



# **BILL NO. 79**

*Government Bill*

---

*2nd Session, 61st General Assembly  
Nova Scotia  
59 Elizabeth II, 2010*

---

## **An Act to Amend Chapter 418 of the Revised Statutes, 1989, the Securities Act**

CHAPTER 73  
ACTS OF 2010

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
DECEMBER 10, 2010**

The Honourable Graham Steele  
*Minister of Finance*

---

*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

This page is intentionally blank.

**An Act to Amend Chapter 418  
of the Revised Statutes, 1989,  
the Securities Act**

Be it enacted by the Governor and Assembly as follows:

**1 Subsection 2(1) of Chapter 418 of the Revised Statutes, 1989, the *Securities Act*, as amended by Chapter 15 of the Acts of 1990, Chapter 32 of the Acts of 1996, Chapter 41 of the Acts of 2001, Chapter 39 of the Acts of 2002, Chapters 26 and 27 of the Acts of 2005, Chapter 46 of the Acts of 2006 and Chapter 32 of the Acts of 2008, is further amended by**

**(a) striking out “charges” in the sixth and in the eighth lines of clause (h) and substituting “expense” in each case;**

**(b) adding immediately after clause (hb) the following clauses:**

(hc) “credit rating” means an assessment of the creditworthiness of an issuer as an entity or with respect to specific securities or with respect to a specific pool of securities or assets that is publicly disclosed or distributed by subscription;

(hd) “credit rating organization” means any person or company that issues credit ratings;

**(c) striking out clause (ja) and substituting the following clauses:**

(ja) “designated rating” means, for a designated rating organization, the minimum ratings designated for the purpose of this Act and the regulations;

(jb) “designated rating organization” means a credit rating organization that has been designated by the Commission under Section 30F;

(jc) “Director” means the Executive Director of the Commission, a Director or deputy director of the Commission or a person employed by the Commission in a position designated by the Commission for the purpose of this definition;

**(d) striking out “results of operations” in the third and in the sixth lines of clause (oa) and substituting in each case “financial performance”;**

**(e) striking out clause (p);**

**(f) striking out “net assets” in the sixth and seventh lines of subclause (z)(i) and substituting “total equity or net assets attributable to security holders”; and**

**(g) striking out “earnings” in the third line of subclause (aq)(ii) and substituting “profit or loss”.**

**2 Subsection 6(1) of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by adding “Executive” immediately before “Director” in the first and in the fourth and fifth lines.**

**3 (1) Subsection 23(1) of Chapter 418, as amended by Chapter 15 of the Acts of 1990 is further amended by adding “Executive” immediately before “Director” in the second line.**

**(2) Subsection 23(2) of Chapter 418, as amended by Chapter 15 of the Acts of 1990, is further amended adding “Executive” immediately before “Director” in the first and in the second lines.**

**(3) Subsection 23(3) of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by striking out “Director” in the first and second lines and substituting “Executive Director or to another Director”.**

**(4) Subsection 23(6) of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by adding “Executive” immediately before “Director” in the first and in the second lines.**

**4 Subsection 26(3) of Chapter 418, as amended by Chapter 46 of the Acts of 2006, is further amended by striking out “prothonotary” in the second line and substituting “registrar”.**

**5 Section 30 of Chapter 418, as enacted by Chapter 15 of the Acts of 1990 and amended by Chapter 46 of the Acts of 2006 and Chapter 32 of the Acts of 2008, is further amended by**

**(a) adding immediately after subsection (1B) the following subsection:**

(1C) The authority of a self-regulatory organization to regulate the operations and the standards of practice and business conduct of its members and their representatives under subsection (1B) extends to

- (a) any former member;
- (b) any former representative of a member; and
- (c) any former representative of a former member,

with respect to that person’s or company’s operations and conduct while a member of the self-regulatory organization or a representative of a member of the self-regulatory organization.

**and**

**(b) adding immediately after subsection (3) the following subsection:**

(3A) The Commission may, where the Commission considers that it is in the public interest to do so, make any decision with respect to any by-law, rule, regulation, policy, procedure, interpretation or practice of a recognized self-regulatory organization.

**6 Chapter 418 is further amended by adding immediately after Section 30A the following Sections:**

30B For the purpose of this Act, a credit rating organization shall comply with such requirements as may be prescribed with respect to the development, issuance and maintenance of credit ratings, including requirements relating to

(a) the establishment, publication and enforcement of a code of conduct applicable to the credit rating organization's directors, officers and employees, including the minimum requirements for such a code;

(b) prohibitions and procedures regarding conflicts of interest between the credit rating organization and the person or company whose securities are being rated; and

(c) the maintenance of books and records necessary for the conduct of the credit rating organization's business and the issuance and maintenance of credit ratings.

30C (1) The Commission, or any member, employee or agent of the Commission, may conduct a review of

(a) the books, records and documents that may be required to be kept by a credit rating organization; and

(b) the disclosures that have been made or that ought to have been made by a credit rating organization,

on a basis to be determined at the discretion of the Commission or the Director.

(2) A credit rating organization that is subject to a review under this Section shall, at such time or times as the Commission or the Director may require, deliver to the Commission or the Director or otherwise make available to the Commission or the Director

(a) the books, records and documents that may be required to be kept by a credit rating organization; and

(b) any information and documents relevant to the disclosures that have been made or that ought to have been made by the credit rating organization.

(3) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, information and documents obtained pursuant to a review under this Section are exempt from disclosure under that Act if the Commission determines that the information and documents should be maintained in confidence.

30D A credit rating organization, or any person or company acting on behalf of a credit rating organization, shall not make any representation, written or oral, that the Commission has in any way passed upon the merits of the credit rating organization.

30E (1) The Commission may, where in its opinion it is in the public interest to do so, order that a credit rating organization submit to a review of its practices and procedures and institute such changes as may be ordered by the Commission.

(2) No order may be made under this Section without a hearing.

30F (1) The Commission may, for the purpose of the regulations, designate or withdraw the designation of a credit rating organization if it determines that it is in the public interest to do so.

(2) The Commission shall not deny or withdraw the designation of a credit rating organization under this Section without giving the credit rating organization an opportunity to be heard.

30G An order under Section 30E or 30F may be subject to such terms and conditions as the Commission may impose.

30H Nothing in Sections 30B to 30H is to be construed to permit the Commission to direct or regulate the content of credit ratings or the methodologies used to determine credit ratings.

**7 Section 39 of Chapter 418 is repealed.**

**8 Subsection 43(4) of Chapter 418 is amended by striking out “or salesman” in the third line and substituting “, employee or agent”.**

**9 Subsection 61(2) is amended by adding “interim financial reports and annual” immediately after “such” in the second line.**

**10 Subsection 78(3) of Chapter 418 is repealed.**

**11 Section 126 of Chapter 418 is repealed.**

**12 Subclause 134(1)(d)(ii) of Chapter 418, as enacted by Chapter 15 of the Acts of 1990 and amended by Chapter 46 of the Acts of 2006, is further amended by adding “, registrant or investment fund manager” immediately after “issuer” in the second line.**

**13 Section 144 of Chapter 418 is repealed.**

**14 Subsection 145(5) of Chapter 418 is amended by striking out “charges” in the fourth line and substituting “expense”.**

**15 (1) Clause 146A(b) of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by**

**(a) striking out “statements” in the eighth line of subclause (i) and substituting “reports”; and**

**(b) striking out “statements” in the eighth line of subclause (ii) and substituting “reports”.**

**(2) Clause 146A(e) of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by striking out “an approved rating organization for the purposes of National Instrument 44-101 of the Canadian Securities Administrators” in the sixth, seventh and eighth lines and substituting “designated as a designated rating organization under Sections 30B to 30H”.**

**(3) Clause 146A(j) of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by striking out “results of operations” in the fourth line and substituting “financial performance”.**

**16 (1) Subclause 146D(9)(a)(i) of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by striking out “results” in the fourth line and substituting “financial performance”.**

**(2) Subclause 146D(10)(b)(i) of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by striking out “results” in the first line and substituting “financial performance”.**

**(3) Subclause 146D(10)(c)(i) of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by striking out “results” in the second line and substituting “financial performance”.**

**17 Section 150 of Chapter 418, as amended by Chapter 15 of the Acts of 1990, Chapter 32 of the Acts of 1996, Chapter 18 and 41 of the Acts of 2001, Chapter 39 of the Acts of 2002, Chapter 26 of the Acts of 2005, Chapter 46 of the Acts of 2006 and Chapter 32 of the Acts of 2008, is further amended by**

**(a) striking out “salesman” in the fifth line of clause (baa) and substituting “representative”;**

**(b) striking out subclauses (cg)(i) and (ii) and substituting the following subclauses:**

**(i) annual financial statements and interim financial reports,**

**(ii) supplemental analysis of annual financial statements and interim financial reports;**

**(c) striking out “charges” in the first line of clause (ct)(ix) and substituting “expense”;**

**(d) striking out subclause (da)(iii) and substituting the following subclause:**

**(iii) interim financial reports and annual financial statements;**

**(e) adding “interim financial reports and annual” immediately after “of” in the second line of subclause (du)(ii); and**

**(f) adding immediately after subclause (hg) the following subclause:**

**(hi) respecting any matter necessary or advisable to regulate credit rating organizations, including, but not limited to, prescribing requirements in respect of credit rating organizations, including requirements relating to**

**(i) the terms and conditions applicable to the designation of a credit rating organization for the purpose of securities legislation,**

**(ii) the disclosure or furnishing of information to the Commission by a credit rating organization,**

(iii) the establishment, publication and enforcement of a code of conduct applicable to a credit rating organization's directors, officers and employees, including minimum requirements for such a code,

(iv) prohibitions and procedures regarding conflicts of interest between a credit rating organization and the person or company whose securities are being rated,

(v) the maintenance of books and records necessary for the conduct of the credit rating organization's business and the issuance and maintenance of credit ratings, and

(vi) the designation of a compliance officer or officers for the credit rating organization;

**18** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

---