Can Regulatory Reform Reverse the Decline of Public Markets in Canada? Assessing the Factors Impacting Decisions by Corporate Leaders to Avoid Canadian Public Listings

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A thesis submitted in partial fulfillment of the requirements for the Doctor of Philosophy degree in Law

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Abstract

The decline in the number of operating public companies in Canada over the past decade is startling and the trend shows no sign of reversing. Since robust public markets are widely understood as serving a critical role in a healthy economy, the decline is particularly concerning for Canadian policy makers. Moreover, the Canadian trend is reflective of similar declines in the United States and Western Europe.

Many possible contributing factors have been posited to explain public company decline based on speculation and anecdotal evidence. Amongst the factors most frequently cited as contributing to public company decline is regulatory overreach. As such, participants in the public company ecosphere have been advocating for regulatory reform to streamline the IPO process and reduce the cost and complexity of ongoing public company compliance. To this end, Canadian securities regulators have recently undertaken an analysis of public company burden reduction through CSA Consultation Paper 51-404, spawning the ongoing Ontario regulatory reform process under OSC Notice 11-784.

Yet, no significant effort has been as of yet undertaken to empirically validate whether regulatory overreach is indeed the primary factor in the public company decline phenomenon or to determine which of the other potential factors are, in fact, most influential for key decision-makers in making the go-public / stay-private decision. The research project underpinning this dissertation addresses this critical knowledge gap, comprising an extensive survey of senior business decision-makers and other key public markets influencers in Canada. Using both qualitative and quantitative survey methodologies, the study evidences that the phenomenon of public company decline is complex and multi-factorial. Although regulatory overreach is certainly a relevant factor in the mind of business decision-makers, it is only one of a number of interrelated factors. Moreover, many of these factors are unrelated to increased costs and regulatory complexity and therefore cannot be addressed directly through regulatory reform at the securities commission level. As such, it is naïve to expect that regulatory streamlining and cost reduction initiatives alone will be successful in stemming the further decline of
operating public companies. Rather, preservation of robust public markets in Canada requires an integrated and aggressive multi-pronged intervention supported by federal and provincial governments, securities regulators and other key players in the public markets ecosphere.

Keywords:

securities regulation, public company decline, operating public companies, regulatory complexity, regulatory streamlining, regulatory overreach, burden reduction, short-termism, private capital proliferation, public markets ecosphere, systemic market change, CSA Consultation Policy 51-404, OSC Notice 11-784
Lay Abstract

The number of operating public companies listed in Canada has been declining significantly for more than a decade. This trend shows no sign of reversing. Similar trends have been observed in the United States and Western Europe. As maintenance of a robust public markets is understood as being important to the broader economy, this trend has been particularly concerning to public markets observers, governments and securities regulators.

Participants in the public company ecosphere have been advocating for regulatory reform to streamline the IPO process and reduce the cost and complexity of ongoing public company compliance. To this end, Canadian securities regulators have recently undertaken an analysis of public company burden reduction through CSA Consultation Paper 51-404, spawning the ongoing Ontario regulatory reform process under OSC Notice 11-784.

Many potential contributing factors have been suggested by academics and industry experts to explain why public company decline is happening. However, empirical evidence has been notably absent in studying the phenomenon.

The research project underpinning this dissertation focuses on addressing this critical knowledge gap, comprising an extensive survey of senior business decision-makers and other key public markets influencers in Canada. Using both qualitative and quantitative survey methodologies, the study evidences that the phenomenon of public company decline is complex and multi-factorial.

Although regulatory overreach is certainly a relevant factor in the mind of business decision-makers, it is only one of a number of interrelated factors. Moreover, many of the factors contributing to public company decline are unrelated to increased costs and regulatory complexity and therefore cannot be addressed directly through regulatory reform at the securities commission level. As such, it is naïve to expect that regulatory streamlining and cost reduction initiatives alone will be successful in stemming the further decline of operating public companies.
The study demonstrates that preserving robust public markets in Canada will require an integrated and aggressive multi-pronged intervention supported by federal and provincial governments, securities regulators and other key players in the public markets ecosphere.
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Chapter 1: Introduction

1.1- The Disappearing Public Company

A recent headline discloses that only a single initial public offering ("IPO") was completed on Canada's sole senior stock exchange, the Toronto Stock Exchange (the "TSX"), during the first three quarters of fiscal 2019.¹ The Canadian business media notes the lack of IPO activity, blaming a variety of potential causes.² In short, Canada's recent IPO market has been abysmal. Is this terrible IPO market in Canada simply a blip or the latest headline evidencing a disturbing long-term trend of public company decline? Sadly, a quick look beyond the headlines to the underlying data demonstrates that it is the latter.

The number of Operating Companies³ listed and traded on the public markets in Canada has declined significantly over the past dozen years.⁴ Fewer initial public offerings ("IPOs") are being completed on Canadian stock exchanges. Existing public companies are pursuing going-private transactions or being acquired by other companies at a

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¹ PriceWaterhouseCoopersLLP, "Quarterly Report on IPOs in Canada" (2 October 2019), online:<https://www.pwc.com/ca/en/media/release/third-quarter-canadian-ipo-market-falls-further-behind-2018.html>. On the junior Canadian stock exchanges, six new listings were added to the TSX Venture Exchange (the "TSXV") and 22 new listings were added to the Canadian Stock Exchange (the "CSE") over the same six-month period. However, the total funds raised in conjunction with those 28 new junior exchange listings totaled less than $20 million (Cdn.), an average of less than $1 million in capital raised per new listing.


³ “Operating Companies” as used in this Dissertation references companies which make products or deliver services; ie, companies that generate economic value added to the underlying economy. Operating Companies excludes entities that are investment vehicles and merely hold passive minority investments in operating entities. These non-operating entities include mutual funds, exchange traded funds and closed-end funds, are often described as “Frankenstocks”, and are proliferating at a rapid rate in Canada. See J. Ari Pandes, “Are the Canadian Public Markets Broken?” (Presentation delivered at the CIRANO Conference in Montreal, Quebec on 25 October 2016), online: <https://cirano.qc.ca/actualite/2016-10-25/pdf/20161025_Are-the-Canadian-Public-Markets-Broken_J-Ari-Pandes.pdf>.

significant rate. Excluding closed-end funds ("CEF’s), exchange-traded funds ("ETF’s) and real estate investment trusts ("REIT’s), there were 751 public Operating Companies listed on the TSX as of November 18, 2019. By comparison, there were 1,292 operating public entities listed on the TSX on January 1, 2008, evidencing that the number of Operating Companies listed on Canada’s senior exchange has declined by nearly 42% in the past dozen years. In fact, the average yearly drop in the number of Operating Company listings on the TSX has held steady at approximately 3% on an annualized basis. If this trend continues, one does not have to extrapolate too far into the future to envision a hollowed-out public markets landscape with little relevance to the broader economy.

The precipitous nature of the decline of Canadian public companies has been alarming for many capital markets observers, with several commentaries recently published in the Canada business news media. Yet, the decline in the number of Operating Companies listed and traded in the public capital markets is not a phenomenon unique to Canada. A similarly concerning trend in the United States has been documented in numerous

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5 *Ibid* at 334.


7 Source: Ari Pandes and Bryce Tingle, “The Decline of Canadian Public Capital Markets”, upcoming in University of Calgary Public Policy Journal; Also, Number of Listed Issuers by year, provided by TSX Market Intelligence Group and Bloomberg Markets company listings.

academic studies\textsuperscript{9} and in the business media,\textsuperscript{10} with Western Europe also evidencing significant reductions in the number of public Operating Companies during the same interval.\textsuperscript{11} In fact, it is widely recognized that the number of Operating Companies listed and traded on public exchanges has been declining from its peak in the early years of this millennium in all industrialized western democracies with mature capital markets. This decline is particularly acute amongst small and medium sized enterprises ("SME's")\textsuperscript{12}, where the percentage drop of public Operating Companies is even greater than for larger public enterprises.\textsuperscript{13}

1.2- Relevance and Possible Causes of the Decline

Understanding that this trend of public company decline is happening throughout the industrialized western world, two critical follow-on questions immediately arise: (i) Does the decline in the number of Operating Companies in the public markets actually matter? and (ii) What factors are most important in relation to the decline in the number of public Operating Companies?


\textsuperscript{10} See, for example: Bloomberg Editorial Board, “Where Have All the Public Companies Gone?” Editorial, Bloomberg Opinion (9 April 2018) online: <https://www.bloomberg.com/view/articles/2018-04-09/where-have-all-the-u-s-public-companies-gone>.

\textsuperscript{11} Kate Burgess, “IPOs Are Going Downhill Fast” Financial Times (22 November 2015) online:< https://www.ft.com/content/08779c32-ce57-11e4-86fc-00144feab7de>; and Adrian Rollins, “The Disappearing Public Company: Why Firms Don’t Want to List” (1 November 2017) Australian CPA Society Website, online:< https://www.intheblack.com/articles/2017/11/01/disappearing-public-companies>.

\textsuperscript{12} “SME” is a term used in many countries throughout the world, although the definition of an SME varies from industry to industry and country to country. In this Dissertation, the definition of “SME's” utilized is the one adopted by Statistics Canada in its ongoing research, which defines SME’s as companies that (i) have fewer than 500 employees; and (ii) have less than $50 million ($Cdn) in revenue. Susan Ward “SME Definition (Small to Medium Enterprise) The Balance Small Business Website (10 December 2018), online:< https://www.thebalancesmb.com/articles/2017/11/01/disappearing-public-companies>.

\textsuperscript{13} Marshall Lux and Jack Pead, “Hunting High and Low: The Decline of the Small IPO and What to Do About It” Mossavar-Rahmani Center for Business and Government: Associate Working Paper Series No. 86 (April 2018), online:< https://www.hks.harvard.edu/sites/default/files /centers/mrcbg/working.papers/86_final.pdf> at 8.
With respect to the first question, there are certainly differing opinions in legal and business academia circles as to the degree of concern that the declining public markets should engender. Yet, there is an overriding consensus amongst observers that having robust public capital markets with a strong cross-section of Operating Companies from a variety of industries is an important part of a healthy economic ecosystem.\textsuperscript{14}

Among the arguments most commonly advanced as to why the decline in Operating Public companies is an important public issue are the following: (i) Operating Companies play an important role in the public markets as drivers of employment growth;\textsuperscript{15} (ii) access to the public markets reduces the cost of capital for Operating Companies, creating capital that drives innovation and productivity across the economy; (iii) having robust IPO markets as eventual outlets for private-stage investor liquidity encourages early-stage investment; (iv) public capital markets often place a greater value on corporate social responsibility than private markets, thereby facilitating greater investment in socially-desirable innovation; (v) public markets provide an opportunity for direct participation of the middle class in Operating Companies, as smaller investors lack equal access to private company investment vehicles compared to high net worth investors or institutional investors;\textsuperscript{16} (vi) more public Operating Companies creates better overall corporate governance as evolving best practices are adopted more quickly in public entities and eventually filter through to private companies; and (vii) the information derived from public company filings is important for both government and private analysts to assess economic trends, performance and pricing data that drive policy formulation and economic planning (which information is simply not accessible to the same degree from private entities).

\textsuperscript{14} Supra note 4 at 323.


\textsuperscript{16} As articulated by Mike Silagdaze, CEO of Canadian technology company Tophatmonocle Corp., “[t]he reallocation of capital to private markets from public really sucks for the average retail investor because now the only people that are getting access to these hyper-growth businesses are basically rich dudes”. Supra note 2.
Even Dr. Jay Ritter, who is amongst the least alarmist of the academics writing on the
decline of public markets, states that “ensuring a viable IPO market, alongside venture
capital and commercial bank financing, is an important part of a well-functioning
ecosystem to fund investment”.17

Further validation of the significant public importance of this issue for long term
economic health is underscored by the fact that both the United States and the European
Union governments have established taskforces to better understand and respond to the
challenge of public company decline.18

In Canada specifically, an additional argument can be advanced as to the heightened
importance of public company decline by virtue of the fact that the proportion of SME’s
in the Canadian public markets has always been significantly higher than in the United
States. With the public markets decline phenomenon more concentrated amongst SME’s
than larger enterprises, the situation is a matter of significant concern with respect to the
overall growth and trajectory of the economy.

Turning to the second question, a review of the academic and media analysis of the trend
evidences that the focus of the literature thus far has been on quantifying the extent of the
decline in the public markets and then simply hypothesizing as to the root causes.19

Although there is a significant volume of analysis positing a variety of factors as
potentially contributing to the decline in public Operating Companies, nobody thus far
has published any empirical research to validate the actual relevance of those factors to

17 L.D Wilson interview with Dr. Jay Ritter, Joseph B. Cordell Eminent Scholar in Finance, University of
Florida; interview held at Haskayne School of Business, University of Calgary (September 15, 2018)

18 U.S. IPO Task Force, “Rebuilding the IPO On-Ramp: Putting Emerging Companies and the Job Market
Back on the Road to Growth” Presented to the U.S. Department of the Treasury (20 October 2011),
online:<https://www.sec.gov/info/smallbus/asec/rebuilding_the_ipo_on-ramp.pdf>; and European IPO
Task Force, “Rebuilding IPOs in Europe: Creating Jobs and Growth in European Capital Markets” EU
Task Force Report, posted by Federation of European Securities Exchanges (23 March 2015), online:<

19 The academic and business media commentary on this topic are reviewed in Chapter 2- Literature
Review on Public Company Decline hereafter.
the decision-making process at the critical inflection point in a private company’s growth cycle where a path to pursuing an eventual IPO or alternative private financing source is determined.

The broad categories of factors most frequently cited in the academic literature as potentially contributing to the decline in the number of public Operating Companies are the following:

(i) *Regulatory Overreach and Resulting Cost Increases* - the belief that a string of regulatory amendments by securities regulators beginning in the early-2000’s has made ongoing compliance too costly and time-consuming for public companies;

(ii) *Private Capital Proliferation* - the belief that there has been a significant increase in availability of private capital (private equity or private debt financing) to fund anticipated development and growth, thereby allowing more Operating Companies to choose to remain private for longer periods, even in perpetuity;

(iii) *Litigation Risk* - the belief that increased litigation risk for public companies from securities class action lawsuits is a public market deterrent;

(iv) *Lack of SME Analyst Coverage* - the belief that a combination of changes to the public markets trading structure reducing tick sizes for market makers, and new rules prohibiting mutual support between the research and investment functions at investment banks, disincentivizes support of IPOs and smaller public company research, thereby reducing valuations and liquidity for SME public companies;

(v) *Shareholder Short-Termism* - the belief that shifting economics in the trading ecosystem away from long-term value investing to short-term high-frequency computerized share trading programs by institutions and day-traders, along with the decline in the number of value investors actively managing their own portfolios (choosing to delegate to fund managers), collectively deters public markets (which include the proliferation of short-sellers);

(vi) *Fundamental Economic Change Hypothesis* - the belief that the increasing rate of
technological change has made it more advantageous for smaller companies to be acquired at an earlier stage in order to compete effectively in the market, thereby pushing companies to pursue strategic sales instead of IPOs.

To this list of six factors highlighted in the academic literature, four additional potential factors can be crystallized from business media analysis and conversations with senior business executives and professional service providers on the topic of public company decline:\textsuperscript{20}

(i) \textit{General Public Company Distraction Fatigue}- reflecting the belief that lost productivity resulting from the demands of continual interface with public company shareholders, proxy advisors, analysts and investment bankers deters senior executives from public markets;

(ii) \textit{Quarterly Target Perseveration}- referring to the ongoing tension in public entities between managing for long-term shareholder value creation versus managing towards analyst targets on a revolving quarterly basis;\textsuperscript{21}

(iii) \textit{Public Disclosure Disadvantage}- referring to the belief that there are material and inherent disadvantages facing public companies as a result of mandatory disclosure of critical information to competitors, customers and suppliers as well as the aversion of senior management to the breadth and universal accessibility of contemporary executive compensation disclosure; and

(iv) \textit{Social Agenda Weaponization}- referring to the evolution of the corporate social responsibility movement and the increased willingness and capacity of secondary stakeholders to exert pressure on public companies through means only available in the

\textsuperscript{20} The academic and business media sources consulted are discussed later in this Dissertation under Chapter 2- Literature Review.

\textsuperscript{21} This factor is another manifestation of market short-termism generally, but is distinguished from shareholder short-termism in that the impetus for this form of short-termism is driven by analyst expectations and the reporting cycle rather than the investment horizon of shareholders.
Amongst the preceding list of the ten categories of factors posited as being likely contributors to the decline in the number of public Operating Companies, which ones are actually most important to the senior business decision-makers determining whether to take a particular company down a public or private path?

Where academic and media commentators have frequently endeavored to articulate the likely factors contributing to the capital markets decline, the explanations are thus far derived solely from anecdotal evidence gleaned from a limited number of industry experts (often senior securities regulators) who are relaying opinions influenced by their personal experiences and observation. While certainly well-informed, individual opinions from observers do not equate to empirical data. In the very few instances where academics have attempted to apply empirical research methodology to the problem thus far, such studies have been limited to utilizing available listing, trading and other financial data to test the relevant author’s hypotheses that a particular factor included in the preceding list can be empirically validated as contributing to the phenomenon based on the hard data.23

Prior to this Dissertation, no research project has yet been published which attempts to empirically validate the degree to which the categories of potential contributing factors outlined above are considered as important in the decision-making process by the specific individuals who are responsible for making the ultimate decision to take a company public.

22 An 11th category of factors can also be added, not heretofore discussed in any of the literature: Systemic Portfolio Shift—referring to the migration of investment capital away from actively-managed funds willing to invest in IPOs into passively-managed funds (such as ETF’s) that only invest in benchmark stocks tied to indexes. This factor was brought up exclusively by investment bankers in the open text response questions and in live presentations.

1.3- Seeking to Arrest Public Company Decline Through Regulatory Reform

Notwithstanding the lack of empirical data as to which of the possible contributing factors are most important in contributing to public company decline, there has been an overriding assumption made throughout developed western democratic nations that regulatory overreach is, at the very least, one of the major factors. Following from this assumption is the belief that implementing securities sector regulatory reforms reducing the time, complexity and cost of public company compliance is an important step to arresting the further erosion of the number of public Operating Companies.

The United States was the first country to bring in a regulatory reform package directed at reducing perceived regulatory overreach and thereby reversing the decline in IPOs with the April 2012 passage of the Jump-Start our Business Start-Ups (“JOBS”) Act. Early academic analysis of the impact of the JOBS Act evidenced a belief that it was having a significant positive effect in the IPO market, but subsequent years’ performance have demonstrated that any gains were temporary and insufficient to arrest the overall decline of the number of public Operating Companies in the United States.

More recently, the Trump administration has announced its intent to support further regulatory streamlining to reduce the compliance burden on listed companies by asking the Securities and Exchange Commission to consider biannual financial reporting amongst other reform ideas. This is an obvious indication of the belief by the President that the problem of public company decline can be addressed by ad hoc securities regulatory reform.

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26 Supra note 13 at 6.
The current United States administration is not alone in this belief. In Europe, the first recommendation of the European IPO Taskforce was the creation of a more streamlined regulatory environment for small and medium size listed companies to lower the costs and complexity of ongoing compliance.\textsuperscript{28}

In Canada, the Canadian Securities Administrators (the “CSA”), an umbrella organization for collaboration between the provincial and territorial securities regulators, recently undertook a year-long analysis and consultation process pursuant to CSA Consultation Paper 51-404 (“CP 51-404”) which was specifically focused on reducing the regulatory burden for public Operating Companies.\textsuperscript{29} The CSA consultation process involved a request for public comment which resulted in responses being submitted from various constituencies within the public markets ecosystem that will be discussed later in this Dissertation. At the end of the CSA consultation process, each of the provincial and territorial securities regulatory bodies were tasked by the CSA with initiating their own internal processes to consider whether, and how, to implement the regulatory streamlining proposals that were identified through the CSA initiative.\textsuperscript{30}

The Ontario Securities Commission (the “OSC”) represents the first securities commission in Canada to follow through on implementing a formal streamlining process, issuing OSC Staff Notice 11-784 (“OSC 11-784”) on January 14, 2019 announcing the creation of the OSC Burden Reduction Taskforce.\textsuperscript{31} In conjunction with OSC Notice 11-784, the OSC published a document entitled “Burden Reduction Survey” and held a

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\begin{itemize}
\item \textsuperscript{28} E.U. IPO Taskforce, \textit{supra} note 18 at 10.
\end{itemize}
}
series of roundtable discussions between March and May 2019. Recently, the OSC gave a detailed update on the history, current status and future priorities for its burden reduction initiative in a report entitled “Reducing Regulatory Burden in Ontario’s Capital Markets” (hereinafter referred to as the OSC Burden Reduction Report”). It is unclear as to what degree the OSC Burden Reduction Taskforce was created in response to the mandate handed to the OSC as a result of the CSA CP 51-404 as opposed to a change in focus directed by the new conservative provincial government in Ontario. However, it appears that the latter factor was the more important driving force, but the OSC is nevertheless now clearly focused on a mandate of burden reduction.

One of the key elements of this Dissertation is consideration of the specific details of the CSA and OSC burden reduction processes, assessing whether the existing regulatory reform initiatives appear to be on a path that is likely to be successful in stemming further public company decline in Canada. As part of that analysis, the CSA CP 51-404 and OSC Notice 11-784 processes, priorities and outcomes thus far will be discussed in greater detail later in this Dissertation in Chapter 4, followed by analysis of the implications of the observations and conclusions in this Dissertation for those regulatory processes in Chapter 10.

In summary, the research problem that is the focus of this Dissertation is properly summarized as follows: (i) a precipitous decline in the number of public Operating Companies has been validated across industrialized western democracies and is particularly acute in Canada; (ii) the decline is widely acknowledged as being both important and concerning, given that a robust market for public Operating Companies is an integral component of a healthy financial ecosystem; (iii) several countries, including Canada, have initiated regulatory reform initiatives designed to streamline ongoing compliance requirements on the assumption that regulatory overreach is an important contributing factor to public Operating Company decline; (iv) there has been significant

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academic and business media speculation on the underlying causes of the decline in public Operating Companies based on anecdotal evidence, but the empirical research on the topic to date has been limited to analysis of listing and financial data; and (v) there is, thus far, no empirical evidence of the significance of factors relevant in the go public / stay private decision for senior business decision makers and public markets influencers that would make it possible to assess whether the type of regulatory reforms currently being pursued are likely to be successful in stemming the further decline of public Operating Companies.

1.4- Research Study Objectives

The principal objective of the survey-based empirical research study conducted on public company decline in Canada (referred to herein as the “PCD Study”) underpinning this Dissertation is to address the critical gap in the existing academic canon on the following two key questions:

(i) Which, of the numerous categories of factors posited as potentially contributing to public Operating Company decline in Canada, are actually most important to Canadian senior business decision-makers and key public markets influencers in making the decision as to whether to take a company public or pursue private financing alternatives?

(ii) What are the implications of the conclusions reached from analysis of the empirical data generated in study of the first question for ongoing Canadian securities regulatory reform initiatives focused on public company burden reduction?

Understanding which of the various factors can be empirically validated as being the most influential in the decision-making process is critically important as a reference tool instructing future regulatory initiatives. Certain factors can be directly addressed and remediated by regulatory streamlining or other regulatory initiatives. Other factors are endemic to public companies by their nature, reflect the evolution of our economic system over time or are reflections of the adoption of new technologies. These particular factors cannot be easily addressed by securities regulatory reform and intuitively require more broad-based and aggressive forms of governmental intervention in order to
The PCD Study, and the accompanying analysis in this Dissertation, seeks to provide an empirical foundation on which to assess the need, scope and priorities for future regulatory reform initiatives specifically designed to stimulate new listings for public Operating Companies. In Canada, the PCD Study research project is particularly timely as the provincial and territorial securities regulators beyond Ontario are only now beginning to frame their individual responses to the CSA 51-504 initiative. It is hoped that the Canadian securities regulators will consider the conclusions of the PCD Study in prioritizing and framing their final regulatory responses.

It is further hoped that the provincial and federal governments will realize the scope and significance of the public company decline phenomenon to the future of the Canadian capital markets, and begin to consider what roles they can and should play in broader policy initiatives to ensure the future viability of the Canadian public markets. As is discussed later in this Dissertation at several points, the securities regulators simply do not have the tools in their toolbox to single-handedly stem the tide of public company decline in Canada. Only federal and provincial governments can access the necessary reforms and policy initiatives that could reasonably be expected to sustainably stimulate IPO volume to the extent necessary to see a growth in the number of Operating Companies.

Prior to execution of the PCD Study, it was anticipated that the study data would confirm the evolving consensus in the academic literature that the key contributing factors related to public company decline are multi-factorial and not dominated by a particular category of factors. It was, however, completely unknown which particular factors would be proven to be most important in the analysis, and what the relative influence of the factors would be in terms of their importance in the decision-making process by corporate leadership to pursue private versus public alternatives. In this area, the PCD Study results have proven to be illuminative.

Ultimately, the PCD Study strongly supports the conclusion that the key elements contributing to public company decline in Canada are indeed multi-factorial. In fact, the
PCD Study data evidences that there are a number of different categories of factors with similar degrees of importance to the overall phenomenon, such that no single factor, or even a single category of factors, can be distinguished from the others and designated as the primary culprit responsible for public company decline in Canada. The more data that is considered from the PCD Study, the greater that the complexity associated with public company decline becomes apparent. By extension, that knowledge also dictates that the solutions to arresting public company decline are complex and costly.

1.5- An Important Assumption of the PCD Study

How can one pursue a course of research to empirically determine the degree of relevance of the various categories of factors posited as contributing to operating public company decline? First, one must consider that there is an important assumption underpinning the design and execution of the PCD Study; i.e., that the decision on whether to go or remain public is a conscious decision made by corporate leaders based on their perception of the relative advantages and disadvantages of going public versus the non-public financing options available to the company.

This critical “conscious decision” assumption is not expressly articulated at length in any of the academic literature addressing public Operating Company decline. Does this lack of analysis in the literature mean that the critical assumption is at risk of being exposed as inaccurate, thereby undermining the focus and methodology of the PCD Study research? In other words, has a fundamental systemic change occurred in the public markets ecosystem that has removed, or materially reduced, the opportunity for Operating Companies to pursue a public listing, such that the decline in IPO volume is not principally the result of conscious choice of senior company leadership, but rather a business imperative? The simple answer to that complex question is “no”. There is nothing in the literature or the PCD Study data that suggests that the decline in the number of public Operating Companies to date reflects anything other than an evolution over time in the conscious preference of corporate decision-makers towards private
financing alternatives.  

The principal advantages of pursuing an IPO have been well articulated and understood for decades: lower ultimate cost of capital (i.e., higher trading multiples), speed of follow-on financings for public entities, liquidity for shareholders, increased ability to attract talent by using equity incentives and the prestige and credibility associated with public company status. Throughout the industrialized western world, and in Canada in particular, it is apparent that there remains a significant demand amongst investment banks and public shareholders for new IPO inventory. Public companies in North

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33 Of the 10 categories of factors posited in the literature as being potentially responsible for the decline in public Operating Companies discussed above, only one does not clearly engage a conscious decision by corporate leadership, namely the Fundamental Economic Change Hypothesis. The co-originator of the Fundamental Economic Change Hypothesis (Dr. Jay Ritter) has clearly articulated that the decision to pursue strategic acquisitions of their companies instead of pursuing IPO alternatives remains a conscious decision by corporate leadership as a function of value optimization strategy. As such, the opportunity to pursue IPOs is not impacted by the Fundamental Economic Change Hypothesis. See Jay Ritter, supra note 17.

A second factor that does not clearly support the conscious decision assumption is the Systemic Portfolio Shift factor which is described as representing an “11th” category of potential contributing factors in note 22, supra. Notably, this particular factor is not identified anywhere in the literature on public company decline or by any participants in the PCD Study outside the investment banking community. Yet, it was brought up repeatedly in the qualitative analysis responses to Q17 and also during live presentations made to the investment banking community. The quick answer (with more detail in note 22) is that Systemic Portfolio Shift has the potential to act as a constraint on IPO volume in Canada in the future, but has not been a limiting factor that has contributed in depressed IPO volume up to this point. Therefore, it does not undermine the proposed methodology of the PCD Study research. The investment banker subgroup alone in the PCD Study noted that there has been a significant shift over the past decade in investment capital in Canada away from actively-managed mutual funds and into passively-managed ETF’s. The investment bankers advised that ETF’s generally purchase stocks based on indexes and do not participate as part of the buying group in individual IPOs. Notably, mutual funds have historically been some of the largest buyers of IPOs in Canada.

The implication of this shift of funds from actively-managed investment vehicles to passively-managed investment vehicles is that the pool of capital available to participate in Canadian IPOs by mutual funds is shrinking annually. This systemic shift in capital within the investment fund market has the potential to impact the IPO market in the future if the trendline continues, and therefore is one more factor that highlights future risk of further degradation of the public capital markets in Canada.

However, in reference to the validity of the “conscious decision” assumption underpinning the course of research in the PCD Study, the investment bankers clearly stated that the depressed IPO market in Canada over the past several years has meant that this shift in investment capital has not yet impacted their ability to fill their IPO allotments or their desire to pursue IPOs for strong IPO candidates in Canada. As such, there is no question, as of yet, that the shift from actively-managed investment vehicles to passively-managed investment vehicles in Canada has contributed to the phenomenon of public company decline that has occurred thus far. As such, this factor also does not challenge the “conscious decision” assumption.
America and Europe are trading at some of the highest multiples of earnings in history. As such, none of the authorities writing in this area seriously challenge that the opportunity for companies to pursue public listings has fundamentally changed; 34 rather, it understood that it is the collective preference of the corporate decision-makers that has evolved to favour non-public alternatives.

Any strong growth-stage private company requiring significant equity capital to fund further expansion that is currently considering an IPO in Canada will certainly have other forms of private financing available to it, and the ultimate decision to undertake the cost and distractions of an IPO will only occur if the corporate decision-makers determine that the net benefit to the company of going public outweighs the net benefit of pursuing private alternatives. The decline in the number of the Operating Companies pursuing IPOs and remaining public over the long term must, therefore, necessarily represent a fundamental shift in perception by corporate decision-makers in Canada and other industrialized western democracies on the relative merits, costs and opportunities associated with being public versus pursuing available private options.

1.6- Potential Study Application Outside of Canada

With respect to potential applicability of the PCD Study outside of Canada, it is acknowledged that each country’s public market contains its own nuances and peculiarities and that the inferences drawn from a Canadian study cannot be universally applied without additional consideration.

However, the fact that the decline in the number of Operating Companies has occurred throughout industrialized western countries at similar rates over similar periods of time is certainly suggestive of the fact that significant overlap exists in the major contributing factors. A general consistency of proposed explanations for public company decline throughout the academic literature from different countries also supports the belief that a significant degree of commonality exists amongst the contributing factors, even if the

34 Supra note 4 at 353.
relative weight of the contributing factors is not determined to be identical in each country. As such, the findings and analysis developed through the PCD Study may well serve as a starting point for further empirical analysis of a similar stream in other industrialized western democracies, subject to testing for the impact of the unique elements of each country’s capital markets ecosystem on the relative weighting of the criteria examined in this study.

1.7- Researching Where Others Have Not Yet Tread

It has been mentioned previously that a complete void in empirical research currently exists with respect to any attempt to assess the relative importance of the principal factors contributing to public company decline in Canada, the United States and elsewhere. This lack of empirical research output is clearly not a result of the fact that few people have identified the existence of public company decline or fail to recognize it as a topic worthy of analysis. This fact is evidenced by the volume of academic literature discussed in Chapter 2 hereafter hypothesizing as to the possible causes of public company decline and decrying the lack of empirical data. Why, then, has this void in empirical research continued to persist? There are three explanations, all of which have likely played a role.

First, there is no existing database or other empirical source that can be accessed, mined, or manipulated to generate the source data required to analyze this topic. The existing data only allows academics to quantify the nature and extent of public company decline, not to clarify the relevance of categories of factors potentially contributing to the phenomenon. Existing data also allows academics to define trends related to certain of the potential contributing factors, such as determining the change in size of total pool of available private equity capital for investment in private companies at various points in time. However, none of this existing data clarifies the extent to which the posited categories of contributing factors actually impact the ultimate decision-making process of the key decision-makers and influencers as to whether to pursue public or private alternatives for their business. Therefore, any researcher seeking to empirically study this area must generate the foundational data through their own efforts. This is a time-consuming and often expensive process, resulting in fewer researchers willing to invest in the generation of new data from the source.
Second, securing the engagement of senior decision-makers and key public markets influencers on the topic of public company decline in sufficient numbers is extremely challenging. The groups of target participants in the PCD Study all are extremely busy, balancing multiple demands on their time, working long hours, and having been successful in highly competitive environments. These are not the groups in society who are easily convinced to devote additional time to research projects for which they receive no direct reward. As such, most academics simply choose to focus their research efforts in areas where data collection is perceived to attract fewer hurdles than are apparent in the PCD Study. Indeed, the Research Methodology chapter later in this Dissertation discloses the degree of effort that was directed towards enrollment of PCD Study participants.

Third, this is an area of research that overlaps the academic fields of corporate law and business / finance. From the corporate law perspective in Canada, the use of survey methodology to generate empirical data is a foreign concept. From the business perspective, there is a dichotomy in academia between the relatively small group of academic researchers who are familiar and comfortable with the proper use, interpretation and limitations of survey data and the majority of academic researchers who are not. Most of the academics who have a deep knowledge of survey methodology in the business arena are from the marketing discipline. Notably, this is not the particular discipline within business academia that has traditionally focused on the public company decline issue.

Indeed, the primary academic focus on public company decline from business scholarship has come from the finance discipline. Academics coming from a finance background are often historically suspicious of survey data that they frequently denigrate as constituting “soft” data. The finance-focused academics prefer to base their research pursuits on “hard” forms of data that they recognize and can easily verify from independent sources. This does not include perceptions of individuals that are generated through survey data.

Yet, nobody has yet identified a research methodology to generate the type of “hard” data that would be familiar to a finance academic in terms of assessing the relative import of
the factors posited as contributing to public company decline. Consequently, for over a
decade, the academic analysis on the topic of public company decline has failed to
materially advance, with writers in this space continuing to lament the lack of empirical
data.

The genesis of the PCD Study was the observation that public company decline is
certainly an issue of significant importance to the Canadian economy in need of some
form of empirical analysis to better inform the ongoing regulatory reform initiatives. All
realistic empirical methodologies for studying this phenomenon were evaluated, resulting
in the chosen study design utilizing survey methodology by process of elimination.

Certainly, the limitations of the data generated from the PCD Study must be understood
and acknowledged at the outset. The qualitative and quantitative data that has been
collected from the respondents is descriptive in nature, not designed to establish
statistical causation. However, it is submitted that the data gathered in the PCD Study is
rich in its breadth and depth, and valuable in offering a previously unavailable snapshot
of the perceptions of the decision-makers and influencers on the key topics embedded in
the phenomenon of public company decline. The PCD Study data discloses which of the
numerous categories of factors posited as contributing to public decline are perceived as
most important by the specific individuals who are making (and influencing) the critical
decision as to whether to take companies public in Canada.

The PCD Study also generates the type of data that can be used to predict behavior based
on the opinions expressed. The correlation between perception on a particular issue, as
expressed by participants in surveys, and the ultimate outcome of future decisions
relating to that same issue has been repeatedly verified and is widely accepted in business
marketing academic circles.35

While it is understood why nobody has undertaken this type of survey-based research

35 Lara R. Glasman and Dolores Albarracin, “Forming Attitudes that Predict Future Behavior: A Meta-
Analysis of the Attitude Behavior Relation” (2006) 132(5) Psychology Bulletin 778. This articles reviews
more than 100 primary sources and 10 previous meta-analysis on the subject.
project to generate empirical data on public company decline thus far, it is submitted that there is significant value in doing so. Although certainly difficult to obtain and subject to limitations with respect to its inability to prove causality, the specific insights that can be gleaned from PCD Study data justify the significant effort expended to generate that data. Particularly given the vacuum in empirical data that existed prior to the PCD Study, it provides industry participants, regulators and academics studying the topic multiple empirical reference points that previously did not exist.

1.8- A Brief Aside on the Nature of Recent Bursts of Activity in the Canadian Public Markets

As a final element of the introductory chapter of this Dissertation, it is worth questioning why Canada has been so slow to identify, and respond to, the critical issue of the decline of Operating Companies in its public markets.

One obvious reason, as mentioned above, is that the Operating Company decline has been masked by an accompanying increase in the number of ETF’s and closed-end funds listed on the TSX. This shift in investment capital into these new vehicles has given the illusion of a relatively robust capital market as a result of the significant corporate finance transactions and trading volume generated at the senior exchange level, providing some replacement revenue to the TSX and to the public markets ecosystem which would have otherwise starved on the lack of Operating Company IPOs. The total listing numbers of these non-operating entity stocks has also obscured the extent and speed of Operating Company decline in Canada at a headline level, as the TSX does not distinguish between operating and non-operating businesses in its summary listing numbers.

Yet, a decline in the volume of new non-operating companies being listed must also be on the horizon as the saturation level for ETF’s and closed-end funds approaches. The pool of Operating Companies that those non-operating entities invest in continues to shrink, and it is inevitable that the shrinking pool of Operating Companies will ultimately have a negative impact on the sustainability of the non-operating funds.

Even more concerning at a macro level, though, for those who desire to see a healthy and sustainable public capital markets ecosystem in Canada is the nature of the IPO market in
Canada over the past few years. The depressed overall nature of the Canadian IPO market generally has been discussed, but it is also important to note that a material portion of the IPO volume that has occurred in Canada in recent times, during short-lived and frenzied bursts of activity, is attributable to the blockchain and cannabis industries.

With due respect to the participants and investors in those industries, these two industries are classic examples of what may be the single worst character trait of the public markets; namely, its perseverance on, and susceptibility to, irrationality surrounding whatever industry is currently being portrayed as representing the “next big thing”. With respect to both blockchain and cannabis, the recent IPO and trading frenzies were demonstrably not based on any traditional metrics of long-term business valuation. The inevitable results are public market bubbles, and the resulting boom and bust cycles.

That the only signs of significant life in the IPO market in Canada in the past few years are attributable to blockchain and cannabis may be as disturbing as the overall decline in Operating Company volume generally. If the Canadian public markets are relegated to representing a sphere of overly-optimistic exuberance for high-risk nascent industries such as blockchain and cannabis, the implications are dire. If the only viable IPOs over a period to time arise in industries that are viewed as too inherently risky or overvalued such that they are shunned by traditional private equity, then the blockchain and cannabis booms may be considered further evidence of an underlying malaise in the public markets.

Unless and until the public markets see a sustainable resurgence in Operating Company IPOs relating to businesses that are profitable and economically sustainable over the long-term, the phenomenon of ongoing public company decline will inevitably continue. These short periods of market irrationality and the gold-rush mentality that has accompanied both the blockchain and cannabis bubbles are certainly evidence of something, but not a broader return to health of the public markets.

With due respect to the authors of the PWC quarterly report on IPOs in Canada referenced earlier, any analysis of the actual health of the Canadian public markets needs to look behind the headline statistics on total IPO volume and dollars raised, and
seriously assess the nature, profitability and long-term sustainability of the companies that are going public. Otherwise, the IPO volume that is reported and celebrated as evidencing temporary signs of life in the capital market may in reality be further evidence of the relegation of Canadian public markets to the fringes of the economy where private capital sources are unwilling to participate at inflated values. To resort to a popular metaphor, the “light” that blockchain and cannabis have represented to the Canadian capital markets over the past few years may, instead of being a ray of hope that the end of public company decline is in sight, actually be more evidence of an oncoming train.\textsuperscript{36}

\textsuperscript{36} Further analysis of this hypothesis is complex and beyond the scope of this Dissertation.
Chapter 2: Literature Review

2.1- Introduction- Literature on Public Company Decline

The first significant challenge in crafting this literature review chapter is determining how broadly to cast the net in terms of coverage of the subject area. The general subject of IPOs is one of the most widely studied topics in the field of business law and also in finance throughout the academic world. Thousands of articles have been published on various IPO issues over the past few decades. Clearly, the net cannot be cast so widely in this chapter so as to encompass all of the historical academic analysis of IPOs.

To restrict the material included in this literature review to a manageable size, the focus is directed towards that body of academic literature that deals with the specific subject of contemporary public company decline in the industrialized west. As such, the majority of the works discussed in this chapter are from 2006 (i.e., the time at which the current market trend in public company decline was first identified in the United States) and later. The material covered also largely originates from the United States, Europe and Canada (i.e., the specific jurisdictions primarily impacted by the phenomenon).

However, in order to place this topic within recognized frameworks of legal analysis, it is important to include in the analysis a brief overview of two streams of academic literature that significantly influenced modern theory with respect to public companies. These influential works played a role in informing the contemporary regulatory regimes that are now being impugned as potentially contributing to public company demise. As such, this literature review also includes selected articles on these two streams of literature that pre-date the discovery of the public company decline phenomenon in the industrialized west in 2006, yet were still influential in informing contemporary theory and regulatory treatment of the public company.

Also relating to the proper extent of coverage in this literature review, the topic of public company decline is a subject area in which it is sometimes difficult to draw a bright-line distinction between classic academic literature and the coverage of the topic in the business media. Serious academics have published pieces on public company decline in the business media, and many business media articles extensively quote academics as
their primary authorities. On occasion, the quotes from academics included in the business media articles supplement, extend or clarify the academics’ previous analysis from more traditional academic forums.

Yet, public company decline is a subject area in which the opinions and perceptions of business experts outside of the traditional academic sphere can be of critical importance. Securities regulators, government ministers, investment bankers, venture capitalists, private equity financiers, securities lawyers and accountants all have opinions and perceptions formed by their ongoing engagement on the front lines of the public company ecosphere. These opinions and perceptions are often largely ignored or minimized by academics as being self-interested as a result of the obvious financial incentives of these participants to ensure the continuity of robust public markets in driving fee revenue for their businesses. Nevertheless, the degree to which perspectives from outside of academia align or diverge from the academic literature should be considered. Consequently, a representative sample of opinions on public company decline in the business media from non-traditional academic voices is included in this literature review.

The second critical question faced in framing this literature review is determining how best to present the relevant literature as a logical and coherent narrative. A single method of categorizing the relevant literature without being confusingly circular and repetitive is elusive, so the narrative in this chapter is organized based on a combination of categories in terms of subject matter, sphere of origin and geography.

The first section of this literature review covers the few foundational pieces that have had the greatest influence on the modern theory of the public company, introducing the notions of agency costs and the role of legal frameworks in creating the preconditions for robust capital markets.

The second section highlights key academic pieces analyzing the decision to go public, including the motivations and timing of the business decision-makers. In this section, we introduce two research studies that are discussed at greater length later in this Dissertation in the “Research Methodologies” and “Analysis of Quantitative Data in PCD Study” chapters. These two articles reflect the two previous instances in which an
attempt has been made to assess the motivations of key decision-makers in the going-public process through the use of survey methodology, thereby providing significant instruction and comparisons for the research efforts in the PCD Study.

The third section of this literature review covers the extensive body of literature addressing public company decline in the United States, broken down into four subsections: (i) business media articles; (ii) government and industry-sponsored literature; (iii) academic literature focusing specifically on the impact of Sarbanes-Oxley37 on public company decline; and (iv) academic literature that goes beyond Sarbanes-Oxley in searching for explanations for the phenomenon of public company decline.

The fourth section of this literature review covers European literature on public company decline broken into two sections: (i) business media; and (ii) government and industry-sponsored literature. Analysis on this topic is notably absent in the European academic sphere.

The fifth section covers Canadian literature on public company decline, broken into three sections: (i) business media; (ii) government and industry-sponsored literature; and (iii) academic literature.

The sixth section briefly covers other western democratic countries likely impacted by the phenomenon of public company decline.

A final section considers the critical literature relating to an ongoing academic dispute as to the relevance of one of the particular factors posited as potentially contributing to public company decline: shareholder short-termism.

2.2- Theory of the Firm & the Impact of Regulation

2.2.1- American Business Media

The phenomenon of public company decline in the U.S. capital markets has been widely covered in the American business media. There are dozens of articles that outline the extent of the decline and hypothesize as to its causes. The Wall Street Journal alone has published more than 10 articles on the topic.\(^\text{38}\) Although the reported number of public companies listed at the peak of the U.S. market in 1997 varies depending on the source (and whether foreign listings in the U.S. are included or not), there is broad agreement that the number of domestic U.S. issuers listed today is approximately half of the number listed at the peak. Notably, there are no recent business news articles suggesting that the phenomenon of public company decline is temporary or is expected to reverse at a future point. Nor are there any business media articles that propose to have any definitive explanations for the decline. Most business media articles conclude that the underlying causes are indeterminate and then proceed to outline a few of the potential causes from the factors that are outlined previously in this Dissertation. The Wall Street Journal points out the irony that a well-known index, the “Wilshire 5,000”, has become a perpetual misnomer because there haven’t been 5,000 companies listed in the U.S. for more than a decade.\(^\text{39}\) The U.S. business media reports also demonstrate that this issue remains on the radar for the current administration, advising in August 2018 that President Trump has directed the Securities and Exchange Commission (“SEC”) to evaluate the ramifications of reducing public company financial reporting to twice per year.\(^\text{40}\)

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\(^{39}\) Ibid.

Where a fundamental disagreement arises in the business media is on the key issue of whether the phenomenon of public company decline is particularly worrisome for the economy and what it portends for the future of the U.S. capital markets. Two articles will be discussed as examples, each supporting a different position on this critical issue, both of which were published in credible business media forums.

The first article was co-written by four professors, two from Ivy League business schools (Dartmouth and Columbia) and two from Canadian business schools (Calgary and Victoria).41 In this article, the group of professors contend that the decline in the number of public companies is not particularly worrisome. They build their argument on the fact that most capital-intensive industries have been transferred from the U.S. to Asia. They also point out that the American economy is now based largely on technological innovation. They further posit that the biggest contributing factor leading to public company decline is that “digital strategies and rapid technological obsolescence” combine to decrease the lifespans of U.S. public companies without creating any increased demands for IPOs.42 The most controversial portion of their analysis is the concluding paragraph:

So, what can be done to increase the number of listed companies in the U.S. exchanges — and is that even a worthwhile objective? Although we often treat the stock market as a barometer of economic activity and a healthy IPO market as the hallmark of successful entrepreneurial pursuits, there is no evidence that the recent decline in number of listed firms has adversely affected the U.S. economy. The aggregate market capitalization of listed companies keeps increasing, unemployment remains manageable, and U.S. retains its leadership in technological progress. The only change is that more deals are done with private funds and more companies come to [the] IPO market having been initially financed by venture capitalists than ever before. Public investors do not miss out [on] the action either. Institutional investors now channel more and more of common investors’ savings towards digital companies, by taking stakes in private equity


42 Ibid.
funds. In sum, the decline in the number of listing companies is a sign of successful adaptation of organizational structures by U.S. corporations, keeping up with their changing business strategies. It should be applauded, not considered a cause for concern.\textsuperscript{43}

This is a very bold statement and, if proved to be true, could be argued to undermine one of the fundamental premises of this Dissertation and the accompanying research project; i.e., that retaining a robust capital markets environment is of significant public concern and that public company decline matters.

However, the view of Govindarjan \textit{et al} is very much a minority position in academia at this point in time. Govindarjan \textit{et al} also fundamentally overstate the access to private deals available to the average retail investor through traditional mutual funds. Although the recent increase in availability of alternative mutual funds willing to invest in private transactions has changed the investment landscape to a degree, investing in companies through a mutual fund does not provide the same opportunity to investors as investing in those same companies if they had gone public. First, the best private equity deals are \textit{not} currently available to the average retail investors through mutual funds to the degree suggested by this article. The most attractive private equity investments continue to be controlled by the traditional private equity funds available only to high net worth investors. Second, the layers of management fees and success-based participation fees charged for participation in private equity through mutual funds is significant, thereby reducing the ultimate return on investment to investors. Third, investing in a private company through a mutual fund requires the investor to purchase the entire basket of private company investments owned by the mutual fund, depriving the investor of the opportunity to pick and choose their own ultimate investee companies.

Further, the authors’ view of digitization and increased speed of obsolescence being the primary cause of public company decline is overly simplistic in describing the phenomenon. The PCD Study outcomes, discussed in the ensuing chapters of this Dissertation, demonstrate that the factors proposed by Govindarjan \textit{et al} as being the

\textsuperscript{43} \textit{Ibid.}
most significant contributing factors to the public company decline phenomenon are not supported by the empirical findings.

A counterpoint against the position of Govindarjan et al is an article published in *The Atlantic* in November 2018 entitled “The Death of the IPO” written by Frank Partnoy. Partnoy is now a Berkeley full professor in business law who previously spent time as an investment banker with Morgan Stanley and CS First Boston. After noting the decline of more than half of the number of companies listed in the U.S. since the 1997 peak, Partnoy develops the following argument in favor of the importance of the public company decline issue:

Stock-exchange officials certainly are [concerned]. Last year, Thomas Farley, then the head of the NYSE Group, said the drop “may severely limit [companies’ opportunities] for economic growth, hiring, and wealth creation.” Earlier this year, in her introduction to a white paper, Nasdaq’s CEO, Adena Friedman, warned that if the trend continues, “job creation and economic growth could suffer, and income inequality could worsen as average investors become increasingly shut out of the most attractive offerings.”

Of course, Farley and Friedman have a financial stake in the health of the exchanges. But there is a broader logic to their professed concerns. Traditionally, promising young companies turned to the public markets to raise capital in order to expand their operations; this gave individual investors a shot at owning a piece of those companies’ hoped-for success, either by buying their stocks directly or, more commonly, by holding them in a mutual fund or index fund. Today, more and more start-up companies secure funding from private investors, cutting most Americans out of the equation.

Robert J. Jackson Jr., a commissioner of the Securities and Exchange Commission who previously worked at Bear Stearns underwriting IPOs, told me there can be real distributive consequences when the highest-growth companies are private. If many of the economy’s greatest success stories aren’t included in the funds that ordinary Americans hold, only the wealthiest members of society will enjoy the gains, intensifying inequality. “It’s a good enough argument for me to care about wanting more companies to be public,” Jackson said. SEC Chair Jay Clayton agrees. In his first major speech, he warned: “The potential lasting effects of such an outcome to the economy and society are, in two words, not good.”

The conclusions of Partnoy stand in direct opposition to the position of Govindarjan et al.
Only time will tell which position is more accurate, but the Partnoy analysis resonates specifically for the reasons stated in the quote of Robert J. Jackson, Jr. above. The U.S. already has a significant wealth distribution problem, as evidenced by the fact that the U.S. demonstrates the greatest concentration of wealth in the hands of the top 10%, top 5% and top 1% of its population amongst 28 member nations of the Organization for Economic Co-operation Development (the “OECD”) analyzed in a recent white paper.\(^{44}\) Moreover, the degree of wealth distribution inequality has increased in the U.S. during the period of public company decline.\(^{45}\) It follows logically that the U.S. should be seeking to mitigate any further long-term systemic changes in its public capital markets structure that increase wealth inequality by limiting the most attractive investment opportunities to its wealthiest investors. As such, Partnoy’s argument (reflective of the majority position in the U.S. business media at the current time) is more convincing and will likely be borne out as being more accurate over the upcoming years.\(^{46}\)

### 2.2.2- The Concept of Agency Cost and Its Implications

The analysis of the modern theory of the firm relating to public companies starts with former Harvard economics professor Michael C. Jensen, who along with William H. Meckling, in 1976 published the seminal paper that brought the concept of agency costs in public companies into the general consciousness.\(^{47}\) Jensen and Meckling here articulate their theory that, in situations in which equity of a company is held by non-management shareholders, there is an inherent divergence in interest between

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\(^{45}\) With reference to the GINI Index, the most commonly used measure of wealth inequality. Federal Reserve Economic Data, “GINI Index for the United Stated, online: <https://fred.stlouisfed.org/series/SPOVGINIUSA> accessed December 29, 2019.

\(^{46}\) Statista, “U.S. household income distribution from 1990 to 2018”

management and the non-management equity-holders. Jensen views owner-managers (i.e., managers holding less than 100% of the equity of the firm) as rational self-interested economic actors seeking to maximize their personal outcomes in all situations, which causes the owner-managers to seek benefits from their companies that are misaligned with the pure maximization of shareholder value. Jensen summarizes the core of his theory as follows:

As the owner-manager’s fraction of the equity falls, his fractional claim on the outcomes falls and this will tend to encourage him to appropriate larger amounts of the corporate resources in the form of perquisites. This also makes it desirable for the minority shareholders to expend more resources in monitoring his behavior. Thus, the wealth costs to the owner of obtaining additional cash in the equity markets rise as his fractional ownership falls.48

Jensen formulates the cost to residual equity shareholders of the self-interested behaviour of managers in economic terms, and that cost has become widely known throughout academic literature as “agency cost”.49

Jensen’s theory on the misalignment of interests between management and shareholders of companies quickly became widely accepted and has played a critical role in instructing public company regulatory theory over the past 40 years. Ever since “Theory of the Firm” gained prominence, the general arc of public company regulation in North America has seen the adoption of a steady stream of initiatives designed to minimize agency costs associated with the management of public companies, thereby maximizing the value of equity acquired by non-management shareholders.

More than a decade later, Jensen further prognosticates as to the long-term implications of his theory of agency conflict on public companies as the dominant form of capital market enterprise.50 Here, Jensen articulates his belief that public companies are

48 Ibid at 317.
49 Ibid at 323.
inefficient structures to resolve agency conflicts, and that this conflict resolution can be better achieved by direct negotiation amongst stakeholders in private companies. Ultimately, Jensen predicts that the inability to efficiently address agency costs will lead to the decline of public entities:

New organizations are emerging in [the place of public entities]—organizations that are corporate in form but have no public shareholders and are not listed or traded on organized exchanges. These organizations use public and private debt, rather than public equity, as their major source of capital. Their primary owners are not households but large institutions and entrepreneurs that designate agents to manage and monitor on their behalf and bind those agents with large equity interests and contracts governing the use and distribution of cash.

Takeovers, corporate breakups, divisional spin-offs, leveraged buyouts, and going-private transactions are the most visible manifestations of a massive organizational change in the economy. These transactions have inspired criticism, even outrage, among many business leaders and government officials, who have called for regulatory and legislative restrictions. The backlash is understandable. Change is threatening; in this case, the threat is aimed at the senior executives of many of our largest companies. 51

Jensen goes on to state his belief that this evolution away from the public company form reflects a positive development for the economy as a whole. 52 This belief is predicated on Jensen’s opinion that private entities are better positioned structurally to resolve what he perceives as the fundamental weakness of public companies, namely the ongoing tension relating to control of corporate resources between management and shareholders, thereby leading to greater efficiency and productivity. 53 Jensen concludes that public companies will ultimately retain an important role in the economy, but only with respect to companies that cannot self-fund growth with internally-generated cash-flow. 54

51 Ibid at 61.
52 Ibid.
53 Ibid.
54 Ibid at 62.
Companies that can self-fund their growth targets from internal sources are, in Jensen’s opinion, better off pursuing private ownership structures.55

Jensen’s analysis on the impact of the evolution of capital sources away from direct investment by entrepreneurs and towards an increasing concentration of investment capital, and accompanying power in the investment-making decision, in the hands of institutional investors evokes the earlier analysis of another Harvard academic, law professor Robert C. Clark, on the stages of the capitalism.56 In Clark’s categorization, the third and fourth stages of capitalism involve the transfer of capital and delegation of investment-making discretion to investment professionals (in the third stage) and, eventually, the underlying savings decision itself to collectivized interests of pension fund managers (in the fourth stage). However, Clark does not continue to consider the likely impact of the evolution of capital on the position and role of the public company as an institution. Jensen takes Clark’s observations on the continuing evolution of capital towards greater institutionalized control (and less direct investment by the ultimate individual beneficiaries of the capital) further, considering the likely impact of this evolution in capital deployment on the position of the public company in the future economy.

Jensen’s prediction was met with significant academic skepticism at the time of its release in 1989, particularly as the number of public companies in the U.S. continued to rise through much of the 1990’s. However, the subsequent decline in public companies in the U.S. beginning in 1997 has caused academia to reappraise Jensen’s 1989 article and has enhanced Jensen’s legacy as the oracle who first predicted the public company decline phenomenon.57

55 Ibid.


Certainly, Jensen was ahead of his time in predicting public company decline and his theory of agency costs continues to retain its primacy as a descriptor of the relationship between firm managers and equity holders. However, Jensen’s rationale in predicting public company decline back in 1989 is not necessarily explanatory of the phenomenon that has transpired in the U.S. over the past 20 years. Jensen’s predictions on the inevitability of public company decline are founded on his belief that sources of capital become increasingly frustrated by their inability to effectively limit agency costs in the public company environment in the U.S. where the minority equity holders have no effective voice in governance. As such, in Jensen’s theory, the equity investors inevitably and intentionally direct their investments away from the public sphere and into private transactions in which they can contractually impose the necessary agency-cost restraining mechanisms necessary to protect their equity interests. Jensen believed that this affinity for the private markets would have the effect of siphoning off the funding sources of public entities and forcing firms towards private transactions.

In fact, the phenomenon of public company decline that we have witnessed is somewhat different from what Jensen expected. Ironically, some of the most important causes of public company decline may well be directly linked to the universal acceptance of Jensen’s observations on agency costs and the corresponding implications for securities regulatory reform over the past four decades. In Jensen’s view, companies would be forced towards the private markets in order to access capital that had moved away from the public markets and was accessible only through private investment alternatives.

Rather than a lack of capital willing to invest in IPOs and secondary offerings of public entities, the phenomenon of the public company decline that we have experienced appears to be driven by a shift in the preference of senior management away from the public markets and towards private financing opportunities. Who are these business decision-makers that avoid the public markets? The same owner-managers identified by Jensen as being the individuals who directly benefit from the lack of control mechanisms in the public market to maximize their share of the agency costs.

In reality, we have witnessed four decades in which securities regulators and shareholder
rights interest groups have relentlessly rooted out and legislated every perceived opportunity for self-dealing managers in the public markets. In fact, some of the most insightful academic analysis surrounding public company decline is focused on the question of whether the securities regulatory authorities have overshot the goal and reduced public company agency costs to such a level that managers no longer have the appetite for the hassles of being engaged in the public markets. The question now has to be asked as to whether some minimal level of agency costs must be preserved in the public market in order to protect the existence of the public company as a viable institution. In fact, eminent legal academics have argued in an analogous area that the optimal level of private benefits that can be extracted from a public company is not necessarily zero, expressing their belief that value of private benefit extraction from a public company in some instances may be greater than the cost to the entity. This illustrates the irony that Jensen’s prediction on public company decline may have come to fruition, not for the reasons foreseen by Jensen in 1989, but at least partially as a result of the influence of Jensen’s earlier analysis relating to public company agency costs on the past four decades of securities regulatory reform.

2.2.3- The Theory of Investor Legal Protection as a Determinant of Robust Capital Markets

Turning now to a second stream of literature written by three finance professors from Harvard (at the time of the publication of the relevant articles) along with the collaboration of one finance professor from the University of Chicago. The group, comprised of Rafael LaPorta, Florenico Lopez-de-Silanes, Andei Shleifer and Robert Vishy (referred to herein as “LLSV” as they self-stylize themselves in their later


59 Ronald L. Gilson & Jeffrey N. Gordon, “Controlling Controlling Shareholders” (2003) 152 University of Pennsylvania Law Review 785 at 803-804 and 843. Gilson and Gordon’s analysis focuses on the extraction of private benefits from public companies by controlling shareholders and not specifically on agency costs of management, but analogies of the Gilson and Gordon arguments to the potential benefit of maintaining minimal level of agency costs to encourage companies to access the public markets are clear.
writings), focuses on the nature and quality of legal protection of shareholder rights as a critical determining factor in creating robust public capital markets. The three main LLSV papers are from 1997, 1998, and 1999, and all claim to build upon the foundation established by Jensen. The 1997 LLSV paper begins with the following foundational question: “Why do some countries have so much bigger capital markets than others”.

After considering the legal frameworks of 49 different countries, the 1997 LLSV paper states the main LLSV hypothesis:

> [t]he results of this article confirm that the legal environment (as described by both legal rules and their enforcement) matters for the size and extent of a country's capital markets. Because a good legal environment protects the potential financiers against expropriation by entrepreneurs, it raises their willingness to surrender funds in exchange for securities, and hence expands the scope of capital markets.

The 1998 LLSV paper builds on empirical data obtained from the earlier analysis of the 49 countries previously considered, furthering the proposition that the nature of the legal rights inherently associated with a particular country’s legal system is of paramount importance in determining the nature and success of that country’s capital markets:

> The rights attached to securities become critical when managers of companies act in their own interest. These rights give investors the power to extract from managers the returns on their investment. Shareholders receive dividends because they can vote out the directors who do not pay them, and creditors are paid because they have the power to repossess collateral. Without these rights, investors would not be able to get paid, and therefore firms would find it harder to raise external finance.

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63 Supra note 60 at 1131.
But the view that securities are inherently characterized by some intrinsic rights is incomplete as well. It ignores the obvious point that these rights depend on the legal rules of the jurisdictions where these securities are issued. […] Law and the quality of its enforcement are potentially important determinants of what rights security holders have and how well these rights are protected. Since the protection investors receive determines their readiness to finance firms, corporate finance may critically turn on these legal rules and their enforcement.64

The analysis in the 1998 LLSV paper starts with the observation that the origin of most commercial laws internationally can either be traced to the sources of English common law or Roman civil law. Within civil law, LLSV identifies three major civil code traditions that account for all civilian-based systems: French, German and Scandinavian.65

Ultimately, based on their assessment of the legal regimes in the 49 countries studied, LLSV concludes that countries whose legal systems are based on the British common law system have both the greatest degree of protection of investor rights in public companies and the most robust capital markets. On the other end of the spectrum, LLSV singles out countries utilizing the French civil code structure as having the weakest protection of investor rights, which they posit directly impacts the willingness of investors to invest as minority shareholders in public entities. In French civil code jurisdictions, LLSV point out that other “adaptive” legal mechanisms necessarily evolve to serve as surrogates for strong legal protection of investors. A prime example is the increased concentration of ownership in public entities facilitating direct control by shareholders through voting mechanisms and thereby circumventing the shortcomings of the legal regimes in protecting minority shareholders.66 These adaptive mechanisms can exist inside or

64 Supra note 61 at 1114.
65 Ibid at 1115.
66 Ibid at 1116.
outside of the law.\textsuperscript{67}

In the LLSV analysis, German and Scandinavian-based legal systems are ranked somewhere in the middle between British common law and French civil code systems in terms of the degree of investor protections that they provide.\textsuperscript{68}

The 1998 LLSV paper states four conclusions: (i) there is a marked difference in laws around the world in terms of the bundle of rights that are given to investors; (ii) there is a marked difference in the quality of law enforcement between countries as well, and better enforcement is linked with better economic outcomes; (iii) countries with poor investor protections develop “substitute mechanisms” inside or outside of law to compensate; and (iv) countries with poorer investor protection have less robust capital markets.\textsuperscript{69}

In the 1999 LLSV paper, LLSV move on to the analysis of why they believe that the British common law tradition is a better protector of investors than the civil code traditions. First, they consider an explanation based on differences in the judiciary, which they ultimately discount as being sufficiently explanatory. They then move on to their hypothesis that the explanation is rooted in which particular institutions in society held the greatest influence in the formation of the law. LLSV point out that, during the critical formative years of the 18\textsuperscript{th} and 19\textsuperscript{th} centuries, the British crown’s influence declines significantly compared to the relative influence of parliament in the development of the common law. British parliament during this era is dominated by property owners, who evolve into the investor class in the capital markets as the 18\textsuperscript{th} and 19\textsuperscript{th} century progressed. Therefore, the state in Great Britain (represented by the Crown) had relatively lesser influence on the development of the common law than the property owners. As such, LLSV believe that the common law evolved to favour the interests of property owners and, ultimately, investors. This serves as a defence by property owners /

\textsuperscript{67} Ibid.
\textsuperscript{68} Ibid at 1151.
\textsuperscript{69} Ibid.
investors against “attempts by the sovereign to regulate and expropriate them”. 70

In contrast, the state had a greater degree of power in the civil code countries during this era and property owners did not have an equivalent voice in government as that held by the British property owners as a result of their influence through parliament. As such, LLSV contend that the civil law developed “as an instrument used by the sovereign for state building and controlling economic life”. 71

LLSV further extend their analysis of what they categorize as their “legal approach” to economic analysis to the topic of corporate governance and the capital markets in their fourth collaboration in 2000. 72 In the 2000 article, LLSV state that:

[t]he most basic prediction of the legal approach is that investor protection encourages the development of financial markets. When investors are protected from expropriation, they pay more for securities, making it more attractive for entrepreneurs to issue these securities. This applies to both creditors and shareholders. Creditor rights encourage the development of lending, and the exact structure of these rights may alternatively favor bank lending or market lending. Shareholder rights encourage the development of equity markets, as measured by the valuation of firms, the number of listed firms (market breadth), and the rate at which firms go public. For both shareholders and creditors, protection includes not only the rights written into the laws and regulations but also the effectiveness of their enforcement. Consistent with these predictions, La Porta et al. (1997) show that countries that protect shareholders have more valuable stock markets, larger numbers of listed securities per capita, and a higher rate of IPO activity than do the unprotective countries. 73

A critical conclusion of LLSV to be drawn from these four papers is that heightened investor protection does not equate with increased government intervention in the

70 Supra note 62 at 224.
71 Ibid.
73 Ibid at 13.
economy. Heightened investor protection in the British common law tradition in fact is derived from the historical ability of the property owner / investor class to push back against the Crown and direct the development of the common law towards enhanced property and investor rights, protecting against the risk of expropriation by the state and by corporate insiders. In contrast, in the civil law countries the state was historically able to push back against the property owner / investor class during the 18th and 19th century and “did not surrender its power of economic decisions to the courts”.74

The civil code countries kept their direct influence in economic matters through legislation. As a result, LLSV are generally cited as standing for the proposition that a lower degree of direct legislative intervention, consistent with the British common law tradition, is generally associated with a higher degree of protection of investor rights and, by extension, better economic outcomes and more robust capital markets. Conversely, a higher degree of direct government intervention in the economy through increased financial legislation is associated with the civil code tradition which generally evidences lesser protections for investors and, by extension, poorer economic outcomes and smaller capital markets.

Notwithstanding their general support of market mechanisms as representing a superior forum for improving investor protections than government legislation, LLSV conclude this article with a statement that makes it apparent that they are not supporting a fully laissez-faire approach to capital markets regulation. After reiterating that they view strong legal protection of investors as the foundation of strong corporate governance, they state that:

> [a]n important implication of this approach is that leaving financial markets alone is not a good way to encourage them. Financial markets need some protection of outside investors, whether by courts, government agencies, or market participants themselves. Improving such protection is a difficult task. In part, the nature of investor protection, and more generally of regulation of financial markets, is deeply rooted in the legal structure of each country and in the origin of its laws. Marginal reform

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74 *Ibid* at 12.
may not successfully achieve the reformer’s goals. In part, the existing corporate governance arrangements benefit both the politicians and the entrenched economic interests, including the families that manage the largest firms in most countries in the world. Corporate governance reform must circumvent the opposition by these interests. Despite these difficulties, reform of investor protection is politically feasible in some circumstances, and can bring significant benefits. It can take the form of opting into more protective legal regimes or introducing more radical changes in the legal structure.\footnote{Ibid at 24.}

As with Jensen, the work of LLSV has been taken by some as supporting the arc of increasing securities regulation over the past twenty years based on the following rationale: (i) LLSV conclude that common law countries providing the highest level of shareholder protection in limiting agency costs are also the countries with the most robust capital markets; (ii) LLSV advise that leaving financial markets alone is not a good way to encourage them; (iii) securities regulators have therefore been willing to accept the LLSV analysis as support for the view that expanded securities regulation can lead to further reductions in agency costs in the public capital markets. However, such an interpretation represents an imperfect interpretation of LLSV. LLSV spend much more time making the point that the increased direct government regulation in the capital markets, evidenced by the experience of the civil code countries, has resulted in poorer economic outcomes. LLSV may bear some blame for the confusion themselves, as the concluding paragraph in the 2000 LLSV paper may be taken out of context as contradicting the core themes they developed throughout the four papers.

Possibly realizing the confusion created by their conclusion in the 2000 LLSV paper, LLS (minus “V” this time) revisited their 1997, 1998 and 1999 papers in 2008.\footnote{Rafael La Porta, Florenico Lopez-de-Silanes & Andrei Shleifer, “The Economic Consequences of Legal Origins” (2008) 46:2 Journal of Economic Literature 285.} The 2008 paper advises that, although their earlier works “have taken some bumps”,\footnote{Ibid at 317. This is an apparent reference to various challenges to their work, in particular their methodology and their putative international rankings of countries according to legal foundations.} their
contribution to capital markets theory “appears to us to still be standing, perhaps even
taller than a decade ago”. 78 Notably, LLS do not reference the 2000 paper whatsoever in
the 2008 paper. One wonders whether this omission results from LLSV’s recognizing the
confusion resulting from the 2008 paper with respect to government intervention in
reducing agency cost. One also wonders whether LLSV were beginning to understand
that their claim from the 2000 paper that “shareholder rights encourage the development
of equity markets, as measured by the valuation of firms, the number of listed firms
(market breadth), and the rate at which firms go public” no longer matched the trendlines
of the U.S. public capital markets. Does swinging the pendulum too far in favour of
investor protection in the public markets (i.e., creating a sufficiently large delta between
investor rights in the public capital markets compared to what is available in the private
capital markets) ultimately work against the arguments that LLSV carefully construct?
As such, can too much investor protection contribute to the phenomenon of public
company decline?

At this date, LLSV have not published anything further addressing the phenomenon of
public company decline that is now evident in the major common-law based legal
systems. How history will treat LLSV’s legal approach to analysis of capital markets is
yet to be determined, but it is suggested that their legacy is not assured, particularly if
regulatory overreach ultimately proves to be a significant contributing factor to public
company decline. Their failure to contemplate that too much investor protection in the
capital markets context might serve as a public markets constraint may complicate their
ultimate legacy. Indeed, one wonders whether the breadth of the academic criticism
already directed at LLSV serves to undermine their assertion about their work standing
taller than when it was written. 79

78 Ibid.

79 The criticisms of LLSV are wide-ranging, particularly in scholarship from civil law countries. For a
2009.6 Brigham Young University Law Review 1671.
2.2.4- Analysis of the IPO Decision-Making Process

One of the core assumptions of the research project undertaken for this Dissertation is that firms go public as the result of the conscious choice of senior decision-makers. As previously stated in this Dissertation, this assumption is generally taken as an obviosity in capital markets academia and has not been the subject of significant discussion. However, there are a few notable exceptions where the issue of the conscious decision to pursue an IPO versus other available alternatives has been analyzed doctrinally and empirically.

The first empirical analysis of the topic appears to have been undertaken by R.D. Ransley of the London Business School in 1984, who completed a short survey of executives taking their companies public in the U.K. to determine their motivations.80 Ransley concludes that prospects for growth by acquisition are the primary motivating factor in British IPOs, followed in priority by securing funds for organic growth and repayment of debt.81

An ambitious empirical analysis on Italian IPOs was completed in 1998 by Marco Pagano, Fabio Panetta and Luigi Zingales (referred to herein as “Pagano”).82 This team takes advantage of their access to a unique database containing financial statements and credit costs for a large number of public and private Italian companies going back several years. This unique dataset allows Pagano to conduct analysis of the financial positions of firms that complete an IPO going back several years before the IPO. In their article, Pagano outlines the various factors that have been posited in the academic literature as being costs of going public and benefits of going public, and apply statistical models to

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81 Ibid.

ascertain which can be demonstrated as accurate through analysis of their dataset.

Pagano concludes that the most important factor in predicting the likelihood of an IPO is the “market-to-book ratio at which firms in the same industry trade: a one standard deviation increase in the market-to-book ratio raises the odds of an IPO by 25%.”\(^8^3\) In other words, the more frothy the public market for a particular industry, the more likely that additional companies in the industry will choose to go public to take advantage of the attractive valuations. Additionally, maturity of the firm is found to increase IPO probability (older firms are more likely to go public in the Italian context). On the costs side, the fixed costs of going public are found to be a significant deterrent, especially for smaller companies.

Although Pagano acknowledges the significant limitations in extrapolating general principles for international application from the Italian data due to the unusual nuances of the Italian IPO market, this article has been extensively cited in the past two decades and clearly remains influential in IPO analysis. One wonders whether the continuing popularity of the Pagano study is indicative of how difficult it is to generate empirical evidence on the factors influencing the IPO decision. It also may reflect the inherent bias of finance academics in favor of “hard” empirical evidence generated from financial datasets compared to the “soft” data gleaned from surveys of decision-makers.

Two additional studies focus specifically on the timing element of the IPO decision, considering the impact of the particular market conditions.\(^8^4\) Both studies conclude that firms indicate strong preferences to time their IPOs in relatively hot markets, leading to clusters of IPO offerings offset by periods of diminished activity. These conclusions are intuitive to market observers, and certainly support the underlying position that both the

\(^8^3\) *Ibid* at 28.

occurrence and the timing of the IPO are conscious decisions made by the senior decision-makers in the firms. Because the participants have flexibility, they will logically choose to complete the IPO during market periods that are most advantageous to the firm to secure the highest possible valuation and minimize IPO dilution.

In 2003 James Brau, Bill Francis and Ninon Kohers undertook an American study that was similar to Pagano in its scope of coverage (i.e., evaluated data from nearly 10,000 private companies), but focused on the specific issue of factors that affect the choice of company decision-makers to pursue an IPO versus selling out to another firm.85 The summary of the findings is as follows:

Our results show that four factors—industry, market-timing, deal-specific, and to a lesser degree demand for funds—play a role in the IPO versus takeover choice. Specifically, the concentration of the industry, the high-tech industry status of the private firm, the “hotness” of the IPO market relative to the private target takeover market, the current cost of debt, the percentage of insider ownership maintained in the firm, and the size of the firm are all positively related to the probability that a firm will conduct an IPO. In contrast, firms in high market-to-book industries, financial service firms, firms in high debt industries, and deals involving greater liquidity for selling insiders show a stronger likelihood for takeovers.86

The most notable element of the Brau study is that it seems to contradict one of the main conclusions of Pagano on the motivation for going public. Pagano concluded that high market-to-book valuations increased the likelihood of going public, while Brau states that firms in industries that have high market-to-book valuations are more likely to exhibit a preference for selling out to third parties rather than conducting their own IPOs. Although making multiple references to Pagano in terms of comparing their methodologies, Brau does not devote much analysis to explaining the difference in conclusions between the two studies. Nevertheless, it is clear that Brau does not dispute

86 Ibid at 583.
Pagano’s data or results, but rather is asking a fundamentally different question than Pagano that is not obvious at first glance. Pagano’s research essentially asks the question “what factors increase the likelihood of an IPO for all companies in Italy”? Brau’s research asks the question “what factors push a company towards an IPO versus a takeover”? Pagano concludes that having a relatively high industry market-to-book ratio increases the probabilities that a company will pursue an IPO transaction compared to companies in low market-to-book industries. However, having a high market-to-book ratio also increases the chance of a company selling out in a takeover to an even greater degree according to Brau. As such, Brau’s conclusions do not necessarily contradict Pagano’s conclusions, although Brau’s methodology and scope of coverage are more illuminative and are clearly more relevant to the topic of public company decline.

This portion of the literature review ends with consideration of two different research projects that have studied motivations for going public, one in the U.S. and the other in Europe. The research project in the U.S. was undertaken once again by James Brau, this time in collaboration with Stanley Fawcett.  

Brau/Fawcett focused their survey on three different types of companies: (1) those that completed an IPO; (2) those that initiated and then withdrew an IPO; and (3) those that never contemplated an IPO. With respect to the substantive portion of the analysis, the two elements of the Brau/Fawcett research project that are particularly relevant to the topic of public company decline are IPO motivation and the decision to remain private. Brau/Fawcett conclude that the primary motivation for completing an IPO is the desire to


88 Ibid at 399.
grow through acquisitions using company stock as a currency. The primary motivation to withdraw or not to pursue an IPO is the desire to retain control of the company, both with respect to decision-making authority and equity ownership.

A similar study was undertaken and published in 2009 by Franck Bancel and Usha Mitoo, this time focusing on the motivations of the CFO’s of European companies in going public. This work was later reprised as a chapter, along with a summary of the Brau \ Fawcett research, in the compendium of academic articles on IPO theory published as *Handbook of Research on IPOs*. Bancel \ Mitoo focus almost exclusively on reasons for going public and do not repeat Brau \ Fawcett’s survey question on the reasons for avoiding IPOs or pulling IPOs, other than a single open-ended text question on the perceived costs of the IPO. However, Bancel \ Mitoo’s survey questions on the reasons for going public are significantly more comprehensive than what is asked by Brau \ Fawcett’s survey, which was achievable because Bancel \ Mitoo focus primarily on the IPO motivation question whereas Brau \ Fawcett also were seeking input from survey participants on multiple other issues relating to IPO theory. Bancel \ Mitoo conclude that:

the motivations for an IPO differ significantly across firms, countries, and legal systems. Large firms consider the enhanced external monitoring to be the most important benefit; small firms value the ability to raise capital for growth, and family-controlled firms view the IPO as a vehicle to strengthen their bargaining power with creditors without relinquishing control. The English system firms value the ability of the pre-IPO investors to exit and enhanced stock liquidity as the most important benefits of an IPO whereas the Italian firms identify the reduction in the

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89 *Ibid* at 407.

90 *Ibid* at 423.


cost of financing as most valuable. The European and US CFOs have similar views on most benefits of an IPO but disagree strongly on the costs (both direct and indirect) of an IPO.

Our evidence suggests that the decision to go public is a complex one that cannot be explained by one single theory because firms seek multiple benefits in going public. We find strong support for the IPO theories that focus on financial and strategic considerations, such as increased credibility and reputation, and financial flexibility for growth, moderate support for theories that emphasize exit strategy, balance of power, monitoring, or mergers and acquisitions as a major benefit, and less support for the asymmetric information and cost of capital theories.93

As mentioned in the introduction to this literature review chapter, both the Brau \ Fawcett and the Bancel \ Mitoo research projects are discussed at length later in this Dissertation in the “Research Methodologies” and “Analysis of Results” chapters.

2.3- American Literature on Public Company Decline

2.3.1- American Government & Industry-Sponsored Literature

Dealing with this topic chronologically, the starting point of the analysis for government and industry-sponsored literature on the phenomenon of public company decline in the U.S. is a 2006 report authored by the U.S. Chamber of Commerce.94 This report is critical of what the Chamber of Commerce argues is an anti-business environment created as a result of SOX and other regulatory reforms adopted in response to the string of major corporate accounting scandals (Worldcom, Enron, etc.) at the start of the century. The Chamber of Commerce report is particularly critical of Sarbanes-Oxley, stating that “just because something has the corporate governance label doesn’t mean that it really helps corporate governance—or that the costs imposed provide corresponding benefits. The best example is Section 404 of Sarbanes-Oxley.”95 The Chamber of

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93 Supra note 91 at 846.


95 Ibid at 16.
Commerce concludes by warning that the dominant position of the U.S. capital markets is at risk and advises that “we must ensure that our system is one of high standards—legal, ethical, and regulatory—but not one of duplicative, unnecessary, or ineffective regulation. Unless we are very careful to nurture the competitiveness of our economy at all levels, we will find our nation poorer and less powerful as a result.”96 The Chamber of Commerce report is also markedly critical of what they classify as union activism to advance their own agendas, but instead is couched as shareholder rights initiatives.

The second source to consider is the Interim Report of the Committee on Capital Markets Regulation issued in 2006.97 This committee is popularly known as the “Paulson Committee”, as it was created with the backing of Treasury Secretary Henry M. Paulson Jr. The Paulson Committee was comprised of a blue-ribbon panel of American business, financial, investor and corporate governance, legal, accounting and academic leaders to study ideas to enhance the competitiveness of the U.S. capital markets.

At the time of its creation, there was a growing consensus that the U.S. was losing its dominant position as the preferred locus for foreign IPOs, but the full extent of the trendline of public company decline for domestic listings in the U.S. was not yet understood. The Paulson Committee ultimately identifies four areas in which it makes recommendations to approve U.S. capital market competitiveness: (1) Regulatory Process: the Paulson Committee recommends that the SEC should focus its regulations as more of a “risk-based process, focusing on the costs and benefits of regulation” compared to its existing “regime of detailed prescriptive rules”;98 (2) Private and Public Enforcement System: the Committee recommends litigation reform with caps and safe

96 Ibid at 25.


98 Ibid at xii.
harbors; 99 (3) Shareholder Rights: the Committee states its belief that the U.S. is falling behind other countries with respect to protection of shareholder rights, recommending shareholder approval of poison pills, majority voting requirements and alternative dispute resolution mechanisms for shareholder disputes; 100 and (4) Sarbanes-Oxley: the Committee supports the retention of SOX in its current form, with minor tweaks in implementation to allow rational compliance on a multi-year basis to reduce costs of annual attestation.

The third report to consider is a 2007 McKinsey & Company report commissioned jointly by New York Mayor Michael Bloomberg and U.S. Senator Chuck Schumer. 101 The McKinsey report is similar in mandate to the Paulson Committee report in that it is designed to assess the risks to the U.S. dominant position in international public equity markets, although the McKinsey report is focused specifically on protecting New York’s position as the preeminent global financial hub. Notably, the McKinsey report is significantly more critical of the chilling effects of SOX implementation on the capital markets than the Paulson Committee report. The McKinsey report concludes by stating that providing clearer guidance on SOX implementation and implementing immediate litigation reform to stem securities class-action suits are “critical national short-term priorities”. 102

The next item of relevance in time sequence is the report of the U.S. IPO Task Force in 2011 entitled “Rebuilding the On-Ramp: Putting Emerging Companies and the Job

99 Ibid.

100 Ibid at xii-xiii.


102 Ibid at 96.
Market Back on the Road to Growth". The title of the document demonstrates that the IPO Task Force draws an inextricable line between job growth and a robust IPO market, relying heavily on the work of Weild and Kim that is discussed later in this chapter. The IPO Task Force report states that “[d]uring the past 15 years, the number of emerging growth companies entering the capital markets through IPOs has plummeted relative to historical norms. This trend has transcended economic cycles during that period and has hobbled U.S. job creation.” The report goes on to summarize its findings on factors contributing to public company decline:

In summary, the IPO Task Force has concluded that the cumulative effect of a sequence of regulatory actions, rather than one single event, lies at the heart of the crisis. While mostly aimed at protecting investors from behaviors and risks presented by the largest companies, these regulations and related market practices have:

1. driven up costs for emerging growth companies looking to go public, thus reducing the supply of such companies,
2. constrained the amount of information available to investors about such companies, thus making emerging growth stocks more difficult to understand and invest in, and
3. shifted the economics of the trading of public shares of stock away from long-term investing in emerging growth companies and toward high-frequency trading of large-cap stocks, thus making the IPO process less attractive to, and more difficult for, emerging growth companies.

Ultimately, the IPO Task Force makes three key recommendations to stimulate IPO activity: (i) provide an exemption of five years to allow new public companies to get up to speed before full compliance is required on financial certification (i.e., establish an “on-ramp” for newly public companies); (ii) improve information flow on private and

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104 Ibid at 1.

105 Ibid 1-2.
public companies using updated methods of communication; and (iii) lower the capital
gains rate for profits made on long-term holders of IPO shares.

The first recommendation of the IPO Task Force with respect to the five year “on-ramp”
was ultimately adopted as a core component of the U.S. JOBS Act in 2012. The JOBS
Act was specifically introduced as a regulatory measure to stimulate the number of IPOs
in the U.S. as a driver of job creation. Other measures adopted in the JOBS Act are
amendments lifting the ban on solicitations for exempt offerings, creation of crowd-
funding exemptions, an increase in exempt capital limits and an increase in the threshold
of shareholders of record allowed before registration becomes mandatory. The impact of
the JOBS Act is assessed by academic commentators discussed hereafter.

The next industry report of relevance is a white paper released in 2014 by Oliver Wyman
Financial Services. This white paper contains novel ideas on measures to increase
small and medium enterprise (“SME”) financing and growth. These recommendations
include the creation of an international electronic trading platform exclusively for SME’s
with reduced regulation and lower compliance costs, along with the idea of a mutualized
guarantee network amongst all SME’s traded on the electronic platform to enhance
access to credit. While interesting, there is no evidence that these particular
recommendations ever made it beyond the proposal stage due to the inherent
complexities associated with developing a trans-national SME trading platform.

The final industry document discussed here is the most recent major report on public
company decline issued by the U.S. Committee on Capital Markets Regulation in

106 United States of America, Bill H.R., 3606, Jumpstart of Business Startups Act, 112th Congress, ss.101-
108.

Financing” (2014) Oliver Wyman Financial Services White Paper, online:<https://www. oliverwyman.com
This follow-up to the Paulson Committee Report states that the U.S. public markets situation has further deteriorated in the intervening decade as the U.S. has continued to lose ground to foreign equity markets. As for the prime culprit specifically responsible for this situation, the 2017 Report points the finger at “excessive regulation and litigation risk”. As a proposal to move forward, the U.S. Committee on Capital Markets Regulation recommends the following:

As a first step towards reinvigorating U.S. public equity markets, the Committee recommends that the SEC work with private U.S. companies to better understand why they are not going public and whether specific regulatory changes could incentivize them to do so. As a second step, the SEC should empower U.S. shareholders of public companies to adopt a mandatory system of individual arbitration to replace securities class actions that are costing public companies and investors billions of dollars each year.

The first recommendation specifically instructs the type of empirically-based research project that has been executed in this Dissertation. It will be interesting to see whether the publication of this Dissertation receives any notice in the U.S., or whether American scholars believe that there are too many differences in the public markets ecosystem and regulatory structure between the U.S. and Canada to draw any inferences from this Dissertation that would be relevant to the U.S. situation. Given the degree to which finance academics have cited the Italian study of Pagano et al over the years, there is some hope that there will be American scholars (and maybe regulators as well) who see value in considering the analysis and conclusions of this Dissertation.

2.3.2- American Public Company Literature Focused on Sarbarnes-Oxley

One of the earliest and most influential critiques of SOX was published in 2002 by a

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109 Ibid at 9.

110 Ibid at 10.
George Mason University law professor, the late Larry Ribstein. Ribstein notes that the SOX provisions allowing courts to establish personal liability on the basis of “ex post judgement that the executive certified controls proved to be inadequate” may actually increase agency costs by incentivizing management “to act more conservatively than the owners would prefer”. Ribstein further hypothesizes that SOX will increase the relative benefits of being private compared to being public, and could result in a reduced number of public companies available for investors. Ribstein concludes by stating that “this effect would be ironic in light of the law’s intent to lure investors back into the market”.

Corporate lawyers Marc Morgenstern and Peter Nealis are the authors of a 2004 paper in which the increase in going-private transactions post-SOX adoption is noted, but the authors question the effectiveness of going-private transactions in ultimately avoiding SOX compliance. They point out that many of the going-private processes rely on institutional debt, and that institutional debt is increasingly demanding contractual rights forcing management to continue to report on the SOX certification standards, thereby making SOX avoidance a poor reason for pursuing a going-private transaction. The same argument is made in greater depth by Georgia law professor Robert Bartlett in 2009, who determines that companies going private after SOX are even more likely to subject themselves to SEC reporting obligations through contractual provision than prior to the adoption of SOX.

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112 Ibid at 36-37.

113 Ibid at 39.


In 2007, Ellen Engel, Rachel Hayes and Xue Wang published a study indicating that the likelihood of smaller firms going private after the adoption of SOX has increased, and that the market reaction to smaller firms announcing their intention to go private is more positive than when larger firms announce their intention to go private.\textsuperscript{116}

One of the most interesting academic articles (in terms of its applicability to the core topics covered by this Dissertation) focusing on the impact of increased compliance costs associated with SOX in the U.S. public markets is a 2004 study published by Stanley Block. Block’s study involves a survey of former public companies who went private in the U.S. between January 2001 and July 2003 (which overlays the 2002 adoption of Sarbanes-Oxley).\textsuperscript{117} Block was able to secure survey responses from representatives of 110 out of 236 companies who went private in the U.S. during this interval. Based on his data, Block squarely blames the increased compliance costs associated with SOX as one of the main reasons why an increasing number of companies have gone private, particularly focusing on SOX’s disproportionate effect on smaller issuers.\textsuperscript{118} However, Block also identifies other factors cited by the management of the companies as motivations for their decisions to go private, including the pressures and time constraints for senior management, lack of analyst coverage and insufficient liquidity for their shares.\textsuperscript{119} Each of these factors is, as discussed later in this Dissertation, amongst the factors ultimately tested in the PCD Study.\textsuperscript{120}

In his 2010 work, Penn State finance professor Peter Iliev determines that SOX

\begin{itemize}
\item \textsuperscript{118} \textit{Ibid} at 37.
\item \textsuperscript{119} \textit{Ibid} at 40.
\item \textsuperscript{120} Ultimately, the Block article contains only a high-level summary of the outcomes of his survey results and does not provide any detail on his research methodology. As such, Block is not used as a source of comparison for the PCD Study methodology and outcomes later in this Dissertation.
\end{itemize}
compliance essentially doubles audit fees of firms that are forced to certify financial statements. He further concludes that the evidence indicates that some companies deliberately manage their market capitalizations to stay below the $75 million public float threshold for SOX compliance and that SOX has the effect of reducing the overall value of smaller public companies.

In his 2010 PhD thesis, Kim Jaehoon analyzes recent going-private transactions in the U.S. to determine whether the high compliance costs associated with SOX caused the going-private boom or a private equity fundraising boom. He concludes that the evidence is insufficient to establish a causal link between SOX and the increase in going-private transactions across all categories of transactions. However, there are certain sub-categories of going-private transactions for which a causal link to SOX compliance costs can be established.

Finally, in a 2014 article, two Harvard professors, law professor John Coates and accounting professor Suraj Srinivasan, undertook an extensive review of over 120 studies completed on SOX in the fields of accounting, law and finance. Coates / Srinivasan summarize the paradox of their conclusion as follows:

[T]he law continues to be fiercely and relentlessly attacked in the US, particularly in political election battles and during legislative debates, reflected in part in provisions of the Dodd- Frank Act and the JOBS Act, which can be seen as a partial legislative rollback of the Act. On the other hand, survey evidence… suggests that informed observers, including corporate officers and investors, do not believe that the Act – as implemented, taking into account significant relaxations of its most


122 Ibid at 1164.


criticized provision (section 404(b) internal control attestation) – has been a significant problem, and may well have produced net benefits, and the law has been copied at least in part by other countries. What explains this puzzle of continued hostility amid acquiescence or even mild praise by those most directly affected by the Act? 125

Notwithstanding that many of the affected parties reported a net benefit to SOX compliance, Coates / Srinivasan acknowledge that there is a general perception that SOX has increased “the risk of personal liability facing managers and directors and in the risk of reputational harms and opportunity costs created by litigation.”126 They conclude by conceding that, if this is true, then “difficult-to-explain and legitimate business risks may be foregone, firms may decline to go public or otherwise avoid the burdens of the law”.127

2.3.3- American Public Company Decline Literature Positing Other Causes

The first body of literature that is noteworthy in the timeline of academic articles considering public company decline in the U.S. beyond analysis of the impacts of SOX is a series of three white papers published by accounting firm Grant Thornton, LLP. These white papers are written by David Weild and Edward Kim, two former high-level investment bankers and, subsequently, senior officers of NASDAQ who now lead the Capital Markets Practice Group at Grant Thornton LLP.

The categorization of the Weild / Kim series of white papers in terms of their proper fit within this literature review chapter is a challenge, resulting from uncertainty as to whether they should be included in this sub-section as academic literature or relegated to the earlier sub-section on government and industry-sponsored literature on public company decline. Clearly, these white papers were written under a corporate mandate from Grant Thorton LLP, a commercial entity with a significant interest in ensuring the

125 Ibid at 3.
126 Ibid at 56.
127 Ibid.
maintenance of robust capital markets to support their public audit practice. Therefore, one might assume that the Weild / Kims series papers are commercially-influenced and should not be discussed alongside the academic materials which have the benefit of academic independence.

However, the Weild / Kim analysis of public company decline in the U.S. represents the first analysis in any form of literature to identify the full extent of the phenomenon in the U.S. They are also the first commenters to allege that the trend is caused by something more fundamental and complex than the increased compliance costs associated with SOX implementation. The theories espoused by Weild / Kim have proven to be extremely influential throughout all the subsequent academic literature and are cited as key authorities in every academic article of note on public company decline. There is little doubt that Weild / Kim are properly considered as constituting some of the foundational research on public company decline in the academic world. As such, the decision was reached that analysis of the Weild / Kim stream of literature should occur in this core section of the literature review.

The first paper by Weild / Kim entitled “Why are IPOs in the ICU” was released in 2008.128 In this ground-breaking work, Weild / Kim advise that they consider the increase in compliance costs of SOX to be a lesser contributing factor to public company decline: “[W]hile Sarbanes-Oxley did increase the costs and time required to go public, it is a bit of a red herring in that it is only one factor, and probably not the major factor, in the demise of the IPO market.”129 Instead, Weild / Kim point to another regulatory reform initiative, also designed with the intention of helping retail investors, as the main culprit:

Barreling down the track in 2001 was the death star of decimalization. While it’s difficult to argue in theory with the change from fractional to

129 Ibid at 7.
decimal increments, in hindsight the markets would have been better served by a reduction of increments to just 10 cents, rather than the penny increments for which the SEC pushed. The resultant loss of 96 percent of the economics from the trading spread of most small cap stocks — from $0.25 per share to $0.01 per share — was too much of a shock for the system to bear. Trade execution had to be automated. Market makers no longer exchanged information over the phone scrambling to match buyers with sellers on the other side of a trade. Liquidity, supported by capital commitment, was quickly a thing of the past in the NASDAQ system. In the name of championing consumers, the damage was done. […]

Generally speaking, economists and regulators have maintained that competition and reduced transaction costs are of great benefit to consumers. This is only true to a point. When it comes to investments, higher front-end or transaction costs and tax structures that penalize speculative (short-term) behavior can act as disincentives to speculative behavior and create incentives for investment (buy-and-hold) behavior that may be essential to avoiding boom-and-bust cycles and maintaining the infrastructure necessary to support a healthy investment culture. As markets become frictionless (i.e., when there is little cost to entering into a transaction), it becomes easier for massive numbers of investors to engage in speculative activity. […]

Regulators may have unwittingly done a real disservice to mom and pop investors by enabling traders to hijack the markets for speculation.130

To remedy the phenomenon of public market decline, Weild / Kim propose an alternative market structure that they suggest firms can opt into on a voluntary basis. The key features of this alternative market are suggested to include: (i) investment open to all investors (distinguishing it from the Rule 144A exempt market); (ii) firms complying with the same SEC regulatory disclosure obligations as the primary market; (iii) a quote-driven market supported by market makers who commit capital to the market-making enterprise; (iv) investors having the ability to execute trades only through brokers, ensuring higher commission rates; and (v) tick sizes between $0.10 and $0.20 depending on share price.131 Based on their proposed solutions, it is clear that Weild / Kim blame decimalization for destroying the IPO ecosystem of brokerage support that provided

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130 Ibid at 9.
131 Ibid at 9.
trading liquidity and analyst coverage of public companies. Their solution is essentially an alternative system in which we return to the past through a voluntary alternative market structure that eliminates the speculators, high volume electronic trading systems and day-traders and advantages the investment bankers.

Weild / Kim follow up their 2008 paper a year later with a sequel entitled “A Wake-Up Call for America”.132 In this paper, they reiterate all of their arguments from the earlier paper, but also go the extra step of quantifying what they claim is the loss in job creation resulting from the ongoing public company decline. Clearly, they don’t feel that they have received sufficient academic and popular traction from their 2008 paper, so the 2009 paper utilizes more emotional language to ensure that the depth of the crisis cannot be misunderstood by the readers. In particular, Weild / Kim describe the phenomenon of public company decline as the “The Great Depression in Listings” and the rise of speculators, day-traders and high-volume electronic institutional trading as “Casino Capitalism”. Critically, they also calculate that the total number of jobs lost in the U.S. as a result of public company decline at 22 million between 1997 and 2009. It is this calculation that garners all of the subsequent headlines, and grabs the attention of both the capital markets industry and the regulators.

It cannot be stated for certain that the Weild / Kim papers were the immediate impetus for the creation of the U.S. IPO Taskforce, but it is clear that the Taskforce is deeply impacted by the Weild / Kim articles. The headline statistic of 22 million jobs lost in the U.S. due to IPO decline is cited on the first page of U.S. IPO Taskforce report.133 Clearly, the 2009 paper by Weild / Kim brought the reality of public company decline into the public consciousness, leading to academics finally beginning to pick up the thread and undertake their own analysis in the area. The 2008 and 2009 Weild / Kim papers are amongst the most influential pieces in all of the academic literature, and not a


133 Supra note 103 at 1.
single article has been subsequently written on the topic without acknowledging the 2008 and 2009 contributions of Weild / Kim.

Weild / Kim return again in 2012\textsuperscript{134} with their third white paper on public company decline, this time in direct response to the implementation of the U.S. JOBS Act.\textsuperscript{135} Weild / Kim argue in the 2012 paper that the JOBS Act got two-thirds of the way to correcting the problem by providing “(1) a framework to lower costs for small companies accessing the public markets, and (2) a framework to improve company communication with investors in the public and private markets.”\textsuperscript{136}

However, they also point out that the JOBS Act completely fails to provide the third leg of the “stool required to revive the U.S. IPO market”.\textsuperscript{137} This time, instead of arguing for an alternative market where issuers can contract to enrich investment banks in exchange for providing liquidity and research coverage, Weild / Kim propose two new alternatives to solve the tick size dilemma. The first alternative allows issuers to set their own tick size in consultation with advisors “in order to arrive at an optimal increment for its shares that would address both the needs of the ecosystem and the liquidity in its shares”.\textsuperscript{138} The second alternative is to allow the SEC to set algorithmic customization of tick size at 50% of the average bid/ask spread over a specified period (they suggest 12 months).\textsuperscript{139} Both of these alternatives proposed by Weild / Kim are interesting and likely to be more palatable to regulators than their earlier alternative market suggestion, which was an obvious non-starter from a public policy perspective.


\textsuperscript{135} Supra note 106.

\textsuperscript{136} Supra note 134 at 3.

\textsuperscript{137} Ibid.

\textsuperscript{138} Ibid at 4.

\textsuperscript{139} Ibid at 5.
It is apparent that Weild / Kim received a significant degree of traction at high levels of government on this argument. In 2014, the U.S. House of Representatives passed a bi-partisan vote directing the SEC to initiate a pilot program testing the impact of increased tick sizes in the market. Under this congressional directive, the SEC pushed the U.S. Financial Industry Regulatory Authority (“FINRA”) to implement a two-year pilot program in the public markets. FINRA implemented the program on October 3, 2016, increasing tick sizes from $0.01 to $0.05 for a sample of small capitalization stocks.\(^{140}\)

The SEC pilot program expired in October 2018 with little fanfare or business media notice. It has generally been regarded as a failed experiment by the SEC and other business media for failing to materially enhance liquidity.\(^{141}\) FINRA’s own official analysis of the pilot program reports that both liquidity and pricing did improve for the listed companies in the experimental group, but not by a high enough amount to offset the cost associated with the program. Also, FINRA reports that the number of market makers did not increase for the experimental stocks. The conclusion is obvious: this particular regulatory initiative, designed specifically to address one of the factors believed to contribute to public company decline, did not deliver the hoped-for gains.

This experimental failure does not necessarily undermine the core analysis and conclusions of Weild / Kim, but it does call into question the degree to which tick sizes contribute to the overall phenomenon of public company decline. In fairness to Weild / Kim, though, a two-year pilot of a limited number of companies may not be a sufficiently large data sample to disprove their theory, and the experiment clearly did not control for the countervailing effects of other contributing factors of public company decline that could well have served as a drag on the companies included in the experiment. Perhaps most telling is the Barron’s article on the topic which reported that the SEC, FINRA and


the two congressmen who sponsored the initial vote that led to the SEC pilot study all declined to provide any comment on the pilot study’s demise, evidencing that few in government currently want to associate with the SEC pilot program at this point. As such, we are unlikely to see another regulatory attempt to legislate tick sizes in the U.S. any time soon, and the implications of this experiment will be discussed later in this Dissertation under the “Implications of PCD Study for Regulatory Reform Initiatives” chapter.

The analysis now turns to the stream of U.S.-based academic literature published in the traditional peer-reviewed journals and on which there is no question of independence of the authors. This portion of the analysis starts with a series of articles written by University of Florida finance professor Jay Ritter and his collaborators. The analysis of the Ritter articles starts with an article entitled “Where Have All the IPOs Gone?” published in 2013. Preliminary versions of this article circulated on the internet for a year before publication and served as the foundation for a 2012 presentation made by Jay Ritter to the SEC Advisory Committee on SME’s. In both the 2012 presentation and the 2013 article, Ritter, Gao and Zhu (referred to herein as “Ritter”) state that conventional wisdom on the causes of IPO decline continues to be that increased compliance costs associated with Sarbanes-Oxley, along with the reductions of tick sizes, are primarily to blame. Ritter refers to the combination of these two factors as the “regulatory overreach hypothesis”. While not discounting the relevance of the regulatory overreach hypothesis completely, Ritter advance their own unique theory that

142 Ibid.
145 Ibid at slide 6.
146 Ibid at slide 7.
they believe are more important in explaining the regulatory decline phenomenon:

We posit that the advantages of selling out to a larger organization, which can speed a product to market and realize economies of scope, have increased relative to the benefits of operating as an independent firm. Consistent with this hypothesis, we document that small company IPOs have had declining profitability, consistently low returns for public market investors, and an increasing likelihood of being involved in acquisitions.147

In a follow-up article in 2014, Ritter further expounds on the theory which is characterized as “the fundamental economic change hypothesis”:

[G]etting big fast is more important than it used to be, at least in some industries such as the technology industry, and globalization and improvements in communication technology are behind the change. The implication is that being a small independent company and growing organically (that is, internally) is increasingly an inferior business strategy compared to an alternative strategy of getting big fast, which frequently can be accomplished most efficiently through mergers and acquisitions. This hypothesis implies that young firms are now more likely to make acquisitions or sell out in a trade sale than to go public. 148

Under Ritter’s hypothesis, the fundamental economic change leading to public company decline is irreversible and there are unlikely to be any regulatory panaceas identified that can single-handedly reverse the trendline of decline in public companies. However, Ritter believes that maintaining functioning (if not robust) equity markets is worthwhile and that public companies continue to play an important role in the U.S. economy.149 Ritter does provide the following recommendations for limiting the further decline of U.S. public markets: (1) lowering the costs associated with IPOs by allowing auctions rather than book-building; (2) reforming the legal system to discourage poorly grounded class-action lawsuits; and (3) reforming the U.S. copyright system. The limited scope of these proposed reforms demonstrates that Ritter is somewhat pessimistic about the ability

147 Supra note 143 at 1663.


149 Supra note 17.
for large-scale regulatory intervention to be successful in arresting the continuing decline of the U.S. public company.

The next article meriting discussion is an analysis of the impact of the JOBS Act by Michael Dambra, Laura Casares-Field and Matthew Gustafson (collectively referred to as “Dambra” herein).¹⁵⁰ The Dambra article finds a statistically significant increase in IPO activity after the JOBS Act implementation compared to the baseline activity prior to the JOBS Act, but the positive impact is restricted primarily to biotechnology and pharmaceutical-based industries. The uptick is also determined not to be of sufficient size to offset the rate of attrition of public companies. As such, Dambra does not predict that the JOBS Act impact will be sufficient to offset ongoing public company decline,¹⁵¹ a fact which has been borne out by continued decline in the number of listed public companies over the four-year interval since the Dambra article was published.

We now turn to a series of six related articles, most of which are written as collaborations by a group of finance professors whose common background is that they all were on faculty or completed their PhD’s at Ohio State University over the same time period in the early 2000’s. This series of articles is referred to herein as the “Stulz” papers for convenience, as Rene Stulz is the most senior academic in the group and is the only author that is common to all five papers.

The Stulz papers commence in 2013 with the publication of “The US Left Behind? Financial Globalization and the Rise of IPOs Outside the US”.¹⁵² In this article, the authors focus on the decline of the American public markets in comparison to global public markets, blaming financial globalization for the decline in U.S. dominance of public equity markets since 1997 and painting a rosy picture of the status of public

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¹⁵¹ Ibid at 122.

companies in the rest of the world. Beyond globalization, the authors do not have any firm beliefs as to the causes of the decline in the U.S. They do, however, advise that the regulatory changes in general, and SOX in particular, cannot explain U.S. public company decline.\footnote{\textit{Ibid} at 571.}

In the next paper in the Stulz timeline, published in 2017, the authors continue to expound on the views previously stated in the 2013 paper.\footnote{Kathleen M. Kahle and Rene M. Stulz, “Is the US Public Corporation in Trouble?” (2017) 31:3 Journal of Economic Perspectives 67.} Once again, the authors point out that the popular bogey-man of SOX compliance costs does not properly explain the timeline of U.S. public company decline. The authors discuss the theories of Weild / Kim and Ritter as well as alternative explanations of the decline, but do not posit any specific theories of their own or take any position as to what they believe are the principal contributing factors.

Two more Stulz papers were published in 2017, once again reiterating the same themes: (i) the U.S. is getting left behind the rest of the world; (ii) the IPO market and public company health are far better everywhere outside of the U.S.; and (iii) nobody is sure as to the actual causes of public company decline, but the popular culprits of regulatory overreach associated with Sarbanes-Oxley and decimalization can be demonstrably proven to not be the major contributing factors.\footnote{Kathleen M. Kahle and Rene M. Stulz, “Is the US Public Corporation in Trouble?” (2017) 31:3 Journal of Economic Perspectives 67; and Craig Doidge, G. Andrew Karolyi and Rene M. Stulz, “The US Listing Gap” (2017) 123 Journal of Financial Economics 464.} Here, the authors refer to “the US Listing Gap” to describe the difference in what the U.S. IPO activity should be compared to the rest of the world based on historical market share.

This paper does provide some new insights beyond the themes that are repeatedly recycled in the first four Stulz papers, principally in analysis of the increasing relevance of research & development and the resulting increase in balance sheet intangible assets in the modern U.S. economy. On this point, Stulz points out the following:

The fact that GAAP accounting is less instructive about the economic value of firms with more intangibles works especially against young firms. An established firm with high intangibles will have an easier time convincing markets of its economic value. As a result, the growth in the importance of intangibles makes it less likely that young firms will want to join the exchanges and more likely that they will seek private funding or be acquired. […]

The fact that young firms investing in intangibles tend to have GAAP losses even though they are creating economic value provides another reason why many firms may want to stay away from public markets. 157

Later on, Stulz deepens his analysis to include consideration of the ramifications of the technology-based economy on the competitive positions of companies pursuing public offerings. Stulz expresses the belief that the public markets are inherently less attractive for firms that invest in development of intangible assets given the competitive risk of public company disclosure obligations. 158

This fifth paper in the Stulz series offers more insights than the earlier four articles, which all get hung up on the issue of the unique American nature of public company decline with little else to add to the academic canon on the topic. The two key points that Stulz makes in the last article with respect to the challenges of technology companies dealing with public company reporting and the potentially chilling effects of disclosure on their competitive position are both suggestions that merit further analysis. As a counterpoint, however, the PCD Study results discussed later in this Dissertation do not support the public disclosure disadvantage as being in the class of most critical factors in public company decline.

157 Ibid at 6.
158 Ibid at 10.
The sixth Stulz paper is a further collaboration of the co-authors of the first four Stulz papers discussed above.\(^{159}\) In this last Stulz paper, the authors look back at Jensen’s 1989 article, “The Eclipse of the Public Corporation”, which was discussed earlier in this literature review. With respect to Jensen’s predictions in 1989 on public company decline, it is noted that only some of the important predictions have come to fruition. They reiterate their previously-stated belief that public markets in the U.S. remain well-suited for companies with mostly tangible assets, but have been eclipsed by the private markets for companies with primarily intangible assets looking for growth funding. The authors also note that this evolution is problematic in that individual investors are often prevented from gaining access to potentially high-growth investments in companies with intangible asset bases, along with a reduction in transparency as fewer firms go public.

From a Canadian perspective, it is imperative to point that there is no consideration in the Stulz papers of the nature of public company decline outside of the United States. In fact, public company decline is presented in these articles as a uniquely American phenomenon. It is uncertain why the Stulz articles fail to pick up on the occurrence of this phenomenon in other western industrialized democracies, particularly since the key Canadian and European sources discussed later in this literature review pre-date the publication of all but the first paper in the Stulz series.\(^{160}\)

The analysis now turns to consideration of another group of articles that propose a different factor as being the principal contributing cause of U.S. public company decline: namely, the effect of the deregulation of private equity markets as a result of the National Securities Markets Improvements Act of 1996 (“NSMIA”).\(^{161}\) NSMIA increased the ability of private companies to raise significant equity by adding an additional exemption


\(^{160}\) The omission of the Canadian example is even more perplexing considering that Craig Doidge, the first-named co-author of three of the Stulz papers, is a finance professor at Rotman School of Management at the University of Toronto.

for sale of securities to qualified purchasers, and also increased the number of qualified
investors who could participate in hedge funds.

The first article to be considered in this stream was published by Duke corporate law
professor Elizabeth de Fontenay in 2016.162 Fontenay’s theory is succinctly summarized
in the following excerpt:

From its inception, the federal securities law regime created and enforced
a major divide between public and private capital raising. Firms that chose
to "go public" took on substantial disclosure burdens, but in exchange
were given the exclusive right to raise capital from the general public.
Over time, however, the disclosure quid pro quo has been subverted:
Public companies are still asked to disclose, yet capital is flooding into
private companies with regulators' blessing.163

De Fontenay goes on to state her opinion that private companies have essentially become
free riders in the capital markets, taking advantage of the public company disclosure for
pricing and other critical information, which effectively operates as a subsidy from the
public companies to their private market competitors.164

The same theory is advanced in a recent paper co-written by CalTech finance professor
Michael Ewens and Northeastern finance professor Joan Farre-Mensas.165 This article
specifically points the finger at NSMIA and demonstrates the significant increase in
private equity placements completed in the immediate aftermath of its passage. The
thesis of both de Fontenay and Ewens / Farre-Mensas is that private companies will

162 Elizabeth de Fontenay, “The Deregulation of Private Capital and the Decline of the Public Company”
163 Ibid.
164 Ibid at 498.
165 Michael Ewens and Joan Farre-Mensas, “The Deregulation of the Private Equity Markets and the
Decline in IPOs” (2018) Cornerstone Research, Working Paper, online:<https://westernfinance-
portal.org/viewp.php?n= 546476>.
generally choose private alternatives of financing if they are readily available in order to avoid the disclosure obligations and costs of being a public company, and that the series of regulatory reforms increasing the ability to raise capital through private sources is the single biggest contributing factor to U.S. public company decline since the 1996 passage of NMSIA. Notably, this is the theory that maps most directly on the timeline with the actual beginning of the decline of the U.S. public markets starting in 1997.

The final item to be considered in this section is a 2018 article co-authored by two fellows of the Mossavar-Rahmani Center for Business and Government at Harvard, Marshall Lux and Jack Pead. Lux / Pead review the decline of the U.S. IPO market and the number of listed companies, and then turn to discussing the importance of retaining robust public markets in the U.S.

On the issue of relevance of the decline, Lux / Pead come down firmly on the side of believing that public company decline does matter and that there is value in seeking to find ways to combat the decline. They also conclude that the causes of the decline are multi-factorial and intertwined, concluding that five factors are the major drivers of public company decline: “(1) analyst coverage trends, (2) buy-side trends, (3) a shift from active to passive investment strategies, (4) the growth in private capital and (5) increasingly burdensome regulation.” Lux / Pead are also the first writers to point the finger at a new culprit embedded within the analyst coverage trends, Elliott Spitzer:

New York Attorney General Eliot Spitzer’s crusade against research conflicts in the early 2000s led to the Global Analyst Research Settlements in April 2003 that banned any quid pro quo between research and investment banking—meaning the promise of future business for a recommendation. While this eliminated a conflict, it undermined the economics of equity research, forcing a restructuring and rethinking of many research units. The settlement set off a chain of consequences. Investment banks had generally subsidized small-cap coverage with


167 Ibid at 8.
profits from large-cap stocks. Now the economic model of most investment banks focused more tightly on large-cap companies. Smaller companies found themselves in the cold.168

Lux / Pead conclude by providing their recommendations for combatting public company decline, including: (1) increasing the threshold of small company reporting to $250 million; (2) extending the length of the IPO on-ramp in the JOBS Act from 5 years to 10 years; (3) increasing the value of shareholdings required to table a shareholder proposal; (4) allowing mandatory shareholder mediation to replace securities class action litigation; and (5) simplifying the ongoing disclosure requirements.

2.4- European Literature on Public Company Decline

2.4.1- European Business Media

European business media have certainly picked up on the trend of declining public companies in the European capital markets, although not to the same degree as Canadian and American business media. The first business writer to pick up the thread is Kate Burgess of the Financial Times, who writes a 2015 article documenting the decline in the number of IPOs being completed in both Europe and the U.S. Her article focuses on European IPO decline, noting that the rate of companies going public has gone down by half over the past decade.169

Another article written by Duncan Lamont has recently been published in the Financial News.170 Lamont confirms that public company decline has indeed taken hold in the U.K and other Western European countries:

[O]ur analysis finds a similar collapse in the UK and parts of Western Europe. This trend has not been reflected in emerging markets, especially,

168 Ibid at 10.
169 Kate Burgess, “IPOs Are Going Downhill Fast” The Financial Times (22 March 2015) online:<https://www.ft.com/content/08779e32-ce57-11e4-86fc-00144feab7de>.
Asia, where they have grown in prominence. In developed markets however, there is clearly a declining appetite for IPOs and consistently higher numbers of companies delisting (mainly due to mergers and acquisitions) are to blame.\textsuperscript{171}

What is apparent from Lamont’s analysis is that the phenomenon of public company decline is evidenced throughout developed Western democratic countries, but not Eastern European countries. That this trend does not exist in Eastern Europe is not surprising, as the decline intuitively appears to be a function of mature markets that have had a long period to reach the optimal number of public companies listed before the confluence of events that combine to create the decline began to take hold in the late 1990’s.

With respect to Asian countries, developing countries elsewhere in the world, and the former communist countries of Eastern Europe, it is logical to infer that these economies have sufficient latent demand for public companies that the impact of the factors contributing to Western democratic public decline can be more than offset by the growth required to reach maturity. This does not suggest that the factors contributing to public company decline in Western industrialized democracies do not also exist in these other markets; rather, one can hypothesize that the effects of these factors may only become observable in terms of total companies listed once the developing economies finally achieve a state of stasis where the number of public companies reaches a “mature” level. Again, only time will tell whether this prognostication is accurate and further analysis of the difference in IPO trends between mature western democracies and other nations is beyond the scope of this Dissertation.

\subsection*{2.4.2- European Government and Industry-Sponsored Publications}

The first piece of literature to consider under this heading is the report of the European IPO Task Force.\textsuperscript{172} The European IPO Task Force consists of representatives of three

\begin{footnotesize}
\begin{enumerate}
\item[171] Ibid.
\item[172] European IPO Task Force, “Rebuilding IPOS in Europe: Creating Jobs and Growth in European Capital Markets” (23 March 2015) Report Presented to the European Commission, online:<
\end{enumerate}
\end{footnotesize}
different industry associations: (1) European Issuers Association; (2) Invest Europe (formerly European Private Equity & Venture Capital Association); and (3) the Federation of European Securities Exchanges. The rationale for the creation of the Task Force is summarized as follows:

The European IPO markets need to work better for the real economy. In the last ten years, capital raised through IPOs was only around half of what was raised in the 1990s. This decline comes at the worst possible time for European businesses, coinciding with declining availability on bank lending. Although Europe continues to build and grow businesses with the potential to be world class, the failure of the IPO market to facilitate their access to capital markets hampers their growth and lowers potential employment. According to OECD analysis, a properly functioning IPO market could deliver thousands of extra jobs in Europe. A survey, conducted in 2007, also finds out that 92% of job growth in a company occurs post-IPO. This is an opportunity we cannot afford to miss.\textsuperscript{173}

Pointing to recent regulatory changes in Europe, the Task Force claims that regulations have had the effect of: (1) creating intractable legislation for all sizes of companies; (2) increasing regulatory compliance costs; (3) eliminating incentives to invest in equity; and (4) shifting trading economics away from value investing toward high-volume program trading.\textsuperscript{174}

The Task Force report makes five recommendations for reversing public company decline, although only two of the recommendations reflect concrete action items. The first recommendation mirrors the on-ramp provision of the JOBS Act. The second tangible recommendation is granting tax incentives to investors who buy IPOs and hold them long term, reflecting a key recommendation of the Paulson Committee.

The second piece of literature to consider is the NASDAQ report from 2016 advocating

\textsuperscript{173} Ibid at 4.

\textsuperscript{174} Ibid at 9.
for capital markets union throughout Europe. This report points out some unique elements of the European financial system, particularly its disproportionately high reliance on debt financing as a tool for financing growing ventures. The NASDAQ report repeats the call for tax incentives for long-term investment in IPOs, along with the streamlining of the ongoing compliance for SME’s that are public to reduce reporting costs.

**2.4.3- European Academic Analysis of Public Company Decline**

This is the shortest subsection of this literature review chapter, simply because there are no notable European-based academic analyses of public company decline published to date in the English language as of the date of this literature review. This fact is in and of itself somewhat surprising, and the reasons why are unclear. Possibly, the academics writing on the public markets in Europe are so focused on securing capital markets union and understanding the consequences of Brexit that this topic has not made it onto their radar to the same degree as their American counterparts. Certainly, the statistics demonstrate that the European IPO decline is not yet as acute as the American version. However, European IPO decline nevertheless appears to be a real phenomenon, as evidenced by the European business media articles and the European IPO task-force. It is certainly only a matter of time until European academics pick up the scent and begin to write on the unique elements of their own IPO decline. As of this point, there has been no significant analysis undertaken on why the European experience in public company decline appears to lag the U.S. experience on a timeline basis.

**2.5- Canadian Literature on Public Company Decline**

**2.5.1- Canadian Business Media**

The phenomenon of public company decline has been widely reported on in the Canadian business media, with nearly every major newspaper and magazine having published at

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least one article on the topic in the past two years. In each instance, the business media writers identify the extent of decline in the number of operating public companies listed in Canada, and point out that the headline numbers on IPO listings in Canada are obscured by the proliferation of closed-end funds and ETF’s. Another common theme amongst the articles is the understanding that public company decline cannot be attributed to any single factor, and that there is a lack of agreement as to what the relative degree of contributions of the various potential factors actually are to the phenomenon. Consistently reported in all of the articles is that Canadian executives are wearied by the excessive time that they spend dealing with various stakeholders of the public entity, which they view as a distraction from focusing on growth of the core business. In summary, the Financial Post article quotes Calgary law professor Bryce Tingle, who states that the securities regulators should be “surveying public company executives on which rules they find most burdensome and then determine whether they can be fixed.” This admonition by Bryce Tingle has specifically informed this Dissertation and the formulation of the PCD Study.

The most recent major article on the topic is a January 2020 analysis written by Sean Silcoff, technology reporter for The Globe and Mail. In this article, the ready availability of private financing alternatives for Canadian technology companies is posited as the main culprit of public company decline. Silcoff concludes that the easy


177 Ibid, Hasselback.

178 Supra note 2.
availability of private equity is “enabling fast-growing companies to stay private much longer, raising as much as they could by going public, but without the hassle, cost, disclosure requirements and scrutiny”.179 However, multiple other contributing factors are also cited throughout this article as potentially having some role in public company decline.

2.5.2- Canadian Government and Industry-Sponsored Literature

The analysis of Canadian government and industry-sponsored literature starts and ends with the Canadian Securities Administrators and the initiative launched in CSA Consultation Paper 51-404. As these documents have been covered extensively elsewhere in this Dissertation in Chapter 4 “Analysis of the CSA and OSC Streamlining Initiatives”, there is no need to repeat that portion of the analysis in this literature review chapter.

2.5.3- Canadian Academic Analysis of Public Company Decline

There exists only a single stream of academic literature in Canada that deals specifically with the subject of Canadian public company decline, namely originating with University of Calgary law professor Bryce Tingle (mentioned in the previous subsection) and two finance professors at the University of Calgary. However, before turning to that stream of literature, there are a few other Canadian pieces that should be discussed briefly. Although they were written before the phenomenon of Canadian public company decline became apparent, these pieces anticipate the possibility that public company decline could happen and warn about becoming complacent in terms of regulatory overreach continually increasing the burden on capital public issuers.

The first piece to consider is a research study written by Western University corporate law professor Chris Nicholls in 2006 entitled “The Characteristics of Canada’s Capital Markets and the Illustrative Case of Canada’s Legislative Response to Sarbanes-

Oxley”. In this report commissioned by the Task Force to Modernize Securities Legislation in Canada, Nicholls considers the unique elements of Canada’s public markets, including the small number of large issuers and the large number of small issuers that make up Canada’s public company base. Nicholls highlights the tension that developed between various stakeholders in response to the U.S. adoption of SOX, with factions who believed whole-sale adoption of the SOX certification procedures was necessary to protect Canada’s reputation as a serious regulatory jurisdiction, in opposition to other factions who argued that the unique elements of Canada’s public capital markets dictated a more nuanced and bespoke legislative response. Clearly, Nicholls comes down on the side of supporting a more nuanced regulatory response that he believes will be appropriate for the smaller enterprises that make up the majority of Canadian public listings. Of particular note for the topic of this Dissertation, Nicholls draws a lesson from U.S. corporate history in which (then N.J. governor) Woodrow Wilson decimated the market for incorporations in New Jersey by bringing in new anti-trust legislation. Nicholls concludes by stating that

“[i]t would be impertinent and misleading to suggest that SOX might prove as disastrous for America’s capital markets as Wilson’s anti-trust legislation proved for New Jersey’s corporate tax coffers. Access to the enviably deep and liquid U.S. capital markets offers far too many advantages to corporations (and their investors) to be outweighed by a single legislative initiative, especially one as well-meaning as SOX. But features of Canada’s markets suggest that they may well be more fragile. Accordingly, Canada’s regulators do not have the luxury of crafting regulation secure in the knowledge that the lure of Canada’s markets will ensure that modest regulatory burdens will not dampen the interest of issuers and investors. Rather, Canadian securities regulation may need to be crafted with much greater concern for its perceived impact on investors and issuing corporations, and with much more sensitivity to the international competition for listings of small-cap firms. 181


181 Ibid at 191.
Certainly, Nicholls recognizes the inherent fragility of the Canadian capital markets compared to its U.S. neighbours and the risk that regulatory overreach has the potential to irreparably damage the Canadian public markets ecosystem.

Nicholls is followed in his analysis of the SOX implementation in Canada by Stephen Sibbold, a securities lawyer and former Chairman of the Alberta Securities Commission. Sibbold authored a 2009 article in which he points out that the dominant position of the U.S. in the IPO market has begun to erode since the adoption of SOX.182 Noting the erosion of the U.S.’s position in capital markets, Sibbold warns that, “rather than continue to emulate a regulatory regime which is apparently in competitive decline internationally, Canada should strive to forge for itself a distinct regulatory regime based on sound regulatory principles and practical, cost-effective, and enforceable rules.”183 Sibbold concludes by stating his position that one such area in which Canadian regulation is trending in the wrong direction is in the Canadian Securities Administrators adoption of policies supporting greater board independence.

Turning back now to the University of Calgary trio who have written on the specific topic of Canadian public company decline, the key article co-authored by Bryce Tingle, J. Ari Pandes and Michael J. Robinson (collectively referred to as “Tingle” herein) is published in 2013.184 This article compares the Canadian capital markets to the U.S. capital markets and reviews the key literature from American academics positing various causes of regulatory decline. Tingle groups the various posited causes of public company decline from the American sources into four categories (regulatory over-reach, litigation climate, changes in market structure and fundamental economic change) and proceeds to then explain why none of these possible explanations seems to be properly descriptive of

183 Ibid at 786.
the Canadian experience.

With respect to the unique nuances of the Canadian market, Tingle provides a number of statistics to demonstrate that the ready access to private equity capital that is often cited in the U.S. sources simply is not reflective of the Canadian reality. Tingle argues that Canadian venture capital and private equity markets are nowhere near as robust as their American counterparts. Notably, Tingle’s discussion of the differences in access to private financing between the U.S. and Canada seriously brings into question whether the belief expressed in the most recent U.S. articles (i.e., that easier access to private capital is a major cause of U.S. public company decline) published after Tingle’s article have any validity in explaining the Canadian version of public company decline.185

After eliminating each of the four groups of potential cause as being descriptive of the Canadian public company decline phenomenon, Tingle concludes by advancing the following:

[S]omething else must be keeping small businesses (and some big firms as well) out of the IPO market. While it is beyond the scope of this paper to provide our full explanation for the decline of public markets, we can recommend an examination of the traditional approach scholars take to corporate governance questions: look at the alignment of incentives. The decision to take a company public, finance it privately or allow it to be acquired falls squarely within the ambit of corporate governance. It isn't necessary to discover some particular feature of the IPO market that has changed so as to alter the economics of small public firms. It is sufficient to ask whether the public markets and the legal and regulatory apparatus surrounding them have evolved in a way that provides strong disincentives to managers to take their businesses public.

It is this particular challenge in the Tingle article that formed the seeds of the PCD Study

185 Other academics writing on the comparative accessibility and availability of venture capital and private equity in Canada have come to the same conclusion; namely, private financing is significantly more difficult to secure in the Canadian market than in the U.S. See: Donald J. Cumming and Jeffrey MacIntosh, “Venture-Capital Exits in Canada and the United States” (2003) 53 University of Toronto Law Journal 101; and Douglas Cumming and Sofia Johan, “The IPO as an Exit Strategy for Venture Capitalists: Regional Lessons from Canada with International Comparisons”, book chapter in Mario Levis and Silvio Vismarar, eds, Handbook of Research on IPOs (Cheltenham, Edward Elgar Pub, 2016),
underpinning this Dissertation. The Tingle article remains the last word on the subject academically in Canada, and it is appropriate that the academic discourse be jump-started to provide our provincial regulators with updated guidance and analysis as they each evaluate the appropriate regulatory response to CSA Consultation Paper 51-404.

An updated article from Tingle on public company decline entitled “The Decline of Canadian Capital Markets” is forthcoming and will be published by the University of Calgary Institute of Public Policy. This article confirms that the phenomenon has not abated and remains very much a critical public issue to be addressed to ensure the continued health of Canadian capital markets.

2.6- Other Western Democratic Countries Impacted by Public Company Decline

As noted in the introductory chapter of this Dissertation, the phenomenon of public company decline has been reported as being endemic throughout western democratic industrialized countries. If this statement is accurate, what other countries beyond the U.S., Canada and the countries in Western Europe should be experiencing a similar decline? The obvious answers are New Zealand and Australia.

A search for recognition of this phenomenon in New Zealand does not turn up any academic sources, but there is an insightful analysis arising in Australia. An article, posted on the Australian CPA website indicates that Australia is likely in the early phases of the decline, a recognition which has perhaps been delayed by the fact that Australia’s capital markets have benefitted significantly from their close physical proximity to Asia. Asian public markets are continuing to experience a boom in new listings and these Asian-linked listings may well obscure the imminence of an Australian public markets


decline mirroring what has happened in Canada. Certainly, Australian finance professor Adam Steen of Charles Stuart University, quoted in the article, believes that the phenomenon is inevitable and in fact is already occurring.\textsuperscript{188} Once again, time will tell if the anticipated decline in Australia has yet reached an inflection point where it will become more obvious and receive more public recognition in the upcoming years.

2.7- A Brief Consideration of the Relevance of the Ongoing Academic Debate on Shareholder Short-Termism to the Topic of Public Company Decline

As a final element to consider in this Literature Review chapter, it is worth discussing briefly an ongoing debate within legal academia as to the ultimate relevance of the rise of shareholder short-termism on the issue of public company decline. Short-termism generally refers to pressures from external forces placed on public companies to deliver results in the short-term, with the assumption made that focusing on short-term results may not necessarily be consistent with maximizing profitability of the company over the long-term. Shareholder short-termism (i.e., the unwillingness to hold onto shares for longer periods of time) is one of several different elements of overall short-termism tested as potential contributing factors to public company decline in the PCD Study, along with analyst short-termism and the impact of short-sellers in the marketplace.

There is no serious debate within legal academia as to whether increasing shareholder short-termism is a real phenomenon in the capital markets. Since 1980, the average length that a public shareholder holds a share on the New York Stock Exchange has dropped from three years to under one year.\textsuperscript{189} With a shorter horizon for liquidity, shareholders demand tangible results more quickly so that their share value appreciates. However, there is a significant divergence of opinion as to whether increasing

\textsuperscript{188} Ibid.

shareholder short-termism is an issue that actually prevents public companies from investing for the long-term at the expense of pursuing tactics that maximize short-term shareholder value. As such, there is an ongoing academic dispute as to how much shareholder short-termism matters.

One of the leading advocates of the position that shareholder short-termism does not necessarily prevent public companies from successfully pursuing long-term strategies by under-investing for the future is Mark J. Roe, the David Berg Professor of Law at Harvard Law School. Roe underpins his analysis largely on empirical evidence demonstrating that the largest and fastest-growing public companies in the U.S. continue to be technology companies that also have the highest level of investment in ongoing research and development. Therefore, Roe concludes that these enterprises are succeeding and clearly not focusing only on maximizing short term operating results. Roe’s analysis builds on similar observations previously undertaken by others, particularly another Harvard Law School professor, Lucian Bebchuk. In each of these instances, the authors build the case that increasing shareholder short-termism does not necessarily negatively impact the ability of public companies to invest for the long-term. They also argue that shareholder short-termism may have benefits for improved corporate governance.

However, none of these arguments claiming that shareholder short-termism is not as big of a problem for long-term corporate performance as has been widely claimed by contemporary business leaders is particularly relevant to the fundamental analysis undertaken by this Dissertation. This Dissertation is agnostic towards the question of

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190 Ibid.

whether shareholder short-termism is inherently a positive development or a negative development for corporate governance, and also as to whether shareholder short-termism innately limits the ability of contemporary public companies to maximize long-term value creation. Rather, this Dissertation is focused on the potential impact of various factors that have recently developed in the capital markets that may impact the trajectory of the decline in the number of public Operating Companies.

As argued in the introductory chapter and again later in this Dissertation, the phenomenon of public company decline is inevitably defined by the evolution of the conscious preference of senior business decision-makers away from the public markets and towards private financing alternatives. As such, the critical question with respect to the intersection of the shareholder short-termism debate and this Dissertation is not whether the increasing trend towards short-termism actually prevents public companies from achieving their goal of long-term value maximization. Rather, the critical question is whether the issue of increasing shareholder short-termism is perceived by senior business decision-makers as being an issue of concern and frustration to the extent that it may ultimately influence their decision as to whether to pursue an IPO or an alternative private financing.

With respect to this particular calculation, the same group of legal academics referenced previously who argue most strenuously that short-termism is not as big of a problem as perceived by public companies in reality assist in making the underlying case as to the importance of shareholder short-termism as a matter of concern for public company decline. To wit, Mark Roe begins an abstract for his seminal paper on short-termism with the following summary:

Stock-market-driven short-termism is crippling the American economy, according to legal, judicial, and media analyses. Firms forgo the R&D they need, cut capital spending, and buy back their own stock so feverishly that they starve themselves of cash. The stock market is the primary cause: directors and executives cannot manage for the long-term when their shareholders furiously trade their company’s stock, they cannot make long-term investments when stockholders demand to see profits on this quarter’s financial statements, they cannot even strategize about the long-term when shareholder activists demand immediate results, and they
cannot keep the cash to invest in their future when stock market pressure drains away that cash in stock buybacks.

This doomsday version of the stock-market-driven short-termism argument entails economy-wide predictions that have not been well-examined for their severity and accuracy.192

As discussed in Chapter 1, it is this perception itself, and the potential implications of that perception on the phenomenon of public company decline, that the PCD Study is concerned with. Considering the preceding quote from Mark Roe, there is no question that the perception, on the part of senior business decision-makers, of short-termism as a negative factor is sufficiently widely held that it is imperative that it be included as a factor to be considered in the PCD Study.

192 Supra note 189
Chapter 3: An Overview and Brief History of Public Company Regulation in Canada

The rise of public companies as a major force in western industrialized nations since the beginning of the sixteenth century is inextricably linked to the growth and diversification of the overall economy during this unprecedented era of wealth creation. In Chapter 1 of this Dissertation, a variety of reasons were articulated explaining why the maintenance of robust public capital markets remains a national economic priority Canada and elsewhere.

For as long as publicly-held corporations have existed, governments have wrestled with the challenge of how best to regulate them: i.e., how can the interests of vulnerable public investors be adequately protected without stifling continued growth of the underlying markets themselves? It is readily apparent to capital markets observers that the period of public company decline in Canada overlays an era of ever-increasing regulatory complexity and compliance cost. It is unsurprising, therefore, that so many casual observers of the Canadian public markets assume that regulatory overreach is the principal cause of public company decline. Clearly, an assumption that overregulation has hampered the Canadian capital markets in recent years is embedded in the recent mandate delivered by the current Ontario provincial government to the OSC to prioritize public company burden reduction. To what degree can this assumption be validated empirically? Addressing that question is at the core of this Dissertation.

Before turning to an overview of contemporary Canadian securities regulatory reform initiatives in Chapter 4, and then continuing on to a detailed analysis of the empirical study underpinning this Dissertation beginning in Chapter 5, this chapter provides additional historical context on the evolution of both the public company form and public company regulation in Canada. This chapter begins with a brief overview of the historical development of the modern public company form starting in the U.K. and tracing its evolution through the U.S. and into Canada. Next, the historical development of the regulatory regimes that have evolved to govern public companies in Canada are outlined. Thereafter, major changes in the regulation of public Operating Companies in Canada occurring specifically over the past 25 years are summarized, tracking the period
immediately preceding the beginning of the public company decline phenomenon in Canada up to the present day. Finally, this chapter concludes with a brief consideration of the key elements of effective securities regulation generally, and regulatory reform specifically.

3.1- Legal Origins of the Public Company Form in Canada

Corporate theory and practice throughout Canadian history has developed primarily with reference to the dual precedents of U.S. and British experience, drawing significantly from each of these two key influences at various points in time. The direct ancestor of the modern public corporation, the joint stock company, originated in both England and the Netherlands during the sixteenth century. Joint stock companies, which were the first commercial entities offering limited liability to investors, were initially established by royal charter, and later also through special acts of Parliament, for special purposes strategically aligned with the interests of government. Initially, joint stock companies were primarily engaged in shipping, international trade and colonization activities. The capital-intensive nature of these particular activities required that large amounts of risk capital be secured from a variety of individual high net worth investors in order to diversify the significant risk associated with these commercial ventures.


194 In his review of Laurence Gower’s classic 1954 text reviewing the development of English company law (L.C.B. Gower, The Principles of Modern Company Law (London, England: Stevens and Sons Limited, 1954)), eminent American securities law professor Louis Loss notes that Gower draws a distinction between various types of British-incorporated companies based on the specific source of their charter. As such, Gower uses a more limited definition of the term “joint stock company”. See, Louis Loss, “Reviews- The Principles of Modern Company Law” (1955) 65 Yale Law Journal 1080 at 1084. However, most modern corporate and securities texts use the term “joint stock company” to refer collectively to all British corporations created under royal charter, act of Parliament or early general incorporation statute, and this broader definition is adopted in this Dissertation.


While the joint stock company form provided the legal vehicle necessary for securing investment from disparate investors, it also uncovered a fundamental tension between the priorities of individual investors supplying capital and the promoters of sixteenth century commercial enterprises. The promoters of the commercial enterprises required surety of stable investment capital for a specified duration to finance the ventures, while the individuals supplying the capital desired liquidity that would allow them to convert their investments back to cash at the time of their choosing. The demand for a mechanism providing investor liquidity without negatively impacting the company’s capital base was solved by the creation of stock exchanges in London and Amsterdam, whereby the interests of the individual investors could be traded freely and converted to cash without requiring repayment of capital from the company itself.

The Dutch East India Company, in particular, represented the first joint stock company with a permanent charter, whose shares were tradeable through the facilities of a stock exchange. A robust trading market developed in Amsterdam in the early years of the seventeenth century, which also allowed investors to secure credit against their investments and trade on margin. The Dutch experience in corporate finance with publicly-traded joint stock companies was quickly adopted in England, particularly with the ascension of the House of Orange to the English throne in 1688.

Several notable joint stock companies, including such famous enterprises as the British East India Company, grew rapidly to become massive widely-held and publicly-traded corporate entities with significant international political and economic influence on the

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198 Ibid.

199 Supra note 195 at 17-18.

200 Ibid.

201 Ibid.
world stage during the eighteenth century. Among the specific characteristics of the joint stock company that allowed it to flourish were the “means of concentrating substantial capital […] supported by a permanent core of transferable equity shares” that served to provide the entity with “sufficient financial flexibility to be able to exploit the economies deriving from an increased scope of trading activities”. Ultimately, these joint stock companies were able to achieve economies of scale previously unseen by concentrating capital in a single entity. By providing liquidity through the stock markets, the joint stock companies with permanent capital avoided the costly and disruptive cycle of liquidation, distribution and re-formation that had previously reflected the normal course of business in trading enterprises.

As discussed in more detail hereafter in the ensuing section covering the history of securities regulation, however, the evolution of the joint stock company did not occur without attracting notable criticism from certain constituencies and facing major setbacks that disrupted the emergence of the public company form. In particular, the South Sea Bubble of 1720 and the contemporaneous passage by the British Parliament of the Bubble Act of 1720 (the “Bubble Act”) effectively served to prevent new joint stock companies from forming.

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203 *Ibid* at 61.
204 *Ibid* at 60.
205 Indeed, by the time of the publication of the *The Wealth of Nations* in 1776, Adam Smith had already identified two major challenges with the early forms of publicly-traded joint stock companies: (i) the fact that joint stock companies were generally granted some form of monopoly powers from the crown or parliament in conjunction with their charter, which Smith viewed as problematic in that the monopolies artificially increased the prices of goods for consumers; and (ii) the problems associated with self-interested company managers whose interests were not aligned with shareholders, which in modern times are defined as the “agency costs” as discussed in the Literature Review chapter of this Dissertation. See: Adam Smith, *The Wealth of Nations* (London: P.F. Collier & Sons, 1776). Also: Henry Hansmann & Mariana Pargendler, “The Evolution of Shareholder Voting Rights: Separation of Ownership and Consumption” (2014) 123 Yale Law Journal 948 at 950.
206 *An Act for better securing certain Powers and Privileges, intended to be granted by His Majesty by Two Charters, for Assurance of Ships and Merchandize at Sea, and for lending Money upon Bottomry; and
stock companies with transferable shares from being formed in the United Kingdom (the “U.K.”), except through royal charter or act of Parliament, for a century until its eventual repeal. 207

Notwithstanding the legal prohibitions of the Bubble Act, by the latter portion of the eighteenth century it was increasingly recognized by business and governmental interests that the joint stock company form was a useful tool in developing areas of the domestic economy beyond the traditional roots of international trade, shipping and colonization. In particular, a number of physical infrastructure projects in bridges, canals and railroads, which all also required large infusions of investment capital, secured joint stock company charters. 208 Also, the British government issued a number of joint stock charters during the eighteenth century for banks and insurance companies. 209 However, beyond these specific commercial applications of the joint stock company form favored by the contemporary British governments, securing corporate charters for other business enterprises remained difficult, expensive and rare throughout the balance of the eighteenth century. 210

The inability to secure joint stock company charters was particularly acute for businesses operating in the industrial sector. 211 The industrial revolution in the U.K. (starting in approximately 1760) created a significant demand for access to joint stock companies or

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208 Hansmann, supra note 205 at 958.


211 Ibid.
The invention of new means of capital-intensive large-scale production during the
industrial revolution required that businesses secure investment capital from large
groups of individual investors to finance the construction and equipping of
factories.213

Unable to secure formal charters to form joint stock companies, industrial revolution-era
capitalists in the U.K. developed their own pragmatic alternatives. Predominantly,
British industrial companies originating in the second half of the eighteenth century
adopted the alternative form of unincorporated companies (a.k.a. “joint stock
associations”), which were officially treated as partnerships under the law, but operated
as pseudo-corporations in practice.214 This proliferation of unincorporated companies
during the second half of the eighteenth century created a variety of challenges in
commercial law during the industrial revolution, as it proved impractical for creditors to
secure and enforce individual legal judgments against the hundreds, or even thousands, of
individual investors who had invested in an unincorporated company.215 As such, it
eventually became clear that the widespread adoption of the joint stock association form
throughout the U.K. was effectively subverting the Bubble Act’s key purpose of
preventing the unfettered proliferation of corporate entities raising large amounts of
capital from public investors and the inevitable speculation resulting therefrom.216 Even
more problematic, the explosion of grey-market joint stock associations operating in the
U.K. resulted in a significant portion of the British economy operating in a highly

212 Supra note 209 at 40.
213 Ibid.
214 Supra note 209 at 39. Also, supra note 210 at 581 and 587. The British joint stock associations
operated under deeds of settlement with the stock held by trustees. They also contained contractual
provisions limiting liability of the beneficial stockholders to the organization and between each other. As
such, the joint stock associations reflected many of the key elements of contemporary joint stock
companies, but without the formal charters and official limited liability.
215 Supra note 209 at 40.
216 Supra note 207 at 688.
uncertain legal environment. Ultimately, the British government implicitly acknowledged that the commercial reality of the proliferation of joint stock associations through the U.K. had effectively emasculated the *Bubble Act* while increasing legal uncertainty in the economy, leading to its repeal in 1825.

The development of the corporate form in the American colonies followed the British precedent closely up until U.S. independence in 1776. After independence, the ability to grant corporate charters devolved from the British crown to the governments of the thirteen new states. The American states in the last quarter of the eighteenth century were less reluctant than the British government to grant corporate charters for infrastructure projects. The joint stock association form that had become so ubiquitous in the U.K. during this period also existed in the U.S. to a degree, but these associations were much less prevalent in the U.S. due to the easier access to corporate charters.

Still, the new U.S. states evidenced a degree of aversion to granting widespread corporate charters to support manufacturing enterprises for the first 30 years after independence. However, by the first decade of the nineteenth century, American demand for domestically-manufactured goods increased rapidly as relations between the U.S. and U.K. deteriorated. This political impetus eliminated American legislative reluctance to issuing corporate charters for manufacturing purposes, resulting in a significant

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217 *Supra* note 209 at 40-41. The Sanuari article cites key British legal cases, often contradictory in approach, in the first decade of the nineteenth century that cast considerable doubt on the willingness of the courts to enforce key restrictions of the *Bubble Act* in that particular environment, thereby further increasing the legal uncertainty surrounding the joint stock associations. Also, *supra* note 210 at 582.

218 *Supra* note 192.

219 *Supra* note 210 at 588-589.

220 *Ibid* at 587.

221 *Ibid*.

222 With the increase in tension between the U.S. and the U.K. ultimately leading to the War of 1812.
increase in the number of corporate charters issued throughout the northern states.\textsuperscript{223} Ultimately, the trend towards increased use of the joint stock company form in the U.S. culminated with the adoption by New York of the first statute allowing for general incorporation without the necessity of a special charter issued by the government in 1811.\textsuperscript{224} A number of other northeastern American states followed the lead of New York with similar general incorporation statutes within the next decade.\textsuperscript{225}

As previously discussed, the repeal of the \textit{Bubble Act} in the U.K. in 1825 was an implicit acknowledgment by Parliament of the legal superiority of the joint stock company form over the unincorporated company alternatives (principally the joint stock association) which had become prevalent in the British economy over the century while the \textit{Bubble Act} remained in effect.\textsuperscript{226} In the years following the \textit{Bubble Act} repeal, an increasing number of corporate charters were granted by Parliament for domestic business ventures.\textsuperscript{227} Eventually, in 1844 the U.K. ultimately followed the earlier American precedent with the passage of the \textit{Joint Stock Companies Act}.\textsuperscript{228} This legislation finally allowed for the establishment in the U.K. of joint stock companies without Crown charter or special act of Parliament, although it notably did not extend limited liability to all shareholders. The \textit{Limited Liability Act, 1855}\textsuperscript{229} and an updated version of the \textit{Joint

\textsuperscript{223} Supra note 210 at 590. Also, for an earlier view of the historical development of the U.S. corporate form during this period, see: Oscar Handlin and Mary F. Handlin, “Origins of the American Business Corporation” (1945) 5:1 The Journal of Economic History 1.

\textsuperscript{224} Act of Mar. 22, 1811, ch. 67, §7, 1811 N.Y. Laws 111. Also, supra note 193 at 456.

\textsuperscript{225} Supra note 210 at 592.

\textsuperscript{226} Supra note 207. Also, supra note 209 at 43.

\textsuperscript{227} Supra note 209 at 47.

\textsuperscript{228} Joint Stock Companies Act, 1844 (7 & 8 Victoria, c.110).

\textsuperscript{229} Limited Liability Act, 1855 (18 & 19 Victoria, c.133).
Stock Companies Act passed in 1856 ultimately extended limited liability to all joint stock companies and further liberalized the ability to incorporate.\textsuperscript{230}

In colonial-era Canada, general incorporation statutes were initially adopted in 1849, but were limited to companies engaged in bridges and road construction.\textsuperscript{231} Just prior to the enactment of the British North American Act (now the Constitution Act, 1867),\textsuperscript{232} Canada took a step back from the contemporary trends towards general incorporation in the U.K. and the U.S. by reverting to a form of incorporation through letters patent under seal of the Governor in Council, thereby reflecting the earlier British process of incorporation through royal prerogative.\textsuperscript{233} This antiquated method of incorporation remained in place in Canada for over a hundred years, until the first modern provincial incorporation statute providing unrestricted rights of general incorporation was adopted by Ontario in 1970, followed soon after by the majority of other Canadian provinces.\textsuperscript{234} The modern Canadian corporate statutes are largely based on the American model statute precedents, with certain elements of British influence also reflected.\textsuperscript{235}

In summary, the origin of the public company form in Canada is traced directly through the strong precedence of the British and American experience. As discussed above, the direct ancestor of the modern public company form in Canada is the British joint stock company form that originated through royal charter or act of Parliament. Prior to the evolution of alternative structures of significant private investment capital, the public company form was the primary source of large-scale investment capital. By allowing for

\textsuperscript{230} Joint Stock Companies Act, 1856 (19 & 20 Victoria, c.47).
\textsuperscript{231} Supra note 193 at 455.
\textsuperscript{232} Constitution Act, 1867 (30 & 31 Victoria, c.3).
\textsuperscript{233} Supra note 193 457.
\textsuperscript{234} Ibid at 458.
\textsuperscript{235} Ibid at 465-469. The notable exception remains Nova Scotia, which is modelled more directly on British precedents.
capital to be pooled in a separate legal structure with its own independent legal status, perpetual existence and limited liability, the joint stock companies in the U.K., U.S. and Canada were able to engage in enterprises that were far beyond the scope of individuals and partnerships.

It is apparent from the preceding summary that the direct descendant of the joint stock company form is the modern public company; specifically, companies which have broad shareholder bases and have relied on the advantages of the corporate legal structure to raise large amounts of capital from disparate groups of investors. Notably, the modern concept of a private company eventually developed as derivative of the joint stock company form that was not originally envisioned by the governments during the period of modernization of corporate statutes in the U.K. and U.S in the mid-nineteenth century. In fact, it was only in the last decade of the nineteenth century that the modern private company form came into broader commercial use, and not until 1907 that the private company form was legally recognized as distinct in Britain. The private company distinction was first adopted in Canada by the province of Ontario in 1912, with other jurisdictions soon following suit.

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237 The first legal recognition of a private company form occurred in Germany in 1892. Although the Companies Act in the U.K. between 1844 and 1862 did not distinguish between incorporation types based on number of shareholders, it is clear that the legislators were not actively considering the potential for use of the corporate form for small business purposes. The Companies Act, 1862 required that the memorandum of association creating a corporation be signed by seven or more persons. See Frank Evans, “Evolution of the English Joint-Stock Limited Trading Company” (1908) 8 Columbia Law Review 461 at 469. However, lawyers realized the benefit of limited liability for small business and began recommending its use. For example, Francis Beaufort Palmer published a famous pamphlet on the topic in 1881: Francis Beaufort Palmer, Private Companies, Their Formation and Advantages, Or, How to Convert Your Business Into a Private Company, and the Benefit of So (London, England: Stevens and Sons, 1881).

In the U.K, the landmark House of Lords case in Salomon v. A. Salomon & Co. Ltd. [1896] UKHL1, [1897] AC 22 confirming the distinctiveness of the legal form in closely-held corporations and endorsing the legitimacy of this practice, even in cases where only one shareholder of the mandatory minimum of seven had any real economic interest in the corporation, provided a strong impetus for small businesses to incorporate to take advantage of the availability to secure limited liability. Ibid at 340-342.

238 J. Peter Williamson, Securities Regulation in Canada (Toronto: University of Toronto Press, 1960) at 11.
Private equity funds, meanwhile, did not come into existence in a form recognizable by modern standards until the early 1900’s, and did not gain significant scale in the economy until after the creation of the Small Business Investment Company Program by the U.S. Congress in 1958. As such, accessing large-scale capital throughout the latter portion of the nineteenth century and the first half of the twentieth century required, by necessity, that companies secure investment from a number of different individual investors. This period coincides with the period of rapid growth and entrenchment of the public capital markets as a major factor in economic development throughout the western industrialized world. The public company form, therefore, had a decades-long head-start over the private equity financing alternatives, and the public company became a significant institution in the Canadian economy long before private equity became a realistic funding alternative at any scale.

3.2- Brief History of Securities Regulation Impacting Canada

From the earliest days of the joint stock company’s existence, stock market bubbles and major occurrences of fraud or other malfeasance against independent investor interests by promoters and managers, followed by the inevitably-resulting public outcry, have largely motivated and defined the process and scope of public company securities regulation.

The inherently risky nature of the joint stock company commercial efforts, rampant speculation and the lack of effective regulation relating to promotional activities and


241 For an interesting and insightful discussion on how stock market bubbles have historically been causative of a decline in securities enforcement, thereby inevitably leading to a string of frauds that create the impetus for further regulation (and an inevitable repeating of the cycle), see: Erik F. Gerding, “The Next Epidemic: Bubbles and the Growth and Decay of Securities Regulation” (2006) 38 Connecticut Law Review 393.
continuous disclosure led to several notorious failures of joint stock companies during the seventeenth and eighteenth centuries. The first significant bubble in joint stock companies occurred in the early eighteenth century in England, with the creation of numerous companies raising funds for speculative ventures abroad in an overheated investment climate. Most prominent amongst the bubble companies was the South Sea Company, a joint stock company granted monopoly rights over British trade in South America. Shortly in advance of a massive price run-up on South Sea Company shares in 1720, speculation was rampant about the role that the company would play in British government debt reorganization. The South Sea Company was heavily promoted by insiders, stockjobbers and stockbrokers, many of whom sold their interests at significant profits at the peak of the company’s trading value in the summer of 1720 (i.e., £1050 per share). Many buyers of the South Sea Company stock during the frenzy purchased on margin. By the end of 1721, the price of the shares of the South Sea Company retreated back to £128, leaving public investors who had borrowed to buy shares in desperate financial situations and casting a pall over the entire British economy.

The Bubble Act was enacted by the British parliament prior to the collapse of the South Sea Company shares, principally at the instigation of the directors of the South Sea Company who sought to preserve their advantaged position in attracting new investment


244 Ibid at 125.


246 Christopher Nicholls, Securities Law (2nd Ed.) (Toronto: Irwin law, 2018) at 130.

247 Ibid.

248 Supra note 243 at 127.
capital through the stock market.\textsuperscript{249} The \textit{Bubble Act} essentially prevented the creation of new companies that could compete on the British stock market and also mandated that the raising of capital by existing companies must be undertaken directly by the company, effectively banning intermediaries acting as stockbrokers or stockjobbers.\textsuperscript{250} Although the impetus for the \textit{Bubble Act} adoption had nothing to do with the South Sea Company share collapse, the subsequent collapse of the South Sea Company share price created such a panic amongst the general investing population at the time that the British government began to enforce the \textit{Bubble Act} provisions strictly to prevent a repeat of the stock market bubble.\textsuperscript{251}

The \textit{Bubble Act} was immediately controversial, and academics continue to debate the degree of damage that it inflicted on the British economy prior to its eventual repeal a century later in 1825.\textsuperscript{252} The \textit{Bubble Act}, reflecting (in the opinion of several corporate historians) modern history’s first attempt at securities regulation,\textsuperscript{253} therefore presages the arc of securities regulation in the past three hundred years in the U.K., U.S. and Canada as a sphere of regulation occasionally engaging dubious legislative motives, interest group lobbying, unintended consequences and overly-broad politically-motivated reactions to market bubbles and executive chicanery. As discussed in the previous section, British industry during the Industrial Revolution developed the mechanism of the unincorporated joint stock association to effectively structure around the prohibitions of the \textit{Bubble Act}, but at the cost of creating a significant level of legal uncertainty on the regulation of companies during this interval.

\textsuperscript{249} Supra note 246 at 131.
\textsuperscript{250} Supra note 243 at 129.
\textsuperscript{251} Ibid at 132.
\textsuperscript{252} Supra note 243 at 130. Also, Ron Harris, “The Bubble Act: Its Passage and Its Effects on Business Organization” (1994) 54:3 The Journal of Economic History 610 at 624.
\textsuperscript{253} Supra note 206.
The repeal of the Bubble Act represented a pragmatic acknowledgement by the government of the U.K. that the joint stock company form reflected a necessary legal construct in the British economy.\(^\text{254}\) Having been unable, or at least unwilling, to stem the proliferation of the joint stock associations during the period that the Bubble Act was in force, the British government turned its focus instead on developing legislation that prevented the worst excesses and abuses associated with joint stock companies in order to protect public investors, while simultaneously seeking to ensure that compliance with the regulations is not so overly burdensome that it serves as a barrier to economic growth.

After the repeal of the Bubble Act in 1825, a number of subsequent reforms were introduced in a series of British statutes over a two-decade interval, commencing with the Joint Stock Companies Act, 1844\(^\text{255}\) and ending with The Companies Act, 1867.\(^\text{256}\) The Joint Stock Companies Act, 1844 required that promoters file, as a condition of incorporation, a return including a copy of any prospectus or advertisement that they intended to use to market their shares.\(^\text{257}\) Several acts between 1844 and 1867 gradually abrogated the disclosure requirements originally established in the Joint Stock Companies Act, 1844 until The Companies Act, 1867 once again created new disclosure obligations by requiring the identification of all parties to company contracts in any prospectus raising new funds and establishing civil liability for failure to comply.\(^\text{258}\)

\(^{254}\) Supra note 246 at 132. There is little evidence that the contemporary British government determined that joint stock companies were a positive development at the time, but rather that they were superior to a continued expansion of the use of unincorporated joint stock associations. See supra note 207 at 692-693.

\(^{255}\) Supra note 228

\(^{256}\) 30 & 31 Victoria, c.131. Supra note 246 at 134.

\(^{257}\) Supra note 238 at 4. Williamson notably is not amongst those who consider the Bubble Act to be modern history’s first attempt at securities legislation, instead pointing to the passage of Joint Stock Companies Act, 1844 as marking the beginning of modern securities regulation. Of course, the difference of academic opinion as to when “securities regulation” began is a bit opaque because the term “securities regulation” was not coined until 1951. Supra note 246 at 1.

\(^{258}\) Ibid at 4-5.
In 1890, Parliament once again turned its focus back towards securities regulation issues by legislatively overturning the outcome of a politically unpopular House of Lords decision, thereby establishing personal liability of directors for misrepresentations in prospectuses unless the directors held an actual and reasonable belief in the truth of the impugned statements. Following the release of a government report on reforms necessary for regulating joint stock companies in 1895, a new Companies Act, 1900 was passed by the U.K Parliament, increasing the breadth and depth of prospectus disclosure requirements. Further evolutionary changes occurred in English securities regulation over the next three decades, leading up to the 1929 consolidation of the Companies Act, which served as an influential precedent for the ongoing development of contemporary Canadian securities laws.

In the U.S., the historical development of securities legislation is generally traced back to the adoption in Kansas of the first “blue sky” legislation in 1911. Similar statutes were passed by states throughout the U.S. over the next two decades. Blue sky regulations in the U.S. were premised on having governmental agencies approve the merit of a particular share offering, a fundamentally different regulation model from the focus on mandated disclosure requirements that were stipulated by the U.K. securities legislation of the era.

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259 Derry v. Peek (1889) LR 14 A.C. 337 (UKHL). Supra note 245 at 82.

260 Directors Liability Act, 1890, 53 & 54 Vict, c.64. Supra note 246 at 135.

261 Referring to the “Davey Committee Report”, a report of the U.K. Board of Trade issued in 1895. Supra note 246 at 135.

262 Companies Act, 1900, 63 & 64 Victoria, c.38. Supra note 246 at 136.

263 Companies Act, 1929, 19 & 20 Geo V, c.23. Supra note 246 at 137.

264 Supra note 246 at 138.

265 Ibid.

266 Ibid. Also, Gillen, supra note 245 at 83.
The entry of the American federal government into the securities regulation arena, with enactment of the *Securities Act of 1933* and the subsequent *Securities Exchange Act of 1934*, was precipitated by the stock market crash of 1929 and a variety of contemporaneous stock market scandals.\(^{267}\) Notably, the U.S. federal government model of regulation was based on the mandated disclosure precedent of the U.K., and not the merit-review model associated with the blue sky laws adopted by the U.S. states.\(^{268}\)

Turning now to Canada, securities regulation in this country has historically developed within the purview of the provincial governments under their constitutional authority to legislate in the areas of property and civil rights.\(^{269}\) Any uncertainty as to the extent of the Canadian federal government ability to legislate on securities matters under the general branch of the federal trade and commerce powers was eliminated by the Supreme Court of Canada in a 2011 decision, which confirmed that jurisdiction over the core components of securities regulation lie within areas of exclusive provincial legislative authority.\(^{270}\) This ruling thwarted an attempt by the federal government to create a national securities regulator and determined that any attempt to establish a national securities regulator would have to be secured through co-operation between the provinces and the federal government.

In the field of company regulation, Ontario was the first province in Canada to follow the 1890 English precedent of the *Directors Liability Act*, adopting its own version 1891.\(^{271}\) Ontario continued trailblazing in Canadian company regulation with the adoption in 1897 of the first Canadian statute requiring mandatory disclosure to shareholders and, again in


\(^{268}\) *Supra* note 246 at 140. Also, *supra* note 245 at 84.

\(^{269}\) *Supra* note 245 at 77.


\(^{271}\) *Directors Liability Act*, 1891, S.O. 1891, c.34. *Supra* note 245 at 84.
1907, by mandating the contents of a prospectus and granting rights of rescission for oral representations based again on the English model.\textsuperscript{272}

It was Manitoba, however, that took the lead in 1912 to become the first province in Canada to adopt an American-style blue sky law based on merit review,\textsuperscript{273} followed soon after by three other provinces.\textsuperscript{274} Manitoba was again the first province to introduce a fraud prevention act in 1926, followed by Ontario in 1928.\textsuperscript{275} These fraud prevention statutes focused principally on licensing of brokers and securities fraud investigations.\textsuperscript{276}

The Ontario Securities Commission, the first dedicated provincial securities regulatory body in Canada, traces its origins back to the 1928 fraud prevention statute.\textsuperscript{277,278} This statute introduced mandatory registration of brokers and also required registration for trading.\textsuperscript{279} The first chair of the Ontario Security Frauds Prevention Board, the governmental body responsible for enforcing the act, was appointed in 1931.\textsuperscript{280}

\begin{itemize}
\item \textsuperscript{272} Gillen, supra note 245 at 84.
\item \textsuperscript{273} The interesting background that prompted Manitoba to become the first Canadian jurisdiction to adopt blue sky securities laws is recounted in: Christopher Armstrong, \textit{Blue Skies and Boiler Rooms: Buying and Selling Securities in Canada, 1870-1940} (Toronto: University of Toronto Press, 1997) at 7.
\item \textsuperscript{274} \textit{Supra} note 245 at 85. Also, \textit{supra} note 246 at 139.
\item \textsuperscript{275} \textit{Supra} note 245 at 85.
\item \textit{Ibid}.
\item \textsuperscript{277} Ontario Securities Commission Website, “About the OSC” (accessed January 15, 2020) online:<https://www.osc.gov.on.ca/en/About_about_index.htm>.
\item \textsuperscript{278} The origin of the OSC is surprisingly obscure. Although the OSC claims its origin from the date above, a number of academics consider its effective origin as dating to 1945. See: Mary Condon, \textit{Making Disclosure: Ideas and Interests in Ontario Securities Regulation} (Toronto: University of Toronto Press, 1998) at 17.
\item \textsuperscript{279} David Johnston and Kathleen Doyle Rockwell, \textit{Canadian Securities Regulation} (Toronto: LexisNexis Canada, 2006) at 22.
\item \textit{Ibid}.
\end{itemize}
the Ontario fraud prevention statute was renamed as the Securities Act, and the board was
soon thereafter renamed as the Ontario Securities Commission in 1933.281

The Ontario Securities Act underwent a major overhaul in 1945 and again in 1947, mandating prospectus contents, delivery and rescission rights.282 Other Canadian provinces adopted similar statutes over the course of the next decade.283 One of the key impetuses for the reforms in 1945 and 1947 was the unlicensed marketing of speculative mining stocks by Canadian-based brokers into the U.S. without proper registration or disclosure.284

A series of public markets scandals in the 1960’s led to another round of major securities reforms based on the Kimber Report and the Kelly Report, both issued in 1965.285 The most famous of these scandals (which was the specific focus of the Kelly Report) was related to a TSX-listed reporting issuer named Windfall Oils and Mines Limited, which perpetuated inaccurate rumors that it owned mining claims of significant value.286 These reforms included establishing the OSC as an independent administrative body and the adoption of the Ontario Securities Act (1966), “the first modern Canadian securities	

citation text

281 Ibid.
282 Supra note 245 at 86. Also, Condon, supra note 278 at 22-24
283 Supra note 245 at 86.
284 This issue, which was dubbed the “Canadian Problem” by U.S. regulators and attracted significant attention in contemporary U.S. regulatory circles in the 1940’s and 1950’s, is considered at length in: Christopher Armstrong, Moose Pastures and Mergers- The Ontario Securities Commission and Regulation of Share Markets in Canada, 1940-1980 (Toronto: University of Toronto Press, 2001).
The changes to securities regulation instituted under the 1966 version of the Ontario Securities Act were sufficiently impactful that a 1966 supplement to Williamson’s 1960 edition of Securities Regulations in Canada, covering only the content and impact of the changes from the 1966 amendments, is 100 pages longer than the original work. In 1978, Ontario adopted a “closed system” of securities regulation that extended to the resale of securities previously acquired in exempt distributions. Finally, in 1995 the OSC was the first provincial securities commission given the ability to make its own rules relating to securities regulation, thereby increasing its ability to respond to market challenges rapidly and avoid the tedious process of getting onto the provincial government’s agenda to secure amendments to the Securities Act. Since that time, most of the critical elements of securities law and policy have migrated beyond the riverbanks of the provincial securities act themselves and have been promulgated through rules, policy statements and, when collaborating with other provinces, in national or multilateral instruments and national policies.

Each of the major developments in securities law in Ontario discussed above were eventually replicated in similar forms by most other Canadian provinces. Supporting harmonization between the provinces has been the work of the Canadian Securities Administrators, the council of the thirteen different provincial and territorial securities regulators established in 1937 that works to coordinate securities regulatory initiatives, analyze new policy initiatives, and minimize the regulatory inconsistencies between the jurisdictions. Over the course of its history, the CSA’s effectiveness in harmonizing

287 Supra note 246 at 143.
289 Ibid at 143.
290 Ibid.
291 Supra note 245 at 88.
292 Ibid.
securities regulation nationally has waxed and waned, depending on the legislative priorities of the specific provincial governments in power at the particular time and the predilections of the governments, along with individuals in senior roles within the regulators, to work towards consistency between jurisdictions versus going it alone on securities matters of local priority.

Of significant note, Canada remains the only country in the OECD without a national securities regulator. This fact has been noted on occasion by the OECD, which has stated its belief that the inconsistency arising from having 13 securities regulators in a country with a relatively small population is problematic and inefficient.293 Significant effort has been directed towards establishing a consensus-based national securities regulator known as the Cooperative Capital Markets Regulatory Authority (“CCMRA”), with seven out of thirteen jurisdictions having thus far agreed to join the initiative.294 However, four provinces and two territories, including the key provinces of Alberta and Quebec, continue to be hold-outs; while one or more of these jurisdictions will likely join the CCMRA initiative in due course, it appears that Alberta and Quebec continue to prefer retention of their local securities commissions to protect local interests. The continuing hold-out of Alberta and Quebec are particularly noteworthy, as these provinces represent the second and third largest provincial capital markets in Canada.295 As such, the CCMRA has repeatedly delayed its formal launch and the prospects for securing an effective national securities regulator in Canada remain highly uncertain at this point in time.

295 Ontario is by far the largest capital market in Canada measured by market capitalization of listed issuers with 54% of the national market. However, Alberta represents 21% of the market and Quebec represents 15% of the market. Alberta Securities Commission, ASC Annual Report 2019 (accessed January 13, 2020) online:< https://www.albertasecurities.com/-/media/ASC-Documents-part2/Reports/ASC_Annual_Report_2019_Digital.ashx>.
3.3- The Recent Arc of Securities Regulation in Canada

This Dissertation has previously discussed that the zenith of public companies, in terms of the number of Operating Company listings, was in 2007 in Canada and in 1998 in the United States. It is apparent from the Literature Review in the previous chapter that no one seriously suggests that any single event in Canadian securities regulation is solely responsible for the phenomenon of public company decline. However, it is helpful, as further context in understanding the form and content of the PCD Study later in this Dissertation, to understand the major arc of securities regulation in Canada going back 25 years. This covers the period of public company decline, plus the era immediately before the public company decline phenomenon became apparent. To the extent that increasing securities regulation is a contributing factor to public company decline, at least some of the regulatory changes contributing to the phenomenon must presumably be traced back in time prior to the peak of public company listings.

One of the most important developments in Canadian securities law in the past century has been the devolution of rule-making power from the provincial governments to the provincial securities commissions. Prior to 1995, securities regulation in Canada was largely contained within the provincial securities acts and required the intervention of the provincial governments in order to make significant changes. Securing amendments to the provincial securities acts represented a laborious process, as the securities regulators had to compete with other bodies to secure priority on the government’s legislative agenda. As a result, provincial securities commissions frequently passed policies that endeavored to clarify and add depth to the formal securities act provisions, which the securities commissions deemed critical to the proper functioning of the capital markets. However, a 1993 court decision in Ontario cast doubt on the enforceability of the policy statements published by the securities commissions, as these policy statements were viewed by the court as attempts to effectively impose legislation in the capital markets.
outside of the authority of the securities commissions. Ultimately, the Ontario government granted specific rule-making authority to the Ontario Securities Commission in 1995, with other provinces soon following suit. While the devolution of rule-making authority to the securities commissions in 1995 certainly reduced the significant bottleneck previously associated with the process of pushing changes to formal securities regulation through the provincial legislatures, it also significantly increased the autonomy of the securities commissions and enabled the securities commissions to pursue significant securities regulatory reform on their own authority through the use of their new rule-making power.

Until the June 2018 election of the Doug Ford-led conservative government in Ontario, which triggered the current impetus for the regulatory streamlining and public company burden reduction initiative discussed in Chapter 1 and Chapter 4 of this Dissertation, the general arc of securities regulation in Canada over the past two decades, and in Ontario in particular, has between towards ever-increasing public company regulation and the adoption of new and more complex continuous disclosure obligations. A simple word-count comparison of the consolidated Ontario securities legislation published in 1996 and 2020 evidences that the total length of the securities regulations has increased by more than 300% during that interval. However, as a counterpoint in defense of provincial securities commissions, former OSC Vice-Chair and current Osgoode Hall Law School Dean, Mary Condon, points out that the landscape of securities regulation in Canada continues to become increasingly complex as technology and market evolution bring new challenges to securities regulators that were hitherto unknown.

Summarizing all of the detailed, and often technical, changes to securities regulation in Canada over the past two decades period is beyond the scope of this Dissertation. The

296 Ainsley Financial Corp. v. Ontario (Securities Commission) (1993), 14 OR (3d) 280 (Gen Div). Affirmed on appeal, Ainsley Financial Corp. v. Ontario (Securities Commission) 77 O.A.C. 155 (Ont.CA). See discussion in Nicholls, supra note 246 at 98.

297 Condon, supra note 278 at 225.
focus here instead will be on briefly reviewing the most impactful securities regulation changes in terms of their influence on, and cost to, Canadian public Operating Companies.

As discussed in the previous section of this Dissertation, the primary impetuses for eras of significant securities regulatory reform throughout British, American and Canadian history have often been major stock market meltdowns and clusters of notorious public company scandals. The recent arc of securities regulation in Canada over the past two decades reflects a continuation of this cause-and-effect relationship between public outcry over notorious corporate misdeeds or stock market collapses and the passage of new securities regulation.

Although the development of Canadian public companies was heavily influenced by both the U.K. and U.S. precedents, the impact of events in the U.S. has represented the greater influence on Canadian securities regulation in the past 20 years. The increased influence of the U.S. events on Canada is inevitable due to geographic proximity between the countries, and the increased integration of the American and Canadian economies under a succession of free trade agreements. The U.S. domestic market currently accounts for approximately 76% of all Canadian exports, and many of the larger Canadian public Operating Companies are also inter-listed on U.S stock exchanges. As such, major capital markets events originating in the U.S. resulting in new trajectories in American securities regulation inevitably have a significant impact in Canada.

The infamous American corporate scandals in the early 2000’s, particularly Enron (2001), Worldcom (2002), Tyco (2002) and Adelphia Communications (2002), and the


299 As of November 30, 2019, 147 Canadian-based publicly-traded Operating Companies listed on the TSX also were inter-listed on a U.S. stock exchange. Source: TMX Market Data, supra note 6.
American regulatory responses thereto (particularly Sarbanes-Oxley\(^{300}\)), reverberated throughout the Canadian capital markets and eventually resulted in the adoption of a significantly-modified Canadian version of Sarbanes-Oxley, encompassed in a variety of legislative and securities regulatory initiatives.\(^{301}\) Although the Canadian responses to Sarbanes-Oxley are certainly much less onerous in terms of compliance cost than the American version, MI 52-109 *Certification of Disclosure in Issuers’ Annual and Interim Filings* particularly represents a material increase in both the time and cost associated with financial statement certification and internal evaluation of the effectiveness of financial controls for Canadian public companies compared to the pre-existing rules.

The sub-prime mortgage crisis originating in the U.S. in 2008, which quickly expanded into a global financial crisis, was likewise strongly felt in Canada. However, the more cautious Canadian banking system was less traumatized than its American counterpart, and there was not the same degree of impetus to extend the most notorious elements of the *Dodd-Frank Act*\(^{302}\) to Canada. Still, specific elements of the *Dodd-Frank Act* did find their way into Canadian securities legislation in the form of new rules for derivative trading under National Instrument 93-101 *Derivatives- Business Conduct*, and in Ontario specifically with respect to the adoption of whistleblowing bounties under OSC Policy 15-601 *Whistleblower Program*.\(^{303}\)

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\(^{300}\) *An Act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.* Pub.L. 107-204 (a.k.a. “Sarbanes-Oxley Act of 2002”).

\(^{301}\) The Canadian response to Sarbanes-Oxley, often referred to as C-SOX, is embedded legislatively in Ontario’s *Keeping the Promise for Strong Economy Act (Budget Measures)*, 2002, R.S.O. Ch. 22- Bill 198, as well as regulatorily in Multilateral Instrument (“MI”) 52-108- *Auditor Oversight*, MI 52-109- *Certification of Disclosure in Issuers’ Annual and Interim Filings* and MI 52-110- *Audit Committees*. All of these multilateral instruments are available online at the OSC website under “Securities Law & Instruments”.


Although the major American scandals of the early 2000’s certainly reverberated into Canada, the U.S. has not had the market cornered on public company scandals during this interval. Rather, some of the most impactful changes to securities regulation in Canada over the past two decades are attributable to homegrown Canadian scandals. In particular, the notorious Canadian public company scandals of Bre-X (1997), Livent (1998), YBM Magnex (1999), Nortel (2004) and Sino-Forest Products (2011) all created a hue and cry from certain constituencies within Canada for new regulation to prevent repeats of these public company collapses.

Directly attributable to the Bre-X fraud, NI 43-101 - Standards of Disclosure for Mineral Projects was adopted by securities regulators across Canada in 2001, standardizing reporting on mineral reserves by mining issuers and mandating outside verification by qualified geologists. A similar regime for oil & gas issuers was adopted across Canada in 2003, with the implementation of NI 51-101 Standards of Disclosure for Oil and Gas Activities.

One of the early regulatory initiatives adopted after securities commissions secured rule-making power was NI 33-106 - Year 2000 Preparation Reporting adopted in 1998. This regulatory instrument required reporting issuers to assess their vulnerability to potential Y2K computer issues and advise in their formal disclosure documents as to the preparations that the company was undertaking to mitigate the risk. Although this issue was time-limited and the associated regulatory instruments were withdrawn after the turn of the millennium, NI 33-106 offered a glimpse into the future arc of securities regulation in Canada as it evidenced how the securities commissions would utilize their

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304 The “Y2K issue” arose from the fact that programmers early in the development of computing systems had adopted a convention of using a two-digit field for the year code. This convention had become widespread throughout computing systems, leading to significant uncertainty as to what would happen on New Year’s day 2000 when the “99” year code rolled over to “00”. The issue received a huge amount of media and governmental scrutiny, with some prognosticators predicting huge security and economic implications. Ultimately, the Y2K concerns proved to be much ado about nothing, but nevertheless served as a temporary financial boon for information technology consulting companies and vendors of apocalypse-related prepping supplies.
new rule-making authority to respond to topical issues associated with perceived reporting risks.

Another major regulatory initiative that arrived in the early 2000’s and was influenced by the embarrassment caused by Bre-X, Livent and YBM Magnex is NI 51-102 *Continuous Disclosure Obligations*. This instrument, adopted in 2004, harmonized continuous disclosure obligations for public companies across Canada, but also introduced a number of more stringent disclosure requirements. Included in NI 51-102 was a shortening of annual financial statement filing deadlines (Part 4, section 4.2), significant expansion of the MD&A content requirements (Part 5, section 5.3, section 5.4 and Companion Policy 51-102- Part 5), expansion of Annual Information Form content requirements (Companion Policy 51-102- Part 6), expansion of required executive compensation disclosure (which had already been materially expanded only a few years earlier), expansion of the disclosure requirements for Information Circulars, and the introduction of the requirement to file a Business Acquisition Report ("BAR") for all significant acquisitions by a public company (NI 51-102 Part 6 and Companion Policy 51-102- Part 6).305 The net effect of NI 51-102 was a material increase in the time and cost associated with public company compliance for all TSX-listed companies in Canada. The new BAR requirements were particularly unpopular with a number of public company executives, as they included a requirement to file audited financial statements for acquired companies and, thereby, made it difficult to acquire private companies that did not have the requisite audited statements. Prior to NI 51-102, public companies only had to file financial statements for material acquisitions in conjunction with prospectus offerings.

Another new continuous disclosure requirement implemented for the first time under NI 51-102 was the requirement for public companies to begin to file all material contracts on

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305 The definition of a significant acquisition for TSX-listed companies in NI 51-102 includes acquisitions that meet any of the following thresholds: (i) the acquisition constitutes at least 20 percent of the consolidated assets of the reporting issuer on its balance sheet; (ii) the consideration paid for the acquisition constitutes at least 20 percent of the consolidated assets of the reporting issuer; or (iii) the reporting issuer’s proportionate share of consolidated income from the acquired business constitutes at least 20 percent of the consolidated income of the reporting issuer.
an ongoing basis.\textsuperscript{306} Previously, material contracts only had to be filed publicly by companies in conjunction with a prospectus offering. This amendment was again unpopular with certain public company executives who viewed it as a privacy intrusion for their businesses and required them to put information in the public domain that they desired to keep private for competitive purposes.

Ultimately, NI 51-102, along with its companion policy and associated forms, has been amended on multiple occasions over the 15 years since its initial adoption. In most instances, the amendments have added new filing requirements, thereby further increasing the cost and complexity of continuous disclosure obligations.

Also adopted by the major provincial securities commission in 2004 was MI 58-101 \textit{Disclosure of Corporate Governance Practices}. This regulatory instrument initiated the obligation on public companies to publicly report, as part of their continuous disclosure, on a number of corporate governance items, including board attendance, qualifications and board independence. Over the course of time, a number of amendments to MI 58-101 were implemented that mandated further changes in Board committee composition and operation. For example, securities regulation during the past two decades has changed from allowing block voting on entire Board slates to mandating individual voting for each individual Board member.

Recently, further changes were adopted to MI 58-101 that require reporting issuers to report on a number of elements of their diversity policies and practices. This new requirement in MI 58-101 is but one example of a recent trend by securities regulators to use their rule-making power to move proactively towards advancing positions on social issues. Professor Chris Nicholls, of Western University Faculty of Law, notes this trend in his text on Canadian securities law:

\begin{quote}
In recent years, Canadian securities commissions have occasionally fixed their sights on a number of issues that, historically, might have been regarded as matters of corporate law rather than securities regulation, or in
\end{quote}

\textsuperscript{306} NI 51-102- \textit{Continuous Disclosure Obligations}, Part 9, section 12.2.
some cases issues of broader social policy not necessarily linked, at least directly, to the goals of investor protection or enhancing confidence in capital markets. The regulators’ foray into such matters reflects a recognition that certain matters that could, theoretically be addressed through amendments to corporate or other laws may, in fact, simply languish if not diligently pursued by securities regulators, the one investor-protection body that boasts not only substantial financial and human resources but also significant leverage over business corporations—regardless of their particular jurisdiction of incorporation. Such public policy initiatives, then, may be considered not as necessary adjuncts of traditional securities regulation per se, but as significant by-products of the establishment of substantial agencies with a mandate to regulate issuers and markets with a view to protection of the public interest.307

However, the securities regulatory authorities are not alone in Canada in terms of targeting new public company regulations in areas historically viewed as coming within the purview of social policy. The federal government in Canada has recently enacted changes to its version of corporate legislation that, as of January 1, 2020, requires all publicly traded companies that are federally incorporated to file mandatory diversity disclosure. These particular amendments were part of a number of new statutory requirements relating to corporate governance procedures for federally incorporated companies enacted through the mechanism of federal corporate legislation.308

A related development in securities regulation that is perceived by certain constituencies (particularly companies operating in the oil & gas sphere) as crossing into the realm of social policy regulation is the recent promulgation by the Canadian Securities Administrators of CSA Staff Notice 51-358- Reporting of Climate Change-related Risk (“CSA 51-358”) in August 2019. Although 51-358 expressly disavows that it is seeking to impose any new legal obligations on reporting issuers, this notice does provide clear guidance indicating that the risk disclosure of reporting issuers will be considered

307 Supra note 246 at 144.

308 Bill C-25, “An Act to amend the Canada Business Corporations Act, the Canada Cooperatives Act, the Canada Not-for-profit Corporations Act and the Competition Act” 2nd Sess, 42nd Parl (assented to May 1, 2018), with the relevant sections on mandatory diversity disclosure coming into effect January 1, 2020.
inadequate unless the disclosure incorporates CSA 51-358’s extensive guidelines for reporting on climate change-related risk.

Another significant change that has occurred in Canadian securities law is the increase in legal liability associated with being a public company, particularly as a result of amendments to Canadian securities laws establishing secondary market liability and facilitating securities class actions against public companies. Historically, Canadian public companies that were not inter-listed in the U.S. faced a much lower overall litigation risk than their U.S. counterparts. Securities-based class actions have been available in Canada since 1992, but Canada did not at that time have statutory civil liability for secondary market continuous disclosure violations. 309 Without a statutory civil liability for misrepresentations in the secondary market, statutory remedies were only available to purchasers who acquired treasury shares directly from the issuers. Investors purchasing shares on the open market in Canada, as such, only had recourse to common law actions, usually for negligent misrepresentation. 310 The common law tort of negligent misrepresentation requires proof of detrimental reliance at the individual plaintiff level, which made it extremely difficult to establish reliance in a securities class action. 311 Between 1992 and 2005, only a single securities class action case in Canada proceeded to final judgment. 312


311 Ibid.

312 Supra note 309.
However, in 2005 Ontario became the first jurisdiction in Canada to entrench secondary market liability for securities violations in its securities legislation,\(^{313}\) followed quickly by the other key provinces.\(^{314}\) From 2006 to 2017, 74 securities class action cases were filed in Canada against 47 different public companies.\(^{315}\) In many of these cases, individual directors and officers have been named as defendants alongside their corporations.\(^{316}\) Of these 74 cases, none have yet proceeded to final judgment, but approximately 40% of the claims have been settled with an average settlement value of $12.2 million.\(^{317}\) While certainly not yet approaching American levels of class action activity, the prospect of secondary market liability clearly is a development that materially increases both corporate and personal legal liability for Canadian public companies compared to the situation existing before 2005.

Another major regulatory change impacting Canadian public companies was the adoption of MI 61-101 *Protection of Minority Security Holders in Special Transactions*, a regulatory initiative which was initially adopted by Ontario and Quebec in 2008. This particular instrument significantly increased the processes, timing and costs associated with the approval of non-arms’ length transactions for public companies in Canada. Although it replaced similar regulations previously in place in Quebec and Ontario, MI 61-101 further tightened the procedures associated with securing minority approval and extended the requirements of obtaining independent fairness opinions on specific

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\(^{313}\) Ontario *Securities Act*, R.S.O. 1990, c.S.5. The secondary market liability sections are contained in Part XXIII.1, sections 138.1 to 138.14. Notably, the secondary market liability provisions in Ontario include liability caps for each liable party. For directors and officers, the cap is the greater of $25,000 and 50% of the compensation received by the individual from the issuer. For issuers, the cap is 5% of the issuers’ market capitalization or $1 million.

\(^{314}\) *Supra* note 309.


\(^{316}\) *Ibid*.

\(^{317}\) *Ibid*. Average is calculated from the Osgoode Securities Class Action Database.
transactions. Also, MI 61-101 was adopted beyond Quebec and Ontario in a number of other key jurisdictions.

A further area of Canadian corporate governance closely related to the topic of increasing securities regulation is the rising prominence of the roles of the proxy advisory services in Canada over the past two decades, principally Institutional Shareholder Services (“ISS”) and Glass Lewis. Proxy advisory services, which provide institutional clients with voting recommendations for their portfolio public companies with respect to annual meetings, special meetings and corporate transactions, have gained increasing influence and play an ever-larger role in the Canadian corporate governance landscape.

Beginning in 2012, both ISS and Glass Lewis began publishing annual proxy guidelines for public issuers at the end of the calendar year, advising which specific elements of corporate governance would be focused on by the proxy advisors in the upcoming annual meeting season. In particular, these annual reports outline specific requirements the proxy advisors have determined will be pre-conditions to them issuing positive voting recommendations for the upcoming meetings. Each year, new and more restrictive corporate governance requirements are foisted on the Canadian public companies through the annual guidelines of the proxy advisors.

In this regard, an argument can be advanced that ISS and Glass Lewis have stepped into a quasi-regulatory function in the Canadian capital markets. Although compliance with the proxy guidelines is not mandated by any securities law, any Canadian public company disregards the mandates of the proxy advisory firms at their peril, risking a significant percentage of their shares being withheld from voting or voted against management proxy recommendations for failure to comply with the recommendations.

Executives of Canadian public companies have long been at odds with the proxy advisory firms, viewing them as meddlesome and unaccountable, and arguing that the proxy advisory firms are inherently subject to significant conflicts of interest and have no accountability or visible process for determining what new corporate governance
standards they will require in a particular year. However, unlike the U.S., where legislation has recently been proposed to regulate proxy advisory firms, Canadian securities regulators assessed the situation and decided not to formally regulate the proxy advisory firms. Instead, a national policy was adopted by Canadian securities regulators which provides discretionary guidance. Paradoxically, the decision of the Canadian securities regulators not to regulate the proxy advisory firms effectively serves to increase the ability of the proxy advisory firms to continue to act in a quasi-regulatory role with respect to Canadian public companies and thereby increase the public company compliance burden. Moreover, like the Canadian securities regulators, the proxy advisory firms have extended their area of focus to topics that would traditionally be understood as relating to social policy rather than corporate regulation.

As mentioned at the start of this subsection, a more detailed discussion of all of the changes in securities regulation in Canada over the past two decades that have increased the costs and complexity of becoming a public company, or continuing to operate as a public company, is beyond the scope of this Dissertation. The items discussed above provide a representative sample of several of the most important regulatory changes that

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are of particular relevance to the design and analysis of the PCD Study, but are not intended to be exhaustive.

3.4- The Key Elements of Effective Securities Regulatory Reform

Having now briefly reviewed the historical development and the recent arc of securities regulation in Canada, and before turning to an analysis and critique of the ongoing regulatory streamlining / public company burden reduction initiatives in Canada, it is helpful to consider one final, yet critical, question: What should proper securities regulation and regulatory reform processes look like?

At the core of all securities regulation is the dynamic tension between ensuring that adequate securities regulation exists to sufficiently protect investor interests without over-regulating to the extent that capital markets growth is stifled:

Capital markets could exist without government regulation, but unregulated markets are frequently hampered by exploitive practices that can hurt some investors and shake the confidence of other investors, making them reluctant to participate. Thoughtful and balanced regulation can address both problems, protecting investors and shielding them from misconduct while lowering the cost of capital for businesses and governments by helping to restore confidence in securities markets. But all regulation comes at a cost. Over-regulation can be at least as harmful as under-regulation. Finding the optimal level of regulation, in any field, is the perennial and often elusive, goal of wise policy makers.323

Similar sentiments are expressed in a securities text co-written by former Canadian Governor General David Johnston, who summarizes the three assumptions on which Canadian securities regulation is founded:

First, regulation should not impose excessive cost or intervention (note that the reality is different from the theory). Second, investors and issuers cannot escape some level of risk- ranging from minimal to severe. Not all investors understand this point. Third, experience demonstrates a proven correlation between risk and return. […] Thus, regulation cannot, and should not, eliminate risk.324

323 Supra note 246 at 3.

324 Supra note 279 at 2.
Johnston and co-author Kathleen Rockwell continue on to note that securities regulators have often missed the mark by focusing excessively on the protection of “naïve, unsophisticated” investors and failing to sufficiently consider the competing interests of “all other actors in the securities market”.325

The securities reform process that has evolved across Canada since the provincial securities commissions were initially granted rule-making authority, beginning with Ontario in 1995, is defined by the provisions of the applicable provincial securities legislation. The provincial securities acts each mandate a public consultation process in which the proposed new rules, or amendments to rules, are published with a minimum period (usually 90 days) during which the public is invited to provide written comments. The Ontario Securities Act specifically requires the following:

**Publication of proposed rules**

143.2 (1) The Commission shall publish in its Bulletin notice of every rule that it proposes to make under section 143.

**Notice**

(2) The notice must include the following:
1. The proposed rule.
2. A statement of the substance and purpose of the proposed rule.
3. A summary of the proposed rule.
4. A reference to the authority under which the rule is proposed or a statement that the Commission is seeking legislative amendments to provide the requisite rule-making authority.
5. A discussion of all alternatives to the proposed rule that were considered by the Commission and the reasons for not proposing the adoption of the alternatives considered.
6. A reference to any significant unpublished study, report or other written materials on which the Commission relies in proposing the rule.
7. A qualitative and quantitative analysis of the anticipated costs and benefits of the proposed rule.
8. A reference to every regulation or provision in a regulation to be amended or revoked under subsection 143(3).326

325 *Ibid* at 3.

The regulatory reform process that the securities commissions have adopted over the past two decades usually follows the provisions of their enabling legislation strictly. On matters deemed to be of significant importance, the securities commissions will occasionally schedule round-table discussions in which subject matter experts, along with members of the public who have participated in the process by voluntarily submitting comments, are invited to participate in discussions.

Notably, however, the securities commissions rarely rely on any unpublished studies or reports in their analysis. Only on rare occasions have the regulators commissioned external experts to undertake empirical research on specific topics. Moreover, the securities commissions have not historically undertaken any internal original empirical research to serve as additional data points in order to support, verify or contradict, based on empirical evidence, the opinions expressed by commission staff and the members of the public who provide comments on any particular regulatory reform initiative.

With approximately 500 staff in place at the OSC alone, the decision not to routinely support original empirical research as a part of the regulatory process cannot be explained as being the result of a lack of financial resources. In fact, the bounties paid by the OSC earlier this year to Canadian whistleblowers represents a budgetary number sufficient to support more than 50 man-years worth of empirical research effort. The inescapable conclusion, therefore, is that the securities commissions in Canada have not frequently used empirical research to support their regulatory reform initiatives because they do not value empirical research as a significant contributor to maximizing regulatory reform outcomes. Is this an appropriate perception?

In answer to this question, consider the position of two leading U.S. legal academics in corporate law on the topic of what constitutes effective securities law reform: Roberta Romano and Robert C. Clark. Roberta Romano pointedly addresses the issue of what

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constitutes effective securities reform in a 2005 article in which she famously refers to the history of crisis-response securities regulation in the U.S. as “quack corporate governance”\textsuperscript{328}. In this piece, Romano discusses how periods of securities reform often result from shifts in the public mood against companies as a result of corporate scandals and/or significant stock market declines causing financial distress, sometimes coupled with changes in government. Romano further articulates how these particular moments in time open up “policy windows for policy entrepreneurs to link their proposed solution to a problem”.\textsuperscript{329} Romano concludes that “legislating in the immediate aftermath of a public scandal or crisis is a formula for poor public policymaking” in the securities regulation arena.\textsuperscript{330} Throughout her analysis, Romano discusses the importance of regulators properly understanding the empirical data underpinning the particular issue and proposed reforms, and advocates for any crisis-linked regulatory reform proposals to have built-in sunset clauses that lead to a natural termination of the reform initiative at such time as the crisis has passed, thereby eliminating the problematic requirement of being forced to proactively rescind the legislation.\textsuperscript{331} Romano continues with the same themes a decade later, advising that regulation in the financial area “tends to be enacted in a crisis setting”\textsuperscript{332} and reaffirming her core belief that securities legislation enacted during periods of crisis should routinely include sunset clauses to ensure that they are re-assessed for efficacy and unintended consequences once empirical data are available as to the impacts of the legislation, and cooler heads have ultimately prevailed once the crisis has passed.\textsuperscript{333}

\begin{footnotesize}
\begin{enumerate}
\item Ibid at 1524.
\item Ibid at 1602.
\item Ibid.
\item Ibid at 92.
\end{enumerate}
\end{footnotesize}
Robert Clark similarly undertakes an analysis of the implications and unintended consequences of Sarbanes-Oxley, ultimately arriving at three criteria that he states should be applied as preconditions to regulatory reform in securities matters: (i) serious empirical analysis; (ii) periodic reassessment of reforms considering the empirical evidence; and (iii) commitment to affirm or alter the regulations in light of the empirical evidence.\textsuperscript{334} Clearly, Robert Clark believes that consideration of empirical evidence (compared to anecdotal evidence or the perceptions of the regulators) represents the single most critical element of ensuring effective regulatory reform in the securities arena. The importance of considering potential securities regulation with specific reference to empirical evidence is discussed by several other legal scholars in the U.S. as well.\textsuperscript{335}

In consequence, therefore, there is an influential body of academic opinion holding to the position that consideration of empirical data at the outset, along with built-in sunset provisions ensuring continued evaluation as new empirical data are available, should be the consistent foundation of effective regulatory reform initiatives. Yet, the securities regulation reform processes in both the U.S. and Canada do not yet enshrine any formal role for the gathering or consideration of empirical data. In Canada, the legislated process for securities reform does not mandate any role for fundamental empirical analysis of reform proposals, nor have the securities commissions thus far elected to prioritize the application of empirical analysis within the discretionary elements of their securities reform processes.

Ultimately, the omission of any form of empirical analysis in the course of executing securities reform initiatives by Canadian securities regulators, which is viewed by the author of this Dissertation as a significant process deficiency, has served as a primary


\textsuperscript{335} For example, Stephen M. Bainbridge, “Dodd-Frank: Quack Federal Corporate Governance Round II” (2011) 95 Minnesota Law Review 1779.
impetus for undertaking the major empirical research project underpinning this Dissertation.
Chapter 4: Analysis of the CSA and OSC Regulatory Streamlining Initiatives

4.1- Ongoing CSA Burden Reduction Process

In this chapter, the details of the recent CP 51-404 burden reduction initiative will be discussed in more detail, followed by a review of the ongoing OSC 11-784 burden reduction initiative. As the OSC 11-784 initiative represents the first formal attempt by a provincial securities regulator to take up the mantle passed onto the securities commissions by the CSA after the conclusion of the CP 51-404 process, it is of clear relevance to the subject of public company decline. The recent release of the OSC Burden Reduction Report provides an excellent window into the OSC’s thought process and future plans on the OSC burden reduction initiative at this point in time.

The underlying question to consider is the following: how effective is the OSC 11-784 process likely to be in following up the CSA burden reduction initiative based on the process and developments that have occurred thus far? Unfortunately, it appears that the OSC has already deviated significantly from the most important elements of the CP 51-404 burden reduction initiative, evidencing an unpromising start to the provincial implementation phase of the CP 51-404 initiative.

The CP 51-404 and OSC 11-784 initiatives are classic examples evidencing how the machinery of securities regulatory reform typically moves in Canada. The regulatory reform processes are generally initiated by a notice published either by the CSA (on a multi-jurisdictional initiative) or directly by a provincial securities commission (on a single-provincial initiative) advising the capital markets of a particular issue identified with respect to existing securities regulation that is believed to be in need of reform. The published notices set forth the initial thoughts of the regulatory body as to the nature of the reform that the CSA or securities commission is contemplating, and then request comments from interested parties on the specific topic. The open solicitation for written comments is, as discussed in the previous chapter, mandated in the securities acts of the various provinces. It also remains as the primary methodology chosen by the CSA and commissions to obtain input on the proposed reform package, notwithstanding that other
alternatives for engagement and analysis of potential regulatory reforms, such as directly conducting empirical research, are not precluded by the enabling statutes. On broader reform initiatives, roundtable discussions are also held by the regulators in which representative voices of the groups who submitted written comments, or are considered by the regulators as subject matter experts, are invited to discuss the issue in an open forum.

CP 51-404 opens with the following summary of its mandate and intent:

The purpose of this CSA Consultation Paper (the Consultation Paper) is to identify and consider areas of securities legislation applicable to non-investment fund reporting issuers that could benefit from a reduction of undue regulatory burden, without compromising investor protection or the efficiency of the capital market. Part 2 of this Consultation Paper is focused on considering options to reduce the regulatory burden associated with both capital raising in the public markets (i.e., prospectus related requirements) and the ongoing costs of remaining a reporting issuer (i.e., continuous disclosure requirements).336

This summary positions the CP 51-404 initiative squarely within the realm of burden reduction for Operating Companies in the Canadian public markets. The mandate is further clarified on the next page of CP 51-404 where the five specific categories to support reporting issuer burden reduction are outlined:

We set out below some potential regulatory options which may reduce regulatory burden for reporting issuers:

2.1 Extending the application of streamlined rules to smaller reporting issuers

2.2 Reducing the regulatory burdens associated with the prospectus rules and offering process
   (a) Reducing the audited financial statement requirements in an initial public offering (IPO) prospectus
   (b) Streamlining other prospectus requirements
   (c) Streamlining public offerings for reporting issuers
   (d) Other potential areas

2.3 Reducing ongoing disclosure requirements

336 Supra note 29 at 2.
(a) Removing or modifying the criteria to file a business acquisition report (BAR)
(b) Reducing disclosure requirements in annual and interim filings
(c) Permitting semi-annual reporting

2.4 Eliminating overlap in regulatory requirements

2.5 Enhancing electronic delivery of documents

CP 51-404 then goes on to propose 33 specific consultation questions providing greater detail on the nature of the reforms that are being considered by the CSA within the five categories of reforms outlined above. Excerpts of the 33 consultation questions are appended to this Dissertation at Appendix 2. Embedded within the 33 CP51-404 consultation questions are a number of thought-provoking questions and comments relating to specific public Operating Company proposals to reduce the regulatory burden associated with being public. These proposals get right to the core of seeking to strike a more favorable balance, from the perspective of Operating Companies, between reducing the time, costs and complexity of IPOs and continuous disclosure and the overreaching securities commission mandate of maintaining the integrity of the capital markets and protecting public investors.

Amongst the most significant of the list of reforms proposed for consideration in CP 51-404 are the following:

- Modifying the two existing categories of reporting issuers that determine eligibility for lesser continuous reporting standards from the current TSX / venture issuer dichotomy to a new size-based distinction;

- Extending certain of the existing lesser continuous reporting standards to all reporting issuers;

- Extending the ability to use two years of historical audited financial statements as the foundation for an IPO to all reporting issuers;

- Eliminating the requirement for auditors to review interim financial statements in a prospectus;

Ibid at 3. The lack of punctuation is in the original document.
• Streamlining short form prospectuses and expanding the list of reporting issuers who have access to them;

• Considering alternative prospectus models;

• Codifying the existing securities commission internal approval process for exemptive relief for At-the-Market (“ATM”) offerings into a regulatory policy to limit the need for exemptive relief;

• Liberalization of pre-marketing and marketing rules for offerings;

• Modifying the Business Acquisition Report (“BAR”) requirements;

• Streamlining quarterly filing requirements, including looking at consolidating management’s discussion & analysis (“MD&A”), the annual information forms (“AIF”) and financial statements into a single reporting document;

• Consideration of moving from quarterly to semi-annual reporting; and

• Expanding the ability of issuers to use electronic document delivery under National Policy 11-201 and also expanding “notice and access” scope under National Instruments 54-101 and 51-102.

After extension of the initial consultation period from July 7, 2017 to July 28, 2017, a total of 57 written submissions were received on CP 51-404, of which 14 (i.e., 25%) were filed by representatives of Operating Companies. The remaining 75% of the written submissions were filed by various groups of public markets influencers; namely, stock exchanges, law firms, accounting & audit firms, investment dealers, advocacy groups, professional bodies, industry organizations and individual investors. Having reviewed each of the 57 written submissions, it is apparent that the majority of the submissions made comments at a very general level or commented only on certain proposed regulatory changes of particular interest to them.

Eight months after closing of the consultation period, the CSA released CSA Staff Notice 51-353 (“CSA 51-353”).\(^{338}\) The summary of the process of consultation in CSA 51-353 states that the individual securities commissions also directly consulted various advisory bodies.

\(^{338}\) \textit{Supra} note 30.
committees, industry groups and “other commenters”. Appendix A to CSA 51-353 summarizes the responses received from the 57 written submissions on the 33 specific consultation questions, breaking the responses on each area into three categories: supportive, supportive in certain circumstances and not supportive. The total number of responses that expressed opinions on the particular reform proposal are tallied and allocated to those three categories. However, there is no distinguishing between the source of the comments, or any evidence that the CSA tracked which categories of the specific commenters fit within each group on each particular question.

Evident from the demographic make-up of the commenters and the summary analysis of comments in CSA 51-353 (which is reflective of similar regulatory initiatives in Canada in recent years) is that, while the ultimate public/private determination is made by corporate decision-makers, input on prospective regulatory responses is heavily weighted in favour of various subgroups who collectively make up the universe of public markets influencers in Canada (which is a broader group of influencers than the four categories targeted for participation in the PCD Study). In similar securities reform consultations across Canada, the same list of industry and shareholder associations frequently shows up with comments offering predictable input on the proposed amendments based on their pre-existing biases and mandate to voice the concerns of their various constituencies.

Ultimately, from the initial list of 33 different proposals for reform outlined in CP 51-404, the CSA collectively decided to pursue reform in six different areas:

1. considering alternative prospectus models with more concise and focused disclosure;

2. initiating a process to modify and streamline the rules for ATM offerings;

3. eliminating discrepancy in interpretation of Item 32 of Form 41-101F1 Information Required in a Prospectus (i.e., what

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339 Ibid at 2.
340 Ibid.
information is required in historical financial statements) between various securities provincial commissions;

4. modifying the requirements of filing a BAR;

5. initiating a general continuous disclosure streamlining process to limit duplication in filings; and

6. initiating a process to further facilitate the delivery of electronic documents to shareholders by reporting issuers.

Individually, each of these six regulatory reform initiatives are positive steps. However, this list of six initiatives does not come close to constituting a comprehensive reform package that will meaningfully reduce the overall regulatory burden for Canadian public Operating Companies. As such, it is disappointing that many of the initial 33 proposals that offered the prospect of more significant reductions in regulatory burden were dropped at such an early stage of the reform process with the CSA.

It should be noted that Item #3 in the list of six reform proposals above was not even included in original CSA 51-404 proposals. While certainly uncontroversial (i.e., it is difficult to imagine circumstances in which anyone would object to consistency in interpretation of provisions across provincial jurisdictions), this proposal represents an obviosiy and not a meaningful burden reduction reform. Other inclusions on the list such as Item #5 and Item #6 are also certainly worthwhile. However, these reform proposals are also non-controversial and it is self-evident that they should form part of the CSA’s ongoing analysis, and certainly did not require a formal consultation process in order to identify.

Item #4 above, relating to proposed changes to the BAR requirements, has been followed up on by the CSA with a subsequent CSA Notice and Request for Comment.

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341 The adoption of the current BAR requirements and the challenges that these requirements present for public companies are discussed earlier in Chapter 3 of this Dissertation.

The proposals include increasing the significance test triggering a BAR filing for non-venture issuers from 20% to 30% of the market value of the issuer as well as requiring that two of the three significance tests be met before a BAR filing is required. While certainly representing a positive step forward, it is again disappointing that the first concrete reform proposal to come out of the CSA 51-404 process relates to an issue that, as disclosed later in this Dissertation, ranks near the bottom of the list of factors assessed in the PCD Study as likely contributing to public company decline in Canada.343

Contemporaneous with the announcement of the comment period for the proposed modifications to the BAR filing requirements, the CSA issued another notice and request for comment specifically relating to reducing regulatory burden for investment fund issuers.344 Once again, the proposals reflected in this notice represent positive streamlining changes for investment fund issuers. However, there is nothing whatsoever in these proposals to streamline the regulatory processes of Operating Companies in Canada that are the focus of this Dissertation. While investment fund issuers in Canada may also be critically in need of burden reduction, it is disappointing that the interests of public Operating Companies, which are so critical to the Canadian capital markets, have been deferred once again in the regulatory reform process.

On the whole, therefore, the outcome of the CSA 51-353 process must be considered to be highly disappointing for advocates of meaningful capital markets reform for Operating Company reporting issuers in Canada. CSA 51-404 originally included a number of bold and significant reform proposals for consideration that offered the prospect of meaningful burden reduction for reporting issuers in Canada. However, none of the boldest proposals from the original list of 33 reform ideas, offering the prospect for significant


343 See the specific discussion later in this Dissertation in section 7.15.5.1.

burden reduction in CSA 51-404, made it to the final list of initiatives for further consideration and development in CSA 51-353.

Why? One can only speculate, but it is clear that any impetus for broad reform was once again overwhelmed by the nature of the customary regulatory reform process and the dissident voices arguing against meaningful burden reduction for reporting issuers under the guise of protection of public shareholders.

As mentioned above, there is a standard cast of characters who can be counted on to regularly submit written responses on any material securities reform initiatives in Canada. Most of these participants are associations and interest groups, each of which has an embedded bias on regulatory topics, either for or against burden reduction, arising from the interests of their particular constituencies. The fact that the CSA summary analysis of the CSA 51-404 responses simply tallied the voices expressed for or against the proposals, and failed to openly distinguish between the nature of the commenters on each topic, is worrisome. In the regulatory reform process, one cannot simply assume that all voices should be weighted equally. Without access to the internal deliberations of the CSA between the time of the publication of CSA 51-404 and the publication of CSA 51-353, it is impossible to hypothesize as to what particular impediments and objections led the CSA to abandon the most promising and boldest of the reform packages from CSA 51-404. The explanation and construction of CSA 51-353 makes one question whether the fact that a particular proposal faced any significant opposition during the consultation was sufficient to result in it being abandoned. It appears that only those reform proposals on which a strong consensus was evident from the commenters were included in the final six recommendations.

If so, this is an unfortunate outcome. There will always be dissenting voices to any meaningful proposals for securities regulatory reform on burden reduction and regulatory streamlining. The voices of the shareholder rights associations have historically opposed most attempts to reduce the costs and complexity of continuous disclosure, particularly if they feel that it will deprive them of any existing information.
Yet, with due respect, the shareholder rights groups also do not necessarily appreciate sufficient context on the broader topic of public company decline to understand that the Canadian capital markets are on the precipice of sliding towards irrelevancy at an alarming rate. These shareholder rights groups continue fighting the battle to push ever-increasing disclosure onto the reporting issuers, often failing to realize that, in doing so, they may be complicit contributors to overall public markets decline.

In discharging their prime mandate to protect the integrity of the capital markets, it is submitted that the evidence presented in this Dissertation as to the extent of the public company decline phenomenon and the underlying complexity of subject matter demonstrates that the Canadian securities regulators need to exhibit strong and visionary leadership that is willing to adopt meaningful reform packages. In so doing, it is apparent, from review of the comments submitted to the CSA during the recent consultation processes, that regulatory initiatives with sufficient teeth to offer the prospect of meaningfully influencing public company decline will inevitably be unpopular amongst certain constituencies, particularly the shareholder rights lobby. However, the argument is advanced throughout this Dissertation that the extent of Canadian capital markets decline at this point in time is past the stage where regulatory reform by consensus is a feasible option.

The breadth and depth of the 33 initiatives proposed in CP 51-404 represent a positive first step towards a meaningful package of regulatory reform that would collectively operate to materially reduce the burden on Canadian public companies. The final six initiatives that ultimately were advanced in CSA 51-353 do not offer the same hope. If the typical securities regulatory reform process of initial proposals followed by public consultation leads us inevitably to such watered-down initiatives as is reflected in CSA 51-353, then it is incumbent on governmental authorities at a higher level to intervene in the burden reduction initiatives in order to provide leadership that offers an increased prospect of meaningful burden reduction.
4.2- Ongoing OSC Burden Reduction Process

The final paragraph of CSA 51-353 advises that the CSA is passing the mantle of burden reduction on to the provincial securities regulators to pursue their own processes on the six initiatives discussed above. Now, a year-and-a-half after the release of CSA 51-353, only the OSC has announced a formal process to follow up on the CSA burden reduction initiative. The OSC response is encompassed in OSC 11-784 Burden Reduction, published on January 14, 2019, which also announced the creation of a Burden Reduction Taskforce.345

Notably, OSC 11-784 refers in its mandate to both CSA CP 51-404 and to another CSA initiative focused specifically on investment funds, CSA Staff Notice 81-329 Reducing Regulatory Burden for Investment Fund Issuers.346 OSC 11-784 announces an initial consultation process in which interested parties are invited to submit comments on a wide variety of areas relating to overall burden reduction. The following statement is made, evidently anticipating objections from the investors’ rights lobby:

Strong investor protections are the underpinnings of fair and efficient capital markets. Reducing unnecessary regulatory burden for issuers, registrants and other market participants will benefit investors, because investors ultimately bear the costs of unnecessary or outdated regulations.347

The OSC issued a survey form for the consultation element of OSC 11-784 that included the following substantive questions:

Do you have any general comments on the topic of regulatory burden reduction related to securities regulation?

Are there operational or procedural changes that would make market participants' day-to-day interaction with the OSC easier or less costly?

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345 Supra note 31.


347 Ibid at 2.
Are there ways in which we can provide greater certainty regarding regulatory requirements or outcomes to market participants?

Are there forms and filings that issuers, registrants or other market participants are required to submit that should be streamlined or required less frequently?

Are there particular filings with the OSC that are unnecessary or unduly burdensome?

Is there information that the OSC provides to market participants that could be provided more efficiently?

Are there requirements under the OSC rules that are inconsistent with the rules of other jurisdictions and that could be harmonized?

Are there specific requirements that no longer serve a valid purpose?

Are there ways to enhance and improve how investors experience disclosure provided: (i) before they invest; (ii) as part of ongoing public disclosure; and (iii) by registrants? 348

In addition to the written consultation, the OSC held three roundtable panels between March and May, 2019, transcripts of which were posted to the OSC website. The participants in the roundtables were selected from the pool of individuals and groups who had provided written submissions and requested the opportunity to be heard in the roundtable.

Ultimately, the OSC received 69 written responses on OSC 11-784 during the consultation period. 349 A review of all of these written responses demonstrates that only four responses of the 69 submissions were from Operating Company issuers who were concerned with general issues of public company burden reduction. All other reporting issuers who filed comments were concerned almost exclusively with issues specific to investment fund registrants. The remainder of the comments

348 Ibid

349 All responses letters received in response to public consultation requests by the OSC are reproduced and available on the OSC website. The 69 responses on the OSC 11-784 consultation are available at the following; online:< https://www.osc.gov.on.ca/en/59169.htm>.  
came from public markets influencers, such as law firms, exchanges, and the standard list of industry associations and the investor rights associations. The transcripts of the roundtable discussions also evidence that the participants during the discussions were primarily focused on the issues of streamlining the requirements for investment funds, and not at all on burden reduction for public Operating Companies generally.

The OSC recently published its follow-up summary report on the entire consultation process thus far in a document entitled OSC Burden Reduction Report.\supra{350} This report is an extensive document that provides a clear picture into the process, current status and future plans of the OSC on the topic of burden reduction. The OSC Burden Reduction Report states that the OSC received a total of 199 suggestions on how to do things better, which it grouped into 38 underlying concerns relating to rules, processes and interactions between the OSC and public markets constituents.\supra{351} Ultimately, the OSC came up with 107 decisions and recommendations to streamline processes and reduce the ultimate regulatory burden. However, of the 107 decisions and recommendations, only 14 applied to all markets participants and another 13 applied to public Operating Companies. The other 80 items relate only to investment funds, registrants, derivative participants and markets, trading and clearing topics (i.e., trading mechanics).\supra{352}

\begin{notes}
\supra{350} Supra note 32.
\supra{351} Ibid at 7.
\supra{352} Ibid at 8.
\end{notes}
The break-down is summarized visually by the OSC as follows:\textsuperscript{353}

\begin{center}
\begin{tikzpicture}
\pie[radius=2]{24/Investment Funds, 13/Companies, 14/All Market Participants, 8/Marke, 30/Registrants, 18/Derivatives Participants}\\
\end{tikzpicture}
\end{center}

On each of the 107 decisions and recommendations, the OSC provides a description of the proposed change, status update, timetable and a summary of the perceived benefits of the item. The OSC summaries of the 14 decisions and recommendations applicable to all public markets participants and the 13 decisions and recommendations applicable to Operating Companies are included in Appendix 1 of this Dissertation.

Ultimately, the OSC states that “the initiatives outlined in our decisions and recommendations will make it easier for businesses to operate in our capital markets by helping to minimize regulatory delays, reduce the cost of capital and free up resources to focus on growth”.\textsuperscript{354} More specifically, the OSC outlines the following items as expected tangible benefits of the regulatory reform process:

- Enhanced service levels
- New tools and use of technology to assist with navigating the regulatory process
- More transparency around our processes
- Clearer communication from staff
- More manageable timelines for certain filings

\textsuperscript{353} Ibid.

\textsuperscript{354} Ibid at 9.
Greater clarity and flexibility on what is required to fulfill regulatory requirements
Less duplication of requirements and form filings
Improved coordination between the OSC and our regulatory partners
Rules and guidance that are easier to read and understand
Information that will be easier to find and better organized on our website
Improved coordination of reviews
A more tailored regulatory approach that takes into account the size and type of businesses.

There is no question that the OSC burden reduction process is a positive initiative, and is one that should be emulated by every other provincial securities regulator in Canada. Every small step towards burden reduction and regulatory streamlining is a step forward. However, the critical question in analyzing the effectiveness of the process thus far is whether the plans outlined in the OSC Burden Reduction Report go far enough to offer any meaningful prospect of stemming the tide of public company decline in the future. The answer to this question is discussed later in Chapter 10 of this Dissertation.

Clearly, what is most concerning about the OSC consultation process is the lack of participation by representatives of Canadian Operating Companies. Certainly, the opportunity for this group to participate was clear, as evidenced by the broad nature of the particular questions that the OSC framed in its survey questionnaire. The questionnaire included many topics of concern for operating company issuers. It is unclear why so few Operating Companies executives chose to voice their opinions on this important consultation from the OSC, but it is unfortunately clear from the record that the OSC is forced to operate with a paucity of valuable input from the Operating Company constituency in its deliberations as to the next steps that should be taken on the burden reduction initiative.

Ibid.
Certainly, there is a risk that the lack of meaningful input during the consultation period from public Operating Companies impacted the focus of the OSC in selecting the reform proposals that are ultimately being pursued, as outlined in the OSC Burden Reduction Report. Only 25% of the decisions and recommendations of the OSC deal in any meaningful way with the issues that are faced by Canadian public Operating Companies. The other 75% of the decisions and recommendations relate specifically to issues faced by financial markets participants. As such, much greater focus and attention in the OSC Burden Reduction Report is given to financial industry participants and market registrants. This prioritization of the issues of the financial markets participants is unsurprising because of the much greater level of participation by representatives of these industries in the consultation process.

In no way should any element of this Dissertation be interpreted as arguing that the concerns of the investment bankers and brokers in the Canadian public markets are not important, or that the reforms proposed to support streamlining in those sectors are undeserved. It is widely understood that those critical members of the public company ecosphere are also going through difficult financial times in Canada and many smaller firms are struggling to survive. It is also clear that the overall health of the public markets in Canada depends on having a robust infrastructure of investment banks, market makers and other financial markets participants available to service the needs of public Operating Companies.

However, it is also clear that the consultation methodologies implemented by the CSA, and subsequently by the OSC, have been largely ineffective in securing sufficient levels of participation from representatives of Operating Companies. In fact, the participation of Operating Companies in the OSC burden reduction process is so limited that it is doubtful the OSC can claim to have completed any type of consultation leading to a fulsome understanding of the burden reduction issues that are unique to Operating Companies.
This unfortunate result brings into sharp focus the severe limitations of the traditional model of securing industry input for securities regulatory reform in Canada. For whatever reason or combination of reasons, the consultation process that was implemented on OSC 11-784 has fundamentally failed in its goal of bringing a strong representation of voices from a cross-section of public Operating Companies across multiple industry sectors on the critical topic of burden reduction.

As mentioned in the earlier discussion on the various CSA burden reduction initiatives, it is clear that the voices of the investment fund industry have been the loudest thus far in the consultation process. One can infer that the clarity of the message received from the investment fund industry has pushed the prioritization for burden reduction relating to investment funds to the top of the legislative agenda, reflected by the most recent CSA initiative kicking off Phase 2 of the reform agenda directed specifically at investment fund issuers. The voices of the public Operating Companies in Canada have been comparatively muted during the consultation processes run by the CSA and OSC. The danger associated with this relative silence from the Operating Companies is that the burden reduction initiatives for Operating Companies will continue to be subordinated to the concerns expressed by the more vocal proponents of reform from the investment fund community.

Why are the investment fund issuers so vocal compared to the Operating Companies in the consultation process? It is likely because the investment fund industry views their very survival as being at stake; for the Operating Company senior decision-makers, there are many private options that can be pursued as alternatives to the public markets. Public company decline is not a matter of life and death for Canadian companies at this stage; they perceive that they can always choose private financing alternatives if the public market is not attractive.

Unless the consultation processes of the securities regulators are fundamentally altered, there is every indication that the number of Operating Companies listed in
Canada will continue to decline unabated. Hopefully, the securities regulators understand that the lack of a coordinated response from leaders of Canadian Operating Companies in response to the requests for comment from the CSA and OSC should not be interpreted to mean that Operating Company burden reduction is unimportant.

The failure of Operating Company business executives to respond in the same numbers as their investment fund counterparts should, rather, be considered as being reflective of the fact that, as discussed in detail later in this Dissertation, Operating Companies in Canada currently have robust financing alternatives in the private financing markets. The lack of a hue and cry from Operating Companies demanding immediate regulatory reform does not in any way diminish the reality of the phenomenon of public company decline or its importance to the underlying Canadian economy. The lack of participation in the securities reform consultation process by representatives of this group does not change the fact that stemming the decline of public Operating Companies in Canada should be a top priority for Canadian securities regulators for the reasons outlined in Chapter 1 of this Dissertation. However, the lack of Operating Company participation in these recent processes does demonstrate that the securities regulators should look at fundamentally altering their consultation processes to include other sources of data if they aspire to secure more meaningful input from this critical group. These additional data sources could include empirical studies. However, it could also simply include dedicating the resources necessary at the CSA or provincial securities commissions to individually contact the senior business decision-makers of each public Operating Company in Canada and request their opinions on critical reform initiatives. In the present environment, simply publishing an open invitation to participate in a consultation process is not adequate to secure the participation of this business cohort of Canadian businesspersons.

Despite the deficiencies in its consultation processes, the OSC must be commended for the significant effort that it has undertaken on burden reduction throughout the
public markets. Each improvement that comes from the process is a small step forward.

As for the other provinces outside of Ontario, one wonders why they have moved so slowly in responding to the mandate for regulatory burden reduction. Clearly, it is not a priority item for the provincial securities commissions outside of Ontario at this time. Possibly, the individual regulators realized that the watered-down recommendations resulting from CSA 51-353 were so uninspiring in scope that pushing the initiative internally at this point in time offers little value in meaningful burden reduction. Possibly, the release of the recent OSC Burden Reduction Report will spur them into some form of further action.

Regardless, it is also hoped that the warnings sounded in this Dissertation on the extent of public company decline in Canada will provide some additional impetus for the Canadian securities commissions to revisit the 33 reforms proposed for consideration in CP 51-404, possibly revisiting the boldest of the recommendations for significant regulatory reform contained therein in order to do what they can to stem the tide of further public company decline.
Chapter 5: Research Methodologies

5.1- Introduction to Research Methodologies

Applying empirical research methodologies to studies covering topics within the traditional boundaries of legal academia is a practice that has become commonplace in the United States. Many law schools in the United States teach methodology courses focused on empirical studies within the law.356

In Canada, however, the application of empirical studies to legal topics has not yet entered the academic mainstream. Based on a search of Canadian law school course offerings, it appears that no courses in empirical methodologies have yet made it into Canadian law school curriculums. Empirical studies applied to legal topics in Canada thus far have primarily originated through collaborations with academics working in other disciplines such as sociology, health, economics and finance.

It is apparent from recent trendlines that the application of empirical research methodologies to legal topics by legally trained academics will continue to increase in frequency and stature in Canada. As it remains a nascent discipline within law at this juncture, however, it is recognized that the methods employed in the PCD Study may be unfamiliar to a portion of the audience coming from a traditional legal background. Considering that present reality, this Research Methodologies chapter will go through the research methodology associated with the PCD Study in greater detail and spend more time discussing the underlying assumptions and key research choices made in the process than might otherwise be seen in a typical empirically-based Dissertation.

Having started with the observation that public company decline in Canada was a subject matter desperately in need of study to remedy the existing void in empirical data, the first step in the process of defining the PCD Study was assessing all realistic avenues of

\[356\] For example, in creating a reading list for a self-study course on empirical methods in the law, the author secured course outlines for empirical methods-focused courses currently being taught in law schools in Stanford, UCLA and Duke.
inquiry for empirically studying the phenomenon. Through the process of elimination, it was determined that a survey of key Operating Company senior decision-makers and public company influencers in Canada was the most practical and promising tool to generate meaningful empirical data. This led to the execution of an extensive process of preparation involving a significant amount of directed-study and self-study research into contemporary best practices in empirical studies in law, survey research methodologies and the implications and specific challenges of conducting empirical research involving human subjects in the context of a PhD Dissertation through a Canadian law school.

5.2- Ethics Approval Process and Outcome

As the PCD Study was executed under the auspices of Western University, Faculty of Law and involved research on human subjects, an application for approval to the Western Non-Medical Research Ethics Board (“NMREB”) was required. The NMREB application process is extensive, and required the drafting and filing of approximately 20 different documents including an 8500 word Survey Protocol and Research Plan that detailed all of the relevant elements, plans, procedures and policies that would be adopted and observed during the course of the PCD Study initiative. Copies of the draft survey instruments, interview scripts, verbal recruitment scripts, email solicitations and proposed advertisements were also submitted for review.

One of the main documents vetted in the NMREB process was the form of the Letter of Information that is required to be reviewed and acknowledged by every study participant, with confirmation of acknowledgement retained as a record of informed consent by the study administrators. Copies of all of the paper formats of the survey instruments were also individually submitted for approval.

Ultimately the NMREB process is principally focused on: (i) ensuring the protection of the privacy and dignity of the potential participants in a research study before during and after the study; (ii) confirming that appropriate steps are made to safeguard all data collected, particularly any data that can be used to identify individuals; (iii) guaranteeing that the recruitment process is free of undue coercion; (iv) ensuring that full and informed
consent is obtained from every study participant; and (v) ensuring that best-practices in human research are followed at all stages of the research process.

The initial Western NMREB application was filed, along with all supporting documents, on November 20, 2018. Minor comments were received from the NMREB personnel on the initial application and a revised application was submitted on December 5, 2018. Final NMREB approval for the PCD Study was received on December 7, 2018.

One of the biggest issues in the review of NMREB applications generally is consideration of the vulnerability of the specific populations being studied. Any specific vulnerabilities require a corresponding plan for enhanced protections in the study protocol. However, in the PCD Study underpinning this Dissertation, the various subgroups being targeted for inclusion are amongst the least vulnerable groups that one can identify in Canada. The target participants in the PCD Study are highly educated and generally highly compensated. They can also be assumed to have developed immunity to recruitment pressures, as they face competing requests for their valuable time on a daily basis. As such, the biggest concern in designing the protective elements of the PCD Study were less about protecting the target participants from undue pressures in recruitment due to any vulnerabilities (although best practices in that area were followed throughout) and more focused on protecting the identity and personal information of everyone who enrolled in the PCD Study.

On this topic, many of the respondents evidenced little concern on retaining anonymity, going so far as to include their names and phone numbers in the text responses and inviting calls back to discuss their comments further. Individuals who requested specific contact were generally followed-up with phone calls, inviting them to share further on the topic. The information from these follow-up calls was collected for

\[\text{357 Regardless of whether a particular individual made it clear that they were unconcerned with maintenance of privacy, procedures were followed throughout the PCD Study process to ensure that all privacy conditions of the NMREB approval were followed for all PCD Study participants, and no individualized data was consequently stored in any form that could allow for identification of any of the PCD Study participants.}\]
additional context, but did not form part of the formal PCD Study data. A small number of respondents did express concern about potential attribution of their responses as the questions sought personal opinions. Several participants were keen to ensure that it was clear that they were providing their opinions only in their personal capacities and not in their capacities as formal representatives of their specific organizations.

Collectively demographic data that allows for personal identification of the respondents also creates a host of data security issues that continue long after the completion of a research project such as the PCD Study. As such, the decision was ultimately made that no information would be collected in the PCD Study that would allow for individuals to be personally identified. Only generalized demographic data was collected and utilized to define and assess the responses of the multitude of demographic subgroups tracked throughout the analysis of the PCD Study data. Careful process was followed to ensure that no individualized responses were reported alongside compiled demographic data that might collectively establish a profile where readers are able to make educated guesses at the identities of the respondents. Ultimately, the data protection processes of the respondents were outlined in the Survey Protocol & Research Plan filed with the NMREB, providing a high degree of anonymity to the PCD Study participants.

In terms of human research and NMREB ethics concerns, the PCD Study is relatively straightforward and does not engage the usual complexities that can become problematic. No waivers or variations of the NMREB policies were required. The single area in which the Survey Protocol & Research Plan engaged a topic that is considered ethically sensitive was in reference to the use of snowball sampling in the recruitment process. Snowball sampling involves using individuals, other than those who are investigators in the research study to assist in the recruitment process, generally asking that people who have participated in the study pass along the invitation to other individuals that they know would fit within the target participant group. Those individuals are then asked to invite other individuals to participate and so on. Snowball sampling can be an effective tool in securing enrolment for target groups that are hard to reach directly. However, snowball sampling also inherently raised NMREB ethical concerns because the recruitment effort is delegated outside the direct control of the investigators who are trained in survey
methodology and understand both the specifics of the NMREB approval conditions for
the study and best-practice ethical boundaries in survey recruitment generally.

It was disclosed in the NMREB application and in the Survey Protocol & Research Plan that it was intended to use passive snowball sampling in the PCD Study. Passive snowball sampling is where a request is extended to persons outside of the investigator group to pass along the invitation to participate in the research study to others. Investigators are not allowed to follow up with individuals and ask them whether they have in fact passed along the invitation or, if so, to whom. In active snowball sampling, investigators follow up with individuals to determine whether requests to participate have been forwarded. Passive snowball sampling is allowed by the NMREB recruitment guidelines of Western University, while active snowball sampling is prohibited.

As a result, passive snowball sampling combined with anonymous survey responses prevents the researcher from knowing which of the responses received are attributable to the passive snowball sampling efforts as opposed to direct solicitations of the respondents by the study investigators. Moreover, passive snowball sampling does not allow the investigator to ask for contact information of others who meet the study criteria and thereby solicit those individuals directly. Passive snowball sampling forces the investigators to rely on others to follow through on recruitment efforts without any ability to verify if that is indeed occurring or to what degree. The only practical method of determining what effect passive snowball sampling is having in the overall recruitment effort is to discontinue all direct solicitation efforts over an extended period of time and assess the results, such that an inference can be drawn that most of the new responses being completed are attributable to the snowball sampling and not direct recruitment.

In the PCD Study, the aggressive timeframes for survey enrollment did not allow for a significant gap in the active recruitment efforts, so it cannot be known with certainty what portion of the total responses received came from the passive snowball sampling efforts. However, based on observation of the correlation between the timing of direct solicitation efforts and the timing of the responses received, it is believed that more than 90% of the responses received in the PCD Study were as a result of direct solicitation by
the Co-Investigator. More details on the recruitment process, and the lessons learned therefrom, are included later in this chapter.

5.3- Format and Delivery of the PCD Study

The PCD Study ultimately utilized four different survey methods at various stages in the research process: (i) in-person interviews; (ii) phone interviews; (iii) paper surveys; and (iv) online surveys. The use of live interviews was limited to the survey validation phase discussed hereafter and also for participants in the main survey who indicated via email response or phone call that they preferred to have a live conversation with the Co-Investigator. In those situations, the Co-Investigator would go through the relevant paper version of the survey with the specific respondent and would then enter the paper version as an online response. In total, less than 15 paper surveys were completed (all of which were thereafter inputted online), with the remainder of the responses occurring through the online portal. As such, more than 95% of the responses in the PCD Study were originally secured online.

The online data collection portion of the PCD Study exclusively utilized the Qualtrics survey platform. Qualtrics has entered into a university-wide license with Western University, making Qualtrics the obvious choice for the PCD Study from a cost perspective. However, assessment of the Qualtrics survey platform also confirmed that the Qualtrics software offers all of the desired functionality for efficient administration of the PCD Study along with robust technical support. Qualtrics was also used for basic review and analysis of the data collected in the PCD Study. For the more complex statistical analysis, the Qualtrics responses were exported into CSV files and analyzed using Excel and a specialized open-source statistical software program called “R”.

Due to the full anonymity provided to the respondents in the PCD Study, the issue of how to prevent “ballot-box stuffing” was considered at length to ensure the integrity of the data collection process. The decision was ultimately made to utilize a Qualtrics feature that embeds cookies in respondents’ browsers and prevents anyone using that same computer terminal from completing the survey a second time. Although this protection can be defeated by an intentional deletion of the embedded cookies by the user, the risk
of ballot-box stuffing in the PCD Study was considered very low. No compensation was offered for participation in the PCD Study, so no apparent motivation for any respondents to complete more than one survey can be identified. As such, the use of this particular Qualtrics feature was considered sufficient as an anti-ballot-stuffing measure.

For online responses, eligibility to participate in the survey was verified through self-reporting and self-certification at the beginning of the online responses using a variety of screening questions. In the PCD Study, it was determined that self-certification was the only practical method for eligibility verification in order to assure anonymity and avoid collecting personal data. While relying on self-certification opens up the possibility that respondents can improperly report their eligibility in order to participate, the chance of this occurring was determined to be low in the PCD Study. The solicitation process, discussed in more detail hereafter, was targeted only to those individuals who were likely to meet the eligibility criteria from the start. Also, there is no obvious incentive for respondents to misrepresent their eligibility in order to participate in the survey. Participation in the PCD Study takes effort and time without any tangible reward being offered to respondents. Based on all of these factors, self-certification of eligibility was considered an appropriate methodology for the low level of risk in the PCD Study.

Finally, the core of the PCD Study included several matrix questions listing a number of potential factors that the respondents were asked to rank or otherwise evaluate according to specific criteria. On matrix questions, the issue of question order bias must be considered in the design and implementation of the survey. In a list of items, it is recognized that respondents’ perceptions may be influenced by where the items are placed sequentially in the lists, thereby introducing question order bias that can result in sample error. Utilization of an online survey tool such as Qualtrics offers a simple solution to this issue, enabling the appearance order of the items in lists to be randomized for each individual respondent. This randomization functionality was used in the PCD Study to ensure that question order bias was eliminated in the responses which were originally collected through the Qualtrics system.
5.4- Nature of the Empirical Effort

The rationale for resorting to an empirical study based on survey research to illuminate the relative importance of contributing factors to public company decline was discussed at some length in the introductory chapter of this Dissertation. Empirical research has repeatedly demonstrated the significant linkage between preferences expressed in surveys and decision-making outcomes.\(^{358}\) The correlation between attitudes and future decision-making is strongest when the attitudes are based on direct experience,\(^{359}\) which is clearly reflective of the participants in the PCD Study. These authorities validate the underlying proposition that the PCD Study outcomes illuminating the perceptions of Canadian senior business decision-makers and public markets influencers on the key topics relevant to public company decline provide valuable insight as to the actual IPO / private decision-making process and likely outcomes. While formal causality of public company decline cannot be determined using the survey methodology, the PCD Study data provides the best information yet collected to formulate hypotheses on a number of critical issues intuitively and conceptually linked to the public company decline phenomenon in Canada.

One of the principal goals of the PCD Study is to determine a rank-ordering of the importance of various factors posited as contributing to public company decline in Canada. The PCD Study accomplishes this by determining a rank-order of the factors in terms of their perceived importance to senior business decision-makers and public markets influencers when faced with a hypothetical go public / stay private decision.

Another principal research goal in the PCD Study is analyzing the biases and predispositions of senior decision-makers and influencers towards IPOs, the capital markets and private financing alternatives generally. Key questions in the PCD Study were designed specifically to determine whether survey participants exhibited a positive or negative bias to public or private financing alternatives, with the results discussed

\(^{358}\) Supra note 35.

\(^{359}\) Ibid at 812.
hereafter demonstrating that significant biases against the public markets persist amongst several key subgroups included in the PCD Study.

The PCD Study was designed and executed as a cross-sectional survey, meaning that it gathered information from a sample group taken from a larger population at a particular point in time.

There were two separate components in the PCD Study, namely the Preliminary Survey and the Main Survey. The Preliminary Survey was utilized in order to test and validate the form and content of the final survey instrument for the subsequent Main Survey. The Preliminary Survey phase took place between December 14, 2018 and January 14, 2019. The format adopted for the Preliminary Survey was live interviews conducted either in-person or over-the-phone. The average interview length in the Preliminary Survey was approximately one hour. A total of 14 different individuals were interviewed during the Preliminary Survey phase representing a cross-section of the target subgroups for the Main Survey: three public company senior decision-makers, three TSX-eligible private company senior decision makers, three securities lawyers, two public accountants / auditors, one investment banker and two private equity investors. As such, the Preliminary Survey participants represented a cross section of all target subgroups that were also solicited in the Main Survey.

In each Preliminary Study interview, a short initial discussion was held in which the nature of the public decline phenomenon and the purpose of the PCD Study were discussed. The participants were then given approximately 20 minutes to go through the survey, either online or with a paper version, without any interaction with the interviewer. The participants were requested to make personal notes as they progressed through the survey instruments indicating any items in the PCD Study that they felt were confusing, unclear, inaccurate, leading, misleading or irrelevant.

The amount of time that each participant took to complete the Preliminary Survey was logged. After the participants completed the survey, the interviewer went back over the survey instrument with the participants on a question-by-question basis, asking whether the participants had any comments on the particular questions. Afterwards, the
participants were asked if they could identify any potential additional downsides associated with being a public company or other possible contributing factors to public company decline that had not been mentioned in the survey instrument. Finally, the participants were asked if they had any final suggestions on the survey execution plan, the design of the survey or any other related topic.

The notes from the 14 interviews in the Preliminary Survey phase were then incorporated and used to create the final survey instrument for the Main Survey. During the course of the Preliminary Survey process, several revisions were made to the questions and instructions in order to improve the clarity of those items based on feedback received from the Preliminary Survey participants.

After completion of the Preliminary Survey, the Main Survey enrollment phase was begun immediately. The Main Survey was completed over a five-month period, commencing on January 15, 2019 and ending on June 15, 2019.

5.5- Determining the Target Participants in the PCD Study

5.5.1- Which Senior Business Decision-Makers?

Having developed the argument earlier that the decision to pursue public or private alternatives is fundamentally a conscious decision by senior business decision-makers, and that the decline in the number of public Operating Companies must thereby be inferred to be a result of a shift in perception over time of the relative merits of public versus private financing options, one of the first critical questions that had to be defined early in the PCD Study planning process was which individuals should be studied? In order for the study outcome to have empirical validity and interest to market participants, the individuals surveyed for the primary research undertaking need to come from amongst that elite group of senior business leaders who have the actual authority to unilaterally determine, or at least strongly influence, the public/private decision.

How should the class of senior business decision-makers be defined? Since no similar empirical research project has been undertaken on the decline in public Operating Companies prior to the PCD Study, there is little illumination in the literature providing
guidance on the appropriate selection of study participants. The Brau / Fawcett and Mittoo Bancel studies completed in the U.S. and Europe on IPO motivations and timing, previously discussed in the Literature Review chapter of this Dissertation, both rely solely on opinion of CFO’s.360 Although the opinions of CFO’s certainly can be anticipated to be well-informed in most instances, it was determined that relying solely on CFO opinions was insufficient to secure the breadth and depth of perspectives being sought in the PCD Study.

Ultimately, three different groups of senior business decision-makers were included in the PCD Study solicitation. While many internal and external voices may be consulted by company leadership in advance of an IPO, the ultimate public/private decision in each company generally rests with a small number of decision-makers who reside at the very top of the corporate hierarchy: Executive Chairpersons, Presidents/CEOs, CFOs and COOs (collectively, “C-suite” executives). Ultimately, the IPO process is so time-consuming and distracting for C-suite management that it is all but impossible for a company to go public without the C-suite management being supportive of the ultimate goal.

The second group of decision-makers included are significant shareholders. In certain instances, significant non-management shareholders (i.e., those shareholders with sufficient shareholdings to force their liquidity agenda on C-suite management) also are key decision-makers in the IPO / private financing determination. Most often, this occurs when a specific shareholder has secured registration rights during an earlier private round of financing. Ultimately, it was decided that the category of non-management shareholders eligible to participate in the PCD Study would be limited to those shareholders holding at least 20% of the voting shares in a particular company.

The third group of decision-makers included in the PCD Study were non-executive directors. Non-executive directors may also play a role in the decision-making process,

360 Supra notes 87 and 91.
although their influence is likely to be significantly less on this particular topic than that of executive directors. Non-executive directors will rarely be the impetus for an IPO on their own without the full support of the C-suite executives. However, it was determined that their opinions may have sufficient weight in the ultimate go public / stay private decision that they should be included in the PCD Study.

The definition of the class of senior business decision-makers in Canada eligible for participation in the PCD Study certainly excludes many individuals who may have a significant voice in the company on the go public / stay private decision. However, it was determined that the PCD Study data would be more informative if the definition of senior business decision-maker erred on the side of being too restrictive rather than too inclusive. In other words, it is preferable to exclude participation by some individuals who may have some valuable insight on the topic than to include individuals who may not be influential in the IPO analysis and decision-making process. By using the restrictive definition adopted for PCD Study eligibility, we can be assured that each of the responses from a senior business decision-maker represents an individual whose opinions are informed by personal experience and is in a position to significantly influence the outcome of the decision-making process.

From amongst the three categories of individuals fitting with the PCD Study definition of senior business decision-makers, it is obvious that the most influential group are the C-suite executives. As such, the recruitment effort for senior business decision-makers was focused primarily on C-suite executives. The minimum target for C-suite executive representation within the senior business decision-maker demographic was initially set at 70% of the respondents in that group.

Analysis of the PCD Study data ultimately shows that approximately 85% of senior business decision-maker respondents are C-suite executives, thereby exceeding the minimum target. Approximately 9% of the senior business decision-maker respondents in the PCD Study are non-executive directors. The remaining 6% of PCD Study senior
business decision-maker respondents represent large-block shareholders who are neither directors nor C-suite executives.\(^{361}\)

Does the mix of respondents in the PCD Study from the senior business decision maker group in the PCD Study represent an appropriate allocation amongst the various constituents of senior business decision-makers with reference to their relative importance in the IPO / stay private decision? There are no authorities in the literature specifically addressing this particular point, as no published research has been historically focused on empirically determining the comparative influence of senior executives, independent directors and large shareholders on the go public / stay private decision.

The two studies cited in the Literature Review discussion at Chapter 2 of this Dissertation, which are the only two previous instances where survey methodology has been used to assess IPO motivations, both solicited the opinions only of CFO’s.\(^{362}\) Brau / Fawcett acknowledge the limitation of restricting their analysis to the opinions of CFO’s, but express their belief that “the CFO is in the best position to understand the IPO process”.\(^{363}\) They also point to previous American empirical studies in which only CFO opinions were solicited on particular corporate finance topics, concluding that reference to CFO opinions alone on corporate finance topics is in line with accepted practice.\(^{364}\) However, these other studies cited by Brau / Fawcett address specific topics related to

\(^{361}\) 63.4% of the C-suite executives who participated in the PCD Study also served on the Board of Directors of their companies.

\(^{362}\) *Supra* notes 87 and 91. Of the two studies, only Brau / Fawcett address this methodological issue. Mittoo / Bancel simply disclose that they are following the methodology of Brau / Fawcett.


\(^{364}\) *Ibid*. 
corporate finance other than IPOs and do not provide any compelling rationale for limiting empirical study of IPOs opinions to only CFO’s.

In framing the PCD Study, the conclusion was reached that the solicitation of senior business decision-makers should go beyond CFO’s to include other C-suite executives, independent directors and large shareholders for two main reasons. First, Canada is a much smaller economy than the U.S. and there are far fewer firms to solicit, making it infeasible to secure a statistically-significant cohort of responses from the CFO category alone. Second, while CFO’s may be the individuals within a company best positioned to understand the IPO process as contended by Brau / Fawcett, there is nothing in the literature to suggest that they are the most influential in the critical stay private /go public decision-making process. As the PCD Study is focused on securing the input of individuals who have the greatest influence on the IPO decision-making process, solicitation of a broader group of senior business decision-makers not limited to CFO’s is clearly mandated.

Does the PCD Study evidence an ideal breakdown of senior business decision-makers that appropriately reflects the relative influence of each type of respondent on the decision-making process? That question is impossible to answer because, as previously stated, there is no empirical evidence determining what the relative influence of each type of respondent is on the stay private / go public decision. The appropriate standard should be, therefore, reasonableness based on expert opinion.

Ultimately, the targets established for the PCD Study were based on the combined perceptions of the Co-Investigator and several other IPO experts consulted on this particular issue. These opinions on the relative influence of various senior business decision-decision makers on the IPO process are based on direct experience of the Co-Investigator and the other IPO experts engaging in numerous Canadian IPOs over the course of their careers. The consensus expressed by this expert group is that the final breakdown of senior business decision-maker respondents who participated in the PCD Study is a reasonable reflection of the relative influence of different types of senior decision-makers on the stay private / go public decision-making process.
5.5.2- Decision-Makers of Which Canadian Companies?

Another preliminary question that had to be addressed with respect to the corporate decision-makers component of the PCD Study is which types of companies should be targeted? Should the focus be on senior business decision-makers who have direct management experience with existing public companies, or should the focus be on senior business decision-makers currently managing growth-stage private companies that are realistic prospects for future IPOs? In order to maximize both the credibility and impact of the PCD Study, it was determined that strong representation should be solicited from senior business decision-makers of both public and private companies.

If the decline in Canadian public Operating Companies is an evolution in the preferences of corporate leadership, then it is imperative to determine the factors that are important to decision-makers from both existing public companies and from prospective public companies. The senior business decision-makers in existing public companies possess a wealth of information on the actual advantages and disadvantages of being a public company as a result of their personal experience, whereas the beliefs and perceptions of the decision-makers in prospective future public companies is instructive as to whether there is a gap between the perception and reality of the relative benefits and costs of pursuing an IPO versus private alternatives.

As will be discussed at various places later in this Dissertation, the differences in perception between senior decision-makers of public and private companies offer fertile ground to better understand the nature of public company decline generally. Also, since pursuing an IPO is a conscious decision, the current perception of decision-makers in private IPO-eligible companies may be viewed as predictive for the near-term future of the IPO market in Canada.

5.6- Considering the Junior Canadian Stock Exchanges

A further critical question that had to be addressed in defining the scope of the PCD Study was determining which particular stock exchanges would be eligible in the research project. Amongst the classes of senior business decision-makers discussed above with experience in public company management, should junior-market TSXV and
Canadian Stock Exchange ("CSE") decision-makers be included amongst the target participants? Or should enrollment be limited to decision-makers of TSX-level companies? There is no obvious right or wrong answer to this particular question from an academic perspective. The decision was made, after significant reflection, to limit enrollment of those subgroups to those with TSX-level experience. The rationale for doing so is largely based on pragmatic considerations.

The statistics on decline in the number of public Operating Companies in the introduction to this Dissertation were drawn only from the TSX, but the TSXV junior market has also experienced a 36.5% percentage decline in the number of Operating Company listings during the same interval.\(^{365}\)

A portion of these TSXV listings have moved over to the alternative CSE exchange in the interval, which has seen a significant increase in the number of total listings during the period in which the decline in the TSX and TSXV is reported. However, very few of these CSE listings are of a size and stage of development that they would have been eligible for the TSX with the notable exception of companies from the cannabis and blockchain industries. Certainly, the cannabis boom in 2018 generated a temporary boom in CSE listings, trading volume and markets valuations. In 2019, however, the cannabis bubble ended and the volume of new listings on the CSE slowed to a trickle, most of which are small mining exploration projects.

Ultimately, there were two key reasons behind the decision to exclude TSXV and CSE companies from the PCD Study and focus exclusively on TSX-listed companies and TSX eligible private companies. The first reason is for the purposes of retaining comparability of the study results and the applicability of conclusions drawn therefrom for capital markets outside of Canada. The TSXV and CSE listing requirements, along with the average asset base of the listed companies on the TSXV and CSE, are significantly lower than any comparable markets in the United States or Europe. The challenges,

\(^{365}\) Source: TMX Market Intelligence Group report on annual listings on TSX and TSX 2008-2019.
opportunities and hurdles associated with being a micro-cap public company listed on the TSXV or CSE are often unique to companies of that particular size and stage of development. For example, the average company listed on the TSXV has only a single analyst covering it (often affiliated with the firm who completed the IPO) and a significant percentage of the institutional investors in Canada will not buy TSXV stocks. The single TSX IPO completed in Canada in the first three quarters of 2019 overwhelms all the TSXV and CSE IPOs completed in terms of the amount of money raised by an order of magnitude.

To the degree that the public company decline phenomenon observed on the senior public markets in Canada has commonality with the U.S. and European experiences, those commonalities will have to be evaluated companies of comparable size and in similar industries across the geographic regions. If the TSXV and CSE companies were to be included in this research project, the nuances of those exchanges and the smaller size of the public companies listed thereon may fundamentally alter the underlying narrative, sentiment analysis and rank-order outcomes of the PCD Study. This would obscure the nature of commonality and differences between Canadian public company decline and the same phenomenon in other western industrialized countries.

A second reason for exclusion of the CSE specifically is the numerous complications, complexities and future uncertainties associated with the specific cannabis and blockchain industries that have been so heavily weighted in the CSE listings over the past few years. The CSE has recently come through a historic boom cycle in both cannabis and blockchain fueled by retail investor exuberance. Clearly, that bubble has now passed as evidenced by the lack of new listings in either cannabis or blockchain on the CSE and the decline in those industry-specific indexes since their peaks in the past couple of years. If the senior decision-makers of CSE companies were added into the analysis,

the proclivities and recent experience of the cannabis and blockchain industries, both positive and negative, would again fundamentally alter the research outcomes and obscure key findings on the broader nature of public company decline in Canada.

In order to ensure that the issue of broad-based public company decline remains in sharp focus, along with the desire to maximize the potential impact of the proposed research project outside of Canada, the decision to focus the PCD Study on senior decision-makers associated with TSX-listed and TSX-eligible companies was determined to be the most prudent course of action. Analyzing the unique challenges associated with the decline of small-scale public companies on the TSXV and CSE, and the temporary blips in IPO volume associated with industry-specific bubbles in cannabis and blockchain, are interesting phenomena in Canada and certainly worthy of further study. However, pragmatic considerations dictate that those are matters best left for a different day in a different research study.

5.6.1- Rationale for Including Public Markets Influencers

There is one final important consideration to discuss with reference to the target participants of the PCD Study. Namely, the following question had to be answered in the PCD Study design: should the PCD Study be limited to senior business decision-makers, or are there other classes of individuals who are influencers within the public markets ecosphere whose opinions should be also be included?

In answer to this question, it is noted that this Dissertation is submitted in conjunction with the pursuit of a PhD in the Faculty of Law. The underlying subject matter of public company decline in Canada is inherently interdisciplinary in nature and the lines of distinction frequently blur between business and law. It is the hope of the author that the PCD Study observations and recommendations will be considered in both the faculties of business and law. However, the analysis portion of this Dissertation engages, as a core theme, the regulatory implications of the PCD Study. In particular the fundamental question of whether regulatory reform can realistically be expected to reverse, or at least stem, the decline in public Operating Companies in Canada is considered. The hope is that the research output will ultimately have some influence on existing and future
regulatory reform initiatives, in part by the assessment of which specific factors established as being most influential in the public/private decision-making process can be addressed through regulatory reform. Clearly, not all factors lend themselves to regulatory solutions; some factors are simply endemic to the public markets ecosphere at this point in time.

In the previous chapter of this Dissertation summarizing the recent CSA and OSC initiatives into public company burden reduction (see Chapter 4), it was discussed that the voices of public markets influencers are disproportionately heard during the consultation process compared to those of senior business decision-makers. For the purposes of instructing future regulatory reform in Canada, therefore, there is value in determining whether the perception of the key subgroups who participate in the traditional regulatory reform process are consistent with the perceptions of the business decision makers. If significant differences exist between public markets influencers and decision-makers, what are the underlying issues?

Moreover, senior decision-makers rarely reach a final determination on an issue as important as whether to ultimately pursue an IPO for the company without taking counsel from external advisors (securities / corporate lawyers, investment bankers and auditors / accountants). Since these groups all have strong familiarity with the public markets, their counsel is often considered carefully before a decision on the direction the corporation will pursue is finalized. Also, since these groups of key public markets influencers advise a number of clients simultaneously, their perceptions reflect wide cross-sections of public market experience unlike senior business decision-makers who may serve in only a few different organizations for much of their career. As such, there is obvious value in having the participation of securities / corporate lawyers, investment bankers and auditors / accountants in the PCD Study.

Beyond these three groups of influencers, there is obvious value is including one additional subgroup into the PCD Study research project, namely private equity investors in Canada. Private equity investors are the one group of public markets influencers whose overriding self-interest is often perceived to be in opposition to the public markets,
specifically given that the public markets and private equity investors have historically competed for the same deals. For that reason, there is value in understanding what the perception of public company decline is amongst private equity financiers with the narratives that they use to convince senior business decision makers to avoid the public markets. Moreover, IPOs remain a potential exit option for private equity financiers, although an IPO exit for a private equity-backed Operating Company generally occurs at a more mature stage of company development than would otherwise be the case. Regardless, adding the perspective of the private equity participants to the analysis for further comparison is certainly accretive to the PCD Study analysis.

There is one final group of public markets influencers whose opinions would have added value to the PCD Study data, namely securities regulators working for the provincial securities commissions and for the TSX. This group of public markets influencers is aware of the existence of the phenomenon of public company decline in Canada and it would be interesting to see how the perceptions of the securities regulators on the key topic compares to the perceptions of the senior business decision-makers and public markets influencers. Indeed, securities regulators were initially defined in the PCD Study as the fifth target group of public markets influencers that would be solicited. For pragmatic reasons, however, securities regulators were ultimately removed from the PCD Study as participants. The elimination of securities regulators as a subgroup for participation in the PCD Study results from the decision of OSC representatives not to participate. Although there were initial indications that the OSC would support the participation of its senior employees in the PCD Study, this turned out not to be the case at the end of the day. The rationale for the OSC declining to participate was not articulated beyond a vague attribution to concerns expressed by the legal division.

Notably, the TSX senior administration expressed a willingness to participate and were supportive of the PCD Study, indicating their belief that the study could provide valuable information for the TMX Market Intelligence Group. Other securities commissions in Canada were not solicited, as it was determined that there was little ultimate value in including securities regulators as a subgroup for analysis from outside of Ontario unless
the OSC was onboard with participation given the obvious importance of the OSC to securities regulation in Canada. Any empirical effort with respect to the opinions of securities commission personnel that does not include the participation of the OSC is open to obvious criticism that the lack of participation by the largest and most important securities regulatory body in the country is insufficient.

Although disappointing, the inability to secure the participation of the OSC was not deemed to be of fundamental concern to the validity of the underlying PCD Study. In the IPO process, the securities commissions are certainly consulted at various stages with respect to regulatory compliance matters, but they rarely interface directly with the senior decision-makers of the prospective IPO targets and are not part of the group of voices that actively supports the IPO alternative in the decision-making process. The TSX, on the other hand, does play an active role in marketing itself to potential IPO candidate companies and it would have been accretive to have their perspective reflected in the PCD Study. However, without the participation of the OSC and the other securities commissions, the TSX simply does not constitute a sufficiently large subgroup such that their participation would give rise to observations at the required level of statistical significance.

In summary, the final specific groups targeted for enrollment in the PCD Study included: (i) senior business decision-makers of TSX-listed Canadian-based and Canadian-controlled companies; (ii) senior business decision makers of TSX-eligible private Canadian-based and Canadian-controlled companies; (iii) securities / corporate lawyers; (iv) auditors / accountants with public company practices; (v) investment bankers; and (vi) private equity investors. The first two subgroups are collectively referred to herein for the purpose of convenience as Group I, senior business decision-makers, and the latter four groups are collectively referred as Group II, public markets influencers. 367

367 In the analysis portion of this Dissertation, reference may be made simply to “lawyers” or “auditors” for the sake of brevity. However, the lawyers are all individuals who identify as securities law and/or corporate transaction specialists, and the auditors are individuals working at public accounting firms that have a significant exposure to audit and assurance services for public and private companies.
5.7- Review of Survey Enrollment Efforts and Outcomes

It was clearly understood from the initial concept phase of the PCD Study that securing sufficient survey enrollment to arrive at statistically significant observations at a macro level and, even more so, at a subgroup comparison level, would be a material challenge. Canada has a relatively small population compared to the United States or Europe, and the criteria for survey participation eligibility are sufficiently stringent that the total population size is relatively small.

Although there are no easily accessible sources that allow for a scientifically-determined estimate of the population sizes of the six different participant groups, a total population estimate of 20,000 individuals was used for enrollment target planning purposes in the PCD Study. This estimate is of the total population size of Group I- Senior Business Decision-Makers and Group II- Public Markets Influencers in Canada that qualify for eligibility in the study. The estimate of 20,000 is believed to be significantly higher than the actual population number, but it was deemed most prudent and statistically conservative to use a high-end population estimate in the absence of any data that would allow a more accurate determination of actual population. By using a high-end population estimate, the most conservative methodology is being applied from a statistical validation perspective.368

Based on the population estimate of 20,000 individuals, our initial enrollment target was set at 377 respondents in order to meet the target confidence level of 95% with a 5% margin of error, which is the commonly accepted standard for survey data analysis in

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368 The target enrollment for the PCD Study is defined by the population size estimate, the acceptable margin of error and the desired confidence level for the overall survey. With reference to the PCD Study, if a 95% confidence level and a 5% margin of error are defined as the targets, then the total sample size needs to be 375 respondents if the total population is 15,000 individuals. However, if the total population size is 25,000 individuals, then the total sample size in the PCD Study only increases to 379 individuals to reach the same confidence level and margin of error for the PCD Study. Even if the population size is 50,000, the total sample size indicated at the same levels only increases to 382 individuals. As such, at the scale of the population we are dealing with, there is no real return on spending the significant resources it would require to reach a more accurate estimate of population size.
However, the Study Protocol & Research Plan also clearly stated that the budgeted period of survey enrollment would run for four months, after which time the PCD Study could be ended provided that the minimum enrollment targets had been achieved. The minimum targets for the PCD Study were established as 267 total responses, which is the level at which a 90% confidence level with a 5% margin of error is achieved. Although less common than the 95% confidence level in social science research, the 90% overall confidence level on survey data is still widely accepted within the social sciences as statistically valid in complex and more lengthy surveys (which the PCD Study certainly represents).

It was understood at the outset that the recruitment goals in the PCD Study, both at the target level and at the minimum level, were highly ambitious. By their nature and business stature, it is very difficult to gain access to large numbers of Canadian C-suite executives and convince them to take the time from their busy schedules necessary to complete a detailed survey questionnaire, regardless of their ultimate belief in the underlying importance of the subject matter. The group of senior business decision-makers targeted in the PCD Study is comprised of extremely busy people in Canada with significant competing demands on their time. The situation is similar for the four categories of Group II- Public markets influencers that were targeted for participation, all of whom have significant demands on their time.

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371 It is noted that the targeted study participants in the PCD Study are not the only groups in Canada who are extremely busy. Certainly, disadvantaged groups, such as single parents and new immigrants working multiple low-paying jobs simultaneously to support their families, are often at least as “busy” as senior business decision-makers. Nor is anything in the discussion herein intended to imply that the time of the targeted study participants in the PCD study is inherently more valuable than that of any other identifiable demographic groups in society. However, it is submitted that the fact that the opinions of the targeted PCD Study participants are frequently solicited in a variety of other forums, along with the reality that the PCD Study targets generally have executive assistants who view their role as weeding out distractions (including
The knowledge of the nature of the challenge faced in securing sufficient enrollment dictated that a significant degree of thought and planning be directed into the survey recruitment methodology for the PCD Study. First, previous efforts to enroll similar groups of respondents in Canada and abroad were evaluated for precedent value.

In Canada, KPMG previously sponsored a quarterly survey of C-suite executives on topical issues that was widely reported in the business media. This survey was undertaken by The Gandalf Group, a professional market research firm. The C-suite executives solicited by the Gandalf Group were exclusively interviewed by phone, requiring an extensive time commitment by a number of different researchers. The last version of this survey was conducted in the fourth quarter of 2017, resulting in the participation of 159 C-suite executives. However, this initiative has been abandoned in the past couple of years due to the significant costs associated with collecting the data. Instead, KPMG now conducts their own internal C-suite survey on topical business issues. Only 75 Canadian C-suite executives were solicited in the most recent version of the KPMG Survey. Of the 75 solicited, it is unclear from the report how many responded. The survey methodologies are also not disclosed, leading one to surmise that the survey is conducted almost exclusively from a captive list of KPMG clients with whom existing relationships exist. Without the research budget necessary to retain the services of a professional market research firm like the Gandalf Group, it was determined that there is no contemporary precedent in Canada which provides any valuable methodological insight into how to approach the target participants for the PCD Study.

Looking abroad, it was previously discussed in the literature review chapter of this Dissertation that there are two precedents of academic research studies that were requests for survey participation) on behalf of their bosses, makes the target group of PCD Study participants particularly challenging to enroll.


conducted at the C-suite level. Brau and Fawcett recruited their target participants (i.e., CFO’s of U.S. companies that completed or attempted and withdrew an IPO and private firms from a Dun and Bradstreet database) using only regular mail solicitation. Brau and Fawcett included a paper copy of the survey along with a pre-paid return envelope and the promise of placing all respondent participant names in a draw for $1,000. Brau and Fawcett repeated this paper mailing procedure over three different mailing solicitations undertaken over a six-month timeframe. Bancel and Mittoo replicated the methodology of Brau and Fawcett, with the target respondents all being located in the European Union and the three mailings occurring over an eight-month timeframe. Assessing this method for its potential application to the PCD Study, it was clear that the collection of the data by the standard mail method over three different mailings would make it impractical to complete the data collection effort during the budgeted timeframe. More importantly, the cost of mailing an extensive survey three different times, each time with a prepaid return envelope, to thousands of potential PCD Study participants in Canada necessitates a budget that is orders of magnitude higher than the available budget for the data collection element in the PCD Study.

With the classic hard-copy mailing methodology clearly unattainable for adoption in the PCD Study on an economic basis, other more cost-effective forms of targeting survey enrollment for the PCD Study were identified and evaluated. Ultimately, it was determined that an online version of the PCD Study administered through the Qualtrics online platform would be the most efficient means of distributing and collecting the PCD Study data. With respect to solicitation efforts to secure sufficient enrollment from the target groups of participants, it was determined that a combination of recruitment methods would be applied, in parallel tracks, to maximize the opportunity for reaching

374 See Brau and Fawcett, supra note 87. Also, see Bancel and Mittoo, supra note 91.

375 Ibid, Brau and Fawcett at 402.

376 The budget needed to replicate the Brau / Fawcett and Bancel / Mittoo methodology for the PCD Study is roughly $55,000 on mailing costs alone at current postage rates of $3.50 Cd. each direction per oversized envelope.
the enrollment goals within the four-month budgeted timeframe. Three separate recruitment strategies were originally identified in the Survey Protocol & Research Plan submitted for the PCD Study.

The first strategy utilized was the direct approach method, in which target participants were identified from across Canada who were believed to meet the necessary criteria for the PCD Study. As the senior decision-makers of both the TSX-listed and private companies were perceived as representing the biggest recruitment challenge in the PCD Study, the early recruitment efforts were focused on these Group I participants.

The initial challenge to overcome in this first portion of the recruitment plan, which was not insignificant, was compiling a list of the contact information of the C-suite executives, directors and major shareholders of the TSX-listed and private companies. A review of approximately 100 different websites demonstrated that the contact information of the C-suite executives is rarely included on the websites. Only general reception phone numbers are normally provided for phone inquiries to C-suite executives and general company contact addresses are listed for email inquiries. A test of inquiries sent to a number of different company general inquiry mailboxes explaining the nature of the PCD Study and asking for the information to be forwarded to the relevant C-suite executives generated no responses. As soon as an inquiry was identified by the corporate gatekeeper as originating from a non-customer of the business, it was ignored. Clearly, this avenue of inquiry was a non-starter and was quickly abandoned.

Ultimately, it was determined that successfully reaching individual C-suite executives based on the contact details available on the company website required calling the general reception number and asking the attendant to forward the call to the executive assistant for a particular C-suite executive. The executive assistants will invariably be trained not to pass along the email or phone contact information for the C-suite executive, so the explanation on the PCD Study and the nature of the request for participation must be communicated to the executive assistant in the hope that the executive assistant will relay this request onto the C-suite executive. Again, a test with approximately a dozen different attempts to secure enrollment of the C-suite executive by communicating
through the official channels did not generate any successful responses. In hindsight, this is not surprising at all because of the fact that executive assistants of C-suite executives invariably have no personal interest in the phenomenon of public company decline. They are paid to insulate their bosses from such distractions, and most of the executive assistants see the PCD Study invitation as just one more distraction for their executive. While the topic of public company decline may be inherently interesting to their bosses, the message filtered through the executive assistants rarely results in any successful participant recruitment.

Operating on the belief / hope that a number of significant C-suite executives still read their own email, the focus for Group I shifted to direct recruitment by accessing direct email addresses for the target respondents. A list of the specific companies that should be targeted was compiled from various sources.

For the TSX-listed public companies, identification was simple as a list of all TSX issuers is available on the TMX website. Starting from the 799 Operating Companies listed on the TSX during the recruitment phase, a list of 658 Canadian-based companies was created that became the target group for the PCD Study. The remaining 141 TSX-listed companies not solicited were those TSX-listed companies that have head offices outside of Canada. The NMREB approvals did not allow for direct solicitation of individuals located outside of Canada in the PCD Study.

With respect to TSX-eligible private companies, the creation of the target list required more effort. A variety of sources were consulted, including Lexis / Nexis Public Suite, Globe & Mail Top 300 Private Companies and the Financial Post 500 Report. A variety of industry award publications were also consulted, including Canada’s Top SME Employers and Canada’s Fastest Growing Companies.

Ultimately, the target lists of TSX-listed and TSX-eligible companies were provided to a marketing solutions company, DataCaptive, who are in the business of compiling business-to-business data of various types, including C-suite level contact information, for commercial sale. The list of companies was then compared by DataCaptive against their list of C-suite contact information and a database of the overlapping records was
created. DataCaptive also provided additional contact data for private Canadian companies not otherwise on the private company list originally provided to them based on company revenue criteria. Ultimately, this database of C-suite contact information was purchased from DataCaptive and served as the foundation of the solicitation efforts for the Group I participants discussed hereafter. This data was certified by the vendor, DataCaptive, as containing the contacts of Canadian executives collected from a number of public sources, including trade show attendance, and 100% of these were opt-in confirmed for receipt of communication and cross-checked against the do-not-call registries. Approval for utilization of these two databases in the PCD Study was sought from the NMREB prior to initiation of the solicitations.

The second strategy planned for use in the PCD Study enrollment was the use of passive snowball sampling discussed previously. This recruitment strategy focused on securing the support of survey participants who expressed a clear interest in the subject matter of public company decline, and were known to have previously-existing relationships and direct accessibility to a number of target survey participants. The individuals who were requested to pass along invitations to the PCD Study were given clear instructions on the specifics of the NMREB rules for passive snowball sampling and the limitations in what they were allowed to communicate in the solicitation process. To preserve commonality of approach and ensure compliance with the NMREB rules, these individuals were asked to simply pass along the email invitation to the PCD Study to potential participants with a brief cover note to their contacts highlighting their interest in the topic.

The passive snowball sampling strategy was beta-tested in the law firm context in February 2019 and it was found to generate a limited return in terms of the actual number of survey responses completed. Due to the anonymous nature of the responses, it is unknown what percentage of the responses ultimately resulted from passive snowball sampling. However, analysis of the response dates and geographic locations of the respondents demonstrates that less than 15% of the total responses secured in the PCD Study are attributable to passive snowball sampling.

Ultimately, the plan to pursue further passive snowball sampling as a priority was
abandoned due to its limited success during the beta testing phase. It is believed that a number of the individuals in the law firms who were requested to pass along the survey invitations did, in fact, pass along the requests. However, the final response uptake was low because of the lack of direct connection to the investigators in the study. Rather, it became apparent that a successful recruitment strategy required a more direct connection between the respondents and the study investigators that only arises through direct communication. For the purposes of PCD Study, therefore, the limitations imposed by the NMREB significantly impacted the effectiveness of snowball sampling as a viable strategy.

The third recruitment methodology initially identified in the Survey Protocol & Research Plan was the use of industry conferences and trade shows to solicit target respondents. This approach was beta-tested during the annual Prospectors & Developers Association of Canada conference in Toronto in March 2019. Ultimately, this method was also abandoned after the beta-test, as it was found that return on investment was too low to justify the time and expense associated with conference attendance. With respect to Group II participants who are readily accessible at the trade shows, other avenues of contact were available for PCD Study recruitment which are discussed in more detail hereafter. With respect to the C-suite executives, it was found that their time is in such high demand during the trade shows that it is very difficult to individually get their attention in the trade show format. After presentations, the lineup of people waiting to talk to each C-suite executive was several people deep, making it only practical to talk to 3 or 4 C-suite executives in a full day. Although conversations with C-suite executives were generally successful in securing survey participation, the number of recruitments per day were simply too small to continue that investment.

A fourth recruitment strategy not originally included in the Survey Protocol & Research Plan was added to the list of potential recruitment tools and tested at a beta level. This new methodology involved the use of a targeted social media campaign executed through the LinkedIn platform. This particular strategy was added based on the recommendation of a social media marketing expert and involved the creation of a short animation that summarized the content of the PCD Study Invitation in animated form. Ultimately,
although this strategy generated a number of “click-throughs” to the first page of the survey, it resulted in very few additional completed surveys and was abandoned as being economically inefficient.

In summary, having tried each of the three recruitment strategies originally outlined in the Survey Protocol & Research Plan and a fourth recruitment strategy identified mid-stream, it was determined that the direct recruitment strategy, in which the PCD Study investigator directly contacts the target participants via phone and email, was the most effective strategy in terms of return on investment (i.e., the number of completed responses secured per hour of time spent on the recruitment process). Once this conclusion was reached, the recruitment efforts for the remainder of the PCD Study were focused primarily on the direct solicitation strategy with a small component of passive snowball sampling, used on an opportunistic basis, where available.

5.8- Summary of Group I Recruitment Process

After going through the identification process described above, a final list of approximately 1,100 usable emails for C-suite executive of TSX public companies and a list of approximately 2,100 usable emails for C-suite executives of Canadian private companies was established as the master lists for solicitation of the Group I participants. Notably, the C-suite records typically did not include direct phone number information for the C-suite executives, but rather included only main company phone numbers.

The two master lists of C-suite executives from TSX public companies were uploaded to the Mail Chimp website, an electronic management platform for electronic marketing and solicitations. Utilization of the Mail Chimp system for email distribution allows for real-time monitoring of the status of email solicitation campaigns and analysis of results. Mail Chimp also allows for any recipient to immediately click “unsubscribe” if they view the email solicitation as an unwanted intrusion. The email addresses for any individuals
who unsubscribed were immediately removed from the list.377

Each person on the target database list received an email inviting them to participate in the PCD Study and briefly describing the PCD Study based on the form of email solicitation script approved by the NMREB. Each email included an html link that could be clicked by the recipient and would take the prospective respondent to the introductory page of the online version of the PCD Study.

The first email solicitation from Mail Chimp was distributed on March 6, 2019. Three additional email distributions were sent using the Mail Chimp distribution platform on March 21, April 2 and April 16, 2019, respectively. Ultimately, these four solicitations resulted in a total of 228 participants responding who were senior business decision-makers of TSX-listed or private companies (i.e., Group I participants).378

The total number of 228 responses received from all Group I participants compared to the total number or 3200 original solicitations sent out to potential Group I recruits equates to a response rate of 7.1%. In and of itself, this was a surprisingly stellar response rate for an internet-based survey without any contact to the recipients to validate that the solicitation was not an elaborate phishing attempt. However, the actual effective response rate is likely even higher as the original email invitation outlines the minimum qualifications required for survey participation, and there were certainly numerous emails on the list from the Data Captive-supplied group of private company names who did not meet the minimum requirements to be eligible for the survey. The number of Group I private company respondents was 125 individuals out of the original 2100 solicitations,

377 A total of 20 individuals, from the 3,200 email solicitations originally sent to C-suite executives, representing 0.6%, selected the option to unsubscribe from the mailing list.

378 For the purpose of determining response rates, only those individuals who completed the third question in the PCD Study (confirming which of the two main groups of respondents they were part of) were counted as having responded to the survey. As such, 228 is the number of individuals who selected “Group I: Senior Business Decision-Maker” in their Question 3 response. This methodology under-reports the number of total respondents in the PCD Study as a result of the attrition discussed later in this chapter, but is the most conservative reporting option. Although it is known there was an overall attrition of 25 respondents prior to the completion of Question 3 in the Qualtrics platform, it is unknown what percentage of the attritions were senior business decision-makers.
representing a response rate of 6.0%. The number of Group I TSX-listed respondents was 103 individuals out of the original 1100 solicitations, representing a response rate of 9.4%.

In addition to participating in the study, dozens of replies were received by email from the individuals receiving the invitations. Most of these email communications expressed support for the importance of the research being completed on public decline and indicated that they were pleased that empirical academic research was finally being undertaken in this area. A number of other responses were received by individuals who indicated that their companies did not meet the minimum criteria set out in the survey based on residence, control or maturity of the business, but stating that they would have participated in the PCD Study if they had met the eligibility conditions. A single negative response was received from a disgruntled recipient who was upset at being disturbed with a solicitation on his work email.

With the benefit of hindsight, it is clear that there is a high degree of suspicion towards any unsolicited email in the current online environment. Many business organizations prohibit any emails being opened from unverified sources and standard institutional IT security training protocols advise against opening emails from unknown senders. Often internal IT firewalls will transfer any emails from sources that have not been independently verified and place them in clutter folders, requiring the recipients to specifically release those responses to their inboxes before the pictures and other email functionality of the email are visible. Again, it is unknown what percentage of the emails sent out via the Mail Chimp campaign reached the targeted inboxes of the recipients as

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379 The “effective” response rate for the private company respondents is certainly higher than the reported response rate of 6.0% given, given that the reported rate of 6.0% does not account for emails sent to individuals who were ineligible to participate according to the criteria established for the PCD Study. Apparent from the eligibility responses of the senior business decision makers of private companies in the PCD Study along with the direct email replies received from the Mail Chimp recruitment program, a number of the email solicitations sent to senior business decision-makers of private companies were received by individuals working in companies that did not meet the minimum eligibility criteria in terms of size or stage of development in order to be TSX-eligible. It is uncertain what percentage of the email solicitation recipients from private companies were ineligible to participate.
opposed to being trapped in filters.

On the whole the Mail Chimp email solicitation campaign completed on the Group I senior business decision-makers has to be considered as a significant success considering all of the limitations associated with the online email solicitation methodology and the inherently challenging nature of securing the attention of the targeted Group I respondents.

How the response rates compare to other survey-based studies undertaken elsewhere will be discussed later in this Dissertation.

5.9- Summary of the Group II Recruitment Process

The following section provides the details of the recruitment process for the various targeted subgroups. A table summarizing this information is included later in this chapter in Section 5.11.1. The solicitation of the Group II respondents occurred in two different phases. The first phase involved live presentations made to the securities law groups at two of Canada’s pre-eminent businesses law firms, Blake, Cassels & Graydon LLP and McCarthy Tétrault LLP. In both situations, the law firms provided a live platform for the Co-Investigator to present the PCD Study across a number of different offices through simulcast. The presentation to McCarthy Tétrault occurred in Toronto (with a simulcast to the Montreal, Quebec City, Ottawa, Calgary and Vancouver offices) on February 12, 2019. The presentation to Blake, Cassels & Graydon took place in Calgary (with a simulcast to Vancouver, Toronto, Ottawa and Montreal) on February 22, 2019. The total number of lawyers participating in these presentations was approximately 75. These two law firm presentations resulted in approximately 30 responses to the PCD Study being completed by securities lawyers and corporate lawyers.

Other than those live presentations, an intensive email and phone solicitation campaign was initiated to secure enrollment from the four subgroups of Group II participants. With respect to each subgroup, the recruitment process was initiated by compiling databases of both email addresses and phone numbers of securities lawyers, accountants / auditors, investment bankers and private equity investors across Canada.
The major difference in accessibility to contact information between the Group I and Group II participants is that many of the websites for Group II participants include both direct phone numbers to specific individuals and direct emails for all levels of their members. As such, whereas it was extremely difficult to bypass the executive assistants and communicate directly with the Group I senior business decision-makers via phone, it was relatively straightforward to directly contact the Group II public markets influencers.

The databases for the Group II public markets influencers were compiled by the Co-Investigator directly from firm websites. Each of the four different categories of public markets influencers had their own nuances in terms of accessibility that necessitated adjustment of the recruitment strategy to respond to the specific information available.

With respect to the subgroup of securities / corporate lawyers, the initial two presentations to the two major corporate law firms mentioned above resulted in 29 responses with a strong representation across British Columbia, Alberta and Ontario. It was clear in the presentations that this issue resonated strongly with securities lawyers, in particular, and that it would be possible to recruit a large cohort of lawyers to participate. However, it was determined that the target number of total responses for the securities / corporate lawyers subgroup should not exceed 50 in order to ensure that the opinions of this particular demographic were not overrepresented in the PCD Study data as a whole. As such, it was decided that the recruitment target for the securities / corporate lawyer database would be focused primarily in the Atlantic Provinces, Quebec, Manitoba and Saskatchewan, which remained underrepresented after the initial law firm presentations. The lawyers targeted for the email/phone solicitation phase, therefore, were lawyers from those specific provinces who met the following conditions: (i) they worked in firms identified as the most recommended for securities law expertise in the Lexpert rankings; (ii) they were identified in their profiles as specializing in securities law; and (iii) they had a direct phone number and a direct email listed online for contacting the individual.

A total of 72 additional lawyers were contacted during this recruitment phase, resulting in an additional 20 PCD Study responses being completed through the Qualtrics platform. At that point, the total number of responses from lawyers stood at 49 and further
recruitment efforts were discontinued for this particular subgroup. Certainly, further recruitment would have been successful in securing higher participation from the lawyers.

With respect to the subgroup of accountants / auditors, there were greater hurdles to recruitment. Specifically, none of the “big four” accounting firms publish individual names, practice profiles, addresses or email contacts of their accounting professionals. Yet, the big four accounting firms account for a significant percentage of the overall audit work completed for public companies in Canada.

In order to deal with this recruitment hurdle, senior practice group leaders were identified from the public audit and assurance divisions and contacted at each of the big four accounting firms. In each case, a description of the PCD Study was relayed to the practice group leader and a request was made for the practice group leaders to forward the PCD Study invitation internally amongst the individuals with significant experience in the public audit and assurance groups. Once again, the lack of direct contact information for specific individuals published on the big four websites necessitated the use of passive snowball sampling for solicitation within the big four accounting firms, and once again this practice proved wholly ineffective as only five responses were received as a result of this particular solicitation effort. Clearly, the inability to contact the potential participants directly resulted in a very limited uptake in survey participation.

After hitting this roadblock and having exhausted the obvious recruitment opportunities within the big four accounting firms, the recruitment strategy for accountants / auditors was shifted in focus beyond the big four. In support of this effort, a database was compiled of all of the accounting firms in Canada beyond the big four who were listed in the top 20 accounting firms in terms of revenue and also published individual contact information and practice profiles for their accounting professionals.380 Fortunately, 13

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380 The database of the top 20 firms in Canada was compiled from a variety of different online sources and firms appearing consistently across the lists were included in the database. One of the published lists used was: Statistica, “Leading accounting firms in Canada”, accessed April 15, 2019, online:< Statshttps://www.statista.com/statistics/478822/leading-canadian-accounting-firms-by-revenue>
out of the 16 accounting firms, other than the big four, who were listed in the top 20 accounting firms in Canada publish individual practice profiles and contact data. In the case of the auditors / accountants, the database compiled included all professionals from the 13 accounting firms whose practice profiles listed an expertise in audit and assurance (public or private), had at least five years of industry experience and included individual contact information. This resulted in the identification of 108 targeted individuals for recruitment, and ultimately led to 34 additional responses in the PCD Study being completed.

Turning to investment bankers, a similar issue was encountered here as with the auditor / accountant group. Namely, the bank-owned investment banking firms do not publish any personal contact information for their investment banking divisions and only publicly disclose the names of their department heads. Once again, the recruitment effort within the bank-owned investment banking firms had to rely on direct presentations to groups and passive snowball sampling, which evidenced limited success in securing a significant number of PCD Study responses.

It was again found that the majority of investment banking firms in Canada other than the bank-owned firms do indeed provide personal contact details for both phone numbers and emails for all of their principals and employees. In this case, a list of investment banks in Canada was assembled from a variety of sources (including Bloomberg league tables, Reuters M&A advisory tables and a number of other lists). A recruitment database was created containing individuals from the investment banking firms with a least 5 years of industry experience, whose firms listed both a direct phone number and an email contact. The investment banking database identified a total of 138 targets for PCD Study recruitment, resulting in 45 completed PCD responses.

Near the end of the enrollment process, an opportunity arose to make live presentations to groups of senior investment bankers from CIBC World Markets and Scotia Capital. These presentations were made in Toronto on June 12, 2019, resulting in three additional PCD responses being completed online. Although these in-person presentations did not result in a large number of completed PCD Study responses, the information gleaned
from the investment bankers in the discussions was highly illuminating on the specific topic of the potential impact on the flow of investment capital into ETF’s.

Finally, turning to the subgroup of private equity investors, it was initially anticipated that this would be the most difficult of all of the categories of public markets influencers to enroll. However, that turned out not to be the case, as the private equity investors demonstrated a higher degree of interest in the public company decline topic than expected.

Once again, a database was compiled of all of the significant private equity firms based in Canada from a variety of different sources. From this original list, an analysis was completed of which firms published the individual phone numbers and emails of their personnel. A target recruitment database was then recruited which included the names of all of the personnel at these firms who operated in the investment portfolio divisions of the private equity firms, had been in the business for at least five years, and had published direct emails and phone numbers available. This effort resulted in a target recruitment database of 198 private equity investors, from which 59 completed PCD Study responses were ultimately received.

In summary, the recruitment process for the PCD Study was an iterative process, with a significant degree of trial and error resulting in refinement of each element of the recruitment methodology. Of the four different methodologies that were originally conceived and attempted during the recruitment process, only the direct recruitment strategy can be classified as having been an unqualified success. Overall, more than 80% of the total responses in the PCD Study occurred as a result of direct recruitment efforts.

In the Group I recruitment phase in which individual phone numbers were not available, a response rate between 6.0% (for private company C-suite executives) and 9.4% (for TSX-listed C-suite executives) for the email solicitations was observed. However the response rates for the Group II participants in the email solicitations were materially higher: (i) for securities / corporation lawyers, 20 completed responses out of 72 email solicitations for a 27.8% response rate; (ii) for accountants / auditors, 36 completed responses out of 108 email solicitations for a 33.3% response rate; (iii) for investment
bankers, 45 completed responses out of 138 email solicitations for a 32.6% response rate; and (iv) for private equity investors, 59 completed responses out of 198 email solicitations for a 29.8% response rate.

Reflecting further on the recruitment process, it is clear that the key to the significantly higher response rates for the Group II participants compared to the Group I participants was the ability of the Co-Investigator to access individual phone numbers for most of the Group II participants who were ultimately solicited. This conclusion can be inferred from the fact that, other than the follow-up phone call, the format of the email solicitation was identical for the Group I participants and Group II participants.

For each Group II target participant solicited, a personal phone call was made to the target recipient within 15 minutes of the delivery of the initial email invitation by the Co-Investigator. The phone was answered by the target recipient in only approximately 20% of the instances. In the other 80% of instances where the call went to voicemail, a detailed message was left for each individual. The voicemail message introduced the Co-Investigator, advised the target recipients that the Co-Investigator was following up on an email invitation that had recently been sent to the target recipient, then continued on to quickly summarize the nature of the PCD Study and personally invited the target recipient to participate in the PCD Study. The voicemail message concluded with the Co-Investigator leaving his phone number and inviting the recipient to either email or call the Co-Investigator back with any questions or concerns on the survey.

This additional step in recruitment methodology for Group II target recipients is simple in theory, but necessitated more than 500 phone calls to the Group II email recipients alone. With the Co-Investigator able to make approximately 5 phone calls per hour, the phone call follow-up step required the investment of approximately 100 additional hours of effort to support the recruitment effort. However, it is clear from the results that the simple act of following up each email solicitation for the Group II respondents in the PCD Study with a phone call on a timely basis was sufficient to materially reduce the concern of the email recipients that the solicitation was a sophisticated phishing attempt and thereby increase their likelihood of participation. Many of the phone call recipients
indicated verbally that they had dismissed the original email solicitation as a potential phishing attempt, but were willing to complete the survey once this fear was eliminated as a result of the phone-call follow-up.

This approach also made it apparent that it is unnecessary that the target recipients actually speak to the researchers on the phone in order for the phone call strategy to be successful. Many emails and phone calls were received from target participants who indicated that they had received the voicemail message and that they were intending to complete (or had already completed) the PCD Study. This level of feedback was unexpected, but provided clear evidence of the value of being able to access a direct phone number for the target recipient and making the investment in leaving voicemail messages to confirm the veracity of the email in ultimately improving the response ratio.

In summary, one of the key take-aways from the direct recruitment efforts in the PCD Study was confirmation that the biggest challenge in executing an electronic-based recruitment strategy through email is the inherent distrust that exists for any unverified solicitations from unknown sources. Without any external verification in the form of an accompanying phone call, many of the emails sent to Group I participations targets were certainly deleted without even being opened simply as standard security procedure.

Considering the volume of spam that arrives in email inboxes daily, and the number of competing requests that senior business decision makers face for their valuable time, the responses rates from the Group I respondents were surprisingly strong. However, with access to the personal phone numbers of the Group II respondents, the extra step of making a follow-up phone call (even if the target participant does not answer) more than tripled the response rate between the Group I and Group II respondents. This particular observation from the PCD Study should be noted for future electronic-based email surveys.

5.10- Probability Sampling and Bias

A paramount goal for survey recruitment planning and execution is to ensure that systemic error (bias) is eliminated to the greatest degree practical. Although true
probability sampling is impossible to achieve in survey design for populations such as those targeted in the PCD Study, the objective nevertheless continues to be that the selection methodologies applied ensure that the group of respondents solicited comes as close as possible to true probability sampling.

True probability sampling occurs where a surveying methodology is adopted in which everyone within a target population has an equal chance of being solicited to participate in the survey, and the ultimate determination of who is actually solicited to participate is done on a random basis. The textbook example of true probability sampling historically was where every 10th name listed in a phone book for a city is selected to be solicited. However, true probability sampling is very rare in practice, even in the modern environment. Indeed, even the classic phone book example no longer constitutes true probability sampling as a significant percentage of the populations no longer have landline phones and therefore are not listed in telephone directories. As such, using the phonebook as a basis for determining survey enrollment now can be viewed as introducing clear systemic error because landlines (from which the phone book listings are derived) are disproportionately used by seniors and rarely used by millennials. The phonebook as a data source no longer even approximates the characteristics of broader population. Moreover, the few data sources that do allow for true probability sampling in the modern environment in the broader populations (like Government of Canada census) are generally inaccessible to researchers due to privacy concerns.

As stated, the nature of the target participants in the PCD Study makes it impossible to implement true probability sampling mechanisms. There is no single database accessible to researchers containing the names of all the eligible participants in any one of the six main categories of target participants. Not even the Government of Canada with all of its statistical resources possesses a comprehensive database of the senior decision-makers in TSX-eligible private companies. The direct and repeated recruitment efforts required to secure sufficient survey enrollment consequently dictates that non-probability mechanisms must be applied.

The goal in the recruitment process for the PCD Study therefore, is to adopt appropriate
policies and procedures to ensure that the actual recruitment methodology utilized comes as close as is reasonably practical to statistical sampling. Statistical sampling is a type of probability sampling that ensures proper representation of strata or cohorts reflected in the population in order to minimize systemic error (bias). As such, the target is to achieve the best approximation of probability sampling that can be achieved through a recruitment process by the Co-Investigator, executed in a reasonable timeframe and with reference to the financial resources available, without actually using true probability sampling.

Since it is impossible to recruit a true probability sample in the PCD Study, it is also not possible to calculate the true margin of error for the study. However, as the PCD Study attempts to approximate a probability sample, statistical inference methods (such as confidence levels, statistical significance, P-values, etc.) that assume a probability sample will be used in the analysis of the PCD Study, while recognizing that attempts to extrapolate the results to the greater population will be limited by the lack of a true probability sample.

It is submitted that the version of the PCD Study executed adequately approximates true probability sampling methodology in the specific context of the factors surrounding the survey and with regard to the time and budgetary constraints. To support this assertion, the recruitment strategy with respect to each of the six categories of target participants will be quickly discussed.

With respect to Group I target recipients from private companies, the list of initial target companies was compiled from a number of independent industry sources. With respect to the Group I target recipients of TSX-listed companies, the initial list of target companies was a comprehensive list of all current Canadian-based Operating Companies currently listed on the TSX. In both of these circumstances, the lists were cross-referenced against the entire DataCaptive list of C-suite contact data and all individuals in the C-suite contact list who met the target eligibility criteria were selected as target participants and were ultimately solicited for participation. As such, if there is any identifiable recruitment bias with respect to the Group I target respondents, it arises from
the processes that DataCaptive utilizes to collect their C-suite contact data. Confirming specifically what those processes are is beyond our scope of direct knowledge, but it is known that DataCaptive’s data gathering processes are extensive and combine machine learning, extensive analysis of company website data, predictive analysis and human intelligence.381 If an individual respondent at the C-suite level in Canada is not on the DataCaptive list, it is likely because they have been intentional in keeping their contact information private. That group of individuals is likely unreachable through any mechanism or database available to the PCD Study effort. In the case of incomplete population lists, sampling frame error is unavoidable. Yet, it is submitted that the Group I target recipients in the PCD Study were objectively selected, broadly solicited and there is no apparent recruitment bias evident in the methodology. If there is bias to be found from within the Group I respondents, it is more likely to be non-response bias than recruitment bias, a risk factor which is identified and discussed later in this Research Methodology chapter.

With respect to the potential for bias in the Group II target participants, it is undeniable that the PCD Study does indeed evidence selection bias with respect to one particular subgroup, namely the securities/corporate lawyer class. The significant number of PCD Study respondents generated as a result of the live presentations to Blake, Cassels & Graydon and McCarthy Tétrault in February 2019 certainly leads to the result that securities lawyers from these two firms are overrepresented in the PCD Study data. Moreover, it also results in the participants from other large corporate law firms based in Ontario, British Columbia and Alberta not having been given the same opportunity to participate in the PCD Study.

While this high degree of concentration from two law firms is methodologically problematic in that it represents selection error from a statistics procedure perspective, it is submitted that this issue in PCD Study methodology should not be interpreted as

381 See Data Captive website for a more in-depth discussion of their data collection and validation procedures: online:<www.datacaptive.com>.
materially diminishing the value of the PCD Study data from the legal subgroup. Both McCarthy Tétrault and Blake, Cassels & Graydon are consistently ranked at the top of both the Lexpert practice area rankings for corporate finance and securities law in Canada based on industry recommendations and the published “league tables” by Bloomberg and Thomson Reuters with transaction volume in corporate finance activity. As such, these two particular law firms are clearly amongst the most knowledgeable and most respected in the area of corporate finance and securities law, and also work on the greatest number of relevant transactions.

There is no particular indication that the securities / corporate lawyers in two particular firms evidence any type of firm-related bias on the issues tested in the PCD Study, but to the degree that any firm-related perceptions do exist in the relevant subject areas they are certainly well-informed perceptions. Law firms do not generally exhibit any degree of ideological hegemony, and the opinions of individual lawyers within the firms are formed by their specific experiences. Ultimately, the overrepresentation of these two law firms in the PCD Data represents one of those items that must be noted for the sake of fully disclosing potential sources of selection error, but is more problematic from a methodological purity perspective than from a pragmatic perspective in terms of the likely impact on the quality of the PCD Data.

With respect to the other Group II respondents, a second item to note in potential selection error is the undeniable underrepresentation in the PCD Study data from the big four accounting firms and from the bank-owned investment banking firms. There is no question that both of those groups of target participants have lower representation in the PCD Study data than would be warranted by their overall importance and market share within their particular industries. However, as discussed previously in this Dissertation, the underrepresentation of these participants in the PCD Study is a direct result of the unwillingness of the big four accounting firms and the bank-owned investment banking firms to publish individual contact data for their key employees, thereby making direct contact with these individuals extremely difficult.

It is submitted that all reasonable avenues of contact were exhausted in the course of the
PCD Study recruitment effort to increase the participation of these particular target participants (including keeping the recruitment period open for 3 additional weeks and flying across the country to make in-person presentations to bank-owned investment banks), but the limitations associated with the NMREB guidelines on survey recruitment generally, and passive snowball sampling specifically, limited the impact of these efforts. Once again, this potential issue on selection bias is more problematic conceptually than pragmatically, as the target participant groups who were accessible and participated in the PCD Study certainly brought a high degree of experience in the capital markets to their analysis.

5.11- Assessment of Non-Response Bias in the PCD Study

In addition to sample design error discussed in the previous section, including sampling frame and selection error, any proper research methodology analysis must assess the potential impact of non-response bias.

5.11.1- Assessment of Overall Response Rate in the PCD Study

The first level of analysis on the non-response bias topic is consideration of the overall response rates and the individual category response rates compared to other academic studies. The individual category responses rates in the PCD Study have been discussed above, but are summarized here again.\(^{382}\)

<table>
<thead>
<tr>
<th>Category of Respondents</th>
<th>Individuals Solicitated</th>
<th>Responses Attained</th>
<th>Response Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group I- TSX-Listed Company senior decision-makers</td>
<td>1100</td>
<td>103</td>
<td>9.4%</td>
</tr>
<tr>
<td>Group I- Private Company senior decision-makers</td>
<td>2100</td>
<td>125</td>
<td>6.0%</td>
</tr>
<tr>
<td>Group II- Securities / corporate lawyers</td>
<td>147</td>
<td>49</td>
<td>33.3%</td>
</tr>
<tr>
<td>Group II- Auditors / accountants</td>
<td>120</td>
<td>39</td>
<td>32.5%</td>
</tr>
<tr>
<td>Group II- Investment Bankers</td>
<td>145</td>
<td>48</td>
<td>33.1%</td>
</tr>
<tr>
<td>Group II- Private equity investors</td>
<td>203</td>
<td>59</td>
<td>29.1%</td>
</tr>
</tbody>
</table>

\(^{382}\) The numbers for the total solicitations and responses in the following table include both the live solicitations made in person as well as the email / phone solicitations. The numbers reported previously represented only the email / phone solicitations. This accounts for the small variations between the response rates previously discussed and the numbers reported in the following table. The total solicitation numbers do not account for any passive snowball sampling efforts, as the number of solicitations relayed through this methodology are indeterminate and outside the ability of the researchers to assess.
Overall, the minimum overall response rate for the PCD Study is reported at 11.1%. This statistic is referred to as the “minimum” because of the fact that the email invitation to the initial 2,100 invitees in the Group I- Private Company category defined several minimum eligibility criteria for participation in the survey. It is unknown what percentage of that solicitation list actually meets all of the qualification criteria outlined in the invitation, so it is unclear what percentage of the targeted respondents who received the initial email declined from participating solely on the basis that they failed to meet the eligibility criteria. As such, while we can infer that the actual response rate of eligible respondents was higher than 6.0% for this particular category, it is impossible to determine how much higher. Once again, the decision has been taken to report the most conservative position statistically.

How, then, does the PCD Study overall response rate of 11.1% compare with other surveys completed in similar academic studies? It has already been discussed that this is believed to be the first empirical study of its kind completed specifically on the topic of public company decline in the world, so there is nothing in the literature that is directly comparable. However, it is also discussed in Chapter 2- Literature Review that Brau / Fawcett and Bancel / Mittoo have completed survey-based studies in the United States and Europe, respectively, focused on the motivation of companies for completing IPOs. 383 Both of those studies solicited respondents using the more time-consuming and expensive methods of mailing hard-copies of their surveys with pre-paid self-addressed return envelopes, repeating the mailing three times. The Brau / Fawcett study also hand-addressed each envelope (no labels) for personalization and offered the prospect of

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383 Brau and Fawcett, supra note 87. Bancel and Mittoo, supra note 91.
financial rewards based on respondents being eligible to participate in a draw for a cash prize.\footnote{Supra note 87 at 402.}

Ultimately, Brau and Fawcett report an overall response rate of 18.8%.\footnote{Ibid.} Brau and Fawcett note that their response rate compares very favorably to what they describe as the leading precedent for surveys of senior executives set by Graham and Harvey, who reported a response rate of just under 9%.\footnote{Ibid, citing John R. Graham and Campbell R. Harvey, “The Theory and Practice of Corporate Finance: Evidence from the Field” (2001) 60 Journal of Financial Economics 187.} The Graham and Harvey study is notable in that they are also targeting senior officers of companies. Graham and Harvey disclose their methodology as involving the sending of both a mail and a fax version of their survey to the target participants. Graham and Harvey then discuss that they followed up with each target recipient by having a team of 10 MBA students make individual phone calls to each targeted participant. In their analysis, Graham and Harvey cite a number of other academic surveys of senior officers to support their assertion that their response rate of approximately 9% is indicative of other outcomes.\footnote{Graham and Harvey, \textit{ibid} at 191.}

As a further point of comparison, Mittoo and Bancel report an overall response rate of 4.3%, which they describe as “reasonable considering the length of time, the nature of the data gathered and the number of countries involved” and draw comparisons to other survey-based studies of senior executives with responses rates in the 5% range.\footnote{Supra note 91 at 847.}

An additional issue to be considered in comparing the PCD Study response rate to these other three studies is the relevance of the use of email solicitations in the PCD Study. None of the other three studies utilized the email solicitation methodology, likely because the public sources from which the investigators constructed their databases included

\footnote{Supra note 87 at 402.}
physical mailing addresses but did not include direct email addresses for the senior executives being targeted for solicitation. On this topic, a 2002 meta-analysis of surveys undertaken using both email and regular mail solicitations reported that the large majority of surveys encountered a significantly lower response rate through email than through regular mail.\(^{389}\)

With this discussion as background, how does the PCD Study response rate compare to these three particular studies of senior executives? The overall response rate of 11.1% from the PCD Study is higher than the reported response rates of both Mittoo/Bancel and Graham/Harvey, but lower than Brau and Fawcett. This higher response rate in the PCD Study was achieved notwithstanding that the PCD Study used email solicitation as a primary recruitment tool, where Mittoo/Bancel and Graham/Harvey used the higher cost regular mail delivery option which often leads to higher response rates.\(^{390}\)

Comparing the PCD Study specifically to Brau and Fawcett, it is notable that the Brau and Fawcett study was financially supported by five different external funding sources disclosed in the acknowledgements. Although the total budget of Brau and Fawcett is not disclosed, it is clear that their recruitment budget was orders of magnitude higher than the PCD Study. Brau and Fawcett also offered a $1,000 cash prize drawn amongst those individuals who participated in the study. Based on these factors, it is submitted that the PCD Study response rate compares favorably to Brau and Fawcett.

Beyond these three particular studies, Cycyota and Harrison have published a meta-analysis on response rates for surveys of executives generally.\(^{391}\) Their analysis of the literature reports response rates for surveys of executives ranging from 3.5% to 18.1% where there is follow-up by the investigators, but no financial incentive for participation.


\(^{390}\) Ibid.

At the 11.1% level of overall response rate, therefore, the PCD Study compares favorably to the previously-undertaken survey-based academic studies seeking the input of senior-level business executives.

5.11.2 - Analysis of Non-Response Bias Based on Demographic Participation in the PCD Study

The next level of analysis for potential non-response bias is to consider how well the demographic make-up of the PCD Study participants reflects the overall demographic make-up of the entire target population. This analysis will be undertaken in three components: (i) geographic representation; (ii) industry representation; and (iii) late vs. early response analysis.

Beginning with the geographic representation, the are several different metrics that can be used to assess how well the PCD Study respondents reflect the overall Canadian economy. However, since the ultimate focus of the PCD Study is in the area of public company decline at the senior stock exchange level, the most logical foundation is to look at the geographic distribution of the existing TSX Operating Companies. The current breakdown of TSX Operating Companies by the jurisdiction of the corporate head offices compared to the percentage representation of each province in the PCD is as follows:\textsuperscript{392}

\textsuperscript{392} TMX Market Intelligence Group Report, supra note 6. The four Atlantic Provinces are shown together because of their comparatively small economies.
Table 2- Percentage of TSX Operating Company Head Offices by Province

<table>
<thead>
<tr>
<th>Province</th>
<th>Percentage of TSX Operating Company Head Offices</th>
<th>Percentage of Respondents in the PCD Study</th>
</tr>
</thead>
<tbody>
<tr>
<td>British Columbia</td>
<td>21.5%</td>
<td>12.2%</td>
</tr>
<tr>
<td>Alberta</td>
<td>20.6%</td>
<td>25.6%</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>0.6%</td>
<td>0.9%</td>
</tr>
<tr>
<td>Manitoba</td>
<td>1.7%</td>
<td>2.1%</td>
</tr>
<tr>
<td>Ontario</td>
<td>40.3%</td>
<td>48.2%</td>
</tr>
<tr>
<td>Quebec</td>
<td>13.2%</td>
<td>4.9%</td>
</tr>
<tr>
<td>Atlantic Provinces</td>
<td>2.0%</td>
<td>5.8%</td>
</tr>
</tbody>
</table>

On the whole, the data demonstrates that the geographic representation of the respondents in the PCD Study is a realistic reflection of the percentage of Canadian public companies based in each province with two obvious exceptions. British Columbia and Quebec are both under-represented in the PCD Study compared to their degree of importance in the public company ecosphere. However, these particular outcomes were anticipated and are representative of similar issues seen in other Canadian survey-based research projects. British Columbians have been observed to have lower participation rates generally than other provinces in Canada in survey-based research.\(^{393}\) In Quebec, participation rates decline significantly when the survey is not available in French, which is consistent with the understanding that non-response rates increase significantly when the survey is not carried out in the first language of the target recipients.\(^{394}\) This language limitation in the PCD Study was unavoidable, as the Co-Investigator responsible for recruitment


efforts has no French language capacity and financial resources were not available to secure sufficient bilingual supports to solicit, collate and interpret the PCD Study results in French.

Other than the underrepresentation by British Columbia and Quebec, the geographic distribution of the PCD Study is quite consistent in reflecting the proportion of TSX-listed Operating Companies emanating from each province. The underrepresentation from British Columbia and Quebec results in a small overrepresentation from each of the other provinces or regions. On the whole, therefore, there is some potential for non-response bias on a geographic basis due to the underrepresentation in British Columbia and Quebec, but these particular limitations are systemic in English-language Canadian research surveys generally.

Turning now to industry representation, a similar methodology will be used in the analysis. Although a variety of calculations could be applied to determine what the target industry breakdown should be, this analysis will utilize the current break-down of Operating Companies on the TSX by industry as the target for comparison. The following show the comparison of the industry breakdown by the three major industry segments tracked throughout the PCD Study compared to the percentage reflected by Group I senior decision-makers who participated as PCD Study respondents.

<table>
<thead>
<tr>
<th>General Industry Category</th>
<th>Percentage of TSX Companies</th>
<th>Percentage of Respondents in the PCD Study</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oil &amp; Gas / Pipelines / Energy Services</td>
<td>19.2%</td>
<td>22.6%</td>
</tr>
<tr>
<td>Mining</td>
<td>25.2%</td>
<td>20.3%</td>
</tr>
<tr>
<td>Non-Resource Based</td>
<td>55.6%</td>
<td>57.1%</td>
</tr>
</tbody>
</table>

The table evidences that the mining sector is slightly underrepresented in the PCD Study compared to its actual weighting in the overall TSX Operating Company list. Again, this outcome is not unexpected because of the high concentration of mining companies based in British Columbia where, as discussed above, the overall response rate is known to be generally lower than the rest of Canada. On the whole, it is submitted that the industry breakdown of the PCD Study respondents correlates sufficiently to the overall weighting
of the industry breakdown of the current list of TSX Operating Companies such that geographic non-response bias is not a material concern.

Last in this portion of the analysis is an evaluation of the PCD Study data according to early and late responses, using the late-response analysis as an analog for simulating non-response bias. This test is frequently applied in similar studies to test for non-response bias, including both the Brau / Fawcett and Bancel / Mittoo studies discussed previously. In the PCD Study, completing this portion of the analysis is somewhat complicated by the fact that the Group II public markets influencers were recruited either through two different methodologies that principally determine the early and late responders (i.e., for lawyers) or were recruited through an intensive effort over a short period of time (i.e., for accountants, investment bankers and private equity investors), thereby eliminating these cohorts from the early / late response analysis. This leaves only the Group I respondents for the early / late analysis.

One of the methodologies generally accepted as valid in testing survey results for non-response bias is comparing the first 30 responses received (i.e., the early responders) to the last 30 responses received (i.e., the late responders). Analysis of the 30 early responders and the 30 late responders amongst the Group I cohort were run using Fisher’s F-test in the software program “R”, testing for evidence of variability in the make-up of respondents by demographic representation as well as variability in the nature of the responses.

In terms of demographic representation, there was no statistically significant difference found between the early and late responders with respect to geographical distribution or years of public company experience. A weakly significant difference was found with respect to years of total career experience.

395 Brau and Fawcett, supra note 87 and Bancel and Mittoo, supra note 91.
In terms of variability of responses between early and late responders, four key questions from the PCD Study were selected as best representing the overall attitude of the participants and disclosing any embedded bias in favour or against the public markets generally: question 16-7, question 16-8, question 18-1 and question 18-2. The specifics of these questions are discussed later in this chapter. Applying Fisher’s F test, no statistically significant difference was found between the early responders and the late responders on any of these four key questions.

As such, the early vs. late responder analysis suggests that the PCD Study data does not materially suffer from non-response bias in terms of demographic make-up or responses on key questions.

5.12- Demographic Overview of the PCD Study Respondents

In the PCD Study recruitment, no minimum amount of career experience was specified as a gating condition in survey eligibility criteria. However, the Group I respondents are required to be in positions at the C-Suite levels of their TSX-listed or TSX-eligible companies, or else serve as directors or major shareholders, in order to qualify for the PCD Study. In the Canadian context, that level of seniority in a business organization generally implies that the individual has a significant degree of overall career experience.

A Group II respondent can have less overall experience than a Group I respondent, because the Group II respondents do not have to reach a similar level of seniority in their organizations in order to qualify for the PCD Study. However, as previously discussed, the databases compiled for solicitation of the Group II participants were limited to individuals with a minimum of 5 years of business experience in their respective professions.

Looking to the PCD Study data, we observe that 100% of the Group I respondents have at least 10 years of experience in their business careers. Further, over 61% of Group I respondents have at least 25 years of career experience, evidencing that the Group I cohort brings a high level of business experience to the PCD Study. With respect to Group II participants, 89% of respondents have at least 10 years of career experience,
while 48% have 25 years of experience or more. While less experienced than Group I, Group II respondents still bring a high level of personal career experience to the PCD Study as a whole.

With respect to industry representation, a summary of the respondent mix according to the three big industry groupings was outlined in the previous analysis on response bias. Within the non-resource industry category, a significant number of industries are represented. None of these industries is individually large enough to be statistically significant for analysis in the PCD Study as a stand-alone cohort, and therefore all the smaller industry segments have been grouped together in the PCD Study analysis. However, the individual industries are tracked, and the following table summarizes the breakdown of the various industries according to their specific classification.

*Figure 1- Summary of PCD Study Respondents by Specific Industry*

Figure 1 evidences the significant breadth of the PCD Study respondent group from an industry-based perspective. The chart in the previous section on survey recruitment bias
demonstrated the significant breadth of the PCD Study on a geographic basis, noting that all areas of the country were represented in the survey and that only British Columbia and Quebec were underrepresented in terms of their overall contributions to the public capital markets as a whole.

It is clearly understood that specific industries in Canada have a strong linkage to geographic regions. For example, consumer goods manufacturing is concentrated in Ontario and Quebec, oil & gas production is concentrated in Alberta and Saskatchewan, and mining is focused in British Columbia, Ontario, Quebec and the three territories. As additional information that will be useful in tracking the linkage between geography and industry throughout the remainder of the analysis on the PCD Study, the following chart reflects the breakdown of the three major industry categories tracked in the PCD Study across the geographic regions of the country.

*Figure 2- Major Industry Groups by Geographic Region*

In addition to its breadth, geographically and by industry, the PCD Study respondent group represents a strong cross-section of company sizes as determined by total annual revenue and by employee count.
Ensuring that the PCD Study has a decent contingent of various-sized companies is particularly important on the topic of public company decline in Canada because of the strong belief expressed throughout the literature that SME companies are suffering disproportionately in the public markets for a variety of reasons. As such, it is anticipated that the SME companies will evidence an even higher degree of overall aversion to the public markets than the larger companies. In order for this belief to be demonstrated in the PCD Study data, it is important to have sufficient sample sizes of responses from Group I decision-makers of both SME companies and larger non-SME companies to make the observations related to company size statistically significant.

The following charts summarize the breakdown of the Group I senior business decision-maker respondents according to the two elements tracked in determining company size.

*Figure 3- PCD Study Respondents by Company Size (Revenue)*
It was anticipated that the attention of the larger company C-suite executives would be harder to get than the smaller company C-suite executives simply because the large-company executives have more demands on their time due to their higher profiles. However, this expectation was ultimately proven wrong, and the final demographic mix includes a strong cross-section of company sizes at all stages of development. If anything, it appears as if the larger company executives were inherently more interested in the public company decline phenomenon than their counterparts at smaller companies.

5.13- PCD Study Format and Content Summary

The PCD Study data are primarily quantitative in nature, applying a variety of 5-Point Likert Scales. There are a total of 24 different questions in the online version of the PCD Study, although the application of skip logic results in a maximum of 20 questions

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397 There are fewer questions in each paper version of the PCD Study because of the fact that the paper versions are targeted to specific subgroups and remove the irrelevant questions for that subgroup (i.e., the questions that are skipped over by that subgroup in the online version as a result of the skip logic function). However, the same substantive questions are answered by all respondents with the exception of Question
being required to complete the survey for DG5- Private company respondents and fewer questions being required for all other subgroups. 22 out of the 24 questions solicit quantitative data. The other two questions (namely question 17 and question 24) solicit qualitative data.

The quantitative PCD Study questions can be categorized into three separate categories. The first category is the survey eligibility validation questions, which are utilized as screens to determine that each respondent properly fits within one of the following six subgroups of target participants: (i) senior decision-maker (C-suite executive, director or major shareholder) of an existing TSX-listed public company; (ii) senior decision-maker of a TSX-eligible private company; (iii) corporate or securities lawyer; (iv) public auditor or accountant; (v) investment banker; or (vi) private equity investor.

The second category of PCD Study questions are the questions designed to convey demographic information about the individual respondent. It is this data that allows us to categorize the respondents into a variety of demographic subgroups that are tracked throughout the PCD Study analysis.

The third category of PCD Study questions are the substantive content questions. These are the questions where the respondents give their opinions on a variety of different topics relevant to the phenomenon of public company decline in Canada. It is these substantive questions that ultimately are the focus of the PCD Study analysis.

The first two subgroups of respondents above constitute the Group I participants, namely senior business decision-makers. In addition to fitting within that particular criteria, participants must also verify that their companies qualify as an Operating Company, which is defined in Question 6 of the PCD Study as follows:

---

10 and Question 12, which are only answered by senior decision-makers of public and private companies, respectively.
"Operating Company" - An operating company is a business that directly produces a product or delivers a service to customers, or else owns a subsidiary that directly produces a product or delivers a service to customers.

Note: Mutual Funds, ETF’s and REITS are not considered operating companies.

The latter four subgroups in the above list constitute the Group II participants, namely public markets influencers. If participants cannot certify that they meet all of the requirements of one of those six subgroups, they are thanked for their willingness to participate in the survey and the survey is terminated at that point.

In addition to attesting that they properly fit within one of the above-listed six subgroups, respondents must also confirm that they are currently Canadian residents and that they work in Canada for Canadian-based and Canadian-controlled businesses. This limitation was somewhat controversial amongst a number of respondents who desired to participate in the PCD Study, but did not meet the strict residency requirements. However, the limitation was required to be implemented in order to preserve the comparability of the data for Canadian businesses and to eliminate any complexity in cross-border ethics approval requirements for solicitation of individuals located outside of Canada.

Most of the quantitative questions in the PCD Study are formatted as 5-Point Likert-Scale questions. Question 10 and Question 12 result in the collection of nominal data, each of which is specific to senior decision-makers of either TSX-listed or private companies. Question 19 is also nominal, allowing respondents to define the premium required in a hypothetical fact pattern to achieve equality in attractiveness between an IPO option and a private financing option.

The two qualitative questions in the PCD Study are the following open-ended text responses questions: Q17- a text-based question asking the respondent’s perception as to the primary factors contributing to public company decline; and Q24- a concluding text-based question inviting the respondents to share any final thoughts that they have on any topic related to the PCD Study.
The following figure is provided as a visual representation of the skip logic processes applied in the PCD Study.

**Figure 6- PCD Study Online Layout Summary**

The next figure reproduces the minimum financial requirements set forth in Question 11 of the PCD Study, which is used to confirm that a private company is of sufficient maturity to be TSX-eligible.
You have indicated that you are a Senior Business Decision-Maker in a private operating company.

We would like to confirm one final eligibility criteria for participation in this survey, namely the size and stage of development of your company. We are looking for Senior Decision-Makers of private companies that are of a sufficient size and stage of development that they would be eligible to pursue a TSX listing if they chose to.

**Does your private operating company meet all the criteria in at least one of the following categories?**

**Category A- Profitable Companies**
Minimum of $10,000,000 in annual revenue;  
Minimum of $2,000,000 in pre-tax cash flow; and  
Company has an estimated fair market enterprise value above $10,000,000.

**Category B- Technology Companies and R&D Companies Not Yet Profitable**
Company owns proprietary technology that is close to being ready for commercialization or is already at the commercialization stage;  
Company has at least two years of development history in developing its technology;  
Company has spent a minimum of $5,000,000 in developing its technology to date; and  
Company has an estimated fair market enterprise value above $20,000,000.

**Category C- Resource Companies Not Yet Profitable**
Company owns a resource property which is already in production or else has an independent technical report confirming commerciality;  
Company has spent at least $5,000,000 on the acquisition and development of the property;  
Company has an estimated fair market enterprise value above $20,000,000.

My private operating company meets all of the criteria of at least one category listed above.

- [ ] Yes
- [ ] No
- [ ] I Choose Not to Answer

Anyone familiar with the minimum listing requirement of the TSX will recognize that the minimum financial conditions set out in Question 11 of the PCD Study, as per the above excerpt, are significantly higher than the actual minimum listing requirements in the TSX Company Manual. However, it is also understood that it is impractical for a company to go public on the TSX if it barely meets the formal minimum listing requirements.
Indeed, the argument certainly can be made that even more stringent standards should have been applied for participation of private company senior-decision makers as the financial tests outlined above are still far too small to consider pursuing an IPO on the TSX in this market. However, it is submitted that the enhanced minimum financial requirements adopted by the PCD Study to define TSX-eligible private companies are appropriate for determining which companies are, at least, of a sufficient size that they can realistically begin to consider whether an IPO alternative is something that should be on their long-term horizon. Although those companies might not yet be at a size where the IPO alternative is realistically imminent, they are at least at a size where an IPO is an option that can be considered for the future as the company continues to grow.

Each of the substantive content questions in the PCD Study is analyzed later in this Dissertation in Chapter 7- Analysis of Quantitative Data in PCD Study.

5.14- Online Survey Participant Attrition Analysis

In any online survey, there will inevitably be an element of attrition where participants drop out of the survey somewhere between the initial action of clicking through to the survey website and completion of the survey. The longer and more complex the survey instrument is, the greater the percentage of respondents who will drop out prior to completion. Survey orthodoxy indicates that the ideal survey length is a median of ten minutes, with a maximum survey length of 20 minutes indicated before significant attrition occurs amongst the respondents.398

In considering the design and content of the PCD Study in particular, significant consideration was given to the fact that a common thread amongst all of the subgroups targeted for participation is that all are comprised of extremely busy individuals who face a number of competing demands for their time and attention daily. It was clearly understood that simply capturing their interest, to the extent that they opened the survey,

was a major challenge and would require significant effort. If the PCD Study was too ambitious in its scope, it was recognized that the entire research effort would be at risk if it generated excessive participant attrition.

Yet, having gone to the significant effort to enroll the respondents in the PCD Study, the clear desire was to secure as much relevant data from each respondent as possible. If the PCD Study drop-out rate significantly exceeded the comparable drop-out rates for online surveys generally, the PCD Study would be open to criticism that it over-reached in trying to gather too much data. If this outcome were seen to exist in the PCD Study output, it could further be argued that the quality of the data collection near the end of the survey instrument is impugned. If the respondents are frustrated by the survey length, they may no longer be thinking as carefully about their answers and the data may be unreliable.

As previously discussed, the time required to compete the PCD Study was tested during the Preliminary Survey phase. This beta trial established that the average completion time was in the range of 12-17 minutes with a median completion time of 15 minutes. This places the PCD Study on the longer side of what is generally used in online surveys. Ultimately, does the output data demonstrate that the PCD Study struck an appropriate balance in length and complexity, or does the attrition rate indicate that the PCD Study over-reached in length and complexity?

To undertake that analysis, we must understand that attrition in the PCD Study occurs from different sources. Formal attrition results from the survey programming (where participants are prevented from continuing in the survey as a result of the survey design and their responses). Informal attrition occurs when participants stop completing the survey on their own volition at some point before completion due to any reason other than eligibility. Within the respondents who dropped out as a result of formal attrition, it is useful to distinguish between participants who were excluded from completing the survey because they failed to meet a required condition for survey participation (such as private company size or Canadian residency) and those who were excluded from completion because they chose not to answer a question.
The PCD Study is composed of two different types of questions, mandatory response and voluntary response. Mandatory response questions must be answered in a specific manner in order for the respondent to continue in the survey. Voluntary response questions are not required to be answered in any particular manner in order for the respondents to continue further in the survey. Participants even have the ability to skip voluntary response questions and continue in the survey if they so choose.

Of the mandatory questions in the PCD Study, the first screen is unique. This first screen combines the formal Letter of Invitation and the Consent to Participate forms that are mandated for inclusion in the online survey version as a condition of research ethics approval by the Western University NMREB. The compulsory ethics disclosure on this first screen is quite lengthy, running to nearly 1000 words. At the end of this first screen, the following statement is given to participants:

*Figure 8- Screen-shot from PCD Study survey online- Consent to Participate*

```
I agree I have read the Letter of Information, have had all questions answered, and consent to participate.

Yes
No
```

If the participant selects “Yes” in response, they are able to continue to the main body of the PCD Study. If the participant answers “No” on the first screen, they skip straight to the survey completion screen, which displays the following message:

*Figure 9- Screen-shot for PCD Study survey online- Terminal Message*

```
We thank you for your time spent taking this survey. Your response has been recorded.
```

Once this survey completion screen is displayed in the PCD Study, the survey is designed such that there is no ability for the respondent to go back and change their answer to
“Yes” on the first screen. Those specific participants are also prevented from starting the survey again due to the anti-ballot stuffing security measures that were selected in the PCD Study settings. To further ensure that informed consent is freely given and properly documented, PCD Study settings have also been selected such that there is no ability to bypass the first screen without selecting “Yes” or “No”. This ensures and documents the informed consent of all participants.

All other mandatory questions in the PCD Study relate specifically to demographic questions which are necessary to establish whether the particular participant falls within the class of eligible respondents who are targeted in the survey. The question on Canadian residency is also designated as mandatory, as the NMREB research ethics approval was limited to solicitation of individuals living in Canada. In each mandatory question, the participants are unable to bypass the question and continue without selecting an answer. If the initial response of a participant on a mandatory question is one which fails to confirm that the participant is eligible to continue in the survey, the participant is given the following warning message:

*Figure 10- Screen-shot for PCD Study survey online- Ineligibility Message*

If the participant makes an entry error which leads them to this termination warning screen unintentionally, they can correct the input error and continue with the survey by selecting “Back”. However, if the respondent selects “Next” after seeing this particular message, they are forwarded to the survey completion screen and are thereafter blocked from further participation in the survey.

Under Western NMREB survey ethics regulations, providing an answer to each
individual question must be voluntary. To recognize this NMREB requirement, every mandatory response question in the PCD Study provides participants the option of “I Choose Not to Answer”. If the participant selects this option on a mandatory response question, they receive the following message:

*Figure 11- Screen-shot for PCD Study survey online- Mandatory Response Warning*

```
You have selected "I Choose Not to Answer" on a question that is mission critical for us to have an answer in order to use your contribution in our survey analysis.

You have the complete freedom to do so and we fully respect your decision!
However, we cannot use your input for this survey without knowing that you meet our target criteria.
If you wish to participate further, you can select "Go Back" from this screen and complete the question.
Otherwise, thank you taking for the time to participate in this survey.
```

Once again, if the respondent selects “Next” after seeing this particular message, they are forwarded to the survey completion screen and are blocked from further participation in the survey.

To respect the free will of the respondents, the PCD Study was carefully constructed such that only those questions which were mission critical in verifying survey eligibility were constructed as mandatory questions.

All other questions, including demographic questions soliciting valuable information, but not information which is essential to validation of the eligibility of respondents, were designed as voluntary questions. If a participant selects the “I Choose Not to Answer” option on a voluntary question, they are moved onto the next question without any comment. Alternatively, if a participant simply skips a question by selecting the “Next” option without having selected any answer, they receive the following notification advising that questions on the screen were left unanswered:
If the participant selects the “Continue Without Answering” option, they move onto the next question. The above warning does not force a response, but rather ensures that any failures by participants to answer voluntary questions are intentional rather than accidental.

The following table provides a detailed summary of the PCD Study attrition throughout the survey instrument up to the completion of the critical matrix question (Question 20), past which point the PCD Study is considered to be substantially completed. The coding under the “Attrition Type” column is summarized as follows: (i) FV is “Formal Voluntary Attrition”, referring those participants who were terminated by the survey rules as a result of selecting “I Choose Not to Answer” to a mandatory response question or else declining to acknowledge; (ii) FI is “Formal Involuntary Attrition”, referring to those respondents whose were terminated by operation of the survey rules as a result of their failing to match the survey conditions; and (iii) IV is “Informal Voluntary Attrition”, referring to those respondents who simply failed to advance to the next question for unknown reasons (i.e., quit the survey on their own volition). The attrition number is the total number of respondents who did not continue onto the following question, and the remainder number is the total number of respondents who continued on past that question.

Table 4- PCD Study Survey Attrition Analysis

<table>
<thead>
<tr>
<th>Q#</th>
<th>Survey Question Summary</th>
<th>Attrition (Remainder)</th>
<th>Attrition Type</th>
<th>Attrition Analysis Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total number of initial respondents who show as “registered” responses in the Qualtrics software database for the PCD Study</td>
<td>449</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>Q#</td>
<td>Survey Question Summary</td>
<td>Attrition (Remainder)</td>
<td>Attrition Type</td>
<td>Attrition Analysis Summary</td>
</tr>
<tr>
<td>----</td>
<td>------------------------</td>
<td>-----------------------</td>
<td>----------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>Q1</td>
<td>Letter of Invitation and Consent Form- Unless consent accepted by participant, survey terminated.</td>
<td>15 (434)</td>
<td>FV= 4 IV=11</td>
<td>Slightly less than 1% attrition on this question from 4 respondents who declined online consent form. Rationales for declining consent unknown.</td>
</tr>
<tr>
<td>Q3</td>
<td>Respondents requested to self-identify as falling within the 2 main groups targeted for the survey: Group I (Senior Business Decision-Makers) or Group II (Public Markets Influencers). Unless participants identify as falling within Group I or Group II, survey is terminated</td>
<td>8 (426)</td>
<td>FI= 7 FV=1</td>
<td>Slightly under 2% attrition from 7 respondents who selected “None of the above” and 1 respondent who selected “I choose not to answer”.</td>
</tr>
<tr>
<td>Q4</td>
<td>Group I: Respondents requested to self-identify as falling within the 3 groups of Senior Business Decision-Makers: C-Suite Executive, Corporation Director and/or Major Shareholder. If not fitting in any of the three groups, survey terminated</td>
<td>1 (425)</td>
<td>FI=1</td>
<td>Single respondent who failed to match any group. Likely a senior executive who did not meet the criteria for C-Suite Executive.</td>
</tr>
<tr>
<td>Q5</td>
<td>Group I: Canadian residency question for Group I. Unless participant confirms they are Canadian resident and working for a Canadian-based company, survey terminated</td>
<td>11 (414)</td>
<td>FI=8 FV=1 IV=2</td>
<td>Although recruitment targeted solely at Canadian companies and residents based on available data, a small number of respondents were non-Canadian and therefore ineligible.</td>
</tr>
<tr>
<td>Q6</td>
<td>Group I: Respondents requested to confirm that their companies are “operating companies” within definition provided</td>
<td>16 (398)</td>
<td>FI=15 FV=1</td>
<td>Although recruitment targeted at companies believed to operating companies, some respondents were from REITS or other businesses not included in definition.</td>
</tr>
<tr>
<td>Q#</td>
<td>Survey Question Summary</td>
<td>Attrition Type</td>
<td>Attrition Analysis Summary</td>
<td></td>
</tr>
<tr>
<td>----</td>
<td>------------------------</td>
<td>----------------</td>
<td>---------------------------</td>
<td></td>
</tr>
<tr>
<td>Q9</td>
<td>Group I: Respondents requested to confirm that companies are TSX-listed or TSX-eligible private companies</td>
<td>FI=6, IV=2</td>
<td>Attrition here is likely due to respondents from companies listed on TSXV or CSX exchanges.</td>
<td></td>
</tr>
<tr>
<td>Q11</td>
<td>Group I: Private company respondents asked to confirm that their companies meet minimum size threshold in revenue and pre-tax cashflow to be TSX-eligible</td>
<td>FI=19</td>
<td>Although these eligibility criteria were included in solicitation, these respondents only picked up on the eligibility requirements at this stage.</td>
<td></td>
</tr>
<tr>
<td>Q16</td>
<td>First substantive question of the survey, asking opinion on a variety of statements</td>
<td>IV=15</td>
<td>A dozen additional participants exited prior to making it to the substantive element of the survey. 8 individuals who exited were Group II and 7 were Group I. Group I attrition was likely validation fatigue at this stage; Group II attrition was tire-kickers who had not invested much time in the survey to this stage</td>
<td></td>
</tr>
<tr>
<td>Q18</td>
<td>Introduction of hypothetical</td>
<td>IV=11</td>
<td>Additional attrition after completion of unprompted text question at Q17.</td>
<td></td>
</tr>
<tr>
<td>Q19</td>
<td>Valuation premium question</td>
<td>IV=3</td>
<td>Additional attrition between Q18 and Q19.</td>
<td></td>
</tr>
<tr>
<td>Q20</td>
<td>Core question on public company disadvantages with 31 sub-elements</td>
<td>IV=8</td>
<td>Final attrition before major matrix question, likely put off by the size of the matrix table.</td>
<td></td>
</tr>
</tbody>
</table>

Based on the above analysis, 333 of the 449 individuals who originally opened the PCD Study continued to the stage of substantial survey completion (i.e., beyond the major matrix question at Q20). This survey completion ratio represents 74.2% of all those who initially opened the PCD Study. On its own, the overall PCD Study completion rate is
slightly below the average online survey completion rate of 78% and 87% that are reported by various online survey firms.\textsuperscript{399}

However, the 74.2\% number is not an accurate reflection of the effective PCD Study completion rates for the purpose of comparison to these other precedents. Unlike most online surveys, the PCD Study contained a rigid eligibility criteria that eliminated the vast majority of the population from participation. Unless the participants certified their eligibility in the validation portion of the survey, they were disqualified as being ineligible. The analysis in the above table on PCD Study survey attrition evidences that, of the 116 initial respondents who failed to substantially complete the survey after initially opening it, just under half of the drop-outs (i.e., 54 participants) were attributable to formal involuntary reasons (i.e., the participants confirmed that they did not meet the eligibility criteria and were excluded from continuing on to survey completion by the operation of the online PCD Study rules). If you exclude the formal involuntary attrition, then 333 of the 395 participants (representing 84.3\%) who opened the first screen of the PCD Study) continued to the stage of substantial completion. The effective completion rate is likely even higher, as it is anticipated that several of the initial participants who dropped out without providing a reason in fact dropped out and exited the survey once they realized that they were ineligible without taking the additional time to fill in the answer advising that they were ineligible. Regardless, as the completion rate in the PCD Study is in line with the range for online surveys reported by the professional survey companies elsewhere, there is no indication that the respondents were overly frustrated with the length and complexity of the survey such that the data collected can be impugned for that reason.

As a final note on the PCD Study recruitment effort, what should be reported as the final survey participation number? Did the PCD Study meet its target threshold of 377 valid

respondents to support a 95% confidence level and a 5% margin of error overall? The
text depends on the particular question in the PCD Study. Although survey response
totals are sometimes reported using all respondents who entered the survey instrument,
the PCD Study adopts a more conservative reporting methodology. The decision was
made not to include reference to prospective participants who entered the survey, but
were ineligible to continue according to the survey enrollment requirements.
Unfortunately, those particular individuals missed the explanation of the eligibility
criteria that was included in the emailed survey invitation. The PCD Study numbers also
exclude eligible participants who voluntarily dropped out of the PCD Study during the
eligibility validation phase before providing responses to the substantive content
questions.

As such, only those respondents who were eligible to participate and continued through
to the first substantive response question at Q16-1 are included in the PCD Study
calculations. This results in a survey of 360 respondents, which is sufficient (again using
a high-end population estimate of 20,000 and assuming a probability sample) to support a
94.4% confidence level at a 5% margin of error. Alternatively, it can support a 95%
confidence level at 5.12% margin of error. Either way, the recruitment effort came a
hair’s breadth of meeting the initial target of 377 valid responses to support a 95%
confidence level at a 5% margin of error for the PCD Study analysis. Regardless, the
recruitment effort is still considered successful, as it significantly exceeds the minimum
condition stated in the Survey Protocol & Research Plan approved by the dissertation
advisory committee.

Beyond simple numbers, reference to the PCD Study demographic data also demonstrates
that the recruitment effort secured a respondent pool that demonstrates a strong breadth
and depth in terms of geographical reach, industry representation and a surprising level of
experience in the field of private and public company markets, thereby adding weight to
the opinion of this group of respondents. It is the breadth of demographic diversity that
protects the PCD Study survey against answer bias, which was analyzed previously in
this chapter.
5.15- Collation and Analysis of PCD Study Data

The PCD Study collected an immense amount of data. Extracting meaning from the dataset first requires that the data elements be broken down into appropriate constituent groupings for analysis. Although this analytical process is conceptually simple, there are a seemingly infinite number of ways to group and present the PCD Study data. Determining which groupings are most appropriate for the presentation of the PCD Study data requires the synthesis of a significant amount of contextual knowledge on the specific qualities and nature of the individual respondent subgroups, geographical tendencies and industry nuances. When first beginning the data analysis process, a variety of different options for compartmentalization and presentation strategy were considered.

Ultimately, it was determined that the optimal framework for analysis of the type of data gathered in the PCD Study is a matrix structure in which the individual question topics are assessed by both demographic and subject matter groupings.

With respect to demographic analysis, the conclusion was reached that the most logical process is to define a limited number of demographic groups for consistent analysis throughout this Dissertation. By defining and maintaining a consistent format for demographic analysis, the demographic group characteristics, trends and correlations can be coherently tracked across the multiple elements of the PCD Study.

In determining how to properly define each demographic group for analysis, the principal goal was to identify logically-defined groupings that might be expected to have similar views on the particular topics raised in the PCD Study based on their demographic make-up. Moreover, although the groups are defined based on commonality of background and a belief that the unique demographic characteristic of the group may lead to different perspectives on the topics under consideration, pragmatism also plays a role in determining boundaries between the groups and amongst the subgroups. In order for the observations of particular group nuances to have statistical significance, the social sciences “rule of thumb” of n=30 for the minimum target size for subgroup comparison
was adopted.\textsuperscript{400} However, certain logical demographic subgroups in the PCD based on geography (i.e., Quebec and the Atlantic Provinces) did not meet the minimum target subgroup size of \(n=30\), the implications of which are discussed below.

Ultimately, 25 demographic categories were defined and utilized throughout the analysis. The first 8 categories were defined in advance during the PCD Study design phase. The last 17 categories were determined during the data analysis phase based on assessment of the enrollment results. The 25 demographic groups include the following:

\textit{Table 5- Definition of Demographic Groups in PCD Study}

<table>
<thead>
<tr>
<th>Main Group</th>
<th>Group Identifier</th>
<th>Demographic Subgroup Title\textsuperscript{401}</th>
<th>Demographic Group Details</th>
<th>N\textsuperscript{402}</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Respondents</td>
<td>DG1</td>
<td>All Respondents</td>
<td>All respondents in survey</td>
<td>358</td>
</tr>
<tr>
<td>Group I / II</td>
<td>DG2</td>
<td>Group I</td>
<td>Group I- Senior Business Decision-Makers</td>
<td>168</td>
</tr>
<tr>
<td></td>
<td>DG3</td>
<td>Group II</td>
<td>Group II- Public Markets Influencers</td>
<td>190</td>
</tr>
<tr>
<td>Group I- Core Components</td>
<td>DG4</td>
<td>TSX-Listed</td>
<td>Group I- Senior Business Decision-Makers of TSX Listed Companies</td>
<td>97</td>
</tr>
<tr>
<td></td>
<td>DG5</td>
<td>Private</td>
<td>Group I- Senior Business Decision-Makers of Private Companies</td>
<td>71</td>
</tr>
<tr>
<td>Group II- Core Components</td>
<td>DG6</td>
<td>Lawyers</td>
<td>Group II- Corporate / Securities Lawyers</td>
<td>44</td>
</tr>
<tr>
<td></td>
<td>DG7</td>
<td>Auditors</td>
<td>Group II- Professional accountants / auditors</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>DG8</td>
<td>Investment Bankers</td>
<td>Group II- Investment bankers</td>
<td>48</td>
</tr>
<tr>
<td></td>
<td>DG9</td>
<td>Private Equity</td>
<td>Group II- Private equity investors</td>
<td>59</td>
</tr>
</tbody>
</table>


\textsuperscript{401} Throughout this Dissertation, the 25 demographic groups will be referred to according to the group identifier number combined with the demographic subgroup title for ease of reference and consistency of terminology. For example, reference to the subgroups of respondents in the PCD Study who are Senior Business Decision-Makers of SME companies (have less than 500 employees and less than $50 million ($Cdn.) in annual revenue will simply be “DG10- SME”).

\textsuperscript{402} “N” is the total number of respondents that fit within each of the specified groups or subgroups. The value of N may differ for each question in the PCD Study, generally becoming slightly smaller through respondent attrition in the latter survey questions. The N numbers in the table above are for Question 16-1, which is the first substantive question in the PCD Study. N for each subgroup with respect to each individual question has been recorded and the appropriate N value is used in determining inferential statistics in the analysis contained in this Dissertation.
<table>
<thead>
<tr>
<th>Main Group</th>
<th>Group Identifier</th>
<th>Demographic Subgroup Title</th>
<th>Demographic Group Details</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Group I by Company Size</strong></td>
<td>DG10</td>
<td>SME</td>
<td>Group I- Senior Business Decision-Makers of SME Companies using Stats Canada definition- Less than 500 employees and less than $50 million in annual revenue</td>
<td>65</td>
</tr>
<tr>
<td></td>
<td>DG11</td>
<td>Non-SME</td>
<td>Senior Business Decision-Makers of Non-SME Companies using Stats Canada definition- Either more than 500 employees or more than $50 million in annual revenue</td>
<td>96</td>
</tr>
<tr>
<td><strong>Group I by Industry</strong></td>
<td>DG12</td>
<td>Oil &amp; Gas</td>
<td>Senior Business Decision-Makers of oil &amp; gas companies</td>
<td>38</td>
</tr>
<tr>
<td></td>
<td>DG13</td>
<td>Mining</td>
<td>Senior Business Decision-Makers of mining companies</td>
<td>34</td>
</tr>
<tr>
<td></td>
<td>DG14</td>
<td>Non-Resource</td>
<td>Senior Business Decision-Makers of non-resource based companies</td>
<td>96</td>
</tr>
<tr>
<td><strong>Geographical-Province of Residence</strong></td>
<td>DG15</td>
<td>British Columbia</td>
<td>Respondent (Group I or II) resident in British Columbia</td>
<td>40</td>
</tr>
<tr>
<td></td>
<td>DG16</td>
<td>Prairies</td>
<td>Respondent (Group I or II) resident in Alberta, Manitoba or Saskatchewan</td>
<td>95</td>
</tr>
<tr>
<td></td>
<td>DG17</td>
<td>Ontario</td>
<td>Respondent (Group I or II) resident in Ontario</td>
<td>157</td>
</tr>
<tr>
<td></td>
<td>DG18</td>
<td>Quebec</td>
<td>Respondent (Group I or II) resident in Quebec</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>DG19</td>
<td>Atlantic Provinces</td>
<td>Respondent (Group I or II) resident in New Brunswick, Nova Scotia, PEI or Newfoundland and Labrador</td>
<td>19</td>
</tr>
<tr>
<td><strong>Years of Career Experience</strong></td>
<td>DG20</td>
<td>Early-Career</td>
<td>Respondent (Group I or II) with 15 years or less total career experience</td>
<td>56</td>
</tr>
<tr>
<td></td>
<td>DG21</td>
<td>Mid-Career</td>
<td>Respondent (Group I or II) with 16-25 years total career experience</td>
<td>111</td>
</tr>
<tr>
<td></td>
<td>DG22</td>
<td>Late-Career</td>
<td>Respondent (Group I or II) with more than 25 years total career experience</td>
<td>160</td>
</tr>
<tr>
<td><strong>Years of Public Company Experience</strong></td>
<td>DG23</td>
<td>Limited Pubco Experience</td>
<td>Respondent (Group I or II) with 5 years of less experience working for, or advising, public companies</td>
<td>103</td>
</tr>
<tr>
<td></td>
<td>DG24</td>
<td>Moderate Pubco Experience</td>
<td>Respondent (Group I or II) with between 6 and 15 years experience working for, or advising, public companies</td>
<td>81</td>
</tr>
<tr>
<td></td>
<td>DG25</td>
<td>Extensive Pubco Experience</td>
<td>Respondent (Group I or II) with more than 15 years of experience working for, or advising, public companies</td>
<td>143</td>
</tr>
</tbody>
</table>

From this point forward in this Dissertation, the particular demographic subgroups will be referenced according to their specific subgroup number (i.e., DGx) and the descriptive summary to avoid any confusion as to which subgroup is being discussed.

Selection of the subgroups requires the application of knowledge of the nature of the IPO decision-making process, and geographic and industrial context on the nuances of the Canadian markets.
With reference to company size, the demographic information collected in the PCD Study offers a number of alternatives for defining subgroups. In developing the survey, consideration was given to breaking the size-defined category into 3 respondent groups defined as small, medium and large. However, having limited the PCD Study eligibility to Senior Decision Makers from either TSX-listed or TSX-eligible companies, the dataset collected turned out to be skewed towards representatives from larger enterprises. As discussed, securing responses from senior decision makers of private companies was the most challenging part of the recruitment process, and the total number of SME’s responses reflected in the survey is significantly less than the number of large-company (ie, non-SME) responses.

Also, the academic analysis related to company size and its relevance to public company decline is largely focused on the dichotomy of SME / non-SME. As such, the decision was made to define only two demographic subgroups by company size for the analysis phase, SME’s and non-SME’s. The definition of what constitutes an SME varies from country to country and even industry to industry, so the definition selected for the PCD Study analysis is taken from the internal categorization adopted by Statistics Canada for its own internal ongoing economic research. Companies are classified as being SME's if they have fewer than 500 employees and less than $50 million (Cdn.) in annual revenue.

With respect to industry, the decision-making process was largely determined by pragmatic considerations. As demonstrated in Figure 1 earlier, the only two industries with sufficient size to support significant inferences in the PCD Study with respect to statistical analysis are the mining and oil & gas industries. This outcome is not unexpected. The Canadian economy generally, and the Canadian capital markets specifically, have for decades been heavily weighted in favor of these two extractive sector industries. Both of these extractive sector industries have faced significant

headwinds in the past five years, and therefore it is anticipated that there will be meaningful observations on the nature of the responses within these two groups. Outside of these two groups, no single other industry has a sufficient number of respondents to support meaningful analysis in terms of determining statistically significant outcomes. The computers, technology and software industries constitute the third largest group of respondents at 20. However, unlike the United States, where tech-focused IPOs have formed a significant percentage of the recent IPO market, the Canadian IPO market has not benefitted from a resurgence in tech-focused IPOs. As such, there is no compelling rationale to break down the responses from the Senior Decision Makers of non-resource companies into any smaller demographic subgroups for analysis of the PDC Survey.

With respect to the geographic analysis, there were only three provinces in the PCD Study with a sufficient number of respondents to exceed the target subgroup minimum of 30 responses: British Columbia, Alberta and Ontario. Initial consideration was given to simply breaking down the PCD Study into two geographic subgroups defined as Western and Eastern Canada, but that was determined as sub-optimal for analysis because of the distinct nature of Quebec and the Atlantic Provinces culturally and economically. Combining Quebec and the Atlantic Provinces with Ontario in the analysis phase also might negatively affect the identification of trends within the Ontario data, and would certainly obscure the unique nuances of any observations from Quebec and the Atlantic Provinces by virtue of the large number of Ontario respondents in the PCD Study.

There was admittedly a temptation to combine Quebec and the Atlantic Provinces as a single subgroup for the PCD Study analysis in order to secure a sufficient-sized cohort for statistical significance, but the conclusion was reached that the underlying nature of the respondents from these two regions made this combination inappropriate. Quebec and the Atlantic Provinces are certainly two of the most distinctive regions in Canada.

While located in close geographic proximity to each other, the cultural differences between Quebec and the Atlantic Provinces are significant. As such, it was concluded that Quebec and the Atlantic Provinces should each remain as their own subgroup for geographic analysis purpose, with the recognition that the limited sample sizes of these two subgroups would limit the ability to make statistically significant observations.

With respect to Western Canada, there was concern about losing the distinctiveness of the British Columbia responses given the economic and cultural nuances of the west coast. The conclusion was reached that the most appropriate subgroup definition in the west would be to consider British Columbia as a stand-alone province and then combine the responses from Alberta, Saskatchewan and Manitoba into a "Prairie" group. Although Manitoba might be expected to evidence a different industry make-up than Alberta and Saskatchewan because of its lack of oil & gas companies, it is reasonable to anticipate that Manitoba respondents will exhibit significant similarity in responses to the other two provinces on non-oil & gas companies given the nature of its industry.

With respect to grouping of the two experience-based demographic categories, the issue is simply where the appropriate boundaries are for the subgroup delineation. The fact that these groupings include both Group I and Group II respondents gives us a larger number of datapoints to start with, so the categories can be broken down into more subgroups without approaching the lower size limits of subgroup targets. With respect to both total career experience and specific public company experience, it was determined that it would be most useful to define different subgroups based on limited, moderate and significant experience.

Overall, the respondents on the PCD Study tend to be more experienced than the general population as a result of the fact that: (a) more senior Group II participants were specifically targeted in the enrollment process to secure more informed data on the topic of public company decline; and (b) by the time that individuals qualify for the criteria of Group I- Senior Business Decision-Makers, they will obviously have a higher level of experience than the general population. There is no overriding principle that dictates the specific boundaries for the experience-defined subgroups, but the definitions of the
subgroups utilized are reasonable in the circumstances and the different groups exhibit outcomes that one would expect based on increasing levels of experience and knowledge.

**5.16- Considering the Nature of the Data Collected**

Several different forms of empirical data were collected in the PCD Study. Assessing the underlying nature of this data is important in that the categorization of the data provides instruction on how to properly describe the various data elements statistically and also defines what statistical tests are appropriately applied in analysis.

First, the PCD Study has two questions that collect a significant volume of qualitative data in the form of text responses: namely, Question 17 and Question 24, both of which have been previously discussed in the Research Methodology chapter. Analysis of the text-based qualitative data involves coding the data into subject matter groupings and hierarchies and conducting frequency analysis, which is undertaken in Chapter 6- Analysis of Qualitative Data in the PCD Study. Word cluster charts are also used to summarize the qualitative data.

Second, the PCD Study collects several different forms of quantitative data. Detailed analysis of the quantitative data collected in the PCD Study is undertaken in Chapter 7- Analysis of Quantitative Data in PCD Study and in Chapter 8- Correlation in the PCD Study.

Quickly reviewing the forms of quantitative data collected in the PCD Study, we begin with nominal-level data. Nominal-level data are the form of quantitative data in which the information collected can be classified by categories and counted, but there is no inherent order to the categories from which further statistical meaning can be derived. The nominal-level data collected in the PCD Study is demographically-based. These questions in the PCD Study allow us to categorize the respondents into either Group I-Senior Business Decision-Maker or Group II- Public Markets Influencer categories, and

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then further divide those groups into the sub-categories of Group I (TSX-Listed, Private Company) and Group II (Corporate Lawyers, Auditors, Investment Bankers and Private Equity Investors). The question on province of residence also collects nominal-level data.

Second, ratio-level data are the category of quantitative data in which the differences between values is a constant size and a meaningful “0” point is present. Much of the obvious ratio-level data collected in the PCD Study is also demographically based. The clear ratio-level data relates to the level of experience of the survey respondents in their industry generally, working with their current employer and also their experience working with or advising public and private companies. However, the PCD Study also collects ratio-level data that is not demographically based, specifically in the hypothetical question in reference to the pre-money valuation premium that would be required to make the IPO and private equity equally attractive.

Finally, the PCD Study collects a large amount of data that would traditionally be viewed as ordinal-level data or interval-level data in the form of responses to a variety of 5-point Likert Scale questions. The following three different 5-point Likert Scales were used in the PCD Study generating ordinal-level data:

*Table 6, Forms of Likert Scales Used in the PCD Study*

<table>
<thead>
<tr>
<th>Likert Scale A (Question 16)</th>
<th>Strongly Disagree 1</th>
<th>Disagree 2</th>
<th>Neither Agree or Disagree 3</th>
<th>Agree 4</th>
<th>Strongly Agree 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Likert Scale B (Question 18)</td>
<td>Extremely Unlikely 1</td>
<td>Unlikely 2</td>
<td>Neutral 3</td>
<td>Likely 4</td>
<td>Extremely Likely 5</td>
</tr>
<tr>
<td>Likert Scale C (Question 20 &amp; Question 21)</td>
<td>Not at All Important 1</td>
<td>2</td>
<td>Moderately Important 3</td>
<td>4</td>
<td>Extremely Important 5</td>
</tr>
</tbody>
</table>

Ordinal-level data are sequenced data in which the categories form a logical ascending and/or descending ranking. However, ordinal-level data do not innately provide a logical foundation on which to determine that the differences between the various data points in the responses are consistent. Interval-level data, by comparison, is data in which the distances between data points is consistent and equal. The distinction between ordinal-
level data and interval-level data has consequences for the statistical tests that can be appropriately applied in analysis of each type of data.

There are two distinct statistical ideologies which have been at odds for decades as to the proper interpretation and use of Likert Scale data. The debate focuses on whether the data generated through Likert Scales is interval or ordinal data in nature, and also as to the statistical analysis implications thereof. The two sides of this debate essentially pit the statistical purists versus the statistical pragmatists. Statistical purists dogmatically refuse to consider Likert Scale data as constituting interval-level data.\textsuperscript{406} The pragmatists, however, argue that Likert Scale outputs have consistently been shown to evidence characteristics sufficiently similar to interval-level data that it is appropriate to use statistical tests in Likert Scale data analysis that have historically been reserved for interval-level data.\textsuperscript{407} The biggest practical implication of this debate for the PCD Study analysis is as to whether reference to the “mean” is permissible and, thereafter, which statistical tests are appropriate to use on the Likert Scale-derived data.

As this Dissertation is being completed in the field of business law (and not in statistics), it is beyond our scope to take a definitive position on this decades-old statistical feud. However, the pragmatic statistical approach clearly is much more useful in the analysis phase and will be adopted to a degree.\textsuperscript{408} This Dissertation will take a “middle of the


\textsuperscript{408} Following the advice of McDaniel, Gates and Sivaramakrishnan in Marketing Research Essentials, supra note 405 at 154: “The best procedure would seem to be to treat ordinal measurements as though they were interval measurements, but to be constantly alert to the possibility of gross inequality of intervals.”
road” approach on the use of the Likert Scale data derived in the PCD Study, accepting that the Likert Scale output evidences interval-type characteristics and that there is value in reference to the mean as the most illuminating measure of central tendency in the PCD Study data. In fact, this is the only measure of central tendency that can be reported in the PCD Study dataset that has illuminative value to any practical degree.

However, in order to avoid offending the statistical purists any more than necessary, the statistical tests applied in the ensuing analysis chapters within the body of this Dissertation (beyond the calculation of the central tendency) are restricted to tests that are widely accepted within statistical science as being appropriately applied to ordinal data. While possibly less illuminating than the tests that might be applied if one were to accept that the Likert Scale responses were fully interval in nature, this approach is more statistically conservative. This approach will also be less controversial if the elements of the analysis from the PCD Study are extracted and used, as hoped, for follow-on academic publications beyond this Dissertation. As the author of this Dissertation is legally trained and does not come from a formal statistics background, and in consideration of the fact that the statistical tests available for ordinal data are sufficiently powerful to demonstrate significant differences amongst the respondent subgroups, this conservative course was considered the most prudent alternative for the analysis in the body of this Dissertation.

However, it is also recognized that when reviewing and digesting the volume of source data derived from the PCD Study, and statistical analysis thereof contained in this Dissertation, it is a significant challenge to extract the big picture for those readers who have not been intimately involved in the data gathering and statistical analysis undertaking. To access more of the statistical analysis relating to the PCD Study in a summary form that is more easily digested, it is helpful to apply other statistical interpretation methods that are designed specifically for application on interval-level data. In particular, the use of multivariate analysis of covariance (“MANCOVA”) calculations is helpful in quickly determining whether a particular demographic characteristic tracked in the PCD Study can be used to predict variability in specific Likert Scale response questions after removing the effect of other confounding variables.
As such, application of MANCOVA allows one to quickly assess whether specific demographically-defined subgroups evidence statistically significant differences of opinion on a particular topic independent of the effect of other demographic characteristics. As the application of MANCOVA on Likert Scale questions is controversial for those statisticians who tend not to view the Likert Scale data as interval-level, the MANCOVA calculations and the bulk of the accompanying analysis have been segregated in appendices of the Dissertation at Appendix 7.

5.17- Visual Presentation of the PCD Study Data

Presentation of both qualitative and quantitative elements data can occur in any number of ways. In considering the best alternatives for effectively communicating the results of the PCD Study data, consideration was given to the fact that the primary audience of this Dissertation will be from the disciplines of law and business. The legal audience, in particular, may have limited exposure to empirical data analysis. As such, visual presentations of the PCD Study data in the form of figures and charts were used as the preferred methodology of summarizing the data wherever practical.

The use of the visual presentation format for the PCD Study data brought up one major limitation of the Dissertation format that had to be addressed. Namely, the Dissertation formatting requirements stipulate that grey-scale colour schemes be exclusively used. This restriction limits the amount of content that can be summarized visually in a single figure or chart, and forces the use of more figures charts that are smaller in size and convey less content than would have been practical if the full colour scale had been available.
Chapter 6: Analysis of Qualitative Data in PCD Study

6.1- Introduction to Analysis of PCD Study

This Chapter 6 marks the start of the formal analysis portion of the Dissertation, where the PCD Study data will be summarized and discussed at length. The analysis of the PCD Study is ordered primarily according to the specific major question headings, laid out in the PCD Study survey. Where questions are matrix questions with multiple sub-questions embedded therein, the analysis of the sub-questions is broken down topically for the purpose of expediency and ease of analysis.

Relevant observations from the PCD Study are noted throughout the analysis in both Chapter 6 and Chapter 7. However, the key findings are also repeated in summary form later in Chapter 9-Summary of Key Findings and Observations of PCD Study.

6.2- Question 17- Why do you think fewer senior business decision-makers are choosing to take their companies public?

The qualitative data collected in the PCD Study in Question 17 (“Q17) and Question 24 (“24”) are open-ended text questions with responses that can be arranged by categories into themes in order to summarize and describe the outcomes.

The question posed to respondents in Q17 is simple and goes straight to the core of the phenomenon of public company decline in Canada.

Q17 was framed as a voluntary response question, and participants were allowed to bypass this question and continue on to complete the remainder of the survey. Notably, the question was also intentionally presented without any reference to whether a single factor or multiple factors were desired in the text response answer. The decision on

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409 For additional reference, the various paper versions of the PCD Study are included in Appendix 1 to this Dissertation.
whether to answer Q17, and how much to write in the answer box, was left completely to
the discretion of the individual respondent without any additional guidelines.

Q17 was positioned in the survey order prior to the disclosure of the downside factors
associated with being a public company in Q20. This was done in order to ensure that the
factors presented by the respondents in Q17 were generated spontaneously and reflected
the personal opinions held by the participants, without reference to the hypotheses
generated by others in the business and academic literature.

Throughout the other analysis sections in this Dissertation, it is reiterated on numerous
occasions that the quantitative elements of the PCD Study are not designed to prove
statistical causation with respect to the phenomenon of public company decline in
Canada. What is being tested in the quantitative elements of the PCD Study is the degree
of importance that the various factors, posited in the business and academic literature as
potentially contributing to public company decline, play in the decision-making process
leading to an ultimate determination of whether to take a company public or pursue
private financing alternatives.

Here in Q17, however, the qualitative open-ended question clearly is asking for the
respondents' opinion on the causes of the decline in IPO volume in Canada, which is
directly linked to the phenomenon of public company decline. While Q17 does not in
any way statistically prove what the underlying causes of public company decline in
Canada are, it does reflect a compendium of the opinions on causation of a broad cross-
section of key senior business decision-makers and public markets influencers across
Canada on the topic.

While it is understood that a compendium of opinions of a group of people regarding
causality of a particular phenomenon does not constitute scientific proof of actual
causality, there is no denying that the opinions reflected in Q17 do represent the beliefs of
a highly informed cohort on private and public capital topics. This is also the first time
that this specific and critical question has been asked of a broad group of industry experts
in an empirical research study. Unless and until a research methodology can be
determined to provide scientific proof of causality on the phenomenon of public company
decline, it is submitted that the opinions and perceptions of the specific classes of individuals who comprise the participants in the PCD Study certainly are more certainly accretive to understanding the nature of the phenomenon than the complete void of relevant data that existed before the PCD Study.

In total, 330 respondents in the PCD Study provided some form of answer to Q17. The responses to Q17 ranged in length from a few words to several hundred words. Some responses proposed a single explanation for public company decline; others proposed several alternative or complementary explanations. Clearly, the longer answers were from those respondents who feel more strongly about the topic and/or were less time-pressed in completing the survey. Ultimately, the combined responses created a significant amount of data to sift through in order to identify trends and themes.

The first step in the analysis process was reviewing the responses in Q17 in detail in order to become familiar with the data and develop focus on the critical areas. Next, a tentative master framework was created for organization and presentation of the data. In this step, referred to as "coding" or "indexing", an iterative process was used in which a tentative master framework was created based on an initial review of the data. The master framework was then refined over several iterations as the data was indexed in detail.

Ultimately, the master coding framework was finalized once the framework was determined to be sufficiently robust to accurately reflect all of the relevant responses. On a second pass through the data indexing process, any consequential amendments necessary to update the initial coding of responses were inputted to update the coding consistent with the final master framework template.

The final coding master list utilized in the PCD Study analysis is as follows:
<table>
<thead>
<tr>
<th>Text Answer Coding – Question 17</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Version 2- Multiple Answers Within Class Coded to “9”</strong></td>
</tr>
</tbody>
</table>

### 10. Regulation and Reporting Challenges
- 11. Complex / excessive regulation
- 12. Recent changes in securities regulations
- 13. Inefficiencies / duplications in securities regulations
- 14. Financial statement certification requirements
- 15. Change in accounting requirements
- 16. General regulatory/reporting overload
- 17. Multiples from 10-16

### 20. Public Company Costs
- 21. Continuous disclosure costs
- 22. IPO costs
- 29. Multiples from 20-22

### 30. Private Capital Availability
- 31. Private equity availability
- 32. Cheap debt availability
- 39. Multiples from 30-32

### 40. Liquidity & Valuation Concerns
- 41. Lack of SME analyst coverage
- 42. Orphan stock / liquidity concerns
- 43. Low valuation of SME’s in public markets
- 44. Relatively higher valuation in private markets
- 49. Multiples from 40-44

### 50. Access to Capital
- 51. Cyclicality of nature of public markets
- 52. Availability of capital in public markets when needed at fair price
- 59. Multiples from 50-52

### 60. Short Termism in Public Markets- Generally
- 61. Quarterly target perseverance / Managing to analyst expectations
- 62. Inability to manage for the long-term as a public company
- 63. Private capital more patient than public capital
- 69. Multiples from 60-62

### 70. Short Termism in Public Markets- Shareholder Specific
- 71. Short-sellers
- 72. Day traders

### 80. Public Market Volatility
- 73. Program trading
- 79. Multiples from 70-73

### 90. Legal Risk in Public Markets
- 91. Securities class actions
- 99. Multiples from 90-91

### 100. Management Time / Effort
- 101. General issues dealing with daily distractions of public company
- 102. Dealing with uninformed shareholders
- 103. Dealing with proxy advisors
- 104. Lack of time to focus on core business.
- 105. Time / effort of IPO process
- 109. Multiples from 100-105

### 110. Competitive Disclosure Disadvantage

### 120. Social Agenda Weaponization (Social)

### 130. General Shareholder Activism (Economic)

### 140. Reputational risks / scrutiny from public

### 150. Management control loss

### 160. Resale restrictions

### 170. Resource-sector specific challenges

### 180. Tax disincentives in public markets

### 190. Decline of market infrastructure to support public markets (small brokers)

### 200. Systemic Market Change 1- Technology change impact on public market

### 210. Systemic Market Change 2- Shift of investment funds towards ETF/CEF’s

### 220. Systemic Market Change 3- Increase in number of mega-companies offering quick exits at pre-IPO stage via acquisition
Readers may note that the breakdown of the data into categorical topics does not perfectly match the 10 categories of factors which were set out in Chapter 1 as the list of factors gleaned from the literature to explain public company decline. This is because the decision was made to be more specific and granular in this instance, analyzing the PCD Study data, than in summarizing the literature, and not to limit the analysis to those 10 specific categories. However, all of the 22 different categories used in coding the PCD Study data are encompassed within the list of 10 categories of factors described in Chapter 1. For example, both Category 10-Regulation and Reporting Challenges and Category 20- Public Company Costs are embedded within the regulatory overreach category from Chapter 1.

In the PCD Study, coding of the data was relatively straightforward. The process confirms that the universe of potential explanations for public company decline in Canada is, indeed, finite. The list of 22 different topical categories in the master framework is able to satisfactorily encompass all the explanations posited by the respondent group in Q17 as potential factors impacting public company decline.\(^{410}\) As such, the master framework does not require the inclusion of the generic category of "other" as a catch-all for outlier answers not fitting within the defined categories.

What, then, does the Q17 data tell us with respect to the beliefs of the Canadian business community as to the causes of public company decline? In advance of the PCD Study, it was assumed that the twin issues of increasing regulatory compliance complexity and increasing public company costs would be the two most prominent factors observed in the Q17 responses, based on the notoriety of these two issues in the business media. Indeed, these issues did factor prominently into the survey responses.

With respect to DG1- All Respondents, 47.0% of respondents made reference to Category 10- Regulatory and Reporting Challenges at some point in their answer to Q17.

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\(^{410}\) There were only two answers submitted by the respondents that do not fit within the 22 categories above, and the decision was made not to add an additional factor to reflect those responses. Both of those responses referred to general government policies making Canadian companies less competitive internationally. It was determined that this issue is outside the general scope of the PCD Study
Also, 42.4% of respondents referenced Category 20- Public Company Costs. The percentage of respondents who cited either Category 10 or Category 20 in their answers is above the two-thirds threshold at 68.7%. Clearly, this outcome demonstrates that the opinion of the significant number of academics outlined earlier in this Dissertation, who seek to downplay the role of increasing regulatory complexity and increasing costs as factors contributing to public company decline, is at odds with the perceptions of the senior decision-makers and public markets influencers reflected in the PCD Study.

Simply stated, the PCD Study text response demonstrates that the twin factors of increasing regulatory complexity and increasing public company costs are perceived by those who serve in positions of significant influence within the Canadian business community as being important contributors to the public company decline phenomenon.

Whether or not the academic community accepts those perceptions as properly founded, one fact is indisputable: the perceptions of the senior business decision-makers and public market influencers are critical in that these are the specific people who directly influence the ultimate decision of whether to pursue an IPO or keep a company private at the key inflection points of business development.

A summary of the Q17 responses is as follows. Responses coded to the general category heading (example, 10. Regulation and Reporting Challenges) are those that referred to the category at a general level. Responses coded to the individual sub-topics within the category heading are those that referred to the specific sub-topic. Categories ending in "9" were used as the repository for those responses that referred to multiple subgroups.

\[
\text{Table 7. Q17- Summary of Responses by Category}
\]

<table>
<thead>
<tr>
<th>Category</th>
<th>DG1</th>
<th>All Respondents</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Regulation and Reporting Challenges</td>
<td>21</td>
<td>6.4%</td>
<td></td>
</tr>
<tr>
<td>11. Complex / excessive regulation</td>
<td>24</td>
<td>7.3%</td>
<td></td>
</tr>
<tr>
<td>12. Recent changes in securities regulations</td>
<td>14</td>
<td>4.2%</td>
<td></td>
</tr>
<tr>
<td>13. Inefficiencies / duplications in securities regulations</td>
<td>11</td>
<td>3.3%</td>
<td></td>
</tr>
<tr>
<td>14. Financial statement certification requirements</td>
<td>1</td>
<td>0.3%</td>
<td></td>
</tr>
<tr>
<td>15. Change in accounting requirements</td>
<td>4</td>
<td>1.2%</td>
<td></td>
</tr>
<tr>
<td>DG1</td>
<td>All Respondents</td>
<td>%</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>----------------</td>
<td>----</td>
<td></td>
</tr>
<tr>
<td>16. General regulatory/reporting overload</td>
<td>64</td>
<td>19.4%</td>
<td></td>
</tr>
<tr>
<td>19. Multiples from 10-16</td>
<td>16</td>
<td>4.8%</td>
<td></td>
</tr>
<tr>
<td><strong>Total 10-19</strong></td>
<td><strong>155</strong></td>
<td><strong>47.0%</strong></td>
<td></td>
</tr>
<tr>
<td><strong>20. Public Company Costs</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21. Continuous disclosure costs</td>
<td>44</td>
<td>13.3%</td>
<td></td>
</tr>
<tr>
<td>22. IPO costs</td>
<td>12</td>
<td>3.6%</td>
<td></td>
</tr>
<tr>
<td>29. Multiples from 20-22</td>
<td>6</td>
<td>1.8%</td>
<td></td>
</tr>
<tr>
<td><strong>Total 20-29</strong></td>
<td><strong>140</strong></td>
<td><strong>42.4%</strong></td>
<td></td>
</tr>
<tr>
<td><strong>30. Private Capital Availability</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>31. Private equity availability</td>
<td>74</td>
<td>22.4%</td>
<td></td>
</tr>
<tr>
<td>32. Cheap debt availability</td>
<td>3</td>
<td>0.9%</td>
<td></td>
</tr>
<tr>
<td>39. Multiples from 30-32</td>
<td>6</td>
<td>1.8%</td>
<td></td>
</tr>
<tr>
<td><strong>Total 30-39</strong></td>
<td><strong>152</strong></td>
<td><strong>46.1%</strong></td>
<td></td>
</tr>
<tr>
<td><strong>40. Liquidity &amp; Valuation Concerns</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>41. Lack of SME analyst coverage</td>
<td>5</td>
<td>1.5%</td>
<td></td>
</tr>
<tr>
<td>42. Orphan stock / liquidity concerns</td>
<td>20</td>
<td>6.1%</td>
<td></td>
</tr>
<tr>
<td>43. Low valuation of SME’s in public markets</td>
<td>12</td>
<td>3.6%</td>
<td></td>
</tr>
<tr>
<td>44. Relatively higher valuation in private markets</td>
<td>33</td>
<td>10.0%</td>
<td></td>
</tr>
<tr>
<td>49. Multiples from 40-44</td>
<td>2</td>
<td>0.6%</td>
<td></td>
</tr>
<tr>
<td><strong>Total 40-49</strong></td>
<td><strong>78</strong></td>
<td><strong>23.6%</strong></td>
<td></td>
</tr>
<tr>
<td><strong>50. Access to Capital</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>51. Cyclical nature of public markets</td>
<td>3</td>
<td>0.9%</td>
<td></td>
</tr>
<tr>
<td>52. Availability of capital in public markets when needed at fair price</td>
<td>12</td>
<td>3.6%</td>
<td></td>
</tr>
<tr>
<td>59. Multiples from 50-52</td>
<td>1</td>
<td>0.3%</td>
<td></td>
</tr>
<tr>
<td><strong>Total 50-59</strong></td>
<td><strong>21</strong></td>
<td><strong>6.4%</strong></td>
<td></td>
</tr>
<tr>
<td><strong>60. Short Termism in Public Markets- Generally</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>61. Quarterly target perseverance / Managing to analyst expectations</td>
<td>15</td>
<td>4.5%</td>
<td></td>
</tr>
<tr>
<td>DG1</td>
<td>All Respondents</td>
<td>%</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>----------------</td>
<td>----</td>
<td></td>
</tr>
<tr>
<td>62. Inability to manage for the long-term as a public company</td>
<td>19</td>
<td>5.8%</td>
<td></td>
</tr>
<tr>
<td>63. Private capital more patient than public capital</td>
<td>6</td>
<td>1.8%</td>
<td></td>
</tr>
<tr>
<td>69. Multiples from 60-62</td>
<td>9</td>
<td>2.7%</td>
<td></td>
</tr>
<tr>
<td><strong>Total 60-69</strong></td>
<td><strong>70</strong></td>
<td><strong>21.2%</strong></td>
<td></td>
</tr>
</tbody>
</table>

| 70. Short Termism in Public Markets - Shareholder Specific | 2 | 0.6% |
| 71. Short-sellers | 6 | 1.8% |
| 72. Day traders | 1 | 0.3% |
| 73. Program trading | 1 | 0.3% |
| 79. Multiples from 70-73 | 0 | 0.0% |
| **Total 70-79** | **10** | **3.0%** |

| 80. Public Market Volatility | 14 | 4.2% |

| 90. Legal Risk in Public Markets | 18 | 5.5% |
| 91. Securities class actions | 4 | 1.2% |
| 99. Multiples from 90-91 | 0 | 0.0% |
| **Total 90-99** | **22** | **6.7%** |

| 100. Management Time / Effort | 7 | 2.1% |
| 101. General issues dealing with daily distractions of public company | 21 | 6.4% |
| 102. Dealing with uninformed shareholders | 8 | 2.4% |
| 103. Dealing with proxy advisors | 4 | 1.2% |
| 104. Lack of time to focus on core business. | 4 | 1.2% |
| 105. Time / effort of IPO process | 10 | 3.0% |
| 109. Multiples from 100-105 | 6 | 1.8% |
| **Total 100-109** | **60** | **18.2%** |

| 110. Competitive Disclosure Disadvantage | 23 | 7.0% |

| 120. Social Agenda Weaponization (Social) | 2 | 0.6% |

<p>| 130. General Shareholder Activism (Economic) | 11 | 3.3% |</p>
<table>
<thead>
<tr>
<th></th>
<th>DG1</th>
<th>All Respondents</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>140. Reputational risks / scrutiny from public</td>
<td>18</td>
<td>5.5%</td>
<td></td>
</tr>
<tr>
<td>150. Management control loss</td>
<td>16</td>
<td>4.8%</td>
<td></td>
</tr>
<tr>
<td>160. Resale restrictions</td>
<td>1</td>
<td>0.3%</td>
<td></td>
</tr>
<tr>
<td>170. Resource-sector specific challenges</td>
<td>26</td>
<td>7.9%</td>
<td></td>
</tr>
<tr>
<td>180. Tax disincentives in public markets</td>
<td>11</td>
<td>3.3%</td>
<td></td>
</tr>
<tr>
<td>190. Decline of market infrastructure to support public markets (small brokers)</td>
<td>11</td>
<td>3.3%</td>
<td></td>
</tr>
<tr>
<td>200. Systemic Market Change 1- Technology change impact on public market</td>
<td>7</td>
<td>2.1%</td>
<td></td>
</tr>
<tr>
<td>210. Systemic Market Change 2- Shift of investment funds towards ETF/CEF’s</td>
<td>27</td>
<td>8.2%</td>
<td></td>
</tr>
<tr>
<td>220. Systemic Market Change 3- Increase in number of mega-companies offering quick exits at pre-IPO stage via acquisition</td>
<td>19</td>
<td>5.8%</td>
<td></td>
</tr>
</tbody>
</table>

It is worth noting that, while 68.7% of all Q17 responses made some reference to regulatory challenges or public company costs, those two factors collectively were the first item cited in the response only in 33.0% of the total responses in the PCD Study. In the other 67.0% of responses, the first item cited by more than two-thirds of the respondents had nothing to do with either regulatory challenges or public company costs.

Notwithstanding the clear importance of regulatory challenges and public company cost issues as highlighted in this table, it is submitted that the headline observation from Q17 of the PCD Study should be the unexpected prominence of a number of other key factors that the senior business decision-makers and public markets influencers believe are important contributing factors to public company decline.
The PCD Study data also make it clear that, in the opinion of the PCD Study participants, the public company decline phenomenon is not fully, or even principally, explained by the twin factors of regulatory cost and complexity. Rather, it is clear from the response that the phenomenon of public company decline is multifactorial and highly complicated. While the prominence of those two particular factors was anticipated, the prominence of a number of other factors in the Q17 responses represented a significant surprise.

Chief amongst the other categories of factors that were unexpectedly prominent is Category 30- Private Capital Availability. The increased access to private equity capital and cheap debt financing was cited by 46.1% of respondents, essentially placing it in a tie with the regulatory challenges category as the most-cited factor. In fact, each of Category 10 and Category 30 were the first factor cited in approximately one-quarter of the total text responses in the PCD Study (i.e., 24.5% of responses).

This is particularly surprising given that increased access to alternative capital is not one of the factors that has been given much attention in the Canadian business and academic commentary on public company decline. As discussed earlier in Chapter 2- Literature Review, the increased access to private capital is a factor that has recently been receiving attention in the U.S. academic literature, but that thread has not yet been picked up in Canada.411

The prominence of this factor in the Q17 text responses is also notable because the increased availability of private financing intuitively operates independent of anything that has changed in terms of the public markets themselves in the past twenty years. An increase in access to private capital does not infer that the experience of being a public company in Canada has itself changed over the period of public company decline, but it does indicate that the alternatives to going public have been increasingly accessible over that period. Also, anyone observing the capital markets over the past number of years is aware that the multiples paid by private equity investors have increased as a result of the

411 The leading advocates of the theory that increased availability of private equity is a principal cause of public decline in the U.S. are De Fontenay, Ewens and Farre-Mensas, supra notes 162 and 165.
increased competition for good deals, thus reducing the anticipated valuation differential between private and public transactions.

Notably, reference to the private capital factor in Q17 was widely reflected across all the demographic subgroups represented in the survey. Not surprisingly, it appeared most frequently in responses from DG5- Lawyers and DG9 Private Equity. However, it was included as a factor in at least 20% of the responses of each of the 25 demographic subgroups tracked in the PCD Study, with the sole exception of DG13- Mining. The breadth of support for this factor from across multiple demographic subgroups has to increase the seriousness with which this factor is viewed as a major contributor to public company decline.

While the increased availability of private capital does not directly impact the public markets experience, the PCD Study data demonstrates that there is a strong perception that private financing alternatives are both more readily accessible and comparatively more attractive than in the past. Therefore, although the impact of increased availability of private capital is indirect on the public markets, it still may be one of the most important factors contributing to public company decline. The perceptions and implications of increased access to private capital are discussed in more detail later in this Dissertation in the quantitative analysis section. Certainly, this is a factor in need of further empirical analysis to determine the extent to which the perceptions expressed in the PCD Study can be empirically validated.

Next up for consideration are three different groups of factors that were included in the range of +/- twenty percent of the total responses: Category 40- Liquidity and Valuation Concerns (23.6%); Category 60- General Short-Termism in the Public Markets (21.2%); and Category 100- Management Time / Effort (18.2%). The prominence of the first and

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412 Mining's lack of connection to increased availability of private equity in Canada is noted and discussed at some length later in this Dissertation. The high-risk nature and long-horizon to positive cash-flow associated with exploration and development in mining makes it one of the Canadian industries least compatible with the traditional private equity funding model.
third categories in this group were anticipated based on the literature; the prominence of general short-termism as a major factor was, however, a significant surprise due to the limited ink given to this factor in the literature.

Concerns regarding liquidity and valuation are not unique to the Canadian market, but their relative importance is generally perceived as being higher in Canada due to the smaller size of the Canadian economy, lower trading volumes on Canadian stock exchanges and the number of smaller companies listed on Canadian exchanges compared to the U.S. The management time and effort associated with managing the public elements of a public company are often considered as an unwelcome distraction from focusing on growing the core business, a factor which has featured prominently in the business media analysis of public company decline. As such, the only surprise in the Q17 responses on both of these factors is that they did not appear even more often.

It is submitted that the unexpected prominence of market short-termism highlights that this group of concerns is becoming a bigger issue every year in the public markets even though it receives little attention in the academic and business literature. Indeed, one of the items included in this particular category, the pressure of meeting quarterly analyst targets, surprisingly ranks as the most important factor in the Q20 Likert Scale analysis of downside factors associated with the public markets.

The common theme of text responses relating to the factors within this category is that it is becoming increasingly difficult in Canada to manage public companies with a view to long-term value maximization, due to a number of different competing obligations pushing management towards placating short-term expectations. This includes the specific issues of short-sellers, day-traders and program trading from Category 70-

413 Including Tingle, supra note 4, and, particularly, in the financial media analysis in articles such as Burgess supra note 11.

414 Although the fact that it was brought up by less than 5% of the respondents in Q17 indicates that it is not a factor which is at the forefront of everyone's mind on the topic without prompting, but is viewed as being materially important when provided as one of the available options.
Shareholder Short-Termism, in addition to the general short-termism issues falling under Category 60.

The challenges associated with short-termism are complex, and a full analysis of the complexities, trendlines, causes and potential solutions to short-termism could alone support another Dissertation. Short-termism is also inextricably linked to the increasing role of technology in business and our daily lives, for it is the advancing technology that places public information in our grasp instantaneously and feeds our belief that we are entitled to expect immediate returns. For the sake of brevity in this analysis, however, it is sufficient to identify short-termism as a nascent issue of concern that is gaining in importance in the perception of key business decision-makers in terms of its impact on public company decline.

Below these major categories discussed above are a number of other less publicized factors in the other categories listed in the table. In the aggregate, each of these specific factors were not brought up by a large percentage of overall respondents in the PCD Study, but were still referenced by a sufficient number of different individuals that the factor cannot be dismissed as lacking importance as a potential contributing factor to public company decline. In fact, 19 out of the 22 categories were brought up by at least 10 different respondents on an unprompted basis and 12 out of the 22 categories were referenced by at least 20 different respondents in the PCD Study. Once again, analysis of the PCD Study data points towards a complex and multifactorial phenomenon that will not be reversed or rectified by addressing a single contributing factor.

Beyond the coding matrix analysis, a second methodology that is frequently applied to assess overall sentiment in qualitative research is the use of word clouds. Word clouds visually show the frequency with which specific words are used in open-text responses, thereby providing a quick visual summary of overall sentiment of the respondent group. Word clouds also can reveal patterns in the responses that can guide us in deciding which topics merit more in-depth analysis. With reference to the PCD Study, word clouds are particularly useful in comparing the difference in the sentiments and areas of focus between the different major demographic subgroups.
The following word clouds disclose words that appear at least 10 times in the responses of each demographic subgroup. The larger that a word is represented in word cloud, the more times that it is used. Certain ubiquitous terms that do not differentiate sentiment are excluded. Synonyms and alternate versions of words are combined.

The following two word clouds reflect the text responses of the two subgroups of senior business decision-makers:

![Figure 14, Q17, Word Cloud, DG4- TSX and DG5- Private Company]

What is observed in the figure above is that the DG4-TSX subgroup demonstrated a broader focus in terms of the content they discussed. Both the DG4- TSX and DG5-

415 **Words excluded** in word clouds: "public"; "private"; "company"; "companies"; "businesses"; "business"; "market"; "markets"; "corporation"; "corporate"; and "corporations"

**Words merged** in word clouds, represented by the first word in each group: "costs, cost, costs"; "advantages, advantage, advantageous"; "actually, actual"; "conflicted, conflicts"; "concern, concerned"; "comply, compliance"; "complexity, complex, complexities"; "change, changed, changing, changes"; "challenges, challenge, challenging"; "additional, addition, added, additionally"; "compete, competition, competitive, competitors"; "controls, control"; "decision-maker, decision-making, decision, decisions"; "equities, equity"; "managers, manage, managing, managed, management"; "reasons, reason"; "regulations, regulation, regulated"; "accessible, access, accessing"; "availability, available"; "disclosures, disclosure"; "financing, financial"; "relates, relate, relation, relative, relevant, related"; "government, governance, governments, governing"; "increases, increased, increase, increasingly, increasing"; "investing, invest, invested"; "investments, investment"; "listed, listing, lists, listings" "strategy, strategic, strategies"; "shareholders, shareholder".
Private Company subgroups evidence a similar primary concern about the costs associated with being public, as well the impact of increased access to private capital to fund growth phases that historically would have required that a company pursue an IPO in order to secure. Both subgroups also express concern about the impact of increasing regulation on the public markets. Clearly, the concept of quarterly reporting features more prominently in the responses of DG5- Private Company, whereas the continuous evolution of governance requirements features more prominently in the responses of DG4-TSX.

The next four word clouds reflect the text responses of the four subgroups of public markets influencers:

Figure 15 Q17, Word Clouds, Group II- Public Markets Influencers
From the word clouds above, we see that all of the subgroups of public markets influencers perceive increased access to alternative sources of private capital as a major factor to be considered. Public company costs are most important to the DG7- Auditor subgroup, while liquidity has a greater prominence amongst DG8- Investment Bankers. Concerns about the requirements of disclosure are reflected only in the word cloud of DG-9 Private Equity investors.

6.3- Question 24- Final Open Text Response Analysis

Q24 is a simple catch-all open text question at the very end of the survey that provides a final opportunity for the respondents to convey any last information they wish to add after completion of the survey. The text of Q24 is as follows:

Q24: Thank you for the time you have spent completing this survey. It is greatly appreciated!

From your knowledge and experiences, do you have any final thoughts that you would like to share with us on the topic of public company decline in Canada, the content or format of this survey or anything else that you would like to convey?

It is apparent that the purpose of Q24 was broadly defined. It was hoped that Q24 would solicit both positive and negative feedback on the survey, as well as suggestions on how the research efforts could be improved in further studies. It was also hoped that the question would give respondents an opportunity to underline any specific insights that they had on the broader topic of public company decline, particularly on issues that they had been reminded of by the lists of potential factors outlined by the matrix questions in Q20 and Q21.

A total of 134 responses were received on Q24, once again ranging from a few words to several paragraphs in length. A common theme of the responses to Q24 is that the senior business decision-makers and public markets influencers, who took the time to add a second written text response after completing an admittedly lengthy survey, care deeply about the phenomenon of public company decline and are concerned about the trajectory of the public markets. Many of the responses in Q24 took the opportunity to provide clarity on their hypothesis of the public company decline phenomenon and further
expound on their answers from Q17, many of which were very articulate and thought-provoking. A number of the responses commended the PCD Study initiative as being of vital importance and indicated that the writers looked forward to seeing the ultimate survey reports when published.

Admittedly, several responses in Q24 provided constructive criticism of elements of the PCD Study design. Mostly, these comments pointed out the challenges in answering the hypothetical valuation premium question in Q19, but a number provided suggestions as to refinement of the research methodology moving forward.

Given the broad riverbanks provided to the respondents on this question, it was found that it is impractical to code the data in a similar manner to the methodology applied on Q17. There is simply too much variation in the topics covered in the Q24 responses.

As such, rather than trying to summarize the sentiments expressed in Q24, representative excerpts are provided so that readers of the Dissertation can view the comments as originally phrased.

The following response excerpts from Q24 have been selected as being representative of the sentiments most commonly expressed by the respondents and reflect consistent themes that are repeated throughout the Q24 responses.

<table>
<thead>
<tr>
<th>Q24 Comments- Representative Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost and disclosure overload make it cumbersome from a financial reporting perspective to go public.</td>
</tr>
<tr>
<td>Although I see a decline in the interest of my clients to take their companies public and believe that some of this decline is a result of the regulatory environment, I do think that there are other key factors at stake. I believe that in the past businesses were taken public without a proper understanding by the ownership group of the other options available or what being public would mean long term. The rise of private equity and debt transactions has provided alternative financing routes that sometimes are simply better solutions than becoming public which better serves the long term interests of some businesses. Additionally, I work with many enterprising families who have witnessed the loss of family legacy by a public transaction and in reflecting on this prefer to keep the ownership of their enterprises within their extended family.</td>
</tr>
<tr>
<td>Being a small cap Canadian stock with little coverage holds scant appeal while private markets are so healthy.</td>
</tr>
<tr>
<td>Consolidate Provincial Security Regulators to one National Regulator to reduce number of filings.</td>
</tr>
</tbody>
</table>
### Q24 Comments - Representative Comments

From an investor perspective, the clear trend is towards getting access to private company investments as a result of demonstrated historical return premiums v. public market investments - the trend towards increased private market investment will continue.

I personally feel the regulators need to find ways to make going public more attractive by streamlining the process of listing and reducing the disclosure burden/scrutiny on companies to conform to institutional investor preferences (vs. minority retail).

Unless the regulatory environment changes or the ability to raise capital in the private markets weakens, I would expect to see a continued reduction in the number of businesses who chose to become publicly traded.

Through recent experience, I am very concerned that bureaucrats at the TSX have replaced any desire to facilitate the mutually beneficial capitalization and growth of business with a paternalistic desire and naive approach to protect small shareholders, not only through complex and redundant rules but also through the exercise of their discretion in many matters.

There is no "light" version for smaller public reporting requirements. Be it a $50M market cap or much higher, all documents and reporting deadlines are the same. Public reporting takes away from the added-value work senior financial people should be doing. We do understand the requirement for strong guidelines to avoid issues that arise in the past and to protect investors, but it seems that the swing of the pendulum needs to come back slightly to the middle.

The public markets increasingly have made sense only for the largest corporations. Mid-market companies (most of Canada, and particularly Western Canada) struggle to get the attention of investors, analysts and investment bankers. Without that attention, the ongoing value of the public listing is greatly diminished.

Private markets are getting a lot more efficient and now offer many of the benefits that you used to only get through public markets: - you can get liquidity through secondary sales - decent access to growth capital - follow-ons are easy privately But with the more developed market also has greater demands as institutional private capital providers have rigorous reporting requirements so I'm not sure there is quite the difference vs. public.

---

The next set of response excerpts from Q24 are chosen for inclusion because they represent novel opinions on the topic of public company decline that are unique and *not* reflective of other responses. These particular responses evidence a deep consideration of the complicated nuances of the phenomenon.

### Q24 Comments - Novel Comments

I think we should consider what is the appropriate scale required for a public company to exist successfully in the long run (enough trading volume, analysts, etc.) and work backwards from that to identify the right profile of companies to be public before assuming that public is always best option.

Service providers out there generate fees from activity of going public so there is a perception that if anyone will take your money it's not because the business necessarily should be public. Canada can
### Q24 Comments - Novel Comments

have more public companies if it focuses on the right profile of public companies and builds the supporting conditions to identify those companies and make the transition easier for them. Part of this can happen naturally as more CEO stories on why they became public get out there or more education on the phases/alternatives of financing are understood.

I don't believe the reduction is a result of securities regulation but rather market forces. A review of the average size of a public company in the US vs a public company in Canada is a factor that should be reviewed. Canada is a small-mid cap market vs the US which is mid-large cap. A consolidation of capital on the buyside has influenced the ability of investors to invest in smaller cap companies. I believe you will find a higher correlation in this than regulatory framework of the securities commissions. Capital flows are also impacted by fiscal environment which in Canada is very high which increases the cost of doing business in Canada and inherently makes our businesses less competitive from a return standpoint. (ie higher corporate taxes, greater government involvement in business, higher labor costs, increased government regulation and approval requirements = increased costs and lower revenues).

Capital flows will not return to Canada until our business are able to generate more globally efficient returns. We have the best technology in the world but are plagued by higher cost structures as a result of the above.

There is also a systemic shift to larger capitalization companies with increased liquidity. This trend will not reverse easily and is in large part a function of the ever increasing amount of passive investing (index or basket investing vs active portfolio management) and quantitative / technical investing (vs fundamental research) which requires increased market size and liquidity to smooth out the volatility generated by the velocity of capital flows moving into and out of a sector or stock.

Your survey is focused primarily on the downsides of being a public company. I would encourage you to explore the key upsides of being a private company, particularly a private equity-backed company with access to the patient capital, strong, well-aligned governance and domain expertise of a hands-on, actively engaged board/shareholder group. In my opinion, the advantages of being private, as much as the clear disadvantages of being public, are now well-understood by top-tier management teams and are the primary driver of the shift towards private ownership. The other factor to bear in mind is that private equity-backed companies have outperformed the public markets over the past twenty years. This has attracted significant institutional capital to the private markets at the expense of the public markets. This tectonic shift in capital (which shows no signs of abating) will continue to reinforce the attractive opportunities for management teams in the private space.

The costs of being public are real and I think underestimated by the majority of private companies. The public shareholder (in general) has changed from relationship managers to quant based short term traders. This has real implications for how you try and build a company in addition to all the implications for liquidity, compensation and ability to use paper to fund potential acquisitions (cost of capital). This is arguably one of the starkest differences between private equity backed businesses and the general public company today.

I mostly advise public companies and only the occasional private company, but both are in my scope of activity. I think there are a lot of human factors as mentioned earlier that will swing you one way or another between P/E and IPO. Age and stage and number of the principal shareholder(s). Size of the company and requirement for continuous capital investment to grow the business. Estate planning considerations. The often times considerable difference in valuation multiples between P/E and IPO. P/E investment structures are 5 to 10 years and then the business is sold (or IPO'd). With the IPO, if all goes well, you can be set for a very long time with ease of raising capital if your business is successful, both in financial terms and in the view of the capital markets.
Q24 Comments- Novel Comments

One advantage of the public company route is that it allows for a faster migration of the shareholder base to investors that matter at different stages of growth.

Conversely, private shareholders can be more supportive of a company whose strategy is to maximize market penetration at the expense of financial performance.

Likely the most important reason for a decline in public companies is the very deep amount of capital in the private market combined with the reduced hassles of private ownership, however that is somewhat offset by the give-up of control to large private holders. Only in the public market can you get differential voting shares.

Overall, the Q24 responses offer a rich repository of data. There is nothing in the question Q24 responses that contradict the overall sentiments expressed in Q17, but certain answers such as those included above provide significant additional context on the broader subject of public company decline.

Although it is impractical to summarize all of the disparate comments in Q24 further given the restrictions of the Dissertation format, it is clear that these responses demonstrate the depth of the experience of the respondents in the capital markets and the extent to which they have given thought to the challenges of public company decline.

Certainly, the depth and breadth of the qualitative data from Q17 and Q24 of the PCD Study is sufficiently rich that it could serve as the foundation for a stand-alone academic publication. It is hoped that the opportunity arises in the future to revisit the qualitative data gleaned in Q17 and Q24 in analysis completed on a stand-alone basis, giving more space to discuss the nuances of the data and delving into greater detail with respect to the differences and similarities in priorities and perceptions across the various demographic groups and the relationship between the issues prioritized by each group.
7.1- Selecting and Applying the Appropriate Statistical Tests

As stated in the earlier discussion on the nature of Likert Scale data, the different statistical tests that are used in the following analysis of the PCD Study are those that are deemed appropriate for the interpretation of ordinal data, summarized in the following paragraphs.

7.1.1- Two Proportions Z-Test

The Two Proportions Z-Test is used to compare two different observed proportions to determine if a statistically significant difference exists. This can be used when you are comparing two different subgroup responses on a single question.

In reference to the analysis of Likert Scale data, the Two Proportions Z-Test is generally used to compare whether the proportion of respondents who select “agree” or “strongly agree” in the 5-Point Likert Scale is significantly different between two groups. Likewise, you can also compare the proportions of the “disagree” or “strongly disagree” responses to see if there is a difference, or even whether there is a difference with respect to the strongly held opinions on the question (i.e., compare the “strongly agree” responses or the “strongly disagree” responses).

Since we are only looking for a significant difference, not direction of the difference, the Two Proportions Z-Test is two-tailed, meaning that it allows for differences that are higher or lower between two samples. No pre-existing hypothesis as to which of the two observations should be higher or lower than the other is necessary.

The most significant limitation of the Two Proportions Z-Test is that it focuses only one side of the data on a particular question at a time; i.e., those who agree or those who disagree, but not those who agree and those who disagree. As such, it does not take into

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consideration the full range of the scale. It is possible that a statistically significant
difference could be observed on either the agree or disagree side of the responses on a
single question, but not on the other. The Two Proportions Z-Test also does not factor in
the neutral responses, which is another limitation of the test.

The Two Proportion Z-Test can also be a one-tailed test if there is a hypothesis
explaining that one group’s proportion will be greater or less than another. Rather than
just testing whether a difference exists between the two statistics, it requires a pre-
existing hypothesis that predicts both the difference and the direction of the difference
(higher or lower) in order for valid application. A one-tailed test is more statistically
powerful than a two-tailed test, since you do not have to consider the effect in the other
direction.

For simplicity in terminology, the reference to the Two Proportions Z-Test in this
Dissertation will generally refer to the two-tailed test. If a one-tailed Two Proportions Z-
test is being utilized anywhere in the analysis of PCD Study, that fact will be specifically
stated.

7.1.2- Mann-Whitney Test

The Mann-Whitney Test is also used to compare the significance of difference in
outcomes on Likert Scale data between two groups answering the same question. It
was discussed above that the two-tailed Two Proportions Z-Test has a number of
limitations, particularly its inability to encompass the neutral responses and to consider
both ends of the Likert Scale in the same calculation. The Mann-Whitney Test does not
suffer from these same limitations, and therefore is the preferred statistical test in
comparing rankings by the two different groups.

The limitation on the use of the Mann-Whitney Test is that it can only be applied on two
different populations. In other words, all of the respondents must fall into two mutually

\[417\] *Ibid* at 146-149.
exclusive and exhaustive categories for the Mann-Whitney Test to be applied. In the PCD Study, this condition naturally exists when comparing Group I- Senior Decision-Makers to Group II- Public Markets Influencers. Within the subset of the PCD Study that is limited to Group I respondents, the condition also exists between DG4- TSX and DG5-Private Company respondents, and again between DG10-SME and DG11-Non-SME respondents. For these pair analyses, the Mann-Whitney test is available and is applied as the preferred test during the PCD Study analysis discussion. For all of the other linked demographic groups with three or more components, resort is made to the Two Proportions Z-Test.

It should be noted that the data for the linked demographic subgroups with more than two constituents can be synthetically converted for Mann-Whitney use by defining two subgroups: one being an actual subgroup in the PCD Study, the other being the combination of all of the other linked subgroups within that grouping. However, this requires that a unique database be created for every Mann-Whitney test, and even then, the test is limited to comparing the particular subgroup response to all other responses and does not allow the test to be run between two existing subgroups. As such, this methodology is not utilized in the PCD Study analysis.

7.1.3- Three Sample Tests: Kruskal Wallis Test and Chi Square Goodness of Fit Test

Three samples (i.e. subgroups in the PCD Study) can be compared using the Kruskal Wallis Test. This test compares the rankings of response to the three questions. If the three samples are demonstrated to be different on a statistically significant basis, then a pairwise comparison is done as a follow-up calculation to determine which of the three samples are different.
Three samples can also be compared using the Chi Square Goodness of Fit test. If the samples are demonstrated to be different, then a pair comparison is once again undertaken as a second step to determine which of the three are different.418

7.1.4- One Sample Wilcoxon Signed Rank Test

The One Sample Wilcoxon Signed Rank Test is used to compare an observed response to a hypothetical number of relevance.419 With reference to the PCD Study data, this test has material value in terms of comparing the Likert Scale data to the theoretical level of neutrality for Question 16 and Question 18.420 As such, the One Sample Wilcoxon Signed Rank Test is used in the PCD Study analysis to determine whether the overall sentiment expressed by a subgroup on a particular question generally can be calculated to represent a departure from neutrality on a statistically significant basis.

7.1.5- Spearman Rank Correlation Test

The Spearman Rank Correlation Test is used to determine whether a statistically significant correlation exists between a specific group on two different questions.421 The correlations can be positive or negative. The nature of the Spearman Rank Correlation Test is described in more detail later in this Dissertation in Chapter 8- Correlation in the PCD Study.

7.1.6- Confidence Levels and P-values

The information most often reported in the statistical analysis of the PCD Study includes the confidence level and the P-values. In statistical analysis, a P-value measures the

418 Ibid at 562-563.
419 Ibid at 110.
420 This is appropriate when the middle selection on a particular Likert Scale is a neutral option, such as when the question is framed on an agree vs. disagree, or likely vs. unlikely, construct. The relevance of this test is less obvious when the middle selection is “moderately important” on a scale between extremely important and not at all important, where moderately important does not imply neutrality.
421 Supra note 416 at 395-396.
probability that a null hypothesis (i.e., that the two groups being compared have the same opinion on the particular question) is true. Therefore, a researcher would look for a small P-value in order to be confident that the two groups being compared are actually different.

A confidence level, such as a 90% confidence level, is reported as one minus the amount of Type 1 error allowed in the survey design. Type 1 error is the chance of concluding that two things are different from each other when, in fact, they are not. If the researcher is willing to be wrong a maximum of 10% of the time, then the researcher can dictate a 90% confidence level, which is the level at which the researcher is 90% confident in his or her findings. By extension, if a 95% confidence level is established, the researcher can be 95% confident that he or she is not concluding that two observations are different when they are not. Another way to characterize a 95% confidence level is that it predicts that a difference observed between two groups in a particular test will be observed 95% of the time (i.e., 19 out of 20 times) in repeated samplings of the same population with different respondents comprising the survey participants.

As long as the P-value is smaller than the Type 1 error allowed in the survey design, then the researcher can be confident that his or her findings are different, but only up to the confidence level specified. For example, a P-value of 0.08 would indicate that there is a statistically significant difference at confidence level of 90%, but not for a confidence level of 95%. The higher the P-value that is mandated by the research design, the lower the level of error that is accepted. The amount of allowable error that is acceptable in the research design (and therefore what confidence levels are determined as acceptable by the research design) depends on the cost and/or risk associated with concluding that there is a difference between groups when there is not (Type I error) versus the cost and/or risk associated with concluding there is no difference between two groups when there is (Type II error).

The ability to detect a difference in a sample, and then infer that difference also exists in the general population, depends on how big the sample size is and how big of a difference is observed in the samples. Both of these factors are considered in comparing
the P-value to the Type 1 error. Only when the P-values are less than the Type 1 error can the researcher be confident in his or her findings (which is often noted as constituting a statistically significant observation). To be more confident in the findings (i.e., to establish results that are statistically significant at a higher confidence level) requires either a greater difference in the samples or a larger sample size.

In the analysis of the PCD Study, reference to “weak statistical significance” will be used to describe differences that are detected at a 90% confidence level (but less than a 95% confidence level). Reference to “strong statistical significance” will refer to differences that can be detected at or above a 99% confidence level). Differences that can be detected between a 95% confidence level and a 99% confidence level are described as evidencing “moderate statistical significance”. Obviously, the lower the P-value and the higher the confidence level associated with a particular observation of differences in the PCD Study data, the more influential the outcome and the increased reliance that can be placed on an observation.

7.1.7- Use of MANCOVA Calculations in PCD Study Analysis

As previously discussed in section 5.16 hereof, the statistical analysis in this Dissertation generally applies analytical methodologies which are universally accepted as being appropriate for ordinal-level data, given the difference in opinion with academia as to whether the Likert-scale outputs should be used for tests designed for interval-level data. However, there is no question that additional meaning, at a big picture level, can be quickly extracted from the PCD Study data by applying the more powerful statistical tests designed for interval-data, particularly MANCOVA analysis.

Ultimately, it was determined that MANCOVA calculations would be utilized for specific purposes in assessing the PCD Study data, but that those calculations, along with the bulk of the MANCOVA analysis, would be segregated in an appendix outside the main body of the Dissertation. As such, Appendix 6 is dedicated specifically to the application of MANCOVA analysis of the PCD Study. Appendix 6 also provides confidence interval charts (with reference to the mean) for all of the independent variables (i.e., demographic characteristics) that are determined to be statistically
significant in predicting outcomes on the Likert Scale questions after completion of the MANCOVA analysis.

As a quick summary, MANCOVA provides a quick assessment of which independent variables in the PCD Study data can be used to predict variability within a particular dependent variable, after removing the variability impact of the confounding covariates.

The independent variables of interest in the PCD Study data are all demographically defined, with the following five different sets of independent variables tested in MANCOVA calculations: (a) Group I respondents (i.e., senior business decision-makers) vs. Group II respondents (i.e., public markets influencers); (b) senior business decision-makers of SME’s vs. senior business decision-makers of non-SME’s; (c) senior business decision-makers of TSX-listed companies vs. senior business decision-makers of TSX-eligible private companies; (d) the four types of public markets influencers; and (e) the six main respondent demographic sub-groups (senior business decision-makers of TSX-listed companies, senior business decision-makers of TSX-eligible private companies, securities / corporate lawyers, auditors / public accountants, investment bankers and private equity investors).

The dependent variables tested are the four major Likert Scale questions in the PCD Study: (a) Question 16 (with seven sub-questions); (b) Question 18 (with two sub-questions); (c) Question 20 (with 31 factors assessed); and (d) Question 21 (with 14 factors assessed).

The five covariates tested were the following: (a) industry (Q13); (b) geography (Q23); (c) number of years of public company experience (Q22-3); (d) number of years of total career experience (Q22-1); and (e) SME / non-SME (combined Q7 and Q8). Of these covariates tested, industry and SME / non-SME are only applicable as covariates for the Group I- Senior Business Decision-makers. The other three covariates tested are relevant to all of the respondents in the PCD Study.

All MANCOVA calculations were run in the R database, which runs four different variations of the MANCOVA tests: namely, Pillai’s Trace, Wilks’ Lambda, Hotelling’s
Trace and Roy’s Largest Root. In each MANCOVA calculation, any covariates determined not to be statistically significant as confounding factors at first instance were removed and the MANCOVA tests were re-run without those factors in order to increase the degrees of freedom in the calculation.

The MANCOVA calculations were also used for enrichment of the data analysis process to provide a quick overview of the most influential independent variables after extraction of the impact of confounding covariates. The outputs of the MANCOVA calculations in Appendix 6 were checked against the relevant statistical analysis contained in the body of the Dissertation to ensure that there were no material inconsistencies between the MANCOVA analysis and the other ordinal-appropriate calculations.

The MANCOVA calculations do not constitute the core analysis of the PCD Study Data. Notably, application of MANCOVA calculations to ordinal-level variables can attenuate effect sizes such that Type II error rates increase, meaning that statistically significant variations may be missed in the MANCOVA analysis. However, as the MANCOVA calculations included in Appendix 6 hereof are only being used to generate summary data and are used as a check on the other ordinal-appropriate statistical calculations utilized in the body of this Dissertation, it was considered appropriate to use MANCOVA for these specific purposes.

The MANCOVA calculations in Appendix 6 were compared against the statistical analysis done using the interval-specific statistical tests that are applied throughout the body of the Dissertation. No material inconsistencies were identified between the MANCOVA analysis and the statistical analysis undertaken in the body of this Dissertation. However, the MANCOVA data in Appendix 6 does offer a readily-accessible high-level summary that is useful in attaining an overview of the variability in responses between the different demographic groups without going through the detailed data and charts that underpin the analysis in the body of the Dissertation.
7.2- Order of Analysis of Quantitative Elements of PCD Study

Turning now to the analysis of the quantitative elements of the PCD Study, the following analysis sections begin with summary tables providing a general overview of the disposition of the PCD Study participants, as a whole, on the various questions. After the summary tables, each question is analyzed in greater detail with respect to the variation in disposition amongst the 25 demographic subgroups tracked throughout the PCD Study.

As a final note before delving into the quantitative analysis aspects of the PCD Study, it should be noted that the majority of the ensuing analysis in this Chapter 7 goes through the questions in sequential order. However, the analysis of the various sub-questions embedded in Question 16 is undertaken out-of-sequence in order to group the questions according to topical heading. Within each topic, the order or analysis is determined according to perceived importance of the question. The following is the order in which the data derived from the sub-questions within Question 16 are analyzed and their grouping by topic:

- Q16-1: General disposition towards relative long-term benefits of an IPO
- Q16-7: Regulatory overreach hypothesis
- Q16-3 & Q16-5: Impact of technology
- Q16-4, Q16-2 & Q16-6: Impact of increased access to private equity

It is worth noting, once again, that the question orders of the Question 16 sub-questions were scrambled in terms of their appearance in the online version of the PCD Study survey. As such, the question numbering of the sub-questions only has relevance in terms of providing a reference for discussion in this analysis, as the question order does not reflect the order in which the sub-questions appeared to the PCD Study participants.

7.3- Summary Charts for PCD Study Quantitative Questions

The following tables summarizes the output of the PCD Data on the given main quantitative questions that were posed to all respondents in the PCD Study. The sub-questions within Question 16 are organized by topics. Within each element of Question 18 and Question 20, the various elements tested are presented in descending order of the mean for each variable / factor. The specific Likert Scales utilized in each instance are
also included above each question. The minimum and maximum responses in each question ranged from 1 to 5.

### Table 8- Quantitative Summary Tables- Likert Scale- Question 16

<table>
<thead>
<tr>
<th>Label</th>
<th>Variable</th>
<th>Mean</th>
<th>Std Dev</th>
<th>N=</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>General Disposition on the Net Advantages of an IPO</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Q16-1 Taking a company public offers more long-term advantages than disadvantages.</td>
<td>2.82</td>
<td>0.95</td>
<td>358</td>
</tr>
<tr>
<td></td>
<td>Q16-7 Securities regulators in Canada have been too aggressive in protecting public shareholder interests at the expense of public companies.</td>
<td>3.34</td>
<td>1.14</td>
<td>358</td>
</tr>
<tr>
<td></td>
<td>Regulatory Overreach Hypothesis</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Q16-3 Technological advancements have made it harder for public companies to compete with private companies.</td>
<td>2.58</td>
<td>0.98</td>
<td>359</td>
</tr>
<tr>
<td></td>
<td>Q16-5 The rapid pace of technological change has made it more attractive for private companies to sell out to larger corporations rather than pursue their own IPO.</td>
<td>3.27</td>
<td>1.01</td>
<td>359</td>
</tr>
<tr>
<td></td>
<td>Impact of Technological Advancements</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Q16-4 Private equity financing to fund company growth in Canada is significantly easier to access now than it used to be.</td>
<td>3.72</td>
<td>1.09</td>
<td>359</td>
</tr>
<tr>
<td></td>
<td>Q16-6 The decline in IPO volume is primarily attributable to the increased availability of private equity as an alternative.</td>
<td>3.37</td>
<td>1.1</td>
<td>359</td>
</tr>
<tr>
<td></td>
<td>Q16-2 Companies should consider an IPO to finance growth only when private equity funding is not readily available.</td>
<td>2.95</td>
<td>1.13</td>
<td>358</td>
</tr>
<tr>
<td></td>
<td>Proliferation of Private Capital Alternatives</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Q16-4 Private equity financing to fund company growth in Canada is significantly easier to access now than it used to be.</td>
<td>3.72</td>
<td>1.09</td>
<td>359</td>
</tr>
<tr>
<td></td>
<td>Q16-6 The decline in IPO volume is primarily attributable to the increased availability of private equity as an alternative.</td>
<td>3.37</td>
<td>1.1</td>
<td>359</td>
</tr>
<tr>
<td></td>
<td>Q16-2 Companies should consider an IPO to finance growth only when private equity funding is not readily available.</td>
<td>2.95</td>
<td>1.13</td>
<td>358</td>
</tr>
</tbody>
</table>

### Table 9- Quantitative Summary Tables- Likert Scale- Question 18

<table>
<thead>
<tr>
<th>Label</th>
<th>Variable- With reference to the hypothetical fact pattern outlined above ....</th>
<th>Mean</th>
<th>Std Dev</th>
<th>N=</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Q18-1 How likely are you to recommend the IPO option as ABC's preferred course of action?</td>
<td>2.69</td>
<td>1.04</td>
<td>342</td>
</tr>
<tr>
<td></td>
<td>Q18-2 How likely are you to recommend the private equity option as ABC's preferred course of action?</td>
<td>3.61</td>
<td>0.95</td>
<td>343</td>
</tr>
</tbody>
</table>

### Table 10- Quantitative Summary Tables- Multiple Choice with Text Response- Question 19

| Q-19: How much would the pre-money valuation premium offered to ABC by an investment bank with respect to an IPO transaction need to exceed the pre-money valuation offered to ABC with respect to a private equity transaction in order to make the two alternatives equally attractive to you? | 12.9% | 9.6% | 77.5% | 26.6% | 251 |
Table 11 - Quantitative Summary Tables - Question 20

<table>
<thead>
<tr>
<th>Label</th>
<th>Variable - In making your decision on the future direction of ABC, how important are each of the following potential downside risks associated with pursuing the TSX IPO in your analysis?</th>
<th>Mean</th>
<th>Std Dev</th>
<th>N=</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q20-23</td>
<td>The pressures of meeting quarterly analyst targets</td>
<td>3.97</td>
<td>1.03</td>
<td>333</td>
</tr>
<tr>
<td>Q20-7</td>
<td>The increased cost of continuous disclosure obligations due to regulatory changes</td>
<td>3.94</td>
<td>0.93</td>
<td>333</td>
</tr>
<tr>
<td>Q20-6</td>
<td>The complexity of continuous disclosure obligations arising from regulatory changes</td>
<td>3.81</td>
<td>1.02</td>
<td>333</td>
</tr>
<tr>
<td>Q20-5</td>
<td>Running a public company creating too many distractions for management</td>
<td>3.78</td>
<td>0.97</td>
<td>332</td>
</tr>
<tr>
<td>Q20-3</td>
<td>The cost that it takes to complete an IPO</td>
<td>3.68</td>
<td>1.04</td>
<td>333</td>
</tr>
<tr>
<td>Q20-19</td>
<td>Concern that being public leaves too little time for management to focus on the core business of the company</td>
<td>3.65</td>
<td>1.08</td>
<td>332</td>
</tr>
<tr>
<td>Q20-2</td>
<td>The management effort required to complete an IPO</td>
<td>3.53</td>
<td>1.13</td>
<td>333</td>
</tr>
<tr>
<td>Q20-10</td>
<td>Concern the company will be able to generate sufficient trading volume to keep shareholders happy</td>
<td>3.47</td>
<td>1.09</td>
<td>333</td>
</tr>
<tr>
<td>Q20-24</td>
<td>Redundancy of filing requirements for public companies</td>
<td>3.42</td>
<td>1.15</td>
<td>332</td>
</tr>
<tr>
<td>Q20-1</td>
<td>The time required to complete an IPO</td>
<td>3.39</td>
<td>1.09</td>
<td>333</td>
</tr>
<tr>
<td>Q20-9</td>
<td>The increased litigation risk associated with being public</td>
<td>3.38</td>
<td>1.07</td>
<td>333</td>
</tr>
<tr>
<td>Q20-31</td>
<td>Concern that being public will not ultimately provide quicker access to follow-on financing in the future</td>
<td>3.37</td>
<td>1.15</td>
<td>333</td>
</tr>
<tr>
<td>Q20-16</td>
<td>The challenges of competing against private companies that don’t have to disclose any secrets</td>
<td>3.36</td>
<td>1.2</td>
<td>332</td>
</tr>
<tr>
<td>Q20-30</td>
<td>Overall fatigue arising from being a senior executive in a public company</td>
<td>3.26</td>
<td>1.2</td>
<td>333</td>
</tr>
<tr>
<td>Q20-15</td>
<td>The hassle of short-term traders looking for quick profits</td>
<td>3.22</td>
<td>1.1</td>
<td>333</td>
</tr>
<tr>
<td>Q20-11</td>
<td>Concern as to ability of company to maintain sufficient analyst coverage</td>
<td>3.16</td>
<td>1.09</td>
<td>333</td>
</tr>
<tr>
<td>Q20-26</td>
<td>The risk of proxy battles initiated by activist shareholder groups</td>
<td>3.06</td>
<td>1.06</td>
<td>333</td>
</tr>
<tr>
<td>Q20-13</td>
<td>The hassle of dealing with proxy advisory firms</td>
<td>3.01</td>
<td>1.13</td>
<td>333</td>
</tr>
<tr>
<td>Q20-28</td>
<td>The requirement to adopt corporate governance best practices that are continuously evolving</td>
<td>3.00</td>
<td>1.15</td>
<td>333</td>
</tr>
<tr>
<td>Q20-27</td>
<td>Having to listen and respond to the opinions of uninformed shareholders</td>
<td>2.99</td>
<td>1.22</td>
<td>333</td>
</tr>
<tr>
<td>Q20-12</td>
<td>Concern that the current regulatory environment favors minority investor protection above the interest of the public company</td>
<td>2.97</td>
<td>1.1</td>
<td>333</td>
</tr>
<tr>
<td>Q20-21</td>
<td>Increased risk to personal reputation being associated with a public company if things go bad</td>
<td>2.95</td>
<td>1.22</td>
<td>332</td>
</tr>
<tr>
<td>Q20-4</td>
<td>Executive compensation disclosure of public companies being overly invasive for management</td>
<td>2.95</td>
<td>1.13</td>
<td>333</td>
</tr>
<tr>
<td>Q20-25</td>
<td>An increase in short-sellers in the public markets</td>
<td>2.90</td>
<td>1.07</td>
<td>333</td>
</tr>
<tr>
<td>Q20-14</td>
<td>Fear that special interest groups will use public status to exert pressure on the company to adopt their agendas</td>
<td>2.88</td>
<td>1.12</td>
<td>333</td>
</tr>
<tr>
<td>Q20-17</td>
<td>Challenges for public companies to complete acquisitions efficiently due to Business Acquisition Report requirements</td>
<td>2.86</td>
<td>1.13</td>
<td>332</td>
</tr>
<tr>
<td>Q20-29</td>
<td>Risk of a hostile take-over</td>
<td>2.80</td>
<td>1.1</td>
<td>333</td>
</tr>
<tr>
<td>Q20-8</td>
<td>The requirement to file insider reports so that everyone is aware of management trading activities</td>
<td>2.63</td>
<td>1.17</td>
<td>333</td>
</tr>
<tr>
<td>Q20-23</td>
<td>Restrictions resulting from public conflict-of-interest regulations for related party transactions</td>
<td>2.59</td>
<td>1.08</td>
<td>332</td>
</tr>
<tr>
<td>Q20-20</td>
<td>Inability in a public company to keep personal income and shareholdings secret from family, friends and acquaintances</td>
<td>2.56</td>
<td>1.18</td>
<td>333</td>
</tr>
<tr>
<td>Q20-18</td>
<td>The requirement of financial statement certifications by senior executives</td>
<td>2.55</td>
<td>1.15</td>
<td>333</td>
</tr>
</tbody>
</table>
Table 12 - Quantitative Summary Tables - Question 21

7.4- Question 16-1: General Disposition on the Long-Term Net Benefits of an IPO

“Q16-1: Taking a company public offers more long-term advantages than disadvantages”

7.4.1- General Observations and Statistical Analysis

Q16-1 is one of the core questions of the survey. This question tests overall perception on the relative merits of public markets, and whether going public is perceived as being a net benefit to a business over the long-term. Respondents’ perception on this question can be logically inferred to be linked to the likelihood that they will support an IPO alternative in the hypothetical situation posed later in the PCD and, more importantly, in the real-world of their daily business lives. Given that Q16-1 is viewed as core to understanding the phenomenon of public company decline, the breadth of the statistical

422 By inference, individuals who answer more favorably on Q16-1 would be expected to be more likely to choose or recommend the going-public option at a key inflection point in a company’s growth cycle (reflected later in the PCD Study in Q18-1). Conversely, individuals who answer more negatively on the net benefits of being public on Q16-1 would be expected to be less likely to choose or recommend the going public option. See correlation analysis in Chapter 8 of this Dissertation for verification of this hypothesis.
analysis discussed on this particular topic will be significantly more comprehensive than for questions viewed as less core.

Looking at the first headline statistic, we immediately observe that the mean on Q16-1 for DG1-All Respondents is at 2.82. Considering the wording of the Likert options on Q16-1, it is obvious that neutrality on this question would be expressed at a mean of 3.00. Therefore, the average score evidenced by respondents is lower than the level of theoretical neutrality. That the PCD Study demonstrates a negative inclination on the proposition contained in Q16-1 is supported at a strong level of significance (Wilcoxon Signed Rank Test, P-value<0.001). Only 23.5% of respondents in the PCD Study moderately or strongly agreed with the proposition that taking a company public is a net benefit to the corporation, whereas 37.4% of respondents expressed moderate or strong disagreement.

The PCD Study data from Q16-1 reflects that a significant bias against the public markets exists in the current Canadian business environment. Simply, amongst senior business decision-makers and public markets influencers, the group who believes that taking a company public in Canada is negative for the business over the long term is significantly larger than the group that believe it represents a net positive. Unless these perceptions can be altered in the future at a fundamental level, the overriding negative perception on net benefit of public listing clearly bodes poorly for future IPO volume in Canada.

Looking deeper, the negative inclination on Q16-1 is reflected in the responses from 19 of the 25 demographic subgroups in the PCD Study. Only six of the demographic subgroups tested scored Q16-1 with a mean at 3.0 or above, and the same six demographic subgroups were the only demographic subgroups where the percentage of respondents who agreed with the proposition was larger than the percentage of respondents who disagreed.424

423 i.e., (3= Neither Agree or Disagree).

424 DG19: Atlantic Provinces is excluded from the discussion on this question. As discussed previously, the Atlantic Provinces is an undersized respondent group (N=19) and over-weighted with representation from DG6: Lawyers (N=6) and DG7: Auditors (N=9). As both of these subgroups are also positively
It should be noted that, for the above six demographic subgroups that scored at 3.00 or above on mean on Q16-1, none can be demonstrated to have a positive disposition on this question above the minimum acceptable level of statistical significance (i.e., 90% confidence level) stipulated in this Dissertation.

Compared to the top six demographic subgroups, the bottom six demographic subgroups (in terms of their responses on Q16-1) exhibit a much higher degree of statistical strength. Each of the bottom six demographic subgroups evidence a negative deviation from the theoretical neutral position (i.e., 3.00) with a strong level of statistical significance. The lowest level of statistical significance in the following table is for the DG10-SME subgroup (Wilcoxon Signed Rank Test, P-value<0.001), which still exceeds the threshold of a 99.9% confidence level. The rest of the p-values are even smaller, thereby allowing us to confirm a deviation from the neutral position with a high level of confidence.

Table 13, Six most favorable demographic subgroups on Q16-1

<table>
<thead>
<tr>
<th>DG Group #</th>
<th>Demographic Group Category</th>
<th>Strongly Agree + Agree</th>
<th>3 Neither Agree or Disagree</th>
<th>Strongly Disagree + Disagree</th>
<th>Mean</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Lawyers</td>
<td>34.1%</td>
<td>30.0%</td>
<td>25.9%</td>
<td>3.14</td>
<td>44</td>
</tr>
<tr>
<td>13</td>
<td>Mining</td>
<td>38.2%</td>
<td>32.4%</td>
<td>29.4%</td>
<td>3.09</td>
<td>34</td>
</tr>
<tr>
<td>8</td>
<td>Investment Bankers</td>
<td>35.4%</td>
<td>37.5%</td>
<td>27.1%</td>
<td>3.06</td>
<td>48</td>
</tr>
<tr>
<td>4</td>
<td>TSX</td>
<td>32.0%</td>
<td>42.3%</td>
<td>25.8%</td>
<td>3.03</td>
<td>97</td>
</tr>
<tr>
<td>25</td>
<td>Extensive Pubco Experience</td>
<td>30.8%</td>
<td>42.0%</td>
<td>27.3%</td>
<td>3.01</td>
<td>143</td>
</tr>
<tr>
<td>7</td>
<td>Auditors</td>
<td>25.6%</td>
<td>53.8%</td>
<td>20.5%</td>
<td>3.00</td>
<td>39</td>
</tr>
</tbody>
</table>

Table 14, Question 16-1, Six least favorable demographic subgroups

<table>
<thead>
<tr>
<th>DG Group #</th>
<th>Demographic Group Category</th>
<th>Strongly Agree + Agree</th>
<th>3 Neither Agree or Disagree</th>
<th>Strongly Disagree + Disagree</th>
<th>Mean</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Private Company</td>
<td>8.5%</td>
<td>28.2%</td>
<td>63.4%</td>
<td>2.34</td>
<td>71</td>
</tr>
<tr>
<td>9</td>
<td>Private Equity</td>
<td>8.5%</td>
<td>37.3%</td>
<td>54.2%</td>
<td>2.47</td>
<td>59</td>
</tr>
<tr>
<td>23</td>
<td>Limited Pubco Experience</td>
<td>12.6%</td>
<td>33.0%</td>
<td>54.4%</td>
<td>2.50</td>
<td>103</td>
</tr>
<tr>
<td>10</td>
<td>SME</td>
<td>16.9%</td>
<td>30.8%</td>
<td>52.3%</td>
<td>2.60</td>
<td>65</td>
</tr>
<tr>
<td>14</td>
<td>Non-Resource</td>
<td>18.6%</td>
<td>33.0%</td>
<td>48.5%</td>
<td>2.61</td>
<td>96</td>
</tr>
<tr>
<td>16</td>
<td>Prairies</td>
<td>17.0%</td>
<td>39.4%</td>
<td>43.6%</td>
<td>2.63</td>
<td>96</td>
</tr>
</tbody>
</table>

To summarize the statistical outcome on Q16-1, the negative disposition of the bottom six demographic subgroups can be validated as being strongly statistically significant as disposed towards Q16-1, we are unable to decipher any meaningful geographic data about the Atlantic Provinces on this question based on the confounding impact of these non-geographic factors.
compared to the hypothetical neutral position, while the positive disposition of the top six demographic subgroups cannot. This is not particularly surprising considering the overall negative inclination of respondents on the question discussed above. Nevertheless, it is an important observation and valuable in explaining the perception issue that is one of the main impediments to increased IPO activity.

The specific identity of the top six demographic subgroups and the bottom six demographic subgroups is also of interest, and will be addressed in the following section on linked subgroup observation and analysis.

7.4.2- Linked Subgroup Observations and Statistical Analysis

Group I v. Group II- On the Group I vs. Group II dichotomy, we observe from the following figure that Group II (public company influencers) appears slightly more favorable than Group I (senior business decision-makers) on Q16-1.

![Figure 16: Q16-1, Linked Subgroups - Group I v. Group II](image)

However, the relatively small variation between these two groups does not meet the minimum significance test for us to conclude that there is a difference between Group I and Group II on Q16-1 at a statistically significant level (Mann-Whitney Test; P-value=0.1416). As such, the important differences between the various demographic groups are not inherently manifested at the level of the Group I vs. Group II analysis.

This may initially appear to be a surprising outcome, but consideration of the make-up of each of these two main groups provides an explanation. Each of Group I and Group II are comprised of specific subgroups that are inherently either more significantly positive or more negative on Q16-1 than the PCD Study average on this question. If we consider
Group I and Group II only at the composite level, the difference in predispositions of the component subgroups are largely obscured. It is only when we break down each of Group I and Group II further and conduct the analysis by subgroups that the statistically significant differences are manifested. Recognizing that this "cancelling out" effect is occurring within the larger groups in Q16-1 is a clear reminder as to why a fulsome analysis of the dataset in the PCD Study requires a disciplined approach that assesses the subgroups at various levels in the search for significant observations.

**Group I: TSX v. Private-** At this more granular level of analysis, one of the key observations linked to a recurrent theme in the PCD Study data comes into focus. When comparing the senior business decision makers of public and private companies, we observe with reference to the mean that DG4-TSX (mean=3.03) is notably more favorable on Q1-16 than DG5-Private Company (mean=2.34).

*Figure 17, Q16-1, Linked Subgroups- Group I, TSX-Listed v. Private Company*

On a statistical basis, the difference between these two outcomes is strongly significant (Mann-Whitney Test, p<0.0001), which would support a confidence level greater than 99.99%.

This outcome demonstrates that senior decision-makers of existing TSX public companies are materially more positive on the long-term net benefits of taking a company public than senior-decision makers of private companies.

Why is this the case? There are two potential explanations. Does increased familiarity
with the public markets (i.e., better information and a higher level of personal experience) lead to improved perceptions with respect to the net advantages of the public markets? Or, alternatively, do the senior decision-makers who are more predisposed to perceive public markets positively naturally gravitate towards being involved in public companies, while senior decision-makers who are more negatively disposed towards public markets stay away from being involved in public companies? Although we see correlation between experience in public markets and positivity towards public markets, the research is not designed to establish causality that would prove either of those alternative explanations of this outcome. Further details on the potential explanations of this correlation occur later in the analysis of the PCD Study. The linkage between increased familiarity with public companies and positivity towards public companies recurs as a theme throughout the PCD Study data.

Finally, on this particular observation, it should be pointed out that, even though DG4-TSX is significantly more positive on the topic of the net benefits of being a public company than DG5-Private Company, it would be inaccurate to state that DG4-TSX is positively disposed on the point. With a mean at 3.03, it is apparent that DG4-TSX is essentially neutral on the net benefits of public companies. The reason that DG 4-TSX is significantly more positive than DG5-Private Company is because DG5-Private Company is the most negative of any demographic subgroup on any component of Question 16.425 Only 7.4% of the DG5-Private Company respondents (or approximately 1 in 14 individuals) agreed that the being public was a net long-term value.

Relevant to consider with respect to this particular observation is that it does not matter if these DG-5 Private Company respondents can be proven objectively correct in their belief that being public has more downside than upside in the long term. The point of the question is to establish perceptions, not objective truth. It is the perception of the public markets that is most significant here. That DG5-Private is so negatively disposed on this topic demonstrates again the depth of the negative perception challenge facing the TSX

425 The mean of DG5- Private Company on Q16-1 is 2.34.
in convincing senior decision makers of private Canadian companies to consider an IPO.

**Group II Constituents** - The headline statistic amongst the constituent subgroups that collectively form DG3- Group II is that DG6- Lawyers, DG 7-Accountants and DG 8- Investment Banks are all notably more favorable in their disposition on Q16-1 than DG9- Private Equity investors (means of 3.14, 3.00 and 3.06 respectively vs. 2.47).

*Figure 18, Q1: Linked Subgroups- Group II, Public Company Influencers*

The observed difference between DG9- Private Equity and the other three DG subgroups making up the remainder of DG3- Group II supports a strong level of statistical significance (Mann-Whitney Test, p<.0001). Using the Chi Square Goodness of Fit Test followed by pairwise tests on each of the various subgroups further confirms that DG9- Private Equity is significantly more negative on Q16-1 than the other three subgroups comprising DG3- Group II.

Utilizing the Chi Square Goodness of Fit Test to analyze the responses of DG6- Lawyers, DG7- Auditors and DG8- Investment Bankers on Q16-1, we can determine that none of these three subgroups evidences a statistically significant variation from the other two (P-value=0.0234).

It is not particularly surprising that the DG9- Private Equity subgroup evidences a significantly more negative view in Q16-1 on the net benefits of becoming a public company than the other three subgroups of public market influencers. Private equity is often viewed as a direct competitor to the public markets on the same potential deals. Yet, the degree to which private equity evidences negativity towards the public markets
in Q16-1 should be concerning for public markets advocates.

Also worth noting, private equity firms are not always competitors to the public markets as the two alternatives for a company to consider. On occasion, private equity firms rely on the public markets in order to secure liquidity for their private company investments by completing an IPO.

Once again, it is important not to confuse the fact that lawyers, auditors and investment bankers are significantly more positive on Q16-1 than private equity investors as indicating that they are overall positive towards the public markets as subgroups. As previously discussed, although these three subgroups are in the six top subgroups in terms of the median score on Q16-1, none of them can be demonstrated to have a statistically significant variation from the neutral position. To the extent that they are more positive than the other subgroups in the PCD Study, one wonders to what extent the perceptions of the lawyers, auditors and investment bankers are influenced by the financial self-interest of each subgroup resulting from the transaction revenue generated by IPOs and the higher compliance revenue (for lawyers and accountants) generated by public clients.

Of course, as one would anticipate, the subgroups of lawyers, auditors and investment bankers in the PCD Study also include a higher percentage of individuals with significant public company experience than either DG9- Private Equity or DG5- Private Company. The theme in the PCD Study data that increased experience in public companies improves perception of public markets is a thread seen throughout the Dissertation.

**Company Size** - DG10-SME’s are observed in the chart below to be less favorable on Q16-1 than DG11-Non-SME (mean 2.60 vs. 2.85). The difference between the two subgroups is statistically significant on the disagree / strongly disagree side of the scale at a 95% confidence level (Two Proportion Z-Test, P-value= 0.0355). That respondents in subgroup DG10-SME's are less favorably disposed towards public markets than non-SME's is another theme observed in multiple instances in the PCD Study.
Industry- We observe, with reference to the mean, that DG13-Mining appears more favorable on Q16-1 than DG14-Non-Resources (mean of 3.09 vs. 2.61). The mean for the third subgroup, DG12-O&G, is between the other two, slightly below the overall respondent average on Q16-1 (2.76 vs. 2.82). Applying statistical analysis, however, it is determined that any differences between the three groups are not significantly different (Kruskal Wallis, P-value=0.2011)

The fact that DG12-Oil & Gas and DG13-Mining cannot be proven to be different from DG14-Non-Resource on a statistically significant basis is, in and of itself, an interesting outcome in the PCD Study. Both the oil & gas and mining sectors have come through a challenging commodity cycle over the past five years, generally faring poorly in the public markets as a result. Liquidity and enterprise valuation have both suffered significantly during this cycle. Orphan stocks have become common place. These two extractive industries have traditionally been core to the Canadian public markets generally, and the high-risk portion of investment portfolios specifically, but have clearly
struggled to retain the attention of the public markets investors who have migrated their high-risk portfolio attention to cannabis and blockchain during those recent boom cycles. On the flip-side, it has been previously discussed in this Dissertation that non-resource sectors in Canada have generally seen steady growth over the past five years. As such, one might anticipate that both of these extractive sector industries would evidence a significantly more negative perception of the relative benefits of taking a company public than non-resource sectors. Yet the PCD Study does not demonstrate the anticipated result.

A hypothesis to explain the observed outcome is that the junior capital markets in Canada have historically been acknowledged as one of the premier mechanisms for raising high-risk mining exploration capital in the world. The inherent nature of mining exploration in Canada has traditionally made early stage exploration and development efforts too risky for all other avenues of financing. Speculators place small bets on mining stocks on the junior markets with the hope of windfall returns for the rare successful discoveries, but the understanding is that the vast majority of exploration-stage mining ventures will ultimately fail. As such, investment in mining exploration is often perceived as being more a form of legalized gambling than disciplined investing. Individual investors are often only willing to bet small amounts of capital on any particular venture given the inherent risk, meaning that the funds to pursue mining exploration need to be raised from a large number of investors each investing a small amount of high risk capital they are willing to lose in its entirety. This is certainly not the type of investment for which private equity is generally competing, and therefore the public market is often the only option still available for this type of financing. If we look at the small-sized IPOs that have been completed in Canada in 2019 on the TSXV and CSE, we see that these are indeed heavily weighted towards mining exploration, making junior mining exploration the only new-listings sector in Canada with even the hint of a pulse this year. In this light, it is not surprising that the senior decision-makers of TSX mining companies retain a higher degree of belief in the net benefit of taking a company public than non-resource companies for whom multiple non-public financing options are available.

Geographic Location- In analyzing the geographically-defined demographic subgroups
from a statistical basis, we are forced to largely ignore individual subgroup analysis of DG18-Quebec and DG19-Maritimes in our analysis of all but the largest variations because of the small sample sizes of these two particular subgroups. These two subgroups are simply too small in size to support statistically significant observations in most instances.

Figure 21, Q16-1: Linked Subgroups- Group I, Geographic Location

<table>
<thead>
<tr>
<th>DG15: British Columbia</th>
<th>26.5%</th>
<th>17.5%</th>
<th>47.5%</th>
<th>5.0%</th>
<th>50.0%</th>
</tr>
</thead>
<tbody>
<tr>
<td>DG16: Prairies</td>
<td>15.1%</td>
<td>38.7%</td>
<td>35.3%</td>
<td>2.9%</td>
<td></td>
</tr>
<tr>
<td>DG17: Ontario</td>
<td>5.1%</td>
<td>23.4%</td>
<td>31.0%</td>
<td>33.5%</td>
<td>4.6%</td>
</tr>
<tr>
<td>DG18: Quebec</td>
<td>18.8%</td>
<td>56.0%</td>
<td>31.3%</td>
<td>6.8%</td>
<td></td>
</tr>
<tr>
<td>DG19: Atlantic Provinces</td>
<td>21.1%</td>
<td>63.2%</td>
<td>16.5%</td>
<td>3.3%</td>
<td></td>
</tr>
</tbody>
</table>

Referring first to the mean as a guide pointing towards any testable observations on geographic differences, its is noted that DG16-Prairies is lower than any of the other geographic areas (mean of 2.61 for Prairies vs. means of 2.83 and above for all other regions). Is this a sufficient variance to constitute statistical significance? Compared to all other regions, the DG16-Prairies difference fails to meet the minimum level of significance at 90% confidence level (Two Proportions Z-Test, P-value=0.1377). As such, the PCD Study data does not support any statistically significant observations based on geographic subgroups. This result is in and of itself worth noting, as it evidences that general negative perception of the respondents on Q16-1 is reflected across the entire country with no demographic group having a mean above 2.88.

Total Career Experience- A quick look to the mean for the demographic subgroups defined by total career experience appears to indicate that individuals with more overall career experience are less inclined to believe that being public offers more long-term
advantages than disadvantages. However, the differences are not sufficient to reach the minimal level of statistical significance under the Kruskal Wallis test (P-value=0.7571).

Figure 22, Q16-1, Linked Subgroups- Career Experience

Pubco Experience- With respect to the demographic subgroups defined by total years of experience working with, or advising, public companies, the opposite trend appears compared to what was observed in the analysis on total career experience. The mean in Q16-1 (and the degree of favourablity towards taking a company public) increases as the level of experience working with public companies increases.

Looking at the three-group comparison test, we see that there is a difference between the three subgroups at strong level of significance (Kruskal Wallis, P-value=0.0071). In fact, the difference between DG23-Limited Pubco Experience and DG24-Moderate Pubco Experience and the difference from DG24 to DG-25 Extensive Public Experience are both statistically significant (Two Proportions Z-Test, P-value=0.054 and 0.042, respectively).

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426 Mean=2.98 for DG20- Early Career, 2.86 for DG21- Mid-Career and 2.71 for the three groups.

427 Mean = 2.50 for DG23- Minimal Pubco Experience, 2.85 for DG24- Moderate Pubco Experience and 3.01 for Extensive Pubco Experience.
Once again, we are faced with the recurrent theme that increased exposure to public companies improves the disposition of the respondents to public markets. A possible explanation is that increasing familiarity with public companies increases the understanding of the benefits associated with being public, while simultaneously reducing concerns about the downsides.

One may infer from the PCD Study data that experience with public companies is a more influential factor than general career experience, and may even act as a countervailing force. This hypothesis is supported by the following chart, which reports the responses on Q16-1 for those respondents who have more than 25 years of overall career experience, but five years or less of experience being involved with public companies. For this subgroup, the mean on Q16-1 drops to 2.41, indicating that public company experience is a moderating and countervailing factor on overall experience that leads to greater support for public companies.
Ultimately, consideration of the data on Q16-1 in the PCD Study gets straight to the core of the issue of public company decline in Canada. The key decision-makers and influencers in Canadian capital markets simply do not, on the average, believe that taking a company public in Canada offers a net long-term advantage.

Everyone who has been through the IPO process understands that completing an IPO is a difficult, time-consuming and expensive process. This is especially true for SME’s, for whom senior management time and attention is a finite resource. Distractions associated with completing an IPO frequently lead to a short-term deterioration in operating results due to the distraction of senior management away from the profitability of the core business operations during the IPO process.

Logic dictates that completing an IPO will almost never be the path of least resistance for a company. Rather, the IPO options will likely be amongst the most challenging and time-consuming of the alternatives under consideration. In order to justify committing to the challenges, distraction, and cost of an IPO, there needs to be a significant consensus amongst the collective group of decision-makers that the IPO alternative will deliver a long-term net benefit to the company.

Moreover, the decision to pursue an IPO is rarely made by a single decision-maker within an organization. Unless the IPO mandate is forced on a company through a shareholder exercising compulsory registration rights, the decision to pursue an IPO is usually...
reached only after an extensive consultative process in which the C-Suite executives, company directors and significant shareholders take advice from the lawyers, auditors, accountants and investment bankers.

If more negative opinions than positive opinions are being voiced around the discussion table in terms of the advantages and disadvantages of pursuing the IPO option, it is difficult to build the consensus necessary to commit to the IPO process. The data from the PCD Study indicate that there are likely to be significantly more negative opinions expressed within the decision-making team than positive opinions on the IPO question over the entire group of participants (37.4% negative compared to 23.5% positive). The PCD Study also evidences a significant cohort who are neutral on the proposition in Q16-1 (i.e., 39.1%). As such, the cohort of respondents who support the IPO process (23.5% in the PCD Study) need to be sufficiently committed to the IPO process to overcome both the negative and the ambivalent opinions being voiced in the decision-making process (who combined, represent 76.5% in the PCD Study).

Being in the minority, it is likely that the IPO proponents in a specific company are going to have to feel strongly about the merits of completing an IPO in order to overcome the more numerous voices who are negative or ambivalent towards the IPO option. Someone in a position of significant influence with the company must champion the IPO option internally and secure the consensus needed to initiate the process. How many of these potential champions are out there? In the PCD Study, only 3.1% of all respondents indicated that they strongly agreed with the proposition in Q16-1. This is less than half the number of respondents who strongly disagreed on Q16-1. Moreover, no single demographic subgroup had more than 6.3% who strongly agreed that taking a company public offered a long-term net benefit.

With this low of a level of strong agreement for Q16-1, the pool of individuals willing to be the internal champion for advancing the IPO initiative within the organization is worryingly small. As such, the overall bias against IPOs demonstrated in Q16-1 of the PCD demonstrates the size of the hurdle that public markets proponents in Canada face in the current environment.
7.5- Question 16-7: Regulatory Overreach

“Q16-7: Securities regulators in Canada have been too aggressive in protecting public shareholder interests at the expense of public companies.”

7.5.1- General Observations and Statistical Analysis

This question is also considered fundamental to the PCD Study, as it is the clear expression of the regulatory overreach hypothesis. Respondents who agree or strongly agree with the proposition in Q16-7 evidence a belief that the Canadian securities commissions and stock exchanges have missed the mark in balancing the competing interests between efficiency and ease of compliance in IPOs, transactional reporting and continuous disclosure reporting, on the one side, and the interests of protecting public shareholder interests and the integrity of the public markets on the other side. Again, the statistical analysis will be more detailed on this particular question because of the fact that it is identified as core to understanding the nature of the public company decline phenomenon in Canada.

The first item of note at a surface level is that the mean on this question is 3.34, demonstrating a notable level of support for the proposition in Q16-7 across the study. Across the entire PCD Study, nearly twice as many participants agreed /strongly agreed with the regulatory overreach hypothesis than disagreed / strongly disagreed. On the two extremes of the Likert scale, the difference was even greater for Q16-7; 17.0% of all respondents strongly agreed with the proposition while only 5.9% expressing strong disagreement with the proposition. The difference between the observed responses in the PCD Study and the neutral value of 3.00 is strongly significant, which would achieve a confidence level greater than 99.99% (One Sample Wilcoxon Signed Rank Test, p<.00001).

The next observation that jumps out from the PCD Study data on Q16-7 is that only a single demographic subgroup, DG20- Early-Career, out of the 25 different demographic

428 The percentage of respondents who chose 4 (agree) or 5 (strongly agree) on Q16-7 was 48.0% compared to 25.2% who chose 2 (disagree) or 1 (strongly disagree).
subgroups considered, produced a mean (2.89) lower than the neutral mean of 3.00. However, even this lone subgroup cannot be claimed to be lower than the neutral mean on a statistically significant basis (One Sample Wilcoxon Signed-Rank Test, P-value=0.2365).

Looking elsewhere for groups that are less harshly disposed towards the actions of the regulators, only one other DG included in the PCD Study exhibited a higher percentage of "disagree" answers than "agree" answers on Q16-7. DG 15- Investment Bankers ended up with 35.5% selecting either 4 or 5 vs. 41.7% selecting 1 or 2, but this group also included a higher number of respondents who strongly agreed with the proposition (18.8%) than those who strongly disagreed with it (10.4%). As such, the mean for DG 8- Investment Bankers was at 3.02.

On the whole, anyone combing the data in the PCD Study searching for any demographic subgroup who comes to the defence of the Canadian securities regulators and disagrees with the regulatory overreach hypothesis on a statistically significant basis will be left empty-handed.

**7.5.2- Linked Subgroup Observations and Statistical Analysis**

Group I v. II- DG2- Group I decision makers scored notably higher in mean on Q16-7 than DG-3 Group II Influencers. (3.54 mean v. 3.17 mean). The difference between the two groups is statistically significant at a 99% confidence level (Mann-Whitney Test, P-value=0.0021).

That DG2- Group I respondents in the PCD Study hold a position on the regulatory overreach statement that is notably different than that of DG3- Group II is not surprising. The direction of the difference is also not surprising. After all, one must recognize that there is a fundamental distinction between being a decision-maker in a public company paying the professional services invoice for continuous disclosure or transactional advice

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429 I.e., Those who chose 1 (strongly disagree) or 2 (disagree) versus those who chose 5 (strongly agree) or 4 (agree) on Q16-7.
and support, on the one hand, and being the service provider who relies on that fee revenue, on the other hand. As such, it is expected that DG2- Group 1 respondents would be more disposed to agree with the proposition in Q16-7.

Figure 25, Q16-7: Linked Subgroups- Group I vs Group II Respondents

![Figure 25, Q16-7: Linked Subgroups- Group I vs Group II Respondents]

However, this outcome also demonstrates two inherent problems in the current capital markets environment that should be keeping the securities regulators awake at night. First, it is the members of the DG2- Group I cohort who make the final decisions about whether to pursue an IPO or stay private. With a mean of 3.54 on Q16-7, it has to be concluded that there is a strong level of support for the regulatory overreach hypothesis amongst the PCD Study cohort whose opinions matter the most in understanding the public company decline phenomenon.

Secondly, the outcome on Q16-7 specifically demonstrates the risks in pursuing a consultation process intended to instruct regulatory streamlining initiatives without sufficient participation from senior business decision-makers in Canada. The nature of these processes is discussed earlier in this Dissertation under Chapter 4- Analysis of the CSA and OSC Regulatory Processes, and the implications of the PCD Study outcomes on these processes are discussed later under Chapter 10- Implications of the PCD Study for Regulatory Reform Initiatives. However, it is clear that relying primarily on the voluntary input of individuals and organizations who respond to the requests for comments sent out by the securities regulators, and are disproportionately weighted towards public markets influencers and against senior business decision-makers, will result in the regulators relying on comments that do not accurately reflect the view of the critical population of senior business decision-makers in Canada.
Group I, Public v. Private- This is one of the most interesting and unexpected observations in the entire PCD Study. It should also be one of the most sobering observations for provincial securities regulators throughout Canada. In the preceding discussion on Q16-1, it was reported that DG4- TSX is one of the subgroups that demonstrated the most favorable disposition in accepting the proposition that taking a company public provides more long-term advantages than disadvantages (mean 3.01).

Now, in our analysis of Q16-7, we observe that DG4- TSX also is one of the most favorable demographic subgroups in terms of supporting the proposition that Canadian securities regulators have missed the mark in striking the appropriate balance between the competing interests of public issuers and public shareholders, having tipped the balance too far towards shareholder protection.430

*Figure 26, Q16-7: Linked Subgroups- TSX-Listed vs. Private Respondents*

![Chart showing responses to Question 16-7: Securities regulators in Canada have been too aggressive in protecting public shareholder interests at the expense of public companies.]

Some might interpret these two outcomes for DG4-TSX on Q16-1 and Q16-7 as hinting at a paradox. However, that is not true. It was hypothesized in the analysis on Q16-1 that the most intuitive explanation of the fact that senior decision-makers of TSX-listed companies were more positively disposed to the public markets than other subgroups in the PCD Study was as a result of their increased knowledge and familiarity with the public markets. The perceptions of DG4-TSX participants are informed by direct

430 DG4 TSX mean=3.59 on Q17-7; percentage of those who agree /strongly agree on Q16-7 at 59.9% vs/ 21.7% who disagree / strongly disagree.
experience managing public companies.

It follows that the opinions of DG4-TSX participants on Q16-7 have to reflect some of the most informed opinions of the various demographic groups on the topic of regulatory overreach, because each respondent in this subgroup lives with the reality of operating a public company under the Canadian securities law on a daily basis. Certainly, the members of subgroup DG4-TSX have had a front-row seat in observing the trendlines in Canada public company regulation over the past decade, and their perspective is defined by personal experience rather than through the third-party perceptions and anecdotal evidence that would influence many of the respondents in the DG5-Private Companies subgroup.

With reference back to the Q16-1 outcomes on DG4- TSX and DG5 Private Company, the case can be made that heightened personal knowledge and experience on public markets may act as a countervailing force to the general negative perception on the net disadvantages of taking a company public. As such, one can advance the hypothesis that the reality of the public markets experience is better than the perception of the public market experience by outsiders, a hypothesis that would be supported by considering both the DG4-TSX / DG Private Company subgroups and the DG23-25 subgroups cross-referenced against the amount of public company experience each respondent possesses.

Yet, if one subscribes to that rationale for the Q16-1 analysis, the same logical inference supports the hypothesis that the degree of regulatory overreach experienced in reality by public markets insiders is even worse than what is perceived by public markets outsiders. If that hypothesis is true, then the expectation would be that, in reference to Q16-7, the results would demonstrate an increased level of support for the regulatory overreach proposition. Indeed, that anticipated trend is observed in the PCD Study data at a statistically significant level, with the mean on Q16-7 increasing contemporaneously with the degree of public company experience.431

431 The specifics of which are discussed hereafter in this section under the analysis of the variations between the results for DG23, DG24 and DG25.
Is the difference observed on Q16-7 between the subgroups DG4-TSX and DG5- Public Company statistically significant? While the mean for DG4-TSX is relatively high on Q16-7 at 3.59, the mean for DG5- Private Company is also relatively high at 3.46. As such, it would be expected that it will be difficult to establish statistical significance on the difference between DG4- TSX and DG5- Private Company at the sample sizes used in the PCD Study. Indeed, running the available tests discloses that testing the hypothesis that DG4-TSX will be lower than DG5-Private Company with respect to the proportion of disagree/strongly disagree responses, a weakly significant difference can be reported (Single-Tailed Two Proportion Z-Test, P-value=0.0670), sufficient for the 90% confidence level, but not reaching the 95% confidence level.

It is recognized that these weak levels of statistical significance are insufficient to draw conclusions on the hypothesis that increased experience and knowledge increases one's belief in the regulatory overreach proposition between DG4- TSX and DG5- Private Company. Yet, the data does suggest that this is an appropriate area for further analysis. If further research can demonstrate at higher levels of statistical significance that an increased degree of direct participation and experience in the public markets leads to both an increased appreciation of the net benefit associated with being public and a strengthened belief that the regulators are overreaching, that outcome would certainly be relevant in instructing the arc of future regulatory reform.

One additional interesting observation can be made by looking at the ratio of combined agree and strongly agree versus combined disagree and strongly disagree answers on Q16-7 from these two subgroups. DG4-TSX evidences 59.8% respondents agreeing with the regulatory overreach proposition (i.e., selecting 4 or 5) compared to 21.7% of respondents evidencing disagreement (i.e., selecting 1 or 2). By comparison, DG5-Private Company is at 49.3% 4 or 5 answers vs. 14.1% 1 or 2 answers. This is unusual in that, although DG4 is overall more supportive of the regulatory overreach proposition in Q16-7 than DG5-Public Company respondents, there are a higher proportion of DG4-TSX participants who also disagree with the proposition than DG5-Public Company participants. Although counter-intuitive, this observation indicates that direct personal experience of the DG4-TSX respondents appears to crystallize their opinion either for or
against the regulatory overreach proposition, as further evidenced by the fact that only 18.6% of DG4 respondents answered with the neutral “3” compared to 36.5% of DG5-Private Company respondents who answered with a “3”.

In terms of strongly held opinions, the PCD Study data shows that 26.8% of DG4-TSX respondents answered Q16-7 with a “5” (strongly agree), which is the highest percentage of strongly agree responses of all 25 demographic subgroups in the PCD Study. Again, the regulators should consider this particular outcome soberly, as having more than one-quarter of the crucial DG4-TSX demographic strongly agreeing with the regulatory overreach proposition has to be viewed as an indictment of the collective actions of Canadian securities regulators in the past years.

**Group II Constituents** - Noteworthy here is that three out of the four constituent Group II’s demographic subgroups ranked in the lowest quartile based on mean: DG6- Lawyers (mean 3.18); DG8- Investment Bankers (mean 3.02) and DG9- Private Equity (mean 3.07). This indicates that these subgroups of public company influencers are less likely to subscribe to the regulatory overreach proposition than either of the Group I subgroups.

*Figure 27, Q16-7: Linked Subgroups- Group II Constituents*

Again, as in the preceding Group I analysis on this question, it bears mentioning that a significantly different opinion is exhibited between Group I and Group II. This
observation makes it particularly concerning that Group I opinions form such a small part of comment letters filed in response to OSC Notice 11-784 initiative.

It is not particularly surprising that DG6-Lawyers and DG8- Investment Bankers appear to be less exorcised about regulatory overreach than Group I senior decision-makers in general. Both subgroups secure some direct financial benefit from the additional securities regulation over the past few years. Lawyers gain benefit in the form of additional revenue from their compliance advising. Investment bankers gain benefit in the form of additional fee revenue related to valuations and fairness opinions on both related-party transactions and independent transactions. However, it is admittedly surprising that DG19- Private Equity also ranks on the lower end of the demographic subgroups on this particular topic. One might assume that private equity would be particularly averse to increasing regulatory complexity, but this is not borne out in the PCD Study data. No obvious explanation comes to mind to explain this outcome other than private equity investors have little reason to pay attention to the ongoing changes in securities regulation and therefore have not formed any strong opinions relating thereto.

Also surprising is the fact that it is the fourth subgroup, DG7-Auditors, who score notably higher on the regulatory overreach hypothesis than the other constituent DG3- Public Markets Influencer subgroups with a mean at 3.49. This difference between DG7-Auditors and the other three constituent subgroups in the PCD Study with respect to regulatory overreach is moderately statistically significant, supporting a 95% confidence level (Two Proportions Z-Test, P-value=0.0178).

A number of participants from the DG7- Auditors subgroup were keen to discuss the subject of public company decline orally via phone after participating in the PCD Study. Anecdotally from these conversations, which were not recorded and do not form part of the official PCD Study record, the accountant / auditor subgroup largely focused their regulatory displeasure on the perceived continually increasing complexity, risk and cost added to the public company review process by the Accounting Standards Board of Canada (the "ASBC"). A common sentiment expressed by several members of this subgroup was that it is no longer sufficiently profitable for auditing firms to complete
public company audits to the extent that the profits justify the legal risks. They particularly expressed a belief that there has been a misalignment in risk vs. reward for public company auditors, which has been exacerbated by the pronouncements of the ASBC in recent years. As reported by these individuals, the public review process has become so time-consuming that they believe their clients would revolt if they billed for all the verification time spent on a file. Instead, the auditors frequently end up writing down the auditing bills in order to preserve their reputation and relationships. A senior partner in the audit group of one of the "big four" accounting firms expressly stated that their firm no longer prioritizes marketing in an attempt to secure new public company audit files. Rather, they continue to engage in public company audit work primarily as a service to long-time clients with whom they have a level of mutual trust.

Clearly, the auditors are in a unique position compared to the other two main public markets service provider subgroups, DG6- Lawyers and DG9- Investment Bankers. Each of the three different subgroups of service providers has a degree of legal liability in servicing the capital markets. However, the perception amongst the accountants / auditors subgroup is that the auditing function has historically borne the lion's share of the legal risk for the large public company collapses, essentially being forced to provide insurance policies against financial reporting irregularities which they do not necessarily have the ability to detect.

Company Size- As evidenced by the following chart, there is little distinction in disposition on Q16-7 between DG10-SME’s and DG11-Non-SME’s.
If there is a significant demographic difference to be found within the subgroup components of DG2, it appears to be based on a public company / private company distinction rather than with respect to company size.

Industry- DG 12- Oil & Gas has the highest mean of any of the 25 demographic subgroups (3.71) on Q16-7. With respect to the relative percentages of favorable and unfavorable responses for DG12- Oil & Gas, the ratio is 63.1% agree and strongly agree to 15.8% disagree and strongly disagree. This represents a four-to-one ratio between overall positive and negative responses on Q16-7, which is also the highest of any significant demographic group in the PCD Study.

Why does DG12- Oil & Gas exhibit a strong belief in the regulatory overreach statement proposition? Nothing in the PCD Study questionnaire format delves deep enough to identify root causes. However, we can refer back to the qualitative analysis section of the PCD Study for clues. The overall level of frustration of oil & gas issuers with government policy in general was a common theme in the text responses. Continuing to go through one of the longest market downturns in Canadian oil & gas history, senior decision-makers of oil & gas companies repeatedly discussed their perception that the decline has been exacerbated by the failure of various levels of government in Canada to respond to the crisis proactively, and even to recognize the importance of the oil & gas industry to the overall economy.

There is, unquestionably, a present widespread perception in the oil & gas industry in
Canada that they have been abandoned by government for the sake of maintaining popularity with the environmentally-focused lobby domestically and abroad who focus on Alberta heavy-oil production as a special culprit in global warming. It may well simply be that the general antipathy of senior oil & gas decision-makers towards all levels of government at this juncture is manifested in the extreme Q16-7 response relating to regulatory overreach. Of course, initiatives such as the recent CSA Staff Notice 51-354 “Report on Climate Change-Related Disclosure Project”, perceived by many oil & gas executives as laying the groundwork for more invasive disclosure regulations targeted at the oil & gas industry, might also contribute to the outcome.

Figure 29, Q16-7: Linked Subgroups- Industry-Based

The DG15- Non-Resource subgroup also has an above-average mean on Q16-7 at 3.54, but that variation can be attributed to the knock-on effect of the higher ratings of all DG2-Group I respondents generally on Q16-7 rather any industry-related differences. DG13- Mining also appears to be lower based on mean (3.33), but the sample sizes on the two extraction-based demographic subgroups are too small for that level of variation to approach the minimum levels of statistical significance necessary to report any conclusions on the observation.

Geographic Location- Since Ontario is, by far, the largest subgroup represented in the PCD Study at 47.7% of the total survey population, the analysis logically begins with consideration of perceptions of DG17- Ontario on the regulatory overreach statement in
Q16-7. The quick observation is that Ontario-based respondents evidence a materially lower average on Q16-7 (mean=3.09) than PCD Study respondents from other geographic regions (mean=3.54). The difference between DG17-Ontario respondents and all non-Ontario demographic subgroups based on agree/strongly agree responses is significant at the 95% confidence interval (Two Proportions Z-Test, P-value=0.0125).

DG18- Quebec and DG19- Atlantic Provinces both evidence a disposition on Q16-7 similar to the DG1- All Respondents subgroup and, given the small size of each of those two samples, do not bear any further discussion here.

Looking westward, it is obvious that both DG15- British Columbia (mean=3.54) and DG16-Prairies (3.60) subgroups appear notably higher on average than Ontario in their disposition on Q16-7. There is a strong statistically significant difference between the three demographic subgroups (Kruskal Wallis, P-value=0.0015). The follow-on pairwise test using the Wilcoxon Rank Sum Test demonstrates that biggest differences are between DG15-Prairies and DG17- Ontario (Wilcoxon Rank Sum Test, P-value<0.001). The difference between DG15- British Columbia and DG17-Ontario reaches the threshold for statistical significance at a 95% confidence level (Wilcoxon Rank Sum Test, P-value=0.0257).

Figure 30, Q16-7: Linked Subgroups- Geographically-Based
What are the implications of these geographically-based statistical observations? One interesting observation to consider is that the mean of DG-15 British Columbia on Q16-7 is 0.21 higher than the mean of DG13-Mining. Given that the mining industry has the largest representation amongst the subgroup of British Columbia-based respondents, we can conclude from this observation that the higher support for the regulatory overreach proposition from British Columbia participants in the PCD Study is not driven by sentiment in the mining industry.

With respect to the Prairies, the mean score of Q16-7 is similar whether you include respondents from the oil & gas industry (mean=3.60) or exclude them (mean=3.55), so that industry is also not significantly skewing the DG16- Prairie results on Q16-7. In both resource and non-resource industries, the Prairie-based respondents have the highest averages supporting the regulatory overreach proposition. The dissatisfaction with the balance struck by the securities regulators operates independently of the extractive sector industries throughout western Canada.

Clearly, there is a higher level of discontentment on the Prairies and, to a lesser extent British Columbia, with the arc of securities regulation in Canada over the past number of years. In other areas of the economy, this would be hypothesized as being at least partially attributable to western alienation generally, as the most important policy pronouncements are dictated by the population concentration in Ontario and Quebec. In the case of regulatory overreach, however, the convenient bogeyman of western alienation fails to have the same degree of resonance because each province has its own securities commission and any wounds associated with regulatory overreach are largely self-inflicted at the individual provincial securities regulation level. In fact, within all areas of the economy, securities regulation is one of the areas in which the provinces (particularly Alberta in its steadfast opposition to the national securities regulator initiatives) retain the highest degree of autonomy.

On the flip side, there is nothing to suggest that the securities commissions in western Canada have adopted regulations that are any more invasive or restrictive than those adopted by the Ontario Securities Commission. Yet, while Ontario-based respondents
were close to the level of neutrality on regulatory overreach in Q16-7, the western Canadian-based respondents supported the regulatory overreach proposition in significantly higher numbers. Without any industry-based linkages to point to, the simplest inference from the data is that western Canadians are simply less tolerant of increasing securities regulation generally than their Ontario-based counterparts.

**Career Experience** - The headline statistic from a quick analysis of the responses on DG20, DG21 and DG22 is that the early-career respondents are the one subgroup with the lowest average on Q16-7, producing a mean=2.89. Comparing DG20- Early Career to all other respondents in the PCD Study, the difference on Q16-7 is significant at a confidence level of 95% (Two Proportions Z-Test, P-value=0.0119).

*Figure 31 Q16-7: Linked Subgroups- Total Career Experience*

![Bar chart showing the distribution of responses by career experience levels]

What factors give rise to this outcome? There are two alternative intuitive explanations. The first is based on the belief that the length and nature of career experience alters perception on the regulatory overreach proposition stated in Q16-7. This theory would argue that exposure to the arc of changing securities regulation over a longer period of time may alter one's perception of the balance between shareholder protection and regulatory burden.

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432 In fact, DG20- Early-Career is the only subgroup in the PCD Study with a mean lower than the theoretical neutral outcome of 3.00. However, the difference between DG20 and the neutral value of 3.00 is not enough to be statistically significant at our minimum threshold (One Sample Wilcoxon Signed Rank Test, P-value=0.2365)
time gives public market participants more experience and history on which to assess the regulatory overreach proposition in Q16-7 and that this longer experience makes individuals more disposed to believe that regulators have overreached.

The alternative explanation is that the millennial generation is fundamentally more accepting of public regulations than the preceding Gen X and baby-boomer generations. This theory does not imply any causation between length of career experience and perception on regulatory overreach summarized in Q16-7, simply correlation based on generational characteristics. The PCD Study does not contain any data to support one explanation over the other, although it is argued that the first alternative is the more likely explanation absent any specific data as to the willingness of millennials to accept regulation more readily than earlier generations.

Pubco Experience- It was discussed previously (in the DG4-TSX analysis on Q16-7) that the relationship between general career experience and specific public company experience appears to work in the opposite direction for Q16-7 as compared to Q16-1. In the Q16-1 analysis, it was discussed that public company experience appears to act as a countervailing force to general career experience in terms of perception of the net benefit of being public, resulting in a negative correlation. In Q16-2, the correlation between these same two factors appears to be positive, meaning that public company experience correlates with an increase in the strength of belief in the regulatory overreach proposition. 433

433 In fact, running a Spearman Rank correlation analysis (the specifics of which are discussed later in Chapter 8- Correlation in the PCD Study) demonstrates a statistically significant correlation between these two items: P-value=0.08693, Rs=0.1023.
We can test the hypothesis, informed from these earlier observations on DG4-TSX, that the perceptions of the regulatory overreach hypothesis will increase in strength along with the amount public company experience. The difference between DG23- Limited Pubco Experience and DG25- Extensive Pubco Experience is significant at a 90% confidence level (Single-Tailed Two-Proportions Z-Test, P-value=0.0588) and just under the 95% confidence level. Further analysis of the correlation is undertaken later in Chapter 8- Correlation in the PCD Study Data.

### 7.5.3- Implications of PCD Study Outcomes in Q16-7 for Public Company Decline Analysis

The PCD Study was not designed to test causality on an empirical basis. As wonderful as it would be to identify a magic bullet, nobody has yet identified a realistic and practical method for empirically testing causality with reference to public company decline. Rather, the empirical data collected in the PCD Study is designed to be descriptive and illuminative in many areas that have been posited as being relevant to public company decline. It is also intended to provide additional context for deeper analysis of the phenomenon, hopefully providing instruction on specific areas to prioritize for completing further research.

Analysis of the PCD Study responses on question Q16-7 demonstrates that the majority of the respondents believe that the securities regulators have indeed overreached and...
tipped the balance against reporting issuers. Overall, nearly twice as many participants agreed with the regulatory overreach proposition in the PCD Study as disagreed with it. That is not an insignificant result, and certainly should be taken seriously by the securities regulators across the country. In particular, the relationship indicating that more experience in public companies leads to an increased belief that regulators have overreached should be soberly considered. The implication of this statistic is that the most knowledgeable and experienced subgroups in the PCD Study agreed most strongly with Q16-7, suggesting that, the more you deal with public markets, the more inclined you are to support the regulatory overreach proposition.

However, regulatory overreach is simply a perception. There is no objectively right or wrong answer to Q16-7, just opinions of market participants. The regulators are tasked with the critical function of protecting the integrity of the capital markets, but are entrusted to do so utilizing policy that is not so restrictive as to damage the robustness of the capital markets they are tasked with protecting. This is unquestionably a challenging balancing act, and it is unlikely that any regulator will ever execute his or her task to perfection in finding the optimal balance between maintaining market freedom and market protection.\footnote{Notably, the PCD Study does not solicit the opinions of the investor rights lobby on this topic, whose members may well evidence the overriding belief that the securities commissions have not yet reached far enough to protect public shareholder interests. However, the investor rights lobby does not exert material influence on the go public / stay private decision in Canada and therefore were not identified as a priority group to study in the PCD Study.}

The fact that the cross-section of market participants targeted for participation in the PCD Study evidence a significant level of belief that the regulatory field is tilted too far in favour of investor protection is noteworthy, and hopefully will provide further impetus to other provincial jurisdictions outside of the OSC who have yet to take up the gauntlet of burden reduction passed onto them by the CSA in Notice 51-404. The mandate for burden reduction of the OSC has been already delivered top-down from the governing Conservative government of Premier Doug Ford in Ontario. Ideally, the data gathered in the PCD Study on Q16-7 will push other securities commissions to also prioritize moving
forward with their own regulatory streamlining processes. Based on the geographic break-down on Q16-7, it would seem that Alberta-based senior business decision-makers in particular are anxious for this process to begin.

What the data on Q16-7 cannot do in any meaningful way is quantify the degree to which the perception of senior business decision-makers on the topic of regulatory overreach is responsible for the phenomenon of public company decline. Intuitively, the fact that twice as many respondents agree with the regulatory overreach proposition as disagree with it provides an indication that the perception of regulatory overreach in Canada is a contributing factor to public company decline. Assessing whether it’s a major factor or a minor factor requires us to continue down the analytical path further in the PCD Study.

7.6- Question 16-3: Impact of Technology- Part A

“Q16-3: Technological advancements have made it harder for public companies to compete with private companies.”

This particular question asks respondents’ opinions of the hypothesis that the immediate and universal access to public company information by all markets participants as a result of technological advances (proliferation of smartphones with internet capabilities, high speed data connections, easy access to SEDAR filings, data mining and monitoring programs to track competitor filings, etc.) has made it harder for public companies to compete with private companies. It was included in the PCD Study to provide an additional data point on the “Competitive Disclosure Disadvantage” factor, which was considered as a potential "sleeper" factor not widely discussed in the academic or business literature that might be demonstrated to be more important to public company decline than widely perceived.

The smartphone revolution truly began in Canada in July, 2008 with the commercial release of the first iPhone to consumers by Rogers Wireless. It has been previously discussed that the peak of public company listings in Canada occurred at roughly the same point in time, and that the public markets have been in continual decline in Canada ever since. Thus, the specific hypothesis behind Q16-3 is that proliferation of smartphone technology over the past dozen years has fundamentally changed the
competitive landscape between public companies and private companies in Canada. Whereas throughout the past decades there was a time-lag between the release of information and its dissemination, and it required a moderate degree of effort to access that information, every competitor, customer and supplier can now download apps to keep them apprised of every detail that is publicly reported by competitors within seconds of its release. If you are a senior executive of a public company meeting with a key supplier, that supplier will certainly know whether you have just reported blow-out positive quarterly financial results. They will also know if you are in financial trouble and a credit risk for further deliveries, even if you have never been late on payment thus far. Access to that information intuitively gives more negotiating power to the counterparties and makes it more difficult for the public company to retain their operating margins than for private company competitors.

Although other items related to the Competitive Disclosure Disadvantage topic are tested in the major matrix at Question 20, this hypothesis was considered sufficiently plausible that it merited an independent verification question in Q16-3. Based on the data in the PCD Study, however, the respondents do not support this hypothesis to any material degree. The mean across all respondents on Q16-3 was 2.58, with the number of agree and strongly agree answers amongst all respondents at only 13.9% compared to disagree and strongly disagree at 44.6%. More surprising, there was not a single demographic subgroup in the PCD Study for whom the number of agree / strongly agree responses outnumbered the disagree / strongly disagree responses.

The two demographic subgroups that were most favorable on the competitive disclosure disadvantage proposition as a result of technology proliferation in Q16-3 were DG10-SME’s (3.02 mean- the level of ambivalence) and DG5-Private Company at 2.87. This result is intuitive for SME’s, as smaller companies have fewer resources to compete on financial strength and would be expected to be more focused on the value of retaining privacy in competition. Private companies are accustomed to being able to keep their key financial data private in the competitive environment and would be expected to be wary of the prospect of having their data available to competitors, customers and suppliers.
The difference between DG5- Private Company and DG4-TSX in terms of agree and strongly agree responses is weakly statistically significance at the 90% confidence level (Two Proportions Z-Test, P-value=0.0842). The difference between DG10- SME and DG11- Non-SME in terms of agree and strongly agree responses is significant (Two Proportions Z-Test, P-value=0.001) above a 99% confidence level.

There are no material observations to be made in the analysis of which particular demographic subgroups are the least favorable on the proposition in Q16-3 other than the fact that those demographic subgroups come from across the different subgroup definitions.

One trend in the PCD Study data on Q16-3 that is worth noting is the positive relationship between years of total career experience and tendency to support the proposition in Q16-3,\(^{435}\) whereas there appears to a negative relationship between public company experience and the degree of support for Q16-3.\(^{436}\) Once again, the correlation between factors is discussed in Chapter 8- Correlation in the PCD Study.

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\(^{435}\) On Q16-3: DG20- Early Career, mean=2.39; DG21- Mid-Career, mean=2.57; DG22- Late-Career, mean=2.65.

\(^{436}\) On Q16-3, DG23- Limited Pubco Experience, mean=2.76; DG24- Moderate Pubco Experience, mean=2.62; DG25- Extensive Pubco Experience, mean=2.43.
Figure 34 Q16-3: Linked Subgroups- Total Career Experience

Figure 35, Q16-3: Linked Subgroups- Public Company Experience

With respect to overall career experience, the difference between DG20- Early Career and DG22- Late Career on the agree / strongly agree answers in Q16-3 is statistically significant at a 95% confidence level (Two Proportions Z-Test, P-value=0.0260). With respect to public company experience, the difference between DG24- Limited Pubco Experience and DG25- Extensive Pubco Experience for the disagree / strongly disagree side of the Likert Scale demonstrates strong statistical significance at the 99% confidence level (Two Proportions Z-Test, P-value=0.0096).

As in Q16-1, the implication of the data here is that general career experience is linked with a corresponding increase in one's belief in the Q16-3 proposition, but that public company experience operates in the opposite direction as a countervailing factor. Namely, the public company experience effect is sufficient to overcome the trendline of
general experience and invert the trendline.

7.7- Question 16-5: Impact of Technology- Part B

“Q16-5: The rapid pace of technological change has made it more attractive for private companies to sell out to larger corporations rather than pursue their own IPO.”

This particular question represents a simplistic formulation of the Fundamental Economic Change Hypothesis proposed by Dr. Jay Ritter and discussed earlier in this Dissertation in Chapter 1-Introduction and Chapter 2- Literature Review. Ritter's Fundamental Economic Change Hypothesis has many nuances beyond what can be properly expressed in a single sentence proposition, but it is submitted that Q16-5 articulates the key elements of the hypothesis.

Overall, the respondent group was moderately supportive of the Q16-5 proposition, with an average mean amongst all respondents of 3.27. For DG1- All Respondents, there were nearly twice as many individuals who selected agree or strongly agree (41.8%) compared to those who selected disagree or strongly disagree (21.1%). Although the support of the PCD Study participants on Q16-5 was not as high as for some of the other propositions, the support was widely distributed across all demographic groups. In fact, each of the 25 demographic subgroups assessed in the PCD Study generated a mean on Q16-3 above the level of neutrality at 3.00, as well as a higher percentage of agree and strongly agree responses than disagree and strongly disagree responses.

Table 15, Q16-5: Fundamental Economic Change Hypothesis

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<th>DG Subgroup</th>
<th>5 and 4 Strongly Agree and Agree</th>
<th>3 Neither Agree or Disagree</th>
<th>1 and 2 Strongly Disagree and Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>DG1: All Respondents</td>
<td>41.8%</td>
<td>37.0%</td>
<td>21.1%</td>
</tr>
<tr>
<td>DG2: Group I</td>
<td>40.9%</td>
<td>38.5%</td>
<td>20.7%</td>
</tr>
<tr>
<td>DG3: Group II</td>
<td>42.7%</td>
<td>35.8%</td>
<td>21.6%</td>
</tr>
<tr>
<td>DG4: TSX-Listed</td>
<td>35.8%</td>
<td>39.8%</td>
<td>24.5%</td>
</tr>
<tr>
<td>DG5: Private Company</td>
<td>47.9%</td>
<td>36.6%</td>
<td>15.5%</td>
</tr>
<tr>
<td>DG6: Lawyers</td>
<td>36.4%</td>
<td>47.7%</td>
<td>15.9%</td>
</tr>
<tr>
<td>DG7: Auditors</td>
<td>66.6%</td>
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</tr>
<tr>
<td>DG8: Investment Bankers</td>
<td>39.6%</td>
<td>33.3%</td>
<td>27.1%</td>
</tr>
<tr>
<td>DG9: Private Equity</td>
<td>33.9%</td>
<td>39.0%</td>
<td>27.1%</td>
</tr>
</tbody>
</table>
Overall, therefore, the Fundamental Economic Change hypothesis of Dr. Ritter secured broad support amongst the PCD respondents. Given the relative consistency in opinions expressed on Q16-5, there are only a couple of observations within the linked demographic groups worthy of further note. First, the DG7- Auditors subgroup appears to be an outlier on the favorable side with the highest percentage of agree and strongly agree responses at 66.6%. The difference between DG7- Auditors and the remainder of the Group II respondents on the agree and strongly agree responses is significant at a confidence level of 99% (Two Proportions Z-Test, P-value=0.0013). There is no obvious explanation as to why the auditors and public company accounting group would support this proposition at a significantly higher level than other public markets influencers. Possibly, it is a function of the higher level of risk that the DG7- Auditors subgroup perceives in the IPO process compared to other subgroups arising from the financial statement certification process. However, with no logical hypothesis arising from elsewhere in the data to explain the outcome, it remains an anomaly to be noted for future consideration in other research.

Second, the two extractive-sector industries both appear to rate the proposition in Q16-5
lower than DG14- Non-Resource. Whereas DG14-Non-Resource has 49.5% of its group choosing agree or strongly agree on Q16-5, DG12- Oil & Gas and DG13- Mining have only 28.9% and 29.4%, respectively, in agreement. Applying the Kruskal Wallis test, the difference in rankings between these three groups evidence weak statistical significance (Kruskal Wallis, P-value=0.0928). Follow-on pairwise analysis demonstrates that the most significant difference in responses here are between the DG12- Oil & Gas and DG15- Non-Resource subgroups (Wilcoxon Rank Sum Test, P-value=0.065). A possible explanation for these outcomes is that there is easier access to transactional liquidity for trade sales of companies outside of the extractive sector in Canada, which would be anticipated given the commodity downturn in Canada over the past few years. Another possible explanation is that technology has been less impactful in the extractive sector industries than in the non-resource industries with respect to general competitiveness and time-to-market.

No other differences within any of the linked subgroups are of sufficient size to rise to anything close to the minimum level of statistical significance.

On the whole, it is submitted that the PCD Study outcome on Q16-5 provides a level of support that the hypothesis identified by Ritter is recognized by the respondent group as being real. However, the extent of the support does not rise to a level which would indicate that this factor is likely as critical to the overall phenomenon of public company decline as suggested by Dr. Ritter. Rather, the Fundamental Economic Change hypothesis appears to be one of a series of factors that are each contributing to ongoing public company decline in Canada.

7.8- Question 16-4: Private Equity Impact- Part A

“Q16-4: Private equity financing to fund company growth in Canada is significantly easier to access now than it used to be.”

Q16-4, Q16-2 and Q16-6 all deal with the proliferation of private capital in Canada and its connection to the phenomenon of public company decline. Each of these three questions deals with a slightly different topic. Q16-4 simply asks respondents whether private equity funding has become easier to access in Canada. Q16-2 asks respondents to
give their opinion on the proposition that private equity capital should be the default
coloring option and that IPOs should only be considered when private equity capital is not
available. Q16-6 asks respondents to give their opinion on the proposition that public
company decline is primarily attributable to the increased availability of private equity.
The correlation between these three private equity-focused questions will be explored
later in this Dissertation.

Starting with Q16-4, this is the single question that scored highest of the group of seven
different sub-questions contained with Q16 with reference to mean. As such, there is a
high degree of consensus amongst senior decision-makers and public markets influencers
that private equity financing in Canada is indeed significantly easier to access than in
previous eras. The average mean for Q16-4 amongst all respondents was 3.72. On a
proportion basis, the number of respondents who chose agree or strongly agree on Q16-4
was 66.0%, compared to only 13.9% who chose disagree or strongly disagree with the
statement, a ratio exceeding four-to-one. Strongly held positions were even more skewed
on the favorable side. 25.1% of respondents chose strongly agree compared to 5.3% who
chose strongly disagree, a ratio of nearly five to one.

The high level of support for Q16-4 supports the text responses in the Qualitative
Analysis part of this Dissertation, pointing to increased availability of private equity
financing in Canada as one of the fundamental factors relevant to the public company
decline phenomenon.
From the above chart it is relatively clear that DG3- Group II respondents are more favorably disposed on Q16-4 than DG2- Group I respondents. The difference between DG3- Group II and DG2- Group I is strongly significant (Mann-Whitney Test, p<0.0001). There are two simple explanations for this difference between Group I and Group II respondents. The first is that the perception of the ease with which private equity funding can be secured is greater than the reality, therefore the Group I respondents perceive it as being more difficult than Group II respondents. The second is that the Group II respondents see a larger number of corporate transactions as advisors than the Group I respondents do as senior business decision-makers, giving the Group II respondents a broader exposure to the trends in private equity financing observed over a larger number of deals.

Notably, there is very little divergence between the DG2 subgroups, DG4 TSX and DG5-Private Company. As evidenced below, the senior decision-makers of the TSX-listed and private companies have the highest degree of consistency in their opinion on Q16-4.
As would be anticipated from the four constitute subgroups of public markets influencers, DG9- Private Equity scored the highest on Q16-4. Although expected, the outcome is notable in that DG9- Private Equity respondents possess the highest level of direct knowledge of the trendlines in the private equity market and its growth over the past number of years.

With respect to company size, non-SME's rate moderately higher on this question than SME’s. The observation to be made here is that the increase in access to private equity funding seems to be more accessible in larger companies than in smaller companies. This observation is noteworthy, but also unsurprising given the trajectory of the private equity market in the past number of years and the minimum investment size implemented.
by a number of the larger pools of private capital. The difference between DG10-SME's and DG1-Non-SME's is statistically significant at a 90% confidence level (Two Proportions Z-Test, P-value=0.0720).

Figure 39, Q16-4, SME vs. Non-SME

![Figure 39](image)

On an industry basis, another moderate difference can be observed in Q16-5 between the resource and non-resource companies.

Figure 40, Q16-4, Industry Breakdown

![Figure 40](image)

DG12- Oil & Gas and DG13- Mining companies appear to not find it as easy to access private equity in the current economic environment as DG14- Non-Resource companies. Running a Kruskal Wallis test on the three industry-based demographic subgroups, it is observed that there is a significant difference in the rankings of the subgroups on Q16-5 (Kruskal Wallis, P-value <0.001). Running the follow-on pairwise tests, it is apparent that the difference occurs between the two extractive sectors industries and the non resource-based subgroup (Wilcoxon Rank Sum Test, P-value<0.001) for mining v. non-
resources and P-value= 0.0046 for oil & gas vs non-resources). There is no statistically significant difference between the two extractive sector industry demographic subgroups, DG12- Oil & Gas and DG13- Mining. Again, given the recent depressed economic environment for extractive sector businesses, this outcome is not unexpected.

Geographically, DG16-Prairies (mean=3.40) are notably less favorable in their response to Q16-5 than any other geographic region. Sentiment on the Prairies indicates that the increased private equity accessibility increases have not been as accessible as across other regions in Canada. This difference is partly explained by the concentration of O&G companies in the Prairies respondents, but the mean for the Prairies excluding all DG12-O&G respondents (i.e., mean=3.53) is still lower than the mean of all other respondents outside of the Prairies (i.e., mean=3.83). The difference is statistically significant at a 90% confidence level (Two Proportions Z-Test, P-value=0.0518).

*Figure 41, Q16-4, Geographic Breakdown*

With respect to total career experience and public company experience, there is nothing noteworthy beyond the fact that these subgroups all exhibit a significant degree of similarity in their dispositions on this question.
Figure 42, Q16-4, Career and Public Company Experience Based

7.9- Question 16-2: Private Equity Impact- Part B

“Q16-2: Companies should consider an IPO to finance growth only when private equity funding is not readily available.”

Like Q16-1, Q16-2 again represents a general predisposition test on the topic of IPOs and the public markets, this time focusing specifically on the decision to take a company public or keep it private. This question is considered less core to the overall PCD Study analysis than Q16-1 and our discussion will, accordingly, focus only on the notable highlights.

In effect, Q16-2 states the proposition that IPOs should be pursued only as a last resort if private equity financing is not otherwise available. As such, Q16-2 was included in the PCD Study as a check to determine the embedded level of inherent anti-IPO bias that exists in the Canadian markets at this point in time. If a respondent agrees or strongly agrees with the proposition in Q16-2, they are exhibiting a fundamental bias against the public markets and in favour of private financing alternatives. That bias can be formed by personal experience with the public markets or through conclusions reached by observing the public markets and the experiences of others. Regardless of the source of the bias, the presence of an anti-IPO bias demonstrates that capital market proponents have a bigger hurdle to overcome when trying to identify policies that will stem the ongoing tide of public company decline in Canada.

What public capital markets proponents would like to see in the PCD Study data on Q16-2 is a mean that is significantly below the level of neutrality (3.00) in order to provide
evidence that market participants at least retain an open mind on pursuing IPOs. The actual outcome demonstrates a mean on Q16-2 for DG1- All Respondents at 2.95, which is slightly below the level of theoretical neutrality. However, the difference is not far enough below the level of neutrality to be statistically significant (One Sample Wilcoxon Signed Rank Test, P-value=0.1787). This has to be a disappointing outcome for public markets supporters, as it demonstrates that a certain level of bias does exist against even considering IPOs except as an alternative of last resort.

More bad news for future IPO prospects in Canada is drawn from analysis of the demographic breakdown of the Q16-2 responses.

*Figure 43, Q16-2, All Respondents and Group I v Group II*

![](image)

From the above chart, it is apparent that DG2- Group I respondents are significantly more favorable on Q16-2 than DG3-Group II respondents. DG2- Group I respondents have a mean of 3.11 on Q16-2, compared to a mean of 2.81 for DG3- Group II respondents. This difference is strongly significant, supporting a 99% confidence level (Mann-Whitney Test, P-value=0.0088). As the Group I participants are understood to be more influential in the ultimate going public decision than the Group II participants, this difference is discouraging for public markets proponents.

Even more concerning is the fact that, within the two component elements of DG2- Group I respondents, the senior business decision makers of DG5- Private Company are significantly more favorable on Q16-2 than DG4- TSX on a strong statistically significant basis (Mann-Whitney Test, P-value=0.0060). DG5- Private Company respondents have
a mean on Q16-2 of 3.37 compared to a mean of 2.92 for DG4- TSX respondents.

*Figure 44, Q16-2, Senior Decision Makers of TSX-Listed vs. Private companies*

Considering that the members of the DG5- Private Company subgroup are all senior decision-makers of TSX-eligible private companies in Canada, it is alarming that only one in five respondents from this subgroup disagreed or strongly disagreed with the proposition that IPOs should only be considered as a last resort when private equity financing options have been exhausted. This is particularly disconcerting when considering that the DG5- Private Company subgroup is the single most important demographic group to consider when looking at the prospects for arresting the public company decline phenomenon.

Within the constituent subgroups of DG3- Group II, it was expected that there would be one outlier subgroup that would generate a notably higher mean on Q16-2 than the rest. However, the expectation was that the outlier would be DG9- Private Equity as a result of the anticipated bias in favour of the merits of private equity financing options; however, the data from the PCD Study evidences that outlier group on Q16-2 is actually DG7- Auditors. The difference between DG7- Auditors and the other three subgroups of public markets influencers is statistically significant at a 99% confidence level (Two Proportions Z-Test, P-value=0.0022).
It is unknown why the group of auditors and public accountants that comprise DG7 evidence this higher degree of bias against IPOs. However, this higher-than-expected anti-public market sentiment is observed in the DG7-Auditor responses elsewhere in the PCD Study as an unanticipated recurring theme.

Also notable, yet anticipated, is the fact that the PCD Study shows that senior decision makers in DG10-SME’s have a higher degree of aversion to IPOs than senior decision makers in DG11-Non-SME’s. The difference is sufficient to be statistically significant at a confidence level of 95% (Two Proportions Z-Test, P-value=0.0105).

There is nothing particularly noteworthy in the data on the linked subgroups defined by industry or geography. However, with respect to overall career experience and specific public company experience, we see a similar effect to what was observed in Q16-1.
Once again, it appears that increased overall career experience is linked with a less favorable disposition towards IPOs, but increased public company experience operates as a countervailing force working in the opposite direction. If there is any solace to be found in the PCD Data on Q16-2 for public markets proponents, it is that increased familiarity with public companies is linked to increased positivity on IPOs in general. This suggests again that the reality of public markets experience is more positive than the perception by outsiders. Unfortunately, the prime target market in which to solicit future IPOs is generally not the senior decision-makers who already possess extensive public markets familiarity, but the senior decision-makers of private companies eligible to go public.

Finally, it is worth noting that, if a PCD Study respondent agrees with the anti-IPO proposition stated in Q16-2, inferentially they should also generally evidence a positive disposition on Q18-2 (favourability towards private equity option), a negative disposition
on Q18-1 (favourability towards IPO option) and, to a lesser degree, a negative disposition on Q16-1 in order to be internally consistent in disposition. As such, Q16-2 also serves as an internal validity check on Q18-1, Q18-2 and Q16-3 to validate the consistency of the answers on these questions between specific demographic subgroups. The correlations are discussed later in this Dissertation under Chapter 8- Correlation Analysis in the PCD Study.

7.10- Question 16-6: Private Equity Impact- Part C

“Q16-6: The decline in IPO volume is primarily attributable to the increased availability of private equity as an alternative.”

This is an interesting question in that it acts as a counterpoint to Q16-4 in the PCD Study, which asks participants whether private equity was easier to secure now than in the past. As discussed above, this proposition is widely supported by the respondents across the 25 demographic subgroups in the PCD Study. In Q16-6, however, the question asked is whether respondents believe that increased availability of private equity is the primary driver of the decline in IPO volume (and therefore, by extension, overall public company decline). This statement was included to test the hypothesis being advanced in the United States by de Fontenay, Ewens and Farre-Mensas, discussed previously in this Dissertation in Chapter 2- Literature Review, as to the critical role that increased access to private capital plays in overall public company decline. Overall, the proposition in Q16-6 was positively supported by respondents with a mean of 3.37, although at a materially lower level than in Q16-4, where the mean was 3.72.

Indeed, it was surprising that respondents rated this question as positively as they did, given the plethora of other contributing factors discussed in the PCD Study having been posited as contributing to public company decline. If this ranking is truly an accurate reflection of the beliefs of the respondent groups, that outcome is both extremely significant and extremely depressing to those who believe that regulatory streamlining initiatives offer a prospect of stemming the tide of public company decline. No amount of burden reduction in the public markets will reduce the availability of private equity...
financing as an alternative.\footnote{437 It stretches credulity to believe that, in order to stimulate the IPO markets, it would be palatable to governments to bring in new restrictions that limit private equity availability, thereby forcing companies back towards public financing options.}

If, indeed, private equity proliferation is the primary driver of public company decline, then no amount of burden reduction that streamlines IPOs and reduces the cost and complexity of continuous disclosure for public companies will be sufficient to stem the inevitable tide further decline in Canada.

At face value, it certainly appears that the respondent group in the PCD Study is supporting the proposition that increased private equity access is the primary cause of public company decline in Canada. However, it is submitted that the outcome on this Q16-6 should be considered in the context of the broader dataset of the PCD Study and taken with a proverbial grain of salt.

Looking at the qualitative data analysis from Q17, there is no question that the proliferation of private equity is one of the factors that is cited most frequently, and posited in the strongest language, in answer to the question: "Why do you think fewer senior business decision-makers are choosing to take their companies public". Yet, it was presented as an explanation in slightly less than half of the written explanations on Q17, similar in frequency to the obvious twin bogeymen of regulatory complexity and compliance costs. In other words, private capital proliferation was presented on an unprompted basis by 152 respondents in Q17, representing 46.1% of all responses. Yet 199 respondents, representing 55.4% of all responses on Q16-6, selected agree or strongly agree on essentially the same question. Many of the respondents who discussed private capital proliferation in the qualitative responses in Q17 also presented a number of other factors contributing to the phenomenon. This points to a small disconnect between the text answers in Q17 and Likert Scale answers to this question in Q16-6, if the responses in Q16-6 are all taken at face value.

Possibly, a number of the respondents in Q16-6 chose agree or strongly agree in
answering Q16-6 who consider private capital proliferation to be an important factor contributing to public company decline, but not necessarily the primary factor, to the exclusion of the other important factors, that they also list in Q17. This may well be an example of a case where the language utilized in this particular question was suboptimal in terms of its clarity. As such, it would appear to be reasonable to interpret the agree and strongly agree answers in Q16-6 as sometimes indicating a belief that private equity proliferation is one of the primary factors that they believe is contributing to public company decline, but failing to appreciate the distinction in Q16-6 that is asking if increased private equity is the primary factor.

Turning briefly to analysis of differences amongst linked DG subgroups, the proposition proposed in Q16-6 (mean=3.54) has notably higher support from DG4- Group II than DG3- Group I (mean=3.18) This difference is significant at a 99% confidence level (Mann-Whitney Test, P-value=0.0016).

Figure 49, Q16-6, Group I v. Group II Respondents

Often in the analysis of the PCD Study thus far, we have inferred that the perceptions of the DG2- Group I respondents might be more informed compared to the DG3- Group II respondents, who can be viewed as being one step removed from the decision-making process by virtue of their status as service providers in the public and private marketplace. DG2- Group I Respondents have direct experience as senior business decision-makers operating on the "front lines" of managing Canadian companies.

However, in reference to this particular issue, an argument can be advanced that the opposite is true. Even serial entrepreneurs from Group I, who become senior decision-
makers of multiple companies during the course of their career, are at most involved in a handful of private equity transactions. The perception of the Group I respondents as to the availability of private equity is, therefore, formed by a high level of direct involvement in a limited number of transactions. Of course, Group I respondents' perceptions on private equity will also be influenced by the experiences of other businesses that they observe, but these observations occur at a distance and the perceptions are formed based on hearsay evidence relayed to them by their friends and business associates.

In comparison, each of the subgroups that collectively form the class of Group II participants in the PCD Study are likely to be involved at a significant level in dozens, and possibly hundreds, of transactions involving private equity investment over the course of their careers. Although the depth of their experience on each individual transaction will likely be less than for a Group I participant, the breadth of their experience will be informed by a significantly larger number of transactions.

In terms of viewing trends in the availability of private equity investment over a period of time (Q16-2) and the impact of the proliferation of private equity on public company decline (Q16-6), it is submitted that increased depth of experience of the DG2- Group I respondents may lead to personal-experience bias, whereas the increased breadth of experience possessed by DG3- Group II respondents positions them to more objectively and accurately form opinions on overall market trends. As such, a strong argument can be made on Q16-6 (and Q16-2) that the Group II public markets influencers are positioned to provide at least equally informed, if not better informed, analysis on this particular topic.

With respect to DG4-TSX and DG5- Private Company, quick reference to the mean provides an indication that DG5- Private Company (mean=3.48) more strongly supports the proposition in Q16-6 than DG4- TSX (mean=2.98). This difference is strongly significant from a statistical point of view (Mann-Whitney Test, P-value=0.0047), supporting a 99% confidence level.
There are two possible explanations for this observed difference. The first is that the DG4- TSX respondents, having greater exposure to the public markets on a daily basis, can identify more alternative causes to explain public company decline from their personal experience, and are therefore less likely to rate private equity proliferation as the "primary" factor. The second explanation is that DG-4 TSX respondents, having already gone public, are more removed from the trendlines and opportunities presented by private equity alternatives than the DG-5 Private Company respondents who deal with private equity pitches more frequently. The PCD Study data does not point to one explanation or the other, and the cause of the observed differences may well be a result of a combination of both explanations.

Turning quickly to both geographic location and industry demographic analysis, it is apparent that the Western provinces and the extractive-sector industries are both less likely to support the proposition in Q16-6 than DG17- Ontario-based respondents and DG14- Non-Resource companies respondents.
Figure 52, Q16-6, Geography-Based

The explanation for these observations is previously discussed in the analysis of Q16-4, which evidenced similar differences based on these demographic factors. The extractive sector industries, concentrated in British Columbia and the Prairies, have had significantly more difficulty accessing private capital during the commodities downturn, compared to the non resource-based companies in the PCD Study concentrated in Ontario. As such, it is intuitive that the western respondents and the resource-based respondents are all more likely to identify factors other than easier accessibility to private capital as a primary factor contributing to public company decline.

On the whole, the data gathered in response to Q16-6 is amongst the most important in the entire PCD Study. Unequivocally, it supports the conclusion that the respondents exhibit a strong belief that private equity proliferation is a key factor contributing to the phenomenon of public company decline in Canada. Whether you can infer more than this conclusion from the data is a matter of some debate, based on the totality of the data gathered throughout the PCD Study. It is submitted that there is not a sufficient degree of clarity arising from the analysis of the data on Q16-6 to support a conclusion that private capital proliferation is the single-most important factor contributing to public company decline.

To reach such a critical conclusion, further research focusing specifically on this issue needs to be undertaken. Regardless, it is submitted that the data gathered in both Q17 and Q16-6 of the PCD Study on the importance of private capital proliferation to the phenomenon of public company decline makes it challenging to advance an argument.
that public policy intervention designed to stimulate the public markets in Canada will likely be successful unless it addresses the implication of this fact: private capital is significantly easier to access in Canada today than in previous eras. The financing choices to secure growth capital available to senior business decision-makers today are greater than they were when the public markets in Canada were thriving. Although not necessarily the primary factor contributing to public company decline, increased availability of private equity certainly has played a role in this phenomenon.

7.11- Question 18-1 and Question 18-2: General Preference for IPO or Private Equity Alternative

Question 18 outlines a simple hypothetical fact situation as follows:

“Imagine that you are the key decision-maker in ABC Inc., a highly successful private company based in Canada that now needs to access significant equity capital in order to finance its ambitious international expansion plans.

In answering the questions, please draw on the knowledge and beliefs that you have gained through your real-life experiences.

A very short background on ABC's status is as follows:

- ABC has been repeatedly approached by several investment banks offering to raise the necessary funds by sponsoring ABC in a TSX IPO.
- ABC has also been repeatedly approached by several private equity firms offering to give ABC the necessary funds by investing in ABC privately.

The entire management team of ABC is waiting for you to decide whether ABC will pursue an IPO or take investment from private equity. The strategy decision that will define the future of ABC is yours alone!

Q18-1: How likely are you to recommend the IPO option as ABC’s preferred course of action?

Q18-2: How likely are you to recommend the private equity option as ABC’s preferred course of action?”

The point of this short hypothetical fact pattern is to place the respondent (whether from
Group I or Group II) in the role of a key decision-maker, forced with determining which of the two alternative paths to pursue in order to access growth capital in a TSX-eligible private company: public offering through IPO or private equity financing. Significant additional capital is required by the company in the hypothetical fact pattern, so not completing any type of significant corporate finance transaction is not an option. However, the two options of pursuing an IPO track or a private equity financing in order to secure the necessary capital to execute the planned international expansion are both described as being clearly accessible.

In creating this question, no additional details were presented other than what is disclosed above in order to prevent further complication of the key point in this question and in order to prevent biasing the respondent towards one option or another.

Obviously, any real-world scenario will involve many more variables that will impact the ultimate decision-making process and may influence the ultimate outcome. However, the goal on Q18-1 and Q18-2 in the PCD Study is not to test the response to a real-world fact pattern, but to once again test the respondents’ predisposition towards public or private alternatives where both options are equally available. By providing only basic facts in the fact pattern, the goal is to have the output of this question reflect the respondents disposition towards IPOs and private equity financing options generally, rather than to seek their opinions on a set of facts that simulates a specific real-world scenario.

In a perfect world, the responses to Q18-1 and Q18-2 would have direct inverse correlation with a correlation coefficient of -1.0. However, in the real world, it is understood that various individuals will interpret the question differently. One interpretation of Q18 is that an answer of "unlikely" on Q18-1 should mandate an answer of "likely" on Q18-2, an answer of "highly likely" on question 18-1 should mandate an answer of "highly unlikely" on Q18-2, and so forth, thereby interpreting the two questions as mutually exclusive. This is the most obvious interpretation.

An alternative interpretation, however, is that the questions Q18-1 and Q18-2 are asking how likely the respondent is to put forth the option of IPO or private equity financing as an option for consideration to the management team, interpreting the two questions as
The majority of the respondents applied the first interpretation, but some respondents applied the second interpretation. The PCD Data evidences a Spearman Rank correlation coefficient between Q18-1 and Q18-2 of -0.6655 with P-value of less than 0.001. It is submitted that this correlation demonstrates a sufficiently strong degree of internal consistency in the answers between Q18-1 and Q18-2, evidencing that the respondent group on the whole did properly comprehend the inverse relationship between the two questions.

Yet, a number of respondents indicated that they were likely or extremely likely to recommend the private equity option in Q18-2, but also indicated that they were neutral on the IPO option in Q18-1. While some may perceive these two answers as inconsistent, it is in fact a normal phenomenon in survey research. This occurs because certain respondents, particularly in Canada, have an innate aversion to selecting negative answers and will instead select the neutral option in a survey even when they are, in reality, negatively disposed on a question. Five-Point Likert Scales are therefore amongst the most challenging research formats to analyze because of such proclivities, and the correlation coefficients are often lower for Five-Point Likert Scales based on opinion responses than in research assessing "hard" scientific data. As such, the observed correlation between Q18-1 and Q18 in the PCD Study at -0.6655 is robust by the standards of Five-Point Likert Scale data.

Reference to the headline statistics on Q18-1 and Q18-2 demonstrate that the respondent group in the PCD Study overall leans heavily towards favoring the Private Equity option over the IPO option. The mean for Q18-1 (the IPO as the preferred alternative) amongst DG1- All Respondents is 2.69 compared to 3.61 (the private equity option as the preferred alternative) for Q18-2. The percentage of respondents who indicated that they are likely or extremely likely to recommend the private equity option (i.e., 58.6%) is

more than 2.5 times the number of respondents who indicated that they are likely or extremely like to recommend the IPO option (23.1%). Any way you look to analyze the data to improve the picture, it is hard to find much encouragement for public markets advocates in the PCD Study responses in Q18-1 and Q18-2.

Figure 53, Q18-1, All Respondents and Group I v. Group II

The demographic subgroups most likely to recommend the IPO option in Q18-1 (and, by extension, the subgroups least likely to recommend the private equity option in Q18-2) are the following:

A quick visual inspection of the above charts demonstrates the overall strength of the support for the private equity alternative over the IPO alternative. The charts above also clearly point to another notable observation, which is that the DG2- Group I and DG3-Group II respondents evidence an unusually high level of similarity on both Q18-1 and Q18-2.
Again, it should be noted that the most positive subgroups listed above are not, in fact, positive on the IPO alternative in Q18-1 overall. In fact, not even the most favorable of the above subgroups (DG13- Mining) can be statistically validated as being more positive on the IPO option than the hypothetical neutral ranking of 3.00 (One Sample Wilcoxon Signed Rank, P-value=0.1952). The most optimistic statement that can be made about the above groups is that they are effectively neutral on the IPO proposition.

The demographic subgroups in the PCD Study most likely to recommend the private equity option in Q18-2 (and, by extension, the subgroups least likely to recommend the IPO in Q18-1) are the following:

What can be surmised from a quick review of the charts above? We observe immediately that two different sets of demographically-linked subgroups appear in the two different charts, evidencing that they fall on opposite ends of the spectrum in their dispositions.
towards IPOs and private equity. DG5- Private Company and DG23- Limited Pubco Experience are amongst the subgroups most favorable to the private equity option (and least favorable to the IPO option), while the linked subgroups DG4: TSX and DG25- Extensive Pubco Experience are amongst the subgroups most favorable to the IPO option (and least favorable to the private equity option). That observation points us towards the likelihood of a statistically significant difference in opinions existing between these particular linked subgroups. The extent of the differences is highly visible in the following set of charts:

Figure 57, Q18-1, Senior Decision-Makers of TSX-Listed vs. Private Companies

![Figure 57, Q18-1](chart1.png)

Figure 58, Q18-2, Senior Decision-Makers of TSX-Listed vs. Private Companies

![Figure 58, Q18-2](chart2.png)

Figure 59, Q18-1, Degree of Public Experience

![Figure 59, Q18-1](chart3.png)
When the statistical calculations are run, that the variation is strongly significant is easily confirmed. Calculating the significance of the difference on the agree / strongly agree responses between DG4- TSX and DG5- Private Company, and between DG23-Limited Pubco Experience and DG25- Extensive Pubco Experience, gives us P-values of 0.0024 or lower on each of the four calculations. As such, there is strong statistical significance in the difference on each of those four relationships at a confidence level of 99% and higher.

Based on these observations of linked subgroups, we can determine that increased exposure to, and experience working in, public companies is linked to a higher likelihood of a respondent being willing to recommend the IPO option in the PCD Study.

Looking further at the summary charts above, we see that the DG8- Investment Bankers and DG13- Mining subgroups also rate comparatively high in their willingness to support the IPO option. It is not at all surprising to see investment bankers being more likely to support the IPO than other demographic subgroups, given their increased familiarity with public companies and the opportunity for fee revenue associated with IPOs.

It is somewhat surprising to see DG13- Mining on this list of subgroups more favorable to IPOs, particularly since the public mining capital markets have been significantly depressed for several years. However, the pro-public market sentiment for the DG13- Mining subgroup is consistent with the opinions that were expressed by the mining company decision-makers discussed earlier in reference to Q16-1. As was discussed in the analysis on that topic in Q16-1, the junior mining exploration market in Canada has historically evidenced a high level of affinity with the public markets. Mining is also one
of the industry sectors that benefitted least from the increased ease of access to private equity. As such, senior decision-makers in the mining sector appear to have retained a more favorable opinion of the public markets overall than the other industry sectors in the PCD Study as evidenced by the following figures:

*Figure 61, Q18-1, Senior Decision-Makers of Mining vs. Non-Resource Companies*

![Figure 61, Q18-1, Senior Decision-Makers of Mining vs. Non-Resource Companies](image1)

*Figure 62, Q18-2, Senior Decision-Makers of Mining vs. Non-Resource Companies*

![Figure 62, Q18-2, Senior Decision-Makers of Mining vs. Non-Resource Companies](image2)

Finally on Q18-1 and Q18-2, a quick reference to the mean on Q18-1 and Q18-2 also points towards a notable difference between DG11-SME (mean on Q18-1 is 2.46; mean on Q18-2 is 3.79) and DG12- Non-SME (mean on Q18-1 is 2.88; mean on Q18-2 is 3.48). The difference between these two linked subgroups on Q18-1 achieves statistical significance (Mann-Whitney Test, P-value=0.0538) at a 90% confidence level. The difference between these two linked subgroups on Q18-2 falls just outside the minimum significance level (Mann-Whitney Test, P-value=0.1011). On the whole, it appears that senior decision-makers of larger companies are more positively disposed towards IPOs and public markets than the senior decision-makers of SME's, although the demographic factor is not as significant as the differences defined by the extent of public company experience.
7.12- Question 19: Pre-Money Premium Required to Achieve Equal Attractiveness

“Q-19: How much would the pre-money valuation premium offered to ABC by an investment bank with respect to an IPO transaction need to exceed the pre-money valuation offered to ABC with respect to a private equity transaction in order to make the two alternatives equally attractive to you? “

It has long been accepted in the capital markets that some level of valuation premium is required in most situations before the public and private financing alternatives will be equally attractive. The public premium is required in order to justify the extra time and expense associated with operating a public company. The goal in Q19 is, therefore, to determine, all other factors being equal, what the required level of pre-money premium is in order for the IPO option to be equally attractive to the private equity option.

With the benefit of hindsight, this question proved to be more challenging for respondents to answer than intended, and certainly could have been better articulated. A few respondents wrote editorial comments on the question design in the "Premium Required" text box, indicating that they believed additional context and background on the nature of the competing IPO and private equity alternatives was required before they could realistically determine what the necessary premium would be to make the two alternatives equally attractive. These comments included statements such as “it depends” and “need more facts”. This is an understandable position and demonstrated that the respondents were not generally confused about the nature of the question being asked, but were hesitant to commit to a generic equivalency premium without more detailed information to better understand the nuances of the two alternatives being presented.

To allow for the possibility that some respondents would not be comfortable committing to an equivalency premium without more detailed facts to support the analysis, Q-19 is designed to allow respondents to opt out of answering, either by simply skipping the question entirely or choosing the "I don't have an opinion on this question" option. Overall, just under 30% of respondents selected the option not to answer this question. This is unquestionably a high percentage of the PCD Study participants, and demonstrates the conceptual challenges that the respondents encountered with this
problem as a whole. Due to the challenges in question design, it is imprudent to analyze and draw inferences from the response data in Q19 using the same level of detailed subgroup analysis as is applied in other elements of PCD Study analysis. However, it is nevertheless submitted that a few valuable insights can be gleaned from the 70% of respondents who chose to provide substantive answers on Q19.

All percentages reported on Q19 below are based on the pool of respondents who provided a substantive answer; i.e., the percentage reported excludes from the calculation respondents who selected the "I have no opinion" option. The number of PCD Study respondents who provided a substantive answer to Q20 is 240, which still constitutes a significant cohort.

Q19 reflects a key embedded assumption, which is that the decision-maker will require some form of valuation premium in the IPO transaction in order to make the IPO and the private equity routes equally attractive. In other words, the private equity alternative will generally be the preferred transaction alternative if there is no premium offered for an IPO alternative. This assumption has historically constituted a key element of the IPO narrative in Canada, which is that companies pursing an IPO anticipate they will be able to command a pre-money valuation premium in the IPO transaction that exceeds what private equity investors are prepared to offer to their business.

Critically, as we saw in the qualitative responses in Q17, along with the quantitative responses to Q16-2 and Q16-4, there is a widely-held perception that private equity in Canada is now significantly easier to access than in previous generations. Also expressed frequently in the Q17 responses is the belief that private equity investors are now paying materially higher valuations on transactions because of an increased intensity of competition for good deals in which to invest. This is a fundamental change from the historical belief in Canada that the number of reasonable investment opportunities exceeded the pool of private capital seeking investments. If the perception expressed by the respondents in Q17 as to the proliferation of private equity is indeed accurate (validation of which is beyond the scope of this research project), the responses in Q19 become highly illuminative in terms of explaining the extent to which private capital
proliferation is linked to the phenomenon of Canadian public company decline as a whole.\textsuperscript{439}

Although Q19 reflects the embedded assumption, articulated above, that a valuation premium at some level is generally required in the IPO alternative before the private equity option and the IPO option are equally attractive, the question does clearly allow the opportunity for respondents to rebut this assumption by indicating that the two alternatives are equally attractive without any premium. This alternative was intentionally placed as the first alternative in the answer order to overcome any perceived bias in the framing of the question. Ultimately, 12.9\% of the Q19 respondents in the PCD Study indicate that they believe the IPO transaction is equally attractive without any premium.

In comparison, 77.5\% of respondents indicate that some form of valuation premium is indeed required in order for the IPO alternative to be equally attractive to the private equity alternative. An additional 9.6\% of respondents state that no potential premium is sufficient in their opinions to make the make the two transactions equally attractive.

As such, the presumption that private equity will be the preferred alternative in the PCD Study hypothetical fact situation without any IPO valuation premium is supported by the answers of 87.1\% of respondents in Q19. This level of support validates that the assumption reflected in the question design is, in fact, accurate in reflecting the opinion of the large majority of respondents in the PCD Study.

\begin{footnotesize}
\textsuperscript{439} There are numerous sources quantifying the amount of private equity dry powder (i.e., undeployed capital committed to private equity) that is available for investment around the world and tracking the increase in that number over a period of time. Clearly, the amount of dry powder available for private equity investment worldwide has increased exponentially over the past dozen years. Tawfic Hammoud and Vinay Shandal, "Canada Needs to Work on its Private Equity Game" The Globe and Mail (13 April 2017). The volume of private equity investments is also tracked and reported quarterly by the Canadian Venture Capital Association. See, for example, Darrell Pinto and David Kornacki, "VC & PE Canadian Market Overview / Q1 2019", Canadian Venture Capital Association, accessed July 30, 2019, online:<file:///C:/My%20Documents/Western%20Law/PhD%20Dissertation-%20Public%20Markets/Literature-Public%20Markets%20Decline/Stats/CVCA_EN_Canada_Q1-2019_Final.pdf>. However, there are no reliable public data-sources available on the amount of dry power that has been available in Canada specifically, a notable deficiency in the public record.
\end{footnotesize}
Turning to the quantification of the required valuation premium to achieve equality in attractiveness of the IPO and private equity alternatives, the average premium in the PCD Study is 26.6% calculated based on the mean. To allow for the potential impact of outliers, the median was also calculated at 25% for all respondents on Q19. However, it should be noted that the median was on the boundary between 20% and 25% (with no responses between 20% and 25%), so the most accurate summary of central tendency in Q19, adjusting for the impact of outliers on the upper end, would be to say that the average premium required for equality of preferences is between 20% and 25%.

Amongst the various demographic subgroups in the PCD Study, there was a surprising degree of consistency in Q19. No significant subgroup evidenced a materially different position than the other groups, and even the range of the average premium required for the two paths to be equally attractive was not as large as might have been expected (i.e., 21.8% at the minimum to 39.6% at the maximum).

Ultimately, the goal for including Q19 in the PCD Study was to come up with a percentage number that reasonably reflects the point where the IPO and private equity options become equally attractive for the average respondent. As a topic for future research thereafter, it would be a relatively simply matter to determine whether the average IPO valuation premiums being seen in the market compared to available private equity valuations are indeed reaching the minimum premium required. If the specified premiums necessary to achieve equality in preference between the two alternatives are not being reflected in the market, then an inference can be drawn that the inability to secure the required valuation premium is a factor contributing to public company decline.

Although the execution of the original intention behind Q19 was admittedly less than perfect in hindsight, it is submitted that the data collected in this question certainly retains value on the broader topic of public company decline. While not being sufficiently robust to serve as a single definitive datapoint on which to base the follow-on research due to the limitations of the question discussed above, it is submitted that the data does provide a useful measure to serve as a starting point for comparison in other research studies.
Intuitively, the required premium of 20% to 25% in an IPO transaction indicated by analysis of the median in the PCD Study is reasonable and within the range that would have been anticipated in the response. If that range of premium is not being reflected in the current IPO market, then that fact provides a level of support to a particular hypothesis articulated by a number of PCD Study respondents in Q17; namely, that the private financing valuation increases, attributable to an excess of private equity capital chasing the same attractive deals in Canada, has reduced the premium between IPO and private equity financing alternatives below the threshold at which senior decision makers view as necessary to reach equality between public and private financing options. Certainly, the perceived reduction in valuation spread over the past number of years between IPO financings and private equity alternatives is an area that merits further study to better understand to what degree this issue is linked to overall public company decline.

7.13- Question 12: Recent Consideration of Going Public by TSX-Eligible Private Companies

“Q-12: Has your private company considered going public? Select the answer that best applies.”

Question 12 reflects the expressed intentions of the respondents from DG5-Private Company subgroup. As a reminder, the eligibility conditions of this subcategory determine that all the respondents in DG5-Private Company subgroup are from companies that are of a sufficient size that they are eligible to go public on the TSX, and significantly exceed the TSX minimum listing criteria. In fact, review of the PCD Study data demonstrates that nearly half (i.e., 33 out of 68) of the responses in this subgroup come from key decision-makers of non-SME companies, confirming that they have more than 500 employees or $50 million in annual revenue. Over 20% of the respondents in Q12 (i.e., 14 out of 68) are senior business decision-makers of companies with more than $250 million in revenue. As such, DG5-Private Company respondents should represent fertile ground for future IPOs all other factors remaining equal.

The implication of the PCD Study data, however, is that there is little momentum at the current time to suggest that the existing supply-side constraint with respect to prospective IPO candidate companies will change in the near future. Of 68 respondents in the DG5-
Private Company subgroup who answered Q12, not a single respondent indicated that they have current plans to go public. Moreover, 86.7% of the DG5-Private Company respondents indicated that they have either not considered an IPO option or have already rejected the idea of pursuing an IPO in the future.

Figure 63, Q12, DG5-Private Company

To conclude that the sentiment expressed by the senior business decision makers of TSX-eligible private companies who responded to Q12 does not bode well for a significant uptick in IPO volume is to state an obviosity. The data may not be overly surprising considering the terrible state of the present IPO market in Canada, but it is nevertheless ominous for the future of our public markets. There is no escaping the conclusion that, at this point in time, the pool of companies that are open to the idea of pursuing an IPO in Canada is a small subset of the companies that are currently eligible to pursue an IPO. Although we have certainly witnessed a difficult period in the two key extractive industry sectors over the past five years, the cyclical commodity downturn cannot be blamed for the complete lack of IPO activity. Benefitting from a relatively low Canadian dollar that is significantly influenced by the commodity downturn, the non-resource portion of the Canadian economy has performed well, as evidenced by consistent GDP growth over the last five years. Yet, this period of economic growth across all non resource-based industries has not led to any resurgence in non-resource IPO activity in Canada. Clearly, waiting for Canadian IPOs volume to return to historic volumes absent some type of

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440 Statistics Canada, "Gross domestic product (GDP) at basic prices, by industry, annual average (x 1,000,000)" online statistical chart on Government of Canada- Statistics Canada website, accessed July 22, 2019, online: <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3610043403>.
significant intervention represents a fool’s hope.

7.14- Question 10: Recent Consideration of Going-Private Transactions by TSX-Listed Public Companies

“Q-10: You have indicated that you are a Senior Business Decision-Maker of a TSX-listed company. Has your public company considered going private?”

Turning now to analysis of Question 10, which reflects the opinion of senior business decision makers of TSX-listed companies in the DG4-TSX subgroup. This question represents the mirror image of the question asked of private company senior business decision makers discussed above in Q12. As the respondents answering Q12 are all Senior Decision Makers of companies that are already public and listed on the TSX, the question is simply asking whether they are satisfied with their experience as public companies or whether they are considering a going private transaction.

Just over half of all DG4-TSX respondents on Q12 (i.e., 56.4%) reported that their companies had not considered a going-private transaction and were satisfied remaining as a public company. The other 43.6% of respondents indicated either that: (i) they had considered going private and decided not to (20.2%); (2) are still in the process of evaluating a going-private transaction (22.3%); or (3) have adopted a definitive plan to go private (1%).

The PCD Study of the senior decision-makers of TSX-listed companies on this question can be interpreted in a variety of ways. An optimistic interpretation would point out that there does not appear to be an imminent risk of a slew of going-private transactions, with only a single respondent to Q12 indicating that a going-private transaction was in their company's immediate plans. While that is accurate, going-private transactions are often as costly, time-consuming and complex as IPOs, particularly if there is any related-party element to the going-private transaction that brings Multilateral Instrument 61-101 into play.

Public company decline has occurred over the past dozen years at an alarming rate in Canada primarily as a result of organic attrition in the public markets; i.e., the loss of
public companies through acquisition and consolidation without a sufficient number of new listings to replace the losses. This history demonstrates that a company that is unsatisfied with its existing public status may well look towards selling itself as a means of exiting the public markets rather than undergoing the cost, hassle and legal risk associated with a going-private transaction.

A pessimistic interpretation of the data derived from Question 10 of the PCD Study, on the other hand, would point to the fact that over 40% of the senior decision-makers are sufficiently unhappy with their public company status that they have actively considered a going-private transaction at some point. Even those who have concluded that a going-private transaction is not optimal for the businesses may still well be looking to secure a public exit by executing some form of corporate sale transaction. That question was not asked of respondents. As such, while the PCD Study data does not portend an imminent collapse of the public markets in Canada resulting from a stampede of going-private transactions, it is equivocal, at best, and offers little in the way of comfort to the supporters of the Canadian public markets hoping for a recovery.

What else can be gleaned from analysis of the responses on Question 10? The relevant academic literature, the business media commentary and the Qualitative Analysis component of the PCD Study all evidence a widely-held belief that SME's are having a significantly more difficult time succeeding in the public markets than larger companies. If that is an accurate perception, then one would expect to observe a lower percentage of DG4-TSX respondents from SME companies indicating that they are satisfied with remaining as a public company, and a corresponding higher percentage indicating that they are considering or planning a going-private transaction in the future, than for their non-SME counterparts (i.e., Group I- Senior Business Decision-Makers of larger TSX-listed companies).

*Figure 64, Q10, DG4-TSX*
When looking at the data, we observe that 39.3% of the DG10-SME subgroup stated that they remain in active consideration of a going-private. Another 17.9% have previously explored going-private options, but have decided not to pursue a going-private transaction at this time. Only 42.9% of DG10-SME respondents indicate that they are sufficiently satisfied with the experience of being public on the TSX such that they have not actively considered a going-private transaction.

The data are indeed more positive with respect to contentment with remaining as a public company for respondents from the DG5-Non-SME subgroup. For this subgroup, 60.9% of decision-makers from Non-SME companies indicated that they are satisfied with being public and have not considered a going-private transaction. Another 21.9% considered going-private opportunities and decided to remain public. Only 15.6% of DG5-Non-SME respondents continue to have a going-private transaction under consideration.

Applying statistical analysis, the hypothesis that senior business decision-makers of Non-SME’s are more satisfied remaining as a public company than their SME counterparts is demonstrated at a confidence level of 90% (Single-Tailed Two Proportions Z-Test, P-value=0.0842). The lower confidence level here is due to the small sample size in the PCD Study (n=28) of respondents whose companies qualify as fitting within both the...
DG10-SME and DG4-TSX subgroups. However, using the same Single-Tailed Two Proportions Z-Test, the hypothesis that respondents associated with TSX-listed SME's are more likely to be considering going-private transactions than TSX-listed non-SME's is supported at a strong level of statistical significance (P-value=0.0037) notwithstanding the small sample size. This difference is supported at a confidence level of 99%. In combination, both of these observations provide support to the proposition that TSX-listed SME’s have a less favorable experience as public companies than TSX-listed non-SME’s.

Considering the implication of the data from Question 10 and Question 12 together, the overall sentiment expressed by the two subgroups of senior business decision-makers in Canada does not bode well for a significant uptick in Canadian IPO volume in the near future absent significant intervention. However, it also does not portend an imminent stampede to the door in the form of going-private transactions on the TSX. Rather, the implication of the data is that, absent a significant intervention, the current trendlines in public company decline will continue to occur and the number of public companies listed on the TSX will further decline through overall attrition as the volume of future IPOs is insufficient to replace the listings lost through merger and acquisition.

7.15- Question 20: Ranking Potential Downside Risks in IPOs

“Q20- In making your decision on the future direction of ABC, how important are each of the following potential downside risks associated with pursuing the TSX IPO in your analysis?”

7.15.1- Q20 Overview

Q20 is a large matrix question, representing one of the core elements of the PCD Study. Q20 operates in concert with Q17, which earlier asks respondents (without the benefit of seeing the comprehensive list of downside risk factors suggested in the literature) to give their opinion as to why fewer companies are going public in Canada. Here, Q20 provides respondents with the extensive list of factors gleaned from the literature that have been posited by others as potentially contributing to public company decline, then asks the respondents how important each factor is in their analysis of whether to pursue an IPO option versus a private equity financing option in the hypothetical fact pattern posed in
Q18. Thereby, Q20 summarizes the posited potential downsides that may be keeping decision-makers away from pursuing IPOs in Canada and allows us to assess which of these factors are most important in the deliberations of the key decision-makers and influencers.

Once again, it should be noted clearly that the PCD Study was not designed to establish causality. The downside factors that rank most highly in Q20 are not, as a result, statistically proven to be the specific causes of public company decline within the scientific definition of cause and effect. There is no ability, for example, to conclude from the PCD Study data that Factor 1 is 30% responsible for the phenomenon of public company decline in Canada while Factor 2 is 20% responsible, or even that Factor 1 and Factor 2 can be proven to be causal on any statistical basis of a decision to avoid an IPO.

Moreover, some of the critical factors that are contributing causes of public company decline are not downsides associated with being public. For example, both the proliferation of private equity as an alternative to the public markets and the Fundamental Economic Change Hypothesis operate independently of any negative factors associated with the public markets. Q20 is limited to assessing downsides associated with being public, and does not consider those other contributing factors.

What is being tested in Q20 is the level of importance of the key downside factors associated with being public to the IPO decision-making process. By the application of inference and simple logic, the more important that a down-side risk factor associated with being a public company is in the decision-making process, the greater the degree to which that particular factor ultimately influences the path that is chosen by the decision-makers. As such, while the data in Q20 does not prove statistical causation, it is nevertheless instructive on the ultimate question of what downside factors may be amongst the most significant in contributing to the phenomenon of public company decline. Yet, the output on Q20 must also be considered in combination with the relative importance of the other potential factors contributing to public company decline that are not public company downsides in order to assess the full picture of relative causality.

Much of the analysis on Q20 focuses on the ranking of the various factors according to
mean. This is the simplest way of organizing the large volume of data collected in Q20 and conveying the results in summary form. Reference to the mean does not provide any information as to the variability in responses on a particular factor. However, variability in responses for each factor is presented visually in Figure 66, Q20- Rank Order of IPO / Public Downsides, All Respondents.

It should be noted that the volume and depth of the data collected in Q20 (and, by extension, in Q21) provide an opportunity for analysis (through a variety of forms) in significantly greater depth and statistical sophistication than what is included in the following analysis. As discussed earlier in this Dissertation, the PCD Study represents the first time that an attempt has been made to collect any type of similar data on public company risk factors from a large cohort of senior business decision-makers and public markets influencers. However, even in a Dissertation format, there is a practical limit to the length of a document that can be filed and this Dissertation already runs to over 125,000 words without expanding the analysis on Q20 or Q21 any further.

Also, there is a limit to the statistics analytical capacity of the author, coming from a legal background and not a formal statistics background. As such, it is hoped that the data gathered in the PCD Study will underpin follow-on research efforts beyond the scope of the analysis in this Dissertation, in which the author collaborates with other statistical analysis experts to engage in more sophisticated statistical analysis of the PCD Study data.

In particular, one area identified that is ripe for further analysis is in terms of predicting responses in Q18-1 and Q18-2 based on the response to the downside factors in Q20 and the upside factors in Q21 using ordinal regressions. However, those future collaborations are for another day in another forum.

**7.15.2- Summary Tables**

Turning now to analysis of the PCD Study data collected for Q20, one of the biggest challenges in conveying the research output is determining how to best summarize and present the most important information. There are 31 different potential downside factors associated with being public included in Q20. This Dissertation has consistently utilized
25 specific demographic groups throughout the PCD Study analysis, and will continue to
do so here for the purposes of consistency. However, discussing each demographic
subgroup’s specific disposition on each specific downside factor associated with the
public markets in Q20 results in 775 different permutations to consider. Even
summarizing the data in chart form at an individual subgroup level requires 25 different
charts for Q20 and 25 different charts for Q21 to display the summary data (each with 31
different rows of data). 441

Instead, presentation methodologies have been selected for Q20 and Q21 herein that
allow readers of this Dissertation to digest the largest amounts of summary data as
quickly as possible in simple visual formats. The result is fewer charts and tables with
large amounts of data in each table. These tables in particular are designed to enable the
identification of critical trends and outcomes across the entire dataset of 31 questions and
25 demographic subgroups.

In each of Q20 and Q21, a stacked bar graph format is utilized to summarize the overall
rank-order for the various factors tested. The data are organized sequentially according
to the mean as determined by the all PCD respondents (i.e., DG 1- All Respondents).
This stacked bar graph also demonstrates the distribution of the answers on the 5-Point
Likert Scale used for these questions. Next, a series of tables is presented that discloses
the mean and the rank order of each factor according to each of the 25 demographic
subgroups. In each of these tables, the five highest means or rank orders (white
backgrounds) and five lowest means or rank orders (black background) with respect to
each particular factor amongst the 25 demographic subgroups are highlighted.

441 Those 50 individual subgroup charts have been compiled, but are omitted from inclusion in this
Dissertation for reasons of limiting the length of the document. Formatting rules for this Dissertation
require that any charts be included in the body of the document, and not in the appendices. Adding those
50 charts into this document along with a summary analysis of each chart would add an additional 100-150
pages in length to this document at the minimum. Clearly, that would be too much depth of analysis on
Q20 and Q21. As such, the 25 individual subgroup charts for Q20 and the 25 individual subgroup charts
for Q21 are being withheld from inclusion in this Dissertation, but will be made available for review by any
interested party who desires to analyze the response data in further depth upon written request to the author
via email at contact@groupwilson.com.
Unlike Q16 and Q18 previously, the middle position (i.e., a response of “3”) on the 5 Point Likert scale used in Q20 is not neutral, but rather "moderately important". An answer of “1” on Q20 is defined as “Not at all Important”, and an answer of “5” is defined as “Extremely Important”. Positions “2” and “4” are not defined, but clearly represent mid-points between the extremes of “1” or “5” and “moderately important” in the middle. Visually, the Likert Scale on both Q20 and Q21 were presented in the PCD Study as follows:

Figure 65- Likert Scale Response Layout for Q20 and Q21

As a general, yet critical, observation on Q20, it should be noted that the bulk of the analysis on this question is a discussion about the comparative ranking and importance of 31 downside factors associated with IPOs and public companies that have been suggested in literature as being potential contributors to public company decline. The fact that a specific factor ranks near the bottom of a list in the rank order does not indicate that it is inherently unimportant or of little consequence to the decision-making process. In fact, the data indicates that most of the factors included in Q20 are not insignificant to the decision-making process. A downside factor that is of moderate importance is still clearly a factor that can be significant in the course of IPO deliberations. Moreover, a number of moderately important downside risk factors can have a cumulative effect of combining to create a strong disincentive to pursue an IPO option when private financing alternatives are available. It is not necessary to identify a group of extremely important downside factors in order to collectively explain the phenomenon of public company decline. Notably, the lowest mean of any of the 31 factors tested in Q20 came in at 2.55, which is a level at which an argument can be made that the factor continues to have relevance in the decision-making process.
In total, 19 out of the 31 factors in Q20 scored with a mean higher than 3.00. The implications of this particular observation are once again ominous for the proponents of public capital markets in Canada. Any hope that the PCD Study would demonstrate that there are only a few contributing factors with material relevance to the public company decline phenomenon is simply not supported by the data. Rather, the overall ratings on Q20 alone make it apparent that the factors contributing to public company decline are numerous and complex, ruling out any simple fixes to reverse public company decline.

The core of the analysis on Q20 will begin with a discussion of the rankings of the 31 different factors tested, grouped according to topical categories, to provide a context for the ensuing analysis. Second, will be the presentation of a number of summary tables that serve as the foundation of the Q20 analysis. Third, the downside factor associated with public companies that was ranked most as the single most important factor of the 31 factors tested is discussed. Fourth, the top ranked factors from the PCD Study will be discussed in the context of what they imply as to the importance the topical categories into which they are categorized. Fifth, the PCD Study data will be analyzed in more detail according to these topical categories. Finally, the perspectives and differences exhibited within the demographic subgroups will be considered to highlight any key findings not otherwise articulated.

To bring the big-picture trends in the PCD Study into sharper focus, and to assist in digesting the large amount of data collected throughout Q20 more quickly, the 31 downside factors have been broken down into eight topical categories. These categories and the overall rank order of each of the 31 factors according to mean is summarized in Table 16, Q20, Overall Ranking and Breakdown of Factors by Categories- Downside Factors. The rankings in this table are based on all responses received in the PCD Study.

This is followed by Figure 66, Q20- Rank Order of IPO / Public Downsides, All Respondents. This figure shows the variability and range of the responses in the PCD Study on each of the 31 factors for all respondents in the PCD Study.

Next is Table 17, Q20- Mean Analysis by Demographic Group, Part I and Table 18, Q20- Mean Analysis by Demographic Group, Part II. The information in these tables has been
broken into two separate tables, as the responses from the 25 different demographic subgroups could not be presented legibly on a single sheet of paper. The means indicated in these tables are the means for the particular factor according to the specific demographic subgroup indicated. Also, the top 5 and bottom 5 responses in each row are calculated on the basis of all 25 different demographic subgroups. To see all of the top 5 and bottom 5 of each category, one needs to look at both tables to see results of the 25 subgroups.

The last in the string of summary tables are Table 19, Q20- Rank Analysis (Rank 1-31) by Demographic Group, Part I and Table 20, Q20- Rank Analysis (Rank 1-31) by Demographic Group, Part II. Once again, the data are broken into two separate tables in order to legibly summarize the responses from the 25 different demographic subgroups. The ranking numbers indicated in these tables are the ranking of the particular factor according to the specific demographic subgroup indicated. Again, the top 5 and bottom 5 results in each row are calculated on the basis of all 25 different demographic subgroups. The reader should consult both tables to see all subgroups.

### Table 16, Q20, Overall Ranking and Breakdown of Factors by Categories- Downside Factors

<table>
<thead>
<tr>
<th>Downside Category</th>
<th>Q# 20- Specific Downside Summary</th>
<th>Rank Order (by DG1)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Regulatory Complexity / Regulatory Overreach</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Increasing compliance complexity</td>
<td>3</td>
</tr>
<tr>
<td>12</td>
<td>Belief that regulatory environment favors minority investor protection above the interest of the public company</td>
<td>21</td>
</tr>
<tr>
<td>17</td>
<td>Business Acquisition Reports</td>
<td>26</td>
</tr>
<tr>
<td>18</td>
<td>Financial statement certification</td>
<td>31</td>
</tr>
<tr>
<td>23</td>
<td>Related party transaction disclosure/restrictions</td>
<td>29</td>
</tr>
<tr>
<td>24</td>
<td>Redundancy of filing requirements</td>
<td>9</td>
</tr>
<tr>
<td>28</td>
<td>Evolving corporate governance practices</td>
<td>27</td>
</tr>
<tr>
<td><strong>Time / Distraction / Effort of Going and Being Public</strong></td>
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<tr>
<td>1</td>
<td>Time to complete IPO</td>
<td>10</td>
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<td>2</td>
<td>Management effort to complete IPO</td>
<td>7</td>
</tr>
<tr>
<td>5</td>
<td>General public management distractions</td>
<td>4</td>
</tr>
<tr>
<td>13</td>
<td>Proxy advisory firms</td>
<td>18</td>
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<tr>
<td>19</td>
<td>Inability to focus on core business</td>
<td>6</td>
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<tr>
<td>27</td>
<td>Responding to uninformed shareholders</td>
<td>20</td>
</tr>
<tr>
<td>30</td>
<td>Management overall public company fatigue</td>
<td>14</td>
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<tr>
<td><strong>Public Company Costs</strong></td>
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<tr>
<td>3</td>
<td>Cost of IPO</td>
<td>5</td>
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<tr>
<td>7</td>
<td>Increasing compliance cost</td>
<td>2</td>
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<tr>
<td>Downside Category</td>
<td>Q# 20-</td>
<td>Specific Downside Summary</td>
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<tr>
<td><strong>Liquidity, Valuation and Access to Capital</strong></td>
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<td>10</td>
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<td>Trading volume concerns</td>
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<td>11</td>
<td></td>
<td>Analyst coverage concerns</td>
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<tr>
<td>31</td>
<td></td>
<td>Lack of surety of access to follow-on financing</td>
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<tr>
<td><strong>Public Disclosure Disadvantage and Privacy</strong></td>
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<td>4</td>
<td></td>
<td>Executive comp disclosure</td>
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<td>8</td>
<td></td>
<td>Insider reporting requirements</td>
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<tr>
<td>16</td>
<td></td>
<td>Competitive disclosure disadvantage</td>
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<tr>
<td>20</td>
<td></td>
<td>Public disclosure of shares and income</td>
</tr>
<tr>
<td>21</td>
<td></td>
<td>Reputational risk</td>
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<tr>
<td><strong>Short Termism</strong></td>
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<tr>
<td>15</td>
<td></td>
<td>Short-termism by shareholders</td>
</tr>
<tr>
<td>22</td>
<td></td>
<td>Pressures of meeting quarterly targets</td>
</tr>
<tr>
<td>25</td>
<td></td>
<td>Short sellers</td>
</tr>
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<td><strong>Company Control Concerns</strong></td>
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<tr>
<td>14</td>
<td></td>
<td>Special interest groups</td>
</tr>
<tr>
<td>26</td>
<td></td>
<td>Proxy battle risk</td>
</tr>
<tr>
<td>29</td>
<td></td>
<td>Hostile takeover risk</td>
</tr>
<tr>
<td><strong>Legal Risk</strong></td>
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<tr>
<td>9</td>
<td></td>
<td>Increased litigation risk</td>
</tr>
</tbody>
</table>
### Question 20, Potential IPO / Public Downsides, DG1- All Respondents

| 22. Pressures of meeting quarterly targets | 33.5% | 40.5% | 26.4% | 15% | 0% |
| 7. Increasing compliance cost | 16.9% | 40.5% | 30.4% | 5.2% | 0% |
| 6. Increasing compliance complexity | 27.9% | 33.9% | 21.6% | 3.9% | 0% |
| 5. General management distractions | 29.5% | 30.5% | 21.5% | 3.5% | 0% |
| 3. Cost of IPO | 22.8% | 39.5% | 21.3% | 2.8% | 0% |
| 19. Inability to focus on core business | 24.4% | 36.5% | 22.0% | 12.1% | 0% |
| 2. Management effort to complete IPO | 19.4% | 39.9% | 15.8% | 19.3% | 0% |
| 10. Trading volume concerns | 16.9% | 34.7% | 20.8% | 13.0% | 0% |
| 24. Redundancy of filing requirements | 18.7% | 31.1% | 25.2% | 17.4% | 0% |
| 1. Time to complete IPO | 15.4% | 55.6% | 27.9% | 15.3% | 0% |
| 9. Increased litigation risk | 15.6% | 23.9% | 30.0% | 20.8% | 0% |
| 31. Lack of surety of access to follow-on financing | 12.3% | 36.6% | 24.5% | 17.6% | 0% |
| 16. Competitive disclosure disadvantage | 15.7% | 36.6% | 29.5% | 15.2% | 0% |
| 30. Management overall public company fatigue | 15.6% | 21.9% | 27.0% | 25.0% | 0% |
| 15. Short-termism amongst shareholders | 12.5% | 31.1% | 28.2% | 21.9% | 0% |
| 11. Analyst coverage concerns | 11.4% | 29.5% | 30.5% | 22.0% | 0% |
| 26. Proxy battle risk | 7.7% | 28.5% | 56.4% | 22.8% | 0% |
| 13. Proxy advisory firms | 10.3% | 23.2% | 31.4% | 24.4% | 0% |
| 28. Evolving corporate governance practices | 6.6% | 25.7% | 35.4% | 24.0% | 11.6% |
| 27. Responding to uniformed shareholders | 12.5% | 25.7% | 28.2% | 25.7% | 11.6% |
| 12. General regulatory overreach | 6.0% | 24.6% | 34.6% | 21.6% | 10.5% |
| 4. Executive comp disclosure | 15.6% | 36.6% | 29.5% | 15.2% | 0% |
| 21. Reputational risk | 31.1% | 24.7% | 28.2% | 21.7% | 0% |
| 25. Short-sellers | 7.7% | 29.5% | 39.6% | 22.0% | 0% |
| 14. Special interest groups | 9.1% | 29.5% | 30.8% | 20.2% | 11.3% |
| 17. Business Acquisition Reports | 7.9% | 20.5% | 34.9% | 22.0% | 13.5% |
| 29. Hostile takeover risk | 7.9% | 20.5% | 30.8% | 21.1% | 12.4% |
| 8. Insider reporting requirements | 5.4% | 25.5% | 20.5% | 12.5% | 29.9% |
| 23. Related party transaction disclosure/restrictions | 6.9% | 25.5% | 20.5% | 12.5% | 37.4% |
| 20. Public disclosure of shares and income | 6.9% | 19.7% | 27.1% | 23.5% | 25.1% |
| 18. Financial statement certification | 4.5% | 17.7% | 24.5% | 26.4% | 23.8% |
334
Table 17, Q20- Mean Analysis by Demographic Group, Part I

Potential Public Company / IPO Downside

DG1- All Respondents

DG2 - Group I- Senior Decision Makers

DG3- Group II- Public Market Influencers

DG4- Group I- TSX Listed Companies

DG5- Group I- Private Companeis

DG6- Group II- Securities Lawyers

DG7- Group II_ Accountants / Auditors

DG8- Group II- Investment Bankers

DG9- Group II- Private Equity

DG10- Group I- Company Size- SME's

DG11- Group I- Company Size- Non SME's

DG12- Group I- Industry- Oil & Gas

DG13- Group I- Industry- Mining

DG14- Group I- Industry- Non Resources

NOTE:
In this chart:
-the Top 5 (plus ties) DG's on each row based on
mean are highlighted in white ;
-the Bottom 5 (plus ties) DG's on each row based on
mean are highlighted in black;
-grey cells indicate that the DG does not rank
in the Top 5 or Bottom 5 on this factor according to
mean.
-Top 5 and Bottom 5 are calculated based on all 25
demographic subgroups (ie., both tables), not only
the DG's reflected on this particular table.

1. Time to complete IPO

3.39

3.36

3.41

3.17

3.63

3.12

3.87

3.23

3.47

3.64

3.26

3.22

3.30

3.42

2. Management effort to complete IPO

3.53

3.50

3.56

3.28

3.81

3.33

4.05

3.27

3.63

3.83

3.35

3.28

3.33

3.68

3. Cost of IPO

3.68

3.66

3.70

3.62

3.72

3.56

4.11

3.45

3.74

3.90

3.58

3.59

3.47

3.75

4. Executive comp disclosure

2.95

3.08

2.85

2.94

3.27

2.86

2.79

2.86

2.86

3.17

3.01

2.84

2.80

3.23

5. General management distractions

3.78

3.75

3.80

3.47

4.14

3.49

3.95

3.55

4.12

3.97

3.64

3.84

3.47

3.79

6. Increasing compliance complexity

3.81

3.81

3.80

3.62

4.08

3.53

4.26

3.55

3.89

3.93

3.70

3.50

3.40

4.05

7. Increasing compliance cost

3.94

4.07

3.83

4.02

4.14

3.65

4.32

3.52

3.88

4.12

4.07

3.81

3.87

4.22

8. Insider reporting requirements

2.63

2.74

2.54

2.48

3.09

2.51

2.79

2.30

2.60

2.90

2.67

2.38

2.67

2.92

9. Increased litigation risk

3.38

3.59

3.21

3.34

3.92

3.33

3.39

2.98

3.19

3.81

3.44

3.44

3.17

3.76

10. Trading volume concerns

3.47

3.41

3.53

3.34

3.50

3.28

3.45

3.59

3.72

3.51

3.34

3.19

3.40

3.44

11. Analyst coverage concerns

3.16

3.15

3.17

3.16

3.13

2.91

3.00

3.30

3.39

3.27

3.05

2.72

3.03

3.31

12. General regulatory overreach

2.97

3.21

2.77

3.00

3.48

2.81

3.00

2.55

2.77

3.27

3.20

3.38

2.77

3.30

13. Proxy advisory firms

3.01

3.20

2.85

3.07

3.38

2.86

3.00

2.59

2.93

3.22

3.23

3.00

3.23

3.26

14. Special interest groups

2.88

2.95

2.82

2.78

3.17

2.86

2.71

2.48

3.12

2.90

2.95

3.03

3.03

2.92

15. Short-termism amongst shareholders

3.22

3.27

3.18

3.14

3.45

3.30

2.89

3.05

3.39

3.46

3.12

3.06

3.30

3.35

16. Competitive disclosure disadvantage

3.36

3.44

3.29

3.40

3.48

3.26

3.39

3.28

3.25

3.54

3.37

3.34

3.07

3.59

17. Business Acquisition Reports

2.86

2.97

2.76

2.82

3.17

2.79

3.24

2.41

2.70

3.17

2.84

2.72

2.90

3.08

18. Financial statement certification

2.55

2.68

2.44

2.49

2.92

2.47

3.00

2.34

2.12

2.86

2.58

2.44

2.53

2.84

19. Inablity to focus on core business

3.65

3.66

3.64

3.36

4.08

3.56

3.76

3.37

3.82

3.88

3.53

3.69

3.30

3.75

20. Public disclosure of shares and income

2.56

2.65

2.48

2.36

3.05

2.37

2.74

2.32

2.51

2.85

2.55

2.47

2.20

2.84

21. Reputational risk

2.95

3.05

2.88

2.93

3.20

2.84

2.92

2.64

3.07

3.22

3.00

2.91

3.00

3.08

22. Pressures of meeting quarterly targets

3.97

3.79

4.13

3.59

4.06

3.98

4.00

3.91

4.49

3.92

3.71

3.72

3.43

3.93

23. Related party transaction disclosure/restrictions 2.59

2.65

2.54

2.45

2.92

2.67

2.71

2.39

2.45

2.76

2.59

2.41

2.70

2.73

3.42

3.55

3.31

3.49

3.63

3.10

3.76

2.91

3.47

3.63

3.52

3.50

3.37

3.64

24. Redundancy of filing requirements

2.9

2.91

2.90

2.85

2.98

3.19

2.82

2.70

2.88

3.07

2.80

2.66

2.77

3.01

26. Proxy battle risk

3.06

3.08

3.05

2.90

3.33

3.26

2.95

2.77

3.18

3.02

3.09

2.81

2.77

3.22

27. Responding to uniformed shareholders

2.99

3.19

2.84

2.86

3.63

2.56

3.00

2.61

3.11

3.54

3.00

3.06

3.00

3.30

28. Evolving corporate governance practices

3

3.15

2.87

3.07

3.27

2.91

3.05

2.61

2.91

3.19

3.20

3.19

2.90

3.25

2.8

2.71

2.88

2.56

2.91

2.95

2.71

2.84

2.98

2.66

2.76

2.53

2.47

2.86

30. Management overall public company fatigue

3.26

3.36

3.18

3.10

3.72

2.93

3.45

2.82

3.46

3.68

3.20

3.44

2.83

3.47

31. Lack of surety of access to follow-on financing

3.37

3.44

3.31

3.30

3.63

3.10

3.42

3.23

3.47

3.51

3.43

3.81

3.07

3.47

25. Short-sellers

29. Hostile takeover risk


335

DG15- British Columbia

DG16- Prairies

DG17- Ontario

DG18- Quebec

DG19- Atlantic Provinces

DG20- Career Stage 0-15 Years

DG21- Career Stage- 16-25 Years

DG22- Career Stage- > 25 Years

DG23- Pubco Experience- 0 to 5 Years

1. Time to complete IPO

3.39

3.25

3.47

3.27

3.50

4.11

3.21

3.32

3.48

3.53

3.56

3.17

2. Management effort to complete IPO

3.53

3.55

3.44

3.46

3.94

4.00

3.63

3.52

3.49

3.82

3.77

3.18

DG25- Pubco Experience- >15 Years

Potential Public Company / IPO Downside

DG1- All Respondents

NOTE:
In this chart:
-the Top 5 (plus ties) DG's on each row based on mean
are highlighted in white ;
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mean are highlighted in black;
-grey cells indicate that the DG does not rank
in the Top 5 or Bottom 5 on this factor according to
mean.
-Top 5 and Bottom 5 are calculated based on all 25
demographic subgroups (ie., both tables), not only
the DG's reflected on this particular table.

DG24- Pubco Experience- 6 to 15 Years

Table 18, Q20- Mean Analysis by Demographic Group, Part II

3. Cost of IPO

3.68

3.70

3.61

3.60

3.81

4.47

3.64

3.58

3.75

3.89

3.83

3.43

4. Executive comp disclosure

2.95

2.88

2.88

2.96

3.06

3.26

2.84

2.84

3.06

3.13

2.91

2.83

5. General management distractions

3.78

3.55

3.90

3.73

3.81

4.05

3.71

3.93

3.69

4.07

3.91

3.49

6. Increasing compliance complexity

3.81

3.77

3.76

3.79

3.81

4.05

3.70

3.76

3.85

4.02

3.85

3.60

7. Increasing compliance cost

3.94

4.05

3.87

3.87

3.88

4.53

3.71

3.97

3.97

4.09

3.91

3.82

8. Insider reporting requirements

2.63

2.58

2.59

2.60

2.75

3.05

2.70

2.58

2.63

3.01

2.68

2.31

9. Increased litigation risk

3.38

3.20

3.34

3.41

3.38

3.53

3.30

3.39

3.38

3.56

3.41

3.21

10. Trading volume concerns

3.47

3.30

3.47

3.43

3.94

3.79

3.32

3.43

3.53

3.59

3.58

3.31

11. Analyst coverage concerns

3.16

3.02

2.94

3.26

3.69

3.16

3.09

3.05

3.24

3.29

3.04

3.11

12. General regulatory overreach

2.97

2.92

3.10

2.82

3.06

3.42

2.77

3.00

2.99

3.16

3.01

2.78

13. Proxy advisory firms

3.01

3.15

3.10

2.88

3.19

3.11

2.91

3.06

2.98

3.03

3.14

2.90

14. Special interest groups

2.88

2.60

3.01

2.78

3.06

3.00

2.88

2.74

2.93

3.03

2.80

2.76

15. Short-termism amongst shareholders

3.22

3.15

3.14

3.28

3.50

3.00

3.25

3.23

3.19

3.26

3.33

3.11

16. Competitive disclosure disadvantage

3.36

3.17

3.42

3.28

4.00

3.53

3.23

3.35

3.39

3.50

3.26

3.28

17. Business Acquisition Reports

2.86

2.73

2.87

2.77

3.06

3.47

2.70

2.88

2.87

3.03

3.02

2.61

18. Financial statement certification

2.55

2.48

2.55

2.47

2.56

3.11

2.32

2.73

2.47

2.72

2.56

2.39

19. Inablity to focus on core business

3.65

3.77

3.73

3.50

3.81

4.21

3.63

3.75

3.58

3.90

3.79

3.38

20. Public disclosure of shares and income

2.56

2.25

2.70

2.46

2.69

3.11

2.45

2.58

2.56

2.84

2.62

2.29

21. Reputational risk

2.95

2.63

2.97

2.95

2.94

3.42

2.93

2.91

2.97

3.05

3.01

2.83

22. Pressures of meeting quarterly targets

3.97

3.55

3.94

4.06

4.50

4.26

4.29

4.05

3.84

4.27

4.05

3.75

23. Related party transaction disclosure/restrictions

2.59

2.35

2.48

2.59

2.69

3.47

2.50

2.61

2.58

2.78

2.70

2.35

24. Redundancy of filing requirements

3.42

3.65

3.47

3.28

3.44

3.68

3.29

3.41

3.45

3.64

3.46

3.21

2.9

2.67

2.80

2.99

3.00

2.95

3.07

2.86

2.86

3.03

3.01

2.73

26. Proxy battle risk

3.06

2.85

3.01

3.15

3.00

3.05

3.16

3.16

2.94

3.22

3.27

2.81

27. Responding to uniformed shareholders

2.99

3.10

3.05

2.91

2.94

3.05

2.89

3.08

2.94

3.42

2.93

2.69

25. Short-sellers

3

2.75

2.97

3.02

3.06

3.32

2.75

3.01

3.06

3.16

2.93

2.90

2.8

2.67

2.71

2.82

3.25

2.84

3.09

2.72

2.75

2.97

2.90

2.62

30. Management overall public company fatigue

3.26

3.15

3.40

3.10

3.50

3.84

3.13

3.23

3.31

3.60

3.19

3.03

31. Lack of surety of access to follow-on financing

3.37

3.30

3.65

3.20

3.44

3.42

3.05

3.43

3.42

3.45

3.27

3.34

28. Evolving corporate governance practices
29. Hostile takeover risk


Table 19, Q20- Rank Analysis (Rank 1-31) by Demographic Group, Part I

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</tr>
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<tbody>
<tr>
<td>1. Time to complete IPO</td>
<td>10</td>
<td>14</td>
<td>9</td>
<td>13</td>
<td>13</td>
<td>14</td>
<td>7</td>
<td>12</td>
<td>11</td>
<td>10</td>
<td>13</td>
<td>14</td>
<td>11</td>
<td>14</td>
</tr>
<tr>
<td>2. Management effort to complete IPO</td>
<td>7</td>
<td>9</td>
<td>7</td>
<td>12</td>
<td>7</td>
<td>8</td>
<td>4</td>
<td>10</td>
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<td>7</td>
<td>11</td>
<td>13</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>3. Cost of IPO</td>
<td>5</td>
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Table 20. Q20- Rank Analysis (Rank 1-31) by Demographic Group, Part II

**NOTE:**
In this chart:
- the Top 5 (plus ties) DG's on each row based on rank are highlighted in white;
- the Bottom 5 (plus ties) DG's on each row based on rank are highlighted in black;
- grey cells indicate that the DG does not rank in the Top 5 or Bottom 5 on this factor.

Top 5 and Bottom 5 are calculated based on all 25 demographic subgroups (ie., both tables), not only the DG's reflected on this particular table.

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**Columns:**
- DG1-All Respondents
- DG15-British Columbia
- DG16-Prairies
- DG17-Ontario
- DG18-Quebec
- DG19-Atlantic Provinces
- DG20-Career Stage-0-15 Years
- DG21-Career Stage-16-25 Years
- DG22-Career Stage-25+ Years
- DG23-Pubco Experience-0 to 5 Years
- DG24-Pubco Experience-6 to 15 Years
- DG25-Pubco Experience-16-25 Years
- DG26-Pubco Experience-25+ Years

| Rank 1 | Rank 2 | Rank 3 | Rank 4 | Rank 5 | Rank 6 | Rank 7 | Rank 8 | Rank 9 | Rank 10 | Rank 11 | Rank 12 | Rank 13 | Rank 14 | Rank 15 | Rank 16 | Rank 17 | Rank 18 | Rank 19 | Rank 20 | Rank 21 | Rank 22 | Rank 23 | Rank 24 | Rank 25 | Rank 26 | Rank 27 | Rank 28 | Rank 29 | Rank 30 | Rank 31 |
|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
The Single Worst Thing About Being Public?

So, based on the PCD Study data in Q20, can any of the prospective downside factors associated with going public, or being public, be defined as representing the "single worst thing about being public"? It was hoped that the PCD Study would establish a particular factor that could be definitively categorized as being the single most important negative factor associated with taking a company public. Based on the PCD Study data for all respondents, the most important negative factor associated with the public markets is Q20-22, the pressure of meeting quarterly analyst targets. This is certainly an unexpected outcome and worth discussing further. This particular factor is also complex, and it implicates a variety of different underlying elements arising from different conceptual foundations.

The first element to discuss on the quarterly target pressure issue relates to managing analyst expectations. Analysts generally set their earnings expectations with reference to the guidance provided by the senior management of the issuers. However, analyst estimates also embed the analysts’ own personal research and beliefs on the prospects of the issuer. Senior management do not have control over the final numbers that are published by the analysts. Although the final numbers are outside the control of management, the public markets seem to place an inordinate amount of importance on these estimates being met. Failure to meet analyst estimates often results in a significant decline in share price immediately after announcement of results. Is the higher-than-expected ranking of this factor in the PCD Study a reflection of the degree of frustration that senior decision-makers feel towards being held accountable to outsider expectations that they cannot control? Intuitively, this would seem to be a component behind the higher-than-expected ranking of the pressure of meeting quarterly analysts targets in the PCD Study. However, this particular source of frustration operates independently of the broader short-termism topic.

The second element of the quarterly target pressure issue relates to short-termism. Given the importance that the public markets place on meeting quarterly targets, senior executives certainly feel a significant amount of pressure to meet these targets to satisfy both the pool of analysts covering the issuer and the public shareholders. In many cases
this means evaluating both short-term and long-term strategic decisions with a continual eye towards the impact that these decisions will have on the ability of the company to meet quarterly analyst targets over the next several quarters.

However, it is widely understood that decisions made to maximize short-term profitability may often come at the expense of long-term business growth. Positioning a business for ultimate success years and decades down the road often requires a commitment to making continued investment over a long period of time. This long-term commitment may diminish profitability in the near term for multiple quarters, and even up to several years, before the success or failure of the long-term strategy becomes apparent. The high ranking of this particular factor, relating to the pressures of meeting quarterly analysts targets, in the PCD Study strongly suggests that the key decision-makers and influencers in Canadian business collectively believe that the public markets fail to exhibit sufficient patience to allow companies to make the necessary long-term investments and optimally position the company for long-term success. Instead, the strong inference from the high ranking of this particular factor is that private financing alternatives are perceived as offering a company an investment partner that is more patient and willing to support investment strategies that will only pay off over longer periods of time compared to the public markets.

A third element of the quarterly target pressures issue is the frequency of the occurrence. There has been a strong lobby in the United States pushing to reduce the frequency of reporting to a six month or biannual cycle. Indeed, President Donald Trump has specifically requested that the SEC evaluate a move to biannual reporting (i.e., twice a year instead of quarterly) and the proposal was one of the specific items considered in CP 51-404. These proposals have been widely debated by forces that both strongly support and oppose biannual reporting, and the ultimate outcome on these proposals in both the U.S. and Canada remains uncertain at the current time.

One has to wonder if the degree to which the knowledge that the debate over biannual reporting is continuing to be fought daily behind closed doors impacted the outcome of the PCD Study on this particular question, moving the pressures of meeting quarterly analyst targets higher in the rankings than might otherwise have occurred. In other words, is there some effect in the PCD Study data resulting from respondents reporting a higher importance on this particular issue in an attempt to build the empirical case for adoption of biannual reporting? Did respondents in significant numbers “strategically vote” to influence the outcome of the debate?

If this strategic voting effect was indeed occurring to any significant degree in the PCD Study data, one would anticipate that this issue would be more highly ranked by DG4-TSX respondents than by DG3-Group II and DG5-Private Company respondents. If biannual reporting were adopted in Canada, it is the DG4-TSX respondents who have the most to gain through a reduction in cost and time spent on reporting. DG5-Private Company respondents should be more ambivalent about the prospect of biannual reporting because it will not directly affect their businesses, and both DG6-Lawyers and DG7-Auditors actually face a significant loss of revenue in their continuous disclosure compliance support practices if biannual reporting is ultimately adopted.

The data in the PCD Study, though, demonstrates the opposite result. DG4-TSX respondents have one of the lowest means on Q20-22 of any demographic subgroup at 3.59. DG5-Private Company respondents rated Q20-22 higher with reference to the mean (4.06), but one also needs to recognize that DG5-Private Company respondents generally evidenced a higher mean across all 31 factors than their public company counterparts (DG5-Private Company had an average mean of 3.48 on the 31 factors in Q20; DG4-Public Company had an average mean of 3.10). On a rank-order basis, DG4-TSX respondents ranked Q20-22 fourth in order of importance, and DG5-Private Company respondents ranked Q20-22 fifth in order of importance. As such, there is little difference between the rank order of the private and public company senior decision-makers on Q20-22.

Clearly, DG3-Group II respondents collectively are the driving force behind Q20-22.
achieving the top overall ranking of amongst Q20 factors. Three of the four linked subgroups constituting DG3- Group II respondents (i.e., DG6- Lawyers, DG8- Investment Bankers and DG9- Private Equity Investors) each ranked Q20-22 as the single most important downside factor that would influence their decision-making process.\textsuperscript{443}

As such, does the top ranking of Q20-22, the pressure of meeting quarterly analyst targets, deserve an asterisk or can it legitimately claim the title of "Single Worst Thing About Being Public" in the PCD Study? The answer depends on your perspective, and whether you believe that the opinions of the DG2- Group I respondents should be more heavily weighted in the Q20 rankings than the opinions of DG3- Group II respondents. If so, then there is a case to be made that the factor tested in Q20-7, increasing compliance cost, can also lay claim to the crown as the most important downside factor driving companies away from the public markets. This claim is bolstered by the fact that increased disclosure costs had the lowest standard deviation of any of the 31 downside factors tested ($\sigma=0.93$), evidencing a high degree of consistency amongst the respondents.

In this Dissertation, no definitive position is taken and the title of "Single Worst Thing About Being Public" is left for others to interpret based on their own opinions and methodologies. The conclusion on the factor of pressures of meeting quarterly analyst targets is best summarized by stating that it is certainly materially more important to the Canadian business community than was anticipated in advance of the PCD Study and, regardless of the demographic subgroups being considered, significant angst with respect to the pressure of meeting quarterly analysts targets is certainly one of the most important factors affecting the public / private decision-making process. As such, the pressure of meeting quarterly analyst targets can be inferred to represent an important factor relevant to the topic of overall public company decline in Canada.

\textsuperscript{443} The fourth linked demographic subgroup (i.e., DG7- Accountants/Auditors) ranked this factor as the fight most important out of the 31 factors.
7.15.4 - The Most Important Downside Factors Associated with Being Public

The thirteen factors ranked as the most important in the PCD Study based on the mean responses by all PCD Study respondents are summarized below in Table 21. When analyzing the data, both the mean and the rank order are equally useful for summarizing data. There is value in referring to the mean to determine the extent of the gap between different rank ordered items, which is useful in determining cut-off points for reporting tiers.444

With respect to comparisons of the Q20 responses between different subgroups, however, it is submitted that reference to the mean can be misleading given the nature of the particular 5-Point Likert Scale. Different subgroups exhibited a material difference in their grading scale across Q20. It has been previously mentioned that the DG5- Private Company subgroup has a significantly higher average mean than DG5- TSX-Listed. As another example, the average mean across all 31 factors for DG8- Investment Bankers on Q20 was 2.95, whereas the average mean was 3.40 for DG10 SME's. A simple explanation for the difference is that senior decision makers of SME's are generally more concerned about the downside factors associated with being a public company than investment bankers.

Regardless, the result is that the different demographic subgroups are applying the scales differently. When comparing the answers of two subgroups, therefore, utilizing the mean as the basis for the comparison can lead to error. Comparing subgroups by ranking order provides a more accurate comparison. For example, the mean of DG8- Investment Bankers on the factor in Q20-4 (executive compensation disclosure) is 2.86, where the mean of DG10- SME's on the same factor was 3.17. It would be easy to imply that DG10-SME viewed this factor as more important than DG8- Investment Bankers.

444 Normally, this type of summary table would be limited to the top 1/3 or top 10 factors. However, in this case, factors 10-13 are essentially tied based on mean before a significant drop-off occurs between the 13th and 14th ranked factors. As such, it would be arbitrary to cut off the list at the top 10 and this list essentially represents the top 10 plus statistical ties.
However, Q20-4 was only the 23rd highest ranked factor for DG10-SME's, compared to being the 16th highest ranked factor for DG8- Investment Bankers. As such, whereas the mean will be used for determining rankings slots within subgroups, only the rank order will be reported when analyzing comparisons between the various subgroups.

Table 21. Q20, List of Top Factors Ranked as Most Important

<table>
<thead>
<tr>
<th>Rank</th>
<th>Q-ID</th>
<th>Downside Factor</th>
<th>Mean</th>
<th>Std Dev</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>22</td>
<td>The pressures of meeting quarterly analyst targets</td>
<td>3.97</td>
<td>1.03</td>
<td>333</td>
</tr>
<tr>
<td>2</td>
<td>7</td>
<td>The increased cost of continuous disclosure obligations due to regulatory changes</td>
<td>3.94</td>
<td>0.93</td>
<td>333</td>
</tr>
<tr>
<td>3</td>
<td>6</td>
<td>The complexity of continuous disclosure obligations arising from regulatory changes</td>
<td>3.81</td>
<td>1.02</td>
<td>333</td>
</tr>
<tr>
<td>4</td>
<td>5</td>
<td>Running a public company creating too many distractions for management</td>
<td>3.78</td>
<td>0.97</td>
<td>333</td>
</tr>
<tr>
<td>5</td>
<td>3</td>
<td>The cost that it takes to complete an IPO</td>
<td>3.68</td>
<td>1.04</td>
<td>333</td>
</tr>
<tr>
<td>6</td>
<td>19</td>
<td>Concern that being public leaves too little time for management to focus on the core business of the company</td>
<td>3.65</td>
<td>1.08</td>
<td>332</td>
</tr>
<tr>
<td>7</td>
<td>2</td>
<td>The management effort required to complete an IPO</td>
<td>3.53</td>
<td>1.13</td>
<td>333</td>
</tr>
<tr>
<td>8</td>
<td>10</td>
<td>Concern the company will be able to generate sufficient trading volume to keep shareholders happy</td>
<td>3.47</td>
<td>1.09</td>
<td>333</td>
</tr>
<tr>
<td>9</td>
<td>24</td>
<td>Redundancy of filing requirements for public companies</td>
<td>3.42</td>
<td>1.15</td>
<td>332</td>
</tr>
<tr>
<td>10</td>
<td>1</td>
<td>The time required to complete an IPO</td>
<td>3.39</td>
<td>1.09</td>
<td>333</td>
</tr>
<tr>
<td>11</td>
<td>9</td>
<td>The increased litigation risk associated with being public</td>
<td>3.38</td>
<td>1.07</td>
<td>333</td>
</tr>
<tr>
<td>12</td>
<td>31</td>
<td>Concern that being public will not ultimately provide quicker access to follow-on financing in the future</td>
<td>3.37</td>
<td>1.15</td>
<td>331</td>
</tr>
<tr>
<td>13</td>
<td>16</td>
<td>The challenges of competing against private companies that don't have to disclose any secrets</td>
<td>3.36</td>
<td>1.2</td>
<td>332</td>
</tr>
</tbody>
</table>

What is apparent from this list is that there is no single category of downside factors that dominates the top of the rankings. In fact, six of the eight categories defined previously are represented in the list of the top 13 factors. Once again, this result makes it clear that the challenges facing the public markets are complex and broad-based. Possibly most sobering is the fact that, even if the wisest of public company regulators in Canada could identify an ideal package of burden reduction and regulatory streamlining reforms that magically eliminated all of the concerns associated with the two critical categories of regulatory complexity / overreach and public company costs, nine out of the thirteen most important downside factors associated with the public markets as per the PCD Study data would still remain as barriers to renewed IPO activity.

7.15.5- Overview by Category of Downside Risk

7.15.5.1- Regulatory Complexity / Regulatory Overreach

Understanding the degree to which regulatory complexity and regulatory overreach can be inferentially linked to public company decline in Canada is one of the recurring themes in the PCD Study research. Six different factors fitting within the umbrella of regulatory complexity / regulatory overreach were tested. The factor in Q20-6,
increasing compliance complexity, was the highest ranked of these factors in the PCD Study, coming in as the 3rd most important of the 31 factors. Q20-24, redundancy of filing requirements, also ranked relatively high as the 9th most important factor. The high ranking of these two particular factors was not surprising, as compliance complexity and redundancy are two of the favorite areas of complaint amongst senior business decision-makers and public company influencers.

However, what is surprising in the PCD Study data is that the other four regulatory complexity / overreach factors scored relatively low compared to a number of other factors. In the earlier analysis on Q16-7 of the PCD Study (i.e., the proposition summarizing the regulatory overreach hypothesis), the general disposition of the respondent group supporting the regulatory overreach hypothesis was discussed at some length. Yet, a similar articulation of the regulatory overreach hypothesis in Q20-12 only ranked as the 21st most important factor from the list of 31 amongst all respondents.

What should one make of this outcome? It is submitted that relatively low ranking of the regulatory overreach factor (Q20-12) as the 21st most important factor in the PCD Study should not be interpreted as being inconsistent with the outcome in Q16-7 on this topic. Rather, it is a reflection of the comparatively high importance placed on the other factors that exceed regulatory overreach in importance for the respondent group.

Another regulatory complexity-linked factor, the hassle of dealing with evolving corporate governance practices, came in ranked as 19th most important.

Finally, the three specific regulatory requirements tested in Q20 all came in at or near the bottom of the rankings. The irony of this outcome, as discussed earlier in Chapter 3 of this Dissertation, is that the one tangible regulatory reform recently proposed by the CSA that is directed at Operating Companies is streamlining of the Business Acquisition

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445 Namely: (i) Q20-17- the requirement to file Business Acquisition Reports for significant acquisitions, which ranked 26; (ii) Q20-23- related party transaction restrictions and disclosure requirements in MI 61-101, which ranked 29; and (iii) the requirement for senior executives to provide certificates on financial statements, which ranked dead last at 31.
Report rules, which ranked 26th out of the 31 factors in Q20 in terms of importance.

7.15.5.2- Time / Distraction / Effort of Going and Being Public

The time and effort of going and remaining public is one particular subject area that is certainly acknowledged in the academic literature on public company decline, but never gets top billing as being one of the most critical categories. The PCD Study results indicate that this area should be included as one of the most important topics for future research projects and regulatory streamlining initiatives, as each of four of the individual downside factors fitting under this umbrella ranked in the top 10 most important factors across all respondents.446

This result represents one of the most important observations arising from the PCD Study data. It is clear from this outcome that there is a strong perception amongst the Canadian business community that the collateral requirements associated with running a public company are time-consuming and mentally draining, taking away from one's ability to focus their time and attention on building the core business of the company.

7.15.5.3- Public Company Costs

Both the cost of completing an IPO and the increasing costs of ongoing compliance ranked in the top five most important factors in the PCD Study. As discussed earlier, the increasing cost of ongoing compliance could be also argued to be the single most important factor in the PCD Study. It was certainly the top ranked factor according to both subgroups of senior business decision-makers in the PCD Study.

7.15.5.4- Liquidity, Valuation and Access to Capital

The liquidity, valuation and access to capital concerns ranked more highly in the PCD Study than one might have expected. Although this group of factors is largely an

446 Specifically: (i) Q20-5- the distractions associated with running a public company, which ranked 4th; (ii) Q20-19- concern that being public leaves insufficient time to manage the core business, which ranked 6th; (iii) Q20-2- the management effort required to complete and IPO, which ranked 7th; and (iv) Q20-1- the time required to complete an IPO, which ranked 10th.
afterthought in the academic literature on public company decline, the three factors in this category ranked at 8th (trading volume concerns), 12th (concern about access to follow-on financing) and 16th (ability to attract analysts). This suggests that this category of factors is underrated in the academic literature and should be given more attention in follow-on research in Canada.

One likely explanation of the relatively high rankings of this particular group of factors in the PCD Study is the size and liquidity in the Canadian public markets compared to the U.S. markets. Whereas the availability of liquidity, access to capital and quality analyst coverage may all be taken for granted in the much larger U.S. public markets, in Canada even companies listed on the senior TSX exchange remain in real danger of becoming orphaned if they fail to execute on their business plans and lose the following of analysts and institutional traders.

7.15.5.5- Public Disclosure Disadvantage and Privacy

This is one of the two categories in the PCD Study that was ranked comparatively low, with only one of the five factors in this group ranking in the top half of the 31 factors. This was also a surprising result, as it was anticipated that this group of factors might be proven to be more important than the PCD Study data demonstrated.

Competitive disclosure disadvantage ranked in 13th position in importance, evidencing a moderate degree of belief in the proposition that the nature of the disclosure obligations for public companies puts them at a disadvantage compared to their private competitors. Worth noting, however, is that this factor was rated as the 7th most important factor by DG4-TSX and the 15th most important factor by DG5-Private Company. This suggests that public disclosure disadvantage is significantly more important to senior business decision-makers than it is to public markets influencers. As such, it is another example in the PCD Study of the reality of the situation based on personal experience being worse than perception of the problem by outsiders.

7.15.5.6- Short-Termism

The data from the PCD Study as a whole demonstrates that short termism in the public
markets is one of the most interesting categories that is largely ignored in the academic literature. As previously discussed in Chapter 6, the topic of short-termism was raised frequently in the open-ended text responses to Q17. The surprising ranking of the pressure of meeting quarterly analyst targets (Q20-22) as the most important factor in the Q20 across all respondents in the PCD Study has already been discussed at some length previously. Although the pressures of meeting quarterly analyst targets is not exclusively a short-termism issue, short-termism is clearly a significant component. This outcome should be an indication for future academic research that this particular topic is worthy of further attention in order to better understand which of the various elements discussed relating to quarterly analyst targets are the most significant in it ranking so highly in the PCD Study.

The other key element of short-termism tested in the PCD Study was the trend towards shorter investment horizons by shareholders, including program trading and day trading. This factor ranked in the middle of the pack in Q20 as the 15th most important position. Again, this factor has attracted very little discussion in the academic literature and the business media literature as a factor possibly contributing to public company decline, and it ranked more highly in Q20 than a number of the other factors which have received significantly more ink thus far.

The final element in the short-termism category is the topic of short sellers, which ranked 24th of the 31 factors in Q20. Short sellers certainly remain as a concern for companies operating in the public markets, with the ability to cause significant damage to a public company. It is admittedly surprising that the short sellers topics did not rank more highly on Q20. Notably, the DG4- TSX subgroup and the DG6- Lawyers subgroup were both significantly more concerned about short sellers than other respondents, ranking this factor at 18th and 13th most important, respectively. As these two subgroups are most familiar with short sellers, it may be that it is a topic that is not on the radar screen of the other subgroups.

7.15.5.7- Company Control Concerns

This is a subject area that ranked relatively low on an overall basis with the three factors
tested in Q20 under this umbrella all falling to the bottom half of the rankings, again a surprising result. Even more surprising is the fact that DG5- Private Company respondents did not rank the company control downside factors significantly higher than other demographic subgroups in the survey. Although caution is indicated to assure that the PCD Study data does not imply that company control concerns are insignificant to senior decision-makers of private companies looking at taking their companies public, it is accurate to conclude that this subject area is not amongst the most important factors in the decision-making process.

One potential explanation of this outcome is the fact that founders’ control concerns can be ameliorated in public companies through the use of dual-class share structures providing super-voting shares, a feature which is relatively common in Canadian public companies. However, in private equity transactions, the investors are much less likely to accept dual-class share structures that dilute their ability to exercise voting control equal to their equity interests. In fact, many private equity financing structures include ratchet provisions that specifically increase the voting rights of the shares held by the non-management investors in the event that the company fails to meet mutually-agreed targets.447

7.15.5.8- Legal Risk

Increased litigation risk is a stand-alone factor that ranked surprisingly high on the list of importance (i.e., 11th), particularly considering the comparatively benign securities class action litigation climate for public companies in Canada. Although not yet at the top of the list, the PCD Data demonstrates that this is an item that bears watching in the future. Of particular importance, increased litigation risk ranked as the 6th most important factor amongst DG5- Private Company respondents, who are the prime target market for future IPOs. As such, the perception of this subgroup is particularly critical to the future arc of

IPOs and they clearly are more concerned about public company litigation risk than their DG4-TSX counterparts. Also of note, this factor was rated as the 7th most important factor by DG6-Lawyers, evidencing a similar concern about the trendline of securities class action litigation in Canada over the past years. Based on importance of the subgroups who evidenced the highest level of concern about litigation risk in public companies, Canadian legislators should take this outcome seriously when considering any further liberalization of securities class action rules in Canada.

7.15.6- Overview of Differences on Q20 by Demographic Subgroup

The following analysis looks at the differences in disposition on the 31 downside factors in Q20 on the basis of the various linked demographic subgroups.

7.15.6.1- Group I vs. Group II

As an overall observation, the opinions of DG2-Group I and DG3-Group II respondents on the relative ranking of the public company downside factors in Q20 evidence a surprising degree of consistency. The differential in rank order between these two main groups was within three on 21 out of the 31 different factors.

Highlighting the areas in which the differential in rank order is five or higher as representing a significant variation between these groups, DG2-Group I ranked the following three downside factors as significantly less important than DG3-Group II: Q20-1 (time to complete IPO); Q20-25 (short-sellers); and Q20-29 (hostile take-over risk). On the flip-side, DG2-Group I ranked the following four factors as significantly more important than DG3-Group II: Q20-9 (increased litigation risk); Q20-12 (general regulatory overreach); Q20-13 (proxy advisory firms); and Q20-27 (responding to uninformed shareholders).

The identity of the factors in the preceding paragraph should be important to the OSC particularly in pursuing their burden reduction initiative. As has been discussed, the senior business decision-makers of Operating Companies (i.e., DG2-Group I in the PCD Study) are woefully underrepresented in the consultation process thus far, leading to the possibility that the degree of concern over these particular factors has not been properly
conveyed to the regulators.

**7.15.6.2- Group I- Senior Decision-Makers of TSX vs. Private Companies**

Again, the focus in this summary is on the specific downside factors where the differential in the rankings is five or greater between the two subgroups, DG4-TSX and DG5- Private Company. DG4- TSX respondents ranked the following four downside factors as significantly less important than DG5- Private Company respondents: Q20-2 (management effort to complete IPO); Q20-19 (inability to focus on core management); Q20-27 (responding to uninformed shareholders); and Q20-30 (management overall public company fatigue). On the flip-side, DG4- TSX respondents ranked the following four factors as significantly more important than DG5- Private Company respondents: DG3 (cost of an IPO); DG 11 (analyst coverage concerns); DG16 (competitive disclosure disadvantage); and DG24 (redundancy of filing requirements).

Considering the nature of the specific differences in the previous paragraph can be argued to be one of the most important elements of the analysis in the PCD Study data. DG5- Private Company senior decision-makers represent one of the most important groups in the study, as they are the individuals who will have to be convinced to take their companies public in far greater numbers if the phenomenon of public company decline is to be arrested. We have already discussed the biggest concerns in Q20 amongst all the respondents, but in which specific areas are the DG-Private Company respondents more concerned than their public company counterparts? The above list gives us clear direction that the heightened concerns, unique to private company senior business decision-makers, principally relate to the perceived distractions and time commitments required of public company executives. They are significantly more worried than other subgroups that pursuing an IPO will prevent them from devoting sufficient time to focusing on the core business growth.

**7.15.6.3- Group II- Public Markets Influencers**

It has already been discussed that the position of Q20-22 (pressures of meeting quarterly analyst targets) at the top overall ranking of most important negative factors associated with being public in the PCD Study is largely attributable to the contributions of the DG-
6 Lawyers, DG8- Investment Bankers and DG9- Private Equity subgroups, each of which ranked that particular factor as highest of the 31.

It was also discussed that the DG7- Auditors subgroup still ranked the pressure of meeting quarterly analyst targets as relatively important, but gave it the lowest ranking of any subgroup in the PCD Study as the 5th most important factor. Nobody will be surprised to find out that D7- Auditors ranked Q20-7 (increasing compliance cost) as the most important factor.

Beyond the top rankings, the four subgroups of public markets influencers evidenced a surprising degree of consistency throughout their rankings of the 31 downside factors in Q20. The only material differences in opinion were reflected by DG8- Investment bankers on the specific factors of Q20-4 (executive compensation disclosure), Q20-10 (trading volume concerns) and Q20-11 (analyst coverage concerns), each of which they ranked materially higher than the other three public markets influencer subgroups.

7.15.6.4- Group I- Company Size: SME's vs. Non-SME's

These two subgroups were largely consistent in their rankings of the downside factors in Q20, with the exception that DG10-SME's evidenced a materially higher ranking on Q20-27 (responding to uninformed shareholders) and Q20-30 (management overall public company fatigue) than DG11- Non-SME's.

As previously noted, DG10-SME's were the subgroup with the higher average mean throughout Q20.448 The fact that they ranked the downside factors the highest on an absolute basis is consistent with the greater aversion to the public market that senior decision-makers of SME's have exhibited throughout the PCD Study analysis compared to senior decision-makers of larger companies. The specific public market challenges faced by SME's are well-documented in the literature.

448 Excluding the Atlantic Provinces, which had a slightly higher mean, but at N=16 is below the minimum target subgroup size for general statistical analysis purposes.
7.15.6.5- Group I- Industry

Again, these subgroups were relatively consistent in their Q20 rankings with a couple of exceptions. First, DG13- Mining ranked Q20-10 (liquidity concerns) as being materially more important than the non-mining respondents, placing it as the 5th most important factor. One would assume that this is a reflection of the reduced liquidity in mining stocks generally over the past few years during the commodity downcycle, although DG12- Oil & Gas only ranked liquidity concerns as the 12th most important.

The DG12- Oil & Gas subgroup differed materially from the other two industry-linked subgroups in ranking of two different factors: Q20-10 (general regulatory overreach) and Q20-31 (lack of access to follow-on financing). The outcome on Q20-10 is consistent with the earlier discussions on this topic in the analysis of Q16-7, where it was disclosed that DG12- Oil & Gas expressed the highest level of support for the regulatory overreach proposition of all the 25 demographic subgroups considered in the PCD Study. The response on Q20-31 is also consistent with expectations, as the lack of access to follow-on financings in the public markets has been a common complaint from senior oil & gas executives over the past several years due to the historically poor stretch for Canadian energy producers.

7.15.6.6- Other Linked Demographic Subgroups

There are no observations arising from the other demographic subgroups defined by geography, career experience, or public company experience that are particularly noteworthy on Q20.

7.16- Question 20: Ranking Potential Upside Opportunities in IPOs

Q20- In making your decision on the future direction of ABC, how important are each of following potential upside opportunities associated with pursuing the TSX IPO in your analysis?

The inclusion of Q21 in the PCD Study may appear unusual at first glance, particularly because it is the only element in the PCD Study that focuses on the perceived upsides associated with taking a company public. While this is outside the apparent core scope of
the PCD Study, it was included for a specific purpose. In the next section, positive and negative correlations between the various questions in the PCD Study will be analyzed. In addition to understanding what particular negative factors associated with the public markets are correlated with an increased or decreased willingness to consider taking a company public, there is value in understanding what particular positive factors also can be linked to specific outcomes.

Second, one of the core goals in undertaking the research project on public company decline is to come up with as much helpful data as possible to support the ongoing regulatory reform processes and, potentially, substantiate the need for more aggressive intervention at higher levels of government to preserve robust capital markets in Canada in the years to come. Ultimately, the desire is not to discourage those currently involved in the regulatory streamlining initiatives by pointing out that their efforts are unlikely to stem the inexorable tide of public company decline, but rather to supply them with as much valuable data as possible in order to position them to adopt the most effective outcomes within the range of options available to them.

Unlike the topic of public company decline in which there has been a complete lack of empirical data collected prior to the PCD Study, there have been a couple of different studies in which the motivations of the senior decision-makers of companies pursuing IPOs have been assessed. These include the two surveys discussed earlier in the literature review section of this Dissertation. However, none of these studies have considered the situation in Canada or been completed in recent years. The opportunity cost of adding in Q21 to provide an update and Canadian-specific information relating to the perception of the respondent group on the perceived upsides associated with the public markets was small, and the potential accretive benefit of having access to this information in the Canadian context is significant.

Having gone to the effort of collecting the data in Q21 primarily for the purpose of

\[\text{Supra notes 87 and 91.}\]
conducting the correlation analysis included later in this Dissertation, the analysis of the data in this section will be at a more summary level than the analysis undertaken on the mirror image questions earlier in Q20. Additional analysis of the Q21 data, along with a more detailed comparison of the data collected on motivations for going public in the PCD Study to the results reported in the two studies previously completed focusing on the U.S. and Europe, is identified as a topic for further research and analysis in a different format.450

Similar to Q20, the most obvious framework for extracting meaning from the PCD Study Data at a macro level is by considering the rank order of the factors according to a grouping determined by topical categories. The categories identified for analysis of the 14 potential upside factors associated with the public markets and the rank order of each factor across all participants in the PCD Study are as follows:

Table 22, Overall Ranking and Breakdown of Factors by Categories- Upside Factors

<table>
<thead>
<tr>
<th>Upside Category</th>
<th>Q# 21-</th>
<th>Specific Upside Fact</th>
<th>Rank Order (by DG1)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Liquidity/ Stock as Currency/ Access to Capital</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Quicker access to capital in follow-on financings</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Ability to use stock for future acquisitions</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Liquidity option for founding shareholders</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>Stock options to recruit and retain key employees</td>
<td>6</td>
</tr>
<tr>
<td><strong>Public Company Credibility/ Visibility</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>Increased public visibility with potential customers</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>9</td>
<td>Enhanced credibility with suppliers</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>11</td>
<td>Enhanced credibility with potential investors</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>12</td>
<td>Increased personal profile</td>
<td>12</td>
</tr>
<tr>
<td><strong>Control</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>Stronger management control by large shareholders</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>13</td>
<td>Diluting minority shareholder positions</td>
<td>14</td>
</tr>
<tr>
<td><strong>Public Company</strong></td>
<td>1</td>
<td>Higher pre-money valuation in IPO</td>
<td>5</td>
</tr>
</tbody>
</table>

Unlike in the earlier analysis of the downside factors in Q20, the data from the PCD Study relating to the upside factors in Q21 discloses a clear hierarchy based on the categories defined in the preceding table. The most highly ranked upside factors in Q21 were the factors relating to liquidity, the ability to use public stock as currency and access to growth capital. All four of the factors in this category ranked in the top six in overall importance. Q21-4 (ability to use company stock as currency for acquisitions) was rated as the single most important factor by both DG-2- Group I respondents and DG3- Group II respondents. Q21-5 (liquidity option for founding shareholders) was rated as the 2nd most important factor. Q21-3 (quicker access to capital in follow-on financings) was ranked 3rd most important, and Q21-6 (easier use of stock options to recruit and retain key employees) was the 4th highest ranked factor.

The clear implication throughout Q21 is that the prime motivation for taking a business public in Canada, at this point in time amongst the respondents in the PCD Study, is the desire to leverage the opportunities associated with having publicly traded securities available to use as currency for growing the business through acquisition, and also providing existing shareholders liquidity at the time, and on the terms, of their choosing.

This outcome is notably consistent with the findings by Brau and Fawcett back in 2006 discussed in the literature review section of this Dissertation.\[^{451}\] However, the factors of increased prestige and recognition, cited as being critical in Bancel and Mitoo in European IPOs, do not rate highly in the PCD Study.\[^{452}\]

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<table>
<thead>
<tr>
<th>Upside Category</th>
<th>Q#</th>
<th>Specific Upside Fact</th>
<th>Rank Order (by DG1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valuation Premium</td>
<td>21-2</td>
<td>Higher post-money valuation in IPO</td>
<td>3</td>
</tr>
<tr>
<td>Challenge / Opportunity to Grow Business</td>
<td>10</td>
<td>Enjoy public company challenges</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>14</td>
<td>Opportunity to grow the business further</td>
<td>7</td>
</tr>
</tbody>
</table>

[^451]: Supra note 87.
[^452]: Supra note 91.
The second category of upside factors that was ranked highly in the PCD Study was the anticipation of higher valuations for the company during the IPO and afterwards compared to what would be expected from private equity alternatives. Ultimately, how decisive these valuation-based factors are in motivating senior decision-makers to pursue an IPO may well depend on the level of comfort that the expected valuation premium will actually be realized.

All of the other categories identified above place well behind those first two categories in terms of the rank order. In particular, the factors related to increasing company credibility / visibility or using the public markets to retain negative control of the company business by avoiding the influential shareholder positions associated with private equity investment, rated near the bottom in the ranking of importance. Clearly, these potential upside benefits are viewed as ancillary by the respondents and not highly motivating in terms of pushing decision-makers towards the IPO option.

The ultimate rankings and the breakdown on the responses in Q21 are summarized as follows:
The next two pages summarize the means and rank order based on the 25 demographic subgroups.
Table 23. Q21- Mean Analysis of IPO / Public Company Upsides by Demographic Subgroup

NOTE: In this chart:
-the Top 5 (plus ties) DG’s on each row are highlighted in white;
-the Bottom 5 (plus ties) DG’s on each row are highlighted in black;
grey cells indicate that the DG does not rank in the Top 5 or Bottom 5 on this factor.

### Potential Public Company / IPO Upside

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<td>3.52</td>
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<td>3. Quicker access to capital in follow-on financings</td>
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<td>3.83</td>
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<td>4.01</td>
<td>4.01</td>
<td>4.02</td>
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<tr>
<td>5. Liquidity option for founding shareholders</td>
<td>3.94</td>
<td>3.85</td>
<td>4.01</td>
<td>4.05</td>
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<tr>
<td>6. Stock options to recruit and retain key employees</td>
<td>3.67</td>
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<td>7. Stronger management control by large shareholders</td>
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<td>8. Increased public visibility with potential customers</td>
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<td>3.18</td>
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<td>9. Enhanced credibility with suppliers</td>
<td>2.89</td>
<td>2.94</td>
<td>2.85</td>
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Table 24. Q21 - Rank Analysis (Rank 1-14) Analysis by Demographic Subgroup

**NOTE:** In this chart:
- the Top 5 (plus ties) DG's on each row are highlighted in white;
- the Bottom 5 (plus ties) DG's on each row are highlighted in black;
- grey cells indicate that the DG does not rank in the Top 5 or Bottom 5 on this factor.

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<tr>
<th>Potential Public Company / IPO Upside</th>
<th>DG1 - All Respondents</th>
<th>DG2 - British Columbia</th>
<th>DG3 - Prairies</th>
<th>DG4 - Ontario</th>
<th>DG5 - Quebec</th>
<th>DG6 - Maritime</th>
<th>DG7 - Quebec</th>
<th>DG8 - Canada Stage 0-15 Years</th>
<th>DG9 - Canada Stage 16-25 Years</th>
<th>DG10 - Canada Stage &gt; 25 Years</th>
<th>DG11 - Public Experience 0-5 Years</th>
<th>DG12 - Public Experience 6-10 Years</th>
<th>DG13 - Public Experience &gt; 10 Years</th>
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<tr>
<td>1. Higher pre-money valuation in IPO</td>
<td>5</td>
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<td>3</td>
<td>6</td>
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<td>7</td>
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<tr>
<td>2. Higher post-money valuation in IPO</td>
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<td>3. Quicker access to capital in follow-on financings</td>
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<td>7. Stronger management control by large shareholders</td>
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<td>8. Increased public visibility with potential customers</td>
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<td>11. Enhanced credibility with potential investors</td>
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<td>12. Increased personal profile</td>
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<td>13. Diluting minority shareholder positions</td>
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<td>14. Opportunity to grow the business further</td>
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Referring to the data in Table 24 above, it is apparent that there is a material degree of consistency in the rank order of the 14 upside factors across the 25 demographic groups. As in Q20, the rank order between DG2-Group II and DG3- Group II demonstrate that the perceptions of senior-decision makers and public market influencers are very much aligned on Q21.

With respect to the linked demographic subgroup analysis, there are only a few variations within the linked subgroups that are worthy of note. Between DG4-TSX and DG5 Private Company, the senior decision-makers of TSX-listed companies rank the ability of using public equity to raise financing on an expedited basis (Q21-3) more highly than their counterparts in private companies. However, DG5 Private Company respondents placed a higher importance on both liquidity for founding shareholders (Q21-5) and the ability to use stock options to recruit and retain key employees (Q21-6). One could argue that the difference on Q21-5 is attributable to the fact that the respondents from DG4-TSX are less likely to be founding shareholders of the company compared to the respondents from DG5- Private Company, so therefore underestimate the value of this potential upside for founding shareholders. With respect to Q21-6 (ability to use stock options to recruit and retain employees), one might question whether the DG4-TSX respondents take this opportunity for granted, with the DG5- Private Company respondents better able to appreciate the value of this factor as it is something that they do not have access to as private companies.453

With respect to the subgroups of public markets influencers, it appears that the DG-8 Investment Banker subgroup places less importance on liquidity for founding shareholders than the other subgroups. It is unclear what influences this outcome, but some may perceive that as relating to the challenges of raising funds for IPOs where a significant portion of the proceeds are being used to provide liquidity for founders as opposed to grow the business.

453 Obviously, stock options, or synthetic equivalents thereto, can be used in private companies. However, they are more significantly complex to manage on an ongoing basis without a public market to provide liquidity for the sale of shares obtained on exercise of the stock options.
Finally, it appears that those with limited experience in public markets (i.e., DG23) place less value on the quicker access to follow on financings available to public companies (Q21-3). This is a consistent outcome with the outcomes observed with the overlapping subgroup DG4- TSX respondents. On the whole, the trendline shows that increased public company exposure increases one's appreciation for the ability to complete follow-on financings quickly and also to use public stock as currency for acquisitions.
Chapter 8: Correlation in PCD Study Data

8.1- Overview of Approach to Correlation Analysis

It has been stated repeatedly throughout this Dissertation that the PCD Study is not designed to establish statistical causation relating to the root causes of public company decline. Nowhere in the literature has anyone yet even suggested a credible research plan that can reach such an outcome.

Rather, this Dissertation has been consistent in stating that the PCD Study was designed primarily to determine which of the various factors, posited in the literature as contributing the phenomenon of public company decline, are most important to the key business decision-makers and influencers in Canada. Although not determined to be causal, the downside factors validated in the PCD Study as being the most important to the key decision-makers and influencers can be inferred to have a material degree of relevance to the study of public company decline.

The PCD Study was designed to include the following four specific questions testing the general attitudes and predisposition of the survey respondents towards public capital markets in Canada and the relative merits of pursuing IPOs versus private equity alternatives.

- **Question 16-1:** Taking a company public offers more long-term advantages than disadvantages.

- **Question 16-2:** Companies should consider an IPO to finance growth only when private equity funding is not readily available.

- **Question 18-1:** How likely are you to recommend the IPO option as ABC’s preferred course of action?

- **Question 18-2:** How likely are you to recommend the IPO option as ABC’s preferred course of action?

The attitudes and predispositions of each respondent on these questions are obviously influenced by their personal experiences in the business world as well as by the experiences of their friends, family and business associates. The logical inference connecting the PCD Study (and, particularly, the hypothetical fact pattern involving the decision to recommend an IPO alternative or a private equity financing alternative for ABC used in Q18, Q19, Q20 and Q21) to the real world phenomenon of public company
decline is as follows: the more favorably disposed a respondent is towards taking a company public as evidenced by their positions on the four questions above, the more likely that same respondent will be to consider supporting an IPO option in their professional or business roles. Likewise, if a respondent exhibits a significant aversion to the public capital markets in the PCD Study, they are more likely to recommend avoiding an IPO and pursuing private equity alternatives in their professional or business roles.

In this final section of analysis of the PCD Study results, the positive and negative correlations between each of the four core questions and the remainder of the Likert Scale questions will be assessed. A strong positive or negative correlation does not determine that a causal relationship exists between the two factors. It simply defines a significant linkage between the factors. Correlations do not take into account the impact of other dependent and independent factors on the relationship. A strong correlation between two items can exist without a causal relationship, but a causal relationship cannot exist without some degree of correlation. As such, identifying the most statistically significant positive and negative correlation relationships in the PCD Study data is an important starting point for any further research into causality in the future.

Finally, for the readers without significant statistics background, two statistics will be reported with respect to the correlation analysis. The first statistic is the P-value, which once again is the calculated probability of concluding that there is no relationship between two variables when a relationship does, in fact, exist. Related to the P-value is the confidence level, which is met if the P-value is less than alpha (i.e., the probability of making a Type 1 error). As with all the other statistical tests used previously in this Dissertation, the lower the p-value, the higher the level of confidence that a correlation exists. The second statistic is the correlation coefficient, or the size of the correlation effect observed. Spearman rank correlation coefficients (for which the symbol $r_s$ is used interchangeably in this Dissertation) can range from 1 (representing perfect positive correlation) to -1 (representing perfect negative correlation). A correlation coefficient of 0 evidences that there is no effect whatsoever. The further away a correlation coefficient is from 0, the larger the size of the effect observed.
In order to focus on the most important elements, generally only those relationships that are most significant (i.e., generate the lowest p-values and highest correlation coefficients) will be highlighted in this portion of the analysis.

Second, the focus of the correlation analysis will be on the relationships between the four general predisposition questions (Q16-1, Q16-2, Q18-1 and Q18-2) on the one hand and: (i) the other propositions stated in Question 16; (ii) the 31 downside factors associated with being public in Question 20; and (iii) the 14 upside factors associated with being public in Question 21.

Most of the analysis in this section was calculated based on the PCD Study data for all respondents together and not broken down by the 25 demographic subgroups. It was considered whether there is additional value in discussing the degree to which the specific subgroup perceptions of DG-4 TSX respondents and DG5- Private Company respondents differ from each other, and from the DG3- Group II public markets influencers, leading to different correlation statistics for each group. Correlations statistics based on the specific responses of each of these three key subgroups have been assessed and compared to the correlations produced for DG1- All Respondents.

Ultimately, this comparison demonstrated that there is little value in complicating the analysis here by reporting the correlation coefficients broken down according to the four subgroups. First, the correlation statistics were very similar irrespective of which of the four demographic subgroups are considered. Second, sample size has a greater impact on P-values for the Spearman Rank Correlation Test, so it is more difficult to validate the existence of correlations at the 99% confidence level for the smaller subgroups (specifically DG5- Private Company) than it is for DG1- All Respondents. The value of reporting similar statistics at less significant P-values seems dubious, so the decision was made to focus the bulk of the correlation analysis at the all-inclusive level of DG-1 All Respondents.

8.2- Spearman Rank Correlation as Internal Validity Check and as Between the General Disposition Questions

As discussed in the Question 18 analysis earlier, the Spearman Rank Correlation Test can
be used to run an internal validity check on PCD Study Responses. There are certain questions which by their nature should demonstrate very strong positive or negative correlations if the respondents are answering consistently throughout the PCD Study. Running a check on these particular questions validates that the respondents are indeed answering with an appropriate degree of consistency (i.e., they are thinking through the questions and not answering randomly) as well as validating that compilation error has not occurred during the extensive data manipulation processes occurring between the situs of the original data on the Qualtrics online survey platform and the final Spearman Rank Correlation spreadsheets compiled to support this element of the analysis.

Since multiple imports, exports and data manipulations occur between the source locations and the final output of these tables, running the internal validity checks on the questions where the anticipated correlations are obvious serves a valuable check function. As discussed previously in the Question 18 analysis section, it is an obviosity that there should be a very low P-value and a very high negative correlation coefficient between Q18-1 and Q18-2, even for the smaller subgroups. Indeed, the following table demonstrates that the P-values and correlation coefficients do indeed meet these expectations, passing the internal validation tests for each subgroup.

Table 25- Internal PCD Study Validity Check- Spearman Rank Correlation Coefficients and P-values

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<tr>
<th>DG1 All Respondents</th>
<th>Q18_2</th>
<th>DG4 -TSX</th>
<th>Q18_2</th>
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<td>Q18_1-P</td>
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</tbody>
</table>

Looking next at the relationships between the four core questions testing general disposition toward the public markets, it is clear that the PCD Study data should disclose a positive correlation between Q16-1 and Q18-1, and a negative correlation between Q16-1 and Q18-2. This inference is based on the logic that, the higher the level of support for the proposition tested in Q16-1 (i.e., taking a company public offers more long-term advantages than disadvantages), the more likely the same respondent will be to
recommend the IPO option in Q18-1 and the less likely to recommend the private equity alternative in Q18-2. It is also anticipated that a negative correlation between Q16-2 and Q18-1 should be observed along with an accompanying positive correlation between Q16-2 and Q18-2. Again, this inference is based on expectation that the higher the level of support for the proposition tested in Q16-1 (i.e., taking a company public offers more long-term advantages than disadvantages), the more likely the same respondent will be to recommend the IPO option in Q18-1 and less likely to recommend the private equity alternative in Q18-2. Looking to the Spearman Rank Correlation outputs, we see that these inferences are indeed reflected in the PCD Study data.

The P-value for the correlation between Q16-1 and Q18-2 is 3.68E-13 with $R_S=0.380$ for DG1-All Respondents. This is statistically significant beyond 99.99%. A similar correlation is confirmed for DG3-Group II, DG4-TSX and DG5-Private Company. The highest $R_S$ value for the correlation between Q16-1 and Q18-1 amongst the four demographic subgroups is $R_S=0.505$ for DG-5 with a P-value of less than 0.001. From this statistic, we observe that there is a very strong positive relationship between the belief in the net benefit of taking a company public and the willingness to recommend an IPO option for senior decision-makers of private companies.

For the correlation between Q16-1 and 18-2 for DG1-All Respondents, the P-value is less than 0.001 with $R_S=-0.230$. A significant correlation between Q16-1 and Q18-2 is also confirmed for DG3-Group II respondents (P-value=0.0072, $R_S=-0.197$). The correlation is still significant, but only for confidence level of 90% for DG4-TSX (P-value=0.0585, $R_S=-0.200$).

For DG5-Private Company respondents, the P-values are not sufficiently high to meet the threshold of statistical significance. A portion of this outcome on DG5-Private Company is attributable to the smaller sample size; however, the effect size is also lower, indicating that the underlying correlation is less strong here than for the other subgroups. This outcome is not unexpected, as DG5-Private Company respondents evidence a greater aversion to pursuing IPO options than most other demographic subgroups throughout the PCD Study. Even a belief that the net long-term benefits of being public
outweigh the costs is insufficient to fully overcome the inherent aversion of this group to recommending an IPO alternative.

The correlation between Q16-2 and both Q18-1 (negative correlation) and Q18-2 (positive correlation) are also very strong for DG1- All Respondents and DG3-Group II (P-values below 0.001) and significant (P-values below 0.05) for DG4- TSX and DG5-Private Company respondents. This outcome was anticipated because Q16-2 specifically seeks the opinion of respondents on the preferred outcome in the IPO / private equity decision, similar to Q18-1 and Q18-2.

In summary, the correlation analyses between the general disposition questions of 16-1, 16-2, 18-1 and 18-2 demonstrate the anticipated correlation relationships at sufficient levels of statistical strength to serve as general validation of the consistency of responses of the PCD Study respondents.

### 8.3- General Observations on Correlations in the PCD Study

It is interesting to make certain general observations on the Spearman Rank correlation data from the PCD Study when comparing the summaries of the calculations for the four related general disposition questions to the independent questions. Before looking at the data, one would expect that Q16-1 and Q18-1 would generally evidence a negative correlation to most of the public company downside factors in Q20 and a positive correlation to most of the public company upside factors in Q21. Conversely, one would anticipate that Q16-2 and Q18-2 would demonstrate the opposite correlative relationship.

When looking at the output data from the Spearman Rank correlation calculations, it is noted that the 31 potential downside factors in Q20 do indeed evidence a consistent negative correlation relationship to both Q16-1 and Q18-1, and an accompanying consistent positive correlation to Q16-2 and Q18-2.454 Certainly, not all of those

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454 The sole outlier in 200 different Spearman Rank correlation calculations is the relationship between Q16-1 and the downside factor in Q20-18 (financial statement certification) which produces a miniscule positive correlation coefficient, but a P-value of 0.929, clearly demonstrating that particular calculation cannot be said to reflect any correlation at all.
correlations are strong, and few of the P-values associated are sufficient to report those observations as statistically significant, but it is nevertheless interesting to point out the consistency of the outputs. The data demonstrates that, the more concerned a respondent is about the 31 downside factors, the less likely that the same respondent will be willing to recommend the IPO option as the preferred alternative. The same respondent will be more likely to support the private equity options, and also more likely to believe that taking a company public is a net long-term detriment. On the flip-side, the less concerned that a respondent is about the 31 downside factors in Q20, the more likely the same respondent is to be willing to recommend the IPO option. The same respondent will be less likely to recommend the private equity option and the more likely to support that taking a company public is a net long-term benefit.

As expected, with reference to Q16-1 and Q18-1, the 14 upside factors are positively correlated to the upside factors in Q21, but the strength is less than what is observed with respect to the negative correlations relating to Q20. The negative correlation between the 14 upside factors in Q21 and Q16-2 and Q18-2 is even weaker, and there are only a couple of items that meet the minimum levels in order to be classified as statistically significant. However, those specific outcomes are worth noting as they provide an empirical basis to indicate where marketing efforts to sell the benefits of a public listing should be focused. The details are discussed later in this correlation analysis section.

With respect to the propositions in Q16-3 to Q16-7, there are only a couple of correlation outputs of sufficient strength to be worth noting. Most interesting of these observations is that Q16-7 (the regulatory overreach statement) does not meet the threshold of significance for a correlation with Q16-1 (P-value=0.191, Rs=-0.069). Q16-7 does, however, demonstrate a weakly significant negative correlation with Q18-1 (P-value=0.0151, Rs=-0.131), and a stronger positive correlation with Q16-2 (P-value=0.0001,

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455 Subject only to a single outlier (Q21-5) relating to going public in order to get liquidity for founding shareholders.
Rs=0.205) and Q18-2 (P-value>0.001, Rs=0.914).

The Spearman Rank correlation statistics on Q16-7 are particularly surprising, and somewhat ominous for the ability of the ongoing OSC and CSA burden reduction process to meaningfully impact the health of the public markets. Although we have discussed previously that there is a material level of support for the regulatory overreach proposition amongst the PCD Study respondents, the negative correlation between that proposition and Q16-1 and Q18-1 simply does not appear in the data to the degree one would have expected.

The observed outcome here is a double-edged sword. On the one hand, it provides a measure of defense for all of those regulators in Canada who have been blamed by libertarians and laissez-faire marketeers as being principally responsible for public company decline. On the other hand, however, it fails to provide much hope that reversing any perceived regulatory overreach in Canada, through the ongoing burden reduction process of the CSA and OSC, offers the prospect of pushing senior business decision-makers in Canada back towards the public markets in significant numbers. As such, there may be a strong belief that regulatory overreach has occurred in Canada amongst the PCD Study respondents, but that belief appears to operate independently of people's aversion to taking companies public in the current environment.

8.4- Identifying the Most Significant Correlations in the PCD Study

The number of Spearman Rank correlation calculations available from the PCD Study makes the task of summarizing and analyzing the outcomes almost overwhelming. It is extremely easy to get too deep into weeds and lose the big picture on how the correlation data should be presented to the readers to keep the focus on the most important items. After combing through the data carefully and looking at a multitude of options, the

456 The Spearman Rank data for the DG5- Private Company subgroup data does not indicate that senior decision-makers of private companies evidence any greater correlation between Q16-7 and the four disposition questions.
conclusion was reached that the most important correlations to highlight in this portion of the analysis are the correlations between the two major questions relating to general perceptions on the relative merits of the public markets: Q16-1- Degree of support for the proposition that taking a company public offers net long-term advantages; and Q18-1- Likelihood of recommending the IPO option as the preferred alternative in the hypothetical fact pattern. Ultimately, of the four general disposition questions discussed above, these two particular items are the most logically connected to the outcome of the public / private decision-making process.

The following correlation charts exclude correlations amongst the four general disposition questions previously discussed (Q16-1, Q16-2, Q18-1 and Q18-2) because of the conceptual overlap between those questions. What is being sought in the following correlation analysis is identification of the most statistically strong relationships between the general disposition questions in Q16-1 and Q18-1 and the intuitively independent propositions in Q16-3 to Q16-7, the potential downside factors associated with the public markets in Q20-1 to Q20-31 and the upside factors associated with the public markets in Q21-1 to Q21-14.

The analysis begins with consideration of which factors are correlated most strongly with Q18-1 (likelihood of recommending the IPO option in the hypothetical as the preferred option). The following table includes the top 20 strongest correlations on the Spearman Rank correlation test in descending order of correlation strength. Negative correlations are displayed on a white background and positive correlations are on a grey background.
Notably, all of the top 20 factors in the preceding table exhibit a Spearman Rank correlation coefficient greater than 0.20 and a P-value that is statistically significant at a level of at least 99.9%. For correlations on 5-Point Likert Scale responses, these all qualify as strongly significant correlations.

Also, it is apparent that the Q20 downside factors overall are more highly correlated to Q18-1 than the Q21 upside factors. 17 of the 20 strongest correlations to Q18-1 come from the list of factors in Q20, and only 3 from Q21. The implication of this observation is that the strength of negative perceptions is a stronger influence on our ultimate actions than strength of our positive perceptions.

Completely absent from this list are any of the Q16-3 to Q16-7 propositions, demonstrating that respondents' dispositions on those specific propositions are not linked to inclination to recommend the IPO option as are the upside and downside factors. That is not entirely surprising; the statements in Q16-3 to Q16-7 are propositions summarizing alternative theories of public company decline.

In interpreting the Spearman Rank correlation data, it is essential that one understands the difference between the strength of correlation and the overall importance of the factor as

<table>
<thead>
<tr>
<th>Q20-Q21 Rank Order</th>
<th>Spearman Strength Ranking</th>
<th>Q#</th>
<th>Factor</th>
<th>P-value</th>
<th>Rs</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>1</td>
<td>Q20_5</td>
<td>General management distractions</td>
<td>5.42E-12</td>
<td>-0.368</td>
</tr>
<tr>
<td>9</td>
<td>2</td>
<td>Q20_24</td>
<td>Redundancy of filing requirements</td>
<td>5.03E-11</td>
<td>-0.352</td>
</tr>
<tr>
<td>14</td>
<td>3</td>
<td>Q20_30</td>
<td>Management overall public company fatigue</td>
<td>6.26E-10</td>
<td>-0.332</td>
</tr>
<tr>
<td>7</td>
<td>4</td>
<td>Q20_2</td>
<td>Management effort to complete IPO</td>
<td>1.16E-09</td>
<td>-0.327</td>
</tr>
<tr>
<td>3</td>
<td>5</td>
<td>Q20_6</td>
<td>Increasing compliance complexity</td>
<td>7.9E-09</td>
<td>-0.311</td>
</tr>
<tr>
<td>6</td>
<td>6</td>
<td>Q20_19</td>
<td>Inability to focus on core business</td>
<td>8.78E-09</td>
<td>-0.310</td>
</tr>
<tr>
<td>2</td>
<td>7</td>
<td>Q20_7</td>
<td>Increasing compliance cost</td>
<td>1.44E-08</td>
<td>-0.306</td>
</tr>
<tr>
<td>10</td>
<td>8</td>
<td>Q20_1</td>
<td>Time to complete IPO</td>
<td>2.29E-08</td>
<td>-0.302</td>
</tr>
<tr>
<td>5</td>
<td>9</td>
<td>Q20_3</td>
<td>Cost of IPO</td>
<td>1.13E-08</td>
<td>-0.299</td>
</tr>
<tr>
<td>4</td>
<td>10</td>
<td>Q21_3</td>
<td>Quicker access to capital in follow-on financings</td>
<td>1.27E-06</td>
<td>0.265</td>
</tr>
<tr>
<td>20</td>
<td>11</td>
<td>Q20_27</td>
<td>Responding to uniformed shareholders</td>
<td>1.83E-06</td>
<td>-0.259</td>
</tr>
<tr>
<td>1</td>
<td>12</td>
<td>Q21_4</td>
<td>Ability to use stock for future acquisitions</td>
<td>4.64E-06</td>
<td>0.251</td>
</tr>
<tr>
<td>11</td>
<td>13</td>
<td>Q20_9</td>
<td>Increased litigation risk</td>
<td>1.04E-05</td>
<td>-0.240</td>
</tr>
<tr>
<td>13</td>
<td>14</td>
<td>Q21_10</td>
<td>Enjoy public company challenges</td>
<td>2.37E-05</td>
<td>0.232</td>
</tr>
<tr>
<td>22</td>
<td>15</td>
<td>Q20_21</td>
<td>Reputational risk</td>
<td>4.96E-05</td>
<td>-0.222</td>
</tr>
<tr>
<td>26</td>
<td>16</td>
<td>Q20_17</td>
<td>Business Acquisition Reports</td>
<td>7.16E-05</td>
<td>-0.217</td>
</tr>
<tr>
<td>30</td>
<td>17</td>
<td>Q20_20</td>
<td>Public disclosure of shares and income</td>
<td>0.000118</td>
<td>-0.210</td>
</tr>
<tr>
<td>1</td>
<td>18</td>
<td>Q20_22</td>
<td>Pressures of meeting quarterly targets</td>
<td>0.000125</td>
<td>-0.210</td>
</tr>
<tr>
<td>21</td>
<td>19</td>
<td>Q20_12</td>
<td>General regulatory overreach</td>
<td>0.000188</td>
<td>-0.204</td>
</tr>
<tr>
<td>23</td>
<td>20</td>
<td>Q20_4</td>
<td>Executive comp disclosure</td>
<td>0.000261</td>
<td>-0.200</td>
</tr>
</tbody>
</table>
ranked by the PCD Study respondents. Q20 and Q21 both asked the respondents to rank which of the upside or downside factors are most important in their decision-making process in deciding what to recommend. The outcome of those rankings has been previously discussed in this Dissertation. The highest rankings in terms of overall importance to the decision-making process likely represent a significant consistency amongst the respondents in their perceptions.

In the correlation analysis, however, the more significant results are the ones that evidence the highest linkage between one item and another item. Once again, a high level of correlation does not imply causality, as other factors may be more responsible for causing an outcome. Likewise, an item may evidence a high degree of correlation strength to Q18-1, but may also have ranked as relatively unimportant in the rank order of Q-20 factors. For example, Q20-27 (responding to uninformed shareholders) rates as having the 11\textsuperscript{th} strongest correlation overall to Q18-1 amongst the 50 factors tested, but only ranked as the 20\textsuperscript{th} most important downside factor in the Q20 rank order. This implies that the significant correlation strength associated with this factor is likely not indicative of causality.

In the chart in Table 26 above, we observe that nearly all of the top Q20 downside factors in terms of the strength of their Spearman Rank correlation to Q18-1 also were in the top 10 in rank order of importance in the Q18-1 analysis.\textsuperscript{457} Once again, these factors are drawn from a variety of different categories, demonstrating that the phenomenon of public company decline is multifactorial, interrelated and highly complex.

The highest proportion of factors that demonstrated both a strong statistical negative

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\textsuperscript{457} The only factor that did not meet this criteria is Q20-30 (management overall public company fatigue). The fact that this factor ranked in middle of the rank order on perceived importance but demonstrates a high correlation coefficient to Q18-1 leads one to consider whether the question was not worded sufficiently clearly in the PCD Study. Did it rank lower than it should have because the respondents did not connect with some element of the wording, such as the specific use of the word "fatigue" instead of an alternative like "frustration". This is particularly the case since the other four downside factors falling within the category of Time / Distraction / Effort of Going and Being Public that are in the top 10 in correlation strength all ranked in the top 10 in the Q20 importance rank order.
correlation to Q18-1 and a high rank order in the Q20 importance rankings relate to the following categories: the time / distraction associated with being public that prevents management from focusing on the core business; compliance complexity and redundancy; and public company costs. As such, the collective evidence indicates that these are the specific areas with the highest likelihood of being linked to public decline causation and therefore merit heightened attention in further research efforts.

Turning now to the correlations on Q16-1 (taking a company public offers net long-term benefits), we see that the strength of the correlations is slightly less here than for Q18-1 generally. However, the data evidences a number of relatively strong correlations between Q16-1 and the downside factors in Q20, as well as the upside factors in Q21. There are 13 factors which evidence Spearman Rank correlation P-values supporting a confidence level of 99.9% and an Rs value stronger than 0.20 in reference to Q16-1.

<table>
<thead>
<tr>
<th>Q20-Q21 Rank Order</th>
<th>Spearman Strength Ranking</th>
<th>16-1, DG1 All Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q#</td>
<td>Factor</td>
<td>P-value</td>
</tr>
<tr>
<td>4</td>
<td>Q20_5 General management distractions</td>
<td>8.52E-08</td>
</tr>
<tr>
<td>4</td>
<td>Q21_3 Quicker access to capital in follow-on financings</td>
<td>1.12E-07</td>
</tr>
<tr>
<td>3</td>
<td>Q20_6 Increasing compliance complexity</td>
<td>4.96E-07</td>
</tr>
<tr>
<td>6</td>
<td>Q20_19 Inability to focus on core business</td>
<td>6.68E-07</td>
</tr>
<tr>
<td>2</td>
<td>Q20_7 Increasing compliance cost</td>
<td>1.74E-06</td>
</tr>
<tr>
<td>10</td>
<td>Q21_11 Enhanced credibility with potential investors</td>
<td>3.51E-06</td>
</tr>
<tr>
<td>14</td>
<td>Q20_30 Management overall public company fatigue</td>
<td>4.88E-06</td>
</tr>
<tr>
<td>9</td>
<td>Q20_24 Redundancy of filing requirements</td>
<td>1.06E-05</td>
</tr>
<tr>
<td>1</td>
<td>Q20_22 Pressures of meeting quarterly targets</td>
<td>4.72E-05</td>
</tr>
<tr>
<td>13</td>
<td>Q21_10 Enjoy public company challenges</td>
<td>9.46E-05</td>
</tr>
<tr>
<td>10</td>
<td>Q21_9 Enhanced credibility with suppliers</td>
<td>0.000106</td>
</tr>
<tr>
<td>12</td>
<td>Q20_31 Lack of surety of access to follow-on financing</td>
<td>0.00011</td>
</tr>
<tr>
<td>11</td>
<td>Q20_9 Increased litigation risk</td>
<td>0.000174</td>
</tr>
<tr>
<td>5</td>
<td>Q20_3 Cost of IPO</td>
<td>0.000263</td>
</tr>
<tr>
<td>31</td>
<td>Q20_17 Financial statement certification</td>
<td>0.000485</td>
</tr>
<tr>
<td>9</td>
<td>Q21_8 Increased public visibility with potential customers</td>
<td>0.000837</td>
</tr>
<tr>
<td>7</td>
<td>Q21_14 Opportunity to grow the business further</td>
<td>0.000897</td>
</tr>
<tr>
<td>10</td>
<td>Q20_1 Time to complete IPO</td>
<td>0.001159</td>
</tr>
<tr>
<td>30</td>
<td>Q20_20 Public disclosure of shares and income</td>
<td>0.001372</td>
</tr>
<tr>
<td>14</td>
<td>Q20_2 Management effort to complete IPO</td>
<td>0.001815</td>
</tr>
</tbody>
</table>

Notably, the upside factors in Q21 are more prominent in this table than they were with respect to Q18-1, indicating that there is a stronger linkage between the strength of perception on the upside factors and the belief that taking a company public represents a
net long-term advantage. This suggests placing a higher importance on the upside factors associated with being a public company may be linked to higher overall positivity towards being a public company, but that the increased positivity is not sufficient as a motivating factor to increase the likelihood of recommending the IPO as the preferred option in the PCD Study hypothetical fact pattern.

Turning briefly to the significant correlations for Q16-2 and Q18-2, the PCD Study data only produces two correlations for each that meet the minimum threshold of evidencing both a P-value below 0.01 and a correlation coefficient close to 0.20. Both of those relationships exhibit a negative correlation with the upside factors in Q21, and the two significant relationships to Q16-2 and Q16-1 are the same upside factors in both cases.

Table 28, Q16-2 & Q18-2 Significant Correlations

<table>
<thead>
<tr>
<th>Q16_2-P-value</th>
<th>Q16_2-Rs</th>
<th>Q18_2-P-value</th>
<th>Q18_2-Rs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q21_3</td>
<td>0.00002</td>
<td>-0.231</td>
<td></td>
</tr>
<tr>
<td>Q21_4</td>
<td>0.00011</td>
<td>-0.212</td>
<td></td>
</tr>
<tr>
<td>Q21_3</td>
<td>0.00012</td>
<td>-0.212</td>
<td></td>
</tr>
<tr>
<td>Q21_4</td>
<td>0.00029</td>
<td>-0.199</td>
<td></td>
</tr>
</tbody>
</table>

Moreover, the two upside factors were also the two strongest factors from Q20 in correlation to Q18-1, and Q21-3 was the strongest factor from Q20 in correlation to Q16-1. The combination of those results points to these two factors being the two most important of all the Q20 factors in terms of correlation to the four general disposition questions.

What is particularly noteworthy is that these two factors have a common focus. Q21-3 (quicker access to capital in follow-on financings) and 21-4 (ability to use stock for future acquisition) both focus on the unique benefits that accrue to public companies as a result of being able to use their shares as currency to complete transactions more quickly than is available from private equity basis. It has been previously discussed that these two factors also rank first and fourth in the overall rank order of importance on Q20.
It is interesting to note than neither of these factors is highlighted as a benefit of going public by the TSX in their summary marketing materials.\textsuperscript{458} It may be useful for the TSX listing staff and other public markets proponents to take note of this particular outcome of the PCD Study, and begin to highlight the public benefit of having a listed stock available to use as currency on short turnaround for follow-on financings and acquisitions. At least the PCD Study demonstrates that belief has a significant correlation to increased likelihood to consider an IPO transaction.

Returning to the big picture on the correlation analysis for both Q18-1 and Q16-1 to conclude this part of the analysis, it is apparent that a number of statistically significant correlations exist. The majority of the strongest correlations are between Q18-1 and the downside factors in Q20. However, there are also significant correlations to the upside factors in Q21, particularly when calculated in reference to Q16-1.

What correlation defines in the PCD Study data is only a starting point to consider which particular items \textit{may} in fact be causally-linked to other factors. Before any conclusions can be reached on causality, however, the analysis must continue on to effectively isolate the potential impact of all other correlated factors. This is beyond the scope of the PCD Study data and the analysis in this Dissertation and, in fact, the methodology for doing so on a practical basis has not yet been suggested anywhere in the literature. Yet, where the factors in the PCD Study data are identified as combining both a high standing in the rank order analysis, along with a strong correlation to both Q18-1 and Q16-1, this outcome provides a strong clue that the particular factor should be a priority area in any further research seeking to take the next steps in establishing statistical causality of the public company decline phenomenon.

\textsuperscript{458} TMX Website, "Benefits of Going Public", accessed August 2, 2019, online:< https://www.tsx.com/listings/listing-with-us/listing-guides.}
Chapter 9: Summary of Key Findings and Observations of PCD Study

9.1- Summary of Rankings of Groups of Factors and Ability to Address Factors Through Securities Regulatory Reform

In Chapter 1 of this Dissertation, ten different categories of factors posited in the literature as potential factors contributing to public company decline in Canada were outlined. The following table reviews the ten categories of factors with reference to what has been observed in the PCD Study data, the importance of those factors in the go public / stay private decision-making process (and therefore relating to the bigger issue of public company decline) and the ability to address those factors through regulatory reform.

<table>
<thead>
<tr>
<th>Category of Factors</th>
<th>Relative Importance of Factors as Indicated by PCD Study</th>
<th>Ability to Address Factors Through Securities Regulatory Reform</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory Overreach &amp; Cost of Ongoing Public Company Compliance</td>
<td>High Importance</td>
<td></td>
</tr>
<tr>
<td>-Q17- Cited by large numbers of respondents on an unprompted basis in the text responses Q17.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-Q16-7: Evidences an overriding belief that regulators have unfairly tilted the capital markets playing field against reporting issuers, a position particularly strongly held by Group I senior decision-makers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-Q20-7: Increasing compliance costs cited as 2nd most important factor of downsides associated with capital markets.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-Q20-6: Increasing regulatory complexity cited as the 3rd most important factor in downsides associated with capital markets.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-Q20-7: Costs of IPO cited as 5th most important factor of downsides associated with capital markets.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>High</td>
<td></td>
<td></td>
</tr>
<tr>
<td>This is the category of factors that links directly to increased securities regulation, so therefore is the category of factors that can be most directly addressed by securities reform.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Requires a strong mandate to the securities regulators from government empowering the securities regulators to implement unpopular reforms, along with potential refinement of the traditional regulatory reform methodology. However, such a mandate also raises by necessity issues associated with the independence of the securities regulators.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cautionary Note- Current regulatory consultation process relying on voluntary responses to requests for comments is wholly inadequate in securing sufficient representation from the critical population of senior business decision-makers in Canada. This population is also the group that supports the Regulatory Overreach proposition most strongly in Canada. As such, securities regulators in Canada should consider modifying their current consultation processes to remedy this defect.</td>
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<td>Category of Factors</td>
<td>Relative Importance of Factors as Indicated by PCD Study</td>
<td>Ability to Address Factors Through Securities Regulatory Reform</td>
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| **Private Capital Proliferation**   | **High Importance**  
- Q17: Cited by large numbers of respondents.  
- Q16-4 & Q16-6: Strong support for the proposition that easier access to private capital is widely recognized as being important factor in public company decline. | **Low**  
- Private capital proliferation represents a systemic change in the markets over a period of time.  
Restricting access by placing regulatory impediments in the way of private capital would be unpopular and counter-productive. |
| **General Public Company Distraction Fatigue** | **High Importance**  
Q20-5: General management distractions ranked 4th out of 31 factors.  
Q20-19: Inability to focus on core business ranked 6th out of 31 factors.  
Q20-30: Overall public company management fatigue ranked 14th of 31 factors.  
Other related factors ranked lower, but the above factors demonstrate that the distraction topic is an important impediment to IPOs. | **Low**  
This has always been a fundamental challenge of being a senior executive of a public company and will always be thus. However, the increased availability of private alternatives now makes this more important because other choices to IPOs are more accessible. The only thing that can be managed is the degree of distraction by burden reduction. |
| **Litigation Risk**                 | **Moderate Importance**  
Q20-9: Legal risk is cited as the 11th most important factor of downsides associated with capital markets. This was higher than anticipated given the low number of Canadian securities class actions. Demonstrates fear of litigation may be higher than actual litigation risk, but still ranks as a moderate deterrent to IPOs. | **High**  
-Historically, Canadian legal system inherently less plaintiff-friendly than US system. Securities class-actions have become a reality in Canada since regulatory changes were introduced in 2005, but all cases have been settled prior to judgment since that time. Legislation preventing class actions for civil liability on misrepresentations could be introduced, but not without serious opposition of the securities class-action bar and shareholder rights lobby. |
| **Lack of SME Analyst Coverage**    | **Moderate Importance**  
Q20-10: trading volume concerns ranked 8th of 31 factors; Q20-11 analyst coverage concerns ranked 16th of 31 factors;  
Q20-31: lack of access to follow-on financings ranked 12th of 31 factors;  
Combined, these factors evidence that liquidity, analyst coverage and resulting valuations are a moderate deterrent to IPOs. | **Low**  
- Results from systemic changes in the public markets ecosphere, particularly worsening economics for broker-dealers at all sizes. Recent failed U.S. pilot on tick-sizes demonstrates challenges of coming up with effective regulatory policy. |
| **Shareholder Short-Termism**       | **Moderate Importance**  
Q17: Short-termism issues brought up more frequently than anticipated. | **Low**  
The underlying shift in attention span, day-trading and institutional trading make the move to short-termism |
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<th>Category of Factors</th>
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<td>Q20-15: Shareholder short-termism ranked 15th in list of 31 factors. Q20-25: Short-sellers ranked 25th of 31 factors.</td>
<td>systemic and unfixable without serious intervention (i.e., such as providing tax breaks on capital gains for stocks held over a certain length or providing enhanced voting rights for long-term shareholders such as implemented in France in 2014 under the Florange Act, which doubles voting rights after a two-year hold period).</td>
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<td>Fundamental Economic Change Hypothesis</td>
<td>Moderate Importance Q16-5: evidenced a moderate level of support (mean=3.27) for the summary of the fundamental economic change hypothesis</td>
<td>Low Reflects a systemic change with no obvious regulatory fixes. Can only be addressed by making IPOs more economically attractive compared to trade sales.</td>
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<td>Quarterly Target Perseveration</td>
<td>High Importance Q20-22: Pressure of meeting analyst targets ranked 1st of list of 31 factors.</td>
<td>Moderate The pressures of quarterly analyst targets can be addressed somewhat by simply moving to semi-annual reporting. However, the tension between managing for long term growth vs. meeting targets still remains.</td>
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<td>Public Disclosure Disadvantage</td>
<td>Low to Moderate Importance Q16-3: Proposition not highly supported by respondents (mean=2.58) Q20-16: Competitive disclosure ranked 13th of 31 factors, but was more important to SME’s and private company decision-makers. Q20-4: Executive compensation disclosure ranked 23rd out of 31 factors. Q20-8: Insider reporting requirements ranked 28th of out 31 factors. Q20-20: Disclosure of shareholdings and income from trading ranked 30th out of 31 factors. Q20-21: Reputational risk ranked 21st out of 31 factors.</td>
<td>Moderate Lessening the requirements for disclosure and allowing public companies to keep more secrets in order to better compete in the markets is conceptually simple, but practically very difficult. Would face stiff opposition from shareholder rights lobby. Would also be a practical impossibility unless these changes were coordinated with similar U.S. initiatives due to the large number of interlistings.</td>
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9.2- Recurrent Themes Observed in the PCD Study Data

9.2.1- Strong Overall Negative Bias Towards the Public Markets Exists in Canada

Overall, there is a strong negative bias towards the public markets in Canada amongst the PCD Study survey participants. The responses to Q16-1, Q16-2, Q18-1 and Q18-2 collectively demonstrate that the number of senior business decision-makers and public
company influencers who believe that taking a company public is normally in the best interests of the organization is significantly smaller than the number of individuals who believe that remaining private is generally a preferable alternative. As such, there are likely to be more negative opinions expressed than positive opinions around the boardroom table during the discussion process leading up to a potential IPO.

In order for the pro-IPO position to ultimately win the day, the IPO supporters need to be strong advocates arguing on behalf of the merits of pursuing an IPO in order to offset the more numerous voices that are likely to be expressed opposing the IPO alternative. With the PCD Study demonstrating that the number of individuals who strongly support IPOs is very small, the likelihood of developing a senior management team consensus in favour of an IPO is very low.

9.2.2- Multifactorial Complexity of the Phenomenon of Public Company Decline

There is no single factor, or even category of factors, that dominates the PCD Study and stands above all others in terms of importance to senior decision-makers in the IPO / stay private decision-making process.

However, there are certainly different tiers of factor categories, with the top tier in terms of importance comprised of: regulation and reporting challenges (complexity, redundancy, regulatory overreach); excessive public company costs resulting from the regulation and reporting challenges; and increased access to private capital (and the resulting increase in private company valuations and improved investment terms due to competition amongst private investors for good deals).

The second tier of factors in importance include: liquidity and public valuation concerns; public markets short-termism; and the additional management time and effort required to manage public companies.

459 The percentage of respondents strongly supporting the merits of IPOs on the four general disposition questions in Q16-1, Q16-2, Q18-1 and Q18-2 of the PCD Study averages less than 5%.
The third tier of factors in importance include: concerns over the ability to access capital in the public markets, competitive disclosure disadvantages for public companies, increased legal risk in the public markets, reputational risks associated with the public markets, systemic market shift towards larger acquiring companies offering quick exits at the pre-IPO stage and resource-sector specific challenges.

Beyond the third tier are a number of other categories of factors which retain some degree of importance in the IPO / stay private decision-making process, but are significantly below the categories of factors covered in the first three tiers.

On the whole, the PCD Study clearly demonstrates that the phenomenon of public company decline is, without question, multifactorial in nature, interrelated and highly complex. There is no single factor, or group of factors, that can be singled out as a target for reform offering a realistic hope that addressing the factor will remediate the malaise in the Canadian IPO market.

Any regulatory reform attempt that offers a reasonable prospect of actually reversing public company decline must consider the wide breadth of factors that all have a meaningful impact on the go public / stay private decision. Such a broad regulatory reform effort must necessarily engage the federal and provincial governments working in concert with the securities regulators and using novel inducements to realign the fundamental economic calculation that has shifted to favour private financing alternatives.

9.2.3- The Opinions of Senior Business Decision-Makers Vary Materially in Key Areas from the Opinions of Public Markets Influencers

The PCD Study data repeatedly evidences important topics in which the opinions of senior business decision-makers in Canada vary materially from the opinions of public markets influencers. The current regulatory consultation process relying on voluntary responses to requests for comments from the regulators as the key method of securing public feedback is, therefore, fundamentally flawed. The recent processes have failed to secure an appropriate level of participation from the key population of senior business decision-makers in Canada. As such, securities regulators need to modify their current
consultation processes, being proactive in the recruitment of feedback from the critical population of senior business decision-makers and directing more time and resources to securing feedback that appropriately incorporates the various constituencies whose opinions matter on the initiatives.

9.2.4- The Surprising Prominence of the Factor of Increased Availability of Private Financing Alternatives

The prominence of the increased availability of private financing alternatives as a factor rating in the first tier was surprising, due to the limited focus given to this factor in the literature (up to the last couple of years where only de Fontenay, Ewens and Farre-Mensas have focused on the topic). Both the open text responses and the quantitative response questions demonstrate that this issue is one of the most important factors embedded in the phenomenon of public company decline.

The recent stream of literature that points to an increase in private financing alternatives as a major factor in the U.S. should receive further attention. However, the tendency of that stream of literature to discuss the factor of private capital availability to the exclusion of all others fails to properly account for the complexity and number of factors that are relevant to the phenomenon.

9.2.5- Increased Public Markets Experience Correlates to Improved Dispositions Toward the Net Benefits of the Public Markets

Respondents with a higher level of exposure to public companies in their careers are more favorably disposed to view the public markets in a positive light across all questions.

9.2.6- Increased Public Markets Experience Correlates to an Increased Perception that Regulatory Overreach has Occurred

Even though increased public markets experience correlates with an overall improved perception of the public markets in terms of the net benefits offered by being public, it also correlates positively with an increased belief that securities regulators in Canada have overreached and tilted the capital markets playing field too far in favour of investor protection and against public company interests. Since this is the subgroup that has the
greatest direct experience dealing with the Canadian regulatory landscape, this outcome should be especially pertinent for Canadian securities regulators.

9.2.7 - SME’s Are More Negative on the Canadian Public Markets than Larger Companies

Respondents who are decision-makers of SME’s are more negatively disposed with respect to public markets than decision-makers of the larger non-SME’s. This supports the thread in the literature that SME’s bear a disproportionate regulatory burden without the financial depth to offset the regulatory costs. As such, expanding the streamlined reporting regulations in Canada beyond venture issuers to TSX SME’s should be a priority item in the regulatory reform agenda.

9.2.8 - Auditors / Accountants are More Negative on Public Markets than Other Public Market Influencers

Surprisingly, the DG7- Auditors subgroup proved to be the group of Public Markets Influencers that were the most negative of the subgroups of public markets influencers on the public capital markets. The accountants and auditors anecdotally expressed a particularly high level of dissatisfaction with recent pronouncements of the Canadian Accounting Standards Board. They also repeatedly expressed the sentiment that the legal and professional risk associated with public company audits is no longer worth the economic reward. Public company audits are being provided as a service to long-term public company clients, but several accounting firms indicated that they are not focusing on recruiting new public company audit clients because of the professional risks associated with those files.

9.2.9 - Management Distractions / Time Commitment Associated with Going Public and Being Public are a Major Concern

All four of the downside risk factors tested in Q20 relating to management distractions and the time required to manage a public company ranked in the top 10 out of the 31 factors. Clearly, the hassles and distractions of going public, and managing a public company, are a significant impediment to attracting more companies to the public markets.
9.2.10 - The Overall Trend of Public Company Decline in Canada Shows No Signs of Abating

All of the data collected in the PCD Study points to continued public decline in the future absent meaningful reform that goes beyond the scope of public company burden reduction initiated by the securities commissions. There is currently no momentum whatsoever towards future IPOs, as evidenced by the complete void of TSX-eligible private companies from the PCD Study indicating that they are working towards an IPO alternative in Canada. Although there is extensive literature demonstrating that IPO volumes have been historically cyclical, this lack of momentum (excluding blockchain and cannabis) has lasted for too long to reasonably believe that we are simply experiencing any type of cyclical downturn.
Chapter 10: Implications of PCD Study for Regulatory Reform Initiatives

One of the fundamental questions for consideration at the end of the PCD Study analysis is the following: What are the implications of the PCD Study in terms of the ability of regulatory reform initiatives to meaningfully impact the phenomenon of public company decline in Canada? In other words, based on the empirical evidence gathered from the PCD Study, is it reasonable to expect that regulatory reform alone will be able to significantly stem the tide of public company decline?

The quick answer to these questions is that the PCD Study data demonstrates that there are a multitude of different factors that can be inferred as being meaningfully connected to the phenomenon of public company decline in Canada. Some of these factors can intuitively be addressed through securities regulatory reform and streamlining initiatives, while others cannot. The number and importance of factors considered in the PCD Study that cannot obviously be addressed through securities regulatory reform are several, leading to the conclusion that securities regulatory reform alone cannot be realistically relied on to stem the tide of further reduction in the number of Operating Companies listed on Canadian stock exchanges.

However, the PCD Study Data also evidences that the contributing factors that can be addressed through securities regulatory reform are also numerous and of significant importance to the phenomenon of public company decline. As such, securities regulatory reform initiatives focused on streamlining processes and reducing the overall reporting burdens on public companies need to be elevated to an even higher priority in provincial securities commissions in Canada, and the securities commissions need to be empowered by clear governmental mandates to undertake aggressive reforms, even if those reforms are unpopular with certain constituencies who can be relied on to oppose any meaningful changes that favour reporting issuers. However, the securities commission reform imperative should only be one prong of the intervention initiative; the federal and provincial governments need to simultaneously launch significant interventions that fundamentally improve the relative attractiveness of accessing the public markets in Canada. In doing so, the federal and provincial governments should consider accessing
the most powerful tools that only they possess, namely the power of the public purse through tax policy.

This Dissertation has sought to collect meaningful empirical data as to the perceptions of senior business decision makers and key public markets influencers in Canada on a host of potential factors posited in the literature as potentially contributing to public company decline. Analysis of the PCD Study data demonstrates that there is overriding perception, across all the demographics groups tracked in the PCD Study, that securities regulators have been too aggressive in bringing in regulatory reforms that have complicated and increased the expense associated with ongoing regulatory compliance for public companies. This belief in regulatory overreach is particularly high amongst the critical subgroups of DG4- TSX decision-makers, DG5- Private Company decision-makers and DG10- SME decision-makers.

Given the general negativity towards the public markets, every reasonable action that can be undertaken to improve perception of the public markets should be pursued as a priority as quickly as possible. Streamlining securities regulation and reducing the burden for public companies are certainly worthwhile initiatives. This is one obvious area where overall perceptions towards the public markets can be improved at a limited financial cost to society. Certainly, investor rights groups will object to every proposal to reduce the burden of regulatory compliance, but that is inevitable. With respect, the investor rights groups may not possess sufficient context on the broader challenges of public company decline to fully appreciate the possible linkages between the positions for which they are advocating, and the phenomenon of public company decline. Ultimately, continued public decline is certainly not in the best interests of any constituency, including the investor rights groups.

The process summarized in the OSC Burden Reduction Report evidences that the OSC, at least, has begun to undertake some measure of reform designed to alleviate the types of concerns identified in the PCD Study. However, as previously pointed out, many of the most aggressive and potentially impactful reform proposals from CP 51-404 have not
made it forward to the implementation phase as described in the OSC Burden Reduction Report.

The following is a summary of each the 23 decisions and reform proposals from the OSC Burden Reduction Report that are relevant to public Operating Companies.

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Do these proposals individually and collectively go far enough based on the PCD Study Data? It has already been stated that some of the most innovative and aggressive reform proposals in CP 51-404 (ex. biannual reporting of financial statements) have not survived the cut and made it into the OSC collection of decisions and proposals above. Most of the proposals above fall into the category of streamlining processes, reducing duplication, reducing compliance costs and reducing complexity. The PCD Study certainly demonstrates that each of these major topics has some degree of relevance to the topic of
public company decline. Each proposal in the list above therefore also individually represents a positive step.

However, there is little evidence in the PCD Study Data on which to base a realistic hope that the successful completion and implementation of all of the reforms proposed by the OSC above will have any significant impact on stemming the tide of public company decline.

Only one of the specific proposals in the OSC Burden Reduction Survey deals with a subject matter that was individually of sufficient importance such that it was identified in the literature and included in the list of 31 downside factors considered in Q20 of the PCD Study; namely, the requirement to file a Business Acquisition Report. The Business Acquisition Report topic placed 26th out of the 31 factors in ranking of importance to the public decision-making process. Several of the other OSC proposals do relate to the broader topics of public company compliance costs, filing complexity and redundancy of filing requirements, which collectively rated higher in importance in the PCD Study. However, none of the individual proposals is sufficiently ambitious, or addresses a big enough underlying concern, such that any realistic observer would expect that the implementation of the proposal would have a meaningful impact on overall regulatory burden, complexity or cost.

Certainly, each proposal in the OSC Burden Reduction Survey addresses a narrow subject area that is individually worthwhile to pursue. However, all of the proposals together only represent a change in a small fraction of the overall compliance costs and disclosure obligations faced by public companies. There are dozens of such individual elements beyond those topics addressed in the OSC Burden Reduction Survey that are embedded in the broader topics of regulatory complexity, regulatory redundancy and compliance costs tested in the PCD Study, and the OSC proposals only deal with a few of these factors. None of the proposed reforms in the OSC Burden Reduction Survey are sufficiently big-picture or impactful in scope that would be expected to individually move the needle on overall compliance costs or complexity. Only time will tell whether the collective effect of a number of minor reforms has any meaningful impact, but the OSC
has missed out on the opportunity to support the adoption of more ambitious and far-reaching reform proposals at this juncture.

Also apparent from the consultation responses in both CP 51-404 and OSC 11-784 is the heightened concern with the traditional CSA/OSC processes in which few public Operating Companies perspectives are represented, compared to the numerous submissions from public markets influencers and financial markets advocacy groups. Underlying this concern is the data from the PCD Study demonstrating that the Group I decision-makers feel materially stronger about regulatory overreach than Group II participants, but that their views are not sufficiently represented in the totality of the consultation process.

It has been discussed repeatedly in this Dissertation that the current securities regulatory reform processes in Canada are wholly inadequate in securing the participation of representative samples of the specific senior business decision-maker population which is so critical to the Canadian capital markets landscape. With the evidence clearly demonstrating that the opinions of the senior business decision-makers in Canada materially vary from the opinions of public markets influencers on key topics, it is imperative that regulators modify their consultation processes. This includes dedicating additional resources to proactively soliciting the opinions of senior decision-makers during the consultation processes. It should also extend to prioritizing the collection and analysis of empirical data related to prospective regulatory reforms much earlier in the process as advocated by legal commentators such as Roberta Romano and Robert Clark, as discussed in chapter 3 of this Dissertation.

Securities regulators will likely respond by stating that they simply do not have the budget to devote additional resources to improving the breadth and quality of the data that they collect by proactively soliciting participation of senior business decision-makers during the consultation process. However, the obvious rebuttal to this argument is that it is not a matter of budget, but simply a matter of prioritization of resources. It is clear from the OSC Burden Reduction Report that significant financial and personnel resources have been allocated to the overall burden reduction process. Those allocations have not,
however, prioritized collecting empirical data from decision-makers of Operating Companies in Canada.

As an example, a single researcher completed the entire enrollment effort for the PCD Study during a four-month intensive process, with a limited financial budget to support the enrollment effort. Also, the PCD Study data-gathering effort did not have the inherent credibility advantage or the database access that would be available to a data gathering initiative working under the auspices of a provincial securities commission or the CSA. With approximately 500 full-time employees, it is hard to imagine that the OSC cannot repurpose individuals to focus on securing responses from a broader group of market participants on proposed regulatory reform initiatives such that their analysis is being undertaken with better empirical data and broader participation from senior business decision makers of both public and private companies.

At a macro level, the PCD Study data evidences that there is a widely-held belief amongst Canadian business leaders that taking a company public in Canada is a net disadvantage in the long term. This negative perception plagues the Canadian public markets at this point in time. In order to stem the tide of further public company decline, it is clear that immediate and aggressive regulatory reform is needed to combat the overall negative perception towards the Canadian public markets evidenced in the PCD Study, focusing on improving both the perception and the reality of the public company experience in Canada.

It is submitted that there are many tools within the reach of Canadian securities regulators from a regulatory reform perspective that would significantly improve the overall public perception towards the capital markets. Many of the innovative and ambitious ideas, offering the prospect of material burden reduction, were included in the original 33 suggestions put forth for consideration by the CSA in CP 51-404. However, the most ambitious and promising ideas were abandoned in the follow-on CSA 51-353 instrument and the OSC Burden Reduction Report after pushback from the investor rights lobby in the consultation process.
Without question, the watered-down list of proposed reforms ultimately recommended in CSA 51-353 and the OSC Burden Reduction still include some worthwhile elements. However, it is submitted that these reform suggestions in CSA 51-353 and the OSC Burden Reduction Report go nowhere near far enough in addressing foundational issues currently manifested in the Canadian capital markets. Nor do they provide a sufficiently strong clear signal to the Canadian business community that the securities regulators are willing to commit themselves to fostering meaningful public capital markets growth. A much more robust regulatory response, akin to adopting all of the original burden reduction ideas floated in CP 51-404, is necessary in order to reverse the general negativity towards the capital markets displayed in the PCD Study. With respect, CP 51-404 demonstrates that current securities regulatory reform initiatives are not failing due to a lack of ideas on ways to streamline regulation and reduce the overall reporting burden for public companies; what is lacking in these initiatives is the willingness of the securities regulatory authority leadership driving the agenda to push forward the most ambitious, and controversial, ideas in the face of opposition from the shareholder rights lobby.

The PCD Study, as a whole, demonstrates that the phenomenon of public company decline is unquestionably multi-factorial in nature, interrelated and extremely complex. Considering the specific nature of the factors that the PCD Study indicates are significant contributing factors to public company decline, it appears highly unlikely that any package of aggressive regulatory reforms will be sufficient, in and of themselves, to stem further erosion in the number of Operating Companies listed in Canada.

Yet, it is equally clear from the PCD Study Data that the factors of regulatory overreach and increasing regulatory compliance cost are important negative factors in the minds of key public markets decision-makers and influencers in the Canadian market. As such, there is no chance of a public markets recovery without an aggressive package of regulatory reforms that deliver material burden reduction for Operating Companies. That package of regulatory reforms should begin with the most aggressive and far-reaching of the 33 discussion points initially put forth in CP 51-404 as a starting point, and then continue building on those initiatives.
As stated in the introductory paragraphs of this chapter, aggressive intervention of the provincial securities regulators to reduce the public company burden is an absolutely essential element to stemming the tide of further public company decline; however, the PCD Study data indicates that no amount of regulatory reform from securities regulators can be expected to single-handedly reverse the decline and result in an actual recovery of the public capital markets in Canada.

Ultimately, the quandary of public company decline in Canada is something that should not be left to the securities regulators alone to fix if the federal and provincial governments in Canada accept the position that maintaining robust public capital markets is an important policy objective. Although the securities regulators may bear some degree of blame for contributing to the phenomenon through regulatory overreach in the past number of years, the blame does not extend so far as to support a conclusion that the regulators are solely, or even primarily, responsible for the occurrence of the phenomenon. It is clear that the malaise surrounding the IPO market at this point in time in Canada is the result of multiple contributing factors that have evolved to collectively conspire against the competitive position of the public capital markets, many of which operate completely independent of the actions of the provincial securities regulators or any other governmental bodies. Specifically, the federal and provincial governments should consider implementing co-ordinated policy initiatives in which the comparative economic benefits in the private / public calculation are readjusted.

Beyond the critical intervention from the securities regulators to reduce public company burden, then, what other avenues exist in Canada to regain momentum in the public markets? If the securities regulators cannot achieve this result through burden reduction alone, then the inevitable conclusion is that the cause of the public markets must be taken up by higher levels of government in Canada with additional policy tools at their disposal.460

460 How? The answer is beyond the scope of this Dissertation. However, there are certain prospects that are immediately obvious. One such alternative is the creation of material financial incentives that are directly either at the Operating Companies or at the public investor level, such as providing benefits similar to flow-
However, it should also be acknowledged that government intervention also involves risk, and not every government initiative can be expected to be successful in its real-world implementation. The failure of the SEC pilot program operated by FINRA on the imposition of artificial tick sizes, discussed earlier in this Dissertation in Chapter 2, is a prime example of a failed legislative initiative in the U.S. directed at reversing public company decline. Yet, it should be noted that the entire SEC pilot initiative was based on the erroneous assumption that the primary driver of public company decline in the U.S. was the deterioration of the support ecosystem of research and market-makers due to the decimalization of the trading function.

The U.S. initiative on tick sizes serves as a warning for potential Canadian governmental interventions. The U.S. initiative failed because it was based on an over-simplified belief that public company decline was a relatively straight-forward phenomenon. It was also implemented without any solid empirical research backing the design of the legislative program. The failure of this program again underlines the importance of undertaking solid empirical research to inform prospective regulatory intervention before the implementation of the new programs. Failing to have done so, the U.S. initiative of tick-sizes targeted only a single root cause of a phenomenon that the PCD Study has demonstrated is multi-factorial and extremely complex, with the inevitable result that the initiative failed to achieve its goals of increasing liquidity for the piloted companies.

While still laudable in that the U.S. government has actually tried something to reverse through shares for investors who invest directly in IPOs. Another alternative would be providing a 3-5 year tax horizon after completion of an IPO in which newly-listed public companies are eligible to pay lower taxes on active business income, possibly determined by the number of full-time Canadian-based employees that are hired during that period and/or investment in research and development. A third alternative would be to tax capital gains on public shares at a lower rate than gains on private investments. Without doubt, if you have access to tax policy as a tool to fix the public company decline problem, the nature of the incentives that can be identified is extensive. Moreover, the benefits of tax policy changes can be apportioned between the companies and investors with a focus on job creation and research investment, thereby aligning public company incentives with other government priorities.

The flow-through tax program in the mining industry is a prime example of a government intervention for the benefit of business that has had major impact in preserving mining finance as a viable industry in Canada. Absent the flow-through tax incentives, there is a broad consensus in mining finance that the junior exploration side of the mining industry in Canada would have atrophied to a much greater extent during the numerous down-cycles that it has faced over the past three decades.
the tide of public company decline (including both the tick-size pilot and the JOBS Act), unlike Canada (where nothing has yet been attempted), it demonstrates the risk of attempting narrowly-focused interventions in this area.

One way or another, the Canadian federal and provincial governments are going to have to step up and take a true leadership role in protecting the public markets if they believe that maintaining robust public markets is of significant value to the economy. This may entail revising the regulations that dictate the current public consultation methodologies mandated for the securities commissions, thereby adopting new engagement procedures specifically designed to bring more voices from the Operating Company constituency to the table. It should also involve bringing empirical evidence to the analysis much earlier in the process, preferably before the reforms are enacted.

Perhaps the most ominous of the conclusions to be drawn from the PCD Study is that, if the governments continue to avoid direct intervention and push the mandate for stemming public company decline down to the securities commissions alone, it appears inevitable that the public capital markets will be further reduced to a mere shadow of their historical position as key drivers of growth in the Canadian economy.
Chapter 11: Indications for Further Research

The following are items that have been identified through the course of the PCD Study as being issues on which further research and analysis is warranted:

A. Junior Capital Markets Analysis- The PCD Study was limited in scope to public companies listed on the TSX or private companies eligible for listing on the TSX. The rationale for this limitation was discussed in the research methodology portion of the Dissertation as being linked to the unique issues facing junior stock exchange-listed companies in Canada. However, it is clear that the public company decline phenomenon is most severe in the case of SME’s, and that SME senior business decision-makers are more negatively disposed towards the public markets at a whole. In Canada particularly, the junior markets have traditionally played a critical role as incubators for companies that graduate to the TSX and the health of the junior capital markets is clearly a matter of priority. As such, additional empirical research focusing on senior business decision-makers of companies listed on the Canadian junior stock exchanges (TSXV and CSE) is indicated, comparing the perceptions and experiences for the junior companies to the data gathered in the PCD Study.

B. Voluntary vs. Forced IPOs- In light of the significant overall negative perception towards the public markets reported in the PCD Study, it would be valuable to understand what portion of the IPOs completed in Canada (and in the U.S.) over the past decade have been undertaken voluntarily by management and controlling shareholders of the companies compared to those that are forced on the companies due to registration rights granted to private equity investors. This would provide clarity as to how many, of the very limited number of IPOs that have been completed, are pursued as being the optimal strategic option for the company instead of being pursued because of the contractual liquidity rights previously granted to a shareholder.

C. Potential Impairment of IPO Capital Sources Due to Passive Fund Flows- This item deals with a recurring theme that was brought up in live presentations to investment banks in Canada during the course of the PCD Study; i.e., that the flow of funds from actively-managed funds to passively-managed funds in Canada serves as a potential
threat to IPO financing sources in the future. Further analysis is required to determine to what extent the flow of capital from actively-managed investment funds into passively managed ETF’s and closed-end funds might constrain the ability of investment banks to support an increased volume of IPOs. Although the PCD Study has demonstrated that this issue has not been a historical cause of public company decline thus far, certain participants in the PCD Study indicated their concern that the issue may prove to be a bottleneck in the future, if and when the desire of companies to pursue IPOs increases. The additional research should seek to quantify the degree to which actively-managed funds retain sufficient liquidity to invest in future IPOs.

D. Quantifying the Growth of Private Equity in Canada- Perhaps most critical in understanding the phenomenon of public company decline in Canada, additional research is indicated in terms of quantifying how much easier and quicker it has become to access private equity in Canada over the past 25 years. This research should focus on the overall growth of the private equity financing targeted to Canadian companies, but should also include a mechanism for determining the ease with which such capital can be accessed. This should focus on both ease of access, timing to close of private equity transactions and valuations. Intuitively, increased dry powder should lead to increased competition for the best private deals, thereby reducing timing and streamlining processes to close private equity financings.

E. Pre-Money Valuation Delta Between Public and Private Deals- Further analysis is required to determine how the average pre-money valuation of transactions in the private markets has evolved over the past 25 years, specifically compared to evolution of pre-money valuation in the public markets. Has this gap narrowed to the degree indicated by many individuals who participated in the PCD Study? Indeed, has the gap actually become inverted as expressed by some PCD Study participants (i.e., where private transactions are securing higher valuations than public market valuations?). How does the actual difference between the private and public valuations in the current market compare to the minimum premium specified by the respondents in Q19 of the PCD Study?
F. **Follow-Up on Question 16-7**- Question 16-7 of the PCD Study demonstrated that increased exposure to the public markets correlates positively with an increased support for the regulatory overreach hypothesis. This is an important finding in terms of its ramifications for provincial securities regulators, and therefore additional empirical research is warranted to determine *why* increased exposure in the public markets is correlated to a higher acceptance of regulatory overreach. However, increased familiarity with public markets also was found to correlate with an overall increased belief in the value of the public markets for the long-term benefit of companies. The implication of these findings is that regulatory overreach is a real phenomenon, yet improved education of senior business decision-makers of private companies offers the prospect of increasing IPO volumes to at least some degree. Further research focusing on these two particular findings should seek to validate these two perceptions from the PCD Study, both of which are important in instructing future strategy to combat further public company decline.

G. **Replicating the PCD Study in the U.S. and Europe**- Consideration should be given to replicating the PCD Study in the United States and in Europe, comparing the results to the Canadian data. Important information can be gleaned by comparing how the Canadian data compares to these other countries, which data would be particularly useful in determining how to combat public company decline in Canada. The comparative data would also be instructive in the United States and Europe, as those jurisdictions seek to craft their own strategies to combat further public company decline. Research methodology lessons learned from the Canadian study should be instructive in the design and implementation of the U.S. and European surveys. Ultimately, the goal will be to determine: what factors are similar in importance between the Canadian, U.S. and European studies; and what factors are materially different?

H. **Replicate the PCD Study in Countries Not Yet Evidencing Public Company Decline**- Consideration should be given to repeating the PCD Study in key Asian markets such as Singapore and Hong Kong in order to gain comparative data from capital markets in regions that have not yet gone through a period of decline. Is future public company decline in these markets inevitable once they reach a comparative stage of maturity to the
western markets? Is there something fundamentally different in the public markets in Asia that would indicate that public company decline is an issue endemic only to the western developed democracies? Comparing the perceptions of senior business decision-makers and public markets influencers operating in key Asian markets to the opinions expressed in the western industrialized democracies should provide some indication as to whether there is something systemically different between the capital markets systems in the east and the west that works in favour of the eastern public markets, or is future capital markets decline in the east an inevitability.

I.  *Completion of Ordinal Regression Analysis* - Using the data already gathered in the PCD Study, an ordinal regression analysis should be undertaken to strengthen our understanding of the correlation data and determine what predictions can be made, with various degrees of confidence, as to the disposition of respondents on certain factors based on their answers on other factors.

J.  *Further Analysis of Question 21 Data- Upside Factors Associated with Being Public* - The PCD collected data on the upside benefits associated with being public in Question 21, but detailed analysis of this data and comparison of the study data to previous studies undertaken in the U.S. and Europe was not prioritized in the Dissertation analysis. As the data has been collected and is accessible for further analysis, it is an area meriting further consideration in the format of a follow-on paper.
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PhD Dissertation
on Decline of Public Operating Companies in Canada

L. Daniel Wilson

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### Appendix 1-
Excerpt of Decisions and Recommendations Relevant to Operating Companies from the OSC Burden Reduction Report

**DECISIONS AND RECOMMENDATIONS IMPACTING ALL ISSUERS**

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
<th>Start</th>
<th>Target Date (from start)</th>
<th>Status</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>Recommend an amendment to the Securities Act to obtain authority to make exemptive relief orders applicable to multiple market participants (“blanket orders”) to avoid the costs associated with filing multiple separate exemptive relief applications</td>
<td>Completed</td>
<td>Completed</td>
<td>Completed</td>
<td>Reduced red tape</td>
</tr>
<tr>
<td>A-2</td>
<td>Evaluate whether to recommend relocating various provisions found in the Securities Act into National Instruments to harmonize the placement of OSC requirements with those of other Canadian jurisdictions</td>
<td>Summer 2019</td>
<td>24 months</td>
<td>In progress</td>
<td>Harmonization</td>
</tr>
<tr>
<td>A-3</td>
<td>Adopt and publish service standards that cover more processes, particularly compliance reviews, and establish a framework for performance measurement and continuous improvement</td>
<td>Summer 2019</td>
<td>12 months</td>
<td>In progress</td>
<td>Better and more accessible information</td>
</tr>
<tr>
<td>A-4</td>
<td>In consultation with stakeholders, review compliance processes to improve focus on materiality, clarity, consistency, efficiency of interactions with staff and increased reliance on the principal regulator</td>
<td>Summer 2019</td>
<td>12 months</td>
<td>In progress</td>
<td>More timely and focused reviews</td>
</tr>
<tr>
<td>A-5</td>
<td>Enhance regulatory impact analysis for rule-making</td>
<td>Summer 2019</td>
<td>12 months</td>
<td>In progress</td>
<td>More tailored and flexible regulation</td>
</tr>
<tr>
<td>A-6</td>
<td>Improve clarity and consistency in drafting OSC rules, policies and guidance</td>
<td>Summer 2019</td>
<td>12 months</td>
<td>In progress</td>
<td>Better and more accessible information</td>
</tr>
<tr>
<td>Number</td>
<td>Description</td>
<td>Start</td>
<td>Target Date (from start)</td>
<td>Status</td>
<td>Benefits</td>
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</tr>
<tr>
<td>A-7</td>
<td><strong>Work with the CSA to improve clarity and consistency in drafting CSA rules, policies and guidance</strong></td>
<td>Summer 2019</td>
<td>TBD</td>
<td>In progress</td>
<td>Better and more accessible information</td>
</tr>
<tr>
<td>A-8</td>
<td>Engage in targeted consultations with market participants on how to better combine and balance principles-based rules, prescriptive rules and guidance</td>
<td>Summer 2019</td>
<td>24 months</td>
<td>In progress</td>
<td>More tailored and flexible regulation</td>
</tr>
<tr>
<td>A-9</td>
<td>Engage in targeted consultations to further understand and address stakeholders’ concerns that staff guidance is being applied as rules</td>
<td>Summer 2019</td>
<td>12 months</td>
<td>In progress</td>
<td>More timely and focused reviews Better and more accessible information</td>
</tr>
<tr>
<td>A-10</td>
<td>Redevelop the OSC website format and content, prioritizing the posting of updated consolidated rules and better access to staff contact information</td>
<td>Summer 2019</td>
<td>12 months</td>
<td>In progress</td>
<td>Better and more accessible information</td>
</tr>
<tr>
<td>A-11</td>
<td>Evaluate the extent to which improvements to local filing systems can be made given the scope, resource and timing implications for existing local project work and SEDAR+</td>
<td>Summer 2019</td>
<td>24 months</td>
<td>In progress</td>
<td>Reduced red tape</td>
</tr>
<tr>
<td>A-12</td>
<td>Consider improvements to existing outreach programs (e.g., checklists, guides, in-person outreach, and channels of delivery)</td>
<td>Summer 2019</td>
<td>24 months</td>
<td>In progress</td>
<td>Better and more accessible information</td>
</tr>
<tr>
<td>A-13</td>
<td>Review the terms of engagement with advisory committees to increase their value as a source of input</td>
<td>Summer 2019</td>
<td>24 months</td>
<td>In progress</td>
<td>Better and more accessible information</td>
</tr>
<tr>
<td>A-14</td>
<td>Evaluate existing service standards for OSC stakeholders and establish a framework for determination, measurement and continuous improvement</td>
<td>January 2020</td>
<td>24 months</td>
<td>Planning</td>
<td>Better and more accessible information</td>
</tr>
</tbody>
</table>
### Decisions and Recommendations Impacting Companies

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
<th>Start</th>
<th>Target Date (from start)</th>
<th>Status</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>C-1</td>
<td>Develop a process for mining issuers to request confidential staff review of publicly-filed mining disclosure prior to commencing an offering</td>
<td>Completed</td>
<td>Completed</td>
<td>Completed. See OSC Staff Notice 43-706 Pre-filing Review of Mining Technical Disclosure</td>
<td>More timely and focused reviews</td>
</tr>
<tr>
<td>C-2</td>
<td>Develop a process for issuers to request confidential staff review of an entire prospectus prior to announcing an offering**</td>
<td>Summer 2019</td>
<td>12 months</td>
<td>In progress</td>
<td>More timely and focused reviews</td>
</tr>
<tr>
<td>C-3</td>
<td>Publish guidance about issues that staff would raise during prospectus reviews that may impact the structure of an offering or where there may be questions regarding the interpretation of certain requirements</td>
<td>Fall 2019</td>
<td>12 months</td>
<td>In progress</td>
<td>Better and more accessible information</td>
</tr>
<tr>
<td>C-4</td>
<td>Harmonize the requirements for financial statements to be included in a long form prospectus relating to an issuer’s primary business**</td>
<td>Fall 2018</td>
<td>24 months</td>
<td>In progress</td>
<td>Harmonization</td>
</tr>
<tr>
<td>C-5</td>
<td>Review options for extending the filing deadline for exempt distributions, and engage in public consultation **</td>
<td>Summer 2019</td>
<td>24 months</td>
<td>In progress</td>
<td>More tailored and flexible regulation</td>
</tr>
<tr>
<td>C-6</td>
<td>Cease-Trade Orders: Provide clearer information on the OSC website on an issuer’s CTO status</td>
<td>Summer 2019</td>
<td>18 months</td>
<td>In progress</td>
<td>Better and more accessible information</td>
</tr>
<tr>
<td>C-7</td>
<td>Cease-Trade Orders: Where applicable, include additional information, such as CUSIP numbers or more details regarding individual officers and directors subject to a CTO, in published orders to better identify which securities are covered by the CTO</td>
<td>Summer 2019</td>
<td>18 months</td>
<td>In progress</td>
<td>Better and more accessible information</td>
</tr>
<tr>
<td>Number</td>
<td>Description</td>
<td>Start</td>
<td>Target Date (from start)</td>
<td>Status</td>
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</tr>
<tr>
<td>C8</td>
<td>Harmonize the crowdfunding exemption and publish proposed amendments for public consultation**</td>
<td>Fall 2018</td>
<td>24 months</td>
<td>In progress</td>
<td>Harmonization</td>
</tr>
<tr>
<td>C9</td>
<td>Amend the rules to reduce the number of instances when financial statements are required to be filed for significant acquisitions in business acquisition reports (BARs) and other disclosure**</td>
<td>Fall 2018</td>
<td>24 months</td>
<td>In progress</td>
<td>Reduced red tape</td>
</tr>
<tr>
<td>C10</td>
<td>Amend the disclosure required in the Annual Information Form (AIF) and Management Discussion and Analysis (MD&amp;A) to avoid duplicative or unnecessary disclosure**</td>
<td>Fall 2018</td>
<td>24 months</td>
<td>In progress</td>
<td>Reduced red tape</td>
</tr>
<tr>
<td>C11</td>
<td>Develop a comprehensive approach to modernizing delivery requirements for corporate issuer documents and publish a concept paper for consultation**</td>
<td>Fall 2018</td>
<td>18 months</td>
<td>In progress</td>
<td>Reduced red tape</td>
</tr>
<tr>
<td>C12</td>
<td>Develop and publish proposals to make it more cost-effective for issuers to conduct a prospectus offering**</td>
<td>Fall 2018</td>
<td>24 months</td>
<td>In progress</td>
<td>More tailored and flexible regulation</td>
</tr>
<tr>
<td>C13</td>
<td>Amend the rules so that at-the-market (ATM) offerings can be conducted without having to obtain prior exemptive relief **</td>
<td>Fall 2018</td>
<td>24 months</td>
<td>In progress</td>
<td>Reduced red tape</td>
</tr>
</tbody>
</table>
Appendix 2-
Excerpt of 33 Consultation Questions in CP 51-404

General consultation questions

1. Of the potential options identified in Part 2:
   (a) Which meaningfully reduce the regulatory burden on reporting issuers while preserving investor protection?
   (b) Which should be prioritized and why?

2. Which of the issues identified in Part 2 could be addressed in the short-term or medium-term?

3. Are there any other options that are not identified in Part 2 which may offer opportunities to meaningfully reduce the regulatory burden on reporting issuers or others while preserving investor protection? If so, please explain the nature and extent of the issues in detail and whether these options should constitute a short-term or medium-term priority for the CSA. [p.4]

Consultation questions

4. Would a size-based distinction between categories of reporting issuers be preferable to the current distinction based on exchange listing? Why or why not?

5. If we were to adopt a size-based distinction:
   (a) What metric or criteria should be used and why? What threshold would be appropriate and why?
   (b) What measures could be used to prevent reporting issuers from being required to report under different regimes from year to year?
   (c) What measures could be used to ensure that there is sufficient transparency to investors regarding the disclosure regime to which the reporting issuer is subject?
   (d) How could we assist investors in understanding the distinction made and the requirements applicable to each category of reporting issuer?

6. If the current distinction for venture issuers is maintained, should we extend certain less onerous venture issuer regulatory requirements to non-venture issuers? Which ones and why? [p.5]

Consultation questions

7. Is it appropriate to extend the eligibility criteria for the provision of two years of financial statements to issuers that intend to become non-venture issuers? If so:
   (a) How would this amendment assist in efficient capital raising in the public market?
   (b) How would having less historical financial information on non-venture issuers impact
investors?
(c) Should we consider a threshold, such as pre-IPO revenues, in determining whether two years of financial statements are required? Why or why not?
(d) If a threshold is appropriate, what threshold should be applied to determine whether two years of financial statements are required, and why?

8. How important is the ability to perform a three-year trend analysis? [p.6]

Consultation questions
9. Should auditor review of interim financial statements continue to be required in a prospectus? Why or why not?

10. Should other prospectus disclosure requirements be removed or modified, and why? [p.7]”

Consultation questions
11. Is the current short form prospectus system achieving the appropriate balance (i.e., between facilitating efficient capital raising for reporting issuers and investor protection)? If not, please identify potential short form prospectus disclosure requirements which could be eliminated or modified in order to reduce regulatory burden on reporting issuers, without impacting investor protection, including providing specific reasons why such requirements are not necessary.

12. Should we extend the availability of the short form prospectus offering system to more reporting issuers? If so, please explain for which issuers, and why this would be appropriate.” [p.7]

Consultation questions
“13. Are conditions right to propose a type of alternative prospectus model for reporting issuers? If an alternative prospectus model is utilized for reporting issuers:
   (a) What should the key features and disclosure requirements of any proposed alternative prospectus model be?
   (b) What types of investor protections should be included under such a model (for example, rights of rescission)?
   (c) Should an alternative offering model be made available to all reporting issuers? If not, what should the eligibility criteria be?” [p.9]

Consultation questions
14. What rule amendments or other measures could we adopt to further streamline the process for ATM offerings by reporting issuers? Are there any current limitations or requirements imposed on ATM offerings which we could modify or eliminate without compromising investor protection or the integrity of the capital markets?

15. Which elements of the exemptive relief granted for ATM offerings should be codified in securities legislation to further facilitate such offerings? [p.10]
Consultation questions
16. Are there rule amendments and/or processes we could adopt to further streamline the process for cross-border prospectus offerings, without compromising investor protection, by: (i) Canadian issuers and (ii) foreign issuers?

17. As noted in Appendix B, in 2013 a number of amendments were made to liberalize the premarketing/marketing regime in Canada. Are there rule amendments and/or processes we could adopt to further liberalize the prospectus pre-marketing and marketing regime in Canada, without compromising investor protection, for: (i) existing reporting issuers and (ii) issuers planning an IPO, and if so in what way? [p.10]

Consultation questions
18. Does the BAR disclosure, in particular the financial statements of the business acquired and the pro forma financial statements, provide relevant and timely information for an investor to make an investment decision? In what situations does the BAR not provide relevant and timely information?

19. Are there certain BAR requirements that are more onerous or problematic than others?

20. If the BAR provides relevant and timely information to investors:
   (a) Are each of the current significance tests required to ensure that significant acquisitions are captured by the BAR requirements?
   (b) To what level could the significance thresholds be increased for non-venture issuers while still providing an investor with sufficient information with which to make an investment decision?
   (c) What alternative tests would be most relevant for a particular industry and why?
   (d) Do you think that the disclosure requirements for a significant acquisition under Item 14.2 of 51-102F5 (information circular) should be modified to align with those required in a BAR, instead of prospectus-level disclosure? Why or why not? [p.11]

Consultation questions
21. Are there disclosure requirements for annual and interim filing documents that are overly burdensome for reporting issuers to prepare? Would the removal of these requirements deprive investors of any relevant information required to make an investment decision? Why or why not?

22. Are there disclosure requirements for which we could provide more guidance or clarity? For example, we could clarify that discussion of only significant trends and risks is required, or that the filing of immaterial amendments to material contracts is not required under NI 51-102. [p.12]
Consultation questions
23. What are the benefits of quarterly reporting for reporting issuers? What are the potential problems, concerns or burdens associated with quarterly reporting?

24. Should semi-annual reporting be an option provided to reporting issuers and if so under what circumstances? Should this option be limited to smaller reporting issuers?

25. Would semi-annual reporting provide sufficiently frequent disclosure to investors and analysts who may prefer to receive more timely information?

26. Similar to venture issuers, should non-venture issuers have the option to replace interim MD&A with quarterly highlights? [p.13]

Consultation questions
27. Would modifying any of the above areas in the MD&A form requirements result in a loss of significant information to an investor? Why or why not?

28. Are there other areas where the MD&A form requirements overlap with existing IFRS requirements?

29. Should we consolidate the MD&A, AIF (if applicable) and financial statements into one document? Why or why not?

30. Are there other areas of overlap in continuous disclosure rules? Please indicate how we could remove overlap while ensuring that disclosure is complete, relevant, clear, and understandable for investors. [p.14]

31. Are there any aspects of the guidance provided in NP 11-201 which are unclear or misaligned with market practice?

32. The following consultation questions pertain to the “notice-and-access” model under securities legislation and consideration of potential changes to this model:
   (a) Since the adoption of the “notice-and-access” amendments, what aspects of delivering paper copies represent a significant burden for issuers, if any? Are there a significant number of investors that continue to prefer paper delivery of proxy materials, financial statements and MD&A?
   (b) Do you think it is appropriate for a reporting issuer to satisfy the delivery requirements under securities legislation by making proxy materials, financial statements and MD&A publicly available electronically without prior notice or consent and only deliver paper copies of these documents if an investor specifically requests paper delivery? If so, for which of the documents required to be delivered to beneficial owners should this option be made available?
   (c) Would changes to the “notice-and-access” model as described in question (b) above pose a significant risk of undermining the protection of investors under
securities legislation, even though an investor may request to receive paper copies?
(d) Are there other rule amendments that could be made in NI 54-101 or NI 51-102 to improve the current “notice-and-access” options available for reporting issuers?

33. Are there other ways electronic delivery of documents could be further enhanced through securities legislation? [p.15]

2.1- Extending the application of streamlined rules to smaller reporting issuers

Under Canadian securities legislation, venture issuers are permitted to comply with continuous disclosure requirements that are generally less onerous than those imposed on other reporting issuers. For example, venture issuers have:
• longer filing deadlines for annual and interim financial statements
• a higher threshold for significant acquisition reporting
• no requirement to file an annual information form (AIF)
• ability to file a quarterly highlights document to meet interim management’s discussion and
analysis (MD&A) requirements
• different corporate governance requirements
• reduced certification requirements

We currently distinguish venture issuers from non-venture issuers based on their exchange listings. A reporting issuer generally qualifies as a venture issuer as long as it does not have securities listed or quoted on what we consider senior securities exchanges or most foreign exchanges (a Non-Venture Exchange). Some of the reasons for the current delineation between venture and non-venture issuers were stability and transparency.” [p.4]
Appendix 3 -
Letter of Information for Main Study

Study on Public Company Decline in Canada

Project Title: Can Regulatory Reform Reverse the Decline of Public Markets in Canada? Assessing the Factors Impacting Decisions by Corporate Leaders to Avoid Canadian Public Listings

Principal Investigator: Christopher Nicholls
W. Geoff Beattie Chair in Corporate Law, Western University, Faculty of Law
Email: [redacted]
Phone: [redacted]

Co-Investigator: L. Daniel Wilson
Doctoral Graduate Student, Western University, Faculty of Law
Email: [redacted]
Cell Phone: [redacted]
Office: [redacted]

Letter of Information

Introduction:
You are being invited to participate in this research study concerning the factors contributing to operating public company decline in Canada because of your experience and knowledge as either a senior business decision-maker or a public markets influencer. The purpose of this letter is to provide you with information required for you to make an informed decision regarding participation in this research.

Purpose of the Study:
The purpose of this study is to address a significant gap in the existing academic knowledge on the factors contributing to operating public company decline in Canada. The study will seek to establish which of the various potential factors suggested as contributing to operating public company decline are indeed the most significant for business decision-makers in Canada and public markets influencers.

Procedures and Duration:
This study is restricted to individuals who currently live in Canada and work for Canadian-based businesses. Two different groups of people are eligible to participate in the study: (i) Senior Business Decision-Makers and (ii) Public Markets Influencers. Senior Business Decision-Makers include C-suite executives, directors and controlling shareholders of public companies, private companies that are eligible to pursue an IPO on the TSX and private companies that have completed a going-private transaction. Public Markets Influencers in this study include corporate/securities lawyers, auditors/accountants, investment bankers, private equity investors and securities regulators/stock exchange employees.

Version Date: 5 December 18
The first group of questions in the survey confirm your eligibility and ask limited questions on your vocation to gather information enabling us to properly categorize you within the various classes of sub-group participants. The second group of questions in the survey ask how you feel about pursuing public company status and being involved in a company public company on an ongoing basis.

If you agree to participate, you will be asked to complete a survey in either online or paper format (the questions are the same in both formats). It is anticipated that the entire task will take 15 minutes or less.

Potential Risks and Discomforts:
There are no known or anticipated risks or discomforts associated with participating in this study.

Benefits:
No financial remuneration is being offered for completion of the survey. You may not directly benefit from participating in this study, but information gathered is expected to provide benefits to society as a whole in terms of understanding which factors are most important in the phenomenon of public company decline in Canada and whether regulatory reform initiatives can realistically be expected to arrest that decline.

Participation and Withdrawal:
Participation in this study is voluntary. You may refuse to participate, refuse to answer any questions or quit the survey at any time. Participants will be able to withdraw their participation and have their data removed prior to completion of the survey. After completion of the survey, it is impractical to remove individual responses. Since no data is being collected to identify participants, it is impossible to scrub individual data as responses cannot be tracked to specific individuals.

Confidentiality:
We have designed this study to provide the highest level of confidentiality and anonymity practical. No personal identifying personal information beyond the special eligibility questions contained in the survey will be collected or recorded anywhere in the survey process. The only place that your name will be recorded is on this Letter of Invitation, and this information will not be recorded in any electronic format.

Your study information will be combined with information from other people taking part in the study. If you complete a paper version of the survey, the data will be transposed into electronic format for the purposes of analysis.
The researcher will keep all data obtained in the study in a secure and confidential location for 7 years, at which point it will be confidentially destroyed. The paper Letter of Invitations will be stored for 7 years in a secure and confidential location and then confidentially destroyed.

The results of the study will be included and analyzed in the Co-investigator’s PhD Dissertation and may be included in follow-on publications or presentations. If the results are published, no information that you provide that could reasonably be expected to allow others to realistically make guesses as to your identity will be included in the publication.

Representatives of the University of Western Ontario Non-Medical Research Ethics Board may require access to your study-related records to monitor the conduct of the research.

Compensation for Participation:
You will not be compensated for your participation in this study.

Rights of Research Participants:
If you choose not to participate or to leave the study at any time it will have no effect on you in any way. You do not waive any legal right by consenting to participate. Participants are able to withdraw their participation and have their data removed prior to completion of the survey. Please note that, after completion of the survey, this will change. Since no data is being collected to identify participants or link participants to responses, it is impossible to scrub individual data from the surveys after it is registered. As such, once a survey is completed, your responses cannot be withdrawn.

Who to Contact with Questions:
If you require any further information regarding this research project or your participation in the study you may contact the Principal Investigator: Christopher Nicholls, Western University, Faculty of Law, at [redacted] or via email at [redacted] or the Co-Investigator, L. Daniel Wilson at [redacted] or via email at [redacted]

If you have any questions about your rights as a research participant or the conduct of this study, you may contact The Office of Human Research Ethics [redacted] or [redacted], email: [redacted]

If you would like to receive a copy of any potential study results, please contact Chris Nicholls or L. Daniel Wilson at the email addresses shown above.

This letter is yours to keep for future reference. Please contact the Principal Investigator or Co-Investigator for another copy if needed.
Consent Form

Project Title: Can Regulatory Reform Reverse the Decline of Public Markets in Canada? Assessing the Factors Impacting Decisions by Corporate Leaders to Avoid Canadian Public Listings

Principal Investigator's name and contact:
Christopher Nicholls
W. Geoff Beattie Chair in Corporate Law, Western University, Faculty of Law
Email: [redacted]
Phone: [redacted]

Co-Investigator name and contact:
L. Daniel Wilson, JD, LLM, PhD (Candidate)
Doctoral Graduate Student, Western University, Faculty of Law
Email: [redacted]
Cell Phone: [redacted]
Office: [redacted]

I have read the Letter of Information, have had the nature of the study explained to me and I agree to participate. All questions have been answered to my satisfaction.

Participant's Name (please print): ____________________________________________

Participant's Signature: ____________________________________________________

Date: ____________________________________________________________________

My signature means that I have explained the study to the participant named above. I have answered all questions.

Person Obtaining Informed Consent (please print): _____________________________

Signature: ______________________________________________________________

Date: ____________________________________________________________________
Appendix 4
Western NMREB Approval Certificate

Date: 7 December 2018
To: Professor Christopher Nicholls
Project ID: 112912
Study Title: Can Regulatory Reform Reverse the Decline of Public Markets in Canada? Assessing the Factors Impacting Decisions by Corporate Leaders to Avoid Canadian Public Listings
Application Type: NMREB Initial Application
Review Type: Delegated
Full Board Reporting Date: January 11 2019
Date Approval Issued: 07/Dec/2018
REB Approval Expiry Date: 07/Dec/2019

Dear Professor Christopher Nicholls

The Western University Non-Medical Research Ethics Board (NMREB) has reviewed and approved the WREM application form for the above mentioned study, as of the date noted above. NMREB approval for this study remains valid until the expiry date noted above, conditional to timely submission and acceptance of NMREB Continuing Ethics Review.

This research study is to be conducted by the investigator noted above. All other required institutional approvals must also be obtained prior to the conduct of the study.

Documents Approved:

<table>
<thead>
<tr>
<th>Document Name</th>
<th>Document Type</th>
<th>Document Date</th>
<th>Document Version</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conference Table Poster-Main Study</td>
<td>Recruitment Materials</td>
<td>05/Dec/2018</td>
<td>5 Dec 18</td>
</tr>
<tr>
<td>Email Recruitment Script- Preliminary Study</td>
<td>Recruitment Materials</td>
<td>16/Nov/2018</td>
<td>2</td>
</tr>
<tr>
<td>Email Recruitment Script-Main Study</td>
<td>Recruitment Materials</td>
<td>16/Nov/2018</td>
<td>2</td>
</tr>
<tr>
<td>Email Reminder Recruitment Script-Main Study</td>
<td>Recruitment Materials</td>
<td>16/Nov/2018</td>
<td>2</td>
</tr>
<tr>
<td>Implied Consent Excerpt from Online Survey</td>
<td>Implied Consent/Assent</td>
<td>05/Dec/2018</td>
<td>5 Dec 18</td>
</tr>
<tr>
<td>Letter of Information-Main Study</td>
<td>Written Consent/Assent</td>
<td>05/Dec/2018</td>
<td>5 Dec 18</td>
</tr>
<tr>
<td>Letter of Information-Preliminary Study</td>
<td>Written Consent/Assent</td>
<td>05/Dec/2018</td>
<td>5 Dec 18</td>
</tr>
<tr>
<td>Online Survey Form</td>
<td>Online Survey</td>
<td>05/Dec/2018</td>
<td>5 Dec 18</td>
</tr>
</tbody>
</table>
No deviations from, or changes to the protocol should be initiated without prior written approval from the NMREB, except when necessary to eliminate immediate hazard(s) to study participants or when the change(s) involves only administrative or logistical aspects of the trial.

The Western University NMREB operates in compliance with the Tri-Council Policy Statement Ethical Conduct for Research Involving Humans (TCPS2), the Ontario Personal Health Information Protection Act (PHIPA, 2004), and the applicable laws and regulations of Ontario. Members of the NMREB who are named as Investigators in research studies do not participate in discussions related to, nor vote on such studies when they are presented to the REB. The NMREB is registered with the U.S. Department of Health & Human Services under the IRB registration number IRB 0000941.

Please do not hesitate to contact us if you have any questions.

Sincerely,

Kelly Patterson, Research Ethics Officer on behalf of Dr. Riley Hinson, NMREB Vice-Chair

Note: This correspondence includes an electronic signature (validation and approval via an online system that is compliant with all regulations).
Appendix 5
Online Survey Format- Main Survey

QUESTION 1- Project Title:
Can Regulatory Reform Reverse the Decline of Public Markets in Canada? Assessing the Factors Impacting Decisions by Corporate Leaders to Avoid Canadian Public Listings

Principal Investigator: Christopher Nicholls
W. Geoff Beattie Chair in Corporate Law, Western University, Faculty of Law
Email: [redacted]
Phone: [redacted]

Co-Investigator: L. Daniel Wilson, JD, LLM, PhD (Candidate)
Doctoral Graduate Student, Western University, Faculty of Law
Email: [redacted]
Cell Phone: [redacted]
Office: [redacted]

Letter of Information & Consent

Introduction:
You are being invited to participate in this research study concerning the factors contributing to operating public company decline in Canada because of your experience and knowledge as either a senior business decision-maker or a public markets influencer. The purpose of this letter is to provide you with information required for you to make an informed decision regarding participation in this research.

Purpose of the Study:
The purpose of this study is to address a significant gap in the existing academic knowledge on the factors contributing to operating public company decline in Canada. The study will seek to establish which of the various potential factors suggested as contributing to operating public company decline are indeed the most significant for business decision-makers in Canada and public markets influencers.

Procedures and Duration:
This study is restricted to individuals who currently live in Canada and work for Canadian-based businesses. Two different groups of people are eligible to participate in the study: (i) Senior Business Decision-Makers and (ii) Public Markets Influencers.

Senior Business Decision-Makers include C-suite executives, directors and controlling shareholders of public companies, private companies that are eligible to pursue an IPO on the TSX and private companies that have completed a going-private transaction. Public Markets Influencers in this study include corporate/securities
lawyers, auditors/accountants, investment bankers, private equity investors and
securities regulators/stock exchange employees.

The first group of questions in the survey confirm your eligibility and ask limited
questions on your vocation to gather information enabling us to properly categorize you
within the various classes of sub-group participants. The second group of questions in
the survey ask how you feel about pursuing public company status and being involved in
a company public company on an ongoing basis.

**Potential Risks and Discomforts:**
There are no known or anticipated risks or discomforts associated with participating in
this study.

**Benefits:**
No financial remuneration is being offered for completion of the survey. You may not
directly benefit from participating in this study, but information gathered is expected to
provide benefits to society as a whole in terms of understanding which factors are most
important in the phenomenon of public company decline in Canada and what can be
done from a regulatory reform perspective to combat that decline.

**Participation and Withdrawal:**
Participation in this study is voluntary. You may refuse to participate, refuse to answer
any questions, or quit the online survey at any time with no effect on you
whatsoever. Participants will be able to withdraw their participation and have their data
removed prior to completion of the survey. After completion of the survey, it is
impractical to remove individual responses. Since no data are being collected to identify
participants, it is impossible to scrub individual data as responses cannot be tracked to
specific individuals.

**Confidentiality:**
We have designed this study to provide the highest level of confidentiality and
anonymity. No personal identifying personal information beyond the special eligibility
questions contained in the survey will be collected or recorded anywhere in the survey
process.

Your study information will be combined with information from other people taking part in
the study. The researcher will keep all data obtained in the study in a secure and
confidential location for 7 years, at which point it will be confidentially destroyed.

The results of the study will be included and analyzed in the Principal Investigator’s PhD
Dissertation and may be included in follow-on publications or presentations. If the
results are published, no information that you provide that could reasonably be expected
to allow others to realistically make guesses as to your identity will be included in the
publication.
Representatives of the University of Western Ontario Non-Medical Research Ethics Board may require access to your study-related records to monitor the conduct of the research.

**Compensation for Participation:**
You will not be compensated for your participation in this study.

**Rights of Research Participants:**
If you choose not to participate or to leave the study at any time it will have no effect on you in any way. You do not waive any legal right by consenting to participate.

**Who to Contact with Questions:**
If you require any further information regarding this research project or your participation in the study you may contact the Principal Investigator, Christopher Nicholls, Western University, Faculty of Law, at [redacted] or via email [redacted] or the Co-Investigator, L. Daniel Wilson at [redacted] or via email at [redacted]. If you have any questions about your rights as a research participant or the conduct of this study, you may contact The Office of Human Research Ethics [redacted] or [redacted], email: [redacted]

If you would like to receive a copy of any potential study results, please contact Chris Nicholls or L. Daniel Wilson at the email addresses shown above.

CONSENT

Completion of this survey is indication of your consent to participate.

If you would like to receive a copy of any potential study results, please contact L. Daniel Wilson at the email address shown above.

This letter is yours to keep for future reference. Please print it now or contact the Principal Investigator or Co-Investigator for a copy.

I agree I have read the Letter of Information, have had any all questions answered, and consent to participate.

- [ ] Yes
- [ ] No
QUESTION 2- Welcome to the Survey on Factors Influencing the Going Public / Staying Private Decision in Canadian Business!

Thank you for taking the time to participate in this survey. In the past decade the number of operating companies in Canada choosing to access the public markets has decreased significantly. In fact, the number of operating public companies listed on the TSX has declined by nearly 1/3 since the start of 2008. Maintaining the health of public markets is an important issue for the Canadian economy. Obtaining your input as corporate decision-makers and public markets influencers will be valuable in instructing future policy initiatives.

Your participation in this survey is essential in allowing us to make the proper analysis and recommendations.

We realize that your time is very valuable and we have kept this survey as streamlined as possible to minimize the time required to respond.

However, it will take an estimated **fifteen minutes** to complete this survey in full.

If you get disrupted during the process, you can stop the survey at any time and complete at a later time. You have the option not to answer any question in the survey. For questions that are mandatory for validation of survey eligibility, declining to answer may prevent your survey from being valid for the purposes of analysis. You will be notified during the course of the survey if this is the case.
QUESTION 3 - Target Survey Participants: This survey seeks input from two main
groups of individuals whose opinions and perceptions are critical to study of factors
contributing to the decline of the number of operating public companies in Canada:

Group I- Senior Business Decision-Makers, including:
- C-suite Executives (Executive Chairperson, Chief Executive Office,
  President, Chief Financial Officer, Chief Operating Officer or other senior
  officer titles with equivalent decision-making responsibility);
- Corporate Directors; and
- Major Shareholders (shareholders holding at least 20% of the voting equity
  of a company)

Group II- Public Markets Influencers, including:
- Corporate and Securities Lawyers
- Accountants and Auditors
- Investment Bankers
- Private Equity Investors

Which of the two major categories of individuals listed above (Group I or Group
II) do you fit into?  (Note: If you fit into both Group I and Group II, please select the
category that you consider to be your principal occupation.)
- Group I: Senior Business Decision-Maker
- Group II: Public Markets Influencer
- None of the Above
- I Choose Not to Answer

Skip To: Q14 If Thank you for taking the time to participate in this survey. Since 2000, the number
of operating... = Group II: Public Markets Influencer
Skip To: Q25 If Thank you for taking the time to participate in this survey. Since 2000, the number
of operating... = None of the Above
Skip To: Q26 If Thank you for taking the time to participate in this survey. Since 2000, the number
of operating... = I Choose Not to Answer

Page Break

QUESTION 4- Of the three types of Senior Business Decision-Makers discussed
outline in the previous question, which describes you?  (Note: If more than one
applies, select each category that is accurate.)
- C-Suite Executive
- Corporation Director
- Major Shareholder
- None of the above

Skip To: Q25 If Of the three types of Senior Business Decision-Makers discussed outline in the
previous question,... = None of the above
QUESTION 5- You have indicated that you are Senior Decision-Maker. Before going further, we need to confirm a couple of quick survey eligibility questions.

First, please note that this research study is limited to Senior Decision-Makers who currently live in Canada and work for Canadian-based companies. A Canadian-based company is a company with its headquarters in Canada that is not a subsidiary of a foreign company.

Do you live in Canada and work for a Canadian-based company?

- Yes
- No
- I Choose Not to Answer

Skip To: Q25 If You have indicated that you are Senior Decision-Maker. Before going further, we need to confirm... = No
Skip To: Q26 If You have indicated that you are Senior Decision-Maker. Before going further, we need to confirm... = I Choose Not to Answer

QUESTION 6- Second, this research study is limited to Senior Decision-Makers who work with operating companies as defined below. "Operating Company"- An operating company is a business that directly produces a product or delivers a service to customers, or else owns a subsidiary that directly produces a product or delivers a service to customers. Note: Mutual Funds, ETF’s and REITS are not considered operating companies.

Is your company an Operating Company?

- Yes
- No
- I Choose Not to Answer

Skip To: Q25 If Second, this research study is limited to Senior Decision-Makers who work with operating companies... = No
Skip To: Q26 If Second, this research study is limited to Senior Decision-Makers who work with operating companies... = I Choose Not to Answer
**QUESTION 7** - What is the approximate size of your company based on employee count and total revenue?

A. Employees (including full-time contract personnel)
   - Less than 25
   - Between 25 and 50
   - Between 50 and 100
   - Between 100 and 250
   - Between 250 and 500
   - More than 500
   - I choose not to answer this question

---

**QUESTION 8** - B. Total Annual Revenue

- Less than $10 million
- Between $10 million and $25 million
- Between $25 million and $50 million
- Between $50 million and $100 million
- Between $100 million and $250 million
- Between $250 million and $500 million
- Between $500 million and $1 billion
- More than $1 billion
- I choose not to answer this question

---

Page Break
QUESTION 9 - For our survey purposes, Senior Business Decision-Makers need to come from one of the following three different types of operating Canadian companies:

- Private companies that have never been public.
- Private companies that were previously listed on the TSX, but have completed a going-private transaction in the past ten years.
- Public companies currently listed on the TSX.

Which of these categories describes your company?

- Public operating company currently listed on the TSX.
- Private operating company that has never been public.
- Private company previously traded on the TSX which has gone private.
- None of the above.
- I Choose Not to Answer.

Skip To: Q25 If For our survey purposes, Senior Business Decision-Makers need to come from one the following three... = None of the above

Skip To: Q11 If For our survey purposes, Senior Business Decision-Makers need to come from one the following three... = Private operating company that has never been public.

Skip To: Q13 If For our survey purposes, Senior Business Decision-Makers need to come from one the following three... = Private company previously traded on the TSX which has gone private

Skip To: Q26 If For our survey purposes, Senior Business Decision-Makers need to come from one the following three... = I Choose Not to Answer

Page Break

QUESTION 10 - You have indicated that you are a Senior Business Decision-Maker of a TSX-listed company. Has your public company considered going private?

- No, we are satisfied remaining as a public company.
- Yes, we have considered going private and decided not to.
- Yes, we have considered going private and no final decision has been made.
- Yes, we plan to go private a future time.
- I choose not to answer this question.

Skip To: Q13 If You have indicated that you are a Senior Business Decision-Maker of a TSX-listed company. Has you...(Yes, we have considered going private and no final decision has been made.) Is Displayed
**QUESTION 11** - You have indicated that you are a Senior Business Decision-Maker in a private operating company.

We would like to confirm one final eligibility criteria for participation in this survey, namely the size and stage of development of your company. We are looking for Senior Decision-Makers of private companies that are of a sufficient size and stage of development that they would be eligible to pursue a TSX listing if they chose to.

Does your private operating company meet all the criteria in at least one of the following categories?

**Category A- Profitable Companies**
- Minimum of $10,000,000 in annual revenue;
- Minimum of $2,000,000 in pre-tax cash flow; and
- Company has an estimated fair market enterprise value above $10,000,000.

**Category B- Technology Companies and R&D Companies Not Yet Profitable**
- Company owns proprietary technology that is close to being ready for commercialization or is already at the commercialization stage;
- Company has at least two years of development history in developing its technology;
- Company has spent a minimum of $5,000,000 in developing its technology to date; and
- Company has an estimated fair market enterprise value above $20,000,000.

**Category C- Resource Companies Not Yet Profitable**
- Company owns a resource property which is already in production or else has an independent technical report confirming commerciality;
- Company has spent at least $5,000,000 on the acquisition and development of the property; and
- Company has an estimated fair market enterprise value above $20,000,000.

My private operating company meets all of the criteria of at least one category listed above.

- [ ] Yes
- [ ] No
- [ ] I Choose Not to Answer

*Skip To: Q25 If You have indicated that you are a Senior Business Decision-Maker in a private operating company. ... = No*

*Skip To: Q26 If You have indicated that you are a Senior Business Decision-Maker in a private operating company. ... = I Choose Not to Answer*
QUESTION 12- Has your private company considered going public? Select the answer that best applies:

- No, we have not yet considered going public.
- Yes, we have considered going public and decided not to.
- Yes, we have considered going public and no final decision has been made.
- Yes, we plan to go public.
- I choose not to answer this question

QUESTION 13- Which industry category most accurately describes your company’s main business?

(Note: If more than one applies, select each applicable category.)

- Agricultural
- Chemicals
- Computers & Information Technology
- Construction
- Education
- Energy
- Entertainment
- Food Services
- Health Care
- Hospitality
- Manufacturing
- Media
- Mining
- Transport
- Other (Please specify below)
QUESTION 14- You have indicated that you are a public markets influencer.

Our survey is limited to individuals currently living and working in Canada.

Do you currently live and work in Canada?

- Yes
- No
- Choose Not to Answer

Skip To: Q25 If You have indicated that you are a public markets influencer. Our survey is limited to individuals currently living and working in Canada.

Skip To: Q26 If You have indicated that you are a public markets influencer. Our survey is limited to individuals currently living and working in Canada.

QUESTION 15- Which group of public markets influencer do you fit in?

- Corporate and/or Securities Lawyer
- Accountant and/or Auditor
- Investment Banker
- Private Equity Investor
- I Choose Not to Answer

Skip To: Q26 If Which group of public markets influencer do you fit in? = I Choose Not to Answer
**Question 16**

**How do you feel about each of the following statements?**

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly Disagree</th>
<th>Neither Agree or Disagree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taking a company public offers more long-term advantages than disadvantages.</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>Companies should consider an IPO to finance growth only when private equity funding is not readily available.</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>Technological advancements making public company information more readily accessible have made it harder for public companies to compete with private companies.</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>Private equity financing to fund company growth in Canada is significantly easier to access now than it used to be.</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>The rapid pace of technological change has made it more attractive for private companies to sell out to huge corporations rather than purse their own IPO.</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>The decline in IPO volume is primarily attributable to the increased availability of private equity as an alternative.</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
<tr>
<td>Securities regulators in Canada have been too aggressive in protecting public shareholder interests at the expense of public companies.</td>
<td>○</td>
<td>○</td>
<td>○</td>
</tr>
</tbody>
</table>
QUESTION 17-
The decline in the number of operating public companies listed on the TSX over the past number of years is significant, and a similar trend has been observed in the public markets of the U.S., Europe and Australia.

Why do you think fewer senior business decision-makers are choosing to take their companies public?

________________________________________________________________
________________________________________________________________
________________________________________________________________
________________________________________________________________

Page Break

QUESTION 18-
Imagine that you are the key decision-maker in ABC Inc., a highly successful private company based in Canada that now needs to access significant equity capital in order to finance its ambitious international expansion plans.

In answering the questions, please draw on the knowledge and beliefs that you have gained through your real-life experiences.

A very short background on ABC's status is as follows:

- ABC has been repeatedly approached by several investment banks offering to raise the necessary funds by sponsoring ABC in a TSX IPO.

- ABC has also been repeatedly approached by several private equity firms offering to give ABC the necessary funds by investing in ABC privately.

The entire management team of ABC is waiting for you to decide whether ABC will pursue an IPO or take investment from private equity. The strategy decision that will define the future of ABC is yours alone!
How likely are you to recommend the IPO option as ABC's preferred course of action?

How likely are you to recommend the private equity option as ABC's preferred course of action?

---

**QUESTION 19**

How much would the pre-money valuation premium offered to ABC by an investment bank with respect to an IPO transaction need to exceed the pre-money valuation offered to ABC with respect to a private equity transaction in order to make the two alternatives equally attractive to you?

- The IPO transaction is equally attractive without any premium
- I don't have an opinion on this question
- The IPO transaction would need to be at a premium of the following percentage to be equally attractive:

  ____________________________ %
**QUESTION 20**

In making your decision on the future direction of ABC, how important are each of the following potential downside risks associated with pursuing the TSX IPO in your analysis?

<table>
<thead>
<tr>
<th>Risk</th>
<th>Not at All Important</th>
<th>Moderately Important</th>
<th>Extremely Important</th>
</tr>
</thead>
<tbody>
<tr>
<td>The time required to complete an IPO</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The management effort required to complete an IPO</td>
<td></td>
<td></td>
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<tr>
<td>The cost that it takes to complete an IPO</td>
<td></td>
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<tr>
<td>Executive compensation disclosure of public companies being overly invasive for management</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Running a public company creating too many distractions for management</td>
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<td></td>
<td></td>
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<tr>
<td>The complexity of continuous disclosure obligations arising from regulatory changes</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>The increased cost of continuous disclosure obligations due to regulatory changes</td>
<td></td>
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<td></td>
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<tr>
<td>The requirement to file insider reports so that everyone is aware of management trading activities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The increased litigation risk associated with being public</td>
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<tr>
<td>Concern the company will be able to generate sufficient trading volume to keep shareholders happy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concern as to ability of company to maintain sufficient analyst coverage</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**QUESTION 20**

In making your decision on the future direction of ABC, how important are each of the following potential downside risks associated with pursuing the TSX IPO in your analysis?

<table>
<thead>
<tr>
<th>Risk</th>
<th>Not at All Important</th>
<th>Moderately Important</th>
<th>Extremely Important</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belief that the current regulatory environment favors minority investor protection above the interest of the public company</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The hassle of dealing with proxy advisory firms</td>
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</tr>
<tr>
<td>Fear that special interest groups will use public status to exert pressure on the company to adopt their agendas</td>
<td></td>
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<tr>
<td>The hassle of short-term traders looking for quick profits</td>
<td></td>
<td></td>
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<tr>
<td>The challenges of competing against private companies that don't have to disclose any secrets</td>
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<td></td>
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<tr>
<td>Challenges for public companies to complete acquisitions efficiently due to Business Acquisition Report requirements</td>
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<td></td>
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<tr>
<td>The requirement of financial statement certifications by senior executives</td>
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<td></td>
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<tr>
<td>Concern that being public leaves too little time for management to focus on the core business of the company</td>
<td></td>
<td></td>
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<tr>
<td>Inability in a public company to keep personal income and shareholdings secret from family, friends and acquaintances.</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Increased risk to personal reputation being associated with a public company if things go bad</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>The pressures of meeting quarterly analyst targets</td>
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</table>
QUESTION 20
In making your decision on the future direction of ABC, how important are each of the following potential downside risks associated with pursuing the TSX IPO in your analysis?

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<th>Moderately Important</th>
<th>Extremely Important</th>
</tr>
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<tbody>
<tr>
<td>Restrictions resulting from public conflict-of-interest regulations for related party transactions</td>
<td>〇</td>
<td>〇</td>
<td>〇</td>
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<tr>
<td>Redundancy of filing requirements for public companies</td>
<td>〇</td>
<td>〇</td>
<td>〇</td>
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<tr>
<td>An increase in short-sellers in the public markets</td>
<td>〇</td>
<td>〇</td>
<td>〇</td>
</tr>
<tr>
<td>The risk of proxy battles initiated by activist shareholder groups</td>
<td>〇</td>
<td>〇</td>
<td>〇</td>
</tr>
<tr>
<td>Having to listen and respond to the opinions of uninformed shareholders</td>
<td>〇</td>
<td>〇</td>
<td>〇</td>
</tr>
<tr>
<td>The requirement to adopt corporate governance best practices that are continuously evolving</td>
<td>〇</td>
<td>〇</td>
<td>〇</td>
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<tr>
<td>Risk of a hostile take-over</td>
<td>〇</td>
<td>〇</td>
<td>〇</td>
</tr>
<tr>
<td>Overall fatigue arising from being a senior executive in a public company</td>
<td>〇</td>
<td>〇</td>
<td>〇</td>
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</table>
**QUESTION 21**

In making your decision on the future direction of ABC, how important are each of the following potential upside benefits associated with pursuing the TSX IPO in your analysis?

<table>
<thead>
<tr>
<th>Benefit</th>
<th>Not at All Important</th>
<th>Moderately Important</th>
<th>Extremely Important</th>
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</thead>
<tbody>
<tr>
<td>Higher pre-money valuation in an IPO than in a private equity financing</td>
<td></td>
<td></td>
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<tr>
<td>Anticipated higher valuation post-IPO</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Quicker access to capital in follow-on financings</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Easier ability to use public stock as currency for future acquisitions</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Opportunity for founding shareholders to obtain liquidity for a portion of their investment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increased ability to use stock options to recruit and retain key employees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ability for the largest shareholders to keep stronger management control of ABC as a public company</td>
<td></td>
<td></td>
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<tr>
<td>Increased public visibility as a public company with potential customers</td>
<td></td>
<td></td>
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<tr>
<td>Enhanced credibility as a public company with suppliers</td>
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<td></td>
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<tr>
<td>You look forward to the challenges associated with managing a public company</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Enhanced credibility with potential investors</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Opportunity to increase your personal profile as a leader of a public company</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Opportunity to increase effective voting control by diluting minority shareholder positions</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Opportunity to grow the business further rather than selling to a third party</td>
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</table>
QUESTION 22- Please help us understand your professional background better.

Please move the sliding scales to reflect the correct number.  (Note: If you have more than 30 years’ experience, choose "30")

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<th>5</th>
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<td>Total number of years work experience</td>
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<td>Number of years working at the company / firm where currently employed</td>
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<tr>
<td>Number of years working for or advising public companies</td>
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<tr>
<td>Number of years working for or advising private companies</td>
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QUESTION 23- In which province or territory do you currently work?

- British Columbia
- Alberta
- Saskatchewan
- Manitoba
- Ontario
- Quebec
- New Brunswick
- Prince Edward Island
- Nova Scotia
- Newfoundland
- Yukon, Northwest Territories or Nunavut

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Page Break


**QUESTION 24**- Thank you for the time you have spent completing this survey. It is greatly appreciated!

From your knowledge and experiences, do you have any final thoughts that you would like to share with us on the topic of public company decline in Canada, the content or format of this survey or anything else that you would like to convey?

________________________________________________________________

________________________________________________________________

________________________________________________________________


**Skip To: End of Survey If Thank you for the time you have spent completing this survey. It is greatly appreciated! From... Is Displayed**

Page Break

**QUESTION 25**- We are sorry! Based on your responses, you appear to be outside of the specific sub-groups that we are targeting for this survey. If you made an input mistake, you can hit “go back” and correct the mistake that led you to this screen. Otherwise, thank you for your time in engaging with the survey to this point, which is greatly appreciated!

**Skip To: End of Survey If We are sorry! Based on your responses, you appear to be outside of the specific sub-groups that...() Is Displayed**

Page Break

**Q26** You have selected "I Choose Not to Answer" on a question that is mission critical for us to have an answer in order to use your contribution in our survey analysis.

You have the complete freedom to do so and we fully respect your decision!

However, we cannot use your input for this survey without knowing that you meet our target criteria. If you wish to participate further, you can select "Go Back" from this screen and complete the question.

Otherwise, thank you taking for the time to participate in this survey.
Appendix 6-
MANCOVA CALCULATIONS, ANALYSIS AND SUMMARY TABLES

Introduction to MANCOVA Analysis

As discussed in the body of the Dissertation, the use of MANCOVA analysis for Likert-scale data is not universally embraced amongst statisticians coming from the “traditionalist” camp of statistical analysis and, therefore, the use of MANCOVA calculations for analysis of the PCD Study data has been consolidated in this Appendix. The MANCOVA calculations are helpful in attaining a high-level overview of the variability in responses attributable to demographic characteristics without resorting to the volumes of data generated by the PCD Study data.

In the ensuing MANCOVA analysis, five different sets of independent variables were defined and assessed, all of which are defined by demographic characteristics of the PCD Study respondents. These five different independent variables were selected based on an assessment of which specific demographic factors were thought most likely to be responsible for material variation in the responses to the critical PCD Study Likert-scale survey questions. The five independent variables tested under the MANCOVA analysis include:

1. Group I (Senior Business Decision-Makers) vs. Group II (Public Markets Influencers);
2. Senior Business Decision-Makers of SME Companies vs. Non-SME Companies;
3. Senior Business Decision-Makers of TSX-listed Companies vs. Private TSX-Eligible Companies;
4. Group II Public Markets Influencers (Lawyers vs. Auditors/Accountants vs. iBankers vs. Private Equity Investors); and
5. All Six Major Demographics Groups (Senior Business Decision-Makers of TSX-listed Companies vs. Private TSX-Eligible Companies Lawyers vs. Auditors / Accountants vs. iBankers vs. Private Equity Investors).
The specific dependent variables utilized in the MANCOVA calculations were selected based on what were considered as the most important and enlightening quantitative questions in the PCD Study: ie., Question 16, Question 18, Question 20 and Question 21. The qualitative questions (Question 17 and Question 24) cannot be analyzed effectively using MANCOVA calculations. Question 19 was excluded due to the non-response issues and the other specific limiting factors associated with Question 19 discussed in the body of the Dissertation.

The covariates utilized in the MANCOVA calculations are those specific confounding variables for which we seek to remove their impact in order to then focus on the variation specifically attributable to the independent variables. In the MANCOVA analysis of the PCD Study data, four different covariates were used throughout the analysis: ie., industry, geography, public company experience and total career experience. A fifth covariate, SME vs. Non-SME status, was used as a covariate only for the MANCOVA calculations in which the independent variable was TSX-listed companies vs. Private TSX-eligible companies, since it does not apply to the other independent variables.

All covariates found to be insignificant in the initial MANCOVA calculations were removed, with the MANCOVA calculation re-run a second time in order to increase the degrees of freedom (ie., to increase the power of the MANCOVA test). If a particular covariate was marginally significant in the first MANCOVA test, but determined to be insignificant in the second MANCOVA calculation once other insignificant covariates were removed, then the MANCOVA test was run a third time to ensure that only significant covariates (ie., covariates with a P-value below 0.05) were included in the final analysis. To prevent this Appendix 6 from being any longer than necessary, only the final MANCOVA calculations are included.

All MANCOVA calculations were completed utilizing the open-source R software program. R runs the four common MANCOVA tests: Pillai’s Trace, Wilks’ Lambda, Hotelling’s Trace and Roy’s Largest Root. Pillai’s Trace is considered to be the most robust of the four MANCOVA tests for departures from the MANCOVA assumptions, particularly for violations of the assumption that there are equal numbers of responses in the within-cell covariance matrix (equal number of Group 1 and Prairies, as Group 2 and BC, as Group 1 and BC, as Group 2 and Prairies, etc.).
When the dependent variable consists of two categories (e.g., Group I v Group II or SME v Non-SME), then all four MANCOVA test statistics will give the same results. When the independent variable contains more than two categories (as occurs with our fourth and fifth set of MANCOVA tests), Pillai’s Trace is considered as the least powerful of the tests. In certain instances (which in our particular calculations only occurred with respect to the MANCOVA calculation where the six major demographic groups were used as our independent variable), the complexity of the calculation results in irreconcilable errors for certain of the MANCOVA tests and only Roy’s Largest Root calculations can be completed.

It should be noted that the picture graphs included in the ensuing MANCOVA analysis are simple summary tables that do not show the effect of removal of the covariates. These picture graphs simply show the mean response for the particular dependent variable element, with confidence interval bars demonstrating the upper and lower parameters of the 95% confidence interval. The picture graphs are limited to those dependent variable elements calculated as being significant. The actual MANCOVA calculations, including the effect of removal of the covariates, are included after the MANCOVA picture graphs in each instance.

For the purposes of the MANCOVA calculations, a single confidence level has been used in determining what is statistically significant in predicting variations. In all of the MANCOVA calculations, statistical outputs with a P-Value below 0.05 (representing a 95% confidence level) have been determined to be significant. Those covariates with a P-Value above 0.05 have been classified as insignificant and eliminated from the MANCOVA calculations. Note that this is a different P-value for minimum significance than the P-Value of 0.10 that was applied in the ordinal-specific statistical tests in the analysis portion of the body of the Dissertation. The lower minimum P-value of 0.05 is considered appropriate here because of the limited application of the MANCOVA tests for summary purposes in this Appendix 6.

Although only a single confidence level of 95% has been used in determining significance, materially lower P-Values (leading to correspondingly higher confidence levels) are recognized and denoted throughout the ensuing tables, with a notation of “*” indicating a P-Value between 0.05 and 0.01, a notation of “**” indicating a P-Value between 0.01 and 0.001, and a notation of “***” indicating a P-Value lower than 0.001. In other words, the more stars, the higher the confidence level associated with the statistical output.
MANCOVA ANALYSIS: 1A

INDEPENDENT VARIABLE: GROUP I V. GROUP II
DEPENDENT VARIABLE: QUESTION 16 (WITH 7 SUB-QUESTIONS)

Summary:
Three of the four covariates tested are determined to be significant in the first MANCOVA calculation.

After re-running the MANCOVA tests and factoring away the impact of the three significant covariates, we observe a significant difference remaining between Group I and Group II participants in the responses to the following three sub-questions within Question 16: Q16-2, Q16-4 and Q16-7.
**MANCOVA ANALYSIS: 1A (cont.)**

**INDEPENDENT VARIABLE:** GROUP I V. GROUP II  
**DEPENDENT VARIABLE:** QUESTION 16 (WITH 7 SUB-QUESTIONS)

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<th>df2</th>
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<tbody>
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<td></td>
<td></td>
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<tr>
<td>Group I v. Group II</td>
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**Significant Covariates**

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<td>4.96</td>
<td>7</td>
<td>277</td>
<td>&lt; .001</td>
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**Note:** Insignificant covariate removed in calculation is Total Career Experience (p=0.378)
MANCOVA ANALYSIS: 1A (cont.)

INDEPENDENT VARIABLE: GROUP I V. GROUP II
DEPENDENT VARIABLE: QUESTION 16 (WITH 7 SUB-QUESTIONS)

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MANCOVA ANALYSIS: 1B

INDEPENDENT VARIABLE: GROUP I V. GROUP II
DEPENDENT VARIABLE: QUESTION 18 (WITH 2 SUB-QUESTIONS)

Summary:
Running the MANCOVA tests the first time, we observe that the Group I and Group II dichotomy is not significant as a predictor of variation in Question 18. As such, we can conclude that the factor of respondents being Senior Business Decision-makers vs. Public Markets Influencers is not a significant predictor of difference in the responses to Question 18.

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MANCOVA ANALYSIS: 1C

INDEPENDENT VARIABLE: GROUP I V. GROUP II
DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

Summary:
Our first MANCOVA calculation discloses that all four covariates tested are significant. After factoring away the impact of the four significant covariates, we observe a significant difference remaining in the responses to the following seven factors tested in Question 20. As such, we conclude that the Group I v. Group II dichotomy is a significant factor in predicting variability in these seven different downside factors associated with being a public company.
### MANCOVA Analysis: 1C (cont.)

**Independent Variable:** GROUP I V. GROUP II  
**Dependent Variable:** QUESTION 20 (WITH 31 FACTORS ASSESSED)

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| **Significant Covariates** |       |      |     |     |         |
| Industry               |       |      |     |     |         |
| Pillai’s Trace         | 0.179 | 1.75 | 31  | 248 | 0.011   * |
| Wilks' Lambda          | 0.821 | 1.75 | 31  | 248 | 0.011   * |
| Hotelling’s Trace      | 0.218 | 1.75 | 31  | 248 | 0.011   * |
| Roy’s Largest Root     | 0.218 | 1.75 | 31  | 248 | 0.011   * |

| Geography              |       |      |     |     |         |
| Pillai’s Trace         | 0.162 | 1.55 | 31  | 248 | 0.037   * |
| Wilks' Lambda          | 0.838 | 1.55 | 31  | 248 | 0.037   * |
| Hotelling’s Trace      | 0.194 | 1.55 | 31  | 248 | 0.037   * |
| Roy’s Largest Root     | 0.194 | 1.55 | 31  | 248 | 0.037   * |

| Pubco Experience       |       |      |     |     |         |
| Pillai’s Trace         | 0.247 | 2.62 | 31  | 248 | < .001  *** |
| Wilks' Lambda          | 0.753 | 2.62 | 31  | 248 | < .001  *** |
| Hotelling’s Trace      | 0.328 | 2.62 | 31  | 248 | < .001  *** |
| Roy’s Largest Root     | 0.328 | 2.62 | 31  | 248 | < .001  *** |

| Total Career Experience|       |      |     |     |         |
| Pillai’s Trace         | 0.160 | 1.52 | 31  | 248 | 0.044   * |
| Wilks' Lambda          | 0.840 | 1.52 | 31  | 248 | 0.044   * |
| Hotelling’s Trace      | 0.190 | 1.52 | 31  | 248 | 0.044   * |
| Roy’s Largest Root     | 0.190 | 1.52 | 31  | 248 | 0.044   * |
### MANCOVA ANALYSIS: 1C (cont.)

**INDEPENDENT VARIABLE:** GROUP I V. GROUP II  
**DEPENDENT VARIABLE:** QUESTION 20 (WITH 31 FACTORS ASSESSED)

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| Q20_2             | 10.18230       | 1  | 10.18230    | 8.36731 | 0.004 **|
| Q20_3             | 0.78689        | 1  | 0.78689     | 0.73812 | 0.391   |
| Q20_4             | 5.53749        | 1  | 5.53749     | 4.20138 | 0.041   |
| Q20_5             | 0.07347        | 1  | 0.07347     | 0.08201 | 0.775   |
| Q20_6             | 10.10383       | 1  | 10.10383    | 10.09244| 0.002 **|</p>
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| Q20_3 | 8.63488 | 1 | 8.63488 | 8.09972 | 0.005 ** |
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| Q20_7 | 3.02684 | 1 | 3.02684 | 3.59511 | 0.059 |
| Q20_8 | 26.91566 | 1 | 26.91566 | 21.14375 | < .001 *** |
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| Q20_10 | 3.17914 | 1 | 3.17914 | 2.57748 | 0.110 |
| Q20_11 | 0.11417 | 1 | 0.11417 | 0.09430 | 0.759 |
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| Q20_13 | 1.55916 | 1 | 1.55916 | 1.19023 | 0.276 |
| Q20_14 | 2.41466 | 1 | 2.41466 | 1.95193 | 0.163 |
| Q20_15 | 0.74319 | 1 | 0.74319 | 0.58765 | 0.444 |
| Q20_16 | 1.99406 | 1 | 1.99406 | 1.38168 | 0.241 |
| Q20_17 | 9.57820 | 1 | 9.57820 | 8.14291 | 0.005 ** |
| Q20_18 | 5.69327 | 1 | 5.69327 | 4.42801 | 0.036 * |
| Q20_19 | 21.80478 | 1 | 21.80478 | 19.87057 | < .001 *** |
| Q20_20 | 19.12443 | 1 | 19.12443 | 14.33745 | < .001 *** |
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| Q20_22 | 11.07357 | 1 | 11.07357 | 11.24764 | < .001 *** |
| Q20_23 | 7.25882 | 1 | 7.25882 | 6.34368 | 0.012 * |
| Q20_24 | 7.85002 | 1 | 7.85002 | 5.89781 | 0.016 * |
| Q20_25 | 4.17466 | 1 | 4.17466 | 3.69883 | 0.055 |
| Q20_26 | 12.55546 | 1 | 12.55546 | 11.49319 | < .001 *** |
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Total Career Experience

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MANCOVA ANALYSIS: 1D

INDEPENDENT VARIABLE:  GROUP I V. GROUP II
DEPENDENT VARIABLE:  QUESTION 21 (WITH 14 FACTORS ASSESSED)

Summary:
Running the first MANCOVA test, we observe that the Group I / Group II dichotomy is a significant predictor of variation in Question 21. However, only one of the four covariates tested in the first calculation (i.e., public company experience) is significant. After removing the three insignificant covariates and re-running the MANCOVA with the single significant covariate, we observe a significant difference remaining in the responses to the following two factors tested in Question 21. As such, we conclude that the Group I / Group II dichotomy is a significant predictor of variability in the responses to these two upside factors associated with being public.
MANCOVA ANALYSIS: 1D (cont.)

INDEPENDENT VARIABLE: GROUP I V. GROUP II
DEPENDENT VARIABLE: QUESTION 21 (WITH 14 FACTORS ASSESSED)

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Significant Covariates

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Note: The following three covariates have been determined to be insignificant and removed from the above MANCOVA calculation: Total Career Experience (P=0.322), Industry (P=0.081) and Geography (P=0.370).
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Residuals

|       | Q21_1     | Q21_2     | Q21_3     | Q21_4     | Q21_5     | Q21_6     | Q21_7     | Q21_8     | Q21_9     | Q21_10    | Q21_11    | Q21_12    | Q21_13    | Q21_14    |
|-------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Value | 342.31469 | 295.16498 | 311.46629 | 257.26208 | 316.24114 | 309.86401 | 399.35535 | 392.42401 | 419.73284 | 372.43111 | 365.69845 | 447.24944 | 284.85181 |
|       |           | 322       | 322       | 322       | 322       | 322       | 322       | 322       | 322       | 322       | 322       | 322       | 322       |
|       |           | 1.06309   |           |           |           |           |           |           |           |           |           |           |           |           |
MANCOVA ANALYSIS: 2A

INDEPENDENT VARIABLE:  SME vs. NON-SME
DEPENDENT VARIABLE:  QUESTION 16 (WITH 7 SUB-QUESTIONS)

Summary:
Running the first MANCOVA test, we observe that the breakdown of the senior business decision-makers into those affiliated with SME companies vs. non-SME companies is not significant as a predictor of variation in Question 16 (falling just below our minimum threshold of a 95% confidence level). As such, additional MANCOVA tests removing the insignificant variables were not run.

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MANCOVA ANALYSIS: 2B

INDEPENDENT VARIABLE: SME vs. NON-SME
DEPENDENT VARIABLE: QUESTION 18 (WITH 2 SUB-QUESTIONS)

Summary:
Running the first MANCOVA test, we observe that the breakdown of the senior business decision-makers into those affiliated with SME companies vs. non-SME companies is not significant as a predictor of variation in Question 18. As such, additional MANCOVA tests removing the insignificant variables were not run.

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| **Covariates**          |       |     |     |     |       |
| Industry                |       |     |     |     |       |
| Pillai's Trace          | 0.0748| 5.094| 2   | 126 | 0.007 **|
| Wilks' Lambda           | 0.925 | 5.094| 2   | 126 | 0.007 **|
| Hotelling's Trace       | 0.0809| 5.094| 2   | 126 | 0.007 **|
| Roy's Largest Root      | 0.0809| 5.094| 2   | 126 | 0.007 **|

| Geography               |       |     |     |     |       |
| Pillai's Trace          | 0.0385| 2.520| 2   | 126 | 0.085 |
| Wilks' Lambda           | 0.962 | 2.520| 2   | 126 | 0.085 |
| Hotelling's Trace       | 0.0400| 2.520| 2   | 126 | 0.085 |
| Roy's Largest Root      | 0.0400| 2.520| 2   | 126 | 0.085 |

| Pubco Experience        |       |     |     |     |       |
| Pillai's Trace          | 0.0649| 4.369| 2   | 126 | 0.015 *|
| Wilks' Lambda           | 0.935 | 4.369| 2   | 126 | 0.015 *|
| Hotelling's Trace       | 0.0694| 4.369| 2   | 126 | 0.015 *|
| Roy's Largest Root      | 0.0694| 4.369| 2   | 126 | 0.015 *|

| Total Career Experience |       |     |     |     |       |
| Pillai's Trace          | 0.0122| 0.780| 2   | 126 | 0.461 |
| Wilks' Lambda           | 0.988 | 0.780| 2   | 126 | 0.461 |
| Hotelling's Trace       | 0.0124| 0.780| 2   | 126 | 0.461 |
| Roy's Largest Root      | 0.0124| 0.780| 2   | 126 | 0.461 |
MANCOVA ANALYSIS: 2C

INDEPENDENT VARIABLE: SME vs. NON-SME
DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

Summary:
Running the first MANCOVA test, we observe that the breakdown of the senior business decision-makers into those affiliated with SME companies vs. non-SME companies is not significant as a predictor of variation in Question 20. As such, additional MANCOVA tests removing the insignificant variables were not run.

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**MANCOVA ANALYSIS: 2D**

**INDEPENDENT VARIABLE:** SME vs. NON-SME  
**DEPENDENT VARIABLE-** QUESTION 21 (WITH 14 FACTORS ASSESSED)

**Summary:**
Running the first MANCOVA test, we observe that the breakdown of the senior business decision-makers into those affiliated with SME companies vs. non-SME companies is not significant as a predictor of variation in Question 21. As such, additional MANCOVA tests removing the insignificant variables were not run.

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MANCOVA ANALYSIS: 3A

INDEPENDENT VARIABLE: TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY

DEPENDENT VARIABLE: QUESTION 16 (WITH 7 SUB-QUESTIONS)

Summary:
Running the first MANCOVA test, we observe that the TSX-listed company v. Private TSX-eligible company dichotomy is a significant predictor of variation in Question 16. Also, two out of the five covariates tested in the first calculation are significant. After removing the three insignificant covariates and re-running the MANCOVA with the two significant covariates, we observe a significant difference remaining in the responses to three sub-questions within Question 16. As such, we concluded that the TSX vs. Private dichotomy is a significant predictor of variation in these three sub-questions within Question 16.
**MANCOVA ANALYSIS: 3A (cont.)**

**INDEPENDENT VARIABLE:** TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY

**DEPENDENT VARIABLE:** QUESTION 16 (WITH 7 SUB-QUESTIONS)

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**Significant Covariates**

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**Note:** The following three covariates have been determined to be insignificant and removed from the above MANCOVA calculation: Public Company Experience (P=0.280), Geography (P=0.392), and SME v. Non-SME (P=0.379).
### MANCOVA ANALYSIS: 3A (cont.)

**INDEPENDENT VARIABLE:** TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY  
**DEPENDENT VARIABLE:** QUESTION 16 (WITH 7 SUB-QUESTIONS)

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MANCOVA ANALYSIS: 3B

INDEPENDENT VARIABLE: TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY

DEPENDENT VARIABLE: QUESTION 18 (WITH 2 SUB-QUESTIONS)

Summary:

Running the first MANCOVA test, we observe that the TSX-listed company v. Private TSX-eligible company dichotomy is a significant predictor of variation in Question 18.

However, all five of the five covariates tested in the first MANCOVA calculation are determined to be insignificant. After removing the five insignificant covariates and re-running the MANCOVA with only the independent variable left (which essentially becomes an MANOVA calculation), we observe a significant difference remaining in the responses to both of the sub-questions within tested in Question 18. As such, we conclude that the TSX vs. Private dichotomy is a significant predictor of variability in Question 18.
MANCOVA ANALYSIS: 3B (cont.)

INDEPENDENT VARIABLE: TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY

DEPENDENT VARIABLE: QUESTION 18 (WITH 2 SUB-QUESTIONS)

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**Note:** All five covariates were determined to be insignificant in the first MANCOVA calculation and were removed from the second MANCOVA calculation above: Career Experience (P=0.726), Public Company Experience (P=0.247), Geography (P=0.177), SME v. Non-SME (P=0.414), and Industry (P=0.277)

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MANCOVA ANALYSIS: 3C

INDEPENDENT VARIABLE: TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY
DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

Summary:
Running the first MANCOVA test, we observe that the TSX-listed company v. Private TSX-eligible company dichotomy is a significant predictor of variation in Question 20. However, only one of the five covariates tested in the first MANOVA calculation are determined to be significant (i.e., industry).

After removing the four insignificant covariates and re-running the MANCOVA with the independent variable and the sole significant covariate, we observe a significant difference remaining in the following 15 out of the 31 downside factors tested in Question 20. As such, we conclude that the TSX vs. Private dichotomy is a significant predictor of variability in responses for 15 of the 31 downside factors associated with being a public company tested in the PCD Study.
MANCOVA ANALYSIS: 3C (cont.)

INDEPENDENT VARIABLE: TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)
INDEPENDENT VARIABLE: TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)
MANCOVA ANALYSIS: 3C (cont.)

INDEPENDENT VARIABLE: TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

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Note: The following four covariates have been determined to be insignificant and removed from the above MANCOVA calculation: Public Company Experience (P=0.328), Total Career Experience (P=0.444), Geography (P=0.249) and SME v. Non-SME (P=0.484)
MANCOVA ANALYSIS: 3C (cont.)

INDEPENDENT VARIABLE: TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

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MANCOVA ANALYSIS: 3D

INDEPENDENT VARIABLE:  TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY
DEPENDENT VARIABLE:  QUESTION 21 (WITH 14 FACTORS ASSESSED)

Summary:

Running the first MANCOVA test, we once again observe that the TSX-listed company v. Private TSX-eligible company dichotomy is a significant predictor of variation in Question 21. However, as was the case with MANCOVA analysis 3B, all five of the five covariates tested in the first calculation are insignificant. After removing the five insignificant covariates and re-running the MANCOVA with only the independent variable left (essentially an MANOVA calculation), we observe a significant difference remaining in the responses to both of the sub-questions within tested in Question 18. As such, we conclude that the TSX vs. Private dichotomy is a significant predictor of variability for these two factors associated with the upsides of being a public company.
### MANCOVA ANALYSIS: 3D (cont.)

**INDEPENDENT VARIABLE:** TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY  
**DEPENDENT VARIABLE:** QUESTION 21 (WITH 14 FACTORS ASSESSED)

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**Note:** All five covariates were determined to be insignificant in the first MANCOVA calculation and were removed from the second calculation above: Total Career Experience (P=0.494), Public Company Experience (P=0.961), Geography (P=0.473), SME v. Non-SME (P=0.176), and Industry (P=0.460)
MANCOVA ANALYSIS: 3D (cont.)

**INDEPENDENT VARIABLE:** TSX-LISTED COMPANY VS. PRIVATE TSX-ELIGIBLE COMPANY

**DEPENDENT VARIABLE:** QUESTION 21 (WITH 14 FACTORS ASSESSED)

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MANCOVA ANALYSIS: 4A

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 16 (WITH 7 SUB-QUESTIONS)

Summary:

In all of the MANCOVA calculations run on the four types of public markets influencers, we have only three initial covariates in the calculation: geography, total career experience and public company experience. SME vs. Non-SME and Industry have no use here as they apply only to Group I respondents.

On the initial MANCOVA calculation, with Question 16 as the dependent variable, only one covariate tested was determined to be significant (i.e., geography). After re-running the MANCOVA test and factoring out the impact of geography, we observe a significant difference remaining amongst the responses of the 4 different Group II constituents to the following three sub-questions within Question 16: Q16-1, Q16-2 and Q16-6.
MANCOVA ANALYSIS: 4A (cont.)

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 16 (WITH 7 SUB-QUESTIONS)

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Note: Insignificant covariates removed in the above MANCOVA calculation are Total Career Experience (P=0.311) and Pubco Experience (P=0.054)
### MANCOVA ANALYSIS: 4A (cont.)

**INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS**

**DEPENDENT VARIABLE: QUESTION 16 (WITH 7 SUB-QUESTIONS)**

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MANCOVA ANALYSIS: 4B

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 18 (WITH 2 SUB-QUESTIONS)

Summary:
In all of the MANCOVA calculations run on the four types of public markets influencers, we have only three initial covariates in the calculation: geography, total career experience and public company experience. SME vs. Non-SME and Industry have no use here as they apply only to Group I respondents.

On the initial MANCOVA calculation with Question 18 as the dependent variable, none of the three covariates tested was determined to be significant. After re-running the test without the covariates (ie., a MANOVA test), we observe a significant difference amongst the responses of the 4 different Group II constituents to both Question 18-1 and 18-2. As such, we conclude that the type of public markets influencer is a significant predictor of variability in Question 18.
### MANCOVA ANALYSIS: 4B (cont.)

**INDEPENDENT VARIABLE:** FOUR TYPES OF PUBLIC MARKETS INFLUENCERS  
**DEPENDENT VARIABLE:** QUESTION 18 (WITH 2 SUB-QUESTIONS)

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*Note: Insignificant covariates removed in the above MANCOVA calculation are Geography (P=0.351), Total Career Experience (P=0.179), Pubco Experience (P=0.092)*

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MANCOVA ANALYSIS: 4C

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

Summary:
In all of the MANCOVA calculations run on the four types of public markets influencers, we have only three initial covariates in the calculation: geography, total career experience and public company experience. SME vs. Non-SME and Industry have no use here as they apply only to Group I respondents.

On the initial MANCOVA calculation with Question 20 as the dependent variable, only geography proves to be significant as a covariate. In the first MANCOVA analysis, the type of public markets influencer as an independent variable falls right on the boundary of minimum significance we have established (ie., 95% confidence level) for Pillai’s Trace and is significant for the other three MANCOVA tests. After re-running the MANCOVA test and factoring out the impact of the significant covariate (geography), however, we observe that the type of public markets influencer as an independent variable falls just outside our minimum level of significance on three out of the four alternative MANCOVA tests. It is only utilizing Roy’s Largest Root as a test that significance is retained at the 95% confidence level.

However, because the other three MANCOVA tests evidence a confidence level falling just outside the 95% confidence level established as the minimum and remain significant under Roy’s Largest Root, the summary tables are still shown below for the 11 downside factors in Question 20 that are determined to be significant in the follow-on MANCOVA analysis.
MANCOVA ANALYSIS: 4C (cont.)

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)
MANCOVA ANALYSIS: 4C (cont.)

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)
MANCOVA ANALYSIS: 4C (cont.)
INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

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Note: Insignificant covariates removed in the above MANCOVA calculation are Industry (P=0.351), Total Career Experience (P=0.179), Pubco Experience (P=0.092)
MANCOVA ANALYSIS: 4C (cont.)

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

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MANCOVA ANALYSIS: 4D

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 21 (WITH 14 FACTORS ASSESSED)

Summary: Four Types of Public Markets Influencers (ie., Group II)

In all of the MANCOVA calculations run on the four types of public markets influencers, we have only three initial covariates in the calculation: geography, total career experience and public company experience. SME vs. Non-SME and Industry have no use here as they apply only to Group I respondents.

On the initial MANCOVA calculation with Question 21 as the dependent variable, only public company experience proves to be significant as a covariate. After re-running the MANCOVA tests and factoring out the impact of the sole significant covariate, we observe a significant difference remaining between the four types of public markets influencers in the responses to 7 of the 14 upside public company factors within Question 21 summarized in the following graphs.
MANCOVA ANALYSIS: 4D (cont.)

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 21 (WITH 14 FACTORS ASSESSED)
MANCOVA ANALYSIS: 4D (cont.)

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 21 (WITH 14 FACTORS ASSESSED)
MANCOVA ANALYSIS: 4D (cont.)

INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS
DEPENDENT VARIABLE: QUESTION 21 (WITH 14 FACTORS ASSESSED)

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*Note:* Insignificant covariates removed in the above MANCOVA calculation are Geography (P=0.402), Total Career Experience (P=0.063).
### MANCOVA ANALYSIS: 4D (cont.)

**INDEPENDENT VARIABLE: FOUR TYPES OF PUBLIC MARKETS INFLUENCERS**

**DEPENDENT VARIABLE: QUESTION 21 (WITH 14 FACTORS ASSESSED)**

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**Residuals**

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MANCOVA ANALYSIS: 5A

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
(PUBLIC / PRIVATE / LAWYER /
AUDITOR / IBANK / PRIVATE EQUITY)

DEPENDENT VARIABLE: QUESTION 16 (WITH 7 SUB-QUESTIONS)

Summary:
The fifth independent variable represents all six of the major demographic respondent groups, namely: (i) senior decision-makers of TSX-listed companies vs. (ii) senior decision-makers of private TSX-eligible companies vs. (iii) securities lawyers vs. (iv) auditors / accountants vs. (v) investment bankers vs. (vi) private equity investors.

All five of the covariates were also included in these MANCOVA calculations. However, given the complexity of these calculations, out of the four MANCOVA tests normally run by R, the only test that was able to properly calculate final outputs is Roy’s Largest Root. The output of the other three MANCOVA tests failed and are excluded beyond the initial MANCOVA calculations.

Two out of the the five covariates tested (total career experience and industry) are significant when running the MANCOVA test the first time. After re-running the MANCOVA test eliminating the three insignificant covariates, Total Career Experience falls below the significance threshold. Re-running the MANCOVA test a third time with the only remaining significant covariate (i.e., industry), we observe a significant difference remaining between the six major respondent groups participants in the responses to the following five sub-questions within Question 16: Q16-1, Q16-2, 16-4, Q16-6 and Q16-7.
MANCOVA ANALYSIS: 5A

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS—PUBLIC / PRIVATE / LAWYER / AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 16 (WITH 7 SUB-QUESTIONS)
MANCOVA ANALYSIS: 5A (cont.)

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER /
AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 16 (WITH 7 SUB-QUESTIONS)

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Independent Variable
Six Major Respondent Groups
- Pillai's Trace: 0.3894, F: 4.13, df1: 35, df2: 1710, p < .001 ***
- Wilks' Lambda: 0.661, F: 4.20, df1: 35, df2: 1424, p < .001 ***
- Hotelling's Trace: 0.4398, F: 4.23, df1: 35, df2: 1682, p < .001 ***
- Roy's Largest Root: 0.1687, F: 8.24, df1: 7, df2: 342, p < .001 ***

Significant Covariate
Geography
- Pillai's Trace: 0.0461, F: 2.34, df1: 7, df2: 338, p = 0.024 *
- Wilks' Lambda: 0.954, F: 2.34, df1: 7, df2: 338, p = 0.024 *
- Hotelling's Trace: 0.0484, F: 2.34, df1: 7, df2: 338, p = 0.024 *

Note: Insignificant covariates removed after the first MANCOVA calculation are Geography (P=0.392), Pubco Experience (P=0.280) and SME vs. Non-SME (P=0.379). After running the MANCOVA calculation again, Total Career Experience becomes insignificant and is also removed, leaving industry as the only remaining significant covariate.
MANCOVA ANALYSIS: 5A (cont.)

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER / AUDITOR / IBANK /
PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 16 (WITH 7 SUB-QUESTIONS)

Note: Using only Roy’s Largest Root Below

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| Geography |                | 1   |             |         |     |
| Q16_1     | 0.0109         |     | 0.0109      | 0.0138  | 0.907 |
| Q16_2     | 0.1814         |     | 0.1814      | 0.1525  | 0.696 |
| Q16_3     | 0.2815         |     | 0.2815      | 0.3044  | 0.582 |
| Q16_4     | 11.9349        |     | 11.9349     | 11.1449 | < .001 *** |
| Q16_5     | 1.6080         |     | 1.6080      | 1.5626  | 0.212 |
| Q16_6     | 8.8201         |     | 8.8201      | 8.0418  | 0.005 ** |
| Q16_7     | 0.0485         |     | 0.0485      | 0.0381  | 0.845 |

| Residuals |                |     |             |         |     |
| Q16_1     | 271.9187       | 344 | 0.7905      |         |     |
| Q16_2     | 409.2769       | 344 | 1.1898      |         |     |
| Q16_3     | 318.1841       | 344 | 0.9250      |         |     |
| Q16_4     | 368.3865       | 344 | 1.0709      |         |     |
| Q16_5     | 353.9992       | 344 | 1.0291      |         |     |
| Q16_6     | 377.2929       | 344 | 1.0968      |         |     |
| Q16_7     | 438.0061       | 344 | 1.2733      |         |     |
MANCOVA ANALYSIS: 5B

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER /
AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 18 (WITH 2 SUB-QUESTIONS)

Summary:
Given the complexity of these calculations, out of the four MANCOVA tests normally run by R, the only test that was able to properly calculate final outputs is Roy’s Largest Root. The output of the other three MANCOVA tests failed and are excluded beyond the initial MANCOVA calculations.

After running the MANCOVA test the first time, it is determined that none of the five covariates are significant and they are all eliminated in the running the MANCOVA test the second time (which essentially becomes an MANOVA analysis). After running the second MANCOVA test, we observe a significant difference remaining between the six major respondent groups participants in the responses to Question 18. As such, we conclude the the six major demographic groups are a significant predictor of variability in Question 18.
MANCOVA ANALYSIS: 5B (cont.)

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER /
AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 18 (WITH 2 SUB-QUESTIONS)

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Note: Insignificant covariates removed after the first MANCOVA calculation are Industry (P=0.277) Geography (P=0.177), Pubco Experience (P=0.247), Total Experience (P=0.726) and SME vs. Non-SME (P=0.414).

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MANCOVA ANALYSIS: 5C

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER /
AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

Summary:
Given the complexity of these calculations, out of the four MANCOVA tests normally run by R, the only test that was able to properly calculate final outputs is Roy’s Largest Root. The output of the other three MANCOVA tests failed and are excluded beyond the initial MANCOVA calculations.

After running the MANCOVA test the first time, it is determined that the only significant covariate is industry and the other four covariates are all eliminated in running the MANCOVA test the second time. After running the second MANCOVA test, we observe a significant difference remaining between the six major respondent groups in the responses to 18 of the 31 different downside risk factors associated with being public tested in Question 21. As such, we conclude the six major respondent groups are a significant predictor of variability in 18 of the 31 downside elements associated with being a public company tested in the PCD Study.
MANCOVA ANALYSIS: 5C (cont.)

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER /
AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)
MANCOVA ANALYSIS: 5C (cont.)

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER / AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)
MANCOVA ANALYSIS: 5C (cont.)

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER / AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)
MANCOVA ANALYSIS: 5C (cont.)

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER / AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)
MANCOVA ANALYSIS: 5C (cont.)

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER / AUDITOR / IBANK /
PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

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| Significant Covariates   |       |       |      |      |         |
| Industry                 |       |       |      |      |         |
| Pillai's Trace           | 0.147 | 1.58  | 31   | 285  | 0.030  *|
| Wilks' Lambda            | 0.853 | 1.58  | 31   | 285  | 0.030  *|
| Hotelling's Trace        | 0.172 | 1.58  | 31   | 285  | 0.030  *|
| Roy's Largest Root       | 0.172 | 1.58  | 31   | 285  | 0.030  *|

Note: Insignificant covariates removed after the first MANCOVA calculation are Geography (P=0.249), Pubco Experience (P=0.328), Total Career Experience (P=0.444) and SME vs. Non-SME (P=0.484).
INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER / AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 20 (WITH 31 FACTORS ASSESSED)

Note: The following is run only with Roy’s Largest Root

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| **Industry**        |                |    |             |       |         |
| Q20_1              | 0.126          | 1  | 0.126       | 0.1102| 0.740   |
| Q20_2              | 3.505          | 1  | 3.505       | 2.9595| 0.086   |
| Q20_3              | 0.620          | 1  | 0.620       | 0.5879| 0.444   |
Q20_4                          2.294       1           2.294      1.8109      0.179
Q20_5                          2.615       1           2.615      3.0664      0.081
Q20_6                          7.551       1           7.551      7.7798      0.006   **
Q20_7                          4.423       1           4.423      5.4728      0.020   *
Q20_8                          4.299       1           4.299      3.2750      0.071
Q20_9                          1.373       1           1.373      1.2418      0.266
Q20_10                         0.661       1           0.661      0.5574      0.456
Q20_11                         11.943       1          11.943    10.2199      0.002   **
Q20_12                         0.149       1           0.149      0.1304      0.718
Q20_13                         0.760       1           0.760      0.6024     0.438
Q20_14                         1.166       1           1.166      0.9684      0.326
Q20_15                         1.563       1           1.563      1.2942      0.256
Q20_16                         2.926       1           2.926      2.0154      0.157
Q20_17                         3.740       1           3.740      3.0510      0.082
Q20_18                         3.198       1           3.198      2.5516      0.111
Q20_19                         1.452       1           1.452      1.3837      0.240
Q20_20                         1.641       1           1.641      1.2098      0.272
Q20_21                         0.177       1           0.177      0.1185      0.731
Q20_22                         0.245       1           0.245      0.2566      0.613
Q20_23                         0.668       1           0.668      0.5717      0.450
Q20_24                         0.624       1           0.624      0.4927      0.483
Q20_25                         2.476       1           2.476      2.2035      0.139
Q20_26                         1.614       1           1.614      1.4902      0.223
Q20_27                         0.112       1           0.112      0.0810      0.776
Q20_28                         0.360       1           0.360      0.2677     0.605
Q20_29                         3.530       1           3.530      3.0228     0.083
Q20_30                         0.942       1           0.942      0.7175     0.398
Q20_31                         1.631       1           1.631      1.2345     0.267

Residuals Q20_1                  358.923    315           1.139
Q20_2                         373.072     315           1.184
Q20_3                         331.997     315           1.054
Q20_4                         399.013     315           1.267
Q20_5                         268.667     315           0.853
Q20_6                         305.736     315           0.971
Q20_7                         254.566     315           0.808
Q20_8                         413.537     315           1.313
Q20_9                         348.204     315           1.105
Q20_10                        373.816     315           1.187
Q20_11                        368.109     315           1.169
Q20_12                        360.836     315           1.146
Q20_13                        397.297     315           1.261
Q20_14                        379.200     315           1.204
Q20_15                        380.382     315           1.208
Q20_16                        457.274     315           1.452
Q20_17                        386.151     315           1.226
Q20_18                        394.814     315           1.253
Q20_19                        330.651     315           1.050
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MANCOVA ANALYSIS: 5D

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
PUBLIC / PRIVATE / LAWYER /
AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 21 (WITH 14 FACTORS ASSESSED)

Summary:
Given the complexity of these calculations, out of the four MANCOVA tests normally run by R, the only test that was able to properly calculate final outputs is Roy’s Largest Root. The output of the other three MANCOVA tests failed and are excluded beyond the initial MANCOVA calculations.

After running the MANCOVA test the first time, it is determined that none of the five covariates are significant and, as such, they are all eliminated in running the MANCOVA test the second time through. After running the second MANCOVA test, we observe a significant difference remaining between the six major respondent groups in the responses to 8 of the 14 different downside risk factors associated with being public tested in Question 21. As such, we conclude that reference to the six major demographic groups as an independent variable is a significant predictor of variability in 8 of the 14 upside factors assessed in the Question 21 of the PCD Study.
MANCOVA ANALYSIS: 5D

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS - PUBLIC / PRIVATE / LAWYER / AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 21 (WITH 14 FACTORS ASSESSED)
MANCOVA ANALYSIS: 5D

INDEPENDENT VARIABLE: **SIX MAJOR RESPONDENT GROUPS—PUBLIC / PRIVATE / LAWYER / AUDITOR / IBANK / PRIVATE EQUITY**

DEPENDENT VARIABLE: **QUESTION 21 (WITH 14 FACTORS ASSESSED)**

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Note: Insignificant covariates removed after the first MANCOVA calculation are Industry (P=0.460), Geography (P=0.473), Pubco Experience (P=0.961), Total Career Experience (P=0.494) and SME vs. Non-SME (P=0.176).
MANCOVA ANALYSIS: 5D

INDEPENDENT VARIABLE: SIX MAJOR RESPONDENT GROUPS-
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AUDITOR / IBANK / PRIVATE EQUITY

DEPENDENT VARIABLE: QUESTION 21 (WITH 14 FACTORS ASSESSED)

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# Appendix 7-
Curriculum Vitae of Author

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<thead>
<tr>
<th>Name:</th>
<th>L. Daniel Wilson</th>
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<tbody>
<tr>
<td>Post-secondary Education and Degrees:</td>
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<tr>
<td>Western University</td>
<td>London, Ontario, Canada</td>
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<tr>
<td>(2017-2020) Ph.D. Studies</td>
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<tr>
<td>University of Calgary</td>
<td>Calgary, Alberta, Canada</td>
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<tr>
<td>(2015-2016) LLM</td>
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<tr>
<td>University of Alberta</td>
<td>Edmonton, Alberta, Canada</td>
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<tr>
<td>(1990-1992) JD</td>
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<tr>
<td>University of Alberta</td>
<td>Edmonton, Alberta, Canada</td>
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<tr>
<td>(1989-1990) Studies in Faculty of Commerce</td>
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<tr>
<td>Trinity Western University</td>
<td>Langley, British Columbia, Canada</td>
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<tr>
<td>(1987-1988) Studies in Faculty of Business</td>
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<td>Honors and Awards:</td>
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<tr>
<td>Province of Ontario Graduate Scholarship</td>
<td>(2019-2020) Western University Law School</td>
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<tr>
<td>Clerk to G.V. La Forest, Supreme Court of Canada</td>
<td>(1993)</td>
</tr>
<tr>
<td>Multiple academic awards from University of Alberta during law school studies (1990-1992)</td>
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<tr>
<td>Related Work Experience:</td>
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<tr>
<td>Assistant Professor, MacEwan University</td>
<td>Department of International Business, Strategy, Marketing &amp; Law (Fall 2019- Current)</td>
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<tr>
<td>Sessional Instructor, University of Calgary</td>
<td>Faculty of Law (Fall 2019)</td>
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<tr>
<td>Sessional Instructor, Red Deer College</td>
<td>Donald School of Business (2016-2018)</td>
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<tr>
<td>Sessional Instructor, University of Calgary</td>
<td>Haskayne School of Business (2017-2018)</td>
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</tbody>
</table>
Executive Vice-President & General Counsel
Sembmarine SSP Inc. (2014-2019)

President & Director
SSP Offshore Inc. (2008-2014)

Co-Founder & Chairman
Enerclear Services Inc. (2006-2013)

Director & Senior Officer

General Counsel
MediSystem Technologies Inc. (2002-2007)

President
MedMira Inc. (2000-2001)

Partner- Securities and Corporate Transactions

Associate- Securities and Corporate Transactions
Blake Cassels & Graydon LLP (1992-1996)

Publications:


Professional Designations:
Barrister & Solicitor, Law Society of Alberta, active status (admitted 1994)

Attorney at Law, State Bar of California, inactive status (admitted 1992)