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SELECT STANDING COMMITTEE ON
CROWN CORPORATIONS

Victoria

Thursday, September 21, 2006

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IAIN BLACK, MLA, CHAIR

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SELECT STANDING COMMITTEE ON
CROWN CORPORATIONS

Victoria
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Chair: * Iain Black (Port Moody–Westwood L)

Deputy Chair: * Guy Gentner (Delta North NDP)

Members: * Ron Cantelon (Nanaimo-Parksville L)
Daniel Jarvis (North Vancouver–Seymour L)
* Blair Lekstrom (Peace River South L)
* Dennis MacKay (Bulkley Valley–Stikine L)
* John Rustad (Prince George–Omineca L)
Corky Evans (Nelson-Creston NDP)
* John Horgan (Malahat–Juan de Fuca NDP)
* Chuck Puchmayr (New Westminster NDP)

**denotes member present*

Clerk: Craig James

Committee Staff: Jonathan Fershau (Committee Research Analyst)

Witnesses: John Hinze (British Columbia Securities Commission)
Doug Hyndman (Chair and CEO, British Columbia Securities
Commission)
Brenda Leong (British Columbia Securities Commission)

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MINUTES

SELECT STANDING COMMITTEE ON CROWN CORPORATIONS



Thursday, September 21, 2006

9:30 a.m.

Douglas Fir Committee Room
Parliament Buildings, Victoria

Present: Iain Black, MLA (Chair); Guy Gentner, MLA (Deputy Chair); Ron Cantelon, MLA; John Horgan, MLA; Blair Lekstrom, MLA; Dennis MacKay, MLA; Chuck Puchmayr, MLA; John Rustad, MLA

Unavoidably Absent: Corky Evans, MLA; Daniel Jarvis, MLA

Others Present: Jonathan Fershau, Committee Research Analyst

1. **Resolved**, that today's agenda be approved.
2. Pursuant to the Committee's mandate, the following witnesses appeared before the Committee:

British Columbia Securities Commission
 - Doug Hyndman, Chair and Chief Executive Officer
 - Brenda Leong, Executive Director and Chief Operating Officer
 - John Hinze, Director of Human Resources & Administration and Chief Financial Officer
3. The Committee met in-camera to review their meeting with the British Columbia Securities Commission.
4. The Committee met in public session.
5. The Committee adjourned at 12:15 p.m. to the call of the Chair.

Iain Black, MLA
Chair

Craig James
Clerk Assistant and
Clerk of Committees

THURSDAY, SEPTEMBER 21, 2006

The committee met at 9:34 a.m.

[I. Black in the chair.]

I. Black (Chair): Ladies and gentlemen, I'd like to call our meeting to order. Let me start by introducing myself. My name is Iain Black. I'm the Chair of the Select Standing Committee on Crown Corporations. I would like to welcome our guests from the B.C. Securities Commission. I'll give you the opportunity to introduce yourselves in just half a moment, as I will the rest of our MLAs. I'll just give everyone a chance to take a seat.

[0935]

What we'll do this morning is, after the introductions, I'll basically walk you through our agenda, and then we'll turn it over to our guests. Why don't I do so at the moment for the purpose of introductions.

Welcome. For the record, if you could let us know who you are, please.

D. Hyndman: Mr. Chairman, my name is Doug Hyndman. I'm the chair of the British Columbia Securities Commission. I have with me Brenda Leong, who is the executive director of the commission, and John Hinze, who is our chief financial officer.

I. Black (Chair): Welcome.

At this point I would ask our MLAs to introduce themselves. Perhaps I could start on my left with our Deputy Chair — oh, who will be with us in just a moment. I will, in that case, start on my right with my esteemed colleague, who seems to be in a similar state.

R. Cantelon: Ron Cantelon, Nanaimo-Parksville.

B. Lekstrom: I'm Blair Lekstrom, Peace River South.

D. MacKay: Dennis MacKay, Bulkley Valley–Stikine.

J. Rustad: John Rustad, Prince George–Omineca.

C. Puchmayr: Chuck Puchmayr, the historic and beautiful New Westminster.

J. Horgan: John Horgan, Malahat–Juan de Fuca.

G. Gentner (Deputy Chair): Guy Gentner, Delta North.

I. Black (Chair): For those of you interested, my riding is Port Moody–Westwood. We also have to my immediate left Craig James, our Clerk Assistant and Clerk of Committees, and Jonathan Fershau, who's our researcher.

I would at this point also like to welcome a new member to our committee, MLA John Horgan, who is replacing David Chudnovsky. We thank Mr. Chudnovsky for his contributions.

For the benefit of our guests and Mr. Horgan as well, I want to just remind everybody and walk you

quickly through what the focus of this committee is and set the tone for what we're about to go through.

The purpose of this committee is to analyze the service plans of various Crown corporations relative to the ministries that assigned them and answer a couple of basic questions. The first one is: what is your mandate? Then illustrate that that mandate is in some fashion directly tied to the service plan from the ministry; come away with a sense of how you are performing and get a sense of your ability to illustrate that you know that's how you're performing — i.e., what measurement tools, etc., you have in operation.

One of the specific things that this committee is not here to do is to call into question policy directives of the government. That is for a forum outside of this. For example, if a question came up to you that said something like, "Well, if the government did X, Y and Z, would you be better at doing your job?" that question would probably be ruled out of order.

The format of our meeting this morning is basically up to an hour for you to make a presentation. We then go into an hour of open questions, and then the third hour is an in-camera discussion with our committee to prepare the draft remarks on the recommendations that will ultimately go to the Legislature.

We do have a hard stop today, as we've got several members on one o'clock and 1:30 flights, so we will try to keep things moving at a nice, crisp pace.

Any questions from you before we begin?

D. Hyndman: I don't think so.

I. Black (Chair): Terrific. In that case, Mr. Hyndman, I'll turn the floor over to you to start your presentation.

I'd ask our members, unless there's a point of clarity, not to ask questions until we're done. But if there is a point of clarity, members, please do feel free to jump in.

B.C. Securities Commission

D. Hyndman: Thanks to the committee for inviting us to make this presentation. I believe the committee members each have copies of our annual report for the last fiscal year, our service plan for the current fiscal year and handouts with our slide presentation that I'm about to give you.

Just a quick outline of what we propose to talk about over the next hour: a quick overview as to what securities regulation is all about and what the Securities Commission is all about, some regulatory context and a description of how we regulate the securities markets. I will turn it over to Mr. Hinze, our chief financial officer, to give a financial overview of the commission. Brenda Leong will talk about risks that we face or mitigation strategies, measurement, enforcement, and then I'll wrap up with a few comments on the B.C. market.

An overview of the B.C. Securities Commission. I say here that we're an atypical Crown corporation. We don't run a business; we're a regulatory body. I think unique among Crown corporations, we're not only accountable through the various entities that oversee

Crown corporations, but we're also an administrative tribunal, so we also have to deal with the administrative tribunal world in government. We have guidance and directives coming from both of those sources.

[0940]

The commission formally is comprised of 11 commissioners appointed by order-in-council. We have 190 staff at present, and our annual budget is about \$28 million, just to give you a sense of how large we are. The commission operates through four core business areas where most of our activities take place. I'll just outline them on this slide fairly briefly. We can break down what we do into compliance, enforcement, rule-making and investor education.

In compliance there are two major areas. One is overseeing the capital market participants — securities firms, dealers, advisers and their employees, the self-regulatory organizations in the industry that perform a subordinate oversight role for industry participants. We have a group in the commission that oversees all of those folks. I'll talk a bit later about some of the functions that we carry on in those areas.

Secondly, within compliance we have a corporate finance group which oversees what we call issuers — the companies and other types of entities that raise capital in the public markets and to some extent in the private securities markets. So they process documents dealing with capital-raising by companies; they review disclosure, both at the time of offering and on a continuous basis by public companies; and they monitor the reporting of trades by insiders of public companies.

The enforcement area is responsible for conducting investigations of complaints and other sources of information about alleged misconduct in the market. They issue things like cease-trade orders to stop trading in securities. If they find misconduct that's not worthy of a full-blown enforcement action, they can issue a warning letter just to put somebody on notice that we have them in our sights and that if they run afoul again, they may be in for some stronger action.

We have the ability to issue freeze orders when client assets appear to be at risk. Through that department, we'll enter settlements with people in the investigative process in order to resolve investigative matters without having to go through formal litigation processes. If that doesn't happen, then we hold hearings at the commission level to deal with various types of enforcement orders.

We do a great deal of work in our enforcement department with other agencies within British Columbia, across Canada and indeed internationally to share information and cooperate in dealing with activities across borders. Brenda will talk a bit more about enforcement towards the end of the presentation.

In the rule-making area we have the power under the Securities Act to issue rules that have the force of law equivalent to regulations. Those rules generally are designed to target risks — threats to the integrity of the market, threats to investors by constraining activity or imposing requirements or whatever. In that whole rule-making exercise we spend a lot of time working

with our colleagues in other jurisdictions on harmonizing our requirements so that we have consistent requirements across Canada, which provides equivalent levels of investor protection as well as simplifying the process for people who have to comply with the rules.

We also issue guidance in the form of policy statements and notices to assist market participants to understand what our requirements are; to explain to them how we will exercise discretion in various circumstances where the commission can grant exemptions or approve or not approve prospectuses or register people — sort of set out the kinds of things that we consider in exercising our discretion so that people aren't surprised; as well as explaining our interpretation of provisions of the Securities Act and the rules where there might be uncertainty in the industry or we see practices that apparently don't comply with our understanding of what the requirements are.

[0945]

Through that rule-making group, we also grant discretionary exemptions. The securities law is very complex, and the securities market is very complex. You can't contemplate every possible circumstance that will arise, so in many cases transactions or circumstances arise that would be subject to requirements that aren't really appropriate, and market participants have the opportunity to come and apply for exemptions. We have a group that analyzes those and decides whether or not to grant them. Again, many of those are done on a national basis in cooperation with our colleagues in other jurisdictions.

Finally, the investor education area is maybe a newer function in the commission than the others. It's something that we've been ramping up in recent years — doing a fair amount of research to understand what investors know, what motivates them, what puts them at risk. We're designing education programs to try and improve the critical thinking skills that people bring to the investment process, getting them to what I call a healthy skepticism when faced with investment opportunities.

We've also devoted a fair amount of effort to financial literacy for youth, because we think it's important to get people, at an early stage of life, to have a basic understanding of the concepts and risks surrounding investing that will serve them through life as they're faced with investment proposals and opportunities.

We are also working increasingly on — and you'll be seeing more of this coming up — investor alerts, where we see specific risks in specific parts of the province and try to alert investors to be on their guard for particular types of activity that we suspect or know are going on in various communities. In that context, we're developing what we call a list of red flags for people to watch out for in identifying risks to investors.

We expect to be unveiling shortly, within the next couple of weeks, a new investor website that will be linked to, but separate and identifiable from, our general corporate website in order to provide greater focus for our investor education program. That's just a quick summary of our four — I call them core — functions that support the mission.

Just to turn to how we characterize our mission. Mr. Chairman, you asked what our mandate is. We have a twofold mandate. One is to protect investors. The other is to foster fair and efficient securities markets. Those are sometimes thought of as being counterbalancing purposes, but in fact, we think they complement each other quite well. It's really in the interests of investors that we have efficient, dynamic markets that provide investment opportunities.

It's certainly in the interests of the province that our securities markets work efficiently and provide a forum for companies to raise capital. If those markets work efficiently and fairly and are well regulated, then investors will be well protected. Everyone has an interest in ensuring that investors have confidence in the markets.

This is a mission or mandate that is not uncommon. If you look at the mandates of securities commissions across Canada or, indeed, around the world, most of them have similar themes in them.

We have a variety of stakeholders who we deal with and who have an interest in the operations of the commission — obviously, the public, who have an interest in a well-regulated securities market. Investors both in B.C. and elsewhere in the world, who participate in the securities markets here or invest in B.C. companies or deal with dealers here, have an interest in our activities, and we hear from them.

We have 6,000 companies, which in our terminology are reporting issuers, in British Columbia. This includes the companies listed on exchanges, companies that share straight over-the-counter mutual funds and various types of income trusts, and other issuers like that.

[0950]

Of those 6,000 who are sort of under our jurisdiction as reporting issuers, 1,400 are based in British Columbia. This is actually a high number in comparison with other provinces, because we have a lot of small venture companies, both in the mining industry and in other industries. Most recently the technology area has been growing quite rapidly in this province.

We also have 26,000 individuals who are registered with the commission as brokers, advisers or mutual fund salespersons. Many of them are from outside the province, although the majority are here. They are employed by 410 firms that are registered here. Those are anywhere from the large brokerage firms — bank-owned firms and other large national firms — all the way down to some very small boutique investment advisory firms, some of them with just one employee.

The provincial government is a very important stakeholder for us. It is the government, of course, through whom we are accountable to the Legislature.

I just want to describe the context in which we operate. I put a map of Canada up here because we really are regulating our part of a national securities market and, as a result, spend a great deal of time interacting with our regulatory colleagues in the other provinces and territories.

We are now operating under the umbrella of what is called the Council of Ministers of Securities Regulation, which was established a couple of years ago,

where the ministers who come from various portfolios — in our province it's the Attorney General, in some provinces it's the Minister of Finance, and in some provinces there are various other ministers responsible — come together through this council to discuss matters of interest to the governments in the context of securities regulation and to oversee the processes of harmonization and cooperation.

We have an organization called the Canadian Securities Administrators, which actually was established in the 1930s to coordinate the work of the provincial and territorial securities commissions. In recent years it has been very active, and I'll talk a bit more about that in a moment.

Under the umbrella of the securities regulators we have a group of self-regulatory organizations: the Investment Dealers Association, which oversees the full-service brokerage firms; the Mutual Fund Dealers Association, which oversees mutual fund dealers, as its name implies; and a group called Market Regulation Services Inc., which regulates the trading activity on the securities exchanges and alternative trading systems. At the moment the Investment Dealers Association and Market Regulation Services are discussing a possible merger, so we may be reducing the number of organizations.

They perform a very important role in securities regulation nationally under the oversight of the securities commissions. We rely on them as front-line regulators for much of the activity by the brokerage firms who are their members.

We also have the exchanges. As I'm sure you know, the landscape of exchanges has changed significantly in Canada in the last seven years. We used to have a series of regional exchanges, including the Vancouver Stock Exchange in this province. Through a series of transactions, the exchanges basically are in one group: the Toronto Stock Exchange, now called the TSX, which operates what we call the senior securities market; and the TSX Venture Exchange, which operates the junior market that formerly was primarily on the Vancouver and Alberta stock exchanges. They've effectively rolled that franchise out nationally now.

There are also some other, smaller exchanges, but the bulk of the exchange activity in Canada is now within the TSX group. The Toronto Stock Exchange, the senior exchange, is overseen by the Ontario Securities Commission. We oversee the TSX Venture Exchange in cooperation with our colleagues at the Alberta Securities Commission.

Finally, I'd just mention international cooperation, because in addition to working with our colleagues across Canada, we also interact with foreign regulators.

[0955]

Securities trading these days.... It has become a cliché in the regulatory world that it knows no boundaries. It's probably a bit of an exaggeration, but there's a great deal of activity operating across borders. We interact with the Securities and Exchange Commission in the U.S. particularly but also regulators in other jurisdictions, such as Hong Kong, Australia and others where there's a lot of business involving Canadians.

Just back to the Canadian Securities Administrators. We have built through that network a pretty robust infrastructure for coordinating the regulation of the Canadian securities markets. It really has three major elements — first, what we call mutual reliance reviews, where we have a system that's variously documented in rules, policies and memoranda of understanding through which most market participants are primarily regulated by their home province regulator. Regulators in other provinces generally rely on the work of the home province regulator.

For example, a British Columbia company that wants to do a public offering files a prospectus. Most of the larger companies would conduct a public offering across Canada, so they would file a prospectus in all 13 jurisdictions. Our staff would do the review of that prospectus. In almost every case the staff of the other securities commissions would not go beyond checking sort of routine things, making sure the paperwork is all there, but would rely on the review of our staff in order to determine whether or not to accept the offering. We have similar processes for other aspects of what we do.

That process is facilitated by a fairly significant set of harmonized rules. We've developed a mechanism in the securities world called the national instrument, which is perhaps not an elegant title, but it describes a rule or other legal instrument that is adopted on a uniform basis by all of the jurisdictions in Canada. We each go through our own rule-making processes, which vary somewhat from jurisdiction to jurisdiction, but what comes out the other end are rules that are in most cases identical — verbatim in every jurisdiction.

You can pick up the rule in B.C., and you know it's the same as the rule in Ontario or Prince Edward Island, which is very beneficial for companies who want to know how to comply.

Now you'll hear complaints about lack of harmonization. I would say there are some residual areas that we've not yet gotten around to harmonizing. People in the market would like to see us do that, and we are working on it as I'll mention in a moment. But we do have a significant infrastructure of harmonized rules already in place.

The third leg of this stool is a set of electronic filing systems. I mentioned earlier a company filing a prospectus in all 13 jurisdictions. At one time they had to print up multiple copies, put them on airplanes and send them off to all corners of the country, which sometimes was a challenge in the middle of winter.

Now they just push a button through an electronic filing system called SEDAR, which is an acronym for something, and that allows them to instantly file a prospectus with every commission. It allows the commissions instantly to look at it. It's significantly improved our turnaround time and reduced the cost for companies complying with our requirements. They can file prospectuses, all of their continuous disclosure requirements, their annual financial statements — all of those types of things — through that electronic filing system.

We have one, as well, for insider reports. It's not a particularly popular system because it's a little cumbersome — the electronic system — but it still beats filing

in paper. It allows an insider through an Internet website to file an insider report with every jurisdiction with whom they're required to do that.

We have a registration system that allows brokers to register their salespersons in various provinces and keep their registration documents up to date electronically. Those have significantly improved the efficiency as they've been adopted over the last ten years.

[1000]

You may have heard about the passport system, or what I call the regulatory passport. This is something we have been working on fairly intensively over the past couple of years under the auspices of the council of ministers. The idea of the passport system is to give a market participant what we call single-window access. It best operates if we have common standards of investor protection across the country and harmonized law. It will require even further cooperation within CSA, Canadian Securities Administrators, for it to operate effectively.

We had some amendments to the act passed last spring to give us the power to move down this road towards passport, as well as some other things that were in the bill. Each of the provinces at the moment, with the exception of Ontario, is planning to go ahead with that legislation to provide the legal basis for the passport system. As you may know, Ontario at the moment is standing back from the passport for its own reasons, but we continue to hope they will come in.

The idea of a single-window access through the passport system is to move beyond the mutual reliance system that I described a moment ago. Under mutual reliance, a company filing a prospectus to qualify a public securities offering, for example, still requires the formal legal approval from each jurisdiction in which it wants to do the offering. So the other jurisdictions rely on us, but they still technically have to make a decision on each prospectus.

What we'll be able to do with the new passport powers is, through one of a number of mechanisms that are in there, have a system operate so that once the home jurisdiction makes the decision to accept the prospectus or register a person, that would automatically qualify the person, register them — whatever — in each of the other jurisdictions that are participating in the system. So it would eliminate the necessity for that formal legal decision in the second jurisdictions, which will shorten the time frame for getting these things done, eliminate some remaining duplication of work and just generally make the system more robust.

The reason I say we need to have increased cooperation is that in moving to that system, you sort of lose the check and balance of the other jurisdictions having the opportunity to say, "Well, hold on a minute. I'm not sure I agree with that decision," which happens rarely. So we'll be building alternative mechanisms to ensure that there is regular consultation so that everybody understands what everybody else is doing and so that we apply common standards and principles in making those decisions so that each jurisdiction can be comfortable that other jurisdictions are making decisions they can live with.

I talked a bit earlier about our core functions. This is another way of looking at how we regulate. It sets out six basic activities that the commission conducts. First, we set disclosure and conduct standards for the people participating in the market. There are provisions throughout our rules that specify what disclosure has to be made in various circumstances by issuers who are in the public markets or by brokers who are dealing with their clients.

We register firms, and we register the individuals who sell securities. We have, again, set out in our rules and policies whole sets of standards for what people have to do to get registered, what qualifications they require. Obviously, in appropriate circumstances we will refuse to register people if we consider them unsuitable.

We monitor conduct of the people in the markets to ensure that they are in compliance. In the course of conducting those compliance activities, we also provide education to people in the industry so that they will understand the regulatory obligations — particularly important in this business. It's a fast-changing market, and we're constantly updating our rules to keep current. It is a challenge for people in the industry to keep pace with the changing rules, so we are devoting increasing effort to educating them about what the requirements are.

[1005]

We investigate complaints and other forms of information that come to us about misconduct in the markets. We take enforcement action through the powers of the commission or in some cases by referring enforcement matters to other agencies that are better placed to do that. As I went on about at length earlier, we educate investors and are devoting increasing efforts to that.

I want to talk briefly about the governance of the commission. As I mentioned, we have 11 commissioners who are appointed by order-in-council. They perform three functions. The commission is effectively the board of directors of the commission as a corporation, and in that capacity they are responsible for overseeing the management of the commission and conducting all of the appropriate governance activities.

The commissioners are also the rule-making body. Under the act, commissioners can approve rules. They require the consent of the Attorney General, and there's a whole process laid out and a rule-making procedure regulation that requires us to get public comment, analyze the comments, report to the minister and ultimately get his consent before the rule goes into force.

Thirdly, the commissioners act as an administrative tribunal. I'll talk a bit more about that in a minute.

We also, as part of our governance structure, have a couple of external policy advisory committees who provide significant input on our administration of the legislation and our development of new policies, and they just provide a sounding board generally on things that are going on in industry. We have a group called the securities law advisory committee, which is a group of practitioners who participate in securities law, and the securities policy advisory committee, which is

a more multidisciplinary committee. It involves, I think, one or two lawyers but also people from the industry — accountants, advisory firms and so forth — who see the market from different perspectives and are able to bring those perspectives to bear in discussions with us and in advising us on policy issues, on strategic plans and so forth.

Our board has two committees. We have a human resources committee and an audit committee. Each of these is comprised of our part-time commission members. Perhaps I should explain that of our 11 members, four are full-time members. In other words, their job is as members of the commission — myself, two vice-chairs and one other member. The other seven members are part-time commissioners who just participate in the monthly meetings and hearings and so forth. We regard them as our "independent" commissioners because they're not part of the management structure. Both of these committees are comprised entirely of those independent commissioners. They perform the functions you would expect from committees with those names.

I mentioned the adjudicative tribunal function. The commission has some fairly significant enforcement powers under the act, and the act requires that a person be given a hearing before orders are made under those powers. Those hearings are conducted in front of three-member panels of commissioners.

They in fact adjudicate two types of cases. One is enforcement cases of the type I just described. In those cases the staff of the commission would make allegations of misconduct against a market participant and seek orders, generally removing the person from the market, fining the person or otherwise dealing with them under our regulatory powers. The commission panels adjudicate those, make findings and issue orders if appropriate.

[1010]

They also act as an appeal tribunal to review regulatory decisions. Those could be decisions made by the staff of the commission — refusal to register someone, for example. A person can ask to have a review by a three-member commission panel, and they can confirm the decision, change it, overturn it or whatever. Similarly, we get appeals of decisions made by the exchange or by the self-regulatory organizations.

All of our decisions, both varieties, are subject to appeal in the B.C. Court of Appeal with leave from the court. We actually had two last week where we got decisions from the Court of Appeal which upheld decisions. In one case, leave was sought and refused on a takeover bid-related matter. In another, related to an appeal from the exchange, the court heard the appeal and confirmed the decision of the commission. Sometimes they go the other way, but mostly they seem to uphold us.

I'm now going to turn it over to John Hinze just to talk a little bit about the financial affairs of the commission.

J. Hinze: I'll spend a few minutes briefly reviewing our main revenue sources, revenue history, our main operating costs and how we control them, how we fo-

cus our expenses on core function, and lastly our education fund, its scope and transaction history.

I. Black (Chair): Mr. Hinze, before you do, just let me let you know that you're a little under halfway through your presentation and a little over halfway on your time, just to put that in context for you.

J. Hinze: I'll try and keep it brief.

The members can refer to pages 47 and 48 of our annual report for more detailed analysis of our operating revenue. Just to summarize, as the slide shows, we don't receive any direct funding from government. Instead, market participants pay fees to the BCSC when they register to advise or sell securities and also when they file required documents. For example, annual audited financial statements are required under continuous disclosure rules.

Our primary fee sources. About 98 percent of our fees come from three fee sources. Approximately 50 percent of those fees come from prospectus or annual information form or exempt market distribution report filings. Those are filings that have to be made for companies in order that they can distribute securities. About a third of our revenue comes from firm and individual registration applications and renewal applications. About 20 percent of our revenue comes from continuous disclosure filings, most of which are financial statement filings.

We also receive a small percentage of our revenue from hearing and other enforcement cost recoveries, and also a small amount of investment portfolio income. In addition, actually, we also do receive fees from applications for exemption under the Securities Act. Doug already explained about that process.

Our fee structure is intended to allow us to break even over a business cycle. The slide shows the revenue for the last five years and then the budget for the current fiscal year. There's a bit of interpretation required here because of our fee history, which I'll get into, but you can see that our fees are volatile and fluctuate with the market. Cabinet, of course, approves any changes to our fee structure, and we have not increased or introduced any new fees for over a decade — any significant new fees, I should say.

[1015]

Certainly, since April 1994 we've significantly reduced several filing fees, and I'll give three examples. In 1995 we reduced the fee for exempt offerings by money market mutual funds by two-thirds. Our most significant fee reduction was in fiscal 2001 when we essentially did what would be akin to a 15-percent across-the-board fee reduction. We eliminated or reduced about 14 of our fees, and the impact of that saved mutual funds and publicly listed companies about \$4 million annually in terms of the fees that they pay.

In fiscal 2002 we also went through a temporary fee reduction for a one-year period to return accumulated surpluses of about \$12 million to market participants. That 2002 fee reduction — you can see the impacts of that on the slide. Because of the timing of when we

recognized fees, it impacted fiscals 2002 through 2004, and there's a small continuing impact out through fiscal 2010.

Again, as you can see from the slide, our fees do fluctuate. One of the ways that we've tried to insulate ourselves a little bit against those fluctuations, so that we don't have to either curtail our regulatory functions or seek more reactive fee increases, is by appropriating \$12 million to what we call the fee stabilization reserve. That's equivalent to about five months of our operating costs.

We have drawn on the fee stabilization reserve. We drew on it in fiscal 2004 and again temporarily in fiscal 2005 when results were a little bit lower than anticipated. We have been able to replenish the reserve in fiscal 2006.

I'll move on to operating costs. This next slide shows our full-time-equivalents, or FTEs, over the last few fiscal years. For your reference, you can find a quite detailed analysis of our operating expenses on pages 49 through 52 of our annual report. Our main cost is, of course, people. Salaries and benefit costs account for about three-quarters of our expenses.

As you can tell from the slide, full-time-equivalents are down about 8 percent over the last five years. Of course, we did invest a lot of time and effort into developing the 2004 Securities Act. In addition to that, we're continuously seeking ways to improve our processes to reduce the time required to make filings and increase our efficiency.

One example of that. Quite commonly, as Doug mentioned, we rely heavily on information technology and technology systems to make the filings easier and faster. In the last two years or so, we developed and launched a local exemption application system that is completely electronic and allows for electronic filing and payment. In addition, we developed, on behalf of the CSA, a national cease trade order database to allow the dissemination of cease trade order information to subscribers.

I'll talk a little bit about the cost controls that we have in place. You can see from the slide that our operating expenses have remained relatively steady over the last five years. Within that, the average annual increase in salaries and benefits costs is below 2 percent a year. So it's relatively low, and we consider that a success based on the effort that we're putting into things like continuous improvement and trying to do more.

In terms of the salaries and benefits costs, of course, we regulate in the securities industry and we interact with very highly skilled and motivated individuals on a daily basis.

[1020]

We compete for regulators within that very focused labour market against law firms, accounting firms, other securities regulators. It's quite a small focused labour market. Like most of our competitors we do offer a compensation package that includes performance-based incentives and performance-based merit increases.

Some of the controls that we have in place over expenses, particularly salary costs. Of course, Doug mentioned our HR committee comprised of part-time commissioners. It reviews our compensation policies and makes recommendations to the full commission

about things like salary increases, executive performance.

We also do extensive monitoring. We do subscribe to a Canadian salaries database, and we do annual salary surveys — some internally, some externally — to make sure that we're on track. We're also transparent in that we comply with the Financial Information Act reporting requirements and have available disclosure for remuneration of those making over \$75,000.

We do, of course, face cost pressures. In the last five months, for example, we've lost about eight professionals. In all of those cases, compensation is a factor. Certainly in a few cases, people can walk across the street and make significantly more money, and that's always a challenge for us.

How do our salaries compare to other jurisdictions? Our salaries are the lowest amongst the large Canadian securities regulators, often by a significant margin.

The next slide shows our focus on the core functions. We have allocated the common area functions like information technology, which I mentioned support all of the areas. You can see from this slide that we focus our efforts on enforcement and rule-making, both for issuers and registrants, and then also a significant amount towards education.

I'll just review the education fund. The education fund was established in 1991. It predates our incorporation as a Crown corporation. The legislation requires that receipts from hearing penalties be spent only to educate investors and market participants about investing, financial matters, or the operation or regulation of securities markets. Essentially, hearing penalties under the act have to go into this education fund.

To avoid any sort of conflict of interest, we've also internally allocated any sanctions that we collect under settlement agreements. Those are agreements we reach before the hearing process starts that are in excess of our costs. We also allocate those amounts to the education fund.

Of course, these amounts are often quite difficult to collect. I'm talking about the moneys that go into the education fund. Generally speaking, when there's a fraud involved, the money is typically gone or offshore. It's quite often very difficult to collect.

Our primary goal isn't necessarily to impose a monetary sanction. It's to protect the market by removing misconduct from the market — removing the individuals from the market. Oftentimes there will be a monetary sanction together with other non-monetary sanctions.

When there is, we do aggressively pursue collection of those sanctions indefinitely and vigorously. Some recent examples. In the last year we've petitioned two individuals into bankruptcy in an attempt to get access to some of their assets.

The next slide is just a summary of our education fund activity for the last five years. In total, the inflows into the education fund are about \$7 million, and the outflows....

[1025]

The most significant outflow is towards financial literacy. We developed a resource for the grade 10-required course. We developed a resource specifically

for the financial planning component of that course, and it's in use by, certainly, several hundred teachers. It's been requested by well over 1,000 teachers. We expect that if even only 50 percent of teachers use that resource over the five-year period, the costs will work out to probably about \$20 per student for the use of that resource. We think that's an effective use of that money.

Just in summary, looking at our consolidated financial statements on the bottom line, when you've removed the impact of our educational activities and our temporary fee reductions, our operations have essentially broken even over the last five years. Certainly, the fees that we charge are significantly lower than those that we charged a decade ago. On the expense side we feel that we have effective cost controls and oversight controls in place. Operating expenses have grown less than 4 percent in total since fiscal 2002, which is an average of less than 1 percent per year. Overall, we feel that we're providing very cost-effective regulation.

I'll turn it over to Brenda now to continue.

B. Leong: Mr. Chair, thank you for the opportunity to speak about our service plan. I'm pleased to report, as the chief operating officer for the British Columbia Securities Commission, that we have been refining our approach to regulation. In that I mean that the BCSC has adopted a problem-solving methodology to securities regulation.

What we do is impose a discipline on ourselves to identify a problem, a risk or an issue that warrants regulatory intervention. Second, we feel that it's critical to define that problem with precision so that we understand what the nature of the problem is in order to decide what the most effective regulatory tool is to attack that problem, whether it be in the way of an enforcement action, a compliance review or an education initiative. These are all tools that are complementary to each other, which we utilize in dealing with these problems.

In developing our service plan, the senior management works with our board, the commissioners, to identify threats to investors and to market integrity. We evaluate the risks that we identify on an annual basis as well as on a continuous basis through the operating line staff. What we do is we work together to evaluate the risks that have been identified against the current business processes that we employ to deal with regulation on a day-to-day basis.

To the extent that we recognize that there is an imminent threat to investors or to the market that warrants an allocation of resources, this is debated and discussed with the full board with input and advice from the two advisory committees that Doug Hyndman referred to — our securities legal advisory committee and our securities policy advisory committee. At the end of the day, the commissioners approve our service plan. In doing so, they are also approving the strategic priorities that we have set and the action plans that we have chosen to implement to deal with these problems.

Our risks that have been identified for the 2006-2009 plan are on the slide up there. There are three of them. The first one is unsuitable investments, the sec-

ond relates to investment fads, and the third is abuse of junior market practices. Let me just take a moment to describe briefly for you what those three risks entail.

[1030]

In the first one we talk about suitability requirements under the Securities Act. What this means is that there is an obligation on the part of brokers to ensure that the advice that they are giving to their client investors is appropriate. When I say appropriate, I mean that it is incumbent upon the broker to understand the financial situation that the client is in, what their investment goals are and what their tolerance for risk is. They have to evaluate all of these three elements in making an assessment as to whether a particular product or investment is suitable for that client's portfolio.

One of the things we have heard year after year, however, is investor complaints about the investment that was made on their behalf or the advice that they received. You have to question: why are these complaints coming if brokers are adequately discharging their regulatory obligations?

What we have decided is to do some research, which has involved interviewing firms and salespeople and looking at compliance reviews and complaint databases and trying to get a better understanding of why investors continue to complain. Is it because they don't understand the advice they're getting? Is it because investors naturally will complain when they lose money on their investments? Or is it because brokers don't understand the products they're selling?

[G. Gentner in the chair.]

This is an example of what I talk about when I say that we have to define what the specific problem is so that we're better able to effectively deal with that problem. The second risk you see up there we have generically termed "investment fads."

In a constantly evolving and fast-moving market, firms will compete to develop new and innovative products in response to consumer demand. While we're generally not concerned with institutional investors who have the wherewithal and the financial resources to seek the advice that they need before they make their investment decisions, the commission has become increasingly concerned when these types of securities, which may not be well understood by investors, start to move into the retail market.

We've seen this recently. A recent example might be in the income trust wave that we've seen over the last few years. The lure of the investment is sometimes exaggerated in media, in advertisements, through sales channels, and the concern that the commission has is ensuring that investors actually understand what these products are. What are the risks? What are the complexities associated with it? Is it right for their portfolio?

[I. Black in the chair.]

In some cases what you will find is that investors get caught up in the lure of the attraction of the in-

vestment, and they might find themselves actually overconcentrating their portfolio in some of these areas. This is not to say that these investments are not good investments. Care must be taken, however, to ensure that it's the right investment for your risk tolerance and your investment portfolio.

What the commission has done is formed a cross-divisional team of staff coming from disciplines across the commission to identify earlier some of these waves of investments that are moving into the retail sector, and it's looking at ways that we can help investors to protect themselves from the complexities and risks associated with some of these investments.

The last one there is what we call the abuse of junior market practices. You will have read and heard most recently about over-the-counter bulletin board trading. This is the initiative here that the commission has implemented to deal with these over-the-counter market problems.

Just to help some of you who may not be that familiar with this market, this is an over-the-counter market. It is not an exchange that operates legally in the United States. It is important to note that it is not regulated by Canadian regulators, including the commission. It is regulated by the United States Securities and Exchange Commission.

It is a risky market with little transparency and few financial and disclosure requirements, very unlike the Toronto Stock Exchange Venture, which over the years has developed very, very stringent and high levels of filing, screening and disclosure requirements.

[1035]

The reason that the commission has decided that this is a risk to our markets is not so much that investors in British Columbia are being harmed. Our research actually tells us that most of the targets of these investments are actually U.S. residents as well as residents outside of North America. We see that happening increasingly. Investors in Germany are starting to invest in bulletin board companies, for example.

But notwithstanding that the investors are not in British Columbia, the concern that these practices raise is a recognition that there is a pool of talent, for a way of saying it — people who understand this market. They have connections to British Columbia. They may be promoters. They may be brokers, lawyers, accountants. For some reason, which we have some ideas of why, there seems to be a disproportionate number of these connections to British Columbia and particularly to Vancouver.

These activities that emanate from our markets threaten and harm the reputation of B.C.'s capital markets. This is of grave concern. We hear from junior companies that are trying to raise money legitimately here in the province. When they are out there trying to raise money, talking about Vancouver and the capital markets here, the B.C. markets, they are often faced with questions and skepticism because of these practices involving the bulletin board — albeit, as I mentioned at the beginning, this is a market that's actually regulated and located in the United States.

The commission has dedicated a fair number of compliance and enforcement resources to try to tackle this very, very challenging problem. We have a three-

year plan. We recognize that enforcement is not the only answer. It's so prevalent that you're not going to be able to stamp out all of this activity through enforcement. Obviously, if we are able to bring forward and prosecute some key cases that send strong deterrence messages, that would be part of the solution to the problem. We're also looking at other policy and initiatives, perhaps through imposing conditions on registration to be able to deal with this problem from a multifaceted perspective.

Just to put in perspective how we have aligned our service plan with the commission's mandate. We have organized our activities — as Doug already talked about, so I won't go into it — into four areas, and you see them up there. We want to ensure that there's a strong culture of compliance out there on the part of brokers — their firms, their salespeople — and companies. We want to move to act decisively against serious misconduct that harms investors in the markets. Through passport and some of the national initiatives, we want to advance what we call smart rule-making and guidance, as already discussed — and obviously, education, a very important component.

Under these goals, we have organized the risks that I talked about, and we've developed strategies, which I've talked about — some of the strategies to deal with some of the risks. We have multiple strategies that deal not only with the significant risks that we identify on an annual basis, but these are also strategies to improve our capabilities, our capacity to meet our four goals.

Just by way of an example, what we're doing in continuous improvement at the moment is evaluating all of our business processes through a very critical lens to say, "Are we focusing our resources in the right places? Are these processes going to get at the most significant problems facing investors in the market?" and critically evaluating whether or not we should continue to work on those processes or whether they should be replaced with other more effective ways of dealing with the problems.

We also have a strategic initiative that focuses on supporting the governments and other regulators in their efforts to make the Canadian regulatory system more effective, which is the last bullet point up there: "Supporting national objectives."

[1040]

One of the important aspects of developing service plans and setting goals and developing strategies is obviously measuring how well you're doing towards achieving those goals that you set for yourself. The commission is no exception. We have for the last two years been struggling — and I will admit that it has been a real challenge — to develop measures to assess our progress in achieving our four goals.

When I say that we're struggling, I'm sure you can appreciate that it's very difficult to measure regulatory effectiveness. We're not a for-profit company, where you have a bottom line that you can look to and say: "That's success."

How we want to move forward is to focus on what we call our effort, rather than the effort itself. To give you an example, a number of years ago we were at a

place where we were measuring activities or outputs. These are easy to measure. As an example, we might set a target for the number of prospectuses that we cleared or the number of enforcement cases that we undertook in a particular year. This is what I mean by activity-driven measurements.

While those are important to track and keep over time, the commission feels that those are proxies for success on moving toward the goals. What really counts here is: are you being effective at creating a culture of compliance? Are the commission's initiatives actually moving us forward to strong enforcement? Are we being successful in working with our fellow regulators to advance smart streamlined regulation?

To develop measures to assess how well you're doing in reaching those goals is a very challenging exercise. They need to be trackable. The data need to be available, and obviously, they need to be collected in a timely way so that the numbers have integrity.

I. Black (Chair): Ms. Leong, if I could interrupt you for just a second. We've now hit the one-hour-and-15-minute mark, and I know one of the members has to leave shortly and has already asked to be on the speakers list.

Can I make a suggestion to you? You've got about 12 slides left, by my math. Can I ask that you take no more than five minutes to summarize the key messages contained in those 12. Or else we're going to find ourselves in a position where none of the members can ask any questions before someone has to leave.

That's a bit of a challenge, I realize. If you could cherry-pick from the 12 slides the key messages that you'd like to leave with us, I suspect some of the other information will come out in the course of the question-and-answer period. Is that okay?

B. Leong: That would work fine, Mr. Chairman. The next few slides on measurements I'm going to skip. Those are in your plan. I'd be happy to take questions on those during question period.

I'm not going to speak about education, since I think that's been adequately covered by Mr. Hyndman. But I do want to spend just a brief moment on enforcement.

Our regulatory requirements will only be effective if they are enforced, and we use a variety of tools: compliance examinations, education. Enforcement, however, is the most powerful regulatory tool which can be used to deter serious misconduct. What you see up there — and I just wanted to give you a flavour for the flow of how we deal with enforcement...

The best way to view that slide is to go from left to right. The cases are initiated. You'll see that the complaints can come in from a variety of sources. They're either generated internally or externally from referrals from other enforcement agencies. It goes through an assessment to assess whether or not they merit further investigation. It then goes through an investigation process whereby the case may be resolved at some early point with a caution letter.

Because our resources will never match the number of cases that we have, we aim to negotiate settlements

where they are appropriate. And to the extent that we are not able to settle the cases, we move them forward to our litigation branch.

Just some highlights up there to give you a sense of the size of our enforcement activities. It kind of speaks for itself. We'll never have enough resources to deal with all the problems, so the challenge for the commission is to make sure that we select and pursue serious cases of misconduct and protect investors and send strong deterrence messages.

[1045]

In order to strengthen enforcement, Bill 20 was passed earlier this year, which strengthened the ability to impose fines. The fines have gone up for courts to impose up to \$3 million and administrative penalties to \$1 million. Now the courts can order restitution, which strengthens, obviously, investor protection.

I'm just going to have Doug Hyndman close with some remarks.

D. Hyndman: Just to wrap up and, hopefully, leave enough time for questions. I just wanted to make a couple of remarks about the market — kind of bring us back and look at the big picture here. I've laid out some statistics on this chart to give you an idea of the size of what we're dealing with.

As I mentioned earlier, we've got about 1,460 B.C.-based public companies; 234 of those are listed on the Toronto Stock Exchange. That's about 13 percent of the Toronto Stock Exchange — about B.C.'s share of Canada's population, so we're holding our own there, if you like.

On the venture exchange, though, over a thousand of the companies are based in B.C. That's about 46 percent. What that really reflects is the roots of the venture exchange in the Vancouver Stock Exchange. Many of those companies are mining companies with exploration properties, either here in B.C., elsewhere in Canada or anywhere around the world.

British Columbia is a real centre for mining exploration in the world, as I'm sure you know. That number — the percentage there — is gradually drifting down as the venture exchange develops its business in eastern Canada, but this is still their largest locus of activity.

Some companies based here that are listed on other exchanges — New York and NASDAQ, for example.... I mentioned our mining business. There are a couple of areas where we've got a growing number of public companies. In the oil and gas field we now have 98 public companies based in B.C., and in the tech and biotech field we're up to 179.

I noticed in the newspaper this morning that they had a list of the 50 fastest-growing small technology companies in Canada. The one at the top of the list happened to be from British Columbia, which was interesting.

Capital raising. I mentioned that we're a mining centre. In fact, last year we were the top jurisdiction worldwide for financing mining exploration: \$3 billion raised by B.C. companies for mining exploration, which put us ahead of second-place Ontario at \$2.6 billion. When you see that those two are so high, you

realize what a significant role Canada plays in the international mining-financing business.

Overall capital raising. We looked back over the past five years, and B.C.-based companies of all types — not just talking about mining — have raised \$42 billion. It just gives you a sense of the scale and scope of the activity that goes on in our markets.

I want to close by mentioning the challenges that we see facing us as we move ahead. Brenda took you through our strategic planning process and identification of risks. These are the things that we see in the coming years that the BCSC is going to have to do well to be seen as successful.

We're going to have to strengthen investor protection. That means not only better enforcement and sharpening our rules and compliance processes but also looking at better ways of warning investors about risks, educating them and providing mechanisms for them to recoup losses when that's possible. We're looking at all of those areas.

We do have to continue to focus on more effective and less burdensome regulation. The world capital markets are developing fast. They are very competitive. It's important for us to make sure that we have very effective investor protection but to do so in a way that does not impose an undue burden on the market, and we continue to look for further ways to do that.

Greater national cooperation is going to continue to be a watchword in the Canadian securities area, whatever happens in the future. There are lots of debates about that. I talked about the passport system. That is going to drive our activities.

[1050]

Probably a couple of years ago I would have said that bullets 2 and 3 are in conflict — that the pressure for harmonization was going to move us away from more effective and less burdensome regulation, because we had some fairly significant divergence of views between ourselves and our regulatory colleagues, particularly in Ontario. It was kind of a dilemma as to whether you worked towards harmonization or towards streamlining and effectiveness.

I think the landscape has changed a lot. We now see that we can achieve both of those objectives through a common process. I think that's a very positive sign for the province and, frankly, for Canadian securities regulation.

Mr. Chairman, I'll leave it at that, and we'd be happy to entertain questions from the committee.

I. Black (Chair): Thank you very much for the presentation. I'm going to take a bit of a speakers list here from my colleagues. While I'm doing so, perhaps I could ask you just to do one thing, as I take names from around the table here.

Clearly, there's been a lot of media attention in the last several weeks with respect to specific cases that have come before the Securities Commission. Could you give a couple of basic comments with respect to how you'd characterize those cases relative to the typical case.

Clearly, you've rattled off that you've got several issues and investigations that you tackle in a given year. How do these high-profile ones relate on the landscape to things like workload, duration, complexity and the issues that you encounter?

D. Hyndman: Well, we certainly have had significant media attention over the last little while. What I say to our staff is that it's something that goes with the territory. We're in a high-profile business, and we should expect to be commented on.

I guess in our view not all of the commentary is fair, but we certainly can't dismiss it all out of hand, and it's important for the commission to take it in stride. To the extent that things are fair, we should deal with that, and we should not overreact when it's unfair. Sometimes we're unable to comment because a matter is under investigation, and like any enforcement agency, we can't really get into commenting on specific cases that are in the pipeline.

Let me just comment generically on a couple of things. There was one major decision after a very lengthy and complex case where the commission panel, in a split decision, rejected staff's allegations and concluded that the allegations were not founded.

I saw that characterized in some media stories as a failure, and I don't think that's the right way to think about it. An adjudication process requires a panel of independent commissioners to consider evidence and arguments that are put before them and to make the decision that, in their view, is the appropriate decision based on what they have heard.

In this case, our commissioners did that. I think the fact that we had a divided panel reflected the difficulty and complexity of the case. But they made the decision that they thought was right, which is their duty. I think they deserve credit for all of the effort that they put into that case.

Obviously, staff put a lot of work into that case and were seeking a different outcome. As with any case, they will do a postmortem, learn from the experience and figure out what they should do differently in the future. That's one of many cases, but clearly, it was a major case and a fairly high-profile one, so we certainly anticipated that there would be media coverage of it.

We also have had some discussion of what I'll call "illegal distribution" cases. These are local cases where someone is selling securities illegally — not filing a prospectus, not being registered. There may be misrepresentations involved, sometimes allegations of fraud, in these cases. The common factor is that someone has sold an investment, generally localized in a community or in an affinity group — a religious group or something like that — and the investors end up losing a lot, or all, of their money.

[1055]

We often get criticized for not acting sooner, and it's certainly a frustrating situation for us in many cases. We may know a little bit about the case early on, but not enough to act on it. We do require evidence before we can step in and stop somebody's business.

More often than not in these cases, we find it very difficult to get anyone to talk to us — including the investors, at the early stage, who think they're still onto a good thing. Oftentimes the perpetrator will tell them not to talk to the commission, not to talk to the government. Sometimes there's a tax angle to this thing, and they might think they're putting themselves at risk, or they'll be told that if the commission gets involved, it's going to reduce their chances of getting their money back.

With the benefit of hindsight, in many of these cases you'd say, "Well, it was obvious that this thing was a fraud from the beginning," but unfortunately, that's not always so. Having said that, we are continuing to examine our processes to see if there's a way we can intervene earlier in these cases, if we can smoke out information at an earlier stage, identify them at an earlier stage as something that merits more aggressive attention. That's on the enforcement side.

The other thing we've concluded that we should do is — and I touched on this earlier.... Even if we don't have evidence that would support a regulatory action, if we get wind of something that looks like it might be one of these kind of schemes in a local community, we can go in and provide some generic investor-alert warnings without naming the company, because that would be unfair at that stage. But just alerting the local media — radio stations, local newspapers, community groups — about investment schemes, the risks of investment schemes — trying to get that information out to the investors and hopefully get it to some of them so that they will pause before leaping into these deals....

Oftentimes investors are drawn in by their friends who say: "I've got this hot deal, and I'm getting a great return. Maybe you should get in on it." We need to find a way to break that cycle earlier. If we can do that, it might also complement the enforcement thing. It might also cause more people to come forward and say, "Hey, somebody approached me," and we'd be able to get a little more information that would help us act sooner.

Of course, as the investigation unfolds, we may be able to become more specific about the kind of warning we provide, but at least we'd be able to give investors a bit more of a fighting chance to fend these things off. I don't think any of these is a silver-bullet answer to this. It's something that's going to continue to require our attention. I'm sure when they blow up, the media will comment on them, as they should.

I. Black (Chair): Thank you.

C. Puchmayr: Thank you for attending. I'm just going to talk a little bit about the enforcement issue. Certainly there are some concerns. I'm going to read a quote from Christopher Byron, a stock market columnist in the *New York Post*, where he states: "Whenever I see a Vancouver connection, it raises a huge red flag. I've never encountered a good company out of Vancouver. There's always an angle or a gimmick."

I don't agree that there isn't a good company in Vancouver, but when the *New York Post* is making

comments like that, it concerns me. It concerns me for the benefit of businesses in British Columbia and of investors and many seniors that think they're getting into good investments and they're not. The image issue is certainly a concern.

Even John McCoach, vice-president of the TSX Venture Exchange.... His quote is: "It not only hurts the Canadian capital market. It also hurts Vancouver's reputation. It's embarrassing and frustrating when people perceive your city negatively due to the antics of others." He's making quotes with respect to the market.

My questions are going to be in line with what you spoke about, what you're attempting to do — to create a better image and implement some securities....

I want to ask, first of all, with respect to people investigating incidents that come forward. You talk about a panel or a tribunal. Who are the members that would sit on that? Who are the members who would be investigating it? Do you have some names that you can provide to us of who would be involved in that?

[1100]

I. Black (Chair): Mr. Hyndman, just before you answer this....

I heard you say a list of questions. Typically it's one question and a quick supplemental, and then we'll bring you back on the speakers list after we go through it — just so you know. So pick your question, because you might not get all of them in.

C. Puchmayr: My question would be to give us the names of the people who would be investigating it and the people that would be hearing the tribunals or hearing the panels.

D. Hyndman: Well, the investigations would be done by our enforcement staff. We have an enforcement division....

C. Puchmayr: I'd like to know who those people are.

D. Hyndman: Well, I think we have about 20 investigators. The director of the enforcement division is Sasha Angus. He has an investigation branch under a manager named Robert Abrams. Then, as I say, there are 20 investigators. I don't have at my fingertips the names, but....

C. Puchmayr: You can get the information to us, if you don't have it readily available.

D. Hyndman: Sure. Yeah.

C. Puchmayr: I'll accept that.

I. Black (Chair): Notwithstanding privacy issues of the individual employees, but I'll leave that to the commission to deal with at the HR level. But all that information — if you can send it to the Clerk of Committees, and if we have an issue with that, we'll be back in touch with you.

D. Hyndman: Okay, we'll submit it.

I. Black (Chair): Chuck, did you have a follow-up? You said you had a list.

D. Hyndman: Well, you asked who was on the panel. The panel members are the commissioners — so the 11 commissioners who are listed in our annual report. They're generally chaired by one of the full-time commissioners, Brent Aitken, Adrienne Salvail-Lopez or Robin Ford. And then we usually have one of those plus two part-time members.

C. Puchmayr: My other question is: in the last fiscal, how many investigations were completed, and what were the results? How many of those were successfully completed? How many were appealed? I just want some statistics on investigations and where they ended up.

D. Hyndman: Okay. Could we gather those and send them to you? I don't have them at my fingertips.

C. Puchmayr: And then on that same topic, if you could show us a trend for the beginning of this fiscal as well.

D. Hyndman: Okay.

R. Cantelon: About ten days ago I met with a group of very angry investors in Nanaimo, who lost their money on what would appear to be a Ponzi scheme fomented under InstaCash. Pursuant to your comments you just made, I'm aware that it's under investigation, so I won't make my comments specific to the incidents. But it would seem in general terms that the commission did know about this type of thing very early and in fact did have the opportunity to talk to some of the investors, who are quite forthcoming in their frustrations about the investment. It's still going on, and the operation's still happening.

I appreciate your comments about generic warnings, I think, certainly to alert investors that something bad is happening in your community. My questions are two. How can that type of thing, after several years, still proceed? And are you precluded, when there's a pending investigation, from naming names and saying: "Watch out for this"? In police investigations when people are arrested, the people who are alleged to do things are named and that charges are being laid....

D. Hyndman: Well, certainly we can comment at the time we can lay charges or issue a notice of hearing, but you need to meet a certain evidentiary foundation at least to even get to that point.

Our tool usually to deal with these things is a temporary cease-trade order. In this case we issued one. It was fairly recently, and we were.... Again, I don't want to get into talking too much about this case because it's still under investigation, and there's nothing been proven.

But in that type of case, once we gather enough information to have what you'd legally characterize as a well-founded suspicion, you can move forward with a temporary cease-trade order, which can last for 15 days. Then you'd have to stand up in front of a hearing and defend that or advance in front of a hearing enough evidence to justify extending the cease-trade order. We've had some of those where we couldn't meet the test and others where we could, but we want to make sure that we've got a solid evidentiary foundation before we go and make that order.

I think at that stage certainly, then it's public. Once the temporary cease-trade order is issued, it's public. We can warn the public. You still have to be cautious, because the matter hasn't been adjudicated and there are no findings made; it's still just allegations. But at least that gets it onto the front page of the newspaper in the local community and warns people. The sad fact of the matter is with these cases, usually our experience has been that by that time it's too late.

[1105]

The most notorious case that I think we can probably safely talk about is the Eron Mortgage case a few years ago, which was a mortgage broker scheme that just promised exorbitant returns to investors and became very large. By the time we were able to get in and shut it down, basically the money was mostly gone. Investors, I think, got back 15 or 20 cents on the dollar.

In those ones we always look back and say: "Was there a point earlier where we should have been able to act?" Of course, in hindsight you can generally say that you could, but we're trying to figure out.... That's great in hindsight. How do we get ourselves in the position where, when it's going on, we can get in there sooner? How do we make sure that we pick these cases out of the mass?

Brenda presented some numbers about the number of complaints we get. I think in the example you mentioned, we did have a complaint in 2003 — kind of an isolated complaint — about a product somebody was selling. You need to pull on the thread to that and get a lot of information before that translates into an understanding of a larger scheme.

Picking that out of a crowd of a lot of noise from the complaints you get is very difficult. It's something that frustrates us. Obviously, the investors who lost money are feeling a lot of pain. Our frustration is not much consolation to them, but it's something that we are very seriously focused on.

We've had a number of programs over the years to deal with what we call "affinity fraud." I'm not sure that this one would quite fit in that box, but we've seen a number over the years where people or a person will infiltrate a religious community or some group like that and form a bond with people, and then start selling them the investment and then ultimately disappear with their money. In fact, there was a news story a couple of days ago about a fellow they were trying to extradite back from Australia, who did that here — Fred Hofman.

We have been working with religious organizations to try and deal with those in two ways. We've pro-

duced a video that we've circulated through that community, which warns people about that type of fraud. It's very effective. It has testimonials from victims and from clerics whose congregations have been ripped apart by this kind of activity.

We've also got a couple of clerics from the Fraser Valley who style themselves "God's fraud squad," and who help us in going around and engaging with communities of various religious denominations to get them more alert to this kind of thing.

That's one community. That doesn't deal with all of these kinds of things, but we're developing some techniques and understandings of these types of schemes through those processes and hoping that, as we go forward, we'll be able to branch out beyond the affinity groups into other types of localized investment schemes so that we can catch them earlier.

R. Cantelon: Well, you partly answered your own question. I was going to turn it back on you: how do you do this? You've given a partial answer.

Let me then ask: are there more regulations or more powers that would help you get to that point where you can blow the whistle and publish the name sooner? That seems to be the key issue, particularly in my case. If the word had got out quicker, it would have stopped the thing a lot sooner. It's still going on today from what I understand.

D. Hyndman: I can't think of any rule changes that would help us. It's really getting the evidence and marshalling it in a form where we can act sooner. We're certainly going to be exploring the earlier warning issue and seeing how far we can push that one.

Maybe we've been too conservative in the past, and we can be a little more aggressive about getting information out. I don't think it's a rule issue. It's really an operating process issue.

J. Horgan: As a new member of the committee, I may well ask you some questions that can be found in your documentation. I've only had a few days to review that, so I'll ask for your indulgence.

[1110]

I'm tempted to follow along on Ron's question with respect to the situation with InstaCash. Certainly, on the Island — and Ms. Leong talked about the integrity of the markets and confidence and issues that my colleague from New Westminster raised as well — the Ian Thow case here in Victoria had a significant impact on certain associates of mine in the industry, and the situation in Nanaimo also causes some significant concern in the investment community here on the Island.

As I look at the data of enforcement highlights, I would think that if you knew of the InstaCash case in 2003, of the 2,000 cases opened, you would have been able to put more attention to that. I heard you clearly in your answer, so I'll walk away from that one.

I would like to move to the remuneration summary on page 50 of your annual report. I'm looking at the categories "Other cash benefits" and "Other non-cash

benefits" for the chair, vice-chair and so on. Could you outline for me what the bonus structure or the performance measurements are for those other cash benefits and other non-cash benefits?

J. Hinze: Certainly. The column titled "Other cash benefits" includes performance-based incentive. Our incentive plan ties into the objectives, which are set through our strategic planning process. It also depends on some key measures that we've set in each of the operating areas. For example, at the hearings level we have a measure in place for the time that hearings take to complete, the time it takes to start a hearing and the time it takes to release a decision. Those are all measures that are incorporated into that component.

J. Horgan: If I could interrupt, John. So then if it's a speedy hearing, there's a benefit to the commissioner? Do I understand you correctly?

J. Hinze: Correct. We've set some standards about the turnaround times that we expect.

I. Black (Chair): Just a cautionary. We don't want this to get into a dialogue — okay?

D. Hyndman: I don't want to leave the member with the impression that it's sort of, you know — that you get dollars in your pocket if you get the decision out two days earlier. It's not that direct, but it's part of a measurement framework that determines whether we meet key performance indicators in the department — in this case in the office of the chair, but we have those for each of the departments. It factors into a formula that generates the incentive payment.

J. Horgan: Would that grid be available to the committee?

D. Hyndman: Absolutely.

J. Horgan: And the other column?

J. Hinze: The other column, "Other non-cash benefits," is primarily the pension benefits.

D. Hyndman: The commission is part of the public service pension plan.

J. Horgan: One more? Thanks, Chair.

I. Black (Chair): Keep it related, though.

J. Horgan: In your service plan on page 20, "Goals, performance measurements and strategies," halfway down the page: "We select measurements based on the following criteria: connections to the results of our work. We select measurements that show the results of our efforts not the amount of effort itself. Thus, we measure quality and effectiveness rather than count regulatory processes."

Do you link these criteria to your performance and other cash benefits? Is it an "if this but not that"?

J. Hinze: Yeah. Of our key measures, some of the measures are: what is the output? Other aspects of the measure are: what is the service quality? It's pretty difficult at the commission level to assess the quality of decisions. We do customer surveys, for example. There have been commission-wide surveys in the past as well, so we do try and incorporate effectiveness that way into the incentive calculations.

D. Hyndman: To answer the member's question directly, I think these measures that we're talking about here are not at the moment factored into the incentive plan. These are too developmental, if I can put it that way. I think Brenda mentioned the challenge we're having in developing these high-level measures of our goals. We're really at the stage now of setting baselines, defining the measures, making sure that we can get a series over time and monitor the achievements.

[1115]

The measures that we've got in our plan are actually lower-level, more operational kinds of things at the moment. Certainly, our vision is that this kind of thing shouldn't link to the plan, but we're not there yet.

J. Horgan: Okay, and if I can just ask for information to be left with the committee on my final question on this. John suggested that salary increases from 2002 forward were about in the area of 2 percent. Could you provide us with the rate of increases? I believe 1998 was the year you were free to set your compensations. Could you give the committee the increases from 1998 to 2002?

J. Hinze: Sure.

J. Horgan: With that, including bonuses as well — any bonus payments — and the rates for that period that are not in the report.

Also the number of staff over \$75K. That needs to be reported. It may well be in front of me right now, John. If it is, you can point it out to me when the committee is done. If not, could you provide it to me?

J. Hinze: Okay.

D. MacKay: My question is more targeted to the individual. I think it's usually individuals who have a quick cash scheme in their back pocket, whether it's a securities crime or a Criminal Code activity. You can have all the regulations in the world, but if you've got somebody out there who's got an idea in his head that he can make a fast dollar, he's going to attempt to circumvent regulation, Criminal Code law or whatever else we have out there to regulate illegal activity.

You piqued my interest when we started talking about how BCSC regulates firms and individuals who sell securities. I was just wondering if you could explain to me, please, how it is and what process you

follow to register a firm or an individual to be able to sell securities in the province of British Columbia. Do we do any follow-up on these individuals after they have been registered in the province to sell securities? If we don't, I think maybe that's an area we should be looking at. The dollar is mighty powerful out there when it comes to illegal activities.

Could you explain to me the process to register firms and individuals, and do we do a follow-up on them after they've been registered? At what intervals do we do it?

D. Hyndman: I think I said earlier that there are a fair number of rules that surround the whole registration process, which apply to people once they are registered. When someone applies for registration, they have to demonstrate that they have the appropriate education. I forget the form number. It used to be called form 4. There's a fairly extensive form where they have to disclose their work history, any past disciplinary or legal actions against them — those kinds of things. We do criminal-record checks on everyone who applies for registration. Those are the individuals.

When a new firm applies, of course, there is a review of its capital, backgrounds of the principals of the firm, any operating history anywhere else, if they are just coming to British Columbia but are operating elsewhere — that kind of thing.

I should say that for the investment dealer part of the industry, we've delegated that function to the Investment Dealers Association. So they do all of that under our rules and under our supervision — reviewing all of the people coming in the door to get registered.

For those firms, the Investment Dealers Association does regular compliance reviews — both desk reviews of their disclosure filings as well as visiting their offices and doing reviews of their activities, making sure that all of their compliance procedures are in place.

The primary responsibility for supervising the individuals is with the registered firm. They have to have processes in place to monitor the trading and client accounts to hopefully detect the kinds of things Brenda was talking about on the suitability front or improper trading, those kinds of things, in the firm.

[1120]

What we usually find in the kind of cases we talk about here — the one in Nanaimo and others of the type you were characterizing.... Those don't generally happen kind of within the firm's operations. They're either done by people who aren't registered at all, or they're done by people who might be registered, but they conduct these activities in what's often described as off-book. It's kind of outside the firm. The firm may not even know about it. They're doing it from their home. They may have a little private company, and they get the investors to make their cheque payable to the private company so that the firm who's responsible for supervising them never knows about it. It's not the kind of thing we would detect on a normal compliance review. You're only going to find that through a complaint from a client or from somebody blowing the whistle, somebody else who knows about it.

So it's not the kind of thing you're going to find through a regular compliance process or a rule or anything like that. It's through our other detection and intelligence mechanisms that we unearth those kinds of things and then have to throw the resources at it in the enforcement mode.

I don't know if that answers all of the member's questions.

D. MacKay: If I can just do a follow-up, then. The idea of an individual working.... Well, first of all, we do have individuals who sell securities, and if they decide to go outside the bounds and start offering a security.... You said that the IDA does the follow-up investigations. The question of somebody going outside the bounds of the regulations to make a fast dollar.... If he's selling something on the side, a phone call to the police detachment to see if this individual is known.... There may not be any suggestion of impropriety there, but the fact that the name has been registered with the police department through their recordkeeping could cause a flag to come up if IDA was doing follow-up on an individual outside the bounds of his homework.

I'm just wondering. You said that the IDA does the work under your supervision?

D. Hyndman: Yes.

D. MacKay: Is that sort of thing done on these individuals, to your knowledge?

D. Hyndman: I'm not sure I can answer that specifically. I know there is a lot of communication between our staff, the IDA staff, the police — the commercial crime division of the RCMP, as an example. There is certainly some communication at the local level, but I can't specifically.... I can check into it and get an answer for the member, but I'm not sure as a matter of routine whether they would notify the local police.

G. Gentner (Deputy Chair): Thank you to the commission for coming here today. I was quite struck with Ms. Leong's statement that when we have a lack of resources, we therefore must select what we can and can't do. That brings into focus the whole need for criteria and protocols and the arbitrariness of decision-making.

To the chair of the Securities Commission: when I read the service plan, the commission appears concerned about cost, obviously, and the costs to regulate on to companies. That's obviously a major problem. But when I look at page 14, it seems to suggest that rules are bad and regulations are a burden.

"Once we define a problem precisely, the next step is to consider which regulatory tools will result in the most positive change with the least regulatory burden. Rules are one of the tools we use. However, as rules are generally the most intrusive and expensive form of regulatory intervention, we carefully consider whether a rule is the best option for responding to a market threat. If a rule is needed we...impose a minimum necessary cost on those who must comply with it."

Mr. Chair of the Securities Commission, if we are trying to convey a culture of compliance, how can we expect companies to comply when the commission is more focused on imposing the minimum necessary costs on those who must comply?

D. Hyndman: I actually think that this approach supports the concept of a culture of compliance. I think you're more likely to get effective compliance with rules if the firms understand what the rules are, understand the purpose of the rules and can see that the rules have a meaningful relationship to the objective we're trying to achieve.

[1125]

If we look back over a number of years, our commission got rule-making authority in 1995, I think, around the same time the Alberta and Ontario commissions similarly got authority. Others got it over the next few years.

I think there was a tendency — I would say more at other commissions than at ours.... We had this shiny new tool and fell victim to the old saw that if the only tool you have is a hammer, every problem looks like a nail. Issues would arise in the market, and the almost knee-jerk reaction of regulators was, "Well, what rule can we adopt to fix that problem?" without going through the thought process that Brenda Leong described: what is this problem, exactly? Is a rule the best way of dealing with it, or do we already have rules?

You saw over a period of time a great expansion in the volume of rules. Many of them were rules passed to prohibit or regulate activity that was already illegal and could have been dealt with under existing rules. Usually it takes a couple of years from having an idea that you want to have a rule to having a rule adopted and in force. Then there's going to be implementation time after that. That's actually quick in rule-making time. If you go through multiple rounds of comment and debate over the contents of the rules, sometimes by the time you get around to adopting the rule, the problem isn't there anymore, or it's completely changed from what you first thought about.

Oftentimes we find that you can spur compliance, protect investors and achieve the goals of regulation better by using the tools that you've already got — the rules that are already in place. When you do get to designing a rule, I think it is very important to understand what the problem is and design the rule to deal with that problem, recognizing that you don't want to impose costs on people who aren't causing the problem and have a rule that isn't effective in dealing with what is the problem.

If I can give you an example, hedge funds are all the rage, and there has been a recent meltdown in the U.S. with a major hedge fund. So everybody is saying: "Well, regulators should do something about hedge funds." A couple of years ago the SEC — I don't mean to criticize my colleagues south of the line — sort of identified hedge funds as a problem and brought in a rule that says that they all have to be registered with the commission and have to meet certain capital standards and so forth.

They did that without, in my view, analyzing what the real problem with hedge funds was, if any, and

whether that rule would in fact fix the problem. In Canada earlier this year we went through a review of the whole hedge fund issue, and we identified at least three different problems. Just saying that hedge funds are a problem so you should bring in a rule to deal with them doesn't get at those problems.

One problem is hedge funds being sold to unsophisticated retail investors. That's just a variant on the old problem of suitability and of risky and unsuitable products going to retail investors. We have rules in place to deal with that; we have processes to deal with it. We probably need to sharpen them up to deal with this new product, but you don't need a new rule to deal with that.

Another problem, potentially, is instability that might be caused if a hedge fund takes inappropriate risks in its investments and collapses and affects the liquidity of the market and that kind of thing — not really something that as securities regulators we're well equipped to deal with. It's something that the Bank of Canada is focused on. We talked to the Bank of Canada about that to make sure we get an understanding of concerns they have, if any. But just registering them wouldn't do much to deal with that problem.

The third thing we hear is companies that complain about the activities of hedge funds in battles for corporate control, corporate governance and so forth. Well, again, registering them doesn't deal with that. Perhaps you need to look at disclosure around corporate governance, takeover processes. In Canada, actually, I think ours are pretty good. But that's a completely different issue from the first one.

I probably haven't identified all the potential issues, but we think it's important to go through that kind of analysis and that kind of process. Think through what you're doing before just saying: "Let's adopt a rule."

[1130]

If you look at what happened after the Enron collapse in the U.S., they adopted the Sarbanes-Oxley legislation, which imposed a whole bunch of requirements on a lot of companies. Not clear that it would have prevented the actual problem that arose in Enron, but.... It probably did some good in a lot of areas in sharpening up corporate governance, but it also imposed huge costs on a lot of companies.

I think it's important to recognize who pays those costs at the end of the day. It's investors. As regulators our job is to deliver value to investors in the form of effective protection that costs less than the value that the protection is to the investor, recognizing that the investor pays all of our operating costs, indirectly through the fees, and all of the compliance costs of all of the firms. It all ends up coming out of the pockets of investors. We just think this is a smart way to regulate, and we think we can have regulation that's both more effective and less burdensome.

G. Gentner (Deputy Chair): A supplemental, Iain, if I could. I recognize the chair's position; I think we all do. You know, for all its wonderments, capitalism is expensive. Monitoring unethical behaviour is not always cost-effective.

Relative to the rules and the regulatory tools, you're saying, Mr. Chair, that they're working, and they've been quite effective. I'd like to continue with that line of questioning. Relative to weighing all the options that you have used, who weighs whether the rules are effective? When you come to seeking market outcomes that align with your regulatory standards, how do you check it?

D. Hyndman: Well, there are a variety of ways. Ultimately, this is what we are trying to get at with our measurement process — to see at the end of the day whether all of the efforts that we are expending on our strategies, on our day-to-day regulatory activities and on our processes are advancing us towards those goals that we've laid out in our strategic plan.

Like many areas of public administration, it's very difficult to measure the impact of what you do. They obviously have anecdotal evidence and a kind of general sense of what things work well and what things don't work well. That question about overall effectiveness is one that we are very focused on — coming up with better ways of measuring that. People at the commission, the senior management and the commission itself, are intimately engaged throughout the year in the development of our plan every year and in examining all of the things that we do — questioning their effectiveness and looking for better ways to do things.

You know, we get criticized in the media, but if you come inside the commission and talk to people, sometimes we're our own harshest critics. We recognize when things are not being effective and when we could do things better. So we're constantly saying: "Let's find a better way of doing this. Let's find a better way of intervening sooner. Let's sharpen up our compliance processes and get away from doing examinations where you just go through and tick a bunch of boxes and kind of miss the elephant in the room."

It's not an easy business. I'm sure you hear this from a lot of public agencies who are trying to do regulation or public protection of any form in a way that's not easily measurable. Those kinds of decisions about where to put your resources and your regulatory attention are kind of our stock in trade. That's what our senior management team is doing all of the time.

I. Black (Chair): I've got two more speakers lined up here. We have to watch our time, because I want to get to the in-camera session fairly quickly.

B. Lekstrom: Thank you for your presentation. Maybe the first one is clarification. We talk about your governance structure with 11 commissioners. Page 7 of your service plan refers to ten commissioners. Is there some confusion there or certainly...?

D. Hyndman: Well, no, it's changed since then. We had two retire and three appointed, so we had a net increase of one in July, I think.

B. Lekstrom: Okay. I guess my question to that.... I mean, you must have and operate under criteria that

lay out the number of commissioners that you can have.

D. Hyndman: Eleven is the maximum.

[1135]

B. Lekstrom: Eleven is the maximum? So you operated one under that prior. Thank you. That helps clear that up.

Just moving on to your performance measurements in goal 2. Certainly, the issue is to act decisively against misconduct, which I think is a very worthy goal. Looking at your performance measurement, when I go through that, the question I would have is twofold. Under 2.1, a percent of cases from external complaints that could have been detected earlier through internal compliance monitoring, the targets for '07-08 and '08-09 are scheduled to be replaced. Can you explain what we're replacing there — whether it's the entire target or the numbers we're working on?

B. Leong: Enforcement is an area that is probably the most challenging to try and measure. When we thought long and hard about how we were going to tell whether or not we are being effective in enforcement, we came up with this measure. We thought to ourselves: is it a good proxy if we're able to say that we've organized ourselves in a way to allow us to detect cases ourselves rather than relying on external sources?

Over time I think we've recognized that we may want to replace the whole measure because I don't know, in thinking about it some more, whether or not that is an appropriate robust measure for effectiveness. We have found over the years that some of the referrals we receive from other enforcement agencies, other regulators, are very good leads that we follow up on. It may not necessarily be an indication that we're failing if we're not detecting those on our own. So we are re-evaluating the measure.

B. Lekstrom: Okay. If I could just have a quick follow-up to that. I think it's always great that we try and improve everything we do.

The issue we have when we go down to our notes on one and two.... The percentages we're looking at under 2.1 are very small in number. It lays it out: five of 68 or six of 73. Unless I was mistaken, part of your presentation showed the complaints that came in. I thought they were far greater than that number. Did I misread one of the slides that you brought? Are we just taking a snapshot under this target, or is it the full number and that percentage is based on it?

Am I making relative sense? I thought I'd seen something on the number of....

B. Leong: I'm trying to locate the slide to put it in perspective. Are you talking about the rule-making measurement?

B. Lekstrom: No. Under goal 2, performance measurement, 2.1. The percentages we're talking about there — the '04-05 actual baseline was 7 percent.

B. Leong: You're saying that the number is inconsistent with the number that was put up for the number of complaints — the highlights?

B. Lekstrom: Well, yeah, I was just cross-referencing the number. I was wondering if you took a snapshot of 68 out of the full package and said: "Okay, five of those 68 were...." And that's how you came up with this percentage under your performance measurements. Or do you look at the entire amount that comes in? If not, why?

D. Hyndman: I'd have to get back to you. I can't recall whether that's a sample of the complaints or whether it's a defined subset of the complaints. I'd have to drill down.

B. Lekstrom: If you could get back, that would be fine.

I. Black (Chair): If you could send that to the Clerk's office, he'll distribute it to all committee members.

The last question goes to Mr. Rustad.

[1140]

J. Rustad: First of all, I want to thank you for your presentation. It's most informative. It's always nice to see how things are working and moving along.

I got on a little bit of a different track in terms of my question and follow-up, and I'm going to give them both to you so that you can, in the interests of time, perhaps be able to answer them both at the same time. Particularly around capital markets, the ability to raise capital is critical, quite frankly, to our society, to our economy and to being able to advance activity — to generate, hopefully, employment and opportunities for people.

This is an example of that, although this would not be specific. The example I'm giving you is not specific to the Venture Exchange because of the size of the company, but it's a good example in terms of how capital impacts the province. That is the recent announcement by Alcan of a \$2 billion investment in the north-west, which of course would bring benefits not just to those people but across the province.

It's an example of how the capital market is critical in terms of raising the money that's going to be needed to make that kind of investment. It's also an example of a bit of — if you want to call it that — a philosophical difference in terms of free enterprise in thinking.

The question I have is: has the change in the Vancouver exchange — as it has moved now over to, of course, the TSX Venture Exchange — impacted a corporation's ability to raise capital? I mean, is it easier now to raise capital? Has it been more restrictive? How has that happened?

Associated with that is: what are the challenges or perhaps benefits with regard to overseeing the TSX Venture Exchange versus what the old Vancouver exchange was — in your role and with the fact that now the corporate body of the exchange is located back east as opposed to being here?

D. Hyndman: Those are actually two very interesting questions. It's probably a little difficult to isolate the

effect of the exchange reorganization from all of the other things that have been going on in the market — regulatory changes and so forth — that have streamlined the capital-raising process.

It's my perception — this isn't based on any scientific evidence — that it's probably easier for companies above a certain threshold to raise capital now, with the Venture Exchange, than it was in the VSE days. It's much easier to raise capital across the country rather than just in B.C. — not that VSE issuers were confined to the province. But they tended to raise money here more than going across the country, whereas now that it's a national exchange, it kind of opens up the market more.

I think it's probably created more investor awareness because of the national nature of the exchange. In my view, in its late days the Vancouver Stock Exchange had really cleaned up its act and was not the kind of exchange that it was portrayed to be in the media, but it was still burdened by the reputation that it dragged along with it.

One of the benefits of the merger was that it left that skin behind and was able to create a new identity. What we tended to see is that when companies got a little larger in the Vancouver Stock Exchange, they would, as soon as they could, try and list on the Toronto exchange to get the cachet of being there.

You don't see that so much anymore. They'll stick on the Venture Exchange longer because they find that's a better forum for them to raise capital until they get larger. They don't prematurely jump to the senior board. Overall, it's my perception that it's probably improved capital-raising.

It might have chopped off a bit at the bottom end. Companies that are really small, who might have gone public in the old days, probably find that it's not economic to do that. Some of those might be the ones that are ending up on the bulletin board. Some of them raise capital privately. But I think, on balance, it's been positive. I think some of those companies were probably going public too soon anyway. So I think that's probably, on balance, been a pretty good thing.

There were some initial teething pains when the Vancouver-Alberta merger happened — you may recall it was called CDNX for awhile before the TSX took it over — because there were different cultures between those two exchanges.

[1145]

People think that, well, they're both resource exchanges. One was oil and gas, and one was mining primarily, but those are very different businesses. The business cultures in those industries are very different, and the regulatory culture of the two exchanges and the operating culture are quite different. It took awhile to merge those and develop a new culture for the new exchange, and it really didn't happen until after the TSX took it over, but I think it's working quite well.

Indeed, many of the innovations in operating practices and technology that the VSE developed have actually been picked up now by the Toronto Stock Exchange, which is what the president of the exchange said to me. He said, "You know, a lot of that —

Vancouver's — has come into the Toronto Stock Exchange," which is nice for a British Columbian to hear.

Your second question was about the challenges of overseeing it. It is definitely a different world.

J. Rustad: Challenges or benefits, depending on....

D. Hyndman: Well, I think I've talked about some of the benefits of the thing. Okay, the challenges and benefits of overseeing it. When we had the Vancouver Stock Exchange it was under our jurisdiction. We used to say the commission had power of life and death over it. We could tell them to change their rules. We'd do our examination, and we did everything by ourselves.

Now we have to do all of that in cooperation, for the Venture Exchange, with the Alberta Securities Commission. We've carved it up so they look at the corporate finance activities. We look at trading and enforcement activities. I think it's working very well, but it has introduced a level of complexity, and it really reflects the whole national market scene where we spend a lot more time talking to the Ontario, Quebec and Alberta commissions about overseeing the exchanges generally.

So it's not as simple as it once was. It's introduced an additional factor, but I think there's a fair degree of stability in the exchange world now with national operations. We're getting a bit of a convergence of views among the commissions about how to oversee them. There's still some work to do there. We're making progress, so I'm quite optimistic about how it's going.

I. Black (Chair): Let me wrap things up there. We're going to conclude the question-and-answer component of our meeting at this stage, and in precisely two and a half minutes we will go in camera upon getting a motion to do so, because we've got a very, very tight time frame to move here.

Let me take this opportunity to thank our guests and our witnesses for taking the time to come and see us today and answering our questions. We'll take a two-minute recess to get ourselves armed — those members. There's lunch over there, so lock and load. We'll come back here in just a few minutes. We are standing recessed for just a few minutes.

To the gallery, thank you.

The committee recessed from 11:48 a.m. to 11:52 a.m.

[I. Black in the chair.]

I. Black (Chair): All right. We'll reconvene. We are still in public session, so I would like a motion to move in camera, if I may.

The committee continued in camera from 11:52 a.m. to 12:15 p.m.

I. Black (Chair): We are back in public session. Motion for adjournment? We stand adjourned.

The committee adjourned at 12:15 p.m.

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