

Presentation to:

**Ontario Justice Education Network (OJEN)
Summer Law Institute**

August 26, 2009

An Introduction to Securities and the Capital Markets



Geoff Clarke

Outline

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- 2) The Purpose of Securities Regulation
- 3) Fundamental Securities Law Concepts
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 - iii. Insider trading
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 - vi. Registration of dealers and advisors
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1) The Purpose of Capital Markets

- A marketplace for savers and users of capital
- Fundamentally important to an economy
- The public sector (i.e. governments)
- The private sector
- The primary market (e.g. an entity raising funds for itself)
 - IPOs and private placements
- The secondary market
 - Trades between one investor and another

2) The Purpose of Securities Regulation

- Two chief goals:
 - Providing protection to investors from unfair, improper or fraudulent practices; and
 - Fostering fair and efficient capital markets and confidence in capital markets.
- A sense of balance is required as trade-offs exist between market efficiency and market integrity
- Historically, the response to a crisis is increased regulation in order to better protect investors and bring back public confidence

3) Fundamental Securities Law Concepts

i. The Prospectus

- A publicly available document required by law before securities (i.e. investments) are distributed to the public
- Contains full, true and plain disclosure about the issuer and the securities being distributed
- Allows a potential investor to make an informed decision as to the riskiness and price of the security being offered for sale
- The issuer, its directors and any underwriters face liability for any misrepresentations in a prospectus, without regard to whether the investor relied on the prospectus

3) Fundamental Securities Law Concepts

ii. The Exempt Market (Private Placements)

- An example of trying to find a balance in securities regulation
- Prospectus exemptions exist for distributions where:
 - The investor can protect its own interests (e.g. sophisticated purchasers)
 - The investment is inherently safe (e.g. GICs)
 - An alternate protection regime is in place (e.g. a court approved process)
 - Certain policy goals exist (e.g. private issuers & issuances to employees)

3) Fundamental Securities Law Concepts

iii. Insider trading

- Lawful trading by “insiders”
- Insider reporting obligations
- Prohibited insider trading (i.e. trading with knowledge of undisclosed material information, a.k.a. “inside information”)
- “Tipping” prohibitions (i.e. communicating undisclosed material information other than in the necessary course of business)
- Penalties for violations:
 - prison and/or fine
 - civil liability
 - administrative/regulatory sanctions

3) Fundamental Securities Law Concepts

iv. Continuous disclosure

- A public company (i.e. a “reporting issuer”) is required to make:
 - regularly scheduled periodic disclosures (annually and quarterly); and
 - timely disclosures via press releases as material changes occur
- Civil liability for continuous disclosure misrepresentations

3) Fundamental Securities Law Concepts

v. Take-over and issuer bids

- An example of where the sellers of securities are protected as opposed to the buyers
- Disclosure – a take-over bid circular from the bidding company and a directors' circular from the target company
- Minimum bid period
- Identical consideration provided to all sellers
- The “early warning” system – disclosure of 10% toe-hold positions
- Insider or issuer bids – may require a 3rd party valuation

3) Fundamental Securities Law Concepts

vi. Registration of dealers and advisors

- Provincial registration requirements for any person acting as a securities dealer or advisor
- Proficiency requirements
- Capital requirements
- “Know-your-client” and Suitability rules
- Disclosure requirements regarding conflicts of interest

3) Fundamental Securities Law Concepts

vii. Securities Law enforcement

- Criminal Code of Canada
- Provincial offences
- Administrative actions by securities commissions
- Civil court proceedings
- Stock exchanges
- Self-regulatory organizations

Questions & Answers

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Geoff Clarke

tel. 416-868-3524

gclarke@fasken.com

www.fasken.com

