



PROSPECTORS &  
DEVELOPERS  
ASSOCIATION  
OF CANADA

July 6, 2016

To: The Cooperative Capital Markets Regulatory System ([comment@ccmr-ocrmc.ca](mailto:comment@ccmr-ocrmc.ca))  
cc: [Scott.Blodgett@ontario.ca](mailto:Scott.Blodgett@ontario.ca)

**Re: Comments on the Revised Consultation Draft of the Capital Markets Stability Act**

This letter is submitted on behalf of the Prospectors & Developers Association of Canada (“PDAC”) in response to your invitation to comment. PDAC is the leading voice of the mineral exploration and development community. With over 8,000 members around the world in all sectors of the mining industry, the PDAC’s mission is to promote a globally responsible, vibrant and sustainable minerals industry. As the trusted representative of the sector, PDAC encourages best practices in technical, operational, environmental, safety and social performance. PDAC is known worldwide for its annual PDAC Convention, regarded as the premier international event for mineral industry professionals.

Capital markets underpin the success of Canada’s unique mineral industry ecosystem, which includes major mining companies and the world’s largest concentration of junior (i.e., pre-revenue) exploration companies. Similarly, Canadian capital markets rely to a great extent on the success of mining companies, large and small. Almost 1,500 mining companies were listed on the TMX as of January 31, 2015. In 2014, the TMX helped raise more than 60% of all the mining equity capital raised globally, solidifying Canada’s position as *the* global mine-finance hub.

Given the importance of capital markets and securities regulations to the Canadian mineral industry, PDAC has a long history of advocating for key reforms that will allow businesses in our industry to benefit from greater access to capital. Our three priority goals in this area are:

- Expanding the pool of capital available to venture issuers;
- Reducing the costs of raising capital (through reduced compliance costs) for all capital markets participants; and
- Providing a more effective enforcement regime in participating jurisdictions.

Regarding the revised consultation draft of the federal CMSA, we are encouraged to see that:

- The definition of systemic risk has been tightened by referring specifically to the Canadian economy and by adding a materiality threshold. This, we believe, will help to prevent jurisdictional creep by the federal government;



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- Capital markets offences have been transferred from the Criminal Code to the Act and, other offences such as breach of trust and benchmark manipulation will be included at that level of offence.

Insofar as the CMSA will dramatically alter the landscape of securities markets in Canada, we urge the drafters to pay particular attention to the following:

- Regulations should not be so restrictive that (when assessing broad market systemic risks) they will prevent capital market participants (such as broker dealers) from facilitating the flow of risk-tolerant capital to industry sectors with a high risk/reward ratio, such as mineral exploration and development;
- Regulations should be structured so that they do not hinder the growth of independent broker dealers that play an important role in mineral exploration and mine financing;
- Regulations should be structured so that they do not hinder the growth of small, pre-revenue generating companies such as mineral exploration companies.

We have long held the view that effective enforcement is essential for public confidence in Canada's capital markets and, in that regard, we support the principle of federal responsibility for enforcement related to systemic risk. We see this as an essential step toward increasing Canada's role and reputation in global securities trading. In fact, the PDAC sees national enforcement regarding systemic risk, if marketed properly, as an opportunity to further expand Canada's role among international capital markets in a key area where it has already demonstrated leadership – venture markets. Therefore, venture issuers – i.e., those pre-revenue companies that assume the highest level of risk in capital markets, be they in bio-tech, high-tech, clean-tech, oil and gas exploration or mineral exploration – have perhaps the greatest interest in earning public confidence.

We understand that the drafters of the CMSA have no intention of intruding on provincial responsibility for ensuring fair and efficient capital markets and that the CMSA is focussed only on enforcement regarding systemic risk (which, we acknowledge, requires more and better information gathering than is done currently). The PDAC recognizes that ensuring fair and efficient capital markets will continue to be a provincial responsibility. Federal responsibility must be restricted to managing systemic risk and we would strongly oppose any role for the federal government beyond that as unnecessary duplication.

We thus applaud efforts that have been made in the revised draft to avoid duplication/conflict with existing regulatory requirements by requiring the Authority (as defined by the proposed provincial and territorial Capital Markets Act that establishes the Cooperative Capital Markets Regulatory



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Authority) to consider the extent to which a benchmark, product or practice is already regulated by another regulator before making additional regulations.

We have some concerns, however, about the fact that the Act is proposing to focus on products and practices perceived to be systemically “risky” (as opposed to designating certain entities as systemically important). This may blur the line between systemic risk and investment risk. We believe appropriate investment risk can only be properly assessed by the investor. Efforts by legislators or by self-regulating organizations to label and ultimately curtail certain investments as “risky” may erode the vibrancy and diversity of our capital markets. If the focus on products and practices is maintained, the Act must be careful not to overstep in this area nor provide latitude for provincial regulators to unduly limit investor choice, when there may be more effective means through which to pre-emptively avoid systemic risk.

PDAC appreciates this opportunity to provide our comments. If you have any questions regarding the foregoing, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Schafer". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Robert W. Schafer  
President, Prospectors & Developers Association of Canada

Cc:  
Minister Morneau, Minister of Finance, Government of Canada  
Jim Borland: Co-Chair, PDAC Securities Committee  
Michael Marchand: Co-Chair, PDAC Securities Committee and Member, PDAC Board  
Andrew Cheatle, Executive Director, PDAC

*This submission was originally authored by PDAC Securities Committee member Keith Spence, with feedback from Jim Borland and Nadim Kara.*