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Select Committee on the proposed transaction of the TMX Group and the London Stock Exchange Group

Review of proposed stock exchange transaction

Chair: Hon. Gerry Phillips
Clerk: Trevor Day

Assemblée législative de l'Ontario

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Mercredi 9 mars 2011

Comité spécial sur la transaction proposée entre le Groupe TMX et le London Stock Exchange Group

Examen de la transaction boursière proposée

Président : L'hon. Gerry Phillips
Greffier : Trevor Day

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Hansard Reporting and Interpretation Services
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

SELECT COMMITTEE ON THE PROPOSED TRANSACTION OF THE TMX GROUP AND THE LONDON STOCK EXCHANGE GROUP

COMITÉ SPÉCIAL SUR LA TRANSACTION PROPOSÉE ENTRE LE GROUPE TMX ET LE LONDON STOCK EXCHANGE GROUP

Wednesday 9 March 2011

Mercredi 9 mars 2011

The committee met at 1200 in room 151.

REVIEW OF PROPOSED STOCK EXCHANGE TRANSACTION

MS. BARBARA STYMIEST

The Chair (Hon. Gerry Phillips): Ms. Stymiest, welcome. Thank you very much for coming. We have 20 minutes, and what the committee normally appreciates is if you would keep your remarks to no more than 15 minutes so that we have a little bit of time to ask some questions. If you could, for Hansard reasons, let us know your name and anything else we need to know.

Ms. Barbara Stymiest: My name is Barbara Stymiest. I am speaking to you today as the past president and chief executive officer of the Toronto Stock Exchange. My tenure there as CEO was from 1999 to 2004.

As an executive with RBC, I would also like to remind you of certain conflicts; namely, RBC's role as adviser to the London Stock Exchange and our partial ownership of Alpha, an alternative trading system. But as I indicated, I am speaking personally and because of my experience.

I think the earliest years of this century are characterized by a number of significant events, and the histories have probably yet to be written about many of them, but I think that the subjects that interest most readers—those histories have nearly in every way occurred most often in response to the limitless possibilities of our own efforts, our confidence and the developed skills, as Canadians, that we have made possible. So it was really on the certainty of these possibilities that I asked the board of the Toronto Stock Exchange, in 2000, to contemplate a change in ownership. A year earlier, I had resigned as the chair of the board to become the president and chief executive officer of the exchange. But even as the board chair in the mid-1990s, I think it was fairly easy to recognize the approaching storm. More than anything else, new technology was pushing change upon stock markets everywhere, Toronto included, so I was eager to deneutralize the exchange and shift the long-standing ownership out of the hands of the member stockbroking firms and into that disciplined realm of broad public company ownership and the governance that ensued. The initial public offering in fact did create, after nearly 150 years, a listed for-profit company on the TSE itself.

This wasn't a completely new idea. Australia had led the way in 1998, and NASDAQ was headed in this direction and so was the New York Stock Exchange, although they were somewhat distracted by other issues and they didn't finally make that jump until 2005. In Europe, historic change in trading dynamics across capital markets was moving even more quickly, forcing exchange managers in Canada to be just as mindful of resiliency in scale as we were about ownership. We knew then that we needed the necessary capital to meet the new technology demands that would support even more robust trading platforms. This was expensive territory.

At the turn of the century, some things were becoming painfully obvious. In the face of new scalable trading technology, transaction speed and transparency were table stakes in a fast-moving game for order flow that awarded any winner more listed companies and greater visibility both for those companies and for the exchange itself. Electronic trading may have closed all of the iconic trading floors all over the world, but it had also created the possibility of growth that everyone was thinking about. It was only a matter of time. Finally, geography was no longer an obstacle to becoming something bigger.

When the oldest stock exchange in the world, Amsterdam, which had opened its doors in 1602, agreed in 2000 to merge with the Brussels exchange and the Paris exchange to become Euronext, I was convinced that we in Canada were running out of time. In fact, I was convinced that even with the activity we had under way, we were already behind. The consolidation of trading platforms had begun.

And it had begun in Canada a year earlier when the exchanges in Vancouver and Calgary agreed to merge in the spring of 1999. Some of the members of your committee will recall that only months earlier we had agreed to realign the markets in Canada in a way that put senior listings in Toronto and derivatives trading in Montreal, leaving junior equities to trade on the new merged platform, the CDNX.

That merger drove us at TSX to move as quickly as possible and merge with this new western exchange. I believed, and the board believed, that the Toronto Stock Exchange was going to grow through new listings, which meant confidence in Canada as a growing economy, and many of these listings would ultimately graduate from the new exchange that we called simply TSX Venture. These small companies, especially those with the big ideas, would forever contribute to the face of listings at the TSX. It wouldn't be everything we needed, but it was certainly a sensible start. That was the gamble, and I will let ventures numbers as posted as of yesterday's trading day speak to those who feared that the small-cap market would disappear, that the Canadian west would somehow lose its place in what had become our unified Canadian capital market, or that this aspect of our plan for building out the TSX, now the TMX Group, was, well, nuts.

I recall this history in an effort to calm the fears that have been expressed over the proposed merger of the LSE Group with the TMX Group. I believe it's important to remember our history and understand the velocity of change that has ushered in a whole new way of thinking about equity and derivatives trading worldwide. Platforms are consolidating to build scale, lower trading costs, improve trading latency and improve transparency. Let's get with the program. Let's believe in ourselves as both exchange leaders and good partners.

I would ask that you lift up your heads and see the future. Recognize, if only by example, that the unbelievable cross-border miracle which became the pan-European Euronext is over 10 years old. It began out of an idea of the opportunity presented by electronic trading and matured into a transatlantic trading entity about to merge with the New York Stock Exchange. Just imagine. The Dutch would be sharing with the French: What a concept. The Dutch and the French would be sharing with each other and sharing with the other French, those folks in Brussels whose exchange had been created by Napoleonic decree in 1801. Wow. Now, that was a miracle that has become an international success story. I think joining the Americans has to be a cakewalk.

So what on earth is anyone afraid of in the face of this transaction? I think it's clear that the listings businesses will need to be coordinated, but this doesn't mean, and can't mean, combined or merged. That would be a marketing nightmare, detracting from the task of attracting new listings to the distinctiveness of each of those markets and listing entities. I think it comes with the promise of increased visibility and the deepening of liquidity that drives the success of any market.

After all is said and done, this deal is about business building, and that isn't a new idea for Canada or for Canadians who are prepared to present strong alternatives in a competitive world.

None of this is really very new. As early as 2002, we were meeting with both big and small exchanges in the United States, exploring north-south opportunities. The lock, as I indicated earlier, that Montreal had on the derivatives market moved us quickly to search for growth elsewhere, as any listed company traditionally does in its markets. So we looked at a number of merger or takeover or platform-sharing possibilities at the same time as we built out the data business and developed other revenue streams that would lead ultimately to the group that Tom Kloet has taken even further today.

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We tested ideas in Europe as early as 2003, translating our membership in the World Federation of Exchanges into discussions with individual member exchanges that led to idea sharing, and in Brussels we held discussions with the policy-setters in the European Union to see what we might be able to accomplish by way of shared screen access or joint listing opportunities. We took some of our best Canadian listed companies to Frankfurt, London and New York. We showcased them to the communities of institutional investors and analysts. We even tested some very limited advertising on Bloomberg and CNBC in Europe, introducing ourselves to European investors as a viable and growing North American alternative. Finally, we met more than once with the LSE, searching for a way forward in what was then and is now a fast-paced world of change that we thought we might be able to seize, working together.

I think the fact that these efforts came to very little was much more a matter of timing than it was anything else. Every exchange was dealing with their particular set of possibilities. Getting it right was the challenge, and in more than one country there was a board of directors or a government that was terrified of selling out the homestead and protecting the flag. It was certainly a frustrating yet very exciting time. Certainly, TSX had the resources then, and we most certainly had the desire. Growth was on our mind, and, from the sounds of it, it is still on the minds of Tom Kloet and his team. After all, the question that confronts every chief executive is, "Where is growth coming from?" I believe, in the exchange space, that the answer lies at least in part beyond our borders.

The other issues that are being raised today about the proposed merger aren't new and they aren't large. I think they're old fears. It may be that there is a sense that we aren't ready to become something larger, something transatlantic. It may be that, like the national securities regulator debate, there are perhaps too many interests protecting something other than the real subject of discussion. Or it may be that there is still confusion between trading and the process of capital formation.

Whatever the case, none of the ambitions of our Canadian exchange should come as a surprise to anyone. In the prospectus that supported the TSX Group's initial public offering in 2002, we committed to investors that we would do three things: First, we would enhance the core business; second, we would expand geographically; third, we would diversify into new business opportunities. I think everything about this merger is captured in these ambitions. After all the handstands and the posturing, few questioned them then, and that was 10 years ago. Why question them now?

Thank you, and I would be pleased to answer questions from the committee, Mr. Chair.

The Chair (Hon. Gerry Phillips): Very good. We've got about eight minutes, so two minutes per. Mr. Klees?

Mr. Frank Klees: Thank you very much for your presentation. I'm sure you're familiar with statements made by Jim Prentice over the past week. He was very specific that this merger should be rejected unless there are specific guarantees incorporated into the agreement. I'd like to know your views in response to Mr. Prentice's concerns.

Ms. Barbara Stymiest: Yes, I'm aware that he did speak publicly yesterday. I did not review the entire transcript, so I'm not completely aware of the details of the conditions that he has asked for. I am aware of the structure of the deal and I don't see any show-stoppers in the deal as proposed.

Mr. Frank Klees: He expressed specific concern about, if I can put it this way perhaps, regulatory sovereignty, protecting the regulatory environment and not having a lowering of standards. Could you speak to that?

Ms. Barbara Stymiest: I'm happy to. The competent listing authorities in all jurisdictions are within the realm of the locale, sovereign or provincial, in our case, and that is intended to remain under the proposed merger. The competent listing authority here in this province will remain the OSC. The standards will be maintained and, I would suspect, continue to be enhanced over time; I think that will be the case for the senior market. Similarly, I think both the western exchanges—BC and Alberta—remain the listing authorities for the junior market.

In fact, nothing is changing from the regulatory—and nothing has changed in any of the mergers that I referenced globally around the world. In the case of the LSE within Italy, their competent listing authority remains in Italy. I don't think that's a big ask, nor is it something that should at all be worried about in the future.

The Chair (Hon. Gerry Phillips): I think we'll move on now. Mr. Bisson.

Mr. Gilles Bisson: In a follow-up to much the same line, we have a lot to be proud of here in Toronto. The TSX has done a fairly good job, and specifically, the mining sector has done a very good job of how we list stocks, giving comfort to investors, knowing that there is some very stringent review of the stocks that will be listed. I think that has seen Ontario become the world leader. We see now PDAC; there's 30,000 people from around the world who are here this week from South America—you name it, they're here. I think one of the reasons is that we've shown how to do this.

When I see comments like the ones that I've seen in the recent paper from—I'd never believe it, but the bank's onside with the NDP, my God. Anyways, it says, "'Proponents of the proposed LSE takeover of the TMX believe this transaction represents Canada's only choice to create a globally sustainable exchange,' the draft letter adds. 'They are wrong'"—meaning you are wrong.

So on the one hand, you've got those in favour of the merger—the TSX, yourself and others—and on the other hand, you've got the largest financial institutions in the country opposed, saying that you're wrong. What do you say to that?

Ms. Barbara Stymiest: I would continue to refer to the comment that I made about confusion between capital formation—

Mr. Gilles Bisson: So the big banks are confused, then?

Ms. Barbara Stymiest: I would argue that the business of trading, operating a network bringing buyers and sellers together, is an international business and that capital formation, particularly in the mining sector, as you've referenced, is a strength of Canada, is a strength of London. Putting the two entities together makes it a dominant organization—

Mr. Gilles Bisson: But why are the banks opposed? What is your sense of why they are opposed? They're pretty clearly saying that this is a bad deal.

Ms. Barbara Stymiest: I believe that the banks—and I have read a draft of their submission; I believe you'll be hearing from them later—believe that the exchange should remain a domestic-only entity and not take advantage of globalization. My argument is that trading is a global business and that being part of a dominant global trading platform is an opportunity not to be squandered.

The Chair (Hon. Gerry Phillips): We'll move on, Mr. Bisson. Mr. Zimmer.

Mr. David Zimmer: I, too, was interested in your comment, as a senior RBC executive, about your sister banks' apparent opposition—TD, National, CIBC and Bank of Nova Scotia—to the transaction as reported in the Globe and Mail this morning in an article by Boyd Erman. The article also weaves in as a factor in the position of the various banks, whether it be for or against, their relationship or non-relationship, as the case may be, with Alpha. Can you comment on that, please?

Ms. Barbara Stymiest: I think, factually, all the banks have Alpha as an alternative trading venue. That creates competition in terms of the way stocks are traded in this country, domestically. Alpha is quite a strong competitor to the exchange.

The position of the banks in terms of whether they're supportive or not is broader than whether or not they are shareholders in Alpha. I think it speaks to whether they believe and understand that the business of a trading network is a global business and can prosper as part of this global transaction versus maintaining where we're at and remaining a Canadian-only institution.

The Chair (Hon. Gerry Phillips): Less than a minute, Mr. Zimmer.

Mr. David Zimmer: Quickly, why is the position of RBC so markedly different from the position of your sister banks I've just identified?

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Ms. Barbara Stymiest: As I said, I'm not speaking on behalf of RBC, but for the record, I would note that RBC has the largest and most global capital markets business of all of our competitor banks, and works and trades on all of the existing global platforms and understands the advantages and strengths of a larger global platform.

The Chair (Hon. Gerry Phillips): Thank you very much, Ms. Stymiest, for being with us today. We appreciate it very much.

CANADIAN NATIONAL STOCK EXCHANGE

The Chair (Hon. Gerry Phillips): The Canadian National Stock Exchange: Mr. Bandeen and, I think, Ms. Petlock.

Mr. Ian Bandeen: Yes, that's correct.

The Chair (Hon. Gerry Phillips): As you know, it's 20 minutes. If you could just identify yourselves for Hansard and begin. Thank you very much.

Mr. Ian Bandeen: Certainly. Thank you, Mr. Chairman and committee members. My name is Ian Bandeen. I'm the chief executive officer of the Canadian National Stock Exchange. I have with me Cindy Petlock, our general counsel.

We are the only new stock exchange in Canada in the last 75 years. We have been operational since 2003. We offer a superior product for issuers as well as investors. I know that's a bold statement to make, and I'm not suggesting it's because we're better or brighter than the traditional incumbents. It's because, quite frankly, we had the luxury of coming second and starting with a clean slate. As a result, we've been able to build in Canada, owned by Canadians, a market model that delivers a vastly superior product and that I think is globally the envy of many folks.

I mention it not because I want to do an infomercial, but my understanding was that one of your objectives was to ascertain what the options were for small and medium-sized companies, particularly northern mining companies, post this proposed transaction. I would like to take this opportunity to tell you and to tell everyone else that Canada has an alternative that is specifically designed for them, that currently has over 21 Ontario mining companies that are listed and that are enjoying the excellent cost and other advantages associated with our platform. We have circulated some materials that describe that. I'll leave that as just a matter of record.

In addition to having the Canadian National Stock Exchange, we also have an entity called Pure Trading. Pure Trading is a facility of the stock exchange and it provides competition, as do Alpha and two others, to the Toronto Stock Exchange and to the Venture with respect to the trading of their securities. We were the first of the competitors to arrive.

An interesting and unique opportunity that has befallen us as we've gone through this exercise of building the only new stock exchange is that we actually had the chance to sit back and look around globally and say, "What is the best out there? If you could start from scratch, what would you do right, and what were the mistakes you'd avoid?" We also started asking ourselves basic questions: What's the value proposition of an exchange?

Quite frankly, in most jurisdictions people don't get the luxury to think like that. They inherit something that's the legacy, that's the model, that's built organically over decades, if not centuries. So one of the things I really wanted to do today was basically say, "All right, you have an alternative: It's CNSX. It's an excellent platform; it's been proving itself out; it's gaining increasingly in acceptability, and the numbers and the data I presented to you explain it."

With respect to your broader question, I'd like to go and use this opportunity to impart what we've learned from that rather novel experience of being able to sit back and think, "What is an exchange?" We have gone and spent hundreds and hundreds of hours talking on this very subject with a lot of the leading lights globally and, in particular, in America.

I would just preface by saying, with respect to commercial interests, I think for ourselves—both with respect to our stock exchange and our trading platform, as well as for all of those that are currently competing with the TSX and the trading platforms—this entire review or merger process is likely going to be beneficial for all of us. I don't see a downside. The only downside would be if they were to do this transaction quickly, achieve a lot of the benefits and become a more formidable competitor sooner rather than later. And by the way, that's what I'm advocating you let them do.

So just to be quite clear, I believe I'm arguing against my commercial interests when I say the following: I think, with respect to what's going on, we as Canadians don't have a choice. Just to be blunt, if you don't like this deal, you are really not going to like the next one—and there will be a next one.

I agree with much of what Barb just said. There is a reality here. The reality is that until this came up, exchanges, trading platforms—they might get the odd bit of press here and there, but they were considered boring plumbing. Nobody really focused on it; nobody really understood much about it. Frankly, as has happened in most jurisdictions with most big, organic incumbents that have got decades, if not centuries, behind them, there's a lot of inefficiency, a lot of misdirection, a lot of rules and policies that get out of step, but you have an entire community of financial service providers who are hanging on them and depend on them.

All of a sudden, as Barb says, the world starts changing, competition starts knocking, and it's not so easy if you're an incumbent to shake yourself down, redo your business proposition, realign your cost centres and become competitive, particularly if you're public; particularly if your main clients have also banded together in the form of a consortium and try to attack you at every step of the way on trading and on data, which are your principal revenue sources; particularly if you have no real organic growth opportunities left in the country—other than NGX, which is the one they always cite. It's a wonderful proposition, a great acquisition. You need a few dozen of those to move the needle.

So to be blunt, they don't have a lot of choices and they have a cost infrastructure that needs to be cleaned up. They have a balance sheet that, in hindsight, needs to be cleaned up. They were the acquirers of the MX in what, with hindsight, turned out to be the last big, inflated acquisition of the last round of consolidation.

Ironically, within weeks of that deal closing, the asset-backed CP market collapsed, which took with it the BAX contract, which fundamentally was the revenue driver supporting the acquisition of the MX. So they have issues to contend with.

To make it all the more enjoyable, they're a public company, and they enjoy the scrutiny of their shareholders, the press and the analysts once a quarter. It doesn't leave you a lot of room to move.

Guess what? London's in the same boat. They actually are birds of a feather. When everybody talks about, "Is this a merger of equals," it is, but not for the reasons you're thinking of. They're both in the same position. They're large incumbents. They're withstanding competitive forces on a number of fronts and don't have many opportunities to expand and diversify. They both need to streamline their costs. They both need to go and bulk up their balance sheets. They both need to go and get technology. Both of them are saddled with legacy technology or technology that's not up to the current level that you really need—and that, I get directly from the people in New York who actually know the LSE technology. They're both basically focused on cash equities; they need to diversify.

This transaction will give them two of their objectives. I think what they need to do is do it quickly—build up bulk, and then actually go and make an acquisition to both diversify and get tech. You want to be blunt? That's the answer.

I think that by following the New York Euronext transaction of four or five years ago—it's a smart policy. If I were them, I'm now going to be conducting trading operations on both sides of a five-hour pond, trading and listing. That means I'm going to have a substantive rule for senior executive decision-making capacity in both jurisdictions. That bodes well for Canada. There's a natural, real reason why we are going to be a centre of influence in the combined company.

You will not get that the next round. The next round will be NYSE or NASDAQ, and they will be coming up and acquiring you. They are the consolidators, historically. They are very public about their objectives, as are the analysts that follow them. They're public companies and they're shareholders. Any acquisitions that they undertake have to be accretive to their shareholders. This is very simple economics.

Typically, New York and Toronto trade at about 20 times their earnings; NASDAQ trades at around 16, NYSE at around 12. If you're trading at 12 or 16 times earning and you want to go acquire somebody at 20, there are only two ways to make the deal accretive: You can wave a magic revenue wand and revenues come out of the sky—and frankly, if someone can do that, I think I have another conversation I want to have with them, completely independent of this dialogue.

So the real one that you would have is you would eviscerate the cost structure. If I was either Master Niederauer or Greifeld, who run NYSE or NASDAQ, it wouldn't be too hard. I'd look to Canada; I'd look to your 828 people. I would savage it down to about 75. I'd leave them for marketing purposes and to schmooze the regulators, and I'd take all the tech and run it out of New Jersey—and my shareholders would think it was accretive. That's what I think your option is if you don't take this deal, just to be blunt.

I actually do believe, as somebody who really does understand what this game is all about and has had the privilege to sit there and understand what exchanges are, and I'm telling you, much as you may not like that this is where we are, this is where we are.

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My last comment on that is that I don't think it's such a bad thing. I think it represents an opportunity. If we can, as Barb said, put our head up a bit and look out there, we have a lot to be proud of. I look at what we've done at CNSX. We have a really good market model. I look at what we have done at the regulatory level in the financial community. We have been leaders. I look at some of the stuff that we're starting to do in forming market structure policy at the CSA level. We are taking advantage of our unique position as Canadians to look at what did or did not work in other jurisdictions and to not necessarily copy the mistakes but to do what's right.

We can become world leaders. This could easily be part of that program. We have to have confidence in ourselves. We have to support our regulators to let them help guide us to get to that level. I believe that's what's on the table. I believe that's the opportunity. I believe you should let this thing move quickly. I think it's part of a second phase.

Quite frankly, in some ways, by encouraging you to do it quickly, I'm arguing against my commercial interests. But then, as an exchange, like the TMX, our obligation is to also act in the public interest. We're not just a trading vehicle that can be commercially motivated by our parents and do whatever we want. We have to take a more responsible, bigger-picture view. That's why I'm here today. That's my message to you.

I'd be delighted to entertain any questions.

The Chair (Hon. Gerry Phillips): Thank you, Mr. Bandeen. We have nine minutes, so three minutes each. Mr. Bisson?

Mr. Gilles Bisson: You say we need to do this so that we can become world leaders. The last time I checked, we are world leaders. We're damned good at what we do. The TSX is doing a pretty damned excellent job. Go down to the Royal York today and find 30,000 people from around the world who are here, why? Because we are the world leaders in a particular area.

I hear what you're saying—but we also have experience. If we look back at the time when the big banks were trying to merge in to the United States, our people said no in the end, and it probably was the right thing in hindsight. We were being told the same thing back then: "It has to happen. You can't stand in the way of globalization. This is a great thing. If we don't do it, we're going to regret it." As it turns out, Canada weathered the storm. Why? Because we've got some pretty good regulators and we've got pretty good rules about how we deal with finance in this country. So when I hear you come forward and say that we have absolutely no choice—all right, let's say that we explore that a little bit further. Why would we agree to a deal that doesn't make us an equal partner?

Mr. Ian Bandeen: To start with, I agree with you that we have excellent rules and a wonderful environment that's very conducive for raising capital for resource-based companies—and we've proven it.

There has been so much rhetoric that goes around this entire dialogue—I did not understand that we were selling the OSC or the CSA or IIROC. We're not.

Mr. Gilles Bisson: No, we're not.

Mr. Ian Bandeen: That is where your rules and policies are set. That is where market integrity is enforced. Those are the listing criteria that are established and the rules that have to be followed.

Mr. Gilles Bisson: But my question, for the national and provincial interest, if we have to go this way—and I don't agree that we have to, but let's say we explore the argument—then why don't we agree to a deal that makes us truly equal partners in what's truly a merger of equals? That's not what we're seeing here. We're seeing what's reported on one side of the pond as a takeover, and on this side we're being told it's a merger. Why not have a deal that says we'll have equal control of the board?

Mr. Ian Bandeen: With all due respect, I look at the terms of this deal and I'm stunned they were able to get it for you. As Canadians, we are just waking up and realizing, "Gee, we thought we had it all so good. How come this is an issue? What's wrong?"

For the people who have actually been paying attention to this field for some time, we've all seen it coming. Barb alluded to it. She's right. This is not news to us. We can sit back and say, "Let's just leave everything as it is. We can let trends go, and we can become subsumed by"—

Mr. Gilles Bisson: It's extremely unfair to say that those of us who are opposed want to leave things the way they are. That's not the argument. We understand that there is a global economy out there and we need to compete within a global environment. I'm not arguing that we do nothing. My question becomes, why don't we do more to protect ourselves?

A little case in point: Vale came in and bought Inco. We've sold off the major mining companies in this country with no conditions. If I tried to do that as a mining company in Brazil, they wouldn't let me. There's no reciprocity.

All I'm arguing, as a social democrat, is, for God's sake, if we're going to do this, we need to protect ourselves by making sure that we're equal partners. So the question is—

Mr. Ian Bandeen: No one is going to dispute that.

The Chair (Hon. Gerry Phillips): Really quickly on the answer.

Mr. Ian Bandeen: Yes. The thing to remember is that an exchange only exists because it has been granted a licence pursuant to its recognition order by the securities commission whose jurisdiction it attorned to. So just as much as they can grant the ability and the privilege, they can withdraw it. So if indeed down the road they conduct themselves in a manner that's inappropriate for Canada or that disadvantages us—

Mr. Gilles Bisson: Good luck at that point.

Mr. Ian Bandeen: That's a hammer throw that differentiates from the example you previously cited.

The Chair (Hon. Gerry Phillips): Thank you. Mr. Zimmer?

Mr. David Zimmer: Just following up on my earlier question to the previous presenter, you've got a lot of experience in the area, so can you help me to understand the differing positions of the major banks—that is, RBC, which seems to support the transaction, and TD, National, CIBC, and Bank of Nova Scotia, who don't seem to be supporting it, as reported in the Globe and Mail this morning? Help me to get my head around that.

Mr. Ian Bandeen: Like anything, I think I'll wait to hear what they themselves want to say. I should acknowledge that I've had the privilege of working for two of those banks over my past career, so I have some understanding of what goes on inside banks.

I can say that while our Canadian banks seem to be all-pervasive—in fact, if I look at your list of who's coming, in addition to the bank representatives, I think you have three or four lobby groups that are essentially funded by them. They're very effective at getting their messages out, but they are not monoliths. Within each one of these banks, there will be very different lines of business and very different views, often—

Mr. David Zimmer: I'm particularly interested in why RBC and the other banks that I've mentioned seem to be on different pages on this transaction.

Mr. Ian Bandeen: I don't know if it's appropriate for me to speculate. But I will note some of the factors that Barb and others have cited, in that it is interesting to see some banks that have made a very conscious effort over the last two years to actively tear down the TMX in every way they can, through their Alpha initiative and otherwise, now suggesting that it's a strategic asset of great value that we can't touch or take down. There's a little bit of a contradiction there. Some of the other banks will naturally have conflicts with respect to the roles they may be playing as advisers throughout this transaction. Others will be taking different views. There is one group, for example, who are arguably the single biggest shareholder of Alpha but who have clearly also seen that that's not the future, and they have broken from the pack in many ways in terms of being proactive in creating the best market structure for this country.

So there's no simple answer to your question. Each one of them has very different views and motivations.

Mr. David Zimmer: Is there a correct—

The Chair (Hon. Gerry Phillips): I'm afraid we're going to have to move on, Mr. Zimmer. I'm sorry.

Mr. David Zimmer: Thank you, Chair.

The Chair (Hon. Gerry Phillips): Mr. Shurman?

Mr. Peter Shurman: Thanks for your presence here today, Mr. Bandeen. Let me be devil's advocate.

Mr. Ian Bandeen: Please.

Mr. Peter Shurman: You've got a small exchange, in relative terms. You're very much in favour of this deal, for reasons you've outlined very well. Let's suppose the naysayers are correct about this bleed-off of listings that once would have been TSX listings, and Toronto stops being the seat of all operations. Doesn't that help you?

Mr. Ian Bandeen: You mean if the deal doesn't go through?

Mr. Peter Shurman: If the deal went through and Toronto became weaker and weaker, wouldn't that lead to—

Mr. Ian Bandeen: No. I should actually put some colour on that one.

Mr. Peter Shurman: Please do.

Mr. Ian Bandeen: I've heard such ridiculous rhetoric on this entire subject. One camp will sit there saying, "Oh, well, we're going to lose our regulatory authority over these companies." As I said before, I am unaware that we are selling the Ontario Securities Commission, the CSA or IIROC. We will not lose any of our authority over them. Companies will continue to want to list here because of our investors, because of our market structure, because of our rules and policies and the integrity of our markets.

Similarly, on the flip side of it, there's been a lot—and this is the spin doctors; they have to do this on these mergers. They've said, "Oh, there will be these wonderful cross-listing advantages for companies to get a broader reach." Okay, to be honest, I've got to call that one out too.

Each jurisdiction will maintain, and will want to maintain, sovereignty over what is being sold to the residents in its community. I an unaware of any material G20 country which would gladly say, at a securities commission level, "Hmm, you know what? We don't really care who is selling what, in the way of securities, to the people in our country, because we trust what the other guys over there are doing." It just doesn't work that way.

If somebody wants to dual list, they could do it now just as easily. In fact, I think Boyd went and did some research and made a comment recently. He looked at the precedent that everyone's citing here, NYSE Euronext. That was a real big transaction, in terms of the first cross-border, and, as Barb pointed out, there were some real national issues, right? That was, what, three or four years ago? Since then, how many have gone, out of their 4,500 companies collectively, and dual listed for all of these great advantages? Nine.

The Chair (Hon. Gerry Phillips): Less than a minute, Mr. Bandeen.

Mr. Ian Bandeen: It's a puff piece either way. I don't really see them disappearing.

Mr. Peter Shurman: That's fine.

Mr. Ian Bandeen: I don't see it disappearing here. I don't see it being any great advantage—

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Mr. Peter Shurman: Too bad you're so wishy-washy, sir.

Mr. Ian Bandeen: I'm known for that.

Mr. Peter Shurman: A little bit of sarcasm there.

One quick question: The TMX will be, in one way or another, part of a merger—is what you say—down the road because we are globalized. I agree with that, so let's not discuss it.

Mr. Ian Bandeen: I believe that's true.

Mr. Peter Shurman: But let me ask you this: Why would the TMX not be in the position of acquirer?

Mr. Ian Bandeen: Look at your market cap and what you bring to the table. It's really that simple. How much money do you have and what are you bringing to the table? We're pretty much a one-trick pony—sorry, Montreal, but it's true—and we've got really inferior technology, and that's what this is about.

Mr. Gilles Bisson: You have inferior technology?

Mr. Ian Bandeen: Oh, the TMX's trading technology is not up there; nor, by the way, despite what Xavier was trying to tell you, is Millennium's, and everyone who knows anything about trading technologies globally knows that. They're not in the top three.

The Chair (Hon. Gerry Phillips): We're going to have to move on, Mr. Bandeen. Thank you very much, and thank you, Ms. Petlock. We appreciate it.

MR. PETER DEY

The Chair (Hon. Gerry Phillips): Paradigm Capital, Mr. Dey. Welcome, Mr. Dey. I think you know that we have 20 minutes, and if you could keep your presentation to 15 minutes or less to allow some time for questions.

Mr. Peter Dey: I think I can be pretty efficient.

The Chair (Hon. Gerry Phillips): And if you could introduce yourself, just so it's on Hansard, we'd appreciate it. Thank you.

Mr. Peter Dey: First of all, I appreciate the opportunity to express my views on the proposed merger. I've been involved in the Canadian capital markets virtually all my career. I've participated as a lawyer. I was a securities regulator. Indeed, I think the last time I was in this room was to justify the budget of the OSC in the mid-1980s.

Mr. Gilles Bisson: A fine job you did with that.

The Chair (Hon. Gerry Phillips): Go on, Mr. Dey.

Mr. Peter Dey: That was a different era.

I've been an investment banker with a global investment bank. I'm currently a corporate director and chair of an independent securities firm, Paradigm Capital, based in Toronto and with offices in Calgary. Paradigm focuses on small to medium-sized companies in the natural resource area. I want to make it clear that my views are personal and do not represent the views of Paradigm, although I expect if I talked to most of my partners, they would agree with me.

This is not a merger in the conventional sense where you take two companies in similar businesses and smush them together and try to achieve synergies and scale. As you know, the two exchanges will continue to operate independently. I think there will be some synergistic benefits through the merger, through the constitution of one management team and an increased research and development budget, but I don't think these benefits alone would justify the merger.

Instead, I see the merger as a significant strategic initiative by the TSX to position itself to defend and expand its role in the inevitable consolidation of the markets. The TSX has identified a partner with a compatible legal system and a compatible culture with which it can establish a platform to participate in the market consolidation which I believe is inevitable.

If you look at markets, markets are comprised of investors who seek liquidity and depth, and they will exert constant pressure to create markets with improved liquidity. This pressure, I believe, will force the consolidation of exchanges and the merger of the lists.

Improved liquidity will reduce the cost of capital for these companies. The reduced cost of capital will improve the competitiveness of the companies and ultimately translate into financial and other benefits for the companies and the communities in which they operate. Without this platform, I am concerned that the TSX will be squeezed, and it risks being marginalized.

Having said that, I want to emphasize that I think the Canadian component of the governance system of the holdco, if that's what we're calling it, has a huge responsibility to ensure that this partnership is used to benefit and develop Canadian capital markets. There will be issues—governance issues, protocol issues—to allocate opportunities, for example, between the two exchanges.

If I have any anxiety about this deal, it's that the participants at the holdco level have the strength to ensure that our exchange continues to develop and thrive the way it has and that it represents the important strategic asset to Canada that it constitutes. I would also add that I think the OSC has a very significant responsibility to keep track of what's going on and to ensure that the TSX continues to fulfill its mandate.

I think you can take some comfort from the fact that the OSC will oversee the operation of the exchange. As a result, I'm not as anxious about the sort of shift of control that is taking place here from 100% to 45%, if that's what it is.

I'm just going to close my comments by saying that I hate it when Canada and those of us in the business sector are forced into a defensive posture to protect our assets. I think Canada, our Canadian institutions and our Canadian resources are capable of competing globally, and I believe this is an opportunity for us to continue the development of an important Canadian resource so that it will be better positioned to grow and compete globally.

Those are my comments, Mr. Chair.

The Chair (Hon. Gerry Phillips): Thank you very much, Mr. Dey. I think we've got around four minutes each, beginning with Mr. Arthurs.

Mr. Wayne Arthurs: Mr. Dey, thank you for being here. I have two questions, actually, at this point. First, can you speak briefly, given I only have four minutes, to your comments in regard to the inevitability of consolidations in markets? We've heard a lot of that, but I'd be interested in your take.

Mr. Peter Dey: Okay, I made the point that I've been in the capital markets virtually all my career, and I know what investors and companies are looking for. They're looking for liquidity and depth of market. These pressures, I think, will be the economic pressures that will force consolidation.

We've seen evidence of that. I think just as this deal was announced, there was also an announcement of a merger between a New York exchange and the Deutsche Boerse. Also, I think they've just completed the merger of the Australian and Singaporean exchange.

I think this particular merger positions the holdco to expand further. What we have to do is make sure that Canada continues to have a significant role not only in the holdco, but holdco as it expands.

Mr. Wayne Arthurs: My second question is around that area. The TMX, the variety of exchanges under the moniker, I guess, at this point across the country—will they remain as a critical component of our capital markets? How important is it for them to remain as an important, critical part of our capital markets, i.e., what happens if they drift off to London?

Mr. Peter Dey: We're speculating, I'm speculating, but the reason I'm in favour of this merger is because I think it's a strategic initiative that will not only enable the TSX to remain a critical component of our capital markets, but will enable it to grow and expand, attract more listings from abroad, focusing on the mineral resource and other natural resource sectors, exposing the list to a broader group of investors.

If it drifts, then I think the OSC has an opportunity and a responsibility to intervene and take whatever measures are necessary to ensure that the TSX continues to provide the service that it currently does to the capital markets in Canada.

Mr. Wayne Arthurs: So that reinforces the need for a strong regulatory regime, just to maintain?

Mr. Peter Dey: Absolutely, yeah.

The Chair (Hon. Gerry Phillips): A little less than a minute.

Mr. Wayne Arthurs: I think we're okay at this point.

The Chair (Hon. Gerry Phillips): Okay. Mr. Klees.

Mr. Frank Klees: Thank you, Mr. Dey. Could you please help the committee to better understand the dynamics between the major banks here and this proposal? My understanding is that Alpha is owned by the banks—100% ownership. Is that correct?

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Mr. Peter Dey: I believe so, yes. It's an alternate trading system.

Mr. Frank Klees: So you have the banks owning an alternate exchange essentially. You have a major group of banks coming forward opposing this. Is it far too simple for us to draw a conclusion that the reason they might be opposing this is for competitive reasons?

Mr. Peter Dey: I hope this committee gets an opportunity to ask that question directly of the banks.

Mr. Frank Klees: I really would like your opinion.

Mr. Peter Dey: We deal with conflicts of interest all the time. I would not attribute to the heads of these banks a position other than what they see is in Canada's public interest, so I don't think that their narrow interest in this alternate exchange would drive their position, but I'm just speculating.

The banks affect the capital formation process in Canada in so many ways, it's very difficult for them to take a position, I think, other than what is in the best interests of Canada.

Mr. Frank Klees: They wouldn't for a minute?

Mr. Peter Dey: Pardon?

Mr. Frank Klees: They would not for a minute put the interests of the banks ahead of the interests of the country, would they?

Mr. Peter Dey: You're getting me to speculate into an area that I'm not comfortable speculating about.

Mr. Frank Klees: But we might be getting close to something here. Is that what you're saying?

Mr. Peter Dey: I was around here—I was at the OSC when we started breaking down the four pillars, and that happened in the mid-1980s. The banks acquired the securities firms and everybody was tremendously concerned about the implications for the capital markets, and ultimately, it was probably the right thing to do.

The banks, I also think, believe in scale and consolidation, and I think this merger is about scale and consolidation but mostly, as I said earlier, a platform to position the TSX to continue to thrive and grow as it has.

Mr. Frank Klees: Could I ask you to compare what has been going on within the banking industry in terms of acquisitions of brokerage operations? I think of BMO, for example, and the marriage that took place between the bank and Nesbitt. That was quite an important step. There was a merger, and obviously there was an economy of scale that was created. Why would a bank oppose a merger of exchanges when those mergers are taking place every day, and internationally, within the same bank organizations that are now coming forward to say they oppose this?

Mr. Peter Dey: You're getting me to speculate, right?

Mr. Frank Klees: I'm asking for your informed opinion because I highly respect it, and I think you can help us get some insight into this issue.

Mr. Peter Dey: I have to believe that what drives the banks is ultimately the welfare and financial stability of our institutions and our corporations in Canada, and I believe that that is ultimately in their financial interest and that's what's driving them. And I do believe there is a coincidence between the national interest and their financial interest.

Mr. Frank Klees: Sir, you would do well in question period. Thank you.

The Chair (Hon. Gerry Phillips): I'll move on now to Mr. Bisson.

Mr. Gilles Bisson: I'm not sure if that would be as a questioner or as a respondent, because we certainly don't get answers around this place.

On lowering the capital cost, the argument you put forward, and I understand it, but just for the committee, your argument is that if liquidity becomes larger it lowers the capital cost. But do you want to explain exactly how that happens? I'm a little bit doubtful.

Mr. Peter Dey: What it means is you have a more efficient market.

Mr. Gilles Bisson: But for the person who's raising the money, how does that lower my capital cost? If so, what would you think it would be, percentage-wise?

Mr. Peter Dey: It will vary from company to company, but if you have more liquidity, you have a more efficient market, and a more efficient market will price your equity more accurately.

Mr. Gilles Bisson: On the opposite side. Okay; got you.

Mr. Peter Dey: If it's priced more accurately, then you have more confidence in the price you're paying when you issue equity.

Mr. Gilles Bisson: That's interesting. That, I'll phone you on, because that's a whole other conversation.

One of the things that we're having to look at in this whole thing is, is this really a merger of equals or is this really a takeover? There are some that fear—and I do, as well—that the way that the proposed deal is now structured, it is a takeover because we will not have the majority on the board. As you saw in the agreement, after four years that will be diminished based on other takeovers. I have to assume that with more takeovers, the Canadian position on a hold company is going to become lesser.

Other countries around the world, when it comes to natural resources specifically, tend to take a fairly protectionist view of what is in their national interest. Canada seems to have this view that as long as it's good for globalization, it's good for Canada, but if you go almost everywhere else in the world, that's not the reality. Shouldn't we at least set some conditions in this thing that are greater than what we have now to protect ourselves?

Mr. Peter Dey: As I understand, it's set up so that—you're right. It's like a 55-45 allocation, but I think that's simply driven by market values of the two—

Mr. Gilles Bisson: At this point, today.

Mr. Peter Dey: At this point. The only thing that occurs to me is I would like to see some provision that preserves the Canadian influence in the company as the company continues to expand. I don't know whether that is spelled out as a percentage. Does it mean that the TSX has to represent at least 30% of the merged company going on? That is the one provision that I would like to see.

The other thing I'd like to be assured of is that the Canadian component of the governance system of the merged company has the strength to make sure that the mandate of the TSX is not only protected, but continues to grow and flourish.

Mr. Gilles Bisson: The other thing—have I got time, Chair?

The Chair (Hon. Gerry Phillips): Yes, you do. Two minutes, actually.

Mr. Gilles Bisson: Okay, thank you.

I'm just wondering—this is just purely speculation on my part on this point. We all understand that, at the end of the day, the OSC is going to ultimately regulate and continue to regulate the new entity, whatever it might be. But isn't there a bit of a pressure then on the OSC over the longer term, once we become smaller and smaller owners of the new holdco and the market gets larger and larger? Because there will be other acquisitions after. I agree with everybody who has come forward to say that this is just the first part; there will be others after.

Doesn't the Canadian regulator get into a position where it becomes difficult for them to really do what they have to do because the Canadian share of the business is much smaller than everybody else's share? Isn't there a danger that at one point our own regulators will be somewhat hamstrung in trying to stand up to what might be global or market forces that are not in the Canadian interest?

Mr. Peter Dey: That's a fair concern. I don't think that's going to happen dramatically. If there's a marginal diminution of the Canadian strength in the global market, then I think the OSC has to effect some change to protect the Canadian marketplace. But it's not going to happen overnight; it's going to happen over a period of years, and as I said in my comments, the OSC has to be on top of what's going on.

Mr. Gilles Bisson: Okay.

The Chair (Hon. Gerry Phillips): I think we'll have to move on, Mr. Bisson.

Mr. Gilles Bisson: Can I have your card, please?

The Chair (Hon. Gerry Phillips): Mr. Dey, thank you very much for your informed opinions. I appreciate you being here.

INVESTMENT INDUSTRY ASSOCIATION OF CANADA

The Chair (Hon. Gerry Phillips): The Investment Industry Association of Canada—I think there's three people here. How are you doing? Mr. Smith, Mr. Dubczak and Mr. Russell. Are all three of you here?

Mr. Phillip Smith: Yes. Mr. Smith, Mr. Dubczak and Mr. Russell.

1300

The Chair (Hon. Gerry Phillips): As you know, we have 20 minutes, and we do appreciate if you can identify yourselves so that we have the record in Hansard. Thank you very much.

Mr. Phillip Smith: Okay, thank you very much.

Thank you for this opportunity to appear before the select committee of the Legislative Assembly of Ontario on the proposed transaction of the TMX Group and the London Stock Exchange Group. My name is Phillip Smith. I am the chair of the Investment Industry Association of Canada, or IIAC for short. I'm also the managing director of investment banking and deputy head of global investment banking at Scotia Capital. I am today joined by Ian Russell, on my right, the president and CEO of the IIAC; and Roman Dubczak, on my left, the vice-chair of the IIAC. Roman is also vice-chair, managing director and head of equity capital markets at CIBC.

The IIAC is a member-based professional association that advances the growth and development of the Canadian investment industry by acting as a strong and proactive voice for our members and the investing public. Our nearly 200 member firms range in size from small independent dealers to large, bank-owned organizations that collectively employ over 40,000 Canadians across the country.

We connect those with capital to those in need of capital. We serve a wide range of investing clients, from small investors to large institutions. We also serve a wide range of issuers, from start-up companies managed by entrepreneurs to large Canadian multinationals.

The IIAC has three primary strategic objectives: (1) to build more efficient and competitive capital markets in Canada; (2) to improve the savings and investment process; and (3) to facilitate capital formation in Canada.

In increasingly competitive global markets, it is not surprising that a successful exchange like the TMX Group would be sought out as or would find a partner. This is consistent with the trend towards global consolidation of stock exchanges. Consolidation among stock exchanges has been occurring in earnest for the past decade and has accelerated in recent months. The TMX Group has achieved notable success to date, despite not participating in any international merger.

Many of our member firms understand the basic rationale behind these mergers. We support global integration and consolidation of markets in principle, as this should, in theory, improve access to and reduce the cost of capital for listed companies. This should also offer the opportunity for lower transaction costs, assuming that shareholders of the combined entities share the benefits of any proposed transaction with issuers and investors.

We are pleased that you have undertaken to examine the proposed transaction. While change may be inevitable, we think that it is both important and possible to influence change to the best advantage of Canada. As an attachment to our written submission, we include an example of new commitments by the Australian and Singapore stock exchanges to strengthen the merits of their October 2010 merger proposal, announced four months after the exchanges first disclosed their intention to merge.

We believe that we need to look at five key areas that affect Canadians and the Canadian economy:

First, does the transaction support or detract from our capital markets? Capital markets are essential to our economic well-being. Last year, the Milken Institute, a US-based economic think tank, rated Canada as number one in the world for access to business capital. In addition, the TMX has become a leading stock exchange globally for the increasingly important mining and oil and gas sectors, and a destination for foreign companies, without the need for a merger. The purported inevitability of exchange consolidation does not detract from the success of Canada as a financial centre or as a centre for raising capital.

Second, does the transaction promote or impede capital-raising in this country? The investment industry must be able to convert—efficiently—multiple pools of savings, both large and small, into productive investment.

Third, does the transaction help those in need of capital—in particular, the small issuers that make the TMX the exchange with the most listings in the world?

Fourth, will the proposed merger increase costs for investors and other market participants? What will be the impact on market data costs and listing fees if the proposed merger synergies do not materialize? Does it allow for small, niche investment dealers serving the needs of retail investors and specific industry sectors as well as larger firms to operate, leaving investors of all sizes with choice? A governance model that includes some provision for transparent competitive pricing policies is required.

Fifth, what aspects of regulatory control are potentially surrendered through the proposed merger? The TMX effectively controls which companies can go public through the listings process. The TMX is also the sole arbiter of the reverse takeover, or RTO, process of going public, a uniquely Canadian process. The exchange controls who can act as a director of a public company; it approves share reorganizations; it can decline financings based on its views on pricing; and it can effectively deny certain corporate transactions by disapproving certain share-based considerations.

How will the proposed transaction or any subsequent transaction affect these aspects of regulatory control?

The challenge we face is one of trying to make decisions when many details are not yet known and where outcomes are uncertain. Our comments today are based upon input from our member firms and industry committees, and they are offered based on what we know to date. At present, there is clear division among our membership towards the proposed transaction. As we learn more, we may have further input, and we would be happy to provide it.

Our views are based on the premise that it is inappropriate for us to judge the proposed transaction from the perspective of a shareholder. This is a transaction negotiated and agreed to by two management teams and boards of directors. However, we believe it is the responsibility of governments and regulators to judge this particular transaction in terms of its impact on Canadian markets, market participants and the economy.

This association's observations in this regard are as follows:

(1) The evidence from the previous transatlantic merger of Euronext and NYSE suggests that cross-listings of TSX-listed companies will be minimal. Large Canadian companies who are currently interlisted on other stock exchanges will likely remain interlisted.

Will liquidity benefits attributed to the TSX-LSE interlisting emerge, or will there be significant costs for interlisting and cross-registration? An expedited review by Canadian and UK regulators of the merits of mutual recognition of listing requirements should be an important first step, with concrete action to follow, to realize the benefits of cross-listing.

(2) A change in primary listing by Canadian companies would shift trading and financing activity to the London market, to the detriment of the Canadian dealer community and financial infrastructure. Is this likely to occur on any large scale? What are the potential implications of a shift in primary listings to London from the TMX, particularly for mid-sized Canadian companies with most of their assets held outside of Canada? Additional analysis is required.

(3) The merged exchange group may resort to reliance on market data revenue by charging higher prices, particularly if revenue and cost synergies fail to materialize. Both stock exchanges now rely heavily on high-margin market data business for earnings performance. What steps can be taken to ensure that fees remain responsive and competitive? Canadian regulators should become more proactive in introducing regulatory restrictions on market data pricing, similar to what the Securities and Exchange Commission in the United States has done.

(4) There will likely be an accelerated move to integrate best-in-class technology for cash and derivatives trading in the merged entity. What is the technology integration strategy? What is the expected magnitude and timing of the changes and their impact on costs borne by market participants? The TMX adopted new trading technology as recently as 2009. Also, what are the risks of integrating new technology, including possible market disruption, as we have witnessed recently? We think the TMX and LSE groups should provide a detailed assessment of the timing and likely effect of the proposed technology changes.

(5) Technology advances are key to the competitive success of the merged exchange group. Will the merged group establish a key centre or centres for technology expertise, and where would it or they be located? The LSE's current technology centre is based in Sri Lanka. Clarifications from the exchanges would benefit those examining the transaction.

(6) The decentralized structure of the merged stock exchange group, with no less than eight offices, can be expected to lead to rationalization in the event of a market downturn or if synergies fail to materialize. How might this play out? We would appreciate understanding what a contingency plan for the possible rationalization of organizational structure and the decision-making mechanism might look like.

We hope these comments will help the committee to better understand the transaction's potential impact on the financial community in Ontario and elsewhere, and, more broadly, its possible influence, longer-term, on the economy.

We are confident that the merger's proponents will be open to suggestions to clarify and address aspects of this merger transaction raised as legitimate concerns by your committee and others reviewing the proposed transaction.

We thank you for this opportunity to appear before you today, and we look forward to the outcome of your review. Ian, Roman and I would be happy to take any questions.

The Chair (Hon. Gerry Phillips): Thank you very much. We have a little more than three minutes each, beginning with Mr. Shurman.

1310

Mr. Peter Shurman: Thank you for the presentation. By far, the most interesting aspect to the document you handed us was the news release pertaining to Australian and Singaporean governance, and you referred to it. It looks to me, although I wasn't party to any of the discussions, that they went through much the same exercise that we're having to go through. Would that be true?

Mr. Phillip Smith: Yes, that's correct.

Mr. Peter Shurman: And out of it comes an equal number of Australian and Singaporean directors; commitments to maintain operations, assets and key staff in Australia; and commitments to invest in, develop and introduce new products and services in Australia and Singapore. Is that the kind of thing that you're alluding to when you talk about strengthening the safeguards in order to go ahead with the merger? Because you did talk about the fact—and you straddled very well, because you said that your members are on both sides of this fence.

Mr. Phillip Smith: Correct.

Mr. Peter Shurman: Is that the kind of thing that you included because you believe that the ones who are more on the negative side would move over to the positive side if they saw that?

Mr. Phillip Smith: That was our intention. We think that represents a very recent example of a transaction that was proposed and modified to meet the needs of all parties. We think that represents an interesting template and should be considered by the committee.

Mr. Peter Shurman: One of the things that we discussed on the first day of these hearings—you may have been reading about this in the press, because it was not just here, but other places—has to do with the governance structure, where in the initial four years, seven directors out of 15 are Canadian. You put the question rhetorically in your document as to whether or not there's a sunset clause—and there is, and it's four years out. Then, although they could stay at seven or even increase them, they can go down as low as three. Does that concern you?

Mr. Phillip Smith: I think it does. Fundamentally, when we look at the way it's been characterized—and we've been privy to some of the previous speakers—it's just a stock exchange; it doesn't really perform any other function beyond trading and listing and reducing costs. Well, there is a regulatory component to this, and we think it's very important that that continues to be controlled in Canada. When you dilute that board representation or ownership interest down over time through sunset clauses or subsequent transactions or whatever mechanism, to us that represents a certain lessening of the ability of Canadians to have a direct say in the operations of a financial infrastructure that's critical to the economy and to our industry.

Mr. Peter Shurman: Would it be fair, then, to characterize your view succinctly as in favour, with reservations pertaining to governance? I don't want to put words in your mouth, but I want you to distill it for me.

Mr. Roman Dubczak: It's close.

Mr. Peter Shurman: If it's close, what is it?

Mr. Roman Dubczak: I think that's pretty much—when you talk to people in our industry, they do certainly understand the movement towards globalization. They understand consolidation of industries, cost synergies etc., so intuitively, all this is not unexpected, as Ian mentioned earlier—to the degree that it's inevitable is debatable, but nonetheless, there's a movement afoot. It's just that the particular terms of this arrangement or this transaction are such that there's enough that is left unanswered that for everyone to put their hand on their heart and say, "Yeah, that actually makes sense. It's a good deal"—I think that's what we're wrestling with.

Mr. Peter Shurman: Thank you.

The Chair (Hon. Gerry Phillips): I think we'll have to move on, Mr. Shurman. Mr. Bisson.

Mr. Gilles Bisson: Can you explain a little bit, for my understanding, the whole issue of the reverse RTOs? You're saying they're a unique mechanism in Ontario, Canada. Explain that to me.

Mr. Roman Dubczak: It has evolved to be a unique Canadian mechanism, I suppose, where there are very small companies that merge with what are left to be shell companies that still retain a listing on the exchange. They in effect merge together, and the active company becomes de facto a publicly traded company, using the ticker that's been pre-established by the shell company on the exchange. It's a unique way for small Canadian companies to get listed and avoid the costs of initial public offering, because that is a fairly costly process.

Mr. Gilles Bisson: Oh, I've got it. So that is not allowed in other jurisdictions?

Mr. Roman Dubczak: I'm not aware of where it's not allowed, but it's very much the way small Canadian companies make their way onto the exchange.

Mr. Gilles Bisson: So one of your fears is that by merger and eventually not controlling holdco, you may be in a position where that may not be a product that's offered, or an ability to do so.

Mr. Roman Dubczak: To be more specific, our concern is the fact that the stock exchange, at its sole discretion, approves of the merger of the operating company with the shell company, ergo allowing the operating company to get access to the markets. To the extent that that decision's made by an individual or an entity that's not Canadian or doesn't take into account the interests of Canadians, that ultimately is a concern.

Mr. Gilles Bisson: Okay. And you're not the first person—a number of people have said that the amount of cross-listings as we've seen in other mergers has not been all that significant. That is one of the things that I understood at the beginning of this whole debate was one of the major reasons why we should be doing this. So, explain: Why is it that people would not cross-list? Because it's double the cost? Why won't they do it?

Mr. Phillip Smith: I think one of the reasons why is, many companies that would cross-list are cross-listed already.

Mr. Gilles Bisson: That's the point?

Mr. Phillip Smith: Yes.

Mr. Gilles Bisson: Because most mining companies that I deal with and the firms that they deal with list here in Ontario, and if they need to go to London, they've got offices that do it there.

Mr. Phillip Smith: Or if they would cross-list, they may not want to cross-list in London. They may be looking at cross-listing in Hong Kong, Singapore or some other place.

Mr. Gilles Bisson: But there will be no saving to the person who's doing the listing because you're still going to have to pay to list—okay, gotcha.

Mr. Phillip Smith: Right.

The Chair (Hon. Gerry Phillips): You've got one minute, Mr. Bisson.

Mr. Gilles Bisson: Yes.

You made the other comment in regard to the market downturn. I think that's the thing that I agree with you on, that it might be okay now—we're seven out of 15. That's not a bad thing, you would think, when markets are high, but at one point—we know all this is cyclical—it's going to go down, and we may have merged into something even bigger.

Your worry, to paraphrase, is that if we hold less and less of the holding company as far as the decision-making, we could end up seeing some of these services that are basically managed out of here go somewhere else because of rationalization.

Mr. Phillip Smith: I think that's fair. The rationale for any merger or transaction like this is relative valuation, revenue synergies or cost synergies. What are the sources of cost synergies, for example? Does it make sense to have eight offices for a merged exchange, and does that get rationalized down to five, four or some lower number, and where do those come from in the event that cost synergies are viewed as more pressing because of the prevailing market conditions or the status of the business?

The Chair (Hon. Gerry Phillips): Thank you. We should move on now to Mr. Arthurs.

Mr. Wayne Arthurs: I think if there's one thing that I've been hearing during the hearings we've had—you've used the words "change may be inevitable"; you almost say, "Change is inevitable," almost to that extent, based on what we've heard for the most part so far. So we started a little bit from that premise.

One of the other things we've been hearing are the regulatory issues—regulatory control, the potential watering down of the regulatory control, shifting of regulatory control out of Canada to the UK. What types of things would you see as changes in the regulatory control? Do you see it likely to shift, say, to the UK? What kinds of things could we be doing in the process that would strengthen Canada's position in the event of a merger from its regulatory rules?

Mr. Phillip Smith: I'll take a crack at that. I think there are two aspects to that. One is, there are certain regulatory functions that are governed by the exchange itself, and that's a point that I think has been missed by at least the speakers I've witnessed: that the TMX does have control over who lists, directors and various other things, as I've listed in my statement. That could be jeopardized in a merged entity simply because those in control have a less sympathetic view of the profile of companies that are proposing to list or have other priorities. That's the immediate, near-term issue.

The second one is regulatory harmonization over the longer term between the FSA in the UK and the various provincial entities here, how that would manifest itself in order to facilitate the exchange as an entity. It's tough to speculate on how that should look over time because it's a very complex issue and it requires matching up the different regulatory systems, but I think those are the two aspects of the regulatory question that are most prominent.

Roman, do you want to add anything?

Mr. Roman Dubczak: No, that would be it.

The Chair (Hon. Gerry Phillips): A little less than one minute, Mr. Arthurs.

Mr. Wayne Arthurs: What can we do—looking at this process—to protect those interests, to protect the strength of the TSX so that things don't drift at that level and, in our case, at the OSC level to protect the Canadian interests?

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Mr. Roman Dubczak: I think, for the foreseeable future, some form of hard coding of where decisions are made on important points, such as who's able to list and the access to capital. This is primarily about Canadian companies getting access to equity capital on an efficient basis and to hard code that into the agreement, much along the lines of what you saw with Australia and Singapore, whether we mimic that or customize it to our circumstances. But I think that would provide comfort that, as Phil mentioned, there would be a sympathetic view to Canadian companies getting access to equity.

The Chair (Hon. Gerry Phillips): Thank you for your presentation. We appreciate it very much.

By the way, there's an overflow room. We've got seats here right now, but it's committee room 2, which is down the hall. Anyone who wants to use that can do so.

CANADIAN COUNCIL OF CHIEF EXECUTIVES

The Chair (Hon. Gerry Phillips): Next is the Canadian Council of Chief Executives. Welcome, Mr. Manley. It's good to see you. I think you know we've asked our presenters for 20 minutes. If you can keep your remarks to no more than 15 minutes and allow the members to ask some questions. Welcome and, as I say, if you could state your name for Hansard, we'd appreciate it.

Hon. John Manley, P.C.: My name is John Manley and I'm here as president and chief executive officer of the Canadian Council of Chief Executives. I appreciate the opportunity to offer some perspectives on the matter that's before you.

As the president of the Canadian Council of Chief Executives, I represent the heads of 150 of Canada's leading corporations, companies that do business across Canada and around the world. Like the previous group that was here, I have to tell you that I can't claim a consensus among my members as far as this particular transaction is concerned.

I think in the business community, including in the large business community that I represent, there is a lively and healthy debate about the pros and cons of any transaction that would result in the relocation of all or some of the head office functions of any important Canadian enterprise. That is, I think, as it should be. Reasonable people can differ, and that's certainly the case when the company itself is a key part of the country's financial infrastructure.

Let me also point out that our membership includes not only the TMX Group, but many of its largest listed companies and eight of the nine financial institutions that own its most important competitor, the Alpha Group.

Clearly, I'm not in a position this afternoon to speak on behalf of all of them unless you want to give me quite a bit more time, and I could change hats as I went along, I suppose. Instead, what I'd like to do is to outline a few of the facts and principles that I think should guide you in your considerations.

The first point is perhaps so obvious that it hardly needs to be said, and that is that Canada and Ontario are part of a global economy. In all but a few sectors, building a large and successful company in this country means reaching out to customers, suppliers and investors far beyond our borders. Canada's prosperity depends on trading with the rest of the world—and that's something we're good at. But being open to the world is not just about trade; it's also about investment.

As former minister Jim Prentice said yesterday, "Canada is a country small in population but huge in potential—a potential that we can only unlock if we are full participants in the global economy." Mr. Prentice also pointed out that in an era of rapacious global competition, Canada's need for investment capital has never been greater. The future growth of our economy requires that we tap into deeper and broader pools of capital and liquidity.

My second point is that possibly no business today is more global in scale and scope than the buying and selling of securities. Technology has made it possible for investors to trade anytime, anywhere. This is true of large funds, as it's true of individual retail investors—and you can do it on your handheld device.

For example, the Ontario teachers' pension plan, with assets of $96 billion, is not only one of the largest owners of corporate Canada, but also one of this country's most significant foreign investors. Of the publicly traded shares held by Teachers' at the end of 2009, fully 80% were issued by non-Canadian companies.

For the securities industry, the implications are obvious. Stock exchanges around the world are feeling intense pressure to provide investors with the international services they demand; either that, or they risk irrelevance. That, of course, is one of the key reasons behind the current wave of consolidations among exchanges in North America, Europe and Asia.

My third point is that technology, which greatly accelerated the internationalization of stock trading and is now making possible the consolidation of exchanges, has also given rise to a new generation of lean and hungry competitors. I've already mentioned one of these alternative trading systems, Alpha Group, but there are many others. Here and elsewhere, these new players are capturing increasing shares of the market for securities trading. That in turn has forced traditional exchanges to reduce their fees.

These changes are not happening gradually. Alpha Group's first day of trading was November 7, 2008. Less than two and a half years later, it now counts for close to a third of all trading in TSX-listed securities.

But even that measure may soon become irrelevant, because Alpha Group is currently waiting for approval from the OSC to become a full stock exchange, which will enable it to compete for listings of its own.

The real winners from all of this innovation are the customers. The costs of trading have fallen significantly, and the range of choices offered to investors has exploded.

One of your previous witnesses commented that just because most of the world's other major exchanges are forming partnerships, that doesn't mean it's the right move for the TMX, and that's a fair comment. But surely it's also fair to ask whether TMX can afford to stand still at a time when the rest of the world's big players are consolidating, when investors and publicly traded companies are pushing for new services, and when some of its biggest customers are channelling much of their business through alternative trading systems.

Last week, one of your other witnesses suggested that if this deal goes ahead, Canada will be pushed to adopt UK securities regulations, eroding our government's ability to protect the public interest. I don't accept that argument. Regardless of what happens, each of the TMX Group's markets will continue to be overseen by existing regulators. Our securities regulations will continue to be made in Canada, and I have confidence in those regulators' ability to ensure fair and efficient capital markets.

This committee's responsibility, however, is to consider the best interests of Ontario, and that brings me to my fourth and final point.

One of the key questions before you is whether the joining together of TMX Group and LSE Group would affect the availability of capital for Canadian-listed companies, including those in Ontario's mining industry.

Some supporters of this merger have suggested that it will benefit Canadian companies by increasing liquidity and by elevating the international profile of Canadian-listed firms, making it easier for them to raise capital. Some critics of the deal have claimed the reverse, and say that, over time, capital and listings will be drawn to London.

My own belief is that capital and business activity will be attracted to Ontario and to Canada if and only if we continue to be known as a place where investors' interests are well served and where broad public policy creates an environment that rewards risk and entrepreneurial activity.

I also believe that Toronto's future as a global financial centre depends ultimately on whether this city, this province and this country continue to build on their reputation for sound regulation, transparency, good corporate governance and openness to foreign investment.

In that context, I strongly endorse recent statements by both Premier McGuinty and federal Industry Minister Tony Clement that partisan political concerns must not and will not be allowed to influence their governments' consideration of this transaction. To be blunt, I can think of few things that would be more damaging to Ontario's economic future than the perception that decisions in matters such as this are driven by narrow, short-term political calculations. Nor would that benefit Ontario-based companies that do business in other jurisdictions.

Whatever happens, Canada must not fall into the habit of saying no to foreign investment.

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A year ago yesterday in the speech from the throne, the government of Ontario launched a new five-year Open Ontario plan to strengthen the economy, promote investment and create more jobs. In the words of that plan, "growing our economy means being open to change, opportunities and our new world." It's in that spirit that I hope you will consider this proposal.

Thank you. I'll be happy to take questions.

The Chair (Hon. Gerry Phillips): Thank you very much, Mr. Manley. We've got about three minutes for each side. Mr. Bisson?

Mr. Gilles Bisson: My colleague has a question, so let me just get to the point. You sent a letter off to the current finance minister asking him to declare a war on behalf of this province in regard to debt. In the same letter, you're saying, "Resist the siren call to lower the HST." Yet you say it's okay to lower the costs of tax for business. Why should businesses get a tax break and individuals not?

Hon. John Manley, P.C.: I've spent a long time, Mr. Bisson, trying to understand tax policy, going back quite a few decades, and basically the rule is this: What you tax is what you discourage. So if you want to discourage business growth and investment, then you will tax it. If you want to encourage savings, you will tax spending. It makes pretty simple sense that if you want to grow the pie in Ontario, you don't increase business taxes. If you want to increase savings, whether at the corporate or the household level, you don't reduce the HST. It's as simple as that.

Mr. Gilles Bisson: I would argue with you on that one, but you have your answer.

You were saying in regard to the Potash takeover that that wasn't a strategic asset and you took the position that you did. Why wouldn't you see the stock market as a strategic asset for Canada?

Hon. John Manley, P.C.: I don't actually know what a strategic asset might be defined to be. I think that it's important here to understand that what we're talking about is who owns the shares of a company that runs an exchange, just as, in the Potash decision, it was a question of who owns the shares of a company that had the right to extract a product. I think what's really important here is when you zero in on the regulatory responsibilities that the government of this province has to protect investors when they're buying and selling securities. If I thought that those were diminished, then I would have real concerns about our ability as a sovereign jurisdiction to fulfill our responsibilities. I think that's where, quite frankly, this committee and the OSC need to probe carefully to make sure that that ability to protect investors is not compromised.

The Chair (Hon. Gerry Phillips): A little less than a minute, by the way.

Mr. Paul Miller: One question, Mr. Manley. You encourage foreign investment; you like the Open Ontario concept and you're pushing that. I'm a little concerned about foreign takeover. Some examples would be US Steel and Vale Inco—the way they treat their employees, the way they treat their community. The money doesn't stay in Canada; it goes to other countries. If we move most of our business to Britain, and they own 90% of our forestry, 90% of our mining and 100% of our steel production, do you not feel that the governing bodies would shift to Britain and we, once again, would be behind the eight ball? The performance of some of these major corporations that have come into Ontario and Canada has not been very good. How do you defend that?

Hon. John Manley, P.C.: I'd say that if you want to do an estimate of whether foreign investment has benefited Canada and Ontario or jeopardized it, then you'd have to do a broader review than just a couple of transactions. I think you'd have to really drill into some of those to understand it.

Mr. Paul Miller: These are huge companies, Mr. Manley; they're major players.

The Chair (Hon. Gerry Phillips): We're going to have to move on, I'm afraid, Mr. Miller. Sorry about that.

Mr. Gilles Bisson: Welcome to politicking again.

The Chair (Hon. Gerry Phillips): Mr. Zimmer?

Mr. David Zimmer: As you know, there's a divergence, as reported in the Globe and Mail this morning, between the big banks. RBC has one view; TD, National, CIBC, Bank of Nova Scotia have another view of the merger. I assume that the executives of all of those organizations are members of the council.

Hon. John Manley, P.C.: They are indeed.

Mr. David Zimmer: It seems to me that all of those banks are operating in the same business context here—nationally, provincially, indeed internationally. They're also operating in the same regulatory context. Can you help me to understand or can you describe for me why their views are divergent on this issue? Not which view you support, but help me to understand the divergency there.

Hon. John Manley, P.C.: Like Mr. Dey earlier, it's a little hard to speculate on all of it, although I've talked to several of the individuals. I think Mr. Nixon was very clear about what he believes. He thinks there are not a lot of other alternative transactions that are going to come along, and that the failure to do this one will lead to the TSX gradually becoming a diminished player in a global marketplace. I think that, on the other side, there are people who believe that that is not necessarily the case, and that there may be alternative routes for the TMX Group to follow. Where there's a broad consensus is on two points. One is that Toronto should be a global financial capital, and secondly, that the exchange is a critical part of that infrastructure. Where there may not be consensus is: What are the alternatives? Are there alternatives? If so, what are they, and who would lead them? I'm not sure that that's something that you as public policy-makers are going to be able to divine. If other transactions appear, then they can be considered.

The Chair (Hon. Gerry Phillips): There's one minute, Mr. Zimmer.

Mr. David Zimmer: How would you resolve those conflicting viewpoints so that you could get everybody—all the banks—on common ground?

Hon. John Manley, P.C.: I'd certainly be asking those who say, "Not this one; another one," to identify what that other one would be. As I said to Mr. Bisson, I'd also really drill into the question of protecting the capability of the province to do what it must do, which is to protect the public. That's not something that you can delegate to a foreign government. It's something that you have to maintain the ability to do. You've heard a number of comments from the investment dealers that relate to what protections there can be in order to ensure our long-term interest. In my role as industry minister I often asked to have Canadian directors put on boards of companies where there was a foreign acquirer, but as you probably know, a director of a company has, first and foremost, not a national mandate, but is responsible for the best interests of the corporation on whose board he or she sits. So it's not a watertight solution to ensuring that domestic interests are always protected. I think that's something that you as policy-makers have to try to figure out how to do.

The Chair (Hon. Gerry Phillips): Mr. Klees?

Mr. Frank Klees: I appreciate your presentation. I realize that you're here as the president and chief executive officer of the Canadian Council of Chief Executives, but now that we have you here, I'd like to take advantage of your very broad experience, both as an industry minister and other portfolios. I would ask you, based on that experience and based on the research that you've done—which you obviously have—on this issue: Under what conditions would you give your nod of approval to this proposed deal?

Hon. John Manley, P.C.: It's another good attempt to do to me what you tried to do to Mr. Dey, which is to get us to express an opinion on something that we can't exactly get to. As Mr. Bisson said, "Welcome back to politics."

When I would look at issues like this—and I dealt with a lot of Investment Canada reviews, which has a slightly different set of questions than what you have before you—I would look at and try to identify what the broad interest of Canada is in those transactions, always operating, as I said earlier, on the basis that when it's a draw, foreign investment is good for Canada. We need to be a country that draws foreign investment. We just don't have enough capital in this country to do all the things that we need.

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In this case, what are the regulatory considerations that you need to have? What will it take to build Toronto and Canada as a global leader in finance? We came out of the meltdown looking very good, largely because our regulatory structures and our banks, in their conduct, put us in a position to have moved forward. Are there issues that this transaction gives that would compromise our ability to succeed in those ways? If so, then how can they be repaired and how can they be fixed?

There are some things that are just what's happening in the world, and globalization and the integration of markets is one of those. The hard thing is to figure out how we make sure that Canadians and Canada win.

The Chair (Hon. Gerry Phillips): I think we have to move on, Mr. Klees. I'm sorry.

Mr. Frank Klees: I had a very important question, but I defer to the Chair.

The Chair (Hon. Gerry Phillips): My apologies. Mr. Manley, thank you very much. We appreciate you being here today.

Hon. John Manley, P.C.: Always a pleasure to see people who have been elected by their peers.

The Chair (Hon. Gerry Phillips): Next is the Toronto Financial Services Alliance, and a familiar face to all of us here. Ms. Ecker, welcome back. You've probably sat in that chair before, in another role.

Ms. Janet Ecker: Yes.

Interjection.

The Chair (Hon. Gerry Phillips): Did I go out of order?

Interjection: Yes.

Ms. Janet Ecker: That's what I was just wondering.

The Chair (Hon. Gerry Phillips): I'm sorry, Janet.

Ms. Janet Ecker: Okay.

The Chair (Hon. Gerry Phillips): Sorry. Welcome, anyway.

Ms. Janet Ecker: I was ready to do the committee's bidding.

The Chair (Hon. Gerry Phillips): I'm going to have to follow my agenda here. I'll say it again when we call you. Thanks, Janet. I'm sorry.

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

The Chair (Hon. Gerry Phillips): The Investment Industry Regulatory Organization: Susan Wolburgh Jenah and Maureen Jensen. My apologies. Hi.

Ms. Susan Wolburgh Jenah: Hi.

The Chair (Hon. Gerry Phillips): Good to see you. Thank you. As you know, we have 20 minutes. If you would identify yourselves for Hansard. We'd like 15 mintes or so of presentation and then some time for quesions. Welcome.

Ms. Susan Wolburgh Jenah: Good afternoon, Mr. Chairman and members of the committee. Thank you for that introduction. We very much appreciate the opportunity to appear before the Select Committee on the proposed transaction of TMX Group and the London Stock Exhange Group.

I am Susan Wolburgh Jenah, president and CEO of IIROC, if I can just use our acronym. With me today is my colleague Maureen Jensen, senior vice-president of compliance and surveillance at IIROC.

We are a national self-regulatory organization, created in June 2008 from the merger of two self-regulatory organizations, which were previously known as the Investment Dealers Association of Canada, an organization that had a very long and storied history back to 1916 in this country, and a newer SRO, Market Regulation Services, which was created, in fact, at the time that the TMX Group demutualized and went public.

Under recognition orders from the Canadian Securities Administrators, which we call the CSA, including the Ontario Securities Commission, the CSA relies on IIROC to set and enforce high-quality regulatory and investment industry standards, protect investors and strengthen market integrity while maintaining efficient and competitive capital markets.

The CSA has oversight over our activities as a self-regulatory body, including approval of our rules, specifically those governing trading on Canada's equity marketplaces, which is of most relevance to you here today.

We carry out our responsibilities by setting, monitoring and enforcing rules regarding the proficiency, business and financial conduct of Canada's 201 investment firms that operate nationally and their 28,000 registered employees, and by setting, monitoring and enforcing the market integrity rules that relate to trading activity on Canada's nine equity marketplaces. That's right: I said "nine."

During these hearings, you have heard from many stakeholders with respect to the merits of the proposed transactions, the disadvantages, and the implications for issuers, market participants, investors and, more broadly, the Canadian capital markets.

In their presentation to this committee, the TMX and LSE stated, "The Ontario Securities Commission, as lead regulator, will maintain its current regulatory and oversight powers over the TSX and its issuers. Undertakings made to each of our Canadian regulators will be maintained, with new undertakings committed to under the provisions of our merger proposal."

My goal this afternoon is to provide you with a perspective on the current regulatory framework which governs Canadian equity marketplaces today. In particular, I would like to describe a unique regulatory advantage that enhances investor protection and the integrity of our equity markets. But first, a bit of background.

Technology, innovation and competition have transformed equities trading in Canada. Not so long ago, virtually all equities trading in Canada took place on the TSX and TSX Venture Exchanges. Today, investors can choose to trade on nine trading platforms, three equity exchanges and nine alternative trading systems, which we refer to ATSs.

Alternative trading venues offer different features, and they compete for market share in terms of speed, price and their business model. Most are lit, transparent markets offering full pre- and post-trade transparency; two are called "dark pools," which offer post-trade transparency.

As of December 31, 2010, the TSX markets accounted for approximately 72.6% of Canadian market share by volume.

These multiple markets are characterized by higher volumes, faster trading, complex products, new trading strategies, more sophisticated technologies and greater volatility. Let me provide some examples.

Trades have doubled in the past two years. Last year, IIROC monitored over 262 million trades. The advent of algorithmic trading programs and high-frequency trading strategies are driving an explosion in the number of daily trading messages—and when I refer to messages, I'm referring to orders, quotes and cancellations, in addition to the trades that actually get consummated. Today, IIROC monitors, on average, some 150 million messages a day. To give you some context for what that number means, four years ago, that number was 10 million. The speed of trading has also dramatically increased, with speed now measured in milliseconds. This has fundamentally transformed the Canadian trading environment.

All of these developments and trading practices present challenges for investors, the marketplaces themselves, industry participants and regulators. Trading rules and market surveillance must keep pace.

The CSA rules set out a high-level framework for regulation of this multiple-market environment of exchanges and ATSs. Under this regulatory framework, the provincial securities regulator regulates the exchange directly. This includes, for example, governance of exchange activities, approval of their rules, listing standards and market models, and oversight of their system capacity and integrity.

Under current CSA rules, and subject to CSA approval, exchanges can regulate the trading activities on their own market or outsource these regulatory functions to an independent regulation services provider through a contractual arrangement. Currently, IIROC is the only independent regulation services provider performing that function. Canada's three exchanges—TSX, TSX Venture and CNSX—have all entered into contractual agreements with IIROC to regulate trading activities on their venue.

The current recognition orders issued by provincial securities commissions with the TSX and TSX Venture state that they shall continue to retain IIROC as a regulation services provider. The TSX and TSX Venture regulation services agreements with IIROC are operative until 2013. We are advised by TMX that the proposed transaction does not contemplate any changes to these agreements.

Unlike exchanges, under CSA rules, alternative trading systems cannot regulate trading activities on their own. They must sign a regulation services agreement with an independent regulation services provider. Again, they have all signed these agreements with IIROC to regulate the trading activities on their platforms.

What does this all mean and why does it matter? This means that although equity trading is dispersed across multiple trading venues, oversight of trading activity is centralized in IIROC. Moreover, IIROC ensures compliance with a single set of rules, which we call the universal market integrity rules, or UMIR, which, among other things, address issues like best execution, client priority, market manipulation and front running.

In this rapidly evolving high-tech and fast-moving environment, Canada's consolidated and centralized oversight of trading activities on multiple markets, and one set of universal market integrity rules, are a regulatory strength which is unique to Canada.

Let's examine the advantages this unique regulatory framework provides. Cross-market monitoring and analysis was not necessary when the TSX and TSXV made up virtually 100% of equity market volumes. However, this changed with the introduction of new equity marketplaces that provided competition to the incumbent exchanges—and traded the same securities, in many instances.

To be able to carry out the responsibilities entrusted to us, we needed to develop the capacity to conduct the increased oversight and surveillance that this new, multi-market environment requires. We made investment in technology a key priority for IIROC. We created STEP, which refers to the surveillance technology enhancement platform. Essentially, it's a system. But this new surveillance system includes direct regulatory feeds from all of Canadian equity marketplaces and combines them for simultaneous surveillance into a single virtual marketplace, allowing us to conduct single and cross-market surveillance and analysis.

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STEP helps us continue to keep pace with this dramatic increase in the speed and volume of trading activity in Canadian equity markets that I described to you earlier. It also allows us to better identify potential regulatory infractions for follow-up by IIROC or referral to the CSA and other regulators. Regulators also need to be able to rely on a surveillance technology that is scalable and adaptable in a cost-effective manner. IIROC directly manages and maintains STEP, so this gives us the flexibility that we need to respond quickly to changing market conditions and structure.

This single and complete picture of trading activity on Canada's equity marketplaces is a huge step forward in ensuring effective and efficient market oversight. The benefits were demonstrated in the aftermath of the unfortunate events known as the May 6 flash crash. By the way, we launched STEP on May 5, so this was the ultimate stress test. I can assure you it was unplanned.

This very brief but severe drop in prices and just as quick recovery, I might add, in the United States and Canadian markets dramatically underscored the increased volatility that is inherent in today's multi-market environment. It also underscored how quickly aberrant or volatile trading on one market can spread to other markets, particularly markets as interconnected as those in Canada and the United States.

We conducted a thorough review of the events of May 6 on Canadian marketplaces, an undertaking involving the reconstruction of one day of trading across nine marketplaces during an extremely active trading day. It involved thousands of securities traded and over 230 million data points. It would have been extremely difficult, if at all possible, for us to have conducted this review without the consolidated view that STEP provides.

We published a comprehensive report which presented our findings and recommendations for change. They included practical steps that will help mitigate volatility and enhance the reliability and stability of markets that is so critical to investor confidence.

Robust market regulation needs more than an effective regulatory framework, consistent rules and efficient and cost-effective surveillance technology, as important as they all are. Effective market trading oversight also depends on our ability as regulators to work directly and closely with the markets we regulate to ensure that trading rules address the current market realities. Effective consultation with stakeholders leads to better rule-making and more balanced regulation. It helps ensure that rules and policies are consistent with and reflect the unique features of the Canadian capital markets.

Our regulatory policies and rules must support fair, reliable and efficient markets while allowing competition and innovation to thrive. Finding this balance has never been more critical, as we strive to ensure that Canada's equity markets rest on a solid foundation that will position us well for future changes.

I've described for you today some of the strengths of Canada's unique regulatory framework for equity marketplaces.

As technology, innovation and competition, domestic and international, continue to drive the transformation of our markets, we should recognize and preserve the strengths and advantages of Canada's centralized oversight of trading activity on multiple markets under one set of market integrity rules. Well-regulated capital markets are a key national asset. Canadian regulators must continue to exercise autonomy over the regulatory framework and the standards that apply to our markets. This is critical to protect the interests of Canadian issuers, market participants and the investing public.

Thank you, and I'd be pleased to answer your questions.

The Chair (Hon. Gerry Phillips): Colleagues, we've got about six minutes, so two minutes each. We'll begin with Mr. Zimmer.

Mr. David Zimmer: That was a very detailed presentation, and you went through it very quickly. At the end of the presentation are you, personally, or your organization, supportive or not of the merger?

Ms. Susan Wolburgh Jenah: I probably—

Mr. David Zimmer: And your reasons for supporting or not supporting.

Ms. Susan Wolburgh Jenah: I would just reiterate: Our role here today really is not to weigh in in favour of or against the transaction. We are a market conduct regulator. We believe the purpose of these proceedings is really to get the issues on the table. You'll be hearing from a lot of parties who will raise a number of legitimate issues for you to be thinking about and for securities regulators to be thinking about in their hearings. I don't think I could do a better job than Mr. Manley did previously in identifying the principles that would apply. What I do believe as we go forward is that it's important to understand the drivers behind the transaction. Hopefully, in providing this rendering of how our markets have evolved and the position of the exchanges—

Mr. David Zimmer: Sorry; let me try this, because I want to get my head around this. There may be more, but just give me your three issues that have to be clarified if this merger is to go ahead.

Ms. Susan Wolburgh Jenah: From our perspective, what I would think would be important for policy-makers and decision-makers to get their heads around is, what are the key regulatory activities that are performed at the exchange level? What are they? How are they currently performed? How are they overseen? How can we, as Canadians, ensure that autonomy and oversight of those activities are preserved as we go forward? That will help to inform the kinds of undertakings and the sorts of commitments that you may see necessary to obtain from the parties that are involved in this transaction.

Mr. David Zimmer: That's one. Two?

Ms. Susan Wolburgh Jenah: I'm not sure that I would have three. For us, as regulators, that would be key. You've got to think about broader issues of net benefit and so forth. We understand that, but our issues are strictly and primarily regulatory.

The Chair (Hon. Gerry Phillips): Mr. Shurman.

Mr. Peter Shurman: Thank you very much for being here and for your presentation. As I listened to it, I came to the same conclusion as my colleague: I wasn't going to get a position from you. That's okay.

Ms. Susan Wolburgh Jenah: That's good.

Mr. Peter Shurman: I understand where you're coming from. The reputation of IIROC is a good one. Obviously, what you want to do is maintain the level of regulation that you apply to your members, both on the trading side and on the dealer side. What I'm getting is that we'd like to be able to do that regardless of what the ultimate decision is going to be. Well, the decision doesn't come from this committee. We're trying to consider this from a provincial perspective.

I'm going to conclude and ask you to respond to this. What you want is the best decision for Ontario, with your ability to continue to be the intermediary that sits in judgment on whether or not regulations are being followed. Is that correct?

Ms. Susan Wolburgh Jenah: I absolutely would say we want the best decision for Ontario. We want the best decision for the investing public and for confidence in our markets; that's critical. The regulatory oversight structure that we have today, we think it works. We think, through a combination of the oversight and the arrangements we have with the provincial regulators and with the exchanges, we've got a good system. We've got a unique advantage, we would like to see that preserved, and we believe it would be important for it to be preserved going forward. We have every confidence the Ontario Securities Commission, as they begin their hearings, will be very focused on this issue as well.

Mr. Peter Shurman: Okay, well, we're going to hear from them next week. I know I don't have much time, but what I really want to know is this: If there is a recommendation from this committee that says, "We cautiously approve of this, but one of the things that has to be maintained is IIROC has to be in there as part of the mix," is that something that would make you more comfortable with it?

Ms. Susan Wolburgh Jenah: Would I say no?

Mr. Peter Shurman: It's a leading question, obviously, but—

Ms. Susan Wolburgh Jenah: Look, I come at this not to toot our horn. I mean that sincerely. We're here to explain to you how the system works. We believe it's a good system. We think, no matter how we got where we are, it's important to have centralized oversight. If this committee were to conclude that that structure is good, it's robust, and it works, we would be very happy for that acknowledgement, but that isn't our primary goal here. It's to explain an advantage that we believe we've achieved in this country. We believe that it will be important to understand how the markets are currently regulated so that we can ensure that those advantages are preserved as we go forward, however that's done.

The Chair (Hon. Gerry Phillips): Mr. Bisson.

Mr. Gilles Bisson: I have two questions. The first question: The holding company that's going to own the TSX and the LSM at this point is 45-55. We all know it's leading to even more mergers after, which essentially means to say the Canadian position will be diminished somewhat; to what degree is up for debate. The question is this: As the Canadian position on the holding company becomes lesser, how much more difficult does it become for you and particularly the OSC to do your jobs and to give good oversight? Will market forces kind of neuter us to a certain extent?

Ms. Susan Wolburgh Jenah: It's a great question. You've basically identified a very key issue in this. The merger is at the holding company level. The exchanges have been very clear in saying regulation doesn't change; at the exchange level we'll be overseen as we were before.

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The OSC, of course, has responsibility over both holdco, today, as well as the exchange. I think part of this exercise is about regulators—the OSC as well as the FSA—getting together and talking about what kind of an oversight model is required vis-à-vis that holding company, and perhaps we'll have a role in those discussions as well when it gets into—

Mr. Gilles Bisson: But does it make it more difficult for you, in what you do, and the OSC for what it does, if our position on the holding company becomes less? Because then it becomes market forces. The holding company says, "We want to do the following things." We may not necessarily be in agreement, but if we're in a minority position in the holding company, doesn't it make it more difficult for us to stand up to those market forces if they're not to our national interest?

Ms. Susan Wolburgh Jenah: On a balancing, that's one of the factors that clearly is an issue—there's no question—when the parties involved get bigger and more complicated and the structure evolves. But I think that issue has to be viewed in the context of what's driving the transaction and the benefits. Everything has to be balanced.

Mr. Gilles Bisson: May I have your card?

The Chair (Hon. Gerry Phillips): Mr. Bisson, we've exhausted our time.

Thank you very much. We do appreciate you being with us.

TORONTO FINANCIAL SERVICES ALLIANCE

The Chair (Hon. Gerry Phillips): The Toronto Financial Services Alliance and Ms. Janet Ecker. Again, welcome. It's good to see you. This is a familiar place for you.

As we say, we've got 20 minutes. If you don't mind identifying yourself for Hansard and trying to leave some time where we can have some questions.

Ms. Janet Ecker: Yes, Mr. Chair. Thank you very much for this opportunity. It is indeed good to be back in familiar surroundings. I've been joined in the audience by my chair, Mr. Doug Turnbull, but in the interest of time—or perhaps thinking that I was a better target—he has had me up here.

The Toronto Financial Services Alliance is a public-private partnership between the financial sector in its entirety and three levels of government. Our mandate is to build the Toronto region into a top-10 global financial hub.

The industry is an incredible economic engine for Toronto, for Ontario and for the country, directly and indirectly employing over 300,000 people, contributing approximately 22% of the GDP. We have strong financial players headquartered here in the Toronto region who have become worldwide investors and acquirers in their own right. Manulife derives two thirds of its income from outside Canada. TD now has more retail branches in the US than in Canada. RBC is within the world's top 20 banks. Scotiabank has more employees outside of Canada than inside. The TMX is the global leader in resource listings of mining and energy. This week, the world's largest mining conference is in town: strong evidence of our leadership in this particular space.

So it's not an exaggeration to state that the sector's success is vital to the economic success of our region. We do not have far to look to other jurisdictions to see the economic damage that can occur if one's financial sector stumbles.

In November 2009, 15 CEOs representing the largest financial players in Toronto across the sector, plus the federal and provincial finance ministers, the Premier and the mayor, met to approve a strategy that would capitalize on our existing strengths to build that global leadership.

One of the recommendations was to entrench our position as the leading global hub for mining, metals and energy financing. Hence, of course, the interest in this proposed merger and the diversity of opinion that has greeted its announcement.

Within an organization encompassing the entire sector, from pension funds and insurance companies to banks and the investment industry, as well as the professionals who support the industry, it's not surprising that that diversity of opinion is also reflected within our own membership.

There are many issues surrounding the proposed merger, from its value to shareholders to regulatory details, but we will be addressing the matter of most relevance to our mandate: the proposed merger's impact on Toronto as a global financial hub. The question then is whether this merger helps build this or puts it at risk.

We spoke to industry experts, academics, think tanks, and of course the TMX, examined what has been published to date and discussed it with our leadership. As I indicated, the views are mixed. Generally, a majority believed that the proposed merger—if its benefits are realized—offers strong potential to strengthen and grow the Toronto region's financial services sector. Clients of the exchange welcomed the possibility of lower fees and improved services if the deal goes through. They also expressed concern that there is a significant risk that Toronto will be left behind in an era of exchange consolidation and globalization.

However, others are passionately concerned that this deal is the wrong deal and that it threatens to diminish our role as a global hub. They question if globalization is, indeed, the key threat that it has been made out to be and whether there were clear advantages to other alternatives.

There is, however, a great deal of consensus that there is a strong need for due diligence from regulators and the government to ensure that Toronto's interests are indeed protected and to explore the valid questions that remain.

Several factors are considered relevant from our perspective; most importantly, of course, the question of jobs. I think there are two pieces of that.

First of all, in terms of actual employment, many numbers have been floated around as estimates of the impact, but TMX currently employs fewer than 500 people in Toronto, which actually is, of course, a small portion of the overall sector employment.

To fully determine the potential impact on those personnel, we need to understand where the merged organization would choose to locate certain shared functions and how it plans to deliver the synergies it expects to achieve. Based on information released by TMX, a significant critical mass of employees are to remain in Toronto. Even when you look at cost synergies that they are proposing—and these are always interesting estimates from anyone in a proposed merger—it would result in approximately 30 job losses at the maximum; again, a very small portion of the overall sector.

The key employment concern, though, is the impact on our talent base that supports our global leadership: the investment bankers, the securities lawyers and others in the legal profession, the accountants, transfer agents and custodians. That is a significant part of why we have the global leadership in this space. They are dependent on TMX's ability to attract and retain listings and financings. While no hard data is available on the size of that dependent sector, we have estimated that it could be approximately 12,000 to 20,000 jobs that depend on the TMX's listing ability. It's a significant number, although a lot smaller than the 300,000 mentioned by other commentators.

Proponents of the deal argue that becoming part of a global system could improve access to foreign investors, increase liquidity, broaden the marketing reach and appeal to international issuers, and bring improved lower-cost technology, thus increasing listings and, therefore, the support jobs that come with it. Others, however, express fears that this will cause a loss of listings and therefore a loss of jobs.

What is not clear is if the merger can deliver on its improved liquidity and issuer appeal promises. If it does so, this would drive more listings and financings in Toronto and benefit the dependent sector in terms of jobs. However, there is no hard evidence from either side that proves or disproves these benefits.

Opponents of the merger cite three key risks to employment in this sector. First, it could harm our leadership position as a hub for resource companies. Second, cross-listings could increase in London, therefore leading to a migration of jobs there. Third, the strength of our venture exchange could be downplayed in a merged company's strategy, leading them to become less competitive.

Toronto's leadership position as a global hub for resource financing is built around that knowledgeable investor base. A merger itself may not impact any of these factors. Others argue that that strength will ensure that we retain our leadership position, even in the event of a merger.

Today it's possible for any company to choose which exchange or exchanges to list on. The merger, again, will not impact on this. Furthermore, since this is a merger of the holding company, not the exchanges themselves, companies will not be automatically cross-listed.

A merged entity would seek to simplify the process of seeking cross-listings. While some fear this will cause more cross-listings with an overseas migration, most industry experts we spoke to believe that, when compared to the overall costs of cross-listing and the benefits, even if there's a simplified process, it will not have a material impact or make a material difference. Anecdotal evidence supports this, as the New York Stock Exchange/Euronext group has only attracted 10 cross-listings with its simplified process.

The place of the TSX Venture Exchange in the merged company's strategy is also critical to their continued success. This is another important area for further examination.

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Having the roles of chairman, president, CFO and global head of listings residing at the Toronto headquarters is certainly an indication of the importance they attach to the TMX's capabilities. It could ensure that decisions are made with the full knowledge of the benefits that Toronto brings to the table. However, we can't be certain that will continue. The CEO remains in the UK.

Secondly, we note that TSX and TSX Venture Exchange are strong Canadian franchises that provide increased distribution and diversification to the merged company. It is unlikely, although certainly possible, that strategic decisions would be made to hurt the value of these franchises, as this would hurt the overall company's profitability.

So the merger could provide significant upside potential if the promised liquidity and issuer appeal synergies are realized. However, there are clear risks, as indicated.

The next major impact that the merger could have is on our position as a global hub and our reputation. This, of course, is a critical determinant for many companies to consider our region. Again, there are two opposing views, some observers saying that being part of a global exchange system does raise our profile in a good way, others fearing that we will be seen simply as the junior partner, thereby diminishing our reputation.

Again, careful consideration needs to be given to this aspect of the proposal. Part of this must include consideration of the messages that will be received in other global financial capitals if the deal does not proceed.

The final area is the impact of the merger on overall sector risk, with the largest concern being that the regulatory regime could change. While many details will need to be worked out by regulators, it is clear that the TMX exchanges will have no change to their regulatory oversight regimes as they continue to function here. They will continue to be regulated by Canadian regulators, and UK regulators will not have oversight. However, a further issue to explore is what regulatory impact, if any, arises from the fact that the registered headquarters of the merged holding company will be in the UK. Even though they're talking about co-location, it's our understanding that it will be a registered company in the UK.

To conclude: If the promised benefits are realized, this merger offers significant potential to strengthen and grow the financial sector in the region. However, the risks must not be underestimated. As such, we've identified three broad conditions that we would encourage regulators and government to consider to ensure that the deal, if approved, is of net benefit to the Toronto region's financial services sector.

The first is that the rationale and momentum for global exchange consolidation is clear. However, this merger would only make the combined company the seventh largest exchange operator by market cap. Clearly, if scale and global reach are key strategic success factors, this will not be enough. Consequently, government and regulators must ensure that sufficient conditions, to the extent that it is possible, are put in place to protect Toronto and Canada's interests in what will be the next round of consolidation.

While TMX has stated that there will be no impact on the current regulatory structure, we would encourage regulators to ensure that this is indeed the case. In addition, the regulatory framework may need to evolve as necessary to respond to the increasingly global nature of this business and proposed future structures. For example, as I've mentioned, if the holding company remains UK-domiciled, then regulators would need to ensure they still have the access that they would require here. I think the previous speaker made some good points about the strength of our system.

Thirdly, it is critical to the FS sector in Toronto that the TSX and the TSX Venture Exchange continue to be aggressive global competitors and that they be allowed to stay focused on their traditional strengths in resources and in financing for small and medium enterprises. To protect against the risk of either of these being weakened, we encourage the government to gain clarity on the longer-term internal strategy of the holdco. In addition, we would encourage the government and regulators to put in place permanent safeguards wherever possible: commitments to the number of Canadians on the senior team, key boards etc. I know you've had some suggestions made here.

In closing, I want to stress that our membership remains committed to working with our three government partners to build Toronto's financial sector as a leading global hub. They want to ensure a strong, globally competitive sector, centred in Toronto, meeting the needs of Canadian and offshore issuers, Canadian and global investors and all stakeholders.

This proposed merger has great potential to assist in this outcome if it has the appropriate checks and balances that meet the interests of the Toronto region.

Thank you for providing me this opportunity, and I welcome your questions.

The Chair (Hon. Gerry Phillips): Thank you very much, Ms. Ecker. We have about two minutes each. We'll begin with Mr. Shurman.

Mr. Peter Shurman: Good to see you. Thank you very much for your presentation. It reminds me a lot of the presentation that came before it, in the sense that you're kind of straddling a position. Nobody has to teach you politics.

Ms. Janet Ecker: One foot on either side.

Mr. Peter Shurman: Can I try to box you in a little bit? I got excited when I heard that I was going to turn the page and see three conditions under which you could see your way through to supporting the merger, but they're not really three conditions. The conditions you're talking about are things like, "You've got to put in rules and regulations that keep them in check." Can you expand on that a little bit and say what it is you mean? What do you want us to put in here—forget about your three conditions—that makes this something that you'd be happy with?

Ms. Janet Ecker: I think that's a very complex question and not an easy question to answer. As we mentioned: restrictions around board membership, the senior management team—just how they're going to run the new entity with the Venture Exchange in it. Right now, the Venture Exchange has been beating AIM's clock, if I can put it that way, in terms of the small and medium enterprises and listings. They've been very successful. If they are in the new and merged entity and we have two pieces, if you will, potentially competing with each other, how do we protect the Venture Exchange aspect of that? How do we protect our leadership in that? I don't know what the specific—I'm not the securities lawyer, and there's more work that our group is looking at, because there are a lot of details in this.

Mr. Peter Shurman: This is about governance, Ms. Ecker. I asked somebody else this earlier, and it came up in the original presentation by the two parties: board structure. This is a holdco. The TSX resides here, with directorship and governance here, but senior governance comes from a board of 15, based essentially in England, with seven Canadian directors on it for a finite period of time.

Another party earlier presented us with rules and regulations that came down on the Australian merger with Singapore that looked at, "Now you've got to maintain"—in their case—"equal directorships on the board." Is that something that would make your organization happier?

Ms. Janet Ecker: I don't want to put a specific number on it, but I think those kinds of issues do need to be looked at. I think they do need to figure out how they can ease the concern that the Toronto region and many in the financial sector have about those control issues. That may be some sort of guarantee.

I'm also told there are details within the agreement about change-of-control restrictions. I think those need to be explored, making sure those are indeed what we need to protect it. It's not an easy question.

Some have argued that perhaps there needs to be some sort of government stake in the new entity. I don't think that's a viable option, but there are those who would put that forward, when we're looking at many governments trying to get out of the financial sector now. As I said, we're doing more work on this and I think some legal advice would be a very good idea for you to explore exactly how that could be done.

The Chair (Hon. Gerry Phillips): Mr. Bisson.

Mr. Gilles Bisson: My, my, my. I've got to say, as a social democrat, I find it very interesting and very heartening that people such as yourselves and other people in the financial sector understand that "regulation" is not necessarily a bad word. I've lived in politics for 21 years where I hear people such as yourself when you're on the other side of the House talking about how regulation was a bad thing, so I'm glad to see that there is a different view out there.

Anyway, I'm sure I'm being a little bit unfair—

Ms. Janet Ecker: I could argue with you, and I'd have quotes to prove it, Mr. Bisson.

Mr. Gilles Bisson: But I just think it's so—

Ms. Janet Ecker: Good regulation is never a bad thing.

Mr. Gilles Bisson: There we go.

Ms. Janet Ecker: Effective legislation is never a bad thing.

Mr. Gilles Bisson: That is a good step forward, though. I've heard completely the opposite, but that's another thing.

I want to explore something, and that is the question of the holding company. We're assured by the TSX and the LSM, "Don't worry. The exchanges will be what they are today; they will continue to function," and, "Don't worry. You're going to have your own regulators; nothing to worry about." But we all know that in cases where Canadian companies have been bought up and controlled by foreign interests, eventually the decision-making gets further and further away from Canada. One of the concerns that I have is, let's say that things relatively stay the way that they are now and you're 45-55. You're still a minority position but you've got a fair amount of say. We do know that this is going to go down the way of buying up other exchanges and we're going to become lesser in our position on the new holding company.

So what I just wonder to myself: As our position diminishes, how will we be able to stand up effectively to protect the national and provincial interest by way of our regulators? Will that become a problem, in your view?

Ms. Janet Ecker: I would direct that to the regulators. I think that the securities commission hearings are going to be looking at precisely those kinds of issues, as they should.

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One of the challenges with this particular proposal is that some of the same factors you could use to defend the deal are the same factors you could use to criticize the deal, and there's no clear evidence on either side.

One of the things that has given us the strength we have and has made us the global player in this space is the talent base. There are those who argue that the talent base will hold, and that's the value; that we have the expertise here, and it's a comprehensive expertise in the mining and energy system; that this is a value that will hold in a new, merged entity, and that this would have a significant—

Mr. Gilles Bisson: That was my second question, which I didn't get to ask.

Ms. Janet Ecker: Yes.

The Chair (Hon. Gerry Phillips): I'm going to have to move on, I'm afraid, Mr. Bisson. Sorry about that.

Mr. Gilles Bisson: Thank you for answering the second question.

The Chair (Hon. Gerry Phillips): Mr. Brown?

Mr. Michael A. Brown: Welcome, Ms. Ecker. I'm glad to see you here. I was piqued by something that a previous presenter said, and I'm looking for your opinion. It was suggested that for Canadian directors, or British or Italian directors, their real responsibility isn't to Canada or the UK or Italy; it is to their stockholders. That is the ultimate responsibility of the director. Is it the experience—and maybe this is an unfair question—that Canadian directors look after Canadians, British directors look after Brits and Italian directors look after Italians, or do they look after their stakeholders? If not, what can we do to see that they do?

Ms. Janet Ecker: I'll answer it in two ways. Legally, a director of a publicly traded entity does have an obligation to its shareholders. Smart directors whom I know—I've served on public and private corporations myself—also know that they cannot, on controversial issues, just consider the interests of their shareholders. There needs to be a broader perspective, and smart boards and smart directors do consider that.

What is interesting here is, even if you want to say that they're going to look after just the interests of their shareholders, that means they want a profitable company. The reason they're looking at this deal is because they think this will make it a more profitable company. Again, as we've said, there's a diversity of opinion on that.

The other interesting aspect of this deal is the fact that it's a stock deal. The Canadian shareholders, of which there are many—again, it depends on if you believe it will be a successful entity—could potentially benefit significantly.

As you know, these days, for all of us with pensions, mutual funds and other savings vehicles, what happens in the stock market and to shares in the financial sector is of great interest to Mr. and Mrs. Front Porch out there. I think that's another aspect. We haven't looked at the shareholder aspect of it, because I think that's for others to do, but I think the committee here needs to think through what it actually means if directors are acting in the best interests of their shareholders.

The Chair (Hon. Gerry Phillips): Thank you very much for being here and for bringing much to our debate. Thank you very kindly. Good to see you again.

Ms. Janet Ecker: Thank you. Good luck.

TD SECURITIES

NATIONAL BANK FINANCIAL GROUP

The Chair (Hon. Gerry Phillips): Just by way of explanation for the next one, because it was not on our schedule: I did not know they were on our schedule till I arrived here. But the clerk informs me that they did apply to appear, thought they were on the schedule and found they weren't on the schedule. The clerk informs me that, in his opinion, they did legitimately apply to be here and they just didn't get on the list.

Mr. Klees?

Mr. Frank Klees: Chair, just for the record, I want to clarify: Did the application to appear come in time for the deadline cut-off that we had set as a committee?

The Clerk of the Committee (Mr. Trevor Day): Yes, Mr. Klees. There was a misunderstanding in my office about the intent of the application: whether it was just for information or a spot.

Mr. Frank Klees: Chair, I just want to know what the consequences of this oversight will be to the clerk.

The Chair (Hon. Gerry Phillips): Ultimately, is the Chair responsible?

Mr. Peter Shurman: I think it may have to do with Barberian's.

Laughter.

The Chair (Hon. Gerry Phillips): Anyway, I thought it would be important to get that on the record.

Mr. Frank Klees: And it was very important.

The Chair (Hon. Gerry Phillips): Having said that, it's TD Securities, as opposed to TD Canada Trust. It's TD Securities and National Bank: Mr. Dorrance and Mr. Bertrand. Take a seat. I think you know that we've allocated 20 minutes. If you would identify yourselves so we've got it in the Hansard. Then our hope would be that you'd take 15 minutes at the most, leaving an opportunity for some questions.

Mr. Bob Dorrance: Thank you, Mr. Chair. My name is Bob Dorrance, and I'm the chair and CEO of TD Securities.

Mr. Luc Bertrand: My name is Luc Bertrand, and I'm the vice-chairman of National Bank Financial Group.

Mr. Bob Dorrance: We have some prepared comments that I will read on behalf of TD and National, and then, obviously, Luc and I would be available for questions. We do appreciate your time and recognize that it wasn't in today's schedule.

As you may know, several financial institutions, including TD, have expressed apprehension about the proposed merger, and I would like to briefly detail some of our joint banks' concerns.

Our first concern relates to access to capital. Proponents of the deal have argued that by listing on the LSE, Canadian companies will benefit from access to a deeper pool of capital. But it is important to remember that Canadian companies already have the ability to list on the LSE, and so far, only 17 do. Of the trading that takes place in those 17 companies, 85% happens on the TSX. Why? Because global investors come to Canada to finance Canadian companies, and they do it through the TMX exchanges. They have access to Canadian liquidity. They do not go to the LSE to finance Canadian companies.

The reason for this is simple: The TMX Group is a very successful part of a financial system that facilitates investing and access to capital for Canadian and international companies. They are particularly and historically strong at catering to the needs of Canadian companies. They service the dynamics of the Canadian marketplace and cater to the needs of small and medium-sized business.

In addition, the TMX has become the leading resource exchange in the world. Global companies come to the TMX exchanges to raise capital. Global investors provide that financing, both to Canadian companies and international companies. Being part of London really adds nothing to this and perhaps reduces our role in the future.

Our second concern relates to the loss of regulatory control. While the OSC, AMF, ASC, BCSC and others will still play an important part in regulating overall financial markets, the overall holding company, as you well know, will be regulated by the FSA, and they'll oversee the new entity. The ramifications of this need to be fully understood.

It is very important—and I think this is the differentiator—to understand that the TMX is a self-regulatory body. What that has allowed is that it makes the rules and decisions that dictate how stocks get traded in Canada, who gets to list in Canada, who lists on the TSX Vancouver, when they migrate to Toronto, how much they can finance, how many shares they can issue, whether the board of directors is appropriate—all those rules that are part of the fabric of how Canada has developed its financial system. That's the responsibility of the TSX, not of the supervisory commissions. The TSX will now report to the LSE-TSX. That's where management will be.

The key thing is that the functioning, therefore, of the Canadian capital markets and how they evolve will now be set—not regulated; policies will be set—in the office of CEO, and that office, initially, will be in London. That's the regulatory nub.

What is being presented—and it is valid—is that local exchanges get regulated by local securities commissions, but the exchange is more than that. The exchange is actually a business, and it sets how business and financial capital markets evolve. In short, rule-making will lose its Canadian focus.

Another area of concern relates to the governance of the proposed LSE-TMX group. While this has been billed as a merger of equals, the proposed governance structure suggests that it is not. The CEO will be based in London. This means that the key strategic business decisions will be made in London.

In addition, a majority of board members will be from the LSE. As I just heard, there is a duty on the behalf of board members to reflect shareholders' interests.

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I would like to take a minute to explain what this means in practice to governance issues. The LSE-TMX leadership team has expressed a desire to grow through acquisition to become a top global exchange of the future. Getting married to this business strategy is risky for the TMX. The deal we are discussing already deprives Canada of key decision-making powers, but if LSE-TMX pursues more acquisitions, as they have stated they will, TMX's influence will be further diluted. The benefits of this deal will fade away both with time and with every new acquisition.

These governance arrangements could have a very negative effect on Canadian jobs. While certain aspects of the derivatives, listings and clearing businesses are to be maintained in Canada, there is no guarantee that this will continue to be the case in the future. More troubling, London will be the global centre for technology solutions, which means the potential loss of very high-value technology jobs anchored in Canada.

In addition, the migration of listings activity to the LSE may have a long-term impact on the number of head offices for resource companies in Canada. This would be accompanied by a loss of head office jobs and financial sector jobs in Canada.

In the interests of time, I'll stop here.

Proponents of the merger argue that the deal will save the TMX/TSX from becoming an insignificant player without any future prospects, that globalization is inevitable and that unless we jump on board, we'll effectively miss the train and nothing will happen thereafter; we'll become insignificant. For them, the tradeoff of ceding majority ownership, high-value jobs and, potentially, regulatory control is acceptable.

The other opinion, which our banks share, is that Toronto is a global financial services centre, the headquarters to strong institutions that weathered the financial crisis and home to the world's leading resource exchange. As such, it is well positioned to compete globally. The TMX group of exchanges has done tremendously well, not only in facilitating the capital formation required to grow in Canada, providing investment alternatives for Canadians, but it has also developed a global niche that is unique: 55% of global mining companies are listed in Toronto, and 35% of oil and gas companies are listed in Toronto. I think this is a very strong commendation as to what the TMX Group has managed to do. Having said that, I feel there's a long way to go with what we continue to do.

The success of this or any proposed merger will have nothing to do with the principle of globalization. It will have everything to do with the particulars of our financial market's business strategy. We have a good strategy. Our feeling is that we should continue on it. There's lots of opportunities for growth. We are not against the benefits of globalization, but the question is, how do you achieve these benefits in the interests of Canada?

We do not believe this takeover offers the right solution to creating a globally sustainable exchange, nor would it allow Canada to achieve the benefits of globalization offered. Thank you.

The Chair (Hon. Gerry Phillips): Did you want to comment?

Mr. Luc Bertrand: Both organizations share the same view. I'd be very happy to entertain your questions.

The Chair (Hon. Gerry Phillips): Let's do that, then. We've got roughly four minutes each. Mr. Bisson.

Mr. Gilles Bisson: I never thought I'd find myself, as a social democrat, singing this song with you: Kumbaya. It's exactly the fear that I have.

I understand the argument that there is a global market out there, and we need to be major players, and we need to position ourselves in order to succeed in these global markets; I get that. I guess there is an argument, to a certain degree, in regards to it may offer some advantages for some—certainly those that own the holding company. But there might be some advantages for investors having a better choice of investment vehicles.

My concern, and you spoke to this and I just want you to expand on it, is that as the holding company becomes less and less a Canadian company—and that's what is going to happen with time, as we go out and merge with other entities out there—it would seem to me that the holding company, which basically sets the policies of the stock market companies, is really the one who is going to drive what happens here in Toronto. So unless we're properly protected, as far as our national interests, in these agreements, why would we go forward? I think we already answered the first question.

The second one is: Do you agree with me that eventually, as we merge with other stock markets out there and the Canadian position is diminished, it will become much harder for our regulators to do the job that they've got to do to protect the Canadian interest?

Mr. Luc Bertrand: Well, undoubtedly that is a risk, especially when you get into cross-border transactions of this kind.

The TMX is the result of the combination of many different exchanges in Canada over a period of 12 years, starting with the Vancouver Stock Exchange; the Calgary Stock Exchange; of course, the Montreal Exchange—all this was a design that went on in 1999, you may remember, where a few of us decided that the right thing to do for Canada was to specialize the exchanges along the lines of their expertise.

My comment there is that a regulator doesn't operate in a vacuum. There's a cultural element to a regulator. There are a host of issues. For a regulator to understand a resource company is very different than for a regulator to understand an industrial concern based in another country. I can point to my own experience as the former CEO of the MX and deputy CEO of the TMX. The AMF in Quebec went through a major transformation to understand how to regulate the derivatives market.

I'm just pointing these things out because, at the end of the day, yes, there can be arrangements amongst regulators—you see this all the time—but it's the efficiency of the process that I'm more concerned about.

Mr. Gilles Bisson: So we have become world leaders by doing exactly what you just said, which is saying, "Let's pick where we're good, and let's go out and do a damn good job, and better than everybody else." Proof of that: 30,000 people are in this city now in regards to what we do in the mining industry.

I guess my question is this: There is an argument from the TSX and the LSM that we've reached the roof, we can't grow any more, that there's no room for the TSX to get bigger and better than it is now. Do you agree with that? Or are there still opportunities for the TSX, on its own, to do the things they've been doing quite successfully?

Mr. Bob Dorrance: Yes, I personally think that there's a significant continuation of opportunities for growth. There's no doubt that one part of their business, which is the trading business, per se, is being competed against fairly aggressively by the technology companies, the new types of alternative exchanges. But I think it's a mistake to say, "Well, that's what the TSX is."

That is one part of what the TSX does. The TSX is an integral part of the fabric of the financial system, of what we do, of how we invest and how we raise money. Their strategies overall, with respect to having successfully got us listings and the growth and talent around how one then trades those companies, researches the companies, raises money for the companies, gives legal advice to the companies, etc., is part and parcel of what's made the financial markets grow in Canada. That's the integral part.

This is not about who's going to become the fastest exchange trading in the world. This is all about how you have a strategy that makes sense, that fits who you are and that reflects what you do in your own country. And the reality is that the TSX will never be, on its own, the largest exchange in the world, but nor are we the largest country. We finance the companies in Canada that we need to grow. As companies in Canada get bigger, they have all sorts of access to listing on New York or LSE and raising money there.

The Chair (Hon. Gerry Phillips): Thank you. Mr. Arthurs?

Mr. Wayne Arthurs: I'll try not to misrepresent what I think I've heard from some of our other presenters earlier, if I can recall. I did have a couple of questions.

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We heard, I think, from the proponents that the holding company would be regulated or be responsible in the dual or multiple jurisdictions in which it operates: Italy, Canada and the UK, in this instance. I think your comments were that the holding company would be regulated by the FSA. That's one question.

The second piece of that underneath, and you can either confirm it or fill it in for me if you would—the second part of the question was, your comment I think was that the regulatory function of the TMX, that part of it that regulates itself, not through the OSC, would report to the LSE as sort of a regulatory regime. But some of the earlier proponents spoke to the regulatory functionality remaining within each of the bodies. So we're hearing from you, I think, more of a migration of that responsibility, which is to some extent contrary to what we might have from others. So I want to get both sides.

Mr. Bob Dorrance: I think the difference, and it potentially is subtle, is that first of all the holdco, LSE/TMX, will be regulated by the FSA because that will be where the ownership resides by way of governance. Underneath, at the operating company level, the TSX would continue to be regulated by the OSC. That would be the body that establishes and sets rules for the market. But the way that the business works is that the business itself, or the TMX, has its own self-regulatory function, and the TMX is the one that evolves the rules that allow companies to trade, finance, get listed etc. That responsibility will continue to report to the CEO, ultimately. The CEO will be in London. That's the difference. Right now, the CEO is in Toronto, and the CEO has been in Toronto forever. And the way that the TMX and its rules have evolved, that have allowed capital formation to occur, is set by the TMX, approved by the OSC. If the OSC didn't want something that the TSX is doing, they can say, "No, you can't do that." But it's the TSX that really sets the business strategy; it's not the OSC. The OSC is not there to say, "Okay, here's the business strategy for the markets."

The Chair (Hon. Gerry Phillips): Thank you. I have to move on now to Mr. Klees.

Mr. Frank Klees: I've heard so much spin on this from two different sides, it's difficult to know where people are coming from. But let me try to drill down to the base of this deal. Clearly, the directors of both the TMX and the London Stock Exchange have concluded that this merger is in the best interests of their shareholders. My understanding is that the London Stock Exchange has lost considerable market share over the last 10 years, and I understand that the Toronto Stock Exchange likewise has been losing market share. And so there must be a belief on the part of the directors that as a result of this merger, that will be turned around, that they somehow will be able to turn things around and start to gain market share. Are we kind of on the same page there?

Mr. Bob Dorrance: Well, I don't feel like I can speak for the directors.

Mr. Frank Klees: Okay, let me ask this: If in fact this merger will be in the best interests, as a director would decide it is if they're recommending it, for the shareholders of that merged company, and if in fact they are competitors, for example, of the Alpha Group, would a stronger combined merged group be a larger threat to the Alpha Group in terms of market share down the road?

And if so, I'd like you to just comment on your interest in the Alpha Group vis-à-vis this position that you've taken now in opposing the proposed merger.

Mr. Bob Dorrance: Sure, and I can speak for TD and I think you'll let Luc speak for National. Our interest in the Alpha Group pales in comparison to our interest in the Canadian financial markets. It's very small—and we're here basically to reflect our views on what we think is best for the Canadian financial markets.

I would say that on the question, sir, on market share, you've heard that the TSX has lost market share to Alpha and some other exchanges. They still have a 70% market share in Canada. I don't think linking with the LSE will necessarily—if things continued as they were, I don't think that they'll take 70% and go back to higher than 70% if Alpha and other marketplaces continue to compete. So I think what's somewhat lost in these comparisons is that that's one part of their business.

The market share that the TSX has gained on listings dwarfs any other market in the world. There are more companies coming to Canada to list in Canada on the various exchanges that we have, to raise capital in Canada, to have head offices in Canada, than any other western exchange, and compared to the LSE it's night and day. So I find it difficult to see how linking up with the LSE is going to benefit—

The Chair (Hon. Gerry Phillips): We are going to have to move on, I think. I'll give Mr. Bertrand—

Mr. Luc Bertrand: Admittedly, Alpha and a few other ECNs and ATSs in Canada have competed against the TSX, but I think we miss the point: The real competition is not Alpha, it's the New York Stock Exchange, it's NASDAQ, where 50% of the interlisted businesses conducted their—meaning stocks that are listed in both countries that are Canadian companies. It's been as much of a competition south of the border. And I don't think the combination of the LSE and TSX is an answer to the competitive threat. The answer to the competitive threat is that you keep pumping out some good systems, you try to have some trading mechanisms and so forth, and you have a marketing team. It's the old-fashioned business of begging for the trade, essentially, which is what the nature of this beast is about. So to say that it's in the best interests of shareholders—if I can be allowed simply to state that the organization that I represent is a shareholder of both, and our interest in the TMX is significantly greater; Alpha is not a big factor here for us.

The Chair (Hon. Gerry Phillips): Thank you very much.

That concludes this until 4 o'clock. We're back here at 4.

Sometime tomorrow, we need to set some dates for report writing, and my instincts are early the week we're back.

Interjection.

The Chair (Hon. Gerry Phillips): Well, let's look at our schedules.

The committee recessed from 1447 to 1600.

FASKEN MARTINEAU

The Chair (Hon. Gerry Phillips): All right, I think we're ready to begin. This is Mr. Turner from the law firm. I think you know we have 20 minutes. If you could try and keep your remarks to 15 minutes or under, and then we have a chance for some questions. If you would identify yourself for Hansard, we'd appreciate it.

Mr. John Turner: Sure. My name's John Turner. I'm a partner of Fasken Martineau, which is a Canadian law firm, and I run our global mining group. Fasken Martineau is a large Canadian law firm with offices across Canada. It has the largest presence of any of the Canadian firms in the London market; we have 60 lawyers in London. We also have a small office in Paris and an office in Johannesburg which is very much focused on the resources industry.

Let me say it's a privilege to be here. I know you people are very busy. My uncle, many years ago, was an MPP and, later, Speaker of the House. He also had the name John Turner back in the 1980s. I think he left just around the time Mr. Phillips arrived. I'm glad to finally have an opportunity, even as a bit player, to show up at the Legislature and participate.

I don't really have any agenda other than that my practice, on a day-to-day basis, deals with companies that are interlisted between Toronto, the Venture Exchange, the London Exchange, the New York Stock Exchange and the Johannesburg Stock Exchange. I deal with this on a daily basis and I thought it might be helpful to get a view from somebody in the trenches. There are lots of people giving views that are higher pay scale than I am, but I thought it would be useful to give you my perspective.

The first question I thought I should try and address is, will the TMX in Ontario lose its mining finance franchise as a result of the merger? There's no question that the TSX and TSX Venture have had a terrific run for the last eight or 10 years in the resources sector. I think 63% of mining companies globally are listed on the TMX, 60% by market cap—obviously, a great franchise. Why would we want to do anything that might upset that, or is there a danger that, through this merger, we will upset that apple cart? My answer is no. The first reason for that is that there is a critical mass of people in Ontario who support the junior mining industry in particular. It's a critical mass of entrepreneurs, early stage investors and of advisors, and these are technical, financial, legal and accounting. People tend to think of that as being very concentrated in Toronto, and a number of those people are in Toronto, but I'll certainly tell you that there are a lot of technical and legal advisors in other communities in Ontario—Oakville, Timmins, Peterborough etc.—that benefit and are participating in the global mining industry through companies that are listed on the TMX. I think, to the extent that we're doing anything, we should keep in mind that it's not just a Toronto thing, it's something that has relevance across the province.

There are other factors to why I think we have an upper hand that won't go away because of the merger.

One of them, which is kind of a technical one, is the ability to do a bought deal here. I won't bore you with a lot of technicality—

Mr. Gilles Bisson: Can you say that again? I didn't hear it.

Mr. John Turner: The ability to do a bought deal, which basically means an underwriter comes to a mining company and says, "We will buy your shares at a fixed price. We'll agree on it today and then we'll go out and market it. We'll take the risk." The mining markets are incredibly volatile. This is the only jurisdiction in the world that has this kind of practice, and that is a real leg up. There are lots of companies, lots of my clients—and I should start by saying most of my clients are internationally based. Some of them are run from here; some of them are run from the UK, Australia and whatnot. They all tend to be TSX-listed.

One of the things they often tell me is, "Boy, it's great to be able to do a bought deal," because with the volatility, it takes a lot of pressure off the mining company if somebody is going to take the risk for them.

There's another slightly more subtle advantage, and that is that Canada—obviously, there have been some mistakes here and there—is generally well received in a lot of former colonial countries in Africa and in South America. The mining companies perceive it as an advantage to be Toronto-listed and Canadian-based, because, frankly, Canadian companies are more acceptable in a lot of those jurisdictions than companies coming from London, or the US, particularly. There's a lot of colonial baggage that comes with those companies. So a lot of the companies see that as a big advantage.

Another reason why I don't think we'll lose our franchise is, because the expertise is here and because people get good valuations, particularly for early-stage assets, this market has a big advantage. In past cycles, there has been a lot of competition for the Toronto market, coming particularly from Australia, but also from the Johannesburg Stock Exchange. In this cycle, what's different is that the Australians and the South Africans have been coming to Canada because our market is much more vibrant and there have been so many success stories.

I was talking to clients from Australia yesterday. They said it's easy to get a listing on the Australian Stock Exchange; it's easy to raise $5 million; but if you try to take the stock from 20 cents to $1 or $5, it's just not happening. So those companies are coming to Canada, and I don't think that will stop because of the merger.

The London Stock Exchange, in comparison, is very much focused on the senior market. It's very good at dealing with the Anglo Americans and BHPs of the world, and that's the business it's really after. It did set up a junior market, called the AIM market, five to 10 years ago. The AIM market initially had some success, but the liquidity is gone from that market. From my perspective, if I was looking at this, addressing a committee in London, I would be very concerned about their AIM market, because I think they stand to lose the junior market. It's expensive. They don't get the valuations they get from TMX, and they don't get the liquidity. There aren't the investors there. Early on, there were some tax benefits to listing on AIM, but those have gone, and the liquidity has pretty much dried up. So I don't see a major competition there.

I think the merger will actually provide more opportunities, through those advisers I was mentioning—the legal, the technical, the financial advisers—because the early-stage expertise is here. I think the companies will still come here first, and we will have an opportunity to follow them to the London market.

My sense of this, and I don't really have any technical detail on this, is that over time, if the merger happens, the listing requirements will become more coordinated. Typically, what has happened is, you take the more stringent requirement in each jurisdiction, but the benefit is, if they are similar requirements, it's going to be easier for Canadian advisers to advise those companies as they go to London. They won't necessarily have to go to a London lawyer. The role for the Canadian technical adviser will be greater. I think that's something that needs to be thought about. We have a great franchise, and much like our US brethren have done in the past, where they followed their US companies internationally, this kind of platform allows our advisers and our people to follow our companies internationally.

Just as an example, one client I advise is a company called First Quantum Minerals, which is run by some Australians and English people. It doesn't have any connection to Ontario, but it has chosen to list here. It was one of those companies that, in previous cycles, would have listed on Australia, but there's no liquidity there, so they came to Canada. It's the new generation of major companies. It's the Inco of today. It has grown from nothing to a $12-billion company. Because it's listed on the TSX, the OSC and the TSX get to govern its disclosure, its rules that it has to abide by. It's also listed, as a secondary listing, on the London Stock Exchange, and London gets some oversight over it, but it's really the Toronto market. You could say, "Why do we care?" First Quantum is not really carrying on business in Canada. Its mines aren't in Canada; they're in Africa and Australia and whatnot. One of the great things that happens is that when they're listed here, they need the advisers here. Without giving away too much, I can tell you they've spent an eight-figure sum on advisers in Ontario, and that goes into our economy.

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The other thing is, they've bought Canadian companies this year. They've spent $600 million, which largely went to Canadian investors and Canadian advisers, and that money ends up back in our economy.

Companies like that. We have to recognize, in this day and age, that these companies are effectively virtual companies. It's not Inco, where there's a major head office in Toronto or Sudbury or whatnot. The management are spread out. Somebody might be in Melbourne, somebody else might be in London, somebody else in Vancouver, and the workforce is largely in Africa or wherever the mines are.

That capital can move very quickly, and if they don't think that the TSX is the right platform for them, then they'll move. There is a risk of that. That's why I think, because we have the early stage, we won't suffer from this, but to the extent that the TMX's platform is made better by making it easier to also list on London is a net benefit.

The next question I want to address is, why is the merger helpful to Canadian resource companies? I've touched on a little bit of this already. At some point, companies that have done well in our market either get pressured or decide that they need to undertake an international listing to access new investors. In previous cycles, the first port of call after a TMX listing was probably the New York Stock Exchange. For a variety of reasons, that's no longer the favoured secondary listing anymore. There are reasons for that: partially the regulatory environment, partially the number of class actions that happen there. That particularly affects companies where the original entrepreneur behind the company is still involved in the company.

More and more, London has become the first choice as a secondary listing to the next market. If that's happening in any event, and if the merger helps the platform and makes it easier to do the secondary listing, then that's a net benefit.

Right now, you can do it, and I've had two or three companies that have listed on London, but it's not an easy process. It's an expensive process. You basically have to start all over again with your technical reports. You have to redo your financial statements. If it can be more streamlined, more coordinated, so that we don't have to start all over again when we go to London, I think that not only gives more role to Canadians in advising but also makes it more efficient and less expensive, and opens up more markets.

The next question I was going to address is, will the merger benefit the TMX in Ontario? I touched on this to some degree, but I think there will be more TMX listings by AIM companies if those rules become more coordinated. The AIM market may suffer from that because of the extent to which those companies can more easily access Toronto.

It's not just the number of people here; it's the sophistication. I literally just came from a meeting with a group from Europe. They had a specialty, a rare earth business, which is kind of the flavour of the month. They had thought about listing on AIM, but they've decided that they want to list on the Toronto Stock Exchange. Just incidentally, and partially because I was coming to this meeting, I said, "Why did you decide on Toronto as opposed to AIM?" They said, "It was quite easy. We tried to explain our business to the market in London, and people just didn't understand and didn't know how to value what we were doing. We came to Toronto and came to PDAC and met a number of the investment banks, and they knew immediately what the story was and what the potential was for this asset." That's a company that's going to list here.

There is competition. I have other clients at the moment that are getting a lot of pressure to list on Hong Kong. Partially that's because a large amount of the money is coming from China for a number of these resources, and that has really just started. I think that will become more of an issue. To the extent that the TMX merges with the LSE and has a better platform, that will make it more difficult for that competition from Hong Kong. At least the Canadian companies will have a better answer when somebody says, "Why don't you list on Hong Kong?" They can say they're on the joint exchange, which has a better platform than what Hong Kong offers.

The TSX-TMX has had a terrific run for the last eight or 10 years, and it's wonderful, and a lot of people in Ontario have benefited from it. But people do forget that at the height of the tech boom, the TMX almost became irrelevant. I'm slightly overstating it, but a number of Canadian companies were choosing to go to NASDAQ without even doing a Toronto listing.

When that happens, we lose any oversight over those companies and our investors don't have the opportunity to participate to the same degree. I mean, they can jump through hoops and do it, but it's not as easy.

I think Toronto needs a better platform, over time, and if it's going to do it, it's better to do it at a time of strength, and this is a time of strength. Our markets are very buoyant. I'm sure the TMX is giving you all sorts of facts and figures about what they've done, but my point is that if you're going to do a deal, this is the kind of time you should be doing one.

The next question I was going to try to address is: Will Ontario investors be protected? I'm going to do this from my perspective, and I'm sure you've had lots of other experts talking about this.

If we go back to the last cycle, there was a huge issue with Bre-X, and it obviously put some stain on our market for some time. We did a lot of work to improve the disclosure standards in Ontario with 43-101, as you've probably heard reference to. That framework will stay in place.

I can certainly tell you that the LSE is different—and I think there should be some coordination because there are expenses in having to do two different reports—but their requirements are no less stringent than ours are. So I don't think you'll see any regulatory arbitrage where people will try to go to London because the disclosure requirements aren't as great.

Another benefit we have here is the number of experts at the various securities commissions and stock exchanges who are able to review these in a very expedited basis and get to the heart of the matter. That's something that will stay in place.

The OSC oversight, obviously, will stay in place, as will the ASC and BC Securities Commission in respect of the Venture Exchange, so I don't think there's any net loss there. I think the governance model ensures that there's a Canadian board at the Canadian level with independent directors, and that people will be protected.

I don't see that there's any great risk of a loss of disclosure standards or a loss of protection for our investors. I think, if anything, probably the two exchanges will look at who has the tougher practice, figure that out and probably go to the higher standard. If anything—

The Chair (Hon. Gerry Phillips): Thank you. We've only got three minutes for questions, so I—

Mr. John Turner: Oh, sorry. Go ahead.

The Chair (Hon. Gerry Phillips): Is that okay?

Mr. John Turner: Yes, absolutely.

The Chair (Hon. Gerry Phillips): Maria? A one-minute question.

Mrs. Maria Van Bommel: One-minute question? I take it that you're in favour of this transaction.

We've heard a lot of different arguments, both pro and con, but I can honestly say I have not heard colonialism brought up in any one of them before. That is really different. I'm kind of fascinated by the idea because I don't understand. To me, it seems like a contradiction. You have companies and a transaction that is supposed to be looking forward, and you're saying one of the reasons that we should do this is because of "colonial baggage." I just really kind of want you to explain that a little bit further, because that, to me, seems back, not forward.

Mr. John Turner: Sorry, maybe I wasn't very clear. What I was saying is, one of the reasons why I don't think companies will migrate to London after the merger is that there's a perceived benefit of staying in Canada, because as a Canadian company, they are more welcome in those countries. Some of the countries are leery of, particularly, US-incorporated and to some degree UK-incorporated—

Interjection.

Mr. John Turner: Yes. Exactly.

The Chair (Hon. Gerry Phillips): Thank you. Mr. Shurman?

Mr. Peter Shurman: I'm interested to hear from somebody from Fasken's, a major legal firm by any description, saying that you, by and large, are for this merger, because we've heard other lawyers say, "It's not such a good idea." They seem to be afraid of losing business. I'm very interested in the fact that you not only don't think we're going to bleed, you think that AIM is going to bleed into TMX and that there's a net benefit. Elaborate, in the few seconds you've got left.

Mr. John Turner: Sure. I think, at the heart of it, it's because we've got the critical mass of people here who know how to value early-stage companies. AIM doesn't have that. They're floundering. Right now, most of the companies—there was some idea that AIM might specialize and was better at valuing diamonds, and that TMX was better at doing gold; that there were some jurisdictions that maybe AIM was better at. That theory is hogwash. Whereas, a couple of years ago, companies that were led primarily by European investors were saying, "We thought about TMX, but we're actually going to AIM." There's a variety of reasons. Mainly there is a liquid market. That liquid market dried up, so they're coming over here anyway.

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I think to the extent that those listing procedures are similar and more coordinated, people will say, "Why would I bother listing on AIM? There's no liquidity there. I'll come to Toronto."

Mr. Peter Shurman: Thank you.

The Chair (Hon. Gerry Phillips): Mr. Bisson?

Mr. Gilles Bisson: I was interested in your comment that it's better to do this merger in a time of strength, and I guess I understand that, but what does it mean for us in a time of weakness? We already know now from what the TSX and the LSM have told us that there are other mergers coming down the road, which means our position on the overall governance of the holdco will go down. What does it mean for us in a time of weakness?

Mr. John Turner: I think, to some degree, the advantage, at least on the initial stage, is locked in. Let's say it's 45-55 at the moment. I think if we were doing this in 1999, it would have been about 10-90 in favour of the LSE.

Mr. Gilles Bisson: But it might go to 10-90 under this agreement.

Mr. John Turner: But to some degree the ratio between London and Toronto is kind of locked in, and then I think the issue will be how any sort of third-stage merger works. It's just my view that TMX will benefit not only because of the things I've talked about, but I think it's better branding. It will be as part of a bigger organization. I don't think it will see the extremes that it's seen in the past.

The Chair (Hon. Gerry Phillips): Thank you.

Mr. John Turner: It won't all be up.

Mr. Gilles Bisson: Well, that's my point.

Mr. John Turner: But it won't be as extreme.

The Chair (Hon. Gerry Phillips): I'm sorry. Thank you very much, Mr. Turner. We appreciate it very much.

Mr. John Turner: Thank you.

MR. GEORGE TEICHMAN

The Chair (Hon. Gerry Phillips): Mr. Teichman, welcome and thank you. As you know, there are 20 minutes and we'd appreciate the opportunity for questions, so if you could take maybe no more than 15 minutes and you could just—

Mr. George Teichman: Start now?

The Chair (Hon. Gerry Phillips): Pretty much. And just identify yourself for Hansard.

Mr. George Teichman: Sure. My name is George Teichman. I do not have a brief to hand out of what I'm about to say, except for a letter to the editor that I sent that was published in the Globe and Mail on February 23, which I think is being handed out to you now. My letter is the top left-hand corner of that section, Letters to the Editor, and it is basically a précis or it is the essence of what I want to say to you today.

Just a bit on me: I'm a civil engineering graduate from Queen's, MBA graduate from Western's Ivey School of Business, and I worked for a major bank for many years as director of real estate development. I now manage my small real estate development and property investments.

I also spend a great deal of time investing in mining and energy stocks, mainly on the Toronto Stock Exchange. In fact, currently all of my investments are listed on the TSX. Why would I do this? Well, in part, because I have confidence in the rigorous regulations regarding listing and, in particular, the 43-101s for reports by mining companies that are a requirement under the TSX.

It gives me pride to know that Canada has such a successful exchange and it's operating at a global scale, especially when I hear horror stories about companies listed on other exchanges. One I heard about the other day was listed on the Frankfurt exchange.

I do enjoy attending annual general meetings of the companies that I'm invested in, and these are often at the exchange, right downtown Toronto, right here. That's a great benefit, a great thing.

Today, I've come to you after spending the last four days at the PDAC convention at the Metro Toronto Convention Centre. Here's my badge. I was there for four of the five days. This is the largest annual mining convention in the world—I guess you've heard about this already—and what a success it has been: a five-day frenzy of 23,000 mining executives, bankers, prospectors, developers, government officials and investors from all over the world. It filled up the entire convention centre. It also did an awful lot of good for the nearby restaurants and hotels, believe me—and this is an annual event. The economic benefit must be enormous. I wish that somebody would report what it means in terms of millions and millions of dollars.

So why is this held in Toronto? Well, most of the world's mining companies list on the Toronto Stock Exchange because Canadians are the world's experts in developing mines and mining technology. There were 1,100 exhibits stuffed with mining executives and associated trades as they showcased their success stories to investors. I have here a floor plan. These are the exhibits of the various mining companies: 700 exhibitors on this one page. Then there are close to 400 tradespeople in another portion of the convention. These are people who are surveyors, lawyers who provide services, consultants. There is some very interesting mining equipment to see there, huge pieces of drilling equipment; very interesting.

Governments from approximately 60 countries and regions were there, anywhere from India and China to Minnesota, and they were there to encourage investors.

While at the conference, I talked to a number of people, knowing that I was going to come here and speak to you today. I wanted to do my own polling. You can see it on BNN, and I guess my results were kind of similar: It was about 50-50. I wanted to learn what they thought about this merger, and I'll pick out two. One gentleman from a small start-up exploration company said that he wants the merger because of the difficult regulations and lengthy timelines at the TMX. I responded, "But that's good for me as an investor and it gives me confidence." So we parted in disagreement.

Another gentleman, an American who has been living the past 20 years in Madagascar—I asked him three times. He gave me his card. Yes, there he is; he lives in Madagascar. He lives and works there as a consultant for mining. I said to him, "What is your opinion?" He said, "It is better if there are more stock exchanges, not less, for competition, and to keep regulations stiffer for investors and fees more competitive for companies seeking to list." In other words, lower fees and competition.

We should not lose sight that the TSM is the largest marketplace in Canada and is our business beacon to the world. This is a strategic industry. Canada's capital markets cannot work efficiently without a stock exchange, and to have Canada's exchange controlled abroad, frankly, is not strategic.

Exchanges should not, and cannot be globalized the same way as, say, company operations moving all over the world or the pricing of oil or gold—you know, "The world price of gold and oil is so and so." Exchanges are different. So for those who say that the LSE won't control our markets and that Canada's end of this merger—really, it's a takeover—will remain robust, I say, why does the LSE need 55%? Don't you think that they will, in time, try to muscle companies to list and finance over there, across the pond? Won't some executives, lawyers and bankers gradually make the move? And then, perhaps, the world's largest mining convention could even move across. Why, then, isn't a 50-50 marriage good enough? Suppose they hold the 45% end?

Our finance minister has powers of approval now, but will the minister have input if the LSE, with the control, decides to merge or sell itself or the TSM portion to, say, Frankfurt or Tokyo? It's something to think about.

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We should remember how Paul Martin, as finance minister a dozen years ago, saved the banks from themselves by disallowing their hotly contested merger plans at the time. I was very much involved at the time; in fact, I had letters to the editor and I made presentations. I remember that Scotiabank was the only one of the Big Five banks to oppose those mergers.

Mr. Martin's stewardship has recently been praised around the world—we've read it many times in the last couple of months—even by the United States, as wise, and has contributed to the reputation of Canada's banking system as being the strongest in the world. Larger, therefore, does not equate to better.

I understand that the Royal Bank has been acting as a consultant to the LSE on this deal. I wonder, is it correct for this bank to therefore enter the public discussion and try to sway public opinion? That's only a question.

The weight of their posturing, however, is intimidating and has made me think twice about expressing my views here today. However, I did come, and I am expressing my view that the minister should not approve the takeover of the TMX by the LSE, a notion no less preposterous than a helping hand from a financially broken zone in Europe.

The Chair (Hon. Gerry Phillips): Thank you very much. We've got about three minutes each, if that's all right. Mr. Shurman.

Mr. Peter Shurman: Thank you, Mr. Teichman. I'm very interested in some of the logic that you've applied to your presentation. You spent quite a bit of time telling us that you had great confidence in the Toronto exchange, and you have put your money where your mouth is, literally, because you've invested fully in Toronto-listed stocks. I hear you loud and clear; in fact, I share your view.

What's interesting is that, after having expressed that confidence in the very people who appeared here last week to ask for this committee's blessing and, ultimately, the blessing of the OSC and the Minister of Industry, these very same people who have created that confidence for you are the people who are saying, "It's going to be better for us in a globalized world if we do this merger. Please tell us that you want to see what we want to see." How do you rationalize those two views?

Mr. George Teichman: I know the thing that comes to my mind immediately; I don't know how I can say it politely.

Mr. Peter Shurman: You can say it any way you want.

Mr. George Teichman: There's a lot of money to be made here, not by the private investor, but by those people who—there are going to be commissions made. Why do people encourage the sale of things? Usually so that there's a gain.

Mr. Peter Shurman: We went out of our way to ask—in fact, I particularly asked—"How much are you going to benefit, you people sitting up here?" I was talking to Mr. Kloet and his colleagues and the London people. "How much are you going to benefit from this sale?" They were specific and on the record and said, "We own shares in our respective exchanges, but there's nothing to be gained from the merger, except as we grow the combined resource." They claim that there's no money to be made just from doing it.

Mr. George Teichman: I don't believe them. It's that simple. I think there are a lot of people in the public who don't believe them.

Mr. Peter Shurman: Well, that's possible. I thank you for the answer.

Let me ask you one other question in the time we have left. Globalization: You don't seem to favour globalization. You quoted somebody you met at the convention, whom you seem to agree with, who said that more exchange is better: more competition.

That's fine; that's a view. It's not a view that has been expressed here in large degree, because what we've heard from people who are on both sides of this equation is, whether this merger is a good thing or a bad thing, you can't deny the fact that the business of stock markets is a globalization trend: It's going to happen, whether it's this one or another one. How do you reconcile that with your view?

Mr. George Teichman: I disagree. There are many things that can be globalized. Globalization is not going to last long, anyway. If you read the book by Jeff Rubin, the high price of oil is going to change an awful lot of what has been going on. In fact, there was a luncheon yesterday with a gentleman named Paul Stothart. He was with the Mining Association of Canada. He talked about how China is going to be generating this huge demand for our commodities, unless oil goes to $150. Then it's a different game. This globalization is just going to turn on its head. That's what Jeff Rubin talks about in his book, how we're going to be localized in the future and we're going to be returning manufacturing etc. back to where it started.

Mr. Peter Shurman: I hear what you're saying. I've heard that view. One more quick question—

Mr. George Teichman: Globalization of the exchange—

Mr. Peter Shurman: We're out of time, so I have a yes or no question. Do you invest in oil stocks?

Mr. George Teichman: Yes, I do.

Mr. Peter Shurman: Thank you.

The Chair (Hon. Gerry Phillips): Mr. Bisson?

Interjections.

Mr. Gilles Bisson: Okay, you guys can have that debate on your time. That was fun.

An interesting point has been raised by a number of people in different ways, and sometimes it's a bit more veiled in regard to how it's put forward, but you kind of went there full-force, and that is, in the end, what this will lead to is less competition and less choice on the part of the investor by having larger and larger exchanges, because the trend worldwide is to merge all these exchanges together. Your argument—and I'd like you to flesh that out a little bit for me—is that at the end of the day, that's not necessarily the right thing for the investor. Can you explain that a bit?

Mr. George Teichman: No, I think that is the right thing for the investor, that there is more—

Mr. Gilles Bisson: Having less choice?

Mr. George Teichman: No, having more choice. In other words, leaving it as is, with more exchanges.

Mr. Gilles Bisson: But I'd like you to explain why that is better, because what we see is a trend—we've already seen it happen with various stock markets in Europe and Asia merging together; now we're proposing a merger between London and Toronto. Ultimately, what that means is that there is, in a sense, less competition. We heard the banks and others come before us and say, "Be careful what you ask for; you may very well get it."

So from your perspective, as an investor and somebody who knows something about your own investments, how is not having bigger better?

Mr. George Teichman: Because you have fewer, and when you have fewer, you have less competition. It is better to have more exchanges. More exchanges means there will be a competition of regulation and there will be a competition for fees, for listings. It is better.

It is also, I think, less dangerous, because in the future, you don't know what's going to happen to the Toronto Stock Exchange. If it is controlled in London and London decides that they don't need us anymore, where is it going to end up? Is the finance minister going to have the opportunity to make a decision at that point? Does it leave our jurisdiction totally?

Mr. Gilles Bisson: Let me ask—

The Chair (Hon. Gerry Phillips): I'm going to have to move on. Sorry, Mr. Bisson.

Mr. Gilles Bisson: I got one question. Hardly fair.

The Chair (Hon. Gerry Phillips): I do have to move on, though. Mr. Zimmer?

Mr. David Zimmer: Two questions: Are there any terms on which you would support the merger and, if so, what would those terms be? And the second question: In your letter to the editor—I have a copy here—you describe the LSE as a "drowning competitor." Why do you describe it as a drowning competitor?

Mr. George Teichman: They need us more than we need them. They are losing business, as I understand it. I'm not in the business directly; you have to remember, I'm more of a real estate person, and I am an investor. I hear certain things, but I understand that the London Stock Exchange is desperately looking to inflate itself, to make itself larger, to make itself stronger. They're looking at the best morsel they could possibly look at, and that's the Toronto Stock Exchange, which is one of the strongest and one of the best.

Mr. David Zimmer: All right. And my first question: Are there any terms on which you would support the merger and, if so, what are they?

Mr. George Teichman: Definitely. If the arrangement of capitalization was to be reversed, the London Stock Exchange would have 45% and Toronto would have 55%. I think that would be a good thing to look at.

Mr. David Zimmer: Thank you, Chair.

The Chair (Hon. Gerry Phillips): Thank you very much, Mr. Teichman. I appreciate your taking the time to be with us. Thank you.

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CANADIAN FOUNDATION FOR ADVANCEMENT OF INVESTOR RIGHTS

The Chair (Hon. Gerry Phillips): Next is the Canadian Foundation for Advancement of Investor Rights: Mr. Pascutto and Ilana Singer. Welcome. I think you know that we've got 20 minutes. If you could leave as much time as possible for questions, we'd appreciate it. If you could identify yourself for the Hansard.

Mr. Ermanno Pascutto: My name is Ermanno Pascutto. I am the founder and executive director of the Canadian Foundation for Advancement of Investor Rights, which is an independent, national, non-profit agency that seeks to be a national voice for investor rights and securities regulation. Unlike some of the other presenters, we have no axe to grind. Our only interest is in the best interests of investors and the best interests of the Canadian market.

In addition to being executive director, many years ago I was founder of the market policy division of the Toronto Stock Exchange, when it still had a trading floor at 234 Bay Street. You're probably all too young to remember that. I was also head of staff of the Ontario Securities Commission for five years in the 1980s, until I went out to Hong Kong to help establish the Hong Kong Securities and Futures Commission and to oversee the restructuring of the Hong Kong exchange. I am a Canadian and a Hong Kong lawyer, and I've also been involved in the creation of the Dubai International Financial Centre. So I have somewhat of a global perspective on stock exchanges.

Given the 15-minute limit, I'll try to touch upon some of the key points in my remarks and then focus on an issue that I think is of particular concern to investors. A copy of my full remarks is being circulated. Of course, I'd be willing to answer any questions that you have at the end.

In terms of whether this is a merger or a takeover, I think it seems to be fairly established that it's a takeover of the TMX by the LSE group. We do not see any clear benefits to the Canadian capital markets or to Toronto, as a financial centre, from this merger. There are benefits to the TMX shareholders and the LSE shareholders. They'll be able to reduce a lot of their costs, and that probably means their profits will increase and their share price will go up. But in terms of investors, listed issuers in Canada and our markets, I just don't see any benefits.

The TMX and the LSE have stated that the merger will enable Canadian issuers to have better access to overseas listings and to foreign capital by virtue of the LSE's international status as a listings destination. We think this is more smoke and mirrors. In order to list on the London Stock Exchange, Canadian companies would still be required to meet UK legal requirements, primarily those of the Financial Services Authority, and also the Financial Services Authority's listing requirements, not those of the London Stock Exchange. That would not change as a result of the merger.

Traditionally, companies that have wanted to expand their investor base through a foreign listing have overwhelmingly chosen a listing in the US markets. Access to the US markets for Canadian companies has been facilitated by what is known as the multijurisdictional disclosure system, or MJDS, which is an arrangement negotiated by the OSC and the other Canadian regulators with their counterpart in the United States, the US SEC. This is the arrangement that permits Canadian issuers to have easier access to the US markets. If the goal is to support Canadian issuers' access to the London Stock Exchange or any other foreign stock exchange, the way that it's going to be achieved is by having Canadian regulators work with UK regulators to produce the equivalent of an MJDS system similar to that that has been negotiated with the US SEC. Otherwise, you simply have to comply with the laws of two completely different jurisdictions, and the merger will not change that one iota.

We've heard some discussion about whether the TSX is a strategic asset for Canada or Toronto. I thought it might be useful for members to compare the role of the TSX with the role and treatment of exchanges in other parts of the world which form part of a government strategy to develop their markets. I'd like to talk particularly about Hong Kong and Singapore.

Hong Kong and Singapore have expressly positioned their exchanges as strategic assets for the development of their local markets and to enhance their cities' competitive position, in the region and globally. To support that, they have given their exchanges, essentially, a monopoly over the home market. In the case of Hong Kong, the monopoly plus the fact that it is the international financial centre for China makes it the single most valuable stock exchange in the world by a large margin. Its market capitalization is about $23 billion, versus $3 billion for the Toronto exchange, even though the exchanges are of similar size. Similarly, because Singapore has the blessing of the Singapore government and a monopoly over its jurisdiction, it's more valuable than the Australian exchange, which, again, is in a larger country. Given that the governments of Hong Kong and Singapore have positioned their exchanges as strategic parts of their financial centre strategy, it is extremely doubtful that they would permit a takeover of their exchanges by an exchange based in a foreign country.

In Canada, we have taken quite a different position vis-à-vis the Toronto Stock Exchange. Here, the regulators have focused on promoting competition with the TSX for trading services and ensuring that the regulatory environment accommodates new entrants, and a number of new entrants have been launched. I think you heard something about that this afternoon from Susan Wolburgh Jenah, the head of IIROC.

One of the new entrants in particular, Alpha, is a significant threat to the Toronto Stock Exchange. In the 18 months since it was launched, it has taken approximately 20% to 25% of the trading in TSX-listed securities. Alpha has the advantage of leveraging the dominance of its shareholders to grow its business, and its shareholders are the largest banks, the Canada pension plan and a couple of other major financial institutions in this country.

Alpha has also applied to the OSC for designation as an exchange, which would enable it to compete with the TSX for the listing of issuers. Now, listing fees, both new and ongoing fees, are a major source of revenue for the Toronto Stock Exchange, but we're seeing that there's been competition on the trading side and that revenue has been reduced on the trading side. Now competition is coming on the listing side, and inevitably their revenue will be reduced on the listing side.

So, with the evolution of our markets, while the Toronto Stock Exchange was "the" market in Canada 10 years ago, the markets are changing very rapidly, that role has diminished in recent years and it is likely to continue to diminish with the rise of competitors.

Now, FAIR Canada's primary concern is whether the TSX is properly discharging its role as a regulator of listed companies and protecting the interests of investors and how a merger with London will impact on that role. In summary, we do not believe that the TSX is properly discharging its regulatory responsibilities, and this will only be exacerbated by a merger with the LSE Group.

The stock exchange has historically played a very significant role in the regulation of listed companies and protection of investors. However, since it demutualized and went public a decade ago, its driving motivation has been maximization of value for its shareholders, not the public interest and not the best interests of the Canadian capital markets.

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We have expressed concerns in the past about the inherent conflict at the Toronto Stock Exchange between its commercial business and its regulatory responsibilities, and we've urged regulators of the TSX to address the conflicts of interest in a way that's consistent with international standards.

Last year, we commissioned an expert report called Managing Conflicts of Interest in the TSX Listed Company Regulation. This report looked at what happened at the seven other major exchanges in the world after they demutualized and listed. That includes the US: New York, NASDAQ; the UK: London; Scandinavia; Australia; Japan; and Hong Kong. What the report found was that all of the seven other major exchanges reviewed had addressed conflicts of interest in listing regulation by implementing one of three approaches to management of the conflicts of interest.

The TSX is an outlier. The TSX is the only exchange among this group that has not implemented measures to manage conflicts of interest in the regulation of listed companies. So it carries out its regulatory functions in a unified department with the same people who market listings to management of listed companies.

I'll start with a little introduction. Under its recognition order with the OSC, the TSX is required to sanction persons for breaches of its listing rules—there are many listing rules—and to report violations of securities laws to the Ontario Securities Commission. One of the things that came out in our report was that the TSX was unable to provide any data on the use of sanctions for breaches of its rules or on reporting of violations of laws to the Ontario Securities Commission. The absence of any record of their compliance activities, I would say, is highly unusual for a regulator.

The members of this committee are probably aware that the Ontario legislative Standing Committee on Government Agencies issued a unanimous report about a year ago on its review of the Ontario Securities Commission. One of the things that report commented on was the conflict of interest between the TSX's commercial responsibilities and its listing responsibilities. This was before our expert report came out. The committee's report stated: "Our concern is with the perception that the TSX falls below international standards with respect to the separation of its regulatory and commercial activities.

"The committee recommends that the" OSC "review the potential for the conflict of interest between the regulatory and commercial functions ... and that it take the steps necessary to address any problems identified."

In spite of both the Ontario legislative committee's report and our own report, neither the TMX, TSX or the OSC have taken any steps at this point to address the management of conflicts of interest.

In our view, if the proposed merger is to be approved, it should be on the condition that the TSX address these issues as one of the conditions for the authority's approval of the merger. We believe that the introduction of Alpha in the listings business and the merger with the LSE will only heighten concerns about conflicts. In particular, the Alpha application to become an exchange will give rise to its own conflicts and will create a situation where you'll have two different sets of listing standards: You'll have the Toronto Stock Exchange's set and you'll have Alpha's set of listing standards. If they're different, this could easily promote a race to the bottom, because what you're going to have is one exchange going to market to listed companies, saying, "Look, the Toronto Stock Exchange requires shareholder approval for this transaction. We're going to let you do the transaction without shareholder approval."

Our organization, the Canadian Coalition for Good Governance, and other shareholder rights groups have fought for shareholder approval under the Toronto Stock Exchange rules for many years. It would be very easy for a new entrant to come along, have a lower set of standards and attract business on the basis of a lower set of listing standards.

The Chair (Hon. Gerry Phillips): We've got about five minutes left.

Mr. Ermanno Pascutto: As we say, it's imperative that the TSX adopts a structure to manage conflicts of interest that are completely independent of the new group's commercial listing operations, and that these regulatory functions be subject to the oversight and supervision of Canadian regulators. In the case of the TSX, that would be primarily the OSC.

Now, in light of the merger and in light of Alpha, we are of the view that the best way forward may be to transfer the TSX's regulatory functions to another regulator, such as IIROC, and to have a uniform set of listing standards so that competition for listings will not be based on reduced investor protection.

If you heard from the IIROC CEO earlier today, that's exactly what happened on the trading side. On the trading side, the rules are uniform. We have uniform market integrity rules that operate across the exchanges that compete for trading, and they're administered by IIROC. We're saying that if the merger is to go ahead, the same thing should happen with listing regulation.

Thank you, and I'm happy to answer any questions.

The Chair (Hon. Gerry Phillips): Thank you very much. We've got just a minute, a minute and a half for each. Mr. Bisson?

Mr. Gilles Bisson: Oh, I didn't realize I was first up.

You say here in number 3, "If anything, most directors and executives of the new exchange group company will be less knowledgeable about, and more remote from, the needs of Canadian investors, as well as the needs of Canadian issuers and securities dealers."

That brings us to the AIM market, in my view. Is there a danger that what you could end up doing, because there's that issue—that the less stringent requirements of investment on AIM may very well see some stocks being listed there more easily, and then driving down confidence in the mining sector?

Mr. Ermanno Pascutto: AIM is a dead duck.

Mr. Gilles Bisson: It's a fiasco, yeah.

Mr. Ermanno Pascutto: It's a dead duck. They took a non-regulatory approach to AIM. After an initial burst of success, it's essentially been dead in the water. So no one's going to AIM—

Mr. Gilles Bisson: It ain't coming back.

Mr. Ermanno Pascutto: And it ain't coming back. It was a mistake from the outset and it's not going to create any competition for TSX or TSX Venture Exchange companies.

The Chair (Hon. Gerry Phillips): Thank you. Mr. Arthurs?

Mr. Wayne Arthurs: In the little bit of time that we have, can you speak a little bit more to the MJDS arrangement and how you might see that working within the LSE arrangement?

Mr. Ermanno Pascutto: Well, basically, what you have is, if a Canadian-listed company wants to access the US markets, it has a completely different set of rules. Even though the underlying substance is the same, the rules themselves are all quite different. So it has to spend all the money to comply with all the Canadian requirements and then it has to spend the money to comply with the US requirements.

What the regulators did is they entered into, after lengthy negotiations, an arrangement where the Americans would accept Canadian disclosure requirements and the Canadians would accept certain American disclosure requirements for certain companies. That's made it very easy, or much easier, for Canadian companies to access the US markets and similarly, for US companies to access the Canadian markets.

We're saying that a merger between London and Toronto doesn't change the requirement to comply with both Canadian requirements and UK requirements. It has no impact. It's irrelevant. In fact, the London Stock Exchange is not even a listing regulator in the UK. When they demutualized, the government took away the regulatory function from the London Stock Exchange, so they have not been a regulator for more than a decade at this point.

If you want to facilitate access to the UK markets or any other market, what you need to do is have the

Canadian regulators sit down with the UK regulators and say, "Okay, where are our laws different? Where are they the same? Where can we accept each other's documents? How can we facilitate access?" It's a government-to-government negotiation that has to take place, essentially. It's not the stock exchange.

The Chair (Hon. Gerry Phillips): Thank you very much. Mr. Shurman?

Mr. Peter Shurman: In point form, Mr. Pascutto, in that we have brief time: You're the adviser to the Minister of Industry of Canada and you're going to tell him under what circumstances he could go ahead with this approval. What do you need him to do?

Mr. Ermanno Pascutto: I'm not going to advise the minister. I'm saying that I do not see any benefits to Canada from this merger. It may be, at least in terms of the benefits that have been put forward—

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Mr. Peter Shurman: No, I heard you say that, but you also, at another part of your presentation, said, "and if this is approved, I hope the conflict-of-interest issue will be addressed." So I wanted you to expand on that because you said that; therefore, you contemplate a scenario under which it's approved. What would you put in there as provisos if that happens?

Mr. Ermanno Pascutto: I think it's very difficult to put in provisos because you're anticipating what's going to happen. Forget about four years down the road; you're going to have to anticipate what's going to happen 10 and 20 years down the road. I think at this stage it's really impossible to anticipate.

If people looked back 20 years and tried to anticipate what was going to be the situation with markets today, they would have been so far off the measure. You don't know what the long-term impact on Toronto and Canada is going to be of the Toronto Stock Exchange being essentially a branch plant of the London exchange. They may be able to offer up concessions that guarantee that it will be a benefit to Canada. Right now, we don't see that benefit.

Mr. Peter Shurman: Thank you, sir.

The Chair (Hon. Gerry Phillips): Thank you very much. We appreciate you taking the time to be with us.

PROSPECTORS AND DEVELOPERS ASSOCIATION OF CANADA

The Chair (Hon. Gerry Phillips): The next one is the Prospectors and Developers Association of Canada. We're doing this by teleconference, so they will be on—

Interjection.

The Chair (Hon. Gerry Phillips): Pardon me? Are they there now?

Interjection.

The Chair (Hon. Gerry Phillips): If you can hear us, my name is Gerry Phillips. I'm Chair of the committee. Welcome. We have our all-party committee here for you. We have a total of 20 minutes. If you could keep your remarks to 15 minutes or less and give us an opportunity for some questions.

With that, I guess it's Mr. Jobin-Bevans who is on the line, if you might identify yourself and begin your presentation. Thank you.

Mr. Scott Jobin-Bevans: Hello. Thank you, Gerry. It's Scott Jobin-Bevans, president of the Prospectors and Developers Association of Canada. Everyone can hear me, I take it?

The Chair (Hon. Gerry Phillips): Yes, I think we can. Thank you very much.

Mr. Scott Jobin-Bevans: Excellent.

Good afternoon. Thank you for offering me the time to speak with your committee today. I do regret that I cannot be there at the committee hearing in person but it's the final day of our annual PDAC convention, so there are still a few activities that I'm committed to before everything wraps up today. I'm here with Philip Bousquet, who's the PDAC's senior program director.

The PDAC is a national organization with 8,000 individual and corporate members representing a range of companies and individuals engaged in mineral exploration and development, drilling, financial, legal and other supporting fields.

Mineral exploration and mining is one of Canada's truly global industries, investing in over 10,000 projects in over 100 countries, with 80% of the worldwide mining equity transactions over the past five years handled by the TSX and the Venture Exchange. Some 75% of the 1,800 worldwide exploration and mining companies were located in Canada in 2009.

The mining industry employs over 300,000 Canadians in mineral extraction, processing and manufacturing, and contributes $32 billion to Canada's GDP. The industry also accounts for 19% of Canadian goods exports.

A vibrant mineral sector in Canada maintains existing jobs, creates new jobs, sustains communities, fosters new business opportunities and raises tax revenues that allow the federal, provincial and territorial governments to meet social needs.

Our annual convention, which concludes today, is the world's premier mineral industry conference and a major economic contributor to the Toronto area, with an estimated $45 million to $50 million in economic activity. This year we welcomed over 28,000 attendees—a new record—from 125 countries, including more than 50 official international delegations.

The convention featured 1,000 company displays in exploration and mining, as well as a diverse opportunity to see our service and equipment suppliers. Some 320 media members also covered the show this year.

Canadians are world leaders in mining and mineral exploration, and the PDAC and its members consider the announced merger of the TMX and London Stock Exchange to be a very important issue.

Our members, large and small, depend a great deal on the capital markets to raise equity financing for their exploration and mining projects around the world. Junior companies do not have access to debt financing, and so they are entirely dependent on the capital markets and investor confidence. The TSX, with its expertise in financing exploration and mining projects, plays a significant role in enhancing Canada's worldwide economic influence and reputation.

With regard to the announced merger, we understand that this was a strategic decision by the TMX in the face of global consolidation moves of the capital markets. The TMX states that the merger will strengthen its ability to compete against global exchanges and that the new entity will offer deeper capital pools for issuers, including small and medium enterprises, many of whom are junior mining companies.

Other features include greater visibility, leading to new investors, new liquidity and new listings as well as increased choice for domestic investors. The TMX materials remind us that Canada's strong regulatory oversight will remain intact.

We've had some preliminary discussions with the PDAC, and it was a topic of consideration during our convention. We have met industry people who are very enthusiastic about the merger, expressing agreement with the TMX, and then there are others who expressed strong concerns regarding its potential impact on Canada's mineral industry. Public commentary offers a similar range of these views.

Assessing the impact of the move on mineral exploration companies is not easy, given that, if it proceeds, the merger would take some time to evolve in structure and practice. The merger plan would retain the existing dual market structure with the respective market niches, policy and regulatory frameworks, and so there does not seem to be an obvious risk to our members in the short term. The risks appear to be longer-term and are related to the uncertainties regarding how the new entity would evolve and the impact that the new entity would have on listings, access to capital for the exploration and mining sectors, the global reputation of the TMX, and the global standing of the Canadian exploration and mining industries.

Canadian mineral industry people will tell you about the high degree of regulatory scrutiny that exists in Canada, and we see this as a very strong competitive advantage. Our companies and the securities commissions that regulate and monitor them have spent years improving the scope and quality of disclosure obligations. National instruments in Canada clearly state the requirements that must be met by mining companies, and our standards are higher than those in London. The exchanges don't set the disclosure requirements, but some have expressed concern about the degree of investor disclosure that can be expected in the future as a new entity and its practices take shape.

If the TMX is to gain broad support for the merger with the LSE, it will need to provide solid assurances for maintaining and improving upon the existing organization and services as well as the central role that the TMX plays in the Canadian mining sector. We are pleased that this select committee has been struck to review and report on the matter, and we certainly look forward to a comprehensive analysis and public discussion.

The PDAC is willing to draw upon its members and volunteers to provide further commentary and analysis, and we will be part of the discussion with the federal government and securities regulators. I would be happy to follow up on your behalf with any of our members and to canvass them for an opinion on any particular issues that concern you.

That's what we have to present. Thank you, and we'd be pleased to answer any questions.

The Chair (Hon. Gerry Phillips): We appreciate it very much. What we do is we go around to each of the various caucuses here. We've got about four minutes for each, and I'm going to begin with Mr. Arthurs.

Mr. Wayne Arthurs: Thank you for joining us via the teleconference. It sounds like you've had, from over here, a fabulous conference. You just blew me away with the number of folks. I'm not familiar with conferences of that scale, but I guess world conferences drive that kind of activity, so congratulations to everyone who's been involved in that process.

I'll give you just one question to start with, anyway: Part of the discussion that we've heard over the past few days has to do with Canadian companies that have tried trading in the UK via the AIM platform, and many of those returning home to raise capital here, ultimately, because they just couldn't find an interest in European investors. Is that something that you're familiar with, in that sense? If so, how do you see this particular deal, the merger, bringing about a different outcome than transpired in the past?

Mr. Scott Jobin-Bevans: What I must say here is that we haven't had a chance to get, really, a consensus to offer from our membership, so you'll probably hear a little bit of opinion here. Certainly, going through the AIM side, in terms of a listing or access to capital, seems to be, to me, second-tier. If people want to really raise capital, they always, it seems, come back to the Toronto Stock Exchange and the TMX Group.

I also am a geologist who has a larger international consulting firm that I help manage. We see companies come to us for 42-101 reports or the like to get a listing, and we've always encouraged them to go to the TMX. They've gone down the AIM route many times with disappointment and have always come back to the TMX or the TSX listing.

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Mr. Wayne Arthurs: So you wouldn't see this in any way as weakening the TMX, at least from the standpoint of the mining activity, because of the strength that's there, and you wouldn't see that changing?

Mr. Scott Jobin-Bevans: No. I think the AIM is an alternative, if anything, but it's certainly not the best choice.

Mr. Wayne Arthurs: Okay. Any sense that it would give greater exposure to the European markets by virtue of the merger?

Mr. Scott Jobin-Bevans: That question's a good question. We already have a global exchange in the TMX. That's the way I see it, and I see it with the clients that we deal with. So, better access? I'm not really that convinced. A lot of Canadian companies list on the Frankfurt; they might do a dual listing on the AIM anyway. They always seem to come back to the TMX to get the best traction for financings.

Mr. Wayne Arthurs: Thank you, and congratulations again on your conference.

Mr. Scott Jobin-Bevans: Thank you.

The Chair (Hon. Gerry Phillips): Mr. Shurman?

Mr. Peter Shurman: Mr. Jobin-Bevans, thank you for appearing by teleconference. Congrats on your convention.

I'm a little bit surprised that there's no position on behalf of your group, on the one hand; on the other hand, I can see how there would be some division. So I'm going to ask you some "suppose" questions.

If this does not go ahead—and you've been in a convention for four days, approximately, where you probably talked a lot about this. If it were not to go ahead, what harm would come to PDAC members who support this, in your view?

Mr. Scott Jobin-Bevans: I don't think there would be any harm to them if it were not to go ahead, but these are members who would have liked to have seen it—

Mr. Peter Shurman: Who would have liked to have seen it go ahead for their own reasons—capital markets, whatever they perceive to be benefits.

Mr. Scott Jobin-Bevans: Yes. I'm having a hard time seeing, really, the big benefit here anyway. I don't think there'd be any real harm in it, honestly. I don't think we'd lose any membership. We wouldn't lose any membership over it.

Mr. Peter Shurman: In other words, it would be the same as it always has been, and the industry is thriving. I'll take that as a conclusion. Would that be fair?

Mr. Scott Jobin-Bevans: Correct, yes.

Mr. Peter Shurman: All right. So if it does go ahead, there would be some protections that PDAC would obviously want to see to make sure that the good relationship with the existing TSX was maintained under whatever aegis. So what would those protections be?

Mr. Scott Jobin-Bevans: First and foremost is the regulatory side of things. We've developed an excellent regulatory system over here that is, bar none, number one in the world, so we wouldn't want to see that compromised. You don't want to see any of the listing rules change, I would say. We'd still like to see a very strong presence in Toronto on the corporate side.

Are we there?

Mr. Peter Shurman: I'm here listening to you.

Mr. Scott Jobin-Bevans: I heard a drop-off.

I've heard talk about the balance of the directors being in favour of the LSE. I'm not sure why that is structured in that way, but, to me, the benefits are flowing from the TMX to the LSE. I'm not seeing any benefit going the other way.

As long as we have the control maintained—regulatory is the biggest thing.

Mr. Peter Shurman: Okay, thank you very much.

The Chair (Hon. Gerry Phillips): Thank you very much. Mr. Bisson?

Mr. Gilles Bisson: Thank you very much for presenting. Gilles Bisson here, from Timmins–James Bay, a community that has a few mines in it.

Anyway, I'd just say this: One of the things that I hear over and over again as I've talked to people in the industry over the years and through this debate is that we get mining. We understand what needs to be done. We have the centres of excellence. The TSX, with the expertise that has been coming out of mining in Ontario, has created a really good system as far as the 42-101s and other things that were done.

So here's my question: If clearly AIM was a bust—AIM was created by the LSM, and it was a bust—why should we think that the management of the holdco that created this thing at the end of the day will understand mining and do what's right for Toronto and the mining industry here in Toronto?

Mr. Scott Jobin-Bevans: I totally concur. I really don't see any benefit. A lot of people I've talked to over the last few days are of the same mind. They just can't see why we would be potentially compromising our very robust system by introducing what has already been demonstrated to be inadequate.

Mr. Gilles Bisson: As somebody who comes out of the mining industry, and as an Ontarian, I'm really proud of what we've managed to do over the last 15 or 20 years. We've gone from a very bad cycle to an extremely good cycle as a result of the hard work of a lot of people. It just seems to me they have more to gain from us than we have to gain from them, and I'm not quite sure why we're doing it that way.

If this thing goes forward, it would seem to me that one of the crucial issues is the direction of the holding company, that at the very minimum, we need to have some sort of mechanism in there so that Ontario remains an equal partner in this merger, by numbers of people on the board, so we don't have people in London making decisions about mining issues, which they may not know a heck of a lot about.

Mr. Scott Jobin-Bevans: Agreed.

Mr. Gilles Bisson: Very good. Have a great convention.

Mr. Scott Jobin-Bevans: Thank you.

The Chair (Hon. Gerry Phillips): Congratulations on your convention. Thank you for taking time out of a very busy schedule to give us your advice. We appreciate it.

BMO CAPITAL MARKETS

The Chair (Hon. Gerry Phillips): Next is BMO Capital Markets and Mr. Eric Tripp. Welcome.

Mr. Gilles Bisson: I apologize; I've not done business with you yet.

Mr. Eric Tripp: Not yet.

Mr. Gilles Bisson: Well, maybe after this.

Mr. Eric Tripp: Hopefully. I'll work on that.

The Chair (Hon. Gerry Phillips): As you know, we have 20 minutes. Take 15 minutes for your presentation, or less, if you can, just so we can have a chance for some discussion. With that, if you would introduce yourself just so we get it into the Hansard.

Mr. Eric Tripp: My name is Eric Tripp. I'm the president of BMO Capital Markets. Thank you for providing the opportunity to present my views today on behalf of BMO Financial Group and BMO Capital Markets.

With more than 2,000 employees operating in 26 locations around the globe, BMO Capital Markets is a leader in several sectors that are important to Ontario's economy, including metals and mining, and has the deep expertise to help advise both large and mid-market companies in their search for growth.

The proposed merger of the TMX Group and the LSE Group is an important transaction. I want to thank Minister Duncan for setting up this all-party committee to consider the merger's benefits. The minister has been a strong supporter of the financial services industry.

I'm convinced this transaction will benefit our industry. The financial services industry is not only one of the most important sectors in this province's and this country's economy, but also for the Toronto region and for the Canadian capital markets industry at large.

As you may be aware, BMO served as joint lead financial adviser to the TMX on this transaction. Beyond that, BMO is also a listed issuer on the Toronto Stock Exchange, a shareholder in one of TMX's domestic competitors, the Alpha Group, and one of the leading participants in Canada's capital markets. BMO is deeply invested in the implications of this transaction on the long-term success and growth of Toronto's economy and the Canadian capital markets industry.

I've been personally involved with the Toronto Stock Exchange, which I will refer to as TMX going forward, for many years. Before demutualization and throughout the process of demutualization, I served as a member of the board of directors of the TMX. The importance of the TMX to both Toronto and Canada is something of which I am acutely aware, and I, like you, take the potential implications of this transaction very seriously.

The questions being asked are important. We asked ourselves the same questions and satisfied ourselves that the merger is in the best interests not only of our client, the TMX, but also of their clients and the industry as a whole.

I believe that some of the current concerns prevailing in the public domain may stem from a misunderstanding of the merger. It's not the exchanges themselves that are merging; rather, it is the holding companies that own and operate the exchanges. I believe that is an important distinction. The exchanges themselves will continue to operate independently of one another.

This segregation of operations is important. It ensures that Canada's regulatory sovereignty will not be threatened by the merger. The Toronto Stock Exchange and the TSX Venture Exchange will continue to be regulated by Canadians through the Ontario Securities Commission, and this regulatory oversight will remain permanently in place.

From my own perspective, having been in the business for 28 years, this transaction will create benefits to Canada both from a capital formation and from a technology perspective, both of which are critical to the success of a stock exchange.

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With respect to capital formation, the combined entity would be the world's leader in listings and the world's pre-eminent venue for companies with fewer than 500 employees and revenues of less than $50 million. Currently, TMX is number one in the world in serving these companies and LSE is number two. This dominant position will allow the TMX-LSE to provide a global leading listing offer to this class of company.

The combined entity will also have unparalleled expertise in resources. Metals, mining, energy and clean technologies have become of paramount importance globally, and Canada—and its exchanges—will be a global leader.

Last year, the federal and provincial governments, in collaboration with the Toronto Financial Services Alliance, endorsed a plan to build Toronto's status as a global financial hub. Central to that plan was a goal to cement Toronto's place as a destination for global mining, energy and metals listings and achieve a 70% share of global listings, resulting in attracting more capital and, by definition, more jobs. I believe that having a combined TMX-LSE will improve our chances of reaching this goal, which is endorsed by the Ontario government and by the financial services industry.

On the second point related to technology, a stock exchange is a technology-mediated tool that allows firms like ours to exchange securities with other domestic/global institutions. If you haven't seen how this works, I'd be more than pleased to host the group at our trading floor at Bay and King to see how it actually works, anytime. There is nothing to stop someone or an entity from setting up a competing securities trading platform, and we've been seeing and supporting this activity around the world. This competition is good for all market participants.

The combined TMX-LSE will be able to invest more funds in technology and invest more efficiently. This will help the merged entity compete effectively while maintaining high performance on a stable technology platform, which is very important. The technological improvements that result from this transaction should lead to more efficient price discovery, faster trading and lower cost of execution. This improvement in market efficiency will help spur growth in the market by making it easier to trade, attract listings and, by definition, attract capital.

One of the questions before you is the impact of this transaction on Toronto as a financial services centre and the implications for local jobs. About 300,000 people in the GTA work directly in the financial services industry. These are good, well-paying jobs, and there are thousands more—lawyers, accountants, IT professionals—

whose jobs exist solely to support this financial services cluster. The taxes paid and charitable donations made by this group contribute significantly to the quality of life that we enjoy here in Ontario.

Similarly, the expertise in derivatives that is clustered in Montreal and the expertise in energy financing that is headquartered in Calgary are vital components of the TMX and the industry, and provide jobs in those centres. These experts will play leading roles in the new combined organization.

There's a direct link between the reputation of a country and the amount of foreign investment it attracts. I am convinced that this merger will raise Canada's profile in the eyes of European and other foreign investors and result in those investors deploying more of their capital in Canada. While the TMX and the Canadian securities industry market Canada directly into Europe, I believe that with the assistance of the team at the LSE, the story behind the Canadian element of the TMX-LSE merger will reach further into Europe than ever before. That is good for Ontario and it's good for Canada. As policy-makers, you understand that feeding Canada's innovators and ensuring that we have access to capital is what generates much of the job growth that our economy relies on. These are all good reasons why the merger will be a benefit for Toronto and for the province and, I submit, reason enough why you should be in favour of the merger.

Perhaps the greatest argument in favour of the merger is that we would be at the forefront of the changes occurring in the exchange industry and be in a position to define future growth and opportunity. Consolidation of the world's exchanges is already in progress, with the announced combinations of Australia and Singapore, New York and Frankfurt, Toronto and London, and, most recently, this afternoon, Tokyo and Osaka. There is more to come as exchanges seek greater scale and global reach, as well as access to the best technology.

Toronto is partnering with the leading exchange in Europe's number one financial services centre, and on terms that are very favourable to Canada's interests. It is Canada's outperformance through the recent financial crisis that has positioned the TMX to negotiate this transaction.

I truly view this as a merger. The TMX will have a very strong position in the merged entity. Current TMX executives will maintain strong management roles in the new entity: the chairman, president and CFO positions. The person responsible for global listings—that is the lifeblood of an exchange—will be based in Toronto as well, and seven of the 15 directors will be Canadians.

The TMX has a real opportunity to grow and expand, under favourable terms, and ensure that Canada's exchanges won't be sidelined. It's an opportunity to capitalize on our core competencies to both grow and create jobs in the resource-based and SME industries.

I'm not suggesting that an independent TMX cannot handle global competition, as it is a strong business with a valid business plan as it stands. Rather, merging will allow it to stay strong and be on the offensive versus playing defence against ever larger competitors.

Ontario has done a good job branding itself to foreign investors as an attractive destination for investment. Support of this merger communicates that we continue to believe that Canada, and specifically Ontario, is a place to do business and invest.

Ontario has demonstrated over many decades that we embrace opportunities in the bigger global marketplace; we have the skilled workers and innovators to succeed in markets beyond our borders; and we have the confidence in ourselves that we can compete and win, provided we have access to global markets, and that is exactly what this merger provides.

To sum up, one of the central issues clearly is jobs: jobs in one of Canada's strongest sectors, the financial services industry, and, equally importantly, jobs in mining, manufacturing and technology—jobs created by Canada's innovators who, as a result of this merger, will have access to more capital to invest.

I would encourage you and your colleagues to recommend that this merger be approved. Thank you. I would be happy to respond to any questions.

The Chair (Hon. Gerry Phillips): Great. Thank you very much. We have about three minutes. We can start with Mr. Klees.

Mr. Frank Klees: Thank you very much for your presentation. We just heard in the previous submission from the Prospectors and Developers Association of Canada that they feel that the TSX and the Venture Exchange are working extremely well for them. If it ain't broke, don't fix it is what we heard.

What is it, in your opinion, that makes this merger necessary from the standpoint of generating business activity within Ontario?

Mr. Eric Tripp: What I think it will do is stimulate more listings towards the combined entity because the combined entity will be the second-largest market capitalization exchange vehicle in the world. I think that's a dramatic calling card to go into a company, a prospective issuer that's looking to list, and when you go in with that calling card, you catch their attention.

When you also say that you are the largest listing vehicle in the world, you've also got their attention, even more so. What I think it will do is give the combined entity a greater opportunity to capture listings from around the world. This is a global exercise. We're trying to capture listings from everywhere we possibly can. With listings, you get trading, you get corporate finance activity, which leads to jobs, capital, investment etc.

Mr. Frank Klees: We heard from a group of banks in the same business that you're in earlier today. They say this should not happen. You are saying it should happen. Please help me to understand the different perspective that you have from the group we heard from earlier this afternoon.

Mr. Eric Tripp: I'm not sure which banks were here, but if I was a bank that happened to be the largest client of the TMX, I might have a different view on the validity and usefulness of this transaction, relative to my position in negotiating with the TMX for lower fees or better terms.

Mr. Frank Klees: So there might be some conflict of interest.

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Mr. Eric Tripp: That could drive my thinking in terms of whether this transaction is good or not.

I think there's a lot of emotion on this particular issue. You need to extract the emotion from the financial logic and the value that this can potentially provide in terms of job growth and capital creation—

Mr. Frank Klees: I can't imagine that bankers would allow emotion to become part of their decision.

Mr. Eric Tripp: Well, no. You're right, of course.

The Chair (Hon. Gerry Phillips): Thank you. Mr. Bisson.

Mr. Gilles Bisson: Eventually, what we're moving to is a larger and larger player managing our stock markets. Another word for that is that eventually, what you end up with is monopolies. I never knew that monopolies led to lower fees, so if there's a bit of skepticism, I think that's where it's coming from.

Listen, most people should know what their customers want. I just heard one of the customers of the TSX two seconds ago, basically the PDAC, say that there's no benefit for Ontario in this merger. Your comment? They don't see a net benefit. They don't see it as harmful, but they're saying, "Yahoo? I'm not too excited."

Mr. Eric Tripp: I understand. So I will go back to the point that I raised. I think the benefit to Ontario is the success that the entity will have in terms of attracting more listings and more capital that will come into this—

Mr. Gilles Bisson: And I would agree, to a degree. At the beginning of this thing, as I started to look at it, if it was really a merger of equals and we were able to ensure that we kept our centre of excellence here in Toronto on the mining side of the business, well, then, that kind of makes some sense, that bigger may be better. But what we've got is a four-year agreement that says that in the first four years, we've got seven of 15 on the board, and certainly some good representation on the management level, but after four years, that's all up for change. If we are in a lesser position because of future mergers, where does that leave us as far as being this centre of excellence and making the decisions that need to be made for the benefit of Ontario and Canada when it comes to the mining sector and the small caps?

Mr. Eric Tripp: That's one way of looking at it. The other way of looking at it is, what if it was even greater? What if we were running the combined entity in its entirety?

Mr. Gilles Bisson: If we were in the driver's seat or at least equal partners: That's what you're saying.

Mr. Eric Tripp: Well, we're equal partners in a sense. The market caps are the market caps, going in. That defines the merger. It's very simple. There are many, many mergers that are the same kinds of transactions with similar market caps going in.

The mind in management here should not be overlooked. We have an exchange operator that is the president—I happen to be a president; I understand how that role works and the influence that that role can play within a large organization—but it's a seasoned exchange operator. He's spent his whole career operating exchanges in that critical role. The CFO has been with the TMX Group for a long time, very competent. The manager of listings is there—

Mr. Gilles Bisson: But what about four years from now?

Mr. Eric Tripp: What about four years from now? May the best-performing people in that organization be in the most important positions—

Mr. Gilles Bisson: Listen, I come from the Legislature, and that's not really true.

The Chair (Hon. Gerry Phillips): We'll move on to the next one. Mr. Arthurs.

Mr. Wayne Arthurs: I'll just pick up a little bit from where Mr. Bisson left, at least in part. In one of the comments, you mention that you're not suggesting that the TMX cannot handle the global competition, but then you go on to say "be on the offensive versus playing defence." "It's better to be the predator than the prey" is probably one way of looking at it.

I want to jump forward the four years as well at this point in time in that sense. What do we do here in the context of this merger, if it were to go forward, to ensure that, in four years, if we're going to be the predator still, we don't end up being the prey? What do we do when we don't have the guarantees of seven members on the board or the guarantees of the various positions being located in Toronto rather than London?

Are there things we should do at this stage to set ourselves up for some element of protection in that regard if we're to, say, be the predator rather than the prey?

Mr. Eric Tripp: I would focus on the regulation of the market versus how a public company operates. To constrain a public company in a material way relative to how the other public companies in that space are allowed to operate, I think, is difficult, and you could potentially be hindering shareholder value here. That's how I would look at it broadly.

It's very hard to put in a policy today that's going to anticipate anything that could particularly happen in an industry or in the global economy four years out. I guess I come from the perspective that the market drives what is required as time goes on. That's how I'd answer that.

Mr. Wayne Arthurs: So a little bit of the "make the best deal you can now," i.e., talking about seven members on the board and various positions, and then kind of get out of the way and allow the market to dictate where things go?

Mr. Eric Tripp: In terms of how the company operates, correct.

The Chair (Hon. Gerry Phillips): Thank you very much for being with us today and your advice.

Colleagues, that concludes today. We meet at 9 a.m. tomorrow morning with the securities commission, and then a brief subcommittee meeting following that. Thank you very much.

The committee adjourned at 1735.

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OF THE TMX GROUP AND THE LONDON STOCK EXCHANGE GROUP

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