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Securities Regulation Policy

Background:

Prior to September 30th, 2004, each province and territory in Canada had a different securities commission. This system was found to be cumbersome as it forced companies that do business nationally to register up to 13 different times in what essentially was one capital market. In practice, many of those commissions were very small operations that deferred to the large commissions on substantive issues, restricting their activities to the concerns of their immediate constituencies. There were four large commissions: Ontario, Quebec, BC, and Alberta, and nine much smaller commissions.

New Developments:

On September 30th, 2004 the Ministers of Quebec, New Brunswick, Manitoba, British Columbia, Saskatchewan, Alberta and Yukon signed a “Provincial/Territorial Memorandum of Understanding Regarding Securities Regulation” to move forward to adopt the passport system of securities regulation.

The passport system created a single window of access to capital markets in participating provinces by August 2005. Ministers from Nova Scotia, Prince Edward Island, Newfoundland, the Northwest Territories and Nunavut have since agreed to sign the Memorandum of Understanding. Further, the scope of the Agreement has expanded in phases with the most recent being in March, 2008 with the implementation of Multilateral Instrument 11-102 *Passport System*, National Instrument 41-101 *General Prospectus Requirements* and Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids*.

However, the system is not yet quite national in scope. Ontario has to this day not signed the agreement. In fact, Ontario withholds support pending transition to a single regulator.

In practical terms however, the passport model has been confidence-building step towards a complete and expanded fully national version of the system. Previous arguments to the Wise Persons’ Committee that reviewed the issue still hold true: *“Local securities regulators tend to be well attuned to the strengths, weaknesses, needs and resources of their local capital markets and local market participants (issuers, investors and intermediaries). Just as our economy exhibits strong regional characteristics, with certain industrial or economic sectors being particularly prominent in some provinces and territories and much less so in others, so our securities commissions have developed strong and complementary local expertise.”*

“The reformulation and harmonization of policy instruments, a process now well advanced, has considerably diminished differences in the legal framework between jurisdictions.”

In reality, provincial protectionism and a lack of confidence that a single national regulator based in Ontario could address the needs of other jurisdictions have been and will continue to be major barriers to achieving harmonization by way of a single centrally based regulator.

In the language of the current debate over securities regulatory reform, the Passport Model is well positioned as a competing alternative to the national securities regulator. What comes into greater relief are the commonalities of purpose and direction of both positions.

If then, one takes the passport model and a national regulator to be merely differing methods to achieve the same end, it follows that a well developed passport model can become the model for harmonization of Canada's securities regulatory regime into a coordinated national system.

Sound and effective securities regulation is critical to fostering investor confidence and attracting capital. Access must be as cost effective and convenient as possible while providing an exemplary level of investor protection. To date, the passport system appears to be effective in achieving these goals for participating provinces and territories.

The Edmonton Chamber of Commerce therefore recommends that the Government of Alberta continue to work with other provinces and territories, and the Government of Canada:

- To continue with the next phase of the Passport Agreement and build on securities passport improvements that have already been made by participating provinces and territories and continue the move towards national harmonization, by way of a well designed, well monitored, nation wide passport system for securities regulation that includes all provinces and territories.