

Time to stop talking and create a single regulator

By Nancy Hughes Anthony, President and CEO, Canadian Bankers Association

In the continuing debate about Canada's system of 13 securities regulators versus a common securities regulator, the facts are missing in action - especially when it comes to the costs to small and medium businesses trying to raise capital today. The reality is they are hit with unnecessary costs and red tape; and they would benefit if Canada moved to a common securities regulator.

Research based on the results of a study undertaken by the Canadian Bankers Association indicates that those small and medium firms that issued prospectuses who are headquartered in the four largest provinces - whose regulators do the vast majority of the work - are primarily involved in the resource, industrial, finance, insurance and real estate sectors. When we look further into the data - how much capital these firms are trying to raise, where they are raising it and what it costs them to do so - we see how the current securities regulatory structure treats these businesses.

The examination of the filing prospectuses of 298 companies that raised capital between 2002 and 2006 provides some interesting insights. The median offering size of these firms was \$6-million and nearly two-thirds of offerings were for less than \$10-million, so the sample clearly has a concentration of smaller companies. Despite the small size of the offerings, only seven firms raised capital in their home province alone, discounting the claim that small businesses primarily raise capital locally. At the other extreme, however, only one-quarter of the sample raised capital in 10 or more jurisdictions, and these were primarily larger issuers.

We know, therefore, that the vast majority of issuers raised small amounts of capital, listed in more than one jurisdiction, but restricted their listings to a few provinces and territories. This underscores the fact that companies do not reach investors across Canada. The additional regulation-related costs of filing in multiple jurisdictions clearly hinder access to a larger capital market and substantially increase the costs of raising capital.

Based on the research, the facts are:

Companies limit the number of jurisdictions in which they raise capital and most raise capital in two to four jurisdictions only.

For any particular issue size, expenses increase as the number of jurisdictions in which the offer is listed goes up.

A company listed in 13 jurisdictions rather than only one would see its regulation-related expenses double.

A company raising \$1-million in all 13 jurisdictions would see expenses consume more than 15 per cent of the amount of capital raised.

The evidence is clear. The current system of raising capital in Canada is costly and burdensome for small- and medium-sized businesses. We also know that a single securities regulator will lower the cost of capital for these firms, reduce their fees for complying with so much regulation and improve their nation-wide access to investors. While much is being said about the problem, there is little agreement on a solution.

The provinces have recognized that the current system imposes unnecessary costs and inefficiencies, and several have proposed a way of dealing with these costs through the passport model of securities regulation. While this is a welcome acknowledgment that improvements need to be made, it is only a second- best solution. All of the same infrastructure, costs, and fees of the current fragmented regulatory system remain in place. Plus, the passport system entrenches a potentially confusing and inefficient enforcement mechanism.

More important though, in this technological world of fast-paced financial innovation, and in a world where we need to respond quickly to market developments, the passport system leaves in place a policy making infrastructure that can only deal with events at the regulatory equivalent of snail mail. We need up-to-date regulation that is every bit as good as that available in other countries. The passport model can't deliver that.

The CBA and its members have been advocating publicly for a common securities regulator for quite some time, as have a wide range of other business, investor and consumer groups across the country. For years, we have called upon the provinces to put aside their differences and make common cause for the good of the economy. Unfortunately, that has not come to pass.

We may be approaching the time when the federal government and Finance Minister Jim Flaherty may need to take further action to break the logjam on this issue and undertake the necessary fundamental reforms to how our capital markets are regulated. Mr. Flaherty has shown leadership on this issue - he has endeavoured to work with the provinces on common solutions and he has agreed to form an expert panel to advise on possible approaches. All good steps, but the time may be coming when more concerted action is necessary, and we would fully support him if he took the steps necessary to put in place a single securities regulator.

The Canadian Bankers Association is the industry association representing 54 domestic chartered banks, foreign bank subsidiaries and foreign bank branches operating in Canada and their 249,000 employees. To read the full study by the CBA on small and medium-sized businesses, visit, <http://www.cba.ca>