

PHASE 3  
Corporate Practice Review

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# CONSULTATION SUMMARY REPORT

JUNE 2019



ENGINEERS &  
GEOSCIENTISTS  
BRITISH COLUMBIA

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# CONSULTATION SUMMARY REPORT

## 1.0 INTRODUCTION

Engineers and Geoscientists of British Columbia (“the association”) is the regulatory body that oversees the practice of professional engineering and geoscience in the province of BC. It is the duty of the association to uphold and protect the public interest respecting the practice of professional engineering and the practice of professional geoscience (*Engineers and Geoscientists Act*, Section 4.1 (1)(a)).

In the fall of 2015, Engineers and Geoscientists BC’s Council (hereafter referred to as “Council”) established an Advisory Task Force (hereafter referred to as the “Task Force”) representing a broad range of disciplines, organizations, and industries to lead an examination of how corporate practice should be regulated in BC as a means of enhancing public protection.

As part of their examination, Council asked the Task Force to make a recommendation on whether the association should pursue regulatory authority over corporate practice and if so, to define the types of organizations that should be subject to regulation. Council has approved a framework for corporate regulation and the new *Professional Governance Act* will introduce corporate regulation in the coming years. Government has indicated that sole practitioners will be included in the new framework.

The Task Force is now examining the appropriate level of regulatory oversight for sole practitioners and Council has asked them to provide recommendations on how sole practitioners should be included in a Corporate Practice Program by June 2019. To inform the Task Force process, from January to March 2019, the association consulted with members on this topic. This report outlines the consultation activities that took place and summarizes what was heard. The Task Force is now in the process of reviewing and discussing the consultation results and formulating their recommendation to Council on this issue. A final report with the Task Force’s recommendations will be submitted to Council in June 2019.

### **What is Corporate Practice and Corporate Regulation?**

The term **corporate** in this document and initiative is used in a broad sense to refer to *all entities* in both the private and public sectors, including any type of private entity formed for business purposes (e.g., corporations, partnerships, sole proprietorship) and any type of public entity (e.g., municipalities, crown corporations, ministries). The term **corporate practice** in this report refers to the provision of engineering or geoscience services and products by any private or public entity. The term **corporate regulation** refers to the licensing and regulation of entities under the *Professional Governance Act*.

Corporate regulation would involve the prohibition of entities practising professional engineering and geoscience in BC unless they have a permit from Engineers and Geoscientists BC, or are a type of entity that is not required to have a permit. For most jurisdictions in Canada, such permits mean that regulated entities need to comply with the engineering or geoscience legislation of the jurisdiction, regulations, and the Code of Ethics and bylaws issued by the regulating authority. Across jurisdictions, there are also a variety of other requirements and responsibilities of permit holders.

### What are sole practitioners and sole proprietors?

The term “sole practitioners” is used in this report to refer to any professional engineer or professional geoscientist that practises on their own. Sole practitioners can either be incorporated or unincorporated. When sole practitioners are unincorporated, they are considered a “sole proprietor”, meaning there is no legal distinction between the individual and the business entity. When sole practitioners are incorporated, they are considered a “corporation”, meaning their business is a separate legal entity from the individual practitioner.

## 2.0 CONSULTATION ACTIVITIES AND FEEDBACK

The consultation process included the following activities:

- webinar on February 13, 2019 attended by over 350 participants;
- survey in March 2019 with over 1100 respondents; and,
- six separate focus groups in March 2019 with about 40 sole practitioner members.

The content and feedback received for each of these activities is summarized in the following sections.

### 2.1 WEBINAR

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The webinar was open to business owners and senior managers, sole practitioners, and anyone interested in how corporate regulation will impact them. It summarized the work done by Task Force to date, the key questions and considerations regarding the Task Force’s recommended approach to corporate regulation, and outlined options for how sole practitioners could be included in a Corporate Practice Program. It also covered the anticipated impacts of the new *Professional Governance Act*. A total of 369 sites participated in the webinar. A recording of the webinar is posted on the association’s corporate practice website: [www.egbc.ca/corporatepractice](http://www.egbc.ca/corporatepractice).

A key part of the webinar was outlining two alternatives for how sole practitioners could be included in a Corporate Practice Program. The first alternative was that the Task Force’s recommended corporate regulatory model, which has been approved by Council, would also be applied to sole practitioners, and thus sole practitioners would have the same requirements as all other regulated entities in the Corporate Practice Program. While the requirements would be the same, how those requirements are met is flexible and scalable to different sizes of engineering and geoscience entities.

The Task Force’s recommended corporate regulatory model is described in their Phase 2 report and is based on three pillars:

1. **Ethics:** Regulated entities must:
  - a) provide an environment that ensures the practice of professional engineering and geoscience is conducted in accordance with the Code of Ethics for Engineers and Geoscientists BC;
  - b) adhere to the association’s Professional Practice Guidelines on human rights and diversity; and,

- c) adhere to ethical business practices addressing corruption, conflict of interest, and contractual matters.
2. **Quality Management:** Regulated entities must have documented policies and procedures consistent with the quality management requirements in the *Engineers and Geoscientists Act* and Bylaws that apply to their area(s) of practice of professional engineering and geoscience.
3. **Professional Development:** Regulated entities must have a documented professional development policy for engineering and geoscience employees that is appropriate for the professional products and/or services provided by the organization.

The Task Force also recommended an approach to documentation and enforcement in its Phase 2 report to support compliance of regulated entities with these three pillars:

- **Documentation:** All regulated entities must have a Professional Practice Management Plan (“PPMP”) in place and available for review upon request by the association. The PPMP will document the organization’s policies and procedures with respect to addressing the three pillars of ethics, quality management and professional development.
- **Compliance and Enforcement:** A range of mechanisms need to be available to the association to deliver effective and proportional compliance and enforcement of corporate practice requirements, including audits, production of documents, public notices, fines, negotiated consent orders, investigations, public complaint process, and practice restrictions. Audits of regulated entities should be performed on a regular basis to support regulated entities in meeting professional responsibilities.

The recommendations for the three pillars above, and the supporting recommendations for documentation and compliance and enforcement, are referred to generally by the Task Force and in this report as the **‘Three Pillar Model’** of corporate regulation. See the Phase 2 Task Force report for more information on the reasons and considerations with respect to these recommendations.

The alternative to the Three Pillar Model described in the webinar was called the **‘Practice Review Approach’**. In this alternative, sole practitioners would have to register in a Corporate Practice Program and would undergo practice reviews on a periodic basis.

The two alternatives – the Three Pillar Model and the Practice Review Approach – are summarized in Table 1. In either alternative, sole practitioners have to meet their current professional responsibilities to have documented policies/procedures for quality management (QM), adhere to the Code of Ethics, and maintain competency. In the Three Pillar Model, sole practitioners would also have to have documented policies/procedures for ethics and continued professional development (CPD), in addition to quality management.

The frequency of audit or review would likely be every 3-4 years in the Three Pillar Model and is unknown for the Practice Review Approach. With the Practice Review Approach, the likelihood of having a technical review would be higher than with the Three Pillar Model. The Three Pillar Model would have similar training and support as what the association delivers in the Organizational Quality Management (OQM) Program.

Through the OQM Program, this additional training has proven to improve understanding of professional responsibilities. The Practice Review Approach would not have any additional training and support. Fees for either alternative would be set on a cost-recovery basis. The fees for sole practitioners with the Practice Review Approach were estimated at \$0 to ~\$250 in the webinar, depending on how the approach was implemented. The fees for sole practitioners with the Three Pillar Model was estimated at ~\$250/year.

Table 1: Alternatives for how sole practitioners are included in Corporate Practice Program

COMPONENT	PRACTICE REVIEW APPROACH	THREE PILLAR MODEL
<b>Documented Policies/Procedures</b>	Yes - QM	Yes – QM, Ethics, CPD
<b>Frequency of practice review/audit</b>	Unknown	3-4 years?
<b>Review Process</b>	Investigative and focused on individual – may lead to technical review	Collaborative and focused on the organization’s processes
<b>Training &amp; Support</b>	Not Required	OQM-level training / 5 years
<b>Annual Fees</b>	\$0 to ~\$250	~\$250

At the end of the webinar, participants were asked to consider the question: “how should sole practitioners be included in the Corporate Practice Program?” And, specifically, to indicate in a straw poll their preferred option between a Practice Review approach, Three Pillar approach, or other approach.

Out of 369 of webinar attendees / participants in the webinar straw poll, **63% indicated the Three Pillar Model as their preferred alternative.**

Relative to the Three Pillar Model, the Practice Review Approach received low levels of support, with only 22% of the webinar attendees supporting this option. An additional 16% of participants indicated preference for taking an alternative (unspecified) approach.

The process of defining and considering the two alternatives in the webinar did not identify any meaningful advantages or support of the Practice Review Approach over the Three Pillar Model. Furthermore, the experience of trying to communicate the two approaches demonstrated that it would be confusing and difficult to try to implement the Practice Review Approach for sole practitioners alongside implementing the Three Pillar Model for all other entities.

Following the webinar, the association decided to not consider the Practice Review Approach alternative further in the consultation and focus the online survey and focus groups on explaining the Three Pillar Model and getting specific feedback on how this model could best be applied to sole practitioners.

## 2.2 SURVEY

The online survey focused on getting input on how sole practitioners should be included in a Corporate Practice Program. The survey was promoted during the webinar as well as through a direct email to membership, the association’s publications, and social media.

The survey was open from March 8–March 29, 2019. 1,138 respondents participated in the survey, 560 (49%) of which identified themselves as sole practitioners (Table 2). A link was included at the end of the online survey asking respondents who identified as sole practitioners if they were interested in participating in the focus group sessions.

Table 2: Survey respondents by professional types

SURVEY QUESTION	ANSWER CHOICES	RESPONSES	
		Percentage	Count
<b>Which of the following best describes you?</b>	I am a sole practitioner	49%	560
	I am an owner of a business that has two or more professional engineers or professional geoscientists	9%	100
	I am employed by an organization	34%	392
	Unsure	3%	31
	Prefer not to answer		55
	Answered		1138
	Skipped		0

The survey provided a concise description of the Three Pillar Model and asked respondents the extent to which they supported the same framework being applied to sole practitioners as to other regulated entities. Out of a total of 1,062 survey respondents for this question, 36% indicated that they strongly support or somewhat support the same framework being applied to sole practitioners, 44% of survey respondents indicated that they somewhat opposed or strongly oppose the same framework being applied to sole practitioners, and 20% of respondents selected 'neutral' to this question (Table 3).

Table 3: Level of Support for application of the same framework to Sole Practitioners as for other regulated entities

SURVEY QUESTION	ANSWER CHOICES	RESPONSES			
		Percentage	Count	Percentage	Count
<b>The framework described above will apply to all regulated entities with 2 or more practitioners. To what extent do you support the same framework being applied to sole practitioners?</b>	Strongly support	16%	174	36%	382
	Somewhat support	20%	208		
	Neutral	20%	215	20%	215
	Somewhat oppose	18%	188	44%	465
	Strongly oppose	26%	277		
	Answered		1062		
	Skipped		76		

The level of support varied by professional type, with the level of support being lowest among sole practitioners compared to other categories. Out of 541 sole practitioners who responded to this question, 22% supported the same framework being applied to sole practitioners. The level of support was higher among the professionals who identified as being employed by organizations or as business owners, with over half of these professional types indicating their support (55% and 53%, respectively).

Within sole practitioner respondents, the level of support was compared based on the following variables:

- the length of time the respondent has been practising as a sole practitioner;
- whether the respondent was licensed in Alberta; and,
- whether the respondent was certified through the association's OQM Program.

The results showed that the proportion of sole practitioners indicating support was higher for sole practitioners that have been practising on their own for less time (Figure 1, Table 4). Support was also higher among sole practitioners that maintain a license to practise in Alberta compared to those who do not (28% vs. 20%, Figure 2, Table 4).

Support was considerably higher for sole practitioners that are OQM certified or are in the process of becoming certified (69% vs. 19%, Figure 3, Table 4). The questions on licensing in Alberta and certification through the OQM Program are relevant because the Task Force's recommended model is based on the elements of the OQM Program and the corporate regulatory model applied in Alberta.

Figure 1: Level of Support Amongst Sole Practitioners by Length of Practice as a Sole Practitioner

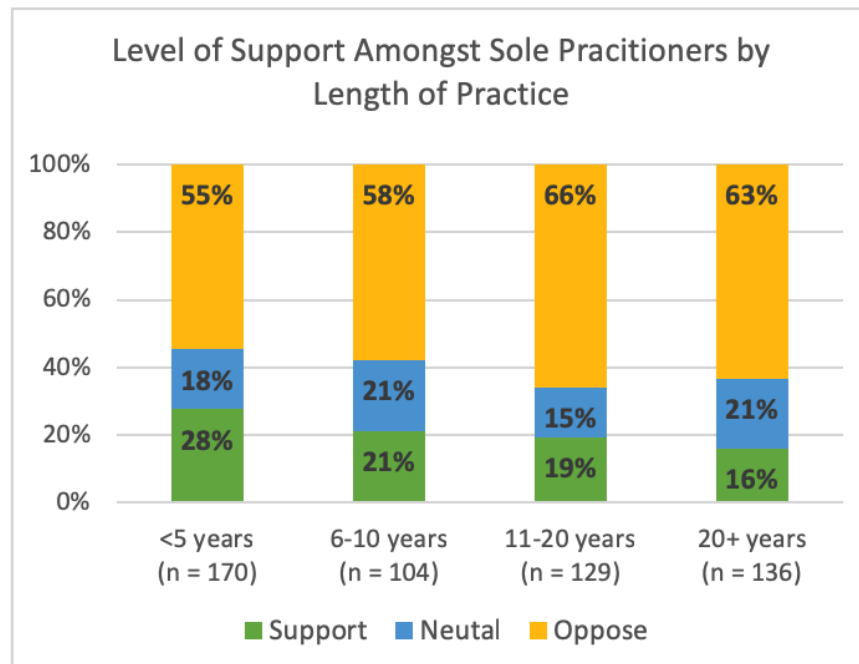




Figure 2: Level of Support Amongst Sole Practitioners by Licence to Practise in Alberta

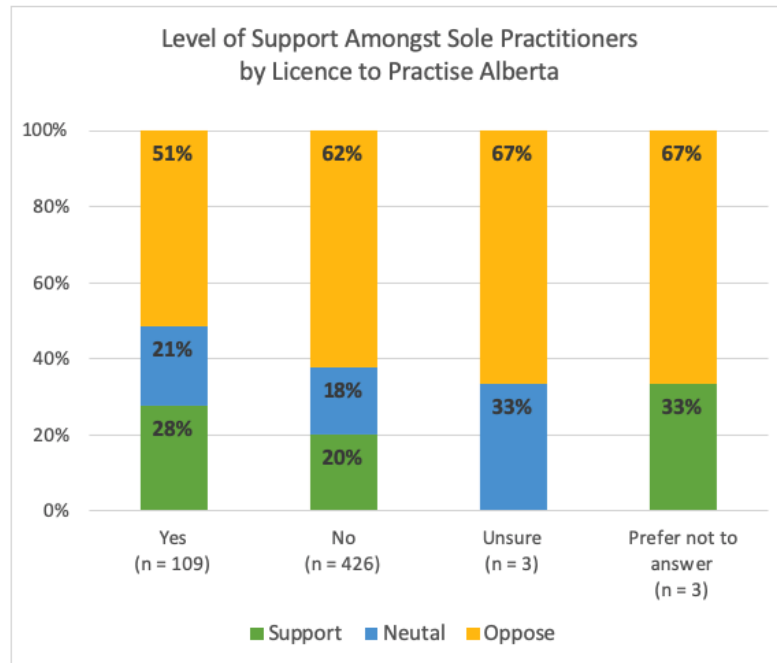


Figure 3: Level of Support Amongst Sole Practitioners with OQM Program Certification

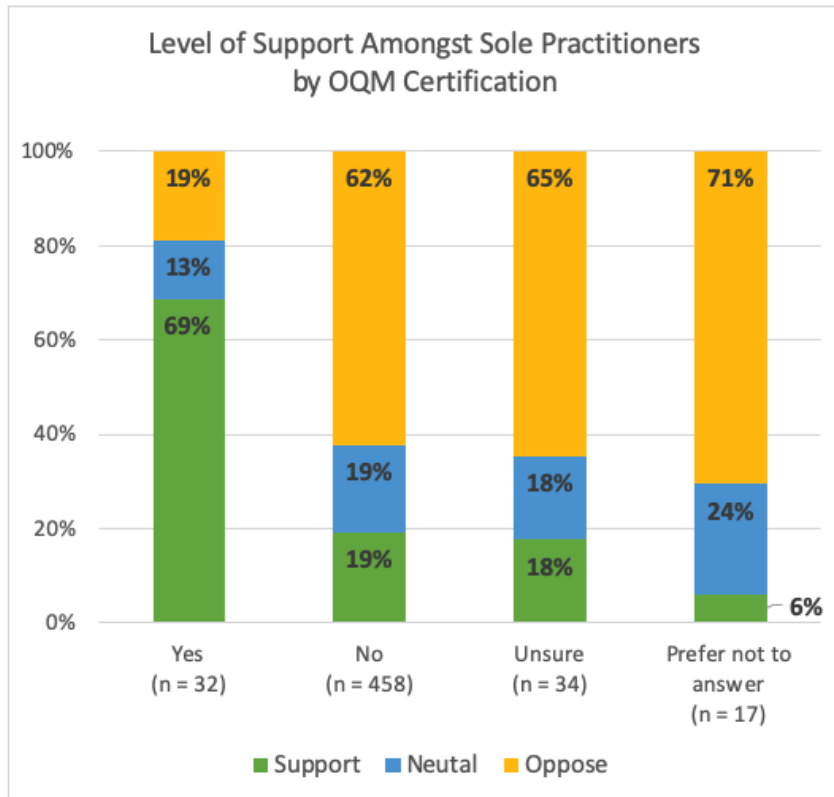


Table 4: Co-relation of Level of Support question to questions on type of professional, length of practice, licence to practice in Alberta, and OQM Program certification

Level of Support for applying the same regulatory framework to sole practitioners as will be applied to all other regulated entities...		Answer Choices	# of Responses	Survey Results		
				Support	Neutral	Oppose
<b>...by Type of Professional</b> <i>Co-related to Question: Which of the following best describes you?</i>		Sole Practitioner	541	22%	18%	60%
		Employed by Organization	359	55%	22%	23%
		Business Owner	93	53%	17%	30%
		Total	993			
<b>...Amongst Sole Practitioners by Length of Practice</b> <i>Co-related to Question: How long have you been practicing as a sole practitioner?</i>		<5 years	170	28%	18%	55%
		6-10 years	104	21%	21%	58%
		11-20 years	129	19%	15%	66%
		20+ years	136	16%	21%	63%
		Total	539			
<b>...by Licence to Practise in Alberta</b> <i>Co-related to Question: Do you currently maintain a licence to practise in Alberta?</i>	All Professional Types	Yes	230	43%	19%	38%
		No	812	34%	20%	45%
		Unsure	7	14%	14%	71%
		Total	1049			
	Sole Practitioners only	Yes	109	28%	21%	51%
		No	426	20%	18%	62%
		Unsure	3	0%	33%	67%
		Total	538			
<b>...by OQM Certification (Current or in Progress)</b> <i>Co-related to Question: Are you, or is your company, OQM certified or in the process of becoming certified?</i>	All Professional Types	Yes	201	63%	19%	17%
		No	688	29%	20%	52%
		Unsure	137	40%	23%	37%
		Total	1026			
	Sole Practitioners only	Yes <sup>1</sup>	32	69%	13%	19%
		No	458	19%	19%	62%
		Unsure	34	18%	18%	65%
		Total	614			

<sup>1</sup>Note: only 6% of respondents who identified as sole practitioners responded 'yes' to being OQM certified (32 out of 541), compared to 47% (44 out of 93) and 33% (120 out of 359) of respondents who identified as business owners and employees, respectively.

For respondents who indicated they were neutral or opposed to the same regulatory framework being applied to sole practitioners as will be applied to other regulated entities, the survey sought feedback on which particular aspects of the regulatory framework they did not support.

Overall, audits were identified as the aspect that had the least amount of support, and documented policies and procedures for QM, ethical business practices and continuing professional development had the most amount of support (Table 5).

Table 5: Aspects of regulatory framework not supported

SURVEY QUESTION	ANSWER CHOICES	RESPONSES	
<b>What aspects do you not support?</b>	Establishing and maintaining documented policies and procedures for quality management, ethical business practices, and continuing professional development.	45%	302
	Complete training within the first year of corporate registration, and every five years thereafter. (Training comprises a review of the requirements, and advice and support on how to integrate required policies and procedures into your business practice.)	51%	341
	Being audited every three to five to ensure understanding of and compliance with corporate regulatory requirements.	65%	429
	Paying a fee scaled to the size of the organization, according to the number of professionals employed. (Proposed to be \$250 per year for sole practitioners)	53%	355
	Other (please specify)	20%	136
	Answered		665
	Skipped		473

Some select quotes are provided below from the surveys for additional context on why respondents didn't support the different aspects of the framework:

- **Documenting policies and procedures**

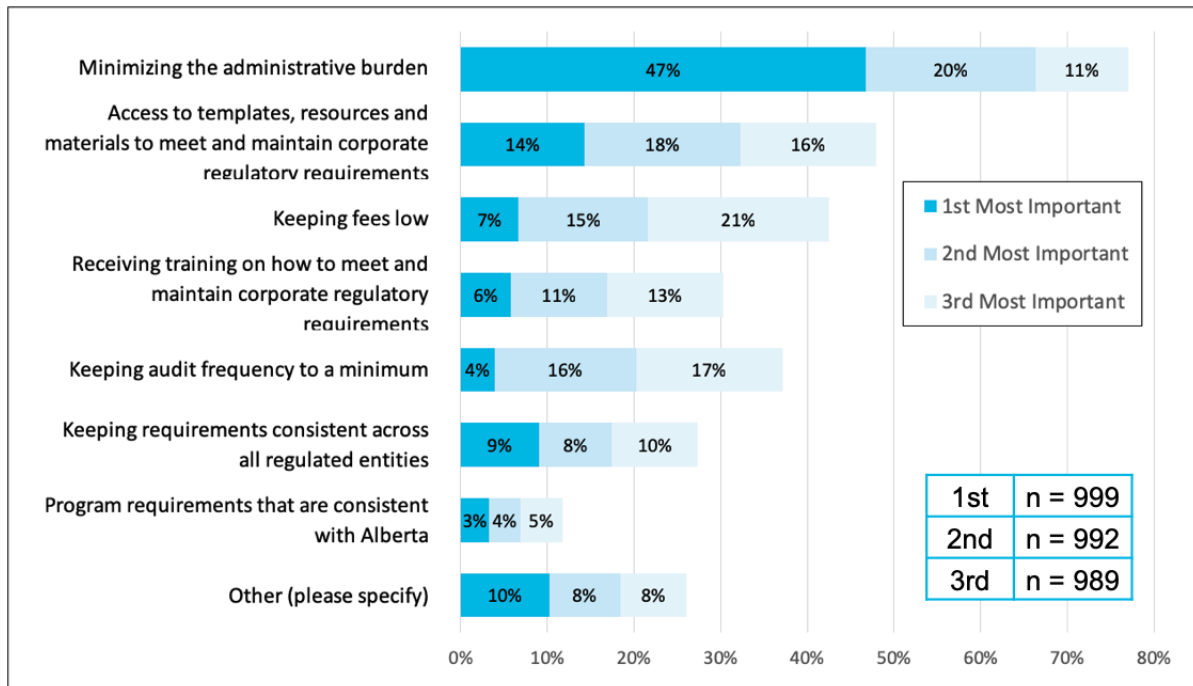
- *“I agree in principle with all these, but I am not sure about how the documentation of policies and procedures will work for a sole practitioner, given that they would likely be working for different companies at different times, all of which would have their own policies and procedures. It may be difficult to reconcile the sole practitioner policies and procedures with the corporate ones.”*
- *“Sole practitioners would have different business dynamics. In many cases, the business wouldn't support the ability to introduce quality ethics documentations. If there is a standard document by EGBC, it can be easily followed.”*
- *“Many engineers in a one-man practice typically work on large projects requiring an engineering team, and conduct their work by subcontracting to a larger engineering firm who design as a team. This work has full peer review and follows the larger engineering firm's established practices. For these engineers, who don't stamp drawings and documents under*

*their own corporation, establishing their own practice documents will be done only to keep EGBC satisfied - this should be reconsidered.”*

- *“Don’t need more paperwork (non billable hours) to work on.”*
- **Training within the first year of corporate registration, and every five years thereafter**
  - *“In the first year of a business, you’ll be busy to get new projects, customers and 100 other things to deal with. If EGBC puts a one year training requirement to the new practitioners, this is not being reasonable and is anti-business!! I think at least 3 years for a new business to have a training plan is more reasonable.”*
  - *“As to the training, the only issue I have with this is the anticipated cost of additional training (and any necessary travel expenses, unless the plan is to have them online), especially for someone new setting up a sole proprietorship/single person corporation.”*
- **Being audited every three to five years to ensure understanding of and compliance with corporate regulatory requirements**
  - *“Auditing is time consuming and so comes out of overhead expenses...and so should be set at 5 years, not 3 to 5.”*
  - *“For a sole practitioner, being audited is a huge burden as it detracts from their earning potential by taking up their time. And because this is their primary income source anything that takes away from their time can be detrimental.”*
  - *“I do not know how these audits will be performed, will they be professional auditors or peer audits? I have had poor experiences with peer audits as some people in this industry are not willing to understand the specifics of my practice but would rather try to impose the standards of their area of practice on me via the audit.”*
- **Paying a fee scaled to the size of the organization, according to the number of professionals employed**
  - *“This will add additional overhead to our operation in BC.”*
  - *“\$250 per year in addition to membership fees seems steep for sole practitioners. I agree with the concept of a sliding scale (larger organizations pay more) but every effort must be made to keep the cost as minimal as possible.”*

Survey participants were asked to rank the top three most important aspects of a Corporate Practice Program. Out of the total number of respondents for this question, **‘minimizing the administrative burden’** was selected by 47% of respondents as the 1st most important aspect of a Corporate Practice Program; 78% of members selected it within the top 3 most important aspects. The next most frequently selected aspects that were in respondents top three were: **‘access to templates, resources and materials to meet and maintain corporate regulatory requirements’** and **‘keeping fees low’** (Figure 4).

Figure 4: Top 3 most important aspects of a Corporate Practice Program



Survey respondents were asked if they see any ways to improving the regulatory framework for application to sole practitioners or any alternative methods for including sole practitioners in a corporate regulatory program. Frequent themes across respondents' comments included:

- Minimize administrative burden (time, effort, cost):
  - Minimize/eliminate audits (e.g. reduce frequency if compliance is good)
  - Minimize fees
  - Simplify documentation as much as possible (e.g. templates)
- Provide online training
- Help sole practitioners with getting independent structural reviews
- Implement a tiered system – reduce/eliminate regulatory requirements for sole practitioners who:
  - Contract to other regulated entities
  - Provide low risk services
  - Have low billings or who work part-time
  - Are semi-retired and provide services to friends/family

## 2.3 FOCUS GROUPS

Six 90-minute focus groups were held with sole practitioners in Vancouver, Kelowna, and Victoria in March 2019. The purpose of these focus groups was to better understand how the Task Force's recommended corporate regulatory model, the Three Pillar Model, would affect sole practitioners, and how the communication and application of this model could address any key concerns of sole practitioners. Participants in the focus group sessions were selected to achieve a diversity of practice areas, years of experience, gender and regional representation.

Generally, sole practitioners participating in the focus groups:

- see themselves as providing an important service to a market that would otherwise be underserved;
- see their practice as generally low risk;
- see themselves as small business people that are overburdened with regulation;
- had a high awareness that *Professional Governance Act* was bringing changes, including corporate regulation for sole practitioners, but poor knowledge of the details of what was being proposed; and,
- did not see a clear rationale for including sole practitioners in corporate regulation as they were already regulated as individual professionals.

The focus group coordinator reviewed and discussed how key aspects of the Task Force's recommended corporate regulatory framework, the Three Pillar Model, would affect sole practitioners.

A summary of focus group participant responses is provided in Table 6.

*Table 6: Summary of how key aspects of the corporate regulatory framework would affect sole practitioners*

ASPECT	SUMMARY OF EFFECTS TO SOLE PRACTITIONERS
<b>Documented policies and procedures</b>	Current OQM participants considered this as easy and a good reminder for everyone regarding best practices.
<b>Training</b>	Non-OQM participants worried about the administrative time.
<b>Audit</b>	Participants were interested in the training and liked the idea that initial training would result in completed "take-away" documentation. The one-day training was considered as reasonable while less-urban respondents hoped that the training could take place through remote services.
<b>Costs &amp; Effort (administration of new regulation)</b>	OQM participants spoke to the relative ease of going through an audit which allayed some concerns for other participants. However, the problems they identified weren't about the audit itself, but rather in preparing for it. They said that the frequency should be kept as low as possible.
<b>Overall Fairness</b>	Participants said that conducting audits on sole practitioners would increase association costs and worried that they would pay higher fees to support the program.

<b>Overall Value</b>	Participants disliking the changes said that they penalized them for being sole practitioners. They added that they are already regulated as individuals so an additional level of oversight is irrational and unnecessary.
<b>Fees</b>	For the most part, respondents were either agnostic or pessimistic about the change. This essentially stems from perceptions that they are being unduly regulated “twice.” Those enrolled in OQM were more likely to see a benefit to the change.

Similar to the survey, the key concern with corporate regulation raised in the focus groups was the additional administrative burden associated with documentation, training and auditing. A few focus group participants that had small-scale practices were concerned that the additional administrative burden could put them out of business.

Suggestions raised through the focus group sessions on how to address concerns included:

- recognize sole practitioners as different (they act as administrator, consultant, and manager);
- recognize that many sole practitioners have lower risk practices than larger companies;
- provide a clearer rationale for why sole practitioners should be included in Corporate Practice Program;
- minimize administrative burden – i.e., ensure the process is simple and uncomplicated, and minimize time and costs to sole practitioners;
- provide on-line training;
- provide customized training and templates for sole practitioners that recognize they will have simpler procedures than larger companies; and,
- reduce audit frequency for sole practitioners with good audit performance.

### 3.0 NEXT STEPS

The Task Force is considering the feedback received from this consultation process and will provide recommendations to Council on how to include sole practitioners in the Corporate Practice Program in June 2019.