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ONTARIO SECURITIES COMMISSION

ROUNDTABLE ON REDUCING REGULATORY BURDEN

HELD ON: Wednesday, March 27, 2019
HELD AT: Design Exchange
234 Bay Street, 2nd Floor
Toronto, Ontario

MODERATORS:

Mary Condon Interim Dean, Osgoode Hall Law School
Tim Moseley Vice-Chair, OSC
Naizam Kanji Special Advisor to the Chair,
Regulatory Burden Reduction

OPENING REMARKS:

Maureen Jensen Chair & CEO, Ontario Securities
Commission

CLOSING REMARKS:

The Honourable Victor Fedeli, Ontario Minister of Finance

1 PANELISTS:

2 Panel 1:

3 Paul Bourque President and CEO, Investment Funds

4 Institute of Canada

5 Randy Cass CEO, Nest Wealth Asset Management

6 Inc.

7 Frank Laferriere Chair, Private Capital Markets

8 Association of Canada

9 Ian Russell President and CEO, Investment

10 Industry Association of Canada

11

12 Panel 2:

13 Patricia Callon Senior Vice-President and General

14 Counsel, Sun Life Financial Canada

15 Neil Gross Chair, OSC Investor Advisory Panel

16 Katie Walmsley President, Portfolio Management

17 Association of Canada

18

19 Panel 3:

20 Debra Foubert Director, Compliance and Registrant

21 Regulation, OSC

22 Andrew Kriegler President and CEO, Investment

23 Industry Regulatory Organization of

24 Canada

25 Karen McGuinness Senior Vice-President, Member

26 Regulation - Compliance, Mutual Fund

27 Dealers Association of Canada

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1 --- Upon commencing at 1:00 p.m.

2 INTRODUCTION:

3 MR. KANJI: Thank you, everyone. Hello. For those
4 who don't know me, I am Naizam Kanji, the Director of the Office
5 of Mergers and Acquisitions at the Ontario Securities
6 Commission, and Special Advisor to the Chair on Regulatory
7 Burden Reduction. I'd like to extend a warm welcome and thank
8 everyone for attending the OSC Roundtable on Reducing Regulatory
9 Burden, and also to those who have joined us by webcast.

10 This roundtable is part of the OSC's ongoing
11 consultation on reducing regulatory burden in Ontario's capital
12 markets and in improving the investor experience. I'd like to
13 acknowledge the extensive and excellent comments we received in
14 response to our Staff Notice on burden reduction. We are
15 reviewing and considering all of the comments as we move forward
16 in our burden reduction initiative.

17 I would also like to thank the speakers on each of our
18 panels today. I'm looking forward to an interesting and
19 informative discussion.

20 Before we get started, I'd like to take a moment to
21 take care of some housekeeping items. Coffee is available at
22 the back of the room. Hopefully, you won't need too much of it.
23 Restrooms are located downstairs in the main lobby. We are live
24 streaming today's event and will be recording the webcast and
25 transcribing the roundtable.

26 You can also participate in the conversation on
27 Twitter using the hashtag "#OSCREgBurden", which might be on our
28 screen. We will make both the recording and transcript

1 available on the OSC Web site. We are also taking photos that
2 may be posted on our Web site.

3 The format of today's event consists of three panels
4 that will explore regulatory burden reduction opportunities and
5 challenges. We will provide time after each of the three panel
6 discussions for questions from the audience in the room and on
7 the webcast. For the audience in the room, if you have a
8 question, please raise your hand and a microphone will be
9 brought to you. For our webcast audience, if you would like to
10 pose a question, click on the "Ask a Question" button at the
11 bottom right corner of your screen.

12 There are a lot of people participating today and we
13 want to get the most out of the discussion. Please bear with us
14 as we have a full agenda. We will get to as many of your
15 questions as we can.

16 And now I'd like to introduce OSC Chair and Chief
17 Executive Officer Maureen Jensen who will provide the opening
18 remarks. Maureen.

19 --- Applause.

20 OPENING REMARKS:

21 MS. JENSEN: So good afternoon, everyone, and welcome
22 to our first of three roundtables on reducing regulatory burden.
23 I'm very happy to see you all here.

24 As you know, we often host roundtables considering
25 policy initiatives in order to hear from our stakeholders and to
26 get your input. We value your contributions and we appreciate
27 you taking part in this process, but today's roundtable is
28 different than others that we've hosted. We're discussing the

1 removal of obligations and not the addition of rules. This is
2 critically important to you as I can see the number of people
3 not only in the audience, but participating by webcast.

4 So we welcome all of you today and we hope we can get
5 to each and every question, but even if we don't, we'll make
6 sure we transcribe them all and then we will answer them later.

7 So I wanted to just start by saying that addressing
8 regulatory burden has been a focus of mine since I became Chair
9 in 2016. I've been on the other side. It's a long time ago.
10 It feels like a very long time ago now, but I formerly ran -- I
11 was the CEO of a junior mining company. So I know firsthand
12 what it's like to deal with small budgets and big obligations,
13 and I know about the costs and the frustrations that result when
14 requirements are unclear or inconsistent. So I get the
15 challenges, and I can say with confidence that the OSC is moving
16 to tackle the issues behind them.

17 There is no question that reducing regulatory burden
18 is critical to Ontario's business competitiveness and economic
19 strength. You know that this is a major focus for both our
20 Minister and the government. In fact, Minister Fedeli will be
21 speaking to you later this afternoon and he is doing that to
22 send a clear signal on how important this initiative is.

23 So as you recall, last November, we announced the
24 formation of this burden reduction task force. In four months,
25 we've established the task force, we've sought your comments,
26 you responded, we've summarized the comments, and here we are
27 today.

28 So as you can see, there's many of our staff in the

1 audience and we're all ears. Nothing is off the table, but that
2 said, this in no way changes the mandate of the OSC. We are
3 reducing burden. We are not reducing our focus on investors.
4 In fact, the goals of reducing burden and protecting investors
5 do go hand in hand. We know that when our requirements are
6 clear and our processes are simple, all investors and market
7 participants get better disclosure. That helps everyone make
8 better decisions and we get better data which also helps us
9 tailor our oversight and we get better information.

10 So I think we can all agree that duplication,
11 redundancy and outdated processes don't benefit anyone. So
12 we've heard this loudly from you in 65 comment letters. We also
13 conducted an online burden reduction survey and we have
14 continued through this entire process to meet with industry and
15 investor advocates as part of this consultation.

16 In May, we will be hosting two additional roundtables
17 on specific issues. The next one will take place on May 6th and
18 focus on registration, compliance and investment funds, and then
19 the third one will be on May 27th, and it will deal with
20 trading, marketplaces, issuer requirements, and derivatives
21 rules.

22 So in addition to seeking your input, internally at
23 the OSC, we have done an exercise much like you did. We've
24 looked at our requirements, our systems and our processes and
25 we've asked all of our staff to focus on what is necessary and
26 relevant and what can fall away or be simplified. So we're also
27 reviewing our existing policy initiatives, which you know there
28 are several out in the marketplace right now, to ensure that

1 we're not imposing greater burden than necessary.

2 So we're setting goals for reducing burden over the
3 short-term, which for us is within the next six months, the
4 medium term, which is the following year, and the longer term,
5 which is the next 24 months and on.

6 In cases where we're considering changes to harmonize
7 national rules, we will work with the CSA to do that. Burden
8 reduction is also in the CSA's priorities, and together we have
9 a number of harmonized initiatives already in progress, and
10 you've seen that. We have several in the corporate finance
11 area, as well as we have several in the investment funds area.

12 So we are keeping the CSA updated on our review and
13 consultation process so they're aware of what we are hearing.
14 Today, we have representatives of the AMF attending our
15 roundtable and we have several other members of the CSA
16 participating by webcast.

17 So I can tell you there is an energy around the OSC
18 around this initiative. We are in regular contact with the
19 Ministry of Finance to share feedback and we are all excited
20 about the opportunity to make regulation work better for
21 everyone, but it is a cultural change and it's something that we
22 will do over the short, medium, and long term.

23 We truly appreciate the thoughtful and well-crafted
24 comments that we received. It is clear that there is a strong
25 conviction out there on what needs to change which is fantastic
26 in my book. So last weekend, I read the summary of all of the
27 letters, I've read most of the letters, but I've read the
28 summary of all of them, 75 pages of suggestions which I think

1 demonstrates the depth of work that people put into their
2 comment letters.

3 Of course, based on this input, there are going to be
4 tough choices to make and with the support of our Ministry, we
5 are going to impact, and we will prioritize the projects to make
6 the most impactful changes. So today's roundtable is a critical
7 part of this process and we want to hear from you. So please
8 speak up and join the conversation.

9 Again, thank you for being here, and I look forward to
10 a very productive discussion today. Thank you.

11 --- Applause.

12 So now I'd like to turn things over to Mary Condon,
13 the Interim Dean of Osgoode Hall Law School and former OSC
14 Vice-Chair and Commissioner. So Mary will be moderating our
15 first panel and they will discuss regulatory burden and its
16 impact. And she's going to kill me, but it's her birthday
17 today.

18 MS. CONDON: Thank you very much, Maureen. As long as
19 I don't have to reveal how old I am, we're all good.

20 TOPIC 1: Defining Burden: A discussion of regulatory
21 burden and its impact.

22 MS. CONDON: Thank you very much to the OSC for
23 inviting me to join the session this afternoon. I completed my
24 term there a couple of years ago, so it's very nice to be back.

25 And I'd also say that in my current role as a member
26 of the board of the Capital Markets Association [sic]
27 Implementation Organization, it's always of interest to that
28 organization to hear more about regulatory efficiencies that can

1 be achieved.

2 So let me introduce the members of our first panel,
3 and they are all, of course, very well-known to you. To my
4 immediate left is Paul Bourque, who is the President and CEO of
5 the Investment Funds Institute of Canada. Next to him is Randy
6 Cass, the CEO of Nest Wealth Asset Management Incorporated.
7 After Randy is Frank Laferriere, the Chair of PMAC [sic], and then
8 last, but absolutely not least, Ian Russell, the President and
9 CEO of the Investment Industry Association of Canada.

10 So the format for our discussion this afternoon will
11 be that I have a number of questions that I'm going to be
12 putting to the panel, and for most of the questions, we've
13 identified a lead commentator who gets the most air time,
14 followed by the other commentators adding their remarks as well.
15 However, for the first question, I'm going to give everybody
16 equal time, so you can imagine that this is probably the most
17 important question of all.

18 And before we get started, I just also want to note
19 that there will be an opportunity at the end of this panel for
20 audience members to ask questions of the panelists, and I
21 certainly encourage you all to take that opportunity to hear
22 from our expert commentators.

23 So let me turn to the first question, and as Maureen
24 mentioned, we're all here I think this afternoon because we
25 understand that there's a possible impact for financial
26 institutions and all market participants across the industry to
27 be affected by regulatory burden. So I'm going to ask each of
28 the panel members, starting with Ian, to say how it is that for

1 purposes of his organization and his stakeholders, he thinks
2 that the regulatory burden has impacted his day-to-day
3 activities.

4 MR. RUSSELL: Thank you, Mary. And may I start by
5 commending the OSC for hosting this panel, this session this
6 afternoon. I think it's very important for capital markets and
7 our economy, and happy birthday to you, Mary.

8 I'm going to lead off and give you some sense of the
9 impact on my industry and, obviously, the place to start with
10 that is the costs that have been borne by the industry from
11 largely regulatory compliance, but not exclusively.

12 The operating costs in the industry last year rose 7
13 percent, they rose 9 percent for the self-clearing firms and
14 they rose 18 percent for the introducer firms. That's against
15 an inflation rate ranging between 1 and 2 percent.

16 Over the last year, operating costs in the industry
17 are 15 percent higher than they were three years ago. Now,
18 obviously, there are other factors that lie behind the cost
19 increase, technology being one that's not necessarily related to
20 regulatory compliance, but as I'll say, indirectly it is, but a
21 good part of that cost increase comes from the compliance burden
22 that the industry has shouldered and it's something that we've
23 been through really for the last six years in total.

24 And I want to just touch on quickly four areas where
25 it's hit, is the burden has fallen very heavily on the advice
26 component of the industry. As a consequence of that, and the
27 fact that fees for advice have generally gone down, it's meant
28 that advice has become a precious commodity, it's more targeted,

1 it's a bit more rationed than it would be and what that has
2 meant is for many of the firms in the industry, they are looking
3 at it by segmenting clients in terms of their portfolio size,
4 and they are also raising the thresholds, this is the
5 full-service dealers, on clients that they will deal with
6 because of the cost and relative to the revenues and the
7 business.

8 And I think the biggest challenge here is with the
9 affluent mass market, which my industry is probably leaning more
10 to the higher end of it, but smaller clients have as much need
11 for advice and as much need for good products and services and a
12 balanced product shelf as high net worth clients would have, but
13 obviously, their portfolio sizes are far smaller, and so the
14 challenge for everybody ranging from my industry down through
15 the mutual fund industry and the online wealth providers is to
16 be able to provide that mix of product and advice on more
17 difficult economics than were there before, so that would be the
18 challenge.

19 The second impact of this or consequence of the burden
20 has been the fact that because of the compliance burden, it's
21 meant that technology has tended to be put off, delayed, or in
22 some cases not brought forward. This is technology to improve
23 the client experience, and there's lots of cases where firms
24 have an aggregate annual budget for their wealth business and
25 they've got to allocate that between compliance and between
26 technology and improving the client experience, and to the
27 extent that the compliance burden goes up, the residual falls.
28 So that's been another casualty of the burden.

1 The third one is just the inefficiencies that are
2 thrown up in the firm and the advisor, but particularly, the
3 firm in dealing with the regulator. Obviously, when you have as
4 large a rule book as we have and as intensively a scrutinized
5 business as we have, there's a lot of interchange with the
6 regulators and there's a lot of focus on complying with a wide
7 range of rules, and if you look at our submission, you'll see
8 that the complexities unnecessarily are there. These are
9 complexities relating to the duplication of rules between IIROC
10 and between the OSC and between -- so it's duplication and
11 just -- of the rule book, and that's created I think a
12 significant burden on the firms and there's lots of examples
13 that are in there. For the same activities, the rules are
14 slightly different. Now, that would extend to things like
15 registration as well where in some provinces, the authority is
16 delegated to the SRO. In other jurisdictions, it's delegated to
17 the commissions.

18 And the other area I want to talk about is the
19 inefficiencies, quickly, the inefficiencies that are thrown up
20 by our clients, and just to pick on one, again, it was high in
21 our submission, is we need to really move forward as
22 expeditiously as we can to embrace technology. It's really the
23 electronic delivery of documentation, and I think there's a need
24 for rule changes there as well as -- and this is also taken in
25 the context of our rapidly changing technology, but again, I
26 think that it's more of an inertia here with I think it's
27 11-201, National Instrument, but also in terms of prospectuses
28 and the electronic delivery of prospectuses. I know this is

1 more at the national level, but again, raising that, because I
2 think Ontario, the OSC, can take leadership in moving that
3 forward. So those turn out to be pretty serious encumbrances
4 for the business, I know.

5 MS. CONDON: So Ian, thank you very much for those
6 comments. Before I turn to Frank as our next speaker, could I
7 just ask you a follow-up question:

8 You mentioned with respect to the second of the areas
9 that you discussed that because of the compliance burden,
10 technological efficiencies have been put off. Could you say a
11 little bit more about what you mean by the compliance burden? I
12 mean, are there particular features of that that you would point
13 to that your members find to be the most onerous?

14 MR. RUSSELL: Well, I think it depends on the firm,
15 Mary. I mean, I think that what I'm saying is the compliance
16 burden itself is fairly generic and that's certainly added to
17 costs and eaten away at the available budget, and all I'm saying
18 is that technology is advancing dramatically. This is the
19 interface between the clients and the firms. I mean, it's
20 everything from online KYCs which is the more recent push, some
21 firms moving ahead more quickly than others.

22 Again, it's aimed at bringing convenience and
23 efficiencies, in that case to the client opening process, but
24 what we see is Broadridge and Fidelity and other providers that
25 have a lot of applications that improve the experience and the
26 servicing to the client, and again, all firms are different, but
27 I'm just saying generally, that if you've got limited financial
28 capability, because first and foremost, the priority goes to

1 regulatory compliance, you'll either put off that technology,
2 client-facing technology, or cancel it altogether, and there are
3 examples that I've seen around the industry.

4 MS. CONDON: Great. Thank you very much, Ian. Frank,
5 I'll look to you next.

6 MR. LAFERRIERE: Happy birthday. And just for the
7 record, I'm chairman of the Private Capital Markets Association,
8 which is the PCMA, not the PMCA. It's not PMAC.

9 So, and again, thank you to the OSC and the Minister
10 for looking at this very important issue because our industry is
11 crucial to the prosperity and well-being of not only the
12 province, but also the country and, you know, just to give an
13 idea of what we're talking about, that's what we're talking
14 about.

15 My association represents a wide range of issuers,
16 dealerships, stakeholders that must comply on a daily basis with
17 this, and this is just Ontario. This doesn't cover off the rest
18 of the other securities commissions or the SROs, and the sheer
19 volume and the rate of change has been immense in terms of the
20 impact and, ultimately, it's the customer that pays for this,
21 which is unfortunate because capital formation is crucial to the
22 innovation and productivity of our country.

23 The primary purpose -- what is the highest value-add
24 that we as an industry, as a regulator or a government should be
25 doing? Our highest value-add is to create wealth for our
26 customers, for our clients. I don't see anything in here -- I,
27 to be quite honest, I haven't actually read every single page.
28 I don't see anything in here that actually addresses the wealth

1 creation component of it.

2 And so we have small members that, dealerships, that
3 are like one or two people. We have issuers that have great
4 ideas that are struggling to raise capital because they must,
5 they must actually engage -- I love my lawyers, I love them all,
6 but the charge-out rates can be anywhere from \$500 to \$1,000 an
7 hour. To be able to put something together that can meet the
8 regulatory requirements to form capital and foster innovation
9 and creativity in my mind actually poses a risk to us, and so we
10 warmly welcome anything that will help streamline this.

11 Nobody is saying we don't want regulation. I think it
12 was one of the senators in the States said that a market without
13 regulation is called theft. We don't want that. What we want
14 is smart regulation, and we think that there is -- it's an
15 achievable goal that will provide the balance of the protection
16 that's so essential for our retail clients, but also allow
17 capital to formulate, and so we look forward and would embrace
18 this whole process.

19 MS. CONDON: So, Frank, if I have to push you a little
20 bit on what aspects of the legalities around wealth creation
21 that you feel are an obstacle to your members, could you say
22 specifically?

23 MR. LAFERRIERE: I'm glad you asked that. So we have
24 built in to this whole process -- so the 45-106F form. In my
25 industry, you know, oftentimes we'll do a capital raise, but the
26 NAV won't come for two or three days. It may take a month to
27 calculate it, right?

28 And so that means we'll file a preliminary which

1 oftentimes, I'll have to get, our members will have to get the
2 lawyers involved, and then we have to file an amended one and we
3 have to file again. That duplication is a small thing, but then
4 take that and replicate that across the whole process.

5 I mean, there are instances which we've made in our
6 submission which we think -- we're happy to work with people to
7 try to correct that, but at the core is, what is this wealth
8 creation? How are people creating wealth? And we look at
9 examples and role models like CPP. Yet to get an exempt product
10 in the hands of a not-accredited investor is a challenge. It's
11 a challenge.

12 You know, the bias that says every OM is high risk may
13 or may not be applied. I think we need to make it so that there
14 can be an exercise of professional judgment, and don't get me
15 wrong: We have to protect the public, absolutely, but really
16 and truly, you know, I'm very proud of our association. We've
17 done a great job in trying to raise the proficiencies and we
18 offer compliance training. We offer a number of things to our
19 members, and I would suggest that on the exempt side, which
20 "exempt" doesn't mean "non-regulated", it still is regulated,
21 that proficiency and that safety level should be coming up. So
22 I'd like to see that encouraged.

23 MS. CONDON: Great. Thank you very much. Randy.

24 MR. CASS: Thank you, Mary. Thank you to the OSC for
25 putting on this roundtable. I would clearly be rude if I didn't
26 wish you a happy birthday, so...

27 MS. CONDON: Please stop.

28 MR. CASS: Happy birthday. No, no, no, but now you're

1 going to be really rude because you either don't do what Mary
2 asked, or you wish her a happy birthday.

3 And I would also like to just say that by
4 introduction, by way of introduction, my name is Randy Cass.
5 I'm the CEO of Nest Wealth. We are the largest independent,
6 digital robo-advisor in the country, but also about 75 to 80
7 percent of our business is providing the actual engine that
8 powers the digital offerings of a lot of the banks and insurance
9 companies and other regulated entities that are trying to figure
10 out what to do in this new environment.

11 I think I've been invited to speak on this panel to
12 comment this issue from the point of view of a new company, a
13 company that's trying to innovate, and what the regulatory
14 burden has done to us from the very first days until today.

15 We are four or five years old, we're about 50 people
16 right now, we've had rapid growth, but in some cases, it's been
17 perhaps in spite of some of the burdens that we've been put
18 under, and in other cases, it's been because the OSC and other
19 regulated bodies, regulatory bodies made the exact right call.

20 Three quick examples that I'll touch base on that we
21 experience and that kind of speak to some first principles:

22 Right out of the gate, the very first person we hired
23 back in 2013, '14 was an actual compliance person. They were
24 the very first person that a start-up hired, perhaps for the
25 first time in history, and it was because we are experienced in
26 this industry, we knew what we were getting ourselves into, and
27 we were a registrant already at the time.

28 The number one thing that happened then, though, was

1 that when we went out to raise money, some of you might not be
2 aware that there's actually a regulatory requirement that if
3 you're going to take an investor in greater than 10 percent, you
4 need to have compliance look over it from the OSC and sign off
5 on it. That is a huge bug in the ointment if you want
6 innovation to come from within the industry as opposed to people
7 who have no experience with regulated entities to do start-ups.

8 There are two types of companies in this industry that
9 are trying to build new solutions, those that have deep
10 experience and industry knowledge and are trying to bring
11 technology to that, and those that have deep technology
12 experience and are trying to bring that to the industry.

13 We are well-served by both, but you need to level the
14 playing field and in that process of trying to raise capital,
15 what was a 30-day process as stated in the guidelines to have
16 the OSC sign off and say they are a good investor turned into a
17 greater than 90-day process, scared some investors from wanting
18 to invest capital in us, and perhaps delayed the start of other
19 innovative companies.

20 So when you have overarching rules that existed,
21 obviously, for a purpose at a time, but now you're trying to
22 encourage innovation from within the industry, there might need
23 to be the necessity to carve out certain scenarios and make sure
24 that those that need capital to bring good solutions to the
25 marketplace can actually do it.

26 Once we're up and running, we very quickly ran into
27 the process of trying to fit a round peg into a square hole, and
28 that was the notion that everybody who signed on with a digital

1 robo-advisor had to have a phone conversation with a registrant
2 before you could do anything within the portfolio.

3 In theory, this makes perfect sense for everybody that
4 was involved decades ago. When you have a mandate of trying to
5 bring good, low-cost solutions to protect the investors from
6 things like high fees, you have to understand that in many
7 cases, those solutions are going to necessitate a different
8 framework than what's existed for decades previously, and at the
9 same time as we're incurring costs by being subject to
10 regulatory requirements and having to hire registrants to have
11 phone conversations, by the very nature of that hiccup in the
12 process, you're also inhibiting the ability of solutions to
13 scale in a meaningful way, which means that you only have one of
14 two things: You can apply for an exemption, again, costly,
15 time, uncertainty, or you cannot scale to the extent you want.
16 So that was the second thing.

17 A separate framework: We've always kind of prided
18 ourselves in Ontario in the notion that the robo-advisors and
19 digital advice has always played under the same guidelines and
20 on the same playing field as everybody who was in existence at
21 the time, and I think that served us really well when you look
22 at some of the mistakes other jurisdictions have done, but there
23 were clearly things, and the phone call quickly became a digital
24 conversation and now you can file for an F5 to get exempted from
25 that, but there are clearly things that at the start probably
26 could have made that round peg fit into a round hole.

27 Final point, because I think it's critically
28 important: You don't hear it talked about as much. We are

1 talking about the removal of regulatory burdens today, and I'm
2 going to say that is not nearly enough to achieve what we want
3 to achieve. Here's the example that I always use:

4 We are digital start to finish. All our clients are,
5 and when a transfer form goes out, it has a digital signature on
6 it, and I can still tell you we get an obnoxious amount of firms
7 replying back that, "We don't accept digital signatures for
8 transfers," even though they have been legal in this country for
9 everything but the very rarest of exemptions for the past
10 decade.

11 There is a difference between removing a regulatory
12 burden, for example, you can only take a wet signature, and
13 enforcing that you have to take an innovative solution like a
14 digital signature. So as we're sitting here thinking about
15 these things, the removal is only part of the battle. If every
16 major firm in this country decided tomorrow that they were only
17 going to take wet signatures and not digital signatures,
18 innovation and FinTech in Canada would grind to a halt, and we
19 need to be aware of that as we think about these things.

20 MS. CONDON: Thank you very much, Randy, and some of
21 those comments I think will feed nicely into things that we want
22 to go on to talk about a little bit later, but before we do
23 that, it's time to hear from Paul about the regulatory burden
24 impact on his organization.

25 MR. BOURQUE: Thanks, Mary. And I'm sure -- thank you
26 to Maureen and the OSC for hosting this, and I'm sure they will
27 hear and have heard many things they've heard before. They're
28 going to be told to do things they're already doing or that they

1 plan to do, so it's sort of in the spirit of that that I'd like
2 to make my comments.

3 So regulatory burden reduction isn't deregulation and
4 it isn't abandoning investor protection. You can't have
5 investor protection and competitive markets without market
6 integrity and that requires rules.

7 So I'd like to provide in my opening remarks a bit of
8 a working definition of what is the regulatory burden? And I
9 think it's made up of four components: The rules, how the rules
10 are made, how the rules are administered, and how the
11 rule-making process is overseen by government. So those are the
12 four elements that impact on investment fund managers and
13 distributors.

14 And let me start by saying that the rules in a
15 regulatory burden reduction exercise, we don't need to boil the
16 rule book. Most of the rules, in my view, have a sensible
17 purpose. Most of them have a rationale, and so a lot of the
18 outcomes that are intended by the rules would have to be
19 achieved by the market participants in any event; that is,
20 without the Securities Act. Things like financial compliance,
21 things like risk management, compliance with laws of general
22 application, compliance with common law, compliance with
23 employee and customer expectations. All of these things cost
24 money and they all are part of compliance, so we're not talking
25 about the entire regulatory framework.

26 Our submission identified six rules that we think
27 should be either rescinded or amended or exemptions granted from
28 them, and that's because, in our view, those rules are

1 unnecessary because they duplicate other processes or they're
2 ineffective. They don't achieve what they were supposed to
3 achieve, and that's I think what we should focus on when we're
4 talking about the rules.

5 What about the rule-making process? I think that's
6 even more important than the rules, and so it's important that
7 we look at how the rules are made, and in our submission, we
8 describe a number of techniques and methodologies that could be
9 implemented to ensure that the rule-making process has rigour
10 and starts with a complete and detailed description of the
11 regulatory problem that the regulators are trying to address.
12 So the rule-making process has the potential for significant
13 streamlining of the regulatory framework and reducing the
14 regulatory burden in the future.

15 The most important aspect of the regulatory burden, in
16 my view, is the administration of the rules we have. How are
17 the rules administered? And in our submission, we make a number
18 of recommendations for better co-ordination, harmonization, and
19 reliance, both between branches of the OSC, between the CSA
20 members, and between the CSA members and the SROs. I think
21 there is a lot of potential to streamline the regulatory burden
22 through co-operation, harmonization, co-ordination of how the
23 rules are actually applied, and all of these issues I think are
24 within the mandate of the OSC.

25 And the last element, which isn't in the mandate of
26 the OSC, is how government oversees the rule-making process, and
27 there are some valuable lessons that can be imported from other
28 provinces in terms of the provincial government's

1 government-wide program to reduce the regulatory burden.

2 There's an old saying, many of you have probably heard
3 it, that bureaucrats cut red tape lengthwise. Well, there
4 really does need to be a government-wide approach to reducing
5 the regulatory burden, and there are examples of programs in
6 other provinces, things like counting the number of requirements
7 that the agency puts forward and requiring the agency to rescind
8 one for each new one they bring forward. So there's different
9 techniques that can be used, but -- so how the rules are made
10 and how they're overseen by government is an important part of
11 the regulatory burden.

12 MS. CONDON: Thank you very much, Paul. So then
13 you're up next to be the first commentator on our second
14 question, and it has to do with the issues that were identified
15 in the OSC's consultation notice about the sources of regulatory
16 burden, but since you've already referenced the fact that you
17 think that one of the problems is the lack of harmonization
18 across regulators, which was something that the OSC referred to
19 in its notice, can you give us an example of, you know, your top
20 example of how the lack of harmonized approach across the
21 government and self-regulatory organizations has an impact on
22 your members?

23 MR. BOURQUE: Sure. I mean, we have -- there are a
24 number of examples in our submission with respect to that.
25 There is -- one example is the differential understanding,
26 interpretation of a National Instrument as between different
27 branches of the OSC, which result in different outcomes and, you
28 know, unnecessary activity between the regulated entity and

1 the --

2 MS. CONDON: And so do I infer that since you would
3 mostly deal with the investment funds branch that it's the
4 differential interpretation between investment funds and other
5 branches?

6 MR. BOURQUE: It would be corporate finance and
7 investment funds would be the example I'm thinking of.

8 So, you know, there are lots of examples and we've
9 highlighted a number of them in our submission on how, you know,
10 the regulators and the SROs can collaborate more effectively,
11 but in terms of other areas to look at, I just wanted to focus
12 on one area. I touched on it a little bit in my opening
13 remarks. I would like to elaborate a little bit and that is
14 improving the rule-making process.

15 There's an awful lot of potential here to reduce and
16 streamline the regulatory burden, and in the submission we
17 provided, we referred to a number of rule-making methodologies:
18 The FCA cost-benefit analysis methodology; we referred to the
19 regulatory impact analysis approach; the OACD reference
20 checklist for regulatory decision-making. So we refer to a
21 number of different exemplars of good ruling-making practice,
22 and to me, and while they're all a little different, they all
23 start at the same place: A good problem definition.

24 Once defined, the problem becomes actionable, but it
25 takes a lot of work. It's not easy, and so once you've defined
26 the problem, you know what it is, you know the contours of the
27 problem, then you have to ask yourself, "Does it warrant
28 regulatory intervention? Do we have to intervene? Will the

1 marketplace resolve this? Will some other agency look after it?
2 Is it within the remit of some other regulatory agencies?" So
3 you've got the problem. Does it warrant regulatory
4 intervention? If it does, what does success look like? What
5 would problem resolution look like?

6 So after you've done all that, then you consider the
7 solution, and the solution could be a variety of things and it
8 shouldn't start with an assumption that a new rule, you know, is
9 the best way to go.

10 So, you know, without a good beginning of problem
11 definition, in my view, the whole rule-making process can go off
12 the rails. It ensures that the resources of the organization
13 are targeted on high priority items that are within its mandate,
14 and let me also suggest that this is an opportunity, a formal
15 opportunity for the regulator to consult the stakeholders,
16 including the industry, on the problem definition process and on
17 what the regulator thinks the problem is.

18 In my view, that should be a formal process. It will
19 take some time, absolutely, but that time will be recouped, in
20 my view, in the long-term in the consultation process which,
21 once we all agree on the problem, the consultation process
22 should be streamlined. So I put my hand up for a more effective
23 ruling-making process.

24 MS. CONDON: Great. Thanks very much, Paul.

25 Randy, I'll come to you next in terms of the kinds of
26 things that the OSC's already identified as potential issues for
27 removing regulatory burden. Do you agree that those -- that
28 they've, you know, targeted the right things in the notice or

1 are there other areas that you think they should be adding to
2 the list of things to consider?

3 MR. CASS: I like the way that Maureen spoke about it
4 when she was up here: Short-term, next six months, give me
5 something between six months and 18 months, and then the longer
6 term. I think the symbolic value of taking half of this and
7 ripping it off and saying, "Here's your new regulatory rule book
8 and the rest is still there, but it's a principle-based
9 approach," or, "We've decided after decades that maybe we don't
10 need to understand your OBAs on volunteer work at your
11 children's school," I mean -- oh, sorry, did that touch base?

12 --- Laughter.

13 Sorry. I mean, I think you start with the low-hanging
14 fruit. You get some really easy wins. You get some momentum
15 behind you. So are they the biggest issues? No, absolutely
16 not, but no one is a huger supporter of getting wins up on the
17 board in the early days than I am, so I am fully in favour of
18 the way that they're tackling this.

19 MS. CONDON: Thanks, Randy. Fred.

20 MR. LAFERRIERE: So, you know, there's a lot, I think
21 you're going to find a lot of alignment with a lot of the people
22 here, but I would have to sort of agree with Paul for the most
23 part in terms of why is there a rule in the first place?

24 And I sit on a lot of committees and the number one
25 question I keep asking is, "What are we trying to solve for?",
26 and I never get a clear answer. It seems like a good idea, but
27 in the absence of a process that has a robust cost-benefit
28 analysis, ultimately, the rule becomes self-serving, right?

1 One of the other things I'd like to move, that I'd
2 like to suggest is that perhaps the Commission adopt kind of
3 like a client service perspective. I, you know, my members
4 would like the ability to call in to the Commission and say,
5 "We're thinking about this. What do you think?" Oftentimes,
6 the response is, "Well, you know, go talk to XYZ firm, what law
7 firm, because they're fully familiar with our views."

8 Fundamentally, I find that offensive because I view my
9 relationship with my regulators as a partnership. I shouldn't
10 have to pay \$10,000 to get an opinion on a direction or a
11 thought before we may or may not even begin to go down that
12 path.

13 The other -- so I would like some sort of customer
14 service approach so that registrants and firms can develop a
15 more closer dialogue. The SROs tend to have this. I think it's
16 a great model.

17 The other thing, too, I would like us to concentrate
18 on is, to an earlier point, in terms of consistency of
19 discussion. The interpretation of a National Instrument in one
20 part is -- may or may not be applied, and so oftentimes,
21 business people make decisions based on conversations.

22 So, you know, to me those are the low-hanging fruit
23 because as a business person allocating capital, our members
24 need to have a certain degree of certainty, and anything we can
25 do to firm that up would go a long way in my mind in terms of
26 reducing and streamlining the whole rule books.

27 MS. CONDON: Thanks, Fred. Ian.

28 MR. RUSSELL: Thanks, Mary. A couple of points come

1 to mind. One that I think Randy picked it up when he was
2 talking about wet signatures and digital signatures and when you
3 get new players in the marketplace, you have to adjust the
4 regulatory framework to accommodate the expansion and growth of
5 that, and I think one thing we've been calling on for a long
6 time, it's not explicit in our submission, is proportionate
7 regulation, which is to say that we should be much more
8 sensitive to smaller firms, both in terms of the nature of their
9 business and how we apply Know Your Client and suitability rules
10 and how we audit them, and I think there is room there to
11 relieve the burden without impacting the overarching need for
12 investor protection.

13 Another point that Paul -- you asked Paul the question
14 about, you know, where do you see examples of the need perhaps
15 for more harmonization and I know in Paul's submission and mine,
16 we had a lot of examples of the lack of harmonization and
17 differences in definition across a lot of different areas of the
18 business, but one thing where I see perhaps a dissonance at the
19 CSA level is not simply in terms of the rules, but it seems to
20 me that there could be a better job done in identifying
21 priorities.

22 For example, two examples come to mind. One is the
23 National Systems Rebuild Plan. You know, this was started in
24 June of 2016. Here we are three years later. I haven't heard
25 anything. I don't know where it stands, but in that intervening
26 three years, we've had to deal with a pretty clunky, inefficient
27 system. And I know there's a lot of good intentions everywhere,
28 but we don't seem to have placed much of a priority in getting

1 some progress on that.

2 Another example would be the CSA putting out a
3 submission, request for comments on streamlining prospectuses.
4 That's everything from removing the review from preliminary
5 prospectuses to perhaps eliminating, and again, the electronic
6 delivery of prospectuses. Huge gains in efficiency coming from
7 that.

8 Well, that submission was made by our industry and all
9 of you in November -- in July 2017, and now it's -- these same
10 arguments are being raised in the context of the OSC, that
11 burden reduction, which is a good thing, but I think sometimes
12 the problem is not so much getting the idea, but really putting
13 a priority and getting rid of the inertia to move forward and,
14 hopefully, this is one vehicle that can accomplish that.

15 MS. CONDON: Great. Thank you very much for those
16 thoughts, Ian.

17 I want to move to a topic that I think has already
18 come up in a couple of the panelists' remarks, which is this
19 idea that maybe what we need to focus on is not the notion of
20 just less regulation, but actually, the notion of smarter
21 regulation. Is there a way that we can refine or redirect
22 regulatory activity so that it is actually achieving the
23 objectives that are intended?

24 And, Frank, you had I think mentioned this issue
25 earlier in your remarks, but is there anything else that you
26 want to add now?

27 MR. LAFERRIERE: Yeah. I think to me, this is
28 actually the key focus, right? You know, investor protection is

1 primal for all of us because at the end of the day, Canada is a
2 small country. We're smaller than the state of California, you
3 know, and so it's important to all of the financial institutions
4 and to all the intermediaries and all the issuers to serve their
5 clients well.

6 That said, you know, we still need investor
7 protection, and at the end of the day, hearkening back to what
8 Paul has suggested, smarter rules that focus in on what are we
9 trying to solve and is there an innovative way and creative way
10 to address it?

11 Any time, you know, our members try to think outside
12 the box, it usually involves seeking an exemption, right, which
13 is like going to divorce court. You're going to have to spend
14 of lot of money and then have a, you know, almost a hearing, and
15 make a submission and come back. That's a fairly major road
16 bump in capital formation.

17 So if there are ways that we can streamline that and
18 actually have smarter rules that actually address what we're
19 trying to solve and determine whether or not it actually really
20 is a problem as opposed to a solution looking for a problem
21 sometimes, then I would suggest that that would benefit pretty
22 much everybody.

23 And I think, you know, as Paul's mentioned, there's a
24 number of approaches that we could take. Definitely, the
25 consultation process is, at the front end, I think would go a
26 long way, but the other issue, the other issue in my mind is
27 that we need to ensure that this dialogue is always centered on
28 the client, first and foremost.

1 The rate of change in the last five years as to what
2 the intermediaries have had to put out in paper and forms and
3 everything has been -- it was, you know, it's been essentially
4 shell-shocking to our members and, you know, if we're going to
5 do anything in addition, let's just take a pause and get back to
6 our core fundamentals as to what it is we're trying to do with
7 smart rules, so...

8 MS. CONDON: Thanks, Frank. Can I turn to Paul to add
9 some extra comments on this issue?

10 MR. BOURQUE: Sure. And I'm not going to say anything
11 especially profound about smarter regulation because it's hard
12 to do. What I would recommend is that when regulators make
13 rules, they make fewer rules, they make simpler rules, and they
14 make clearer rules, and I don't want to get into -- I don't
15 think it's worthwhile getting into a debate in principled or
16 prescriptive rules, because, frankly, you need both and just,
17 you know, it's just hard to know when you would apply one or the
18 other, but I think it is conceivable that we could have fewer
19 rules, they could be more simply drafted, they could be clearer.

20 I know that's easy to say and it's very hard to do
21 because the old saying, "I would have made it shorter, but I
22 didn't have time." So it's a very hard thing to do, but why do
23 we want to do it? Because rule-making can, instead of
24 protecting investors, can actually compromise compliance and
25 investor protection. It can actually make things worse.

26 And also rule complexity increases the cost of the
27 regulators to administer the rules, increases the cost to
28 adjudicate the rules, increases the cost to comply with the

1 rules and, ultimately, increases customer costs. So make the
2 rules fewer, simpler, clearer.

3 MS. CONDON: So let me pursue that a little bit, Paul,
4 and try to connect it to the comments that Frank just made. Is
5 the suggestion then that if you had simpler rules, they, you
6 know, they would ultimately be at the more conceptual level,
7 leaving unique situations or customized situations to the
8 relationship between the regulatory staff and the person who
9 wants to get some clarity about their deal? Is that part of
10 what the suggestion is?

11 MR. BOURQUE: Well, you know, the reason I don't like
12 to get into that debate is because you have the insolvable
13 tension --

14 MS. CONDON: Sure.

15 MR. BOURQUE: -- between the statement of the
16 high-level principle and giving maximum flexibility to the firm
17 to figure out how to comply, and the need for compliance to have
18 certainty. So between those two, you've always got push and
19 pull, and I don't know how you resolve it except by making the
20 rules fewer, simpler and clearer.

21 MS. CONDON: So that last -- so --

22 MR. BOURQUE: Didn't say it was easy.

23 MS. CONDON: But if you had to point to, you know, an
24 example of where that's been done really, really well as a model
25 for how the regulators could do it in the future, can you think
26 of, you know, of one place in the big blue book where you think
27 that balance has been struck really cleverly or carefully
28 between detail and --

1 MR. BOURQUE: Let me say something that might get me
2 in a lot of trouble: The amendments to 31-103, the client focus
3 reforms. I think the rule is pretty clear and fairly succinct.
4 I think the guidance is complex, wordy, unclear, and it's not
5 clear at all in some areas how you would comply. So there's one
6 example I think where they're sitting side by side.

7 MS. CONDON: Great. Thank you, Paul.

8 MR. CASS: Mary, can I just --

9 MS. CONDON: Please do.

10 MR. CASS: -- pick up on that and give a specific
11 example, and this has been an ongoing conversation between Nest
12 Wealth and the OSC for a few years now.

13 As the traditional human interaction begins to get
14 removed from the on-boarding process and you have thousands and
15 thousands of clients deciding to open digital accounts, and this
16 goes towards how to do it smarter, how to regulate smarter, that
17 theme, the notion of the OSC has been, all right, we will take
18 the questions that have traditionally been asked in a
19 face-to-face interaction and put them into a digital on-boarding
20 question, and that way we're still gathering the information and
21 the firm now is in a position to do what they need to do.

22 And our response has always been we're capturing
23 masses of investors who have never had these types of
24 conversations before, who have been put into 2 and a half
25 percent mutual funds for years and years and years, and even if
26 we gather how many dependents they have, whether they have debt
27 on their credit card, whether they have sophisticated or
28 below-average experience investing previously, it's not going to

1 change the fact that they're going to get a diversified,
2 risk-appropriate portfolio of low-cost ETFs, and we don't think
3 that we should be extending the process to get them there
4 because that's going to make more people that should be in this
5 type of solution drop off.

6 And I think the regulators need to think about how
7 they want to regulate for millions and millions of investors
8 that might not have been involved before in actions that
9 historically have been relegated to very few, and the answer is
10 in many cases what Paul suggested. We've often stated: I need
11 to ask your horizon and your tolerance towards risk in a
12 creative fashion. If I have those two things, I can create a
13 low-cost EFT portfolio for you, and anything else we're asking
14 is probably not material to what we're trying to do, and this is
15 a balancing act between us and our regulatory situation that's
16 existed for decades and believes that the more information you
17 can gather, the better off you are.

18 MR. RUSSELL: I'd like to weigh in --

19 MS. CONDON: Very interesting. Please do.

20 MR. RUSSELL: -- on that question about smarter
21 regulation. The other dimension that is really important in
22 smart regulation is recognizing, it's not anticipating, it's
23 recognizing that we live in a dynamic marketplace and with
24 dynamic individuals that are changing in the face of
25 circumstances, and what that is -- what's important in all of
26 that is Paul's right. The mechanics of do you need a rule, done
27 proper impact analysis and cost benefit, but I think you need to
28 apply that to your ongoing rule book on an ongoing basis.

1 In other words, this exercise in burden reduction,
2 it's certainly important, it's timely, but it's something that I
3 haven't heard said, but I think it is something that should be,
4 in effect, institutionalized and it has to be institutionalized
5 for a number of reasons. I think one is because the rule book
6 is increasingly going to be obsolete and there are going to be
7 better ways to regulate. So it's not just taking rules out.
8 It's making new rules that fit, that fit much better, and I
9 think that's something that needs to be thought through and be a
10 part of the process.

11 MS. CONDON: And, Ian, bearing in mind the comments
12 that you made about how this has to be an ongoing process, where
13 would you think the OSC or the regulators should start with
14 trying to devise a smarter regulatory system?

15 MR. RUSSELL: Well, I think it's constantly looking to
16 see where the rules need to change and how relevant they are to
17 circumstances.

18 The other point that I wanted to make is that I think
19 why it's so important to do it on a systematic basis is that it
20 gets embedded into the culture, and what I mean by that is that
21 regulators, and with respect to Maureen, it's true, the mandate
22 is investor protection and efficient markets, but I think that
23 it's one thing to say. It is another thing to convince the
24 market participants and those who are regulated that, in fact,
25 there is a judgment brought to bear that brings a proper
26 balance, and I think if you embed in the culture of the
27 regulator an effort to constantly be examining the rules for
28 their efficiency and their investor protection, I think you

1 build a confidence in the marketplace, and where that takes you
2 at the end of the day, and this is a conversation you had
3 earlier with Paul, is it enables you to rely more heavily on
4 principle-based regulation, which again is important because it
5 accommodates different kinds of models.

6 And I know our industry is accused of being a bit
7 schizophrenic where people at the top of the office, at the top
8 of the firms like principles-based rules, but when you get into
9 the compliance people, everybody wants the belt and suspenders
10 approach and wants the guidelines and the rules.

11 And I think some of that can be traced back to a lack
12 of confidence in the judgment of the regulators, and I think
13 that has to be built on, it's a work in progress to do that, but
14 I think that's going to be a valuable outcome of this exercise.

15 MS. CONDON: Great. Thank you very much, Ian. So the
16 next topic that really builds very much on this last one is
17 specifically about the question of, to what extent can the
18 regulators use technology and technological solutions to try to
19 achieve smarter regulation? So, you know, you won't be
20 surprised that I'm going to turn to Randy first to look at that
21 question.

22 MR. CASS: So, well, technology is typically looked at
23 as something that streamlines a process and we've heard a lot of
24 counterparties talk about it, disintermediating the human
25 relationship and the rest of it. There are things that actually
26 technology is going to allow regulators to do exceptionally
27 better than they've done historically, and I know this is the
28 OSC's event and I'm hesitant to bring up another regulatory

1 body, so let me not name them, but there is another regulatory
2 body out there, for example, that has just come out and said,
3 "We are going to increase the burden dramatically on what is a
4 suspicious transaction and how you have to report on that," and
5 I think there are now 130 different cases.

6 And in reality, that type of thing is next to
7 impossible to stay onside with, and I'm using this as a
8 principled example of how the OSC can now think about what they
9 want to do, but the fact that technology is being introduced in
10 firms and we're creating a module for our B2B firms that allows
11 them to stay on top of all these STRs, but the fact that
12 technology can standardize information, normalize it, flag it,
13 detect connections that would have been impossible to detect
14 before really does begin to allow the regulators to think about
15 a cornucopia of things that they might want to have reporting on
16 that they haven't historically been able to hold firms, small,
17 medium or large, up to that level.

18 It's half the battle, though, and this is where the
19 regulators need to kind of pick up the other half from their
20 burden and their sharing of the onus. Even the best solution in
21 the world is going to flag 130 different types of suspicious
22 transactions and then force a firm to go to some archaic, third
23 party, regulated software or fax number and send them in one by
24 one.

25 It's time. Last I checked, it was 2019, and the Web's
26 been around for a while. It's time for the regulators to start
27 realizing that those bridges are going halfway, and if they
28 really want to remove the burden on firms, small, medium or

1 large, they need to start creating their solutions with things
2 like APIs and open architecture, the ability to take
3 standardized information in real time.

4 It's going to be better for them and it's going to be
5 immensely better for this industry, and there shouldn't be the
6 possibility at any regulated entity across this country for
7 someone to have a rule imposed on them that demands a paper form
8 be submitted or a third party system be used in a non-digital
9 way, and if they simply worked on creating their solutions to
10 receive the vast amount of information that people are going to
11 be submitting from their own systems -- working capital. I need
12 to report on it quarterly. I need to keep track of it monthly.
13 There is zero reason on earth that the four-most popular
14 accounting systems shouldn't be able to be imported directly
15 into whatever solution they want to have my data go into, so
16 that I don't need to go and fill out their form on a monthly
17 basis internally. These are the things that will reduce burden
18 to a vastly greater magnitude than anything else.

19 So technology will both raise the level of
20 surveillance that they're able to keep, and if done well,
21 meaning that both sides are building the bridge and they happen
22 to meet in the middle as opposed to 12 feet apart over the
23 middle of the ocean, it will also allow the burden on ourselves
24 to be reduced magnificently, and that's where, if I was running
25 the regulator or regulatory body, that's where I would focus.

26 MS. CONDON: Super. Thank you, Randy. Paul, I'm
27 going to turn to you next for some follow-up comments.

28 MR. BOURQUE: Yes. Two things: One is something that

1 the regulators could do to improve their effectiveness and
2 efficiency, and regulators now have good risk modelling
3 capability and they're doing that. They're building
4 corporately-structured databases. They're doing that. You put
5 risk modelling and structured data together and you get
6 predictive analytics, and that's something that regulators
7 should embrace and employ to predict non-compliance,
8 non-compliance in financial statement and prospectus filings,
9 non-compliance in registration applications, non-compliance in
10 exempt market filings.

11 This is an area where you can use technology to focus
12 on the high-risk areas, give the low-risk participants a pass,
13 put your resources where you're going to get the most bang for
14 your buck. So that's something the regulators could do that
15 would help them.

16 Something that they could do that would help not only
17 the regulators, but the industry, and I'm going to just leverage
18 on something Ian said, and that is, providing easy or easier
19 access by market participants to the data that they put in the
20 national filing system, SEDAR and NRD, and we know how clunky
21 the systems are today and the CSA knows that too, so they've got
22 a project to rebuild them into a single structured database. I
23 think that's a great initiative. I think it has the potential
24 to reduce cost and streamline operations.

25 And where it will really, really help, and it
26 shouldn't be that difficult, is to use an API, an application
27 programming interface, to provide that interface between the
28 market participant and their own data, so they could, for

1 example, avoid this problem:

2 The National Registration Database requires over 20
3 registrant data fields to be filed within 10 business days after
4 any change to the registrant profile. Without access to their
5 own NRD information, firms must use manual processes, such as
6 annual registrant questionnaires, to keep the NRD data current.
7 This manual process imposes a major cost burden on firms,
8 results in poor quality data and stale data, so an API that gave
9 controlled access of a market participant to their own data
10 could be used in their work flow processes.

11 MS. CONDON: Super. Thank you, Paul. Frank, any
12 thoughts from you?

13 MR. LAFERRIERE: So I think on a high level, I think
14 there's alignment with pretty much everything said, but I don't
15 want -- from my perspective, technology is simply an enabler and
16 it's not the end all, be all of communication.

17 I really think that technology could be used in
18 conjunction with an advisor, you know, rep basis because
19 oftentimes, many judgments are based on a communication or an
20 understanding with the counterparty. We can't get away from
21 that need to talk to a warm body at the regulator to say, "What
22 do you think? Oh, by the way, did you see my filing?" The SROs
23 have been doing this for years, right? You know, "My Form 1
24 looks like a piece of crap today. What do you think?" And they
25 say, "Okay. Great." We talked through it.

26 I really think, though, that we have to be careful
27 that we don't open up a complete open text because I don't know
28 that that actually benefits everyone. I think we have to be

1 selective in the interchange of information between the
2 participants and the regulators. So that's my 10 cents.

3 MS. CONDON: Thanks, Frank. Ian.

4 MR. RUSSELL: One comment I would have on it is that
5 in terms of technology, without looking at one particular
6 feature of it, I would just say if you look at the landscape,
7 what it is is you've got the dealers on one side, the regulator
8 on the other, and in the middle, you've got about three or four
9 service providers, the big ones being Broadridge and ISM and
10 Fidelity, and there's probably a few that I haven't mentioned.

11 And I think the process that works is a very
12 conventional one. You get the regulators making the rules, the
13 industry responding, and then the industry turning to the
14 service providers. I think what needs to happen is the
15 technology and the thinking around technology and the compliance
16 with the rule needs to be integrated better, and I think the way
17 that could work is, in the early formative stages of the
18 rule-making, there should be discussions with the three parties.

19 For example, CRM 2: You know, there was a requirement
20 that came out of the regulator. I think what was missing in all
21 of that was it was a hugely technology-intensive amount of work,
22 and I think a better understanding of the regulator, by the
23 regulator of the technology would have made for perhaps at least
24 better understanding of the difficulties in implementing it, but
25 probably would have ended up making a much more effective
26 system, and I think that approach should be used as the OSC
27 moves forward, getting that thinking up front, which will
28 probably lead to a more technology, much more efficient type of

1 rule system that's more accommodating of technology.

2 MS. CONDON: Super. Great. Thanks for that, those
3 thoughts, Ian.

4 I have not been as disciplined as I should be. I
5 think we are out of time, but we still I think have time for
6 questions. Do we? Yes. Okay.

7 So rather than go to the last question for the panel,
8 I'm going to now turn it over to the audience to ask if anyone
9 has any questions. If they don't, then I'll ask you the last
10 question on our list, but let me invite some thoughts and
11 comments from the audience or people on the webcast.

12 Great. There's a question there. And a microphone
13 that is making its way to you.

14 AUDIENCE MEMBER: So this question is for the panel,
15 but mainly for Frank. So as Chair of the Private Capital
16 Markets Association of Canada, you may be particularly sensitive
17 to the topic I'm about to bring up.

18 So anything filed with the OSC under Form 45-106,
19 which is the exempt distribution, is considered to be filed for
20 public purposes, and the rules state that in order for that,
21 whatever is filed, to be considered confidential, the OSC will
22 take a principles-based approach, which I think everyone on the
23 panel agreed was a good approach, but in order to get the OSC to
24 come to a view on whether the cost benefits of making something
25 public makes sense in the given circumstances, you have to file
26 an application, that application costs a lot of money, and as we
27 said, imposes a burden upon people who are making exempt
28 distribution.

1 So I'm just wondering if you could speak to, you know,
2 as we're saying, the process. Like, in a sense they've achieved
3 something, you get -- everyone has talked about, which is a
4 principles-based approach to rule-making, and yet the method by
5 which the decision is made still imposed the same regulatory
6 burden that is intended to be avoided.

7 MR. LAFERRIERE: So I'm not quite sure what your
8 question is. My -- if I'm going to divine your question, it is,
9 I guess, is there a principle-based approach with the
10 determination as to whether or not this Form 1 is public or
11 private? So, you know, I don't really necessarily agree with
12 the fact that everybody wants principle-based. As Ian has said,
13 guys at the top want principle-based. Guys at the bottom say,
14 "Show me the rule."

15 I think what is more important, though, I think what
16 is more important, though, is the process. I believe that the
17 securities commissions need these F1 reports because they need
18 to know what's happening in the exempt market. Remember, exempt
19 market doesn't mean it's not regulated. They need statistics.
20 They need information. I think, though, that we probably need
21 this balance of being able to file effectively, maintain some
22 sort of anonymity, and then also make it so that it's efficient
23 to file.

24 So I don't know if I'm answering your question, but I
25 agree with you. To have to go and get an exemption or some sort
26 of, you know, expense, like, our day-to-day operations within
27 the exempt market shouldn't require a lawyer. I shouldn't have
28 to go to a firm to be able to, you know, seek an exemption

1 request or get permission to do something that is -- I should be
2 able to pick up the phone and ask, "What's the process?"

3 So I don't know if I've asked [sic] your question, but
4 I believe that, again, this is probably something that speaks to
5 the relationship between the registrants and the regulator. I
6 don't know if I answered your question, but --

7 AUDIENCE MEMBER: You have. Thanks.

8 MS. CONDON: Any other questions? There's one right
9 here.

10 AUDIENCE MEMBER: Thanks. Just more picking up on
11 something that Mr. Cass had said.

12 I think there's room to sort of rethink the rules
13 themselves as they age. If you look at the rules we have today,
14 they're based on the IDA which I believe goes back to the 1930s
15 if my history is accurate, or as I believe 1970s. I do believe
16 IIROC tried to address this during some of the rules in the
17 plain language rewrite, but just on something as basic as KYC,
18 it does seem like there's this instinct to constantly expand on
19 a pre-existing rule where there might be an opportunity to do
20 something completely differently.

21 So, for example, you could try replacing a KYC
22 conversation with targeted returns for different types of
23 securities. So money market, between 0 and 2 percent
24 historically, bonds between 1 and 3 percent, dividend bank
25 stocks between 3 and 5 percent. I'm just picking these out of
26 the air. That would completely replace a somewhat vague and
27 complicated conversation about what somebody's risk tolerance
28 is, what their investment objectives are, with something a lot

1 more concrete and specific and more modern, I think.

2 MR. CASS: Yeah. Look, the people that we speak with
3 at the OSC on a continuous basis are smart, well-intentioned,
4 good people that do want to see changes come, specifically to
5 areas like the KYC. I think everybody recognizes that a
6 dramatic change is a hard thing to pull off in any regulated
7 entity and under any regulatory body, but look, as much as I say
8 to them, "Give me two questions and I'll put people in the right
9 portfolio," perhaps the appropriate response to that would have
10 been, "All right. Go for a year, and then at the end of the
11 year, we're going to see how your people did and who complained
12 and how many lawsuits you have against you for screwing this up,
13 and we're going to make a judgment call on whether that's an
14 appropriate response or not."

15 So behavioural economics, behavioural finances, all
16 sorts of areas that people are dying to bring into something
17 like the KYC process. I think perhaps we just need the
18 regulated body, the regulatory bodies to be, and I know the
19 sandbox exists, but I mean, just more open and more nimble to,
20 "Can we try this? Can we try this for 500 accounts and then
21 keep an eye on them and see what happens?"

22 Look, I mean, worst case scenario: We're creating no
23 leverage portfolios with low-cost ETFs in an account in their
24 name. It's -- what's really the worst that happens for the
25 knowledge we might be able to gather from trying something new?

26 So yeah, I agree. I agree we should be trying new
27 things.

28 MS. CONDON: I think Paul --

1 MR. BOURQUE: Yeah. I just wanted to say that I think
2 challenging established thinking has got to be a part of any
3 regulatory burden reduction, and so you raised a question I
4 hadn't actually thought of: How could we replace the KYC
5 process? It's been in place for a long time. It's used all
6 over the world. Does that mean it's the best way to go? I
7 don't know, but it's certainly something that the regulator
8 should be challenging on a regular basis, the, you know, the
9 longstanding assumptions upon which the regulatory edifice has
10 been built.

11 MS. CONDON: Thanks, Paul. Any other questions from
12 the audience? Doesn't seem to be any interest from the webcast
13 at the moment, so I think it's people in the room. If --
14 there's somebody at the back there, is there? Great. Thank
15 you.

16 AUDIENCE MEMBER: It's a question for the panel,
17 whether we -- to what sense do we get a sense that the
18 regulations have had, perhaps had an unintended consequence of
19 making it harder for average Canadians to get, average Ontarians
20 to get the advice that they want in making investments because
21 it's harder for, you know, the -- there's a lot of regulatory
22 burden. The higher net worth clients are the ones that people
23 want to work with because it's the same -- you know, it's
24 expensive to acquire the client, and so, therefore, the rank and
25 file Canadians and investors are probably not getting the
26 advice, it's not as easy for them to get the advice to make, you
27 know, investments that they might be interested in making that
28 are not, you know, the easy public market investments.

1 MS. CONDON: Ian, I might turn to you to ask -- to
2 provide an answer there.

3 MR. RUSSELL: I think it's a challenging environment
4 to, as I said at the beginning of my remarks, to cater to the
5 needs of all Canadians because number one, the needs have
6 expanded just because of the exigencies of the demographics, the
7 need for advice, for planning help, to build their portfolios,
8 the loss of defined benefit plans. So it's putting a huge need
9 on all Canadians, smaller ones, small portfolios as well as
10 large portfolios. At the same time, it's become increasingly
11 expensive.

12 Now, I would say when you look out in the Canadian
13 marketplace, there's a room for optimism because I think there's
14 a huge scramble and change taking place in the industry
15 structurally, and just in terms of positioning their businesses,
16 and I think firms like Randy's have come along and they've
17 provided a competitive stimulus, and particularly using
18 technology, which now is being embraced industry-wide.

19 So the combination of technology that enables
20 evolution in certain areas, particularly advice which is
21 expensive, so now you can get online advice, you can get hybrid
22 advice, and you get a graduated, broad array of access to advice
23 and to products across the client spectrum.

24 So there probably are gaps, and there probably -- one
25 can find criticisms, but I think in general, the industry again
26 is changing and trying to position itself to respond to all
27 Canadians, and there is such a wide influx, everybody from the
28 discount online brokerage firms to the online wealth firms, to

1 the traditional players, both in my industry and in the mutual
2 fund industry that are changing their models to respond to the
3 needs out there by all Canadians and the challenges that they
4 face.

5 MS. CONDON: Frank.

6 MR. LAFERRIERE: So I want to respond to that because
7 I would suggest that the average Canadian who's seeking advice
8 really doesn't know where to go. We have -- we, within our
9 regulatory framework, we set up these artificial constructs in
10 terms of you've got to be in IIROC, you've got to be in MFDA,
11 you've got to be an EMD, or you've got to be a robo. So is a
12 robo part of the OSC registrant or is it part of the IIROC?

13 It's like this massive confusion, and you know, I
14 would suggest, I would suggest that if we were going to be
15 innovative and creative that we would simplify these artificial
16 constructs to begin with and focus again on the client.

17 Why can't a robo operate in IIROC? Maybe it can.
18 Maybe some do. Why can't an EMD be in IIROC? Why can't an MFDA
19 registrant be in an IIROC? Like, why do we have all of these
20 particular things that make it difficult for the Canadian
21 investing public to get the type of advice that they want?

22 Want to reduce regulatory cost? Simplify the
23 structures in the business models. Why can't an advisor
24 incorporate? There's no -- I mean, doctors can incorporate and
25 they can only kill you, right? Yet that's been a discussion
26 item, that's been a discussion item for 20 years. I would have
27 thought, I would have thought that as an industry, we'd be able
28 to churn out and address these items much quicker, and so, you

1 know, the need for advice, electronic or one-on-one, has never
2 been greater and, you know, as an industry and regulatory
3 bodies, we've actually done a disservice to our clients and I
4 think we can do a better job.

5 MR. CASS: I'll be really quick. At the risk of
6 ending this panel by besmirching an entire profession, I'll say
7 we like doctors up here. We don't think they'll all kill you.
8 I'll start with my ending.

9 MR. LAFERRIERE: I said they could.

10 MR. CASS: My ending is that I actually think there's
11 never been a better time to be an investor in Canada, and I
12 think the multitude of options that are at your disposal,
13 whether it's a digital advisor, online, low-cost, full service,
14 it's a vast cornucopia of options relative to five years ago
15 when there wasn't a robo-advisor, digital advice platform that
16 existed in Canada.

17 And I can tell you we have some insight into what both
18 the traditional wealth firms, the large banks, insurance
19 companies and others are doing with the digital solutions and
20 what we're doing on our direct-to-consumer side, and I don't
21 think there's any question that the lasting legacy of digital
22 advice might not necessarily be the 13 companies that were
23 digital advisors at some point in Canada, but the fact that we
24 have forced this industry to wake up and change the way they do
25 things and reduce their prices and become more transparent, and
26 there are digital advisors that we power that exist in IIROC, in
27 MFDA, and under the OSC-regulated entities.

28 So, I mean, this is a huge opportunity for investors

1 that have never had access to great solutions to get access to
2 them at lower cost right now. Doesn't mean we can't do a heck
3 of a lot better, and it doesn't mean in some cases we've
4 succeeded in spite of the environment that we put ourselves
5 into, but man, the investors are doing pretty good right now.

6 MS. CONDON: On that happy note, I think you can see
7 that the discussion among these panel members could have gone on
8 all afternoon, but I think we can't do that, and so on behalf of
9 all of you here this afternoon, I want to thank our panelists
10 for their insightful thoughts and their expertise that they've
11 shared with us today.

12 --- Applause.

13 MR. KANJI: Thank you, Mary, and all the panelists. I
14 would now like to invite Panel 2 to come to the stage, please.

15 Yes, I just want to let everyone know there will be a
16 break after this panel, so you don't have to take your break
17 right now.

18 TOPIC 2: Prioritizing our Efforts: Setting
19 priorities for maximum impact.

20 MR. KANJI: I would like to, as we move on, I would
21 like to introduce Tim Moseley, Vice-Chair at the Ontario
22 Securities Commission, who will be moderating Panel 2. This
23 discussion will focus on how to prioritize and measure the
24 impact of burden reduction and consider the potential impact on
25 investor protection. Tim.

26 MR. MOSELEY: Thank you, Naizam. I want to start off
27 by being fully compliant and say message received loud and clear
28 from Panel Number 1, so I'm going to offer a principle-based

1 birthday greeting to everyone whose birthday it is today.

2 --- Laughter.

3 Happy to be here. Very excited to be part of this
4 very important initiative. Like Maureen, I spent many years
5 living, breathing, sleeping, eating regulatory burden in the
6 compliance role, so I'm very enthusiastic about this initiative
7 and I'm very heartened to see the great enthusiasm that this
8 initiative has received from all of you and many people, both
9 inside and outside the Commission, so it's terrific.

10 The first panel talked about ways in which the burden
11 has affected industry participants. We'll dig into that some
12 more, what flavours does burden come in, and when we're
13 contemplating the many possible ways of reducing burden, and
14 we'll get into some of that, how should we assess those
15 opportunities? How should we pick and choose and prioritize so
16 that we do a good job of that? How do we do all of that in a
17 way that achieves our purpose and our mandate, while respecting
18 the parts of our mandate, being investor protection, fair and
19 efficient capital markets, and managing systemic risk?

20 These are challenging and important issues, to be
21 sure, but no pressure for our panel. We're going to solve all
22 of those issues in the next 45 minutes, but if anyone would be
23 up to that task, it's our three panelists which I'm very happy
24 to thank for being here and welcome.

25 My pleasure to introduce to my left Trish Callon, who
26 is the Senior Vice-President and General Counsel at Sun Life
27 Financial Canada. To Trish's left, Neil Gross, who is the Chair
28 at the moment of the OSC Investor Advisory Panel, but as I think

1 you all know, a long history of advocating on behalf of investor
2 interests, and to Neil's left, Katie Walmsley, who is President
3 of the Portfolio Management Association of Canada. So thank you
4 all for leading this discussion. Let's get to it. We will
5 again leave some time for questions from the audience at the
6 end.

7 In a few minutes, we'll talk a bit about measuring
8 burden, but before we do that, let's come back to sources and
9 forms of burden so that we know the full range of what we're
10 talking about. We heard a fair bit of discussion about this
11 from the first panel, but just to pick up a couple of those
12 threads, we've heard about just the straight cost of complying
13 with regulatory requirements, whether that's direct financial
14 costs, employee time and the like.

15 We've heard about lack of harmonization and we've
16 heard about uncertainty in various guises; in other words, time
17 and money spent trying to figure out what is actually required
18 when the rules are unclear or high level.

19 I want to take up the gauntlet that was thrown down by
20 Panel 1 and say that while we heard at least three of the four
21 panel members refer to the tension that's always on the go
22 between principles-based and prescriptive regulation, and
23 certainly, the comment letters that we, the many comment letters
24 that we've received from you and others reflect that tension, I
25 wouldn't mind just giving it a bit more of a shot with this
26 panel and seeing whether, as we try to work through that
27 tension, are there things that we can think about as rule-makers
28 to better help us find the right balance between those two.

1 Paul talked about fewer, simpler and clearer. I like
2 those labels, and just to pick up on "clearer" for a moment, and
3 to toss something out which I'll ask the panel members to pick
4 up in a moment, it seems to me "clearer" could come in a couple
5 of different forms. One is "intelligible" and, you know, we
6 heard some comments about how some of the client-focused reforms
7 and other rules aren't clear to understand. I think we all have
8 to accept that the goal has to be clear and intelligible rules.

9 It seems to me "clear" can also come in another form
10 which is "precise" or "certain", and Ian mentioned that perhaps
11 some of the history there is lack of confidence in regulators'
12 judgment about how to apply rules. It's not my job as moderator
13 to be defensive, so I won't, but I'll suggest that perhaps
14 another aspect as an alternative is that reasonable people can
15 differ about how principles should get applied and thus the
16 interest for those governed by rules to have some certainty,
17 some clarity and predictability about how rules will get
18 applied.

19 So with all of that, those are just some thoughts. I
20 know my fellow panel members won't be hesitant to disagree if
21 they don't agree with things I've said, but Trish, do you want
22 to start off, if you would, please, to pick up some of those
23 tidbits and tell us your thoughts.

24 MS. CALLON: Sure. Thanks, Tim, very much for the
25 introduction and for the opportunity to participate in this
26 discussion. I'm delighted to be here. I did want to start off
27 by disagreeing vehemently with you. However, in this case, I'm
28 afraid I'm going to have to agree with you. Maybe Neil and I

1 can get into an argument later about something. I'll see what I
2 can do.

3 So on the harmonization issue, I'll start by
4 acknowledging that the CSA has harmonized a lot. There are,
5 however, opportunities to improve harmonization, particularly
6 between securities regulators and other regulators with whom
7 they co-ordinate, and I'll give a couple of examples.

8 One is we see securities regulators and the MFDA
9 involved in the same enforcement matter. So, for example, the
10 OSC will impose terms and conditions on registrants following
11 conclusion of a settlement agreement with the MFDA, and the
12 addition of something like ongoing close supervision following
13 closure of the issue by the MFDA is burdensome, both for the
14 dealer and the registrant.

15 I'd also suggest that there are opportunities to
16 improve harmonization between securities and insurance
17 regulators. As an example, for financial institutions like Sun
18 Life with both mutual fund and segregated fund businesses, there
19 are extensive sales practice rules for mutual funds, but not for
20 segregated funds. So for an advisor who sells both products,
21 they're subject to different rules which can create for them
22 unnecessary complexity in how they run their business.

23 My final comment on this issue is that I'd be remiss
24 if I didn't call out our support for a national securities
25 regulator and the establishment of the capital markets
26 regulatory authority with additional jurisdictions on board,
27 please, as another means of increasing harmonization.

28 Let me turn now briefly to your question on

1 uncertainty and time spent trying to figure out what is
2 required.

3 The rules are clear enough, although I would echo the
4 comments and many of the submissions about the opportunity to
5 enhance the OSC Web site with up-to-date consolidations of
6 national, multi-lateral and local instruments, and including
7 policies and guidance. The OSC Web site is the first stop for
8 many of us in the industry, so making things easier to find
9 would be very welcome.

10 I'd also like to offer four areas or examples where
11 uncertainty can cause a burden. One is, and this was touched
12 upon in the first panel, and that is delays in finalizing and
13 implementing regulatory change. There was a theme in the
14 comment letters around examining the process for policy
15 development to see things finalized and implemented more
16 swiftly.

17 The reality is that the length of time that proposals
18 are in the marketplace in and of itself creates uncertainty
19 about what the standard is as organizations try to anticipate
20 the final outcome and adapt their business model. The CSA has a
21 robust consultation process which is a foundation of effective
22 rule-making and in which we actively engage. There are,
23 however, times when there are multiple proposals in the market
24 for comment or implementation that have significant operational
25 impact.

26 As an example, to prepare for this panel, we did a
27 back-of-the-envelope assessment of our work on the most recent
28 CSA client-focused reforms published in June of last year. We

1 determined that we had 30 people involved who collectively spent
2 over 660 hours in the effort to review, consider the impact of,
3 and comment on the reforms. Organizations like Sun Life are,
4 obviously, well-positioned with resources to handle, but the
5 burden on smaller organizations can be significant.

6 A second source of uncertainty comes from new
7 interpretations during the prospectus filing and renewal
8 process. This was also mentioned in the first panel. It arises
9 primarily from having different reviewers for prospectus filings
10 and can result in different and sometimes conflicting comments
11 or changes to previously-approved disclosure which makes the
12 process more burdensome than need be. We certainly would
13 support the OSC designating a relationship manager so staff
14 become familiar with the registrant's business and disclosure
15 documents.

16 Third, a third source of uncertainty can come from
17 enforcement action that signals a new interpretation without
18 follow-up guidance or clarification. Registrants and issuers
19 look to settlement agreements and Commission decisions for
20 guidance on how the OSC is interpreting the rules. There can,
21 however, be uncertainty when a decision is released that appears
22 to change that view and is not followed by more formal guidance.

23 The settlement agreement between the OSC and Sentry
24 Investments with respect to mutual fund sales practices is an
25 example. It was the first enforcement action on rules that had
26 been in place for a long time and, therefore, a very important
27 decision, and it did seem to signal some changes in how the
28 Commission was interpreting those rules. Many of us in the

1 industry spent time pouring over the settlement agreement to
2 glean whether there were new expectations, and if so, what those
3 were. Everyone wanted to do the right thing and meet any new
4 expectations, and it would have been helpful to have some
5 guidance from the Commission soon after that decision.

6 Lastly, and this is somewhat technical, but
7 uncertainty comes from needing to apply for exemptive relief
8 that others have obtained. For example, there is a requirement
9 for a dealer to deliver a fund facts document following an
10 automatic rebalance in a fund made by the fund manager. Many
11 fund managers obtain relief from this requirement for all of the
12 dealers with whom they do business. However, since not all fund
13 managers have the relief, the practical result for many dealers,
14 including Sun Life's mutual fund dealers, is that we must
15 deliver a fund facts on an automatic rebalance for some of the
16 funds we offer, but not all. This doesn't really make sense for
17 our clients, some of whom get the fund facts and some of who
18 don't.

19 I give this as an example, and I'd echo what Randy
20 said on the last panel. It's certainly not the biggest problem
21 that we have, but our view is that it's making changes like
22 this, small changes that reduce the burden across the board that
23 are really going to help move the dial on this burden reduction
24 strategy.

25 Your last question asked about the right balance
26 between flexibility and certainty. On this we support tipping
27 the scale in favour of principles and flexibility with clear
28 guidance, acknowledging that rules are required, but on balance,

1 we prefer principles. A principles-based approach facilitates
2 innovation and encourages industry to take more responsibility
3 for thinking through consequences and implications. It also
4 allows more flexibility in interpretation and implementation and
5 it's easier to adapt principles than prescriptive rules to
6 different business models.

7 An example of how we see this work in practice is the
8 principle of treating clients fairly, which is something that we
9 see both in securities and insurance regulation, although it is
10 more extensive in insurance regulation. At Sun Life, it's often
11 the focus of a conversation around not only the meaning or
12 impact of a regulatory requirement, but the interpretation of a
13 policy or product term or how to resolve a client complaint.

14 Using the principle of client fairness as a starting
15 point can lead to a better and different outcome than starting
16 with what does this specific rule say, because it necessarily
17 requires the consideration of a broader range of issues.

18 So for these reasons, we encourage the OSC to focus on
19 principles rather than rules.

20 MR. MOSELEY: Thanks, Trish. If I can just ask one
21 quick, follow-up question, then I'll ask Katie for her comments.
22 In talking about the balance between flexibility, or sorry, the
23 combination of flexibility with clear guidance, guidance, small
24 "G", can come in a number of different forms. It could be a
25 companion policy, a Staff notice, a speech, other forms. Is
26 there a difference for a regulated entity in the amount of
27 burden dependent on what form the guidance comes in of the list
28 that I just gave, or a rule even? I mean, does it matter from a

1 burden perspective whether it comes in the form of a rule or a
2 speech?

3 MS. CALLON: I think it's easier if it's in the form
4 of the companion policy or something that's viewed as, you know,
5 part of the Act, and again, back to my point about making things
6 more accessible on the OSC Web site, what are all of the OSC's
7 thoughts on this particular issue that I should know about? So
8 if I've got one place that I can look, that's really helpful.

9 MR. MOSELEY: Okay. Thanks very much. Katie?

10 MS. WALMSLEY: Thanks, Tim. And again, thank you to
11 the OSC for putting on this important session.

12 For our over 270 member firms, regulatory burden
13 reduction was so important when we heard the OSC had struck an
14 internal task force, we very quickly put in a comment letter
15 before there was a public consultation and delivered that in
16 December, so we appreciate the opportunity to present our ideas.

17 The topic of principle-based versus rules, you know,
18 again, we would, echoing Trish's comments, tip the scale in
19 favour of principles-based. I think every comment letter we put
20 in in the last year that was securities-related made this
21 suggestion.

22 I would suggest the margin of error with rules is
23 higher to get it right. You have to have very tailored
24 regulation to specific business models, and I think
25 principles-based just accommodates different business models and
26 stands the test of time better as the industry evolves, and we
27 only have to look to examples such as Enron and see what can go
28 wrong with focus on the rules versus principles. I also think

1 just the one size fits all is avoided with more principles-based
2 regulation.

3 In terms of uncertainty, yes, I think there's a huge
4 cost with uncertainty that happens in many situations. Rough
5 winter for everybody. I think we all were probably caught in
6 intersections with traffic lights and you have -- for me, the
7 uncertainty of regulation is very similar to that situation when
8 there's caution, there's no lights allowing traffic to move, and
9 the traffic is slowed down. That is what happens in the
10 industry when there's a gap between proposed rules and
11 finalization of those rules.

12 Small examples of uncertainty in the burden:

13 Start-ups: The time between the initial decision to
14 start up a business, the submission to the OSC, the interview,
15 the decision to start a business, could that be improved? That
16 would be helpful.

17 Audits: I think there's a lot of uncertainty for
18 firms when there's back and forth with information being
19 provided and interviews, and in some cases, there's dead silence
20 and waiting and waiting and concerns from business owners in
21 terms of how that audit went.

22 And lastly, which has been commented on by many
23 speakers, just the delay in finalizing rules. There's a cooling
24 effect with some of the significant changes and I reference
25 client-focused reforms and the proposed rules on referral
26 arrangements, and I think for many businesses, that came out of
27 left field. They weren't aware that was going to be an area
28 that was in client-focused reforms, and there's -- I think it

1 came as a surprise to us how many business models had
2 significant referral arrangements as part of those and what a --
3 how disruptive it would be to interfere with those, and right
4 now, there's a lot of waiting to see what is going to be
5 finalized, what the rules are going to be, and so we just
6 encourage minimum period between those significant proposed
7 changes and rule finalization.

8 MR. MOSELEY: All right. Thanks very much, Katie. So
9 I think some very useful comments for us to keep in mind as we
10 go forward with this initiative.

11 When it comes to evaluating possible opportunities for
12 burden reduction, we want to be as objective and disciplined
13 about that I think as we can. There's a very clear recognition
14 it's not a perfect science, it's not a matter that lends itself
15 to quantification pure and simple, but having said that, we may
16 be able to make some progress down that road. OSC Staff have
17 reviewed a number of burden reduction models from around the
18 world. Still working on that, developing our methodology, and
19 would welcome some comments on that topic.

20 You know, an example, going back almost 20 years, I
21 think, is in British Columbia, generally, where it was a simple
22 model, elegant perhaps in its simplicity with thinking about,
23 you know, one-for-one counting regulations. Arguably, a problem
24 with that is that it weights equally regulations that may have
25 distinctly different burdens, you know, as simple as you have to
26 put your name on a form to as complex and burdensome as you have
27 to get audited financial statements for a corporation.

28 So that's at one end of the spectrum. We may be able

1 to bring some quantification, as I say, to talk about costs and
2 employee time, external advisor fees, that sort of thing, and
3 then probably worth going there.

4 As we do this and try to combine some quantitative
5 elements and qualitative assessments as we hone in on what we
6 hope is a very sound methodology, what are the key components of
7 that methodology and of an effective burden reduction strategy?
8 Neil, would you mind kicking that off, please?

9 MR. GROSS: Sure. And Trish, I'm sorry to disappoint
10 you, but, you know, we're probably going to agree mostly on
11 these things because we have in this initiative I think a
12 remarkable convergence of issues and interests across the line
13 on these things.

14 But in terms of key components of a successful
15 strategy, I'm sure we'd all agree the number one thing is to
16 have a focused objective. We could all agree that increasing
17 the efficiency of regulation would be the prime objective here,
18 and we probably also would all agree that there should be an
19 overarching directive of "do no harm" in the process. You know,
20 don't diminish investor protection and market integrity as you
21 go through this process.

22 Also, the previous panel mentioned something very
23 important: Proportionality. Want to make sure that regulatory
24 responses are appropriate to the nature and size of the problem,
25 but that raises an important consideration in terms of what
26 you've got to have to make this successful, and that is good
27 data. You've got to have good data going in, in the sense of
28 understanding the size of the problem, how big it is, how

1 pernicious it is, in order to craft an appropriate solution that
2 is not excessive, but you also have to have good data on the
3 outbound side of it too because part of reducing regulatory
4 burden is to go back and assess whether the regulatory response
5 is effective and whether it's overkill. So you've got to look
6 back on these things periodically.

7 Also, this was touched on and Trish has mentioned it
8 as well, Katie has mentioned it, this need to have integration
9 of burden reduction as part of the policy-making process, and
10 particularly to ensure that you're adequately managing the
11 burden that comes from a rapid pace of change in our society
12 that is reflected in the securities regulation.

13 Interestingly, that may require, as Trish has said,
14 speeding up the process of policy development in order to
15 prevent initiatives piling up and then suddenly being released
16 in this sort of tsunami of regulatory change that overwhelms the
17 industry, but also, as has been said, the idea of having these
18 prolonged Swords of Damocles hanging over the industry do have
19 significant burdens and they do require the industry to
20 sometimes pay opportunity costs in terms of how they develop
21 their business. It requires them sometimes to double-track what
22 they do in order to be ready to comply with an expected change,
23 but at the same time, the prolonged time that it takes to effect
24 that change means they still may have to do things the old way
25 for an extended period of time, and all of that is very, very
26 costly. So, you know, integration is extremely important to
27 having a successful program.

28 And finally, as has been said, you have to have

1 persistence. This thing has to be integrated as part of the
2 normal process of policy-making and it has to be done all the
3 time.

4 MR. MOSELEY: Can I come back to your comment about
5 proportionality and assessing the benefit to investors, so being
6 one of the essential components to this. This is now completely
7 unfair and burdensome to you because we hadn't rehearsed this,
8 but it just occurred to me as you were speaking, Professor Anita
9 Anand had an op-ed in the Globe earlier this week, and I
10 don't have it in front of me so I'm paraphrasing, but I think
11 she said something to the effect that it can be difficult or
12 impossible to assess the benefit to investors. I take it you
13 don't quite agree, but maybe that's unfair. Do you mind
14 elaborating on that a bit and talk about how we can do a good
15 job of assessing that benefit?

16 MR. GROSS: Well, it is hard because unlike costs,
17 which can be relatively easily listed and costed out and added
18 up, some benefits are very hard to quantify and may be
19 unquantifiable. I mean, you know, how much harm has been
20 prevented by virtue of the fact that we have a suitability rule?
21 I mean, can you calculate, can you put a number on it? No, you
22 can't.

23 So, you know, in approaching this exercise, you've got
24 to realize that it's a bit of a mistake to try and quantify your
25 way through it because you're not going to be able to put
26 numbers on both sides of the equation.

27 The other thing that may be a real mistake is to even
28 approach the issue from the standpoint of cost to the industry

1 versus benefit to investors because the reality is that a lot of
2 the costs, not all, but a lot of the costs get passed through to
3 the investor, and a lot of the benefits of regulation are
4 benefits to the industry, you know, as well as to the investors.

5 So what you're really talking about is value for money
6 in the regulation, and it's a question of value to the entire
7 investment community, not just investors, and it's a question of
8 cost to the entire community, not just the industry.

9 MR. MOSELEY: Thank you. And let me just pick up on
10 one point before turning it over to Katie to say that, and you
11 heard Maureen talk about this in her opening remarks, and I
12 deliberately didn't put sort of as a tension or a fight between
13 investor protection on the one hand and burden reduction for
14 exactly the reason. Let me just reassure people that all of us
15 involved in this initiative are very mindful of that and that
16 the two absolutely can go hand in hand.

17 Katie, any thoughts you heard there that you'd like to
18 pick up on, please?

19 MS. WALMSLEY: Yeah. I mean, I think I'd agree with
20 Neil's comments. It's -- you can't forget to just look at the
21 basics of any regulatory burden reduction initiative in terms of
22 investor protection, capital efficiency, and go back to the
23 basic measures of those, the costs of industry time, the fees,
24 you know. I think there's probably in many of those 65-plus
25 submissions a lot of low-hanging fruit and opportunities.

26 And I think further to Neil's comment, I mean, there
27 is some just intangibles. You're never going to be able to
28 accurately measure and do a true cost-benefit analysis, but it

1 doesn't mean you shouldn't take a hold of the opportunity to
2 make the change and move forward and recognize that it's not a
3 perfect science.

4 MR. MOSELEY: Okay. Thanks. Trish?

5 MS. CALLON: Sure. Just a couple of additional
6 points, really picking up, Tim, on what you were referring to
7 previously in B.C., because I think it's important to look at
8 what other jurisdictions have done and try and take what has
9 worked for them.

10 And while it's true that you can quibble with, you
11 know, the measure that they chose of regulatory requirements,
12 they didn't choose, you know, the most crude measures like pages
13 of regulations or number of regulations. They did choose
14 requirements and, you know, there was certainly soundness in the
15 process that they set up which was to do a baseline count of all
16 of the regulatory requirements and then set a goal to reduce
17 those, and then, as you say, have -- when there was a new
18 requirement introduced, one had to be eliminated.

19 In the U.K., they currently require three requirements
20 to be eliminated for every new one added. Importantly, though,
21 in the U.K., what I think is really interesting is that they
22 focused a lot on how they regulated versus what they regulated
23 and were able to drive cost reductions without sacrificing
24 investor protection. So by doing things like, and this was
25 mentioned in the first panel as well, simplifying forms and
26 processes, compliance became less costly without any
27 undue change or compromise of investor protection.

28 So, for example, they've allowed public companies to

1 use electronic versions of their annual reports, saving
2 businesses more than 180 million pounds sterling. So I'd like
3 to suggest that the key component of a burden reduction strategy
4 could be undertaking that kind of a similar exercise.

5 MR. MOSELEY: Thank you. One comment we've heard a
6 number of times from the previous panel and this one, and I
7 think it's not a controversial point, but it's a critical one,
8 is to the extent we're going to rely on data or information in
9 conducting our assessments, we should be getting good data.

10 So perhaps we can turn the spotlight on the Commission
11 from your perspective and say as we go through these kinds of
12 processes, rule-making, up to now, and burden reduction, now and
13 going forward, or an increased emphasis on that, how good a job
14 are we doing in gathering data? To the extent we're not doing a
15 perfect job, what more can we do to work with industry
16 participants, both on the investor side and the regulated
17 entities' side? What more can the regulated entities and
18 investors groups do to provide us with that good information?

19 Katie, do you want to start with that, please?

20 MS. WALMSLEY: So I'll start with comments on sort of
21 two activities that I think are very useful and there's been a
22 lot of growth in this area and it's been very helpful in
23 rule-making.

24 First, the use of external advisory committees. I
25 think the OSC has been using this as an avenue to collect
26 information, to monitor emerging issues and trends. They've got
27 great people on those committees. They've been striking new
28 committees as new issues have emerged, the FinTech Committee,

1 the Seniors Expert Advisory Committee. So I applaud that
2 initiative and encourage more of it.

3 Consultation with associations: I see that happening
4 more. I know Ian and Paul and I and our committees are in
5 frequent contact with the OSC, and I think they are proactively
6 reaching out pre-regulation and post, and meeting with the
7 groups to figure out if there are any bumps in the way in terms
8 of new rules or things they should be considering in the future
9 in emerging issues and trends.

10 Ways to improve information: I'll start with RAQ.
11 RAQ. I don't have to remind anybody in this room that has ever
12 filled out a Risk Assessment Questionnaire, the very large time
13 and resource burden. I think in 2016, we had a number of
14 members come to us who had tracked how many hours their
15 compliance and legal teams had put in to completing RAQ.

16 Very good information. Good data. I could recognize
17 why a regulator would want to gather that information, but was
18 there a better way to get it? Was there a more efficient way to
19 look at it? And I, again, I commend the OSC. They received a
20 lot of feedback in 2016, looked at it, and made some
21 improvements in 2018, which were great.

22 Changes: We'd recommend the frequency is too much.
23 Every two years is just too much time and resource for the
24 benefit. Again, cost-benefit analysis. A simple fix would be
25 moving to every three years, or if that's too big a step,
26 perhaps looking at the risk of different registrants and whether
27 the higher risk ones could be every two years, the ones growing
28 and changing and evolving their business models, and the more

1 plain vanilla firms, lower risk, could be the every three years.

2 Better use of technology in that information
3 gathering, new technology, and I think, and this comment has
4 come up in other, with other panelists, just sharing with the
5 other CSA counterparts. You know, many of our members are
6 registered across Canada, will be filling out the Risk
7 Assessment Questionnaire, and then have an audit occur in a
8 different jurisdiction. It's not clear that jurisdiction has
9 actually seen the RAQ, so that would help significantly.

10 Couple of other quick suggestions for better utilizing
11 the data that's gathered: Outside business activity reporting.
12 Again, this has come up earlier. A lot of time and effort goes
13 into that, the 10-day reporting requirement. The cooling effect
14 it has on volunteer activities I think is a reality, and I think
15 the, you know, consideration should be given to the continued
16 practice that the OSC has taken that there's no longer a finding
17 for non-material disclosures, which is great, but we'd welcome a
18 fresh look at tracking the concerns with conflict and is OBAs
19 the best way to do it? Could some of that tracking be delegated
20 to compliance professionals within the firm as opposed to a
21 centralized reporting?

22 The audits and sweeps: I think, you know, for the
23 most part, we're hearing good things about audits often being
24 helpful, the feedback letters being good. Some of the
25 recommendations to improve the effectiveness would be continuing
26 to ensure the timing is reasonable. If FINTRAC has been in the
27 week before, you know, could that audit be delayed? If another
28 securities commission has been in a month earlier, does there

1 really need to be an OSC audit now? The information requests
2 being more organized for audits, all of these sort of small
3 tweaks would be helpful.

4 Lastly, the questionnaires and data-gathering surveys:
5 I think there's been more use of these which is great. We'd
6 encourage more questionnaires, data-gathering pre-proposed rule.
7 We think that could go a long way to eliminate a chance of rules
8 being, proposed rules, being published that are significant
9 changes, would have an impact in the industry, and if there was
10 more data-gathering before that, maybe the proposed regulation
11 would be a little closer to what would achieve a balance between
12 investor protection and capital market efficiency.

13 MR. MOSELEY: That's a great list. Thank you, Katie.
14 Neil, any other ideas about things we should start doing or do
15 better to gather good information?

16 MR. GROSS: Well, let me say first that I think the
17 OSC does a very good job of getting data, and I would only
18 recommend that you do more of three things, and that is testing,
19 testing and testing. You know, it's one thing to do polling,
20 but it really helps to bring in people and find out if they are
21 actually understanding the disclosure, if they are, you know,
22 really getting better educated as a result of the education
23 initiatives that are being put forward.

24 Testing is hard to do and it's expensive, it's
25 time-consuming, but I think it pays enormous dividends in terms
26 of knowing whether you are actually conceptualizing both the
27 problem and the solution correctly. It's very easy to kind of
28 live in your own bubble and believe that you found the right

1 solution. So, you know, at some point, and it should be early
2 in the process rather than late, you should be putting that to
3 the test and finding out if, in fact, you're right.

4 MR. MOSELEY: Thank you. A shift back to a topic that
5 came up earlier, but I think one that's well worth more scrutiny
6 and emphasis and that is smart burden reduction. So as we go
7 forward, we'll apply the best methodology we can come up with as
8 best we can, but as we are keeping in mind the different
9 components of our mandate, investor protection, fair and
10 efficient capital markets in particular, as well as management
11 of systemic risk, are there pitfalls that we should be careful
12 to avoid, particularly in balancing all of those components?
13 Neil?

14 MR. GROSS: Well, I mentioned one earlier which is,
15 you know, approaching the cost-benefit analysis from the
16 standpoint of one side bearing the cost and the other side
17 getting the benefits. So I think, you know, you want to avoid
18 falling into that if you can.

19 Also, you know, I would say, frankly, stay away from
20 simplistic solutions, and with all due respect to other
21 jurisdictions that have been implemented a one-for-one rule, I
22 think that's idiotic. You might as well say, well, if it's a
23 Tuesday, you have to repeal something that was enacted on a
24 Tuesday. It just makes no sense.

25 MR. MOSELEY: I can cross that one off the list.

26 MR. GROSS: Okay. Good.

27 --- Laughter.

28 What you're looking for is to increase the net

1 efficiency of the regulatory system, and like I said, there's no
2 simplistic solution to that. There's no quant solution to that.
3 You're going to have to use some judgment and you're going to
4 have to put that out for everybody to see and judge you in terms
5 of whether you're doing a good job on that. Sorry, but that's
6 just the way it is.

7 And lastly, I think the other pitfall that you should
8 try to avoid is letting anybody use this exercise as a stomping
9 horse to question the legitimacy of your policy objectives.
10 That's not what this should be about. That's not what this
11 should be allowed to be about. This should be about finding
12 optimal ways to efficiently achieve those policy objectives
13 rather than cutting them back.

14 MR. MOSELEY: Great. Thank you. Trish, any other
15 pitfalls you think we should be careful to avoid?

16 MS. CALLON: Yes. One thing I wanted to talk about,
17 so again, looking at what other jurisdictions are doing. Just a
18 few days ago, the U.S. Business Roundtable Smart Regulation
19 Committee released a publication on what they think is a smart
20 approach to regulation, and it embraces the following: Early
21 engagement with stakeholders, expanded use of cost-benefit
22 analysis, greater use of risk-based performance standards in
23 place of hard and fast mandates, and a commitment to continuous
24 improvement.

25 And it's this last aspect of a commitment to
26 continuous improvement that I think falls under the category not
27 so much of a pitfall to avoid as something to bear in mind. I
28 think that one of the key ingredients of implementing smart

1 burden reduction is the culture change needed to carry it out.

2 Regulatory policymakers often focus on designing new
3 regulatory ideas and don't necessarily systematically look for
4 ways to reduce the costs of existing regulation, so it can be a
5 real shift to think about eliminating requirements and
6 processes. The good thing is that many of us are focused on
7 developing a culture of continuous improvement, so there's an
8 opportunity to share experiences.

9 At Sun Life over the last three years, we've been
10 executing our Client for Life strategy which has really required
11 a step change in how we operate, so new behaviours, actions, and
12 initiatives that we try to put clients at the center of
13 everything we do, and within the legal team, this has translated
14 to developing key performance indicators to help us measure how
15 we support our business partners in achieving our purpose, and
16 it's caused us to look inwards at how we operate and what our
17 processes are.

18 I will say that it's hard work and it can be
19 uncomfortable to put under a bit of a microscope what people
20 have been doing and how they've been doing it for a long time,
21 and it's also a change to be measured on the quantity of what we
22 do as opposed to the quality of what we do, or at least in
23 addition to the quality, but we are making progress and
24 achieving outcomes.

25 And I think some of these kinds of exercises are
26 transferrable to the exercise that the OSC might undertake, so
27 we've done things like implement technology solutions to speed
28 up what was a manual process, eliminated non-value-added steps

1 in a process, and establishing, you know, one best way to do
2 certain things. So, again, looking at what other organizations
3 are doing around continuous improvement might be something of
4 benefit for the OSC.

5 MR. MOSELEY: Great. Thank you. Lots of work going
6 on on all that, and that's terrific. Thank you.

7 So we'll turn it over to questions in just a couple of
8 minutes, but perhaps to wrap up this segment of it, bit of a
9 lightning round, is there anything that you were hoping you'd
10 get a chance to say and haven't had a chance to say, or any
11 priorities that haven't already been mentioned that you think we
12 ought to have in mind as we go forward? Katie?

13 MS. WALMSLEY: I would just add I think to some of the
14 comments that are made earlier, I know the tone and the theme
15 and the focus is on burden reduction, cost reduction, but I
16 think technology keeps coming up and technology is a tool with
17 that, which will require investment and, you know, moving
18 forward to really move things more efficiently and streamline
19 procedures. So, again, just not to move too far in the
20 direction of cost reduction because technology investment will
21 need to be made.

22 MR. MOSELEY: Thank you. Neil.

23 MR. GROSS: I think you do have a lot of opportunity
24 here with low-hanging fruit on matters that are, essentially,
25 administrative and don't have anything to do with investor
26 protection, per se, or market integrity, per se, and that should
27 be where you concentrate and, as Randy said, look for early wins
28 on that. I think you'll gain a lot of ground.

1 I was struck and very pleased to see in the comment
2 letters that there was, you know, so much focus on that rather
3 than any efforts to go beyond it, and there may not be a
4 particular need or appetite to go very far beyond that in order
5 to accomplish your objectives on this initiative.

6 As Katie said, the RAQ is something that people point
7 to in terms of frequency. There were a lot of frequency issues
8 in terms of that and the OBAs, and what I have heard from a lot
9 of industry sources as well is just the -- you should be looking
10 at all the ways and times that you require a double touching of
11 the same issue or information, that that's what's really driving
12 people crazy and driving up their costs. So if you can get rid
13 of those things, you may accomplish what's really needed here.

14 MR. MOSELEY: Great. And I must say, I think
15 Maureen's already said it, but -- in fact, I know she's already
16 said it, but we have been particularly impressed, not surprised,
17 but impressed by the wealth of suggestions. Very concrete
18 ideas, so we've got a lot to work with, which is a terrific
19 problem to have. Great. Trish, any last comments?

20 MS. CALLON: Yeah. Just a couple of things. I agree
21 with both of my co-panelists on the things that you should be
22 focusing on first, that low-hanging fruit and the improvements
23 that can come with technology, and then longer term, you may
24 want to focus on, you know, more investor-focused priorities.

25 And I just want to pick up, Neil, on your point of
26 testing, testing, testing around disclosure. I think that is a
27 really important aspect of a burden reduction in the sense that
28 right now, there are a lot of requirements across both

1 securities and insurance regulation for documents to be written
2 in clear and plain language, and many organizations, including
3 Sun Life, are working hard to do that across the board, but
4 there aren't standards. Yes, it's true that there's some
5 guidance and some sample forms, but having more guidance on this
6 I think would be helpful.

7 And I point to the work that IFIC has recently done
8 with BEworks on looking at the understanding of CRM 2
9 statements. So it's hot off the press, but it's really -- I
10 think it's really important work, and when they did a
11 behavioural audit of the CRM 2 statements, they identified two
12 barriers to investors' understanding of these kinds of
13 statements, which were insufficient goal framing and information
14 overload.

15 And in the behaviourally-informed statements that they
16 tested, they included an interventional showing progress as
17 against a stated goal, so something very simple, and then
18 chunking and simplifying content, and these statements
19 demonstrated an increased investor confidence and understanding
20 and likelihood that investors would actually take an action to
21 meet their goals.

22 So, again, just want to reaffirm, you know, the
23 suggestion that this kind of work can be leveraged by the OSC in
24 the work going forward.

25 MR. MOSELEY: Great. Thank you very much. We'll open
26 it up to questions now. Again, if you have a question, please
27 raise your hand and one of our folks will come to you with a
28 microphone. Yes. We have one right up front here, please.

1 AUDIENCE MEMBER: My question, I'll address it to Neil
2 because he's heard it before. Sort of from the opposite
3 perspective of low-hanging fruit, looking at the regulatory
4 burden faced by investors, built into the regulatory regime in a
5 very fundamental way are civil remedies as a regulatory tool
6 which, of course, rely on investors to bring various forms of
7 civil actions where they've suffered some kind of a loss, and
8 yet realistically, this is almost an impossible scenario if we
9 look at the history of virtually any civil litigation involving
10 suits by investors, whether it's class action or even more
11 hapless individuals taking on a brokerage firm, whatever. Is
12 there any thought to that kind of fundamental rethinking of sort
13 of the design of the regime? Or what do you...

14 MR. GROSS: Well, it would be nice if securities
15 regulators had more tools in their tool box to obtain
16 restitution for harmed investors. Currently, they have some of
17 those tools, but not what I'd call a full tool kit, and we'd
18 certainly like to see them maximizing the tools that they do
19 have.

20 I'd like to see them even pushing the envelope on a
21 little bit in terms of, for example, settlements that should
22 be -- it should have as a pre-condition full restitution having
23 been made, and we'd also like to see the Commission have either
24 internally or use externally qualified experts to assess whether
25 the restitution that has been paid has, in fact, been full.

26 So yes, I think there are some things that can and
27 should be done in that regard. Some of that might require
28 legislative change in order to get the full tool box, but that

1 doesn't mean that there aren't more things that can be done
2 right now.

3 MR. MOSELEY: Thank you. Thanks, Julia. Reminder to
4 anyone viewing by webcast, you're welcome to ask a question by
5 clicking the appropriate button on your screen. I think I saw
6 another question. Yes. The fifth row, please.

7 AUDIENCE MEMBER: Thank you very much. A very
8 interesting session, the whole thing so far.

9 One of the things that I actually have to say we
10 forgot to put in our comment letter, and I'm hopeful, I just
11 wanted to get this comment out there, is that I would hope, as
12 part of this project, the securities regulators think about
13 whether securities regulators need to regulate some areas.

14 I mean, there's always been the controversy about, you
15 know, do we need, whatever that number is, 54-102, the
16 beneficial owner stuff. Do we -- do securities regulators need
17 to regulate proxy voting, for example?

18 So I just feel that over the years, the regulators
19 have the -- has expanded their scope beyond full, true and plain
20 disclosure. Everyone understands that, and regulating the
21 people, the firms, and the individuals who are participating in
22 the securities markets.

23 So that's just one comment. I'm hopeful that that
24 will get looked at, but I also wanted to comment because it goes
25 hand in hand with that, is the complexities of the drafting of
26 some of these rules. They are -- of course, not any of the 81
27 rules, but the other rules, some of the rules -- and the 31
28 rules, of course, too are okay, but some of the other rules are

1 impossible to read and, you know, many of us are lawyers in the
2 audience. Just think about what our poor clients have to go
3 through when they try and figure it out.

4 Frank talked about having to go to lawyers. You
5 shouldn't have to go to lawyers to try and figure out securities
6 regulation, and I didn't put that in my comment letter either,
7 and I wish we had. Thank you.

8 MR. MOSELEY: I was biting my tongue about rules that
9 might have been written seven years ago.

10 If I can just briefly, and I'll open it up to anyone
11 else as well, but just on the first point, Rebecca, just to say
12 we're very mindful of that. You know, we've had discussions
13 just this week, both in the context of, you know, an emerging
14 area, but also in the context of this project about do we need
15 to be regulating those areas? Should we be? And it's very much
16 part of the, explicitly, part of the mandate of this initiative
17 to look at areas that are currently regulated and to be saying,
18 "Is this outmoded?" And that could be down to a very granular
19 level or it could be big. As Maureen said, everything is on the
20 table.

21 So even if you think of things you wished you'd put in
22 your letter, if you haven't yet put in the letter, Naizam may
23 kill me, but it's never too late.

24 Anyone on the -- yeah, Katie.

25 MS. WALMSLEY: Further to Rebecca's comments on the
26 areas that perhaps we don't need to regulate, I think a theme in
27 many of the letters that I saw that I'd like to reiterate is the
28 carve-outs needed for institutional clients, and I think so many

1 of the rules are written with the retail investor in mind and
2 are very important, and that is where the investor protection
3 concerns really are, but often when we see the final rules
4 published and our institutional managers are reading them and
5 they're looking at them thinking, "How do I implement that? And
6 what value is this adding for my institutional pension clients,
7 foundation clients, et cetera?" So I'd echo Rebecca's comment
8 that there's opportunities there.

9 MR. MOSELEY: Okay. Any other questions? No. Okay.
10 Well, that was a terrific discussion. I'd ask you, please, to
11 join me in thanking our panelists for a great --

12 --- Applause.

13 MR. KANJI: Thank you, Tim, and the panel. We will
14 now take a short break and promptly start at 3:40. So look
15 forward to seeing you back soon for what we hope will be another
16 interesting panel discussion. Thank you.

17 --- Recess at 3:15 p.m.

18 --- Upon resuming at 3:40 p.m.

19 TOPIC 3: What's Next - the way forward.

20 MR. KANJI: So the first two panels that we heard have
21 provided us with the perspective of market participants and
22 investors on getting the regulatory balance right so we have
23 effective regulation to protect investors while minimizing the
24 regulatory burden on market participants, what has been referred
25 to as smart regulation.

26 It also felt a little bit like capital markets
27 therapy, so it was very good hearing all the different
28 perspectives and the candid perspectives. It tells us that this

1 process is working as intended.

2 In this panel, we'll be hearing from representatives
3 of three key regulators on the way forward and where we, as
4 regulators, should focus our efforts. I know it's early days
5 and there will be additional developments as the comments we
6 received are reviewed, as today's comments are digested, and
7 further roundtables are held, but we did want to start this very
8 important conversation today with a panel of regulators.

9 With us, on my left, Debra Foubert, who is the
10 Director of the Compliance and Registrant Regulation Branch at
11 the Ontario Securities Commission. On her left is Andrew
12 Kriegler, the President and Chief Operating Officer of the
13 Investment Industry Regulatory Organization of Canada, and then
14 next to him, Karen McGuinness, Senior Vice-President, Member
15 Regulation - Compliance, at the Mutual Fund Dealers Association.
16 Welcome to you all.

17 I'd like to start by asking each of you how your
18 organization is addressing burden reduction. What are the key
19 areas of focus? What challenges do you foresee? Are there any
20 specific steps you're already contemplating within your
21 organization? And how, over the issues that have come up, how
22 would you work together to reduce regulatory burden? I'll start
23 with Andrew.

24 MR. KRIEGLER: So I suppose it's fair to say that
25 there aren't that many new ideas and reducing regulatory burden
26 isn't a new idea, but it is a good one. We took the approach
27 beginning about a year, year and a half ago of trying to look at
28 what the challenges were in the industry to serving Canadians

1 better and what the obstacles were in the way of that.

2 So over the course of the last year, we worked with a
3 variety of industry stakeholders in partnership with our
4 colleagues at Accenture, and tried to look at where they saw the
5 needs for Canadians evolving in terms of the types of advice,
6 financial products, and financial services that they wanted to
7 consume.

8 Building off of that, we asked the question, "What's
9 stopping you from getting there?" And a good portion of that
10 answer is the form and structure and application of regulation.
11 It's not all of it, but it is a big part of it.

12 So the approach we've taken to the question of
13 regulatory burden is perhaps the other side of the coin, the
14 same coin, that this discussion is about today and that the
15 OSC's efforts are about, but it's focused on looking at what
16 needs to be prepared for the future.

17 And I think there's a couple of interesting things
18 that have come out of it, many of which have already been
19 touched on by our colleagues earlier in the day: The issues
20 around duplication of regulation or regulatory processes either
21 within regulators or across regulators; the literal application
22 of rules that were designed in a different time and perhaps the
23 inability of some organizations, including our own from time to
24 time, to apply them based on the principle or the regulatory
25 policy objective that had originally been formulated.

26 So a good piece of what we're going to be doing over
27 the course of the next couple of years is preparing our
28 regulatory framework, under the auspices of the CSA to whom we

1 all report, to prepare for the future.

2 So I think there's a lot that I can go into on that,
3 but I don't want to suck all the oxygen out of the room. I will
4 highlight that we published our report with Accenture a couple
5 of days ago, and I'd encourage you to take a look at it.

6 There are a variety of ways in which I think we can
7 make the system better in co-operation with the industry, in
8 co-operation with our colleagues at the CSA, and importantly,
9 working side by side with the investors whom we all serve across
10 the country.

11 MR. KANJI: Thanks, Andrew, and as chief executive
12 officer for that.

13 Karen, what would you say from the perspective of the
14 MFDA?

15 MS. MCGUINNESS: Thank you for inviting me today.

16 I'd say that assessing the impact to the industry and
17 investors is something that is incorporated into everything that
18 we do. Before we even consider a rule amendment, for example,
19 the first question we ask is, do we need a new requirement or do
20 we just need to be more effective in the application of the
21 existing rules? So can we accomplish better results, for
22 example, through a combination of additional guidance or perhaps
23 a focus in compliance and enforcement rather than creating a new
24 requirement.

25 In some cases, we have to or we do believe it's
26 appropriate to develop a new rule, and in those cases, we don't
27 engage in any drafting process until we can clearly articulate
28 the objective of the rule or what outcome we're trying to

1 achieve, and we don't start the drafting process until we can
2 understand how our members and their advisors will
3 operationalize the new requirement, so what are we looking for
4 from advisors in terms of their behaviour and what are we
5 looking for from members in terms of their ability to supervise
6 compliance with the new requirements.

7 And sometimes to fully understand the operational
8 impact of a new requirement, we need to engage in advanced
9 consultation with the industry and that might involve a
10 discussion paper or multiple discussion papers, it might involve
11 establishing working groups or it might be undertaken through
12 our regular outreach initiatives like our member regulation
13 forms.

14 As I mentioned, not only do we look at the impact to
15 the industry, but we also look at client impact, and in
16 assessing the client impact, we don't just look at what are the
17 investor protection benefits, but we also look at whether the
18 new rule will impede or somehow improve the efficiency of the
19 advisory process. We also keep in mind that anything that adds
20 cost to the industry will likely translate into costs to
21 clients, to investors, and one of the important, I'd say, one of
22 the important benefits of the client research that we performed
23 last year is it has improved our ability to assess client
24 impact.

25 So as some of you may know, we have data on all the 9
26 million households that are serviced by MFDA members and we do
27 use that data to help us better understand client outcomes and
28 assess the impact of regulatory change.

1 Periodically, we also do a review of our rule book
2 which we're in the process of doing now, and when reviewing our
3 rule book, we consider whether the requirements are outdated
4 given the changes to the industry or if there are rules that are
5 no longer providing sufficient investor protection value.

6 Right now, we're also currently in the middle of a
7 member outreach initiative and there's some preliminary themes
8 coming from members as part of that project. One, members are
9 looking for more guidance to assist them in complying with our
10 regulatory requirements and we fully support this request
11 because we do not want the first time a member to hear about or
12 to become aware of an MFDA interpretation is through a
13 compliance examination or, worse, an enforcement process.

14 The second theme coming out of our outreach initiative
15 is that members are looking for greater flexibility in their
16 supervisory structures or supervisory systems, and this is being
17 driven by both advancements in technology as well as new
18 business models. So, of course, we're considering these
19 comments in our rule book review process.

20 And then finally, we have seen an increase in members
21 offering model portfolio solutions to clients in order to allow
22 advisors to focus more on client needs and provide more
23 holistic, goals-based financial planning advice. So members
24 have been asking us to consider new business models which would
25 allow for better client service and we're currently in the
26 process of evaluating those proposals.

27 One final initiative that we have been engaged in in
28 the last several years is our innovation outreach. So members

1 are increasingly adopting new technology to enhance efficiency
2 or to offer new products and services to clients, and we've been
3 encouraging them to proactively collaborate with us to
4 facilitate a successful and compliant implementation, and this
5 initiative has kept our compliance department quite busy. I'd
6 say that probably we're meeting with members at least weekly
7 outside the context of an examination to discuss operational
8 changes, and it might be small operational changes or it might
9 be quite substantive.

10 So these direct communications have provided us
11 insight into emerging issues and how our members are positioning
12 themselves to meet the future needs of their clients as well as
13 the needs of their advisor base and, of course, that information
14 that we obtain through this process, that's really helped us
15 form our own strategic initiatives and our current regulatory
16 approach.

17 MR. KANJI: Thanks, Karen. Deb?

18 MS. FOUBERT: So I don't know why I got the honour of
19 representing all of my esteemed colleagues at the OSC, but there
20 may be payback at some time. And also throughout the break, I
21 was trying to come up with a new acronym for OBAs because, you
22 know, I was trying to get something punchy, and in the short
23 period of time, I wasn't able to come up with anything on that,
24 but we'll keep working on that.

25 So I just wanted to say, you know, as the OSC, we're
26 really committed into evaluating all of the proposals that were
27 put forward through the comment period. We're committed to
28 reviewing our internal processes and regulatory requirements to

1 determine where we can reduce burden without compromising our
2 regulatory mandate.

3 I know that there's many initiatives within the OSC
4 already that is focused on this, and Staff is totally engaged.
5 There's things that we see on a daily basis that we're, like,
6 "Oh, my gosh. We've got to change this." So this has given us
7 new vim and vigour to be able to go through and look at those
8 and, you know, especially to knock off some of the ones off of
9 my list.

10 So we are looking at, you know, outdated regulatory
11 requirements. You know, data is very important now and we've
12 been enhancing our use of data as technology advances, so we're
13 looking at, you know, data that may have been collected before
14 which may not be useful now and whether or not -- or if our
15 information needs have changed, that the data isn't meeting our
16 purpose, so I mean, we're totally behind that. Redundant data
17 collection or filing requirements, delays that may impact
18 approvals, you know, everybody within the organization is
19 looking at places where we can reduce burden, focus on our
20 mandate to be able to make it an easier working relationship of
21 all of our registrants as well.

22 So, I mean, we were talking about some challenges, you
23 know. I think with disharmony brings about regulatory burden,
24 so we are working, you know, obviously, we have to work with our
25 CSA partners, our SRO partners. We do that very well. We're
26 always in contact. We always have avenues of communicating and
27 discussing and trying to work on things together. So if there
28 is overlap, you know, we're happy to look at those and there

1 have been many suggestions put through the comment period, so we
2 definitely will be looking at all of those, but we definitely
3 are supportive of that.

4 Technology, yes, we know everything, everything could
5 benefit from better technology and, you know, we're taking
6 initiatives to do that. One example is that with all of the
7 client-focused reform letters that we receive, we did some
8 natural language processing on those letters to be able to get
9 some sentiment analysis. So, I mean, we as an organization are
10 trying to embrace new uses for technology where we can as well.

11 So I just -- I think that from the perspective of the
12 OSC, we are totally committed to this, Staff is energized about
13 this, and open to looking at all of the opportunity and working
14 with all of our partners to be able to make this happen.

15 MR. KANJI: So to follow up on that point, you know,
16 you all -- first, we're very grateful for Andrew and Karen for
17 joining us because while this is an OSC initiative, it's obvious
18 that tests involve the SROs and also the CSA.

19 So you all do, you know, similar things in oversight,
20 enforcement, policy-making, and we all have different sort of
21 phases of so-called modernization or burden reduction-type
22 ideas. How much opportunity do you see for collaboration among
23 all these lines, both in terms of, you know, these different
24 areas, you know, that we are all engaged in and in, essentially,
25 going forward, you know, what opportunities do you see full
26 collaboration? And Andrew looks like he's very interested in
27 going first, so I'll let him.

28 MR. KRIEGLER: I think it's interesting because we've

1 talked about burden reduction today in the context of securities
2 regulation, but I think we all have to acknowledge that as
3 Canadians' needs evolve, they're consuming financial services
4 that touch more than one regulatory sphere. I think that
5 point's been made already, and that brings Canadians in touch
6 with more than one regulator at the same time, and sometimes
7 that can be difficult. Earlier panelists spoke about the
8 intersection between securities regulation and insurance
9 regulation as one example and it's a good one.

10 So I think the bar is continually getting higher for
11 us to collaborate and co-ordinate and co-operate with our
12 regulatory partners, be they members of the CSA, who also
13 oversee us, be it our insurance colleagues, be it our federal
14 colleagues at FINTRAC or at OSFI or at CDIC or the Bank of
15 Canada, and that is just going to get more important rather than
16 less.

17 And I think the reason that we need to emphasize this
18 is because the needs in which -- the way in which Canadians'
19 needs are evolving or wants are evolving is happening under
20 three different dimensions at the same time. It's the types of
21 products and services that they want to consume, sort of a what,
22 it's the level of advice or not that they choose to want to get
23 during that process, you know, the how, do they want to get it
24 themselves, do they want to interact with an advisor of some
25 kind at some point, and at what points in their process in their
26 lives do they want to have that interaction, the when?

27 And so there are points at which you will be in a very
28 intensive, we could be in a very intensive relationship with an

1 advice-giver and other points where you may want to do it
2 yourself, and all that's fine, and the challenge is that our
3 regulatory model, and I think this is true for the IIROC world,
4 and I don't want to speak for my colleagues at the table here,
5 wasn't built in a time when the flexibility to move up and down
6 that spectrum existed, and it's there now. So that means our
7 regulatory model has to adapt to be equally flexible.

8 What does that mean? That means on a risk basis, if
9 there's less risk in the product/client connection, then there's
10 probably less directive or less prescriptive oversight that
11 needs to be applied, but if it's more complex, higher touch,
12 what have you, then there's probably more that needs to be
13 applied, but it needs to be scaleable up and down.

14 Randy spoke earlier about the challenges to bring the
15 scaleable model, and one of the reasons that I think that was
16 really important is because scaleability, at least in one form,
17 also means access, and we do talk from time to time about access
18 to advice and access to financial products writ large, but I
19 think it's really important to underline that to me anyway,
20 access to advice actually is an investor protection element
21 because if you're sending people out into the world without
22 access to the advice they need to make their own proper
23 financial decisions, that's not going to lead to a good outcome
24 for society.

25 So the more we can make the system more flexible and
26 more scaleable, the better off, not only the industry, but
27 ultimately, the Canadians that they serve will be.

28 MR. KANJI: So Karen, just point to you then, it looks

1 like what's a sort of red tape, burden reduction beginning, sort
2 of moves into some modernization, and so how do you see that,
3 especially in the context of the collaboration among regulators?

4 MS. MCGUINNESS: Yeah. I think I echo Andrew's
5 comments that there has to be more flexibility, and you do see
6 some, you know, merging of services between the various
7 registrant categories and that makes you question, you know,
8 does our current regulatory model facilitate that movement for
9 clients? And so, certainly, I agree with that.

10 I think, though, that those are bigger questions. I
11 think there's probably even more we can do in terms of easier
12 wins within our various groups as it stands right now. So I do
13 believe, you know, we do our best to harmonize, but sometimes
14 you're so focused, you know, when you're a regulator and you're
15 dealing with a particular issue, it's instances like this or
16 initiatives like this that make you stand back and say, "Should
17 we be communicating some of these things more across, you know,
18 across regulators, and how do we do that, and how do we improve
19 collaboration?"

20 So I think there are easier wins that we could be
21 looking at or shorter-term wins, but I do agree with Andrew that
22 a review of the entire regulatory model is definitely something
23 that should happen, and I think we encourage that to happen as
24 soon as possible.

25 MR. KANJI: Andrew?

26 MR. KRIEGLER: Think I actually asked for a review of
27 the entire regulatory model, but now that you bring it up, in
28 some people's minds, there is an elephant in the room that's got

1 "Regulatory Model" written on the side of it, so...

2 MS. MCGUINNESS: I'll just take that as us agreeing.

3 MS. FOUBERT: I'll agree on the item about there
4 definitely is blurring of lines between what we do. So I do
5 know that we do attempt to make sure that we don't overlap and
6 put duplication on, so I mean, I do think that we have a very
7 good working relationship on that, but there's definitely more
8 that we can do.

9 I mean, there's a lot of things that came through on
10 the comment letters, you know. I heard a couple of people talk
11 about the 31-103, 11-9, 11-10 filings and stuff like that, so I
12 mean, there are areas, obviously, as I said, we're open to
13 looking at everything. I think with Maureen's statement that
14 we're going to be bucketing them into short-, medium- and
15 long-term goals, that we'll be able to address a lot of those
16 items and work with everyone the best we can.

17 MR. KANJI: So then moving to the comments and the
18 discussion so far with the other two panels, and I'll start with
19 you, Karen, on this, you know, is there anything in the comments
20 that you saw, the written comments and the discussion of the
21 prior panel that has changed your views in terms of what the
22 focus should be from your perspective, and was there anything
23 that you were surprised that you heard or that you were
24 surprised you didn't hear? And I'll be asking the same of the
25 other panelists too.

26 MS. MCGUINNESS: Sure. I would say that I think
27 there's a lot of commonality in the comments that are coming out
28 of the panels, as well as the submissions. I did read some of

1 the submissions that were submitted as part of your survey, and
2 I think at a high level, what the industry is looking for is
3 harmonization by all regulators across Canada, and probably more
4 aspirationally across all financial services segments, I think
5 they're looking for elimination of regulatory duplication, and I
6 think what really came across is they're looking for reasonable
7 and practical application of regulatory requirements.

8 And I know there were some issues raised by investor
9 advocates. They were concerned that this burden reduction
10 initiative shouldn't be about just eliminating regulatory
11 requirements which could have negative impact to investors. I
12 haven't heard that. In fact, I've heard the opposite. I don't
13 think the industry is looking for a wholesale elimination of
14 requirements, but I think they're looking for reasonable
15 applications and requirements in a manner that makes sense for
16 their business model.

17 I think they're also looking for more guidance on how
18 to comply with regulatory requirements and I think they're
19 looking for greater opportunities to engage with regulators to
20 provide input in terms of how regulations impact their
21 operations and perhaps suggest alternatives which could achieve
22 the same objective, but maybe more in line with their business
23 model.

24 So I think all of those general requests, there's
25 actionable items in each of those areas.

26 MR. KANJI: Deb.

27 MS. FOUBERT: So, definitely, there were thoughtful
28 comments. I mean, there was a lot of broad, general comments

1 and then very specific which is always good because we can
2 action those. So I think overall that we're very appreciative
3 of all the comments and, you know, we're still through the
4 process of reviewing, so not only did we get the industry
5 comments, we've got Staff comments too that we're working
6 through, and so there's still definitely a lot of work to work
7 through on that.

8 The one thing out of the comment letters, though, that
9 I thought was interesting was the difference of opinion
10 regarding guidance. So, you know, we, especially in the
11 compliance department, when we do compliance reviews, we base it
12 upon securities law requirements, but then certain times, we
13 discuss guidance, and so I think that there's been some
14 confusion maybe about how guidance is used within compliance
15 reviews, and a number of branches do compliance review activity.
16 So, I mean, obviously, we always ground everything that we do
17 within the actual legal requirements. Guidance is really there
18 for helping registrants comply with the regulatory guidance or
19 understand where the Staff is coming from.

20 And I think that we've done a lot in the past couple
21 of years to help registrants get information and access to more
22 guidance. I mean, there's -- every year we publish the Annual
23 Report for Dealers, Advisors and Investment Fund Managers where
24 we talk about common deficiencies and we talk about best
25 practices that we learn, so that way, you know, there's a
26 sharing of information and a transparency about best practices
27 in the industry. We've also done the topical guide for
28 registrants where we do links to the relevant guidance for over

1 a hundred topics.

2 So, I mean, I think that, you know, guidance -- the
3 prior panel talked about principle versus prescriptive-type
4 regulatory regime. You're going to need guidance, and so we've
5 often been asked by registrants for more guidance, so, you know,
6 but then in some of the comment letters, there was comments
7 about there's too much guidance.

8 So we've got to strike that right balance. Obviously,
9 we don't have the right balance at this point, so I think that
10 we, I mean all of our organizations rely upon guidance as being
11 transparent on how Staff thinks. So I think we're going to have
12 to look at that and strike the right balance between, you know,
13 what we're providing and what the industry needs are.

14 MS. MCGUINNESS: Yes. Can I just mention something?
15 One of the things I saw in the comments was comments that the
16 industry wanted more guidance, but then they didn't want you to
17 use that guidance when you actually do your examinations, and I
18 would suggest to you that that's unrealistic, that when you put
19 out guidance, we want to be transparent about what we expect, if
20 it's an examination, what we are looking for. Where I agree
21 that it -- as guidance, there might be different ways to meet
22 those objectives, but I don't think people should be surprised
23 that our regulatory staff, our compliance staff, our enforcement
24 staff are actually -- the way they're interpreting the rules, if
25 we provided guidance, that provide some clarity in terms of how
26 we do interpret those.

27 MR. KANJI: So, you know, just to sort of take that on
28 a little further, is one of the concerns though that perhaps

1 guidance is used to expand, you know, the scope of what's being
2 regulated over and above, say, the requirements? Is that, you
3 know, one of the concerns? And Andrew can start with that and I
4 can have the others, and together with your thoughts on what you
5 heard from the comments and the prior roundtable panels.

6 MR. KRIEGLER: Sure. Well, I'll touch on that one, I
7 think, and then maybe go on from there a little bit.

8 You know, I think the ability to use guidance to
9 clarify expectation is important because particularly as we
10 move, as I think most people in the industry and, indeed, most
11 of our colleague regulators feel that more principle-based rules
12 are appropriate, interpretation is inherently a part of a
13 principle-based rule set. So you have to be able to give some
14 context, some perspective as to how those might be applied in
15 certain circumstances. Otherwise, what you end up doing is
16 putting all of the discretion in the hands of the regulatory
17 body and I don't think that's actually what the industry wants.
18 Makes it harder to understand what the expectations are. So I
19 think that's the one observation I'd make.

20 I think the other point in terms of the earlier
21 comments that were made that I really want to underline because
22 I thought it was terrific, it was Trish's comment: The goal of
23 this exercise is to make compliance less costly. It's not to
24 stop compliance. It's to make it less costly, and I would say
25 the other side of that phrase is to make it more effective, and
26 that's where the debate or the use of technology really has to
27 come to the fore, because the way in which the system, the IIROC
28 system, the MFDA system, the OSC's, Autorité des marchés

1 financiers, everybody, the way in which we sought to see that,
2 sought to verify that compliance was happening was built in a
3 world where a lot of the technology that we have today simply
4 didn't exist.

5 So let me give you just quickly two examples. KYC:
6 The automation of account opening offers enormous opportunity
7 for greater consistency, greater quality of data, better
8 insights about the client and their needs and their risks, but
9 it, of course, also needs, you know, needs to be overseen in a
10 fashion that actually works. Well, we're open to that. We want
11 that. I think all of you want that as well. So there's a lot
12 there.

13 Another, just very quickly, one more is trade
14 supervision which is, you know, less of an issue for some parts
15 of regulators than others, but gosh, trade supervision screams
16 out for big data analysis. It's not pulling a sample of 10.
17 It's looking at the entire trade profile and asking what the
18 data tells you you should be looking at in more detail.

19 That's the goal, the policy goal of the underlying
20 regulation. It's not worded that way today and that's one of
21 the ones that we're going to fix with the help of all of you in
22 this room and across the country, but those are the ways in
23 which we need to apply technology to make compliance less costly
24 and more effective.

25 MR. KANJI: Thanks, Andrew. Now, just moving to
26 something that came up in the earlier panel, the second panel,
27 which was this, the question of how do you prioritize and cost
28 out burden reduction initiatives, and to what extent can

1 industry and market participants help you do that, and what kind
2 of information, what kind of assistance do you think you would
3 need in doing an effect burden reduction prioritization and
4 costing out to make sure that we focused on the right issues?
5 So Deb, your point of view?

6 MS. FOUBERT: So let me start with the costing
7 component because we had already started with our Registrant
8 Advisory Committee and a couple of industry associations to get
9 a handle on cost of compliance, right, because everybody is
10 saying cost of compliance is increasing which, you know, there
11 is evidence to support that, but I think that we're trying to
12 attempt to get a baseline of what the cost of compliance is and
13 how to determine what actually goes into that bucket of cost of
14 compliance.

15 Through just our work with our Registrant Advisory
16 Committee, we're learning that there are so many differences of
17 opinion as to what should be included in calculating the cost of
18 compliance and there's infinite ways firms are allocating those
19 costs along business lines. So, and plus there's also a ton of
20 regulatory obligations outside of securities law that add
21 substantial costs. Somebody had mentioned a FINTRAC reporting
22 requirement.

23 So we really are trying to work with our Registrant
24 Advisory Committee and anyone else that wants to take up the
25 challenge to come through and really try to develop what we can
26 say as a model to be able to cost out securities law compliance.

27 Now, we just started it with our little group first,
28 but we anticipate that we'll be able to work with our SRO

1 partners on that as well to be able to come up and say, okay,
2 when we talk about cost of compliance, these are the factors
3 that go into developing the cost of compliance, and then we know
4 that there's going to be -- obviously, there's different
5 business models and there's different elements when you go
6 through the size of business units. So, like, that's really
7 where I think, if we have a baseline to determine what cost of
8 compliance is now, then we'll have a better marker to be able to
9 say, you know, how much burden we've been able to move to
10 eliminate in that respect.

11 So that is work that we're doing now, and on the
12 question about how do we prioritize, well, I mean, I think that,
13 you know, we're going to be communicating through other
14 roundtables coming up in May, so, like, very interested in
15 finding out what people think, what the most -- the items to be
16 prioritized are.

17 So, I mean, there's going to be a lot of communication
18 back and forth I would say, and once we get through all the
19 letters, then we'll have communication on that.

20 MR. KANJI: Andrew.

21 MR. KRIEGLER: So a couple of thoughts:

22 First, I'll just reference back, the kind of outreach
23 to the industry that we did as part of this report that I
24 mentioned earlier, the evolution of advice. The most important
25 part of it I think is not just the sheer number of people and
26 organizations that we spoke to which was, you know, 60, more
27 than 60 executives, 25 or 30 organizations, not only IIROC
28 dealers, but direct registrants of the commissions, MFDA

1 dealers, others, service providers, some Ian mentioned,
2 Broadridge and ISM and others, to get different perspectives,
3 but it's not only that. It's the type of people we spoke to at
4 those organizations and I think that's a key part of this next
5 journey for the OSC, but also for ourselves in what we're doing
6 on the evolution of advice.

7 And that is, we spoke to business and strategy
8 leaders, not only to those charged with governance and/or
9 compliance because you have to get both points of view. The
10 business leaders are driving their businesses forward because
11 they see a need to be fulfilled, to be met on the heart of their
12 clients and customers, and the compliance and legal folks are
13 saying, "Okay, these are the guardrails we have to operate in."

14 If you don't know where they're kind of trying to take
15 the business, having the conversation with the compliance folks
16 gives you half the story. You don't know where they're going,
17 and so I think that's the most important part of the next phase
18 of our exercise and I think it's a useful lesson for us to pass
19 on to our colleagues here at the table.

20 The other thing I would say in terms of how we get the
21 most out of the interactions with the industry to focus on
22 burden reduction or planning for innovation is to encourage all
23 of you to be bold, to challenge established wisdom, because
24 otherwise, we're going to come up with maybe evolutionary change
25 and I think there's an opportunity given, for example, the kinds
26 of technological capabilities that the world is providing us,
27 for something a little more dramatic than that. I mean, some of
28 those will, if you are bold, will kick out ideas that may not be

1 acceptable to everybody and that's okay. We have to have the
2 debate about the ideas.

3 I will, for example, probably not immediately agree
4 with Randy's contention that you can do a two-question KYC and
5 you're done. On the other hand, I might agree with Frank
6 Laferriere's comment that perhaps, you know, some flexibility to
7 allow organizations to consolidate their regulatory oversight
8 would be a good idea, but the debate needs to happen and it
9 needs to happen with the right people at the table and that
10 includes all of those charged with compliance, legal oversight,
11 and business leaders.

12 MR. KANJI: Karen, any thoughts? And then we will --
13 talking about technology, we have a question from our webcast
14 that I'll read out after.

15 MS. MCGUINNESS: Thanks. Yeah, I think if I would
16 give a recommendation, it would be to thoroughly engage in the
17 process or the opportunities that are available to you, so I
18 think we talked about not just this initiative, but Andrew's
19 talked about the initiatives they have at IIROC and, of course,
20 we've got our outreach initiative, and that is really designed
21 to understand all the issues and the challenges, and also where
22 the industry, how they see, what other strategic directions,
23 what do they see this industry looking like one, three, five, 10
24 years from now. So I really think it's important to engage and
25 it looks like there is a lot of interest in this, in this topic.

26 I would also make the recommendation that, and it kind
27 of came up in some of the earlier panels that burden reduction
28 isn't just about rules or amending rules or policy initiatives.

1 It's also about us being effective. Are there ways that we can
2 be more effective in meeting our mandates as well?

3 I know there was a discussion about Web sites and how
4 to transfer information back and forth between the registrants
5 and the regulators. So I would certainly recommend any thoughts
6 with respect to that, that you would submit them to us because
7 that's valuable information and it helps us improve efficiencies
8 of our own operations.

9 MR. KANJI: Thank you. So I'll start the question
10 phase of our panel discussion and I'll start the question from
11 the webcast.

12 Someone asked: Please comment on whether we can
13 simplify the process of verifying accredited investor status
14 through technological solutions.

15 MR. KRIEGLER: Yes.

16 MS. FOUBERT: Yes.

17 MR. KRIEGLER: But it goes beyond that. It's not just
18 verifying accredited investor status. It's making the process
19 by which you verify the identity of your client for money
20 laundering and other purposes more effective and more efficient.

21 So yes, there's, absolutely, there's a variety of ways
22 in which we need to work with the industry to make obtaining the
23 policy objective easier.

24 MR. KANJI: So the issue of technological solutions in
25 different ways, how regulators work, interface with the
26 regulated, how the regulating -- you know, the registrants and
27 others interact with their clients, that has come up over and
28 over again. Is technology, do you think it's one of the big

1 areas we should be focusing on as we go forward in terms of this
2 process?

3 MS. FOUBERT: Well, I mean, I think it's definitely
4 going to be a part of where we go in the future and, actually,
5 you know, I'm surprised there hasn't been more advancements in
6 the Know Your Client type activity. Like there -- most of it is
7 focusing around the money laundering-type activity, but it
8 hasn't really gone from what we've seen into the realm of the
9 securities law and investment profile and things like that, or
10 the accredited investor understanding.

11 So yes, I mean, I think that that's the way that we
12 have to be able to move in the future, and I don't think that
13 there's anything that, you know, in the things that we do that
14 inhibits that as long as the regulatory objective is able to be
15 maintained. We don't dictate how things are being done or, you
16 know, what mechanism it has to be done. As long as the
17 regulatory principle is met, you know, in my opinion, more power
18 to them.

19 MR. KRIEGLER: Yeah. I would echo that. I would go a
20 little further in a sense. It's not so much how you get there.
21 It's where you get, and that there continues to be someone or
22 some organization that's accountable for the -- you know, for
23 delivery on that.

24 So, you know, from an earlier part of my life, I was a
25 Prudential regulator, and one of the things that we did in that
26 organization was allow sufficiently sophisticated financial
27 institutions to calculate some of their own capital guidelines.
28 Well, we vetted the models to make sure that we agreed with the

1 way in which they were working. So is -- there's someone
2 accountable to make sure that it all kind of fits together.

3 There are a variety of ways, we've outlined some of
4 them today, where technology can aid the system in getting to
5 the policy objective. Let's use them.

6 MR. KANJI: So we have another question that goes
7 broader and it -- and I'll just read it out:

8 Most individuals rely on the investments to fund their
9 retirement. If you look at where professional pension fund
10 investors invest the funds under their management, public
11 markets are no longer a priority, something that came up in the
12 first panel. Could the burden reduction exercise be an
13 opportunity to reflect on whether our system, which essentially
14 restricts most investors from public markets, provides access to
15 the right types of investments, obviously beyond the public
16 markets? So, Karen, do you want to take that on?

17 MS. MCGUINNESS: I think that's a Deb response,
18 actually. Maybe we can -- we don't have --

19 MR. KANJI: I have to go back and work with Deb, so I
20 was hoping to give that to you first.

21 MS. MCGUINNESS: No, the only reason why I say that is
22 because, obviously, all the investments that our members are
23 essentially selling are investment funds, or at least 96 percent
24 of it. So I'm not sure that I'm the right person to answer.

25 MS. FOUBERT: So I would say that with the spectrum of
26 the exempt market, I think Frank mentioned that earlier in the
27 presentation, you know, there is a variety of products that are
28 available in the exempt market. I think, yes, we have to be

1 open to be looking at the exempt market because that drives
2 capital formation and that helps Ontario and it helps Canada to
3 be able to capital raise.

4 So yes, I think that there's -- obviously, we have to
5 look at that, we have to be open, but the investors in that
6 arena have to know the risks, right? I mean, it's usually --
7 exempt market products could be illiquid and, you know, if
8 people have high concentration of their retirement funds in
9 illiquid investments, you know, that's stuff to be concerned
10 about as well.

11 So I think that, of course, we would always be open to
12 looking at that, but you've got to balance off the risks and
13 versus, you know, what people, what retail investors understand.

14 MR. KANJI: So on that note and the issue of balance,
15 I'm going to end this very interesting panel, and thank you to
16 our panelists and, you know, for a very informative, interesting
17 discussion. Thanks.

18 --- Applause.

19 MS. JENSEN: So thank you very much, Naizam, and thank
20 you to our last panel.

21 So without further ado, it's my distinct pleasure to
22 introduce The Honourable Victor Fedeli, Ontario's Minister of
23 Finance and the MPP for Nipissing.

24 Minister Fedeli hails from North Bay where his
25 company, Fedeli Advertising, was once ranked among the 50 best
26 places to work in Canada. Following the sale of his firm, he
27 dedicated the next 11 years to various non-profits before
28 entering politics. He won two terms as mayor of North Bay, both

1 with landslide victories, before being elected as MP in 2011.
2 He has served as the energy critic and finance critic, and in
3 2018, was appointed as Ontario Finance Minister and Chair of
4 Cabinet and my boss.

5 As Finance Minister, he's demonstrated a clear focus
6 on enhancing Ontario's economic competitiveness and creating
7 opportunities for business and investors, and as you heard
8 today, we're working closely with the Ministry of Finance on our
9 burden reduction efforts, as well as on numerous other projects
10 that fall under our mandate.

11 So we value the Minister's support as we continue our
12 efforts in coming months and years, and very pleased that he was
13 able to make it today and to be able to speak with us.

14 Please join me in welcoming The Honourable Victor
15 Fedeli to the podium.

16 --- Applause.

17 CLOSING REMARKS: The Honourable Victor Fedeli.

18 THE HONOURABLE VICTOR FEDELI: That was my commission,
19 that last piece.

20 Hi, everybody. I'm Vic Fedeli, MPP from the great
21 riding of Nipissing, and it's so wonderful to see so many of you
22 here today and so many friends, actually, in the audience.

23 Maureen, thank you for the wonderful introduction.
24 It's been great getting to know you and working with you, and
25 I'm so pleased with the developments today.

26 I want to welcome Greg Orencsak, the Deputy Minister
27 of Finance, and just an unbelievably great partner for us. I'm
28 going to use the expression there's no daylight between us in

1 all of our issues that we go through. So, Maureen, it's been
2 really wonderful working with you and Greg as we talk about the
3 burden reduction plan.

4 We have Eric and Robert and Rahul from my office here.
5 They don't let me go anywhere without them. So we brought the
6 team along, and Eric has been here all day and I understand from
7 Eric that the discussions were very productive towards reducing
8 the burden on businesses and investors who engage in Ontario's
9 capital markets.

10 Premier Doug Ford sends his greetings. We just left
11 our cabinet meeting so I could come here, but he also has sent a
12 very clear message that Ontario is open for business and open
13 for jobs.

14 --- Applause.

15 All right. We'll go with that.

16 Our government made a commitment to reduce red tape by
17 25 percent by the year 2020. It's an ambitious target that
18 we're taking very seriously by introducing legislation a couple
19 of times a year, and the Premier is so committed to this red
20 tape reduction, it's not a bumper sticker. It is a genuine
21 effort to reduce red tape, the burden of red tape, so much so
22 that he's appointed somebody I'm sure is quite familiar to all
23 of you, Giles Gherson, who is the Deputy Minister of Red Tape.
24 That's how serious the Premier takes this, and so in the
25 financial sector, this means enhancing fairness, efficiency,
26 competitiveness of our capital markets.

27 We've been working with Maureen and her outstanding
28 team at the Ontario Securities Commission as we all move towards

1 the burden reduction agenda. For the OSC, one of those joint
2 initiatives is today's roundtable. So congratulations.

3 We want to continue to identify ways to save time and
4 money for issuers, registrants, investors, and other market
5 participants. We want to identify ways to save time and money
6 and that I think is the exact thing that's happening, Maureen,
7 and we're just so very grateful how serious you're taking this
8 effort. The work you're doing on the part of the OSC's burden
9 reduction task force will help regulators to consider and act on
10 any suggestions to eliminate unnecessary rules and processes
11 while protecting investors and the integrity of our markets.

12 You know, we can't do this without you. The Premier,
13 as we've talked about, we're trying to reduce by 25 percent over
14 the next couple of years. That is thousands of pieces of red
15 tape that we need to reduce. We need to hear about them from
16 you. We need to hear these individual pieces that are getting
17 in your way, standing in the way of progress and creating jobs
18 and opportunities. So we need to hear those very specific ones
19 from you.

20 Your input will be greatly appreciated and will not be
21 ignored. We want to make Ontario the leading destination for
22 investment and job creation, and that starts with making it
23 simpler and faster to do business in our province and removing
24 unnecessary and outdated barriers to investment.

25 As a government, we know we simply cannot do this
26 alone and we do need your ideas to inform our work. Finance
27 department is working very closely with the regulators to drive
28 financial innovation and lighten the regulatory load for

1 businesses. The OSC's burden reduction initiatives represent
2 some of the outstanding work being done on this front.

3 Ontario also is leading the implementation of the
4 Co-Operative Capital Markets Regulatory System, the CCMR. As
5 the Co-Chair of the Council of Ministers for CCMR, it's
6 important for us to streamline capital markets regulation across
7 participating jurisdictions in Canada to avoid unnecessary
8 duplication and technical barriers. We really do see the CCMR
9 as yet one more very serious way for cutting of red tape and
10 burden reduction.

11 We are a very big supporter of financial innovation.
12 We want to restore the province's position as a leader in
13 financial innovation, and that includes embracing technology,
14 finding better ways to serve investors and consumers, and
15 supporting our emerging FinTech sector.

16 So these are the types of things we're thinking about
17 as our team at Finance is totally consumed right now with
18 planning our government's, or I guess presenting our
19 government's first budget on April 11th. You know, we did
20 inherit a significant fiscal challenge from the previous
21 government: \$15-billion deficit and a \$346-billion debt burden.
22 That's 346 with nine zeros behind it. I think you all are
23 eminently aware of that.

24 I put it simply when I say the previous government was
25 spending \$40 million a day more than they were taking in. It
26 was not sustainable and we're working to put Ontario back on a
27 healthy financial footing.

28 The 2019 budget, April 11th, will not only outline our

1 path to return the province to balance in a responsible manner,
2 but it will also continue our work to promote economic growth
3 and job creation, including strengthening our capital markets.

4 It's worth noting that our government's first steps
5 towards restoring Ontario, Ontario's fiscal health, are indeed
6 paying off. Businesses are investing, expanding and hiring. In
7 fact, Ontario has created 132,000 jobs since our election in
8 June, and thanks to stronger economic growth, our third quarter
9 report shows we have reduced our inherited \$15-billion deficit
10 down to \$13-and-a-half billion.

11 So we're on the right track by taking decisive action
12 to create the right business climate for companies to invest, to
13 grow and, of course, to prosper. So we value your comments
14 about reducing the regulatory burden and we will thoroughly
15 consider what you have said today.

16 Thanks again for sharing your time, your experience,
17 and your perspectives today. Our government will continue to
18 find ways to work with the OSC to drive innovation and reduce
19 the burden on business in the financial services sector.

20 I want to thank you, Maureen, for the excellent work
21 on that front, and for the opportunity to say hello and begin
22 our journey together for the next four years. Thank you very
23 much.

24 --- Applause.

25 MS. JENSEN: So, thank you, Minister Fedeli, not only
26 for joining us, but for those very thoughtful remarks.

27 And I'd like to thank all of you for participating in
28 today's roundtable. As I mentioned earlier, we value your

1 perspective, your candid comments, and your suggestions. I'd
2 also like to thank our panelists and moderators. We will be
3 taking everything that we've heard today, along with the
4 comments and suggestions that we received, and we'll consider
5 them very carefully as we move forward and we will address each
6 and every one of them.

7 A reminder that we have two additional roundtables
8 coming up, one on May 6 and one on May 27. You can find the
9 details. We've divided them into different buckets so that you
10 can attend the one that is most particular to your comments and
11 experience.

12 So I'd like to thank you all for being here today. It
13 was a great day for us, and have a great afternoon. Thank you.

14 --- Applause.

15 --- Whereupon the proceedings adjourned at 4:35 p.m.

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18
19 I HEREBY CERTIFY THE FOREGOING
20 to be a true and accurate
21 transcription of my shorthand notes
22 to the best of my skill and ability.
23

24
25 _____
26 Beverley Killen, CSR

27 Computer-Aided Transcription
28