

# BILL

No. 65

An Act to amend *The Securities Act, 1988* and to make consequential amendments to other Acts

(Assented to \_\_\_\_\_)

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, 2012 (No. 2)*.

## S.S. 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) Clause 2(1)(a.1) is amended by striking out “exchange contracts” and substituting “derivatives”.**

**(2) The following clause is added after clause 2(1)(d):**

“(d.01) ‘**class of derivatives**’ includes a series of a class of derivatives”.

**(3) Clause 2(1)(d.1) is repealed and the following substituted:**

“(d.1) ‘**clearing agency**’ means a person who or company that:

(i) with respect to trades in securities:

(A) acts as an intermediary in paying funds, in delivering securities, or both;

(B) provides centralized facilities through which trades in securities are cleared; or

(C) provides centralized facilities as a depository of securities;

(ii) with respect to trades in derivatives, provides centralized facilities for the clearing and settlement of trades in derivatives and that, with respect to a contract, instrument or transaction:

(A) enables each party to a derivative trade to substitute, through novation or otherwise, the credit of the clearing agency for the credit of the parties;

(B) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from a derivatives trade; or

(C) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the clearing agency the credit risk arising from derivatives trades”.

(4) **Clause 2(1)(i) is repealed.**

(5) **Clause 2(1)(n) is amended by striking out “exchange contracts” and substituting “derivatives”.**

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

“(o.1) **‘derivative’** means:

(i) an option, swap, futures contract, forward contract or other financial or commodity contract or instrument whose market price, value or delivery, payment or settlement obligations are derived from, referenced to or based on an underlying interest of a derivative, including a value, price, index, event, probability or thing; or

(ii) a contract or instrument that is designated pursuant to section 11.1 to be a derivative or that is within a class of contracts or instruments that is designated to be derivatives pursuant to section 11.1 or the regulations;

but does not include:

(iii) a contract or instrument that would be a derivative under subclause (i) if the contract or instrument is an interest in or to a security and a trade in the security pursuant to the contract or instrument would constitute a distribution; or

(iv) a contract or instrument that is designated pursuant to section 11.1 not to be a derivative or that is within a class of contracts or instruments that is designated not to be derivatives pursuant to section 11.1 or the regulations;

“(o.2) **‘derivative trading facility’** includes:

(i) an exchange for derivatives;

(ii) a quotation and trade reporting system for derivatives; or

(iii) a person or company not mentioned in subclause (i) or (ii) that:

(A) constitutes, maintains or provides a market or facility for bringing together counterparties to derivatives;

(B) brings together orders for derivatives of multiple counterparties; or

(C) uses established methods under which orders interact with each other and counterparties entering the orders agree to the terms of a trade”.

(7) **Clause 2(1)(q) is amended by adding “, except in sections 135.61 to 135.65,” after “‘director’ means”.**

(8) **Clause 2(1)(r.1) is amended:**

(a) **in subclause (i) by striking out “exchange contract” and substituting “derivative”; and**

(b) **in subclause (ii) by striking out “an exchange contract” and substituting “a derivative”.**

(9) **Clause 2(1)(s.1) is amended by striking out “and exchange contracts” and substituting “or derivatives”.**

**(10) Clause 2(1)(s.2) is repealed.**

**(11) Clause 2(1)(t.1) is repealed.**

**(12) Clause 2(1)(z) is repealed and the following substituted:**

“(z) **‘material fact’** means:

(i) if used in relation to securities issued or proposed to be issued, a fact that would reasonably be expected to have a significant effect on the market price or value of the securities; and

(ii) if used in relation to derivatives traded or proposed to be traded, a fact that would reasonably be expected to have a significant effect on the market price or value of the derivatives”.

**(13) Clause 2(1)(aa) is repealed.**

**(14) Clause 2(1)(nn.1) is amended by adding “or derivatives” after “securities” wherever it appears.**

**(15) Clause 2(1)(pp.1) is repealed and the following substituted:**

“(pp.1) **‘related financial instrument’** means:

(i) an instrument, agreement, security or derivative the value, market price or payment obligations of which are directly or indirectly derived from, referenced to or based on the value, market price, payment obligations, delivery obligations or settlement obligations of a security; or

(ii) any other instrument, agreement or understanding that affects, directly or indirectly, a person’s economic interest with respect to a security or derivative”.

**(16) Clause 2(1)(qq.1) is amended:**

**(a) in subclause (i) by striking out “an individual who trades in securities or exchange contracts” and substituting “an individual who trades in securities, derivatives or both”; and**

**(b) in subclause (ii) by striking out “or the buying or selling of securities or exchange contracts” and substituting “or the buying or selling of securities, derivatives or both”.**

**(17) Clause 2(1)(rr.2) is amended by striking out “exchange contracts” wherever it appears and in each case substituting “derivatives”.**

**(18) Clause 2(1)(ss) is repealed and the following substituted:**

“(ss) **‘security’** includes:

(i) any document, instrument or writing commonly known as a security;

(ii) any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company;

(iii) any document constituting evidence of an interest in an association of legatees or heirs;

(iv) a contract or instrument evidencing a derivative, subscription or other financial contract or instrument referencing an interest in or to a security if the trade in the security delivered pursuant to the contract or instrument would constitute a distribution;

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(v) any bond, debenture, note or other evidence of indebtedness, share, stock, unit, unit certificate, participation certificate, certificate of a share or interest, preorganization certificate or subscription other than:

(A) a contract of insurance issued by an insurance company licensed pursuant to *The Saskatchewan Insurance Act*; or

(B) an evidence of deposit issued by a bank to which the *Bank Act* (Canada) applies, by a trust corporation or loan corporation licensed pursuant to *The Trust and Loan Corporations Act, 1997*, by a credit union or by Credit Union Central of Saskatchewan;

(vi) any agreement pursuant to which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets;

(vii) any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company;

(viii) any certificate of share or interest in a trust, estate or association;

(ix) any profit-sharing agreement or certificate;

(x) any certificate of interest in an oil, a natural gas or a mining lease, a claim or a royalty voting trust certificate;

(xi) any oil or natural gas royalties or leases or any fractional or other interest in them;

(xii) any collateral trust certificate;

(xiii) any income or annuity contract not issued by an insurance company licensed pursuant to *The Saskatchewan Insurance Act*;

(xiv) any investment contract;

(xv) any document constituting evidence of an interest in a scholarship or educational plan or trust;

(xvi) a contract or instrument that is designated pursuant to section 11.1 to be a security or that is within a class of contracts or instruments that is designated pursuant to section 11.1 or the regulations to be a security;

whether any of the foregoing relate to an issuer or proposed issuer, but does not include a derivative”.

**(19) Clause 2(1)(vv) is amended:**

**(a) by repealing subclause (i.1) and substituting the following:**

“(i.1) entering into a derivative or amending, terminating or assigning a derivative;

“(i.2) buying, selling or otherwise acquiring or disposing of a derivative;

“(i.3) novating a derivative, other than a novation with a clearing agency”;

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

“(ii) participation as a trader in a transaction in a security made on or through the facilities of an exchange or reported through the facilities of a quotation and trade reporting system;

“(ii.1) participation as a trader in a transaction in a derivative through the facilities of a derivatives trading facility”; **and**

**(c) by repealing subclause (iii) and substituting the following:**

“(iii) any receipt by a registrant of an order to buy or sell a security or an order to buy, sell, enter into, amend, terminate, assign or novate a derivative”.

**(20) The following clause is added after clause 2(1)(vv):**

“(vv.1) ‘**trade repository**’ means a person who or company that collects and maintains reports of trades of derivatives”.

**Section 3.1 amended**

**4 Subsection 3.1(1) is amended by adding “and derivatives” after “capital” wherever it appears.**

**Section 9 amended**

**5(1) Clause 9(4)(c) is amended by striking out “exchange contracts” and substituting “derivatives”.**

**(2) Clause 9(5)(c) is amended by striking out “exchange contracts” and substituting “derivatives”.**

**(3) Subsection 9(11) is amended by striking out “exchange contracts” and substituting “derivatives”.**

**Section 10 amended**

**6 The following clause is added after clause 10(1)(a):**

“(a.1) refusing to accept a derivative disclosure document pursuant to section 40”.

**Section 11.1 amended**

**7 Clause 11.1(1)(a) is repealed and the following substituted:**

“(a) a contract or instrument or class of contracts or instruments to be, or not to be, a derivative;

“(a.1) a contract or instrument or class of contracts or instruments to be, or not to be, a security”.

**Section 12 amended**

**8(1) Subsection 12(1) is amended:**

**(a) in clause (b) by striking out “exchange contracts” and substituting “derivatives”; and**

**(b) in subclause (c)(ii) by striking out “an exchange contract” and substituting “a derivative”.**

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- (2) **Subsection 12(2) is amended:**
- (a) **in clause (b) by striking out “exchange contracts” and substituting “derivatives”;**
  - (b) **in clause (c) by striking out “exchange contracts” and substituting “derivatives”; and**
  - (c) **in clause (d) by striking out “exchange contracts” and substituting “derivatives”.**
- (3) **Subclause 12(4)(e)(v) is amended by striking out “exchange contracts” and substituting “derivatives”.**
- (4) **Clause 12(5)(c) is amended by striking out “exchange contracts” and substituting “derivatives”.**
- (5) **Subsection 12(5.1) is amended by striking out “exchange contracts” and substituting “derivatives”.**
- (6) **Clause 12(6)(c) is amended by striking out “exchange contracts” and substituting “derivatives”.**
- (7) **Clause 12(9)(b) is amended by striking out “exchange contracts” and substituting “derivatives”.**
- (8) **Subsection 12(11) is amended:**
- (a) **in the portion preceding clause (a) by striking out “exchange contracts” and substituting “derivatives”;**
  - (b) **in clause (a) by striking out “exchange contracts” and substituting “derivatives”; and**
  - (c) **in clause (b) by striking out “exchange contracts” wherever it appears and in each case substituting “derivatives”.**
- (9) **Subsection 12(12) is amended by striking out “exchange contracts” wherever it appears and in each case substituting “derivatives”.**

**Section 14 amended**

**9 Section 14 is amended:**

- (a) **in clause (b) by striking out “exchange contracts” and substituting “derivatives”;**
- (b) **in clause (c) by striking out “exchange contracts” and substituting “derivatives”; and**
- (c) **in clause (d) by striking out “exchange contracts” and substituting “derivatives”.**

**New section 14.1****10 The following section is added after section 14:****“Order for information or records**

**14.1(1)** Subject to subsection (2), the Director may make an order requiring any of the following persons or companies to provide information or produce specified records to the Director within the time specified in the order:

- (a) a registrant;
- (b) an issuer;
- (c) a reporting issuer;
- (d) a transfer agent or registrar for securities of a reporting issuer;
- (e) a director, officer, promoter or control person of a reporting issuer;
- (f) a custodian of assets of an investment fund;
- (g) a self-regulatory organization;
- (h) an exchange;
- (i) a derivatives trading facility;
- (j) a quotation and trade reporting system;
- (k) a clearing agency;
- (l) a trade repository;
- (m) a credit rating organization.

(2) The Director may make an order pursuant to subsection (1) with respect to the following:

- (a) any matter relating to the administration of Saskatchewan securities laws;
- (b) any matter relating to trading in securities or derivatives in Saskatchewan;
- (c) any matter relating to trading in securities or derivatives in any other jurisdiction;
- (d) any matter relating to the administration of the laws of another jurisdiction that govern trading in securities or derivatives.

(3) The Director may require the person or company providing the information or records mentioned in subsection (1) to verify the information or records by affidavit.

(4) The Director may require that the information or records that are subject to an order made pursuant to subsection (1) be delivered in electronic form or in any other form the Director considers appropriate”.

**Section 16.2 amended**

**11 Clause 16.2(1)(b) is amended by striking out “exchange contracts” and substituting “derivatives”.**

**Section 20 amended****12 The following subclauses are added after subclause 20(1)(a)(iv):**

- “(iv.1) a self-regulatory organization;
- “(iv.2) an exchange;
- “(iv.3) a derivatives trading facility;
- “(iv.4) a clearing agency;
- “(iv.5) a quotation and trade reporting system;
- “(iv.6) a trade repository;
- “(iv.7) a credit rating organization”.

**New section 21.1****13 Section 21.1 is repealed and the following substituted:****“Commission recognition required**

**21.1** A person or company shall not carry on business as an exchange, quotation and trade reporting system or derivatives trading facility in Saskatchewan unless the person or company is recognized by the Commission pursuant to section 21.3”.

**Section 21.2 amended****14 Section 21.2 is amended by adding “or trade repository” after “clearing agency”.****Section 21.3 amended****15 Subsection 21.3(1) is amended:**

- (a) by adding the following clause after clause (b):**
  - “(b.1) a derivatives trading facility”;
- (b) by striking out “or” after clause (d); and**
- (c) by adding the following after clause (d):**
  - “(d.1) a trade repository; or”.

**Section 21.6 amended****16 Section 21.6 is amended:**

- (a) by repealing clause (d) and substituting the following:**
  - “(d) the trading of securities or a class of securities on or through the facilities of a recognized exchange or recognized quotation and trade reporting system”;
- (b) by repealing clause (e) and substituting the following:**
  - “(e) the trading of derivatives or a class of derivatives on or through the facilities of a recognized derivative trading facility”;



**(c) by adding the following clauses after clause (e):**

“(e.1) the reporting of trades of securities or derivatives or classes of securities or derivatives to a recognized trade repository;

“(e.2) that trades of a security or derivative or class of securities or derivatives must be cleared through a recognized clearing agency;

“(e.3) the clearing of trades of derivatives or classes of derivatives or clearing of securities or classes of securities on or through the facilities of a clearing agency”;

**(d) by repealing clause (f) and substituting the following:**

“(f) a security listed on a recognized exchange or quoted on a recognized quotation and trade reporting system”; **and**

**(e) by repealing clause (g) and substituting the following:**

“(g) issuers whose securities are listed on a recognized exchange or quoted on a recognized quotation and trade reporting system to ensure they comply with this Act and the regulations”.

**Section 21.7 amended**

**17 Subsection 21.7(1) is amended by adding “or auditor oversight organization” after “recognized entity”.**

**Section 21.8 amended**

**18 Section 21.8 is amended:**

**(a) in the portion preceding clause (a) by adding “, derivatives trading facility and quotation and trade reporting system” after “Every exchange”;**

**(b) in clause (a) by adding “, derivatives trading facility or quotation and trade reporting system” after “each transaction on the exchange”; and**

**(c) in clause (b) by adding “, derivatives trading facility or quotation and trade reporting system” after “any member of the exchange”.**

**Section 26.1 amended**

**19 Clause 26.1(1)(d) is repealed.**

**Section 28 amended**

**20 Subsection 28(2) is amended:**

**(a) in clause (b) by striking out “exchange contracts” wherever it appears and in each case substituting “derivatives”; and**

**(b) in clause (c) by striking out “exchange contracts” wherever it appears and in each case substituting “derivatives”.**

**New Part VIII**

**21 Part VIII is repealed and the following substituted:**

**“PART VIII****Trading in Derivatives****“Disclosure requirements in derivatives trades**

**40(1)** No person or company shall trade a derivative unless a disclosure document that satisfies the requirements prescribed in the regulations has been accepted and filed with the Director and delivered in accordance with the regulations.

(2) The Director shall accept the filed disclosure document mentioned in subsection (1) unless:

- (a) the Director considers it contrary to the public interest to do so; or
- (b) the disclosure document does not comply with the regulations.

(3) The Director shall not refuse to accept a filed disclosure document without first giving the person who or company that filed the disclosure document an opportunity to be heard in a manner the Director considers appropriate.

**“Derivatives trade not void**

**41** Notwithstanding section 141, a derivatives trade is not void, voidable or unenforceable and no counterparty to a trade is entitled to rescind the contract solely as a result of the failure to comply with section 40”.

**New heading for Part IX**

**22 The heading for Part IX is struck out and the following substituted:**

**“PART IX****Trading in Securities and Derivatives”.****Section 42 amended**

**23(1) Subsection 42(1) is amended by striking out “an exchange contract” and substituting “a derivative”.**

**(2) Subsection 42(2) is amended:**

**(a) in the portion preceding clause (a) by striking out “an exchange contract” and substituting “a derivative”; and**

**(b) in clause (a) by striking out “exchange contract” and substituting “derivative”.**

**Section 43 amended**

**24 Subsection 43(2) is amended in the portion following clause (2)(b):**

**(a) by striking out “exchange contract” and substituting “derivative”; and**

**(b) by striking out “exchange contracts” and substituting “derivatives”.**

**Section 44 amended****25(1) Subsection 44(1) is amended:**

- (a) **in the portion preceding clause (a) by striking out “an exchange contract” and substituting “a derivative”;**
  - (b) **in clause (c) by striking out “an exchange contract” and substituting “a derivative”; and**
  - (c) **in clause (d) by striking out “an exchange contract” and substituting “a derivative”.**
- (2) **Subsection 44(2) is amended by striking out “exchange contract” wherever it appears and in each case substituting “derivative”.**
- (3) **Subsection 44(3) is amended:**
- (a) **in clause (a) by adding “or quoted on any quotation and trade reporting system” after “listed on any exchange”; and**
  - (b) **in clause (b) by adding “or to quote the security on any quotation and trade reporting system” after “list the security on any exchange”.**

**Section 44.1 amended****26(1) Subsection 44.1(1) is amended:**

- (a) **in clause (a) by adding “or trade or hold a derivative” after “or sell a security”; and**
  - (b) **in subclause (b)(ii) by adding “or trade or hold a derivative” after “or sell a security”.**
- (2) **Subsection 44.1(2) is amended by adding “or trade of a derivative” after “or sale of a security”.**

**Section 52 amended****27 Section 52 is amended:**

- (a) **in clause (b) by striking out “exchange contract” and substituting “derivative or underlying interest in a derivative”;**
- (b) **by striking out “or” after clause (d);**
- (c) **by adding “or” after clause (e); and**
- (d) **by adding the following clause after clause (e):**
  - “(f) the disclosure provided with respect to a derivative”.

**Section 55.1 amended****28 Section 55.1 is amended:**

- (a) **in the portion preceding clause (a) by striking out “exchange contracts” and substituting “derivatives or underlying interest in derivatives”; and**
- (b) **in clause (a) by striking out “exchange contract” and substituting “a derivative or underlying interest in a derivative”.**

**Section 55.11 amended**

**29 Clause 55.11(1)(b) is amended by striking out “exchange contract” and substituting “derivative”.**

**Section 85 amended**

**30 Subsection 85(1) is repealed and the following substituted:**

“(1) In this section:

(a) **‘person or company in a special relationship with a reporting issuer’** means:

(i) a person who or company that is an insider, an affiliate or an associate of:

(A) the reporting issuer;

(B) a person who or company that is proposing to make a take-over bid, as defined in Part XVI, for the securities of the reporting issuer; or

(C) a person who or company that is proposing to become a party to a reorganization, amalgamation, merger or arrangement or similar business combination with the reporting issuer or to acquire a substantial portion of its property;

(ii) a person who or company that is engaging or proposes to engage in any business or professional activity with or on behalf of the reporting issuer or with or on behalf of a person or company mentioned in paragraph (i)(B) or (C);

(iii) a person who is a director, officer or employee of the reporting issuer or of any person or company mentioned in paragraph (i)(B) or (C) or subclause (ii);

(iv) a person who or company that learned of a material fact or material change with respect to the reporting issuer while the person or company was a person or company mentioned in subclause (i) or (ii);

(v) a person who or company that learns of a material fact or material change with respect to the reporting issuer from any other person or company mentioned in this clause and knows or ought reasonably to have known that the person or company is a person or company in a special relationship;

(b) **‘reporting issuer’** means:

(i) a reporting issuer; or

(ii) any other issuer with a real and substantial connection to Saskatchewan and whose securities are publicly traded”.

**Section 133 amended**

**31 Subsection 133(1) is amended:**

(a) **in clause (f) by adding “or derivatives” after “trading in securities”;**

(b) **by adding the following clause after clause (f):**

“(f.1) directing that the terms of a derivative trade be amended”;

**(c) by repealing clause (g) and substituting the following:**

“(g) requiring the issuance or cancellation of a security or derivative, or the purchase, disposition or exchange of a security or derivative”; **and**

**(d) in clause (h) by striking out “exchange contract” and substituting “derivative”.**

**Section 134 amended**

**32(1) Subsection 134(1) is amended:**

**(a) in clause (a) by striking out “exchange contracts” and substituting “derivatives”;**

**(b) in clause (b) by striking out “exchange contracts” and substituting “derivatives”;**

**(c) in clause (c) by striking out “exchange contracts” and substituting “derivatives”;**

**(d) in clause (d) by striking out “exchange contracts” wherever it appears and in each case substituting “derivatives”;**

**(e) in clause (d.1) by striking out “exchange contracts” wherever it appears and in each case substituting “derivatives”;**

**(f) in clause (e) by striking out “exchange contracts” wherever it appears and in each case substituting “derivatives”; and**

**(g) in clause (f):**

**(i) by striking out “or” after subclause (i);**

**(ii) by adding “or” after subclause (ii); and**

**(iii) by adding the following subclause after subclause (ii):**

“(iii) a bylaw, rule or other regulatory instrument or policy of an entity that has been recognized by the Commission pursuant to section 21.3”.

**(2) Subsection 134(1.01) is amended:**

**(a) by adding the following clause after clause (b):**

“(b.1) a trade repository”;

**(b) in clause (f) by adding “or company” after “a person”; and**

**(c) in clause (g) by adding “or company that” after “a person who”.**

**(3) Subsection 134(1.1) is amended:**

**(a) in clause (a) by striking out “exchange contracts” and substituting “derivatives”; and**

**(b) in clause (b) by striking out “the securities laws” and substituting “the laws with respect to trading in securities or derivatives”.**

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**Section 134.1 amended****33 Subsection 134.1(2) is amended:**

- (a) **in clause (a) by:**
  - (i) **striking out** “exchange contract” **and substituting** “derivative”; **and**
  - (ii) **striking out** “exchange contracts” **and substituting** “derivatives”; **and**
- (b) **in clause (b) by:**
  - (i) **striking out** “exchange contract” **and substituting** “derivative”; **and**
  - (ii) **striking out** “exchange contracts” **and substituting** “derivatives”.

**Section 135.4 amended****34(1) Subsection 135.4(2) is amended:**

- (a) **in subclause (a)(ii) by striking out** “exchange contract” **and substituting** “derivative”;
- (b) **in subclause (a)(iii) by striking out** “exchange contract” **and substituting** “derivative”; **and**
- (c) **in the portion of clause (c) preceding subclause (i) by striking out** “exchange contract” **wherever it appears and in each case substituting** “derivative”.

**(2) Subsection 135.4(3) is amended:**

- (a) **by repealing clause (a) and substituting the following:**
  - “(a) order any person or company having on deposit, under control or for safekeeping, any funds, securities, derivatives or other property of the person or persons mentioned in clauses (2)(a) to (c), including funds, securities, derivatives or other property held as collateral to secure the obligations of that person, to hold those funds, securities, derivatives or other property”;
- (b) **by striking out** “or” **after clause (a) and substituting** “and”;
- (c) **in subclause (b)(i) by striking out** “exchange contracts” **and substituting** “derivatives”;
- (d) **in subclause (b)(ii) in the portion preceding paragraph (A) by striking out** “exchange contracts” **and substituting** “derivatives”; **and**
- (e) **in subclause (b)(iii):**
  - (i) **by striking out** “exchange contracts” **and substituting** “derivatives”; **and**
  - (ii) **by striking out** “exchange contract” **and substituting** “derivative”.

(3) **Clause 135.4(4)(a) is amended by striking out “exchange contracts” and substituting “derivatives”.**

(4) **Subsection 135.4(5) is amended by striking out “exchange contract” and substituting “derivative”.**

(5) **Clause 135.4(6)(b) is amended by striking out “exchange contract” and substituting “derivative”.**

**Section 135.5 amended**

**35 Subsection 135.5(1) is amended:**

(a) **in subclause (a)(ii) by striking out “exchange contract” and substituting “derivative”;**

(b) **in subclause (a)(iii) by striking out “exchange contract” and substituting “derivative”; and**

(c) **in the portion of clause (c) preceding subclause (i) by striking out “exchange contract” wherever it appears and in each case substituting “derivative”.**

**New sections 135.61 to 135.65**

**36 The following sections are added after section 135.6:**

**“Appointment of director**

**135.61(1)** In this section and in sections 135.62 to 135.65:

(a) **‘claimant’** means a person or company in whose favour the Commission has made a financial compensation order pursuant to section 135.6;

(b) **‘director’** means the director appointed pursuant to subsection (2) and includes any deputy directors;

(c) **‘respondent’** means a person who or company that the Commission has ordered to pay financial compensation to a claimant pursuant to section 135.6.

(2) The minister may appoint a person as director and may appoint one or more persons as deputy directors for the purposes of sections 135.62 and 135.63.

**“Effect of filing**

**135.62** When a claimant files a financial compensation order made pursuant to section 135.6 with the director:

(a) the director may commence proceedings, including any means of enforcement mentioned in section 135.6, with any necessary modification, to enforce the financial compensation order as a debt due to the claimant;

(b) no person but the director shall, on behalf of the claimant, commence, continue or discontinue proceedings to enforce a financial compensation order;

(c) the director may sign all documents with respect to the enforcement of a financial compensation order; and

(d) for the purposes of enforcing a financial compensation order, the director stands in the place of the claimant.

**“Moneys paid to director**

**135.63(1)** The director shall pay to the claimant all moneys the director receives with respect to a financial compensation order filed with the director to the extent of the claimant’s entitlement pursuant to the financial compensation order.

(2) The director shall keep a record of:

(a) all moneys received and paid out by the director; and

(b) the persons and companies to whom and by whom the moneys mentioned in clause (a) have been paid.

(3) On request of the claimant or respondent, the director may provide the claimant or respondent with a statement showing the current status of payments required pursuant to a financial compensation order filed with the director.

**“Access to information**

**135.64** Section 13 of *The Enforcement of Maintenance Orders Act, 1997* applies, with any necessary modification, to the enforcement of a financial compensation order.

**“Immunity**

**135.65** Section 15 of *The Enforcement of Maintenance Orders Act, 1997* applies, with any necessary modification, to the enforcement of a financial compensation order”.

**Section 141 amended**

**37 Subsection 141(1) is amended by striking out “or an exchange contract”.**

**Section 147.1 amended**

**38 Subsection 147.1(1) is amended:**

(a) **in clause (b) by striking out “exchange contracts” wherever it appears and in each case substituting “derivatives”; and**

(b) **in clause (c):**

(i) **by adding “and derivatives” after “the regulation of securities”; and**

(ii) **by striking out “exchange contracts” and substituting “derivatives”.**

**Section 147.41 amended**

**39 Section 147.41 is amended:**

(a) **by striking out “exchange contract” wherever it appears and in each case substituting “derivative”; and**

(b) **by striking out “exchange contracts” wherever it appears and in each case substituting “derivatives”.**

**Section 147.5 amended**

**40 Subsection 147.5(1) is amended by striking out “exchange contract” wherever it appears and in each case substituting “derivative”.**



**Section 147.6 amended**

**41(1) Subclause 147.6(1)(b)(iii) is amended by adding “derivatives trading facility,” after “any exchange,”.**

**(2) Subsection 147.6(2) is amended:**

**(a) in clause (b) by adding “a derivatives trading facility,” after “but not including an exchange,”; and**

**(b) in clause (c) by adding “a derivatives trading facility,” after “exercised by an exchange,”.**

**Section 147.7 amended**

**42(1) Subclause 147.7(1)(b)(ii) is amended by adding “derivatives trading facility,” after “any exchange,”.**

**(2) Subsection 147.7(2) is amended:**

**(a) in clause (b) by adding “a recognized derivatives trading facility,” after “a recognized exchange,”; and**

**(b) in clause (c) by adding “a recognized derivatives trading facility,” after “a recognized exchange,”.**

**Section 152 amended**

**43 Subsection 152(3) is repealed and the following substituted:**

“(3) Notwithstanding subsection (2) and *The Freedom of Information and Protection of Privacy Act*, the Commission may hold in confidence all or part of a record required to be filed pursuant to this Act or the regulations if the Commission is of the opinion that:

(a) the person to whom or company to which the information in the record relates would be unduly prejudiced by disclosure of the information, and the person or company’s privacy interests outweigh the public’s interest with respect to disclosure of the information; or

(b) the Commission is subject to a requirement to maintain the information in the record in confidence as a condition of receiving the record”.

**New sections 152.1 and 152.2**

**44 Section 152.1 is repealed and the following substituted:**

**“Confidentiality**

**152.1(1)** In this section, ‘**confidential information**’ means any information submitted or provided to the Commission or obtained by the Commission with respect to:

(a) an investigation pursuant to section 12 or 14;

(b) an order by the Director pursuant to section 14.1;

(c) an examination pursuant to section 20;

(d) a review pursuant to section 20.1;

(e) an application for registration pursuant to section 27;

(f) the issuance of a receipt for a preliminary prospectus and a prospectus pursuant to Part XI;

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- (g) an application for an order pursuant to section 21.3, 26.1, 83, 92, 101, 133, 134, 135.4, 135.5, 135.6 or 160;
- (h) an investigation into a possible contravention of Saskatchewan securities law carried out by the Commission or a person appointed by the Commission; or
- (i) any other review, examination, application, investigation or filing prescribed in the regulations.
- (2) Confidential information is not open to inspection or available for access except by:
- (a) employees of the Commission whose responsibilities require them to inspect or allow them to have access to the confidential information; and
- (b) those persons who or companies that are authorized in writing by the Commission to inspect or have access to the confidential information.
- (3) No person who or company that has inspected the confidential information pursuant to clause (2)(b) is compellable to give evidence with respect to that confidential information unless:
- (a) the person to whom or company to which the confidential information relates consents; or
- (b) a court orders the person or company to give the evidence.
- (4) Notwithstanding subsection (2) and *The Freedom of Information and Protection of Privacy Act* but subject to the regulations, if the Commission considers it necessary for the purposes of section 3.1, the Commission may provide personal information within the meaning of *The Freedom of Information and Protection of Privacy Act* to:
- (a) a securities or financial services regulatory authority, law enforcement agency or other governmental or regulatory authority outside of or within Canada;
- (b) a self-regulatory organization, an exchange, a derivatives trading facility, a quotation and trade reporting system, a clearing agency, a trade repository or an auditor oversight organization; or
- (c) a person or company acting on behalf of or providing services to any of the persons, companies or bodies mentioned in clauses (a) and (b).

**“Disclosure not a breach**

**152.2** The disclosure of information to the Commission or a trade repository by a person or company in compliance or in attempted compliance with this Act:

- (a) does not constitute a breach of any contractual provision to which the person or company or any other person or company is subject; and
- (b) does not constitute any basis for liability against that person or company or any other person or company”.

**Section 153.2 amended**

**45** The portion of section 153.2 preceding clause (a) is amended by striking out “an organization mentioned in section 23” and substituting “a self-regulatory organization recognized by the Commission pursuant to section 21.3”.

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**Section 154 amended****46 Subsection 154(1) is amended:****(a) in clause (c):****(i) by striking out “and” after subclause (vii);****(ii) by adding “and” after subclause (viii); and****(iii) by adding the following subclause after subclause (viii):**

“(ix) requirements with respect to the types of business that professional corporations can carry on”;

**(b) in subclause (d.1)(ii) by striking out “exchange contracts” and substituting “derivatives”;****(c) in clause (g) by striking out “exchange contracts” and substituting “derivatives”;****(d) in clause (i) by striking out “exchange contracts” and substituting “derivatives”;****(e) in clause (j) by striking out “exchange contracts” and substituting “derivatives”;****(f) by adding the following clause after clause (j):**

“(j.1) regulating the trading of derivatives on a derivatives trading facility, including prescribing requirements for keeping records”;

**(g) by adding the following clause after clause (k.1):**

“(k.2) regulating exchanges, self-regulatory organizations, quotation and trade reporting systems, clearing agencies, derivatives trading facilities and trade repositories”;

**(h) in clause (l) by striking out “exchange contracts” and substituting “derivatives”;****(i) by adding the following clauses after clause (l):**

“(l.1) regulating the trade of derivatives, including prescribing:

(i) requirements with respect to the clearing and settlement of trades;

(ii) requirements with respect to the reporting of trades and quotations, including requirements with respect to the confidentiality and disclosure of those reports;

(iii) derivatives or classes of derivatives for which trades must be cleared or settled through a clearing agency recognized by the Commission pursuant to section 21.3;

(iv) for the purposes of section 14.1 and subsection 40(1), disclosure requirements;

(v) requirements with respect to record keeping, reporting and transparency in relation to derivatives;

(vi) requirements with respect to persons or companies trading derivatives, including requirements with respect to trade reporting, clearing and settlement, margin, capital and collateral;

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- (vii) requirements that a derivative or class of derivatives be traded on a derivatives trading facility;
  - (viii) requirements with respect to position limits for derivatives; and
  - (ix) requirements with respect to a derivative or class of derivatives not to be traded in Saskatchewan;
- “(1.2) prescribing the circumstances in which a contract or instrument or contract or instrument within a class of contracts or instruments is a security or class of securities;
- “(1.3) prescribing the circumstances in which a contract or instrument or contract or instrument within a class of contracts or instruments is a derivative or class of derivatives;
- “(1.4) prescribing the principles for determining the market value, market price or closing price of a security or derivative, the net asset value of a security or quantifying a person’s exposure resulting from a trade in a derivative and authorizing the Commission to make that determination;
- “(1.5) designating one or more persons to perform a function relating to market integration, market transparency, market data consolidation or the clearing and settlement of trades”;
- (j) in clause (n) by striking out “exchange contract” and substituting “derivative”;**
- (k) in clause (o):**
- (i) in the portion preceding subclause (i) by adding “with respect to securities” after “offering memoranda or any other disclosure documents”; and**
  - (ii) in paragraph (xv)(B) by striking out “or exchange contracts”;**
- (l) in subclause (z)(ii) by adding “or a related financial instrument” after “prohibiting a person or company from purchasing or trading a security”;**
- (m) by repealing clause (dd);**
- (n) in clause (ee):**
- (i) by adding “derivatives trading facilities,” after “recognizing exchanges,”; and**
  - (ii) by adding “, trade repositories” after “self-regulatory organizations”;**
- (o) by adding the following clause after clause (ee.1):**
- “(ee.11) with respect to any matter necessary to regulate self-regulatory organizations, exchanges, derivatives trading facilities, quotation and trade reporting systems, clearing agencies and trade repositories”;
- (p) in clause (gg) by striking out “exchange contracts” and substituting “derivatives”;**

**(q) by repealing clause (hh.1) and substituting the following:**

“(hh.1) prescribing the circumstances in which a person or company or class of persons or companies is prohibited from trading or purchasing securities or derivatives, or a particular security or derivative, including the circumstances in which a body empowered by the laws of another jurisdiction to regulate trading in securities or derivatives or to administer or enforce securities or derivatives laws in that jurisdiction, has ordered that:

(i) a person or company is prohibited from trading or purchasing securities or derivatives or a particular security or derivative; or

(ii) trades or purchases of a particular security or derivative cease”;

**(r) in clause (ll) by adding “, including requirements for paying charges or fees in connection with the use of the system” after “delivery or deposit of documents or information”;**

**(s) in clause (oo) by striking out “or security” and substituting “, security or derivative”; and**

**(t) in clause (pp) by striking out “or security” and substituting “, security or derivative”.**

**S.S. 2012, c.F-13.5, section 2 amended**

**47 Subclause 2(g)(vii) of *The Financial and Consumer Affairs Authority of Saskatchewan Act* is amended by adding “and derivatives” after “with respect to securities”.**

**S.S. 2012, c.32, section 14 amended**

**48 Subclause 28.1(b)(i) of *The Securities Act, 1988*, as enacted by section 14 of *The Securities Amendment Act, 2012*, is amended by adding “or as a business prescribed in the regulations” after “acting as a dealer or adviser”.**

**Coming into force**

**49 This Act comes into force on proclamation.**





SECOND SESSION

**Twenty-seventh  
Legislature**

SASKATCHEWAN

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**B I L L**

No. 65

An Act to amend *The Securities Act, 1988* and to  
make consequential amendments to other Acts

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Received and read the

First time

Second time

Third time

And passed

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Honourable Gordon Wyant

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