

The background of the slide is a golden-yellow color with a repeating pattern of various international currency symbols (such as the dollar sign, euro, yen, and pound) rendered in a 3D, embossed style. The symbols are scattered across the entire page, creating a textured, financial-themed backdrop.

## 2019 AML/CFT Risk Management Seminar

“The Evolving Landscape of AML/CFT in  
The Bahamas”

TOPIC: Update on the Regulatory  
Landscape: The Compliance Commission

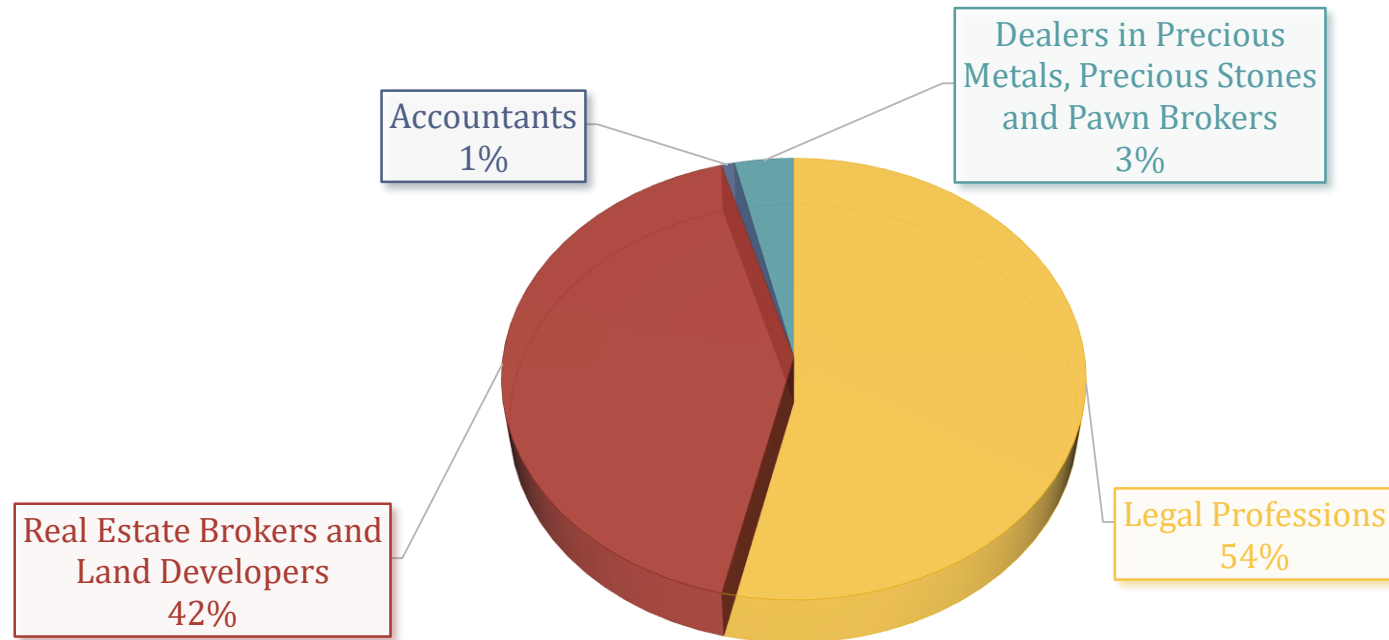
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Presenter: Ms. Bianca T. Rahming  
Legal Officer & Examiner  
Date: June 26<sup>th</sup>, 2019

# Registrants of the Compliance Commission

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## REGISTRANTS



# Designated Non-Financial Business and Profession (DNFBP)

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<b>FTRA 2018</b>	<b>FTRA 2000</b>
<p>Section 4(a)</p> <p>A real estate agent or broker when they are involved in financial transactions for their client concerning the buying or selling of real estate.</p>	<p>Section 3(g)</p> <p>A real estate broker, but only to the extent that the real estate broker receives funds in the course of the person's business for the purpose of settling real estate transactions</p>
<p>Section 4(b)</p> <p>A land developer engaged in the sale or partition or condominiumizing of any part, parcel, lot or condominium unit of any larger tract or lot of land or any development of land involving the building of units sharing walls, common areas and utilities</p>	<p>N/A</p>

# Designated Non-Financial Business and Profession (DNFBP)

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FTRA 2018	FTRA 2000
<p>Section 4(c)</p> <p>A person whose business or any part of whose business consists of</p> <p>—</p> <p>(i) buying for the purpose of trade, sale, exchange, or otherwise dealing in any previously owned precious metals or precious stones, whether altering the same after acquisition or not; or</p> <p>(ii) lending of cash on the security of previously owned precious metals or precious stones of which the person takes possession, but not ownership, in expectation of profit, gain or reward;</p>	N/A

# Designated Non-Financial Business and Profession (DNFBP)

FTRA 2018	FTRA 2000
<p data-bbox="333 501 555 544">Section 4(e)</p> <p data-bbox="333 611 1480 705">“A counsel and attorney or accountant when they engage in, or carry out transactions for a client concerning —</p> <ul data-bbox="333 719 1480 1410" style="list-style-type: none"><li data-bbox="333 719 1021 762">(i) The buying or selling of real estate;</li><li data-bbox="333 776 978 819">(ii) A deposit or investment of cash;</li><li data-bbox="333 833 1243 876">(iii) The management of client funds or securities;</li><li data-bbox="333 891 1437 933">(iv) The management of bank, savings or securities accounts;</li><li data-bbox="333 948 1480 1033">(v) The organization of contributions for the creation, operation or management of a legal person;</li><li data-bbox="333 1048 1480 1190">(vi) The creation, incorporation, operation or management of a legal person or legal arrangement, and buying and selling of a business entity;</li><li data-bbox="333 1205 1480 1305">(vii) The provision of a registered office or acting as a registered agent;</li><li data-bbox="333 1319 1480 1410">(viii) The acting as or arranging for another person to act as, a nominee shareholder for another person.”</li></ul>	<p data-bbox="1513 501 1793 544">Section 3(1)(k)</p> <p data-bbox="1513 611 2354 919">“A counsel and attorney, but only to the extent that the counsel and attorney receives funds in the course of that person’s business otherwise than as part of services rendered pursuant to a financial and corporate service provider's licence —</p> <ul data-bbox="1513 991 2354 1190" style="list-style-type: none"><li data-bbox="1513 991 2328 1033">(i) For the purposes of deposit or investment;</li><li data-bbox="1513 1048 2354 1133">(ii) For the purpose of settling real estate transactions; or</li><li data-bbox="1513 1148 2125 1190">(iii) To be held in a client account.”</li></ul>

# Obligations of Constituents

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## **Registering with the Compliance Commission**

- Section 33(1) – “Every financial institution within the definition of section 32(2) shall register with the Commission in the form provided by the Commission.”

## **Penalty for Failure to Register with the Compliance Commission**

- Section 33(2) – “Every financial institution referred to under subsection (1)
  - (a) established before the coming into force of this Act which fails to register with the Commission within one month of the coming into force of this Act; or
  - (b) established after the coming into force of this Act, which fails to register within one month of commencement of businesscommits an offence and is liable to a penalty of five thousand dollars for each day that the financial institution remains unregistered.”

# Obligations of Constituents

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## **Notifying the CC of a change in the registered office or principal place of business or change in beneficial ownership, director, partner, compliance officer or money laundering reporting officer**

- Section 33(3) – “When a financial institution within the definition of section 32(2)
  - (a) has a change in registered office or principal place of business;
  - (b) has a change in beneficial ownership, director, partner, compliance officer or money laundering reporting officerthe financial institution shall within three months of such change, notify the Commission.”

## **Penalty for Failure to Notify the CC of change**

- Section 33(4) – “Where a financial institution fails to notify the Commission as required under subsection (3), the financial institution commits an offence and is liable to a penalty of five thousand dollars for each failure to notify in accordance with subsection (3).”



# Obligations of Constituents

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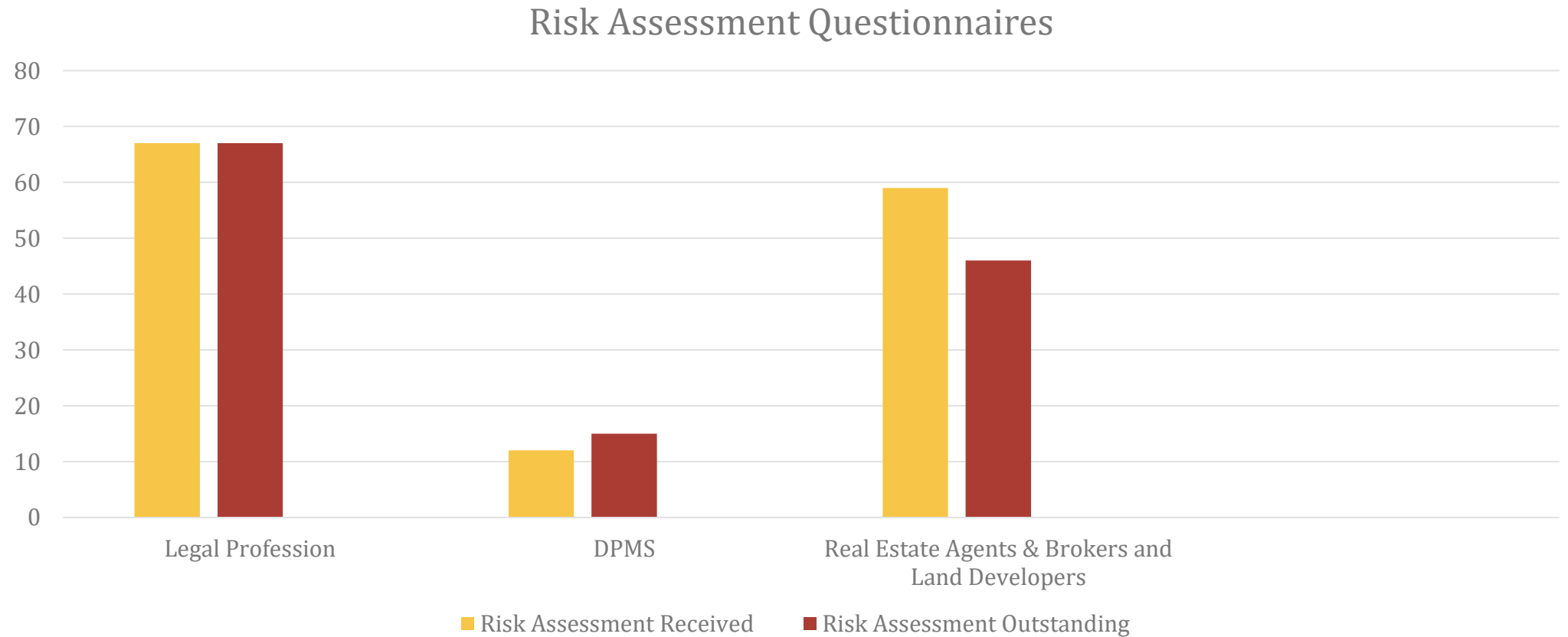
## **Producing Information Required by the Commission**

- Section 34(1)(b) – In the performance of its functions, the Commission may at all reasonable times require a financial institution to supply information for the purposes of enabling the Commission to perform its function.



# Obligations of Constituents

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# Administrative Penalties

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- Section 57(1) – “Notwithstanding any penalties that may be imposed under this Act, any —
  - (a) Financial institution that fails to comply with any provision of this Act;
  - (b) Employee, director or senior manager of a financial institution who knowingly concurs in a failure to comply with any provision of this Actmay be subject to an administrative penalty imposed by the Supervisory Authority with responsibility for regulating that financial institution and —
  - (i) in the case of a company, to a maximum penalty of two hundred thousand dollars;
  - (ii) in the case of an employee, director or a senior manager of a financial institution, to a maximum penalty of fifty thousand dollars.”
- This policy came into effect on February 6th, 2019 and applies to all constituents of the Commission.

# Administrative Penalties

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## □ Section 57 (5)

1. The Commission will issue a written warning to the financial institution warning of the:
  - a. The nature of the contravention committed;
  - b. The amount of the penalty; and
  - c. A reasonable period (no less than 28 days from the date of the notice) within which the financial institution may make representation to the Commission regarding the contravention.)
2. If the reasonable period elapses and the financial institution does not remedy the contravention, the Commission will issue a 48 hour Warning Letter. If 48 hours expire, the Commission will give notice of its decision.

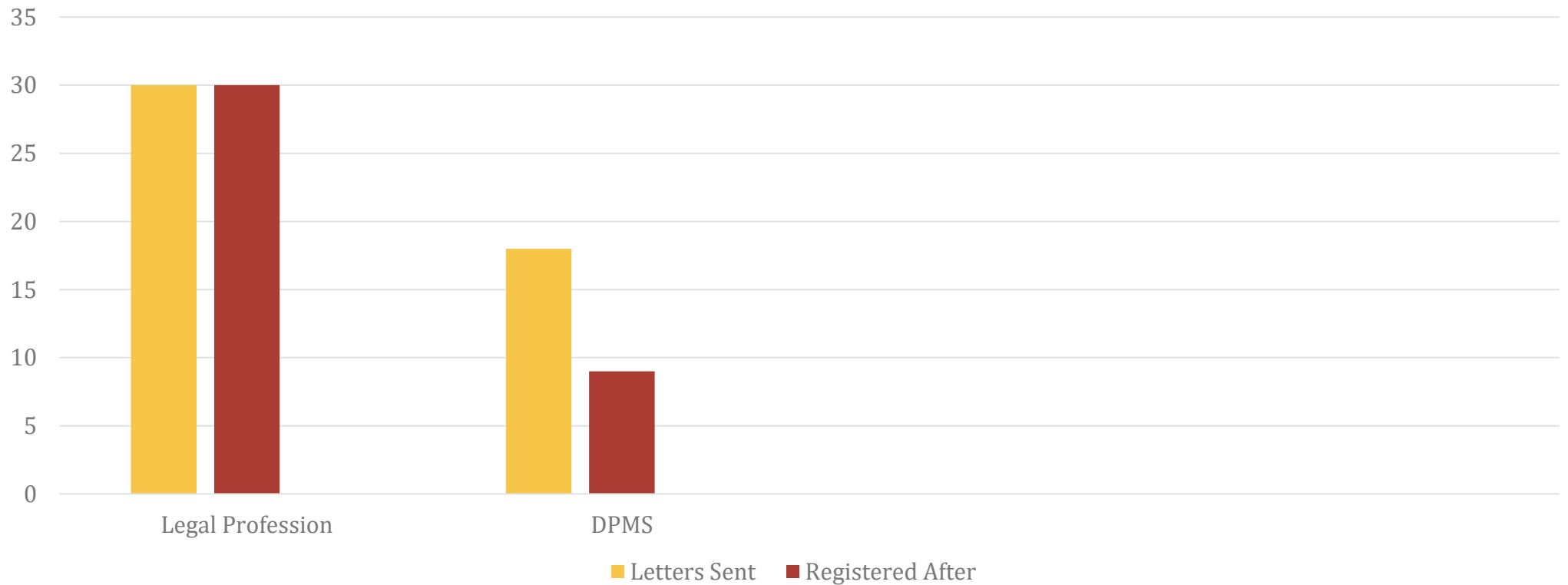
The decision will be:

- a. In writing;
- b. The Commission will give its reason for the decision; and
- c. Give an indication of any right to have the matter appealed provided under any law governing the financial institution and the procedure for appeal.

# Enforcement for Non-Compliance

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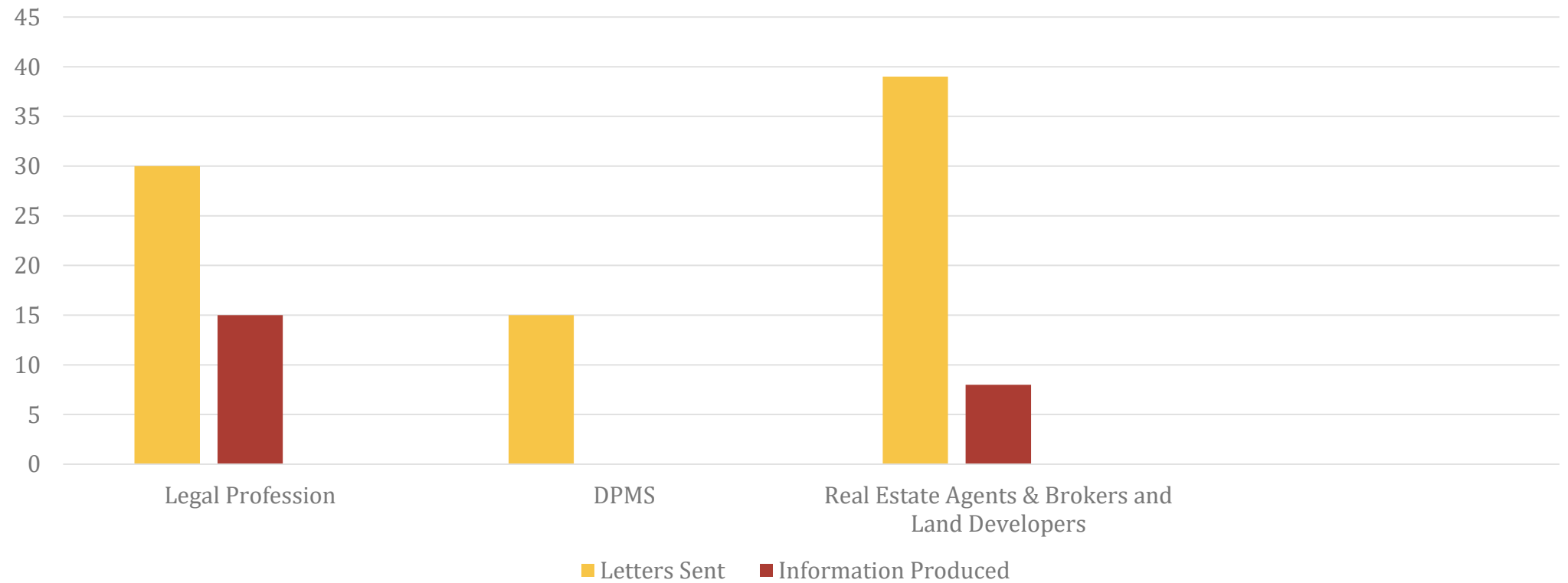
Failure to Register - Warning Letters



# Enforcement for Non-Compliance

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Failure to Produce – Warning Letters



# Publications & Training

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## *Publication*

- The Codes of Practice for Lawyers; DPMS; Accountants; and Real Estate Agents & Brokers and Land Developers
- Awareness Brochures for Lawyers; DPMS; Accountants; and Real Estate Agents & Brokers and Land Developers
- Guidance Note on Eligible Introducers

## *Training*

Lawyers – March 2019

Real Estate Agents & Brokers and Land Developers – July 3<sup>rd</sup> & 4<sup>th</sup>, 2019 (You can still RSVP)

THANK YOU FOR YOUR TIME!

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