"OSC Priorities for Today's Capital Markets"

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Good afternoon.

Thank you for coming today. I would like to begin my remarks by suggesting that there is a sea change occurring in today's financial markets, one that is making it more difficult for regulators to design and sustain quality capital markets. Today's financial environment is more complex, more sophisticated, more international in scope and more driven by technology than ever before. Expressions like "Too big to fail" and "Too fast to save" resonate and are no longer catch phrases.

This requires regulation that promotes confidence in our capital markets, is responsive to changes in the economic and business environment, and reflects the reality of today's global, competitive capital markets. But fortunately what has not changed is the dedication and commitment of OSC staff (and Commissioners) some of whom are here today.

At the OSC, our objective is to modernize the regulatory framework so as to match the realities of today's markets and maintain quality capital markets.

There is much to discuss and the OSC is at work on a large number of initiatives but I want to focus my remarks on three core areas of securities regulation, all critical to maintaining quality capital markets – capital formation, corporate governance and enforcement. Each of these areas is being transformed by both structural and behavioral changes that require securities regulators to effectively respond - or risk a decline in the quality of the markets we regulate.

1. Capital formation

The first area that I want to focus on is capital formation.

As you know, capital formation is the process by which savings are channelled into business investment, and thereby the real economy. The markets we regulate are a significant mechanism for capital formation as they allow issuers to raise funds from a large number of investors in the form of permanent equity capital or long-term debt.

Securities regulation has traditionally distinguished between the raising of capital in the more regulated public market versus the private or “exempt” market. The private market has been restricted to a smaller group of investors; those who don’t

need the same regulatory protection because they are considered sophisticated enough to understand the risks of the private market or have the ability to withstand losses.

Issuers that have wanted to access a broader range of investors have, therefore, had to comply with more costly and rigorous public company requirements.

In our view, this rigid distinction no longer reflects the developing eco-system within which issuers access capital from investors searching for alternative investment opportunities.

Therefore, a key priority for us has been to review the regulatory framework for capital raising in Ontario, especially rules that affect raising funds by start-ups and small and medium-sized enterprises (or SMEs). As part of our review, we consulted with a broad range of stakeholders – entrepreneurs, large and small investors, dealers and public companies.

We determined that our rules need to better align with the market reality of how companies actually raise capital and the growing demand by investors for greater choice in investment opportunities.

In particular, we concluded that both private and public companies would benefit from greater access to capital in the private market. There are ways to mitigate

risks for investors in the private market other than by denying them access to this market altogether.

Therefore, aligning our capital raising rules with today's market realities will help foster an integrated capital market where companies can access the capital they need at different stages of growth and development, regardless of whether they are public or private companies.

We have already witnessed innovative proposals to create market infrastructure to support capital raising and trading across the continuum from private to public markets.

We also recognize the need to regulate financial innovation in a proportionate and responsible manner. Technology and the internet have not only created new business opportunities but are also transforming the business of capital raising.

Crowdfunding is the best-known example of a relatively new capital raising method that leverages technology and the internet to allow issuers to raise small amounts of funds from a large number of investors.

Crowdfunding has the potential to lower the cost of capital for innovative start-ups and SMEs while providing investors with a risk-appropriate investment opportunity.

The key is to get the balance right.

If we over-regulate, we may end up stifling capital formation and decrease the amount of capital available for business innovation.

However, if we under-regulate, there is a risk that innovation can accelerate fraud and other types of misconduct, to the point that investors may no longer have confidence to invest through this new mechanism.

So where are we now?

Last week, we proposed new securities rules which we believe will dramatically improve the ability of businesses, especially start-ups and SMEs, to raise capital from a broader range of investors in the private and public markets without the need to comply with the detailed disclosure requirements for public financing.

First, we are making it easier for entrepreneurs to raise capital from their personal networks of family, friends and business associates.

Second, we are allowing businesses to raise capital through a streamlined disclosure document known as an offering memorandum.

Third, we are allowing public companies to raise capital in a cost-effective way from their existing shareholders based on their public disclosure record.

And finally, we are introducing crowdfunding rules that will allow businesses to raise capital from large numbers of investors through online platforms that are registered with us.

We understand there are risks in broadening access to capital in the exempt market, as such, there has to be enhanced oversight to maintain quality markets in which investors have confidence.

Our proposed rules are out for comment for 90 days and, subject to the comments we receive, we hope to have a revised regime in place in Ontario in about a year.

2. Corporate governance

The quality of our markets also depends on the governance of our public companies.

We are all familiar with the board governance changes that were adopted in the United States and Canada after the accounting scandals of the early 2000s. These reforms have improved governance practices through increased board independence and independent oversight of key board committees.

However, the corporate governance landscape has shifted and we are entering into a period of more nuanced debates about improving actual board decision-making, the proper allocation of authority between boards and shareholders, and how governance impacts the long-term value of public companies.

We have witnessed a significant change in the ownership structure of public companies with the growth of institutional investors. These investors have the ability and motivation to use their voting power to produce changes to governance practices and influence proxy contests. We have also seen increased interest in

public companies by other types of investors such as hedge funds, index funds and arbitrageurs.

These developments are changing the dynamic of the relationship between the board and its shareholders.

What challenges does this shifting corporate landscape raise for the OSC?

In our view, governance of our public companies must support the creation of long-term sustainable value. I believe that shareholder activism by institutional investors and hedge funds, together with improved board governance, can play an important role in meeting this goal.

The OSC is therefore focusing on reforms that will improve the board governance and recognize the importance of shareholder engagement in the governance of public companies. In our opinion, this would be in the long term interest of companies and investors.

First, we are moving beyond board independence and process to proposing reforms that we believe will improve board composition and decision-making. "As you know corporate governance is a means to an end not an end in itself."

In this regard, we are proposing to require boards of TSX-listed issuers to disclose information about the representation of women on their boards.
Requiring boards to disclose information in this area will encourage Boards to think more critically about their composition as well as the diversity of opinion that can foster better board and corporate decision-making.

Moreover, we are adapting our regulatory framework to reflect the impact of increased shareholder engagement and activism. I will give you three examples.

Majority voting

With respect to majority voting, the Commission actively supported the TSX's proposal to mandate majority voting for its listed issuers as we believe that directors must have the confidence of a majority of shareholders to be elected at an uncontested meeting.

Defensive tactics

I am sure you will agree that one of the most controversial issues that securities regulators have to address is the appropriate role of the directors of a target board in responding to a hostile bid.

There is a consensus that our current approach does not strike the right balance between the board and shareholders. However, there is no consensus on the best way forward.

There are some who believe that boards should be granted greater flexibility in implementing defensive measures to delay or defeat a hostile bid, subject to court oversight of board compliance with fiduciary duties. On the other hand, there are those, including the OSC, who believe that the ability of shareholders to tender into the bid is an important shareholder right and consistent with the underlying policy objectives of our take-over bid regime. Therefore, we believe any reforms would have to respect this right.

Proxy voting system

We are also working with our CSA colleagues in assessing the integrity of the proxy voting system as concerns have been raised about its accuracy and reliability. As you know, the proxy voting system is the mechanism by which shareholder voting rights are exercised at meetings and both investors and boards must have confidence in the outcome of such meetings.

We have published a discussion paper, had a productive roundtable and we are engaging market participants to collaborate on gathering relevant data on how the voting system works, identifying concerns and implementing practical solutions to address those concerns.

3. Enforcement

The final area that I would like to discuss is the work we are doing to improve the quality of our markets through robust enforcement.

We have a responsibility to protect investors and we are committed to delivering strong and effective enforcement for Ontarians.

One of my priorities when I became Chair little more than three years ago was to enhance the effectiveness of our enforcement program. Our intention is to bring cases that the public would expect us to bring. Cases that have a meaningful impact by sending a strong deterrence message to market participants.

This means that the sanctions imposed must fit the conduct. This is necessary to give investors confidence that those who do not play by the rules will not benefit from such conduct. It is also necessary to send a message to those who violate the rules that they will be prosecuted and sanctioned in a manner fitting their conduct.

In my view, we need a broader range of sanctions than those available under the tribunal process. While the tribunal can impose serious sanctions such as monetary and regulatory sanctions, we need to pursue quasi-criminal or criminal cases in the courts if incarceration is necessary to achieve deterrence.

Last year, the OSC secured a total of 63 months in jail sentences against four defendants, up from a total of 6.5 months against two defendants in 2010.

We are working in parallel with provincial and federal enforcement agencies to leverage the different skills and tools that we bring when investigating serious

violations of the law using provisions of the Ontario Securities Act or the Criminal Code of Canada.

In May, we launched the Joint Serious Offences Team or JSOT. This is a partnership between the OSC, the Ontario Provincial Police Anti-Rackets Branch and the RCMP's Financial Crime program. We have signed a Memorandum of Understanding between us and the OPP and RCMP that will form the basis of a partnership to tackle difficult and complex cases for criminal prosecution.

JSOT includes former police officers, former Crown attorneys and forensic accountants who work closely with police agencies and the Ministry of the Attorney General to bring more cases to the courts.

In less than a year, JSOT has executed approximately 20 search warrants. They have laid Criminal Code and quasi-criminal charges in 7 matters to date.

The OSC also continues to take an aggressive approach to illegal insider trading. The failure to vigorously prosecute insider trading can undermine investor confidence in the quality of our capital markets.

However, in my opinion, we are missing a key tool that would assist in more effectively enforcing prohibitions against insider trading - that is the use of wiretaps for trading and tipping offences under the Criminal Code.

Wiretaps would allow us to obtain direct evidence of the intention to engage in illegal insider trading and tipping.

We are therefore consulting with our partners at the RCMP, the OPP and the Ministry of the Attorney General to have insider trading and tipping offences included on the list for which wiretaps can be used.

My message to you on enforcement is straightforward – the strenuous enforcement of our securities law is a key component of quality capital markets and investor protection. It should be – and continues to be – a priority for the OSC.

I would like to conclude my remarks by assuring you that the OSC continues to focus on what the Supreme Court of Canada described in the *Federal Constitutional Reference* as "the day to day regulation of all aspects of trading in securities". Our proposed Statement of Priorities for 2014-2015 will be published next week and will outline in greater detail the initiatives we will be focusing on to better achieve quality capital markets.

As I mentioned in my introduction, we are trying to do this in an environment that is more complex, more sophisticated, more international in scope and more driven by technology than ever before.

You may agree with me that, the provincial nature of securities regulation in Canada is an additional challenge in regulating Canada's capital markets.

The governments of British Columbia, Ontario and the Federal government think there is a better way, a more efficient way.

I believe a more integrated, less fragmented approach to regulation, one with a single decision maker and a single set of rules, and fees can achieve better outcomes for this country than any one of us can alone. We can do better for our investors, for our businesses and our capital markets. Let's take the best of what we have and make it better.

Thank you.