



Nova Scotia Securities Commission

Annual Accountability Report
for the Fiscal Year 2009 - 2010

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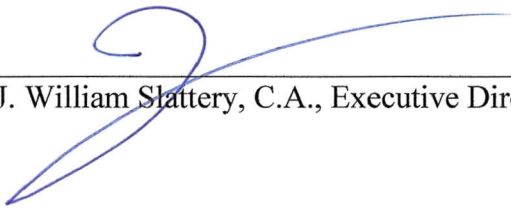
Accountability Statement

The accountability report of the Nova Scotia Securities Commission (the Commission) for the year ended March 31, 2010, is prepared pursuant to the *Finance Act* and government policies and guidelines. These authorities require the reporting of outcomes against the Commission's business plan information for the fiscal year 2009-2010. 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 business plan for the year.



H. Leslie O'Brien, Q.C., Chair



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

Introduction

This accountability report reflects on progress made in achieving the goals and priorities set out in the 2009-2010 business plan of the Commission which can be found at www.gov.ns.ca/nssc/docs/businessplan2009_2010.pdf and describes other significant activities and accomplishments during the year. The 2009-2010 business plan more fully describes the Commission's core business functions, goals and priorities for the year. The Commission recommends that this accountability report be read in conjunction with the business plan.

Mandate

The Commission is an independent, quasi-judicial tribunal which works to fulfill the mandate assigned to it under the Securities Act. Under the Securities Act the Commission's mandate is to provide investors with protection from practices and activities that tend to undermine investor confidence in the fairness and efficiency of capital markets and to the extent not inconsistent with an adequate level of investor protection to foster the process of capital formation.

The Commission seeks to foster a capital market in Nova Scotia that is fair and warrants investor confidence in a number of ways. These include:

- timely and responsible execution of core responsibilities;
- targeted compliance reviews of registrants;
- fair, effective and timely enforcement proceedings;
- relevant investor education; and
- participation in coordinated policy development with other statutory and self-regulatory organizations.

Mission

The mission of the Commission is to carry out the mandate assigned to it by Government through statute and regulation.

Core Activities

The Commission has four core business areas. In August 2009, the Commission reorganized its operations and separated the compliance and investor education functions from the enforcement function. A new branch entitled Policy and Market Regulation was created to encompass the capital markets, compliance and investor education functions. The core business areas are:

- A. The Commission, properly speaking. The Commission has two distinct roles, one regulatory the other more broadly administrative, and performs several functions in each role. In its regulatory role, the Commission functions as a policy setting body and as an adjudicative body to hear enforcement matters and conduct hearings and reviews of various decisions.

In its administrative role, the Commission is responsible for the proper management of the Commission's affairs, which includes the operations of the three other core business areas, and for advising the Government of the day on a range of matters necessary for the proper execution of its mandate, including budgeting, human resources, legislation, planning, internal governance and trends in capital markets that touch upon their regulation.

- B. The Policy and Market Regulation branch which is responsible for:
- the day to day administration of the registration system under securities legislation;
 - compliance reviews and audits of registrants registered in Nova Scotia;
 - development and delivery of an investor education program for the Nova Scotia public; and
 - development and adoption of rules and legislative amendments as part of the Commission's policy setting function.
- C. The Corporate Finance branch which is responsible for the day to day administration of the prospectus and continuous disclosure system under securities legislation.
- D. The Enforcement branch which processes information to determine if investigations and enforcement proceedings are appropriate and initiates and carries out the enforcement proceedings.

Progress and Accomplishments

A. Core Area 1 – The Commission

Priority: *The continued nurturing of the Passport System for Securities Regulation*

In fiscal 2009-2010, the Commission's priority was to continue nurturing the Passport System for Securities Regulation set in motion by the Provincial/Territorial MOU Regarding Securities Regulation adopted in 2004 by all the provinces and territories, except for Ontario. The main components to achieving this priority were:

- Building on the harmonization and streamlining efforts of the Canadian Securities Administrators (CSA), including completion of Phase 2 of the Passport System;
- Building on the work done to date to improve regulatory enforcement of securities laws by ensuring that the adjudicative role of the Commission continues to be discharged in a fair but firm and timely manner; and
- Monitoring the performance of the core areas to ensure that the priorities of the Commission are discharged fairly, effectively and in a timely manner.

During fiscal 2009-2010, there was full implementation of Phase 2 of the Passport System for Registration which came into effect on September 28, 2009. This included the adoption of National Instrument 31-103 Registration Requirements and Exemptions (NI 31-103) as a rule in Nova Scotia, changes to National Instrument 45-106 Prospectus and Registration Exemptions and amendments to the Securities Act to bring into force the business trigger for registration. This also involved training and use of new procedures, forms and measurements for the processing of applications for registration where the Commission is the principal regulator.

As part of its harmonization of securities legislation with other jurisdictions in Canada, the Commission also adopted the following instruments as rules in Nova Scotia:

- National Instrument 23-102 Use of Client Brokerage Commissions; and
- National Instrument 55-104 Insider Reporting Requirements and Exemptions.

The Commission also approved numerous requests for publication for comment of amendments to various rules to accommodate the transition to International Financial Reporting Standards (IFRS) on January 1, 2011, and proposed amendments to the following instruments as a result of consultations with industry:

- National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities;
- National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer; and
- National Instrument 43-101 Standards of Disclosure for Mineral Projects.

B. Core Area 2 – Policy and Market Regulation branch

1. Capital Markets

Priority: *Maintain effective and efficient administration of the registration system in Nova Scotia*

During fiscal 2009-2010, this priority was to be achieved by:

- Implementation and efficient operation of Phase 2 of the Passport System for Registration under NI 31-103; and
- Participating in the work of the Registrant Regulation Committee of the CSA.

On September 28, 2009, NI 31-103 became the new framework for registration of both firms and individuals in Nova Scotia and across Canada. NI 31-103 provides harmonized registration requirements across the country and reduces the total number of individual registration categories from 121 down to 5. It also creates some new dealer and adviser registration categories, including the exempt market dealer, restricted dealer and investment fund manager. The new registration regime helps to foster a climate of investor protection and regulatory compliance within the industry.

With NI 31-103 also came Passport for Registration in all jurisdictions except Ontario which works with passport through an interface. With the streamlining that passport provides and an electronic filing system for non-resident individual registrants, registration staff has been able to devote some time to assist with compliance matters.

The Deputy Director, Capital Markets, has participated in the work of various CSA committees charged with responsibility for the Passport System for Registration and has provided training to other Commission staff to ensure that the Commission is an effective and efficient principal regulator under the system.

2. Compliance

Priority: *Continue building strong and timely programs in Compliance*

During fiscal 2009-2010, this priority was to be achieved by increasing the number of compliance reviews of registrant branches throughout Nova Scotia to correct deficiencies in compliance with ongoing registration requirements and ensuring that business practices and procedures create a safe environment for meeting clients investment needs and objectives. However, the program cannot grow without additional resources.

General compliance is conducted in a number of ways including:

- the issuance of random questionnaires regarding the sale of exempt securities;
- the implementation of focused and desk reviews; and

- the provision of guidance to the compliance professionals of registered firms as requested.

Examinations completed during fiscal 2009-2010 included the oversight review of the Investment Industry Regulatory Organization of Canada (IIROC). The focus of the compliance examinations has been almost exclusively on IIROC member firms or those firms without oversight by a self-regulatory organization (SRO). We have been working with IIROC for a more comprehensive presence in Nova Scotia relating to the review of branch operations of member firms.

Members of the Mutual Fund Dealers Association of Canada (MFDA) are also reviewed but on a less frequent basis than IIROC members as the MFDA ensures there is reasonable geographic coverage of Nova Scotia branches on an annual basis.

The compliance examiner is active on both the MFDA and IIROC oversight committees to ensure that Nova Scotia's interests are heard and to work with the other jurisdictions to provide an appropriate level of oversight of the SROs. Comprehensive SRO oversight to ensure the appropriate level of supervision of member firms is key to meeting the Commission's mandate to increase investor confidence.

The CSA Compliance Committee, which was struck in 2009, has been a valuable endeavour through the exercise of streamlining and harmonizing processes and programs for compliance examinations. Compliance training is obtained whenever available through the CSA and the North American Securities Administrators Association (NASAA).

3. Investor Education

Priority: *Investor Education aimed at cultivating public awareness*

This priority was to be achieved by developing and implementing an investor education program aimed at raising the understanding of sound investment practices by Nova Scotia residents.

Every opportunity was pursued by the Investor Education Coordinator to meet with Nova Scotia stakeholders to enhance investor knowledge in an effort to educate the Nova Scotia investing public about illicit investment schemes and unsuitable investment strategies.

The Investor Education Coordinator participated in the work of the CSA Investor Education Committee and the NASAA Investor Education Committee. The incumbent sits on the NASAA Military Family Outreach Committee in recognition of the significant military families population in Nova Scotia.

C. Core Area 3 – Corporate Finance branch

Priority: *Maintain effective and efficient administration of the prospectus and continuous disclosure system in Nova Scotia*

During fiscal 2009-2010, this priority was to be achieved by:

- Implementation of National Instrument 41-101 General Prospectus Requirements (NI 41-101);
- Being an effective and efficient principal regulator under Phase 2 of the Passport System for Prospectus and Continuous Disclosure;
- Conducting an effective and efficient Continuous Disclosure Review Program for Nova Scotia based reporting issuers;
- Performing timely reviews of offering documents under the community economic development funds (CEDIF) program and other offering documents as required; and
- Participating in the Prospectus, Continuous Disclosure and Accounting Committees of the CSA.

In 2009-2010 the implementation of NI 41-101 was achieved through the review under the Instrument of fourteen prospectuses filed in Nova Scotia for which the Commission was the principal regulator. Corporate Finance also participated in CSA conference calls to resolve any issues that emerged regarding the treatment of specific interpretations of NI 41-101, National Instrument 51-102 Continuous Disclosure Obligations and any other novel issues.

The Commission as principal regulator in the passport system performed timely reviews of filings and acted where necessary to encourage issuers to provide full, plain and true disclosure for investors and also maintained a database of information of non-principal regulated issuers for filing in Nova Scotia.

Corporate Finance completed seven full continuous disclosure reviews of Nova Scotia principal regulated issuers' public filings, a full continuous disclosure review of one Nova Scotia principal regulated mutual fund family and a targeted review of eight Nova Scotia issuers' certifications to ensure that the regulatory requirements were being met and to improve disclosure to the public.

Corporate Finance reviewed an all time high of twenty-two CEDIF offering documents in 2009-2010 and issued twenty-one non-objection letters. Staff participated in a CEDIF conference arranged by the Department of Economic and Rural Development. In addition, the Frequently Asked Questions for CEDIFs on the Commission's website was amended and updated three times in the fiscal year to assist

the CEDIFs in applying the governing regulations. Other documents were reviewed on a case by case basis where required.

Corporate Finance staff participated in a number of CSA committees relating to prospectus content and review, continuous disclosure, IFRS, accounting issues and mutual funds.

D. Core Area 4 – Enforcement branch

Priority: *Continue building strong and timely programs in Enforcement*

During fiscal 2009-2010, this priority was to be achieved by:

- Detecting and decisively disrupting illicit market practices and bringing proceedings before the Commission for misconduct.
- Co-operating effectively with other securities regulators, self regulatory organizations and law enforcement agencies to achieve the common mandate to detect and deter improper market behaviours.
- Participating in the work of the Enforcement Committee of the CSA and NASAA.

Enforcement staff employs the resources and talents of three investigators, two enforcement counsel and a paralegal to investigate, analyze and bring proceedings before the Commission in appropriate cases for violations of Nova Scotia securities laws. Eighty nine new investigations were opened for the fiscal period as a result of Nova Scotia investor complaints and referrals from other sources. Ten hearings were completed with dispositions of appropriate sanctions being imposed in the fiscal period. Enforcement staff experienced a significant increase in the number and complexity of reported or suspected violations of Nova Scotia securities laws in the reporting period placing significant strain on enforcement staff, particularly enforcement counsel. There are a number of completed investigations being held by the Director of Enforcement awaiting referral to the attention of enforcement counsel for review and recommendation.

Enforcement staff continue to receive requests from other Canadian and foreign regulators which have been accommodated in the spirit of mutual assistance. Staff have also benefitted from reciprocal assistance afforded by foreign regulators to staff. Enforcement staff continue to foster an effective and cooperative relationship with the SROs. Of particular importance is the relationship with the Market Surveillance and Analysis unit at the IIROC.

The Director of Enforcement chaired the CSA Standing Enforcement Committee. The Enforcement Committee is constituted by the directors of enforcement for the thirteen Canadian jurisdictions. In that capacity the Director also serves on the CSA Communications Committee's working group for the CSA Enforcement Report.

Human Resource Strategy

In fiscal 2009-2010, the Commission hired an investigator to fill a vacancy in the area of enforcement. In-house resources were used for training.

Other staff of the Commission also received training through the Public Service Commission, the NASAA, the CSA and other professional associations.

The CSA continued to revamp staff training in all jurisdictions, including Nova Scotia, to ensure that harmonized securities laws and the Passport System for Securities Regulation is administered consistently and harmoniously. In July and August 2009, staff from the Corporate Finance and Enforcement branches attended a national IFRS training course in Toronto. Staff from Enforcement were also sent to the Canadian Police College for training on conducting interviews.

Financial Results

Estimated Budget Expenditures by Core Business			
Core Business (All)	Budget 2009-2010	Actual 2009-2010	Variance
	(\$ thousands)	(\$ thousands)	(\$ thousands)
Revenues:	\$(10,300)	\$(13,706)	\$ 3,406 ¹
Expenditures:			
Salaries and benefits	\$ 1,741	\$ 1,559	\$ 182 ²
Operating costs	\$ 722	\$ 580	\$ 142 ³
Cost Recoveries	0	(60)	60
Total Expenditures	\$ 2,463	\$ 2,079	\$ 384
Net Revenue	\$ (7,837)	\$(11,627)	\$ 3,790
FTEs	21	19	2

¹ The increase in revenue was a result of an increase in filing fees of 2.9%. Also, revenue was underestimated as we expected to have a decrease in revenue due to economic conditions. There was also an increase in registration fees, enforcement administrative penalties and corporate finance filing fees compared to the prior year's actual revenues.

² Salaries and benefits were less than budgeted as there were several vacancies in positions for part of the year.

³ Operating costs were less than budgeted as travel, professional services and hearing related costs were down for the fiscal year and supplies and services costs were up.

Measuring Our Performance

The supporting data presented below reflect the measures included in the 2009-2010 Business Plan and the most recent information available.

A. Core Area 1 – The Commission

Outcome:

The outcome for each of the performance measures in the chart below 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.

What does the measure tell us?

The first two measures in the chart below reflect the Commission's efforts to harmonize the securities laws of Nova Scotia with the securities legislation in the other Canadian jurisdictions to facilitate the implementation of the Passport System for Securities Regulation.

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

Where are we now?

Measure	Base Year 2008-2009	Actual 2009-2010
Implement the second phase of the Passport System for Securities Regulation for registration on the agreed timelines	The target date of December 31, 2008, was changed to coordinate with the enactment of the necessary legislation in Ontario	Implemented on September 28, 2009
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%	100%
Percentage of exemption applications considered within 5 business days of	100%	100%

filing		
Percentage of orders made within 10 business days of the final submissions from the parties following the conclusion of a hearing	95%	100%

The Commission has met its targets for the timely adoption of national/multilateral instruments as rules, review of exemption applications and issuance of orders after the conclusion of hearings. The Commission is able to carry out these functions in an expeditious manner with the support of seasoned staff and standardized procedures which include checklists and standard forms where appropriate.

Where do we want to be?

The Commission proposes to continue its high success rate while respecting the time constraints of other jurisdictions in the adoption of harmonized legislation. The primary emphasis in hearings is to produce an unbiased, timely, fair and legally correct decision, recognizing that more time may be required to make a decision in a complex hearing.

B. Core Area 2 – Policy and Market Regulation branch

1. Capital Markets

Outcome:

The outcome for the performance measures in the chart below is to improve the level of efficiency in the administration of the registration system.

What does the measure tell us?

These two measures tell us how efficiently registration applications are reviewed and processed to enable registrants to start carrying on registerable activities in Nova Scotia.

Where are we now?

Measure	Base Year 2008-2009	Actual 2009-2010
Percentage of firm applicants, where the Commission was the	90%	91%

principal regulator, that had their applications processed within 45 days of the final submission of necessary documents		
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%	92%

Where do we want to be?

With the implementation of the Passport System for Registration, registration applications will only be filed for review in Nova Scotia where the firm's head office is in Nova Scotia or the individual's working office is in Nova Scotia. This provides Capital Markets staff with more time to concentrate on those applications where the Commission is the principal regulator, resulting in a more efficient review and processing of these applications. The goal is to increase the percentage of applications reviewed within the timelines to 95%.

2. Compliance

Outcome:

The outcome for each of the performance measures in the chart below is to improve the efficiency of the compliance programs to deter undesirable behavior in the capital markets and provide effective investor protection.

What does the measure tell us?

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.

Where are we now?

Measure	Base Year 2008-2009	Actual 2009-2010
To initiate 6 field examinations of Nova Scotia registrants per	8	6

calendar year		
To conclude 6 field examinations of Nova Scotia registrants per calendar year	5	14 ¹
To respond to compliance complaints and report or refer to enforcement as appropriate within 10 days	100%	100%

¹ The large number of concluded files is due to the completion of a number of contentious and complicated reviews carried over from the previous year that took longer than expected to close.

Where do we want to be?

One of the priorities for compliance is to increase the number of compliance reviews. The Commission, in consultation with Government, needs to consider an increase in resources for this important function. The compliance examination program is preventative in nature and provides a significant return in protecting against investor losses, increased confidence in the Nova Scotia capital markets and the consequential reduction in referrals to enforcement staff for investigation.

3. Investor Education

Outcome:

The outcome for each of the performance measures in the chart below is to improve the efficiency of the investor education programs.

What does the measure tell us?

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.

Where are we now?

Measure	Base Year 2008-2009	Actual 2009-2010
10% increase in participation in Financial Fitness Challenge (CSA contest for students between the ages of 15 and 21, with a \$750 prize in each province)	54%	It is difficult to compare the participation for the two fiscal years. The Financial Fitness Challenge

		was redesigned in 2009-2010 to include contact through Facebook and Twitter. 17,305 Canadians participated of whom 582 were resident in Nova Scotia.
10% increase in distribution of CSA brochures	12%	55% ¹
20% increase in media hits – newspaper articles, radio and television ads	50% ²	10% in all NS 21% overall
Develop and print a Nova Scotia specific brochure, detailing the Commission and what we do, and distribute minimum of 1500 to the Nova Scotia public	Project deferred due to budgetary constraints	N/A
Attend a minimum of 12 public education events, such as Fall & Spring Home Shows, Seniors Expo and Family Expo	13	15
Develop new Nova Scotia specific education programs, and plan to deliver CSA Investor Education programs and messages (as outlined in CSA Investor Education Committee's strategic plan) to the appropriate sectors in Nova Scotia's capital markets	Developed Nova Scotia specific website and blog for investor education	For the Before You Invest website, there were 4900 visits and 9561 page views with an average of 13.4 visits per day. Steady increase through the year.

¹ It is difficult to compare the distribution of CSA brochures for the past 2 fiscal years as there were new brochures and flyers introduced in 2009-2010.

² 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.

Where do we want to be?

The Investor Education Coordinator will continue to explore new initiatives within its budget to deliver investor education messages and material to Nova Scotia investors and increase media awareness. She has employed conventional media and programs such as trade shows, special interest forums and events and visits to schools.

New initiatives continue to be undertaken using the internet and social media such as blogs and Twitter to reach Nova Scotia investors of all demographics.

C. Core Area 3 – Corporate Finance branch

Outcome:

The outcome for each of the performance measures in the chart below is to improve the administration of the corporate finance disclosure system in Nova Scotia.

What does the measure tell us?

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 that have been 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. The increased review of documents filed and the making of required amendments to continuous disclosure documents will result in improved disclosure to the public.

Where are we now?

Measure	Base Year 2008-2009	Actual 2009-2010
Percentage of issuers based in Nova Scotia who have received a first comment letter in their preliminary long form prospectus within 10 business days of filing the preliminary long form prospectus	100%	100%
Percentage of issuers based in Nova Scotia who have received a first comment letter on their preliminary short form prospectus within 3 business days of filing the preliminary short form prospectus	100%	88% ¹
Percentage of issuers based in Nova Scotia who have received	100%	100%

the receipt for a prospectus within 1 business day after the filing of final documents		
Percentage of reporting issuers based in Nova Scotia that have had a review of their continuous disclosure filings in the year	26%	25.5%
Percentage of issuers who have received a first comment letter on their offering document within 10 business days of filing their offering document under the CEDIF program	No base data for 2008-2009	91% ²
Percentage of issuers who have received the letter of non-objection within 2 business days of filing of final documents under the CEDIF program	100%	100%

¹ Exceeded by one day for one prospectus

² With the filers' permission, early season filings were used for staff training and the normal 10 day limit was exceeded in 2 cases

Where do we want to be?

The number of filings for both prospectuses and CEDIFs increased in 2009-2010. We also completed more continuous disclosure targeted reviews which are not reflected in the chart. With full staff in 2010-2011, our aims are to maintain our performance in the noted areas, to effectively implement amendments to the CEDIF regulations without negatively impacting performance and lastly, to monitor the transition to IFRS for our issuers.

D. Core Area 4 – Enforcement branch

Outcome:

The outcome for each of the performance measures in the chart below is to improve the efficiency of the enforcement programs to deter undesirable behavior in capital markets and provide effective investor protection.

What does the measure tell us?

The measures relating to complaints, investigations and litigation enable Commission staff to detect and disrupt decisively market practices and misconduct that pose a danger to the investing public and bring more cases for prosecution in hearings

before the Commission. This results in a deterrence of undesirable behaviours in capital markets and provides more effective investor protection.

Where are we now?

Measure	Base Year 2008-2009	Actual 2009-2010
Complaints and Investigations		
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%	100%
Enforcement staff to conclude investigation and report to Director, Enforcement, on 60% of investigations within 9 months. To conclude investigation and report on all investigations within 24 months	46% of investigations completed within 9 months. 90% completed within 24 months. 10% remain outstanding	55% of investigations completed within 9 months. 96% completed within 24 months. 4% remain outstanding
Litigation		
Enforcement counsel to complete initial review of investigation files referred to counsel and provide written response within 30 days	100%	100%
Enforcement counsel to issue a Statement of Allegations and Notice of Hearing within 60 days of referral and conclusion of negotiations	100%	100%
Enforcement counsel to issue Notice of Hearing and Statement of Allegations in an interim cease trade order within 3 days of referral	No interim cease trade orders for this year	No interim cease trade orders for this year

Where do we want to be?

Steps have been taken to increase the capacity of the enforcement litigation group. A staffing action was undertaken to fill an approved position for a second enforcement counsel after the incumbent resigned from the position in December, 2009.