ONTARIO SECURITIES COMMISSION

OSC Staff Notice 51-735

Corporate Finance Branch
2023 Annual Report

December 7, 2023

Ontario

Message from the Director

I am proud to share our annual Report, which is one of our key tools for engaging with our stakeholders. The Report outlines the Branch's operational and policy work during Fiscal 2023 and provides guidance regarding regulatory requirements in certain areas.

This year has brought new challenges to Ontario and capital markets worldwide, including extreme climate events domestically and internationally, rising interest rates and inflation as well as continued global uncertainty. Their continued impact on our capital markets reinforces the need for balanced, tailored, flexible and responsive regulation.

Throughout Fiscal 2023, the Branch, with its CSA partners, continued to advance its policy work, including projects regarding climate-related disclosure, diversity on boards and in executive officer positions and the regulation of the crypto asset trading industry. At the same time, the Branch, with our CSA partners, continued work on initiatives designed to reduce regulatory burden. The OSC published Ontario Instrument 45-507 *Self-Certified Investor Prospectus Exemption* (Interim Class Order) that introduced, on a time-limited basis, a new prospectus exemption in Ontario. On March 28, 2023, the OSC extended the blanket relief that creates a temporary well-known seasoned issuer regime in Canada and, on September 21, 2023, published proposed rule amendments to implement a permanent well-known seasoned issuer regime.

These initiatives will continue to be part of our main policy focus in fiscal 2024. In addition, we will continue to monitor and consider new market trends and potential areas of concern that may warrant a regulatory response.

We hope that this Report provides insight into our work this past year, and also helps market participants to better understand disclosure and other regulatory obligations under Securities Law. We welcome any questions or feedback that you may have.

Best regards,

Winnie Sanjoto
Director, Corporate Finance
Ontario Securities Commission

OSC ONTARIO SECURITIES COMMISSION

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Fiscal 2023 Snapshot*

3,000 +
Reporting Issuers in Ontario

1,200 +
Reporting Issuers where the OSC is the principal regulator

$1,817 billion
Total market capitalization of Reporting Issuers where the OSC is the principal regulator; 21% is attributed to the banking industry

$7.2 billion
Capital raised* by TSX/TSXV/CSE/NEO listed Reporting Issuers with a head office in Ontario**

407
Prospectuses completed
34% mining

232
Applications

12
Policy Projects

* Note: all figures are as at / for Fiscal 2023 and are approximate or rounded.

** Includes public offerings and private placements of equity and convertible debentures.

Introduction

This Report provides an overview of the Branch's operational and policy work during Fiscal 2023, including a summary of key findings and outcomes from our regulatory oversight program (Part A), and the nature, purpose and status of ongoing issuer-related policy initiatives (Part B). The Report is intended for entities and individuals we regulate, their advisors, as well as investors.

In publishing this Report we aim to

- **REINFORCE** the importance of compliance with regulatory obligations,
- **PROVIDE GUIDANCE** to improve disclosure in regulatory filings,
- **HIGHLIGHT** trends in the capital markets, and
- **INFORM AND UPDATE** stakeholders on new and ongoing policy initiatives.

The OSC continues to implement the Ontario government's five-point capital markets plan focused on strengthening investment in Ontario, promoting competition and facilitating innovation.[1]

Corporate Finance Branch: Who We Are & What We Do

Through our oversight role, we support the OSC's goal to improve transparency, trustworthiness, and efficiency in Ontario's capital markets.

To do this, our operational work includes:

- ✓ assess, using risk-based criteria, whether Reporting Issuers in Ontario provide the required level of disclosure of material information to investors so they can make informed investment decisions.
    - review of public offerings of securities;
    - review of capital raising activities in the exempt market;
    - review of CD filed by Reporting Issuers;
- ✓ review and consideration of applications for exemptive relief from regulatory requirements;
- ✓ review of insider reporting;

[1] See the 2023 Annual Report published by the OSC.

- ✓ review of credit rating agencies that are designated rating organizations;
- ✓ oversight of designated benchmarks and benchmark administrators;
- ✓ oversight of the listed Issuer function for OSC recognized exchanges;
- ✓ engagement with stakeholders through a number of activities, including external advisory committees;
- ✓ provision of guidance to stakeholders through staff notices that communicate expectations and interpretations of regulatory requirements in certain areas;
- ✓ delivery of Issuer education and outreach programs.

Part A: Compliance

1. Continuous Disclosure Review Program

2. Other Ongoing Regulatory Oversight

3. Public Offerings

4. Exemptive Relief Applications

5. Insider Reporting

6. Administrative Matters

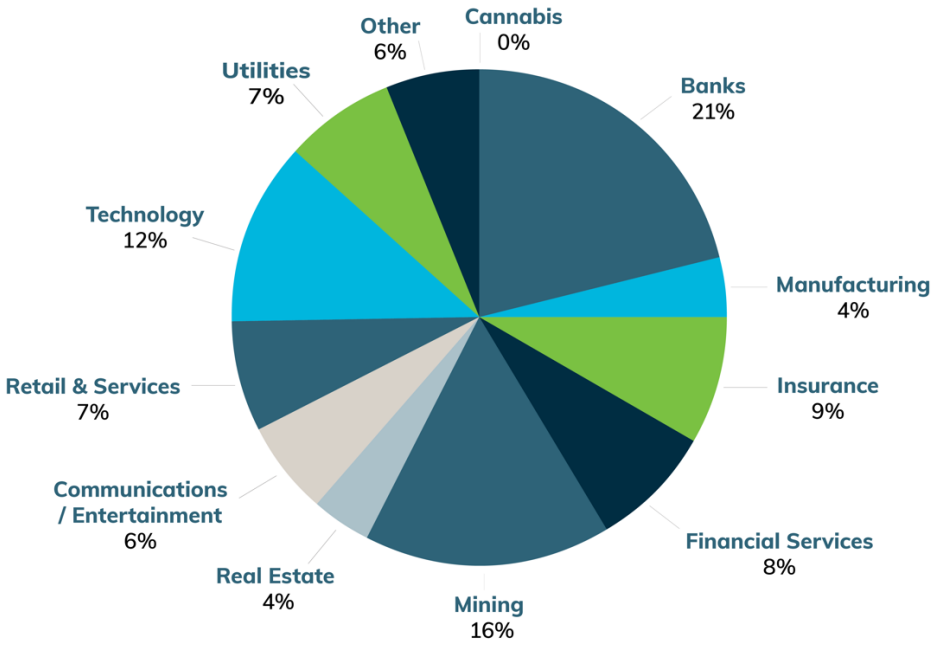
1. Continuous Disclosure Review (CDR) Program

This section of the Report provides an overview of the key findings and outcomes from our Fiscal 2023 CDR Program. We discuss key or novel issues, suggest best practices, and specify applicable legislation and relevant guidance to assist Issuers in addressing each of the topic areas.

Under Canadian securities law, a Reporting Issuer must provide timely and periodic CD about its business and affairs. The CDR Program seeks to assess whether Reporting Issuers are complying with disclosure obligations and to identify material deficiencies that may affect the reliability and accuracy of a Reporting Issuer's disclosure record. For further information about the CDR Program, refer to CSA Staff Notice 51-312 (Revised) *Harmonized Continuous Disclosure Review Program* and Appendix A to this Report.

The Branch has primary responsibility as principal regulator[2] over approximately **1,200** Reporting Issuers with an aggregate market capitalization of approximately **$1,817 billion** as at March 31, 2023. The three largest industries by market capitalization were banking, mining, and technology.

Market capitalization of Ontario Reporting Issuers by industry as at March 31, 2023



[2] For a prospectus filing, pursuant to NP 11-202, an Issuer's principal regulator is the regulator of the jurisdiction in which the Issuer's head office is located. If the regulator identified is not in a specified jurisdiction, the principal regulator is the regulator in the specified jurisdiction with which the Issuer has the most significant connection. See subsections 3.4(4) – 3.4(8) of NP 11-202.

A) Tips for Reporting Issuers that are selected for a CD review

Below are tips on what to do if you receive a comment letter from Staff in connection with a CD review:

- Read the first paragraph of the letter which will state whether we are conducting a full review or an IOR.
- Consider whether you need legal, accounting, or other advisors. If so, engage them early in the process.
- Reach out to Staff if you require clarification about any of the comments. Note that Staff cannot provide legal or accounting advice.
- Provide a thorough response, referencing Securities Law and IFRS, where relevant.
- Continue to file required CD documents during the review. An ongoing review does not alleviate or alter a Reporting Issuer's ongoing CD obligations.
- Note the response deadline and plan accordingly. Reach out to Staff well in advance of the deadline, should you require additional time to provide a response letter. In appropriate circumstances, Staff may grant an extension request.

B) CDR program outcomes for Fiscal 2023

Our CDR program is risk-based and outcome-focused. It includes planned full reviews and IORs based on risk criteria as well as ongoing monitoring through news releases, media articles, complaints, and other sources. The CDR program is conducted pursuant to the powers in subsection 20.1(1) of the Act and is part of a harmonized CD review program conducted by the CSA.[3] Refer to Appendix A for further information about the CDR program.

[3] For more information see CSA Staff Notice 51-312 (Revised) *Harmonized Continuous Disclosure Review Program*.

We track several categories of outcomes of the CDR program:

- Immediate corrective action is required
    - Includes the refiling of a previously filed CD document or the filing of a document that should have been previously filed, a referral to the Enforcement branch or the issuance of a cease trade order.
- Prospective enhancements are required
    - Changes or enhancements are required in the next filing as a result of deficiencies identified but they do not rise to the level of immediate action.
- No action is required
    - Instances where the Issuer does not need to make any corrective changes or additional filings as a result of our review.
- Ongoing Oversight
    - This new type of outcome is specific to IORs where Staff conduct an initial high-level review of a Reporting Issuer's disclosure in order to determine whether direct engagement with the Reporting Issuer is required, and conclude that no further action is required. Examples of this type of IOR are the regular high-level reviews of technical reports filed on SEDAR+ (previously SEDAR) which are intended to monitor disclosure compliance in real-time with the requirements of NI 43-101 and Form 43-101F1 *Technical Report*. Similarly, reviews triggered by significant industry developments fall into this category of IORs. If potentially significant disclosure deficiencies are identified, a formal IOR file will be opened and Staff will engage with the Reporting Issuer.
    - These types of IORs enable Staff to take a staged approach to CD reviews and more efficiently allocate staff resources in a timely manner.

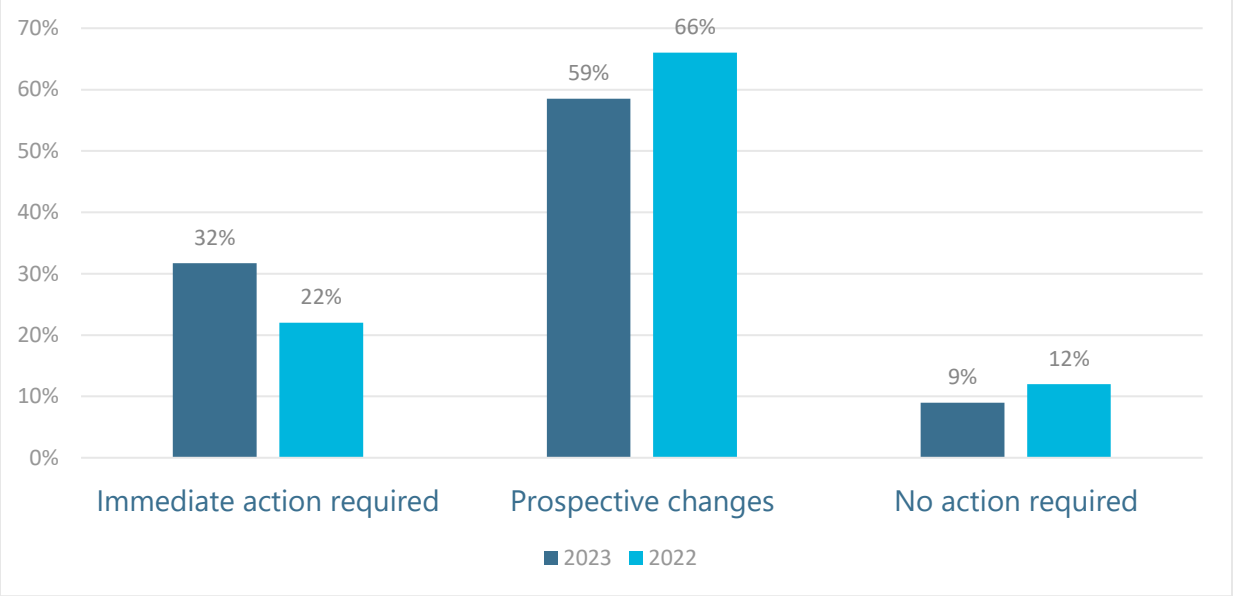
A CD review may result in more than one outcome. For example, a Reporting Issuer may be required to refile certain CD documents while also committing to prospective disclosure enhancements. Tracking these outcomes assists us in planning the CDR program in subsequent years, including the re-evaluation of existing risk-based factors.

Given our risk-based criteria to identify Reporting Issuers for review, the outcomes on a year-over-year basis should not necessarily be interpreted as trends since the issues and Reporting Issuers reviewed each year are generally different. The nature of the review and the issues identified may impact the number of Reporting Issuers selected for review in any given year. For example, a broad topic (e.g., Non-GAAP Financial Measures) may yield a larger number of

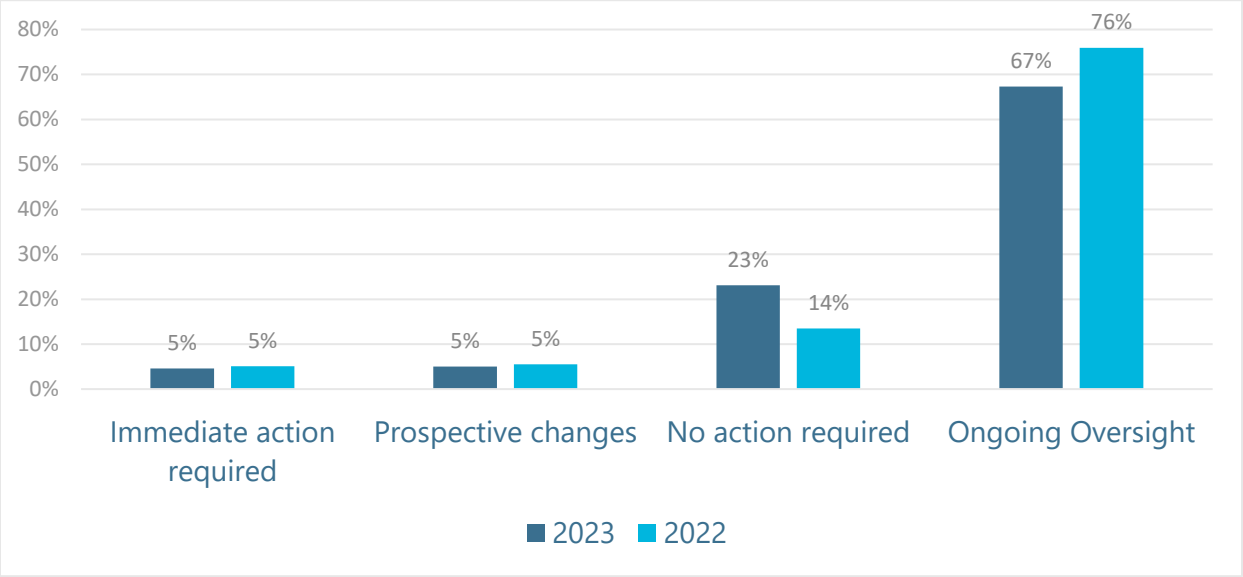
Reporting Issuers for review whereas other topics (e.g., Technical Report compliance) may be more focused or may be specific to an industry. Similarly, reviews may be issue-specific, focusing on a particular CD requirement for which we have noted widespread deficiencies. These reviews may result in an increased number of outcomes categorized as "prospective changes" or "immediate action required" if deficiencies identified are prevalent among several Reporting Issuers.

The following is the summary of the CD review outcomes for Fiscal 2023 and Fiscal 2022.

Outcomes of full CD reviews



Outcomes of IORs



The most common types of immediate action required from Reporting Issuers were amendments made to their continuous disclosure record, including the following:

- refiling of financial statements to correct material misstatements;
- refiling of an MD&A where the MD&A was materially deficient and did not meet the form requirements of Form 51-102F1;
- revision or removal of unsupported or overly-promotional information from the Issuer's website including investor presentations, technical disclosures, etc.
- filing of a clarifying news release when a Reporting Issuer failed to include sufficient disclosure of material assumptions, milestones and risk factors pertaining to FLI or failed to update the market on FLI;
- refiling or filing (in instances when documents were not filed in the first place) of material contracts;
- filing of executive compensation disclosure that was required to be filed at an earlier date;
- refiling of a technical report where the report filed was not in compliance with NI 43-101.

Reporting Issuers that refile CD documents during a Staff review are placed on the Refilings and Errors List found on the OSC Website.

C) Trends and guidance

This section highlights some of the common deficiencies that were observed during our CD reviews in Fiscal 2023, and includes some best practices and guidance to assist Reporting Issuers and their advisors in meeting their regulatory obligations. We encourage Reporting Issuers to continue to review and improve the quality of their CD, including with reference to the guidance below. We also direct readers to previously published annual Branch reports for further guidance as many of the issues previously noted continue to be areas for improvement.

I) Management's discussion & analysis

The MD&A is the cornerstone of an Issuer's overall financial disclosure and is intended to provide an analytical and balanced discussion of the Issuer's results of operations and financial condition through the eyes of management. MD&A disclosure should be specific, useful, and understandable. The MD&A requirements are set out in Part 5 of NI 51-102 and Form 51-102F1.

Over the past year, our markets continued to be impacted by rising interest rates, inflationary pressures, supply chain disruptions and overall slower economic growth. These events have generally had a significant negative impact on the economy and continue to pose challenges for many Issuers. It is critical that Issuers provide meaningful disclosure about the impact of these events on their business. An Issuer should consider its specific business and operations, and provide clear, transparent and balanced disclosure of the business impacts and potential uncertainties regarding these events in its MD&A. Such information is necessary to meet Securities Law requirements and for investors to make informed investment decisions. It is important that each Issuer tailors its disclosure to provide investors with insight into the specific and material operational challenges, financial impacts and risks it faces, and its related responses. Issuers should also keep in mind that the financial statements may also need to reflect and disclose the impacts of these events.

Staff have discussed certain MD&A deficiencies below but refer Issuers to previous Branch reports (links in Part C) that discuss other MD&A matters that remain relevant.

The following is a summary of certain discrete areas of non-compliance identified in our reviews, together with our suggested best practices. Additional observations are outlined in more detail following the summary.

Issue	Best Practice
Concluding on internal control over financial reporting (ICFR)	The Reporting Issuer's annual CEO and CFO certificates (Form 52-109F1 *Certification of Annual Filings Full Certificate*) includes a representation that the Issuer has disclosed in its annual MD&A their conclusions about the effectiveness of ICFR at the financial year end based on their evaluations (representation 6b). Reporting Issuers are reminded that they must include a conclusion in the MD&A about the effectiveness of ICFR, irrespective of whether there is a material weakness. Simply including a statement that there have been no changes to ICFR from the prior period is not sufficient.
Restatements of website or social media disclosure	During a CD or prospectus review, Staff may review an Issuer's website and social media disclosures, including investor presentations, technical disclosures, and other public information. If Staff identify any deficiencies with Securities Law requirements (which may include overly promotional disclosures, unsupported FLI and misrepresentations) or if Staff note inconsistencies with the Issuer's other CD documents, Staff may request that the Issuer revise or remove the misleading disclosures. Consistent with OSC Staff Notice 51-711 (Revised) *Refilings and Errors List* (SN 51-711), should Staff request the Issuer to revise or remove the disclosure due to an instance of non-compliance, the Issuer will be asked to issue a news release to explain the revisions in accordance with Part B of SN 51-711 and will be placed on the refilings and errors list.
Auditor's report – change in auditor	Reporting Issuers must file annual financial statements for the most recently completed financial year and the financial year immediately preceding the most recent completed financial year (i.e., comparative period). These financial statements need to be audited in accordance with Part 4.1(2) of NI 51-102 and the auditor's report must cover both periods presented. When a Reporting Issuer changes its auditors during the periods presented in the annual financial statements and the new auditor has not audited the comparative period, the auditor's report would normally refer to the predecessor auditor's report (i.e., in an "Other Matters" paragraph) unless the predecessor auditor's report on the prior period's annual financial statements is reissued with the financial statements.

	Refer to Part 3.2 of Companion Policy 51-102CP *Continuous Disclosure Obligations* and Canadian Auditing Standard 710 *Comparative Information – Corresponding Figures and Comparative Financial Statements*.
Executive compensation – filing deadlines	If a Reporting Issuer is required to send an information circular to security holders, the Reporting Issuer must disclose executive compensation information as required by section 9.3.1 of NI 51-102 and Item 8 of Form 51-102F5 *Information Circular*. Non-Venture Issuers must file this disclosure within 140 days after the Reporting Issuer's most recently completed financial year and Venture Issuers must file this disclosure within 180 days after the Reporting Issuer's most recently completed financial year. A Reporting Issuer that is not required to send an information circular to security holders must comply with section 11.6 of NI 51-102, which requires the same executive compensation information to be disclosed within 140 days after the Reporting Issuer's most recently completed financial year.

Discussion of operations – variance analysis

In discussing period-over-period financial statement variances, Issuers reviewed continued to provide limited narrative discussion of the factors that contributed to the variances and any trends or potential trends.

Simply stating the percentage change or amount, which is information that is readily available from the financial statements, is not sufficient and does not provide investors with insight into the Issuer's operations, or how the economic environment and trends, events and uncertainties impact its business. It is important to include supporting analysis that is specific and to disclose information that readers need to make informed investment decisions.

When discussing variances in financial statement line items, Issuers should

- quantify changes and clearly explain the factors, drivers and reasons contributing to the period-over-period variances that affect revenues and expenses. For example, in the analysis of changes in revenues, include a discussion of variables such as price, volume or quantity of goods or services being sold, introduction of new products or services (or discontinuation) or other significant factors by segment. In discussing expenses, quantify the material components of the expense and provide a detailed explanation of each variance, and
- provide insight into the Issuer's past and future performance.

When discussing the changes in financial condition and operating results, it is also important to include an analysis of the effect on continuing operations of any acquisition, disposition, write-off, abandonment or other similar event.

The following is a simplified example and does not include all the relevant balances on the statement of operations.

Disclosure that would **not** meet our expectations:

Insufficient & boilerplate disclosure

The Company reported revenue of $4,100,000 for the year ended December 31, 2023, compared with $2,500,000 in the prior period, an increase of 64%. The growth is mainly due to the sale of X products.

Employee compensation was $1,500,000 for the year ended December 31, 2023, up 50% or $500,000 from $1,000,000 in the same period in 2022. The increase in compensation was due to headcount.

Improved disclosure that would **meet** our expectations:

Discussion of Variances

Quantification of factors that contributed to the increase

The Company reported revenue of $4,100,000 for the year ended December 31, 2023, compared with $2,500,000 in the prior period, an increase of 64%. The growth in revenue was mainly due to the sales of product X, broken down as follows:
1) The distribution of new product X in the Canadian market contributing to sales of $1,400,000
2) 30% of the sales were in the U.S. and the appreciation of the U.S. dollar contributed to increase in sales of $300,000

Relationship with volume of sales

Despite the positive effect of the introduction of Product X and of the exchange rate, the arrival of a new competitor forced the Company to decrease its sale price on product Y. With this decrease, the Company was able to maintain the sale volume of product Y. Due to the quality and reputation of product Y, management believes that no other decrease of the sale price will be necessary to maintain the sale volume of product Y in the future. The decrease in the sale price caused a $100,000 decrease in sales.

Quantification of factors that contributed to the increase

Employee compensation was $1,500,000 for the year ended December 31, 2023, up 50% or $500,000 from $1,000,000 in the same period in 2022. The increase in compensation was due to headcount increase of 15 FTE pertaining to the acquisition of SubCo ($400,000) and share based compensation expense in connection with the acquisitions ($100,000). The increase due to headcount is expected to be an ongoing expense whereas the share-based compensation expense is expected to be non-recurring.

Forward-looking information

FLI is an area of interest to many investors and can provide valuable insight about an Issuer's business and how it intends to attain its corporate objectives and targets. It is important that investors receive transparent and clear disclosure that is specific, understandable, and relevant. The FLI, together with the accompanying disclosures, should be presented in an easy-to-read manner by, for example, providing the required disclosures near the FLI statement and presenting the information in tabular form that clearly links the particular FLI to the associated factors, assumptions and material risks. These disclosures will enable investors to interpret the FLI and simplify monitoring of progress in subsequent reporting periods.

We continue to see a prevalence of FLI included in news releases, MD&A, marketing materials, investor presentations and websites. Disclosure of specific and relevant material factors or assumptions underlying FLI continued to be an area of challenge for Issuers over the past year. Disclosure of material factors and assumptions underlying the FLI is necessary for investors to understand how actual results may vary from FLI. We remind Issuers that assumptions should be entity-specific, reasonable, relevant, and quantified whenever possible. Issuers must also disclose the material risk factors that could cause actual results to differ materially from the FLI.

The following is an example of insufficient disclosure and how such disclosures could be improved:

Disclosure that would **not** meet our expectations:

FLI not clearly identified. Lack of material factors and assumptions

We estimate that our new Product Alpha, when completed, could be priced at over $100 per unit, resulting in additional annual revenue of over $100 million next year.

Improved disclosure that would **meet** our expectations:

Identification of FLI

We estimate that our new Product Alpha, when completed, could be priced at over $100 per unit, resulting in additional annual revenue of over $100 million next year. This statement represents forward looking information. Readers are cautioned that actual results or trends may vary significantly. The discussion of our expectations is based upon the assumptions and subject to the material risks discussed under the heading "Forward-Looking Information."

Using census data[1] the Company has estimated the customer base across the adult population ages 20-34 (the target market for Product Alpha) to be approximately 8 million people. The current market for similar products is $1 billion[1] with projected growth estimates ranging from $1 billion to $2 billion[1] as more technologically advanced products enter the market.

One comparable product, Product X, is sold for $120 per unit (Source: link to source), however it is only sold in certain luxury marketplaces whereas we expect to position Product Alpha as a non-luxury, mid-market option.

Continued on next page

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We believe that sales volume of 1 million units can be achieved by the Company next year, based on the current capacity of the manufacturing facility together with the continued retail expansion and upgrades supporting our distribution network. We expect that the estimated price of $100 per unit would result in an additional $100 million in revenue earned. This would represent a market share of approximately 10% of the current $1 billion market. Management believes this is achievable based on the expected growth in the market outlined above as well as the current lack of a mid-market product option.[1]

Disclosure of material factors and assumptions

The Company's achievement of this sales target will depend on our ability to finalize product development by December 31, 2023, which is expected to cost an additional $50 million that will be funded from the Company's existing working capital. The Company is also dependent upon the receipt of certain regulatory approvals, the status of which is X. Finally, the Company must finalize agreements with major retailer X, the current status of which is X.

Material risk factors that may impact FLI

[1] Include references to source publications for information derived from third parties.

II) Disclaimers regarding FLI

Staff have observed instances of Reporting Issuers disclaiming the reliability of FLI and/or including a statement that the Reporting Issuer undertakes no obligation to update the FLI. We remind Reporting Issuers that section 4A of NI 51-102 requires a Reporting Issuer to have a reasonable basis for any FLI it discloses and to identify material risk factors that could cause actual results to differ materially from the FLI. It is not sufficient for a Reporting Issuer to simply disclaim the reliability of the FLI using boiler-plate language. Once a Reporting Issuer has determined that previously disclosed FLI is no longer reliable, the Reporting Issuer should withdraw the FLI in accordance with subsection 5.8(5) of NI 51-102. In addition, under subsection 5.8(2) of NI 51-102, Reporting Issuers are required to (i) update previously disclosed FLI when events or circumstances are reasonably likely to cause actual results to differ materially from the previously disclosed FLI (including expected differences) and (ii) include a comparison of actual results to any previously disclosed financial outlook.

III) Non-GAAP and other financial measures

NI 52-112 was issued in 2021 to replace the guidance in CSA Staff Notice 52-306 (Revised) Non-GAAP Financial Measures. The goal of NI 52-112 is to improve the quality of information provided to investors for six different categories of measures, being historical NGFMs, forward-looking NGFMs, non-GAAP ratios, capital management measures, total of segments measures and supplementary financial measures (as each are now defined in NI 52-112).

During our CD reviews conducted during the year, Staff observed deficiencies with certain requirements, including those related to NGFM being provided in earnings releases as well as disclosure requirements related to supplementary financial measures.

The following are examples of insufficient disclosure and how such disclosures could be improved:

Example 1 – Earnings releases

Staff have observed the following deficiencies in earnings releases:

- Instances where NGFMs are given more prominence than the most directly comparable financial measure disclosed in the primary financial statements.
- Instances where the related quantitative reconciliations have been inappropriately omitted (while quantitative reconciliation can often be incorporated by reference, this is not permitted for disclosure in an earnings release as noted in Section 5(4) of NI 52-112).
- Instances where disclosures which are permitted to be incorporated by reference have not been incorporated correctly (e.g., by not providing a statement that the information

has been incorporated by reference and indicating where the incorporated information can be found - see the requirements in Section 5(2) of NI 52-112).

Disclosure that would **not** meet our expectations:

NGFM given more prominence than most directly comparable financial measure

No quantitative reconciliations

Excerpt from news release:
ABC Corporation Announces Second Quarter EBITDA of $2 million

Toronto, Ontario (August X, 2023) – Strong growth continued in the second quarter with EBITDA of $2 million (prior year - $1 million) and Adjusted EBITDA of $5 million (prior year - $2 million).

Improved disclosure that would **meet** our expectations:

Most directly comparable financial measure given more prominence than NGFM

ABC Corporation Announces Second Quarter Net Income of $0.1 million (EBITDA of $2 million)
Toronto, Ontario (August X, 2023) – Strong growth continued in the second quarter with net income of $0.1 million (prior year – net loss of $0.5 million), EBITDA of $2 million (prior year - $1 million) and Adjusted EBITDA of $5 million (prior year - $1 million).

Identification of NGFM

EBITDA and Adjusted EBITDA are non-GAAP financial measures that are not standardized under the financial reporting framework used to prepare our financial statements and therefore these measures may not be comparable to similar financial measures disclosed by other issuers.

Quantitative reconciliation included in earnings release

	2023	2022
Net Income	$0.1 million	($0.5 million)
Interest	$0.5 million	$0.5 million
Taxes	-	-
Depreciation	$1.4 million	$1 million
EBITDA	$2 million	$1 million
Restructuring costs	$3 million	-
Adjusted EBITDA	$5 million	$1 million

Identification of where information is found in the incorporation by reference statement

For additional information about the composition of EDITDA and Adjusted EBITDA, as well as an explanation of how it provides useful information for investors, refer to the 'non-GAAP measures' section on page 19 of our MD&A for the period ended June X, 2023* which is available on SEDAR+ at http://www.sedarplus.ca.

***** Section 5 of NI 52-112 provides that Reporting Issuers may incorporate by reference certain required information related to non-GAAP and other financial measures if the reference is to the Reporting Issuer's MD&A and subject to certain conditions. However, incorporation by reference would not be permitted if the Reporting Issuer's MD&A had not yet been filed.

Example 2 – Supplementary financial measure disclosures

Staff have noted instances where supplementary financial measures have been disclosed without providing the disclosure required by Section 11 of NI 52-112. Specifically, the name of the supplementary financial measure does not accurately describe it, and/or an explanation of the composition of the measure is not provided.

Disclosure that would **not** meet our expectations:

Name of supplementary financial measure not described

During Q2 2023, we achieved a margin of 23% which represents strong growth over the prior year.

Improved disclosure that would **meet** our expectations:

Supplementary financial measure is accurately described together with the composition of the measure

During Q2 2023, we achieved EBIT margin of 23% which represents strong growth over the prior year. EBIT margin is calculated as EBIT divided by revenue, consistent with the figures shown on the face of the statement of profit and loss.

IV) Greenwashing

The presentation of disclosure, including website disclosure, pertaining to an Issuer's ESG impact has grown rapidly in recent years.

We have observed an increase in Issuers making misleading, unsubstantiated or otherwise incomplete claims about business operations or the sustainability of a product or service being offered, conveying a false impression commonly referred to as "greenwashing". As an example of "greenwashing", an Issuer's disclosure of a target to transition to net zero can be misleading if the Issuer has no credible plan to achieve such a target.

When describing current and proposed ESG related activities, Issuers should avoid misleading promotional language and should ensure that all public disclosures, whether voluntary or required, are factual and balanced. An Issuer's ESG disclosure should be specific and should be accompanied by supporting data, reports or other factual disclosure, as applicable.

Where an Issuer is using a rating to demonstrate its ESG impact, the following should be disclosed:

- the actual rating;
- a description of the specific set of criteria on which the rating is based;
- the identity of the third party certifying the rating; and
- the date of the rating.

It is not sufficient, for example, to say that an Issuer obtained "a high score" on "a national corporate governance survey", without disclosing the actual score, the parameters on which the survey was based, the name of the third party conducting the survey and the date of the survey.

Reminder: **Where an Issuer discloses future plans to improve its operational performance in the context of ESG standards, such as to reduce greenhouse gas emissions or to obtain a carbon neutral position, the Issuer is reminded that this type of statement will typically constitute FLI. An Issuer must have a reasonable basis for FLI, identify the material risks factors that could cause actual results to differ materially, state the material factors or assumptions used to develop the FLI and describe its policies for updating the information.**

Also refer to the discussion above on Forward-Looking Information for more information.

V) Audit committees

National Instrument 52-110 *Audit Committees*

National Instrument NI 52-110 *Audit Committees* (NI 52-110), which applies to Reporting Issuers other than investment funds, issuers of asset-backed securities, designated foreign issuers, SEC foreign issuers, issuers that are subsidiary entities, exchangeable security issuers and credit support issuers,[4] contains requirements for the responsibilities, composition, authority and reporting obligations of audit committees. Specifically, we refer you to subsection 2.3(7) of NI 52-110, which requires the audit committee of a Reporting Issuer to establish procedures for the receipt, retention and treatment of complaints received by the Reporting Issuer regarding accounting, internal accounting controls, or auditing matters, and the confidential, anonymous submission by employees of the Reporting Issuer of concerns regarding questionable accounting or auditing matters.

When establishing these policies and procedures, a Reporting Issuer's audit committee must carefully consider whether such policies and procedures directly or indirectly impede a person or company's ability to communicate information about an act, internally or externally, where the person or company believes that such act may be contrary to Securities Law, or a by-law or other regulatory instrument of a recognized self-regulatory organization. We remind audit committees that subsection 121.6(4) of the Act provides that any provision in an agreement, including a confidentiality agreement, between a person or company and their employee is void if it precludes, or purports to preclude, the employee from providing information to the OSC, a recognized self-regulatory organization or a law enforcement agency about an act that the employee reasonably believes may be contrary to Securities Law, or a by-law or other regulatory instrument of a recognized self-regulatory organization. A Reporting Issuer's audit committee should also be aware that paragraph 121.6(2) of the Act prohibits any person or company from taking a reprisal against an employee because the employee sought advice about providing information, expressed the intention to provide information, or provided information to the person or company, the OSC, a recognized self-regulatory organization or a law enforcement agency, about an act an employee reasonably believes may be contrary to Securities Law, or a by-law or other regulatory instrument of a recognized self-regulatory organization.

Policies and Procedures Relating to the Receipt, Retention and Treatment of Complaints Received by an Employee of a Reporting Issuer

We have observed that some audit committees that otherwise comply with the requirements of subsection 2.3(7) of NI 52-110, by establishing audit committee charters and written codes of

[4] Please refer to section 1.2 of NI 52-110.

conduct and ethics for employees, have established policies and procedures that require an employee to communicate their concerns or complaints solely to a senior employee of the Reporting Issuer, an officer of the Reporting Issuer, or a director of the Reporting Issuer (in most cases, the chair of the audit committee) or to first receive consent from the Reporting Issuer before the employee can communicate their concerns to the OSC, a recognized self-regulatory organization or a law enforcement agency.

Staff have several concerns with this practice. As noted above, any such provision in an employee code of conduct, which code of conduct will typically form part of the employee's employment contract, may be void pursuant to subsection 121.6(4) of the Act. Further, Staff are concerned that any requirement that employees first communicate their complaints internally with, or obtain consent from, the Reporting Issuer, before the employee can communicate their concerns externally, may have a chilling effect on employee reporting. Finally, in Staff's view, any such requirement by a Reporting Issuer is contrary to the requirement in subsection 2.3(7) of NI 52-110 that the audit committee of a Reporting Issuer establish policies and procedures relating to the confidential, **anonymous** submission by employees of the Reporting Issuer of concerns regarding questionable accounting or auditing matters.

When a Reporting Issuer's audit committee is establishing policies and procedures pursuant to subsection 2.3(7) of NI 52-110, Staff expect that those policies and procedures will not directly or indirectly impede an employee's ability to communicate information about an act, internally or externally, where the employee reasonably believes that such act may be contrary to Securities Law or a by-law or other regulatory instrument of a recognized self-regulatory organization.

Policies and Procedures Relating to the Receipt, Retention and Treatment of Complaints Received by Persons or Companies other than Employees of a Reporting Issuer

We have observed that, contrary to the requirements in subsection 2.3(7) of NI 52-110, many audit committees have failed to establish any procedures for persons or companies, other than employees, to communicate their concerns regarding accounting, internal accounting controls or auditing matters to the audit committee. We have also observed in some situations, where an audit committee has established a procedure, the established procedure may be incomplete. For instance, we have seen Reporting Issuers provide guidance on their websites directing persons or companies to issue a complaint directly to an independent third-party provider. However, there is no clear explanation of where these complaints go once received by the third party, or how they are reviewed and managed by the third-party provider.

Reporting Issuers are strongly encouraged to ensure that their audit committees have established the policies and procedures required by subsection 2.3(7) of NI 52-110 and ensure

that such policies and procedures are complete, accessible to all persons and companies, and fully compliant with the Act.

CFO on audit committee

Venture Issuers are permitted to have an audit committee that is composed of a *majority* of independent directors. Staff have noted several instances where a Venture Issuer's chief financial officer (CFO) is appointed to the audit committee.

Pursuant to item 2.3 of NI 52-110, an audit committee's responsibilities include the following:

- The audit committee must review the Reporting Issuer's financial statements, MD&A and annual and interim profit or loss press releases before the Reporting Issuer publicly discloses this information.
- The audit committee must be satisfied that adequate procedures are in place for the review of the Reporting Issuer's public disclosure of financial information extracted or derived from the Reporting Issuer's financial statements, other than the public disclosure referred to above, and must periodically assess the adequacy of those procedures.
- The audit committee must establish procedures for:
    - the receipt, retention and treatment of complaints received by the Reporting Issuer regarding accounting, internal accounting controls, or auditing matters; and
    - the confidential, anonymous submission by employees of the Reporting Issuer of concerns regarding questionable accounting or auditing matters.

Given that CFOs are likely to be directly and actively involved in areas that the audit committee oversees (e.g., the preparation of materials), it is important to consider the extent of influence that the CFO may exercise over the audit committee, and the potential conflicts of interest that may arise. These concerns may be magnified where the audit committee is composed of only three members or where the CFO is the only member of the audit committee who is financially literate (as defined in item 1.6 of NI 52-110).

VI) Disclosure considerations pertaining to geopolitical events

We remind Reporting Issuers of the Staff guidance set out in the 2022 Corporate Finance Branch Report relating to Russia's invasion of Ukraine. Staff regularly monitor and assess potential risk impacts of geopolitical events and changing economic and market conditions.

Reporting Issuers that have been or could be materially impacted by any geopolitical event should provide timely, meaningful, transparent, and balanced disclosures about the impact and the uncertainties to allow investors to make informed investment decisions. Reporting Issuers should also keep apprised of ongoing changes and continually evaluate the necessity to update previously issued disclosure or to provide new disclosure.

Reporting Issuers should carefully consider whether the requirement to file a material change report has been triggered as a result of the impact of geopolitical events. While Reporting Issuers might have provided detailed operational updates via news releases, we remind Reporting Issuers that such disclosure should also be included and updated in prospectuses and CD documents, such as MD&A and AIFs.

Impact of Sanctions

On June 22, 2023, the Federal government's *Budget Implementation Act, 2023, No. 1* made significant amendments to Canada's autonomous sanctions statutes, including the *Special Economic Measures Act* (the SEMA), to clarify ownership and control rules for purposes of sanctions imposed under the SEMA (the Deemed Ownership Rules).

Issuers should continue to review their sanctions compliance policies and procedures, due diligence practices, risk assessments, operational challenges, and financial reporting considerations to ensure compliance with the new Deemed Ownership Rules under SEMA, as well as any other rules.

2. Other Ongoing Regulatory Oversight

This section of the Report provides an overview of the key findings and outcomes from other areas of ongoing regulatory oversight.

A) Financial benchmarks

On July 13, 2021, Multilateral Instrument 25-102 *Designated Benchmarks and Benchmark Administrators* (MI 25-102), which establishes a comprehensive regime for the designation and regulation of financial benchmarks and those that administer them, came into force in Ontario.

In Canada, the OSC and the AMF have designated:

- on September 15, 2021, the Canadian Dollar Offered Rate (CDOR) as a designated critical benchmark and a designated interest rate benchmark and Refinitiv Benchmark Services (UK) Limited as its designated benchmark administrator, and

- on September 15, 2023, Term CORRA as a designated interest rate benchmark and CanDeal Benchmark Administration Services Inc. as its designated benchmark administrator.

The OSC and the AMF are co-lead authorities of these designated benchmarks and designated benchmark administrators.

We conduct oversight activities on designated benchmarks, designated benchmark administrators and benchmark contributors using a risk-based approach.

B) Designated rating organizations

In April 2012, the CSA implemented a regulatory oversight regime for credit rating agencies (CRAs) through National Instrument *25-101 Designated Rating Organizations* (NI 25-101).

There are currently five CRAs that have been designated as designated rating organizations (DROs) in Canada under NI 25-101:

1. DBRS Limited
2. Fitch Ratings, Inc. (Fitch)
3. Kroll Bond Rating Agency, LLC (Kroll)
4. Moody's Canada Inc. (Moody's)
5. S&P Global Ratings Canada (S&P)

In Canada, the OSC is the principal regulator of these DROs. We conduct reviews of DROs using a risk-based approach. Our reviews focus on credit rating activities of the CRAs in Canada or in respect of Canadian Issuers.

I) Review program for Fiscal 2023

The DRO review program for Fiscal 2023 focused on the following two topics (which were selected for follow-up from earlier work done in our reviews for the 2021-2022 fiscal year):

1. a "deep dive" review of procedures used to identify deficiencies by the compliance monitoring and internal audit functions at two DROs (the Compliance Monitoring Review); and
2. a review of a sample of credit rating files for compliance with four DROs' policies and procedures on ESG factors (the ESG Review).

For the Compliance Monitoring Function Review, we noted that the two DROs have several internal controls to detect problems or issues relating to Canadian ratings and Canadian employees.

For the ESG Review, in terms of how each DRO uses ESG factors in credit ratings, we noted that two DROs assign numerical ESG scores for a rated Issuer and publicly disclose those scores. In contrast, the two other DROs focus on a consideration of ESG factors.

II) Review program for 2023-2024 fiscal year

In our DRO review program for the 2023-2024 fiscal year, we plan to focus on each DRO's practices on unsolicited ratings.

C) Syndicated mortgages

Since July 1, 2021, regulatory oversight of syndicated mortgages has been shared between the OSC and the Financial Services Regulatory Authority of Ontario (FSRA). FSRA has oversight of qualified syndicated mortgages (QSMIs) and syndicated mortgages distributed to institutional or high-net-worth investors that fall within the definition of a permitted client, by a person that is registered or licensed under the *Mortgage Brokerages, Lenders and Administrators Act, 2006*. The OSC has oversight of higher-risk, non-qualified syndicated mortgages (NQSMIs) offered to retail clients (non-permitted clients).

I) Reports of NQSMI filed with the OSC

During Fiscal 2023, based on reports of exempt distributions (on Form 45-106F1 – *Report of Exempt Distribution*) filed with the OSC, distributions of syndicated mortgages to non-permitted clients in Ontario totaled approximately $388 million. This amount is marginally less than the approximately $391 million raised through distributions of syndicated mortgages to non-permitted clients in Ontario in the previous 12 months.

The accredited investor prospectus exemption under section 73.3 of the Act continues to be the most commonly used exemption for distributions of NQSMI with the balance being completed using the minimum amount investment prospectus exemption under section 2.10 of NI 45-106 and the family, friends and business associates prospectus exemption under sections 2.5 and 2.6.1 of NI 45-106.

	Capital Raised	Number of Distributions	Number of Issuers	Number of Exempt Market Dealers
2022 Q3	$78,180,000	12	6	3
2022 Q4	$97,600,000	19	8	4
2023 Q1	$48,850,000	8	4	3
2023 Q2	$163,401,065	20	9	3
Total 12-month period	$388,031,065	59	17	4

II) Ongoing coordination between the OSC and FSRA

OSC staff and FSRA staff meet regularly to share information and market observations relating to syndicated mortgages. OSC staff and FSRA staff also cooperate and consult on compliance reviews of entities that operate within both regimes.

For example, during a recent review of QSMI transactions, FSRA staff identified that a mortgage broker had renewed a syndicated mortgage transaction with investors, including retail investors, without making the required report of exempt distribution filing (on Form 45-106F1 – *Report of Exempt Distribution*) with the OSC. In this instance, the mortgage broker incorrectly believed the mortgage renewal transaction was not a "distribution" and therefore compliance with the Act was not required. OSC staff confirmed to FSRA staff and the mortgage broker that a renewal or rollover transaction will generally be a new distribution of a new security (i.e., even if all other terms stay the same, the maturity date has changed). See the Capital Markets Tribunal decision dated January 15, 2020 Re MOAG Copper Gold Resources Inc. at paragraphs 39 to 47.

In another example of coordination between staff at the OSC and FSRA, during a review of QSMI transactions, FSRA staff identified transactions with non-permitted clients that had not been reported to the OSC. During the resulting OSC staff review, it was confirmed that:

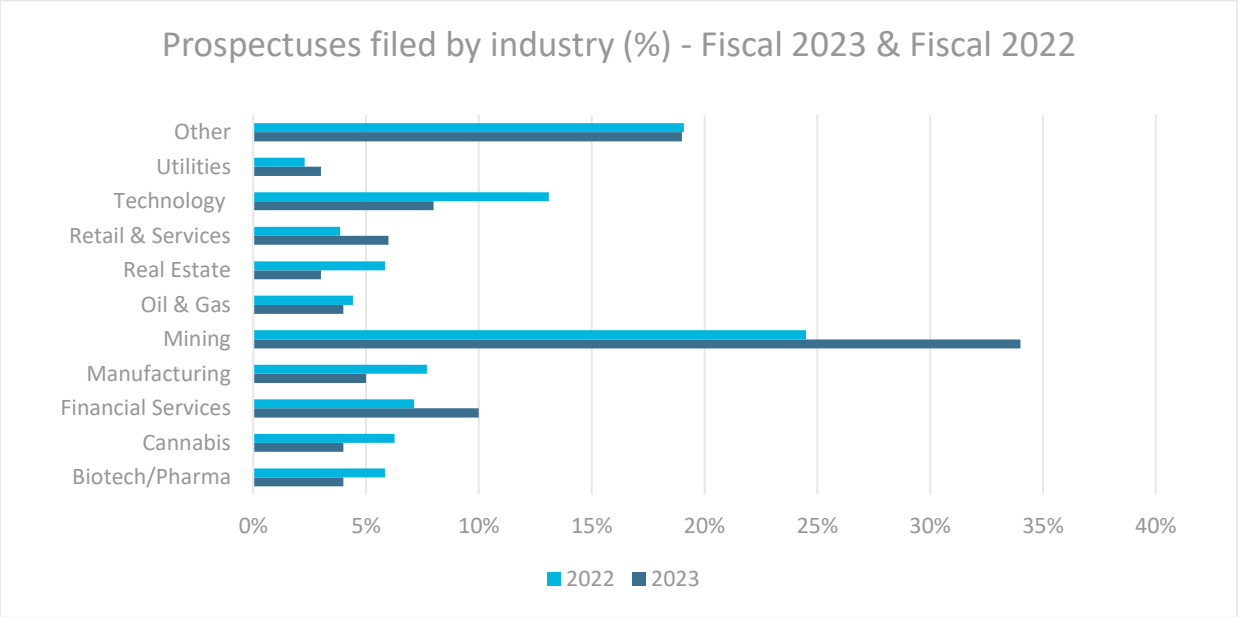
- the mortgage broker was unaware of the recent regulatory changes,
- the mortgage broker had sold to retail investors without the use of a registrant under the Act or an exemption from registration, and
- the Issuer had failed to properly report the trades to the OSC.

3. Public Offerings

Under Securities Law, to distribute securities, an Issuer must file and obtain a receipt for a prospectus or rely upon a prospectus exemption. Another key component of our compliance oversight of Issuers in Ontario's capital markets is the review of prospectuses in connection with public offerings. This section outlines data and trends with respect to public offerings and provides guidance on common issues that arise during our prospectus reviews.

In Fiscal 2023, **407** prospectuses were filed in Ontario (Fiscal 2022: 702). These filings covered a wide range of industries with mining, financial services and technology being the most active sectors[5] based on the number of offerings.

[5] "Other" includes sectors such as communications, cryptocurrency, environmental, gaming, hospitality, SPACs and CPCs and transportation.



A) Trends and guidance

Fiscal 2023 was a tumultuous year for the economy and financial markets, driven by high inflation and escalating interest rates. In response to tightening economic conditions, capital market activities declined significantly in Fiscal 2023, evidenced by lower prospectus filings as compared with Fiscal 2022.

Key takeaways from our reviews of prospectuses in Fiscal 2023 are set out below.

> Tip: The guidance in this section also applies to prospectus-level disclosure included in an information circular in connection with a proposed significant acquisition or a restructuring transaction as required by section 14.2 of Form 51-102F5 *Information Circular*.

I) Prospectus filing – procedural matters

The following summary provides reminders to Issuers and their advisors about certain procedural matters pertaining to prospectus filings. We also remind readers that previous annual Branch reports also contain important and relevant information about prospectus filings.

Issue	Best Practice
Third party information	Staff have identified several instances of Issuers including a statement in a prospectus disclaiming responsibility for information derived from third parties and contained in the prospectus. Staff will object to these disclaimers and remind Issuers that they are liable for any misrepresentation in a prospectus, even if the misrepresentation is contained in information from a third party.
Legal representation	Staff strongly encourage Issuers to be represented by securities law counsel during a prospectus filing, which extends to telephone calls and written correspondence with Staff, so that any concerns raised by Staff are understood and adequately addressed.
Prospectus pre-filing vs inquiries	If you are an Issuer or an investor and have a question, complaint or tip, the best way to bring this to our attention is to get in touch with our Inquiries and Contact Centre staff who will redirect your inquiry within the OSC. Issuers and their counsel should also confirm in the inquiry if Ontario is principal regulator for the Issuer. Our Inquiries and Contact Centre Staff can be reached by email at inquiries@osc.gov.on.ca or toll-free at 1-877-785-1555. Please see our Service Commitment with respect to inquiries for which we are principal regulator. Issuers are reminded that matters which are complex, raise new policy issues, require the interpretation of securities law or its application to a particular matter, may require pre-filing or filing an application pursuant to NP 11-202, NP 11-203 or other applicable instruments.
Comfort letter requirements	Issuers filing a preliminary prospectus that is accompanied by an unsigned auditor's report must file a comfort letter (Letter) signed by the auditor and addressed to the applicable securities regulatory authorities where the prospectus is being filed under section 9.1(b)(iii) of NI-41-101 or section 4.1(b)(ii) of NI 44-101. The Letter must be prepared in accordance with the relevant standards in the Handbook of the Chartered Professional Accountants of Canada, specifically, paragraph A38 of Section 7150 *Auditor's Consent to the Use of a Report of the Auditor Included in an Offering Document*. The Letter provides comfort on the financial statements

Issue	Best Practice
	and informs the regulatory authorities that the audit has been substantially completed, except for the following matters: • consideration of events between the dates of the preliminary and final prospectuses; • review of comments issued by securities regulators; • authorization of the financial statements by those charged with governance; and • reading of the final prospectus. The auditor comfort letter must be **signed**, **dated** and must **not include other qualifications** outside of the four qualifications above.
Material developments during course of review	During the course of an application or prospectus offering, an Issuer may experience material changes, updates to material facts or changes to its continuous disclosure requirements. Examples of this include, the early filing of financial statements, restatements of a continuous disclosure document, changes to the business including changes of officers and directors, entry into or amended material contracts and commencing a strategic review process. This list is not exhaustive. To facilitate an efficient review, Issuers and filing counsel should advise review Staff of any anticipated, pending or actual changes that may impact Staff's reviews.

II) Filing of non-offering prospectus

While there are various paths to going public, including raising proceeds in an IPO, we have noted an increase in the number of non-offering prospectuses being filed. A non-offering prospectus is subject to the same requirements as an offering prospectus and serves as the basis for the Issuer's CD record. Accordingly, it should be prepared to the same standard as any other prospectus. We have noticed an increase in the filing of incomplete or poorly prepared preliminary non-offering prospectuses, which can lead to unnecessary and lengthy delays and the requirement to amend or withdraw and refile the prospectus. To assist Issuers and their advisors in ensuring a smooth regulatory review process, we have highlighted below some tips and reminders to assist Issuers and their advisors in preparing a non-offering prospectus and during the corresponding regulatory review. While these are areas where mistakes are

commonly made in connection with non-offering prospectuses, they also occur in relation to other long form prospectus filings.

- ✓ We encourage Issuers to engage external counsel and other advisors early in the process. Working with experienced securities professionals will allow for a more efficient prospectus review.
- ✓ Ensure that the correct financial statements are included in the prospectus. When in doubt, consult with Staff by filing a confidential prospectus pre-file application.

Issue	Non-Venture Issuers	IPO Venture Issuers
Financial statement requirements	✓ 3 years of audited financial statements ✓ MD&A (Non-Venture Issuer)	✓ 2 years of audited financial statements ✓ MD&A (IPO Venture Issuers)
Assurance requirements	✓ Annual FS for all years presented must be audited ✓ Interim FS for all periods presented must be reviewed	✓ Annual FS for all years presented must be audited ✓ Interim FS for all periods presented must be reviewed
Timing of inclusion of financial statements in prospectus	✓ Deadline for inclusion of annual financial statements – 90 days ✓ Deadline for inclusion of interim financial statements – 45 days	✓ Deadline for inclusion of annual financial statements – 90 days ✓ Deadline for inclusion of interim financial statements – 45 days

Tip: IPO Venture Issuer vs Venture Issuer

The extended deadlines applicable to Venture Issuers ***do not apply*** to IPO Venture Issuers or to RTO acquirers.

Refer to the definition of "IPO Venture Issuer" in NI 41-101.

- ✓ Ensure the annual and interim MD&As include **transparent, balanced and entity-specific discussion** of the financial performance, operations and financial condition of the Issuer. Issuers that do not have significant projects generating revenue, should include a description of the overall plan for the project, the status of the project relative

to that plan, expenditures made to date and how those expenditures related to the overall anticipated costs of the project in accordance with Item 1.4(d) of Form 51-102F1. Refer to the Management Discussion & Analysis section of this Report and to past annual Branch reports and CSA CD Staff Notices for our expectations relating to some common MD&A deficiencies.

- ✓ Ensure the prospectus includes **adequate** and **entity-specific information** about the **business** of the Issuer. Issuers that file non-offering prospectuses often have businesses that are in the preliminary stage, with little or no operations or revenues and largely based upon a business plan.
    - Provide sufficient disclosure of the Issuer's current and anticipated business and operations.
    - Describe clearly the Issuer's products and services, if any, and anticipated streams of revenue.
    - Describe clearly the specific milestones in the Issuer's business plans and describe the steps and associated costs required to achieve those milestones. Identify the anticipated timing of completion of the various stages in the business plan.

  Refer below for more tips and guidance on describing the Issuer's business.

- ✓ In discussing **future** or **anticipated business plans**, **avoid** using **overly-promotional language** that is not based on the Issuer's current stage of development. Issuers should not make false, misleading, or unsupported statements or omit facts from a statement necessary to make that statement true or not misleading. For example,
    - Do not make statements that an Issuer is the largest or leader of its industry/market unless they are supported by objective data that provide the Issuer with a reasonable basis on which to conclude that the statement is accurate.
    - Do not disclose FLI and long-range projections reflecting revenue, growth, and market share assumptions that appear speculative in comparison to the size and scope of the Issuer's current business plans.
    - Do not make assertions about growth of markets or demand for a product that are not supported.

- ✓ Ensure the **Board** and **Audit Committee** meet the **independence requirements**. A majority independent audit committee (Venture Issuers) or fully independent audit

committee (non-Venture Issuers) must be in place at the time of filing the final prospectus.

- ✓ Available Sources and Uses of Funds / Sufficiency of Proceeds
    - **Clearly disclose the sources of available funds**. This may include working capital (as at the most recent month end), and total other funds available to be used to achieve the principal capital-raising purposes identified in the prospectus. Note that these other sources of funds must be "guaranteed" and not amounts expected at a later time without sufficient support. Staff may not consider these amounts to be part of the available sources.
    - **Avoid boilerplate language** when describing **uses of proceeds** (for example, avoid the term "for general corporate purposes"). The principal purposes of the available funds should be described, in reasonable detail, using tabular form, with approximate amounts for each item. The description of the uses of available funds should correspond to the various business objectives and milestones that the Issuer expects to accomplish using those amounts. Refer to Item 6 in Form 41-101F1 for disclosure expectations.
    - Ensure that the Issuer has **sufficient resources** to accomplish the Issuer's stated objective and to continue operations for a period of a **minimum of 12 months**. If there are concerns over financial condition/sufficiency of proceeds, it may affect Staff's ability to recommend that a receipt be issued for the prospectus in accordance with subsection 61(2) of the Act.
- ✓ Should the Issuer have operations in an emerging market, ensure that the prospectus includes the **appropriate emerging market disclosure** in accordance with the guidance set out in OSC Staff Notice 51-719 *Emerging Markets Issuer Review* (OSC SN 51-719) and OSC Staff Notice 51-720 *Issuer Guide for Operating in Emerging Markets* (OSC SN 51-720).
- ✓ Ensure **consistency** in representations and statements made both within the prospectus and with disclosures made by the Issuer elsewhere, including investor presentations, website, marketing materials, etc.
- ✓ Ensure that any and all **material contracts** are **appropriately identified** and **listed** in the prospectus to be filed with the final.
- ✓ Ensure all **Personal Information Forms** for all current and incoming directors and officers are **submitted** with the preliminary prospectus.

- ✓ Remember that **conditional approval** from the respective **exchange** is **required** prior to getting cleared for final. Staff may also request correspondence with the exchange.
- ✓ Where the prospectus qualifies the distribution of common shares to be issued on exercise of special warrants, arrange for any dealers involved to be identified as underwriters, and to sign an underwriter's certificate, in the prospectus. Please see subsection 2.8(2) of Companion Policy 41-101CP *General Prospectus Requirements* for more information.

III) Description of business

Where the business of the Issuer is in the early stages of development, and the business has little or no operations or revenues, we find that Issuers often do not provide sufficient detail on the business itself and/or its business plan. This trend is particularly prevalent among Issuers completing CPC[6] qualifying transactions and reverse takeover transactions. In order to comply with the requirements in Item 5 of Form 41-101F1, the disclosure in the prospectus of an Issuer's business and/or business plan must be entity-specific and clear. Issuers should consider including this information in one section (rather than dispersed throughout the prospectus). This is important for investors to be able to clearly understand the business and/or business plan of the Issuer.

We also encourage Issuers to segregate their disclosures about the business into two parts: (i) the current business of the Issuer, describing the Issuer's current operations, if any, and stage of product/service development, and (ii) future business plans of the Issuer, describing the Issuer's anticipated business plans and milestones, including any applicable research and development.

[6] CPC means a capital pool company as such term is defined in TSXV Policy 2.4 Capital Pool Companies.

In discussing current business and future business plans, Issuers should provide disclosure on at least all the following:

Current business

- description of the product/service currently provided,
- markets in which the products/services are being offered,
- regulatory framework applicable to those products/services,
- licenses and permits obtained,
- agreements/partnerships in place with individuals and/or entities to conduct the current business (such as distribution, manufacturing, construction, research and development (R&D) agreements),

Future business plans

- identification of specific milestones in the issuer's business plans,
- for each milestone, a description of the steps and associated costs required to complete it or to take it to the next stage,
- identification of the anticipated timing of completion or timing to achieve the various stages in the business plan,
- regulatory framework applicable to these anticipated operations,
- discussion of material risk and uncertainties regarding these plans,
- if an R&D program is part of the anticipated operations, a discussion of the various stages of R&D, regulatory approvals required to achieve the objectives of the program, the activities completed to date, costs incurred to date and timing and costs anticipated to achieve the next stage.

Where business plans are preliminary in nature and there are no binding agreements, or where an Issuer currently has not commenced its execution of such plans, these facts should also be clearly disclosed in the prospectus.

In discussing future or anticipated business plans, Issuers should avoid using overly promotional language that is not based on the Issuer's current stage of development. For example, phrases such as "the largest of its type", "best in the market", or "leader in the field" should be supported by objective data that provides the Issuer with a reasonable basis on which to conclude that the statement is accurate.

In addition, Issuers should avoid disclosing FLI and long-range projections reflecting revenue, growth, and market share assumptions that appear speculative in comparison to the size and scope of the Issuer's current business plans. For example, without further information, it would appear speculative for an Issuer to forecast production targets of 50,000 units and sales of $10

million by 2024, when the production facilities have not been built. FLI must be supported by material factors and assumptions or removed from the disclosure as it may be misleading.

Further information on FLI is included throughout this Report.

IV) Promoter

The determination of whether a person or company is a promoter can be a material issue that causes delays in receipting a prospectus and closing an offering.

What factors should be considered when identifying promoters?

A promoter is defined in subsection 1(1) of the Act as a person or company who, directly or indirectly: (a) either alone or in conjunction with others, takes the initiative in founding, organizing or substantially reorganizing the business of an Issuer; or (b) receives, in consideration for services or property (or a combination of services and property) and in connection with the founding, organizing or substantial reorganizing of the business of an Issuer, 10% or more of any class of securities of the Issuer or 10% or more of the proceeds of the sale of any class of securities. The definition excludes a person or company that receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property if they do not otherwise take part in founding, organizing, or substantially reorganizing the business of the Issuer.

The Ontario Court of Appeal decision in *Goldsmith* v. *National Bank of Canada*[7] considered the definition of promoter under the Act and what it means to "take the initiative" in founding, organizing or substantially reorganizing the business of an Issuer. In that case, the court held that promoters are "people and companies who exercise meaningful control over a reporting issuer's business", "[play] a driving role in founding the issuer" and "[wield] influence comparable to that of an officer and director". The court further held that "[m]erely being involved in organizing or reorganizing a business […] even if that involves important services or support" is not sufficient for promoter status and that "one must be an 'active participant', a 'driving force' behind the organization, or at the 'very heart of the issuer and the organization'".

In practice, the determination of whether a person or company is a promoter of an Issuer under clause (a) of the definition of "promoter" is highly fact-specific and depends on the role of the person or company in founding, organizing or reorganizing the Issuer and, in particular, on the level of control and influence exerted by that person or company over the Issuer. In making this assessment, Staff consider factors such as:

[7] *Goldsmith* v. *National Bank of Canada*, 2016 ONCA 22.

- the voting securities of the Issuer held by the person or company;
- the existence of other securityholders who exert legal or de facto control over the Issuer;
- in the case of an individual, whether the individual sits on the Issuer's board of directors;
- the existence of any director nomination rights;
- whether the person or company is party to a shareholder or similar agreement conferring on them other special rights, such as registration rights or pre-emptive rights;
- the size and composition of the Issuer's board of directors;
- in the case of an individual, whether the individual is an executive officer of the Issuer;
- the role of the person or company in developing or acquiring the Issuer's primary business and negotiating key agreements;
- the role of the person or company in organizing and effecting the public offering;
- whether the person or company received a significant number of founders' shares; and
- whether the person or company prepared, or was responsible for, any disclosure in the Issuer's prospectus.

This list is not exhaustive and Staff may consider other factors when determining whether a person or company is a promoter, including the substance of a person or company's relationship with the Issuer.

When does promoter status end?

While Securities Law is silent on how and when promoter status ends, subsection 58(6) of the Act permits the Director to require a person or company who was a promoter of an Issuer within the two preceding years to sign a prospectus certificate, suggesting that promoter status can end. In Staff's view, whether a promoter of an Issuer has ceased to be a promoter needs to be determined on a case-by-case basis and is contingent on a change in the particular facts and circumstances of the promoter's relationship with the Issuer. Generally, when assessing whether a person or company has ceased to be a promoter of an Issuer, Staff will consider the factors listed above to determine whether the relationship of the person or company to the Issuer has changed sufficiently to establish that the person or company is no longer a promoter of the Issuer. In Staff's view, the passage of time since the organization or reorganization of the Issuer is not, absent other factors, sufficient to establish that promoter status has ceased. Staff articulated this view in OSC Staff Notice 51-725 *Corporate Finance Branch 2014-2015 Annual Report*, OSC Staff Notice 51-730 *Corporate Finance Branch 2019 Annual Report* and OSC Staff Notice 51-731 *Corporate Finance Branch 2020 Annual Report*.

The following examples illustrate the fact-specific nature of the analysis.

Example 1

In the case of a Reporting Issuer that was formed by a spin-out transaction three years ago, where the former parent company was identified as a promoter at the time of the spin-out transaction, Staff would generally take the position that the former parent company remains a promoter if it continues to hold a controlling position in the Reporting Issuer's outstanding voting securities, or if it continues to hold director nomination rights or other special shareholder rights with respect to the Reporting Issuer.

Example 2

In the case of an Issuer that was founded 20 years ago by Person A, where Person A continues to act as the Issuer's chief executive officer, is a member of the board of directors and holds a significant number of the Issuer's outstanding voting securities, Staff would generally take the position that Person A remains a promoter of the Issuer.

Example 3

In the case of an Issuer that was founded 20 years ago by Person B, where Person B holds under 10% of the outstanding voting securities, is not a member of management, nor a member of the board of directors, and does not have any director nomination or other special shareholder rights, Staff would generally take the position that Person B is no longer a promoter of the Issuer.

In light of the fact-specific determination involved, we encourage Reporting Issuers and their counsel to engage with Staff as soon as the Reporting Issuer believes that a person or company has ceased to be a promoter, if there is any ambiguity in that determination, rather than waiting until the issue is raised on the review of a subsequent prospectus. As a best practice, once a Reporting Issuer determines that a person or company has ceased to be a promoter, Staff encourage the Reporting Issuer to indicate this change in its subsequent prospectus and, if applicable, annual information form, clearly describing the basis on which the Reporting Issuer has made its determination.

The application of the confidential pre-file process to the determination of promoter status

Subsection 58(5) of the Act provides that, if the Director consents (a Director's Consent), a promoter is not required to certify a prospectus. Historically, the Director has provided a Director's Consent when Staff and an Issuer disagree on promoter status and the person or company is signing the prospectus and assuming liability for a misrepresentation in the prospectus in another capacity. While Staff will assess each application for a Director's Consent

on a case-by-case basis when determining whether to recommend the relief, we recognize the shortcomings of providing the requested relief. In Staff's experience, the use of a Director's Consent is inefficient as it (i) requires the payment of application fees by the Issuer, (ii) consumes Issuer and Staff resources, and (iii) leaves the issue unresolved for continuous disclosure obligations, subsequent offerings and potential secondary market civil liability. We encourage Issuers undertaking a public offering to seek a confidential pre-file assessment of promoter status, using the process outlined in CSA Staff Notice 43-310 *Confidential Pre-File Review of Prospectuses (for non-investment fund issuers)*.

Staff remind Issuers that a Director's Consent, is limited to the prospectus for which the application was made. The granting of a Director's Consent is not determinative of the question of whether a promoter relationship exists. To the extent that a promoter has not ceased to be a promoter of a Reporting Issuer, all other obligations associated with having a promoter continue to apply. These obligations include the identification by the Reporting Issuer of any promoters in its annual information form, along with the disclosure indicated by Item 11 of Form 51-102F2 Annual Information Form.

V) Common at-the-market short form base shelf prospectus issues

The following table describes common issues that Staff have identified in preliminary base shelf prospectuses that qualify at-the-market distributions.

Feature	Issue	Solution
Base shelf prospectus qualifies ATM offerings and secondary offerings	Any distribution by a selling securityholder in connection with an ATM distribution under the prospectus will require exemptive relief, which would be considered novel and require consultation with the CSA.	If applicable, Reporting Issuers should specify in the prospectus that selling securityholders will not sell their securities in ATM distributions.
Base shelf prospectus qualifies the distribution of equity and non-equity securities	The definition of an "at-the-market distribution" in NI 44-102 only applies to equity securities (which is defined in NI 41-101).	Reporting Issuers should specify in the prospectus the specific equity securities that may be subject to an ATM distribution.

Feature	Issue	Solution
Base shelf prospectus qualifies ATM offerings and other primary distributions	An ATM issuer certificate form under subsection 9.5(1) of NI 44-102 should only be included in a base shelf prospectus if the base shelf prospectus is exclusively qualifying ATM distributions.	For base shelf prospectuses that qualify distributions other than ATM distributions, Reporting Issuers should comply with Item 8 of section 5.5 of NI 44-102 and the certificate requirements under Appendix A or Appendix B of NI 44-102 for the other types of distributions under the base.

VI) Prospectus lapse date

Under NI 41-101, an Issuer must not file its first amendment to a preliminary prospectus more than 90 days after the date of the receipt for the preliminary prospectus and must not file a final prospectus more than 90 days after the date of the receipt for the preliminary prospectus or an amendment to the preliminary prospectus. In addition, the final prospectus must be filed within 180 days from the date of the receipt for the preliminary prospectus.

Issuers are reminded to track the number of days that have passed since the date of the receipt of a preliminary prospectus and to file an amendment to a preliminary prospectus if it does not anticipate filing the final prospectus within 90 days of the date of the receipt for the preliminary prospectus or amendment to the preliminary prospectus. Issuers are encouraged to provide Staff with sufficient notice in advance of the lapse date to indicate their intentions with respect to the preliminary prospectus.

***Reminder**: To avoid withdrawing a preliminary prospectus, an Issuer must*

- ***file the final prospectus or an amendment to the preliminary prospectus within 90 days of the date of receipt of the preliminary prospectus, and***
- ***file the final prospectus within 180 days of the date of the receipt of the preliminary prospectus.***

If an Issuer elects to withdraw the prospectus or the prospectus lapses, Issuers are reminded to file a Notice of Withdrawal on SEDAR+ and advise Staff when completed so that SEDAR+ may be updated accordingly.

VII) Well-known seasoned issuers

On March 28, 2023, the OSC made, as a rule under the Act, OSC Rule 44-502 *Extension to Ontario Instrument 44-501 Certain Prospectus Requirements for Well-known Seasoned Issuers* (the Rule), which came into force on July 5, 2023. The Rule extends the blanket relief issued on December 6, 2021 to create a temporary well-known seasoned issuer (WKSI) regime in Canada and allows qualifying WKSIs to file a final base shelf prospectus with the OSC and obtain a receipt for that prospectus on an accelerated basis without first filing a preliminary base shelf prospectus. As of September 30, 2023, 58 Reporting Issuers have filed 63 WKSI base shelf prospectuses with Ontario acting as the principal regulator.

Please refer to 2022 Corporate Finance Branch Report for FAQs regarding base shelf prospectus filing matters in the WKSI context.

Exemptive relief applications in the context of WKSI base shelf prospectus filings

An exemption from the provisions of Securities Legislation sought in connection with the filing of a base shelf prospectus filed under Ontario Instrument 44-501 *Certain Prospectus Requirements for Well-known Seasoned Issuers* (a WKSI Base Shelf Prospectus) may only be evidenced by a decision to that effect, issued following a formal application for exemptive relief. A receipt for a WKSI Base Shelf Prospectus will not evidence the granting of an exemption as WKSI Base Shelf Prospectuses are not subject to normal-course Staff review prior to the issuance of a receipt.

VIII) Confidential prospectus pre-file review

In March 2020, Staff began accepting confidentially pre-filed prospectuses for review. We did so to provide Issuers with greater flexibility and more certainty in planning prospectus offerings, and to encourage continued capital formation during the pandemic.[8] On January 28, 2021, Staff issued a press release providing best practice guidance for confidential pre-file prospectuses. Since March 2020, we have reviewed 103 confidentially pre-filed prospectuses.

For tips and expectations on the confidential prospectus pre-files and the corresponding reviews, please refer to the information in the 2022 Corporate Finance Branch Report.

4. Exemptive Relief Applications

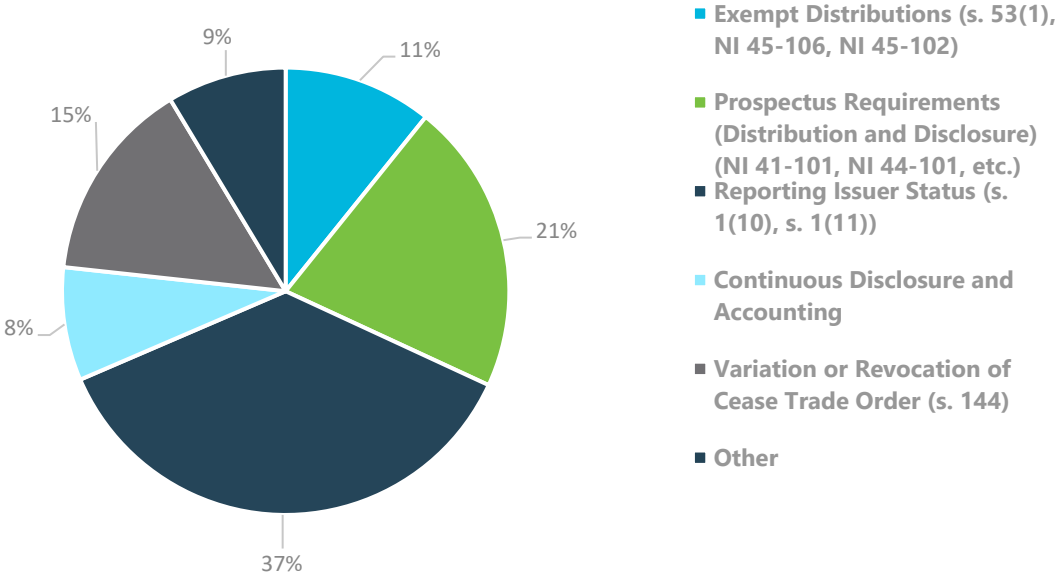
Staff review and make recommendations to appropriate decision makers on applications for exemptive relief. The review standard for granting relief varies, but it generally requires a decision maker to determine that granting the requested relief would not be prejudicial to the

[8] See CSA Staff Notice 43-310 *Confidential Pre-file Review of Prospectuses* (for non-investment fund Issuers).

public interest. For further information about the process for exemptive relief applications, please refer to NP 11-203.

In Fiscal 2023, we completed reviews of **232** applications for exemptive relief from various Securities Law requirements, 19% lower than Fiscal 2022.

Exemptive Relief Applications by Type – Fiscal 2023



A) Trends and guidance

The number of applications decreased in Fiscal 2023 compared with Fiscal 2022, with the majority of applications made in connection with relief from certain prospectus requirements and Reporting Issuer status. These two types of applications for relief have remained the most common. We will continue to monitor the types of applications we receive and the exemptive relief granted to determine whether we should consider changes to our rules or policies. Key takeaways from our exemptive relief work in Fiscal 2023 are set out below.[9]

[9] Prior OSC orders and exemptive relief decisions can be found on the OSC website or on CanLII at https://canlii.org/en/on/onsec/.

I) Threshold issues and best practices

The following is a summary of certain threshold issues and best practices to consider when submitting an application for exemptive relief. This is not an exhaustive list.

Issue	Best Practice
Principal regulator	For passport applications for exemptive relief, confirm the Issuer's principal regulator prior to submitting the application. The criteria for determining an Issuer's principal regulator are set out in section 3.6 of NP 11-203. If a passport application is submitted to a regulator that is not the Issuer's principal regulator, it will be required to be re-submitted to the Issuer's principal regulator, which will delay the review of the application. Similarly, for dual applications for exemptive relief, confirm the Issuer's principal regulator prior to submitting the application. Dual applications for exemptive relief must be submitted to the Issuer's principal regulator and to the OSC.
Requests for confidentiality	A filer requesting that the regulators hold an application and supporting materials in confidence during the application review process should provide a substantive reason for the request in the application. A filer requesting that the regulators hold the application, supporting materials and decision in confidence after the effective date of the decision should describe the request for confidentiality separately in its application and pay any required fee. Staff will generally not recommend that an application, supporting materials and decision be held in confidence beyond completion of the related transaction or beyond 90 days from the date of the decision. Any request for confidentiality should explain why the request is reasonable in the circumstances and not prejudicial to the public interest, and when any decision granting confidentiality could expire. Please see section 5.4 of NP 11-203.
Precedent decisions	An application for exemptive relief should include the name(s) of any precedent decisions granting similar relief. If there are no precedent

Issue	Best Practice
	decisions granting similar relief, the relief may be considered novel and require consultation with the CSA, extending the application review process.
Draft decision document	Filers are reminded to include a draft form of decision with any application for exemptive relief. The draft form of decision should include: (i) a representation that the filer and other relevant party are not in default of securities legislation in any jurisdiction or, if the filer or other relevant party is in default, the nature of the default; and (ii) resale restrictions, if applicable, based on the securities legislation and securities directions of the principal jurisdiction. The draft form of decision should be submitted in an easily editable format (and not, for example, in PDF format) to facilitate Staff's review.
Application for revocation of a cease trade order – fees	A filer submitting an application for the revocation of a cease trade order will be required to pay all outstanding fees to each CSA regulator in whose jurisdiction the filer is a Reporting Issuer. Outstanding fees generally include, where applicable, all activity and participation fees, and late filing fees. Depending on how long the cease trade order has been in effect, and whether the Reporting Issuer filed documents in a timely manner, the amount of outstanding fees can be considerable. Before submitting an application, the filer should contact each relevant CSA regulator to confirm the fees that will be payable. *Late Document Fees for Participation Fee Forms* In Ontario, pursuant to former OSC Rule 13-502 *Fees*, late document filing fees of $100 per day (to a maximum of $5,000 per calendar year) are due for the late filing of participation fee forms that were due before April 3, 2023. However, pursuant to new OSC Rule 13-502 *Fees*, which came into force on April 3, 2023, late document fees will not be charged for the late filing of participation fee forms due on or after April 2, 2023.

5. Insider Reporting

For further information about the insider reporting compliance program, refer to Appendix A of this Report. Further guidance on insider reporting can be found in the 2022 Corporate Finance Branch Report and on the OSC's website.

A) Insider reporting FAQs

I) When do I need to file my insider reports on SEDI?

- If you beneficially own (or have, or share, direct or indirect control or direction over) securities or related financial instruments of a SEDI issuer, **within 10 calendar days** of first becoming an insider required by Securities Law to file insider reports,
- If you are already a reporting insider of a SEDI issuer, **within five calendar days** of:
  - the date of any change in your ownership of, or control or direction over, securities of the SEDI issuer; and
  - the date of any change in your interest in, or right or obligation associated with, a related financial instrument involving a security of the SEDI issuer.

II) How does an issuer, that is an insider, report transactions under a normal course issuer bid?

Under NI 55-104, a Reporting Issuer can report acquisitions in connection with normal course issuer bids (as defined in NI 55-104) within 10 calendar days of the end of the month in which the acquisitions occurred, as opposed to within five calendar days of the transaction. NI 55-104 requires you to report each acquisition.

We recommend that you report transactions under a normal course issuer bid within 10 calendar days of the end of the month, in the following manner.

Step 1:

Report each acquisition of securities that took place under the normal course issuer bid as a separate transaction, with the appropriate nature of transaction code 38 - *Redemption/retraction/cancellation/repurchase*.

Step 2:

Report each cancellation of securities acquired under the normal course issuer bid as a separate transaction using the relevant nature of transaction code 38 – *Redemption/retraction/cancellation/repurchase.*

Staff have observed that many filers are using code 10 – Acquisition or disposition in the public market instead of code 38 – Redemption/retraction/cancellation/repurchase.

III) How do I report a change in the exercise price of options (repricing of options)?

When options are repriced, report two transactions:

- a disposition for the cancellation of options (code 38)
- an acquisition for the grant of new options with the new exercise price (code 50)
- the "general remarks" field can be utilized to indicate additional information relating to the repricing of the options.

IV) If I am no longer a reporting insider, what do I have to do on SEDI?

Generally, you no longer need to file insider reports in respect of securities you hold in the Issuer once you have ceased to be an insider, provided that you have reported all transactions that took place while you were an insider. **However, you must record the date you ceased to be an insider in SEDI by amending your Insider Profile.**

V) How do I report a change of ownership?

To amend an Ownership Type and/or Registered Holder:

1. click **Amend holder**
2. Select **ownership type and registered holder** screen opens.
3. Select appropriate option (direct, indirect, control or direction)

VI) What is the benefit of filing an issuer grant report?

If a Reporting Issuer files an issuer grant report within five calendar days of a grant, award or issue of securities or related financial instruments, the reporting insiders named in the issuer grant report can report the grant on a deferred basis. Instead of reporting the grant within the usual five-calendar day reporting timeframe, the reporting insiders have until March 31 of the next calendar year to report the grant or award.

Staff have observed that Reporting Issuers are, in many cases, not taking advantage of this extended timeline by filing an issuer grant report.

6. Administrative Matters

A) Filing and delivering documents to the OSC

Certain applications for exemptive relief, and pre-files, are required to be filed through SEDAR+. In general, an application filed by an Issuer will likely be required to be filed through SEDAR+, including an application that includes a request for relief from the prospectus requirement even if other types of relief are also requested. For specifics of which applications are required to be filed through SEDAR+, a filer should refer to NI 13-103.

The application will be made public on SEDAR+ after a decision has been issued, subject to any request for confidentiality that was granted.

Issuers that are not Reporting Issuers are generally required to file or deliver documents to the OSC through SEDAR+, unless there is an available exemption from the requirements in NI 13-103.

An Issuer that was previously a "foreign issuer (SEDAR)" under NI 13-101 must file its continuous disclosure filings through SEDAR+ as there is no similar exception in NI 13-103.

Reminder: Each time an Issuer transmits a document through SEDAR+, it should ensure the information in its SEDAR+ profile is accurate. Issuers must update their SEDAR+ profile within 10 days after information becomes inaccurate or, if earlier, at the next time they transmit a document through SEDAR+.

B) Submitting participation fee forms on SEDAR+

Under OSC Rule 13-502 *Fees*, if a Reporting Issuer files its annual financial statements before they are due, the participation fee must also be paid on the same date. If the participation fee is not paid at the same time the annual financial statements are filed, late fees will be applied starting from the date that the annual financial statements were filed.

The process of submitting participation fee forms has been updated. Now, participation fee forms are web forms directly integrated into SEDAR+.

Once a Reporting Issuer has finalized the submission of its annual financial statements in SEDAR+, the confirmation page will present a 'Create participation fee form' link. This link will be visible solely if the recipient agency is Ontario and/or Alberta, on the 'Filing and contact details' page. Alternatively, a Reporting Issuer can directly choose 'Create Participation fee form' from the 'Annual' sub-menu located under the Continuous Disclosure sub-menu.

Specifically, participation fee forms are only required for Alberta and Ontario. If a Reporting Issuer is filing in both of these jurisdictions, it will only need to input the information once, and the information will automatically appear on both forms. It is important to accurately enter the previous financial year. The fees due will be calculated by SEDAR+ upon submission. Subsequently, SEDAR+ will generate a PDF version of the participation fee form, which will be publicly accessible under the "Documents" section of the Issuer's profile.

Additionally, it is important to note that filers cannot revise or maintain a previously submitted participation fee form. Instead, a filer should initiate a new filing and re-enter the necessary information. To avoid repaying the fees, filers can request a fee exception code. Alternatively, if a filer chooses to repay the fees, the filer can later request a refund by sending an email to finrepnotifications@osc.gov.on.ca. However, **Staff encourage filers to request an exception code in this circumstance**.

For participation fee underpayments, an outstanding fee entry will be created in SEDAR+.

Important Links

SEDAR+ landing page: https://www.sedarplus.ca/landingpage/

FAQs about CD filings: https://www.sedarplus.ca/onlinehelp/filings/continuous-disclosure-filings/

FAQS about fees: https://www.sedarplus.ca/onlinehelp/fees-payments-and-refunds/faqs-about-fees/

C) SEDAR+ failed electronic funds transfers (EFTs) and outstanding fees in multiple jurisdictions

In situations involving failed Electronic Funds Transfers (EFTs) in SEDAR+ across multiple jurisdictions, a coordinated process has been established to ensure a smooth resolution regarding outstanding regulatory fees and system fees.

- **Notification From CSA Service Desk**: In the event of a rejected payment, the CSA Service Desk (CSA SD) will send a notification to the filer. This notification will provide details about outstanding regulatory fees for each recipient agency and the applicable system fee.
- **Centralized Communication**: The OSC will not contact the filer separately regarding outstanding fees. To streamline communication, the CSA SD's notification will be the single point of contact with the filer.

- **Action Within 48 Hours**: For any rejected payment, each applicable recipient agency will create an outstanding fee within 48 hours. The CSA SD will also create an outstanding system fee, if relevant.
- **Timely Notification**: Shortly after the outstanding fees have been created, an email will be sent by the CSA SD to the filer. This email will confirm that recipient agencies have created outstanding fees, including the system fee, if applicable.

In cases where the failed EFT is exclusive to the OSC or an outstanding fee has not been paid to the OSC, the OSC will contact the filer directly.

D) Requesting SEDAR+ fee exception codes for multiple jurisdictions

When seeking one-time fee exception codes from multiple jurisdictions for a single filing, filers are advised to contact the CSA SD to obtain the necessary fee exception codes. The CSA SD will facilitate coordination with the relevant jurisdictions and provide the required exception codes in a consolidated email.

In the subject line of the email to the CSA SD, indicate: "Request for SEDAR+ regulatory fee exception code - <Enter impacted filing type>" In the email body, include the following information:

- Issuer name
- Profile number
- Filing number
- Filer contact name
- Filer contact email address
- List of jurisdictions requiring a fee exception code
- Reason for needing the fee exception code

If the request is approved, the CSA SD will respond with fee exception codes for each jurisdiction requested.

In cases where fee exception codes are exclusive to the OSC the filer should email the OSC directly.

E) Filing annual financial statements under the offering memorandum exemption

Issuers that rely on the offering memorandum prospectus exemption in Ontario are subject to ongoing obligations as outlined in section 2.9 of NI 45-106. Generally, under subsection 2.9(17.5) of NI 45-106, Issuers must deliver annual financial statements (AFS) to the securities regulatory authority within 120 days after the end of each financial year. The AFS are required to be audited and prepared according to International Financial Reporting Standards (IFRS). The

AFS must be accompanied by a notice detailing the use of proceeds raised under the exemption in accordance with Form 45-106F16 *Notice of Use of Proceeds*. For more information, refer to subsections 2.9(17.5) to (17.19) of NI 45-106. Both the AFS and Notice of Use of Proceeds must be filed on SEDAR+. To file the AFS, use the filing category "Exempt Market Offerings" with the filing type as "Annual financial statements for non-reporting issuers." The Notice of Use of Proceeds should be filed concurrently under the same filing category with the filing type as "Notice of use of proceeds."

Please note that OSC Rule 13-502 *Fees* provides details on applicable late filing fees for AFS in Appendix G, Row A(a).

F) Prospectus filings – timing

Reminder: A preliminary prospectus, together with all accompanying materials in acceptable form, should be filed before 12:00 noon on the day that the receipt is required. If materials are filed after 12:00 noon, the receipt will generally be issued before 12:00 noon on the next business day and dated as of that day.

If Issuers anticipate filing a preliminary prospectus within a reasonable period of time after 12:00 noon (ET) (or 3:00 p.m. (ET) for a bought deal prospectus) and need a receipt issued that day, they should advise the Prospectus Review Officer by email at prospectusreviewofficer@osc.gov.on.ca and explain the reason for not filing before the applicable deadline. We will attempt to accommodate these requests but can provide no assurance that a receipt will be issued on the same day.

Where an Issuer plans to conduct an overnight marketed deal, the Issuer should: (a) advise the Prospectus Review Officer by email no later than the morning of the day on which the receipt is required (but prior to filing the materials), and (b) file all materials in acceptable form before 12:00 noon (ET) that day. In such cases, we will make reasonable efforts to issue a receipt for the preliminary prospectus at or just after 4:00 p.m. (ET) on the day of the filing.

We sometimes receive requests to issue a receipt for a preliminary prospectus at a specific time of the day. In rare circumstances, Staff may accommodate this request where the Issuer can demonstrate that there would be a material adverse consequence to the Issuer if a preliminary receipt is not issued at the specific time. The Issuer should make such a request, along with reasons in its cover letter accompanying the filing of the preliminary prospectus. The cover letter should also acknowledge that the Issuer bears the risk of the receipt being issued at a time other than the requested time. The Issuer should note that we cannot guarantee that the request will be satisfied and it is possible that the receipt will be issued at a time other than the requested time.

OSC ONTARIO SECURITIES COMMISSION

Part B: Responsive Regulation

1. Access Model

2. Continuous Disclosure Requirements

3. Listed Issuer Financing Exemption

4. Diversity

5. Climate-Related Disclosures

6. Exchanges

7. Well-known Seasoned Issuers

8. Offering Memorandum Prospectus Exemption

9. Self-Certified Investor Prospectus Exemption

10. Majority Voting Blanket Order

11. Benchmarks

12. NI 43-101 Consultation Paper

1. Access Model

On April 7, 2022, the CSA published proposed amendments to implement an access model for certain prospectuses, annual financial statements, interim financial reports and related MD&A of non-investment fund Reporting Issuers. The comment period ended on July 6, 2022 and the CSA received 29 comment letters.

Under the proposed access model, investors retain the ability to receive electronic or paper copies of these documents on request or pursuant to standing instructions. To support proper implementation of the proposed access model in Ontario, the Act was amended in the fall of 2022 to permit a document that is required to be delivered, forwarded, distributed or sent to a person or company under certain provisions of the Act to be made available in another way instead.

The feedback in respect of the proposed access model for prospectuses was generally supportive. The CSA is in the process of revising the proposed amendments to reflect certain of the comments received and to improve or clarify the access procedures. Provided all necessary approvals are obtained, final amendments to implement an access model for prospectuses, generally, are expected to be published this winter.

Following the feedback received on the proposed access model for annual financial statements, interim financial reports and related MD&A, the CSA is further considering ways to enhance the access model for these documents to address investor protection concerns, including potential negative effects on retail investors. Provided all necessary approvals are obtained, the CSA also expects to publish, for a second comment period, proposed amendments to implement an access model for annual financial statements, interim financial reports and related MD&A to allow stakeholders an opportunity to evaluate and comment on the revised proposal.

2. Continuous Disclosure Requirements

On May 20, 2021, the CSA proposed changes to modernize the CD requirements for non-investment fund Reporting Issuers. The comment period ended on September 17, 2021 and the CSA received 36 comment letters.

The proposed changes:

- streamline and clarify certain disclosure requirements in the MD&A and AIF;
- eliminate certain requirements that are redundant or no longer applicable;
- combine the financial statements, MD&A and, where applicable, AIF into one reporting document called the annual disclosure statement for annual reporting purposes, and the interim disclosure statement for interim reporting purposes;

- introduce a small number of new requirements to address gaps in disclosure.

The feedback in respect of the proposed changes to streamline and clarify annual and interim filings was generally supportive.

Together with the CSA, we believe that the goals of streamlining disclosure requirements and reducing the regulatory burden for Reporting Issuers, while maintaining strong investor protection, would be best achieved when combined with a model for electronic access to information. Therefore, we expect that any access model that is eventually adopted would apply to the proposed annual and interim disclosure statements. Until work on the access model advances, the CSA does not anticipate implementing the amendments that would introduce the annual and interim disclosure statements. Further, in deciding on the timing for implementing any of the CD modernization proposals, we will ensure Reporting Issuers are provided with sufficient time to transition to any new forms and requirements.

3. Listed Issuer Financing Exemption

On September 8, 2022, the CSA published amendments to NI 45-106 to introduce a new prospectus exemption, the listed Issuer financing exemption, that came into force on November 21, 2022. The exemption allows a Reporting Issuer to distribute freely tradeable securities of a type that trades on a Canadian stock exchange to any class of investor, primarily based on its CD record. The exemption is expected to reduce costs for Reporting Issuers raising capital through the public markets. It also allows Reporting Issuers greater access to retail investors and provides retail investors with a broader choice of investments.

The exemption is available to a Reporting Issuer that has been a Reporting Issuer for at least 12 months, is listed on a Canadian stock exchange and has filed all CD documents required under Canadian securities law. An eligible Reporting Issuer must file a short offering document to supplement and confirm the accuracy of its CD record. Under the exemption, a Reporting Issuer could raise up to the greater of $5 million or 10 per cent of its market capitalization, to a maximum of $10 million, annually. More significant transactions that could affect a Reporting Issuer's overall business will continue to require the use of a prospectus or other available prospectus exemption. In Fiscal 2023, eight Reporting Issuers used the exemption, with another ten using the exemption in the quarter ended June 30, 2023.

4. Diversity

On April 13, 2023, the CSA published CSA Notice and Request for Comment – Proposed Amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices and proposed changes to National Policy 58-201 Corporate Governance Guidelines pertaining to the director nomination process, board

renewal, and diversity (the Proposed Amendments). The Proposed Amendments contemplate disclosure on aspects of diversity beyond the representation of women while retaining the current disclosure requirements with respect to women.

During the comment period, we performed extensive stakeholder consultations related to the Proposed Amendments. Stakeholders voiced support for expanding the current disclosure requirements to also consider other underrepresented groups beyond women. Stakeholders are actively seeking information about the representation of other diverse and underrepresented groups on boards and in executive officer positions, to support their investment and voting decisions.

The main objectives of the Proposed Amendments are to:

- increase transparency about diversity, including diversity beyond women, on boards and in executive officer positions;
- provide investors with more decision-useful and comparable information that enables them to better understand how diversity ties into a Reporting Issuer's strategic decisions;
- ensure investors have the information they need to make informed investment and voting decisions;
- provide guidance to issuers on corporate governance practices pertaining to diversity.

The Proposed Amendments contain two different proposals for how these objectives may be achieved:

- Form A together with Policy A is based on a view that securities regulators should not select categories of diversity, other than women, preferring to leave to a Reporting Issuer's determination which aspects of diversity are most beneficial to that issuer in advancing its business and strategy. As a result, under Form A, Reporting Issuers are not required to disclose any representation data (beyond women) unless they choose to collect such data and therefore, under this approach, no additional diversity data may be reported.
- Form B together with Policy B contemplates mandatory reporting on the representation of five designated groups, being women, Indigenous peoples, racialized persons, persons with disabilities and LGBTQ2SI+ persons, on boards and in executive officer positions. Form B's approach is consistent with the approach followed by the *Canadian Business Corporations Act* (CBCA).
- The key difference between Form A and Form B is that Form B mandates disclosure on certain defined and historically underrepresented groups. As a result, Form B would

result in the consistent availability of representation data that would be comparable across all TSX issuers.

- Form A and Form B are generally harmonized with respect to proposed requirements on the director nomination process and Board renewal.

On October 5, 2023, findings from the ninth annual review of disclosure related to women on boards and in executive officer positions were published in CSA Multilateral Staff Notice 58-316 *Review of Disclosure Regarding Women on Boards and in Executive Officer Positions (Year 9 Report)*, together with the underlying data.

5. Climate-related disclosures

Climate-related disclosures continues to be an evolving area, with several developments both domestically and internationally, as noted below. We wish to remind Issuers in the interim that climate-related risks are a mainstream business issue. Issuers should consider these risks as part of their ongoing risk management and disclosure processes and should disclose any such risks that are material to their business. Please see CSA Staff Notice 51-358 *Reporting of Climate Change-related Risks* for more information.

On October 18, 2021, the CSA published for comment National Instrument 51-107 *Disclosure of Climate-related Matters* to address the need for more consistent and comparable climate-related information to help inform investment decisions. The comment period closed on February 16, 2022 and we received 131 comment letters in response to this consultation. On October 12, 2022, the CSA issued a news release noting that it is actively considering international developments, including the proposals published by the International Sustainability Standards Board (ISSB), established by the IFRS Foundation, and proposed rule amendments for climate-related information published by the United States Securities and Exchange Commission.

The ISSB published final versions of its first two sustainability disclosure standards on June 26, 2023: IFRS S1 *General Requirements for Disclosure of Sustainability-related Financial Information* and IFRS S2 *Climate-related Disclosures*. The Canadian Sustainability Standards Board (CSSB) also announced on June 26, 2023 that it is operational, having appointed a quorum of members. The CSA released a statement on July 5 welcoming the publication of the ISSB final standards and the operationalization of the CSSB. The statement also noted that CSA staff intend to conduct further consultations to adopt disclosure standards based on the ISSB standards, with any necessary modifications for the Canadian context.

The OSC continues to be involved with IOSCO's Sustainable Finance Task Force (STF), established in 2020 to carry out work to improve the consistency, comparability and reliability of sustainability-related disclosures. OSC staff have been involved in the work of the IOSCO STF Corporate Reporting Workstream, which assessed the ISSB standards, leading to IOSCO's

endorsement of the final ISSB standards on July 25, 2023**.** The IFRS Foundation responded to IOSCO's endorsement, also on July 25, 2023, and published a high-level roadmap providing transparency around the IFRS Foundation and ISSB's strategy to support jurisdictional adoption. This document is a precursor to an Adoption Guide for regulators, which is expected to be finalized later in 2023.

6. Exchanges

A) CSE policy amendments

Following a review by Staff and staff of the British Columbia Securities Commission (BCSC), the OSC approved significant amendments to the policies of the CSE, which have since been adopted by the CSE.

The policy amendments include provisions to: (i) introduce additional corporate governance requirements which are consistent with those of other Canadian exchanges; (ii) create a senior tier (Senior Tier) with initial and continued listing requirements in line with that of a non-venture exchange; and (iii) introduce a Special Purpose Acquisition Corporations programme and Exchange Traded Fund programme on the Senior Tier.

The amended CSE policies also clarify that CSE's Listing Statement must include the disclosure required in Form 41-101F1, and sets out the circumstances for which that disclosure requirement may be met by the incorporation of existing disclosure documents such as a prospectus or Form 51-102F5 *Information Circular*.

B) CSE Senior Tier

Reporting Issuers on the Senior Tier will be designated as "NV Issuers" and identified as such on CSE's website. Existing CSE-listed Reporting Issuers will be designated as NV Issuers if they meet specific qualifications and consent to being listed on the Senior Tier.

Although the intent of the CSE is for the Senior Tier to be a non-venture tier, NV Issuers, by virtue of the definition of Venture Issuer in NI 51-102, will be Venture Issuers until the definition is amended to exclude NV Issuers from the definition.

Until the definition is amended, the CSE's practice is to require NV Issuers to execute an undertaking agreeing to comply with securities legislation requirements applicable to non-Venture Issuers.

7. Well-known Seasoned Issuers

On March 28, 2023, the OSC made, as a rule under the Act, OSC Rule 44-502 *Extension to Ontario Instrument 44-501 Certain Prospectus Requirements for Well-known Seasoned Issuers* (the Rule), which came into force on July 5, 2023. The Rule extends the blanket relief issued on December 6, 2021, by Ontario Instrument 44-501 *Certain Prospectus Requirements for Well-known Seasoned Issuers* (Interim Class Order) (the OSC Blanket Order) by 18 months, until January 4, 2025.

The OSC Blanket Order allows a Reporting Issuer that meets the WKSI qualifications and certain conditions to file a final base shelf prospectus with the OSC and obtain a receipt for that prospectus on an accelerated basis without first filing a preliminary base shelf prospectus. The OSC Blanket Order was implemented as a pilot program, to provide an opportunity to evaluate the appropriateness of the eligibility criteria and identify any potential public interest concerns or operational considerations that should be addressed in future rule amendments.

On September 21, 2023, the CSA published proposed rule amendments to create a permanent WKSI regime in Canada. The proposed rule amendments would enhance the WKSI regime by removing the requirement for a receipt to be manually issued and would increase the degree of harmonization with the rules applicable in the United States. Under the proposed rule amendments, upon the filing of either a WKSI base shelf prospectus or of an amendment to a WKSI base shelf prospectus, in both cases, in compliance with all requirements, a receipt would be deemed to be issued in all jurisdictions in Canada where the prospectus has been filed. A receipt deemed to be issued for a WKSI base shelf prospectus would generally be effective for a period of 37 months from the date of its deemed issuance, subject to the requirement for the Reporting Issuer to reassess its qualification to use the WKSI regime annually.

The comment period for the proposed rule amendments closes on December 20, 2023.

8. Offering Memorandum Prospectus Exemption

On March 8, 2023, amendments to the offering memorandum (OM) prospectus exemption came into force. The amendments set out new disclosure requirements for Issuers that are engaged in "real estate activities" and Issuers that are "collective investment vehicles, when those Issuers are preparing an OM, and also include a number of general amendments, which are meant to clarify or streamline parts of NI 45-106 or improve disclosure for investors.

In addition, the amendments include an appraisal requirement for Issuers engaged in real estate activities in certain circumstances and, in Ontario, a requirement for Issuers in continuous distribution to amend their OM to include an interim financial report for the Issuer's most

recently completed six-month period unless the Issuer appends an additional certificate to the OM certifying all of the following:

- the OM does not include a misrepresentation when read as of the date of the additional certificate,
- there has been no material change in relation to the Issuer that is not disclosed in the OM, and
- the OM, when read as of the date of the additional certificate, provides a reasonable purchaser with sufficient information to make an informed investment decision.

9. Self-Certified Investor Prospectus Exemption

On October 25, 2022, the OSC published Ontario Instrument 45-507 *Self-Certified Investor Prospectus Exemption* (Interim Class Order) that introduced, on a time-limited basis, a new prospectus exemption that allows investors in Ontario who can adequately assess and understand the risk of investment and who meet certain other conditions (but who may not meet any of the accredited investor criteria or who are subject to investment limits under other prospectus exemptions) to invest in non-investment fund Issuers with a head office in Ontario.

To make use of the prospectus exemption, investors must certify that they have met at least one qualifying criteria and review and complete a risk acknowledgment form confirming they understand the risks of investing. The aggregate acquisition cost of all securities acquired by an investor, and any permitted designates, under the interim class order in a calendar year may not exceed $30,000.

Issuers must report the use of the self-certified prospectus exemption by filing reports of exempt distribution. The OSC is using this data to monitor the use of the prospectus exemption and to inform future policymaking.

10. Majority Voting Blanket Order

On January 31, 2023, the CSA published an exemption from the director election form of proxy requirement in subsection 9.4(6) of NI 51-102 for Reporting Issuers incorporated under the CBCA in respect of the uncontested election of directors. The CSA implemented the relief through CSA Blanket Order 51-930 *Exemption From the Director Election Form of Proxy Requirement*.

Reporting issuers incorporated under the CBCA must send a form of proxy to shareholders when giving notice of a shareholder meeting. Before August 31, 2022, CBCA-incorporated Reporting Issuers were generally required to provide an option for shareholders to vote "for"

director candidates or to "withhold" their shares from voting. This requirement aligned with the requirement in subsection 9.4(6) of NI 51-102 that a form of proxy sent to securityholders of a Reporting Issuer provide an option for the securityholder to specify that the securities registered in the name of the securityholder must be voted or withheld from voting in respect of the election of directors.

On August 31, 2022, amendments to the CBCA and the *Canada Business Corporations Regulations, 2001* (CBCR) (the Majority Voting Amendments) came into effect that generally require "majority voting" for each candidate nominated for director in uncontested director elections of CBCA-incorporated Reporting Issuers. Pursuant to subsection 149(1) of the CBCA and subsection 54.1(2) of the CBCR, where the Majority Voting Amendments apply, the form of proxy must provide shareholders with the option to specify whether their vote is to be cast "for" or "against" each candidate nominated for director, rather than "voted" or "withheld" from voting as required by subsection 9.4(6) of NI 51-102.

Some stakeholders raised concerns about the discrepancy between these requirements in terms of voting options to be provided to shareholders of CBCA-incorporated Reporting Issuers. The blanket order aims to respond to this concern by exempting CBCA-incorporated Reporting Issuers from the requirement to specify that securities be voted or withheld from voting in respect of the election of directors, as required by subsection 9.4(6) of NI 51-102, where the Reporting Issuers comply with Majority Voting Amendments.

In Ontario, the blanket order will remain in effect until July 31, 2024, unless extended.

The CSA is considering whether future proposed amendments to subsection 9.4(6) of NI 51-102 are appropriate. Subject to obtaining all necessary approvals, any such proposed amendments would be adopted by the CSA through the normal rule-making procedures on a coordinated basis.

11. Benchmarks

A) Cessation of CDOR

On February 23, 2023, the CSA issued CSA Staff Notice 25-309 *Matters Relating to the Cessation of CDOR and Expected Cessation of Bankers' Acceptances*. The purpose of the notice was to help ensure that market participants are aware of certain developments and transition issues regarding the upcoming cessation of CDOR on June 28, 2024 and the expected related cessation of the issuance of Bankers' Acceptances (BAs). The notice:

- provided market participants with information on alternative rates, transition arrangements for new and existing instruments and fallback language, and

- encouraged market participants to make appropriate transition arrangements well in advance of the cessation date to prevent business and market disruptions.

B) Commodity benchmarks

On June 29, 2023, the CSA published final amendments to MI 25-102 to establish a regime for the designation and regulation of commodity benchmarks and those that administer them. The final amendments came into force on September 27, 2023.

12. NI 43-101 Consultation Paper

On April 14, 2022, the CSA published Consultation Paper 43-401 *Consultation on National Instrument 43-101 Standards of Disclosure for Mineral Projects* seeking comments on Canada's standards for disclosing scientific and technical information about mineral projects as the CSA considers ways to update and enhance mining disclosure requirements. The comment period closed on September 13, 2022. We received a total of 85 comment letters from various market participants, including Reporting Issuers, individuals, consulting and law firms, regulatory organizations, and advocacy groups, including groups representing Indigenous Peoples. The CSA also conducted targeted consultations with stakeholders to better inform its work. The CSA is considering the feedback received.

Part C: Resources

1. Prior Year Corporate Finance Branch Reports

2. OSC Website

3. Service Commitments

4. Key Staff Notices

5. SME Institute

6. Staff Contact Information

1. Prior Year Corporate Finance Branch Reports

Many topics discussed in previous Branch reports remain relevant. These reports continue to be valuable resources for Issuers and their advisors to consult when preparing an Issuer's continuous disclosure or prospectus.

OSC Staff Notice 51-734 *Corporate Finance Branch 2022 Annual Report*

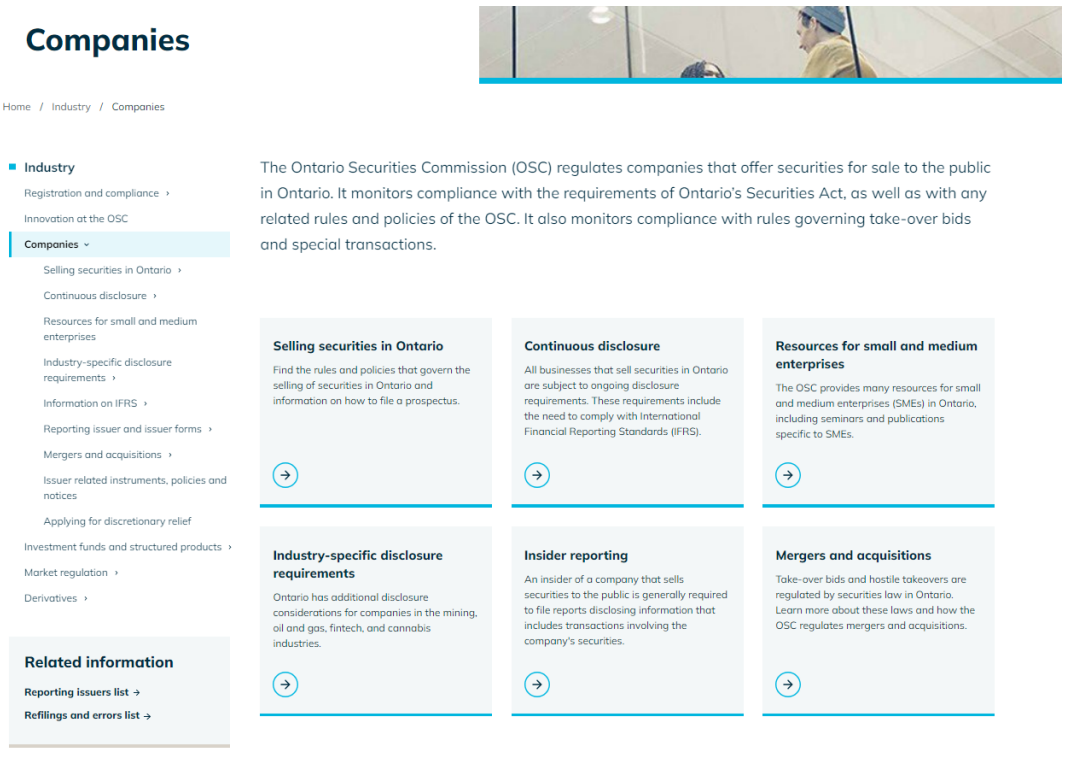
OSC Staff Notice 51-732 *Corporate Finance Branch 2021 Annual Report*

OSC Staff Notice 51-731 *Corporate Finance Branch 2020 Annual Report*

OSC Staff Notice 51-730 *Corporate Finance Branch 2019 Annual Report*

2. OSC Website

The Corporate Finance section of the OSC's website provides an outline for Issuers on how to comply with Securities Law and file certain documents with the OSC. In particular, it provides resources for selling securities in Ontario, continuous disclosure, industry-specific disclosure requirements, insider reporting, etc. Please refer to the Companies webpage on the OSC website.



3. Service Commitments

For Issuers filing a confidential pre-file prospectus, preliminary prospectus or exemptive relief application, please refer to our service commitments on the OSC website for information on our timeframes to respond to inquiries, issue comment letters and complete our reviews.

Please refer to the 2022 Corporate Finance Branch Report for additional information.

4. Key Staff Notices

A) New staff notices

Topic	Reference
Exempt Market	• OSC *Staff Notice 45-718 Ontario's Exempt Market A Review of capital raised in Ontario through prospectus exemptions*
Diversity	• *CSA Multilateral Staff Notice 58-316 – Report on Eighth Staff Review of Disclosure regarding Women on Boards and in Executive Officer Positions*
Crypto Industry	• *CSA SN 21-332 Crypto Asset Trading Platforms: Pre-Registration Undertakings-Changes to Enhance Canadian Investor Protection*

B) Previous staff notices

Topic	Reference
Prospectus Practice Directives	• CSA Staff Notice 41-307 (Revised) *Corporate Finance Prospectus Guidance – Concerns Regarding an Issuer's Financial Condition and the Sufficiency of Proceeds from a Prospectus Offering* • OSC Staff Notice 41-702 – *Prospectus Practice Directive #1 – Personal Information Forms and Other*

	Procedural Matters Regarding Preliminary Prospectus Filings • OSC Staff Notice 41-703 – *Corporate Finance Prospectus Practice Directive #2 – Exemption from Certain Prospectus Requirements to be Evidenced by a Receipt*
Pre-File Reviews	• CSA Staff Notice 43-310 – *Confidential Pre-File Review of Prospectuses (for non-investment fund issuers)* • OSC Staff Notice 43-706 – *Pre-filing Review of Mining Technical Disclosure*
Disclosure Obligations	• CSA Multilateral Staff Notice 51-364 – *Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2022 and March 31, 2021* • OSC Staff Notice 51-711 (Revised) – *Refilings and Corrections of Errors* • OSC Staff Notice 51-723 – *Report on Staff's Review of Related Party Transaction Disclosure and Guidance on Best Practices* • CSA Multilateral Staff Notice 51-361 *Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2020 and March 31, 2019*
Forward-Looking Information	• OSC Staff Notice 51-721 – *Forward-Looking Information Disclosure* • CSA Staff Notice 51-356 – *Problematic promotional activities by issuers*
Industries	• CSA Staff Notice 51-363 *Observations on Disclosure by Crypto Assets Reporting Issuers* • CSA Staff Notice 55-317 *Automatic Securities Disposition Plans*

	• CSA Staff Notice 43-307 – *Mining Technical Reports – Preliminary Economic Assessments* • CSA Staff Notice 43-309 – *Review of Website Investor Presentations by Mining Issuers* • CSA Staff Notice 43-311 – *Review of Mineral Resource Estimates in Technical Reports* • CSA Staff Notice 51-327 – *Revised Guidance on Oil and Gas Disclosure* • CSA Staff Notice 51-342 – *Staff Review of Issuers Entering Into Medical Marijuana Business Opportunities* • CSA Multilateral Staff Notice 51-349 – *Report on the Review of Investment Entities and Guide for Disclosure Improvements* • CSA Staff Notice 51-352 (Revised) – *Issuers with U.S. Marijuana-Related Activities* • CSA Staff Notice 51-357 – *Staff Review of Reporting Issuers in the Cannabis Industry* • OSC Staff Notice 51-719 – *Emerging Market Issuer Review* • OSC Staff Notice 51-720 – *Issuer Guide for Companies Operating in Emerging Markets* • OSC Staff Notice 51-722 – *Report on a Review of Mining Issuers' Management's Discussion and Analysis and Guidance* • OSC Staff Notice 51-724 – *Report on Staff's Review of REIT Distributions Disclosure*
Insider Reporting and SEDI	• OSC Staff Notice 51-726 – *Report on Staff's Review of Insider Reporting and User Guides for Insiders and Issuers*

	• CSA Staff Notice 55-316 – *Questions and Answers on Insider Reporting and the System for Electronic Disclosure by Insiders (SEDI)*
Use of the Internet and Cyber Security	• CSA Multilateral Staff Notice 51-347 – *Disclosure of cyber security risks and incidents* • CSA Staff Notice 51-348 – *Staff's Review of Social Media Used by Reporting Issuers*
Corporate Governance	• *CSA Multilateral Staff Notice 58-314 – Report on Eighth Staff Review of Disclosure regarding Women on Boards and in Executive Officer Positions* • CSA Multilateral Staff Notice 58-313 – *Report on Seventh Staff Review of Disclosure regarding Women on Boards and in Executive Officer Positions* • CSA Multilateral Staff Notice 51-359 *Corporate Governance Related Disclosure Expectations for Reporting Issuers in the Cannabis Industry*
COVID-19	• CSA Staff Notice 51-362 *Staff Review of COVID-19 Disclosures and Guide for Disclosure Improvements*

5. SME Institute

The OSC SME Institute was established to provide free educational seminars to help small and medium enterprises (SME) and their advisors understand securities regulatory requirements for being or becoming a public company in Ontario and participating in the exempt market. For more than 10 years, we have provided SMEs with various seminars ranging from raising money in the public markets and the exempt market, continuous disclosure considerations, industry-specific sessions and other seminars to assist them in meeting regulatory requirements. The resources for small and medium enterprises webpage on the OSC website provides further information.

During Fiscal 2023, Staff presented two online webinars offered through the SME Institute. The first webinar, *Hot Topics in Continuous Disclosure: What small and medium issuers need to know*, focused on preparing quality CD documentation and was intended to assist issuers in meeting

their CD reporting obligations. The second webinar, *Prospectus Filings and Exemptions: What small and medium issuers need to know*, provided an overview of the prospectus regime, including various prospectus exemptions available to SMEs to help facilitate capital raising.

Video replays of these past presentations are available on OSC's YouTube channel.

6. Staff Contact Information

Topic	Staff Contact information	
Administrative Matters including insider reporting and cease trade orders	**Eden Williams** **Manager, Regulatory Administration** ewilliams@osc.gov.on.ca 416-593-8338	**Evan Marquis** **Business Process Supervisor** emarquis@osc.gov.on.ca 416-593-2381
Corporate Finance Management Team	**Winnie Sanjoto, Director** wsanjoto@osc.gov.on.ca 416-593-8119 **Marie-France Bourret, Manager** mbourret@osc.gov.on.ca 416-593-8083 **Erin O'Donovan, Manager** eodonovan@osc.gov.on.ca 416-204-8973	**Michael Balter, Manager** mbalter@osc.gov.on.ca 416-593-3739 **Lina Creta, Manager** lcreta@osc.gov.on.ca 416-204-8963 **David Surat, Manager** dsurat@osc.gov.on.ca 416-593-8052
Mining Technical Disclosure	**Craig Waldie** **Senior Geologist** cwaldie@osc.gov.on.ca 416-593-8308	
Preliminary Prospectus Receipts	**Evelina Barsukov** **Review Officer** ebarsukov@osc.gov.on.ca	**Lorraine Greer** **Acting Lead Review Officer** lgreer@osc.gov.on.ca
If you have questions or comments about this Report, please contact:	**Winnie Sanjoto, Director** wsanjoto@osc.gov.on.ca 416-593-8119	**Marie-France Bourret, Manager** mbourret@osc.gov.on.ca 416-593-8083
	Christine Krikorian **Senior Accountant** ckrikorian@osc.gov.on.ca 416-593-2313	**Joanna Akkawi** **Senior Legal Counsel** jakkawi@osc.gov.on.ca 416-593-8054

Appendix A - Background information on Compliance Programs: CDR Program and Insider Reporting

1. CDR Program

The CSA published CSA Staff Notice 51-312 (Revised) *Harmonized Continuous Disclosure Review Program* to provide an overview of our CDR program. Below we have highlighted some of the key features of our program. Under Canadian securities law, a Reporting Issuer must provide timely and periodic CD about its business and affairs. CD includes periodic filings as well as other event-driven disclosures:

Periodic Filings	Event-Driven filings	Other
• interim and annual financial statements • MD&As • certificates of annual and interim filings • management information circulars • AIFs • technical reports	• material change reports • news releases • business acquisition reports • early warning reports	• website disclosure • investor presentations • social media

A) Objectives of the CDR program

Compliance

to **assess** whether Reporting Issuers are complying with disclosure obligations and to **identify** material disclosure deficiencies that affect the reliability and accuracy of an Issuer's disclosure record.

Issuer Education and Outreach

to **help** Reporting Issuers better **understand** disclosure obligations.

The goal of the CDR program is to improve the completeness, quality and timeliness of CD provided by Reporting Issuers. This program assesses compliance with CD requirements through a review of a Reporting Issuer's filed documents, its website and social media. This review

function is critical to facilitating fair and efficient markets, investor protection, and informed investment decision making and trading. Disclosure about a Reporting Issuer and its business is important not only when a Reporting Issuer first enters the market, but also on an ongoing basis; for example, many Reporting Issuers raise funds through short form prospectuses which incorporate CD documents by reference.

B) Types of CD reviews

In general, we conduct either a full review or an IOR of a Reporting Issuer's CD.

Full review — broad in scope and generally covering a Reporting Issuer's CD record for a period of 12-15 month.

IOR — an in-depth review focusing on a specific accounting, legal or regulatory issue that we believe warrants regulatory scrutiny.

In planning full reviews, we draw on our knowledge of Reporting Issuers and the industries in which they operate and use risk-based criteria to identify Reporting Issuers with a higher risk of deficient disclosure. The criteria are designed to identify Reporting Issuers whose disclosure is likely to be materially improved or brought into compliance with Securities Law or accounting standards as a result of our intervention. Our risk-based assessment incorporates both qualitative and quantitative factors that we review regularly to keep current with our evolving capital markets.[10] We also monitor new or novel and high growth areas of financing activity when developing our review program and consider any complaints received regarding the Reporting Issuer.

[11] A full review generally includes a review of the Issuer's most recent annual and interim financial statements and MD&As, AIF, annual reports, information circulars, news releases, material change reports, website, social media disclosure, investor presentations, and SEDI filings.

IORs are generally focused on a specific accounting, legal or regulatory issue, an emerging issue or industry or to assess compliance with a new or amended rule that recently came into force.

Conducting CD reviews helps us to

- monitor compliance with CD requirements by Reporting Issuers,
- communicate Staff interpretations and expectations on specific requirements, and identify areas of concern,
- address specific areas where there is heightened risk of investor harm,
- identify common deficiencies,
- provide industry-specific or topic-specific disclosure guidance that may assist preparers in complying with regulatory requirements, and
- assess compliance with new accounting standards and new or amended rules.

2. Insider **Reporting Compliance Program**

We review compliance of reporting insiders and Reporting Issuers with insider reporting requirements through a risk-based compliance program. We actively and regularly assist Reporting Issuers and advisors by providing guidance on filing matters. The objective of our insider reporting oversight work is twofold:

Compliance

to assess whether Reporting Issuers are complying with insider reporting obligations.

Issuer Education and Outreach

to help Reporting Issuers better understand insider reporting obligations.

Insider reporting serves a number of functions, including deterring improper insider trading based on material undisclosed information and increasing market efficiency by providing investors with information about the trading activities of insiders, and, by inference, the insiders' views of the Reporting Issuer's future prospects. Non-compliance affects the integrity, reliability, and effectiveness of the insider reporting regime, which in turn has a negative impact on market efficiency. Where we identify non-compliance, we reach out to Reporting Issuers and request remedial filings. A Reporting Issuer should make remedial filings as soon as it becomes aware of an error to accurately inform investors of its activities, and to avoid any further late filing fees.

> ***Tip:*** Staff encourage Reporting Issuers to remind their insiders regarding their SEDI filing obligations and to file reports on time to avoid late fees.
>
> Late insider reports (generally, those filed more than five calendar days after the date of the transaction) are subject to late filing fees. Late filing fees are set out in Appendix D of OSC Rule 13-502 *Fees*.

We educate Reporting Issuers through our compliance reviews and we also reach out to new Reporting Issuers directly to inform them of insider reporting obligations. We encourage Reporting Issuers to implement insider trading policies and monitor insider trading to meet best practice standards in NP 51-201.

Appendix B – Glossary

The following terms are used widely throughout the Report and have the meanings set forth below unless otherwise indicated. Words importing the singular number include the plural, and vice versa.

2022 Corporate Finance Branch Report: means OSC Staff Notice 51-734 *Corporate Finance Branch 2022 Annual Report*.
Act: means the Securities Act, R.S.O. 1990, chapter s.5.
AIF: means an annual information form as such term is defined in Form 51-102F2 *Annual Information Form*.
AMF: means the Autorité des marchés financiers.
Branch: means the Corporate Finance branch at the OSC.
CD: means the continuous disclosure obligations of a reporting issuer as set out in NI 51-102.
CDR program: means the harmonized program established in 2004 by the CSA for continuous disclosure reviews.
CSA: means the Canadian Securities Administrators.
CSE: means the Canadian Securities Exchange.
ESG: means environmental, social and governance.
Fiscal 2022: means the fiscal year ended March 31, 2022.
Fiscal 2023: means the fiscal year ended March 31, 2023.
Form 41-101F1: means Form 41-101F1 *Information Required in a Prospectus*.
Form 51-102F1: means Form 51-102F1 *Management's Discussion & Analysis*.
FLI: means forward-looking information as such term is defined in NI 51-102.
IOR: means an issue-oriented review conducted by the Branch.
IOSCO: means the International Organization of Securities Commissions.
IPO: means an initial public offering.
Issuer: means an issuer as such term is defined in the Act.
MD&A: means management's discussion and analysis as such term is defined in Form 51-102F1.
NEO: means the Neo Exchange Inc. (carrying on business as Cboe Canada).
NI 13-103: means National Instrument 13-103 *System for Electronic Document Analysis and Retrieval+ (SEDAR+)*.
NI 41-101: means National Instrument 41-101 *General Prospectus Requirements*.
NI 43-101: means National Instrument 43-101 *Standards of Disclosure for Mineral Projects*.
NI 44-101: means National Instrument 44-101 *Short Form Prospectus Distributions*.
NI 44-102: means National Instrument 44-102 *Shelf Distributions*.

NI 45-106: means National Instrument 45-106 *Prospectus Exemptions*.
NI 51-102: means National Instrument 51-102 *Continuous Disclosure Obligations*.
NI 52-112: means National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure*.
NP 11-202: means National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*.
NP 11-203: means National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions*.
NGFM: Non-GAAP Financial Measures as such term is defined in NI 52-112.
OSC: means the Ontario Securities Commission.
Report: means this 2023 annual report, published by the Branch.
Reporting Issuer: means a reporting issuer as defined in the Act.
Securities Law: means Ontario securities law as defined in the Act.
SEDAR+: means the system for the transmission of document as such term is defined in NI 13-103.
SEDI: means the system for electronic disclosure by insiders as such term is defined in National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)*.
Staff: means staff at the Branch.
TSX: means the Toronto Stock Exchange.
TSXV: means the TSX Venture Exchange.
Venture Issuer: means a venture issuer as defined in NI 51-102.