



Province of Alberta

SECURITIES ACT

Revised Statutes of Alberta 2000
Chapter S-4

Current as of June 7, 2017

Office Consolidation

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2014 c17 s2(c), (e) amends s1, s22 amends s75, s23 amends s76(1), s24 adds ss76.01 to 76.03, s55(b) amends s223.

Regulations

The following is a list of the regulations made under the *Securities Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	<i>Amendments</i>
Securities Act		
Securities	115/95	10/97, 204/2003, 236/2005, 204/2006, 66/2008, 240/2009, 47/2013, 184/2013, 99/2014, 155/2016

SECURITIES ACT

Chapter S-4

Table of Contents

- 1 Definitions
- 2 Affiliation
- 3 Control
- 4 Subsidiary
- 5 Beneficial ownership
- 6 Deemed beneficial ownership
- 7 Deemed insiders of a mutual fund
- 9 Special relationships
- 10 Designation orders

Part 1 Alberta Securities Commission

- 11 The Alberta Securities Commission
- 12 Bylaws
- 13 Chair and Vice-chair
- 14 Remuneration
- 14.1 Continuation in office
- 15 Acting members of Commission
- 16 Staff
- 17 Duties of the Executive Director
- 18 Duties of the Secretary
- 19 Financial matters re Commission
- 20 Annual report
- 21 Agent of the Crown
- 22 Delegation of power
- 23 Sitting in panels
- 24 Extra-provincial power of Commission
- 25 Extra-provincial commissions
- 26 Evidence taken outside Alberta
- 27 Evidence taken in Alberta by other securities regulatory agencies

- 28 Engaging experts
- 29 Conduct of hearings
- 30 Referral by Executive Director
- 31 Jurisdiction
- 32 Decision made without a hearing
- 33 Interim orders
- 33.1 Failure to comply with filing requirements
- 33.2 Halt trade
- 34 Orders subject to terms or conditions
- 35 Appeal from decision
- 36 Appeals to the Commission
- 37 Notice of review
- 38 Appeal to Court of Appeal
- 39 Policy Advisory Committee

Part 2 Investigations

- 40 Production of records
- 41 Investigation order
- 42 Powers of investigators
- 43 Appointment of experts
- 44 Report to Executive Director
- 45 Investigation to be confidential
- 46 Information
- 46.1 Prevalence over FOIP
- 47 Order to freeze property
- 48 Appointment of receivers, managers, trustees or liquidators
- 49 Income and liabilities of person or company
- 50 Powers of a receiver and manager
- 51 Court order
- 52 Term of office
- 53 Fees
- 54 Directions from the Court
- 55 Appointment of successor
- 56 Funds expended by Executive Director
- 57 Solicitor-client privilege

Part 3 Record Keeping and Compliance Review

- 58 Review and examination
- 59 Recognized exchanges and self-regulatory organizations
- 60 Requirements to provide information
- 60.1 Record-keeping

60.2 Disclosure reviews**Part 4
Exchanges, Self-regulatory Organizations,
Credit Rating Organizations, Trade
Repositories and Clearing Agencies**

- 61** Members of exchanges, etc.
- 62** Recognition of exchange
- 63** Operation of recognized exchanges
- 64** Recognition of self-regulatory organizations
- 64.1** Recognition of auditor oversight organization
- 64.2** Recognized auditor oversight organization may require disclosure
- 64.3** Compulsion protection
- 65** Councils, committees, etc.
- 66** Assignment of duties of the Commission or Executive Director
- 67** Recognized clearing agency
- 67.1** Designation of credit rating organizations
- 67.2** Contents and methodology of credit ratings
- 67.3** Recognized trade repository
- 68** Recognition of quotation and trade reporting systems
- 68.1** Personal information
- 69** Powers re hearings, etc.
- 69.1** Powers re investigations
- 70** Appointment of receivers, managers, trustees or liquidators
- 71** Acting as an exchange when not so recognized
- 72** Voluntary surrender of recognition
- 73** Review

**Part 5
Registration**

- 75** Requirement to be registered
- 75.1** Responsible person
- 75.2** Duty of care
- 76** Registration by Executive Director
- 76.1** Suspension of termination of registration
- 78** Surrender of registration
- 82** Further information

**Part 7
Trading in Securities
and Derivatives Generally**

- 90** Requirements for confirmation of trade
- 91** Attendance on or calls to residences

- 92, 93 Prohibited transaction
- 93.1 Duty to comply with Commission decisions
- 93.2 Duty to comply with undertaking
- 93.3 Front running
- 93.4 Obstruction of justice
- 94 Dealer as principal
- 97 Disclosure by registered dealer
- 98 Provision of risk disclosure statement
- 99 Use of name
- 100 Representation or holding out of registration
- 101 Representations
- 102 Margin contracts
- 103 Declaration of short position
- 103.1 Disclosure of activities in relation to a trade
- 104 Rights of beneficial owners
- 105.1 Derivatives transaction not void for non-compliance

Part 9 Distribution by Prospectuses

- 110 Filing prospectus
- 111 Preliminary prospectus
- 112 Receipt for preliminary prospectus
- 113 Prospectus and supplemental material
- 119 Other forms of prospectus
- 120 Receipt for prospectus
- 122 Distribution of previously issued securities

Part 10 Distribution Generally

- 123 Distribution of material
- 126 Defective preliminary prospectus
- 127 Material given on distribution
- 128 Order to cease trading
- 129 Obligation to deliver prospectus
- 130 Revocation of purchase

Part 11 Exemptions from Prospectus Requirements

- 141 Reporting issuer — default
- 144 Discretionary exemptions
- 145 Reporting issuer by declaration

**Part 12
Continuous Disclosure**

- 146 Disclosure generally
- 147 Disclosure of material fact or change
- 153 Deemed not to be a reporting issuer

**Part 13
Proxies and Proxy Solicitations**

- 157 Voting — proxies
- 157.1 Proxies and information circular

**Part 14
Take-over Bids and Issuer Bids**

- 158 Interpretation
- 159 Making a bid
- 160 Directors' or director's or officer's recommendation
- 179 Applications to the Commission
- 180 Applications to the Court

**Part 15
Insider Trading and Self-dealing**

- 181 Interpretation
- 182 Reports of insider
- 182.1 Early warning
- 183 Report of a legal owner
- 184 Interpretation
- 185 Loans and investments of mutual funds
- 186 Indirect investment
- 188 Permitted investment — mutual fund
- 189 Fees on investment
- 191 Filing by management companies
- 193 Trades by mutual fund insiders
- 193.1 Authorized exceptions to prohibitions
- 193.2 Oversight, etc., of investment funds

**Part 16
Enforcement**

- 194 General offences and penalties
- 195 Interpretation
- 196 Extra-provincial warrant
- 197 Declaration of non-compliance
- 198 Cease trading order, etc.

- 198.1 Extra-provincial orders
- 199 Administrative penalty
- 200 Filing decision with Court
- 201 Limitation period
- 202 Payments of costs

Part 17 Civil Liability

- 203 Civil liability — prospectus
- 204 Civil liability — offering memorandum or other prescribed offering documents
- 205 Civil liability — circular
- 205.1 Defence to liability for misrepresentation
- 206 Liability of dealer, offeror or issuer
- 207 Liability — material fact or change
- 208 Action by the Executive Director
- 209 Rescission of contract
- 209.1 Rescission re offering memorandum or other prescribed offering document
- 210 Rescission by purchaser — mutual fund
- 201.1 Class proceedings
- 210.2 Executive Director may intervene
- 211 Limitation period

Part 17.01 Civil Liability for Secondary Market Disclosure

- 211.01 Definitions
- 211.02 Application
- 211.03 Liability for secondary market disclosure

Burden of Proof and Defences

- 211.04 Non-core documents and public oral statements

Damages

- 211.05 Assessment of damages
- 211.06 Proportionate liability
- 211.07 Limits on damages

Procedural Matters

- 211.08 Permission to proceed
- 211.09 Notice
- 211.091 Restriction on discontinuation, etc. of action

- 211.092 Costs
- 211.093 Power of the Commission
- 211.094 No derogation from other rights
- 211.0941 Class proceedings
- 211.0942 Executive Director may intervene
- 211.095 Limitation period

Part 17.1 Interjurisdictional Co-operation

- 211.1 Definitions
- 211.2 Delegation and acceptance of authority
- 211.3 Subdelegation
- 211.4 Adoption or incorporation of extra-provincial securities laws
- 211.41 Exemptions
- 211.5 Exercise of discretion, interprovincial reliance
- 211.6 Regulations
- 211.7 Immunity re Alberta authority
- 211.8 Immunity re extra-provincial authority
- 211.9 Appeal re extra-provincial decision
- 211.91 Appeal re decision of the Commission

Part 18 General Provisions

- 213 General exemption
- 214 Revoke or vary decisions
- 215 Self-incrimination
- 216 Requirement to disclose personal information
- 217 Sending of documents
- 218 Admissibility of certified statements
- 219 Applications to a court
- 220 Service on Commission
- 221 Filing and confidentiality
- 221.1 Misleading information
- 222 Immunities
- 222.1 Compellability and liability with respect to RPC representative
- 223 Lieutenant Governor in Council regulations
- 224 Commission rules
- 224.1 Changes to unpublished rules
- 225 Publication of rules
- 226 Evidence re rule
- 227 Application of regulations and rules
- 228 Incorporation by reference

229 Exemption from a regulation or rule

231 Transitional provision

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

(a) “adviser” means a person or company engaging in or holding itself out as engaging in the business of advising in securities or derivatives;

(a.1) “advising in securities or derivatives” includes giving, offering or agreeing to give advice to another person or company about investing in or buying or selling securities or derivatives;

(b) “Alberta securities laws” means this Act, the regulations and any decisions made by the Commission or the Executive Director and any extra-provincial securities laws adopted or incorporated by reference under section 211.4;

(c) “associate”, when used to indicate a relationship with a person or company, means

(i) an issuer of which the person or company beneficially owns or controls, directly or indirectly, voting securities entitling the person or company to more than 10% of the voting rights attached to outstanding securities of the issuer,

(ii) any partner of the person or company,

(iii) any trust or estate in which the person or company has a substantial beneficial interest or in respect of which a person or company serves as trustee or in a similar capacity, or

(iv) in the case of a person, a relative of that person, including

(A) the spouse or adult interdependent partner of that person,

(B) a relative of the person’s spouse or adult interdependent partner if the relative has the same home as that person, or

- (C) another person who has the same home as, and is in a conjugal relationship with, that person;
- (c.1) “auditor oversight organization” means a person or company that regulates the auditing or review of financial statements that are required to be filed under Alberta securities laws;
- (d) repealed 2006 c30 s2;
- (e) “Chair” means the Chair of the Commission;
- (f) “clearing agency” means a person or company that,
 - (i) in connection with trades in securities,
 - (A) acts as an intermediary in paying funds or delivering securities, or both,
 - (B) provides centralized facilities through which trades in securities are cleared, or
 - (C) provides centralized facilities as a depository of securities,
 - or
 - (ii) in connection with trades in derivatives, provides centralized facilities for the clearing and settlement of trades in derivatives and that, with respect to a contract, instrument or transaction,
 - (A) enables each party to a derivatives trade to substitute, through novation or otherwise, the credit of the clearing agency for the credit of the parties,
 - (B) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from a derivatives trade, or
 - (C) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the clearing agency the credit risk arising from derivatives trades;
- (g) “Commission” means the Alberta Securities Commission;
- (h) “commodity” means

- (i) any good, article, service, right or interest of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit;
 - (ii) the currency of any jurisdiction;
 - (iii) any gem, gemstone or other precious stone;
 - (iv) any other good, article, service, right or interest, or a class of any of these, designated as a commodity pursuant to an order made under section 10;
- (i) “company” means any corporation, incorporated association, incorporated syndicate or other incorporated organization;
- (j) “contract” includes a trust agreement, declaration of trust or other similar instrument;
- (k) “contractual plan” means any contract or other arrangement for the purchase of shares or units of a mutual fund
- (i) by payments over a specified period, or
 - (ii) by a specified number of payments,
- if the amount deducted from any one of the payments as sales charges is larger than the amount that would have been deducted from the payment for sales charges had the deduction been made from each payment at a constant rate for the duration of the plan;
- (l) “control person” means
- (i) a person or company who holds a sufficient number of the voting rights attached to all outstanding voting securities of an issuer to affect materially the control of the issuer, and if a person or company holds more than 20% of the voting rights attached to all outstanding voting securities of an issuer, the person or company is deemed, in the absence of evidence to the contrary, to hold a sufficient number of the voting rights to affect materially the control of the issuer, or
 - (ii) each person or company in a combination of persons or companies acting in concert by virtue of an agreement, arrangement, commitment or understanding, who holds in total a sufficient number of the voting rights attached to all outstanding voting securities of an issuer to affect materially the control of the issuer, and if a combination

of persons or companies holds more than 20% of the voting rights attached to all outstanding voting securities of an issuer, the combination of persons or companies is deemed, in the absence of evidence to the contrary, to hold a sufficient number of the voting rights to affect materially the control of the issuer;

(l.1) “credit rating” means

- (i) an assessment, disclosed publicly or distributed by subscription, of the credit-worthiness of an issuer as an entity or with respect to specific securities or a specific portfolio of securities or assets, or
- (ii) a rating designated as a credit rating pursuant to an order made under section 10;

(l.2) “credit rating organization” means

- (i) a person or company that issues credit ratings, or
- (ii) a person or company designated as a credit rating organization pursuant to an order made under section 10;

(m) “dealer” means a person or company engaging in or holding itself out as engaging in the business of

- (i) trading in securities or derivatives as principal or agent, or
- (ii) acting as an underwriter;

(m.1) repealed 2010 c10 s2;

- (n) “decision”, when used in relation to the Commission or the Executive Director, means a direction, decision, order, ruling or other requirement made by the Commission or the Executive Director, as the case may be, under a power or right conferred by this Act or the regulations or under a delegation or other transfer of an extra-provincial authority under section 211.2;

(n.01) “derivative” means

- (i) an option, swap, futures contract, forward contract or other financial or commodity contract or instrument, whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, referenced to or based on an underlying

interest, including a price, rate, index, value, variable, event, probability or thing,

- (ii) a security, or a class of securities, that is designated under section 10 to be a derivative, or
- (iii) a security, or a class of securities, that is prescribed to be a derivative,

but does not include a derivative, or a class of derivatives, that is designated under section 10 not to be a derivative, or a derivative, or a class of derivatives, that is prescribed not to be a derivative;

- (n.1) “designated rating organization” means a credit rating organization designated as a designated rating organization under section 67.1;
- (o) “director” means a director of a company or an individual performing a similar function or occupying a similar position for a company or for any other person;
- (p) “distribution”, when used in relation to trading in securities, means
 - (i) a trade in securities of an issuer that have not been previously issued,
 - (ii) a trade by or on behalf of an issuer in previously issued securities of that issuer that have been redeemed or purchased by or donated to that issuer,
 - (iii) a trade in previously issued securities of an issuer from the holdings of a control person,
 - (iv) a trade by or on behalf of an underwriter in securities that were acquired by that underwriter, acting as underwriter, prior to February 1, 1982 if those securities continue on February 1, 1982 to be owned by or for that underwriter, so acting,
 - (v) a distribution referred to under the regulations,
 - (vi) a trade or an intended trade deemed to be a distribution under section 144(2), or
 - (vii) a transaction or series of transactions involving a purchase and sale or a repurchase and resale in the course of or incidental to a distribution referred to in subclauses (i) to (v);

- (q) “distribution company” means a person or company distributing securities under a distribution contract;
- (r) “distribution contract” means a contract between a mutual fund or its trustees or other legal representative and a person or company under which the person or company is granted the right to
 - (i) purchase the shares or units of the mutual fund for distribution, or
 - (ii) distribute the shares or units of the mutual fund on behalf of the mutual fund;
- (s) repealed 2014 c3 s2;
- (t) “Executive Director” means the Executive Director of the Commission;
- (u) “extra-provincial commission” means a board, commission or other agency established by another jurisdiction that performs a similar function in that jurisdiction that the Alberta Securities Commission performs in Alberta;
- (v) “financial institution” means a bank, loan corporation, trust corporation, treasury branch or credit union;
- (w) “form of proxy” means a written or printed form that, on completion and execution by or on behalf of a security holder, becomes a proxy;
- (w.1) “forward-looking information” means disclosure regarding possible events, conditions or financial performance that is based on assumptions about future economic conditions and courses of action, and includes future-oriented financial information with respect to prospective financial performance, financial position or cash flows that is presented either as a forecast or a projection;
- (x) repealed 2014 c3 s2;
- (y) “hearing” means a hearing of a matter before the Commission or the Executive Director, as the case may be, and includes a review of a matter by the Commission or the Executive Director, as the case may be;
- (z) “individual” means a natural person, but does not include

- (i) a partnership, unincorporated association, unincorporated syndicate, unincorporated organization or a trust, or
 - (ii) a natural person in the person's capacity as trustee, executor, administrator or other legal representative;
- (aa) "insider" means
- (i) a director or officer of an issuer,
 - (ii) a director or officer of a person or company that is itself an insider or subsidiary of an issuer,
 - (iii) a person or company that has
 - (A) beneficial ownership of, or control or direction over, directly or indirectly, or
 - (B) a combination of beneficial ownership of and control or direction over, directly or indirectly,securities of an issuer carrying more than 10% of the voting rights attached to all the issuer's outstanding voting securities, excluding, for the purpose of the calculation of the percentage held, any securities held by the person or company as underwriter in the course of a distribution,
 - (iv) an issuer that has purchased, redeemed or otherwise acquired a security of its own issue, for so long as it continues to hold that security,
 - (v) a person designated as an insider in an order made under section 10, or
 - (vi) a person that is in a prescribed class of persons;
- (bb) "insurance company" means an insurer as defined in the *Insurance Act* that is licensed under that Act;
- (bb.1) "investment fund" means a mutual fund or a non-redeemable investment fund;
- (bb.2) "investment fund manager" means a person or company who has the power to direct and exercises the responsibility of directing the affairs of an investment fund;
- (bb.3) "investor relations activities" means any activities or oral or written communications, by or on behalf of an issuer or

security holder of the issuer, that promote or reasonably could be expected to promote the purchase or sale of securities of the issuer, but does not include

- (i) the dissemination of information provided, or records prepared, in the ordinary course of the business of the issuer
 - (A) to promote the sale of products or services of the issuer, or
 - (B) to raise public awareness of the issuer,
that cannot reasonably be considered to promote the purchase or sale of securities of the issuer,
 - (ii) activities or communications necessary to comply with the requirements of
 - (A) Alberta securities laws, or
 - (B) the bylaws, rules or other regulatory instruments of a self-regulatory organization, exchange or quotation and trade reporting system,
 - (iii) communications by a publisher of, or writer for, a newspaper, news magazine or business or financial publication, that is of general and regular paid circulation, distributed only to subscribers to it for value or to purchasers of it, if
 - (A) the communication is only through the newspaper, magazine or publication, and
 - (B) the publisher or writer receives no commission or other consideration other than for acting in the capacity of publisher or writer,
- or
- (iv) any other activities or communications as prescribed by regulation;
- (cc) “issuer” means a person or company that
- (i) has outstanding securities,
 - (ii) is issuing securities, or
 - (iii) proposes to issue securities;

- (dd) “management company” means a person or company that provides investment advice under a management contract;
- (ee) “management contract” means a contract under which, for valuable consideration, a mutual fund is provided with investment advice, alone or together with administrative or management services;
- (ff) “material change” means,
 - (i) if used in relation to an issuer other than an investment fund,
 - (A) a change in the business, operations or capital of the issuer that would reasonably be expected to have a significant effect on the market price or value of a security of the issuer, or
 - (B) a decision to implement a change referred to in paragraph (A) made by the directors of the issuer, or by senior management of the issuer who believe that confirmation of the decision by the directors is probable,
 - and
 - (ii) if used in relation to an issuer that is an investment fund,
 - (A) a change in the business, operations or affairs of the issuer that would be considered important by a reasonable investor in determining whether to purchase or to continue to hold a security of the issuer, or
 - (B) a decision to implement a change referred to in paragraph (A) made
 - (I) by the directors of the issuer or the directors of the investment fund manager of the issuer,
 - (II) by senior management of the issuer who believe that confirmation of the decision by the directors is probable, or
 - (III) by senior management of the investment fund manager of the issuer who believe that confirmation of the decision by the directors of the investment fund manager of the issuer is probable;

- (gg) “material fact”, when used in relation to securities issued or proposed to be issued, means a fact that would reasonably be expected to have a significant effect on the market price or value of the securities;
- (hh) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (ii) “misrepresentation” means
 - (i) an untrue statement of a material fact, or
 - (ii) an omission to state a material fact that is required to be stated, or
 - (iii) an omission to state a material fact that is necessary to be stated in order for a statement not to be misleading;
- (jj) “mutual fund” means
 - (i) an issuer whose primary purpose is to invest money provided by its security holders and whose securities entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets, including a separate fund or trust account, of the issuer, or
 - (ii) an issuer that is designated as a mutual fund under section 10 or in accordance with the regulations,

but does not include an issuer, or class of issuers, that is designated under section 10 not to be a mutual fund;
- (jj.1) “non-redeemable investment fund” means
 - (i) an issuer
 - (A) whose primary purpose is to invest money provided by its security holders,
 - (B) that does not invest
 - (I) for the purpose of exercising or seeking to exercise control of an issuer, other than an issuer that is a mutual fund or a non-redeemable investment fund, or

- (II) for the purpose of being actively involved in the management of any issuer in which it invests, other than an issuer that is a mutual fund or a non-redeemable investment fund,
 - and
 - (C) that is not a mutual fund,
 - or
 - (ii) an issuer that is designated as a non-redeemable investment fund under section 10 or in accordance with the regulations,

but does not include an issuer, or class of issuers, that is designated under section 10 not to be a non-redeemable investment fund;
- (kk) “offering memorandum” means
- (i) an offering memorandum that is required to be delivered under Alberta securities laws, or
 - (ii) a document designated as an offering memorandum pursuant to an order made under section 10;
- (ll) “officer”, with respect to an issuer or registrant, means
- (i) a chair or vice-chair of the board of directors, a chief executive officer, chief operating officer, chief financial officer, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer or general manager,
 - (ii) an individual who is designated as an officer under a bylaw or similar authority of the issuer or registrant, or
 - (iii) an individual who performs functions for a person or company similar to those normally performed by an individual referred to in subclause (i) or (ii);
- (mm) “person” means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative;
- (nn) repealed 2008 c26 s2;

- (oo) “portfolio securities” means securities held or proposed to be purchased by a mutual fund;
- (pp) repealed 2003 c32 s2;
- (qq) repealed 2006 c30 s2;
- (rr) “promoter” means
 - (i) a person or company, acting alone or in conjunction with one or more other persons or companies or a combination of them, that, directly or indirectly, takes the initiative in founding, organizing or substantially reorganizing the business of the issuer, or
 - (ii) a person or company that, directly or indirectly, receives in consideration of services or property, or both,
 - (A) 10% or more of any class of securities of the issuer, or
 - (B) 10% or more of the proceeds from the sale of any class of securities of a particular issue, in connection with the founding, organizing or substantial reorganizing of the business of the issuer, but does not include a person or company that receives securities or proceeds solely
 - (C) as underwriting commissions, or
 - (D) in consideration of property transferred to the issuer, if that person or company does not otherwise take part in founding, organizing or substantially reorganizing the business;
- (ss) repealed 2008 c26 s2;
- (tt) “proxy” means a completed and executed form of proxy by which a security holder has appointed a person or company as the security holder’s nominee to attend and act on the security holder’s behalf at a meeting of security holders;
- (uu) “quotation and trade reporting system” means a person or company that operates facilities that permit the dissemination of price quotations for the purchase and sale of securities and reports of completed transactions in securities for the exclusive use of registered dealers, but does not include an exchange or a registered dealer;

- (uu.1) “recognized auditor oversight organization” means an auditor oversight organization recognized under section 64.1;
- (vv) “recognized clearing agency” means a clearing agency recognized by the Commission under section 67;
- (ww) “recognized exchange” means an exchange recognized by the Commission under section 62;
- (xx) “recognized quotation and trade reporting system” means a quotation and trade reporting system recognized by the Commission under section 68(1);
- (yy) “recognized self-regulatory organization” means a self-regulatory organization recognized by the Commission under section 64;
- (yy.1) “recognized trade repository” means a trade repository recognized by the Commission under section 67.3;
- (zz) “records” include
 - (i) an account, book, return, statement, report, financial document or other memorandum of financial or non-financial information whether in writing or in electronic form or represented or reproduced by any other means, and
 - (ii) the results of the recording of details of electronic data processing systems and programs to illustrate what the systems and programs do and how they operate;
- (aaa) “registrant” means a person or company registered or required to be registered under this Act or the regulations;
- (bbb) “regulations” means the regulations made under this Act and, unless the context otherwise indicates, includes the rules;
- (bbb.1) “related derivative” means, with respect to a security, a derivative that is related to the security because the derivative’s market price, value, delivery obligations, payment obligations or settlement obligations are, in a material way, derived from, referenced to or based on the market price, value, delivery obligations, payment obligations or settlement obligations of the security;
- (ccc) “reporting issuer” means an issuer

- (i) that has issued voting securities on or after October 1, 1967 in respect of which a prospectus was filed and a receipt for it obtained under a predecessor of this Act or in respect of which a securities exchange take-over bid circular was filed under a predecessor of this Act,
- (ii) that has
 - (A) filed a prospectus for which the Executive Director has issued a receipt under this Act, or
 - (B) filed a securities exchange take-over bid circular under this Act on or before June 1, 1999,
- (iii) any of whose securities have been at any time since February 1, 1982 listed and posted for trading on an exchange recognized under section 62 by the Commission regardless of when the listing and posting for trading commenced,
- (iv) that has exchanged its securities with another issuer or with the holders of the securities of that other issuer in connection with an amalgamation, merger, reorganization, arrangement, take-over bid or similar transaction if one of the parties to the amalgamation, merger, reorganization, arrangement, take-over bid or similar transaction was a reporting issuer at the time of the amalgamation, merger, reorganization, arrangement, take-over bid or similar transaction;
- (v) that is declared, deemed or designated to be a reporting issuer pursuant to any other provision of Alberta securities laws;
- (vi) repealed 2016 c13 s2;
- (ddd) “rules” means the rules made by the Commission under section 224 or under section 211.6(2);
- (eee) repealed 2007 c10 s2;
- (fff) “Secretary” means the Secretary of the Commission and includes any person appointed by the Commission to act in the place of the Secretary;
- (ggg) “security” includes
 - (i) any document, instrument or writing commonly known as a security;

- (ii) any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company;
- (iii) any document constituting evidence of an interest in an association of legatees or heirs;
- (iv) any document constituting evidence of an option, subscription or other interest in or to a security;
- (v) any bond, debenture, note or other evidence of indebtedness, share, stock, unit, unit certificate, participation certificate, certificate of share or interest, preorganization certificate or subscription other than
 - (A) a contract of insurance issued by an insurance company, or
 - (B) an evidence of deposit issued by a financial institution;
- (vi) any agreement under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets other than a contract issued by an insurance company that provides for payment at maturity of an amount of not less than 3/4 of the premiums paid by the purchaser for a benefit payable at maturity;
- (vii) any agreement under which money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company;
- (viii) any certificate of share or interest in a trust, estate or association;
- (ix) any profit-sharing agreement or certificate;
- (x) any certificate of interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate;
- (xi) any oil or natural gas royalties or leases or fractional or other interest in them;
- (xii) any collateral trust certificate;
- (xiii) any income or annuity contract not issued by an insurance company;

- (xiv) any investment contract;
- (xv) any document constituting evidence of an interest in a scholarship or educational plan or trust;
- (xvi) a derivative or class of derivatives designated to be a security pursuant to an order made under section 10,

whether or not any of them relate to an issuer or proposed issuer, but does not include anything designated not to be a security pursuant to an order under section 10 or a security or class of securities prescribed not to be a security;
- (hhh) “self-regulatory organization” means a person or company that is organized for the purpose of regulating the operations and the standards of practice and business conduct of its members;
- (iii) repealed 2006 c30 s2;
- (jj) “trade” includes
 - (i) any sale or disposition of a security for valuable consideration, whether the terms of payment are on margin, instalment or otherwise, but does not include
 - (A) a purchase of a security, or
 - (B) except as provided in subclause (v), a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a bona fide debt;
 - (ii) entering into a derivative or making a material amendment to, terminating, assigning, selling or otherwise acquiring or disposing of a derivative;
 - (ii.1) a novation of a derivative, other than a novation with a clearing agency;
 - (iii) any participation as a trader in any transaction in a security or a derivative through the facilities of an exchange or a quotation and trade reporting system;
 - (iv) the receipt by a registrant of an order to buy or sell a security or an order to buy, sell, enter into, amend, terminate, assign or novate a derivative;
 - (v) any transfer, pledge or encumbering of securities of an issuer from the holdings of a control person for the purpose of giving collateral for a bona fide debt;

- (vi) any act, advertisement, solicitation, conduct or negotiation made directly or indirectly in furtherance of anything referred to in subclauses (i) to (v);
- (jjj.1) “trade repository” means a person or company that collects and maintains reports of completed trades of derivatives by other persons and companies;
- (kkk) “underwriter” means a person or company that,
 - (i) as principal, agrees to purchase securities with a view to distribution, or
 - (ii) as agent, offers for sale or sells securities in connection with a distribution,

and includes a person or company that has a direct or indirect participation in the distribution, but does not include,
 - (iii) a person or company whose interest in the transaction is limited to receiving the usual and customary distributor’s or seller’s commission payable by an underwriter or issuer,
 - (iv) a mutual fund that, under the laws of the jurisdiction to which it is subject, accepts its shares or units for surrender and resells them,
 - (v) a company that, under the laws of the jurisdiction to which it is subject, purchases its shares and resells them, or
 - (vi) a bank listed in Schedule I, II or III of the *Bank Act* (Canada) with respect to the securities described in the regulations and to those banking transactions designated by the regulations;
- (lll) “voting security” means any security other than a debt security of an issuer carrying a voting right under all circumstances or under some circumstances that have occurred and are continuing.

RSA 2000 cS-4 s1;RSA 2000 cl-3 s869;2002 cA-4.5 s73;
2003 c32 s2;2004 cI-1.5 s5;2005 c18 s2;2006 c30 s2;
2007 c10 s2;2008 c26 s2;2010 c10 s2;2011 c7 ss2,18;
2014 c3 ss2,28;2014 c17 s2;2015 c11 s2;2016 c13 s2

Affiliation

2 A person or company is affiliated with another person or company if one of them is the subsidiary of the other or if each of them is controlled by the same person or company.

RSA 2000 cS-4 s2;2014 c17 s3

Control

3 A person or company is considered to control another person or company if the person or company, directly or indirectly, has the power to direct the management and policies of the other person or company by virtue of

- (a) the ownership or direction of voting securities of the other person or company,
- (b) a written agreement or trust instrument,
- (c) being the general partner or controlling the general partner of the other person or company, or
- (d) being the trustee of the other person or company.

RSA 2000 cS-4 s3;2004 cI-1.5 s5

Subsidiary

4 A subsidiary is an issuer that is controlled by one or more other issuers.

RSA 2000 cS-4 s4;2014 c17 s4

Beneficial ownership

5 A person is deemed to beneficially own securities that are beneficially owned

- (a) by an issuer controlled by that person,
- (b) by an affiliate of an issuer described in subsection (a),
- (c) by an affiliate of that person, or
- (d) through a trustee, legal representative, agent or other intermediary of that person.

RSA 2000 cS-4 s5;2005 c18 s3;2015 c11 s3

Deemed beneficial ownership

6 An issuer is deemed to beneficially own securities that are beneficially owned by its affiliates.

RSA 2000 cS-4 s6;2005 c18 s4

Deemed insiders of a mutual fund

7 The following are deemed to be an insider of a mutual fund:

- (a) every management company of a mutual fund that is a reporting issuer;
- (b) every distribution company of a mutual fund that is a reporting issuer;
- (c) every insider of a management company or distribution company referred to in clauses (a) and (b).

1981 cS-6.1 s7

7.1 Repealed 2006 c30 s3.

8 Repealed 2006 c30 s4.

Special relationships

9 A person or company is in a special relationship with an issuer if

- (a) the person or company is an insider, affiliate or associate of
 - (i) the issuer,
 - (ii) a person or company that is considering or evaluating whether to make a take-over bid, as defined in Part 14, or a person or company that is proposing to make a take-over bid, as defined in Part 14, for the securities of the issuer, or
 - (iii) a person or company that is considering or evaluating whether, or a person or company that is proposing,
 - (A) to become a party to a reorganization, amalgamation, merger or arrangement or a similar business combination with the issuer, or
 - (B) to acquire a substantial portion of the property of the issuer;
- (b) the person or company has engaged, is engaging, is considering or evaluating whether to engage, or proposes to engage, in any business or professional activity with or on behalf of
 - (i) the issuer, or
 - (ii) a person or company described in clause (a)(ii) or (iii);
- (c) the person is a director, officer or employee of

- (i) the issuer,
 - (ii) a subsidiary of the issuer,
 - (iii) a person or company that controls the issuer, directly or indirectly, or
 - (iv) a person or company described in clause (a)(ii) or (iii) or (b);
- (d) the person or company learned of a material fact or material change with respect to the issuer while the person or company was a person or company described in clause (a), (b) or (c);
- (e) the person or company
- (i) learns of a material fact or material change with respect to the issuer from any other person or company described in this section, including a person or company described in this clause, and
 - (ii) knows or ought reasonably to know that the other person or company is a person or company in a special relationship with the issuer.

RSA 2000 cS-4 s9;2014 c3 s3

Designation orders

10(1) The Commission may, if the Commission considers that it would not be prejudicial to the public interest to do so, make an order designating

- (a) a good, article, service, right or interest, or a class of those, as a commodity,
- (a.1) a document or class of documents to be, or not to be, an offering memorandum,
- (b) repealed 2014 c3 s4,
- (c) a person or company as an insider,
- (d) an issuer or a class of issuers to be, or not to be, a mutual fund,
- (d.1) a rating or a class of ratings to be, or not to be, a credit rating,
- (d.2) a person or company or a class of persons or companies to be, or not to be, a credit rating organization,

- (d.3) the minimum designated rating or ratings required from a credit rating organization,
 - (e) an issuer or a class of issuers to be, or not to be, a non-redeemable investment fund, and
 - (f) an issuer or a class of issuers to be, or not to be, a reporting issuer,
 - (g) a security, or a class of securities, to be a derivative;
 - (h) a derivative, or class of derivatives, not to be a derivative;
 - (i) a derivative, or class of derivatives, to be a security;
 - (j) a security, or class of securities, not to be a security.
- (2) An order made under subsection (1) may be made by the Commission on its own motion or on the application of an interested person or company.

RSA 2000 cS-4 s10;2004 cI-1.5 s5;2005 c18 s5;
2010 c10 s3;2011 c7 ss3,18;2014 c3 s4

Part 1

Alberta Securities Commission

The Alberta Securities Commission

- 11(1)** The Alberta Securities Commission is continued and is responsible for the administration of Alberta securities laws.
- (2)** The Commission is a corporation consisting of the members of the Commission appointed by the Lieutenant Governor in Council.
- (3)** The Commission has, for the purposes of carrying out its functions and duties under this or any other enactment, the capacity and the rights, powers and privileges of a natural person.

RSA 2000 cS-4 s11;2008 c26 s19

Bylaws

- 12(1)** The Commission may make bylaws governing the administration and management of the business and affairs of the Commission.
- (2)** The *Regulations Act* does not apply to a bylaw made under this section.

1995 c28 s4

Chair and Vice-chair

- 13(1)** The Lieutenant Governor in Council

- (a) shall designate one of the members of the Commission as the Chair of the Commission,
- (b) may designate one or more members of the Commission as a Vice-chair of the Commission, and
- (c) may designate one of the members of the Commission as the lead independent member, with the powers, duties and functions prescribed by the Lieutenant Governor in Council.

(1.1) The lead independent member may not be the Chair or a Vice-chair of the Commission.

(2) The Chair is the chief executive officer of the Commission.

(3) If the office of the Chair is vacant or if the Chair is absent or unable to act for any reason, a Vice-chair shall serve as Chair.

RSA 2000 cS-4 s13;2003 c32 s3;2005 c18 s6

Remuneration

14 The remuneration payable to the Chair, Vice-chair and members of the Commission shall be set by the Commission in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*.

RSA 2000 cS-4 s14;2005 c18 s7;2009 cA-31.5 s70

Continuation in office

14.1(1) If a member of the Commission resigns or a member's appointment expires, the Chair may authorize that individual to continue to exercise powers as a member of the Commission in any proceeding over which that member had jurisdiction immediately before the end of that member's term.

(2) An authorization under subsection (1) continues until a final decision in that proceeding is made.

(3) Section 14 applies to a person who performs duties under subsection (1).

2005 c18 s8

Acting members of Commission

15(1) The Lieutenant Governor in Council may from time to time nominate one or more persons from among whom acting members of the Commission may be selected.

(2) When in the Chair's opinion it is necessary or desirable for the proper and expeditious performance of the Commission's duties, the Chair may name a person nominated under subsection (1) as an acting member of the Commission for a period of time, during any

circumstance or for the purpose of any matter before the Commission.

(3) An acting member has, during the period, under the circumstances or for the purpose for which the person is named an acting member, all the powers, and may perform all duties, of a member of the Commission.

1988 c7 s1(4);1995 c28 s6

Staff

16 The Commission may

(a) appoint

(i) an Executive Director of the Commission,

(ii) a Secretary of the Commission, and

(iii) any other employees that it considers necessary,

and

(b) obtain the services of persons having technical or professional knowledge required by the Commission in connection with its business.

1988 c7 s1(4);1995 c28 s7

Duties of the Executive Director

17(1) The Executive Director is the chief administrative officer of the Commission.

(2) The Executive Director may authorize an employee of the Commission to do any act or thing required or permitted to be done by the Executive Director under this Act, the regulations or any other Act.

(3) An authorization under subsection (2) may be

(a) general or applicable to a particular case, and

(b) conditional or unconditional.

(4) Notwithstanding that the Executive Director has given an authorization under this section, the Executive Director may do the act or thing in respect of which the authorization was given.

1995 c28 s7

Duties of the Secretary

18(1) The Secretary is responsible for carrying out the duties imposed on the Secretary by this Act, the regulations, any other Act or the Commission.

(2) The Secretary may

- (a) accept service of all notices and other documents on behalf of the Commission,
- (b) when required, provide to the Court of Appeal the record of proceedings held before the Commission, and
- (c) certify any decision made by the Commission or the Executive Director or any document, record or thing used in connection with a hearing or other proceeding.

(3) A certificate purporting to be signed by the Secretary is, without proof of the office or signature, admissible in evidence, so far as it is relevant, for all purposes in any action, hearing, prosecution or other proceeding.

1995 c28 s7

Financial matters re Commission

19(1) All fees, costs, administrative penalties under section 199, settlement money and other revenue arising with respect to the administration of Alberta securities laws or any other enactments administered by the Commission are the revenues of the Commission.

(2) All money from any source that is received by and all money that is payable to the Commission belongs to the Commission.

(3) Any income earned from the money of the Commission accrues to and belongs to the Commission.

(4) The Commission

- (a) shall open and operate bank accounts in its own name and shall deposit all money received by the Commission into those bank accounts;
- (b) shall from the money received by the Commission make disbursements and pay all of the expenditures and liabilities incurred by the Commission;
- (c) may borrow money for the purposes of carrying out its business;

- (d) may invest money for the purposes of carrying out its business;
- (e) may be a participant under section 40 of the *Financial Administration Act*.

(5) Notwithstanding subsections (1) and (2), money that is received by the Commission from administrative penalties under section 199 may be expended only for the purposes of educating investors and promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets.

RSA 2000 cS-4 s19;2003 c32 s4;2004 c7 s19;2008 c26 s19;
2010 c10 s4

Annual report

20(1) The Commission shall, after the end of the Commission's fiscal year, prepare and deliver to the Minister a report consisting of

- (a) a summary of the nature and number of
 - (i) filings under this Act and the regulations,
 - (ii) registrations under this Act and the regulations, and
 - (iii) enforcement proceedings taken under this Act and the regulations,
- (b) a general commentary on the law concerning securities and derivatives and on the practice and development of that law,
- (c) information similar to that required under clause (a) in respect of other statutes administered by the Commission,
- (d) audited financial statements, and
- (e) other information as requested by the Minister or Lieutenant Governor in Council.

(2) On receiving a report delivered to the Minister under subsection (1), the Minister shall,

- (a) if the Legislative Assembly is sitting when the report is received by the Minister, lay the report before the Assembly, or
- (b) if the Legislative Assembly is not sitting when the report is received by the Minister, lay the report before the Assembly

within 15 days after the commencement of the sitting next following the receipt of the report.

RSA 2000 cS-4 s20;2014 c3 s28

Agent of the Crown

21(1) The Commission is for the purposes of this Act and the regulations an agent of the Crown in right of Alberta, and the powers of the Commission provided for under this Act and the regulations may be exercised by the Commission only as an agent of the Crown.

(2) An action or other legal proceedings in respect of a right or obligation acquired or incurred by the Commission on behalf of the Crown in right of Alberta, whether in the name of the Commission or in the name of the Crown in right of Alberta, may be brought by or taken against the Commission in the name of the Commission in any court that would have jurisdiction if the Commission were not an agent of the Crown.

1995 c28 s7;2000 c17 s5

Delegation of power

22(1) The Commission may authorize in writing any member of the Commission, including the Chair or a Vice-chair, to do any act or thing required or permitted to be done by the Commission under this Act, the regulations or any other Act.

(2) Where a member of the Commission is authorized to do any act or thing under subsection (1), any decision made by that member in respect of that act or thing has the same force and effect as if the decision were made by the Commission.

(3) For the purposes of sections 144, 145, 153 and 212(2) of this Act, sections 1(7), 229(2) and 244(2) of the *Cooperatives Act* and sections 3(3), 156(2) and 171(3) of the *Business Corporations Act*, the Chair, a Vice-chair or any member of the Commission may, unless otherwise requested by the applicant, act alone in exercising and performing the powers and duties of the Commission.

(4) The Commission may authorize in writing the Executive Director or any other individual employed by the Commission to do any act or thing required or permitted to be done by the Commission under this Act, the regulations or any other Act.

(5) A written authorization made under subsection (1) or (4) may be

- (a) general or applicable to a particular case, and
- (b) conditional or unconditional.

(6) Notwithstanding that the Commission has given an authorization under this section, the Commission may do the act or thing in respect of which the authorization was given.

(7) Notwithstanding anything in this section, the Commission shall not make an authorization under this section authorizing one or more members of the Commission or the Executive Director to make rules.

RSA 2000 cS-4 s22;2001 cC-28.1 s469;2006 c30 s5;2008 c26 s3

Sitting in panels

23(1) The Chair may designate 2 or more members of the Commission to sit as a panel of the Commission and may direct the panel to conduct any hearing, review, inquiry or other proceeding that the Commission itself could conduct under this Act or the regulations or any other enactments.

(2) Two members constitute a quorum at a sitting of a panel of the Commission.

(3) A decision or other action made or taken at a sitting of a panel of the Commission at which a quorum is present is the decision or action of the Commission and binds all members of the Commission.

(4) A panel of the Commission has, with respect to its duties, the same jurisdiction as that of the Commission and may exercise and perform all the powers of the Commission under this or any other Act with respect to a hearing, review, inquiry or other proceeding that it is directed to conduct and for that purpose any reference in this or any other Act to the Commission is deemed to be a reference to a panel of the Commission.

(5) The Chair may designate a member of a panel of the Commission to preside at any sitting of the panel at which the Chair is not present.

(6) A panel of the Commission shall conduct its sittings separately from those of another panel of the Commission being conducted at the same time.

(7) Where a hearing, inquiry or other proceeding is conducted by a panel of the Commission and one or more members of the panel do not for any reason attend on any day or part of a day, the remaining members present may, if they constitute a quorum of the panel, continue with the hearing, inquiry or proceeding.

1981 cS-6.1 s15;1988 c7 s1(41);1995 c28 s8;2000 c17 s6

Extra-provincial power of Commission

24(1) Where permitted to do so by another jurisdiction,

- (a) the Commission is, with respect to any matter coming under the purview of the Commission by virtue of this Act, empowered to exercise and perform those powers and duties in that other jurisdiction that the Commission can exercise and perform in Alberta, and
- (b) the Executive Director is, with respect to any matter coming under the purview of the Executive Director by virtue of this Act, empowered to exercise and perform those powers and duties in that other jurisdiction that the Executive Director can exercise and perform in Alberta.

(2) The Commission, in conjunction with an extra-provincial commission or an official of an extra-provincial commission, may hold hearings outside Alberta with respect to any matter that would be within the jurisdiction of the Commission if the hearing were held in Alberta.

(3) The Executive Director, in conjunction with an extra-provincial commission or an official of an extra-provincial commission, may hold hearings outside Alberta with respect to any matter that would be within the jurisdiction of the Executive Director if the hearing were held in Alberta.

1981 cS-6.1 s16;1988 c7 s1(5);1995 c28 s62

Extra-provincial commissions

25(1) An extra-provincial commission or an official of an extra-provincial commission may hold hearings together with

- (a) the Commission with respect to any matter coming within the jurisdiction of the Commission, or
- (b) the Executive Director with respect to any matter coming within the jurisdiction of the Executive Director.

(2) For the purpose of holding a hearing under this section,

- (a) any powers to be exercised
 - (i) in respect of a hearing held with the Commission shall be exercised by the Commission, and
 - (ii) in respect of a hearing held with the Executive Director shall be exercised by the Executive Director,

and

(b) section 29 applies as if the matter being heard were being heard solely by the Commission or the Executive Director, as the case may be.

(3) When a hearing is held under this section, only those decisions made by the Commission or the Executive Director, as the case may be, shall be implemented within Alberta.

1981 cS-6.1 s17;1988 c7 s1(5);1995 c28 s62

Evidence taken outside Alberta

26(1) The Commission or the Executive Director may apply to the Court of Queen's Bench for an order

- (a) appointing a person to take the evidence of a witness outside Alberta for use in an investigation or hearing before the Commission, and
- (b) providing for the issuance of a written request directed to the judicial authorities of the jurisdiction in which the witness is to be found for the issuance of any process as is necessary
 - (i) to compel the person to attend to give testimony on oath or otherwise before the person appointed under clause (a), and
 - (ii) to produce documents, records and things relevant to the subject-matter of the investigation or hearing.

(2) The practice and procedure in connection with

- (a) an appointment under this section,
- (b) the taking of evidence, and
- (c) the certifying and return of the appointment

shall, to the extent possible, be the same as those that govern similar matters in civil proceedings in the Court of Queen's Bench in Alberta.

(3) Unless the Court otherwise provides, the making of an order under subsection (1) does not determine whether evidence obtained pursuant to the order is admissible in a hearing before the Commission.

(4) Nothing in this section shall be construed so as to limit any power that the Commission may have to obtain evidence outside Alberta by any other means including under any other enactment or by the operation of law.

1995 c28 s9

Evidence taken in Alberta by other securities regulatory agencies

27(1) Where

- (a) a securities commission or other body is empowered by statute to administer or regulate securities in a jurisdiction outside Alberta, and
- (b) the Court of Queen's Bench in Alberta is satisfied that a court or tribunal of competent jurisdiction in a jurisdiction outside Alberta has properly authorized that securities commission or other body to obtain testimony and evidence in Alberta from a witness located in Alberta,

the Court of Queen's Bench in Alberta may

- (c) order the attendance of the witness for the purpose of being questioned,
- (d) order the production of any record, document or thing mentioned in the order, and
- (e) give directions as to the time and place of the questioning and all other matters with respect to the questioning as the Court of Queen's Bench considers appropriate.

(2) In making an order under subsection (1), the Court of Queen's Bench may, insofar as the Court considers appropriate, order that the questioning of the witness

- (a) be before a person appointed in accordance with the directions of, and
- (b) be carried out in the manner provided for by,

the court or tribunal of the jurisdiction outside Alberta that authorized the obtaining of the testimony and evidence in Alberta.

RSA 2000 cS-4 s27;2009 c53 s169

Engaging experts

28(1) The Commission or the Executive Director may engage persons to provide services and to advise, or to inquire into and report back on matters referred to that person by, the Commission or the Executive Director.

(2) The Commission or the Executive Director

- (a) may submit any documents, records or things to one or more persons engaged under subsection (1) for examination, and
- (b) may
 - (i) summon and enforce the attendance of witnesses before, and
 - (ii) compel witnesses to produce documents, records and things to

a person engaged under subsection (1) in the same manner as if the Commission or the Executive Director were conducting a hearing.

(3) A person engaged under this section may be paid remuneration and living and travelling expenses in amounts determined by the Commission or the Executive Director, as the case may be.

1981 cS-6.1 s18;1988 c7 s1(41);1991 c33 s3;1995 c28 s62

Conduct of hearings

29 For the purpose of a hearing before the Commission or the Executive Director, as the case may be, the following applies:

- (a) except where otherwise provided for in this Act or the regulations, notice in writing of the time, place and purpose of the hearing shall be sent to the person or company that is the subject of the hearing;
- (b) except where otherwise provided for in this Act or the regulations, in addition to any other person or company to whom notice is required to be sent under clause (a), notice in writing of the time, place and purpose of the hearing shall be sent to any person or company that, in the opinion of the Commission or the Executive Director, as the case may be, is substantially affected by the hearing;
- (c) the Commission or the Executive Director, as the case may be, has the same power as is vested in the Court of Queen's Bench for the trial of civil actions
 - (i) to summon and enforce the attendance of witnesses,
 - (ii) to compel witnesses to give evidence on oath or otherwise, and
 - (iii) to compel witnesses to produce documents, records, securities, derivatives, contracts and things;

- (d) the failure or refusal of a person summoned as a witness under clause (c) to attend the hearing, to answer questions or to produce documents, records, securities, derivatives, contracts and things that are in that person's custody or possession makes that person, on application to the Court of Queen's Bench by the Commission or the Executive Director, as the case may be, liable to be committed for contempt by the Court of Queen's Bench in the same manner as if that person were in breach of an order or judgment of that Court;
- (e) the Commission or the Executive Director, as the case may be, shall receive that evidence that is relevant to the matter being heard;
- (f) the laws of evidence applicable to judicial proceedings do not apply;
- (g) all oral evidence received shall be taken down in writing or recorded by electronic means;
- (h) the originating document, all evidence taken down in writing or recorded by electronic means, all documents and things received in evidence at a hearing and in addition, in the case of a hearing before the Executive Director, all orders and decisions together with any associated statement of reasons, form the record of the proceeding;
- (i) if, in the opinion of the Commission or the Executive Director, as the case may be, the decision made after a hearing adversely affects the right of a person or company to trade in securities or derivatives, written reasons for the decision shall be issued;
- (j) notice of every decision together with a copy of the written reasons for it, if any, shall be promptly sent to
 - (i) the persons or companies to whom notice of the hearing was sent, and
 - (ii) any person or company that, in the opinion of the Commission or the Executive Director, as the case may be, is substantially affected by it;
- (k) a person or company appearing at a hearing may be represented by legal counsel;

- (l) a hearing is open to the public unless the Commission or the Executive Director, as the case may be, considers that it is in the public interest to order otherwise;
- (m) matters relating to compelling the attendance of witnesses, including the payment of fees, expenses and allowances, are to be determined in accordance with the regulations.

RSA 2000 cS-4 s29;2009 c53 s169;2010 c10 s5;
2014 c3 s28;2014 c17 s5;2016 c13 s3

Referral by Executive Director

30(1) The Executive Director may at any time refer any matter to the Commission for its consideration.

(2) On the referral of a matter to the Commission under subsection (1), the Commission may conduct a hearing into the matter and may make an order in respect of the matter or by order or otherwise give any advice and direction to the Executive Director in respect of the matter that the Commission considers appropriate in the circumstances.

1991 c33 s4;1995 c28 s62

Jurisdiction

31 The Commission has the jurisdiction to determine all questions of fact or law that arise in any matter before it.

1999 c15 s7

Decision made without a hearing

32 If, under this Act,

- (a) a person or company
 - (i) was given an opportunity to have a hearing, and
 - (ii) declined to have a hearing,
- and
- (b) the Commission or the Executive Director makes a decision in respect of the matter for which the person or company was given the opportunity to have a hearing,

the Commission or the Executive Director, as the case may be, shall send a copy of the decision to that person or company and to any other person or company, that in the opinion of the Commission or the Executive Director making the decision, will likely be affected by the decision.

1981 cS-6.1 s20;1988 c7 s1(41)(43);1995 c28 s11

Interim orders

33(1) Notwithstanding anything in this Act, where

- (a) this Act
 - (i) permits the Commission or the Executive Director to make a decision after conducting a hearing or after giving a person or company an opportunity to have a hearing, or
 - (ii) creates an offence,
- and
- (b) the Commission or the Executive Director considers that the length of time required to conduct a hearing, or a trial in respect of an offence, and to render a decision could be prejudicial to the public interest,

the Commission or the Executive Director may make an interim order at any time with or without conducting a hearing on notice to a person or company against whom the order is sought.

(2) If the Commission or the Executive Director makes an interim order under subsection (1) without conducting a hearing on notice to a person or company against whom the order is sought,

- (a) unless the order otherwise provides, the order takes effect immediately on being made,
- (b) the order expires 15 days from the day that it takes effect, and
- (c) the Commission or the Executive Director, as the case may be, shall send to each person or company named in the interim order
 - (i) a copy of the interim order,
 - (ii) any evidence admitted in support of the interim order, and
 - (iii) an accompanying notice of hearing in respect of the extension of the interim order pursuant to subsection (4), if applicable.

(3) If the Commission or the Executive Director makes an interim order under subsection (1) after conducting a hearing on notice to a person or company against whom the order is made, the order takes effect immediately and remains in effect

- (a) for the period of time specified in the order, or
- (b) until any proceeding initiated pursuant to this Act, including a trial in respect of an offence, is finally determined or otherwise concluded.

(4) Before the expiry of an interim order, the Commission or the Executive Director, as the case may be, may extend an interim order for a specified period of time, or until any proceeding initiated pursuant to this Act, including a trial in respect of an offence, is finally determined or otherwise concluded, if

- (a) the Commission or the Executive Director provides the person or company named in that order with an opportunity to be heard, and
- (b) the Commission or the Executive Director considers that the length of time required to conduct a hearing, or a trial in respect of an offence, and to render a decision could be prejudicial to the public interest.

RSA 2000 cS-4 s33;2014 c17 s6;2015 c11 s4

Failure to comply with filing requirements

33.1(1) Notwithstanding section 198(3), for the reasons set out in subsection (2), the Commission or the Executive Director may, without providing an opportunity to be heard, order one or more of the following:

- (a) that trading or purchasing cease in respect of any security or derivatives as specified in the order;
- (b) that a person or company cease trading in or purchasing securities, derivatives, specified securities or a class of securities or derivatives as specified in the order.

(2) The Commission or the Executive Director may make an order under subsection (1) if the issuer of the security, the exchange on which the derivatives is traded or the person or company in respect of which the order is made

- (a) fails to file a document required to be filed under Alberta securities laws, or
- (b) files a document required to be filed under Alberta securities laws that has not been completed in accordance with Alberta securities laws.

(3) The Commission or the Executive Director, as the case may be, shall send to each person and company named in the order under subsection (1)

- (a) written notice of the order, and
 - (b) written notice of a revocation of the order, if any.
- 2006 c30 s6;2010 c10 s6;2014 c3 ss27,28;2014 c17 s7

Halt trade**33.2(1) If**

- (a) the Commission or the Executive Director
 - (i) considers that there are unexplained and unusual fluctuations in the volume of trading in, or market price of, a security or derivative,
 - (ii) becomes aware of information, other than information filed under Alberta securities laws, that when disclosed to the public may cause or is likely to cause unusual fluctuations in the volume of trading in, or market price of, a security or derivative,
 - (iii) considers that there may have been a material change in respect of an issuer that, when disclosed, could significantly affect the market price of a security issued by that issuer, or
 - (iv) considers that circumstances exist or are about to occur that could result in other than an orderly trading of a security or derivative,
- and
- (b) the Commission or the Executive Director considers it to be in the public interest,

the Commission or Executive Director may, without providing an opportunity to be heard, order that all trading in that security or derivative be halted for a specified period not longer than 15 business days.

(2) Notice of every order made under subsection (1) must be sent immediately to the issuer whose securities are affected by it.

(3) If

- (a) a security affected by an order made under subsection (1) is listed and posted for trading on an exchange in Alberta, or
- (b) a derivative affected by an order made under subsection (1) is traded on an exchange in Alberta,

the Commission or Executive Director, as the case may be, must immediately send written notice of the order to the exchange, and the order becomes effective, for all purposes and in respect of all persons, as soon as the exchange receives the notice.

(4) If the Commission or the Executive Director considers it necessary and in the public interest, the Commission or Executive Director may, after providing the issuer whose securities are affected by it with an opportunity to be heard, make an order extending the order made under subsection (1) for a specified period of time or until any proceeding initiated pursuant to this Act is finally determined or otherwise concluded.

2014 c17 s8;2016 c13 s4

Orders subject to terms or conditions

34(1) A decision made by the Commission may be made subject to those terms and conditions or either of them that the Commission considers necessary.

(2) A decision made by the Executive Director may be made subject to those terms and conditions or either of them that the Executive Director considers necessary.

1981 cS-6.1 s22;1988 c7 s1(41)(43);1995 c28 s62

Appeal from decision

35(1) A person or company directly affected by a decision of the Executive Director may appeal that decision to the Commission.

(2) Notwithstanding subsection (1), the Commission may, on its own motion, within 30 days from the day that the Executive Director made a decision, review that decision.

(3) Notwithstanding section 36(4), the Executive Director may be present and make representations at an appeal of the Executive Director's decision.

1981 cS-6.1 s24;1988 c7 s1(41)(43);1995 c28 ss13,62;
1999 c15 s9

Appeals to the Commission

36(1) To commence an appeal to the Commission, the appellant shall, within 30 days from the day on which the written notice of the decision is served on the appellant, serve a written notice of appeal on the Commission.

(2) Notwithstanding subsection (1), the Commission may, on application by the appellant during the appeal period prescribed in subsection (1), extend the appeal period if the Commission considers that it would not be prejudicial to the public interest to do so.

- (3) On conducting an appeal, the Commission may, by order,
- (a) make any decision that the person who heard the matter in the first instance could have made and substitute the Commission's decision for the decision of that person;
 - (b) confirm, vary or reject the decision;
 - (c) direct the person whose decision is being appealed to re-hear the matter.
- (4) The Commission may, if the Commission considers that it is in the public interest to do so, permit the person whose decision is being appealed to be present and make representations at the appeal.
- (5) Notwithstanding that a person or company requests an appeal, the decision under appeal takes effect immediately unless the Commission grants a stay until disposition of the appeal.

RSA 2000 cS-4 s36;2014 c17 s9

Notice of review

37 Prior to conducting a review referred to in section 35(2), the Commission shall notify

- (a) the Executive Director, and
- (b) any person or company that, in the opinion of the Commission, is directly affected by the decision of the Executive Director,

of the Commission's intention to conduct the review.

1999 c15 s10

Appeal to Court of Appeal

38(1) A person or company directly affected by a decision of the Commission may appeal the decision to the Court of Appeal unless the decision of the Commission is an order

- (a) granting an exemption from prospectus or registration requirements pursuant to section 144 or 213 or a regulation,
- (b) deeming a trade, an intended trade, a type of trade or a class of trades or intended trades to be a distribution pursuant to section 144 or a regulation, or
- (c) declaring whether a distribution has been concluded or is still in progress pursuant to section 144.

- (2) An appeal under this section shall be commenced by a notice of appeal filed with the Court of Appeal within 30 days from the day that the Commission sends the notice of its decision to the person or company appealing the decision.
- (3) A copy of the notice of appeal and supporting documents shall be served on the Commission within the 30-day period referred to in subsection (2).
- (4) The Secretary shall certify to the registrar of the Court of Appeal a list of the contents of the record of proceedings before the Commission, including
- (a) the decision that has been made by the Commission,
 - (b) the order of the Commission, together with any statement of reasons for it,
 - (c) the transcripts of, and the exhibits tendered into evidence during, the proceedings before the Commission, and
 - (d) all written submissions to the Commission and other material, if any, that is relevant to the appeal.
- (5) The practice and procedure in the Court of Appeal in respect of an appeal shall be the same as on an appeal from a judgment of the Court of Queen's Bench in an action.
- (6) The Court of Appeal may
- (a) confirm, vary or reject the decision of the Commission,
 - (b) direct the Commission to re-hear the matter, or
 - (c) make any decision that the Commission could have made and substitute its decision for that of the Commission.
- (7) The Commission is the respondent to an appeal under this section.

RSA 2000 cS-4 s38;2011 c7 s4;2014 c17 c10

Policy Advisory Committee

39 The Minister may appoint a committee to be known as the "Policy Advisory Committee" to advise the Minister and the Commission on matters referred to the Committee by the Minister.

1981 cS-6.1 s27;1984 c64 s7;1988 c7 s1(7);1995 c28 s62

Part 2 Investigations

Production of records

40(1) In this section, “party” means

- (a) a registrant, or a person or company, or a class of persons or companies, exempted from the requirement to be registered under this Act,
- (b) a reporting issuer, or a person or company who has filed a preliminary prospectus,
- (c) a director, officer or promoter of an issuer,
- (d) a transfer agent or registrar of securities of an issuer,
- (e) a recognized exchange,
- (f) a recognized self-regulatory organization,
- (g) a recognized clearing agency,
- (h) a recognized quotation and trade reporting system,
- (i) a manager or a custodian of assets, shares or units of an investment fund,
- (j) a recognized credit rating organization,
- (k) a recognized trade repository,
- (l) a recognized auditor oversight organization,
- (m) a person or company purporting to distribute securities in reliance on an exemption under Alberta securities laws,
- (n) a person or company that engages in investor relations activities,
- (o) a trustee or general partner of any person or company referred to in subsections (a) to (k),
- (p) a control person of an issuer described in subsection (b),
- (q) an investment fund manager,
- (r) the Canadian Investor Protection Fund, and
- (s) any other person or company as determined by regulation.

(2) For any purposes related to the administration of Alberta securities laws, the Executive Director may, by an order that is applicable generally or that is directed to one or more parties, require a party to provide to the Executive Director the information, documents or records as set out in the order within the time prescribed in the order.

(3) The Executive Director may require verification by affidavit that the party has produced to the Executive Director all of the information, documents and records required pursuant to an order made under subsection (2).

RSA 2000 cS-4 s40;2005 c18 s9;2006 c30 s7;2008 c26 s19;
2010 c10 s7;2014 c3 s5;2014 c17 s11

Investigation order

41(1) The Executive Director may, by order, appoint a person to make any investigation that the Executive Director considers necessary

- (a) for the administration of Alberta securities laws,
- (b) to assist in the administration of the securities or derivatives laws of another jurisdiction,
- (c) in respect of matters relating to trading in securities or derivatives in Alberta, or
- (d) in respect of matters in Alberta relating to trading in securities or derivatives in another jurisdiction.

(2) If an individual alleges under oath that a person or company has contravened Alberta securities laws, the Executive Director may, by order, appoint a person to make an investigation in respect of the allegation.

(3) In an order made under subsection (1) or (2), the Executive Director shall prescribe the scope of the investigation that is to be carried out under the order.

(4) For the purposes of an investigation ordered under this section, the person appointed to make the investigation may with respect to the person or company that is the subject of the investigation, investigate, inquire into and examine

- (a) the affairs of that person or company,
- (b) documents, records, correspondence, communications, negotiations, trades, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with that person or company,

- (c) the property, assets or things owned, acquired or alienated in whole or in part by that person or company or by any person or company acting on behalf of or as agent for that person or company,
- (d) the assets at any time held by, the liabilities, undertakings and obligations at any time existing and the financial or other conditions at any time prevailing in respect of that person or company, and
- (e) the relationship that may at any time exist or have existed between that person or company and any other person or company by reason of
 - (i) investments,
 - (ii) commissions promised, secured or paid,
 - (iii) interests held or acquired,
 - (iv) the loaning or borrowing of money, securities or other property,
 - (v) the transfer, negotiation or holding of securities or derivatives,
 - (vi) interlocking directorates,
 - (vii) common control,
 - (viii) undue influence or control, or
 - (ix) any other matter not referred to in clauses (i) to (viii).

(5) For the purposes of an investigation under this section, a person appointed to make the investigation may examine any documents, records or other things, whether they are in the possession or control of the person or company in respect of which the investigation is ordered or of any other person or company.

RSA 2000 cS-4 s41;2007 c10 s4;2008 c26 s19;2010 c10 s8;
2014 c3 s6

Powers of investigators

42(1) The person appointed to make an investigation under section 41 has the same power as is vested in the Court of Queen's Bench for the trial of civil actions

- (a) to summon and enforce the attendance of witnesses,

- (b) to compel witnesses to give evidence on oath or otherwise, and
- (c) to compel witnesses to produce documents, records, securities, derivatives, contracts and things.

(1.1) Matters relating to compelling the attendance of witnesses, including the payment of fees, expenses and allowances, are to be determined in accordance with the regulations.

(2) A person appointed to make an investigation under section 41 may

- (a) make copies or cause copies to be made of any documents, records, securities, derivatives, contracts or things produced pursuant to subsection (1), and
- (b) record by any means, electronic or otherwise, any statement or evidence provided by a person, whether provided voluntarily or compelled under subsection (1), and may engage the services of a court reporter to make any such recording.

(3) The failure or refusal of a person summoned as a witness under subsection (1) to attend, to answer questions or to produce documents, records, securities, derivatives, contracts or things that are in that person's custody or possession makes that person, on application to the Court of Queen's Bench by the person making the investigation, liable to be committed for contempt by the Court of Queen's Bench in the same manner as if that person were in breach of an order or judgment of that Court.

(4) Notwithstanding the *Alberta Evidence Act*, a bank or any officer or employee of the bank is not exempt from the operation of this section.

(5) A person giving evidence at an investigation under section 41 may be represented by legal counsel.

(6) A justice who is satisfied that there are reasonable grounds to believe that the premises may contain anything that is related to the investigation may at any time by order authorize a person conducting an investigation under section 41

- (a) to enter into and search premises, and
- (b) to seize and take possession of any documents, records, securities, derivatives, contracts or things,

related to the investigation.

(7) An application for an order under subsection (6) may be made ex parte unless the justice otherwise directs.

(7.01) In subsections (6) and (7), “justice” means a justice of the peace or a judge of the Provincial Court.

(7.1) A person or company

- (a) who is subject to an investigation under section 41, and its employees and agents, or
- (b) who is in charge of premises that are entered pursuant to an order under subsection (6), and every person who is in those premises,

must give all assistance that is reasonably required by the person conducting the investigation under section 41, or authorized to enter, search and seize pursuant to an order under subsection (6).

(7.2) A person authorized by an order under subsection (6) and any person acting under the direction of that person may enter on land and into buildings, except a private dwelling, for the purpose of entering premises referred to in the order.

(8) Documents, records, securities, derivatives, contracts or things seized under subsection (6) shall, at a time and place mutually convenient to the person or company from whom they were seized and the person making the investigation, be made available for inspection and copying by that person or company if a request for an opportunity to inspect or copy is made by that person or company to the person making the investigation.

(9) Where

- (a) documents, records, securities, derivatives, contracts or things are seized under subsection (6)(b), and
- (b) the matter for which the documents, records, securities, derivatives, contracts or things were seized is concluded,

the Executive Director shall return those documents, records, securities, derivatives, contracts or things to the person from whom they were seized within 60 days from the day that the matter is concluded.

(10) If

- (a) documents, records, securities, derivatives, contracts or things are seized under subsection (6)(b), and

- (b) the person from whom the documents, records, securities, derivatives, contracts or things are seized, alleges that the documents, records, securities, derivatives, contracts or things are not relevant in respect of the matter for which they were seized,

that person may apply to the Court of Queen's Bench for the return of the documents, records, securities, derivatives, contracts or things.

(11) On hearing an application under subsection (10), the Court of Queen's Bench shall order the return of any documents, records, securities, derivatives, contracts or things that it determines are not relevant to the matter for which they were seized.

RSA 2000 cS-4 s42;2009 c53 s169;2014 c3 s28;2015 c11 s5;
2016 c13 s5;2017 c12 s2

Appointment of experts

43(1) If an investigation is ordered under section 41, the Executive Director may appoint persons having special technical or other knowledge or skills to assist and be responsible to the person appointed under section 41.

(2) A person appointed under subsection (1) shall

- (a) examine documents, records, securities, derivatives, contracts and things of the person or company whose affairs are being investigated, and
- (b) perform other duties,

as required by the person carrying out the investigation.

RSA 2000 cS-4 s43;2014 c3 s28

Report to Executive Director

44(1) Every person appointed under section 41(1) or (2) shall provide the Executive Director with

- (a) a full and complete report of the investigation including all transcripts of evidence and material in the person's possession relating to the investigation, and
- (b) interim reports as requested by the Executive Director.

(2) A report that is provided to the Executive Director under subsection (1) is absolutely privileged and is not admissible in evidence in any action, proceeding or prosecution.

(3) None of the following persons are compellable to give evidence in any court or in a proceeding of a judicial nature

concerning any information that comes to the knowledge of that person in the exercise of the powers, the performance of the duties or the carrying out of the functions of that person pursuant to this Part:

- (a) a person appointed to make an investigation under section 41;
- (b) the Commission;
- (c) a member of the Commission;
- (d) the Executive Director;
- (e) the Secretary;
- (f) an employee of the Commission;
- (g) a person referred to in section 16(b).

(4) Notwithstanding subsections (2) and (3), where the Executive Director considers that it is in the public interest to do so, the Executive Director may by order at any time authorize the disclosure of any information, testimony, record, document, report or thing obtained pursuant to this Part subject to those terms and conditions that the Executive Director may impose.

1981 cS-6.1 s31;1988 c7 s1(42);1995 c28 s19

Investigation to be confidential

45 Anything acquired and all information or evidence obtained pursuant to an investigation is confidential and shall not be divulged except

- (a) by a person or company to the person's or company's counsel,
- (b) where authorized by the Executive Director, or
- (c) as otherwise permitted by Alberta securities laws.

RSA 2000 cS-4 s45;2008 c26 s19

Information

46(1) If the Executive Director considers that it would not be prejudicial to the public interest to do so, the Executive Director may, subject to subsections (2) and (3), provide information to and receive information from

- (a) other securities or financial regulatory authorities, trade repositories, clearing agencies, alternative trading systems, credit rating agencies, exchanges, self-regulatory

organizations, auditor oversight organizations, law enforcement agencies and other governmental or regulatory authorities in Canada and elsewhere, and any other agency or entity as determined by regulation, and

- (b) any person or company acting on behalf of or providing services to the Commission or the Executive Director.

(2) The Commission or the Executive Director, or either of them, may, with respect to any personal information referred to in, dealt with or governed under section 33(a), 34(1)(a)(ii) or 40(1)(e) of the *Freedom of Information and Protection of Privacy Act*, collect that information, whether directly from the individual or by some other method, and disclose that information for the purposes of carrying out any duties and exercising any powers of the Commission or the Executive Director under this or any other Act.

(3) The Commission or the Executive Director may enter into an arrangement or agreement for the purposes of subsection (2).

(4) Any information received by the Commission or the Executive Director under this section is confidential and shall not be disclosed except where authorized by the Executive Director.

RSA 2000 cS-4 s46;2003 c32 s5;2014 c3 s7;2014 c17 s12

Prevalence over FOIP

46.1(1) Subject to subsection (2), if anything in sections 44, 45, 46(4), 146 or 221(4), (5), (6) and (7) is inconsistent or in conflict with the *Freedom of Information and Protection of Privacy Act*, those provisions prevail notwithstanding the *Freedom of Information and Protection of Privacy Act*.

(2) Where information is collected or received pursuant to section 44, 45, 46(4), 146 or 221(4), (5), (6) or (7), subsection (1) ceases to apply in respect of that information after 50 years has elapsed from the end of the year in which the information was collected or received.

2003 c32 s5;2010 c10 s9;2014 c17 s13

Order to freeze property

47(1) The Executive Director may make an order as provided in subsection (2),

- (a) if the Executive Director is about to order an investigation in respect of a person or company under section 41,
- (b) at any time during or after the carrying out of an investigation under section 41 in respect of a person or company,

- (c) if
 - (i) the Commission has made, or
 - (ii) the Executive Director has reasonable grounds to believe that the Commission is about to make,

an order under section 198 in respect of a person or company that trading in securities of an issuer or trading in derivatives shall cease,
 - (d) if the Commission has made, or the Executive Director has reasonable grounds to believe that the Commission is about to make, a decision
 - (i) suspending or cancelling the registration of any person or company, or
 - (ii) affecting the right of any person or company to trade in securities or derivatives,
- or
- (e) if there is evidence of a contravention by a person or company of
 - (i) Alberta securities laws, or
 - (ii) of the provision of any statute, other than this Act, that relates to the trading of securities or derivatives.

(2) If subsection (1) applies, the Executive Director may make an order doing one or more of the following:

- (a) directing a person or company having on deposit, under control or for safekeeping any funds, securities, derivatives or other property of the person or company referred to in subsection (1)(a) to (e) to hold the funds, securities, derivatives or other property;
- (b) directing a person or company referred to in subsection (1)(a) to (e) to refrain from withdrawing its funds, securities, derivatives or other property from any other person or company having any of them on deposit, under control or for safekeeping;
- (b.1) directing a person or company referred to in subsection (1)(a) to (e) to maintain its funds, securities, derivatives or other property, and to refrain from disposing of, transferring, dissipating or otherwise dealing with or

diminishing the value of those funds, securities, derivatives or other property;

- (c) directing a person or company referred to in subsection (1)(a) to (e) to hold all funds, securities, derivatives or other property of clients or others in the person's or company's possession or control in trust for any interim receiver, custodian, trustee, receiver, receiver and manager or liquidator appointed under the *Bankruptcy and Insolvency Act* (Canada), the *Judicature Act*, the *Companies Act*, the *Business Corporations Act*, the *Cooperatives Act*, the *Winding-up and Restructuring Act* (Canada) or section 48 of this Act.

(3) An order made under subsection (2) does not take effect until it is served on the person or company to whom the order is directed.

(4) An order under subsection (2)

- (a) that is directed to a financial institution applies only to the offices, branches or agencies of the financial institution named in the order, and
- (b) does not apply to
 - (i) funds, securities or derivatives in a clearing agency, or
 - (ii) securities in process of transfer by a transfer agent, unless the order expressly so states.

(5) A person or company in receipt of an order given under subsection (2) that is in doubt as to

- (a) the application of the order to any funds, securities, derivatives or other property, or
- (b) a claim being made to that person or company by any person or company not named in the order,

may apply to the Executive Director for direction as to the disposition of the funds, securities, derivatives, other property or claim.

(6) On the application of a person or company directly affected by a direction given in an order made under subsection (2)(a), (b) or (c), the Executive Director may make an order revoking that direction or consenting to the release of any funds, securities, derivatives or other property in respect of which the order was made under subsection (2)(a), (b) or (c).

(7) In any of the circumstances mentioned in subsection (1)(a) to (e) the Executive Director may send to the Registrar of Land Titles or mining recorder a notice that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice and the notice shall

- (a) be registered or recorded against the lands or claims mentioned in it, and
- (b) have the same effect as the registration or recording of a certificate of lis pendens or a caveat.

(8) The Executive Director may in writing revoke or modify a notice given under subsection (7).

RSA 2000 cS-4 s47;2001 cC-28.1 s469;
2008 c26 s19;2011 c7 s5;2014 c3 s28

Appointment of receivers, managers, trustees or liquidators

48(1) The Executive Director may apply to the Court of Queen's Bench for the appointment of a receiver, receiver and manager, trustee or liquidator of the property of a person or company,

- (a) if the Executive Director is about to order an investigation in respect of the person or company under section 41,
- (b) during or after an investigation in respect of the person or company under section 41,
- (c) if
 - (i) the Commission has made, or
 - (ii) the Executive Director has reasonable grounds to believe that the Commission is about to make,

an order under section 198 that trading in securities of an issuer or trading in derivatives shall cease,

- (d) if
 - (i) the Commission has made, or
 - (ii) the Executive Director has reasonable grounds to believe that the Commission is about to make,

a decision suspending or cancelling the registration of the person or company or affecting the right of the person or company to trade in securities or derivatives,

- (e) if the person or company fails or neglects to comply with the minimum net asset requirements, investment restrictions, ownership restrictions or capital requirements prescribed by the regulations for that person or company, or
- (f) if there is evidence of a contravention by the person or company of
 - (i) Alberta securities laws, or
 - (ii) of the provisions of any statute, other than this Act, that relates to the trading of securities or derivatives.

(2) On an application being made under this section, the Court may appoint a receiver, receiver and manager, trustee or liquidator of all or any part of the property of a person or company if the Court is satisfied that it is in the best interests of

- (a) the creditors of that person or company,
- (b) those persons or companies whose property is in the possession or under the control of that person or company, or
- (c) the security holders of or subscribers to that person or company.

(3) An application under subsection (1) may be made ex parte and in the absence of the public if the Court considers it proper to do so in the circumstances.

(4) If an application under this section is made ex parte, the Court may make an order appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding 15 days, which may be extended on application to the Court.

(5) A receiver, receiver and manager, trustee or liquidator of the property of a person or company appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or part of the property

- (a) owned by the person or company, or
- (b) held by the person or company on behalf of or in trust for any other person or company.

(6) The receiver, receiver and manager, trustee or liquidator shall, if so directed by the Court,

- (a) have authority to wind up or manage the business and affairs of the person or company, and
- (b) exercise those powers that are necessary or incidental to the winding-up or management of the business and affairs of the person or company.

(7) An order made under this section may be varied or revoked by the Court on application.

RSA 2000 cS-4 s48;2008 c26 s19;2014 c3 s28;2015 c11 s6

Income and liabilities of person or company

49 A receiver of the property of a person or company appointed under section 48 may, subject to the rights of secured creditors,

- (a) receive income from that property and pay liabilities in respect of that property, and
- (b) realize the security of the person or company on whose behalf the receiver is appointed.

1981 cS-6.1 s39

Powers of a receiver and manager

50(1) A receiver and manager of the property of a person or company appointed under section 48 may carry on the business and affairs of the person or company and

- (a) is vested with all the powers
 - (i) in the case of a person, of that person with respect to the operation of that person's business and affairs, and
 - (ii) in the case of a company, of the shareholders and directors of the company,

and

- (b) has, in addition to those powers provided under clause (a), those powers prescribed in the order appointing the receiver and manager.

(2) On an order being made under section 48 appointing a receiver and manager of the property of a person or company,

- (a) in the case of a person, the person shall not exercise any powers in respect of the operation of the person's business and affairs, and

- (b) in the case of a company, the shareholders and the directors of the company shall not exercise any powers in respect of the company,

except as directed by the receiver and manager.

(3) On an order being made under section 48 appointing a receiver, trustee or liquidator of the property of a person or company, the directors of the person or company shall not exercise any powers in respect of the person or company that the appointed receiver, trustee or liquidator is authorized to exercise, except as directed by the receiver, trustee or liquidator.

RSA 2000 cS-4 s50;2015 c11 s7

Court order

51 The Court of Queen's Bench in making an order under section 48 appointing a receiver or a receiver and manager may provide for any matter or thing relating to the business and affairs of the person or company, as the case may be, during the appointment of the receiver or the receiver and manager.

1981 cS-6.1 s41

Term of office

52 A receiver or a receiver and manager appointed under section 48 remains in office until the receiver or receiver and manager is removed from office or until

- (a) the receiver or receiver and manager winds up the business and affairs of the person or company pursuant to authority given under section 48, or
- (b) a liquidator is appointed to wind up the business and affairs of the person or company.

1981 cS-6.1 s42

Fees

53 The fees payable to a receiver or a receiver and manager for his or her services, expenses and disbursements in connection with the discharge of the duties of the receiver or receiver and manager

- (a) shall be fixed by the Court of Queen's Bench from time to time,
- (b) shall be paid,
 - (i) out of the assets of the person or company in respect of which the receiver or receiver and manager was appointed, or

- (ii) if the assets of the person or company in respect of which the receiver or receiver and manager was appointed are insufficient for the purpose, as directed by the Court from the assets of those persons or companies that benefitted from the appointment of the receiver or receiver and manager,

and

- (c) in the case of the winding-up of the company, shall rank on the estate equally with the remuneration paid to the liquidator.

1981 cS-6.1 s43

Directions from the Court

54(1) A receiver, receiver and manager, trustee or liquidator may apply to the Court of Queen's Bench for directions on any matter arising with respect to the carrying out of the duties of the receiver, receiver and manager, trustee or liquidator.

(2) On an application under subsection (1), the Court may give direction, declare the rights of parties before the Court and make any further order as it considers necessary.

1981 cS-6.1 s44

Appointment of a successor

55 The Court of Queen's Bench may at any time revoke the appointment made under section 48 of a receiver, receiver and manager, trustee or liquidator and appoint another in place of the receiver, receiver and manager, trustee or liquidator.

1981 cS-6.1 s45

Funds expended by Executive Director

56 If the Executive Director expends funds in respect of the appointment under this Act of a receiver, receiver and manager, trustee or liquidator that directly relate to a person or company, the amount expended

- (a) is a debt owing by that person or company to the Government, as the case may be, and
- (b) may be recovered by the Government in the same manner as any other debt owing to the Crown in right of Alberta.

1981 cS-6.1 s46;1988 c7 s1(12);1995 c28 s62

Solicitor-client privilege

57(1) Nothing in this Part shall be interpreted so as to affect the privilege that exists between a solicitor and the solicitor's client.

(2) If a person is about to examine or seize under this Act any documents, records, securities, derivatives, contracts or things in the possession of a lawyer and the lawyer with respect to those documents, records, securities, derivatives, contracts or things claims that a privilege might exist between the lawyer and the lawyer's client, the person who was about to examine or seize the documents, records, securities, derivatives, contracts or things shall, without examining or copying them,

- (a) seize the documents, records, securities, derivatives, contracts or things,
- (b) seal the documents, records, securities, derivatives, contracts or things in a marked package so that the package can be identified, and
- (c) place the package in the custody of
 - (i) the clerk of the Court of Queen's Bench, or
 - (ii) a person that the parties agree on.

(3) On an application being brought by the lawyer, client or the person seizing the documents, records, securities, derivatives, contracts or things, the Court of Queen's Bench shall hear the matter in camera and determine whether the claim of the privilege is proper.

(4) If the Court of Queen's Bench determines

- (a) that the claim of privilege is proper, it shall order that the documents, records, securities, derivatives, contracts or things seized be delivered to the lawyer, or
- (b) that the claim is not proper, it shall order that the documents, records, securities, derivatives, contracts or things be delivered to the person who seized them.

(5) The notice of the application referred to in subsection (3) and the supporting documents shall be served on the Executive Director, the person having custody of the package and the parties to the application other than the one making the application not less than 3 days before the application is to be heard.

(6) On being served with the notice of the application and the supporting documents, the person having custody of the package shall promptly deliver the package to the custody of the clerk of the Court of Queen's Bench.

(7) In determining the matter before it, the Court may open the package and inspect its contents.

(8) Following its inspection of the package and its contents under subsection (7), the Court shall reseal the contents in the package.

RSA 2000 cS-4 s57;2014 c3 s28

Part 3

Record Keeping and Compliance Review

Review and examination

Review and examination

58(1) Notwithstanding anything in section 59, 60, 60.1 or 60.2, the Executive Director may in writing appoint a person to examine the business, conduct, financial affairs, books, records and other documents of the following for the purpose of determining if that person or company is complying with Alberta securities laws or acting contrary to the public interest:

- (a) a registrant, or a person or company, or a class of persons or companies, exempted from the requirement to be registered under this Act;
- (b) a reporting issuer, or a person or company that has filed a preliminary prospectus;
- (c) a director, officer or promoter of an issuer;
- (d) a transfer agent or registrar of securities of an issuer;
- (e) a recognized exchange;
- (f) a recognized self-regulatory organization;
- (g) a recognized clearing agency;
- (h) a recognized quotation and trade reporting system;
- (i) a recognized trade repository;
- (j) a manager or a custodian of assets, shares or units of an investment fund;
- (k) a recognized credit rating agency;
- (l) a recognized auditor oversight organization;
- (m) a person or company purporting to distribute securities in reliance on an exemption under Alberta securities laws;

- (n) a person or company that engages in investor relations activities;
- (o) a trustee or general partner of any person or company referred to in subsections (a) to (k);
- (p) a control person of an issuer described in clause (b) or (m);
- (q) an investment fund manager;
- (r) any other person or company as determined by regulation.

(2) Where a person carries out an examination under subsection (1), that person shall prepare those financial or other statements and reports as may be required by the Executive Director and shall provide those financial and other statements and reports to the Executive Director.

(3) A person carrying out an examination under this section may

- (a) enter into business premises during business hours,
- (b) inquire into and examine anything on those premises including all records, securities, derivatives, cash, documents, bank accounts, vouchers and correspondence of the person or company whose financial affairs are being examined,
- (c) use or cause to be used any computer system on the premises in order to examine data contained in, or available to, the system,
- (d) use, or cause to be used, any equipment on the premises to make copies or produce a record of any item referred to in clause (b) or (c),
- (e) use, or cause to be used, any equipment on the premises for the purpose of communicating with a person or company, and
- (f) remove anything from the premises for the purpose of conducting an examination or making copies.

(4) A person or company that is under examination under this section, and its employees and agents, must provide any information or thing requested by a person carrying out an examination under this section that reasonably relates to the examination.

(5) A person or company that is the subject of an examination under this section shall pay those fees as may be prescribed by regulation.

RSA 2000 cS-4 s58;2005 c18 s11;2006 c30 s8;
2010 c10 s10;2014 c3 ss8,28;2014 c17 s14;2017 c12 s3

Recognized exchanges, and self-regulatory organizations

59(1) Every recognized exchange shall appoint an auditor for the exchange.

(2) Where the Executive Director considers it appropriate, a recognized self-regulatory organization shall appoint an auditor for the self-regulatory organization.

(3) Every recognized exchange and every recognized self-regulatory organization shall select a panel of auditing firms for their members.

(4) Every recognized exchange and every recognized self-regulatory organization shall require each of its members to appoint an auditor chosen from the panel of auditing firms selected under subsection (3).

(5) The auditor of a member shall

- (a) in accordance with generally accepted auditing standards, make an examination of the annual financial statements and regulatory filings of the member as provided for by the bylaws, rules, regulations, policies, procedures, interpretations or practices, as the case may be, that are applicable to the member, and
- (b) report on the financial affairs of the member to the recognized exchange or recognized self-regulatory organization, as the case may be, in accordance with professional reporting standards.

1995 c28 s24

Requirement to provide information

60 A registrant shall file with the Executive Director any information the Executive Director may require in a form that is acceptable to the Executive Director.

RSA 2000 cS-4 s60;2010 c10 s11

Record-keeping

60.1(1) This section applies to every recognized exchange, recognized self-regulatory organization, recognized auditor oversight organization, recognized clearing agency, recognized quotation and trade reporting system, recognized trade repository

and reporting issuer, and every officer, director, promoter and transfer agent of a reporting issuer.

(2) Every person or company to which this section applies shall

(a) maintain

- (i) the books and records that are necessary to record properly its business transactions and financial affairs and the transactions that it executes on behalf of others, and
- (ii) any other books and records that may be required under Alberta securities laws,

and

(b) deliver to the Commission or the Executive Director any books and records or other information that the Commission or the Executive Director may require.

2005 c18 s12;2008 c26 s19;2010 c10 s12;2014 c3 s9;2014 c17 s15

Disclosure reviews

60.2(1) The Executive Director may conduct a review of the disclosures required under Alberta securities laws that have been made or ought to have been made by an issuer, investment fund or credit rating organization.

(2) An issuer, investment fund or credit rating organization that is subject to a review under this section shall, as required by the Executive Director, deliver to the Executive Director any information and documents reasonably relevant to the review.

(3) An issuer or investment fund, or any person or company acting on behalf of an issuer or investment fund, shall not make any representation, written or oral, that the Commission has in any way expressed an opinion or passed judgment on the merits of the disclosure record of the issuer or investment fund.

(4) A credit rating organization, or any person or company acting on behalf of a credit rating organization, shall not make any representation, written or oral, that the Commission has in any way expressed an opinion or passed judgment on the merits of the credit rating organization, any credit rating issued by it or its disclosure record.

2005 c18 s12;2010 c10 s13;2014 c17 s16

60.3 Repealed 2014 c17 s17.

Part 4
Exchanges, Self-regulatory
Organizations, Credit Rating
Organizations, Trade Repositories
and Clearing Agencies

Members of exchanges, etc.

61 Any reference in this Part

- (a) to a member of an exchange includes
 - (i) any holder of a security in an organization that carries on business as an exchange, and
 - (ii) any person or company that agrees to comply with the bylaws, rules, regulations, policies, procedures, interpretations and practices of the exchange and is granted trading access on or through the facilities of the exchange;
- (b) to a member of a self-regulatory organization includes any person or company that agrees to be regulated by that self-regulatory organization;
- (c) to a representative of a member of an exchange includes
 - (i) any person or company approved by the exchange as a partner, officer, director, trader or assistant trader of the member, and
 - (ii) any employee of the member not otherwise referred to in subclause (i);
- (d) to a representative of a member of a self-regulatory organization includes
 - (i) any person or company approved by the self-regulatory organization as a partner, officer, director, branch manager, assistant branch manager or co-branch manager of the member, and
 - (ii) any employee of the member not otherwise referred to in subclause (i);
- (e) to a participant of an auditor oversight organization includes any person or company that agrees to be regulated by that auditor oversight organization.

RSA 2000 cS-4 s61;2007 c10 s5;2008 c26 s4;2014 c17 s18

Recognition of exchange

62(1) No person or company shall carry on business as an exchange in Alberta unless the person or company is recognized by the Commission under this section.

(2) The Commission may, on the application of a person or company proposing to carry on business as an exchange in Alberta, recognize the person or company under this section if the Commission considers that it would not be prejudicial to the public interest to do so.

(3) The recognition under this section must be in writing and is subject to any terms and conditions that the Commission imposes.

(4) The Commission, after giving a recognized exchange an opportunity to be heard, may, if the Commission considers that it is in the public interest to do so,

- (a) suspend or cancel its recognition under this section, or
- (b) add to, remove, vary or replace any terms or conditions that were previously imposed on its recognition under this section.

RSA 2000 cS-4 s62;2016 c13 s6

Operation of recognized exchanges

63(1) A recognized exchange shall regulate the operations and the standards of practice and business conduct of its members and their representatives in accordance with the bylaws, rules, regulations, policies, procedures, interpretations and practices of the recognized exchange.

(2) The authority of a recognized exchange to regulate the operations and the standards of practice and business conduct of its members and their representatives under subsection (1) extends to

- (a) any former member,
- (b) any former representative of a member, and
- (c) any former representative of a former member,

with respect to that person's operations and conduct while a member of the recognized exchange or a representative of a member of the recognized exchange.

(3) The Commission may, if the Commission considers that it is in the public interest to do so, make any decision

- (a) that the Commission considers is necessary to ensure that issuers whose securities are listed and posted for trading on a recognized exchange comply with Alberta securities laws;
 - (b) respecting the manner in which a recognized exchange carries on business;
 - (c) respecting any bylaw, rule, regulation, policy, procedure, interpretation or practice of a recognized exchange;
 - (d) respecting trading on or through the facilities of a recognized exchange;
 - (e) respecting any security that is listed and posted for trading on a recognized exchange;
 - (f) respecting any derivative that is trading on a recognized exchange.
- (4) Every recognized exchange shall
- (a) keep a record showing the time at which each transaction on the exchange took place, and
 - (b) supply to any customer of any member of the exchange, on production of a written confirmation of any transaction with the member, particulars of the time at which the transaction took place and verification or otherwise of the matters set out in the confirmation.

RSA 2000 cS-4 s63;2008 c26 s19;2014 c3 s27;2016 c13 s6

Recognition of self-regulatory organizations

- 64(1)** The Commission may, on the application of a person or company carrying on business as a self-regulatory organization, recognize the person or company under this section if the Commission considers that it would not be prejudicial to the public interest to do so.
- (2)** The recognition under this section must be in writing and is subject to any terms and conditions that the Commission imposes.
- (3)** The Commission, after giving a recognized self-regulatory organization an opportunity to be heard, may, if the Commission considers that it is in the public interest to do so,
- (a) suspend or cancel its recognition under this section, or
 - (b) add to, remove, vary or replace any terms or conditions that were previously imposed on its recognition under this section.

(4) A recognized self-regulatory organization shall regulate the operations and the standards of practice and business conduct of its members and their representatives in accordance with the bylaws, rules, regulations, policies, procedures, interpretations and practices of the recognized self-regulatory organization.

(5) The authority of a recognized self-regulatory organization to regulate the operations and the standards of practice and business conduct of its members and their representatives under subsection (4) extends to

- (a) any former member,
- (b) any former representative of a member, and
- (c) any former representative of a former member,

with respect to that person's operations and conduct while a member of the recognized self-regulatory organization or a representative of a member of the recognized self-regulatory organization.

(6) The Commission may, if the Commission considers that it is in the public interest to do so, make any decision with respect to any bylaw, rule, regulation, policy, procedure, interpretation or practice of a recognized self-regulatory organization.

RSA 2000 cS-4 s64;2016 c13 s6

Recognition of auditor oversight organization

64.1(1) The Commission may, on the application of a person or company carrying on business as an auditor oversight organization, recognize the person or company under this section for the purposes of this Part if the Commission considers that it would not be prejudicial to the public interest to do so.

(2) The recognition under this section must be in writing and is subject to any terms and conditions that the Commission imposes.

(3) A recognized auditor oversight organization shall regulate the operations, standards of practice and business conduct of its participants to the extent that the operations, standards of practice and business conduct relate to the auditing or review of financial statements that are required to be filed pursuant to Alberta securities laws.

(4) For the purposes of performing its duties under subsection (3), a recognized auditor oversight organization may adopt a rule, standard or policy for regulating its participants on the basis that a

government, a government authority or another regulatory body applies the same rule, standard or policy.

(5) The Commission, after giving a recognized auditor oversight organization an opportunity to be heard, may

- (a) suspend or cancel its recognition under this section, or
- (b) add to, remove, vary or replace any terms or conditions that were previously imposed on its recognition under this section.

(6) The Commission may, if the Commission considers that it is in the public interest to do so, make any decision with respect to

- (a) any rule or decision of a recognized auditor oversight organization, or
- (b) any bylaw, a policy, procedure or practice of a recognized auditor oversight organization.

2014 c17 s19;2016 c13 s7

Recognized auditor oversight organization may require disclosure

64.2(1) On the written request by a recognized auditor oversight organization, a participant must provide the auditor oversight organization with information or records that

- (a) relate to the audit or review of financial statements that must be filed pursuant to Alberta securities laws, and
- (b) are specified, or that are within the class of information or records described, in the request, including information or records relating to, or prepared by, an issuer, whether or not the issuer is named in the request.

(2) A recognized auditor oversight organization may, in the request under subsection (1), specify a reasonable time or interval when the information or records are to be provided to the recognized auditor oversight organization.

(3) For greater certainty, if a participant is in possession of information or records that are the subject of solicitor-client privilege, the participant must not provide the information or records to the recognized auditor oversight organization unless the person in respect of which the solicitor-client privilege exists consents to its disclosure.

(4) If a person consents to the disclosure to a recognized auditor oversight organization of information or records that are the subject

of solicitor-client privilege, the consent does not negate or constitute a waiver of any privilege and the privilege continues for all other purposes.

2014 c17 s19

Compulsion protection

64.3 A recognized auditor oversight organization or a director, officer, employee or agent of a recognized auditor oversight organization are not required and must not be compelled to testify or give evidence in any proceeding other than a criminal proceeding, to which the recognized auditor oversight organization is not a party about records or information obtained in the discharge of the recognized auditor oversight organization's duties.

2014 c17 s19

Councils, committees, etc.

65(1) A recognized exchange or a recognized self-regulatory organization may,

- (a) with the prior approval of the Commission, and
- (b) subject to any terms and conditions that the Commission may determine to be necessary or appropriate in the public interest,

establish a council, committee or other ancillary body.

(2) A recognized exchange or a recognized self-regulatory organization may authorize the council, committee or other ancillary body to administer regulatory or self-regulatory powers or responsibilities or both.

(3) Where a recognized exchange or recognized self-regulatory organization establishes a council, committee or other ancillary body to administer regulatory or self-regulatory powers or responsibilities, that council, committee or ancillary body

- (a) is included in the recognition under section 62 or 64, as the case may be,
- (b) is subject to the same terms or conditions, if any, that are imposed by the Commission on the recognized exchange or recognized self-regulatory organization, as the case may be, and
- (c) unless otherwise directed by the Commission, is subject to an order that suspends, restricts or cancels the recognition of the exchange or the self-regulatory organization, as the case may be.

(4) The provisions of Alberta securities laws that apply to a recognized exchange or a recognized self-regulatory organization also apply with any necessary modifications to a council, committee or ancillary body established under this section by that recognized exchange or recognized self-regulatory organization.

RSA 2000 cS-4 s65;2008 c26 s19;2016 c13 s8

Assignment of duties of the Commission or Executive Director

66(1) The Commission may by order, subject to any terms and conditions that the Commission may impose, authorize a recognized exchange or recognized self-regulatory organization to do any act or thing required or permitted to be done by the Commission under Part 5 or the regulations made in respect of that Part.

(2) The Executive Director, with the approval of the Commission, may, subject to any terms or conditions that the Executive Director may impose, by order authorize a recognized exchange or recognized self-regulatory organization to do any act or thing required or permitted to be done by the Executive Director under Part 5 or the regulations made in respect of that Part.

(3) Notwithstanding that the Commission or the Executive Director has given an authorization under this section, the Commission or the Executive Director may do the act or thing in respect of which the authorization was given.

(4) The Commission or, with the approval of the Commission, the Executive Director may at any time revoke or vary, in whole or in part, an authorization made under this section.

(5) Neither the Commission nor the Executive Director shall revoke or vary an authorization made under this section without giving the recognized exchange or recognized self-regulatory organization an opportunity to have a hearing before the Commission.

1995 c28 s25

Recognized clearing agency

67(1) No person or company shall carry on business as a clearing agency in Alberta unless the person or company is recognized by the Commission under this section.

(2) Subsection (1) does not apply to an exchange, a quotation and trade reporting system or a dealer that is recognized, registered or exempt from recognition or registration in Alberta where the exchange, the quotation and trade reporting system or the dealer acts as an intermediary in paying funds or delivering securities, or

provides centralized facilities as a depository of securities, only as an incidental component of its principal business.

(3) The Commission may, on the application of a person or company proposing to carry on business as a clearing agency, recognize the person or company under this section if the Commission considers that it would not be prejudicial to the public interest to do so.

(4) The recognition under this section must be in writing and is subject to any terms and conditions that the Commission imposes.

(5) The Commission, after giving a recognized clearing agency an opportunity to be heard, may, if the Commission considers that it is in the public interest to do so,

- (a) suspend or cancel its recognition under this section, or
- (b) add to, remove, vary or replace any terms or conditions that were previously imposed on its recognition under this section.

(6) The Commission may, if the Commission considers that it is in the public interest to do so, make any decision with respect to

- (a) any bylaw, rule, regulation, policy, procedure, interpretation or practice of a recognized clearing agency, or
- (b) the manner in which a recognized clearing agency carries on its business.

RSA 2000 cS-4 s67;2011 c7 s6;2016 c13 s9

Designation of credit rating organizations

67.1(1) The Commission may, on the application of a person or company carrying on business as a credit rating organization or on its own motion, designate the person or company under this section if the Commission considers that it would not be prejudicial to the public interest to do so.

(2) The designation under this section must be in writing and is subject to any terms and conditions that the Commission imposes.

(3) The Commission, after giving a designated rating organization an opportunity to be heard, may, if the Commission considers that it is in the public interest to do so,

- (a) suspend or cancel its designation under this section, or

(b) add to, remove, vary or replace any terms or conditions that were previously imposed on its designation under this section.

(4) A designated rating organization shall comply with the regulations.

2010 c10 s16;2011 c7 s18;2016 c13 s9

Contents and methodology of credit ratings

67.2 The Commission may not regulate the contents of a credit rating or the methodology used by a credit rating organization.

2010 c10 s16

Recognized trade repository

67.3(1) No person or company shall carry on business as a trade repository in Alberta unless the person or company is recognized by the Commission under this section.

(2) The Commission may, on the application of a person or company proposing to carry on business as a trade repository in Alberta, recognize the person or company under this section if the Commission considers that it would not be prejudicial to the public interest to do so.

(3) The recognition under this section must be in writing and is subject to any terms and conditions that the Commission imposes.

(4) The Commission, after giving a recognized trade repository an opportunity to be heard, may, if the Commission considers that it is in the public interest to do so,

(a) suspend or cancel its recognition under this section, or

(b) add to, remove, vary or replace any term or condition that was previously imposed on its recognition under this section.

(5) The Commission may, if the Commission considers that it is in the public interest to do so, make any decision with respect to any bylaw, rule, regulation, policy, procedure, interpretation or practice of a recognized trade repository.

2014 c3 s11;2016 c13 s10

Recognition of quotation and trade reporting systems

68(1) The Commission may, on the application of a person or company carrying on business as a quotation and trade reporting system, recognize the person or company under this section if the Commission considers that it would not be prejudicial to the public interest to do so.

- (2) The recognition under this section must be in writing and is subject to any terms and conditions that the Commission imposes.
- (3) The Commission, after giving a recognized quotation and trade reporting system the opportunity to be heard, may, if the Commission considers that it is in the public interest to do so,
- (a) suspend or cancel its recognition under this section, or
 - (b) add to, remove, vary or replace any terms or conditions that were previously imposed on its recognition under this section.
- (4) No person or company shall carry on business as a quotation and trade reporting system or facilitate transactions of securities or derivatives by means of an operation similar in nature to a quotation and trade reporting system unless the person or company is recognized under this section.

RSA 2000 cS-4 s68;2014 c3 s28;2016 c13 s11

Personal information

68.1(1) In this section, “personal information” means personal information as defined in the *Personal Information Protection Act* other than business contact information to which that Act does not apply by virtue of section 4(3)(d) of that Act.

- (2) A recognized exchange or recognized self-regulatory organization may, without the consent of an individual,
- (a) collect personal information about that individual, whether directly from the individual or from or through a registrant or by any other method, and
 - (b) use and disclose that information

for the purposes of an investigation or the suppression or prevention of fraud, market manipulation or unfair trading practices or for breaches of rules, regulations, policies or bylaws of the recognized exchange or of the recognized self-regulatory organization or of any decisions of the Commission or the Executive Director relating to either or both of the following:

- (c) the integrity of securities or derivatives trading on exchanges, quotation and trade reporting systems or alternative trading systems;
- (d) the business conduct and activities of the members of the recognized exchange or of the recognized self-regulatory organization and their representatives.

2003 cP-6.5 s72;2014 c3 s12

Powers re hearings, etc.

69(1) Where a recognized exchange, a recognized self-regulatory organization or a recognized quotation and trade reporting system is empowered under the bylaws or rules of the exchange, self-regulatory organization or quotation and trade reporting system, as the case may be, to conduct hearings, the following applies for the purposes of a hearing:

- (a) a person conducting a hearing has the same power as is vested in the Court of Queen's Bench for the trial of civil actions
 - (i) to summon and enforce the attendance of witnesses,
 - (ii) to compel witnesses to give evidence on oath or otherwise, and
 - (iii) to compel witnesses to produce documents, records, securities, derivatives, contracts and things;
- (b) the failure or refusal of a person summoned as a witness under clause (a) to attend a hearing, to answer questions or to produce documents, records, securities, derivatives, contracts and things that are in that person's custody or possession makes that person, on application to the Court of Queen's Bench by the person conducting the hearing, liable to be committed for contempt by the Court of Queen's Bench in the same manner as if that person were in breach of an order or judgment of that Court;
- (c) a person conducting a hearing may take evidence under oath;
- (d) a person conducting a hearing or a person authorized by a person conducting a hearing may administer oaths for the purpose of taking evidence;
- (e) the exchange, self-regulatory organization or quotation and trade reporting system may, on behalf of a person conducting a hearing,
 - (i) summon and enforce the attendance of witnesses, and
 - (ii) make applications to the Court of Queen's Bench under clause (b);
- (f) the provisions of the *Alberta Rules of Court* compelling the attendance of witnesses, including provisions relating to the

payment of fees, expenses and allowances, apply in respect of the conduct of hearings referred to in this section.

(2) Where an exchange, a self-regulatory organization or a quotation and trade reporting system referred to in subsection (1) has made a decision after conducting a hearing, the exchange, self-regulatory organization or quotation and trade reporting system, as the case may be, may at any time file a certified copy of that decision with the clerk of the Court of Queen's Bench, and on being filed with the clerk of the Court of Queen's Bench that decision has the same force and effect as if it were a judgment of the Court of Queen's Bench.

RSA 2000 cS-4 s69;2009 c53 s169;2014 c3 s28

Powers re investigations

69.1 Where a recognized exchange, a recognized self-regulatory organization or a recognized quotation and trade reporting system is empowered under the bylaws or rules of the exchange, self-regulatory organization or quotation and trade reporting system, as the case may be, to conduct investigations, the following applies for the purposes of such an investigation:

- (a) a person appointed to conduct an investigation has the same power as is vested in the Court of Queen's Bench for the trial of civil actions
 - (i) to summon and enforce the attendance of witnesses,
 - (ii) to compel witnesses to give evidence on oath or otherwise, and
 - (iii) to compel witnesses to produce documents, records, securities, derivatives, contracts and things;
- (b) the failure or refusal of a person summoned as a witness under clause (a) to attend at the required location and time, to answer questions or to produce documents, records, securities, derivatives, contracts and things that are in that person's custody or possession makes that person, on application to the Court of Queen's Bench by the person appointed to conduct the investigation, liable to be committed for contempt by the Court of Queen's Bench in the same manner as if that person were in breach of an order or judgment of that Court;
- (c) a person appointed to conduct an investigation may take evidence under oath;

- (d) a person appointed to conduct an investigation or a person authorized by a person conducting an investigation may administer oaths for the purpose of taking evidence;
- (e) notwithstanding the *Alberta Evidence Act*, a bank or any officer or employee of the bank is not exempt from the operation of this section;
- (f) a person giving evidence at an investigation may be represented by legal counsel.

2017 c12 s4

Appointment of receivers, managers, trustees or liquidators

70(1) A recognized exchange or a recognized self-regulatory organization may apply to the Court of Queen's Bench for the appointment of a receiver, receiver and manager, trustee or liquidator for all or part of the undertaking and affairs of a member of that exchange or self-regulatory organization.

(2) On an application being made under this section, the Court may appoint a receiver, receiver and manager, trustee or liquidator of all or any part of the property of the member if the Court is satisfied that it is in the best interests of

- (a) the recognized exchange or recognized self-regulatory organization,
- (b) the public,
- (c) those persons or companies whose property is in the possession or under the control of the member,
- (d) the security holders or partners of the member, or
- (e) the creditors of the member.

(3) An application under subsection (1) may be made *ex parte* if the Court considers it proper to do so in the circumstances.

(4) If an application under this section is made *ex parte*, the Court may make an order appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding 15 days.

(5) A receiver, receiver and manager, trustee or liquidator of the property of a member appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or part of the property

- (a) owned by the member, or

(b) held by the member on behalf of or in trust for any other person or company.

(6) The receiver, receiver and manager, trustee or liquidator shall, if so directed by the Court,

(a) have authority to wind up or manage the business and affairs of the member, and

(b) exercise those powers that are necessary or incidental to the winding-up or management of the business and affairs of the member.

(7) Sections 49 to 55, with any necessary modifications, apply in respect of a receiver, receiver and manager, trustee or liquidator, as the case may be, appointed under this section.

2000 c17 s13

Acting as an exchange when not so recognized

71(1) If a person or company is not carrying on business as an exchange but is carrying on business as a quotation and trade reporting system or is otherwise facilitating transactions of securities or derivatives, the Commission may, if it considers it to be in the public interest to do so, make an order

(a) declaring that the person or company is carrying on the business of an exchange, and

(b) directing the person or company, as the case may be,

(i) to cease carrying on business as a quotation and trade reporting system or otherwise facilitating transactions of securities or derivatives,

(ii) not to carry on business as a quotation and trade reporting system unless the person or company is recognized under section 68 as a quotation and trade reporting system, and

(iii) not to carry on business as an exchange unless the person or company is recognized under section 62 as an exchange.

(2) The Commission may make an order under this section on its own motion or on the application of an interested person or company.

(3) While a person or company is subject to an order made under subsection (1), that person or company shall not carry out any functions or duties in any manner that

- (a) contravenes that order, or
- (b) is not in compliance with that order.

RSA 2000 cS-4 s71;2014 c3 s28

Voluntary surrender of recognition

72 On application by a recognized exchange, a recognized self-regulatory organization, a recognized clearing agency a recognized quotation and trade reporting system or a recognized auditor oversight organization, the Commission may accept, subject to any terms and conditions that the Commission may impose, the voluntary surrender of the recognition of the exchange, self-regulatory organization, clearing agency or quotation and trade reporting system if the Commission considers that it would not be prejudicial to the public interest to accept the surrender of the recognition.

RSA 2000 cS-4 s72;2014 c17 s20

Review

73(1) The Executive Director, or a person or company directly affected by a direction, decision, order or ruling made under a bylaw, rule, regulation, policy, procedure, interpretation or practice of a recognized exchange, recognized self-regulatory organization, recognized trade depository, recognized clearing agency, recognized quotation and trade reporting system or recognized auditor oversight organization may appeal that direction, decision, order or ruling to the Commission.

(2) Section 36 applies to an appeal made under this section.

(2.1) A person or company not required to be served with written notice of a direction, decision, order or ruling but entitled to appeal under subsection (1) may, notwithstanding section 36(1), commence an appeal by serving a written notice of appeal on the Commission within 30 days from the day on which, in the opinion of the Commission, the person or company knew or reasonably ought to have known of the direction, decision, order or ruling.

(3) Notwithstanding section 36(4), where there is an appeal to the Commission of a direction, decision, order or ruling made by a recognized exchange, recognized self-regulatory organization, recognized quotation and trade reporting system or a recognized auditor oversight organization, that exchange, self-regulatory organization, quotation and trade reporting system or auditor oversight organization may be present and make representations at the appeal.

RSA 2000 cS-4 s73;2011 c7 s7;2014 c3 s13;2014 c17 s21

74 Repealed 2005 c18 s13.

Part 5 Registration

Requirement to be registered

75(1) Unless registered in accordance with Alberta securities laws, a person or company shall not act as

- (a) a dealer,
- (b) an adviser, or
- (c) an investment fund manager.

(2) Unless registered in accordance with Alberta securities laws, an individual shall not, directly or indirectly,

- (a) act as a dealer on behalf of a person or company that is required to be registered under subsection (1),
- (b) act as an adviser on behalf of a person or company that is required to be registered under subsection (1), or
- (c) perform a prescribed function or duty for a person or company that is required to be registered under subsection (1).

(3) A registrant shall comply with any terms, conditions, restrictions or requirements imposed on the registrant's registration.

RSA 2000 cS-4 s75;2003 c32 s6;2007 c10 s6;
2010 c10 s17

Responsible person

75.1 A person or company required to be registered under section 75(1) shall appoint an individual to perform on its behalf a prescribed function or duty.

2007 c10 s7

Duty of care

75.2(1) Subject to subsections (2) and (3), a registrant shall deal fairly, honestly and in good faith with its clients.

(2) A registrant that manages the investment portfolio of a client through discretionary authority granted by the client shall act fairly, honestly and in good faith toward the client and in the client's best interest.

- (3) Every investment fund manager shall
- (a) exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the investment fund, and
 - (b) exercise the degree of care, diligence and skill that a reasonably prudent person or company would exercise in the circumstances.

2007 c10 s7

Registration by Executive Director

76(1) Unless it appears to the Executive Director that

- (a) an applicant is not suitable for registration, reinstatement of registration or amendment of registration, or
- (b) the proposed registration, reinstatement of registration or amendment of registration is objectionable,

the Executive Director shall grant to the applicant the registration, reinstatement of registration or amendment of registration applied for.

(2) The Executive Director may, at any time, impose terms, conditions, restrictions or requirements on a registration.

(3) The Executive Director shall not impose terms, conditions, restrictions or requirements on a registration, or refuse to grant, reinstate or amend a registration, without giving the registrant or applicant an opportunity to be heard.

RSA 2000 cS-4 s76;2006 c30 s9;2007 c10 s8

Suspension or termination of registration

76.1(1) The Executive Director may suspend or terminate a registration if the Executive Director considers that it is in the public interest to do so.

(2) The Executive Director shall not suspend or terminate a registration under subsection (1) without giving the registrant an opportunity to be heard.

2007 c10 s8

77 Repealed 2006 c30 s10.

Surrender of registration

78(1) If a registrant applies to surrender its registration, the Executive Director shall accept the surrender unless the Executive Director considers it prejudicial to the public interest to do so.

(2) On receiving an application under subsection (1), the Executive Director may, without providing an opportunity to be heard, suspend the registration or impose terms, conditions, restrictions or requirements on the registration.

RSA 2000 cS-4 s78;2003 c32 s7;2006 c30 s11;
2007 c10 s9

79 Repealed 2006 c30 s12.

80 Repealed 2006 c30 s13.

81 Repealed 2006 c30 s14.

Further information

82 The Executive Director may require one or more of the following:

- (a) that further information or material be submitted by an applicant or a registrant within a specified time;
- (b) that there be verification by affidavit or otherwise of any information or material then or previously submitted;
- (c) that
 - (i) the applicant or the registrant, or
 - (ii) any partner, officer, director, governor or trustee of, or any person performing a like function for, or any employee of the applicant or registrant,

submit to examination under oath by a person designated by the Executive Director.

1981 cS-6.1 s61;1988 c7 s1(43);1995 c28 s62

83 Repealed 2006 c30 s15.

84 to 89 Repealed 2005 c18 s14.

Part 7 Trading in Securities and Derivatives Generally

Requirements for confirmation of trade

90(1) Repealed 2014 c17 s25.

(2) Every dealer who has acted as agent in connection with a trade in a security or a derivative shall, at the request of the Executive Director, promptly

- (a) make a reasonable inquiry in order to provide to the Executive Director particulars that are sufficient to identify, and
- (b) provide to the Executive Director the name of and those particulars arising from the inquiry that are sufficient to identify,

the person or company from, to or through whom the security or derivative was bought or sold.

RSA 2000 cS-4 s90;2011 c7 s8;2014 c3 s15;2014 c13 s25

Attendance on or calls to residences

91(1) The Executive Director may, by order, suspend, cancel, restrict or impose terms and conditions on the right of any person or company or class of persons or companies named or described in the order to

- (a) attend at a residence, or
- (b) call to a residence by telephone,

for the purpose of trading in any security or derivative or any class of securities or derivatives.

(2) The Executive Director shall not make an order under subsection (1) without giving the person or company or class of persons or companies affected an opportunity to have a hearing before the Executive Director.

RSA 2000 cS-4 s91;2014 c3 ss27,28

Prohibited transaction

92(1) Unless otherwise permitted by the Executive Director, no person or company shall represent that the person or company or any other person or company will

- (a) resell or repurchase a security,
- (b) refund any purchase price of a security,

(c) refund any amount paid in respect of a derivative, or

(d) assume all or part of an obligation under a derivative.

(2) Subsection (1) does not apply to a security that carries or is accompanied with

(a) an obligation of the issuer to redeem or repurchase the security, or

(b) a right of the owner of the security to require the issuer to redeem or repurchase the security.

(2.1) Subsection (1) does not apply to a derivative if the terms of the derivative

(a) provide for a refund or provide a right to a party to require a refund, or

(b) provide a right to a party to assume all or part of an obligation set out in the derivative.

(3) Subject to the regulations, no person or company, in relation to a trade in a security or derivative, shall

(a) give any undertaking relating to the future value or price of the security or derivative,

(b) except with the written permission of the Executive Director, make any representation

(i) that the security will be listed on any exchange or quoted on any quotation and trade reporting system, unless the exchange or quotation and trade reporting system has granted approval to the listing or quoting of the security, conditional or otherwise, or has consented to, or indicated that it does not object to, the representation, or

(ii) that application has been made to list the security on any exchange or to quote the security on any quotation and trade reporting system, unless

(A) application has been made to list or quote the security on such exchange or quotation and trade reporting system and securities of the same issuer are currently listed on that exchange or quoted on that quotation and trade reporting system, as the case may be, or

- (B) the exchange or quotation and trade reporting system has granted approval to the listing or quoting of the security, conditional or otherwise, or has consented to, or indicated that it does not object to, the representation,

or

- (iii) that application will be made to list the security on any exchange or to quote the security on any quotation and trade reporting system,

or

- (c) repealed 2005 c18 s15,
- (d) engage in an unfair practice.

(4) No person shall represent that the person is offering to trade in a security

- (a) at the market price, or
- (b) at a price related to the market price,

unless the person reasonably believes that a market for the security exists that is not made, created or controlled by the person, the person's employer or an affiliate or by a person or company for whom the person is acting in the transaction.

(4.1) No person or company shall make a statement that the person or company knows or reasonably ought to know

- (a) in any material respect and at the time and in the light of the circumstances in which it is made,
 - (i) is misleading or untrue, or
 - (ii) does not state a fact that is required to be stated or that is necessary to make the statement not misleading,

and

- (b) would reasonably be expected to have a significant effect on the market price or value of a security, a derivative or an underlying interest of a derivative.

(5) For the purposes of this section, "unfair practice" means any one or more of the following:

- (a) putting unreasonable pressure on a person to purchase, hold or sell a security or a derivative;
- (b) taking advantage of a person's inability or incapacity to reasonably protect his or her own interest because of physical or mental infirmity, ignorance, illiteracy, age or inability to understand the character, nature or language of any matter relating to a decision to purchase, hold or sell a security or a derivative;
- (c) imposing terms, conditions, restrictions or requirements in respect of a transaction that are harsh, oppressive or excessively one-sided.

RSA 2000 cS-4 s92;2003 c32 s12;2005 c18 s15;
2008 c26 s6;2014 c3 ss16,27;2014 c17 s26

Prohibited transaction

93 No person or company shall, directly or indirectly, engage or participate or attempt to engage or participate in any act, practice or course of conduct relating to a security, a derivative or an underlying interest of a derivative that the person or company knows or reasonably ought to know may

- (a) result in or contribute to
 - (i) a false or misleading appearance of trading activity in a security, a derivative or an underlying interest of a derivative, or
 - (ii) an artificial price for a security, a derivative or an underlying interest of a derivative,

or

- (b) perpetrate a fraud on any person or company.

RSA 2000 cS-4 s93;2005 c18 s16;2014 c3 s17

Duty to comply with Commission decisions

93.1 A person or company shall comply with decisions of the Commission or the Executive Director made under Alberta securities laws.

2005 c18 s17

Duty to comply with undertaking

93.2 A person or company that gives a written undertaking to the Commission or the Executive Director shall comply with the undertaking.

2005 c18 s17

Front running

93.3(1) In this section, “material order information” means information that relates to

- (a) the intention of a person or company responsible for making decisions about an investment portfolio to trade a security or derivative on behalf of the investment portfolio,
- (b) the intention of a registrant trading on behalf of an investment portfolio to trade a security or derivative on behalf of the investment portfolio, or
- (c) an unexecuted order, or the intention of any person or company to place an order, to trade a security or derivative,

and that, if disclosed, would reasonably be expected to affect the market price of the security or derivative.

(2) A person or company that knows of material order information shall not, and shall not recommend or encourage another person to,

- (a) purchase or sell the securities or derivatives to which the material order information relates,
- (b) acquire, dispose of, or exercise a put or call option or other right or obligation to purchase or sell the securities or derivatives,
- (c) enter into a related financial instrument or acquire or dispose of rights or obligations under a related financial instrument, or
- (d) change that person’s
 - (i) direct or indirect beneficial ownership of, or control or direction over,
 - (A) the securities or derivatives, or
 - (B) a put or call option or other right or obligation to purchase or sell the securities or derivatives,

or

- (ii) interest in, or rights or obligations associated with, a related financial instrument.

(3) A person or company that knows of material order information shall not inform another person or company of the material order

information unless it is necessary in the course of the person's or company's business.

2005 c18 s17;2015 c11 s8

Obstruction of justice

93.4(1) A person or company shall not, and shall not attempt to, destroy, conceal or withhold any information, property or thing reasonably required for a hearing, review, examination or investigation under this Act.

(2) A person or company contravenes subsection (1) only if the person or company knows or ought reasonably to know that a hearing, review, examination or investigation is being, or is likely to be, conducted.

2005 c18 s17;2014 c17 s27

Dealer as principal

94(1) If a registered dealer, with the intention of effecting a trade in a security or derivative with any person or company other than another registered dealer,

- (a) proposes to act in the trade as a principal, and
- (b) makes any statement in writing to the person or company in respect of the security or derivative,

the registered dealer shall disclose in the statement that the registered dealer acts as a principal.

(2) A statement made under subsection (1) shall be made by the registered dealer before the registered dealer

- (a) enters into a contract for the sale or purchase of the security or derivative, or
- (b) accepts payment or receives any security, derivative or other consideration under or in anticipation of the contract,

whichever occurs first.

(3) A statement made in compliance with this section or the regulations that a registered dealer proposes to act or has acted as principal in connection with a trade in a security or derivative does not prevent that dealer from acting as agent in connection with a trade of the security or derivative.

(4) This section does not apply to trades in respect of which the regulations provide that registration is not required.

RSA 2000 cS-4 s94;2005 c18 s18;2014 c3 s18

95 Repealed 2007 c10 s11.

96 Repealed 2007 c10 s12.

Disclosure by registered dealer

97(1) A registered dealer shall provide to any of its customers, within 30 days after receiving the customer's request,

- (a) the names of the officers and the partners or the directors, as the case may be, of the dealer as of the date of the request or any other date specified in the request,
- (b) the names of any person or company having directly or indirectly an interest of not less than 5% of the registered dealer's capital, and
- (c) the most recently prepared annual financial statement of the dealer's financial position as filed
 - (i) with the self-regulatory organization of which the dealer is a member, or
 - (ii) with the Executive Director,

that is made up and certified as required by the regulations.

(2) A registered dealer shall inform its customers on every statement of account or in another manner as the Executive Director may approve that the information referred to in subsection (1) is available.

(3) If the Executive Director determines that a registered dealer or a class of registered dealers is

- (a) pursuant to the conditions of registration, or
- (b) in regulations imposed by a self-regulating organization,

required to provide to customers information similar to the information required under subsections (1) and (2), the Executive Director may by order exempt the registered dealer or class of registered dealers from the requirements of subsections (1) and (2).

RSA 2000 cS-4 s97;2007 c10 s13

Provision of risk disclosure statement

98 Subject to the regulations, a registered dealer or adviser shall provide a risk disclosure statement to a customer prior to opening an account for trading in derivatives in respect of that customer.

RSA 2000 cS-4 s98;2007 c10 s14;2014 c3 s28

Use of name

99 No registrant shall use the name of another registrant unless the first-mentioned registrant is a partner, officer or agent of or is authorized to do so in writing by the other registrant.

1981 cS-6.1 s75

Representation or holding out of registration

100(1) A person or company shall not represent that the person or company is registered under this Act unless

- (a) the representation is true, and
- (b) in making the representation, the person or company specifies the person or company's category of registration under this Act and the regulations.

(2) A person or company shall not make a statement about something that a reasonable investor would consider important in deciding whether to enter into or maintain a trading or advising relationship with the person or company if the statement is untrue or omits information necessary to prevent the statement from being false or misleading in the circumstances in which it is made.

RSA 2000 cS-4 s100;2006 c30 s16

Representations

101 No person or company shall make any representation that the Commission, a member of the Commission, the Executive Director, the Secretary or any person employed by the Commission has in any manner expressed an opinion or passed judgment on

- (a) the financial standing, fitness or conduct of a registrant,
- (b) the merits of a security or issuer,
- (b.1) the merits of a derivative or an underlying interest of a derivative,
- (c) an issuer's disclosure, or
- (d) a credit rating organization or a credit rating issued by one.

RSA 2000 cS-4 s101;2008 c26 s7;2014 c3 s19;2014 c17 s28

Margin contracts

102(1) If

- (a) a person or a partner or employee of a partnership or a director, officer or employee of a company,

- (i) after he or she or the partnership or company has contracted as a registered dealer with a customer to buy and carry on margin any securities of an issuer either in Canada or elsewhere, and
- (ii) while the contract referred to in subclause (i) continues, he or she or the partnership or company sells or causes to be sold securities of the same issuer for any account in which the person, a partner or employee of the partnership or the company or a director of the company, as the case may be, has a direct or indirect interest,

and

- (b) the effect of the sale referred to in clause (a)(ii) would, otherwise than unintentionally, be to reduce the amount of the securities in the hands of the dealer or under its control in the ordinary course of business to below the amount of the securities that the dealer should be carrying for all its customers,

the dealer shall disclose that fact to the customer and the contract with the customer is, at the option of the customer, voidable.

(2) If a customer exercises the customer's option under subsection (1) to void a contract, the customer may recover from the dealer

- (a) all the money paid by that customer with interest on it, and
- (b) securities deposited by that customer,

as the case may be, in respect of that contract.

(3) The customer may exercise the option referred to in subsection (1) within 30 days from the day that the disclosure was made under subsection (1) by sending a notice to that effect to the dealer.

1981 cS-6.1 s77

Declaration of short position

103 A person or company,

- (a) that places an order for the sale of a security through a registered dealer that is acting as the person's or company's agent, and
- (b) that,
 - (i) at the time of placing the order, does not own the security, or

- (ii) if acting as agent, knows the person's or company's principal does not own the security,

shall, at the time of placing the order to sell, declare to the registered dealer that the person or company or the person's or company's principal, as the case may be, does not own the security.

1981 cS-6.1 s78

Disclosure of activities in relation to a trade

103.1(1) An issuer or a holder of an issuer's security that knows that a person or company is engaged in investor relations activities on behalf of the issuer or security holder must disclose those facts to any person or company who inquires.

(2) A person or company engaged in investor relations activities and the issuer or holder of an issuer's security on whose behalf that person or company is so engaged, must ensure that every record disseminated, and every public oral statement made, by that person or company in the course of those activities clearly and conspicuously discloses that the record is issued, or the statement is made, by or on behalf of the issuer or the holder of the issuer's security.

(3) Every person or company engaged in investor relations activities shall

- (a) maintain the books and records that are necessary to record properly those activities and other related business transactions and financial affairs, and
- (b) deliver to the Commission or the Executive Director any books and records or other information related to those activities that the Commission or the Executive Director may require.

2014 C17 S29

Rights of beneficial owners

104(1) Subject to subsection (5), voting securities of an issuer registered in the name of

- (a) a registrant or in the name of the registrant's nominee, or
- (b) a custodian or in the name of the custodian's nominee, if the issuer is a mutual fund that is a reporting issuer,

that are not beneficially owned by the registrant or the custodian, as the case may be, shall not be voted by the registrant or custodian at any meeting of security holders of the issuer.

(2) Where

- (a) the registrant or custodian referred to in subsection (1) has received a copy of a notice
 - (i) of a meeting of security holders of an issuer,
 - (ii) of a take-over bid circular, issuer bid circular or exempt offer relating to securities of an issuer, or
 - (iii) of a rights offering,
- and
- (b) the beneficial owner has agreed to pay the reasonable costs to be incurred by the registrant or custodian,

the registrant or custodian, as the case may be, shall promptly send to the beneficial owner of the securities a copy of that notice and any other notice, financial statement, information circular, take-over bid circular, issuer bid circular, directors' circular, director's circular, officer's circular or other similar material respecting those securities that is received by the registrant or custodian.

(3) Subsection (2) only applies if the registrant or custodian knows the name and address of the beneficial owner of the securities

- (a) at the record date for notice of the meeting of security holders,
- (b) at the date of the take-over bid, issuer bid or exempt offer, or
- (c) at the date of the rights offering,

as the case may be.

(4) At the request of a registrant or custodian, the person or company sending material referred to in subsection (2) shall promptly furnish to the registrant or custodian, at the expense of the sender, the requisite number of copies of the material.

(5) A registrant or custodian shall vote or give a proxy requiring a nominee to vote any voting securities referred to in subsection (1) in accordance with any written voting instructions received from the beneficial owner.

(6) A registrant or custodian shall, if requested in writing by a beneficial owner, give to the beneficial owner or the beneficial owner's nominee a proxy enabling the beneficial owner or the

beneficial owner's nominee to vote any voting securities referred to in subsection (1).

(7) For the purposes of this section, "custodian" means a person or company that

- (a) has physical possession of securities, and
- (b) holds the securities for another person or company.

1981 cS-6.1 s79

105 Repealed 2007 c10 s15.

Derivatives transaction not void for non-compliance

105.1 Unless the terms of the derivative provide otherwise, a derivative transaction is not void, voidable or unenforceable, and no counterparty to the transaction is entitled to rescind the transaction, solely by reason that the transaction failed to comply with Alberta securities laws.

2014 c3 s20

Part 8 Repealed 2014 c3 s21.

Part 9 Distribution by Prospectuses

Filing prospectus

110(1) No person or company shall trade in a security on the person's or company's own account or on behalf of any other person or company if the trade would be a distribution of the security unless

- (a) a preliminary prospectus has been filed and the Executive Director has issued a receipt for it, and
- (b) a prospectus has been filed and the Executive Director has issued a receipt for it.

(2) A preliminary prospectus and a prospectus may be filed in accordance with this Part to enable the issuer to become a reporting issuer, notwithstanding the fact that no distribution is contemplated.

1981 cS-6.1 s81;1995 c28 s62

Preliminary prospectus

111(1) A preliminary prospectus shall, subject to subsection (2), comply with the requirements of Alberta securities laws respecting the form and content of a prospectus.

(2) The report or reports of the auditor or accountant required by the regulations and any information with respect to

- (a) the price to the underwriter,
- (b) the offering price of any securities, and
- (c) matters dependent on or relating to those prices,

may be omitted from a preliminary prospectus.

RSA 2000 cS-4 s111;2008 c26 s19

Receipt for preliminary prospectus

112 The Executive Director shall promptly issue a receipt for a preliminary prospectus on the filing of the preliminary prospectus.

1981 cS-6.1 s83;1995 c28 s62

Prospectus and supplemental material

113(1) A prospectus shall

- (a) provide full, true and plain disclosure of all material facts relating to the securities proposed to be issued or distributed, and
- (b) comply with the requirements of Alberta securities laws.

(2) A prospectus shall contain or be accompanied with financial statements, reports or other documents in accordance with Alberta securities laws.

RSA 2000 cS-4 s113;2008 c26 s19

114 Repealed 2006 c30 s17.

115 Repealed 2006 c30 s18.

116 Repealed 2006 c30 s19.

117 Repealed 2006 c30 s20.

118 Repealed 2006 c30 s21.

Other forms of prospectus

119(1) If a person or company meets the requirements of the regulations, that person or company may file in accordance with the regulations

- (a) a preliminary short form prospectus, a short form prospectus, a pro forma short form prospectus or an exchange offering prospectus, or
 - (b) any other prospectus not referred to in clause (a) that is permitted by the regulations.
- (2) The filing of a prospectus referred to in subsection (1) shall constitute compliance with this Part on the issuance of a receipt for that prospectus.

1984 c64 s21

Receipt for prospectus

- 120(1)** Subject to subsection (2), the Executive Director shall issue a receipt for a prospectus filed under this Part unless the Executive Director considers that it is not in the public interest to do so.
- (2) The Executive Director shall not issue a receipt for a prospectus under this Part if the Executive Director considers that
- (a) the prospectus or any document required to be filed with it
 - (i) does not comply in any substantial respect with any of the requirements of this Part or the regulations,
 - (ii) contains any statement, promise, estimate or forward-looking information that is misleading, false or deceptive, or
 - (iii) contains a misrepresentation,
 - (b) an unconscionable consideration has been paid or given or is intended to be paid or given for any services or promotional purposes or for the acquisition of property,
 - (c) the aggregate of
 - (i) the proceeds from the sale of the securities under the prospectus that are to be paid into the treasury of the issuer, and
 - (ii) the other resources of the issueris insufficient to accomplish the purpose of the issue stated in the prospectus,
 - (d) the issuer cannot reasonably be expected to be financially responsible in the conduct of its business because of the financial condition of

- (i) the issuer,
 - (ii) any of the issuer's officers, directors, promoters or control persons, or
 - (iii) the investment fund manager of the issuer or any of the investment fund manager's officers, directors or control persons,
- (e) the business of the issuer may not be conducted with integrity and in the best interests of the security holders of the issuer because of the past conduct of
- (i) the issuer,
 - (ii) any of the issuer's officers, directors, promoters or control persons, or
 - (iii) the investment fund manager of the issuer or any of the investment fund manager's officers, directors or control persons,
- (f) a person or company that has prepared or certified any part of the prospectus, or that is named as having prepared or certified a report or valuation used in connection with the prospectus, is not acceptable,
- (g) an escrow or pooling agreement in the form that the Executive Director considers necessary or advisable with respect to the securities has not been entered into, or
- (h) adequate arrangements have not been made for the holding in trust of the proceeds payable to the issuer from the sale of securities pending the distribution of the securities.
- (3) No person or company filing a prospectus shall be refused a receipt for that prospectus without being given an opportunity to be heard.

RSA 2000 cS-4 s120;2006 c30 s22

121 Repealed 2006 c30 s23.

Distribution of previously issued securities

122(1) If a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain from the issuer of the securities information or material that is necessary for the purpose of the distribution or for enabling that person or company to comply with this Part and the regulations, the

Executive Director may order the issuer of the securities to give to the person or company that proposes to make the distribution that information and material that the Executive Director considers necessary for the purposes of the distribution or for enabling that person or company to comply with this Part and the regulations.

(2) If a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain the signatures to the certificates required by this Part or the regulations or otherwise to comply with this Part or the regulations, the Executive Director, on being satisfied that

- (a) all reasonable efforts have been made to comply with this Part and the regulations, and
- (b) no person or company is likely to be prejudicially affected by the failure to comply with this Part or the regulations,

may make an order waiving any of the provisions of this Part or the regulations as the Executive Director considers advisable to facilitate the distribution.

1981 cS-6.1 s98;1988 c7 s1(43);1995 c28 s62

Part 10 Distribution Generally

Distribution of material

123 During the period of time between the issuance of a receipt for a preliminary prospectus and the issuance of a receipt for a prospectus it is permitted to do the following:

- (a) communicate with any person or company
 - (i) identifying the security proposed to be issued,
 - (ii) stating the price of the security if it is then determined,
 - (iii) stating the name and address of a person or company from whom purchases of the security may be made, and
 - (iv) any further information as may be permitted or required by the regulations,

if every communication states the name and address of a person or company from whom a preliminary prospectus may be obtained;

- (b) distribute a preliminary prospectus;

- (c) solicit expressions of interest from a prospective purchaser if, prior to the solicitation or promptly after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to the prospective purchaser.

1981 cS-6.1 s99

124 Repealed 2006 c30 s24.

125 Repealed 2006 c30 s25.

Defective preliminary prospectus

126(1) If it appears to the Executive Director that a preliminary prospectus is defective in that it does not substantially comply with the requirements of Alberta securities laws as to form and content, the Executive Director may, without giving notice, order that the trading permitted under section 123 in the security to which the preliminary prospectus relates cease.

(2) An order made under subsection (1) remains in force until a revised preliminary prospectus satisfactory to the Executive Director is filed and forwarded to each recipient of the defective preliminary prospectus who was shown on the record maintained in accordance with the regulations to have received the defective preliminary prospectus.

RSA 2000 cS-4 s126;2006 c30 s26;2008 c26 s19

Material given on distribution

127 From the date that the Executive Director issues a receipt for a prospectus, a person or company trading in the security in a distribution pursuant to the prospectus, shall not distribute any material respecting the security that is prohibited by the regulations or by an order made by the Executive Director under section 76 or 105.

1981 cS-6.1 s103;1988 c7 s1(43);1995 c28 s62

Order to cease trading

128(1) If it appears to the Commission, after a receipt is issued for a prospectus, that any of the circumstances set out in section 120(2) exist, the Commission may order that the distribution of the securities under the prospectus cease.

(2) An order made under this section shall be served by the Commission on

- (a) the issuer of the securities to which the prospectus relates,
and

- (b) any person or company that the Commission so directs.
- (3) On receipt of the order,
- (a) distribution of the securities pursuant to the prospectus by the person or company named in the order shall cease, and
 - (b) any receipt issued by the Executive Director for the prospectus is revoked.
- (4) An order shall not be made under subsection (1) without the issuer being given an opportunity to have a hearing before the Commission.

1981 cS-6.1 s104;1988 c7 s1(41);1995 c28 s62

Obligation to deliver prospectus

129 A dealer, not acting as an agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which section 110(1) applies, unless the dealer has previously done so, shall, subject to the regulations, send to a purchaser of the security the latest prospectus and any amendment filed either

- (a) before entering into an agreement of purchase resulting from the order or subscription, or
- (b) not later than midnight on the 2nd day, exclusive of Saturdays and holidays, after entering into the agreement.

RSA 2000 cS-4 s129;2006 c30 s27;2011 c7 s15

Revocation of purchase

130(1) An agreement to purchase securities offered in a subscription to which section 110(1) applies, or an agreement to purchase another prescribed security, is not binding on the purchaser if the dealer receives, not later than midnight on the 2nd day, exclusive of Saturdays and holidays, after receipt by the purchaser of the latest prospectus, any amendment to the prospectus, another prescribed document, or any amendment to the prescribed document, notice in writing that the purchaser does not intend to be bound by the agreement to purchase.

(2) A beneficial owner who is not the purchaser under this section may exercise the same rights under subsection (1) as may be exercised by a purchaser.

(3) A purchaser referred to in subsection (1) who is not the beneficial owner of the securities shall advise the person or company that is the beneficial owner of the securities of the provisions of subsections (1) and (2).

(4) Subsection (3) only applies if the purchaser knows the name and address of the beneficial owner of the securities.

(5) Subsections (1) to (3) do not apply if the beneficial owner of the securities is a registrant.

(6) The receipt of the notice referred to in subsection (1) by a dealer is deemed to be receipt of the notice by the vendor of the security.

(7) The onus of proving that the time for giving notice under subsection (1) has expired is on the dealer from whom the purchaser has agreed to purchase the security.

RSA 2000 cS-4 s130;2006 c30 s28;2011 c7 s15;2015 c11 s9

Part 11

Exemptions from Prospectus Requirements

131 to 132 Repealed 2005 c18 s19.

133 to 140 Repealed 2003 c32 s16.

Reporting issuer — default

141 The Commission may publish a list of defaulting reporting issuers.

RSA 2000 cS-4 s141;2003 c32 s17;2006 c30 s29

142 and 143 Repealed 2005 c18 s20.

Discretionary exemptions

144(1) The Commission may, if the Commission considers that it would not be prejudicial to the public interest to do so, make an order granting an exemption from section 75 or 110.

(2) The Commission may, if the Commission considers that it would not be prejudicial to the public interest to do so, make an order that a trade, an intended trade or a class of trades or intended trades is deemed to be a distribution.

(3) The Commission may, if the Commission considers that it would not be prejudicial to the public interest to do so, make an order declaring whether a distribution has been concluded or is still in progress.

(4) An order under this section may be made by the Commission on its own motion or on an application of a person or company directly affected by the trade in respect of which the application is being made.

(5) An order made under subsection (1) may, at the direction of the Commission, come into force on a date prior to the date on which the order is made.

(6) A decision of the Commission under this section is final and there is no appeal from it.

RSA 2000 cS-4 s144;2007 c10 s16

Reporting issuer by declaration

145(1) On

- (a) the application of an issuer, or
- (b) the motion of the Executive Director,

the Commission may, if the Commission considers that it would not be prejudicial to the public interest to do so, make an order declaring that a person or company is a reporting issuer for the purposes of this Act and the regulations.

(2) An order under subsection (1) shall not be made without giving the person or company in respect of which the order is made an opportunity to have a hearing before the Commission.

1981 cS-6.1 s117;1984 c64 s37;1988 c7 s1(20);
1995 c28 s41;1999 c15 s28

Part 12 Continuous Disclosure

Disclosure generally

146 A reporting issuer shall, in accordance with the regulations,

- (a) provide prescribed periodic disclosure about its business and affairs,
- (b) provide disclosure of a material change, and
- (c) provide other prescribed disclosure.

RSA 2000 cS-4 s146;2003 c32 s18;2006 c30 s30

Disclosure of material fact or change

147(1) In this section, “issuer” means

- (a) a reporting issuer, or

(b) any other issuer whose securities are publicly traded.

(2) For the purposes of subsection (3), a security of an issuer includes

- (a) a put, call, option or other right or obligation to purchase or sell securities of the issuer,
- (b) a security, the market price of which varies materially with the market price of the securities of the issuer, or
- (c) a related derivative.

(3) No person or company in a special relationship with an issuer shall purchase or sell securities of the issuer with the knowledge of a material fact or material change with respect to the issuer that has not been generally disclosed.

(4) No issuer and no person or company in a special relationship with an issuer shall, other than when it is necessary in the course of business, inform another person or company of a material fact or material change with respect to the issuer before the material fact or material change has been generally disclosed.

(5) No issuer and no person or company in a special relationship with an issuer, with knowledge of a material fact or material change with respect to the issuer that has not been generally disclosed, shall recommend or encourage another person or company

- (a) to purchase or sell a security of the issuer, or
- (b) to enter into a transaction involving a security the value of which is derived from or varies materially with the market price or value of a security of the issuer.

(6) No person or company that is considering or evaluating whether, or that proposes,

- (a) to make a take-over bid, as defined in Part 14, for the securities of an issuer,
- (b) to become a party to a reorganization, amalgamation, merger, arrangement or similar business combination with an issuer, or
- (c) to acquire a substantial portion of the property of an issuer,

shall, other than when it is necessary in the course of business for the carrying out of the take-over bid, business combination or

acquisition, inform another person or company of a material fact or material change with respect to the issuer before the material fact or material change has been generally disclosed.

(7) No person or company contravenes subsection (3) if that person or company does one or more of the following:

- (a) proves that
 - (i) the person or company had knowledge of the material fact or material change by reason only that the material fact or material change was known to one or more of that person's or company's directors, officers, partners, employees or agents,
 - (ii) in the case where that person is an individual, that person did not have any actual knowledge of the material fact or material change,
 - (iii) the decision to purchase or sell the securities was made by that person's or company's director, officer, partner, employee or agent who did not have any actual knowledge of the material fact or material change, and
 - (iv) the person's or company's directors, officers, partners, employees or agents who had actual knowledge of the material fact or material change did not, with respect to the purchase or sale of the securities, give any specific advice based on that knowledge to that person's or company's director, officer, partner, employee or agent who made the decision to purchase or sell the securities;
- (b) proves that the person or company
 - (i) purchased or sold the securities as an agent for another person or company pursuant to
 - (A) an unsolicited order, or
 - (B) a solicited order given prior to the person or company that acted as agent having knowledge of the material fact or material change,
 - and
 - (ii) did not, with respect to the purchase or sale of the securities, give any specific advice to that other person or company based on the knowledge of that material fact or change;

- (c) proves that the purchase or sale of the securities was made pursuant to the person's or company's participation in an automatic dividend reinvestment plan, an automatic security purchase plan or another similar automatic plan that the person or company had entered into prior to the person or company acquiring knowledge of the material fact or material change;
 - (d) proves that the purchase or sale of the securities was made pursuant to a legal obligation that the person or company had entered into prior to the person or company acquiring knowledge of the material fact or material change;
 - (e) proves that the person or company, as an agent for another person or company, purchased or sold the securities as a result of that other person's or company's
 - (i) participation in an automatic dividend reinvestment plan, an automatic security purchase plan or another similar automatic plan, or
 - (ii) legal obligation.
- (8)** No person or company contravenes subsection (3), (4), (5) or (6) if that person or company does one or more of the following:
- (a) proves that the person or company reasonably believed that the material fact or material change had been generally disclosed;
 - (b) proves that the person or company reasonably believed that
 - (i) the other party to the purchase or sale of the securities, or
 - (ii) the other person or company informed of the material fact or material change,had prior knowledge of or ought reasonably to have known of the material fact or material change.
- (9)** Where a person or company with knowledge of a material fact or material change with respect to an issuer purchases or sells securities of that issuer for the account of another person or company while acting as agent with discretionary authority for that other person or company, the person or company for whose account the securities were purchased or sold is not to be found to have contravened subsection (3) if

- (a) the transaction was entered into without the knowledge of the person or company for whose account the securities were purchased or sold,
- (b) the material fact or material change was not communicated to the person or company for whose account the securities were purchased or sold, or
- (c) the person or company for whose account the securities were purchased or sold had actual knowledge of the material fact or material change but did not exercise influence over or make recommendations to the person or company acting as the agent with the discretionary authority.

(10) It is not a contravention of this section to provide information to the Commission.

RSA 2000 cS-4 s147;2005 c18 s21;2014 c3 s22

148 Repealed 2003 c32 s19.

149 to 152 Repealed 2006 c30 s31.

Deemed not to be a reporting issuer

153 On the application of a reporting issuer, the Commission may, if the Commission considers that it would not be prejudicial to the public interest to do so, make an order that the reporting issuer is deemed to have ceased to be a reporting issuer.

1981 cS-6.1 s125;1984 c64 s42;1988 c7 s1(41);1995 c28 s43;
1999 c15 s30

Part 13

Proxies and Proxy Solicitations

154 Repealed 2006 c30 s32.

155 and 156 Repealed 2003 c32 s24.

Voting — proxies

157(1) Notwithstanding that the form of proxy of those proxies present at a meeting specifies how a person or company whose proxy is solicited may vote the securities registered in the name of that person or company, the chair of the meeting may, subject to subsection (2), refuse to conduct a vote by way of ballot on a matter or group of matters.

- (2) At a meeting the vote shall be conducted by ballot if
- (a) a poll is demanded by any security holder present in person or represented by proxy at the meeting, or
 - (b) the proxies
 - (i) require that the securities represented by them be voted against what would otherwise be the decision of the meeting in relation to those matters or group of matters being decided, and
 - (ii) represent more than 5% of all the voting rights attached to all the securities entitled to be voted and represented at the meeting.

1981 cS-6.1 s129

Proxies and information circular

157.1(1) Where the regulations provide for the form, content, filing and sending of information circulars or form of proxy, any person or company that sends or is required to send an information circular or a form of proxy to security holders of a reporting issuer must do so in accordance with those regulations.

(2) A proxy that is executed by a security holder may confer authority, and is subject to any restrictions, as prescribed or otherwise provided for under the regulations.

2003 c32 s25

Part 14 Take-over Bids and Issuer Bids

Interpretation

158 For the purposes of this Part,

- (a) “interested person” means
 - (i) an issuer whose securities are the subject of a take-over bid, issuer bid or other offer to acquire,
 - (ii) a security holder, director or officer of an issuer described in subclause (i),
 - (iii) an offeror,
 - (iv) the Executive Director, and
 - (v) any person or company not referred to in subclauses (i) to (iv) who, in the opinion of the Commission or the

Court of Queen's Bench, as the case may be, is a proper person to make an application under section 179 or 180;

- (b) "issuer bid" means a direct or indirect offer to acquire or redeem a security or a direct or indirect acquisition or redemption of a security that is
 - (i) made by the issuer of the security, and
 - (ii) within a prescribed class of offers, acquisitions or redemptions;
- (c) "take-over bid" means a direct or indirect offer to acquire a security that is
 - (i) made directly or indirectly by a person or company other than the issuer of the security, and
 - (ii) within a prescribed class of offers to acquire.

RSA 2000 cS-4 s158;2006 c30 s33

Making a bid

159 A person or company shall not make a take-over bid or issuer bid, whether alone or acting jointly or in concert with one or more persons, except in accordance with the regulations.

RSA 2000 cS-4 s159;2006 c30 s33

Directors' or director's or officer's recommendation

160(1) When a take-over bid has been made, the directors of the issuer whose securities are the subject of the bid shall

- (a) determine whether to recommend acceptance or rejection of the bid or determine not to make a recommendation, and
- (b) make the recommendation, or a statement that they are not making a recommendation, in accordance with the regulations.

(2) An individual director or officer of the issuer described in subsection (1) may recommend acceptance or rejection of the take-over bid if the recommendation is made in accordance with the regulations.

2000 c30 s33

161 to 175 Repealed 2006 c30 s33.

176 to 178 Repealed 2006 c30 s34.

Applications to the Commission

179(1) On application by an interested person, if the Commission considers that a person has not complied or is not complying with this Part or the regulations, the Commission may make an order

- (a) restraining the distribution of any document, record or materials used or issued in connection with a take-over bid or issuer bid,
- (b) requiring an amendment to or variation of any document, record or materials used or issued in connection with a take-over bid or issuer bid and requiring the distribution of amended, varied or corrected information,
- (c) directing any person or company to comply with this Part or the regulations,
- (d) restraining any person or company from contravening this Part or the regulations, or
- (e) directing the directors and officers of any person or company to cause the person or company to comply with or to cease contravening this Part or the regulations.

(2) On application by an interested person, the Commission may order that a person or company is exempt from any requirement under this Part or the regulations if the Commission considers it would not be prejudicial to the public interest to do so.

RSA 2000 cS-4 s179;2006 c30 s35

Applications to the court

180(1) On application by an interested person, if the Court of Queen's Bench is satisfied that a person or company has not complied with this Part or the regulations, the Court of Queen's Bench may make an interim or final order as the court sees fit, including, without limitation, an order

- (a) compensating any interested person who is a party to the application for damages suffered as a result of a contravention of this Part or the regulations,
- (b) rescinding a transaction with any interested person, including the issue of a security or a purchase and sale of a security,
- (c) requiring any person or company to dispose of any securities acquired pursuant to or in connection with a take-over bid or issuer bid,

- (d) prohibiting any person or company from exercising any or all of the voting rights attached to any securities, or
 - (e) requiring the trial of an issue.
- (2) If the Executive Director is not the applicant under subsection (1), the Executive Director
- (a) must be given notice of the application, and
 - (b) is entitled to appear at the hearing and make representations to the Court of Queen's Bench.

RSA 2000 cS-4 s180;2006 c30 s36

Part 15

Insider Trading and Self-dealing

Interpretation

181(1) In this Part,

- (a) “mutual fund” means, except in section 185, a mutual fund that is a reporting issuer;
 - (b) “related mutual funds” includes more than one mutual fund under common management;
 - (c) “related person or company” means, in relation to a mutual fund, a person in whom or a company in which, the mutual fund, its management company and its distribution company are prohibited by this Part from making any investment.
- (2) For the purposes of this Part,
- (a) any issuer in which
 - (i) a mutual fund holds in excess of 10% of the voting securities, or
 - (ii) a mutual fund and related mutual funds hold in excess of 20% of the voting securities,is deemed to be a related person or company of that mutual fund or of each of those mutual funds, as the case may be;
 - (b) the acquisition or disposition of a put, call or other option with respect to a security is deemed to be a change in the beneficial ownership of the security to which the put, call or other option relates;

- (c) with respect to reporting under section 182, ownership is deemed to pass at the time
 - (i) an offer to sell is accepted by the purchaser or the purchaser's agent, or
 - (ii) an offer to buy is accepted by the vendor or the vendor's agent.

1981 cS-6.1 s146

Reports of insider

182 An insider of a reporting issuer shall file reports and make disclosure in accordance with the regulations.

RSA 2000 cS-4 s182;2006 c30 s38;2007 c10 s17

Early warning

182.1 If a person or company acquires beneficial ownership, directly or indirectly of, or direct or indirect control or direction over, securities of a prescribed type or class of a reporting issuer representing a prescribed percentage of the outstanding securities of that type or class, the person or company and any person or company acting jointly or in concert with the person or company shall make and file disclosure in accordance with the regulations and comply with any prohibitions in the regulations on transactions in securities of the reporting issuer.

2006 c30 s39

Report of a legal owner

183 If voting securities are registered in the name of a person or company other than the beneficial owner and the person or company knows that

- (a) the securities are beneficially owned by an insider, and
- (b) the insider has failed to file a report of ownership as required by this Part,

the person or company shall file with the Executive Director a report in accordance with the regulations unless the transfer to the person or company was for the purpose of giving collateral for a bona fide debt.

1981 cS-6.1 s150;1988 c7 s1(27);1995 c28 s62

Interpretation

184(1) For the purposes of sections 185 to 189,

- (a) "investment" means a purchase of any security or any class of securities of an issuer including loans to persons or companies, but does not include advances or loans, whether secured or unsecured, that

- (i) are made by a mutual fund or its management company or distribution company, and
 - (ii) are ancillary to the main business of the mutual fund or its management company or distribution company;
- (b) a person or company or a combination of persons or companies has a significant interest in an issuer, if,
- (i) in the case of a person or company, the person or company, as the case may be, owns beneficially, either directly or indirectly, more than 10%, or
 - (ii) in the case of a combination of persons or companies, they own beneficially, either individually or together and either directly or indirectly, more than 50%,
- of the outstanding shares or units of the issuer;
- (c) a person or company or a combination of persons or companies is a substantial security holder of an issuer if that person or company or combination of persons or companies owns beneficially, either individually or together or directly or indirectly, voting securities to which are attached more than 20% of the voting rights attached to all the voting securities of the issuer for the time being outstanding;
- (d) if a person or company or a combination of persons or companies owns beneficially, directly or indirectly, voting securities of an issuer, that person or company or combination of persons or companies is deemed to own beneficially a proportion of voting securities of any other issuer that are owned beneficially, directly or indirectly, by the first mentioned issuer, in a proportion that is equal to the proportion of the voting securities of the first mentioned issuer that are owned beneficially, directly or indirectly by that person or company or combination of persons or companies.
- (2)** For the purposes of subsection (1)(c), when computing the percentage of voting rights attached to voting securities owned by an underwriter there shall be excluded any voting securities acquired by the person as underwriter in a distribution of the securities up until the time of completion or cessation of the distribution by the underwriter.

1981 cS-6.1 s151

Loans and investments of mutual funds

185(1) No mutual fund shall knowingly make an investment by way of loan to

- (a) an officer or director of the mutual fund or its management company or its distribution company or an associate of any of them, or
- (b) an individual, if the individual or an associate of the individual is a substantial security holder of the mutual fund or its management company or its distribution company.

(2) No mutual fund shall knowingly make an investment

- (a) in a person or company that is a substantial security holder of the mutual fund or its management company or its distribution company,
- (b) in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder, or
- (c) in an issuer in which
 - (i) an officer or director of the mutual fund or its management company or its distribution company or an associate of any of them has a significant interest, or
 - (ii) a person or company that is a substantial security holder of the mutual fund or its management company or in which the mutual fund's distribution company has a significant interest.

(3) No mutual fund or its management company or its distribution company shall knowingly hold an investment that is an investment described in this section at any time after July 31, 1982.

1981 cS-6.1 s152

Indirect investment

186(1) No mutual fund or its management company or its distribution company shall knowingly enter into any contract or other arrangement that results in its being directly or indirectly liable or contingently liable in respect of any investment by way of loan to or other investment in a person or company

- (a) to whom it is by section 185 prohibited from making a loan, or
- (b) in which it is prohibited from making an investment.

(2) For the purpose of section 185, a contract or other arrangement referred to in subsection (1) is deemed to be a loan or an investment, as the case may be.

1981 cS-6.1 s153

187 Repealed 2006 c30 s41.

Permitted investment — mutual fund

188 A mutual fund is not prohibited from making an investment in an issuer by reason only that a person or company or a combination of persons or companies that owns beneficially, directly or indirectly, voting securities of the mutual fund or its management company or its distribution company is by reason of the investment deemed under section 184(d) to own beneficially voting securities of the issuer.

1981 cS-6.1 s155

Fees on investment

189(1) No mutual fund shall make an investment in consequence of which a related person or company of the mutual fund will receive a fee or other compensation except fees paid pursuant to a contract that is disclosed in a preliminary prospectus or prospectus that is filed by the mutual fund and is accepted by the Executive Director.

(2) The Commission may

- (a) on the application of a mutual fund, and
- (b) if the Commission considers that it would not be prejudicial to the public interest to do so,

order that subsection (1) does not apply to the mutual fund.

1981 cS-6.1 s156;1988 c7 s1(41)(43);1995 c28 s48

190 Repealed 2007 c10 s18.

Filing by management companies

191(1) Every management company shall, in respect of each mutual fund to which it provides service or advice, file a report prepared in accordance with the regulations of the following matters within 30 days from the end of the month in which the matter occurred:

- (a) every transaction of purchase or sale of securities between the mutual fund and any related person or company;

- (b) every loan
 - (i) received by the mutual fund from, or
 - (ii) made by the mutual fund to,
any of its related persons or companies;
- (c) every purchase or sale effected by the mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or from both;
- (d) every transaction, other than an arrangement relating to insider trading in portfolio securities, in which the mutual fund is a joint participant with one or more of its related persons or companies.

(2) The Commission may order that subsection (1) does not apply to any transaction or class of transactions.

1981 cS-6.1 s158;1988 c7 s1(41);1995 c28 s62

192 Repealed 2008 c26 s8.

Trades by mutual fund insiders

193 No person or company that has access to

- (a) information concerning the investment program of a mutual fund, or
- (b) the investment portfolio managed for a client by an adviser,

shall purchase or sell securities of an issuer for the person's or company's account if

- (c) the portfolio securities of
 - (i) the mutual fund, or
 - (ii) the investment portfolio managed for a client by an adviser

include securities of that issuer, and

- (d) the information is used by the person or company for the person's or company's direct benefit or advantage.

RSA 2000 cS-4 s193;2008 c26 s9

Authorized exceptions to prohibitions

193.1 If the regulations so provide, a body established under section 193.2(1) by an investment fund may approve a transaction that is prohibited under this Part, in which case the prohibition does not apply to the transaction.

2006 c30 s43

Oversight, etc., of investment funds

193.2(1) If required to do so by the regulations, an investment fund shall establish and maintain a body for the purposes of overseeing activities of the investment fund and the investment fund manager, reviewing or approving prescribed matters affecting the investment fund, including transactions referred to in section 193.1, and disclosing information to security holders of the fund, to the investment fund manager and to the Commission.

(2) The body has such powers and duties as may be prescribed by the regulations.

2006 c30 s43

Part 16 Enforcement

General offences and penalties

194(1) A person or company that contravenes Alberta securities laws is guilty of an offence and is liable to a fine of not more than \$5 000 000 or to imprisonment for a term of not more than 5 years less a day, or to both.

(2) No person or company is guilty of an offence under section 92(4.1) or 221.1 if the person or company, as the case may be, did not know, and in the exercise of reasonable diligence would not have known, that the statement referred to in that subsection was misleading or untrue or that it omitted to state a fact that was required to be stated or that was necessary to make the statement not misleading in light of the circumstances in which it was made.

(2.1) No person is guilty of an offence under section 198.1(10) if that person did not know, and in the exercise of reasonable diligence would not have known, that the act or course of conduct which that person engaged in caused that person to fail to comply with section 198.1(10).

(3) Every person or company who authorizes, permits or acquiesces in the commission of an offence under subsection (1) by another person or company, whether or not a charge has been laid or a finding of guilt has been made against the other person or company in respect of the offence under subsection (1), is also guilty of an offence and is liable to a fine of not more than

\$5 000 000 or to imprisonment for a term of not more than 5 years less one day or to both.

(4) Despite the fine under subsection (1), a person or company that contravenes section 147 is guilty of an offence and is liable to a fine of

- (a) an amount not less than the profit made or the loss avoided by the person or company because of the contravention, and
- (b) an amount not more than the greater of
 - (i) \$5 000 000, and
 - (ii) an amount equal to triple the amount of the profit made or the loss avoided by the person or company because of the contravention.

(5) If it is not possible to determine the profit made or the loss avoided by a person or company by reason of the contravention, subsection (4) does not apply and subsection (1) applies.

(6) If a person or company is guilty of an offence under this section, the court

- (a) may make an order requiring the person or company to compensate or make restitution to an aggrieved person or company, and
- (b) may make any other order that the court considers appropriate in the circumstances.

RSA 2000 cS-4 s194;2003 c32 s26;2005 c18 s22;
2008 c26 s10;2011 c7 s9;2014 c17 s30;2015 c11 s10

Interpretation

195(1) Repealed 2014 c17 s31.

(2) For the purposes of section 194(4) and (5),

- (a) “loss avoided” means the amount by which the amount received for the security sold in contravention of section 147(3) exceeds the average trading price of the security in the 20 trading days following the general disclosure of the material fact or the material change;
- (b) “profit made” means
 - (i) the amount by which the average trading price of the security in the 20 days following general disclosure of the material fact or the material change exceeds the

amount paid for the security purchased in contravention of section 147(3),

- (ii) in respect of a short sale, the amount by which the amount received for the security sold in contravention of section 147(3) exceeds the average trading price of the security in the 20 trading days following general disclosure of the material fact or the material change, or
- (iii) the value of any consideration received for informing another person or company of a material fact or material change with respect to the reporting issuer in contravention of section 147(4) or (6).

RSA 2000 cS-4 s195;2005 c18 s23;2014 c3 s23;2014 c17 s31

Extra-provincial warrant

196(1) If a provincial judge, magistrate or justice of another province or territory issues a warrant for the arrest of a person on a charge of contravening any provision of a statute or regulation of that province that is similar to this Act or the regulations, a judge of the Provincial Court or justice of Alberta within whose jurisdiction that person is or is suspected to be, may, on satisfactory proof of the handwriting of the provincial judge, magistrate or justice who issued the warrant, make an endorsement on the warrant in the form prescribed by the regulations.

(2) A warrant endorsed under subsection (1) is sufficient authority to

- (a) the person bringing the warrant,
- (b) all persons to whom the warrant was originally directed, and
- (c) all peace officers within the territorial jurisdiction of the judge of the Provincial Court or justice so endorsing the warrant,

to execute it within Alberta and to take the person arrested under it either out of or anywhere in Alberta and to re-arrest the person anywhere in Alberta.

(3) A peace officer of Alberta or of any other province or territory who is passing through Alberta having in the peace officer's custody a person arrested in another province or territory under a warrant endorsed under subsection (1) is entitled to hold, take and re-arrest the accused anywhere in Alberta under the warrant without proof of the warrant or the endorsement of it.

RSA 2000 cS-4 s196;2008 c32 s29

Declaration of non-compliance

197(1) The Executive Director, in addition to any other rights that the Executive Director or the Commission may have, may, where the Executive Director considers it to be in the public interest to do so, apply to the Court of Queen's Bench for a declaration that a person or company has not complied with or is not complying with any provision of Alberta securities laws.

(2) Before an application is made under subsection (1), neither the Executive Director nor the Commission is required to hold a hearing to determine whether the person or company has not complied with or is not complying with any provision of Alberta securities laws.

(3) If the Court makes a declaration under subsection (1), the Court may, notwithstanding

- (a) the imposition of any penalty under section 194, or
- (b) any order made under section 198 or 199,

make any order under this section that the Court considers appropriate with respect to the person or company.

(4) Without limiting the generality of subsection (3), an order made under subsection (3) may include one or more of the following:

- (a) an order that the person or company comply with the provision or the decision;
- (b) an order that the person or company purchase securities of a security holder;
- (c) an order rescinding any transaction relating to trading in securities or derivatives;
- (d) an order requiring the issuance, cancellation, purchase, exchange or disposition of a security or derivative;
- (e) an order prohibiting the voting or exercise of any other right attaching to a security or derivative;
- (f) an order appointing officers and directors in place of or in addition to all or any of the officers of the issuer that is the subject of the application;
- (g) an order directing a person or company to submit to a review by the Commission of the person's or company's

practices and procedures and to institute changes as directed by the Commission;

- (h) an order directing that the person or company repay to a security holder any part of the money paid by the security holder for a security or derivative;
- (i) an order requiring the person or company to compensate or make restitution to an aggrieved person or company;
- (j) an order requiring the person or company to pay general or punitive damages to any other person or company;
- (k) an order requiring the person or company to pay to the Minister any amounts obtained as a result of the non-compliance with any provision of Alberta securities laws.

(5) An application under this section may be made ex parte, unless the Court of Queen's Bench otherwise directs.

RSA 2000 cS-4 s197;2005 c18 s24;2006 c23 s74;
2008 c26 s19;2014 c3 ss27,28;2014 c17 s32

Cease trading order, etc.

198(1) Where the Commission considers that it is in the public interest to do so, the Commission may order one or more of the following:

- (a) that trading in or purchasing cease in respect of any security or derivative as specified in the order;
- (b) that a person or company cease trading in or purchasing securities, derivatives, specified securities or a class of securities or derivatives as specified in the order;
- (b.1) that the registration or recognition of a person or company under Alberta securities laws be suspended or restricted for such period as is specified in the order or be terminated, or that terms, conditions, restrictions or requirements be imposed on the registration or recognition;
- (b.2) that a person or company be reprimanded;
- (c) that any or all of the exemptions contained in Alberta securities laws do not apply to the person or company named in the order;
- (c.1) that a person or company is prohibited from engaging in investor relations activities;

- (d) that a person resign one or more positions that the person holds as a director or officer of an issuer, registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository or recognized quotation and trade reporting system;
- (e) that a person is prohibited from becoming or acting as a director or officer or as both a director and an officer of any issuer, or other person or company that is authorized to issue securities, registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository or recognized quotation and trade reporting system;
- (e.1) that a person or company is prohibited from advising in securities or derivatives;
- (e.2) that a person or company is prohibited from becoming or acting as a registrant, investment fund manager or promoter;
- (e.3) that a person or company is prohibited from acting in a management or consultative capacity in connection with activities in the securities market;
- (e.4) that a person or company referred to in subsection (1.01) submit to a review of its practices and procedures;
- (e.5) that a person or company referred to in subsection (1.01) make changes to its practices and procedures;
- (f) that a person or company is prohibited from disseminating to the public, or authorizing the dissemination to the public of, any information, document, record or other material of any kind that is described in the order;
- (g) that a person or company disseminate to the public, by the method, if any, described in the order, the information, document, record or other material relating to the affairs of the registrant or issuer that the Commission considers must be disseminated;
- (h) that a person or company amend, in the manner specified in the order, any information or record of any kind disseminated to the public as described in the order;
- (i) if a person or company has not complied with Alberta securities laws, that the person or company pay to the

Commission any amounts obtained or payments or losses avoided as a result of the non-compliance.

(1.01) An order under subsection (1)(e.4) or (e.5) may be made against

- (a) an exchange or a quotation and trade reporting system,
- (b) a self-regulatory organization,
- (c) a clearing agency,
- (d) a registrant,
- (e) a partner, director, officer, insider or control person of a registrant,
- (f) a person providing record-keeping services to a registrant,
- (g) a person that manages a compensation, contingency or similar fund formed to compensate clients of dealers or advisers,
- (h) an issuer,
- (i) an investment fund manager or custodian of assets or securities of an investment fund,
- (j) a transfer agent or registrar for securities of an issuer,
- (k) a director, officer, insider or control person of an issuer,
- (l) a general partner of a person or company referred to in this subsection,
- (m) a person or company that the Commission has ordered is exempt from a provision of Alberta securities laws,
- (n) a credit rating organization, or
- (o) a trade repository.

(1.1) and **(1.11)** Repealed 2014 c17 s33.

(1.2) The Commission may, after providing an opportunity to be heard, make an order under subsection (1)(a) to (h) against a director or officer of a company or of a person other than an individual who authorizes, permits or acquiesces in the contravention of Alberta securities laws or conduct contrary to the public interest.

(2) An order under subsection (1) or (1.2) is subject to any terms and conditions that the Commission may impose.

(3) The Commission shall not make an order under subsection (1) without conducting a hearing.

RSA 2000 cS-4 s198;2005 c18 s25;2006 c30 s44;
2007 c10 s19;2008 c26 ss11,19;2009 c14 s2;
2010 c10 s18;2011 c7 s10;2014 c3 ss24,27,28;2014 c17 s33

Extra-provincial orders

198.1(1) In this section,

- (a) “securities regulatory authority in Canada” means a securities commission, or another person or body, empowered by law to regulate trading in securities or derivatives in, or to administer or enforce the securities laws of, any province or territory of Canada, or any other person or body prescribed by regulation, but does not include a self-regulatory organization, exchange, clearing agency, quotation and trade reporting system, auditor oversight organization or credit rating organization;
- (b) “securities regulatory authority outside Canada” means a securities commission, a self-regulatory organization, an exchange or another person or body, empowered by law to regulate trading in securities or derivatives in, or to administer or enforce the securities laws of, any jurisdiction outside of Canada.

(2) Notwithstanding section 198(3), the Commission may, with or without providing an opportunity to be heard, make an order under section 198(1)(a) to (h) in respect of a person or company if the person or company

- (a) has been convicted in Canada or elsewhere of an offence
 - (i) arising from a transaction, business or course of conduct related to securities or derivatives, or
 - (ii) under laws respecting trading in securities or derivatives,
- (b) has been found by a court in Canada or elsewhere to have contravened laws respecting trading in securities or derivatives,
- (c) is subject to an order made by
 - (i) a securities regulatory authority outside Canada,
 - (ii) a recognized self-regulatory organization in Canada, or

- (iii) an exchange in Canada,
 - imposing sanctions, conditions, restrictions or requirements on the person or company, or
 - (d) has agreed with
 - (i) a securities regulatory authority outside Canada,
 - (ii) a recognized self-regulatory organization in Canada, or
 - (iii) an exchange in Canada,
 - to be subject to sanctions, conditions, restrictions or requirements.
- (3)** An order made by a securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements on a person or company takes effect in Alberta, without notice to that person or company and without a hearing, as if it were made by the Commission, with such modifications as the circumstances require.
- (4)** Where a person or company is subject to sanctions, conditions, restrictions or requirements pursuant to an agreement with a securities regulatory authority in Canada those sanctions, conditions, restrictions or requirements apply to that person or company, without notice to that person or company and without a hearing, as if the agreement had been made with the Commission, with such modifications as the circumstances require.
- (5)** An order referred to in subsection (3), or an agreement referred to in subsection (4), as the case may be, must have arisen as a result of findings or admissions of a contravention of laws respecting the trading in securities or derivatives, or conduct contrary to the public interest, in order to satisfy the requirements of subsection (3) or (4), as the case may be.
- (6)** If an order referred to in subsection (3), or an agreement referred to in subsection (4), as the case may be, does not meet the requirements of subsection (5), notwithstanding section 198(3), the Commission may, with or without providing an opportunity to be heard, make an order under section 198(1)(a) to (h) in respect of the person or company that is the subject of the order or agreement, as the case may be.
- (7)** If an order is made by the Commission pursuant to subsection (2) or subsection (6), the Commission must send a copy of the order to the person or company against whom the order was made.
- (8)** Notwithstanding anything in subsections (3) and (4),

- (a) no person or company shall be required to pay the Commission or any other person or company any administrative penalty, costs or other funds as a result of the operation of this section,
- (b) no order issued by, or agreement entered into with, a securities regulatory authority in Canada solely based on
 - (i) an order issued by another securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements, or
 - (ii) an agreement with another securities regulatory authority in Canada to be subject to sanctions, conditions, restrictions or requirements

satisfies the requirements of subsection (3) or (4), as the case may be,

- (c) where
 - (i) an order issued by a securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements is overturned, vacated, revoked or otherwise held to be of no force and effect pursuant to applicable laws, or
 - (ii) an agreement with another securities regulatory authority in Canada to be subject to sanctions, conditions, restrictions or requirements is set aside, revoked or otherwise held to be of no force and effect either pursuant to applicable laws or on consent of the parties to the agreement,

that order or agreement, as the case may be, ceases to satisfy the requirements of subsection (3) or (4), as the case may be, and

- (d) where
 - (i) an order issued by a securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements, other than an order excluded from this section pursuant to clause (b), is varied or amended pursuant to applicable laws, or
 - (ii) an agreement with another securities regulatory authority in Canada to be subject to sanctions, conditions, restrictions or requirements, other than an agreement excluded from this section pursuant to clause (b), is

varied or amended either pursuant to applicable laws or on consent of the parties to the agreement,

that order or agreement, as the case may be, applies in Alberta as varied or amended.

(9) On the application of

- (a) the Executive Director in respect of a person or company who is subject to sanctions, conditions, restrictions or requirements imposed by, or agreed to with, a securities regulatory authority in Canada, or
- (b) a person or company who is subject to sanctions, conditions, restrictions or requirements imposed by, or agreed to with, a securities regulatory authority in Canada,

the Commission may, after providing the Executive Director and that person or company an opportunity to be heard, make a declaration clarifying the application of subsection (3) or (4), as the case may be, to that person or company, and that declaration is binding on that person or company and the Commission.

(10) A person or company shall comply with an order that is deemed to have been made pursuant to subsection (3) or an agreement that is deemed to have been made with the Commission pursuant to subsection (4), including any declaration made by the Commission pursuant to subsection (9).

2014 c17 s34;2015 c11 s13

Administrative penalty

199(1) If the Commission, after a hearing,

- (a) determines that
 - (i) a person or company has contravened or failed to comply with any provision of Alberta securities laws, or
 - (ii) a person or company authorized, permitted or acquiesced in a contravention or failure to comply with any provision of Alberta securities laws by another person or company,

and

- (b) considers it to be in the public interest to make the order,

the Commission may order the person or company to pay an administrative penalty of not more than \$1 000 000 for each contravention or failure to comply.

(2) The Commission may make an order pursuant to this section notwithstanding the imposition of any other penalty or sanction on the person or company or the making of any other order by the Commission related to the same matter.

RSA 2000 cS-4 s199;2005 c18 s26;2006 c30 s45;2014 c17 s35

Filing decision with Court

200(1) Where the Commission has made a decision after conducting a hearing, the Commission may at any time file a certified copy of that decision with the clerk of the Court of Queen's Bench, and on being filed with the clerk of the Court of Queen's Bench that decision has the same force and effect as if it were a judgment of the Court of Queen's Bench.

(2) Where a decision filed under subsection (1) includes an administrative penalty levied pursuant to section 199, the administrative penalty in the amount specified in the decision may be collected as a judgment of the Court of Queen's Bench for the recovery of debt.

(3) Where a decision filed under subsection (1) includes an order to pay an amount pursuant to section 198(1)(i), the amount specified in the decision may be collected as a judgment of the Court of Queen's Bench for the recovery of debt.

RSA 2000 cS-4 s200;2014 c17 s36

Limitation period

201 No proceedings under this Part shall be commenced in a court or before the Commission more than 6 years from the day of the occurrence of the last event on which the proceeding is based.

RSA 2000 cS-4 s201;2014 c17 s37

Payment of costs

202(1) If, after conducting a hearing in respect of the affairs of a person or company, the Commission or the Executive Director, as the case may be, is satisfied that the person or company has contravened Alberta securities laws or acted contrary to the public interest, the Commission or the Executive Director, as the case may be, may order the person or company to pay, subject to the regulations, costs of or related to the hearing or the investigation that led to the hearing, or both.

(2) Repealed 2010 c10 s19.

(3) Where a person or company is guilty of an offence under Alberta securities laws, the Executive Director may order the person or company to pay, subject to the regulations, the costs of any investigation carried out in respect of that offence, including any costs incurred in respect of services provided by persons

appointed or engaged under section 28, 41 or 43 and the appearance of any witnesses under this Act.

(4) The Executive Director may prepare and file with the clerk of the Court of Queen's Bench a certificate certifying the amount of the costs that the person or company is required to pay under subsection (1) or (3).

(5) A certificate filed under subsection (4) with the clerk of the Court of Queen's Bench has the same force and effect as if it were a judgment of the Court of Queen's Bench for the recovery of debt in the amount specified in the certificate together with costs of filing.

(6) The *Alberta Rules of Court* with respect to costs and the review and assessment of costs do not apply to costs referred to in this section.

RSA 2000 cS-4 s202;2008 c26 s19;
2009 c53 s169;2010 c10 s19

Part 17 Civil Liability

Civil liability — prospectus

203(0.1) In this Part, “expert” means a person or company whose profession gives authority to a statement made in a professional capacity by the person or company, including, without limitation, an accountant, actuary, appraiser, auditor, engineer, financial analyst, geologist or lawyer, but not including an entity that is a designated rating organization.

(1) If a prospectus contains a misrepresentation, a purchaser who purchases a security offered by it during the period of distribution has, without regard to whether the purchaser relied on the misrepresentation, a right of action for damages against

- (a) the issuer or a selling security holder on whose behalf the distribution is made,
- (b) each underwriter of the securities that is in a contractual relationship with the issuer or selling security holder on whose behalf the distribution is made,
- (c) every director of the issuer at the time the prospectus was filed,
- (d) every person or company whose consent to disclosure of information in the prospectus has been filed but only with

respect to reports, opinions or statements that have been made by them, and

(e) every person or company who signed the prospectus.

(2) If a prospectus contains a misrepresentation, a purchaser who purchases a security offered by it during the period of distribution has, without regard to whether the purchaser relied on the misrepresentation, a right of action for rescission against

(a) the issuer or a selling security holder on whose behalf the distribution is made, and

(b) every underwriter of the securities.

(3) If the purchaser elects to exercise a right of action for rescission against a person or company, the purchaser shall have no right of action for damages against that person or company.

(4) No person or company is liable under subsection (1) or (2) if the person or company proves that the purchaser purchased the securities with knowledge of the misrepresentation.

(5) No person or company, other than the issuer or selling security holder, is liable under subsection (1) or (2) if the person or company proves

(a) that the prospectus was filed without the person's or company's knowledge or consent and that, on becoming aware of its filing, the person or company promptly advised the Executive Director and gave reasonable general notice that it was so filed;

(b) that, after the issue of a receipt for the prospectus and before the purchase of the securities by the purchaser, on becoming aware of any misrepresentation in the prospectus the person or company withdrew the person's or company's consent to it and advised the Executive Director and gave reasonable general notice of the withdrawal and the reason for it;

(c) that, with respect to any part of the prospectus purporting to be made on the authority of an expert or purporting to be a copy of or an extract from a report, opinion or statement of an expert, the person or company had no reasonable grounds to believe and did not believe that

(i) there had been a misrepresentation,

(ii) the part of the prospectus did not fairly represent the report, opinion or statement of the expert, or

- (iii) the part of the prospectus was not a fair copy of or extract from the report, opinion or statement of the expert;
 - (d) that, with respect to any part of the prospectus purporting to be made on the person's or company's own authority as an expert or purporting to be a copy of or an extract from the person's or company's own report, opinion or statement as an expert, but that contains a misrepresentation attributable to a failure to represent fairly the person's or company's report, opinion or statement as an expert,
 - (i) the person or company had, after reasonable investigation, reasonable grounds to believe and did believe that the part of the prospectus fairly represented the person's or company's report, opinion or statement, or
 - (ii) on becoming aware that the part of the prospectus did not fairly represent the person's or company's report, opinion or statement as an expert, the person or company promptly advised the Executive Director and gave reasonable general notice that misuse had been made of it and that the person or company would not be responsible for that part of the prospectus;
 - (e) that, with respect to a false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document,
 - (i) it was a correct and fair representation of the statement or copy of or extract from the document, and
 - (ii) the person or company had reasonable grounds to believe and did believe that the statement was true.
- (6)** No person or company, other than the issuer or selling security holder, is liable under subsection (1) or (2) with respect to any part of the prospectus purporting to be made on the person's or company's own authority as an expert or purporting to be a copy of or an extract from the person's or company's own report, opinion or statement as an expert if the person or company proves that, after conducting a reasonable investigation, the person or company had no reasonable grounds to believe, and did not believe, that there was a misrepresentation.
- (7)** No person or company, other than the issuer or selling security holder, is liable under subsection (1) or (2) with respect to any part

of the prospectus not purporting to be made on the authority of an expert and not purporting to be a copy of or an extract from a report, opinion or statement of an expert if the person or company proves that, after conducting a reasonable investigation, the person or company had no reasonable grounds to believe, and did not believe, that there was a misrepresentation.

(8) No underwriter is liable for more than the total public offering price represented by the portion of the distribution underwritten by the underwriter.

(9) In an action for damages pursuant to subsection (1), the defendant is not liable for all or any portion of the damages that the defendant proves do not represent the depreciation in value of the security as a result of the misrepresentation relied on.

(10) Subject to subsections (8) and (13.1), all or any one or more of the persons or companies specified in subsection (1) that are found to be liable or that accept liability under this section are jointly and severally liable.

(11) If in a distribution of securities

- (a) no receipt for a prospectus was issued,
- (b) no exemption exists or was given exempting the filing of a prospectus, and
- (c) a misrepresentation existed in respect of the distribution,

each purchaser of the securities has a right of rescission and a right of action for damages as if a prospectus containing a misrepresentation had been filed in respect of the distribution.

(12) Repealed 2005 c18 s27.

(13) The amount recoverable under this section shall not exceed the price at which the securities were offered to the public.

(13.1) A defendant who is found liable to pay a sum in damages may recover a contribution, in whole or in part, from a person who is jointly and severally liable under this section to make the same payment in the same cause of action unless, in all circumstances of the case, the court is satisfied that it would not be just and equitable.

(14) The right of action for rescission or damages conferred by this section is in addition to and does not derogate from any other right that the purchaser may have at law.

(14.1) The defences provided under this section are in addition to and do not derogate from any other defences that the defendant may have at law.

(15) If a misrepresentation is contained in a record incorporated by reference in, or deemed incorporated into, a prospectus, the misrepresentation is deemed to be contained in the prospectus.

RSA 2000 cS-4 s203;2003 c32 s27;2005 c18 s27;
2006 c30 s46;2007 c10 s20;2014 c17 s38;2016 c13 s12

Civil liability — offering memorandum or other prescribed offering documents

204(1) If a person or company purchases securities offered by an offering memorandum or other prescribed offering document that contains a misrepresentation, the purchaser has, without regard to whether the purchaser relied on the misrepresentation, a right of action

- (a) for damages against
 - (i) the issuer or selling security holder on whose behalf the distribution is made,
 - (ii) every director of the issuer at the date of the document, and
 - (iii) every person or company who signed the document,and
- (b) for rescission against the issuer or selling security holder on whose behalf the distribution is made.

(2) Notwithstanding subsection (1)(b), if the purchaser elects to exercise a right of rescission against the issuer, the purchaser has no right of action for damages against a person or company referred to in subsection (1)(a).

(3) Where a misrepresentation is contained in an offering memorandum or other prescribed offering document, no person or company is liable under subsection (1) if the person or company proves that

- (a) the purchaser had knowledge of the misrepresentation,
- (b) the document was sent to the purchaser without the person's or company's knowledge or consent and, on becoming aware of its being sent, the person or company promptly gave reasonable notice to the Executive Director and the

issuer that it was sent without the knowledge and consent of the person or company,

- (c) the person or company, after the sending of the document and before the purchase of the securities, on becoming aware of the misrepresentation in the document, withdrew the person's or company's consent to the document and gave reasonable notice to the Executive Director and the issuer of the withdrawal and the reason for it,
- (d) with respect to any part of the document purporting to be made on the authority of an expert or purporting to be a fair copy of, or an extract from, a report, opinion or statement of an expert, the person or company did not have any reasonable grounds to believe, and did not believe, that
 - (i) there had been a misrepresentation, or
 - (ii) the relevant part of the document
 - (A) did not fairly represent the report, opinion or statement of the expert, or
 - (B) was not a fair copy of, or an extract from, the report, opinion or statement of the expert,

or

- (e) with respect to any part of the document not purporting to be made on the authority of an expert and not purporting to be a copy of, or an extract from, a report, opinion or statement of an expert, after conducting a reasonable investigation, the person or company had no reasonable grounds to believe, and did not believe, that there was a misrepresentation.

(4) The amount recoverable under this section shall not exceed the price at which the securities were offered under the offering memorandum or other prescribed offering document.

(5) Subsection (3)(b) to (e) do not apply to the issuer.

(6) In an action for damages pursuant to subsection (1), the defendant is not liable for all or any part of the damages that the defendant proves do not represent the depreciation in value of the security as a result of the misrepresentation.

(7) Subject to subsection (8), all or any one or more of the persons or companies specified in subsection (1) that are found to be liable

or that accept liability under this section are jointly and severally liable.

(8) A defendant who is found liable to pay a sum in damages may recover a contribution, in whole or in part, from a person who is jointly and severally liable under this section to make the same payment in the same cause of action unless, in all circumstances of the case, the court is satisfied that it would not be just and equitable.

(8.1) Despite subsections (7) and (8), an issuer is not liable if it does not receive any proceeds from the distribution and the misrepresentation was not based on information provided by the issuer, unless the misrepresentation

- (a) was based on information that was previously generally disclosed by the issuer,
- (b) was a misrepresentation at the time of that disclosure, and
- (c) was not subsequently publicly corrected or superseded by the issuer before the completion of the distribution.

(9) The right of action for rescission or damages conferred by this section is in addition to and does not derogate from any other right that the purchaser may have at law.

(9.1) The defences provided under this section are in addition to and do not derogate from any other defences that the defendant may have at law.

(10) If a misrepresentation is contained in a record incorporated by reference in, or deemed incorporated into, an offering memorandum or other prescribed offering document, the misrepresentation is deemed to be contained in the offering memorandum or other prescribed offering document.

RSA 2000 cS-4 s204;2003 c32 s28;2007 c10 s21;2016 c13 s13

Civil liability — circular

205(1) If a take-over bid circular or a notice of change or variation is sent to the holders of securities of an offeree issuer or to the holders of securities convertible into securities of an offeree issuer as required under the regulations and that document contains a misrepresentation, each of those holders may, without regard to whether the holders relied on the misrepresentation, elect to exercise a right of action

- (a) for rescission or damages against the offeror, or
- (b) for damages against

- (i) every person who, at the time the circular or notice was signed, was a director of the offeror,
- (ii) every person or company whose consent has been filed, but only with respect to reports, opinions or statements that have been made by them, and
- (iii) each person who signed a certificate in the circular or notice.

(2) If a directors' circular or an individual director's or officer's circular or any notice of change or variation to one of those circulars is sent to security holders of an offeree issuer as required under the regulations and that document contains a misrepresentation, each of the persons or companies to whom the circular or notice was sent, without regard to whether the holders relied on the misrepresentation,

- (a) in respect of a misrepresentation in a directors' circular or a notice of change or variation to it, has a right of action for damages against
 - (i) every director or officer who signed the circular or notice of change or variation, and
 - (ii) every person or company whose consent has been filed, but only with respect to reports, opinions or statements that have been made by them,

and

- (b) in respect of a misrepresentation in an individual director's or officer's circular or a notice of change or variation to it, has a right of action for damages against
 - (i) every director or officer who signed the circular or notice of change or variation, and
 - (ii) every person or company whose consent has been filed, but only with respect to reports, opinions or statements that have been made by them.

(3) The provisions of subsection (1) apply to an issuer bid circular or a notice of change or variation that contains a misrepresentation.

(4) No person or company is liable under subsection (1), (2) or (3) if the person or company proves that the security holder had knowledge of the misrepresentation.

- (5) No person or company, other than the offeror, is liable under subsection (1), (2) or (3) if the person or company proves that
- (a) the circular or the notice of change or variation in respect of it, as the case may be, was sent without the person's or company's knowledge or consent and that, on becoming aware of it, the person or company promptly advised the Executive Director and gave reasonable general notice that it was so sent;
 - (b) after the sending of the circular or the notice of change or variation in respect of it, as the case may be, on becoming aware of any misrepresentation in the circular or the notice of change or variation in respect of it, the person or company withdrew the person's or company's consent to it and promptly advised the Executive Director and gave reasonable general notice of the withdrawal and the reason for it;
 - (c) with respect to any part of the circular or the notice of change or variation in respect of it purporting to be made on the authority of an expert or purporting to be a copy of or an extract from a report, opinion or statement of an expert, the person or company had no reasonable grounds to believe and did not believe
 - (i) that there had been a misrepresentation,
 - (ii) that the part of the circular or the change or variation did not fairly represent the report, opinion or statement of the expert, or
 - (iii) that the part of the circular or the change or variation was not a fair copy of or extract from the report, opinion or statement of the expert;
 - (d) with respect to any part of the circular or the notice of change or variation in respect of it purporting to be made on the person's or company's own authority as an expert or purporting to be a copy of or an extract from the person's or company's own report, opinion or statement as an expert, but that contains a misrepresentation attributable to a failure to represent fairly the person's or company's report, opinion or statement as an expert,
 - (i) the person or company had, after conducting a reasonable investigation, reasonable grounds to believe and did believe that the part of the circular fairly

represented the person's or company's report, opinion or statement as an expert, or

(ii) on becoming aware that the part of the circular did not fairly represent the person's or company's report, opinion or statement as an expert, the person or company promptly advised the Executive Director and gave reasonable general notice that misuse had been made of it and that the person or company would not be responsible for that part of the circular;

(e) with respect to a false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document,

(i) it was a correct and fair representation of the statement or copy of or extract from the document, and

(ii) the person or company had reasonable grounds to believe and did believe that the statement was true.

(6) No person or company, other than the offeror, is liable under subsection (1), (2) or (3) with respect to any part of the circular or the notice of change or variation in respect of it purporting to be made on the person's or company's own authority as an expert or purporting to be a copy of or an extract from the person's or company's own report, opinion or statement as an expert if the person or company proves that, after conducting a reasonable investigation, the person or company had no reasonable grounds to believe, and did not believe, that there was a misrepresentation.

(7) No person or company, other than the offeror, is liable under subsection (1), (2) or (3) with respect to any part of the circular or the notice of change or variation in respect of it not purporting to be made on the authority of an expert and not purporting to be a copy of or an extract from a report, opinion or statement of an expert if the person or company proves that, after conducting a reasonable investigation, the person or company had no reasonable grounds to believe, and did not believe, that there was a misrepresentation.

(8) Subject to subsection (10.1), all or any one or more of the persons or companies specified in subsection (1), (2) or (3) that are found to be liable or that accept liability under this section are jointly and severally liable.

(9) In an action for damages pursuant to subsection (1), (2) or (3) based on a misrepresentation affecting a security offered by the offeror in exchange for securities of the offeree issuer, the

defendant is not liable for all or any portion of the damages that the defendant proves do not represent the depreciation in value of the security as a result of the misrepresentation.

(10) Repealed 2006 c30 s47.

(10.1) A defendant who is found liable to pay a sum in damages may recover a contribution, in whole or in part, from a person who is jointly and severally liable under this section to make the same payment in the same cause of action unless, in all circumstances of the case, the court is satisfied that it would not be just and equitable.

(11) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right that the security holders may have at law.

(11.1) The defences provided under this section are in addition to and do not derogate from any other defences that the defendant may have at law.

(12) If a misrepresentation is contained in a record incorporated by reference in, or deemed incorporated into, a circular or a notice of change or variation, the misrepresentation is deemed to be contained in the circular or the notice of change or variation.

RSA 2000 cS-4 s205;2003 c32 s29;2006 c30 s47;
2007 c10 s22;2016 c13 s14

Defence to liability for misrepresentation

205.1(1) A person or company is not liable in an action under section 203, 204 or 205 for a misrepresentation in forward-looking information if the person or company proves all of the following:

- (a) the document containing the forward-looking information contained, proximate to that information,
 - (i) reasonable cautionary language identifying the forward-looking information as such, and identifying material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the forward-looking information, and
 - (ii) a statement of the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information;
- (b) the person or company had a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the forward-looking information.

(2) Subsection (1) does not relieve a person or company of liability respecting forward-looking information in a financial statement or forward-looking information in a document released in connection with an initial public offering.

2006 c30 s48;2008 c26 s12

Liability of dealer, offeror or issuer

206 A person who is

- (a) a purchaser of a security to whom a prospectus or any amendment to a prospectus was required to be sent in compliance with section 129, but was not so sent,
- (b) a security holder of an offeree issuer or another person or company that is not a security holder of an offeree issuer to which
 - (i) a take-over bid and take-over bid circular,
 - (ii) an issuer bid and issuer bid circular, or
 - (iii) a notice of change or variation to a bid or circular referred to in subclause (i) or (ii)

was required to be sent under the regulations, but was not so sent, or

- (c) a purchaser of a security to whom an offering memorandum or other prescribed offering document was required to be sent in compliance with Alberta securities laws but was not sent within the time prescribed for sending the document,

has a right of action for rescission or damages against the dealer, offeror or issuer, as the case may be, who did not comply with the applicable requirement.

RSA 2000 cS-4 s206;2003 c32 s30;2006 c30 s49;
2011 c7 s15;2015 c11 s11;2016 c13 s15

Liability — material fact or change

207(0.1) In this section, “reporting issuer” includes any other issuer whose securities are publicly traded.

(1) Every person or company in a special relationship with a reporting issuer that

- (a) purchases or sells securities of the reporting issuer, and
- (b) has knowledge of a material fact or material change in respect of the reporting issuer that has not been generally disclosed,

is liable to compensate the seller or purchaser of the securities, as the case may be, for damages as a result of the trade.

(2) Subsection (1) does not apply to the person or company if the person or company

- (a) proves that the person or company reasonably believed that the material fact or material change had been generally disclosed;
- (b) proves that the material fact or material change was known or ought reasonably to have been known to the seller or purchaser, as the case may be;
- (c) proves that
 - (i) the person or company had knowledge of the material fact or material change by reason only that the material fact or material change was known to one or more of that person's or company's directors, officers, partners, employees or agents,
 - (ii) in the case where that person is an individual, that person did not have any actual knowledge of the material fact or material change,
 - (iii) the decision to purchase or sell the securities was made by that person's or company's director, officer, partner, employee or agent who did not have any actual knowledge of the material fact or material change, and
 - (iv) the person's or company's director, officer, partner, employee or agent who had actual knowledge of the material fact or material change did not, with respect to the purchase or sale of the securities, give any specific advice based on that knowledge to that person's or company's director, officer, partner, employee or agent who made the decision to purchase or sell the securities;
- (d) proves that the person or company
 - (i) purchased or sold the securities as an agent for another person or company pursuant to
 - (A) an unsolicited order, or
 - (B) a solicited order given prior to the person or company that acted as agent having knowledge of the material fact or material change,

and

- (ii) did not, with respect to the purchase or sale of the securities, give any specific advice to that other person or company based on the knowledge of that material fact or change;
 - (e) proves that the purchase or sale of the securities was made pursuant to the person's or company's participation in an automatic dividend reinvestment plan, an automatic security purchase plan or another similar automatic plan that the person or company had entered into prior to the person or company acquiring knowledge of the material fact or material change;
 - (f) proves that the purchase or sale of the securities was made pursuant to a legal obligation that the person or company had entered into prior to the person or company acquiring knowledge of the material fact or material change;
 - (g) proves that the person or company, as an agent for another person or company, purchased or sold the securities as a result of that other person's or company's
 - (i) participation in an automatic dividend reinvestment plan, an automatic security purchase plan or another similar automatic plan, or
 - (ii) legal obligation.
- (3) Every**
- (a) reporting issuer,
 - (b) person or company in a special relationship with a reporting issuer, or
 - (c) person or company that proposes
 - (i) to make a take-over bid, as defined in Part 14, for the securities of a reporting issuer,
 - (ii) to become a party to a reorganization, amalgamation, merger, arrangement or similar business combination with a reporting issuer, or
 - (iii) to acquire a substantial portion of the property of a reporting issuer,

who informs another person or company of a material fact or material change with respect to that reporting issuer that has not been generally disclosed is liable to compensate for damages any person or company that afterwards sells securities of the reporting issuer to or purchases securities of the reporting issuer from, the person or company that received the information.

(4) Subsection (3) does not apply if

- (a) the person or company that informed the other person or company proves that the informing person or company reasonably believed that the material fact or material change had been generally disclosed,
- (b) the material fact or material change was known or ought reasonably to have been known to the seller or purchaser, as the case may be,
- (c) in the case of an action against a reporting issuer or a person or company in a special relationship with the reporting issuer, the information was given when it was necessary in the course of business, or
- (d) in the case of an action against a person or company described in subsection (3)(c)(i), (ii) or (iii), the information was given when it was necessary in the course of business for the carrying out of the take-over bid, business combination or acquisition.

(5) Every person or company in a special relationship with a reporting issuer

- (a) who is an insider or an associate or an affiliate of the reporting issuer, and
- (b) who
 - (i) purchases or sells the securities of the reporting issuer with knowledge of a material fact or material change in respect of the reporting issuer that has not been generally disclosed, or
 - (ii) directly or indirectly communicates, other than when it is necessary in the course of business, knowledge of a material fact or material change in respect of the reporting issuer that has not been generally disclosed,

is accountable to the reporting issuer for any benefit or advantage received or receivable by the person or company as a result of the purchase, sale or communication, as the case may be.

(6) Subsection (5) does not apply if the person or company in the special relationship proves that the person or company reasonably believed that the material fact or material change had been generally disclosed.

(7) Any person or company that has access to information concerning

- (a) the investment program of a mutual fund, or
- (b) the investment portfolio managed for a client by an adviser

and uses the information for the person's or company's direct benefit or advantage to purchase or sell securities of an issuer for the person's or company's accounts is accountable to the mutual fund or the client of the adviser for any benefit or advantage received or receivable as a result of the purchase or sale.

(7.1) Every person or company that is in a special relationship with a reporting issuer and that contravenes section 147(5) is liable to compensate the seller or purchaser of the securities, as the case may be, or the person or company that entered into a transaction as described in section 147(5) for damages as a result of the trade or transaction.

(7.2) Subsection (7.1) does not apply if the person or company in the special relationship proves that the person or company reasonably believed that

- (a) the material fact or material change had been generally disclosed, or
- (b) the other party to the purchase or sale of the securities or to a transaction as described in section 147(5), or the other person or company informed of the material fact or material change, had prior knowledge of or ought reasonably to have known of the material fact or material change.

(7.3) A person or company that contravenes section 93.3 is liable to compensate a person or company described in section 93.3(1)(a) or (c), as the case may be, in an amount equal to the benefit that the contravening person or company received as a result of the contravention.

(8) All or any one or more of the persons or companies

- (a) in a special relationship with a reporting issuer, and
- (b) liable under subsection (1), (3), (7.1) or (7.3),

as to the same transaction or series of transactions, are jointly and severally liable.

(9) In assessing damages under subsection (1), (3), (7.1) or (7.3), the court shall consider,

- (a) if the plaintiff is a purchaser, the price that the plaintiff paid for the security less the weighted average market price of the security as determined with respect to the first 20 trading days for that security following the general disclosure of the material fact or material change, or
- (b) if the plaintiff is a vendor, the weighted average market price of the security as determined with respect to the first 20 trading days for that security following the general disclosure of the material fact or material change less the price that the plaintiff received for the security.

(10) Notwithstanding subsection (9), the court may consider any other measure of damages that is relevant in the circumstances.

(11) For the purpose of subsections (1), (3), (5), (7.1) and (7.3), a security of the reporting issuer includes

- (a) a put, call, option or other right or obligation to purchase or sell securities of the reporting issuer,
- (b) a security the market price of which varies materially with the market price of the securities of the reporting issuer, or
- (c) a related derivative.

RSA 2000 cS-4 s207;2008 c26 s13;2014 c3 s25;
2016 c9 s16

Action by the Executive Director

208(1) On application by the Executive Director or by any person or company that was at the time of a transaction referred to in section 207(1) or (3), or is at the time of the application, a security holder of the issuer, the Court of Queen's Bench may make an order

- (a) requiring the Executive Director, or
- (b) authorizing the person or company or the Executive Director,

to commence or continue an action in the name of and on behalf of the issuer to enforce the liability created by section 207(5).

(2) The Court shall not make an order under subsection (1) unless it is satisfied that

- (a) the Executive Director or the person or company has reasonable grounds for believing that the issuer has a cause of action under section 207(5), and
- (b) either
 - (i) the issuer has refused or failed to commence an action under section 207 within 60 days from the day that it received a written request from the Executive Director or the person or company to do so, or
 - (ii) the issuer has failed to prosecute diligently an action commenced by it under section 207.

(3) On application by the Executive Director or by any person or company that was at the time of a transaction referred to in section 207(7), or is at the time of the application, a security holder of the investment fund, the Court of Queen's Bench may make an order,

- (a) requiring the Executive Director, or
- (b) authorizing the person or company or the Executive Director,

to commence and prosecute or to continue an action in the name of and on behalf of the investment fund to enforce the liability created by section 207(7).

(4) The Court shall not make an order under subsection (3) unless it is satisfied that

- (a) the Executive Director or the person or company has reasonable grounds for believing that the investment fund has a cause of action under section 207(7), and
- (b) the investment fund has either
 - (i) refused or failed to commence an action under section 207(7) within 60 days from the day that it received a written request from the Executive Director or the person or company to do so, or
 - (ii) failed to prosecute diligently an action commenced by it under section 207(7).

(5) If an action under section 207(5) or (7) is commenced, commenced and prosecuted or continued, by the directors of an

issuer, the Court of Queen's Bench may order that the costs properly incurred by the directors in commencing, commencing and prosecuting or continuing the action, as the case may be, shall be paid by the issuer, if the Court is satisfied that the action was, on its face, in the best interests of the issuer and its security holders.

(6) If an action under section 207(5) or (7) is commenced, commenced and prosecuted or continued, by a person or company that is a security holder of the issuer, the Court of Queen's Bench may order that the costs properly incurred by that person or company in commencing, commencing and prosecuting or continuing the action, as the case may be, must be paid by the issuer, if the Court is satisfied that

- (a) the issuer failed to commence the action or had commenced it but had failed to prosecute it diligently, and
- (b) the continuance of the action is, on its face, in the best interests of the issuer and the security holders of the issuer.

(7) When an action under section 207(5) or (7) is commenced, commenced and prosecuted or continued, by the Executive Director, the Court of Queen's Bench shall order the issuer to pay all costs properly incurred by the Executive Director in commencing, commencing and prosecuting or continuing the action, as the case may be.

(8) In determining whether an action or its continuance is, on its face, in the best interests of an issuer and its security holders, the Court shall consider the relationship between

- (a) the potential benefit to be derived from the action by the issuer and its security holders, and
- (b) the cost involved in respect of the action.

(9) Notice of every application under subsection (1) or (3) must be given to the Executive Director, the issuer, or the investment fund, as the case may be, and each of them may appear and be heard.

(10) In every action commenced, commenced and prosecuted or continued by the Executive Director under this section, the issuer or investment fund, as the case may be, shall provide to the Executive Director all books, records, documents and other material or information

- (a) that are
 - (i) known to the issuer or investment fund, or

- (ii) reasonably ascertainable by the issuer or investment fund, and
- (b) that are relevant to the action.

RSA 2000 cS-4 s208;2006 c30 s50;2014 c17 s39

Rescission of contract

209(1) If section 94(1) applies to a contract and the section is not complied with, a person or company that has entered into the contract may rescind the contract only if the person or company is the owner of the securities at the time notice for rescission is given.

(2) A person or company may rescind a contract under subsection (1) by sending written notice of rescission to the registered dealer within 60 days from the day of the delivery of the security to or by the person, as the case may be.

(3) If section 90(1) applies to a contract and a registered dealer has failed to comply with the regulations by not disclosing that the registered dealer acted as principal, a person or company that has entered into the contract may rescind the contract.

(4) A person or company may rescind a contract under subsection (3) by sending written notice of rescission to the registered dealer within 7 days from the day of the delivery of the written confirmation of the contract.

(5) In an action respecting a rescission to which this section applies, the onus of proving compliance with section 90 or 94 is on the registered dealer.

(6) No action respecting a rescission under this section shall be commenced after the expiration of a period of 90 days from the day of the sending of the notice under subsection (2) or (4).

1981 cS-6.1 s173;1994 c23 s43

Rescission re offering memorandum or other prescribed offering document

209.1 A purchaser of a security to whom an offering memorandum or other prescribed offering document is required to be sent may rescind the contract to purchase the security by sending written notice to the issuer not later than midnight on the 2nd day, exclusive of Saturdays and holidays, after the purchaser signs the agreement to purchase the securities.

2003 c32 s31;2016 c13 s17

Rescission by purchaser — mutual fund

210(1) Every purchaser of a security of a mutual fund may, if the amount of the purchase does not exceed the sum of \$50 000, rescind the purchase.

(2) A purchaser may rescind a purchase under subsection (1) by sending written notice of the rescission to the registered dealer from whom the purchase was made within

- (a) 48 hours from the time the purchaser received the confirmation for a lump sum purchase, or
- (b) 60 days from the day the purchaser received the confirmation for the initial payment under a contractual plan.

(3) Subject to subsection (5), the amount the purchaser is entitled to recover on exercise of the right to rescind under this section shall not exceed the net asset value of the securities purchased at the time the right to rescind is exercised.

(4) The right to rescind a purchase made under a contractual plan may be exercised only with respect to payments scheduled to be made within the time specified in subsection (2) for rescinding a purchase made under a contractual plan.

(5) Every registered dealer from whom the purchase was made shall reimburse the purchaser who has exercised the purchaser's right of rescission in accordance with this section for the amount of sales charges and fees relevant to the investment of the purchaser in the mutual fund in respect of the shares or units of which the notice of rescission was given.

2009 c14 s3

Class proceedings

210.1(1) In a class proceeding to enforce a right or obligation created by this Part, a copy of the application to certify the class and any material filed with the Court must be sent to the Executive Director when filed.

(2) The representative plaintiff must provide the Executive Director with written notice of the day on which the application is scheduled to be heard at the same time that notice of the day is given to each defendant.

(3) If a party appeals the court's decision on whether the class is certified,

- (a) each party to the appeal must provide a copy of any materials filed with the Court hearing the appeal to the Executive Director at the same time that they are filed with the Court, and
 - (b) the appellant must provide the Executive Director with written notice of the day on which the appeal is scheduled to be heard at the same time that notice of the day is given to each respondent.
- (4) If the class is certified, the representative plaintiff must provide the Executive Director with written notice of the day on which the trial of the action is scheduled to proceed at the same time that notice of the day is given to each defendant.
- (5) If a party appeals the Court's decision at the trial of the action,
- (a) each party to the appeal must provide a copy of any materials filed with the Court hearing the appeal to the Executive Director at the same time that they are filed with the Court, and
 - (b) the appellant must provide the Executive Director with written notice of the day on which the appeal is scheduled to be heard at the same time that notice of the day is given to each respondent.

2014 c17 s40

Executive Director may intervene

210.2 The Executive Director may intervene in a class proceeding to enforce a right or obligation created by this Part, in an application to certify the class and in any appeal from the Court's decision at the trial of the action or from a decision on whether the class is certified.

2014 c17 s40

Limitation period

211 Unless otherwise provided in this Act, no action may be commenced to enforce a right created by this Part,

- (a) in the case of an action for rescission, more than 180 days from the day on which the transaction that gave rise to the cause of action was completed, or
- (b) in the case of any other action, later than the earlier of
 - (i) 180 days from the day that the plaintiff first had knowledge of the facts giving rise to the cause of action, and

- (ii) 3 years from the day on which the transaction, contravention or alleged contravention, as the case may be, that gave rise to the cause of action was completed or committed, as the case may be.

RSA 2000 cS-4 s211;2003 c32 s32;2016 c13 s18

Part 17.01

Civil Liability for Secondary Market Disclosure

Definitions

211.01 In this Part,

- (a) “compensation” means compensation received during the 12-month period immediately preceding the day on which the misrepresentation was made or on which the failure to make timely disclosure first occurred, together with the fair market value of all deferred compensation including, without limitation, options, pension benefits and stock appreciation rights, granted during the same period, valued as of the date that such compensation is awarded;
- (b) “core document” means,
 - (i) where used in relation to
 - (A) a director of a responsible issuer who is not also an officer of the responsible issuer,
 - (B) an influential person, other than an officer of the responsible issuer or an investment fund manager where the responsible issuer is an investment fund, or
 - (C) a director or officer of an influential person who is not also an officer of the responsible issuer, other than an officer of an investment fund manager,

a prospectus, a take-over bid circular, an issuer bid circular, a directors’ circular, a notice of change or variation in respect of any of those circulars, a rights offering circular, management’s discussion and analysis, an annual information form, an information circular, annual financial statements and an interim financial report of the responsible issuer,
 - (ii) where used in relation to
 - (A) a responsible issuer or an officer of the responsible issuer,

- (B) an investment fund manager where the responsible issuer is an investment fund, or
- (C) an officer of an investment fund manager where the responsible issuer is an investment fund,
 - a prospectus, a take-over bid circular, an issuer bid circular, a directors' circular, a notice of change or variation in respect of any of those circulars, a rights offering circular, management's discussion and analysis, an annual information form, an information circular, annual financial statements, an interim financial report and a material change report required under section 146 of the responsible issuer, and
 - (iii) such other documents as may be prescribed by regulation for the purpose of this definition;
- (c) "document" means any written communication, including a communication prepared and transmitted only in electronic form,
 - (i) that is required to be filed with the Commission, or
 - (ii) that is not required to be filed with the Commission and
 - (A) that is filed with the Commission,
 - (B) that is filed or required to be filed with a government or an agency of a government under applicable securities or corporate law or with any exchange or quotation and trade reporting system under its bylaws, rules or regulations, or
 - (C) that is any other communication the content of which would reasonably be expected to affect the market price or value of a security of the responsible issuer;
- (d) "expert" means a person or company whose profession gives authority to a statement made in a professional capacity by the person or company, including, without limitation, an accountant, actuary, appraiser, auditor, engineer, financial analyst, geologist or lawyer but not including an entity that is a designated rating organization;
- (e) "failure to make timely disclosure" means a failure to disclose a material change in the manner and at the time required under this Act;

- (f) “influential person” means, in respect of a responsible issuer,
 - (i) a control person,
 - (ii) a promoter,
 - (iii) an insider who is not a director or officer of the responsible issuer, or
 - (iv) an investment fund manager, if the responsible issuer is an investment fund;
- (g) “issuer’s security” means a security of a responsible issuer and includes a security
 - (i) the market price or value of which, or payment obligations under which, are derived from or based on a security of the responsible issuer, and
 - (ii) that is created by a person or company on behalf of the responsible issuer or is guaranteed by the responsible issuer;
- (h) “liability limit” means,
 - (i) in the case of a responsible issuer, the greater of
 - (A) 5% of its market capitalization as defined in the regulations, and
 - (B) \$1 000 000,
 - (ii) in the case of a director or officer of a responsible issuer, the greater of
 - (A) \$25 000, and
 - (B) 50% of the aggregate of the director’s or officer’s compensation from the responsible issuer and its affiliates,
 - (iii) in the case of an influential person who is not an individual, the greater of
 - (A) 5% of its market capitalization as defined in the regulations, and
 - (B) \$1 000 000,

- (iv) in the case of an influential person who is an individual, the greater of
 - (A) \$25 000, and
 - (B) 50% of the aggregate of the influential person's compensation from the responsible issuer and its affiliates,
 - (v) in the case of a director or officer of an influential person, the greater of
 - (A) \$25 000, and
 - (B) 50% of the aggregate of the director's or officer's compensation from the influential person and its affiliates,
 - (vi) in the case of an expert, the greater of
 - (A) \$1 000 000, and
 - (B) the revenue that the expert and the affiliates of the expert have earned from the responsible issuer and its affiliates during the 12 months preceding the misrepresentation,
- and
- (vii) in the case of each person who made a public oral statement, other than an individual referred to in subclause (iv), (v) or (vi), the greater of
 - (A) \$25 000, and
 - (B) 50% of the aggregate of the person's compensation from the responsible issuer and its affiliates;
 - (i) "management's discussion and analysis" means the section of an annual information form, annual report or other document that contains management's discussion and analysis of the financial condition and financial performance of a responsible issuer as required under Alberta securities laws;
 - (j) "public oral statement" means an oral statement made in circumstances in which a reasonable person would believe that information contained in the statement will become generally disclosed;

- (k) “release” means, with respect to information or a document, to file with the Commission or any other securities regulatory authority in Canada or an exchange or to otherwise make available to the public;
- (l) “responsible issuer” means
 - (i) a reporting issuer, or
 - (ii) any other issuer with a real and substantial connection to Alberta, any of whose securities are publicly traded;
- (m) “trading day” means a day during which the principal market as defined in the regulations for the security is open for trading.

2006 c30 s52;2010 c10 s20;2011 c7 s11;2014 c17 s41

Application

211.02 This Part does not apply to

- (a) the purchase of a security offered by a prospectus during the period of distribution,
- (b) the acquisition of an issuer’s security pursuant to a distribution that is exempt from section 110, except as may be prescribed by regulation,
- (c) the acquisition or disposition of an issuer’s security in connection with or pursuant to a take-over bid or issuer bid, except as may be prescribed by regulation, or
- (d) such other transactions or class of transactions as may be prescribed by regulation.

2006 c30 s52

Liability for secondary market disclosure

211.03(1) Where a responsible issuer or a person or company with actual, implied or apparent authority to act on behalf of a responsible issuer releases a document that contains a misrepresentation, a person or company who acquires or disposes of the issuer’s security during the period between the time when the document was released and the time when the misrepresentation contained in the document was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against

- (a) the responsible issuer,
- (b) each director of the responsible issuer at the time the document was released,

- (c) each officer of the responsible issuer who authorized, permitted or acquiesced in the release of the document,
 - (d) each influential person, and each director and officer of an influential person, who knowingly influenced
 - (i) the responsible issuer or any person or company acting on behalf of the responsible issuer to release the document, or
 - (ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the release of the document,
- and
- (e) each expert where
 - (i) the misrepresentation is also contained in a report, statement or opinion made by the expert,
 - (ii) the document includes, summarizes or quotes from the report, statement or opinion of the expert, and
 - (iii) if the document was released by a person or company other than the expert, the expert consented in writing to the use of the report, statement or opinion in the document.

(2) Where a person with actual, implied or apparent authority to speak on behalf of a responsible issuer makes a public oral statement that relates to the business or affairs of the responsible issuer and that contains a misrepresentation, a person or company who acquires or disposes of the issuer's security during the period between the time when the public oral statement was made and the time when the misrepresentation contained in the public oral statement was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against

- (a) the responsible issuer,
- (b) the person who made the public oral statement,
- (c) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the making of the public oral statement,
- (d) each influential person, and each director and officer of the influential person, who knowingly influenced

- (i) the person who made the public oral statement to make the public oral statement, or
- (ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the making of the public oral statement,

and

- (e) each expert where
 - (i) the misrepresentation is also contained in a report, statement or opinion made by the expert,
 - (ii) the person making the public oral statement includes, summarizes or quotes from the report, statement or opinion of the expert, and
 - (iii) if the public oral statement was made by a person other than the expert, the expert consented in writing to the use of the report, statement or opinion in the public oral statement.

(3) Where an influential person or a person or company with actual, implied or apparent authority to act or speak on behalf of the influential person releases a document or makes a public oral statement that relates to a responsible issuer and that contains a misrepresentation, a person or company who acquires or disposes of the issuer's security during the period between the time when the document was released or the public oral statement was made and the time when the misrepresentation contained in the document or public oral statement was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against

- (a) the responsible issuer, if a director or officer of the responsible issuer, or where the responsible issuer is an investment fund, the investment fund manager, authorized, permitted or acquiesced in the release of the document or the making of the public oral statement,
- (b) the person who made the public oral statement,
- (c) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the release of the document or the making of the public oral statement,
- (d) the influential person,

- (e) each director and officer of the influential person who authorized, permitted or acquiesced in the release of the document or the making of the public oral statement, and
- (f) each expert where
 - (i) the misrepresentation is also contained in a report, statement or opinion made by the expert,
 - (ii) the document or public oral statement includes, summarizes or quotes from the report, statement or opinion of the expert, and
 - (iii) if the document was released or the public oral statement was made by a person other than the expert, the expert consented in writing to the use of the report, statement or opinion in the document or public oral statement.

(4) Where a responsible issuer fails to make a timely disclosure, a person or company who acquires or disposes of the issuer's security between the time when the material change was required to be disclosed in the manner required under this Act and the subsequent disclosure of the material change has, without regard to whether the person or company relied on the responsible issuer having complied with its disclosure requirements, a right of action for damages against

- (a) the responsible issuer,
- (b) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the failure to make timely disclosure, and
- (c) each influential person, and each director and officer of an influential person, who knowingly influenced
 - (i) the responsible issuer or any person or company acting on behalf of the responsible issuer in the failure to make timely disclosure, or
 - (ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the failure to make timely disclosure.

(5) In an action under this section, a person who is a director or officer of an influential person is not liable in that capacity if the person is liable as a director or officer of the responsible issuer.

(6) In an action under this section,

- (a) multiple misrepresentations having common subject-matter or content may, in the discretion of the court, be treated as a single misrepresentation, and
- (b) multiple instances of failure to make timely disclosure concerning common subject-matter may, in the discretion of the court, be treated as a single failure to make timely disclosure.

(7) In an action under subsection (2) or (3), if the person who made the public oral statement had apparent authority, but not implied or actual authority, to speak on behalf of the responsible issuer, no other person is liable with respect to any of the issuer's securities that were acquired or disposed of before that other person became, or should reasonably have become, aware of the misrepresentation.

2006 c30 s52;2014 c17 s42

Burden of Proof and Defences

Non-core documents and public oral statements

211.04(1) In an action under section 211.03 in relation to a misrepresentation in a document that is not a core document or a misrepresentation in a public oral statement, a person or company is not liable, subject to subsection (2), unless the plaintiff proves that the person or company

- (a) knew, at the time that the document was released or the public oral statement was made, that the document or public oral statement contained the misrepresentation,
- (b) at or before the time that the document was released or the public oral statement was made, deliberately avoided acquiring knowledge that the document or public oral statement contained the misrepresentation, or
- (c) was, through action or failure to act, guilty of gross misconduct in connection with the release of the document or the making of the public oral statement that contained the misrepresentation.

(2) A plaintiff is not required to prove any of the matters set out in subsection (1) in an action under section 211.03 in relation to an expert.

(3) In an action under section 211.03 in relation to a failure to make timely disclosure, a person or company is not liable, subject to subsection (4), unless the plaintiff proves that the person or company

- (a) knew, at the time that the failure to make timely disclosure first occurred, of the change and that the change was a material change,
- (b) at the time or before the failure to make timely disclosure first occurred, deliberately avoided acquiring knowledge of the change or that the change was a material change, or
- (c) was, through action or failure to act, guilty of gross misconduct in connection with the failure to make timely disclosure.

(4) A plaintiff is not required to prove any of the matters set out in subsection (3) in an action under section 211.03 in relation to

- (a) a responsible issuer,
- (b) an officer of a responsible issuer,
- (c) an investment fund manager, or
- (d) an officer of an investment fund manager.

(5) A person or company is not liable in an action under section 211.03 in relation to a misrepresentation or a failure to make timely disclosure if that person or company proves that the plaintiff acquired or disposed of the issuer's security

- (a) with knowledge that the document or public oral statement contained a misrepresentation, or
- (b) with knowledge of the material change.

(6) A person or company is not liable in an action under section 211.03 in relation to

- (a) a misrepresentation if that person or company proves that,
 - (i) before the release of the document or the making of the public oral statement containing the misrepresentation, the person or company conducted or caused to be conducted a reasonable investigation, and
 - (ii) at the time of the release of the document or the making of the public oral statement, the person or company had no reasonable grounds to believe that the document or public oral statement contained the misrepresentation,

or

- (b) a failure to make timely disclosure if that person or company proves that
 - (i) before the failure to make timely disclosure first occurred, the person or company conducted or caused to be conducted a reasonable investigation, and
 - (ii) the person or company had no reasonable grounds to believe that the failure to make timely disclosure would occur.

(7) In determining whether an investigation was reasonable under subsection (6), or whether any person or company is guilty of gross misconduct under subsection (1) or (3), the court shall consider all relevant circumstances, including

- (a) the nature of the responsible issuer,
- (b) the knowledge, experience and function of the person or company,
- (c) the office held, if the person was an officer,
- (d) the presence or absence of another relationship with the responsible issuer, if the person was a director,
- (e) the existence, if any, and the nature of any system designed to ensure that the responsible issuer meets its continuous disclosure obligations,
- (f) the reasonableness of reliance by the person or company on the responsible issuer's disclosure compliance system and on the responsible issuer's officers, employees and others whose duties would in the ordinary course have given them knowledge of the relevant facts,
- (g) the period within which disclosure was required to be made under the applicable law,
- (h) in respect of a report, statement or opinion of an expert, any professional standards applicable to the expert,
- (i) the extent to which the person or company knew, or should reasonably have known, the content and medium of dissemination of the document or public oral statement,
- (j) in the case of a misrepresentation, the role and responsibility of the person or company in the preparation and release of the document or the making of the public oral statement containing the misrepresentation or the ascertaining of the

facts contained in that document or public oral statement,
and

- (k) in the case of a failure to make timely disclosure, the role and responsibility of the person or company involved in a decision not to disclose the material change.

(8) A person or company is not liable in an action under section 211.03 in respect of a failure to make timely disclosure if

- (a) the person or company proves that the material change was disclosed by the responsible issuer in a report filed on a confidential basis with the Commission under section 146,
- (b) the responsible issuer had a reasonable basis for making the disclosure on a confidential basis,
- (c) where the information contained in the report filed on a confidential basis remains material, disclosure of the material change was made public promptly when the basis for confidentiality ceased to exist,
- (d) the person or company or responsible issuer did not release a document or make a public oral statement that, due to the undisclosed material change, contained a misrepresentation, and
- (e) where the material change became publicly known in a manner other than the manner required under this Act, the responsible issuer promptly disclosed the material change in the manner required under this Act.

(9) A person or company is not liable in an action under section 211.03 for a misrepresentation in forward-looking information if the person or company proves all of the following:

- (a) the document or public oral statement containing the forward-looking information contained, proximate to that information,
 - (i) reasonable cautionary language identifying the forward-looking information as such, and identifying material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the forward-looking information, and
 - (ii) a statement of the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information;

- (b) the person or company had a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the forward-looking information.

(10) A person or company is deemed to have satisfied the requirements of subsection (9)(a) with respect to a public oral statement containing forward-looking information if the person who made the public oral statement

- (a) made a cautionary statement that the oral statement contains forward-looking information,
- (b) stated that
 - (i) the actual results could differ materially from a conclusion, forecast or projection in the forward-looking information, and
 - (ii) certain material factors or assumptions were applied in drawing a conclusion or making a forecast or projection as reflected in the forward-looking information,

and

- (c) stated that additional information about
 - (i) the material factors that could cause actual results to differ materially from the conclusion, forecast or projection in the forward-looking information, and
 - (ii) the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection as reflected in the forward-looking information,

is contained in a readily available document or in a portion of such a document and has identified that document or that portion of the document.

(11) For the purposes of subsection (10)(c), a document filed with the Commission or otherwise generally disclosed is deemed to be readily available.

(12) Subsection (9) does not relieve a person or company of liability respecting forward-looking information in a financial statement required to be filed under this Act or forward-looking information in a document released in connection with an initial public offering.

(13) A person or company, other than an expert, is not liable in an action under section 211.03 with respect to any part of a document

or public oral statement that includes, summarizes or quotes from a report, statement or opinion made by the expert in respect of which the responsible issuer obtained the written consent of the expert to the use of the report, statement or opinion if the consent had not been withdrawn in writing before the document was released or the public oral statement was made, if the person or company proves that

- (a) the person or company did not know and had no reasonable grounds to believe that there had been a misrepresentation in the part of the document or public oral statement made on the authority of the expert, and
- (b) the part of the document or oral public statement fairly represented the report, statement or opinion made by the expert.

(14) An expert is not liable in an action under section 211.03 with respect to any part of a document or public oral statement that includes, summarizes or quotes from a report, statement or opinion made by the expert if the expert proves that the written consent previously provided was withdrawn in writing before the document was released or the public oral statement was made.

(15) A person or company is not liable in an action under section 211.03 in respect of a misrepresentation in a document, other than a document required to be filed with the Commission, if the person or company proves that, at the time of release of the document, the person or company did not know and had no reasonable grounds to believe that the document would be released.

(16) A person or company is not liable in an action under section 211.03 for a misrepresentation in a document or a public oral statement if the person or company proves that

- (a) the misrepresentation was also contained in a document filed by or on behalf of another person or company, other than the responsible issuer, with the Commission or any other securities regulatory authority in Canada or an exchange and was not corrected in another document filed by or on behalf of that other person or company with the Commission or that other securities regulatory authority in Canada or exchange before the release of the document or the public oral statement made by or on behalf of the responsible issuer,
- (b) the document or public oral statement contained a reference identifying the document that was the source of the misrepresentation, and

- (c) when the document was released or the public oral statement was made, the person or company did not know and had no reasonable grounds to believe that the document or public oral statement contained a misrepresentation.

(17) A person or company, other than the responsible issuer, is not liable in an action under section 211.03 if the misrepresentation or failure to make timely disclosure was made without the knowledge or consent of the person or company and if, after the person or company became aware of the misrepresentation before it was corrected, or the failure to make timely disclosure before it was disclosed in the manner required under this Act,

- (a) the person or company promptly notified the directors of the responsible issuer or other persons acting in a similar capacity of the misrepresentation or the failure to make timely disclosure, and
- (b) if no correction of the misrepresentation or no subsequent disclosure of the material change in the manner required under this Act was made by the responsible issuer within 2 business days after the notification under clause (a), the person or company, unless prohibited by law or by professional confidentiality rules, promptly and in writing notified the Commission of the misrepresentation or failure to make timely disclosure.

2006 c30 s52

Damages

Assessment of damages

211.05(1) Damages shall be assessed in favour of a person or company that acquired an issuer's securities after the release of a document or the making of a public oral statement containing a misrepresentation or after a failure to make timely disclosure as follows:

- (a) in respect of any of the securities of the responsible issuer that the person or company subsequently disposed of on or before the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, assessed damages shall equal the difference between the average price paid for those securities, including any commissions paid in respect of them, and the price received on the disposition of those securities, without deducting any commissions paid in respect of the disposition, calculated taking into account the result of hedging or other risk limitation transactions;

- (b) in respect of any of the securities of the responsible issuer that the person or company subsequently disposed of after the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, assessed damages shall equal the lesser of
- (i) an amount equal to the difference between the average price paid for those securities, including any commissions paid in respect of them, and the price received on the disposition of those securities, without deducting any commissions paid in respect of the disposition, calculated taking into account the result of hedging or other risk limitation transactions, and
 - (ii) an amount equal to the number of securities that the person disposed of, multiplied by the difference between the average price per security paid for those securities, including any commissions paid in respect of that disposition determined on a per security basis, and
 - (A) if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market (as those terms are defined in the regulations) for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or
 - (B) if there is no published market, the amount that the court considers just;
- (c) in respect of any of the securities of the responsible issuer that the person or company has not disposed of, assessed damages shall equal the number of securities acquired, multiplied by the difference between the average price per security paid for those securities, including any commissions paid in respect thereof determined on a per security basis, and
- (i) if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market as defined in the regulations for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or
 - (ii) if there is no published market, the amount that the court considers just.

(2) Damages shall be assessed in favour of a person or company that disposed of securities after a document was released or a public oral statement made containing a misrepresentation or after a failure to make timely disclosure as follows:

- (a) in respect of any of the securities of the responsible issuer that the person or company subsequently acquired on or before the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, assessed damages shall equal the difference between the average price received on the disposition of those securities, deducting any commissions paid in respect of the disposition and the price paid for those securities, without including any commissions paid in respect of them, calculated taking into account the result of hedging or other risk limitation transactions;
- (b) in respect of any of the securities of the responsible issuer that the person or company subsequently acquired after the 10th trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, assessed damages shall equal the lesser of
 - (i) an amount equal to the difference between the average price received on the disposition of those securities, deducting any commissions paid in respect of the disposition and the price paid for those securities, without including any commissions paid in respect of them, calculated taking into account the result of hedging or other risk limitation transactions, and
 - (ii) an amount equal to the number of securities that the person disposed of, multiplied by the difference between the average price per security received on the disposition of those securities, deducting any commissions paid in respect of the disposition determined on a per security basis, and
 - (A) if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market as defined in the regulations for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or
 - (B) if there is no published market, the amount that the court considers just;

- (c) in respect of any of the securities of the responsible issuer that the person or company has not acquired, assessed damages shall equal the number of securities that the person or company disposed of, multiplied by the difference between the average price per security received on the disposition of those securities, deducting any commissions paid in respect of the disposition determined on a per security basis, and
 - (i) if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market as defined in the regulations for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or
 - (ii) if there is no published market, the amount that the court considers just.

(3) Notwithstanding subsections (1) and (2), assessed damages shall not include any amount that the defendant proves is attributable to a change in the market price of securities that is unrelated to the misrepresentation or the failure to make timely disclosure.

2006 c30 s52

Proportionate liability

211.06(1) In an action under section 211.03, the court shall determine, in respect of each defendant found liable in the action, the defendant's responsibility for the damages assessed in favour of all plaintiffs in the action, and each such defendant is liable, subject to the limits set out in section 211.07(1), to the plaintiffs for only that portion of the aggregate amount of damages assessed in favour of the plaintiffs that corresponds to that defendant's responsibility for the damages.

(2) Notwithstanding subsection (1), where, in an action under section 211.03 in respect of a misrepresentation or a failure to make timely disclosure, a court determines that a particular defendant, other than the responsible issuer, authorized, permitted or acquiesced in the making of the misrepresentation or the failure to make timely disclosure while knowing it to be a misrepresentation or a failure to make timely disclosure, the whole amount of the damages assessed in the action may be recovered from that defendant.

(3) Each defendant in respect of whom the court has made a determination under subsection (2) is jointly and severally liable

with each other defendant in respect of whom the court has made a determination under subsection (2).

(4) Any defendant against whom recovery is obtained under subsection (2) is entitled to claim contribution from any other defendant who is found liable in the action.

2006 c30 s52

Limits on damages

211.07(1) Notwithstanding section 211.05, the damages payable by a person or company in an action under section 211.03 is the lesser of

- (a) the aggregate damages assessed against the person or company in the action, and
- (b) the liability limit for the person or company less the aggregate of all damages assessed after appeals, if any, against the person or company in all other actions brought under section 211.03, and under comparable legislation in other provinces or territories in Canada in respect of that misrepresentation or failure to make timely disclosure, and less any amount paid in settlement of any such actions.

(2) Subsection (1) does not apply to a person or company, other than the responsible issuer, if the plaintiff proves that the person or company authorized, permitted or acquiesced in the making of the misrepresentation or the failure to make timely disclosure while knowing that it was a misrepresentation or a failure to make timely disclosure, or influenced the making of the misrepresentation or the failure to make timely disclosure while knowing that it was a misrepresentation or a failure to make timely disclosure.

2006 c30 s52

Procedural Matters

Permission to proceed

211.08(1) No action may be commenced under section 211.03 without the permission of the court granted on application with notice to each defendant.

(2) The court shall grant permission only where it is satisfied that

- (a) the action is being brought in good faith, and
- (b) there is a reasonable possibility that the action will be resolved at trial in favour of the plaintiff.

- (3) On an application under this section, the plaintiff and each defendant shall serve and file one or more affidavits setting forth the material facts on which each intends to rely.
- (4) The maker of such an affidavit may be questioned on it in accordance with the *Alberta Rules of Court*.
- (5) A copy of the application for permission to proceed and any affidavits filed with the court shall be sent to the Commission when filed.
- (6) The plaintiff must provide the Commission with written notice of the day on which the application for leave is scheduled to be heard at the same time that notice of the day is given to each defendant.
- (7) If a party appeals the court's decision with respect to whether leave to commence an action is granted,
- (a) each party to the appeal must provide a copy of any materials filed with the court hearing the appeal to the Commission at the same time that they are filed with that court, and
 - (b) the appellant must provide the Commission with written notice of the day on which the appeal is scheduled to be heard at the same time that notice of the day is given to each respondent.

2006 c30 s52;2009 c53 s169;2014 c13 s42;2014 c17 s43

Notice

- 211.09(1)** A person or company that has been granted permission to commence an action under section 211.03 shall
- (a) promptly issue a news release disclosing that permission has been granted to commence an action under section 211.03,
 - (b) send a written notice to the Commission within 7 days of permission being granted, together with a copy of the news release,
 - (c) send a copy of the statement of claim or other originating document to the Commission when filed, and
 - (d) provide the Commission with written notice of the day on which the trial of the action is scheduled to be heard at the same time that notice of the day is given to each defendant.
- (2) If a party appeals the court's decision at the trial of the action,

- (a) each party to the appeal must provide a copy of any materials filed with the court hearing the appeal to the Commission at the same time that they are filed with the court, and
- (b) the appellant must provide the Commission with written notice of the day on which the appeal is scheduled to be heard at the same time that notice of the day is given to each respondent.

2006 c30 s52;2014 c13 s42;2014 c17 s44

Restriction on discontinuation, etc. of action

211.091 An action under section 211.03 shall not be discontinued, abandoned or settled without the approval of the court given on such terms as the court thinks fit including, without limitation, terms as to costs, and in determining whether to approve the settlement of the action, the court shall consider, among other things, whether there are any other actions outstanding under section 211.03 or under comparable legislation in other provinces or territories in Canada in respect of the same misrepresentation or failure to make timely disclosure.

2006 c30 s52

Costs

211.092 Notwithstanding the *Court of Queen's Bench Act* and the *Class Proceedings Act*, the prevailing party in an action under section 211.03 is entitled to costs determined by a court in accordance with the Alberta Rules of Court.

2006 c30 s52

Power of the Commission

211.093 The Commission may intervene in an action under section 211.03, and in an application for permission under section 211.08, and in any appeal from a decision in the action or from a decision on whether permission to commence such an action is granted.

2006 c30 s52;2014 c13 s42;2014 c17 s45

No derogation from other rights

211.094 The right of action for damages and the defences to an action under section 211.03 are in addition to and without derogation from any other rights or defences the plaintiff or defendant may have in an action brought otherwise than under this Part.

2006 c30 s52

Class proceedings

211.0941(1) In a class proceeding to enforce a right or obligation created by this Part, a copy of the application to certify the class

and any material filed with the Court must be sent to the Executive Director when filed.

(2) The representative plaintiff must provide the Executive Director with written notice of the day on which the application is scheduled to be heard at the same time that notice of the day is given to each defendant.

(3) If a party appeals the court's decision on whether the class is certified,

- (a) each party to the appeal must provide a copy of any materials filed with the Court hearing the appeal to the Executive Director at the same time that they are filed with the Court, and
- (b) the appellant must provide the Executive Director with written notice of the day on which the appeal is scheduled to be heard at the same time that notice of the day is given to each respondent.

(4) If the class is certified, the representative plaintiff must provide the Executive Director with written notice of the day on which the trial of the action is scheduled to proceed at the same time that notice of the day is given to each defendant.

(5) If a party appeals the Court's decision at the trial of the action,

- (a) each party to the appeal must provide a copy of any materials filed with the Court hearing the appeal to the Executive Director at the same time that they are filed with the Court, and
- (b) the appellant must provide the Executive Director with written notice of the day on which the appeal is scheduled to be heard at the same time that notice of the day is given to each respondent.

2014 c17 s46

Executive Director may intervene

211.0942 The Executive Director may intervene in a class proceeding to enforce a right or obligation created by this Part, in an application to certify the class and in any appeal from the Court's decision at the trial of the action or from a decision on whether the class is certified.

2014 c17 s46

Limitation period

211.095(1) No action shall be commenced under section 211.03,

- (a) in the case of misrepresentation in a document, later than the earlier of
 - (i) 3 years after the date on which the document containing the misrepresentation was first released, and
 - (ii) 6 months after the issuance of a news release disclosing that permission has been granted to commence an action under section 211.03 or under comparable legislation in the other provinces or territories in Canada in respect of the same misrepresentation;
 - (b) in the case of a misrepresentation in a public oral statement, later than the earlier of
 - (i) 3 years after the date on which the public oral statement containing the misrepresentation was made, and
 - (ii) 6 months after the issuance of a news release disclosing that permission has been granted to commence an action under section 211.03 or under comparable legislation in another province or territory of Canada in respect of the same misrepresentation,
- and
- (c) in the case of a failure to make timely disclosure, later than the earlier of
 - (i) 3 years after the date on which the requisite disclosure was required to be made, and
 - (ii) 6 months after the issuance of a news release disclosing that permission has been granted to commence an action under section 211.03 or under comparable legislation in another province or territory of Canada in respect of the same failure to make timely disclosure.

(2) A limitation period established by subsection (1) in respect of an action is suspended on the date an application for leave under section 211.08 is filed with the court and resumes running on the date,

- (a) the court grants leave or dismisses the motion and,
 - (i) all appeals have been exhausted, or
 - (ii) the time for an appeal has expired without an appeal being filed,

or

- (b) the motion is abandoned or discontinued.

2006 c30 s52;2014 c13 s42;2014 c17 s47

Part 17.1

Interjurisdictional Co-operation

Definitions

211.1(1) In this Part,

- (a) “Alberta authority” means any power, function or duty of the Commission or of the Executive Director that is, or is intended to be, performed or exercised by the Commission or the Executive Director under Alberta securities laws;
- (b) “extra-provincial authority” means any power, function or duty of an extra-provincial securities commission that is, or is intended to be, performed or exercised by that commission under the extra-provincial securities laws under which that commission operates;
- (c) “extra-provincial securities commission” means a body empowered by the laws of a province or territory other than Alberta to regulate trading in securities or derivatives or to administer or enforce laws respecting trading in securities or derivatives;
- (d) “extra-provincial securities laws” means the laws of another province or territory of Canada that, with respect to that province or territory, deals with the regulation of securities markets and the trading in securities and derivatives in that province or territory.
- (e) repealed 2006 c30 s54.

(2) A reference to an extra-provincial securities commission includes, unless otherwise provided,

- (a) its delegate, and
- (b) any person or company who in respect of that extra-provincial securities commission exercises a power or performs a duty or function that is substantially similar to a power, duty or function exercised or performed by the Executive Director under this Act.

2005 c18 s28;2006 c30 s54;2008 c26 s19;2014 c3 s28

Delegation and acceptance of authority

211.2(1) Subject to any regulations made under section 211.6, the Commission may by order, for the purposes of this Part,

- (a) delegate any Alberta authority to an extra-provincial securities commission, and
- (b) accept a delegation or other transfer of any extra-provincial authority from an extra-provincial securities commission.

(2) The Commission shall not delegate any power, function or duty of the Commission or of the Executive Director that is, or is intended to be, performed or exercised by the Commission or the Executive Director under Part 1, this Part or section 224 or 224.1.

2005 c18 s28;2006 c30 s55

Subdelegation

211.3(1) Subject to any restrictions or conditions imposed by an extra-provincial securities commission with respect to a delegation of extra-provincial authority to the Commission, the Commission may subdelegate that extra-provincial authority in the manner and to the extent that the Commission or the Executive Director, as the case may be, may give an authorization under section 17, 22 or 66 or otherwise delegate any Alberta authority under Alberta securities laws.

(2) Subject to any restrictions or conditions imposed by the Commission with respect to a delegation of Alberta authority to an extra-provincial securities commission, nothing in this Part is to be construed as prohibiting the extra-provincial securities commission from subdelegating that Alberta authority in the manner and to the extent that the extra-provincial securities commission may delegate its authority under the extra-provincial securities laws under which it operates.

2005 c18 s28;2008 c26 s19

Adoption or incorporation of extra-provincial securities laws

211.4(1) Subject to any regulations made under section 211.6, the Commission may by order adopt or incorporate by reference as Alberta securities laws all or any provisions of any extra-provincial securities laws of a jurisdiction to be applied to

- (a) a person or company or class of persons or companies whose primary jurisdiction is that extra-provincial jurisdiction, or
- (b) trades or other activities involving a person or company or a class of persons or companies referred to in clause (a).

(2) If the Commission adopts or incorporates by reference an extra-provincial securities law under subsection (1), it may adopt or incorporate it by reference as amended from time to time, whether before or after the adoption or incorporation by reference, and with the necessary changes.

2005 c18 s28;2006 c30 s56

Exemptions

211.41 Subject to any regulations made under section 211.6, the Commission may by order exempt a person, company, security, derivative or trade or a class of persons, companies, securities, derivatives or trades from all or any requirements of Alberta securities laws if the person, company, security, derivative or trade or class of persons, companies, securities, derivatives or trades, as the case may be, satisfies the conditions set out in the order.

2005 c18 s28;2006 c30 s57;2014 c3 ss27,28

211.42 Repealed 2006 c30 s57.

Exercise of discretion, interprovincial reliance

211.5(1) Subject to any regulations made under section 211.6, if the Commission or Executive Director is empowered to make a decision regarding a person, company, trade, security or derivative, the Commission or the Executive Director may make a decision on the basis that the Commission or the Executive Director, as the case may be, considers that an extra-provincial securities commission has made a substantially similar decision regarding the person, company, trade, security or derivative.

(2) Subject to any regulations made under section 211.6, notwithstanding any provision of this Act, the Commission or Executive Director may make a decision referred to in subsection (1) without giving the person affected by the decision an opportunity to be heard.

2005 c18 s28;2006 c30 s58;2014 c3 s27

Regulations

211.6(1) The Lieutenant Governor in Council may make regulations respecting

- (a) the delegation of any Alberta authority to an extra-provincial securities commission;
- (b) the acceptance by the Commission of any delegation or other authority of an extra-provincial authority from an extra-provincial securities commission;

- (c) any amendments to, or the revocation of, any delegation or acceptance of a delegation referred to in clause (a) or (b);
 - (d) the adoption or incorporation by reference of extra-provincial securities laws under section 211.4, including the administration of those laws once adopted or incorporated by reference;
 - (e) the administration of exemptions from Alberta securities laws under section 211.41;
 - (f) the adoption of decisions of extra-provincial securities commissions under section 211.5, including the administration of those decisions once adopted;
 - (g) the administration of extra-provincial securities laws arising from or as a result of any matters described in clauses (a) to (f).
- (2) The Commission may, subject to this section and the regulations referred to in section 223(ii), make rules in respect of any of the matters in respect of which the Lieutenant Governor in Council may make regulations under subsection (1).
- (3) Rules made by the Commission under subsection (2) must be approved by the Minister.
- (4) Notwithstanding that the Commission may make rules,
- (a) where the provisions of a regulation made under subsection (1) and a rule made under subsection (2) conflict, the regulation prevails, and
 - (b) the Lieutenant Governor in Council may amend or repeal any rules made by the Commission under subsection (2).
- (5) A rule made by the Commission under subsection (2) has the same force and effect as a regulation made by the Lieutenant Governor in Council under subsection (1).
- (6) The *Regulations Act* does not apply to a rule made by the Commission under subsection (2).

2005 c18 s28;2006 c30 s59;2011 c7 s12

Immunity re Alberta authority

211.7(1) In this section,

- (a) “Commission” includes the Executive Director and any member, officer, employee, appointee or agent of the Commission;

- (b) “securities regulatory authority” means
- (i) an extra-provincial securities commission referred to in subsection (2) and includes any member, officer, employee, appointee or agent of that commission;
 - (ii) any person referred to in subsection (2)(b);
 - (iii) any exchange, quotation and trade reporting system or self-regulatory organization referred to in subsection (2)(c).

(2) This section applies only with respect to an Alberta authority

- (a) that has been delegated by the Commission to an extra-provincial securities commission,
- (b) that is being, or is intended to be, exercised by a person where that Alberta authority has been subdelegated to that person by an extra-provincial securities commission, including a subdelegate of that person but not including an exchange, a quotation and trade reporting system or a self-regulatory organization recognized or authorized by that extra-provincial securities commission, or
- (c) that is being, or is intended to be, exercised by an exchange, a quotation and trade reporting system or a self-regulatory organization recognized or authorized by an extra-provincial securities commission to carry on business where that Alberta authority has been subdelegated to it by the extra-provincial securities commission.

(3) No action or other proceeding for damages may be instituted against the Commission or a securities regulatory authority

- (a) for any act done in good faith in the performance or exercise, or the intended performance or exercise,
 - (i) of any Alberta authority, or
 - (ii) of a delegation, or the acceptance of a delegation, of any Alberta authority,

or

- (b) for any neglect or default in the performance or exercise in good faith
 - (i) of any Alberta authority, or

- (ii) of a delegation, or the acceptance of a delegation, of any Alberta authority.

2005 c18 s28

Immunity re extra-provincial authority**211.8(1)** In this section,

- (a) “Commission” includes the Executive Director and any member, officer, employee, appointee or agent of the Commission;
- (b) “securities regulatory authority” means
 - (i) any person referred to in subsection (2)(b);
 - (ii) any exchange, quotation and trade reporting system or self-regulatory organization referred to in subsection (2)(c).

(2) This section applies only with respect to an extra-provincial authority

- (a) that has been delegated by an extra-provincial securities commission to the Commission,
- (b) that is being, or is intended to be, exercised by a person where that extra-provincial authority has been subdelegated to that person by the Commission, including a subdelegate of that person but not including a recognized exchange, a recognized quotation and trade reporting system or a recognized self-regulatory organization, or
- (c) that is being, or is intended to be, exercised by a recognized exchange, a recognized quotation and trade reporting system or a recognized self-regulatory organization where that extra-provincial authority has been subdelegated to it by the Commission.

(3) No action or other proceeding for damages may be instituted against the Commission or a securities regulatory authority

- (a) for any act done in good faith in the performance or exercise, or the intended performance or exercise,
 - (i) of any extra-provincial authority, or
 - (ii) of a delegation, or the acceptance of a delegation, of any extra-provincial authority,

or

- (b) for any neglect or default in the performance or exercise in good faith
 - (i) of any extra-provincial authority, or
 - (ii) of a delegation, or acceptance of a delegation, of any extra-provincial authority.

2005 c18 s28

Appeal re extra-provincial decision

211.9(1) In this section, “extra-provincial decision” means a decision of an extra-provincial securities commission made under an Alberta authority delegated to that extra-provincial securities commission by the Commission.

(2) A person or company that is directly affected by an extra-provincial decision may appeal that extra-provincial decision to the Court of Appeal.

(3) An appeal under this section shall be commenced by a notice of appeal filed with the Court of Appeal within 30 days from the day that the extra-provincial securities commission serves the notice of its decision on the person or company appealing the decision.

(4) The practice and procedure in the Court of Appeal in respect of an appeal under this section shall, with any necessary modification that the Court of Appeal considers appropriate, be the same as on an appeal from a judgment of the Court of Queen’s Bench in an action.

(5) The Court of Appeal may, with respect to an appeal under this section,

- (a) make any order or direction that it considers appropriate with respect to the commencement or conduct of or any matter relating to the appeal;
- (b) confirm, vary or reject the extra-provincial decision;
- (c) make any decision that the extra-provincial securities commission could have made and substitute the Court’s decision for that of the extra-provincial securities commission.

(6) The extra-provincial securities commission is the respondent to an appeal under this section.

(7) A copy of the notice of appeal and supporting documents shall within the 30-day period referred to in subsection (3) be served on

(a) the respondent, and

(b) the Commission.

(8) Notwithstanding that the Commission is not a respondent to an appeal under this section, the Commission is entitled to be represented at the appeal and to make representations in respect of any matter before the Court that is related to the appeal.

(9) Notwithstanding that an appeal is commenced under this section, the extra-provincial decision being appealed takes effect immediately unless the extra-provincial securities commission, the Commission or the Court of Appeal grants a stay pending disposition of the appeal.

(10) In this section, a reference to an extra-provincial securities commission is a reference to the extra-provincial securities commission that made the extra-provincial decision that is being appealed under this section.

2005 c18 s28;2014 c17 s48

Appeal re decision of the Commission

211.91(1) In this section, “delegated authority” means any extra-provincial authority that is delegated to and accepted by the Commission under section 211.2.

(2) A person or company that is directly affected by

(a) a decision of the Commission made pursuant to a delegated authority, or

(b) a decision of an extra-provincial securities commission that is adopted by the Commission under section 211.5,

may appeal that decision to the Court of Appeal.

(3) Section 38(2) to (7) apply to an appeal made under this section.

(4) A person or company that has a right to appeal a decision under this section may, subject to any direction of the Court of Appeal, exercise that right of appeal whether or not that person or company may have a right to appeal that decision to a court in another jurisdiction.

(5) Notwithstanding subsection (4), if a decision referred to in subsection (2) is being appealed to a court in another jurisdiction, the Court of Appeal may stay an appeal under this section pending the determination of the appeal in the other jurisdiction.

2005 c18 s28

Part 18 General Provisions

212 Repealed 2003 c32 s33.

General exemption

213 The Commission may by order exempt

- (a) any person, company, trade, distribution, security or derivative, or
- (b) any class or classes of persons, companies, trades, distributions, securities or derivatives

from all or any provision of Alberta securities laws.

RSA 2000 cS-4 s213;2008 c26 s19;2015 c11 s12

Revoke or vary decisions

214(1) The Commission may, if the Commission considers that it would not be prejudicial to the public interest to do so, make an order revoking or varying any decisions made by the Commission under this Act or the regulations or any former *Securities Act* or regulations.

(1.1) The Executive Director may, if the Executive Director considers that it would not be prejudicial to the public interest to do so, make an order revoking or varying any decisions made by the Executive Director under this Act or the regulations or any former *Securities Act* or regulations.

(2) With respect to a decision made by the Chair under this Act or the regulations or any former *Securities Act* or regulations, the Chair may,

- (a) if the Chair has acted alone in making the decision, and
- (b) if the Chair considers that it would not be prejudicial to the public interest to do so,

make an order revoking or varying that decision.

RSA 2000 cS-4 s214;2009 c14 s4

Self-incrimination

215(1) A person questioned under this Act under oath, affirmation or by solemn declaration may be questioned on all matters relevant to the matter for which the person is being questioned and shall not be excused from answering any question on the ground that the answer might

- (a) tend to incriminate that person,
- (b) subject that person to punishment under this Act, or
- (c) tend to establish that person's liability
 - (i) to a civil proceeding at the instance of the Crown or of any other person, or
 - (ii) to prosecution under any Act or regulations under any Act.

(2) Where a person gives testimony pursuant to questioning referred to in subsection (1), that testimony shall not be admitted in evidence against that person in a prosecution of an offence under section 194 or any other prosecution of an offence under an enactment of Alberta.

(3) With respect to testimony given pursuant to questioning referred to in subsection (1), subsection (2) is not to be construed so as to prohibit or restrict the use of that testimony against any person in a prosecution for perjury or the giving of contradictory evidence.

RSA 2000 cS-4 s215;2003 c32 s34;2009 c53 s169

Requirement to disclose personal information

216 The Commission or the Executive Director may by order require that the directors, officers, promoters and control persons of an issuer or a class of issuers or any one or more of those persons, within the time the Commission or the Executive Director specifies, file a personal information form prepared and executed in accordance with the regulations.

RSA 2000 cS-4 s216;2014 c17 s49

Sending of documents

217(1) Unless otherwise provided by Alberta securities laws, any document required to be sent, communicated, delivered or served under Alberta securities laws may be

- (a) personally delivered to the person or company that is to receive it,
- (b) sent by prepaid post to the person or company that is to receive it, or
- (c) sent by electronic means to the person or company that is to receive it.

(1.1) Notwithstanding subsection (1), service of any document on the Commission may only be effected by

- (a) personally delivering, or
- (b) delivering by courier or registered mail,

the document to the offices of the Commission, marked to the attention of the Secretary.

(2) A document sent to a person or company referred to in subsection (1)(b) or (c) shall be sent to that person or company

- (a) at the latest address known for that person or company by the sender of the document, or
- (b) at the address for service in Alberta filed by that person or company with the Executive Director.

(3) A document referred to in subsection (1) that is sent by the Commission or the Executive Director by prepaid post is deemed, unless the contrary is proved, to be served on the person to whom or the company to which it is sent on the 7th day from the day that the document is sent to that person or company.

(4) If a document referred to in subsection (1) is sent to a person or company by prepaid post and is returned on 2 successive occasions because the person or company cannot be found, then there is no further requirement to send any further documents to that person or company until the person or company provides to the sender notification in writing of the person's or company's new address.

RSA 2000 cS-4 s217;2006 c30 s60;2008 c26 ss15,19;
2014 c17 s50

Admissibility of certified statements

218 A statement

- (a) as to the registration or non-registration of any person or company,
- (b) as to the filing or non-filing of any document or material required or permitted to be filed, or
- (c) setting out
 - (i) the substance of any decision of the Commission or of the Executive Director, or
 - (ii) information from any books, records, documents or files of the Commission in the form of an extract or description,

purporting to be certified by the Commission, a member of the Commission, the Executive Director or the Secretary is, without proof of the office or signature of the person certifying the statement, admissible in evidence in any action, proceeding or prosecution.

1981 cS-6.1 s189;1988 c7 s1(35);1995 c28 s57

Applications to a court

219(1) Unless otherwise provided for under this Act, an application made under this Act to a court may be heard not less than 3 days from the day that a copy of the application and its supporting documents are served by the person bringing the application on the other parties to the application.

(2) A copy of an application referred to in subsection (1) and its supporting documents shall be served in a manner prescribed by the *Alberta Rules of Court*.

RSA 2000 cS-4 s219;2009 c53 s169

Service on Commission

220 Service of any document on the Commission is only effected by serving the document on the Commission in accordance with section 217(1.1).

RSA 2000 cS-4 s220;2014 c17 s51

Filing and confidentiality

221(1) Where Alberta securities laws require that material be filed

- (a) with the Commission, the filing shall be effected by providing the material or causing it to be provided to the Secretary, unless the Commission advises or orders otherwise, or
- (b) with the Executive Director, the filing shall be effected by providing the material or causing it to be provided to the Executive Director.

(2) Where Alberta securities laws

- (a) require that material be filed, and
- (b) do not specify as to where or with whom the material is to be filed,

the filing shall be effected by depositing the material or causing it to be deposited with the Executive Director unless the Commission advises or orders otherwise.

(3) Subject to subsections (4) and (5), all material filed under subsection (1) or (2) shall be made available for public inspection

at the Commission offices during the normal business hours of the Commission.

- (4) With respect to any material provided to or obtained by
- (a) the Commission, the Commission may hold the material in confidence if the Commission considers that it would not be prejudicial to the public interest to do so, or
 - (b) the Executive Director, the Executive Director may hold the material in confidence if the Executive Director considers that it would not be prejudicial to the public interest to do so,

and the Commission or the Executive Director, as the case may be, may do so whether or not that material was required to be filed, submitted or otherwise provided.

- (5) The Commission may,
- (a) on the application of an interested person or company or the Executive Director, and
 - (b) on giving the interested person or company and the Executive Director the opportunity to be heard,

make an order directing that any material or class of material provided to or obtained by the Commission or the Executive Director, be held in confidence if the Commission considers that it would not be prejudicial to the public interest to grant the order, and the Commission may do so whether or not that material was required to be filed, submitted or otherwise provided.

(6) Where the Executive Director decides to hold material in confidence or not to hold material in confidence, an interested person or company may appeal the decision to the Commission.

(7) Any decision of the Commission made pursuant to subsection (4) or (5), and any decision made by the Commission in an appeal of the Executive Director's decision pursuant to subsection (4), is final and there is no appeal from that decision.

RSA 2000 cS-4 s221;2008 c26 s19;2014 c17 s52

Misleading information

221.1(1) In this section, "Commission" includes the Executive Director and any member, officer, employee, appointee or agent of the Commission.

(2) No person or company shall make a statement, whether oral or written, in any document, material, information or evidence

provided to the Commission, that, in a material respect and at the time and in light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading.

2008 c26 s16

Immunities

222(1) No action or other proceeding for damages may be instituted against the Commission, a member of the Commission, the Executive Director, the Secretary, a person employed by the Commission or a person appointed under this Act or the regulations to perform a function or duty of or for the Commission, the Executive Director or the Secretary

- (a) for any act done in good faith
 - (i) in the performance or intended performance of any function or duty, or
 - (ii) in the exercise or intended exercise of any power,
- or
- (b) for any neglect, omission or default in the performance or exercise in good faith of any function, duty or power.

(2) No action or other proceeding for damages may be instituted against a recognized auditor oversight organization or its directors, governors, members, officers, employees or agents for

- (a) any act done in good faith
 - (i) in the performance or intended performance of any function or duty, or
 - (ii) in the exercise or intended exercise of any power,
- or
- (b) any neglect, omission or default in the performance or exercise in good faith of any function, duty or power,

in respect of a function, duty or power that has been assigned to the recognized auditor oversight organization pursuant to its recognition under section 64.1.

(3) No action or other proceeding for damages may be instituted against a recognized self-regulatory organization or its directors, officers, employees or agents for

- (a) any act done in good faith
 - (i) in the performance or intended performance of any function or duty, or
 - (ii) in the exercise or intended exercise of any power,
- or
- (b) any neglect, omission or default in the performance or exercise in good faith of any function, duty or power,

in respect of a function, duty or power that has been authorized under section 64 or 66.

(4) No person or company has any rights or remedies and no proceedings lie or may be brought against any person or company for any act or omission of the last mentioned person or company done or omitted in compliance with Alberta securities laws.

(5) Subsection (1) does not, by reason of section 5(2) and (3) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Commission or any person referred to in subsection (1) to which the Crown would otherwise be subject, and the Crown is liable under that Act for the tort in a like manner as if subsection (1) had not been enacted.

RSA 2000 cS-4 s222;2008 c26 s19;2014 c17 s53;2017 c12 s5

Compellability and liability with respect to RPC representative

222.1 If an RPC representative is subject to a proceeding under this Act

- (a) the shareholders, directors, officers and employees of the professional corporation through which the RPC representative acts as a dealer or adviser are compellable to give evidence in the proceeding, and
- (b) the professional corporation through which the RPC representative acts as a dealer or adviser and its shareholders are jointly and severally liable for any administrative penalties and costs the RPC representative is ordered to pay.

2014 c17 s54

Lieutenant Governor in Council regulations

223 The Lieutenant Governor in Council may make regulations

- (a) governing trades and, without limiting the generality of the foregoing,

- (i) respecting the listing and trading of securities;
 - (ii) respecting the trading in derivatives;
 - (iii) respecting advertising relating to trading in securities and derivatives;
 - (iv) establishing the principles for determining the market value, the market price or the closing price of a security and authorizing the Commission to make that determination;
 - (v) prescribing which distributions and trading in relation to the distributions are distributions and trading outside Alberta;
- (b) requiring any information, documents, records or other materials to be filed, furnished or delivered;
- (c) requiring the inclusion or permitting the exclusion of any information, documents, records or other materials that may be required to be filed, furnished or delivered;
- (d) prescribing terms and conditions of an escrow or pooling agreement;
- (e) prescribing categories of issuers for the purposes of the prospectus requirements and classifying issuers into categories;
- (e.1) governing the designation of issuers or a class of issuers as reporting issuers and, without limiting the generality of the foregoing, circumstances in which
- (i) an issuer or a class of issuers is deemed to be, or is deemed to cease to be, a reporting issuer, or
 - (ii) an issuer or a class of issuers is deemed to be, or is deemed to cease to be, a reporting issuer for the purposes of this Act or the regulations,
- including the circumstances in which an issuer or a class of issuers ceases to be a reporting issuer under the laws of another jurisdiction respecting trading in securities or derivatives;
- (f) repealed 2006 c30 s61;
- (g) governing derivatives and, without limiting the generality of the foregoing,

- (i) prescribing requirements in respect of the clearing and settlement of trades;
- (ii) prescribing requirements in respect of the reporting of trades and quotations, including requirements in respect of the confidentiality and disclosure of those reports;
- (iii) prescribing derivatives or classes of derivatives in respect of which trades must be cleared or settled through a recognized clearing agency;
- (iv) prescribing requirements that a derivative or a class of derivative be traded on a recognized exchange;
- (v) prescribing requirements in respect of record-keeping, reporting and transparency in relation to derivatives;
- (vi) prescribing requirements in respect of persons or companies or a class of persons or companies trading derivatives, including requirements in respect of registration, trade reporting, clearing and settlement, margin, capital and collateral;
- (vii) prescribing requirements in respect of position limits for derivatives;
- (viii) prescribing requirements in respect of disclosure documents for trades in derivatives;
- (ix) prescribing requirements that a derivative or a class of derivative not be traded in Alberta;
- (x) prescribing
 - (A) a derivative, or a class of derivatives, to be a security;
 - (B) a derivative, or a class of derivatives, not to be a derivative;
 - (C) a security, or a class of securities, to be a derivative;
 - (D) a security, or a class of securities, not to be a security;
- (g.1) providing exemptions in respect of derivatives;
- (g.2) prescribing the principles for determining the market value, market price or closing price of a security or derivative or the net asset value of a security or quantifying a person's or

a company's exposure resulting from a trade in a derivative,
and authorizing the Commission to make that determination;

- (g.3) designating one or more persons or companies or a class of persons or companies to perform a function relating to market integration, market transparency, market data consolidation or the clearing and settlement of trades;
- (h) respecting any matter necessary or advisable to facilitate distributions and compliance with Alberta securities laws by foreign issuers;
- (i) prescribing requirements in respect of reverse take-overs and investment contracts;
- (j) governing registration and, without limiting the generality of the foregoing,
 - (i) prescribing requirements in respect of applications for registration and the renewal, amendment, expiration or surrender of registration;
 - (ii) prescribing the duration of registration;
 - (iii) respecting the suspension, cancellation and reinstatement of registration;
 - (iii.1) respecting the voluntary surrender of registration;
 - (iv) prescribing categories or sub-categories of registrants;
 - (v) classifying registrants into categories or sub-categories;
 - (vi) prescribing the conditions of registration or other requirements for registrants or any category or sub-category of registrants, including
 - (A) standards of practice and business conduct of registrants in dealing with their customers and clients and prospective customers and clients;
 - (B) requirements governing ownership or control of the registrants;
 - (C) requirements in respect of membership in a self-regulatory organization;
 - (vii) governing the circumstances in which a person or company or a class of persons or companies is required

- to disclose or furnish information to the public or the Commission;
- (viii) providing for exemptions from or varying the requirements under this Act in respect of the disclosure or furnishing of information by registrants to the public or the Commission;
 - (ix) prescribing requirements in respect of the books, records and other documents required to be kept by registrants;
 - (x) respecting conflicts of interest;
 - (xi) respecting bonds and bonding;
 - (xii) respecting compensation funds or contingency trust funds;
 - (xiii) prescribing securities or derivatives or classes of securities or derivatives in which a category or sub-category of registrant may trade;
 - (xiv) prescribing securities or derivatives or classes of securities or derivatives in which a category or sub-category of registrant may not trade;
 - (xv) circumstances in which
 - (A) a person or company or a class of persons or companies is not required to be registered under section 75, or
 - (B) a person or company or a class of persons or companies is deemed to be registered for the purposes of this Act or the regulations,

including the circumstance in which a person or company or a class of persons or companies is registered under the laws of another jurisdiction respecting trading in securities or derivatives;
 - (xvi) prescribing functions or duties for the purposes of sections 75(2)(c) and 75.1;
- (j.1) prescribing the conditions and circumstances under which a company may undertake the duties, responsibilities and activities that a person who is a registrant and a shareholder of the company is authorized to undertake by virtue of being a registrant, including the establishment of a scheme for the

registration of the company and the category of that registration;

- (j.2) imposing liability on a registrant who is a dealer or adviser for the acts or omissions prescribed under clause (j.6) of a company that is a registrant pursuant to a scheme established pursuant to the authority in clause (j.1) where the dealer or adviser has a prescribed contractual relationship with the company;
- (j.3) imposing liability on a person who is a registrant and a shareholder of a company for acts or omissions of the company where the company that performs the acts or fails to perform the acts is a registrant pursuant to a scheme established pursuant to the authority in clause (j.1);
- (j.4) prescribing the terms and conditions under which a person who is in a contractual relationship with a dealer is deemed to be an employee of the dealer for the purpose of Alberta securities laws and deemed to be qualified for registration as a representative of the dealer;
- (j.5) imposing liability on a registrant who is a dealer for the acts and omissions prescribed under clause (j.7) of a person deemed to be an employee of the dealer under a regulation made pursuant to clause (j.4);
- (j.6) prescribing the acts or omissions of a company for which a registrant who is a dealer or adviser is liable;
- (j.7) prescribing the acts or omissions of a person deemed to be an employee of a dealer for which a registrant who is a dealer is liable;
- (k) governing annual information forms, annual reports, preliminary prospectuses, prospectuses, pro forma prospectuses, short form prospectuses, pro forma short form prospectuses, exchange offering prospectuses, simplified prospectuses, risk disclosure statements, offering memoranda or any other disclosure documents and, without limiting the generality of the foregoing, governing procedures and requirements with respect to and providing for exemptions from
 - (i) the use, form and content of those documents;
 - (ii) the preparation, filing, delivery or dissemination of those documents;

- (iii) the issuance of receipts for preliminary prospectuses and prospectuses, including the issuance of receipts after an expedited or selective review, and respecting when receipts are not required or will not be issued, and the circumstances under which a receipt may be refused;
- (iv) the incorporation of other documents by reference;
- (v) the distribution of securities by means of a prospectus incorporating other documents by reference;
- (vi) the distribution of securities by means of a simplified or summary prospectus or other means of disclosure document;
- (vii) the distribution of securities on a continuous or delayed basis;
- (viii) the pricing of a distribution of securities after the issuance of a receipt for the prospectus filed in relation to the distribution;
- (ix) the issuance of receipts for prospectuses after selective review;
- (x) the incorporation by reference of certain documents in a prospectus and the effect, including from a liability and evidentiary perspective, of modifying or superseding statements;
- (xi) the form of certificates relating to a preliminary prospectus, prospectus and amendments to a prospectus and the persons or a class of persons required to sign the certificates;
- (xii) eligibility, and the loss of eligibility, to obtain a receipt for, or to distribute, securities under a particular form of prospectus;
- (xiii) the variance of rights to withdraw from or not be bound by an agreement to purchase securities;
- (xiv) the lapse date for a prospectus, restricting the period of time to the lapse date, the terms and conditions for continuing to distribute securities after the lapse date, and the circumstances under which the purchaser may cancel a trade that occurs after the lapse date;
- (xv) circumstances in which

- (A) section 110 does not apply to a person or company or a class of persons or companies, or
- (B) a receipt is deemed to have been issued for the purposes of this Act,
 - including the circumstance in which a receipt has been issued for a preliminary prospectus or prospectus under the laws of another jurisdiction respecting trading in securities or derivatives;
- (xvi) requirements in respect of amendments to a preliminary prospectus or prospectus and prescribing circumstances under which an amendment to a preliminary prospectus or prospectus must be filed;
- (xvii) requirements for dealers for delivery of a preliminary prospectus between the issuance of a receipt for a preliminary prospectus and the issuance of a receipt for a prospectus, including any record-keeping requirements;
- (xviii) the requirements of Parts 7, 8 and 9 or the modification or variation of requirements under Parts 7, 8 and 9;
- (xix) the issuance of receipts for any other disclosure documents;
- (k.1) prescribing circumstances in which a person or company or class of persons or companies that purchases a security under a distribution may cancel the purchase, including
 - (i) prescribing the period in which a purchaser may cancel the purchase;
 - (ii) prescribing the principles for determining the amount of the refund if the purchaser cancels the purchase;
 - (iii) specifying the person responsible for making and administering the payment of the refund and respecting the period in which the refund must be paid;
 - (iv) prescribing different circumstances, periods, principles, persons or companies, or classes of persons or companies, for different classes of securities, issuers or purchasers;
- (k.2) regulating or prohibiting the use of a class of disclosure documents during a distribution;

- (l) designating an offering memorandum, or any class of offering memoranda, not to be an offering memorandum;
- (m) designating a document or any class of documents that describes the business and affairs of an issuer to be an offering memorandum;
- (n) prescribing, with respect to a trade or a type of trade that would not otherwise be a distribution, the conditions under which that trade or type of trade is deemed to be a distribution;
- (o) providing for and governing exemptions from the registration or prospectus requirements and, without limiting the generality of the foregoing,
 - (i) prescribing trades, distributions, securities and derivatives in respect of which registration is not required;
 - (ii) prescribing trades, distributions and securities in respect of which the filing of a prospectus is not required;
 - (iii) respecting the modification or variation of those exemptions;
 - (iv) respecting the restriction or removal of those exemptions;
 - (v) designating a person or company or a class of persons or companies as an accredited investor;
- (p) governing mutual funds, non-redeemable investment funds and private investment funds and the advertising, distribution and trading of the securities of the funds and, without limiting the generality of the foregoing,
 - (i) designating issuers or a class of issuers as mutual funds;
 - (i.1) designating issuers or a class of issuers as non-redeemable investment funds;
 - (i.2) designating funds or a class of funds as private investment funds;
 - (ii) respecting sales charges imposed by a distribution company or contractual plan service company under a contractual plan on purchasers of shares or units of a fund;

- (iii) prescribing a penalty for the early redemption of shares or units of a fund;
- (iv) prescribing the form and contents of reports to be filed by the management company or distributors of a fund;
- (v) respecting
 - (A) the custodianship of assets of any fund;
 - (B) the minimum initial capital requirements for any fund making a distribution and prohibiting or restricting the reimbursement of costs associated with the organization of a fund;
 - (C) any matters affecting any fund that require the approval of security holders of the fund, the Commission or the Executive Director;
 - (D) the contents and use of sales literature, sales communications and advertising relating to any fund or securities of any fund;
- (vi) permitting or restricting investment policy and practices in connection with any fund;
- (vii) prescribing requirements in respect of, or in relation to, promoters, advisers, persons or companies, or a class of persons or companies, that administer or participate in the administration of the affairs of mutual funds or non-redeemable investment funds;
- (viii) requiring investment funds to establish and maintain a body for the purposes described in section 193.1, prescribing its powers and duties and prescribing requirements relating to
 - (A) the mandate and functioning of the body,
 - (B) the composition of the body and qualifications for membership on the body, including matters respecting the independence of members and the process for selecting the members,
 - (C) the standard of care that applies to members of the body when exercising their powers, performing their duties and carrying out their responsibilities,

- (D) the disclosure of information to security holders of the investment fund, to the investment fund manager and to the Commission, and
- (E) matters affecting the investment fund that require review by the body or approval of the body;
- (q) regulating scholarship plans and the distribution and trading of the securities of scholarship plans;
- (q.1) governing the preparation and the filing of reports of trades;
- (r) governing disclosure obligations under Parts 12 and 13 and the regulations and, without limiting the generality of the foregoing,
 - (i) requiring any person or company or class of persons or companies to comply with Parts 12 and 13 and the regulations;
 - (ii) prescribing disclosure requirements, including the form, content, preparation, review, audit, approval, certification, filing, delivery and use of disclosure documents;
- (r.1) respecting any matter necessary or advisable to regulate auditors of reporting issuers;
- (s) with respect to disclosures to be made, or that are otherwise provided for, under Parts 10, 12 and 13,
 - (i) prescribing procedures for the integration of disclosures required in relation to those Parts, including modifying or varying the application of Alberta securities laws as may be necessary for the purpose of permitting integrated disclosure;
 - (ii) prescribing disclosure requirements, including the form, content, preparation, review, audit, approval, certification, filing, delivery and use of disclosure documents;
- (s.1) respecting the preparation, form and content requirements applicable to the public dissemination of forward-looking information by reporting issuers where the dissemination is not part of a required filing;
- (t) governing insider trading, early warning and self-dealing and, without limiting the generality of the foregoing,

- (i) requiring any issuer, person or company or a class of issuer, person or company to comply with any of the requirements of Part 15 or the regulations;
 - (ii) prescribing how a security or class of security or a related financial instrument or class of related financial instruments must be reported in an insider report filed under section 182;
 - (iii) prescribing disclosure, delivery, dissemination and filing requirements, including the use of particular forms or particular types of documents;
 - (iv) respecting self-dealing and conflicts of interest;
 - (v) prescribing exemptions from the requirements of Part 15 or the regulations;
 - (vi) designating a person or company or a class of persons or companies as an insider;
- (u) regulating take-over bids, take-overs, issuer bids, going-private transactions, business combinations and related party transactions and, without limiting the generality of the foregoing,
- (i) prescribing requirements for different classes of bids, take-overs, going-private transactions, business combinations or related party transactions;
 - (ii) prescribing requirements relating to the conduct or management of the affairs of the issuer that is the subject of a take-over bid, going-private transaction, business combination or related party transaction, and of its directors and officers, during or in anticipation of the take-over bid, going-private transaction, business combination or related party transaction;
 - (iii) prohibiting a person or company or a class of persons or companies from purchasing or selling a security before, during or after the effective period of a take-over bid, or before, during or after a going-private transaction, business combination or related party transaction;
 - (iv) prescribing the disclosure, certification, delivery or dissemination of any circular, notice, report or other document required to be filed or delivered to a person or company;

- (v) prescribing percentages and requirements respecting early warning;
- (vi) prescribing exemptions from the requirements of Part 14 or the regulations;
- (v) governing the format, preparation, form, contents, execution, certification, dissemination and other use, filing, review and public inspection of all information, documents, records or other materials required under or governed by this Act and the regulations and, without limiting the generality of the foregoing,
 - (i) respecting applications for registration and other purposes;
 - (ii) respecting preliminary prospectuses and prospectuses;
 - (iii) respecting interim financial reports and financial statements;
 - (iv) respecting proxies and information circulars;
 - (v) respecting take-over bid circulars, issuer bid circulars, directors' circulars and offering memorandums;
 - (vi) establishing procedures and requirements in respect of the use of any electronic or computer-based system for the filing, delivery or deposit of information, documents, records or materials;
 - (vii) varying or modifying the application of this Act to facilitate the use of an electronic or computer-based system for the filing, delivery or deposit of information, documents, records or materials;
 - (viii) prescribing the circumstances in which persons or companies or a class of persons or companies will be deemed to have signed or certified information, documents, records or materials on an electronic or computer-based system for any purposes of this Act;
- (v.1) governing the solicitation of proxies and, without limiting the generality of the foregoing,
 - (i) prescribing requirements for the solicitation and voting of proxies;
 - (ii) prescribing requirements relating to communication with registered and beneficial owners of securities and

relating to other persons or companies or a class of persons or companies, including depositories and registrants, that hold securities on behalf of beneficial owners;

- (w) governing exchanges, self-regulatory organizations, clearing agencies, trade repositories and quotation and trade reporting systems and, without limiting the generality of the foregoing,
 - (i) respecting the recognition of exchanges, self-regulatory organizations, clearing agencies, trade repositories and quotation and trade reporting systems;
 - (ii) prescribing requirements in respect of the review or approval by the Commission of any bylaw, rule, regulation, policy, procedure, interpretation or practice of recognized exchanges, recognized self-regulatory organizations, recognized clearing agencies, recognized trade repositories and recognized quotation and trade reporting systems;
 - (iii) providing for the collection and remission by recognized exchanges, recognized self-regulatory organizations, recognized clearing agencies, recognized trade repositories and recognized quotation and trade reporting systems of fees payable to the Commission;
 - (iv) prescribing requirements in respect of the books and records to be maintained by recognized exchanges, recognized self-regulatory organizations, recognized clearing agencies, recognized trade repositories and recognized quotation and trade reporting systems;
- (w.1) governing credit rating organizations and, without limiting the generality of the foregoing,
 - (i) respecting the designation of credit rating organizations as designated rating organizations;
 - (ii) respecting the suspension, cancellation or variance of designations of credit rating organizations as designated rating organizations;
 - (iii) respecting the disclosure to or filing or furnishing of information and documents with the Commission or the Executive Director by credit rating organizations and their directors, officers and promoters;

- (iv) respecting the disclosure of information to the public;
- (v) requiring credit rating organizations to establish, publish, maintain and enforce a code of conduct applicable to their operations and to their directors, officers and employees;
- (vi) governing minimum requirements for credit rating organizations' codes of conduct;
- (vii) prohibiting or regulating conflicts of interest involving credit rating organizations;
- (viii) prohibiting or regulating the disclosure, use and dissemination of non-public material information;
- (ix) respecting the maintenance of books and records necessary for the conduct of business and the issuance and maintenance of credit ratings;
- (x) respecting the appointment of auditors and the preparation of audited financial statements;
- (xi) respecting the circumstances in which a credit rating organization or class of credit rating organization is not required to be designated or is deemed to be designated;
- (xii) respecting minimum designated ratings from credit rating organizations;
- (x) governing the requirements, practice and procedure for investigations, hearings, reviews and appeals and, without limiting the generality of the foregoing, providing for
 - (i) costs in respect of matters heard before the Commission or the Executive Director;
 - (ii) costs in respect of investigations;
 - (iii) costs in respect of services provided by persons appointed or engaged and the appearance of witnesses;
- (y) governing undertakings and agreements between the Commission or the Executive Director and any person or company or a class of persons or companies;
- (z) providing for and governing the payment of money by a person or company or a class of persons or companies pursuant to an undertaking or agreement with the Commission or the Executive Director;

- (aa) governing the administration and disposition of money received pursuant to an undertaking or an agreement;
- (bb) determining what constitutes a false or misleading appearance of trading activity in a security, a derivative or an underlying interest of a derivative or an artificial price for a security, a derivative or an underlying interest of a derivative;
- (cc) respecting any matter necessary or advisable to carry out effectively the intent and purpose of sections 147 and 207 and, without limiting the generality of the foregoing,
 - (i) providing for exemptions;
 - (ii) prescribing standards or criteria for determining when a material fact or material change has been generally disclosed;
- (dd) prescribing the form of endorsement for the purposes of extra-provincial warrants;
- (dd.1) prescribing circumstances in which a person or company or a class of persons or companies is prohibited from trading or purchasing securities or derivatives, or a particular security or derivative, including the circumstances in which a body empowered by the laws of another jurisdiction to regulate trading in securities or derivatives or to administer or enforce securities or derivatives laws in that jurisdiction, has ordered that
 - (i) a person is prohibited from trading or purchasing securities or derivatives, or a particular security or derivative, or
 - (ii) trades or purchases of a particular security or derivative cease;
- (ee) providing for and governing fees payable to the Commission and the provision of any service or function performed in respect of those fees;
- (ff) defining for the purposes of this Act terms used in this Act that are not defined in this Act;
- (gg) where this Act provides for a period of time to be prescribed, established or otherwise provided for by regulation, prescribing, establishing or otherwise providing for that period of time;

(hh) repealed 2006 c30 s61;

(hh.1) governing minimum requirements respecting corporate governance including, without limiting the generality of the foregoing,

- (i) requiring directors and officers, or persons or companies performing similar functions in relation to reporting issuers, to act honestly and in good faith with a view to the best interests of the reporting issuer;
- (ii) requiring directors and officers, or persons or companies performing similar functions in relation to reporting issuers, to exercise the skill and judgment that a reasonably prudent person would exercise in comparable circumstances;
- (iii) respecting the composition of the board of a reporting issuer and any committees of the board and the qualifications and requirements concerning directors, officers and committee members, and persons or companies performing similar functions, including any matters respecting independence, required courses and expertise;
- (iv) requiring reporting issuers to appoint audit committees and other committees of the board and prescribing minimum standards for those committees;
- (v) requiring reporting issuers and officers, or persons or companies performing similar functions in relation to reporting issuers, to devise and maintain a system of internal controls and disclosure controls and respecting minimum standards for and certification of those internal controls and disclosure controls;
- (vi) requiring reporting issuers to adopt codes of business conduct and ethics and corporate governance guidelines for directors, officers, employees and persons or companies performing similar functions or that are in a special relationship with the reporting issuer;
- (vii) respecting procedures to regulate conflicts of interest between the interests of a reporting issuer and those of a director or officer or a person or company performing similar functions on behalf of a reporting issuer;
- (viii) respecting the independence of auditors in relation to management and controlling security holders;

- (hh.2) requiring evaluations of reporting issuers' internal control over financial reporting and requiring reporting issuers to obtain audits of their internal control over financial reporting, including their management's evaluation;
- (hh.3) exempting a class of persons, companies, trades, derivatives or securities from one or more of the provisions of Alberta securities laws;
- (hh.4) prescribing circumstances and conditions for the purposes of an exemption under clause (hh.3), including
 - (i) conditions relating to the laws of another jurisdiction of Canada or relating to an exemption from those laws granted by a body empowered by the laws of that jurisdiction to regulate trading in securities or derivatives or to administer or enforce laws respecting trading in securities or derivatives in that jurisdiction, or
 - (ii) conditions that refer to a person or company or to a class of persons or companies designated by the Commission;
- (hh.5) prescribing documents for the purpose of the definition of "core document" in section 211.01(b);
- (hh.6) providing for the application of Part 17.01 to the acquisition of an issuer's security pursuant to a distribution that is exempt from section 110 and to the acquisition of an issuer's security in connection with or pursuant to a take-over bid or issuer bid;
- (hh.7) prescribing transactions or classes of transactions for the purposes of section 211.02(d);
 - (ii) governing the procedure to be followed by the Commission with respect to making or repealing rules under section 211.6(2) or 224;
 - (jj) governing any other matter related to the carrying out of this Act or the conduct of the business and affairs of the Commission.

RSA 2000 cS-4 s223;2003 c32 s35;2004 cI-1.5 s5;
2005 c18 s29;2006 c30 s61;2007 c10 s23;2008 c26 ss17,19;
2009 c14 s5;2010 c10 s21;2011 c7 s13;2014 c3 ss26,28;
2014 c17 s56;2016 c13 s19;2017 c12 s6

Commission rules

224(1) The Commission may, subject to this section and the regulations referred to in section 223(ii), make rules in respect of

any of the matters in respect of which the Lieutenant Governor in Council may make regulations under section 223.

(2) Notwithstanding subsection (1), the Commission shall not do the following:

- (a) make rules in respect of matters referred to in section 223(ee) except with the approval of the Minister;
- (b) make rules in respect of matters referred to in section 223(hh.1)
 - (i) except with the approval of the Minister, or
 - (ii) unless no change is being made to the minimum requirements under existing rules made in respect of section 223(hh.1);
- (c) make rules in respect of matters referred to in section 223(ii).

(3) Notwithstanding that the Commission may make rules,

- (a) where the provisions of a regulation made under section 223 and a rule made under this section conflict, the regulation prevails, and
- (b) the Lieutenant Governor in Council may amend or repeal any rule made by the Commission under this section.

(4) A rule made by the Commission under this section has the same force and effect as a regulation made by the Lieutenant Governor in Council under section 223.

(5) The *Regulations Act* does not apply to a rule made by the Commission under subsection (1).

RSA 2000 cS-4 s224;2003 c32 s36;2011 c7 s14;2014 c17 s55

Changes to unpublished rules

224.1(1) In this section, “unpublished rule” means a rule made by the Commission under section 211.6(2) or 224 but not yet published in The Alberta Gazette under section 211.6(2) or 225.

(2) The Commission may make rules setting out criteria or guidelines as to what constitutes non-substantive or non-controversial changes to unpublished rules.

(3) The Chair may designate 2 or more members of the Commission to sit as a panel of the Commission for the purposes of

considering and, subject to subsection (5), making changes to unpublished rules.

(4) Subject to this section, section 23(2) to (7) apply to a panel established under subsection (3).

(5) A panel established under this section may make non-substantive and non-controversial changes to unpublished rules.

(6) Where a change is made to an unpublished rule under this section, that rule as changed is deemed to have been made by the Commission under section 211.6(2) or 224.

2003 c32 s37;2005 c18 s30

Publication of rules

225(1) Where a rule is made under section 211.6(2) or 224, the Commission shall publish the rule in *The Alberta Gazette*.

(2) A rule that is not published in accordance with subsection (1) is not valid against a person or company that has not had actual notice of the rule.

(3) On publication of a rule in *The Alberta Gazette*,

- (a) every person or company is deemed to have notice of the rule, and
- (b) the rule is deemed to be valid notwithstanding any irregularity or any defect in the rule-making process.

RSA 2000 cS-4 s225;2005 c18 s31

Evidence re rule

226 For the purposes of the *Alberta Evidence Act*, a rule made under section 211.6(2) or 224 shall be treated in the same manner as if it were a regulation.

RSA 2000 cS-4 s226;2005 c18 s32

Application of regulations and rules

227 A regulation or a rule may be of general or specific application.

1995 c28 s61

Incorporation by reference

228(1) A regulation or rule may adopt or incorporate by reference, in whole or in part, any regulatory instrument, code, bylaw, standard, procedure or guideline.

(2) If a regulation or rule adopts or incorporates by reference, in whole or in part, a regulatory instrument, code, bylaw, standard,

procedure or guideline, it may adopt it or incorporate it by reference as amended from time to time, whether before or after the adoption or incorporation by reference, and with the necessary changes.

RSA 2000 cS-4 s228;2007 c10 s24

Exemption from a regulation or rule

229 A regulation or rule may authorize the Commission or the Executive Director to grant an exemption to the regulation or rule

- (a) in whole or in part, and
- (b) subject to terms, conditions, restrictions or requirements.

RSA 2000 cS-4 s229;2008 c26 s18

230 Repealed 2007 c10 s25.

Transitional provision

231 A trade or distribution made

- (a) before February 1, 1982, and
- (b) pursuant to an exemption under the former *Securities Act*, RSA 1980 cS-6,

shall remain exempted from the provisions of this Act in the same manner as if the exemption were contained in this Act.

1981 cS-6.1 s197



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