

NOTE FROM THE IIAC PRESIDENT AND CEO

Recent Supreme Court Decision

On November 9, the Supreme Court confirmed the constitutionality of the Cooperative Securities Regulator ruling on two questions before the Court. The Court concluded the federal government has the authority, under federal legislation governing banking and commerce, to regulate systemic risks in national markets through the Canadian Securities Regulatory Authority. The Court also concluded that the Memorandum of Understanding among the provinces and federal government in the Cooperative Regulator did not fetter or interfere with the sovereignty of the provinces in discharging day-to-day regulation of securities markets.

The court ruling lifts an impediment to the eventual launch of the Cooperative Regulator but is unlikely to increase participation of the larger provinces in the near term. This means significant further delay given the need to establish a regulatory interface between the participating and non-participating provinces to ensure integrated national capital markets. The participating and non-participating provinces will also have to establish an umbrella arrangement to achieve a uniform rule framework.

Legislative amendments may still be required to provincial labour and privacy laws to ensure a common standard for the Cooperative Regulator. Moreover, the provinces will still need to approve the referenced Capital Markets Act and related federal legislation to delegate authority to the Cooperative Regulator. This will contribute to continued delay, as the pending

legislation has low priority in provincial governments beset with difficult economic conditions. The approval process is further handicapped by the lack of a champion at the political level.

Yours sincerely,

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