

CSA ACVM

Canadian Securities
Administrators

Autorités canadiennes
en valeurs mobilières



INTERIM PROGRESS REPORT 2020

CSA 2019-2022 BUSINESS PLAN AND OTHER POLICY INITIATIVES

INTRODUCTION

The CSA is the umbrella organization of Canada's provincial and territorial securities regulators. Its objective is to improve, coordinate and harmonize regulation of the Canadian capital markets, to ensure the smooth operation of Canada's securities industry and to secure close collaboration in the delivery of regulatory programs and securities law enforcement.

On June 13, 2019, the CSA published its Business Plan for 2019-2022, which outlined the CSA priorities over the next three-year period, reflecting CSA members' commitment toward the continued protection of investors from unfair, improper and fraudulent practices, the ongoing efficient functioning of capital markets, and the reduction of risks to market integrity and maintaining investor confidence in the markets.

Mindful of the challenges faced by market participants during the COVID-19 pandemic, in April 2020 the CSA announced a publication halt for all regulatory work until May 30, 2020. This action was taken so that market participants could free up resources to focus on front-line activities and serve investors' needs. During this time, the CSA continued to pursue its goals under the Business Plan.

Now, the CSA is publishing an interim progress report describing its achievements to date under the current Business Plan. Certain initiatives outlined in the Business Plan remain in exploratory stages and will be undertaken in the upcoming years. The report also outlines upcoming policy initiatives for the next year to give market participants additional time to prepare for upcoming regulatory changes and consultations.

The current report consists of three parts:

- Part 1** provides an interim progress report on the strategic goals and initiatives under the CSA 2019-2022 Business Plan;
- Part 2** includes CSA accomplishments outside of the Business Plan; and
- Part 3** provides an overview of regulatory work the CSA intends to undertake within the next year.



PART 1 – PROGRESS REPORT UNDER THE CSA 2019-2022 BUSINESS PLAN

Enhanced Investor Protection

Strategic goal 1 – Enhance the advisor-client relationship and the registrant conduct rules to improve investor protection

To achieve this strategic goal, the CSA undertook to enhance the advisor-client relationship, promote investment fund fee transparency, reduce fund embedded commissions and related conflicts, develop a regulatory framework to address financial exploitation and cognitive impairment, and strengthen the powers of the Ombudsman for Banking Services and Investments (OBSI).

Client Focused Reforms: The CSA published in final form rule amendments to implement the Client Focused Reforms. These reforms have introduced new obligations on registrants to address material conflicts of interest in the best interest of the client, put clients' interests first when determining the suitability of investments, codify their best practices, particularly with respect to registrants' obligations to "Know your Product" and "Know Your Client", consider specific suitability factors and disclose important information (such as registrant's relationships) to clients. In addition, IIROC and MFDA, two self-regulatory organizations overseeing investment and mutual fund dealers, will amend their respective member rules, policies and guidance to conform to the Client Focused Reforms. The new rules will come into effect over a period of time through December 31, 2021. In the context of the COVID-19 situation, the CSA issued blanket relief orders providing registrants with an additional six months to comply with the conflicts of interest provisions in the Client Focused Reforms and providing for the relationship disclosure provisions of the Client Focused Reforms to take effect on December 31, 2021, at the same time as all other remaining changes. Although this phase of the Client Focused Reforms has been completed, the CSA will continue pursuing other reforms to enhance advisor-client relationships.

Ban on Deferred Sales Charges and Associated Redemption Fees: The CSA jurisdictions other than Ontario published in final form a rule that prohibits mutual and other investment funds from paying upfront sales commissions to dealers, which would lead to the end of deferred sales charges (DSCs). Those commissions give dealers an incentive to sell mutual funds that impose redemption fees on investors if they sell their holdings before a certain period of time and that might not be in the best interest of the client. The new ban will come into effect on June 1, 2022. The Ontario Securities Commission published for comment an alternative proposal that would limit the use of the DSCs.

Fees to "Order Execution Only" Dealers: CSA jurisdictions are preparing for final publication amendments that will eliminate the payment of trailing commissions by investment fund organizations to dealers who only execute orders and do not provide advice, such as discount brokers.

Full Cost Disclosure and Product Performance Reports for Segregated Funds and Investment Funds: The CSA is collaborating with the Canadian Council of Insurance Regulators (CCIR) on a regulatory project to ensure a consistent approach to disclosure to investors of all relevant information related to costs and performance by investment funds and segregated funds.

Financial Exploitation and Cognitive Impairment: The CSA published for comment proposed amendments outlining how registrants can address situations involving diminished mental capacity or the potential financial exploitation of older or vulnerable clients. Under the proposed amendments, registrants would be required to take reasonable steps to obtain the name and contact information of a Trusted Contact Person from their clients, as well as the client's written consent to contact such a person in specified circumstances. Further, the proposed amendments would set out the steps that a registered firm must take if it places a temporary hold on a transaction due to a reasonable belief that an older or vulnerable client is being financially exploited, or that a client lacks mental capacity.

Strengthening OBSI Powers: The CSA has renewed its focus on strengthening the Ombudsman for Banking Services and Investments (OBSI) as an independent dispute resolution service provider.

CSA PRIORITIES	ACHIEVEMENTS
Strategic goal 2 – Deliver programs and expand outreach to increase awareness of CSA investor education initiatives and messaging	
<p>The CSA undertook to enhance relevance and resonance of CSA investor education messaging, expand the visibility of its investor education messages and increase awareness of emerging matters</p>	<p>The CSA continues to provide relevant investor education. In the past months, the CSA has been building awareness of the new challenges and threats related to the COVID-19 crisis and the steps the CSA is taking to address these challenges. The CSA has launched a COVID-19 Information Hub on the main CSA website, which includes information on regulatory relief and guidance, information for investors, news releases specific to the pandemic and other COVID-19 resources. To expand its outreach of the investing and pre-investing public in Canada, the CSA has been using various channels including traditional media, the CSA website and the websites of its members, as well as social media such as Facebook, Twitter and LinkedIn.</p>
Strategic goal 3 – Enhance enforcement and deterrence effectiveness	
<p>To achieve this goal, the CSA is working on a number of initiatives to improve market analytics capacity, strengthen enforcement technology capabilities and strategies, identify and respond to emerging issues and threats and explore new opportunities with federal agencies</p>	<p>Market Analysis Platform (MAP): The CSA is advancing on its project to create an enhanced and scalable IT solution for a financial market analysis platform (MAP), which will (1) collect as much data as necessary in a timely fashion, including market data and targeted broker data, into a CSA-specific central data repository; and (2) provide a rich functionality toolset, including automated re-construction of the order book, to navigate, analyze and visualize the data resulting in meaningful information. The CSA plans to launch the initial implementation of MAP in 2020. It will replace the CSA’s current system (MICA), which is mainly used to assist with investigations of market manipulation and insider trading. Future phases of implementation will expand functionality.</p> <p>Enforcement technology capabilities: The CSA facilitates regular, cooperative information sharing on the use of technology by enforcement staff, for such purposes as electronic evidence management, eDiscovery, advanced analytics, surveillance, and work product management issues. CSA enforcement staff identifies technology trends and monitors developments in the field of computer science (i.e. artificial intelligence and machine learning) with a focus on the development and implementation of detection tools. Over the past year, the CSA enhanced enforcement staff’s knowledge on artificial intelligence, machine learning and dark web investigations.</p> <p>Investment Fraud Task Force (IFTF): This task force identifies and addresses a wide range of emerging threats which currently include frauds and scams related to COVID-19, cryptocurrency, ICOs and Forex fraud. The IFTF strategies for disrupting, deterring and preventing investment fraud and addressing other emerging threats include developing tools and best practices to investigate the ecosystem; educating advertisers; engaging financial facilitators; engaging with law enforcement and other agencies; and fostering and supporting effective investor education. The IFTF continues monitoring the market activity related to digital asset marketplaces and products to identify new frauds and scams, and is preparing an emerging threats report.</p> <p>Cooperation with Federal Agencies: The CSA has been holding discussions with representatives of the RCMP Integrated Market Enforcement Team (IMET), seeking to improve coordination with the RCMP on securities-related white-collar crime matters. The CSA is also pursuing enhanced cooperation with financial institutions.</p>

CSA PRIORITIES	ACHIEVEMENTS
Fair and Efficient Markets	
Strategic goal 4 – Promote financial stability and reduce systemic risk through effective market oversight	
<p>To achieve this goal, the CSA has undertaken to implement the regulatory framework for over-the-counter derivatives and benchmarks and to develop a plan for testing the CSA Market Disruption Coordination Plan</p>	<p>Testing of the Market Disruption Coordination Plan: Cybersecurity and stability of the markets remain key priorities for the CSA. The CSA introduced the CSA Market Disruption Coordination Plan, which includes steps for information sharing and coordination in the event of a large-scale market disruption. CSA staff successfully tested the Plan on September 18, 2019, focusing on the dissemination of information and responses amongst applicable CSA staff. Participants executed the Plan as expected and the coordination and communication within and among the CSA jurisdictions was efficient and effective. The CSA will continue to test and update the Plan periodically.</p> <p>Over-the-Counter (OTC) Derivatives: The CSA continues working on numerous regulatory initiatives aimed at enhancing the supervision of the OTC derivatives markets to mitigate and reduce systemic risk in Canada and ensure that Canada complies with its international commitments. The CSA is currently preparing to publish for comment proposed amendments to National Instrument 94-101 <i>Mandatory Central Counterparty Clearing of Derivatives</i>, proposed National Instrument 93-102 <i>Derivatives: Registration</i> (for a second comment period) and proposed National Instrument 93-101 <i>Derivatives: Business Conduct</i> (for a third comment period).</p> <p>Benchmarks: The CSA has published for comment proposed National Instrument 25-102 <i>Designated Benchmarks and Benchmark Administrators</i>, introducing a Canadian regulatory regime for domestically important financial benchmarks to reflect international developments in benchmark regulation and reduce market impairment risk stemming from benchmark manipulation or other improper practices. The CSA has also been working to introduce a regulatory regime for commodity benchmarks.</p>

CSA PRIORITIES

ACHIEVEMENTS

Strategic goal 5 – Enhance fairness and ensure equal access to capital markets for all participants

The CSA has undertaken a number of initiatives to achieve this goal, including the internalization review, examining the role of exchanges in issuer regulation and the trading fee rebate pilot study.

Internalization Review: Jointly with the Investment Industry Regulatory Organization of Canada (IIROC), the CSA published Consultation Paper 23-406 *Internalization in the Canadian Equity Market* on the impact of such trading practices as internalization (where a trade is executed with the same dealer as both the buyer and the seller), broker preferencing and segmentation of retail orders on market integrity and investor protection. Following a thorough review of stakeholders’ comments and analysis of additional data, the CSA and IIROC will publish a joint staff notice outlining the conclusions and recommendations for next steps.

Examining the Role of Exchanges in Issuer Regulation: The CSA has been reviewing exchange practices for issuers that become public companies through a reverse takeover (RTO) transaction or a direct listing on an exchange. In contrast to initial public offerings (IPO), which are reviewed by the issuer’s Principal Regulator, RTOs and direct listings are generally reviewed by the listing exchange. The CSA is evaluating Canadian venture exchange (TSX-V and CSE) review practices and the quality of disclosure in the documents (e.g. information circular, listing statement, filing statement) used by an issuer in RTOs and direct listings. The CSA will use the results of the review to assess whether issuer disclosures in the RTO context are substantively consistent with securities law requirements, and to evaluate whether the exchange review procedures are sufficiently robust to enable it to identify and remedy significant disclosure deficiencies.

Trading Fee Rebate Pilot Study: The CSA published CSA Staff Notice and Request for Comment 23-323 *Trading Fee Rebate Pilot Study* and CSA Notice 23-325 *Trading Fee Rebate Pilot Study*, outlining the planned pilot study that would analyze the effects of the prohibition of marketplace trading fee rebate payments on market participants. The pilot study would apply temporary pricing restrictions on marketplace trading fee rebates payable for transactions in a sample set of securities, including highly liquid and medium liquidity securities. Proceeding with the pilot study is conditional on a similar study being implemented by the Securities and Exchange Commission in the United States.

Strategic goal 6 – Respond to technology-related emerging regulatory issues

The CSA has undertaken a number of initiatives, such as considering the implications of activist short selling, proposing a regulatory regime for crypto-asset trading platforms, and custodial requirements in relation to crypto-assets

Regulatory Regime for Crypto-Asset Trading Platforms: The CSA developed guidance on the application of securities legislation for entities facilitating online trading of crypto-assets. The guidance describes situations where securities legislation will and will not apply, depending on specific facts and circumstances, including the obligations and intention to provide immediate delivery of the crypto-asset.

The CSA and IIROC continue to review the comments and responses to Joint CSA/IIROC Consultation Paper 21-402 *Proposed Framework for Crypto-Asset Trading Platforms* with the goal of developing guidance on the regulatory framework applicable to crypto-asset trading platforms that are subject to securities legislation. This guidance will also include custodial requirements in relation to crypto-assets.

Activist Short Selling: the CSA has completed the initial phase of research focused on the nature and extent of the potential concerns about activist short sellers targeting Canadian companies and the ability of the existing regulatory framework to address the issue and is preparing consultation on the relevant issues identified through the research.

CSA PRIORITIES	ACHIEVEMENTS
Streamline Regulation	
Strategic goal 7 – Reduce regulatory burden while maintaining necessary investor protections	
<p>To achieve this goal, the CSA undertook ten initiatives aimed at addressing regulatory burden for a broad range of market participants, including public and exempt issuers, investment funds and registrants, to ensure requirements continue to be appropriate, necessary and relevant</p>	<p>To fulfill various undertakings within the scope of this strategic goal, the CSA has published:</p> <ul style="list-style-type: none"> • Final amendments removing regulatory impediments to at-the-market (ATM) offerings, which will come into effect on August 31, 2020; • Final amendments streamlining reporting requirements for marketplaces • Proposed amendments related to the Business Acquisition Report requirements; • Consultation paper on an Access Equals Delivery model, which would enhance electronic delivery of documents for non investment fund reporting issuers; • Proposed National Instrument 45-110 <i>Start-up Crowdfunding Registration and Prospectus Exemptions</i>; and • Proposed rule amendments aimed at reducing regulatory burden for investment funds by implementing eight initiatives that seek to eliminate duplicative requirements, streamline regulatory processes, codify frequently-granted exemptions from certain rules for investment funds, and eliminate the need for certain regulatory approvals. <p>In addition, the CSA is working on a number of initiatives to streamline continuous disclosure requirements, to harmonize the interpretation of “primary business” (which triggers the obligation to file financial statements), to develop an alternative offering system, and to make the registration process under National Instrument 33-109 <i>Registration Information</i> more efficient.</p>
Enhanced Performance through Information Technology and Data Strategy	
Strategic goal 8 – Enhance information technology capacity and understanding of technological emerging trends	
<p>The CSA is pursuing initiatives to replace its National Filing Systems and to implement a Market Analysis Platform</p>	<p>SEDAR+: The CSA is building SEDAR+, a renewed national system for electronic data analysis and retrieval, which will become an integrated and comprehensive filing system and a simplified point of access for market participants such as issuers, insiders, registrants, and investors. It will be completed in phases and will replace the current System for Electronic Document Analysis and Retrieval (SEDAR), the System for Electronic Disclosure by Insiders (SEDI), the National Registration Database (NRD), the National Registration System, the National Cease Trade Order Database, the Disciplined List and certain filings made in paper format or in local electronic filing systems. In addition, the CSA is taking steps to carry out regulatory and policy changes to create the necessary legal foundation for SEDAR+. It published for comment a proposed new rule that would require filers to electronically transmit all documents to securities regulators through the new system, subject to certain exceptions, and proposed amendments to the system fee rule. Furthermore, the CSA launched an information hub on its website providing an overview of SEDAR+, its status and project phases to keep industry participants up-to-date. Finally, the CSA met with several industry associations in order to present the project and inform its stakeholder of its ongoing activities.</p> <p>MAP: The development of the Market Analysis Platform is described above under Strategic Goal 3.</p>

CSA PRIORITIES	ACHIEVEMENTS
Strategic goal 9 – Develop a common data strategy to support effective regulation	
<p>To fulfill this strategic goal, the CSA undertook to develop the CSA data management foundation, put this foundation into practice for the CSA National Systems, and develop a common data strategy.</p>	<p>The CSA is in process of revisiting the common set of CSA data principles, standards, security, policies and procedures for use in CSA National Systems and, where appropriate, in local systems. The CSA is also working on these foundational data management areas:</p> <ul style="list-style-type: none"> • identifying the technical, process-related, and human capabilities needed to secure, manage, and maintain CSA data; • documenting a consolidated catalogue of existing CSA data in the CSA National Systems and, where appropriate, jurisdictional systems; • identifying additional data not currently held by the CSA to support regulation such as systemic risk and advanced analytics and devising a strategy to access and manage it accordingly; and • identifying data no longer required to be collected.



PART 2 – OTHER SIGNIFICANT ACHIEVEMENTS

While the CSA structures its strategic goals by adopting a three-year Business Plan, it maintains an agile approach and remains ready to address new issues and challenges presented by evolving capital market conditions. It continues monitoring emerging trends and international developments in areas falling under its mandate and determines the appropriateness of commencing any additional initiatives. In the past year, the CSA has completed or has undertaken several initiatives in addition to the projects outlined in the 2019-2022 Business Plan. Some of these achievements are highlighted below.

COVID-19 Relief

Blanket Relief for Regulatory Filings: CSA members issued blanket orders providing a 45-day extension for periodic filings normally required to be made by issuers, investment funds, registrants, certain regulated entities and designated rating organizations. The 45-day period was further extended for an additional 60 days for certain investment fund filings and 45 days for certain non-investment fund filings. An additional 60-day extension for certain filings made by registrants and unregistered capital market participants in most jurisdictions was granted as well.

Investor-Focused Efforts: In response to the impacts of the pandemic, CSA members published regular and timely investor alerts on COVID-19 fraudulent activities and launched wide reaching investor-focused social media campaigns and advertisements. We also created a new COVID-19 Information Hub on the CSA website to help investors identify investment fraud and stay up to date on the latest regulatory developments. Additionally, we encouraged investors to talk with their registered firms and advisers about whether fees can be waived on the basis of financial hardship, including DSCs. CSA members reminded issuers of the importance of disclosing high quality financial information, given the significant impacts of the pandemic, stressing that investors need meaningful and transparent information. We also reminded investors that the OBSI is available, and we committed to renewing our focus on strengthening OBSI in order to secure fair, efficient and conclusive redress for investor losses where warranted.

Increase in Short-Term Borrowing Limits: CSA members issued temporary blanket orders permitting mutual funds, including equity funds, which invest a portion of their assets in fixed income securities, to engage in additional short-term borrowing from April 17, 2020 to July 31, 2020. This relief is intended to provide fund managers with additional resilience as they navigate the fixed income market volatility created by the COVID-19 pandemic.

Guidance on Annual General Meetings: the CSA issued guidance to reporting issuers on conducting Annual General Meetings during COVID-19, including changes or alternatives to in-person meetings, in compliance with securities legislation.

Temporary Relief to Companies with Delayed Annual Meetings: CSA members also issued temporary blanket orders providing public companies with relief until December 31, 2020, from certain filing and delivery requirements, which are generally tied to the sending of materials for annual general meetings, such as executive compensation disclosure and the requirement to send copies of their annual or interim financial statements and management's discussion and analysis (MD&A) to investors within certain time periods.

Prospectus, Exemptions and Reporting Obligations

Guidance on Climate Change-related Disclosure: the CSA issued guidance on *Reporting of Climate Change-related Risks*, intended to clarify the existing legal requirements and assist companies in identifying and improving their disclosure of material risks posed by climate change.

Data Regarding Women on Boards and in Executive Officer Positions: the CSA published the results of its fifth annual review of the disclosure of 641 issuers, which focused on disclosure requirements regarding the representation of women on boards and in executive officer positions.

Guidance for Cannabis Issuers: participating CSA jurisdictions issued guidance outlining corporate governance disclosure obligations to cannabis issuers, with the intent of helping them strengthen their governance disclosures, including disclosure of financial interests in significant corporate transactions.

Pre-file Review of Prospectuses: the CSA members adopted harmonized confidential pre-file review of prospectuses, which allows for the earlier identification of material issues that might delay receipting the prospectus and closing the offering.

Accounting and Auditing Rules

Enhancements to Auditor Oversight Rule: the CSA published for comment proposed amendments to the auditor oversight rule intended to provide the Canadian Public Accountability Board (CPAB) with improved ability to perform audit inspections. Under the proposed changes, some reporting issuers and audit firms would be required to take steps to provide CPAB with enhanced access to audit working papers, particularly in foreign jurisdictions.

Non-GAAP and Other Financial Measures: the CSA published for a second comment period a revised proposed rule for Non-GAAP and other financial measures.

Market Regulation

Mandatory Transparency of Government Debt Markets: the CSA published in final form amendments introducing mandatory post-trade transparency requirements for government debt securities and expanded transparency requirements for corporate debt securities. With these changes, information about trades in corporate and government debt securities will be publicly available and disseminated by IIROC as the information processor.

Self-Regulatory Organizations

SRO Regulatory Framework Review: the CSA has commenced a review of an SRO model that is appropriate for capital markets in Canada going forward. It has been consulting with stakeholders and analyzing the evolution of the financial services industry and the impact of innovation on the current framework, and has recently launched a public consultation.



PART 3 – REGULATORY WORK PLANNED FOR THE UPCOMING YEAR

While the CSA will continue giving priority to the initiatives described in Part 1, it is also prepared to address new issues and challenges presented by evolving capital market conditions. In the upcoming year, the CSA will focus its regulatory efforts on initiatives described below.

Under our enhanced investor protection work, CSA members plan to introduce rule amendments that will eliminate trailing commissions by investment fund organizations to dealers who only execute orders and do not provide advice; continue work on published proposal to address financial exploitation of older and vulnerable clients and renew their focus on strengthening OBSI as an independent dispute resolution service provider. In collaboration with CCIR, we aim to develop a consistent approach to disclosure of relevant information related to costs and performance by investment funds and segregated funds.

In line with our goal to reduce regulatory burden while maintaining necessary investor protection, we will propose and implement rule changes aimed at the reduction of regulatory burden for investment funds, non-investment fund issuers and registrants.

Additionally, the CSA will be consulting with stakeholders on the review of the Self-Regulatory Organization regulatory framework.

Finally, the CSA contemplates introducing a Canadian regulatory regime for the financial benchmarks and work on a proposed regime for commodity benchmarks. As per our international commitments, we will continue to advance our work on the registration and business conduct rules for derivatives. CSA members will also work on guidance on the regulatory framework applicable to crypto-asset trading platforms that are subject to securities regulation.