NEW BRUNSWICK CAPITAL MARKETS REPORT

MARCH 2022

FINANCIAL AND CONSUMER SERVICES COMMISSION

FCNB.ca

85 Charlotte Street, Suite 300,
Saint John, NB E2L 2J2

225 King Street, Suite 200,
Fredericton, NB E3B 1E1

866-933-2222

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EXECUTIVE SUMMARY

The Financial and Consumer Services Commission ("**FCNB**" or the "**Commission**") has a mandate to protect consumers and enhance public confidence in the financial and consumer marketplace. The Capital Markets Report provides a platform for stakeholders to engage and discuss further development of New Brunswick's capital markets, and to provide insight into its activities. This report covers primarily a two-year period from 2019 to 2020, during the height of the COVID-19 global pandemic, which transformed the way we live, work, shop and share information.

This report also features commentary from various stakeholders, who provide further insights on how the pandemic has impacted the markets, investment strategies and investor focus. It also examines how securities regulators have had to adjust to respond not only to the pandemic, but also to changes in technology, cross-border transactions and the increasing growth of the private markets.

The onset of the pandemic disrupted many businesses and organizations and continues to do so. While some thought it would negatively impact financial activities, that has not been the case in the securities industry. In 2020 and through part of 2021, registration remained stable or increased slightly, prospectus distributions increased, and exempt distributions experienced growth.

As a regulator, it is our intention to remain relevant and responsive in the rapidly changing financial marketplace, and to encourage capital formation while protecting investors. This report highlights the Commission's important initiatives as we continue to provide an environment for responsible economic growth and capital formation.

INTRODUCTION

The Commission strives to provide New Brunswickers with the knowledge, skills and confidence to make informed spending and investing decisions. Beginning in 2011, the Commission published its Capital Markets Report annually, and continued to do so until 2019. In 2020, we took the opportunity to review the report's format and how we could tailor it to meet our stakeholders' needs. As a result, the report has a different look, and only contains data received by the Commission through regulatory filings. Going forward, we will continue to assess if and how the information in the report should be delivered to our stakeholders.

In preparing this report, the Commission aims to:

- Provide a platform for stakeholders to engage and discuss further development of New Brunswick's capital markets.
- Analyze trends in sources of capital, industries receiving capital, and the various tools to raise capital.
- Provide deeper insight into the capital markets activity occurring in New Brunswick.

COVID-19 IMPACT

On March 11, 2020, the World Health Organization declared a global pandemic related to COVID-19. On March 19, 2020, the New Brunswick provincial government declared a state of emergency under the *Emergency Measures Act*.[1] The pandemic has affected the entire world and changed it permanently. It has exacted a human toll and transformed the way we live – how we work, interact, shop, learn, share information and so much more. While some industries have suffered, others, like the real estate industry in New Brunswick, have flourished. The pandemic's full economic and social impact remains to be seen.

1 *Emergency Measures Act*, R.S.N.B. 2011, c. 147.

Relief Granted by Securities Regulators

The Commission acknowledges this pandemic presented challenges for market participants in the meeting of certain obligations under New Brunswick securities law.

Many reporting issuers were not able to meet the requirement to disclose their executive compensation, submit other required disclosure, or hold an annual meeting of security holders within the required time frame. In addition, reporting issuers had difficulties complying with requests for copies of paper documents when their employees were working from home and complying with, or following, public health's physical distancing requirements and recommendations.

Since securities legislation requires a reporting issuer to provide periodic disclosure about its business and affairs and to provide other prescribed disclosure, the Commission provided temporary exemptions to market participants. The Commission published:

- Blanket Order 51-507 *Temporary Exemption from Certain Corporate Finance Requirements*
- Blanket Order 51-508 *Temporary Exemptions from Certain Requirements to File or Send Securityholder Materials*
- Blanket Order 51-509 *Temporary Exemption from Certain Corporate Finance Requirements with Deadlines During the Period from 2 June to 31 August 2020*.

Together, these blanket orders provided New Brunswick market participants with substantively harmonized temporary exemptions from certain regulatory filing requirements as a result of COVID-19.

Impact on Registration

At the outset of the COVID-19 pandemic, there was initial concern of the impact it would have on businesses, the markets and the overall health of the Canadian economy. That said, during the review period, it is apparent that the COVID-19 pandemic had little impact on registration. Businesses appear to have been able to transition to an online platform as the number of registrants continued to increase in 2020. More information on registration is provided further in the report.

The Commission regulates firms and individuals who are in the business of advising or trading in securities or derivatives, as well as firms that manage investment funds. These firms and individuals are referred to as **registrants**.

Impact on Exempt Market Distributions

National Instrument 45-106 *Prospectus Exemptions* (“**NI 45-106**”) provides exemptions that relieve a person from prospectus obligations in certain circumstances. Many exemptions have reporting requirements, and those relying on the exemptions are required to file a report of exempt distribution. This report focuses on data from reports of exempt distribution filed with the Commission. It is important to note the data presented in this report excludes issuers who rely on the **private issuer exemption** set out in NI 45-106. Since issuers relying on this exemption are not required to file a report of exempt distribution, no quantifiable evidence exists of the funds being raised in this segment of the economy.

Another exemption provided by NI 45-106 is the **offering memorandum**. This capital raising tool is infrequently used in New Brunswick. In 2019, $3,426,574 was raised using the offering memorandum exemption. This amount dropped to $2,090,883 in 2020. While a drop in the use of the offering memorandum exemption was observed in 2020, we cannot conclude whether this is a result of the pandemic or other economic factors.

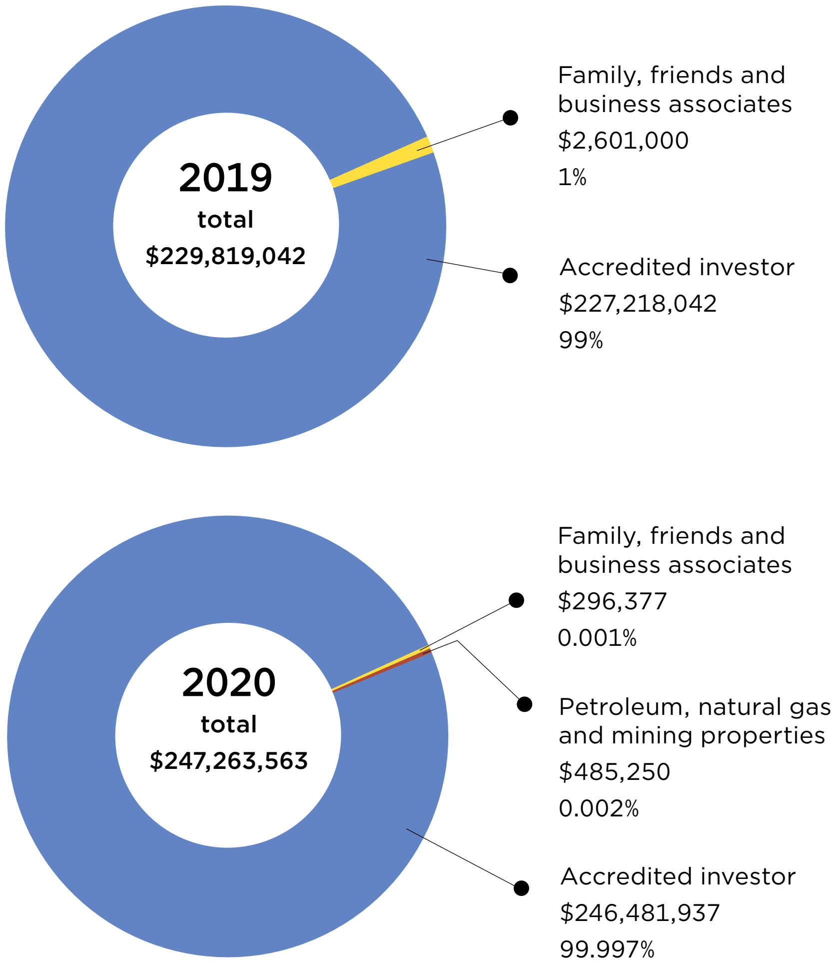
Notwithstanding the pandemic, the **accredited investor exemption** provided by NI 45-106 remains the most commonly reported prospectus exemption relied on by issuers. The charts and graphs that follow illustrate the prospectus exemptions commonly relied upon by New Brunswick issuers in 2019 and 2020. The data for the first six months of 2021 shows a continued trend on relying on the accredited investor exemption.

Under the **private issuer exemption**, securities can be issued in any amount without any required disclosure documents, provided the distribution is only to specified purchasers and the securities are owned by no more than 50 persons. See subsection 2.4(2) of NI 45-106 for a detailed list of specified purchasers.

The **offering memorandum exemption** allows an issuer to issue its securities to anyone, regardless of their relationship, wealth or the amount of securities purchased. Depending on how much money you are going to raise, the requirements differ. See section 2.9 of NI 45-106 for details.

The **accredited investor exemption** allows the distribution of securities to an accredited investor in any amount without providing any required disclosure documents about the issuer. There is no limit on the number of purchasers or the amount that can be raised using the accredited investor exemption. See subsection 2.3(1) of NI 45-106 for the list of requirements to be an accredited investor.

Figure 1: Exemption relied on by New Brunswick issuers



The **family, friends and business associates exemption** allows the distribution of securities in any amount without providing any required disclosure documents to founders, family, close personal friends or close business associates. There is no limit on the number of purchasers or the amount of money that can be raised using this exemption. See section 2.5 of NI 45-106 for details.

The **petroleum, natural gas and mining properties exemption** allows an issuer to issue its securities as consideration for the acquisition of petroleum, natural gas or mining properties or any interest in them. See section 2.13 of NI 45-106 for details.

While there was a decrease in the use of the Family, Friends and Business Associates exemption in 2020, we saw an increase in the use of the Accredited Investor exemption during the same period. In our view, this is consistent with what we anticipated at the outset of the pandemic. At that time, retail investors were uncertain, which affected their investment decisions, leading some retail investors to take a more conservative approach as a result. Institutional investors have shifted their focus to other types of investments that could result in higher returns to mitigate the risk caused by the low interest-rate environment. The overall impact on exempt distribution has been minimal. In short, we have seen a continued increase in exempt market distributions.

Prospectus Distributions (excluding investment funds)

In terms of prospectus distributions in New Brunswick, 333 prospectuses were filed in a wide range of industries in 2019, including but not limited to agricultural, junior mining, transportation and environmental services, paper and forest products, oil and gas and financial services. In 2020, 447 prospectuses were filed in New Brunswick. This increase is mainly attributable to an increase in shelf prospectus filings, which is consistent with what we have seen across the country during the pandemic. In the first six months of 2021, the health care and social assistance industry also saw an increase in offerings.

Figure 2: Industry break down

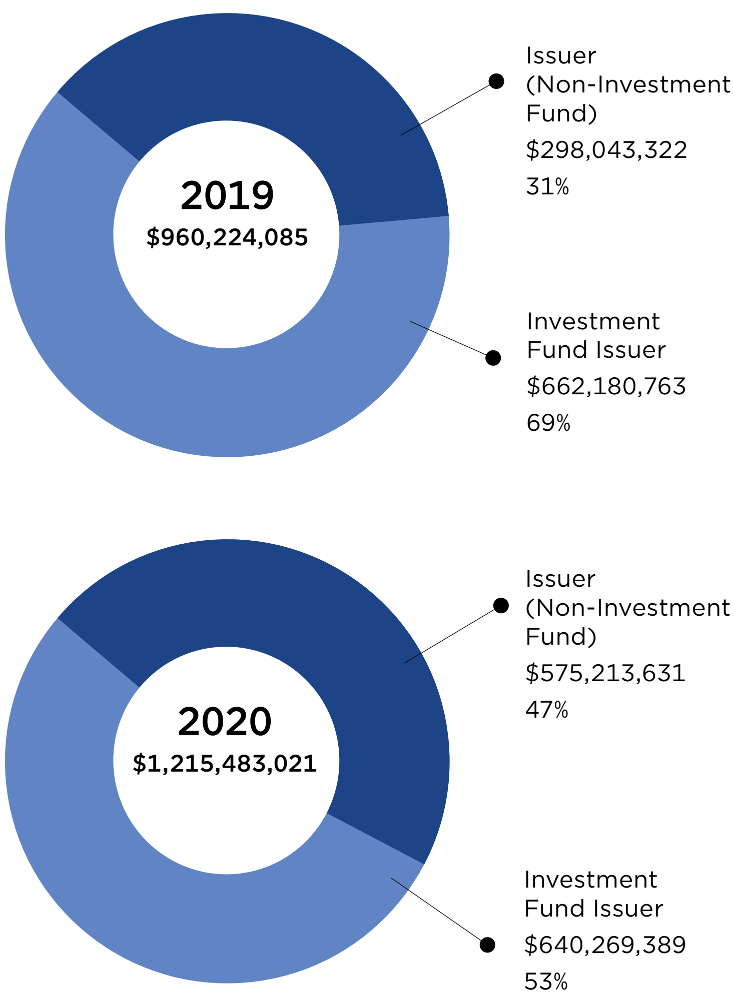
Industry	Year	Amount
Accommodation and food services	2019	$33,363
	2020	$1,191,738
Administrative and support, waste management and remediation services	2019	$3,475,841
	2020	$ -
Agriculture, forestry, fishing and hunting	2019	$6,732,007
	2020	$1,346,226
Arts, entertainment and recreation	2019	$225,600
	2020	$1,670,547
Construction	2019	$2,808,500
	2020	$3,277,367
Educational services	2019	$ -
	2020	$3,521,296
Finance and insurance	2019	$223,226,514
	2020	$308,357,251
Health care and social assistance	2019	$60,000
	2020	$2,082,125
Information and cultural industries	2019	$1,317,443
	2020	$8,782,724
Investment fund	2019	$662,180,763
	2020	$641,767,882
Management of companies and enterprises	2019	$1,921,262
	2020	$119,700,541
Manufacturing	2019	$8,207,098
	2020	$28,993,390
Mining, quarrying, and oil and gas extraction	2019	$7,778,155
	2020	$29,056,831
Professional, scientific and technical services	2019	$10,957,194
	2020	$2,023,850
Real estate and rental and leasing	2019	$20,099,156
	2020	$32,102,518
Retail trade	2019	$2,850,001
	2020	$8,375,449
Transportation and warehousing	2019	$52,500
	2020	$13,534,250
Utilities	2019	$6,793,855
	2020	$9,621,500
Wholesale Trade	2019	$1,504,835
	2020	$77,537
2019 Total		**$960,224,085**
2020 Total		**$1,215,483,021**

Prospectus Distributions (investment funds)

As it relates to investment funds, 3,715 prospectuses were filed in 2019. This number remained relatively consistent in 2020 as 3,808 prospectuses were filed.

The amount raised by investment funds was relatively consistent while the amount raised by non-investment funds increased from 2019 to 2020. As depicted below, investment funds remain the most active players in New Brunswick's capital markets. Investment fund offerings have remained relatively stable during the review period.

Figure 3: Type of offerings – Investment Fund vs. Non-Investment Fund



COMMENTARY

1. Vestcor – Institutional Investment Insights 2019 to 2021

VESTCOR

We appreciate commentary from industry participants who are able to help provide insight on the activity in New Brunswick's capital markets, and the impacts and unforeseen complications that have arisen as a result of the COVID-19 pandemic and other market conditions over the past 20 months.

Vestcor is an independent private not-for-profit company jointly owned by the New Brunswick Public Service Pension Plan and the New Brunswick Teachers Pension Plan. Like retail investors, Vestcor has altered its investment strategy to continue to grow its investments.

Institutional Investment Insights 2019 to 2021

The capital markets experience for institutional investors over the 2019-2021 period was heavily impacted by the COVID-19 virus and related supportive global Central Bank activities. An interest rate tightening discussion that had been gaining some traction in 2019 was abruptly reversed during the first quarter of 2020 as the COVID-19 virus progressed across the globe.

Lower interest rates and declining future equity market return expectations, due to historically high valuation levels, has made it very difficult for pension plan investors, endowments, and insurance companies to develop investment portfolios to meet their future funding goals and objectives.

Equity markets have also bifurcated with COVID advantaged investments, which includes many information technology companies that are traditionally considered to be more volatile, outpacing more balanced diversified portfolios.

In light of these challenges, many institutional investors have needed to revisit an increase in the amount of risk taken within their investment strategies in combination with a renewed focus on cost effective investment managers, such as Vestcor.

Low Interest Rates Continue

Other than for a brief period in the later part of 2019 interest rates continued to decline over the period, resulting in most debt investments providing yields that are far below investor portfolio return targets.

These low yields have not only impacted government debt securities, but have resulted in both investment and non-investment grade debt credit spreads dropping to historic lows. Private debt markets have grown significantly as investors look to gain some additional credit yield in exchange for less trading liquidity.

Equity Market Volatility

Global equity markets accelerated strongly in 2019 after the weakness experienced in Q4 – 2018, as US Central Bank interest rate tightening concerns abated. These gains were materially reversed in Q1 – 2020 due to COVID concerns, with markets declining by approximately 30 per cent at one point during the quarter. This decline was rapidly reversed as Central Banks rushed to provide the market with liquidity through traditional monetary policy tools and less traditional securities purchase activities.

While equity markets ended strongly in 2020, much of this strength has been recognized in high growth and historically more risky technology-type companies, which traditionally have not been weighted highly in most institutional portfolios. Although most equity portfolios have performed well over the period, this concentrated underweight to more risky technology growth companies has made it difficult for active investors to keep pace with passive equity investment benchmarks.

Many investments that have also been traditionally thought of as less risky, such as commercial real estate and public infrastructure-related businesses, suffered significant demand declines due to the pandemic. Many of these sectors continue to struggle to get business demand back to pre-COVID levels.

Private Markets Interest Increases

As was mentioned earlier, institutional investors have identified that their existing investment strategies will struggle to deliver the long-term returns required to meet their future investment objectives. Private market long-term track records, while slowly converging toward public market levels, have historically provided a long-term premium to public market returns.

This expected return premium, along with a continued expectation of less of a correlation with public market returns, has resulted in a significant amount of private investment activity over the period.

More locally, private equity investment opportunities in post-commercialized companies remained limited as they were generally crowded out by a combination of the low interest rates provided in the debt markets and the attractiveness of many different government assistance programs.

Stewardship Focus

The COVID pandemic, an increase in societal unrest and the intensification of adverse climate-related events has accelerated investor and stakeholder interest in stewardship responsibilities. Irrespective of any particular mandate an institutional investor might have in this area, it has become very clear that these issues present a significant amount of risk to the long-term value of their respective portfolios.

In Canada, a number of institutional investors, including Vestcor, endorsed the Stewardship Principles of the Canadian Coalition of Good Governance (Stewardship Principles & Endorsers – CCGG) in 2020. These principles are focused on how institutional investors can best meet their stewardship obligations and enhance the value of their investments.

Vestcor continues to utilize its Responsible Investment Guidelines and actively engages with a number of peer public sector investment managers and like-minded associations to fulfil our fiduciary role in this regard on behalf of our clients.

Vestcor's commentary is consistent with the data presented in this report. It is apparent from this data the private markets continue to grow. We have also identified this trend, and hope to see continued growth.

2. Commentary from Peter Klohn, Chair of the Commission, discussing the progress in New Brunswick's capital markets in the 20 years since the publication of the Klohn Report

Prior to becoming the Chair of the Commission, Peter Klohn was a prominent securities law practitioner who was involved in the review and modernization of New Brunswick's securities legislation undertaken in 2001. This review led to a report, known as the Klohn Report, which identified areas for improvement in the regulation of the capital markets. These changes included the formation of the Commission, an emphasis on capital formation and enhanced regulation to promote fair and efficient capital markets. We are appreciative of Mr. Klohn's contribution to this report and his insights into the progress made since the release of the Klohn Report.

Capital Formation – Relevance and Responsiveness

It has been 21 years since I led a team that made recommendations to the New Brunswick government for the reform of securities law in the Province[2] (the "**Report**"). The Report led to the establishment of the New Brunswick Securities Commission in 2004, which continued as the Financial and Consumer Services Commission in 2013.

The Commission's purpose, under the *Securities Act*, is to "foster fair and efficient capital … markets and confidence in capital … markets." This mandate has been pursued in New Brunswick to include the promotion of capital market development in the province. At the time the Commission undertook these efforts, a regulator's role in promoting capital formation was somewhat controversial. The traditional view of fair and efficient markets emphasized optimizing resource allocation, improving the mobility of capital and encouraging transparent markets for valuing investments.[3] Today, both efficient markets and capital formation are essential elements of recent recommendations for regulatory change, as illustrated in the Ontario Capital Markets Modernization Taskforce: Final Report January 2021, which categorizes "Regulation as a Competitive Advantage."

The purpose of this commentary is to:

- Briefly reflect on recommendations made in the original report by considering the Commission's capital formation initiatives in the intervening period.
- Offer some observations on where we go from here.

In reviewing the Report, I believe it can simply be summarized as an effort to make securities regulation, and the securities regulator, in New Brunswick relevant and responsive.

2 *Responding to the Challenge of Borderless Markets: Recommendations for Reform of Securities Law in New Brunswick* (4 January 2001).

3 Hon. David Johnston, Kathleen Doyle Rockwell and Cristie Ford, *Canadian Securities Regulation*, 5th ed (Toronto: LexisNexis Canada, 2014) at 21-22.

Among the recommendations intended to advance efficient and effective capital formation in New Brunswick, I would like to address two in a little more detail:

1) The first is the implementation of exemptions from compliance with securities regulation that would create opportunities for New Brunswick-based businesses to access a broader base of investors efficiently while maintaining a reasonable balance of investor protection. As a result, numerous exemptions were introduced that harmonized with those available in other jurisdictions. These exemptions, as illustrated in **Figure 4**, are relied on by issuers as a means of accessing capital. During the intervening period, New Brunswick has taken a leadership position in advancing exemptions for emerging models for capital raising, such as **crowdfunding**.

The **Start-up Crowdfunding Rule** provides a harmonized national framework to facilitate securities crowdfunding for start-ups and early stage issuers. NI 45-110 provides:

- An exemption from the prospectus requirement (the start-up crowdfunding prospectus exemption) that allows an issuer to distribute eligible securities through an online funding portal.
- An exemption from the dealer registration requirement for funding portals that facilitate online distributions by issuers relying on the start-up crowdfunding prospectus exemption.

Figure 4: Exemption relied on by all issuers with distribution in New Brunswick

Exemption	Year	Amount
45-106 2.10 - Minimum Amount Investment	2019	$13,188,513
	2020	$39,376,760
45-106 2.12 - Asset Acquisition	2019	$4,503,977
	2020	$1,750,000
45-106 2.13 - Petroleum, Natural Gas and Mining Properties	2019	$180,337
	2020	$1,042,200
45-106 2.14 - Securities for Debt	2019	$18,000
	2020	$782,086
45-106 2.19 - Additional Investment in Investment Funds	2019	$107,642
	2020	$121,669
45-106 2.3 - Accredited Investor	2019	$934,982,599
	2020	$1,169,102,861
45-106 2.5 - Family, Friends and Business Associates	2019	$4,242,565
	2020	$1,437,979
45-106 2.9(2.1) - Offering Memorandum	2019	$2,898,432
	2020	$1,860,565
45-506 - Start-Up Crowdfunding	2019	$95,770
	2020	$8,900
45-508 - Distribution Through an Investment Dealer	2019	$6,250
	2020	$ -
2019 Total		**$960,224,085**
2020 Total		**$1,215,483,021**

At the local level, the community economic development corporations and cooperatives ("**CEDC**") program has been refreshed with a view to making it a more accessible program. More details on the CEDC refresh are set out later in this report.

It would be my view that the introduction of these types of programs, as well as FCNB's efforts at participating in national regulatory initiatives, has contributed to making it more relevant to the stakeholders it serves, including investors, registrants and, importantly, those who require capital for growth.

2) The Report called for the creation of the Commission as a self-funded Crown corporation with rule-making authority. I believe that independent Crown status and self funding, and the ability to quickly advance rules to reflect changing circumstances, have permitted the Commission to be responsive to the marketplace. This has manifested itself in the resources dedicated initially to the **Fullsail** initiatives for promotion of the capital markets and capital formation. It has also been expressed in the form of guidance, which has responded to the challenges and opportunities of rapidly changing business models and new financial technologies, such as guidance on the application of *Securities Legislation to Entities Facilitating the Trading of Crypto Assets* and *Guidance Regarding Crypto-Trading Platforms*.

Fullsail is our overarching capital markets development initiative with the goal of stimulating and supporting the development of New Brunswick capital markets. Fullsail accomplishes this by:

- Continuing research and consultation on capital markets issues.
- Serving New Brunswick's issuers and markets.
- Enhancing the state of entrepreneurship through education and encouraging capital markets infrastructure development.
- Providing credible, knowledgeable advice to policymakers and program developers.
- Advancing the interests of issuers and markets with our stakeholders.
- Engaging with key stakeholders to further areas of mutual interest and opportunity.

So, where do we go from here? One trend that made the establishment of a modern securities regime in New Brunswick possible (and necessary) was rapid advances in information technology. Information could be stored, processed and shared in ways that had been previously unimaginable. This trend has gained further momentum. Provincial, regional and national boundaries are increasingly less of a barrier to capital formation and new fintech models are stretching regulators' historical views on their jurisdiction and mandate.

As a result, the Commission has strengthened our regulatory cooperation with other regulators to facilitate innovation in financial services. The Commission is a signatory to various innovation function cooperation agreements with securities regulators in Taiwan, Hong Kong and Mauritius. These agreements will permit access to these reshaped markets and emerging technologies while trying to protect investor interests.

For New Brunswick, the Commission must continue to pursue a reputation for being responsive to stakeholders wishing to access the exempt markets. Recent initiatives include providing a fillable offering document, instructional videos and materials as well as a comprehensive program overview to help New Brunswick CEDCs navigate through that program so that they can access investment capital from other New Brunswickers.

As a regulator, it is our intention to remain relevant and responsive in the rapidly changing financial marketplace and encourage capital formation while protecting investors. As we move forward, important initiatives, such as diversity, climate change, and other social and governance issues, will remain at the forefront as we continue to provide an environment for responsible economic growth and capital formation.

The **Canadian Securities Administrators (CSA)** is an umbrella organization of Canada's provincial and territorial securities regulators whose objective is to improve, coordinate and harmonize regulation of the Canadian capital markets.

Currently, the Commission's CEO, Kevin Hoyt, is serving as Vice-Chair of the CSA.

The **North American Securities Administrators Association (NASAA)** represents state and provincial securities regulators in the United States, Canada and Mexico.

Commission staff are actively involved with the North American Securities Administrators Association (NASAA).

3. Jason Alcorn, Associate Professor, Faculté de droit, Université de Moncton – Perspective on the Future of Securities Regulation and the Role of the Regulator

The securities regulatory framework is an important aspect of capital formation in the Province. As a regulator, the work we undertake must fairly balance investor protection and the ability of market participants to raise capital. From this perspective, it is our pleasure to provide you with Associate Professor Alcorn's views on the future of market regulation.

The Commission has never shied away from taking on the challenge of protecting New Brunswick investors, with a view to producing economic benefits by fostering New Brunswick capital markets.[4] By bringing together the regulators for consumer affairs, financial institutions, insurance, pensions and securities into one organization with the creation of FCNB on July 1, 2013, this strategic consolidation of core expertise solidified the Commission's abilities and allowed it to take advantage of operational synergies.

During the past decade, the CSA implemented Phase 2 of the Client Relationship Model, designed to ensure investors receive clear and complete disclosure of the performance of their investments and all fees associated with their accounts, including registrant compensation. The CSA also implemented the Point of Sale initiative, which aims to help investors make more informed investment decisions by providing them with key, plain language information about a mutual fund prior to purchase.

It was also during this era that the Government of Canada established the Canadian Securities Transition Office in July 2009, whose aim was to establish a pan-Canadian securities regulator. In December 2011, the Supreme Court of Canada found the proposed *Canadian Securities Act* was beyond Parliament's constitutional authority, although the court identified aspects of capital markets regulation clearly within its authority under its general trade and commerce powers. In 2013, the Government of Canada signed an Agreement in Principle with the participating governments, including New Brunswick, to establish a federal-provincial Cooperative Capital Markets Regulatory System. On March 31, 2021, the Capital Markets Authority Implementation Organization board of directors announced a pause of its operations and steps to preserve knowledge, assets and work product.[5]

4 Pursuant to section 2 of the *Securities Act*, S.N.B. 2004, c. S-5.5, the purposes of the *Act* are (a) to provide protection to investors from unfair, improper or fraudulent practices, and (b) to foster fair and efficient capital and derivatives markets and confidence in capital and derivatives markets.

5 Capital Markets Authority Implementation Organization's website, https://www.cmaio.ca/.

What does the future hold for securities regulation in New Brunswick? And what role will the Commission play? In some ways, 2021 feels like a bit of an inflection point for securities regulation. Just recently, the CSA announced its plans to create a new single SRO to provide enhanced regulation of the investment industry. The new **SRO** will consolidate the functions of Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of Canada (MFDA), potentially facilitating easier and more cost-effective access to a broad range of investment products and services for New Brunswickers and is generally expected to result in cost savings for dealers.

The new **self-regulatory organization, or SRO**, will consolidate the functions of the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of Canada (MFDA). The CSA will also combine two existing investor protection funds – the Canadian Investor Protection Fund and the MFDA Investor Protection Corporation – into an integrated fund independent of the new SRO.

In addition, the implementation of the Client Focused Reforms has the objective of improving the relationship between clients and registrants, and seeks to ensure registered firms/individuals continuously put the best interests of New Brunswick investors first.

The ongoing regulatory changes introduced by the Commission since its inception have gone a long way to help keep New Brunswick's capital markets competitive, and will make it easier for New Brunswick businesses to access capital.

REGULATORY CHANGES

Further to the commentary provided by Vestcor, Mr. Klohn and Associate Professor Alcorn, the Commission and other CSA jurisdictions are looking at innovative ways to regulate the capital markets and foster growth. Smart regulation of Canada and New Brunswick's capital markets identifies opportunities to facilitate access to capital in ways that will not compromise the rights of investors and other stakeholders. The Commission has taken a coordinated approach to modernizing New Brunswick's capital markets. Some of these initiatives include modifications to the New Brunswick *Securities Act*, new prospectus exemptions and a refresh of the CEDC program.

Environmental, Social and Corporate Governance in the Capital Markets

As a regulator, we have to be attuned to market trends and adapt our priorities and efforts accordingly. New issues, like environmental, social and governance matters (also referred to as stewardship), are important initiatives that the Commission and CSA have examined. As a result of our work, we have identified and continue to identify areas that require improvement. Examples of this include the various diversity consultations ongoing in the securities industry.

Joint Consultation Paper on Diversity in the Capital Markets

For the last seven years, the CSA has been conducting research into diversity among the directors and senior management of certain publicly traded companies in Canada. During this period, we have seen some increase in the participation of women in management and leadership positions. As time has passed, the scope of our analysis has shifted from a gender-based analysis to a broader view of diversity. On September 15, 2021, the Commission, together with the Nova Scotia Securities Commission, published a Consultation Paper on Diversity in the Capital Markets.

Figure 5: Then and Now: snapshot of key trends identified in reviews

Year 1: Dec. 31, 2014 – March 31, 2015

Year 7: Dec. 31, 2020 – March 31, 2021

Trends	Year	Percentage
Total board seats occupied by women	Year 1	11%
	Year 7	22%
Issuers with at least one woman on their board	Year 1	49%
	Year 7	82%
Issuers with at least one woman in an executive officer position	Year 1	60%
	Year 7	67%
Issuers that adopted a policy relating to the representation of women on their board	Year 1	15%
	Year 7	60%
Issuers that adopted targets for the representation of women on their board	Year 1	7%
	Year 7	32%

Recent developments in Canada and around the world have heightened the focus on broader diversity generally. Several institutional investors, including Vestcor, have endorsed Stewardship Principles intended to enhance social responsibility and environmental sustainability while helping investors and society prosper as a whole. The focus on social responsibility and diversity has led to changes to the *Canada Business Corporations Act*, which now requires diversity disclosure regarding women, Indigenous peoples, persons with disabilities and members of visible minorities. From our consultations with stakeholders, which closed on November 15, 2021, we heard there is a desire to move toward broader diversity. As a responsive regulator, the Commission has a role to play to foster corporate social responsibility, environmental sustainability and improved decision-making in the capital markets. Ensuring investors have the information they need to make investment decisions, including disclosure on diversity, will continue to be a priority for the Commission.

Climate-related Disclosure

The focus on climate-related issues in Canada and internationally has grown rapidly in recent years with climate-related risks becoming a mainstream business issue. Securities regulators have a role to play in promoting disclosures that provide valuable information for investors. The Commission has participated in targeted reviews of current public disclosure practices of large Canadian issuers (including New Brunswick issuers) concerning climate-related information. The key findings of that review raised concerns about current climate-related disclosures and led to the publication of CSA Staff Notice 51-358 Reporting of Climate Change-related Risks in August 2019 and the publication for comment of proposed amendments to disclosure of climate-related matters in October 2021. The latter also included the key finding on the review and a summary of domestic and international development on climate-related financial disclosures.

Securities Act Amendments

On December 20, 2019, amendments to the *Securities Act* came into effect, which help increase investor protection, further enhance confidence and stability in New Brunswick capital markets and harmonize legislation with other Canadian securities regulators. Specifically, the amendments introduced a comprehensive regime to regulate financial benchmarks, provide increased powers to self-regulatory organizations to enhance investor protections, and add language to prohibit aiding, abetting and counselling any person to contravene securities laws.

Listed Issuers Financing Exemption

The Commission published for comment in September 2021 a proposed Listed Issuer Financing Exemption to provide a more efficient method of capital raising for reporting issuers that have:

- securities listed on a Canadian stock exchange
- filed all timely and periodic disclosure documents required under Canadian securities legislation.

The proposed Listed Issuer Financing Exemption is expected to reduce costs for issuers raising smaller amounts of capital through the public markets. It would also allow smaller issuers greater access to retail investors and provide retail investors with a broader choice of investments.

The prospectus exemption would not be available to:

- issuers that have been a reporting issuer for less than 12 months
- issuers that have not filed all continuous disclosure documents required under Canadian securities legislation.

Eligible issuers would file a short offering document and the securities they issue would be freely tradeable. Under the proposed exemption, issuers could raise up to the greater of $5 million or 10 per cent of the issuer's market capitalization, to a maximum of $10 million, annually.

Community Economic Development Corporations and Cooperatives

Local Rule 45-509 *Community Economic Development Corporations and Associations* was first implemented on April 1, 2016 through cooperation between the Commission and the Department of Finance and Treasury Board. The participation of Finance and Treasury Board in this initiative means investors can benefit from the *Small Business Investor Tax Credit* when they invest in a **CEDC**. In the five years since this program was introduced, it became clear the program could be streamlined to reduce the regulatory burden on stakeholders while maintaining a high level of investor protection.

A **CEDC** is a small business in New Brunswick that raises funds by selling shares (or other eligible securities) to individuals, corporations or trusts within a defined community to create a pool of money.

As a result, effective September 1, 2021, the original local rule was repealed and replaced by Local Rule 45-509 *Community Economic Development Corporations and Cooperatives* ("**LR 45-509**").

To raise awareness, the Commission has revised LR 45-509 and developed additional resources to assist issuers through the application process. As interest continues to build in CEDCs, this program could be an important tool to assist issuers in raising the capital they need to grow in New Brunswick.

a. Changes to LR 45-509

In September 2021, the Commission published notice of adoption of the repeal of existing Local Rule 45-509 *Community Economic Development Corporations and Associations* and related companion policy with new Local Rule 45-509 *Community Economic Development Corporations and Cooperatives*. The amendments to LR 45-509 are not significant, with the overall structure remaining the same; however, some modifications were implemented to increase the overall efficiency of the program.

The Commission streamlined the reporting requirements by making the application documents more user friendly and providing better instructions to complete the offering document.

Although the Commission worked toward simplifying the application process for issuers, this was not at the expense of investors. From an investor protection standpoint, these changes require clearer and more fulsome disclosure from issuers. Perhaps the most significant shift relates to the Commission's ability to conduct compliance review of CEDCs to verify they are complying with the applicable requirements. Further, the prohibition of insider trading will also enhance the protection of those New Brunswickers who invest in CEDCs.

b. Number of CEDCs/industry breakdown

Since the inception of the CEDC program, three CEDCs have received non-objection letters from the Commission, which allowed them to raise capital according to their respective offering documents. In total, approximately $155,000 has been raised by these New Brunswick issuers.

The three CEDCs operate in two sectors: fitness and recreation, and community-based investment funds.

The CEDC program provides an easier way for small New Brunswick-based companies to raise capital from other New Brunswickers and New Brunswick-based businesses. Although those who take advantage of this initiative must complete certain regulatory filings, the requirements have been simplified to reduce the burden for issuers.

With the recent changes to LR 45-509 and addition of new forms and resources, we anticipate seeing an increase in interest and use of this program in the future.

MARKET ANALYSIS

New Brunswick's Exempt Market

Regional breakdown of market activity

Overall, the regional breakdown of investment has not changed considerably over previous years. The bulk of investment is centralized in the southern regions of the province. In analyzing the data, it is clear the northern region of the province saw a significant decrease in investment in 2020 compared to 2019.

Although the amounts raised in northern New Brunswick and the greater Saint John area declined in 2020, the total amount raised in the exempt market continued to grow in 2020. The increases shown in the greater Moncton area and the greater Fredericton area resulted, in large part, from the activities of investment funds operating in those regions.

Based on the publicly available regulatory filings, New Brunswick businesses continue to grow and raise the capital they need to continue to succeed through the capital markets. One example of this continued growth is the **$1,250,000** raised by Saint John-based Gemba Software Solutions Inc., which relied on the accredited investor exemption. New Brunswick investors contributed $250,000 to this capital raising exercise.

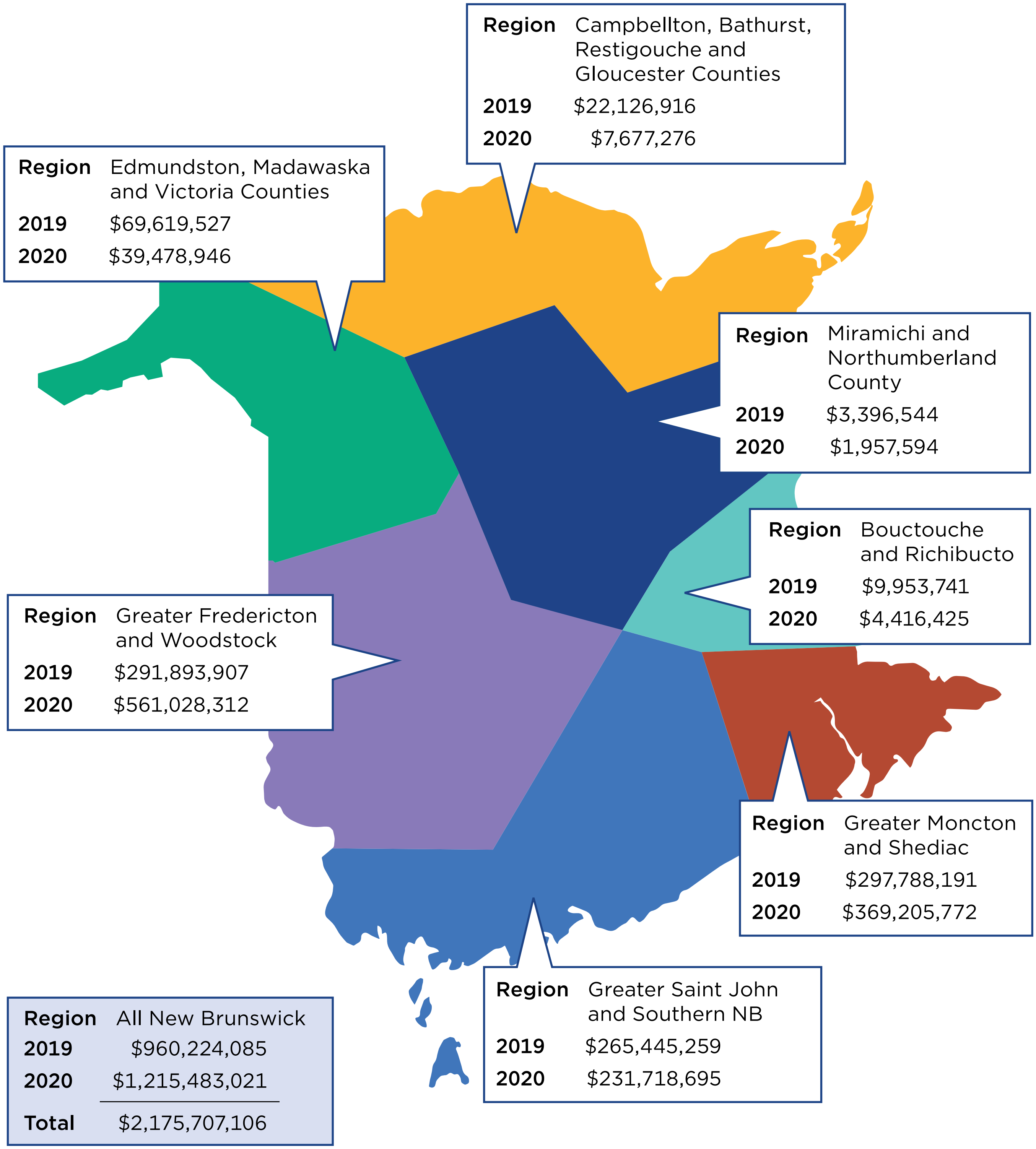
Eigen Innovations Inc. is another example of a company that has successfully raised capital in New Brunswick to help fund its expansion. Eigen Innovations Inc. is a Fredericton-based software company specializing in providing artificial intelligence solutions to clients primarily in the manufacturing sector. Eigen Innovations Inc. raised **$3,169,998.37**, of which $2,775,243.02 (88%) was raised from New Brunswick investors. The reports of exempt distribution filed by Eigen Innovations Inc. show that it raised capital primarily through the accredited investor exemption and, to a lesser degree, the family, friends and business associates exemption.

As you can see, the capital markets are a powerful tool that businesses can use to get off the ground or continue their growth trajectory. Exempt distributions and local tools, like the CEDC program, are mechanisms that we offer as a securities regulator to enable businesses to raise capital in the province.

We would like to hear from you:

If you would like us to consider publishing on our website in the future high-level data from the reports of exempt distribution received by the Commission, please send us an email at: EMF-MD@fcnb.ca. This type of data can be useful for market participants, as well as those analyzing New Brunswick's capital markets.

Figure 6: NB purchaser amount by region[6]

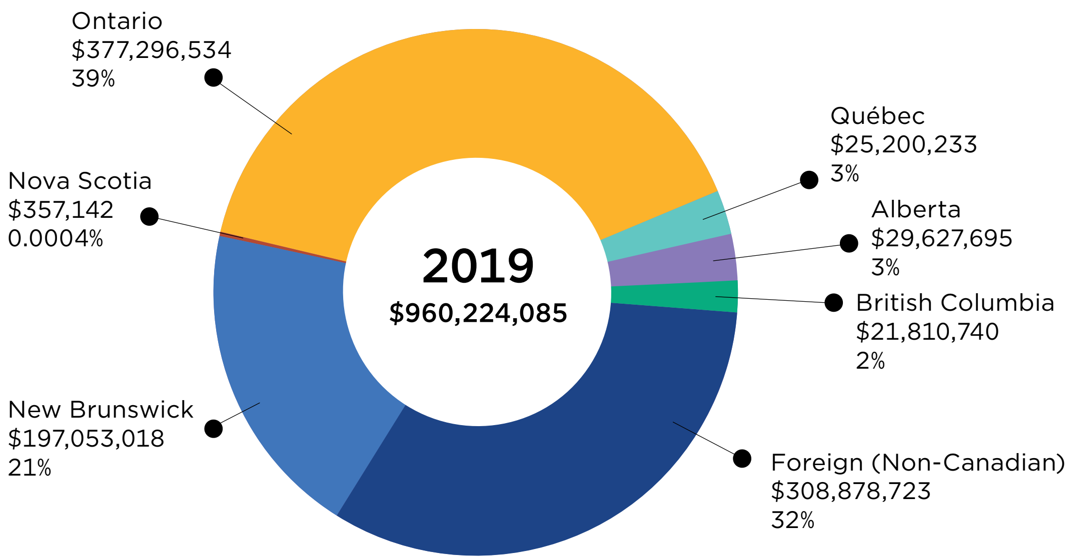


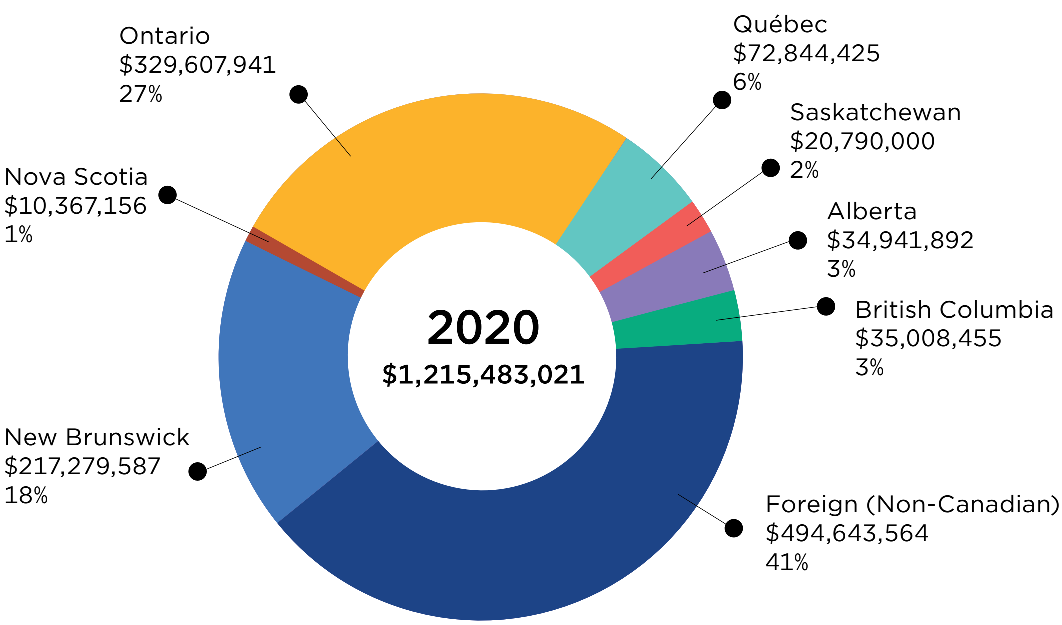
6 The total for the period January 1 to June 30, 2021 for all New Brunswick purchasers is $436,552,118. New Brunswick purchases of investment funds are not included in these amounts.

Issuer location

As noted in Mr. Klohn's commentary, provincial and national boundaries are less of a barrier to capital formation. Many companies outside of New Brunswick are raising capital in the province. As this chart illustrates, New Brunswick purchasers have accessed opportunities in New Brunswick companies, and also purchased securities issued by companies in other Canadian provinces and internationally.

Figure 7: Issuer head office





Where New Brunswick Issuers are finding investment capital

New Brunswick companies are raising capital by selling their securities to purchasers not only in New Brunswick, but also by accessing other markets across Canada and the United States. As offerings continue to trend across provincial boundaries, regulators are looking for ways to strengthen inter-provincial regulatory cooperation and harmonized approaches to securities regulation. In the first six months of 2021, New Brunswick companies continue the trend of accessing markets outside of New Brunswick, with approximately $350,000,000 in distributions outside of Canada.[7]

Figure 8: Purchaser locations

Country	Location	Year	Amount
Canada	All	2019	$228,240,268
		2020	$247,235,563
	Alberta	2019	$60,000
		2020	$20,000
	British Columbia	2019	$237,582
		2020	$408,750
	Manitoba	2019	$50,000
		2020	$ -
	New Brunswick	2019	$197,053,018
		2020	$217,279,587
	Newfoundland and Labrador	2019	$ -
		2020	$215,000
	Nova Scotia	2019	$23,412,906
		2020	$20,756,270
	Ontario	2019	$2,141,417
		2020	$3,993,857
	Prince Edward Island	2019	$310,000
		2020	$400,000
	Québec	2019	$4,975,346
		2020	$4,162,100
United States	All	2019	$1,578,774
		2020	$28,000
	California	2019	$110,094
		2020	$ -
	Florida	2019	$671,165
		2020	$ -
	Hawaii	2019	$66,882
		2020	$ -
	Illinois	2019	$ -
		2020	$28,000
	Iowa	2019	$332,007
		2020	$ -
	Massachusetts	2019	$67,059
		2020	$ -
	New York	2019	$331,568
		2020	$ -
2019 Total			**$229,819,042**
2020 Total			**$247,263,563**

7 In the first half of 2021, two New Brunswick issuers made significant distributions outside of New Brunswick. One distribution was primarily in the U.S. and the other in the U.S. and Europe. These distributions account for the large fluctuation compared to the two prior years.

Registration

Registration is a key aspect of capital market regulation. The registration data provides us with the names of individuals and firms registered to sell securities in New Brunswick. The data below illustrates the different categories of registrants and how they are participating in New Brunswick's capital markets.

As noted above, COVID-19 had little impact on registration. Registration has remained steady, with a slight increase in 2020. The initial data from the first six months of 2021 shows a continued upward trend.

Figure 9: Number of firms by category[8]

Category	2019	2020	2021 (up to June 30)
Exempt Market Dealer	212	212	222
Investment Dealer	105	106	108
Investment Fund Manager	33	32	31
Mutual Fund Dealer	47	45	45
Portfolio Manager	201	207	208
Restricted Dealer	2	3	3
Restricted Portfolio Manager	5	4	4
Scholarship Plan Dealer	7	6	6
Grand Total	**444**	**452**	**462**

8 A firm may be registered in more than one category.

Figure 10: Number of branches

Year	Branches
2019	467
2020	482
2021 (up to June 30)	492

Figure 11: Firm and individual by firm head office[9]

Province	2019		2020		2021 (up to June 30)	
	Firm	Individual	Firm	Individual	Firm	Individual
Alberta	13	88	17	143	17	153
British Columbia	40	662	40	702	40	732
Foreign-Non-USA	2	16	3	18	3	19
Foreign-USA	22	148	25	149	25	149
Manitoba	8	296	7	297	8	332
New Brunswick	4	50	3	57	3	59
Nova Scotia	4	10	5	11	2	6
Ontario	296	8,452	297	8,661	305	9,149
Quebec	55	1,700	55	1,762	59	1841
Grand Total	**444**	**11,401**	**452**	**11,778**	**462**	**12,427**

9 A person may be registered in more than one category.

Figure 12: Registration category[10]

Firm Category	Individual Category	2019	2020	2021 (up to June 30)
Exempt Market Dealer	Chief Compliance Officer	202	197	206
	Dealing Representative	1,048	1,093	1,136
Investment Dealer	Chief Compliance Officer	106	106	106
	Dealing Representative	5,696	5,885	6,317
Investment Fund Manager	Chief Compliance Officer	33	30	29
Mutual Fund Dealer	Chief Compliance Officer	43	41	41
	Dealing Representative	2,917	3,016	3,138
Portfolio Manager	Advising Representative	1,531	1,600	1,627
	Associate Advising Representative	277	283	289
	Chief Compliance Officer	190	193	193
Restricted Dealer	Chief Compliance Officer	2	3	3
	Dealing Representative	1	1	1
Restricted Portfolio Manager	Advising Representative	14	13	13
	Associate Advising Representative	2	2	2
	Chief Compliance Officer	5	4	4
Scholarship Plan Dealer	Chief Compliance Officer	6	5	5
	Dealing Representative	43	54	58
Ultimate Designated Person	Ultimate Designated Person	443	449	436
Grand Total		**11,401**	**11,778**	**12,427**

10 A person may be registered in more than one category.

SUMMARY

Based on the findings of this report, New Brunswick's capital markets are resilient. In 2019 and the first quarter of 2020, they showed growth over prior periods. Then the pandemic hit, causing initial uncertainty in financial markets around the world. Despite this, New Brunswick's capital markets continued growing through 2020 and into 2021. The resilience shown over the last 22 months provides hope for more growth once the pandemic is over.