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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*.**

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CHAPTER S-3.1

SECURITIES ACT

PART 1: INTERPRETATION AND PURPOSE

1. In this Act

Definitions

(a) "adviser" means a person engaging in, or holding himself, herself or itself out as engaging in the business of advising others with respect to investment in or the purchase or sale of securities;

adviser

(b) "Canadian financial institution" means

Canadian financial institution

(i) an association governed by the *Cooperative Credit Associations Act* (Canada) or a central cooperative credit society for which an order has been made under subsection 473(1) of that Act, or

(ii) a bank, loan corporation, trust company, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative or league that, under an enactment of a Canadian jurisdiction or of Canada, is authorized to carry on business in Canada or a Canadian jurisdiction;

(c) "Canadian jurisdiction" means a province or territory of Canada;

Canadian jurisdiction

(d) "clearing agency" means a person who

clearing agency

(i) acts as an intermediary in paying funds or delivering securities, or both, with respect to trades and other transactions in securities,

(ii) provides centralized facilities for the clearing of trades and other transactions in securities, including facilities for comparing data respecting the terms of settlement of securities transactions, or

(iii) provides centralized facilities as a depository of securities,

but does not include the Canadian Payments Association or its successors;

(e) "control person" means

control person

(i) a person who holds a sufficient number of the voting rights attached to all outstanding voting securities of an issuer to affect materially the control of the issuer, and if a person holds more than 20% of the voting rights attached to all outstanding voting securities of an issuer, the person 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 in a combination of persons acting in concert by virtue of an agreement, arrangement, commitment or

understanding, who holds in total a sufficient number of the voting rights attached to all outstanding voting securities of an issuer to affect materially the control of the issuer, and if a combination of persons holds more than 20% of the voting rights attached to all outstanding voting securities of an issuer, the combination of persons 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;

dealer

(f) "dealer" means a person engaging in, or holding himself, herself or itself out as engaging in, the business of trading in securities;

decision

(g) "decision" means, in relation to a decision of the Superintendent or a delegate of the Superintendent, a decision, order, ruling, direction or other requirement made under a power or right conferred by this Act or the rules or under a delegation or other transfer of an extra-provincial authority under section 136;

delegate of the Superintendent

(h) "delegate of the Superintendent" means a person to whom the Superintendent delegates a power, function or duty and includes a subdelegate of that person, but does not include a recognized entity or a subdelegate of a recognized entity;

derivative

(i) "derivative" means

(i) a right or obligation to make or take future delivery of

(A) a security,

(B) a currency,

(C) a mineral, metal or precious stone,

(D) any other thing or interest if a unit of that thing or interest is naturally or by custom treated as the equivalent of any other unit, or

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

(I) a price or quote for anything referred to in paragraphs (A) to (D),

(II) an interest rate,

(III) a currency exchange rate, or

(IV) an index or benchmark, or

(ii) any instrument or interest that is designated under section 6, or in accordance with the rules, to be a derivative,

but does not include a right, obligation, instrument or interest that is designated under section 6, or in accordance with the rules, not to be a derivative;

director

(j) "director" means a director of a corporation or an individual performing a similar function or occupying a similar position for a corporation or for any other person;

(k) "distribution" means distribution

(i) a trade in a security of an issuer that has not been previously issued,

(ii) a trade by or on behalf of an issuer in a previously issued security of that issuer that has been redeemed or purchased by or donated to that issuer,

(iii) a trade in a previously issued security of an issuer from the holdings of a control person,

(iv) any other trade that is designated under section 6, or in accordance with the rules, to be a distribution, or

(v) a transaction or series of transactions involving further acquisitions and trades in the course of or incidental to a distribution described or referred to in subclauses (i) to (iv);

(l) "economic interest" means, in respect of a security, economic interest

(i) a right to receive or the opportunity to participate in a reward, benefit or return from a security, or

(ii) an exposure to a loss or a risk of a loss in respect of a security;

(m) "enactment" means an Act or regulation or any provision of an Act or regulation, unless the context indicates otherwise; enactment

(n) "exchange-traded derivative" means a derivative that is traded on an exchange that is designated under section 6, or in accordance with the rules, for the purposes of this definition; exchange-traded derivative

(o) "expert" means a person whose profession gives authority to a statement made by the person in their professional capacity, including, without limitation, an accountant, actuary, appraiser, auditor, engineer, financial analyst, geologist or lawyer; expert

(p) "extra-provincial authority" means any power, function or duty of an extra-provincial securities regulatory authority that is, or is intended to be, performed or exercised by the extra-provincial securities regulatory authority under the extra-provincial securities laws under which the extra-provincial securities regulatory authority operates; extra-provincial authority

(q) "extra-provincial decision" means a decision of an extra-provincial securities regulatory authority made under a Prince Edward Island authority delegated to that extra-provincial securities regulatory authority by the Superintendent; extra-provincial decision

(r) **"**extra-provincial securities laws" means the laws of another Canadian jurisdiction that, with respect to that jurisdiction, deal with the regulation of securities markets and the trading in securities in that jurisdiction; extra-provincial securities laws

extra-provincial securities regulatory authority

(s) "extra-provincial securities regulatory authority" means the body or authority empowered by the laws of another Canadian jurisdiction to regulate trading in securities or to administer or enforce laws respecting trading in securities in that jurisdiction, and includes, unless otherwise indicated,

(i) its delegate, and

(ii) any person who in respect of that extra-provincial securities regulatory authority exercises a power or performs a duty or function that is substantially similar to a power, duty or function exercised or performed by the Superintendent under this Act.

foreign jurisdiction

(t) "foreign jurisdiction" means a country or a political subdivision of a country other than Canada;

foreign securities laws

(u) "foreign securities laws" means the laws of a foreign jurisdiction that, with respect to that jurisdiction, deal with the regulation of securities markets and the trading in securities in that jurisdiction;

former Act

(v) "former Act" means the *Securities Act* R.S.P.E.I. 1988, Cap. S-3;

forward-looking information

(w) "forward-looking information" means disclosure of 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 about the prospective results of operations, financial position or cash flows, presented either as a forecast or as a projection;

individual

(x) "individual" means a natural person, but does not include

(i) a partnership, trust, fund or an association, syndicate, organization or other organized group, whether incorporated or not, or

(ii) a natural person in his or her capacity as a trustee, executor, administrator or personal or other legal representative;

inside information

(y) "inside information" means a material fact or material change that has not been generally disclosed;

insider

(z) "insider" means

(i) a director or officer of an issuer,

(ii) a director or officer of a person who is an insider or subsidiary of an issuer,

(iii) a person who has

(A) beneficial ownership of, or control or direction over, directly or indirectly, or

(B) a combination of beneficial ownership of, and control or direction over, directly or indirectly,

securities of an issuer carrying more than 10% of the voting rights attached to all the issuer's outstanding voting securities,

excluding, for the purpose of the calculation of the percentage held, any securities held by the person as underwriter in the course of a distribution,

(iv) an issuer that has purchased, redeemed or otherwise acquired a security of its own issue, for so long as it continues to hold that security,

(v) a person designated as an insider in an order made under section 6, or

(vi) a person who is in a prescribed class of persons;

(aa) "investment fund" means a mutual fund or a non-redeemable investment fund; investment fund

(bb) "investment fund manager" means a person who directs the business, operations and affairs of an investment fund; investment fund manager

(cc) "investor-relations activities" means any activities or communications, by or on behalf of an issuer or a security holder of the issuer, that promote or could reasonably be expected to promote the purchase or sale of securities of the issuer, but does not include investor-relations activities

(i) the dissemination of records in the ordinary course of business of the issuer

(A) to promote the sale of products or services of the issuer, or

(B) to raise public awareness of the issuer that cannot reasonably be considered to promote the purchase or sale of securities of the issuer, or

(ii) activities or communications necessary to comply with

(A) Prince Edward Island securities laws, extra-provincial securities laws or foreign securities laws governing the issuer, or

(B) the requirements of an exchange or marketplace on which the issuer's securities trade;

(dd) "issuer" means a person who issuer

(i) has a security outstanding,

(ii) is issuing a security, or

(iii) proposes to issue a security;

(ee) "market participant" means market participant

(i) a registrant,

(ii) a director, officer or partner of a registrant,

(iii) a person who is exempt from section 86 by an order of the Superintendent made under section 16,

(iv) a reporting issuer,

(v) a director, officer or promoter of a reporting issuer,

(vi) a control person of a reporting issuer,

(vii) a manager or custodian of assets, shares or units of an investment fund,

(viii) a recognized entity,
(ix) a clearing agency,
(x) a marketplace,
(xi) an information processor,
(xii) a transfer agent or registrar for securities of a reporting issuer,
(xiii) a compensation or contingency fund or any similar fund formed to compensate customers of dealers or advisers registered under Prince Edward Island securities laws,
(xiv) the general partner of a market participant,
(xv) a person providing record keeping services to a registrant,
(xvi) a derivatives exchange recognized or registered under Prince Edward Island securities laws, or
(xvii) any other person who is designated under section 6, or in accordance with the rules, to be a market participant;

material change

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

material fact

(gg) "material fact" means, when used in relation to securities issued or proposed to be issued, a fact that would reasonably be expected to have a significant effect on the market price or value of the securities;

(hh) "material order information" means information that, if disclosed, would reasonably be expected to affect the market price of a security and that relates to

material order information

(i) the intention of a person 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 to place an order, to trade a security;

(ii) **"**Minister" means the Minister of Justice and Public Safety and Attorney General;

Minister

(jj) "misrepresentation" means

misrepresentation

(i) an untrue statement of a material fact,

(ii) an omission to state a material fact that is required to be stated by this Act, or

(iii) an omission to state a material fact that needs to be stated so that a statement is not false or misleading in light of the circumstances in which it is made;

(kk) "mutual fund" means

mutual fund

(i) an issuer whose primary purpose is to invest money provided by its security holders and whose securities entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets, including a separate fund or trust account, of the issuer, or

(ii) an issuer that is designated under section 6, or in accordance with the rules, to be a mutual fund,

but does not include an issuer, or class of issuers, that is designated under section 6, or in accordance with the rules, not to be a mutual fund;

(ll) "non-redeemable investment fund" means

non-redeemable investment fund

(i) an issuer

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

(B) that does not invest

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

(II) for the purpose of being actively involved in the management of any issuer in which it invests, other than an

issuer that is a mutual fund or a non-redeemable investment fund, and

(C) that is not a mutual fund, or

(ii) an issuer that is designated under section 6, or in accordance with the rules, to be a non-redeemable investment fund,

but does not include an issuer, or class of issuers, that is designated under section 6, or in accordance with the rules, not to be a non-redeemable investment fund;

offering memorandum

(mm) "offering memorandum" means

(i) an offering memorandum in a specified form, or

(ii) any other document describing the business and affairs of an issuer that has been prepared primarily for delivery to and review by a prospective purchaser to assist the prospective purchaser to make an investment decision about securities being sold in a distribution for which a prospectus would be required but for the availability of an exemption under Prince Edward Island securities laws;

officer

(nn) "officer" means, in respect of an issuer or registrant,

(i) a chair or vice-chair of the board of directors, a chief executive officer, chief operating officer, chief financial officer, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer and general manager,

(ii) an individual who is designated as an officer under a bylaw or similar authority of the issuer or registrant, and

(iii) an individual who performs functions for a person similar to those normally performed by an individual referred to in subclause (i) or (ii);

participant

(oo) "participant", in respect of a recognized entity, includes a member of the recognized entity;

person

(pp) "person" includes

(i) an individual,

(ii) a corporation,

(iii) a partnership, trust, fund and an association, syndicate, organization or other organized group of persons, whether incorporated or not, and

(iv) a natural or other person in the capacity of a trustee, executor, administrator or personal or other legal representative;

prescribed

(qq) "prescribed" means prescribed in the rules;

Prince Edward Island authority

(rr) "Prince Edward Island authority" means any power, function or duty of the Superintendent that is or is intended to be, performed or exercised by the Superintendent under Prince Edward Island securities laws;

(ss) "Prince Edward Island securities laws" means

Prince Edward Island securities laws

(i) this Act,

(ii) the rules,

(iii) decisions of the Superintendent or a delegate of the Superintendent as they affect the person in respect of whom they are made or to whom they apply, and

(iv) any extra-provincial securities laws adopted or incorporated under section 138;

(tt) "promoter" means a person who,

promoter

(i) acting alone or in concert with one or more persons, directly or indirectly takes the initiative in founding, organizing or substantially reorganizing the business of the issuer, or

(ii) in connection with the founding, organizing or substantial reorganizing of the business of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, 10% or more of any class of securities of the issuer or of the proceeds from the sale of any class of securities of the issuer, but does not include a person who receives securities or proceeds solely

(A) as an underwriting commission, or

(B) in consideration of property transferred to the issuer,

if the person does not otherwise take part in founding, organizing or substantially reorganizing the business of the issuer;

(uu) "prospectus" includes an amendment to a prospectus;

prospectus

(vv) "recognized entity" means a person recognized by the Superintendent under Part 7;

recognized entity

(ww) "record" includes

record

(i) information, documents, transmission signals or data, regardless of their physical form or characteristics, including, without limitation, those in electronic, magnetic or mechanical storage,

(ii) any other thing on which information, documents, transmission signals or data is recorded or stored, including software and any mechanism or device that produces information or data, and

(iii) the results of recording the details of electronic data processing systems and programs to illustrate what the systems and programs do and how they operate;

(xx)"registrant" means a person registered or required to be registered under this Act;

registrant

(yy) "related financial instrument" means

related financial instrument

(i) an instrument, agreement or security 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 in a security;

reporting issuer

(zz) "reporting issuer" means an issuer

(i) that has issued securities in respect of which

(A) a prospectus was filed and a receipt was issued under the former Act, and

(B) a prospectus was filed and a receipt was issued under the laws of another Canadian jurisdiction and under which the issuer has been a reporting issuer from the date of issuance of the receipt until the date of the coming into force of this section,

(ii) that has filed a prospectus and been issued a receipt for it under this Act,

(iii) that has at any time had securities listed on an exchange that is designated for the purposes of this definition under section 6 or in accordance with the rules,

(iv) that has exchanged its securities with another issuer or with the holders of the securities of that other issuer in connection with an amalgamation, merger, reorganization, arrangement 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, or

(v) that is designated under section 6, or in accordance with the rules, to be a reporting issuer,

unless the issuer is designated under section 6, or in accordance with the rules, to have ceased to be a reporting issuer;

rules

(aaa) "rules" means

(i) the rules made by the Minister under this Act, including any extra-provincial securities laws that are adopted by rule, and

(ii) unless the context indicates otherwise, regulations made by the Lieutenant Governor in Council under this Act,

and includes specified forms;

security

(bbb) "security" includes

(i) an interest, record, instrument, share, unit or writing commonly known as a security,

(ii) a record evidencing title to, or an interest in, the capital, assets, property, profits, earnings or royalties of a person,

(iii) an option, subscription or other interest in or to a security,

(iv) a bond, debenture, note or other evidence of indebtedness, other than

(A) a contract of insurance issued by an insurance company, and

(B) an evidence of deposit issued by a Canadian financial institution or an authorized foreign bank listed in Schedule III of the *Bank Act* (Canada),

(v) an agreement under which the interest of the purchaser is valued, for the purpose of conversion or surrender, by reference to the value of a proportionate interest in a specified portfolio of assets,

(vi) any agreement providing that money received will be repaid or treated as a subscription to shares, units or interests at the option of the recipient or of any person,

(vii) any certificate of share or interest in a trust, estate or association,

(viii) a profit sharing agreement or certificate,

(ix) a collateral trust certificate,

(x) an income or annuity contract,

(xi) an investment contract,

(xii) an interest in a scholarship or educational plan or trust, and

(xiii) a derivative,

whether or not any of the above relates to an issuer;

self-regulatory organization

(ccc) "self-regulatory organization" means a person whose objectives are related to or consistent with the purposes of Prince Edward Island securities laws and who regulates

(i) the activities of its participants,

(ii) participants of recognized entities, or

(iii) participants of a person who is exempt from the requirement to be recognized under Part 7;

selling security holder

(ddd) "selling security holder" means a person who sells or disposes of securities which the person, directly or indirectly, owns or exercises control or direction over, but does not include a person acting as an underwriter;

specified form

(eee) "specified form" means a prescribed form or a form specified under section 7;

subsidiary

(fff) "subsidiary" means an issuer that is controlled directly or indirectly by another issuer and includes a subsidiary of that subsidiary;

Superintendent

(ggg) "Superintendent" means the Superintendent of Securities appointed under section 13 of this Act;

trade

(hhh) "trade" includes

(i) the sale or disposition of a security for valuable consideration, whether the terms of payment are on margin, instalment or otherwise, but does not include,

(A) except as provided in subclause (iv), a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a debt made in good faith, or

(B) the purchase of a security,

(ii) participation as a trader in any transaction in a security through the facilities of an exchange or a quotation and trade reporting system,

(iii) receipt by a registrant of an order to buy or sell a security,

(iv) a transfer, pledge or encumbrancing of securities of an issuer from the holdings of a control person for the purpose of giving collateral for a debt made in good faith,

(v) entering into a derivative, and

(vi) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the activities referred to in subclauses (i) to (v);

underwriter

(iii) "underwriter" means, except as otherwise prescribed, a person who

(i) as principal, agrees to purchase a security with a view to a distribution,

(ii) as agent, offers for sale or sells a security in connection with a distribution, or

(iii) participates directly or indirectly in a distribution described in subclause (i) or (ii),

but does not include,

(iv) a person whose interest in the transaction is limited to receiving the usual and customary distributor's or seller's commission payable by an underwriter or issuer,

(v) a mutual fund that, under the laws of the jurisdiction to which it is subject, accepts its shares or units for surrender and resells them,

(vi) a corporation that, under the laws of the jurisdiction to which it is subject, purchases its shares and resells them, or

(vii) a bank listed in Schedule I, II or III of the *Bank Act* (Canada) with respect to prescribed securities and with respect to such banking transactions as are prescribed;

voting security

(jjj) "voting security" means a security of an issuer that

(i) is not a debt security, and

(ii) carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

(2) A reference in this Act to this Act includes the rules, unless the context indicates otherwise. 2007,c.17,s.1, 184; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3.

Reference to this Act includes rules

2. The purposes of this Act are

(a) to provide protection to investors from unfair, improper or fraudulent practices; and

(b) to foster fair and efficient capital markets and confidence in capital markets. 2007,c.17,s.2.

Purposes of the Act

3. Prince Edward Island securities laws shall be given the fair, large and liberal interpretation that best ensures the attainment of their purposes. 2007,c.17,s.3.

Interpretation guidance

4. When defined words or expressions are used in Prince Edward Island securities laws in a different part of speech or in a different grammatical form, the words or expressions take a meaning corresponding to their defined meaning. 2007,c.17,s.4.

Defined words in different grammatical forms

5. Unless the context requires otherwise, a reference to a specific record includes a reference to any amendment, variation or modification made to it that is permitted or required under Prince Edward Island securities laws. 2007,c.17,s.5.

Amendments, variations and modifications to records

6. (1) If the Superintendent considers that it is not prejudicial to the public interest, the Superintendent may, in accordance with the rules, designate, by order,

Designations

(a) an issuer to be or to cease to be a reporting issuer;

(b) a trade to be a distribution;

(c) an instrument or interest to be a derivative;

(d) a right, obligation, instrument or interest not to be a derivative;

(e) a person to be a market participant;

(f) an issuer to be or not to be a mutual fund;

(g) an issuer to be or not to be a non-redeemable investment fund;

(h) an exchange for the purposes of the definition of "exchange-traded derivative";

(i) an exchange for the purposes of the definition of "reporting issuer"; or

(j) a person to be an insider.

(2) The Superintendent may make an order under subsection (1) on the Superintendent's own initiative or on application by an interested person. 2007,c.17,s.6.

Orders on application or on own initiative

7. Subject to any other requirement of Prince Edward Island securities laws, if Prince Edward Island securities laws provide that a record must

Specified forms

be prepared, filed, provided or sent in a specified form, the Superintendent may, by order, specify

(a) the form, content and other particulars relating to the record;

(b) a different form, content and other particulars relating to the record, in respect of different classes of a particular kind of record;

(c) the principles to be applied in the preparation of the record; and

(d) the accompanying records to be filed with it. 2007,c.17,s.7.

Affiliate

8. For the purposes of Prince Edward Island securities laws, an issuer is an affiliate of another issuer if

(a) one of them is the subsidiary of the other; or

(b) each of them is controlled by the same person. 2007,c.17,s.8.

associate

9. For the purposes of Prince Edward Island securities laws, "associate" means, if used to indicate a relationship with a person,

(a) a partner, other than a limited partner, of the person;

(b) a trust or estate in which the person has a substantial beneficial interest or for which the person serves as trustee or in a similar capacity;

(c) an issuer in which the person beneficially owns, controls, or has direction over, voting securities carrying more than 10% of the voting rights attached to all outstanding voting securities of the issuer;

(d) a relative of the individual who has the same home as that individual;

(e) an individual who is married to that person and is not living separate and apart within the meaning of the *Divorce Act* (Canada);

(f) an individual who has the same home as the person and is living with the person in a domestic or economic relationship; or

(g) a relative of an individual referred to in clause (e) or (f) who has the same home as the individual. 2007,c.17,s.9.

Control of an issuer

10. For the purposes of Prince Edward Island securities laws, an issuer is controlled by a person if

(a) that person beneficially owns or exercises direct or indirect control or direction over voting securities of the issuer, unless that person holds the voting securities only to secure an obligation; and

(b) the votes carried by those voting securities, if exercised, would entitle their holder to elect a majority of the directors of the issuer. 2007,c.17,s.10.

Beneficial ownership of securities

11. For the purposes of Prince Edward Island securities laws, a person beneficially owns securities that are beneficially owned by

(a) an issuer controlled by that person; or

(b) an affiliate of that person or of any issuer controlled by that person. 2007,c.17,s.11.

Special relationship with reporting issuer

12. (1) For the purposes of sections 119 and 155, a person is in a special relationship with a reporting issuer if the person

(a) is an insider, affiliate or associate of

(i) the reporting issuer,

(ii) a person who is making or proposing to make a take-over bid for the securities of the reporting issuer, or

(iii) a person who is proposing

(A) to become a party to an amalgamation, merger, arrangement, reorganization or similar transaction with the reporting issuer, or

(B) to acquire a substantial portion of the property of the reporting issuer;

(b) is engaging in or is proposing to engage in any business or professional activity with or on behalf of the reporting issuer or any person described in subclause (a)(ii) or (iii);

(c) is a director, officer or employee of the reporting issuer or of any person described in subclause (a)(ii) or (iii) or clause (b);

(d) knows of a material fact or of a material change relating to the reporting issuer, having acquired the knowledge while in a relationship described in clauses (a) to (c); or

(e) knows of a material fact or of a material change relating to the reporting issuer, having acquired the knowledge from another person at a time when

(i) that other person was in a special relationship with the reporting issuer, whether under this clause or any of clauses (a) to (d), and

(ii) the person who acquired knowledge of the material fact or the material change from that other person knew or reasonably ought to have known of the special relationship referred to in subclause (i).

Reference to subsidiary

(2) In subsection (1), a reference to a reporting issuer includes a reference to a subsidiary of the reporting issuer.

reporting issuer

(3) In subsections (1) and (2), and in sections 119 and 155, "reporting issuer" includes an issuer that is a reporting issuer under extra-provincial securities laws. 2007,c.17,s.12.

PART 2: SUPERINTENDENT

Appointment and Delegation

Superintendent

13. (1) The Minister shall appoint a Superintendent of Securities who is responsible for the administration of Prince Edward Island securities laws.

Settlement agreement

(2) The Superintendent may enter into a settlement agreement with a person for the purpose of resolving any matter arising under Prince Edward Island securities laws. 2007,c.17,s.13.

Internal delegation to employees

14. (1) The Superintendent may delegate to an employee of the Department of Justice and Public Safety any of the powers, functions or duties of the Superintendent except

(a) the power to delegate a power, function or duty; and

(b) the power to recommend that the Minister make, repeal or amend a rule.

Subdelegation

(2) A person to whom a power, function or duty is delegated by the Superintendent may, with the approval of the Superintendent, subdelegate it to another employee of the Department of Justice and Public Safety.

Decision of delegate or subdelegate

(3) A decision of a delegate of the Superintendent in the exercise of any power, function or duty delegated to the delegate under this section is a decision of the Superintendent unless otherwise provided by Prince Edward Island securities laws.

Suspension, revocation or variation of delegation

(4) The Superintendent may, without prior notice, suspend, revoke or vary, any delegation made by the Superintendent under this section.

Suspension, revocation or variation of subdelegation

(5) Where a delegate of the Superintendent subdelegates a power, function or duty under this section, the Superintendent or the delegate of the Superintendent may, without prior notice, suspend, revoke or vary the subdelegation.

Continued exercise of power by Superintendent

(6) The Superintendent may, after the delegation of a power, function or duty under this section, continue to exercise the power, function or duty delegated.

Continued exercise of power after subdelegation

(7) Where a delegate of the Superintendent subdelegates a power, function or duty under this section, the Superintendent and the delegate of the Superintendent may continue to exercise the power, function or duty subdelegated. 2007,c.17,s.14; 2010,c.31,s.3; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3.

Decisions and Exemptions

Terms, conditions and application of decisions

15. (1) Subject to any requirements of Prince Edward Island securities laws, a decision of the Superintendent or a delegate of the Superintendent

(a) may be made subject to terms, conditions, restrictions and requirements, or any of them; and

(b) may be of general or specific application and may be made applicable to classes, categories or subcategories of persons, securities, trades, distributions or transactions.

Revocation or variation of Superintendent's decision

(2) Subject to any requirements of Prince Edward Island securities laws, the Superintendent may, if the Superintendent considers that it would not be prejudicial to the public interest to do so,

(a) revoke or vary his or her decision; or

(b) impose new terms, conditions, restrictions and requirements on the decision.

Revocation or variation of delegate's decision

(3) Subject to any requirements of Prince Edward Island securities laws, a delegate of the Superintendent may, if the delegate of the Superintendent considers that it would not be prejudicial to the public interest to do so,

(a) revoke or vary his or her decision; or

(b) impose new terms, conditions, restrictions and requirements on the decision.

Order on application or own initiative

(4) The Superintendent or delegate of the Superintendent may take action under subsection (2) or (3) respectively on his or her own initiative or on application by a person affected by the decision. 2007,c.17,s.15.

Exemption from securities laws

16. (1) If the Superintendent considers that it would not be prejudicial to the public interest, the Superintendent may, by order, exempt a person, security, trade, distribution or transaction from all or any provisions of Prince Edward Island securities laws.

Order on application or own initiative

(2) The Superintendent may make an order under subsection (1) on his or her own initiative or on application by an interested person. 2007,c.17,s.16.

PART 3: PROCESS AND PROCEDURES

Service, Admissibility and Non-compellability

Service on Superintendent

17. Service of a record on the Superintendent is properly effected by serving the record on a person authorized by the Superintendent to accept service on behalf of the Superintendent. 2007,c.17,s.17.

Sending, delivering or serving records

18. (1) Unless otherwise provided by Prince Edward Island securities laws, a record that is required to be sent, communicated or delivered to or served on any person under Prince Edward Island securities laws may be sent, communicated or delivered to or served on that person

(a) personally;

(b) by prepaid mail;

(c) by electronic means; or

(d) as prescribed.

Address

(2) A record referred to in subsection (1) sent to a person by prepaid mail or by electronic means shall be sent to that person

(a) at the latest address known for that person by the sender of the document; or

(b) at the address for service in Prince Edward Island filed by that person with the Superintendent.

Deemed service

(3) A record referred to in subsection (1) sent to a person by prepaid mail is deemed, unless the contrary is proved, to be served on that person on the seventh day after the record is mailed.

Records returned

(4) If a record referred to in subsection (1) is sent to a person by prepaid mail and is returned on 2 successive occasions because the person cannot be found, then there is no further requirement to send any further records to that person until that person notifies the sender in writing of the person's new address. 2007,c.17,s.18.

Admissibility of certified statements

19. A statement about

(a) the registration or non-registration of a person;

(b) the filing or non-filing of a record;

(c) the date the facts upon which any proceeding is based first came to the knowledge of the Superintendent; or

(d) any other matter, person or record,

purporting to be certified by the Superintendent is, without proof of the office or signature of the person certifying, admissible in evidence in any action, proceeding or prosecution under Prince Edward Island securities laws. 2007,c.17,s.19.

Evidence from bank officials

20. Notwithstanding subsection 30(4) of the *Evidence Act* R.S.P.E.I. 1988, Cap. E-11, the Superintendent may by order summon a bank or an officer of a bank, in any investigation or proceeding under Prince Edward Island securities laws,

(a) to produce records, property or things, the contents of which can be proved under section 30 of the *Evidence Act*; or

(b) to appear as a witness to prove the matters, transaction and accounts contained in the records, property or things. 2007,c.17,s.20.

Superintendent is not a compellable witness

21. (1) The Superintendent or anyone acting on the Superintendent's behalf

(a) is not a compellable witness before a court; and

(b) may not be compelled to produce or give evidence in any proceeding before a court,

with respect to information, records, property or things obtained or acquired by the Superintendent in the exercise of his or her powers, functions or duties as Superintendent, or obtained or acquired by an employee of the Government or an appointee or agent of the Superintendent in the performance of their powers under Prince Edward Island securities laws.

Employees, appointees and agents are not compellable witnesses

(2) An individual who is or was an employee of the Government or an appointee or agent of the Superintendent, in any proceeding in a court to which the Superintendent is not a party,

(a) is not a compellable witness before the court;

(b) may not be compelled to produce or give evidence in any proceeding before the court; and

(c) shall not give evidence or produce evidence before the court without the consent of the Superintendent,

with respect to information, records, property or things obtained or acquired by that individual in the exercise of his or her powers, functions or duties under Prince Edward Island securities laws.

court

(3) In this section, "court" includes a judge, arbitrator, umpire, commissioner, provincial judge, justice of the peace or other officer or person having by law or by the consent of parties authority to hear, receive and examine evidence but does not include a court hearing a criminal proceeding. 2007,c.17,s.21.

Witness not excused on grounds of possible incrimination or punishment

22. (1) No person summoned to give evidence or to produce a record, property or thing under Part 4 or Part 6 is excused from doing so on the ground that the evidence, record, property or thing might

(a) tend to incriminate the person; or

(b) subject the person to punishment under Prince Edward Island securities laws or tend to establish that person's liability

(i) in a civil proceeding at the instance of the Crown or any other person, or

(ii) to prosecution under any enactment, an enactment of another Canadian jurisdiction or an enactment of Canada.

Prohibition on use of evidence to incriminate witness

(2) No evidence given or record produced by a witness in response to a summons may be used to incriminate that witness in a prosecution for an offence under Prince Edward Island securities laws or any other enactment, except in a prosecution for or proceeding in respect of perjury or the giving of contradictory evidence. 2007,c.17,s.22.

Verification

23. The Superintendent may require any information, record, property or thing produced or provided to, or obtained by, the Superintendent to be verified by affidavit or other means. 2007,c.17,s.23.

Treatment of Information

Information sharing

24. (1) The Superintendent or a delegate of the Superintendent may provide information to and receive information from

(a) an extra-provincial securities regulatory authority or its delegate;

(b) an entity performing, in a foreign jurisdiction, any power, function or duty similar to the Superintendent;

(c) a financial regulatory authority, an exchange, a self-regulatory organization, a recognized entity, a professional regulatory body or organization, a law enforcement agency, a quotation and trade reporting system, a clearing agency, or a government or a governmental authority in another Canadian jurisdiction or in a foreign jurisdiction; and

(d) any person or entity that provides services to the Superintendent.

Information sharing arrangements

(2) The Superintendent may enter into an arrangement or agreement for the purposes of subsection (1).

Confidentiality and non-disclosure

(3) Information received by the Superintendent under this section is confidential and shall not be disclosed except when authorized by the Superintendent.

Section prevails

(4) This section prevails notwithstanding the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01 and any information received by the Superintendent under this section is exempt from disclosure under that Act. 2007,c.17,s.24.

Confidentiality and public disclosure of records

25. Records in the possession of the Superintendent must be held in confidence or disclosed to the public in accordance with this Act and the rules. 2007,c.17,s.25.

Filing and inspection of records

26. (1) Where Prince Edward Island securities laws require that records be filed, and do not specify where or with whom the records are to be filed, the filing shall be effected by depositing the records with the Superintendent and all records so filed shall, subject to subsection (2), be made available for public inspection during normal business hours.

Records held in confidence

(2) The Superintendent may hold records or any class of records in confidence if the Superintendent considers that the records disclose intimate financial, personal or other information, and that the desirability of not disclosing the information, in the interests of any person affected, outweighs the desirability of adhering to the principle of public disclosure. 2007,c.17,s.26.

Section prevails

27. Sections 25 and 26 prevail notwithstanding the *Freedom of Information and Protection of Privacy Act* and any records referred to in those sections are exempt from disclosure under that Act. 2007,c.17,s.27.

PART 4: INVESTIGATIONS

Order for production

28. (1) The Superintendent may order a market participant or a former market participant specified or described in the order

(a) to provide information; and

(b) to produce records, property or things,

specified or described in the order that are or may be in the market participant's or former market participant's custody, possession or direct or indirect control.

Contents of order

(2) An order made under subsection (1) may

(a) specify the location at which and the person to whom the information, records, property or things shall be provided or produced; or

(b) prescribe the time within which, or the intervals in respect of which, the information, records, property or things shall be provided or produced. 2007,c.17,s.28.

Confidentiality of production orders

29. An order made under subsection 28(1) is confidential and shall not be disclosed by any person, except

(a) to the market participant or former market participant specified or described in the order;

(b) to the market participant's or former market participant's counsel; or

(c) to any other person

(i) with the consent of the Superintendent, or

(ii) to the extent reasonably necessary to comply with the order. 2007,c.17,s.29.

Investigation orders

30. (1) If the Superintendent considers it expedient, the Superintendent may order an investigation into any matter

(a) for the administration of Prince Edward Island securities laws;

(b) for the regulation of the capital markets in the province;

(c) for the administration of extra-provincial securities laws or securities laws of a foreign jurisdiction; and

(d) for the regulation of capital markets in another Canadian jurisdiction or in a foreign jurisdiction.

Order to specify scope

(2) An order made under subsection (1) shall specify the scope of the investigation.

Conduct of investigation

(3) For the purposes of subsection (1), the Superintendent may conduct the investigation or may, in writing, appoint another person for that purpose. 2007,c.17,s.30.

Scope of investigation

31. (1) The Superintendent, or a person appointed to make an investigation under subsection 30(3), may investigate, inquire into and examine in relation to a person who is the subject of the investigation

(a) the affairs of that person, including

(i) trades, communications, negotiations, transactions, investigations, loans, borrowing or payments to, by, on behalf of, or in relation to or in connection with the person, and

(ii) records kept and property and things owned, acquired or alienated in whole or in part by the person or by any other person acting on behalf of or as agent for the person;

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with the person; and

(c) any relationship that may at any time exist or have existed between the person and any other person by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, securities or other property, the transfer, negotiation or holding of securities, interlocking directorates, common control, undue influence or control or any other relationship.

Examination of records, property or things

(2) The Superintendent, or a person appointed to make an investigation under subsection 30(3), may examine any records, property or things whether they

(a) are in the custody or possession of or under the direct or indirect control of the person whose affairs are subject to investigation; or

(b) are in the custody or possession of or under the direct or indirect control of any other person. 2007,c.17,s.31.

Investigative powers

32. (1) The Superintendent, or a person appointed to make an investigation under subsection 30(3), has the same power as is vested in the Supreme Court for the trial of civil actions

(a) to summon and enforce the attendance of witnesses;

(b) to compel witnesses to give evidence under oath or otherwise; and

(c) to compel witnesses to produce records, property and things.

Failure to attend, answer or produce records

(2) The failure or refusal of a person summoned as a witness under subsection (1) to attend, to answer questions, or to produce records, property or things that are in the person's custody or possession, or under their direct or indirect control, makes that person, on application to the Supreme Court by the Superintendent, liable to be committed for contempt by the court as if that person were in breach of an order or judgment of that court.

Failure to comply

(3) No person shall, without lawful excuse, fail to comply with a summons issued under subsection (1).

Representation by counsel

(4) A person giving evidence at an investigation under section 30 may be represented by counsel. 2007,c.17,s.32; 2008,c.20,s.72(83).

Right of entry and examination

33. A person making an investigation under section 30 may

(a) enter the business premises of a person named in the investigation order or of any registrant or person recognized under Part 7 during business hours;
(b) examine records, property or things at the premises;
(c) require a person at the premises to produce information, records, property or things that are in the custody or possession or under the direct or indirect control of the person;
(d) copy records at the premises; and
(e) on giving a receipt, remove from the premises records, property or things. 2007,c.17,s.33.

Court application for entry and search order

34. (1) On application by the Superintendent to the Supreme Court, the court may make an order authorizing a person named in the order to
(a) enter and search any building, receptacle or place; and
(b) seize any records, property or things found in the building, receptacle or place.

Grounds for order

(2) The court may make an order under subsection (1) on being satisfied by information on oath that there are reasonable and probable grounds to believe that there may be records, property or things that reasonably relate to an order made under section 30 in the building, receptacle or place specified in the order.

Ex parte application

(3) An application for an order under subsection (1) may be made *ex parte* and heard in the absence of the public, unless the court otherwise directs.

Entry, search and seizure

(4) On production of the order made under subsection (1), the person named in the order may enter the building, receptacle or place specified in the order, and may search for and seize any records, property or things described in the order. 2007,c.17,s.34; 2008,c.20,s.72(83).

Access to and return of material seized or obtained

35. Any record, property or thing seized or obtained under this Part must
(a) be made available for inspection and copying by the person from whom it was seized or obtained, if practicable; and
(b) be returned to the person from whom it was seized or obtained when
(i) retention is no longer necessary for the purposes of an investigation, examination, proceeding or prosecution under Prince Edward Island securities laws, or
(ii) the Superintendent so orders. 2007,c.17,s.35.

Confidentiality of investigation and disclosure of information

36. (1) Any record, property or thing and all information or evidence obtained under this Part is confidential and shall not be disclosed by any person except
(a) to a person's counsel;
(b) where authorized by the Superintendent; or

(c) as otherwise permitted by Prince Edward Island securities laws.

Section prevails

(2) This section prevails notwithstanding the *Freedom of Information and Protection of Privacy Act* and any information, evidence or records referred to in this section are exempt from disclosure under that Act. 2007,c.17,s.36.

PART 5: RECEIVERS, RECEIVER-MANAGERS, TRUSTEES AND LIQUIDATORS

Appointment Criteria

Application

37. (1) The Superintendent may apply to the Supreme Court for the appointment of a receiver, receiver-manager, trustee or liquidator of all or any part of the property and affairs of a person.

Appointment

(2) On an application under subsection (1), the court may appoint a receiver, receiver-manager, trustee or liquidator by order if satisfied that the appointment is

(a) in the best interests of the person's creditors;

(b) in the best interests of other persons whose property is in the possession or under the control of the person in respect of whom the application is made;

(c) in the best interests of security holders, subscribers to or clients of the person in respect of whom the application is made; or

(d) appropriate for the administration of Prince Edward Island securities laws.

Ex parte application

(3) An application under subsection (1) may be made *ex parte* if the court considers it appropriate to do so in the circumstances. 2007,c.17,s.37; 2008,c.20,s.72(83).

Authority of Court Appointees

Application of sections 39 to 47

38. Sections 39 to 47 apply to a person appointed under section 37 or 78, unless another enactment governs the matters described in sections 39 to 47, in which case that enactment prevails to the extent of any inconsistency. 2007,c.17,s.38.

Authority of appointees

39. A receiver, receiver-manager, trustee or liquidator appointed by the court under section 37 or 78

(a) has all necessary authority to carry out the powers, functions and duties of the appointment in accordance with the court order and this Part;

(b) is appointed with respect to the person, property and affairs of the person named in the court order, whether the property is held in

trust, owned or held in some other capacity, unless the order provides otherwise; and

(c) shall comply with the terms and conditions of the court order. 2007,c.17,s.39.

Authority of receiver

40. (1) A receiver appointed under section 37 or 78 may, subject to the rights of secured creditors,

(a) receive income from the property and affairs of the person named in the order and pay liabilities in respect of the property and affairs; and

(b) realize the security of the person on whose behalf the receiver is appointed.

Cessation of authority of person in respect of whom order is made

(2) When an order is made appointing a receiver, the person in respect of whom the order is made ceases to have authority and may not exercise any powers in respect of the income from the property or affairs for which the receiver is appointed, except as directed by the court or the receiver. 2007,c.17,s.40.

Authority of receiver-manager

41. (1) A receiver-manager appointed under section 37 or 78 may take control of the property and administer the affairs of the person in respect of whom the court order is made and

(a) with respect to an individual, has all the authority of the individual to administer the property and manage the individual's affairs;

(b) with respect to a corporation, has all the authority of the shareholders and directors of the corporation to administer the property and manage the corporation's affairs; and

(c) has any other authority prescribed in the order appointing the receiver-manager.

Lack of authority of person

(2) When an order is made appointing a receiver-manager of the property or affairs of a person

(a) in the case of an individual, the individual has no authority to and may not exercise any powers in respect of the individual's property and affairs for which the order is made; and

(b) in the case of a corporation, the shareholders and the directors of the corporation have no authority to and may not exercise any powers in respect of the corporation,

except as directed by the court or by the receiver-manager. 2007,c.17,s.41.

Authority of trustee

42. (1) A trustee appointed under section 37 or 78 shall hold in trust the property specified in the court order, subject to the terms of the order.

Cessation of authority of person in respect of whom order is made

(2) When an order is made appointing a trustee, the person in respect of whom the order is made ceases to have authority and may not exercise

any power in respect of the property subject to the trust, except as directed by the court or the trustee. 2007,c.17,s.42.

Authority of liquidator

43. (1) A liquidator appointed under section 37 or 78 shall wind up the affairs of the person in respect of whom the liquidator is appointed in accordance with the court order.

Cessation of authority of person in respect of whom order is made

(2) When an order is made appointing a liquidator, the person in respect of whom the order is made ceases to have authority and may not exercise any powers in respect of the affairs to be wound up, except as directed by the court or the liquidator. 2007,c.17,s.43.

Termination of appointments

44. (1) A receiver or a receiver-manager appointed under section 37 or 78 remains in office until

(a) the appointment is terminated by the court;

(b) the receiver or receiver-manager winds up the affairs of the person in respect of whom the order is made in accordance with a direction of the court; or

(c) a liquidator is appointed to wind up the affairs of the person.

Term of office

(2) A liquidator appointed under section 37 or 78 remains in office until the appointment is terminated by the court or the affairs of the person in respect of whom the order is made are wound up. 2007,c.17,s.44.

Fees

45. The fees charged and the expenses incurred by a receiver, receiver-manager, trustee or liquidator appointed under section 37 or 78 in respect of the exercise of powers pursuant to the appointment shall be in the discretion of the court. 2007,c.17,s.45.

Application for directions

46. (1) A receiver, receiver-manager, trustee or liquidator appointed under section 37 or 78 may apply to the court for directions on any matter and the court may

(a) give directions;

(b) if required, declare the rights of parties before the court; and

(c) make any further order it considers necessary.

Revocation of appointment

(2) The court may at any time revoke an appointment made under section 37 or 78 and appoint another receiver, receiver-manager, trustee or liquidator in the place of the receiver, receiver-manager, trustee or liquidator. 2007,c.17,s.46.

Notice to registry of deeds

47. (1) The Superintendent may send a notice to the Registrar of Deeds that proceedings are being or are about to be taken under this Part that may affect land belonging to the person referred to in the notice, and may amend or revoke the notice as the circumstances require.

(2) On receipt of the notice, the Registrar of Deeds shall register the notice against the land named in the notice. Registration of notice

(3) A notice registered under subsection (2) has the same effect as the registration of a certificate of pending litigation or a caveat. 2007,c.17,s.47. Effect of registered notice

PART 6: REVIEWS, PROCEDURAL MATTERS, ADMINISTRATIVE ORDERS, APPEALS AND DECLARATIONS

Review of Decisions of Delegates of the Superintendent

48. (1) The Superintendent may, on his or her own initiative, review a decision of a delegate of the Superintendent, other than an extra-provincial decision. Review by Superintendent

(2) If the Superintendent intends to conduct a review on his or her own initiative, the Superintendent shall, within 30 days after the date of the decision to be reviewed, notify the following persons of that intention: Notice

(a) the person who made the decision;

(b) any person directly affected by the decision. 2007,c.17,s.48.

49. (1) A person directly affected by a decision of a delegate of the Superintendent, other than an extra-provincial decision, may request and is entitled to a review of the decision by the Superintendent. Request for review

(2) The request for a review shall be made Notice

(a) by sending notice to the Superintendent within 30 days after the date on which the person was sent notice of the decision; and

(b) by sending a copy of the request to the person who made the decision. 2007,c.17,s.49.

50. A decision of a delegate of the Superintendent takes effect immediately notwithstanding a request for a review or the giving of notice by the Superintendent of the intention to conduct a review, unless the delegate of the Superintendent who made the decision or the Superintendent suspends the decision pending the review. 2007,c.17,s.50. When decisions take effect

51. The Superintendent may decide the nature and extent of the review, and may conduct it as Nature of a review

(a) a partial or full hearing or rehearing of the matter; or

(b) a documents-only review. 2007,c.17,s.51.

52. After a review, the Superintendent may confirm, vary or revoke the decision reviewed and in doing so may Decision after a review

(a) make any decision the delegate of the Superintendent could have made; and

(b) make any other decision that the Superintendent may make under Prince Edward Island securities laws. 2007,c.17,s.52.

Procedural Matters

Witnesses and evidence

53. (1) For the purpose of preparing for or conducting a review or hearing under this Act, the Superintendent has the same power as is vested in the Supreme Court for the trial of civil actions

(a) to summon and enforce the attendance of witnesses;

(b) to compel witnesses to give evidence under oath or otherwise; and

(c) to compel witnesses to produce records, property and things.

Failure to attend, answer or produce records

(2) The failure or refusal of a person summoned as a witness under subsection (1) to attend, to answer questions or to produce records, property or things that are in the person's custody or possession, or under their direct or indirect control, makes that person, on application to the Supreme Court by the Superintendent, liable to be committed for contempt by the court as if that person were in breach of an order or judgment of that court.

Application of rules of court

(3) The rules of court with respect to compelling the attendance of witnesses, including the provisions relating to the payment of conduct money, apply to reviews and hearings conducted by the Superintendent or by a person appointed by the Superintendent under this Act.

Failure to comply

(4) No person shall, without lawful excuse, fail to comply with a summons issued under subsection (1). 2007,c.17,s.53; 2008,c.20,s.72(83).

Evidence taken outside the province

54. (1) The Superintendent may apply to the Supreme Court for

(a) an order appointing a person to take the evidence of a witness outside the province for use in an investigation or a proceeding before the Superintendent; and

(b) a letter of request from the court directed to the judicial authorities of the jurisdiction in which a witness is located, requesting the issuance of such process as is necessary to compel the person to attend before the person appointed under clause (a) to give evidence on oath or otherwise and to produce records, property or things relevant to the subject matter of the investigation or proceeding.

Practice and procedure

(2) The practice and procedure relating to

(a) an appointment under this section;

(b) the taking of evidence by a person appointed under this section; and

(c) the certifying and return of the appointment,

is, to the extent possible, to be the same as the practice and procedure governing similar matters in civil proceedings under the rules of court.

Admissibility of evidence

(3) Unless the court otherwise directs, the making of an order under subsection (1) does not determine whether evidence obtained as a result of the order is admissible in a review or hearing before the Superintendent.

Power to obtain evidence outside the province

(4) Nothing in this section limits any power that the Superintendent has to obtain evidence outside the province by any other means, including under any other enactment or by operation of law.

Evidence taken in Prince Edward Island for other securities regulatory bodies

(5) Where

(a) a body or authority is empowered by the laws of a jurisdiction other than Prince Edward Island to regulate trading in securities or to administer or enforce laws respecting trading in securities in that jurisdiction; and

(b) the Supreme Court is satisfied that a court or tribunal of competent jurisdiction in that jurisdiction has properly authorized that body or authority to obtain testimony and evidence in Prince Edward Island from a witness located in Prince Edward Island,

the court may

(c) order the attendance of the witness for the purpose of being examined;

(d) order the production of any record, document or thing referred to in the order; and

(e) give directions as to the time and place of the examination and all other matters with respect to the examination as the court considers appropriate.

Scope of order

(6) In making an order under subsection (5), the court may order that the examination of the witness

(a) be before a person appointed in accordance with the directions of; and

(b) be carried out in the manner provided for by,

the court or tribunal of the jurisdiction that authorized the obtaining of the testimony and evidence in Prince Edward Island. 2007,c.17,s.54; 2008,c.20,s.72(83).

Joint reviews, hearings and location

55. (1) The Superintendent may hold a review or hearing in or outside the province on his or her own, or in conjunction with one or more extra-provincial securities regulatory authorities.

Consultation

(2) The Superintendent may consult with any member of an extra-provincial securities regulatory authority that is taking part in the joint review or joint hearing. 2007,c.17,s.55.

Rules of evidence

56. (1) The Superintendent

(a) is not bound by the rules of evidence applicable to judicial proceedings;

(b) has the power to determine the admissibility, relevance and weight of any evidence;

(c) may determine the manner in which evidence is to be admitted; and

(d) may determine any question of law or fact.

Evidence under oath

(2) The Superintendent may require witnesses to give evidence under oath.

Administration of oaths

(3) The Superintendent may administer an oath for the purpose of receiving evidence. 2007,c.17,s.56.

Conduct of reviews, hearings and inquiries

57. Subject to this Act, all matters respecting the initiation of hearings, reviews or inquiries, and other matters relevant to the conduct of hearings, reviews and inquiries, including pre-hearing disclosure, shall be dealt with in accordance with the rules. 2007,c.17,s.57.

Administrative Orders Protecting the Public Interest

Freeze orders

58. (1) If the Superintendent considers it expedient for the administration of Prince Edward Island securities laws, the Superintendent may, by order,

(a) direct a person having on deposit, or under their direct or indirect control or safekeeping, records, property or things, including funds or securities, to hold them pending a further order; or

(b) direct a person who owns or is in possession or control of records, property or things, including funds or securities,

(i) not to withdraw or remove the records, property or things from any person having them on deposit, under their direct or indirect control, or holding them for safekeeping, or

(ii) to hold all records, property or things of clients or others in the person's possession or control in trust for a receiver, receiver-manager, trustee or liquidator appointed under Prince Edward Island securities laws, any other enactment of the province, or an enactment of Canada.

Application of order to offices and branches

(2) An order of the Superintendent to a Canadian financial institution applies to all offices, branches or agencies of the Canadian financial institution that are located in the province if a copy of the order is served on the Canadian financial institution's principal place of business in the province.

(3) Unless it expressly so states, an order of the Superintendent does not apply to records, property or things in a clearing agency or to securities in the process of being transferred by a transfer agent.

Clearing agencies and transfer agents

(4) The Superintendent may send a notice to the Registrar of Deeds that proceedings are being or are about to be taken under this Part that may affect land belonging to the person referred to in the notice, and may amend or revoke the notice as the circumstances require.

Notice to registry of deeds

(5) On receipt of the notice, the Registrar of Deeds shall register the notice against the land named in the notice.

Registration of notice

(6) A notice registered under subsection (5) has the same effect as the registration of a certificate of pending litigation or a caveat. 2007,c.17,s.58.

Effect of registered notice

59. (1) Notwithstanding subsection 60(4), if a person fails to file periodic disclosure as required under section 102, the Superintendent may, without giving an opportunity to be heard, order one or more of the following:

Cease trading orders for failing to file records

(a) that trading in or purchasing cease in respect of any security as specified in the order;

(b) that a person cease trading in or purchasing any securities or specified securities as specified in the order.

(2) An order made under subsection (1) shall be revoked as soon as practicable after the record referred to in the order is filed.

Revocation

(3) The Superintendent shall send to any person directly affected by an order made under subsection (1)

Notice

(a) written notice of the order; and

(b) written notice of the revocation of the order, if any. 2007,c.17,s.59.

60. (1) The Superintendent may, if he or she considers it to be in the public interest, make one or more of the following orders:

Superintendent orders

(a) that

(i) a person be prohibited from being registered,

(ii) registration granted to a person under Prince Edward Island securities laws be suspended or restricted for such period as is specified in the order or be terminated;

(b) that recognition granted to a recognized entity be suspended or restricted for such period as is specified in the order or be terminated;

(c) that trading in or purchasing any securities by or of a person cease permanently or for such period as is specified in the order;

(d) that any exemptions contained in Prince Edward Island securities laws do not apply to a person permanently or for such period as is specified in the order;

(e) that a market participant submit to a review of the practices and procedures of the market participant and institute such changes as may be ordered by the Superintendent;

(f) that any record described in the order,

(i) be provided by a market participant to a person,

(ii) not be provided by a market participant to a person, or

(iii) be amended by a market participant to the extent that amendment is practicable;

(g) that a person be reprimanded;

(h) that a person is prohibited from acting as

(i) a registrant,

(ii) an investment fund manager,

(iii) a promoter, or

(iv) a person involved in investor-relations activities;

(i) that a person resign one or more positions that he or she holds as a director or officer of

(i) an issuer,

(ii) a registrant,

(iii) an investment fund manager,

(iv) a promoter, or

(v) a person involved in investor-relations activities;

(j) that a person is prohibited from becoming or acting as a director or officer of

(i) an issuer,

(ii) a registrant,

(iii) an investment fund manager,

(iv) a promoter, or

(v) a person involved in investor-relations activities;

(k) that a person comply with

(i) a rule, policy or other similar instrument of a recognized entity, or

(ii) a decision, order, ruling or direction of a recognized entity under a rule, policy or other similar instrument of a recognized entity;

(l) that a person comply with Prince Edward Island securities laws;

(m) that a person who has contravened Prince Edward Island securities laws pay an administrative penalty of not more than $1,000,000 for each contravention.

Entitlement to participate

(2) A person is not entitled to participate in a proceeding in which an order may be made under clause (1)(m) solely on the basis that the person has a right of action against the person who is the subject of the

proceeding or that the person may be entitled to receive amounts ordered to be paid by a court in relation to the same matter.

Grounds for order

(3) The Superintendent may, after giving an opportunity to be heard, make an order under clauses (1)(a) to (l) in respect of a person who

(a) has been convicted in Canada or elsewhere of an offence

(i) arising from a transaction, business or course of conduct related to securities, or

(ii) under laws respecting trading in securities;

(b) has been found by a court in Canada or elsewhere to have contravened laws respecting trading in securities;

(c) is subject to an order made by a securities regulatory authority in Canada or elsewhere; or

(d) has agreed with a securities regulatory authority in Canada or elsewhere to be subject to sanctions, conditions, restrictions or requirements.

Hearing

(4) The Superintendent shall not make an order under subsection (1) without conducting a hearing. 2007,c.17,s.60.

Interim orders

61. (1) If the Superintendent has the authority to make an order after a hearing under section 60 and the Superintendent considers that

(a) the length of time required to conduct a hearing; or

(b) the length of time to give an opportunity to be heard and make a decision,

could be prejudicial to the public interest, the Superintendent may make an interim order at any time without conducting a hearing.

Where order may not be made

(2) Notwithstanding subsection (1), the Superintendent may not make an interim order

(a) that a market participant submit to a review of its practices and procedures under clause 60(1)(e);

(b) that records, property or things be provided, not be provided or amended under clause 60(1)(f);

(c) reprimanding a person under clause 60(1)(g);

(d) requiring payment of an administrative penalty under clause 60(1)(m); or

(e) respecting a person under subsection 60(3).

Effect and expiry

(3) An interim order

(a) takes effect immediately on its being made, unless the order provides otherwise; and

(b) expires not more than 15 days after the date the interim order is made.

Extension of order

(4) If the Superintendent considers it necessary and in the public interest, the Superintendent may, by order made without a hearing, extend the period of time that an interim order remains in effect

(a) for such period as the Superintendent considers necessary; or

(b) until the hearing is concluded and a decision is made.

Notice

(5) If the Superintendent makes an interim order, the Superintendent shall send to any person named in the order,

(a) the interim order and the notice of hearing; and

(b) any order extending the interim order. 2007,c.17,s.61.

Culpability of directors, officers and others

62. (1) If a person, other than an individual, contravenes Prince Edward Island securities laws, whether or not any proceeding has been commenced or any decision has been made with respect to that person under Prince Edward Island securities laws

(a) every director of that person; and

(b) every officer of that person,

who authorized, permitted or acquiesced in the contravention also contravenes Prince Edward Island securities laws.

Culpability of person authorizing contravention

(2) If a person, other than an individual, contravenes Prince Edward Island securities laws, whether or not any proceeding has been commenced or any decision has been made with respect to that person under Prince Edward Island securities laws, every person, other than an officer or director of the person, who authorized, permitted, or acquiesced in the contravention, also contravenes Prince Edward Island securities laws.

Culpability of person inciting contravention

(3) A person who, by an act or omission, incites, counsels, induces, aids or orders another person to contravene Prince Edward Island securities laws, whether or not any proceeding has been commenced or any decision has been made with respect to that contravention, also contravenes Prince Edward Island securities laws. 2007,c.17,s.62.

Investigation and hearing costs

63. (1) After giving an opportunity to be heard, the Superintendent may order a person subject to a hearing to pay, subject to the rules, the costs of the investigation, the hearing and related costs, including the costs incurred in respect of the attendance of any witnesses under Prince Edward Island securities laws, if the Superintendent

(a) is satisfied that the person has contravened or is contravening Prince Edward Island securities laws; or

(b) considers that the person has not acted or is not acting in the public interest.

Investigation costs after conviction

(2) If a person is found guilty of an offence under Prince Edward Island securities laws, the Superintendent may, after giving an opportunity to be heard, order the person to pay, subject to the rules, the

costs of an investigation carried out in relation to the offence including the costs incurred in respect of the attendance of any witnesses under Prince Edward Island securities laws.

Application of rules of court

(3) The rules of court, including any such rules relating to the taxation of costs, do not apply to costs referred to in this section. 2007,c.17,s.63.

Appeals to the Supreme Court

Appeal from Superintendent's decision

64. (1) Subject to subsection (2), a person directly affected by a decision of the Superintendent may appeal the decision to the Court of Appeal.

Where appeal not permitted

(2) No person may appeal to the court

(a) a decision of a delegate of the Superintendent, other than an extra-provincial decision in an appeal under section 65;

(b) an order of the Superintendent to grant an exemption under section 16 or a refusal to grant an exemption;

(c) a decision of the Superintendent under section 80; or

(d) a decision to disclose or not to disclose information collected, received or obtained by the Superintendent or a delegate of the Superintendent under Prince Edward Island securities laws.

Notice of appeal

(3) An appeal under this section must be commenced by notice of appeal filed with the court within 30 days after the day that the Superintendent sends notice of his or her decision to the person appealing the decision.

Copies to Superintendent

(4) A copy of the notice of appeal and supporting documents must be served on the Superintendent within the 30-day period referred to in subsection (3).

Certification

(5) The Superintendent shall certify to the proper officer of the court

(a) the decision that has been reviewed by the Superintendent;

(b) the order of the Superintendent, together with any statement of reasons for it;

(c) the record of the proceedings before the Superintendent; and

(d) all written submissions made to the Superintendent and other material, if any, that is relevant to the appeal.

Practice and procedure

(6) The practice and procedure in the court in respect of an appeal under this section shall be the same as on an appeal from a judgment of the Supreme Court in an action.

Powers on appeal

(7) The court may

(a) confirm, vary or reject the decision of the Superintendent;

(b) direct the Superintendent to rehear the matter; or

(c) make any decision that the Superintendent could have made and substitute its decision for that of the Superintendent.

Respondent

(8) The Superintendent is the respondent to an appeal under this section.

Further decisions

(9) Notwithstanding an order of the court, the Superintendent may make further decisions upon new material or if there is a significant change in circumstances, and every further decision is subject to appeal to the court. 2007,c.17,s.64; 2008,c.20,s.72(83).

delegated authority

65. (1) In this section, "delegated authority" means any extra-provincial authority that is delegated to and accepted by the Superintendent under section 136.

Right of appeal

(2) A person directly affected by a decision of the Superintendent made pursuant to a delegated authority may appeal that decision to the Court of Appeal.

Application of section

(3) Subsections 64(3) to (9) apply to an appeal under this section.

Right of appeal

(4) A person who has a right to appeal a decision under this section may, subject to any direction of the court, exercise that right of appeal whether or not that person has a right to appeal that decision to a court in another jurisdiction.

Stay of appeal

(5) Notwithstanding subsection (4), where a decision referred to in subsection (2) is being appealed to a court in another jurisdiction, the court may stay an appeal under this section pending the determination of the appeal in the other jurisdiction. 2007,c.17,s.65; 2008,c.20,s.72(83).

Appeal from extra-provincial decisions

66. (1) A person directly affected by an extra-provincial decision may appeal the decision to the Court of Appeal.

Notice of Appeal

(2) An appeal under this section must be commenced by a notice of appeal filed with the court within 30 days after the day the extra-provincial securities regulatory authority serves the notice of its decision on the person appealing the decision.

Practice and procedure

(3) The practice and procedure in the court in respect of an appeal under this section shall, with any necessary modification that the court considers appropriate, be the same as on an appeal from a judgment of the Supreme Court in an action.

Powers on appeal

(4) The court may, with respect to an appeal under this section,

(a) make any order or direction that it considers appropriate with respect to the commencement or conduct of any matter relating to the appeal;

(b) confirm, vary or reject the extra-provincial decision; or

(c) make any decision that the extra-provincial securities regulatory authority could have made and substitute the court's decision for that of the extra-provincial securities regulatory authority.

Respondent

(5) The extra-provincial securities regulatory authority is the respondent to an appeal under this section.

Copies of documents

(6) A copy of the notice of appeal and supporting documents must be served on the respondent and the Superintendent within the 30-day period referred to in subsection (2).

Superintendent entitled to appear

(7) Notwithstanding that the Superintendent is not a respondent to an appeal under this section, the Superintendent is entitled to be represented at the appeal and to make representations in respect of any matter before the court related to the appeal.

When decision takes effect

(8) Notwithstanding the commencement of an appeal under this section, the extra-provincial decision being appealed takes effect immediately unless the extra-provincial securities regulatory authority, the Superintendent or the court grants a stay of proceedings pending disposition of the appeal.

Extra-provincial securities regulatory authority

(9) In this section, a reference to an extra-provincial securities regulatory authority is a reference to the extra-provincial securities regulatory authority that made the extra-provincial decision that is being appealed under this section. 2007,c.17,s.66; 2008,c.20,s.72(83).

Supreme Court Declarations and Enforcement

Supreme Court declarations

67. (1) The Superintendent may apply to the Supreme Court for a declaration that a person has contravened or is contravening Prince Edward Island securities laws.

Hearing

(2) The Superintendent is not required, before making the application, to hold a hearing to determine whether the person has contravened or is contravening Prince Edward Island securities laws.

Procedure

(3) On an application under subsection (1), the court may hear the application in such manner, and make such declaration, as it considers appropriate.

Concurrent decisions

(4) On making a declaration under subsection (3) and notwithstanding the imposition of an administrative penalty under clause 60(1)(m) or any order made under section 110 or 164, the court may make any order that it considers appropriate with respect to the person, including, without limitation,

(a) an order that a person produce to the court or an interested person financial statements in the form required by securities law or an accounting in such other form as the court may determine;
(b) an order rectifying the registers or other records of a person;
(c) an order that a person rectify a past contravention of Prince Edward Island securities laws to the extent that rectification is practicable;
(d) an order that a person comply with Prince Edward Island securities laws;
(e) an order that a person purchase securities of a security holder;
(f) an order rescinding any transaction relating to securities;
(g) an order requiring the issuance, cancellation, purchase, exchange or disposition of a security;
(h) an order prohibiting the voting or exercise of any other right attaching to a security;
(i) an order appointing officers and directors in place of or in addition to all or any of the directors and officers of an issuer that is the subject of the application;
(j) an order directing a person to repay to a security holder any part of the money paid by the security holder for a security;
(k) an order requiring a person to compensate or make restitution to an aggrieved person;
(l) an order requiring a person to pay general or punitive damages; or
(m) an order requiring a person to pay to the Government any amounts obtained or losses avoided by reason of the contravention of Prince Edward Island securities laws.

Ex parte

(5) An application under subsection (1) may be made *ex parte*, unless the court otherwise directs. 2007,c.17,s.67; 2008,c.20,s.72(83).

Enforcement of decisions

68. (1) On its filing with the proper officer of the Supreme Court,
(a) a decision made by the Superintendent;
(b) a decision made by a delegate of the Superintendent;
(c) a settlement agreement made between the Superintendent and a person; or
(d) a notice certifying the costs a person is required to pay under section 63,
has the same effect as if it were a judgment of the court.

Collection

(2) When a decision, settlement agreement or notice is filed under subsection (1),
(a) the amount certified in the notice;
(b) any financial penalty imposed in a decision; and
(c) any amount payable to the Superintendent or a delegate of the Superintendent,

may be collected as a judgment of the court for the recovery of debt. 2007,c.17,s.68; 2008,c.20,s.72(83).

PART 7: MARKETPLACES, SELF-REGULATION AND MARKET PARTICIPANTS

Recognized Entities

internal regulating instrument

69. In this Part, "internal regulating instrument" includes, in relation to a recognized entity, a bylaw, rule, regulation, policy, procedure, interpretation or practice of the regulated entity. 2007,c.17,s.69.

Recognition required for exchanges, reporting systems and clearing agencies

70. No person shall carry on business as

(a) an exchange;

(b) a quotation and trade reporting system; or

(c) a clearing agency,

unless that person is recognized by the Superintendent under this Part. 2007,c.17,s.70.

Designation of other entities requiring recognition

71. (1) The Superintendent may, by order, designate, as requiring recognition under this Part,

(a) a self-regulatory organization; or

(b) a person the Superintendent considers should be so designated in the public interest because the person is carrying on a business that is related to or consistent with the purposes of Prince Edward Island securities laws.

Hearing

(2) A person shall not be designated under this section unless the person has been given an opportunity to be heard.

Carrying on business

(3) No person who is designated as requiring recognition under subsection (1) shall carry on the business in respect of which the person is designated unless that person is recognized by the Superintendent. 2007,c.17,s.71.

Recognition orders

72. On application by

(a) an exchange;

(b) a quotation and trade reporting system;

(c) a clearing agency; or

(d) a person designated as requiring recognition under this Part,

the Superintendent may, by order, recognize the applicant if the Superintendent considers that it would be in the public interest to do so. 2007,c.17,s.72.

Voluntary surrender of recognition

73. On application by a recognized entity, the Superintendent may accept the voluntary surrender of recognition of the recognized entity if

the Superintendent considers that the surrender is not prejudicial to the public interest. 2007,c.17,s.73.

Authority, Duties and Supervision of Recognized Entities

Powers of recognized entities

74. (1) A recognized entity shall regulate its participants or the participants of another recognized entity and each of their employees, agents or subscribers in accordance with the internal regulating instruments of the recognized entity, or of the other recognized entity, as amended from time to time.

Scope of authority to regulate

(2) The authority of a recognized entity to regulate its participants or the participants of another recognized entity extends to

(a) its former participants or the former participants of the other recognized entity;

(b) former employees, agents or subscribers of its participants and former participants; or

(c) former employees, agents or subscribers of participants or former participants of the other recognized entity,

with respect to the person's activities while a participant, or employee, agent or subscriber of a participant or former participant, of the recognized entity or the other recognized entity.

Consistency with securities laws

(3) The internal regulating instruments of a recognized entity shall be consistent with Prince Edward Island securities laws, but the recognized entity may impose additional requirements within its jurisdiction. 2007,c.17,s.74.

Delegation

75. (1) The Superintendent may delegate to a recognized entity any of his or her powers, functions or duties

(a) under Part 8 or under rules relating to registration or registrants; or

(b) under rules relating to the regulation and oversight of auditors of reporting issuers.

Subdelegation

(2) A recognized entity may, with the prior approval of the Superintendent, subdelegate any of the powers, functions or duties received by it from the Superintendent under subsection (1).

Decision

(3) A decision of a delegate of a recognized entity made under any of the powers, functions or duties received by it from the recognized entity under subsection (2) is deemed to be a decision of the recognized entity unless the internal regulating instruments of the recognized entity provide otherwise.

(4) The Superintendent may continue to exercise any power, function or duty delegated by the Superintendent to a recognized entity. Continued exercise of powers

(5) A recognized entity may impose terms, conditions, restrictions or requirements on a decision of the recognized entity made in the exercise of any power, function or duty delegated to it by the Superintendent. Terms and conditions

(6) A recognized entity may revoke or vary a decision of the recognized entity made in the exercise of any power, function or duty delegated to it by the Superintendent, and may impose new terms, conditions, restrictions or requirements on the decision. 2007,c.17,s.75. Revocation and variation

76. The Superintendent may, by order, authorize a recognized entity to Authorizations

(a) exercise authority under section 77;

(b) make an application under subsection 78(1) for the appointment of a receiver, receiver-manager, trustee or liquidator;

(c) file a decision of the recognized entity with the Supreme Court under subsection 83(1); and

(d) file a settlement agreement with the Supreme Court under subsection 83(2). 2007,c.17,s.76.

77. The following apply in respect of a hearing of a recognized entity that is empowered under its internal regulating instruments to conduct hearings and is authorized to do so by an order made under clause 76(a): Attendance of witnesses and giving evidence

(a) the person conducting the hearing has the same power as is vested in the Supreme Court for the trial of civil actions

(i) to summon and enforce the attendance of witnesses,

(ii) to compel witnesses to give evidence under oath or otherwise, and

(iii) to compel witnesses to produce records, property and things;

(b) the failure or refusal of a person summoned to attend the hearing, answer questions, or produce records, property or things that are in the person's custody or possession, or under their direct or indirect control, makes that person, on application to the Supreme Court of the person conducting the hearing, liable to be committed for contempt by the court;

(c) the person conducting the hearing may take evidence under oath;

(d) the person conducting the hearing or a person authorized by that person may administer oaths for the purpose of taking evidence;

(e) the recognized entity may, on behalf of the person conducting a hearing,

(i) summon and enforce the attendance of witnesses, and

(ii) make applications to the court under clause (b). 2007,c.17,s.77; 2008,c.20,s.72(83).

78. (1) A recognized entity that is authorized to do so by an order made under clause 76(b) may apply to the Supreme Court for the appointment Appointment to manage affairs

of a receiver, receiver-manager, trustee or liquidator for all or part of the undertaking and affairs of a participant of that recognized entity.

Criteria for appointment

(2) On an application under subsection (1), the court may by order appoint a receiver, receiver-manager, trustee or liquidator if the court is satisfied that the appointment is in the best interests of

(a) the recognized entity;

(b) the public;

(c) those persons whose property is in the possession or under the control of the participant;

(d) security holders or partners of the participant;

(e) subscribers or clients of the participant; or

(f) creditors of the participant.

Ex parte application

(3) An application under subsection (1) may be made *ex parte* if the court considers it appropriate to do so in the circumstances. 2007,c.17,s.78; 2008,c.20,s.72(83).

Collection, use and disclosure of personal information

79. A recognized entity may, with respect to any personal information referred to, dealt with or governed under the *Personal Information Protection and Electronic Documents Act* (Canada), collect that information, whether directly from the individual, through a registrant or participant, or by some other method, and may use and disclose that information for the purpose of

(a) the suppression of fraud, market manipulation or unfair trading practices;

(b) an investigation

(i) of a contravention of rules, policies or other similar instruments of the recognized entity, or

(ii) of fraud, market manipulation or unfair trading practices; or

(c) an investigation, inspection or review of auditors of reporting issuers. 2007,c.17,s.79.

Supervision of recognized entities

80. If the Superintendent considers it in the public interest, the Superintendent may make any decision with respect to the following matters:

(a) a rule, policy or other similar instrument of a recognized entity;

(b) the procedures, practices, operations and interpretations of a recognized entity;

(c) the manner in which a recognized entity carries on business;

(d) the trading of securities on or through the facilities of a recognized entity;

(e) a security listed or quoted on a recognized entity;

(f) issuers whose securities are listed or quoted on a recognized entity to ensure that they comply with Prince Edward Island securities laws;

(g) a security cleared through a recognized entity. 2007,c.17,s.80.

decision

81. (1) In this section and in sections 82 and 83, "decision" means, in relation to a recognized entity,

(a) a decision, order, ruling or direction of the recognized entity made under the internal regulating instruments of the recognized entity;

(b) a decision of the recognized entity made under a power, function or duty delegated to the recognized entity by the Superintendent; and

(c) a decision of a delegate of a recognized entity that is deemed to be a decision of the recognized entity by subsection 75(3).

Review requested by person directly affected, notice

(2) A person who is directly affected by a decision of a recognized entity, or by the administration of such a decision, may request and is entitled to a review of the decision by the Superintendent by giving notice of the person's intention to do so to

(a) the recognized entity that made the decision; and

(b) the Superintendent,

within 30 days after the date the person was sent notice of the decision.

Review initiated by Superintendent, notice

(3) The Superintendent may, on his or her own initiative, review a decision of a recognized entity by giving notice of the Superintendent's intention to do so to

(a) the recognized entity that made the decision;

(b) any person directly affected by the decision; and

(c) any person affected by the administration of the decision,

within 30 days after the date the Superintendent was informed of the decision.

Review requested by recognized entity, notice

(4) Subject to the internal regulating instruments of a recognized entity, the recognized entity may, on its own initiative, request and is entitled to a review by the Superintendent of a decision of a delegate of the recognized entity, by giving notice of the recognized entity's intention to do so to

(a) the delegate of the recognized entity who made the decision;

(b) the Superintendent; and

(c) any person directly affected by the decision,

within 30 days after the date the recognized entity was informed of the decision by its delegate.

Party to review

(5) The recognized entity is a party to any review of a decision of the recognized entity that is conducted by the Superintendent under this section.

Nature and extent of review

(6) The Superintendent may decide the nature and extent of any review to be conducted by him or her under this section, and may conduct it as

(a) a partial or full hearing or rehearing of the matter subject to review; or

(b) a documents-only review.

Decision after review

(7) After a review, the Superintendent may confirm, vary or revoke the decision reviewed, and in doing so may make any decision the recognized entity or its delegate could have made acting under

(a) the power, function or duty delegated to the recognized entity by the Superintendent; or

(b) the internal regulating instruments of the recognized entity. 2007,c.17,s.81.

When decisions take effect

82. A decision of a recognized entity takes effect immediately notwithstanding a request for a review or the giving of notice by the Superintendent of the intention to conduct a review, unless the recognized entity or the Superintendent suspends the decision pending the review. 2007,c.17,s.82.

Filing with the Supreme Court

83. (1) A recognized entity may file a copy of a decision it makes with the Supreme Court if

(a) the recognized entity is authorized to do so by an order made under clause 76(c);

(b) the decision was made following a hearing; and

(c) the time for requesting a review of the decision has expired.

Settlement agreement

(2) A recognized entity may file a copy of a settlement agreement between it and a person with the Supreme Court if the recognized entity is authorized to do so by an order made under clause 76(d).

Effect

(3) A decision or settlement agreement filed with the court under this section has the same effect as if it were a judgment of that court.

Collection

(4) Where a decision or settlement agreement is filed under subsection (1),

(a) any financial penalty imposed in a decision; and

(b) any amount payable to a recognized entity or its delegate,

may be collected as a judgment of the court for the recovery of debt. 2007,c.17,s.83; 2008,c.20,s.72(83).

Market Participants

Records

84. (1) Every market participant shall

(a) keep records necessary to properly record its business and financial affairs and the transactions that it executes on behalf of itself and others; and

(b) keep such other records as are required by Prince Edward Island securities laws.

Communication and records to Superintendent

(2) When required by the Superintendent, a market participant shall provide to the Superintendent

(a) any of the records that are required to be kept by the market participant; and

(b) any communication made or record provided by the market participant to an extra-provincial securities regulatory authority, recognized entity, government or governmental or financial regulatory authority in a Canadian jurisdiction or in a foreign jurisdiction, unless prohibited by law from doing so. 2007,c.17,s.84.

Review of market participants

85. (1) The Superintendent may conduct a review of the records, activities, business and conduct of a market participant to determine whether

(a) the market participant is complying with Prince Edward Island securities laws; or

(b) the market participant is, if it is a recognized entity, enforcing and administering its internal regulating instruments or the internal regulating instruments of another recognized entity.

Appointment of reviewer

(2) For the purposes of subsection (1), the Superintendent may, in writing, appoint another person to conduct the review.

Powers of entry and examination

(3) The person conducting a review under this section may

(a) enter the business premises of a market participant during business hours;

(b) examine the market participant's records, property or things;

(c) make inquiries of the market participant, or of persons who are employed or engaged by or that have entered into an agency relationship with the market participant, concerning the market participant's activities, business and conduct;

(d) require the market participant to provide information about the market participant's activities, business and conduct;

(e) require the market participant to produce any record, property or thing;

(f) copy records of the market participant; and

(g) on giving a receipt, remove records for the purpose of copying them at other premises.

Return of records

(4) Records removed for copying shall be promptly returned to the person from whom they were received.

Prohibition

(5) No person who is the subject of a review under this section shall withhold, destroy, conceal or refuse to give any information, records, property or things reasonably required for the purpose of the review.

Fees or charges

(6) After giving an opportunity to be heard, the Superintendent may require a market participant that is the subject of a review under this

section to pay prescribed fees or prescribed charges for the cost of the review.

Act prevails

(7) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, information and records obtained under this section are exempt from disclosure under that Act if the Superintendent determines that the information and records should be kept confidential. 2007,c.17,s.85.

PART 8: REGISTRATION

Dealers or advisers

86. (1) No person shall

(a) act as a dealer unless the person is registered as a dealer, or is registered as a representative of a registered dealer and is acting on behalf of the dealer; or

(b) act as an adviser unless the person is registered as an adviser, or is registered as a representative of a registered adviser and is acting on behalf of the adviser,

and the registration has been made in accordance with Prince Edward Island securities laws.

Underwriters

(2) No person shall act as an underwriter unless the person is registered as a dealer in accordance with Prince Edward Island securities laws.

Investment fund managers

(3) No person shall act as an investment fund manager unless the person is registered as an investment fund manager in accordance with Prince Edward Island securities laws or is acting on behalf of a registered investment fund manager. 2007,c.17,s.86.

Individuals performing prescribed functions for dealers or advisers

87. (1) A person required to be registered as a dealer or adviser shall appoint an individual to perform on the person's behalf a prescribed function or duty.

Registration requirement

(2) An individual appointed under subsection (1) shall be registered in accordance with Prince Edward Island securities laws.

Individuals performing prescribed functions for investment fund managers

(3) A person required to be registered as an investment fund manager shall appoint an individual to perform on the person's behalf a prescribed function or duty.

Registration requirement

(4) An individual appointed under subsection (3) shall be registered in accordance with Prince Edward Island securities laws. 2007,c.17,s.87.

Applications

88. (1) An application under this Part for registration, or for the reinstatement or amendment of a registration, shall be made to the Superintendent in accordance with the rules.

Further information and examination

(2) The Superintendent may, at any time, require

(a) an applicant or registrant to submit such information or materials, in addition to that required by the rules, within such time as the Superintendent considers appropriate; and

(b) an applicant or registrant, as the case may be, or any partner, officer, director, or any person performing a like function for, or any employee of, the applicant or registrant, to submit to an examination taken under oath. 2007,c.17,s.88.

Registration

89. (1) The Superintendent shall grant to an applicant the registration, reinstatement of registration or amendment of registration applied for, unless it appears to the Superintendent that

(a) the 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.

Imposition of terms and conditions

(2) The Superintendent may, at any time, impose terms, conditions, restrictions or requirements on a registration, including limiting the duration of the registration.

Opportunity to be heard

(3) The Superintendent shall not, without giving the applicant or registrant, as the case may be, an opportunity to be heard,

(a) refuse to grant, reinstate or amend a registration; or

(b) impose terms, conditions, restrictions or requirements on a registration.

Compliance with terms and conditions

(4) A registrant shall comply with any terms, conditions, restrictions or requirements that are imposed on the registrant's registration. 2007,c.17,s.89.

Duty of care of registrants

90. (1) A registrant shall deal fairly, honestly and in good faith with his, her or its clients.

Duty of care of investment fund managers

(2) Every investment fund manager shall

(a) exercise the powers and discharge the duties of his, her or 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. 2007,c.17,s.90.

Surrender of registration

91. (1) If a registrant applies to surrender his, her or its registration, the Superintendent shall accept the surrender unless the Superintendent considers it prejudicial to the public interest to do so.

Suspension or terms and conditions

(2) On receiving an application referred to in subsection (1), the Superintendent may, without giving the applicant an opportunity to be heard, suspend the registration or impose terms, conditions, restrictions or requirements on the registration. 2007,c.17,s.91.

Suspension or termination of registration

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

Opportunity to be heard

(2) The Superintendent shall not suspend or terminate a registration under subsection (1) without giving the registrant an opportunity to be heard. 2007,c.17,s.92.

Automatic suspension on termination of employment or engagement

93. (1) If a registered individual ceases to be authorized to act on behalf of a registrant, the registration of the individual is suspended until it is transferred, reinstated or terminated in accordance with the rules.

Non-payment of fees

(2) If a fee that is required by Prince Edward Island securities laws to be paid by or on behalf of a registrant is not paid by the date by which the fee must be paid, the registrant's registration is suspended until

(a) the registration is terminated in accordance with the rules; or

(b) the fee is paid and the registration is reinstated in accordance with the rules. 2007,c.17,s.93.

PART 9: PROSPECTUS REQUIREMENTS

Prospectus required

94. No person shall distribute a security, either on the person's own behalf or on behalf of another person, unless

(a) a preliminary prospectus and a prospectus relating to the security have been filed and the Superintendent has issued a receipt for the preliminary prospectus and the prospectus; or

(b) the person or the distribution complies with a prescribed process. 2007,c.17,s.94.

Filing prospectus without distribution

95. Even though no distribution of a security is contemplated, a person may file a preliminary prospectus and a prospectus, in the specified form and with the prescribed contents,

(a) for the purpose of enabling the issuer to become a reporting issuer; or

(b) for a prescribed purpose. 2007,c.17,s.95.

Preliminary prospectus contents

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

Permitted omissions

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

(a) the price to the underwriter;

(b) the offering price of any securities; or

(c) matters dependent on or relating to those prices,

may be omitted from a preliminary prospectus.

Receipt

(3) The Superintendent shall promptly issue a receipt for a preliminary prospectus on the filing of the preliminary prospectus. 2007,c.17,s.96.

Waiting period

97. During the period of time between the issuance of a receipt for a preliminary prospectus and the issuance of a receipt for a prospectus, a person may

(a) communicate with any other person identifying the security proposed to be issued, stating the price of the security if it is then determined, stating the name and address of a person from whom purchases of the security may be made, and stating any further information as may be permitted or required by the rules, if every such communication states the name and address of a person from whom a preliminary prospectus may be obtained;

(b) distribute a preliminary prospectus; and

(c) solicit expressions of interest from a prospective purchaser if, prior to the solicitation or promptly after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to the prospective purchaser. 2007,c.17,s.97.

Defective preliminary prospectus

98. (1) If the Superintendent considers that a preliminary prospectus does not contain the prescribed information, the Superintendent may, without giving prior notice, order that the trading permitted under section 97 in the security to which the preliminary prospectus relates cease.

Duration of order

(2) An order made under subsection (1) remains in force until a revised preliminary prospectus, satisfactory to the Superintendent,

(a) is filed with the Superintendent; and

(b) is sent to every recipient of the defective preliminary prospectus recorded as a recipient in accordance with the rules. 2007,c.17,s.98.

Prospectus

99. (1) A prospectus shall

(a) provide full, true and plain disclosure of all material facts relating to the securities issued or proposed to be distributed; and

(b) otherwise comply with the requirements of Prince Edward Island securities laws.

Supplemental material

(2) The prospectus shall contain or be accompanied by financial statements, reports or other documents in accordance with Prince Edward Island securities laws. 2007,c.17,s.99.

Receipt for prospectus

100. (1) Subject to subsection (2) and except as otherwise prescribed, the Superintendent shall issue a receipt for a prospectus filed under this Part, unless the Superintendent considers that it is not in the public interest to do so.

Where receipt not to be issued

(2) The Superintendent shall not issue a receipt for a prospectus filed under this Part if the Superintendent considers that

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

(i) does not comply in any substantial respect with any of the requirements of this Part or the rules,

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

(iii) contains a misrepresentation;

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

(c) the aggregate of the proceeds from the sale of the securities under the prospectus that are to be paid into the treasury of the issuer and 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 has prepared or certified any part of the prospectus, or who 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 Superintendent considers necessary or advisable with respect to the securities has not been entered into; or

(h) adequate arrangements have not been made for the holding in trust of the proceeds payable to the issuer from the sale of securities pending the distribution of the securities.

Hearing

(3) The Superintendent shall not refuse to issue a receipt for a prospectus filed under this Part without giving the person who filed the prospectus an opportunity to be heard. 2007,c.17,s.100.

Obligation to deliver prospectus

101. (1) A dealer or other person, not acting as agent of the purchaser of a security, who receives an order or subscription for a security offered in a distribution to which section 94 applies shall, unless the dealer or other person has previously done so, send to the purchaser the latest prospectus

filed or required to be filed under this Act or the rules in relation to the security and any amendment to the prospectus filed or required to be filed under this Act or the rules

(a) before entering into an agreement of purchase and sale resulting from the order or subscription; or

(b) not later than midnight on the second business day after entering into the agreement.

Withdrawal from purchase

(2) An agreement of purchase and sale referred to in subsection (1) is not binding on the purchaser if the dealer or other person from whom the purchaser purchases the security receives written notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second business day after receipt by the purchaser of the latest prospectus and any amendment to the prospectus.

Exception from withdrawal right

(3) Subsection (2) does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in subsection (2), otherwise than to secure indebtedness, before the expiration of the time referred to in subsection (2).

Withdrawal right of beneficial owner

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

Purchaser to advise beneficial owner

(5) A purchaser referred to in subsection (2) who is not the beneficial owner of the security shall advise the person who is the beneficial owner of the security of the provisions of subsections (2) and (4).

Exception from obligation to advise

(6) Subsection (5) only applies if the purchaser knows the name and address of the beneficial owner of the security.

Receipt of prospectus by agent

(7) For the purposes of this section, receipt of the latest prospectus and any amendment to the prospectus by a dealer or other person who is acting as agent of or who after receipt commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection (1) is deemed to be receipt by the purchaser as of the date on which the agent received the latest prospectus and any amendment to the prospectus.

Receipt of notice by agent

(8) For the purposes of this section, receipt of the notice referred to in subsection (2) by a dealer or other person who acted as agent of the vendor with respect to the sale of the security referred to in subsection (1) is deemed to be receipt by the vendor as of the date on which the agent received the notice.

Dealer as agent

(9) For the purposes of this section, a dealer or other person shall not be considered to be acting as agent of the purchaser unless the dealer or other person is acting solely as agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.

Onus of proof

(10) The onus of proving that the time for giving notice under subsection (2) has expired is on the dealer or other person from whom the purchaser has agreed to purchase the security. 2007,c.17,s.101.

PART 10: CONTINUOUS DISCLOSURE

Disclosure obligation for reporting issuers

102. A reporting issuer shall, in accordance with the rules,

(a) provide periodic disclosure about its business and affairs;

(b) provide timely disclosure of a material change; and

(c) provide other prescribed disclosure. 2007,c.17,s.102.

Disclosure obligation for other issuers

103. Not proclaimed. 2007,c.17,s.103.

PART 11: INSIDER REPORTING AND EARLY WARNING

reporting issuer

104. (1) In this section, "reporting issuer" does not include a mutual fund.

Filing and disclosure requirements

(2) An insider of a reporting issuer shall file reports and make disclosure in accordance with the rules. 2007,c.17,s.104.

Early warning

105. If a person acquires beneficial ownership of, or direct or indirect control or direction over, securities of a prescribed type or class of a reporting issuer representing a prescribed percentage of the outstanding securities of that type or class, the person and any person acting jointly or in concert with the person shall make and file disclosure in accordance with the rules and comply with any prohibitions in the rules on transactions in securities of the reporting issuer. 2007,c.17,s.105.

PART 12: TAKE-OVER BIDS AND ISSUER BIDS

Definitions

106. In this Part,

interested person

(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 Superintendent, and

(v) any person not referred to in subclauses (i) to (iv) who, in the opinion of the Superintendent or the court, as the case may be, is a proper person to make an application under section 109 or 110;

issuer bid

(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;

take-over bid

(c) "take-over bid" means a direct or indirect offer to acquire a security that is

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

(ii) within a prescribed class of offers to acquire. 2007,c.17,s.106.

Making of bid

107. A person shall not make a take-over bid or issuer bid, whether acting alone or jointly or in concert with one or more persons, except in accordance with the rules. 2007,c.17,s.107.

Directors' recommendation

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

(a) determine whether to recommend acceptance or rejection of the bid or determine not to make a recommendation; and

(b) make the recommendation, or a statement that they are not making a recommendation, in accordance with the rules.

Individual's recommendations

(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 rules. 2007,c.17,s.108.

Order by Superintendent for contraventions

109. On application by an interested person, the Superintendent may, if he or she considers that a person has not complied or is not complying with this Part or the rules relating to take-over bids and issuer bids, make an order

(a) restraining the distribution of any record used or issued in connection with a take-over bid or issuer bid;

(b) requiring an amendment to or variation of any record used or issued in connection with a take-over bid or issuer bid and requiring the distribution of amended, varied or corrected information;

(c) directing any person to comply with this Part or the rules relating to take-over bids and issuer bids;

(d) restraining any person from contravening this Part or the rules relating to take-over bids and issuer bids; or

(e) directing the directors and officers of any person to cause the person to comply with or to cease contravening this Part or the rules relating to take-over bids and issuer bids. 2007,c.17,s.109.

Applications to the Supreme Court

110. (1) The Supreme Court, on application by an interested person, may, if it is satisfied that a person has not complied with this Part or the rules relating to take-over bids and issuer bids, make such interim or final order as it considers appropriate, including, without limitation, an order

(a) compensating any interested person who is a party to the application for damages suffered as a result of a contravention of this Part or the rules relating to take-over bids and issuer bids;

(b) rescinding a transaction with any interested person, including the issue of a security or an acquisition and sale of a security;

(c) requiring any person to dispose of any securities acquired pursuant to or in connection with a take-over bid or an issuer bid;

(d) prohibiting any person from exercising any or all of the voting rights attaching to any securities; and

(e) requiring the trial of an issue.

Notice to Superintendent

(2) If the Superintendent is not the applicant under subsection (1),

(a) the applicant shall give the Superintendent notice of the application; and

(b) the Superintendent is entitled to appear at the hearing of the application and may make representations to the court. 2007,c.17,s.110; 2008,c.20,s.72(83).

PART 13: CIVIL LIABILITY – GENERAL

Right of action for damages for misrepresentation in prospectus

111. (1) If a prospectus contains a misrepresentation, a person who purchases a security offered by the prospectus during the period of distribution has, without regard to whether the purchaser relied on the misrepresentation, a right of action for damages against

(a) the issuer or a selling security holder on whose behalf the distribution is made;

(b) every underwriter of the securities that is in a contractual relationship with the issuer or selling security holder on whose behalf the distribution is made;

(c) every director of the issuer at the time the prospectus was filed;

(d) every person whose consent to disclosure of information in the prospectus has been filed but only with respect to reports, statements or opinions that have been made by them;

(e) every person who signed the prospectus, other than the persons included in clauses (a) to (d); and

(f) any other prescribed person.

Right of action for rescission

(2) If a prospectus contains a misrepresentation, a person who purchases a security offered by the prospectus during the period of distribution has, without regard to whether the purchaser relied on the misrepresentation, a right of action for rescission against

(a) the issuer or a selling security holder on whose behalf the distribution is made;

(b) every underwriter of the securities that is in a contractual relationship with the issuer or selling security holder on whose behalf the distribution is made; and

(c) any other underwriter of the securities.

Election

(3) If the purchaser elects to exercise a right of action for rescission against a person, the purchaser shall have no right of action for damages against that person.

Defence if purchaser has knowledge of misrepresentation

(4) A person is not liable under subsection (1) or (2) if the person proves that the purchaser purchased the securities with knowledge of the misrepresentation.

Defences if prospectus filed without knowledge, consent, belief

(5) A person, other than the issuer or a selling security holder, is not liable under subsection (1) or (2) if the person proves that

(a) the prospectus was filed without the person's knowledge or consent and that, on becoming aware of its filing, the person had promptly given reasonable general notice that it had been so filed;

(b) after the issue of a receipt for the prospectus and before the purchase of the securities by the purchaser, on becoming aware of any misrepresentation in the prospectus, the person had withdrawn the person's consent to it and had given reasonable general notice of the withdrawal and the reason for it;

(c) with respect to any part of the prospectus purporting to be made on the authority of an expert or purporting to be a copy of, or an extract from, a report, statement or opinion of an expert the person had no reasonable grounds to believe and did not believe that

(i) there had been a misrepresentation,

(ii) the relevant part of the prospectus did not fairly represent the report, statement or opinion of the expert, or

(iii) the relevant part of the prospectus was not a fair copy of, or an extract from, the report, statement or opinion of the expert;

(d) with respect to any part of the prospectus purporting to be made on the person's own authority as an expert or purporting to be a copy of, or an extract from, the person's own report, statement or opinion as an expert, but that contains a misrepresentation attributable to failure to fairly represent the person's report, statement or opinion as an expert,

(i) the person had, after reasonable investigation, reasonable grounds to believe and did believe that the relevant part of the prospectus fairly represented the person's report, statement or opinion as an expert, or

(ii) on becoming aware that the relevant part of the prospectus did not fairly represent the person's report, statement or opinion as an expert, the person had promptly given written notice to the Superintendent and given reasonable general notice that the person's report, statement or opinion was not fairly represented and that the person would not be responsible for that part of the prospectus; or

(e) with respect to a false statement purporting to be a statement made by an official person or contained in what purports to be a copy of, or an extract from, a public official document,

(i) it was a correct and fair representation of the statement or copy of, or an extract from, the document, and

(ii) the person had reasonable grounds to believe and did believe that the statement was true.

Defence for expert material

(6) A person, other than the issuer or a selling security holder, is not liable under subsection (1) or (2) with respect to any part of the prospectus purporting to be made on the person's own authority as an expert or purporting to be a copy of, or an extract from, the person's own report, statement or opinion as an expert, unless the person

(a) failed to conduct a reasonable investigation to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed that there had been a misrepresentation.

Defence for other material

(7) A person, other than the issuer or a selling security holder, is not liable under subsection (1) or (2) with respect to any part of the prospectus not purporting to be made on the authority of an expert and not purporting to be a copy of, or an extract from, a report, statement, or opinion of an expert, unless the person

(a) failed to conduct a reasonable investigation to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed that there had been a misrepresentation.

Defence for forward-looking information

(8) A person is not liable under subsection (1) or (2) with respect to a misrepresentation in forward-looking information if

(a) the prospectus containing the forward-looking information also contains, proximate to the forward-looking 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; and

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

Liability for forward-looking information

(9) Subsection (8) does not relieve a person of liability respecting forward-looking information in a financial statement required to be filed under Prince Edward Island securities laws or forward-looking information in a prospectus filed in connection with an initial public offering.

Limits on liability of underwriter

(10) An underwriter is not liable for more than the total public offering price represented by the portion of the distribution underwritten by the underwriter.

Limits on liability for damages

(11) In an action for damages under subsection (1), the defendant is not liable for any damages that the defendant proves do not represent the depreciation in value of the security resulting from the misrepresentation.

Joint and several liability

(12) All or any one or more of the persons specified in subsection (1) who are found to be liable or who accept liability under this section are jointly and severally liable.

Contributions

(13) A defendant who is found liable to pay a sum in damages may recover a contribution, in whole or in part, from a person who is jointly and severally liable under this section to make the same payment in the same cause of action unless, in all the circumstances, the court is satisfied that it would not be just and equitable.

Limits on amount recoverable

(14) The amount recoverable by a plaintiff under this section shall not exceed the price at which the securities purchased by the plaintiff were offered to the public.

Rights not in derogation

(15) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the purchaser may have at law.

Records incorporated by reference

(16) If a misrepresentation is contained in a record incorporated by reference in, or deemed to be incorporated into, a prospectus, the misrepresentation is deemed to be contained in the prospectus. 2007,c.17,s.111.

Right of action for damages for misrepresentation in offering memorandum

112. (1) If an offering memorandum contains a misrepresentation, a purchaser who purchases a security offered by the offering memorandum during the period of distribution has, without regard to whether the purchaser relied on the misrepresentation, a right of action for damages against

(a) the issuer;

(b) the selling security holder on whose behalf the distribution is made;

(c) every director of the issuer at the date of the offering memorandum; and

(d) every person who signed the offering memorandum.

Right of action for rescission

(2) If an offering memorandum contains a misrepresentation, a purchaser who purchases a security offered by the offering memorandum during the period of distribution has a right of action for rescission against the issuer or the selling security holder on whose behalf the distribution is made.

Election

(3) If the purchaser elects to exercise a right of action for rescission, the purchaser shall have no right of action for damages against a person referred to in clauses (1)(a) to (d).

Defence if purchaser has knowledge of misrepresentation

(4) A person is not liable under subsection (1) or (2) if the person proves that the purchaser purchased the securities with knowledge of the misrepresentation.

Defences if offering memorandum sent without knowledge, consent, belief

(5) A person, other than the issuer and selling security holder, is not liable under subsection (1) if the person proves that

(a) the offering memorandum was sent to the purchaser without the person's knowledge or consent and that, on becoming aware of its being sent, the person had promptly given reasonable notice to the issuer that it had been sent without the knowledge and consent of the person;

(b) the person, on becoming aware of the misrepresentation in the offering memorandum, had withdrawn the person's consent to the offering memorandum and had given reasonable notice to the issuer of the withdrawal and the reason for it; or

(c) with respect to any part of the offering memorandum purporting to be made on the authority of an expert or purporting to be a copy of, or an extract from, a report, statement or opinion of an expert, the person had no reasonable grounds to believe and did not believe that

(i) there had been a misrepresentation, or

(ii) the relevant part of the offering memorandum

(A) did not fairly represent the report, statement or opinion of the expert, or

(B) was not a fair copy of, or an extract from, the report, statement or opinion of the expert.

Defence for other material

(6) A person, other than the issuer and selling security holder, is not liable under subsection (1) with respect to any part of an offering memorandum not purporting to be made on the authority of an expert and not purporting to be a copy of, or an extract from, a report, statement or opinion of an expert, unless the person

(a) failed to conduct a reasonable investigation to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed that there had been a misrepresentation.

Defence for forward-looking information

(7) A person is not liable under subsection (1) or (2) with respect to a misrepresentation in forward-looking information if,

(a) the offering memorandum containing the forward-looking information also contains, proximate to the forward-looking 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; and

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

Liability for forward-looking material

(8) Subsection (7) does not relieve a person of liability respecting forward looking information in a financial statement required to be filed under Prince Edward Island securities laws.

Limits on liability for damages

(9) In an action for damages under subsection (1), the defendant is not liable for any damages that the defendant proves do not represent the depreciation in value of the security resulting from the misrepresentation.

Joint and several liability

(10) All or any one or more of the persons specified in subsection (1) who are found to be liable or who accept liability under this section are jointly and severally liable.

Defence if no proceeds

(11) Notwithstanding subsection (10), an issuer, and every director of the issuer at the date of the offering memorandum who is not a selling security holder, is not liable if the issuer does not receive any proceeds from the distribution of the securities and the misrepresentation was not based on information provided by the issuer, unless the misrepresentation

(a) was based on information previously publicly disclosed by the issuer;

(b) was a misrepresentation at the time of its previous public disclosure; and

(c) was not subsequently publicly corrected or superseded by the issuer before completion of the distribution of the securities being distributed.

Contributions

(12) A defendant who is found liable to pay a sum in damages may recover a contribution, in whole or in part, from a person who is jointly and severally liable under this section to make the same payment in the same cause of action unless, in all the circumstances, the court is satisfied that it would not be just and equitable.

Limits on amount recoverable

(13) The amount recoverable by a plaintiff under this section must not exceed the price at which the securities purchased by the plaintiff were offered.

Rights not in derogation

(14) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the purchaser may have at law.

Records incorporated by reference

(15) If a misrepresentation is contained in a record incorporated by reference in, or deemed to be incorporated into, an offering memorandum, the misrepresentation is deemed to be contained in the offering memorandum. 2007,c.17,s.112.

Withdrawal from a purchase under an offering memorandum

113. A purchaser of a security to whom an offering memorandum is required to be sent may cancel the contract to purchase the security by sending written notice to the issuer by midnight on the second business day after the purchaser signs the agreement to purchase the securities. 2007,c.17,s.113.

Rights of action for rescission or damages for misrepresentation in take-over bid circular, issuer bid circular

114. (1) If a take-over bid circular, issuer bid circular, notice of change or notice of variation sent to the holder of securities of an offeree issuer or to the holders of securities convertible into securities of an offeree issuer under Prince Edward Island securities laws contains a misrepresentation, a person to whom the circular or notice was sent has, without regard to whether the person relied on the misrepresentation, a right of action for

(a) damages against

(i) every person who was a director of the offeror at the time the circular or notice was signed,

(ii) every person, other than one referred to in clause (i), who signed the certificate in the circular or notice, as the case may be,

(iii) every person whose consent in respect of the circular or notice has been filed under a requirement of the rules, but only

with respect to reports, statements or opinions that have been made by the person, and

(iv) the offeror; or

(b) rescission against the offeror.

Election

(2) If the person to whom the circular or notice was sent elects to exercise a right of action for rescission, the person shall have no right of action for damages against a person referred to in clause (1)(a).

Rights of action for damages for misrepresentation in director or officer circular

(3) If a director's circular or an individual director's or officer's circular or a notice of change in respect of one of those circulars sent under Prince Edward Island securities laws contains a misrepresentation, a person to whom the circular or notice was sent has, without regard to whether the person relied on the misrepresentation,

(a) a right of action for damages against, in respect of a misrepresentation in a directors' circular or a notice of change to it,

(i) every officer of the offeror who signed the circular or notice,

(ii) every person who was a director of the offeror at the time the circular or notice was signed, if the board of directors approved the circular or notice, and

(iii) every person whose consent in respect of the circular or notice has been filed under a requirement of the rules, but only with respect to reports, statements or opinions that have been made by them; and

(b) a right of action for damages against, in respect of a misrepresentation in an individual director's or officer's circular or a notice of change to it,

(i) every director or officer of the offeror who signed the circular or notice, and

(ii) every person whose consent in respect of the circular or notice has been filed under a requirement of the rules, but only with respect to reports, statements or opinions that have been made by them.

Defence if purchaser has knowledge of misrepresentation

(4) A person is not liable under subsection (1) or (3) if the person proves that the person exercising the right of action had knowledge of the misrepresentation.

Defences if circular sent without knowledge, consent, belief or if filed document

(5) A person, other than the offeror, is not liable under subsection (1) or (3) if the person proves that

(a) the circular or notice was sent without the person's knowledge or consent and that, on becoming aware of that fact, the person had promptly given reasonable general notice that it was so sent;

(b) after the sending of the circular or notice and on becoming aware of any misrepresentation in the circular or notice, the person

had withdrawn the person's consent to it and given reasonable general notice of the withdrawal and the reason for it;

(c) with respect to any part of the circular or notice purporting to be made on the authority of an expert or to be a copy of, or an extract from, a report, statement or opinion of an expert, the person had no reasonable grounds to believe and did not believe that

(i) there had been a misrepresentation, or

(ii) the relevant part of the circular or notice

(A) did not fairly represent the report, statement or opinion of the expert, or

(B) was not a fair copy of, or extract from, the report, statement or opinion of the expert;

(d) with respect to any part of the circular or notice purporting to be made on the person's own authority as an expert or to be a copy of, or an extract from, the person's own report, statement or opinion as an expert, but that contained a misrepresentation attributable to a failure to fairly represent the person's report, statement or opinion as an expert,

(i) the person had, after reasonable investigation, reasonable grounds to believe and did believe that the relevant part of the circular or notice fairly represented the person's report, statement or opinion as an expert, or

(ii) on becoming aware that the relevant part of the circular or notice did not fairly represent the person's report, statement or opinion as an expert, the person had promptly given written notice to the Superintendent and given reasonable general notice that

(A) the person's report, statement or opinion was not fairly represented, and

(B) the person would not be responsible for that part of the circular or notice; or

(e) with respect to a false statement purporting to be a statement made by an official person or contained in material that purports to be a copy of, or extract from, a public official document, it was a correct and fair representation of the statement or copy of, or extract from, the document, and the person had reasonable grounds to believe and did believe that the statement was true.

Defence for expert material

(6) A person, other than the offeror, is not liable under subsection (1) or (3) with respect to any part of the circular or notice purporting to be made on the person's own authority as an expert or purporting to be a copy of, or an extract from, the person's own report, statement or opinion as an expert unless the person

(a) failed to conduct a reasonable investigation to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

Defence for other material

(7) A person, other than the offeror, is not liable under subsection (1) or (3) with respect to any part of the circular or notice not purporting to be made on the authority of an expert and not purporting to be a copy of, or an extract from, a report, statement or opinion of an expert unless the person

(a) failed to conduct a reasonable investigation to provide reasonable grounds for a belief that there had been no misrepresentation; or

(b) believed there had been a misrepresentation.

Defence for forward-looking information

(8) A person is not liable under subsection (1) or (3) with respect to a misrepresentation in forward-looking information if

(a) the circular or notice containing the forward-looking information also contains, proximate to the forward-looking 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; and

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

Liability for forward-looking information

(9) Subsection (8) does not relieve a person of liability respecting forward-looking information in a financial statement required to be filed under Prince Edward Island securities laws or forward-looking information in a document released in connection with the issuance of securities pursuant to a securities exchange take-over bid.

Joint and several liability

(10) All or any one or more of the persons specified in clause (1)(a) or subsection (3) who are found to be liable or who accept liability under this section are jointly and severally liable.

Contributions

(11) A defendant who is found liable to pay a sum in damages may recover a contribution, in whole or in part, from a person who is jointly and severally liable under this section to make the same payment in the same cause of action unless, in all the circumstances, the court is satisfied that it would not be just and equitable.

Limits on liability

(12) In an action for damages under subsection (1) or (3) based on a misrepresentation affecting a security offered by the offeror issuer in exchange for securities of the offeree issuer, the defendant is not liable for any damages that the defendant proves do not represent the depreciation in value of the security resulting from the misrepresentation.

Exchange bids

(13) For the purposes of this section, if, with respect to a bid that the rules permit to be made through the facilities of an exchange, the offeror is required to file a disclosure document with the exchange or to deliver a disclosure document to security holders of the offeree issuer, the disclosure document is deemed to be a take-over bid circular, issuer bid circular, notice of change or notice of variation, as the case may be, sent as required by Prince Edward Island securities laws.

Rights not in derogation

(14) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right available at law.

Records incorporated by reference

(15) If a misrepresentation is contained in a record incorporated by reference in, or deemed to be incorporated into, a circular or a notice of change or variation, the misrepresentation is deemed to be contained in the circular or the notice of change or variation. 2007,c.17,s.114.

Standard of reasonableness

115. In determining what constitutes reasonable investigation or reasonable grounds for belief for the purposes of sections 111, 112 and 114, the standard of reasonableness is that required of a prudent person in the circumstances of the particular case. 2007,c.17,s.115.

Right of action for failure to deliver a prospectus, take-over bid circular or issuer bid circular

116. A person who is a purchaser of a security to whom a prospectus was required under Prince Edward Island securities laws to be sent or delivered but which was not sent or delivered as required, or a person to whom a take-over bid circular, issuer bid circular, notice of change or notice of variation was required to be sent or delivered under Prince Edward Island securities laws but which was not sent or delivered as required, has a right of action for damages or rescission against the dealer, offeror or other person, as the case may be, who failed to comply with the applicable requirement. 2007,c.17,s.116.

Right of action for failure to deliver an offering memorandum

117. A person who is a purchaser of a security to whom an offering memorandum was required to be sent or delivered under Prince Edward Island securities laws but which was not sent or delivered as required has a right of action for damages or rescission against the issuer. 2007,c.17,s.117.

Right of action for failure to file a prospectus

118. A person who is a purchaser of a security in respect of which a prospectus was required to be filed under Prince Edward Island securities laws but which was not filed as required, has a right of action for damages or rescission against the issuer or selling security holder. 2007,c.17,s.118.

Liability for insider trading

119. (1) Every person in a special relationship with a reporting issuer who contravenes subsection 155(1) is liable to compensate the other

party to the transaction described in subsection 155(1) for damages as a result of the transaction unless

(a) the person in the special relationship with the reporting issuer proves that the person reasonably believed that the inside information had been generally disclosed; or

(b) the inside information was known or ought reasonably to have been known to the other party to the transaction.

Liability for informing

(2) Every

(a) reporting issuer;

(b) person in a special relationship with a reporting issuer; or

(c) person who proposes,

(i) to make a take-over bid for the securities of a reporting issuer,

(ii) to become a party to an amalgamation, merger, arrangement, reorganization or similar transaction with a reporting issuer, or

(iii) to acquire a substantial portion of the property of a reporting issuer,

who informs another person of inside information relating to the reporting issuer is liable to compensate for damages any person who subsequently sells securities of the reporting issuer to, or purchases securities of the reporting issuer from, the person who received the inside information unless

(d) the person who informed the other person proves that the informing person reasonably believed the inside information had been generally disclosed;

(e) the inside information was known or ought reasonably to have been known to the seller or purchaser, as the case may be;

(f) in the case of an action against a reporting issuer or a person in a special relationship with the reporting issuer, the inside information was given in the necessary course of business; or

(g) in the case of an action against a person described in subclause (c)(i), (ii) or (iii), the inside information was given in the necessary course of business to effect the take-over bid, amalgamation, merger, arrangement, reorganization, or similar transaction, or acquisition.

Liability for recommending

(3) Every reporting issuer and every person in a special relationship with a reporting issuer who contravenes subsection 155(4) is liable to compensate the person who received the recommendation or encouragement described in that subsection for damages as a result of the recommendation or encouragement unless

(a) the person who recommended or encouraged the other person proves that, at the time of the making of the recommendation or giving of the encouragement described in subsection 155(4), the person who recommended or encouraged reasonably believed the inside information had been generally disclosed; or

(b) the inside information was, at the time of the making of the recommendation or the giving of the encouragement, known or ought reasonably to have been known to the person who received the recommendation or encouragement described in subsection 155(4).

Liability for front running

(4) A person who knows of material order information and contravenes subsection 153(1) or (2) is liable to account to the person to whom the material order information relates for any benefit or advantage received or receivable by the first person by reason of the contravention.

Accountability of insiders, affiliates and associates

(5) Every person who is an insider, affiliate or associate of a reporting issuer who,

(a) enters into a transaction described in subsection 155(1) with knowledge of inside information relating to the reporting issuer;

(b) informs another person, other than in the necessary course of business, of inside information relating to the reporting issuer; or

(c) recommends or encourages another person to enter into a transaction described in subsection 155(4) with knowledge of inside information relating to the reporting issuer,

is accountable to the reporting issuer for any benefit or advantage received or receivable by the person as a result of the transaction, information provided, recommendation or encouragement, as the case may be, unless the person proves that they had reasonably believed that the inside information had been generally disclosed.

Joint and several liability

(6) If more than one person in a special relationship with a reporting issuer is liable under subsection (1), (2) or (3) as to the same transaction or series of transactions, their liability is joint and several.

Damages

(7) In assessing damages under subsection (1), (2) or (3), the court shall consider,

(a) if the plaintiff is a purchaser, the price paid by the plaintiff for the security less the average market price of the security in the 10 trading days following general disclosure of the inside information; or

(b) if the plaintiff is a seller, the average market price of the security in the 10 trading days following general disclosure of the inside information less the price received by the plaintiff for the security,

but the court may instead consider such other measures of damages as may be relevant in the circumstances. 2007,c.17,s.119.

Court action on behalf of issuer

120. (1) On application by the Superintendent or by any person who was, at the time of a transaction referred to in subsection 119(1) or (2) or at the time of the making of the recommendation or giving of the encouragement referred to in subsection 119(3), or by any person who is, at the time of the application, a security holder of the reporting issuer, the Supreme Court may, if satisfied that

(a) the Superintendent or the applicant has reasonable grounds for believing that the reporting issuer has a cause of action under section 119; and

(b) the reporting issuer has

(i) refused or failed to commence an action under subsection 119(5) within 60 days after receipt of a written request from the Superintendent or the applicant to do so, or

(ii) failed to prosecute diligently an action commenced by it under subsection 119(5),

make an order, on any terms as to security for costs or otherwise that it considers appropriate, requiring the Superintendent or authorizing the person or the Superintendent to commence, commence and prosecute, or continue an action in the name of, and on behalf of, the reporting issuer, to enforce the liability created by subsection 119(5).

Costs of action incurred by directors

(2) If an action under subsection 119(5) is commenced, commenced and prosecuted, or continued by the directors of the reporting issuer, the court may order the reporting issuer to pay all costs properly incurred by the directors in commencing, commencing and prosecuting, or continuing the action, as the case may be, if it is satisfied that the action is in the best interests of the reporting issuer and its security holders.

Costs of action incurred by security holders

(3) If an action under subsection 119(5) is commenced, commenced and prosecuted, or continued by a person who is a security holder of the reporting issuer, the court may order the reporting issuer to pay all costs properly incurred by the security holder in commencing, commencing and prosecuting, or continuing the action, as the case may be, if it is satisfied that

(a) the reporting issuer refused or failed to commence the action or having commenced it, failed to prosecute it diligently; and

(b) the action is in the best interests of the reporting issuer and its security holders.

Costs of action incurred by Superintendent

(4) If an action under subsection 119(5) is commenced, commenced and prosecuted, or continued by the Superintendent, the court shall order the reporting issuer to pay all costs properly incurred by the Superintendent in commencing, commencing and prosecuting, or continuing the action, as the case may be.

Best interests

(5) In determining whether an action or its continuance is in the best interests of a reporting issuer and its security holders, the court shall consider the relationship between the potential benefit to be derived from the action by the reporting issuer and its security holders, and the cost involved in the prosecution of the action.

Notice

(6) Notice of every application under subsection (1) shall be sent to the Superintendent and the reporting issuer, and each of them may appear and be heard.

Order requiring action

(7) In every action commenced, commenced and prosecuted or continued by the Superintendent under this section, the reporting issuer shall

(a) cooperate fully with the Superintendent in the commencement, commencement and prosecution, and prosecution or continuation of the action; and

(b) make available to the Superintendent all records and other material or information relevant to the action and known to, or reasonably ascertainable by, the reporting issuer. 2007,c.17,s.120; 2015,c.36,s.47.

Limitation periods

121. No action may be commenced to enforce a right created by this Part more than,

(a) in the case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or

(b) in the case of any action other than an action for rescission,

(i) 180 days after the plaintiff first had knowledge of the facts giving rise to the cause of action, or

(ii) three years after the date of the transaction giving rise to the cause of action,

whichever period expires first. 2007,c.17,s.121.

PART 14: CIVIL LIABILITY FOR SECONDARY MARKET DISCLOSURE

Interpretation and Application

Definitions

122. In this Part,

compensation

(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 the compensation is awarded;

core document

(b) "core document" means

(i) where used in relation to

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

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

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

a prospectus, a take-over bid circular, an issuer bid circular, a directors' circular, a 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) where used in relation to

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

(B) an investment fund manager where the responsible issuer is an investment fund, or

(C) an officer of an investment fund manager where the responsible issuer is an investment fund,

a prospectus, a take-over bid circular, an issuer bid circular, a directors' circular, a 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 under section 102 of the responsible issuer, and

(iii) such other documents as may be prescribed for the purposes of this definition;

document

(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 Superintendent, or

(ii) that is not required to be filed with the Superintendent, and

(A) that is filed with the Superintendent,

(B) that is filed or required to be filed with a government or an agency of a government under applicable securities laws 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;

expert

(d)"expert" does not include an entity that is an approved rating organization;

failure to make timely disclosure

(e) "failure to make timely disclosure" means a failure to disclose a material change in the manner and at the time required under Prince Edward Island securities laws;

influential person

(f) "influential person" means, in respect of a responsible issuer,

(i) a control person,
(ii) a promoter,
(iii) an insider who is not a director or officer of the responsible issuer, or
(iv) an investment fund manager, if the responsible issuer is an investment fund;

issuer's security

(g) "issuer's security" means a security of a responsible issuer, and includes a security
(i) the market price or value of which, or payment obligations under which, are derived from or based on a security of the responsible issuer, and
(ii) which is created by a person on behalf of the responsible issuer or is guaranteed by the responsible issuer;

liability limit

(h) "liability limit" means,
(i) in the case of a responsible issuer, the greater of,
(A) 5% of its market capitalization, as defined in the rules, and
(B) $1 million,
(ii) in the case of a director or officer of a responsible issuer, the greater of,
(A) $25,000, and
(B) 50% of the aggregate of the director's or officer's compensation from the responsible issuer and its affiliates,
(iii) in the case of an influential person who is not an individual, the greater of,
(A) 5% of its market capitalization, as defined in the rules, 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 the misrepresentation, and
(vii) in the case of each person who made a public oral statement, other than an individual referred to in clauses (b), (d), (e) or (f), the greater of

(A) $25,000, and
(B) 50% of the aggregate of the person's compensation from the responsible issuer and its affiliates;

(i) "management's discussion and analysis" means the section of an annual information form, annual report or other document that contains management's discussion and analysis of the financial condition and results of operations of a responsible issuer as required under Prince Edward Island securities laws; management's discussion and analysis

(j) "public oral statement" means an oral statement made in circumstances in which a reasonable person would believe that information contained in the statement will become generally disclosed; public oral statement

(k) "release" means, with respect to information or a document, to file with the Superintendent, an extra-provincial securities regulatory authority or an exchange, or to otherwise make available to the public; release

(l) "responsible issuer" means responsible issuer
(i) a reporting issuer or a reporting issuer under extra-provincial securities laws, or
(ii) any other issuer with a real and substantial connection to the province, any of whose securities are publicly traded;

(m) "trading day" means a day during which the principal market, as defined in the rules, for the security is open for trading. 2007,c.17,s.122. trading day

123. This Part does not apply to Application
(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 94, except as may be prescribed;
(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; or
(d) such other transactions or class of transactions as may be prescribed. 2007,c.17,s.123.

Liability for Secondary Market Disclosure

124. (1) If a responsible issuer or a person with actual, implied or apparent authority to act on behalf of a responsible issuer releases a document that contains a misrepresentation, a person who acquires or disposes of the issuer's security during the period between the time when the document was released and the time when the misrepresentation Right of action for damages for misrepresentation in document

contained in the document was publicly corrected has, without regard to whether the person 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 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 other than the expert, the expert consented in writing to the use of the report, statement or opinion in the document.

Right of action for damages for misrepresentation in public oral statement

(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 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 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.

Right of action for damages for misrepresentation in document or public oral statement by influential person

(3) If an influential person or a person with actual, implied or apparent authority to act or to 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 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 relied on the misrepresentation, a right of action for damages against

(a) the responsible issuer, if a director or officer of the responsible issuer, or if the responsible issuer is an investment fund, the investment fund manager authorized, permitted or acquiesced in the release of the document or the making of the public oral statement;

(b) the person who made the public oral statement;

(c) each director and officer of the responsible issuer who authorized, permitted or acquiesced in the release of the document or the making of the public oral statement;

(d) the influential person;

(e) each director and officer of the influential person who authorized, permitted or acquiesced in the release of the document or the making of the public oral statement; and

(f) each expert 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.

Right of action for failure to make timely disclosure

(4) If a responsible issuer fails to make timely disclosure, a person who acquires or disposes of the issuer's security between the time when the material change was required to be disclosed in the manner required under Prince Edward Island securities laws and the subsequent disclosure of the material change has, without regard to whether the person 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 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.

Liability of director or officer

(5) In an action under this section, a person who is a director or officer of an influential person is not liable in that capacity if the person is liable as a director or officer of the responsible issuer.

Multiple misrepresentation or instances of failure

(6) In an action under this section,

(a) multiple misrepresentations having common subject matter or content may, in the discretion of the court, be treated as a single misrepresentation; and

(b) multiple instances of failure to make timely disclosure of a material change or material changes concerning common subject matter may, in the discretion of the court, be treated as a single failure to make timely disclosure.

Apparent authority

(7) In an action under subsection (2) or (3), if the person who made the public oral statement had apparent authority, but not implied or actual authority, to speak on behalf of the 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. 2007,c.17,s.124.

Defence of knowledge

125. (1) In an action under section 124 in relation to a misrepresentation in a document that is not a core document, or a misrepresentation in a public oral statement, a person is not liable, subject to subsection (2), unless the plaintiff proves that the person

(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.

Burden of proof

(2) A plaintiff is not required to prove any of the matters set out in subsection (1) in an action under section 124 in relation to an expert.

Defences to failure to make timely disclosure

(3) In an action under section 124 in relation to a failure to make timely disclosure, a person is not liable, subject to subsection (4), unless the plaintiff proves that the person

(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.

Burden of proof

(4) A plaintiff is not required to prove any of the matters set out in subsection (3) in an action under section 124 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.

Defence of knowledge

(5) A person is not liable in an action under section 124 in relation to a misrepresentation or a failure to make timely disclosure if that person 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.

Defence of reasonable investigation and belief

(6) A person is not liable in an action under section 124 in relation to

(a) a misrepresentation if that person proves that,

(i) before the release of the document or the making of the public oral statement containing the misrepresentation, the person 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 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 proves that,

(i) before the failure to make timely disclosure first occurred, the person conducted or caused to be conducted a reasonable investigation, and

(ii) the person had no reasonable grounds to believe that the failure to make timely disclosure would occur.

Circumstances determining reasonable investigation and gross misconduct

(7) In determining whether an investigation was reasonable under subsection (6), or whether any person is guilty of gross misconduct under subsection (1) or (3), the court shall consider all relevant circumstances, including

(a) the nature of the responsible issuer;

(b) the knowledge, experience and function of the person;

(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 on the responsible issuer's disclosure compliance system and on the responsible issuer's officers, employees and others whose duties would in the ordinary course have given them knowledge of the relevant facts;

(g) the period within which disclosure was required to be made under the applicable law;

(h) in respect of a report, statement or opinion of an expert, any professional standards applicable to the expert;

(i) the extent to which the person 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 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 involved in a decision not to disclose the material change.

Confidential timely disclosure

(8) A person is not liable in an action under section 124 in respect of a failure to make timely disclosure if,

(a) the person proves that the material change was disclosed by the responsible issuer in a report filed on a confidential basis with the Superintendent under section 102;

(b) the responsible issuer had a reasonable basis for making the disclosure on a confidential basis;

(c) where the information contained in the report filed on a confidential basis remains material, disclosure of the material change was made public promptly when the basis for confidentiality ceased to exist;

(d) the person or responsible issuer did not release a document or make a public oral statement that, due to the undisclosed material change, contained a misrepresentation; and

(e) where the material change became publicly known in a manner other than the manner required under this Act, the responsible issuer promptly disclosed the material change in the manner required under this Act.

Defence for forward-looking information

(9) A person is not liable in an action under section 124 for a misrepresentation in forward-looking information if the person proves all of the following things:

(a) the document or public oral statement containing the forward-looking information contained, proximate to that information,

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

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

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

Public oral statement containing forward-looking information

(10) The person 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 oral statement contains forward-looking information;

(b) stated that

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

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

(c) stated that additional information about

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

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

is contained in a readily available document or in a portion of such a document and has identified that document or that portion of the document.

Filed document deemed readily available

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

Liability for forward-looking information

(12) Subsection (9) does not relieve a person of liability respecting forward-looking information in a financial statement required to be filed under Prince Edward Island securities laws or forward-looking information in a document released in connection with an initial public offering.

Defence for expert material

(13) A person, other than an expert, is not liable in an action under section 124 with respect to any part of a document or public oral statement that includes, summarizes or quotes from a report, statement or opinion made by the expert in respect of which the responsible issuer obtained the written consent of the expert to the use of the report, statement or opinion if the consent had not been withdrawn in writing before the document was released or the public oral statement was made, if the person proves that

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

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

Defence of expert

(14) An expert is not liable in an action under section 124 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.

Defence of lack of knowledge of release of documents

(15) A person is not liable in an action under section 124 in respect of a misrepresentation in a document, other than a document required to be filed with the Superintendent, if the person proves that, at the time of release of the document, the person did not know and had no reasonable grounds to believe that the document would be released.

Defence for filed documents

(16) A person is not liable in an action under section 124 for a misrepresentation in a document or a public oral statement, if the person proves that,

(a) the misrepresentation was also contained in a document filed by or on behalf of another person, other than the responsible issuer, with the Superintendent or any extra-provincial securities regulatory authority or an exchange, and was not corrected in another document filed by or on behalf of that other person with the Superintendent or the extra-provincial securities regulatory authority 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 did not know and had no reasonable grounds to believe that the document or public oral statement contained a misrepresentation.

Defence if lack of knowledge or consent

(17) A person, other than the responsible issuer, is not liable in an action under section 124 if the misrepresentation or failure to make timely disclosure was made without the knowledge or consent of the person and if, after the person became aware of the misrepresentation before it was corrected, or the failure to make timely disclosure before it was disclosed in the manner required under this Act,

(a) the person promptly notified the directors of the responsible issuer of the misrepresentation or the failure to make timely disclosure; and

(b) if no correction of the misrepresentation or no subsequent disclosure of the material change in the manner required under this Act was made by the responsible issuer within two business days after the notification under clause (a), the person, unless prohibited by law or by professional confidentiality rules, promptly and in writing notified the Superintendent of the misrepresentation or failure to make timely disclosure. 2007,c.17,s.125.

Damages

Assessment of damages for acquisition of securities

126. (1) Damages shall be assessed in favour of a person who acquired an issuer's securities after the release of a document or the making of a public oral statement containing a misrepresentation or after a failure to make timely disclosure as follows:

(a) in respect of any of the securities of the responsible issuer that the person 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 under this Act, assessed damages shall equal the difference between the average price paid for those securities, including any commissions paid in respect of them, and the price received on the disposition of those securities, without deducting any commissions paid in respect of the disposition, calculated taking into account the result of hedging or other risk limitation transactions;

(b) in respect of any of the securities of the responsible issuer that the person 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 under this Act, assessed damages shall equal the lesser of

(i) an amount equal to the difference between the average price paid for those securities, including any commissions paid in respect of them and the price received on the disposition of those securities, without deducting any commissions paid in respect of the disposition, calculated taking into account the result of hedging or other risk limitation transactions, and

(ii) an amount equal to the number of securities that the person disposed of, multiplied by the difference between the average price per security paid for those securities, including any commissions paid in respect of that disposition determined on a per security basis, and

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

(B) if there is no published market, the amount that the court considers just;

(c) in respect of any of the securities of the responsible issuer that the person has not disposed of, assessed damages shall equal the number of securities acquired, multiplied by the difference between the average price per security paid for those securities, including any commissions paid in respect of them determined on a per security basis,

(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 rules, for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or

(ii) if there is no published market, the amount that the court considers just.

Assessment of damages for disposition of securities

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

(a) in respect of any of the securities of the responsible issuer that the person 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 under this Act, assessed damages shall equal the difference between the average price received on the disposition of those securities, deducting any

commissions paid in respect of the disposition and the price paid for those securities, without including any commissions paid in respect of them, calculated taking into account the result of hedging or other risk limitation transactions;

(b) in respect of any of the securities of the responsible issuer that the person 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 under this Act, assessed damages shall equal the lesser of,

(i) an amount equal to the difference between the average price received on the disposition of those securities, deducting any commissions paid in respect of the disposition, and the price paid for those securities, without including any commissions paid in respect of them, calculated taking into account the result of hedging or other risk limitation transactions, and

(ii) an amount equal to the number of securities that the person disposed of, multiplied by the difference between the average price per security received upon the disposition of those securities, deducting any commissions paid in respect of the disposition determined on a per security basis,

(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 rules, for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or

(B) if there is no published market, the amount that the court considers just;

(c) in respect of any of the securities of the responsible issuer that the person has not acquired, assessed damages must equal the number of securities that the person disposed of, multiplied by the difference between the average price per security received on the disposition of those securities, deducting any commissions paid in respect of the disposition determined on a per security basis,

(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 rules, for the 10 trading days following the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act, or

(ii) if there is no published market, then the amount that the court considers just.

Unrelated change in market price

(3) Notwithstanding subsections (1) and (2), assessed damages shall not include any amount that the defendant proves is attributable to a change in the market price of securities that is unrelated to the

misrepresentation or the failure to make timely disclosure. 2007,c.17,s.126.

Proportionate liability

127. (1) In an action under section 124, the court shall determine, in respect of each defendant found liable in the action, the defendant's responsibility for the damages assessed in favour of all plaintiffs in the action, and each such defendant is liable, subject to the limits set out in subsection 128(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.

Particular defendants

(2) Notwithstanding subsection (1), if in an action under section 124 in respect of a misrepresentation or a failure to make timely disclosure, a court determines that a particular defendant, other than the responsible issuer, authorized, permitted or acquiesced in the making of the misrepresentation or the failure to make timely disclosure while knowing it to be a misrepresentation or a failure to make timely disclosure, the whole amount of the damages assessed in the action may be recovered from that defendant.

Joint and several liability

(3) Each defendant in respect of whom the court has made a determination under subsection (2) is jointly and severally liable with each other defendant in respect of whom the court has made a determination under subsection (2).

Contribution

(4) Any defendant against whom recovery is obtained under subsection (2) is entitled to claim contribution from any other defendant who is found liable in the action. 2007,c.17,s.127.

Limits on damages

128. (1) Notwithstanding section 126, the damages payable by a person in an action under section 124 is the lesser of

(a) the aggregate damages assessed against the person in the action; and

(b) the liability limit for the person less the aggregate of all damages assessed after appeals, if any, against the person in all other actions brought under section 124 and under comparable provisions of extra-provincial securities laws in respect of that misrepresentation or failure to make timely disclosure, and less any amount paid in settlement of any such actions.

Limits not applicable

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

(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. 2007,c.17,s.128.

Procedural Matters

Leave to proceed

129. (1) No action may be commenced under section 124 without leave of the court granted upon application to the court with notice to each defendant.

When leave may be granted

(2) The court shall grant leave only if it is satisfied that
(a) the action is brought in good faith; and
(b) there is a reasonable possibility that the action will be resolved at trial in favour of the plaintiff.

Filing affidavit

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

Examination on affidavit

(4) The maker of such an affidavit may be examined on it in accordance with the rules of court.

Copies for Superintendent

(5) A copy of the application for leave to proceed and any affidavits filed with the court shall be sent to the Superintendent when filed. 2007,c.17,s.129.

News release and other notices

130. A person who has been granted leave to commence an action under section 124 shall
(a) promptly issue a news release disclosing that leave has been granted to commence an action under section 124;
(b) send a written notice to the Superintendent 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 Superintendent when filed. 2007,c.17,s.130.

Restriction on discontinuation, abandonment and settlement of action

131. (1) An action under section 124 shall not be discontinued, abandoned or settled without the approval of the court given on such terms as the court considers appropriate including, without limitation, terms as to costs.

Court to consider other actions

(2) In determining whether to approve the settlement of the action, the court shall consider, among other things, whether there are any other actions outstanding under section 124 or under legislation in other Canadian jurisdictions in respect of the same misrepresentation or failure to make timely disclosure. 2007,c.17,s.131.

Costs

132. Notwithstanding any other Act, the prevailing party in an action under section 124 is entitled to costs determined by a court in accordance with the rules of court. 2007,c.17,s.132.

Interventions by the Superintendent

133. The Superintendent may intervene in an action under section 124 and in an application for leave under section 129. 2007,c.17,s.133.

No derogation from other rights

134. The right of action for damages and the defences to an action under section 124 are in addition to and without derogation from any other rights or defences the plaintiff or defendant may have in an action brought otherwise than under this Part. 2007,c.17,s.134.

Limitation periods

135. No action may be commenced under section 124,

(a) in the case of misrepresentation in a document, later than the earlier of,

(i) three years after the date on which the document containing the misrepresentation was first released, and

(ii) six months after the issuance of a news release disclosing that leave has been granted to commence an action under section 124 or under comparable legislation in another Canadian jurisdiction in respect of the same misrepresentation;

(b) in the case of a misrepresentation in a public oral statement, later than the earlier of,

(i) three years after the date on which the public oral statement containing the misrepresentation was made, and

(ii) six months after the issuance of a news release disclosing that leave has been granted to commence an action under section 124 or under comparable legislation in another Canadian jurisdiction in respect of the same misrepresentation; and

(c) in the case of a failure to make timely disclosure, later than the earlier of,

(i) three years after the date on which the requisite disclosure was required to be made, and

(ii) six months after the issuance of a news release disclosing that leave has been granted to commence an action under section 124 or under comparable legislation in another Canadian jurisdiction in respect of the same failure to make timely disclosure. 2007,c.17,s.135.

PART 15: INTERJURISDICTIONAL CO-OPERATION

Delegation and acceptance of authority

136. (1) Subject to the rules, the Superintendent may by order, for the purposes of this Part,

(a) delegate any Prince Edward Island authority to an extra-provincial securities regulatory authority; and

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

Delegation by Superintendent

(2) The Superintendent shall not delegate any power, function or duty of the Superintendent under subsection (1), that is, or is intended to be, performed or exercised by the Superintendent under section 14, this Part, or section 169. 2007,c.17,s.136.

Subdelegation by Superintendent

137. (1) Subject to any restrictions or conditions imposed by an extra-provincial securities regulatory authority with respect to a delegation of extra-provincial authority to the Superintendent, the Superintendent may subdelegate that extra-provincial authority in the manner and to the extent that the Superintendent may delegate any Prince Edward Island authority under section 14 or 75 or may otherwise delegate any Prince Edward Island authority under Prince Edward Island securities laws

Subdelegation by extra-provincial securities regulatory authority

(2) Subject to any restrictions or conditions imposed by the Superintendent with respect to a delegation of Prince Edward Island authority to an extra-provincial securities regulatory authority, nothing in this Part is to be construed as prohibiting the extra-provincial securities regulatory authority from subdelegating that Prince Edward Island authority in the manner and to the extent that the extra-provincial securities regulatory authority may delegate its authority under the extra-provincial securities laws under which it operates. 2007,c.17,s.137.

Adoption or incorporation of extra-provincial securities laws

138. (1) Subject to the rules, the Superintendent may by order adopt or incorporate by reference as Prince Edward Island securities laws all or any provisions of any extra-provincial securities laws of a jurisdiction to be applied to

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

(b) trades or other activities involving a person or a class of persons referred to in clause (a).

Securities laws adopted or incorporated as amended from time to time

(2) If the Superintendent adopts or incorporates by reference an extra-provincial securities law under subsection (1), the Superintendent may adopt or incorporate it by reference as amended from time to time, whether before or after the adoption or incorporation by reference, and with the necessary changes. 2007,c.17,s.138.

Exercise of discretion, interprovincial reliance

139. (1) Subject to the rules, if the Superintendent is empowered to make a decision regarding a person, trade or security, the Superintendent may make a decision on the basis that the Superintendent considers that an extra-provincial securities regulatory authority has made a substantially similar decision regarding the person, trade or security.

Hearing

(2) Notwithstanding any provision of this Act but subject to the rules, the Superintendent may make a decision referred to in subsection (1) without giving the person affected by the decision an opportunity to be heard. 2007,c.17,s.139.

Interjurisdictional agreements

140. The Superintendent may, with the approval of the Minister, enter into an agreement with one or more extra-provincial securities regulatory authorities with respect to this Part or to rules respecting extra-provincial securities laws which apply in the province by operation of law. 2007,c.17,s.140.

PART 16: IMMUNITY FROM LEGAL ACTION AND LIMITATION PERIOD

Immunity from Legal Action

Immunity for compliance with securities laws

141. No person has any rights or remedies and no proceedings lie or shall be brought against any person for any act or omission of the last-mentioned person done or omitted as a result of complying with Prince Edward Island securities laws. 2007,c.17,s.141.

Immunity for persons acting under Prince Edward Island securities laws

142. No action or other proceeding for damages may be instituted against the Superintendent, an employee of the Government, an appointee or agent of the Superintendent, a delegate of the Superintendent, or a recognized entity acting under powers, functions or duties subdelegated by the Superintendent,

(a) for any act done in good faith in the

(i) performance or intended performance of any duty under Prince Edward Island securities laws, or

(ii) exercise or intended exercise of any power or function under Prince Edward Island securities laws; or

(b) for any neglect or default in the performance or exercise in good faith of the powers, functions or duties described in clause (a). 2007,c.17,s.142.

Immunity under extra-provincial securities laws

143. No action or other proceeding for damages may be instituted against the Superintendent, an employee of the Government, an appointee or agent of the Superintendent, a delegate of the Superintendent, or a recognized entity acting under powers, functions or duties subdelegated by the Superintendent,

(a) for any act done in good faith in the

(i) performance or intended performance of any duty under extra-provincial securities laws, or

(ii) exercise or intended exercise of any power or function under extra-provincial securities laws; or

(b) for any neglect or default in the performance or exercise in good faith of the powers, functions or duties described in clause (a). 2007,c.17,s.143.

Other immunity for extra-provincial securities regulatory authorities

144. No action or other proceeding for damages may be instituted against an extra-provincial securities regulatory authority or any member, officer, employee, appointee or agent of that extra-provincial securities regulatory authority,

(a) for any act done in good faith in the province in the

(i) performance or intended performance of any duty under extra-provincial securities laws, or

(ii) exercise or intended exercise of any power or function under extra-provincial securities laws; or

(b) for any neglect or default in the performance or exercise in good faith of the powers, functions or duties described in clause (a). 2007,c.17,s.144.

Limitation Period

Limitation period

145. Unless this Act provides otherwise, no proceeding under this Act shall be commenced in a court or before the Superintendent more than six years after the date of the occurrence of the last event on which the proceeding is based. 2007,c.17,s.145.

PART 17: PROHIBITIONS, DUTIES, OFFENCES AND PENALTIES

Prohibitions

Misleading or untrue statement

146. (1) No person shall make a statement that the person knows or reasonably ought to know

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

(b) would reasonably be expected to have a significant effect on the market price or value of a security.

Defence

(2) Without limiting the availability of any other defences, no person is guilty of an offence under subsection (1) if the person did not know and in the exercise of diligence could not have known that the statement was false or misleading or that it omitted to state a fact that was required to be stated or that was necessary to make the statement not misleading in light of the circumstances in which it was made. 2007,c.17,s.146.

Representations while involved in investor-relations activities and trading

147. (1) No person shall, while engaging in investor-relations activities or with the intention of effecting a trade,

(a) represent that the person or another person will

(i) resell or repurchase a security, or

(ii) refund all or any of the purchase price of a security;

(b) give an undertaking relating to the future value or price of a security;

(c) except with the prior written permission of the Superintendent, make any representation

(i) that a security will be listed and posted for trading on an exchange or quoted on a quotation and trade reporting system, or

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

(A) an application has been made to list or quote the securities being traded and securities of the same issuer are currently listed on an exchange or quoted on a quotation and trade reporting system, or

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

(d) make a statement that the person knows or reasonably ought to know is a misrepresentation.

Application of clause (1)(a)

(2) Clause (1)(a) does not apply in respect of a security that carries or is accompanied by

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

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

Representations concerning market price

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

(a) at the market price; or

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

unless the person reasonably believes that a market for the security exists that is not made, created or controlled by that person, the person's employer or an affiliate or by a person for whom the person is acting in the transaction. 2007,c.17,s.147.

Representations concerning registration

148. (1) No person shall represent that the person is registered under Prince Edward Island securities laws unless

(a) the representation is true; and

(b) in making the representation, the person specifies their category of registration under the rules.

(2) No person 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, if the statement is untrue or omits information necessary to prevent the statement from being false or misleading in the circumstances in which it is made. 2007,c.17,s.148.

Statements concerning matters reasonable investor would consider important

149. No person shall make any representation that the Superintendent, an extra-provincial securities regulatory authority, a delegate of the Superintendent, an employee of the Government acting under Prince Edward Island securities laws, or an appointee or agent of the Superintendent, has in any manner expressed an opinion or passed judgment on

Representing regulatory bodies

(a) the financial standing, fitness, or conduct of a registrant;
(b) the merits of a security or of an issuer; or
(c) the merits of the disclosure record of an issuer under Prince Edward Island securities laws. 2007,c.17,s.149.

150. (1) No person shall engage in an unfair practice

Engaging in unfair practice

(a) while engaging in investor-relations activities;
(b) while advising in relation to the purchase or sale of a security; or
(c) with the intention of effecting the purchase or sale of a security.

(2) In subsection (1), an "unfair practice" includes

unfair practice

(a) putting unreasonable pressure on a person to purchase, hold or sell a security;
(b) taking advantage of a person's
(i) inability or incapacity to reasonably protect the person's own interests because of physical or mental infirmity, ignorance, illiteracy or age, or
(ii) inability to understand the character, nature or the language of any matter relating to a decision to purchase, hold or sell a security; and
(c) imposing terms, conditions, restrictions or requirements in respect of transactions that are harsh or oppressive. 2007,c.17,s.150.

151. (1) No person shall make a statement in any evidence or record provided to the Superintendent, an extra-provincial securities regulatory authority, a delegate of the Superintendent, an employee of the Government acting under Prince Edward Island securities laws, or an appointee or agent of the Superintendent that, in a material respect and at the time and in light of the circumstances in which the statement was made,

False or misleading statements

(a) is false or misleading;
(b) omits to state a fact that is required to be stated by Prince Edward Island securities laws; or

(c) omits to state a fact that is necessary to be stated so that the statement, information or record is not false or misleading.

Defence

(2) Without limiting the availability of other defences, no person is guilty of an offence under clause 1(a), (b) or (c) if the person did not know and in the exercise of diligence could not have known that the statement was false or misleading or that it omitted to state a fact that was required to be stated by Prince Edward Island securities laws or that was necessary to be stated to make the statement not misleading in light of the circumstances in which it was made. 2007,c.17,s.151.

Fraud and market manipulation

152. No person shall, directly or indirectly, engage in or participate in any act, practice or course of conduct relating to a security that the person knows or reasonably ought to know will

(a) result in or contribute to a misleading appearance of trading activity in, or an artificial price for, a security; or

(b) perpetrate a fraud on any person. 2007,c.17,s.152.

Front running

153. (1) A person who knows of material order information shall not, and shall not recommend or encourage another person to,

(a) purchase or sell the securities 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; or

(d) change that person's

(i) beneficial ownership of, or direct or indirect 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.

Informing

(2) A person who knows of material order information shall not inform another person of the material order information unless it is necessary in the course of the person's business. 2007,c.17,s.153.

Defence for front running

154. (1) A person does not contravene subsection 153(1) if, at the time of the transaction described in that subsection or at the time of the making of the recommendation or the giving of the encouragement described in that subsection, as the case may be, the person reasonably believed that the other party to the transaction or the person who received the recommendation or encouragement had knowledge of the material order information.

Defence for informing

(2) A person does not contravene subsection 153(2) if, at the time of the giving of the information described in that subsection, the person reasonably believed that the person informed of the material order information had knowledge of the material order information.

Defence for transaction by non-individual

(3) A person, other than an individual, who takes an action described in subsection 153(1) or (2) with knowledge of material order information does not contravene that subsection if

(a) the person had knowledge of the material order information only because the material order information was known to one or more of the person's directors, officers, partners, employees or agents;

(b) the decision to act was made by one or more of the person's directors, officers, partners, employees or agents and none of the individuals who participated in the decision had actual knowledge of the material order information; and

(c) none of the person's directors, officers, partners, employees or agents who had actual knowledge of the material order information had given any advice related to the action based on the actual knowledge to the person's directors, officers, partners, employees or agents who made or participated in the decision to act.

Considerations relevant to proof of defence

(4) In determining if a person has established a defence under subsection (3), it will be relevant whether and to what extent the person has implemented and maintained reasonable policies and procedures to prevent contraventions of subsection 153(1) or (2).

Defence for automatic plans, legal obligations and agents

(5) A person who takes an action described in subsection 153(1) or (2) with knowledge of material order information does not contravene those subsections if

(a) the person acted because of the person's participation in a written automatic dividend reinvestment plan or a written automatic purchase plan or another similar written automatic plan that the person entered into before having knowledge of the material order information;

(b) the person acted under a written legal obligation to take the action and that obligation was entered into before the person acquired knowledge of the material order information; or

(c) the person acted

(i) as agent for another person under specific unsolicited instructions given by that other person to take the specified action,

(ii) as agent for another person under specific solicited instructions given by that other person to take the specified action before the person who acted as agent had knowledge of that material order information,

(iii) as agent or trustee for another person because of that other person's participation in a written automatic dividend

reinvestment plan or a written automatic purchase plan or another similar written automatic plan, or

(iv) as agent or trustee for another person to fulfill in whole or in part a written legal obligation of that other person. 2007,c.17,s.154.

Inside information, trading with

155. (1) A person who is in a special relationship with a reporting issuer and who knows of inside information relating to the reporting issuer shall not

(a) purchase or sell a security of the reporting issuer;

(b) acquire, dispose of, or exercise a put or call option or other right or obligation to purchase or sell securities of the reporting issuer;

(c) enter into a related financial instrument or acquire or dispose of rights or obligations under a related financial instrument; or

(d) change that person's

(i) beneficial ownership of, or direct or indirect control or direction over,

(A) a security of the reporting issuer, or

(B) a put or call option or other right or obligation to purchase or sell securities of the reporting issuer, or

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

Inside information, informing or tipping others of

(2) A person who is in a special relationship with a reporting issuer and who knows of inside information relating to the reporting issuer shall not inform another person of inside information relating to the reporting issuer, unless it is necessary in the course of business.

Inside information relating to proposed transactions

(3) Unless it is necessary to effect the transaction, a person shall not inform another person of inside information relating to a reporting issuer, if the person

(a) proposes to make a take-over bid for the reporting issuer;

(b) proposes to become a party to an amalgamation, merger, arrangement, reorganization or similar transaction with the reporting issuer; or

(c) proposes to acquire a substantial portion of the property of the reporting issuer.

Inside information, recommending or encouraging trading

(4) A reporting issuer or a person who is in a special relationship with a reporting issuer and who knows of inside information relating to the reporting issuer, shall not recommend or encourage another person to

(a) purchase or sell a security of the reporting issuer;

(b) acquire, dispose of, or exercise a put or call option or other right or obligation to purchase or sell, securities of the reporting issuer;

(c) enter into a related financial instrument or acquire or dispose of rights or obligations under a related financial instrument; or

(d) change that person's

(i) beneficial ownership of, or direct or indirect control or direction over,

(A) a security of the reporting issuer, or

(B) a put or call option or other right or obligation to purchase or sell securities of the reporting issuer, or

(ii) interest in, or rights or obligations associated with, a related financial instrument. 2007,c.17,s.155.

Defence for trading

156. (1) A person does not contravene subsection 155(1) if at the time of the transaction described in that subsection the person reasonably believed that the other party to the transaction had knowledge of the inside information.

Defence for informing, recommending or encouraging trading

(2) A person does not contravene subsection 155(2), (3) or (4) if, at the time of the giving of the information described in subsection 155(2) or (3) or at the time of the making of the recommendation or giving of the encouragement described in subsection 155(4), as the case may be, the person reasonably believed that the person informed of the inside information or the person who received the recommendation or encouragement had knowledge of the inside information.

Defence for transaction by non-individual

(3) A person, other than an individual, who enters into a transaction described in subsection 155(1) with knowledge of inside information does not contravene that subsection if

(a) the person had knowledge of the inside information only because the inside information was known to one or more of the person's directors, officers, partners, employees or agents;

(b) the decision to enter into the transaction was made by one or more of the person's directors, officers, partners, employees or agents and none of the individuals who participated in the decision had actual knowledge of the inside information; and

(c) none of the person's directors, officers, partners, employees or agents who had actual knowledge of the inside information had given any advice related to the transaction based on that actual knowledge to the person's directors, officers, partners, employees or agents who made or participated in the decision to enter into the transaction.

Considerations relevant to proof of defence

(4) In determining if a person has established a defence under subsection (3), it will be relevant whether and to what extent the person has implemented and maintained reasonable policies and procedures to prevent contraventions of subsection 155(1).

Defence for automatic plans, legal obligations and agents

(5) A person who enters into a transaction as described in subsection 155(1) with knowledge of inside information does not contravene that subsection if

(a) the person entered into the transaction because of the person's participation in a written automatic dividend reinvestment plan or a written automatic purchase plan or another similar written automatic plan that the person entered into before having knowledge of the inside information;

(b) the person entered into the transaction under a written legal obligation to do so and that obligation was entered into before the person acquired knowledge of the inside information; or

(c) the person entered into the transaction

(i) as agent for another person under specific unsolicited instructions given by that other person to enter into the specified transaction,

(ii) as agent for another person under specific solicited instructions given by that other person to enter into the specified transaction before the person who acted as agent had knowledge of that inside information,

(iii) as agent or trustee for another person because of that other person's participation in a written automatic dividend reinvestment plan, written automatic purchase plan or another similar written automatic plan, or

(iv) as agent or trustee for another person to fulfill in whole or in part a written legal obligation of that other person. 2007,c.17,s.156.

Obstruction of justice

157. (1) No person shall destroy, conceal, withhold or refuse to give any information or refuse to produce any record or thing reasonably required for a hearing, review, investigation, examination or inspection under this Act.

Actions prior to hearing

(2) A person contravenes subsection (1) if the person knows or reasonably should know that a hearing, review, investigation, examination or inspection is to be conducted and the person takes any action referred to in subsection (1) before the hearing, review, investigation, examination or inspection.

Obstruction

(3) No person shall hinder or interfere with the Superintendent, an extra-provincial securities regulatory authority or its delegate, a delegate of the Superintendent, an employee of the Government acting under Prince Edward Island securities laws, or an appointee or agent of the Superintendent in the performance of their powers, functions or duties under this Act. 2007,c.17,s.157.

Calls to residences

158. (1) No person shall, for the purpose of trading in any security or in any class of securities,

(a) call at any residence; or

(b) telephone from within Prince Edward Island to any residence within or outside of Prince Edward Island.

Application of subsection (1)

(2) Subsection (1) does not apply if the person calls at or telephones the residence

(a) of a close personal friend, a business associate or a client with whom or on whose behalf the person calling or telephoning has been in the habit of trading in securities; or

(b) of a person who has received a copy of a prospectus filed under this Act and who has requested that information respecting a security offered in the prospectus be provided to that person by the person calling or telephoning if the person calling or telephoning refers only to the requested information respecting that security.

Deemed calls

(3) For the purposes of this section, a person is deemed to have called at or telephoned a residence if an officer, director, representative or agent of the person calls at or telephones the residence on the person's behalf.

residence

(4) In this section, "residence" includes any building or part of a building in which the occupant resides permanently or temporarily, and any appurtenant premises. 2007,c.17,s.158.

Order to deliver

159. (1) Where the Superintendent is satisfied that a registrant's past conduct in connection with advertising and sales literature affords reasonable grounds for believing that it is in the public interest to do so, the Superintendent may order that the registrant deliver to the Superintendent copies of all advertising and sales literature that the registrant proposes to use in connection with its business as a registrant.

Within specified period

(2) When making an order under subsection (1), the Superintendent may order that the registrant deliver the advertising and sales literature to the Superintendent within a specified period before the registrant uses it.

Opportunity to be heard

(3) Before making an order under subsection (1), the Superintendent shall give the registrant an opportunity to be heard.

Modification

(4) When a registrant has delivered advertising and sales literature to the Superintendent pursuant to an order made by the Superintendent under subsection (1), the Superintendent may require the registrant to modify the advertising and sales literature before the registrant uses it.

Definitions

(5) In this section,

advertising

(a) "advertising" includes television and radio commercials, newspaper and magazine advertisements, billboards, signs displays

and all other sales material generally disseminated through the communications media, including electronic mail, electronic bulletin boards or similar facilities;

sales literature

(b) "sales literature" includes records, videotapes, audiotapes, discs, cassettes and similar material, written matter and all other material designed for use in presentation to a prospective purchaser, whether or not that material is given or shown to a prospectus purchaser. 2007,c.17,s.159.

Duties

Margin contracts

160. (1) Where a registered dealer has entered into a contract with a client to buy and carry on margin any securities of any issuer either in Canada or elsewhere, and where the dealer or a partner, director, officer or employee of the dealer, while the contract is still in effect, sells or causes to be sold securities of the same issuer for any account in which the dealer or a partner or director of the dealer has a direct or indirect interest, if the effect of the sale would, otherwise than unintentionally, be to reduce the amount of securities in the hands of the dealer or under the dealer's control in the ordinary course of business below the amount of securities that the dealer should be carrying for all clients, the contract with the client is, at the option of the client, voidable and the client may recover from the dealer all money paid with interest or securities deposited in respect of the contract.

Exercise of option

(2) The client may exercise an option under subsection (1) by sending a notice to that effect to the registered dealer. 2007,c.17,s.160.

Declaration about short position

161. A person who places an order for the sale of a security through a registered dealer acting on that person's behalf, and who

(a) at the time of placing the order, does not own the security; or

(b) if acting as agent, knows the principal does not own the security,

shall, at the time of placing the order to sell, declare to the registered dealer that the person or principal, as the case may be, does not own the security. 2007,c.17,s.161.

Duty to comply with decisions

162. (1) A person to whom a decision of the Superintendent or a delegate of the Superintendent applies shall comply with the decision.

Duty to comply with undertaking

(2) A person who gives an undertaking to the Superintendent or a delegate of the Superintendent shall comply with the undertaking. 2007,c.17,s.162.

Shares in name of registrant or custodian not to be voted

163. (1) Subject to subsection (5), a voting security of an issuer registered in the name of

(a) a registrant or the nominee of a registrant; or

(b) a custodian or the nominee of a custodian, where that issuer is a mutual fund and a reporting issuer,

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

Forwarding of material

(2) Subject to subsection (3), immediately after receipt of a copy of a notice of a meeting of security holders of an issuer, the registrant or custodian shall, where the name and address of the beneficial owner of securities registered in the name of the registrant or custodian are known, send or deliver to each beneficial owner of the security that is registered at the record date for notice of the meeting, a copy of any notice, financial statement, information circular or other material.

Agreement to pay reasonable costs

(3) A registrant or custodian is not required to send or deliver the material required under subsection (2) unless the issuer or the beneficial owner of the securities has agreed to pay the reasonable costs to be incurred by the registrant or custodian in so doing.

Copies of material

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

Voting of shares

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

Proxies

(6) Where requested in writing by a beneficial owner, a registrant or custodian shall give to the beneficial owner or his nominee a proxy enabling the beneficial owner or his nominee to vote any voting securities referred to in subsection (1).

custodian

(7) In this section, “custodian” means a custodian of securities issued by a mutual fund held for the benefit of plan holders pursuant to a custodial agreement or other arrangement. 2007,c.17,s.163.

Offences and Penalties

General offences and penalties

164. (1) Every person who contravenes Prince Edward Island securities laws is guilty of an offence and is liable on summary conviction to a fine not exceeding $5 million or to imprisonment for a term not exceeding five years less one day, or to both fine and imprisonment.

Directors, officers and others who authorize

(2) If a person, other than an individual, commits an offence, whether or not in respect of that offence a charge has been laid, a finding of guilt

has been made or a plea of guilty has been entered with respect to that person,

(a) every director and every officer of the person who authorized, permitted or acquiesced in the offence; and

(b) every person, other than an officer or director of the person, who authorized or permitted the offence,

is guilty of that offence and is liable on summary conviction to a fine not exceeding $5 million or to imprisonment for a term not exceeding five years less one day, or to both fine and imprisonment. 2007,c.17,s.164.

Fine based on profit made or loss avoided

165. (1) Notwithstanding section 164, and in addition to any imprisonment that is or may be imposed under that section, if a person has contravened subsection 153(1) or (2) or subsection 155(1), (2), (3) or (4), the person is liable to a minimum fine equal to the profit made or loss avoided by any person by reason of the contravention, and a maximum fine equal to the greater of

(a) $5 million; and

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

Application of section 164

(2) If it is not possible to determine the profit made or loss avoided by any person by reason of the contravention, subsection (1) does not apply but section 164 continues to apply.

profit made and loss avoided

(3) For the purposes of subsections (1) and (2), the amount of the profit made and loss avoided shall be determined in accordance with the rules. 2007,c.17,s.165.

Order for compensation or restitution

166. (1) If a person is convicted of an offence under Prince Edward Island securities laws, the court imposing sentence may, in addition to any other penalty imposed on the person, order the person to compensate or make restitution to a person who has suffered a loss of personal property as a result of the offence in an amount, if the amount is readily ascertainable, not exceeding the difference between

(a) the replacement value of the personal property as of the date the order is imposed; and

(b) the value of any part of the personal property that is returned to that person as of the date it is returned.

Compensation or restitution to precede fine

(2) If

(a) the court finds it appropriate in the circumstances to make an order of restitution or compensation;

(b) the court is considering ordering the person to pay a fine; and

(c) it appears to the court that the person would not have the means or ability to comply with both the order of restitution or compensation and the order to pay the fine,

the court shall first make the order of restitution or compensation and may then consider whether and to what extent an order to pay a fine is appropriate in the circumstances.

Copy of order

(3) If a court makes an order of restitution or compensation, it shall cause a copy of the order to be sent to the aggrieved person to whom the restitution or compensation is ordered to be paid.

Additional orders

(4) If a person is convicted of an offence, the court imposing sentence may, in addition to any other penalty imposed on the person and in addition to any order under subsection (1), make one or more of the following orders:

(a) that trading in or purchasing any securities by or of a person cease permanently or for such period as is specified in the order;

(b) that the person resign one or more positions that the person holds as a director or officer of an issuer, a registrant, an investment fund manager, a promoter or a person involved in investor-relations activities;

(c) that the person is prohibited from becoming or acting as a director or officer of an issuer, a registrant, an investment fund manager, a promoter or a person involved in investor-relations activities;

(d) that the person disgorge to the Superintendent any amounts obtained or losses avoided by reason of the contravention. 2007,c.17,s.166.

Filing of restitution or compensation order

167. (1) The person to whom the amount was ordered to be paid under subsection 166(1) may file the order with the Supreme Court.

Effect of filing

(2) An order filed with the court under subsection (1) has the same effect as if it were a judgment of that court.

Participation of plaintiffs

(3) A person is not entitled to participate in a proceeding in which an order may be made under subsection 166(1) solely on the basis that the person has a right of action against a defendant to the proceeding, or that the person may be entitled to receive an amount under the order.

Civil remedies

(4) A civil remedy for an act or omission is not affected by reason only that an order under subsection 166(1) has been made in respect of that act or omission. 2007,c.17,s.167; 2008,c.20,s.72(83).

PART 18: REGULATIONS AND RULE-MAKING

Regulations

168. The Lieutenant Governor in Council may make regulations

(a) respecting the same subject matters in respect of which the Minister may make rules subject to such modifications as are considered necessary;

(b) respecting any matter considered advisable to carry out the purposes of this Act;
(c) amending or repealing a rule;
(d) governing the procedures to be followed by the Minister with respect to making, amending or repealing rules;
(e) governing the publication requirements for rules, proposed rules or orders made under section 138;
(f) respecting fees and charges, or limits on the fees and charges, that may be imposed with respect to
(i) a person being investigated or whose financial affairs are being examined under this Act,
(ii) a person appointed under Prince Edward Island securities laws, and
(iii) a market participant subject to a review under Prince Edward Island securities laws; and
(g) varying the provisions of Prince Edward Island securities laws as they apply to a person. 2007,c.17,s.168.

Rule-making authority

169. The Minister, on the recommendation of the Superintendent, may make rules

Self-regulation

1. respecting self-regulatory organizations, marketplaces, clearing agencies, recognized entities and entities exempt from recognition, including, without limitation:
(i) the recognition or exemption from recognition of exchanges, self-regulatory organizations, clearing agencies and quotation trade reporting systems and entities designated as requiring recognition under clause 71(1)(b),
(ii) the review or approval by the Superintendent of bylaws, rules, regulations, policies procedures, interpretations, practices or operations of recognized entities and entities exempt from recognition,
(iii) applications by a recognized entity for the voluntary surrender of recognition;

Market participants

2. respecting market participants, including the form in which and the period for which records must be kept;

Registration

3. respecting registration or refusal of registration of persons under Part 8 or the rules, including, without limitation:

(i) establishing classes, categories and subcategories of registrants and the allocation of persons to those classes, categories and subcategories,

(ii) the requirements and conditions to be met by applicants for registration, amendment, reactivation or reinstatement of registration,

(iii) the terms, conditions, restrictions and requirements that may be imposed on a registration,

(iv) the terms, conditions, restrictions and requirements for the voluntary surrender of registration,

(v) the termination or expiration of registration and the obligations on, or that may be imposed on, a former registrant following a voluntary surrender or termination or expiration of registration,

(vi) the suspension of registration and the obligations of suspended registrants,

(vii) the duration and periods of duration of registration,

(viii) the conditions, obligations, standards of practice and the business conduct to be met and maintained by registrants, representatives, and non-registered directors, officers, partners and employees of registrants,

(ix) the prevention or disclosure of conflicts of interest in relation to registrants, representatives, and non-registered directors, officers, partners and employees of registrants,

(x) requiring registrants, representatives, and non-registered directors, officers, partners and employees of registrants to have and maintain participation or membership in a recognized entity or self-regulatory organization,

(xi) the ownership and control of registrants, and requiring notification to the Superintendent of a proposed change in beneficial ownership of or control or direction of a registrant,

(xii) requiring the establishment and maintenance of and respecting the trust arrangements between registrants and their clients, the segregation of securities and the establishment, maintenance and operation of and contributions to compensation or contingency funds, and payments from them,

(xiii) respecting the trading in or purchasing of securities by registrants,

(xiv) respecting telephone or personal solicitation for the purpose of trading in or purchasing of securities,

(xv) authorizing a person to prescribe alternative conditions for applicants from those prescribed and the manner of giving notice of those alternative conditions,

(xvi) the disclosure or providing of information by registrants to the public, marketplaces or the Superintendent and when and how that must be done,

(xvii) respecting the residence in Prince Edward Island or Canada of registrants,

(xviii) respecting requirements for non-registered directors, officers, partners and employees of registrants,

(xix) prescribing standards in relation to the suitability for certain investors of certain securities,

(xx) prescribing the conditions and circumstances in which a person who is a corporation may undertake the duties, responsibilities and activities that a person who is a registrant and a shareholder of the corporation is authorized to undertake by virtue of being a registrant, including the establishment of a scheme for the registration of the corporation and the category of that registration,

(xxi) imposing liability on a registrant who is a dealer or adviser for the acts or omissions prescribed under subitem (xxv) of a corporation that is a registrant under a scheme established pursuant to subitem (xx) where the dealer or adviser has a prescribed contractual relationship with the corporation,

(xxii) imposing liability on a person who is a registrant and a shareholder of a corporation for acts or omissions of the corporation if the corporation that performs the acts or fails to perform the acts is a registrant under a scheme established pursuant to subitem (xx),

(xxiii) prescribing the terms and conditions under which a person who is in a contractual relationship with a dealer is deemed to be an employee of the dealer for the purposes of Prince Edward Island securities laws and deemed to be qualified for registration as a representative of the dealer,

(xxiv) imposing liability on a registrant who is a dealer for the acts and omissions prescribed under subitem (xxv) of a person deemed to be an employee of the dealer under a rule made pursuant to subitem (xxiii),

(xxv) prescribing the acts or omissions of a corporation for which a registrant who is a dealer or adviser is liable,

(xxvi) prescribing the acts or omissions of a person deemed to be an employee of a dealer for which a registrant who is a dealer is liable,

(xxvii) prescribing the circumstances in which

(A) a person or class of persons is not required to be registered under Part 8, or

(B) a person or class of persons is deemed to be registered for the purposes of this Act and the rules,

including the circumstance in which a person or a class of persons is registered under the laws of another jurisdiction respecting trading in securities,

(xxviii) prescribing functions or duties for the purposes of section 87,

(xxix) prescribing requirements respecting non-resident registrants,

(xxx) prescribing requirements respecting participation in a dispute resolution service,

(xxxi) prescribing requirements with respect to dealing with complaints,

(xxxii) prescribing requirements respecting systems of control and supervision, including requirements respecting the appointment and registration of individuals responsible for such systems,

(xxxiii) prescribing requirements respecting referral arrangements,

(xxxiv) prescribing requirements respecting the disclosure of information about an individual by a registered firm to another registered firm for the purpose of determining the individual's suitability for registration or employment by the other registered firm,

(xxxv) prescribing requirements respecting the disclosure or furnishing of information to customers and clients, prospective customers and clients, the public or the Superintendent by registrants;

Distribution

4. respecting the distribution of securities, including, without limitation:

(i) the form, content, filing, disclosure and delivery requirements for preliminary prospectuses, prospectuses, and other forms or types of disclosure documents,

(ii) the distribution of securities by means of a simplified or summary prospectus or other forms or types of disclosure document, and the form and contents of a simplified or summary prospectus or other form or type of disclosure document in connection with the distribution,

(iii) the distribution of securities on a continuous or delayed basis,

(iv) any additional or alternative requirements to permit a distribution of securities by means of a disclosure document other than a prospectus,

(v) the incorporation of other documents by reference in a prospectus or other form or type of disclosure document, and the effect, including from a liability and evidentiary perspective, of modifying or superseding statements,

(vi) the distribution of securities by means of a prospectus or other form or type of disclosure document incorporating other documents by reference,

(vii) the form of certificates relating to prospectuses or other form or type of disclosure documents, and the persons required to sign a certificate,

(viii) the pricing of securities after the issuance of a receipt,

(ix) the issuance of receipts for preliminary prospectuses, prospectuses and other forms or types of disclosure documents, 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 in which a receipt may be refused,

(x) prescribing periods in which receipts are effective and the circumstances in which a receipt may be revoked or the circumstances in which a receipt is deemed to be void,

(xi) prescribing circumstances in which a person who purchases a security under a distribution may cancel the purchase, including, without limitation:

(A) prescribing the period in which a purchaser may cancel the purchase,

(B) prescribing the principles for determining the amount of the refund if the purchaser cancels the purchase,

(C) specifying the person responsible for making and administering the payment of the refund and prescribing the period in which the refund must be paid,

(D) prescribing different circumstances, periods, principles or persons for different classes of securities, issuers or purchasers,

(xii) eligibility requirements to obtain a receipt for, or distribute under, a particular prospectus or other form or type of disclosure document, and the loss of that eligibility,

(xiii) the lapse date for a prospectus or other form or type of disclosure document, restricting the period of time to the lapse date, the terms and conditions for continuing to distribute securities after the lapse date, and the circumstances in which the purchaser may cancel a trade that occurs after the lapse date,

(xiv) prescribing circumstances in which an issuer must provide information to a person to enable a distribution of previously issued securities of the issuer,

(xv) designating a document that describes the business and affairs of an issuer not to be an offering memorandum,

(xvi) designating a document that describes the business and affairs of an issuer to be an offering memorandum,

(xvii) prescribing, with respect to a trade that would not otherwise be a distribution, the circumstances in which that trade is deemed to be a distribution,

(xviii) requirements for the escrow of securities in connection with a distribution,

(xix) requirements for the delivery of a prospectus or other form or type of disclosure document,

(xx) activities in which registrants or issuers are permitted to engage in connection with distributions, including the use of records or advertising,

(xxi) prescribing circumstances in which

(A) section 94 does not apply to a person or a class of persons, or

(B) a receipt is deemed to have been issued for the purposes of this Act,

including the circumstances in which a receipt has been issued for a preliminary prospectus or prospectus under the laws of another jurisdiction respecting trading in securities,

(xxii) requirements in respect of amendments to prospectuses, preliminary prospectuses or other forms or types of disclosure document prescribing circumstances in which an amendment to a preliminary prospectus, prospectus or other form or type of disclosure document must be filed,

(xxiii) requirements for dealers or other persons 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,

(xxiv) varying any provision of Part 9;

Exemptions from registration and prospectus requirements

5. respecting exemptions from the registration or prospectus requirements, or both, including, without limitation:

(i) prescribing trades, distributions, securities and persons in respect of which registration is not required,

(ii) prescribing trades, distributions, securities and persons in respect of which the filing of a prospectus is not required,

(iii) respecting the revocation or variation of a decision made under section 16;

Exchange-traded derivatives

6. respecting exchange-traded derivatives, including, without limitation, providing that this Act does not apply to exchange-traded derivatives;

Continuous disclosure

7. prescribing requirements in respect of the preparation and dissemination and other use, by issuers, of records providing for continuous disclosure and any other information for security holders, including, without limitation, requirements in respect of:

(i) financial statements,
(ii) proxies and information circulars,
(iii) annual reports,
(iv) annual information forms,
(v) supplemental analysis of financial statements,
(vi) the reporting of material changes,
(vii) press releases and technical reports,
(viii) entitlement events;

8. prescribing circumstances in which an issuer is in default of this Act and the consequences of being in default;

9. respecting the voluntary surrender of reporting issuer status;

Proxy solicitation

10. respecting the solicitation of proxies, including, without limitation:

(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, including depositories and registrants, who hold securities on behalf of beneficial owners;

Insider trading, early warning and self-dealing

11. respecting insider trading, early warning and self-dealing, including, without limitation:

(i) requiring any issuer, class of issuer or other person to comply with any of the requirements of Part 11 or the rules,
(ii) prescribing how a security or class of security or a related financial instrument or class of related financial instruments must be reported in an insider report filed under section 104,

(iii) prescribing disclosure, delivery, dissemination and filing requirements, including the use of particular forms or particular types of documents,
(iv) conflicts of interest,
(v) prescribing exemptions from the requirements of Part 11 or the rules,
(vi) designating a person as an insider;

Control persons

12. prescribing requirements for control persons;

Trading, clearing and settlement

13. respecting trading, including, without limitation:
(i) respecting trading or advising in securities to prevent trading or advising that is fraudulent, manipulative, deceptive or unfairly detrimental to investors,
(ii) respecting trading or advising in penny stocks, including prescribing requirements in respect of additional disclosure and suitability for investment,
(iii) respecting advertising related to trading in securities,
(iv) respecting purchases and offers to purchase securities,
(v) respecting the listing and trading of securities whether on marketplaces or an exchange recognized by the Superintendent or not,
(vi) establishing principles for determining the market value, market price, closing price, average trading price and net asset value of a security, and authorizing the Superintendent to make that determination,
(vii) prescribing which distributions and trading in relation to the distributions are distributions and trading outside the province,
(viii) respecting conditions applicable to any operation designed to fix, stabilize or influence the quoted price of a security,
(ix) the reporting of trades or quotations;

14. prescribing standards applicable to market participants to ensure efficient and reliable clearance and settlement of securities transactions, maintenance of securities accounts, and safeguarding of securities;

15. regulating any person who operates a system or network of systems used by market participants for the clearance and settlement of securities transactions, the maintenance of securities accounts, and

the safeguarding of securities, including, without limitation, any system or network of systems operated or used by

(i) a transfer agent and registrar for securities of a reporting issuer for the registration of transfer of uncertificated securities and the recording of ownership and safeguarding of those securities, and

(ii) a dealer, adviser and custodian for the clearance and settlement of securities transactions, the maintenance of securities accounts, and the safeguarding of securities;

16. prescribing the methods by which cash entitlement payments may be made to a recognized clearing agency or nominee of it as registered or bearer holder of securities issued by a reporting issuer;

Take-over bids, issuer bids and related matters

17. respecting take-over bids, issuer bids and related matters, including, without limitation:

(i) prescribing requirements for different classes of bids,

(ii) prescribing requirements relating to the conduct or management of the affairs of the issuer that is the subject of a take-over bid or issuer bid, and its directors and officers, during or in anticipation of the bid,

(iii) prohibiting a person from purchasing or selling a security before, during or after the effective period of a take-over bid,

(iv) prescribing the disclosure, certification, delivery or dissemination of any circular, notice, report or other document required to be filed or delivered to a person,

(v) prescribing percentages and requirements respecting early warning,

(vi) prescribing exemptions from the requirements of Part 12 or the rules;

Investment funds

18. respecting investment funds and the distribution and trading of the securities of the funds, including, without limitation:

(i) varying Part 9 and Part 10 by prescribing disclosure requirements in respect of the funds and requiring or permitting the use of particular forms or types of offering or other documents in connection with the funds,

(ii) respecting permitted investment policy and investment practices for the funds and respecting the investments or investment practices for the funds,

(iii) prescribing minimum initial capital requirements for any of the funds making a distribution and respecting the reimbursement of costs in connection with the organization of a fund,
(iv) prescribing requirements governing the custodianship of assets of the funds,
(v) prescribing matters affecting any of the funds that require the approval of security holders of that fund or of the Superintendent, including, in the case of security holders, the level of approval,
(vi) prescribing requirements in respect of the calculation of the net asset value of investment funds,
(vii) prescribing requirements in respect of the content and use of sales literature, sales communications or advertising relating to the funds or the securities of funds,
(viii) prescribing requirements for investment clubs,
(ix) 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, and commissions or sales incentives to be paid to registrants in connection with the securities of an investment fund,
(x) prescribing the circumstances in which a planholder under a contractual plan has the right to withdraw from the contractual plan,
(xi) prescribing procedures applicable to investment funds, registrants and other persons in respect of sales and redemptions of investment fund securities and payments for sales and redemptions,
(xii) prescribing requirements in respect of, or in relation to, promoters, advisers or persons who administer or participate in the administration of the affairs of investment funds,
(xiii) establishing operating rules respecting the management, stewardship, safekeeping and composition of the assets of investment funds and prohibiting certain transactions for the protection of the holders of securities,
(xiv) respecting conditions applicable to securities transactions with and loans made to persons who are not entirely independent of the investment fund,
(xv) requiring a person responsible for the management of an investment fund to meet a standard of care specified in the rules,
(xvi) providing for tests or criteria to determine persons responsible for the management of an investment fund company,
(xvii) requiring persons responsible for the management of an investment fund to appoint officers, directors and members of an independent review agency or other independent individuals,
(xviii) respecting the conflicts of interest between security holders of an investment fund and persons responsible for the

management of investment funds, including, without limitation, the composition, appointment, qualifications, proficiency and duties of an independent review agency of an investment fund, including any matters respecting independence of the agency,

(xix) respecting fees or charges imposed by a person responsible for the management of an investment fund,

(xx) respecting requirements governing the qualifications and obligations of investment fund managers,

(xxi) respecting requirements relating to the qualification of a registrant to act as an adviser to an investment fund,

(xxii) regulating scholarship plans and the distribution and trading of the securities of scholarship plans,

(xxiii) respecting fees payable by an issuer to an adviser as consideration for investment advice, alone or together with administrative or management services provided to a investment fund,

(xxiv) respecting the reimbursement of costs in connection with the organization of an investment fund;

19. respecting commodity pools, including, without limitation:

(i) the disclosure requirements in respect of commodity pools and requiring or permitting the use of particular forms or types of offering documents or other documents in connection with commodity pools,

(ii) the requirements in respect of, or in relation to, promoters, advisers and persons who administer or participate in the administration of the affairs of commodity pools,

(iii) the standards in relation to the suitability of investors in commodity pools,

(iv) respecting the payment of fees, commissions or compensation by commodity pools or holders of securities of commodity pools and restricting the reimbursement of costs in connection with the organization of commodity pools,

(v) the requirements with respect to the voting rights of security holders,

(vi) prescribing requirements in respect of the redemption of securities of a commodity pool;

20. respecting labour sponsored investment funds and the distribution and trading of the securities of the funds, and varying this Act in respect of the funds, and

(i) prescribing proficiency requirements that apply in respect of registrants trading in securities of the funds,

(ii) respecting the use of particular forms or types of offering documents for or in respect of the securities of the funds,

(iii) prescribing disclosure requirements for or in respect of the securities of the funds, and

(iv) prescribing insider reporting requirements for or in respect of the funds;

20.1 respecting community economic-development businesses, as defined in the *Community Development Equity Tax Credit Act* R.S.P.E.I. 1988, Cap. C-13.01 and the distribution and trading of the securities of such businesses and varying this Act in respect of those businesses, and

(i) respecting the use of particular forms or types of offering documents for or in respect of the securities of the business,

(ii) prescribing disclosure requirements for or in respect of the securities of the businesses, and

(iii) prescribing insider reporting requirements for or in respect of the business;

Derivatives

21. respecting derivatives, including, without limitation:

(i) prescribing disclosure requirements and respecting the use of particular forms or types of offering documents or other documents,

(ii) varying this Act with respect to derivatives,

(iii) prescribing requirements for derivatives that apply to investment funds, commodity pools and other issuers;

Civil liability

22. prescribing documents for the purposes of the definition of “core document” in section 122;

23. providing for the application of Part 14 to

(i) the acquisition of an issuer’s security pursuant to a distribution that is exempt from section 94 or that continues after the lapse date of a prospectus, and

(ii) the acquisition or disposition of an issuer’s security in connection with or pursuant to a take-over bid or issuer bid;

24. prescribing transactions for the purposes of clause 123(d);

Foreign issuers

25. respecting foreign issuers and the application of Prince Edward Island securities law to them, including, without limitation, varying

any provision of Prince Edward Island securities laws to facilitate distributions and compliance with requirements applicable or relating to

(i) insiders, and

(ii) the making of take-over bids, issuer bids, insider bids, going-private transactions and related party transactions,

if the foreign issuers are subject to foreign securities laws that the Superintendent considers to be adequate for the purposes of this Act;

Governance issues

26. governing minimum requirements respecting the governance of reporting issuers, including, without limitation:

(i) requiring directors and officers of reporting issuers to act honestly and in good faith with a view to the best interests of the reporting issuer,

(ii) requiring directors and officers to exercise the skill and judgment that a reasonably prudent person would exercise in comparable circumstances,

(iii) respecting the composition of the board of directors of a reporting issuer and any committees of the directors and the qualifications and requirements concerning directors, officers and committee members, including any matters respecting independence, required courses and expertise,

(iv) respecting the mandate, responsibilities and functioning of the board of directors of a reporting issuer,

(v) requiring reporting issuers to appoint audit committees and other committees of directors, and requirements relating to the mandate, functioning and responsibility of, and the minimum standards for, those committees,

(vi) requiring reporting issuers to adopt a code of business conduct and ethics and governance guidelines for directors, officers, employees and persons performing similar functions or that are in a special relationship with the reporting issuer,

(vii) respecting procedures to regulate conflicts of interest between the interests of a reporting issuer and those of a director or officer or a person performing similar functions on behalf of a reporting issuer;

27. requiring reporting issuers to devise and maintain a system of internal controls related to the effectiveness and efficiency of their operations, including financial reporting and asset control, sufficient to provide reasonable assurances that

(i) transactions are executed in accordance with management's general or specific authorization,

(ii) transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles or any other criteria applicable to those statements,

(iii) transactions are recorded as necessary to maintain accountability for assets,

(iv) access to assets is permitted only in accordance with management's general or specific authorization, and

(v) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences;

28. requiring reporting issuers to devise and maintain disclosure controls and procedures sufficient to provide reasonable assurances that

(i) information required to be disclosed under Prince Edward Island securities laws is recorded, processed, summarized and reported, within the time periods specified under Prince Edward Island securities laws, and

(ii) information required to be disclosed under Prince Edward Island securities laws is accumulated and communicated to the reporting issuer's management, including its chief executive and financial officers, as appropriate, to allow timely decisions regarding required disclosure;

29. requiring the chief executive officers and chief financial officers of reporting issuers, or persons performing similar functions, to provide a certification that addresses the reporting issuer's internal controls, including certifications that address

(i) the establishment and maintenance of internal controls,

(ii) the design of internal controls, and

(iii) the evaluation of the effectiveness of internal controls;

30. requiring the chief executive officers and chief financial officers of reporting issuers, or persons performing similar functions, to provide a certification that addresses the reporting issuer's disclosure controls and procedures, including certifications that address

(i) the establishment and maintenance of disclosure controls and procedures,

(ii) the design of disclosure controls and procedures, and

(iii) the evaluation of the effectiveness of disclosure controls and procedures;

31. requiring evaluations of systems of internal controls related to the effectiveness and efficiency of the operations of reporting issuers

and requiring reporting issuers to obtain audits of their systems of internal controls, including the evaluation of these systems by management;

32. respecting requirements for financial accounting, reporting and auditing for the purposes of Prince Edward Island securities laws, including, without limitation:

(i) the records to be established and maintained,

(ii) defining accounting principles and auditing standards acceptable to the Superintendent,

(iii) financial reporting requirements for the preparation and dissemination of future-oriented financial information and pro forma financial statements,

(iv) standards of independence and other qualifications for auditors,

(v) requirements respecting a change in auditors by a reporting issuer or a registrant,

(vi) requirements respecting a change in the financial year of an issuer or in an issuer's status as a reporting issuer under Prince Edward Island securities laws,

(vii) defining auditing standards for attesting to and reporting on a reporting issuer's internal controls,

(viii) respecting any matter necessary or advisable to regulate auditors of reporting issuers, and

(ix) respecting any matter necessary or advisable to regulate auditor oversight bodies;

General matters

33. respecting the administration of Prince Edward Island securities laws generally, including, without limitation:

(i) those matters for which Prince Edward Island securities laws provide that rules be made,

(ii) those matters for which Prince Edward Island securities laws provide that definitions, requirements or other matters be prescribed,

(iii) requiring a person to provide a bond, guarantee or other assurance,

(iv) defining for the purposes of this Act, words or terms that are used in this Act and that are not defined in this Act,

(v) respecting the determination of the amount of the profit made or loss avoidable for the purposes of subsection 165(3);

34. designating a person or Canadian jurisdiction or foreign jurisdiction for any purpose under Prince Edward Island securities laws;

35. designating one or more persons to perform the function of market integration or market transparency or a function relating to market integration or market transparency;

36. respecting terms that must be contained in an escrow or pooling agreement with respect to securities issued for consideration other than cash;

37. respecting the form and content of disclosure requirements for equity compensation plans or other compensation arrangements that involve a security of a reporting issuer or a derivative of a security of a reporting issuer;

38. respecting the media, format, preparation, form, contents, execution, certification, approval, dissemination and other use, filing, review and public inspection of all records required under or governed by Prince Edward Island securities laws, including, without limitation:

(i) applications for registration and other purposes related to registration, and the transfer, reactivation of, or amendment to, registration,

(ii) preliminary prospectuses and prospectuses,

(iii) interim financial statements and financial statements,

(iv) proxies and information circulars,

(v) take-over bid circulars, issuer bid circulars and directors' circulars;

39. respecting the procedures and requirements in respect of the use of any electronic or computer-based system for the filing, delivery or deposit of records;

40. requiring the use of an electronic or computer-based system for filing, delivery or deposit of records;

41. prescribing the circumstances in which persons are deemed to have signed or certified records on an electronic or computer-based system for the purposes of Prince Edward Island securities laws;

42. determining, from among the records required by Prince Edward Island securities laws to be filed, sent, delivered, deposited or

otherwise transmitted to the Superintendent, those that must be filed or transmitted using the medium or technology specified in the rules;

43. the use of records, prepared in accordance with extra-provincial laws or the laws of a foreign jurisdiction, to satisfy the requirements of Prince Edward Island securities laws;

44. respecting methods of filing, delivery, deposit or transmission to or by the Superintendent, issuers, registrants, security holders or others, of information, records, property or things, required to be communicated under or governed by Prince Edward Island securities laws;

45. respecting the amendment or modification of a record and the effect of the amendment or modification;

46. respecting the circumstances in which a person is deemed to have been served with a record;

47. determining what constitutes approval of a person's records where such approval is required under this Act;

48. governing the provision or distribution of information or records by a person, including the Superintendent or a delegate of the Superintendent, to any person, and the payment of fees for providing that information or those records;

49. respecting records, including, without limitation:
(i) the records to be kept and maintained and disclosed,
(ii) to whom and when information or records must be provided and the nature, form and contents of the information or record;

50. respecting the time periods within which or by which anything must be filed, delivered, sent, deposited, provided or otherwise transmitted;

51. designating
(i) an issuer to be or to cease to be a reporting issuer,
(ii) a trade to be a distribution,
(iii) an instrument or interest to be a derivative,
(iv) a right, obligation, instrument or interest not to be a derivative,
(v) a person to be a market participant,
(vi) an issuer to be or not to be a mutual fund,

(vii) an issuer to be or not to be a non-redeemable investment fund,

(viii) an exchange for the purposes of the definition of "exchange-traded derivative", and

(ix) an exchange for the purposes of the definition of "reporting issuer";

52. respecting the delegation of any Prince Edward Island authority to an extra-provincial securities regulatory authority;

53. respecting the acceptance by the Superintendent of any delegation or other authority of an extra-provincial authority from an extra-provincial securities regulatory authority;

54. respecting any amendments to, or the revocation of, any delegation or acceptance of a delegation referred to in item 52 or 53;

55. respecting the adoption or incorporation by reference of extra-provincial securities laws under section 138, including the administration of those laws once adopted or incorporated by reference;

56. respecting when an opportunity to be heard must be provided before a decision is made by the Superintendent or a delegate of the Superintendent;

57. respecting the exercise of any power or function, and the performance of any duty, that the Superintendent, a delegate of the Superintendent, an employee of the Government acting under Prince Edward Island securities laws, or an appointee or agent of the Superintendent has under Prince Edward Island securities laws;

58. respecting exemptions of a person, security, trade, distribution or transaction from all or any provisions of Prince Edward Island securities laws, and the variation or revocation of the exemption, and providing for terms, conditions, restrictions and requirements on the exemption, removal of the exemption or variation of the exemption;

59. prescribing circumstances and conditions for the purposes of an exemption under item 58, including, without limitation:

(i) conditions relating to the laws of another Canadian jurisdiction or relating to an exemption from those laws granted by a body empowered by the laws of that jurisdiction to regulate trading in securities or to administer or enforce laws respecting trading in securities in that jurisdiction, or

(ii) conditions that refer to a person or to a class of persons designated by the Superintendent;

60. prescribing circumstances in which a person or a class of persons is prohibited from trading or purchasing securities or a particular security, including the circumstances in which a body empowered by the laws of another jurisdiction to regulate trading in securities or to administer or enforce Prince Edward Island securities laws in that jurisdiction has ordered that a person is prohibited from trading or purchasing securities or a particular security;

61. prescribing standards or criteria for determining when a material fact or material change has been generally disclosed;

62. defining words or terms used in the rules for the purposes of the rules generally;

63. governing what constitutes a conflict of interest for the Superintendent, the public officers or employees of the Government acting under Prince Edward Island securities laws and the appointees and agents of the Superintendent, and respecting the procedure for disclosing or otherwise dealing with conflicts;

64. respecting the practice and procedure for investigations, examinations or inspections under Prince Edward Island securities laws;

65. respecting the initiation of hearings, reviews or inquiries, and matters relevant to the conduct of hearings, reviews and inquiries, including pre-hearing disclosure, and the rules and procedures applicable to a review, hearing or inquiry;

66. respecting the operation of the office of the Superintendent, including, without limitation:

(i) the costs of investigations, reviews, hearings and other proceedings, the payment of witness fees, the calculation of costs, and the matters in respect of which costs may be awarded,

(ii) undertakings to, and agreements or arrangements made by, the Superintendent, and the administration and disposition of money received under an undertaking, agreement or arrangement;

67. providing for the collection and remission, by recognized entities, of fees payable to the Superintendent;

68. respecting the disclosure or confidentiality of personal information, authorizing the Superintendent to disclose personal information, governing the manner of the disclosure and determining to whom personal information may be disclosed;

69. authorizing the Superintendent to collect personal information indirectly from a person in Prince Edward Island or elsewhere, not otherwise contemplated by Prince Edward Island securities laws;

70. respecting the public availability or confidentiality of records filed with, or provided to, deposited with, produced to or obtained by the Superintendent or a delegate of the Superintendent;

71. authorizing the Superintendent to enter into an arrangement or agreement with a person in Prince Edward Island or elsewhere, regarding or involving the collection, sharing or disclosure of personal information that is not otherwise contemplated by this Act;

72. respecting transitional matters to meet any difficulty that may arise by reason of the repeal of the former Act and the enactment of this Act;

73. respecting any matter that is advisable for carrying out the purposes of this Act. 2007,c.17,s.169; 2010,c.6,s.19.

Scope of regulations and rules

170. A regulation made under section 168 or a rule made under section 169 may

(a) prohibit, regulate, restrict, limit or control a person, an action, activity or conduct;

(b) adopt or incorporate, as amended from time to time, whether amended before or after the adoption or incorporation, with or without modification, any code, standard, procedure or guideline;

(c) impose or provide for the imposition of terms, conditions, restrictions and requirements, or any of them, before, during or after an action, activity or conduct is taken, in addition to any other terms, conditions, restrictions and requirements that may be imposed by the Superintendent;

(d) if circumstances warrant, have retroactive, retrospective or prospective effect;

(e) be of general or specific application;

(f) apply to classes, categories or subcategories of persons, securities, trades, transactions or other matters or things;

(g) be limited as to time or place, or both; and

(h) confer a discretionary power on the Superintendent. 2007,c.17,s.170.

Procedure for making rules

171. The Minister shall follow the requirements of the regulations made by the Lieutenant Governor in Council under section 168 respecting the procedure to be followed in making, amending or repealing rules, and in publishing rules. 2007,c.17,s.171.

Effect of rules

172. For the purposes of the *Evidence Act*, a rule must be treated as if it were a regulation. 2007,c.17,s.172.

Inconsistencies between rules and regulations

173. In the event of an inconsistency between a regulation made by the Lieutenant Governor in Council under section 168 and a rule made by the Minister under section 169, the regulation prevails to the extent of the inconsistency. 2007,c.17,s.173.

Application of *Queen's Printer Act*

174. Subsection 4(1) of the *Queen's Printer Act* does not apply to rules made under section 169. 2007,c.17,s.174.

PART 19: FEES

Applications and filings

175. (1) A person who wishes to make an application or filing under this Act shall pay to the Minister of Finance, at the time the person makes an application or filing under this Act, such fees as are set out in the Schedule to this Act.

Fee for maintaining registration

(2) A person registered as a dealer or adviser under this Act shall pay to the Minister of Finance by or on December 31 of each year a fee, to maintain registration for the subsequent year, that is equal in amount to the fee payable under this Act for an application for registration for itself and its registered representatives. 2007,c.17,s.175; 2010,c.31,s.3; 2012,c.17,s.2; 2015,c.28,s.3.

PART 20: TRANSITIONAL PROVISIONS

Definitions

176. (1) In this Part,

Director

(a) "Director" means the Director as defined in clause 1(e) of the former Act;

Registrar

(b) "Registrar" means the Registrar as defined in clause 1(u) of the former Act.

Revocation of appointment of Registrar

(2) The appointment of the Registrar in effect immediately before the coming into force of this section is revoked. 2007,c.17,s.176.

Decisions

177. (1) Subject to subsections (2) and (3), any decision, ruling, order, determination or direction of the Registrar or of the Director made under the former Act that was valid and of full force and effect immediately before the coming into force of this section,

(a) subject to clause (c), continues to be valid and of full force and effect;
(b) is deemed to be the decision, ruling, order, determination or direction of the Superintendent;
(c) may be varied or revoked by the Superintendent under this Act;
(d) may be enforced in the same manner as a decision made by the Superintendent under this Act.

Registration exemptions

(2) An exemption granted by the Director exempting any trade, intended trade, security or person from section 2 of the former Act or a ruling of the Registrar providing that section 2 of the former Act does not apply to any trade, security or person, that was valid and of full force and effect immediately before the coming into force of this section,
(a) subject to paragraphs (b) and (c), continues to be valid and of full force and effect;
(b) is deemed to be an order of the Superintendent exempting the trade, intended trade, security or person from section 86;
(c) may be varied or revoked by the Superintendent under this Act; and
(d) may be enforced in the same manner as a decision made by the Superintendent under this Act.

Prospectus exemptions

(3) An exemption granted by the Director exempting any trade, intended trade, security or person from section 8 of the former Act or a ruling of the Registrar providing that section 8 of the former Act does not apply to any trade, security or person, that was valid and of full force and effect immediately before the coming into force of this section,
(a) subject to paragraphs (b) and (c), continues to be valid and of full force and effect;
(b) is deemed to be an order of the Superintendent exempting the trade, intended trade, security or person from section 94;
(c) may be varied or revoked by the Superintendent; and
(d) may be enforced in the same manner as a decision made by the Superintendent under this Act. 2007,c.17,s.177.

Documents

178. On the coming into force of this section, the documents, information, records and files that are held by the Registrar and the Director under the former Act become the documents, information, records and files of the Superintendent. 2007,c.17,s.178.

Proceedings

179. (1) On and after the coming into force of this section, any proceeding, hearing, matter or thing, other than an examination, investigation or inspection, commenced under the former Act by the Registrar or the Director, or any application for an exemption, order or ruling commenced under the former Act, that would be dealt with by the Superintendent, if commenced on or after the coming into force of this

section, may be dealt with and completed in accordance with this Act and the rules by the Superintendent.

Authorization of Registrar and Director

(2) Notwithstanding subsections (1), 176(2) and section 177, the Superintendent may authorize the Registrar or the Director to deal with and complete any proceeding, hearing, matter or thing, other than an examination, investigation or inspection, commenced by the Registrar or the Director under the former Act before the coming into force of this section.

Former law

(3) Any proceeding, hearing, matter or thing dealt with and completed by the Registrar or the Director under subsection (2) shall be dealt with and completed in accordance with the law as it existed immediately before the coming into force of this section, and, in the case of a proceeding, hearing, matter or thing dealt with and completed by the Registrar, as if the appointment of the Registrar had not been revoked.

Decisions

(4) Any decision, ruling, order, determination or direction of the Registrar or the Director made in accordance with subsection (2)

(a) is deemed to be the decision, ruling, order, determination or direction of the Superintendent;

(b) may be varied or revoked by the Superintendent; and

(c) may be enforced in the same manner as a decision made by the Superintendent under this Act. 2007,c.17,s.179.

Examinations or investigations

180. (1) On and after the coming into force of this section, any examination or investigation commenced under the former Act by the Director or by a person to whom the power to make an examination or investigation has been delegated by the Director that would be dealt with by the Superintendent under section 30 or by a person appointed by the Superintendent under section 30, if commenced on or after the coming into force of this section, may be dealt with and completed in accordance with this Act and the rules by the Superintendent or by a person appointed by the Superintendent under section 30.

Authorization of Director or person appointed by the Director

(2) Notwithstanding subsection (1) and section 177, the Superintendent may authorize the Director, or a person to whom the power to make an examination or investigation has been delegated by the Director under the former Act, to deal with and complete any examination or investigation commenced by him or her before the coming into force of this section.

Former law

(3) Any examination or investigation dealt with and completed by a person authorized to do so under subsection (2) shall be dealt with and completed in accordance with the law as it existed immediately before the coming into force of this section.

(4) Any decision, ruling, order, determination or direction of the Director, or of a person to whom the power to make an examination or investigation has been delegated by the Director under the former Act, that relates to an examination or investigation dealt with and completed under subsection (2) Decisions

(a) is deemed to be the decision, ruling, order, determination or direction of the Superintendent;

(b) may be varied or revoked by the Superintendent; and

(c) may be enforced in the same manner as a decision under this Act made by the Superintendent under this Act. 2007,c.17,s.180.

181. (1) On and after the coming into force of this section, any inspection commenced under the former Act by the Director or by a representative of the Director that would be dealt with by the Superintendent under section 85 or by a person appointed by the Superintendent under section 85, if commenced on or after the coming into force of this section, may be dealt with and completed in accordance with this Act and the rules by the Superintendent or by a person appointed by the Superintendent under section 85. Inspections

(2) Notwithstanding subsection (1) and section 177, the Superintendent may authorize the Director, or a representative of the Director, to deal with and complete any inspection commenced by him or her before the coming into force of this section. Authorization of Director or person appointed by the Director

(3) Any inspection dealt with and completed by a person authorized to do so under subsection (2) shall be dealt with and completed in accordance with the law as it existed immediately before the coming into force of this section. Former law

(4) Any decision, ruling, order, determination or direction of the Director, or of a representative of the Director under the former Act in relation to an inspection dealt with and completed under subsection (2) Decisions

(a) is deemed to be the decision, ruling, order, determination or direction of the Superintendent;

(b) may be varied or revoked by the Superintendent; and

(c) may be enforced in the same manner as a decision under this Act made by the Superintendent under this Act. 2007,c.17,s.181.

182. (1) A registration granted under the former Act that was valid and subsisting immediately before the coming into force of this section is deemed to have been granted under this Act. Registrations

(2) A registration granted and suspended under the former Act and that continued to be suspended under the former Act immediately before Suspended registrations

the coming into force of this section is deemed to have been granted and suspended under this Act.

Brokers

(3) A person whose registration is deemed under subsection (1) or (2) to have been granted under this Act and who was registered as a broker under the former Act immediately before the coming into force of this section is deemed to be registered as a dealer under this Act in the same category of registration that the person was classified into under the former Act.

Advisers

(4) A person whose registration is deemed under subsection (1) or (2) to have been granted under this Act and who was registered as an adviser under the former Act immediately before the coming into force of this section is deemed to be registered as an adviser under this Act in the same category of registration that the person was classified into under the former Act.

Individual representatives of dealers

(5) An individual whose registration is deemed under subsection (1) or (2) to have been granted under this Act who was registered as a salesperson, trading officer or compliance officer of a broker immediately before the coming into force of this section is deemed to be registered as a representative of the dealer under this Act in the same category of registration that the person was classified into under the former Act.

Individual representatives of advisers

(6) An individual whose registration is deemed under subsection (1) or (2) to have been granted under this Act and who was registered as a counselling officer or compliance officer of an adviser immediately before the coming into force of this section is deemed to be registered as a representative of the adviser under this Act in the same category of registration that the person was classified into under the former Act.

Same terms, conditions or restrictions

(7) A registration deemed under subsection (1) or (2) to have been granted under this Act, is in addition to the terms, conditions or restrictions to which it is subject under this Act and the rules, subject to the terms, conditions or restrictions to which it was subject immediately before the coming into force of this section, and those terms, conditions or restrictions may be varied or revoked by the Superintendent under this Act.

Suspension, cancellation or surrender

(8) A registration deemed under subsection (1) to have been granted under this Act is valid until it is suspended or terminated under this Act or the rules, or until the Superintendent accepts the surrender of the registration under this Act or the rules, whichever occurs first, and the registration may be amended in accordance with this Act and the rules.

Suspended registration

(9) A registration deemed under subsection (2) to have been granted and suspended under this Act continues to be suspended for the period for which it would have been suspended under the former Act, and on its reinstatement in accordance with this Act and the rules, the registration

(a) is valid until it is suspended or terminated under this Act or the rules, or until the Superintendent accepts the voluntary surrender of the registration under this Act or the rules, whichever occurs first; and

(b) may be amended in accordance with this Act and the rules.

Applications for registration

(10) On and after the coming into force of this section, any application for registration commenced under the former Act shall be dealt with and completed by the Superintendent in accordance with this Act and the rules. 2007,c.17,s.182.

Prospectus receipts

183. (1) A receipt issued to a person under subsection 8.8(1) of the former Act that was in effect immediately before the coming into force of this section is deemed to be a receipt issued to the person under section 100 for the prospectus in relation to which the receipt was issued under the former Act, and the prospectus is deemed to have been filed under this Act in accordance with Part 9.

Deemed compliance

(2) A person to whom a receipt for a prospectus is deemed under subsection (1) to have been issued under this Act is deemed to have complied with section 94 in relation to the securities in respect of which the prospectus was filed without having filed a preliminary prospectus or having obtained a receipt for it under this Act, and this Act and the rules, other than the rules respecting the lapse date for a prospectus, apply to any distribution of the securities under the prospectus on or after the coming into force of this section.

Amended prospectus

(3) An amended prospectus that was filed under the former Act in relation to a prospectus that is deemed under subsection (1) to have been filed under this Act is, on the coming into force of this section, deemed to be an amendment to the prospectus and to have been filed under this Act.

Lapse date

(4) Where a receipt issued under the former Act is deemed under subsection (1) to be a receipt for a prospectus under this Act, no person shall continue a distribution of a security under the prospectus on or after the date on which the receipt would have expired under the former Act unless, on the application of an interested person or on his or her motion the Superintendent extends, subject to such terms and conditions as he or she considers appropriate, the period within which a distribution may be continued under the prospectus.

Incomplete filings

(5) On and after the coming into force of this section, any filing of a preliminary prospectus or a prospectus that is commenced under the

former Act and that has not been dealt with and completed under the former Act may be dealt with and completed by the Superintendent in accordance with this Act and the rules as though a preliminary prospectus or a prospectus, as the case may be, were filed with the Superintendent under Part 9. 2007,c.17,s.183.

PART 21: AMENDMENTS TO THIS ACT

184. Section 1 of this Act is amended by the repeal of clause (1)(f) and the substitution of the following:

dealer

(f) "dealer" means a person engaging in, or holding himself, herself or itself out as engaging in, the business of trading in securities;

PART 22: CONSEQUENTIAL AMENDMENTS

185. Clause 1(f) of the *Business Practices Act* R.S.P.E.I. 1988, Cap. B-7 is amended by the deletion of the words "*Securities Act*** R.S.P.E.I. 1988, Cap. S-3**" and the substitution of the words "***Securities Act*** R.S.P.E.I. 1988, Cap. S-3.1**".**

186. Clause 161(3)(c) of the *Credit Unions Act* R.S.P.E.I. 1988, Cap. C-29.1 is amended by the deletion of the words "*Securities Act*** R.S.P.E.I. 1988, Cap. S-3**" and the substitution of the words "***Securities Act*** R.S.P.E.I. 1988, Cap. S-3.1**".**

187. Clause 5(2)(e) of the *Direct Sellers Act* R.S.P.E.I. 1988, Cap. D-11 is amended by the deletion of the words "*Securities Act*** R.S.P.E.I. 1988, Cap. S-3**" and the substitution of the words "***Securities Act*** R.S.P.E.I. 1988, Cap. S-3.1**".**

188. Clause 3(b) of the *Extra-Provincial Corporations Registration Act* R.S.P.E.I. 1988, Cap. E-14 is amended by the deletion of the words "as a broker or adviser under the *Securities Act* R.S.P.E.I. 1988, Cap. S-3**" and the substitution of the words "**as a dealer or adviser under the *Securities Act* R.S.P.E.I. 1988, Cap. S-3.1**".**

189. Clause 24(2)(f) of the *Limited Partnerships Act* R.S.P.E.I. 1988, Cap. L-13 is amended by the deletion of the words "*Securities Act*** R.S.P.E.I. 1988, Cap. S-3**" and the substitution of the words "***Securities Act*** R.S.P.E.I. 1988, Cap. S-3.1**".**

190. Subsection 2(1) of the *Trustee Act* R.S.P.E.I. 1988, Cap. T-8 is amended by the deletion of the words "*Securities Act*** R.S.P.E.I. 1988, Cap. S-3**" and the substitution of the words "***Securities Act*** R.S.P.E.I. 1988, Cap. S-3.1**".**

PART 23: REPEAL AND COMMENCEMENT

191. The *Securities Act* R.S.P.E.I. 1988, Cap. S-3 is repealed. Repeal

SCHEDULE

SCHEDULE
Fees

1. The fee payable for an application for the registration of

(a) a dealer, adviser or investment fund manager, regardless of the number of categories of registration to which the application relates, is $750;

(b) a representative, ultimate designated person or chief compliance officer of a registered dealer or adviser is $250; and

(c) the transfer of a representative, ultimate designated person or chief compliance officer of a dealer or adviser is $120.

2. (1) Subject to subsection (3), the fee payable for filing every preliminary prospectus or pro forma prospectus is $750 for each issuer.

(2) In addition to any fee payable under subsection (1), the fee payable for filing any form of preliminary prospectus or pro forma prospectus that offers more than one type, class, series of a class or unit of securities of any one issuer, is $120 for each additional type, class, series of a class or unit of securities offered.

(3) The fee payable for filing every preliminary base shelf prospectus under National Instrument 44-102 Shelf Distribution or National Instrument 71-101 The Multijurisdictional Disclosure System is $950 for each issuer.

3. The fee payable for filing every amendment to a preliminary, pro forma, or other prospectus is $120 for each issuer.

4. The fee payable for filing every annual information form filed by an issuer under National Instrument 51-102 Continuous Disclosure Obligations or under National Instrument 81-106 Investment Fund Continuous Disclosure is $600.

5. The fee payable for an application

(a) under section 6 of this Act for a designation order is $250; and

(b) under section 16 of this Act for an exemption order is $250.

6. The fee payable for every application, approval or filing under any section of this Act or the rules not otherwise provided for in this Schedule is NIL. 2007,c.17,s.183; 2012,c.33;s.1.