



CURRENT DEVELOPMENTS

Canadian Securities Matters

Q4 2024

kpmg.ca

Table of contents

This edition provides a summary of newly effective and forthcoming regulatory matters in Canada in the quarter ended December 31, 2024.

03 Canadian securities: New guidance

- 03 **CSA Notice Regarding Coordinated Blanket Order 96-932 Re: Temporary Exemptions from Certain Derivatives Data Reporting Requirements**
- 03 **CSA Multilateral Staff Notice 58-317 - Review of Disclosure Regarding Women on Boards and in Executive Officer Positions**
- 04 **CSA Notice of Amendments to National Instrument 41-101 General Prospectus Requirements, National Instrument 81-101 Mutual Fund Prospectus Disclosure, and Related Consequential Amendments and Changes – Modernization of the Prospectus Filing Model for Investment Funds**
- 04 **CSA Staff Notice 51-365 Continuous Disclosure Review Program Activities for the Fiscal Years Ended March 31, 2024, and March 31, 2023**
- 05 **OSC Staff Notice 81-736 – Summary Report for Investment Fund and Structured Product Issuers**
- 05 **CSA Notice Regarding Coordination Blanket Order 51-931 Temporary Exemption from Requirements in National Instrument 51-102 Continuous Disclosure Requirements and National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuers**
- 05 **CSA Staff Notice and Consultation 11-348 – Applicability of Canadian Securities Law and the Use of Artificial Intelligence Systems in Capital Markets**
- 06 **Ontario Securities Commission Staff Notice 51-736 Corporate Finance Branch 2024 Annual Report**

07 Canadian securities: Proposed guidance

- 07 **Proposed Amendments to Consultation Paper 81-737 Opportunity to Improve Retail Investor Access to Long-Term Assets through Investment Fund Product Structures**
- 08 **Proposed Amendments to National Instrument 51-102 Continuous Disclosure Obligations for Non-Investment Fund Reporting Issuers**

Canadian securities: New guidance

CSA Notice Regarding Coordinated Blanket Order 96-932 Re: Temporary Exemptions from Certain Derivatives Data Reporting Requirements

On October 31, 2024, the Canadian Securities Administrators (CSA) published temporary exemptions from certain derivatives data reporting requirements under Manitoba Securities Commission Rule 91-507, Ontario Securities Commission Rule 91-507 and Multilateral Instrument 96-101.

For over-the-counter (OTC) derivatives between two end-users, reporting requirements under the Trade Reporting Rules may apply to one or both end-users. Amendments to each of the Trade Reporting Rules published on July 25, 2024 (collectively, the Amendments) provide, among other things, end-users of OTC derivatives with certain intended reductions in regulatory burden under the Trade Reporting Rules.

The purpose of the Blanket Order is to provide the following temporary exemptions to enable them to benefit from certain intended reduction in regulatory burden under the Amendment before they come into force:

- *End-user reporting of creation data:* This exemption provides a reporting counterparty that is not a qualified reporting counterparty, as defined in the Amendments, with an extended period of time to report creation data, which they must report no later than the end of the second business day following the execution date of a transaction. This exemption applies in all CSA jurisdictions.
- *End-user reporting of life-cycle event data:* This exemption provides a reporting counterparty that is not a qualified reporting counterparty, as defined in the Amendments, with an extended period of time to report life-cycle event data, which they must report no later than the end of the second business day following the day on which the life-cycle event occurred. This exemption applies in all CSA jurisdictions.

- *End-user reporting of valuation data:* This exemption exempts a reporting counterparty that is neither a derivatives dealer nor a recognized or exempt or reporting clearing agency or reporting clearing house, from reporting valuation data. This exemption applies in all CSA jurisdictions.
- *End-user reporting of commodity derivatives:* This exemption exempts a reporting counterparty that is a local counterparty and is not a qualified reporting counterparty, each as defined in the Amendments, subject to certain conditions, from reporting commodity derivatives below a specified notional threshold. This exemption only applies in Ontario, Manitoba and Québec.
- *End-user reporting of derivatives between affiliated entities:* This exemption exempts a reporting counterparty from reporting a transaction where both parties to the transaction are not qualified reporting counterparties and are affiliated entities, each as defined in the Amendments. The term “affiliated entity” includes certain partnerships and trusts, subject to the terms of the Amendments. This exemption only applies in Ontario and Manitoba.

The Blanket Order is effective on October 31, 2024. It will cease to be effective on July 25, 2025.

CSA Multilateral Staff Notice 58-317 - Review of Disclosure Regarding Women on Boards and in Executive Officer Positions

CSA Multilateral Staff Notice 58-317 – Review of Disclosure Regarding Women on Boards and in Executive Officer Positions outlines key findings from a recent review of public disclosure required by Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices (NI 58-101) regarding women on boards and in executive officer positions.

The objective of the disclosure requirements is to increase transparency for investors and other stakeholders regarding the

representation of women on boards and in executive officer positions, and the approach that issuers take in respect of such representation.

This is the tenth consecutive annual review of this disclosure that the Canadian Securities Administrators (CSA) have conducted, and the review was completed primarily for the purposes of identifying key trends.

Highlights of findings in this annual review include:

Board seats:

- 29% of board seats were held by women
- 8% of the chairs of the board were women
- 37% of vacated board seats were filled by women

Executive officer positions:

- 5% of issuers had a woman chief executive officer (CEO)
- 16% of issuers had a woman chief financial officer (CFO)
- 72% of issuers had at least one woman chief officer position

Policies and Targets:

- 64% of issuers adopted a policy relating to the representation of women on their board
- 44% of issuers adopted targets for representation of women on their board
- 7% of issuers adopted targets for representation of women in executive officer positions

Term Limits:

- 25% of issuers adopted director term limits
- 40% of issuers adopted other mechanisms of board renewal
- 32% of issuers did not adopt director term limits or other mechanisms of board renewal

CSA Notice of Amendments to National Instrument 41-101 General Prospectus Requirements, National Instrument 81-101 Mutual Fund Prospectus Disclosure, and Related Consequential Amendments and Changes – Modernization of the Prospectus Filing Model for Investment Funds

On November 28, 2024, the Canadian Securities Administrators (CSA) published amendments to National Instrument 41-101:

General Prospectus Requirements, National Instrument 81-101: *Mutual Fund Prospectus Disclosure*, and National Instrument 81-106: *Investment Fund Continuous Disclosure* and related consequential changes to Companion Policy 41-101 and Companion Policy 81-101.

The Amendments

- extend the lapse date for investment funds in continuous distribution from 12 months to 24 months, which will allow investment funds in continuous distribution to file their pro forma prospectuses biennially, rather than annually (Lapse Date Extension)
- repeal the requirement to file a final prospectus no more than 90 days after the issuance of a receipt for a preliminary prospectus (90-Day Rule Repeal) for all investment funds.

These amendments will come into force on March 3, 2025.

CSA Staff Notice 51-365 Continuous Disclosure Review Program Activities for the Fiscal Years Ended March 31, 2024 and March 31, 2023

CSA Staff Notice 51-365 Continuous Disclosure Review Program provides an overview of the results from the CSA's Continuous Disclosure Review Program.

The goal of the Continuous Disclosure (CD) Review Program is to improve the completeness, quality and timeliness of Continuous Disclosure provided by reporting issuers in Canada.

The following is the summary of the CD review outcomes for Fiscal 2024 and Fiscal 2023:

	2024	2023
Referred to Enforcement/Cease-Traded/Default List	8%	6%
Refiling	21%	18%
Prospective Changes	37%	32%
No action required	34%	44%

Common deficiencies observed during the reviews in fiscal 2024 and fiscal 2023 include:

Financial Statements: compliance with the recognition, measurement, presentation, classification and disclosure requirements in the IFRS[®] Accounting Standards including those

pertaining to impairment of assets, business combinations, expected credit losses and disaggregation of revenue.

MD&A: compliance with MD&A disclosure requirements including forward-looking information, discussion of operations relating to liquidity and capital resources and discussion of operations relating to business performance.

General Disclosure: compliance with general disclosure requirements regarding overly promotional disclosure pertaining to AI and environmental, social and governance (ESG) matters.

OSC Staff Notice 81-736 – Summary Report for Investment Fund and Structured Product Issuers

On November 5, 2024, Investment Funds and Structured Products Branch (IFSP) of the OSC released a summary report that provides an overview of IFSP's activities for the fiscal year ended March 31, 2024 (Fiscal 2024). The report has 4 parts:

- Part A - Operational highlights - Summarizes OSC's key activities, including prospectus reviews, applications for exemptive relief and continuous disclosure reviews
- Part B - Regulatory Policy Initiatives - Identifies policy initiatives that are ongoing with detail on their status
- Part C - Emerging Issues and Initiatives Impacting Investment Funds - Summarizes changes that affect the investment funds industry
- Part D - Stakeholder outreach - Describes some of the outreach undertaken by the IFSP branch

During Fiscal 2024, IFSP continued to review the prospectuses and related documents of funds with investment objectives that reference ESG factors and other funds that use ESG strategies.

Most of the issues raised by staff during the prospectus reviews of ESG-related funds have been in relation to investment strategies disclosure. In particular, most comments have sought to clarify:

- which types of ESG strategies are being used;
- which specific ESG factors are relevant to the portfolio manager's analysis; and
- how such factors are being evaluated and monitored by the portfolio manager.

The findings from staff's prospectus reviews of ESG-Related Funds helped to inform the updated guidance published on March

7, 2024 in CSA Staff Notice 81-334 (Revised) ESG-Related Investment Fund Disclosure, which is included within our Current Developments Q1 2024.

CSA Notice Regarding Coordinated Blanket Order 51-931 Temporary Exemption from Requirements in National Instrument 51-102 Continuous Disclosure Requirements and National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer to send certain proxy-related materials during a postal strike

On December 4, 2024, due to the Canada Post strike, the Canadian Securities Administrators (CSA) published Blanket Order 51-931, providing temporary relief from the requirement to deliver proxy-related materials for meetings where each matter is an "annual matter".

The following are each an "annual matter", provided that the matter does not require a special resolution under the corporate law of the reporting issuer:

- receiving and considering financial statements
- fixing the number of directors to be elected
- electing directors
- appointing auditors and authorizing the directors to fix the remuneration to be paid to the auditor
- approval and ratification of security-based compensation plans, such as incentive stock option plans, as typically required under exchange policies.

The blanket order relief expires on January 31, 2025.

CSA Staff Notice and Consultation 11-348 – Applicability of Canadian Securities Law and the Use of Artificial Intelligence Systems in Capital Markets

CSA Staff Notice 11-348 Applicability of Canadian Securities Law and the use of Artificial Intelligence System in Capital Markets aims to provide clarity and guidance on how securities legislation applies to the use of AI systems by market participants including registrants, non-investment fund reporting issuers (Non-Investment Fund Issuers), marketplaces and marketplace participants, clearing agencies and matching service utilities, trade repositories, designated rating organizations and

designated benchmark administrators. The notice outlines selected requirements under securities law that market participants should consider during an AI system's lifecycle and provides guidance on how to interpret them in this context. Guidance provided in this notice is based on existing securities laws and does not create any new, or modify, existing legal requirements.

The overarching themes related to the use of AI systems are the following:

- Technology & Securities Regulation
- AI Governance & Oversight
- Explainability
- Disclosure
- Conflict of Interest

Comments and feedback are requested in writing on or before March 31, 2025.

Ontario Securities Commission Staff Notice 51-736 - Corporate Finance Branch 2024 Annual Report

OSC Staff Notice 51-736 Corporate Finance Branch 2024 Annual Report provides an overview of the OSC's Corporate Finance branch's operational and policy work during the fiscal year ended March 31, 2024, including a summary of key findings and outcomes from the regulatory oversight program (Part A), and the nature, purpose and status of ongoing issuer-related policy initiatives (Part B). The report is intended for entities and individuals that are regulated by the OSC, their advisors, as well as investors.

In publishing the report, the OSC aims to:

- reinforce the importance of compliance with regulatory obligations;
- provide guidance to improve disclosure in regulatory filings;
- highlight trends in the capital markets; and
- Inform and update stakeholders on new and ongoing policy initiatives.

The summary of results from the continuous disclosure reviews across Fiscal 2024 remain consistent with those from Fiscal 2023, with the majority of full reviews resulting in prospective disclosures requirements and Issuer-oriented reviews resulting in ongoing oversight.

Other ongoing regulatory oversight included risk-based compliance reviews of financial benchmark administrators,

designated rating organizations and continued oversight of exempt market reviews.

In Fiscal 2024, 263 prospectuses were filed, some common deficiencies and issues noted from the review of prospectuses filed in Fiscal 2024 include:

- Issues on promoter guidance, filing of non-offering prospectus and prospectus pre-filing vs inquires,
- Inactivity during Prospectus Review,
- Confidential Pre-file Prospectus,
- Legal Representation,
- Overnight Marketed Deals,
- Required documents for an amendment to a prospectus, and
- SEDAR+ Profiles of Issuers under an IPO.

Other concerns relating to financial condition and sufficiency of proceeds, material contracts, president's list, preliminary non-offering prospectus where the issuer has an existing equity line of credit and conditional approval letter were discussed.

In Fiscal 2024, 225 applications for exemptive relief for various Ontario securities law requirements were reviewed. The majority of applications were made in connection with relief from certain prospectus requirements and Reporting Issuer status.

Corporate Finance Branch now also includes Departments of the Chief Accountant (DCA) and Mergers & Acquisitions (DM&A).

Staff in DCA gave updates on their recent topics which include:

- (A) IFRS 18 Presentation and Disclosure in Financial Statements:
 - i. Early Adoption of IFRS 18 Presentation and Disclosure in Financial Statements,
 - ii. National Instrument 52-112 Non-GAAP and Other Financial Measures Disclosure
 - iii. Reflecting on non-GAAP financial measures disclosed and
 - iv. Disclosing the impact of IFRS 18.
- (B) IFRS 19 Subsidiaries without Public Accountability: Disclosures (IFRS 19)
- (C) New "IFRS Accounting Standard" Terminology
- (D) CPAB Information Sharing

Update from the DM&A comprised of trends and guidance on disclosure deficiencies relating to background to the transaction and review and approval process, collateral benefits, bona fide prior offers, and omission of reference to existing to prior valuations.

Canadian securities: Proposed guidance

Proposed Amendments to Consultation Paper 81-737 Opportunity to Improve Retail Investor Access to Long-Term Assets through Investment Fund Product Structures

On October 10, 2024, the Ontario Securities Commission published for a 120-day comment period proposed introduction of a new category of investment fund that would be designed to accommodate investments in Long-Term Assets (“Ontario Long-Term Fund” or OLTF).

An OLTF’s primary purpose would be to invest money provided by its securityholders and not invest for the purpose of exercising control of an issuer or for the purpose of being actively involved in the management of any issuer in which it invests. Depending on the redemption terms of the product, an OLTF would fall within the definition of a mutual fund or an NRIF, but many of the current requirements applicable to those types of funds would not be appropriate to OLTFs, necessitating a unique regulatory framework that balances flexibility with investor protection. Under the Proposal, OLTFs would not be subject to the illiquid asset restrictions applicable to other investment funds. However, they would need to address inherent risks associated with Long-Term Assets, such as liquidity, volatility, concentration, duration, and informational asymmetries, by incorporating robust requirements and protections.

Under the Proposal, OLTFs would become reporting issuers in Ontario through a prospectus-qualified offering. Fund units could be purchased by Ontario investors with longer investment horizons and those who may benefit from the opportunity to invest in Long-Term Assets as part of a diversified and balanced portfolio. As investment funds available only to Ontario investors, OLTFs would not have any securities listed and traded on a marketplace in Canada.

OLTFs would not be subject to the illiquid asset restrictions applicable to other investment funds: Rather, they would be required to hold a minimum percentage of Long-Term Assets. OLTFs would also be subject to a maximum percentage of Long-Term Assets to ensure they hold sufficient liquid assets to meet redemption requests.

Under the Proposal, OLTFs could be either fixed-term or evergreen funds, provided liquidity risks arising from redemption and funding mismatches are disclosed and effectively managed. Fixed-term OLTFs may be suitable for funding infrastructure or other development projects with expected completion dates. Evergreen OLTFs may be suitable for investing in rolling pools of private equity, private debt, or real estate or for holding operational and commercialized infrastructure assets.

The Proposal would require OLTFs to invest in Long-Term Assets through the securities of underlying collective investment vehicles (CIV). CIVs would be issuers that have the objective of investing in Long-Term Assets and would be required to have a Cornerstone Investor like a pension fund or other institutional investor. A requirement to invest through CIVs would facilitate the objective of OLTFs investing alongside other sophisticated long-term investors. The right to exit investments in CIVs by Cornerstone Investors should be proportional to the exit rights of the OLTF.

As an investment fund, OLTFs would have to be managed by an IFM, with portfolio assets being selected and monitored by a PM. The involvement of these fiduciaries should mitigate some of the complexity and unique risks of holding Long-Term Assets for retail investors.

The Proposal is intended to accomplish the following objectives:

1. Provide retail investors with more opportunities to access Long-Term Assets through investment fund product structures.
2. Propose a framework that mitigates some of the risks of investing in Long-Term Assets.

3. Enable retail investors to benefit from the skills and experience of IFMs and PMs in investing in Long-Term Assets.
4. Enable retail investors to invest alongside experienced asset managers, institutional investors (including pension funds), and other sophisticated investors (Cornerstone Investors).
5. Provide a potential source of additional capital for Long-Term Assets.

The comment period expires February 7, 2025.

Proposed Amendments to National Instruments 51-102 Continuous Disclosure Obligations for Non-Investment Fund Reporting Issuers

On January 11, 2024, the CSA published final amendments and changes implementing an access model for prospectuses and they came into force on April 16, 2024. However, due to some commenters' expressed concerns about implementing the Initial Proposals for annual financial statements, interim financial reports and related MD&A (CD documents), including potential negative effects on retail investors, the CSA has published for a 90-day comment period proposed changes to introduce an access model for annual financial statements, interim financial reports and related management's discussion & analysis (MD&A) for non-investment fund reporting issuers (the Proposed Access Model) on November 19, 2024. The Proposed Access Model provides alternative procedures whereby electronic access may be provided to annual financial statements, interim financial reports and related MD&A (CD documents) instead of following the delivery requirements currently found in securities legislation.

Electronic access to a CD document will be provided if

- the issuer has filed the document on SEDAR+
- on the same day, the issuer has issued and filed a news release on SEDAR+ announcing that
 - o the document is accessible electronically,
 - o the SEDAR+ notification functionality is available,
 - o an electronic or paper copy of the document can be obtained upon request,

- o any standing instructions to receive the document in electronic or paper form will continue to be followed, and

- on the sale day, if the issuer has a website, the issuer has posted the document on its website.

In addition, the Proposed Amendments require the issuer to disclose how to access CD documents electronically, that the SEDAR+ notification functionality is available, how to obtain a copy of a CD document and that standing instructions can be provided. The required disclosure must be made:

- in a news release before using the Proposed Access Model if, during the previous financial period, the issuer complied with the current delivery requirements in National Instrument 51-102 Continuous Disclosure Obligations (NI 51-102);
- in a separate document sent to investors with the proxy-related materials or, if the issuer is using the notice-and-access model, with the notice; and
- on its website in the same location where the issuer posts its CD documents, if applicable.

Before ceasing to use the Proposed Access Model, the Proposed Amendments require the issuer to inform investors of this change in a news release.

The comment period expires February 17, 2025.

Contact us

Julia Suk
Partner
416-777- 8131
juliasuk@kpmg.ca

Dominique Carr
Senior Manager
416-476-2269
dominiquecarr@kpmg.ca



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2025 KPMG LLP, an Ontario limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. The KPMG name and logo are registered trademarks or trademarks of KPMG International Limited.