FCAA
Financial and
Consumer
Affairs Authority

Suite 601, 1919 Saskatchewan Drive
REGINA SK S4P 4H2

Local Notice of Proclamation
The Securities Amendment Act, 2019

February 4, 2020

The Securities Act, 1988 **(Act)** has been amended by *The Securities Amendment Act, 2019.* Sections 3 to 5; section 8; and clause 21(b) of *The Securities Amendment Act, 2019* have been proclaimed by the Saskatchewan Legislature to come into force on February 1, 2020.

The sections of *The Securities Amendment Act, 2019* proclaimed are:

- Section 3 – amended subsection 2(1) of the Act to include an interpretation for 'benchmark' (b.3); 'benchmark administrator' (b.4); 'benchmark contributor' (b.5); and 'benchmark user' (b.6) for the purposes of the newly added of Part V.2 *Benchmarks*.

- Section 4 – amended subsection 14.1(1) of the Act to add a designated benchmark administrator (n) and benchmark contributor (o) to the list of persons or companies that the Director may make an order requiring them to provide information or produce specified records.

- Section 5 – amended subsection 20(1) of the Act to add a designated benchmark administrator (vii) and benchmark contributor (viii) to the list of persons or companies that the Director may appoint any person to conduct an examination of the affairs and records of that person or company.

- Section 8 – added Part V.2 *Benchmarks* to the Act which includes new provisions *Designation of benchmarks and benchmark administrators* (s 26.3); *Requiring information* (s 26.4); *Duty to comply*; (s 26.5); *Benchmark – false or misleading information* (s 26.6); and *Benchmark manipulation* (s 26.7).

- Clause 21(1)(b) – amended subsection 154(1) of the Act by adding clauses 154(1)(d.01) to 154(1)(d.06) to allow for regulations to be made prescribing restrictions or requirements in relation to the newly added Part V.2 *Benchmarks*.

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The text of the proclamation is contained in Annex A of this Notice and the text of *The Securities Amendment Act, 2019* is contained in Annex B of this Notice.

Please refer your questions to:

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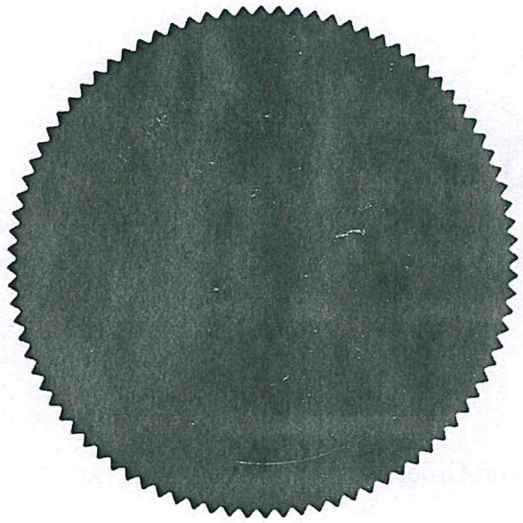
Annexes to Notice:

Annex A – Proclamation – *The Securities Amendment Act, 2019*

Annex B – *The Securities Amendment Act, 2019*

ANNEX A

OC #448/2019



LIEUTENANT GOVERNOR

CANADA

PROVINCE OF SASKATCHEWAN

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories QUEEN, Head of the Commonwealth, Defender of the Faith.

To all to whom these Presents shall come, GREETING:

A PROCLAMATION

WHEREAS Section 22 of *The Securities Amendment Act, 2019*, SS 2019, c 23 provides as follows:

"22 This Act comes into force on proclamation."

WHEREAS it is deemed advisable to fix a day on which sections 3 to 5; section 8; and clause 21(b) of *The Securities Amendment Act, 2019* shall come into force.

NOW KNOW YE, that by and with the advice of our Executive Council of Our Province, We do by these Presents proclaim Saturday, February 1, 2020, as the day on which sections 3 to 5; section 8; and clause 21(b) of *The Securities Amendment Act, 2019* shall come into force.

OF ALL OF WHICH PRESENTS Our Loving Subjects of Our said Province and all others whom they may concern are hereby required to take notice and govern themselves accordingly.

IN TESTIMONY WHEREOF we have caused the Great Seal of Our Province of Saskatchewan to be hereunto affixed.

WITNESS: Our right trusty and well beloved Honourable Russell B. Mirasty, Lieutenant Governor of our Province of Saskatchewan.

AT OUR CAPITAL CITY OF REGINA, in Our said Province, this seventeenth day of January in the year of Our Lord two thousand and twenty and in the sixty-eighth year of Our Reign.

By Command,

Deputy Attorney General

Province of Saskatchewan

Order in Council 448/2019

Approved and Ordered: 30 October 2019

Lieutenant Governor

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders the issuance of a Proclamation fixing Saturday, February 1, 2020, as the day on which the following sections of *The Securities Amendment Act, 2019* shall come into force:

a. sections 3 to 5;
b. section 8; and
c. clause 21(b)

President of the Executive Council

(For administrative purposes only.)

Recommended by: **Minister of Justice and Attorney General**

Authority: ***The Securities Amendment Act, 2019*, section 22**

JAG MM - 15-10-19

2019

CHAPTER 23

An Act to amend *The Securities Act, 1988*

(Assented to May 15, 2019)

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

Short title

1 This Act may be cited as *The Securities Amendment Act, 2019*.

SS 1988-89, c S-42.2 amended

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

Section 2 amended

3(1) The following clauses are added after clause 2(1)(b.2):

"(b.3) **'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;

(C) measuring the performance of a contract, derivative, investment fund, instrument or security; or

(D) any other use by an investment fund;

"(b.4) **'benchmark administrator'** means a person who or company that administers a benchmark;

"(b.5) **'benchmark contributor'** means a person who or company that engages or participates in the provision of information for use by a benchmark administrator for the purpose of determining a benchmark, including a person or company subject to a decision pursuant to section 26.4;

"(b.6) **'benchmark user'** means a person who or company that, in relation to a contract, derivative, investment fund, instrument or security, uses a benchmark".

(2) The following clauses are added after clause 2(1)(o.2):

"(o.3) **'designated benchmark'** means a benchmark that is designated by the Commission pursuant to section 26.3;

"(o.4) **'designated benchmark administrator'** means a benchmark administrator that is designated by the Commission pursuant to section 26.3 with respect to a designated benchmark".

Section 14.1 amended

4 The following clauses are added after clause 14.1(1)(m):

"(n) a designated benchmark administrator;

"(o) a benchmark contributor".

Section 20 amended

5 Clause 20(1)(a) is amended:

(a) by striking out "or" **after subclause (v); and**

(b) by adding the following after subclause (vi):

"(vii) a designated benchmark administrator; or

"(viii) a benchmark contributor".

Section 21.7 amended

6(1) Subsection 21.7(1) is amended by striking out "A person or company" **and substituting** "A person, company or recognized entity".

(2) Subsection 21.7(2) is amended in the portion preceding clause (a) by striking out "A person or company" **and substituting** "A person, company or recognized entity".

Section 26.1 amended

7 The following clause is added after clause 26.1(1)(c):

"(c.1) a complaint resolution service".

New Part V.2

8 The following Part is added after Part V.1:

"PART V.2
Benchmarks

"**Designation of benchmarks and benchmark administrators**

26.3(1) A benchmark administrator, or the Director, may apply to the Commission to request the designation of a benchmark or a benchmark administrator.

(2) If the Director applies for a designation, the Commission shall give the affected benchmark administrator the opportunity to be heard before making a decision pursuant to subsection (3).

(3) After receiving the application, the Commission may, if it considers it in the public interest to do so, designate the benchmark as a designated benchmark or designate the benchmark administrator as a designated benchmark administrator of a designated benchmark, as appropriate.

(4) A designation pursuant to subsection (3) may be made subject to any terms and conditions the Commission considers advisable.

(5) The Commission may, if it considers it in the public interest to do so, cancel the designation of a designated benchmark or a designated benchmark administrator or impose or change the terms and conditions of the designation.

(6) The Commission shall not refuse to designate a benchmark or benchmark administrator, cancel the designation of a designated benchmark or designated benchmark administrator or impose or change the terms and conditions to which a designation is subject without giving the benchmark administrator an opportunity to be heard.

(7) The Commission may, if it considers it in the public interest to do so, assign a designated benchmark to a category or categories of designated benchmarks prescribed in the regulations.

"Requiring information

26.4(1) The Commission may, in response to an application by the Director, order a person or company to provide information to a designated benchmark administrator in relation to the designated benchmark if the Commission considers it in the public interest to do so.

(2) The Commission shall give the affected person or company and benchmark administrator the opportunity to be heard before making the order pursuant to subsection (1).

(3) An order pursuant to subsection (1) may be made subject to any terms and conditions the Commission considers advisable.

(4) The Commission may, if it considers it in the public interest to do so, cancel or change an order made pursuant to subsection (1) or impose or change the terms and conditions of the order.

(5) The Commission shall not cancel or change an order made pursuant to subsection (1) or impose or change the terms and conditions of the order without giving the person or company and the benchmark administrator an opportunity to be heard.

"Duty to comply

26.5(1) A benchmark administrator shall comply with any requirements that are prescribed by the regulations, including requirements:

(a) relating to benchmarks, benchmark administrators, benchmark contributors and benchmark users; and

(b) relating to the establishment, publication and enforcement of a code of conduct by a benchmark administrator.

(2) A benchmark contributor shall comply with any requirements that are prescribed by the regulations, including requirements relating to benchmarks, benchmark administrators, benchmark contributors and benchmark users.

(3) Benchmark administrators, benchmark contributors and their respective directors, officers, and employees, and any of their service providers or security holders that are in a class prescribed in the regulations, shall comply with:

(a) any code of conduct established by a benchmark administrator in accordance with the regulations;

(b) requirements established by the regulations relating to the prohibitions against and procedures regarding conflicts of interest involving a benchmark and benchmark administrators, benchmark contributors and their respective directors, officers and employees, and any of their service providers or security holders that are in a class prescribed in the regulations; and

(c) requirements established by the regulations relating to prohibition or restriction of any matter or conduct involving a benchmark.

(4) A benchmark user shall comply with any requirements that are prescribed by the regulations, including requirements:

(a) relating to benchmarks, benchmark administrators, benchmark contributors and benchmark users;

(b) prohibiting the use of a non-designated benchmark; and

(c) relating to disclosure and other matters relating to the use of a benchmark.

"Benchmark – false or misleading information

26.6(1) No person or company shall, directly or indirectly, 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 circumstance in which it is provided, is false or misleading.

(2) No person or company shall, directly or indirectly, attempt to engage or participate in the conduct described in subsection (1).

"Benchmark manipulation

26.7(1) No person or company shall, directly or indirectly, engage or participate in conduct relating to a benchmark that improperly influences the determination of the benchmark or produces or contributes to the production of a false or misleading determination of the benchmark.

(2) No person or company shall, directly or indirectly, attempt to engage or participate in the conduct described in subsection (1)".

Section 55.15 amended

9 Section 55.15 is amended by striking out "No person or company that" **and substituting** "No person who or company that".

Section 79 amended

10(1) Subsection 79(6) is amended by striking out "person or company that" **and substituting** "person who or company that".

(2) Subsection 79(7) is amended by striking out "person or company who" **and substituting** "person who or company that".

Section 120 amended

11 Subsection 120(2) is amended:

(a) in clause (a) by striking out "person or company that" **and substituting** "person who or company that"; **and**

(b) in subclause (c)(ii) by striking out "person or company that" **and substituting** "person who or company that".

New section 134.01

12 The following section is added after section 134:

"**Extraprovincial orders**

134.01(1) In this section, '**securities regulatory authority**' does not include a self-regulatory organization, exchange, clearing agency, derivative trade facility, quotation and trade reporting system, auditor oversight organization or credit rating organization.

(2) An order made by a securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements on a person or company takes effect in Saskatchewan, without notice to that person or company and without a hearing, as if it were made by the Commission, with any modifications that the circumstances require.

(3) Subsection (2) does not apply unless the Commission has the power to make a similar order pursuant to subsection 134(1).

(4) If a person or company is subject to sanctions, conditions, restrictions or requirements pursuant to an agreement with a securities regulatory authority in Canada, those sanctions, conditions, restrictions or requirements apply to that person or company, without notice to that person or company and without a hearing, as if the agreement had been made with the Commission, with any modifications that the circumstances require.

(5) An order mentioned in subsection (2), or an agreement mentioned in subsection (4), as the case may be, must have arisen as a result of findings or admissions of a contravention of laws respecting the trading in securities or derivatives, or conduct contrary to the public interest, in order to satisfy the requirements of subsection (2) or (4), as the case may be.

(6) If an order mentioned in subsection (2), or an agreement mentioned in subsection (4), as the case may be, does not meet the requirements of subsection (5), notwithstanding subsection 134(3), the Commission may, with or without providing an opportunity to be heard, make an order pursuant to subsection 134(1) with respect to the person or company that is the subject of the order or agreement, as the case may be.

(7) If an order is made by the Commission pursuant to subsection (6):

(a) the Commission must send a copy of the order to the person or company against whom the order was made; and

(b) the order remains in effect in Saskatchewan for the same period that the order is in effect in the other jurisdiction unless otherwise ordered by the Commission.

(8) Notwithstanding anything in subsections (2) and (4):

(a) no person or company shall be required to pay to the Commission or any other person or company any administrative penalty, costs or other funds as a result of the operation of this section;

(b) no order issued by, or agreement entered into with a securities regulatory authority in Canada satisfies the requirements of subsection (2) or (4), as the case may be, if that order or agreement is solely based on:

(i) an order issued by another securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements; or

(ii) an agreement with another securities regulatory authority in Canada to be subject to sanctions, conditions, restrictions or requirements;

(c) an order or agreement ceases to satisfy the requirements of subsection (2) or (4), as the case may be, if:

(i) an order issued by a securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements is overturned, vacated, revoked or otherwise held to be of no force and effect pursuant to applicable laws; or

(ii) an agreement with another securities regulatory authority in Canada to be subject to sanctions, conditions, restrictions or requirements is set aside, revoked or otherwise held to be of no force and effect either pursuant to applicable laws or on consent of the parties to the agreement;

(d) an order or agreement, as the case may be, applies in Saskatchewan as varied or amended if:

(i) an order issued by a securities regulatory authority in Canada imposing sanctions, conditions, restrictions or requirements, other than an order excluded from this section pursuant to clause (b), is varied or amended pursuant to applicable laws; or

(ii) an agreement with another securities regulatory authority in Canada to be subject to sanctions, conditions, restrictions or requirements, other than an agreement excluded from this section pursuant to clause (b), is varied or amended either pursuant to applicable laws or on consent of the parties to the agreement.

(9) On the application of the Director or a person who or company that is subject to sanctions, conditions, restrictions or requirements imposed by, or agreed to with, a securities regulatory authority in Canada, the Commission may, after providing the Director and that person or company an opportunity to be heard, make an order clarifying the application of subsection (2) or (4), as the case may be, to that person or company, and that order is binding on that person or company and the Commission.

(10) A person or company shall comply with:

(a) an order that is deemed to have been made pursuant to subsection (2);

(b) an agreement that is deemed to have been made with the Commission pursuant to subsection (4); and

(c) any order made by the Commission pursuant to subsection (9).

(11) No person or company commits an offence pursuant to subsection (10) if that person or company did not know, and in the exercise of reasonable diligence would not have known, that the act or course of conduct that the person or company engaged in caused that person or company to fail to comply with that subsection".

Section 135.6 amended

13 The following subsections are added after subsection 135.6(11):

"(12) This section applies with any necessary modification to circumstances in which an order takes effect in Saskatchewan pursuant to section 134.01.

"(13) In the circumstances mentioned in subsection (12), the Commission may hold a hearing regarding the claim for financial loss".

Section 136.21 amended

14(1) Subsection 136.21(1) is amended in the portion preceding clause (a) by striking out "person or company that" **and substituting** "person who or company that".

(2) Subsection 136.21(2) is amended in the portion preceding clause (a) by striking out "person or company that" **and substituting** "person who or company that".

Section 137 amended

15 Subsection 137(9) is amended by striking out "person or company who" **wherever it appears and in each case substituting** "person who or company that".

Section 142 amended

16 Clause 142(2)(c) is amended in the portion following subclause (iii) by striking out "person or company that" **wherever it appears and in each case substituting** "person who or company that".

Section 147.8 amended

17 Subsection 147.8(2) is amended by striking out "A person or company that" **and substituting** "A person who or company that".

Section 147.81 amended

18(1) Subsection 147.81(2) is amended in the portion preceding clause (a) by striking out "A person or company that" **and substituting** "A person who or company that".

(2) Subsection 147.81(4) is amended by striking out "A person or company that" **and substituting** "A person who or company that".

Section 151.2 amended

19 The following subsections are added after subsection 151.2(2):

"(2.1) Subject to subsection (2.2) and the regulations, if a self-regulatory organization prescribed in the regulations has made a decision after a hearing, the self-regulatory organization may file the decision in the office of the local registrar of the Court of Queen's Bench.

"(2.2) A self-regulatory organization mentioned in subsection (2.1) shall not file a decision pursuant to this section if:

(a) the 30-day period mentioned in subsection 21.7(2) has not expired; or

(b) a person, company or self-regulatory organization directly affected by the decision has applied to the Commission pursuant to section 21.7 for a hearing and review of the decision and the application has not been withdrawn.

"(2.3) If, after a hearing and review pursuant to section 21.7, the Commission has made a decision with respect to a decision of a self-regulatory organization prescribed in the regulations, the self-regulatory organization may file the Commission's decision in the office of the local registrar of the Court of Queen's Bench".

Section 153 amended

20 Subsection 153(1) is amended:

(a) by striking out "or" **after clause (b.1);**

(b) by adding "or" **after clause (c); and**

(c) by adding the following clause after clause (c):

"(d) a self-regulatory organization, or a director, officer, employee or agent of a self-regulatory organization, but only with respect to an act or thing authorized by a Commission order pursuant to section 23".

Section 154 amended

21 Subsection 154(1) is amended:

(a) by repealing subclause (c)(v) and substituting the following:

"(v) respecting dispute resolution processes, including:

(A) requirements with respect to participation in a dispute resolution process, including a dispute resolution process by a complaint resolution service;

(B) any information sharing rules or requirements with respect to a dispute resolution process or a complaint resolution service;

(C) any processes or procedures with respect to a dispute resolution process, including a dispute resolution process by a complaint resolution service;

(D) requiring any registrant or category of registrant to comply with a decision or order arising from a dispute resolution process or complaint resolution service;

(E) the enforcement of a decision or order arising from a dispute resolution process or complaint resolution service, including the registration and enforcement of a decision or order in accordance with section 151.2;

(F) the impact of dispute resolution processes on other proceedings respecting the matter that is in dispute;

(G) prescribing in the regulations review or appeal processes respecting a decision or order arising from a dispute resolution process or complaint resolution service";

(b) by adding the following clauses after clause (d):

"(d.01) prescribing a category or categories of designated benchmarks for the purposes of subsection 26.3(7);

"(d.02) prescribing classes of service providers or security holders for the purposes of section 26.5;

"(d.03) prescribing requirements relating to:

(i) the designation of a benchmark or benchmark administrator pursuant to section 26.3;

(ii) the making of orders pursuant to section 26.4;

(iii) the disclosure or provision 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;

(iv) 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;

(v) the establishment, publication and enforcement by a benchmark administrator of codes of conduct applicable to benchmark administrators or benchmark contributors and their respective directors, officers, and employees, and any of their service providers or security holders that are in a class prescribed pursuant to clause (d.02), and the minimum requirements to be included in such a code of conduct;

(vi) contractual arrangements related to a benchmark to be entered into by a benchmark administrator or a benchmark contributor and the minimum requirements to be included in the contractual arrangements;

(vii) the use by a benchmark administrator and a benchmark contributor of service providers;

(viii) prohibitions against and procedures regarding conflicts of interest involving a benchmark and benchmark administrators, benchmark contributors and their respective directors, officers, and employees, and any of their service providers or security holders that are in a class prescribed pursuant to clause (d.02), 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;

(ix) prohibitions against the use of a benchmark that is not a designated benchmark by a benchmark user;

(x) disclosure and other requirements respecting the use of a benchmark by a benchmark administrator, benchmark contributor or benchmark user;

(xi) requiring information in relation to a benchmark to be provided for use by the benchmark administrator;

(xii) the maintenance of books and records necessary for the conduct of a benchmark administrator's business and the establishment and maintenance of a benchmark;

(xiii) the maintenance of books and records by a benchmark contributor relating to a benchmark;

(xiv) 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;

(xv) the prohibition or restriction of any matter or conduct involving a benchmark by benchmark administrators, benchmark contributors and their respective directors, officers, and employees, and any of their service providers or security holders that are in a class prescribed pursuant to clause (d.02);

(xvi) the design, determination and dissemination of a benchmark;

(xvii) plans of a benchmark user if a benchmark changes or ceases to be provided and how these plans will be reflected in the contractual arrangements of the benchmark user;

(xviii) the governance, compliance, accountability, oversight, audit, internal controls, policies and procedures of a benchmark administrator or benchmark contributor with respect to a benchmark;

(xix) the governance, compliance, accountability, oversight, audit, internal controls, policies and procedures of a benchmark administrator, benchmark contributor or benchmark user with respect to the use of a benchmark;

"(d.04) regulating submissions of information for the purposes of determining a benchmark;

"(d.05) requiring benchmark administrators or benchmark contributors to:

(i) establish plans in the event that a benchmark changes or ceases to be provided or is subject to data failures or business continuity issues; and

(ii) reflect the plans mentioned in subclause (i) in the contractual arrangements of the benchmark administrator or benchmark contributor relating to the benchmark;

"(d.06) governing or restricting the payment of fees or other compensation to a benchmark administrator or benchmark contributor"; **and**

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

"(jj.2) for the purposes of section 151.2:

(i) prescribing self-regulatory organizations;

(ii) prescribing categories of decisions of self-regulatory organizations that cannot be filed pursuant to that section; and

(iii) prescribing conditions, restrictions or requirements in relation to decisions that are permitted to be filed by a self-regulatory organization pursuant to that section".

Coming into force

22 This Act comes into force on proclamation.

REGINA, SASKATCHEWAN
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THE QUEEN'S PRINTER