Ontario

“Regulatory Focus in Turbulent Times”

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C.D. Howe Institute

September 14, 2020

Check against delivery

Good afternoon. I'd like to thank C.D. Howe for holding this discussion on the OSC's regulatory agenda, and the path forward for our capital markets at this critical time. The C.D. Howe institute has been a leading Canadian voice throughout the global pandemic. While the pandemic's full health, social and economic impacts are still unfolding, we know the path to recovery is challenging and uncertain.

For securities regulators, the pandemic underscored the need to adapt and respond to changing conditions. We were just one part of the Canadian governmental and regulatory response, which, overall, I believe has been very effective. There is, however, always a benefit in refining it and learning from the weaknesses that are revealed.

That is true of the debates about how best to get cash into the hands of businesses and individuals and providing the confidence to support spending and the supply of goods and services. It is equally true of our role in ensuring that the financial industry is well positioned to provide advice and services to investors.

At the OSC, playing our part during this crisis has been the overarching priority over the last six months. I am proud of how our staff have embraced these challenges. Among other initiatives:

1. we provided firms immediate relief from financial statement filing requirements and related disclosures;

2. we enabled fixed income funds to increase leverage to meet investors' redemption demands and provided relief from being forced to dispose of securities due to ratings downgrades;

3. we engaged with the fund industry how they would handle hardship exemptions from Deferred Sales Charges for investors with unexpected cash needs; and,

4. we addressed scams that emerged to take advantage of the heightened investor anxiety due to the pandemic.

As all this was happening, we were adjusting our regulatory agenda and implementation dates to give breathing room to industry so they could focus on meeting customer needs. All CSA jurisdictions rose to the occasion to swiftly provide coordinated relief when it was needed most.

One lesson from this process has been that providing regulatory relief helps engender confidence in our markets. The demonstrated willingness to act is as important as the actual take-up of the relief itself, provided that the terms of the relief are well-designed so take-up is a practical reality. This was always understood with Bank of Canada support programs, but it is equally true of regulatory accommodations. It helps to know that we are ready to step in.

We also have to look ahead to recovery and shape Ontario's post-pandemic economy. Our capital markets will play a critical role, and that's why we are accelerating efforts to make them more efficient and innovative. There is fierce competition for capital and the funding of new ideas, including medical discoveries and therapies. We have to help create the conditions for this deployment of resources. This is true for how we look at registrants that nurture entrepreneurship, large companies that deploy large amounts of capital, as well as small business – a sector severely hit by this crisis.

Small businesses not only account for a tremendous number of jobs, they also provide vitality to our neighborhoods. They can be fiercely independent and reluctant to take on either investors or additional debt, but when survival is at stake, we need to make the capital raising process more available and welcoming to them.

The Ontario government has provided a clear mandate to address these issues and to strengthen our capital markets. Finance Minister Phillips' establishment of the Capital Markets Modernization Task Force advanced this commitment.

Importance of Investor Protection

With all of this said, and as we work to strengthen our markets, and focus on driving innovation and economic growth, our commitment to protect investors is central. Protection is key to investor confidence; these two concepts go hand-in-hand. Investors can have confidence and will invest their hard-earned money only when they know that the system is fair, and that regulators are watching out for them. Confidence is essential, but it does not supplant the mandate for investor protection. We see misplaced investor confidence all the time when we shut down frauds.

Investor protection, on the other hand, does not mean 'no risk'. It requires disclosure and professionalism, with registrants putting the interests of their clients first, together with a strong compliance and regulatory oversight framework. We want investors who can bear the risks to support start-ups and there is a place for an allocation for risk-on assets in many portfolios.

When we provide relief for industry or engage in burden reduction, it is always with this approach to investor protection in mind, so that investors can invest in our markets with deserved confidence. This has never been more important than right now. Investors need our continued support and protection, and we are committed to this.

We also know that investors benefit from more investment choices and support for their financial goals as they recover from the impact of the pandemic. One of our goals in fostering innovation is to facilitate more options for investors, and to encourage businesses to compete on the merits of their investment opportunities and services.

Innovation in Context

In 2016, we established OSC Launchpad to take a more flexible approach toward innovative fintech firms and other startups, and to provide hands-on support to help them navigate securities laws. These companies were responding to rising demand for mobile banking products and services, and new investment options including crowd sourced investments, fractionalized interests, and digital assets. OSC Launchpad has now provided support to nearly 300 businesses.

They are at the forefront of one of the fundamental challenges in securities regulation, which involves finding the right room on the spectrum that protects investors and facilitates innovation. This is critically important and requires sound judgement by our staff from across the Commission, and across the country. Consider some of the things we've undertaken during the pandemic:

- Our enforcement report on the Quadriga crypto asset trading platform, which exposed the mechanics of a fraud that caused massive losses for thousands of investors. It was a Ponzi scheme disguised within Blockchain hype.

- Our settlement with Coinsquare, which included detailed commitments and substantial administrative sanctions for marketing themselves off fake transactions and retaliating against an employee who was trying to change course.

- On a more positive note, there is our work with Wealthsimple Crypto, in conjunction with the CSA Sandbox. We established an oversight regime for this new platform to trade digital currencies, with an interim custody solution that we were able to get comfortable with while this firm seeks full IIROC membership. We did this in a matter of weeks to enable WSC to get to market.

Innovation Office

The pandemic has reinforced the need to support innovation and to align Ontario's capital markets to nurture the new ideas that will become the seeds of economic growth. Our new Innovation Office is set up to do that. It will promote innovation broadly in our financial markets, as well as in the OSC's internal operations. It will also be responsible for driving our own modernization process and will work with our other branches to implement the burden reduction initiatives we announced last year and to identify new ones.

We intend to foster an environment that encourages the development of innovative financial products, services and new methods of transacting. That includes an effective sandbox environment providing flexibility for innovative firms to test new ideas in the marketplace. Our approach recognizes that, in order to properly support innovation, we need to take calculated risks ourselves. We can take a page from the playbook of innovative businesses ourselves in this new Office. That includes acting on the understanding that everything doesn't have to be perfect when we start.

The Office is up and running now. We intend to publish a Business Charter in the coming weeks that will outline its priorities. We want the business community to come to us for opportunities to experiment. We will also be reaching out ourselves with ideas that we judge to be ripe for innovation to express our willingness to move in these areas.

Capital Markets Modernization Task Force

Our internal efforts to support innovation are strengthened by the work of the Capital Markets Modernization Task Force, which released its report in July. We see this as an opportunity to address longstanding issues for investors and businesses.

Typically, regulatory change happens incrementally through a lengthy process involving a lot of compromise. The Task Force's review is an opportunity to break some of the logjams on key issues and move policy forward in a generational way. The OSC consulted with the Task Force and provided input on areas of potential reform. I'd like to thank the members of the Task Force for their efforts on behalf of Ontario's capital markets in a very compressed timeframe.

The comment period closed last week; from the responses that are publicly available, the extent of thoughtful commentary is impressive. Altogether, the Task Force's report contains 47 recommendations. I'll just touch on a couple of areas in my remarks today; I would be pleased to discuss any other areas in the Q&A.

SRO consolidation

One area the report addresses is the structure of Canadian Self-Regulatory Organizations, IIROC and the MFDA. As you know, the current SRO framework has been in place for quite a few years and the industry has evolved significantly since then.

The SROs have critical public interest responsibilities that require the commissions and the SROs to be part of a single ecosystem, pulling in the same direction. The Task Force aims to accomplish this through increased OSC and CSA oversight of key SRO activities. It proposes the formation of a single SRO that would ultimately cover all firms distributing products and providing advice to investors.

While the Task Force has put forward a specific proposal for comment, the CSA is at the same time conducting a broad consultation on the strengths and weaknesses of the current system. The feedback from these consultations could help to shape the new model. While these approaches differ somewhat, their goals are the same: to modernize the SRO model to better protect investors, streamline regulation, and ultimately to better serve the public interest.

Whatever the solution, it's important that we preserve the dynamism that comes with the "self" in self-regulation, and that will be a task requiring balance. I'm confident that a resolution will emerge that will serve Canadians well.

I also personally believe that this can come in well-planned steps so the early wins from this effort can be realized sooner. In any restructuring – and especially regulatory ones involving multiple bodies – there is a high risk, as we all know, of inertia harming the completion of highly impactful projects.

Strengthening OBSI

Finally, the Task Force proposes a new framework that allows the Ombudsman for Banking Services and Investments to make binding decisions and increases OBSI's compensation limits. This has been an area of focus for me in my role as Chair of the Joint Regulators Committee, which oversees OBSI. It is critical to investor confidence in the fairness of our markets that harmed investors have strong and viable options for redress.

The way it stands, when harmed investors are seeking redress, they can experience a prolonged process without a binding decision at the end. Investors, who are already distressed, can get worn down and eventually give up. Low-ball settlements based on this structure are a growing problem. I believe that this is a flaw in our system, and that investors deserve better.

We know that investor complaints have increased significantly in the current financial climate, and it's essential that the proper mechanisms are in place to address them. The Task Force recognizes this important issue.

Conclusion

In conclusion, this is a challenging and exciting time for the OSC to carry out its mission. There is transformative work underway to foster the innovation our economy needs to spur growth. As this work moves forward, the OSC is committed to implementing key investor-focused policy initiatives, including the Client Focused Reforms, which remains on schedule for full implementation by December 31, 2021.

We are continuing to provide strong market oversight, we are listening to the concerns of investors and our stakeholders, combatting investment fraud, and enhancing the protection of older and vulnerable clients.

Those dealing with the OSC, LaunchPad and the new Innovation Office will see that we are receptive and value their trust in bringing forward their hard-won ideas and business models to fit within a more adaptable regulatory system. At the same time, we won't hesitate to take enforcement action against those who disregard Ontario securities laws by manipulating markets and misleading investors in any market segment.

Finally, working with our government, we will do our part to build an economy that harnesses Ontario's strengths, including its diverse and talented workforce, and one that allows innovative companies to flourish and provides opportunities for investors to participate in their success.

I'm looking forward to your questions.