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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 3

THE COMMODITY FUTURES ACT

THE MINISTER OF CONSUMER AND CORPORATE
AFFAIRS

First Reading

Second Reading

Committee or the Whole

Third Reading

Royal Assent

THE COMMODITY FUTURES ACT

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BILL 3

1979

THE COMMODITY FUTURES ACT

(Assented to , 1979)

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

1 In this Act,

(a) “adviser” means a person or company engaging in or holding himself or itself out as engaging in the business of advising others as to trading in contracts;

(a.1) “clearing house” means an association or organization, whether incorporated or unincorporated, or part of a commodity futures exchange through which trades in contracts entered into on the exchange are cleared;

(b) “Commission” means the Alberta Securities Commission;

(b.1) “commodity” means, whether in the original or a processed state, any agricultural product, forest product, product of the sea, mineral, metal, hydrocarbon fuel, currency or precious stone or other gem, and any goods, article, service, right or interest, or class of goods, articles, services, rights or interests, designated as a commodity under the regulations;

(c) “commodity futures contract” means a contract to make or take delivery of a specified quantity and quality, grade or size of a commodity during a designated future month at a price agreed upon when the contract is entered into on a commodity futures exchange pursuant to standardized terms and conditions set forth in the exchange’s by-laws, rules or regulations;

(c.1) “commodity futures exchange” means an association or organization, whether incorporated or unincorporated, operated for the purpose of providing the physical facilities necessary for the trading of contracts by open auction;

(d) “commodity futures option” means a right, acquired for a consideration, to assume a long or short position in relation to a commodity futures contract at a specified price

Explanatory Notes

1 Definitions.

and within a specified period of time and any other option of which the subject is a commodity futures contract;

(d.1) “company” means a corporation, incorporated association, incorporated syndicate or other incorporated organization;

(e) “contract” means a commodity futures contract or a commodity futures option;

(e.1) “dealer” means a person or company that trades in contracts in the capacity of principal or agent;

(f) “decision” means a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations;

(f.1) “declaration date”, when used in relation to a commodity futures option, means the date on which the option expires;

(g) “Director” means the Director or any Deputy Director of the Commission;

(g.1) “director”, when used in relation to a person, includes a person acting in a capacity similar to that of a director of a company;

(h) “floor trader” means an individual who is employed by a dealer for the purpose of entering into contracts on the floor of a commodity futures exchange on behalf of the dealer;

(h.1) “hedger” means a person or company who carries on agricultural, mining, forestry, processing, manufacturing or other commercial activities and, as a necessary part of these activities, becomes exposed from time to time to a risk attendant upon fluctuations in the price of a commodity and offsets that risk through trading in contracts for the commodity or related commodities whether or not a particular trade is effected for that purpose, but a person or company is a hedger only as to trades in contracts for that commodity or related commodities;

(i) “liquidating trade” means effecting settlement of a commodity futures contract,

(i) in relation to a long position, by assuming an offsetting short position in relation to a contract entered into on the same commodity futures exchange for a like quantity and quality, grade or size of the same commodity deliverable during the same designated future month, or

- (ii) in relation to a short position, by assuming an offsetting long position in relation to a contract entered into on the same commodity futures exchange for a like quantity and quality, grade or size of the same commodity deliverable during the same designated future month;
- (j) “long position”, when used in relation to a commodity futures contract, means to be under an obligation to take delivery;
- (k) “Minister” means the Minister of Consumer and Corporate Affairs;
- (l) “misrepresentation” means an untrue statement of material fact or an omission to state a material fact;
- (m) “officer” means the chairman or a vice-chairman of the board of directors, the president, a vice-president, the secretary, an assistant secretary, the treasurer, an assistant treasurer or the general manager of a company and any other person designated as an officer of a company by by-law or similar authority or any individual acting in a similar capacity on behalf of a registrant;
- (n) “open commodity futures contract” means an outstanding obligation under a commodity futures contract for which settlement has not been effected by the tender and receipt of the commodity or of an instrument evidencing title or the right to the commodity or by a liquidating trade;
- (o) “open interest”, when used in relation to commodity futures contracts, means the total outstanding long positions or the total outstanding short positions, for each delivery month and in aggregate, in commodity futures contracts relating to a particular commodity entered into on a commodity futures exchange;
- (p) “person” means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative;
- (q) “premium”, when used in relation to a commodity futures option, means the consideration for which the option is acquired;
- (r) “register” means register under this Act and “registered” has a corresponding meaning;
- (s) “registrant” means a person or company registered or required to be registered under this Act;

(t) “Registrar” means the Registrar of the Commission or an individual designated by the Commission to act in the capacity of the Registrar of the Commission;

(u) “salesman” means an individual who is employed by a dealer for the purpose of making trades in contracts on behalf of the dealer;

(v) “security” means a security within the meaning of *The Securities Act, 1979*;

(w) “settlement price”, when used in relation to a commodity futures contract, means the price that is used by a commodity futures exchange or its clearing house to determine, daily, the net gains or losses in the value of open commodity futures contracts;

(x) “short position”, when used in relation to a commodity futures contract, means to be under an obligation to make delivery;

(y) “striking price”, when used in relation to a commodity futures option, means the price at which the purchaser of the option has the right to assume a long or short position in relation to the commodity futures contract that is the subject of the option;

(z) “trade” or “trading” includes,

(i) entering into contracts, whether as a principal or agent,

(ii) acting as a floor trader,

(iii) a receipt by a registrant of an order to effect a transaction in a contract,

(iv) an assignment or other disposition or rights under a contract except a disposition arising from the death of an individual enjoying rights under a contract, and

(v) an act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of anything referred to in subclauses (i) to (iv).

PART 1
COMMODITY FUTURES ADVISORY BOARD

2(1) There shall be a board known as the Commodity Futures Advisory Board, consisting of not more than 5 members appointed by the Lieutenant Governor in Council, one of whom shall be designated by the Lieutenant Governor in Council as chairman.

(2) The Commodity Futures Advisory Board shall meet at the call of the Commission.

(3) The Commodity Futures Advisory Board shall, when requested by the Commission, consult with and advise the Commission concerning,

(a) developments in the nature of contracts and manner of trading, and

(b) the influence of trading in contracts on the economy of Alberta.

(4) The members of the Commodity Futures Advisory Board shall serve without remuneration, but the Minister may fix a per diem allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and transacting the business of the Board.

2 Commodity Futures Advisory Board.

PART 2

APPOINTMENT OF EXPERTS

3(1) The Commission may appoint one or more experts to assist the Commission in any manner that it considers appropriate.

(2) The Commission may submit any agreement, contract, financial statement, report or other document to one or more experts appointed under subsection (1) for examination, and the Commission has the same power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and section 7(3) and (4) applies with all necessary modifications.

(3) An expert appointed under subsection (1) shall be paid those amounts for services and expenses that the Minister determines.

3 Appointment of experts.

PART 3
ADMINISTRATIVE PROCEEDINGS, REVIEWS
AND APPEALS

4(1) The Director shall forthwith notify the Commission of every decision refusing registration under section 23 or refusing to accept the form of a contract under section 36 and the Commission may, within 30 days of the decision, notify the Director and any person or company directly affected of its intention to convene a hearing to review the decision.

(2) A person or company directly affected by a decision of the Director may, by notice in writing sent by registered mail to the Commission within 30 days after the mailing of the notice of the decision, request and be entitled to a hearing and review of the decision by the Commission.

(3) Upon a hearing and review, the Commission may by order confirm the decision under review or make any other decision that the Commission considers proper.

(4) Notwithstanding that a person or company requests a hearing and review under subsection (2), the decision under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review.

5(1) A person or company directly affected by a decision of the Commission may appeal to the Court of Queen's Bench.

(2) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Commission or the Court of Queen's Bench may grant a stay until disposition of the appeal.

(3) The Registrar shall certify to the Clerk of the Court of Queen's Bench

(a) the decision that has been reviewed by the Commission,

(b) the decision of the Commission, together with any statement of reasons for it,

(c) the record of the proceedings before the Commission, and

(d) all written submissions to the Commission or other material that is relevant to the appeal.

(4) The Minister is entitled to be heard by counsel or otherwise on an appeal under this section.

4 Appeal to Commission.

5 Appeal to Court of Queen's Bench.

(5) If an appeal is taken under this section, the court may by order direct the Commission to make any decision or to do any other act as the Commission is authorized and empowered to do under this Act or the regulations and that the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make the decision or do the act accordingly.

(6) Notwithstanding an order of the court on an appeal, the Commission may make any further decision upon new material or if there is a significant change in the circumstances, and every decision so made is subject to this section.

6(1) The Registrar may,

(a) accept service of all notices or other documents on behalf of the Commission,

(b) when authorized by the Commission, sign any decision made by the Commission as a result of a hearing, and

(c) certify under his hand any decision made by the Commission or any document, record or thing used in connection with a hearing by the Commission if certification is required for a purpose other than that stated in section 5(3).

(2) A certificate purporting to be signed by the Registrar is, without proof of the office or signature certifying, admissible in evidence, so far as is relevant, for all purposes in an action, proceeding or prosecution.

6 Certificate by Registrar.

PART 4
INVESTIGATIONS

7(1) If upon a statement made under oath it appears probable to the Commission that a person or company has,

- (a) contravened this Act or the regulations, or
- (b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to contracts,

the Commission may, by order, appoint a person to make any investigation that the Commission considers necessary for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

(2) The Commission may, by order, appoint a person to make any investigation that the Commission considers necessary for the due administration of this Act and the regulations or into any matter relating to trading in contracts, and in the order shall determine and prescribe the scope of the investigation.

(3) For the purposes of an investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

- (a) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the person or company and any property, assets or things owned, acquired or alienated in whole or in part by the person or company or by any person or company acting on behalf of or as agent for the person or company, and

- (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 or company and the relationship that may at any time exist or have existed between the person or company and any other person or company 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.

(4) A person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or other-

7 Investigation ordered by Commission.

wise, and to produce documents, records and things, as has the Court of Queen's Bench for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce any documents, records and things that are in his custody or possession makes the person liable to be committed for contempt by a judge of the Court of Queen's Bench as if in breach of an order or judgment of the Court of Queen's Bench.

(5) No provision of *The Alberta Evidence Act* exempts a bank or an officer or employee of a bank from the operation of this section.

(6) A person giving evidence at an investigation under this section may be represented by counsel.

(7) If an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities, contracts or other property of the person or company whose affairs are being investigated.

(8) If any documents, records, securities contracts or other property are seized under subsection (7), the documents, records, securities, contracts or other property shall be made available for inspection and copying by the person or company from whom they were seized at a mutually convenient time and place upon the request of the person or company to the person appointed to make the investigation.

(9) If an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated.

(10) Every person appointed under subsection (1), (2) or (9) shall provide the Commission with a full and complete report of the investigation including any transcript of evidence and material in his possession relating to the investigation.

8 If, upon the report of an investigation made under section 7, it appears to the Commission that a person or company may have

(a) contravened this Act or the regulations, or

(b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to contracts,

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of evidence and any material in the possession of the Commission relating to the investigation to the Minister.

8 Report on the investigation of offence to the Minister.

9(1) Notwithstanding section 7, the Minister may, by order, appoint a person to make any investigation that the Minister considers necessary for the due administration of this Act or into any matter relating to trading in contracts, and a person so appointed, for the purposes of the investigation, has the same authority, powers, rights and privileges as a person appointed under section 7.

(2) An order under subsection (1) may provide for the appointment of 2 or more persons to make the investigation.

10 No person, without the consent of the Commission, shall disclose, except to his counsel, information or evidence obtained or the name of a witness examined or sought to be examined under section 7 or 9.

11 If an investigation has been made under section 7, the Commission may, and, if an investigation has been made under section 9, the person making the investigation shall report the results of the investigation, including the evidence, findings, comments and recommendations to the Minister, and the Minister may cause the report to be published in whole or in part in any manner that he considers appropriate.

12(1) The Commission may,

(a) if it is about to order an investigation in respect of a person or company under section 7 or during or after an investigation in respect of a person or company under section 7 or 9,

(b) if it is about to make or has made a decision suspending or cancelling the registration of a person or company or affecting the right of a person or company to trade in contracts, or

(c) if criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against a person or company, that in the opinion of the Commission are connected with or arise out of a contract or a trade in a contract, or out of a business conducted by the person or company,

in writing or by telegram direct a person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause (a), (b), or (c) to hold the funds or securities or direct the person or company referred to in clause (a), (b), or (c) to refrain from withdrawing the funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for a interim receiver,

9 Investigation ordered by Minister.

10 Evidence not to be disclosed.

11 Report of investigation to the Minister.

12 Order to freeze property.

custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Companies Act*, the *Winding-up Act* (Canada) or section 13 of this Act, or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, but no direction applies to funds or securities in a commodity futures exchange clearing house, stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company, the direction applies only to the offices, branches or agencies of the bank, loan or trust company named in the direction.

(2) A person or company named in a direction issued under subsection (1) may, if in doubt as to the application of the direction to particular funds or securities, apply to the commission for an order of clarification.

(3) Upon the application of a person or company directly affected by a direction issued under subsection (1), the Commission may make an order on any terms and conditions that it may impose revoking the direction or consenting to the release of a fund or security.

13(1) The Commission may,

(a) if it is about to order an investigation in respect of a person or company under section 7 or during or after an investigation in respect of a person or company under section 7 or 9,

(b) if it is about to make or has made a decision suspending or cancelling the registration of a person or company or affecting the right of a person or company to trade in contracts,

(c) if criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against a person or company that in the opinion of the Commission are connected with or arise out of a contract or a trade in a contract, or out of any business conducted by the person or company, or

(d) if a person or company fails or neglects to comply with the minimum net asset requirements, investment restrictions, ownership restrictions or capital requirements prescribed by the regulations for that person or company,

apply to a judge of the Court of Queen's Bench for the appointment of a receiver, receiver and manager, trustee or liquidator of the property of the person or company.

(2) Upon an application under subsection (1), the judge may, if he is satisfied that the appointment of a receiver, receiver

13 Appointment of receivers, receivers and managers, trustees or liquidators.

and manager, trustee or liquidator of all or any part of the property of any person or company is in the best interests of the creditors of the person or company or of persons or companies any of whose property is in the possession or under the control of the person or company, appoint a receiver, receiver and manager, trustee or liquidator of the property of the person or company.

(3) Upon an ex parte application made by the Commission under this section, the judge may make an order under subsection (2) appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding 15 days.

(4) A receiver, receiver and manager, trustee or liquidator of the property of any person or company appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or any part of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, receiver and manager, trustee or liquidator shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental to the winding up or management.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Court of Queen's Bench and may be varied or discharged upon an application made by notice.

(6) Upon an application made under this section, the rules of practice of the Court of Queen's Bench apply.

PART 5

AUDITS

14(1) Notwithstanding anything in sections 15, 16, 17 and 18, the Commission may in writing appoint a person to examine at any time the financial affairs of a registrant or a clearing house of a commodity futures exchange in Alberta and prepare any financial or other statements and reports that may be required by the Commission.

(2) The person making an examination under this section may inquire into and examine all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the registrant or clearing house whose financial affairs are being examined, and no registrant or clearing house shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purposes of the examination.

(3) The Commission may charge those fees that are prescribed by the regulations for an examination under this section.

14 Audits by Commission.

PART 6

SELF REGULATION - GENERALLY

15(1) The Commission may recognize in writing an association or organization representing registrants, whether incorporated or unincorporated, as a self-regulatory body, if it is satisfied that to do so would be in the public interest and that the association or organization has satisfied or can satisfy all conditions with respect to self-regulatory bodies prescribed under the regulations.

(2) A self-regulatory body recognized under subsection (1) shall, subject to this Act and the regulations and any decision made by the Commission, regulate the standards and business conduct of its members.

(3) The Commission may, if it appears to it to be in the public interest, make any decision with respect to

(a) a by-law, rule or regulation or proposed by-law, rule or regulation of a self-regulatory body recognized under subsection (1),

(b) a direction, decision, order or ruling made under a by-law, rule or regulation of a self-regulatory body recognized under subsection (1), or

(c) any practice of a self-regulatory body recognized under subsection (1).

(4) A person or company directly affected by a direction, decision, order or ruling made under a by-law, rule or regulation of a self-regulatory body recognized under subsection (1) may apply to the commission for a hearing and review of it and section 4 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director.

16 Every commodity futures exchange in Alberta granted registration by the Commission under section 19 and every self-regulatory body recognized by the Commission under section 15 shall,

(a) select a panel of auditors, each of whom shall have practised as such in Canada for not fewer than 5 years and shall be known as a panel auditor or members' auditor, and

(b) employ an exchange auditor, association or organization auditor, as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Canada for not fewer than 10 years.

15 Self regulatory body and review of its decisions.

16 Panel of auditors.

17(1) Every commodity futures exchange in Alberta granted registration by the Commission and every self-regulatory body recognized by the Commission shall cause each member of any class or classes of their members that the Commission may designate in writing to appoint an auditor from the panel of auditors selected under section 16(a), and that auditor shall make the examination of the financial affairs of the member as called for by the by-laws, rules or regulations applicable to members of the class or classes and shall report on the examination to the exchange auditor, association or organization auditor, as the case may be.

(2) The by-laws, rules and regulations of every commodity futures exchange in Alberta granted registration by the Commission and the by-laws, the rules and regulations of every self-regulatory body recognized by the Commission in respect of the practice and procedure of the examinations under subsection (1) are subject to the approval of the Commission and the actual conduct of the examinations shall be satisfactory to the Commission.

18 Every registrant whose financial affairs are not subject to examination under section 17 shall keep those books and records that are necessary for the proper recording of his business transactions and financial affairs and shall deliver to the Commission annually and at any other time as the Commission may require a financial statement satisfactory to the Commission as to his financial position, certified by the registrant or an officer or partner of the registrant and reported upon by the auditor of the registrant, and shall deliver to the Commission any other information that the Commission may require in the form that it prescribes.

17 Auditors and auditing by-laws.

18 Filing of annual financial statement.

PART 7

COMMODITY FUTURES EXCHANGES IN ALBERTA

19(1) No person or company shall carry on business as a commodity futures exchange in Alberta unless it is registered as such by the Commission.

(2) Upon application by or on behalf of a person or company wishing to carry on business in Alberta as a commodity futures exchange, the Commission shall grant registration to that person or company for the purposes of subsection (1) if it is satisfied that to do so would not be prejudicial to the public interest, and in making its decision the Commission shall take into account whether,

(a) the clearing and other arrangements made and the financial condition of the commodity futures exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of contracts entered into on the commodity futures exchange will be met,

(b) the rules and regulations applicable to exchange members and clearing house members are in the public interest and are actively enforced,

(c) floor trading practices are fair and properly supervised,

(d) adequate measures have been taken to prevent manipulation and excessive speculation,

(e) adequate provision has been made to record and publish details of trading including volume and open interest, and

(f) the commodity futures exchange has satisfied or can satisfy all conditions prescribed under the regulations for the conduct of the business of a commodity futures exchange.

(3) The Commission shall not refuse to grant registration to a commodity futures exchange for the purposes of subsection (1) without giving the applicant an opportunity to be heard.

20(1) Every commodity futures exchange in Alberta and its clearing house shall file with the Commission all by-laws, rules, regulations and policies as soon as practicable and in any event within 5 days of the date on which the by-law, rule, regulation or policy is approved by the board of directors of the commodity futures exchange or its clearing house and prior to approval by the membership of the commodity futures exchange or clearing house.

19 Registration of commodity futures exchanges.

20 By-laws and decisions of commodity futures exchange.

(2) The Commission may, if it appears to it to be in the public interest, make any decision with respect to

(a) the manner in which a commodity futures exchange in Alberta or its clearing house carries on business,

(b) a by-law, rule or regulation of a commodity futures exchange in Alberta or its clearing house, or

(c) trading on or through the facilities of commodity futures exchange in Alberta or with respect to any contract traded on a commodity futures exchange in Alberta including the setting of levels of margin, daily price limits, daily trading limits and position limits.

(3) A person or company directly affected by a direction, order or decision made under any by-law, rule or regulation of a commodity futures exchange in Alberta or its clearing house may apply to the Commission for a hearing and review of the direction, order or decision, and section 4 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director.

21 Every commodity futures exchange in Alberta and its clearing house shall keep those records that are necessary for the proper recording of each transaction on the exchange and shall

(a) supply to a customer of a member of the commodity futures exchange, upon production of a written confirmation of a transaction with that member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation, and

(b) deliver to the Commission at any time that the Commission may require reports as to transactions on the exchange in the form that the Commission prescribes.

21 Records and reports.

PART 8

REGISTRATION FOR TRADING, ACTING AS ADVISER

22(1) No person or company shall,

(a) trade in contract unless the person or company is registered as a dealer or is a registered as a salesman or floor trader or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer, or

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

and the registration has been made in accordance with this Act and the regulations and the person or company has received written notice of the registration from the Director and, if the registration is subject to terms and conditions, the person or company complies with the terms and conditions.

(2) The termination of the employment of a salesman or floor trader with a registered dealer operates as a suspension of the registration of the salesman or floor trader until notice in writing has been received by the Director from another registered dealer of the employment of the salesman or floor trader by the other registered dealer and the reinstatement of the registration has been approved by the Director.

(3) The Director may designate as “non-trading” an employee or class of employees of a registered dealer that does not usually trade in contracts, but the designation may be cancelled as to an employee or class of employees if the Director is satisfied that the employee or any member of the class of employees should be required to apply for registration as a salesman.

23(1) The Director shall grant registration, renewal of registration, reinstatement of registration or amendment to registration to an applicant except if,

(a) having regard to the applicant’s financial position, he cannot reasonably be expected to be financially responsible in the conduct of his business,

(b) the past conduct of the applicant or the officers, directors or partners of the applicant affords reasonable grounds for belief that his business will not be carried on in accordance with law and with integrity and honesty, or

22 Registration for trading or as adviser.

23 Granting of registration.

(c) the applicant is or will be carrying on activities that are in contravention of this Act or the regulations.

(2) The Director may in his discretion restrict a registration by imposing terms and conditions on it and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in a certain class of contracts.

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

24(1) The Commission, after giving a registrant an opportunity to be heard, may suspend, cancel, restrict or impose terms and conditions upon the registration or reprimand the registrant if, in its opinion, the action is in the public interest.

(2) If the delay necessary for a hearing under subsection (1) would, in the opinion of the Commission, be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within 15 days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 4.

(3) Notwithstanding subsection (1), the Commission may, upon an application by a registrant, accept, subject to any terms and conditions that it may impose, the voluntary surrender of the registration of the registrant if it is satisfied that the financial obligations of the registrant to its clients have been discharged and the surrender of the registration would not be prejudicial to the public interest.

25 A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed.

26 An application for registration shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by the fee prescribed by the regulations.

27 An applicant shall state in the application an address for service in Alberta and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated.

24 Suspension, cancellation and restrictions on registration.

25 Subsequent applications for registration.

26 Applications for registration.

27 Address for service.

28 The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or a partner, officer, director, governor or trustee of, or a person performing a like function for, or an employee of, the applicant or of the registrant to submit to examination under oath by a person designated by the Director.

29(1) Without limiting the generality of section 23(1), the Director may refuse registration to a person if he is satisfied, on the basis of the statements in the application and from any other source of information, that the applicant

- (a) has not been a resident of Canada for at least one year immediately prior to the date the application is made,
- (b) is not a resident of Alberta at the date the application is made, or
- (c) does not intend to make his permanent home in Alberta if the application is granted,

unless, at the date the application is made, that person is registered in a capacity corresponding to that of a dealer, advisor, underwriter or salesman under the securities laws of the province in Canada in which he last resided or is then residing and has been so registered for a period of not less than one year immediately preceding the date the application is made and is, in the opinion of the Director, otherwise suitable for registration.

(2) Without limiting the generality of section 23(1), the Director may refuse registration to a company or partnership if he is satisfied, on the basis of the statements in the application and from any other source of information available to him, that one or more of its officers or directors or one or more of the partners

- (a) has not been a resident of Canada for at least one year immediately prior to the date the application is made,
- (b) is not a resident of Alberta at the date the application is made, or
- (c) does not intend to make his permanent home in Alberta if the application is granted,

unless, at the date the application is made, that person or each of those persons, as the case may be, is registered in a capacity corresponding to that of a dealer, advisor, underwriter or salesman under the laws of the province in Canada in which he last resided or is then residing and has been so registered for a period of not less than one year immediately preceding the date

28 Further information.

29 Refusal of registration of non-residents.

the application is made and, in the opinion of the Director, would be otherwise suitable for registration if he were himself an applicant for registration.

(3) For the purposes of this section, a person shall not be considered to cease to reside in Canada or Alberta, as the case may be, by reason only of absence

- (a) as a member of the Canadian Forces, or
- (b) while attending a university, college, school, institute or other educational institution.

30(1) Subject to the regulations, every registered dealer shall, within 5 business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in address for service in Alberta or any business address,
- (b) any change
 - (i) in the directors or officers of the registered dealer and in the case of resignation, dismissal, severance or termination of employment or office, the reason for it, and
 - (ii) in the holders of the voting securities of the registered dealer,
- (c) the commencement and termination of employment of every registered salesman and floor trader and in the case of termination of employment, the reason for it,
- (d) the opening or closing of a branch office in Alberta and, in the case of the opening of a branch office in Alberta, the name and address of the person in charge for it, and
- (e) any change in the name or address of the person in charge of a branch office in Alberta.

(2) Subject to the regulations, every registered adviser shall, within 5 business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in address for service in Alberta or any business address, and
- (b) any change
 - (i) in the directors or officers of the registered adviser and in the case of resignation, dismissal, severance or

30 Notice of changes.

termination of employment or office, the reason for it, and

(ii) in the holders of the voting securities of the registered adviser.

(3) Every registered salesman and floor trader shall, within 5 business days of the event, notify the Director in the form prescribed by the regulations of,

(a) any change in his address for service in Alberta or in his business address, and

(b) every commencement and termination of his employment by a registered dealer.

(4) The Director may, upon an application of a registrant, exempt, subject to any terms and conditions that he may impose, the registrant from the requirement of subsections (1) and (2) or both that the Director be notified of any change in the holders of voting securities of the registrant if in his opinion it would not be prejudicial to the public interest to do so.

PART 9

EXEMPTIONS FROM REGISTRATION REQUIREMENTS

31 Registration as an adviser is not required to be obtained by

(a) those persons or companies that are designated by the regulations, or

(b) by

(i) a bank to which the *Bank Act* (Canada) applies, the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada), a trust company registered under *The Trust Companies Act* or an insurance company licensed under *The Alberta Insurance Act*,

(ii) a lawyer, accountant, engineer or teacher or an employee of the Department of Agriculture,

(iii) a registered dealer or a partner, officer or employee of a registered dealer,

(iv) a person or company registered as an adviser under *The Securities Act, 1979* or a partner, officer or employee of the person or company,

(v) a publisher of or a writer for a bona fide newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers to it for value or to purchasers of it, who gives advice as an adviser only through the publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commission or other consideration for giving the advice,

if the performance of the service as an adviser is solely incidental to their principal business or occupation.

32(1) Subject to the regulations, registration is not required in respect of,

(a) a trade in a contract by a hedger through a dealer,

(b) a trade in a contract by a person or company acting solely through an agent who is a registered dealer,

(c) a trade in a contract to be executed on an exchange situated outside Alberta resulting from an order placed with

31 Exemption from registration of certain advisers.

32 Exemption of trades.

a dealer who does not carry on business in Alberta, not involving a solicitation by or on behalf of the dealer, or

(d) a trade in a contract in respect of which a preliminary prospectus and a prospectus have been filed and receipts for them obtained from the Registrar under *The Securities Act, 1979*.

PART 10

RECOGNITION OF COMMODITY FUTURES EXCHANGES AND ACCEPTANCE OF FORM OF CONTRACT

33 No person or company, except a hedger, shall trade in contracts on his own account or on behalf of any other person or company except,

(a) contracts traded on a commodity futures exchange, registered by the Commission or recognized by the Commission under this Part, if the form of the contracts has been approved by the Director under this Part,

(b) contracts for which a preliminary prospectus and a prospectus have been filed and receipts for them obtained from the Registrar under *The Securities Act, 1979*, and

(c) a contract traded on a commodity futures exchange situate outside Alberta as the result of an order placed with a dealer who does not carry on business in Alberta, not involving a solicitation by or on behalf of the dealer.

34(1) Upon application by or on behalf of a commodity futures exchange that is situate outside Alberta, the Commission shall recognize the commodity futures exchange if it is satisfied that to do so would not be prejudicial to the public interest, and in making its decision the Commission shall take into account whether

(a) the clearing and other arrangements made and the financial condition of the commodity futures exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of contracts entered into on that commodity futures exchange will be met,

(b) the rules and regulations applicable to exchange members and clearing house members are in the public interest and are actively enforced,

(c) floor trading practices are fair and properly supervised,

(d) adequate measures have been taken to prevent manipulation and excessive speculation,

(e) adequate provision has been made to record and publish details of trading including volume and open interest,

(f) the exchange and its clearing house have undertaken to comply with section 35, and

33 Registration or recognition of commodity futures exchange and acceptance of form of contracts required.

34 Recognition of commodity futures exchange.

(g) the exchange and its clearing house are subject to appropriate government controls.

(2) The Commission shall not refuse to recognize a commodity futures exchange under this Part without giving the applicant an opportunity to be heard.

35 A commodity futures exchange recognized by the Commission under section 34 and its clearing house shall file with the Commission all by-laws, rules, regulations and policies forthwith after the by-law, rule, regulation or policy is approved by the Board of Directors of the commodity futures exchange or clearing house.

36(1) Upon application by or on behalf of a commodity futures exchange registered by the Commission, or recognized by the Commission under this Part, and the filing of a copy of all terms and conditions of a contract that it is proposed be traded in Alberta, the Director shall accept the form of contract if he is satisfied that to do so would not be prejudicial to the public interest, and in making his decision the Director shall take into account whether

(a) more than occasional use is made or can be reasonably expected to be made of the contract for hedging transactions,

(b) with respect to a commodity futures contract, each term or condition is in conformity with normal commercial practices of the trade in the commodity or if not in conformity there is reasonable justification for the non-conformity,

(c) with respect to a commodity futures contract, satisfactory levels of margin, daily price limits, daily trading limits and position limits are imposed by the commodity futures exchange,

(d) with respect to a commodity futures option, the form of the commodity futures contract that is the subject of the option has been accepted under this Part, and

(e) with respect to a commodity futures option, performance on exercise of the option is reasonably assured by established rules and procedures that are actively enforced.

(2) The Director shall not refuse to accept the form of contract without giving the applicant an opportunity to be heard.

37(1) It is a condition of acceptance of the form of a contract under section 36 that the commodity futures exchange

35 Filing of by-laws, etc.

36 Acceptance of form of contracts by Director.

37 Terms and conditions of contracts to be filed and made available.

(a) file with the Commission copies of all current contract terms and conditions, and

(b) unless the Director by order modifies the requirement, make copies of all current contract terms and conditions available to registrants through an agent in Alberta designated by the commodity futures exchange.

(2) Copies of amendments or additions to contract terms and conditions shall be filed with the Commission and supplied to the agent designated by the commodity futures exchange forthwith after the amendment or addition is approved by the Board of Directors of the commodity futures exchange.

(3) The Director shall not accept the form of a contract until advised by the commodity futures exchange of the name and address of the agent designated for the purposes of subsection (1).

(4) The commodity futures exchange shall, within 5 days of the event, notify the Director of any change in the name or address of the agent designated for the purposes of subsection (1).

38(1) The Commission may, upon the application of an interested person or company, rule that an intended trade is not subject to section 22 or 33 if it is satisfied that to do so will not be prejudicial to the public interest, and it may impose any terms and conditions that are considered necessary.

(2) A decision of the Commission under this section is final and there is no appeal from it.

38 Order exempting trade.

PART 11

REVOCATION OF REGISTRATION OR RECOGNITION OF COMMODITY FUTURES EXCHANGES AND ACCEPTANCE OF FORM OF CONTRACT

39(1) The Commission may, if in its opinion the action is in the public interest, and, subject to any terms and conditions that it may impose, by order revoke registration of a commodity futures exchange under Part 7 or recognition of a commodity futures exchange under Part 10 or revoke acceptance of the form of a contract under Part 10 for a period specified in the order.

(2) No order shall be made under subsection (1) without a hearing unless, in the opinion of the Commission, the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, that shall not be for longer than 15 days from the date of the making of it, but the order may be extended for any period that the Commission considers necessary if satisfactory information is not provided to the Commission within the period of the temporary order.

39 Order revoking registration or recognition of commodity futures exchange or acceptance of form of contract.

PART 12

TRADING GENERALLY

40(1) A registered dealer or adviser shall furnish each prospective customer prior to the opening of his account with a written statement in the form prescribed under the regulations that

(a) explains the nature of, and the risks inherent in trading in contracts and obligations assumed by the customer upon entering a contract,

(b) advises the client to request and study the terms and conditions of the contract, and

(c) furnishes details concerning commissions and other charges levied by the dealer or adviser.

(2) Except if the Director by order modifies the requirement, a registered dealer or adviser upon the request of a client shall furnish the client with a copy of all current terms and conditions of any contract the form of which has been accepted by the Director under Part 10.

41(1) Subject to subsections (2) and (3), a registered dealer who acts as an agent in connection with a trade in a commodity futures contract shall require from the customer a margin of not less than the minimum prescribed under the by-laws, rules or regulations of the commodity futures exchange upon which the contract is traded.

(2) Subject to subsection (3), if the Commission has made an order with respect to levels of margin under section 20, every registered dealer who acts as an agent in connection with a trade in a commodity futures contract shall require from the customer a margin of not less than the minimum prescribed under that order.

(3) Notwithstanding subsections (1) and (2), a registered dealer may require from the customer a margin greater than that prescribed under subsection (1) or (2).

42(1) A registered dealer who has acted as an agent in connection with a trade in a commodity futures contract, including a trade upon the exercise of a commodity futures option, shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction, setting forth,

(a) the date of the transaction,

40 Statement to be furnished to prospective customer.

41 Minimum margin required.

42 Confirmation of trade re commodity futures contract.

- (b) the commodity and quantity bought or sold,
- (c) the commodity futures exchange upon which the contract was traded,
- (d) the delivery month and year,
- (e) the price at which the contract was entered into,
- (f) the name of the dealer, if any, used by the registered dealer as its agent to effect the trade, and
- (g) the name of the salesman, if any, in the transaction.

(2) For the purposes of subsection (1)(f) and (g), a person, company or salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.

(3) If a person or company uses a code or symbols for identification in a confirmation under subsection (1), the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within 5 days of any change in or addition to the code or symbols or their meaning.

(4) A dealer who has acted as agent in connection with a trade in a commodity futures contract shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the commodity was bought or sold.

43 A registered dealer who has acted as an agent in connection with a liquidating trade in a commodity futures contract shall promptly send by prepaid mail or deliver to the customer in addition to the written confirmation required under section 42, a statement of purchase and sale setting forth

- (a) the dates of the initial transaction and liquidating trade,
- (b) the commodity and quantity bought and sold,
- (c) the commodity futures exchange upon which the contracts were traded,
- (d) the delivery month and year,
- (e) the prices on the initial transaction and on the liquidating trade,
- (f) the gross profit or loss on the transactions,
- (g) the commission, and

43 Statement of purchase and sale.



- (h) the net profit or loss on the transactions.

44 So long as any unexpired and unexercised commodity futures option or open commodity futures contract is outstanding in a customer's account, a registered dealer shall promptly send by prepaid mail or deliver to each customer a written monthly statement, setting forth

- (a) the opening cash balance for the month in the customer's account,
- (b) all deposits, credits, withdrawals and debits to the customer's account,
- (c) the cash balance in the customer's account,
- (d) each unexpired and unexercised commodity futures option,
- (e) the striking price of each unexpired and unexercised commodity futures option,
- (f) each open commodity futures contract, and
- (g) the price at which each open commodity futures contract was entered into.

45(1) A registered dealer who has acted as an agent in connection with a trade in a commodity futures option shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction setting forth

- (a) the date of the transaction,
- (b) the type and number of commodity futures options,
- (c) the commodity futures exchange upon which the contract was traded,
- (d) the premium,
- (e) the commodity futures contract that is the subject of the commodity futures option,
- (f) the delivery month and year of the commodity futures contract that is the subject to the commodity futures option,
- (g) the declaration date,
- (h) the striking price,
- (i) the name of the dealer, if any, used by the registered dealer as its agent to effect the trade,

44 Monthly statement.

45 Confirmation of trade re commodity futures option.

(j) the commission, if any, charged in respect of the trade, and

(k) the name of the salesman, if any, in the transaction.

(2) For the purposes of subsection (1)(i) and (k), a person, company or salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.

(3) If a person or company uses a code or symbols for identification in a confirmation under subsection (1), the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within 5 days of any change in or addition to the code or symbols or their meaning.

(4) A dealer who has acted as agent in connection with a trade in a commodity futures option shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or through whom the commodity futures option was obtained.

46(1) All money, securities, property and proceeds of loans received or advanced by a registered dealer to margin, guarantee or secure the trades or contracts of customers and all funds accruing to customers, shall be segregated for the benefit of the customers for whom they are held, and the registered dealer shall separately account for the money, securities, property, proceeds and funds so received or advanced by him, and shall not knowingly commingle that money, securities, property, proceeds and funds with his own money, securities, property and funds.

(2) Subsection (1) does not apply to securities or property that are subject to a lien or charge in favour of the registered dealer under a written agreement, in the form prescribed by the regulations, to secure loans referred to in subsection (1).

(3) Money, securities, property, proceeds and funds segregated under subsection (1) for the benefit of customers may be commingled.

(4) No registered dealer shall knowingly use money, securities, property, proceeds or funds received from, advanced to or held for a customer to margin, guarantee or secure the trades or contracts or to secure or extend the credit of a customer other than the customer for whom the money, securities, property, proceeds or funds are held.

(5) Notwithstanding subsection (1), a registered dealer may have a residual financial interest in a customer's account and, from time to time, may advance from his own funds sufficient

46 Segregation of funds.

funds to prevent any and all customer's accounts from becoming undermargined.

(6) Upon application by an interested person or company, the Commission may exempt any registered dealer or class of registered dealers from subsection (1) or (4), on any terms and conditions that in the opinion of the Commission provide reasonable protection for customers.

(7) Notwithstanding subsection (1), if a registered dealer has a residual financial interest in a customer's account or has advanced his own funds to prevent a customer's account from becoming undermargined, the dealer may draw upon that account or any other accounts of the same customer to his own order to the extent of his residual financial interest in the customer's account or to the extent of the actual advances made.

47 Every registered dealer shall deliver to the Commission, at the time or times that the Commission may require, reports as to transactions in contracts on its own account or on behalf of any other person or company in the form that the Commission may prescribe.

48(1) In this section, "residence" includes a building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant to the building or part of a building.

(2) The Director may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of a person or company named in the order to

(a) call at a residence, or

(b) telephone from within Alberta to a residence within or outside Alberta,

for the purpose of trading in a contract.

(3) The Director shall not make an order under subsection (2) without giving the person or company affected an opportunity to be heard.

(4) For the purposes of this section, a person or company is considered to have called or telephoned if an officer, director or salesman of the person or company calls or telephones on his or its behalf.

49(1) No person or company, with the intention of affecting a trade in a contract, shall make a representation that he or any other person or company,

47 Reports to Commission.

48 Order prohibiting calls to residences.

49 Representations prohibited.

(a) will refund all or any part of the margin or premium, or

(b) assume all or any part of the obligation of another person or company under the contract.

(2) No person or company, with the intention of effecting a trade in a contract, shall give an undertaking, written or oral, relating to the future value of the contract.

50 No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless he is a partner, officer or agent of or is authorized so to do in writing by the other registrant.

51 No person or company shall hold himself out as being registered by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he is registered.

52 No person or company who is not registered shall, either directly or indirectly, hold himself out as being registered.

53 No person or company shall make a representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of a registrant or upon the merits of a contract.

54(1) In this section,

(a) “advertising” includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media;

(b) “sales literature” includes records, videotapes and similar material, written matter and all other material, except terms and conditions of contracts and the written statement required under section 41, designed for use in a presentation to a customer or prospective customer, whether the material is given or shown to him.

(2) The Commission may, after giving the registered dealer an opportunity to be heard, and upon being satisfied that the registered dealer’s past conduct with respect to the use of advertising and sales literature affords reasonable grounds for belief that it is necessary for the protection of the public to do so, order that a registered dealer shall deliver to the Commission at least 7 days before it is used, copies of all advertising and sales literature that the registered dealer proposes to use in connection with trading in contracts.

50 Use of name of another registrant.

51 Registration not to be advertised.

52 Holding out by unregistered person.

53 Advertising approval by Commission.

54 Submission of advertising to Commission.

(3) If the Commission has issued an order under subsection (2), the Director may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use.

(4) If an order has been made under subsection (2), the Commission, on application of the registered dealer at any time after the date of the order, may rescind or vary the order if in its opinion it is not contrary to the public interest to do so.

PART 13

ENFORCEMENT

55(1) Subject to subsection (2), a person or company that

(a) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or to a person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation,

(b) makes a statement in an application, release, report, return, financial statement, or other document required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation,

(c) otherwise contravenes this Act or the regulations, or

(d) fails to observe or to comply with a direction, decision, ruling, order or other requirement made under this Act or the regulations,

is guilty of an offence and is liable on summary conviction,

(e) in the case of a company or a person, other than an individual, to a fine of not more than \$25 000, and

(f) in the case of an individual, to a fine of not more than \$2000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

(2) No person or company is guilty of an offence under subsection (1)(a) or (b) if he or it, as the case may be, did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation.

(3) If a company or a person other than an individual is guilty of an offence under subsection (1), every director or officer of the company or person who authorized, permitted or acquiesced in the offence is also guilty of an offence and is liable on summary conviction to a fine of not more than \$2000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

56 No proceedings under section 55 shall be instituted except with the consent or under the direction of the Attorney General.

55 Offences.

56 Consent of the Attorney General.

57 An information in respect of a contravention of this Act may be for one or more offences and no information, summons, warrant, conviction or other proceeding in a prosecution is objectionable or insufficient by reason of the fact that it relates to 2 or more offences.

58(1) If a provincial judge, magistrate or justice of another province of Canada issues a warrant for the arrest of a person on a charge of contravening any provision of a statute or regulation of that province similar to this Act or the regulations, a provincial judge or justice of Alberta within whose jurisdiction that person is or is suspected to be, may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or a justice who issued the warrant, make an endorsement on it in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all peace officers within the territorial jurisdiction of the provincial judge or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested under it either out of or anywhere in Alberta and to rearrest the person anywhere in Alberta.

(2) A peace officer of Alberta or of any other province of Canada who is passing through Alberta having in his custody a person arrested in another province under a warrant endorsed under subsection (1) is entitled to hold, take and rearrest the accused anywhere in Alberta under the warrant without proof of the warrant or the endorsement of it.

59(1) If it appears to the Commission that a person or company has failed to comply with or is violating a decision or a provision of this Act or the regulations, the Commission may, notwithstanding the imposition of a penalty in respect of the non-compliance or violation and in addition to any other rights it may have, apply to a judge of the Court of Queen's Bench by way of originating notice for an order

(a) directing the person or company to comply with the decision or provision or restraining the person or company from violating the decision or provision, and

(b) directing the directors and senior officers of the person or company to cause the person or company to comply with or to cease violating the decision or provision,

and, upon the application, the judge may make any order or any other order that he thinks fit.

(2) The originating notice shall be served at least 2 days before the day named in the notice for hearing the application.

57 Information containing more than one offence.

58 Execution of warrant issued in another province.

59 Order for compliance.

(3) An appeal lies to the Court of Appeal from an order made under subsection (1).

60(1) No proceedings under this Part shall be commenced in a court more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

(2) No proceedings under this Act shall be commenced before the Commission more than 2 years after the facts upon which the proceedings are based first came to the knowledge of the Commission.

60 Limitation period.

PART 14
GENERAL PROVISIONS

61 If an application for

- (a) registration or renewal of registration,
- (b) recognition of a commodity futures exchange, or
- (c) acceptance of the form of the contract,

is abandoned, the Director may, upon the application of the person or company who made the application, recommend to the Provincial Treasurer that a refund of the fee paid on the making of the application or that part of it that he considers fair and reasonable to be made, and the Provincial Treasurer may, subject to *The Financial Administration Act, 1977*, make the refund from the General Revenue Fund.

62 A statement as to

- (a) the registration or non-registration of a person or company,
- (b) the filing or non-filing of a document or material required or permitted to be filed,
- (c) any other matter pertaining to the registration, non-registration, filing or non-filing, or to any person, company, document or material, or
- (d) the date of the facts upon which proceedings are to be based first came to the knowledge of the Commission,

purporting to be certified by the Commission or a member of it, or by the Registrar is, without proof of the office or signature of the person certifying, admissible in evidence, so far as is relevant, for all purposes in any action, proceeding or prosecution.

63(1) If this Act or the regulations require that material be filed, the filing shall be effected by depositing the material or causing it to be deposited, with the Commission, and all material so filed shall, subject to subsection (2), be made available by the Commission for public inspection during the normal business hours of the Commission.

(2) Notwithstanding subsection (1), the Commission may hold material or any class of material required to be filed by this Act or the regulations in confidence so long as the Commission is

61 Refunds.

62 Admissibility in evidence of certified statements.

63 Material available for inspection.

of the opinion that the material so held discloses intimate financial, personal or other information and that the desirability of avoiding disclosure of it in the interests of any person or company affected outweighs the desirability of adhering to the principle that material filed with the Commission be available to the public for inspection.

64(1) No action or other proceeding for damages shall be instituted against the Commission or any member of it or an officer, servant or agent of the Commission for an act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act or the regulations or for a neglect or default in the performance or exercise in good faith of the duty or power.

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company for an act or omission of the last-mentioned person or company done or omitted in compliance with this Act, the regulations or a direction, decision, order, ruling or other requirement made or given under this Act or the regulations.

(3) Subsection (1) does not, by reason of section 5(2) and (3) of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Commission or a person referred to in subsection (1) to which the Crown would otherwise be subject and the Crown is liable under that Act for the tort in a like manner as if subsection (1) had not been enacted.

65 The Lieutenant Governor in Council may make regulations

(a) prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registration;

(b) classifying registrants into categories and prescribing the terms and conditions of registration or registrants in each category;

(c) governing the furnishing of information to the public or to the Commission by a registrant in connection with contracts or trades in contracts;

(d) designating any person or company or any class of persons or companies that are not required to obtain registration as an adviser;

(e) designating any goods, article, service, right or interest or a class or classes of them as a commodity;

64 Immunities.

65 Regulations.

- (f) prescribing conditions for the conduct of the business of a commodity futures exchange;
- (g) prescribing conditions precedent to the recognition of self-regulatory bodies under section 15;
- (h) prescribing the fees payable to the Commission including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
- (i) prescribing the documents, certificates, reports, releases, statements, agreements and other particulars relating to them that are required to be filed, furnished or delivered under this Act and the regulations;
- (j) prescribing the practice and procedure of investigations under sections 7 and 9;
- (k) prescribing the forms for use under this Act and the regulations;
- (l) respecting the content and distribution of written, printed or visual material and advertising that may be distributed or used by a person or company in respect of a contract;
- (m) prescribing the form and content of the written statement required by section 40;
- (n) prescribing the form and content of the written agreement referred to in section 46(2);
- (o) respecting the practice and procedure for the segregation of customers' money, securities, property, proceeds and funds under section 46;
- (p) permitting the Commission or the Director to exempt a person or company from the provisions of the regulations or vary the provisions as they apply to a person or company.

66 The Commission may, if in its opinion to do so would not be prejudicial to the public interest, make an order on any terms and conditions that it may impose revoking or varying a decision made by it under this Act or the regulations.

67 This Act comes into force on a date or dates to be fixed by Proclamation.

66 Commission's discretion to revoke or vary its decision.