

OSC Publishes 2018-2019 Statement of Priorities

Robert B. Cohen, John M. Picone, Stephanie Voudouris

July 17, 2018

On July 5, 2018, the Ontario Securities Commission (the OSC) published its 2018-2019 Statement of Priorities, highlighting 15 areas of focus for the fiscal year (beginning April 1, 2018). The Statement of Priorities provides insight into the OSC's current interests and key priorities.

Key Takeaways:

- **Continued emphasis on investor protection.** While prioritizing investor protection generally, the OSC's focus will remain on the protection of senior investors and retail investors.
- **Focus on increasing the visibility and deterrent impact of enforcement actions.** The OSC will continue to rely on its Joint Serious Offences Team, no-contest settlements, and Whistleblower program.
- **Review the effectiveness of disclosure requirements regarding women on boards and in executive positions.** The OSC recently reviewed disclosure regarding women on boards and in C-suite positions and found that while 61% of issuers had at least one woman on their board, the overall percentage of board seats occupied by women was only 14%.

Summary and Background

On March 29, 2018, the OSC published its draft 2018-2019 Statement of Priorities and received twenty-one responses from the public. Overall, commentators supported the direction of the OSC's goals and priorities, focusing on the following areas and initiatives:

- 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; and
- the importance of regulatory harmonization both internationally and across Canada.

The 2018-2019 Statement of Priorities

After receipt of comments, the OSC released its final 2018-2019 Statement of Priorities. Thirteen of those

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priorities are being carried forward from the previous year in addition to two new priorities:

(i) review the effectiveness of the disclosure requirements regarding women on boards and in executive officer positions: the OSC's disclosure policy is set out in NI 58-101 *Disclosure of Corporate Governance Practices* (the Gender Disclosure Policy). The Gender Disclosure Policy came into force on December 31, 2014 and follows a comply or explain model. In October 2017, the Canadian Securities Administration held its third roundtable discussion analyzing data collected from 660 issuers with respect to the number of women on boards and in executive officer positions. The review found that 61% of issuers had at least one woman on their board (up from 55% the previous year) and the overall percentage of board seats occupied by women was 14% (up from 12 percent the previous year). The overall consensus from the roundtable discussion was that the Gender Disclosure Policy was moving the needle, but not nearly enough. As such, OSC intends to conduct a review of disclosure requirements and consider whether changes to those requirements would result in increased numbers of women on boards and in executive positions; and

(ii) developing a strategic OSC workforce approach to ensure that the OSC is a proactive and flexible securities regulator: the OSC recognized the challenge that regulatory burden can impose on participants in the capital markets and committed to re-examining its practices and procedures to reduce undue burdens and streamline regulation while still maintaining investor safeguards. The OSC acknowledged that this requires an investment in its employees focusing on skill recruitment and development to strengthen its response to, and regulation of, the capital markets.

Moreover, the OSC's continued emphasis on investor protection is not surprising. In that regard, the OSC will implement various initiatives set out in its Seniors Strategy which was published earlier this year. The Seniors Strategy sets out a roadmap of targeted approaches to address investment issues faced by older investors. Among several initiatives for retail investors, the OSC will continue to strengthen the Ombudsman for Banking Services and Investments to ensure that investors have access to effective and fair dispute resolution.

Also not surprising is the OSC's attempt to increase the visibility and deterrent impact of enforcement actions, the OSC indicated that it will focus on cases involving repeat offenders, fraudulent activity, and other serious breaches of the Securities Act or the Criminal Code in addition to prosecuting complex quasi-criminal matters. These priorities are intended to increase the visibility of enforcement actions and consequences for breaching securities laws to strengthen the deterrent effect of enforcement proceedings.

The OSC also indicated that it will remain current and responsive to the continuing evolution of market structures and products by focusing its attention on the emerging regulatory issues such as fintech, crypto-assets, initial coin offerings and capital raising in the cannabis sector.

The OSC also released its Report Card on priorities for the fiscal year 2017-2018 which included key accomplishments such as the development of several investor protection-focused initiatives (i.e., work on

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the newly proposed Client Focused Reforms and policy decision on embedded fees), an innovative pilot project to strengthen fine and penalty collection efforts, and the OSC's investments in its own data management systems and platforms.

The Upshot

The OSC's Statement of Priorities reflects an intention to strengthen its efficiency, agility, and responsiveness to the experience and concerns of capital market participants.

We will continue to monitor the progress of these priorities and goals. The 2018-2019 Statement of Priorities can be found [here](#). The 2017-2018 Statement of Priorities Report Card can be found [here](#).

If you have any questions concerning these priorities or interactions with the OSC more generally, please contact Stephanie Voudouris, John M. Picone, Robert B. Cohen, or any other member of the Securities Litigation Team.

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