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## FOLA's RESPONSE TO LSO's ALTERNATIVE BUSINESS STRUCTURES WORKING GROUP

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## **INTRODUCTION**

The Federation of Ontario Law Associations (“FOLA”) thanks the Law Society’s Alternative Business Structures Working Group for the opportunity to make submissions in response to their call for comment regarding the draft regulatory framework that would permit lawyers and paralegals to provide legal services through registered, civil society organizations (CSOs).

By way of background, FOLA’s membership is composed of the presidents of the 46 local law associations (plus the Toronto Lawyers’ Association), represented in every judicial district in Ontario. These local law associations collectively represent nearly 12,000 lawyers who are in private practice in firms across Ontario. These lawyers and our member associations are on the front-lines of the justice system. FOLA advocates for a better justice system that recognizes the crucial role competent and professional lawyers play in that system.

FOLA recognizes that the proposed changes are the culmination of the committee’s work in the months between September 2017 through to the presentation of the draft regulatory framework in October 2018 that would permit lawyers and paralegals to provide legal services through registered, civil society organizations (CSOs), such as charities and not-for-profit organizations — to the clients of those organizations.

## **BACKGROUND**

The draft regulatory framework builds on the Working Group’s recommendation (approved at the September 2017 Convocation) that lawyers and paralegals be permitted to provide legal services through CSOs directly to clients of such organizations, provided that:

- The licensee has control over the delivery of legal services;
- Solicitor-client privilege is protected;
- The fundamentals of professionalism are safeguarded;
- The legal services will be provided at no cost to the client by way of fee for service, membership fee or otherwise;
- CSOs may not refer clients to licensees in exchange for donations, payments or other consideration; and
- The regulatory framework will expressly exclude Legal Aid Ontario funded organizations and will not affect the provision of legal services, legal information and support services as currently permitted.

Presented by the Law Society’s Alternative Business Structures Working Group, the framework is designed as a way of facilitating access to justice for Ontarians – particularly those who may have legal issues, but who have traditionally faced barriers to receiving legal advice from a lawyer or paralegal.



### **FOLA'S RESPONSE**

In general terms the proposed draft regulatory framework appears consistent with the aforementioned objectives.

FOLA notes that the report attaches a draft entitled "A Guide for Registered Charities and Not-For-Profit Corporations". In the second last paragraph on page 2 of that draft Guide, it states that "Registered charities and NFPCs are prohibited from referring clients to outside lawyers or paralegals in exchange for donations, payments or other consideration."

Further, the report also attaches a draft Registration for Registered Charities and Not-For-Profit Corporations. Under Part C (iii), it states "that neither LSO licensees nor the Organization may receive or pay referral fees in connection with the practice of law or provision of legal services".

However, what appears to be missing from the draft Registration is the specific prohibition from the charity or not-for-profit from making a referral in exchange for donations, payments or other consideration.

FOLA contends that there should be clear language in the Regulation documents specifically prohibiting the charity or not-for-profit from referring clients in exchange for donations.