

BILL

No. 19 of 2006-07

An Act to amend *The Securities Act, 1988*

(Assented to)

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

Short title

1 This Act may be cited as *The Securities Amendment Act, 2006 (No. 2)*.

S.S. 1988-89, c.S-42.2 amended

2 *The Securities Act, 1988* is amended in the manner set forth in this Act.

Section 2 amended

3(1) **Clause 2(1)(k) is repealed and the following substituted:**

“(k) **‘control person’** means:

(i) a person who or company that holds a sufficient number of the voting rights attached to all outstanding voting securities of an issuer to affect materially the control of the issuer, and if a person or company holds more than 20% of the voting rights attached to all outstanding voting securities of an issuer, the person or company is deemed, in the absence of evidence to the contrary, to hold a sufficient number of the voting rights to affect materially the control of the issuer; or

(ii) each person who or company that holds, or combination of persons who or companies that acting in concert by virtue of an agreement, arrangement, commitment or understanding, holds, in total a sufficient number of the voting rights attached to all outstanding voting securities of an issuer to affect materially the control of the issuer, and if a combination of persons or companies holds more than 20% of the voting rights attached to all outstanding voting securities of an issuer, the combination of persons or companies is deemed, in the absence of evidence to the contrary, to hold a sufficient number of the voting rights to affect materially the control of the issuer”.

(2) **Clause 2(1)(o) is repealed and the following substituted:**

“(o) **‘decision’** means a direction, decision, order, ruling or other requirement made:

(i) pursuant to a power or right conferred by or pursuant to this Act or the regulations; or

(ii) pursuant to a delegation or other transfer of an extra-provincial authority pursuant to section 147.2”.

(3) Clause 2(1)(q) is repealed and the following substituted:

“(q) **‘director’** means a director of a company or an individual performing a similar function or occupying a similar position for a company or any other person”.

(4) The following clause is added after clause 2(1)(r):

“(r.1) **‘economic interest’** means:

- (i) a right to receive or the opportunity to participate in a reward, benefit or return from a security or exchange contract; or
- (ii) the exposure to a risk of a financial loss with respect to a security or an exchange contract”.

(5) The following clause is added after clause 2(1)(t):

“(t.01) **‘forward-looking information’** means disclosure regarding possible events, conditions or results of operations that is based on assumptions about future economic conditions and courses of action, and includes future-oriented financial information with respect to prospective results of operations, financial position or cash flows that is presented either as a forecast or a projection”.

(6) Clause 2(1)(t.1) is repealed and the following substituted:

“(t.1) **‘futures contract’** means:

- (i) a contract to make delivery or take delivery on a specified date or during a specified period of a specified asset or of a specified cash equivalent of the subject-matter of that contract; or
- (ii) a contract designated to be a futures contract in an order made pursuant to section 11.1”.

(7) Clause 2(1)(w) is repealed and the following substituted:

“(w) **‘insider’** means:

- (i) a director or officer of an issuer;
- (ii) a director or officer of a person who or company that is itself an insider or subsidiary of an issuer;
- (iii) a person who or company that has:
 - (A) a beneficial ownership of, or control or direction over, directly or indirectly; or
 - (B) a combination of beneficial ownership of and control or direction over, directly or indirectly;

securities of an issuer carrying more than 10% of the voting rights attached to all the issuer’s outstanding voting securities, excluding, for the purpose of the calculation of the percentage held, any securities held by the person or company as underwriter in the course of a distribution;

- (iv) an issuer that has purchased, redeemed or otherwise acquired a security of its own issue, for so long as it continues to hold that security;
- (v) a person or company designated as an insider in an order made pursuant to section 11.1; or
- (vi) a person who or company that is in a prescribed class of persons or companies”.

(8) Clause 2(1)(y) is repealed and the following substituted:

“(y) **‘material change’** means:

- (i) if used in relation to an issuer other than an investment fund:
 - (A) a change in the business, operations or capital of the issuer that would reasonably be expected to have a significant effect on the market price or value of a security of the issuer; or
 - (B) a decision to implement a change mentioned in paragraph (A) made by the directors of the issuer, or by senior management of the issuer who believe that confirmation of the decision by the directors is probable; or
- (ii) if used in relation to an issuer that is an investment fund:
 - (A) a change in the business, operations or affairs of the issuer that would be considered important by a reasonable investor in determining whether to purchase or to continue to hold a security of the issuer; or
 - (B) a decision to implement a change mentioned in paragraph (A) made:
 - (I) by the directors of the issuer or the directors of the investment fund manager of the issuer;
 - (II) by senior management of the issuer who believe that confirmation of the decision by the directors is probable; or
 - (III) by senior management of the investment fund manager of the issuer who believe that confirmation of the decision by the directors of the investment fund manager of the issuer is probable”.

(9) Subclause 2(1)(dd)(ii) is amended by adding “section 11.1 or” after “in accordance with”.

(10) Clause 2(1)(gg) is repealed and the following substituted:

“(gg) **‘officer’**, with respect to an issuer or registrant, means:

- (i) a chairperson or vice-chairperson of the board of directors, a chief executive officer, chief operating officer, chief financial officer, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer or general manager;
- (ii) an individual who is designated as an officer under a bylaw or similar authority of the issuer or registrant; or
- (iii) an individual who performs functions for a person or company similar to those normally performed by an individual mentioned in subclause (i) or (ii)”.

(11) The following clause is added after clause 2(1)(pp):

“(pp.1) **‘related financial instrument’** means:

(i) an instrument, agreement, security or exchange contract the value, market price or payment obligations of which are derived from, referenced to or based on the value, market price or payment obligations of a security; or

(ii) any other instrument, agreement or understanding that affects, directly or indirectly, a person’s economic interest with respect to a security or an exchange contract”.

(12) Clause 2(1)(qq) is amended:

(a) by striking out “or” after subclause (iv); and

(b) by repealing subclause (v) and substituting the following:

“(v) that has exchanged its securities with another issuer or with the holders of the securities of that other issuer in connection with an amalgamation, merger, reorganization, arrangement or similar transaction if one of the parties to the amalgamation, merger, reorganization, arrangement or similar transaction was a reporting issuer at the time of the amalgamation, merger, reorganization, arrangement or similar transaction;

“(vi) that the Commission has designated as a reporting issuer pursuant to section 11.1; or

“(vii) that the Commission has ruled to be a reporting issuer pursuant to section 83”.

(13) Clause 2(1)(rr.1) is amended by adding “by reference” after “incorporated”.

(14) The following clause is added after clause 2(1)(rr.1):

“(rr.2) **‘securities regulatory authority’** means a person who or company that is 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”.

(15) The following clause is added after clause 2(1)(ss):

“(ss.1) **‘self-regulatory organization’** means a person who or company that is organized for the purpose of regulating the operations and the standards of practice and business conduct of its members”.

(16) Clause 2(1)(tt) is repealed.

(17) Subclauses 2(1)(ww)(vi) and (vii) are repealed and the following substituted:

“(vi) a bank listed in Schedule I, II or III of the *Bank Act* (Canada) with respect to trades in securities designated by the Commission;

“(vii) a credit union or Credit Union Central of Saskatchewan with respect to trades in securities designated by the Commission; or

“(viii) an association governed by the *Co-operative Credit Associations Act* (Canada) or a central co-operative credit society for which an order has been made pursuant to subsection 473(1) of that Act, with respect to trades in securities designated by the Commission”.

(18) Subsection 2(3) is repealed and the following substituted:

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

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

(19) Subsections 2(7), (8) and (9) are repealed.

(20) Subsection 2(11) is repealed and the following substituted:

“(11) For the purposes of this Act, if a security, the nature of which is or includes as an essential element an ownership interest or a right of participation in a limited partnership, an unincorporated investment fund, a property, project, plan or program or a unit of interest in a trust, has been or is proposed to be issued:

- (a) the limited partnership, investment fund, property, project, plan, program or trust is deemed to be an issuer, and the purchasers of the securities in it are deemed not to be an issuer collectively or individually;
- (b) if:
 - (i) a prospectus has been filed and a receipt obtained for it; or
 - (ii) a securities exchange take-over bid circular has been filed pursuant to this Act;

with respect to that limited partnership, investment fund, property, project, plan, program, or trust, the limited partnership, investment fund, property, project, plan, program or trust is deemed to be a reporting issuer and the promoter or issuer of that investment fund, property, project, plan, program or trust or the general partner of that limited partnership is deemed not to be a reporting issuer;

- (c) a person or company acting in the capacity of or performing functions similar to those of a director, the board, an officer or senior management of a company with respect to an issuer mentioned in clause (a) is deemed to be a director, the board, an officer or senior manager, as the case may be, of that issuer;
- (d) any reporting requirement or other responsibility and any liability or prohibition attaching to a director, the board, an officer or the senior management of a company applies to any person or company mentioned in clause (c) with respect to the issuer of which that clause deems that person or company to be a director, the board, an officer or senior manager, as the case may be; and
- (e) any reporting requirement or other responsibility and any liability or prohibition attaching to a reporting issuer applies, in the case of a reporting issuer deemed to be such by virtue of clause (b), to any person who or company that is deemed to be a director or officer of that reporting issuer by virtue of clause (c)”.

New section 2.1**4 The following section is added after section 2:****“Insiders of income trusts****2.1(1) In this section:**

(a) **‘income trust’** means a trust or other entity that issues securities that entitle the holder to net cash flows generated by:

- (i) an underlying business owned by the trust or other entity; or
- (ii) the income-producing properties owned by the trust or other entity;

(b) **‘manager’** means a person or company established or contracted to provide management or administrative services;

(c) **‘operating entity’** means a person or company with an underlying business or with assets owned in whole or in part by an income trust for the purposes of generating cash flow.

(2) The following are deemed to be an insider of an income trust:

- (a) every operating entity of the income trust;
- (b) every manager of the income trust;
- (c) if an operating entity or a manager is not a reporting issuer, every person who or company that would be an insider of the operating entity or the manager if the operating entity or the manager were a reporting issuer”.

Section 11 amended

5(1) Clause 11(2)(a) is amended by striking out “notice of motion” and substituting “notice of appeal”.

(2) Subsection 11(4) is repealed.

Section 11.1 amended

6 Clauses 11.1(1)(a) and (b) are repealed and the following substituted:

- “(a) a contract or class of contracts to be, or not to be, a futures contract;
- “(b) a person or company to be, or not to be, an insider”.

Section 12 amended

7(1) The following subsection is added after subsection 12(4):

“(4.1) For the purposes of an investigation pursuant to this section, a person appointed to make the investigation may examine any documents, records or other things mentioned in subsection (4), whether they are in the possession or control of:

- (a) the person who or company that is the subject of the investigation; or
- (b) another person or company”.

(2) Subsection 12(9) is repealed and the following substituted:

“(9) If a justice of the peace or a judge of the Provincial Court of Saskatchewan is satisfied by information given under oath that there are reasonable grounds to believe that a contravention of this Act or the regulations or a decision of the Commission or the Director has occurred and that there is evidence to be found at the building, receptacle or place to be searched, the justice of the peace or judge may issue a warrant authorizing a person appointed to make an investigation pursuant to this section to enter the building, receptacle or place named in the warrant and every part of the building, receptacle or place named in the warrant and of the premises connected with that building, receptacle or place to:

- (a) examine the building, receptacle or place and connected premises; and
- (b) search for and seize and take possession of any documents, records, securities, exchange contracts and other property that the person has reasonable grounds to believe may constitute evidence of the contravention of this Act, the regulations or the decision”.

Section 20 amended

8 Subclauses 20(1)(a)(v) and (vi) are repealed and the following substituted:

“(v) a custodian of assets of an investment fund; or

“(vi) a custodian of shares or units of an investment fund pursuant to a custodial agreement or other arrangement with a person or company engaged in the distribution of shares or units of the investment fund”.

New section 20.1

9 The following section is added after section 20:

“Review of disclosure

20.1(1) The Director may conduct a review of a disclosure that has been made or ought to have been made by a reporting issuer or an investment fund pursuant to Saskatchewan securities laws.

(2) A reporting issuer or an investment fund that is subject to a review pursuant to this section shall deliver to the Director any information and documents reasonably relevant to the review, within the period specified by the Director”.

Section 21 amended

10(1) Subsection 21(1) is repealed.

(2) Subsection 21(2) is amended by striking out “an association or organization representing registrants” and substituting “a person or company”.

(3) The following subsection is added after subsection 21(5):

“(5.1) A self-regulatory organization may commence proceedings to regulate the standards and business conduct of a person or company with respect to that person’s or company’s operations and conduct while the person or company was a member or a representative of a member of the self-regulatory organization pursuant to subsection (5) within a period of two years after the date that:

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- (a) in the case of a person who or company that was a member, the person or company ceased to be a member; or
 - (b) in the case of an individual who was a representative, the individual ceased to be a representative of a member”.

(4) Subsections 21(8), (9) and (10) are repealed.

New section 21.1

11 The following section is added after section 21:

“Registration powers of self-regulatory organization

21.1(1) The Commission may, by order, authorize a recognized self-regulatory organization to do any act or thing required or permitted to be done by the Director pursuant to Part VI or the regulations made for the purposes of that Part.

(2) An order made pursuant to subsection (1) must be approved by the Lieutenant Governor in Council before it comes into force.

(3) Notwithstanding that the Commission has made an order pursuant to this section, the Director may do the act or thing with respect to which the order was made.

(4) Subject to the approval of the Lieutenant Governor in Council, the Commission may revoke or vary an order made pursuant to this section.

(5) An order made pursuant to this section must not be revoked or varied without giving the recognized self-regulatory organization an opportunity to be heard”.

New section 28

12 Section 28 is repealed and the following substituted:

“Granting registrations

28(1) On receiving an application for registration, reinstatement of registration or amendment of registration, the Director shall grant the registration, reinstatement or amendment unless it appears to the Director that:

(a) an applicant is not suitable for registration, reinstatement of registration or amendment of registration; or

(b) the proposed registration, reinstatement of registration or amendment of registration is objectionable.

(2) The Director may restrict a registration by imposing terms and conditions on the registration and, without limiting the generality of the Director’s powers, may do either or both of the following:

(a) restrict the duration of the registration;

(b) restrict the registration to trades in certain securities or exchange contracts or a certain class of securities or exchange contracts.

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

New section 29

13 Section 29 is repealed and the following substituted:

“Voluntary surrender of registration

29(1) If a registrant applies to surrender its registration, the Director shall accept the surrender unless the Director considers it prejudicial to the public interest to do so.

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

Section 30 repealed

14 Section 30 is repealed.

Section 32 repealed

15 Section 32 is repealed.

Section 35 repealed

16 Section 35 is repealed.

Section 44 amended

17 Subsection 44(3.1) is repealed.

Section 45 amended

18 Subsection 45(3) is repealed and the following substituted:

“(3) This section does not apply to securities or trades that are exempt from the registration requirement in section 27 pursuant to an exemption designated by the Commission”.

Section 48 amended

19 Subclause 48(1)(a)(ii) is amended by striking out “senior”.

New section 50

20 Section 50 is repealed and the following substituted:

“Representation of registration

50(1) No person or company shall represent that the person or company is registered pursuant to this Act unless:

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

(2) No person or company shall make a statement about something that a reasonable investor would consider important in deciding whether to enter into or maintain a trading or advising relationship with the person or company if the statement:

- (a) is untrue; or
- (b) omits information necessary to prevent the statement from being false or misleading in the circumstances in which it is made”.

Section 51 repealed

21 Section 51 is repealed.

New section 52

22 Section 52 is repealed and the following substituted:

“Advertising

52 No person or company shall make any representation, written or oral, that the Commission, a member of the Commission, the Director or any person employed by the Commission has in any manner expressed an opinion or passed judgment on:

- (a) the financial standing, fitness or conduct of any registrant;
- (b) the merits of any security, exchange contract or issuer; or
- (c) the merits of the disclosure record of a reporting issuer or investment fund”.

Section 55 amended

23(1) Subsection 55(1) is amended by striking out “a mutual fund” and substituting “an investment fund”.

(2) Clause 55(2)(b) is amended by striking out “a mutual fund” and substituting “an investment fund”.

New sections 55.1 to 55.15

24 Section 55.1 is repealed and the following substituted:

“Fraud and market manipulation — prohibition

55.1 No person or company shall, directly or indirectly, engage or participate in any act, practice or course of action relating to securities or exchange contracts that the person or company knows or reasonably ought to know:

- (a) results in or contributes to a misleading appearance of trading activity in, or an artificial price for, a security or exchange contract; or
- (b) perpetrates a fraud on any person or company.

“Misleading and untrue statements — prohibition

55.11(1) No person or company shall make a statement if that person or company knows or reasonably ought to know that:

- (a) the statement either:
 - (i) is misleading or untrue in a material respect and at the time and in the light of the circumstances under which it is made; or
 - (ii) does not state a fact required to be stated or that is necessary to make the statement not misleading in a material respect and at the time and in the light of the circumstances under which it is made; and
- (b) the statement would reasonably be expected to have a significant effect on the market price or value of a security or exchange contract.

(2) A contravention of subsection (1) does not give rise to a statutory right of action for damages otherwise than pursuant to Part XVIII.1 or Part XIX.

“Front running

55.12(1) In this section, ‘**material order information**’ means information that:

- (a) if disclosed, would reasonably be expected to significantly affect the market price of the security; and
- (b) relates to:
 - (i) the intention of a person or company responsible for making decisions about an investment portfolio to trade a security on behalf of the investment portfolio;
 - (ii) the intention of a registrant trading on behalf of an investment portfolio to trade a security on behalf of the investment portfolio; or
 - (iii) an unexecuted order, or the intention of any person or company to place an order, to trade a security.

(2) No person who or company that knows of material order information shall do, or recommend or encourage another person or company to do, all or any of the following:

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

(3) No person who or company that knows of material order information shall inform another person or company of the material order information unless it is necessary in the course of the person’s or company’s business.

“Prohibition — false or misleading statements in evidence or records

55.13(1) No person or company shall:

- (a) make a statement in evidence or submit or give information required to be given pursuant to this Act or the regulations that, in a material respect and at the time and in the light of the circumstances under which it is made, is false or misleading;
- (b) omit facts from a statement or information mentioned in clause (a) necessary to make the statement or information not false or misleading;

(c) make a statement or provide information in any record required to be filed, provided, delivered or sent pursuant to this Act or the regulations that, in a material respect and at the time and in the light of the circumstances under which it is made, is false or misleading; or

(d) omit facts from a statement or information mentioned in clause (c) necessary to make the statement or information not false or misleading.

(2) A person or company does not contravene subsection (1) if the person or company did not know and in the exercise of reasonable diligence could not have known that the statement or information was false or misleading.

“Duty to comply with decisions

55.14 No person or company shall fail to comply with any decision of the Commission or the Director made pursuant to Saskatchewan securities laws.

“Duty to comply with undertaking

55.15 No person or company that gives an undertaking to the Commission or the Director shall fail to comply with that undertaking”.

New section 60.1

25 The following section is added after section 60:

“Conditions on receipt for preliminary prospectus and prospectus

60.1(1) The Director may impose any terms, conditions or restrictions on a receipt for a preliminary prospectus or a prospectus that the Director considers necessary in the public interest.

(2) The Director shall not impose any terms, conditions or restrictions pursuant to subsection (1) until the Director has provided the issuer filing the preliminary prospectus or prospectus an opportunity to be heard”.

Sections 62 to 69 repealed

26 Sections 62 to 69 are repealed.

New section 70

27 Section 70 is repealed and the following substituted:

“Receipt for prospectus

70(1) Subject to subsection (2), the Director shall issue a receipt for a prospectus filed pursuant to this Part unless the Director considers that it is not in the public interest to do so.

(2) The Director shall not issue a receipt for a prospectus pursuant to this Part if the Director considers that:

(a) the prospectus or any document required to be filed with it:

(i) does not comply in a substantial respect with any of the requirements of this Part or the regulations;

(ii) contains any statement, promise, estimate or forward-looking information that is misleading, false or deceptive; or

(iii) contains a misrepresentation;

(b) an unconscionable consideration has been paid or given or is intended to be paid or given for any services or promotional purposes or for the acquisition of property;

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- (c) the aggregate of:
- (i) the proceeds from the sale of the securities under the prospectus that are to be paid into the treasury of the issuer; and
 - (ii) the other resources of the issuer;
- is insufficient to accomplish the purpose of the issue stated in the prospectus;
- (d) the issuer cannot reasonably be expected to be financially responsible in the conduct of its business because of the financial condition of:
- (i) the issuer;
 - (ii) any of the issuer's officers, directors, promoters or control persons; or
 - (iii) the investment fund manager of the issuer or any of the investment fund manager's officers, directors or control persons;
- (e) the business of the issuer may not be conducted with integrity and in the best interests of the security holders of the issuer because of the past conduct of:
- (i) the issuer;
 - (ii) any of the issuer's officers, directors, promoters or control persons; or
 - (iii) the investment fund manager of the issuer or any of the investment fund manager's officers, directors or control persons;
- (f) a person who or company that has prepared or certified any part of the prospectus, or that is named as having prepared or certified a report or valuation used in connection with the prospectus, is not acceptable;
- (g) an escrow or pooling agreement in the form that the Director considers necessary or advisable with respect to the securities has not been entered into;
- (h) adequate arrangements have not been made for the holding in trust of the proceeds payable to the issuer from the sale of securities pending the distribution of the securities; or
- (i) adequate arrangements have not been made for distributing the securities.
- (3) No person or company filing a prospectus shall be refused a receipt for that prospectus without being given an opportunity to be heard”.

Section 71 repealed

28 Section 71 is repealed.

Sections 74 and 75 repealed

29 Sections 74 and 75 are repealed.

Section 76 amended

30 Section 76 is amended by striking out “pursuant to section 75” and substituting “in accordance with the regulations”.

Section 78 amended

31 Subsection 78(1) is amended by striking out “the filing of a prospectus pursuant to subsection 58(1), (3) or (4) or section 71 or a prospectus amendment pursuant to Part XI and”.

Sections 79 and 80 repealed

32 Sections 79 and 80 are repealed.

New section 80.01

33 The following section is added before section 80.1:

“Revocation of purchase

80.01 A person who or company that purchases a security under a distribution to which subsection 58(1) applies may cancel the purchase in accordance with the regulations”.

New section 80.21

34 The following section is added after section 80.2:

“Reporting issuers — default

80.21 The Commission may publish a list of defaulting reporting issuers”.

Section 81 repealed

35 Section 81 is repealed.

New section 84.1

36 The following section is added before section 85:

“Disclosure generally

84.1(1) A reporting issuer shall, in accordance with the regulations:

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

(2) An issuer that is not a reporting issuer shall disclose prescribed information in accordance with the regulations”.

Section 85 amended

37 The following subsection is added after subsection 85(3):

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

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

New section 92

38 Section 92 is repealed and the following substituted:

“Order relieving reporting issuer of status as reporting issuer

92 On the application of a reporting issuer, the Commission may order, if the Commission is of the opinion that it would not be prejudicial to the public interest to do so, that the reporting issuer is no longer a reporting issuer”.

New Part XVI

39 Part XVI is repealed and the following substituted:

“PART XVI

Take-over Bids and Issuer Bids

“Interpretation of Part

98 In this Part:

(a) **‘interested person’** means:

(i) an issuer whose securities are the subject of a take-over bid, issuer bid or other offer to acquire;

(ii) a security holder, director or officer of an issuer described in subclause (i);

(iii) an offeror;

(iv) the Director; or

(v) any person or company not mentioned in subclauses (i) to (iv) who or that, in the opinion of the Commission or the Court of Queen’s Bench, as the case may be, is a proper person to make an application pursuant to section 101 or 102;

(b) **‘issuer bid’** means a direct or indirect offer to acquire or redeem a security or a direct or indirect acquisition or redemption of a security that is:

(i) made by the issuer of the security; and

(ii) within a prescribed class of offers, acquisitions or redemptions;

(c) **‘take-over bid’** means a direct or indirect offer to acquire a security that is:

(i) made directly or indirectly by a person or company other than the issuer of the security; and

(ii) within a prescribed class of offers to acquire.

“Making a bid

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

“Recommendation of director or officer

100(1) If a take-over bid has been made, the directors of the issuer whose securities are the subject of the bid shall:

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

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

“Applications to the Commission

101 On application by an interested person, if the Commission considers that a person or company has not complied or is not complying with this Part or the regulations, the Commission may make all or any of the following orders:

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

“Applications to the Court of Queen’s Bench

102(1) On application by an interested person, if the Court of Queen’s Bench is satisfied that a person or company has not complied with this Part or the regulations, the Court of Queen’s Bench may make any interim or final order that the court sees fit, including, without limiting the foregoing, an order:

- (a) compensating any interested person who or company that is a party to the application for damages suffered as a result of a contravention of this Part or the regulations;
- (b) rescinding a transaction with any interested person or company, including the issue of a security or a purchase and sale of a security;
- (c) requiring any person or company to dispose of any securities acquired pursuant to or in connection with a take-over bid or issuer bid;
- (d) prohibiting any person or company from exercising any or all of the voting rights attached to any securities; or
- (e) requiring the trial of an issue.

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- (2) If the Director is not the applicant pursuant to subsection (1), the Director:
- (a) must be given notice of the application; and
 - (b) is entitled to appear at the hearing and make representations to the Court of Queen's Bench".

Section 115 repealed

40 Section 115 is repealed.

New sections 116 and 116.1

41 Section 116 is repealed and the following substituted:

"Reports of insider

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

"Early warning

116.1 If a person or company acquires beneficial ownership of, directly or indirectly, or direct or indirect control or direction over, securities of a prescribed type or class of a reporting issuer representing a percentage prescribed in the regulations of the outstanding securities of that type or class, the person or company and any person or company acting jointly or in concert with the person or company shall:

- (a) make and file disclosure in accordance with the regulations; and
- (b) comply with any prohibitions in the regulations on transactions in securities of the reporting issuer".

Sections 117 and 118 repealed

42 Sections 117 and 118 are repealed.

Section 122 repealed

43 Section 122 is repealed.

New section 125

44 Section 125 is repealed and the following substituted:

"Standard of care for investment fund manager

125 Every investment fund manager shall:

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

New section 128.1**45 The following section is added after section 128:****“Authorized exemptions to prohibitions**

128.1 A requirement or prohibition in this Part that is prescribed in the regulations does not apply to an investment fund or a class of investment funds, or a responsible person, with respect to a transaction or a class of transactions if, in accordance with the regulations, the investment 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”.

New section 131**46 Section 131 is repealed and the following substituted:****“Offences, general**

131(1) In this section:

- (a) **‘loss avoided’** means the amount by which the amount received for the security sold in contravention of section 85 exceeds the market price;
- (b) **‘market price’** means the average market price of the securities in the 20 trading days immediately following the general disclosure of the material fact or material change;
- (c) **‘profit made’** means:
 - (i) the amount by which the market price exceeds the amount paid for the security purchased in contravention of section 85;
 - (ii) with respect to a short sale, the amount by which the amount received for the security sold in contravention of section 85 exceeds the market price; or
 - (iii) the value of any consideration received for informing another person or company of a material fact or material change with respect to the reporting issuer in contravention of section 85.

(2) A person who or company that contravenes Saskatchewan securities laws is guilty of an offence and is liable on summary conviction to a fine of not more than \$5,000,000 or to imprisonment for a term of not more than five years, or to both.

(3) Every director or officer of a company, or a person other than an individual, who authorizes, permits or acquiesces in the commission of an offence pursuant to subsection (2) by the person or company, whether or not a charge has been laid or a finding of guilt has been made against the person or company with respect to the offence pursuant to subsection (2), is guilty of an offence and is liable on summary conviction to a fine of not more than \$5,000,000 or to imprisonment for a term of not more than five years or to both.

(4) Notwithstanding the imposition of a fine pursuant to subsection (2), a person who or company that contravenes section 85 is guilty of an offence and is liable on summary conviction to a fine of an amount not more than the greater of:

(a) \$5,000,000; and

(b) an amount equal to triple the amount of the profit made or the loss avoided by the person or company because of the contravention.

(5) If it is not possible to determine the profit made or the loss avoided by a person or company by reason of the contravention, subsection (4) does not apply and subsection (2) applies.

(6) If a person or company is guilty of an offence pursuant to this section, the convicting court:

(a) may make an order requiring the person or company to compensate or make restitution to an aggrieved person or company; and

(b) may make any other order that the court considers appropriate in the circumstances”.

Section 133 amended

47 Clause 133(1)(e) is amended by striking out “senior”.

Section 134 amended

48(1) The following clause is added after clause 134(1)(d):

“(d.1) that a person or company cease acquiring securities, specified securities, exchange contracts or specified exchange contracts for a period that is specified in the order”.

(2) Clause 134(1)(f) is amended by striking out “senior”.

(3) Clause 134(1)(h) is repealed and the following substituted:

“(h) that a person or company:

(i) resign any position that the person or company holds as a director or officer of an issuer, a registrant or an investment fund manager;

(ii) be prohibited from becoming or acting as director or officer of any issuer, registrant or investment fund manager; or

(iii) not be employed by any issuer, registrant or investment fund manager;

“(h.1) that a person or company be prohibited from becoming or acting as a registrant, an investment fund manager or a promoter”.

(4) Clause 134(1)(j) is repealed and the following substituted:

“(j) that the registration or recognition of a person or company pursuant to Saskatchewan securities law be suspended or restricted for any period that is specified in the order or be terminated, or that terms and conditions be imposed on the registration or recognition”.

(5) The following subsection is added after subsection 134(4):

“(5) The Commission or the Director may, after providing an opportunity to be heard, make an order pursuant to subsection (1) against a person or company, if the person or company:

- (a) has been convicted of a criminal offence arising from a transaction or carrying on a business or course of action related to securities or exchange contracts;
- (b) has been found by a court inside or outside of Saskatchewan to have contravened Saskatchewan securities laws or the securities laws of another jurisdiction;
- (c) is subject to an order made by a securities regulatory authority in another jurisdiction imposing sanctions, conditions, restrictions or requirements on the person or company; or
- (d) has agreed with a securities regulatory authority in another jurisdiction to be subject to sanctions, conditions, restrictions or requirements imposed by that securities regulatory authority”.

New section 135.2

49 Section 135.2 is repealed and the following substituted:

“Enforcement orders — registration terminated or lapsed

135.2 The Commission may make an order pursuant to clause 134(1)(i) or section 135.1 notwithstanding that a registrant’s registration has lapsed or terminated”.

New sections 135.6 and 135.7

50 The following sections are added after section 135.5:

“Financial compensation

135.6(1) In this section, a person or company is employed by another person or company when:

- (a) an employer-employee relationship exists; or
- (b) the first person or company is registered pursuant to this Act as an employee, agent or representative of the second person or company.

(2) On the application of a claimant, the Director may, when the Commission holds a hearing about a person or company, request the Commission to make an order that the person or company pay the claimant compensation for financial loss.

(3) Notwithstanding subsection 10(2), the Director’s decision whether to make a request is not subject to review.

(4) If requested by the Director to do so, the Commission may order the person or company to pay the claimant compensation of not more than \$100,000 for the claimant’s financial loss, if, after the hearing, the Commission:

(a) determines that the person or company has contravened or failed to comply with:

- (i) Saskatchewan securities laws;
- (ii) a written undertaking made by the person or company to the Commission or the Director; or
- (iii) a term or condition of the person's or company's registration;

(b) is able to determine the amount of the financial loss on the evidence; and

(c) finds that the person's or company's contravention or failure caused the financial loss in whole or in part.

(5) If the contravention or failure occurs in the course of the person's or company's employment by another person or company, or while the person or company is acting on behalf of the other in any other capacity, the Commission may order the other person or company to jointly and severally pay the claimant the financial compensation ordered pursuant to subsection (4).

(6) The Commission may make an order notwithstanding:

- (a) the imposition of any other penalty or sanction on the person or company; or
- (b) the making of any other order by the Commission related to the same matter.

(7) The Commission shall not make an order if the claimant has commenced an action or proceeding for compensation for the same loss.

(8) A claimant shall promptly inform the Commission after commencing an action or proceeding for the same loss.

(9) Once the Commission opens a hearing if a claim for compensation for financial loss is one of the matters before it, any action or proceeding commenced by a claimant for compensation for the same loss, or any unclaimed loss arising out of the same transaction, is stayed.

(10) Notwithstanding subsection (9), a claimant in whose favour the Commission makes an order may file a certified copy of the order with the local registrar of the Court of Queen's Bench.

(11) An order filed pursuant to subsection (10) is enforceable as a judgment of the Court of Queen's Bench.

“Offence — destruction, etc., of evidence

135.7(1) No person or company shall, or shall attempt to, destroy, conceal or withhold any information, property or thing reasonably required for a hearing, review or investigation pursuant to this Act.

(2) No person or company shall hinder or interfere with a member, employee, appointee or agent of the Commission in the performance of his or her powers, functions and duties pursuant to this Act.

(3) A person or company contravenes subsection (1) if the person or company knows or ought reasonably to know that a hearing, review or investigation is to be conducted and takes any action mentioned in subsection (1) before the hearing, review or investigation”.

New Part XVIII.1**51 The following Part is added after section 136:****“PART XVIII.1****Civil Liability for Secondary Market Disclosure****“Interpretation of Part****136.01** In this Part:

(a) **‘compensation’** means compensation received during the 12-month period immediately preceding the day on which the misrepresentation was made or on which the failure to make timely disclosure first occurred, together with the fair market value of all deferred compensation, including, without limitation, options, pension benefits and stock appreciation rights, granted during the same period, valued as of the date that such compensation is awarded;

(b) **‘core document’** means:

(i) if used in relation to:

(A) a director of a responsible issuer who is not also an officer of the responsible issuer;

(B) an influential person, other than an officer of the responsible issuer or an investment fund manager if the responsible issuer is an investment fund; or

(C) a director or officer of an influential person who is not also an officer of the responsible issuer, other than an officer of an investment fund manager;

a prospectus, a take-over bid circular, an issuer bid circular, a directors’ circular, a rights offering circular, management’s discussion and analysis, an annual information form, an information circular, annual financial statements and interim financial statements of the responsible issuer;

(ii) if used in relation to:

(A) a responsible issuer or an officer of the responsible issuer;

(B) an investment fund manager if the responsible issuer is an investment fund; or

(C) an officer of an investment fund manager if the responsible issuer is an investment fund;

a prospectus, a take-over bid circular, an issuer bid circular, a directors’ circular, a rights offering circular, management’s discussion and analysis, an annual information form, an information circular, annual financial statements, interim financial statements and a material change report required pursuant to section 84.1 of the responsible issuer; or

(iii) any other documents that may be prescribed in the regulations for the purposes of this definition;

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- (c) **'document'** means any written communication, including a communication prepared and transmitted only in electronic form:
- (i) that is required to be filed with the Commission; or
 - (ii) that is not required to be filed with the Commission and:
 - (A) that is filed with the Commission;
 - (B) that is filed or required to be filed with a government or an agency of a government pursuant to applicable securities or corporate law or with any exchange or quotation and trade reporting system under its bylaws, rules or regulations; or
 - (C) that is any other communication the content of which would reasonably be expected to affect the market price or value of a security of the responsible issuer;
- (d) **'expert'** means a person or company whose profession gives authority to a statement made in a professional capacity by the person or company, including, without limitation, an accountant, actuary, appraiser, auditor, engineer, financial analyst, geologist or lawyer, but not including an entity that is an approved rating organization;
- (e) **'failure to make timely disclosure'** means a failure to disclose a material change in the manner and at the time required pursuant to this Act or the regulations;
- (f) **'influential person'** means, with respect to a responsible issuer:
- (i) a control person;
 - (ii) a promoter;
 - (iii) an insider who is not a director or officer of the responsible issuer; or
 - (iv) an investment fund manager, if the responsible issuer is an investment fund;
- (g) **'issuer security'** means a security of a responsible issuer and includes a security:
- (i) the market price or value of which, or payment obligation under which, is derived from or based on a security of the responsible issuer; and
 - (ii) that is created by a person or company on behalf of the responsible issuer or is guaranteed by the responsible issuer;
- (h) **'liability limit'** means:
- (i) in the case of a responsible issuer, the greater of:
 - (A) 5% of its market capitalization, as that term is defined in the regulations; and
 - (B) \$1 million;

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- (ii) in the case of a director or officer of a responsible issuer, the greater of:
- (A) \$25,000; and
 - (B) 50% of the aggregate of the director's or officer's compensation from the responsible issuer and its affiliates;
- (iii) in the case of an influential person who is not an individual, the greater of:
- (A) 5% of its market capitalization as that term is defined in the regulations; and
 - (B) \$1 million;
- (iv) in the case of an influential person who is an individual, the greater of:
- (A) \$25,000; and
 - (B) 50% of the aggregate of the influential person's compensation from the responsible issuer and its affiliates;
- (v) in the case of a director or officer of an influential person, the greater of:
- (A) \$25,000; and
 - (B) 50% of the aggregate of the director's or officer's compensation from the influential person and its affiliates;
- (vi) in the case of an expert, the greater of:
- (A) \$1 million; and
 - (B) the revenue that the expert and the affiliates of the expert have earned from the responsible issuer and its affiliates during the 12 months preceding a misrepresentation;
- (vii) in the case of each person who or company that made a public oral statement, other than an individual mentioned in subclause (iv), (v) or (vi), the greater of:
- (A) \$25,000; and
 - (B) 50% of the aggregate of the person's or company's compensation from the issuer and its affiliates;
- (i) **'management's discussion and analysis'** means the section of an annual information form, annual report or other document that contains management's discussion and analysis of the financial condition and results of operations of a responsible issuer as required pursuant to Saskatchewan securities laws;
- (j) **'public oral statement'** means an oral statement made in circumstances in which a reasonable person would believe that the information contained in the statement will become generally disclosed;

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- (k) **'release'** means, with respect to information or a document:
- (i) to file with the Commission or any other securities regulatory authority in Canada or an exchange; or
 - (ii) to otherwise make available to the public;
- (l) **'responsible issuer'** means:
- (i) a reporting issuer; or
 - (ii) any other issuer with a real and substantial connection to Saskatchewan, any of whose securities are publicly traded;
- (m) **'trading day'** means a day during which the principal market, as defined in the regulations, for the security is open for trading.

"Application of Part

136.1 This Part does not apply to:

- (a) the purchase of a security offered by a prospectus during the period of distribution;
- (b) the acquisition of an issuer's security pursuant to a distribution that is exempt from section 58, except as may be prescribed in the regulations;
- (c) the acquisition or disposition of an issuer's security in connection with or pursuant to a take-over bid or issuer bid, except as may be prescribed in the regulations; or
- (d) any other transactions or class of transactions that may be prescribed in the regulations.

"Liability for secondary market disclosure

136.11(1) If a responsible issuer or a person or company with actual, implied or apparent authority to act on behalf of a responsible issuer releases a document that contains a misrepresentation, a person who or company that acquires or disposes of the issuer's security during the period between the time when the document was released and the time when the misrepresentation contained in the document was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against:

- (a) the responsible issuer;
- (b) each director of the responsible issuer at the time the document was released;
- (c) each officer of the responsible issuer who authorized, permitted or acquiesced in the release of the document;
- (d) each influential person, and each director and officer of an influential person, who knowingly influenced:
 - (i) the responsible issuer or any person or company acting on behalf of the responsible issuer to release the document; or
 - (ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the release of the document; and

- (e) each expert if:
 - (i) the misrepresentation is also contained in a report, statement or opinion made by the expert;
 - (ii) the document includes, summarizes or quotes from the report, statement or opinion of the expert; and
 - (iii) in the case where the document was released by a person or company other than the expert, the expert consented in writing to the use of the report, statement or opinion in the document.

(2) If a person with actual, implied or apparent authority to speak on behalf of a responsible issuer makes a public oral statement that relates to the business or affairs of the responsible issuer and that contains a misrepresentation, a person who or company that acquires or disposes of the issuer's security during the period between the time when the public oral statement was made and the time when the misrepresentation contained in the public oral statement was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against:

- (a) the responsible issuer;
- (b) the person who made the public oral statement;
- (c) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the making of the public oral statement;
- (d) each influential person, and each director and officer of the influential person, who knowingly influenced:
 - (i) the person who made the public oral statement to make the public oral statement; or
 - (ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the making of the public oral statement; and

- (e) each expert if:
 - (i) the misrepresentation is also contained in a report, statement or opinion made by the expert;
 - (ii) the person making the public oral statement includes, summarizes or quotes from the report, statement or opinion of the expert; and
 - (iii) in the case where the public oral statement was made by a person other than the expert, the expert consented in writing to the use of the report, statement or opinion in the public oral statement.

(3) If an influential person or a person or company with actual, implied or apparent authority to act or speak on behalf of the influential person releases a document or makes a public oral statement that relates to a responsible issuer and that contains a misrepresentation, a person who or company that acquires or disposes of the issuer's security during the period between the time when the document was released or the public oral statement was made and the time when the misrepresentation contained in the document or public oral statement was publicly corrected has, without regard to whether the person or company relied on the misrepresentation, a right of action for damages against:

- (a) the responsible issuer, if:
 - (i) a director or officer of the responsible issuer authorized, permitted or acquiesced in the release of the document or the making of the public oral statement; or
 - (ii) in the case of a responsible issuer that is an investment fund, the investment fund manager authorized, permitted or acquiesced in the release of the document or the making of the public oral statement;
 - (b) the person who made the public oral statement;
 - (c) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the release of the document or the making of the public oral statement;
 - (d) the influential person;
 - (e) each director and officer of the influential person who authorized, permitted or acquiesced in the release of the document or the making of the public oral statement; and
 - (f) each expert if:
 - (i) the misrepresentation is also contained in a report, statement or opinion made by the expert;
 - (ii) the document or public oral statement includes, summarizes or quotes from the report, statement or opinion of the expert; and
 - (iii) in the case where the document was released or the public oral statement was made by a person other than the expert, the expert consented in writing to the use of the report, statement or opinion in the document or public oral statement.
- (4) If a responsible issuer fails to make a timely disclosure, a person who or company that acquires or disposes of the issuer's security between the time when the material change was required to be disclosed in the manner required pursuant to this Act and the subsequent disclosure of the material change has, without regard to whether the person or company relied on the responsible issuer having complied with its disclosure requirements, a right of action for damages against:
- (a) the responsible issuer;
 - (b) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the failure to make timely disclosure; and
 - (c) each influential person, and each director and officer of an influential person, who knowingly influenced:
 - (i) the responsible issuer or any person or company acting on behalf of the responsible issuer in the failure to make timely disclosure; or
 - (ii) a director or officer of the responsible issuer to authorize, permit or acquiesce in the failure to make timely disclosure.
- (5) In an action pursuant to this section, a person who is a director or officer of an influential person is not liable in that capacity if the person is liable as a director or officer of the responsible issuer.

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- (6) In an action pursuant to this section:
- (a) multiple misrepresentations having common subject-matter or content may, in the discretion of the Court of Queen's Bench, be treated as a single misrepresentation; and
 - (b) multiple instances of failure to make timely disclosure of a material change or material changes concerning common subject-matter may, in the discretion of the Court of Queen's Bench, be treated as a single failure to make timely disclosure.
- (7) In an action pursuant to subsection (2) or (3), if the person who made the public oral statement had apparent authority, but not implied or actual authority, to speak on behalf of the issuer, no other person is liable with respect to any of the responsible issuer's securities that were acquired or disposed of before that other person became, or should reasonably have become, aware of the misrepresentation.

“Non-core documents and public oral statements

136.2(1) In an action pursuant to section 136.11 in relation to a misrepresentation in a document that is not a core document or a misrepresentation in a public oral statement, a person or company is not liable, subject to subsection (2), unless the plaintiff proves that the person or company:

- (a) knew, at the time that the document was released or the public oral statement was made, that the document or public oral statement contained the misrepresentation;
 - (b) at or before the time that the document was released or the public oral statement was made, deliberately avoided acquiring knowledge that the document or public oral statement contained the misrepresentation; or
 - (c) was, through action or failure to act, guilty of gross misconduct in connection with the release of the document or the making of the public oral statement that contained the misrepresentation.
- (2) A plaintiff is not required to prove any of the matters set out in subsection (1) in an action pursuant to section 136.11 in relation to an expert.
- (3) In an action pursuant to section 136.11 in relation to a failure to make timely disclosure, a person or company is not liable, subject to subsection (4), unless the plaintiff proves that the person or company:
- (a) knew, at the time that the failure to make timely disclosure first occurred, of the change and that the change was a material change;
 - (b) at the time or before the failure to make timely disclosure first occurred, deliberately avoided acquiring knowledge of the change or that the change was a material change; or
 - (c) was, through action or failure to act, guilty of gross misconduct in connection with the failure to make timely disclosure.
- (4) A plaintiff is not required to prove any of the matters set out in subsection (3) in an action pursuant to section 136.11 in relation to:
- (a) a responsible issuer;
 - (b) an officer of a responsible issuer;
 - (c) an investment fund manager; or
 - (d) an officer of an investment fund manager.

(5) A person or company is not liable in an action pursuant to section 136.11 in relation to a misrepresentation or a failure to make timely disclosure if that person or company proves that the plaintiff acquired or disposed of the issuer's security:

- (a) with knowledge that the document or public oral statement contained a misrepresentation; or
- (b) with knowledge of the material change.

(6) A person or company is not liable in an action pursuant to section 136.11 in relation to:

- (a) a misrepresentation if that person or company proves that:
 - (i) before the release of the document or the making of the public oral statement containing the misrepresentation, the person or company conducted or caused to be conducted a reasonable investigation; and
 - (ii) at the time of the release of the document or the making of the public oral statement, the person or company had no reasonable grounds to believe that the document or public oral statement contained the misrepresentation; or
- (b) a failure to make timely disclosure if that person or company proves that:
 - (i) before the failure to make timely disclosure first occurred, the person or company conducted or caused to be conducted a reasonable investigation; and
 - (ii) the person or company had no reasonable grounds to believe that the failure to make timely disclosure would occur.

(7) In determining whether an investigation was reasonable pursuant to subsection (6), or whether any person or company is guilty of gross misconduct pursuant to subsection (1) or (3), the Court of Queens' Bench shall consider all relevant circumstances, including:

- (a) the nature of the responsible issuer;
- (b) the knowledge, experience and function of the person or company;
- (c) the office held, if the person was an officer;
- (d) the presence or absence of another relationship with the responsible issuer, if the person was a director;
- (e) the existence, if any, and the nature of any system designed to ensure that the responsible issuer meets its continuous disclosure obligations;
- (f) the reasonableness of reliance by the person or company on the responsible issuer's disclosure compliance system mentioned in clause (e) and on the responsible issuer's officers, employees and others whose duties would in the ordinary course have given them knowledge of the relevant facts;
- (g) the period within which disclosure was required to be made under the applicable law;

- (h) with respect to a report, statement or opinion of an expert, any professional standards applicable to the expert;
 - (i) the extent to which the person or company knew, or should reasonably have known, the content and medium of dissemination of the document or public oral statement;
 - (j) in the case of a misrepresentation, the role and responsibility of the person or company in the preparation and release of the document or the making of the public oral statement containing the misrepresentation or the ascertaining of the facts contained in that document or public oral statement; and
 - (k) in the case of a failure to make timely disclosure, the role and responsibility of the person or company involved in a decision not to disclose the material change.
- (8) A person or company is not liable in an action pursuant to section 136.11 with respect to a failure to make timely disclosure if:
- (a) the person or company proves that the material change was disclosed by the responsible issuer in a report filed on a confidential basis with the Commission pursuant to the regulations;
 - (b) the responsible issuer mentioned in clause (a) has a reasonable basis for making the disclosure on a confidential basis;
 - (c) in the case where the information contained in the report filed on a confidential basis remains material, disclosure of the material change was made public promptly when the basis for confidentiality ceased to exist;
 - (d) the person or company or responsible issuer did not release a document or make a public oral statement that, due to the undisclosed material change, contained a misrepresentation; and
 - (e) in the case where the material change became publicly known in a manner other than the manner required pursuant to this Act, the responsible issuer promptly disclosed the material change in the manner required pursuant to this Act.
- (9) A person or company is not liable in an action pursuant to section 136.11 for a misrepresentation in forward-looking information if the person or company proves all of the following:
- (a) that the document or public oral statement containing the forward-looking information contained, proximate to that information:
 - (i) reasonable cautionary language identifying the forward-looking information as such, and identifying material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the forward-looking information; and
 - (ii) a statement of the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information;
 - (b) that the person or company had a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the forward-looking information.

(10) A person or company is deemed to have satisfied the requirements of clause (9)(a) with respect to a public oral statement containing forward-looking information if the person who made the public oral statement:

(a) made a cautionary statement that the public oral statement contains forward-looking information;

(b) stated that:

(i) the actual results could differ materially from a conclusion, forecast or projection in the forward-looking information; and

(ii) certain material factors or assumptions were applied in drawing a conclusion or making a forecast or projection as reflected in the forward-looking information; and

(c) stated that additional information about the following is contained in a readily available document or in a portion of a readily available document and has identified that document or that portion of the document:

(i) the material factors that could cause actual results to differ materially from the conclusion, forecast or projection in the forward-looking information; and

(ii) the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection as reflected in the forward-looking information.

(11) For the purpose of clause (10)(c), a document filed with the Commission or otherwise generally disclosed is deemed to be readily available.

(12) Subsection (9) does not relieve a person or company of liability respecting forward-looking information that:

(a) is in a financial statement required to be filed pursuant to this Act; or

(b) is in a document released in connection with an initial public offering.

(13) A person or company, other than an expert, is not liable in an action pursuant to section 136.11 with respect to any part of a document or public oral statement that includes, summarizes or quotes from a report, statement or opinion made by the expert with respect to which the responsible issuer obtained the written consent of the expert to the use of the report, statement or opinion if:

(a) the consent had not been withdrawn in writing before the document was released or the public oral statement was made; and

(b) the person or company proves that:

(i) the person or company did not know and had no reasonable grounds to believe that there had been a misrepresentation in the part of the document or public oral statement made on the authority of the expert; and

(ii) the part of the document or public oral statement fairly represented the report, statement or opinion made by the expert.

(14) An expert is not liable in an action pursuant to section 136.11 with respect to any part of a document or public oral statement that includes, summarizes or quotes from a report, statement or opinion made by the expert if the expert proves that the written consent previously provided was withdrawn in writing before the document was released or the public oral statement was made.

(15) A person or company is not liable in an action pursuant to section 136.11 with respect to a misrepresentation in a document, other than a document required to be filed with the Commission, if the person or company proves that, at the time of release of the document, the person or company did not know and had no reasonable grounds to believe that the document would be released.

(16) A person or company is not liable in an action pursuant to section 136.11 for misrepresentation in a document or a public oral statement if the person or company proves that:

(a) the misrepresentation was also contained in a document filed by or on behalf of another person or company, other than the responsible issuer, with the Commission or any other securities regulatory authority in Canada or an exchange and was not corrected in another document filed by or on behalf of that other person or company with the Commission or that other securities regulatory authority in Canada or exchange before the release of the document or the public oral statement made by or on behalf of the responsible issuer;

(b) the document or public oral statement contained a reference identifying the document that was the source of the misrepresentation; and

(c) when the document was released or the public oral statement was made, the person or company did not know and had no reasonable grounds to believe that the document or public oral statement contained a misrepresentation.

(17) A person or company, other than the responsible issuer, is not liable in an action pursuant to section 136.11 if the misrepresentation or failure to make timely disclosure was made without the knowledge or consent of the person or company and if, after the person or company became aware of the misrepresentation before it was corrected or the failure to make timely disclosure before it was disclosed in the manner required pursuant to this Act:

(a) the person or company promptly notified the directors of the responsible issuer or other persons acting in a similar capacity of the misrepresentation or the failure to make timely disclosure; and

(b) if no correction of the misrepresentation or no subsequent disclosure of the material change in the manner required pursuant to this Act was made by the responsible issuer within two business days after the notification pursuant to clause (a), the person or company, unless prohibited by law or by professional confidentiality rules, promptly and in writing notified the Commission of the misrepresentation or failure to make timely disclosure.

“Assessment of damages

136.21(1) Damages must be assessed in favour of a person or company that acquired an issuer’s securities after the release of a document or the making of a public oral statement containing a misrepresentation or after a failure to make timely disclosure as follows:

(a) with respect to any of the securities of the responsible issuer that the person or company subsequently disposed of on or before the tenth trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required pursuant to this Act, assessed damages shall equal the difference between:

(i) the average price paid for those securities, including any commissions paid with respect to them; and

(ii) the price received on the disposition of those securities, without deducting any commissions paid with respect to the disposition;

calculated taking into account the result of hedging or other risk limitation transactions;

(b) with respect to any of the securities of the responsible issuer that the person or company subsequently disposed of after the tenth trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required pursuant to this Act, assessed damages shall equal the lesser of:

(i) an amount equal to the difference between:

(A) the average price paid for those securities, including any commissions paid with respect to them; and

(B) the price received on the disposition of those securities, without deducting any commissions paid with respect to the disposition;

calculated taking into account the result of hedging or other risk limitation transactions; and

(ii) an amount equal to the number of securities that the person disposed of multiplied by the difference between:

(A) the average price per security paid for those securities, including any commissions paid with respect to that disposition determined on a per security basis; and

(B) either of the following:

(I) if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market, as those terms are defined in the regulations, for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required pursuant to this Act;

(II) if there is no published market, the amount that the Court of Queen's Bench considers just;

(c) with respect to any of the securities of the responsible issuer that the person or company has not disposed of, assessed damages shall equal the number of securities acquired, multiplied by the difference between:

(i) the average price per security paid for those securities, including any commissions paid with respect to them determined on a per security basis; and

(ii) either of the following:

(A) if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market, for the 10 trading days, as those terms are defined in the regulations, following the public correction of the misrepresentation or the disclosure of the material change in the manner required pursuant to this Act;

(B) if there is no published market, the amount that the Court of Queen's Bench considers just.

(2) Damages must be assessed in favour of a person or company that disposed of securities after a document was released or a public oral statement made containing a misrepresentation or after a failure to make timely disclosure as follows:

(a) with respect to any of the securities of the responsible issuer that the person or company subsequently acquired on or before the tenth trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required pursuant to this Act, assessed damages shall equal the difference between:

(i) the average price received on the disposition of those securities, deducting any commissions paid with respect to the disposition; and

(ii) the price paid for those securities, without including any commissions paid with respect to them;

calculated taking into account the result of hedging or other risk limitation transactions;

(b) with respect to any of the securities of the responsible issuer that the person or company subsequently acquired after the tenth trading day after the public correction of the misrepresentation or the disclosure of the material change in the manner required pursuant to this Act, assessed damages shall equal the lesser of:

(i) an amount equal to the difference between:

(A) the average price received on the disposition of those securities, deducting any commissions paid with respect to the disposition; and

(B) the price paid for those securities, without including any commissions paid with respect to them;

calculated taking into account the result of hedging or other risk limitation transactions; and

(ii) an amount equal to the number of securities that the person disposed of, multiplied by the difference between:

(A) the average price per security received on the disposition of those securities, deducting any commissions paid with respect to the disposition determined on a per security basis; and

(B) either of the following:

(I) if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market, as those terms are defined in the regulations, for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required pursuant to this Act;

(II) if there is no published market, the amount that the Court of Queen's Bench considers just;

(c) with respect to any of the securities of the responsible issuer that the person or company has not acquired, assessed damages shall equal the number of securities that the person or company disposed of, multiplied by the difference between:

(i) the average price per security received on the disposition of those securities, deducting any commissions paid with respect to the disposition determined on a per security basis; and

(ii) either of the following:

(A) if the issuer's securities trade on a published market, the trading price of the issuer's securities on the principal market, as those terms are defined in the regulations, for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required pursuant to this Act;

(B) if there is no published market, the amount that the Court of Queen's Bench considers just.

(3) Notwithstanding subsections (1) and (2), assessed damages must not include any amount that the defendant proves is attributable to a change in the market price of the securities that is unrelated to the misrepresentation or the failure to make timely disclosure.

“Proportionate liability

136.3(1) In an action pursuant to section 136.11, the Court of Queen's Bench shall determine, with respect to each defendant found liable in the action, the defendant's responsibility for the damages assessed in favour of all plaintiffs in the action, and each defendant is liable, subject to the limits set out in subsection 136.31(1), to the plaintiffs for only that portion of the aggregate amount of damages assessed in favour of the plaintiffs that corresponds to that defendant's responsibility for the damages.

(2) Notwithstanding subsection (1), if, in an action pursuant to section 136.11 with respect to a misrepresentation or a failure to make timely disclosure, the Court of Queen's Bench determines that a particular defendant, other than the responsible issuer, authorized, permitted or acquiesced in the making of the misrepresentation or the failure to make timely disclosure while knowing it to be a misrepresentation or a failure to make timely disclosure, the whole amount of the damages assessed in the action may be recovered from that defendant.

(3) Each defendant with respect to whom the Court of Queen's Bench has made a determination pursuant to subsection (2) is jointly and severally liable with each other defendant with respect to whom the court has made a determination pursuant to subsection (2).

(4) Any defendant against whom recovery is obtained pursuant to subsection (2) is entitled to claim contribution from any other defendant who is found liable in the action.

“Limits on damages

136.31(1) Notwithstanding section 136.21, the damages payable by a person or company in an action pursuant to section 136.11 are the lesser of:

- (a) the aggregate damages assessed against the person or company in the action; and
- (b) the liability limit for the person or company less:
 - (i) the aggregate of all damages assessed after appeals, if any, against the person or company in all other actions brought pursuant to section 136.11, and under comparable legislation in other provinces or territories in Canada with respect to that misrepresentation or failure to make timely disclosure; and
 - (ii) any amount paid in settlement of any actions mentioned in subclause (i).

(2) Subsection (1) does not apply to a person or company, other than the responsible issuer, if the plaintiff proves that the person or company:

- (a) authorized, permitted or acquiesced in the making of the misrepresentation or the failure to make timely disclosure while knowing that it was a misrepresentation or a failure to make timely disclosure; or
- (b) influenced the making of the misrepresentation or the failure to make timely disclosure while knowing that it was a misrepresentation or a failure to make timely disclosure.

“Application for leave

136.4(1) No action may be commenced pursuant to section 136.11 without leave of the Court of Queen's Bench being granted.

(2) The Court of Queen's Bench shall grant leave only if it is satisfied that:

- (a) the action is being brought in good faith; and
- (b) there is a reasonable possibility that the action will be resolved at trial in favour of the plaintiff.

(3) On an application pursuant to this section, the plaintiff and each defendant shall serve and file one or more affidavits setting forth the material facts on which each intends to rely.

(4) The maker of an affidavit may be examined on it in accordance with *The Queen's Bench Rules*.

(5) A copy of the application for leave to proceed and any affidavits filed with the Court of Queen's Bench shall be sent by the applicant to the Commission when filed.

“Notice

136.41 A person who or company that has been granted leave to commence an action pursuant to section 136.11 shall:

- (a) promptly issue a news release disclosing that leave has been granted to commence an action pursuant to section 136.11;
- (b) send a written notice to the Commission within seven days after leave is granted, together with a copy of the news release; and
- (c) send a copy of the statement of claim or other originating document to the Commission when filed.

“Restriction on discontinuation, etc., of action

136.5(1) An action pursuant to section 136.11 must not be discontinued, abandoned or settled without the approval of the Court of Queen’s Bench given on those terms that the court thinks fit including, without limitation, terms as to costs.

(2) In determining whether to approve the settlement of the action, the Court of Queen’s Bench shall consider, among other things, whether there are any other actions outstanding pursuant to section 136.11 or pursuant to comparable legislation in other provinces or territories in Canada with respect to the same misrepresentation or failure to make timely disclosure.

“Power of the Commission

136.6 The Commission may intervene in an action pursuant to section 136.11 and in an application for leave pursuant to section 136.4.

“No derogation from other rights

136.7 The right of action for damages and the defences to an action pursuant to section 136.11 are in addition to and without derogation from any other rights or defences the plaintiff or defendant may have in an action brought otherwise than pursuant to this Part”.

Section 137 amended**52 Subsection 137(1) is amended:**

(a) **in clause (b) by striking out** “who is required to sign the certificate required by section 67 or an alternative certificate pursuant to section 68” **and substituting** “that is in a contractual relationship with the issuer or selling security holder on whose behalf the distribution is made”; **and**

(b) **in clause (d) by striking out** “whose consent has been filed pursuant to a requirement of the regulations” **and substituting** “whose consent to disclosure of information in the prospectus has been filed”.

Section 138.1 amended**53(1) Subsection 138.1(2) is amended:**

(a) **in clause (a) by striking out** “or 71”; **and**

(b) **by repealing clause (b) and substituting the following:**

“(b) an exemption from the prospectus requirement in section 58 designated by the Commission”.

(2) **Clause 138.1(3)(b) is amended by striking out** “who is required to sign the certificate required by section 67 or an alternative certificate pursuant to section 68” **and substituting** “that is in a contractual relationship with the issuer or selling security holder on whose behalf the distribution is made”.

Section 139 amended

54(1) Subsection 139(1) is amended in the portion preceding clause (a) by striking out “by Part XVI” and substituting “in accordance with the regulations”.

(2) Subsection 139(2) is amended by striking out “by Part XVI” and substituting “pursuant to the regulations”.

(3) Subsection 139(11) is repealed.

New section 139.1

55 The following section is added after section 139:

“Non-liability re forward-looking information

139.1 A person or company is not liable in an action pursuant to section 137, 138, 138.1 or 139 for a misrepresentation in forward-looking information if the person or company proves that:

(a) with respect to the document containing the forward-looking information, proximate to that information there is contained:

(i) reasonable cautionary language identifying the forward-looking information as such, and identifying material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the forward-looking information; and

(ii) a statement of the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information; and

(b) the person or company had a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the forward-looking information”.

Section 141 amended

56(1) Clause 141(2)(a) is amended by striking out “in compliance with subsection 79(1)” and substituting “in accordance with the regulations”.

(2) Clause 141(2)(c) is amended by striking out “in compliance with section 104 or 107” and substituting “in accordance with the regulations”.

Section 143 amended

57(1) Subsection 143(2) is amended:

(a) in clause (c) by striking out “mutual fund” and substituting “investment fund”;

(b) in clause (d) by striking out “mutual fund” and substituting “investment fund”; and

(c) in the portion following subclause (d)(ii) by striking out “mutual fund” and substituting “investment fund”.

(2) Subsection 143(3) is amended in the portion following clause (c):

(a) by striking out “a board of directors” and substituting “the directors”; and

(b) by striking out “the board of directors” and substituting “the directors”.

(3) Subsection 143(8) is amended by striking out “mutual fund” wherever it appears and in each case substituting “investment fund”.

Section 145 repealed

58 Section 145 is repealed.

Heading to Part XIX.1 amended

59 The heading to Part XIX.1 is struck out and the following substituted:

“Interjurisdictional Co-operation”.

Section 147.1 amended

60(1) Clause 147.1(1)(b) is repealed and the following substituted:

“(b) ‘**extra-provincial securities commission**’ means a body empowered by the laws of a province or territory other than Saskatchewan to regulate trading in securities or exchange contracts or to administer or enforce laws respecting trading in securities or exchange contracts”.

(2) Clause 147.1(1)(d) is repealed.

(3) Clause 147.1(2)(b) is repealed and the following substituted:

“(b) any person who or company that with respect to that extra-provincial securities commission exercises a power or performs a duty or function that is substantially similar to a power, duty or function exercised or performed by the Director pursuant to this Act”.

New section 147.2

61 Section 147.2 is repealed and the following substituted:

“Delegation and acceptance of authority

147.2(1) Subject to the regulations, the Commission may, by order, for the purposes of this Part:

(a) delegate any Saskatchewan authority to an extra-provincial securities commission; and

(b) accept a delegation or other transfer of any extra-provincial authority from an extra-provincial securities commission.

(2) The Commission shall not delegate any power, function or duty of the Commission or of the Director that is, or is intended to be, performed or exercised by the Commission or the Director pursuant to Part II, this Part or section 154”.

New section 147.4

62 Section 147.4 is repealed and the following substituted:

“Adoption and incorporation of extra-provincial securities laws

147.4(1) Subject to the regulations the Commission may, by order, adopt or incorporate by reference as Saskatchewan securities laws all or any provisions of any extra-provincial securities laws of a jurisdiction to be applied to:

(a) a person or company or class of persons or companies whose primary jurisdiction is that extra-provincial jurisdiction; or

(b) trades or other activities involving a person or company or a class of persons or companies mentioned in clause (a).

(2) If the Commission adopts or incorporates by reference an extra-provincial securities law pursuant to subsection (1), it may adopt or incorporate it by reference, as amended from time to time or otherwise, whether before or after the adoption or incorporation by reference, with the necessary changes”.

New section 147.41

63 Section 147.41 is repealed and the following substituted:

“Exemption from compliance with Saskatchewan securities laws

147.41 Subject to the regulations, the Commission may, by order, exempt a person, company, security, exchange contract or trade or a class of persons, companies, securities, exchange contracts or trades from all or any requirements of Saskatchewan securities laws if the person, company, security, exchange contract or trade or class of persons, companies, securities, exchange contracts or trades, as the case may be, satisfies the conditions set out in the order”.

Section 147.42 repealed

64 Section 147.42 is repealed.

New section 147.5

65 Section 147.5 is repealed and the following substituted:

“Adoption of decisions of extra-provincial securities commission

147.5(1) Subject to the regulations, if the Commission or Director is empowered to make a decision regarding a person, company, trade, security or exchange contract, the Commission or the Director may make a decision on the basis that the Commission or the Director, as the case may be, considers that an extra-provincial securities commission has made a substantially similar decision regarding the person, company, trade, security or exchange contract.

(2) Subject to the regulations, notwithstanding any provision of this Act, the Commission or Director may make a decision mentioned in subsection (1) without giving the person affected by the decision an opportunity to be heard”.

Part XX repealed

66 Part XX is repealed.

Section 154 amended

67(1) The following clause is added after clause 154(1)(d):

“(d.1) prescribing the circumstances in which:

(i) a person or company or a class of persons or companies is not required to be registered pursuant to section 27; or

(ii) a person or company or a class of persons or companies is deemed to be registered for the purposes of this Act or the regulations, including the circumstances in which a person or company or a class of persons or companies is registered pursuant to the laws of another jurisdiction respecting trading in securities or exchange contracts”.

(2) Clauses 154(1)(o) and (p) are repealed and the following substituted:

“(o) governing annual information forms, annual reports, preliminary prospectuses, prospectuses, pro forma prospectuses, short form prospectuses, pro forma short form prospectuses, exchange offering prospectuses, simplified prospectuses, risk disclosure statements, offering memoranda or any other disclosure documents, and, without limiting the generality of the foregoing, prescribing procedures and requirements with respect to and providing for exemptions from:

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- (i) the use, form and content of those documents;
 - (ii) the preparation, filing, delivery or dissemination of those documents;
 - (iii) the issuance of receipts for preliminary prospectuses and prospectuses, including the issuance of receipts after an expedited or selective review, and respecting when receipts are not required or will not be issued, and the circumstances under which a receipt may be refused;
 - (iv) the incorporation of other documents by reference;
 - (v) the distribution of securities by means of a prospectus incorporating other documents by reference;
 - (vi) the distribution of securities by means of a simplified or summary prospectus or other means of disclosure documents;
 - (vii) the distribution of securities on a continuous or delayed basis;
 - (viii) the pricing of a distribution of securities after the issuance of a receipt for the prospectus filed in relation to the distribution;
 - (ix) the issuance of receipts for prospectuses after selective review;
 - (x) the incorporation by reference of certain documents in a prospectus and the effect, including from a liability and evidentiary perspective, of modifying or superseding statements;
 - (xi) the form of certificates relating to a preliminary prospectus, prospectus and amendments to a prospectus and the persons required to sign the certificates;
 - (xii) eligibility, and the loss of eligibility, to obtain a receipt for, or to distribute, securities under a particular form of prospectus;
 - (xiii) the lapse date for a prospectus, restricting the period to the lapse date, the terms and conditions for continuing to distribute securities after the lapse date, and the circumstances under which the purchaser may cancel a trade that occurs after the lapse date;
 - (xiv) requirements pursuant to Parts VIII, XI and XII;
 - (xv) circumstances in which:
 - (A) section 58 does not apply to a person or company or a class of persons or companies; or
 - (B) a receipt is deemed to have been issued for the purposes of this Act, including the circumstance in which a receipt has been issued for a preliminary prospectus or prospectus under the laws of another jurisdiction respecting trading in securities or exchange contracts;
 - (xvi) requirements with respect to amendments to a preliminary prospectus or prospectus and prescribing circumstances under which an amendment to a preliminary prospectus or prospectus must be filed;
 - (xvii) requirements for dealers for delivery of a preliminary prospectus between the issuance of a receipt for a preliminary prospectus and the issuance of a receipt for a prospectus, including any record-keeping requirements;
 - (xviii) requirements for different certificates for different classes of persons or companies required to certify a prospectus;

(p) prescribing the circumstances in which a person who or company that purchases a security pursuant to a distribution may cancel the purchase, including:

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

(3) Clause 154(1)(r) is repealed and the following substituted:

“(r) governing disclosure obligations pursuant to Parts XIV and XV and the regulations and, without limiting the generality of the foregoing:

- (i) requiring any person or company or class of persons or companies to comply with Parts XIV and XV and the regulations;
- (ii) prescribing disclosure requirements, including the form, content, preparation, review, audit, approval, certification, filing, delivery and use of disclosure documents;

“(r.1) prescribing requirements respecting forward-looking information in documents or records that issuers:

- (i) file with the Commission or any other securities regulatory authority in Canada or an exchange; or
- (ii) otherwise make available to the public”.

(4) Clause 154(1)(u.3) is repealed.

(5) Clause 154(1)(v) is repealed and the following substituted:

“(v) governing investment funds and the advertising, distribution and trading of the securities of investment funds and, without limiting the generality of the foregoing:

- (i) designating issuers or a class or classes of issuers as investment funds or as non-redeemable investment funds;
- (ii) respecting sales charges imposed by a distribution company or contractual plan service company under a contractual plan on purchasers of shares or units of an investment fund;
- (iii) prescribing a penalty for the early redemption of shares or units of an investment fund;
- (iv) prescribing the form and contents of reports to be filed by the management company or distributors of an investment fund;

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- (v) respecting:
 - (A) the custodianship of assets of any investment fund;
 - (B) the minimum capital requirements for any investment fund making a distribution and prohibiting or restricting the reimbursement of costs associated with the organization of an investment fund;
 - (C) any matters affecting any investment fund that require the approval of security holders of the fund, the Commission or the Director;
 - (D) the contents and use of sales literature, sales communications and advertising relating to any investment fund or securities of any investment fund;
 - (vi) permitting or restricting investment policies and practices in connection with any investment fund;
 - (vii) prescribing the requirements with respect to, or in relation to, promoters, advisers or persons and companies that administer or participate in the administration of the affairs of investment funds;
 - (viii) requiring investment funds to establish and maintain an independent committee for the purposes described in section 128.1, prescribing its powers and duties and prescribing requirements relating to:
 - (A) the mandate and functioning of the independent committee;
 - (B) the composition of the independent committee and qualifications for membership on the independent committee, including the matters respecting the independence of members and the process for selecting members;
 - (C) the standard of care that applies to members of the independent committee when exercising their powers, performing their duties and carrying out their responsibilities;
 - (D) the disclosure of information to security holders of the investment fund, to the investment fund manager and to the Commission;
 - (E) matters affecting the investment fund that require review by the independent committee or approval of the independent committee”.

(6) Clause 154(1)(y) is repealed and the following substituted:

- “(y) governing the solicitation of proxies and, without limiting the generality of the foregoing:
- (i) prescribing requirements for the solicitation and voting of proxies;
 - (ii) prescribing requirements relating to communication with registered and beneficial owners of securities and relating to other persons or companies, including depositories and registrants, that hold securities on behalf of beneficial owners;

“(y.1) governing insider trading, early warning and self-dealing and, without limiting the generality of the foregoing:

- (i) requiring any issuer, class of issuer or other person or company to comply with any of the requirements of Part XVII or the regulations;
- (ii) prescribing how a security or class of securities or a related financial instrument or class of related financial instruments must be reported in an insider report pursuant to section 116;
- (iii) prescribing disclosure, delivery, dissemination and filing requirements, including the use of particular forms or particular types of documents;
- (iv) respecting self-dealing and conflicts of interest; and
- (v) designating a person or company as an insider”.

(7) Clause 154(1)(z) is repealed and the following substituted:

“(z) respecting 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 or company 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 or company; and
- (iv) prescribing different requirements or prohibitions for different classes of persons or companies”.

(8) Clause 154(1)(cc) is repealed.

(9) The following clauses are added after clause 154(1)(dd):

“(dd.1) prescribing documents for the purposes of subclause 136.01(b)(iii);

“(dd.2) providing for the application of Part XVIII.1 to the acquisition of an issuer’s security pursuant to a distribution that is exempt from section 58 and to the acquisition or disposition of an issuer’s security in connection with or pursuant to a take-over bid or issuer bid;

“(dd.3) prescribing transactions or classes of transactions for the purposes of clause 136.1(d)”.

(10) Clause 154(1)(ff.2) is repealed and the following substituted:

“(ff.2) respecting the acceptance by the Commission of any delegation or other authority of an extra-provincial authority from an extra-provincial securities commission”.

(11) Clauses 154(1)(ff.4), (ff.5) and (ff.6) are repealed and the following substituted:

“(ff.4) respecting the adoption or incorporation by reference of extra-provincial securities laws pursuant to section 147.4, including the administration of those laws once adopted or incorporated by reference;

“(ff.5) respecting the administration of exemptions from Saskatchewan securities laws pursuant to section 147.41”.

(12) The following clause is added after clause 154(1)(hh):

“(hh.1) prescribing the circumstances in which a person or company or a class of persons or companies is prohibited from trading or purchasing securities or exchange contracts, or a particular security or exchange contract, including the circumstances in which a body empowered by the laws of another jurisdiction to regulate trading in securities or exchange contracts or to administer or enforce securities or exchange contract laws in that jurisdiction, 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”.

(13) The following clause is added after clause 154(1)(oo):

“(oo.1) prescribing circumstances and conditions for the purpose of an exemption pursuant to clause (oo), including:

(i) conditions 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) conditions that refer to a person or company or class of persons or companies designated by the Commission”.

(14) Clause 154(1)(ss) is repealed and the following substituted:

“(ss) adopting or incorporating by reference, as amended from time to time or otherwise either before, on or after the making of the regulations, all or any part of laws, codes, standards, bylaws, rules and other regulatory instruments”.

(15) Clauses 154(1)(vv) and (ww) are repealed.

(16) Clauses 154(1)(ww.2) and (ww.3) are repealed.

Section 158 amended

68 The following subsection is added after subsection 158(2):

“(2.1) The Commission or the Director may impose any conditions the Commission or Director considers necessary on any decision made by the Commission or Director”.

COMING INTO FORCE

Coming into force

69 This Act comes into force on proclamation.

THIRD SESSION
Twenty-fifth Legislature
SASKATCHEWAN

B I L L

No. 19 of 2006-07

An Act to amend *The Securities Act, 1988*

Received and read the

First time

Second time

Third time

And passed

Honourable Frank Quennell
