

First Major Amendments to the BC *Securities Act* in Almost a Decade

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Giving BC Securities Commission Some of the Strongest Powers in Canada

On October 21, 2019, the BC provincial government announced the first major amendments to the BC *Securities Act* in almost a decade. The amendments will strengthen the Commission's ability to collect penalties and improve enforcement of white-collar investment offences. There are over 100 amendments to the *Securities Act*, which include increased fine enforcement and collection capabilities of the Commission, development of a regulatory regime for over-the-counter derivatives, and modernization and strengthening of the legislative framework for securities in BC.

The proposed amendments include:

- increasing maximum fine and jail term amounts and introducing minimum sentences for
- people who are convicted of significant offences multiple times;
- expanding the Commission's investigative powers, including powers to obtain information;
- strengthening obligations and sanctions relating to records;
- adding an ability to order administrative monetary penalties without a hearing for contraventions of regulations or decisions;
- adding protection for whistleblowers;
- providing the Commission with enhanced powers to freeze and seize property transferred by fraudsters to third parties for below market value;
- allowing the Commission to direct the Insurance Corporation of BC to refuse to issue or renew a driver's licence or licence plates; and
- allowing the Commission to seize registered retirement savings plans.

In addition to enhancing the Commission's collection and enforcement powers, the amendments modernize the *Securities Act* to ensure it is keeping pace with evolving markets and systemic risks. Specifically, the amendments will modernize the legislative framework for regulating derivatives, expand the Commission's powers with respect to corporation transactions and modernize the prohibition on securities registrants using another registrant's name, among other things.

The Commission will also be provided with the clear power to regulate trade repositories and the ability to regulate benchmarks consistent with the framework for regulating benchmarks which are already

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established in other jurisdictions across Canada.

The new legislation, unprecedented in Canada, is positioned as a large part of the BC provincial government's work to crack down on white collar crime. Whether other provincial governments will follow suit is unclear at this time.

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