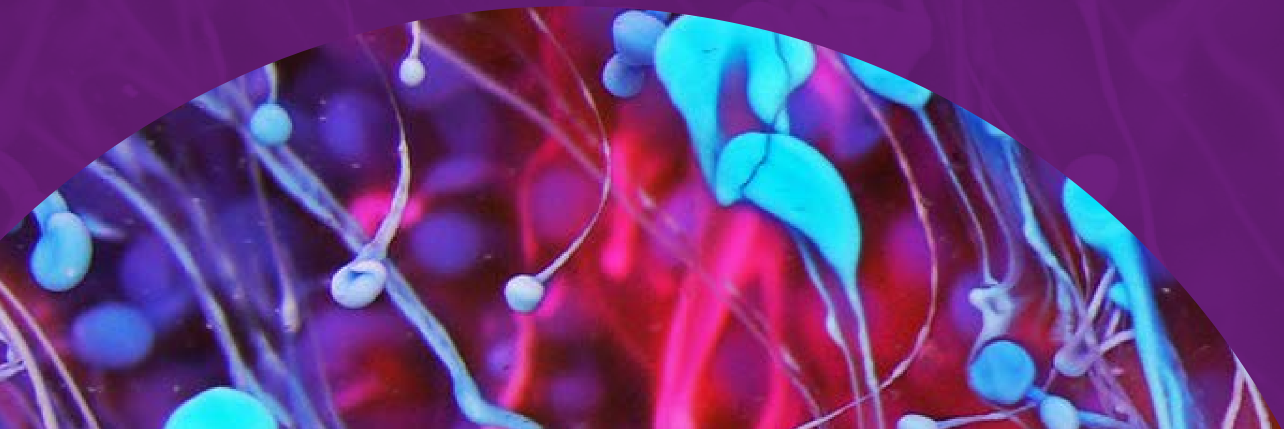
DENTONS

Securities and Corporate Finance:
2024 Year in Review and 2025 Future Trends

In 2024, Canada's capital markets navigated a complex landscape shaped by economic fluctuations, regulatory changes, technological advancements and evolving investor behaviours. Key factors included interest rates and economic growth, which saw the Bank of Canada maintain a restrictive monetary policy, keeping the policy rate at 5.00% until mid-2024, followed by a series of rate cuts commencing in July. This approach aimed to control inflation, with the Bank of Canada being largely successful in bringing Canada's inflation rate within their target range by the end of 2024. Against this financial backdrop, Canadian equity markets rallied in the latter half of 2024, with the S&P/TSX Composite Index finishing the year with a 18.5% gain in 2024. Another key element of the market involved generative artificial (AI) adoption which continued to grow and influence many sectors. Securities trade settlements were accelerated to one day to mitigate counterparty risk and enhance market liquidity. The second quarter of 2024 saw a modest turnaround in Canada's equity market, primarily driven by metals, mining and energy. Overall equity fundraising increased by 7% compared to the same period last year. Corporate debt issuance saw a substantial increase, with companies raising CA$35 billion, buoyed by high-yield corporate debt and the Bank of Canada's high interest rates.

In summary, 2024 was a year of adaptation for Canada's capital markets, marked by economic challenges, technological innovation, regulatory vigilance and shifting investor behaviours. The results of the US election have yielded potentially turbulent economic times ahead with tariffs threats directed at Canada. General concerns persist regarding global instability. Rapidly evolving technology will undoubtedly continue to impact the markets. Staying informed and agile remains crucial for business professionals navigating this evolving landscape. Dentons Canada's Securities and Corporate Finance team has extensive knowledge of, and experience in, the Canadian capital markets. From our offices across Canada, we regularly advise issuers, registrants, security holders and others on a broad range of Canadian securities law matters. We encourage you to reach out to your local key contact, listed on this page, should you have any questions.



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TSX Venture Exchange launches a new initiative: TSXV Passport

In June 2023, the TSX Venture Exchange (TSXV) published a comprehensive Venture Forward Report (Report) outlining four key commitments to strengthen Canada's public venture ecosystem. In late December 2023, the TSXV followed up on the first commitment identified in its Report, launching the TSXV Passport Listing Process (TSXV Passport), a new initiative offering faster pathways for entrepreneurs to go public and raise capital.

The TSXV Passport is designed for advanced applicants. The TSXV has established threshold eligibility requirements that each applicant must demonstrate to apply through TSXV Passport.

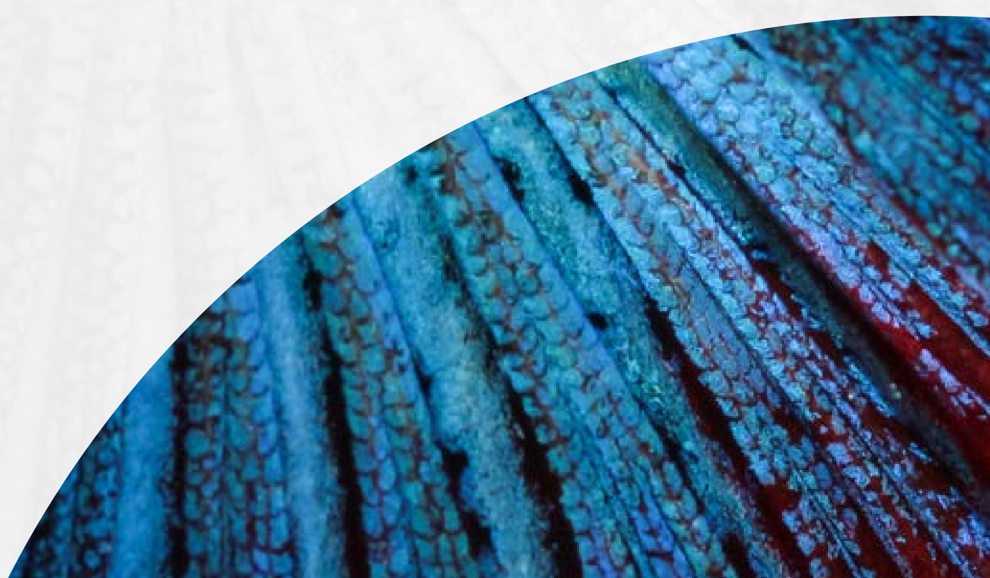
Aside from meeting the initial listing requirements without waivers, the criteria include having CA$500,000 in unallocated funds and either completing a minimum CA$10 million majority arm's length equity financing or having a CA$50 million market capitalization with certain revenue or financing thresholds.

Further criteria include meeting the public distribution requirements while having directors and officers who satisfy certain qualifications and experience thresholds.

Equally important, applications involving a qualifying transaction, reverse takeover or change of business cannot be a related party transaction and although an applicant can be an excluded resource issuer, it cannot be an emerging market issuer.

Listing on the TSXV through TSXV Passport involves three steps:

- Preparing a pre-file letter and holding a meeting with the TSXV.
- Completing the application.
- Undergoing a successful review by the TSXV.

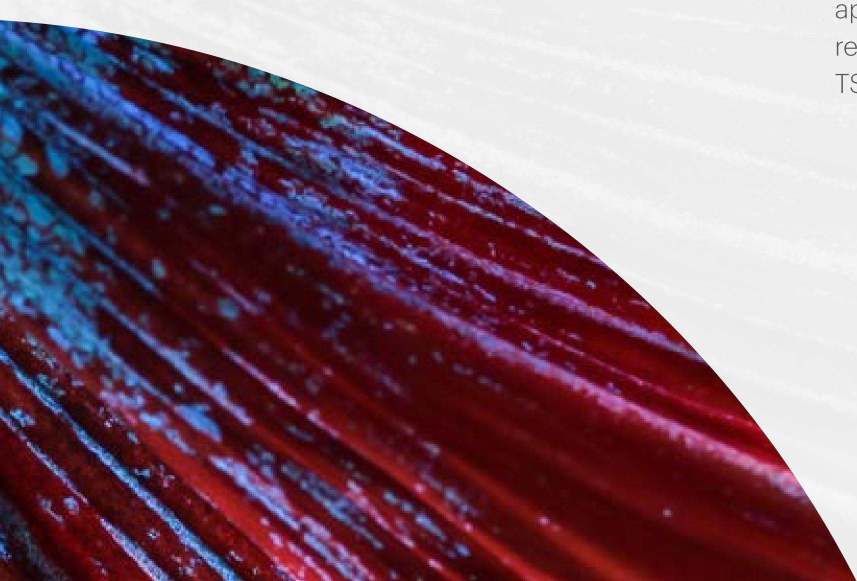


Under the first step, the applicant must demonstrate its ability to meet the eligibility criteria using the pre-file letter, along with providing required financial statements and documentary disclosure. In turn, the applicant attends a pre-filing meeting and within three business days, the TSXV renders its eligibility decision.

A TSXV Passport application must include the same documents as a regular listing application, plus a detailed submission letter requesting the TSXV Passport review process. TSXV Passport applications are subject to standard listing fees, as set out in the TSXV Corporate Finance Manual.

Following the submission of the required application materials, the TSXV conducts its review on an expedited basis, providing a first comment letter and concurrently scheduling a meeting to discuss these comments with the applicant. After the initial comment phase, ongoing status meetings occur thereafter. During this step, applicants must promptly respond to TSXV staff comments; otherwise, continuing eligibility under TSXV Passport may be reviewed.

TSXV Passport is intended to provide a faster, more efficient way for qualified applicants to access the public venture market while upholding TSXV listing standards. Through TSXV Passport, eligible applicants will enjoy a faster review process than regular listing applications and benefit from the TSXV's reputation and network.



Proposed amendments to National Instrument 81-102: Investment funds for crypto assets

On January 18, 2024, the Canadian Securities Administrators (CSA) published a notice and request for comments regarding proposed amendments and changes to regulations concerning investment funds that invest in crypto assets (Public Crypto Asset Funds).

these investments. They cover criteria for the types of crypto assets these funds can invest in, restrictions on investing in crypto assets and requirements for custody of these assets.

The CSA recognizes the need for adapting existing regulations to accommodate the unique characteristics of crypto assets as investment products for publicly distributed funds. This is part of a broader project aimed at providing investor protection, regulatory clarity and facilitating product development in this space.

The project is divided into three phases:

- **Phase 1:** Provided guidance and information to stakeholders regarding expectations and developments related to Public Crypto Asset Funds, July 2023.
- **Phase 2:** Involved the proposed amendments and changes to existing regulations, with a focus on codifying existing practices and granting exemptive relief for these products, January 2024.
- **Phase 3:** Will involve broader public consultation for a more comprehensive regulatory framework for funds investing in crypto assets.

Proposed amendments to National Instrument 81-102 include:

- Expanding the definition of "alternative mutual fund" to include those investing in crypto assets.
- Restricting the direct investment in crypto assets to alternative mutual funds and non-redeemable investment funds, with certain criteria for eligible assets.
- Prohibiting the use of crypto assets in securities lending, repurchase transactions or reverse transactions.
- Clarifying that money market funds cannot invest in crypto assets.
- Introducing provisions related to the custody of crypto assets, including requirements for offline storage and insurance.
- Allowing crypto assets as subscription proceeds for mutual funds, under specific conditions.

The proposed changes to National Instrument 81-102 Companion Policy are intended to provide guidance and clarification on several aspects, such as:

- Defining "crypto assets" for investment funds regulation.
- Clarifying that funds can acquire crypto assets from sources other than recognized exchanges.
- Expanding on the standard of care required for crypto custodians.
- Providing details on the assurance reports required for custodians holding crypto assets.

The proposed amendments are expected to come into force approximately 90 days after final publication, depending on comments and regulatory requirements.

The CSA sought feedback on various aspects of the proposal, including the definition of crypto assets, restrictions on crypto asset types, custody requirements and any other considerations related to investment funds dealing with crypto assets.

The CSA also sought comments on other issues or considerations relating to investment funds that invest in crypto assets. The deadline for comments was April 17, 2024. The proposed changes aim to strike a balance between fostering innovation in crypto asset investment products and ensuring investor protection through clear and appropriate regulations.

Dentons 2024 proxy season guide

The 2024 edition of our proxy season guide set out legislative, regulatory and advisory developments in respect of corporate governance and annual disclosure matters. The focus was on developments over the course of the 12 months prior to February 2024 that impacted Canadian public companies. The guide also included important reminders about continuing developments and future matters. Our 2025 Proxy Season Guide, which will be published in Winter 2025, will provide updates on the various developments. The 2024 proxy season guide provided information on the following:

New developments

- Proxy advisory firm updates: ISS and Glass Lewis
- SEDAR+ and CSA filing systems upgrades
- CIRO replaces and consolidates MFDA and IIROC
- Modern slavery reporting guidelines

Continuing developments

- Diversity on boards and in executive officer positions
- ESG disclosure and greenwashing concerns
- Virtual shareholder meetings

Upcoming developments

- Diversity disclosure and corporate governance practices
- Climate-related disclosure standards
- Finalized access model for prospectus delivery and updates to access equals delivery model for continuous disclosure
- Permanent WKSI regime

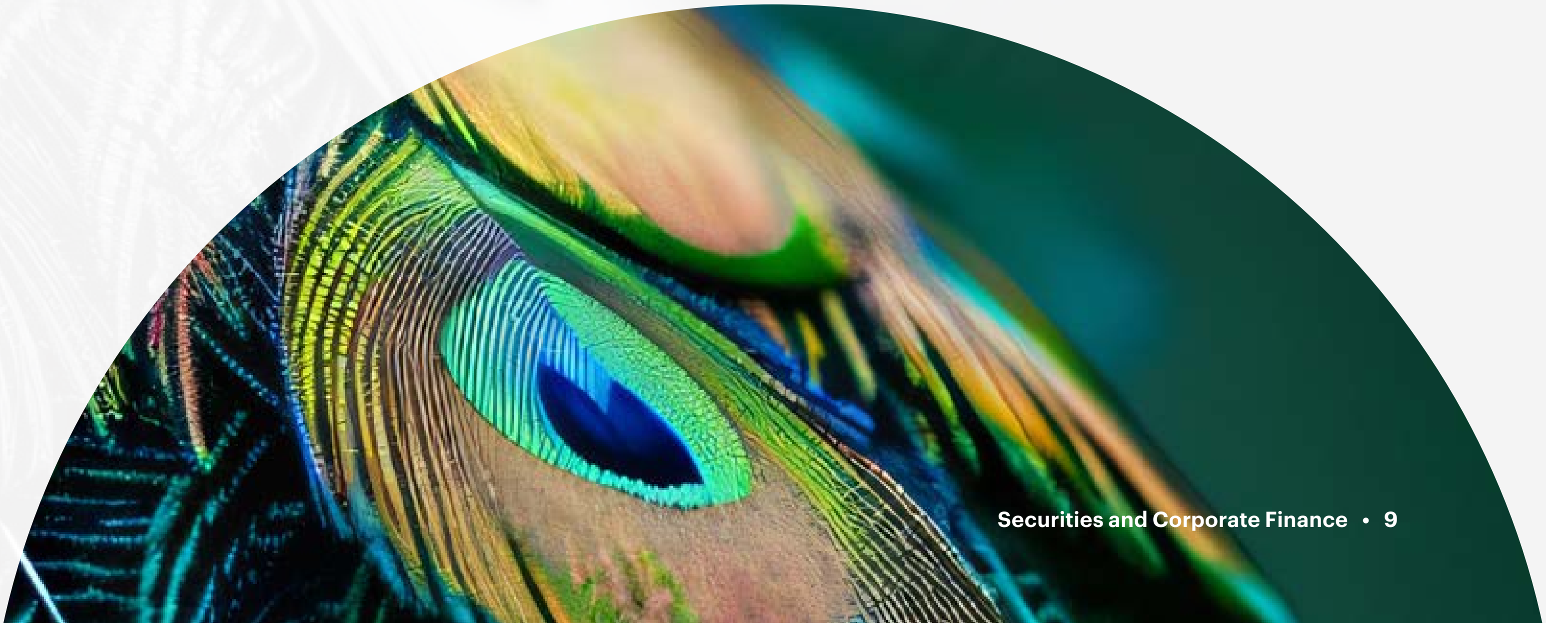
Possible developments

- Artificial Intelligence in the capital markets
- Consultation on changes to National Instrument 43-101

Ontario Securities Commission extends 45-507 Self-Certified Investor Prospectus Exemption

On January 30, 2024, the Ontario Securities Commission (OSC) implemented OSC Rule 45-508 *Extension to Ontario Instrument 45-507 Self-Certified Investor Prospectus Exemption in Ontario* (Rule), extending the Ontario Instrument 45-507 Self-Certified Investor Prospectus Exemption (Exemption) in Ontario by 18 months. Read **our October 31, 2023 Insight**, for more details regarding the Exemption.

This extension applies to the original class relief granted on October 25, 2022, allowing non-investment fund issuers with a head office in Ontario to distribute securities to self-certified investors without filing a prospectus, given certain conditions are met. Initially set to expire on April 25, 2024, this Rule prolongs the relief period, following the OSC's consideration of the Capital Markets Modernization Taskforce's recommendations for expanding the accredited investor definition. The Rule aligns with the OSC's enhanced mandate to foster competitive capital markets and capital formation, issued by the Ontario government on April 27, 2021. Issuers utilizing this Exemption must file reports of exempt distribution, aiding the OSC in evaluating the necessity and scope of future rule amendments. The Rule, detailed on the OSC website at www.osc.ca, became effective on April 25, 2024.



The Canadian Securities Administrators issues updated guidance on virtual shareholder meetings

On February 22, 2024, the CSA issued updated guidance for conducting virtual shareholder meetings, building on initial advice from February 2022. This guidance came in response to amendments in corporate statutes across Canada post-COVID-19, which now formally allow for such meetings and outline specific requirements for reporting issuers.

Key concerns from stakeholders include challenges in exercising shareholder rights and difficulties in accessing and participating in virtual-only meetings. The CSA's updated guidance aims to address these issues by emphasizing the importance of clear, comprehensive disclosure in management information circulars and associated proxy materials. This disclosure should detail the logistics for accessing, participating in and voting at virtual meetings, ensuring shareholders understand how to engage effectively.

- To facilitate shareholder participation, the CSA advised reporting issuers to:
- Simplify registration and authentication procedures.
- Provide opportunities for shareholders to make motions or raise points of order.
- Ensure the ability for shareholders to ask questions and give direct feedback to management.
- Coordinate with proponents of shareholder proposals, allowing them to present and respond to questions.
- Use virtual platforms that support full shareholder participation.
- Ensure the meeting chair is well-versed in the technology used.

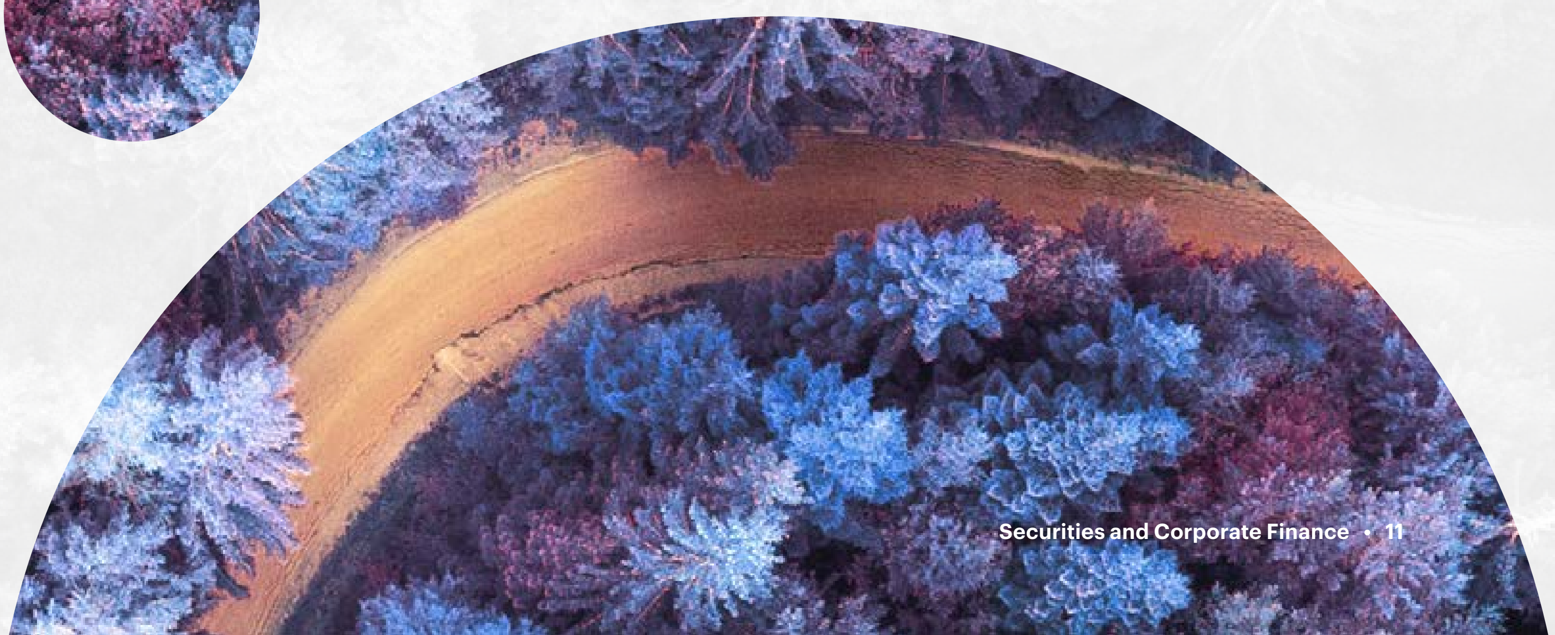
The CSA also encouraged the consideration of hybrid meetings, combining in-person and virtual participation, to enhance shareholder engagement. Reporting issuers are urged to consult their governing corporate legislation and organizing documents, along with best practices for virtual meetings, to ensure compliance and facilitate meaningful shareholder participation. The staff of the CSA will continue monitoring virtual shareholder meetings practices and may issue further updates as needed.

Self-certified investor prospectus exemption extended in Alberta and Saskatchewan

The Alberta Securities Commission (ASC) and the Financial and Consumer Affairs Authority of Saskatchewan (FCAA) announced an amendment to the self-certified investor prospectus exemption, effectively removing the initially set expiry date of April 1, 2024. This decision came after a three-year pilot phase that demonstrated a sustained interest in this exemption.

The self-certified investor prospectus exemption is designed to provide enhanced flexibility for businesses and investors in Alberta and Saskatchewan. It achieves this by allowing self-certified investors, who have attested to possessing certain financial and investment knowledge and understanding the associated risks, to participate in investment opportunities on a similar footing as accredited investors.

Investors under this exemption are subject to investment limits of CA$10,000 in any single business and CA$30,000 across multiple businesses within a calendar year, a measure intended to mitigate investment risks. Additionally, a minor amendment was made to the wording in Annex 2 to better align with the language used for accredited investors. These amendments took effect on April 1, 2024.



The Canadian Securities Administrators issues guidance for independent review committees for investment funds

The OSC and the *Autorité des marchés financiers* (AMF) conducted a continuous disclosure review related to National Instrument 81-107 *Independent Review Committee for Investment Funds* (NI 81-107) and released the Multilateral Staff Notice 81-337 *Targeted Continuous Disclosure Review and Guidance for Independent Review Committees for Investment Funds* (Staff Notice).

The Staff Notice covered a number of topics, including:

- Independent review committees (IRCs) term limits
- Skills, competencies and recruitment
- Size and diversity
- Compensation
- Expanded scope of IRC review
- Disclosure to demonstrate IRC impact

NI 81-107 requires an investment fund manager (IFM) to identify and refer conflicts of interest to the IRC for approval or recommendation. Generally, NI 81-107 captures two types of conflicts that arise in the operation of an investment fund: (i) 'business' or 'operational' conflicts, i.e., those relating to the operation by the IFM of its funds that are not specifically regulated under securities legislation, except through the general duties of loyalty and care imposed on the IFM; and (ii) 'structural' conflicts, i.e., those resulting from proposed transactions by the IFM with its related entities, fund or portfolio manager, currently prohibited or restricted by securities legislation.

NI 81-107 requires an IFM to establish written policies and procedures that it must follow when making a decision involving a conflict-of-interest matter and must refer the matter to the IRC for its recommendation or approval, as appropriate, before proceeding.

As set out in the Staff Notice, the OSC and AMF encourage the following:

- IRC terms beyond six years should be viewed as exceptions to the Rule in limited circumstances where appropriate and should not become common practice.
- IRCs and IFMs should implement recruitment processes that are fair and transparent, which encourage IRC membership from individuals with relevant knowledge and experience gained from various backgrounds.
- Diversity in IRC membership beyond "skill-set" may lead to better decision-making and good governance.
- IRC compensation should be transparent (and justified) and clearly disclosed as it can be viewed as a measure of the IRC's independence.
- IFM should take a broad view of what constitutes a 'conflict-of-interest matter' and to err on the side of caution to refer an actual or perceived conflict-of-interest matter to the IRC.
- Enhanced disclosure in the IRC Report to Securityholders on the activity and impact of the IRC can better inform stakeholders about the value, role and impact of the IRC.

Ontario Securities Commission announces new initiatives to enhance capital access for early-stage businesses in Ontario

In 2024, the OSC announced initiatives that are designed to enhance access to capital for early-stage businesses in Ontario. These measures, part of the OSC's TestLab program, aim to foster growth and innovation in the capital markets while maintaining robust investor protections.

Key initiatives

- **Extension of the Self-Certified Investor Prospectus Exemption:** This initiative will continue to allow self-certified investors to participate in investment opportunities with less regulatory burden, thus widening the potential investor base for early-stage companies.
- **Dealer registration exemptions:** Early-stage businesses and not-for-profit angel investor groups will benefit from dealer registration exemptions, facilitating a more straightforward process for these entities to raise capital.
- **Streamlined reporting of distributions:** Reporting requirements for early-stage businesses will be simplified, reducing the administrative load and allowing these companies to focus more on growth and development.

OSC TestLab program

The OSC TestLab uses a testing environment to evaluate capital market innovations and new regulatory approaches. This program is part of the OSC's broader strategy to support business growth through innovative and flexible regulatory measures. The OSC TestLab initiatives are particularly focused on gathering data and insights that will help shape future policy to promote access to capital for early-stage businesses, balancing the need for economic growth with investor protection.

Evaluation and feedback

The OSC plans to collect data and feedback from businesses, investors and other stakeholders involved in early-stage capital raising. This information will be crucial in assessing the effectiveness of these initiatives and shaping future regulatory approaches.

An update on Corporations Canada reporting requirements and 2023 review outcomes

Corporations Canada provided an update regarding the latest diversity reporting requirements that have been in place since 2020 under the *Canada Business Corporations Act* (CBCA) for distributing corporations that are governed by the CBCA (CBCA Distributing Corporations) and shared key findings from its 2023 annual review (CC Report).

CBCA Distributing Corporations are required o disclose the representation of designated groups—women, Indigenous people, members of visible minorities and people with disabilities—on their boards of directors and in senior management positions. This reporting must be provided to both shareholders and separately to Corporations Canada through the filing of the CBCA Distributing Corporation's proxy circular on SEDAR+ as well as with Corporations Canada through its online filing center. The compliance approach is 'comply or explain,' requiring corporations to either outline their diversity policies or explain the absence thereof. The diversity requirements in the CBCA are broader in scope than what is required to be disclosed under provincial securities legislation.

In 2023, Corporations Canada identified 526 distributing corporations required to disclose diversity information and reviewed 458 proxy circulars submitted by distributing corporations for meetings held in 2023. In the Report, Corporations Canada shared its findings, which indicate the levels of diversity on corporate boards of directors and senior management teams for the year 2023 along with comparison to 2022 results and highlighted key insights.

2023 key findings

Board diversity: 59% of corporations now have at least one woman on their board (up from 57% in 2022), 27% have at least one member of a visible minority (up from 23% in 2022), 3% have an Indigenous person on the board (unchanged from 2022) and 3% include a person with disabilities (unchanged from 2022).

Senior management diversity: Women hold 29% of senior management roles (up from 27% in 2022), members of visible minorities account for 13% (up from 12% in 2022), Indigenous people make up 0.5% (up from 0.4% in 2022) and people with disabilities represent 0.5% (down from 1.2% in 2022).

Progress over time: There has been an increase in the representation of women, visible minorities and Indigenous people since 2022. However, there was a slight decrease in the representation of people with disabilities in senior management positions.

Challenges and initiatives

Standardization and compliance: Inconsistent reporting remains an issue, with approximately 6% of corporations failing to provide complete or standardized diversity information.

Awareness and enforcement: Corporations Canada has enhanced efforts to inform corporations of their obligations, including direct outreach and reminder communications regarding proxy filings.

TSX Venture Exchange Sandbox – Innovation in Canada’s capital markets

In the summer of 2022, the TSXV introduced the Venture Forward initiative, providing an alternative listing path for unconventional businesses and creative transaction models. This effort by the TSXV aims to tackle prevalent capital access obstacles while accessing new options for emerging capital market participants. On May 13, 2024, the TSXV announced the debut of the Sandbox platform (Sandbox).

Key features of the TSXV Sandbox

- **Eligibility criteria:** Sandbox dispenses with a fixed set of eligibility requirements for listing applications. The TSXV will assess applicants individually, considering the unique aspects of each business.
- **Comparison to the current process:** Typically, the TSXV exercises some leeway in the traditional listing process. Sandbox, however, extends much broader latitude to the TSXV to waive or modify standard listing requirements, based on a thorough evaluation of a business’s unique attributes and its listing submission.
- **Application mechanism:** Businesses that recognize the traditional TSXV listing standards as unsuitable can approach the TSXV listings team to explore Sandbox listing possibilities.
- **Listing fees:** Sandbox applications are subject to the usual TSXV listing fees without incurring additional costs.
- **Structured departure:** Post-listing, every entity in Sandbox will define bespoke exit conditions with the TSXV tailored to its specific situation, aiming for a departure from Sandbox within one year of their initial listing.
- **Scope of use:** Sandbox caters exclusively to new listings and transactions but not to secondary market actions of currently listed issuers. It is intended for personalized regulatory reviews of new listings.

The TSXV Sandbox advantage

Sandbox offers a formal, transparent assessment framework for unique listing applications, enabling companies to pursue innovative business models and transactions. It is intended to foster closer cooperation between the TSXV, firms and investors, and signifies the TSXV’s openness to consider non-standard proposals. Sandbox empowers the TSXV to support issuers with atypical financial frameworks and qualifications, paving the way for new avenues of growth and market entry.

Sandbox-listed companies will be categorized as Tier 2 issuers on the TSXV, adhering to all corresponding procedures and regulations. Although Sandbox issuers won’t have different symbol extensions, they are required to self-identify in all public communications.

The Ontario Securities Commission's Investor Advisory Panel releases 2023 annual report: Key insights and implications

On June 18, 2024, the OSC released the 2023 annual report of its Investor Advisory Panel (IAP). The IAP's report provided insights and recommendations that are pertinent to participants in the Canadian capital markets.

The IAP serves as a voice for retail investors in policy development within the OSC. The IAP participates in a multi-faceted advisory process, offering expert opinions and recommendations through consultations, submissions on policy proposals, regular panel meetings and engagement with external organizations.

In 2023, the IAP was actively engaged in a variety of activities, including:

- Hosting panel meetings
- Providing submissions on policy initiatives
- Holding consultations with key stakeholders
- Meeting with numerous external organizations to garner diverse insights

The IAP focused on seven primary themes throughout 2023, each bearing important implications:

- Investor vulnerability
- Technology and digital assets
- Financial literacy and education
- Cost transparency
- Environmental, social and governance (ESG) factors
- Systemic risk mitigation
- Implications for investors

The IAP's report underscored several areas that warrant attention:

- **Investor vulnerability:** Greater focus on safeguarding vulnerable investors through tailored regulatory approaches.
- **Regulatory changes:** Anticipated regulatory adjustments aimed at increasing transparency and consistency.
- **Recommendations:** Emphasis on adopting best practices in financial literacy, technology integration and ESG considerations.

Canadian securities regulators propose targeted changes to certain rules and policies, including the definition of "venture issuer"

The CSA published a Notice and Request for Comment on August 1, 2024, on proposed amendments and changes to certain National Instruments and Policies to address several matters, including the creation of a Senior Tier by the Canadian Securities Exchange (CSE).

The new Senior Tier of the CSE is intended for non-venture issuers, with requirements that align with those of a non-venture exchange. The proposed amendments and changes revise the definition of "venture issuer" to exclude the CSE's Senior Tier companies and would also allow the CSE's Senior Tier issuers to be treated the same way under securities legislation as issuers listed on other non-venture exchanges.

The CSA Notice and Request for Comment also included proposed amendments and changes on the following other matters:

- Aligning certain exemptions and eligibility requirements so that they apply to the CSE in the same manner as they do for other similar exchanges.
- Codifying blanket orders issued by CSA members to accommodate recent "majority voting" amendments to the *Canada Business Corporations Act*.
- Reflecting the name change of the former Aequitas NEO Exchange Inc. to Cboe Canada Inc.
- Reflecting the name change of the former PLUS markets to AQSE Growth Market.
- Removing the requirement for escrow agreements to be signed, sealed and delivered by security holders in the presence of a witness.

The CSA Notice and Request for Comments can be found on CSA members' website. The 90-day comment period closed on October 30, 2024.

Alberta Securities Commission releases its Alberta Capital Market Report highlighting findings and market trends

On July 29, 2024, the ASC published its annual Alberta Capital Market report (ASC Report), analyzing the province's capital market in 2023 and contextualizing its performance in relation to Canada's other major markets.

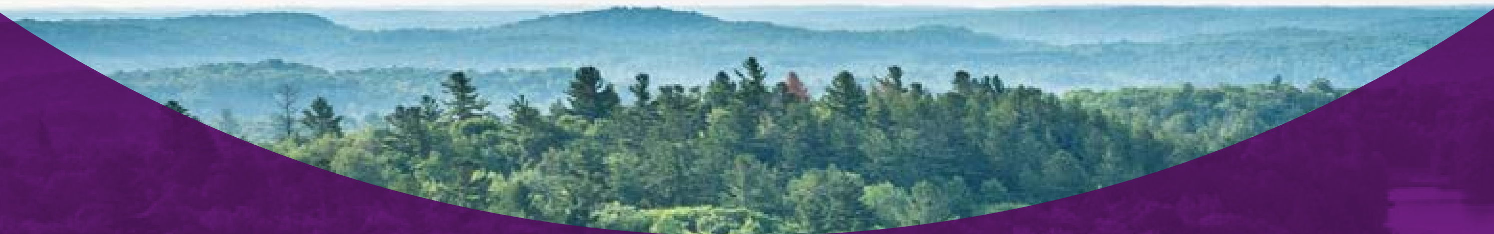
By aggregating information from ASC records, the TMX Group Limited, Intercontinental Exchange, Inc., SEDAR+ and Bloomberg Finance L.P., the ASC Report examined the following key factors:

- All reporting issuers, listed and unlisted, on the basis of principal regulator or head office
- Prospectus and prospectus-exempt financings
- The Alberta registrant community
- Energy commodity contracts transacted in Alberta

In doing so, the ASC Report presented several market trends and indicators that developed during 2023, cross-referencing its analysis across Alberta, British Columbia, Ontario and Québec.

As the ASC Report demonstrated, Alberta remains one of Canada's most important capital markets, representing CA$723 billion in market capitalization at the end of 2023 showing positive signs of growth and resilience.

Canadian Securities Administrators publish 10th year report on corporate diversity



The CSA published the 10th-year report titled "Review of Disclosure Regarding Women on Boards and in Executive Officer Positions" (CSA Report), which provides insights into the progress of gender diversity in corporate leadership among Canadian public companies.

The CSA conducted a study to observe the impact of mandatory disclosure on gender diversity in corporate leadership. Specifically, the Report assesses compliance with National Instrument 58-101 – *Disclosure of Corporate Governance Practices*, which mandates certain disclosures on gender diversity for issuers on the Toronto Stock Exchange (TSX).

Key findings at a glance:

- **Board representation:** Women held 29% of all board seats among surveyed issuers, marking a notable rise from 11% in the Report's first year. However, only 8% of board chairs were women, revealing limited female representation in top board positions. 37% of board vacancies were filled by women, showing some progress in increasing female board presence when seats are vacated.
- **Executive officer positions:** Women comprised 16% of Chief Financial Officers and 5% of Chief Executive Officers. 72% of issuers had at least one female executive officer, but only 7% had explicit targets for female representation at the executive level.
- **Policies and targets:** 64% of issuers have policies to support gender diversity on boards and 44% have set specific targets for female board representation. The presence of formal policies and targets correlates positively with higher female representation on boards, emphasizing the impact of deliberate diversity measures.
- **Board renewal and term limits:** About 25% of issuers adopted director term limits, while 40% implemented other mechanisms for board renewal. Notably, issuers with term limits or renewal mechanisms had higher female representation on their boards (35% on average).

The Report shows that diversity practices and female representation vary significantly by industry: Issuers with explicit gender diversity policies and targets averaged 35% female representation on boards compared to 22% among issuers without such measures.

With the CSA Report marking the tenth and potentially final annual review, the CSA is exploring updates to disclosure requirements to create a more harmonized, national framework for gender diversity reporting. This Report serves as both a benchmark and a call to action for continued development in gender diversity within Canadian corporate leadership.

Dentons was pleased to host a webinar on the use of AI in Canadian capital markets in collaboration with the Alberta Securities Commission and Computershare. The webinar was moderated by Kate Stevens (Partner at Dentons) and included Riley Dearden (Partner at Dentons), Mohamed Zohiri (Legal Counsel and FinTech Advisor at the Alberta Securities Commission) and Tara Israelson (General Manager at Computershare). The topics discussed, which are summarized below, included:

- Key applications of AI in capital markets;
- Applications of AI in customer experience and shareholder services;
- AI advancing efficiency and driving revenue growth in capital markets;
- Regulatory considerations;
- Current regulatory requirements;
- Adoption and regulation of AI in Canada compared to other jurisdictions globally;
- Unique challenges faced by traditional governance methods;
- Use of AI in managing risks in shareholder services; and
- Advice for market participants navigating the evolving AI landscape in capital markets.

Canadian Securities Administrators propose increased fees under Multilateral Instrument 13-102: System Fees

On November 21, 2024, the CSA released for public comment proposed amendments to Multilateral Instrument 13-102: *System Fees*, which aim at ensuring sustainable funding for the CSA's national systems, including SEDAR+ and the National Registration Database. The CSA stated that the proposed amendments are designed to better align system fee revenues with projected national system operating costs over the next five years.

Background and CSA rationale

The CSA's national systems play a critical role in facilitating securities regulation and market efficiency across Canada. However, according to the CSA, increasing operational costs—driven by rising IT labour expenses, technological advancements and enhanced cybersecurity measures—necessitate in their view, adjustments to the fee structure to maintain the integrity and func-tionality of these systems. The CSA quotes industry-wide trends that indicate IT labour costs have risen by 35% to 45%, alongside significant increases in technology and risk mitigation ex-penses.

Under the proposed plan, the CSA intends to implement a system fee increase phased over a five-year period beginning in late 2025. The proposed amendments ensure the funding model remains cost recovery based, without introducing new system fees or altering the flat-fee struc-ture. Instead, existing fees will be proportionally increased to support the CSA's operational needs.

A 60% system fee increase will take effect in November 2025. According to the CSA, for 95% of filing and registrant organizations, the increase with this adjustment will amount to less than CA$2,500 annually. For 85% of these organizations, the increase will be less than CA$1,000 an-nually.

Subsequently, the CSA is proposing to increase system fees by 3% annually in each of the four years from 2026-2029 following the initial adjustment.

Since system fees are calculated based on the type and number of filings submitted and the number of individual registrants, the CSA has stated that proportional increases will equitably affect all market participants.

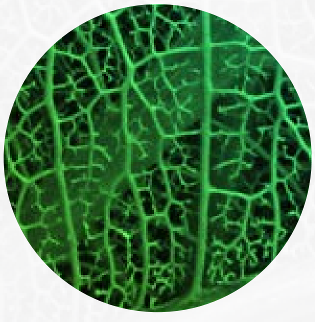
The CSA has requested stakeholder input in shaping these proposed changes. A 90-day comment period, concluding on February 19, 2025, will provide an opportunity for market partici-pants, organizations and other stakeholders to share feedback. The full proposal and accompa-nying details are available on CSA member websites.

Canadian Securities Administrators release guidance on the use of artificial intelligence systems in capital markets

The CSA announced the publication of a notice intended to provide clarity and guidance on how securities legislation applies to the use of AI systems by market participants. Staff Notice and Consultation 11-348 *Applicability of Canadian Securities Laws and the Use of Artificial Intelligence Systems in Capital Markets* also seeks stakeholder feedback through consultation questions on the evolving role of AI systems and the opportunities to tailor or modify current approaches to oversight and regulation in light of these advancements.

The guidance in the notice addresses key considerations for registrants, reporting issuers, marketplaces and other market participants that may leverage AI systems. It highlights the importance of maintaining transparency, ensuring accountability and mitigating risks to foster a fair and efficient market environment. The guidance provided is based on existing securities laws and does not create new legal requirements.

The CSA invited responses to the consultation questions, which are available on CSA members' websites. The comment period closes on March 31, 2025. Responses will play a critical role in informing future initiatives to refine the regulatory framework applicable to the use of AI systems in capital markets.



2025 future trends

President-elect Donald Trump proposed tariffs

President-elect of the United States (US) Donald Trump has announced plans to impose a 25% tariff regime against all imports from Canada. The Canadian Chamber of Commerce's Business Data Lab has released alarming new figures on the economic fallout of the proposed 25% tariffs on US imports. These findings highlight the far-reaching consequences for the Canadian economy and that of the US in the scenario where other countries impose retaliatory tariffs on their imports from the US:

> Canada's GDP would shrink by 2.6% (or roughly CAD $78 billion), costing Canadians approximately $1,900 per person annually. US GDP would shrink by 1.6% (or roughly USD $467 billion), costing Americans approximately $1,300 per person annually.

According to the Canadian Chamber of Commerce, "a 25% tariff applied across-the-board on all US imports could push Canada's economy into recession by the middle of 2025. If Trump imposes these tariffs, it would also represent a significant negative shock to the US economy. Canada and the US share one of the world's most integrated trading relationships, with three-quarters of trade involving business inputs, rather than finished goods. The updated model results find that American tariffs would hit key industries like energy, autos, mining and pharmaceuticals the hardest."

Significant strategic planning will be essential to protect Canada's economy and interests.

The Bank of Canada projects moderate economic growth in 2025, subject to the impact of President-elect Donald Trump tariffs

According to the Bank of Canada, inflation is expected to remain around 2% with core inflation slowing. Gross domestic product (GDP) is expected to rise slowly. Potential output growth is expected to slow from 2.5% to 1.9% in 2025 and 2026. Given the proposed tariffs outlined above, these estimates with respect to GDP growth may change significantly. The Bank of Canada predictions are also based on the assumption that population growth for people over 15 years of age is estimated to decrease from 3.3% in 2024 to 1.7% in 2025-2026, an assumption that many observers have called into question.

Canadian capital markets

BMO forecasts the S&P/TSX Composite Index reaching 28,500 by year-end 2025, with earnings of $1,600. They favour sectors such as consumer discretionary, financials, real estate investment trusts (REITs) and technology.

A Reuters poll of 21 portfolio managers and strategists predicts the S&P/TSX index will rise by 4.5% to 26,550 in 2025, following a 18.5% gain in 2024. This tempered outlook considers potential tariff threats from US President-elect Donald Trump and the possibility that much positive news has already been factored into stock prices.

Continued rise of private markets

S&P Global Market Intelligence's recent report, *Public and Private Markets Outlook: Converging on Credit*, highlights the continued rapid expansion of the US$1.5 trillion global private market and predicts that this growth will continue into 2025.[1] In Canada, we believe that this continued growth, should it transpire, will evoke questions from both investors and regulators, ultimately calling for increased transparency in the primarily unregulated space. The trend towards private equity however is projected to continue in the coming year.

Following some recent turbulent years, we believe that the private market will begin to recover and stabilize in 2025, returning to pre-pandemic valuation and deal norms. With significant unallocated capital, venture capital, growth equity and private equity funds in the US and Canada may see an increase in their investment activity. Increased deal flow is likely to arise from secondary sales, providing sought-after liquidity for investors, founders and employees. Fundraising and acquisition offers are likely to be pursued as dual-track processes in order to maximize options. There will also likely be a division between companies who have strong growth and profitability and others that are increasingly seen as un-investible. To prepare, companies should develop and update their business plans with clear profitability and value propositions, and ensure that they are ready for diligence processes as scrutiny by potential investors will increase. Although it appears unlikely that significant Canadian IPO activity will materialize, venture capital, private equity, growth equity and M&A activity is expected to increase.

Strategic buyers and restructurings

According to the Global Restructuring Review, creative solutions continue to be seen in the restructuring space to better meet the needs of corporations seeking to restructure.[2] Experts also point to the increasing role of private equity in restructurings. Where more traditional lenders may be unwilling to extend liquidity or otherwise invest in distressed corporations during periods of economic crisis, private equity investment funds may be flexible enough to respond quickly and adapt to the diverse needs of debtors. With increased level of restructuring and insolvency activities predicted for 2025, due to the mounting pressure placed on corporations from inflation, interest rates and political turbulence, it is likely that these restructuring trends will be seen in the next year in Canada.

1 S&P Global Market Intelligence, S&P Global Market Intelligence's New Outlook Report Shows the Convergence of Public and Private Credit Markets and Expects the Trend to Continue into 2025 - Nov 21, 2024 (2024).

2 Global Restructuring Review, Americas Restructuring Review 2025 (2024).

Shareholder activism

Shareholder activism grew in 2023 after the COVID-19 downturn, with a number of activist campaigns accelerated by the recovery of the market in general. In Canada, shareholder activism is more prevalent now than in the last decade. "Vote-no" campaigns have increased, as has the frequency of voiced scrutiny and as a result, listed issuers should expect involvement by shareholders in many cases. In 2024, 76 activist campaigns took place across 55 companies in 11 sectors.[3] The recent introduction of so-called 'green-washing' amendments to the *Competition Act* pursuant to Bill C-59 could result in increased shareholder activism against listed issuers related to 'green-washing' claims in 2025.

Regulation of crypto assets and trading

The CSA is entering the third phase of its plan to establish a regulatory framework for public investment funds aiming to invest in Public Crypto Asset Funds. Phase one began in July 2023 with the release of Staff Notice 81-336 *Guidance on Crypto Asset Investment Funds that are Reporting Issuers*, which provided guidance to fund managers on how to comply with securities laws when managing funds that invest in crypto assets. Phase two began in January 2024 with proposed amendments to NI 81-102. This phase was aimed at clarifying regulatory guidelines for crypto asset investments, prohibiting the use of crypto assets in securities lending and (reverse) repurchase transactions and establishing clear custodial expectations.

The CSA issued a request for comments from stakeholders on the proposed amendments, with the consultation period having expired on April 17, 2024. Phase three will now involve the CSA conducting a public consultation designed to help shape a comprehensive regulatory framework for funds investing in crypto assets.[4]

Shareholders rights plans

Shareholder's rights plans and takeover defence strategies will continue to face regulatory scrutiny. The Ontario Capital Markets Tribunal and ASC have reinforced that rights plans must align with Canada's modern takeover bid regime in recent cases. Recent rulings signal limited tolerance for deviations, especially those perceived as tactical or retroactive.

Material change reporting

The pending outcome of a decision from Supreme Court of Canada in the case of *Lundin Mining Corporation, et al.* v. *Dov Markowich* (Ontario) could affect issuers' disclosure obligations under applicable securities laws with respect to material change reporting and potentially encourage securities class actions. The appeal addresses the interpretation of "material change" and the threshold courts should apply in determining leave applications in securities class actions, raising the issue of whether a material change has occurred and been adequately disclosed.

3 Kingsdale Advisors, 2024 Canada Proxy Season Review: Boards Under Fire (2024).

4 Dentons, Proposed amendments to National Instrument 81-102 (NI 81-102): Investment funds for crypto assets (2024).

Generative AI, technology advances and venture capital

We forecasted several key trends that we believed would shape the Canadian capital markets in 2024. We predicted that generative AI's capabilities would evolve rapidly and that these advancements would prompt a corresponding shift in business operations, regulatory frameworks and investment in capital markets. Throughout 2024, the context window for large language models (LLMs) has expanded significantly - from processing prompts with 100,000 tokens to a staggering two million tokens.[5] This development has allowed LLMs to handle more complex and nuanced queries, which enhances their utility in a wide range of applications.

When it comes to governance and regulatory frameworks specifically targeting AI, the landscape remains a work in progress. In Canada, a formal regulatory framework for AI is still in the works. The introduction of the *Artificial Intelligence and Data Act* under Bill C-27 marks an important step in setting guidelines for AI usage and development. The bill is currently under review and if passed, will impact governance in this rapidly developing area.

Throughout 2024, there was a notable surge in venture capital investments, especially in the software sector. The CIBC Tech & Innovation Market Updates show that the software sector consistently captured the largest share of venture capital funding, with some months, such as January 2024, seeing as much as 97% of investments directed towards it.[6] The investment data highlights that the corporate finance world is deeply aligned with our prediction that technology offerings would be a key driver of growth in the venture capital market, which we believe will continue in 2025.

The energy sector is anticipating growth driven by investments in renewables and technological advancements.

The energy sector experienced growth in both fossil-fuels and renewables in 2024. This growth is expected to continue with overall low to mid-single digit growth expected in Canada in 2025.

While fossil-fuel markets continue to face geopolitical risks, conflicts in the Middle East and Ukraine are likely to further the oil demand growth for 2025. Additionally, the Trump administration is expected to weaken certain environmental regulations, reduce subsidies in the renewable sector, as well as remove barriers to oil and gas production in the US , which could result in an increased demand for oil and gas in the global market. However, the threat of tariffs for exports of Canadian energy to the US could have a severe dampening effect on the domestic Canadian industry.

The renewable energy market is expected to continue to rise in 2025. Several trends will shape the future of power generation and business energy consumption. This is influenced by technological advancements, as well as policy changes, the increasing role of renewables in meeting rising global energy demand and falling production costs.[7] Canada is at the forefront of innovative technologies designed to improve production and the efficient use of energy. Technological advancements, such as co-generation, for example, have resulted in an increase in energy-efficient practices and a reduction in greenhouse gas emissions in areas such as the oil sands.[8]

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5 McKinsey, McKinsey Technology Trends Outlook 2024 (2024).

6 CIBC, Tech & Innovation Market Update (Oct. 2024).

7 Economist Intelligence Unit Limited 2024, "Industry Outlook 2025" & DIVERSEGY, "Renewable Energy Trends 2025: What To Expect" (Oct. 2024).

8 Natural Resources Canada "Energy Fact Book 2024-2025".

Critical minerals

Global demand for minerals and metals is growing steadily and is expected to double by 2040. This increase in global demand can be explained by the growing need for sustainably mined materials in, e.g., the transition to clean energy technologies. This strong growth in demand is creating growth in the overall value of critical minerals.

These minerals and metals referred to as "critical minerals", include elements such as copper, lithium, nickel, cobalt, graphite and rare earth elements. They are the foundation of modern technologies, as they are needed to produce, for example, wind turbines, cellphones, solar panels, medical devices, defence applications and electric vehicles.[9]

To be deemed a "critical mineral" in Canada, a mineral must meet the following criteria: Its supply chain must be threatened and it must have a reasonable chance of being produced by Canada and

- It must be essential either to Canada's economic or national security, or
- It must be required for the national transition to a sustainable low-carbon and digital economy, or
- it must position Canada as a sustainable and strategic partner within global supply chains.[10]

In practice, Canada aims to increase investments for mining companies e.g., by implementing tax credits. New critical mineral tax credits (equal to 30% of amount invested by companies exploring for certain critical minerals) were introduced in 2024 and the Mineral Exploration Tax Credit (up to 15% for mining activities, including concentrating, smelting and refining, as well as exploration) was extended until March 2025.[11]

ESG

Although ESG reporting continues to be in focus in Canada, the expectations around sufficiency of ESG reporting is evolving. While the market has been focused on Scope 1 and 2 emissions for many years, this is seen by some as minimum standards for large corporations. Emphasis is being placed on more in-depth factors, such as Scope 3 emissions, which refer to emissions that occur as a result of activities not owned or controlled by the organization but which are created in its larger overall value chain. Although greater disclosure is often requested from investors, many companies are challenged by poor data quality and report not being able to prepare and disclose Scope 3 emissions at this time.[12]

In addition to facing increasing pressure from investors to provide greater ESG disclosure, on October 9, 2024, the Canadian federal government published a news release announcing its intention to amend the CBCA to introduce mandatory climate-related financial disclosure for large, federally incorporated private companies and to deliver "Made-in-Canada sustainable investment guidelines."[13] Amendments to the CBCA will look to mandate climate-related financial disclosures for large, federally incorporated private companies and the federal government will launch a regulatory process to determine the substance of such disclosure requirements and the size of corporations that would be subject to them. Small and medium-sized businesses will not be subject to the disclosure requirements, but the federal government is considering ways to encourage them to voluntarily disclose.

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9 Gov. Canada, "Canadian Critical Minerals Strategy Annual Report 2024" (Sept. 2024).

10 Canada currently lists these minerals as critical: https://www.canada.ca/en/campaign/critical-minerals-in-canada/critical-minerals-an-opportunity-for-canada.html.

11 Gov. Canada, "Canadian Critical Minerals Strategy Annual Report 2024" (Sept. 2024), Gov. Canada "Government extending support for mineral exploration in Canada", (March 2024).

12 Deloitte, 2024 Sustainability Action Report - Survey findings on ESG disclosure and preparedness, July 2024, link: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/audit/2024-sustainability-action-report.pdf.

13 Dentons, Government of Canada announces intention to introduce mandatory climate disclosures for federal corporations and plans to create Made-in-Canada sustainable investment guidelines, October 11, 2024, link: https://www.dentons.com/en/insights/articles/2024/october/11/government-of-canada-announces-intention-to-introduce.

The federal government has outlined priority sectors where it will focus its development of eligibility criteria, including electricity, transportation, buildings, agriculture and forestry, manufacturing and extractives, including mineral extraction and processing.

Diversity disclosure

Regulatory amendments have been proposed by the CSA to address diversity disclosure. These proposed amendments address the following topics:

- The responsibilities of the nominating committee
- The adoption of a written policy respecting the director nomination process
- The use of a composition matrix
- Effective succession planning and the mechanisms of board renewal, including term limits
- The adoption of a written diversity policy
- Setting targets for achieving diversity on the board and in executive officer positions

The changes are intended to drive greater diversity in Canadian corporate governance by providing clear guidelines, establishing transparency through standardized reporting, and promoting inclusive practices in the director nomination and renewal processes.

The CSA is currently reviewing public feedback they received on the proposed amendments. The reviewing and finalizing period is expected to be completed early 2025.

Private equity

The frequency of down-rounds in private equity continued to climb in 2024, with nearly 30% of Venture Capital deals being flat or down-rounds according to data from *PitchBook*.[14] The first quarter of 2024 marked a five-year high in the occurrence of down rounds, but the second quarter quickly reversed that trend as it boasted the highest amount of VC cash invested in any quarter in the past year.[15] More recently, Q3 continued to build upon this momentum, with an increase in the amount of VC capital invested, totaling ~US$2.65 billion, marking a 6% increase in deal values. The uptick in venture capital investment in Q2 and Q3 is hopefully a sign that Q1 represented a trough in the financing cycle and that investors will rally alongside this increase in the months to come.

Urbanization and population growth will continue to drive residential and commercial real estate projects – financing will be easier as interest rates come down

Population growth in Canada continued to see considerable growth in 2024, particularly in the working-age demographic. The working-age population (aged 15 and over) in Canada rose by over 410,000 in Q1 of 2024, an increase of 47% compared to the same period in 2023. With the goal of slowing these record levels of population growth, starting in 2025, Canada will have new targets for temporary residents, including international students and temporary foreign workers. On October 24, 2024, Immigration, Refugees and Citizenship Canada released its 2025-2027 Immigration Levels Plan, which outlined measures to reduce Canada's net non-permanent resident population to 5% by the end of 2026, which includes:

- ending temporary post-pandemic policies that helped with our economic recovery but increased our temporary foreign workers
- capping international student admissions, reducing them to 10% lower than 2024 international student levels
- reducing and limiting work permits for spouses and dependents of temporary workers and international students

However, we believe that increased urbanization and continued population growth in Canada will affect the economy and capital markets throughout 2025.

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14 Rosie Bradbury, Nearly 30% of VC deals are flat or down rounds, August 9, 2024, link: https://pitchbook.com/news/articles/vc-startup-down-rounds-decade-high.

15 *Ibid.*

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