

SECURITIES RULES

PART 1 – DEFINITIONS AND INTERPRETATION

Division A - Definitions

Definitions of terms used in rules

1 In these rules:

“accredited investor” means

- (a) a Canadian financial institution, or an equivalent entity under the laws of another Canadian or foreign jurisdiction,
- (b) authorized foreign bank listed in Schedule III of the *Bank Act (Canada)*,
- (c) the Business Development Bank of Canada continued under the *Business Development Bank of Canada Act (Canada)*,
- (d) a subsidiary of any person in paragraphs (a) or (b), if the person owns all of the voting securities of the subsidiary, except the voting securities required by law to be owned by directors of the subsidiary,
- (e) a registered dealer or adviser, a representative of the dealer or adviser, an equivalent entity in another province or in a foreign jurisdiction, or an authorized or registered employee or agent of the entity,
- (f) a former representative of a registered dealer or adviser,
- (g) a registered charity under the *Income Tax Act (Canada)* that has obtained advice for the trade from a person registered under the Act or the securities laws of another province or foreign jurisdiction as an adviser or equivalent,
- (h) any government, government agency, municipality, public board, or commission,
- (i) a pension fund that is regulated by the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension commission or a similar regulatory authority in any foreign jurisdiction,
- (j) an individual whose net income before taxes exceeded \$200,000 or, combined with that of a spouse, exceeded \$300,000 in each of the two most recent years and who, in either case, reasonably expects to exceed that net income level in the current year,
- (k) an individual who, either alone or jointly with a spouse, owns cash and securities having an aggregate realizable value that before taxes, but net of any related liabilities, exceeds \$1,000,000,
- (l) an individual who, either alone or jointly with a spouse, has net assets of at least \$5,000,000,
- (m) a non-individual person, other than a mutual fund, that had net assets of at least \$5,000,000 as shown on its most recently prepared financial statements, and any wholly owned subsidiary,
- (n) a mutual fund if
 - (i) each securityholder of the fund was an accredited investor at the time the securityholder purchased a security of the fund,

- (ii) the investment portfolio of the fund is managed by a person registered under the Act or the securities laws of another province or foreign jurisdiction as an adviser or equivalent, or
- (iii) it is a public mutual fund or an equivalent entity in another province or foreign jurisdiction,
- (o) a non-individual person, if all of the owners of interests in the person are accredited investors, except directors who are legally required to own voting securities of the person, and
- (p) a person or class of persons the commission designates as an accredited investor;

“**Act**” means the *Securities Act*;

“**AIF**” means an annual information form;

“**BCI 62-502**” means British Columbia Instrument 62-502 *Takeover bids and issuer bids*;

“**Canadian financial institution**” means a bank, loan corporation, trust company, insurance company, treasury branch, credit union or caisse populaire that, in each case, is authorized to carry on business in Canada or in a province, the Confédération des caisses populaires et d'économie Desjardins du Québec, a cooperative credit association or a central cooperative credit society under the *Cooperative Credit Associations Act (Canada)*;

“**Canadian GAAP**” means generally accepted accounting principles determined with reference to the Handbook;

“**Canadian GAAS**” means generally accepted auditing standards determined with reference to the Handbook;

“**eligible institutional investor**” means

- (a) a person referred to in paragraph (a) or (i) of the definition of “accredited investor”,
- (b) a registered adviser, or a person exempt from registration as an adviser, in relation to securities over which it exercises discretion to vote, acquire or dispose without the express consent of the beneficial owner,
- (c) a mutual fund that is not a public mutual fund, or
- (d) an entity equivalent to an entity in paragraphs (a) to (c) in another province or foreign jurisdiction;

“**fully-managed account**” means an account for which a registered adviser, or an entity in another province or a foreign jurisdiction with status equivalent to a registered adviser in the other province or jurisdiction, makes the investment decision and has full discretion to purchase or sell securities without requiring the client's express consent to any transaction;

“**Handbook**” means the Handbook of the Canadian Institute of Chartered Accountants, as amended from time to time;

“**interim period**” means, in relation to a public issuer,

- (a) in a year other than a transition year, a period starting on the first day of the financial year and ending nine, six, or three months before the end of the financial year, or

- (b) in a transition year, a period starting on the first day of the transition year and ending
 - (i) three, six, nine or twelve months, if applicable, after the end of the former financial year, or
 - (ii) twelve, nine, six or three months, if applicable, before the end of the transition year;

“**MD&A**” means management’s discussion and analysis;

“**private issuer**” means an issuer, other than a mutual fund,

- (a) whose equity securities are owned by not more than 50 persons, counting joint security holders as one and not counting employees or former employees,
- (b) that does not have its securities listed, quoted, or traded on any marketplace, and
- (c) that has issued its securities only under the following exemptions:
 - (i) section 54 [*trade to existing securityholder*]
 - (ii) section 55 [*trade to persons not members of the public*]
 - (iii) section 56 [*trade to exempt purchaser*]
 - (iv) section 57 [*trade to accredited investor*]
 - (v) section 59 [*trade for \$150,000*]
 - (vi) section 63 [*trade related to business combination, reorganization, bid or winding up*]
 - (vii) section 67 [*trade in investment share of credit union*]
 - (viii) section 70 [*trade in non-syndicated mortgage*]
 - (ix) section 71 [*trade in exempt real estate security*]
 - (x) section 72 [*trade under legal authority*]
 - (xi) section 74 (a) [*trade to person outside Canada*]
 - (xii) equivalent exemptions in a former enactment
 - (xiii) designated exemptions in another province;

“**SEC issuer**” means an issuer that has a class of securities registered with the SEC or is required to report to the SEC under a designated requirement in the United States;

“**SEC**” means the United States Securities and Exchange Commission;

“**transition year**” means the financial year of an issuer in which the issuer changes its financial year end.

Division B - Interpretation

Excluded derivative – contract providing for physical delivery

- 2 A right or obligation to make or take future physical delivery of a thing referred to in paragraph (b), (c) or (d) of the definition of “derivative” in the Act is not a derivative under the Act if the right or obligation
 - (a) does not trade on a marketplace, and
 - (b) does not allow for cash settlement in place of physical delivery.

Excluded derivative – compensation arrangement

- 3 A right or obligation to make or take future physical delivery of cash, securities or other property is not a derivative under the Act if
- (a) the right or obligation relates to a compensation arrangement, and
 - (b) the material terms of the arrangement are disclosed in a record that is filed or in a public filing made with a marketplace.

Excluded securities

- 4 The following are not securities under the Act:
- (a) the following interests in a cooperative under the *Cooperative Association Act*:
 - (i) a membership share, or
 - (ii) a security distributed as, or by the application of, a dividend, interest or a patronage return,
 - (b) a membership share or a non-equity share of a credit union under the *Credit Union Incorporation Act*,
 - (c) a share of a credit union under the *Credit Union Incorporation Act* that a credit union requires a member to purchase as a condition of the credit union entering into a transaction with the member, or
 - (d) an interest in a self-directed registered education savings plan under the *Income Tax Act (Canada)*.

Percentage holdings of securities

- 5 (1) In determining its percentage holding in a class of securities for the purpose of paragraph (c) of the definition of “offering” in the Act or for the purpose of paragraph (a) of the definition of “significant securityholder” in the Act, a person may rely on the most recent information filed by the issuer of the securities.
- (2) Despite subsection (1), if a person has more accurate information than that referred to in subsection (1), the person must use that information in determining its percentage holding of securities.

Interpretation - Compliance with laws or requirements of another jurisdiction

- 6 For the purpose of determining whether a person may rely on an exemption, the person is not complying with the laws or requirements of another province or foreign jurisdiction if the person is relying on an exemption it obtained through the exercise of discretion by the regulator in the other province or jurisdiction, unless the exemption has general application to a class of persons that includes the person.

Interpretation – Acting as principal

- 7 In these rules, a person purchasing a security for a fully managed account is considered to be acquiring a security as principal if the person is
- (a) a registered dealer or adviser,
 - (b) a representative of a registered dealer or adviser,
 - (c) an entity in another province equivalent to a person referred to in paragraph (a), or
 - (d) an authorized or registered employee or agent of an entity referred to in paragraph (c).

Division C - Accounting Principles and Auditing Standards

Acceptable Accounting Principles

- 8 An issuer or a registrant that is required to file financial statements must prepare them in accordance with Canadian GAAP.

Acceptable auditing standards

- 9 If the Act or the rules require financial statements to be audited, they must be
- (a) audited in accordance with Canadian GAAS, and
 - (b) accompanied by an auditor's report prepared in accordance with Canadian GAAS that
 - (i) identifies all financial periods presented for which the auditor has issued an auditor's report, and
 - (ii) refers to any former auditor's report on a comparative period.

Auditor's consent

- 10 If an auditor's report is included in or accompanies a prospectus, takeover bid circular or issuer bid circular filed under the Act or the rules, the auditor's consent to use of the report must be filed with the prospectus or circular.

Acceptable auditors

- 11
- (1) An auditor's report on the financial statements of an issuer or registrant must be prepared and signed by a person that is authorized to sign an auditor's report by the laws and professional standards of a province.
 - (2) An auditor's report for the financial statements of a public issuer must be prepared and signed by a person that is, as of the date of the auditor's report, subject to requirements of the Canadian Public Accountability Board.

Measurement and reporting currencies

- 12
- (1) An issuer or registrant must disclose the reporting currency in its financial statements if it is not the Canadian dollar.
 - (2) The notes to the financial statements must disclose the measurement currency if it is different from the reporting currency.

Approval of financial statements and MD&A

- 13
- (1) A registrant must ensure that its board of directors approves financial statements required under sections 24 [*annual financial statements of applicant*], 25 [*interim financial statements of applicants*] and 42 [*ongoing annual financial statements*] before they are filed.
 - (2) An issuer must ensure that its board of directors approves financial statements required under sections 106 [*continuous disclosure annual audited financial statements*] and 107 [*continuous disclosure interim financial statements*] before they are filed.
 - (3) A public issuer must ensure that its board of directors approves MD&A required under section 122 [*filing of MD&A*] before it is filed.
 - (4) The board of directors of an issuer or registrant may delegate to its audit committee the approval of interim financial statements and related MD&A.

Exemptions for SEC issuers

- 14** (1) Sections 8 does not apply to an SEC issuer if the issuer prepares its statements in accordance with generally accepted accounting principles of the United States.
- (2) Sections 9 and 11 do not apply to an SEC issuer if
- (a) the financial statements required to be audited are accompanied by an auditor's report prepared in accordance with the standards of the United States Public Company Accounting Oversight Board, and
 - (b) the auditor's report is prepared by a person that is authorized to sign an auditor's report under a designated requirement in the United States.
- (3) For the purpose of subsection 1, "**accounting principles**" means
- (a) the accounting principles identified by the SEC as having substantial authoritative support, and
 - (b) designated requirements in the United States.

Division D - Corporate Governance**Independence**

- 15** For the purpose of section 16, a director of an issuer is independent
- (a) unless a reasonable person with knowledge of all the relevant circumstances would conclude that the director is not independent of management of the issuer or of any significant securityholder,
 - (b) if the issuer is a reporting issuer in another province and the director is independent under a designated requirement in the other province, or
 - (c) if the issuer is an SEC issuer and the director is independent under a designated requirement in the United States.

Audit committee

- 16** (1) A public issuer must have an audit committee of its board of directors unless its board
- (a) has fewer than five members, and
 - (b) performs the responsibilities of the audit committee, as set out in section 16.
- (2) A majority of the members of the audit committee must be independent.
- (3) The issuer must take reasonable steps to ensure that its audit committee is independent of the issuer's management and represents the interests of the issuer's securityholders.
- (4) The issuer must authorize the audit committee to
- (a) oversee the process of selecting and appointing the issuer's external auditor,
 - (b) oversee the conduct of the audit, and
 - (c) have primary responsibility for the relationship between the issuer and its external auditor.

Responsibilities of the audit committee

- 17** A public issuer must ensure that its audit committee

- (a) takes reasonable steps, when considering the auditor's appointment, to ensure that the auditor is independent of management of the issuer in accordance with applicable standards,
- (b) determines whether the audit fees charged by the auditor appear adequate in relation to the work required to support an audit opinion, without regard to fees that might be paid to the auditor for other services,
- (c) meets with the auditor, regularly and when otherwise appropriate, without management present to determine whether there are any contentious issues between the auditor and management relating to the issuer's financial disclosure and, if so, whether those issues have been resolved to the auditor's satisfaction, and
- (d) establishes, and monitors compliance with, the issuer's policies regarding
 - (i) the auditor providing services beyond the scope of the issuer's audit, and
 - (ii) the issuer hiring individuals formerly employed by the auditor to fill senior officer positions of the issuer.

Exemption for SEC issuer and reporting issuers in other provinces

18 Sections 16 and 17 do not apply to a public issuer that is a reporting issuer in another province or is an SEC issuer if it

- (a) is subject to, and complies with, a designated requirement in the other province or the United States,
- (b) files the records it is required to file under the requirement when it files them in the other province or the United States, and
- (c) sends records to securityholders in British Columbia at the same time and in the same manner as it is required to in the other province or the United States.

PART 2 – MARKET REGULATION

[This Part has no text]

PART 3 – REGISTRATION

Division A - Registration Status

Categories of registrant

- 19** (1) The following are the registration categories for a registrant:
- (a) investment dealer,
 - (b) mutual fund dealer,
 - (c) restricted dealer, and
 - (d) registered adviser.
- (2) An investment dealer may
- (a) trade in a security, and
 - (b) advise another person about investing in or trading in a security.

- (3) A mutual fund dealer may
 - (a) trade only in a security
 - (i) of a mutual fund, or
 - (ii) for which registration is not required under the Act or these rules, and
 - (b) advise another person only about investing in or trading in a security referred to in paragraph (a).
- (4) A restricted dealer may trade and advise only in compliance with its conditions of registration.
- (5) A registered adviser may act only as an adviser.

Membership in self-regulatory organization

- 20 (1) An investment dealer must be a member of the Investment Dealers Association of Canada.
- (2) A mutual fund dealer must be a member of the Mutual Fund Dealers Association of Canada.

Application for registration

- 21 An applicant for registration as a dealer or adviser must file an application to register in the required form.

Initial capital adequacy calculation

- 22 An applicant for registration as a dealer or adviser must provide to the Commission a report disclosing the amount of capital that would reasonably be considered sufficient to meet its expected business obligations, and a calculation of the capital that it has.

Initial bonding coverage

- 23 An applicant for registration as a dealer or adviser must provide to the Commission a report disclosing the terms and amounts of bonding that would reasonably be considered sufficient to cover the risk of client losses as a result of forgery, fraud, robbery or theft by the applicant or its representatives and evidence of the bonding coverage it has.

Annual financial statements

- 24 An applicant for registration as a dealer or adviser must provide to the Commission audited annual financial statements for its most recently completed financial year ended more than 90 days before the date of the application.

Interim financial statements

- 25 (1) An applicant for registration as a dealer or adviser must provide to the Commission interim financial statements of the applicant for the most recent interim period ended more than 60 days before the date of the application.
- (2) An applicant for registration is exempt from subsection (1) if the results for the most recent interim period are included in the annual financial statements provided under section 24.

More recent financial statements

- 26 Despite section 24 and 25(1), if financial statements for a more recent financial year or interim period are completed and approved, the applicant must provide to the Commission the more recent financial statements.

Information about partners, directors, officers and significant securityholders

- 27 (1) An applicant for registration as a dealer or adviser must provide the commission with personal information in the required form about each partner, director, officer and significant securityholder of the applicant.
- (2) If a significant securityholder is not an individual, the applicant must provide the Commission with personal information in the required form about each partner, director and officer of the significant securityholder.

Division B - Information Sharing**Meaning of “registrant”**

- 28 In this Division, “**registrant**” includes an applicant for registration.

Representative’s obligation to disclose

- 29 A person seeking to be a representative of a registrant must disclose to the registrant all information requested by the registrant that is relevant to the assessment of the person’s suitability as a representative.

Firms’ obligation to share information

- 30 (1) On request, a registered dealer or registered adviser must disclose, to a registrant that is considering whether to hire a person, all information in its possession or of which it is aware that is relevant to an assessment of the person’s suitability as a representative, whether or not the person has consented to disclosure of the information.
- (2) Except as otherwise permitted by law, a registrant that collects information under this section must not use the information for any purpose other than
- (a) making a decision to hire, or terminate the services of the person, or
 - (b) managing the person.
- (3) A registrant that collects information under the authority of this division must not disclose the information except
- (a) to a regulator or its delegate,
 - (b) to a marketplace, self-regulatory organization or regulatory organization, if the registrant is a regulated person of the marketplace, self-regulatory organization or regulatory organization,
 - (c) to a person empowered by the laws of a Canadian or foreign jurisdiction to regulate financial services, or
 - (d) if required or permitted by law.

Division C - Ongoing Requirements for All Registrants**Definition**

- 31 In this division, “**registered firm**” means a registered dealer or registered adviser.

Code of Conduct

- 32 A registered firm and its representatives must comply with the obligations in the schedule [*Code of Conduct*].

Specified authority of representatives

- 33 (1) A registered firm must maintain a current record of the trading or advising services each representative is authorized to provide on its behalf.
- (2) A registered firm must not authorize a representative to provide trading or advising services that are outside the scope of registration of the dealer or adviser.
- (3) A representative must not provide trading or advising services that are outside the scope of the representative's authorization from the registered firm.

Requirements for records

- 34 A registered firm must keep records that are reasonably necessary to record its business activities and its clients' transactions, including records that
- (a) permit the timely creation and audit of financial statements of the firm,
 - (b) enable the firm to determine its working capital,
 - (c) identify the property and things belonging to each client,
 - (d) identify the transactions conducted on behalf of each client or on behalf of the firm, and
 - (e) provide, in accordance with good business practices, an audit trail for each instruction and order received from a client and for each trade transmitted and executed for a client or by the firm as principal.

Time for keeping records

- 35 (1) A registered firm must keep, for at least 6 years, the records required under section 34.
- (2) A registered firm must keep, for at least 3 years, any written communications received or sent about the firm's business and its relationship with clients.

Information about partners, directors, officers and significant securityholders

- 36 A registered firm must provide the commission with personal information in the required form about a person that is:
- (a) a significant securityholder within 10 days of the person becoming a significant securityholder; or
 - (b) a partner, director or officer of the firm or of a significant securityholder within 10 days of the appointment of the person to that position.

List of representatives

- 37 (1) A registered firm must provide to the commission on or before December 31 of each year a list of
- (a) the names of all representatives of the firm as of November 30 of that year who are authorized by the firm to trade for or advise clients in British Columbia, and
 - (b) the names of all other representatives of the firm that traded for or advised clients in British Columbia at any time between December 1 of the previous year and November 30 of that year.

- (2) If a representative is not an individual, the registered firm must include in the list referred to in subsection (1), the names of all individuals authorized to conduct trading or advising activities.

Segregation of client assets

- 38** A registered firm must segregate client property from the property of the firm and clearly identify client property.

Capital adequacy

- 39** A registered firm must maintain capital that would reasonably be considered sufficient to meet its business obligations.

Subordination agreement

- 40** If a registered firm borrows in order to maintain sufficient capital to meet its business obligations from
- (a) a partner, director, officer or significant securityholder, or
 - (b) an associate of a person in paragraph (a),
- the registered firm and the person from whom the firm borrowed must enter into a subordination agreement that will ensure that claims of the partner, director, officer, significant securityholder or associates are unconditionally subordinated to the claims of the firm's other creditors and clients.

Bonding requirements

- 41** A registered firm must maintain the terms and amounts of bonding that would reasonably be considered sufficient to cover the risk of client losses as a result of forgery, fraud, robbery or theft by the firm or its representatives.

Annual audited financial statements

- 42** A registered firm must provide to the Commission annual audited financial statements by the 90th day following the end of its most recent financial year.

Annual review of capital

- 43** A registered firm must, when it provides its financial statements under section 42, provide to the Commission a report showing the amount of capital that would reasonably be considered sufficient to meet its business obligations, and a calculation of the capital it has.

Annual review of bonding

- 44** A registered firm must, when it provides its financial statements under section 42, provide to the Commission a report showing the amount of bonding coverage that would reasonably be considered sufficient to cover the risk of client losses referred to in the latest report provided under section 23 [*initial bonding coverage*] or 41, and evidence of the bonding coverage it has.

Inadequate capital or bonding

- 45** (1) A registered firm must report to the commission immediately if its capital level falls below the amount reported as sufficient in the latest report provided under section 22 [*initial capital adequacy calculation*] or section 43.
- (2) A registered firm must report to the commission immediately

- (a) any claims under its bonding, and
- (b) any change in terms or amounts of its bonding from the terms and amounts reported in the latest report provided under section 23 [*initial bonding coverage*] or section 44.

Dealer or adviser member of self regulatory organization or regulatory organization

- 46** Sections 34 to 36 and 38 to 45 do not apply to a registered firm if it is subject to, and complies with designated regulatory instruments of its recognized self regulatory organization or recognized regulatory organization.

Canadian dealers or advisers based outside British Columbia

- 47** Sections 34 to 36 and 38 to 45 do not apply to a registered firm whose principal place of business is outside British Columbia if the firm is subject to, and complies with designated requirements in another province, and files the records it is required to file under those requirements when it files them in the other province.

Division D - Registration Exemptions**Definition**

- 48** In this Division, “**consultant**” means, in relation to an issuer, a person, other than an employee, senior officer or director of the issuer, that
- (a) provides services relating to the business or affairs of the issuer or an affiliate of the issuer, other than services provided about an offering, and
 - (b) provides the services under a written contract with the issuer or an affiliate of the issuer.

Sub-Division I - General exemptions to trade**Acquiring securities**

- 49** A person is not required to register to acquire a security.

Trade to or through a dealer

- 50** A person is not required to register to trade in a security to or through a registered dealer.

Firm-only registration for dealer

- 51** A representative of a registered dealer is not required to register to trade in a security when acting within the scope of the representative’s authority from the dealer.

Isolated trade

- 52** A person is not required to register to trade in a security if
- (a) the trade is an isolated trade, and
 - (b) the person is not the issuer of the security.

Trade to issuer

- 53** A person is not required to register to trade a security to the issuer of the security.

Trade to existing securityholder

- 54** (1) An issuer is not required to register to trade a security of the issuer to an existing securityholder of the issuer.
- (2) Despite subsection (1), an issuer that is not a public issuer must not trade a security of the issuer to an existing securityholder of the issuer if the securityholder acquired the security in a trade made under section 60 [*trade under an offering memorandum*] or section 72 [*trade under legal authority*] unless the offering is available to all securityholders that own the same class of securities of the issuer or the security is issued under a previously issued right.

Trade to person not member of public

- 55** A person is not required to register to trade a security of a private issuer to another person that is, in relation to the first person, not a member of the public.

Sub-Division II - Exemptions for private placements**Trade to exempt purchaser**

- 56** An issuer is not required to register to trade a security of the issuer to one of the following persons acquiring the security as principal:
- (a) a director, officer or significant securityholder of the issuer or of an affiliate of the issuer;
 - (b) a family member of a director, officer or significant securityholder of the issuer or of an affiliate of the issuer;
 - (c) a family member of the spouse of a director, officer or significant securityholder of the issuer or of an affiliate of the issuer;
 - (d) a close personal friend or close business associate of a director, officer or significant securityholder of the issuer or of an affiliate of the issuer;
 - (e) an employee or consultant of the issuer or of an affiliate of the issuer, or a spouse of any of them;
 - (f) a person, other than an individual, of which a majority of the voting securities are owned by, or a majority of the directors are, persons described in paragraph (a), (b), (c), (d) or (e);
 - (g) a trust or estate of which all the beneficiaries or a majority of the trustees are individuals described in paragraph (a), (b), (c), (d) or (e);
 - (h) a person acquiring the securities as consideration for
 - (i) an interest in mining, petroleum, or natural gas property, or
 - (ii) property with a fair value of at least \$150,000;
 - (i) a creditor acquiring the securities to settle a debt;
 - (j) a person acquiring the securities as consideration for a bonus or finder's fee.

Trade by significant securityholder

- 57** A significant securityholder of an issuer is not required to register to trade a security of the issuer, or an option to acquire a security of the issuer, to
- (a) a director, officer, employee or consultant of the issuer or of an affiliate of the issuer,

- (b) a non-individual person of which a majority of the voting securities are owned by, or a majority of the directors are, persons described in paragraph (a), or
- (c) a trust or estate of which all the beneficiaries or a majority of the trustees are individual persons described in paragraph (a).

Trade to accredited investor

- 58** A person is not required to register to trade a security if the purchaser
- (a) acquires the security as principal, and
 - (b) is an accredited investor.

Trade for \$150,000

- 59** A person is not required to register to trade a security if
- (a) the purchaser acquires the security as principal, and
 - (b) the trade has an aggregate acquisition cost to the purchaser of at least \$150,000.

Trade under offering memorandum

- 60** (1) An issuer, other than a mutual fund, is not required to register to trade a security of the issuer if the purchaser is acquiring the security as principal and, before the purchaser commits in writing to purchase the security, the issuer
- (a) delivers to the purchaser an offering memorandum in accordance with Part 4D, and
 - (b) obtains a risk acknowledgement, in the required form, signed by the purchaser.
- (2) If section 98 of the Act [*withdrawal right*] applies, an issuer relying on the exemption in subsection (1) must hold all consideration received from a purchaser under this section in trust for the purchaser until the expiry of the purchaser's right to cancel the purchase under section 98 of the Act.

Trade under CMA exemption with risk acknowledgement

- 61** A public issuer relying on section 18(3) of the Act is not required to register to trade a security of the issuer if the purchaser is acquiring the security as principal and, before the purchaser commits in writing to purchase the security, the issuer obtains a risk acknowledgement, in the required form, signed by the purchaser.

Trade under the Employee Investment Act

- 62** (1) In this section, “**employee venture capital corporation**”, “**eligible business**”, and “**employee venture capital plan**” have the same meaning as under the *Employee Investment Act*.
- (2) An employee venture capital corporation registered under the *Employee Investment Act* is not required to register to trade a security of the corporation under its employee venture capital plan to an employee of an eligible business or of an affiliate of the eligible business if
- (a) the only securityholders of the corporation are employees of the eligible business or of an affiliate of the eligible business, and
 - (b) the corporation invests primarily in securities of the eligible business.

- (3) An employee of an eligible business or of an affiliate of an eligible business is not required to register to trade securities of an employee venture capital corporation to another employee of the eligible business or an affiliate of the eligible business.

Sub-Division III - Exemptions for corporate transactions

Trade related to business combination, reorganization, bid or winding up

- 63** A person is not required to register to trade securities in connection with
- (a) a business combination or other reorganization,
 - (b) a takeover bid or issuer bid under BCI 62-502 or a similar transaction under the laws of another jurisdiction, or
 - (c) the winding up or dissolution of the issuer.

Trade of public issuer security to existing securityholder

- 64** An issuer is not required to register to trade to an existing securityholder of the issuer securities of a public issuer or reporting issuer in another province.

Trade under direct purchase plan

- 65**
- (1) In this section, “**direct purchase plan**” means a plan that permits a person to purchase a security of a public issuer from the issuer or on a marketplace through the administrator of the plan.
 - (2) A public issuer is not required to register to trade a security of the issuer under a direct purchase plan if
 - (a) the number of securities distributed under the plan in any one calendar year is no more than 2% of the issuer's outstanding equity securities at the beginning of the year,
 - (b) the administrator of the plan is a Canadian financial institution, an equivalent entity in a foreign jurisdiction or a designated entity, and
 - (c) no person provides advice about the merits or suitability of the securities distributed under the plan, other than a registered dealer or registered adviser or an equivalent entity in another province.

Sub-Division IV - Exemptions for exempt securities

Trade in exempt security

- 66** A person is not required to register to trade
- (a) a debt security, or an option to acquire the debt security, issued or guaranteed by Canada or a province,
 - (b) a debt security, or an option to acquire the debt security that is rated by a designated rating agency and is issued or guaranteed by a country, a political division of a country, a municipal corporation, a Canadian financial institution or equivalent person in another jurisdiction, the International Bank for Reconstruction and Development, the Asian Development Bank, or the Inter-American Development Bank,
 - (c) commercial paper issued by a public issuer that matures no more than 12 months after it is issued and that is rated by a designated rating agency, or

- (d) a guaranteed investment issued by a Canadian financial institution whose deposits are insured by an agency of Canada or a province.

Sub-Division V - Exemptions for trades in securities otherwise regulated

Trade in investment share of credit union

- 67** A person is not required to register to trade an equity share of a credit union under the *Credit Union Incorporation Act* to a member of the credit union.

Trade in investment share of cooperative

- 68** A person is not required to register to trade an investment share of a cooperative under the *Cooperative Association Act* to a member of the cooperative if the cooperative has no more than 50 members.

Trade in variable insurance contract

- 69** A person is not required to register to trade a variable insurance contract issued by an insurance company and sold by a person licensed or not required to be licensed under the *Financial Institutions Act*.

Trade in non-syndicated mortgage

- 70** (1) A person is not required to register to trade a mortgage that is not a syndicated mortgage, if the mortgage is sold by a person registered or not required to be registered under the *Mortgage Brokers Act*.
- (2) In this section, “**syndicated mortgage**” means a security in which two or more persons participate, directly or indirectly, as lenders in a debt obligation that is secured by a mortgage.

Trade in exempt real estate security

- 71** (1) A person is not required to register to trade an exempt real estate security if the person
- (a) complies with the *Real Estate Act*, and
 - (b) does not market the expected economic benefits of any pooling or management arrangements related to the security.
- (2) In this section, “**exempt real estate security**” means:
- (a) a security issued by a cooperative association as defined in the *Real Estate Act* that evidences the right of the securityholder to use or occupy property in which the cooperative association has an interest; or
 - (b) a security comprising
 - (i) a direct interest in real property,
 - (ii) an interest in an existing or potential rental pool or management agreement for the property, and
 - (iii) a right to occupy the property.

Trade under legal authority

- 72** A person is not required to register to trade a security if the trade is made by
- (a) the person in the course of enforcing legal obligations or administering the affairs of another person, while the person is acting under the authority of

- (i) a court or government administrative body,
 - (ii) a will or trust,
 - (iii) a statute,
 - (iv) a representation agreement made in accordance with the *Representation Agreement Act*, or
 - (v) an enduring power of attorney in accordance with section 9 of the *Power of Attorney Act*, or
- (b) the person as creditor to liquidate a debt.

Sub-Division VI - Exemptions for persons with connections outside BC

Trade to or through dealer registered in another province

- 73** A dealer registered in another province is not required to register to trade a security with or on behalf of a person resident in British Columbia if the trade is subject to, and complies with, the requirements of the other province as if the trade were being made to a person in the other province and if
- (a) the person was the dealer's client before the person became a resident in British Columbia, or
 - (b) the dealer does not
 - (i) advertise or engage in promotional activity that is directed to persons in British Columbia during the 6 months preceding the trade, or
 - (ii) pay any consideration to a person, other than to a client or purchaser or to a representative outside British Columbia, in connection with a trade in a security in British Columbia.

Person or marketplace outside Canada

- 74** A person is not required to register to trade
- (a) a security to a person in a jurisdiction outside Canada purchasing as principal, or
 - (b) a security through a marketplace outside Canada.

Exempt trade under other Canadian securities law

- 75** A person is not required to register to trade in a security if
- (a) the offering is either
 - (i) made to persons in British Columbia and at least one other province, or
 - (ii) made in British Columbia and at least one other province,
 - (b) the trade is or would be exempt from the registration requirements of the other province under a designated exemption in the other province, and
 - (c) the person complies with the requirements of the exemption in the other province.

Sub-Division VII - Exemption for resale

Trade by securityholder

- 76** (1) A person holding a security, other than a security of a public issuer, is not required to register to trade the security to any of the following persons acquiring the security as principal:
- (a) a director, officer or significant securityholder of the issuer or an affiliate of the issuer;
 - (b) a family member of a director, officer or significant securityholder of the issuer or of an affiliate of the issuer;
 - (c) a family member of the spouse of a director, officer or significant securityholder of the issuer or of an affiliate of the issuer;
 - (d) a close personal friend or close business associate of a director, officer or significant securityholder of the issuer or of an affiliate of the issuer;
 - (e) an employee or consultant of the issuer or of an affiliate of the issuer, or a spouse of any of them;
 - (f) a person, other than an individual, of which a majority of the voting securities issued by the person are owned by, or a majority of the directors are, persons named in paragraph (a), (b), (c), (d) or (e);
 - (g) a trust or estate of which all the beneficiaries or a majority of the trustees are persons described in paragraph (a), (b), (c), (d) or (e);
 - (h) a family member of the selling securityholder or of the selling securityholder's spouse;
 - (i) an existing securityholder of the issuer;
 - (j) a person in another province if the trade is made in compliance with a designated exemption in the other jurisdiction.
- (2) An issuer, other than a public issuer or an equivalent entity in another jurisdiction, must take reasonable steps to ensure that its securityholders understand the restrictions on transfer of the issuer's securities.

Sub-Division VIII - Advising Exemptions

Firm-only registration for adviser

- 77** A representative of a registered adviser is not required to register to act as an adviser when acting within the scope of the representative's authority from the adviser.

General advice

- 78** A person is not required to register to act as an adviser if the person advises others only
- (a) about investing generally, if no advice is given about a trade of a specific security, or
 - (b) by providing advice directly or indirectly through publications or other media about a trade of a specific security if
 - (i) the advice is not tailored to the specific circumstances of a person, and
 - (ii) the person does not hold himself, herself or itself out as tailoring the advice to the specific circumstances of a person.

Exempt security

- 79 A person is not required to register to advise another person about a trade of a security under section 66 [*Trade in exempt security*].

Persons otherwise regulated

- 80 A person is not required to register to advise another person about a trade of a security under
- (a) section 67 [*Trade in investment share of credit union*], if the person is employed by the credit union or an affiliate,
 - (b) section 69 [*Trade in variable insurance contract*], if the person is licensed as an insurance agent or insurance salesperson under the *Financial Institutions Act*,
 - (c) section 70 [*Trade in non-syndicated mortgage*], if the person is registered under the *Mortgage Brokers Act*, or
 - (d) section 71 [*Trade in exempt real estate securities*], if the person is licensed as an agent, nominee or salesperson under the *Real Estate Act*.

Legal authority

- 81 A person is not required to register to advise another person about a trade of a security if the person is in the course of enforcing legal obligations or administering the affairs of another person and the person is acting under the authority of
- (a) a court or government administrative body,
 - (b) a will or trust,
 - (c) a statute,
 - (d) a representation agreement made in accordance with the *Representation Agreement Act*, or
 - (e) an enduring power of attorney in accordance with section 9 of the *Power of Attorney Act*.

Investment dealer acting as adviser

- 82 A registered investment dealer or a representative of a registered investment dealer is not required to register to manage an investment portfolio on behalf of a client if it follows designated regulatory instruments of the Investment Dealer's Association of Canada relating to portfolio management services for its members and their representatives.

Adviser registered in another province

- 83 A person registered in another province as an adviser is not required to register to advise a person resident in British Columbia if it is subject to, and complies with, the requirements of the other province as if the advice were being given to a person in the other province and if
- (a) the person was the adviser's client before the person became a resident in British Columbia,
 - (b) the adviser does not
 - (i) advertise or engage in promotional activity that is directed to persons in British Columbia during the 6 months before providing the advice, or

- (ii) pay any consideration to a person, other than to a client or purchaser or to a representative of the adviser outside British Columbia, in connection with advice provided to a person in British Columbia, or
- (c) the client is a registered dealer or registered adviser.

PART 4 – OFFERINGS

Division A - General

Offering exemption – issuer

84 Section 18(1) of the Act [*offering of securities*] does not apply to an offering of a security by the issuer, if the issuer complies with the conditions for an exemption in Part 3D that is available to the issuer, except

- (a) section 50 [*trade to or through a dealer*], other than a trade to a dealer as compensation for services in connection with a distribution, and
- (b) section 61 [*trade under CMA exemption with risk acknowledgment*].

Deemed offering – securityholder of public issuer without AIF

- 85** (1) A trade by a securityholder of a security of a public issuer is an offering if
- (a) the security was traded to the securityholder under an exemption from the prospectus requirement, and
 - (b) the issuer of the security is referred to in section 117 [*Public issuer without AIF*],
- unless at least 4 months have elapsed from the date the issuer made an offering that included the security.
- (2) Subsection (1) does not apply if the securityholder would not be required to hold the security for 4 months under designated requirements if the securityholder were resident in another province.

Deemed offering – securityholder of non-public issuer

86 A trade by a securityholder in a security of an issuer that is not a public issuer or a reporting issuer in another province is an offering if the securityholder acquired the security in an offering in British Columbia.

Offering exemption – securityholder of private issuer

87 Section 18(1) of the Act does not apply to an offering by a securityholder of securities of a private issuer if the offering complies with the conditions for an exemption in Part 3D that is available to the securityholder, except section 50 [*trades to or through a dealer*].

Offering exemption – securityholder of issuer that is not private issuer

88 Section 18(1) of the Act does not apply to an offering by a securityholder of securities of an issuer that is not a private issuer if the offering complies with the conditions for an exemption in Part 3D that is available to the securityholder, except section 50 [*trades to or through a dealer*].

Offering exemption – significant securityholder

- 89** Section 18(1) of the Act does not apply to an offering by a significant securityholder of securities of an issuer that is a public issuer not entitled to rely on the exemption in section 18(3) of the Act or a reporting issuer in another province, if
- (a) the securityholder has no reasonable grounds to believe that the issuer is in default of securities legislation and
 - (b) the offering is made through a marketplace.

Offering exemption – eligible institutional investor

- 90** Section 18(1) of the Act does not apply to an offering by a significant securityholder of securities of an issuer that is a public issuer or a reporting issuer in another province if
- (a) the securityholder is an eligible institutional investor that has filed reports under section 150 or 151 of the rules or section 26 of BCI 62-502,
 - (b) the sale is made in the ordinary course of the business or investment activity of the significant securityholder, and
 - (c) the securityholder does not, either alone or together with joint actors, control the issuer.

Offering exemption – other jurisdiction

- 91** Section 18(1) of the Act does not apply to an offering of securities under a designated exemption, in another province if the offering is made in British Columbia and the other province, and if the person offering the securities
- (a) is subject to, and complies with, the requirements for use of the exemption,
 - (b) files the records it is required to file under those requirements when it files them in the other province, and
 - (c) delivers any disclosure document to purchasers in British Columbia at the same time and in the same manner as it is required to under those requirements.

Plain language

- 92** If an issuer is required under this Part or an exemption from this Part to file a record or send a record to an investor, the issuer must prepare the record in plain language.

Division B - Prospectus of Public Issuer**Interpretation of “issuer”**

- 93** In this Division, “**issuer**” does not include a mutual fund.

Draft of prospectus

- 94** Prior to filing a prospectus under the Act, an issuer must file a draft of the prospectus.

Use of underwriter or due diligence provider

- 95**
- (1) An issuer that files a prospectus under the Act to become a public issuer or for an initial public offering must retain an underwriter or a due-diligence provider.
 - (2) Before filing the prospectus referred to in subsection (1), an issuer that retains a due-diligence provider under subsection (1) must obtain a written opinion stating that the due diligence provider has reasonable grounds to believe that the disclosure in the prospectus contains all material information about the issuer.

Delivery of prospectus on request

- 96** An issuer must send a copy of a prospectus filed under the Act as soon as practicable and without charge to a purchaser under the offering who requests it.

Exemption for prospectus offering in other province

- 97** Section 18(2) of the Act and sections 94 and 95 do not apply to an issuer making an offering in British Columbia and another province, if the issuer
- (a) is subject to, and complies with, designated requirements in another province,
 - (b) files the records it is required to file under those requirements when it files them in the other province, and
 - (c) delivers the prospectus to purchasers in British Columbia at the same time and in the same manner as it is required to under those requirements.

Division C - Financial Statements in a Prospectus**Interpretation of "issuer"**

- 98** In this Division, "issuer" does not include a mutual fund.

Annual financial statements

- 99**
- (1) An issuer that files a prospectus under the Act must include in the prospectus annual financial statements for the issuer's 3 most recently completed financial years or, if the issuer has not completed 3 financial years, for all of its financial years, ended more than 90 days before the date of the prospectus.
 - (2) Despite subsection (1), if the issuer changed its financial year-end during any of the years in subsection (1), and the resulting transition year is at least 9 months, the issuer may include in the prospectus financial statements for the transition year as one of the years in subsection (1).
 - (3) Despite subsection (1), if the issuer has not completed one financial year, the issuer must include in the prospectus financial statements for the period from the date of the issuer's formation to a date not more than 90 days before the date of the prospectus.

Audit requirement

- 100**
- (1) The financial statements for the most recent financial year or period required under section 99 must be audited.
 - (2) Financial statements included in a prospectus under section 99, other than those for the most recent financial year or period, may be unaudited only if an auditor has not issued an auditor's report on the financial statements.

Interim financial statements

- 101**
- (1) An issuer that files a prospectus under the Act must include in the prospectus comparative interim financial statements for the issuer's most recent interim period ended more than 60 days before the date of the prospectus.
 - (2) Despite subsection (1), the interim financial statements may be omitted if the results for the most recent interim period are included in the annual financial statements filed under section 99.

More recent financial statements

- 102** Despite subsections 99 (1) and 101 (1), if financial statements for a more recent financial year or interim period are completed and approved, the issuer must include in the prospectus the more recent financial statements.

Financial statements of predecessors

- 103** (1) An issuer that files a prospectus under the Act and that has not existed for 3 years must include, under sections 99 and 101, the financial statements of any predecessor that carried on the issuer's primary business.
- (2) An issuer that files a prospectus under the Act and whose primary business was acquired less than 3 years before the date of the prospectus must include, under sections 99 and 101, the financial statements of the acquired business prior to the acquisition in addition to the financial statements of the issuer.

Exemption from financial statement requirements for prospectus offering in other province

- 104** Sections 99 to 103 do not apply to an issuer making an offering in British Columbia and another province, if the issuer
- (a) is subject to, and complies with, designated requirements in another province, and
 - (b) files the records it is required to file under those requirements when it files them in the other province.

Division D - Offering Memorandum**Disclosure and filing requirements**

- 105** (1) An issuer relying on the exemption in section 60 [*trade under an offering memorandum*] must prepare an offering memorandum in the required form.
- (2) An issuer must disclose in an offering memorandum under subsection (1) all material information about the issuer.
- (3) If material information about the issuer changes, the issuer must disclose the changed information in writing to the purchaser before completing the trade.
- (4) An issuer must file an offering memorandum under subsection (1) within 10 days of the date it is first delivered to a purchaser under section 60.

Annual financial statements

- 106** (1) An issuer must include in an offering memorandum under section 105 comparative annual financial statements for the issuer's most recent financial year ended more than 120 days before the date of the offering memorandum.
- (2) Despite subsection (1), if the issuer has not completed one financial year, the issuer must include in the offering memorandum under subsection (1) financial statements for the period from the date of the issuer's formation to a date not more than 60 days before the date of the offering memorandum.

Interim financial statements

- 107** An issuer must include in an offering memorandum under section 105 comparative interim financial statements for the issuer's most recent interim period ended more than

60 days before the date of the offering memorandum, unless the results for the period are included in the financial statements under section 106.

More recent financial statements

- 108** Despite subsection 106(1) and 107(1), if financial statements for a more recent financial year or interim period are completed and approved, the issuer must include in the offering memorandum the more recent financial statements.

Audit requirement

- 109** (1) The financial statements for the issuer's most recent financial year required under section 106 must be audited, except the comparative information may be unaudited.
- (2) If the offering memorandum under section 106 does not include audited financial statements for the issuer's most recent financial year and if the offering is continuing when the audited financial statements are completed and approved, the issuer must update the offering memorandum to include the audited statements as soon as the issuer has approved the statements, but no later than 120 days after the financial year end.

Financial statements of partnership

- 110** If the issuer is a limited partnership, the financial statements required under sections 106 to 108 are those of the general partner and, if the limited partnership has active operations, of the limited partnership.

Exemption for mortgage syndications and real estate securities offerings

- 111** Section 106 to 110 do not apply to an offering of syndicated mortgages or real estate securities provided the prospective purchaser receives financial information about the project that will allow the purchaser to make an informed investment decision.

Division E - Reports of Exempt Offerings

Reporting requirement

- 112** (1) An issuer, except a private issuer, that makes an offering of its own securities under section 84 that complies with the conditions for an exemption in paragraphs (a) to (f) must file a report in the required form:
- (a) section 50 [*trade to or through a dealer*], if the trade is to the dealer as consideration for its services in connection with a distribution,
 - (b) section 56 (h) [*trade for property*],
 - (c) section 58 [*trade to accredited investor*],
 - (d) section 59 [*trade for \$150,000*],
 - (e) section 60 [*trade under an offering memorandum*], or
 - (f) section 75 [*exempt trade under other Canadian securities laws*], if the exemption relied on is similar in substance to an exemption described in paragraphs (a) through (e)
- (2) The report in subsection (1) must be filed no later than
- (a) if the offering continues for not more than 90 days, 30 days after the offering is completed, or

- (b) if the offering continues for more than 90 days, 30 days after the end of each 90-day period of the offering and 30 days after the offering is completed.

Reporting exemption

- 113** Section 112 does not apply to an issuer that
- (a) is subject to, and complies with, designated requirements in another province, and
 - (b) files the records it is required to file under those requirements when it files them in the other province.

Division F - Public Issuers and Section 18(3) of the Act**Filing disclosure document**

- 114** A public issuer must file a copy of any disclosure document provided to a purchaser in connection with an offering made under section 18(3) of the Act [*CMA offering*], within 10 days of the date it is first provided to a purchaser.

Technical report under NI 43-101

- 115**
- (1) A public issuer that offers securities under section 18(3) of the Act and files a news release announcing the offering, must file a technical report in accordance with NI 43-101 *Standards of Disclosure for Mineral Projects*, unless the information that would be in the technical report is included in a previously filed technical report.
 - (2) The report filed under subsection (1) must be an independent technical report under NI 43-101, unless the issuer is a producing issuer as defined in NI 43-101.

Report of offering

- 116**
- (1) A public issuer that offers securities under section 18(3) of the Act must file a report in the required form.
 - (2) The report in subsection (1) must be filed no later than
 - (a) if the offering continues for not more than 90 days, 30 days after the offering is completed, or
 - (b) if the offering continues for more than 90 days, 30 days after the end of each 90-day period of the offering and 30 days after the offering is completed.

Division G – Removal of Exemption in Section 18(3) of the Act**Public issuer without AIF**

- 117** Section 18(3) of the Act does not apply to a public issuer that relies on a designated exemption from filing an AIF.

Multi-jurisdictional offerings

- 118**
- (1) Section 18(3) of the Act does not apply to a public issuer that offers securities concurrently in British Columbia and under a prospectus in another province, if
 - (a) the issuer files the prospectus under National Instrument 13-101 *System for Electronic Document and Analysis*, and
 - (b) the commission is the principal regulator for the offering.

- (2) Section 18(3) of the Act does not apply to a public issuer that offers securities concurrently in British Columbia and under a prospectus in the United States if British Columbia is the review jurisdiction for the offering under designated requirements of the SEC that establish the Multijurisdictional Disclosure System.

Offerings by foreign issuers

119 (1) In this section:

“**foreign issuer**” means an issuer, other than a mutual fund,

- (a) whose principal market is outside Canada, if the issuer’s securities trade on a marketplace, or
- (b) that is based in a jurisdiction outside Canada;

“**principal market**” means

- (a) for an issuer based in Canada whose securities trade on a marketplace in Canada,
 - (i) Canada, or
 - (ii) a jurisdiction outside Canada whose marketplaces accounted for more than 60% of the annual trading volume of the issuer’s securities over each of its two most recent financial years, and
- (b) for an issuer not referred to in paragraph (a), the jurisdiction whose marketplaces accounted for the largest annual trading volume in the issuer’s securities averaged over its two most recent financial years.

- (2) Section 18(3) of the Act does not apply to an offering by a foreign issuer that is a public issuer and relies on an exemption from section 23 of the Act or Part 1C, 1D, 4 or 5 of the rules, that has general application to a class of foreign issuers that includes the issuer.

PART 5 – CONTINUOUS DISCLOSURE

Division A - Periodic Disclosure

Definitions

120 In this division:

“**issuer**” does not include a mutual fund;

“**venture issuer**” means a public issuer that, at the end of the applicable financial period, did not have any of its securities listed or quoted on any of

- (a) the Toronto Stock Exchange,
- (b) an exchange registered as a “national securities exchange” under section 6 of the *Securities Exchange Act of 1934* of the United States,
- (c) the NASDAQ Stock Market, or
- (d) a marketplace outside Canada and the United States other than a designated marketplace;

“**form of proxy**” means a record containing the information required under section 139 that becomes a proxy when it is completed and signed by or on behalf of a securityholder.

AIF

- 121** (1) A public issuer must file an AIF in the required form within the time set out in section 125 for filing its annual financial statements.
- (2) In an AIF filed under subsection (1), the issuer must disclose all material information about the issuer.
- (3) A public issuer that is not exempted from subsection (1) and does not file an AIF under that subsection in any year must file a prospectus by the date that its next AIF would be due under subsection (1)

MD&A

- 122** (1) A public issuer must file MD&A in the required form related to its interim or annual financial statements.
- (2) Subsection (1) does not apply to an SEC issuer that prepares its MD&A in accordance with designated requirements in the United States and files the MD&A with the commission when it files it with the SEC.

Additional disclosure for venture issuers without significant revenue

- 123** (1) A venture issuer that has not had significant revenue from operations in either of its two most recent financial years must disclose in its MD&A, or in the related financial statements, a breakdown of material components of
- (a) capitalized or expensed exploration and development costs,
 - (b) expensed research and development costs,
 - (c) deferred development costs,
 - (d) general and administration expenses, and
 - (e) any other material costs, whether capitalized, deferred or expensed.
- (2) The disclosure in subsection (1) must be presented for the relevant annual or year-to-date interim period and must include comparative information for the comparative period, as applicable.
- (3) If the venture issuer's primary business is mining exploration and development, the disclosure in paragraph (a) of subsection (1) must be presented on a property-by-property basis.

Annual audited financial statements

- 124** A public issuer must file comparative annual audited financial statements.

Filing deadline for annual audited financial statements and MD&A

- 125** The annual financial statements and related MD&A must be filed at the same time, and
- (a) for a public issuer, other than a venture issuer, by the 90th day, or
 - (b) for a venture issuer, by the 120th day,
- after the end of its most recent financial year.

Interim financial statements

- 126** (1) A public issuer must file comparative interim financial statements for the interim periods of its current financial year.

- (2) Despite subsection (1), an issuer that has not completed its first financial year is not required to file interim financial statements for an interim period that is shorter than three months.

Filing deadline for interim financial statements and MD&A

- 127** The interim financial statements and related MD&A must be filed at the same time, and
- (a) for a public issuer, other than a venture issuer, by the 45th day, or
 - (b) for a venture issuer, by the 60th day,
- after the end of the interim period.

Filing deadline if filing in a foreign jurisdiction

- 128** Despite sections 125 and 127, a public issuer must file its financial statements and related MD&A not later than the date they are filed in another jurisdiction, if that date is earlier than the filing deadlines in sections 125 or 127.

Financial statements after becoming public issuer

- 129**
- (1) An issuer that becomes a public issuer must file its first financial statements under sections 124 and 126 for the financial year and interim period immediately following the periods covered by the financial statements included in the filed document that resulted in the issuer becoming a public issuer.
 - (2) Despite sections 124 to 128, if subsection (1) requires a public issuer to file financial statements for a year or interim period that ended before the issuer became a public issuer, the issuer must file the statements by the later of
 - (a) in the case of annual financial statements, 20 days
 - (b) in the case of interim financial statements, 10 daysafter the issuer became a public issuer, or by the applicable filing deadline in section 125, 127 or 128.
 - (3) Despite section 126, a public issuer is not required to provide comparative financial information for interim periods that ended before the issuer became a public issuer if it is not practicable to do so and if the issuer provides the prior period information that is available and discloses in the notes to the financial statements that the prior period information has not been prepared on the same basis as information for the most recent interim period.
 - (4) Subsections (1) to (3) do not apply to an issuer that becomes a public issuer by filing a notice under section 20 of the Act.

Delivery of documents to securityholders

- 130**
- (1) A public issuer must send, as soon as practicable and without charge to a securityholder who requests it, a copy of its
 - (a) prospectus under section 121(3) or AIF, if the issuer relies or intends to rely on the exemption in section 18(3) of the Act,
 - (b) annual financial statements and related MD&A, or
 - (c) interim financial statements and related MD&A.
 - (2) Subsection (1) does not apply to a record that was filed more than two years before the date the issuer receives the request.

Change of auditor

- 131** (1) If a public issuer changes auditors, it must, as soon as practicable following the change,
- (a) prepare, file and deliver to its former and successor auditors a report describing the reasons for the change, including any reason related to the content, presentation, audit or review of the issuer's financial statements, and
 - (b) issue and file a news release disclosing the change of auditor.
- (2) If a former or successor auditor believes the issuer's report fails to fairly and fully state the reasons for the change, the auditor must provide to the commission as soon as practicable a letter disclosing the deficiency.
- (3) This section does not apply to a change of auditor required by the issuer's governing legislation or resulting solely from a takeover bid or equivalent transaction in another jurisdiction, business combination or similar reorganization affecting the issuer or the auditor.

Exemption for SEC issuer from change of auditor requirement

- 132** Section 131 does not apply to an SEC issuer or its auditor if the issuer
- (a) is subject to, complies with, designated requirements in the United States,
 - (b) files all records it is required to file with the SEC when it files them with the SEC, and
 - (c) issues and files a news release disclosing the change of auditor.

Change of status

- 133** (1) A public issuer must file a notice in the required form if it
- (a) becomes a venture issuer,
 - (b) ceases to be a venture issuer, or
 - (c) changes its name.
- (2) An issuer that becomes a public issuer under paragraph (c) or (d) of the definition of public issuer in the Act must file a notice in the required form.
- (3) A notice under subsection (1) or (2) must be filed as soon as practicable after the occurrence of an event referred to in subsection (1) or (2).

Change in year end

- 134** (1) If a public issuer changes its financial year end by more than 14 days, it must file a notice in the required form.
- (2) The issuer must file the notice under subsection (1) by the earlier of
- (a) the filing deadline for its next annual or interim financial statements based on the former year end, and
 - (b) the filing deadline for its next annual or interim financial statements based on the new year end.
- (3) A transition year must not exceed 15 months and the first interim period in a transition year must not exceed four months.
- (4) Despite section 126, a public issuer is not required to file interim financial statements for any period in a transition year that ends less than 1 month

- (a) after the last day of its former financial year, or
- (b) before the first day of its new financial year.

Exemption for SEC issuer from change in year-end requirement

- 135** Section 134 does not apply to an SEC issuer if the issuer
- (a) is subject to, and complies with, designated requirements in the United States, and
 - (b) files all records it is required to file with the SEC when it files them with the SEC.

Sending of proxies and information circulars

- 136**
- (1) Management of a public issuer must, when giving notice of a meeting to its securityholders, send to each registered securityholder who is entitled to vote at the meeting a form of proxy for use at the meeting.
 - (2) A person that solicits proxies from registered securityholders of a public issuer must
 - (a) if proxies are solicited by or on behalf of management of the issuer, send an information circular in the required form with the notice of meeting to each registered securityholder whose proxy is solicited, or
 - (b) in any other case, at the same time as or before the solicitation, send an information circular in the required form to each registered securityholder whose proxy is solicited.
 - (3) For the purpose of this section, a person does not solicit proxies if it
 - (a) sends a form of proxy to a securityholder in response to an unsolicited request made by or on behalf of a securityholder,
 - (b) performs administrative acts or professional services on behalf of a person soliciting a proxy,
 - (c) acts as an intermediary,
 - (d) is a securityholder and makes a public announcement under corporate legislation, of how it intends to vote and the reasons why, or
 - (e) communicates with securityholders for the purpose of obtaining the number of shares required for a shareholder proposal under corporate legislation.

Exemptions from sending information circulars

- 137**
- (1) Section 136(2)(b) does not apply to a solicitation if proxies are solicited from no more than 15 securityholders.
 - (2) For the purpose of subsection (1), two or more persons who are joint registered owners of securities are considered to be one securityholder.

Filing of information circulars and proxy-related material

- 138** A person that is required to send an information circular or form of proxy under section 136 must, as soon as practicable, file a copy of the information circular, form of proxy and all other material required to be sent by the person in connection with the meeting to which the information circular or form of proxy relates.

Content of form of proxy

- 139** (1) A form of proxy under section 136 must permit the securityholder
- (a) to specify that the securities registered in its name will be voted for or against, or voted for or withheld from voting on, each matter identified in the form of proxy, the notice of meeting or the information circular, and
 - (b) if the form of proxy names a person to act as nominee, to designate another person as the securityholder's nominee.
- (2) An information circular under section 136 or the related form of proxy must
- (a) state that the securityholder may appoint someone other than the person designated in the form of proxy to represent the securityholder at the meeting,
 - (b) explain how the securityholder may exercise the right in paragraph (a), and
 - (c) state that the securities represented by the proxy will be voted in accordance with the securityholder's instructions.
- (3) A form of proxy under section 136 may confer discretionary authority only if the information circular or form of proxy discloses that the proxy confers discretionary authority, and
- (a) in the case of any matter, the form of proxy or the information circular discloses how the securities represented by the proxy will be voted if the securityholder fails to specify a choice, and
 - (b) in the case of amendments, variations or other matters that may come before the meeting, the person soliciting proxies could not reasonably have known that the amendment, variation or other matter would come before the meeting.
- (4) A form of proxy under section 136 must not confer authority to vote
- (a) for the election of any person as a director of a public issuer unless a bona fide proposed nominee for that election is named in the information circular, or
 - (b) at any meeting other than the meeting specified in the notice of meeting or any adjournment of that meeting.

Exemption based on corporate law requirements for proxies

- 140** A public issuer is not required to comply with sections 136, 138 and 139 if the requirements of the laws of the jurisdiction in which it carries on business, or is incorporated, organized or continued, are substantially similar to sections 136, 138 and 139, and the issuer is subject to, and complies with, those requirements.

Exemption based on periodic disclosure requirements in other provinces

- 141** (1) Sections 121 to 131, 133, 134, 136, 138 and 139 do not apply to a public issuer that is a reporting issuer in another province if it
- (a) is subject to, and complies with, the designated requirements in the other province,
 - (b) files the records it is required to file under those requirements when it files them in the other province, and
 - (c) sends records to securityholders in British Columbia at the same time and in the same manner as it is required to in the other province.

- (2) Despite subsection (1), a public issuer that relies on the exemption in section 18(3) of the Act must comply with section 130(1)(a).

Plain language

- 142** If an issuer is required under this Division or an exemption from this Division to file a record or send a record to an investor, the issuer must prepare the record in plain language.

Division B - Timely Disclosure

Confidential material information report

- 143** (1) Subject to subsection (2) and (3), a public issuer is exempt from section 23 of the Act [*disclosure of all material information by public issuer*] if, in the issuer's reasonable opinion,
- (a) the disclosure of the material information would be unduly detrimental to the issuer's interests, and
 - (b) the circumstances that justify non-disclosure of the material information are temporary.
- (2) Subsection (1) does not apply unless
- (a) the issuer files, as soon as practicable after the obligation to disclose arises, a confidential material information report describing
 - (i) the material information, and
 - (ii) the reasons why disclosure would be unduly detrimental to the issuer's interests,
 - (b) subject to subsection (4), the information has not been disclosed to any person other than a person referred to in paragraphs (a) to (e) of the definition of "connected person" in section 32(1) of the Act.
- (3) Subsection (1) does not apply if the commission has notified the issuer that it considers the public interest in disclosing the information outweighs the issuer's interest in not disclosing the information.
- (4) If material information has not been disclosed under this section, and a reasonable person in the position of the issuer would conclude there is a significant risk that the material information will be disclosed to a person other than a person referred to in subsection (2)(b), the issuer must disclose the information within one business day of the significant risk arising.

Exemption for issuers filing timely disclosure in other provinces

- 144** Section 24 of the Act does not apply to a public issuer that is a reporting issuer in another province if
- (a) it is subject to, and complies with, the designated requirements in the other province, and
 - (b) files the records it is required to file under those requirements when it files them in the other province.

Plain language

- 145** If an issuer is required under this Division or an exemption from this Division to file a record or send a record to an investor, the issuer must prepare the record in plain language.

Division C - Insider Reports**Definition of “issuer event”**

- 146** In this division, “**issuer event**” means a stock dividend, stock split, consolidation, amalgamation, reorganization, merger, or other similar event that affects all holdings of a class of securities of an issuer in the same manner, on a per security basis.

Time periods for filing insider reports

- 147** (1) For the purpose of section 25 of the Act [*initial insider report*], the prescribed time is within 10 days after the later of the date on which the person became an insider, or the date of the trade that is required to be reported.
- (2) For the purpose of section 26 of the Act [*subsequent insider report*], the prescribed time is within 10 days after the change occurs, unless the change results from a trade described in subsection (3) or (4).
- (3) If an insider acquires securities of a public issuer under a plan providing for automatic acquisitions that do not involve the insider's discretion, the insider must report that acquisition in the required form within 90 days of the end of the calendar year in which it occurred.
- (4) If an insider disposes of securities acquired under a plan referred to in subsection (3), and the disposition is
- (a) incidental to the operation of the plan, or
 - (b) made to satisfy a tax withholding obligation arising from the distribution of securities under the plan,
- the insider must report that disposition in the required form within 90 days of the end of the calendar year in which it occurred.
- (5) If an insider trades securities acquired under a plan referred to in subsection (3) in circumstances where subsection (4) does not apply, the insider must report that trade in accordance with subsection (1) or (2).
- (6) Despite subsection (3), if an insider acquires securities for an additional lump sum payment under a provision of an automatic plan, the insider must report that trade in accordance with subsection (1) or (2).
- (7) If an insider's ownership of, or control or direction over the voting or trading of, securities of a public issuer changes because of an issuer event, the insider must report that change in the next report the insider is required to file under subsection (2).

Issuer list of insiders

- 148** (1) An issuer must file a list of its insiders that are directors or senior officers as soon as practicable after becoming a public issuer.
- (2) An issuer must file by December 31 of each year a list disclosing

- (a) the identities of all directors and senior officers as of November 30 of that year, and
- (b) the identities of all directors and senior officers at any time between December 1 of the previous year and November 30 of that year.

Exemption for insiders filing reports in another province

149 An insider of a public issuer that is required to file reports in another province is not required to comply with section 25 or 26 of the Act if it

- (a) is subject to, and complies with, the designated requirements in the other province, and
- (b) files insider reports when it files them in the other province.

Exemption for eligible institutional investors providing alternative monthly reports

150 (1) Section 25 of the Act does not apply to an eligible institutional investor if it files a report in the required form within 10 days after the end of a month in which, as at the end of the month, it held 10% or more of a class of the issuer's outstanding voting securities.

(2) Section 26 of the Act does not apply to an eligible institutional investor that has filed a report under subsection (1) if it files a report in the required form within 10 days after the end of each month in which, as at the end of the month,

- (a) it held 10% or more of a class of the issuer's outstanding voting securities, and
- (b) its holdings changed past thresholds that are products of whole numbers multiplied by 2.5% of the outstanding securities of that class.

(3) A person that files a report under subsection (1) or (2) must send a copy of the report to the public issuer as soon as practicable.

(4) A person that files a report under subsection (1) or (2), in determining its percentage holding in a class of securities, may rely on the most recent information disclosed by the issuer of the securities.

(5) Despite subsection (4), if a person has more accurate information than that referred to in subsection (4), the person must use that information in determining its percentage holding of securities.

(6) An eligible institutional investor, or its affiliate or associate, may, for purposes of this section, treat securities it owns or controls through a business unit separately from securities it owns or controls through any other business unit if

- (a) each business unit makes all the decisions about owning or voting the securities it owns or controls,
- (b) no business unit acts jointly or in concert with any other business unit with respect to the securities,
- (c) no person is involved in making a decision about owning or voting securities for more than one business unit, except to prepare research reports or comply with legal requirements or general investment policies, and
- (d) the eligible institutional investor, affiliate, or associate discloses in any record it files under this division that it is relying on this section and what that means, and which business units are being treated separately.

- (7) If an eligible institutional investor, or its affiliate or associate, exercises or shares control over a mutual fund, the eligible institutional investor, affiliate, or associate may, for purposes of this section, treat securities the fund owns or controls separately from other securities the eligible institutional investor, affiliate, or associate owns or controls, if
- (a) an adviser manages the fund on behalf of the eligible institutional investor under a written agreement,
 - (b) the adviser is identified as managing the fund in a record provided to investors,
 - (c) none of the eligible institutional investor, its affiliates or associates, or any of their directors, officers, partners, or employees is involved in making decisions about owning or voting securities for more than one mutual fund, except to prepare research reports or comply with legal or other policies or requirements,
 - (d) the adviser neither controls nor is controlled by the eligible institutional investor or any of its affiliates or associates, and
 - (e) the eligible institutional investor, affiliate, or associate discloses in any record it files under this division that it is relying on this section and what that means, and keeps a record of the funds whose ownership of or control over securities is treated separately.

Exemption for eligible institutional investors filing in another province

- 151** Sections 25 and 26 of the Act do not apply to an eligible institutional investor if it
- (a) is subject to, and complies with, the designated requirements in another province, and
 - (b) files all records it is required to file under the requirements when it files them in the other province.

Division D - Further Information for Commission

Personal information of directors and officers

- 152** (1) A public issuer must provide to the commission personal information in the required form for each of its directors and officers within 30 days after the individual becomes a director or officer.
- (2) A public issuer that is listed on a Canadian marketplace may comply with subsection (1) by providing to the commission a copy of any personal information form or statutory declaration for a director or officer that is filed with the Canadian marketplace when it is filed.

Filing records sent to securityholders or other agencies

- 153** (1) A public issuer must file a record containing material information about the issuer that it
- (a) sends to its securityholders, or
 - (b) files with a marketplace, a regulatory organization or a regulator
- if the record contains material information that is not already filed with the commission.
- (2) A public issuer must file a record under subsection (1) on the earlier of

- (a) when the issuer sends the record to its securityholders, or
- (b) when the issuer files the record with a market place, a regulatory organization or a regulator.

Division E - Advertising

Advertising by an issuer

- 154** An issuer, other than a mutual fund, is not required to register to trade and is exempt from section 18(1) of the Act when it advertises about its own securities, if the advertisement
- (a) identifies that it is an advertisement,
 - (b) states whether the issuer's securities are listed or unlisted,
 - (c) states that trading in its securities is restricted, if it is, and
 - (d) refers to the issuer's continuous disclosure record, if applicable, and any offering document to which the advertisement relates.

Division F – Surrender of Public Issuer Status

Surrendering status

- 155** (1) A public issuer ceases to be a public issuer if
- (a) its outstanding securities
 - (i) are owned by not more than 50 persons, counting joint security holders as one and not counting employees or former employees, and
 - (ii) are not listed, quoted or traded on any marketplace, and
 - (b) it files a notice stating its intention to cease to be a public issuer on a specified future date.
- (2) An issuer that satisfies the conditions in subsection (1) ceases to be a public issuer on the date specified in the notice.

PART 6 – TAKEOVER BIDS AND ISSUER BIDS

[This Part has no text.]

PART 7 – EXEMPTIONS FOR FOREIGN MARKET PARTICIPANTS

[This Part has no text.]

PART 8 – MUTUAL FUNDS

[This Part has no text.]

PART 9 – DERIVATIVE CONTRACTS

Exemptions for exchange-traded derivatives

- 156** A person that trades a derivative on an exchange is exempt from the requirements in Part 4 [*Offerings*] of the Act, sections 22 [*periodic disclosure*] and 23 [*disclosure of all*]

material information by public issuer] of the Act, and BCI 62-502 [*Takeover Bids and Issuer Bids*] relating to the derivative, if the derivative is traded on an exchange designated for the purpose of this Part.

Definitions

157 In this part, “**OTC derivative**” means a derivative that is not traded on an exchange.

Exemption for trading to qualified parties

- 158** (1) A person is exempt from Part 3 and Part 4 of the Act when trading an OTC derivative contract if each party to the trade is a qualified party acting as principal.
- (2) For purposes of this section, “**qualified party**” means any of the following:
- (a) a person referred to in paragraph (a), (b), (c), (e), (h), (i), or (l) of the definition of “accredited investor” in section 1;
 - (b) a mutual fund if each investor in the fund is a qualified party;
 - (c) a mutual fund, if the investment portfolio of the fund is managed by a person that is registered under the Act or the securities laws of another Canadian jurisdiction as an adviser or equivalent;
 - (d) a person that buys, sells, trades, produces, markets, brokers, or otherwise uses a commodity in its business and as a consequence enters into an OTC derivatives transaction,
 - (e) a person that,
 - (i) together with its affiliates, has entered into one or more transactions involving OTC derivatives with counterparties that are not its affiliates, if
 - (A) the aggregate value of the notional principal amounts of the OTC derivatives is at least \$1 billion, and
 - (B) any of the OTC derivative contracts relating to one of these transactions was outstanding on any day during the previous 15 month period, or
 - (ii) together with its affiliates, had total gross marked-to-market positions of at least \$100 million aggregated across counterparties, with counterparties that are not its affiliates in one or more transactions involving OTC derivatives on any day during the previous 15 month period;
 - (f) a company, partnership, unincorporated association, organization, or trust, with total assets, as shown in the balance sheet for its most recently completed financial year end (prepared in accordance with generally accepted accounting principles and audited, if the party has produced an audited balance sheet for that financial year end), in excess of \$25 million;
 - (g) a person that is wholly-owned by any of the persons described in paragraphs (a), (e), and (f);
 - (h) a person that wholly owns any of the persons described in paragraphs (a), (e), and (f);
 - (i) a wholly-owned subsidiary of a person described in paragraph (h);
 - (j) a person whose obligations in respect of the OTC derivatives transactions are fully guaranteed by another qualified party.

Short-term foreign exchange transactions through registered dealer

- 159** A person is exempt from Part 4 of the Act if the person trades a contract or other obligation to purchase or sell the currency of any jurisdiction to or through a registered dealer, if the terms of the transaction require settlement not later than 3 business days after the trade.

Exemption for institutional financial instruments

- 160** (1) A Canadian financial institution or registered dealer, is exempt from Part 3 and Part 4 of the Act if the financial institution or dealer trades an institutional financial instrument as principal.
- (2) A client or customer of a Canadian financial institution or registered dealer is exempt from Part 4 of the Act if the client or customer is acting as principal in trading an institutional financial instrument with the financial institution or dealer.
- (3) For the purpose of this section, “**institutional financial instrument**” includes an OTC derivative that is
- (a) a currency, cross currency or interest rate swap agreement,
 - (b) a basis swap agreement,
 - (c) a spot, futures, forward or other foreign exchange agreement,
 - (d) a cap, collar or floor transaction,
 - (e) a forward rate agreement,
 - (f) a currency or interest rate future,
 - (g) a currency or interest rate option, or
 - (h) based on, derived from, or settled by reference to an exchange rate, the currency of a jurisdiction, an interest rate or an amount of indebtedness.

PART 10 – COMPLIANCE AND ENFORCEMENT**Prescribed record for 44(3) of the Act**

- 161** For the purpose of section 44(3) of the Act [*cease trade order for non-compliance*], the prescribed record is the prospectus required to be filed under section 121 (3) [*Document filed after failure to file*].

PART 11 – HEARINGS AND REVIEWS**Disclosure of evidence**

- 162** A party to a hearing must disclose to each other party
- (a) the evidence it intends to rely on,
 - (b) each witness statement, report prepared by an expert witness, or any other record, or
 - (c) any other information or thing that the commission orders.

Representation by counsel

- 163** (1) Counsel may represent a party or a witness at a hearing.
- (2) Where counsel represents a party or a witness, records may be served on the party or witness by delivering them to counsel.

- (3) Counsel that represents a party other than Commission staff must file a notice in the required form disclosing particulars for service.

Notice for service

- 164** A party to a hearing must file a notice in the required form disclosing particulars for service.

PART 12 –POWERS OF THE COURTS**Profit**

- 165** For the purposes of section 83(3) of the Act [*penalties*], profit means the applicable amount determined as follows:
- (a) profit of a person who purchased a security in contravention of section 30(2) of the Act [*insider trading*] or 31(2)(a) or (b) of the Act [*front running*] means the amount determined by
 - (i) multiplying the volume-weighted average market price of the security over the 10 trading days immediately following
 - (A) general disclosure of the inside information, or
 - (B) the first trade of a security that was the subject of the material order information,by the number of securities the person purchased, and
 - (ii) subtracting from that amount the amount paid by the person for the securities;
 - (b) profit of a person who sold a security in contravention of section 30(2) or 31(2)(a) or (b) of the Act means the amount determined by
 - (i) ascertaining the amount received by the person for the securities sold and
 - (ii) subtracting from that amount the volume-weighted average market price of the security over the 10 trading days immediately following
 - (A) general disclosure of the inside information, or
 - (B) the first trade of a security that was the subject of the material order information,multiplied by the number of securities the person sold;
 - (c) profit of a person who informed another person of
 - (i) inside information in contravention of section 30(3) of the Act [*tipping of material information*] or
 - (ii) material order information in contravention of section 31(2)(c) of the Act [*tipping of material order information*]means the value of the consideration received by that person plus the profit of the person who received the information, calculated under paragraph (a) or (b);
 - (d) profit of a person who recommended or encouraged another person to trade a security or to enter into a transaction in contravention of section 30(4) of the Act [*recommending re material information*] or section 31(2)(d) of the Act [*recommending re material order information*], means the value of the consideration received by that person plus the profit of the person who

received the recommendation or encouragement, calculated under paragraph (a) or (b);

- (e) profit of a person in circumstances not set out in paragraph (a), (b), (c) or (d), means the amount determined by the court.

PART 13 INVESTOR REMEDIES

Prescribed documents and offers

- 166** (1) For the purpose of the definition of “**bid document**” in section 87 of the Act, the prescribed documents are
- (a) a takeover bid circular,
 - (b) an issuer bid circular,
 - (c) a notice of change related to the circular in paragraph (a) or (b), and
 - (d) a notice of variation related to the circular in paragraph (a) or (b).
- (2) For the purpose of the definition of “**issuer bid**” in section 87 of the Act, the prescribed class of offers is an issuer bid as defined in BCI 62-502.
- (3) For the purpose of the definition of “**takeover bid**” in section 87 of the Act, the prescribed class of offers is a takeover bid as defined in BCI 62-502.
- (4) For the purpose of
- (a) section 96 of the Act [*misrepresentation in prescribed disclosure document*],
 - (b) section 97 of the Act [*rescission for misrepresentation in prescribed disclosure document*], and
 - (c) section 98 of the Act [*withdrawal right under prescribed disclosure document*],
- the prescribed disclosure document is the offering memorandum that must be delivered to the purchaser under section 60 [*trade under offering memorandum*].

Limits on liability

- 167** (1) In this division:
- “**market capitalization**” for an issuer means the aggregate of the following:
- (a) for each class of equity security for which there is a published market, the amount calculated by multiplying
 - (i) the average number of outstanding securities of the class at the close of trading on each of the 10 trading days before the first day on which the misconduct occurred divided by 10 by,
 - (ii) the weighted average price of the securities of the class on the principal market on which the securities traded for the 10 trading days before the first day on which the misconduct occurred, and
 - (b) for each class of equity security not traded on a published market, the fair market value of the outstanding securities of that class as of the first day on which the misconduct occurred;
- “**principal market**” means, for a class of securities of an issuer,

- (a) the published market in Canada with the greatest volume of trading in securities of that class during the 10 trading days before the first day on which the misconduct giving rise to the action occurred, or
- (b) if there is no published market in Canada, the published market with the greatest volume of trading in securities of that class during the 10 trading days before the first day on which the misconduct giving rise to the action occurred;

“published market” means, as to any class of securities, a marketplace on which the securities are traded, if the prices at which they have traded on that marketplace are regularly

- (a) disseminated electronically, or
- (b) published in a newspaper or business or financial publication of general and regular paid circulation.

(2) For the purpose of section 121(1)(b) of the Act [*limits on damages*], the prescribed amounts are

- (a) for an issuer, fund manager or offeror, the greater of \$1 million or 5% of its market capitalization,
- (b) for a director or officer of an issuer, significant securityholder, fund manager or offeror, the greater of \$25,000 or 50% of the total compensation, including stock or deferred compensation, that the director or officer received from the issuer, significant securityholder, fund manager or offeror and its affiliates, during the 12 months prior to the misconduct giving rise to the action,
- (c) for a significant securityholder that is not an individual, the greater of \$1 million or 5% of its market capitalization,
- (d) for a significant securityholder that is an individual, the greater of \$25,000 or 50% of the total compensation, including stock or deferred compensation, that the person received from the issuer and its affiliates, during the 12 months prior to the misconduct giving rise to the action,
- (e) for an expert, the greater of \$1 million and the amount the expert and its affiliates received from the issuer, significant securityholder, fund manager or offeror and its affiliates during the 12 months prior to the misconduct giving rise to the action,
- (f) for a due diligence provider, the value of the offering,
- (g) for an underwriter in connection with an offering, an amount equal to the portion of the value of the offering equal to the underwriter's participation in the offering,
- (h) for a person who made an oral statement and who is not within paragraphs (a) to (g), the greater of \$25,000 or 50% of the total compensation, including stock or deferred compensation, that the person received from the issuer, significant securityholder or fund manager and its affiliates, during the 12 months prior to the misconduct giving rise to the action; and
- (i) for a person who contravened section 30 of the Act [*insider trading or tipping*], an amount equal to triple the profit the person made or loss the person avoided because of the contravention.

Assessing damages

- 168** In assessing damages where the liability of a defendant is limited under the Act, the court must consider reducing the amount payable under section 121(1)(b) of the Act by
- (a) the aggregate of all damages that have been assessed after appeals, if any, against the defendant in all other actions brought in respect of the same contravention under
 - (i) section 90 to 95 of the Act, and
 - (ii) comparable provisions in the securities laws in other province, and
 - (b) any amount paid or payable in a settlement approved under section 120 of the Act with respect to an action referred to in paragraph (a).

PART 14 – THE BRITISH COLUMBIA SECURITIES COMMISSION**E-filing of records**

- 169** (1) A person must file a record in electronic format using a required filing system or an electronic filing facility provided on the commission's website.
- (2) Despite subsection (1), if unanticipated technical difficulties prevent the timely filing of an application, it may be filed in paper format.

Schedule

Code of Conduct

Integrity and fairness

1. Act fairly, honestly, and in good faith and in the best interests of your client.
2. Exercise the degree of care, diligence, and skill that a reasonably prudent person would exercise in the circumstances.
3. Comply with all relevant laws and regulations that govern you.
4. Do not engage in conduct that would bring the reputation of the securities market into disrepute. Take all reasonable steps to determine whether a client's actions threaten the integrity of the securities market.
5. If a client refuses to comply with all relevant laws and regulations, cease to act on behalf of the client.
6. Do not contract out of any duty or liability you or your firm may have under this Code.

Dealings with clients

7. Keep each client informed of all information that a reasonable person would consider important to the business relationship.
8. Ensure that each client is provided on a timely basis with the records that a reasonable client would consider important respecting all transactions that you conduct on the client's behalf and on the status of the client's account.
9. Ensure that all disclosure you prepare and provide to clients uses plain language.

Confidentiality

10. Hold in confidence all information acquired in the course of your relationship with the client, unless the client consents to the disclosure, the disclosure is legally required or the client appears to be engaging in activity that could threaten the integrity of the securities market.

Proficiency

11. Maintain the proficiency and exercise the skill and diligence necessary to properly advise and serve clients.

Know your client and suitability

12. Take reasonable steps to learn and keep current your knowledge of the essential facts about the identity, reputation, and financial circumstances of each client.
13. Take reasonable steps to learn and keep current your knowledge of the general investment needs and objectives of each client and the client's risk tolerance. Determine the suitability of a proposed purchase or sale for the client or the client's portfolio based on that knowledge. If a purchase or sale that a client requests is not suitable, advise the client that it is unsuitable before executing the proposed transaction.
14. Provide clients with the information necessary to make informed investment decisions.

Conflict of interest

15. Resolve all significant conflicts of interest in favour of the client using fair, objective, and transparent criteria. If there is a conflict of interest between clients, use fair, objective, and transparent criteria to resolve those conflicts. In both cases, apply the criteria consistently.
16. Develop procedures for resolving conflicts of interest and disclose them to the client.
17. Disclose promptly to the client any information that a reasonable client would consider important in determining your ability to provide objective service or advice.
18. When acting as an underwriter, act in the best interests of investors and the securities market. Disclose to investors any direct or indirect relationships between you and the issuer or seller that would lead a reasonable investor to question whether you and the issuer or seller are in fact independent from each other.

Compliance systems

19. Maintain an effective system to ensure compliance with this Code, all applicable regulatory and other legal requirements, and your own internal policies and procedures. Maintain an effective system to manage the risks associated with your business.
20. Ensure that your compliance function possesses the technical competence, adequate resources, independence, and experience necessary for the performance of its functions.
21. Take reasonable steps to ensure that every representative working for your firm is suitable for work in the securities industry and is appropriately supervised.
22. Separate underwriting functions from the firm's trading and advising functions.
23. Notify the commission immediately of any significant change in the information relating to your organization or business.
24. Safeguard any client monies you hold and ensure they are used for their intended purpose.

Client complaints

25. Create and use adequate procedures for handling client complaints effectively. Disclose complaint procedures to clients.

Exemption for discount broker or other dealer complying with SRO requirements

26. Despite section 30 of the rules, sections 13 and 14 do not apply to a registered dealer if there is a designated exemption in a regulatory instrument of a self-regulatory organization of which the dealer is a regulated person and the dealer complies with the requirements for the use of the exemption.

Exemption for representative

27. Despite section 30 of the rules, sections 18 to 25 do not apply to a representative of a registered firm.