

2018 Bill 20

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Fourth Session, 29th Legislature, 67 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 20**

**SECURITIES AMENDMENT ACT, 2018**

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THE PRESIDENT OF TREASURY BOARD,  
MINISTER OF FINANCE

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 20

2018

### SECURITIES AMENDMENT ACT, 2018

(Assented to \_\_\_\_\_, 2018)

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

#### Amends RSA 2000 cS-4

##### **1 The Securities Act is amended by this Act.**

##### **2 Section 1 is amended**

##### **(a) by adding the following after clause (c.1):**

(c.2) “benchmark” means a price, estimate, rate, index or value that is

- (i) determined from time to time by reference to an assessment of one or more underlying interests,
- (ii) made available to the public, either free of charge or on payment, and
- (iii) used for reference for any purpose, including
  - (A) determining the interest payable, or other sums that are due, under a contract, derivative, instrument or security,
  - (B) determining the value of a contract, derivative, instrument or security or the price at which it may be traded,

## **Explanatory Notes**

- 1** Amends chapter S-4 of the Revised Statutes of Alberta 2000.
- 2** Adds definitions.

- (C) measuring the performance of a contract, derivative, investment fund, instrument or security, and
  - (D) any other use by an investment fund;
- (c.3) “benchmark administrator” means a person or company that administers a benchmark;
  - (c.4) “benchmark contributor” means a person or company that contracts to provide, or otherwise provides, information in relation to a benchmark for use by the benchmark administrator, including a person or company subject to a requirement under an order issued pursuant to section 67.4(1)(d);
  - (c.5) “benchmark user” means a person or company that, in relation to a contract, derivative, investment fund, instrument or security, uses a benchmark;

**(b) by adding the following after clause (n.01):**

- (n.02) “designated benchmark” means a benchmark that is designated by the Commission under section 67.4(1);
- (n.03) “designated benchmark administrator” means a benchmark administrator that is designated by the Commission under section 67.4(1) in respect of a designated benchmark;

**3 Section 40(1)(j) is repealed and the following is substituted:**

- (j) a designated rating organization,
- (j.1) a designated benchmark administrator,
- (j.2) a benchmark contributor,

**4 Section 46.1(1) is amended by adding “57.2, 57.3” after “46(4),”.**

**3** Section 40(1) presently reads in part:

*40(1) In this section, “party” means*

*(j) a recognized credit rating organization,*

**4** Section 46.1 presently reads in part:

*46.1(1) Subject to subsection (2), if anything in sections 44, 45, 46(4), 146 or 221(4), (5), (6) and (7) is inconsistent or in conflict with the Freedom of Information and Protection of Privacy Act,*

**5 The following is added after section 57:**

**Part 2.1  
Whistleblowing**

**Definitions**

**57.1** In this Part,

- (a) “Commission staff member” means the Executive Director, the Secretary and any individual appointed as staff by or seconded to the Commission;
- (b) “employee” means, in respect of a person or company, an individual who is or was at the relevant time
  - (i) a full-time employee, a part-time employee or a director of that person or company,
  - (ii) an independent contractor for that person or company, or a full-time employee, part-time employee or director of that independent contractor, or
  - (iii) a full-time employee, part-time employee or director of an affiliate of that person or company;
- (c) “relative” means, in respect of an employee, the parents, spouse, adult interdependent partner, siblings and children of the employee;
- (d) “remuneration” includes all payments, benefits and allowances received or deemed to be received by reason of section 5, 6 or 7 of the *Income Tax Act* (Canada), including but not limited to wages or salary, commissions, overtime pay, vacation pay, bonuses or variable pay, stock options, payments in lieu of benefits, pension benefits, disability benefits, taxable allowances or amounts paid pursuant to a profit-sharing agreement;
- (e) “reprisal” means, in respect of an employee, any measure or conduct that adversely and materially affects employment or

*those provisions prevail notwithstanding the Freedom of Information and Protection of Privacy Act.*

**5** Adds Part 2.1 Whistleblowing; definitions; identity of whistleblower confidential; information is confidential; no reprisals; no prohibition against whistleblowing; no obstruction; no false disclosure; limited immunity; transitional provision.

working conditions, including but not limited to dismissal, layoff, suspension, demotion, transfer, discontinuation or elimination of a position, termination of a contract, change of workplace, reduction in remuneration, change in hours of work, reprimand, harassment, denial of a benefit and any threat of any measure or conduct that would adversely and materially affect employment or working conditions;

- (f) “whistleblower” means an employee of a person or company who voluntarily discloses to a Commission staff member information respecting alleged wrongdoing by or in connection with the person or company, or an employee of the person or company, but does not include an employee
  - (i) who only disclosed, or has already disclosed, the information in response to an order or a summons issued under a law of Canada, or
  - (ii) who is required to report or otherwise provide the information to the Commission as a result of a pre-existing legal duty;
- (g) “wrongdoing” means a contravention of Alberta securities laws.

**Identity of whistleblower confidential**

**57.2(1)** The identity of a whistleblower, and any information or record that may reasonably be expected to reveal the identity of a whistleblower in the circumstances, is confidential, unless

- (a) the Executive Director and the whistleblower consent to its disclosure,
- (b) the Commission, in the case of a hearing before the Commission, determines that its disclosure is necessary to show that a person or company who is the subject of the hearing has not contravened Alberta securities laws or acted contrary to the public interest,
- (c) a judge of the Provincial Court presiding over a trial in respect of one or more offences under this Act determines that its disclosure is necessary to show that a person or company who is the accused in that trial has not committed the offence or offences in question, or





(d) the Executive Director has reasonable grounds to believe that the whistleblower has committed an offence under this Act or the *Criminal Code* (Canada) that is related to information disclosed by the whistleblower to a Commission staff member.

**(2)** Where the identity of a whistleblower, or any information or record that may reasonably be expected to reveal the identity of a whistleblower in the circumstances, is disclosed

(a) pursuant to subsection (1)(a) or (d), the disclosure is subject to any terms and conditions that the Executive Director considers appropriate, or

(b) pursuant to subsection (1)(b) or (c), the disclosure ordered by the Commission or the judge of the Provincial Court, as the case may be,

(i) is subject to any terms and conditions considered appropriate by the Commission or the judge of the Provincial Court, as the case may be, and

(ii) shall only be to those persons or companies to whom the disclosure is necessary in the circumstances.

**(3)** A person or company to whom the identity of a whistleblower, or any information or record that may reasonably be expected to reveal the identity of a whistleblower in the circumstances, has been disclosed shall not disclose the identity or the information or record to any other person or company unless otherwise authorized under this section.

**(4)** Notwithstanding anything in this section, a whistleblower is a compellable witness.

**(5)** No witness in a proceeding under this Act may be examined respecting the witness' knowledge or belief regarding the existence or identity of a whistleblower.

**(6)** Subsection (5) does not apply to an examination in a proceeding commenced pursuant to section 211.0961 if the examination is in respect of whether or not the plaintiff was a whistleblower at the time of the alleged reprisal.



**Information is confidential**

**57.3** Any information or record obtained by a Commission staff member from a whistleblower or while investigating the alleged wrongdoing disclosed by the whistleblower, and any information or record provided to a whistleblower by a Commission staff member in relation to the alleged wrongdoing disclosed by the whistleblower, is confidential and shall not be disclosed except

- (a) by a Commission staff member or the whistleblower to the whistleblower's legal counsel,
- (b) where authorized by the Executive Director, or
- (c) as otherwise permitted by Alberta securities laws.

**No reprisals**

**57.4(1)** No person or company or employee of the person or company shall take or direct a reprisal against an employee of the person or company because

- (a) the employee or a relative of the employee has disclosed, sought or provided advice about disclosing or expressed an intention to disclose to a Commission staff member information respecting alleged wrongdoing by any person or company,
  - (b) in respect of any information described in clause (a), the employee or a relative of the employee has co-operated, testified or otherwise assisted in
    - (i) an investigation by a Commission staff member, or
    - (ii) a proceeding under this Act,
- or
- (c) the person or company or an employee of the person or company believes that the employee or a relative of the employee will do or has done anything referred to in clause (a) or (b).

**(2)** Subsection (1) does not apply if the employee or a relative of the employee, as the case may be, did not reasonably believe the information respecting alleged wrongdoing at the time the



employee or the relative of the employee, as the case may be, engaged in the conduct described in subsection (1).

**No prohibition against whistleblowing**

**57.5** No provision or term in any contract, agreement or policy shall be interpreted or shall be enforceable so as to prohibit, restrict or otherwise limit in any way an employee of a person or company from

- (a) disclosing, or seeking or providing advice about disclosing, to a Commission staff member information respecting alleged wrongdoing by or in connection with a person or company or an employee of a person or company, or
- (b) in respect of any information described in clause (a), co-operating, testifying or otherwise assisting in
  - (i) an investigation by a Commission staff member, or
  - (ii) a proceeding under this Act.

**No obstruction**

**57.6** No person or company shall obstruct, or advise, request or direct the obstruction of, an employee of a person or company from

- (a) disclosing, or seeking or providing advice about disclosing, to a Commission staff member information respecting alleged wrongdoing by or in connection with a person or company, or an employee of a person or company, or
- (b) in respect of any information described in clause (a), co-operating, testifying or otherwise assisting in
  - (i) an investigation by a Commission staff member, or
  - (ii) a proceeding under this Act.

**No false disclosure**

**57.7** No person or company purporting to provide information respecting an alleged wrongdoing by another person or company shall make a statement, whether oral or written, in any document, material, information or evidence provided to a Commission staff member that, in a material respect and at the time and in light of the circumstances under which it 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.

**Limited immunity**

**57.8(1)** No employee of a person or company is liable for having disclosed, sought or provided advice about disclosing, or expressed an intention to disclose to a Commission staff member information respecting alleged wrongdoing by or in connection with the person or company or an employee of the person or company.

**(2)** Subsection (1) does not apply if the employee did not reasonably believe the information respecting alleged wrongdoing at the time the employee engaged in the conduct described in subsection (1).

**(3)** Notwithstanding subsection (1), an employee who engages in conduct described in that subsection may be held liable for

- (a) any contravention of Alberta securities laws or any conduct contrary to the public interest, and
- (b) any contravention of an enactment of Alberta or Canada.

**Transitional provision**

**57.9(1)** In this section, “effective date” means the date on which this Part comes into force.

**(2)** This Part applies to any wrongdoing whether it occurred before, on or after the effective date, but

- (a) section 57.2 applies only to a whistleblower who discloses the information on or after the effective date,
- (b) section 57.3 applies only to information or a record received from a whistleblower on or after the effective date,
- (c) section 57.4 applies only to a reprisal taken or directed against an employee on or after the effective date,
- (d) section 57.5 applies to any provision or term in any contract, agreement or policy that is in effect or takes effect on or after the effective date, but only with respect to a matter referred to in section 57.5(a) or (b) that occurs on or after the effective date,





- (e) section 57.6 applies only to any act that constitutes obstruction, or advising, requesting or directing obstruction, that occurs or continues to occur on or after the effective date,
- (f) section 57.7 applies only to a statement made by a person or company on or after the effective date, and
- (g) section 57.8 applies only to an employee of a person or company who on or after the effective date, disclosed, sought or provided advice about disclosing, or expressed an intention to disclose to a Commission staff member the information described in section 57.8.

**6 Section 58(1)(k) is repealed and the following is substituted:**

- (k) a designated rating organization;
- (k.1) a designated benchmark administrator;
- (k.2) a benchmark contributor;

**7 Section 60.1(1) is repealed and the following is substituted:**

**Record-keeping**

**60.1(1)** This section applies to every

- (a) recognized exchange,
- (b) recognized self-regulatory organization,
- (c) recognized auditor oversight organization,
- (d) recognized clearing agency,
- (e) recognized quotation and trade reporting system,
- (f) recognized trade repository,
- (g) designated rating organization,
- (h) designated benchmark administrator,

**6** Section 58(1)(k) presently reads:

*58(1) Notwithstanding anything in section 59, 60, 60.1 or 60.2, the Executive Director may in writing appoint a person to examine the business, conduct, financial affairs, books, records and other documents of the following for the purpose of determining if that person or company is complying with Alberta securities laws or acting contrary to the public interest:*

*(k) a recognized credit rating agency;*

**7** Section 60.1(1) presently reads:

*60.1(1) This section applies to every recognized exchange, recognized self-regulatory organization, recognized auditor oversight organization, recognized clearing agency, recognized quotation and trade reporting system, recognized trade repository and reporting issuer, and every officer, director, promoter and transfer agent of a reporting issuer.*

- (i) benchmark contributor,
- (j) reporting issuer, and
- (k) officer, director, promoter and transfer agent of a reporting issuer.

**8 The heading to Part 4 is repealed and the following is substituted:**

**Part 4  
Regulation, Recognition and  
Designation of Entities  
and Benchmarks**

**9 The following is added after section 67.3:**

**Benchmarks**

**67.4(1)** Where the Commission considers that it would not be prejudicial to the public interest to do so, the Commission may, on the application of a benchmark administrator or on its own motion,

- (a) designate a benchmark,
- (b) if a benchmark is designated, designate it within a class of benchmarks,
- (c) if a benchmark is designated, designate the benchmark administrator in respect of the designated benchmark, and
- (d) if a benchmark is designated, order a person or company to provide information in relation to the designated benchmark for use by the designated benchmark administrator.

**(2)** A designation or order under this section must be in writing and is subject to any terms and conditions that the Commission imposes.

**8** The heading to Part 4 presently reads:

*Part 4  
Exchanges, Self-regulatory  
Organizations, Credit Rating Organizations,  
Trade Repositories and Clearing Agencies*

**9** Benchmarks.

(3) The Commission, after giving a designated benchmark administrator an opportunity to be heard, may, if the Commission considers that it is in the public interest to do so,

- (a) suspend or cancel the designation of a benchmark or the benchmark administrator,
- (b) add to, remove, vary or replace any terms or conditions that were previously imposed on the designation of a benchmark or the benchmark administrator, or
- (c) add to, remove, vary, replace, suspend or cancel a requirement imposed under an order issued under subsection (1)(d).

(4) A designated benchmark administrator shall comply with the regulations.

**10 Section 92 is amended by adding the following after subsection (4.1):**

(4.2) No person or company shall, directly or indirectly, engage or participate, or attempt to engage or participate, in the provision of information to another person or company for the purpose of determining a benchmark if the person or company knows or reasonably ought to know that the information, at the time and in the circumstances in which it is provided, is false or misleading.

**11 Section 93 is amended by renumbering it as section 93(1) and by adding the following after subsection (1):**

(2) No person or company shall, directly or indirectly, engage or participate or attempt to engage or participate in conduct relating to a benchmark that improperly influences the determination of the benchmark or produces or contributes to

**10** Section 92 presently reads in part:

*92(4.1) No person or company shall make a statement that the person or company knows or reasonably ought to know*

*(a) in any material respect and at the time and in the light of the circumstances in which it is made,*

*(i) is misleading or untrue, or*

*(ii) 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, a derivative or an underlying interest of a derivative.*

**11** Section 93 presently reads:

*93 No person or company shall, directly or indirectly, engage or participate or attempt to engage or participate in any act, practice or course of conduct relating to a security, a derivative or an*

the production of a false or misleading determination of the benchmark.

**12 Section 198 is amended**

**(a) in subsection (1) by repealing clauses (d) and (e) and substituting the following:**

- (d) that a person resign one or more positions that the person holds as a director or officer of an issuer, registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository, designated rating organization or designated benchmark administrator;
- (e) that a person is prohibited from becoming or acting as a director or officer or as both a director and an officer
  - (i) of any issuer or other person or company that is authorized to issue securities, or
  - (ii) of a registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository, designated rating organization or designated benchmark administrator;

**(b) in subsection (1.01) by striking out “or” at the end of clause (n) and by adding the following after clause (o):**

- (p) a benchmark administrator, or



*underlying interest of a derivative that the person or company knows or reasonably ought to know may*

- (a) result in or contribute to*
  - (i) a false or misleading appearance of trading activity in a security, a derivative or an underlying interest of a derivative, or*
  - (ii) an artificial price for a security, a derivative or an underlying interest of a derivative,*
- or*
- (b) perpetrate a fraud on any person or company.*

**12** Section 198 presently reads in part:

*198(1) Where the Commission considers that it is in the public interest to do so, the Commission may order one or more of the following:*

- (d) that a person resign one or more positions that the person holds as a director or officer of an issuer, registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository or recognized quotation and trade reporting system;*
- (e) that a person is prohibited from becoming or acting as a director or officer or as both a director and an officer of any issuer, or other person or company that is authorized to issue securities, registrant, investment fund manager, recognized exchange, recognized self-regulatory organization, recognized clearing agency, recognized trade repository or recognized quotation and trade reporting system;*

*(1.01) An order under subsection (1)(e.4) or (e.5) may be made against*

- (n) a credit rating organization, or*
- (o) a trade repository.*

- (q) a benchmark contributor.

**13 The following is added after section 211.095:**

**Part 17.02  
Civil Liability for Reprisals  
Against Whistleblowers**

**Definitions**

**211.096** In this Part,

- (a) “Commission staff member” means the Executive Director, the Secretary and any individual appointed as staff by or seconded to the Commission;
- (b) “employee” means, in respect of a person or company, an individual who is or was at the relevant time
  - (i) a full-time employee, a part-time employee or a director of that person or company,
  - (ii) an independent contractor for that person or company, or a full-time employee, a part-time employee or a director of that independent contractor, or
  - (iii) a full-time employee, a part-time employee or a director of an affiliate of that person or company;
- (c) “remuneration” includes all payments, benefits and allowances received or deemed to be received by reason of section 5, 6 or 7 of the *Income Tax Act* (Canada), including but not limited to wages or salary, commissions, overtime pay, vacation pay, bonuses or variable pay, stock options, payment in lieu of benefits, pension benefits, disability benefits, taxable allowances or payments made pursuant to a profit-sharing agreement;
- (d) “reprisal” means, in respect of an employee, any measure or conduct that adversely and materially affects employment or working conditions including but not limited to dismissal, layoff, suspension, demotion, transfer, discontinuation or elimination of a position, termination of a contract, change of workplace, reduction in remuneration, change in hours of

**13** Adds Part 17.02 Civil Liability for Reprisals Against Whistleblowers; definitions; liability for reprisals against a whistleblower; burden of proof and defences; remedies; proportionate liability; no derogation from other rights, defences or remedies; application where arbitration is available; transitional provision.

work, reprimand, harassment, denial of a benefit and any threat of any measure or conduct that would adversely and materially affect employment or working conditions;

- (e) “whistleblower” means an employee of a person or company who has, or who is believed to have,
  - (i) voluntarily disclosed to a Commission staff member information respecting alleged wrongdoing by or in connection with the person or company or an employee of the person or company,
  - (ii) sought or provided advice about voluntarily disclosing, or expressed an intention to voluntarily disclose, to a Commission staff member information respecting alleged wrongdoing by or in connection with the person or company or an employee of the person or company, or
  - (iii) in respect of any information described in subclause (i) or (ii), voluntarily co-operated, testified or otherwise assisted in, or expressed an intention to voluntarily co-operate, testify or otherwise assist in,
    - (A) an investigation by a Commission staff member, or
    - (B) a proceeding under this Act,

but does not include an individual who only disclosed, or has already disclosed, the information in response to an order or a summons issued under a law of Canada or who is required to report or otherwise provide the information to the Commission as a result of a pre-existing legal duty;

- (f) “wrongdoing” means a contravention of Alberta securities laws.

**Liability for reprisals against a whistleblower**

**211.0961** Where a whistleblower who is an employee of a person or company is subject to a reprisal by that person or company, or by another employee of that person or company, the whistleblower has a right of action against

- (a) that person or company, and



- (b) any other employee of that person or company who took or directed a reprisal against the whistleblower.

**Burden of proof and defences**

**211.0962(1)** In an action under section 211.0961, a plaintiff is required to prove

- (a) that the plaintiff was a whistleblower at the time of the alleged reprisal, and
- (b) that the measure taken or the course of conduct engaged in that is alleged to constitute a reprisal was taken or did occur, as applicable,

but is not required to prove that the reprisal was caused by the fact that the plaintiff was or is a whistleblower.

**(2)** Notwithstanding subsection (1), a person or company is not liable in an action under section 211.0961 if the person or company proves that

- (a) the person or company would have undertaken the measure or engaged in the course of conduct that is alleged to constitute a reprisal in the absence of the plaintiff being a whistleblower, or
- (b) at the relevant time, the plaintiff did not reasonably believe the information respecting alleged wrongdoing by or in connection with the person or company or an employee of the person or company that gave rise to the plaintiff being a whistleblower.

**Remedies**

**211.0963(1)** If an action under section 211.0961 is resolved at trial in favour of the plaintiff, the court shall order the following remedies:

- (a) if
  - (i) the plaintiff's employment was terminated or suspended,
  - (ii) the plaintiff's remuneration was reduced, or
  - (iii) the plaintiff was denied a benefit that had a monetary value attached to it,



the plaintiff is entitled to up to 2 times the amount that would have been received by or would have accrued to the plaintiff, as the case may be, in remuneration between the date of the occurrence of the measure or conduct for which the defendant has been found liable and the date of the determination of damages, having regard to the circumstances;

- (b) if the plaintiff was subject to a transfer, change of workplace, change in hours of work, reprimand, denial of a benefit or any other measure or conduct that adversely and materially affected the plaintiff's employment or work conditions,
  - (i) each measure or conduct to which the plaintiff was subjected shall be reversed, if it is practicable to do so, and
  - (ii) the plaintiff is entitled to an amount that does not exceed the amount received by or accrued to the plaintiff, as the case may be, in remuneration between the date of the occurrence of the measure or conduct for which the defendant has been found liable and the date of the determination of damages, having regard to the circumstances.

**(2)** Notwithstanding subsection (1),

- (a) if the plaintiff and the person or company who employed the plaintiff at the relevant time, prior to the date of the occurrence of the measure or conduct for which the defendant has been found liable, agreed that the plaintiff's employment would be terminated on a specified date, or
- (b) if the defendant proves that the plaintiff would have been lawfully terminated at a date prior to the date of the determination of damages,

then that date or, if both clauses (a) and (b) apply, the earlier of the two dates, must be used to determine the applicable damages under subsection (1) instead of the date of the determination of damages.





**Proportionate liability**

**211.0964(1)** In an action under section 211.0961, 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 the plaintiff in the action, and each defendant is liable to the plaintiff for only that portion of the aggregate amount of damages assessed in favour of the plaintiff that corresponds to that defendant's responsibility for the damages.

(2) Notwithstanding subsection (1), if the person or company with whom the plaintiff is employed, or was employed at the relevant time, is found liable in an action under section 211.0961 the whole amount of the damages assessed in the action may be recovered from that person or company.

(3) A person or company against whom recovery is obtained under subsection (2) is entitled to claim contribution in the appropriate amount from any other defendant who is found liable in the action.

**No derogation from other rights, defences or remedies**

**211.0965(1)** The right of action for damages and the defences to an action under this Part 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.

(2) Any remedy granted by the Court under section 211.0963 shall not

- (a) be reduced as a result of any other remedy granted to the plaintiff in respect of any other action or proceeding as between the plaintiff and the defendant, or
- (b) be used or relied on to reduce any other remedy granted to the plaintiff in respect of any other action or proceeding as between the plaintiff and the defendant.

**Application where arbitration is available**

**211.0966** If, pursuant to a collective agreement, final and binding settlement by arbitration is available to an employee, the employee may pursue a right of action under this Part during such an arbitration, and the provisions in this Part apply to that arbitration proceeding, with such modifications as the circumstances require.



**Transitional provision**

**211.0967** This Part applies only to a reprisal that was taken or directed against an employee on or after the coming into force of this Part.

**14 Section 220 is amended by striking out “Comission” and substituting “Commission”.**

**15 The following is added after section 222:**

**Non-compellability**

**222.01(1)** Any person employed by the Commission or appointed under this Act shall not be required in any civil or administrative proceeding, except a proceeding before the Commission, to produce any book, record, document or thing, or to give testimony respecting information, obtained in the discharge of the person’s duties under this Act or the regulations.

**(2)** Notwithstanding subsection (1), a member of the Commission, the Executive Director or the Secretary shall not be required in any civil or administrative proceeding to produce any book, record, document or thing, or to give testimony respecting information, obtained in the discharge of that person’s duties under this Act or the regulations.

**16 Section 223 is amended**

**(a) in clause (v)**

**(i) by striking out “and the regulations” and substituting “, the regulations and any other enactment”;**

**(ii) by repealing subclause (vii) and substituting the following:**

**(vii) varying or modifying the application of this Act, the regulations and any other enactment to facilitate and require the use of an electronic or computer-based**

**14** Section 220 presently reads:

*220 Service of any document on the Commission is only effected by serving the document on the Commission in accordance with section 217(1.1).*

**15** Non-compellability.

**16** Section 223(v) presently reads in part:

*223 The Lieutenant Governor in Council may make regulations*

- (v) governing the format, preparation, form, contents, execution, certification, dissemination and other use, filing, review and public inspection of all information, documents, records or other materials required under or governed by this Act and the regulations and, without limiting the generality of the foregoing,*

system for the filing, delivery or deposit of information, documents, records or materials;

**(b) by adding the following after clause (v.1):**

- (v.2) prescribing, for meetings of the security holders of a reporting issuer,
  - (i) requirements for voting by proxy or otherwise;
  - (ii) circumstances in which a vote of security holders must be done by way of ballot;
  - (iii) requirements relating to communication with registered, legal and beneficial owners of securities, including requirements relating to depositories, registrants or other persons or companies that hold securities on behalf of beneficial owners;
  - (iv) requirements relating to entities involved in, or activities and practices relating to, the solicitation, collection, submission, tabulation and validation of proxy votes and voting instructions;

**(c) by adding the following after clause (w.1):**

- (w.2) governing requirements for benchmarks, benchmark administrators, benchmark contributors and benchmark users and, without limiting the generality of the foregoing,
  - (i) designating a benchmark or benchmark administrator, or a class of benchmarks or benchmark administrators;
  - (ii) prescribing a category or categories of designated benchmarks;
  - (iii) respecting any requirement that a person or company provide information in relation to a designated benchmark for use by a designated benchmark administrator;
  - (iv) prescribing a type or category of benchmark;



- (v) respecting the disclosure or furnishing of information to the Commission, the public or any person or company by a benchmark administrator, a benchmark contributor or a benchmark user, including requirements for disclosure statements by a benchmark administrator in relation to a benchmark;
- (vi) respecting the quality, integrity and sufficiency of the data and the methodology used by a benchmark administrator to determine a benchmark, including requirements for a benchmark administrator to monitor benchmark contributors and data provided by benchmark contributors;
- (vii) respecting the establishment, publication and enforcement by a benchmark administrator of codes of conduct applicable to the benchmark administrator, benchmark contributors and their respective directors, officers, employees, service providers and security holders, and the minimum requirements to be included in a code;
- (viii) respecting contractual arrangements to be entered into by a benchmark administrator and benchmark contributors and the minimum requirements to be included in the contractual arrangements;
- (ix) respecting the use by a benchmark administrator and a benchmark contributor of service providers;
- (x) respecting prohibitions against and procedures regarding conflicts of interest involving a benchmark, a benchmark administrator, a benchmark contributor and their respective directors, officers, employees, service providers and security holders, including
  - (A) procedures to be followed to avoid conflicts of interest,
  - (B) procedures to be followed if conflicts of interest arise,
  - (C) requirements for separation of roles, functions and activities, and





- (D) restrictions on ownership of a benchmark or benchmark administrator;
- (xi) respecting prohibitions against the use of a benchmark that is not a designated benchmark;
- (xii) respecting disclosure and other requirements relating to the use of a benchmark;
- (xiii) requiring a person or company to provide information in relation to a benchmark for use by the benchmark administrator;
- (xiv) respecting the maintenance of books and records necessary for the conduct of a benchmark administrator's business and the establishment and maintenance of a benchmark;
- (xv) respecting the maintenance of books and records by a benchmark contributor relating to a benchmark;
- (xvi) respecting the appointment by benchmark administrators and benchmark contributors of one or more compliance officers and any minimum standards that must be met or qualifications a compliance officer must have;
- (xvii) prohibiting or restricting any matter or conduct involving a benchmark and regulating submissions of information for the purposes of determining a benchmark and administering a benchmark;
- (xviii) respecting the design, determination and dissemination of a benchmark;
- (xix) respecting plans of a benchmark administrator or benchmark contributor for continuity, recovery and cessation, including plans where a benchmark changes or ceases to be provided and how these plans will be reflected in the contractual arrangements of the benchmark administrator or benchmark contributor;
- (xx) respecting plans of a benchmark user where a benchmark changes or ceases to be provided and



how these plans will be reflected in the contractual arrangements of the benchmark user;

- (xxi) respecting governance, compliance, accountability, oversight, audit, internal controls, policies and procedures of a benchmark administrator or benchmark contributor in relation to a benchmark;
- (xxii) respecting governance, compliance, accountability, oversight, audit, internal controls, policies and procedures of a person or company in respect of the use of a benchmark;
- (xxiii) governing or restricting the payment of fees or other compensation to a benchmark administrator or benchmark contributor;
- (xxiv) governing circumstances in which a benchmark or a benchmark administrator, or a class of benchmarks or benchmark administrators, is deemed to be designated for the purposes of this Act or the regulations, including the circumstance in which a benchmark or a benchmark administrator, or a class of benchmarks or benchmark administrators, is designated under the laws of another jurisdiction respecting trading in securities or derivatives;







**RECORD OF DEBATE**

Stage	Date	Member	From	To
		<b>Questions and Comments</b>	<b>From</b>	<b>To</b>
Stage	Date	Member	From	To
		<b>Questions and Comments</b>	<b>From</b>	<b>To</b>
Stage	Date	Member	From	To
		<b>Questions and Comments</b>	<b>From</b>	<b>To</b>
Stage	Date	Member	From	To
		<b>Questions and Comments</b>	<b>From</b>	<b>To</b>