



## Key developments in Canadian public markets law for the oil and gas industry - Q2 2015

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The second quarter of 2015 saw a number of regulatory developments in Canadian capital markets that may specifically affect companies in the oil and gas industry. Below, we've compiled a list of key legal developments from April 1 to June 30, 2015 that may be of particular interest.

### Capital Markets

- Canadian regulators introduced [rules](#) that require individual AI's to complete a risk acknowledgement form, eliminate the \$150,000 investment exemption for people (it is still available for corporates), and allow for the family, friends and business associates exemption in Ontario.
- BC, Saskatchewan and New Brunswick proposed a [new prospectus exemption](#) for listed issuers to distribute securities to retail investors who have obtained advice from an investment dealer as long as, amongst other things, the issuer has current continuous disclosure and gives the investors a contractual right of action for continuous disclosure misrepresentations.
- Effective September 8, 2015 foreign issuers will generally [not be required prepare a wrapper](#) offering document for most foreign securities sold in Canada on a private placement basis to institutional and other sophisticated investors.
- BC, Saskatchewan, Manitoba, Quebec, New Brunswick and Nova Scotia implemented [crowdfunding](#) rules to allow non-reporting issuers to raise up to \$250,000 (but not more than \$1,500 from each investor) through online funding portals.
- The [TSX](#) clarified that it generally requires security holders to approve a voluntarily delisting unless it is satisfied that an acceptable alternative market exists for the securities, a near-term liquidity event will occur (a going private transaction) or the issuer is under a delisting review and is unlikely to cure the deficiencies within the required period.
- OSC gave direction regarding its measures [to enhance transparency and regulation of fixed income markets](#) including monitoring the implementation of new cost and performance reporting rules in NI 31-103, overseeing the implementation of IIROC Rule 2800C (reporting of fixed income trade information by dealers) and evaluating whether access to the debt market is fair.
- Canadian regulators released [guidance for proxy advisory firms](#) designed to promote transparency regarding voting recommendations and the development of proxy voting guidelines, and foster understanding among market participants about activities of proxy advisor firms.

- The OSC [expanded restrictions on insider trading and tipping](#) to apply to issuers whose securities are publicly traded outside of Canada.

#### Continuous Disclosure

- Canadian regulators [streamlined many aspects of continuous disclosure requirements for TSXV companies](#), allowing issuers to provide “quarterly highlights” instead of quarterly MD&A, increasing the BAR threshold from 40% to 100%, and allowing for simplified executive compensation disclosure in proxy circulars.
- Effective July 1, 2015, [NI 51-101](#) amendments came into force, which alternative resource evaluation methods and provide guidance on contingent and prospective resource data reporting.
- Federal legislation requiring certain [oil and gas companies with Canadian ties](#) to make annual disclosure of payments to any government came into force.
- The federal government announced its intention to [amend the CBCA](#) to implement “comply or explain” disclosure requirements for board gender diversity. This standard has already been adopted by most provincial securities regulators (notably excluding Alberta) for TSX-listed companies.

#### Litigation

- In [Theratechnologies](#), the SCC confirmed that the “realistic chance of success” test must be met to allow a secondary market liability claim. This is expected to make it more difficult to bring these claims.

#### Key Stikeman Elliott Publications

[Drafting an Oil and Gas M&A Confidentiality Agreement: Updated Survey of Market Terms and Checklists \(May 1, Energy Blog\)](#)

[Directors' Duties in Canada: Six Key Concepts \(May 4, M&A Blog\)](#)

[2015 Oil and Gas M&A Review - Themes and Deal Points \(May 13, Energy Blog\)](#)

[Canadian Oil and Gas M&A Legal Diligence Toolkit \(May 20, Energy Blog\)](#)

[Checklist for Oil & Gas Consulting Agreements \(June 23, Energy Blog\)](#)

[Completing a Substantial Private Placement with a TSXV-listed Oil & Gas Company \(June 25, Energy Blog\)](#)

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