

Ontario pushes myth that securities regulation is broken

# Passport still valid

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**T**he Council of Ministers of Securities Regulation (representing all provinces and territories, except Ontario) wants the public to know the facts regarding Canada's securities regulatory system.

Canada's securities regulatory system has recently been the subject of intense negative rhetoric from those who advocate creating a single securities regulator. Led by federal Finance Minister Jim Flaherty, critics contend that our current system, with regulatory authority falling to the 13 provinces and territories, is cumbersome, ineffective and costly. After the acquittal of the former vice-chairman of Bre-X, Mr. Flaherty criticized Canada's securities regulators and described securities enforcement as "an embarrassment internationally to Canada." He has also suggested that a single regulator is necessary in order to pursue free trade in securities with the United States and other G7 countries. Unfortunately, most of this criticism is based on myths, not facts.

While critics would have Canadians believe that our securities regulatory system is somehow broken and hopelessly dysfunctional, independent assessments tell a completely different story. Recent evaluations by the Organization for Economic Co-operation and Development and the World Bank Group have consistently ranked Canada's system as one of the best in the world — ahead of those in the United States and the United Kingdom.

Critics also try to convince Canadians that our securities regulatory system is enormously complex and expensive. In fact, as my colleague, Québec Minister of Finance Monique Jérôme-Forget, pointed out in a recent speech, direct regulatory costs and financing costs are typically lower in Canada than in the United States, and the Canadian system is as uniform and harmonized as the American system.

The criticism of enforcement against securities fraud conveniently overlooks the fact that the most serious aspects of such enforcement fall primarily within federal responsibility. Securities commissions cannot lay criminal charges. In an attempt to improve criminal enforcement



against securities fraud, the federal government established the Integrated Market Enforcement Teams (IMETs) in 2003 under the direction of the RCMP. The federal government has acknowledged that the IMETs' results to date suggest room for improvement. If IMETs are not a panacea for criminal enforcement, it is difficult to see how a single regulator would be any better for administrative enforcement.

The suggestion by these same Canadian critics that we need a single regulator in order to pursue free trade in securities with the United States and other G7 nations is mistaken. There is international

*Supporters of a single  
regulator spreading  
misinformation*

consensus that free trade in securities should be based on a mutual recognition system, but Mr. Flaherty fails to acknowledge that we already have exactly such a system operating within Canada — the passport system — which he and Ontario continue to oppose. It is puzzling to see Mr. Flaherty and Ontario supporting free trade internationally, while opposing it within Canada.

The provincial and territorial governments recognize that markets evolve rapidly, and that securities regulatory systems require constant innovation and reform. Since the Provincial-Territorial Memorandum of Understanding

Regarding Securities Regulation was signed in 2004, the Council of Ministers has worked hard to implement practical and meaningful reforms, with considerable success. The Council of Ministers is committed to the passport system, which improves access to Canada's capital markets by enabling participants to deal with only one regulator and one set of rules. Moreover, it recognizes the fact that securities regulation in Canada is matter of provincial jurisdiction.

In our view, the passport system is taking us in the right direction, and not just because it will deliver single-window access to capital markets. More importantly, the process of developing and implementing the passport system has improved our capacity to reform the regulatory system on an ongoing basis. The passport system demonstrates an unprecedented level of co-operation, co-ordination and consensus between governments and regulators engaged in that process — a very positive development that has unfortunately been overshadowed by the misinformation spread in support of a single regulator.

To the disappointment of the 12 provinces and territories comprising the Council of Ministers, both Ontario and the federal government continue to remain outside this process, criticizing our efforts and impeding our progress. This is despite the fact that Ontario industry participants call the passport system a good step toward improving Canada's securities regulatory system and have encouraged Ontario to participate.

The fact is that Canada has vibrant, healthy and safe capital markets with a world-class, well-performing regulatory system. Provincial and territorial ministers are committed to continuous improvement of our regulatory system and the competitiveness of our capital markets. Ontario should fully join us in our efforts. The federal government should respect our jurisdiction and support the passport system. That would send a strong and important signal to Canadians and to the international community about the true state of Canadian securities regulation and Canadian capital markets.

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