

# Attracting Investors To Ontario Capital Markets

Presentation to the

Ontario Capital Markets  
Modernization Task Force



**FAIR** | Canadian Foundation for  
Advancement of Investor Rights

*Dedicated to Putting Investors First*

- We provide the investor perspective to governments and regulators.
- We are an independent, non-profit advocacy organization directed by a Board comprised of experienced directors who have the public interest at heart.
  - Established in 2008 with funding from SRO predecessors of IIROC funded by their restricted funds (fine money)
- *We believe serving the need and interests of investors is essential to attracting new investment to Canadian and Ontario capital markets.*
  - Consumer and investor representation is weaker in Canada than in other developed markets like US, UK, EU and Australia

# Agenda

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1. Strong regulation leads to strong capital markets
2. Better regulation and reducing the regulatory burden
3. Focus on Ontario over a national regulatory system
4. Proposed national securities portal
5. Improving the SRO system
6. Compensation for investor losses due to misconduct
7. All investments should be regulated by OSC
8. Additional points to consider

# Introduction

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- Strong protections for investors are important to attracting capital to markets and to our market's international competitiveness
- Market integrity and investor protections are important factors to attract international investors to a market.
- International investors prefer to invest in markets with strong regulatory protections, legal rights & corporate governance standards
- Task Force should propose strengthening regulatory protections for investors to improve Ontario's ability to attract investment in Ontario

# 1. Strong regulation leads to strong capital markets



TSX's aggressive promotion of Chinese listings in 1990s led to over 50 new listings, but regulatory system failed to address key regulation & supervision issues for foreign companies.

- Sino-Forest fraud lead to OSC guidance to underwriters' due diligence & improvements in TSX listings standards for foreign issuers.
- Bre-X fraud lead to new standards imposed by OSC & TSX.



“Slow death of SEHK” predicted in 1989 due to numerous scandals. New regulator overhauled all aspects of securities regulation including corporate governance & financial disclosure.

- Standards not relaxed for Chinese SOEs.
- New HKEx becomes largest Exchange for IPOs in the world.



Dubai International Financial Centre (DIFC) established in 2004 based on high standards of law & regulation in developed markets.

- DIFC becomes financial hub for Middle East and beyond.

## 2. Better regulation

FAIR Canada endorses the concept of **'better regulation'**

- Improving the way OSC regulates and delivers regulatory services
- Regulation that is proportionate to its objectives and needs
- Maintains the quality and standards regulation

### Regulator's transparency



### Disclosure by issuers

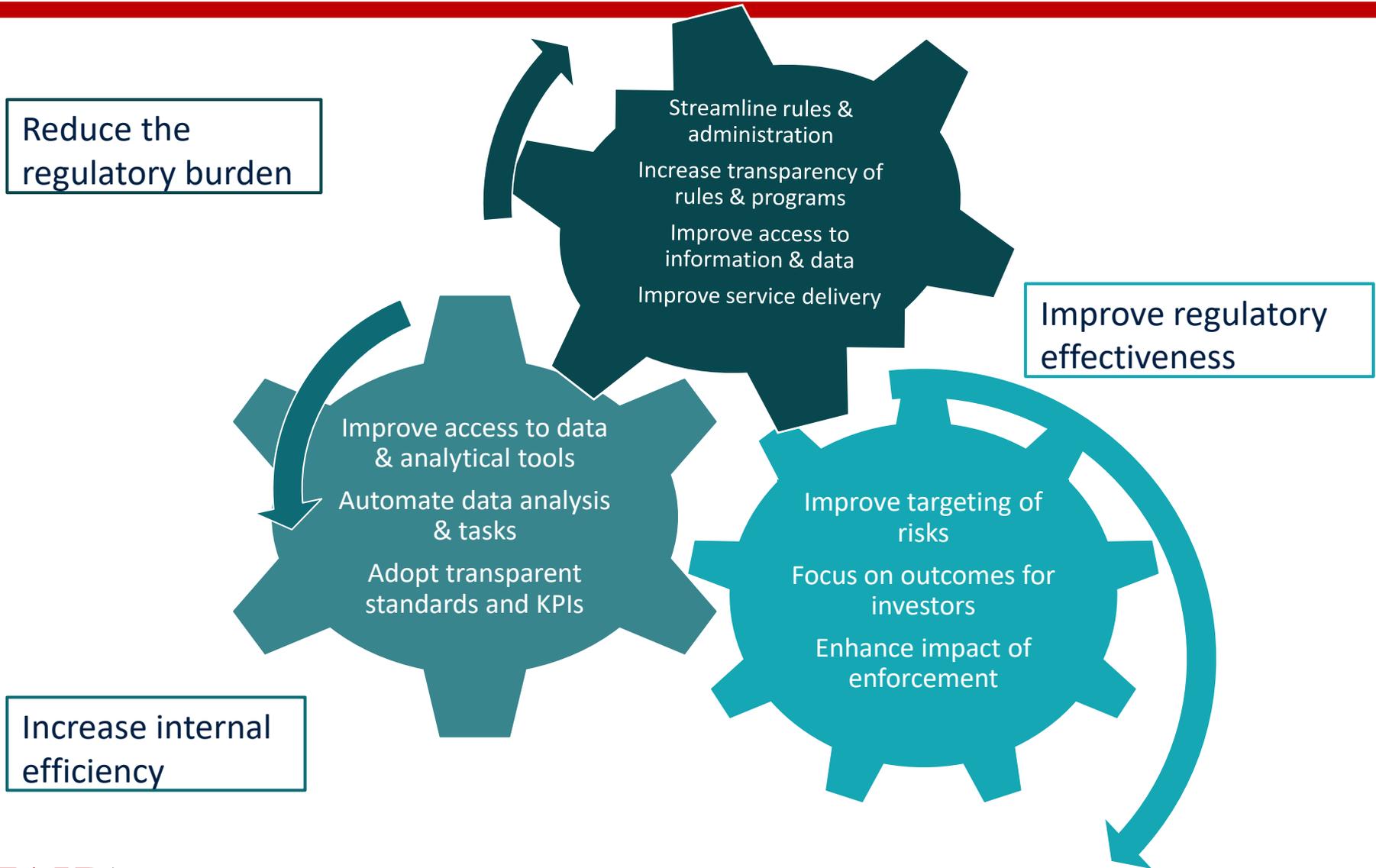


# Reducing the regulatory burden

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- Reducing the regulatory burden is one means to deliver ‘**better regulation**’
- A sound goal *if* the core purpose of securities regulation continues to be met effectively
- Better regulation through reducing the regulatory burden offers significant opportunities to:
  1. Improve the OSC’s efficiency in delivering regulatory services
  2. Improve regulatory effectiveness in meeting core objectives
  3. Reducing the cost and complexity of complying with rules
  4. Improve the attractiveness of Ontario capital markets to investors

# Improving effectiveness and reducing burdens



# Key burden reduction initiatives

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FAIR Canada supports many of OSC's key burden reduction initiatives; e.g.

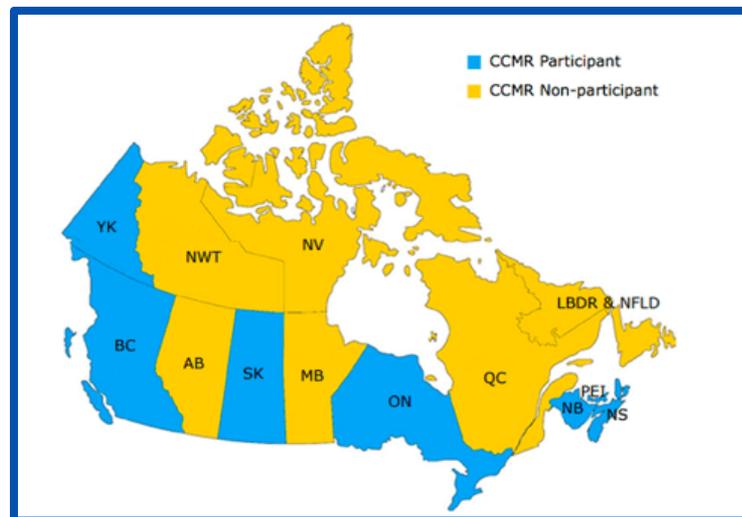
1. Electronic delivery of documents to investors
  - Will provide better access to investors plus greatly improve efficiency
  - Investors must get notice of a specific document that is attached or with a link to it.
  - General notice that a document is available is not sufficient
2. Streamline filing requirements for issuers
  - Eliminate duplicative requirements
  - Improve usability of disclosures for investors
3. Changes to improving capital raising
  - Confidential advance prospectus review process
  - Make the prospectus system more flexible
4. Adopt service standards for responses to participants

### 3. Focus on Ontario over national regulatory system

- Introducing a national Canadian securities regulator is sound in theory but the current CCMR proposal is not worth pursuing

#### Several Major deficiencies:

1. Not national – key provinces are missing (QC, AB)
  2. Will reduce Ontario's influence on national policy and its control over Ontario capital markets
  3. After 10 years of work, it is not close to implementation – no real champions
- *Consuming time and resources that could be put to productive use*



# Focus on Ontario over national regulatory system

- Task Force should recommend Ontario abandon support for the CCMR
- Ontario is the key market in Canada with the top regulator
- Finance Ministry and OSC should refocus on delivering changes and programs to:
  - Improve regulation of our capital markets
  - Improve services to investors and other market participants
  - Attract new investment in Ontario



- 2nd largest financial centre in North America
- Over \$40 billion in economic activity generated
- Over 1,650 public companies
- 3rd largest stock exchange in North America

## 4. Proposed National Securities Portal

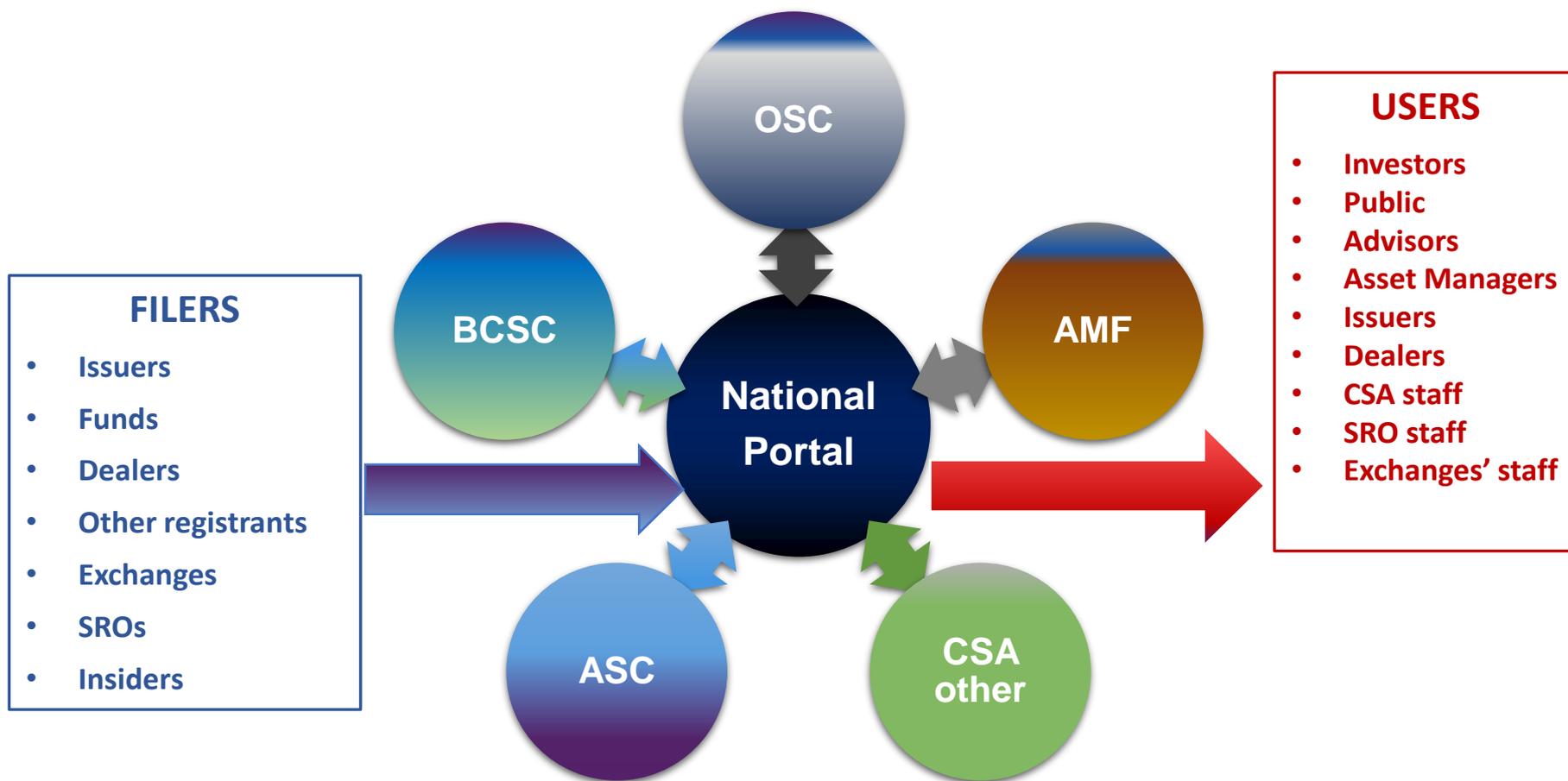
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FAIR Canada proposes creating a National Securities Portal

- NSP could be developed far more easily than a national regulator.
- Must be run by a private operator overseen by CSA.
- Would significantly reduce burdens on all users and filers, including investors, the public, industry participants and regulators themselves.
- Need a single IT portal to file materials with all CSA members.
- Need a user-friendly, accessible, fully searchable database for public information and for regulators' own uses.
- Replace inadequate national systems (NRD, SEDI, SEDAR) and many fragmented provincial filing systems and databases.
- Key issue > the systems provide important information to investors and the public on issuers' disclosures, registered persons and trading.

*Full disclosure is a cornerstone of fair and efficient markets.*

# Proposed National Securities Portal



## 5. Improving the SRO system

- SROs play a major role in the frontline regulation of investments advice, business conduct and financial and operational obligations of investment firms, plus trading in equities, debt and derivatives markets
- FAIR Canada's top concerns: SROs' **governance, transparency, enforcement programs** and **openness to investors' ideas and concerns**
- The CSA's review of the SRO system presents a major opportunity to carry out a full review of how effectively the system works in protecting investors and ensuring compliance, and how it can be improved
- Before creation of a new merged SRO from IIROC and MFDA with more authority and power can be justified **the system must be strengthened and be more accountable**



## 6. Compensation for investor losses due to misconduct



**OBSI** OMBUDSMAN FOR BANKING  
SERVICES AND INVESTMENTS

**OSBI** OMBUDSMAN DES SERVICES  
BANCAIRES ET D'INVESTISSEMENT

- Access to justice for retail investors is inadequate
  - Losses generally too small for civil litigation
  - Regulatory system fails to address compensation for misconduct
- 1. **OBSI** compensation: Investors face hurdles to get cases to OBSI and its decisions not binding > leads to “lowball” settlement offers by firms
  - Total compensation for investment in 2019 was only \$2.5 million (Canada)
  - Average compensation was \$14,291
  - Require Ontario investment firms to comply with OBSI orders
- 2. **OSC** should more consistently require investors to be compensated for losses due to rule violations in its enforcement program
- 3. **SROs** (IIROC & MFDA) should require firms & RRs found in violation of the rules to compensate investors for losses in disciplinary actions

## 7. All investments should be regulated by OSC

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- All “investments” should be OSC-regulated including segregated funds
- Syndicated mortgages already moved to OSC regulation
- Securities regulators are more effective at dealing with investments
- Level playing field for all investment products – consistent rules and interpretations
- Eliminates duplication in regulators, policy processes
- Simpler for consumers to understand when buying investments

## 8. Additional points to consider

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1. **Enforcement** of rules remains fragmented and weaker in Canada than in US
  - New experts' review of ways to strengthen is needed
2. **Disclosure** should be clear, understandable and specific to the issuer's business and circumstances
  - Generic, boilerplate statements are unhelpful, lack relevance
3. Dealers selling a public or private offer should be permitted to provide **summary information documents** about the offer to clients
4. **Private markets** are expanding rapidly under liberalized exemptions
  - Important source of capital esp. SMEs
  - Must remain limited to accredited investors, with necessary checks performed
  - Privately-offered securities should not qualify for resale into public markets

# Summary

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- The Task Force's objective of attracting more investment to Ontario and the goals of enhancing market integrity and investor protections are mutually reinforcing.
- Vital to maintain **harmonized rules across Canada** as much as possible.
  - Proceed first with changes that can be implemented in Ontario only
  - Discuss proposed changes in law and rules with CSA and seek consensus
- We proposed OSC prioritize its burden reduction initiatives based on:
  1. Impact on / benefit to users and investors
  2. Viability – practicality of achieving the desired result in a timely way
  3. Timeline – estimated time required to implement the actions
  4. Cost – total costs of implementing the actions, including direct costs to the OSC/CSA + costs to users of changes needed to implement reforms

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*Thank you*

*We would be pleased to answer questions*

*Written submission will follow*

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