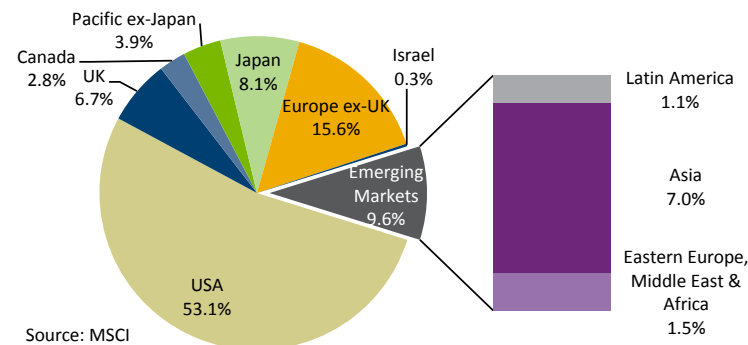
Global Equity Markets

GLOBAL MSCI INDEX (NET) RETURNS (CAD) AS OF 12/31/2015

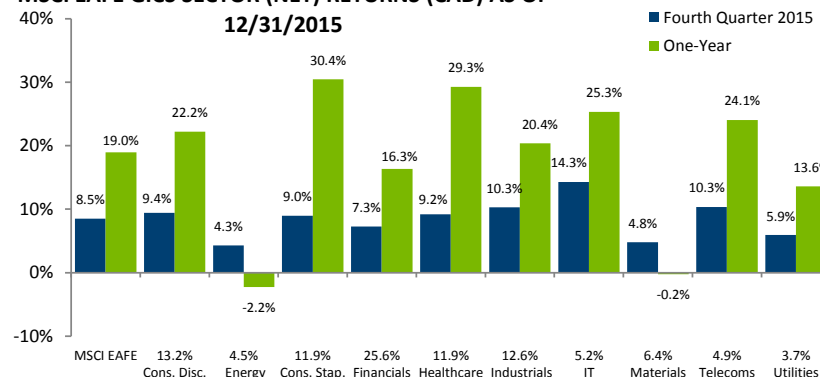


Source: MSCI

- The MSCI ACWI rose 8.8% during the quarter and gained 17.1% in 2015 in Canadian dollar terms.
- The MSCI EAFE Index rose over the quarter, returning 6.3% in local currency terms with consistent positive performance across major regions. Japanese equities performed strongly, helped by the Trans-Pacific Partnership agreement in October while the European equities benefitted from a resurgence in investor risk appetite. Generally better economic data also provided support to the market. However, the ECB's failure to meet easing expectations and falling commodity prices limited the returns during the quarter. Weakness in the Canadian dollar increased the MSCI EAFE returns in Canadian dollar terms to 8.5%.
- The MSCI Emerging Markets Index lagged once more as the implications of an approaching Fed monetary policy tightening cycle weighed on the region and weak Chinese trade data took its toll on investor sentiment, limiting returns in local currency terms to 1.6%. The Index returned 4.3% in the past quarter in Canadian dollar terms.
- All EAFE sectors generated positive returns in Canadian dollar terms in the fourth quarter, with IT (14.3%) being the best performing sector and Energy (4.3%) being the worst.

MSCI ALL COUNTRY WORLD INDEX
GEOGRAPHIC ALLOCATION AS OF 12/31/2015

Source: MSCI

MSCI EAFE GICS SECTOR (NET) RETURNS (CAD) AS OF
12/31/2015

Source: MSCI

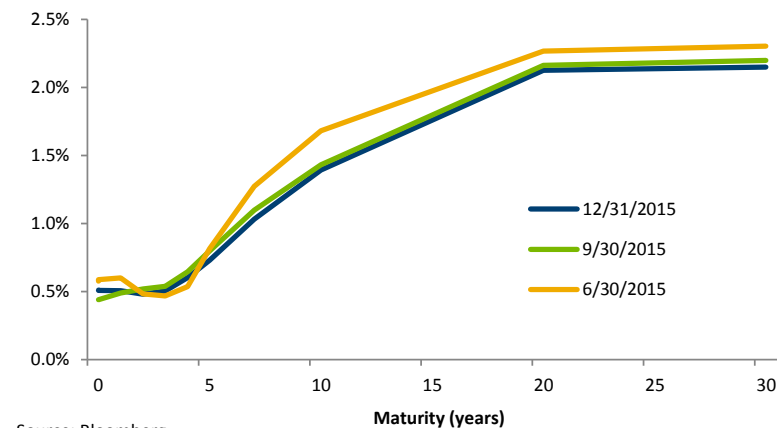
Capital Markets Environment

Capital Markets Environment

As of 31 December 2015

Canadian Fixed Income Markets

CANADIAN FEDERAL YIELD CURVE



CANADIAN 30-YEAR FEDERAL YIELDS



- The Canadian yield curve was broadly unchanged over the quarter with yields falling marginally across all maturities except at the short end of the curve.
- Inaction in terms of monetary policy by the BoC and better economic data limited the fall in yields during the quarter.

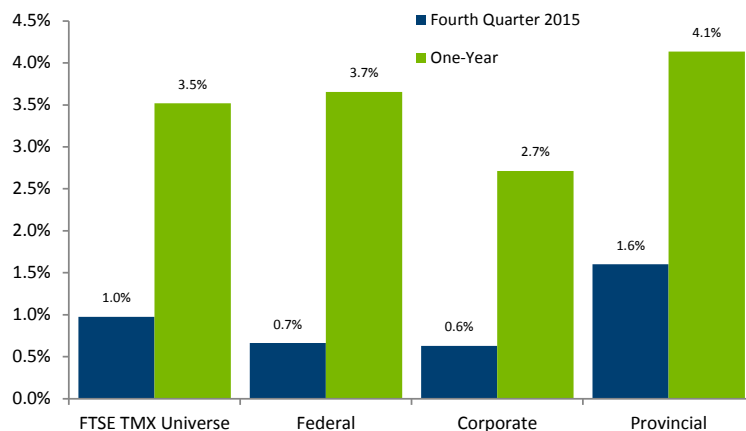
Capital Markets Environment

Capital Markets Environment

As of 31 December 2015

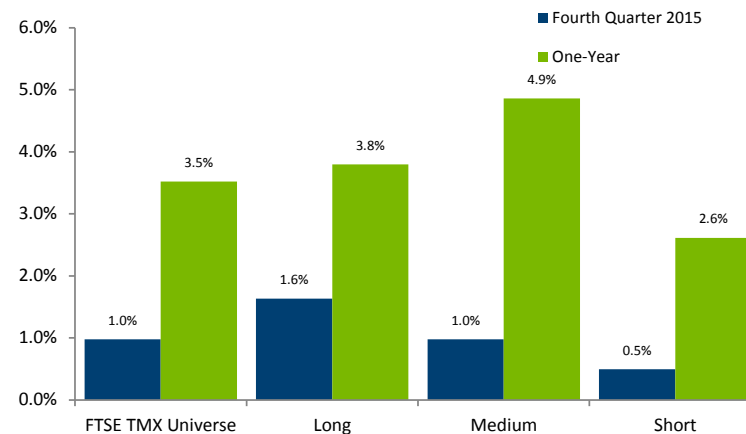
Canadian Fixed Income Markets

FTSE TMX RETURNS BY SECTOR AS OF 12/31/2015



Source: FTSE

FTSE TMX RETURNS BY MATURITY AS OF 12/31/2015



Source: FTSE

- Bond market returns were positive for both the three month period and for 2015. Provincial issues outperformed Federal and Corporate issues during both periods.
- In the investment grade corporate market, returns were positive across all grades of credit quality during the quarter, with bonds rated "A" providing the highest return.
- Long-term bonds outperformed medium and short-term bonds during the quarter, but underperformed medium-term bonds for the year.

FTSE TMX RETURNS BY CREDIT QUALITY AS OF 12/31/2015



Source: FTSE

Capital Markets Environment

Capital Markets Environment

As of 31 December 2015

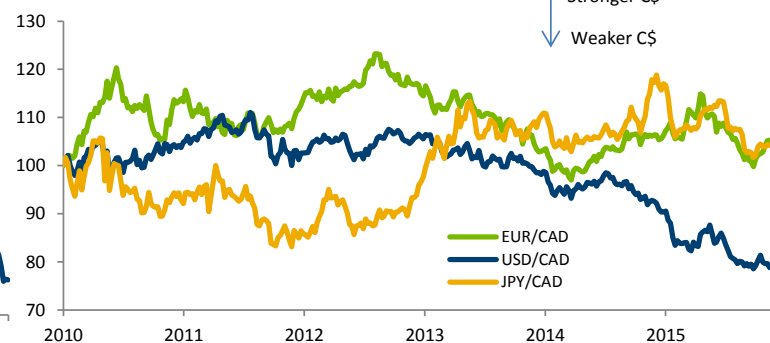
Currency

TRADE WEIGHTED CANADIAN DOLLAR INDEX
(1997 = 100)



Source: Bank of England

CANADIAN DOLLAR RELATIVE TO EUR, USD AND JPY
REBASED TO 100 AT 12/31/2009



Source: DataStream

- As measured by the broad trade weighted Canadian dollar index, the Canadian dollar weakened by 3.2% during the quarter, driven by a sharp fall in commodity prices.
- The U.S. dollar appreciated by 2.0% on a trade-weighted basis as the Fed raised the federal funds target band (from 0.0-0.25% to 0.25-0.50%) for the first time in almost a decade. The U.S. dollar appreciated by 3.6% against the Canadian dollar.
- The Euro weakened by 1.3% on a trade-weighted basis but marginally rose by 0.8% against the Canadian dollar.
- The Yen appreciated by 0.5% on a trade-weighted basis and by 3.6% against the Canadian dollar as falling commodity prices and continuing Chinese growth worries led to safe haven flows into the Japanese currency.

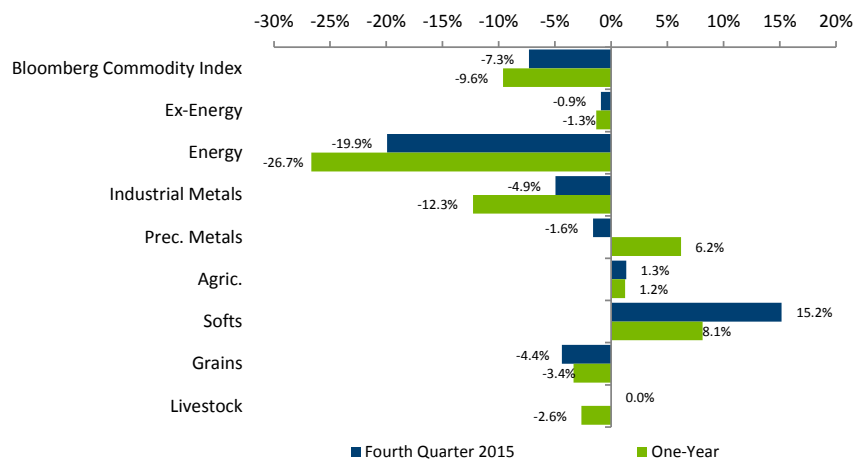
Capital Markets Environment

Capital Markets Environment

As of 31 December 2015

Commodities

COMMODITY RETURNS (CAD) AS OF 12/31/2015



Source: Bloomberg

- The Bloomberg Commodity Index fell sharply in Q4, posting a loss of -7.3%.
- Over the quarter, the best performing commodity segments were Softs (15.2%) and Agriculture (1.3%).
- Energy and Industrial Metals were the worst performing sectors during the quarter and year.

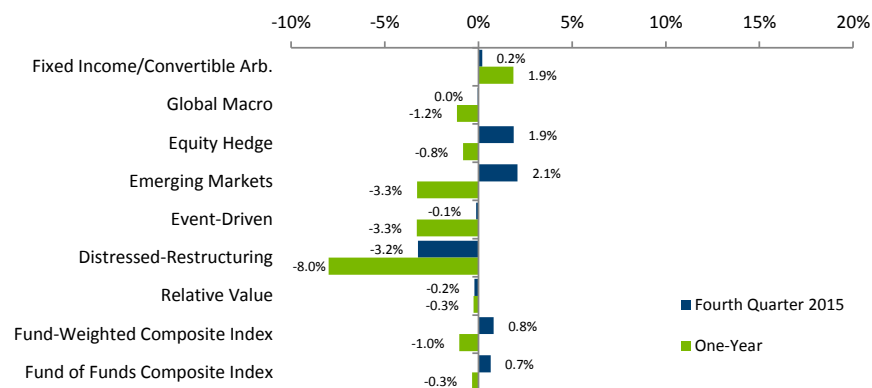
Capital Markets Environment

Capital Markets Environment

As of 31 December 2015

Hedge Fund Markets Overview

HEDGE FUND PERFORMANCE (USD) AS OF 12/31/2015



Note: Latest 5 months of HFR data are estimated by HFR and may change in the future.

Source: HFR

- Hedge fund performance was mixed over the quarter.
- The HFRI Fund-Weighted and Fund of Funds Composite Indices returned 0.8% and 0.7% respectively in the fourth quarter of 2015 in U.S. dollar terms.
- Emerging Markets was the strongest performing hedge fund sector over the quarter returning 2.1% while Distressed-Restructuring strategies were the weakest returning -3.2%.

Appendix D - Description of Market Indices and Statistics

Description of Market Indices and Statistics

Index Definitions

S&P/TSX Composite

S&P/TSX Composite Index comprises approximately 71 percent of market capitalization for Canadian-based, Toronto Stock Exchange listed companies. It is calculated on a float market capitalization and is the broadest Canadian equity index available. The index also serves as the premier benchmark for Canadian pension funds and mutual market funds.

S&P 500

Standard and Poor's 500 Composite Stock Index consists of the largest 500 companies in the United States chosen for market size, liquidity and industry group representation. It is a market-value weighted index, with each stock's weight in the index proportionate to its market value. For the purposes of this report, the S&P 500 Index returns are converted from U.S. dollars into Canadian dollars, and therefore reflect currency gains or losses.

FTSE TMX Universe Bond (formerly DEX Universe Bond)

The FTSE TMX Universe Bond Index covers all marketable Canadian bonds with term to maturity of more than one year. The Universe contains approximately one thousand marketable Canadian bonds with an average term of 10.1 years and an average duration of 7.1 years. The purpose of the index is to reflect the performance of the broad "Canadian Bond Market" in a similar manner to the S&P/TSX Composite Index.

FTSE TMX 91-Day T-Bill (formerly DEX 91-Day T-Bill)

Canada Treasury Bills represent the highest quality short-term instruments available. The index is constructed by selling and repurchasing Government of Canada T-Bills with an average term to maturity of 91 days. The 91-Day Treasury Bill Index is calculated and marked to market daily.

Description of Market Indices and Statistics

Statistic Definitions

As of 31 December 2015

Active Return

Arithmetic difference between the portfolio return and the benchmark return over a specified time period.

Active Weight

The difference between the portfolio weight and the benchmark weight, where the weight is based on the beginning of period weights for the sector/region/asset class for a certain periodicity (monthly or quarterly, depending upon the reporting frequency), adjusted by the relative return for the sector/region/asset class.

Annualized Value Added

A portfolio's excess return over a benchmark, annualized as it is recorded.

Asset Allocation

The value added or subtracted by under or over weighting sectors/regions/asset classes versus the benchmark weights. Asset allocation measures the impact on performance attributed only to the sector/region/asset class weighting decisions by the manager. It assumes that the manager holds the same securities in each sector/region/asset class and in the same proportion as in the benchmark. Any differences in return can be attributed to differences in sector weights between the manager's fund and the benchmark.

Batting Average

The frequency, expressed in percentage terms, of the portfolio's return equaling or exceeding the benchmark's return.

Beta

A measure of the sensitivity of a portfolio to the movements in the market. It is a measure of a portfolio's non-diversifiable or systematic risk.

Correlation

Also called coefficient of correlation, it is a measure of the co-movements of two sets of returns. Indicates the degree in which two sets of returns move in tandem.

Cumulative Added Value

The geometrically linked excess return of a portfolio over a benchmark.

Down Market Capture

The portfolio's average return as a percentage of the benchmark return, during periods of negative benchmark return. Lower values indicate better portfolio performance.

Downside Risk

A measure similar to standard deviation, but focuses only on the negative movements of the return series. It is calculated by taking the standard deviation of the negative quarterly set of returns. The higher the factor, the riskier the portfolio.

Description of Market Indices and Statistics

Statistic Definitions

As of 31 December 2015

Duration

A measure of a bond portfolio's sensitivity to movements in interest rates.

EPS

Earnings Per Share

Excess Return

Arithmetic difference between the managers return and the risk-free return over a specified time period.

Excess Risk

A measure of the standard deviation of a portfolio's performance relative to the risk free return.

Information Ratio

Measured by dividing the active rate of return by the tracking error. The higher the Information Ratio, the more value-added contribution by the manager.

Return

Compounded rate of return for the period.

R-Squared

The percentage of a portfolio's performance explained by the behaviour of the appropriate benchmark. High R-Square means a higher correlation of the portfolio's performance to the appropriate benchmark.

Security Selection

The value added or subtracted by holding securities at weights which differ from those in the benchmark, including securities not in the benchmark or a zero weight. The security selection return assumes the manager weights for each sector/region/asset class in the portfolio are in the same proportion as in the overall benchmark, and excess returns are due to security selection. That is, differences in returns between the manager's fund and the benchmark are attributed to the securities the manager has chosen.

Sharpe Ratio

Represents the excess rate of return over the risk free return divided by the standard deviation of the excess return. The result is the absolute rate of return per unit of risk. The higher the value, the better the portfolio's historical risk-adjusted performance.

Simple Alpha

The difference between the portfolio's return and the benchmark's return.

Description of Market Indices and Statistics

Statistic Definitions

As of 31 December 2015

Standard Deviation

A statistical measure of the range of a portfolio's performance, the variability of a return around its average return over a specified time period.

Tracking Error

A measure of the standard deviation of a portfolio's performance relative to the performance of an appropriate benchmark.

Treynor Ratio

Similar to Sharpe ratio, but focuses on beta rather than excess risk (standard deviation). Represents the excess rate of return over the risk free rate divided by the beta. The result is the absolute rate of return per unit of risk. The higher the value, the better the portfolio's historical risk-adjusted performance.

Up Market Capture

The portfolio's average return as a percentage of the benchmark return, during periods of positive benchmark return. Higher values indicate better portfolio performance.

Appendix E - Fee Analysis

Fee Analysis

Manager Fees

Account	Fee Schedule	Market Value	Percentage of Portfolio	Estimated Annual Fee (\$)	Estimated Annual Fee (%)
Total		\$69,523,068	100.0%	\$85,507	0.123%
FGP - Equities	0.450% of the first \$50 Million 0.300% of the next \$25 Million 0.200% of the balance	\$12,686,374	18.2%	\$57,089	0.450%
FGP - Fixed Income & Short-Term	0.050% of the balance	\$56,836,694	81.8%	\$28,418	0.050%

Appendix F - Compliance

Compliance

E&O Insurance Fund, Compensation Fund and General Fund		
Category	Guidelines	Dec-15
General	Confirm whether the following transactions have occurred in the portfolio:	
	Use of non-taxable accounts.	✓
	Use of derivatives.	✓
	Short selling investments.	✓
	Use of margin.	✓
	Direct investment in real estate.	✓
Money Market Investments	Investments have a minimum rating of R1 or equivalent, by DBRS, Moody's or Standard and Poor.	✓
	Investments have a maximum maturity of 1 year (364 days).	✓
	Money Market/Short Term Investments are only in these type of investments:	
	<ul style="list-style-type: none"> • Federal Government T-Bills (including Federal and Provincial agencies) • Bankers Acceptance • Commercial Paper 	✓
	No more than 8% of the total portfolio has been invested with any single issuer other than Government of Canada securities.	✓
Fixed Income Investments	Investments have a minimum rating of BBB for bonds and debentures or P2 for preferred stocks or equivalent by DBRS, Moody's or Standard and Pooers.	✓
	Investments are in Canadian Currency.	✓
	No more than 10% of the market value of the fixed income portfolio has been invested with any one security or issuer other than holdings with Federal and Provincial Governments and their guarantees.	✓
	Portfolio's weighted average duration is between 1 to 5 years and in-line with the Benchmark (FTSE TMX Short Term Bond Index).	✓
	Fixed Income Investments are only in these type of investments:	
	<ul style="list-style-type: none"> • Bonds, Debentures, Notes, Non-Convertible Preferred Stocks, Term Deposits and GICs • Bonds of Foreign Issuers denominated in Canadian Dollars • NHA-insured Mortgage-Backed Securities or Collateralized Mortgage-Backed Securities • Marketable Private Placement of Bonds 	✓
	Confirm whether the fixed income portion of the portfolio's asset mix has been within the ranges defined below for the previous month:	
	Minimum holding in Government of Canada Debt Obligations: Benchmark Weight minus 20%	✓
	Provincial Government Debt and Municipal Government Debt Obligations: Benchmark Weight plus or minus 20%	✓
	Maximum Total Corporate Debt Obligations: Benchmark weight plus 20%	✓
	Maximum Total Corporate BBB Issues: Benchmark weight plus 10%	
	Foreign Issuer or Canadian Issuer in foreign currency: Max 10%	✓
Equity Securities	Stocks are listed on one of the major stock exchanges.	
	No more than 10% of market value of the total portfolio is invested with a single issuer.	✓
Asset Mix (based on market value)	Confirm whether the portfolio asset mix has been within the ranges defined below for the previous month:	
	Money Market: Min 0%, Max 15%	✓
	Canadian Fixed Income: Min 60%, Max 95%	✓
	Total Fixed Income: Min 75%, Max 95%	✓
	Canadian Equities: Min 5%, Max 25%	✓

Appendix G - Latest Thinking

Executive Summary

Latest Thinking

During the last quarter, we have produced papers on the following topics. Although these topics may not be directly applicable to your Plan, they may be of general interest and provide some insight into Aon Hewitt's global research. For copies of the papers, or for more details, please contact your Aon Hewitt Investment Consultant.

Topic	Summary
ESG Investing	<p>Investors who consider Environmental, Social, and Governance (ESG) factors do so for different reasons. For some it is a moral imperative, grounded in the belief that an investment portfolio should reflect certain values and ideals. For others, it is an economic argument, stemming from the perspective that investing in companies that follow certain principles or invest along certain themes present long-term performance advantages. This paper looks at Aon's views of ESG investing and how we can assist clients who wish to incorporate ESG into their investment portfolios.</p> <p>www.aon.ca/pubs/ic/ESG-Investing.pdf</p>
Do Diversified Growth Funds Solve the Diversification Problem?	<p>Diversified Growth Funds (DGFs) have grown internationally in popularity over the last few years. They are seen as a relatively straightforward way to add diversification within growth portfolios because they offer access to a range of asset classes at typically lower cost and greater liquidity than a bespoke alternatives portfolio. But they do have a number of limitations which mean they are not suitable for all our clients and other methods of diversification may be more appropriate.</p> <p>This paper highlights why DGFs are not the panacea of diversification that some believe them to be. Aon Hewitt encourages a range of options to be discussed when considering diversification options, from low governance delegated approaches through to dedicated illiquid alternatives portfolios. The best solution can be identified when considering the fuller picture of opportunities and understanding your specific circumstances.</p> <p>www.aon.ca/pubs/ic/Diversified-Growth-Funds.pdf</p>
The Role of Hedge Funds in an Investment Strategy	<p>As markets become increasingly focused on the timing of interest rate rises, the stimulus that has driven equity markets higher with limited volatility over recent years is no longer likely to offer the same degree of support to long only investment strategies on a forward looking basis. Combining this uncertainty with concerns over global growth and a slowdown in China has resulted in the elevated market volatility seen since this past summer.</p> <p>This paper highlights the role that hedge funds can play in client portfolios through the diversification and downside protection that their absolute return philosophy has the potential to deliver. This paper complements our paper on Diversified Growth Funds (see above), which highlights the limitations of achieving diversification through Diversified Growth Funds. The paper also touches on some of the hurdles and concerns that investors face when investing in hedge funds, emphasising the importance of rigorous due diligence, transparency and manager selection.</p> <p>www.aon.ca/pubs/ic/Hedge-Funds-Investment-Strategy.pdf</p>

Appendix H - Disclosure

Disclosure

Statement of Disclosure

As of 31 December 2015

Aon Hewitt Inc. reconciles the rates of return with each investment manager quarterly. Aon Hewitt Inc. calculates returns from the custodian/trustee statements while the managers use different data sources. Occasionally discrepancies occur because of differences in computational procedures, security prices, "trade date" versus "settlement date" accounting, etc. We monitor these discrepancies closely and find that they generally do not tend to persist over time. However, if a material discrepancy arises or persists, we will bring the matter to your attention after discussion with your money manager.

This report may contain slight discrepancies due to rounding in some of the calculations.

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TAB 6.3

FOR DECISION

INVESTMENT CUSTODIAN

Motion:

20. **That Convocation approve the continued retention of the Custodian, CIBC Mellon Global Securities Services Company.**
21. Core custody services include safekeeping of securities, transaction settlements, and administering corporate actions. CIBC Mellon Global Securities Services Company has been the Law Society's investment custodian since 2001. RBC Investor & Treasury Services is the only viable competition in the custodial services marketplace. The Law Society compared fees between CIBC and RBC in October 2015 and found CIBC to be less expensive. The Law Society is satisfied with the custodial services and there is no difference in the financial and other security risks of the two institutions, leading to a conclusion to remain with CIBC.

TAB 6.4

REPORTS FOR INFORMATION

TAB 6.4.1

FOR INFORMATION

REPORT ON INVESTMENT RETURNS

22. **The Committee reviewed a report on the investment returns of the Law Society's long-term investment portfolio to assist in the assessment of the Investment Policy and the continued retention of the Portfolio Manager.**
23. A Detailed Performance Review and Investment Manager Evaluation for the Semi-Annual Period Ending December 31, 2015 from AON Hewitt Investment Consulting follows. This assesses the investment returns of the General, Compensation and Errors & Omissions Insurance ("E&O"). Funds which are administered by the same Investment Policy. At December 31, 2015, excluding cash and short-term investments, these investments had a total market value of \$66 million comprising \$53 million in fixed income investments and \$13 million in equity investments.
24. The report indicates that the overall gross return over the 4-year period ending December 31, 2015 was 3.45%, outperforming the benchmark by 0.62%.

TAB 6.4.2

FOR INFORMATION

**LAW SOCIETY OF UPPER CANADA FINANCIAL STATEMENTS FOR THE THREE
MONTHS ENDED MARCH 31, 2016**

25. The Audit & Finance Committee recommends the financial statements of the Law Society for the first quarter of 2016 be received by Convocation for information.
26. Supplemental schedules include Schedules of Revenues and Expenses for the Lawyer and Paralegal General Funds and the Compensation Fund.

**Law Society of Upper Canada Financial Statements
For the three months ended March 31, 2016**

Financial Statement Highlights

27. The Lawyer General Fund shows a surplus of \$1.7 million at the end of the first quarter of 2016, compared to a surplus of \$2.2 million for the same period of 2015. The Paralegal General Fund generated a surplus of \$471,000 at the end of the first quarter of 2015 compared to surplus of \$482,000 in the prior year.
28. The 2015 budget planned deficits in the General Funds, allocating \$1.2 million from the accumulated surplus investment income in the E&O Fund to mitigate a fee increase for lawyers and \$341,000 from the paralegal General Fund to mitigate a fee increase for paralegals.
29. The main factors in the operating performance are:
- professional development & competence revenues have decreased by 8% from 2015 but are in line with budget with licensing process revenues exceeding budget and continuing education under budget
 - all major expense categories are under budget.
- While some variances from budget are attributable to timing differences, it is still too early to say whether this will be representative of the remainder of the year.
30. The Law Society's restricted funds report a deficit of \$775,000 (2015 - \$2.8 million). The reduced deficit is due to the relatively better claims experience in the Compensation Fund and the E&O Fund no longer making a contribution to LAWPRO's insurance premium. The deficit primarily comprises:
- \$732,000 in the Compensation Fund
 - a surplus of \$318,000 in the E&O Fund because of better than projected investment income
 - amortization of \$726,000 in the Invested in Capital & Intangible Assets Fund.
31. The 2016 budget included a provision of \$700,000 to replenish the lawyer Compensation Fund balance.
32. There is at least a reasonable possibility that one or more cost awards from the Law Society's regulatory proceedings may be awarded against the Law Society but the amount of any losses cannot be reliably estimated at this time. The Society has determined that the ultimate settlement for these costs awards could range from nil to approximately \$5 million, of which only \$500,000 has been included in accrued liabilities.

Balance Sheet

33. At this time of year, the primary components of current assets are accounts receivable - annual fees, insurance premiums and licensing process fees; and prepaid expenses - annual E&O insurance premiums paid or payable for the year, which are expensed over the full year. Accounts receivable have increased from \$53 million to \$63 million primarily because of a change in the way E&O transaction levies are accrued.
34. The primary components of current liabilities are deferred revenue - annual fees, licensing process revenues, insurance premiums and levies which are recognized over the full year. Fluctuations in these amounts depend on the numbers of licensees and candidates, the amount of fees and premiums and the timing of transactions.
35. The amount due to LAWPRO will decline by year-end as insurance premiums and levies collected are paid to LAWPRO.
36. The investment in subsidiaries represents the 100% ownership of LAWPRO totaling \$35.6 million and the 100% ownership of LibraryCo totaling \$200.
37. Portfolio investments are shown at fair value of \$65.2 million compared to \$73.2 million at the same time last year, declining because of capital withdrawals from the Compensation Fund and E&O Fund portfolios over the 12 month period to fund claim payments and mitigate insurance premium increases for lawyers.
38. The provision for unpaid grants of \$20.9 million (2015 - \$23.5 million) represents the estimate for unpaid claims and inquiries against the Compensation Fund, supplemented by the costs for processing these claims. The Fund continues to process some large alleged defalcations on the part of certain licensees. The Compensation Fund describes a major defalcation as being over 35 claims arising from the conduct of one licensee in a single year and the Fund currently has two of these major defalcations. The paralegal Compensation Fund provision for unpaid grants comprises \$131,000 of the total Compensation Fund provision for unpaid grants.
39. The Law Society Act permits a member who has dormant trust funds, to apply for permission to pay the money to the Law Society. Money paid to the Law Society is held in trust in perpetuity for the purpose of satisfying the claims of the persons who are entitled to the capital amount. At the end of March, unclaimed money held in trust amounts to \$4.6 million (2015 - \$3.9 million).
40. The operating surpluses in the lawyer and paralegal General Funds have increased the fund balances to \$23 million and \$4.3 million respectively, still within the parameters established by Convocation's fund balance administration policy. The lawyer

Compensation Fund's deficit in the period of \$732,000 continues to erode the lawyer Compensation Fund balance. While claims attributable to the two major defalcations are still being evaluated, the fund balance of \$14.2 million is below the minimum level which is required by Convocation's fund balance administration policy, approximately \$16 million. The 2016 budget included a provision of \$700,000 to increase the fund balance. The fund balance policy requires the minimum benchmark to be restored within three years.

Statement of Revenues and Expenses and Change in Fund Balances

41. The Lawyer General Fund generated a surplus of \$1.6 million at the end of the first quarter of 2016, compared to \$2.2 million in 2015. The 2016 budget incorporates the use of \$1.2 million in funding from surplus investment income in the E&O Fund, the use of which is still to be determined.
42. The Paralegal General Fund generated a surplus of \$471,000 at the end of the first quarter of 2016 compared to a surplus of \$481,000 at the end of the first quarter of 2015. The 2016 budget incorporates the use of \$340,000 in annual funding from the Fund Balance to provide for a budgeted operating deficit. Actual use of funds is contingent on a deficit occurring.
43. The Law Society's restricted funds report a deficit of \$775,000. This is primarily comprised of deficits of \$732,000 in the Lawyer Compensation Fund and \$726,000 in the Capital & Intangible Assets Fund, offset by a surplus in the E&O Fund. The Compensation Fund's adverse claims experience in recent years continues on a reduced basis into 2016. The Capital & Intangible Assets Fund deficit is due to amortization in the period. The E&O Fund surplus arose from investment income being higher than projected.
44. Annual fee revenue is recognized on a monthly basis. Annual fees recognized in the first quarter of \$19 million have increased by \$481,000 due to an increase in the number of full-fee-paying licensees. There were fluctuations in the individual fee components but the total annual fee per lawyer and paralegal was the same as 2015.
45. LAWPRO's base premium (\$3,350) has not changed from 2015, leading to relatively static E&O Fund premium and levy revenue of \$25.6 million, as the number of insured lawyers increases.
46. Lawyer licensing process revenues of \$2.7 million are in line with 2015 and slightly more than budget for the period. The total Licensing Process fee including the fees for the initial application, the Barrister and Solicitor Licensing Examinations and the Call to the Bar, is \$4,710, unchanged from last year. The rate of increase of licensing process

registrants is decreasing over recent years. Enrollments for the 2015-2106 Law Practice Program are nominally less than the 2014-2015 LPP.

47. Paralegal licensing process revenues of \$548,000 are slightly less than 2015 levels but exceed budget.
48. Continuing Professional Development revenue totals \$1.4 million at the end of March 2016 compared to budget for the period of \$1.9 million and the 2015 comparative of \$1.9 million. It is still too early to assess trends in registration and most of the variances are probably attributable to timing with a significant amount of CPD revenue deferred to future periods when the education is scheduled to take place. The ratio of nominal fee programs to traditional fee generating programs also varies between periods. Since the CPD requirement was introduced in 2011, there has been a continual shift away from live attendance in favour of online viewing. The programs are both offering and selling fewer copies of printed materials as members grow more comfortable with electronic program materials. These developments provide savings in program expenses, including catering costs, course materials and venue rentals.
49. Total regulatory expenses of \$6.7 million are nominally less than the same period last year and are under budget. It is still early in the year and most departments and expense categories are contributing to the positive budget variance, in particular some unfilled staff positions. There are currently some potentially material cost award claims against the Law Society which are too uncertain to accrue in the financial statements.
50. Total professional development and competence expenses have increased slightly from \$6.2 million to \$6.3 million in the current year but are still under budget. The variances from the prior year and budget are spread over most departments and expense categories, in particular, operating expenses in the licensing process and continuing professional development areas.
51. Total corporate services expenses of \$5.6 million are much the same as the first three months of 2015 and are under budget.

General Fund – Lawyers & Paralegals – Schedule of Revenues and Expenses

Budget to Actual Comparison

52. The Schedule of Revenues and Expenses noting variances from budget has been provided. Notes on actual to budget variances are discussed in the analysis above.

The Errors and Omissions Insurance (E&O) Fund

53. The E&O Fund accounts for the mandatory professional liability insurance program of the Law Society which is administered by LAWPRO. The insurance premium expense, as well as related levies and income from their investment are tracked within this fund. The Law Society is insured for lawyers' professional liability and recovers annual premium costs from lawyers through a combination of annual base levies and additional levies that are charged based on a lawyer's claims history, status, and real estate and litigation levies. The fund is reporting a surplus of \$318,000 (2015 – deficit of \$461,000) due to higher than projected investment income. Unlike prior years, in 2016, there is no contribution from the E&O Fund to mitigate increases in the base insurance levy for lawyers.

The Compensation Fund

54. The Compensation Fund is reporting a deficit of \$732,000 in the first quarter of 2016, a relatively better financial result than \$1.9 million deficit at the same time last year although adverse financial results continue.

THE LAW SOCIETY OF UPPER CANADA

Balance Sheet

Unaudited

Stated in thousands of dollars

As at March 31

	2016	2015
Assets		
Current Assets		
1 Cash	25,933	34,276
2 Short-term investments	59,310	47,220
3 Accounts receivable	62,318	52,988
4 Prepaid expenses	83,399	84,342
6 Total current assets	230,960	218,826
7 Investment in subsidiaries	35,642	35,642
8 Portfolio investments	65,208	73,226
9 Capital assets	9,598	10,433
10 Intangible assets	861	1,234
11 Total Assets	342,269	339,361
Liabilities and Fund Balances		
Current Liabilities		
12 Accounts payable and accrued liabilities	9,023	8,889
13 Deferred revenue	131,554	128,003
14 Due to LAWPRO	61,081	57,549
15 Total current liabilities	201,658	194,441
16 Provision for unpaid grants/claims	20,947	23,548
17 Unclaimed trust funds	4,557	3,896
18 Total Liabilities	227,162	221,885
Fund Balances		
General funds		
19 Lawyers	23,057	20,735
20 Paralegals	4,337	3,456
Restricted funds		
21 Compensation - lawyers	14,173	13,693
22 Compensation - paralegals	494	436
23 Errors and omissions insurance	54,660	57,844
24 Capital allocation	6,925	8,377
25 Invested in capital and intangible assets	10,459	11,667
26 County libraries	(35)	(22)
27 Other	1,037	1,290
28 Total Fund Balances	115,107	117,476
27 Total Liabilities and Fund Balances	342,269	339,361

THE LAW SOCIETY OF UPPER CANADA**Statement of Revenues and Expenses and Change in Fund Balances***Unaudited**Stated in thousands of dollars**For the three months ended March 31*

	2016	2015	2016	2015	2016	2015	2016	2015
	General Fund Lawyer		General Fund Paralegal		Restricted Funds		Total	
Revenues								
1 Annual fees	12,746	12,343	1,001	960	5,242	5,205	18,989	18,508
2 Insurance premiums and levies	-	-	-	-	25,625	25,470	25,625	25,470
3 Professional development and competence	4,079	4,508	807	818	-	-	4,886	5,326
4 Investment income	142	162	13	16	345	462	500	640
5 Change in fair value of investments	87	58	8	6	338	280	433	344
6 Other	2,530	2,883	328	336	80	46	2,938	3,265
7 Total revenues	19,584	19,954	2,157	2,136	31,630	31,463	53,371	53,553
Expenses								
8 Professional regulation, tribunals and compliance	6,081	6,212	576	588	-	-	6,657	6,800
9 Professional development and competence	5,718	5,616	568	544	-	-	6,286	6,160
10 Corporate services	5,124	4,967	490	458	-	-	5,614	5,425
11 Convocation, policy and outreach	1,784	1,757	142	145	-	-	1,926	1,902
12 Services to members and public	958	915	56	54	-	-	1,014	969
13 Allocated to Compensation Fund	(1,731)	(1,689)	(146)	(135)	-	-	(1,877)	(1,824)
14 Restricted	-	-	-	-	32,405	34,247	32,405	34,247
15 Total expenses	17,934	17,778	1,686	1,654	32,405	34,247	52,025	53,679
16 Surplus (Deficit)	1,650	2,176	471	482	(775)	(2,784)	1,346	(126)
17 Fund balances, beginning of year	21,407	18,507	3,866	2,974	88,488	96,121	113,761	117,602
18 Interfund transfers	-	52	-	-	-	(52)	-	-
19 Fund balances, end of period	23,057	20,735	4,337	3,456	87,713	93,285	115,107	117,476

THE LAW SOCIETY OF UPPER CANADA**Schedule of Restricted Funds***Unaudited**Stated in thousands of dollars**For the three months ended March 31*

2016									2015
	Compensation Fund		Errors and omissions insurance	Capital allocation	Invested in capital and intangible assets	County libraries	Other restricted	Total Restricted funds	Total
	Lawyer	Paralegal							
1 Fund balances, beginning of year	14,905	441	54,342	6,716	11,185	-	899	88,488	96,121
Revenues									
2 Annual fees	2,463	181	-	517	-	1,881	200	5,242	5,205
3 Insurance premiums and levies	-	-	25,625	-	-	-	-	25,625	25,470
4 Investment income	192	18	135	-	-	-	-	345	462
5 Change in fair value of investments	169	16	153	-	-	-	-	338	280
6 Other	46	4	-	30	-	-	-	80	46
7 Total revenues	2,870	219	25,913	547	-	1,881	200	31,630	31,463
Expenses									
8 Allocated expenses	1,731	146	-	-	-	-	-	1,877	1,824
9 Direct expenses	1,871	20	25,595	350	726	1,916	50	30,528	32,423
10 Total expenses	3,602	166	25,595	350	726	1,916	50	32,405	34,247
11 (Deficit) Surplus	(732)	53	318	197	(726)	(35)	150	(775)	(2,784)
12 Interfund transfers	-	-	-	12	-	-	(12)	-	(52)
13 Fund balances, end of period	14,173	494	54,660	6,925	10,459	(35)	1,037	87,713	93,285

THE LAW SOCIETY OF UPPER CANADA
Lawyers and Paralegals General Fund
Schedule of Revenues and Expenses

Unaudited

Stated in thousands of dollars

For the three months ended March 31

	2015 Actual	2016 Actual	Budget YTD	Variance
REVENUES				
1 Annual fees	13,303	13,747	13,814	(67)
2 Professional development and competence	5,326	4,886	4,885	1
3 Investment income	178	155	194	(39)
4 Change in fair value of investments	64	95	-	95
5 Other	3,219	2,858	2,445	413
6 Total revenues	22,090	21,741	21,338	403
EXPENSES				
7 Professional regulation, tribunals and compliance	6,800	6,657	7,408	751
8 Professional development and competence	6,160	6,286	6,894	608
9 Corporate services	5,425	5,614	6,180	566
10 Convocation, policy and outreach	1,902	1,926	2,750	824
11 Services to members and public	969	1,014	1,035	21
12 Allocated to Compensation Fund	(1,824)	(1,877)	(1,988)	(111)
13 Total expenses	19,432	19,620	22,279	2,659
14 Surplus (Deficit)	2,658	2,121	(941)	3,062

THE LAW SOCIETY OF UPPER CANADA**General Fund - Lawyers****Schedule of Revenues and Expenses***Unaudited**Stated in thousands of dollars**For the three months ended March 31*

	2015 Actual	2016 Actual	Budget YTD	Variance
REVENUES				
1 Annual fees	12,343	12,746	12,858	(112)
2 Professional development and competence	4,508	4,079	4,257	(178)
3 Investment income	162	142	171	(29)
4 Change in fair value of investments	58	87	-	87
5 Other	2,883	2,530	2,215	315
6 Total revenues	19,954	19,584	19,501	83
EXPENSES				
7 Professional regulation, tribunals and compliance	6,212	6,081	6,783	702
8 Professional development and competence	5,616	5,718	6,152	434
9 Corporate services	4,967	5,124	5,622	498
10 Convocation, policy and outreach	1,757	1,784	2,565	781
11 Services to members and public	915	958	979	21
12 Allocated to Compensation Fund	(1,689)	(1,731)	(1,832)	(101)
13 Total expenses	17,778	17,934	20,269	2,335
14 Surplus (Deficit)	2,176	1,650	(768)	2,418

THE LAW SOCIETY OF UPPER CANADA**General Fund - Paralegals****Schedule of Revenues and Expenses***Unaudited**Stated in thousands of dollars**For the three months ended March 31*

	2015 Actual	2016 Actual	Budget YTD	Variance
REVENUES				
1 Annual fees	960	1,001	956	45
2 Professional development and competence	818	807	628	179
3 Investment income	16	13	23	(10)
4 Change in fair value of investments	6	8	-	8
5 Other	336	328	230	98
6 Total revenues	2,136	2,157	1,837	320
EXPENSES				
7 Professional regulation, tribunals and compliance	588	576	625	49
8 Professional development and competence	544	568	742	174
9 Corporate services	458	490	558	68
10 Convocation, policy and outreach	145	142	185	43
11 Services to members and public	54	56	56	-
12 Allocated to Compensation Fund	(135)	(146)	(156)	(10)
13 Total expenses	1,654	1,686	2,010	324
14 Surplus (Deficit)	482	471	(173)	644

THE LAW SOCIETY OF UPPER CANADA**Compensation Fund****Schedule of Revenues and Expenses and Change in Fund Balances***Unaudited**Stated in thousands of dollars**For the three months ended March 31*

	2016			2015		
	Lawyers	Paralegals	Total	Lawyers	Paralegals	Total
Revenues						
1 Annual fees	2,463	181	2,644	2,119	150	2,269
2 Investment income	192	18	210	232	36	268
3 Change in fair value of investments	169	16	185	142	-	142
4 Recoveries	46	4	50	18	-	18
5 Total Revenues	2,870	219	3,089	2,511	186	2,697
Expenses						
6 Provision for unpaid grants	1,738	7	1,745	2,621	28	2,649
7 Spot audit	1,229	123	1,352	1,161	105	1,266
8 Share of investigation and discipline	486	27	513	488	27	515
9 Administrative	13	9	22	37	16	53
10 Salaries and benefits	136	-	136	129	-	129
11 Total Expenses	3,602	166	3,768	4,436	176	4,612
12 (Deficit) Surplus	(732)	53	(679)	(1,925)	10	(1,915)
13 Fund balances, beginning of year	14,905	441	15,346	15,618	426	16,044
14 Fund Balances, end of period	14,173	494	14,667	13,693	436	14,129

TAB 6.4.3

FOR INFORMATION

INVESTMENT COMPLIANCE REPORTING

55. Investment Compliance Statements as at March 31, 2016 are for information and follow on the next page.

STATEMENT OF INVESTMENT COMPLIANCE
SHORT TERM
As at March 31, 2016

		COMPENSATION FUND	GENERAL FUND
Investment Parameters	Guidelines for Both	Compliance	Compliance
1. <u>Asset Mix</u>			
Federal & provincial treasury bills	Allowed	Yes	Yes
Bankers acceptances	Allowed	Yes	Yes
Commercial paper	Allowed	Yes	Yes
Investment manager Money Market Fund	Allowed	Yes	Yes
Premium Savings Account	Allowed	Yes	Yes
FGP S/T Invest Fund	Allowed	Yes	Yes
2. <u>Quality Requirements</u>			
Commercial paper rating	Min. R1	N/A	N/A
Liquidity	Max. term to maturity of 365 days	Yes	Yes
3. <u>Quantity Restrictions</u>			
Commercial paper of a single corporate issuer	Max. 8% of Fund	Yes	Yes
4. <u>Other Restrictions</u>			
Equity securities	None	Yes	Yes
Direct investments in:			
resource properties	None	Yes	Yes
mortgages and mortgage-backed securities	None	Yes	Yes
real estate	None	Yes	Yes
venture capital financings	None	Yes	Yes
Derivatives	None	Yes	Yes



Fred Grady
Senior Manager, Finance

STATEMENT OF INVESTMENT COMPLIANCE
LONG TERM
As at March 31, 2016

			COMPENSATION FUND	GENERAL FUND	E & O FUND
Investment Parameters	Guidelines	Target	Compliance	Compliance	Compliance
1. <u>Asset Mix</u>					
Cash and Short-Term	0 - 15%	0%	Yes	Yes	Yes
Equity investments	5 - 25%	15%	Yes	Yes	Yes
Bonds	60 - 95%	85%	Yes	Yes	Yes
2. <u>Quality Requirements</u>					
Bonds	Min. BBB		Yes	Yes	Yes
3. <u>Quantity Restrictions</u>					
Equities:					
Single holding	Max. 10%		Yes	Yes	Yes
Weight in portfolio > weight in S&P/TSX Composite Index	Varies		Yes	Yes	Yes
Derivatives etc.	None		Yes	Yes	Yes
Non-Canadian	None		Yes	Yes	Yes
Bonds:					
Government of Canada or Government of Canada guaranteed bond	26-100%	46%	Yes	Yes	Yes
Provincial Government and Provincial Government guaranteed bonds and municipal bonds	0-38%	18%	Yes	Yes	Yes
Corporate Bonds*	0-56%	36%	Yes	Yes	Yes
* Target for BBB bonds within corporate bonds of the fixed income portfolio	8-18%	8%	Yes	Yes	Yes



Fred Grady
Senior Manager, Finance

**The Law Society of Upper Canada
Compensation Fund
Manager: Foyston, Gordon & Payne Inc.
Compliance Report
(Period ending March 31, 2016)**

1. Asset Mix:	Min.	Mid-Point	Max.	Compliance* (Y/N)
Cash & Short Term	0%	0%	15%	Y
Bonds	60%	85%	95%	Y
Total Fixed Income	75%	85%	95%	Y
Canadian Equity	5%	15%	25%	Y
Minimum bond rating “BBB” or better by the Dominion Bond Rating Service or equivalent rating by another recognized bond rating service.				Y
Each bond portfolio may be invested within the following parameters:				
Minimum holding in Federal and Federally Guaranteed Bonds	FTSE TMX Short Term Bond Index Benchmark Weight minus 20%			Y
Provincials, Provincially Guarantees and Municipals	FTSE TMX Short Term Bond Index Benchmark Weight plus or minus 20%			Y
Maximum Total Corporate Issues	FTSE TMX Short Term Bond Index Benchmark Weight plus 20%			Y
Maximum Total Corporate BBB Issues	FTSE TMX Short Term Bond Index Benchmark Weight plus 10%			Y
Not more than 10% of the total market value of the bond portfolio will be invested in securities issued by a foreign issuer, or Canadian issuer.				Y
Bond portfolio duration 1 to 5 years.				Y
The Market value of any one common equity issuer cannot represent more than 10% of the market value of the total portfolio, or that equity's weight in the S&P/TSX Composite Index, whichever is greater.				Y

Note: In mid-June 2014 Law Society Compensation Fund moved into the FGP Short Term Bond Fund from the segregated Short Term Bonds.

Investment policy (latest draft version dated April 2015).

*If policy not complied with, comment on specifics.

Date:

April 15/16

[Signature]
Stephen P. Copeland
Senior Vice President - Investments
& Head Private Client Services

**The Law Society of Upper Canada
General Fund
Manager: Foyston, Gordon & Payne Inc.
Compliance Report
(Period ending March 31, 2016)**

1. Asset Mix:	Min.	Mid-Point	Max.	Compliance* (Y/N)
Cash & Short Term	0%	0%	15%	Y
Bonds	60%	85%	95%	Y
Total Fixed Income	75%	85%	95%	Y
Canadian Equity	5%	15%	25%	Y
Minimum bond rating “BBB” or better by the Dominion Bond Rating Service or equivalent rating by another recognized bond rating service.				Y
Minimum holding in Federal and Federally Guaranteed Bonds	FTSE TMX Short Term Bond Index Benchmark Weight minus 20%			Y
Provincials, Provincially Guarantees and Municipals	FTSE TMX Short Term Bond Index Benchmark Weight plus or minus 20%			Y
Maximum Total Corporate Issues	FTSE TMX Short Term Bond Index Benchmark Weight plus 20%			Y
Maximum Total Corporate BBB Issues	FTSE TMX Short Term Bond Index Benchmark Weight plus 10%			Y
Not more than 10% of the total market value of the bond portfolio will be invested in securities issued by a foreign issuer, or Canadian issuer.				Y
Bond portfolio duration 1 to 5 years.				Y
The Market value of any one common equity issuer cannot represent more than 10% of the market value of the total portfolio, or that equity's weight in the S&P/TSX Composite Index, whichever is greater.				Y

Note: In mid-June 2014 Law Society General Fund moved into the FGP Short Term Bond Fund from the segregated Short Term Bonds.

Investment policy (latest draft version dated April 2015).

*If policy not complied with, comment on specifics.

APRIL 15/16
Date:


Stephen P. Copeland
Senior Vice President - Investments
& Head Private Client Services



April 2016

Ms. Wendy Tysall
Chief Financial Officer
Osgoode Hall
Finance Dept., 1st Floor
130 Queen Street West
Toronto, Ontario
M5H 2N6

Dear Wendy:

Re: Manager Compliance Reporting

For the Law Society of Upper Canada Errors and Omissions Insurance Fund, we wish to confirm that the portfolio being managed by Foyston, Gordon & Payne Inc. was in compliance with the Fund's Investment Policy Statement in effect (latest draft revision dated April 2015), for the quarter ending March 31, 2016.

Yours truly,



Stephen P. Copeland
Senior Vice President - Investments
& Head Private Client Services

TAB 7



Report to Convocation

May 26, 2016

Equity and Aboriginal Issues Committee/ Comité sur l'équité et les affaires autochtones

Committee Members
Julian Falconer, Co-Chair
Janet Leiper, Co-Chair
Dianne Corbiere, Vice-Chair
Sandra Nishikawa, Vice-Chair
Raj Anand
Fred Bickford
Suzanne Clément
Teresa Donnelly
Robert Evans
Avvy Go
Howard Goldblatt
Marian Lippa
Isfahan Merali
Barbara Murchie
Gina Papageorgiou
Susan Richer
Raj Sharda

Purpose of Report: Decision and Information

**Prepared by the Equity Initiatives Department
(Ekua Quansah – 416-947-3425)**

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For Information

Statistical Snapshots of the Professions in Ontario **TAB 7.3**

Equity Legal Education and Rule of Law Calendar 2016 **TAB 7.4**

COMMITTEE PROCESS

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (the "Committee") met on May 12, 2016. Treasurer Janet Minor attended. Committee members, benchers Julian Falconer, Co-Chair, Dianne Corbiere, Vice-Chair, Sandra Nishikawa, Vice-Chair, Raj Anand, Fred Bickford, Suzanne Clément, Teresa Donnelly, Robert Evans, Avvy Go, Howard Goldblatt, Isfahan Merali, Barbara Murchie, and Gina Papageorgiou attended. Julie Lassonde, representative of the Association des juristes d'expression française de l'Ontario, Kathleen Lickers, representative of the Indigenous Advisory Group and Paul Saguil, Chair of the Equity Advisory Group also participated. Staff members Darcy Belisle, Allison Cheron, Hyacinth Khin, Ekua Quansah, Susan Tonkin and Grant Wedge were present.

*THIS SECTION CONTAINS
IN CAMERA MATERIAL*

TAB 7.2

FOR DECISION

HUMAN RIGHTS MONITORING GROUP REQUEST FOR INTERVENTIONS

Motion

15. That Convocation approve the letters and public statements in the following cases:
- a. Lawyer Alldo Fellix Januarydy – Indonesia– letter of intervention and public statement presented at [TAB 7.2.1](#).
 - b. Lawyer Ni Yulan – China – letter of intervention and public statement presented at [TAB 7.2.2](#).

Rationale

16. The request for interventions falls within the mandate of the Human Rights Monitoring Group (the “Monitoring Group”) to,
- a. review information that comes to its attention about human rights violations that target members of the profession and the judiciary, here and abroad, as a result of the discharge of their legitimate professional duties;
 - b. determine if the matter is one that requires a response from the Law Society; and
 - c. prepare a response for review and approval by Convocation.

Key Issues and Considerations

17. The Monitoring Group considered the following factors when making a decision about the persecution of human rights lawyer Alldo Fellix Januarydy:
- a. there are no concerns about the quality of sources used for this report;
 - b. the Law Society of Upper Canada has intervened before in respect of human rights issues in Indonesia;
 - c. the maltreatment of human rights lawyer Alldo Fellix Januarydy falls within the mandate of the Monitoring Group.
18. The Monitoring Group considered the following factors when making a decision about the house arrest of human rights lawyer Ni Yulan:
- a. there are no concerns about the quality of sources used for this report;
 - b. the Law Society of Upper Canada intervened on behalf of Ni Yulan in September 2013;
 - c. the detention and persecution of human rights lawyer Ni Yulan falls within the mandate of the Monitoring Group.

KEY BACKGROUND

INDONESIA – MALTREATMENT OF ALDO FELIX JANUARDY

Sources of Information

19. The background information for this report was taken from the following sources:
- Lawyers for Lawyers
 - Lawyer's Rights Watch Canada

Background

20. Aldo Felix Januardy is a public interest lawyer with the Legal Aid Institute (LBH) in Jakarta. The Law Society has received reports that on 12 January 2016 Aldo Felix Januardy was attacked by members of the Civil Service Police Unit and the Sub-District Head of Tebet, resulting in several wounds to his face. The alleged attack occurred during a forced eviction in Bukit Duri, Tebet, South Jakarta when Aldo Felix Januardy attempted to convince police to wait until the Administrative District Court had ruled on the legality of the eviction order.¹
21. On 13 April 2016 Lawyers for Lawyers and Lawyers Rights Watch Canada published a public statement on behalf of Aldo Felix Januardy, noting that his maltreatment at the hands of police occurred while he was performing his legitimate legal duties as a lawyer. In their public statement and intervention, Lawyers for Lawyers and Lawyers Rights Watch Canada noted that Article 15 of Indonesian Law No. 18/2003 and Indonesian Law No. 18/2003 establish that lawyers in Indonesia are entitled to perform legitimate legal work without being identified with their clients by the authorities.²

CHINA – DETENTION AND RELEASE OF HUMAN RIGHTS LAWYER NI YULAN

Sources of Information

22. The background information for this report was taken from the following sources:
- The Guardian
 - Reuters
 - Radio Free Asia

Background

23. Ni Yulan is a human rights lawyer based in Beijing who rose to prominence defending people who were evicted from their homes to make way for development. Ni Yulan has been jailed several times. After her first arrest in 2002 (for filming the forced demolition of a

¹ "Maltreatment of Aldo Felix Januardy," online: Lawyers for Lawyers < <http://www.lawyersforlawyers.nl/> >

² *Ibid*

client's home), Ni Yulan was allegedly beaten by police, sustaining such traumatic injuries that she was permanently confined to a wheelchair.³ In 2008, Ni Yulan was jailed again for defending the rights of residents faced with eviction to make way for Beijing's 2008 Summer Olympics. In 2012, Ni Yulan was sentenced to a two-year prison term – later reduced to two months - for “fraud” and “causing a disturbance” by the Xicheng District People's Court in Beijing.⁴ In September 2013 the Law Society intervened on behalf of Ni Yulan.⁵

24. The Law Society has received reports that Ni Yulan was placed under house arrest on 13 April 2016. This followed reports that a travel ban had been imposed on Ni Yulan in order to prevent her from travelling to the US in order to accept the State Department's 2016 International Women of Courage award, which is given to advocates of gender equality, human rights, and the rule of law. In mid-April, five diplomats from Canada, France, Switzerland, Germany, and the European Union were prevented from visiting Ni Yulan in her home.⁶

³ “Chinese rights lawyer Ni Yulan placed under house arrest,” online: The Guardian<<http://www.theguardian.com>>

⁴ “Chinese authorities hold disabled rights lawyer under house arrest,” online: Reuters<<http://www.reuters.com>>

⁵ “China: Ni Yulan (September 2013),” online: The Law Society of Upper Canada<<http://www.lsuc.on.ca>>

⁶ “Foreign diplomats barred from visiting rights activist in Beijing,” online: Radio Free Asia<<http://www.rfa.org>>

TAB 7.2.1

**PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT
ALLDO FELLIX JANUARDY**

His Excellency Joko Widodo
President of Indonesia
Office of the President of the Republic of Indonesia
Merdeka Palace
Jalan Medan Merdeka Utara Gambir
Jakarta 10160, Indonesia

Your Excellency:

Re: Maltreatment of Alldo Fellix Januardy

I write on behalf of the Law Society of Upper Canada to voice our grave concern over the maltreatment of lawyer Alldo Fellix Januardy. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

The Law Society has received reports that on 12 January 2016 Alldo Fellix Januardy was attacked by members of the Civil Service Police Unit and the Sub-District Head of Tebet, resulting in several wounds to his face. The alleged attack occurred during a forced eviction in Bukit Duri, Tebet, South Jakarta. According to reports, Alldo Fellix Januardy was attempting to persuade police to wait until the Administrative District Court had ruled on the legality of the eviction order when he was attacked.

The Law Society is deeply concerned that the maltreatment of Alldo Fellix Januardy by the police appears to relate solely to his legitimate actions as a lawyer.

The Law Society of Upper Canada urges Your Excellency to comply with Articles 16 and 23 of the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of Indonesia to:

- a. conduct a fair, impartial and independent investigation into the attack on Aldo Felix Januarydy in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law;
- b. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments;
- c. guarantee in all circumstances the physical and psychological integrity of Aldo Felix Januarydy.

Yours very truly,

Janet E. Minor
Treasurer

**The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,900 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

H.E. Mr. Teuku Faizasyah
55 Parkdale Avenue
Ottawa, Ontario
Canada, K1Y 1E5

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Prof. Dr. Otto Hasibuan, Advokat Indonesia (PERADI)

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriela Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Maltreatment of Aldo Fellix Januarydy

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to His Excellency Joko Widodo, President of Indonesia, expressing our deep concerns over reports of the maltreatment of Aldo Fellix Januarydy.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

Please forward any further correspondence to the attention of Ekua Quansah, Associate Counsel, Equity, The Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to equansah@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

* The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,900 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar. Due to this commitment, the Law Society established a Human Rights Monitoring Group ("Monitoring Group"). The Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

Letter to be sent to:

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Prof. Dr. Otto Hasibuan, Advokat Indonesia (PERADI)

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriela Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concerns about the maltreatment of lawyer Aldo Felix Januardy in Indonesia

Toronto, ON — The Law Society of Upper Canada expresses grave concerns about the maltreatment of lawyer Aldo Felix Januardy in Indonesia.

The Law Society has received reports that on 12 January 2016 Aldo Felix Januardy was attacked by members of the Civil Service Police Unit and the Sub-District Head of Tebet, resulting in several wounds to his face. The alleged attack occurred during a forced eviction in Bukit Duri, Tebet, South Jakarta. According to reports, Aldo Felix Januardy was attempting to persuade police to wait until the Administrative District Court had ruled on the legality of the eviction order when he was attacked.

The Law Society is deeply concerned that the maltreatment of Aldo Felix Januardy by the police appears to relate solely to his legitimate actions as a lawyer.

The Law Society of Upper Canada wrote to His Excellency Joko Widodo, President of Indonesia, urging the government of Indonesia to comply with Articles 16 and 23 of the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of Indonesia to:

1. conduct a fair, impartial and independent investigation into the attack on Alldo Fellix Januarydy in order to identify all those responsible, bring them to trial and apply to them civil, penal and/or administrative sanctions provided by law;
2. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments;
3. guarantee in all circumstances the physical and psychological integrity of Alldo Fellix Januarydy.

TAB 7.2.2

PROPOSED LETTERS OF INTERVENTION AND PUBLIC STATEMENT

NI YULAN

His Excellency Mr. Xi Jinping, The President of the People's Republic of China
The State Council General Office
2 Fuyoujie
Xichengqu
Beijingshi 100017
People's Republic of China

Your Excellency:

Re: House arrest of human rights lawyer Ni Yulan

I write on behalf of the Law Society of Upper Canada to voice our grave concern over the house arrest of Ni Yulan. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Ni Yulan is a human rights lawyer based in Beijing who rose to prominence defending people evicted from their homes to make way for development. Ni Yulan has been jailed several times. After her first arrest in 2002, Ni Yulan was allegedly beaten by police, sustaining such traumatic injuries that she was permanently confined to a wheelchair. In 2008, Ni Yulan was jailed again for defending the rights of residents faced with eviction to make way for Beijing's 2008 Summer Olympics. In 2012, Ni Yulan was sentenced to a two-year prison term — later reduced to two months — for “fraud” and “causing a disturbance” by the Xicheng District People's Court in Beijing.

In our letter dated 26 September 2013, the Law Society expressed concern about the arrest and detention of Ni Yulan.

The Law Society writes again to voice its continued deep concern as a result of reports that on 13 April 2016, Ni Yulan was placed under house arrest. This followed a travel ban imposed on Ni Yulan in order to prevent her from travelling to the US in order to accept the State Department's 2016 International Women of Courage Award. In mid-April, five diplomats from Canada, France, Switzerland, Germany, and the European Union were prevented from visiting Ni Yulan in her home.

The Law Society is concerned that the house arrest of Ni Yulan relates solely to her legitimate actions as a lawyer.

The Law Society of Upper Canada urges Your Excellency to comply with Articles 16 and 23 of the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of the People's Republic of China to:

- a. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments;
- b. guarantee all the procedural rights that should be accorded to Ni Yulan and other human rights lawyers and defenders in China;
- c. guarantee in all circumstances the physical and psychological integrity of Ni Yulan; and
- d. immediately and unconditionally release Ni Yulan from house arrest.

Yours very truly,

Janet E. Minor
Treasurer

**The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,900 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

His Excellency Mr. Guo Shengkun
Minister of Public Security
No.14, Donchang'anjie,
Dongchengqu, Beijing 100741
People's Republic of China
Email: gabzfwz@mps.gov.cn

Ambassador Luo Zhaohui
Embassy of the People's Republic of China in Canada
515 St. Patrick St.
Ottawa, ON
Canada K1N 5H3

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Wang Junfeng, All China Lawyers Association

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriela Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

Proposed Letter to Lawyers' Associations

Dear [Name],

Re: Harassment of human rights lawyer Ni Yulan

I write to inform you that on the advice of the Human Rights Monitoring Group*, the Law Society of Upper Canada sent the attached letter to His Excellency Mr. Xi Jinping, The President of the People's Republic of China, expressing our deep concern over reports of the house arrest of human rights lawyer Ni Yulan.

We would be very interested in hearing from you concerning the situation noted in the attached letter, whether your organization has intervened in this matter and whether we have any of the facts in the case wrong. Any further information you may have about the case would also be welcome.

Please forward any further correspondence to the attention of Ekua Quansah, Associate Counsel, Equity, The Law Society of Upper Canada, 130 Queen St. West, Toronto, Ontario, Canada, M5H 2N6 or to equansah@lsuc.on.ca.

I thank you for your time and consideration.

Sincerely,

Paul Schabas
Chair, Human Rights Monitoring Group

* The Law Society of Upper Canada is the governing body for more than 49,000 lawyers and 7,900 paralegals in the province of Ontario, Canada. The Law Society is committed to preserving the rule of law and to the maintenance of an independent Bar. Due to this commitment, the Law Society established a Human Rights Monitoring Group ("Monitoring Group"). The Monitoring Group has a mandate to review information of human rights violations targeting, as a result of the discharge of their legitimate professional duties, members of the legal profession and the judiciary, in Canada and abroad. The Human Rights Monitoring Group reviews such information and determines if a response is required of the Law Society.

Letter to be sent to:

- Alex Neve, Secretary General, Amnesty International Canada
- Mary Lawlor, Executive Director, Front Line Defenders

- Vincent Forest, Head of European Union Office, Front Line Defenders
- Kenneth Roth, Executive Director, Human Rights Watch
- Wang Junfeng, All China Lawyers Association
- Adrie van de Streek, Executive Director, Lawyers for Lawyers
- David F. Sutherland, Chair, Lawyers' Rights Watch Canada
- Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders
- Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights
- Gabriela Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights
- Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales

PROPOSED PUBLIC STATEMENT

The Law Society of Upper Canada expresses grave concern about the house arrest of human rights lawyer Ni Yulan in China

Toronto, ON — The Law Society of Upper Canada expresses grave concern about the house arrest of human rights lawyer Ni Yulan in China.

Ni Yulan is a human rights lawyer based in Beijing who rose to prominence defending people evicted from their homes to make way for development. Ni Yulan has been jailed several times. After her first arrest in 2002, Ni Yulan was allegedly beaten by police, sustaining such traumatic injuries that she was permanently confined to a wheelchair. In 2008, Ni Yulan was jailed again for defending the rights of residents faced with eviction to make way for Beijing's 2008 Summer Olympics. In 2012, Ni Yulan was sentenced to a two-year prison term — later reduced to two months — for “fraud” and “causing a disturbance” by the Xicheng District People's Court in Beijing.

In our letter dated 26 September 2013, the Law Society expressed concern about the arrest and detention of Ni Yulan.

The Law Society received reports that on 13 April 2016, Ni Yulan was placed under house arrest. This followed a travel ban imposed on Ni Yulan in order to prevent her from travelling to the US in order to accept the State Department's 2016 International Women of Courage Award. In mid-April, five diplomats from Canada, France, Switzerland, Germany, and the European Union were prevented from visiting Ni Yulan in her home.

The Law Society is concerned that the house arrest of Ni Yulan relates solely to her legitimate actions as a lawyer.

The Law Society of Upper Canada urges the government of China to comply with Articles 16 and 23 of the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of China to:

- a. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments;
- b. guarantee all the procedural rights that should be accorded to Ni Yulan and other human rights lawyers and defenders in China;
- c. guarantee in all circumstances the physical and psychological integrity of Ni Yulan; and
- d. immediately and unconditionally release Ni Yulan from house arrest.

TAB 7.3

FOR INFORMATION

SNAPSHOTS OF THE PROFESSIONS

25. Professor Michael Ornstein was retained to analyze the 2014 results of the self-identification questions contained in the Lawyer Annual Report and the Paralegal Annual Report. The snapshots of the professions are presented at **TABS 7.3.1 and 7.3.2**, and are also available in the [Law Society Annual Report](#).



Statistical Snapshot of Lawyers in Ontario

from the Lawyer Annual Report (LAR) 2014

RESPONSE RATES

The Law Society of Upper Canada has been collecting self-identification data in the Lawyer Annual Report since 2009. The structure of the survey at the time permitted the lawyer to opt to pass over the question and provide no response. This option has been modified so that, while a lawyer can still decline to self-identify, the person must now so indicate by expressly entering this response.

RESPONSE RATES FOR EACH QUESTION*

Aboriginal	89.0%	Able to provide legal advice in French	85.8%
Racialized	77.5%	Disability	85.0%
Sexual orientation	82.1%	Gender	100.0%
Francophone	90.6%		

*There is no missing data for gender, which is obtained from administrative records.

REPRESENTATION OF ABORIGINAL AND RACIALIZED PERSONS

among Ontario Lawyers, 2014, compared to the Ontario Population, 2011

Group	Lawyers		Ontario Population		
			Everyone	Persons in the Labour Force, Age 25 or more	University Graduates in the Labour Force, Age 25 or more
	Number	Percent excluding missing	Percent		
First Nations	295	1.0	1.6	1.2	0.5
Inuk	4	0.01	0.02	0.02	0.01
Métis	158	0.5	0.7	0.6	0.3
Multiple Aboriginal			0.02	0.02	0.01
Total Aboriginal	457	1.5	2.3	1.9	0.8
Arab	246	0.8	1.1	0.9	1.5
Black (e.g. African-Canadian, African, Caribbean)	902	2.9	4.3	3.8	2.7
Chinese	975	3.2	5.0	5.1	8.5
East-Asian (e.g. Japanese, Korean)	379	1.2	3.0	3.2	4.7
Latin American, Hispanic	173	0.6	1.4	1.5	1.2
South Asian (e.g. Indo-Canadian, Indian Subcontinent)	1,811	5.9	7.7	7.2	10.8
South-East Asian (e.g. Vietnamese, Cambodian, Thai, Filipino)	194	0.6	1.1	1.1	0.9
West Asian (e.g. Iranian, Afghan)	286	0.9	1.0	0.8	1.3
Other Visible Minority			0.6	0.6	0.4
Other Aboriginal			0.1	0.1	0.1
More than one Racialized Group	114	0.4	0.7	0.5	0.7
Racialized and White	332	1.1			
Total Racialized	5,412	17.6	26	25	33
White	24,816	80.9	71.8	73.4	66.4
Not Aboriginal, Declined Racialization Question	4,537				
Declined Aboriginal and Racialization Questions	4,369				
Total		100.0	100.0	100.0	100.0
Number	39,591	30,685	12,595,534	5,812,410	1,778,891

Source: 2014 LSUC Lawyer Annual Report and 2011 National Household Survey public use microdata file; analysis by Michael Ornstein

For more information about the Law Society of Upper Canada please visit our website at www.lsuc.on.ca

DETAILED RACIALIZATION BY AGE*for Ontario Lawyers, 2014*

	Under 35	35-44	45-54	55-64	65 or more	Under 35	35-44	45-54	55-64	65 or more
	<i>number</i>					<i>percent excluding missing</i>				
Aboriginal										
First Nations and Inuk	60	104	80	51	4	0.9	1.2	1.1	0.9	0.2
Métis	56	47	35	12	8	0.8	0.6	0.5	0.2	0.3
Aboriginal Total	116	151	115	63	12	1.6	1.8	1.6	1.1	0.5
Racialized										
Arab	102	90	37	16	1	1.5	1.1	0.5	0.3	0.0
Black	206	335	269	73	19	2.9	4.0	3.8	1.3	0.8
Chinese	359	337	177	77	25	5.1	4.0	2.5	1.4	1.0
East-Asian	114	168	74	15	8	1.6	2.0	1.1	0.3	0.3
Latin American, Hispanic	71	73	20	7	2	1.0	0.9	0.3	0.1	0.1
South Asian	674	693	319	92	33	9.6	8.2	4.5	1.6	1.3
South-East Asian	70	80	31	12	1	1.0	0.9	0.4	0.2	0.0
West Asian	179	81	22	2	2	2.5	1.0	0.3	0.0	0.1
More than one Racialized Group	59	40	12	3	0	0.8	0.5	0.2	0.1	0.0
Racialized and White	122	130	64	13	3	1.7	1.5	0.9	0.2	0.1
Racialized Total	2,072	2,178	1,140	373	106	29.5	25.8	16.2	6.6	4.2
White	4,959	6,274	5,893	5,293	2,397	70.5	74.2	83.8	93.4	95.8
Not Aboriginal, Declined Racialization Question	848	1,155	1,063	995	476					
Declined Aboriginal and Racialization Questions	635	1,018	1,163	1,061	492					
Total	10,702	12,954	10,514	8,158	3,589	100.0	100.0	100.0	100.0	100.0

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

DETAILED RACIALIZATION BY YEAR OF CALL*for Ontario Lawyers, 2014*

Year of Call	2014 -2015	2011 -2013	2006 -2010	1996 -2005	1985 -1995	1976 -1985	Before 1976	2014 -2015	2011 -2013	2006 -2010	1996 -2005	1985 -1995	1976 -1985	Before 1976
Years in Practice	I	2-4	5-9	10-14	20-29	30-39	40+	I	2-4	5-9	10-14	20-29	30-39	40+
	number							percent excluding missing						
Aboriginal														
First Nations and Inuk	16	39	56	129	42	16	1	1.1	1.0	1.1	1.5	0.7	0.4	0.1
Métis	10	33	41	44	19	7	4	0.7	0.8	0.8	0.5	0.3	0.2	0.3
Aboriginal Total	26	72	97	173	61	23	5	1.8	1.8	1.9	2.0	1.0	0.5	0.3
Racialized														
Arab	17	50	70	77	24	7	1	1.2	1.2	1.4	0.9	0.4	0.2	0.1
Black	65	167	215	337	103	13	2	4.4	4.1	4.3	4.0	1.7	0.3	0.1
Chinese	68	202	229	297	134	41	4	4.6	5.0	4.6	3.5	2.3	1.0	0.3
East-Asian	28	66	93	137	38	13	4	1.9	1.6	1.9	1.6	0.6	0.3	0.3
Latin American, Hispanic	19	55	39	49	6	5	0	1.3	1.4	0.8	0.6	0.1	0.1	0.0
South Asian	173	453	475	577	106	23	4	11.7	11.2	9.5	6.8	1.8	0.5	0.3
South-East Asian	16	42	58	62	15	1	0	1.1	1.0	1.2	0.7	0.3	0.0	0.0
West Asian	32	120	76	51	6	0	1	2.2	3.0	1.5	0.6	0.1	0.0	0.1
More than one Racialized Group	16	31	31	29	5	2	0	1.1	0.8	0.6	0.3	0.1	0.0	0.0
Racialized and White	25	77	93	92	36	9	0	1.7	1.9	1.9	1.1	0.6	0.2	0.0
Racialized Total	459	1,263	1,379	1,708	473	114	16	31.1	31.3	27.6	20.2	8.0	2.7	1.0
White	992	2,696	3,522	6,582	5,401	4,056	1,567	67.2	66.9	70.5	77.8	91.0	96.7	98.7
Not Aboriginal, Declined Racialization Question	188	454	685	1,173	927	784	326							
Declined Aboriginal and Racialization Questions	125	371	549	1,178	989	841	316							
Total	1,790	4,856	6,232	10,814	7,851	5,818	2,230	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

GENDER, SEXUAL ORIENTATION, FRANCOPHONE IDENTITY, ABILITY TO PROVIDE LEGAL ADVICE IN FRENCH AND DISABILITY BY AGE

for Ontario Lawyers, 2014

	Total	Under 35	35-44	45-54	55-64	65 or more	Total	Under 35	35-44	45-54	55-64	65 or more
	number						percent excluding missing					
Gender												
Women	16,871	4,583	5,478	4,040	2,432	338	42.6	53.8	51.6	43.6	31.5	9.7
Men	22,720	3,931	5,147	5,219	5,290	3,133	57.4	46.2	48.4	56.4	68.5	90.3
Sexual Orientation												
LGBTQ	949	275	269	266	117	22	2.9	3.7	3.0	3.6	2.0	0.8
Not LGBTQ	31,558	7,140	8,745	7,114	5,873	2,686	97.1	96.3	97.0	96.4	98.0	99.2
Declined to Answer	7,084	1,099	1,611	1,879	1,732	763						
Identify as Francophone												
Yes	1,810	491	604	453	200	62	5.0	6.2	6.2	5.5	2.9	2.0
No	34,047	7,444	9,158	7,802	6,642	3,001	95.0	93.8	93.8	94.5	97.1	98.0
Declined to Answer	3,734	579	863	1,004	880	408						
Able to Practise in French												
Can Provide Legal Advice and Represent	2,981	764	985	725	385	122	8.8	10.6	10.7	9.2	5.8	3.9
Can Provide Legal Advice But Not Represent	1,711	375	531	413	291	101	5.0	5.2	5.8	5.3	4.4	3.2
Cannot	29,272	6,059	7,679	6,718	5,907	2,909	86.2	84.2	83.5	85.5	89.7	92.9
Declined to Answer	5,627	1,316	1,430	1,403	1,139	339						
Have a Disability												
Yes	1,084	190	234	299	272	89	3.2	2.5	2.5	3.9	4.3	3.1
No	32,572	7,332	8,968	7,391	6,053	2,828	96.8	97.5	97.5	96.1	95.7	96.9
Declined to Answer	5,935	992	1,423	1,569	1,397	554						
All Lawyers	39,591	8,514	10,625	9,259	7,722	3,471	100.0	100.0	100.0	100.0	100.0	100.0

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

TYPE OF LICENCE BY RACIALIZATION

for Ontario Lawyers, 2014

	Sole Practice	Law Firm Partner	Law Firm Associate	Law Firm Employee	Legal Clinic	In House	Government	Education	Retired or not working	Other and New Licensees	Total	Number
	Percentages for each Group											
Aboriginal												
First Nations and Inuk	25	9	11	2	3	10	23	3	9	5	100	299
Métis	21	8	17	5	1	4	28	2	9	4	100	158
Aboriginal Total	24	9	13	3	2	8	25	2	9	5	100	457
Racialized												
Arab	20	12	22	4	2	9	13	0	7	10	100	246
Black	31	6	13	2	3	11	19	1	9	6	100	902
Chinese	19	10	21	2	2	18	12	0	9	7	100	975
East-Asian	13	13	18	3	2	17	17	1	10	6	100	379
Latin American, Hispanic	18	12	24	3	1	14	14	1	8	5	100	173
South Asian	28	9	17	3	2	13	13	1	8	6	100	1,811
South-East Asian	27	10	19	4	1	12	13	1	9	5	100	194
West Asian	29	5	25	5	0	13	11	1	8	4	100	286
More than One Group	18	4	26	3	7	11	11	1	10	9	100	114
Racialized and White	11	8	23	3	4	17	16	2	8	7	100	332
Racialized Total	24	9	19	3	2	14	14	1	9	6	100	5,412
White	19	19	17	3	1	12	14	2	8	7	100	24,816
Not Aboriginal, Declined Racialization Question	24	17	15	3	1	11	13	1	8	7	100	4,537
Declined Aboriginal and Racialization Questions	25	22	12	3	0	10	13	1	8	6	100	4,369
Total	21	18	16	3	1	12	14	1	8	6	100	39,591

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

SIZE OF LAW FIRM BY RACIALIZATION

for Ontario Lawyers, 2014

	Size of Law Firm, based on Partners, Associates and Employees								
	fewer than 5	5-9	10-24	25-49	50-99	100-199	200 or more	Total	Number
	Percentages for each Group								
Aboriginal									
First Nations and Inuk	46	9	27	6	1	7	3	100	67
Métis	29	19	27	13	4	6	2	100	48
Aboriginal Total	39	13	27	9	3	7	3	100	115
Racialized									
Arab	26	15	19	6	7	16	11	100	95
Black	40	12	13	8	8	9	11	100	184
Chinese	22	15	13	10	6	13	21	100	320
East-Asian	31	13	12	11	6	17	11	100	127
Latin American, Hispanic	50	9	7	6	3	13	12	100	68
South Asian	38	18	14	6	3	9	12	100	512
South-East Asian	40	23	8	8	3	6	11	100	62
West Asian	35	18	20	8	2	4	12	100	98
More than One Group	32	18	11	11	3	11	16	100	38
Racialized and White	23	15	17	14	2	14	16	100	114
Racialized Total	33	16	14	8	4	11	14	100	1,618
White	22	14	16	10	7	16	14	100	9,484
Not Aboriginal, Declined Racialization Question	27	15	16	11	7	13	11	100	1,600
Declined Aboriginal and Racialization Questions	30	15	17	9	6	11	11	100	1,605
Total	25	15	16	10	6	14	13	100	14,422

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

TYPE OF LICENCE BY REGION*

for Ontario Lawyers, 2014

	South-west	Central South	Toronto	Durham, Halton, Peel, York	Central North	North	Ottawa	East	Total	Number
	Percentages for each Group									
Aboriginal										
First Nations and Inuk	8	10	30	9	9	14	16	5	100	290
Métis	7	3	33	5	10	15	25	3	100	147
Aboriginal Total	8	8	31	8	9	14	19	5	100	437
Racialized										
Arab	9	3	47	14	0	0	25	1	100	237
Black	3	3	58	19	3	1	12	1	100	883
Chinese	2	2	70	19	1	0	6	0	100	960
East-Asian	1	2	71	17	1	1	7	1	100	375
Latin American, Hispanic	6	6	53	14	2	2	16	1	100	170
South Asian	2	4	56	31	1	0	6	0	100	1,783
South-East Asian	2	4	57	25	2	0	10	0	100	191
West Asian	1	2	68	18	1	0	10	1	100	281
More than One Group	0	1	76	14	3	1	5	1	100	111
Racialized and White	4	4	61	12	2	2	12	2	100	329
Racialized Total	2	3	61	22	1	1	9	1	100	5,320
White	6	6	55	12	4	2	12	3	100	24,503
Not Aboriginal, Declined Racialization Question	4	6	58	14	2	2	11	2	100	4,490
Declined Aboriginal and Racialization Questions	6	7	52	13	4	3	12	3	100	4,307
Total	6	6	55	14	3	2	12	2	100	39,057

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

*excludes lawyers whose address is outside Ontario

TYPE OF LICENCE BY GENDER BY AGE*for Ontario Lawyers, 2014*

	Sole Practice	Law Firm Partner	Law Firm Associate	Law Firm Employee	Legal Clinic	In House	Government	Education	Retired or not working	Other and New Licensees	Total	Number
	Percent											
Women												
Total	14.4	9.7	17.6	2.9	1.9	13.6	18.7	1.9	12.3	7.1	100.0	16,871
under 35	7.3	2.6	41.5	4.4	2.2	11.0	12.7	0.7	11.3	6.3	100.0	4,583
35-44	11.5	10.7	14.1	2.5	1.9	17.3	21.9	1.8	11.8	6.6	100.0	5,478
45-54	19.1	13.4	5.5	2.5	1.5	15.3	22.7	2.4	9.4	8.2	100.0	4,040
55-64	22.1	13.4	3.0	1.9	1.9	9.1	17.6	3.4	19.7	7.9	100.0	2,432
65 or more	44.4	16.3	2.7	3.0	0.9	2.4	9.8	1.8	14.8	4.1	100.0	338
Men												
Total	26.1	23.5	15.1	2.5	0.6	10.3	10.0	1.0	4.8	6.0	100.0	22,720
under 35	11.5	4.5	48.8	4.4	1.2	10.4	8.8	0.5	4.4	5.6	100.0	3,931
35-44	17.0	21.2	17.0	2.7	0.5	16.6	14.1	1.0	3.6	6.3	100.0	5,147
45-54	25.3	29.5	4.7	2.2	0.5	12.7	12.7	1.4	3.8	7.2	100.0	5,219
55-64	32.0	31.2	4.1	1.4	0.7	6.5	8.5	1.2	8.0	6.4	100.0	5,290
65 or more	51.0	28.1	5.7	1.9	0.3	2.6	3.0	0.6	3.6	3.2	100.0	3,133

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

SIZE OF LAW FIRM BY GENDER*for Ontario Lawyers, 2014*

	Size of Law Firm, based on Partners, Associates and Employees								Total	Number
	fewer than 5	5-9	10-24	25-49	50-99	100-199	200 or more			
	<i>Percent</i>									
Women	27.0	13.5	17.0	10.1	6.4	13.5	12.5	100.0		5,092
Men	24.1	15.3	16.0	9.8	6.2	14.9	13.6	100.0		9,330
Total	25.1	14.7	16.3	9.9	6.3	14.4	13.2	100.0		14,422

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

REGION BY GENDER**for Ontario Lawyers, 2014*

	South-west	Central South	Toronto	Durham, Halton, Peel, York	Central North	North	Ottawa	East	Total	Number
	<i>Percent</i>									
Women	5.0	4.8	56.6	12.9	3.2	1.7	13.5	2.2	100.0	16,583
Men	5.9	6.7	54.5	14.0	3.5	2.7	10.2	2.4	100.0	22,474
Total	5.5	5.9	55.4	13.5	3.4	2.3	11.6	2.3	100.0	39,057

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

*excludes lawyers whose address is outside Ontario

TYPE OF LICENCE BY FRANCOPHONE IDENTITY AND ABILITY TO PROVIDE LEGAL ADVICE IN FRENCH*for Ontario Lawyers, 2014*

Group	Sole Practice	Law Firm Partner	Law Firm Associate	Law Firm Employee	Legal Clinic	In House	Government	Education	Retired or not working	Other and New Licensees	Total	Number
<i>Percent</i>												
Identify as Francophone												
Yes	15.6	11.3	13.8	2.9	2.1	10.2	26.8	2.4	8.5	6.4	100.0	1,810
No	20.9	17.5	16.7	2.6	1.2	12.0	13.2	1.3	7.9	6.6	100.0	34,047
Total	20.6	17.2	16.6	2.6	1.2	12.0	13.9	1.4	7.9	6.6	100.0	35,857
Able to Provide Service in French?												
Can Provide Legal Advice and Represent	15.8	11.3	13.3	2.8	2.1	10.9	27.9	1.9	8.3	5.8	100.0	2,981
Can Provide Legal Advice But Not Represent	19.0	12.2	15.7	2.0	2.6	11.3	24.7	1.5	7.2	3.9	100.0	1,711
Neither	23.2	19.8	17.1	2.8	1.1	11.8	11.2	1.0	6.6	5.4	100.0	29,272
Total	22.3	18.7	16.7	2.8	1.3	11.7	13.4	1.1	6.8	5.4	100.0	33,964

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

SIZE OF LAW FIRM BY FRANCOPHONE IDENTITY AND ABILITY TO PROVIDE LEGAL ADVICE IN FRENCH*for Ontario Lawyers, 2014*

	Size of Law Firm, based on Partners, Associates and Employees								
	fewer than 5	5-9	10-24	25-49	50-99	100-199	200 or more	Total	Number
	Percent								
Identify as Francophone									
Yes	32.0	15.2	18.6	7.1	5.3	12.8	8.9	100.0	506
No	24.4	14.6	16.0	10.1	6.4	14.9	13.6	100.0	12,545
Total	24.7	14.6	16.1	10.0	6.4	14.8	13.5	100.0	13,051
Able to Provide Service in French?									
Can Provide Legal Advice and Represent	28.9	15.9	18.5	7.6	6.6	13.7	8.9	100.0	813
Can Provide Legal Advice But Not Represent	27.6	16.7	15.5	8.6	8.0	10.8	12.7	100.0	510
Neither	25.1	14.6	16.6	10.2	6.1	14.3	13.1	100.0	11,628
Total	25.4	14.8	16.6	9.9	6.2	14.1	12.8	100.0	12,951

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

REGION BY FRANCOPHONE IDENTITY AND ABILITY TO PROVIDE LEGAL ADVICE IN FRENCH**for Ontario Lawyers, 2014*

	South-west	Central South	Toronto	Durham, Halton, Peel, York	Central North	North	Ottawa	East	Total	Number
	Percent									
Identify as Francophone										
Yes	2.2	1.8	27.3	5.4	1.2	8.1	48.0	6.1	100.0	1,730
No	5.6	6.0	57.3	13.9	3.4	2.0	9.7	2.1	100.0	33,648
Total	5.4	5.8	55.8	13.5	3.3	2.3	11.6	2.3	100.0	35,378
Able to Provide Service in French?										
Can Provide Legal Advice and Represent	2.3	2.4	34.7	5.5	1.1	5.4	43.9	4.7	100.0	2,841
Can Provide Legal Advice But Not Represent	3.1	2.8	47.6	8.1	1.6	2.7	31.0	3.0	100.0	1,658
Neither	6.3	6.8	57.0	14.7	4.0	2.1	7.1	2.1	100.0	29,030
Total	5.8	6.2	54.6	13.6	3.6	2.4	11.4	2.4	100.0	33,529

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

**excludes lawyers whose address is outside Ontario*

TYPE OF LICENCE BY PRESENCE OF A DISABILITY*for Ontario Lawyers, 2014*

Group	Sole Practice	Law Firm Partner	Law Firm Associate	Law Firm Employee	Legal Clinic	In House	Government	Education	Retired or not working	Other and New Licensees	Total	Number
	<i>Percent</i>											
Has a Disability	24.2	8.5	10.6	1.9	2.5	7.7	19.6	3.6	16.0	5.4	100.0	1,084
No Disability	20.5	17.7	17.0	2.7	1.1	12.1	13.5	1.3	7.5	6.7	100.0	32,572
Total	20.6	17.4	16.8	2.7	1.2	12.0	13.7	1.4	7.7	6.6	100.0	33,656

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

SIZE OF LAW FIRM BY PRESENCE OF A DISABILITY*for Ontario Lawyers, 2014*

	Size of Law Firm, based on Partners, Associates and Employees								Total	Number
	fewer than 5	5-9	10-24	25-49	50-99	100-199	200 or more			
	<i>Percent</i>									
Has a Disability	28.9	15.4	17.1	8.3	6.6	13.2	10.5	100.0		228
No Disability	24.3	14.5	16.2	10.1	6.5	14.8	13.6	100.0		12,160
Total	24.4	14.5	16.3	10.0	6.5	14.8	13.5	100.0		12,388

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

REGION BY PRESENCE OF A DISABILITY**for Ontario Lawyers, 2014*

	South-west	Central South	Toronto	Durham, Halton, Peel, York	Central North	North	Ottawa	East	Total	Number
	<i>Percent</i>									
Has a Disability	6.5	5.6	52.3	12.3	3.5	2.3	14.6	2.9	100.0	1,065
No Disability	5.5	5.7	56.0	13.6	3.3	2.2	11.5	2.2	100.0	32,139
Total	5.5	5.7	55.9	13.6	3.3	2.2	11.6	2.3	100.0	33,204

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

*excludes lawyers whose address is outside Ontario

TYPE OF LICENCE BY SEXUAL ORIENTATION*for Ontario Lawyers, 2014*

Group	Sole Practice	Law Firm Partner	Law Firm Associate	Law Firm Employee	Legal Clinic	In House	Government	Education	Retired or not working	Other and New Licensees	Total	Number
	<i>Percent</i>											
LGBTQ	14.5	10.1	16.6	2.4	3.1	11.9	22.9	3.1	7.9	7.5	100.0	949
Not LGBTQ	20.4	17.5	17.0	2.7	1.2	12.1	13.3	1.3	8.0	6.5	100.0	31,558
Total	20.2	17.3	17	3	1	12	13.61	1.4	8.0	6.6	100.0	32,507

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

SIZE OF LAW FIRM BY SEXUAL ORIENTATION*for Ontario Lawyers, 2014*

	Size of Law Firm, based on Partners, Associates and Employees								Total	Number
	fewer than 5	5-9	10-24	25-49	50-99	100-199	200 or more			
	<i>Percent</i>									
LGBTQ	26.0	12.3	18.1	7.6	7.2	12.3	16.6	100.0		277
Not LGBTQ	24.2	14.4	16.2	10.3	6.4	15.1	13.5	100.0		11,752
Total	24.2	14.4	16.2	10.2	6.4	15.0	13.6	100.0		12,029

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

REGION BY SEXUAL ORIENTATION**for Ontario Lawyers, 2014*

	South-west	Central South	Toronto	Durham, Halton, Peel, York	Central North	North	Ottawa	East	Total	Number
	<i>Percent</i>									
LGBTQ	2.8	3.2	68.0	6.6	2.1	1.8	13.8	1.6	100.0	935
Not LGBTQ	5.6	5.8	55.6	13.8	3.3	2.2	11.5	2.2	100.0	31,141
Total	5.5	5.7	55.9	13.6	3.3	2.2	11.5	2.2	100.0	32,076

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

**excludes lawyers whose address is outside Ontario*

AREA OF PRACTICE BY RACIALIZATION AND GENDER*

for Ontario Lawyers, 2014

	Aborig- inal	ADR	Admin- istrative	Bank- ruptcy	Civil Litigation – Plaintiff	Civil Litigation – Defendant	Constr- uction	Corp- orate	Criminal	Employ- ment and Labour	Environ- mental	Family
	<i>Percentage with 30% or more of their practice in this area</i>											
First Nations	0	2	7	0	4	8	0	100	20	4	0	21
Métis	6	1	9	0	13	12	1	4	18		0	12
Arab	1	1	5	0	15	13	2	24	14	6	1	8
Black	0	0	7	0	10	9	1	13	20	5	0	21
Chinese	0	0	5	1	7	10	1	27	5	3	1	6
East-Asian	0	0	6	1	9	14	1	24	11	4	1	4
Latin American, Hispanic	0	0	6	0	17	12	1	16	13	5	1	15
South Asian	1	0	6	1	13	12	1	16	10	4	1	12
South-East Asian	1	1	4	2	11	13	2	19	12	6	1	9
West Asian	0	0	2	0	23	17	1	17	10	3	1	11
More than One Racialized Group	0	0	12	1	7	12	1	20	10	2	0	7
Racialized and White	1	1	8	2	10	19	0	18	13	5	0	12
White	1	1	6	1	11	14	2	20	12	6	1	10
Not Aboriginal, Declined Racialization Question	1	1	6	1	13	13	1	20	11	5	0	9
Declined Aboriginal and Racialization Questions	1	0	6	1	12	12	1	19	12	5	1	10
Women	1	1	8	1	9	14	1	18	11	7	1	14
Men	1	1	5	1	13	13	2	21	12	5	1	8
Total	1	1	6	1	11	13	1	20	12	6	1	10

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

continued >

*excludes the category for "other" areas of practice

AREA OF PRACTICE BY RACIALIZATION AND GENDER*

for Ontario Lawyers, 2014 (continued)

	Immigration	Intellectual Property	Real Estate	Securities	Taxation	Wills	Workplace	Percentage with NO area 30% or more	Percentage with ONE area 30% or more	Percentage with MORE THAN ONE area 30% or more	Number
	<i>Percentage with 30% or more of their practice in this area</i>										
First Nations	1	0	5	1	1	1	0	4.1	79.1	16.8	220
Métis	4	2	12	1	2	5	0	6.6	76.2	17.2	122
Arab	8	3	10	6	1	4	0	4.7	72.3	23.0	191
Black	9	1	10	2	1	2	1	7.3	73.6	19.1	726
Chinese	3	8	21	9	4	3	0	4.0	78.1	17.9	771
East-Asian	5	4	13	9	3	3	0	7.8	73.0	19.1	293
Latin American, Hispanic	5	1	8	8	2	4	1	4.3	76.6	19.1	141
South Asian	4	3	21	3	2	2	1	5.3	77.7	17.0	1,480
South-East Asian	6	3	19	3	1	4	1	4.9	74.8	20.2	163
West Asian	8	3	15	5	1	2	0	4.5	72.8	22.6	243
More than One Racialized Group	4	8	16	3	3	3	1	7.9	71.9	20.2	89
Racialized and White	5	5	5	5	3	3	0	5.4	75.5	19.2	261
White	1	3	14	5	2	6	1	5.4	73.9	20.6	20,403
Not Aboriginal, Declined Racialization Question	2	3	16	4	2	6	1	5.7	72.9	21.4	3,724
Declined Aboriginal and Racialization Questions	2	4	16	4	3	7	1	5.9	72.1	22.0	3,636
Women	3	3	9	4	2	5	1	76.3	17.2	0.0	12,872
Men	2	3	19	5	2	6	1	72.3	22.8	0.0	19,592
Total	2	3	15	5	2	5	1	73.9	20.6	0.0	32,464

Source: 2014 LSUC Lawyer Annual Report; analysis by Michael Ornstein

*excludes the category for "other" areas of practice

NOTE: The 2014 Snapshots include all lawyers except those whose licence is suspended, revoked, surrendered, in abeyance or those who have a status of "not in Ontario" (meaning their business address is listed outside of Ontario) or a status of "Retired" (meaning lawyers who are over 65 years of age and qualify for exemption under By-Law 5).



Statistical Snapshot of Paralegals in Ontario

from the Paralegal Annual Report (PAR) 2014

RESPONSE RATES

The Law Society of Upper Canada has been collecting self-identification data in the Paralegal Annual Report since 2009. The structure of the survey at the time permitted the paralegal to opt to pass over the question and provide no response. This option has been modified so that, while a paralegal can still decline to self-identify, the person must now so indicate by expressly entering this response.

RESPONSE RATES FOR EACH QUESTION*

Aboriginal	92.1%	Able to provide legal services in French	83.8%
Racialized	81.3%	Disability	88.8%
Sexual orientation	86.1%	Gender	100.0%
Francophone	92.3%		

*There is no missing data for gender, which is obtained from administrative records.

REPRESENTATION OF ABORIGINAL AND RACIALIZED PERSONS

among Ontario Paralegals, 2014, compared to the Ontario Population, 2011

Group	Paralegals		Ontario Population		
			Everyone	Persons in the Labour Force, Age 25 or more	University Graduates in the Labour Force, Age 25 or more
	Number	Percent excluding missing	Percent		
First Nations	46	0.9	1.6	1.2	0.5
Inuk	0	0.0	0.02	0.02	0.01
Métis	32	0.6	0.7	0.6	0.3
Multiple Aboriginal			0.02	0.02	0.01
Total Aboriginal	78	1.6	2.3	1.9	0.8
Arab	65	1.3	1.1	0.9	1.5
Black (e.g. African-Canadian, African, Caribbean)	340	6.9	4.3	3.8	2.7
Chinese	253	5.1	5.0	5.1	8.5
East-Asian (e.g. Japanese, Korean)	46	0.9	3.0	3.2	4.7
Latin American, Hispanic	193	3.9	1.4	1.5	1.2
South Asian (e.g. Indo-Canadian, Indian Subcontinent)	460	9.3	7.7	7.2	10.8
South-East Asian (e.g. Vietnamese, Cambodian, Thai, Filipino)	137	2.8	1.1	1.1	0.9
West Asian (e.g. Iranian, Afghan)	116	2.3	1.0	0.8	1.3
Other Visible Minority			0.6	0.6	0.4
Other Aboriginal			0.1	0.1	0.1
More than one Racialized Group	42	0.8	0.7	0.5	0.7
Racialized and White	43	0.9			
Total Racialized	1,695	34.3	25.9	24.8	32.7
White	3,174	64.2	71.8	73.4	66.4
Not Aboriginal, Declined Racialization Question	657				
Declined Aboriginal and Racialization Questions	481				
Total		100.0	100.0	100.0	100.0
Number	6,085	4,947	12,595,534	5,812,410	1,778,891

Source: 2014 LSUC Paralegal Annual Report, 2011 National Household Survey public use microdata; analysis by Michael Ornstein

For more information about the Law Society of Upper Canada please visit our website at www.lsuc.on.ca

DETAILED RACIALIZATION BY AGE*for Ontario Paralegals, 2014*

	20-29	30-39	40-49	50-59	60 or more	20-29	30-39	40-49	50-59	60 or more
	number					percent excluding missing				
Aboriginal										
First Nations and Inuk	12	12	9	10	3	0.9	1.1	0.8	1.1	0.6
Métis	9	6	7	6	4	0.7	0.5	0.7	0.7	0.9
Aboriginal Total	21	18	16	16	7	1.5	1.6	1.5	1.7	1.5
Racialized										
Arab	30	17	12	5	1	2.2	1.5	1.1	0.5	0.2
Black	84	92	86	52	26	6.1	8.1	8.1	5.6	5.6
Chinese	44	74	72	45	18	3.2	6.5	6.8	4.9	3.9
East-Asian	10	15	13	6	2	0.7	1.3	1.2	0.7	0.4
Latin American, Hispanic	57	53	45	30	8	4.2	4.7	4.2	3.3	1.7
South Asian	139	104	98	82	37	10.2	9.2	9.2	8.9	8.0
South-East Asian	39	44	32	18	4	2.9	3.9	3.0	2.0	0.9
West Asian	36	36	26	16	2	2.6	3.2	2.4	1.7	0.4
More than one Racialized Group	19	15	6	2	0	1.4	1.3	0.6	0.2	0.0
Racialized and White	22	12	2	6	1	1.6	1.1	0.2	0.7	0.2
Racialized Total	480	462	392	262	99	35.1	40.7	36.9	28.4	21.4
White	866	655	654	643	356	63.4	57.7	61.6	69.8	77.1
Not Aboriginal, Declined Racialization Question	184	178	139	108	48					
Declined Aboriginal and Racialization Questions	106	104	126	97	48					
Total	1,657	1,417	1,327	1,126	558	100.0	100.0	100.0	100.0	100.0

Source: 2014 LSUC Paralegal Annual Report; analysis by Michael Ornstein

GENDER, SEXUAL ORIENTATION, FRANCOPHONE IDENTITY, ABILITY TO PROVIDE LEGAL SERVICES IN FRENCH AND DISABILITY BY AGE

for Ontario Paralegals, 2014

	Total	20-29	30-39	40-49	50-59	60 or more	Total	20-29	30-39	40-49	50-59	60 or more
	number						percent excluding missing					
Gender												
Women	3,651	1,273	953	749	539	137	60.0	76.8	67.3	56.4	47.9	24.6
Men	2,434	384	464	578	587	421	40.0	23.2	32.7	43.6	52.1	75.4
Sexual Orientation												
LGBTQ	101	38	27	16	18	2	1.9	2.6	2.2	1.4	1.9	0.4
Not LGBTQ	5,136	1,423	1,182	1,109	943	479	98.1	97.4	97.8	98.6	98.1	99.6
Declined to Answer	848	196	208	202	165	77						
Identify as Francophone												
Yes	168	37	33	42	35	21	3.0	2.4	2.5	3.5	3.4	4.0
No	5,447	1,503	1,272	1,170	1,004	498	97.0	97.6	97.5	96.5	96.6	96.0
Declined to Answer	470	117	112	115	87	39						
Able to Practise in French												
Can Provide Legal Services and Represent	148	27	27	39	37	18	2.9	2.0	2.3	3.4	3.8	3.8
Can Provide Legal Services But Not Represent	81	15	28	13	16	9	1.6	1.1	2.4	1.1	1.7	1.9
Cannot	4,872	1,284	1,133	1,094	910	451	95.5	96.8	95.4	95.5	94.5	94.4
Declined to Answer	984	331	229	181	163	80						
Have a Disability												
Yes	301	42	51	73	89	46	5.6	2.8	4.1	6.3	9.1	9.3
No	5,101	1,466	1,205	1,090	890	450	94.4	97.2	95.9	93.7	90.9	90.7
Declined to Answer	683	149	161	164	147	62						
All Paralegals	6,085	1,657	1,417	1,327	1,126	558	100.0	100.0	100.0	100.0	100.0	100.0

Source: 2014 LSUC Paralegal Annual Report; analysis by Michael Ornstein

TYPE OF LICENCE BY RACIALIZATION

for Ontario Paralegals, 2014

	Sole Practice	Partner	Associate	Employee at a Firm	Legal Clinic	In House	Government	Education	Retired or not working	Other and New Licensees	Total	Number
	Percentages for each Group											
Aboriginal												
First Nations and Inuk	26	2	0	7	7	4	9	0	20	26	100	46
Métis	47	0	6	3	3	6	9	0	16	9	100	32
Aboriginal Total	35	1	3	5	5	5	9	0	19	18	100	78
Racialized												
Arab	28	0	2	8	2	5	5	0	23	29	100	65
Black	26	1	0	7	1	6	7	1	23	27	100	340
Chinese	29	2	0	13	1	2	4	1	22	26	100	253
East-Asian	13	9	7	20	0	2	4	0	22	24	100	46
Latin American, Hispanic	21	5	2	11	3	5	9	1	17	26	100	193
South Asian	29	3	2	8	1	2	5	0	24	27	100	460
South-East Asian	21	1	3	10	0	5	2	1	26	29	100	137
West Asian	24	1	4	13	0	6	4	0	28	19	100	116
More than One Group	19	2	0	7	5	5	12	5	24	21	100	42
Racialized and White	16	0	5	12	2	0	12	0	23	30	100	43
Racialized Total	25	2	2	10	1	4	6	1	23	26	100	1,695
White	24	2	3	12	2	8	8	1	15	25	100	3,174
Total	25	2	3	11	2	6	8	1	18	25	100	4,947

Source: 2014 LSUC Paralegal Annual Report; analysis by Michael Ornstein

Statistical Snapshot of Paralegals in Ontario

FACT SHEET | 5

TYPE OF LICENCE BY REGION*

for Ontario Paralegals, 2014

	South-west	Central South	Toronto	Durham, Halton, Peel, York	Central North	North	Ottawa	East	Total	Number
	Percentages for each Group									
Aboriginal										
First Nations and Inuk	15	4	28	24	11	7	0	11	100	46
Métis	9	9	22	13	13	28	6	0	100	32
Aboriginal Total	13	6	26	19	12	15	3	6	100	78
Racialized										
Arab	14	2	33	34	3	0	14	0	100	64
Black	3	3	53	35	2	0	4	0	100	339
Chinese	2	0	64	32	1	0	1	0	100	252
East-Asian	2	0	76	22	0	0	0	0	100	46
Latin American, Hispanic	4	4	55	32	1	0	4	0	100	192
South Asian	0	1	40	57	1	0	1	0	100	456
South-East Asian	3	4	60	31	1	0	2	0	100	137
West Asian	3	3	53	36	1	0	3	0	100	116
More than One Group	0	0	60	40	0	0	0	0	100	42
Racialized and White	5	2	60	19	0	2	12	0	100	43
Racialized Total	3	2	52	39	1	0	3	0	100	1,687
White	9	9	33	28	9	3	5	4	100	3,160
Total	7	7	39	32	7	2	4	3	100	4,925

Source: 2014 LSUC Paralegal Annual Report; analysis by Michael Ornstein

*excludes paralegals whose address is outside Ontario

TYPE OF LICENCE BY GENDER BY AGE*for Ontario Paralegals, 2014*

	Sole Practice	Partner	Associate	Employee at a Firm	Legal Clinic	In House	Government	Education	Retired or not working	Other and New Licensees	Total	Number
	Percent											
Women												
Total	40.1	3.8	2.8	10.2	0.7	7.6	5.1	0.4	13.7	15.8	100.0	2,434
20-29	22.7	2.6	3.4	11.7	0.3	2.6	4.2	0.5	23.4	28.6	100.0	384
30-39	31.0	2.4	3.2	13.6	0.4	7.8	7.3	0.4	14.0	19.8	100.0	464
40-49	40.3	5.0	4.0	10.0	0.7	7.6	5.2	0.3	12.3	14.5	100.0	578
50-59	45.0	4.1	1.9	8.0	0.7	8.2	6.0	0.5	12.6	13.1	100.0	587
60 or more	58.7	4.3	1.2	8.3	1.2	11.2	1.9	0.0	8.1	5.2	100.0	421
Men												
Total	14.8	1.6	2.4	12.4	2.1	5.2	8.7	1.0	20.8	31.0	100.0	3,651
20-29	4.9	0.7	2.6	11.5	0.6	3.2	6.8	0.5	22.2	47.0	100.0	1,273
30-39	12.6	1.7	2.7	13.7	1.4	5.0	10.1	1.0	22.0	29.7	100.0	953
40-49	22.4	2.0	2.1	14.6	2.4	6.7	9.7	1.1	18.2	20.8	100.0	749
50-59	29.1	2.4	1.9	9.1	5.0	6.5	10.6	2.4	17.8	15.2	100.0	539
60 or more	23.4	2.9	2.2	11.7	6.6	11.7	4.4	0.0	27.0	10.2	100.0	137

Source: 2014 LSUC Paralegal Annual Report; analysis by Michael Ornstein

REGION BY GENDER**for Ontario Paralegals, 2014*

	South-west	Central South	Toronto	Durham, Halton, Peel, York	Central North	North	Ottawa	East	Total	Number
	<i>Percent</i>									
Women	6	7	40	31	7	2	5	3	100	3,638
Men	7	6	39	35	6	2	4	2	100	2,423
Total	6	6	40	33	6	2	4	2	100	6,061

Source: 2014 LSUC Paralegal Annual Report; analysis by Michael Ornstein

*excludes paralegals whose address is outside Ontario

NOTE: The 2014 Snapshots include all paralegals except those whose licence is suspended, revoked, surrendered, in abeyance or those who have a status of “not in Ontario” (meaning their business address is listed outside of Ontario) or a status of “Retired” (meaning paralegals who are over 65 years of age and qualify for exemption under By-Law 5).

TAB 7.4

**EQUITY LEGAL EDUCATION AND RULE OF LAW SERIES CALENDAR
2016**

26. The Equity Legal Education and Rule of Law Series calendar is presented at [TAB 7.4.1](#).

TAB 7.4.1

EQUITY LEGAL EDUCATION AND RULE OF LAW SERIES CALENDAR

Winter 2016-Summer 2016

ACCESS AWARENESS EVENT

Date: May 31, 2016

Time and Location:

4:30 – 8:00 p.m. Panel Discussion and Reception in the Lamont Learning Centre

The Panel Discussion will also be available as a live webcast.

Description: Join ARCH Disability Law Centre and the Law Society of Upper Canada for an insightful event about community inclusion and full citizenship of persons labelled with intellectual disabilities. This event will highlight the history of activism by persons labelled with intellectual disabilities and discuss present day concerns, including issues related to reproductive rights. Community leaders will highlight current advocacy efforts and how this work should inform law and policy.

Additional information is available at the following link:

<http://www.lawsocietygazette.ca/event/access-awareness-2016/>

NATIONAL ABORIGINAL HISTORY MONTH EVENT

Date: June 23, 2016

Time and Location:

TBC

Description: The Law Society will be hosting its annual event in honour of National Aboriginal History Month. Additional details will follow closer to the event date.

Additional information will be available at the following link in May 2016:

<http://www.lawsocietygazette.ca/event/>

PRIDE WEEK EVENT

Date: June 28, 2016

Time and Location:

TBC

Description: The Law Society and the Sexual Orientation and Gender Identity Section (SOGIC) of the Ontario Bar Association will be hosting their annual Pride Week discussion and reception. Additional details will follow closer to the event date.

Additional information will be available at the following link in May 2016:

<http://www.lawsocietygazette.ca/event/>



TAB 8

Report to Convocation May 26, 2016

Tribunal Committee

Committee Members

Barbara Murchie (Chair)
Peter Wardle (Vice-Chair)
Raj Anand
Larry Banack
Marion Boyd
Jack Braithwaite
Christopher Bredt
Robert Burd
Lee Ferrier
Rocco Galati
Isfahan Merali
Baljit Sikand

Purpose of Report: Information

**Prepared by the Policy Secretariat
(Sophia Sperdakos 416-947-5209)**

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Tribunal 2015 Annual Report **TAB 8.1**

Tribunal 2016 First Quarter Statistics **TAB 8.2**

TAB 8.1

INFORMATION

TRIBUNAL ANNUAL REPORT 2015

1. Pursuant to the June 2012 Tribunal Reform Report (the “2012 Report”) the Tribunal Chair is to provide an Annual Report to Convocation on Tribunal operations.
2. The Tribunal Annual Report - 2015, in French and English, is set out at **TABS 8.1.1: 2015 Annual Report (English)** and **8.1.2: 2015 Annual Report (French)** for Convocation’s information.
3. The Annual Report requirement provides for an annual snapshot of the Tribunal’s operations and developments. The 2015 Tribunal Annual Report also provides an overview to the progress of the 2012 reforms implementation. As an electronic document the Annual Report enables readers to access additional, more specific information in many of the areas touched on. As a public document it also reflects the Tribunal’s and the Law Society’s commitment to transparent processes.



Law Society Tribunal
Tribunal du Barreau

MESSAGE FROM THE CHAIR >

BUILDING THE TRIBUNAL >

TRIBUNAL OPERATIONS >

TRIBUNAL METRICS >

ANNUAL REPORT

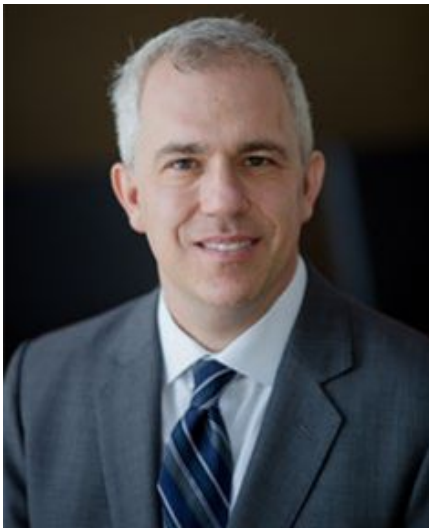
2015

Message from the Chair

2015 was a busy year for the Law Society Tribunal, filled with many changes to enhance the Tribunal's unique, independent model of adjudication within the Law Society of Upper Canada.

In early September, we moved from the Law Society offices at Osgoode Hall to 375 University Avenue. We now have three full-sized hearing rooms and one multi-purpose room, all of which have state-of-the-art technology. There are also four breakout rooms for parties. The public and the parties now have equal access to a counter to file documents and obtain information.

This year, there was a large change in the Tribunal's membership. At the beginning of the year, Convocation appointed four new adjudicators after a competitive process that involved review of writing samples and skills-based interviews. In May, 19 newly elected or appointed benchers became Tribunal members. All received comprehensive training and orientation.



David A. Wright
Chair, Law Society Tribunal

The former Vice-Chairs of the Hearing and Appeal Divisions, Linda Rothstein and Mark Sandler, did not run for re-election as benchers and their terms ended in May. I thank both of them for their strong contributions as adjudicative leaders and their thoughtful advice to me since I started in 2013. As Chair of the Appeal Panel for more than six years, Mark wrote many reasons that made and developed key principles. His influence will continue for many years.

Raj Anand is now Vice-Chair of the Hearing Division and Christopher D. Bredt is Vice-Chair of the Appeal Division. I look forward to working closely with them in the years ahead.

We continued to develop our case law, providing guidance to the professions about their professional obligations and establishing principles affecting other Tribunal cases. Significant 2015 decisions include:

- *Law Society of Upper Canada v. DeMerchant, 2015 ONLSTA 6*, dealing with conflicts of interest in the context of large corporations;
- *Law Society of Upper Canada v. Hohots, 2015 ONLSTH 72* and *Law Society of Upper Canada v. Jaszi, 2015 ONLSTH 149*, both addressing standards of practice for refugee lawyers;
- *Law Society of Upper Canada v. Abbott, 2015 ONLSTA 25*, considering the impact of investigative delay on penalty; and
- *Law Society of Upper Canada v. Savone, 2015 ONLSTA 26*, dealing with the Law Society's obligations of disclosure.

Note: Abbott was upheld by the Divisional Court (see *2016 ONSC 641*) and Savone is under appeal to that Court as of March 2016.

I want to especially recognize the Tribunal staff and adjudicators, all of whom work very hard and are dedicated to our mission. Our team is committed to serving parties, the public, and the professions with excellence. We welcome feedback from the community, and will continue to innovate while keeping our independence and neutrality.

Building the Tribunal

A Distinct Identity

MISSION STATEMENT AND CORE VALUES

The Law Society Tribunal is an independent adjudicative tribunal within the Law Society of Upper Canada. The Tribunal was formally established on March 12, 2014, through implementation of the *Modernizing Regulation of the Legal Profession Act, 2013*.

In recognition of the Tribunal's distinct identity and commitment to an enhanced process, a *mission statement and core values* were created and implemented through a process of consultation with stakeholders and members.

The Law Society Tribunal processes, hears and decides regulatory cases about Ontario lawyers and paralegals in a manner that is fair, just and in the public interest. The work of Tribunal members and staff is informed and governed by this mission statement and the core values of fairness, quality, transparency and timeliness.

TRIBUNAL TEAM

The Tribunal is led by the Chair and is made up of members and staff. Tribunal members are the adjudicators who hear and decide cases. All are part-time, with the exception of the Chair. We have one part-time and 13 full-time staff members, including the Chair.

Members

The Tribunal consists of a Hearing and Appeal Division. The Chair of the Tribunal is Chair of both the Hearing and Appeal Divisions, and each Division has a Vice-Chair. Under the *Law Society Act*, the Chair must be a lawyer who is not a benchers and the Vice-Chairs must be elected benchers.

Other Tribunal members include elected and other lawyer benchers, paralegal benchers, lay (public) benchers appointed by the Lieutenant Governor in Council, and lawyers, paralegals and lay (public) members appointed by Convocation on recommendation of the Chair. Public members must also be approved by the Attorney General for Ontario. As of December 31, 2015, there were 92 members of the Hearing Division, 24 of whom were also members of the Appeal Division. The Chair is appointed for a four-year term, and Vice-Chairs and members are appointed for terms of up to two years.

Members sit in panels of one, three or five to hear and decide cases. Panels are composed by the Chair in accordance with the requirements of *Ontario Regulation 167/07*.

Staff

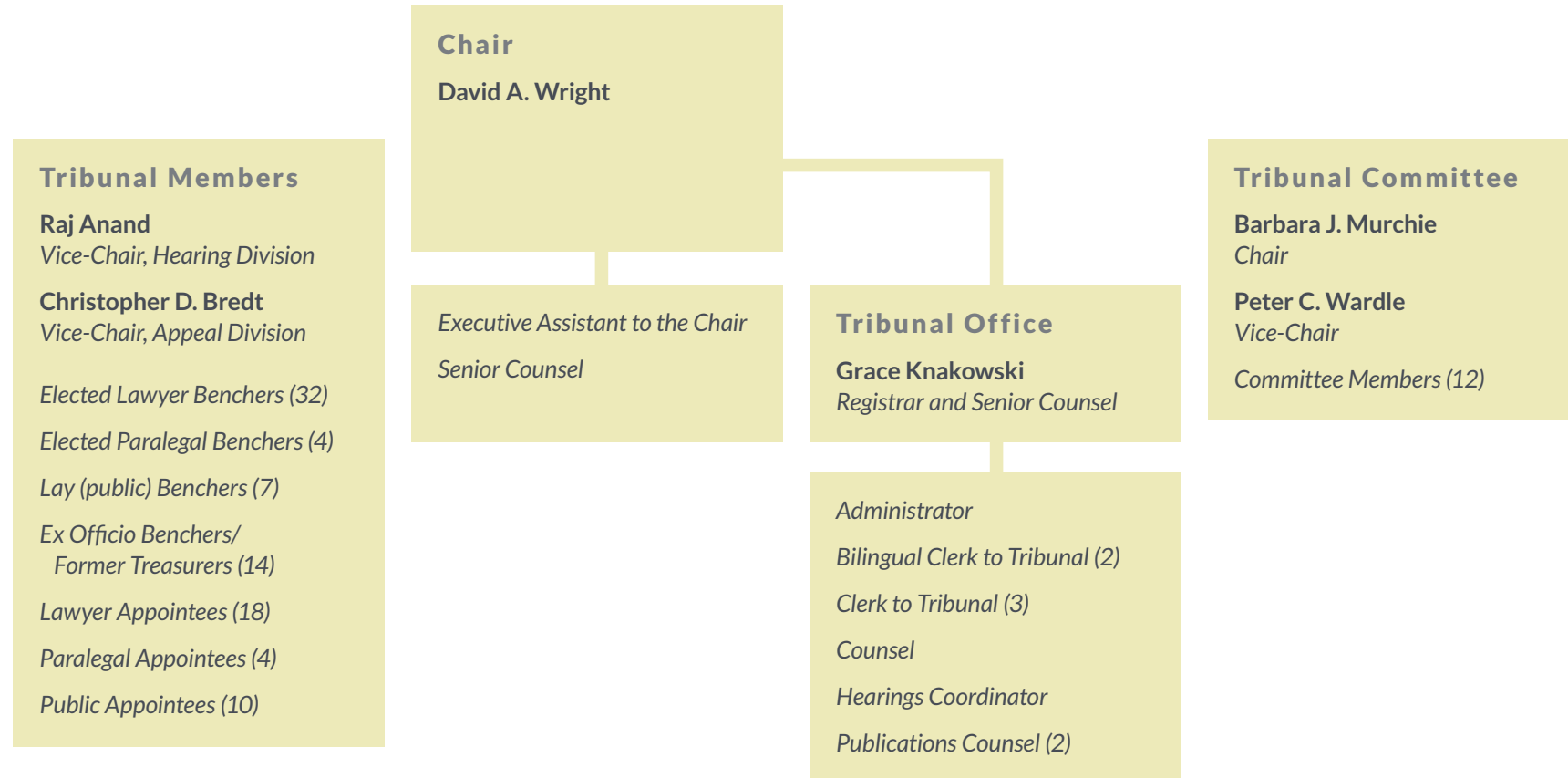
The Tribunal Office is managed by the Registrar and Senior Counsel, who reports to the Chair. Tribunal counsel support the adjudicative and legal needs of the Tribunal through general legal advice, review of reasons and development of, and participation in, adjudicator education. Counsel may also represent the Tribunal at a judicial review or other court proceeding. Tribunal administrative staff support the work of the Tribunal through file management, scheduling, clerking hearings and releasing orders and reasons.

Tribunal Committee

The Tribunal Committee is a standing committee of Convocation. Its mandate is to develop for Convocation's approval, in conjunction with the Chair, policy options on all matters relating to the Tribunal, including practice directions, the *Adjudicator Code of Conduct*, publication protocols for Tribunal decisions, Tribunal member professional development and rules of practice and procedure.

TRIBUNAL STRUCTURE

(as of December 31, 2015)



Tribunal Advancement

The Law Society Tribunal is committed to continuous improvement and advancement. As part of this commitment, a detailed Tribunal member position description and formal performance development process for members have been approved by Convocation and implemented.



Left to right: Raj Anand Vice-Chair, Hearing Division; David A. Wright, Chair, Law Society Tribunal; Christopher D. Bredt Vice-Chair, Appeal Division

APPOINTMENT AND REAPPOINTMENT PROCESS

Members are appointed and reappointed to the Tribunal by Convocation on recommendation of the Chair. Benchers are eligible to be appointed to an initial term by virtue of their position. Other members are appointed following a competitive process and must have adjudicative experience. Tribunal members must adhere to the Law Society Tribunal *Adjudicator Code of Conduct* and demonstrate many competencies, including:

- Knowledge of administrative law, legislation and rules
- Commitment to procedurally fair and transparent hearings
- Production of quality jurisprudence
- Collegiality and self-reflection
- Continuous development through education of adjudicative skills and knowledge of issues before the Tribunal

BUILDING THE TRIBUNAL

The Law Society Tribunal is committed to reflecting diversity of background, expertise and experience among its members, including French proficiency and subject-area knowledge. In 2015, Convocation appointed 20 new benchers adjudicators and four appointee adjudicators, further enhancing this diversity.

ORIENTATION AND EDUCATION

All new Tribunal members attend a multi-day orientation. Continuing education is offered to members and staff throughout the year, and attendance at two half-day sessions is mandatory for all members. This year's sessions focused on hearing management. The Tribunal, in conjunction with the Society of Ontario Adjudicators and Regulators (SOAR), presented an intensive four-day orientation session to the new benchers members. The new appointee lawyers, all of whom have extensive adjudicative experience, received a two-day orientation session focused on issues particular to the Tribunal.

Outreach

STAKEHOLDER INPUT

The Chair's Practice Roundtable continues to provide Tribunal stakeholders with a collegial forum in which to comment on the work of the Tribunal. It is comprised of counsel who regularly represent the Law Society or licensees, and duty counsel who frequently assist self-represented individuals at the Tribunal.

The Chair's Practice Roundtable also provides an effective channel for the Tribunal to share and receive comments on developments and proposals about its processes.

Lawyers, paralegals and members of the public can receive email updates and consultation documents from the Tribunal by asking to be included on the [Tribunal's Stakeholder List](#).

REGULATORY AND ADMINISTRATIVE JUSTICE COMMUNITY

The Law Society Tribunal continues to establish its presence within, and make contributions to, the regulatory and administrative justice community. In 2015, David A. Wright was appointed to the Board of Directors of the Council of Canadian Administrative Tribunals and spoke at many conferences and events, including:

- TAG – The Action Group on Access to Justice and the Canadian Institute for the Administration of Justice — *Opening Minds to Mental Health*
- SOAR Annual Conference — *Public Interests: Useful Concept or Meaningless Subterfuge?*, and, together with the Law Society Tribunal Registrar and Senior Counsel, *Promoting Tribunal Neutrality in an Integrated Regulatory Model*
- Association des juristes d'expression française de l'Ontario (AJEFO) — *Mise à jour des développements récents importants dans le nouveau Tribunal du Barreau indépendant et les changements d'adjudication au Barreau*
- Ontario Paralegal Association — *Administrative Law*

- Manitoba Council of Administrative Tribunals — *Ethics: Herding Cats – Tools in your Toolbox*
- Association of Professional Engineers of Ontario — *Getting into the Mindset of an Adjudicator*
- Health Services Appeal and Review Board, Health Professions Appeal and Review Board, Ontario Hepatitis C Assistance Plan Review Committee — *The Public Interest in Professional Regulation*



TAG – The Action Group on Access to Justice and the Canadian Institute for the Administration of Justice — *Opening Minds to Mental Health*

Mission Statement and Core Values

MISSION STATEMENT

The Law Society Tribunal processes, hears and decides regulatory cases about Ontario lawyers and paralegals in a manner that is fair, just and in the public interest.



Fairness

We will be fair and impartial in our processes and proceedings, treating all with respect, courtesy and dignity.



Quality

We strive for excellence, acting with dedication and professionalism. We aim for continuous improvement, valuing diverse perspectives. We commit to an atmosphere that enables all to perform at their best.



Transparency

We will act in a manner that bears the closest scrutiny. Our decisions, rules, processes and policies will be available to licensees and the public, accessible and easily understandable.

Timeliness

We are guided by the importance of timely resolution of all matters. We will schedule hearing and continuation dates expeditiously and complete written reasons promptly.

Tribunal Operations

Relocation

On September 4, 2015, the Tribunal relocated its offices and hearing rooms from the Law Society of Upper Canada's offices at Osgoode Hall to new premises at 375 University Avenue, at the corner of Armoury Street. The relocation of the Tribunal further demonstrates the Law Society's commitment to foster an independent adjudicative tribunal. There are well-designed hearing rooms, multiple breakout rooms for parties, and functional panel deliberation rooms. Each hearing room has public seating, and overflow can be accommodated in a separate room through video display. Hearing rooms have enhanced video, audio, telecommunication and Internet capabilities. A party, witness or panelist may now participate at a hearing through video or web conferencing. Fixed cameras and large television monitors allow the parties, panel and public to see and hear those participating in a hearing on site or remotely.

The work and staff of the Tribunal are supported through a dedicated file-management area and modern moving filing system that securely stores all materials in one location. The new premises allow staff to better serve hearings seamlessly since hearing, breakout and deliberation rooms, and staff offices and workspaces are now all close to one another.





Accessible

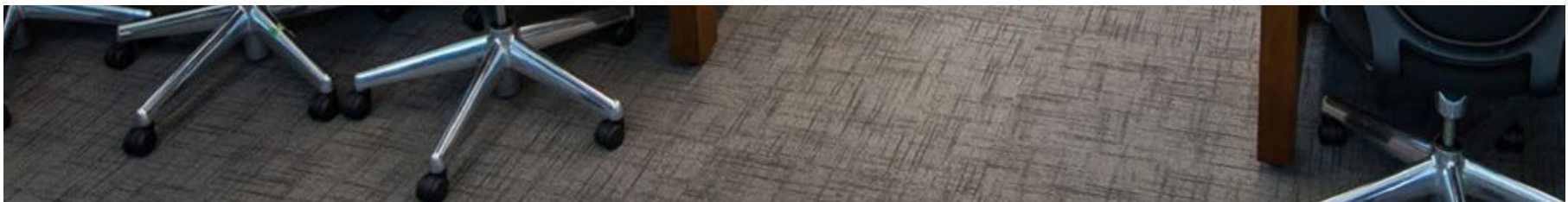
The Law Society Tribunal values being accessible to its stakeholders. Our new premises comply with the [Accessibility for Ontarians with Disabilities Act, 2005](#) and have ergonomic seating and furnishings, assistive listening devices and braille signage. Onsite underground parking and elevators make the Tribunal more accessible to people with mobility challenges. A reception space with waiting area, coat closet, printer and a large screen listing hearings, along with telephones and water in all hearing rooms make the premises user-friendly and welcoming. Law Society representatives, licensees and the public can equally access the Tribunal and its staff through the front counter.





Three-Year Review

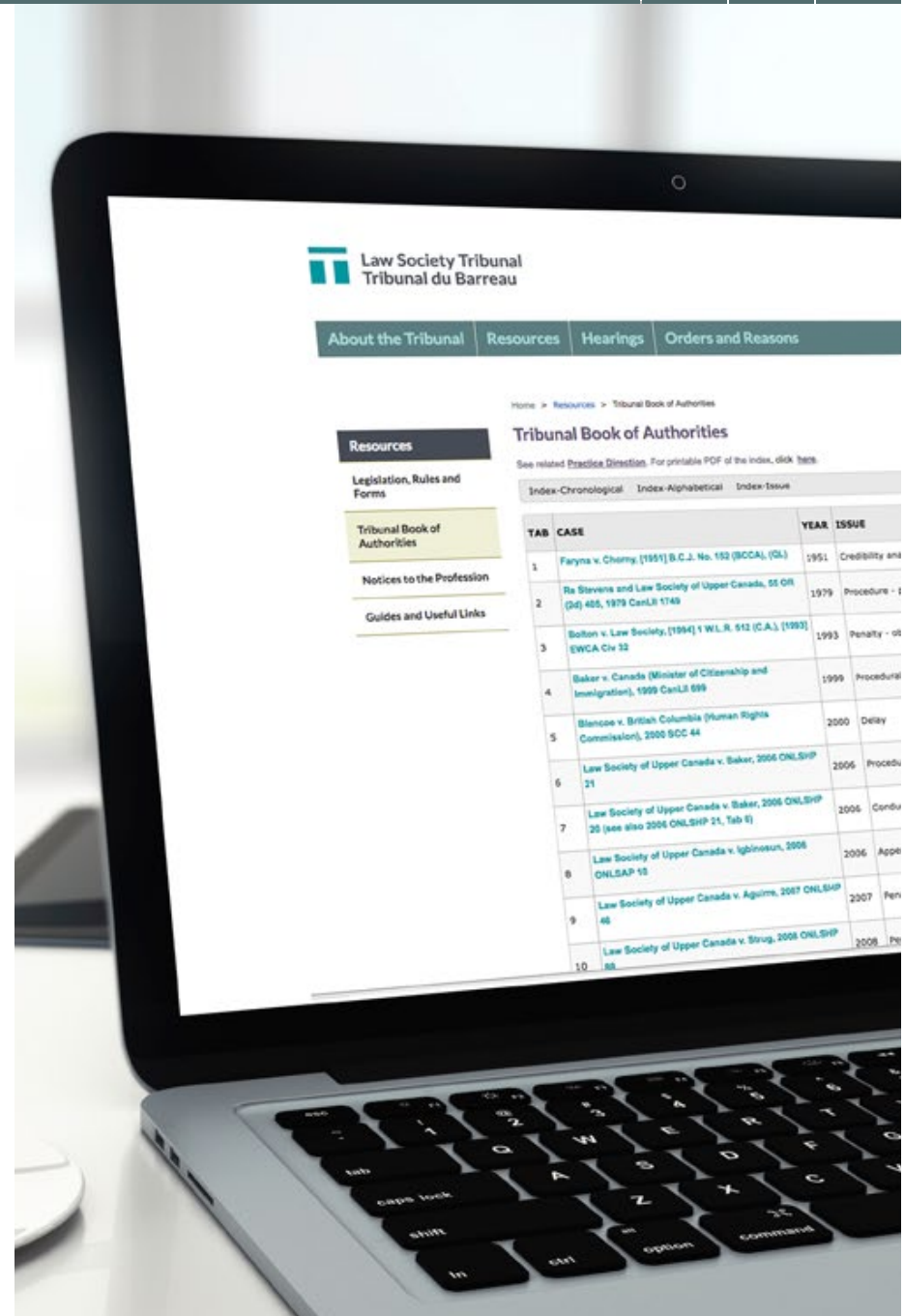
In 2015, a working group of the Tribunal Committee consulted extensively with Tribunal stakeholders to gain input and feedback on the Tribunal's progress since its establishment in March 2014. Among those consulted were the Chair's Practice Roundtable; Treasurer's Liaison Group; four Law Society Committees — Audit and Finance, Equity and Aboriginal Issues, Paralegal Standing, and Professional Regulation; Tribunal members; a sample of legal representatives who appear before the Tribunal with some frequency and, through them, their clients. The *Tribunal Model Three-Year Review Final Report* concluded that the "model is being thoughtfully and carefully implemented to reflect the goals Convocation established and is being received positively."



Initiatives

In 2015, the *Tribunal Book of Authorities*, containing frequently cited cases at Tribunal proceedings, was created and made publicly available through the Tribunal's website. The *Tribunal Book of Authorities* assists parties and reduces their costs. Cases from the *Tribunal Book of Authorities* can be relied upon through a simple citation reference instead of copying the entire case. The Tribunal issued a *practice direction* to explain this new resource.

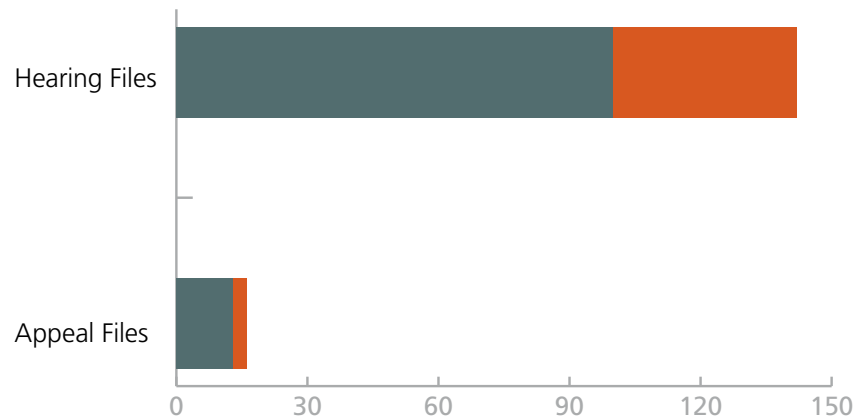
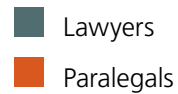
In addition, we enhanced the Tribunal's website, allowing stakeholders to easily research Tribunal orders and reasons and information about hearings. New sort and search features for the *Current Proceedings*, *Upcoming Hearings* and *Orders and Reasons* web pages were added. Order summaries on the Tribunal website now provide a link to related reasons on the *Canadian Legal Information Institute* (CanLII) website. We added a frequently asked questions (*FAQ*) page, designed in particular to assist self-represented parties and the public.



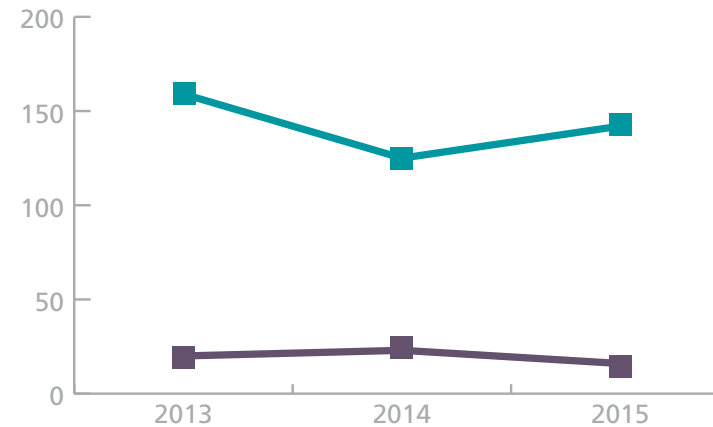
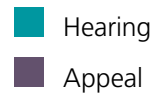
Tribunal Metrics

The Law Society Tribunal's 2015 statistics may be found [here](#).

HEARING AND APPEAL FILES OPENED IN 2015



HEARING AND APPEAL FILES OPENED BY YEAR



Statistical Highlights and Trends

FILES OPENED

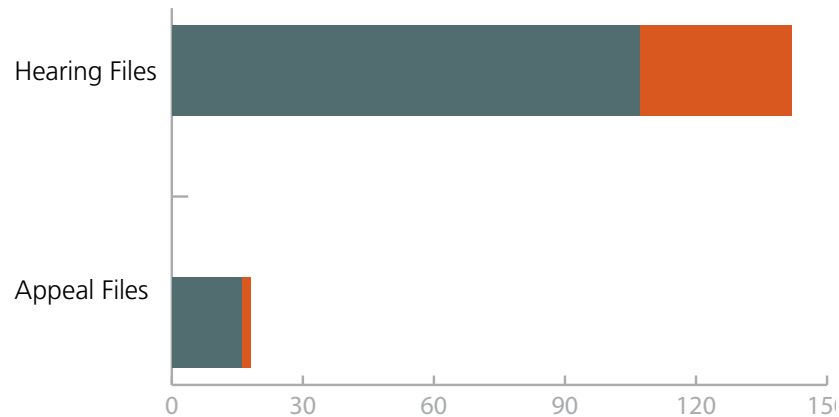
The Tribunal continues to keep pace with its caseload by opening about as many files as it closes. In 2015, the Law Society Tribunal opened 142 notices of application or referral for hearing and motions for interlocutory suspension or practice restriction to be considered by the Hearing Division, compared to 125 filings in 2014, a 14% increase. The Tribunal also opened 16 notices of appeal to be considered by the Appeal Division, compared to 23 filings in 2014, a 30% decrease. The total number of filings in 2015 is similar to that of 2014.

Tribunal Metrics

The Law Society Tribunal's 2015 statistics may be found [here](#).

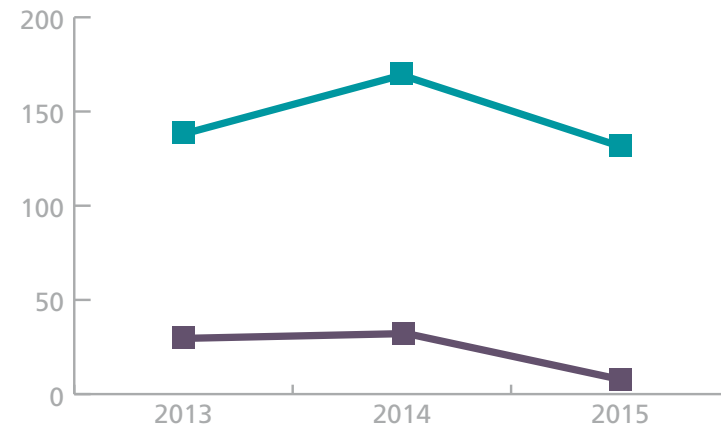
HEARING AND APPEAL FILES CLOSED IN 2015

Lawyers
Paralegals



HEARING AND APPEAL FILES CLOSED BY YEAR

Hearing
Appeal



FILES CLOSED

In 2015, the Tribunal closed 142 files that were before the Hearing Division compared to 152 closed files in 2014, a 7% decrease. The Tribunal also closed 18 files that were before the Appeal Division compared to 28 closed files in 2014, a 36% decrease.

OPEN FILES BY AGE

At year-end 2015, the Tribunal's active files had been open for the following lengths of time:

0 to 6 months – 68 files (44%); 7 to 12 months – 42 files (27%); 13 to 18 months – 16 files (11%); 19 to 24 months – 12 files (8%); and over 24 months – 15 files (10%).

As in 2014, nearly half of the Tribunal's active files at 2015 year-end were 0 to 6 months old and 82% of the Tribunal's active files were less than 18 months old. These figures are almost identical to 2014 and 2013 year-end figures. This is a significant improvement from 2012 when 33% of open files at year-end were 0 to 6 months old and 76% were less than 18 months old.

NUMBER OF FILES AND FREQUENCY BEFORE THE TRIBUNAL

In 2015, a total of 137 files were before the proceeding management conference (PMC), a slight 5% decrease from the 144 files of the year before. The instances in which files were considered by the PMC decreased to 298 instances from 338 in 2014, a 12% decrease. A total of 158 files were before the Hearing Division, a 17% decrease from the 190 files of the year before. The number of times files were considered by the Hearing Division decreased by 25% to 282 from 377 in 2014. The emphasis placed on active case management at PMC and pre-hearing conferences (PHCs) likely accounts for this reduction. Twelve files were before the Appeal Division, a 54% decrease from the 26 files of the year before. Files were considered by the Appeal Division 16 times in 2015 as compared with 37 times in 2014, a 57% decrease.

TOTAL HEARINGS SCHEDULED AND VACATED

In 2015, hearings or PHCs were scheduled on 93% of all available calendar days. 337 single-day or multiple day hearing blocks were scheduled before the Hearing and Appeal Divisions. Of these, 315 were for Hearing Division hearings and 22 were for Appeal Division hearings. Of the 337 hearing blocks scheduled, 20% were vacated, similar to the 17% vacated in 2014. Twenty-three percent of Appeal Division hearings were vacated, an increase of 11% from 2014. The Tribunal continues to apply its *practice direction* on adjournment requests.

TRIBUNAL REASONS PRODUCED AND PUBLISHED

In 2015, the Tribunal produced 140 written reasons, a 24% decrease from 2014, likely due to fewer files proceeding before the Hearing Division. Tribunal written and oral reasons continue to be published on the [CanLII](#) website so Tribunal jurisprudence is easily available to lawyers, paralegals and the public.



Law Society Tribunal
Tribunal du Barreau

MESSAGE DU PRÉSIDENT >

ÉVOLUTION DU TRIBUNAL >

OPÉRATIONS DU TRIBUNAL >

STATISTIQUES DU TRIBUNAL >

RAPPORT ANNUEL

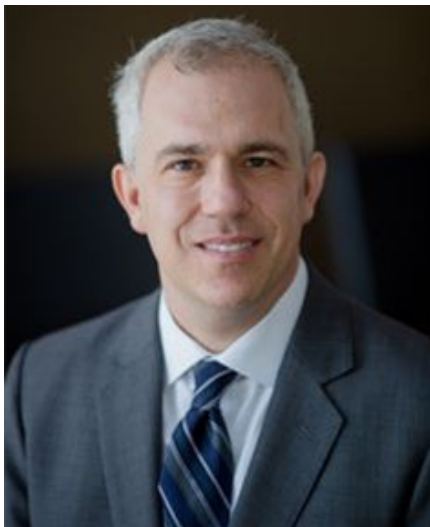
2015

Message du président

L'année 2015 a été bien chargée pour le Tribunal du Barreau, apportant de nombreux changements pour améliorer son modèle unique d'arbitrage indépendant au sein du Barreau du Haut-Canada.

Au début du mois de septembre, nous avons quitté l'édifice du Barreau à Osgoode Hall pour emménager au 375, av. University. Nous avons maintenant trois salles d'audience et une salle à usage multiple, toutes dotées d'une technologie de pointe. Nous avons également quatre salles de réunion pour les parties. Autant le public que les parties ont désormais accès à un même comptoir pour déposer leurs documents et obtenir des renseignements.

Cette année, la composition du Tribunal a subi un grand changement. Au début de l'année, le Conseil a nommé quatre nouveaux arbitres après un concours comprenant un examen d'échantillons de rédactions et des entrevues basées sur les compétences. En mai, 19 membres conseillers nouvellement élus ou nommés sont devenus membres du Tribunal. Ils ont tous reçu une formation générale et une orientation.



David A. Wright, président,
Tribunal du Barreau

Les anciens vice-présidents des sections de première instance et d'appel, Linda Rothstein et Mark Sandler, ne se sont pas représentés à l'élection des conseillers et leur mandat a pris fin en mai. Je les remercie de leurs solides contributions comme arbitres en chef et des conseils précieux qu'ils m'ont donnés dès mes débuts en 2013. Comme président de la formation des appels pendant plus de six ans, Mark a écrit de nombreux motifs qui ont mené à des principes clés. Son influence se fera sentir pendant de nombreuses années.

Raj Anand est maintenant le vice-président de la Section de première instance et Christopher D. Bredt est vice-président de la Section d'appel. Je serai heureux de travailler avec eux au cours des prochaines années.

Nous avons continué de développer notre jurisprudence, en donnant aux professions des conseils sur leurs obligations professionnelles et en établissant des principes touchant d'autres cas devant le Tribunal. Les principales décisions de 2015 comprennent :

- *Law Society of Upper Canada c. DeMerchant, 2015 ONLSTA 6*, traitant des conflits d'intérêts dans le cadre des grandes sociétés ;
- *Law Society of Upper Canada c. Hohots, 2015 ONLSTH 72* et *Law Society of Upper Canada c. Jaszi, 2015 ONLSTH 149*, traitant des normes de pratique pour les avocats des réfugiés ;
- *Law Society of Upper Canada c. Abbott, 2015 ONLSTA 25*, considérant l'impact des délais d'enquête portant sur la sanction ;
- *Law Society of Upper Canada c. Savone, 2015 ONLSTA 26*, traitant des obligations de divulgation du Barreau.

Remarque : La décision Abbott a été maintenue par la Cour divisionnaire (voir [2016 ONSC 641](#)) et la décision Savone est en appel devant cette cour en mars 2016.

Je tiens à reconnaître particulièrement le personnel du Tribunal et ses arbitres, qui ont tous et toutes travaillé très fort et avec un grand dévouement à notre mission. Notre équipe est engagée à servir les parties, le public et les professions avec excellence. Nous acceptons avec plaisir les commentaires de la communauté et nous continuerons à innover tout en conservant notre indépendance et notre neutralité.

Évolution du Tribunal

Identité distincte

MISSION ET VALEURS

Le Tribunal du Barreau est un tribunal d'arbitrage indépendant au sein du Barreau du Haut-Canada. Le Tribunal du Barreau a été constitué officiellement le 12 mars 2014 en vertu de la *Loi de 2013 sur la modernisation de la réglementation de la profession juridique*.

En reconnaissance de l'identité du Tribunal et de son engagement envers l'amélioration de sa procédure, un énoncé de *mission et de valeurs* a été créé et mis en œuvre après une consultation avec les intervenants et les membres.

Le Tribunal du Barreau traite, entend et tranche des cas de réglementation concernant les avocates, les avocats et les parajuristes de l'Ontario de manière équitable, juste et dans l'intérêt public. Ces valeurs essentielles guident et gouvernent le travail des membres et du personnel du Tribunal : équité, qualité, transparence et délais.

ÉQUIPE DU TRIBUNAL

Le Tribunal est dirigé par le président et comprend des membres du tribunal et du personnel. Les membres du Tribunal sont les arbitres qui entendent et tranchent les causes. Tous les arbitres agissent à temps partiel, à l'exception du président. Le Tribunal compte un employé à temps partiel et 13 employés à temps plein, dont le président.

Membres

Le Tribunal est constitué d'une section de première instance et d'une section d'appel. Le président du Tribunal préside ces deux sections, chacune ayant un vice-président. Aux termes de la *Loi sur le Barreau*, le président doit être avocat non conseiller et les vice-présidents doivent être des conseillers élus.

Les autres membres du Tribunal comprennent des conseillers avocats et parajuristes élus ou non élus; des conseillers non juristes (public) nommés par le Lieutenant-gouverneur en conseil, et des membres du Tribunal avocats, parajuristes et non-juristes (public) nommés par le Conseil sur recommandation du président. Les membres publics doivent aussi être approuvés par la procureure générale de l'Ontario. Au 31 décembre 2015, il y avait 92 membres de la Section de première instance, dont 24 sont également membres de la Section d'appel. Le président est nommé pour un mandat de quatre ans, et les vice-présidents et membres sont nommés pour des mandats de deux ans maximum.

Les membres siègent à des formations de un, trois ou cinq pour entendre et trancher les causes. Les formations sont composées par le président conformément aux exigences du *Règlement de l'Ontario 167/07*.

Personnel

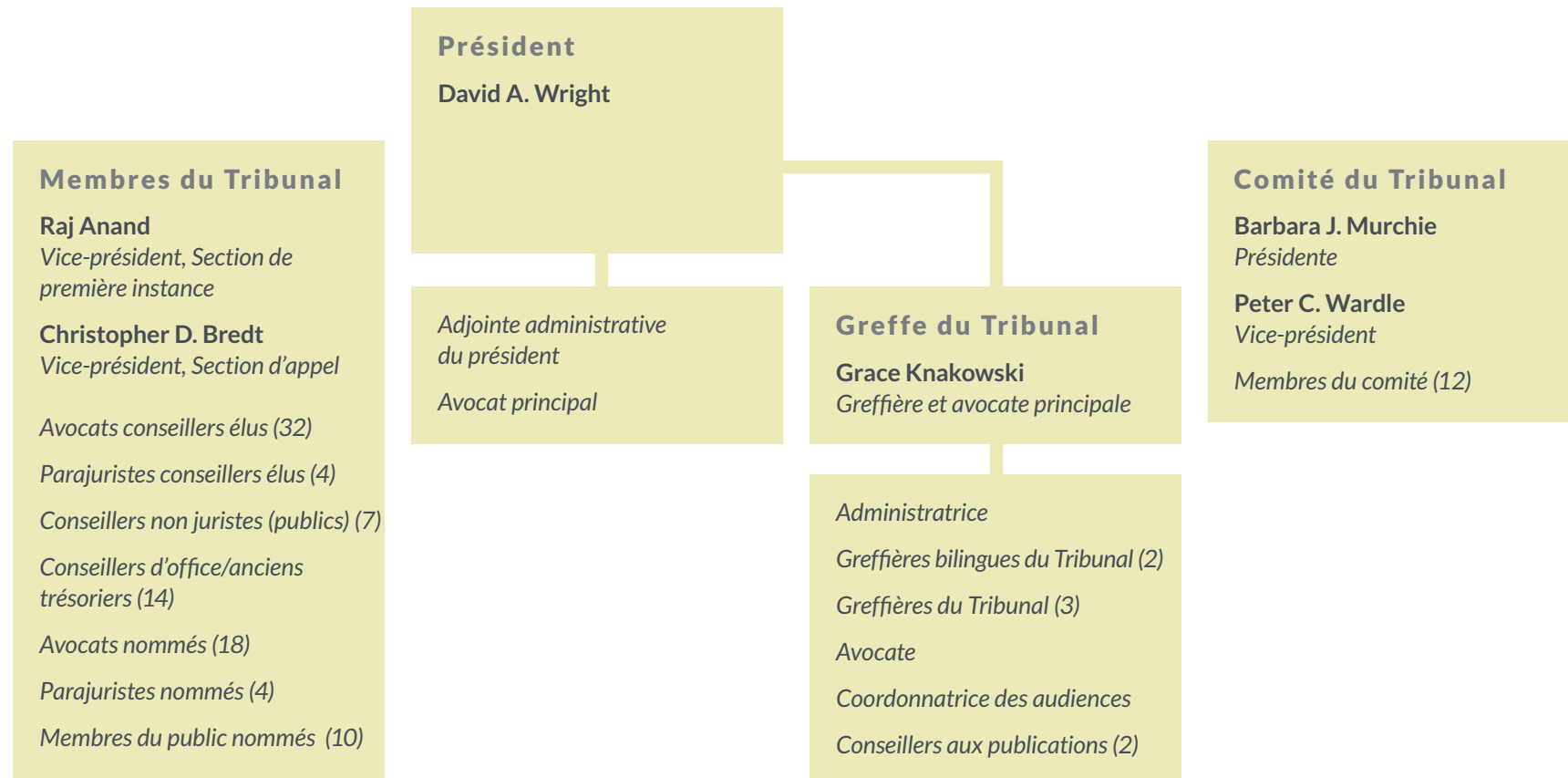
Le greffe du Tribunal est administré par la greffière et avocate principale, qui se rapporte au président. Les avocats du Tribunal soutiennent les fonctions d'arbitrage et les besoins juridiques du Tribunal en fournissant des conseils juridiques d'ordre général, en revoyant les motifs, en élaborant des formations en arbitrage et en y participant. Les avocats peuvent aussi représenter le Tribunal à une révision judiciaire ou autre procédure judiciaire. Le personnel administratif du Tribunal soutient le travail du Tribunal par la gestion des dossiers, l'établissement du calendrier, le soutien aux audiences et la publication des ordonnances et des motifs.

Comité du Tribunal

Le Comité du Tribunal est un comité permanent du Conseil. Son mandat est d'élaborer, de concert avec le président du Tribunal du Barreau, pour approbation du Conseil, différentes politiques sur toutes les questions portant sur le Tribunal, y compris l'élaboration ou la préparation des directives de cabinet, le *Code de déontologie des arbitres*, un protocole de publication pour rendre les décisions du tribunal, le perfectionnement professionnel des arbitres et des règles de pratique et de procédure.

STRUCTURE DU TRIBUNAL

(au 31 décembre 2015)



Avancement du Tribunal

Le Tribunal du Barreau s'engage à continuer de s'améliorer. Dans le cadre de cet engagement, une description détaillée de postes pour les membres du Tribunal et un processus de perfectionnement professionnel officiel pour les membres ont été approuvés par le Conseil et mis en œuvre.



De gauche à droite : Raj Anand, vice-président, Section de première instance; David A. Wright, président, Tribunal du Barreau; Christopher D. Bredt, vice-président, Section d'appel

PROCESSUS DE NOMINATION ET DE RENOUVELLEMENT DES NOMINATIONS

Les membres sont nommés et renommés au Tribunal par le Conseil, sur recommandation du président. Les conseillers peuvent être nommés pour un mandat initial du fait de leur charge. D'autres membres sont nommés après un processus concurrentiel et doivent avoir une expérience d'arbitrage. Les membres du Tribunal doivent respecter le *Code de déontologie des arbitres* du Tribunal du Barreau et faire preuve de diverses compétences, comme :

- La connaissance du droit administratif, de la loi et des règles
- Un engagement envers des audiences équitables et transparentes
- La production de jurisprudence de qualité
- La collégialité et la réflexion personnelle
- Le perfectionnement continu par l'éducation des habiletés d'arbitrage et des connaissances des questions présentées au Tribunal

DÉVELOPPER LE TRIBUNAL

Le Tribunal du Barreau est déterminé à refléter la diversité, l'expertise et l'expérience parmi ses membres, y compris la compétence en français et les connaissances dans des domaines du droit. En 2015, le Conseil a nommé 20 nouveaux arbitres conseillers et quatre arbitres non conseillers pour améliorer cette diversité.

ORIENTATION ET ÉDUCATION

Tous les nouveaux membres du Tribunal participent à une orientation sur plusieurs jours. La formation continue est offerte aux membres et au personnel durant l'année, et la participation à deux séances d'une demi-journée est obligatoire pour tous les membres. Les séances de cette année portaient sur la gestion des audiences. Le Tribunal, en conjonction avec la *Society of Ontario Adjudicators and Regulators (SOAR)* a présenté une séance d'orientation de quatre jours intensifs aux nouveaux membres conseillers. Les avocats nouvellement nommés, qui ont tous et toutes une grande expérience en arbitrage, ont suivi une séance d'orientation de deux jours sur des questions d'intérêt particulier au Tribunal.

Rayonnement

OPINION DES INTERVENANTS

La Table ronde du président concernant les pratiques continue de fournir aux intervenants du Tribunal un forum collégial pour exprimer leurs opinions sur le travail du Tribunal. La Table ronde est constituée d'avocats qui représentent régulièrement le Barreau ou des titulaires de permis, et d'avocats de service qui aident fréquemment les personnes non représentées au Tribunal.

La Table ronde du président fournit également un canal efficace au Tribunal pour partager et recevoir des commentaires sur les développements et les propositions concernant ses processus.

Les avocates, avocats, parajuristes et membres du public peuvent recevoir les mises à jour et les documents de consultation du Tribunal en demandant d'être ajoutés à la [liste des intervenants](#).

COMMUNAUTÉ DE JUSTICE ADMINISTRATIVE ET RÉGLEMENTAIRE

Le Tribunal du Barreau continue d'établir sa présence et de faire des contributions à la communauté de justice administrative et réglementaire. En 2015, David A. Wright a été nommé au conseil d'administration du Conseil canadien des tribunaux administratifs et a parlé à de nombreuses conférences et de nombreux événements, y compris :

- TAG—Le Groupe d'action sur l'accès à la justice et l'Institut canadien d'administration de la justice—*S'ouvrir l'esprit à la santé mentale*
- Conférence annuelle de la SOAR—*Intérêts publics : Concept utile ou subterfuges insignifiants ?* Et avec la greffière et avocate principale du Tribunal du Barreau, *Favoriser la neutralité du tribunal dans un modèle réglementaire intégré*
- Association des juristes d'expression française de l'Ontario (AJEFO)—*Mise à jour des développements récents importants dans le nouveau Tribunal du Barreau indépendant et les changements d'adjudication au Barreau*
- Ontario Paralegal Association—Droit administratif

- Manitoba Council of Administrative Tribunals—*Ethics: Herding Cats — Tools in your Toolbox*
- Association of Professional Engineers of Ontario—*Getting into the Mindset of an Adjudicator*
- Commission d'appel et de révision des services de santé, Programme ontarien d'aide aux victimes de l'hépatite C —*L'intérêt public dans la réglementation professionnelle*



TAG—Le Groupe d'action sur l'accès à la justice et l'Institut canadien d'administration de la justice—*S'ouvrir l'esprit à la santé mentale*

Mission et valeurs

ÉNONCÉ DE MISSION

Le Tribunal du Barreau traite, entend et tranche des cas de réglementation concernant les avocates, les avocats et les parajuristes de l'Ontario de manière équitable, juste et dans l'intérêt public.



Équité

Nous serons équitables et impartiaux dans nos procédures et nos instances, et traiterons toutes les parties avec respect, courtoisie et dignité.

Qualité

Nous visons l'excellence, agissons avec dévouement et professionnalisme. Nous cherchons à nous améliorer constamment et nous valorisons les perspectives diverses. Nous nous engageons à créer une atmosphère permettant à toutes et à tous d'accomplir leurs tâches au mieux de leur habileté.

Transparence

Nous agirons d'une manière qui résiste à l'examen le plus minutieux. Nos décisions, règles, procédures et politiques seront à la disposition de tous les titulaires de permis et du public, en format accessible et facile à comprendre.

Délais

Nous sommes guidés par l'importance d'une résolution de toutes les affaires en temps utile. Nous fixerons rapidement des dates d'audition et de reprise et rendrons promptement des motifs écrits.

Opérations du Tribunal

Déménagement

Le 4 septembre 2015, le Tribunal a quitté Osgoode Hall pour emménager dans ses bureaux et ses salles d'audience au 375, avenue University, au coin de la rue Armoury. Le déménagement du Tribunal témoigne de l'engagement du Barreau envers l'indépendance du tribunal d'arbitrage. Les parties ont à leur disposition des salles d'audience bien conçues, des salles de réunion multiples et des salles fonctionnelles de délibération. Chaque salle d'audience est dotée de sièges pour le public, et en cas de débordement, nous avons une salle distincte munie d'un écran vidéo. Les salles d'audience ont des capacités vidéo, audio, de télécommunication et d'Internet. Les parties, les témoins ou les formations peuvent désormais participer à une audience par vidéoconférence ou webconférence. L'installation de caméras fixes et de grands écrans de télévision permettent aux parties, aux formations et au public de voir et d'entendre ceux et celles qui participent à une audience, sur place et à distance.

Le travail et le personnel du Tribunal bénéficient d'une aire dédiée à la gestion des dossiers et de systèmes de classement modernes pour emmagasiner de façon sécuritaire tous les documents en un seul lieu. Les nouveaux bureaux permettent au personnel de mieux servir les audiences, puisque les salles d'audience, de réunion et de délibération et les bureaux et postes de travail du personnel sont maintenant proches les uns des autres.





Accessibilité

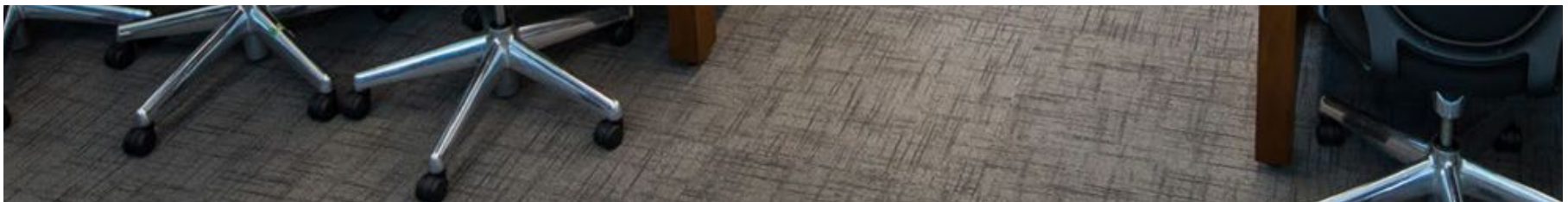
Le Tribunal du Barreau valorise le fait d'être accessible à ses parties concernées. Nos nouveaux bureaux sont conformes à la *Loi de 2005 sur l'accessibilité pour les personnes handicapées de l'Ontario* et offrent des sièges et du mobilier ergonomiques, des appareils de sonorisation assistée et la signalisation en braille. Le stationnement souterrain sur place et les ascenseurs rendent le Tribunal plus accessible aux personnes qui ont des difficultés de déplacement. Une aire de réception avec une salle d'attente, un vestiaire, une imprimante et un grand écran indiquant le lieu de l'audience, et des téléphones et de l'eau dans toutes les salles d'audience rendent les lieux conviviaux et accueillants. Les représentants du Barreau, les titulaires de permis et le public ont un accès égal au Tribunal à et son personnel au comptoir de la réception.





Examen sur trois ans

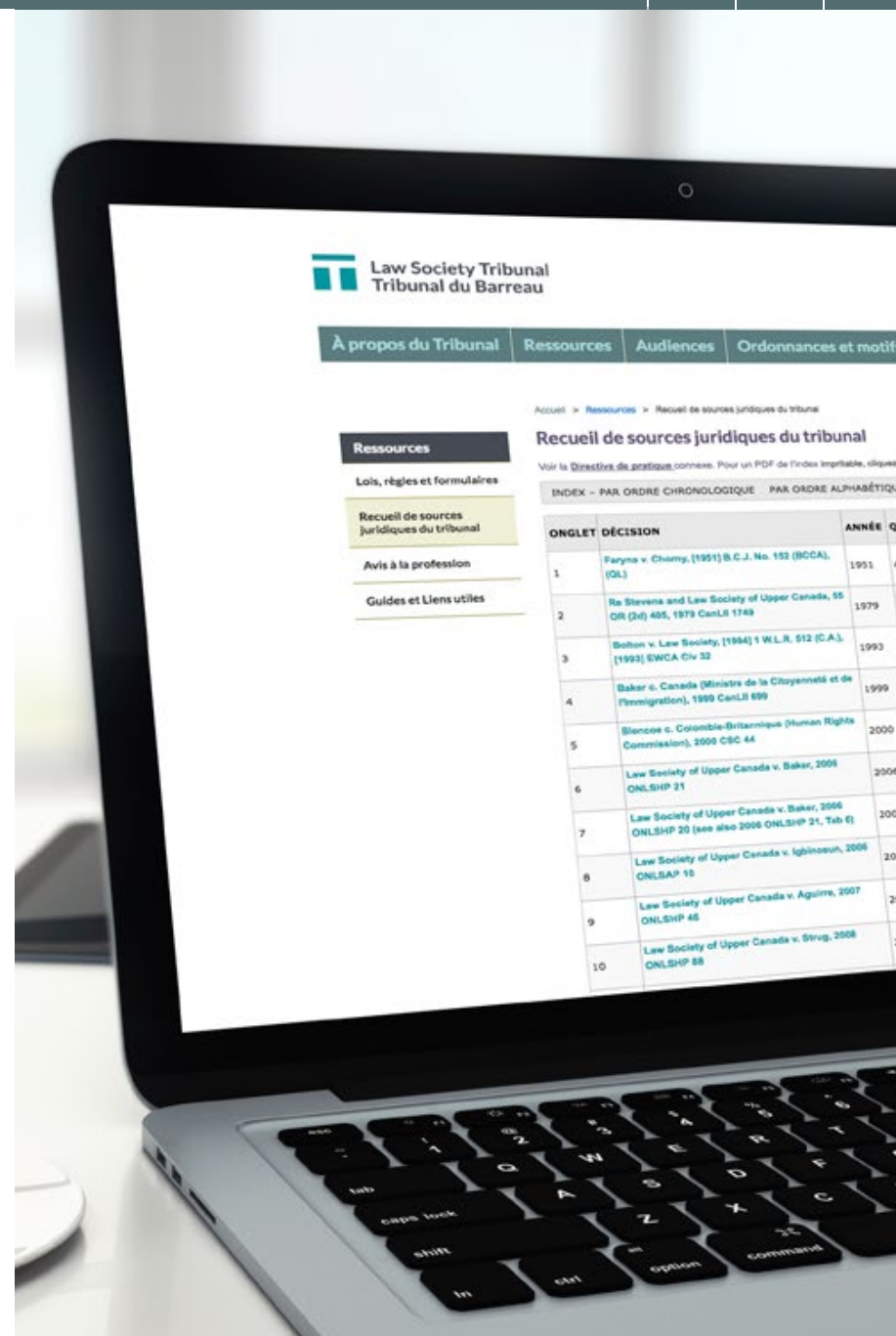
En 2015, un groupe de travail du comité du Tribunal a mené une vaste consultation auprès des parties concernées pour connaître leurs opinions sur les progrès du Tribunal depuis sa création en mars 2014. Les parties consultées comprenaient notamment : la table ronde du président ; le groupe de liaison de la trésorière ; quatre comités du Barreau, soit le comité d'audit et de finance, le comité sur l'équité et les affaires autochtones, le comité permanent des parajuristes et le comité de réglementation de la profession ; des membres du Tribunal ; quelques-uns des représentants juridiques qui ont plaidé devant le Tribunal assez souvent et, par leur entremise, leurs clients. Le [rapport final sur l'examen du modèle du Tribunal après trois ans](#) a conclu que le modèle était soigneusement mis en œuvre pour refléter les objectifs établis par le Conseil et qu'il était bien reçu.



Initiatives

En 2015, le *Recueil de sources juridiques du Tribunal*, contenant des cas souvent cités aux instances du Tribunal, a été créé et publié sur le site Web du Tribunal. Ce recueil aide les parties et réduit leurs frais. On peut simplement citer des cas tirés du Recueil de sources juridiques au lieu de reproduire le cas au complet. Le Tribunal a émis une *directive de pratique* pour expliquer cette nouvelle ressource.

De plus, nous avons amélioré le site Web du Tribunal, en facilitant la recherche par les parties dans les ordonnances du Tribunal, les motifs et les renseignements sur les audiences. De nouvelles caractéristiques pour catégoriser et chercher dans les pages des *procédures en cours*, des *audiences à venir* et des *ordonnances et motifs* ont été ajoutées. Des sommaires d'ordonnances sur le site Web du Tribunal renvoient désormais aux motifs connexes de *l'Institut canadien d'information juridique (CanLII)*. Nous avons ajouté une page de foire aux questions (*FAQ*) conçue en particulier pour aider les parties qui s'autoreprésentent et le public.

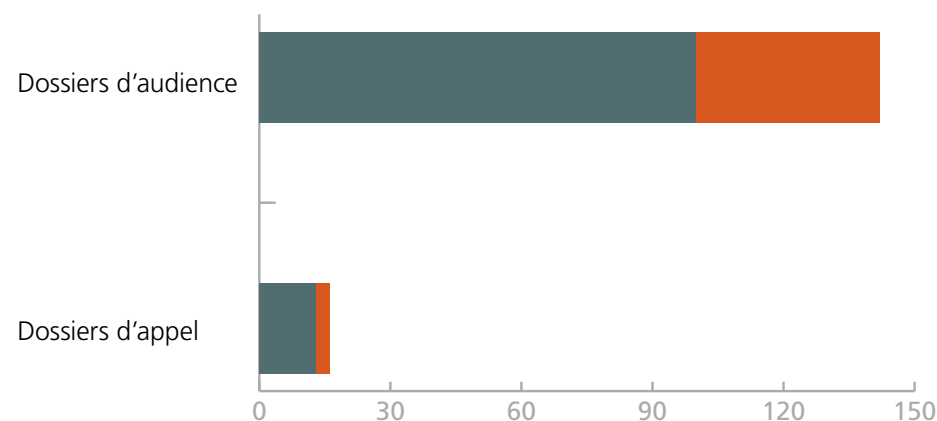


Statistiques du Tribunal

Les statistiques du Tribunal du Barreau pour 2015 se trouvent [ici](#).

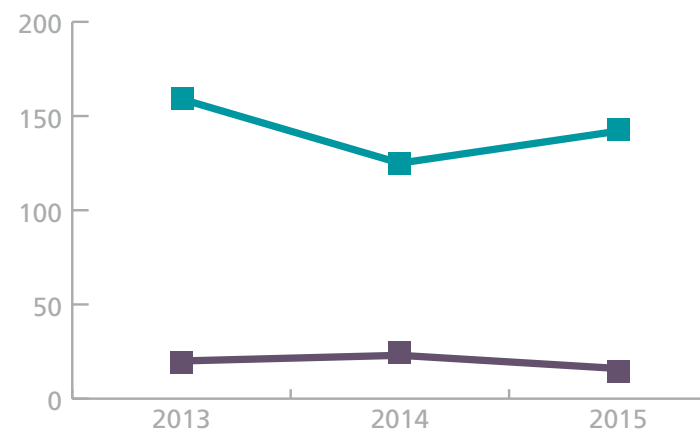
DOSSIERS D'AUDIENCE ET D'APPEL OUVERTS EN 2015

■ Avocats
■ Parajuristes



DOSSIERS D'AUDIENCE ET D'APPEL OUVERTS PAR ANNÉE

■ Audiences
■ Appels



Sommaire et tendances statistiques

DOSSIERS OUVERTS

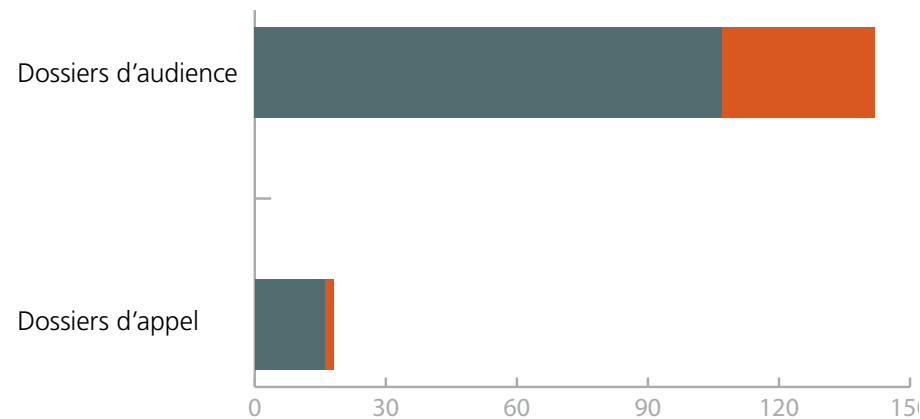
Le Tribunal garde le rythme dans sa charge de travail en ouvrant autant de dossiers qu'il en ferme. En 2015, le Tribunal du Barreau a ouvert 142 avis de requête ou de renvoi à l'audience et des motions de suspension interlocutoire ou de restriction de la pratique à présenter à la Section de première instance, comparativement à 125 dépôts en 2014, soit une augmentation de 14 %. Le Tribunal a aussi ouvert 16 avis d'appel à présenter devant la Section d'appel, comparativement à 23 dépôts en 2014, soit une diminution de 30 %. Le nombre total de dépôts en 2015 est semblable à celui de 2014.

Statistiques du Tribunal

Les statistiques du Tribunal du Barreau pour 2015 se trouvent [ici](#).

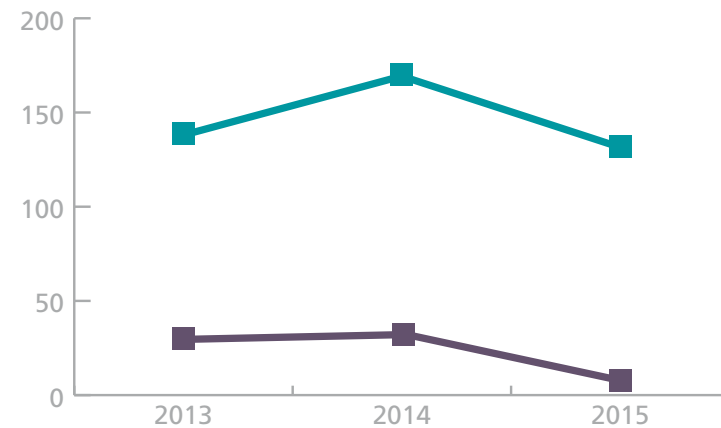
DOSSIERS D'AUDIENCE ET D'APPEL CLOS EN 2015

■ Avocats
■ Parajuristes



DOSSIERS D'AUDIENCE ET D'APPEL CLOS PAR ANNÉE

■ Audiences
■ Appels



DOSSIERS CLOS

En 2015, le Tribunal a clos 142 dossiers qui étaient devant la Section de première instance comparativement à 152 dossiers clos en 2014, soit une diminution de 7 %. Le Tribunal a également clos 18 dossiers qui étaient devant la Section d'appel, comparativement à 28 dossiers clos en 2014, soit une diminution de 36 %.

DOSSIERS OUVERTS SELON LA DURÉE

À la fin de 2015, les dossiers actifs du Tribunal étaient ouverts pour les durées suivantes :

0 à 6 mois — 68 dossiers (44 %), 7 à 12 mois — 42 dossiers (27 %), 13 à 18 mois — 16 dossiers (11 %), 19 à 24 mois — 12 dossiers (8 %) et plus de 24 mois — 15 dossiers (10 %).

Comme en 2014, près de la moitié des dossiers actifs du Tribunal à la fin de 2015 dataient de moins de six mois et 82 % des dossiers actifs du Tribunal dataient de moins de 18 mois. Ces chiffres sont presque identiques à ceux de la fin de 2014 et de 2013, et marquent une amélioration substantielle par rapport à 2012 où 33 % des dossiers ouverts à la fin de l'année étaient d'une durée de 0 à 6 mois et 76 % étaient d'une durée de moins de 18 mois.

NOMBRE DE DOSSIERS ET FRÉQUENCE DE COMPARUTION DEVANT LE TRIBUNAL

En 2015, un total de 137 dossiers a été examiné en conférence de gestion de l'instance (CGI), soit une légère diminution de 5 % par rapport aux 144 dossiers l'année précédente. Les cas dans lesquels les dossiers ont été examinés en CGI ont diminué, passant de 338 à 298 en 2014, soit une diminution de 12 %. La Section de première instance a examiné un total de 158 dossiers, soit une diminution de 17 % comparativement à 190 dossiers l'année précédente. Le nombre de fois où les dossiers ont été examinés par la Section de première instance a diminué de 25 % pour passer à 282 (377 en 2014). Cette diminution est vraisemblablement imputable à l'accent mis sur la gestion des cas actifs par CGI et par des conférences préparatoires à l'audience. La Section d'appel a examiné 12 dossiers, une diminution de 54 % par rapport à 26 dossiers l'année précédente. La Section d'appel a examiné des dossiers en 16 occasions en 2015, contre 37 en 2014, soit une diminution de 57 %.

NOMBRE TOTAL D'AUDIENCES FIXÉES ET ANNULÉES

En 2015, les audiences ou les conférences préliminaires se sont réparties sur 93 % de tous les jours civils disponibles. En tout, 337 tranches d'audiences sur un jour ou sur plusieurs jours ont été fixées devant les sections de première instance ou d'appel. Sur ce nombre, 315 étaient devant la Section de première instance et 22 devant la Section d'appel. Sur les 337 audiences prévues, 20 % ont été annulées, un pourcentage comparable aux 17 % d'audiences annulées en 2014. Vingt-trois pour cent des audiences de la Section d'appel ont été annulées, une augmentation de 11 % par rapport à 2014. Le Tribunal continue d'appliquer sa *directive de pratique* sur les demandes d'ajournement.

PRODUCTION ET PUBLICATION DES MOTIFS DU TRIBUNAL

En 2015, le Tribunal a produit 140 motifs écrits, une diminution de 24 % par rapport à 2014, vraisemblablement à cause d'un nombre inférieur de dossiers se rendant à la Section de première instance. Les motifs écrits et oraux du Tribunal continuent d'être publiés sur le site Web de [CanLII](#) pour que les décisions du Tribunal soient faciles à consulter par les avocats, les parajuristes et le public.

TAB 8.2

INFORMATION

TRIBUNAL 2016 FIRST QUARTER STATISTICS

4. The Tribunal's quarterly report for the first quarter of 2016 is set out at [TAB 8.2.1: 2016 Q1 Final](#) for information.
5. Ongoing collection and reporting of Tribunal operational statistics assist the Tribunal to monitor issues, needs and implementation of the new model and enable the Committee and Convocation to track certain processes and statistics.



Law Society Tribunal
Tribunal du Barreau

2016 LAW SOCIETY TRIBUNAL STATISTICS

First Quarter Report: January 1, 2016 to March 31, 2016

Files Opened	3
Files Closed	4
Open Files at the End of Each Quarter.....	6
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Files Opened

The Tribunal opens a file when it is issued upon the filing of an originating process that has been served on the parties. An originating process includes a notice of application, referral for hearing, motion for interlocutory suspension or practice restriction, and appeal.

Files related to the same lawyer or paralegal that are heard concurrently are counted as separate files.

NOTE – In all tables in this document, numbers in parentheses are 2015 figures.

Table 1 Number of lawyer and paralegal files opened in the Hearing and Appeal Divisions for each quarter.

	Q1	Q2	Q3	Q4	Cumulative
Total Files	44 (42)				44 (42)
Lawyer	37				37
Paralegal	7				7
Hearing Files	41 (36)				41 (36)
Lawyer	34				34
Paralegal	7				7
Appeal Files	3 (6)				3 (6)
Lawyer	3				3
Paralegal	0				0

Files Closed

The Tribunal closes a file after the final decision and order, and reasons if any, have been delivered or published. A file that is closed in a quarter may have been opened in that same quarter or any time prior.

Table 2 Number of lawyer and paralegal files closed in the Hearing and Appeal Divisions for each quarter.

	Q1	Q2	Q3	Q4	Cumulative
Total Files	65 (51)				65 (51)
Lawyer	52				52
Paralegal	13				13
Hearing Files	63 (45)				63 (45)
Lawyer	50				50
Paralegal	13				13
Appeal Files	2 (6)				2 (6)
Lawyer	2				2
Paralegal	0				0

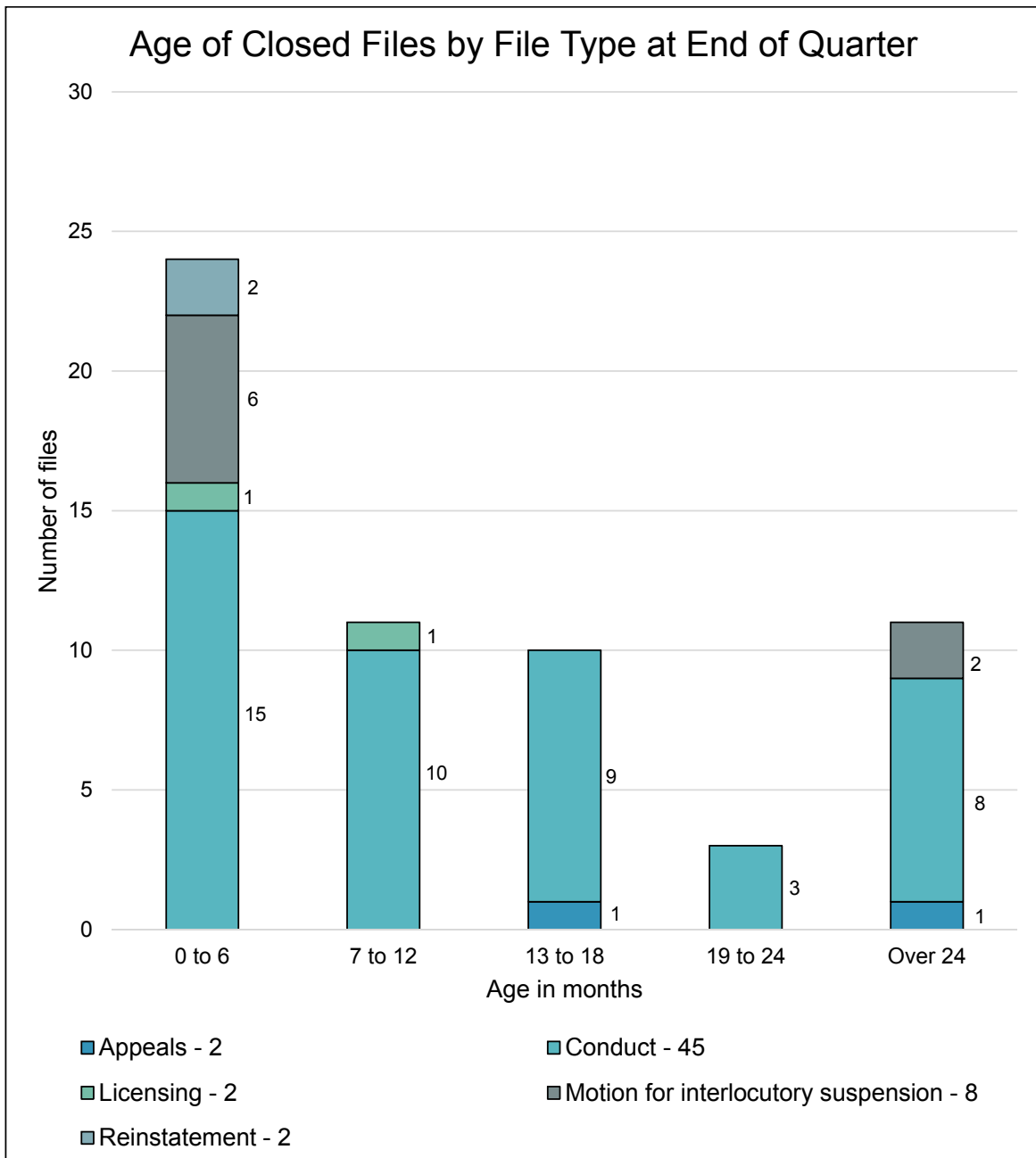


Figure 1 Number and age of files closed in each file type.

Open Files at the End of Each Quarter

Table 3 Number of lawyer and paralegal files that were open at the end of each quarter.

	Q1	Q2	Q3	Q4
Total Files	142 (145)			
Lawyer	118			
Paralegal	24			
Hearing Files	125 (127)			
Lawyer	104			
Paralegal	21			
Appeal Files	17 (18)			
Lawyer	14			
Paralegal	3			

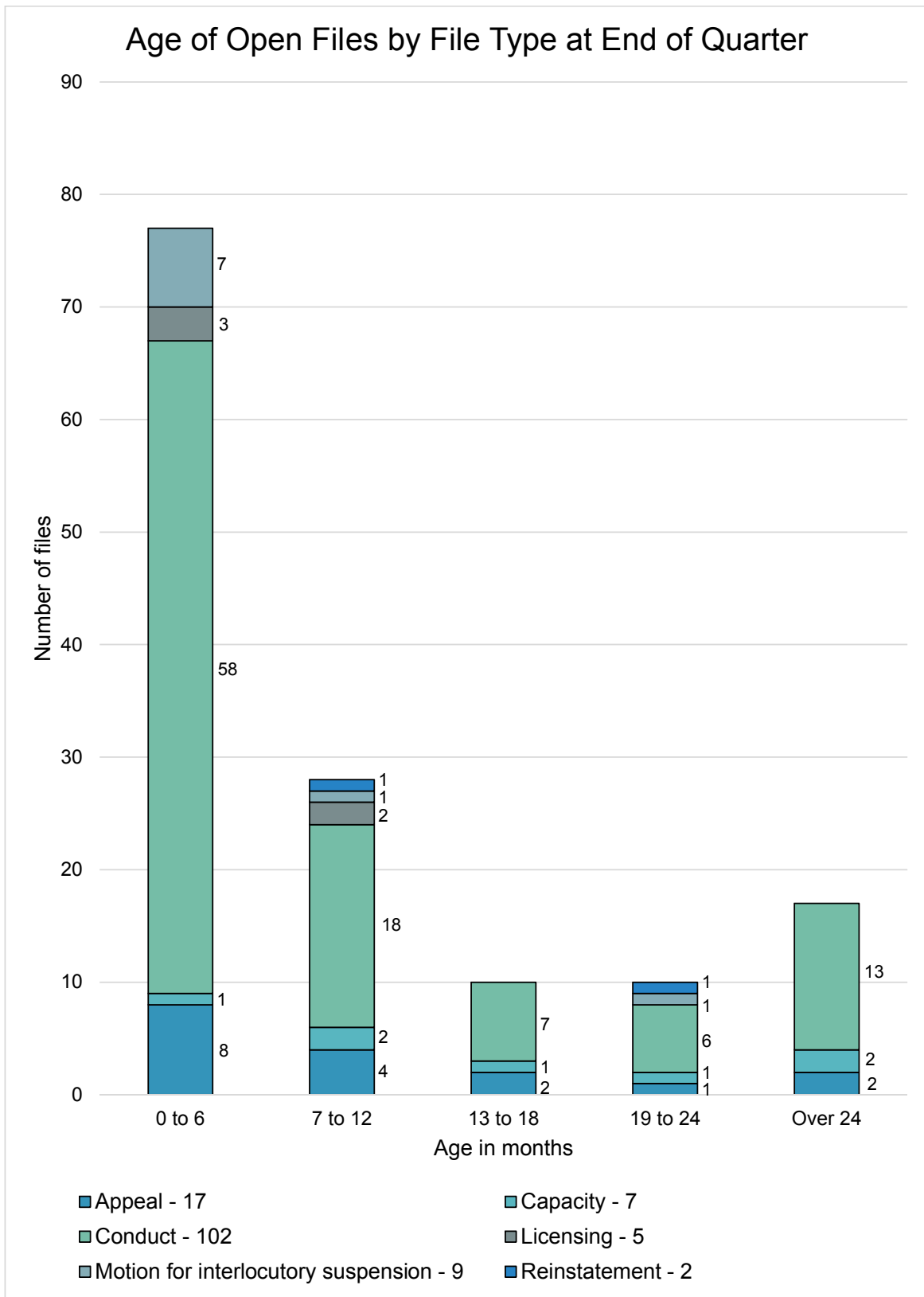


Figure 2 Number and age of open files in each file type.

Summary Files Opened and Closed

A summary file is a proceeding that is first returnable to a hearing panel and bypasses the PMC in accordance with s.2(1) of O. Reg. 167/07. These files are typically heard by a single adjudicator. This data is a subset of the information in Table 1 and Table 2.

Table 4 Number of lawyer and paralegal summary files that were opened and closed in each quarter.

	Q1	Q2	Q3	Q4	Cumulative
Total Summary Files Opened	10 (10)				10 (10)
Lawyer	8				8
Paralegal	2				2
Total Summary Files Closed	16 (9)				16 (9)
Lawyer	11				11
Paralegal	5				5

Open Summary Files at End of Quarter

Table 5 Number of lawyer and paralegal summary files that were open at the end of each quarter.

	Q1	Q2	Q3	Q4
Total Summary Files	13 (18)			
Lawyer	12			
Paralegal	1			

Number of Lawyers and Paralegals Before the Tribunal

Table 6 Number of lawyers and paralegals before the Tribunal at various proceeding stages.

Stage	Q1	Q2	Q3	Q4	Yearly Total
Proceeding Management Conference (PMC)	58 (48)				58 (48)
Lawyers	49				49
Paralegals	9				9
Hearing	43 (40)				43 (40)
Lawyers	31				31
Paralegals	12				12
Appeal Management Conference (AMC)	(5) 5				5 (5)
Lawyers	4				4
Paralegals	1				1
Appeal	4 (6)				4 (6)
Lawyers	4				4
Paralegals	0				0

Number of Files and Frequency Before the Tribunal

Files heard on more than one occasion by the Tribunal within a quarter are counted each time the file proceeds before the Tribunal.

Table 7 Number of files before the Tribunal and number of times files were considered by the Tribunal.

Stage	Q1 Files	Q1 Times Considered	Q2 Files	Q2 Times Considered	Q3 Files	Q3 Times Considered	Q4 Files	Q4 Times Considered	Total Files	Total Times Considered
PMC	58 (50)	95 (73)							58 (50)	95 (73)
Lawyer	49	76							49	76
Paralegal	9	19							9	19
Hearing	43 (46)	58 (61)							43 (46)	58 (61)
Lawyer	31	45							31	45
Paralegal	12	13							12	13
AMC	5 (5)	9 (6)							5 (5)	9 (6)
Lawyer	4	8							4	8
Paralegal	1	1							1	1
Appeal	4 (6)	5 (7)							4 (6)	5 (7)
Lawyer	4	5							4	5
Paralegal	0	0							0	0

Total Hearings Scheduled and Vacated

The number of hearings scheduled in each quarter is listed below. Files scheduled on more than one occasion within a quarter are counted each time the file is scheduled. A hearing is counted as scheduled when the date the hearing is to proceed falls within the quarter. A hearing is counted as vacated when it does not proceed on the scheduled date. A multi-day hearing is partially vacated if it proceeded on only some of the scheduled days. Reasons for vacated hearings are noted in Table 9. The number of hearing calendar days is noted in Table 11.

Table 8 Total hearings scheduled and vacated per quarter.

	Q1	Q2	Q3	Q4	Cumulative
Number of hearings scheduled¹	86 (75)				86 (75)
Lawyer	69				69
Paralegal	17				17
Number of hearings completely vacated	25 (21)				25 (21)
Percentage of hearings completely vacated	29% (28%)				29% (28%)
Lawyer	23				23
Paralegal	2				2
Number of hearings partially vacated	4 (14)				4 (14)
Percentage of hearings partially vacated	5% (19%)				5% (19%)
Lawyer	2				2
Paralegal	2				2
Number of appeal hearings scheduled²	8 (11)				8 (11)
Lawyer	7				7
Paralegal	1				1
Number of appeal hearings completely vacated	2 (3)				2 (3)
Percentage of appeal hearings completely vacated	25% (27%)				25% (27%)
Lawyer	2				2
Paralegal	0				0

¹ This includes PMC motion hearings.

² This includes AMC motion hearings.

Reasons for Vacated Hearings

A hearing may be vacated for more than one reason. These tables show the number of times each reason resulted in a vacated hearing. In these tables, L represents lawyers and P represents paralegals.

Table 9 Reasons hearings were vacated per quarter.

Reasons Hearings Were Vacated	Q1 (L)	Q1 (P)	Q2 (L)	Q2 (P)	Q3 (L)	Q3 (P)	Q4 (L)	Q4 (P)
Agreed Statement of Facts concluded / expected		1						
Matter finished	2							
Party / representative unprepared	6							
Evidence	1							
Hearing proceeded in writing		1						
Matter abandoned	2							
Motion heard instead	1							
New representative	2							
Matter stayed	2							
Party / representative ill	5							
Party subject of other proceeding	1							
Returned to PAC	1							
Seized panel unavailable	1							
Submissions to be made	1							

Table 10 Reasons that portions of hearings were vacated per quarter.

Reasons Portions Of Hearings Were Vacated	Q1 (L)	Q1 (P)	Q2 (L)	Q2 (P)	Q3 (L)	Q3 (P)	Q4 (L)	Q4 (P)
Agreed Statement of Facts (ASF) concluded / expected		1						
Hearing completed ahead of time estimated		1						
Party / representative unavailable / ill	1							

Calendar Days Scheduled and Vacated

The number of hearing calendar days scheduled is listed below. Multiple hearings are often scheduled on each calendar day. A vacated calendar day is a day on which no scheduled hearings or appearances before the PMC or AMC proceeded. The day an adjournment request is heard is not counted as a vacated calendar day. For example, if a request to adjourn a three-day hearing was granted on the first day, only the remaining days are counted as vacated. Or, if one hearing was vacated, but other hearings proceeded on the same day, that day is not counted as vacated. Some hearings and appeals were heard on the same calendar day.

Reasons for vacated calendar days are noted in Table 12.

Table 11 Number of calendar days that were scheduled and vacated in the Hearing and Appeal Divisions

	Q1	Q2	Q3	Q4	Cumulative
Number of available calendar days	62 (62)				62 (62)
Number of Hearing Division calendar days scheduled	51 (59)				51 (59)
Number of Hearing Division calendar days vacated	5 (5)				5 (5)
Percentage of Hearing Division calendar days vacated	10% (9%)				10% (9%)
Number of Appeal Division calendar days scheduled	12 (13)				12 (13)
Number of Appeal Division calendar days vacated	1 (3)				1 (3)
Percentage of Appeal Division calendar days vacated	8% (23%)				8% (23%)

Reasons For and Number of Resulting Vacated Calendar Days

The first figure in each quarter's column represents the number of times a panel accepted this reason. The second figure represents the number of resulting vacated calendar days. The number of calendar days vacated shown on this page may be greater than the calendar days vacated as reported in Table 11 because more than one matter may have been scheduled to be heard on the same day and all were vacated; so one calendar day may have been vacated for more than one reason and for more than one matter.

Table 12 Reasons and the number of times each was accepted and resulted in vacated calendar days.

Reasons For Vacated Calendar Days	Q1	Q2	Q3	Q4
ASF concluded	3-3			
Counsel unprepared	3-3			
New counsel	2-2			

Parties' Adjournment Requests

The following table lists the number of adjournment requests made to the Law Society Tribunal in each quarter. Adjournment requests reported below may relate to matters scheduled to be heard during this quarter or in a subsequent quarter. In this table, L represents lawyers and P represents paralegals.

Table 13 Number of adjournment requests granted and denied per quarter by the Hearing and Appeal Divisions

Adjournment Requests	Q1 (L)	Q1 (P)	Q2 (L)	Q2 (P)	Q3 (L)	Q3 (P)	Q4 (L)	Q4 (P)	Cumulative
Granted by PMC	8 (9)	1 (0)							9 (9)
Denied by PMC	3 (0)	0 (0)							3 (0)
Granted by Hearing Division	4 (10)	0 (3)							4 (13)
Denied by Hearing Division	1 (0)	0 (1)							1 (1)
Granted by AMC	0 (0)	0 (0)							0 (0)
Denied by AMC	0 (0)	0 (0)							0 (0)
Granted by Appeal Division	0 (0)	0 (0)							0 (0)
Denied by Appeal Division	0 (0)	0 (0)							0 (0)

Parties' Position on Adjournment Requests

Lawyer Matters

Table 14 Parties position on adjournment requests in lawyer matters for Q1.

Adjournment Requests	On Consent	Opposed	Unopposed	Total
Granted by PMC	3	0	5	8
Denied by PMC	0	3	0	3
Granted by the Hearing Division	2	2	0	4
Denied by the Hearing Division	0	1	0	1

Paralegal Matters

Table 15 Parties position on adjournment requests in paralegal matters for Q1.

Adjournment Requests	On Consent	Opposed	Unopposed	Total
Granted by PMC	1	0	0	1
Denied by PMC	0	0	0	0
Granted by the Hearing Division	0	0	0	0
Denied by the Hearing Division	0	0	0	0

Tribunal Reasons Produced and Published

The number of reasons produced does not equal the number of reasons published because some reasons produced in a quarter may not be published or will be published in a subsequent quarter.

Table 16 Number of oral and written reasons produced and published per quarter.

	Q1	Q2	Q3	Q4	Cumulative
Number of written reasons produced	47 (42)				47 (42)
Lawyer	40				40
Paralegal	7				7
Number of written reasons published	47 (47)				47 (47)
Lawyer	40				40
Paralegal	7				7
Number of oral reasons produced	16 (13)				16 (13)
Lawyer	12				12
Paralegal	4				4
Number of oral reasons published	18 (10)				18 (10)
Lawyer	12				12
Paralegal	6				6



Tab 9

Report to Convocation May 26, 2016

Report on the Federation of Law Societies of Canada Council and Related Meetings, Banff March 9-11, 2016

Purpose of Report: Information

**Prepared by Jim Varro
Policy Secretariat**

FOR INFORMATION

COUNCIL AND RELATED MEETINGS OF THE FEDERATION OF LAW SOCIETIES OF CANADA

INTRODUCTION

1. The Federation of Law Societies of Canada (the “Federation”) is the national coordinating body for Canada’s 14 law societies. It operates the National Committee on Accreditation (“NCA”), a Standing Committee at the Federation whose primary mandate is to assess the legal education and professional experience of persons whose legal education and professional experience were obtained outside of Canadian common law jurisdictions and who wish to be admitted to a common law bar in Canada. It provides administrative support to the National Criminal Law Program and the National Family Law Program.
2. The Federation additionally engages in a number of national initiatives through various committees and other groups on which reports are received at its annual and semi-annual meetings.
3. More information about the Federation can be found on its website at www.flsc.ca/.
4. The Federation typically meets twice a year to conduct its business meetings for Council members, benchers and law society staff. This includes a meeting of law society CEOs in the CEOs’ Forum and of law society presidents in the Presidents’ Forum.
5. Treasurer Janet Minor, Federation Council member Laurie Pawlitza, CEO Robert Lapper, Grant Wedge and Jim Varro attended the Banff meetings held from March 9 to 11, 2016. This report provides highlights of the meetings.

COUNCIL MEETING

6. The Council met on March 10 and 11, 2016. It dealt with a number of decision items, received reports from the Federation’s President and its CEO and addressed a range of Federation matters.

Reports for Discussion or Decision

Report from the Federation Executive on the Calls to Action of the Truth and Reconciliation Commission

7. In its Calls to Action issued last year, the Truth and Reconciliation Commission (“TRC”) called upon the Federation “to ensure that lawyers receive appropriate cultural

competency training” addressing the Indian Residential Schools legacy and key elements of Aboriginal law.¹

8. At the Federation’s conference in Winnipeg in the fall of 2015, which included a focus on the Calls to Action, there was consensus among the conference participants that responding to the Calls to Action must be meaningful and prompt, and include direct collaboration with Indigenous peoples from the outset. The Federation Executive noted at the Banff meeting that although individual law societies have begun to consider how to respond to the Calls to Action, the direct appeal to the Federation suggests the need for a national response.
9. Following an in-depth discussion of the Calls to Action, the Council voted to establish a working group to develop recommendations on how best to effectively respond to the Calls to Action. The Council resolution included a commitment to a process that engages representatives of Indigenous peoples. The Federation will also ensure that its work will complement the ongoing work of law societies across the country on the Calls to Action.

Report of the Governance Review Committee

10. In June 2014, Federation Council approved the creation of a Governance Review Committee to conduct a governance review of the Federation. The Committee includes the Law Society of Upper Canada’s Robert Lapper, as well as Marie-Claude Bélanger-Richard, Federation President (Chair), Jeff Hirsch, Federation President, Sheila Greene, Council member for the Law Society of Newfoundland & Labrador, Sheila MacPherson, Council member for the Law Society of the Northwest Territories, Steve Raby, Council member for the Law Society of Alberta, Johanne Brodeur, former Bâtonnière of the Barreau du Québec and Tim McGee, CEO, Law Society of British Columbia.
11. The Committee carried out extensive consultations and meetings with law society leaders, former Council members, Federation Presidents, as well as some current and former Federation Committee members.
12. Following its status report to the Winnipeg meeting in the fall of 2015, the Committee continued its work and prepared a draft of proposed Governance Policies. The Policies were prepared to, among other things, clarify roles, responsibilities and processes and to render Federation governance more transparent and efficient. The Committee sought and received feedback on a number of issues contained in the Policies from various law societies, including the Law Society of Upper Canada.

¹ Recommendation 27 states: We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal– Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

13. The Committee's report to the Banff meeting included a revised proposed draft of the Policies. The Committee's report noted that in its view, the proposed Policies will mark a significant improvement in how the Federation goes about its business and serves the interests of its members. The revised Policies, in addition to reflecting a small number of drafting refinements, include changes intended to provide greater clarity on a number of issues, including the effect of Council votes, membership in a Nominating Committee (as proposed), the distribution of documentation for Council meetings and attendance at Council.
14. Council engaged in a substantial discussion of the report and the draft Governance Policies. Council adopted the proposed Policies, on the understanding that provisions relating to who may attend Council meetings and the transparency around meetings will be further refined and clarified before being presented for adoption in the Policies.

Report on Strategic Planning

15. Recognizing the importance to the Federation of being guided by a Strategic Plan and an Annual Activity Plan, the Federation President reported to Council that, in the Executive's view, the governance review process that has been underway since early 2015 provides the impetus to take a fresh look at what should be the Federation's strategic priorities for the next few years. The Federation last engaged in a full strategic planning process in 2008 and has been guided by a Strategic Plan that was reviewed in a summary way every year since then.
16. At the Council meetings in October and December 2015, the consensus was that strategic planning should await the completion of the governance review process, which is imminent. The view was also expressed that the meaningful engagement and buy-in of all of the Federation's leadership constituencies - the elected leadership of Canada's law societies, their CEOs and senior staff, the Federation Council and the Federation's senior staff - will be important to the success of this planning exercise.
17. To this end, Council received reports from the Presidents' Forum and the CEOs' Forum, both of which met prior to Council, where issues of mutual interest to the Federation and Law Societies were discussed. The CEOs' Forum included a session in which an environmental scan was undertaken of the myriad issues, developments and challenges relevant to the world of legal services regulation.
18. These reports helped to inform Council on issues important to strategic planning for the Federation. Next steps include receiving from law society CEOs briefing papers on the key initiatives in their jurisdictions and an exchange through the Federation of strategic plans that law societies have created for their own organizations.

Report of the Interim Finance and Audit Committee

19. At the Winnipeg meetings in the fall of 2015, the Federation Council approved the establishment of the Interim Finance and Audit Committee. The members of the Committee are: Marie-Claude Bélanger-Richard, Q.C, Jeff Hirsch, Gavin Hume, Q.C. Steve Raby, Q.C. Robert Lapper, Q.C. and Lise Tremblay.
20. The Committee provided its report on the operating statements for the Federation's general fund and the National Committee on Accreditation ("NCA") for the first half of the 2015-2016 financial year, and presented for decision the 2016-2017 budgets for the Federation, the NCA and the 2016 budget for Canlii.
21. Council agreed to defer the decision on approval of the Federation budget and associated law societies levy and NCA budget to permit the Law Society of Upper Canada to review these budgets. It is anticipated that these matters will be returned to the Federation's June 2016 Council meeting.
22. Council approved the Canlii budget for 2016 in the amount of approximately \$3.3million, based on the CanLII Board's recommendation to Council with respect to the fees to be paid to CanLII by the law societies in order to fund its activities.²

Standing Committee on the Model Code of Professional Conduct

23. The mandate of the Standing Committee is to monitor changes in the law of professional responsibility and legal ethics, to receive and consider feedback from the law societies and other interested parties regarding the Model Code, and to make recommendations to Council with respect to any changes to the Model Code. The Law Society's Naomi Bussin, Senior Counsel Professional Regulation, serves on the Standing Committee.
24. Council approved the report from the Standing Committee that included proposed amendments to the rules on communicating with witnesses, the duty to report, errors and omissions, and language respecting equity seeking groups. These rules amendments will now be referred to law societies for consideration for adoption in their rules or codes of professional conduct.

National Committee on Accreditation (NCA) Proposed Program Review

² The portion of fees payable by law societies is as follows:

- the sum of \$39.24 per FTE to be paid by all law societies other than the Barreau du Québec and the Chambre des notaires du Québec;
- the sum of \$26.24 per FTE to be paid by the Barreau du Québec; and
- the sum of \$16.77 per FTE to be paid by the Chambre des notaires du Québec.

25. The NCA is a standing committee of the Federation. Established in 1977 through the joint efforts of the Federation and the Council of Canadian Law Deans (“CCLD”) as the Joint Committee on Accreditation, it is responsible for the assessment of the legal training and professional experience of internationally trained lawyers and students and graduates of Canadian civil law programs who wish to enter the bar admission program in any of the Canadian common law jurisdictions. Benchers Malcolm Mercer serves on the NCA.
26. At its request, Council received a report from Federation CEO Jonathan Herman on options for reviewing the policy, governance and operations of the NCA. The report following preliminary input received from the Chair of the NCA, Graeme Mitchell, and a number of law society senior staff across the country.
27. In assessing the options, the Council was of the view that a review that looks at the full range of issues relating to the NCA including its governance, the standard against which candidates are assessed, training and preparation of candidates and appropriate testing mechanisms, was appropriate.
28. The Council determined that this was a priority. It directed that work begin on the scope of review and that the matter be returned to Council in June 2016 for further consideration.

National Mobility Database

29. The Council, at its request, received a report from CEO Jonathan Herman on development of a plan to make enhancements to the current interjurisdictional database of law societies’ membership to ensure that it is more effective and functional.
30. Under the National Mobility Agreement (“NMA”), a lawyer called to the bar in one common law province may provide legal services temporarily (up to 100 days) in or with respect to the law of another common law province without a permit or notice to the host law society, provided certain conditions are met. Those conditions include requirements to be in good standing in the lawyer’s home jurisdiction, have an unrestricted right to practise, not be subject to any disciplinary proceedings, and have no disciplinary record in any jurisdiction. To ensure that a lawyer’s eligibility to practise temporarily in another jurisdiction could be easily ascertained, the NMA mandated the creation of an interjurisdictional database for use by law societies.
31. Council agreed that there is a need to ensure the currency and accuracy of the information the database contains, that it is supported by the appropriate technology and that consistency in the information presented in the database is achieved. Council agreed that enhancements to the database should be pursued. It determined that the Executive should meet to discuss creating the appropriate group among the law societies’ CEOs and senior staff to perform the necessary work and engaging expertise for the project as appropriate.

Council Liaison with CanLII Board of Directors

32. The Council determined that it was desirable to establish a liaison to provide a link between the Board of Directors and management of CanLII, and the Federation and Canada's law societies for the purpose of facilitating two-way and multilateral communication among the parties about matters of strategic importance relating to CanLII.
33. CanLII operates within a professional management structure led by a full time President and CEO employed by a skills-based Board of Directors. The Federation is the sole member designated to act as an agent of the law societies for the purpose of collecting the fees that fund CanLII's operations. The ultimate oversight function with respect to CanLII's Board of Directors, strategic plan, budget and funding requirements, remains with Canada's law societies acting through the Federation. The CanLII Board is currently working with CanLII's President and CEO, Xavier Beauchamp Tremblay, to develop a new strategic plan for the consideration of the Federation and the law societies.
34. To ensure an appropriate connection between CanLII and its funders, the Council believes it is appropriate that communications relating to the strategic priorities of CanLII take place in a structured and effective manner. Council approved the position of Council liaison to CanLII and requested that the Executive designate a member of Council to be the liaison.

Information Reports

35. Council received a number of reports for information, as noted below.

CanLII Semi-Annual Report

36. Martin Felsky, the Chair of CanLII Board of Directors, provided a report on CanLII's activities and its audited financial statements for 2015, including the Auditor's Report on the financial statements. Diana Miles serves on the CanLII Board.
37. The report noted, as indicated earlier, that CanLII is currently undergoing a review of its strategic plan. The CanLII board has appointed a working group for this purpose.
38. Since the fall of 2015, CanLII has worked on:
 - a. making design changes to the CanLII.org interface to declutter the search page and make references to CanLII Connects more visible, which has significantly boosted the number of new CanLII Connects visitors and users at the end of 2015 and in early 2016;
 - b. rolling out features to improve the user experience in the search results pages, including infinite scrolling and the ability to toggle between full or compact display of search results;

- c. reorganizing the jurisdiction-specific pages where the growing list of databases made it increasingly difficult to promptly identify more important databases (i.e. courts and major administrative tribunals);
 - d. adding Federal and Quebec Annual Statutes as part of a project funded by the Centre d'accès à l'information juridique (CAIJ); and
 - a. revamping its blog to provide more regular updates to users.
39. CanLII looks forward to undertaking projects that will come within a new strategic plan. It will continue to look for improvements and opportunities to expand CanLII content and services in ways that could support greater reliance on CanLII by legal professionals.

National Committee on Accreditation (NCA)

40. The NCA's mandate was noted earlier in this report.
41. The role of the committee includes considering appeals of assessments (three to date in 2015-2016).
42. Recent activities have included the following:
- a. In January 2015, the committee revised the NCA Assessment Policy, bringing it into compliance with the National Requirement;
 - b. The NCA has received 1,030 applications for assessment to date in 2015/2016; during the same period, 641 Certificates of Qualification have been issued;
 - c. In January 2016, 1,520 exams were written in 16 Canadian cities (includes Vancouver, Calgary, Edmonton, Regina, Winnipeg, & Toronto) and seven sites abroad;
 - d. The NCA Chair is an observer and participant on the National Requirement Review Committee and will be providing input from the perspective of the NCA.

Canadian Common Law Program Approval Committee

43. Laurie Pawlitz, Treasurer Emeritus of the Law Society is Chair of the Canadian Common Law Program Approval Committee (the "Approval Committee"), which is mandated to assess Canadian common law programs to determine whether they comply with the [National Requirement](#) that graduate must meet for entry into the Canadian bar admission or licensing programs.
44. Approval Committee members are:
- a. Morgan Cooper - former President, Law Society of Newfoundland and Labrador;
 - b. Stephen G. Raby, Q.C. - Council member representing the Law Society of Alberta;
 - c. Cori Gitter - Director of Professionalism and Policy, Law Society of Alberta;
 - d. M. Iacobucci - Dean, University of Toronto, Faculty of Law;

- e. Sébastien Lebel-Grenier - Dean, Université de Sherbrooke; and
 - f. Lorna Turnbull - Dean, University of Manitoba
45. The committee met in January 2016, to discuss various issues including the evaluation of learning resources, a key issue for the committee due to challenges in evaluating facilities, libraries, etc. without visits to the schools and given the variation in funding, size, and organization of Canadian law schools.
46. The committee welcomed Federation President Jeff Hirsch and National Requirement Review Committee (“NRRC”) Chair Tom Conway to the meeting and took advantage of their presence to have a fruitful discussion on various policy issues related to the Approval Committee and the NRRC.
47. The committee previously met in June 2015 to evaluate 20 law school reports. As required in the Approval Committee’s iterative process, initial feedback and questions were sent to the law schools in the summer and all schools were responsive.
48. There are currently 19 law schools with approved programs, and two (Lakehead University and Trinity Western University) with preliminary approval. There are 19 three-year JD programs, 53 joint programs, nine dual programs, and seven one-year civil law programs, for a total of 88. Lakehead’s first class will be graduating in spring 2016 and the committee will be considering full approval of the program in late winter.
49. In keeping with its mandate, the committee is monitoring changes and challenges within legal education. The committee members see an important role for the committee in facilitating the flow of communication to and from the law societies and the academy on these issues, and in ensuring that both the Federation and the law societies are aware of the issues.

National Requirement Review Committee

50. The National Requirement Review Committee was established by the Council of the Federation to undertake two primary tasks: 1) perform an initial review of the National Requirement that graduates of all Canadian common law programs must meet to be eligible to enter law society bar admission or licensing programs; and 2) consider whether a non-discrimination provision should be added to the National Requirement and if so in what form.
51. The following serve on the committee:
- a. Thomas G. Conway, Federation Past President, Chair
 - b. Herman Van Ommen, Q.C. (Law Society of British Columbia)
 - c. Kevin Feth, Q.C. (Law Society of Alberta)
 - d. Peter Wardle (Law Society of Upper Canada)
 - e. Tilly Pillay, Q.C. (Nova Scotia Barristers’ Society)

- f. Shauna Van Praagh (Faculty of Law, McGill University)
- g. Trevor Farrow (Osgoode Hall Law School)
- h. Diana Miles (Law Society of Upper Canada)

52. The committee is planning two meetings this spring, the first to consider input from the Approval Committee on the list of issues relating to the initial review of the National Requirement, and the second to continue discussions on the possible addition to the National Requirement of a non-discrimination provision and to develop a plan for consultation on that issue.

National Admission Standards Project (NASP)

53. The National Admission Standards Steering Committee, as part of the National Admissions Standards Project (“NASP”), provides strategic direction for the development and implementation of the national standards for admission to the legal profession.
54. The committee is comprised of:
- a. Don Thompson, Q.C., Executive Director, Law Society of Alberta, Chair;
 - b. Bâtonnière Marie-Claude Bélanger-Richard, Q.C., Federation past president and former Bâtonnière, Law Society of New Brunswick;
 - c. Allan Fineblit, Q.C., former CEO, Law Society of Manitoba;
 - d. Jeff Hirsch, President, Law Society of Manitoba;
 - e. Robert Lapper, CEO, Law Society of Upper Canada;
 - f. Tim McGee, Q.C., CEO, Law Society of British Columbia;
 - g. Diana Miles, Executive Director, Organizational Strategy / Professional Development and Competence, Law Society of Upper Canada;
 - h. Laurie Pawlitza, Council member and past Treasurer, Law Society of Upper Canada;
 - i. Darrel Pink, Executive Director, Nova Scotia Barristers’ Society;
 - j. Bâtonnier Bernard Synnott, Barreau du Quebec;
 - k. Alan Treleaven, Director, Education and Practice, Law Society of British Columbia;
 - l. Lise Tremblay, CEO, Barreau du Quebec; and
 - m. Jonathan Herman, Federation CEO.
55. In 2013, law societies adopted the National Competency Profile, which describes the competencies required of new lawyers and Quebec notaries. Throughout 2014, members of the committee met with law societies to discuss options for assessing the competencies in the profile.
56. The committee’s assessment proposal was circulated to law societies and members of Council in the fall of 2015. The proposal provides a vision and structure for moving forward with the development of a national qualifying assessment system for admission. The proposed assessment system aims to provide an appropriate degree of consistency in how law societies assess the competencies in the National Competency Profile, given

the mobility of the legal profession today. It is aimed at helping law societies meet their public interest mandate through consistent, defensible and high standards for admission to the legal profession.

57. With input received at the Federation's December 2015 Council meeting from various Council members who reported on the views within their law societies about the proposal and their readiness for next steps, and pending receipt of feedback from all law societies on the assessment proposal, the committee will meet to discuss the National Good Character Standard and a process and timeline for review of the National Competency Profile.

Standing Committee on National Discipline Standards

58. The mandate of the Standing Committee is to facilitate implementation of the national standards established for law society handling of complaints and discipline matters ("National Discipline Standards") and to make recommendations to Council for amendments to the National Discipline Standards from time to time as necessary.
59. The members of the committee are:
 - a. Alan Fineblit, Q.C. Chair (Counsel, Thompson, Dorfman Sweatman LLP and former CEO, Law Society of Manitoba);
 - b. Deb Armour (Chief Legal Officer, Law Society of British Columbia);
 - c. Guy Bilodeau (syndic, Bureau du syndic du Barreau du Québec);
 - d. Lynn Daffe (Executive Director, Law Society of Yukon);
 - e. Elizabeth Osler (Deputy Executive Director & Director, Regulation, Law Society of Alberta);
 - f. Victoria Rees (Director, Professional Responsibility, Nova Scotia Barristers' Society);
 - g. Greg Walen Q.C. (Council Member representing the Law Society of Saskatchewan);
 - h. Phyllis Weir (Legal Director, Law Society of Newfoundland and Labrador); and
 - i. Irene Hamilton, Public Representative (Director of Justice Innovation, Department of Justice (Manitoba))
60. The committee continues work on a number of initiatives, including:
 - a. a proposal for a voluntary peer review pilot project,
 - b. a proposed new standard on early resolution of complaints,
 - c. a proposal for a new standard for the ability to impose interim measures,
 - d. a proposal for standards to measure quality of discipline work, and
 - e. some resources for law societies implementing Standard 16 (information sharing).
61. The Adjudicator Training Working Group (ATWG) continues to work on the design of a national training curriculum for law society adjudicators.

62. The committee has completed several communication documents which will be distributed to law societies soon, along with updated versions of the National Discipline Standards and the Implementation Guide.

Standing Committee on the Model Code of Professional Conduct

63. The mandate of the Standing Committee was noted earlier in this report. Its members are:
- a. Gavin Hume Q.C., Chair - Council member representing the Law Society of British Columbia
 - b. Stephen G. Raby, Q.C. - Council member representing the Law Society of Alberta
 - c. Sheila H. Greene, Q.C. - Council member representing the Law Society of Newfoundland and Labrador
 - d. Naomi Bussin - Senior Counsel, Professional Regulation, Law Society of Upper Canada
 - e. Sylvie Champagne - Secrétaire de l'Ordre, Barreau du Québec
 - f. Kris Dangerfield - Chief Executive Officer, Law Society of Manitoba
 - g. Darrel Pink - Executive Director, Nova Scotia Barristers' Society
64. The committee continues its work on post-judicial return to practice and fee sharing and referral fee rules.
65. The most recent consultation package on proposed amendments to the Model Code was released on January 30, 2016. The package, which includes proposed amendments to the rules on competence, dishonesty/fraud, and incriminating physical evidence, and a new rule addressing responsibilities that arise when a lawyer leaves a law firm, was sent to law societies, the Canadian Bar Association, and the Department of Justice. It was also circulated to the legal ethics community through the listserv operated by the Canadian Association for Legal Ethics and was posted on the Federation's public website. The consultation is open until June 30, 2016.
66. The committee has established a fixed schedule for consultations and amendment packages in response to requests from the law societies. Consultation packages will be released on January 30 of each year, with feedback due by June 30. The committee will review the feedback and finalize the proposed amendments by November 1, with a view to circulating them to Council and the law societies by November 30 for a vote by Council at its spring meeting.

Standing Committee on Access to Legal Services

67. The Standing Committee on Access to Legal Services facilitates the Federation's strategic objective of collaborating with other participants in the legal system to foster greater public satisfaction with access to legal services.
68. The Committee members are:
 - a. Jeff Hirsch, Chair - President of the Federation of Law Societies of Canada
 - b. Kevin Feth, Q.C. - Former President, Law Society of Alberta
 - c. Sheila H. Greene, Q.C. - Council Member representing the Law Society of Newfoundland and Labrador
 - d. Bâtonnier Nicolas Plourde, Ad.E. - Former Bâtonnier, Barreau du Québec
 - e. Bâtonnier Richard J. Scott, Q.C. - Council Member representing the Law Society of New Brunswick
 - f. Robert Lapper, Q.C. - Chief Executive Officer, Law Society of Upper Canada
 - g. Tim McGee, Q.C. - Chief Executive Officer and Executive Director, Law Society of British Columbia
 - h. Darrel Pink - Executive Director, Nova Scotia Barristers' Society
 - i. Nalini Vaddapalli - Chief Executive Officer, Law Society of Nunavut
69. The Standing Committee is focusing on possible access initiatives to feed into the larger Federation strategic planning work planned for 2016.
70. The Standing Committee chair and Federation President Jeff Hirsch continues to play an active role as the Federation's appointee to the National Action Committee on Access to Justice in Family and Civil Law Matters (the "NAC"). The meetings of NAC provide an opportunity for representatives of the provincial and territorial committees to share their greatest achievements and challenges and to discuss plans for ongoing information sharing as well as the possibility of holding an innovation roundtable.



May 26, 2016

Update Report**TAG – The Action Group on Access to Justice****Indigenous Children and Youth Cluster**

TAG has convened a cluster that examines the over-representation of Indigenous children and youth in care in Ontario through the lens of reconciliation and access to justice for First Nations, Métis Nation and Inuit Peoples. An engagement session was held on May 6 in Toronto. The session was conducted with Indigenous community leaders, organizations and agencies responsible for Indigenous children and youth. Keynote presentations were made by:

Cindy Blackstock

Executive Director, First Nations Child and Family Caring Society of Canada
Associate Professor, University of Alberta and Director of FNCARES

Hon. Justice Gethin B. Edwards

Ontario Court of Justice

Dr. Barbara Fallon

Factor Inwentash Faculty of Social Work
University of Toronto

Marian Jacko

Counsel, Indigenous Issues
Motherisk Commission

The remainder of the program focused on defining issues and identifying culturally appropriate solutions that relate to pre-care, in-care and post-care circumstances. This was the second engagement session for this cluster. The first session, held on March 4 in Toronto was for youth participants that had experience of being in care. Outcomes and recommendations from these sessions are currently being compiled for a summer release. Related implementation plans are anticipated for the fall, likely to coincide with Access to Justice Week. Details about this cluster can be found on the [TAG website](#).

Architects of Justice

This summer TAG will launch its Architects of Justice public engagement initiative. The first event in this program will take place from May 28-29th as part of Doors Open at Osgoode Hall. We have organized a hands on design thinking initiative for participants and will also feature a presentation about the New Toronto Courthouse. Join us in Lower Barristers' Lounge and find details on the [TAG website](#).

History Repeating? Forensic Evidence, Motherisk and Miscarriages of Justice

TAG has partnered with AIDWYC on a CPD session that will outline the role that flawed forensic pathology and other forensic evidence has played in miscarriages of justice in Canada. The free program will be held on June 6, 2016 in the Donald Lamont Learning Centre from 2pm to 5pm. Attend in person or by webcast. To register visit the [TAG website](#).

The following speakers have been confirmed:

Philip M. Epstein
Senior Partner, Epstein Cole LLP

Brian H. Greenspan
Partner, Greenspan, Humphrey, Lavine

Dr. Dirk Huyer
Chief Coroner for Ontario

Hon. Justice Susan Lang
Court of Appeal for Ontario

James Lockyer
Partner, Lockyer Campbell Posner

Rachel Mendleson
Reporter, Toronto Star

Access to Justice Week

TAG is organizing Access to Justice Week from October 17 to 21 in conjunction with the annual Public Legal Education Association of Canada meeting. Access to Justice Week will engage a range of access to justice stakeholders including the general public and trusted intermediaries. Details will be posted over the coming months on the [TAG website](#).