

Regulatory Update for Financial Institutions

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Introduction



Preliminary Matters

- Document retention policy
- Automated computer programs
- Document integrity
- Employee information/no streamlining
- Independent legal advice (ILA)



Internal Investigations

- Documents and employees
- Context – e.g. IDA Policy 8
- Credit for cooperation vs. confidentiality issues/privilege
- Civil liability for continuous disclosure
- LSUC 2.02
- *YBM* (Lawrence Wilder), *ATI* (Sally Daub)



OSC Credit for Cooperation

- OSC Notice 15-702
- *Donnini*
- Findings of the Fairness Committee
- *CP Ships Ltd.*



Speaking to the Regulator

- Voluntary or compelled
- *Charter, Evidence Act* protections
- *Branch* and *R. v. Henry*
- *Securities Act (Ontario)*, s. 16



Disclosure of OSC Investigations

- OSC Staff Notice 15-703
- Civil liability for continuous disclosure



Settlement Options

- OSC Rules of Practice
- Approval by the Executive Director or the Commission
- Admissibility of regulatory settlements in civil actions
- *Philip Services*
- CSA Statistics

Cross-Border Issues

- *Securities Act (Ontario)*, s. 153
- Nosey neighbours
- Lines blur between SEC and DOJ
- *Gruson, Hollinger and Nortel's Mr. A*



Current Developments/Recent Trends

- CSA drops auditor internal control reporting
- National regulator/provincial harmonization
- Merger of SROs/responding to multiple authorities
- Number one OSC goal for 2006/2007 “fair, vigorous and timely enforcement”



Current Developments/Recent Trends (Continued)

- New ethics enforcers in the U.S. – Gnazzo (Computer Associates) and Breeden (Hollinger)
- Scope of SRO jurisdiction over former members – *MacBain* and *Neufeld*
- Whistleblower protection, *Merk*
- Scope of disclosure, *Royal Group*