

# Chapter 1

## Notices / News Releases

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### 1.1 Notices

#### 1.1.1 OSC Notice 11-781 Notice of Statement of Priorities for Financial Year to End March 31, 2019

##### OSC NOTICE 11-781 NOTICE OF STATEMENT OF PRIORITIES FOR FINANCIAL YEAR TO END MARCH 31, 2019

The *Securities Act* (Act) requires the Ontario Securities Commission (OSC or Commission) to deliver to the Minister of Finance by June 30th of each year a statement from the Commission setting out its priorities for its current fiscal year in connection with the administration of the Act, the regulations and rules, together with a summary of the reasons for the adoption of the priorities.

In the Notice published by the Commission on March 29, 2018, the Commission set out its draft 2018-2019 Statement of Priorities (SoP) and invited public input in advance of finalizing and publishing its priorities. Twenty-one responses were received.

On balance, the feedback was broadly supportive of the overall direction of the OSC goals and proposed priorities. Commenters provided a range of unique insights that will be useful to consider in future policy development. In addition to feedback on the identified priorities, commenters highlighted a range of noteworthy items and issues including:

- the importance of the efforts and achievements of the OSC Investor Office in expanding investor engagement, policy, research, education and outreach and, in particular, the potential contribution of the Seniors Strategy to protecting older investors
- growing investor interest in climate-change, along with environmental, social and governance (ESG) factors and the need for enhanced ESG disclosure by companies
- the ongoing importance of post-implementation review of policies and rules to confirm they are achieving their desired outcomes
- the importance of regulatory harmonization both internationally and across the CSA

A high level summary of key comment areas and the OSC's responses are set out below:

1. *Our proposed priority to "Publish Regulatory Reforms that address the Best Interests of the Client" remains a significant area of focus for commenters. Commenters also highlighted the need for action on related issues such as proficiency and titles for advisors.*

The OSC remains strongly committed to investor protection and is continuing to expand its efforts to strengthen investor protection through various investor-focused initiatives. The OSC, together with all other Canadian Securities Administrators (CSA) securities regulators, will publish proposed amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (Client Focused Reforms) in June 2018. These reforms respond to concerns regarding the client-registrant relationship as it stands today. The Client Focused Reforms demonstrate a commitment to make changes to the fundamental obligations that registrants owe their clients. The proposed reforms, once implemented will require registered firms and individuals to:

- address conflicts of interest in the best interest of the client,
- put the client's interest first when making a suitability determination, and
- do more to clarify for clients what they should expect from their registrants.

The OSC, working with the CSA and the Self-Regulatory Organizations, has developed a harmonized approach to address the key specific concerns we had identified in these areas, and ensures the interests of the client will be paramount in the client-registrant relationship. The Client Focused Reforms include proposed reforms regarding the use of titles and designations by registrants. With the CSA, the OSC will develop recommendations to advance the other reforms that were identified in CSA Consultation Paper 33-404, including the next phase of titles and designations reforms and proficiency.

2. *Embedded commissions and compensation arrangements in mutual funds received a significant number of responses. Commenters were mixed on the issue. On balance investor advocates supported measures to discontinue embedded commissions and other forms of compensation. Other commenters suggested potential negative outcomes, such as reduced access to advice for smaller investors, that could arise if embedded compensation arrangements are no longer allowed.*

The current embedded fee model is not well understood by investors. The OSC shares the concerns raised by some commenters that embedded fees can raise conflicts that could incent advisors to recommend funds that benefit the advisor ahead of the investor. The OSC remains committed to achieving a resolution to the use of embedded commissions and compensation arrangements that will better align the interests of registrants with those of investors, and provide greater clarity on the services provided to investors along with their associated costs. Our policy response will reflect our consideration of the comments received during the various consultations undertaken last year including the issues raised related to the risk of potential adverse consequences to both fund industry participants and investors.

3. *There was strong support for the OSC's Seniors Strategy and the initiatives outlined in it, and the continued focus on issues of older investors.*

Seniors are an extremely important and growing segment of investors whose needs and issues demand attention. The recently-published OSC Seniors Strategy contains a comprehensive action plan of new policy, operational, research, educational and outreach initiatives the OSC is pursuing in relation to older individuals and our plans to continue building on existing initiatives. A key focus over the coming year will be the beginning of the implementation of the various initiatives outlined in the strategy, including the development of a regulatory framework to address issues of financial exploitation and cognitive decline that includes a safe harbour for registered firms and their representatives.

4. *There was strong support for continued focus on the Women on Boards and Executive positions initiative and diversity issues.*

In recognition of this support and the growing profile of these issues we have added a new priority that sets out our planned actions to address this issue.

5. *Cyber threats and the potential for related disruptions and the need to strengthen market resilience were identified by a number of commenters. Specifically, some commenters suggested that more specific guidance would be useful to allow them to better understand what they need to do to meet compliance expectations in this area.*

The OSC will continue to work with market participants to provide guidance. We will also finalize a protocol for managing significant cyber disruptions.

6. *A number of commenters supported introducing additional regulation, such as required disclosure of environmental, social and governance (ESG) factors that measure the sustainability and ethical impact of an investment in a company.*

Companies already have an obligation to disclose material environmental and governance issues. We acknowledge the growing level of interest and importance of disclosures in these areas. In April 2018 the OSC and the Canadian Securities Administrators published CSA Staff Notice 51-354 *Report on Climate change-related Disclosure Project* to report the findings of the project to review the disclosure by reporting issuers of risks and financial impacts associated with climate change. The OSC will continue to monitor the appropriateness of disclosure being provided to assess whether additional or new forms of disclosure are required.

7. *A number of commenters recommended adding shareholder democracy issues such as "say on pay", and proxy voting as a priority.*

The OSC introduced regulatory measures (e.g. majority voting) to address shareholder rights. The OSC has not taken further action on say on pay and will continue to monitor shareholder democracy activities and issues to determine whether there is a need for further actions.

8. *There was strong support for our priority to strengthen the powers and support for the Ombudsman for Banking Services and Investments (OBSI).*

As noted in the SoP, the OSC continues to believe that investors should have access to an effective and fair dispute resolution system as a central component of the investor protection framework. We continue to work with our CSA colleagues in considering options for strengthening OBSI's abilities to secure redress for investors, including considering developing recommendations for implementing binding authority.

9. *The proposed priority on reducing regulatory burden received strong support.*

The OSC continues to believe that our markets are better able to compete, innovate and flourish with appropriate regulation that is proportionate to the regulatory objectives sought. The OSC remains committed to re-examining its rules and processes to ensure they are appropriate, necessary and relevant.

The OSC remains committed to policy development that balances the desire to be timely with the need to achieve harmonized outcomes that best meet the needs of Ontario investors and market participants. The OSC's core regulatory work will always be its primary area of focus. The SoP sets out the highest priority areas, what will be delivered during the year under those priorities and performance measures.

As noted above, the OSC has revised the 2018-2019 SoP to include a specific priority related to Women on Boards and Executive Officer positions. We have also updated our priorities to reflect the approach we will take on client-focused reforms. The other important initiatives and issues identified for inclusion by various commenters will be provided to staff for consideration and most of these are already addressed within the OSC branch business plans or will be considered for future work.

All of the comment letters are available on the OSC website [www.osc.gov.on.ca](http://www.osc.gov.on.ca). The SoP will serve as the guide for the Commission's operations. Following delivery of the SoP to the Minister, 2017-2018 OSC Statement of Priorities – Report Card will be published on the OSC website which highlights the progress against the previous year's priorities.

***[Editor's note: The Statement of Priorities for Financial Year to End March 31, 2019 follows on separately numbered pages. Bulletin pagination resumes at the end of the Statement.]***

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OSC

2018 – 2019

# Statement of Priorities

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# Our 2018 – 2019 Priorities

*Our 2018-2019 Statement of Priorities (SoP) sets out the priority areas on which the Ontario Securities Commission (OSC) intends to focus its resources and actions in 2018-2019. Each of the priorities set out in the pages that follow are aligned under one of the five OSC regulatory goals. Thirteen priorities from our 2017-2018 SoP are being carried forward with the next phase of work. The 2018-2019 SoP includes two new priorities: 1) review the effectiveness of the disclosure requirements regarding women on boards and in executive officer positions and 2) developing a strategic OSC workforce approach. Significant issues identified in our 2017-2018 SoP, including the ability of the Ombudsman for Banking Services and Investments (OBSI) to secure redress for investors, although not set out as specific priorities, will remain a prominent focus of the OSC'S work in the coming year. Additionally, our significant work in the international regulatory environment will continue as a key means to gain insights into emerging issues and standards that can be integrated into our policy development and oversight activities.*

## **Deliver strong investor protection**

**The OSC will champion investor protection, especially for retail investors**

- Publish regulatory reforms that address the best interests of the client – (Client Focused Reforms)
- Publish regulatory actions needed to address embedded commissions
- Advance retail investor protection, engagement and education through the OSC's Investor Office

## **Deliver effective compliance, supervision and enforcement**

**The OSC will deliver effective compliance oversight and pursue fair, vigorous and timely enforcement**

- Protect investors and foster confidence in our markets by upholding strong standards of compliance with our regulatory framework
- Increase deterrent impact of OSC enforcement actions and sanctions by actively pursuing timely and consequential enforcement cases involving serious securities laws violations

## **Deliver responsive regulation**

**The OSC will identify important issues and deal with them in a timely way**

- Work with fintech businesses to support innovation and capital formation through regulatory compliance
- Implement additional investor protection measures for syndicated mortgage investments
- Address opportunities to reduce regulatory burden while maintaining appropriate investor protections
- Review the effectiveness of the disclosure requirements regarding women on boards and in executive officer positions (WOB) to determine if there is a need for further action
- Actively monitor and assess impacts of recently implemented regulatory initiatives

## **Promote financial stability through effective oversight**

**The OSC will identify, address and mitigate systemic risk and promote stability**

- Enhance OSC systemic risk oversight
- Promote cybersecurity resilience through greater collaboration with market participants and other regulators on risk preparedness and responsiveness

## **Be an innovative, accountable and efficient organization**

**The OSC will be an innovative, efficient and accountable organization through excellence in the execution of its operations**

- Develop a strategic OSC workforce approach focused on skill recruitment and development
- Enhance OSC business capabilities
- Work with Capital Markets Regulatory Authority (CMRA) partners on the transition of the OSC to the proposed CMRA

## Introduction

*We are pleased to present the Chair's Statement of Priorities for the Commission for the year commencing April 1, 2018. The Securities Act (Ontario) requires the OSC to publish the Statement of Priorities in its Bulletin and to deliver it to the Minister by June 30 of each year. This Statement of Priorities also supports the OSC's commitment to be both effective and accountable in delivering its regulatory services.*

*This Statement of Priorities sets out the OSC's strategic goals and the specific initiatives that the OSC will pursue in support of each of these goals in 2018-2019. The Statement of Priorities also describes the environmental factors that the OSC has considered in setting these goals. The OSC will continue to drive forward with several priority areas that are focused on strengthening investor protection, delivering effective and impactful compliance and enforcement, being responsive to market evolution, contributing to financial stability and, while doing all these things, being a modern, accountable and efficient regulator.*

*It is important to note that the majority of OSC resources are focused on delivering the core regulatory work (authorizations, reviews, compliance and enforcement and the systems and infrastructure to support that work) undertaken by the OSC to maintain high standards of regulation in Ontario's capital markets.*

### OSC VISION

To be an effective and responsive securities regulator -- fostering a culture of integrity and compliance and instilling investor confidence in the capital markets.

### 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.

### OSC GOALS

Confidence in fair and efficient markets is a prerequisite for economic growth. The OSC regulates the largest capital market in Canada and our actions have impacts for Ontario and the rest of Canada. The OSC is committed to promoting safe, fair and efficient markets in Ontario and has identified a broad range of initiatives to improve the existing regulatory framework. We must anticipate problems in the market and act decisively to promote public confidence in our capital markets, protect investors, and support market integrity. We will continue to proactively identify emerging issues, trends, and risks in our capital markets.

Investor protection is always a top priority for the OSC. The OSC engages with investor advocacy groups and the Investor Advisory Panel for insight to help the OSC better understand investor needs and interests. The OSC continues to move the regulatory agenda forward, improving the way we approach our work and engage with industry participants and other regulators to understand the issues and their concerns. Our recent LaunchPad initiative is an example of developing a collaborative approach to respond to emerging issues. These actions are essential to reach solutions that balance the inclusion of innovation and competition in the marketplace while maintaining appropriate investor safeguards.

The OSC works as part of the Canadian Securities Administrators (CSA) to harmonize rules and their application across the country. The OSC is working with the Ontario government and the OSC's counterparts in other participating jurisdictions to develop a harmonized regulatory approach and seamless transition to the proposed CMRA.

### OUR ENVIRONMENT

The environment influences the OSC's policy agenda, its operations and the way it uses its resources. Public confidence in our markets can be affected by many factors, including the stability of the financial

system, the economic health of the country and regulatory change.

## Our Economy

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Solid economic growth was positive for stock valuations at the end of 2017. Overall market activity was strong:

- Canadian exchange-traded funds (ETFs) continued their strong growth, with total assets under management rising by \$33.6 billion, a 29.5% increase compared to December 2016. ETFs continue to be a growing segment of the Canadian investment product landscape. At the end of December 2017, ETF assets under management were 10% of those in mutual funds
- Equity capital raised through corporate IPOs during 2017 increased 567% to \$4.9 billion (\$739 million– 2016)
- Trading volume in the last quarter of 2017 was 14% higher than the comparable quarter of 2016 and 45% higher than the previous quarter. A primary contributor to this increase was the growth in the cannabis sector where trading volumes have been so high that some online brokerages reported system outages at the end of 2017

Though Canada is still experiencing strong economic growth and job creation, various challenges are on the horizon, including concerns about the NAFTA negotiations, elevated household indebtedness and escalating housing costs. These items could materially affect our capital markets, industry participants and investors.

## Modernizing Financial Services in Ontario

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The Government of Ontario is moving forward with initiatives to modernize the financial services regulatory framework. These policy priorities and changes in regulatory authority will impact the OSC and its operations including:

- The creation of a Regulatory Super Sandbox and the Ontario FinTech Accelerator Office
- Changes to the regulatory oversight of syndicated mortgage investments by the Financial Services Commission of Ontario (FSCO) and the OSC
- Implementation of a regulatory framework for financial planners

- Working with the Financial Services Regulatory Authority of Ontario (FSRA) on the regulatory framework including infrastructure, fee models and fintech
- Working with CMRA partners on the transition of the OSC to the proposed CMRA

## Demographics

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Demographics are critical to understanding investor needs and are a key driver of most investor-focused issues. Different investor segments (e.g. seniors versus millennials) have unique characteristics and present different challenges in terms of investment objectives and horizons. Their preferences can vary in terms of service channels (online versus in person) and products (ETFs versus mutual funds). The focus being placed by all investors on issues such as the cost of advice, fee structures and conflicts of interest, is increasing and creating pressure for regulators to develop a framework that continues to meet the expectations and interests of investors. Evolving market channels, such as automated financial advice, are redefining the delivery of client wealth management services and the fees charged for advice. Concurrently, firms are under growing pressure to align their cultures and conduct with investor needs and interests.

## Financial Innovation

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Complexity driven by financial innovation offers many potential benefits and risks to the market. Fintech (technology facilitated financial services) is leveraging new technology and creating new business models in the financial services industry such as providing new product offerings (blockchain-based cryptocurrencies) and disrupting service channels (online advisors). This innovation is driving more complexity in financial markets and products and creating a risk that consumers may not understand what they are buying. Initial offerings of digital currency and similar instruments can raise fundamental issues about the scope of securities regulation, at the same time that they present significant investor protection issues.

A well-functioning investor/advisor relationship remains critical to the economic well-being of Ontarians and ultimately to achieving healthy capital markets. To achieve this outcome the culture and conduct of financial firms and advisors need to be

aligned with meeting investor needs, including fostering investor trust and confidence.

Within this environment the OSC will strive to balance promoting market efficiency and achieving fair outcomes for all investors.

### **Investor Education**

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The OSC is actively involved in providing investor education tools and resources to help investors achieve improved financial outcomes. The OSC will seek new and innovative ways to deliver investor education and support retail investors in today's complex investing environment. We engage with investors, industry participants and other regulators to understand the issues and concerns they face.

### **Investor Redress**

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Investors will always be at risk for potential losses from improper or fraudulent interactions. A number of jurisdictions are looking at ways to improve investor access to redress in these types of situations. Avenues to obtain investor redress, including an effective and fair dispute resolution system, are increasingly being included as part of investor protection frameworks. Effective investor redress is a necessary complement to reforms to the advisor/client relationship. To achieve better results for investors, the OSC will continue its support for OBSI to be better empowered to secure redress for investors.

### **Globalization**

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The markets, products, and participants that the OSC regulates and oversees continue to grow in size and complexity and globalization of financial markets, products and services adds another layer to these challenges. The breadth and interconnection of markets and mobility of capital raises challenges to regulatory supervision, magnifies the value of cooperation between regulators and increases the benefit of achieving consistent standards and requirements across jurisdictions.

### **Cybersecurity Resilience**

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Cyber-attacks that have the potential to disrupt our markets and market participants are likely to occur. Growing dependence on digital connectivity is raising the potential for digital disruption in our financial

services and markets and creating a strong imperative to raise awareness about cyber-attacks and strengthen cybersecurity resilience. This is a growing challenge as more businesses, services and transactions span national and international borders.

### **Regulatory Harmonization**

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The OSC works as part of the Canadian Securities Administrators (CSA) to harmonize rules and their application across the country to facilitate business needs. Through these efforts, the OSC strives to achieve effective cross-jurisdiction enforcement and gain timely insight, understanding and input into emerging regulatory issues to achieve better regulatory outcomes.

The OSC also continues to play an active role in international organizations such as the International Organization of Securities Commissions (IOSCO) to influence and promote changes to international securities regulation and share new ideas and learnings that will benefit Ontario markets and participants.

The OSC works with many domestic and international regulators to monitor financial stability risks and trends, improve market resilience, and reduce the potential risk of global systemic events. The OSC together with the CSA is continuing to build a domestic OTC derivatives framework and to implement the compliance and surveillance tools required. As part of their review of market stability issues, financial system regulators are examining the need for companies to disclose exposure to economic, environmental and social sustainability risks, including climate change. The Financial Stability Board (FSB) has established a Task Force on Climate-related Financial Disclosures to develop a set of recommendations for consistent, comparable, reliable, clear and efficient climate-related disclosures by companies. The OSC will continue to monitor these developments to determine the need for a regulatory response.

### **Workforce Strategy**

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The OSC needs to be a proactive and agile securities regulator. To meet evolving needs, the OSC will strengthen its capabilities through its people. While attracting, motivating and retaining top talent in a competitive market environment continues to be challenging, the OSC is building its capabilities and

skills by recruiting staff across a range of disciplines, and by developing the skills and experience of our internal talent.

### **Data Management**

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The OSC is adding new tools and processes to support staff in delivering their responsibilities. A key element will be addressing challenges in managing growing volumes of data. The OSC is investing in information technology and infrastructure to support an integrated data management program that will improve access to information to identify trends and risks and support analysis and decision-making.

### **Regulatory Burden**

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Securities regulators must balance pressures to respond to market issues while avoiding over-regulation. Regulatory costs should be proportionate to the regulatory objectives sought. Regulatory burden is a key focus for market participants, who need more resources in order to comply with new regulatory requirements. The OSC is committed to re-examining our rules and processes to ensure they are appropriate, necessary and will identify opportunities to reduce undue burdens and to streamline regulation. Our objective is to reduce regulatory burden wherever possible, as long as appropriate safeguards for investors are in place.

## Deliver strong investor protection

*The OSC will champion investor protection, especially for retail investors*

The OSC remains strongly committed to investor protection and is continuing to expand its efforts to strengthen investor protection through various investor-focused initiatives. Investors need to be confident in the fairness of the market, have trust and confidence in their advisors and understand the products in which they invest. Investing continues to be a critical element to finance lifestyle and retirement goals. There are wide gaps in the levels of experience and financial literacy among investors which require different approaches to support and guidance. The OSC continues to expand and modernize efforts in investor engagement, research, education and outreach, to help investors build their knowledge, understanding and confidence in planning for their investment goals and retirement finances.

The OSC will continue to seek input from all stakeholders, as well as OSC advisory committees such as the Investor Advisory Panel (IAP) and the Seniors Expert Advisory Committee (SEAC) that, in combination with available research, informs our understanding of investor issues. The OSC will use this information in developing tailored solutions to reach the broad range of investor groups, including seniors, millennials and new Canadians. The initiatives set out below will advance achievement of the OSC's investor protection mandate.

### OUR PRIORITIES

#### **Publish regulatory reforms that promote the best interests of the client and put the client's interest first – (Client Focused Reforms)**

Access to affordable, high quality and unbiased investment advice will always be a core investor expectation. Investor trust and confidence in the financial system is critical and can only be attained when registrants work in the interests of their clients. The OSC, together with the CSA, has identified and responded to concerns relating to the client-registrant relationship as it stands today.

The OSC will undertake the following initiatives to make fundamental changes that focus on promoting the best interests of clients, put the client's interest first and clarify for clients what they should expect from their registrants. The Client Focused Reforms will include introducing regulatory provisions that infuse best interest principles in the fundamental obligations registrants owe their clients.

The actions will include:

- Publish proposed amendments to regulatory requirements under National Instrument 31-103 – Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103) (Client Focused Reforms) (including conflicts of interest, know your client, know your product, suitability, relationship disclosure and titles and designations)
- Develop plans to advance remaining reforms such as next phase of a titles and designations project and proficiency and provide recommendations to the Commission.
- Provide a regulatory impact analysis of the proposed regulatory provisions

#### **Publish regulatory actions needed to address embedded commissions**

Work with the CSA to finalize recommendations and a regulatory decision on next steps related to embedded commissions.

Actions will include:

- Publish policy recommendations on embedded commissions to mitigate the investor protection and market efficiency issues identified in *Consultation Paper 81-408 -- Consultation on the Option of Discontinuing Embedded Commissions*
- Publish policy provisions to enact the recommendations

- Complete analysis of the potential impacts of proposed policy changes relating to the use of embedded commissions in securities products

### **Advance retail investor protection, engagement and education through the OSC's Investor Office**

Investor protection is at the core of everything the OSC does, and we are committed to improving outcomes for retail investors through policy, research, education and outreach initiatives led by our Investor Office.

As part of its continued efforts to deliver strong investor protection, the OSC recently published its Seniors Strategy, which contains a roadmap of targeted approaches to address the investment issues of older investors. The strategy outlines new initiatives the OSC is pursuing in relation to older individuals and our plans to continue building on existing initiatives. We will implement our Seniors Strategy and provide a report on our progress in one year.

The OSC continues to believe that investors should have access to an effective and fair dispute resolution system as a central component of the investor protection framework. With our OBSI Joint Regulators Committee colleagues, the OSC will continue work to strengthen OBSI and provide a robust oversight framework. The OSC believes that a regulatory roadmap must be developed addressing the recommendations in the independent evaluator's report and, in particular, that OBSI's decisions should be binding on its members.

Research broadens and deepens our understanding of retail investor behaviour. It also allows us to understand and respond to emerging trends in the markets and the ways investors are reacting to them. We will continue to conduct and publish research that provides insights into retail investor knowledge, attitudes and behaviours, in order to design better policies and programs as part of our evidence-based approach.

The OSC will undertake the following actions to advance retail investor protection:

- Implement the OSC Seniors Strategy, including the development of a regulatory framework for addressing financial exploitation and cognitive impairment that includes a safe harbour for firms and their representatives
- Strengthen OBSI and publish a plan to enhance compliance with OBSI's recommendations and a response to the OBSI independent evaluator's other recommendations, while providing a robust oversight framework
- Implement an education and outreach strategy for new Canadians, with a focus on older investors
- Publish timely and responsive retail investor and behavioural research

### **MEASURES OF SUCCESS**

- Regulatory reforms proposed to improve the advisor/client relationship published for comment. Focused consultations on rule proposals completed and comments evaluated. Implementation project plan for further reforms developed
- Increased cost transparency, product access and cost competition.
- Advisors will highlight their value propositions to help investors evaluate the costs for services.
- A regulatory framework to address issues of financial exploitation and cognitive impairment developed together with regulatory colleagues
- An update is published detailing how we are addressing the recommendations in the independent evaluator's report on OBSI and our progress on developing a regulatory roadmap
- Retail investor research informs OSC work and provides insights for investors and market participants.
- Behavioural insights principles integrated into OSC policies and programs

# Deliver effective compliance, supervision and enforcement

*The OSC will deliver effective compliance oversight and pursue fair, vigorous and timely enforcement*

Effective compliance and supervision programs, combined with timely enforcement, are essential to protect investors and foster trust and confidence in our capital markets. The OSC is committed to improving the efficiency and effectiveness of its compliance, supervision and enforcement processes and will protect the interests of investors by taking action against firms and individuals who do not comply with Ontario securities law. These activities help to deter misconduct and non-compliance by registrants and market participants.

## OUR PRIORITIES

### Protect investors and foster confidence in our markets by upholding strong standards of compliance with our regulatory framework

Our compliance work will be targeted through better use of data with reviews focused on higher risk areas. We will proactively identify registrants and issuers whose operations or structures may pose risks to retail investors and take appropriate regulatory action. We will also conduct targeted prospectus and continuous disclosure reviews of issuers, investment funds and structured products as they respond to market developments (e.g. cannabis) and engage in product innovations (e.g. cryptocurrencies). We will publish OSC staff guidance as warranted. In order to achieve the desired deterrent effect, we will need to make our actions highly visible and well understood by market participants and the public. Actions will include:

- Maintain effective oversight of registrants by conducting targeted compliance reviews focused on:
  - new registrants and high risk, problematic (for cause), large/high impact firms identified from the 2018 Risk Assessment Questionnaire (RAQ)

- sales practices of registrants
- emerging risk areas including evolving business models and expansion of the exempt market
- Update and issue the 2018 RAQ

### Increase deterrent impact of OSC enforcement actions and sanctions by actively pursuing timely and consequential enforcement cases involving serious securities laws violations

The OSC is focused on achieving enforcement case results that provide strong regulatory messages and are aligned with OSC strategic priorities. The OSC will build on the successes of enforcement tools such as our Joint Serious Offences Team (JSOT) program to identify serious breaches of Ontario securities law. The OSC is confident that enforcement tools such as no-contest settlements and the OSC Whistleblower program will produce effective and meaningful enforcement outcomes. The OSC is taking actions to aggressively pursue the collection of penalties and fines in order to maximize the intended deterrent impacts of its sanctions. To increase the visibility and deterrent impact of OSC enforcement the OSC will:

- Investigate and prosecute complex quasi-criminal and criminal matters that harm market integrity or erode confidence in Ontario's capital markets
- Focus on cases involving repeat offenders, fraudulent activity and other serious breaches of the Securities Act or violations of the Criminal Code
- Improve the efficiency and reduce the timelines of our enforcement efforts through:
  - streamlined investigative and prosecution processes
  - strategic case selection that is focused on core aspects of our regulatory framework –

- disclosure, governance, conflicts of interest and market integrity
- greater use of technology, including working with the CSA to develop a new market analytics platform for investigations
- by using data analytics tools and the expertise of strategic partners in law enforcement
- Continue to raise awareness of the OSC Whistleblower program including:
  - promoting better understanding of the anti-retaliation protections for whistleblowers
  - developing a more proactive outreach program to reach potential high value whistleblowers
- Improve the process for collection of unpaid monetary sanctions and continue a pilot program to collect unpaid monetary sanctions on a contingency basis

## MEASURES OF SUCCESS

- Compliance is improved by identifying significant areas of non-compliance and ensuring that these issues are resolved by registrants within agreed timelines, or by firms before registration is granted
- 2018 RAQ revised, completed and released on time
- Enhanced profile for the OSC Whistleblower program increases the number of credible tips
- Increased visibility of areas targeted for priority enforcement actions
- Enhanced market analytics capability generates more timely, accurate and actionable information for improved compliance and enforcement outcomes
- OSC collection presence is improved

## Deliver responsive regulation

*The OSC will identify important issues and deal with them in a timely way*

Market structures and products are evolving and becoming increasingly complex. The OSC must strive to maintain a responsive regulatory framework as it addresses regulatory challenges and developments. A key element in this process is active OSC participation in international regulatory forums. The OSC participates as a member of IOSCO and engages with other key regulatory authorities to develop international regulatory standards. Through these efforts the OSC obtains timely insights and understanding of emerging compliance and regulatory issues and provides input that helps shape regulatory responses that are aligned with and reflect the needs of the Canadian capital markets and its participants.

The OSC is investing to strengthen its data management capabilities to better understand and track the impacts of its regulatory actions and to support its "evidence-based approach" to policy development and regulatory oversight. The OSC will undertake a number of reviews of recently implemented regulatory reforms to assess whether expected results are being achieved and to identify opportunities for further regulatory changes to better achieve its regulatory objectives.

### OUR PRIORITIES

#### Work with fintech businesses to support innovation and capital formation through regulatory compliance

The pace of fintech innovation continues to escalate and is a key disruptive force in the financial services industry. Since October 2016, OSC LaunchPad, has actively engaged with the fintech community to provide support in navigating regulatory requirements. LaunchPad provides a forum to discuss proposed approaches, raise questions and educate fintech businesses about the regulatory requirements for which registration and/or exemptive relief may be needed. As part of the OSC's goal to keep regulation in step with digital

innovation, the OSC created a Fintech Advisory Committee, which advises the OSC LaunchPad team on developments in the fintech space as well as the unique challenges faced by fintech businesses in the securities industry.

The OSC will undertake the following initiatives to support the evolution of fintech businesses in Ontario:

- Support fintech innovation through OSC LaunchPad by:
  - Offering direct support to innovative businesses in navigating the regulatory requirements and potentially providing flexibility in how they meet their obligations including participating in the CSA regulatory sandbox
  - Working with FSRA to develop eligibility criteria and success measures for the Ministry of Finance (MOF) SuperSandbox
  - Fostering the use of cooperation agreements with other regulators to support Ontario firms seeking to expand into other jurisdictions
- Integrate learnings from working with innovative businesses and identify opportunities to modernize regulation for the benefit of similar businesses by:
  - Engaging the fintech community to better understand their needs and help them understand the regulatory requirements that apply to their businesses
  - Liaising with other international regulators that have similar innovation hub initiatives to better understand international trends and developments
  - Working with the OSC Fintech Advisory Committee to further understand the unique challenges raised with novel fintech businesses
- Continue to identify issues and potential regulatory gaps arising from cryptocurrency,

initial coin and similar offerings, and blockchain developments by:

- Conducting ongoing monitoring and reviews of reporting issuers with cryptocurrency and blockchain businesses including those seeking to become reporting issuers through reverse takeovers or initial public offerings and existing reporting issuers that are involved in change of businesses transactions
- Liaising with listing venues and the CSA to identify and discuss industry developments and consider the impact on disclosures
- Enhancing the guidance as to when initial coin and similar offerings involve securities

### **Implement additional investor protection measures for syndicated mortgage investments**

Syndicated mortgage investments are mortgages in which two or more persons participate as lenders in a debt obligation secured by the mortgage. 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 FSCO. In response to these concerns, on April 27, 2016, the Ontario government announced its plan to update regulatory oversight of syndicated mortgage investments. The OSC is working with the Ontario government and FSCO to plan and implement changes to the oversight of syndicated mortgage product offerings.

Actions will include:

- On March 8, 2018, amendments to NI 45-106 Prospectus Exemptions and NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, that substantially harmonize the regulatory approach to syndicated mortgage offerings across CSA jurisdictions and introduce additional investor protections, were published for comment. OSC and CSA staff will consider comments received and work toward finalizing the amendments by March 2019
- Develop a plan for the registration and oversight by the OSC of certain market participants active in offering syndicated mortgages

### **Address opportunities to reduce regulatory burden while maintaining appropriate investor protections**

During the past year the OSC identified and assessed opportunities to reduce undue regulatory burden in terms of time and compliance costs without

compromising investor protection or the efficiency of the capital markets. These efforts also included looking at specific areas of securities legislation that may duplicate other requirements or may not be achieving our regulatory objectives, or where the regulatory burden may be disproportionate to the regulatory objectives that are being achieved.

Together with its CSA partners, the OSC will be taking the following steps to address these opportunities:

- Draft amendments to the rules to implement identified opportunities to reduce investment fund disclosure requirements
- Initiate key policy initiatives to streamline reporting issuer requirements, including potential draft rule amendments (where applicable), related to:
  - the criteria to file a business acquisition report
  - primary business requirements
  - at-the-market offerings
  - identified opportunities to reduce continuous disclosure requirements
  - consideration of a potential alternative prospectus model
- Identify opportunities to use technology and data to reduce regulatory burden (e.g. electronic delivery of documents)

### **Review the effectiveness of the disclosure requirements regarding women on boards and in executive officer positions (WOB) to determine if there is a need for further action**

The disclosure requirements set out in NI 58-101 *Disclosure of Corporate Governance Practices* have been in place for three annual reporting periods. The disclosure requirements are intended to increase transparency for investors and other stakeholders regarding the representation of women on boards and in executive officer positions, 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.

The findings of the recent review of disclosure regarding women on boards and in executive officer positions are set out in CSA Multilateral Staff Notice 58-309 *Staff Review of Women on Boards and in Executive Officer Positions – Compliance with NI 58-101 Disclosure of Corporate Governance Practices*. Of note, 61% of issuers had at least one woman on their

board and the overall percentage of board seats occupied by women was 14%.

In light of this experience, the OSC and its CSA partners are assessing the effectiveness of the disclosure requirements and in particular, are considering whether:

- Changes to the disclosure requirements are warranted and, if so, the nature of those changes
- Strengthening the existing “comply or explain” disclosure model with guidelines regarding corporate governance practices is warranted

To assist the OSC’s work, the OSC will continue to consult with stakeholders. From the OSC’s perspective, any action taken in this area is about promoting effective corporate governance and decision-making as diverse boards are better equipped to understand risks and recognize opportunities. It is important for our corporate governance regime to continue to be relevant, to encourage good governance and to provide investors with the information they need to make investment and voting decisions.

### **Actively monitor and assess impacts of recently implemented regulatory initiatives**

The OSC will review recently implemented regulatory reforms to confirm whether expected results are being achieved. Key areas of focus will include:

#### *The Client Relationship Model (CRM2) and Point of Sale (POS) initiatives*

The OSC will evaluate whether the CRM2 and POS projects achieved their shared objective of enhancing investors’ understanding of the costs and fees associated with investment products through:

- Continued participation in the CSA project measuring the post implementation impact of the CRM2 and POS initiatives

## **MEASURES OF SUCCESS**

- Greater use of creative regulatory approaches (e.g. limited registration and other exemptive relief) provides an environment for innovators to test their products, services and applications
- Ontario is viewed as a fintech innovation hub with a positive and supportive environment for investment
- CSA Regulatory Sandbox supports development of novel business models and facilitates more timely registration and exemptive relief processes for emerging firms
- Cryptocurrency, initial coin and related offerings, and blockchain issues and regulatory gaps are identified and addressed in a timely manner with minimal impacts on investors or disruptions to capital markets
- Enhanced guidance that defines when initial coin and similar offerings involve securities is published
- Time-to-market of novel fintech businesses is reduced while maintaining appropriate investor safeguards
- Capital formation and innovation supported through LaunchPad
- Transition plan for the updated oversight of syndicated mortgage offerings developed
- An update on the key findings of the review of next steps regarding the WoB initiative is published
- Analysis of the CRM2 and POS implementation identifies the impacts on investors and investment industry and confirms whether the policy projects achieved their stated goals. Applicable OSC/CSA policy is informed by the early results of the CRM2 impact analysis project
- Regulatory impact analyses completed for all SoP initiatives and other initiatives with significant stakeholder impact

## Promote financial stability through effective oversight

*The OSC will identify, address and mitigate systemic risk and promote stability*

Global capital markets are highly interconnected by technology and investment flows and this creates potential for global systemic risk. The OSC works with other regulators and market participants to identify and monitor potential financial stability risks and the resilience of financial markets. Through these actions the OSC is more aware and better able to understand points of integration and potential risks and ultimately better positioned to respond to systemic developments as they occur.

### OUR PRIORITIES

The OSC works with many domestic and international regulators to monitor and better understand the key components of systemic risk and how they interact. The OSC works with the Financial Stability Board and plays a strong leadership role within the International Organization of Securities Commissions (IOSCO). OSC staff chair the IOSCO committees focused on Regulation of Secondary Markets and Emerging Risks. Domestically, the OSC is connected to various regulators through the Heads of Agencies, which includes the Bank of Canada, the federal Department of Finance and The Office of the Superintendent of Financial Institutions. These interactions improve the resilience of our markets through shared communication and understanding of emerging topics such as digital innovation and other areas where our regulatory responsibilities intersect.

#### Enhance OSC systemic risk oversight

The OSC will enhance its internal identification and monitoring of trends and risks across various market segments and participants including -- equities, fixed income, OTC derivatives, trading platforms, clearing agencies and derivatives dealers. Identifying emerging risks in a timely manner leads to a better understanding of the key components of systemic risk and how they interact.

Actions will include:

- Continue to implement a framework for analyzing OTC derivatives data for systemic risk oversight and market conduct purposes including the development of analytical tools and the creation of snapshot descriptions of the Canadian OTC derivatives market
- Enhance OTC derivatives regulatory regime by:
  - Implementing rules for the segregation and portability of cleared OTC derivatives
  - Hosting a Business Conduct Rule roundtable
  - Republishing the Derivatives Business Conduct Rule for comment
  - Publishing Derivatives Dealer Registration rule
  - Publishing Margin for Uncleared Derivatives rule
  - Proposing amendments to trade reporting rule with respect to internationally adopted data standards
  - Conducting liquidity analyses on OTC derivative transactions to confirm public dissemination of trade details is appropriate and will not harm markets and market participants
- Propose amendments to clearing rules with respect to clearable products
- Conduct reviews of compliance with OTC Derivatives rules
- Publish a Staff Notice on the Derivatives Trade Reporting Compliance reviews regarding findings and areas for improvement
- Develop OSC/CSA regulatory regime for financial benchmarks and publish for comment a proposed rule to establish a Canadian regulatory regime for financial benchmarks
- Continue to develop the OSC's capabilities to monitor liquidity conditions in the corporate debt market.
- Identify, assess, monitor and address (as required) potential financial stability risks in Ontario's capital markets

- Respond to IOSCO’s recommendations on liquidity management and leverage measurements and reporting including an assessment of the industry’s readiness

**Promote cybersecurity resilience through greater collaboration with market participants and other regulators on risk preparedness and responsiveness**

Financial services providers are increasingly relying on advances in technology and access to data to support innovation and growth. Increased dependence on digital connectivity (e.g., online banking and mobile payment systems), combined with exponential growth and reliance on data and related storage remains a growing source of exposure to cyber risk. Increases in the number and sophistication of cyber-attacks pose a major and growing risk for market participants and regulators. Central elements of our markets, such as algorithmic trading systems, could potentially accelerate the speed and breadth of cybersecurity disruptions. Other more public impacts such as data breaches can include theft of sensitive or personal financial information and investor losses.

As the role of technology in delivering financial products and services grows, and firms adopt newer and evolving technologies, the level of cyber risks increases.

Cyber risk constitutes a growing and significant threat to the integrity, efficiency and soundness of our capital markets. Disruptions or incidents at specific firms may have broader systemic implications. Regulators, market participants, and other stakeholders must work together to enhance cyber security resilience. The OSC will continue to press market participants to maintain and improve their cyber defenses and resilience to respond to cyber-attacks by taking an active and central role in assessing and promoting readiness and supporting

cybersecurity resilience within the industry. To address this priority the OSC will:

- Promote cyber resilience through greater collaboration with market participants and regulators on risk preparedness and responsiveness
- Improve coordination in case of cyberattack or disruption by finalizing a market protocol

**MEASURES OF SUCCESS**

- OTC derivative framework in place and oversight reviews completed
- Exemption requests for segregation and portability rules handled expeditiously and preliminary monitoring completed on the effects of mandatory clearing and segregation and portability rules on the market
- Registration and business conduct rules and related amendments completed on time, requiring responsible market conduct in the OTC derivatives markets
- Improved awareness of potential systemic vulnerabilities that can impact or be impacted by Ontario's capital markets
- New risk controls are identified and implemented as result of internal OSC analysis and/or inter-agency collaboration
- Provide update on proposal for regulation of financial benchmarks
- Market disruption protocol finalized and published
- Evidence of improved cybersecurity awareness and growing cross-industry collaboration on cyber risk

## Be an innovative, accountable and efficient organization

*The OSC will be an innovative, efficient and accountable organization through excellence in the execution of its operations*

Market participants expect the OSC to use its resources efficiently. That is why improving the OSC's efficiency, effectiveness and business capabilities are always top priorities. The OSC is focused on strengthening its current and long-term capabilities through its people. We are undertaking a workforce planning process to be a proactive and agile securities regulator as the industry and environment continues to change. We will build our long-term capabilities by recruiting staff across a range of disciplines, and developing the skills and experience of our internal talent through formal training and experience-based learning.

The OSC will be transforming its regulatory business by increasing emphasis on effective collection, management and use of data. The OSC will be developing capabilities in data management and analytics and introducing new tools and techniques for analysing data. Improved technology and analytical tools will improve the efficiency, quality and timeliness of enforcement, and the OSC's ability to gather and analyze data and other information for compliance. As the OSC transitions to using new technology-based regulatory techniques and tools, there will be growing needs for capabilities focused on analytics and technology skills.

Proactive regulatory solutions, such as the Launchpad initiative, are examples of how regulators can support innovation and capital formation. We will continue to seek similar opportunities to improve our regulatory effectiveness. The OSC will pursue opportunities to provide more digital portals and e-forms and make interaction with us simpler. We are collaborating with our CSA partners to develop modern, more easily configurable systems to replace the current CSA national systems.

### OUR PRIORITIES

#### Develop and Implement a Strategic OSC Workforce Plan

The OSC will continue to develop the skills and experience of its staff to meet current and emerging needs by:

- Sustaining a workplace culture where employees have a sense of purpose and pride in their work, are productive, and enjoy being part of the OSC community
- Increasing efforts to identify, monitor, and manage talent risks to mitigate impact on operations
- Expanding its range of staffing approaches and employment relationships to increase its ability to attract, retain and leverage staff with specialized skills and experience
- Continuing to strengthen and build on succession planning and talent mapping practices to ensure a robust talent pipeline for critical roles across the organization
- Continuing to deliver targeted talent development programs including leadership, coaching and skills-based learning, thereby strengthening organizational performance

#### Enhance OSC business capabilities

The OSC will take the following actions to enhance its business capabilities:

- Develop and implement a comprehensive data strategy that will provide the foundation for increased reliance on enterprise-wide data management and analytics to support risk and evidence-based decision making by:
  - Developing clearly defined, approved and understood data strategies, policies, standards, procedures and metrics

- Improving staff efficiency and ability to generate quality work through: more accessible, cleaner, better organized data;
- enhanced data sharing; reduced time to access appropriate data; earlier identification of emerging risks/trends
- Working across the OSC to develop a community of practice focused on data analytics
- Enhance current e-filings portal to address inefficiencies in the way e-filings are captured and integrated into the financial information system

### **Work with Capital Markets Regulatory Authority (CMRA) partners on the transition of the OSC to the proposed CMRA**

The OSC views the proposed CMRA as an opportunity to enhance investor protection, foster efficient rulemaking and promote globally competitive markets in Canada.

The OSC will:

- Continue to work with participating jurisdictions and the proposed CMRA to develop a harmonized regulatory approach and seamless transition

- Maintain an engaged and effective regulatory presence including a cooperative interface with the CSA

### **MEASURES OF SUCCESS**

- Work structures reflect the evolving approach to policy and file work that draws upon multiple skills and expertise
- Lower turnover of staff with sought-after skill sets
- Demonstrated examples of information sharing and/or cross-branch collaboration result in reduced training costs and enhanced productivity in support of OSC goals
- OSC data governance framework implemented
- Consistent cross-Commission compliance with data policies, standards and procedures
- Business needs supported by improved ability to effectively identify, collect, manage and use data
- Demonstrated examples of greater reliance on data to support priority setting and more evidence-based, policy/operational decision-making
- The OSC is ready and able to transition to the proposed CMRA

## 2018 – 2019 Financial Outlook

### Budgeted Revenues and Surplus

The OSC is forecasting 2018–2019 revenues to be slightly lower (3.9%) than 2017–2018 actual revenues. The revenue forecast is based on fee rates which remained unchanged from 2017–2018 as set out in the OSC’s fee rules (13-502 and 13-503). Participation fees for 2018–2019 are projected to decrease 1.9% due to lower capital market growth assumptions. Activity fees and late fees are also projected to be lower in 2018–2019. Our activity fee revenue forecast is based on historical averages which are lower than 2017–2018 actual results.

The OSC expects an operating deficit in both 2018–2019 and 2019–2020. The operating deficit in 2018–2019 of \$6.9 million is forecasted to reduce the 2017–2018 ending surplus of \$55.8 million to \$48.9 million at the end of March 2019.

### Budgeted Expenditures

Our regulatory framework needs to remain current and responsive to the continuing evolution of market structures and products and be supportive of capital formation in Ontario. The OSC must carefully balance the desire to improve access to capital with the need to retain appropriate investor protections. The 2018–2019 SoP sets out the OSC’s key priorities to meet these challenges. Achievement of these priorities is a key driver of the increases to the 2018–2019 OSC operating and capital budgets as this will require focused investments in the following areas:

- to address emerging regulatory issues such as fintech, crypto-assets, initial coin offerings and capital raising in the cannabis sector
- for collections of monetary sanctions
- to continue the data management and information security programs and technology modernization
- oversight of syndicated mortgages and systemic risk
- facilities rehabilitation to optimize space utilization and accessibility.

Operating expenses are budgeted with an increase of 15.9% from 2017–2018 spending. Salaries and benefits, which comprise \$91.0 million or 72% of the budget, represent an increase of \$6.5 million or 7.7% over the prior year. The key reasons for this increase are approval of new positions to support the investments noted above and the impact of the annualized costs of the positions filled during 2017–2018. Project expenses deferred from 2017–2018 also contributed to the increase.

The increased capital budget reflects resources towards facilities rehabilitation, data management, information security, technology modernization and capital expenditures deferred from 2017–2018.

### Cash Flow Requirements

The OSC’s cash balance (excluding reserve funds) amounted to \$58.9 million at March 31, 2018. The OSC will begin drawing down on its cash position in fiscal 2018–2019 to support these focused multi-year initiatives. These programmes, in addition to our operating costs, are expected to reduce our cash position to \$28 million by March 2020, representing approximately three months of operating expenses.

Based on a review performed during 2017–2018, fee rates will remain unchanged for a two-year period beginning fiscal 2018–2019. Factors considered to arrive at the decision were the existing surplus, projected operating and capital expenditures, and the level of cash resources required to provide an adequate cash safety margin. While revenues are not expected to materially change over the next two years, expenditures are expected to increase each year to support our strategic initiatives, resulting in a reduction in our cash position.

<b>Excess/Deficiency of Revenues over Expenses (in millions)</b>	<b>2017-2018 Actual</b>	<b>2018-2019 Budget</b>	<b>Year Over Year Changes</b>	
Revenues	\$124.8	\$120.0	(\$4.8)	(3.8%)
Expenses	\$109.5	\$126.9	(\$17.4)	(15.9%)
Excess/(Deficit) of Revenues over Expenses	\$15.3	(\$6.9)	(\$22.2)	(145.4%)
Capital Expenditure	\$3.4	\$9.9	(\$6.5)	(191.2%)

\* Brackets in Year over Year Changes denote unfavourable changes