



ONTARIO  
SECURITIES  
COMMISSION

**OSC Staff Notice 51-731**

# **Corporate Finance Branch**

## **2020 Annual Report**

November 19, 2020



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## Director's Message and Executive Summary

The recent and continuing impact of the COVID-19 pandemic (COVID-19) on the Ontario and worldwide capital markets is unprecedented and underscores the importance of being able to provide balanced, tailored, flexible and responsive regulation to carry out the Ontario Securities Commission's broad mandate.

I am proud to share our Annual Report (the Report) which provides an overview of the Corporate Finance Branch's (the Branch's) operational and policy work for the fiscal year ended March 31, 2020 (fiscal 2020) and aims to provide timely guidance for issuers and their advisors about our expectations and our interpretation of regulatory requirements in certain areas.

### **Responsive Regulation**

The Canadian Securities Administrators (the CSA) responded to the initial impact of COVID-19 by publishing substantively harmonized temporary exemptions from certain regulatory filing requirements, including granting relief to allow issuers to delay certain filings and waiving certain late filing fees. The Branch also hosted a webinar to provide guidance to issuers on disclosing and reporting on the effects of COVID-19 as well as guidance on conducting virtual annual meetings. While the focus of the Report is fiscal 2020, it is important to address the impact of COVID-19 as it continues to present numerous challenges for market participants. We have included additional considerations related to the impacts of COVID-19 in some sections of this Report in order to provide issuers and their advisors with timely guidance.

Throughout fiscal 2020, the Branch, with its CSA partners, continued work on several policy initiatives designed to reduce regulatory burden. In November 2019, the OSC published [Reducing Regulatory Burden in Ontario's Capital Markets](#). Among other recommendations, this report contains 13 decisions and recommendations relating to the Branch on how to reduce regulatory burden for Ontario market participants. In May 2020, the OSC provided a [status update](#) on these recommendations and, to date, 8 of the 13 recommendations for Corporate Finance issuers have been completed and the majority of the remaining recommendations are on target for their estimated completion date.

Some key new initiatives that have been adopted include a CSA process for issuers to request confidential staff review of an entire prospectus prior to announcing an offering and for mining reporting issuers to seek OSC staff's preliminary views on certain technical disclosure documents. We believe this new process for staff review will support the strong desire by issuers for increased market certainty when conducting offerings. The CSA also published final amendments in connection with at-the-market distributions and business acquisition reporting requirements which are both expected to reduce the regulatory burden on reporting issuers.

CSA regulatory burden reduction initiatives, including those relating to primary business requirements, alternative offering models, continuous disclosure (CD) requirements and electronic delivery of documents, will continue to be part of the Branch's main policy focus in fiscal 2021.

### **Compliance**

This Report provides insight into how the Branch has undertaken its operations throughout fiscal 2020, including the following:

- **Continuous Disclosure Review Program**

Key compliance trends noted in reviews carried out through our CD review program in fiscal 2020 included trends relating to MD&A disclosure, mining technical reports, the use of non-GAAP financial measures, forward-looking information and executive compensation.

- **Offerings – Public**

In fiscal 2020, the Branch receipted approximately 400 prospectuses, representing a slight decrease from the prior year. Key issues noted by staff during prospectus reviews include issues relating to an issuer’s primary business, sufficiency of proceeds and financial condition, as well as issues relating to audit committees in the context of an IPO, among others.

- **Exemptive Relief Applications**

We reviewed over 250 applications for exemptive relief in fiscal 2020. This Report includes guidance for applications relating to reporting issuer status, revocations of cease trade orders, business acquisition reports, and relief from certain financial statement requirements in connection with reverse takeovers.

In addition to the above, this Report contains insider reporting tips for issuers and insiders, an update on designated rating organizations and financial benchmarks, as well as information relating to other administrative matters that may be of interest to issuers and their advisors.

Engagement with our stakeholders continues to be a critical component of our work. We hope that this Report will serve as a guide to better understand disclosure and other regulatory obligations under Ontario securities laws.

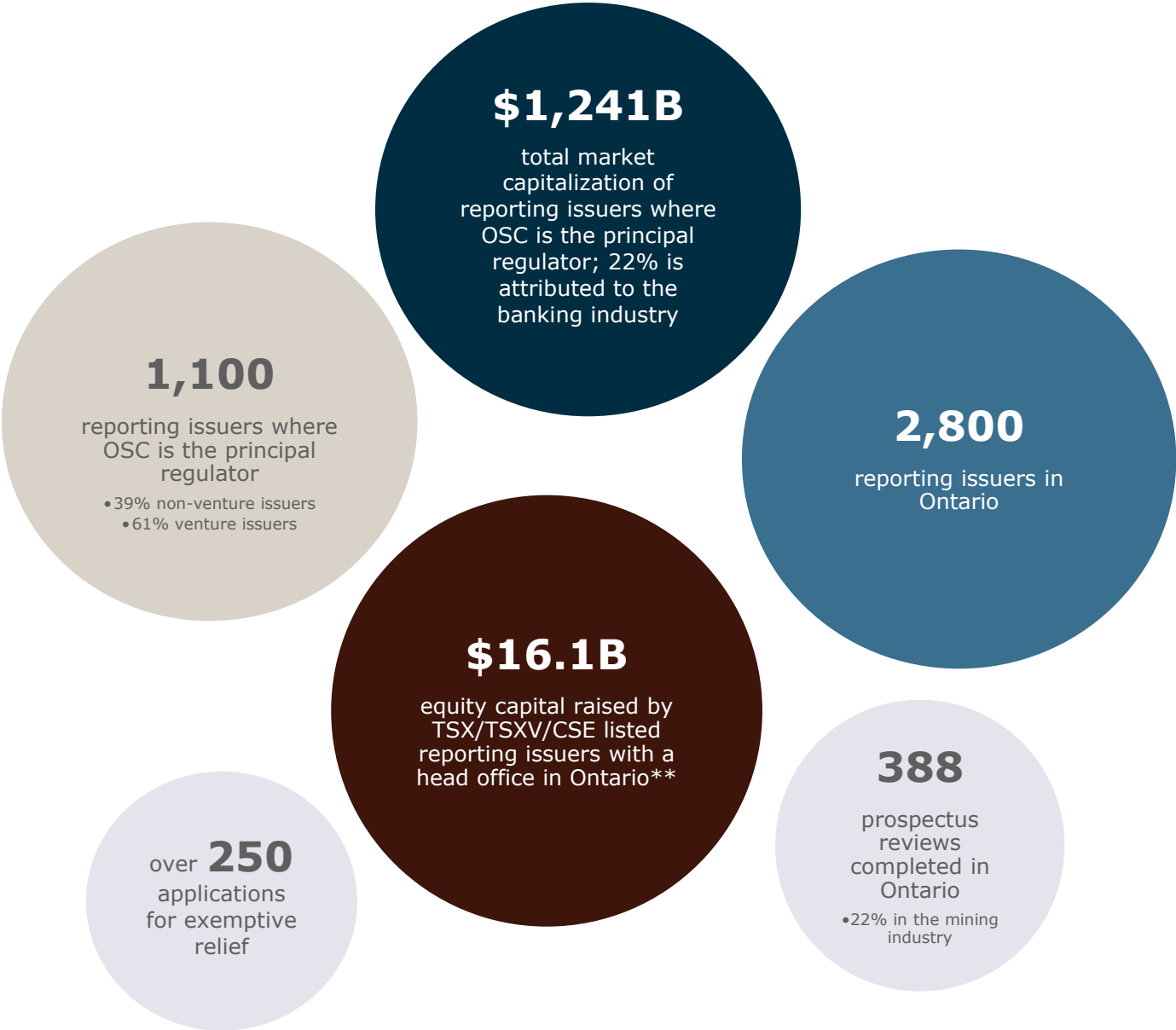
As in previous years, we welcome any questions or feedback that you may have.

Finally, I want to thank Branch staff for their continued dedicated support and professionalism in carrying out our regulatory role during a time of immense change and uncertainty in the capital markets.

Kind regards,

Sonny Randhawa  
Director, Corporate Finance  
Ontario Securities Commission

# Fiscal 2020 Snapshot\*



\* Note: all figures are as at / for the fiscal year ended March 31, 2020 and are approximate or rounded.

\*\* Includes \$15.7B in equity capital raised by TSX/TSXV listed reporting issuers with a head office in Ontario, including listed convertible debt, and \$0.4B in equity capital raised by CSE listed reporting issuers with a head office in Ontario

# Part A: Introduction

**A.1. Objectives**

**A.2. Branch Mandate**

## A.1. Objectives

This Report provides an overview of the Branch’s operational and policy work during fiscal 2020, discusses future issuer-related policy initiatives, and sets out our expectations and our interpretation of regulatory requirements in certain areas. The Report is intended for individuals and entities we regulate, their advisors, as well as investors. In light of the current economic environment and the impacts of COVID-19, we have also included guidance on considerations for disclosing and reporting on the impacts related to COVID-19 in certain sections in order to provide issuers and their advisors with additional guidance specifically targeted to issues that may need to be addressed as a result of the pandemic.

This Report aims to:

- reinforce the importance of compliance with regulatory obligations
- provide guidance to improve disclosure in regulatory filings
- provide insights on trends
- provide guidance on novel issues
- inform on key issuer related policy initiatives

|   |  |   |
|---|--|---|
| Part B – Compliance   | Part C – Responsive Regulation   | Part D – Education and Outreach   |
| Provides an overview of and guidance on the key findings and outcomes from our regulatory oversight program conducted during the fiscal year. | Provides an update on the various issuer related policy initiatives the Branch is involved in. | Highlights some of the outreach and education resources the Branch provides for issuers and their advisors. |



## A.2. Branch Mandate

As a regulatory agency, the OSC administers and enforces the *Securities Act* (Ontario) (the Act) and the *Commodity Futures Act* (Ontario).

| OSC VISION   | OSC ORGANIZATIONAL GOALS  |
|--|---|
| <p>To be an effective and responsive securities regulator — fostering a culture of integrity and compliance and instilling investor confidence in the capital markets.</p> | <p>PROMOTE Confidence in Ontario’s Capital Markets</p> <p>REDUCE Regulatory Burden</p> <p>FACILITATE Financial Innovation</p> |

### OSC MANDATE

To provide protection to investors from unfair, improper or fraudulent practices, to foster fair and efficient capital markets and confidence in capital markets and to contribute to the stability of the financial system and the reduction of systemic risk.

### CORPORATE FINANCE BRANCH - WHO ARE WE

In support of the OSC’s mandate, the Corporate Finance Branch is responsible for regulating issuers others than investment funds and leading related policy initiatives. Regulation in this area is broad and takes many forms including:

|                          |   |
|--------------------------|---|
| <p>Issuer regulation</p> | <ul style="list-style-type: none"> <li>• review of public distributions of securities,</li> <li>• review of exempt market activities and related policy development,</li> <li>• continuous disclosure reviews of reporting issuers,</li> <li>• review and consideration of applications for relief from regulatory requirements, and</li> <li>• issuer related policy initiatives.</li> </ul> |
|--------------------------|---|

Other areas overseen by our Branch mandate include:

|   |  |
|---|--|
| <p>Insider reporting</p>                      | <ul style="list-style-type: none"> <li>• review of insider reporting,</li> </ul>   |
| <p>Designated rating organizations (DROs)</p> | <ul style="list-style-type: none"> <li>• review of credit rating agencies designated as DROs,</li> </ul>   |
| <p>Listed issuer regulation</p>               | <ul style="list-style-type: none"> <li>• oversight of the listed issuer function for OSC recognized exchanges,</li> <li>• policy initiatives for listed issuer requirements,</li> </ul>                                |
| <p>Education and Outreach</p>                 | <ul style="list-style-type: none"> <li>• engagement with stakeholders through a number of activities, including our advisory committees, and</li> <li>• delivery of issuer education and outreach programs.</li> </ul> |

We regularly consult and partner with other branches across the OSC in executing our functions. For example, we partner with the Market Regulation branch for oversight of the listed issuer function and the Compliance and Registrant Regulation branch (CRR Branch) for oversight of the exempt market. We also regularly consult with the Enforcement branch on matters of non-compliance.

# Part B: Compliance

**B.1. Continuous Disclosure Review Program**

**B.2. Offerings Public**

**B.3. Exempt Market**

**B.4. Exemptive Relief Applications**

**B.5. Insider Reporting**

**B.6. Administrative Matters**

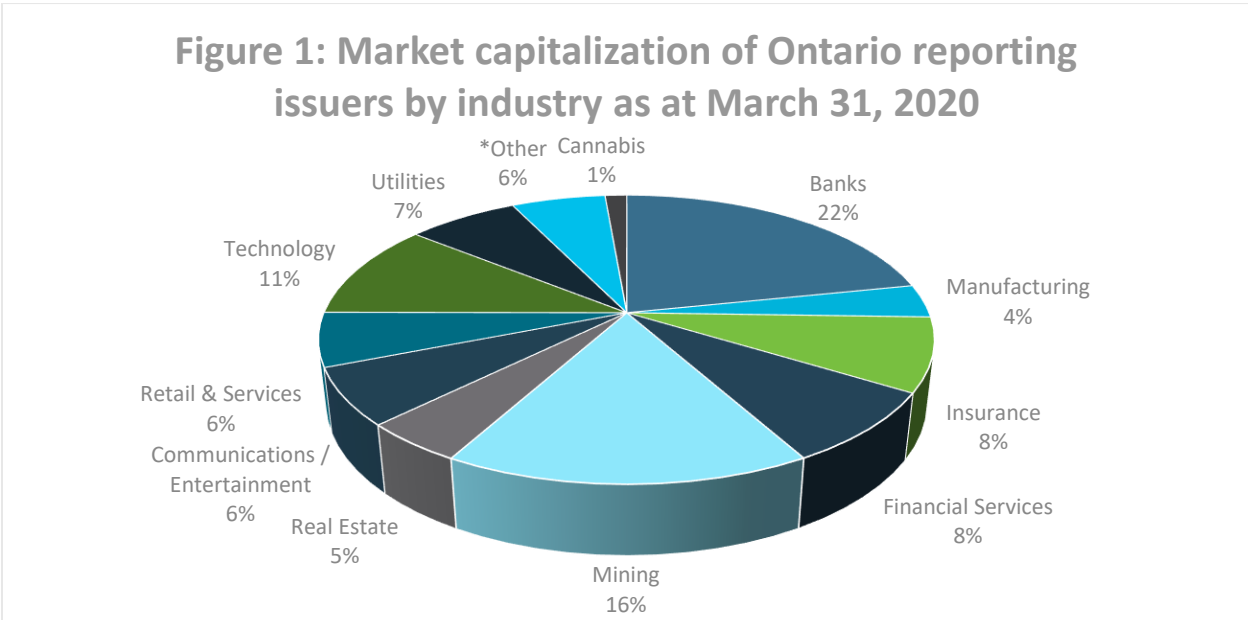
Part B provides an overview of the key findings and outcomes from our regulatory oversight program conducted during the fiscal year. This Part discusses key or novel issues, suggests best practices and specifies applicable legislation and relevant guidance to assist companies in addressing each of the topic areas.

## B.1. Continuous Disclosure Review Program

Under Canadian securities laws, reporting issuers must provide timely and periodic CD about their business and affairs. Where an issuer has a head office in Ontario, or has a significant connection to Ontario, the OSC has primary responsibility as principal regulator for reviewing that issuer’s CD. Disclosure documents include periodic filings such as:

- interim and annual financial statements,
- management’s discussion and analysis (MD&A),
- certifications of annual and interim filings,
- management information circulars,
- annual information forms (AIFs), and
- technical reports.

The Branch oversees over 1,100 reporting issuers with an aggregate market capitalization of approximately \$1,241 billion as at March 31, 2020. The three largest industries by market capitalization were banking, mining, and technology.



\*Industry in the other category include biotech/pharma, cryptocurrency, environmental, gaming, hospitality, transportation, oil & gas, etc.

## a) Overview of the CD review program

Our CD review program is risk-based and outcome focused. It includes planned reviews based on risk criteria as well as ongoing monitoring through news releases, media articles, complaints and other sources. The CD review program is conducted pursuant to the powers in section 20.1 of the Act and is part of a harmonized CD review program conducted by the CSA.



For more information see [CSA Staff Notice 51-312 \(Revised\) Harmonized Continuous Disclosure Review Program.](#)

## i) Objectives of the CD review program

The CD review program has two main objectives:

|                               |  |
|-------------------------------|--|
| Compliance                    | to assess whether reporting issuers are complying with their disclosure obligations, and |
| Issuer education and outreach | to help reporting issuers better understand their disclosure obligations.                |

We assess compliance with CD requirements through a review of a reporting issuer’s filed documents, website and social media. This review function is critical to facilitating fair and efficient markets, investor protection, and informed investment decision making and trading. CD reviews also support the raising of new capital, as many issuers raise funds through short form prospectuses which incorporate CD documents by reference.

## ii) Types of CD reviews

In general, we conduct either a “full” review or an “issue-oriented” review (IOR) of a reporting issuer’s CD.

### Full review

Broad in scope and generally covering an issuer’s most recent annual and interim financial statements and MD&A, AIF, annual reports, information circulars, news releases, material change reports, website, social media disclosure, investor presentations, and SEDI filings.

### IOR

An in-depth review focusing on a specific accounting, legal or regulatory issue that we believe warrants regulatory scrutiny.

In planning our full reviews, we draw on our knowledge of issuers and their industries and use risk-based criteria to identify reporting issuers with a higher risk of non-compliant disclosure. We may also select an issuer for review based on a complaint. The criteria are designed to identify issuers whose disclosure is likely to be materially improved or brought into compliance with securities laws or accounting standards as a result of our intervention. Our risk-based procedures incorporate both qualitative and quantitative criteria which we review regularly to keep current with our evolving capital markets. We also monitor novel and high growth areas of financing activity when developing our review program.

IORs are generally focused on a specific accounting, legal or regulatory issue, an emerging issue or industry or implementation of recent rules. Conducting IORs allows us to:

- monitor compliance with requirements and provide a basis for communicating interpretations of these requirements, staff disclosure expectations and areas of concern,
- quickly address specific areas where there is heightened risk of investor harm,
- identify common deficiencies,
- provide industry specific disclosure examples to assist preparers in complying with regulatory requirements, and
- assess compliance with new accounting standards.

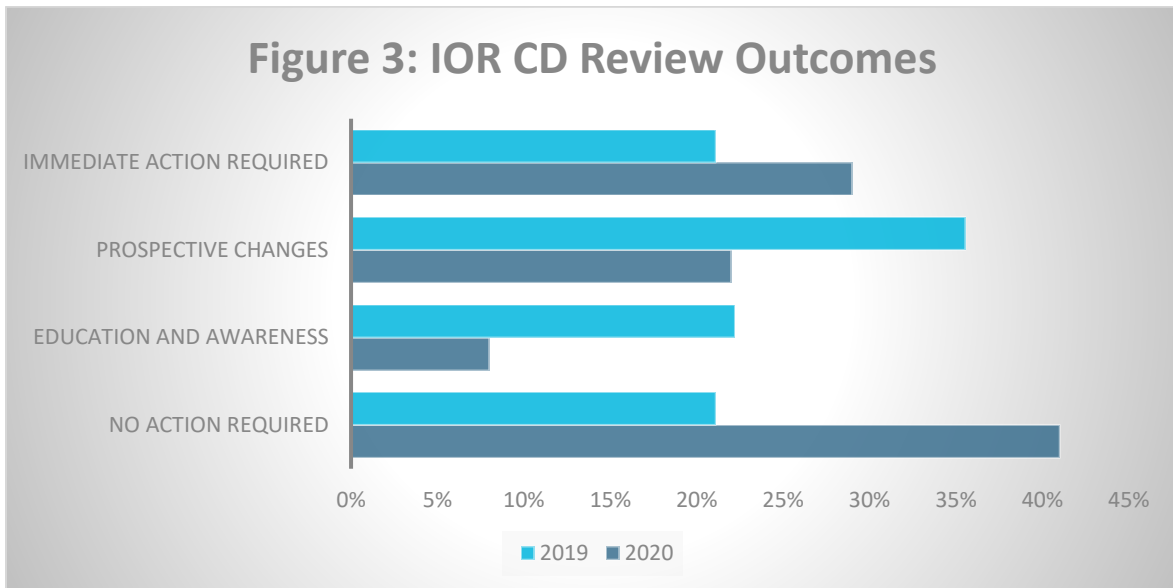
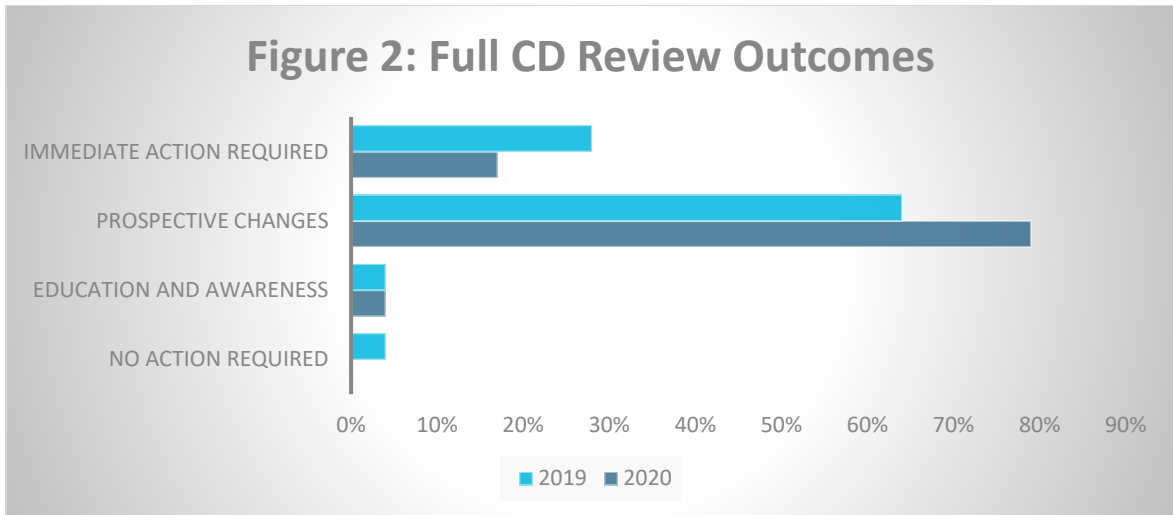
## b) CD review program outcomes for fiscal 2020

For each reporting issuer, we measure outcomes of a CD review by tracking the following:

- prospective disclosure enhancements,
- education and awareness, and
- outcomes where immediate action was required by the issuer, such as a refiling.

A CD review may result in more than one outcome. For example, an issuer may have been required to refile certain CD documents while also committing to prospective disclosure enhancements.

***i) Summary of Review Outcomes***



Given our risk-based criteria to identify reporting issuers, the outcomes on a year-over-year basis should not be interpreted as trends since the issues and issuers reviewed each year are generally different. For example, some reviews may be industry-specific, focusing on certain disclosures that are specific to a particular industry, such as technical mining disclosure, as set out in [National Instrument 43-101 Standards of Disclosure for Mineral Projects](#) (NI 43-101).

Other reviews may be issue-specific, focusing on a particular continuous disclosure requirement for which we've noted widespread deficiencies. These reviews may result in an increased number of outcomes categorized as "prospective changes" or "immediate action required" if deficiencies identified are prevalent among several issuers. Certain reviews are also conducted for research purposes only and for which few staff comment letters are issued. As such, the outcomes of these reviews may be categorized as "no action required" or "education and awareness" if the review resulted in the publication of a staff notice. For example, in fiscal 2020 we conducted "research reviews" on the disclosure of entry-points documents which resulted in "no outcomes" since no letters were issued.

## ii) Refilings

Immediate action was required by reporting issuers in 17% of our full CD reviews and 29% of our IORs (fiscal 2019: 28% and 21%, respectively). Staff generally request that a document be refiled when it contains material deficiencies. Examples of instances where staff have requested refilings include

- refiling of financial statements to correct material misstatements,
- refiling of an MD&A where the MD&A was materially deficient and did not meet the form requirements of Form 51-102F1 *Management's Discussion and Analysis* (Form 51-102F1),
- filing of a clarifying news release when an issuer failed to include sufficient disclosure on material assumptions, milestones and risk factors pertaining to forward-looking information (FLI) or failing to update the market on FLI, and
- refiling of a technical report where the report filed was not in compliance with NI 43-101.

**17%** of full reviews and  
**29%** of IORs resulted in  
immediate action being  
required by the issuer

Generally, MD&A, mining technical reports (and related news releases) and material contracts are the documents we most often request issuers to refile or file (in instances when documents were not filed in the first place).

## c) Trends and guidance


This section highlights some of the common deficiencies that were observed during our CD reviews in fiscal 2020. We encourage issuers to continue to review and improve their disclosure, including with reference to the guidance below.






***i) Management’s Discussion and Analysis***

The MD&A is the cornerstone of a reporting issuer’s overall financial disclosure and provides an analytical and balanced discussion of the issuer’s results of operations and financial condition through the eyes of management. MD&A disclosure should be specific, useful and understandable. The MD&A requirements are set out in Part 5 of Form 51-102F1 to National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102).

The following table presents a summary of certain key issues, observations and best practices identified in our reviews, and in addition, includes potential disclosure considerations resulting from the impacts of COVID-19 on these topics. The observations below do not represent an exhaustive list. Issuers should consider their specific business and operations and provide clear and transparent disclosure of the impact of COVID-19.

| Issue   | Observations   | Best practices  |
|---|--|---|
| <p><b>Liquidity and capital resources</b></p> | <p>Issuers provide incomplete or boilerplate disclosure regarding their liquidity and capital resources such as “management believes the issuer has adequate working capital to fund operations” or “has adequate cash resources to finance future foreseeable capacity expansions”.</p> | <p>Provide insight beyond the numbers by</p> <ul style="list-style-type: none"> <li>discussing material cash requirements,</li> <li>explaining how liquidity obligations have been settled or will be settled, and</li> <li>quantifying working capital needs and how these needs relate to future business plans or milestones.</li> </ul> <p>Be specific about the period(s) to which the discussion applies and when additional financing is relied upon.</p> <p> <b>Additional considerations for COVID-19 impacts</b></p> <p>COVID-19 may have a significant impact on certain issuers’ financial position and capital and liquidity resources. It will be particularly important for those issuers to provide a comprehensive discussion on both the current and expected effects of the pandemic, including quantifying the impact where possible. Examples of items requiring disclosure might include: any subsidies and/or funding received from government programs, increased counterparty risk (A/R collection), reduced cash flow from operations as a result of decreased demand, delays in capital project plans, impacts of any cost cutting initiatives (employee layoffs, reduced hours), factors that could influence credit ratings, changes in the issuers dividend policy, material risks of not meeting covenants, new financing</p> |

| Issue                                  | Observations   | Best practices   |
|--|--|--|
|  |  | arrangements with less favourable terms than in recent periods etc.  |
| <p><b>Discussion of operations</b></p> | <p>The variances in financial statement line items are stated with limited narrative discussion of the factors resulting in the variance and any trends or potential trends.</p> | <p>The discussion should</p> <ul style="list-style-type: none"> <li>include a detailed, analytical and quantified discussion of the various factors that affect revenues and expenses beyond the percentage change or amount,</li> <li>provide insight into the issuer’s past and future performance, and</li> <li>be clear and transparent.</li> </ul> <p>Be specific and disclose information that readers need to make informed investment decisions.</p> <p> <b>Additional considerations for COVID-19 impacts</b></p> <p>COVID-19 may have a significant impact on an issuer’s operations. Disclosure of such impacts should be entity-specific and transparent, providing a detailed explanation and breakdown of the impacts of COVID-19, but also of any other factors contributing to period over period variances as well as actions/remedies undertaken by the issuer in response to COVID-19. Examples of items requiring disclosure might include: providing concessions or modifying terms of arrangements as a landlord or lender that will have a material impact, operational changes or shut downs of production facilities or store locations, changes in demand for products and services, costs (including changes in prices or constraints on supply), any breaches or potential breaches of material contracts by the issuer or its counterparties (including as a result of claiming force majeure) etc. Issuers should avoid ‘blaming’ or generally listing COVID-19 as the sole reason for any period over period variances or other negative news.</p> |
| <p><b>Risks and uncertainties</b></p>  | <p>Itemized lists of risks are provided that are general in nature.</p>  | <p>Be specific about</p> <ul style="list-style-type: none"> <li>the material risks and uncertainties applicable to the issuer, and</li> <li>the anticipated significance and impact those risks may have on the issuer’s financial</li> </ul>  |

| Issue                       | Observations   | Best practices  |
|-----------------------------|--|---|
|                             |  | <p>position, operations, cash flows and future prospects.</p> <p>Explain how the issuer is mitigating the risk and update risk disclosures when circumstances change.</p> <p> <b>Additional considerations for COVID-19 impacts</b></p> <p>Given the uncertainty brought on by COVID-19, most issuers will be impacted by COVID-19 in some way, which may vary significantly between issuers, industries and location of operations. Risk factors should be <u>specific</u> to the issuer and generic or boilerplate disclosure should be avoided.</p> |
| <p><b>Business plan</b></p> | <p>Early stage or development issuers do not provide sufficient detail regarding their business plans.</p> | <p>Identify concrete milestones in the issuer’s business plans. For each milestone, describe the steps and associated costs required to complete it and identify the anticipated timing of completion.</p> <p> <b>Additional considerations for COVID-19 impacts</b></p> <p>Issuers should consider whether previously disclosed milestones and/or business plans are still reasonably expected within the timeframe disclosed and with the issuer’s current financial resources.</p>  |



**Reminder:** Reporting issuers that have significant projects that have not yet generated revenue are required by Item 1.4(d) of Form 51-102F1 to describe each project including the plan for the project and status of the project relative to that plan, and expenditures made and how these relate to anticipated timing and costs to take the project to the next stage of the project plan. This requirement is applicable to all issuers with significant projects that have not yet generated revenue, not just development stage issuers or venture issuers.

**ii) Mining disclosures**

In 2018 and 2019, we undertook a review of mining technical reports jointly with other jurisdictions that employ specialist mining staff. On June 4, 2020, the CSA published [CSA Staff Notice 43-311 Review of Mineral Resource Estimates in Technical Reports](#) which provides detailed

Staff commentary on the results of the review and guidance on regulatory requirements and expectations for technical reports that support disclosure of mineral resource estimates.

In summary, the review showed that geological and statistical information relevant to the disclosure of mineral resource estimates was generally compliant. However, inadequate disclosure was frequently noted in the following four areas:

- demonstrating that a mineral resource had reasonable prospects of eventual economic extraction;
- performing and documenting verification of drill hole data, particularly legacy data from former project operators;
- setting out project-specific risk factors that could affect a mineral resource estimate; and
- displaying the estimate's sensitivity to changes in cut-off grade.

When filing a technical report supporting a mineral resource estimate, NI 43-101 requires disclosure of the key assumptions, parameters, and methods used by the qualified person in determining that the mineralization has reasonable prospects for eventual economic extraction, and therefore meets the 2014 CIM Definition Standards for Mineral Resources & Mineral Reserves definition of a "mineral resource".

For a reasonably informed reader to understand the basis used by the qualified person to determine the mineral resource estimate, disclosure should include the following criteria:

- cut-off grade, and continuity of mineralization at the selected cut-off grade,
- metallurgical recovery of the commodities or products of interest,
- smelter payments,
- commodity price or product value,
- methods for mining and processing the mineralization, and
- costs related to mining, processing, and general and administration.

In addition, specific information about constraining boundaries, such as pit shells for open pit deposits, potentially mineable shapes for underground deposits, and practical surface limitations need to be considered and should be used in conjunction with the above criteria for the preparation of mineral resource estimates.

If legacy data (collected by previous project operators) forms part of the dataset for a mineral resource estimate, disclosure about the qualified person's efforts to adequately verify that data needs to be sufficiently disclosed in the technical report.

Each mineral project has its own set of risks, any of which could affect the accuracy over time of the resource estimate. Rather than provide "boilerplate" disclosure of risks common to the mining industry, disclosure should set out meaningful risks specific to the mineral project.

Knowing how the size and grade of a mineral deposit vary with cut-off grade is valuable information in assessing the economic robustness of a mineral project, but the estimates shown should all meet the "reasonable prospects" test, and the final estimate for the project should be clearly marked in any table or graphic displaying sensitivity results.

Issuers in the mineral industry should also be aware that the Canadian Institute of Mining, Metallurgy, and Petroleum has revised its guidance on estimation and exploration best practices. The *General Guidance* section in Companion Policy 43-101CP to NI 43-101 notes that this guidance represents industry-standard practice and will generally be used by qualified persons preparing scientific and technical information for mineral project disclosure. *CIM Estimation of Mineral Resources & Mineral Reserves Best Practice Guidelines* (November 29, 2019) and *CIM Mineral Exploration Best Practice Guidelines* (November 23, 2018) are significant enhancements of previous CIM best-practice documents and we encourage issuers and practitioners to consult the new editions for current guidance on exploration and mineral resource and reserve estimation practices.

Issuers that disclose potential economic outcomes based on mineral resources should be aware that forecasts of cash flows, operating costs, capital costs, production rates, or mine life are all considered to be the results of a preliminary economic assessment (PEA). Such disclosure may trigger the requirement to file a technical report supporting these potential economic outcomes.

We also continue to see non-compliant disclosure in technical reports of PEAs based on inferred mineral resources which combine potential economic outcomes from PEAs with economic outcomes based on more advanced mining studies used to support mineral reserves. Issuers that combine or integrate these economic outcomes together in their disclosure may be required to amend and refile their technical report.



**Reminder:** Issuers that disclose a PEA on an advanced property containing mineral reserves should follow the guidance outlined in [CSA Staff Notice 43-307 Mining Technical Reports – Preliminary Economic Assessments](#).

We encourage public mining issuers to request a review of the issuer’s publicly filed technical disclosure, as discussed in [OSC Staff Notice 43-706 Pre-filing Review of Mining Technical Disclosure](#).

In addition, issuers with mineral reserves on undeveloped mineral projects should regularly determine whether that mineral reserve is still economically viable, typically by applying a discounted cash flow analysis with updated assumptions.

### **iii) Non-GAAP financial measures**

Non-GAAP financial measures continue to be disclosed by many issuers in news releases, MD&A, prospectus filings, marketing materials, investor presentations and on issuers' websites, as issuers believe this information provides additional insight into their overall financial performance.

As in past years, we continue to be concerned by the prominence given to disclosure of non-GAAP financial measures, the lack of transparency about the various adjustments made in

arriving at non-GAAP financial measures and the appropriateness of the adjustments themselves as they generally present a more positive picture of financial performance, which may be misleading to investors. Issuers should consider the guidance and examples in [CSA Staff Notice 52-306 \(Revised\) Non-GAAP Financial Measures](#) (SN 52-306) and in prior [Corporate Finance Branch Annual Reports](#).

### Regulatory Developments

To improve the disclosure surrounding non-GAAP financial measures and certain other financial measures, the CSA is intending to replace SN 52-306 with a [Proposed National Instrument 52-112 Non-GAAP and Other Financial Measures Disclosure](#) and a related proposed Companion Policy (Proposed NI 52-112).

Proposed NI 52-112 sets out disclosure requirements for non-GAAP financial measures and other financial measures (i.e., segment measures, capital management measures, and supplementary financial measures as defined in Proposed NI 52-112). It was published on September 6, 2018 for a first comment period and, after making revisions for comments received during the first comment period, it was published on February 13, 2020 for a second comment period, which ended on June 29, 2020.

### Additional Considerations for COVID-19 Impacts



Issuers should be cautioned when defining adjustments or alternative profit measures as “COVID-19 related”. Not all COVID-19 effects are non-recurring and there may be limited basis for management to conclude that a loss or expense is non-recurring, infrequent or unusual. This includes where the impacts of COVID-19 cross over multiple reporting periods. It could also be misleading to describe an adjustment as COVID-19 related if management does not explain how the adjusted amount was specifically associated with COVID-19.

### ***iv) Forward-looking information***

Many issuers disclose FLI in news releases, MD&A, prospectus filings, marketing materials, investor presentations or on their website. FLI should provide valuable insight about the issuer’s business and how the issuer intends to attain its corporate objectives and targets.

We continue to see deficiencies in FLI disclosure including a lack of balanced discussion of the key assumptions used and the risk factors inherent in the FLI. Issuers should consider the guidance in prior [Corporate Finance Branch Annual Reports](#).

### Additional Considerations for COVID-19 Impacts



When disclosing FLI, issuers should, among other things, identify the material factors or assumptions and the material risk factors that are relevant to the FLI. Some key questions to consider when assessing the impacts of COVID-19:

- Is there still a reasonable basis for previously disclosed FLI?
- Have risk factors that could cause actual results to vary been identified?
- Have users been cautioned that actual results may vary from FLI?
- How has COVID-19 impacted your company's overall outlook for its future operations and liquidity position?
- Has previously issued FLI been updated? Have decisions to update or withdraw material FLI been adequately and promptly communicated to the market?

### v) *Executive compensation*

If a reporting issuer is required to send an information circular to security holders, the issuer must disclose executive compensation information as required by section 9.3.1 of NI 51-102 and Item 8 of Form 51-102F5 *Information Circular* (Form 51-102F5). Non-venture issuers must file this disclosure within 140 days after the issuer's most recently completed financial year and venture issuers must file this disclosure within 180 days after the issuer's most recently completed financial year. A reporting issuer that is not required to send an information circular to security holders must comply with section 11.6 of NI 51-102, which requires the same executive compensation information to be disclosed within the above-noted timeframes.

A reporting issuer may rely on the exemption from executive compensation disclosure under section 9.5 of NI 51-102 only in instances where the proxy solicitation requirements of the laws under which the reporting issuer is incorporated are substantially similar to the requirements of Part 9 of NI 51-102. In this regard, staff may take the position that a reporting issuer should file executive compensation disclosure in the context of a CD review or a prospectus review, if such disclosure has not been filed within 140 days after the end of the issuer's most recently completed financial year for non-venture issuers, or 180 days after the end of the issuer's most recently completed financial year for venture issuers.

### Additional Considerations for COVID-19



[Ontario Instrument 51-504 Temporary Exemption from Certain Requirements to File or Send Securityholder Materials](#) and substantially similar orders in other CSA jurisdictions gives issuers until December 31, 2020 to file their executive compensation disclosure and temporarily relieve issuers from requirements to send, or send upon request, copies of annual or interim financial statements and MD&A to investors within certain time periods up to December 31, 2020. The relief is limited and is subject to terms and conditions.

#### ***vi) Diversity on boards and in executive officer positions***

The disclosure requirements regarding the representation of women on boards and in executive officer positions are set out in National Instrument 58-101 *Disclosure of Corporate Governance Practices* and have been in place for six annual reporting periods. The disclosure requirements are intended to increase transparency for investors and other stakeholders regarding the representation of women in these roles and the approach that specific TSX-listed issuers take in respect of such representation. This transparency is intended to assist investors when making investment and voting decisions.

On October 2, 2019, [CSA Multilateral Staff Notice 58-311 Report on Fifth Staff Review of Disclosure regarding Women on Boards and in Executive Officer Positions](#) (SN 58-311) was published. SN 58-311 reports the findings of our fifth review of disclosure regarding women on boards and in executive officer positions. Of note, 17% of overall board seats were occupied by women, 73% of issuers in the review sample had at least one woman on their board and 64% of issuers in the review sample had at least one woman in an executive officer position.

On January 23, 2020, the underlying data used in SN 58-311 was published along with the data for additional issuers that was not included in past review samples for the balance of 2018.

On September 15, 2020 a multilateral CSA news release was published providing an update on the timing of the Sixth Staff Review of Disclosure regarding Women on Boards and in Executive Officer Positions and the CSA's consideration of its role in the broader diversity conversation.



### ***vii) Corporate governance related disclosure expectations for reporting issuers in the cannabis industry***

On November 12, 2019, we along with other participating CSA jurisdictions published [CSA Multilateral Staff Notice 51-359 Corporate Governance Related Disclosure Expectations for Reporting Issuers in the Cannabis Industry](#).

The notice outlines some of the specific problems we are seeing with governance practices in the cannabis industry and provides our expectations in these areas. In particular, we have observed instances of

- inadequate transparency relating to the cross-ownership of financial interests by cannabis reporting issuers (or their directors and officers) involved in mergers, acquisitions or other significant corporate transactions (M&A Transactions). Staff are of the view that, in the context of these transactions, the cross-ownership of financial interests is material information for investors and their investment/voting decisions and should be disclosed.
- reporting issuers identifying board members as being independent, without giving adequate consideration to potential conflicts of interest, or other factors that may compromise their independence. The notice discusses considerations with regard to the independence of board members, including the development of a written code of business conduct and ethics that addresses these and other governance related matters.

The notice provides guidance related to governance and disclosure-related practices for reporting issuers in the cannabis industry, including in the context of M&A Transactions. This will allow security holders to make their own determination about the merits of these transactions, considering any cross-ownership of financial interests as well as disclosure about how the parties addressed any governance concerns.

As stated in the notice, we will continue to monitor governance practices and related disclosure in the cannabis industry through our review program activities moving forward.

While the notice has been directed towards cannabis reporting issuers, its content is equally relevant to other issuers, including those in emerging growth industries.

### ***viii) Climate-change related disclosure***

The focus on climate change-related issues in Canada and internationally has grown rapidly in recent years. In order to make informed investment and voting decisions, investors, particularly institutional investors, are seeking improved disclosure on the material risks, opportunities, and financial impacts related to climate change.

Securities legislation in Canada requires reporting issuers to disclose the material risks affecting their business and, where practicable, the financial impacts of such risks. In addition to addressing regulatory requirements, these disclosures provide issuers with an opportunity to

inform investors about the sustainability of their business model and to provide insights into how they are mitigating and adapting to these risks.

On August 1, 2019, we published [CSA Staff Notice 51-358 Reporting of Climate Change-related Risks](#) (SN 51-358) in light of our findings that issuers needed further guidance on identifying and disclosing material climate change-related risks. Please see [CSA Staff Notice 51-354 Report on Climate change-related Disclosure Project](#) (SN 51-354) for more details on our findings. The key objective of SN 51-358 is to provide issuers, especially smaller issuers, with guidance as to how they might approach preparing disclosures of material climate change-related risks.

SN 51-358 does not create any new legal requirements or modify existing ones. It reinforces and expands upon the guidance provided in [CSA Staff Notice 51-333 Environmental Reporting Guidance](#) (SN 51-333) and should be read in conjunction with SN 51-333, which continues to provide guidance to issuers on existing CD requirements relating to a broad range of environmental matters, including climate change.

We encourage boards of directors and management of issuers to review SN 51-358 as it:

- provides an overview of the responsibilities of boards and management relating to risk identification and disclosure,
- outlines relevant factors to consider in assessing the materiality of climate change-related risks,
- provides examples of some of the types of climate change-related risks to which issuers may be exposed,
- includes questions for boards and management to consider in the climate change context, and
- provides an overview of the disclosure requirements if an issuer chooses to disclose forward-looking climate change-related information.

We will continue to monitor disclosure of climate change-related matters as part of our ongoing CD review program.

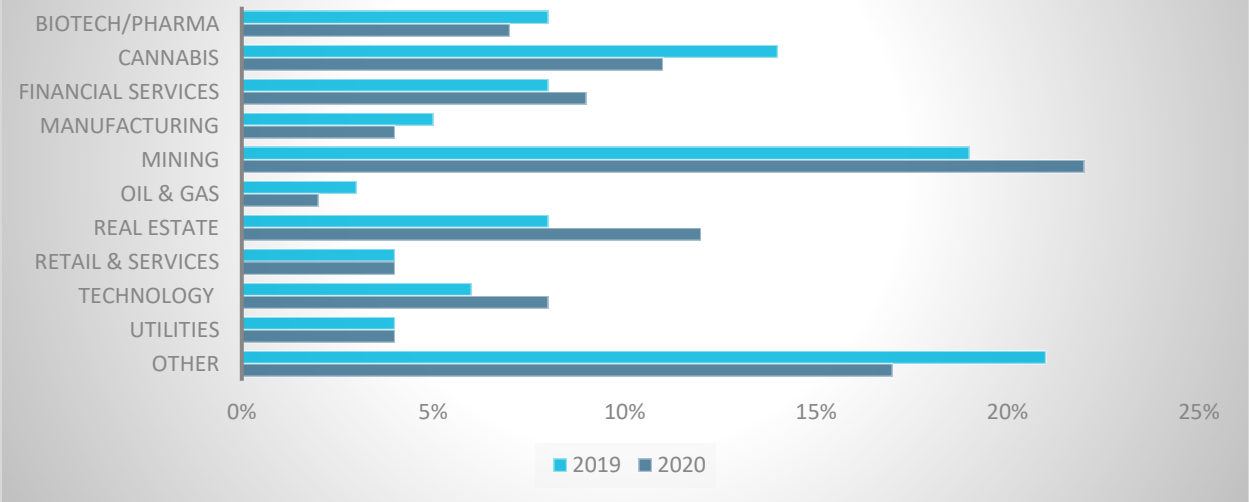
## B.2. Offerings Public

Under Canadian securities law, to distribute securities, an issuer must file and obtain a receipt for a prospectus or rely upon a prospectus exemption. Another key component of our compliance work stream is the review of prospectuses in connection with public offerings. This section outlines statistics and trends with respect to public offerings and provides guidance on common issues that arise during our reviews of prospectuses. Section B.3 addresses the exempt market.

### a) Statistics

In fiscal 2020, we reviewed 388 prospectuses that were filed in Ontario (fiscal 2019: 440). These filings covered a wide range of industries with mining, cannabis and real estate being the most active sectors based on the number of offerings.

**Figure 4: Prospectuses receipted by industry (%) - Fiscal 2020 & 2019**




Industry in the other category include environmental, gaming, hospitality, transportation etc.

**b) Trends and guidance**

In fiscal 2020, the number of prospectuses we reviewed where the OSC was the principal regulator was lower than the prior fiscal year. A significant factor in the decrease in volume over the year was the overall decline of offerings in the cannabis industry. Fiscal 2019 saw a strong performance in the cannabis sector due to the legalization of cannabis for recreational use in October 2018, however, overall market conditions in the sector declined in fiscal 2020 and resulted in fewer prospectuses being filed and receipted.

Further, we saw a decrease in the number of offerings towards the end of the fiscal year given the overall economic impact and market turmoil caused by COVID-19 in March 2020, however prospectus volumes have picked up since April 1.



**Tip:** The guidance in this section also applies to prospectus-level disclosure included in an information circular in connection with a proposed significant acquisition or a restructuring transaction as required by Item 14.2 of Form 51-102F5.

Key takeaways from our work reviewing offering documents in fiscal 2020 are set out below. Many of the matters highlighted could benefit from pre-file discussions between issuers and staff to avoid delays at the time of the prospectus filing.



**Reminder:** The process to submit an entire prospectus for a confidential pre-file review is outlined in [CSA Staff Notice 43-310 Confidential Pre-File Review of Prospectuses \(for non-investment fund issuers\)](#). The process to submit a pre-filing application regarding interpretation of securities legislation to a particular offering or proposed offering or exemptive relief from securities legislation is outlined in [National Policy 11-202 Process for Prospectus Reviews in Multiple Jurisdictions](#).

### ***i) Primary business in an initial public offering (IPO)***

The disclosure requirements for an issuer’s primary business are one of the areas currently under consideration as part of the policy initiative to reduce regulatory burden for non-investment fund reporting issuers. Until this project is completed, the guidance issued for primary business in [OSC Staff Notice 51-728 Corporate Finance Branch 2016-2017 Annual Report](#) continues to apply.

For specific inquiries relating to primary business fact patterns, we encourage issuers to file a pre-filing prior to the filing of a prospectus.

### ***ii) Disclosure improvements***

Disclosure enhancements, where we required material disclosure changes to a prospectus, remained our most consistent outcome. Highlighted below are areas where we continue to note deficiencies.

Issuers are reminded to include up to date and timely disclosure of COVID-19 impacts and risk factors in a prospectus or prospectus supplement to the extent that the filings incorporated by reference do not include current disclosure of such.

|  |  |
|--|--|
| <p><b>Description of the business and regulatory environment</b></p> | <p>Issues may arise in circumstances where an issuer</p> <ul style="list-style-type: none"> <li>• appears to have no business or the offering is a blind pool,</li> <li>• has a complex corporate structure,</li> <li>• has a significant change in business or operations,</li> <li>• is in the cannabis industry, cryptocurrency sector or in an emerging industry such as the psychedelics industry and lacks disclosure about its specific regulatory environment, or</li> <li>• has recently completed a significant acquisition or capital restructuring where a securities regulatory review has not been carried out.</li> </ul> |
|--|--|

|   |   |
|---|---|
| <p><b>Risk factors relating to the business and/or offering</b></p> | <p>Avoid boilerplate language and tailor the disclosure to the issuer’s situation (e.g. assess political/regulatory risk, discuss factors that may affect the issuer’s title to its assets).</p> <ul style="list-style-type: none"> <li>• Be specific about any new risks affecting the issuer’s business.</li> <li>• Discuss any steps the issuer has taken to mitigate the risk.</li> <li>• Do not include risk factors that do not apply to the issuer just because another issuer in the same industry does.</li> </ul>       |
| <p><b>MD&amp;A disclosure in a long form prospectus</b></p>         | <ul style="list-style-type: none"> <li>• Include relevant information and provide sufficient detail, especially regarding those items highlighted in this report under the heading “Part B: Compliance – Continuous Disclosure Review Program – Trends and Guidance”.</li> <li>• MD&amp;A included in a long form prospectus should be just as comprehensive as a stand-alone MD&amp;A.</li> </ul>  |
| <p><b>Use of proceeds</b></p>                                       | <ul style="list-style-type: none"> <li>• Provide sufficient detail (via an itemized list) and be comprehensive. Generic phrases such as “for general corporate purposes” are insufficient disclosure.</li> <li>• If proceeds are being raised to take advantage of favourable market conditions, state so clearly in the prospectus.</li> <li>• Use a table format to explain and disclose variances between the intended and actual uses of proceeds from prior financings, if not already disclosed in the MD&amp;A.</li> </ul> |

***iii) Sufficiency of proceeds and financial condition of an issuer***

The Act sets out specific circumstances under which a receipt for a prospectus shall not be issued. One example is where the aggregate of the proceeds being raised under the prospectus together with the other resources of the issuer are insufficient to accomplish the purpose of the offering as stated in the issuer’s prospectus. The same considerations apply for a non-offering prospectus.

As such, a critical part of every prospectus review is considering the issuer’s financial condition and intended use of proceeds (or available funds for a non-offering prospectus). A prospectus must contain clear disclosure of how the issuer intends to use the proceeds raised in the offering as well as disclosure of the issuer’s financial condition, including any liquidity concerns. We may request issuers to include disclosure to describe an issuer’s financial condition, including for example disclosure about negative cash flows from operating activities, working capital deficiencies, net losses and significant going concern risks. This disclosure is important to investors because it provides appropriate warnings about significant risks that the issuer is facing or may face in the short term and may help investors avoid or minimize negative consequences when making investment decisions.

In some instances, an issuer's representations about its ability to continue as a going concern and the period during which it expects to be able to continue operations may be inconsistent with the issuer's historical statements of cash flows (in particular, its cash flows from operating activities). In these cases, we may request that the issuer provide a cash flow forecast or

financial outlook-type disclosure to support its expected period of liquidity (i.e., ability to continue operations). However, disclosure on its own may not be sufficient to satisfy our receipt refusal concerns in certain circumstances, particularly where the issuer’s assumptions on future changes in operations are not objective and supportable.



**Reminder:** A principal purpose of the sufficiency of proceeds receipt refusal provision is to protect the integrity of the capital markets, which would be harmed if an issuer ceased operations on account of insufficient funds shortly after completing a public offering.

An issuer may need to change the structure of an offering to address concerns regarding the issuer’s financial condition (e.g. setting a minimum subscription or finding additional sources of financing).

For issuers filing a base shelf prospectus, we may take the view that the structure of a base shelf prospectus is not appropriate given the issuer’s financial condition and uncertainty of financing. Typically, receipt refusal concerns on financial condition arise if the issuer does not appear to have sufficient cash resources to continue operations for the next 12 months or to meet concrete developmental milestones expected to be completed in the next 12 months given the business plan and intention of the issuer. In these cases, to address our concern that incremental drawdowns may be insufficient to satisfy the issuer’s short-term liquidity requirements, we may request that the issuer

- withdraw the base shelf and file a short form prospectus with a minimum subscription amount,
- withdraw the base shelf and file a short form prospectus with a fully underwritten commitment, or
- arrange for additional committed sources of financing.

Staff note that any additional financing should be closed before an issuer is cleared for final.

In addition, staff may inquire about the size of a base shelf offering if it appears that the amount contemplated under the base shelf is significantly higher than the issuer’s current market capitalization. This may indicate a potential significant acquisition, transaction or change of business, and as such, staff would inquire about the rationale for filing a base shelf prospectus with a contemplated offering in excess of its market capitalization.



**For more information and guidance**, issuers, including those filing a base shelf or non-offering prospectus, should review [CSA Staff Notice 41-307 Corporate Finance Prospectus Guidance - Concerns regarding an issuer’s financial condition and the sufficiency of proceeds from a prospectus offering.](#)

#### ***iv) Audit committees in place in IPOs***

Where an issuer files an IPO prospectus, it must have an audit committee in place that meets the composition requirements prescribed in [National Instrument 52-110 Audit Committees](#) (NI 52-110) no later than the date of the receipt for the final prospectus.

Non-venture issuers: must have an audit committee in place that is composed of at least three members, all of whom are independent and financially literate as defined in NI 52-110 (subject to exemptions set out in NI 52-110).

Venture issuers: must have an audit committee in place that is composed of at least three members, a majority of whom are not executive officers, employees or control persons of the issuer or of an affiliate of the issuer (subject to exemptions set out in NI 52-110).

#### ***v) Reverse takeover transactions (RTO)***

Issuers conducting their first public offering following an RTO should be mindful of the requirements in Item 10A.1 of [Form 44-101F1 Short Form Prospectus](#). If the RTO was completed after the end of the financial year in respect of which the issuer's current AIF is incorporated by reference into the short form prospectus, the prospectus is required to include the same disclosure about the RTO acquirer that would be contained in [Form 41-101F1 Information Required in a Prospectus](#) (Form 41-101F1) if the RTO acquirer was the issuer of the securities being distributed.

Issuers should consider whether their current CD and documents incorporated by reference into the prospectus satisfy the disclosure requirements in [National Instrument 41-101 General Prospectus Requirements](#) (NI 41-101) in respect of the RTO acquirer, including financial statements for the required periods. Some of the most common deficiencies we note include:

- predecessor entity financial statements or primary business financial statements are omitted,
- missing MD&A for the relevant annual and interim periods for the RTO acquirer,
- missing comparative years' auditor's report incorporated by reference (if a change of auditors has occurred),
- deficient description of the business and the regulatory environment, and
- auditors are not named as experts.

#### ***vi) Timing for inclusion of financial statements in an IPO venture issuer's prospectus***

Under Form 41-101F1, annual financial statements are required to be included in a prospectus for completed financial years ended more than (i) 90 days before the date of the prospectus, or (ii) 120 days before the date of the prospectus if the issuer is a venture issuer. Interim financial

statements are subject to a similar requirement for periods ended within 45 and 60 days, respectively. Importantly, the extended deadlines applicable to venture issuers do not apply to IPO venture issuers. This includes an RTO acquirer in the context of a restructuring transaction that is subject to the requirements of Form 41-101F1.

| Type of issuer                                     | Deadline for inclusion of annual financial statements | Deadline for inclusion of interim financial statements |
|--|---|--|
| Non-venture issuer                                 | 90 days   | 45 days  |
| IPO venture issuer                                 | 90 days   | 45 days  |
| RTO acquirer (i.e. target)                         | 90 days   | 45 days  |
| Venture issuer (i.e. an existing reporting issuer) | 120 days  | 60 days  |



**Reminder:** The 90 and 45 day deadlines are also applicable to any “issuer” financial statements that are included in an IPO venture issuer’s prospectus or similar document in compliance with Item 32 of Form 41-101F1.

### ***vii) Auditor’s report required in a preliminary prospectus***

Subsection 54(1) of the Act states that a preliminary prospectus shall substantially comply with the requirements of Ontario securities law respecting the form and content of a prospectus, except that the report or reports of the auditor or accountant required by securities regulations need not be included. In staff’s view, this language does not impact the requirement in section 4.2 of NI 41-101 which requires that any financial statements included in a long form prospectus filed in the form of Form 41-101F1 must be audited, and subparagraph 9.1(1)(b)(iii) of NI 41-101 which requires the provision of an auditor’s comfort letter when an audit report included in the preliminary prospectus is unsigned.

### ***viii) Cannabis industry***

We note that issuers in the cannabis industry may operate in several different jurisdictions and the regulatory uncertainty, differences in legal and regulatory frameworks across jurisdictions, and other potential risks should be disclosed to investors. Staff will continue to review cannabis filings on a case-by-case basis to determine if there are any novel business models which may give rise to public interest concerns which cannot be addressed by disclosure.

As general guidance, issuers considering entering the cannabis industry, or issuers considering new investments in the cannabis industry, should ensure that announcements about these new opportunities are balanced and that they are not potentially misleading to investors as a result. Also, issuers who are substantially dependent on licenses to cultivate or sell cannabis, or on



leased facilities in which those activities are performed, should file the related licenses/agreements as material contracts on SEDAR.

We have included specific guidance for issuers operating in the cannabis industry in Canada below. For specific guidance for issuers operating in the cannabis industry in the United States of America or other foreign jurisdictions, please refer to [OSC Staff Notice 51-730 Corporate Finance Branch 2019 Annual Report](#).

| Jurisdiction | Guidance   |
|--------------|--|
| Canada       | <p>We expect that the growth of the Canadian cannabis industry will continue given the legalization of cannabis for recreational use in October 2018. Under the current framework, the production, distribution and sale of cannabis is tightly controlled by the Canadian federal, provincial, territorial and municipal governments. As such, the distribution model for recreational cannabis is prescribed by provincial and territorial regulations and differs in each jurisdiction. Some provinces have government-run retailers, while others have government-licensed retailers, and some have a combination of the two. All sales of recreational cannabis must be conducted in accordance with applicable provincial and territorial legislation and through applicable local or municipal agencies.</p> <p>The Government of Canada has also published regulations which, among other things, outline additional rules for the cultivation, processing, research, analytical testing, distribution, sale, importation and exportation of cannabis, hemp and related products in Canada, including the various classes of licences that can be granted depending on the nature of the activity being undertaken.</p> <p>The Government of Canada also released its proposed amendments to the cannabis regulations that contemplate the production of cannabis edibles, extracts and topicals, among a variety of other amendments that came into force in October 2019, thereby creating an opportunity for cannabis issuers to manufacture and sell cannabis edibles, extracts and topicals, in addition to other cannabis product forms. Cannabis product offerings include a portfolio of various cannabis edibles, beverages, extracts and topicals that have been introduced into the Canadian recreational cannabis market in December 2019. However, cannabis product availability varies based on provincial regulations across Canada. Canadian licensed cannabis producers and issuers involved in the cannabis industry either indirectly or on an ancillary basis, have conducted significant public equity financings over the last few years and continue to invest in a number of activities, including</p> <ul style="list-style-type: none"> <li>• production capacity expansion projects at their Canadian facilities,</li> <li>• pursuit of cannabis retail licenses through the applicable provincial retail licensing processes,</li> <li>• build-out of retail cannabis store networks where permissible across Canada,</li> </ul> |

|  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>• expansion into new international markets,</li> <li>• research and development projects,</li> <li>• acquisitions,</li> <li>• launch of new cannabis products in the Canadian recreational cannabis market, including edibles, cannabis-infused beverages, topicals, extracts, vape pens and vape cartridge products, among others,</li> <li>• launch of a wide range of cannabis products across a variety of brands, formats and strains that serve the needs of medical cannabis patients and/or distribution to medical institutions and clinics,</li> <li>• development of cannabinoid-based medicines to relieve symptoms associated with chronic pain and diseases,</li> <li>• development and marketing of non-cannabinoid based natural health and wellness products authorized for sale over-the-counter in Canada by Health Canada,</li> <li>• development of new assets, and</li> <li>• joint venture arrangements, multi-year licensing agreements or other business combinations.</li> </ul> <p>The disclosure of such activities should be qualified, as appropriate, by specific risk factor disclosure. Cannabis issuers who make announcements about anticipated production capacity in a new facility under construction, the launch of new cannabis product offerings or the development of cannabinoid-based medicines, among others, should disclose the material factors and assumptions related to such projections. Assumptions for financial projections should be specific and comprehensive, particularly with respect to quantitative details, such that an investor is able to clearly understand how each assumption contributes to the projection. Cannabis issuers should also ensure that this forward-looking information is updated, as required by securities law.</p> |
|--|--|

Along with recent rapid growth, the cannabis industry has experienced significant share price volatility, high multiples, rapid consolidation and legislative and regulatory uncertainty. These challenges reinforce the need for cannabis companies to focus on good governance practices. Implementing a corporate governance structure in accordance with high ethical and legal standards will provide confidence to investors and regulators. Issuers may also refer to [CSA Staff Notice 51-357 Staff Review of Reporting Issuers in the Cannabis Industry](#) which highlights good disclosure practices, so that investors are provided with transparent information about financial performance and risks and uncertainties, to support informed investing decisions.

On November 12, 2019, we along with other participating CSA jurisdictions published [CSA Multilateral Staff Notice 51-359 Corporate Governance Related Disclosure Expectations for Reporting Issuers in the Cannabis Industry](#). The notice outlines some of the specific problems we have seen with governance practices in the cannabis industry and sets out our expectations in these areas. Please see page 25 of this Report for further information regarding this notice.

**For more information:**

[CSA Multilateral Staff Notice 51-359 Corporate Governance Related Disclosure Expectations for Reporting Issuers in the Cannabis Industry](#)

[CSA Staff Notice 51-357 Staff Review of Reporting Issuers in the Cannabis Industry](#)



[CSA Staff Notice 51-352 \(Revised\) Issuers with U.S. Marijuana-Related Activities](#)

[CSA Staff Notice 51-342 Staff Review of Issuers Entering Into Medical Marijuana Business Opportunities](#)

[CSA Staff Notice 51-356 Problematic Promotional Activities by Issuers](#)

**ix) Psychedelics industry**

In recent months, there has been an increased presence of issuers that are involved with psychedelic drugs. “Psychedelics” are a class of drugs that affect the brain’s serotonin receptors and trigger changes in perception, cognition, mood, behaviour, and possibly state of consciousness. They include drugs such as DMT, ibogaine, ketamine, LSD, MDMA, psilocybin, and psilocin. Although each of these substances are subject to differing regulation and classification under Canadian law, they are all controlled substances.

The recent focus on psychedelic drugs by issuers is based primarily on its use as medicine, but also for recreational purposes. Issuers have begun conducting clinical trials for drug efficacy to treat conditions such as depression and addiction.

For issuers performing clinical trials, they are required to obtain appropriate regulatory approval from oversight bodies such as Health Canada, the U.S. Food and Drug Administration (FDA) and the Canadian National Agency for Food and Drug Administration and Control, among others depending on the nature of the issuer’s operations.

According to the 2020 Report on Psychedelics presented by the NEO Exchange, several companies, located in nations such as Canada, Germany, the United Kingdom, and the United States, have entered the market for psychedelic drugs, with nearly \$150 million USD invested into this industry in the first half of 2020.<sup>1</sup>

The issuers in the sector are not a homogenous group. The business models and growth plans of each of these companies vary significantly. The legal and regulatory framework also varies depending on the jurisdiction of operations for each issuer and the market segment in which it

<sup>1</sup> <https://reportonpsychedelics.com/>

operates. An issuer operating in the psychedelics sector may need to consider compliance with multiple laws and regulatory regimes depending on the market segments in which it is operating.

Due to the illegality of psychedelic drugs in various countries, issuers engaged in activities related to psychedelic drugs should have clear disclosure regarding the regulatory, licensing and legal framework(s) under which the issuer operates. Staff also expect to see risks associated with this business appropriately identified, understood and managed by the board of directors. Depending on the issuer's business, it may be appropriate to provide disclosures that are analogized to the disclosure expectations set out in SN 51-352.

Staff continues to monitor industry developments in this emerging sector. Staff will review filings by issuers involved with psychedelic drugs on a case-by-case basis to determine if there are any novel business models which may give rise to public interest concerns which cannot be addressed by disclosure.

In these circumstances, we encourage issuers and their advisors to consult with staff on a pre-file basis to discuss the appropriate level of disclosure and potential risks and other novel considerations that may arise.

#### ***x) IPO issuers with hybrid business structures***

In instances where an IPO issuer's proposed business model is a public/private equity fund consisting of investments both in publicly traded securities and private investments, we may take the view that the portfolio invested in publicly traded securities should be subject to certain investment fund requirements, while the portfolio invested in privately traded securities should be subject to corporate finance requirements. Such requirements may include measures relating to the deployment of IPO proceeds destined for the private portfolio, certain investment restrictions such as a concentration restriction, and the required use of a custodian.

The guidance outlined in [CSA Multilateral Staff Notice 51-349 Report on the Review of Investment Entities and Guide for Disclosure Improvements](#) should also be considered by such IPO issuers.

#### ***xi) Subsequent offerings by an IPO blind pool issuer***

Certain issuers that hold minimal assets at the time of their IPO and have not identified any acquisitions are considered "blind pools". The audited financial statements included in the IPO prospectus of a blind pool issuer generally do not reflect any meaningful results. Staff may have concerns where these types of issuers seek to conduct a follow-on public capital financing before they have filed audited financial statements reflecting business operations. An issuer may be able to address staff's concerns by providing audited financial statements for an interim period ended after its operations commenced to provide investors with some audited financial history of the underlying operating business. We encourage issuers to submit a pre-file and consult with staff in these circumstances.

***xii) Base shelf prospectuses qualifying distributions of specified derivatives or asset backed securities***

Where an issuer's base shelf prospectus contemplates distributions of specified derivatives or asset-backed securities that are novel (as such terms are defined in National Instrument 44-102 *Shelf Distributions* (NI 44-102) or NI 41-101, as applicable), we will issue comments and, if appropriate, require the issuer to file an undertaking to pre-clear any prospectus supplements that will qualify distributions of novel specified derivatives or asset-backed securities. To avoid unnecessary delays relating to this matter, issuers that do not plan to distribute such novel securities should include disclosure in its base shelf prospectus similar to the following:

*This Prospectus does not qualify for issuance specified derivatives or asset-backed securities that are novel (as such terms are defined in National Instrument 44-102 Shelf Distributions or NI 41-101 General Prospectus Requirements, as applicable).*

***xiii) Asset vs. business acquisitions: IFRS 3 amendments***

In October 2018, the International Accounting Standards Board (IASB) issued amendments to the definition of a business in IFRS 3 *Business Combinations* (IFRS 3). IFRS 3 sets out different accounting requirements for a business combination versus an acquisition of an asset or group of assets that does not constitute a business under the standard. The amendments apply to relevant transactions that occur on or after the beginning of the first annual reporting period beginning on or after January 1, 2020.

Notwithstanding the issuer's determination of its applicable accounting requirements under IFRS 3, reporting issuers must make a separate determination of whether the acquisition constitutes an asset or business acquisition under securities law. An acquisition could meet the definition of an asset acquisition under IFRS, while the same acquisition could be considered a business acquisition for securities law purposes. The term "business" should be evaluated in light of the specific facts and circumstances. We generally consider the acquisition of a separate entity, a subsidiary or a division to be an acquisition of a business, and in certain circumstances a smaller component of a company may also be considered an acquisition of a business. We generally also view the acquisition of licenses, patents, royalties and intellectual property as "business" acquisitions for securities law purposes, as the revenue producing activity or potential revenue producing activity remains the same. Part 8 of Companion Policy 51-102CP and [OSC Staff Notice 51-728 Corporate Finance Branch 2016-2017 Annual Report](#) provide guidance regarding this determination.

***xiv) Acquisition of intangible assets***

IAS 38 *Intangible Assets* requires that an issuer, when determining whether to recognize a purchased intangible asset, assess if (i) it is probable that the future economic benefits that are attributable to the asset will flow to the entity; and (ii) the cost of the asset can be measured reliably. The probability of future economic benefits must be based on reasonable and supportable assumptions that will exist over the life of the asset.

As part of our CD and prospectus reviews, in circumstances where an issuer has acquired intangible assets and has recognized such assets within its financial statements, we may request that the issuer provide both its quantitative and qualitative analyses that it has previously prepared or provided to its auditors to support the probability of economic benefits attributed to each of the acquired intangible assets flowing to the issuer, as well as the issuer's corresponding purchase price allocation to each of the assets based on such analyses. Additionally, for acquisitions involving non-cash consideration (i.e. shares), staff may also request the issuer to explain how the consideration was valued and how the resulting purchase price allocations reconcile to the original book values of the acquired intangible assets. Finally, where necessary, we may request that the issuer disclose certain supporting assumptions of the above analyses in order to provide a clearer understanding of how the assigned values for these intangible assets were determined by the issuer.

This is an area of heightened interest to staff in circumstances where the fair values assigned to certain intangible assets upon acquisition by an issuer are substantially higher than their respective original book values (e.g., acquired licenses, etc.). This is especially the case for certain internally generated intangible assets (e.g., brands, titles, customer lists, etc.), which are only permitted to be recognized as assets upon acquisition by another entity.

#### ***xv) Promoter liability***

Where a promoter exists at the time of an issuer's IPO, we remind issuers to consider whether promoter status continues for subsequent offerings irrespective of whether it has been two years since the IPO. This assessment should consider whether the promoter's relationship with the issuer has changed since the IPO in terms of the promoter's continued involvement in the governance and management of the issuer, including the promoter's ownership and *de facto* control of the issuer, among other factors. How and when a promoter ceases to be a promoter is determined on a case by case basis. The analysis should consider how the facts and circumstances upon which the issuer determined that a promoter is a promoter of the issuer have changed.

#### ***xvi) Relief to be evidenced by receipt of a final prospectus***

When seeking relief in connection with an offering where the relief will be evidenced by receipt, issuers should provide written submissions explaining why relief is required. The application letter itself will be made available to the public on request unless the Commission grants a request for confidentiality that is included in the application letter (see the 'Requests for confidentiality' section on page 46). To facilitate this, an application letter should be a stand-alone document satisfying the guidance set out in [OSC Staff Notice 41-703 Corporate Finance Prospectus Practice Directive #2 – Exemption from Certain Prospectus Requirements to be Evidenced by a Receipt](#).

An issuer should inform staff if there are any concerns about making the application letter or the OSC acknowledgement letter, if applicable, available to the public.

### ***xvii) Testing the waters exemption***

As stated in the recently published [Reducing Regulatory Burden in Ontario's Capital Markets Report](#), we will consider whether the expanded "testing the waters" exemption recently adopted in the U.S. will affect financing activity by Canadian issuers who are also trading in the U.S., or will impact Canadian-based institutional investors, and whether changes to our requirements are necessary. Market participants are encouraged to contact staff with any questions relating to this issue.

### ***xviii) Prospectus filings - timing***



**Reminder:** A preliminary prospectus, together with all accompanying materials in acceptable form, should be filed before 12:00 p.m. on the day that the receipt is required. If materials are filed after 12:00 p.m., the receipt will normally be issued before 12:00 p.m. on the next business day and dated as of that day.

If issuers anticipate filing a preliminary prospectus within a reasonable period of time after 12:00 p.m. (or 3:00 p.m. for a bought deal prospectus) and need a receipt issued that day, they should advise the prospectus review officer by email at [prospectusreviewofficer@osc.gov.on.ca](mailto:prospectusreviewofficer@osc.gov.on.ca) and explain the reason for not filing before the applicable deadline. We will attempt to accommodate these requests, but there is no assurance that a receipt will be issued on the same day.

Where an issuer plans to conduct an overnight marketed deal, the issuer should (a) advise the prospectus review officer by email no later than the morning of the day on which the receipt is required (but prior to filing the materials), and (b) file all materials in acceptable form before 12:00 p.m. that day. In such cases, we will make reasonable efforts to issue a receipt for the preliminary prospectus at or just after 4:00 p.m. on the day of the filing.

Each year, we receive requests to issue a receipt for a preliminary prospectus at a specific time of the day. In rare circumstances, staff may consider this request where the issuer can demonstrate that there would be a material adverse consequence to an issuer if a preliminary receipt is not issued at the specific time. The issuer should make such a request along with reasons in its cover letter accompanying the filing of the preliminary prospectus. The cover letter should also acknowledge that the issuer bears the risk of the receipt being issued at a time other than the requested time. Issuers should note that we cannot guarantee that the request will be satisfied and there is a practical risk that the receipt will be issued at a time other than the requested time.

### ***xvii) Confidential pre-file review of prospectuses***

In the Fall of 2019, OSC staff began accepting confidentially pre-filed prospectuses for review. We did so in order to help issuers have greater certainty regarding the timing of prospectus offering transactions, and as part of our broader commitment to reducing regulatory burden. We reviewed three such confidential pre-files in FY2019-20. On March 5, 2020 the CSA published [CSA Staff Notice 43-310 Confidential Pre-file Review of Prospectuses \(for non-investment fund issuers\)](#), which more formally describes the process for confidentially pre-filing a prospectus. Since publication of the notice to the present, we have reviewed 21 confidential pre-files.

We would like to remind issuers and their advisors to carefully consider whether the draft preliminary prospectus is at an appropriate stage for a confidential pre-file. We may determine that a draft is not at an appropriate stage for staff review and ask that the pre-file be withdrawn. This may occur in the following circumstances:

- the disclosure in the draft document falls significantly short of the standard required of a preliminary prospectus;
- there is no significant prospect of a transaction occurring within the foreseeable future;
- the terms and conditions of the offering, and any related transactions, are still in flux.

We will also consider issuing additional guidance in the future on common issues or concerns that we identify from our reviews.

## **B.3. Exempt Market**

The OSC recognizes the need to be vigilant in its oversight of the exempt market as it evolves under the new regulatory framework. Our Branch and the CRR Branch have primary responsibility for oversight of compliance in the exempt market. Both branches are working to coordinate and conduct the compliance reviews of issuers and registrants.

### **a) General**

#### ***i) Frequent market activity without involvement of a registered dealer***

We remind issuers that offer their own securities regularly to assess whether they are trading in, or advising on, securities for a business purpose and, therefore may be subject to the dealer or adviser registration requirements. A discussion of the factors relevant to that determination is included in section 1.3 of the [Companion Policy to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations](#).



## ii) Marketing materials

Materials purporting to describe the business and affairs of an issuer that are prepared primarily for prospective investors will generally fall within the definition of “offering memorandum” in subsection 1(1) of the Act. While the use of such documents is voluntary and not subject to specific form requirements, Part 5 of OSC Rule 45-501 provides that statutory rights of action in favour of a purchaser of securities will apply if the materials contain a misrepresentation. Furthermore, an issuer is required to include a description of these statutory rights and deliver the material to the OSC within 10 days. These requirements may apply to materials such as investor presentations, letters or brochures.



**Reminder:** Issuers that use exemptions other than the offering memorandum (OM) exemption, such as the accredited investor exemption, family, friends and business associates exemption, private issuer exemption or minimum amount exemption, should consider the requirements of OSC Rule 45-501 *Ontario Prospectus and Registration Exemptions* (OSC Rule 45-501) regarding disclosure provided in connection with the distribution of securities.

## b) Offering Memorandum Exemption

### i) Disclosure requirements

Issuers relying on the OM exemption in subsection 2.9(2.1) of National Instrument 45-106 *Prospectus Exemptions* (NI 45-106) (OM issuers) frequently have complex structures with funds being raised by one issuer that are loaned or otherwise invested in another entity that conducts the business activities intended to produce a return on investment. We note that where such a structure is used, it is the issuer’s responsibility to ensure that the OM contains sufficient information to allow a potential purchaser to make an informed investment decision in relation to the securities being distributed.



**Reminder:** On September 17, 2020, the CSA published [proposed amendments](#) to the OM exemption for a 90-day comment period that ends on December 16, 2020. Please see page 56 of this Report for further information regarding these proposed amendments.

### ii) Marketing materials

Any marketing materials used in connection with a distribution under the OM exemption must be incorporated by reference into the prescribed form of OM and filed with the OSC (either as an attachment to a report of exempt distribution or through the OSC [Electronic Filing Portal](#)) at the

same time as the OM is filed or, if the marketing materials are prepared after the OM was filed, within 10 days of the first use of the materials. This requirement is subject to a limited exception that allows the use of an “OM standard term sheet”. We found that in several instances, issuers have delivered or made available materials to prospective investors without filing those materials.

### **iii) Ongoing Reporting Obligations**

We remind OM issuers that they are subject to ongoing reporting obligations to both the OSC and their securityholders.

OM issuers are required to deliver annual financial statements and a Form 45-106F16 *Notice of Use of Proceeds* (Form 45-106F16) to the OSC and make them reasonably available to investors, within 120 days after the issuer’s financial year end. The financial statements are required to be audited and prepared in accordance with IFRS. The documents must be delivered to the OSC through our [Electronic Filing Portal](#).

When completing the Form 45-106F16, OM issuers must provide a reasonable breakdown of all proceeds used in section 2 of the table. The breakdown should be specific and provide sufficient detail for an investor to understand how the proceeds have been used.

OM issuers must continue to deliver these documents each year until the earliest of

- the date the issuer becomes a reporting issuer in any jurisdiction of Canada, and
- the date the issuer ceases to carry on business.

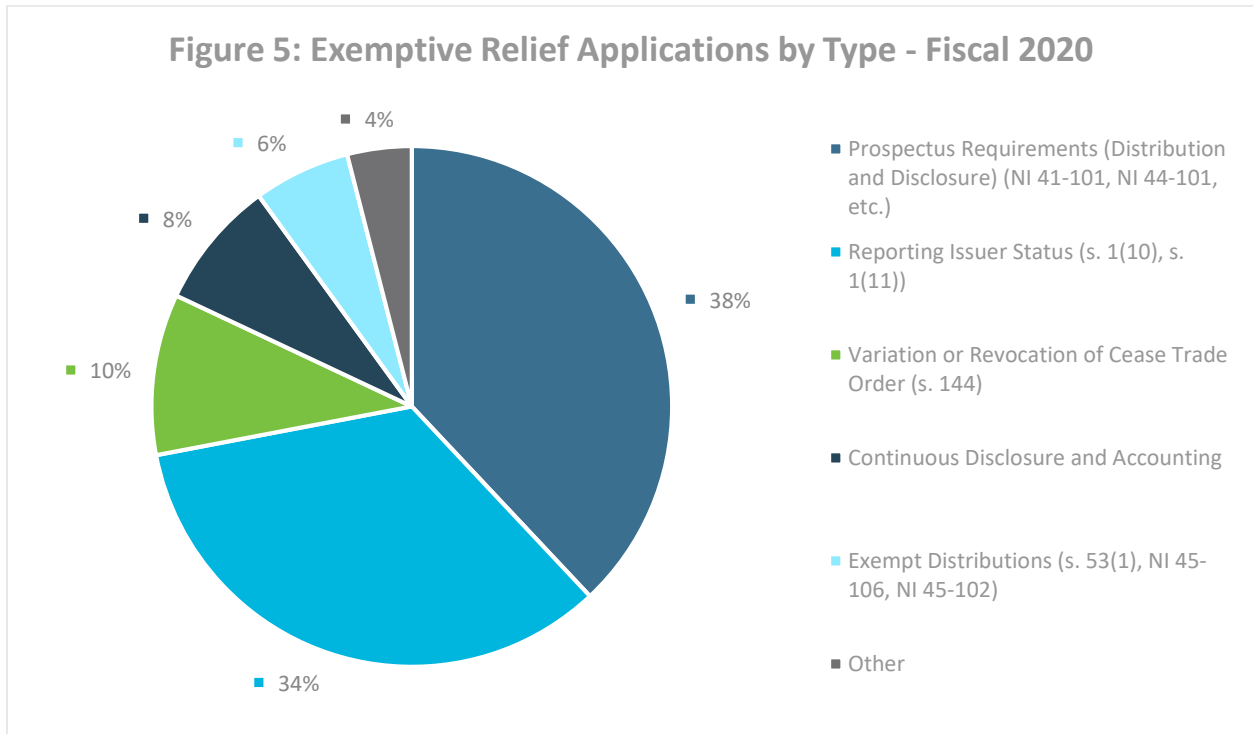
## **B.4. Exemptive Relief Applications**

Staff review and make recommendations to appropriate decision makers on applications for exemptive relief. The review standard for granting relief varies, but it generally requires a decision maker to determine that granting the requested relief would not be prejudicial to the public interest.

### **a) Statistics**

In fiscal 2020, we completed reviews of over 250 applications for exemptive relief from various securities law requirements (fiscal 2019: over 280).

Figure 5: Exemptive Relief Applications by Type - Fiscal 2020




## b) Trends and guidance

We have noted a decrease in the number of applications received in fiscal 2020 and the proportion of the various types of applications changed slightly compared to previous fiscal years. We saw an increase in the number of applications for relief from certain prospectus requirements and a decrease in the number of applications for relief in connection with reporting issuer status. These two types of applications for relief remained the most common.

We will continue to monitor the types of applications we receive and the exemptive relief granted to determine whether we should consider changes to our rules or policies.

Key takeaways from our exemptive relief work in fiscal 2020 are set out below.



**Tip:** Prior OSC orders and exemptive relief decisions can be found on the [OSC website](https://www.osc.gov.on.ca) or on CanLII at <https://canlii.org/en/on/onsec/>.

### ***i) Applications for a decision that an issuer is not a reporting issuer***

We continue to receive a significant number of these applications each fiscal year and our process for reviewing them is currently set out in [National Policy 11-206 Process for Cease to be a Reporting Issuer Applications](#). The process for Ontario-only applications for such a decision is set out in [OSC Staff Notice 12-703 Applications for a Decision that an Issuer is not a Reporting Issuer](#).

Foreign issuers who seek a decision that they are no longer a reporting issuer should review the “modified procedure” in section 20 of NP 11-206 to consider details that help support such an application. The modified procedure is intended for foreign issuers with a *de minimis* connection to Canada. One of the requirements of the modified procedure is that the issuer be able to make a representation that residents of Canada do not beneficially own more than 2% of each class or series of outstanding securities (including debt securities) and do not comprise more than 2% of the total number of securityholders of the issuer. Staff will generally ask issuers to describe the due diligence that was conducted in order to make this representation.



**Reminder:** There should be sufficient time between the news release announcing that the issuer has applied to cease to be a reporting issuer and the date of the order to provide securityholders with the opportunity to object to the order.

### ***ii) Revocation of failure-to-file cease trade orders***

Under [Multilateral Instrument 11-103 Failure-to-file Cease Trade Orders in Multiple Jurisdictions](#) and local statutory provisions adopted by certain CSA jurisdictions: (i) a failure-to-file cease trade order will generally result in the same prohibition or restriction in other participating jurisdictions; and (ii) a reporting issuer will generally deal only with the regulator that issued the failure-to-file cease trade order if it is seeking a revocation or variation of this order that has the same result in multiple jurisdictions.

[National Policy 11-207 Failure-to-file Cease Trade Orders and Revocations in Multiple Jurisdictions](#) outlines the interface process for Ontario to opt into decisions to issue and revoke failure-to-file cease trade orders made by other CSA regulators. We remind issuers that in Ontario, the OSC can treat the filing of the CD document referred to in a failure-to-file cease trade order that has been in effect for 90 days or less as an application for the revocation of the cease trade order. An application and related fee are not required in this circumstance.

### ***iii) Revocation of a cease trade order that has been breached***

If an issuer has breached the terms of a cease trade order, it can still seek a revocation. However, we will ask for disclosure of the circumstances surrounding the breach in the draft

decision document which staff will consider in making a recommendation in connection with the issuer's application. In some cases, staff will not recommend granting a revocation order in the face of one or more breaches of the cease trade order and may also consider whether breaches of a cease trade order warrant enforcement action.



**Reminder:** The definition of "trade" in the Act includes acts in furtherance of a trade such as advertising or soliciting investors, directly or indirectly.

#### ***iv) Revocation of a long-standing cease trade order***

Where an issuer with a long-standing cease trade order seeks a revocation, the review process may take longer than a short-term cease trade order as staff will review the issuer's updated CD record to consider whether it is in compliance with applicable securities laws including compliance with applicable audit committee composition requirements under NI 52-110. As well, we may require an issuer to provide a written undertaking that it will not execute an RTO or a significant acquisition of, or a restructuring transaction involving a business outside of Canada unless the issuer files with the OSC, and obtains, a receipt for a final prospectus containing the disclosure required for the transaction.

#### ***v) Management Cease Trade Orders (MCTO)***

[National Policy 12-203 Management Cease Trade Orders](#) (NP 12-203) provides guidance as to when we will consider issuing an MCTO rather than a failure-to-file cease trade order. Issuers that can satisfy the eligibility criteria for an MCTO should file an application for an MCTO at least 2 weeks in advance of the deadline and issue a default announcement. We believe that, in most cases, an issuer exercising reasonable diligence should have discussed with their auditors about timing and be able to determine whether it can comply with a specified requirement at least 2 weeks in advance of the deadline.

An element of the eligibility criteria set out in section 6 of NP 12-203 is whether there is an active, liquid market for the issuer's securities. In our review of this element, we consider the trade volume, trade value, and number of trades of the issuer's securities. If the majority of trading days have a low trade value and/or low number of trades, we are likely to conclude there is an absence of an active, liquid market for an issuer's securities and staff would therefore not generally recommend granting an MCTO.

For issuers seeking to obtain an MCTO, we require fully completed Personal Information Forms (PIFs) for an issuer's CEO and CFO (see Appendix "A" to NI 41-101). If an issuer has submitted PIFs for these individuals within the last 3 years, the issuer should provide the SEDAR project number and submission number where the PIF can be found.

MCTO applications should be filed through the [OSC Electronic Filing Portal - General PDF Submissions](#), not the Applications portal.

### **vi) Business acquisition report (BAR)**

The number of applicants seeking relief from the BAR requirements in Part 8 of NI 51-102 has decreased in the last two fiscal years. We expect that these applications will further decrease as a result of anticipated amendments to the BAR requirements (see page 52 for further details).



**Tip:** Issuers should file their BAR relief applications early to avoid going into default. The cost or time involved in preparing and auditing the financial statements required to be included in the BAR are not generally viewed by staff as relevant factors when considering whether to recommend relief.

### **vii) Requests for confidentiality**

A filer requesting that an application and supporting materials be held in confidence during the application review process under National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* should provide substantive reasons for the confidentiality request in its application. If a filer is also requesting that the decision be held in confidence after the effective date of the decision, the filer should explain why the confidentiality request is reasonable in the circumstances, not prejudicial to the public interest, and should specify the length of time the filer wishes to maintain confidentiality. Generally, staff is of the view that a decision should not be held in confidence for a period of greater than 90 days following the date of the decision. In instances where a request to hold a decision in confidence after the effective date of the decision has been granted, it is the filer's responsibility to notify staff if an event that would cause confidentiality to expire, as set out in the decision, has occurred.

### **viii) Reverse takeover transactions – relief from financial statements**

If an issuer prepares an information circular in respect of a significant acquisition or a restructuring transaction, including an RTO, under which securities are to be changed, exchanged, issued or distributed, the information circular is required to include prospectus level disclosure (including financial statements) for the entities referred to in Item 14.2 of Form 51-102F5.

While exchanges can waive certain listing requirements, they cannot waive financial statement requirements in respect of information circulars. In these circumstances, if an issuer is requesting relief from a financial statement requirement, the issuer must obtain the exemptive relief prior to mailing their information circular.



**Tip:** Issuers and their advisors may wish to consider whether a pre-file is appropriate for novel applications. See [National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions](#).

### ix) Automatic Securities Disposition Plans

On October 24, 2019, the CSA announced that it would review automatic securities disposition plans (ASDPs) to ensure that they remain a legitimate trading mechanism by insiders and do not undermine the fairness of the Canadian capital markets. ASDPs enable insiders to sell the securities of an issuer through an arm’s-length administrator, according to a predetermined set of instructions. This announcement also indicated that staff of the CSA jurisdictions would be unlikely to recommend new insider reporting relief for trades under ASDPs.

The CSA continues to consider its approach on ASDPs and anticipates publishing a staff notice setting out recommended best practices for issuers and insiders regarding such plans.

Staff of the CSA jurisdictions remain unlikely to recommend new insider reporting relief for trades under ASDPs.

## B.5. Insider Reporting

### a) Overview

We review compliance of reporting insiders and issuers with insider reporting requirements through a risk-based compliance program. We actively and regularly assist filers and their advisors by providing guidance on filing matters.

The objective of our insider reporting oversight work is twofold

- compliance
- education and outreach

Insider reporting serves a number of functions, including deterring improper insider trading based on material undisclosed information and increasing market efficiency by providing investors with information about the trading activities of insiders, and, by inference, the insiders’ views of the issuer’s future prospects. Non-compliance affects the integrity, reliability and effectiveness of the insider reporting regime, which in turn has a negative impact on market efficiency. Where we identify non-compliance, we reach out to filers and request remedial filings.

Filers should make remedial filings as soon as they become aware of an error to accurately inform investors of their activities and to avoid any further late filing fees.

We educate filers through our compliance reviews and we also reach out to new reporting issuers directly to inform them of insider reporting obligations. We encourage issuers to implement insider trading policies and monitor insider trading to meet best practice standards in National Policy 51-201 *Disclosure Standards*.



**Reminder:** the definition of “reporting insider” can be found in [National Instrument 55-104 Insider Reporting Requirements and Exemptions](#) (NI 55-104).

We remind issuers and their insiders that they should also refer to the definition of “significant shareholder” and the interpretation of “control” in NI 55-104 as well as the interpretation of “beneficial ownership” in the Act when determining who is required to file on SEDI. Understanding these definitions and interpretations will help filers identify and comply with their obligations.

Insiders are also reminded to check their insider profile to ensure the contact information is correct and file an amended insider profile within ten days of any change in name, relationship to an issuer, or if the insider has ceased to be a reporting insider of the issuer.

## b) Cannabis IOR Insider Reporting

In February 2020, we concluded an insider reporting review of a sample of 47 Cannabis issuers whose principal regulator is Ontario.

The purpose of this targeted, risk-based review was to assess insider reporting compliance in the emerging Cannabis sector and to educate issuers and insiders on insider filing requirements.

We reviewed 657 reporting insiders, including 124 senior officers. In 43% of our reviews we identified various deficiencies such as outdated information, insider relationship status and discrepancies in shareholdings between SEDI and available CD documents. Our reviews resulted in \$35,350 in late SEDI fees charged, 43 new insider profiles created, 184 new reports and 62 amendments filed, 13 transactions deleted and improved accuracy of SEDI disclosure. We will continue to closely monitor insider reporting compliance in this sector.



**For more information and guidance** issuers and insiders should also review guidance provided in [OSC Staff Notice 51-726 Report on Staff's Review of Insider Reporting and User Guides for Insiders and Issuers](#).



## B.6. Administrative Matters

### a) Participation fee form

Under OSC Rule 13-502 *Fees* if a reporting issuer files its annual financial statements before they are due, the participation fee must also be paid on the same date. If the participation fee is not paid at the same time the annual financial statements are filed, late fees will be applied starting from the date that the annual financial statement were filed.

Each issuer must select the participation fee form applicable to its reporting issuer classification as the forms and related fees are substantively different.



**Tip:** The class of the issuer is based on their status as at the end of their previous financial year, not at the time of filing. Issuers must also ensure that the correct form for Ontario participation fees is completed as other jurisdictions have fee forms that look very similar to the OSC form.

### b) Refiling CD documents

If a reporting issuer must correct a material typographical or administrative error (or omission) in an electronic filing, the issuer must refile the entire corrected document using the appropriate cover page for the filing type as well as a covering letter or a face page for the corrected document describing the correction with the date of the correction.

If information in the refiled document is materially different from information in the originally filed document, please refer to Part 11.5 of NI 51-102 for the procedure to be followed for refiling.

When refiling a document with materially different information or when filing restated information, the document should be attached to the document type that is identified as "Amended" or "Restated". For example, if an amended material change report is being filed, it should be filed using the document type "Material change report (amended)". If an amended NI 43-101 technical report is being filed, it should be filed using the document type "Amended & restated technical report (NI 43-101)".

### c) Making documents private on SEDAR

We often receive requests from reporting issuers and SEDAR filers to make certain documents private on SEDAR. Generally, we will make a document private on SEDAR if it has been filed on the wrong issuer profile or if the document contains errors caused by redaction software. We

may also make a document private if the document contains confidential information that is potentially detrimental to the issuer.

In order to request a document be marked private, issuers will need to complete a request form and send it to the financial examiners at [finrenotifications@osc.gov.on.ca](mailto:finrenotifications@osc.gov.on.ca). Please note that we only consider requests to make CD private from those issuers whose principal regulator is Ontario. We cannot guarantee that a request will be approved immediately as we require time to review each individual request and consult internally, if necessary.

If an issuer's request is denied, we recommend that the issuer refile the document including a note to the reader on the face page or cover page of the document explaining the reason for refiling. Making a document private on SEDAR does not mean that it has not already been disseminated in the public domain. Certain requests to mark a document private may require a formal application under subsection 140(2) of the Act.

# Part C: Responsive Regulation

**C.1. At the Market Offerings**

**C.2. Business Acquisition Reports (BARs)**

**C.3. Alternative Prospectus Model**

**C.4. Pre filing Review of Mining Technical Disclosure**

**C.5. Electronic Delivery of Documents**

**C.6. Start up Crowdfunding**

**C.7. Syndicated Mortgages**

**C.8. Offering Memorandum Exemption**

**C.9. Designated Rating Organizations (DROs)**

**C.10. Financial Benchmarks**

**C.11. Branch Advisory Committees**

The Branch is involved in various issuer-related policy initiatives. In this Part of the Report we provide an update on these initiatives.

## C.1. At the Market Offerings

On June 4, 2020, the CSA published [Notice of Amendments to National Instrument 44-102 Shelf Distributions and Change to Companion Policy 44-102CP Shelf Distributions relating to At-the-Market Distributions](#) (the ATM amendments). The ATM amendments came into effect on August 31, 2020.

An ATM offering is a distribution of securities by an issuer under a base shelf prospectus into the secondary market (i.e. over an exchange and at prevailing market prices) using a registered investment dealer acting as an agent. ATM requirements are currently found in Part 9 of NI 44-102 but do not contemplate necessary exemptions from certain prospectus requirements that are not practical in the context of an ATM distribution.

The ATM amendments replace relief that has been required by issuers conducting ATM offerings of equity securities and liberalize the current ATM distribution regime in Canada.

It is expected that the ATM amendments will reduce the regulatory burden for issuers and agents who wish to conduct ATM offerings. Stakeholders no longer have to incur costs associated with obtaining relief and are able to conduct ATM offerings more quickly, as such distributions are readily available to qualifying market participants.

The ATM amendments also apply to closed-end investment funds as that industry has recently expressed interest in conducting ATM offerings.

## C.2. Business Acquisition Reports (BARs)

On August 20, 2020, the CSA published [Notice of Amendments to National Instrument 51-102 Continuous Disclosure Obligations and Changes to Certain Policies Related to the Business Acquisition Report Requirements](#) (the BAR amendments). The BAR Amendments came into effect on November 18, 2020.

In response to [CSA Consultation Paper 51-404 Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers](#), we received feedback that in some cases the significance tests may produce anomalous results, that preparation of a BAR may entail or take significant time and cost, and that the information necessary to comply with the BAR requirements may, in some instances, be difficult to obtain.

The BAR amendments will:

- alter the determination of significance for reporting issuers that are not venture issuers such that an acquisition of a business or related businesses is a significant acquisition only if at least two of the existing significance tests are triggered, and
- increase the significance test threshold for reporting issuers that are not venture issuers from 20% to 30%.

It is expected that the BAR amendments will reduce regulatory burden for reporting issuers that are not venture issuers by limiting the application of the BAR requirements while still providing investors with relevant and appropriate information following such transactions.

### C.3. Alternative Prospectus Model

Together with our CSA partners, we are considering a potential alternative prospectus model. As part of this work, the CSA developed a harmonized process for full reviews of prospectuses on a confidential pre-file basis for non-investment fund issuers.

Details of the process, and staff's expectations, are outlined in [CSA Staff Notice 43-310 Confidential Pre-File Review of Prospectuses \(for non-investment fund issuers\)](#) dated March 5, 2020. As described in the notice, the regulatory review process for prospectuses normally begins when an issuer publicly files its preliminary prospectus. If a material issue is raised during the review process, this may cause delays in receipting the prospectus and closing the offering. Market participants have expressed concern that delays can cause uncertainty in the market and have indicated that the pre-file process would help reduce this uncertainty and provide issuers with greater flexibility in planning their prospectus offerings.

### C.4. Pre filing Review of Mining Technical Disclosure

In June 2019, the Branch instituted a program of pre-file reviews of mining technical disclosure, with the goal of increasing certainty for issuers by reducing the risk that mineral disclosure deficiencies may disrupt short-form prospectus offerings. This gives issuers increased confidence when negotiating short-form financings and related schedules. The reviews encompass the Annual Information Form, the issuer's technical reports, news releases, and website disclosure, filed up to the date of the pre-file request. On typical timelines, the reviews are completed in ten business days. Issuers can file an application to request the pre-filing review, and a fee applies. More information on the program can be found in [OSC Staff Notice 43-706 Pre-filing Review of Mining Technical Disclosure](#).

## C.5. Electronic Delivery of Documents

On January 9, 2020, the CSA published [Consultation Paper 51-405 Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers](#) (the Consultation Paper), for a 60-day comment period, seeking comment on the appropriateness of implementing an access equals delivery model (an AED model) in the Canadian market for various documents that non-investment fund reporting issuers are required to deliver to investors.

We received feedback on the Consultation Paper from various market participants, including issuers, investors, industry associations and law firms. A significant majority of commenters expressed general support for implementing an AED model. In addition, we received strong support for prioritizing the implementation of an AED model for prospectuses, annual financial statements, interim financial reports and their related MD&A.

Under the proposed AED model, delivery will be deemed to have occurred once (i) the document is filed on SEDAR; and (ii) a news release is issued and filed on SEDAR indicating, among other things, that the document is available on SEDAR and that a paper copy can be obtained upon request. An AED model would not eliminate the option for non-investment fund reporting issuers to deliver prospectuses and financial statements and related MD&A in paper form based on investors' standing instructions or upon request.

It is expected that implementing the proposed AED model would reduce regulatory burden and costs for non-investment fund reporting issuers, modernize the way documents are made available to investors and promote a more environmentally friendly manner of communicating information than paper delivery.

## C.6. Start up Crowdfunding

On February 27, 2020, the CSA published proposed [National Instrument 45-110 Start-up Crowdfunding Registration and Prospectus Exemptions](#) (the Proposed Crowdfunding Rules) for a 90-day comment period. The comment period, originally scheduled to end on May 27, 2020, was extended to July 13, 2020 due to COVID-19.

If adopted as published for comment, the Proposed Crowdfunding Rules would create a new, nationally harmonised regulatory framework for non-reporting issuers seeking to raise capital through crowdfunding that provides:

- an exemption from the prospectus requirement to allow a non-reporting issuer to distribute eligible securities through an online funding portal; and
- an exemption from the dealer registration requirement for a funding portal to facilitate online distributions by issuers relying on the start-up crowdfunding prospectus exemption.

In addition, a firm registered in Ontario in the category of exempt market dealer or investment dealer would be allowed to operate a funding portal if it meets the requirements set out in the Proposed Crowdfunding Rules.

On July 30, 2020, the OSC published an interim order [OSC Instrument 45-506 Start-Up Crowdfunding Registration and Prospectus Exemptions \(Interim Class Order\)](#). The Interim Class Order came into effect on July 30, 2020 and provides registration and prospectus exemptions for start-up crowdfunding that are substantially similar to the local exemptions in certain other CSA jurisdictions. The Interim Class Order will remain in effect until the earlier of 18 months from its effective date or the date the Proposed Crowdfunding Rules are adopted.

## C.7. Syndicated Mortgages

Subsections 35(4) and 73.2(3) of the Act provide that mortgages sold by persons registered or exempt from registration under mortgage brokerage legislation are exempt from the registration and prospectus requirements in Ontario. These exemptions currently include syndicated mortgages, which are defined as mortgages in which two or more persons participate, directly or indirectly, as the mortgagee. As such, syndicated mortgage investments are primarily regulated by the Financial Services Regulatory Authority of Ontario (FSRA).

Concerns have been raised about the current regulatory framework, including in a 2016 expert report to the Ministry of Finance reviewing the mandate of the Financial Services Commission of Ontario (FSCO). In response to these concerns, on April 27, 2016, the Ontario government announced its plan to update regulatory oversight of syndicated mortgage investments. Effective June 8, 2019 the FSRA assumed the regulatory functions of the FSCO.

On March 8, 2018, the CSA published for comment [proposed amendments](#) to NI 45-106 and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103), which together with changes to the Act that have not yet been proclaimed in force, would substantially harmonize the treatment of syndicated mortgages across the CSA.

In response to comments from market participants, [revised proposals](#) were published for a second comment period on March 15, 2019. The second comment period for the proposed amendments ended on June 14, 2019, with additional comments provided by 11 commenters.

The OSC also published [revised local proposed exemptions](#) for a 45-day comment period on August 6, 2020.

The proposed amendments would replace subsections 35(4) and 73.2(3) of the Act with harmonized mortgage exemptions in NI 31-103 and NI 45-106 that would no longer include syndicated mortgages. In Ontario, we have proposed prospectus and dealer registration exemptions for qualified syndicated mortgages and for syndicated mortgages distributed to permitted clients. Qualified syndicated mortgages are not expected to present significant investor protection concerns because of various restrictions relating to property type, loan-to-value ratio

and other mortgage characteristics. The proposed Ontario exemptions for qualified syndicated mortgages and syndicated mortgages distributed to permitted clients would also require the syndicated mortgages to be distributed or traded by a person or company that is registered or licensed under the *Mortgage Brokerages, Lenders and Administrators Act, 2006*. Therefore, the primary oversight for these syndicated mortgages will remain with FSRA.

The proposed amendments also provide for additional investor protections, such as

- enhancing disclosure and requiring the delivery of a current property appraisal prepared by an independent professional appraiser to investors who purchase syndicated mortgage investments under the offering memorandum exemption, and
- removing the private issuer exemption for syndicated mortgage investments.

We continue to work with other branches of the OSC, FSRA staff and Ministry of Finance staff to coordinate the oversight of investments in the syndicated mortgage sector.

## C.8. Offering Memorandum Exemption

On September 17, 2020, the CSA published for comment [proposed amendments](#) to the OM exemption. The proposed amendments are intended to provide investors with more tailored and current information and to clarify the CSA's disclosure expectations for issuers.

The OM exemption was originally designed to help early stage and small businesses raise capital from a large pool of investors without having to comply with the more costly prospectus regime and was expected to be used by relatively simple issuers for relatively small amounts of capital, prior to issuers becoming reporting issuers. However, in practice, the OM exemption is used to a significant extent by larger and more complex issuers and often those issuers are engaged in specific activities, such as real estate ownership or development or acting as a type of collective investment vehicle carrying out mortgage lending or making other investments.

The proposed amendments set out new disclosure requirements for issuers that are engaged in "real estate activities" or issuers that are "collective investment vehicles", which includes mortgage investment entities. These include a new requirement for issuers with real estate activities to provide an independent appraisal of the real property, if it discloses a value for the real property other than in its financial statements, will use a material amount of the proceeds to acquire an interest in real property, or will acquire an interest in real property from a related party. There are also separate tailored disclosure schedules for issuers with real estate activities and for issuers that are collective investment vehicles.

In addition, the proposed amendments include a number of general amendments, which are intended to clarify or streamline parts of NI 45-106 or improve disclosure for investors, including a requirement that issuers engaged in ongoing distributions amend their offering memorandum to include a six-month interim financial report.

The comment period for the proposed amendments will end on December 16, 2020.



## C.9. Designated Rating Organizations (DROs)

In April 2012, the CSA implemented a regulatory oversight regime for credit rating agencies (CRAs) through [National Instrument 25-101 Designated Rating Organizations](#) (NI 25-101). The regime recognizes and responds to the role of CRAs in our credit markets, and the role of CRA-issued ratings which are referred to in securities rules and policies. Under the regime, the OSC has the authority to designate a CRA as a DRO, to impose terms and conditions on a DRO, and to revoke a designation order, or change its terms and conditions, where the OSC considers it in the public interest to do so.

There are currently five CRAs that have been designated as DROs in Canada under NI 25-101:

1. DBRS Limited
2. Fitch Ratings, Inc.
3. Kroll Bond Rating Agency, LLC (Kroll)
4. Moody's Canada Inc.
5. S&P Global Ratings Canada

Kroll has only been designated as a DRO for the purposes of the alternative eligibility criteria in section 2.6 of National Instrument 44-101 *Short Form Prospectus Distributions* and section 2.6 of NI 44-102 for issuers of asset-backed securities to file a short-form prospectus or shelf prospectus, respectively.

In Canada, the OSC is the principal regulator of these DROs. We conduct reviews of DROs using a risk-based approach. Our reviews focus on credit rating activities of the CRAs in Canada or in respect of Canadian issuers.

When we identify a concern, or an area of material non-compliance, we may take various actions depending on the nature of the observation and the perceived or potential harm to the marketplace.

This may include, but is not limited to, recommending changes to the DRO's policies, procedures or information and documents on the DRO's website, or requiring training or specified oversight of DRO staff in areas where we have seen non-compliance with the DRO's policies or procedures.

Given the impact of COVID-19 on the global economy, CRAs will play an important role in the level and type of activity in the debt capital markets. Our reviews of DROs in fiscal 2021 will focus on certain issues relating to the COVID-19 situation.

### Upcoming amendments to NI 25-101

Subject to Commission and Ministerial approvals, the CSA is targeting to publish final NI 25-101 amendments in early 2021 so that NI 25-101 will be recognized for purposes of the European Union (EU) “equivalence/certification” regime under the EU CRA Regulation. The NI 25-101 amendments will reflect changes to the EU CRA Regulation that came into effect in 2018 and that are required for purposes of the EU “equivalence/certification” regime.

The existing DROs in Canada are only relying on the EU “endorsement” regime and NI 25-101 continues to be recognized for purposes of that regime. The NI 25-101 amendments would be required if a DRO wanted to instead rely on the EU “equivalence/certification” regime.

## C.10. Financial Benchmarks

In the OSC’s statement of priorities for 2018-2019, it was announced that we would be developing an OSC/CSA regulatory regime for financial benchmarks and publishing for comment a proposed rule to establish a Canadian regulatory regime for financial benchmarks. On March 14, 2019, the CSA published for comment a proposed rule, [National Instrument 25-102 Designated Benchmarks and Benchmark Administrators](#) (NI 25-102), intended to implement a comprehensive regime for the designation and regulation of benchmarks and those that administer them.

We are pursuing this initiative since we believe there is a need for regulation due to misconduct in other jurisdictions and the potential for similar misconduct in Canada, and we need to reflect global developments in benchmarks regulation, including the IOSCO *Principles for Financial Benchmarks* and the European Union’s *Benchmarks Regulation*.

Subject to Commission and Ministerial approvals, the CSA is targeting to publish the final version of NI 25-102 in early 2021.

## C.11. Branch Advisory Committees

The Branch has several committees that have been constituted to advise OSC staff on matters related to a range of projects and policy initiatives. A list of the current advisory committees and their members can be found [here](#).

### Continuous Disclosure Advisory Committee (CDAC)

The CDAC advises staff on a range of projects, including the planning, implementation and communication of its CD review program, as well as related policy initiatives. The CDAC also serves as a forum to advise OSC staff on emerging issues, and to critically assess procedures. The CDAC consists of 10 to 15 members who meet approximately four times annually. Members serve two-year terms and are selected for their extensive knowledge of CD issues and a strong interest in related policy. The CDAC is currently chaired by Michael Balter, a Manager of the Branch.

### Small Business Advisory Committee

The Small Business Advisory Committee (formerly the Small and Medium Enterprises Committee) advises staff on current business practices and emerging trends affecting small businesses in both the public and private markets. The Committee also provides feedback on the effectiveness of the Branch's policies and initiatives as they relate to small businesses. We are currently reviewing applications submitted by interested parties to serve as members of this committee.

### Mining Technical Advisory and Monitoring Committee (MTAMC)

The MTAMC provides advice to the CSA on technical issues relating to disclosure requirements for the mining industry. The committee also serves as a forum for continuing communication between the CSA and the mining industry. The MTAMC consists of approximately 15 members who meet three times annually. Members typically serve three-year terms and are drawn from across Canada and different sectors of the mining industry, ranging from early stage exploration to commercial production. Members typically have significant technical experience and a strong interest in securities regulatory policy as it relates to the mining industry. The MTAMC is currently co-chaired by Craig Waldie, a Senior Geologist of the Branch.

# Part D: Education and Outreach

**D.1. Online Resources**

**D.2. OSC SME Institute**

A part of our Branch’s mandate is to foster a culture of compliance through outreach and other initiatives. Although we cannot provide legal, financial accounting or other advice, we try to assist issuers in meeting their regulatory requirements by providing issuer education and outreach both at a micro level through direct communication with an issuer, as well as at a macro level through broad communications, such as staff notices. We also share the observations and findings of our review program through the Branch’s outreach program for SMEs called the OSC SME Institute. In this Part of the Report we highlight some of these education and outreach resources.

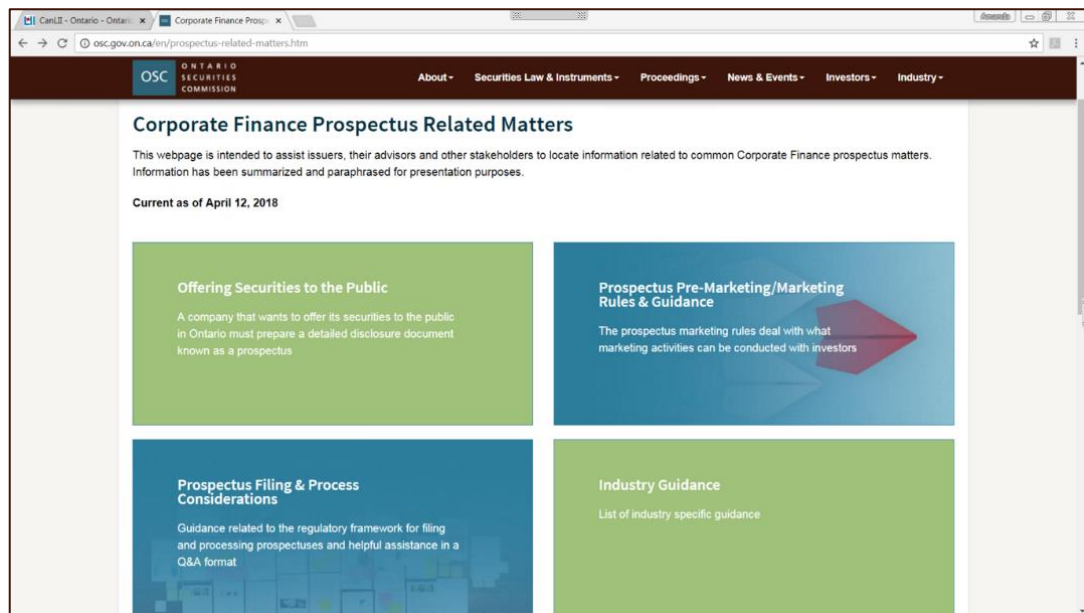
## D.1. Online Resources

**Corporate Finance section of OSC website** - The Corporate Finance section of the OSC website provides a basic outline for issuers on how to comply with Ontario securities law and file certain documents with the OSC. It describes the steps an issuer needs to take to

- distribute and market securities,
- disclose information on a timely and accurate basis, and
- apply for regulatory exemptions.

In particular, there is a page that contains links to information for smaller issuers (both reporting issuers and other issuers) that want to learn more about Ontario securities law. The “Information for Companies” section of the OSC website can be found [here](#).

**OSC Corporate Finance Prospectus Webpage** - On May 16, 2018, the Branch launched a webpage focused exclusively on [Corporate Finance Prospectus Related Matters](#).



This webpage is intended to assist issuers, their advisors and other stakeholders in locating information related to common Corporate Finance prospectus matters. This webpage will serve as a useful guide to easily access prospectus related information articulated in the form of guidance, notices, policies and branch reports. We encourage issuers and their advisors to review the webpage for helpful prospectus related details.

**OSC Exempt Market Webpage** - The [OSC exempt market webpage](#) provides access to the [OSC Electronic Filing Portal](#) and electronic form to file reports of exempt distribution. The webpage also provides links, information, and guidance for issuers including

- a summary and comparison of the key capital raising exemptions in Ontario,
- exempt market activity data,
- forms and filing requirements,
- tips on completing Form 45-106F1 and frequently asked questions, and
- exempt market publications.

## D.2. OSC SME Institute

Through the OSC SME Institute, we offer SMEs a series of free educational seminars to help them and their advisors understand the securities regulatory requirements for being or becoming a public company in Ontario and participating in the exempt market. Anyone interested in attending an event or consulting past presentations can visit the section [Information for Small and Medium Enterprises](#) on the OSC’s website. A summary of the recent seminars we have conducted is included in the table below (along with links to the presentation). Video replays of the presentations are also available on the [OSC’s YouTube channel](#).

| Date of seminar  | Topic   |
|------------------|---|
| May 6, 2020      | <a href="#">COVID-19: Continuous Disclosure Obligations and Considerations for SMEs</a>   |
| March 4, 2020    | <a href="#">Regulatory Administration: Common Filing Errors, Insider Reporting and the Process for Fee Waivers for Late Insider Reports</a> |
| February 5, 2020 | <a href="#">Hot Topics in Continuous Disclosure and Prospectus Filings: What SME issuers need to know</a>                                   |

Finally, staff of the Branch give presentations from time to time at industry conferences, professional advisory firms’ offices and provide staff views and commentary through various media forums.

## APPENDIX A – Key Staff Notices

| Topic                          | Reference  |
|--------------------------------|--|
| COVID-19                       | <ul style="list-style-type: none"> <li>• <a href="#"><u>CSA Staff Notice 51-360 (Updated) – Frequently Asked Questions Regarding Filing Extension Relief Granted by Way of a Blanket Order in Response to COVID-19</u></a></li> <li>• <a href="#"><u>CSA Multilateral Staff Notice 51-361 – Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2020 and March 31, 2019</u></a></li> </ul>  |
| Prospectus Practice Directives | <ul style="list-style-type: none"> <li>• <a href="#"><u>OSC Staff Notice 41-702 – Prospectus Practice Directive #1 – Personal Information Forms and Other Procedural Matters Regarding Preliminary Prospectus Filings</u></a></li> <li>• <a href="#"><u>OSC Staff Notice 41-703 – Corporate Finance Prospectus Practice Directive #2 – Exemption from Certain Prospectus Requirements to be Evidenced by a Receipt</u></a></li> </ul>  |
| Pre-Filing Reviews             | <ul style="list-style-type: none"> <li>• <a href="#"><u>CSA Staff Notice 43-310 – Confidential Pre-File Review of Prospectuses (for non-investment fund issuers)</u></a></li> <li>• <a href="#"><u>OSC Staff Notice 43-706 – Pre-filing Review of Mining Technical Disclosure</u></a></li> </ul>   |
| Disclosure Obligations         | <ul style="list-style-type: none"> <li>• <a href="#"><u>OSC Staff Notice 51-711 (Revised) – Refilings and Corrections of Errors</u></a></li> <li>• <a href="#"><u>OSC Staff Notice 51-723 – Report on Staff’s Review of Related Party Transaction Disclosure and Guidance on Best Practices</u></a></li> <li>• <a href="#"><u>CSA Multilateral Staff Notice 51-361 – Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2020 and March 31, 2019</u></a></li> </ul>                 |
| Forward-Looking Information    | <ul style="list-style-type: none"> <li>• <a href="#"><u>OSC Staff Notice 51-721 – Forward-Looking Information Disclosure</u></a></li> <li>• <a href="#"><u>CSA Staff Notice 51-356 – Problematic promotional activities by issuers</u></a></li> </ul>  |
| Non-GAAP Financial Measures    | <ul style="list-style-type: none"> <li>• <a href="#"><u>CSA Staff Notice 52-306 (Revised) – Non-GAAP Financial Measures</u></a></li> <li>• <a href="#"><u>CSA Staff Notice 52-329 – Distribution Disclosures and Non-GAAP Financial Measures in the Real Estate Industry</u></a></li> <li>• <a href="#"><u>OSC Staff Notice 52-722 – Report on Staff’s Review of Non-GAAP Financial Measures and Additional GAAP Measures</u></a></li> </ul>   |
| Industries                     | <ul style="list-style-type: none"> <li>• <a href="#"><u>CSA Staff Notice 43-307 – Mining Technical Reports – Preliminary Economic Assessments</u></a></li> <li>• <a href="#"><u>CSA Staff Notice 43-309 – Review of Website Investor Presentations by Mining Issuers</u></a></li> <li>• <a href="#"><u>CSA Staff Notice 43-311 – Review of Mineral Resource Estimates in Technical Reports</u></a></li> <li>• <a href="#"><u>CSA Staff Notice 51-327 – Revised Guidance on Oil and Gas Disclosure</u></a></li> </ul> |

|  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>• <a href="#"><u>CSA Staff Notice 51-342 – Staff Review of Issuers Entering Into Medical Marijuana Business Opportunities</u></a></li> <li>• <a href="#"><u>CSA Multilateral Staff Notice 51-349 – Report on the Review of Investment Entities and Guide for Disclosure Improvements</u></a></li> <li>• <a href="#"><u>CSA Staff Notice 51-352 (Revised) – Issuers with U.S. Marijuana-Related Activities</u></a></li> <li>• <a href="#"><u>CSA Staff Notice 51-357 – Staff Review of Reporting Issuers in the Cannabis Industry</u></a></li> <li>• <a href="#"><u>OSC Staff Notice 51-720 – Issuer Guide for Companies Operating in Emerging Markets</u></a></li> <li>• <a href="#"><u>OSC Staff Notice 51-722 – Report on a Review of Mining Issuers’ Management’s Discussion and Analysis and Guidance</u></a></li> <li>• <a href="#"><u>OSC Staff Notice 51-724 – Report on Staff’s Review of REIT Distributions Disclosure</u></a></li> </ul> |
| Insider Reporting and SEDI             | <ul style="list-style-type: none"> <li>• <a href="#"><u>OSC Staff Notice 51-726 – Report on Staff’s Review of Insider Reporting and User Guides for Insiders and Issuers</u></a></li> <li>• <a href="#"><u>CSA Staff Notice 55-316 – Questions and Answers on Insider Reporting and the System for Electronic Disclosure by Insiders (SEDI)</u></a></li> </ul>  |
| Use of the Internet and Cyber Security | <ul style="list-style-type: none"> <li>• <a href="#"><u>CSA Multilateral Staff Notice 51-347 – Disclosure of cyber security risks and incidents</u></a></li> <li>• <a href="#"><u>CSA Staff Notice 51-348 – Staff’s Review of Social Media Used by Reporting Issuers</u></a></li> </ul>   |
| Corporate Governance                   | <ul style="list-style-type: none"> <li>• <a href="#"><u>CSA Multilateral Staff Notice 58-310 Report on Fourth Staff review of Disclosure regarding Women on Boards and in Executive Officer Positions</u></a></li> <li>• <a href="#"><u>CSA Multilateral Staff Notice 58-311 Report on Fifth Staff Review of Disclosure regarding Women on Boards and in Executive Officer Positions</u></a></li> <li>• <a href="#"><u>CSA Multilateral Staff Notice 51-359 Corporate Governance Related Disclosure Expectations for Reporting Issuers in the Cannabis Industry</u></a></li> </ul>  |
| Climate Change                         | <ul style="list-style-type: none"> <li>• <a href="#"><u>CSA Staff Notice 51-354 – Report on Climate change-related Disclosure Project</u></a></li> <li>• <a href="#"><u>CSA Staff Notice 51-358 – Reporting of Climate Change-related Risks</u></a></li> </ul>  |



## APPENDIX B – Staff Contact Information

| Topic   | Staff Contact   |  |
|---|---|--|
| Administrative Matters including insider reporting and cease trade orders | Eden Williams<br>Manager, Regulatory Administration<br><a href="mailto:ewilliams@osc.gov.on.ca">ewilliams@osc.gov.on.ca</a><br>(416) 593-8338 |  |
| Continuous Disclosure Reviews   | Marie-France Bourret<br>Manager<br><a href="mailto:mbourret@osc.gov.on.ca">mbourret@osc.gov.on.ca</a><br>(416) 593-8083                       | Lina Creta<br>Manager<br><a href="mailto:lcreta@osc.gov.on.ca">lcreta@osc.gov.on.ca</a><br>(416) 204-8963            |
| Designated Rating Organizations and Financial Benchmarks                  | Michael Bennett<br>Senior Legal Counsel<br><a href="mailto:mbennett@osc.gov.on.ca">mbennett@osc.gov.on.ca</a><br>(416) 593-8079               |  |
| Exchange Oversight  | Michael Balter<br>Manager<br><a href="mailto:mbalter@osc.gov.on.ca">mbalter@osc.gov.on.ca</a><br>(416) 593-3739                               |  |
| Exempt Market   | Winnie Sanjoto<br>Manager<br><a href="mailto:wsanjoto@osc.gov.on.ca">wsanjoto@osc.gov.on.ca</a><br>(416) 593-8119                             | Jo-Anne Matear<br>Manager<br><a href="mailto:jmatear@osc.gov.on.ca">jmatear@osc.gov.on.ca</a><br>(416) 593-2323      |
| Mining Technical Disclosure   | Craig Waldie<br>Senior Geologist<br><a href="mailto:cwaldie@osc.gov.on.ca">cwaldie@osc.gov.on.ca</a><br>(416) 593-8308                        | James Whyte<br>Senior Geologist<br><a href="mailto:jwhyte@osc.gov.on.ca">jwhyte@osc.gov.on.ca</a><br>(416) 593-2168  |
| Preliminary Prospectus Receipts   | Evelina Barsukov<br>Review Officer<br><a href="mailto:ebarsukov@osc.gov.on.ca">ebarsukov@osc.gov.on.ca</a><br>(416) 593-3694                  | Lorraine Greer<br>Review Officer<br><a href="mailto:lgreer@osc.gov.on.ca">lgreer@osc.gov.on.ca</a><br>(416) 593-2322 |



The OSC Inquiries & Contact Centre operates from 8:30 a.m. to 5:00 p.m. Eastern Time, Monday to Friday, and can be reached on the Contact Us page on the OSC website at:

[osc.gov.on.ca](http://osc.gov.on.ca)

## Contacts

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