



**Remarks to the provincial Standing Committee on Government Agencies**

**David Wilson, Chair, Ontario Securities Commission**

**April 7, 2009**

Good morning, Madam Chair, members of the Standing Committee, ladies and gentlemen.

Thank you for inviting us back.

As you may recall from our previous meetings, my name is David Wilson, and I am Chair of the Ontario Securities Commission.

With me today are OSC Vice-Chairs Larry Ritchie and Jim Turner.

We welcome the opportunity to update the committee and respond to the important issues raised by stakeholders when we were last here on February 23.

We're providing the committee with a written submission but are glad to be able to speak to you directly as well. Some areas of what we'll discuss today have been noted before, but they bear repeating.

First, I would like to provide an overview of our response to the stakeholder comments, which we think can be grouped into four key areas:

1. the global financial crisis;
2. the needs of investors, especially retail investors;
3. the enforcement of securities regulation; and

4. the accountability of the OSC.

I realize that we have a lot of ground to cover today.

So I'll be as concise as possible.

Then I'll ask our Vice-Chairs to address specific issues in more detail.

We plan to speak, in total, for approximately 35 minutes.

## **1. Global Financial Crisis**

Let's begin by addressing what remains at the top of everyone's mind – the current financial crisis.

This crisis has been years in the making. But it emerged very quickly, and it has taken financial experts, economists and governments by surprise.

It'll take time and effort for the world to extricate itself from its current difficulties. As this process unfolds, governments and regulatory agencies have had to take steps to calm markets and restore stability.

The OSC has stepped up to do its part. We have responded promptly and prudently.

Since the crisis began, we have:

- Closely monitored disclosure by public companies, especially of companies that are highly leveraged or are in the critical financial services sector.
- Undertaken compliance reviews of money-market funds and non-conventional investment funds to assess potential exposure to toxic assets.
- Begun conducting compliance reviews of hedge fund managers to assess any unusual risks.

In Ontario, portfolio managers of hedge funds must register with the OSC. This is in contrast to the U.S. where most hedge fund advisers are exempt from registration.

And the OSC is participating in domestic and international initiatives on the governance, disclosure and reliability of a variety of entities in the financial markets.

For example, in October of 2008 we issued an asset-backed commercial paper (ABCP) consultation paper together with other Canadian regulators recommending that credit rating agencies be required to comply with a global code of conduct—a benchmark developed by IOSCO, the International Organization of Securities Commissions.

Jim Turner will tell you more about that in a few moments.

We continue to monitor events and remain alert to developments in the securities markets, watching for signs of improper conduct.

At this time, it's especially important to increase our vigilance to fulfill our mandate – to provide protection to investors, and to foster confidence in the integrity of the capital markets. And we continue to be confident that Ontario and Canada have a sound financial sector and sound regulatory framework.

That's backed up by a recent review by the International Monetary Fund. The IMF examined our regulatory system and concluded that it's mature, sophisticated and well-managed.

## **2. Investor Focus**

As I just mentioned, investor protection is one half of our mandate. So let me turn to that now.

We believe that good regulation protects investors.

And we believe that good regulation comes, in part, from listening to investors.

We also believe that informed investors are better equipped to protect themselves and to help us protect them.

We recognize that to serve the interests of all investors – large and small – it’s important to obtain their input on securities-related matters.

And we’re taking steps to obtain that input from both institutional and retail investors.

We’ve hosted different events to solicit the views of investors, such as an Investor Town Hall and an Investor Forum.

We also set up an Investor Advisory Committee, with a two-year mandate.

And we’ve worked with our self-regulatory colleagues – the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association – as well as with the Ombudsman for Banking Services and Investments to coordinate our efforts.

Together, we created a permanent Joint Standing Committee on Retail Investor Issues.

These are steps in a continuing process of improvement.

We recognize that we have to do more.

Yet we’re well on the way to developing better channels of communications with investors.

For example, we're considering the establishment of an Investor Secretariat within the OSC. It would identify issues of concern to investors and raise awareness of them within the OSC. It would also examine the best way to obtain retail and institutional investor input.

Vice-Chair Larry Ritchie will provide more details on these initiatives.

We recognize that the general public needs to be better educated about investing.

This has been the case for some time, but has certainly been highlighted by the current crisis.

As a result, we continue to make investor education a priority.

We're working with a variety of partners to promote investor education. These include other Canadian regulators, the SROs, the Financial Consumer Agency of Canada and the Ministry of Education.

We're also working with other Canadian regulators and the SROs to improve, for example:

- how investor complaints are handled and how disputes are resolved;
- disclosure to investors before they buy mutual funds or segregated funds; and

- registration standards for advisors and investment fund managers.

The first of these issues has drawn considerable attention.

Although significant improvements have been made, investors continue to raise concerns about complaint-handling and redress.

We're sensitive to these concerns, and we continue to explore options to compensate harmed investors.

### **3. Enforcement**

I would like now to turn to our third major issue, Enforcement.

Enforcement is a key to an effective securities regulatory system. As a result, the OSC has always made enforcement a top priority.

However, we also acknowledge – and have acknowledged for some time – that enforcement could – and should – be better in Canada.

We believe the enforcement framework in Canada is not as effective as it could be because we have too many regulatory authorities – all the provincial and territorial regulators, law enforcement and Federal and provincial justice departments.

The OSC – and the Government of Ontario – have long been on record as favouring the creation of a single national securities regulator in Canada, which we feel would enhance regulatory and criminal enforcement.

As I have said before, a single national securities regulator will not be a “silver bullet” that will solve every issue commissions now face separately.

But there can be no doubt – no doubt at all – that it would a step in the right direction.

We have welcomed the report of the Expert Panel on Securities Regulation in that spirit.

Until such a single regulator is negotiated into existence, we will continue to work within the framework we have to enforce regulation and uphold the integrity of our markets.

Indeed, we’re working with provincial and federal governments, other securities regulators, the SROs and law enforcement agencies to strengthen enforcement in Canada.

The OSC is committed to co-operating effectively within the current enforcement mosaic.

This Standing Committee, and our Minister, have asked about new tools that we could use to strengthen enforcement.

One new enforcement measure was recently enacted – an amendment that enhances our power to reciprocate enforcement orders from other jurisdictions.

We have an array of enforcement powers and tools. But as technologies improve, investment products become more sophisticated, and markets across the globe become more integrated, regulators need to keep up.

Because those who would abuse investors are also finding new ways to skirt or breach regulations.

That's why we frequently evaluate our tools and enforcement powers, to make sure they are up to the job. We're looking at new tools that we'll propose to the Minister for his consideration.

Some of these will require legislative amendments. They include:

- Creating a framework for regulatory oversight of credit rating agencies;
- Strengthening our ability to preserve assets during an investigation;
- Broadening the definition of illegal insider tipping; and
- Clarifying the OSC's jurisdiction over companies in the U.S. over-the-counter market that engage in manipulative or illegal activities aimed at Ontario investors.

We will continue to monitor our enforcement arsenal, to make sure that we have the means at our disposal to foster the integrity of our capital markets.

Enforcement has improved and we're committed to making it better.

#### **4. Accountability**

Finally, since this Committee is all about accountability, let's review accountability at the OSC.

We recognize that we must be accountable to the people of Ontario. And we are:

- To the Ontario Legislature through the Minister of Finance
- Through this Committee; and
- Through publicly available documents and filings such as the Memorandum of Understanding with the Minister, our Annual Report, Statement of Priorities and our Code of Conduct for staff and Commissioners.

The Code was revised in 2008 as part of the process to meet our obligations to comply with the Public Service of Ontario Act.

We're aligned with the Government of Ontario's commitment to strengthen accountability and transparency in the public service.

Before we propose new rules for the Minister's consideration, we undertake a careful and open process.

We invite comment from the public.

We include consultation with stakeholders.

And we complete a cost-benefit analysis.

It's an open and transparent process.

Finally, the OSC has a strong corporate governance charter. The charter outlines the roles and responsibilities of our Commissioners, the Board of Directors and committees of the Board. It also outlines the process for appointing Commissioners through the Public Appointments Secretariat.

All these measures ensure that the OSC operates in full view of the public eye.

They give the public, the legislature and stakeholders a clear understanding of the OSC.

And they ensure that the public can measure the OSC against its mandate: to provide protection for investors, and to foster fair and efficient capital markets.

Thank you for your interest and your attention.