



OSC Invites Public Comments On Reducing Regulatory Burden for Market Participants

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The OSC has established a burden reduction task force that indicates it will focus on enhancing competitiveness for market participants by reducing their regulatory burden.

- The OSC recently published [OSC Staff Notice 11-784 - Burden Reduction](#) (the “OSC Staff Notice”) outlining a public consultation process and inviting comments from stakeholders on methods of further reducing unnecessary regulatory burdens.
- Stakeholders can also participate by taking the burden reduction survey launched in connection with the OSC Staff Notice. A link to the survey can be found [here](#). The survey and consultation process will remain open until March 1, 2019.
- The OSC will hold a roundtable discussion on March 27, 2019 to consider submissions on eliminating unnecessary rules and processes while protecting investors and the integrity of the capital markets.

Burden Reduction Initiatives

The OSC Staff Notice follows the national burden reduction initiatives launched in 2017 by the Canadian Securities Administrators (“CSA”). The CSA initiatives were outlined in [CSA Staff Notice 51-404 - Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers](#) (“CSA Staff Notice - 51-404”) and [CSA Staff Notice 81-329 - Reducing Regulatory Burden for Investment Fund Issuers](#).

Following a public consultation process and considering stakeholder submissions, the CSA outlined six policy projects it intends to concentrate on in [CSA Staff Notice 51-353 - Update on CSA Consultation Paper Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers](#) (“CSA Staff Notice 51-353”). These six intended policy projects are further detailed below.

The OSC Staff Notice clarifies that, while the OSC is committed to nationally harmonized efforts in collaboration with the CSA, it is interested in implementing changes on an interim basis in Ontario that will assist market participants while coordinated national changes are pursued.

The OSC formed its burden reduction task force in November of 2018 in conjunction with the Ontario Ministry of Finance in support of the Government of Ontario’s Open for Business Plan.

Balancing Investor Protection

The OSC has a statutory mandate of providing investor protection, fostering fair and efficient capital markets, contributing to the efficiency of the financial system and reducing systemic risks. One of the fundamental principles that the OSC is statutorily required to have regard to is that business and regulatory costs and restrictions on business and investment activity should be proportionate to the significance of the regulatory objective sought. Nonetheless, with respect to, for example, financial statements required in respect of significant business acquisitions, the stated policy of regulatory staff is that the cost of complying with its requirements is generally not sufficient to warrant exemptive relief.

In undertaking this public consultation, the OSC's burden reduction task force will consider and act on any suggestions to eliminate unnecessary rules and processes without compromising investor protection and the integrity of Ontario's capital markets.

The OSC's Areas of Focus

The OSC is requesting comments and suggestions from stakeholders on the following:

1. Operational or procedural changes that would make market participants' day-to-day interaction with the OSC easier or less costly.
2. Ways in which the OSC can provide greater certainty regarding regulatory requirements or outcomes to market participants.
3. Forms and filings that issuers, registrants or other market participants are required to submit that should be streamlined or required less frequently.
4. Particular filings with the OSC that are unnecessary or unduly burdensome.
5. Information that the OSC provides to market participants that could be provided more efficiently.
6. Requirements under the OSC rules that are inconsistent with the rules of other jurisdictions and that could be harmonized.
7. Specific requirements under Ontario securities laws that no longer serve a valid purpose.
8. Ways to enhance and improve how investors experience disclosure provided: (i) before they invest; (ii) as part of ongoing public disclosure; and (iii) by registrants.

Examples of Burden Reduction Submissions to the CSA

The CSA received 57 comment letters in response to *CSA Staff Notice - 51-404*. The following are examples of burden reduction recommendations that were submitted to the CSA by various commentators:

1. Facilitating the initial public offering process (IPO) to allow for:
 - o confidential filings of preliminary prospectuses, similar to the process permitted by the Securities and Exchange Commission in the United States;
 - o reduced historical financial statement requirements; and
 - o more certainty with respect to businesses acquired prior to the IPO that are deemed to constitute a "primary business," including bright line tests for greater certainty and transparency and/ or reduced historical disclosure requirements;
2. Modernizing the policies regarding the dissemination of information to reflect advancements in technology and changes in investors' consumption of information;
3. Eliminating overlap in IFRS and MD&A disclosure requirements and duplicative requirements for director information and risk factors in various continuous disclosure documents;
4. Increasing the thresholds for non-venture issuers to trigger the requirement to file a "business acquisition report" or reducing the requirements with respect to such reports, including eliminating the requirement in certain industries;

5. Eliminating superfluous filing requirements in the short-form prospectus offering system and further facilitating “at-the-market” offerings;
6. Enhancing the electronic delivery of documents and implementing an “access equals delivery” model; and
7. Considering a semiannual (as opposed to quarterly) reporting regime.

The CSA’s On-going Policy Projects Following its Public Consultation

As previously mentioned, following the public consultation process and considering stakeholders submissions, the CSA announced in *CSA Staff Notice 51-353* that it intended to pursue the following six policy projects in the near term:

1. Exploring potential alternative prospectus models;
2. Facilitating “at-the-market” offerings;
3. Revisiting the historical financial statements required to be included in an IPO prospectus;
4. Removing or modifying the criteria to file a “business acquisition report”;
5. Revisiting continuous disclosure documents with an aim to eliminate burden while enhancing usefulness and understandability for investors; and
6. Enhancing the electronic delivery of documents.

The CSA noted that there are a number of steps that must occur in connection with any changes in light of the harmonized regime adopted by the CSA and there can be no assurance that any changes will ultimately be adopted in any of the CSA jurisdictions.

Next Steps

The OSC’s burden reduction initiative is potentially welcome news for businesses participating in Ontario’s capital markets as well as businesses contemplating an initial public offering or go-public transaction. The initiative may also be taken as a signal that the OSC may be willing to be a leader in the national effort to reduce regulatory burdens.

Comments on the OSC initiative are due by March 1, 2019. The OSC indicates that it will then identify a series of short, medium and long-term actions to reduce unnecessary burden and host a roundtable on March 27, 2019 to engage in an open discussion about the proposals being considered and any issues identified.

For further information on how you can participate in the OSC’s burden reduction initiative, please contact a member of the Stikeman Elliott Securities Practice Group.

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