

Testimony Before the Standing Committee on Finance and Economic Affairs

Bill 138, Plan to Build Ontario Together Act, 2019

December 2, 2019

Thank you, Mr. Chair, members of the Standing Committee on Finance and Economic Affairs. As mentioned, my name is Ian Russell and I am President and CEO of the Investment Industry Association of Canada (IIAC). The IIAC appreciates the invitation to appear before you today.

The IIAC represents 120 member firms in Canada's securities industry. These dealer firms are the key intermediaries in Canadian capital markets, accounting for the vast majority of financial advisory services, securities trading and underwriting in Canada's public and private markets.

Canada's investment industry is well rooted in Ontario—110 IIROC-regulated firms operate in the province with 3,157 branch offices, employing over 30,000 Ontarians. The industry is a significant economic driver, contributing an estimated \$40.1 billion in economic activity in the province in 2018 (direct, indirect and induced impacts). Investment dealers also maintain sizeable operations and infrastructure in the province. These dealers commit over \$250 billion in regulatory capital to facilitate extensive over-the-counter trading in debt and equity markets.

I will focus my remarks today on two sections of Bill 138 related to securities and capital markets—Schedule 34, amending the *Securities Act* to allow the Ontario Securities Commission (OSC) to issue blanket orders, and Schedule 40 proposing to repeal the *Toronto Stock Exchange Act*.

We welcome the government's pledge to create a securities modernization task force to review the *Securities Act*. Such a review is long overdue—the last one completed 16 years ago, in 2003. Since then, we have seen profound and rapid changes in capital markets, business models and investor behavior. At the same time, securities regulation has not kept pace. It is critical at this time that the securities modernization

task force include industry stakeholders (investment and financial sector professionals, businesses, regulators, investors and the public), and bring forward recommendations to streamline the regulatory framework—both rules and structure—to improve the effectiveness, efficiency and competitiveness of Ontario’s capital markets. The task force should collaborate with the OSC Burden Reduction Task Force as well as the Canadian Securities Administrators (CSA) who has engaged in considerable work to enhance the client-registrant relationship (Client Focused Reforms).

We are pleased the government announced legislative changes to make capital markets more efficient and flexible, including amendments to Section 143.11 of the *Securities Act* which prohibits the OSC from making orders or rulings of general application. The IIAC believes blanket rulings and orders should be permitted for the following reasons:

- First, the Five Year Review Committee (the so-called Crawford Committee) recommended that the *Securities Act* be amended to allow the Commission to

issue blanket rulings and orders that provide exemptive relief. The Committee noted that “blanket rulings and orders eliminate costs, delays and uncertainty caused by individual applications for discretionary relief. The ability to issue blanket rulings and orders in connection with non-contentious recurring situations provides the regulator with a useful tool to address changes in the marketplace in a timely manner.” The Committee stressed “blanket rulings and orders complement rather than undermine the rulemaking process.”

- The Regulatory Burden Task Force echoed a similar sentiment in its December 2013 report to the OSC, stating: “The fact that new Rules and amendments to existing Rules cannot be implemented expeditiously severely hampers the OSC’s ability to respond to new developments and products or to rectify deficiencies in the Rules in an efficient and cost effective manner. The inability to issue blanket orders pending enactment or amendment of Rules requires the OSC and market participants to incur additional costs and utilize more human resources dealing with applications for relief that must be made on a case-by-case basis.”

- Second, all other members of the CSA have the ability to grant blanket exemptive relief orders. Ontario does not. This undermines the strong collaborative work undertaken by CSA members to achieve responsive and harmonized regulation, eliminate undue regulatory burden, and streamline regulatory requirements while promoting market integrity and investor confidence.

- Third, the IIAC is sensitive to concerns related to openness and accountability. In this regard we support the inclusion of the 18 month sunset clause and granting the Commission the power to extend that period for a further 18 months. We see the sunset clause as a stop-gap measure to bring immediate relief to market participants and assess possible unwanted consequences. The Commission would have ample time to prepare draft rules and engage in consultations with stakeholders.

Finally, we believe the *Toronto Stock Exchange Act* should be repealed. The repeal of the TSX Act represents the removal of legacy legislation from decades ago which, in the IIAC's view, no longer serves a useful purpose. The TSX Act pre-dates the

demutualization of the exchange in 2000 and also predates the TSX being subject to other, more recent legislation—whether it be corporate law or securities law, including TMX Group and TSX Recognition Orders.

We do not see the repeal of the TSX Act as having a material impact on TMX's business, but repealing the Act will give the TMX flexibility on internal, administrative practices, in a way that aligns the TSX with practices of other Canadian corporations and exchanges.

Additionally, a repeal of the TSX Act will not change the way the TSX or its clearinghouses are overseen by regulatory authorities, or the way market participants interact with the exchange on a daily basis. The integrity of Canadian capital markets will continue to be preserved.

Thank you for your attention. I would be pleased to answer any questions you have relating to these issues.