PUBLISHED BY THE PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

PRIVATE CAPITAL MARKETS

FALL/WINTER 2017 | PCMACANADA.COM

MARKETING. DO I REALLY NEED IT?

THE ART OF RELATIONSHIP BROKERING

LESSONS FROM THE CANADIAN COMMERCIAL CANNABIS EXPERIENCE

DIGITAL ASSETS OPPORTUNITIES & RISKS FOR THE EXEMPT MARKET

PCMA MEMBERS SPECIAL AGM

SPECIAL INSERT! TORONTO 2018

THE AWARDS ISSUE

• RECIPIENTS OF THE 2017 PCMA PRIVATE CAPITAL MARKETS AWARDS •

APRIL 11-12 2018

PCMA GALA AWARDS NIGHT & CONFERENCE 2018

ARCADIAN COURT

PCMA
PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

SPECIAL AWARDS EDITION

CONTENTS

Editor
Georgina Blanas
Georgina.Blanas@pcmacanada.com

Design & Production
Arthur Jelilyan | Reactor Communications
ajjelilyan@gmail.com

Contributing Authors
Karen Azlen
Jillian Bannister
Doug Bedard
Georgina Blanas
Richard Carleton
Bruce Croxon
Peter Dunne
Tyler Fleming
Emmanuel Gonnet
Susan Han
Dean Koeller
Amana Manori
Stephen Preston
Stephen Rupnarain
Jacqueline Sallas-Syrett
Maria Severino
Diana Soloway
Henry Thall
Nelson B. Thall
Edward Truant
David W. Wright

Mailing Address
First Canadian Place
100 King Street West
Suite 5700, Toronto, ON M5X 1C7
p: 1.877.363.3632
e: info@pcmacanada.com
www.pcmacanada.com

Advertising | Feedback | Subscriptions
info@pcmacanada.com

Private Capital Markets is published by the Private Capital Markets Association of Canada. This national industry magazine is issued bi-annually and features commentary from the leaders in the private capital markets.

PRIVATE CAPITAL MARKETS

IN THIS ISSUE

DON'T MISS ANYTHING ABOUT THE PCMA, FOLLOW US:

PCMA COMMUNITY

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

Message from the PCMA Executive Director | Georgina Blanas

CANADA'S BEST-KEPT SECRET

Raising public awareness about the private capital markets in Canada is both a challenge and an opportunity.

As the PCMA celebrates its 16th anniversary, the private capital markets still hold steady as Canada's best-kept secret.

While this may sound mysterious and a cool club to be a part of, we believe it is time for full disclosure on how we help to shape day to day lives that impact the economy as well as your households across our nation. However this is a lot easier said than done! Why should the average citizen care about this industry, and how can we make them care? These are questions that I ask myself on a regular basis, and are constantly thought of by our dedicated directors and members, as well. Raising public awareness about the private capital markets in Canada is both a challenge and an opportunity.

A good place to begin the conversation is to introduce people to the role of the PCMA, itself. I explain that this association exists in order to provide strategy and execution for its members.

The PCMA of Canada creates, organizes and manages live events, fundraising, membership benefits, educational and professional development, networking opportunities, advocacy, marketing, communications, governance, and more. We work closely and tirelessly with our members to spot trends, anticipate changes in the private capital markets, and identify efficiencies.

We all realize that economic issues in one area of the globe affects others. The interdependency of nations has never been more apparent. We live in a global marketplace where ideas and currency all circulate rapidly, and their interconnectivity means that all must work together. Governments in Canada increasingly recognize the value of sharing our economic opportunities with businesses and individuals around the world.

The ***sharing economy*** is a massive business phenomenon that is transforming many industries and challenging many traditional business models. It's a socio-economic ecosystem built around the sharing of human, physical and intellectual resources. It includes the shared creation, production, distribution, trade and consumption of goods and services by different people and organisations.

Furthermore, the idea and mandate of a sharing economy is intended to benefit the membership in services that are shared and benefit the many, thereby allowing greater savings and expertise to come together in a way that assists the industry in achieving results.

This also translates to shared intelligence and shared industry knowledge that positions the PCMA to provide an impact through collected resources.

We have committed ourselves to speak in one voice, to be identified as one brand, and to be thinking always of how we can be seen and heard as relevant, sought after, and understood by all Canadians as we lead in setting and being ahead of the what goes to market and beyond.

Our industry depends on us to remain current.We continually set the pace and identify the cutting-edge breakthroughs in the market.

We continue to work and progress towards these vital goals even while the process continues to shift. Although continued market volatility has left our industry navigating challenging and uncertain terrain, our current conditions have also sparked innovative ideas and productive new partnerships as well as opportunities that will serve all well.

And this is definitely a secret worth sharing.

P.S. We take this opportunity to invite you to the upcoming PCMA Gala Awards and Conference on April 11-12, 2018 at the Arcadian Court in Toronto.

www.pcmacanadaconferenceandawards.com

All the best!

Please contact the PCMA to learn more about the opportunities on how you can get involved.

georgina.blanas@pcmacanada.com

RAINTREE®
FINANCIAL SOLUTIONS

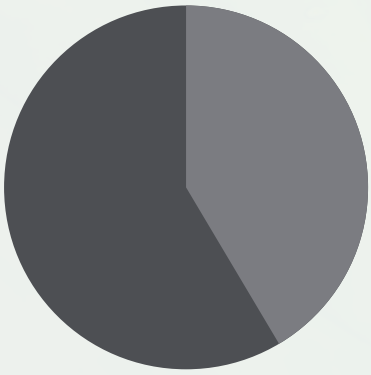
Core + Explore™

Raintree's Investment Philosophy

Raintree has created an investment strategy called Core + Explore™ to address many shortcomings of the old "60/40" portfolio (60% in equities and 40% in bonds). We believe that in order to achieve true diversification, investors will need to include a mix of private and public investments within their portfolio.

Raintree provides the 'Explore' component using the alternative investments that we have structured and chosen to offer and refers the 'Core' component to select Portfolio Managers that we have chosen to work with. Raintree ensures all our clients obtain an optimal portfolio of public and private investments, which provides a level of performance and diversification that is often found only in exclusive family offices or endowment funds.

Traditional Portfolio



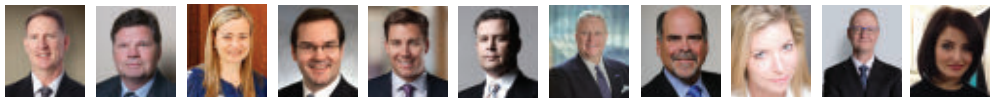
Bonds

Stocks

Core + Explore™

Alternative Investments

Portfolio Management



PCMA DELEGATION GOES TO QUEEN'S PARK

BY PETER DUNNE[1]

On March 9, 2017, a delegation from the PCMA travelled to Queen's Park to speak with key decision-makers about a series of matters of importance in Ontario's private capital markets.

The meeting was arranged by PCMA Executive Director Georgina Blanas. She and the board of the PCMA felt it was important to reach out to the provincial government on a number of important issues, such as the offering memorandum exemption, red tape and the best interest standards, so that we could present recommendations and potential solutions that make sense for our industry.

The Queen's Park roundtable was attended by top government officials responsible for the oversight of Ontario's capital markets:

From the Premier's Office:

- The Honourable Kathleen Wynne, Premier of Ontario
- Jacob Mksyartinian, Senior Policy Advisor to the Premier for Finance and Treasury Board
- Niloo Boroun, Senior Policy Advisor to the Premier

From the Minister of Finance's Office:

- The Honourable Charles Sousa, Minister of Finance
- Elizabeth Mendes, Director of Policy to the Minister of Finance
- Nicholas Daube, Senior Policy Advisor to the Minister of Finance

The PCMA's delegation included members of our executive, members of our board and key representatives from the PCMA membership, all of whom are passionate about the private capital markets.[2]

From the PCMA Executive:

- Doug Bedard, Chair; Senior VP, Director, Chief Compliance, Corporate Finance, MNP LLP
- David Gilkes, Vice Chair; President of North Star Compli ance & Regulatory Solutions Inc.
- Brian Koscak, Vice Chair; President & Chief Counsel of Pinnacle Wealth Brokers Inc.
- Matt Reynolds, Vice Chair; Vice President, Newport Private Wealth Inc.
- Georgina Blanas, Executive Director
- Jackie Syrett, Communications Director

From the PCMA Board of Directors:

- Dave Brown, Director; Co-Founder of the PCMA; Partner, WeirFoulds LLP
- Richard Carleton, Director; CEO of The Canadian Securities Exchange
- Peter Dunne, Director; Partner, Miller Thomson LLP
- Frank Laferierre, Past Director; Founding Partner of the PCMA; Senior VP Operations and Director, Portland Investment Counsel Inc.
- Diana Soloway, Director; Chair of Mortgage Investment Entities, PCMA; President and CEO of Brookstreet Mortgage Investment Corporation; President of OMNICA
- Stephen Warden, Director; Chair of Audit and Finance, PCMA; Partner, MNP LLP
- Bill White, Founding Partner of the PCMA, Chairman of IBK Capital Corp.
- Michael White, Founding Partner of the PCMA, President of IBK Capital Corp.

From the PCMA Membership:

- Darrell MacMullin, CEO, Goldmoney Inc., 2016 PCMA AWARD Recipient – Corporate Finance
- Jacquelyn Humphrey, Director of Global Communications, Goldmoney Inc.

The goals of the roundtable discussion were threefold:

1. *Raise awareness of the issues;*
2. *Propose solutions for consideration; and*
3. *Lay the groundwork for future collaboration with the Government of Ontario.*

We are pleased to report that the event was successful in all respects. "The feedback we've received from the meeting has been very positive," says Blanas, "and we are pleased to be able to continue these many conversations about our members' pressing concerns."

The PCMA team presented on:

- ***the Best Interest Standard proposed for registrants under Ontario securities law;***
- ***red tape;***
- ***regulatory collaboration and education;***
- ***infrastructure funding; and***
- ***the offering memorandum exemption.***

The briefing notes for each of these five presentations are included with this article so we can share with our readers the information and views our team put forward to Premier Wynne and Minister Sousa.[3]

In addition, Goldmoney Inc. and IBK Capital Corp. offered firsthand accounts of the importance of the private capital markets in Ontario today. Darrell MacMullin explained how the private capital markets provided much needed start-up funds for the successful launch of Goldmoney. Michael White described the vital role private capital plays in each industry sector in which IBK is active. Both implored the Premier, the Minister and their advisers to embrace initiatives to further the growth and development of the private capital markets in this province and to oppose current proposals to introduce stifling new regulation.

Our delegation was warmly received at Queen's Park and we believe our message was heard. Both Premier Wynne and Minister Sousa followed the presentations with great interest and engaged in a spirited exchange with the members of our team. We feel that an important connection has been made between the PCMA and the Government of Ontario.

1. Mr. Dunne is a member of the PCMA board of directors and a partner at the law firm Miller Thomson LLP. 2. Also in attendance as part of the PCMA delegation was Dylan T. Moore, Student Intern. 3. These briefing notes are presented in this issue in the form in which they were presented at Queen's Park in March 2017. The briefing notes have not been updated.

BEST INTEREST STANDARD - THE CASE AGAINST

ISSUE: ***1. The Ontario Securities Commission (the OSC) seeks to impose the best interest standard (the BIS) on Ontario registrants, such as exempt market dealers (EMDs), and the Private Capital Markets Association of Canada (the PCMA) is against such a regulatory change for the reasons set out below. Simply, the PCMA believes the OSC should maintain the status quo which is a registrant's duty to act honestly, fair and in good faith which is the existing obligation under Ontario securities law and not go it alone or with a few other members of the Canadian Securities Administrators (the CSA) and adopt the BIS anyway since this disharmonized approach will cause havoc in the marketplace.***

BACKGROUND:

2. On October 25, 2012, the CSA published CSA Consultation Paper 33-403 – The Standard of Conduct for Advisers and Dealers: Exploring the Appropriateness of Introducing a Statutory Best Interest Duty (the **CSA Proposal**). A copy of the CSA Proposal is at:

http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20160428_33-404_proposals-enhance-obligations-advisers-dealers-representatives.htm

3. All of the CSA jurisdictions, except the British Columbia Securities Commission (**BCSC**), are consulting on a regulatory BIS accompanied by guidance that would form both an over-arching standard and the governing principle against which all other client-related obligations would be interpreted.

4. According to the CSA Proposal:

a. the OSC and the Financial and Consumer Services Commission of New Brunswick (**FCNB**) are of the current view that the introduction of a regulatory best interest standard would materially enhance the effectiveness of the proposed targeted reforms and strengthen the principled foundation of the client-registrant relationship. The OSC and FCNB believe that such a standard, as a governing principle, would have a number of benefits, such as assisting in the interpretation of more specific requirements and acting as a guide for registrants to address situations that fall between specific rules or that are novel;

b. the Autorité des marchés financiers (**AMF**), the Alberta Securities Commission (**ASC**), the Manitoba Securities Commission (**MSC**) and the Nova Scotia Securities Commission (NSSC), in considering the current regulatory and business environment and the research conducted by the ASC and the BCSC, share strong reservations on the actual benefits of the introduction of a regulatory best interest standard over and above the proposed targeted reforms [other reforms impacting registrants set out under the CSA Proposal], and are **concerned with the potential unintended outcomes of the codification of such an aspirational standard of conduct**. [bold and underline added for emphasis] However, the AMF, the ASC, the MSC and the NSSC are interested in receiving and reviewing the comments on the proposed regulatory best interest standard;

c. the Financial and Consumer Affairs Authority of Saskatchewan (**FCAA**) recognizes that the introduction of a regulatory best interest standard would be a significant regulatory change and is interested in receiving and reviewing all comments on the proposed regulatory best interest standard; and

d. **the BCSC is of the view that implementing only the proposed targeted reforms will significantly strengthen the standards of conduct and advance the best interests of investors. Given the current regulatory and business environment, imposing an over-arching best interest standard may not be workable and may exacerbate one of the investor protection issues identified, that being misplaced trust and overreliance by clients on registrants. Further, the introduction of a regulatory best interest standard over and above the proposed targeted reforms is vague and unclear and will create uncertainty for registrants.** [bold and underline added for emphasis]

5. One of expectation concerns of the CSA is what is called the '**expectations gap**'. The CSA states that most investors incorrectly assume that their registrants, such as an EMD, must always provide advice that is in their best interest. As a result, clients have misplaced reliance or trust on their registrants, resulting in opportunities for some registrants to take advantage of their clients and creating an expectation gap between clients and registrants. According to the CSA, investors place too much reliance on their registrants, which exacerbates the agency problem inherent in the client-registrant relationship and can result in sub-optimal investments.

What is the Best Interest Standard (BIS)?

6. According to the CSA Proposal, a regulatory BIS would require that a registered dealer, such as an EMD, or registered adviser shall deal fairly, honestly and in good faith with its clients and act in its clients' best interests, and that a representative of a registered dealer or registered adviser shall deal fairly, honestly and in good faith with his or her clients **and** act in his or her clients' best interests.

BEST INTEREST STANDARD - THE CASE AGAINST *(Cont.)*

The conduct expected of a registrant in meeting her, his or its standard of care would be that of a prudent and unbiased firm or representative (as applicable), acting reasonably. In complying with the standard of care, registrants would be guided by the following principles:

a. Act in the best interests of the client; [Note: this is circular and ill-defined where a registrant, such as an EMD, must act in the best interest of the client in order to satisfy one component of the BIS]

b. Avoid or control conflicts of interest in a manner that prioritizes the client's best interests;

c. Provide full, clear, meaningful and timely disclosure;

d. Interpret law and agreements with clients in a manner favourable to the client's interest where reasonably conflicting interpretations arise; and

e. Act with care.

IMPLICATIONS IF OSC ADOPTS THE BIS

7. The BIS is ill-defined and is tantamount to imposing a fiduciary duty on EMDs which is unreasonable since most trades by EMDs are transaction-based. EMDs are not financial planners. They have a duty to act honestly, fairly and in good faith towards investors under Ontario securities law which standard should be maintained, not replaced.

8. The OSC may, in effect, be making registrants, such as EMDs, de facto guarantors of investment outcomes. Any movement in that direction is contrary to the risk/reward continuum, being the relationship between the amount of return gained on an investment and the amount of risk undertaken in that investment – the more return sought, the more risk that must be undertaken. Investments may not work out for many reasons, including a downturn in the economy. Registrants (including EMDs) should not be responsible if an investment does not work out, yet that may be the practical consequence of requiring registrants to demonstrate that every investment satisfied the BIS.

9. The reverse onus will put EMDs on the defensive and will discourage investments outside the most conservative investment opportunities. This would be a logical reaction since any failed or questionable investment would require an EMD to explain how the investment satisfied the BIS and a riskier investment would be more easily found to fall short of that mark. Given the regulatory bias to regard every private capital market investment as "high risk", it is reasonable to assume a chilling effect in the private capital markets. If such retrospective analysis is conducted from a "pro-client" perspective, it may result in an extremely high standard equal, in effect, to the duty required of a portfolio manager who manages discretionary investment accounts.

10. The BIS will encourage securities litigation against EMDs since they will be required to justify any and all investments which may not work out for many reasons, including poor management, supplier problems, no or reduced demand for a product and/or service and other matters.

11. EMDs will be less likely to focus on capital raising for all issuers toward what might be perceived as the riskier end of the risk/reward spectrum, which will directly impact capital raising for many small and medium sized enterprises (SMEs). This, in turn, could impact jobs and the Ontario economy. EMDs may limit their capital raising efforts to more established SMEs and larger issuers rather than a higher risk investment where they will face a higher possibility of being sued if the investment does not work out.

12. Typically, an EMD has errors and omission insurance. However, with the BIS, insurers may be reluctant to provide coverage or may only provide coverage where the premium is unreasonable/unaffordable for an EMD due to real or perceived exposure to excessive claims.

13. The BIS is a principles-based rule. The difficulty with principles-based rules is no one, including the regulators, knows how it will play out. This will result in the OSC making decisions as they go, while providing little guidance to registrants on what they have to do to satisfy the BIS. One might even take the view that this approach violates the rule of law.

14. The PCMA agrees with the views of the BCSC as set out in the CSA Proposal:

a. The adoption of a broad, sweeping and vague best interest standard will create uncertainty for registrants and may be unworkable in the current regulatory and business environment. Introducing an over-arching duty called a BIS while continuing to permit certain fundamental conflicts to exist between registrants and their clients is not in the public interest.

b. Doing so may exacerbate one of the issues we identified; the expectations gap between clients and registrants and may raise clients' expectations about investor protection that may not be realized under a BIS.

c. The CSA should establish clear requirements for registrants to follow and regulators and courts to enforce. The proposed targeted reforms, followed through with coordinated and focused compliance and enforcement efforts, and full realization of the CRM2 and Point of Sale initiatives, will achieve the best outcomes for investors and advance the best interests of investors.

15. Many EMDs believe that the BIS will put them at a fundamental disadvantage. Simply, the cards are stacked against the

BEST INTEREST STANDARD - THE CASE AGAINST *(Cont.)*

registrant. Under the current regulatory framework, if the OSC desires to take action against a registrant and the registrant disagrees, the registrant has an opportunity to be heard (OTBH) to present their views in front of the Commission. Many registrants cannot afford a lawyer and are unrepresented before skilled adjudicators at the OTBH. Even as things stand today, the record suggests registrants are unlikely to win an OTBH hearing. On appeal, the standard of review in an Ontario court is very high with a record of almost complete deference to the OSC. It is with this backdrop that EMDs are legitimately apprehensive about the implications of the BIS in a system that already seems not to favour them. The registrant will always have to justify to the OSC and courts that whatever they did was in the client's best interest. That is a high hurdle. Given that regulatory or judicial review typically arises when an investment doesn't work out, it may be practically impossible to overcome the hurdle.

16. CSA members often cite the US as an example of a jurisdiction that is **moving towards** a BIS or its equivalency (the **US Fiduciary Rule**). However, with the election of a new US Administration, the current US President seems to be **moving away** from US Fiduciary Rule. Recently, the US President prepared a presidential memorandum that addresses the burdens of government regulations and the Department of Labor's fiduciary rule. **The presidential memorandum suggests the rule is a solution in search of a problem.** [bold added for emphasis] There are better ways to protect investors, and the current US Administration has directed the US Department of Labor to review the US Fiduciary Rule. The intent of the US Fiduciary Rule may have sought to provide retirees and others with better financial advice, but in reality, its effect has been to limit the financial services that are available to them.

17. As stated in the presidential memorandum, the US President does not intend to put unnecessary limits on economic opportunity. It states that the US Department of Labor exceeded its authority with the US Fiduciary Rule, and this is exactly the kind of government regulatory overreach the President says he was put into office to stop.

18. For additional information about the presidential memorandum, see the following:

a. See article titled "Trump Orders Review of Fiduciary Rule" at: *http://www.forbes.com/sites/ashleaebeling/2017/02/03/trumps-official-memo-ordering-dol-to-review-the-fiduciary-rule-meant-to-protect-investors/#35a3156a4fe0*

b. See also "Trump's Memo on Fiduciary Rule" at: *https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-memorandum-fiduciary-duty-rule*

19. For additional information about the BCSC's position and why it is against the BIS is set out in **Schedule "A"** attached hereto.

RECOMMENDATION:

20. The PCMA recommends that the Ontario Minister of Finance reject any OSC proposal to adopt the BIS for the reasons set out above and maintain a registrant's existing duty to act honestly, fairly and in good faith as currently required under Ontario securities law.

SCHEDULE A

Excerpt from the CSA Proposal

Reasons the BCSC is not Consulting on a Regulatory Best Interest Standard

The BCSC strongly supports taking action to strengthen the client-registrant relationship. Our objectives are to deliver better regulatory responses, empower investors with better information and improve investor financial outcomes.

The BCSC has considered the feedback from the Original Consultation Paper about the appropriateness of introducing a statutory best interest duty. Together with the ASC, we [the BCSC] have also supplemented that information by conducting our own research and consulting with other experts. Further consultation on a best interest standard is not warranted given the extensive consultation already undertaken by the CSA and the work that has been done since then to identify the investor protection issues and craft targeted responses to them.

The BCSC is proposing an alternative approach that in our view will significantly strengthen the standards of conduct, lead to better investor outcomes and advance the best interests of investors. The BCSC is of the view our priority should be focused on consideration of the proposed targeted reforms only. Implementing specific requirements that deal directly with the identified issues in the client-registrant relationship will strengthen investor protection and confidence of investors in our capital markets.

The adoption of a broad, sweeping and vague best interest standard will create uncertainty for registrants and may be unworkable in the current regulatory and business environment. Introducing an over-arching duty called a best interest standard while continuing to permit certain fundamental conflicts to exist between registrants and their clients is not in the public interest.

Doing so may exacerbate one of the issues we identified; the expectations gap between clients and registrants and may raise clients' expectations about investor protection that may not be realized under a best interest standard.

The CSA should establish clear requirements for registrants to follow and regulators and courts to enforce. The proposed targeted

BEST INTEREST STANDARD - THE CASE AGAINST *(Cont.)*

reforms, followed through with coordinated and focused compliance and enforcement efforts, and full realization of the CRM2 and Point of Sale initiatives, will achieve the best outcomes for investors and advance the best interests of investors.

The concerns of BCSC staff are set out more fully in the next section.

Reasons certain CSA jurisdictions have concerns with the potential regulatory best interest standard

Staff of the BCSC, the AMF, the ASC, the MSC, and the NSSC (the **Jurisdictions with Concerns about a BIS**) have concerns with the proposed best interest standard, as follows:

The proposed best interest standard may exacerbate the expectations gap between clients and registrants because of the existing restricted registration categories and proprietary business models permitted in Canada. Clients may expect that all registrants have an unqualified duty to act in their best interests, not understanding that some conflicts would still be permitted.

The current Canadian regulatory and business environment for registrants allows for a wide range of business models and registration categories. These range, on one end, from salespeople dedicated to selling only proprietary products to, on the other end, portfolio managers with fiduciary obligations over fully managed accounts. There are a host of business models between these two extremes.

For those business models that are closer to the "salesperson" end of the spectrum, it would be impossible to impose a regulatory standard on these registrants that is truly a "best interest" standard. That has been borne out through the collective experience in other jurisdictions around the world that have wrestled with fiduciary or regulatory best interest standards. It is simply not possible to require a salesperson of proprietary products only to act in a manner that is truly in an investor's best interest.

All of this is evident in the best interest standard proposed in this Consultation Paper. The proposed standard will not prohibit certain fundamental conflicts between registrants and their clients. Registrants will continue to be able to:

- sell a limited range or type of investment products (these registrants have the clear limitation that there may be nothing in the limited range of products they offer that is actually in the investor's "best interest" to buy);
- be owned by, or affiliated with, businesses that create the investment products they sell; and
- be compensated by investment product manufacturers rather than the clients they are meant to serve.

These arrangements are not consistent with what a client would expect from a standard that purportedly requires registrants to act in their "best interest".

The Jurisdictions with Concerns about a BIS have identified an existing problem of clients misunderstanding the nature of their relationship with their registrant and the corresponding overreliance this produces. If regulators impose a standard that is called a best interest standard, but at the same time permit fundamental conflicts to continue, they run the risk of contributing further to this problem by leading clients to believe that they are getting protections they are not.

The proposed standard may therefore exacerbate the gap between what clients expect and what is actually permitted.

The proposed standard may also lead to client complacency. Trust already plays a significant role in the problem of overreliance. In the recent National Smarter Investor Study commissioned by the BCSC, 90% of respondents described their existing level of trust in their investment representatives as strong or very strong.

Of those clients, whose representative did not discuss with them how they were compensated, 74% of clients said they did not need to know about their registrant's compensation more often because they trusted that it was fair and reasonable. 64% of clients who do not always read their investment statements said they did not need to read their statements very often because they trusted that their representative was taking care of their money. While trust in a representative is of course important and desirable, the proposed best interest standard may cause investors to completely absolve themselves of any responsibility for their investment decisions, on the mistaken belief that registrants will be held to a higher standard of care that will prohibit conflicts that are permitted today. Research shows that engaged and informed investors lead to better investment decisions.

In the absence of more fundamental changes to restricted registration categories and conflicted business models, the Jurisdictions with Concerns about a BIS think making it our priority to implement the proposed targeted reforms discussed in this Consultation Paper and vigorously enforcing the current conduct standard to "deal fairly, honestly and in good faith" will improve investor protection and investor confidence. The proposed targeted reforms are geared to the realities of our current registrant categories and conflicted business models.

The proposed best interest standard will create legal uncertainty. It does not create a clear standard for registrants to follow or for regulators to enforce.

Imposing a best interest standard that permits the existing restricted business models and conflicted compensation structures will create legal uncertainty. The proposed standard is expressly not

BEST INTEREST STANDARD - THE CASE AGAINST *(Cont.)*

a fiduciary duty, so courts may no longer rely on existing jurisprudence in that area. The Jurisdictions with Concerns about a BIS are uncertain how regulators or the courts will interpret a standard that on the one hand expressly requires conduct in the client's best interest and the avoidance of material conflicts, but in other cases permits conduct that may not be in the client's best interest as long as there is disclosure.

There are also tensions between the proposed standard and more specific regulatory requirements, which may create uncertainty for registrants. In some cases, specific requirements contemplate conduct that seems inconsistent with the proposed standard. For example, currently firms that sell only proprietary products can meet their suitability requirement provided they ensure any recommendation they make to purchase a security from their product list is suitable for the client. However, under a best interest standard, that recommendation may not be in the client's best interest, as it may be in the client's best interest to invest in a non-proprietary product. The firm's recommendation would therefore appear not to comply with the requirement to act in the client's best interest.

Other regulators that have implemented a best interest standard have faced challenges with the uncertainty it creates. When Australia introduced its statutory best interest standard, it included a "safe harbour" if registrants followed certain prescribed steps. One of the elements of the safe harbour was that registrants take "any other steps that, at the time the advice is provided, would reasonably be regarded as being in the best interests of the client, given the client's relevant circumstances". In 2014, a new government proposed a bill that included removal of this language, following its commitments to reduce compliance costs for the financial services industry and for consumers who seek advice. The government was concerned that the catch-all provision created significant legal uncertainty and rendered the safe harbour unworkable for registrants because it was too open-ended.

Because it does not establish a clear standard for registrants to follow or for regulators or courts to enforce, it is uncertain whether the proposed standard will drive better behavior by registrants and at what cost any changes in behaviour will come. It is not clear how registrants would modify their behaviour to comply with their interpretation of what the standard requires or whether their responses will improve outcomes for investors.

The CRM2 and Point of Sale Initiatives are intended to improve communication in the client-registrant relationship around costs and investment performance. Their effectiveness should be measured before we [BCSC] consider a best interest standard.

Both industry and regulators have made significant effort to implement the CSA's CRM2 and Point of Sale reforms. Before proceeding with consideration of a best interest standard, the Jurisdictions with Concerns about a BIS believe that we should determine whether those reforms are effective. These changes are intended to advance clients' understanding of how their portfolio is performing and what they are paying their registrants. No other regulatory regime has imposed these significant types of reforms.

The BCSC is leading a CSA project to measure the impact of CRM2 and Point of Sale disclosure reforms, including their impact on registrant behavior and client understanding of the cost and performance of their investments. This project is in the planning stage and will run through 2018.

Only if the Jurisdictions with Concerns about a BIS determine that, together, the CRM2, Point of Sale and proposed targeted reforms are not effective, should we then revisit the question of imposing a best interest standard and how that standard should be defined.

Other jurisdictions that have implemented a best interest standard have done so in conjunction with targeted reforms prohibiting certain conflicted compensation models.

The proposed standard is unlikely to be effective without more fundamental changes to the Canadian securities industry, including reforms to compensation structures. In the U.K. and Australia, for example, reforms specific to compensation structures were implemented in addition to a qualified best interest standard. Work is being done by the CSA's mutual fund fee project in this area.

The proposed standard may impact interpretation of existing fiduciary standards for certain registrants, i.e. portfolio managers and investment fund managers.

By applying the proposed standard to all registrants, regardless of the actual nature of the relationship between the registrant and its clients, the Jurisdictions with Concerns about a BIS believe that we risk diminishing the standard currently set out in some jurisdictions' securities laws requiring portfolio managers and dealers with discretionary authority and investment fund managers to act in the best interest of their clients.

These laws refer to registrants having to act in the client's best interest and are intended to establish true fiduciary standards. The Jurisdictions with Concerns about a BIS think adopting a standard that requires other registrants to also act in their client's best interest, but that is qualified to mean something less than a full fiduciary standard may impact the interpretation of the words "best interest" as they apply elsewhere.

PCMA DELEGATION GOES TO QUEEN'S PARK

Briefing Note for the PCMA's presentation at Queen's Park on March 9, 2017.

RED TAPE

ISSUE: ***1. Red Tape created by the OSC has increased regulatory burden to the point that investment firms are leaving Ontario, changing business or not getting into business.***

BACKGROUND:

2. Red Tape in the investment industry has been increasing without abatement for many years. The Ontario government and other governments implemented programs such as the Open for Business initiative to reduce Red Tape; however, this program did not apply to the OSC. For example, recent proposals to create rules were in areas where rules already existed but are not being enforced. This was acknowledged by the OSC.

3. The rules surrounding the activities of dealers and advisers are principles-based but the OSC tries to enforce prescriptive requirements through staff notices which are not rules, leading to a lot of disagreement.

4. The PCMA supports principles-based rules[1]. In designing NI 31-103, the CSA made an intentional move to principles-based regulation stating in the notice to the rule:

Compliance is a firm-wide responsibility. We have sought to reinforce firm-wide responsibility by setting out a general compliance obligation in the Rule. Registered firms must establish and enforce a system of controls and supervision that ensures the firm's compliance with all applicable requirements of securities legislation. These are not new requirements. However, the Rule adopts a principles-based approach to these requirements because experience suggests this is a better way to accommodate the diversity in size and scope of our industry participants.

5. This follows the lead of other regulators such as the FCA in the UK. In discussing the move to principles-based regulation in a 2007 paper, the FSA (as it was then known) said "Principles-based regulation means moving away from dictating through detailed, prescriptive rules and supervisory actions how firms should operate their business". It further stated "Principles-based regulation means placing greater reliance on principles and outcome-focused, high-level rules to drive at the regulatory aims we want to achieve, and less reliance on prescriptive rules."

6. Rather than embrace principles-based rules, the OSC has been trying to frustrate them. When a firm approaches the OSC with a novel approach, the OSC does not take the holistic approach and risk-based approach required with principles-based regulation. Instead, the tendency seems to be to focus on the details rather than outcome.

7. The CSA are making amendments to NI 31-103 at a rapid rate, adding prescription to principles. Unduly narrow prescriptive amendments have led to an ineffective crowd funding rule, a frustrating OM exemption and a shortage of Chief Compliance Officers. Overall, the current approach may cause business people to turn away from Ontario.

8. The OSC has increasingly focused on administrative items, such as incorrect filings, things that have little to do with investor protection. In addition, they charge late filing fees of $100 per day for these administrative errors. Many of these late filing fees are capped at $5,000 per year, but begin anew in the next calendar year, with the result that a simple oversight can cost a firm $10,000 or more by the time it comes to light. This appears to be out of proportion to the benefit achieved. This is money that could be used to improve investor protection measures.

9. Staff at the OSC are not required to have the same educational background as the people they regulate. Most compliance examiners are accountants and most policy makers are lawyers. Most industry participants have backgrounds in business with degrees in commerce, economics and MBAs. To be registered to work in the industry, there are courses that must be taken and in some cases a CFA designation is required. This dichotomy between the proficiencies the regulators require and the proficiencies the regulators leads to potential misunderstanding prompting complaints from the industry that OSC staff does not understand the business they regulate.

10. In recent years, the time period for review and consideration of applications and other matters before OSC staff has grown, leaving many to feel there is a growing insensitivity to the needs of business. In the investment industry, "time is money", which means expanding regulatory timelines cost money and are a source of frustration. OSC staff are not held accountable for delays which can keep people out of work for months and, in some cases, can cause firms to languish for a year or more waiting for a decision from the OSC. We recognize that regulating large and complex capital markets is no easy endeavor, but we are receiving constant feedback that management of timelines appears to be unchecked.

RECOMMENDATIONS:

11. There should be a review of the rules to eliminate duplication and prescriptive rules.

12. Principles-base rules should be used where ever possible to provide flexibility to participants and regulators.

13. The OSC should have enforced service standards for registrations and compliance reviews.

14. There needs to be an oversight committee that can impel the OSC to respond to issues and hold them to their service standards.

15. Staff should have the same educational and experiential qualifications as the industry participants they regulate.

16. The late filing fees regime should be re-evaluated. Ideally, late filing fees should be tailored to enforce meaningful requirements and removed or significantly reduced for some of the more mundane and administrative requirements.

[1.] The PCMA believes principles-based rules must be clear in their interpretation and application. Regulatory guidance and commentary are required.

NEED FOR INCREASED REPRESENTATION & MORE COLLABORATION BETWEEN OSC AND EMDS IN ONTARIO AND INCREASING FINANCIAL LITERACY OF ONTARIO INVESTORS ABOUT THE PRIVATE CAPITAL MARKETS

ISSUE #1: *1. There is a need for increased education and training within the Ontario Securities Commission (the OSC) about exempt market dealers (EMDs) and the private markets in general that will aide in policy development and compliance related matters.*

BACKGROUND ON PRIVATE MARKET INVESTMENTS

2. Most capital in Canada is raised in the private capital markets under various prospectus exemptions but primarily under the accredited investor prospectus exemption (s. 2.3 of NI 45-106).

3. Many pension funds, such as the Canada Pension Plan (**CPP**) and Ontario Municipal Employees Retirement System (**OMERS**), invest significant amounts of capital in the private markets on behalf of their members, since such investments provide reduced volatility, higher levels of current income and the potential to generate returns that are not correlated to the public markets.

4. In 2016, CPP had $278.9 Billion in assets under management (**AUM**) of which $132.9 Billion (or 47.60% as set out in the chart on next page) was invested in private assets as follows: private equity ($53.8 Billion), real estate ($36.7 Billion), infrastructure ($21.3 Billion), private debt ($17 Billion) and private real estate ($4.1 Billion). Source: 2016 Annual Report, CPP Investment Board.

5. Similarly in 2015, OMERS had $77 Billion in AUM of which $37 Billion (or 47.6% as set out in the chart on next page) was invested in private assets as follows: private equity ($11.3 Billion), infrastructure ($12.6 Billion) and real estate ($13 Billion). Source: 2015 Annual Report.

6. The PCMA believes that private investors should be able to benefit from the same portfolio diversification opportunity as large pension fund investors, such as CPP and OMERS; however, the policy of the Canadian Securities Administrators and OSC Staff has been to mandate all private investments be categorized as "High Risk" investments, with corresponding pressure to limit exposure to such investments.

7. The PCMA believes this blanket approach to the private capital industry may be due to a lack of experienced portfolio management professionals within the OSC, people who understand the use of well-established and empirically proven principles involving the use of private capital for portfolio diversification.

8. The PCMA respects that existing guidance on suitability, as applied within the exempt market, has resulted in most financial advisors approaching clients with a view to developing a properly planned and diversified portfolio. The issues noted above can be easily overcome with the implementation of dialogue, education and training to which the PCMA is willing and able to contribute.

OSC'S EXEMPT MARKET ADVISORY COMMITTEE (EMAC)

9. In the Fall of 2012, the OSC established the Exempt Market Advisory Committee (EMAC).

See *http://www.osc.gov.on.ca/en/About_advisory-committees_index.htm#emac*

10. The purpose of EMAC is to assist the OSC in developing new ways to raise capital in Ontario. The results of its deliberations with the OSC included the introduction of new prospectus exemptions in 2016, such as the offering memorandum prospectus exemption in s. 2.9 of National Instrument 45-106 Prospectus Exemptions (NI 45-106) and the crowdfunding prospectus exemption in National Instrument 45-108 – Crowdfunding.

11. Although EMAC still exists, it has not met as a group in over a year.

ASC AND EMDAC

12. In 2016, the Alberta Securities Commission (the ASC) established the Exempt Market Dealer Advisory Committee (EMDAC) with representation from different segments of the EMD community, in order to improve communications efforts with this sector.

13. EMDAC seeks to help EMDs to share information with, and provide input and recommendations to, the ASC. It also serves as a vehicle for discussion about compliance trends, proposed policy, new developments, and other matters of concern to participants that trade in, or advise on, the prospectus-exempt market in Alberta.

14. The PCMA believes Ontario should have an OSC committee that exclusively focuses on private market matters and its EMD registrant community to increase compliance, education and training.

APPOINTMENTS – LACK OF PRIVATE MARKET REPRESENTATION AT OSC

15. The PCMA is concerned about the lack of representation on OSC staff and the Commission itself with individuals who have private markets knowledge and/or experience.

16. The private markets and exempt market dealers serve a critical role in raising capital and providing investors with alternative investment options. Without individuals in key decision-making positions who have knowledge and/or experience in the private markets, the PCMA believes the OSC will not achieve the right balance between investor protection and fair and efficient capital markets. The result will be overregulation of the private capital markets including exempt market dealers, which will directly impact capital raising for SMEs and investor choice involving portfolio diversification and access to private market investments.

RECOMMENDATION #1

17. The PCMA recommends that the OSC either:

a. reactivate EMAC (with a renewed composition comprising various EMD registrants and business models) or

b. establish a new OSC Exempt Market Dealer Advisory Committee (similar to EMDAC in Alberta), in either case, ensure that Staff promote expertise and hire individuals that focus exclusively on the private markets and registration and compliance matters involving EMDs in Ontario.

RECOMMENDATION #2

18. The PCMA recommends that the OSC hire staff and add representatives to the Commission who have with greater private markets knowledge and/or experience.

NEED FOR INCREASED REPRESENTATION & MORE COLLABORATION BETWEEN OSC AND EMDS IN ONTARIO AND INCREASING FINANCIAL LITERACY OF ONTARIO INVESTORS ABOUT THE PRIVATE CAPITAL MARKETS

ISSUE #2: *19. The OSC needs to educate investors about investing and not put the entire onus of investment protection on registrants, such as EMDs*

FINANCIAL LITERACY

20. The twin mandates of the OSC are investor protection and fostering fair and efficient capital markets.

21. The Canadian Securities Administrators (the **CSA**), including the OSC, appear to have abandoned the need to educate investors about investments and determined that it is in the CSA's best interest to put the entire onus of investment protection on registrants, such as EMDs, to ensure positive investment outcomes in all circumstances. For example, the CSA states in its Concept Proposal [1] the following:

The current regulatory framework is, in many instances, less effective than intended in mitigating the consequences of the information and financial literacy asymmetry between registrants and their retail clients. With the limited financial literacy of most investors, the increasing complexity of securities products and the limited effectiveness of initiatives to improve financial literacy, coupled with the challenge that most investors have in avoiding biases and applying their financial knowledge in their decision making, ***more onus for prioritizing the client's interest and ensuring that clients understand the information and advice they receive should shift onto registrants.*** *" [emphasis added]*

22. The PCMA disagrees with the CSA's views on the onus of investor education and believes the OSC has not committed sufficient time, money and resources to improve awareness of the private markets as an alternative to the public markets, the risk and reward continuum involving private market investments and generally is hostile in its views and regulation of the private markets. The position above suggests investors have little or no responsibility for their investment decisions, which is reinforced by the OSC. At some point, this approach makes registrants, such as EMDs, de facto guarantors of all investment outcomes. The PCMA submits this is not fair to investors or registrants and increased registrant accountability must be matched by equal investor education, understanding and acceptance of their own investment decisions.

23. The PCMA supports the OSC's education initiative called "getsmarteraboutmoney.ca" (the ***Smart Money Website***).
** A screenshot is set out below for ease of reference.*

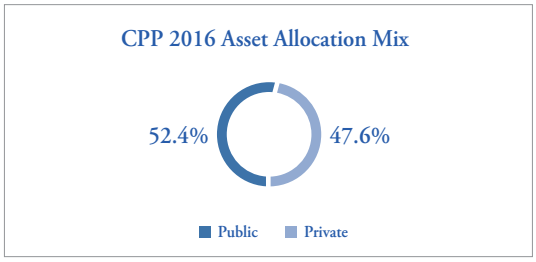
24. Upon review of the Smart Money Website, the PCMA notes that there is little information about the private markets and/or exempt market dealers and their important role in capital raising and, most importantly, private market investment options as an alternative to the public markets.

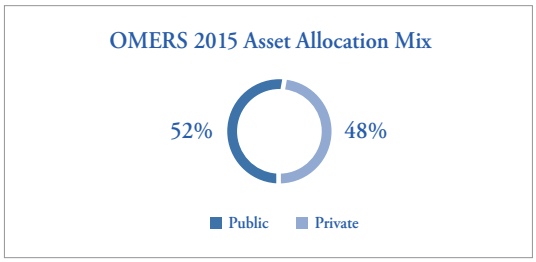
RECOMMENDATION #3

25. Establish a Committee involving the OSC, the PCMA and others to develop education initiatives for Ontario investors to increase their financial literacy about the private markets as an alternative to the public markets which will allow investors to access an alternative asset class, as presently undertaken by certain pension funds, and provide additional investment capital for Ontario SMEs.

RECOMMENDATION #4

26. The OSC work with the PCMA and others to add more investor information about the private markets and role of exempt market dealers on the Smart Money Website and in other OSC educational initiatives.





1.(Source: Canadian Securities Administrators Consultation Paper 33-404 Proposals To Enhance The Obligations Of Advisers, Dealers, And Representatives Toward Their Clients the "Concept Proposal" at: http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20160428_33-404_proposals-enhance-obligations-advisers-dealers-representatives.htm)

INFRASTRUCTURE FUNDING

ISSUE:

1. The opportunity for infrastructure investment has traditionally been the domain of government, Canadian banks, pension funds and insurance companies. The private capital market has essentially been "crowded out" by governments themselves competing with private capital and funding most of the equity for infrastructure projects. Many initiatives could be funded with private capital whose investing clients represent a significant component of retail investors in Ontario.

BACKGROUND:

2. The federal Minister of Finance indicated that the proposed Canada Infrastructure Bank would likely be focused on larger opportunities, which would be more attractive to the pools of institutional investor money that may be attracted to the opportunity. A November 22, 2016 article on this matter appeared in Maclean's magazine (under the by-line of Joan Bryden) entitled, "Smaller towns may not benefit from infrastructure bank: Morneau" (http://www.macleans.ca/politics/small-municipalities-infrastructure-bank-morneau/). Nevertheless, the infrastructure requirements facing the country and the province are ubiquitous - not only those in the largest cities. Consequently, there should be provision for attracting retail investors to infrastructure investments.

3. The plans for the Canada Infrastructure Bank call for $4 of private sector money to be raised for every $1 of public sector money. According to the Toronto Star of February 15, 2016 (under the by-line of Tyler Hamilton), "The Trudeau government has said it will establish a Canada Infrastructure Bank that would also introduce green bonds, mostly to institutional investors but also the public 'when appropriate'."

(https://www.thestar.com/business/personal_finance/2016/02/15/why-this-could-be-an-investment-opportunity.html).

4. The infrastructure renewal imperative is so great that Canada/Ontario should also consider how to best attract the most capital, not merely from institutional investors (e.g., pension funds) but also from retail investors (including accredited investors). To do this, permitting separate pools of retail capital to form for the express purpose of co-investing alongside the pools of institutional and public capital would seem to be appropriate.

5. The Investment Funds Institute of Canada (**IFIC** - the national trade association of the mutual funds industry) reported in January 2017 that mutual fund assets held by Canadians totalled $1.34 trillion. These assets were spread amongst more than 9,500 funds according to the February edition of Fund Library. At the same time, the opportunities for individual investors to devote part of their financial resources to infrastructure remain quite limited. An article in the September 25, 2015 edition of the Globe and Mail noted that there were but roughly a dozen infrastructure funds in Canada together with a few ETFs and closed-ended funds. Quite clearly, there is pent-up demand on the part of retail investors for a product, such as infrastructure, that provides stable cash yields, diversification, lower volatility, a measure of inflation protection and that can be held for the long-term. This is especially true today when bond yields have fallen to historic lows and where seniors are caught between investing in higher risk equities or ultra-low yielding fixed income products.

RECOMMENDATIONS:

6. Infrastructure can become an alternative asset class for private investors.

7. Allow for the opportunity of private capital to co-invest alongside more traditional capital resources provided by banks and institutional investors.

8. Find a balance between protective versus restrictive regulations to balance between financial stability and the abundance of capital government requires to boost infrastructure spending.

9. Develop a balance between public assistance to private investors and affordability issues and value for money to avoid excessive risk taking from the public sector and potential moral hazard from the private sector.

Notes: OECD 2014 paper on infrastructure and private capital - https://www.oecd.org/daf/fin/private-pensions/Private-financing-and-government-support-to-promote-LTI-in-infrastructure.pdf

OFFERING MEMORANDUM EXEMPTION – BROADEN THE EXEMPTION

ISSUE: *1. The Ontario Securities Commission (the OSC) has adopted the offering memorandum exemption (the OM Exemption)[1] from the prospectus requirement of the Securities Act (Ontario), but has done so on terms that are too restrictive. The Private Capital Markets Association of Canada (the PCMA) wants a more meaningful alternative to the accredited investor exemption as a means of stimulating capital formation in the private capital markets in Ontario. As presently enacted, the OM Exemption is not having a material positive impact on capital raising for small and medium-sized enterprises (SMEs). SMEs are an important part of the Ontario economy and a vital source of jobs in Ontario.*

BACKGROUND:

Ontario's Private Capital Markets and SMEs need a boost

2. Capital is raised in the private capital markets in reliance on exemptions from the prospectus requirement of applicable securities legislation.

3. The vast majority of capital raised in Ontario is raised in reliance on the accredited investor exemption. It is an exemption based on the financial profile of the investor.

4. There is a limited pool of accredited investors in Ontario and in Canada.[2]

5. SMEs have difficulty raising capital in the private capital markets, creating a need for an alternative to the accredited investor exemption.

The OM Exemption has missed the mark in Ontario

6. The OM Exemption was introduced in Ontario on January 13, 2016. It was a core initiative of the OSC's Exempt Market Advisory Committee established in the fall of 2012 to examine new ways to raise capital in Ontario. The OM Exemption is an exemption based on prescribed disclosure by the issuer along with specified ongoing reporting requirements.

7. It has been over a year since the OM Exemption was introduced in the Province and the new exemption has had little impact on capital raising in Ontario's private capital markets.

8. The PCMA believes the OM Exemption is unattractive to issuers because:

a. the disclosure and reporting burden is great; and

b. the capital raising potential is limited.

9. The limits on capital raising under the OM Exemption are the following:

a. investment caps on investors during a trailing 12-month period; and

b. exclusion of "investment funds", "specified derivatives" and "structured finance products", as those terms are defined under Ontario securities law.

10. The PCMA believes that these limits make it too difficult to raise capital, particularly in light of the substantial disclosure and reporting burden on issuers. In short, it is not worth it for issuers to rely on the OM Exemption. We believe this is the primary reason the OM Exemption has not been used as much as initially anticipated by the OSC.

11. Ontario's experience in the first year of the OM Exemption demonstrates that the exemption is having little impact.

PCMA RECOMMENDATIONS ON HOW TO FIX ONTARIO'S OM EXEMPTION:

General

Remove some limits, adjust others

12. The PCMA believes the OM Exemption can be made more effective by removing certain of the limits and adjusting others.

Adjust the balance between investor protection and capital raising

13. The PCMA recognizes that Ontario wants to protect investors. We also recognize that Ontario wants to facilitate the formation of capital.[3] These objectives pull in opposite directions.

14. Currently, the OM Exemption protects investors in three main ways:

a. mandatory disclosure and reporting requirements;

b. investment caps; and

c. exclusion of investment funds, specified derivatives and structured finance products.

15. We understand that protecting investors means protecting them from making bad investments – investments that are, in some objective sense, inherently too dangerous, too risky.

16. Of course, some investments will fail no matter what the rules are. Even inherently sound investments can and do fail. This is all part of the risk/reward continuum of investing. The PCMA submits that it is not the job of the regulators, nor the responsibility of the participants in the capital markets, to eliminate investment risk. The objective should be to promote better and more informed investment decisions.

17. Not all of the limits imposed by the OM Exemption promote better investment decisions. Certain limits merely impede investment, impacting good investments and bad investments alike.

OFFERING MEMORANDUM EXEMPTION – BROADEN THE EXEMPTION

Ontario needs more room for good investments to succeed, even in the face of appropriately disclosed risk.

RECOMMENDATION #1

18. The PCMA recommends adjustments to certain limits under the OM Exemption.

Investment Caps

Investment caps work where there is no suitability advice

19. The PCMA agrees that investment caps are an appropriate measure of investor protection where the distribution of securities is made without involving a registrant.[4] Where an issuer relies on the OM Exemption to sell directly to investors, there is no buffer to protect the interests of the investors. Even though substantial disclosure is available in the offering memorandum, we recognize that there is no objective standard of investment sophistication like there is with accredited investors, so there is a heightened risk that disclosure alone will not prevent poor investment decisions.

RECOMMENDATION #2

20. The PCMA recommends that the current investment caps should be retained where an investment is made in reliance on the OM Exemption where the investor does not receive suitability advice from a registrant such as an exempt market dealer.[5]

Positive suitability determination is already part of the OM Exemption

21. The PCMA agrees with the existing OM Exemption in relation to higher investment amounts being permitted where there is advice from a registrant as to the suitability of an investment. However, the PCMA believes that there should be no arbitrary limits imposed under the OM Exemption in such circumstances.

Investment caps do not work where there is suitability advice

22. Registrants have fundamental obligations to their investor clients. Registrants are required to know their clients (KYC) – requiring them to make a significant effort to know their clients' circumstances, goals and objectives. Registrants are also required to know the investments they recommend to their clients (KYP) – requiring them to do a reasonable amount of due diligence into the investment, including understanding the features and the risks of the investment. Finally, registrants are required to assess whether the investment in question is suitable for this particular client – requiring them to assess whether this particular investment meets the goals and objectives of the client in the client's circumstances. The assessment of suitability includes consideration of the amount to be invested. Registrants that fulfill these fundamental obligations are in the best position to promote good investment decisions by their clients. The PCMA believes that this is the most fundamental protection afforded investors in the private capital markets.

23. The PCMA believes that registrants should be unfettered in dealing with their clients under the OM Exemption, even if the client is not an "eligible investor".[6] If an investment is suitable, including the amount to be invested, the investment should not be impeded by a categorical investment cap. An investor who receives suitability advice from a registrant should be permitted to invest under the OM Exemption up to the limit recommended by that registrant.

RECOMMENDATION #3

24. The PCMA recommends that the investment caps should be removed for investments under the OM Exemption where the investor receives suitability advice from a registrant.[7]

No exception for "client-directed trades"

25. The PCMA is aware that registrants' clients from time to time insist on making investments against the advice of the registrant. In such circumstances, we understand that the registrant will record the advice and the direction of the client to make the investment notwithstanding the advice; hence the investment is commonly referred to as a "client-directed trade". We believe this practice is inappropriate in the context of the OM Exemption if the result of the client-directed trade is that the client's investment will exceed the amount deemed suitable by the registrant. Our position is based on the fact that the OM Exemption operates with investment caps in the absence of suitability advice, and that the suitability advice is the basis for exceeding the suitability caps. The investor ought not to be able to exceed both the investment caps and the amount recommended by the registrant. The higher of the two becomes the de facto investment cap.

RECOMMENDATION #4

26. The PCMA recommends that there should be no client-directed trades permitted under the OM Exemption if the result of the client-directed trade is that the client's investment will exceed the amount deemed suitable by the registrant. However, notwithstanding the foregoing, we recommend permitting a client-directed trade if the result is to allow the client to invest up to the investment cap applicable to that client in the absence of suitability advice.[8] Hence, the higher of the applicable investment cap and the amount recommended by the registrant becomes the de facto investment cap.

OFFERING MEMORANDUM EXEMPTION – BROADEN THE EXEMPTION

No rolling 12-month investment aggregation where there is suitability advice

27. The investment caps operate on a rolling 12-month basis, so the limit in question aggregates the investment in question with all investments made by that investor under the OM Exemption, including different securities issued by different issuers, in the 12 months preceding that investment. The PCMA expects a registrant to take into account the overall investment portfolio of its investor client as part of the suitability assessment, including the rolling 12-month investment exposure.

RECOMMENDATION #5

28. The PCMA recommends that the rolling 12-month assessment should be eliminated along with the investment caps where the investor receives suitability advice from a registrant.[9]

OSC should provide more KYC guidance as proposed in the Target Reforms

29. As a general observation on the subject of suitability advice, we note that the private capital markets in Ontario would benefit if the OSC provided more guidance on KYC. Last year, members of the Canadian Securities Administrators (the CSA), including the OSC, published CSA Consultation Paper 33-404 – Proposals to Enhance the Obligations of Advisers, Dealers, and Representatives toward their Clients (the Targeted Reforms), which included detailed recommendations to overhaul how registrants fulfill their regulatory obligations, including their KYC obligations. The PCMA submits that the OSC should continue to consider the Targeted Reforms, including those involving a registrant's KYC obligations to a client, which would provide further guidance to registrants on regulatory expectations involving their KYC obligations that is a current requirement of the OM Exemption.

Investment Funds

Allow investment funds to distribute under the OM Exemption

30. Investment funds are excluded from relying on the OM Exemption. A common justification for the exclusion is that investment funds do not promote capital formation for SMEs (i.e., investment funds often engage in secondary market trading of securities rather than investing in new treasury issues, thereby failing to new capital into the hands of the SMEs). The PCMA believes that many funds that are "investment funds" by definition actually do invest in treasury issues to some extent. The PCMA also believes that all investment funds promote economic growth by facilitating the availability of capital, whether that capital is invested in treasury issues or in secondary trading of previously issued securities – it is all beneficial to healthy and vibrant capital markets.

31. Investment funds provide investors with other benefits, such as investment diversification, professional investment management and, in certain circumstances, eligibility for investment by registered plans. Access to these benefits should not be restricted to accredited investors.

32. The PCMA feels that it is not productive to have issuers and promoters – even securities regulators – parse the definitions of "investment fund", "mutual fund" and "non-redeemable investment fund" to determine whether the OM Exemption is available or not. This leads to inconsistency and creates risk.

Special investment fund regime

33. We understand that there is a special regime for investment funds established under the National Instruments, beginning with National Instrument 81-101 (the so-called **81 Series Rules**). We note that the 81 Series Rules apply to issuers that are reporting issuers, with only very narrow application to non-reporting issuers.[10] The PCMA is focused on the private capital markets in Canada and is content to have investment funds that are reporting issuers comply with those rules and be carved out of the OM Exemption if that is preferred by the OSC. Otherwise, the PCMA is of the view that all investment funds should be included in the OM Exemption.

Management of conflicts

34. The PCMA recognizes that there is heightened potential for conflicts of interest in an investment fund structure due to the separation of manager and fund, and potentially other members of a fund group. These conflicts are addressed for investment funds that are reporting issuers in National Instrument 81-107 – *Independent Review Committee for Investment Funds* (**NI 81-107**). The PCMA is considering various models for improving corporate governance for issuers in the exempt market, including replicating some of the "independence" measures imposed in NI 81-107. While we have not arrived at a recommendation in this regard, we are prepared to concede that it may be necessary or appropriate for the inclusion of investment funds in the OM Exemption to be conditional upon the adoption of measures along these lines.[11]

RECOMMENDATION #6

35. Subject to the points raised above concerning the special investment fund regime and the management of conflicts, the PCMA recommends that the OM Exemption should include investment funds.

Specified derivatives and structure finance products

Extraneous defined terms

OFFERING MEMORANDUM EXEMPTION – BROADEN THE EXEMPTION

36. The OM Exemption is not available in respect of specified derivatives or structured finance products.[12] These are complex terms imported into NI 45-106 from other national instruments as a means of preventing the OM Exemption from being used to distribute unduly complicated securities.

37. These defined terms are very precise and were designed to achieve specific purposes in the instruments from which they were taken. Outside of the context of the original instruments, the application of these terms becomes less clear.

Specified derivatives

38. "**Specified derivatives**" are defined in National Instrument 51-102 – Continuous Disclosure Obligations:

"specified derivative" means an instrument, agreement or security, the market price, value or payment obligations of which are derived from, reference to, or based on an underlying interest, other than one that is also

(a) a conventional convertible security,

(b) a specified asset-backed security,

(c) an index participation unit,

(d) a government or corporate strip bond,

(e) a capital, equity dividend or income share of a subdivided equity or fixed income security,

(f) a conventional warrant or right, or

(g) a special warrant.

39. The PCMA notes that there are circumstances in which the definition of specified derivatives can exclude structures that are commonplace and beneficial to investors. For example, a common investment structure in the private capital markets features a top investment vehicle that invests solely or primarily in a bottom investment vehicle in order to create RRSP-eligibility for investors. In such a structure, the value of the securities issued by the top investment vehicle is derived from the underlying interest in the bottom investment vehicle. It is unclear on the face of the definition whether such securities would be "specified derivatives" and, therefore, carved out of the OM Exemption.

Structured finance products

40. "**Structured finance products**" are defined in National Instrument 25-101 – Designated Rating Organizations:

"structured finance product" means any of the following:

a. a security that entitles the security holder to receive payments that primarily depend on the cash flow from self-liquidating financial assets collateralizing the security, such as loans, leases, mortgages, and secured or unsecured receivables, including:

(i) an asset-backed security;

(ii) a collateralized mortgage obligation;

(iii) a collateralized debt obligation;

(iv) a collateralized bond obligation;

(v) a collateralized debt obligation of asset-backed securities;

(vi) a collateralized debt obligation of collateralized debt obligations;

b. a security that entitles the security holder to receive payments that substantially reference or replicate the payments made on one or more securities of the type described in paragraph (a) but that do not primarily depend on the cash flow from self-liquidating financial assets that collateralize the security, including:

(i) a synthetic asset-backed security;

(ii) a synthetic collateralized mortgage obligation;

(iii) a synthetic collateralized debt obligation;

(iv) a synthetic collateralized bond obligation;

(v) a synthetic collateralized debt obligation of asset-backed securities;

(vi) a synthetic collateralized debt obligation of collateralized debt obligation.

41. The PCMA notes that there are circumstances in which the definition of structured finance products can exclude structures that are commonplace and beneficial to investors. For example, it is not unusual to offer securities with a distribution feature where the cash flow is secured against underlying assets. It is unclear on the face of the definition whether such securities would be "structured finance products" and, therefore, carved out of the OM Exemption.

42. Again, the PCMA feels that it is not productive to have issuers, promoters and regulators parse the definitions of "specified derivatives" and "structured finance product" to determine whether the OM Exemption is available or not. As we observed above in connection with investment funds, this leads to inconsistency and creates risk.

RECOMMENDATION #7

43. The PCMA recommends that the exclusion of specified derivatives and structured finance products in section 2.9(2.1)(d)(i) and (ii) of NI 45-106 be removed.

44. The PCMA further recommends that any specific exclusions the OSC wishes to impose in lieu of section 2.9(2.1)(d)(i) and (ii) be drafted specifically for the OM Exemption and be presented for comment in terms that simplify the application of the exemption.

Mandatory Disclosure and Reporting

Mandatory disclosure and reporting are effective measures

OFFERING MEMORANDUM EXEMPTION – BROADEN THE EXEMPTION

45. We understand and accept the mandatory disclosure and reporting requirements of the OM Exemption.[13] We see the correlation between these measures and the protection of investors. We also appreciate that the disclosure and reporting disciplines are conducive to more attentive management that, in turn, is in the best interest of investors. This is the backbone of the OM Exemption. It is, after all, an exemption based on disclosure.

Mandatory disclosure and reporting are substantial burdens

46. The mandatory disclosure and reporting requirements are substantial burdens. If issuers are to be motivated to take on these burdens, the OM Exemption needs to afford them meaningful access to capital. Therefore, the PCMA believes Ontario needs to eliminate or recast the limits and restrictions in the OM Exemption to permit more investment under the exemption.

Conclusion

47. Ontario cannot let reporting issuers and accredited investors do all the capital raising.

48. Ontario cannot leave SMEs to chase the limited population of accredited investors or force them to jump to the public markets before they are ready (assuming they can access the public markets at all, which is highly unlikely for most SMEs).

49. The PCMA respectfully submits that the OM Exemption, modified as we have discussed in this briefing note, will strike a much more effective balance between investor protection, on the one hand, and meaningful capital raising, on the other. As restructured, we believe the OM Exemption will be much more likely to have a material and positive impact on capital raising in Ontario.

50. The PCMA respectfully submits that this objective can be achieved without sacrificing investor protection.

RECOMMENDATION #8 – Final Recommendation

51. The PCMA recommends that the Ontario Government require the OSC to reconvene the OSC's Exempt Market Advisory Committee (**EMAC**[14]) – which officially remains in existence even after the amendments to NI 45-106 came into effect last year – to discuss the proposals set out herein and publish a Request for Comment within 60 days thereafter.

SCHEDULE A

Excerpt from NI 45-106: s. 2.9 – the "OM Exemption"

2.9 (1) In British Columbia and Newfoundland and Labrador, the prospectus requirement does not apply to a distribution by an issuer of a security of its own issue to a purchaser if

(a) the purchaser purchases the security as principal, and

(b) at the same time or before the purchaser signs the agreement to purchase the security, the issuer

(i) delivers an offering memorandum to the purchaser in compliance with subsections (5) to (13), and

(ii) obtains a signed risk acknowledgement from the purchaser in compliance with subsection (15).

(2) In Manitoba, Northwest Territories, Nunavut, Prince Edward Island and Yukon, the prospectus requirement does not apply to a distribution by an issuer of a security of its own issue to a purchaser if:

(a) the purchaser purchases the security as principal,

(b) the purchaser is an eligible investor or the acquisition cost to the purchaser does not exceed $10 000,

(c) at the same time or before the purchaser signs the agreement to purchase the security, the issuer

(i) delivers an offering memorandum to the purchaser in compliance with subsections (5) to (13), and

(ii) obtains a signed risk acknowledgement from the purchaser in compliance with subsection (15), and

(d) if the issuer is an investment fund, the investment fund is

(i) a non-redeemable investment fund, or

(ii) a mutual fund that is a reporting issuer.

(2.1) In Alberta, New Brunswick, Nova Scotia, Ontario, Québec and Saskatchewan the prospectus requirement does not apply to a distribution by an issuer of a security of its own issue to a purchaser if

(a) the purchaser purchases the security as principal,

(b) the acquisition cost of all securities acquired by a purchaser who is an individual under this section in the preceding 12 months does not exceed the following amounts:

(i) in the case of a purchaser that is not an eligible investor, $10,000;

(ii) in the case of a purchaser that is an eligible investor, $30,000;

(iii) in the case of a purchaser that is an eligible investor and that received advice from a portfolio manager, investment dealer or exempt market dealer that the investment is suitable, $100,000,

(c) at the same time or before the purchaser signs the agreement to purchase the security, the issuer

(i) delivers an offering memorandum to the purchaser in compliance with subsections (5) to (13), and

(ii) obtains a signed risk acknowledgement from the purchaser in compliance with subsection (15), and

OFFERING MEMORANDUM EXEMPTION – BROADEN THE EXEMPTION

(d) the security distributed by the issuer is not either of the following:

(i) a specified derivative;

(ii) a structured finance product.

(2.2) The prospectus exemption described in subsection (2.1) is not available

(a) in Alberta, Nova Scotia and Saskatchewan, to an issuer that is an investment fund, unless the issuer is a non-redeemable investment fund or a mutual fund that is a reporting issuer, or

(b) in New Brunswick, Ontario and Québec, to an issuer that is an investment fund.

(2.3) The investment limits described in subparagraphs (2.1)(b)(ii) and (iii) do not apply if the purchaser is

(a) an accredited investor, or

(b) a person described in subsection 2.5(1) [Family, friends and business associates].

(3) In Manitoba, Northwest Territories, Nunavut, Prince Edward Island and Yukon, this section does not apply to a distribution of a security to a person described in paragraph (a) of the definition of "eligible investor" in section 1.1 [Definitions] if that person was created, or is used, solely to purchase or hold securities in reliance on the exemption from the prospectus requirement set out in subsection (2).

(3.0.1) In Alberta, New Brunswick, Nova Scotia, Ontario, Québec and Saskatchewan, this section does not apply to a distribution of a security to a person that was created, or is used, solely to purchase or hold securities in reliance on the exemption from the prospectus requirement set out in subsection (2.1).

(3.1) Subsections (1), (2) and (2.1) do not apply to a distribution of a short-term securitized product.

(4) No commission or finder's fee may be paid to any person, other than a registered dealer, in connection with a distribution to a purchaser in the Northwest Territories, Nunavut and Yukon under subsection (2).

(5) An offering memorandum delivered under this section must be in the required form.

(5.1) In Alberta, New Brunswick, Nova Scotia, Ontario, Québec and Saskatchewan, an offering memorandum delivered under subsection (2.1)

(a) must incorporate by reference, by way of a statement in the offering memorandum, OM marketing materials related to each distribution under the offering memorandum and delivered or made reasonably available to a prospective purchaser before the termination of the distribution, and

(b) is deemed to incorporate by reference OM marketing materials related to each distribution under the offering memorandum and delivered or made reasonably available to a prospective purchaser before the termination of the distribution.

(5.2) A portfolio manager, investment dealer or exempt market dealer must not distribute OM marketing materials unless the OM marketing materials have been approved in writing by the issuer.

(6) If the securities legislation where the purchaser is resident does not provide a comparable right, an offering memorandum delivered under this section must provide the purchaser with a contractual right to cancel the agreement to purchase the security by delivering a notice to the issuer not later than midnight on the 2nd business day after the purchaser signs the agreement to purchase the security.

(7) If the securities legislation where the purchaser is resident does not provide statutory rights of action in the event of a misrepresentation in an offering memorandum delivered under this section, the offering memorandum must contain a contractual right of action against the issuer for rescission or damages that

(a) is available to the purchaser if the offering memorandum, or any information or documents incorporated or deemed to be incorporated by reference into the offering memorandum, contains a misrepresentation, without regard to whether the purchaser relied on the misrepresentation,

(b) is enforceable by the purchaser delivering a notice to the issuer

(i) in the case of an action for rescission, within 180 days after the purchaser signs the agreement to purchase the security, or

(ii) in the case of an action for damages, before the earlier of

A) 180 days after the purchaser first has knowledge of the facts giving rise to the cause of action, or

B) 3 years after the date the purchaser signs the agreement to purchase the security,

(c) is subject to the defence that the purchaser had knowledge of the misrepresentation,

(d) in the case of an action for damages, provides that the amount recoverable

(i) must not exceed the price at which the security was offered, and

(ii) does not include all or any part of the damages that the issuer

OFFERING MEMORANDUM EXEMPTION – BROADEN THE EXEMPTION

proves does not represent the depreciation in value of the security resulting from the misrepresentation, and

(e) is in addition to, and does not detract from, any other right of the purchaser.

(8) An offering memorandum delivered under this section must contain a certificate that states the following:

"This offering memorandum does not contain a misrepresentation."

(9) If the issuer is a company, a certificate under subsection (8) must be signed

(a) by the issuer's chief executive officer and chief financial officer or, if the issuer does not have a chief executive officer or chief financial officer, an individual acting in that capacity,

(b) on behalf of the directors of the issuer, by

(i) any 2 directors who are authorized to sign, other than the persons referred to in paragraph (a), or

(ii) all the directors of the issuer, and

(c) by each promoter of the issuer.

(10) If the issuer is a trust, a certificate under subsection (8) must be signed by

(a) the individuals who perform functions for the issuer similar to those performed by the chief executive officer and the chief financial officer of a company, and

(b) each trustee and the manager of the issuer.

(10.1) If a trustee or the manager that is signing the certificate of the issuer is

(a) an individual, the individual must sign the certificate,

(b) a company, the certificate must be signed

(i) by the chief executive officer and the chief financial officer of the trustee or the manager, and

(ii) on behalf of the board of directors of the trustee or the manager, by

(A) any two directors of the trustee or the manager, other than the persons referred to in subparagraph (i), or

(B) all of the directors of the trustee or the manager,

(c) a limited partnership, the certificate must be signed by each general partner of the limited partnership as described in subsection (11.1) in relation to an issuer that is a limited partnership, or

(d) not referred to in paragraphs (a), (b) or (c), the certificate may be signed by any person or company with authority to act on behalf of the trustee or the manager.

(10.2) Despite subsections (10) and (10.1), if the issuer is an investment fund and the declaration of trust, trust indenture or trust agreement establishing the investment fund delegates the authority to do so, or otherwise authorizes an individual or company to do so, the certificate may be signed by the individual or company to whom the authority is delegated or that is authorized to sign the certificate.

(10.3) Despite subsections (10) and (10.1), if the trustees of an issuer, other than an investment fund, do not perform functions for the issuer similar to those performed by the directors of a company, the trustees are not required to sign the certificate of the issuer if at least two individuals who perform functions for the issuer similar to those performed by the directors of a company sign the certificate.

(11) If the issuer is a limited partnership, a certificate under subsection (8) must be signed by

(a) each individual who performs a function for the issuer similar to any of those performed by the chief executive officer or the chief financial officer of a company, and

(b) each general partner of the issuer.

(11.1) If a general partner of the issuer is

(a) an individual, the individual must sign the certificate,

(b) a company, the certificate must be signed

(i) by the chief executive officer and the chief financial officer of the general partner, and

(ii) behalf of the board of directors of the general partner, by

(A) any two directors of the general partner, other than the persons referred to in subparagraph (i), or

(B) all of the directors of the general partner,

(c) a limited partnership, the certificate must be signed by each general partner of the limited partnership and, for greater certainty, this subsection applies to each general partner required to sign,

(d) a trust, the certificate must be signed by the trustees of the general partner as described in subsection 10 in relation to an issuer that is a trust, or

(e) not referred to in paragraphs (a) to (d), the certificate may be signed by any person or company with authority to act on behalf of the general partner.

(12) If an issuer is not a company, trust or limited partnership, a certificate under subsection (8) must be signed by the persons that, in relation to the issuer, are in a similar position or perform a similar function to any of the persons referred to in subsections (9), (10), (10.1), (10.2), (10.3), (11) and (11.1).

(13) A certificate under subsection (8) must be true

(a) at the date the certificate is signed, and

OFFERING MEMORANDUM EXEMPTION – BROADEN THE EXEMPTION

(b) at the date the offering memorandum is delivered to the purchaser.

(14) If a certificate under subsection (8) ceases to be true after it is delivered to the purchaser, the issuer cannot accept an agreement to purchase the security from the purchaser unless

(a) the purchaser receives an update of the offering memorandum,

(b) the update of the offering memorandum contains a newly dated certificate signed in compliance with subsection (9), (10), (10.1), (10.2), (10.3), (11) or (11.1) and

(c) the purchaser re-signs the agreement to purchase the security.

(15) A risk acknowledgement under subsection (1), (2) or (2.1) must be in the required form and an issuer relying on subsection (1), (2) or (2.1) must retain the signed risk acknowledgment for 8 years after the distribution.

(16) The issuer must

(a) hold in trust all consideration received from the purchaser in connection with a distribution of a security under subsection (1), (2) or (2.1) until midnight on the 2nd business day after the purchaser signs the agreement to purchase the security, and

(b) return all consideration to the purchaser promptly if the purchaser exercises the right to cancel the agreement to purchase the security described under subsection (6).

(17) The issuer must file a copy of an offering memorandum delivered under this section and any update of a previously filed offering memorandum with the securities regulatory authority on or before the 10th day after the distribution under the offering memorandum or update of the offering memorandum.

(17.1) In Alberta, New Brunswick, Nova Scotia, Ontario, Québec and Saskatchewan, the issuer must file with the securities regulatory authority a copy of all OM marketing materials required or deemed to be incorporated by reference into an offering memorandum delivered under this section,

(a) if the OM marketing materials are prepared on or before the filing of the offering memorandum, concurrently with the filing of the offering memorandum, or

(b) if the OM marketing materials are prepared after the filing of the offering memorandum, within 10 days of the OM marketing materials being delivered or made reasonably available to a prospective purchaser.

(17.2)OM marketing materials filed under subsection (17.1) must include a cover page clearly identifying the offering memorandum to which they relate.

(17.3) Subsections (17.4) to (17.21) apply to issuers that rely on subsection (2.1) and that are not reporting issuers in any jurisdiction of Canada.

(17.4) In Alberta, an issuer must, within 120 days after the end of each of its financial years, file with the securities regulatory authority annual financial statements and make them reasonably available to each holder of a security acquired under subsection (2.1).

(17.5) In New Brunswick, Ontario, Québec and Saskatchewan, an issuer must, within 120 days after the end of each of its financial years, deliver annual financial statements to the securities regulatory authority and make them reasonably available to each holder of a security acquired under subsection (2.1).

(17.6) In Nova Scotia, an issuer must, within 120 days after the end of each of its financial years, make reasonably available annual financial statements to each holder of a security acquired under subsection (2.1).

(17.7) Despite subsections (17.4), (17.5) and (17.6), as applicable, if an issuer is required to file, deliver or make reasonably available annual financial statements for a financial year that ended before the issuer distributed securities under subsection (2.1) for the first time, those annual financial statements must be filed in Alberta, delivered in New Brunswick, Ontario, Québec and Saskatchewan or made reasonably available in Nova Scotia, as applicable, on or before the later of

(a) the 60th day after the issuer first distributes securities under subsection (2.1), and

(b) the deadline in subsection (17.4), (17.5) or (17.6), as applicable, to file, deliver or make reasonably available the annual financial statements.

(17.8) The annual financial statements of an issuer referred to in subsections (17.4), (17.5) and (17.6) must include

(a) a statement of comprehensive income, a statement of changes in equity, and a statement of cash flows for

(i) the most recently completed financial year, and

(ii) the financial year immediately preceding the most recently completed financial year, if any,

(b) a statement of financial position as at the end of each of the periods referred to in paragraph (a), (c) in the following circumstances, a statement of financial position as at the beginning of the financial year immediately preceding the most recently completed financial year:

(i) the issuer discloses in its annual financial statements an unreserved statement of compliance with IFRS, and

(ii) the issuer

(A) applies an accounting policy retrospectively in its annual financial statements,

(B) makes a retrospective restatement of items in its annual financial statements, or

OFFERING MEMORANDUM EXEMPTION – BROADEN THE EXEMPTION

(C) reclassifies items in its annual financial statements,

(c) in the case of the issuer's first IFRS financial statements, the opening IFRS statement of financial position at the date of transition to IFRS, and

(d) notes to the annual financial statements.

(17.9) If the annual financial statements referred to in subsection (17.8)present the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the statement of comprehensive income referred to in subsection (17.8).

(17.10) The annual financial statements referred to in subsection (17.8) must be audited.

(17.11) Despite subsection (17.10), for the first annual financial statements of an issuer referred to in subsections (17.4), (17.5) and (17.6), comparative information relating to the preceding financial year is not required to be audited if it has not been previously audited.

(17.12) Any period referred to in subsection (17.8) that has not been audited must be clearly labelled as unaudited.

(17.13) In Alberta, New Brunswick, Ontario, Québec and Saskatchewan, if an issuer decides to change its financial year end by more than 14 days, it must deliver to the securities regulatory authority and make reasonably available to each holder of a security acquired under subsection (2.1) a notice containing the information set out in subsection (17.15) as soon as practicable and, in any event, no later than the earlier of

(a) the deadline, based on the issuer's old financial year end, for the next annual financial statements referred to in subsections (17.4) and (17.5), and

(b) the deadline, based on the issuer's new financial year end, for the next annual financial statements referred to in subsections (17.4) and (17.5).

(17.14) In Nova Scotia, if an issuer decides to change its financial year end by more than 14 days, it must make reasonably available to each holder of a security acquired under subsection (2.1) a notice containing the information set out in subsection (17.15) as soon as practicable and, in any event, no later than the earlier of

(a) the deadline, based on the issuer's old financial year end, for the next annual financial statements referred to in subsection (17.6), and

(b) the deadline, based on the issuer's new financial year end, for the next annual financial statements referred to in subsection (17.6).

(17.15) The notice referred to in subsections (17.13) and (17.14) must state

(a) that the issuer has decided to change its financial year end,

(b) the reason for the change,

(c) the issuer's old financial year end,

(d) the issuer's new financial year end,

(e) the length and ending date of the periods, including the comparative periods, of the annual financial statements referred to in subsections (17.4), (17.5) and (17.6) for the issuer's transition year and its new financial year, and

(f) the filing deadline for the annual financial statements for the issuer's transition year.

(17.16) If a transition year is less than 9 months in length, the issuer must include as comparative financial information to its annual financial statements for its new financial year

(a) a statement of financial position, a statement of comprehensive income, a statement of changes in equity, a statement of cash flows, and notes to the financial statements for its transition year,

(b) a statement of financial position, a statement of comprehensive income, a statement of changes in equity, a statement of cash flows, and notes to the financial statements for its old financial year,

(c) in the following circumstances, a statement of financial position as at the beginning of the old financial year:

(i) the issuer discloses in its annual financial statements an unreserved statement of compliance with IFRS, and

(ii) the issuer

(A) applies an accounting policy retrospectively in its annual financial statements,

(B) makes a retrospective restatement of items in its annual financial statements, or

(C) reclassifies items in its annual financial statements, and

(d) in the case of the issuer's first IFRS financial statements, the opening IFRS statement of financial position at the date of transition to IFRS.

(17.17) A transition year must not exceed 15 months.

(17.18) An SEC issuer satisfies subsections (17.13), (17.14) and (17.16) if

(a) it complies with the requirements of U.S. laws relating to a change of fiscal year, and

(b) it delivers a copy of all materials required by U.S. laws relating to a change in fiscal year to the securities regulatory authority at the same time as, or as soon as practicable after, they are filed with or furnished to the SEC and, in any event, no later than 120 days after the end of its most recently completed financial year.

(17.19) The financial statements of an issuer referred to in subsections

OFFERING MEMORANDUM EXEMPTION – BROADEN THE EXEMPTION

(17.4), (17.5) and (17.6) must be accompanied by a notice of the issuer disclosing in reasonable detail the use of the aggregate gross proceeds raised by the issuer under section 2.9 in accordance with Form 45-106F16, unless the issuer has previously disclosed the use of the aggregate gross proceeds in accordance with Form 45-106F16.

(17.20) In New Brunswick, Nova Scotia and Ontario, an issuer must make reasonably available to each holder of a security acquired under subsection (2.1) a notice of each of the following events in accordance with Form 45-106F17, within 10 days of the occurrence of the event:

(a) a discontinuation of the issuer's business;

(b) a change in the issuer's industry;

(c) a change of control of the issuer.

(17.21) An issuer is required to make the disclosure required respectively by subsections (17.4), (17.5), (17.6), (17.19) and (17.20) until the earliest of

(a) the date the issuer becomes a reporting issuer in any jurisdiction of Canada, and

(b) the date the issuer ceases to carry on business.

(17.22) In Ontario, an issuer that is not a reporting issuer in Ontario that distributes securities in reliance on the exemption in subsection (2.1) is designated a market participant under the Securities Act (Ontario).

(17.23) In New Brunswick, an issuer that is not a reporting issuer in New Brunswick that distributes securities in reliance on the exemption in subsection (2.1) is designated a market participant under the Securities Act (New Brunswick).

(18) [Repealed].

SCHEDULE B

Excerpt from NI 45-106: s. 2.9 – the "OM Exemption"

1.1 Definitions – In this instrument

"**eligible investor**" means

(a) a person whose

(i) net assets, alone or with a spouse, in the case of an individual, exceed $400,000,

(ii) net income before taxes exceeded $75,000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year, or

(iii) net income before taxes, alone or with a spouse, in the case of an individual, exceeded $125,000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year,

(b) a person of which a majority of the voting securities are beneficially owned by eligible investors or a majority of the directors are eligible investors,

(c) a general partnership of which all of the partners are eligible investors,

(d) a limited partnership of which the majority of the general partners are eligible investors,

(e) a trust or estate in which all of the beneficiaries or a majority of the trustees or executors are eligible investors,

(f) an accredited investor,

(g) a person described in section 2.5 [Family, friends and business associates], or

(h) in Manitoba, Northwest Territories, Nunavut, Prince Edward Island and Yukon, a person that has obtained advice regarding the suitability of the investment and, if the person is resident in a jurisdiction of Canada, that advice has been obtained from an eligibility adviser.

---

1. The OM Exemption is found in section 2.9 of National Instrument 45-106 – Prospectus Exemptions (NI 46-106). In particular, the core requirements of the OM Exemption in Ontario to which we refer in this briefing note are set out in section 2.9(2.1) of NI 45-106. When the term "OM Exemption" is used in this briefing note, it refers solely to the elements of the exemption applicable in Ontario. The full text of section 2.9 of NI 45-106 is attached to this briefing note as Schedule A. 2. We understand accredited investors make up less than 4% of Ontario's population. 3. The mandate of the Ontario Securities Commission is to protect investors while promoting fair and efficient capital markets. 4. A "registrant" is a registered dealer or registered adviser under the Securities Act (Ontario). Given our focus on the private capital markets, we wish to emphasize that the term "registrant" includes exempt market dealers. Exempt market dealers are vital in any effort to stimulate the private capital markets. 5. The PCMA argued in 2014 that investment caps are problematic in general and should be removed from the OM Exemption altogether (see http://www.pcmacanadamagazine.com/privatecapitalmarkets/fall_2014?pg=16#pg16). While we may raise these arguments again in the future, it is not necessary to do so for the purposes of this briefing note. Our future position will depend, in part, on the success of the OM Exemption if the recommendations advanced in this briefing note are implemented. 6. The term "eligible investor" is defined in section 1.1 of NI 45-106 and is used to establish the investment caps imposed in sections 2.9(2.1)(b)(i) and (ii), discussed below. The full text of the definition of eligible investor is set out in Schedule B to this briefing note. 7. The PCMA made the same recommendation in 2014. Our position has only been strengthened by the lackluster performance of the OM Exemption since its introduction in Ontario in January 2016. 8. In other words, if the registrant recommends that the client should invest less than the applicable investment cap in section 2.9(2.1)(b)(i) or (ii), the client should be free to invest up to the applicable investment cap. It would be inconsistent to allow an investor who has no suitability advice to invest up to the applicable investment cap but not allow the investor who has had such advice to do so. 9. The utility of a rolling 12-month aggregation is limited, in any event, by the information made available to the registrant by its investor client. We expect registrants to make reasonable inquiries of their clients. After that, we believe registrants should be free to act based on the information they receive from their clients. 10. For example, National Instrument 81-106 – Investment Fund Continuous Disclosure applies to a "mutual fund in the jurisdiction". Under the Securities Act (Ontario), the term "mutual fund in Ontario" means a mutual fund that is a reporting issuer or that is organized under the laws of Ontario (the latter not being required to be a reporting issuer). The PCMA does not believe that mutual funds in the jurisdiction should be excluded from the OM Exemption, regardless of whether those issuers are reporting issuers. 11. The PCMA is considering recommendations on corporate governance for certain issuers in connection with the OM Exemption, not just investment funds. It is premature to make specific recommendations in this briefing note. 12. See section 2.9(2.1)(d)(i) and (ii) of NI 45-106. 13. Some elements of the disclosure and reporting requirements of the OM Exemption do bear examination and discussion (including, for example, that there is no mechanism for ceasing to be obligated to report in compliance with the OM Exemption regime whereas there is a mechanism to cease to be a reporting issuer). That exercise is beyond the scope of this briefing note. The PCMA may make separate submissions regarding the disclosure and reporting requirements of the OM Exemption at a later date. 14. EMAC is a logical body to consider these recommendations as it was very involved in the evolution of the OM Exemption as the amendments to NI 45-106 were proposed and settled. EMAC is familiar with the issues and, in our view, can provide meaningful input.

PCMA EXECUTIVE TEAM

Doug Bedard
Chair
MNP Corporate Finance
Calgary, AB

Georgina Blanas
Executive Director
PCMA Canada
Toronto, ON

Julie Clarke
Vice-Chair
Mandeville Group of Companies
Toronto, ON

David Gilkes
Vice-Chair
North Star Compliance & Regulatory Solutions
Toronto, ON

Brian Koscak
Vice-Chair
Pinnacle Wealth Brokers
Calgary, ON

Matt Reynolds
Vice-Chair
Newport Private Wealth
Toronto, ON

PCMA BOARD OF DIRECTORS

Alison Alfer
Western Pacific Trust
Vancouver, BC

David S. Brown
WeirFoulds LLP
Toronto, ON

Craig Burrows
Triview
Calgary, AB

Richard Carleton
CSE
Toronto, ON

David D'Onofrio
PowerOne Capital Markets
Toronto, ON

Peter Dunne
Miller Thompson
PowerOne Capital Markets
Toronto, ON

Alain H. Dubé
CCFL Capital
Montreal, PQ

John Fabello
Torys
Toronto, ON

Joseph Galli
Pentor Finance
Montreal, PQ

Richard Gervais
KPMG
Toronto, ON

Neil Hutton
McLeod Law
Calgary, AB

Mark Kent
Portfolio Strategies
Calgary, AB

Victoria Kouzmichova
Raintree Financial Solutions
Edmonton, AB

Melissa MacKewn
Crawley MacKewn Brush
Toronto, ON

Fraser McEwen
GMP Securities
Toronto, ON

Steve Meehan
Glen Road Capital Partners
Mississauga, ON

Dianna Price
Romspen Investment
Toronto, ON

Amre Qahawish
TIMC
Montreal, PQ

Richard Remillard
Rémillard Consulting Group
Ottawa, ON

Gilles Seguin
BCF Business Law
Montreal, PQ

Diana Soloway
Brookstreet Mortgage Investment Corporation
Toronto, ON

Allison Taylor
Invico
Calgary, AB

William Tharp
Climate Change Infrastructure Corp
Toronto, ON

Peter-Paul Van Hoeken
Silver Maple Ventures
Vancouver, BC

Stephen Warden
MNP LLP
Toronto, ON

Nadine Wellwood
WealthTerra
Calgary, AB

David Wright
Cassio Capital Partners
Toronto, ON

PCMA STAFF

Jenya Lorenc
Membership & Operations Manager

Jacqueline Sallas-Syrett
Communications Director

PCMA

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

Now's the perfect time to join Canada's Private Capital Markets Association

VISIT pcmacanada.site-ym.com/general/register_member_type.asp and enter code: **CAN150** and celebrate the savings + benefits

CANADA 150

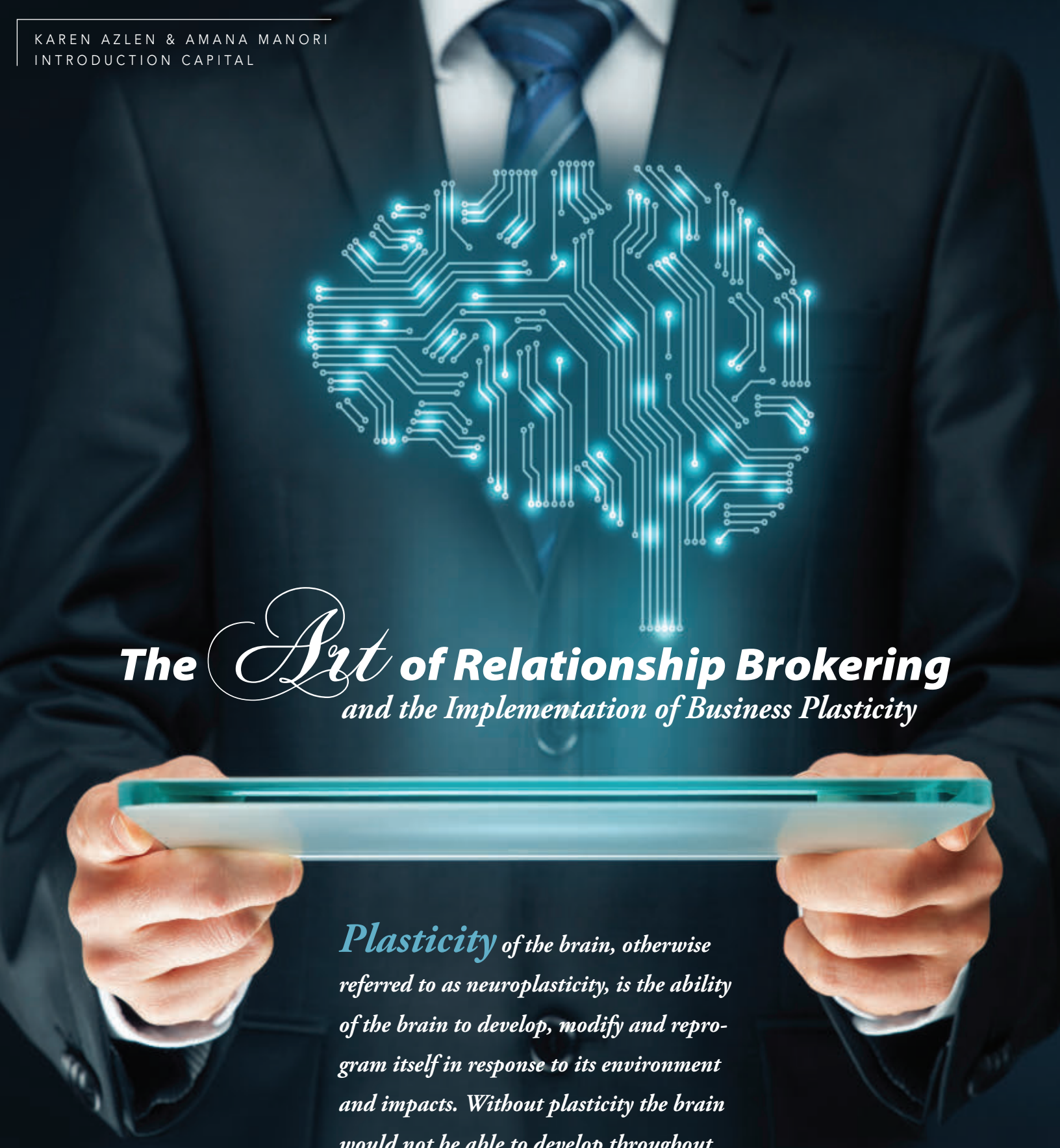
- PCMA Annual Conference & Awards
- Regulatory & Compliance Networking
- PCMA Chapters and Committees
- Listing in the PCMA Member Directory
- Effective Advocacy
- PCMA National Education Series

MEMBER PREFERRED RATES on:

- Exempt Markets Proficiency Course
- Staples Promotional Products
- Events
- FIB Insurance
- Hotels
- Cyber Security Package
- Unlimited Access to Industry Data

www.pcmacanada.com

KAREN AZLEN & AMANA MANORI
INTRODUCTION CAPITAL



The Art of Relationship Brokering

and the Implementation of Business Plasticity

***Plasticity** of the brain, otherwise referred to as neuroplasticity, is the ability of the brain to develop, modify and reprogram itself in response to its environment and impacts. Without plasticity the brain would not be able to develop throughout the human lifespan or recover from injury.*

What happens when we take the tenets of this brain science and apply it to the sphere of business? The unconstrained business model, like the human brain, has the opportunity to recover, respond and continually improve throughout its life. With the right stimuli and a favourable professional environment, this type of business model is intentionally structured to evolve - both organically and purposefully. Implementing plasticity characteristics in the design of a relationship-based business offers a modern approach to how we do business today, enabling us to build a business that not only attracts, but also retains, desired clientele.

Build A Healthy Environment

A healthy and stimulating environment can heal a damaged brain. Conversely, a damaged brain can endure prolonged and unnecessary distress with the lack of favourable inputs and amidst poor surroundings.

Similarly, an enriched and invigorating professional environment can allow a business to flourish. A positive work atmosphere and meaningful professional network can foster growth on many levels. In the construct of the healthy work environment, it is worth investing the time to understand the drivers, motivators, values and intentions of all stakeholders in the business ecosystem.

Research shows that mindful activity, such as meditation, positively impacts brain activity particularly as it relates to gray matter. These positive inputs are proven to deal with distressed emotions such as anxiety, depression, fear and anger. Moreover, it plays a vital role in the ability of the body to heal itself.

An investment in a purpose-built business that values its players will provide professional ammunition on many fronts, including the establishment of a competitive edge. In addition, it will motivate personnel and embed resilience in the firm's infrastructure that will prove useful in challenging times. A positive and rejuvenating environment will also allow you to stay focused on what is important – the needs and wishes of your clients. This clarity will help avoid common misalignments between client desires and deliverables.

Adopt A Discipline

Brain fitness is an important factor in plasticity. Brain structures show the greatest improvements in gray matter volume in response to aerobic exercise, including better executive function and faster processing speed.

In mental reprogramming, repetition and reinforcement will cause the brain to remember the new activity. Essentially, practice and discipline determines the skill level of the new ability. It should come as no surprise that the same methodology works in business. Immersion and commitment will go a long way towards mastering your professional domain.

Plasticity requires a focus on upward mobility whether it is a brain that is learning or a business that is leading. In order to learn, rigidity has to be abandoned and flexibility adopted. This nimbleness will allow the savvy business to manoeuvre and pivot in light of shifting economic factors and industry changes. Stagnating businesses are akin to deteriorating brains that are not exercised and are falling behind the pack.

Stay Relevant

Neuroplasticity does not suggest that the brain is malleable without any restrictions or limits – the fact remains that some parts of the brain are simply unable to take on new roles. It would also be an oversimplification to say that age, extent of damage and the level of treatment have no effect on the brain's ability to recover, develop and excel. The truth is that these factors play a large role and some brains will not recover to full function or adapt to new functions. It is also true that younger brains react better to inputs and stimuli.

For a business to succeed in the long term, inherent limitations must be identified. Outdated processes and viewpoints must be compensated for by the introduction of fresh and youthful outlooks. Hiring individuals to accommodate for deficits can complement the existing skillsets of the firm.While perhaps a difficult exercise to conduct, recognizing limitations will foster an open professional environment that is focused on ongoing improvement. Attention to relevance will ensure that you are attracting the right talent, clients and company.

Dream Big

The recent discoveries in the study of neuroscience are important because they show that even an old brain can learn new tricks; that is, the brain is not static. In the grand scheme, this theoretically means that knowledge has no limits. Specifically, it means that altering the physical brain can result in a change in our abilities and enhancement of our performance.

Apply this to the world of finance, and it not only highlights that legacy businesses can evolve but more importantly, that novice businesses can be designed with the capacity for continuous alteration. If plasticity is built into the DNA of a business, then adaptation and evolution will be integrated features towards manifesting an optimal model – the unconstrained model. An unconstrained model is open to both minor and major adjustments as required by its clients, environment and industry, as there are no impediments to the potential that can be achieved. It is also a responsive model whereby adverse impacts, however big or small, are not debilitating to business. Optimality is further enforced by the efficiency that the flexible business structure offers. Quite simply, business plasticity is good business.

The ever-changing brain is designed to deal with physical, emotional and other influences of life; however, it also allows us to transcend the responsive level into the creative level. If we adopt this concept it means that we not only have the ability to build receptive businesses within our professional disciplines, but more importantly that we can step outside of what currently exists and forge new paths.

Introduction Capital Inc. (IC) is an avant-garde business that precisely matches sophisticated family office and institutional-grade capital with alternative opportunities globally. With a number of high pedigree global manager clients, the firm offers local dealer services to clients seeking Canadian institutional capital. With a demonstrated track record of over 13 years, IC's unconstrained business model allows the firm to prioritize the interests of its investor and manager clients. IC hosts the leading annual Canadian Alternative Investment Forum (CAIF), which will be held on April 6th, 2017 in Toronto.

HAVEN
DEVELOPMENTS

Transit Focused Real Estate Opportunities

CONNECTING YOU TO THE CITY YOU LOVE

TARION

BILD MEMBER

Contact Us
905-851-1010

HAVENDEVELOPMENTS.CA

PCMA
PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

SPECIAL AWARDS EDITION

THE AWARDS ISSUE

• RECIPIENTS OF THE 2017 PCMA PRIVATE CAPITAL MARKETS AWARDS •

APRIL 20

PCMA CONFERENCE & AWARDS 2017
TORONTO BOARD OF TRADE

THE PCM AWARDS ARE THE FIRST OF ITS KIND TO RECOGNIZE THE OUTSTANDING ACHIEVEMENTS BY INDUSTRY PROFESSIONALS ACROSS CANADA. WE ARE COMMITTED TO SHINING THE SPOTLIGHT OF SUCCESS ON THE STARS OF THE PRIVATE CAPITAL MARKETS AND HONOURING THESE INDUSTRY LEADERS. OUR MEMBERS ARE BRIGHT, SAVVY DEALERS, ISSUERS, LAWYERS AND OTHER PRIVATE CAPITAL MARKETS PROFESSIONALS, WHO NAVIGATE THE PRIVATE CAPITAL WORLD FROM COAST TO COAST. THEY ARE ENGAGED EVERY DAY IN HELPING TO: FINANCE ENTREPRENEURS, INNOVATORS AND STARTUPS · INJECT CAPITAL TO TRANSITION BUSINESSES · SUPPORT AND GROW EMERGING SMALL AND MEDIUM SIZED BUSINESSES · CREATE SUCCESSFUL PRIVATE MARKET INVESTMENT OPPORTUNITIES FOR CANADIANS.

2017 PCMA PCM AWARD WINNERS

RECOGNIZING OUTSTANDING ACHIEVEMENTS BY INDUSTRY PROFESSIONALS ACROSS CANADA

2017 PCMA CORPORATE FINANCE TRANSACTION AWARD

- MNP CORPORATE FINANCE INC.
- GLASSMASTERS AUTOGLASS
- ATB CAPITAL
- WESTERN INVESTMENT COMPANY OF CANADA LTD.

The Western Investment Company of Canada Ltd. and ATB Capital have acquired GlassMasters Autoglass Ltd. and ARG Wholesale Ltd. MNP Corporate Finance Inc. acted as exclusive financial advisor to GlassMasters Autoglass Ltd. and ARG Wholesale Ltd. in structuring and negotiating this transaction. This transaction provides GlassMasters Autoglass Ltd. and ARG Wholesale Ltd. ("GlassMasters") with additional capital, contacts and other resources that will enable the company to expand its business presence in Alberta and into new markets in Western Canada. The current shareholders of GlassMasters, as well as certain key managers, have agreed to participate in an equity position and will continue working with the company to expand into new regions across Canada. GlassMasters is one of the largest windshield repair companies in the province of Alberta with 7 retail locations, 27 mobile repair vehicles and 36 service units operating in Calgary, Red Deer and Edmonton. ARG is a wholesale automotive glass distribution company. Western Investment Company of Canada Ltd. ("Western") is listed on the TSX under the symbol WIP. Western's strategy is to create a diversified portfolio of established Western Canadian businesses and create shareholder value through the identification and long-term ownership of companies with sustainable cash flows and strong potential for growth. This is Western's first acquisition.

2017 PCMA CORPORATE FINANCE TRANSACTION AWARD

- IBK CAPITAL CORP.
- AUGUSTINE VENTURES INC.
- RED PINE EXPLORATION INC.

The merged company of Augustine Venture and Red Pine (now Red Pine Exploration Inc.) is a gold and base-metals exploration company headquartered in Toronto, Ontario. The Company's common shares trade on the TSX Venture Exchange under the symbol "RPX". Red Pine has a 60% interest in the Wawa Gold Project (located in the Town of Wawa on Highway 17 north of Sault Ste. Marie) with Citabar LLP holding the remaining 40% interest. Red Pine is the Operating Manager of the Project and is focused on expanding the existing gold resource on the property.

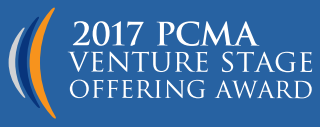
2017 PCMA INVESTMENT FUND AWARD

- **PORTLAND INVESTMENT COUNSEL INC.**
- **PORTLAND FOCUSED PLUS FUND LP**

Portland Focused Plus Fund LP, managed by James Cole, Portfolio Manager and Senior Vice President of Portland Investment Counsel Inc., was named Canada's #1 performing Alternative Strategies Fund for the three years ended March 31, 2017 by globeinvestor.com. The investment objective of the Portland Focused Plus Fund LP is to achieve, over the long term, preservation of capital and a satisfactory return. The Portland Focused Plus Fund LP employs the following core techniques: focused investing in a limited number of long securities positions; and leverage by purchasing securities on margin. James Cole joined Portland Investment Counsel Inc., and its affiliates in February 2000. James has 33 years of investment experience including 24 years as a portfolio manager responsible for Canadian and U.S. equities. James was formerly the treasurer of CFA Society Calgary and a director of CFA Society Toronto. James holds a degree in economics from Trent University and earned his CFA designation in 1986.

2017 PCMA VENTURE STAGE OFFERING AWARD

- **POWERONE CAPITAL MARKETS LTD.**
- **NEO LITHIUM CORP.**



Neo Lithium is the 100% owner of the newly discovered 3Q Project located in the largest Lithium producing region ofArgentina. The project is a large high grade, low impurity and brine reservoir complex that that extends for over 160 Km^2, located in the southern end of the "Lithium Triangle". It is the only known project in South America with open lithium brine reservoirs. Management and founders are highly experienced in the sector and were instrumental in the discovery and exploration of the Cauchari lithium deposit in Argentina, bringing the asset to full feasibility. PowerOneand its principals were instrumental in the creation of the Neo Lithium, were early investors and served as sole finder for a $7 million financing in April 2016 and was co-lead on a $11.45 million brokered financing in May 2016. PowerOne also assisted the company to go public in July 2016 which is now listed on the TSXV as NLC. In February 2017, PowerOne also acted as a syndicate member for a $25M Bought Deal financing which included some of the largest resource investment funds in the world. PowerOne's involvement with Neo Lithium clearly demonstrated the ability of an EMD to provide the early stage capital and financing expertise to support entrepreneurial business leaders and create investor opportunity in the Canadian economy.

2017 PCMA REAL ESTATE PORTFOLIO TRANSACTION AWARD

TIMBERCREEK ASSET MANAGEMENT

2017 PCMA
REAL ESTATE PORTFOLIO
TRANSACTION AWARD

The Timbercreek Canadian Multi-Residential Opportunity Fund #3 targeted well-located, underperforming Canadian multi-residential assets where Timbercreek could surface value through a value-add repositioning program. Timbercreek leveraged its experience and multi-faceted real estate management platform to purchase the assets at prices below replacement costs and execute a hands-on renovation and repositioning program in order to increase property revenue. The fund offered value-add-like risk for opportunistic returns by maintaining high levels of occupancy through the life of the program. "As a global investor, owner and manager of real estate, we are always focused on identifying market opportunities to generate strong risk-adjusted returns for our investors," states Blair Tamblyn, Senior Managing Director and CEO of Timbercreek Asset Management. "During the Fund's timeframe, the Canadian multi-residential market presented such an opportunity, and paired with Timbercreek's active management approach to repositioning the assets, we were able to provide a 19.6% net IRR for our investors, which exceeded target expectations."

2017 PCMA REAL ESTATE COMMERCIAL AWARD

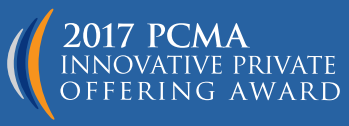
- **ARLINGTON STREET INVESTMENTS**
- **ASI NATIONAL BLOCK**

2017 PCMA
REAL ESTATE
COMMERICAL AWARD

ASI National Block LP was the purchase of an owner-occupied 35,000 sf mixed-use retail office building in one of the most high profile intersections of Calgary's 17th Avenue – 'The Red Mile'. Arlington Street Investments (ASI) purchased the building, retrofitted the office spaces, lobbies and mechanical systems and was able to increase the revenue by almost 30% within the first three months allowing for the property to increase its intrinsic value by over $4 Million. The property also included an 8,000 sf parking lot directly across the street that ASI used to anchor its second project – ASI National Block II LP – the assembly and amalgamation of the parking lot and adjacent 7,000 sf site. ASI was able to design a brand new, mixed use development which includes an 8,000 sf main floor for high profile retail tenants, with 4 additional floors comprising 34 high end boutique rentals targeted to an urban demographic. The investors of ASI National Block LP reinvested into ASI National Block II LP on the basis of the significant and accretive returns created by ASI for ASI National Block LP.

2017 PCMA INNOVATIVE PRIVATE OFFERING AWARD

- **RAINTREE FINANCIAL SOLUTIONS**
- **TEMPERANCE CAPITAL CORP.**



Temperance Capital is an alternative capital provider that makes preferred royalty investments in small and medium sized companies which have a proven history of sustainable cash flows and stable operations. The company's capital is a permanent solution for companies that is cheaper than equity and less restrictive than debt. The company was founded in 2014 and in 2016 began offering investments to Canadian retail and accredited investors through a syndicate of Exempt Market Dealers lead by Raintree Financial. The first investment for the Temperance fund is a senior debenture in the US portfolio of a private equity fund, Lynx Equity. The Lynx transaction provides immediate diversification across 11 operating companies with stable cash flow. This transaction was perfectly suited to support the yield provided to Temperance fund investors. Temperance was founded on principles of transparency and accountability backed by strong governance. The company has significant independent representation on the board of directors and as well as on the investment and compensation committees.

2017 PCMA REAL ESTATE DEVELOPMENT AWARD

- **TRIVIEW CAPITAL LTD.**

GEC BURNABY HEIGHTS LTD.

CIBT EDUCATION GROUP INC.

TriView Capital partnered with CIBT Education Group Inc., to raise $6 million in equity to develop a mixed use student housing condominium/retail site in Burnaby, British Columbia called GEC Burnaby. This financing was the perfect opportunity for all parties involved. Vancouver has a housing crisis that requires immediate attention and CIBT Education Group Inc. saw an opportunity to help remedy that problem while delivering high investment yields through the development of a retail/student residence.

2017 PCMA MORTGAGE FUND AWARD

- **GMP SECURITIES**
- **STERLING GLOBAL FINANCIAL LTD.**

2017 PCMA MORTGAGE FUND AWARD

Sterling Financial Group is headquartered in Nassau, Bahamas. In the Bahamas, the group holds a bank and trust license and manages New Providence Capital Management Partners Ltd., Sterling Mortgage Income Fund and Sterling Global Opportunity Fund. Sterling operates one of the oldest trust companies in the Cayman Islands from which it provides a range of fiduciary and administrative services to its clients. The group's success capitalizes on over half a century of successful real estate and investment experience of its management team. Their primary investment focus is in real estate and related services including mortgage lending and they have active investments and projects throughout the Caribbean and North America. In working with GMP Securities, a leading independent investment dealer, Sterling established an onshore trust and successfully raised capital through the Richardson GMP wealth management arm of GMP Securities.

2017 PCMA ENERGY AWARD

- **RAINTREE FINANCIAL SOLUTIONS**
- **PETROCAPITA INCOME TRUST**

2017 PCMA ENERGY AWARD

In 2016 Petrocapita Income Trust acquired oil and gas assets from Palliser Oil and Gas Corporation at a significant discount to FMV. The assets were purchased out of receivership for approximate price of $3 million compared their capital cost of approximately $130 million. The primary lender had approximately $60 million against the assets. Petrocapita's acquisition of the Palliser assets is unique example of the private markets ability to find out size returns in a quickly changing mark. The manager's skill and expertise in sourcing and negotiating the purchase is example of the Petrocapita's management teams' considerable talent.

2017 PCMA ADVOCACY AWARD

For demonstrating outstanding Regulatory Advocacy on behalf of the PCMA Membership and dedication to the PCMA *(Comment Letter on CSA Consultation Paper 33-404)*

2017 PCMA ADVOCACY AWARD

- **DAVID GILKES**, VICE CHAIR, PCMA, CO-CHAIR OF THE COMPLIANCE NETWORK, PCMA PRESIDENT OF NORTH STAR COMPLIANCE & REGULATORY SOLUTIONS INC.

- **NADINE MILNE**, CO-CHAIR OF THE COMPLIANCE NETWORK, PCMA CHIEF COMPLIANCE OFFICER FOR PORTLAND INVESTMENT COUNSEL INC.

- **BRIAN KOSCAK**, VICE CHAIR, PCMA CHIEF COMPLIANCE OFFICER AND GENERAL COUNSEL OF PINNACLE WEALTH BROKERS

2017 PCMA MORTGAGE INVESTMENT ENTITY INDUSTRY LEADERSHIP AWARD

- **DEAN KOELLER** | President | Calvert Home Mortgage Investment Corporation

2017 PCMA MORTGAGE INVESTMENT ENTITY INDUSTRY LEADERSHIP AWARD

Dean Koeller is President of Calvert Home Mortgage Investment Corporation, a family run private mortgage lender offering short-term financing solutions to the real estate market for more than 42 years. Over the last 20 years in the industry, Dean has chaired the Private Mortgage Lenders Forum for seven years with the goal of strengthening the standards, capacities, professionalism and ethics of our industry. Dean sits as a member of the Alberta Securities Commission's Exempt Market Advisory Committee, is a past board member of the Alberta Mortgage Brokers Association, and received Queen Elizabeth II Diamond Jubilee Medal AMBA Presidents Award and Top 40 under 40 in 2006.

It's Time To Consider
THE ALTERNATIVE.

SOLID SECURITY.

STABLE RETURNS.

Toll Free # 1.844.667.3726
T. 905.886.8786
F. 905.889.4155

info@rescomic.ca
360 Highway 7 East, Unit 28
Richmond Hill, ON. L4B 3Y7

RESCO
MORTGAGE INVESTMENT CORP

www.rescomic.ca

MNP TAX UPDATE Part 1: INCOME SPRINKLING

How the Proposed Legislation Impacts You and Your Business

Government of Canada Proposed Tax Changes for Private Corporations | 2017

Contents

On July 18, 2017, the Honourable Bill Morneau, Minister of Finance, released draft legislation and explanatory notes intended to "close loopholes and deal with tax planning strategies that involved the use of private corporations." One of the key issues addressed was income sprinkling (commonly known as income splitting) by private corporations to achieve access to lower marginal tax rates. In this update, we will take an in-depth look at the proposed rules relating to income sprinkling.

1. Overview of Proposed Legislation

The government has proposed a taxation plan that greatly reduces the ability to income split, resulting in higher taxes for shareholders of most private corporations.

Extension of the Tax on Split Income (TOSI) Rules

Historically, TOSI was only applied to minors and known as the kiddie tax wherein any dividends, business income and capital gains on a disposition to a related person would be subjected to the highest tax rates when earned by a minor.

The draft legislation proposes to expand the definition of what is subject to TOSI to include interest on loans, capital gains if the income on the shares would have been subject to a higher tax rate and second-generation income if it is earned on income that was itself subject to a higher tax rate for people under 25 years old.

If this legislation passes in its current form, the new rules are broadened to include adult family members, including spouses and children. You or your family may be subjected to these punitive tax consequences if you are a Canadian resident who receives TOSI from a business (i.e. dividends, interest, capital gains) and you are related to another person who is involved in the business and has ownership in the business.

Reasonability of Income

For the income not to be subject to TOSI, it must be considered reasonable in the circumstances. To be reasonable, it cannot exceed what would have been paid or payable to a third party for the same activities, considering the following:

- Work performed
- Capital contributed
- Risk assumed
- Compensation for services already completed

Where an individual under 25 is in receipt of income from a business, they must be actively engaged on a regular, continuous and substantial basis in the activities of the business to avoid the TOSI recharacterization.

This reasonability test may be a safe harbour for some, but what is considered reasonable is currently unclear and will likely be fact driven for each situation.

If the dividends being distributed to the shareholder are from corporate taxed capital gains or investment income, the reasonability test will not provide a safe harbour and the income may be deemed to be unreasonable and subject to the highest personal tax rates.

Is any Income Exempt from TOSI?

If a child is under 25 and the income was earned as a consequence of the death of his or her parent, it will generally not be subject to TOSI.

Tax on Capital Gains

In addition to the changes to TOSI, if an individual or trust incurs a capital gain selling shares of a private company to a related person, the shareholder will be deemed to have received an ineligible dividend (which can be taxed as high as 45%, depending on the province of residence) rather than a capital gain.

This could make it significantly more difficult to transfer a business from one generation to the next.

Restricting Access to the Lifetime Capital Gain Exemption (LCGE)

The capital gain deduction is important to every entrepreneur, farmer and fisherman, as it allows them to protect a lifetime limit of $835,714 for qualified small business corporation (QSBC) shares or $1,000,000 for qualified farm property (QFP) or qualified fishing property (QFP).

Limitations on Dispositions after 2017:

There are new limitations on the ability to access the LCGE of qualified farm property, qualified fishing property and qualified small business corporation shares for dispositions after 2017. These include:

- Minors*:* The capital gain deduction will no longer be available to minors.
- Gains Accruing while a Minor*:* If the individual held the shares while they were a minor, any portion of the capital gains accruing during that time is not eligible for the capital gain deduction.
- Split Income*:* If the taxable capital gain is considered split income, it will not be sheltered by the capital gain deduction.
- Gains Accruing Prior to Rollout from Trust*:* If a personal trust holds the shares, any capital gain accruing while the shares were held by the trust will not be eligible for capital gain deduction.

Planning Opportunity

There will be an opportunity to create a deemed disposition in 2018 of qualified farm property, qualified fishing property and qualified small business corporation shares to create a disposition of the property and shelter the capital gain with the capital gain deduction. This will allow individuals and trusts to use their capital gains deduction before it is lost to them. It will be important to determine the actual Fair Market Value (FMV) of the property before filing the designation, as if the elected amount exceeds the FMV (whether inadvertently or intentionally) there will be adverse tax consequences.

This election will be due on the due date of filing the personal or trust tax return for 2018.

2. What will these changes mean to you?

If you have family members as shareholders, whether directly or indirectly through a family trust, this legislation may require you to defend the reasonability of the work performed. It may require you to have formal job descriptions for people and consider what the business would pay a third party for the same duties. Record keeping and documentation will be important, as will establishing a methodology for determining and justifying reasonableness.

If there are preferred shares outstanding, consider paying dividends on the preferred shares rather than the common shares, as they may be reasonable based on capital contributed.

There may be a renewed bias to remunerate family members with salaries as opposed to dividends. This will create CPP contributions (in theory, increasing eventual payments from the CPP), earned income room for RRSP purposes and will have source deduction requirements.

The proposed rules are complicated and your MNP Tax Advisor can help you make sense of it all.

- Is your current business structure still suitable for your needs?
- Do you have to develop a new remuneration strategy?
- Should you elect on a deemed disposition to access your capital gains deduction?

These are the types of questions that need to be addressed in order for you to be prepared if these proposed rules are passed into legislation.

Consultation with Government

MNP will be preparing a written submission to the Department of Finance on the technical aspects of the proposed legislation. The consultation period ends on October 2, 2017. Following the consultation period, the government will table a revised form of this legislation.

3. What do you need to do?

Contact your local MNP Advisor to understand how these changes may affect your interests. Even though the government is still in consultation phase, it is best to understand the effect these proposed changes could have on your business as well as your options to minimize the effect if the legislation moves forward.

Click here to find an MNP Professional

Everything Counts

When it comes to tax, it's all about the details. Knowing the rules and regulations, what qualifies, what doesn't and how to structure your business and claims most effectively. Our specialized teams are focussed on every facet of tax. We have the in-depth knowledge and experience that will allow you to capitalize on all the opportunities available. We know what to look for, right down to the smallest details. And it's the small details that can add up to make a big difference.

MNP TAX UPDATE Part 2: Passive Investments

How the Proposed Legislation Impacts You and Your Business

Government of Canada Proposed Tax Changes for Private Corporations | 2017

Contents

On July 18, 2017, the Honourable Bill Morneau, Minister of Finance, released a paper for consultation, along with draft legislation and explanatory notes intended to "close loopholes and deal with tax planning strategies that involved the use of private corporations."

One of the key issues addressed was private corporations that hold passive investment portfolios and the perceived advantage to taxpayers that do so. In this update, we will take an in-depth look at the current rules that apply to these investments, as well as the proposed changes being contemplated by the government.

1. Overview

Corporate business income is generally taxed at lower rates than personal income, which leaves corporations with more money to further invest in their businesses. There are times when a private corporation's earnings are beyond what is needed to re-invest and grow the business. In such cases, the corporation may invest some of its earnings in passive investments.

The government is of the view an unfair tax advantage exists, as shareholders of a private corporation may achieve greater returns on passive investments held through a corporation than employed individuals holding investments personally.

No legislative proposals regarding the taxation of passive investment were released in conjunction with the paper. However, the government is contemplating changes to the tax regime and methods for determining the tax treatment of dividends paid from passive investments and has stated new rules will be designed in the coming months. If enacted, these rules can potentially be amongst the most significant legislative changes in the last 45 years.

2. Current Rules

In general terms, investment income earned by a corporation and distributed to shareholders as dividends bears an amount of tax that is equivalent to what an individual earning the investment income directly would pay. Accordingly, from a tax perspective, an individual with funds to invest is generally indifferent between investing the funds personally or through a corporation. The current provisions, which were designed to equalize taxes payable by individuals and corporations on passive income, have been in place since 1972.

The provisions include additional taxes that apply to passive investment income the year it is earned (a "refundable tax"), that is fully or partially refundable to the corporation as it pays out taxable dividends to its shareholders. The additional refundable tax bridges the gap between the corporate and personal income tax rates, such that the tax payable by corporations on passive investment income approximates what an individual in the top tax bracket would pay on the same income.

The current rules do not, however, consider the source of earnings used to fund passive investments through private corporations. That is, there are no provisions to align the corporate earnings available to fund the passive investment with the after-tax amount that would be available to an individual. As noted earlier, corporations are generally taxed at lower rates than individuals on active business income. A private corporation earning this income may have more capital to invest in passive investments, which in turn may generate higher returns on such investments, in comparison to the returns that can be achieved by an employed individual investing with his or her after-tax dollars. The government views this as an inequitable result, stating the lower tax rates available to private corporations was not intended to allow shareholders to realize greater personal savings.

3. Proposed Changes

To address the perceived inequity under the current tax rules as described above, the federal government is considering a regime that would maintain tax rates on the passive investment income of private corporations equal to top personal tax rates. It would remove the refundability of passive investment taxes where earnings used to fund passive investments were taxed at low corporate tax rates. In addition, the new system would align the tax treatment of passive income distributed to shareholders as dividends with that of the earnings used to fund the passive investments. The earnings could either be subject to the small business rate or the general rate, but could also be funds taxed at the personal level and contributed by shareholders.

In the current tax system, a shareholder can receive one of three types of dividends:

i. Eligible dividends – paid from corporate earnings that have been subject to regular corporate tax rates;
ii. Regular, or "non-eligible" dividends – paid from corporate earnings that have been subject to reduced corporate tax rates and are therefore subject to a higher personal tax rate than eligible dividends; and
iii. Capital dividends – tax-free amounts paid from a corporation's capital dividend account, which generally consists of the non-taxable portion of a corporation's capital gains.

To properly align the tax treatment of distributed passive income to the tax treatment of the underlying corporate earnings used to fund the passive investments, the type of dividends paid to shareholders would need to follow the tax treatment of the income that is used to fund the passive investment, rather than the nature of the passive income itself.

Consider the example of a passive investment funded with active small business income. As the underlying corporate income was taxed at a preferential tax rate, it is implied all income generated by that passive investment would be treated as a "non-eligible dividend" upon distribution to shareholders, and accordingly:

- Dividend income from publicly-traded stocks would no longer be treated as eligible dividends, as is currently the case, but would be treated as non-eligible dividends (consistent with the tax treatment of small business income that is distributed to shareholders), and
- The non-taxable portion of capital gains would not be attributed to the capital dividend account in this example.

The government has introduced two possible approaches to the new regime, an apportionment method and an elective method.

Apportionment Method

This method would involve an apportionment of corporate passive investment income into three categories, or "pools" that will be tracked from year to year:

i. Income taxed at the small business tax rate;
ii. Income taxed at the general corporate tax rate; and
iii. Income comprised of amounts contributed by shareholders from income taxed at personal tax rates.

This would translate into three possible tax treatments for passive investment income when distributed to shareholders as dividends - eligible dividends, non-eligible dividends, or dividends that would be received tax-free.

The Apportionment Method would generally work as follows:

1) The balance of the three pools at the end of each year would be used to calculate their respective proportion of the total undistributed income pool.
2) The passive income earned during the year would be attributed to each of the pools using the proportions calculated in Step 1.

3) When dividends are paid to shareholders, the corporation would deduct the amount paid from the appropriate pool.
4) The end-of-the-year balance of each pool would be equal to the sum of (1) the prior-year balance, (2) the active business income earned in the year and taxed at the small business rate / the active business income earned in the year and taxed at the general rate / or tax-paid amounts contributed by the shareholder (depending on which pool is at issue), and (3) the net passive income apportioned in the year, minus any payment of dividends from that pool.

In practice, this approach would add complexity to the current tax system. However, the Apportionment Method would allow for the tax treatment of passive income to adapt to changes in the active business, passive investment, or other sources of income earned through a corporation.

Elective Method

Under the Elective Method, private corporations would be subject to a default tax treatment, unless they elect otherwise. The choice between the default or elective tax treatments would determine whether passive income is treated as eligible or non-eligible dividends on distribution. Unlike the Apportionment Method, the Elective Method would not require types of corporate income to be tracked separately.

Under the default tax treatment, passive income earned in a Canadian-controlled private corporation (CCPC) would be subject to non-refundable taxes (at rates equivalent to the top marginal personal tax rates) and dividends distributed from such income would be treated as non-eligible dividends. It would implicitly be assumed the passive income was funded using earnings taxed at the small business rate (even though the company may have earned income taxed at the general rate).

Alternatively, corporations could elect for a tax treatment that would apply additional non-refundable taxes on its passive income, and the lower eligible dividend tax rate would apply to dividends paid from the passive income. This election would remove the corporation's access to the small business tax rate that may otherwise be available. This election would likely be desirable for corporations where all or a significant portion of their income is taxed at the general rate.

The Elective Method is expected to result in a corporate owner with a portfolio that is worth the same as that of an individual who invested funds personally.

4. Impact to You and Your Business

If you currently earn passive investment income through a private corporation, the proposed changes may result in a higher rate of tax on future distributions of this income and potentially more detailed record-keeping requirements at the corporate level. A MNP Tax Advisor can keep you up to date and provide insight on developments beyond the government's consultation period to help assess how these changes may impact you.

5. Consultation with Government

MNP will be preparing a written submission to the Department of Finance on the technical aspects of the proposed legislation and other changes. The consultation period ends on October 2, 2017. Following the consultation period, the government is expected to table proposed legislation on this topic.

6. What do you need to do?

Contact your local MNP Advisor to understand how these changes may affect your interests. Although the government is still in consultation phase, it is best to understand the effect these proposed changes could have on your business as well as your options to minimize the effect if legislation is drafted and moves forward.

Click here to find an MNP Professional

Everything Counts

When it comes to tax, it's all about the details. Knowing the rules and regulations, what qualifies, what doesn't and how to structure your business and claims most effectively. Our specialized teams are focussed on every facet of tax. We have the in-depth knowledge and experience that will allow you to capitalize on all the opportunities available. We know what to look for, right down to the smallest details. And it's the small details that can add up to make a big difference.

MNP TAX UPDATE Part 3: CAPITAL GAIN CONVERSIONS

How the Proposed Legislation Impacts You and Your Business

Government of Canada Proposed Tax Changes for Private Corporations | 2017

Contents

On July 18, 2017, the Honourable Bill Morneau, Minister of Finance, released a paper for consultation, along with draft legislation and explanatory notes intended to "close loopholes and deal with tax planning strategies that involved the use of private corporations."

One of the key issues addressed was the conversion of income into tax-exempt or lower-taxed capital gains. In this update, we will take an in-depth look at the proposed changes relating to this type of tax planning.

1. Overview of Proposed Legislation

As part of the consultation paper, the federal Minister of Finance addressed the tax strategies commonly used by advisors and corporate business owners to trigger capital gains to distribute after-tax earnings of corporations. This type of planning often stemmed from the arbitrage in tax rates on capital gains and dividend income. This arbitrage varies by province. For example, in Alberta, a capital gain realized by an individual in the highest income bracket is taxed at a rate of 24 percent (one-half of the top federal and Alberta combined personal rate of 48 percent), whereas a non-eligible dividend of the same individual is taxed at 41.29 percent. The disposition of assets by a corporation can be structured to take advantage of the lower tax rates applicable to capital gains and tax-free capital dividends to achieve a similar result.

The federal government has proposed two measures to discourage this type of tax planning.

Extension of Surplus Stripping Anti-Avoidance Rule

A long-standing anti-avoidance rule prevents individuals from extracting, or "stripping" surplus funds from a corporation tax- free by recharacterizing certain proceeds of disposition received on the sale of shares to a dividend. Without this rule, the sale of shares by an individual could be structured such that the individual receives proceeds that are effectively a distribution of corporate surplus taxed at the lower capital gains rate, which would otherwise be taxed at the dividend rate.

The anti-avoidance rule generally prevents this type of structuring by excluding from an individual's tax cost of a share any part of the proceeds previously sheltered by the individual's (or a related individual's) Lifetime Capital Gains Exemption (LCGE). This effectively prevents individuals from extracting corporate funds tax free by selling such shares to a related corporation at a later time.

The anti-avoidance rule, in its most recent form, created a problem with succession planning. Parents who wanted to transition their business to their child by selling shares to their child's corporation would have any gain on the sale of the business taxed at the higher dividend rate. If the parents utilized their respective LCGEs on a sale directly to their child and the child later sold the shares to a related corporation, that child could face the same dividend tax treatment. The anti-avoidance rule prevents the child from using a corporation to effectively finance the purchase, even where the child is paying the full fair market value for the business as a third party would. In contrast, had the parents chosen to sell the shares to an unrelated corporation, any gain realized would be sheltered by any available portion of their LCGEs and/or taxed at the lower capital gains rate.

Under the proposed legislation, the existing anti-avoidance rule is expanded to include the sale of shares by an individual to a related corporation where the individual's tax cost includes sales or gains realized by a unrelated person. The anti-avoidance rule would apply even if the unrelated person paid capital gains tax.

For example, consider a situation where parents sell shares of a corporation to their child, do not claim their LCGEs and pay tax on the capital gain realized on the sale. By paying the necessary taxes, the child could then sell the shares to his or her corporation and receive funds on a tax-paid basis to repay the parents. Under the proposed rules, this type of sucession planning may result in the same gain being subject to both capital gains and dividend tax. This will have a significant impact on transitioning a business within a family.

The proposed legislation could also be troublesome for many estates. Upon death, individuals are deemed to dispose of all assets at fair market value and their estate to acquire the assets at the same value. In the case of shares held by the deceased individual, this will often result in a capital gain. Double taxation can result where the estate has to pay tax on such capital gains, as well as on dividend income incurred to liquidate the estate assets from within the corporation. Tax structuring commonly referred to as the "pipeline" is used in estate planning to deal with the above situation, but at an effective tax rate equal to an individual's capital gains rate, will no longer be a tax-effective alternative under the proposed legislation. Other structuring alternatives are available, however they would need to be acted upon in a timely manner.

If enacted, the rule applies to shares disposed of on or after July 18, 2017.

Many in the tax community had been hopeful the federal government would ease some of the restrictions on intergenerational business transfers; however, it appears the proposed legislation has created further challenges.

Recharacterization of Corporate Distributions

Generally, capital gains realized by a corporation are included in income at 50 percent, similar to capital gains realized by an individual. The untaxed portion can be paid out as a tax-free dividend to the shareholder.

The federal government proposes to add a new rule to prevent tax planning that circumvents specific tax rules meant to prevent the conversion of a private corporation's surplus into tax-exempt, or lower-taxed capital gains. Generally, the rule applies where there is a sale of property to a related party (and could be interpreted to apply more broadly to unrelated parties), there is a significant reduction or disappearance of assets from a corporation and it can reasonably be considered that a related individual has avoided tax as part of the transaction(s) carried out. The new rule prevents the untaxed portion of any capital gain realized by the corporation from being included in its capital dividend account. Furthermore, amounts received or receivable by the individual would be recharacterized as dividends and therefore subject to dividend tax rates, regardless of what form the amounts would otherwise be.

As a result, the effective tax rate on a sale of assets by a corporation to a related person can be significantly higher than if the assets were sold to a third party. The new rule may also apply in a situation that shares the above characteristics, but does not involve a disposition of property.

If enacted, this new rule applies to amounts that are received or become receivable on or after July 18, 2017.

The wording of the proposed rule is vague and may be applied broadly. As the intention of the involved parties is considered when determining whether this rule applies, any significant dispositions of assets may need to be supported by an established intention, particularly where the corporation makes use of its capital dividend account shortly after the disposition.

2. Impact to You and Your Business

These proposed changes create complexities in the disposition of assets, shares, transition or succession of a business and estate planning. It is recommended the direct consequences to you, your family, and your business be discussed with a MNP Tax Advisor.

3. Consulation with Government

MNP will be preparing a written submission to the federal Department of Finance on the technical aspects of the proposed legislation. The consultation period ends on October 2, 2017. Following the consultation period, the federal government is expected to table a revised form of this legislation.

4. What do you need to do?

Contact your local MNP Advisor to understand how these changes may affect your interests. Although the government is still in consultation phase, it is best to understand the effect these proposed changes could have on your business, as well as your options to minimize the effect if the legislation moves forward.

Click here to find an MNP Professional

Everything Counts

When it comes to tax, it's all about the details. Knowing the rules and regulations, what qualifies, what doesn't and how to structure your business and claims most effectively. Our specialized teams are focussed on every facet of tax. We have the in-depth knowledge and experience that will allow you to capitalize on all the opportunities available. We know what to look for, right down to the smallest details. And it's the small details that can add up to make a big difference.

VANCOUVER | CALGARY | EDMONTON | WINNIPEG | TORONTO | MONTREAL | HALIFAX

MNP CORPORATE FINANCE INC.

MNP Corporate Finance

Transaction Advice That Gets You There

MNP Corporate Finance is a leader in providing transaction advisory services and is committed to helping Canadian companies reach their full potential. Whether it's assistance selling your company, financing to fund your growth strategy, due diligence on an impending transaction or other merger and acquisition activity, we provide innovative, effective and tailored corporate finance solutions.

Below are select transactions completed across Canada in 2016 & 2017

Miami Colony Farms Ltd.

has acquired the shares of

Hansen Creek Farms Ltd.

MNP Corporate Finance Inc. acted as exclusive financial advisor to Hansen Creek Farms Ltd. in structuring and negotiating this share transaction with Miami Colony Farms Ltd.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

GROUPE POISSON

has acquired

MARCEL

MNP Corporate Finance Inc. acted as financial advisors and provided financial and tax due diligence services to Poisson SAS.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

PRAIRIE AUTOMOTIVE GROUP

has acquired

Winnipeg HYUNDAI

MNP Corporate Finance Inc. acted as exclusive financial advisor to Winnipeg Hyundai in structuring and negotiating this transaction.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

Kew Media Group

has acquired

frantic films

MNP Corporate Finance Inc. provided financial and tax due diligence services to Kew Media Group.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

SEABOARD

has acquired

BLUE HILLS PROCESSORS

MNP Corporate Finance Inc. acted as exclusive financial advisor to Blue Hills Processors in structuring and negotiating this transaction.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

SECURITY

has acquired

ALL PEACE PROTECTION

MNP Corporate Finance Inc. acted as exclusive financial advisor to All Peace Protection Ltd. in structuring and negotiating this transaction.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

CROWN CREST CAPITAL

Has raised a senior secured warehouse facility to support its consumer rental business.

MNP Corporate Finance Inc. acted as financial advisors in arranging this facility.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

bdc

has provided equity capital to

AMAZON

MNP Corporate Finance Inc. provided financial and tax due diligence services to BDC Capital Inc.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

PROBAT

has acquired

E D INDUSTRIAL LTD

MNP Corporate Finance Inc. acted as financial advisors and provided financial and tax due diligence services to Probat Burns.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

PNC BANK

has provided growth capital to

doxim

MNP Corporate Finance Inc. acted as financial advisors and provided due diligence services to Doxim Solutions ULC.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

National FOODS

has acquired a controlling share of

A1 CASH + CARRY

MNP Corporate Finance Inc. acted as financial advisors and provided financial and tax due diligence services to National Foods.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

Amenity HEALTH CARE

has acquired

Fournier Drugs Ltd.

MNP Corporate Finance Inc. acted as exclusive financial advisor to Fournier Drugs Ltd. in structuring and negotiating this transaction.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

viva my viva plan

has raised common share equity capital to execute its strategy of commercializing My Viva Plan.

MNP Corporate Finance Inc. acted as financial advisors and assisted in raising this private placement.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

WIP WESTERN INVESTMENT PROPERTIES

WIP (V) Investment Limited

has raised equity capital of

$23,645,000

for the acquisition of multi-family (apartment) buildings in the Greater Vancouver Area.

MNP Corporate Finance Inc. acted as financial advisors in arranging this private placement.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

SOUTH EAST

has acquired a 70% interest in

TUNDRA

MNP Corporate Finance Inc. acted as exclusive financial advisor to Tundra Mechanical & Millwrighting (1988) Ltd. in structuring and negotiating this transaction.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

THE WESTERN INVESTMENT COMPANY OF CANADA LIMITED

and

ATB Financial

have acquired

GlassMasters

MNP Corporate Finance Inc. acted as exclusive financial advisor to GlassMasters Autoglass Ltd. and ARG Wholesale Ltd. in structuring and negotiating this transaction.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

Brunswick BIERWORKS

has raised

$12,000,000

of combined equity capital from a private investor and senior debt through National Bank of Canada.

MNP Corporate Finance Inc. acted as exclusive advisor to Brunswick Bierworks Inc. in arranging the private placement and securing the debt capital.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

EQUICAPITA

has acquired a majority interest in

MNP Corporate Finance Inc. acted as exclusive financial advisor to Nutter's Bulk & Natural Foods Ltd. in structuring and negotiating this transaction.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

GROUPE DESCHÊNES

has acquired

IdealSupply

MNP Corporate Finance Inc. acted as exclusive financial advisor to Ideal Supply Company Limited in structuring and negotiating this transaction.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

Knight

has acquired

VILLAGE

MNP Corporate Finance Inc. acted as exclusive financial advisor to Village Ford Lincoln Sales Ltd. in structuring and negotiating this transaction.

DIVESTITURES > FINANCING > TRANSACTION ADVISORS

For more information on how MNP Corporate Finance can help you, contact:
Brett Franklin, CPA, CA, President, MNP Corporate Finance at 204.336.6190
or brett.franklin@mnp.ca

PCMA Q&A

Susan Han

MEMBER SPOTLIGHT

"Membership is both how you can contribute and how you can benefit. Inclusion of mid-market capital markets participants in the national conversation is critical to our collective economic health. The humungous institutions have well-functioning mechanisms for communication and influence, and that's fine. But PCMA serves a vital role in giving voice to emerging and less established interests."

***Q**: Tell us a little about your background and what made you gravitate toward Securities Law?*

A: I studied history and philosophy at University. You know, hardly anyone, as a young child, thinks, "When I grow up, what I really want to do is to help people allocate capital to its most efficient use". I just sort of stumbled into it. There's a lot to like. It's fun, for one thing. It's colourful: the jargon, the inside jokes, the storied characters that populate this industry.

***Q**: Since you were called to the bar, how have things changed for women in the legal field?*

A: Things have changed for women, but in ways different than I would have anticipated at the age of 28 or so. Change has been slower than I'd hoped. One thing is that it's rare now for anyone, be they clients, fellow lawyers, or colleagues in your firm, to make assumptions about your competence or commitment on the basis of your sex. That wasn't the case 30 years ago. I'm hugely encouraged though by the attitude among young women, and also among younger men, to call out instances of exclusion or unequal treatment and being much more open about asking for a place at the table.

***Q**: You recently joined WeirFoulds as partner. Tell us a little bit about your focus there on transaction-oriented securities.*

A: I work a lot with issuers or sponsors of various types of investment vehicles. So public mutual funds and fund managers or sponsors of privately offered investments. It's a really interesting area because things change every day, in response to changing economic and market conditions. You get to be part, a bit part, but still a part, of a big exciting story.

***Q**: What one thing do you emphasize above all else when talking to exempt market dealers about their regulatory obligations?*

A: This may sound trite: but as a dealer, your client is the end investor. It's the end investor's interests that you need to keep in mind. Everything else flows from that. All the rules make more sense if you look at it through that lens. Sometimes that seems counterintuitive because the compensation tends to flow from product sponsors. It's human nature to look at things from the point of view of the entity that puts bread on your table. But that's not how the regulations are set up.

***Q**: You have particular expertise in anti-money laundering (AML). How has the development of cyrptocurrency affected this field?*

A: Wow. Have you got a day? Anti-money laundering is a difficult and intractable challenge, in terms of balancing a whole bunch of competing interests. Like the right to privacy and convenience to consumers, and at the same time combating crime and terrorism financing. Encouraging innovation, embracing technology and enhancing efficiency while not undermining the stability and integrity of our financial system. It is even more challenging where you bring cryptocurrency into the mix. Because the anonymity of digital currency transaction is a feature, not a bug. At a very practical level, the federal Department of Finance has announced that it will be introducing legislation to regulate transactions whereby fiat currency is converted to crypto, but we haven't seen the draft rules yet. The delay may be indicative of the difficulty in getting this balance right.

***Q**: Our country recently celebrated its 150th birthday. As we head into the next 150... What investment opportunities have you the most excited?*

A: You know, I'm a first generation immigrant. I arrived in Canada shortly after Canada's 100th birthday, in 1967. I didn't have an investment account then, but had I been able to, I would have gone long Canada! And I continue to be pretty bullish on Canada! I'm not an investment professional, but in terms of making money, I think there is an ever growing divide between the world of the investment professionals, the institutions, the giant pools of capital, characterized by sophisticated models, the mind-boggling technology, also driven investing. And the world of the investors who don't have access to all that. And that there are opportunities out there that the machinery of big data and sophisticated investing also have yet to exploit. So, the exempt markets.

***Q**: With the adage, "Membership has its Privileges", please finish this sentence: Joining the Private Capital Markets Association of Canada is imperative because…*

A: Membership is both how you can contribute and how you can benefit. Inclusion of mid-market capital markets participants in the national conversation is critical to our collective economic health. The humungous institutions have well-functioning mechanisms for communication and influence, and that's fine. But PCMA serves a vital role in giving voice to emerging and less established interests.

Susan Han, Partner
WeirFoulds, LLP
Co-Chair,
Investment Funds Group

DAVID W. WRIGHT, ICD.D, FOUNDER OF CASSIO CAPITAL ADVISORS INC.

THE 2016 ONTARIO EXEMPT MARKET: IS THE IPO WINDOW CLOSING?

Average amount falls 18% to $16.8M

HAVING SPENT ALMOST 20 YEARS as an equity research analyst covering public technology companies, I was, at one time, extremely in tune with the IPO window – whether it was open or closed, or more importantly, whether it was opening or closing.

The greatest example of this came around the turn of the century. The Y2K hysteria and fear in 1998 and 1999 caused prospective buyers of software systems to postpone purchases until the new millennium. New customers did not want to be installing new software systems during the date change from 1999 to 2000, for the fear that the system would go crazy as a result of an incorrect date calculation. As I recall, there were no software IPOs in the year leading up to January 1, 2000. However, the Fall of 1999 became an extraordinarily busy time as private companies prepared for a public equity offering in early 2000, resulting in what we now refer to as the "Tech Bubble".

While monitoring the window's state of openness, I learned that the appetite for IPO's was very much driven by the prospecin the private market and the individual company's state of maturity. At any given time, there might be demand for a new public offering, but if the companies in the private markets were not ready with their management teams in place and their backlog of orders lined up, then the market remained unsatiated. As such, I would peek in on the private markets every now and then to see what prospects lurked and which were preparing themselves for the public stage. In so doing, I became aware of the business cycle of private company investing, and how interest in particular industries and companies would wax and wane as their particular market opportunities would rise and fall.

From the private companies perspective, interest in the public markets would also wax and wane based on the valuations of the public companies and their corresponding growth and margin characteristics. Private companies would be interested in the ease of which other private companies and public companies were being financed and the size of the offerings and their corresponding valuations. Public company valuations growth and margin statistics are readily available. However, private company data is more difficult to come by.

In June 2017, the Ontario Securities Commission published OSC Staff Notice 45-715, the 2017 Ontario Exempt Market Report, reviewing the exempt market activity in Ontario in 2016 and 2015. A copy of this report is available at:

http://www.osc.gov.on.ca/documents/en/Securities-Category4/rule_20170615_45-715_exempt-market.pdf

While this report only covers a short period of time, and is geographically constrained, it does offer some insight into the status of the market place, and when combined with future reports, will assist with the understanding of where we are in the investing cycle.

First is the overall size and growth rate of the market. It is estimated that Ontario investors invested approximately $72 billion in 2016 in over 2,500 non-investment fund issuers through prospectus-exempt offerings. This investment level was 9% greater than that observed in 2015. This is significant growth considering it is on top of 40% growth

observed in 2015 to almost $67 billion over 2014's level of just under $48 billion. As such, with the investing market up in excess of 50% in two years, this rate of growth is substantial.

A second encouraging characteristic is the increase in number of companies being financed. Again, there was a 9% increase to 2,540, as compared to 2015. 2015's level of approximately 2,300 was 3% less than the number of companies financed in 2014. The net result with respect to average funds raised per company was that the average amount rose from $20 million in 2014 to $29 million in 2015, and then declining 3% to just over $28 million in 2016.

However, the trends for investing in Canadian corporations are significantly different. Of the $72 billion raised in Ontario by 2,500 non-investment fund issuers, approximately 37%, or $27 billion, was invested in approximately 1,600 Canadian issuers, while the balance, or $45 billion, was invested in some 900 U.S. and other foreign issuers. When examining these results from an individual Canadian company perspective, the trend in average fund raising is less encouraging. Despite the overall growth in private investment activity, the average amount invested in individual Canadian issuers declined from approximately $19.2 million per company in 2014 and $20.4 million in 2015, to $16.8 million in 2016. Offsetting this decline is the fact that more Canadian companies have been financed in 2016, with 1,396 in 2014, 1,312 in 2015 compared with 1,597 in 2016, resulting in the amount of investment in Canadian issuers remaining stable at approximately $27 billion for the past 3 years.

Declines in average dollar investments could be the result of a number of factors, such as:

a) Perhaps the companies receiving funding are raising money at an earlier stage in their development than companies in the past. The data reveals that just over half (56%) the Canadian companies funded in 2015 and 2016 (i.e. 1630 of 2,900) raised less than $1 million. However, in 2016, some 32 Special Purpose Vehicles raised an average of $276 million, underscoring the potential that a few very large investments could skew the average.

Or,

b) Perhaps there is a decline in the average valuation multiple.

a. This could be a function of other more attractive investment opportunities in other geographies outside of Ontario, or in the public sector.

b. Another factor could be that growth is slower or margins are lower for the companies raising money as compared to investment opportunities in past years. This could be a function of greater industry competition, a slower overall economy growth rate or a change in characteristics of the industries being financed.

"For companies considering raising money in the near future, it will be interesting to observe the impact on individual investment valuation multiples and industry growth from two proposed government policy changes regarding a higher minimum wage and a potential increase in small business tax rates."

We note that some economists are predicting Ontario's nominal GDP growth rate to slow in 2018 to 3.8% from growth rates of between 4.5% and 4.9% observed and predicted during 2014-2017.

Reviewing the investment levels by industry provides further insight into average amounts raised. Unfortunately trend data is not available, aside from the previously mentioned observation that the overall average has declined over the latest three-year period. In 2016, of the 1,600 Canadian issuers, 24%, or approximately 400, were "Financial issuers", such as Special Purpose Investment Vehicles (SPVs), Banks and Investment Funds, and Real Estate Companies. These firms are perceived to be raising money to be held for reinvestment purpose and, as such, subsequently invested in "Non-financial" corporations. 32 SPVs raised on average $276 million, while 128 Banks and Investment funds raised on average $38 million, and 224 Real Estate companies raised on average just under $18 million.

Of the Non-Financial Canadian corporations, the sector that raised the largest amount per issuer was Industrials with 48 issuers raising an average of $56 million. 64 Issuers identified as producers of Consumer products raised $21 million on average. 736 Resource and 192 Technology companies averaged a similar amount, at just over $4 million per issuer, while 80 Life Science companies averaged just over $3 million. 96 issuers were assigned to the "Other" industry category, averaging $8.4 million each.

The report provides other insights into activity levels by foreign issuers, prospectus exemptions relied on, in addition to other details on small company financings and Reporting versus Non-reporting issuers accessing the Exempt Market. Reporting issuers are listed on one of three Canadian exchanges or can access markets though prospectus offerings. Of particular note is that 91% of Resource companies raising money were reporting issuers. This compares with 74% of Industrials, 64 % of Consumers, and just under half for Others (48%), Life Sciences (47%), and Technology (41%). All the Financial sectors were 30% or lower Reporting Issuers.

A final interesting conclusion from the report is the extrapolation as to the size of the exempt market in relation to the public market. For a number of years I have heard that the Private Equity Market is approximately 10x the size of the public equity markets. While this report doesn't directly dispute this belief (because of its focus on the Ontario investors), it does suggest that the portion of the private equity market most relevant to the Exempt Market issuers (i.e. domestic issuers) is a fraction of the public equity market, as opposed to a multiple of it.

In 2016, Canadian corporations in total raised $309 billion in securities, debt and equity, in both public and private markets. Of this amount, Canadian investors accounted for just under half, or $148 billion. The balance was raised from foreign investors.

While this report does not comment on the portion of Canadian investment made up of Ontario residents, if we assume that Ontario, and its $27 billion raised, is 40-50% of the Canadian Exempt Market, it suggests that the national Exempt Market is $54 to $67 billion or half to 4/5ths the size of the domestic public market ($95-81 billion).

We look forward to future OSC reports with similar classifications to facilitate trend analysis.

David W. Wright, ICD.D, is the Founder of Cassio Capital Advisors Inc., providing Capital Markets, Corporate Finance and Transaction Advisory services to technology advantaged, public and private companies seeking to achieve higher growth and valuation prospects. David's financial services career spans more than twenty five years, predominantly as an equity research analyst covering technology companies. David is a member of the PCMA Board of Directors.

David W. Wright, ICD.D
Cassio Capital Advisors Inc.
dwright@cassiocapital.com
416.709.4831

EMMANUEL GONNET, VP, UNIVERIS

CAUGHT IN A COMPLIANCE SWEEP? THE RIGHT TECHNOLOGY CAN SEE YOU THROUGH

Having the right technology can turn compliance into a stress-free event!

The concept of compliance is simple – it is making sure business is conducted in a legal and ethical way. What may not be so simple is the interpretation and adherence to these rules. With the many new regulations that have come about, compliance is now one of the most important parts of any firm in the financial services industry. With this in mind, it is in the best interest of financial services firms to stay on top of regulations that apply to their business. Efficiently and effectively meeting compliance requirements can quickly yield a competitive advantage in an ever changing regulatory enviroment.

In May 2017, the Alberta Securities Commission (ASC) – the regulatory agency responsible for administering the province's securities laws – performed a massive compliance "Sweep". They have since released their exempt market dealer compliance results, most of which were not up to maximal compliance standards. The national regulatory authority, The Canadian Securities Administrators (CSA) have released their compliance results encompassing 66 Alberta-based EMDs in total, in which they found a spectrum of compliance adherence among the firms. The areas of review included: automated compliance systems, sales and marketing practices (including KYC, KYP and suitability), conflicts of interest, relationship disclosure information, and client reporting.

The CSA regularly assess registrants' compliance with important regulatory requirements as part of their compliance oversight reviews. In 2012, the Ontario division of the CSA, the Ontario Securities Commission, conducted a Sweep of 87 portfolio managers and EMDs to assess their compliance with the KYC, KYP and suitability obligations. CSA staff are continuing to closely monitor registrants' compliance in these areas and have been clear they will take appropriate regulatory action to ensure firm compliance with securities laws.

Despite having a large regulatory burden, there were indeed a number of firms that achieved a high level of compliance in the Alberta Sweep. These firms tended to have effective compliance processes and integration with automated compliance systems; the results from utilizing the benefits of technology tend to be self evident. Some of the best ways to integrate compliance into existing business processes are listed below.

Invest in Efficiency

Many firms are working to identify and implement best practices, particularly around efficiently and accurately fulfilling regulations.

Referring to the ASC Sweep, some of the major findings identified during the Sweep include:

- Inaccurate, incomplete or inadequate policies and procedures manual;

- Inadequate collection and documentation of know-your-client information;

- Inadequate know-your-product analysis of exempt market products;

- Risk tolerances of clients that were not consistent with the risk of the product;

- Inadequate consideration of client investment concentration levels in the suitability analysis.

Investing in software that effectively integrates a holistic compliance system is key to efficiently meeting regulatory requirements that apply to your business. This includes KYC, KYP, Product Shelf Management, end-to-end trade management and compliant report creation.

Having this software ultimately helps your firm achieve a high level of compliance, and get through the same challenges these firms faced.

Implement a Book of Records

Implementing a Book of Records is paramount in accurately keeping track of all accounts, trades, KYP, KYC, prices and other important data. Maintaining a Book of Records that demonstrate the extent of the registrant's compliance is essential to meeting regulatory requirements. It is best that firms establish policies and procedures to maintain adequate documentation.

Establishing a centralized Book of Records system to begin with avoids having the process being maintained independently from the firm. A systematic procedure to periodically review opportunities to improve the way in which the firm maintains its Book of Records is also ideal. It is imperative that regular internal audits are conducted to ensure that items such as client files, marketing approvals, and anti-money laundering files contain sufficient information to support the firm's and its representatives' compliance activities. Having technology that enables dealers to accurately keep track of all accounts, trades, KYP, KYC, prices and other important data is essential. Guided work ows with electronic forms makes it easy for DRs to follow a compliantprocess and get things right – the rst time.

Overall, the Sweep can be seen as a handful of opportunities for firms to seek guidance or assistance in complying with their regulatory obligations. For one, it is an opportunity to implement new processes, such as a Book of Records to maximize accuracy – having one combines business expertise, security, data integrity and compliance. Another opportunity for your firm is to maximize efficiency by implementing software. Having these unified technological solutions makes compliance a fully ingrained, largely automated process that keeps you compliant with the regulations. This ultimately helps your firm achieve a high level of compliance, and get through the same challenges these firms in the Sweep faced. With the right technology, adhering to proper compliance can be simple and stress-free.

By Emmanuel Gonnet,
VP of Product Management
at UNIVERIS
egonnet@univeris.com

A growing, non-correlated asset class has come to Canada.

Commercial Litigation Finance

EDWARD TRUANT, PRINCIPAL
BALMORAL WOOD LITIGATION FINANCE

IN A WORLD of over-inflated asset prices driven by near-free debt, some investors are on the edge of their seats with respect to what the future holds for their portfolios. This tension has resulted in investors looking toward more esoteric asset classes which are not correlated to the financial markets. University endowments, who have traditionally been forward looking investors in the alternative asset sector, are looking at the maturity of the private equity space and reducing their allocations therein in favour of investing in non-traditional alternative asset classes such as insurance driven strategies, intellectual property royalties and litigation finance.

The interest in the litigation-finance asset class is twofold: non-correlation and inefficiency. As you can imagine, the outcome of a piece of litigation is idiosyncratic to the litigation itself and is generally not influenced by other external factors and hence the value is not dependent on the performance of the financial markets. Accordingly, the asset class is viewed as one of the least correlated asset classes available to investors.

"Demand for outside funding outstrips supply. Returns are impressive."

The Economist, April 2013

The asset class is also relatively inefficient (i.e. demand is greater thansupply) because the opportunity to invest in litigation finance only presented itself in the last two decades, depending on the jurisdiction. Prior thereto, in most English common law jurisdictions, old common law doctrines of 'champerty' and 'maintenance' prevented a third party from profiting from another party's litigation. However, as justice systems grapple with increasing litigation costs, the global trend has been toward improving access to justice through third party litigation finance.

"Average annual increase in tort costs from 1951 - 2009 was 8.7%."

The Evolution of Litigation & Risk Management: a 50 year Retrospective, Chartis 2011

Litigation Finance Basics

Litigation finance involves veteran litigators (typically former litigation partners at large law firms), who work for the litigation finance manager and underwrite an investment in a particular piece of litigation. Their underwriting process typically focuses on the following case attributes:

(i) merits of the plaintiff's case, (ii) plaintiff's legal representation, (iii) defendant's settlement history, (iv) defendant's legal representation, (v) jurisdictional considerations, and (vi) collection risk.

Once the litigation funder determines that the probability weighted outcome of a piece of litigation is compelling, the litigation funder provides a commitment (non-recourse in nature) to fund the litigation, typically pursuant to funding mile-

stones, in exchange for a share of the ultimate proceeds derived from settlement or a court/arbitration award. The asset class has been described as an 'option on an installment plan' because funds are slowly invested, in 'installments', to support the case. The litigation funder can react as more information is received about the case and ultimately is able to withdraw from the case if the situation changes from that which was originally underwritten. This level of optionality has made the asset class attractive to hedge fund managers.

Australia was an early adopter of litigation finance, followed by the UK and USA. Today, there are several other countries whose judiciary supports the use of litigation finance and the global trend is toward increasing the use of litigation finance, although it remains a niche asset class in terms of its overall size.

"Litigation funding is the life-blood of the justice system. It helps maintain our society as an inclusive one."

Lord Neuberger, President of the U.K. Supreme Court

Litigation Finance at Work

Initially, many of the cases were "David vs. Goliath" in nature, but the industry is evolving in terms of its application to the types and size of cases. A recent case brought against Caterpiller Corporation by Miller UK Ltd. is a prime example of where litigation finance is used and how it benefits individuals and corporations.

Miller UK Ltd. was a long-time supplier of Caterpiller for a quick decoupling device they had invented. Caterpiller management decided to develop their own device and end the long-standing supply arrangement with Miller. When Miller viewed the competing products developed and marketed by Caterpiller, they quickly determined Caterpillar had stolen Miller's design ideas and immediately commenced litigation against Caterpillar. The litigation took its toll on the Miller family members, both financially and emotionally. Ultimately, the Miller family turned to a US litigation finance company who provided the capital necessary to pursue the case in US federal courts. The courts ultimately ruled in favour of Miller with a US$74 million judgement (which will reportedly increase to close to $100MM when interest is applied). Subsequent to the judgement, Miller UK Ltd. has re-hired many of the employees it was forced to lay-off and the Miller family has repaid personal debts that they had assumed to pursue the litigation.

What about Canada, eh?

Rest assured, litigation finance has come to Canada. Initially, the use of litigation finance started in the areas of class action and personal injury litigation, but has also been used extensively in international arbitration and more recently in commercial litigation. Some believe that the recent approval of a litigation finance contract by an Ontario judge in the case of Schenk v. Valeant Pharmaceuticals International Inc. will pave the way for an increased use of litigation finance in the future, as both the judiciary and the legal community becomes more comfortable with the concept. Canadian natural resource companies have actively used litigation finance to bankroll their litigation which are typically fought in international arbitration forums. The most recent example was the use of litigation financing by Crystallex, which recently won a US$1.4B judgment against the government of Venezuela with a recent ruling by the US courts upholding the decision by the World Bank Tribunal. With this recent ruling, Crytsallex can now move to seize Venezuelan assets worldwide in order to fund the ruling.

Ultimately, the use of litigation finance will be a consequence of the various parties (lawyers, judges, plaintiffs and business executives) being educated about its existence and its application to a variety of circumstances. We envision that the Canadian market will ultimately evolve to emulate the Australian market, which is presently one of the largest and most mature markets for litigation finance after legislation was passed over a decade ago allowing its use.

Challenges to Investing in the Sector

While the asset class does present the opportunity to generate impressive returns. There are challenges to investing in the asset class in the form of manager access & selection and portfolio diversification. Given that the asset class is in the early stages of its life cycle and there are barriers to entry associated with entering the asset class, there are a relatively small number of managers with whom to invest. Accordingly, getting access to the best-in-class managers requires an investor to dedicate time and resources to finding, diligencing and negotiating with these managers.

The second issue and perhaps most important aspect to successfully investing in the asset class is diversification. One of the difficulties litigation financiers have is proper portfolio construction because, different from many other asset classes, litigation financiers do not know exactly how much of their committed capital will get deployed until the capital is required. Accordingly, portfolios, when viewed on a capital deployed basis, can end up being very concentrated. Were it not for the potential for binary outcomes in the asset class, this would be acceptable, but the quasi-binary nature of the asset class means that diversification is more important than traditional private equity asset classes.

The Way Forward

As with any asset class, manager selection and diligence is critical to investing in the asset class. Specific to this asset class, diversification should be central to your investment decision making process.

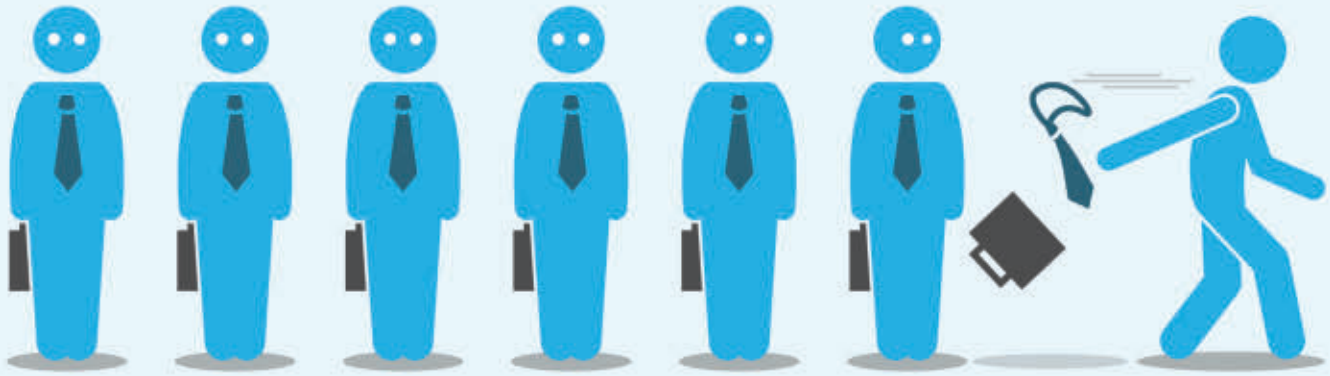
If the appropriate portfolio design considerations are made, the asset class looks promising to deliver exceptional performance.

Edward Truant, Principal
Balmoral Wood Litigation Finance
Toronto, Canada
edwardt@balmoralwood.com

BEHAVIOURAL INSIGHTS FOR INVESTORS & INVESTMENT PROFESSIONALS

TYLER FLEMING, DIRECTOR
OSC INVESTOR OFFICE

As regulators, we try to design rules, policies and programs in a way that serves the public interest. To do this effectively, we need to understand the factors that motivate human behaviour.



This past spring, the Ontario Securities Commission (OSC)'s Investor Office published a report that describes key principles of behavioural insights and examines how leading practitioners are using these insights to improve government policy and regulation. The report explains how behavioural insights offer us a more complete understanding of how individuals and groups, including investors and other market participants, make decisions.

We also believe they offer useful lessons for investors and industry professionals. They help us understand instincts and biases that may lead us to overlook important opportunities and risks relevant to our savings goals and to the decisions we make as individuals and professionals. A few of these insights are discussed below.

INERTIA

Research has demonstrated time and again the power of inertia – our tendency to follow the path of least resistance, especially when we're working in an unfamiliar context. Individuals who have savings they could grow through investing may fail to do so because it's too hard, because they feel they don't know enough about it, or both.

Investor education and simplifying the investing process are priorities we can all work on. Research has shown, for example, that market simulators may help prospective investors become more comfortable and knowledgeable about investing through "learning by doing." Simplifying application processes and encouraging investors to agree to automatic contributions to their investment accounts can also make investing easier.

SHORT-TERMISM

We focus on things that are concrete, immediate, and with values that are easy to measure – like an expensive vacation – over things that are abstract, remote, and tough to quantify – like having enough savings for retirement. In our personal and professional lives, we need to be aware of this tendency and try to keep it from pulling us towards bad decisions.

We can help investors focus on the long-term by helping them set goals and stick to them. Reminders, defaults, and small incentives are all "nudges" that can focus us on the long-term. Firms can also monitor for areas where their employees may be drifting towards short-termism by examining such factors as compensation models, which employees get praised and promoted, and which factors are top of mind when group decisions are made.

OVERCONFIDENCE

We tend to be overconfident about ourselves and our teams. For example, research indicates that retail investors

"Research has demonstrated time and again the power of inertia – our tendency to follow the path of least resistance, especially when we're working in an unfamiliar context. Individuals who have savings they could grow through investing may fail to do so because it's too hard, because they feel they don't know enough about it, or both."

often become overconfident in their abilities as traders, and that this leads them to trade excessively, reducing their returns. Overconfidence also affects organizations: a 2013 survey by Deloitte found that ***65% of senior bankers in the UK agreed there were significant cultural problems in the financial sector, but that only 33% thought their own bank had these problems.*** What's more, we tend to interpret negative information in a way that confirms our pre-existing beliefs – dismissing them, for instance, as "one-offs" instead of considering whether they reflect a deeper problem.

Simply being aware of these biases may help clients and investment professionals make better decisions. We can warn clients if their behaviour seems to be influenced by overconfidence, and we can control for these biases in our own decisions and advice by ensuring that we consider failure scenarios, and their likely causes, before we take action.

ENCOURAGING BETTER DECISIONS - THE "EAST" FRAMEWORK

These examples aren't all that behavioural insights have to offer. Check out our report at **www.InvestorOffice.ca** for additional examples – like how we tend to filter out information that isn't "salient" (attention-grabbing), even if it might help us make better decisions, how information about what others around us are doing or expect of us (called "social norms") affect our decisions, and how our decision-making can get paralyzed when we're overloaded with complex disclosure or extensive choices that aren't tailored to our circumstances.

There's a simple roadmap for designing interventions that encourage better decisions – abbreviated "**EAST**," it stands for: make it **E**ASY, **A**TTRACTIVE (attention-grabbing), **S**OCIAL (harness social networks and social norms), and **T**IMELY (prompt people when they're most likely to be receptive, including through reminders).

Among the many ways that one can apply behavioural insights, there's a simple roadmap for designing interventions that encourage better decisions – abbreviated "**EAST,**" it stands for: make it ***Easy***, ***Attractive*** (attention-grabbing), ***Social*** (harness social networks and social norms), and ***Timely*** (prompt people when they're most likely to be receptive, including through reminders). Regulators in the UK, New Zealand and elsewhere have incorporated this lens in their work.

Over the coming months, we plan to launch pilot projects that explore how behavioural insights can lead to better outcomes for investors and other market participants, and we'll keep you updated on this work.

But we don't need to be alone in these efforts – there are significant opportunities for the private sector to develop strategies that use behavioural insights to help Ontarians save more and make prudent investment decisions, and we look forward to learning from the results of this work as well.

The OSC Investor Office's Behavioural Insights Report can be found at InvestorOffice.ca

Tyler Fleming, Director
OSC Investor Office
416.593.8092
InvestorOffice.ca

"With over 5 billion searches happening on Google every day, a little money and effort can go a long way to effectively building your firm a stronger brand."

1. Ocean Tomo, LLC, http://www.oceantomo.com/blog/2015/03-05-ocean-tomo-2015-intangible-asset-market-value/

2. Source: https://themission.co/the-greatest-sales-deck-ive-ever-seen-4f4ef3391ba0

JILLIAN BANNISTER, CHIEF EXECUTIVE OFFICER
EXT. MARKETING INC.

MARKETING. DO I NEED IT?

Marketing has changed. Understanding these changes can make all the difference.

Ahhh, the golden age of marketing. That was when a brochure, business card and a handshake were all a private capital markets firm needed to support its sales efforts. Measurable results meant a prospect called back after a meeting and expressed interest – and a follow-up round of golf.

The way companies market to clients and prospects has definitely gone through a massive change over the past decade, and these changes have impacted private capital markets firms as much as the rest of the financials sector – and, frankly, every other sector. But these changes – including the world's embrace of social media and the digital dissemination of content – have also resulted in widespread misperceptions and confusion. The following are a list of some of the top myths that have stemmed from these misperceptions, as well as facts to help dispel these myths.

Important note: although some of these new(er) components of marketing can seem somewhat daunting – in both their technical nature and the amount of work required – a reasonable amount of effort and a willingness to stick with your marketing strategy can help your firm stand out from the crowd.

Myth #1 – I have a website. That's my marketing!

Only a few short years ago, a person you had just met with would go to your website to learn more about you and your company. These days, with people's time becoming even more valuable, that person is going to your website before your meeting to ensure they know as much about you and your company as possible.

"Although your website is still a great calling card, it's become even more important that your value proposition as very clear and well thought out. Companies looking to make an impact in the private capital markets require a well-developed brand," say Jillian Bannister, Chief Executive Officer at Ext. Marketing Inc., Canada's leader in financial services marketing.

Why is creating a well-defined brand so important? Because that is what's driving a lot of a firm's value today. In 1975, about 83% of a company's market value was based on tangible assets like its balance sheet and management team. In 2015, however, a company's market value had fallen to roughly 13% of its value being based on tangibles, with a full 87% of a company's value based on intangible assets that include brand, as well as its intellectual capital and its ability to evolve.[1]

That's why a well-developed brand is so important to the long-term value of your business. *"When considering your firm's brand, we always recommend starting with a brand exercise that relays your firm's value proposition through three core messages,"* say Bannister. "Articulating the 'hows' and the 'whys' of your business, as well as the benefits you offer clients, is the kind of strategic thinking that will help your target audience clearly understand your business and draw this audience to you." A brand exercise will also tell you if your sales pitch, presentation, website, etc. are all aligned and relay your company's brand correctly.

Myth #2 – Marketing is too expensive!

When you have a small budget, it's easy to think that marketing is more of a nice-to-have. But in today's world in which people are going online and learning about you even before you even meet them… you need to consider what you are putting out there. You should also know that marketing and advertising have actually gotten cheaper over the past few years through online and social channels. And, an additional upside is that digital marketing provides better metrics than print-based marketing – so you know if your spend is actually moving the dial and you are able to quickly adjust your marketing strategy according to those metrics.

"Content marketing is a great way to boost your search engine rankings, and can help you position yourself as a 'subject matter expert,'" says Bannister. "This is a fairly cheap and easy way to support your firm without being too 'salesy' and without spending a lot of money printing hundreds or thousands of 16-page brochures."

With over five billion searches happening on Google every day, a little money and effort can go a long way to effectively building your firm a stronger brand.

Myth #3 – Social media doesn't result in leads (or sales)!

Simply put: social media works. It has been proven time and again. When people look for information about a company today, they search for that information online.

Like most things, social media doesn't work without a well-thought-out strategy and the right execution. *"Many people don't use social media correctly when trying to market their company online and then say 'Social media doesn't generate awareness.' It's often a good idea to use an outsourced marketing provider that can help you with your firm's social media strategy to achieve more success,"* says Bannister. "

Why is it so important to get your social media strategy right? Because if you don't have the right social media presence, your competition will. In 1955, the average large company's life expectancy was 75 years. By 2015, it was closer to 15 years.[2] Companies that don't adapt just don't make it. And building a stronger brand through a more strategic online presence could literally mean the difference between survival … and the alternative.

"Growing firms have a lot to deal with, like investing, finance, sales, operations, compliance, etc. But that doesn't mean these firms should forget the need to properly market themselves," says Bannister. When resources and budgets are tight, the right move is often an outsourced marketing provider.

For a free marketing consultation, please call 1.844.243.1830 x203

Jillian Bannister
Chief Executive Officer
Ext. Marketing Inc.
Email: jbannister@ext-marketing.com

CHIEF EXECUTIVE OFFICER
EXT. MARKETING INC.
JBANNISTER@EXT-MARKETING.COM

MEMBER SPOTLIGHT
JILLIAN BANNISTER

***Q:** What led to your decision to launch a marketing company that specifically targets the financials sector?*

My business partner and I worked on the client side of the business for many years and noticed there was a gap in the marketplace for most marketing services. There were lots of marketing and creative agencies – but none that specialized exclusively on the financials sector and understood this industry's products, services and distribution channels. We felt that if we built a company with a "dream team'" of financial services writers, graphic & web designers, developers, strategists and project managers, we would be able to build an industry leader. And that's exactly what we did!

***Q:** You quit your job and launched your company when the economy was shaky, you had a newborn baby and little stability in your life. Did people think you were crazy?*

Some people that I was crazy for sure! However, I always knew that I wanted to be an entrepreneur and, although the timing wasn't perfect, I thought, "If not now, when?" So I went for it. I had a great business partner (Richard Heft), very supportive parents and a wonderful nanny, which definitely made it all possible. In some ways, the economic downturn actually played in our favour as many firms were reducing headcount at that time – but marketing departments still had the same marketing requirements. A natural solution was to outsource work to ext.

***Q:** What would you say to dealers and issuers who are on the fence about outsourcing their marketing and commutations?*

I would say that they should consider the value of their time. By working with a trusted marketing partner who truly understands their business, these firms can focus on what they do best, while benefiting from all the insights, ideas and best practices that ext. brings to the table. This is a very efficient and proven model.

***Q:** Tell me about your work in support of Ernestine's Women's Shelter.*

Given where our company started from, my business partner and I felt strongly that we should give back to the community and, importantly, to women and children who are struggling with serious domestic issues. I have been involved with Ernestine's for many, many years – volunteering to support their annual gala. Four years ago, they asked me to join the Board. While on the Board, I was Vice-Chair for a year and chaired the Fundraising & Finance Committee. Ernestine's is an amazing organization and one that has been near and dear to our hearts since we founded ext. in 2010.

***Q:** With the adage, "**Membership has its Privileges**", please finish this sentence: Joining the Private Capital Markets Association of Canada is imperative because…*

… many of our clients are big banks, mutual fund companies and insurance companies. But private capital markets is an area in which ext. has been able to provide a lot of added value to our clients. Companies in this space are often a bit more reluctant to build out a full marketing team, which can be time-consuming and costly. Members of the Private Capital Markets Association can benefit from using ext. to seamlessly act as their marketing team.

Simply put, PCMA members should get to know ext. *(ext-marketing.com)*

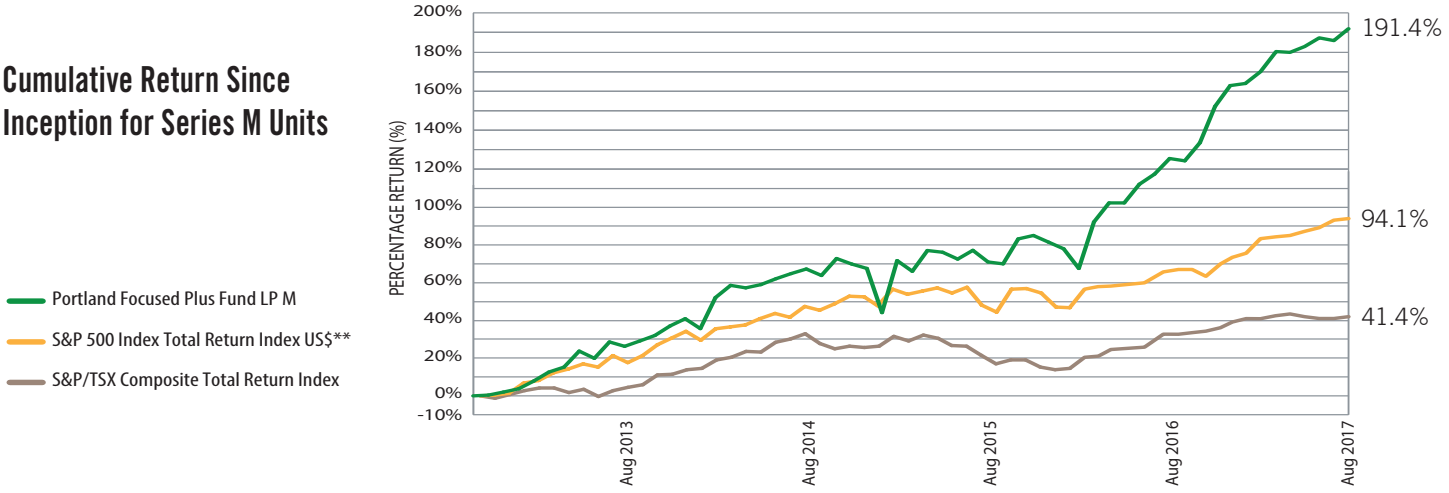
PORTLAND
INVESTMENT COUNSEL®

CANADA'S #1 PERFORMING ALTERNATIVE STRATEGIES FUND

Portland would like to congratulate James Cole, SVP and Portfolio Manager, on **Portland Focused Plus Fund LP - Series M** being ranked as Canada's #1 performing Alternative Strategies Fund for the three years ended August 31, 2017 by globeinvestor.com*.

ANNUALIZED RETURNS (%) (as at August 31, 2017)	1 month	3 months	6 months	1 year	3 years	Inception (Oct. 31, 2012)
Portland Focused Plus Fund LP Series A	1.5%	2.6%	6.5%	25.1%	17.1%	21.1%
Portland Focused Plus Fund LP Series F	1.6%	2.8%	7.0%	26.4%	18.2%	22.3%
Portland Focused Plus Fund LP Series M	1.7%	3.1%	7.9%	29.7%	20.5%	24.8%
Portland Focused Plus Fund LP Series P	1.6%	3.1%	7.5%	27.5%	19.3%	23.1%
S&P/TSX Composite Total Return Index	0.7%	-0.2%	0.3%	7.2%	2.1%	7.4%
S&P 500 Total Return Index (US$)**	0.3%	3.0%	5.7%	16.2%	9.5%	14.7%

Cumulative Return Since Inception for Series M Units



To Learn More Visit: WWW.PORTLANDIC.COM

*As ranked by The Globe and Mail in the Alternative Strategies asset class in the 3 year category out of 510 funds. In the 1 year category the LP's ranking is 4th. Ranking is subject to change every month. See http://globefunddb.theglobeandmail.com/gishome/plsql/gis.fund_filter?pi_type=B

** The S&P 500 Index is shown in U.S. dollars rather than in Canadian dollars since the LP generally hedges its exposure to the U.S. dollar.

Commissions, trailing commissions, management fees and expenses all may be associated with investments. The indicated rates of return are the historical annual compounded total returns including changes in unit value and reinvestment of all distributions and does not take into account sales, redemptions, distributions or optional charges or income taxes payable by any securityholder in respect of a participating fund that would have reduced returns. Funds are not guaranteed, their values change frequently and past performance may not be repeated. The LP is not publicly offered. It is only available under Offering Memorandum and other exemptions to investors who meet certain eligibility or minimum purchase requirements such as "accredited investors". Information herein pertaining to the LP is solely for the purpose of providing information and is not to be construed as a public offering in any jurisdiction of Canada. The Manager believes that the following risks may impact performance of the LP: concentration, leverage, currency and exchange rate risk and equity risk. Please read the "Risk Factors" section in the Offering Memorandum for a more detailed discussion of the relevant risks. Consent is required for any reproduction, in whole or in part, of this piece and/or of its images and concepts. PORTLAND, PORTLAND INVESTMENT COUNSEL and the Clock Tower Design are registered trademarks of Portland Holdings Inc. Used under licence by Portland Investment Counsel Inc.

Portland Investment Counsel Inc., 1375 Kerns Road, Suite 100, Burlington, Ontario L7P 4V7 Tel: 1-888-710-4242 • Fax: 1-866-722-4242 • www.portlandic.com • info@portlandic.com

A PRESTIGIOUS NOMINATION FOR A LOYAL PARTNER.

WhiteHaven would like to congratulate **Curtis Potyondi**, President of **Prestige Capital**, on being nominated for:

THE ERNST AND YOUNG ENTREPRENEUR OF THE YEAR AWARD

It is an honour for WhiteHaven to be the exclusive dealer of Prestige Capital investments in Quebec.

PRESTIGE CAPITAL

WhiteHaven securities

EXPAND YOUR HORIZON

prestigecapital.ca

WhiteHaven.ca

Not Aroused by the Same Old Browse?

Henry and Nelson B. Thall | Co-founders of Hvr Technologies Inc.

*Hvr "**Hover**" is a Toronto based technology company that is redefining a user's online experience by integrating new features into the browser itself, providing a more relevant and social surfing environment for users and tilting the odds back in favour of the content creator. Hvr is calling this a "**Social Surf.**"*

BROWSING THE INTERNET sure hasn't changed much in 20 years. All in all browsing itself is fairly unintelligent, feeling more like a chore to me than a blissful browse. I have to enter the URL of every website I want to go to, that is, if I even know where I want to go; site to site to copy to paste to email to new tab to site, its exhausting. Surfing used to make me feel free and now it's like a prison of decisions.

Some websites and apps are social and others not social at all. The social apps offer organized feeds, discovery, chats and commenting. These participatory environments are cool and draw me in leaving everything else in the dust. They don't rely on me knowing where I want to go or what I want to see- and they don't even create their own content! As for the websites that unnecessarily fragment my surf, make me work and don't have social features, well, you probably haven't heard of most of them. : (

Unfortunately the browser is still a copy paste world with fragmented inefficient discovery and social features. I have to hunt for the content I'm interested in and when I finally arrive at a destination I must navigate away to social sites, email or apps in order to comment and share to socialize. The same old banner ads follow me around and I'm rarely intrigued by what's peddled.

At today's speeds, looking at one thing at a time doesn't hold my attention any longer.

Marshall McLuhan once said:

"You know the "one-liner" is for people with very short attention spans, they can't... they won't stick around for the entire story."

Ten years ago sitting through a full movie was enjoyable for me, five years ago I could do it but I had to really love the actors; now it's just background for my iPad and iPhone. I look up from time to time and say to my wife: "check this part out, it's pretty funny," then she looks up for two seconds and it's right back to our iPads. The same multitasking of information is what I desire online. I don't want to toggle in and out of apps in order to surf, chat, discover new things, watch videos and post; I want to do all of that but without the toggle. I need everything at once, information layered on top of information and all that in one app, and that app needs to be versatile.

Today's social platforms monopolize engagement and exist to serve themselves. Original content is often poached from its creators just to be pasted into social silo's robbing many of their online business models. Today's web creates tremendous value for a select few (Facebook) at the expense of publishers who have lusted over the access to other network's eyeballs at their own peril. Publishers have even added the logos of prominent social networks to their own websites and publish directly to these social networks and by doing so they have successfully "Napstered" themselves. Choosing to freely share content that they've laboured for to a site that isn't their own where the content never leaves is not a sound business model. It would be like the New York Times sending all their articles over to the Wall Street Journal for them to publish, sell ads on and print! Wow! Because of this these publishers secretly moan: ***"I gave my content away for free, and so my business was taken from me."*** Shhh! They don't like talking about it. But that's what's happened. They started playing inside a casino where the house always wins and they will have to live with pennies on the dollar! That is unless there's a change.

That change is Hvr!

Hvr "Hover" is a Toronto based technology company that is redefining a user's online experience by integrating new features into the browser itself, providing a more relevant and social surfing environment for users and tilting the odds back in favour of the content creator. Hvr is calling this a "Social Surf."

Hvr's proprietary technology allows users to hover comments, group chats, post images, ratings, videos and more on top of any website on the entire internet without the need for Hvr to partner with any underlying website.

On Hvr you can place modern-day online sticky notes that can be shared with others or kept private. Hvr turns the internet into a canvas for you to post on and organizes your posts in a feed built into your browser. This results in a social and dynamic online experience. All user participation is set free, no longer having to reside in the annals of forums or silo networks.
The culture of brands and interests exist in context, on top of the content. Group chats on certain topics can exist anywhere, even on top of the movie you're watching; full multi-tasking with everything all at once or just one thing at a time,whatever works for you.

With Hvr, online publishers become full beneficiaries of the conversations that are occurring as a result of their content. An open narrative can even be maintained with users after they've left a publishers website. If there is something true or false, cheap or expensive, opinions can be shared on top of anybody's website better informing consumers and friends.

Hvr is the dawn of a better browse for all.

Share, Comment and Collaborate with ease.

Discover new things and let culture roam free!

HENRY AND NELSON B. THALL,
CO-FOUNDERS OF HVR
TECHNOLOGIES INC. AND
MEMBERS OF THE TORSTAR
VOTING TRUST.
WWW.HVR.WORLD
INFO@HVR.WORLD

NEW PCMA MEMBER BENEFIT

CPE MEDIA: THE OFFICIAL DATA PROVIDER TO THE PCMA

PCMA MEMBERS **RECEIVE A 10% DISCOUNT** ON ALL THEIR SUBSCRIPTIONS

CPE MEDIA INC has been selected as the official data provider to the Private Capital Markets Association (PCMA).

CPE Media offers two subscription services backed by their private capital database:

Private Capital Journal: *a web and newsletter service, that covers all announced, completed and yet-to-be announced financing, M&A, IPO deals.*

Private Capital Directory: *one stop destination to research and find detailed information on close to 600 active Canadian, US and foreign private capital firms.*

PCMA members receive a 10% discount on all their subscriptions. In addition, part of your subscription fee goes to support the PCMA of Canada.

CPE Media's comprehensive database allows them to measure all reported private capital/exempt financing since 2016. CPE Media follows angel/private, venture capital, private equity, public market financing, M&As and IPOs. As of September 30, 2017, they tracked 7031 transactions, 4743 of which are exempt financings.

"This data shows just how significant the Canadian private market is for issuers, investors and dealers alike. The data reveals that exempt market financings are an increasingly key component to capital availability for small and medium-sized businesses in Canada who, all too often, lack the financial resources they need to scale up", says Ted Liu, President, CPE Media.

Liu has been measuring and monitoring private capital industry data since 1992. He most recently was Research Director for the Canadian Venture Capital and Private Equity Association.

"This data is vitally important and will enable PCMA members to compare and contrast their own firms' activity with that of the industry as a whole, in as-close-to-real-time as possible", says PCMA Chair, Doug Bedard.

CPE Media sources of information include filings from Canadian and US securities regulators such as OCS, BCSC, ASC, AMF, SEC, and various newswires and web sources. Together with the PCMA, CPE Media will be seeking its members' support in submitting their data directly to CPE Media to help complete the comprehensive dataset for exempt financing.

"Ted Liu has a 25-year track record and is without parallel in the private market data aggregation and analysis market in Canada. We look forward to a fruitful collaboration with CPE Media", said Georgina Blanas, PCMA Executive Director. "This will allow our members to have access to timely, accurate and insightful data about the private capital markets."

Contact: Jenya Lorenc
Membership & Operations Manager
PCMA
e: jenya.lorenc@pcmacanada.com
p: 416.627.9905

Contact: Ted Liu, President, MBA, M.Sc.
T: 647-782-8818 or 647-872-9639
CPE Media Websites:
PrivateCapitalJournal.com
PrivateCapitalDirectory.com
PrivateCapitalDealbase.com

PCMA
PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

PCMA SPONSORS & PARTNERS

PCMA Founding Sponsors

IBK Capital Corp.
KNIGHTSWOOD
McLEOD LAW LLP
MNP LLP
PORTLAND INVESTMENT COUNSEL
POWERONE CAPITAL MARKETS LIMITED
WeirFoulds LLP

PCMA Capital Partners

ARLINGTON STREET INVESTMENTS
TRIVIEW CAPITAL LTD
BROOKSTREET MORTGAGE INVESTMENT CORPORATION

PCMA Affiliate Partners

CSE CANADIAN SECURITIES EXCHANGE — The Exchange For Entrepreneurs
MILLER THOMSON AVOCATS | LAWYERS
PINNACLE WEALTH BROKERS

The support of our Partners has made a difference for the Private Capital Market industry across Canada and we extend our sincere appreciation for their leadership and vision. If you are interested in becoming a PCMA Partner, please contact us at: info@pcmacanada.com

RICHARD CARLETON, CHIEF EXECUTIVE OFFICER, CANADIAN SECURITIES EXCHANGE

POSITIONING FOR GROWTH: LESSONS FROM THE CANADIAN COMMERCIAL CANNABIS EXPERIENCE

WITHOUT QUESTION THESE are still early days for the commercial cannabis industry in Canada and around the world. As Canada quickly moves towards becoming the first G7 nation to legalize cannabis use for recreational purposes, the world will be watching how this new sector responds to the transition from a previously outlawed industry into a legalized one.

To better understand where the opportunities in the cannabis space are appearing, it is instructive to reflect on how far this industry has come in such a short amount of time and how public and private capital stakeholders can benefit from this industry through its next stages of growth.

Taking stock: A look on how we got here

The catalyst for the legal commercial cannabis story dominating the Canadian capital markets space arose just over four year ago, with the decision by the Canadian federal government to improve commercial access to individuals requiring medical cannabis via the Marihuana for Medical Purposes Regulations (MMPR). From that point forward, the so-called "green rush" was launched which resulted in public and private capital starting to pour into the commercial cannabis space.

One of the preferred paths for entrepreneurs and investors to capitalize on these changes was to tap into the public markets for the capital required to establish the early infrastructure growth and meet federal regulations for becoming a licensed producer in Canada. Early efforts in this space were a remarkable hybrid of public and private capital efforts: many new public companies in the space elected to raise their early capital via non-brokered private placements. These offerings relied on, for the most part, the accredited investor exemption to the prospectus requirements in Canada.

Since 2014, more than 50 companies in the cannabis space have chosen to list publicly with the CSE and have raised hundreds of millions of dollars from both private and public sources. Now more than three years in, current figures show that investor appetite in this sector continues to strengthen as attitudes towards medicinal and recreational use evolve in a direction favourable to the nascent industry.

Secondary market activity has also been robust: data from the first half of 2017 on the Canadian Securities Exchange, for example, show that cannabis-related securities collectively traded over 2.8 billion shares with a total value of just over $1.1 billion. In terms of raising capital, over the same period there have been 51 transactions totaling over $168M, which puts 2017 on pace to surpass the almost $200M raised by CSE-listed cannabis firms in 2016.

Encouragingly, the cannabis industry is still in growth mode and the reduced stigma around the industry has made it easier for entrepreneurs to access financing. As such, an important question for those seeking to participate in the growth of the cannabis story will be where future opportunities and challenges may present themselves.

A look ahead: where the opportunities may lie

Forecasts for the economic opportunity of the Canadian cannabis industry vary, but projections by Canaccord Genuity estimate the combined Canadian recreational and medicinal cannabis revenues to be close to $8 billion dollars per year by 2021.[1]

Significant as those estimates may be, a unique challenge to the cannabis industry achieving its economic potential is its ability to successfully respond to shifting legislative, consumer and market factors. There are decades of attitudes and structures that must now shift to accommodate a world in which, at least in some jurisdictions, cannabis is legal for therapeutic and potentially recreational purposes. And, as we have seen in regions such as the U.S., those changes may not all happen in concert.

That the commercial cannabis industry within Canada has advanced as quickly as it has speaks volumes to the entrepreneurial approach of key capital markets stakeholders and coordination between industry and government. Continued

"Since 2014, more than 50 companies in the cannabis space have chosen to list publicly with the CSE and have raised hundreds of millions of dollars from both private and public sources."

cooperation of this sort will be key to successfully navigating the next wave of growth in the cannabis space.

Entities in the exempt market, for example, that have facilitated the MMPR program applicants accessing the capital required to establish the early infrastructure and meet compliance statutes have helped the cannabis industry in Canada gain a solid foothold.

On the public markets side, for our part, the Canadian Securities Exchange has also taken an entrepreneurial approach to companies operating in the cannabis space. Namely, we maintain that with proper disclosure in place, as well as meeting the conditions necessary for a public listing, companies operating in the legal cannabis industry, as with other legal industries, should be able to tap into public markets as an option to meet their growth requirements.

It is worth reiterating that future opportunities for growth, including the next major wave in peripherals as well as gradual acceptance internationally, including in the U.S., is likely to not be linear. It is that particular non-linearity of the cannabis space that will favour capital providers who are entrepreneurial in their approach to recognizing and responding to risks.

Supporting entrepreneurs: Growth through innovation

The lessons that the cannabis industry has provided thus far are important reminders that entrepreneurs of all burgeoning industries rely on a robust capital formation ecosystem to facilitate growth.

As the Exchange for Entrepreneurs, the CSE is ardent in its belief that support for small cap financing in the cannabis space will help ensure that entrepreneurs can continue to bring innovative and market-driven opportunities to fruition through the next waves of growth. The fact that we have seen so much cooperation between the public and private capital advisory communities in creating this new industry, is a testament to the ingenuity and leadership of Canada's market professionals.

Rather than a craze that has passed, we are seeing the rise of a new industry that requires billions more in investment capital to meet projected demand in the near term and a truly Canadian approach to export best-practices globally.

Byline

Richard Carleton is the CEO of CNSX Markets Inc. In this role, he is responsible for the strategic direction and management of the Canadian Securities Exchange. The Canadian Securities Exchange, or CSE, is operated by CNSX Markets Inc. Recognized as a stock exchange in 2004, the CSE began operations in 2003 to provide a modern and efficient alternative for companies looking to access the Canadian public capital markets.

Richard Carleton, Chief Executive Officer, Canadian Securities Exchange
Richard.Carleton@thecse.com

https://www.theglobeandmail.com/globe-investor/inside-the--market/marijuana-pot-investing-stocks-canada-legalization/article34637334/

DIGITAL ASSETS: OPPORTUNITIES AND RISKS FOR THE EXEMPT MARKET

SEPEHR RADJPOUST, J.D., COLLINS BARROW TORONTO & PRINCIPAL OF BALMORAL LAW

It's worth exploring some of the potential opportunities and risks for the exempt market investment community in this exciting new space.

1. For thorough overview of DTL, see: http://www.casselsbrock.com/CBNewsletter/The_Future_of_Securities_Regulation_of_Distributed_Ledger_Technologies
2. Coinmarketcap.com 3. ibid 4. https://www.bloomberg.com/news/articles/2017-08-30/-blockchain-revolution-author-plans-50-million-ipo-for-vc-firm

Distributed Ledger Technologies ("DLT"), such as blockchain, are being applied with increased frequency and scale in the context of capital markets. Bitcoin is generally recognized as the original proof-of-concept for using DLT to create a digital store of value that can be transferred directly between counterparties, effectively laying the foundation of what is today a burgeoning ecosystem of "digital" assets.[1]

Presently, there are over 1000 unique forms of digital assets in circulation, with a combined total value of over 130 billion USD.[2] These digital assets are also, for the most part, freely transferable among investors on any of over 5000 digital asset "exchanges" throughout the world.[3] Given these statistics, it is worth exploring some of the potential opportunities and risks for the exempt market investment community in this exciting new space.

What opportunities do digital assets offer the exempt market?

Perhaps the most immediate opportunity for Exempt Market Dealers ("EMDs") is creating greater access for investors to this increasingly relevant asset class. The wide-spread attention that the mainstream media is giving to blockchain and the digital asset class as a whole will almost certainly mean that EMDs can expect to receive a growing number of inquiries from investors wishing to explore their investment options. Currently, the direct purchase of digital assets through online exchanges is a cumbersome, costly and a potentially risky endeavour. However, new products are coming into the market that will give investors a more efficient and reliable way to participate.[4]

EMDs may also want to start exploring ways that they can work with issuers to raise capital through the issuance of digital assets. However, issuing securities as digital assets raises a number of novel challenges of its own, such as working with developers of so-called "smart contracts" to ensure that the securities being sold are accurately represented in the digital asset form, as well as analyz-

"Perhaps the most immediate opportunity for Exempt Market Dealers ("EMDs") is creating greater access for investors to this increasingly relevant asset class. The wide-spread attention that the mainstream media is giving to blockchain and the digital asset class as a whole will almost certainly mean that EMDs can expect to receive a growing number of inquiries from investors wishing to explore their investment options."

ing the capital stack of an issuer to determine if such an offering is even in the issuer's best interest.

Another opportunity, is accessing new pools of capital from those investors who bought into the digital asset market early and have seen their investments grow spectacularly. Many of these high-net-worth "digital" investors naturally prefer to do their trading and investments in the same digital medium that brought them their good fortune and may want to do business with members of the investment community who share their enthusiasm and knowledge of the digital asset world.

What risks do digital assets present to the exempt market?

There are at least two categories of risks with respect to digital assets to also be assessed by EMDs - risks to investors in the exempt market and risk to registrants. The Canadian Securities Administrators recently issued ***Staff Notice 46-307***, which provided much needed guidance to the industry around best practices. While a full reading of the Staff Notice is a must for all registrants in the exempt market, what can generally be taken from the CSA's guidance is that best practice is to assume that securities laws apply to the sale and trading of digital assets in the same way as they apply to traditional securities. This means that EMDs should exercise the same level of care in fulfilling their "Know Your Product", "Know Your Client" and "Suitability" obligations as they would do with any other transaction. This necessarily requires, as a first step, that EMDs begin to develop a more robust understanding of digital assets and DLT.

Bitcoin is generally recognized as the original proof-of-concept for using DLT to create a digital store of value that can be transferred directly between counterparties.

"Presently, there are over 1000 unique forms of digital assets in circulation, with a combined total value of over 130 billion USD. These digital assets are also, for the most part, freely transferable among investors on any of over 5000 digital asset "exchanges" throughout the world. Given these statistics, it is worth exploring some of the potential opportunities and risks for the exempt market investment community in this exciting new space."

The evolving role of the EMD in a DLT world.

Given the autonomous nature of DLT, EMDs should begin turning their minds to how their role in the compliance and advisory process will evolve through the development of so-called "smart wallets" and "smart tokens." These terms refer to programing language being imbedded into an investor's digital "wallet" or, alternatively, into a digital token that is held in an investor's wallet, in order to place limitations on the types of digital assets investors can hold based on their individual risk profiles. EMDs should stay abreast of these developments, as they will undoubtedly have an impact on their role as advisors.

Sepehr Radjpoust, J.D., is a member of the Deal Advisory team at Collins Barrow Toronto and Principal of Balmoral Law.
Contact: 647-705-5228 or seradjpoust@collinsbarrow.com

Finding yourself stuck in a relationship
you don’t want to be in?

You don’t have to be.

While exempt market professionals are used to having the choice of their preferred trust company provider, some have recently found their clients sold to the highest bidder without their knowledge or consent. We are proud to be the chosen service provider for the vast majority of the industry’s best advisors and are happy to work with our valued customers, both new and old, to ensure their clients ultimately land where they are best served and not simply a number in a large transaction. So if you’re unhappy of where you or your clients have recently landed, give us a call to see how we can help bring them to where both they and you will be happiest. Businesses can be bought. Reputations for unsurpassed customer service cannot.

Chris Lindsay | Business Development Manager
lindsayc@olympiatrust.com
403.776.8682

OLYMPIA
TRUST COMPANY

THE PRIVATE CAPITAL MARKETS 2.0

STEPHEN PRESTON,
VICE PRESIDENT
EXEMPT EDGE INC.

For companies working in the Private Capital Markets of Canada – it can often feel like our technology is stuck in the Stone Age.

For companies working in the Private Capital Markets of Canada – it can often feel like our technology is stuck in the Stone Age. While time-saving, client friendly features like: digital signatures, pre-populated documents and paperless transactions are the norm in other industries, the vast majority of exempt market participants continue to bury their clients in paperwork like it's 1995.

This lack of tech adoption creates staggering inefficiencies resulting in the waste of capital and thousands of work hours. While this is bad news for most – if you are a job seeker looking for a manual data entry position your prospects in the Private Capital Markets have never been hotter.

In his book, ***"The One Thing"*** author Gary Keller, encourages the reader to stop thinking in terms of giant to do lists, which he argues leave the user jumping from menial task to menial task without netting any real results. Instead, he encourages the reader to focus daily on choosing and completing ONE THING at a time before any other work is done. While this may sound simple, the difficulty comes from choosing the right ONE THING to complete on a consistent basis.

So how do you choose the right ONE THING? Well, you start by asking a question: What's the ONE THING that by its completion will yield the greatest result? By Identifying and completing that ONE THING day after day – you create incredible progress.

This got me thinking - what's the one thing that if accomplished would yield the greatest result for the Private Capital Markets from a technology perspective? For me the answer is clear - the exempt market needs a "data hub". A data hub would allow for the secure and seamless exchange of information between multiple parties. While this may not sound as sexy as say digital signatures (which will become standard for most of our industry very soon) the impact is far greater.

To gain a better understanding of what a data hub can do for the Private Capital Markets let's look at two scenarios to see just how inefficient the process is now and how much more efficient it can become.

SCENARIO 1

A new client purchases an exempt market product.

The current inefficient way: An advisor enters the transaction and client details into their system. Once approved, the information is sent to the issuer (usually via email). The issuer then manually enters all of the same information into their own system. All communication and updates are done over the phone or through email. This process is inefficient because paper transactions have a very high **NIGO** *(Not in Good Order)* rate and communication via email makes it easy for things to fall through the cracks.

The efficient data hub way: An advisor enters the transaction and client details into their system. Once approved, the transaction along with all of the required forms are transferred from the EMDs system to the

> *"This lack of tech adoption creates staggering inefficiencies resulting in the waste of capital and thousands of work hours. While this is bad news for most – if you are a job seeker looking for a manual data entry position your prospects in the Private Capital Markets have never been hotter."*

Issuers system with the click of a button.

The Issuer receives notification of the pending transaction and can easily review the pertinent client information and documents. Once the Issuer approves the transaction, a new client is automatically created in the Issuers system thus removing the need for the same client / transaction record to be entered in twice.

Think about this for a second – how many hours are spent by an issuer manually keying in sub docs and new clients? A data hub eliminates this inefficiency, freeing up the Issuers time. Accurate transactions, auto notifications and real-time status updates mean a faster, smoother, more efficient investing experience for everyone with less time spent on administration.

SCENARIO 2

An EMD requires quarterly distribution information and unit values from their Issuers to generate client statements as per CRM2 reporting obligations.

The current inefficient way: The EMD requests the information from all 24 of its Issuers. Over the course of a few weeks, the issuers respond with spreadsheets and emails all of which are formatted differently requiring the EMD to first sort through and then manually update their clients records accordingly.

The efficient data hub way: The EMD requests the information from all 24 of its Issuers directly through the data hub. With just a few clicks, the Issuers can send the EMD all of their client records with the updated distribution amounts and current market value. The EMD reviews the updated client information to ensure it is correct and once approved, their client's holdings are automatically updated in their system. The EMD is now ready to create CRM2 statements with no manual data entry, calculating or sorting needed.

In his book, *"The One Thing"* author Gary Keller, encourages the reader to stop thinking in terms of giant to do lists, which he argues leave the user jumping from menial task to menial task without netting any real results. Instead, he encourages the reader to focus daily on choosing and completing ONE THING at a time before any other work is done. While this may sound simple, the difficulty comes from choosing the right ONE THING to complete on a consistent basis.

These are just two of the many benefits that industry adoption of a data hub will have for everyone involved in the Private Capital Markets of Canada.

The best part? None of this data hub talk is pie in the sky thinking. We at Exempt Edge, a division of the Olympia Financial Group, have already completed phase 1 of the data hub. Exempt Market Dealers and Issuers will be able to securely connect to each other and exchange client transaction information and distributions through the "EdgeLink" Data Hub by the time you are reading this – saving a ton of resources which can be better spent elsewhere.

The technology in the Private Capital Markets is long overdue for a major update and it's finally about to get one.

Welcome to the Private Capital Markets 2.0…

Stephen Preston, Vice President
Exempt Edge Inc.
stephen@exemptedge.com

PCMA

Q&A

Bruce Croxon

Bruce Croxon
Partner, Round13 Capital

FUNDAMENTALS FOR RAISING FUNDS IN CANADA

Congratulations to you and Round 13 Capital on closing the $95M fund. Did you decide to create this fund out of frustration over the lack of tech funding in Canada?

Actually, it wasn't frustrating me personally. As an entrepreneur, I sensed an opportunity to fill a gap in the Canadian eco system. Fundamentally there exists a gap between 'backable' Canadian entrepreneurs and available smart capital.

What were some of the challenges and opportunities about putting this fund together? Are there tips you can share?

Two things: One, my team, although deep in experience was still considered a ' first time ' fund and the risks that that brings. i.e. non track record working together as a group. This led to us finding our money in no small part through other like minded entrepreneurs and family offices. This approach led to challenge number 2; as this group was also being courted by the government backed VCAP program that were able to offer very attractive terms to investors.

I think the word 'venture' has often been associated with 'risk' so by its nature it is not for everyone. The money is locked up in relatively small private companies with no control on the part of the l.P. and no yield ... what emerged, however, during the fundraising and as we started to make investments is that Round 13's version of 'venture' was actually much more conservative in nature, aided by the emergence of high growth, low churn 'software as a service' business to business products that, despite having many characteristics of a typical venture investment have been deemed secure enough to attract conventional bank financing. The market is just waking up to this now, hence the opportunity.

As you say, risk may not be for everyone, but often it's essential for a company to take that leap. How does a company know that they are ready to assume risk?

When I was talking about ' taking a risk ', I was referring to limited partners investing in our venture fund but you are correct, companies deciding to take in outside capital need to be mindful of how much equity they are raising and from whom they are raising the money from.

Thankfully for us in the growth stage tech arena, not raising outside capital carries with it risk of a different sort. The days of technology providing a barrier to entry for your product or service are largely behind us meaning that if you have a good idea you will need to grow it as quickly as possible as competition is likely lurking not that far behind. Paying attention to the values and alignment of the partner you bring in is of course important.

Did the pitch sessions from these companies bare any resemblance to an episode of Dragons Den?

More interesting in that 95% of them have the potential to actually be viable businesses... less entertaining in that the real long shots, complete with the human drama, don't seem to get through for a meeting.

But seriously... what were you looking for specifically in order for you to open the purse strings?

We are looking for Canadian based technology companies that are: a) passed the proof of concept and are ready to scale. They have customers, understand where they have gotten the customers from and can convince us that there is the potential to acquire a whole lot more, ideally at similar economics to what they are generating now. b) Is the space they are playing in a big enough one to be big ... and c) do we think the team has what it takes to get up when the inevitable beat down occurs ... Round 13!

Why do you believe this is the best time in your life to be an entrepreneur and invest in Canada?

So many reasons....in no particular order ...we have the best engineers in the world, money is starting to flow, Trump has made us look relatively attractive to smart, hard working, skilled immigrants and the number of second and third time exiting entrepreneurs are multiplying and have shown a willingness to invest back in time and money.

Are you still bullish on investing in Canada given the proposed changes to the Canadian corporate tax structure? Would this not be an impediment to investment in Canada?

The changes as proposed, particularly in light of point number 7 above, are the most asinine, momentum breaking shifts that I have ever had to witness. We have so much going for us and the wind is at our back. Somehow it has been lost on the political elite that the country has prospered off the back of small businesses that through hard work and sacrifice become midsized businesses and by their very nature hire people and reinvest in the economy. How could it not be an impediment? Very disappointing and short sighted in my opinion.

It seems massive deregulation and historic tax cuts, including the corporate rate is high on the US governments' agenda. How will Canada manage to become a top choice for US tech investors and workers should the deregulation continue and the corporate tax cut occur?

I don't know. A good question for Justin and Bill. They will probably need to hire more marketers.

How could a reworking of NAFTA impact these firms that your fund has invested in?

We are primarily software and I have not experienced any impact and don't really expect to.

What's next? What do these companies receive from Round 13 Capital besides a cheque?

All my working life I have been pitched by investors that claim that "we are more than just a cheque". In most part, that has not been my experience. Round13 wants to say it and mean it. To that end, we are top heavy with talent in our GP (General Partners) and have also given up some of our economics to investor founders that have pledged to help mentor our investees. No one else in Canada has put an actual system in place to get beyond faces on a website like we have.

ROUND13 CAPITAL is a Toronto-based VC interested in growth-stage companies.

info@round13capital.com
www.round13capital.com

CSE CANADIAN® SECURITIES EXCHANGE
The Exchange For Entrepreneurs

www.thecse.com
info@thecse.com
@CSE_News

THE EXCHANGE FOR CANNABIS SECTOR GROWTH COMPANIES

The Canadian Securities Exchange (CSE) is a service-oriented exchange ideally suited for cannabis-related businesses across all industry sectors including cultivation & sale, life sciences, specialty finance, and technology.

The result? A progressive business environment offering the lowest cost of public capital supported by a robust secondary market. See several examples below of cannabis-related companies maximizing the benefits of listing on the CSE, including:

beleave	alternate HEALTH CORP	Canadian BIOCEUTICAL CORPORATION	CannaRoyalty CORP.
BE	AHG	BCC	CRZ
maricann	iAnthus	InMed Pharmaceuticals	LDS
MARI	IAN	IN	LDS

KEY METRICS H1 2017

2.8B shares traded

value of shares traded **$1.1B**

45+ Cannabis companies trading on the CSE

ROBUST SECONDARY MARKET LIQUIDITY

Capital formation has been supported by a robust secondary market for Cannabis issues. Recent top volume traders include:

TOP CANNABIS TRADERS BY VOLUME H1 2017

NAME	Monthly AVG
Matica Enterprises Inc.	71,367,483
MYM Nutraceuticals Inc.	35,731,883
Nutritional High International Inc.	31,206,382
Umbral Energy Corp.	28,831,148
New Age Farm Inc.	28,387,034

Newly Revised and Updated!

L'INSTITUT IFSE INSTITUTE

The Exempt Market Proficiency Course

"The proficiency course for those planning to enter the Exempt Market!"

The Exempt Market Proficiency Course is a proficiency requirement for those individuals seeking registration as Exempt Market Dealers – Dealing Representatives and Chief Compliance Officers. The EMP course introduces students to these complex financial instruments and prepares them to operate in the world of private capital markets. Students learn about the capital markets, the exempt market, the all-important know-your-client and know-your-product rules, ethical conduct, the private placement process, how different issuers are structured, compliance requirements and features of common exempt securities.

Course Highlights

- Clear and concise content
- User-friendly format for effective learning
- Examples and exercises to assist with comprehension
- Practice exam to prepare for the final exam
- One-year enrolment period
- Final exam delivered by computer-based testing partner, Pearson VUE

Key Topics

- Overview of the capital markets
- Regulatory framework
- Compliance for exempt market dealers
- Dealing with clients
- The private placement process
- The structures of issuers
- Real estate and mortgage investments
- Flow-through shares
- The mining industry
- The oil and gas industry
- Hedge funds
- Know your client and suitability

REGISTER TODAY!

COST

$550 (IFIC Members) + tax

$650 (Non-members) + tax

CORPORATE RATES

Please contact Fatema Nazarali, Director of Sales and Business Development, at 1.888.865.4342 ext 836.

To enroll, please call 1.888.865.2437 or visit www.ifse.ca

L'INSTITUT IFSE INSTITUTE

YOUR PARTNER IN FINANCIAL SERVICES EDUCATION

PCMA

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

DOUG BEDARD | PCMA CHAIR & GEORGINA BLANAS | PCMA EXECUTIVE DIRECTOR

Impact of Proposed Tax to The Honourable Bill Morneau

The Private Capital Markets Association of Canada (the "PCMA") is pleased to offer our comments in response to the proposed tax changes. We are a member of the Coalition for Small Business Tax Fairness, which represents more than 70 business associations. Together, our organizations represent hundreds of thousands of independent businesses, professionals and taxpayers across all sectors of the economy and all regions of the country that employ millions of Canadians. Minister, we are renewing our call for your government to set aside these proposed tax changes in favour of a comprehensive review of Canadian tax policy.

We have been following government's public comments on the proposed changes closely. We are alarmed by the significant gap between the government's statements on the expected effects of the proposals and the analyses by Canadian tax practitioners. This requires immediate clarification.

Your government has stated that it is concerned with the growing number of Canadian Controlled Private Corporations (CCPCs) and the goal of the tax changes is to ensure business owners pay the same rates as other Canadians in pursuit of tax fairness. You have also suggested that your proposals would not affect business owners with incomes under $150,000.

These statements are at odds with all the analyses conducted by tax professionals in several important ways.

1. Business owners at all levels of income will be potentially affected by at least one of the three measures in this package of changes, including those earning well below $150,000.

2. Many – if not most – business owners will face a higher overall tax burden in the future if these proposals proceed.

3. Business owners will pay higher rates of taxation than other Canadians at the same income level as a result of some of the proposed changes.

Impacts of changes on income sprinkling

Changes to income sprinkling have the potential to affect all incorporated taxpayers that have family members as shareholders who contribute to the business, regardless of income. In fact, this could remove the benefit of sharing business income from taxpayers earning $50,000, not just those above $150,000. The additional paperwork associated with the "reasonableness test" will also bring added costs and complexity for many business owners who will struggle to cope with compliance requirements due to the ambiguity created by the new rules and fear of being unfairly penalized by CRA. We have serious concerns that government is not fully aware of many formal and informal ways family members in businesses play critical roles in contributing to the success of the business and believe there will be many unintended consequences of your proposed changes on all business owners, including those in the middle class.

If income splitting is no longer acceptable then for example; why is it fair that two married civil servants each making $115,000 per year with generous pension, medical and dental benefits and no children pay significantly less combined income taxes than a family with 1 earner making $215,000 per year and a spouse and two children to support?

Additionally, why should a 60 year old pensioner be able to split a previously tax sheltered pension income with a spouse but a 60 year old business owner not able to split dividend income with a spouse from previously-taxed corporate income.

Impacts of changes to passive investment rules

First, we wish to bring to your immediate attention, that the assumption that the deferral of the personal level of tax on corporate business earning is bad tax policy. There are a number of reasons why a business owner would choose to, or be required to, retain business earnings in the corporation.

We offer the following considerations:

- Under the current corporate tax regime in almost all provinces, business earnings inside a corporation are actually under-integrated. This means the business owner will pay more tax on business income earned inside a corporation (and distributed as a dividend to the owner) as compared to the same earnings in an individual's hands.

- Many businesses that are financed have debt arrangements that require a fixed amount of retained earnings to be left in the corporation, or limit the amount that can be distributed to the shareholders.

- Many businesses incur losses in their start up years that the shareholder cannot use to offset personal income.

- Successful businesses (particularly in the high-tech sector) use retained profits in the corporation to invest in other start-ups (angel funding). Such investments carry a high level of risk and punitive levels of taxation will reduce an important source of financing for new firms.

- The CCPC Investment Income rules are incredibly complex and ignore the fact that many owner-managed businesses could not and can not pay salaries to the owner-managers for several years due to cash flow constraints. The inability to afford salaries significantly reduced the RRSP contribution opportunities for the family as there was little to no earned income. Many owner-managers do not have individual pension plans and/or large RRSP balances and are banking on the ability to set aside future corporate profits to fund a pension.

While we recognize you have not put forward draft legislation on passive income rules, tax practitioners agree that the current proposals could result in a combined corporate and personal tax burden for an Ontario business owner of as much as 73% on corporately-earned investment income and 59% on corporately-realized capital gains (assuming a business owner is paying the highest marginal rate of taxation) (see figure on next page). This is far more than what an employee with a similar level of investment income would pay. Regardless of the level of income however, the consensus is that the proposed tax changes would result in higher combined corporate and personal taxes for business owners across the board, and would therefore no longer be aligned with the key tax principle of integration.

Furthermore, government seems to be asserting that middle-class business owners could use other retirement vehicles such as RRSPs

and TFSAs if they want to save for retirement. While many do use these vehicles, a large number of business owners require the flexibility of retaining passive investments in the business to ensure they can quickly access money for the business itself since current RRSP rules do not allow for business reinvestment. While government may reap a short-term benefit by encouraging business owners to withdraw any money available for investments from the business, this will have long-term negative consequences as businesses are left cash strapped in challenging times or when an opportunity for growth or expansion occurs.

Impacts of changes to capital gains rules and intergenerational transfers

It is our understanding based on analysis done by many tax professionals in Canada, that the tax changes on capital gains will have a material impact on intergenerational transfers of business, again regardless of income level. There is fear that long-standing family businesses may be forced to sell the business to non-family members in order to decrease the ultimate tax bill on transition, whether on the retirement of the current business owner or on death.

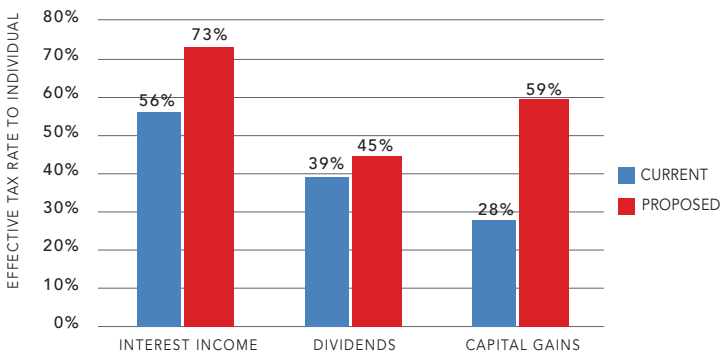
For example, the tax bill for an intergenerational transfer that results from the death of the owner will effectively increase by as much as 70% from what it was before July 18, 2017. Depending on province or territory, the former capital gains rate on death of about 24-27% will increase to an effective dividend rate between 40-46%. And this increased tax cost can apply as a result of a death that occurred before July 18, 2017 contradicting the statement that none of the proposals are retroactive.

- The current proposals introduce a regime that would essentially convert something that would otherwise be taxed as a capital gain into a dividend. This is especially true for businesses that have little existing retained earnings but a lot of appreciated value. The ramifications of this proposed change are significant as the top personal tax rate associated with Canadian dividend income is substantially higher than the effective tax rate for capital gains. This proposal would impact owners of private corporation shares and not individual owners of publicly traded securities. In various cases, a lot of publicly traded companies do not turn a profit but have huge goodwill valuations. How is it fair that owners of public companies are treated differently than private company shareholders?

- If enacted as proposed, the rules would encourage entrepreneurs to sell their respective businesses to third parties (including foreign buyers) instead of passing the family business to the next generation.

- The proposed rules completely ignore the cash taxes that are being paid with respect to capital gains associated with fair market value sales including deemed dispositions on death. In many circumstances, planning would no longer be available to avoid double and potentially triple taxation.

Comparison of Tax on Passive Income Between Current & Proposed Tax Rules



Disproportionate Impacts on Women Entrepreneurs

The proposed tax changes may limit women from benefitting from entrepreneurship. As two-thirds of Canadian incorporated businesses are majority owned by men, the restrictions on sharing income with a spouse are likely to remove a disproportionately higher number of women from benefiting from business ownership. In addition, while entrepreneurs do have optional access to limited Employment Insurance benefits during maternity or parental leaves, female led businesses can currently use passive income investments to ensure their business remains open during a maternity leave, protecting the income of both the business owner and the employees. We believe strongly that the proposed changes on income sprinkling and passive income would fail a gender-based analysis.

Minister, the PCMA of Canada urges you to review carefully the dozens of analyses of your proposed changes by tax professionals across the country. While we are aware of a few academic papers upon which your changes are based, tax practitioners are united in the view that these changes have the potential to affect business taxpayers at all levels of income and increase their rates of taxation to levels higher than that of other taxpayers. To assist your efforts, we have listed six reports supporting our concerns and would be pleased to provide others to your staff.

Report 1: STEP Examples

Report 2: Moodys Gartner Tax Law - Proposed Tax Changes: What Do They Mean To You?

Report 3: Deloitte - Tax Alert - Capital gains implications

Report 4: Yale & Partners submission to Finance Canada

Report 5: Goldberg, Killoran and Goodis – Is a 93% tax rate fair to Canadian small business owners?

Report 6: http://www.mnp.ca/en/posts/proposed-tax-rule-changes--capital-gains-conversions

Conclusion and Recommendations

We would like to reiterate our offer that should there be worrisome abuses of the current tax system, we stand ready to work with the federal government to pursue ways to tighten the rules. The current proposals are not the solution and are creating unnecessary uncertainty for business owners.

While we appreciate your public statements indicating an openness to "tweaking" the proposals, we feel the significance of these proposals requires far more than a few tweaks. We make the following recommendations:

> Take these proposals off the table.

> Launch meaningful consultations with the business community to address any shortcomings in tax policy without unfairly targeting independent businesses.

> Consider a comprehensive review of the Canadian tax system with a view toward fairness and simplification for all taxpayers, which was recommended by the Standing Committee on Finance in their report dated December 2016. ■

OVERTAXED & UNDERAPPRECIATED
THE BACKBONE OF CANADA'S ECONOMY

MARIA SEVERINO & STEPHEN RUPNARAIN

Canada's entrepreneurs and small business owners are a thriving group and a significant driver for our economy and job creation. In 2015, small and medium sized business accounted for 57.7% of Canada's private sector employment.[1]

If you think that Canadians should be encouraged to start businesses, build them up, hire people and create economic activity, you should understand how the proposed changes to the taxation of private companies will have a crippling effect on those small business owners and their employees.

The proposed measures focus on eliminating planning strategies for owners of private corporations in three broad areas as follows:

1. Dividing income or capital gains among family members

2. Converting dividends into capital gains, and

3. Earning investment income inside the corporation.

If we ignore the technical nature of the proposals and the rhetoric of "fairness" and taxing the "rich", what are small business owners actually achieving under the strategies outlined above?

1. Dividing income or capital gains among family members provides business owners with the ability to provide income to adult family members who often make personal sacrifices or are exposed to significant risk in support of the business. This does lower the overall family tax burden but is a marginal benefit in many instances in light of risks and sacrifices being made. Should a female entrepreneur who is the founder of a successful business decide to be inactive for a few years to have a child be taxed at a higher tax rate on dividends she receives from her investment in her company simply because she is inactive in the business to raise her family? This is the result presented by Finance in the measures as "fair".

2. Taxes paid by business owners on a capital gain currently allow business owners and estates of deceased business owners to transition business ownership in a tax efficient manner avoiding double or even triple tax. The proposed measures would cripple planning for the succession of the business to family members or key employees. Should a successful entrepreneur whose succession plan is to sell his business to a family member be taxed at a higher tax rate and possibly double taxed as compared to the entrepreneur who sells his business to a third party? This is the unfortunate result of the proposals presented by Finance as "fair".

3. As business owners generally do not have access to pension plans, vacation entitlement, sick days or maternity leave in certain instances, they may seek to utilize their private companies as savings vehicles in the event of an economic downturn, future expansion projects or typical cyclical cycles faced by businesses. While corporations are subject to a lower rate of tax on their active business profits, this lower corporate tax rate does not compensate them sufficiently for the overall risk they bear as an entrepreneur. Any amounts withdrawn from a business owner's corporation for personal use are taxed at the business owner's personal tax rate which could be as high as almost 54%, a tax rate that is among the highest income tax rates worldwide. Should an entrepreneur that withdraws investment income from his private company be taxed at a rate of over 70% when other individual investors are subject to tax at approximately 54% at the top end of investment income? This is the result of the measures presented by Finance as "fair".

The imposition of these rules will not generally affect the wealthy, supposedly the targeted group by Finance. Quite conversely, the tax benefits associated with the targeted measures on income splitting typically are only beneficial when family income is lower and other family members are unemployed. Many of the proposals targeted at income splitting have zero impact on individuals earning over $200,000 a year.

We've worked with many entrepreneurs at all stages of their business and have seen first-hand the stresses that come from creating and growing a business. Investing their personal savings, putting up their homes as collateral or borrowing from family and friends. They may spend years of uncertainty as the company grows, many times not taking any draws from the business in order to pay employees as their personal debts grow. If they get sick, many times they'll work through it – and pay for their own benefits. They risk the chance of losing all that if the company fails, maybe through no fault of their own.

We've worked with enough entrepreneurs to know what is likely to happen. With revenue going to increased taxation, they may be a bit more reluctant to open up that second location, to hire that additional employee – or to start that home kitchen renovation they've put off for years.

"We've worked with many entrepreneurs at all stages of their business and have seen first-hand the stresses that come from creating and growing a business. Investing their personal savings, putting up their homes as collateral or borrowing from family and friends."

Many structures put in place for non-tax reasons will also be impacted by these proposals. It would not be wise to have these non-tax benefits become part of the collateral damage caused by the federal government's tax changes.

The Department of Finance's view is that there is an unfair tax advantage for business owners compared to employees. But their analysis does not take into account the need to provide encouragement to entrepreneurs by helping them earn a reward for the risks they're taking and for driving capital and job growth. It also doesn't measure benefits provided to employees that are not available to business owners. As noted above, these proposals will largely impact business owners who fall squarely in the nebulous "middle class". Painting all business owners with the same brush is convenient but inaccurate. It puts Canadians against each other as part of a disguised tax grab by using terms like "unfair", "loopholes" and "wealthy" when referring to middle class business owners who are being compliant with planning that has been in place for decades and has been accepted by both the courts and the Canada Revenue Agency. If implemented, these proposals will have a destabilizing effect on small business investment in Canada and those Canadians who are employed by them.

Finance withdrew some proposals following the public backlash

The Department of Finance solicited feedback from the general public on these proposed changes. Following a public backlash by individuals, businesses, associations and accounting organizations, among others, the Department of Finance released some details of changes to the proposed measures, as summarized below:

1. The proposed measures would disallow the lifetime capital gains exemption to minor shareholders (under 18 years of age) and inactive adult shareholders, or for periods where a trust held the shares (with some limited exceptions). In their update, the Department of Finance stated they will not move forward with "the measures that would limit access to the Lifetime Capital Gains Exemption". Details as to how access to the lifetime capital gains exemption will be maintained in relation to the other proposed measures (such as income sprinkling rules) were not provided.

The recent announcement confirmed that the Department of Finance would continue with their proposals to discourage the shifting of income from high income individuals to related individuals in lower tax brackets. With that, the government will provide greater clarity on a "contribution test" and work to reduce the compliance burden and address concerns of double taxation. Revised draft legislation on income sprinkling is expected to be released later this fall.

2. The Department of Finance will move forward with measures limiting the deferral of tax benefits of passive investments within a private corporation. An additional tax on passive income in excess of $50,000 per year will be levied, as the government argues this provides sufficient savings for business purposes and personal savings. More is expected to be said in the next Federal budget which is likely to be delivered in March 2018.

3. The Department of Finance will not move forward with the proposed changes which were intended to prevent the conversion of dividends into capital gains and will consider how to make the intergenerational transfer of small businesses more tax-efficient.

In addition, The Department of Finance announced a reduction in the Federal small business tax rate from 10.5% to 10% (effective January 1, 2018) and 9% (effective January 1, 2019) applicable to the first $500,000 of active business income earned by a Canadian Controlled Private Corporation.

We are pleased to see that the public voice has been heard, as the Department of Finance modified some of the proposed changes and withdrew others – however the proposed changes and recent updates to these changes still may have negative implications to private corporations.

All updates are current as at the date of printing of this magazine. It is advisable to continue to monitor the Department of Finance's announcements on this matter.

Maria Severino, Practice Area Leader, Tax Advisory, Collins Barrow Toronto - mseverino@collinsbarrow.com
Stephen Rupnarain, Partner, Tax Advisory, Collins Barrow Toronto - sarupnarain@collinsbarrow.com
or Maria Severino, Partner and Tax Advisory Practice Area Leader and Stephen Rupnarain, Tax Partner at Collins Barrow Toronto provide integrated and complex tax planning advice and develop tax-efficient structures for Canadian and international businesses.

1. *Based on "Key Small Business Statistics – June 2016 Edition"; Ministry of Industry, Canada*

ADVERTISE NOW IN PCMA'S NATIONAL LEADING EDGE INDUSTRY MAGAZINE

Distributed to entrepreneurs, exempt market dealers and issuers, advisers, legal, accounting, compliance, private equity, venture capital and investment professionals and key regulators across Canada.

PUBLISHED BY THE PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

PCM MAGAZINE The PCMA's national industry magazine Private Capital Markets is published bi-annually and features commentary from the leaders in the private capital market. The magazine is distributed to entrepreneurs, exempt market dealers and issuers, advisers, legal, accounting, compliance, private equity, venture capital, and investment professionals and key regulators across Canada. It is a available on a leading edge digital publishing platform, which enables to access a searchable library of all previous and current issues.

In every issue:

- Trends on improving efficient access to investment opportunities and protection for investors in the private capital markets
- Alternative capital raising exemptions
- Capital raising tools and strategies for issuers and companies
- Understanding the regulatory environment and what it means for issuers, dealers and investors
- Regulatory updates and compliance advice for dealers & issuers

PRIVATE CAPITAL MARKETS

Available on a leading edge digital publishing platform, which enables access a searchable library of all previous and current issues.

Advertising Options & Prices

SIZE / FORMAT	MEMBERS	NON-MEMBERS
Full Page Ad	$600	$800
Half Page Ad	$400	$600
Double Page Spread	$1300	$1800
Digital Pop Up Ad	$500	$700
Digital Front Cover Band	$800	$1000
Video Placement	$1500	$2000
New Issue Email Ad Placement	$1200	$1500

Submission Deadlines

Spring Issue: February 15
Fall Issue: September 15

For more information contact us at: info@pcmacanada.com or visit www.pcmacanada.com

PCMA
PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

DEAN KOELLER | CO-CHAIR PCMA MIE COMMITTEE • DIANA SOLOWAY | CO-CHAIR PCMA MIE COMMITTEE • SUSAN HAN | PCMA MIE COMMITTEE MEMBER • DOUG BEDARD | PCMA CHAIR • GEORGINA BLANAS | PCMA EXECUTIVE DIRECTOR

Commentary on OSFI Draft Guideline B20 – Residential Mortgage Underwriting Practices and Procedures

The Private Capital Markets Association of Canada (the "**PCMA**") is pleased to provide the Office of the Superintendent of Financial Institutions Canada ("**OSFI**") with our comments in connection with Draft Guideline *B-20 Residential Mortgage Underwriting Practices and Procedures* published July 6, 2107 (the "**Draft Guideline**") as set out below.

PCMA Consultation Process

The PCMA consulted with its members, and in particular with the membership of its Mortgage Investment Entity (MIE) subcommittee, to gather member input into preparing and finalizing this comment letter. This included:

• a webinar for PCMA members to provide information and gather feedback and comments;

• consultation with representatives of the residential mortgage industry who may be affected, including mortgage brokers and non-bank lenders; and

• review by the PCMA board of directors of this letter;

This letter reflects the comments and input from all those who attended, participated and provided meaningful feedback and comments. The first section of the letter presents our general comments with respect to the Draft Guideline, followed by comments on the specific proposals.

General Comments

Need to Assess the Impact of Policy Changes to Date

In the news release which accompanied the release of the Draft Guideline, OSFI states that the proposed changes to existing Guideline B-20 are merely to "align language" and to "clarify and strengthen expectations" set out in OSFI's public letter to Federally Regulated Financial Institutions ("**FRFIs**"), *Reinforcing Prudent Residential Mortgage Risk Assessment*, dated July 7, 2016 (the "**July 2016 Letter**"). With respect, far from being a "clarification" of the July 2016 Letter, the measures announced in the Draft Guideline represent new and substantive changes which will have a material impact on the business and operations of many of our members, and will be felt broadly throughout the industry.

We believe that industry members and the markets have yet to absorb and assess the full effects of the policy changes implemented in 2016. They include:

• the requirement for all borrowers having to qualify under maximum debt-servicing standards based on the higher of the mortgage contract rate and the Bank of Canada conventional five-year fixed posted rate; and

• the requirement for all insured mortgages to meet the eligibility that previously applied only to high ratio (greater than 80% LTV) mortgages.

These measures did not take effect until late in the fourth quarter of 2016. We are only now beginning to see the data reflecting the impact of these changes. For example, the Bank of Canada, in its June Financial System Review, notes that "the share of highly indebted borrowers among newly originated high-ratio mortgages has fallen nationally and is lower in all regions."[1] *(See Chart 3 on following page).*

CMHC has yet to issue its Mortgage and Credit Trends Report for Q1 of 2017; its most recent report goes only to Q4 of 2016. What we have seen is a sharp decline in high ratio mortgage approvals. [2] Genworth MI Canada Inc. , Canada's second largest mortgage insurer, reported for its second quarter of 2017 that the total value of new insurance written in Q2 of this year was down $6.1 billion from $31.7 billion a year ago – an 81% year-over-year drop. Premiums written from portfolio insurance were $8 million, representing a decrease of $70 million compared to the same quarter in the prior year. [3]

In addition, other branches of government have introduced measures that affect the market. The Government of Ontario in April of 2017 unveiled its Fair Housing Plan. And of course, in July of this year, the Bank of Canada increased its overnight lending rate, the first such increase in seven years. There is an expectation from many analysts that the Canadian market will continue to have further interest rate hike pressures. (*See chart "A Cooling Market".)*

Our members believe that policymakers should take the time to examine the data coming out of the 2016 changes. Only after assessing their impact in the current economic and interest rate environment, should they consider introducing more tightening of mortgage accessibility.

Private Mortgage Lenders Provide a Valuable Service

Certain of the measures contained in the Draft Guideline, particularly the proposed prohibition against "co-lending" (described in further detail below), appear to be directed at minimizing the participation of private lenders in the Canadian residential mortgage marketplace.

Private mortgage lenders, or mortgage investment entities (MIEs), while they represent a tiny fragment of Canada's overall market residential mortgage market[4], nevertheless provide an important and valuable service to their clients.[5] MIEs typically make mortgage financing available to borrowers who are unable to access conventional product offered by FRFIs.

Borrowers turn to MIEs for

"Our members believe that policymakers should take the time to examine the data coming out of the 2016 changes. Only after assessing their impact in the current economic and interest rate environment, should they consider introducing more tightening of mortgage accessibility."

funding because of reasons such as:

- need for credit repair
- debt consolidation
- short-term credit restructuring
- difficulty with income verification due to self-employment
- lack of credit history due to recent immigration
- financing for renovation or construction
- Canada Revenue Agency debts.

MIEs work with borrowers to provide access in a timely fashion to short term funds and to avoid financial penalties. Most of our clients borrow money for short periods of time, typically 12 to 18 months. Residential mortgages offered by MIEs in excess of 36 months are uncommon. The majority of borrowers who access residential mortgage financing from MIEs go on to obtain a conventional mortgage on the maturity of their loans.

MIEs are much smaller than regulated financial institutions, and they are able to perform due diligence and underwrite risk in special situations and monitor assets in ways that are not cost effective for large FRFIs. Because of this, MIEs are able to charge a premium over interest rates offered by the financial institutions, but the incremental interest cost is not entirely attributable to incremental risk of default. It is also a reflection of the additional work required to assess and monitor the loan.

The MIE industry is small and fragmented and it is difficult to obtain reliable data. However, our members report that their delinquency rates and loss ratios for their residential mortgage book reflect borrowers who are able to service debt. Most MIEs have very close relationships with their investors and have their own capital at risk. Accordingly, they are highly motivated to avoid loss and exercise prudence in their mortgage underwriting and collateral management.

The Canadian Residential Mortgage Market is Sound

Our members submit that the Canadian residential mortgage market is well regulated and fundamentally sound. We question whether further regulatory intervention is needed at this time.

Data compiled by the Bank of Canada and the Canada Housing and Mortgage Corporation support the view that even before taking into account the policy changes implemented in the latter part of 2016. With respect to Q4 2016, CMHC reported a drop in overall delinquency rates.[6] Both the share of mortgage loans and the share of mortgage debt in arrears dropped in the last quarter of 2016, suggesting that the mortgage market is not under additional stress. Mortgage arrears at various degrees of severity in the fourth quarter of 2016 were all in decline compared to a year earlier. The share of mortgages that are written off by financial institutions decreased in Q4 to the lowest point since the first quarter of 2016.[7] (see Figure 1)

According to data compiled by the Canadian Bankers Association, arrears rates have remained remarkably stable over the past five years.

This suggests to us that residential mortgage assets on the books of FRFIs are not declining in quality and there is no urgent need to further tighten the rules.

Specific Comments

Prohibition against "co-lending"

Guidance is Imprecise

The Draft Guideline states as follows:

"A FRFI should not arrange (or appear to arrange) with another lender, a mortgage or combination of a mortgage and other lending products (secured by the same property), in any form that circumvents the maximum LTV ratio or other limits it establishes in its RMUP, or any requirements established by law, i.e., no co-lending."

Our members are struggling with how the Draft Guideline will translate into day-to-day operations. Does this prohibit the FRFI from consenting to the borrower's placing a second or subsequent mortgage on the property? Is that "arranging (or appearing to arrange)" another lending product secured by the same property? Is it that a mortgage from the FRFI cannot be combined with any other loan secured by the same property if the advances take place contemporaneously, as part of the same transaction? Does a subsequent mortgage advanced a year later fall under the prohibition? What if the purchase price of a property is financed partially by a FRFI mortgage and partially by a vendor take-back mortgage? Is the vendor in that circumstance "another lender" within the meaning of the above prohibition? Our members would caution of the risk of unintended consequences that may result from the broad use of the term "co-lending".

Our members request that the Draft Guideline provide more clarity and specify more precisely which practices are to be avoided.

"Co-lending"

Many of our members wish to point out that an arrangement under which there are two lenders on a single mortgage, but where one lender ranks ahead of the other, is not accurately described as "co-lending." We are not aware of the term "co-lending" having a legal meaning. However, industry professionals use the term to refer to a type of loan syndication in which the undivided interests of the all of the co-lenders are equal in ranking and proportionate to each lender's contribution to the amount advanced.

However, one common form of arrangement where an FRFI and a non FRFI cooperate to facilitate a mortgage loan is a mortgage loan with priority interests. This is sometimes referred to informally as a "bundled" mortgage. (We not that the term "bundle" also has its drawbacks: in finance,

bankers and financial institutions "bundle" or pool, through an investment vehicle, a number of discrete mortgages or parts thereof for the purpose of creating a mortgage backed security. Given this, for the sake of precision, we are using the term "mortgage with priority interests".)

Mortgages with priority interests creates a single charge on the property. The borrower signs only one set of mortgage documents, and makes a single payment every payment date rather than separate payments to each lender. The lenders agree however that they have priority interests in the mortgage. Typically, the FRFI has the first priority and the non FRFI has the second ranking priority. In the event of default, the second ranking lender must absorb 100% of the loss before the first ranking lender (the FRFI) is exposed.

Additionally, conventional first and second mortgages by two different lenders representing two separate payment obligations may also be used, in which the FRFI acquiesces to the existence of the second ranking charge. As stated, we seek clarification as to whether this arrangement falls under the proposed prohibition.

Mortgages with Priority Interests are Not Designed to Defeat Prudent Underwriting

In the experience of our members, these arrangements are not entered into with a specific intention of defeating prudent underwriting guidelines established by the FRFI through its RMUP. Rather, these arrangements exist to facilitate lending to borrowers who, for one reason or another, may be unable to qualify for a conventional mortgage, but who present as good credits. The reason may be that the borrower is experiencing a temporary period of unemployment, or has been through a personal life event such as illness or divorce which has resulted in financial difficulty and a reduced credit score, or has been in Canada for fewer than three years.

Mortgages with priority interests are not a new development. To the contrary, these mortgage loans with priority interests have been in place for over a decade. And prior to mortgages with priority interests, there were more conventional first and second mortgages and vendor take-back mortgages.

Prohibiting the well-established practice of advancing mortgages with two lenders with priority interests will restrict access to mortgage financing. Any future incremental enhancement to the overall quality of the mortgages on the books of the FRFIs resulting from such prohibition is, we believe, almost impossible to quantify. And as stated, private lenders represent less than 1% of the entire Canadian residential mortgage market.
However, the proposed prohibition will result in real hardship for those Canadian borrowers and their families who find themselves in situations where the financing available through these arrangements is the difference between owning or keeping, and losing, their homes.

Stress Test for Uninsured Mortgages

With respect to qualifying rates, the Draft Guideline provides that:
For uninsured residential mortgages, FRFIs should contemplate current and future conditions as they consider qualifying rates and make appropriate judgments. At a minimum, the qualifying rate for all uninsured mortgages should be the contractual mortgage rate plus 2%.

Too Rigid

We urge OSFI to consider whether such a rigid test is necessary for appropriate risk management. This "stress test" is helpful in assessing the borrower's ability to service debt, but leaves little room for other factors. An across-the-board application of the contracted-rate-plus-2% test as the minimum threshold for eligibility seems to us to be arbitrary and unreasonable. It unduly punishes both regulated (and indirectly regulated) lenders and borrowers.

Our members do not see that borrowers obtaining an uninsured mortgage at origination are uniformly all risky credits. The 200 basis points stress test will put a conventional mortgage out of reach for borrowers who may well be able to comfortably service their debt. In particular, a borrower who would otherwise be able to obtain mortgage financing through a mortgage with priority interests as described above may find themselves declined.

We question whether it is necessary to specify a hard number as the threshold. Two hundred basis points may seem an appropriate reference point today, but its usefulness may decrease if rates move up substantially over the next several years.

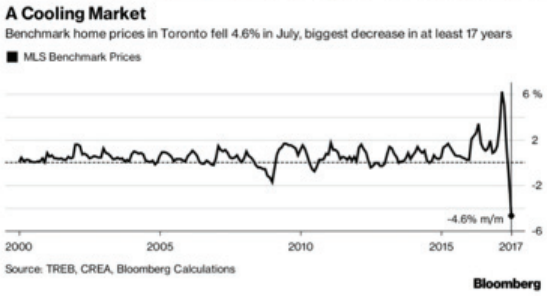
Our members work with many borrowers who find themselves unable to access conventional mortgage financing, generally temporarily. We know from lived experience that these borrowers need and are determined to find lenders in order to purchase and keep their homes. If they are unable to obtain the loans in the regulated marketplace, they will turn to the unregulated, or "grey" markets, where there is little supervision or intervention by government agencies. Lenders in these markets are less likely to be concerned about the borrower's ability to service debt. The focus is on the value and marketability of the underlying asset and lenders are often quick to enforce, with little motivation to assist a defaulting borrower in financial difficulty with grace periods or restructuring. We do not believe that borrowers who may well qualify for an uninsured mortgage but for the application of this stress test will be better served in the grey market.

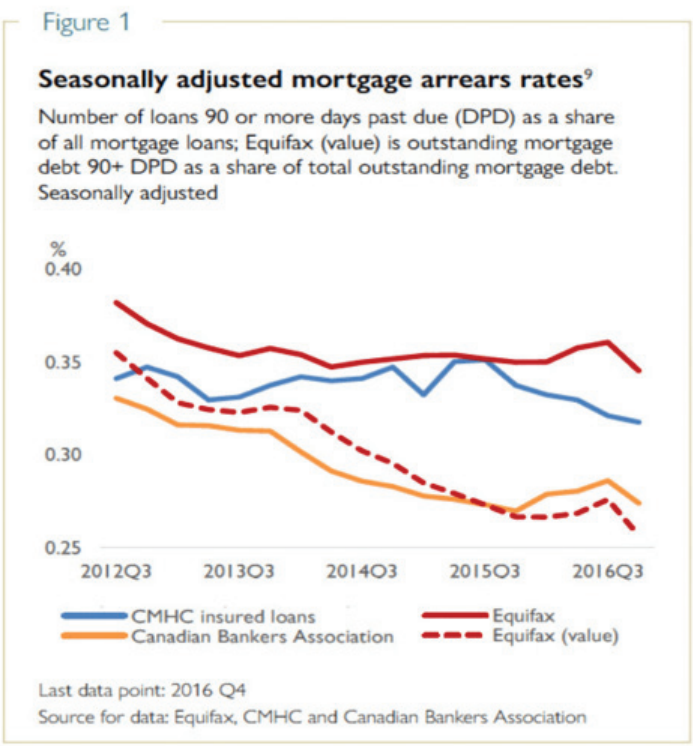
Closing Remarks

We would be pleased to expand on our submissions, through subsequent correspondence or at an in-person meeting.

We respectfully request that OSFI address our comments, as we are concerned that the measures contained in the Draft Guideline, if implemented, may result in serious negative outcomes not only to some of our members but to Canadian home buyers and owners. ■

The chart below shows that the housing market is responding to these and other government initiatives.





1. Bank of Canada Financial System Review, June 2017, p.6 2. Ibid. 3. http://investor.genworthmicanada.ca/English/media/news releases/news-release-details/2017/Genworth-MI-Canada-Inc-Reports-Second-Quarter-2017-Results-Including-Net-Operating-Income-of-126-Million/default.aspx 4. The BOC's June 2017 FSR notes that mortgage investment corporations are currently estimated to make up less than 1 per cent of mortgages outstanding. p. 8. 5. The term "mortgage investment corporation"generally refers to a Canadian corporation which meets the requirements to so qualify as set out in the Income Tax Act(Canada). The term "mortgage investment entity" includes mortgage investment corporations as well as other investment entities which pool investor capital to invest in mortgages primarily on property located in Canada 6. Canada Mortgage and Housing Corporation, Mortgage and Consumer Credit Trends, National Report – Q4 2016 p.3 7. Ibid

PCMA MEMBERSHIP BENEFITS

EDUCATE | ADVOCATE | CONNECT | ELEVATE

REGULATORY & COMPLIANCE GUIDANCE

Access to leading regulatory and compliance insights that help you meet your obligations and stay focused on your business rather than the regulators.

EFFECTIVE ADVOCACY

We need a strong private capital market across Canada. The PCMA works with regulators and governments to foster a better understanding of private capital markets and to drive positive changes for the industry.

PCMA CHAPTERS & COMMITTEES

Passionate teams of industry leaders across Canada, all committed to elevating the private markets and role of EMDs and issuers of prospectus exempt securities.

EXCLUSIVE INSURANCE

PCMA FIB Bonding insurance for EMDs, and E&O Professional Liability insurance for dealing representatives - take advantage of very competitive group pricing for PCMA members.

PRIVATE CAPITAL MARKETS MAGAZINE

Free subscription and special rates for advertising for the PCMA national industry magazine - Private Capital Markets. We provide analysis on regulatory changes, compliance challenges and best practices, and leading insights into deal structures, financial reporting, legal, accounting and other issues.

PCMA PARTNERSHIP OPPORTUNITIES

The PCMA has built an effective national industry voice for the private capital markets. Become a PCMA Partner and reach key decision-makers in the private capital markets industry. We believe helping you succeed in your business is key to the success of both the PCMA and our private markets. We have a number of partnership opportunities available, which enables you to showcase your business, products and your views.

PCMA EDUCATION SERIES

PCMA Education Series events build the educational infrastructure to help EMDs, dealing representatives and issuers succeed in their business in a rapidly changing regulatory environment.

PCMA MEMBERSHIP BENEFITS

EDUCATE | ADVOCATE | CONNECT | ELEVATE

PCMA
PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

www.pcmacanada.com | info@pcmacanada.com

CPE MEDIA

PCMA PRIVATE CAPITAL MARKETS AWARDS

The PCMA Awards are the only national industry awards for private capital markets professionals that recognize business leaders who help build a vibrant and successful private capital markets in Canada.

PCMA ANNUAL CONFERENCE

PCMA Annual Private Capital Markets Conference brings together pragmatic and insightful presentations from top industry leaders. Each year a capacity crowd of professionals gathers to learn about new developments in the private capital markets.

TUITION DISCOUNTS

Reduced admission prices for PCMA Members for IFSE Institute exams including the Exempt Market Professionals exam - the only prescribed proficiency course focused on the exempt market in Canada. It is designed for individuals seeking registration as Dealing Representatives and Chief Compliance Officers of Exempt Market Dealers.

EXT MARKETING

PCMA members receive a complimentary consultation and discounted pricing on marketing and building your business brand!

STAPLES SERVICES

Looking for more ideas? If you have a special project or event that needs unique or customized promotional items, please contact your Staples account manager today! Partnering with top industry suppliers allows Staples to deliver savings to ensure that you receive the best pricing, every time. See staplespromoproducts.ca for more information.

CPE MEDIA SERVICES

Learn from others, share your advice or best practices and success stories of the private capital markets on the Private Capital Markets Blog. Only PCMA members can write posts.

PREFERRED RATES

Exclusive discounts from North Americas hotels to preferred rates on flights with major Canadian airlines.

For more information contact us at: info@pcmacanada.com or visit www.pcmacanada.com

USE YOUR SUCCESSION PLAN TO INCORPORATE TECHNOLOGY INTO YOUR BUSINESS

MARIA LIZAK, PH.D & RANDY MCCORD, B.A.

American author, speaker and social media observer Eric Qualman has famously stated:

"We don't have a choice on whether we DO social media, the question is how well we do it."

In fact, Qualman is of the opinion that the very survival of your business depends on your use of social media: "The ROI of social media is that your business will still exist in 5 years."

There's no denying that social media, and technology in general, plays a significant role in our everyday lives. We communicate via email, texts and messaging applications and use the internet as a knowledge and research base. For advisors, technology powers our businesses. Most Dealerships and Managing General Agencies (MGAs) have back office systems, webpages, and marketing personnel who manage the social media messages and the branding associated with an online presence. The regulators use online portals for license renewal and CE credit updates. There is no escaping technology. Google, YouTube, Facebook, LinkedIn, Twitter and the like are not going away. Although many of our clients are using social media technology primarily to keep track of kids and grandkids, you can be sure that soon it will be the preferred method to communicate with us as well.

Leveraging Technology

If we want to move our businesses forward, then looking at technology-based solutions is a must. Technology can assist us in several key areas: branding and lead generation, client service and referral generation, team building, and succession planning. In a previous article entitled - "**High Tech and High Touch: Leverage Technology to Maximize Your Business Now and in Retirement**", published in the Winter 2017 edition of The Private Investor, we explored the technology-based platforms that can assist Financial Advisors to maximize the value of our businesses now and in retirement.

Despite our reliance on technology, many advisors insist that our value comes from the relationships we build. We agree that in the financial services industry, high touch is important. People tend to do business with people they know, like and trust. However, we maintain that technology can be used to help prospective clients to get to know us (via social media profiles), like us (via the content of our posts and our interactions on social media) and trust in our ability to help them with financial matters (by establishing ourselves as experts in our field, and helping us to do what we said we would do). If executed correctly, our use of high tech tools enables us to be even more high touch and responsive to our clients' changing needs.

The next step in building out the technology that will expand our business exponentially is to implement programs to automate client service, follow-up and referral generation. To properly serve and retain our clients, we need to stay in touch with them on a regular basis. This is more easily accomplished with a fully functioning up-to-date CRM program with a well thought out marketing plan that generates business. In addition, our systems infrastructure should provide for easy follow up, regular client contact, automated appointment booking, automated greeting card production and all client information available at the click of a mouse.

Maximize the Value of Your Business Now and In Retirement

Financial advisors that utilize technology in our practices will maximize the value of our business both now and in retirement. There is no question that we can leverage technology to grow and systematize our businesses. However, by far the greatest benefit will be the valuation of our business when it comes time to select a business continuation strategy. Some advisors will decide to sell their book (or be forced to sell because of illness, litigation or other circumstances). Some of us will prefer to gradually transition our practices to a colleague or junior advisor, and so remain active. Still others with more energy and a desire to leave a legacy will choose to grow our practice, build an agency and mentor advisors, increasing our revenue from multiple sources.

Many senior advisors, while agreeing with the necessity and utility of technology, find it to be frustrating, and overwhelming. We believe that ***organization***, ***automation*** and especially ***delegation*** are the key ingredients to successfully implement a robust technology platform. We have provided a checklist to help with implementation (see figure 1). Pick one area and start with small steps. Try to automate whatever repetitive process you use to stay in touch with your clients and focus on that relationship. Leverage the automation to maintain relevant communication between personal visits. Delegate the implementation and administration of the technology to others more skilled than you.

Teamwork, Technology and Succession Planning

We believe that a culture of teamwork and collaboration is the real key to implementing technology. For some people, this means hiring assistants. For others, this means working with colleagues who have complementary skill sets. Teamwork allows us to use our different strengths to support each other in growing the various aspects of our businesses, including marketing, financial planning, and administration.

figure 1

By teaming up with other advisors, some of whom may enjoy testing out innovative technology platforms, not only will we improve our client service and potential for referral generation, but we may pick up a few technology tips and tricks ourselves.

Succession planning follows naturally from the idea of teamwork and allows a wonderful opportunity to implement technology in our businesses. When we make the decision to mentor a junior advisor who may one day be a part of our business continuation strategy, we should choose someone who can help us implement technology solutions in our businesses. This will allow us to create a system that is both high tech and high touch and increase the value of our businesses both now and in retirement.

Maria Lizak and Randy McCord are co-founders and Executive Business Directors with National Best Financial Network, a network of independent insurance advisors and financial services professionals working collaboratively to empower advisors and their clients to succeed. Last summer, they negotiated a successful exit for an advisor with a client base across Western Canada.
Connect with Maria on LinkedIn:
https://ca.linkedin.com/in/maria-lizak-9ab5bb22
Connect with Randy on LinkedIn:
https://ca.linkedin.com/in/randymccord
Follow Randy's blog:
http://mccord.nbbn.ca/blog/
Book an appointment with Maria online to discuss your Succession Plan:
http://www.supersaas.com/schedule/Maria_Lizak/Appointments_with_Maria_Lizak

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

THE NATIONAL VOICE OF EXEMPT MARKET DEALERS, ISSUERS AND INDUSTRY PROFESSIONALS

INFORMATION CIRCULAR

FOR THE SPECIAL MEETING OF THE MEMBERS OF THE PRIVATE CAPITAL MARKETS ASSOCIATION

TO BE HELD ON JANUARY 17, 2018

(THE "MEETING")

In reviewing the following, please note that the requirement under the Association's governing legislation (Canada's Not For Profit Corporation's Act) is to give members sufficient detail of the matters to permit them to form a reasoned judgment on the business, and to provide them the text of any special resolution. Although there is a subjective component to what constitutes sufficient detail, we feel it would make sense to include the more material type information one would see in a notice of a shareholders' meeting being held for purposes of voting on a merger type transaction where securities laws apply. Accordingly, we've tried to follow the same sort of format, but at a less detailed or comprehensive level.

SOLICITATION OF PROXIES

This Information Circular is provided in connection with the solicitation of proxies by management of the Private Capital Markets Association (the "PCMA") for the 2017 special meeting of members of the Association (the "Members") to be held at WeirFoulds LLP, 66 Wellington Street West, Suite 4100, TD Bank Tower, Toronto, Ontario, on January 17, 2018.

Members have the right to appoint a nominee (who need not be a Member) to represent them at the Meeting other than the persons designated in the enclosed form of Proxy, and may do so by inserting the name of the appointed representative in the blank space provided on the first page of the form of proxy. Forms of proxy will NOT be valid for the Meeting or any adjournment of the Meeting unless it is completed and signed by the Member or by his attorney authorized in writing.

The persons named in the enclosed form of proxy are directors and or executives of the Association and have indicated their willingness to represent as proxy the Members who appoints them. Each Member may instruct his or her proxy how to vote by completing and submitting the proxy form as more particularly described on the proxy form.

INFORMATION ABOUT THE MERGER

Private Capitals Market Association ("PCMA") is a not-for-profit organization established with a mandate to be an industry voice for its members in respect of promoting and fostering the private capital markets in Canada. PCMA was continued under the Canada Not-For-Profit Corporations Act on January 16, 2014. Similar to PCMA, the National Exempt Market

First Canadian Place, 100 King Street West, Suite 5700, Toronto, ON M5X 1C7 p: 1.877.363.3632 e: info@pcmacanada.com www.pcmacanada.com

Association ("NEMA") is a not-for-profit organization that was established with a mandate to be an industry voice for its members in respect of promoting and fostering the private capital markets in Canada. NEMA was incorporated under Alberta's *Society Act* on March 09, 2011 with the name "Western Exempt Market Association". On February 28, 2013 it filed Articles of Amendment to change its name to "National Exempt Market Association.

Initially, PCMA's membership base and activities were principally based in Eastern Canada, and NEMA's membership base and activities principally based in Western Canada. However, as each association has expanded, their respective operations have increasingly overlapped. To better and more efficiently ensure the private capital and exempt markets have a unified industry voice, and to better leverage the skills, experiences and relationships of their respective leadership teams, PCMA and NEMA have conditionally agreed to merge their respective organizations (the "**Merger**"). To carry out this Merger, the following would occur:

1. PCMA would acquire substantially all of the assets of NEMA **for** One ($1.00) Dollar pursuant to an Asset Purchase Agreement dated December 13, 2017 between the PCMA and NEMA (the "**Merger Agreement**"). Closing of the Merger Agreement is subject to, among other things, approval by a two-thirds majority of votes cast by the members of the PCMA ("**Members**") present in person or by proxy and entitled to vote at the Special Meeting (the "**Acquisition Resolution**"). See details under the headings "Merger Agreement" and "Resolutions", below;

2. PCMA's Articles of Continuance ("**Articles**") would be amended to facilitate the integration of the leadership of NEMA with the PCMA, as contemplated by the Merger Agreement. This involves an amendment to the Articles to increase the maximum number of directors fixed by the Articles to be on the board of directors of the PCMA (the "Board") from 30 to 45 for the ensuing year. In order to amend the Articles in such a manner, the amendments to the Articles must be approved by a two-thirds majority of votes cast by the members of the PCMA present in person or by proxy and entitled to vote at the Special Meeting (the "Articles of **Amendment Resolution**"). See details under the heading "Merger Agreement" and "Resolutions", below;

3. As contemplated by the Articles of Amendment Resolution, and subject to closing the transactions under the Merger Agreement, certain directors and executive officers of NEMA would be appointed as directors and or executive officers of PCMA (the "**NEMA Nominees**"). See details under the heading "NEMA Nominees", below; and

4. Subject to closing the transactions under the Merger Agreement, NEMA would be wound-up and dissolved.

As a result of the closing of the Merger Agreement, certain of NEMA's assets would be owned by the PCMA and integrated with PCMA's assets and certain directors from the leadership team of NEMA would be integrated with PCMA's leadership team through the appointment of NEMA Nominees to the Board and or Executive Committee of PCMA.

First Canadian Place, 100 King Street West, Suite 5700, Toronto, ON M5X 1C7 p: 1.877.363.3632 e: info@pcmacanada.com www.pcmacanada.com

NEMA members would join the PCMA in 2018 and will be subject to enrollment in accordance with the PCMA's bylaws and other applicable policies.

Following the closing of the Merger Agreement, PCMA intends to continue to pursue its objectives as a leading industry voice for its members in respect of promoting and fostering the private capital markets in Canada. It intends to continue to pursue this objective in accordance with its current Articles and bylaws, subject only to the Amendment Resolution described herein. NEMA, as a legal entity, would be wound-up and dissolved. However, the PCMA would recognize NEMA as a founding member of the PCMA, and the founding directors and leadership team of NEMA will be recognized in a manner substantially equivalent to the founding Directors and leadership team of the PCMA.

MERGER AGREEMENT

To effect the Merger, on December 14, 2017, PCMA and NEMA entered into an Asset Purchase Agreement (the "Merger Agreement") whereby the PCMA agreed to acquire certain assets of NEMA for One ($1.00) Dollar. Such assets to be acquired include, among other things, the cash on the NEMA balance sheet, the NEMA name, and its previous name, Western Exempt Market Association, its industry and membership contacts and relations, its intellectual property rights, including those in its publication, "Private Investor" (formerly known as "Exempt Edge") and its website, and its content management technology used for publishing. NEMA's intellectual property rights do not however include the name "Exempt Edge" as it is not owned by NEMA. The PCMA will not be assuming any liabilities that NEMA may have.

To further effect the Merger, the parties intend to nominate certain members from their respective leadership teams. To do so, as a condition of and subject to closing the Merger Agreement, each of the NEMA Nominees will be appointed as directors and or executives of the PCMA. See details under the heading "NEMA Nominees", below.

The Merger Agreement provides for a January 12, 2018 closing date, or such other date as the parties may agree. However, closing of the Merger is subject to the satisfaction of certain conditions. In addition to conditions to closing typically provided for in transactions similar in nature and size to those contemplated under the Merger Agreement, the Merger Agreement includes a condition for the benefit of each party that their respective members approve the Merger Agreement and the transactions contemplated thereunder. Pursuant to the Merger Agreement, each party has agreed to call a special meeting of its members for this purpose.

The Merger Agreement further provides that NEMA will seek to obtain the approval of its members to wind-up and dissolve immediately following the closing of the transactions under the Merger Agreement. Approval of the wind-up and dissolution of NEMA is also a condition to closing the Merger Agreement to the benefit of the PCMA.

First Canadian Place, 100 King Street West, Suite 5700, Toronto, ON M5X 1C7 p: 1.877.363.3632 e: info@pcmacanada.com www.pcmacanada.com

NEMA NOMINEES

Pursuant to the Merger Agreement, it is a condition of NEMA that certain directors and executives of NEMA be appointed as directors and or executives of PCMA. The below table lists the individuals that have been nominated by NEMA for this purpose and the office(s) each will hold with the PCMA should the Merger close and they consent to act. Additional information about each such individual is available on NEMA's website at http://www.nemaonline.ca/.

Pursuant to PCMA's bylaws, each such individual that is appointed as a director of PCMA will have the right to hold office until the close of the PCMA's next annual general meeting, and those appointed to the executive committee will hold office pursuant to the pleasure of the Board, or until their successors are appointed, subject to any contract of employment in effect with respect to any such officer.

By voting in favour of the Acquisition Resolution, members will effectively be voting in favour of the appointment of the NEMA Nominees in connection therewith.

NEMA's Nominees

	Name	**Office Nominated**
1.	"Drew Adams"	Director
2.	"Chris Salapoutis, with Greybrook Realty Partners"	Director and Executive Committee
3.	"Darren Smits, with Miller Thomson"	Director and Executive Committee
4.	"Nick Fournier, with Raintree Financial"	Director and Executive Committee
5.	"Craig Skauge with Olympia Trust"	Director
6.	"Chris Croteau, with TingleMerrett LLP"	Director
7.	"Harwinder Kang, with Prime Real Estate Group"	Director
8.	"Glenda Buelow,with G2 Financial Solutions"	Director
9.	Davis Zhang	Director
10.	"Greg Romundt, with Centurion Asset Management Inc."	Director

First Canadian Place, 100 King Street West, Suite 5700, Toronto, ON M5X 1C7 p: 1.877.363.3632 e: info@pcmacanada.com www.pcmacanada.com

11.	"Tommy Baltzis, with WhiteHaven Securities"	Director
12.	"Curtis Potyondi, with Prestige Capital"	Director
13.	"Matt Epp, with Borden Ladner Gervais LLP"	Director

In addition to the appointment of the NEMA Nominees, Brian Koscak and David Gilkes, each a director and executive of PCMA, will resign from the executive (conditional upon and effective as at the time of closing the Merger), but will remain as directors, and as members of the PCMA Advocacy and Compliance sub-committees.

As a result of the Amendment Resolution, if approved, increasing the maximum number of directors fixed by PCMA's Articles, there will be sufficient room on the Board to accommodate the appointment of the NEMA Nominees. Following these changes to the composition of the Board, the Board would be comprised of 45 directors, 13 of which would be former directors of NEMA and 32 of which would be those directors of the PCMA elected at the Meeting.

RESOLUTIONS

At the Meeting, the Members of the PCMA will be asked to approve the matters and otherwise conduct such business as is typically dealt with at the PCMA's annual general meeting, and as set forth in the Notice of the Meeting to which this Information Circular is attached. In addition, however, at the Meeting, Members will be asked to approve, by special resolution, the Acquisition Resolution and the Articles of Amendment Resolution, the text of which is set out in Schedule "A" to the form of proxy accompanying the Notice of the Meeting and this Information Circular.

Pursuant to applicable law, the Articles of Amendment Resolution must be approved by a two-thirds majority of votes cast by the members present in person or by proxy and entitled to vote at the Meeting. There is no legal requirement to obtain any consent of the members of the PCMA to acquire substantially all of the assets of NEMA or to otherwise merge with NEMA by way of an asset acquisition. However, in considering these matters, and taking into consideration, among other things, the vote required for the Articles of Amendment Resolution to allow the NEMA Nominees to be appointed directors of PCMA, the Board has determined that it would be fair and reasonable to obtain consent of its members with respect to the Acquisition Agreement. Accordingly, in order to carry out the Merger, the Board has decided that the Merger Resolution will also require approval by a two-thirds majority of votes cast by the members present in person or by proxy and entitled to vote at the Meeting. By voting in favour of the Acquisition Resolution, members will effectively be voting in favour of the appointment of the NEMA Nominees in connection therewith.

If one of the foregoing resolutions is approved it will also be imperative that the other resolutions be approved to permit the Association to carry out the Merger as

First Canadian Place, 100 King Street West, Suite 5700, Toronto, ON M5X 1C7 p: 1.877.363.3632 e: info@pcmacanada.com www.pcmacanada.com

a whole. Accordingly, if not all the foregoing resolutions are approved the Board will not put into effect any of the foregoing resolutions.

Board Recommendation

The Board of the PCMA approved this Information Circular and recommends that the members vote in favour of both the

Acquisition Resolution and the Articles of Amendment Resolution. The Board believes that based on its review and analysis that the Merger is in the best interests of the Association and its members. In reaching its decision, the Board considered a number of factors. In view of the variety of factors considered, the Board did not find it practicable to, and did not, quantify or otherwise assign relative weights to the specific factors considered in reaching their determinations. The factors considered by the Board in this regard included efficiencies and one voice for a unified Private Capital Markets Association.

FINANCIAL STATEMENTS

Attached are the following financial statements:

1. PCMA Financial Statements for the period ended June 30; and

2. NEMA Cash Position as at December 13, 2017.

APPROVAL

The contents of this Information Circular have been approved by the board of directors of PCMA.

DATED: December 14, 2017

First Canadian Place, 100 King Street West, Suite 5700, Toronto, ON M5X 1C7 p: 1.877.363.3632 e: info@pcmacanada.com www.pcmacanada.com

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

NOTICE OF ANNUAL GENERAL AND SPECIAL MEETING OF MEMBERS

Date and Time:	January 17, 2018 at 5:00 p.m. EST
Place:	WeirFoulds LLP 66 Wellington Street West, Suite 4100 TD Bank Tower Toronto, ON M5K 1B7

Conference Call dial-in available upon request to: info@pcmacanada.com

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

THE NATIONAL VOICE OF EXEMPT MARKET DEALERS, ISSUERS AND INDUSTRY PROFESSIONALS

NOTICE OF ANNUAL GENERAL AND SPECIAL MEETING OF MEMBERS

TO THE MEMBERS OF THE PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA:

NOTICE IS HEREBY GIVEN that the annual general and special meeting of members of the Private Capital Markets Association of Canada (the "**Association**") will be held at 66 Wellington Street West, Suite 4100, TD Bank Tower, Toronto, Ontario M5K 1B7, Toronto, Ontario, on January 17, 2018 at 5:00 p.m. (Toronto time) (the "**Meeting**") for the following purposes:

1. to approve amending the Association's Articles of Continuance by increasing the maximum number of permitted directors from twenty-five (25) to forty-five (45);

2. to approve amending sections 7.2 and 13.1 of By-law No. 1 of the Association to increase the maximum number of directors from thirty (30) to forty-five (45) and to grant the Chair of the Executive Committee the power to remove members of the Executive Committee;

3. to elect directors of the Association for the ensuing year;

4. to ratify and approve the acts of the Association and its board of directors and officers undertaken since the last annual meeting of the Association;

5. to receive and consider the financial statements of the Association for the financial year ended June 30, 2017;

6. to ratify and approve the purchase by the Association of substantially all of the assets of National Exempt Market Association, as outlined in the attached information circular;

7. to appoint Fruitman Kates LLP, Chartered Accountants, as the auditors of the Association for the ensuing year and to authorize the directors to fix the remuneration to be paid to the auditors for the ensuing year;

8. in connection with each of the foregoing, to consider and, if deemed advisable, to pass, with or without variation, resolutions substantially in the form of the resolution set forth at Schedule "A" to the accompanying form of proxy; and

9. to transact such other business as may properly come before the Meeting or any adjournment(s) or postponement(s) thereof.

Accompanying this notice of annual general and special meeting is a form of proxy which should be read in conjunction with this notice of annual general and special meeting.

Members who are unable to attend the Meeting are requested to complete, sign, date and return the enclosed form of proxy in accordance with the instructions set out in the form of proxy accompanying this notice of annual general and special meeting. A proxy will not be valid unless it is deposited at the office of the Association at Suite 5700, First Canadian Place, 100 King Street West, Toronto, ON M5X 1C7, or transmitted by email to info@pcmacanada.com, not less than 24 hours (excluding Saturdays, Sundays and holidays) before the time fixed for the Meeting or any adjournment(s) or postponement(s) thereof. The chairperson of the Meeting has the discretion to accept proxies received after that time.

The board of directors of the Association unanimously recommends that members vote IN FAVOUR of the matters set forth in this notice of annual general and special meeting. In the absence of any instructions to the contrary, the membership interests in the Association represented by proxies appointing the management designee(s) named in the accompanying form of proxy will be voted IN FAVOUR of the matters set forth in this notice of annual general and special meeting.

DATED at Toronto, Ontario, this 14th day of December, 2017.

BY ORDER OF THE BOARD OF DIRECTORS OF THE PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

(signed) "*Georgina Blanas*"
Georgina Blanas
Executive Director

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

THE NATIONAL VOICE OF EXEMPT MARKET DEALERS, ISSUERS AND INDUSTRY PROFESSIONALS

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA
Suite 5700, First Canadian Place, 100 King Street West
Toronto, ON M5X1C7

FORM OF PROXY SOLICITED BY THE MANAGEMENT OF THE PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA FOR USE AT AN ANNUAL AND SPECIAL MEETING OF MEMBERS TO BE HELD ON JANUARY 17, 2018.

The undersigned, being a member of the Private Capital Markets Association of Canada (the "**Association**") hereby appoints, Georgina Blanas, Executive Director of the Association, or failing her, Doug Bedard, Chairperson of the Association, or instead of either of them, hereby appoints:

_____

as proxyholder for and on behalf of the undersigned with the power of substitution to attend, act and vote for and on behalf of the undersigned in respect of all matters that may properly come before the special meeting of the members of the Association to be held on **January 17, 2018**, and at any adjournment or postponement, to the same extent and with the same power as if the undersigned were personally present at the said meeting or such adjournment or postponement thereof. Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the draft minutes of a Special and Annual Meeting of the members attached as Schedule "A" to this form of proxy.

The undersigned hereby directs the proxyholder to vote the membership interest of the undersigned as specified herein:

1.	To amend the Association's Articles of Continuance by increasing the maximum number of permitted directors of the Association to forty-five (45) as contemplated by the Articles of Amendment Resolution.	FOR	☐	WITHHOLD	☐
2.	To amend By-Law No. 1 of the Association by increasing the maximum number of directors to forty-five (45) and granting the Chair of the Executive Committee the power to remove members therefrom as contemplated in the By-Law Resolution.	FOR	☐	WITHHOLD	☐
3.	To elect as directors of the Association each of the following nominees listed below to hold office for the initial term set out opposite each such nominee's name or otherwise until their successors are appointed:				

1.	Alison Alfer	(1 year)	FOR	☐	WITHHOLD	☐
2.	Doug Bedard	(1 year)	FOR	☐	WITHHOLD	☐
3.	David Brown	(1 year)	FOR	☐	WITHHOLD	☐
4.	Neil Carnell	(1 year)	FOR	☐	WITHHOLD	☐
5.	Julie Clarke	(1 year)	FOR	☐	WITHHOLD	☐
6.	Peter Dunne	(1 year)	FOR	☐	WITHHOLD	☐
7.	Joseph Galli	(1 year)	FOR	☐	WITHHOLD	☐
8.	Mark Kent	(1 year)	FOR	☐	WITHHOLD	☐

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

THE NATIONAL VOICE OF EXEMPT MARKET DEALERS, ISSUERS AND INDUSTRY PROFESSIONALS

9.	Melissa MacKewan	(1 year)	FOR	☐	WITHHOLD	☐
10.	Fraser McEwen	(1 year)	FOR	☐	WITHHOLD	☐
11.	Steve Meehan	(1 year)	FOR	☐	WITHHOLD	☐
12.	Amre Qahawish	(1 year)	FOR	☐	WITHHOLD	☐
13.	Richard Remillard	(1 year)	FOR	☐	WITHHOLD	☐
14.	Matt Reynolds	(1 year)	FOR	☐	WITHHOLD	☐
15.	Diana Soloway	(1 year)	FOR	☐	WITHHOLD	☐

4.	To ratify and approve the acts of the Association, its board of directors and officers undertaken since the last annual meeting of the Association as contemplated by the Rectifying Resolution.	FOR	☐	WITHHOLD	☐
5.	To approve the financial statements of the Association for the financial year ended June 30, 2017 as contemplated by the Financial Statements Resolution.	FOR	☐	WITHHOLD	☐
6.	To ratify and approve the purchase by the Association of substantially all of the assets of National Exempt Market Association as contemplated by the Acquisition Resolution.	FOR	☐	WITHHOLD	☐
7.	To appoint Fruitman Kates LLP, Chartered Accountants, as the auditors of the Association and to authorize the directors of the Association to fix the remuneration to be paid to the auditors as contemplated by the Auditor Resolution.	FOR	☐	WITHHOLD	☐

If any amendments or variations to matters identified in the Notice of the Meeting are proposed at the Meeting or if any other matters properly come before the Meeting, this Proxy confers discretionary authority to vote on such amendments or variations or such other matters according to the best judgment of the person voting the proxy at the Meeting.

DATED the _____day of _____, 201___.

_____ Signature of Member(s)

_____ Print Name
(SEE NOTES ON THE BACK OF THIS PAGE)

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

THE NATIONAL VOICE OF EXEMPT MARKET DEALERS, ISSUERS AND INDUSTRY PROFESSIONALS

Return Proxy to:

Mail: Private Capital Markets Association of Canada
Suite 5700, 100 King Street West, Toronto, Ontario M5X 1C7

Email: info@pcmacanada.com (please scan a signed copy and email)

A proxy will not be valid unless it is deposited at the office of the Association at Suite 5700, First Canadian Place, 100 King Street West, Toronto, ON M5X 1C7, or transmitted by email to info@pcmacanada.com, not less than 24 hours (excluding Saturdays, Sundays and holidays) before the time fixed for the Meeting or any adjournment(s) or postponement(s) thereof.

NOTES:

1. This proxy is solicited by management of the Association.

2. The membership interest represented by this proxy will be voted. Where a choice is specified, the proxy will be voted as directed. The proxy confers discretionary authority on the above named person to vote in his or her discretion with respect to amendments or variations to the matters identified in this proxy or such other matters which may properly come before the Meeting.

3. Each member has the right to appoint a person other than management designees specified above to represent them at the Meeting. Such right may be exercised by inserting in the space provided the name of the person to be appointed, who need not be a member of the Association.

4. The member must sign this proxy. Please date the proxy. If the member is an Association, the proxy must be executed by an officer or attorney thereof duly authorized.

5. If the proxy is not dated in the space provided, it is deemed to bear the date of its mailing to the members of the Association.

6. If the member appoints any of the persons designated above, including persons other than management designees, as proxy to attend and act at the said Meeting:

   (a) the membership interest represented by the proxy will be voted in accordance with the instructions of the member on any ballot that may be called for;

   (b) where the member specifies a choice in the proxy with respect to any matter to be acted upon, the shares represented by the proxy shall be voted accordingly; and

   (c) IF NO CHOICE IS SPECIFIED WITH RESPECT TO THE MATTERS LISTED ABOVE, THE PROXY WILL BE VOTED FOR SUCH MATTERS.

PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

THE NATIONAL VOICE OF EXEMPT MARKET DEALERS, ISSUERS AND INDUSTRY PROFESSIONALS

SCHEDULE A

DRAFT MINUTES AND FORM OF RESOLUTIONS OF THE ANNUAL GENERAL AND SPECIAL MEETING OF THE PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA

MINUTES of a special meeting and annual meeting of the members of the **PRIVATE CAPITAL MARKETS ASSOCIATION OF CANADA** (the "**Association**") held at Toronto, Ontario, on the 17th day of January, 2018.

QUORUM OF MEMBERS

A quorum of members being present in person or by proxy, the meeting was declared to be duly constituted.

CHAIR AND SECRETARY

With the consent of the meeting, _____ acted as Chair of the meeting and _____ acted as Secretary of the meeting.

INCREASE IN THE MAXIMUM NUMBER OF DIRECTORS

The Chairperson stated that the meeting had been called for the purpose of considering and if thought fit passing a special resolution authorizing an amendment to the Association's Certificate of Continuance and Articles of Continuance dated January 16, 2014, and to approve Articles of Amendment (the "**Articles of Amendment**") to be filed under the *Canada Not-for-profit Corporations Act* increasing the maximum number of permitted directors from twenty-five (25) to forty-five (45).

After discussions, on motion duly made, seconded and carried, the following special resolutions were passed:

WHEREAS Section 5 of the Association's Articles of Continuance provide that the maximum number of directors of the Association shall be twenty-five (25);

AND WHEREAS it is considered to be in the best interests of the Association to increase the maximum number of directors of the Association to forty-five (45) by amending the Association's Articles of Continuance.

BE IT RESOLVED THAT:

1. The board of directors of the Association be and is hereby authorized and directed to file the Articles of Amendment with the Minister of Industry increasing the maximum number of permitted directors of the Association from twenty-five (25) to forty-five (45).
2. Subject to issue by the Minister of Industry of the Articles of Amendment for the Association, the Association shall have a minimum of three (3) and a maximum of forty-five (45) directors.
3. The Articles of Amendment of the Association, which have been submitted to this meeting, are hereby approved.
4. Any officer or director of the Association is authorized to take all such actions and execute and deliver all such documentation, including the said Articles of Amendment, which are necessary or desirable for the implementation of this resolution.
5. This resolution shall become effective when approved, sanctioned and confirmed by at least two-thirds of the members of the Association at a meeting duly called for such purpose,

(the foregoing resolutions being collectively referred to as the "**Articles of Amendment Resolution**").

AMENDMENT TO BY-LAW NO. 1 OF THE ASSOCIATION

The Chairperson stated that the meeting had also been called for the purpose of considering and if thought fit passing a special resolution authorizing: (i) an amendment to Section 7.2 of By-Law No. 1 of the Association to increase the maximum number of directors from thirty (30) to forty-five (45) and (ii) an amendment to Section 13.1 of By-Law No. 1 of the Association to grant the Chair of the Executive Committee the power to remove members of the Executive Committee.

After discussions, on motion duly made, seconded and carried, the following special resolutions were passed:

WHEREAS a draft of the proposed by-law, being By-law No. 1A of the Association to amend Sections 7.2 and 13.1 of By-law No. 1 of the Association, was submitted to the meeting and discussed;

BE IT RESOLVED THAT:

1. Section 7.2 of By-Law No. 1 of the Association, effective the 28th day of February, 2015, is hereby deleted and replaced with the following:

   "The number of directors of the Association shall be a minimum of three (3) and a maximum of forty-five (45) and shall be determined by the Membership from time to time in accordance with this By-law and as otherwise permitted by the Act.

   The Board of Directors shall at all times consist of at least three (3) directors that are not also officers or employees of the Association or of its affiliates (if any)."

2. Section 13.1 of By-Law No. 1 of the Association, effective the 28th day of February, 2015, is hereby deleted and replaced with the following:

   "The Board of Directors shall appoint an Executive Committee to serve at the pleasure of the Board of Directors. Where such a committee is appointed the "Executive Committee" shall consist of the Chair, Vice Chair(s), Executive Director and any other officers or directors of the Association as my be appointed to the Executive Committee by the Board of Directors, from time to time. The Executive Committee shall exercise such powers as are authorized by the by-laws of the Association or delegated by the Board of Directors, but such delegation by the Board of Directors shall not diminish in any way the accountability of the Board of Directors to the Membership. A member of the Executive Committee may be removed by the Chair of the Executive Committee, acting reasonably. Members of the Executive Committee shall be entitled to be reimbursed for reasonable expenses incurred in the exercise of their duties. The Chair of the Association shall be the Chair of the Executive Committee."

3. By-law No. 1A in the form which was approved by the board of directors, is hereby confirmed as the by-law of the Association.
4. This resolution shall become effective when approved, sanctioned and confirmed by at least two-thirds of the members of the Association at a meeting duly called for such purpose,

(the foregoing resolutions being collectively referred to as the "**By-law Resolution**").

ELECTION OF DIRECTORS

The Chairperson then stated that it was in order to proceed with the election of directors and declared the meeting open for nominations. On motion duly made, seconded and carried the following resolutions were passed:

The following persons were nominated:

[_____]

There being no further nominations, the Chairperson declared nominations closed and directed the Secretary to cast a single ballot for the election of those nominated. Such ballot having been cast, the Chairperson then declared each of those nominated to be duly elected a director of the Association, each to hold office until his/her successor is elected or appointed, subject to the provisions of the *Canada Not-for-profit Corporations Act* and of the Association's By-laws.

APPROVAL OF PRIOR ACTS

The Chairperson noted that, if thought appropriate, it would be in order to approve certain of the activities of the directors and officers and matters regarding the operations and affairs of the Association. On motion duly made, seconded and carried, the following resolution was passed:

BE IT RESOLVED THAT all acts, contracts, by-laws, resolutions, proceedings, appointments, elections and payments enacted, taken, passed, made and done by the directors and officers of the Association since the last annual meeting of the members of the Association to the date hereof as the same are referred to in the minute books of the Association or in its financial statements or are otherwise within the knowledge of any of the members of the Association present in person or by proxy at this meeting, be and the same are hereby approved, ratified, sanctioned and confirmed.

(the foregoing resolution being referred to as the "**Rectifying Resolution**").

APPROVAL OF FINANCIAL STATEMENTS

WHEREAS the members have been presented with a copy of the financial statements of the Association for its financial year ended June 30, 2017, and have had the opportunity to provide comments and questions in respect of such statements or relating to the duties of the accountant acting as independent accountant for the Association that have not been adequately answered by the board of directors or accountant of the Association;

BE IT RESOLVED THAT

1. The unaudited financial statements of the Association for its financial year ended June 30, 2017, be and they are hereby approved and adopted.
2. The members hereby renounce all rights they might have by reason of the failure of the board of directors of the Association to present such financial statements to the undersigned within the time period required by the *Canada Not-for-profit Corporations Act* or otherwise pursuant to applicable law and absolve the board of directors and the Association and each of them from any liability with respect to such failure,

(the foregoing resolutions being collectively referred to as the "**Financial Statements Resolution**").

PURCHASE OF ASSETS OF NATIONAL EXEMPT MARKET ASSOCIATION

The Chairperson stated that the meeting had also been called for the purpose of considering and if thought fit passing a special resolution authorizing the purchase by the Association of substantially all of the assets of National Exempt Market Association ("NEMA").

After discussions, on motion duly made, seconded and carried, the following resolutions were passed:

WHEREAS the board of directors has considered that it is in the best interests of the Association to purchase substantially all of the assets of National Exempt Market Association (the "**Transaction**") pursuant to an asset purchase agreement (the "**Asset Purchase Agreement**") the form of which having been reviewed by the board of directors;

BE IT RESOLVED THAT:

1. The purchase by the Association of substantially all of the assets of NEMA is hereby authorized and approved.

2. The Asset Purchase Agreement is hereby ratified, authorized and approved and the Association is hereby authorized and directed to execute the Asset Purchase Agreement and to carry out and complete the transactions and obligations contemplated thereby and the execution thereof by any officer or director shall be conclusive evidence of the ratification, authorization and approval of the Asset Purchase Agreement by the Association.

3. Any officer or director of the Association is hereby authorized and directed to take all such actions and execute and deliver all such documentation which are necessary or desirable for the implementation of this resolution.

4. Notwithstanding that these resolutions have been passed by the members of the Association, the directors of the Association are hereby authorized and empowered, at their discretion, and without further notice to or approval of the members of the Association: (i) to amend the Asset Purchase Agreement, or any agreement or instrument ancillary thereto, to the extent permitted by such agreement or instrument, as the case may be, as may be amended from time to time; and (ii) subject to the terms of the Asset Purchase Agreement, not to proceed with the purchase of substantially all of the assets of NEMA, or otherwise merge with NEMA.

5. This resolution shall become effective when approved, sanctioned and confirmed by at least two-thirds of the members of the Association at a meeting duly called for such purpose,

(the foregoing resolutions being collectively referred to as the "**Acquisition Resolution**").

APPOINTMENT OF AUDITOR

WHEREAS it is considered to be in the best interests of the Association to appoint Fruitman Kates LLP, Chartered Accountants, as the auditors of the Association until the next annual meeting and to authorize the directors of the Association to fix the remuneration to be paid to the auditors;

BE IT RESOLVED THAT:

1. Furitman Kates LLP are hereby appointed as the auditors of the Association until the next annual meeting of the Association.

2. The board of directors is hereby authorized to fix the remuneration to be paid to the auditors of the Association,

(the foregoing resolutions being collectively referred to as the "**Auditor Resolution**")

TERMINATION

There being no further business, on motion duly made, seconded and carried, the meeting then terminated.

_____	_____
Chair of the meeting	Secretary of the meeting