



**“Responding to the challenges of today's capital markets”**

**Keynote Address by David Wilson**

**Chair, Ontario Securities Commission**

**Dialogue with the OSC 2007**

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**Check against delivery**

Good morning.

I'm David Wilson, Chair of the Ontario Securities Commission. I want to welcome everyone here – and also those listening to our audio webcast – to Dialogue with the OSC 2007.

To start this dialogue, someone has to speak first. That's me. Today, I'm going to tell you about the significant progress the OSC has made in pursuing the four goals that we established for the Commission earlier this year.

You will also hear from other guest speakers and panelists, and I want to thank all of them for participating. In particular, I extend a warm welcome to those of you who travelled to Toronto to participate in our conference.

Thanks to all of you for sharing your time and expertise with us.

From the OSC, we have Commissioners and staff here as well as a few new faces. This is the first Dialogue for our two new Vice-Chairs – Larry Ritchie

and Jim Turner. They were appointed earlier this year and both Jim and Larry will be moderating plenary sessions today. I also want to welcome my colleagues from other securities commissions and self-regulatory organizations.

I hope you'll find our Dialogue conference interesting and useful. We've put some timely topics on the agenda for the speakers to tackle.

But, in fact, I'm looking at some of today's most important speakers right now. You.

For any dialogue to be effective, there has to be a two-way conversation. So I encourage you to raise your questions and comments during the Q&A part of today's sessions.

To begin the Dialogue, I want to quote from a recent article in *The Economist* magazine that caught my attention:

**“No one trusts politicians. Regulators are always disliked”.**

I won't speak for the politicians but, from a regulator's viewpoint, if *The Economist* said it, it's probably true. The comment draws an interesting distinction between being trusted and being liked.

The cold truth is, it really doesn't matter if regulators are liked. What matters is whether they are trusted and respected as effective, consistent and fair.

That trust has to be earned every day. So, today I'm going to talk about the OSC's daily efforts to continue to earn the respect of investors, issuers and intermediaries.

I'll do that by telling you about some of the work we've done to accomplish the four goals of the OSC.

The OSC's organizational goals for the next five fiscal years were identified in our 2007 Statement of Priorities. They are the following:

- Goal number one: Responsive regulation – Identify the important issues and deal with them in a timely way.

- Number two: Effective compliance and enforcement – Delivering fair, vigorous and timely compliance and enforcement programs.
- Number three: Strong investor protection – Champion investor protection, especially for retail investors.
- Number four: The way we work – Support and promote a more flexible, efficient and accountable organization.

Let me start with this last goal – the way we work – because it’s absolutely fundamental to achieving the other three regulatory goals we established.

Internally, we’ve seen a lot of changes at the OSC in the past couple of years:

- Three new Commissioners;
- Two new Vice-Chairs;
- A new Executive Director, Peggy Dowdall-Logie;
- A major re-organization of regulatory functions creating four new Branches, and
- The creation of a new senior position – a special independent advisor to the Chair and Executive Director on enforcement and ethics matters.

That's a lot of change and a lot of new leadership. But I have absolutely no doubt that the OSC will function better because of it.

Externally, the Commission has taken steps toward greater transparency and accountability. For example, we published a Statement of Governance Practices to communicate how the Commission governs itself. New Rules of Procedure have also been proposed for proceedings before the Commission.

These are designed to make the Commission's adjudicative process both more transparent and accessible. The Commission is also updating its code of conduct for employees and Commissioners.

We must ensure that we not only meet – but beat – the standards set-out under the new *Public Service of Ontario Act*. This new legislation is designed to strengthen the accountability and transparency of the public service, which, of course, includes the OSC.

When it comes to accountability, the Commission bears a special burden.

We set high standards for others to comply with. We must measure up and lead by example.

That's why Commissioners, management and staff are so dedicated to fostering a culture of integrity and accountability within the organization. By becoming a better organization, we'll be a more effective and responsive regulator. Let me talk about our other three goals.

Specifically, I'll talk about the goal to identify the important issues and deal with them in a timely way.

The dynamism of the global capital markets always creates fresh challenges for securities regulators. This means that we have to identify the important new challenges coming at us.

We have to set the appropriate regulatory priorities. Then, we must respond in a timely way. Certainly, one of the biggest challenges for securities regulators right now is the crisis in the credit markets around the world.

The crisis – particularly involving products such as Asset-Backed Commercial Paper – developed rapidly and is unprecedented. There are some who say they saw it coming – but they’re fortunate to have the gift of “retrospective foresight”.

For securities regulators, what matters now is how we respond. I recently returned from a meeting of the International Organization of Securities Commissions – IOSCO – in Tokyo and the global liquidity crisis was the topic of conversation.

U.S. Securities and Exchange Commission Chairman Chris Cox spoke at the IOSCO meeting. He said that the credit crisis provides the latest example that the lesson of history is that we must learn from the lessons of history.

What he meant by this was that securities regulators must carefully determine the root causes of the crisis and take steps to prevent history from repeating itself in the future.

I agree with Chris Cox – and the OSC has been taking this approach towards the liquidity crisis. The OSC and other members of the Canadian Securities

Administrators (CSA) have been in regular contact with the Bank of Canada, the Office of the Superintendent of Financial Institutions, the federal government and market participants.

And, we're talking with credit rating agencies that do business in Canada.

Global securities regulators are carefully reviewing:

- the use of credit ratings in regulated instruments;
- the conflicts inherent in the rating process for structured products; and
- the transparency of the assets held and leverage embedded in these structured product vehicles.

We're very supportive of IOSCO's deliberate, thoughtful action to address the liquidity crisis.

As a group, regulators are reacting with a global approach to the credit crisis – but not over-reacting. Precipitous change tends only to create additional problems and unnecessary new burdens. Securities regulators around the world want to contribute to a consistent regulatory response to the biggest challenge of the day in the capital markets.

The OSC is playing its part in this global response.

That takes me to the next goal: delivering fair, vigorous and timely enforcement and compliance programs. Enforcement and compliance are not synonymous, but they're clearly related in what we call the "compliance-enforcement continuum".

That may be an awkward term, but essentially it means the full range of tools available to us as regulators to fulfill our mandate. There are internal and external facets to this continuum. Let's start with our work inside the OSC.

At one end of the continuum is compliance. That includes monitoring and surveillance of issuers and intermediaries. It also includes our oversight of the SROs – and I'll have more to say about that shortly.

In our view, encouraging compliance is the more effective way to regulate. A good example of this would be the OSC's review of marketing practices by firms registered as portfolio managers.

Quite recently, OSC staff identified a number of disclosure deficiencies in the marketing materials produced by some of these portfolio managers. As a result, we're working directly with these entities to help them understand our concerns and to ensure that deficiencies are resolved within a reasonable time.

If there's compliance with the rules, there's less need for the enforcement tools at the other end of the continuum. Think of compliance as "fire prevention", which is certainly preferable to calling for help once the building is in flames.

It's less exciting maybe. It gets fewer headlines. But it can be a more effective way to protect investors. It protects investors before they are harmed.

However, it's naïve to think that compliance will work alone, without being backed up by tough enforcement measures. There must be consequences for failing to comply with our rules.

We've been working to strengthen our capacity in enforcement, looking at ways to reduce the time it takes to complete investigations and to launch regulatory proceedings. We launched our Boiler Room Unit earlier this year. The Boiler Room Unit was created to fight scams and illegal distributions, and has already had a degree of success.

Another recent development is the creation of the position of a Special Advisor on enforcement matters, which I mentioned earlier. This new full-time position will report directly to me and the Executive Director. The job of the Special Advisor is to provide independent advice to the Chair and Executive Director on enforcement issues.

The appointment of such an advisor is entirely consistent with a key recommendation made by the Allen Committee Task Force in 2006.

We believe the Special Advisor will bring tremendous insights and expertise to our enforcement work.

Externally, we're constantly working with other regulators and criminal law agencies to identify gaps in the enforcement framework and find ways to fill

them. A good example of this cooperation is the Securities Fraud Enforcement Working Group.

I was privileged to co-chair the Working Group which was created a year ago by the Federal, Provincial and Territorial ministers responsible for justice. The 15 members were from the “front lines” of the fight against securities fraud across the country. They included representatives of securities regulators, the federal Department of Justice, provincial attorneys general, and the police.

Our focus was to suggest ways to improve the investigation and prosecution of misconduct in the capital markets in Canada. We looked at enforcement in the criminal-law context. And, rather than deliver a long shopping list of recommendations to the Ministers, we decided to focus on half a dozen areas where practical action is possible in the near term.

We delivered our core recommendations to the Ministers two weeks ago. I encourage them to take practical steps to strengthen the system of fighting fraud and other misconduct in the capital markets.

In Canada, securities fraud enforcement is especially challenging. More than 30 different separate entities are involved – from the federal justice department, provincial attorneys-general, the 13 securities regulators, to the police and the provincial and federal courts. This could charitably be called Canada’s “enforcement mosaic”.

In that context, it was clear to the Working Group that, to improve enforcement, we need to improve cooperation, coordination and consistency across jurisdictions. I’ll come back to those “3 Cs” a little later on. There are practical ways to do this.

For instance, better sharing of skilled resources among prosecutors across the country. Those scarce resources need to be put where they’re needed most at any one time. Likewise, investigators require more tools to assist them in areas such as gathering evidence.

Similarly, the way information is shared between regulators and police could – and should – be clarified. This may sound obvious. But the existing legal framework is so complex that it tends to constrain information-sharing.

The assessment of enforcement cases could be made more streamlined – with less overlap and duplication. This would get the cases to the right place at the right time. Some of our recommendations are bound to be challenging – but they would bring positive change to the way regulators and police investigate and prosecute securities fraud.

The Ministers do recognize that securities fraud causes “serious harm” to victims. They have expressed broad support for our recommendations and have asked that further work be done to examine them for analysis and implementation.

There is no good excuse that I can think of for a lack of action.

The OSC’s active participation in the Securities Fraud Enforcement Working Group is one illustration of how we’re contributing to the effort to strengthen the enforcement mosaic in Ontario and across Canada.

The importance the Working Group placed on the “Three Cs” of cooperation, coordination and consistency confirms the OSC’s longstanding

position that these three touchstones are vital to maintaining an effective and internationally-competitive regulatory regime.

The final goal I'll mention goes to a related issue at the heart of the capital markets – investor protection. Providing strong investor protection is increasingly important today because more Canadians are investors than at any other time in our history. Canadians are relying heavily on the capital markets to help them fund their retirement years.

And they're counting on us – the regulators and the securities industry – to give them confidence that the markets are fair and efficient. So I want to mention two important roles that the OSC plays in providing protection to investors.

First, we build investor protection into every new policy initiative. For example, OSC staff worked with the CSA and Joint Forum of Financial Market Regulators to propose improvements to disclosure for mutual funds and segregated funds.

The new Point of Sale framework will provide investors with meaningful information, written in plain language, when they need it most – *before* they decide to buy a fund.

The CSA has also proposed a mandatory requirement that all registrants – including those who aren't IDA or MFDA members – must participate in an independent dispute-resolution service. This would allow investors to seek compensation without having to go to court.

But the backbone of individual investor protection is the rigorous regulatory oversight of the intermediaries who deal with retail investors. This brings me to the OSC's second key role in investor protection. The OSC contributes to the CSA's oversight of the IDA and MFDA.

These two self-regulatory organizations play a vital function in the daily oversight of intermediary firms and their registered advisers. The IDA regulates 214 investment dealers and their 30,000 registered employees. The MFDA regulates 160 fund dealers and their 70,000 registered employees.

By most measures, Canada's system of self-regulation works well. We statutory regulators have delegated enormous responsibility to these two SROs.

As the delegator, we have a duty to monitor their performance with both intensity and rigour.

Let's be clear: We all have a stake in protecting investors and advancing the integrity of the capital markets. Market integrity not only contributes to the financial well-being of individuals, it fuels the competitiveness of our businesses and thereby supports the overall economy.

Ladies and gentlemen, I've talked about the four goals that we've set for ourselves over the next five years. We've already made good progress in delivering:

- Responsive regulation;
- Effective compliance and enforcement;
- Strong investor protection; and
- Organizational accountability and efficiency.

I can tell you that over the past year, Commissioners and OSC staff have pursued these goals with energy and determination.

This team is striving for constant improvement. But, of course, we have work to do.

Thank you very much.