



Annual Accountability Report  
for the Fiscal Year 2011 – 2012

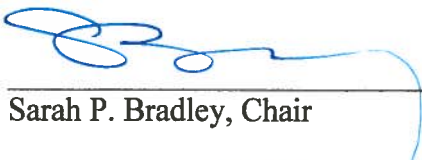
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## Accountability Statement

The accountability report of the Nova Scotia Securities Commission for the year ended March 31, 2012, is prepared pursuant to the *Finance Act* and government policies and guidelines. These authorities require the reporting of outcomes against the Commission's Statement of Mandate for the fiscal year 2011-2012. The reporting of the Commission's outcomes necessarily includes estimates, judgments and opinions by Commission management.

We acknowledge that this accountability report is the responsibility of Commission management. The report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Commission's 2011-2012 Statement of Mandate.



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Sarah P. Bradley, Chair



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J. William Slattery, C.A., Executive Director

## Message from the Chair

The principal mission of the Nova Scotia Securities Commission (the Commission), as set out in the *Securities Act*, is to protect investors in Nova Scotia while ensuring effective and efficient capital markets in the Province. The Commission fulfils this mission through its activities in four core business areas: the regulatory, administrative and adjudicative activities of the Commission board; the policy development, registration, compliance, and investor education activities of the Policy and Market Regulation branch; the offering document review and continuous disclosure review activities of the Corporate Finance branch; and the investigation and enforcement activities of the Enforcement branch.

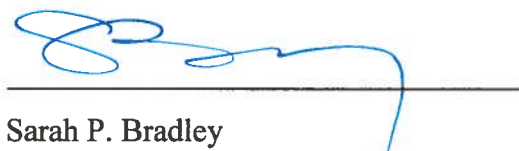
This accountability report describes the Commission's significant activities and accomplishments during the past year, with particular reference to the progress we have made in achieving the goals and priorities set out in the Commission's 2011-2012 Statement of Mandate which can be found at [http://www.gov.ns.ca/nssc/docs/Mandate2011\\_2012.pdf](http://www.gov.ns.ca/nssc/docs/Mandate2011_2012.pdf).

I am pleased to report that over the past year, the Commission has achieved almost all of the targets it set for itself, and this success is a credit to the expertise and committed work of the Commission's experienced staff.

An ongoing challenge faced by the Commission is the increase in the number and complexity of investigations and the resulting hearings, which have made it a challenge to meet our targets relating to the speedy conclusion of investigations and issuance of orders. This trend is expected to continue into 2012-2013.

As in years past, we have fulfilled our mandate with a close attention to fiscal responsibility. Our revenues for 2011-2012 increased by almost 7% from the prior year to over \$15 million, while our total expenditures increased by 1.25% to \$2.4 million.

Our notable achievements for the year include: the conclusion of a number of complex enforcement matters; our continued contributions to the policy development and harmonization efforts of the Canadian Securities Administrators; the adoption of new rules relating to the regulation of credit rating organizations; and the adoption of the amended *Community Economic-Development Corporations Regulations*.



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Sarah P. Bradley  
Chair  
Nova Scotia Securities Commission

## Financial Results

| Core Business (All)   | 2011-2012<br>Estimate | 2011-2012<br>Actual | Variance           |
|-----------------------|-----------------------|---------------------|--------------------|
|                       | (\$ thousands)        | (\$ thousands)      | (\$ thousands)     |
| Revenues:             | (13,400)              | (15,193)            | 1,793 <sup>1</sup> |
| Expenditures:         |                       |                     |                    |
| Salaries and Benefits | 1,818                 | 1,863               | (45) <sup>2</sup>  |
| Operating Costs       | 787                   | 555                 | 232 <sup>3</sup>   |
| Cost Recoveries       | -                     | (2)                 | 2                  |
| Total Expenditures    | 2,605                 | 2,416               | 189                |
| Net Revenue           | (10,795)              | (12,777)            | 1,982              |
| FTEs                  | 21                    | 20                  | 1                  |

<sup>1</sup> The increase in revenue was a result of all fees being increased by a cost of living adjustment. Also, there was an increase in registration and corporate finance filing fees compared to the prior year's actual revenues.

<sup>2</sup> Salaries and Benefits were higher as there was a work force adjustment cost in reducing staff by one. Also, the cost of staff increases was partially absorbed.

<sup>3</sup> Operating costs were less than budgeted as professional services were down, consulting services were up, telecommunications were up and hearing costs were down.

## Measuring Our Performance

### A. Core Area 1 – The Commission

The outcome for the Commission performance measures is to improve the framework of securities regulation in Nova Scotia and ensure the efficient administration of the Commission's adjudicative and exemption granting jurisdictions.

The first measure reflects the Commission's commitment to harmonize the securities laws of Nova Scotia with the securities legislation in the other Canadian jurisdictions to maintain the Passport System for Securities Regulation.

The last two measures show how timely the Commission is in considering exemption applications and issuing orders after final submissions in a hearing.

| Measure   | Base Year<br>2008-2009 | Subsequent Data                  | Annual Target<br>2011-2012 | Actual<br>2011-2012 |
|---|------------------------|----------------------------------|----------------------------|---------------------|
| Percentage of national/multilateral instruments adopted as rules within set timelines to continue the harmonization of securities laws as contemplated in the Provincial/Territorial MOU on Securities Regulation | 100%                   | 2009-2010-100%<br>2010-2011-100% | 100%                       | 100%                |
| Percentage of exemption applications considered within 5 business days of filing  | 100%                   | 2009-2010-100%<br>2010-2011-100% | 100%                       | 100%                |
| Percentage of orders made within 10 business days of the final submissions from the parties following the conclusion of a hearing   | 95%                    | 2009-2010-100%<br>2010-2011-77%  | 95%                        | 75% <sup>1</sup>    |

<sup>1</sup> The Commission heard 8 matters, 6 uncontested and 2 contested or more complex. The target was not met for the latter 2 matters.

The Commission met its targets for the timely adoption of national/multilateral instruments as rules and the review of exemption applications.

For the issuance of orders following hearings, the target has not been met in the last 2 fiscal years as a result of more complex hearings. The Commission issued orders within 10 business day of final submissions from the parties in the 6 uncontested matters that came before it in 2011-2012. The other 2 matters that it considered were contested matters or ones that involved more complicated issues. These matters were heard by a panel consisting of 2 or 3 Commission members. After hearing submissions from the parties in these cases, the Commission panel reserved its decision and provided written reasons for the decision. In the Commission's Statement of Mandate 2012-2013, a new measure was added for contested hearings.

The Commission has continued to harmonize securities laws with the securities legislation of other Canadian jurisdictions in support of the Passport System for Securities Regulation through the following major initiatives:

- Repeal and replacement of National Instrument 43-101 *Standards of Disclosure for Mineral Projects* to update the rule and reflect changes that have occurred in the mining industry
- Publication for comment of proposed National Instrument 51-103 *Ongoing Governance And Disclosure Requirements For Venture Issuers* which introduces a new mandatory regulatory regime for venture issuers intended to streamline and tailor disclosure to reflect the needs and expectations of venture issuer investors and to make the disclosure requirements more suitable and more manageable for issuers at this stage of development
- Publication for comment of proposed amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* which sets out Stage 2 of the Canadian Securities Administrator's (CSA) implementation of the point of sale disclosure framework published in October 2008 by the Joint Forum of Financial Market Regulators. The proposed amendments will require delivery of a 2 page Fund Facts document within 2 days of buying a mutual fund that will satisfy the current prospectus delivery requirements under securities legislation
- Publication for comment of several consultation papers on the regulation of derivatives
- Adoption of National Instrument 25-101 *Designated Rating Organizations* as a rule. The Instrument provides issuers, investors and other users of ratings with information regarding what ratings mean and how ratings are determined and sets out the requirements for designating a credit rating organization.

## **B. Core Area 2 – Policy and Market Regulation Branch**

### **1. Capital Markets**

The outcome for the Capital Markets performance measures is to improve the level of efficiency in the administration of the registration system. The measures tell us how efficiently registration

applications are reviewed and processed to enable registrants to carry on business in Nova Scotia. The efficiency of the registration system has increased from 2008-2009 with the implementation of the passport system for registration in September, 2009.

| Measure   | Base Year<br>2008-2009 | Subsequent Data                | Annual Target<br>2011-2012 | Actual<br>2011-2012 |
|---|------------------------|--------------------------------|----------------------------|---------------------|
| Percentage of firm applicants, where the Commission was the principal regulator, that had their applications processed within 45 days of the final submission of necessary documents      | 90%                    | 2009-2010-91%<br>2010-2011-94% | 90%                        | 94%                 |
| Percentage of individual applicants, where the Commission was the principal regulator, that had their applications processed within 7 days of the final submission of necessary documents | 90%                    | 2009-2010-92%<br>2010-2011-93% | 90%                        | 94%                 |

The Capital Markets branch has developed a monitoring system which is looking for whether registration as an exempt market dealer is required for exempt distributions made in Nova Scotia under National Instrument 45-106 *Prospectus and Registration Exemptions*. The program has identified filings that required further information from the filers. The program is sending a message to the industry that what may be perceived as routine filings for the industry are being closely reviewed by the Commission.

Capital Markets staff continue to work on several CSA committees to provide a voice for the stakeholders of Nova Scotia in the formation of new rules and the ongoing amendment of current rules. Staff provides specific notice to Nova Scotia based registrants when there are significant rule changes.



## 2. Compliance

The outcome for the Compliance performance measures is to improve the efficiency of the compliance programs to deter undesirable behavior in the capital markets and provide effective investor protection. The measures reflect the efficiency of the compliance program and the Commission's ability to request registrants to correct deficiencies in compliance with ongoing registration requirements to ensure that business practices and procedures create a safe environment for meeting clients' investment needs and objectives.

| Measure   | Base Year<br>2008-2009 | Subsequent Data                  | Annual Target<br>2011-2012 | Actual<br>2011-2012 |
|---|------------------------|----------------------------------|----------------------------|---------------------|
| Initiate 7 field examinations of Nova Scotia registrants per fiscal year                          | 8                      | 2009-2010-7<br>2010-2011-8       | 7                          | 10                  |
| Conclude 6 field examinations of Nova Scotia registrants per fiscal year                          | 5                      | 2009-2010-14<br>2010-2011-6      | 6                          | 7                   |
| Respond to compliance complaints and report or refer to enforcement as appropriate within 10 days | 100%                   | 2009-2010-100%<br>2010-2011-100% | 100%                       | 100%                |

The priority for compliance is to continue to build the compliance program, focusing on activities that will protect market participants from unfair and fraudulent practices. Compliance is proactive in nature and, given the appropriate support, can provide a significant return in increased confidence in the Nova Scotia capital market, protection against investor losses and the consequential reduction in enforcement proceedings.

In order to meet the demands of an appropriate compliance oversight program with no additional resources, we have implemented various types of compliance reviews including sweeps and focused examinations which enabled us to touch more firms each year.

In coordination with the work of the CSA Compliance Committee, a new compliance examination program was developed for exempt market dealers. This is of significant importance due to the implementation of registration requirements for these dealers who now must be registered and are subject to compliance examinations.

A relationship disclosure sweep was conducted for selected Nova Scotia registered exempt market dealers and portfolio managers, with a view to ensuring that clients are receiving all appropriate disclosure required from registrants under the legislation.

### 3. Investor Education

The outcome for the Investor Education performance measures is to improve the efficiency of the investor education programs to provide effective investor protection. The measures tell us how effectively the Commission is developing and implementing an investor education program aimed at raising the understanding of sound investment practices by Nova Scotia residents so that they can recognize questionable products and practices.

| Measure  | Base Year<br>2008-2009 | Subsequent Data   | Annual Target<br>2011-2012 | Actual<br>2011-2012  |
|--|------------------------|---|----------------------------|--|
| Percentage increase in participation in Financial Fitness Challenge (CSA contest for students between the ages of 15 and 21) | 54% <sup>1</sup>       | 2009-2010-3.36% of Canadian participants were resident in Nova Scotia<br><br>2010-2011-down 47% | 10%                        | Participation was down substantially across Canada in the last 2 years, partially due to significant website issues. The CSA decided to cancel the program |
| Percentage increase in distribution of CSA brochures   | 12%                    | 2009-2010-55% <sup>2</sup><br>2010-2011-8.5%  | 10%                        | 0%   |
| Percentage increase in media hits – newspaper articles, radio and television ads   | 50% <sup>3</sup>       | 2009-2010-21%<br>2010-2011-28%  | 10%                        | 73% <sup>4</sup>   |
| Participate in a minimum of 12 public education events, such   | 13                     | 2009-2010-15<br>2010-2011-10  | 10                         | 17   |

<sup>1</sup> There were 619 registrants in 2008-2009, an increase of 54% over the previous year. This marked the first year of full promotion in Nova Scotia.

<sup>2</sup> It is difficult to compare the distribution of CSA brochures for these past 2 fiscal years as there were new brochures and flyers introduced in 2009-2010.

<sup>3</sup> This percentage increase is not indicative of the amount of coverage that can be expected on an annual basis going forward. This reflects the Commission's decision to increase its dedication of work resources towards communications.

<sup>4</sup> The substantial average increase for all media hits results from a 166% increase in coverage by the Investment Executive and continuing coverage of one matter that has been before the Commission for a number of years.

|  |                                       |  |     |      |
|--|---------------------------------------|--|-----|------|
| as Fall and Spring Home Shows, Seniors Expo, Family Expo, surveys and contests                             |                                       |  |     |      |
| Percentage increase in hits to <i>Before You Invest</i> blog, subscribers to blog and followers on Twitter | No base year data- new in Spring 2009 | 2009-2010-4900 visits<br>2010-2011-30% | 10% | 3.4% |

The Commission is continuing to explore new ways to measure the impact of the investor education programs. Evaluating educational success is a difficult process, and counting brochures, media hits and events only tells a small part of the story. As programs are constantly evolving and the matters addressed by the Commission which attract media attention vary from year to year, it is difficult to compare numbers from one year to the next.

In 2011-2012, we continued to work towards the right mix of large scale public event/expo presentations and small scale community seminars, with an increasing emphasis on community seminars. We made several presentations to students, teachers and seniors across Nova Scotia, including introduction of the Live Stock Adventure game to schools in October, 2011. The game provides middle school students with a fun and educational activity for raising awareness of the value of saving and investing and provides an innovative way to practice specific math skills such as calculating percentages and computing multi-digit numbers. The game, initially developed by the Youth Outreach Project Group of the North American Securities Administrators Association, was adapted for use in Nova Scotia.

From November 27, 2011, to February 5, 2012, the Commission, in conjunction with other CSA members, ran a public education initiative that included online advertisements and social media promotions that pointed to a video and website of a fictitious company, BlueHedge Investments, to illustrate how scam artists use these online tools to lure unsuspecting investors. If those who landed on the fictitious company's website tried to enter any personal information or clicked on 'Invest Now', they were redirected to an educational website with tools and information about recognizing, avoiding and reporting investment scams they might find online or via social media.

### **C. Core Area 3 – Corporate Finance Branch**

The outcome for the Corporate Finance performance measures is to improve the administration of the corporate finance disclosure system in Nova Scotia.

The four measures relating to the issuance of a comment or non-objection letter or a receipt tells us how efficiently the Corporate Finance branch is reviewing and processing prospectuses and offering documents filed with the Commission as the principal regulator. Once a receipt or non-objection letter has been issued by the Director for an offering document, an issuer can proceed to offer its securities to the public. The efficient operations of the Commission will result in an efficient capital market.

The measure relating to the review of continuous disclosure filings for a reporting issuer reflects how efficient the Commission's continuous disclosure review program is for Nova Scotia based reporting issuers, resulting in improved disclosure to the public.

| Measure   | Base Year<br>2008-2009     | Subsequent Data                  | Annual Target<br>2011-2012   | Actual<br>2011-2012                              |
|---|----------------------------|----------------------------------|--|--|
| Percentage of issuers based in Nova Scotia who received a first comment letter for their preliminary long form prospectus within 10 business days of filing the preliminary long form prospectus  | 100%                       | 2009-2010-100%<br>2010-2011-100% | 95%  | 100%   |
| Percentage of issuers based in Nova Scotia who received a first comment letter for their preliminary short form prospectus within 3 business days of filing the preliminary short form prospectus | 100%                       | 2009-2010-88%<br>2010-2011-100%  | 95%  | 83.3% <sup>1</sup>                               |
| Percentage of issuers based in Nova Scotia who received the receipt for a prospectus within 1 business day after filing final documents   | 100%                       | 2009-2010-100%<br>2010-2011-100% | 95%  | 100%   |
| Percentage of reporting issuers based in Nova Scotia that had a review of their continuous disclosure filings in the year   | 26%                        | 2009-2010-25.5%<br>2010-2011-23% | 25% of average capitalization of large issuers<br><br>10% of the number of other issuers | 47% of large issuers<br><br>23% of other issuers |
| Percentage of issuers who received a first comment letter on their offering document  | No base data for 2008-2009 | 2009-2010-91%<br>2010-2011-87.5% | 95%  | 100%   |

<sup>1</sup> Six preliminary short form prospectuses were filed. There was a delay in 1 file due to an issue relating to exemptive relief required in Ontario.

|  |      |                                  |     |      |
|--|------|----------------------------------|-----|------|
| within 10 business days of filing their offering document under the community economic development investment fund program   |      |                                  |     |      |
| Percentage of issuers who received the letter of non-objection within 2 business days of filing final documents under the community economic development investment fund program | 100% | 2009-2010-100%<br>2010-2011-100% | 95% | 100% |

In 2011-2012, the Corporate Finance branch implemented the amended (April 12, 2011) *Community Economic-Development Corporations Regulations* to improve disclosure by community economic development investment funds (CEDIFs) so that potential investors can make informed investment decisions. The amendments also introduced majority of the minority voting for investments made by CEDIFs, providing increased shareholder rights.

As Canadian accountants adopted International Financial Reporting Standards (IFRS), the branch harmonized the review procedures for continuous disclosure related to financial statements with other Canadian jurisdictions. Corporate Finance staff have participated in ongoing training of IFRS. Using internationally recognized accounting standards reduced the barriers foreign investors face in evaluating financial reports and enables Nova Scotia issuers to access capital on a worldwide basis.

The branch also brought to the Commission amendments to two rules for approval. The first, Form 51-102F6 *Statement of Executive Compensation* effective October 31, 2011, amended the form to reflect international changes as required by the Securities and Exchange Commission and the Dodd-Frank Wall Street Reform and Consumer Protection Act, providing investors with more meaningful information concerning executive compensation. The second, National Instrument 81-101 *Mutual Fund Prospectus Disclosure* approved by the Commission on February 15, 2012, codified relief required by exchange traded funds (ETFs) which was routinely required by ETFs due to their operational and distribution differences from mutual funds. This allowed them to reduce their compliance costs and lower their fees charged to investors.

#### **D. Core Area 4 – Enforcement Branch**

The outcome for the Enforcement performance measures is to improve the efficiency of the enforcement programs to deter undesirable behavior in capital markets and provide effective investor protection. The measures enable Commission staff to decisively detect and disrupt

market practices and misconduct that pose a danger to the investing public and bring more cases for prosecution in hearings before the Commission.

| Measure   | Base Year<br>2008-2009  | Subsequent Data   | Annual Target<br>2011-2012               | Actual<br>2011-2012                                       |
|---|---|---|--|---|
| <b>Complaints and Investigations</b>  |   |   |  |   |
| Enforcement staff to refer to Director, Enforcement, for review and confirmation of initial assessment of each complaint within 3 days of receipt of complaint    | 100%  | 2009-2010-100%<br>2010-2011-100%  | 100%                                     | 100%  |
| Enforcement staff to conclude investigation and report to Director, Enforcement, on 60% of investigations within 9 months and all investigations within 24 months | 46% of investigations completed within 9 months; 90% completed within 24 months; 10% remain outstanding | 2009-2010-55% in 9 months; 96% in 24 months; 4% remain outstanding<br><br>2010-2011-37% in 9 months; 75% in 24 months; 25% remain outstanding | 60% in 9 months<br><br>100% in 24 months | 53% in 9 months; 81% in 24 months; 19% remain outstanding |
| <b>Litigation</b>   |   |   |  |   |
| Enforcement counsel to complete initial review of investigation files referred to counsel and provide written response within 30 days                             | 100%  | 2009-2010-100%<br>2010-2011-100%  | 100%                                     | 100%  |
| Enforcement counsel to issue a Statement of Allegations and Notice of Hearing within 60 days of referral and conclusion of negotiations                           | 100%  | 2009-2010-100%<br>2010-2011-100%  | 100%                                     | 100%  |
| Enforcement counsel to issue Notice of Hearing and Statement of Allegations for an interim cease trade  | No interim cease trade orders for this year   | 2009-2010-No interim cease trade orders for this year   | 100%                                     | No interim cease trade orders for this year               |

|                                 |  |   |  |  |
|---------------------------------|--|---|--|--|
| order within 3 days of referral |  | 2010-2011-no interim cease trade orders for this year |  |  |
|---------------------------------|--|---|--|--|

In its effort to protect Nova Scotia investors and capital markets, the Commission investigated 65 complaints and issued \$2,216,500 in administrative fines in the calendar year of 2011. The Commission concluded 8 cases against 10 defendants that included 6 cases in which inadequate or incorrect information was provided to investors, 2 cases involving misconduct by registrants, and one case involving unauthorized sale of investments to the public. This information was compiled for preparation of the CSA 2011 Enforcement Report.

In 2011-2012, several large and complex investigations were completed and are now at the settlement or litigation preparation stage. As investigations and hearings become more complex, it becomes more difficult to meet the performance measures with the existing enforcement resources.



## Appendix A

### Annual Report Under Section 18 of the *Public Interest Disclosure of Wrongdoing Act*

The *Public Interest Disclosure of Wrongdoing Act* (the Act) was proclaimed into law on December 20, 2011.

The Act provides for government employees to be able to come forward if they reasonably believe that a wrongdoing has been committed or is about to be committed and they are acting in good faith.

The Act also protects employees who do disclose from reprisals, by enabling them to lay a complaint of reprisal with the Labor Board.

A wrongdoing for the purposes of the Act is:

- a) a contravention of provincial or federal laws or regulations,
- b) a misuse or gross mismanagement of public funds or assets,
- c) an act or omission that creates an imminent risk of a substantial and specific danger to the life, health or safety of persons or the environment, or
- c) directing or counselling someone to commit a wrongdoing.

**Table A.1**

The following is a summary of disclosures received by the Commission

| Information Required under Section 18 of the Act     | Fiscal Year 2011-2012 |
|--|-----------------------|
| The number of disclosures received                   | Nil                   |
| The number of findings of wrongdoing                 | Nil                   |
| Details of each wrongdoing                           | N/A                   |
| Recommendations and actions taken on each wrongdoing | N/A                   |