



Securities Commission

Annual Accountability Report  
for the Fiscal Year 2012 – 2013

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## Accountability Statement

The accountability report of the Nova Scotia Securities Commission for the year ended March 31, 2013, 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 2012-2013. 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 2012-2013 Statement of Mandate.

\_\_\_\_\_"Sarah Bradley"\_\_\_\_\_  
Sarah P. Bradley, Chair

\_\_\_\_\_"J.W. Slattery"\_\_\_\_\_  
J. William Slattery, C.A., Executive Director

## Message from the Chair

The principal mission of the Nova Scotia Securities Commission, as set out in the *Securities Act*, is to protect investors in Nova Scotia while fostering fair 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 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 2012-2013 Statement of Mandate which can be found at: <http://www.gov.ns.ca/nssc/docs/NSSC20122013Mandate.pdf>

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

As in years past, we have fulfilled our mandate with a close attention to fiscal responsibility. Our revenues for 2012-2013 increased by \$.6 million from the prior year to over \$15.7 million, while our total expenditures increased by \$.2 million to \$2.6 million.

This year, the Commission experienced an important transition in our work environment as a result of our move to our new premises in the Duke Street Tower. This move allowed us to modernize our public spaces and increase the functionality of our hearing room to allow us to accommodate IIROC and MFDA hearings, as well as investor education events and industry education programs.

Our notable accomplishments for the year include: a substantial renewal of our investor education program; the development of our formal communications strategy; the implementation of new rules to improve and simplify information delivery to mutual fund investors; new legislative amendments that protect investors by broadening the scope of the insider trading prohibition provisions and giving the Commission the power to order disgorgement of amounts obtained through breaches of our securities laws; and new amendments to the offering memorandum exemption that will facilitate capital raising for early stage businesses and other small and medium sized enterprises in Nova Scotia while maintaining appropriate investor protection.

"Sarah Bradley"

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Sarah P. Bradley, Chair  
Nova Scotia Securities Commission

## Financial Results

Core Business (All)	2012-2013 Estimate	2012-2013 Actual	Variance
	(\$ thousands)	(\$ thousands)	(\$ thousands)
Revenues:	(14,137)	(15,741)	1,604 <sup>1</sup>
Expenditures:			
Salaries and Benefits	1,835	1,864	(29) <sup>2</sup>
Operating Costs	825	777	48 <sup>3</sup>
Cost Recoveries	-	(7)	7
Total Expenditures	2,660	2,634	26
Net Revenue	(11,477)	(13,107)	1,630
FTEs	20	19.6	.4

<sup>1</sup> Revenues were higher than budgeted due mainly to an increase in the volume of corporate finance filings and registration fees.

<sup>2</sup> Salaries and benefits were higher than budget due to compensation increases.

<sup>3</sup> Lower operating costs compared to budget were the result of lower professional services expenses and increased supplies and services and other costs which include office relocations and associated costs.

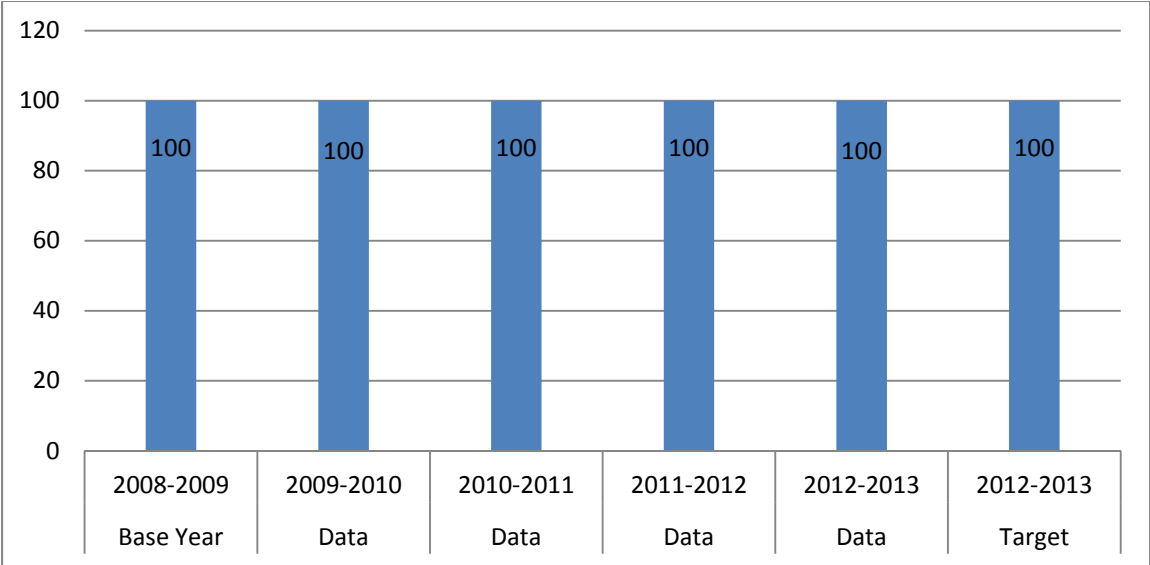
# Measuring Our Performance

## Core Area 1 – The Commission

The performance measures for the Commission board are focused on its goals of improving the framework of securities regulation in Nova Scotia and ensuring the efficient administration of the Commission’s adjudicative and exemption granting jurisdictions.<sup>4</sup>

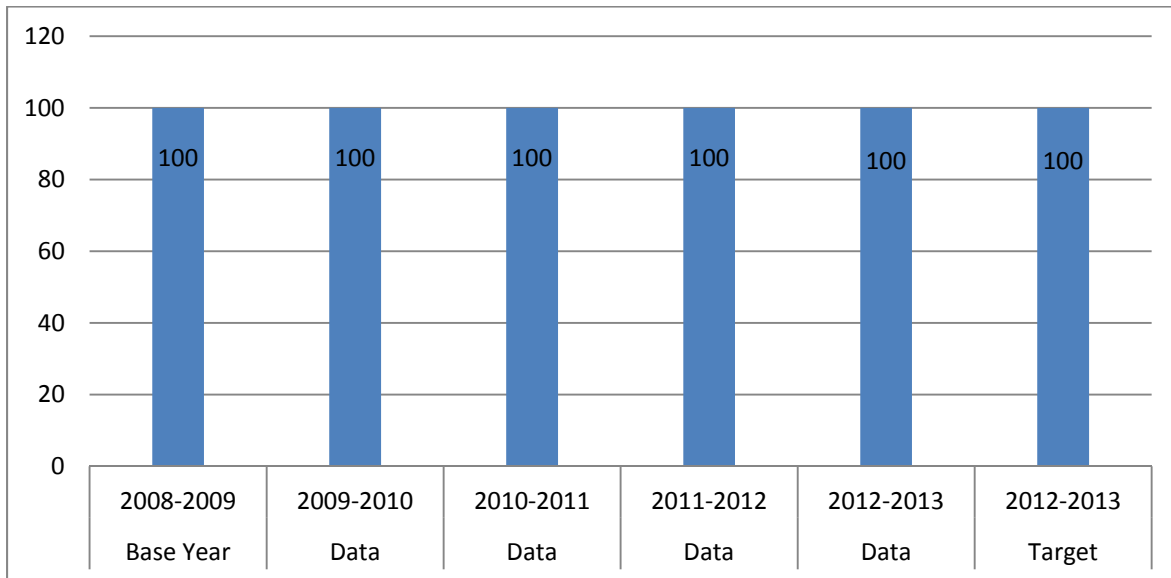
Below, Chart 1 reflects the Commission’s commitment to and accomplishment of harmonization of the securities laws of Nova Scotia with the securities legislation in the other Canadian jurisdictions to maintain the Passport System for Securities Regulation; and chart 2 shows that the Commission met its target for considering exemption applications within 5 business days of the application being filed.

*Chart 1: 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*



<sup>4</sup> The data used in the following measurements is gathered from internal sources and is presented monthly to the Commission via monthly operating reports.

Chart 2: Percentage of exemption applications considered within 5 business days of filing



Prior to 2012 – 2013, there was one measure relating to the issuance of an order after final submissions in a hearing. In 2010-2011 and 2011-2012, the Commission heard a number of matters that were contested, lengthy and complex. The 10-day target for issuance of a decision was not realistically achievable and was not met for these hearings. Accordingly, in the 2012-2013 Statement of Mandate, the measure was amended to create two new measures, as shown below in Charts 3 and 4, maintaining our goal of 10 business days for settlement hearings and adding a measure of 90 days for contested hearings.

In 2012-2013, the Commission held 12 settlement hearings to consider the approval of settlement agreements. Orders were made within 10 business days of final submissions in 11 of the 12 hearings resulting in an achievement of 91.7% of the target rate. For the same time period, the Commission heard 3 contested matters and in 2 of these matters, the orders and decisions were made within 90 days of final submissions, resulting in an achievement of 66.7% of the target rate.

Chart 3: Percentage of orders made within 10 business days of the final submissions from the parties following the conclusion of a settlement hearing

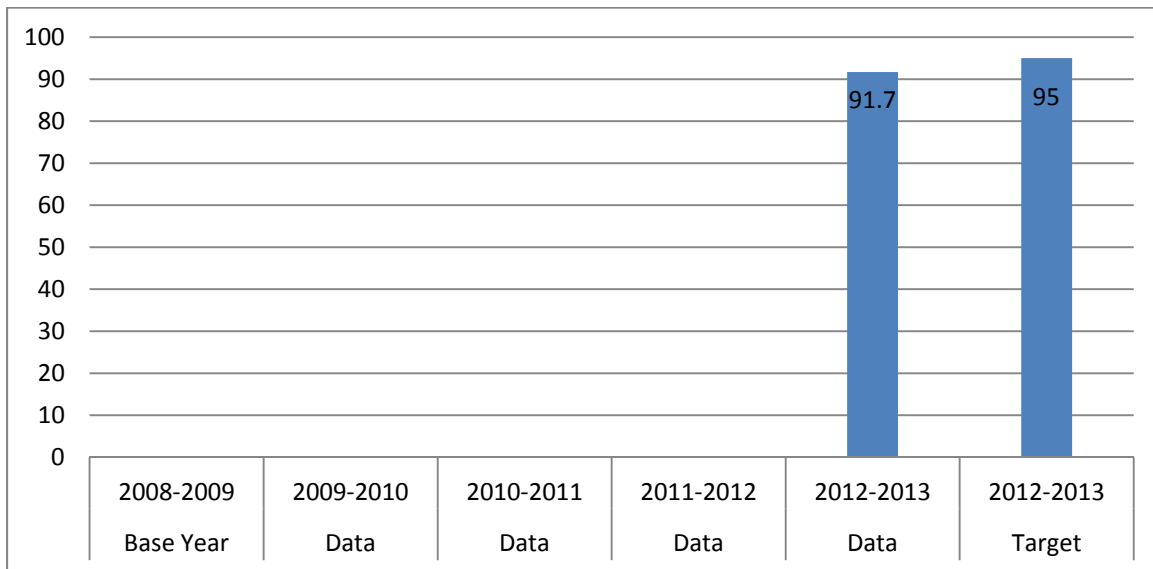
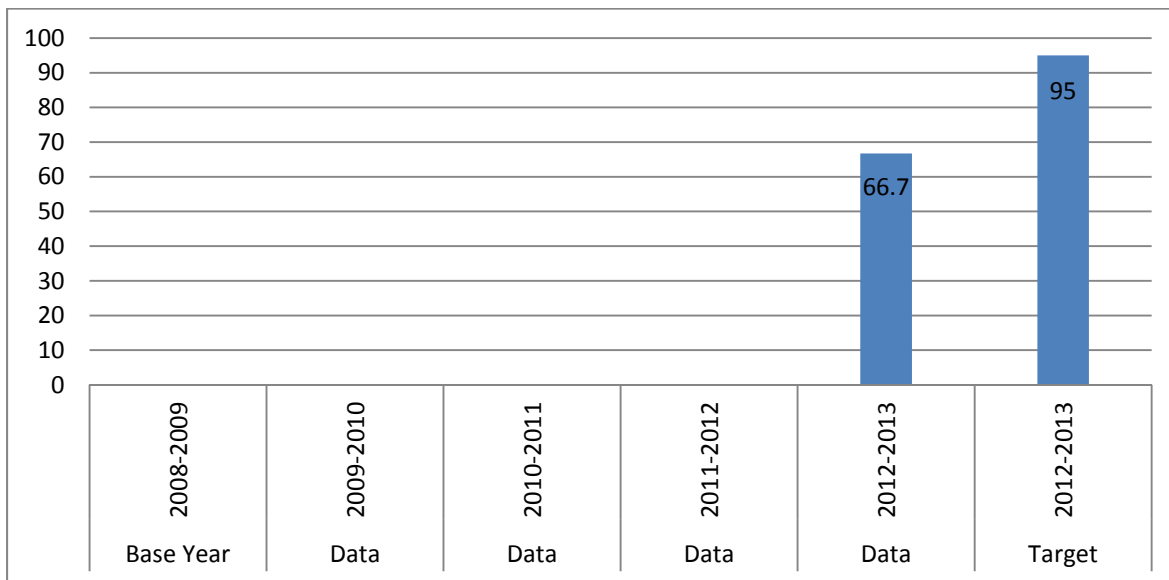


Chart 4: Percentage of orders and decisions made within 90 days of the final submissions from the parties following the conclusion of a contested hearing



### Legislative Amendments

Through its work with the Canadian Securities Administrators, the Commission has continued to harmonize Nova Scotia securities laws with the securities legislation of other Canadian jurisdictions. On May 17, 2012, a number of amendments to the *Securities Act* received Royal Assent. The amendments contained provisions to:



- Harmonize the provisions for credit rating organizations by adding a section explicitly requiring an application for designation and amendments permitting the Commission to make orders under section 30A.
- Harmonize the provisions relating to an offering memorandum.
- Add exceptions from the requirement to make an application to the Director for permission to make a listing representation which codifies relief granted under routine applications.
- Add provisions required to support implementation of Stage 2 of the point of sale initiative under which delivery of a fund facts document will satisfy current prospectus delivery requirements.
- Make changes to the insider trading prohibition provisions to enable the Commission to proceed with an enforcement action against an insider of a public company that resides in Nova Scotia for an insider trading offence if the public company is not a reporting issuer in Nova Scotia.
- Provide the Commission with the enforcement power to order a prohibition on the acquisition of securities, disgorgement to the Commission of amounts obtained as a result of non-compliance and reciprocation of a self-regulatory organization order.
- Reinstate section 144, which contains a right to rescind a contract if a registered dealer fails to disclose it is acting as principal which was inadvertently repealed.

### Major Policy Initiatives

In further support of the Passport System for Securities Regulation, the Commission participated in the following major policy initiatives:

- Adoption of Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-The-Counter Markets* as a rule. The Instrument designates any issuer whose securities are quoted only on a U.S. over-the-counter market and that has a significant connection to Nova Scotia as a reporting issuer in Nova Scotia.
- Adoption of National Instrument 23-103 *Electronic Trading* as a rule. The Instrument addresses the risks of electronic trading by a registered firm by providing specific requirements for the controls, policies and procedures relating to electronic trading.
- Publication for comment of Canadian Securities Administrators Consultation Paper 25-401: *Potential Regulation of Proxy Advisory Firms*. The Consultation Paper addresses certain concerns raised about the services provided by proxy advisory firms and their potential impact on Canadian capital markets.
- Adoption of Multilateral Policy 31-202 *Registration Requirement for Investment Fund Managers*. The Policy provides guidance about the general principles that apply in determining whether a person or company is required to register as an investment fund manager in Nova Scotia.

- Adoption of amendments to National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* as a rule. The amendments improve the process by which reporting issuers send proxy-related materials to and solicit proxies and voting instructions from holders of securities. Reporting issuers are provided with a new notice-and-access mechanism to send proxy-related materials by posting the materials on a website and sending a notice informing the security holders that the materials have been posted and explaining how to access the materials.
- Adoption of amendments to National Instrument 41-101 *General Prospectus Requirements* as a rule. The amendments introduce a prospectus form for scholarship plans which focuses on providing investors with key information about a scholarship plan in a simple, accessible and comparable format.
- Publication for comment of CSA Discussion Paper and Request for Comment 81-407 *Mutual Fund Fees*. The Paper provides an overview of the roles of the market participants in the mutual fund industry and a description of the current mutual fund fee structure. It also describes some regulatory options that the securities regulators could potentially consider regarding the fees.
- Publication of Multilateral CSA Notice 45-311 *Exemptions from Certain Financial Statement-Related Requirements in the Offering Memorandum Exemption to Facilitate Access to Capital by Small Businesses* and issuance of Blanket Order No. 45-519 *Exemptions from Certain Financial Statement Requirements of Form 45-106 F2 Offering Memorandum for Non-Qualifying Issuers*. The Notice describes the harmonized blanket orders in all jurisdictions, other than Ontario and British Columbia, that provide exemptions from certain audited financial statement requirements in Form 45-106 F2 *Offering Memorandum For Non-Qualifying Issuers*, used under the offering memorandum prospectus exemption in section 2.9 of National Instrument 45-106 *Prospectus And Registration Exemptions*. The exemption orders facilitate capital raising for early stage businesses and other small and medium sized enterprises while maintaining appropriate investor protection.
- Publication for comment of proposed National Instrument 62-105 *Security Holder Rights Plans*. The proposed Instrument will establish a regulatory framework for security holder rights plans (also known as “poison pills”) across Canada. In general, the Instrument will allow rights plans adopted by boards of directors of issuers to remain in place provided that majority security holder approval of the rights plans is obtained within specified times.
- Publication for comment of proposed amendments to National Instrument 81-102 *Mutual Funds*. The proposed amendments introduce core operational requirements for publicly offered non-redeemable investment funds, other than scholarship plans, analogous to those applicable to mutual funds.
- Adoption of amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* as a rule. The amendments set out requirements for reporting to clients relating to investment charges, investment performance and client statements to ensure that clients of all registered firms receive

clear and complete disclosure of all charges and compensation paid associated with the investment products and services they receive.

- Publication for comment of several consultation papers on the regulation of derivatives.

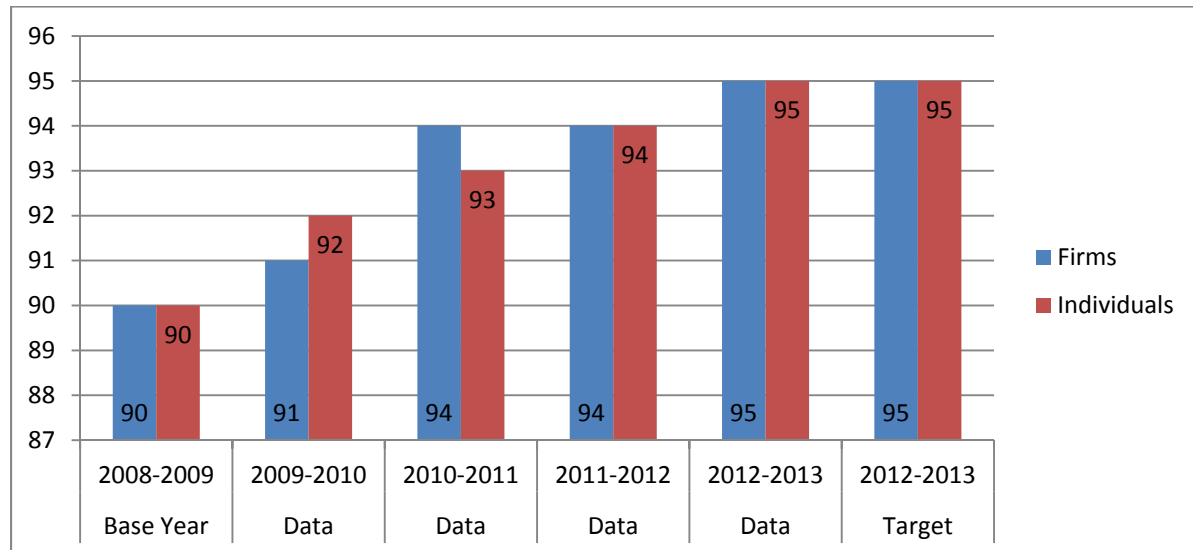
The Commission also adopted Rule 11-507 Amendments to the Fees Schedules in the General Securities Rules, which came into effect on April 1, 2013. The Rule increases the fees in Appendix A of the General Securities Rules by 5.8% to reflect the increase in Government user fees and charges.

## Core Area 2 – Policy and Market Regulation Branch

### 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. As shown in Chart 5, below, the efficiency of the registration system has increased from 2008-2009 with the implementation of the passport system for registration in September, 2009.

*Chart 5: Percentage of firm applicants and individual applicants, where the Commission is the principal regulator, that had their applications processed within the mandated timeframes after the final submission of necessary documents*



Amendments to add cost disclosure, performance reporting and client statements to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* were approved by the Commission in March 2013. These amendments will ensure that clients of all registered firms receive clear and complete disclosure of all charges and registrant

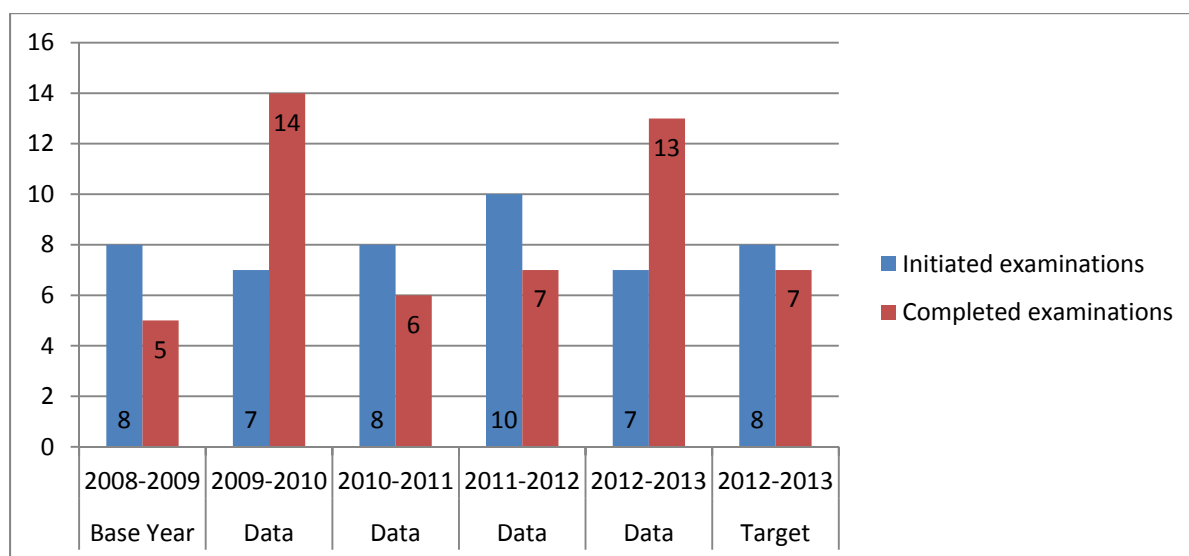
compensation associated with the investment products and services they receive, and meaningful reporting on how their investments perform.

Capital Markets staff continue to work on several committees of the Canadian Securities Administrators 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 registered firms when there are significant rule changes.

## 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 in Chart 6 reflect the efficiency of the compliance program and the Commission’s effectiveness in requiring registered firms to correct deficiencies in compliance with ongoing registration requirements to ensure that business practices and procedures create a safe environment for meeting their clients’ investment needs and objectives.

*Chart 6: Initiated and completed field examinations of Nova Scotia registrants*



The priority for our compliance operations is to continue to build the compliance program, focusing on activities that will protect investors 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.

An integral part of this focus is to provide effective and comprehensive oversight of the Mutual Fund Dealers Association of Canada and the Investment Industry Regulatory Organization of Canada, which are the self-regulatory organizations (SROs) recognized in Nova Scotia. As the investment dealer and advisor industry in Nova Scotia is mostly comprised of branch offices of

registered firms that are members of SROs, the resources utilized to oversee the SROs are of vital importance to ensure the ongoing confidence in the capital market.

The Commission's key compliance oversight activity is the SRO oversight reviews, a process which was enhanced over the last year to a risk-based approach. This was accomplished through a CSA working group which included Commission compliance staff. SRO oversight reviews absorb significant resources and although this contributes to fewer direct examinations, it is nevertheless critical to ensuring that the SROs are overseeing their members in Nova Scotia in accordance with their recognition orders. Diligent oversight of the SROs has resulted in higher numbers of firms being examined in Nova Scotia by the SROs and better oversight of the many branch offices located in this jurisdiction. Ultimately, full participation in the oversight reviews improves compliance within our capital market.

Compliance staff continue to work on a number of CSA committees providing jurisdictional input which best protects local investor interests, provides a voice for the stakeholders of Nova Scotia and contributes to policy development and harmonization.

In coordination with the work of the CSA Compliance Committee, a joint review of a national firm was undertaken which will also test and update the harmonized Exempt Market Dealer Program. In addition, two Staff Notices are being developed to provide guidance on work undertaken by the Committee.

In addition to the coordinated work with the CSA, compliance staff also work with the North American Securities Administrators Association to develop and provide training on critical and timely, examination and compliance issues.

## **Investor Education**

The goal of the Commission's Investor Education work is to improve the efficiency of the investor education programs to provide effective investor protection. The performance measures outlined below indicate 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 2008-2009	Subsequent Data	Annual Target 2012-2013	Actual 2012-2013
Percentage increase in media hits – newspaper articles, radio and television ads	50%	2009-2010-21% 2010-2011-28% 2011-2012-73%	10%	33 local media stories and 2 national media stories <sup>5</sup>
Participate in a minimum of 12 public education events, such as Fall and Spring Home Shows, Seniors Expo, Family Expo, surveys and contests	13	2009-2010-15 2010-2011-10 2011-2012-17	10	18
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 2010-2011-+30% 2011-2012-+3.4%	10%	78 new followers on twitter

For the first quarter of 2012-2013, the Investor Education and Communications Coordinator (the “IE Coordinator”) position was vacant. With the hiring of a new IE Coordinator in mid-June 2012, the Commission developed a new approach for investor education and communications by creating a communications strategy. Matrices accompany the communications strategy which outline annual projects undertaken by each branch with measurable outcomes. This is described in the Commission’s Statement of Mandate for 2013-2014. It was recognized that measuring the number of media hits, which is directly correlated to the Commission’s enforcement proceedings, and attendance at public events do not necessarily measure the effectiveness of the Commission’s investor education program. The goal is for the matrices to become the new way to measure the impact of the Commission’s initiatives in all branches of the Commission. The main initiative outlined in the communications strategy for the Investor Education section for the next three years is outreach with an emphasis on the firms that raise capital in Nova Scotia.

Starting in July 2012, the IE Coordinator met with instructors from the Nova Scotia Community College’s Investment Management program. Two presentations were scheduled in February and March of 2013 on securities regulation and crowdfunding. Both presentations were very well received and the Commission was invited back next year.

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<sup>5</sup> A loss of historical data makes the calculation of percentage changes impossible, therefore actual numbers are presented in this table

The Investor Education outreach initiatives continued throughout the winter of 2012 with the development of two new partnerships. In January and February of 2013, the branch helped Junior Achievement of Nova Scotia deliver its *Dollars with Sense* program to three schools. The branch also partnered with a local Girl Guides troop to deliver investor education to youth ages 9-12. The presentation helped 28 girls receive their financial literacy badge.

March 2013 turned out to be the branch's busiest month with attendance at 5 new events. The branch's highlighted event was the Co-Halifax Entrepreneurship and Kid Expo. At the booth for industry participants, Commission staff spoke to Nova Scotians about capital raising options. At the kids' booth, the IE Coordinator delivered the CSA's Make it Count program to 1000 kids from local schools.

The Commission's current investor education project includes presenting to the staff at the Halifax Centre for Education and Entrepreneurship Development. The focus is on providing Nova Scotia business leaders with information on the Nova Scotia Community Economic Development Investment Fund (CEDIF) application process which is regulated by the Commission. The IE Coordinator has started working with Corporate Finance staff to develop a brochure describing the capital raising process in Nova Scotia.

2012 was a very active year for enforcement proceedings, particularly with respect to one matter that had been before the Commission for a number of years. The IE Coordinator developed the necessary media statements and coordinated interviews with the media. She developed a media policy which provides staff with guidance when dealing with the media on Commission matters.

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

The goal of the Corporate Finance branch of the Commission is to improve the administration of the corporate finance disclosure system for public companies in Nova Scotia.

The five performance measures set out below in Charts 7 and 8 relating to the issuance of a comment or non-objection letter or a receipt demonstrates 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 help to promote in an efficient capital market. Prospectus issuers with head offices in Nova Scotia raised \$1.1 billion in 2012-2013 while CEDIF issuers raised \$9.5 million.

Chart 7: Percentage of issuers based in Nova Scotia who received a first comment letter for their preliminary long form prospectus, short form prospectus or offering document within CSA mandated timeframes (Long form 10 days, short form 5 days and offering document 10 days)



Chart 8: Percentage of issuers based in Nova Scotia who received the receipt for a prospectus or letter of non-objection for an offering document within the mandated timeframes after filing final documents (Receipts 1 day, offering documents 2 days)

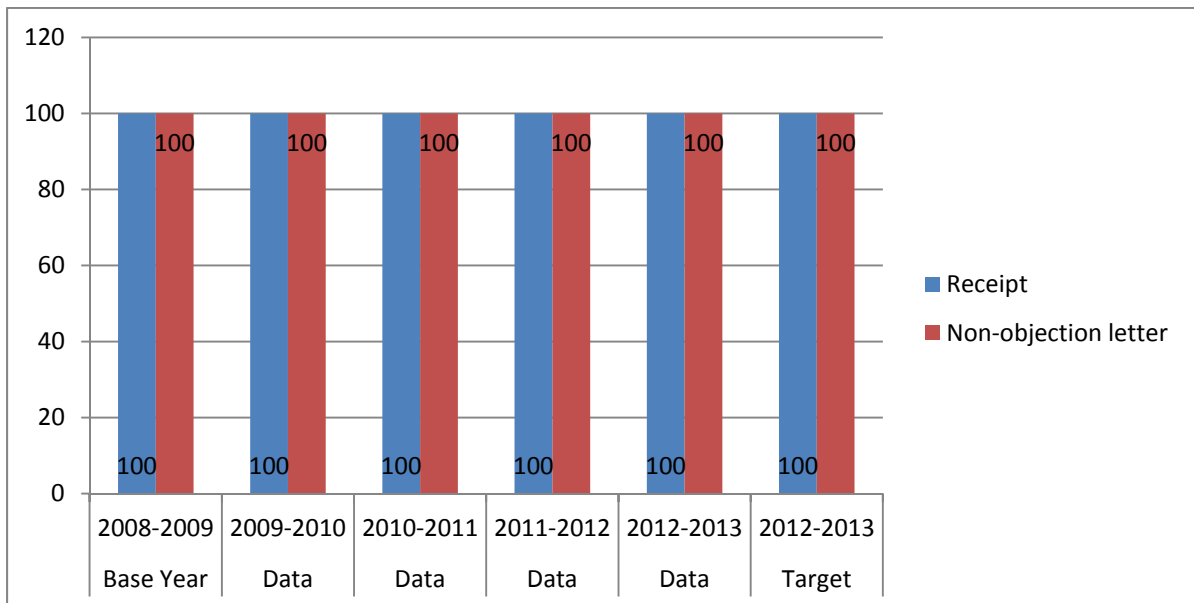
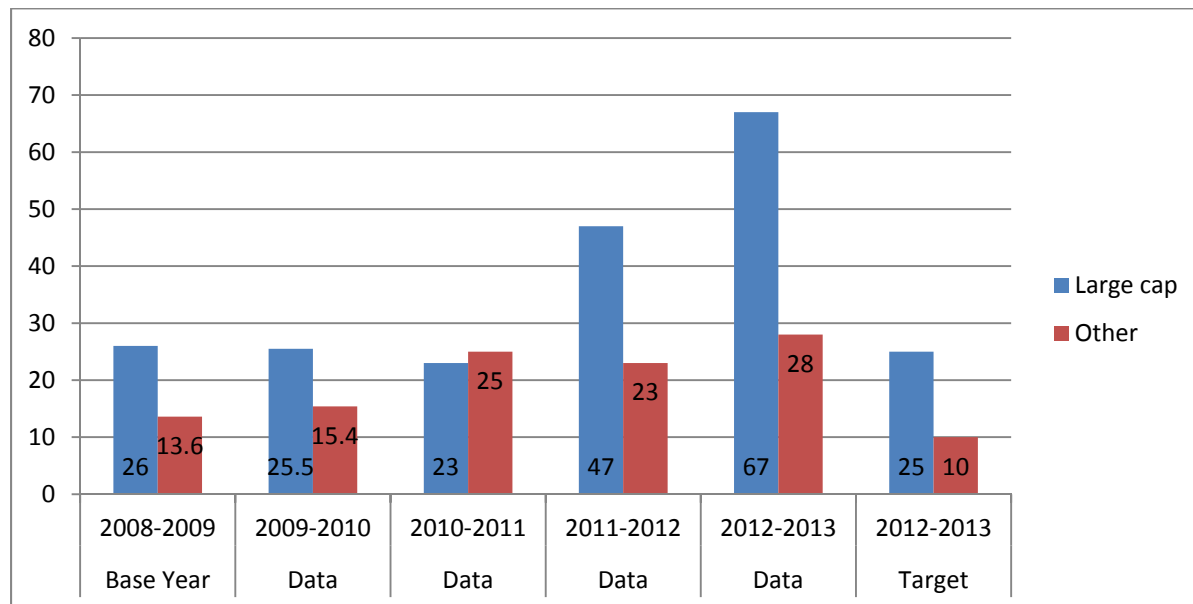




Chart 9: Percentage of reporting issuers based in Nova Scotia that had a review of their continuous disclosure filings in the year



In 2011, 2012 and up to March 2013 in Chart 9, the focus of reviews was for compliance with International Financial Reporting Standards (IFRS). The other periods reflect full continuous disclosure reviews.

In 2012-2013, staff accountants continued the review of transitioning to IFRS and the branch harmonized the review procedures for continuous disclosure related to financial statements with other Canadian jurisdictions. Reviews were done in two streams 1) based on market capitalization, 67% of large capital Nova Scotia head office reporting issuers and 2) 28% of other Nova Scotia head office reporting issuers were respectively reviewed for compliance to IFRS in 2012-2013. Corporate Finance staff participated in ongoing training of IFRS presented in person and through webinars. Internationally recognized accounting standards reduces the barriers foreign investors face in evaluating financial reports and enables Nova Scotia issuers to access capital on a worldwide basis.

In 2012-2013, the Corporate Finance branch proposed to the Commission amendments to National Instrument 41-101 *General Prospectus Requirements* to clarify requirements and to improve disclosure by prospectus issuers so that they will more easily understand the disclosure requirements and potential investors can make more informed investment decisions. Additionally, staff approached the Commission to delegate to the Director the authority to issue cease trade orders in certain limited situations where a reporting issuer or CEDIF has failed to file its financial statements. In response, the Commission issued Blanket Order No. 12-502 *Assignment of Certain Powers and Duties of the Nova Scotia Securities Commission*, which has improved the efficiency of this process and allowed Commission resources to be more effectively utilized.

Branch staff also continued their CSA committee work on proportionate regulation, derivatives, marketing rules, over-the-counter issuers and the investigation of future harmonization with other jurisdictions of policies and procedures to further streamline Corporate Finance operations.

**Core Area 4 – Enforcement Branch**

The outcome for the Enforcement performance measures as illustrated below in Charts 10, 11 and 12 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.

*Chart 10: Enforcement staff to refer to Director, Enforcement, for review and confirmation of initial assessment of each complaint within 3 days of receipt of complaint*

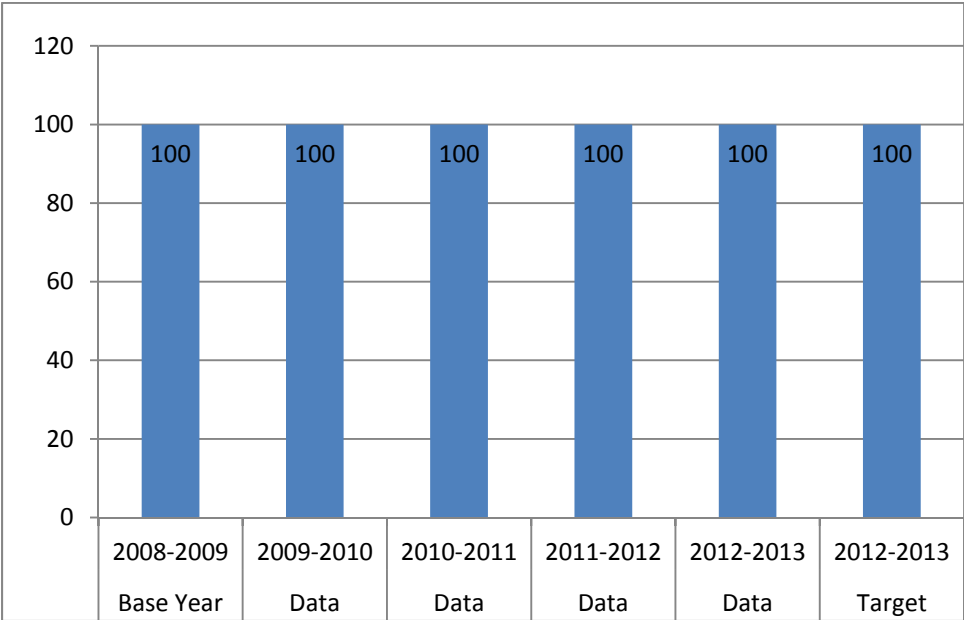


Chart 11: Enforcement staff to conclude investigation and report to Director, Enforcement, on 60% of investigations within 9 months and all investigations within 24 months

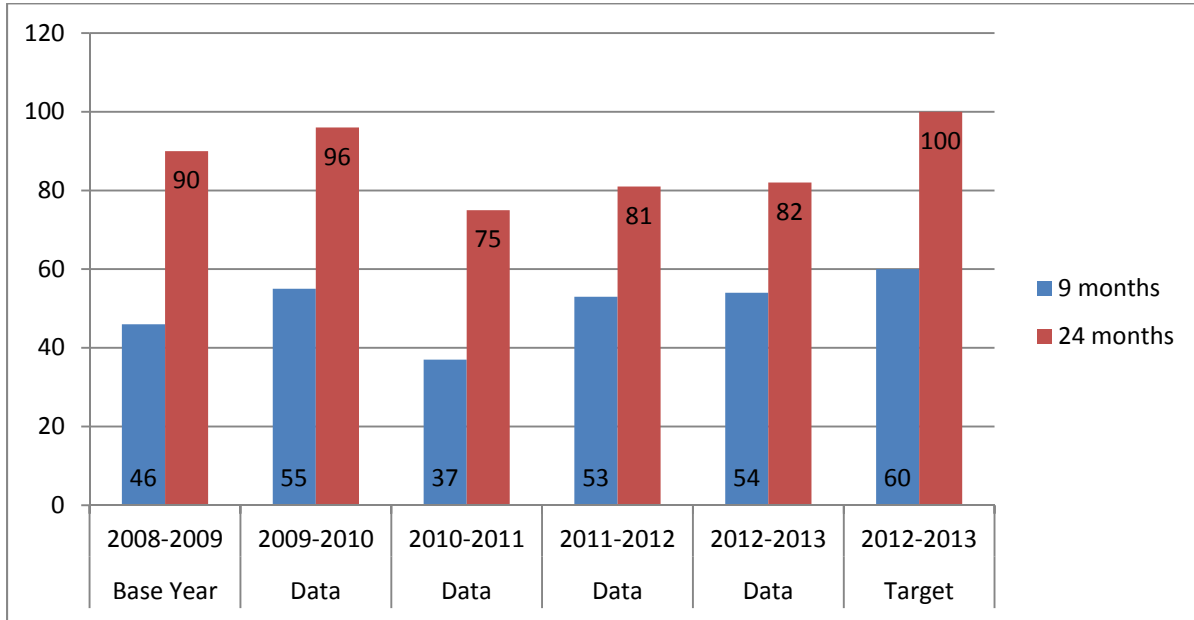
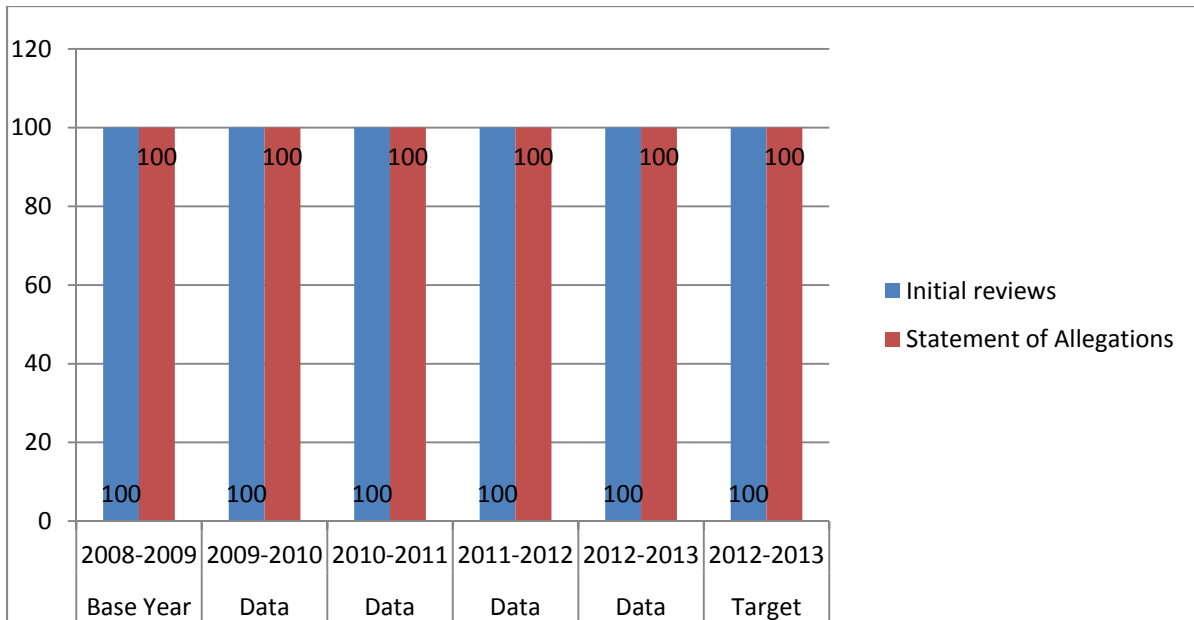


Chart 12: Percentage of files where enforcement counsel completes initial review of investigation files referred to counsel and provides a written response within 30 days; and 2) enforcement counsel initiates issuance of a Statement of Allegations and Notice of Hearing within 60 days of referral and conclusion of negotiations



In 2012-2013, 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
- d) 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 2012-2013
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