



Canadian Advocacy Council for Canadian CFA Societies Canadian Regulatory Structure Survey

Background

In response to recent initiatives on the part of the federal government to establish a single national securities regulator, the Canadian Advocacy Council for Canadian CFA Societies (CAC) felt it necessary to survey the opinion of the 11,507 Canadian CFA Institute members to determine the views of Canadian CFA Institute members regarding this critically important issue. The CAC agrees with the CFA Institute's (the global association of investment professionals) belief that the goals of all market regulation should be to promote price data transparency; promote transparency of relevant issuer information; enhance market credibility, openness, and investor confidence; and ensure a level playing field for all market participants. In fact, the CFA Institute *Code of Ethics and Standards of Professional Conduct* are fundamental elements of being a CFA Institute member, and investor protection is foremost among the *Code and Standards*. The CAC believes that a single national regulatory structure best facilitates this protection.

The Canadian Advocacy Council for Canadian CFA Institute Societies ("CAC") is the Pan Canadian body representing the interests of Canadian CFA Institute societies with regards to advocating the CFA Institute's *Code of Ethics and Standards of Professional Conduct* to Canada's securities regulators, standard setters, self-regulatory organizations, industry groups and legislators. The CAC is an independent organization comprising approximately 16 members from across Canada who engage in a variety of activities in Canada's capital markets. The CAC represents 12,461 CFA Institute members who are the primary market participants in Canada's capital markets.

The survey was conducted in both official languages (English and French) and distributed via e-mail to Canadian CFA Institute members. The survey was conducted in June 2009. The survey response rate was 11.7 percent (1,335 respondents), which is statistically accurate to +/- 2.5 percent at the 95 percent confidence level. Ninety-three (93) percent of all respondents were registered in one of the four largest regulatory jurisdictions in Canada - Ontario, 58 percent; Alberta, 13 percent; British Columbia, 11 percent; and Quebec 11 percent. Sixty-one (61) percent of all respondents felt they had a good understanding of the Canadian securities regulatory system. Respondents classified their professional business activities as either an investment advisor or fund manager (31 percent); consultant, financial officer, or other investment practitioner (27 percent); investment analyst (13 percent); or other professionals within the investment and financial fields, along with regulators and academics. The cross-section of respondents provides a good cross section of capital market participants.

Survey Results

Ninety-two (92) percent of respondents expressed the view that Canada needs regulatory reform. Seventy-five (75) percent of respondents support a single national regulator, of which 62 percent favour a federal system and 13 percent favour a single inter-provincial regulator jointly overseen by provincial authorities. Interestingly, the survey showed the support for adopting a single national security regulator system grows commensurately with respondents' tenure in the current regulatory system. Clearly, this issue is important to Canadian CFA Institute members because investment professionals currently operate in an environment whereby each regulator may have a different set of rules and regulations for the same business activity all across Canada.

As part of its ongoing advocacy efforts, the CAC has encouraged provincial regulators to harmonize their rules to reduce the inefficiency and cost that investment professionals endure when operating under the authority of 13 different security regulators. The CAC conducted a survey of Canadian CFA Institute members in 2003 that found that more than 90 percent of respondents wanted a national regulator. Many of the results of the current survey reinforce and reflect previously expressed sentiments of Canadian CFA Institute members

Strength of Current Regulatory System

Fifty-seven percent (or a majority of respondents) expressed the view that, inasmuch as large capitalized companies (market capitalization of one (1) billion dollars or more) and large institutional investors are well served by the current system, whereas others corporate entities, including start-up companies, small and mid-cap, and foreign companies, are not well served. Likewise, a majority of respondents state individual investors (59 percent), non-Canadian investment professionals seeking access to Canadian markets (69 percent), and foreign issuers (75 percent) are not well served by the current regulatory system. These results suggest many respondents are frustrated with the high costs and duplication inherent with dealing with multiple regulators simultaneously.

A majority of survey respondents expressed the view that the amount of regulatory duplication is either very or fairly high. The level of frustration increased modestly with the level of experience of each of the respondents. Approximately 50 percent of respondents, having more than 20 years in the investment business, expressed the opinion that the amount of regulatory duplication across Canada is very high and 42 percent of the same group of respondents classified regulatory duplication as fairly high. This compares with 38 percent of respondents with 5 - 10 years of experience expressing a similar level of frustration.

The difficulties of functioning within this system also affect the perceived international competitiveness of Canadian markets. Only 30 percent of survey respondents believe the ability of the Canadian capital markets to compete internationally is very good or good. This is significant because 35 percent of respondents had work experience in international capital markets, including those of the United States, United Kingdom, and Hong Kong. The opinion of such respondents could be explained by their opinion on regulatory enforcement. Only 25 percent of respondents think the fairness, consistency, and strength of enforcement in Canada is good or very good while fifty-one percent think it is poor or very poor.

The Reform Process

Who should initiate regulatory reform? Thirty-seven percent of respondents expressed the opinion that regulatory reform should start at the federal level and 35 percent of respondents stated regulatory reform should begin as a joint effort on the part of the federal and provincial/territory governments. Respondents from the four largest jurisdictions (the "big four"), British Columbia, Alberta, Ontario, and Quebec, expressed a similar preference, ranging between 32 to 39 percent in favour of a federal push with approximately the equivalent amount of respondents supporting a joint effort. Contrary to the views of respondents from the big four jurisdictions, respondents from the other jurisdictions expressed strong support for a provincially led effort, with between 9 percent and 11 percent favouring provincial leadership. The support of respondents in the big four also showed comparatively greater preference for national self-regulatory organizations (SROs), with six to 13 percent of big four respondents supporting such SROs, compared with three percent for other Canadian respondents.

While respondents believe change is needed, a major area of concern to respondents is the nature of the regulatory body itself which will oversee and supervise the single set of rules. A significant majority, 62 percent of respondents, expressed support for transferring all or most regulatory authority to the federal government, compared with 18 percent who support a passport system, and 13 percent who want a harmonized provincial system.

The Regulatory Model

Another important question addressed in this survey is whether Canada should adopt a regulatory model that is exclusively principles-based, rules-based, or some combination of both. The federal government's proposal for the new national regulator is principles-based. Canadian CFA Institute members are of the view that a principles-based model is not sufficient. Seventy-three (73) percent of respondents expressed a desire for a combined rules- and principles- based model. Baseline rules or regulations will set a minimum standard for performance which, when coupled with principles, can be adapted to unique situations in a timelier manner than is the case with only rules. This is particularly important given the speed with which new financial instruments are created or unique situations develop.

Finally, Canadian CFA Institute members are concerned with investor protection. The vast majority of respondents (79 percent) said it is important to improve the way regulators police financial markets and the way the judicial system deals with fraud. Similarly, 74 percent of Canadian CFA Institute members stated it is important to improve the content of regulation to better protect investors.

Conclusion

As indicated by the survey results, Canadian CFA Institute members are fully in favour of regulatory reform. They also believe the best approach to strengthen enforcement and investor protection is to move to a single national regulatory model at the federal level. While principles-based regulation provides flexibility in responding and eliminates many loopholes, investment

professionals believe there must be some baseline rules used to measure performance of issuers and other capital market participants. Ultimately, the strong message coming from this survey is Canada needs a single voice both domestically and internationally.