

## Amendments to the *Securities Act*

### Definitions

1 (1) In this Act:

~~"material change" means, if used in relation to the affairs of an issuer, a change in the business, operations, assets or ownership of the issuer that would reasonably be expected to have a significant effect on the market price or value of any of the securities of the issuer, and includes a decision to implement that change made by~~

~~(a) senior management of the issuer who believe that confirmation of the decision by the directors is probable, or~~

~~(b) the directors of the issuer;~~

(a) if used in relation to an issuer other than an investment fund,

(i) a change in the business, operations or capital of the issuer that would reasonably be expected to have a significant effect on the market price or value of a security of the issuer, or

(ii) a decision to implement a change referred to in subparagraph (i) made by

(A) the directors of the issuer, or

(B) senior management of the issuer who believe that confirmation of the decision by the directors is probable, and

(b) if used in relation to an investment fund,

(i) a change in the business, operations or affairs of the investment fund that would be considered important by a reasonable investor in determining whether to purchase or continue to hold a security of the investment fund, or

(ii) a decision to implement a change referred to in subparagraph (i) made

(A) by the directors of the investment fund or the directors of the investment fund manager,

(B) by senior management of the investment fund who believe that confirmation of the decision by the directors is probable, or

(C) by senior management of the investment fund manager who believe that confirmation of the decision by the directors of the manager is probable;

"investment fund" means a mutual fund or a non-redeemable investment fund;

"investment fund manager" means a person that directs the business, operations or affairs of an investment fund;

"non-redeemable investment fund" means

(a) an issuer

(i) whose primary purpose is to invest money provided by its security holders,

(ii) that does not invest

(A) for the purpose of exercising or seeking to exercise control of an issuer, other than a mutual fund or a non-redeemable investment fund, or

(B) for the purpose of being actively involved in the management of any issuer in which it invests, other than a mutual fund or a non-redeemable investment fund, and

(iii) that is not a mutual fund,

(b) an issuer designated in an order made under section 3.2, and

(c) an issuer that is in a class of prescribed issuers,

but does not include an issuer, or a class of issuers, described in an order made under section 3.1;

**“securities regulatory authority”** means a person empowered by the laws of a jurisdiction to regulate trading in securities or exchange contracts or to administer or enforce laws respecting trading in securities or exchange contracts;

**"futures contract"** means any obligation to make or take future delivery of

(a) a commodity,

(b) a security, or

(c) cash if the amount of cash is derived from, or by reference to, a variable including

(i) a price or quote for a commodity or security,

(ii) an interest rate,

(iii) a currency exchange rate, or

(iv) an index or benchmark,

but does not include an obligation, or class of obligations, described in an order ~~that the commission may make~~made under section 3.1;

**"mutual fund"** ~~includes~~means

(a) an issuer of a security that entitles the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of the security,

(b) an issuer described in an order ~~that the commission may make~~made under section 3.2, and

(c) an issuer that is in a class of prescribed issuers,

but does not include an issuer, or a class of issuers, described in an order ~~that the commission may make~~made under section 3.1;

**"reporting issuer"** means an issuer that

(a) has issued securities in respect of which

(i) a prospectus was filed and a receipt was issued,

(ii) a statement of material facts was filed and accepted, or

(iii) a securities exchange take over bid circular was filed,

under a former enactment,

(b) has filed a prospectus or statement of material facts and ~~obtained~~the executive director has issued a receipt for it under this Act or the regulations,

- (c) has any securities that have been at any time listed and posted for trading on any exchange in British Columbia, regardless of when the listing and posting for trading began,
- (d) is an issuer that has exchanged its securities with another issuer or with the holders of the securities of that other issuer in connection with an amalgamation, merger, reorganization or arrangement if one of the parties to the amalgamation, merger, reorganization or arrangement was a reporting issuer at the time of the amalgamation, merger, reorganization or arrangement, and the issuer that has exchanged its securities is deemed to have been a reporting issuer as at the date of the amalgamation, merger, reorganization or arrangement, for the longest period of time that one of the parties to the amalgamation, merger, reorganization or arrangement had been a reporting issuer at the date of the amalgamation, merger, reorganization or arrangement,
- (e) is designated as a reporting issuer in an order ~~which the commission may make for the purpose of this definition~~made under section 3.2, or
- (f) has filed a securities exchange take over bid circular under this Act or the regulations for the acquisition of securities of a reporting issuer and has taken up and paid for securities subject to the bid in accordance with the circular, unless the commission orders under section 88 that the issuer has ceased to be a reporting issuer;

#### Exemption orders

- 3.1** (1) If the commission considers that to do so would not be prejudicial to the public interest, the commission may, for the purposes of this Act and the regulations, order that
- (a) an obligation, or a class of obligations, is not a futures contract, ~~or~~
  - (b) an issuer, or a class of issuers, is not a mutual fund, or
  - (c) an issuer, or a class of issuers, is not a non-redeemable investment fund.

#### Designations

- 3.2** (1) ~~If the commission considers it to be in the public interest, the commission may, for the purposes of this Act and the regulations, order that an issuer is a mutual fund.~~  
If the commission considers it to be in the public interest, the commission may, for the purposes of this Act, order that a person is
- (a) an insider,
  - (b) a mutual fund,
  - (c) a non-redeemable investment fund, or
  - (d) a reporting issuer.

#### Commission continued

- 4** (9.1) ~~The commission may decide all questions of fact or law arising in the course of a hearing.~~

**Application of *Administrative Tribunals Appointment and Administration Act* to commission**

- 4.1 Sections 1 to 6, 7 (1) and (2) and 8 of the *Administrative Tribunals Appointment and Administration Act* apply to the commission. Sections 1 to 6, 7 (1) and (2), 8, 43, 46 and 55 of the *Administrative Tribunals Act* apply to the commission.

**B.C. Securities Commission Securities Policy Advisory Committee**

- 12 ~~(1) The minister may establish a B.C. Securities Commission Securities Policy Advisory Committee consisting of members appointed by the minister.~~
- ~~(2) The purpose of the advisory committee is to provide to the commission advice on administrative, regulatory and legislative matters relating to trading in securities and to the securities industry.~~

**Revenue and expenditure**

- 15 (1) Revenue received under this Act, including but not limited to revenue from administrative penalties under section 162 and any cost recoveries under this Act, but not including revenue
- ~~(a) from fines referred to in section 155, or~~
- ~~(b) from any payments to the minister under an order referred to in section 157~~
- ~~(1) (b),~~
- must be paid to the commission.
- (2) Subject to subsection (3), money received by the commission may be expended for any costs involved in the administration and enforcement of this Act and for any costs involved in operating the commission.
- (3) Money received by the commission ~~as revenue from administrative penalties under section 162~~under section 155.1(b), 157(1)(b) or 162 may be expended only for the purpose of educating securities market participants and members of the public about investing, financial matters or the operation or regulation of securities markets.
- (3.1) The commission may not expend money received under section 155.1(b) or 157(1)(b) unless the period referred to in section 15.1(5) has expired.
- ~~(4) At the request of the commission, but subject to approval of the Treasury Board, the Minister of Finance may pay to the commission out of the consolidated revenue fund amounts not exceeding \$5.5 million over the period ending March 31, 1998.~~

**Claim for wrongful benefit**

- 15.1** (1) The commission must notify the public in accordance with the regulations if the commission receives money from an order made under section 155.1 (b) or 157 (1) (b).
- (2) A person that makes a claim to money held by the commission under this section must file the claim in the Supreme Court within 3 years from the date of the first notification made under subsection (1) and file a copy of the claim with the commission.

- (3) If the commission receives a copy of a claim under subsection (2), it must pay into court all of the money the commission receives from an order made under section 155.1 (b) or 157 (1) (b).
- (4) If the commission has paid money into court under subsection (3), any money remaining after the court has adjudicated all claims made under subsection (2) in relation to the money must be paid to the commission.
- (5) After 3 years from the date of the first notification made under subsection (1), the commission may retain any money not claimed under subsection (2).

#### Persons who must be registered

- 34 ~~(2) An application for registration or for renewal or reinstatement of registration or for an amendment to registration must be made to the executive director in the required form and must be accompanied by the prescribed fee.~~

#### Subsequent application

- 37 ~~A person may reapply for registration or for renewal of, reinstatement of or an amendment to registration if~~
- ~~(a) the person intends to use information not previously submitted, or~~
  - ~~(b) material circumstances described in the person's previous application have changed.~~

#### Surrender of registration

- 41 ~~(1) The executive director may accept the surrender of the registration of a person if the executive director is satisfied that~~
- ~~(a) the financial obligations of the person to the person's clients have been discharged, and~~
  - ~~(b) the surrender of the registration is not prejudicial to the public interest.~~
- ~~(2) Upon receipt of an application to surrender registration, the executive director may, without a hearing, suspend the registrant's registration.~~
- (1) If a registrant applies to surrender registration, the executive director must accept the surrender unless the executive director considers it prejudicial to the public interest to do so.
- (2) On receiving an application under subsection (1), the executive director may, without providing an opportunity to be heard, suspend the registration or impose conditions or restrictions on the registration.

#### Definitions

- 116 In this Part:

"**form of proxy**" means a written or printed form that, on completion and execution by or on behalf of a security holder, becomes a proxy;

"**proxy**" means a completed and executed form of proxy by which a security holder has appointed a person as the security holder's nominee to attend and act for the security holder and on the security holder's behalf at a meeting of security holders;

"**security holder**" means a holder in British Columbia of a voting security of a reporting issuer;

**"solicit"** includes

- (a) a request for a proxy, whether or not it is accompanied by or included in a form of proxy;
- (b) a request to execute or not to execute a form of proxy or to revoke a proxy;
- ~~(c) the sending of a form of proxy or other communication to a security holder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy of that security holder, or~~
- ~~(d) the sending, along with a notice of a meeting, of a form of proxy to a security holder by management of a reporting issuer;~~

but does not include

- ~~(e) the sending of a form of proxy to a security holder in response to an unsolicited request made by the security holder or on behalf of the security holder, or~~
- ~~(f) the performance by any person of ministerial acts or professional services on behalf of a person soliciting a proxy.~~

### Relieving orders

**123** ~~On application of an interested person, the commission may order that section 121 or 122 does not apply to a class of investment, particular investment, contract or other arrangement, if the commission is satisfied that~~

- ~~(a) the class of investment, particular investment, contract or other arrangement represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of a mutual fund, or~~
- ~~(b) the particular investment, contract or other arrangement is in the best interests of a mutual fund.~~

### Standard of care for investment fund manager~~management of mutual fund~~

**125** ~~Every person responsible for the management of a mutual fund, and every person who performs a similar function in relation to a mutual fund as that person or who occupies a position or office with such a responsibility, must~~

- ~~(a) exercise the powers and discharge the duties related to that responsibility, function, position or office, in good faith and in the best interests of the mutual fund, and~~
- ~~(b) exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.~~

Every investment fund manager must

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

### **Independent committee for mutual funds**

**130.1** A prescribed requirement of this Part does not apply to a mutual fund or a class of mutual funds, or a responsible person, with respect to a transaction or a class of transactions if, in accordance with the regulations, the mutual fund has established an independent committee and

- (a) the independent committee has approved the transaction, or
- (b) the transaction is within a class of transactions approved by the independent committee.

### **Provision of information to executive director**

**141** (2) By an order applicable generally or to one or more persons or entities named or otherwise described in the order, the executive director may require any of the following persons to provide information or to produce records or classes of records specified or otherwise described in the order within the time or at the intervals specified in the order:

- (a) a clearing agency;
- (b) a registrant;
- (c) a person exempted from the requirement to be registered under section 34 by an order under section 48;
- (d) a reporting issuer;
- (e) ~~a manager or custodian of assets, shares or units of a mutual fund~~ an investment fund manager or a custodian of assets, shares or units of an investment fund;
- (f) a general partner of a person referred to in paragraph (b), (c), (d), (g), (j) or (k);
- (g) a person purporting to distribute securities in reliance on an exemption
  - (i) ~~described in section 74 (2)~~ from section 61, or
  - (ii) in an order issued under section 76;
- (h) a transfer agent or registrar for securities of a reporting issuer;
- (i) a director or officer of a reporting issuer;
- (j) a promoter or control person of a reporting issuer;
- (k) a person engaged in investor relations activities on behalf of a reporting issuer or security holder of a reporting issuer;
- (l) the Canadian Investor Protection Fund;
- (m) a person providing record keeping services to a registrant.

### **Examination of financial affairs**

**153** (1) Despite sections 31 and 32, if the commission considers it to be in the public interest, the commission may appoint in writing a person to

- (a) conduct an examination and inspection of the financial affairs and records of
  - (i) a self regulatory body or an exchange, as the case may be, which has been recognized by the commission under section 24,
  - (ii) a clearing agency or a quotation and trade reporting system,
  - (iii) a registrant,
  - (iv) a reporting issuer,

- (v) a custodian of assets of a mutual fund, an investment fund manager or a custodian of assets of an investment fund, or
- (vi) a custodian of securities issued by a mutual fund, an investment fund and held under a custodial agreement or other arrangement with a person engaged in the distribution of those securities, and

### **Offences generally**

**155** (2) A person who commits an offence under subsection (1) is liable, in the case of a person other than an individual, to a fine of not more than \$1 million and, in the case of an individual, to a fine of not more than \$1 million or to imprisonment for not more than 3 years or to both. A person that commits an offence under this Act is liable to a fine of not more than \$3 million, or to imprisonment for not more than 3 years, or both.

(4.1) If an investment fund commits an offence under subsection (1), the investment fund manager commits the same offence whether or not the investment fund is convicted of the offence.

- (5) Despite subsection (2), if a person has contravened section 57, 57.1 or 86 (1), the fine to which that person is liable is
  - (a) not less than any profit made by that person because of the contravention of section 57, 57.1 or 86 (1), and
  - (b) not more than the greater of
    - (i) \$13 million, and
    - (ii) an amount equal to triple any profit made by that person because of the contravention of section 57, 57.1 or 86 (1).

### **Additional remedies**

**155.1** If the court finds that a person has committed an offence under section 155, the court may make an order that

- (a) the person compensate or make restitution to another person, or
- (b) the person pay to the commission any amount obtained, or payment or loss avoided, as a result of the offence.

### **Enforcement of court orders**

**155.2** (1) A person to whom the court awards compensation or restitution under section 155.1(a) may file the order with the Supreme Court.

(2) The commission may file an order made under section 155.1(a) or (b) with the Supreme Court.

(3) An order filed with the Supreme Court under subsection (1) or (2) has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of that court.

### **Order for compliance**

**157** (1) In addition to any other powers it may have, if the commission considers that a person has contravened or is contravening a provision of this Act or of the regulations, or has failed to comply or is not complying with a decision, and the commission considers it in the public interest to do so, the commission may apply to the Supreme Court for one or more of the following:

- (a) an order that
  - (i) the person comply with or cease contravening the provision or decision, and
  - (ii) the directors and senior officers of the person cause the person to comply with or to cease contravening the provision or decision;
- (b) an order that the person pay to the ~~minister for payment into the consolidated revenue fund~~ commission one or both of the following:
  - (i) any money obtained by the person directly or indirectly as a result of the failure to comply or the contravention;
  - (ii) the amount of any payments or losses avoided by the person directly or indirectly as a result of the failure to comply or the contravention

#### Enforcement orders

- 161** (6) The commission or the executive director may, after providing an opportunity to be heard, make an order under subsection (1) in respect of a person if the person
- (a) has been convicted of a criminal offence arising from a transaction, business or course of conduct related to securities or exchange contracts,
  - (b) has been found by a court to have contravened a requirement of this Act or the regulations, or
  - (c) has been found by a securities regulatory authority or court in another jurisdiction to have contravened the laws of the jurisdiction respecting trading in securities or exchange contracts.

#### Administrative penalty

- 162** ~~If the commission, after a hearing,~~
- ~~(a) determines that a person has contravened
 
    - ~~(i) a provision of this Act or of the regulations, or~~
    - ~~(ii) a decision, whether or not the decision has been filed under section 163, and~~~~
  - ~~(b) considers it to be in the public interest to make the order,~~  
~~the commission may order the person to pay the commission an administrative penalty of,~~
  - ~~(c) in the case of a person other than an individual, not more than \$500 000, or~~
  - ~~(d) in the case of an individual, not more than \$250 000.~~

If the commission, after a hearing,

- (a) determines that a person has contravened
 
  - (i) a provision of this Act or of the regulations, or
  - (ii) a decision, whether or not the decision has been filed under section 163, and
- (b) considers it to be in the public interest to make the order,  
the commission may order the person to pay the commission an administrative penalty of not more than \$1 million for each contravention of this Act or the regulations.

**Demand on third party**

- 162.1** (1) If a person owes money to the commission under section ~~160 or 162~~160, 162 or 174 and the commission receives information that a third party is, or is about to become, indebted to the person, the commission may demand of the third party that the money be paid to the commission on account of the person's liability to the commission.

**PART 19.1 – INTERJURISDICTIONAL COOPERATION****Definitions**

- 167.1** (1) In this Part:

**“British Columbia authority”** means a power or duty referred to in section 167.2 (1) (a) or (b);

**“extraprovincial authority”** means a power or duty of an extraprovincial securities commission under the extraprovincial securities laws under which the extraprovincial securities commission operates;

**“extraprovincial securities commission”** means a securities regulatory authority of a province other than British Columbia;

**“extraprovincial securities laws”** means the laws of a province other than British Columbia respecting trading in securities or exchange contracts.

- (2) A reference to an extraprovincial securities commission includes, unless otherwise provided,

(a) its delegate, and

(b) any person who in respect of that extraprovincial securities commission exercises a power or performs a duty that is substantially similar to a power or duty exercised or performed by the executive director under this Act.

**Delegation and acceptance of authority**

- 167.2** (1) If authorized to do so by regulation, the commission

(a) may delegate a power or duty under this Act to an extraprovincial securities commission,

(b) may authorize an extraprovincial securities commission to exercise any power, or perform any duty, of the executive director under this Act, including, but not limited to, a power referred to in section 184 (2) (e), and

(c) may accept a delegation of, an authorization to exercise or perform, or any other form of transfer of, an extraprovincial authority.

- (2) Subsection (1) does not apply to a power or duty under Part 2 or 3, this Part or section 184 or 187.

**Subdelegation**

- 167.3** (1) Subject to a restriction or condition imposed by an extraprovincial securities commission with respect to a delegation, authorization or transfer referred to in section 167.2 (1) (c), the commission may delegate or subdelegate an extraprovincial authority in the manner and to the extent that the commission or the executive director may, under this Act, delegate or subdelegate, or authorize another person to exercise, a British Columbia authority.

(2) Subject to a restriction or condition imposed by the commission with respect to a delegation or an authorization under section 167.2 (1) (a) or (b), nothing in this Part prevents the extraprovincial securities commission from delegating or sub-delegating the British Columbia authority in the manner and to the extent that the extraprovincial securities commission may delegate or subdelegate, or authorize another person to exercise, an authority under the extraprovincial securities laws under which it operates.

#### **Revocation**

- 167.4** (1) If an extraprovincial securities commission is exercising or intends to exercise a power provided to it under section 167.2 (1) (a) or (b) to make a decision, the commission may withdraw from the extraprovincial securities commission any matter that is before the extraprovincial securities commission for its decision.
- (2) The commission or the executive director, as the case may be, may decide a matter that the commission has withdrawn under subsection (1).

#### **Adoption or incorporation of extraprovincial securities laws**

- 167.5** (1) Subject to the regulations, the commission may, by order, adopt or incorporate by reference all or any provisions of any extraprovincial securities laws to be applied to
- (a) a person or class of persons whose primary jurisdiction is the extraprovincial jurisdiction, or
- (b) a trade, intended trade, security or exchange contract involving a person or class of persons referred to in paragraph (a).
- (2) An order made under subsection (1) may adopt or incorporate the extraprovincial securities laws as they are amended from time to time, before or after the making of the order.

#### **Exercise of discretion, interprovincial reliance**

- 167.6** (1) Subject to the regulations, if the commission, the executive director or a designated organization is empowered under this Act to make a decision regarding a trade, intended trade, security, exchange contract or person, the commission, executive director or designated organization may make the decision on the basis that the commission, executive director or designated organization, as the case may be, considers that an extraprovincial securities commission has made the same or a substantially similar determination regarding the trade, intended trade, security, exchange contract or person.
- (2) Subject to the regulations, despite any provision of this Act, the commission, executive director or designated organization may make a decision referred to in subsection (1) without giving a person affected by the decision an opportunity to be heard.

#### **Review of extraprovincial decision**

- 167.7** If an extraprovincial commission delegates or subdelegates a British Columbia authority, section 165 (3) to (6) applies to a decision made under that authority as if the decision were a decision of the executive director under this Act.

### **Appeal of decision of an extraprovincial securities commission**

- 167.8** (1) Except as provided in section 167.7, section 167 applies to a decision of an extraprovincial securities commission made under a British Columbia authority.
- (2) The extraprovincial securities commission is a respondent to an appeal under this section.

### **Appeal of determination of the commission**

- 167.9** (1) In this section, “delegated authority” means any extraprovincial authority that the commission accepts under section 167.2 (1) (c).
- (2) A person directly affected by a determination of the commission under a delegated authority has the same rights under section 167 as if the determination were a decision under this Act.
- (3) Subsection (2) does not apply to a determination
- (a) refusing to exempt a person or class of persons from a requirement of extraprovincial securities laws, or
  - (b) made by a person to whom the commission has delegated or subdelegated the extraprovincial authority under which the determination is made.
- (4) A person that has a right to appeal a determination under this section may, subject to any direction of the Court of Appeal, exercise that right of appeal whether or not that person may have a right to appeal that determination to a court in another jurisdiction.
- (5) If a determination referred to in subsection (2) is being appealed to a court in another jurisdiction, the Court of Appeal may stay an appeal under this section until the determination of the appeal in the other jurisdiction.

### **Contraventions attributable to employees, officers, directors and agents**

- 168.2** (1) If a person, other than an individual, contravenes a provision of this Act or of the regulations, or fails to comply with a decision, an employee, officer, director or agent of the person who authorizes, permits or acquiesces in the contravention or non-compliance also contravenes the provision or fails to comply with the decision, as the case may be.
- (2) If an investment fund contravenes a provision of this Act or of the regulations, or fails to comply with a decision, the investment fund manager also contravenes the provision or fails to comply with the decision, as the case may be.

### **Filing and inspection of records**

- 169** (4) ~~The commission may hold in confidence all or part of a record or any class of record required to be filed under this Act or the regulations so long as it considers that~~
- ~~(a) the record or class of record discloses intimate financial, personal or other information, and~~
  - ~~(b) the desirability of avoiding disclosure of the information, in the interests of any person affected, outweighs the desirability of adhering to the principle of public disclosure.~~

- (4) The commission may hold in confidence all or part of a record required to be filed under this Act if the commission considers that
- (a) a person whose information appears in the record would be unduly prejudiced by disclosure of the information, and
  - (b) the person's privacy interest outweighs the public's interest in having the information disclosed.

### **Information collection and sharing**

- 169.1** ~~(1) The commission or executive director may collect information from, disclose information to, or share information with, a self regulatory body, an exchange, a quotation and trade reporting system, a law enforcement agency, a government or a governmental authority, in British Columbia or elsewhere.~~
- ~~(2) The commission or executive director may enter into an arrangement or agreement for the purpose of subsection (1).~~
- (1) For the purposes of administering this Act or assisting in the administration of the securities laws of another jurisdiction, the commission may, directly or indirectly, collect information from, and use information collected from,
- (a) an exchange, quotation and trade reporting system or clearing agency,
  - (b) a self regulatory body,
  - (c) a registrant or issuer, or
  - (d) a law enforcement agency, government, governmental authority, securities regulatory authority or financial regulatory authority,
- in British Columbia or elsewhere.
- (2) For the purposes of administering this Act or assisting in the administration of the securities laws of another jurisdiction, the commission may disclose information to, or share information with,
- (a) a person recognized under section 24,
  - (b) a law enforcement agency, government, governmental authority, securities regulatory authority or financial regulatory authority, or
  - (c) a person with whom the commission has entered into an arrangement or agreement that relates to or includes the sharing of information,
- in British Columbia or elsewhere.
- (3) For the purposes of administering its bylaws, rules or other regulatory instruments or policies, assisting in the administration of the bylaws, rules or other regulatory instruments or policies of another exchange, quotation and trade reporting system, clearing agency or self regulatory body, or assisting in the administration of this Act or the securities laws of another jurisdiction, a person recognized under section 24 may, directly or indirectly, collect information from, and use information collected from,
- (a) an exchange, quotation and trade reporting system or clearing agency,
  - (b) a self regulatory body,
  - (c) a registrant or issuer, or
  - (d) a law enforcement agency, government, governmental authority, securities regulatory authority or financial regulatory authority,
- in British Columbia or elsewhere.

- (4) For the purposes of administering its bylaws, rules or other regulatory instruments or policies, assisting in the administration of the bylaws, rules or other regulatory instruments or policies of another exchange, quotation and trade reporting system, clearing agency or self regulatory body, or assisting in the administration of this Act or the securities laws of another jurisdiction, a person recognized under section 24 may disclose information to, or share information with,
- (a) an exchange, quotation and trade reporting system or clearing agency,
  - (b) a self regulatory body, or
  - (c) a law enforcement agency, government, governmental authority, securities regulatory authority or financial regulatory authority, in British Columbia or elsewhere.
- (5) For the purposes of this section, “securities laws” means laws of a jurisdiction respecting the trading of securities or exchange contracts.

#### **Immunity of commission and others**

- 170** (1) No action or other proceeding for damages lies and no application for judicial review under the *Judicial Review Procedure Act* may be instituted against the commission, a member of the commission, an officer, servant or agent of the commission, a designated organization, a member of a designated organization, an officer, servant or agent of a designated organization, an employee appointed to administer this Act or any person proceeding under
- (a) an order, a written or oral direction or the consent of the commission, ~~or~~
  - (b) an order of the minister made under this Act, or
- (b.1) a delegation or authorization referred to in section 167.2 (1) (a) or (b), for any act done in good faith in the
- (c) performance or intended performance of any duty, or
  - (d) exercise or the intended exercise of any power,
- under this Act or the regulations, including a duty or power referred to in section 167.2 (1) (c), or for any neglect or default in the performance or exercise in good faith of that duty or power.

#### **Conditions on decisions**

- 172** The commission or the executive director may impose any conditions, restrictions or requirements the commission or executive director considers necessary in respect of any decision made by the commission or executive director.

#### **Notices generally**

- 180** (1) Unless otherwise provided by this Act, prescribed by the regulations, or ordered by the commission or executive director, a record that under this Act or the regulations is sent or is required to be sent must be
- (a) personally delivered,
  - (b) mailed, or
  - (c) transmitted by electronic means
- to the person that under this Act or the regulations is the intended recipient of the record.

- (5) If, on ~~3 consecutive occasions~~ 2 consecutive occasions, the records sent by an issuer to a security holder in accordance with subsection (2) are returned, the issuer is not required to send any further records to the security holder until the security holder informs the issuer in writing of the security holder's new address.

#### **Lieutenant Governor in Council regulations**

**183** The Lieutenant Governor in Council may make regulations for the purpose of regulating trading in securities or exchange contracts, or regulating the securities industry or exchange contracts industry, including regulations as follows:

- (6) respecting registration under this Act including, but not limited to, prescribing
- (i) categories for persons for purposes of registration and otherwise,
  - (ii) the duration of registration, and permitting the commission to determine the duration of registration and to determine different periods of duration of registration for different categories of registrants,
  - (iii) the manner of allocating persons to categories, and permitting the executive director to make these allocations,
  - (iv) conditions to be met by persons in the categories,
  - (v) standards of conduct to be met by registrants and practices to be carried out by registrants,
  - (vi) requirements that are necessary or advisable for the prevention or regulation of conflicts of interest, ~~and~~
  - (vii) different or additional requirements for different classes of registrants within a registration category, and;
  - (viii) circumstances in which
    - (A) a person or class of persons is not required to be registered under section 34, or
    - (B) a person or class of persons is deemed to be registered for the purposes of this Act,including the circumstance in which a person or class of persons is registered under the laws of another jurisdiction respecting trading in securities or exchange contracts;
- (8) respecting the suspension, surrender or cancellation of a registration under this Act;
- (10) ~~prescribing the practice and procedure by which the executive director designates exempt purchasers under sections 45 and 74;~~
- (12) respecting any matter necessary or advisable to carry out effectively the intent and purpose of Part 9, including, but not limited to,
- (i) prescribing disclosure requirements in respect of distributions, including the use of particular forms or of particular types of documents,
  - (ii) prescribing procedures for distributions of securities on an expedited basis including modifying or varying the application of this Act as may be necessary for the purpose of permitting expedited distributions to occur,

- (iii) prescribing circumstances in which a record may be, or is deemed to be, incorporated by reference into any other record,
- (iv) prescribing procedures respecting the issuance of receipts,
- (iv.1) prescribing circumstances in which
  - (A) section 61 does not apply to a person or class of persons, or
  - (B) a receipt is deemed to have been issued for the purposes of this Act,
  - including the circumstance in which a receipt has been issued for a preliminary prospectus or prospectus under the laws of another jurisdiction respecting trading in securities or exchange contracts;
- (v) prescribing periods in which receipts, or classes of receipts, are effective and circumstances in which receipts, or a class of receipts, may be revoked,
- (vi) prescribing circumstances in which a distribution of securities may occur on a continuous or delayed basis,
- (vii) prescribing additional requirements that must be satisfied before a receipt may be issued or before a distribution may occur,
- (viii) establishing, for the purposes of section 162, that a contravention of an undertaking given by an issuer constitutes a contravention of the regulation requiring the undertaking, and
- (ix) varying the form and content of the certificates required by sections 68 and 69 and prescribing additional classes of persons that are required to sign a certificate required by section 68 or 69;

(12.1) prescribing circumstances in which a person that purchases a security under a distribution may cancel the purchase, including

- (i) prescribing the period in which the purchaser may cancel the purchase,
- (ii) prescribing the principles for determining the amount of the refund if the purchaser cancels the purchase,
- (iii) specifying the persons responsible for making and administering the payment of the refund and prescribing the period in which the refund must be paid, and
- (iv) prescribing different circumstances, periods, principles or persons for different classes of securities, issuers or purchasers;

(13) in relation to disclosure documents,

- (i) ~~respecting their use in connection with any distribution made in the circumstances described in section 74 (2) or with any distribution referred to in section 75, and~~ respecting their use in connection with any distribution under an exemption from section 61, and
- (ii) governing their form and content including, without limiting this power, requiring content that has the effect of conferring on each purchaser under the distribution a contractual right of action, a contractual right of withdrawal from an agreement of purchase and sale, or both;

(19) respecting any matter necessary or advisable to carry out effectively the intent and purpose of Part 12, including, but not limited to,

- (i) requiring any ~~issuer~~person or class of ~~issuers~~persons to comply with Part 12 or any provision of it,
- (ii) ~~prescribing how a security or class of securities, including a put, call, option or other right or obligation to purchase or sell securities of a reporting issuer, must be reported in an insider report filed under section 87, prescribing how a security or class of securities of a reporting issuer, or a related financial instrument or class of related financial instruments of a security of a reporting issuer, must be reported in an insider report filed under section 87,~~
- (iii) prescribing standards for determining when a material fact or material change has been generally disclosed;
- (iv) prescribing procedures for the integration of the disclosure required under Part 9 with that required under Part 12 including modifying or varying the application of this Act as may be necessary for the purpose of permitting integrated disclosure, and
- (v) ~~prescribing disclosure requirements, including the use of particular forms or of particular types of documents;~~prescribing different classes of requirements for different classes of persons;

(19.1) respecting the governance of an issuer or a class of issuers, including, but not limited to,

- (i) prescribing the powers, duties and functions of a person responsible for governance, and
- (ii) specifying transactions, investments or arrangements of an issuer that a person responsible for governance must review or approve;

(20) respecting any matter necessary or advisable to carry out effectively the intent and purpose of section 136, including, but not limited to,

- (i) exempting any class of persons, trades, securities or exchange contracts from liability under section 136,
- (ii) prescribing circumstances and conditions for the purpose of an exemption under subparagraph (i), ~~and~~
- (iii) prescribing standards for determining when a material fact or material change has been generally disclosed; ~~and~~
- (iv) prescribing a method for determining the amount under section 136 (3)(b);

(21) ~~respecting any matter necessary or advisable to carry out effectively the intent and purpose of Part 13, including, but not limited to,~~

- ~~(i) restricting any exemption set out in sections 98 and 99 or 101 to 104,~~
- ~~(ii) prescribing requirements in addition to those set out in section 105 and varying any requirement set out in that section,~~
- ~~(iii) prescribing requirements relating to the conduct or management of the affairs of an offeree issuer during or in anticipation of a take over bid, and~~
- ~~(iv) prescribing the form and content of any circular, report or other document required to be delivered or filed; in relation to any matter necessary or advisable for regulating offers to acquire securities, acquisitions or redemptions of securities, business combinations or related party transactions, including, but not limited to,~~
- (i) prescribing requirements or prohibitions relating to the conduct or management of the affairs of an issuer and its directors and officers before,

- during or after an offer to acquire, acquisition, redemption, business combination or related party transaction,
- (ii) prohibiting a person from purchasing or trading a security before, during or after an offer to acquire, acquisition, redemption, business combination or related party transaction,
- (iii) prescribing records required to be filed or delivered to a person, and
- (iv) prescribing different requirements or prohibitions for different classes of persons;
- (23) respecting any matter necessary or advisable to regulate mutual funds or non-redeemable investment funds, ~~including commodity pools,~~ and the distribution and trading of the securities of the funds, including, but not limited to,
- (32) incorporating by reference and adopting laws, codes, standards, bylaws, rules and other regulatory instruments as they are amended from time to time before or after the making of the regulations;
- (38) providing that any or all of the exemptions in this Act, the regulations or the commission rules do not apply to a class of persons, trades, securities or exchange contracts, and prescribing circumstances in which or conditions on which the exemption is or the exemptions are disapplied under ~~this paragraph;~~this paragraph, including, with respect to an exemption in a regulation or a commission rule, a condition that the executive director's consent be obtained before the exemption applies;
- (41) ~~prescribing circumstances and conditions for the purpose of an exemption under paragraph (40);~~prescribing circumstances and conditions for the purpose of an exemption under paragraph (40), including circumstances and conditions
- (i) relating to the laws of another jurisdiction or relating to an exemption from those laws granted by a securities regulatory authority in that jurisdiction, or
- (ii) that refer to a person or a class of persons designated by the commission;
- (41.1) prescribing circumstances in which a person or a class of persons is prohibited from trading or purchasing securities or exchange contracts, or a particular security or exchange contract, including the circumstance in which a securities regulatory authority in a jurisdiction other than British Columbia has ordered that
- (i) a person is prohibited from trading or purchasing securities or exchange contracts, or a particular security or exchange contract, or
- (ii) trades or purchases of a particular security or exchange contract cease;
- (44.1) requiring a person to certify the content of a record required under this Act, including requiring different certificates for different classes of persons;
- (45) respecting
- (i) the amendment or modification of a record and the effect of that amendment or modification,
- (ii) the use of codes and symbols for the identification of persons on records,
- (iii) the use of records, prepared in accordance with similar laws of another jurisdiction, to satisfy the requirements of this Act, the regulations or the commission rules, and
- (iv) ~~the certification of a record required in this Act, and~~
- (v) the filing of records by electronic means;

**Commission rules**

- 184** (2) Without limiting subsection (1) but subject to subsections (4) to (7), the commission may make rules as follows:
- (a) respecting those matters for which this Act provides that commission rules be made;
  - (b) respecting those matters for which this Act provides that requirements be prescribed, except for those matters referred to in sections 13 (3), 29 (5), ~~34 (2)~~, 35 (1) (b), 39 (5), 143 (4), 150, 153 (4), 174, 179 (1) and (3), 183 (50) and (51) and subsections (5) to (8) of this section;
  - (b.1) respecting those matters for which regulations may be made under sections 26, 34 (1), 51 (3), 56 (2), 63 (2), 65 (2), 118 (3), 130.1, and 169 (2);
  - (c) with respect to the same matters with respect to which the Lieutenant Governor in Council may make regulations under section 183 (1), (2), (6) to (25), (27), (30), (31), (33), (34), (35), (36), (36.1), (38), (40), ~~(41), (44) and (45)~~(41), (41.1), (44), (44.1), (45) and (46) and to the same extent;
  - (d) incorporating by reference and adopting laws, codes, standards, bylaws, rules and other regulatory instruments as they are amended from time to time before or after the making of the rules
- (3) If a designated organization is exercising or intends to exercise a power provided to it under subsection (2) (e) to make a decision, the commission may withdraw from the designated organization any matter that is before the designated organization for its decision, and ~~the commission may refer the matter to the executive director for decision~~the executive director may decide the matter.
- (4) Unless the power to do so is expressly provided to the commission under this section, the commission must not make rules under this section with respect to the matters with respect to which the Lieutenant Governor in Council may make regulations under section 183 (3) to (5), (26), (28), (29), (32), (37), (39), (42), (43) and ~~(46)~~(47) to (52).

**Administrative powers respecting commission rules**

- 187** (1) The commission may
- (a) vary the provisions of the commission rules as they apply to any person, trade, security or exchange contract or class of persons, trades, securities or exchange contracts,
  - (b) order that any or all of the exemptions in the commission rules do not apply to a person, trade, security or exchange contract or class of persons, trades, securities or exchange contracts,
  - (c) order that any or all of the provisions of the commission rules do not apply to a person, trade, security or exchange contract or class of persons, trades, securities or exchange contracts, and
  - (d) authorize the executive director to exercise a power given to the commission under paragraphs (a) to (c).
- (2) For the purposes of subsection (1) (a) and (c), the commission may include conditions, restrictions or requirements in the order, including conditions, restrictions or requirements relating to
- (a) the laws of another jurisdiction respecting trading in securities or exchange contracts, or

(b) an exemption from a requirement under the laws referred to in paragraph (a) granted by a securities regulatory authority in that jurisdiction.