

REINVESTING

COMMENT

We need a national securities investigator

Provinces try to befriend firms they're regulating

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Our provincial regulators clearly have no interest in seriously pursuing white-collar crime. So it seems like high time to establish a separate national securities investigator for Canada. A simple amalgamation of current provincial regulators will do nothing to improve enforcement activities in Canada. A completely separate national entity is needed.

No sensible person would claim that Canada doesn't have a problem with white-collar crime — *alleged* white-

collar crime, we should say, because few convictions are being secured. Although provincial regulators boast of hundreds of enforcement settlements, they are mostly for small offences — cases nobody would recognize by name.

They try to paint these settlements as numerically balancing out the failure to secure timely convictions in high-profile cases such as Bre-X, Livent and Nortel. Clearly, that strategy is backwards.

One of the best tools in fighting crime is visible deterrence. Making examples out of high-profile offenders gets the most bang for the regulatory buck. What in our national consciousness requires us to handle high-profile white-collar criminals with kid gloves? Simply put, fear. Regulators know anyone with decent financial resources will crush

them, as provincial regulators are outmatched in terms of talent and resources.

Effective prosecutions can only occur when strong legislation and leadership is in place to attract quality investigators to take on Canada's formidable stable of white-collar criminals. This is especially important given that Canada is often identified by international white-collar criminals as a safe haven to set up business.

Worst, however, is that our current slapdash network of provincial securities fiefdoms are conflicted at the core. They strain to make regulation as easy and as cheap as possible for regulated companies, yet they also claim to protect investors. They fail so miserably on the second count because they try so hard to make friends with the companies they're regulating.

provincial regulators and their pro-corporate sympathies has seriously infected the diligence of process in the IMEIs.

Canada's current wink-and-nod approach to dealing with securities violators has all the transparency of a third-world banana republic. So-called settlements are handled behind closed doors and as quietly as possible as often as possible. Examinations of questionable financial reporting are so scarce one questions whether they are actively discouraged as being too sensitive for public consumption.

Currently, all of the provinces except Ontario are pushing back against the call for a national securities commission. They claim the current passport network is sufficient for cutting down costs for corporate clients. In other words, the corporations are satisfied,

ergo their principal mandate is fulfilled. The problem, of course, is that they are supposed to have a dual mandate which also includes protecting investors with the best enforcement efforts possible. I have yet to hear a chair of one of the provincial commissions claim that enforcement is best served 13 ways from Sunday, as under the current regime.

Rather, some have claimed they have no responsibility to prosecute high-profile cases of securities fraud whatsoever. It's a staggering admission, but nevertheless good prompting for the federal government to finally relieve the provinces of their responsibilities for prosecuting securities offences, and set up a new national securities investigator to handle the task.

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