

**Canadian Securities Administrators**

**Strategic Plan 2001 - 2004**

**May, 2001**

# **BACKGROUND**

## **A. OVERVIEW**

The Canadian Securities Administrators (CSA) is a forum for Canadian Securities Regulatory Authorities to coordinate and harmonize regulation of the Canadian capital markets.

The CSA is comprised of the thirteen provincial and territorial securities regulatory authorities (SRAs) in Canada. (See Appendix A for a listing.) As an informal body, the CSA functions through meetings of Commission Chairs held at regular intervals, meetings and ad hoc interactions between Executive Directors, and working Committees, established by the Chairs and reporting to them, on issues of shared concern, matters of import, or initiatives Chairs have decided to pursue jointly. Funding and support resources are drawn from within Commission operating budgets on a voluntary basis.

The SRAs share a mandate of protecting investors from unfair, improper or fraudulent practices while fostering fair and efficient capital markets. They accomplish this through certain activities including reviewing prospectuses; monitoring continuous disclosure documents; conducting compliance reviews of registrants; granting discretionary exemptions from registration and prospectus requirements; investigating possible violations of provincial securities laws; and commencing proceedings before the Commission or applicable Provincial Courts of Justice, performed by some or all of the SRAs.

In some jurisdictions, SRAs are self-funding agencies or crown corporations. In others, they operate within Ministries of provincial governments. In addition, each SRA does some or all of the following: formulates policy; makes rules; sits as an administrative tribunal in hearings on securities-related matters; and hears appeals from decisions made by SRA staff or Self-Regulatory Organizations (SROs).

## **B. OUR MISSION**

The mission of the CSA is to give Canada a securities regulatory system that protects investors from unfair, improper or fraudulent practices and fosters fair, efficient and vibrant capital markets. We are pursuing this mission by developing the Canadian Securities Regulatory System (CSRS), a national system of harmonized securities regulation, policy and practice designed to provide effective investor protection and efficient service to market participants, while retaining the regional flexibility and innovation that characterize our system of provincial regulation.

In order to achieve this mission, we have adopted the following values and principles:

- Harmonization - establishing harmonized, and where possible, uniform rules and policies to govern the securities markets
- Mutual reliance - reliance by decision-makers in all jurisdictions on analysis and review by staff of one jurisdiction
- Streamlining - simplifying regulation by eliminating outdated instruments, closely screening proposals to create new instruments, adopting rules only where clearly necessary, reducing the complexity and level of detail in rules and policies, and using plain language in all communications and instruments
- Co-operation and sharing of information and resources
- Co-ordination of enforcement activities and initiatives
- Coordination and streamlining of the regulation of financial products, principally through the Joint Forum of Financial Market Regulators (Joint Forum), with the Canadian Council of Insurance Regulators (CCIR) and the Canadian Association of Pension Supervisory Authorities (CAPSA)
- Co-ordination of international relations with foreign regulators through the North American Securities Administrators Association (NASAA), the Council of Securities Regulators of the Americas and the International Organization of Securities Commissions (IOSCO) and through joint negotiation of cooperation agreements with foreign SRAs

## **C. OUR VISION FOR THE FUTURE**

In 2004, the CSA and its member SRAs will be, and will be seen by their constituents to be, providing:

- clear and straightforward rules that can be easily understood and applied by market participants
- one-stop regulation that allows market participants to deal with one regulatory regime,
- flexible regulation that accommodates local concerns, priorities and issues
- speedy responses to the demands of the changing, global securities marketplace
- active supervision of self-regulatory bodies
- an important "resource" for market participants who understand the value of participating in a well-regulated marketplace
- the opportunity for aware, knowledgeable investors to make informed choices, confident in the integrity of the markets we regulate
- aggressive, tenacious and fair enforcement activities that maintain investor and market confidence in, and respect for, the regulatory system
- continuous development of appropriate, internationally recognized regulatory regimes for exchanges and other marketplaces

# THE PLANNING ENVIRONMENT

## A. TRENDS

The following major trends affect the CSA's planning environment:

- **Global Integration of Markets**

The business environment is increasingly subject to global influences. Competition between markets has increased as services formerly provided locally can now be provided from any remote location — regulated to Canadian standards or not — using readily available and inexpensive technology and the Internet. The globalization of securities markets today means regulators must be constantly aware of activities in securities markets around the world and their impact on the Canadian marketplace.

- **Rapid Pace of Technological Change**

Technology is driving market innovation and facilitating the creation of increasingly more sophisticated financial products, trading techniques and strategies. Regulators must be prepared to adapt quickly to address new risks to investors and to remove outmoded restrictions.

- **Convergence of Financial Services Sectors**

The distinctions among securities, banking and insurance products and services have become blurred. Banks and insurers have broadened their ranges of activities to include products similar to securities. Financial conglomerates have used their multiple distribution channels to sell securities and other financial products. As a result the boundaries of securities regulation, and some of the traditional exemptions under securities law, must be re-examined.

- **Shift of Industry Focus from Trading to Advising**

The traditional focus of most securities firms on trading as the primary function with advising treated as incidental has been reversed. More firms are focusing on advisory and “wealth management” services. Trading services are treated as a commodity, priced at low competitive rates. The regulatory system has not kept pace with this shift in focus.

- **Increased Direct Participation of the Individual in Security Markets**

Participation by individual investors in public securities markets has increased dramatically. Discount brokers have provided easier and less expensive direct access to the securities markets for investors. The Internet gives investors greater access to a wide range of information, both within and outside the framework of required securities regulatory filings. This easier and broader access to the market and related information sources creates both opportunities and threats to investors. It increases the need for regulators to inform and educate investors so they can protect themselves in this more open environment.

## **B. CHALLENGES**

As a result of these trends, we have identified five major challenges facing the CSA in fulfilling its mandate. The challenges are:

1. Complexity of the Regulatory Regime
2. Need for More Rapid Regulatory Responses
3. Gaps in the Regulation of Investment Funds
4. Escalation in National Enforcement Issues
5. Mismatch of the Regulatory System with Changes in the Market

### **1. Complexity of the Regulatory Regime**

The Canadian regulatory framework is comprised of 13 separate statutes together with a network of rules, policies and notices, each issued on a local, multilateral or national basis. Despite significant progress in harmonization, this framework, and many individual instruments within it, can still be complicated and expensive for market participants who must comply with it. The challenge for CSA is to maintain effective investor protection while making regulation more harmonized and less complex.

### **2. Need for More Rapid Regulatory Responses**

While a great deal has been accomplished in updating regulatory standards, competing priorities can often result in significant time passing between the identification of a problem and the adoption of a regulatory solution. The challenge for the CSA is to ensure that it responds more quickly and effectively to regulatory and market issues and the rapid change that can take place in the marketplace.

### **3. Gaps in the Regulation of Investment Funds**

Continued growth and a proliferation of new products in the investment fund sector present challenges to all SRAs in effectively informing and protecting market participants. The CSA has recently updated many of the rules for mutual funds and has adopted a requirement for mutual fund dealers to join an SRO, but work is required to strengthen requirements for fund governance and oversight of fund managers. Work is also required (through the Joint Forum) to harmonize regulation of mutual funds and investment fund products sold under other regulatory regimes, such as individual variable insurance contracts (IVICs, often called “segregated funds”) and some retirement plans.

#### **4. Escalation in National Enforcement Issues**

Although technology and globalization have provided many benefits, they have also increased the speed and geographic reach of illegal and abusive market activity. The challenge for CSA is to coordinate a national response, across up to 13 jurisdictions, to the escalating number of national and international enforcement cases.

#### **5. Mismatch of the Regulatory System with the Structure of the Market**

We must update the fundamental elements of our regulatory system (registration and disclosure) to keep pace with the changes in the market. For example, the registration system has primarily focused on trading, advising being treated as incidental, when in fact advising is the key service sold by most intermediaries today while trading is becoming an incidental commodity. Similarly, disclosure regulation has focused on securities offerings while 95% of trading is in the secondary market. The challenge is to address this mismatch by shifting the focus of rules and oversight for both registrants and issuers to where most activity is today.



# **CSA STRATEGIES**

## **A. RESPONSES TO THE CHALLENGES**

In this Strategic Plan, the following five major challenges are identified:

1. Complexity of the Regulatory Regime
2. Need for More Rapid Regulatory Responses
3. Gaps in the Regulation of Investment Funds
4. Escalation in National Enforcement Issues
5. Mismatch of the Regulatory System with the Structure of the Market

The CSA has identified the following strategies to respond to these challenges and the trends existing in the planning environment today.

### **1. Complexity of the Regulatory Regime**

To reduce the complexity of the regulatory regime, the CSA plans to develop harmonized/uniform legislation, rules and policies, to streamline rules and policies and the process of making them, to use plain language and to extend the mutual reliance concept into other areas as much as possible. We have identified the following specific strategies for the upcoming planning period:

#### Harmonization:

- Develop a plan to eliminate differences in local instruments, except where they are essential, through harmonization or conversion to national instruments.
- Harmonize registration-reporting obligations.
- Harmonize continuous disclosure requirements for reporting issuers.
- Develop a national policy on escrow requirements.
- Harmonize requirements for distributions to persons outside the local jurisdiction.
- Harmonize resale restrictions.

#### Simplification:

- Develop and apply a standard to eliminate outdated CSA Notices and National Policies.
- Use plain language in all CSA communications and instruments.
- Develop drafting guidelines for CSA notices, national instruments, and national policies.
- Develop a permanent registration system.

## **2. Need for More Rapid Regulatory Responses**

We have adopted the following strategies to respond more quickly and effectively to regulatory and market issues:

- Develop a project management process to set priorities for projects and ensure that projects are completed with specific timelines and milestones.
- Establish a screening process to focus resources on the most important issues and determine the most economical and effective regulatory response to each issue, which could be any combination of rules, policies and administrative actions.
- Rely on a lead jurisdiction to pursue policy and rule-making projects on a mutual reliance basis, for example in the development of new oil and gas disclosure standards, development of a new national policy on selective disclosure and development of rules for mutual fund governance.

## **3. Gaps in the Regulation of Investment Funds**

We have identified the following solutions to meet this challenge.

- Develop an approach to mutual fund governance and regulation of mutual fund managers.
- Develop regulatory principles for capital accumulation plans (through participation in the Joint Forum).
- Harmonize regulation of mutual funds and individual variable insurance contracts (through participation in the Joint Forum).
- Update the regulation of fund of funds by developing appropriate regulatory concepts for these structures.

## **4. Escalation in National Enforcement Issues**

We plan to respond to the escalating number of national and international enforcement cases through the following projects.

- Establish investigation, settlement and hearing procedures to be followed for enforcement cases that have national impact.
- Establish criteria for determining which cases are treated as national and what form of cooperation should be followed.
- Propose revised CSA policy governing regulation of SROs initially focusing on the proposed new market regulation organization.
- Participate in a database to automate information sharing among North American enforcement agencies.
- Develop an approach to improve public access to regulators through a CSA Internet Website.

## **5. Mismatch of the Regulatory System with Changes in the Market**

We plan to address the mismatch by shifting the focus of rules and oversight for both registrants and issuers to the advising function and the secondary markets where the majority of the activity is today. Specifically, we will adopt the following strategies.

- Develop core standards for continuous disclosure review and a coordinated program of review.
- Develop common set of continuous disclosure requirements for reporting issuers.
- Develop national instrument to implement an integrated disclosure system for offerings and continuous disclosure filings.
- Develop legislation to create a civil liability regime for continuous disclosure.
- Develop a regulatory framework to allow Alternative Trading Systems (ATSs) to operate in competition with exchanges.
- Develop an approach to the shift in emphasis from trade execution to provision of advice.

## **OPERATIONAL IMPERATIVES:**

We consider the following initiatives imperative from an operational standpoint during the planning period:

- Develop a Uniform Securities Transfer Act to update the legal framework for securities holdings and transfers in Canada.
- Determine whether to allow the use of foreign GAAP and International Accounting Standards for financial reporting in Canada's capital markets.
- Develop new policy on disclosure standards for oil and gas properties.
- Develop new policy to set out standards for fair and timely disclosure.
- Develop amendments to the mutual fund sales practices rule.
- Develop the System for Electronic Data on Insiders (SEDI), an updated System for Electronic Document Analysis and Retrieval (SEDAR) and the new National Registration Database (NRD).

## APPENDIX A

### **MEMBERS OF THE CANADIAN SECURITIES ADMINISTRATORS (CSA)**

<b>PROVINCE OR TERRITORY</b> (In alphabetical order)	<b>CSA MEMBER</b>
Alberta	Alberta Securities Commission
British Columbia	British Columbia Securities Commission
Manitoba	Manitoba Securities Commission
Nova Scotia	Nova Scotia Securities Commission
Nunavut	Department of Justice, Legal Registries Division
Ontario	Ontario Securities Commission
Prince Edward Island	Department of Community Affairs and Attorney General
New Brunswick	Office of the Administrator of Securities
Newfoundland	Department of Government Services & Lands, Government of Newfoundland and Labrador
Northwest Territories	Securities Registry, Department of Justice, Government of Northwest Territories
Québec	Commission des valeurs mobilières du Québec
Saskatchewan	Saskatchewan Securities Commission
Yukon	Registrar of Securities, Government of Yukon