

SECURITIES RULES

PART 1 – DEFINITIONS AND INTERPRETATION

Division A - Definitions

Definitions

1 In these rules:

“accredited investor” means

- (a) a Canadian financial institution, or a person authorized in a foreign jurisdiction to carry on banking, insurance or trust business,
- (b) an 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) to (c), 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 dealer or adviser in another province or a foreign jurisdiction that is registered under the securities laws of the other province or foreign jurisdiction for the purpose of trading or acting as an adviser,
- (f) a registered representative or another person that trades a security or acts as an adviser on behalf of an entity referred to in paragraph (e), if the person is registered under the securities laws of another province or a foreign jurisdiction,
- (g) an individual that was formerly registered under the Act, the *Securities Act*, RSBC 1996, c. 418, or securities legislation of another province,
- (h) a registered charity under the *Income Tax Act (Canada)* that has obtained advice for the trade from a registered adviser, or an adviser in another jurisdiction registered under the securities laws of the other jurisdiction for the purpose of acting as an adviser,
- (i) a government, government agency, municipality, public board, or commission in or outside British Columbia,
- (j) 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,
- (k) 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 calendar years and who, in either case, reasonably expects to exceed that net income level in the current year,
- (l) 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,
- (m) an individual who, either alone or jointly with a spouse, has net assets of at least \$5 000 000,

- (n) a person, other than an individual, that had net assets of at least \$5 000 000 as shown, in aggregate, on its most recently prepared financial statements, and the most recently prepared statements of any wholly-owned subsidiary,
- (o) a mutual fund or other investment 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 registered adviser, or an adviser in another jurisdiction registered under the securities laws of the other jurisdiction for the purpose of acting as an adviser, or
 - (iii) it is a public mutual fund, public issuer or an issuer that is a reporting issuer under the securities laws in another province or foreign jurisdiction,
- (p) a person, other than an individual, if all of the owners of interests in the person are accredited investors, not including directors who are legally required to own one or more voting securities of the person, and
- (q) a person or class of persons designated as an accredited investor for the purposes of this definition;

“**Act**” means the *Securities Act*, S.B.C. c. 43, 2004;

“**AIF**” or “**Annual Information Form**” means the information referred to in section 123;

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

“**BCI 81-509**” means British Columbia Instrument 81-509 *Mutual fund requirements*;

“**Canadian financial institution**” means

- (a) any of the following authorized to carry on business in Canada or in a province:
 - (i) a bank;
 - (ii) a loan corporation;
 - (iii) a trust company;
 - (iv) an insurance company;
 - (v) a treasury branch;
 - (vi) a credit union;
 - (vii) a caisse populaire,
- (b) the Confédération des caisses populaires et d'économie Desjardins du Québec, and
- (c) 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;

“**designated**” means designated by the commission;

“**eligible institutional investor**” means

- (a) a person referred to in paragraph (a) or (j) of the definition of “accredited investor”,
- (b) a registered adviser, or an adviser in another jurisdiction registered under the securities laws of the other jurisdiction for the purpose of acting 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 person exempt from registration as an adviser in British Columbia, or another jurisdiction, in relation to securities over which the person exercises discretion to vote, acquire or dispose without the express consent of the beneficial owner, or
- (d) a mutual fund that
 - (i) is not a public mutual fund,
 - (ii) is not a reporting issuer under the securities laws of another province, or
 - (iii) does not have continuous reporting obligations under the laws of a foreign jurisdiction;

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

“interim period” means,

- (a) in a financial year that has 365 days, or 366 days if it includes February 29, 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,
- (b) in a transition year for which the following financial year will have 365 days, or 366 days if it includes February 29, 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, or
- (c) in any other circumstance, a period starting on the first day of the financial year and ending within 7 days of the ending dates referred to in subsections (a) or (b);

“MD&A” or **“management’s discussion and analysis”** means the discussion and analysis referred to in section 124;

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

- (a) if the securities of the issuer, listed below, are owned by not more than 50 persons, counting two or more persons that hold a security jointly as a single securityholder, and excluding employees and former employees:
 - (i) voting securities;
 - (ii) securities that are not debt securities and that carry a residual right to participate in the earnings of the issuer or, on the liquidation or winding up of the issuer, in its assets;
 - (iii) securities convertible, directly or indirectly, into securities described in subparagraphs (i) or (ii),
- (b) the securities of which are not listed, quoted, or traded on any marketplace,

- (c) that has not made an offering of a security other than under an exemption referred to in paragraph (d), or in section 84 if the exemption relates to one of the following:
- (i) section 51 [*trade to securityholder*]
 - (ii) section 52 [*trade to persons not members of the public*]
 - (iii) section 54 [*trade to exempt purchaser*]
 - (iv) section 55 [*trade for asset acquisition*]
 - (v) section 56 [*trade to creditor*]
 - (vi) section 57 [*consideration for corporate finance activity*]
 - (vii) section 59 [*trade to accredited investor*]
 - (viii) section 60 [*trade for \$150,000*]
 - (ix) section 64 [*trade related to business combination, reorganization, bid or winding up*]
 - (x) section 68 [*trade in security of credit union*]
 - (xi) section 71 [*trade in non-syndicated mortgage*]
 - (xii) section 72 [*trade in exempt real estate security*]
 - (xiii) section 73 [*trade under legal authority*]
 - (xiv) section 75 (a) [*trade to person outside Canada*], and
- (d) that has not made an offering of a security other than under an exemption referred to in paragraph (c) or
- (i) a similar exemption in a former enactment, or
 - (ii) an exemption in another province designated for the purpose of this definition;

“**SEC issuer**” means an issuer that

- (a) has issued a class of securities that are registered with the SEC, or
- (b) is required to report to the SEC under a requirement of United States securities laws that is designated for purposes of this definition;

“**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

Contract providing for physical delivery deemed not to be derivative

- 2** A right or obligation to make or take future delivery of
- (a) currency,
 - (b) a mineral, metal or precious stone, or
 - (c) any other thing or interest if the unit of that thing or interest is naturally or by custom treated as the equivalent of any other unit,
- is prescribed not to be a derivative under the Act if the right or obligation
- (d) does not trade on a marketplace, and
 - (e) does not allow for exercise or performance other than by delivery of the thing or interest.

Compensation arrangement deemed not to be derivative

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

Prescribed marketplace

- 4 For the purpose of the definition of “**public issuer**” in section 1 of the Act, the prescribed marketplace is TSX Venture Exchange.

Interests deemed not to be securities

- 5 The following are prescribed not to be securities under the Act:
- (a) a membership share in a cooperative under the Cooperative Association Act;
 - (b) a security issued by a cooperative under the Cooperative Association Act if that security was distributed as, or by the application of, a dividend, interest or a patronage return;
 - (c) a self-directed registered education savings plan under the *Income Tax Act (Canada)*.

Percentage holdings of securities

- 6 (1) For the purpose of determining the number of securities of a public issuer held, owned or controlled under the definitions of “**associate**”, “**offering**” and “**significant securityholder**” in section 1 of the Act, the person may rely on
- (a) the most recent interim or annual MD&A of the issuer, or
 - (b) a more recent news release made by the issuer if the news release discloses material information that relates to the number of securities issued by the issuer.
- (2) Despite subsection (1), if the person has information that is reasonably considered more accurate than the information contained in the records referred in subsection (1), the person must use the more accurate information.

Acting as principal

- 7 (1) In sections 54, 55, 56, 57, 59, 60, 61, 62, 75, 77, 161 and 162, 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) a dealer or adviser in another province or a foreign jurisdiction that is registered under the securities laws of the other province or foreign jurisdiction for the purpose of trading or acting as an adviser,
 - (d) a registered employee or registered agent of an entity referred to in paragraph (c), or
 - (e) a trust company or insurer.
- (2) For the purpose of subsection (1), “**fully-managed account**” means an account for which a person referred to in subsection (1) makes the investment decision and has

full discretion to purchase or sell a security without requiring the client's express consent to the transaction.

Plain language

- 8 For the purpose of these rules, a record is in plain language if its form, style and language enable an ordinary investor or client, applying reasonable effort, to understand it.

Division C - Accounting Principles and Auditing Standards

Acceptable Accounting Principles

- 9 An issuer or a registrant that is required to file financial statements under the Act, these rules, BCI 62-502 [*Takeover bids and issuer bids*] or BCI 81-509 [*Mutual fund requirements*] must prepare those statements in accordance with Canadian GAAP.

Acceptable auditing standards

- 10 If the Act, these rules, BCI 62-502 or BCI 81-509 require a person to file audited financial statements, the person must have the financial statements
- (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,
 - (ii) refers to any former auditor's report on a comparative period, and
 - (iii) states that the statements have been audited in accordance with Canadian GAAS.

Auditor's consent

- 11 If a person includes an auditor's report in a prospectus, takeover bid circular or issuer bid circular and the prospectus or circular is filed under the Act, these rules, BCI 62-502 or BCI 81-509, the auditor's consent to use of the report must be filed with the prospectus or circular.

Acceptable auditors

- 12 (1) If the Act, these rules, BCI 62-502 or BCI 81-509 require an issuer or registrant to file an auditor's report on the financial statements of the issuer or registrant, the auditor's report 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 or a foreign jurisdiction, and that meets the professional standards of the province or jurisdiction.
- (2) If the Act or these rules require a public issuer to file an auditor's report on the financial statements of the issuer, the auditor's report must be prepared and signed by a person that is, as of the date of the auditor's report, subject to the requirements of the Canadian Public Accountability Board.

Measurement and reporting currencies

- 13 (1) An issuer or registrant must disclose the reporting currency in its financial statements if the reporting currency 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

- 14** (1) The directors of a registrant must ensure that the financial statements required under section 39 [*ongoing annual financial statements*] are approved by the directors before the statements are filed.
- (2) The directors of an issuer must ensure that the financial statements required under the following sections are approved by the directors before the statements are filed:
 - (a) section 126 [*continuous disclosure annual audited financial statements*];
 - (b) section 128 [*continuous disclosure interim financial statements*].
- (3) The directors of a public issuer must ensure that the MD&A required under section 124 is approved by the directors before the MD&A is filed.
- (4) For the purposes of this section, if the board of directors has appointed an audit committee, the audit committee may approve the financial statements for an interim period or the related MD&A on behalf of the board if the board of directors has authorized it to do so.

Exemption for market participants in another province

- 15** Sections 9, 10, 12, 13 and 14 do not apply to a person if the person
 - (a) is within a class of persons, and complies with the requirements, designated for the purpose of this section, and
 - (b) files any record it is required to file under the designated requirements at the same time that it files the record in the other province.

Exemptions for SEC issuers

- 16** (1) Section 9 does not apply to an SEC issuer if the issuer prepares its statements in compliance with accounting principles designated for the purpose of this section.
- (2) Sections 10 and 12 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 Public Company Accounting Oversight Board (United States), and
 - (b) the auditor's report is prepared by a person that is authorized to sign an auditor's report under a requirement of the United States of America designated for the purpose of this section.

Division D - Corporate Governance

Independence

- 17** (1) For the purpose of section 18, a director of an issuer is considered not to be independent if
 - (a) 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) the issuer is a reporting issuer under the securities laws of another province and the director is considered not to be independent under a designated law of that province, or
- (c) the issuer is an SEC issuer and the director is considered not to be independent under a designated law of the United States of America.

Audit committee

- 18** (1) This section does not apply to an issuer if
- (a) it has fewer than five directors, and
 - (b) its board of directors performs the requirements referred to in section 19.
- (2) The board of directors of a public issuer must appoint an audit committee.
- (3) A majority of the members of the audit committee must be independent.
- (4) The board of directors must take reasonable steps to ensure that its audit committee is independent of the issuer's management and represents the interests of all of the issuer's securityholders, as part of the committee members' duties as directors.
- (5) The board of directors of an issuer must authorize the audit committee to perform the requirements referred to in section 19.

Requirements of the audit committee

- 19** The audit committee of a public issuer must
- (a) oversee the process of selecting and appointing the auditor,
 - (b) oversee the conduct of the audit,
 - (c) take reasonable steps to ensure that the auditor is independent of management of the issuer in accordance with applicable standards,
 - (d) determine that the audit fees charged by the auditor with respect to the audit are, in the opinion of the audit committee, appropriate in relation to the work required to support an audit opinion, without regard to fees that are paid, payable or might be paid to the auditor for other services,
 - (e) determine the scope and terms of reference of the audit engagement and the process and terms by which the auditor formally reports to the issuer,
 - (f) meet with the auditor, regularly on a frequency that is reasonable in the circumstances, and when otherwise reasonably necessary, without management present, to determine whether there are any disagreements 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
 - (g) establish and monitor compliance with the issuer's policies regarding
 - (i) the auditor's provision of services beyond the scope of the issuer's audit, and
 - (ii) the issuer's hiring of individuals formerly employed by the auditor to fill senior officer positions of the issuer.

Exemption for SEC issuer and reporting issuers in other provinces

- 20** Sections 18 and 19 do not apply to a public issuer that is a reporting issuer under the securities laws of another province, or is an SEC issuer, if the issuer

- (a) complies with the requirements designated for the purpose of this section,
- (b) files any record it is required to file under the designated requirements when it files the record with the regulator in the other province or with the SEC, and
- (c) sends any record to a securityholder in British Columbia at the same time and in the same manner that the issuer is required to send the record to a securityholder under the designated requirements.

PART 2 – MARKET REGULATION

[This Part has no text]

PART 3 – REGISTRATION

Division A - Registration Status

Categories of registration

- 21** (1) The following are the registration categories for the purposes of section 14 of the Act:
- (a) investment dealer;
 - (b) mutual fund dealer;
 - (c) restricted dealer;
 - (d) adviser;
 - (e) representative of a person in paragraphs (a) to (d).
- (2) Subject to section 23 and 32, a person registered in a category in Column A may carry out the activities set out in Column B:

A	B
Investment Dealer or a Representative of an Investment Dealer	<ul style="list-style-type: none">• trade in any security• advise another person in relation to investing in or trading in any security
Investment Dealer	<ul style="list-style-type: none">• act as an underwriter
Mutual Fund Dealer or a Representative of a Mutual Fund Dealer	<ul style="list-style-type: none">• trade in a security of a mutual fund, a security of a registered educational savings plan under the <i>Income Tax Act</i>, or a security for which registration is not required• trade in a security of an EVCC or VCC if the EVCC or VCC is a public issuer

	<ul style="list-style-type: none">• advise another person in relation to investing in or trading in a security which a mutual fund dealer or representative is entitled to trade
Restricted Dealer or a Representative of a Restricted Dealer	<ul style="list-style-type: none">• trade in a security, or advise another person, in accordance with the conditions specified in the registration
Adviser or a Representative of an Adviser	<ul style="list-style-type: none">• manage an investment portfolio on behalf of another person• advise another person in relation to investing in or trading in securities

(3) In subsection (2):

“EVCC” means an employee venture capital corporation registered under Part 2 of the *Employee Investment Act*;

“VCC” means a venture capital corporation registered under Part 1 of the *Small Business Venture Capital Act* with a business objective of making and managing multiple investments.

Suspension or revocation of registration

- 22** (1) If a registered dealer or registered adviser or representative does not pay its annual registration fee, the registration of the dealer, adviser or representative is suspended.
- (2) The registration of a representative of a dealer or adviser is suspended if
- (a) the dealer or adviser suspends the representative’s trading or advising services, or
 - (b) the dealer or adviser terminates the services of the representative.
- (3) The registration of a representative is revoked if the representative has not been engaged by a registered dealer or registered adviser within 90 days of a suspension under subsection (2) (b).

Effect of suspension

- 23** If a registration is suspended, the registrant must not
- (a) trade in a security, or
 - (b) act as an adviser.

Membership in self-regulatory organization

- 24** (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

- 25 An applicant for registration must provide to the commission an application in the required form.

Division B - Information Sharing

Meaning of “registrant”

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

Representative’s obligation to disclose

- 27 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

- 28 (1) If a registrant is considering whether to engage a person as a representative, the registrant may request that a registered dealer or registered adviser disclose any information in the dealer or adviser’s possession that is relevant to an assessment of the person’s suitability as a representative.
- (2) A registered dealer or registered adviser that receives a request under subsection (1) must, as soon as practicable, disclose 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.

Protection of privacy

- 29 (1) 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.
- (2) A registrant that collects information under the authority of this Division must not disclose the information except
- (a) to a regulator,
 - (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

- 30 In this Division, “**registered firm**” means a registered dealer or registered adviser.

Code of Conduct

- 31** A registered firm and a registered representative must comply with the code of conduct set out in the Schedule.

Authority of representatives

- 32** (1) A registered firm must specify the trading or advising services that it has authorized a registered representative to provide on the firm's behalf.
- (2) A registered representative of a registered firm must not provide a trading or advising service unless the firm has authorized the representative to provide that service.
- (3) A registered firm must maintain a current record of the trading or advising services that it has specified under subsection (1).

Requirements for records

- 33** A registered firm must keep the 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 capital and the amount of capital required under section 36,
 - (c) identify the property and things belonging to a client,
 - (d) identify the transactions conducted on behalf of a client or on behalf of the firm, and
 - (e) provide an audit trail for
 - (i) each instruction or order received from a client, and
 - (ii) each trade transmitted or executed for a client or by the firm on its own behalf.

Time for keeping records

- 34** (1) A registered firm must keep, for at least 6 years, a record required under section 33.
- (2) A registered firm must keep, for at least 3 years, a written communication received or sent about the firm's business with clients and its relationship with clients.

Segregation of client property from firm property

- 35** A registered firm must segregate client property from property of the firm.

Capital adequacy

- 36** A registered firm must maintain capital in an amount that a reasonable person would consider sufficient to meet its reasonably expected business obligations.

Subordination of loans

- 37** If a person advances money to a registered firm so the firm can meet its capital requirements under section 36, the person must unconditionally subordinate the loan to all debt owed to the firm's present and future creditors.

Bonding requirements

- 38** A registered firm must maintain the terms and amounts of coverage that are reasonably required to protect the registered firm from
- (a) its representatives, employees and contractors who act dishonestly,
 - (b) fraud, forgery, robbery or theft, and
 - (c) client property being lost.

Annual audited financial statements

- 39** A registered firm must provide to the commission comparative annual audited financial statements within 90 days following the end of its most recently completed financial year.

Annual report of capital

- 40** A registered firm must, when it provides its financial statements under section 39, provide to the commission a report showing the amount of capital required under section 36 and the amount of capital it has as of the date of the financial statements.

Annual report of bonding

- 41** A registered firm must, when it provides its financial statements under section 39, provide to the commission a report showing the amount of coverage required under section 38, and evidence of the coverage it has.

Notification of inadequate capital or bonding

- 42** (1) A registered firm must, in writing, notify the commission immediately if the amount of capital it has falls below the the greater of the amount required under section 36 and the amount reported as sufficient in the latest report provided under section 40.
- (2) A registered firm must, in writing, notify the commission immediately of
- (a) any change in the amount of coverage required under section 38,
 - (b) any act or allegation that results or could result in the forfeiture of the coverage under section 38,
 - (c) any claims under that coverage, and
 - (d) any significant change in the terms or amounts of its coverage from the terms and amounts reported in the latest report provided under section 41.

Dealer or adviser member of self regulatory organization or regulatory organization

- 43** Sections 33 to 42 do not apply to a registered firm if it is within a class of persons, and complies with the regulatory instruments, designated for the purpose of this section.

Canadian dealers or advisers based outside British Columbia

- 44** Sections 33 to 42 do not apply to a registered firm whose principal place of business is outside British Columbia if the firm
- (a) is registered in another province for the purpose of trading or acting as an adviser,
 - (b) complies with the requirements designated for the purpose of this section, and

- (c) files or provides to the commission any record it is required to file or provide under the designated requirements when the firm files or provides the record in the other province.

Division D - Registration Exemptions

Definition

- 45** In this Division, “**consultant**” means a person, other than an employee, senior officer or director of the issuer, that
- (a) provides services relating to the business or affairs of an issuer or an affiliate of an issuer, other than services provided in relation to 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

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

Trade to or through a dealer

- 47** A person is not required to register to trade in a security if the trade is made
- (a) to a registered dealer, or
 - (b) through a registered dealer.

Personal corporation of a registered representative

- 48** (1) In this section, “**personal corporation**” means a corporation for which each director, officer or securityholder is
- (a) a registered representative of the same registered dealer, or
 - (b) a family member of a representative referred to in (a).
- (2) A personal corporation is not required to register to trade in a security if
- (a) the trade is within the scope of the registered representative’s specified services under section 32, and
 - (b) the corporation and registered dealer agree in writing that the dealer is liable for the acts and omissions of the corporation that relate to securities business.

Isolated trade

- 49** 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

- 50** A person is not required to register to trade in a security if the trade is made to the issuer of the security.

Trade to securityholder

- 51** (1) An issuer is not required to register to trade in a security of the issuer to a securityholder of the issuer.

- (2) Subsection (1) does not apply if
 - (a) the issuer is not a public issuer, and
 - (b) the securityholder previously acquired a security of the issuer in a trade made under section 61 [*trade under an offering memorandum*] or section 73 [*trade under legal authority*] and the securityholder continues to own the previously acquired security.
- (3) Despite subsection (2), subsection (1) applies if
 - (a) the security under subsection (1) is traded under the exercise of a previously issued right, or
 - (b) an offering is available, on the same terms and conditions and for the same class of security as the trade under subsection (1), to all securityholders that own a security of the issuer of that class.

Trade to person not member of public

- 52** A person is not required to register to trade a security of a private issuer if the trade is not part of an offering to the public.

Trade of security of not-for-profit issuer

- 53** A person is not required to register to trade a security of an issuer organized for educational, charitable, religious or recreational purposes and not for profit, if
- (a) no part of the net earnings of the issuer accrue to the benefit of a securityholder,
 - (b) no commission or other remuneration is paid in connection with the trade, and
 - (c) for a trade by the issuer, an information statement that complies with section 104 is delivered to a person before the person agrees in writing to purchase the security.

Sub-Division II - Exemptions for private placements

Trade to exempt purchaser

- 54** An issuer is not required to register to trade a security of the issuer to any 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 either the employee or consultant;
 - (f) a person 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).

Trade for asset acquisition

- 55** An issuer is not required to register to trade a security of the issuer to a person acquiring the security as principal as consideration for
 - (a) an interest in mining, petroleum, or natural gas property, or
 - (b) property with a fair value of at least \$150 000.

Trade to creditor

- 56** An issuer is not required to register to trade a security of the issuer to a creditor acquiring the security as principal in settlement or partial settlement of a debt.

Consideration for corporate finance activities

- 57** An issuer is not required to register to trade a security of the issuer to a person acquiring the security as principal as consideration for corporate financing services.

Trade by significant securityholder

- 58** 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 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 persons described in paragraph (a).

Trade to accredited investor

- 59** 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

- 60** 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

- 61** An issuer is not required to register to trade a security of the issuer if the person is acquiring the security as principal and, before the person agrees in writing to purchase the security, the issuer
 - (a) delivers to the purchaser an offering memorandum that complies with sections 105 to 110, and
 - (b) obtains a risk acknowledgement, in the required form, signed by the purchaser.

Trade under section 18(3) of the Act

- 62** If a public issuer is not required to comply with section 18(1) of the Act as a result of the issuer's compliance with section 18(3) of the Act, the issuer is not required to register to trade a security of the issuer if
- (a) the purchaser of the security is acquiring the security as principal, and
 - (b) before the purchase of the security, the purchaser
 - (i) signs a statement in the required form acknowledging the risks associated with investing in the security, and
 - (ii) provides a copy of the statement to the issuer.

Trade under the *Employee Investment Act*

- 63**
- (1) In this section, “**employee venture capital corporation**”, “**eligible business**”, “**employee venture capital plan**” and “**restricted constitution**” have the same meaning as under the *Employee Investment Act*.
 - (2) An employee venture capital corporation registered under the *Employee Investment Act* with a restricted constitution is not required to register to trade a security of the corporation under its employee venture capital plan if the trade is made to an employee of the eligible business or of an affiliate 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 a security of an employee venture capital corporation with a restricted constitution if the trade is made to another employee of the eligible business or of an affiliate of the eligible business.

Sub-Division III - Exemptions for corporate transactions

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

- 64** A person is not required to register to trade a security if the trade is made in connection with
- (a) a business combination or reorganization,
 - (b) a takeover bid, or
 - (c) the winding up or dissolution of the issuer.

Trade of public issuer security to securityholder

- 65** An issuer is not required to register to trade to a securityholder of the issuer a security of another issuer that is
- (a) a public issuer, or
 - (b) a reporting issuer under the securities laws of another province.

Trade under direct purchase plan

- 66**
- (1) In this section, “**direct purchase plan**” means a plan that permits a person to purchase a security of an issuer from the issuer or on a marketplace through the administrator of the plan.
 - (2) A public issuer or a reporting issuer under the securities laws of another province 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 the 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, or a person authorized in a foreign jurisdiction to carry on banking, insurance or trust business, or an entity designated for the purpose of this paragraph, and
- (c) no person provides advice about the merits or suitability of a security distributed under the plan, other than a registered dealer or registered adviser or a dealer or adviser in another province that is registered under the securities laws of the other province for the purpose of trading or acting as an adviser.

Sub-Division IV - Exemptions for exempt securities

Trade in exempt security

- 67** A person is not required to register to trade
- (a) a debt security issued or guaranteed by Canada or a province,
 - (b) a debt security that is rated by a rating agency designated for the purpose of this section and is
 - (i) issued or guaranteed by a country, a political division of a country, a municipal corporation, a Canadian financial institution or a person authorized in a foreign jurisdiction to carry on banking, insurance or trust business, or
 - (ii) secured by or payable out of rates or taxes under the law of a province on property in that province if the rates or taxes are collectible by or through the municipality where the property is located,
 - (c) a debt security issued or guaranteed by the International Bank for Reconstruction and Development, the Asian Development Bank, or the Inter-American Development Bank,
 - (d) an option to acquire a debt security referred to in paragraph (a), (b) or (c),
 - (e) commercial paper issued by a public issuer or an issuer that is a reporting issuer under the securities laws of another province if the commercial paper
 - (i) matures no more than 12 months after it is issued and
 - (ii) is rated by a rating agency designated for the purpose of this section, or
 - (f) a guaranteed investment certificate issued by a Canadian financial institution whose deposits are insured by Canada or a province.

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

Trade in security of credit union

- 68** A person is not required to register to trade a security of a credit union under the *Credit Union Incorporation Act*.

Trade in investment share of cooperative

- 69** (1) 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 150 members, excluding employees and former employees of the cooperative.

- (2) A member of a cooperative under the *Cooperative Association Act* is not required to register to trade an investment share of the cooperative to another member of the cooperative.

Trade in variable insurance contract

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

Trade in non-syndicated mortgage

- 71** (1) A person is not required to register to trade a mortgage if
- (a) the mortgage is not a syndicated mortgage, and
 - (b) the person
 - (i) is registered under the *Mortgage Brokers Act*, or
 - (ii) is not carrying on any activity with respect to the trade that requires the person to register under that 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

- 72** (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 any expected economic benefits of a pooling or management arrangement 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

- 73** A person is not required to register to trade a security if the trade is made
- (a) by the person in the course of enforcing a legal obligation or administering the affairs of another person, and 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 8 of the *Power of Attorney Act*, or
- (b) by a person as creditor to realize a debt.

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

Trade to or through dealer registered in another province

- 74** A dealer registered in another province for the purpose of trading is not required to register to trade a security to a person if the trade is subject to, and meets the requirements designated for the purpose of this section and
- (a) the person was the dealer's client before the person became either temporarily or ordinarily resident in British Columbia, or
 - (b) the dealer has not
 - (i) engaged in advertising or promotional activity that was directed to persons in British Columbia during the 6 months preceding the trade, and
 - (ii) paid any amount in connection with the trade in British Columbia to a person, other than an amount paid to
 - (A) a client or purchaser, or
 - (B) an individual registered under the securities laws of another province for the purpose of trading if the individual was ordinarily resident outside British Columbia.

Person or marketplace outside Canada

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

Exempt trade under other Canadian securities law

- 76** A person is not required to register to trade in a security if
- (a) the trade is part of an offering that is made concurrently in British Columbia and another province,
 - (b) registration is not required for the trade in that province under an exemption designated for the purpose of this section, and
 - (c) the person complies with any requirement that relates to the designated exemption.

Sub-Division VII - Exemption for resale

Trade by securityholder

- 77** (1) A securityholder is not required to register to trade a 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 either the employee or consultant;
 - (f) a person of which a majority of the voting securities issued by the person are owned by, or a majority of the directors are, persons referred to 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 referred to in paragraph (a), (b), (c), (d) or (e);
 - (h) a family member of the selling securityholder, or of the selling securityholder's spouse;
 - (i) a securityholder of the issuer;
 - (j) a person in another province if the trade is made in compliance with an exemption in the other jurisdiction designated for the purpose of this paragraph.
- (2) An issuer must take reasonable steps to ensure that its securityholders are aware of any restrictions on trading the issuer's securities.
- (3) Subsection (2) does not apply to
- (a) a public issuer that is not required to comply with section 18 (1) of the Act as a result of the issuer's compliance with section 18 (3) of the Act, or
 - (b) an issuer that is a reporting issuer under the securities laws of another province.

Sub-Division VIII - Advising Exemptions

General advice

- 78** A person is not required to register to
- (a) provide advice about investing generally, if no advice is given in relation to a specific security or issuer, or
 - (b) provide advice directly or indirectly through a publication or other medium in relation to 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 providing advice tailored to the circumstances of a specific person.

Exempt security

- 79** A person is not required to register to provide advice to another person in relation to a trade of a security referred to in section 67 [*trade in exempt security*].

Persons otherwise regulated

- 80** A person is not required to register to provide advice to another person in relation to a trade of a security referred to in
- (a) section 68 [*trade in security of credit union*], if the person is employed by the credit union or an affiliate,
 - (b) section 70 [*trade in variable insurance contract*], if the person is licensed as an insurance agent or insurance salesperson under the *Financial Institutions Act*,
 - (c) section 71 [*trade in non-syndicated mortgage*], if the person is registered under the *Mortgage Brokers Act*, or
 - (d) section 72 [*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 provide advice to another person in relation to a trade of a security if the trade is in the course of enforcing a legal obligation, 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 8 of the *Power of Attorney Act*.

Investment dealer acting as adviser

- 82** A registered investment dealer or a registered representative of a registered investment dealer is not required to register to manage an investment portfolio on behalf of a client of the dealer if it complies with the regulatory instruments of the Investment Dealers Association of Canada relating to portfolio management services for its members and their representatives designated for the purpose of this section.

Adviser registered in another province

- 83** A person registered under the securities laws of another province as an adviser is not required to register to provide advice to another person in relation to a trade of a security if the person 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 either temporarily or ordinarily resident in British Columbia,
 - (b) the adviser has not
 - (i) engaged in advertising or promotional activity that was directed to persons in British Columbia during the 6 months before providing the advice, or
 - (ii) paid any amount in connection with the advice to a person, other than an amount paid to
 - (A) a client or purchaser, or

- (B) an individual registered under the securities laws of another province for the purpose acting as an adviser if the individual was ordinarily resident outside 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 set out in any one of sections 46, 47 (a), 51 to 57, 59 to 61 or 63 to 76.

Deemed offering – securityholder of public issuer without AIF

- 85** A trade by a securityholder of a security of a public issuer or a reporting issuer in another province is an offering if
- (a) the security was traded to the securityholder under section 84 or 90, and
 - (b) at the time the issuer traded the security, the issuer of the security had not filed an AIF with its most recent annual financial statements required to be filed under section 126.

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 under an offering in British Columbia.

Offering exemption – securityholder

- 87** Section 18(1) of the Act does not apply to an offering by a securityholder of a security of an issuer if the offering complies with the conditions for an exemption referred to in any one of sections 46, 47 (a), 49, 50, 52, 58 to 60, 63 (3), 64, 67 to 72 or 75 to 77.

Offering exemption – significant securityholder

- 88** (1) Subject to subsection (2), section 18 (1) of the Act does not apply to an offering by a significant securityholder of
- (a) a public issuer if the public issuer is not entitled to rely on the exemption in section 18 (3) of the Act as a result of section 117, 118, 119 or 120 of these rules, or
 - (b) a reporting issuer in another province,
- if
- (c) the securityholder has no reasonable grounds to believe that the issuer is in default of securities legislation, and
 - (d) the offering is made through a marketplace.
- (2) Subsection (1) does not apply to a significant securityholder unless at least 4 months have elapsed from the earlier of the date that the significant securityholder, or an affiliate of the significant securityholder, acquired
- (a) the security being traded, and

- (b) another security that entitled or required the holder to acquire the security being traded.

Offering exemption – eligible institutional investor

- 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 or a reporting issuer in another province if
- (a) the securityholder is an eligible institutional investor that has filed a report under
 - (i) section 153 of these rules [*exemption for eligible institutional investors providing alternative monthly reports*],
 - (ii) section 154 of these rules [*exemption for eligible institutional investors filing in another province*], or
 - (iii) 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 acting in concert with others, control the issuer.

Offering exemption – other jurisdiction

- 90** Section 18 (1) of the Act does not apply to an offering made under an exemption from the prospectus requirement of another province designated for the purpose of this section, if the offering is part of an offering made concurrently in British Columbia and the other province, and if the person offering the security
- (a) complies with the requirements relating to the exemption,
 - (b) files the records it is required to file under the requirements when it files them in the other province, and
 - (c) delivers a disclosure document to a purchaser in British Columbia at the same time and in the same manner as it is required to deliver that document to a purchaser in the other province.

Plain language

- 91** If an issuer is required under Part 4 of the Act to file a record or send a record to an investor, or the issuer is exempt from a requirement in Part 4 of the Act and filing a record or sending a record to an investor is a condition of the exemption, the issuer must prepare the record in plain language.

Division B - Prospectus

Application – issuers other than mutual funds

- 92** This Division does not apply to a mutual fund.

Use of underwriter or due diligence provider

- 93** (1) Before filing the prospectus under the Act to become a public issuer or for an initial public offering, an issuer must engage an underwriter or a due-diligence provider.
- (2) If an issuer engages a due-diligence provider under subsection (1), the issuer must obtain a written opinion from the due-diligence provider stating that it has

reasonable grounds to believe that the disclosure in the prospectus contains all material information about the issuer.

Delivery of prospectus on request

- 94** A person that files a prospectus under the Act must send a copy of the prospectus as soon as practicable and without charge to a prospective purchaser, or purchaser, who requests it.

Lapse of prospectus

- 95** If an issuer that is not entitled to rely on section 18(3) of the Act as a result of section 117, 118, 119 or 120 of these rules and the issuer makes an offering under a prospectus, the issuer must not trade a security under the offering more than one year and 20 days after the date of the prospectus.

Exemption for prospectus offering in other province

- 96** Section 18 (2) of the Act and section 93 of these rules does not apply to a person making an offering concurrently in British Columbia and another province if the person
- (a) complies with the prospectus requirements in the other province designated for purpose of this section,
 - (b) files with the commission the records it is required to file under the designated requirements when it files them in the other province, and
 - (c) delivers the prospectus to a purchaser in British Columbia at the same time and in the same manner as it is required to deliver the prospectus to a purchaser in the other province.

Division C - Financial Statements in a Prospectus

Application – issuers other than mutual funds

- 97** This Division does not apply to a mutual fund.

Annual financial statements

- 98**
- (1) Subject to subsection (4), an issuer that files a prospectus 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.
 - (2) If an issuer's most recently completed financial year ended within 90 days before the date of the prospectus, the issuer may treat the previous year as the most recently completed financial year under subsection (1).
 - (3) For the purpose of subsection (1), if the issuer changed its financial year-end during any of the years referred to in subsection (1), and the resulting transition year is at least 9 months, the issuer may treat the transition year as one of the years referred to in subsection (1).
 - (4) If the issuer has not completed its first 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

- 99** For the purpose of sections 98 and 101,

- (a) the financial statements for the most recently completed financial year must be audited financial statements, and
- (b) the financial statements for a financial year other than the most recently completed financial year may be unaudited financial statements unless
 - (i) financial statements for the financial year have been audited, and
 - (ii) the auditor of those statements issued a report with respect to the audit.

Interim financial statements

- 100**
- (1) Subject to subsection (3), an issuer that files a prospectus must include in the prospectus comparative interim financial statements for the issuer's most recently completed interim period.
 - (2) If an issuer's most recently completed interim period ended within 60 days before the the date of the prospectus, the issuer may treat the previous interim period as the most recently completed interim period under subsection (1).
 - (3) Subsection (1) does not apply if the results for the most recently completed interim period are included in the annual financial statements filed under section 98.

Financial statements of predecessors

- 101**
- (1) An issuer that files a prospectus, and who acquired its primary business less than 3 years before the date of the prospectus, must include in the prospectus the financial statements of the acquired business for the years and periods referred to in section 98 and 100 that ended before the acquisition, as if the acquired business is the issuer under those sections.
 - (2) If an issuer that files a prospectus resulted from a business combination or reorganization during the 3 year period before the date of the prospectus, and subsection (1) does not apply, the issuer must include in the prospectus, for the years and period referred to in section 98 and 100, the financial statements of the person that carried on the issuer's primary business before the date of the event as if the person is the issuer under those sections..
 - (3) If the financial statements in subsection (1) or (2) relate to a year that ended more than 3 years and 6 months before the date of the prospectus, the issuer is not required to include those statements in the prospectus.

Exemption from financial statement requirements for prospectus offering in other province

- 102**
- Sections 98 to 101 do not apply to an issuer making an offering concurrently in British Columbia and another province if the issuer
- (a) complies with the requirements in the other province designated for purpose of this section, and
 - (b) includes in the prospectus the statements it is required to include in a prospectus filed under those requirements, and files the prospectus when it is filed in the other province.

Exemption from financial statement requirements for prospectus with US financial statements

- 103**
- Sections 98 to 101 do not apply to an SEC issuer if the issuer is making an offering concurrently in British Columbia and another jurisdiction and the issuer
- (a) complies with the requirements of the United States of America designated for the purpose of this section, and

- (b) includes in the prospectus the statements it is required to include in a offering document filed with the SEC under those requirements, and files the prospectus when it files those other documents with the SEC.

Division D – Disclosure for trades under exemptions

Disclosure and filing requirements for not-for-profit issuers

- 104** (1) An information statement under section 53 [*trade of security of not-for-profit issuer*] must be in the required form.
- (2) An issuer must file an information statement under subsection (1) within 10 days of the date it is first delivered to a purchaser under section 53.

Disclosure and filing requirements for offering memorandum and trust requirement

- 105** (1) An offering memorandum under section 61 [*trade under an offering memorandum*] or 84 [*offering exemption – issuer*] must be in the required form.
- (2) An issuer must disclose in an offering memorandum 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 61 or 84.
- (5) If section 98 of the Act [*withdrawal right*] applies to an offering under section 84 using an offering memorandum, the issuer must ensure that all consideration received from the purchaser is held in trust for the benefit of the purchaser until the expiry of the purchaser's right to cancel the purchase under section 98 of the Act.

Annual financial statements in offering memorandum

- 106** (1) Subject to subsections (2) and (3), an issuer must include in an offering memorandum under section 105 comparative annual financial statements for the issuer's most recently completed financial year.
- (2) If an issuer's most recently completed financial year ended within 120 days before the date of the offering memorandum, the issuer may treat the previous year as the most recently completed financial year under subsection (1).
- (3) If the issuer has not completed its first financial year, the issuer must include in the offering memorandum 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 in offering memorandum

- 107** (1) Subject to subsections (2) and (3), an issuer must include in an offering memorandum under section 105 comparative interim financial statements for the issuer's most recently completed interim period.
- (2) If an issuer's most recently completed interim period ended within 60 days of the date of the offering memorandum referred to in subsection (1), the issuer may treat the previous interim period as the most recently completed interim period under subsection (1).

- (3) Interim financial statements are not required if the results for the most recently completed interim period are included in the annual financial statements filed under section 106.

Audit requirement for offering memorandum

- 108**
- (1) The financial statements for the issuer's most recently completed financial year required under section 106 must be audited.
 - (2) Subsection (1) does not apply to comparative information.
 - (3) If the offering memorandum under section 105 does not include audited financial statements for the issuer's most recently completed financial year and if the offering is continuing when the audited financial statements are completed, 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 in offering memorandum of partnership

- 109** If the issuer is a limited partnership, the financial statements required under sections 106 and 107 are
- (a) the financial statements of the general partner, and
 - (b) if the limited partnership has active operations, the financial statements of the limited partnership.

Exemption for mortgage syndications and real estate securities offerings

- 110** Sections 106 to 109 do not apply to an offering of a syndicated mortgage, or a real estate security, if the purchaser is provided with sufficient financial information about the project to allow a reasonable person to make an informed investment decision.

Exemption from requirements for offering memorandum filed in other province

- 111** Sections 105 to 109 do not apply to an issuer making an offering concurrently in British Columbia and another province if the issuer
- (a) complies with the requirements in the other province designated for the purpose of this section,
 - (b) includes in the offering memorandum the financial statements it is required to include in an offering memorandum filed under those requirements,
 - (c) files with the commission the records it is required to file under the designated requirements when it files them in the other province, and
 - (d) delivers the offering memorandum to a purchaser in British Columbia at the same time and in the same manner as it is required to deliver the offering memorandum to a purchaser in the other province.

Division E - Reports of Exempt Offerings

Reporting requirement

- 112**
- (1) An issuer, except a private issuer, that makes an offering under section 84 must file a report in the required form if the exemption relates to any of the following registration exemptions:
 - (a) section 47 (a) [*trade to a dealer*], if the trade is to the dealer as consideration for its services in connection with a distribution;

- (b) section 51 [*trade to securityholder*];
 - (c) section 54 (b) [*family members of directors, officers or significant securityholders*];
 - (d) section 54 (c) [*family members of spouse of directors, officers or significant securityholders*];
 - (e) section 54 (d) [*close person friend or close business associate of director, officer, significant securityholder*];
 - (f) section 54 (f) [*person majority owned by person in (a) to (e)*];
 - (g) section 54 (g) [*trust where beneficiaries or majority of trustees (a) to (e)*];
 - (h) section 55 [*trade for asset acquisition*];
 - (i) section 59 [*trade to accredited investor*];
 - (j) section 60 [*trade for \$150,000*];
 - (k) section 61 [*trade under an offering memorandum*];
 - (l) section 76 [*exempt trade under other Canadian securities laws*], if the exemption relied on is similar to an exemption described in paragraphs (a) to (k).
- (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 made an offering concurrently in British Columbia and another province if the issuer
- (a) complies with the requirements of the other province designated for the purpose of this section, and
 - (b) files with the commission the records it is required to file under the designated 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 a 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 under the offering.

Technical report under NI 43-101

- 115** (1) A public issuer that
- (a) is subject to NI 43-101 *Standards of Disclosure for Mineral Projects*,
 - (b) makes an offering under section 18 (3) of the Act, and files a news release announcing the offering, and
 - (c) has disclosed that it intends to spend money raised in the offering on a property that is material to the issuer,
- must file a technical report in accordance with NI 43-101 *Standards of Disclosure for Mineral Projects* relating to the property.

- (2) Subsection (1) does not apply if the issuer previously filed a technical report relating to the property and there have been no changes to the property that would make the report on file inaccurate or no longer current.

Report of offering

- 116** (1) A public issuer that makes an offering 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 complies with an exemption, designated for the purpose of this section, from the requirement to file an AIF.

BC prime MRRS offerings

- 118** Section 18 (3) of the Act does not apply to a public issuer that makes an offering 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 Analysis and Retrieval*, and
 - (b) the issuer has identified the commission as its principal regulator for the offering or the issuer has been notified that the commission is the principal regulator for the offering.

BC prime MJDS offerings

- 119** Section 18 (3) of the Act does not apply to a public issuer that makes an offering concurrently in British Columbia and under a prospectus in the United States if British Columbia is the review jurisdiction for the offering under requirements of the SEC designated for the purpose of this section.

Offerings by foreign-traded issuers

- 120** (1) In this section:
- “**foreign-traded issuer**” means an issuer, other than a mutual fund,
- (a) whose principal market is outside Canada, or
 - (b) that is based in a jurisdiction outside Canada, if its securities are not traded on a marketplace;
- “**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 during each of its two most recently completed 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 recently completed financial years.
- (2) Section 18 (3) of the Act does not apply to an offering by a foreign issuer that
 - (a) is a public issuer, and
 - (b) relies on an exemption from section 23 of the Act, or Part 1C, 1D, 4 or 5 of these rules, that applies generally to a class of foreign issuers.
- (3) Subject to subsection (4), subsection (2) does not apply if the issuer
 - (a) is an SEC issuer and is listed on an exchange designated for the purpose of this section, or
 - (b) has continuous reporting obligations under the laws of a jurisdiction designated for purpose of this subsection,
- (4) Despite subsection (3), subsection (2) applies if
 - (a) the issuer is making an offering concurrently in British Columbia and under a prospectus in another province, and
 - (b) the issuer has identified the commission as its principal regulator for the offering, or the issuer has been notified that the commission is the principal regulator for the offering.

PART 5 – CONTINUOUS DISCLOSURE

Division A - Periodic Disclosure

Application – mutual funds excluded

121 This Division does not apply to a mutual fund.

Definitions

122 In this Division:

- “**venture issuer**” means a public issuer that, at the end of the applicable financial period, did not have any of its securities listed, quoted or traded on
- (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 marketplace designated for the purpose of this definition;
- “**form of proxy**” means a record containing the information required under section 142 that becomes a proxy when it is completed and signed by or on behalf of a securityholder.

Annual Information Form

- 123** (1) A public issuer must disclose all material information about the issuer when it files its annual financial statements.
- (2) The disclosure required under subsection (1) must be in the required form of annual information form.

MD&A

- 124** (1) A public issuer, when it files its financial statements, must file a discussion and analysis by management of the issuer that provides a reasonable explanation of the issuer's performance during the period covered by the financial statements, the issuer's financial condition as of the date of the balance sheet included in the statements and the issuer's future prospects.
- (2) The management's discussion and analysis required under subsection (1) must be in the required form.
- (3) Subsection (2) does not apply to an SEC issuer that prepares its management's discussion and analysis in accordance with requirements in the United States designated for the purpose of this section and files the discussion and analysis with the commission when it files it with the SEC.

Additional disclosure for venture issuers without significant revenue

- 125** (1) A venture issuer that has not had significant revenue from operations in either of its two most recently completed financial years must disclose in its MD&A, or in the related financial statements, a breakdown of the 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) For the purpose of subsection (1), revenue from operations is significant if it is significant within the meaning of the Handbook.
- (3) 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.
- (4) If the venture issuer's primary business is mining exploration or development, the disclosure in subsection (1) (a) must be presented on a property-by-property basis.

Annual audited financial statements

- 126** A public issuer must file comparative annual audited financial statements at the times specified under section 127, 130 or 131.

Filing deadline for annual audited financial statements and MD&A

- 127** The annual financial statements and related MD&A required under this Division must be filed at the same time and
- (a) for a public issuer other than a venture issuer, within 90 days, or
 - (b) for a venture issuer, within 120 days,

after the end of the financial year.

Interim financial statements

- 128** (1) Except as provided in subsection (3), a public issuer must file comparative interim financial statements for each interim period of its financial year.
- (2) The financial statements required under subsection (1) must be filed at the times specified under section 129, 130 or 131, as applicable.
- (3) 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

- 129** The interim financial statements and related MD&A required under this Division must be filed at the same time and
- (a) for a public issuer other than a venture issuer, within 45 days, or
 - (b) for a venture issuer, within 60 days,
- after the end of the interim period.

Filing deadline if filing in a foreign jurisdiction

- 130** Despite sections 127 and 129, 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 time set out in section 127 or 129, as applicable.

Financial statements after becoming public issuer

- 131** (1) An issuer that becomes a public issuer must file its first financial statements under sections 126 and 128 for the financial year and interim period immediately following the periods covered by the financial statements included in the document that, when it was filed, resulted in the issuer becoming a public issuer.
- (2) Despite sections 126 to 129, if subsection (1) requires a public issuer to file financial statements for a financial 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, or
 - (b) in the case of interim financial statements, 10 days
- after the issuer became a public issuer, and the applicable filing deadline in section 127, 129 or 130.
- (3) Despite section 126, for an interim period that ended before an issuer became a public issuer, the issuer is not required to provide comparative financial information on the same basis as information for the most recently completed interim financial period if
- (a) providing the comparative financial information is not practicable or would not significantly contribute to a reasonable investor's understanding of the issuer's financial position, and
 - (b) 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 recently completed interim period.

- (4) Subsections (1) and (2) do not apply to an issuer that becomes a public issuer by filing a notice under section 19 of the Act [*issuer reporting in another province*].

Delivery of documents to securityholders

- 132** (1) A public issuer must send, as soon as practicable and without charge to a securityholder who requests it, a copy of
- (a) a prospectus of the issuer,
 - (b) an AIF if the issuer is not required to comply with section 18 (1) of the Act as a result of the issuer's compliance with section 18 (3) of the Act,
 - (c) annual financial statements and related MD&A, or
 - (d) 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 on which the issuer receives the request.

Change of auditor

- 133** (1) If a public issuer terminates an auditor's appointment or the auditor resigns or declines to stand for re-appointment, the issuer must, as soon as practicable,
- (a) file and deliver to its former auditor a report describing any reasons for the event known to the issuer, including any reason related to the content, presentation, audit or review of the issuer's financial statements,
 - (b) deliver the report in paragraph (a) to the successor auditor as soon as one is appointed, and
 - (c) issue and file a news release as soon as practicable disclosing that the auditor's appointment was terminated or the auditor has resigned or declined to stand for re-appointment.
- (2) A public issuer must issue and file a news release disclosing the appointment of the successor auditor as soon as practicable after the appointment is made.
- (3) If the auditor or successor auditor disagrees with any significant information in the issuer's report or believes that relevant information relating to the change of auditor was not disclosed, the auditor must, as soon as practicable, notify the commission in writing of the disagreement and the basis for it or of the undisclosed information.
- (4) This section does not apply to a change of auditor
- (a) required by the corporate or other legislation under which the issuer exists, or
 - (b) resulting solely from a takeover bid, business combination or similar reorganization affecting the issuer or the auditor.

Exemption for SEC issuer from change of auditor requirement

- 134** Section 133 does not apply to an SEC issuer or its auditor if the issuer
- (a) complies with the requirements of the United States of America designated for the purpose of this section,
 - (b) files with the commission the records it is required to file with the SEC when it files them with the SEC,
 - (c) issues and files with the commission a news release, as soon as practicable, disclosing that an auditor was terminated or has resigned or declined to stand for re-appointment, and

- (d) issues and files a news release disclosing the appointment of the successor auditor as soon as practicable.

Change of status

- 135**
- (1) An issuer must file a notice in the required form as soon as practicable after it becomes or ceases to be a public issuer.
 - (2) A public issuer must file a notice in the required form as soon as practicable after it
 - (a) becomes a venture issuer,
 - (b) ceases to be a venture issuer, or
 - (c) changes its name.
 - (3) Subsection (1) does not apply to an issuer that
 - (a) becomes a public issuer by filing a prospectus, filing a notice under section 19 of the Act or being designated a public issuer in an order made under section 152 of the Act, or
 - (b) ceases to be a public issuer by complying with section 158 of these rules or by being designated not to be a public issuer in an order made under section 152 of the Act.

Change in year end – notice requirement

- 136**
- (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 time specified under sections 127, 129 or 130 for filing its next annual or interim financial statements based on the former year end, and
 - (b) the time specified under sections 127, 129 or 130 for filing its next annual or interim financial statements based on the new year end.

Change of year end - transition year

- 137**
- (1) A transition year must not exceed 15 months, and the first interim period in a transition year must not exceed four months.
 - (2) Despite section 128, a public issuer is not required to file interim financial statements for an interim period in a transition year that ends within 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

- 138**
- Sections 136 and 137 do not apply to an SEC issuer if the issuer
- (a) complies with the requirements of the United States of America designated for the purpose of this section, and
 - (b) files with the commission the records it is required to file with the SEC when it files them with the SEC.

Sending of form of proxy and information circular

- 139** (1) 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 with respect to the meeting.
- (2) A person that solicits a proxy from a registered securityholder of a public issuer must
- (a) if the proxy is solicited by or on behalf of the issuer, send an information circular in the required form with the notice of meeting to the registered securityholder, or
 - (b) if the proxy is solicited by or on behalf of a person other than the issuer, at the same time as or before the solicitation, send an information circular in the required form to the securityholder.
- (3) For the purpose of this section, a person is not soliciting a proxy if it
- (a) performs an administrative act or professional service on behalf of a person soliciting a proxy,
 - (b) acts as an intermediary,
 - (c) is a securityholder and makes a public announcement under corporate legislation of how it intends to vote and the reasons why it will vote that way, or
 - (d) communicates with a securityholder for the purpose of obtaining the number of shares required for a shareholder proposal under corporate legislation.

Exemptions from sending information circulars

- 140** (1) Section 139 (2) (b) does not apply to a solicitation if proxies are solicited from no more than 15 securityholders with respect to the meeting.
- (2) For the purpose of subsection (1), two or more persons who are joint registered owners of a security are considered to be one securityholder.

Filing of information circulars and proxy-related material

- 141** A person that is required to send an information circular or form of proxy under section 139 must, as soon as practicable after sending the circular or form, file a copy of the circular or form and all other material required to be sent by the person in connection with the meeting.

Content of form of proxy

- 142** (1) A form of proxy under section 139 must permit the securityholder
- (a) to specify that a security 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 name another person as the securityholder's nominee.
- (2) An information circular under section 139 or the related form of proxy must
- (a) state that the securityholder may appoint someone other than the person named in the form of proxy to be the securityholder's nominee,
 - (b) explain how the securityholder may exercise the right in paragraph (a), and

- (c) state that the proxy will vote in accordance with the securityholder's instructions.
- (3) A nominee must not vote the securities represented by a proxy on a matter unless
 - (a) the securityholder has specified on the form of proxy how the securities are to be voted, or
 - (b) the securityholder has not specified how the securities are to be voted and the form of proxy or the information circular discloses how the securities proxy will be voted if the securityholder fails to specify how the securities are to be voted.
- (4) A form of proxy under section 139 may confer discretionary authority on a nominee to vote securities with respect to a matter if the information circular or form discloses that the form confers discretionary authority.
- (5) If a securityholder has conferred discretionary authority on a nominee under subsection (4), the nominee must not vote the securities with respect to a matter if
 - (a) the nominee is the person that solicited the proxy, or represents or was appointed by that person,
 - (b) the matter was not described in the form of proxy or the information circular, and
 - (c) the nominee or the person that solicited the proxy knew or reasonably should have known that the matter would come before the meeting.
- (6) A form of proxy under section 139 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 periodic disclosure requirements in other provinces

- 143**
- (1) Sections 123 to 133, 135, 136, 137, 139, 141 and 142 do not apply to a public issuer that is a reporting issuer under the securities laws of another province if it
 - (a) complies with the requirements in the other province designated for the purpose of this section,
 - (b) files with the commission the records it is required to file under the designated requirements when it files them in the other province, and
 - (c) sends a records to a securityholder in British Columbia at the same time and in the same manner as it is required to send that record to a securityholder in the other province.
 - (2) Despite subsection (1), if a public issuer is not required to comply with section 18 (1) of the Act as a result of the issuer's compliance with section 18 (3) of the Act, the issuer must comply with section 132 (1) (b) of these rules.

Plain language

- 144**
- If an issuer is required under this Division to file a record or send a record to a securityholder, or if an issuer is exempt from a requirement of this Division and filing or sending a record to a securityholder is a condition of the exemption, the issuer must prepare the record in plain language.

Division B - Timely Disclosure

Confidential material information report

- 145** (1) Subject to subsections (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, and
 - (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 30 (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 an issuer relies on the exemption in subsection (1) and
- (a) the issuer knows, or reasonably should have known, that the material information has been disclosed to a person other than a person referred to in subsection (2) (b), or
 - (b) a reasonable person in the position of the issuer would conclude there is a significant risk that the material information will, before it is generally disclosed, 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 disclosure being made or the significant risk of disclosure arising.
- (5) If an issuer relies on the exemption in subsection (1), the issuer must not make an offering of its securities if
- (a) the information is still material information, and
 - (b) the issuer has not disclosed the information under section 23 of the Act.

Exemption for issuers filing timely disclosure in other provinces

- 146** Section 23 of the Act does not apply to a public issuer that is a reporting issuer in another province if it
- (a) complies with the requirements in the other province designated for the purpose of this section, and
 - (b) files with the commission the records it is required to file under the designated requirements when it files them in the other province.

Plain language

- 147** If an issuer is required under this Division to file a record or send a record to a securityholder, or if an issuer is exempt from a requirement of this Division and filing a record or sending a record to a securityholder is a condition of the exemption, the issuer must prepare the record in plain language.

Division C - Insider Reports

Time periods for filing insider reports

- 148**
- (1) For the purpose of section 25 of the Act [*initial insider report*], except as provided in subsection (3), the prescribed time is within 10 days after the later of
 - (a) the date on which the person became an insider, and
 - (b) the date of the trade that is required to be reported.
 - (2) For the purpose of section 26 of the Act [*subsequent insider report*], except as provided in subsection (3) or (4), the prescribed time is within 10 days after the change occurs.
 - (3) For the purpose of sections 25 and 26 of the Act, if an insider of a public issuer acquires a security of the issuer under a plan providing for automatic acquisitions and the acquisition did not involve the insider's discretion, the prescribed time is within 90 days of the end of the calendar year in which the acquisition occurred.
 - (4) For the purpose of section 26 of the Act, if an insider disposes of a security acquired under a plan referred to in subsection (3) and
 - (a) the disposition is incidental to the operation of the plan, or
 - (b) the proceeds of the distribution are used to satisfy a tax withholding obligation arising from the distribution of securities under the plan,the prescribed time is within 90 days of the end of the calendar year in which the disposition occurred.

Exemption from reporting if issuer event

- 149**
- (1) 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 is exempt from section 26 of the Act.
 - (2) An insider that relies on the exemption in subsection (1) must disclose the changes as a result of the issuer event in the next report filed under section 26 of the Act.
 - (3) For the purpose of this section, “**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.

Exemption from duplicate reporting

- 150** If a person files a report under section 25 or 26 of the Act and the report discloses
 - (a) the number and class of securities beneficially owned by an issuer that the person controls or by an affiliate of the person or the issuer, or
 - (b) changes in the issuer's or affiliate's ownership of the securities,the issuer or affiliate is not required to file a report under section 25 or 26 of the Act disclosing that information.

Issuer list of insiders

151 A public issuer must maintain a list of its directors and senior officers.

Exemption for insiders filing reports in another province

- 152** (1) If an insider of a public issuer is required under the securities law of another province to disclose information regarding
- (a) securities of the issuer that the insider owns or controls, or
 - (b) securities owned or controlled by the insider, or transactions the insider has entered into, the value of which is derived from or varies materially with the value or market price of a security of the issuer,
- sections 25 and 26 of the Act do not apply to the insider if the insider
- (c) complies with the requirements of the other province designated for the purpose of this section, and
 - (d) files with the commission the disclosure required under the designated requirements when it files it in the other province.
- (2) Section 151 does not apply to a public issuer that is subject to and complies with the requirements of another province designated for the purpose of this section.

Exemption for eligible institutional investors providing alternative monthly reports

- 153** (1) An eligible institutional investor is exempt from sections 25 and 26 of the Act.
- (2) Subsection (1) does not apply if the eligible institution investor or a person acting jointly or in concert with the eligible institutional investor
- (a) makes or intends to make a formal bid, as defined in BCI 62-502, for securities of a public issuer, or
 - (b) proposes or intends to propose a reorganization or business combination with the public issuer.
- (3) An eligible institutional investor that is relying on the exemption in subsection (1) must file 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 owns or controls 10% or more of a class of the issuer's outstanding voting securities.
- (4) An eligible institutional investor that is relying on the exemption in subsection (1) and that has filed a report under subsection (3) must file 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 owns or controls 10% or more of a class of the issuer's outstanding voting securities, and
 - (b) the percentage of a class of securities it owns or controls changes past thresholds that are products of whole numbers multiplied by 2.5% of the outstanding securities of that class.
- (5) A person that files a report under subsection (3) or (4) must send a copy of the report to the public issuer as soon as practicable.
- (6) For the purpose of determining the number of securities of a public issuer owned or controlled under subsection (3) or (4), the person may rely on
- (a) the most recent interim or annual MD&A of the issuer, or

- (b) a more recent news release made by the issuer if the news release discloses material information that relates to the number of securities issued by the issuer.
- (7) Despite subsection (6), if the person has information that is reasonably considered more accurate than the information contained in the records referred to in subsection (6), the person must use the more accurate information.
- (8) If an eligible institutional investor, or its affiliate or associate, owns or controls a security of an issuer through a business unit, the investor may, for the purposes of this section, count that security separately from other securities of the issuer that it owns or controls directly or through another business unit if
- (a) the business unit makes all the decisions about owning or voting the securities it owns or controls,
 - (b) the business unit does not act 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, other than 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 which business units are being treated separately.
- (9) If an eligible institutional investor, or an affiliate or associate, controls, directly or by acting in concert with another person, a mutual fund the eligible institutional investor, affiliate, or associate may count a security of an issuer that the fund owns or controls separately from other securities of the issuer that 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) the eligible institutional investor, its affiliates and associates, and their directors, officers, partners, and employees are not involved in making decisions about owning or voting securities for more than one mutual fund, other than to prepare research reports or comply with legal requirements or general investment policies,
 - (d) the adviser does not control, and is not controlled by, the eligible institutional investor or any of its affiliates or associates, and
 - (e) the eligible institutional investor, its affiliates and associates disclose in any record filed under this Division that it is relying on this section, and keeps a record of the funds whose ownership of or control over securities is counted separately.

Exemption for eligible institutional investors filing in another province

154 Sections 25 and 26 of the Act do not apply to an eligible institutional investor in relation to a public issuer that is a reporting issuer in another province if the eligible institutional investor

- (a) complies with the requirements in the other province designated for the purpose of this section, and

- (b) files with the commission the records it is required to file under the designated requirements when it files them in the other province.

Division D - Further Information for Commission

Personal information of directors and officers

- 155**
- (1) Within 30 days after an individual becomes a director or officer of a public issuer, the public issuer must provide to the commission all personal information that reasonably relates to the capacity and suitability of the individual to act as a director or officer of a public issuer.
 - (2) The information required under subsection (1) must be provided in the required form.
 - (3) Subsections (1) and (2) do not apply to a public issuer if the issuer
 - (a) has a class of its securities listed on an exchange in Canada, and
 - (b) provides the commission with a copy of a completed personal information form for a director or officer of the issuer, or other document that the exchange accepts in place of the personal information form, at the same time that it is provided to the exchange.

Filing records sent to securityholders or other agencies

- 156**
- (1) If a public issuer
 - (a) sends a record to a securityholder, or
 - (b) provides a record to a marketplace, a regulatory organization or another regulator,and the record contains material information, the issuer must file the record unless the material information contained in the record has already been filed.
 - (2) A public issuer must file a record under subsection (1) at the earlier of the time
 - (a) the issuer sends the record to the securityholder, and
 - (b) the issuer provides the record to the marketplace, regulatory organization or other regulator.

Division E - Advertising

Advertising by an issuer

- 157**
- An issuer, other than a mutual fund, is not required to register under section 14 of the Act, and is not required to file a prospectus under section 18 (1) of the Act, for the purpose of advertising a security it has issued, or intends to issue, if the advertisement
- (a) identifies that it is an advertisement,
 - (b) states whether the issuer's securities are listed, quoted or traded on a marketplace,
 - (c) states that there are restrictions on the resale of the security, if applicable, and
 - (d) states that the following documents exist, if applicable, and how they can be obtained:
 - (i) the issuer's continuous disclosure record;
 - (ii) any offering document to which the advertisement relates.

Division F – Surrender of Public Issuer Status

Surrendering status

- 158** (1) A public issuer ceases to be a public issuer if
- (a) it has outstanding securities that
 - (i) are owned by not more than 50 persons, counting joint securityholders as one and not counting employees or former employees, and
 - (ii) are not listed, quoted or traded on a marketplace in or outside of British Columbia, and
 - (b) it files a notice stating its intention to cease to be a public issuer on a date specified in the notice.
- (2) An issuer under subsection (1) ceases to be a public issuer on the later of
- (a) the date specified in the notice, and
 - (b) the date the notice is filed.

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 – DERIVATIVES

Exemptions for exchange-traded derivatives

- 159** The following provisions relating to a derivative do not apply to a person with respect to a trade of the derivative if the trade is made on an exchange designated for the purpose of this Part:
- (a) Part 4 of the Act [*Offerings*];
 - (b) section 22 of the Act [*periodic disclosure*];
 - (c) section 23 of the Act [*disclosure of all material information by public issuer*];
 - (d) the requirements set out in BCI 62-502 [*Takeover Bids and Issuer Bids*].

Definitions

- 160** In this Part, “**OTC derivative**” means a derivative that is not traded on an exchange.

Exemption for trades with qualified parties

- 161** (1) Parts 3 and 4 of the Act do not apply to a person with respect to a trade of an OTC derivative if each party to the trade is a qualified party acting as principal.
- (2) In this section, “**qualified party**” means any of the following:
- (a) a Canadian financial institution, or a person authorized or permitted in a foreign jurisdiction to carry on banking, insurance or trust business;
 - (b) an 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) to (c), 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 dealer or adviser in another province or a foreign jurisdiction that is registered under the securities laws of the other province or foreign jurisdiction for the purpose of trading or acting as an adviser;
 - (f) a registered representative or another person that trades a security or acts as an adviser on behalf of an entity referred to in paragraph (e), if the person is registered under the securities laws of another province or a foreign jurisdiction;
 - (g) a government, government agency, municipality, public board, or commission in or outside British Columbia;
 - (h) 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;
 - (i) an individual who, either alone or jointly with a spouse, has net assets of at least \$5 000 000;
 - (j) a person, other than an individual, that had net assets of at least \$5 000 000 as shown, in aggregate, on its most recently prepared financial statements and the most recently prepared statements of any wholly-owned subsidiary;
 - (k) a mutual fund or other investment fund if
 - (i) each investor in the fund is a qualified party, or
 - (ii) the investment portfolio of the fund is managed by a registered adviser, or an adviser in another province registered under the securities laws of the other province for the purpose of acting as an adviser;
 - (l) a person whose normal course of business involves buying, selling, producing, marketing, brokering or otherwise using a commodity and, in connection with that business, trades an OTC derivative;
 - (m) a person that, alone or together with an affiliate, has entered into one or more transactions involving OTC derivatives with a counterparty that is not an affiliate, if
 - (i) the aggregate value of the notional principal amounts of the OTC derivatives is at least \$1 billion, and

- (ii) any of the OTC derivative contracts relating to one of these transactions was outstanding on any day during the previous 15 month period;
- (n) a person that, together with an affiliate, 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;
- (o) a person that is wholly-owned by a person referred to in paragraphs (a) to (j), (m) and (n);
- (p) a person that wholly owns any of the persons described in paragraphs (a) to (j), (m) and (n)
- (q) a person whose securities are wholly owned by a person described in paragraph (p);
- (r) a person whose contractual obligations in respect of an OTC derivative transaction are fully guaranteed by another qualified party;
- (s) a person or class of persons designated as a qualified party for the purposes of this definition.

Exemption for trades with financial institutions or registered dealers

- 162** (1) Parts 3 and 4 of the Act do not apply to
- (a) a Canadian financial institution,
 - (b) a person that carries on banking, insurance or trust business in a foreign jurisdiction designated for the purpose of this section, or
 - (c) a dealer in another province registered under the securities laws of that province for the purpose of trading,
- with respect to a trade of an OTC derivative if the person makes the trade as principal.
- (2) Part 4 of the Act does not apply to a registered dealer with respect to a trade of an OTC derivative if the dealer makes the trade as principal.
- (3) Parts 3 and 4 of the Act do not apply to a person with respect to a trade of an OTC derivative if
- (a) the person is a client or customer of a financial institution or dealer referred to in subsection (1) or (2),
 - (b) the person makes the trade as principal, and
 - (c) the trade is made with the financial institution or dealer.
- (4) The exemptions in subsections (1), (2) and (3) do not apply if the OTC derivative involves a security referred to in paragraph (a) to (f) of the definition of “**security**” in section 1 of the Act.

PART 10 – HEARINGS AND REVIEWS

Disclosure of evidence

- 163** A party to a hearing must, in advance of the hearing, disclose to each other party
- (a) the evidence it intends to rely on, and

- (b) if a party intends to call any witness, the identity of each witness and a summary statement of the expected testimony of the witness.

Representation by counsel

164 A party or a witness at a hearing may be represented by counsel.

Service

165 A party to a hearing must, as soon as practicable, provide to the commission and other parties to the hearing a notice in the required form disclosing where the party may be served documents.

PART 11 – PENALTY CALCULATION

Profit

166 For the purposes of section 83 (3) of the Act [*penalties*], “**profit**” means the applicable amount determined as follows:

- (a) for a purchase of securities in contravention of section 30 (2) of the Act [*insider trading*], the profit is the aggregate of, for each security purchased in contravention of that section,

$$A - B$$

where

“**A**” equals, if the security was

- (i) subsequently sold before the 10th trading day immediately following general disclosure of the inside information, the price at which the security was sold less commissions, or
- (ii) not subsequently sold before the 10th trading day immediately following general disclosure of the insider information, the volume-weighted average market price of the security for the 10 trading days immediately following general disclosure of the inside information, and

“**B**” equals the amount paid by the person for the security including commissions;

- (b) for a sale of securities in contravention of section 30 (2) of the Act, the profit is the aggregate of, for each security sold in contravention of that section,

$$A - B$$

where

“**A**” equals the proceeds from the sale of the security, and

“**B**” equals, if the contravention was

- (i) a short sale, and the short sale has been covered, the price at which the purchase covering the short sale was made, including commissions,
 - (ii) a short sale, and the short sale has not been covered, the volume-weighted average market price of the security over the 10 trading days immediately following general disclosure of the inside information, or
 - (ii) not a short sale, the volume-weighted average market price of the security over the 10 trading days immediately following general disclosure of the inside information;
- (c) for a purchase of securities in contravention of section 31 (2) (a) of the Act [*front running*], the profit is the aggregate of, for each security purchased in contravention of that section,

A – B

where

“**A**” equals, if the security

- (i) was subsequently sold before the execution of the last trade that was the subject of the material order information, the price at which the security was sold less commissions, or
- (ii) was not subsequently sold before the execution of the last trade that was the subject of the material order information, the last price paid in the execution of the order that is the subject of the material order information, and

“**B**” equals the amount paid by the person for the security, including commissions;

- (d) for a sale of securities in contravention of section 31 (2) (a) of the Act, the profit is the aggregate of, for each security sold in contravention of that section,

A – B

where

“**A**” equals the proceeds from the sale of the security, and

“**B**” equals, if the contravention was

- (i) a short sale, and the short sale has been covered, the price at which the purchase covering the short sale was made, including commissions,

- (ii) a short sale, and the short sale has not been covered, the last price paid in the execution of the order that is the subject of the material order information, or
 - (iii) not a short sale, the last price paid in the execution of the order that is the subject of the material order information;
- (e) for a contravention of
- (i) section 30 (3) of the Act [*tipping of material information*],
 - (ii) section 30 (4) of the Act [*recommending re material information*],
 - (iii) section 31 (2) (c) of the Act [*tipping of material order information*], or
 - (iv) section 31 (2) (d) of the Act [*recommending re material order information*],

the profit is

$$A + B$$

where

“**A**” equals the value of the consideration received by the person for providing the information or recommendation, and

“**B**” equals the profit of the person who received the information or recommendation, calculated under paragraph (a), (b), (c) or (d), as applicable;

- (f) for a contravention of
- (i) section 27 of the Act [*manipulation and fraud*],
 - (ii) section 30 (2) (d) of the Act [*insider trading re derivatives*],
 - (iii) section 31 (2) (b) of the Act [*front running re derivatives*], or
 - (iv) a provision not set out in this paragraph or in paragraphs (a), (b), (c), (d) or (e),

the amount determined by the court.

PART 12 - INVESTOR REMEDIES

Prescribed documents and offers

- 167** (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 [*Takeover Bids and Issuer Bids*].
- (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 referred to in
- (d) section 61 [*trade under offering memorandum*], or
 - (e) an exemption designated for the purposes of section 76 [*exempt trade under other Canadian securities law*] or 90 [*offering exemption – other jurisdiction*].

Limits on liability

168 (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 securities of the class outstanding at the close of trading on each of the 10 trading days before the first day on which the misconduct occurred 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 securities not traded on a published market, the fair market value of the securities of that class outstanding on 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 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 occurred;

“published market” means, for 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 and 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 and 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 before the misconduct,

- (c) for a significant securityholder that is not an individual, the greater of \$1 million and 5% of its market capitalization,
- (d) for a significant securityholder that is an individual, the greater of \$25 000 and 50% of the total compensation, including stock or deferred compensation, that the person received from the issuer and its affiliates, during the 12 months before the misconduct,
- (e) for an expert, the amount the expert and its affiliates received from the issuer, significant securityholder, fund manager or offeror and its affiliates during the 12 months before the misconduct,
- (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 portion in the offering,
- (h) for a person who made an oral statement and who is not referred to in paragraphs (a) to (g), the greater of \$25 000 and 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 before the misconduct; 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 misconduct.

Assessing damages

169 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) sections 90 to 95 of the Act, and
 - (ii) comparable provisions in the securities laws in another province, and
- (b) any amount paid or payable in a settlement with respect to an action referred to in paragraph (a).

PART 13 – RECORD FILING

E-filing of records

- 170**
- (1) A person must file a record in electronic format using a required filing system or an electronic filing facility provided by the commission.
 - (2) Despite subsection (1), if an electronic filing facility does not exist or technical difficulties prevent the timely filing of a record, it may be filed in paper format.

SCHEDULE

CODE OF CONDUCT

Integrity and fairness

1. Act fairly, honestly, 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 or facilitate conduct that could
 - (a) bring the reputation of the securities market into disrepute, or
 - (b) 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 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 that you prepare and provide to clients is in plain language.

Confidentiality

10. Hold in confidence all confidential 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 trade for, advise or serve clients.

Know your client and suitability

12. Take reasonable steps to learn, and to 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 to keep current your knowledge of, the general investment needs and objectives and the risk tolerance of each client. 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. Use fair, objective, and transparent criteria. If there are conflicts of interest between or among clients, use fair, objective, and transparent criteria to manage those conflicts. Apply the criteria consistently in all cases.
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 for assessing 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.
20. Maintain an effective system to manage the risks associated with your business.
21. Ensure that your compliance personnel have the technical competence, resources, independence, and experience necessary for the performance of their functions.
22. Take reasonable steps to ensure that every representative working for your firm is suitable for work in the securities industry and is appropriately supervised.
23. Separate the firm's underwriting functions from its trading and advising functions.
24. Notify the commission immediately of any significant change in the information relating to your organization or business.
25. Safeguard any client property you hold and ensure that it is used for its intended purpose.

Client complaints

26. Create and use effective procedures for handling client complaints.

Exemption for discount broker or other dealer complying with SRO requirements

27. Despite section 31 of the Securities Rules, items 13 and 14 of this Code 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

28. Despite section 31 of the Securities Rules, items 18 to 26 of this Code do not apply to a registered representative of a registered firm.