



Notes for
a speech by

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Greeting and Thanks

At the outset, I wish to thank Lisa Aiello, Associate Executive Director of the Canadian Society of Corporate Secretaries (CSCS), and her team for this invitation to the 8th Annual Corporate Governance Conference.

I would also like to take this opportunity to acknowledge the highly enthusiastic contribution of CSCS to improving and disseminating best corporate governance practices. The more we exchange information and reflect on corporate governance, the better our financial markets will be able to operate. So, I tip my hat to the organizers of this event.

It is therefore a privilege for me to be here with you this morning to share my point of view on financial market regulation.

The Crawford Report: A Number of Reservations

I would also like to congratulate Mr. Crawford for his efforts over the last few months in completing the mandate entrusted to him by Ontario's minister in charge of securities regulation.

You will no doubt understand, however, that I am not surprised by his conclusions, given that his mandate was, in fact, to recommend a model for a single securities regulator.

While this is a subject that is of interest to many financial market participants, such as regulators, it appears that selecting a regulatory structure for the financial markets is a governmental responsibility. Therefore, for discussion purposes, I will merely outline the position adopted by the government of Québec.

Regardless of its political allegiance, the government of Québec has always voiced its disagreement with this proposal.

In fact, this past June, following the filing of Mr. Crawford's report, Québec's Minister of Finance, Michel Audet, pointed out that the government of Québec had previously indicated, on various occasions, its disagreement with the creation of such an organization, while nonetheless reiterating its support for the passport system.

Mr. Audet also indicated that the model proposed by the Crawford Panel would involve the establishment of an organization with a cumbersome and complex structure, contrary to the streamlining and harmonization goals of the provinces.

The government of Québec is not the only one to have expressed reservations regarding this proposal. Also this past June, following a meeting with members of the Crawford Panel, all the ministers in charge of securities regulation in all of the Canadian provinces and territories, with the exception of Ontario, issued the following statement by way of press release: *"(...) the Council is still determined to pursue the passport system as the best and fastest way to make Canada's markets more efficient while still respecting the unique needs of each market."*

Changes in the Capital Markets

This is not the first time that the creation of a single securities regulator has been discussed. Some of the issues have been debated for nearly 40 years.

During that time, the capital markets have experienced profound changes.

- One need only think of the **deregulation of the financial sector**, where several financial groups emerged and centralized numerous functions.
- We have also seen **cross-sector convergence**, with financial institutions of different types launching similar financial products and services, such as mutual funds, on the one hand, and segregated funds offered by insurers, on the other hand. In addition to targeting the same clientele, the manufacturers of these funds often use common distribution channels.

Cross-sector convergence exists even in the field of **financial advising**. Consumers are offered financial advice by a multitude of representatives from various sectors.

- Moreover, **the range of financial products and services offered on the market** has grown and changed significantly. Progress in the area of risk management has made it possible for institutions to offer customized financial products to meet the needs of users, such as hybrid savings products and derivatives.

These changes inevitably pose new challenges for regulators.

Today, the various areas of the financial sector are no longer clearly defined and the responsibility for regulating a majority of the participants, manufacturers and distributors of a wide variety of financial products and services, belongs to several organizations.

This is the context which, over the past few years, has led to significant reforms in the framework for financial market regulation in a number of industrialized countries.

An examination of these experiences shows a trend towards the creation of integrated financial market regulators bringing together existing organizations which were each responsible for a given sector.

For example, in 2000, the United Kingdom chose to integrate the financial market regulation functions within the Financial Services Authority. Ireland, Japan, Norway, Denmark, Germany and Singapore have also moved in this direction.

Creation of a Single Agency in Québec

Québec also opted for a cutting-edge regulatory framework by bringing together the duties and staff of five financial market regulators.

Thus, with the exception of federally chartered banks, since February 1, 2004, the AMF's regulatory activities have covered all sectors of Québec's financial markets—be it securities, insurance, deposit institutions or the distribution of financial products and services.

Like the members of the Crawford Panel, we all seek to improve and adapt the regulatory system in light of changes in the capital markets. That is what we have done in Québec.

We do not stand for the status quo. We monitor changes in the capital markets very closely in order to adapt to those changes and better serve the interests of Québec.

The model of a single securities regulator reflects a time when the financial industry was clearly compartmentalized. Today it is the concept of a one-stop service outlet that stands out.

Proximity of Intervention

Through its structure and accessibility, the AMF has placed the consumer front and centre.

Clearly, regulators must provide the business community with efficient access to the capital markets, but we must never lose sight of the fact that they must also ensure the optimal protection of investors.

The major scandals we have experienced since 2000 in the industrialized countries, even though they were caused by only a minority of companies, suggest that we must favour a system in which intervention is close at hand.

By centralizing regulatory mechanisms, however, we lose the advantage of being able to react rapidly when financial scandals are about to occur. An overly cumbersome and distant administration would be less alert to events occurring in small markets such as Québec's.

The application of rules and regulations is easier when the market enforcement team can keep a close eye on events in its own backyard.

Moreover, many small companies that wish to list their securities need rapid and constant access to the regulatory authorities who can best understand and meet their needs. Here, proximity of the regulator becomes a major asset.

The Existing System Promotes Innovation

The existence of regulatory organizations from various provinces generates regulatory competition and makes it possible to give better consideration to the specific needs of each of Canada's regions.

This dynamic gives rise to innovation.

The Québec Stock Savings Plan and the Alberta Capital Pool Companies Program are examples of innovations which originated in one province and were copied in the others.

Another more recent example is that of derivatives.

Derivatives

As you know, the Montréal Exchange specializes in derivatives, a quickly growing market. We believe that the regulatory framework for the derivatives market must be modernized.

To this end, the AMF recently published a concept paper seeking comments. In it, we proposed the creation of a law based on core principles rather than a prescriptive framework setting out specific rules.

We believe this is a promising proposal for Québec and intend to work together with the CSA towards a common goal.

Inter-Provincial Co-operation and Coordination

The existence of separate provincial regulatory bodies does not exclude the possibility of working in partnership.

Through the CSA, the AMF is working intensely with the other provinces to establish a framework whose objective is to implement in Canada a passport system based on highly harmonized and streamlined securities laws.

We are working together to draw the best we can from the existing system and, at present, the level of co-operation is excellent.

In fact, the current Chair of the CSA is Mr. Jean Saint-Gelais, President and CEO of the AMF.

We have made considerable progress.

In fact, my colleagues from Ontario and British Columbia so aptly demonstrated this progress when speaking to you about the most recent developments relating to the passport system and the rules of corporate governance.

I, too, would like to mention some other CSA initiatives:

- First, in 1998 the **Mutual Reliance Review System (MRRS)** was established in order to streamline the review of filings.
- Subsequently, the CSA developed **three electronic databases** that simplify the regulatory process, reduce its costs and facilitate access to information.
- In 2004, we harmonized our **continuous disclosure review** process.
- One year ago, the CSA implemented a national exemption rule which **harmonizes and consolidates prospectus and registration exemptions**.
- In April 2005, we implemented the **National Registration System**, a harmonized system which allows securities dealers and advisers, savings brokerage firms and their representatives to register in all Canadian jurisdictions. In fact, we are currently working on a Registration Reform Project in order to further simplify this system.
- In addition, as mentioned by my colleague from British Columbia, since December 2005, most issuers have been able to avail themselves of the **short form prospectus system**.

- As part of our harmonization work, in April 2006, we published for comment a **proposed regulation on takeover bids and issuer bids**. This proposal is designed to harmonize applicable takeover and issuer bid requirements across jurisdictions.

Decentralized Process

This completes my overview of some of the regulatory projects undertaken by the CSA with a view to strengthening the competitiveness and integrity of Canada's financial markets.

As you can see, through the co-operation and expertise of the CSA, rules and regulations are determined on the basis of both local and national priorities and issues.

This decentralized process is a sound and beneficial approach for all. It provides for better transparency of decisions and, at times, allows the opinions of some to be counterbalanced by the opinions of others. The process leads to a balanced solution.

Thus, a decentralized regulatory approach favours transparency and credibility, while also preventing potential regulatory drifts.

My colleague from Ontario illustrated a perfect example of the foregoing when discussing the CSA initiatives intended to improve the quality of financial disclosure to shareholders and investors.

As Susan demonstrated, we applied a certain degree of flexibility in agreeing to establish measures which integrate and adapt the principles of the Sarbanes-Oxley Act to the Canadian context. Unlike in the United States, no federal or provincial statute imposed the adoption of these measures.

The current model is beneficial to all, because it is dynamic. When we develop rules in Québec, we obviously ask ourselves how the other regulatory authorities—such as Ontario, British Columbia and Alberta, for example—will react.

This reflex consistently ensures a balance which might not otherwise exist in a centralized system.

Healthy Competition between Regulators

Moreover, organizations that have to compete with each other tend to react more quickly to changes in market conditions.

Indeed, in a recent issue of the *Oxford Review of Economic Policy*, economist Roberta Romano pointed out the advantages to U.S. companies resulting from the decentralization of corporate law and from competition among the states. She argued that this model should be extended to securities regulation in the United States.

She stated, and I cite: “*Regulators in a competitive environment will, accordingly, not only react more quickly to regulatory mistakes, but also select a different set of rules from monopoly regulators, from whose regulatory authority firms cannot exit. In short, regulatory competition offers a distinct advantage over a single regulator in the corporate law setting (...)*”.

Additional Costs: Fact or Fiction?

Decentralization, coordination and harmonization: these are the three key elements that allow us to ensure that companies have efficient access to the capital markets, while also protecting and assisting investors.

Our objective is to allow our markets to contribute to economic growth and compete internationally so as to attract capital.

Consequently, we strive to remain aware of the regulatory pitfalls and burdens that companies sometimes face.

Some believe that the existence of 13 securities commissions results in additional costs. However, according to an independent study carried out by two well-known experts, Jean-Marc Suret and Cécile Carpentier of the research centre CIRANO, both of whom are also associated with the school of accountancy at the *Université Laval*, almost all of the population and the economic activity in Canada, public offerings (97%) and listed companies (90%) are concentrated in four provinces. Therefore, in practice, most issuers only apply to one or two regulators.

Moreover, four other studies have shown that the costs of initial public offerings are noticeably lower in Canada than in the United States.

The fact is that the bulk of securities trading costs are related to the remuneration of intermediaries. The regulatory component is minimal. According to the CIRANO study, eliminating the four principal securities commissions in Canada would reduce trading costs from .75% to .735%, a slight decrease of 2%.

Reducing the regulatory burden is certainly a commendable goal, but one must consider the intangible costs, such as reduced investor protection. I do not believe

that a 2% decrease in trading costs, with the resulting reduction in investor confidence it would entail, would be beneficial for Canadian companies.

The optimal regulatory system is one whose marginal costs are equal to its marginal benefits.

Many commentators believe that such a balance can be achieved only through regulatory competition and do not support a monopolistic regulatory approach.

The U.S. Model

In closing, I believe we must be careful when comparing the various regulatory systems used throughout the world. Markets differ greatly.

Some say that Canada is currently the only major country without a single securities regulator.

What one must remember is that just next to us, in the United States, there is only the semblance of a regulatory monopoly: it does not exist for banking matters or corporate law matters, and it is only partial in the field of securities. The states still play a significant role in small, local financings. It appears that local offerings regulated by the states parallel the bulk of financing activity in Canada.

To say the least, the U.S. model is fragmented and complex.

The transactions of major companies are the ones that fall under the jurisdiction of a sole regulator, the SEC. However, it appears that this centralized system was unable to prevent the accounting manipulations which led to the recent U.S. financial scandals.

Concentration of the Canadian Financial Industry

Finally, we must not forget that Canada's financial industry is highly concentrated. In fact, nowhere else in the developed world is there such a degree of banking and financial concentration. In that regard, many economists have warned that a regulatory monopoly governing an oligopolistic power would create a very dangerous situation.

Conclusion

No single person now has the absolute answer to structuring a regulatory system. This is why it is good that such a choice is a governmental responsibility. It is a political decision.

But above and beyond regulatory structures, it should not be forgotten that the very foundation of the financial sector is built on the confidence of all its participants, primarily investors.

The companies you represent are at the very core of Canada's prosperity. Their success stimulates the growth of our economy. The latter, in turn, requires new ideas and optimistic people who are ready to take risks.

It also requires that the public have confidence in the capital markets.

It is your rigour within each of these companies, in each of your dealings with market participants, together with a firm willingness to comply with laws and regulations, that will drive investor confidence.

As for us, we will continue to do our work, using the powers conferred upon us. We will see to it that consumers are protected and assisted in their dealings with the financial community and will ensure that companies have efficient access to the capital markets, the whole in a climate of co-operation and partnership.

As the CSA initiatives have shown, there is a high degree of coordination between Canada's securities commissions and they share many common points of view. The proof is that 95% of Canada's securities regulatory system is harmonized. We are working together to draw the best we can from the existing system.

This system presents undeniable benefits—benefits which have led the European Union to opt for this model of securities regulation.

Moreover, in a recent study, the OECD ranked Canada second among its 30 member countries for the efficiency of its securities regulation. The Canadian system, with its 13 regulatory bodies, ranked higher than the systems in the United States, Great Britain and Japan. Therefore, having been recognized as a model by the OECD, Canada has greater sway over the International Organization of Securities Commissions.

In addition, the World Bank ranked Canada fourth among 175 countries for the ease of doing business.

And there is certainly no lack of projects to work on. These include promoting the passport concept and establishing proposals for corporate governance requirements and internal control requirements.

Many of these projects are being led by the Ontario Securities Commission and the British Columbia Securities Commission.

It is with great pleasure that we look forward to continuing our collaborative efforts seeking to improve the regulatory framework for Canada's financial markets.

Thank you very much.