

Chapter 9

Legislation

9.1.1 Notice of Amendments to the Securities Act and Commodity Futures Act

NOTICE OF AMENDMENTS TO THE SECURITIES ACT AND COMMODITY FUTURES ACT

On April 7, 2003 certain amendments to the *Securities Act* and the *Commodity Futures Act* contained in the *Keeping the Promise for a Strong Economy Act (Budget Measures), 2002* (formerly Bill 198) (the "Budget Measures Act") will come into force.

The amendments to the *Securities Act* and *Commodity Futures Act* are intended to bolster the protection of Ontario investors and improve investor confidence in the integrity of Ontario's capital markets. Generally, the amendments are aimed at improving transparency and disclosure, strengthening corporate governance, and broadening the sanctions available to the Commission for violations of securities law.

Among the most significant changes to the *Securities Act* that will come into force are amendments that:

- Enshrine in the legislation a regime for the conduct of continuous disclosure reviews.
- Increase the maximum penalties that can be imposed by the court for offences under section 122 of the *Securities Act* from a fine of \$1 million and imprisonment for two years to a fine of \$5 million and imprisonment for five years less a day.
- Give the Commission the power to impose an administrative fine of up to \$1 million where there has been non-compliance with Ontario securities law.
- Give the Commission the power to order a person or company to disgorge amounts obtained as a result of non-compliance with Ontario securities law.
- Give the Commission rule making authority to require reporting issuers to appoint audit committees and to prescribe requirements relating to the functions and responsibilities of audit committees, including independence requirements.
- Give the Commission rule making authority to require reporting issuers to establish and maintain internal controls and disclosure controls and procedures and requiring chief executive officers and chief financial officers to provide certifications related to internal controls and to disclosure controls and procedures. The Commission's current rule making authority would permit it to address other aspects of the certification regime as appropriate.

Parallel amendments, where applicable, to the *Commodity Futures Act* will also come into force on April 7, 2003.

The sections of the Budget Measures Act that will come into force on April 7, 2003 are: sections 10, 12-14, 177-181, 183, 184, 186, 187, and 188. The relevant portions of the Budget Measures Act are reprinted below and may also be viewed on the Ontario Legislative Assembly's web site at www.ontla.on.ca and the Commission's web site at www.osc.gov.on.ca.

The Government has also indicated that it intends to propose minor technical changes to the balance of the *Securities Act* and *Commodity Futures Act* amendments contained in the Budget Measures Act following which it will proclaim these amendments in force.¹

¹ Budget Paper A: Strong Economic Growth Continues: Ontario's Economic and Revenue Outlook (<http://www.ontfinance4.com/bud03e/papera.htm>). The *Securities Act* amendments that are not yet in force include: the prohibition against securities fraud and market manipulation; the prohibition against making misleading or untrue statements; and the statutory right of action for investors in the secondary market to sue companies and other responsible persons for misrepresentations or a failure to make timely disclosure (sections 11, 182, and 185 of the Budget Measures Act).

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