

National Securities Regulator Debate

**Introductory Speaking Notes for
Bill Rice, Chair
Alberta Securities Commission**

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Calgary Chamber of Commerce
Calgary, Alberta

Introductory Points:

1. Summary of Position – 3 fundamental points

- current structure and system work
- arguments made in support are not based in fact and some are misrepresentations
- detrimental to Alberta

2. Current System and structure work

- speaking with experience of 25 years as securities lawyer and 5 years as Chair of one of the four large commissions
- system has evolved in Canada under provincial jurisdiction for over 90 years
- system has continued to change and keep up with U.S. and international standards
- many changes in Alberta capital markets and in Canadian securities regulation since 1979

- do now have in Canada a national system of securities regulation
- have national system that fully recognizes and accommodates regional interests and efficiencies
- cannot think of one advantage or improvement

3. Arguments not Valid

- not saying that arguments are weak, I am saying they have no basis in fact whatsoever
- (1) - international reputation
 - Canada's is among the top few
 - only Canada has MJDS (Multi-Jurisdictional Disclosure System) with U.S.
 - (2) - lack of one voice internationally
 - head of CSA available
 - never asked
 - (3) - enforcement
 - best done locally

- as long as have necessary resources
 - problems are with investigation and prosecution of criminal fraud over which we have no jurisdiction
- (4) - systemic risk
- fiscal and monetary policies with Federal Finance and Bank of Canada
 - national securities regulator will not prevent the next asset bubble
 - cooperation and communication are important and being undertaken now under current structure
 - good cooperation and communication demonstrated through crisis
 - CSA is examining what more securities regulators might do

- do not need to change the structure if want to change rules or expand responsibilities
- (5) - cost of capital
- impacted by features of liquidity and market size, not regulatory regime
 - capital does not chase preferred regulation; but no roadblocks in Canada to investors
 - best study done indicates costs comparable to U.S. (before states) and less by half than Australia where there is national regulator
- (6) - hard on junior issues
- we have the most effective junior public market in the world
- (7) - 13 laws and 13 regulators
- not the case since 2000
 - Passport has taken the one stop shopping concept to final stage

- harmonized laws, deal with one regulator
- major advantage that the one regulator with whom deal is in participant's own jurisdiction

4. Not in Best Interests of Alberta

- market capital as at end of 2008: 43% Ontario
28% Alberta
12.5% Quebec
7% B.C.
- Negatives:
 - loss of access to decision makers
 - loss of local enforcement
 - loss of leverage in policy discussions
 - veto by federal Finance Minister of all proposed rules
 - loss of ability to innovate
 - loss of administrative efficiencies

- new layer of bureaucracy
- threat to quality of staff

Summary:

1. system works and proposed change brings not a single advantage or improvement
2. criticisms have no regard to reality and are misleading
3. proposed structure will work contrary to best interests of Alberta

Concluding Comments:

1. Canada should be proud and even boastful of a national system that truly respects regional efficiencies and interests.
2. Critics ignore the evolution of securities regulation in Canada, particularly over the past 15 years and look (a) to completely overhaul a system that has already made the necessary changes and (b) to address deficiencies that have long ago been addressed.
3. There are no improvements to Canadian securities regulation apparent from the proposed abolition of provincial securities regulators and the creation of a single federal securities regulator.
4. All identified improvements can be made within the existing structure. We can get better and we should get better.
5. Major problems acknowledged to exist in white collar criminal enforcement already fall within the responsibilities of the federal government and should

be dealt with – but they should not be confused with securities laws enforcement or used as an excuse to interfere with provincial responsibilities.

6. While I balk at giving that last word to the man now heading the Canadian Securities Transition Office, I think the statements Doug Hyndman made just months before accepting his new post are persuasive. I am quoting from the British Columbia Securities Commission submission to the federal panel:

As we point out below, Canada's decentralized regulatory structure has many strengths, and the implementation of the Passport system is improving it more. The consultation paper does not contain any compelling argument that explains why changing the structure is likely to improve securities regulation in Canada, never mind why it is necessary.

A move to a single regulator entails great risk, yet the benefits are far from certain. It is not likely to improve enforcement. The governance structures proposed to date are unwieldy. It is likely to be more costly and no more (probably less) efficient. There has been no case made as to how policy development would improve.

The only apparent benefit is that it would be easier to explain to those outside Canada, which seems a small star to shoot for, given the risks of change.

There might have been a better case in the past, but the major criticism of a decentralized structure – multiple laws and regulatory approvals – have been addressed by Passport. All that keeps Passport from completely eliminating these duplications is Ontario's refusal to participate.