



BILL NO. 129

Government Bill

*2nd Session, 62nd General Assembly
Nova Scotia
64 Elizabeth II, 2015*

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

CHAPTER 51
ACTS OF 2015

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 18, 2015**

The Honourable Randy Delorey
Minister responsible for the Securities Act

*Halifax, Nova Scotia
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**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1 (1) Subsection 29C(1) of Chapter 418 of the Revised Statutes, 1989, the *Securities Act*, is repealed and the following subsections substituted:

(1) Where the Commission considers it expedient for the due administration of Nova Scotia securities laws or the regulation of the capital markets in the Province or expedient to assist in the due administration of the securities laws or the regulation of the capital markets in another jurisdiction, the Commission may

(a) direct a person or company having on deposit or under its control or for safekeeping any funds, securities or property of any person or company to retain those funds, securities or property;

(b) direct a person or company to refrain from withdrawing any funds, securities or property from another person or company who has them on deposit, under control or for safekeeping; or

(c) direct a person or company to maintain funds, securities or property and to refrain from disposing of, transferring, dissipating or otherwise dealing with or diminishing the value of those funds, securities or property.

(1A) A direction under subsection (1) applies until the Commission, in writing, revokes the direction or consents to release funds, securities or property from the direction, or until the Supreme Court of Nova Scotia orders otherwise.

(2) Subsection 29C(5) of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by striking out “seven” in the first line and substituting “ten”.

(3) Section 29C of Chapter 418, as enacted by Chapter 46 of the Acts of 2006 and amended by Chapter 28 of the Acts of 2014, is further amended by adding immediately after subsection (5) the following subsection:

(5A) An order may be made under subsection (5) if the Court is satisfied that the order would be reasonable and expedient in the circumstances, having due regard to the public interest and

(a) the due administration of Nova Scotia securities laws or the securities laws of another jurisdiction; or

(b) the regulation of capital markets in the Province or another jurisdiction.

2 (1) Subsection 29E(1) of Chapter 418, as enacted by Chapter 15 of the Acts of 1990 and amended by Chapter 27 of the Acts of 2005 and Chapter 28 of the Acts of 2014, is

further amended by adding “for the purpose of determining whether Nova Scotia securities laws are being complied with” immediately after Commission in the last line.

(2) Section 29E of Chapter 418, as enacted by Chapter 15 of the Acts of 1990 and amended by Chapter 27 of the Acts of 2005 and Chapter 28 of the Acts of 2014, is further amended by adding immediately after subsection (1A) the following subsections:

(1B) The Commission may, in writing, appoint any person to examine at any time the books, records and documents of an issuer that has distributed securities in reliance on an exemption from the prospectus requirement for the purpose of determining whether the issuer has complied with the requirements, conditions and restrictions of the exemption relied on for the distribution.

(1C) The Commission may, in writing, appoint any person to examine at any time the books, records and documents that are required to be kept by a person or company under the regulations with respect to derivatives.

(3) Subsection 29E(2) of Chapter 418, as enacted by Chapter 15 of the Acts of 1990 and amended by Chapter 28 of the Acts of 2014, is further amended by

(a) striking out “correspondence” in the fourth line and substituting “communications”;

(b) striking out “whose financial affairs are being examined” in the fifth and sixth lines and substituting “who is the subject of the examination”.

(4) Clause 29E(2A)(b) of Chapter 418, as enacted by Chapter 27 of the Acts of 2005, is amended by striking out “documents and records” in the first and second lines and substituting “books, records and documents”.

3 (1) Section 29EA of Chapter 418, as enacted by Chapter 32 of the Acts of 2008, is amended by adding immediately after subsection (1) the following subsection:

(1A) The Commission, or any member, employee or agent of the Commission, may conduct a review of an issuer other than a reporting issuer or mutual fund in the Province for the purpose of determining whether disclosure requirements under Nova Scotia securities laws applicable to the issuer are being complied with, on a basis to be determined at the discretion of the Commission or the Director.

(2) Subsection 29EA(2) of Chapter 418, as enacted by Chapter 32 of the Acts of 2008, is amended by

(a) striking out “A reporting issuer or mutual fund in the Province” in the first and second lines and substituting “An issuer”; and

(b) striking out “disclosures that have been made or that ought to have been made by the reporting issuer or mutual fund” in the fifth and sixth lines and substituting “review”.

(3) Subsection 29EA(4) of Chapter 418, as enacted by Chapter 32 of the Acts of 2008, is amended by

(a) striking out “A reporting issuer or mutual fund in the Province, or any person or company acting on behalf of a reporting issuer or mutual fund in the Province” in the first, second and third lines and substituting “An issuer, or any person or company acting on behalf of an issuer”; and

(b) striking out “reporting issuer or mutual fund” in the last line and substituting “issuer”.

4 (1) Subsection 76(1) of Chapter 418, as amended by Chapter 46 of the Acts of 2006 and Chapter 28 of the Acts of 2014, is further amended by striking out “he” in the fourth line and substituting “the dealer”.

(2) Section 76 of Chapter 418, as amended by Chapter 46 of the Acts of 2006, Chapter 34 of the Acts of 2012 and Chapter 28 of the Acts of 2014, is further amended by adding immediately after subsection (1A) the following subsections:

(1B) Subsection (1) does not apply in respect of a distribution of an investment fund security trading on an exchange or an alternative trading system prescribed by the regulations.

(1C) A dealer acting as agent of the purchaser who receives an order from the purchaser for a purchase of an investment fund security trading on an exchange or an alternative trading system prescribed by the regulations shall send or deliver to the purchaser a prescribed disclosure document in accordance with the regulations.

(3) Section 76 of Chapter 418, as amended by Chapter 46 of the Acts of 2006, Chapter 34 of the Acts of 2012 and Chapter 28 of the Acts of 2014, is further amended by adding immediately after subsection (2) the following subsection:

(2A) A purchase referred to in subsection (1C) is not binding on the purchaser in the circumstances prescribed by the regulations.

(4) Subsection 76(4) of Chapter 418, as enacted by Chapter 34 of the Acts of 2012, is amended by adding “or (1C)” immediately after “(1A)” in the third line.

(5) Subsection 76(7) of Chapter 418 is amended by adding “, except subsection (1C)” immediately after “Section” in the first line.

5 Subsection 77(3) of Chapter 418, as enacted by Chapter 15 of the Acts of 1990, is amended by striking out “subsection (4) or” in the third-last and second-last lines.

6 Clause 134(1)(b) of Chapter 418, as enacted by Chapter 15 of the Acts of 1990 and amended by Chapter 28 of the Acts of 2014, is further amended by striking out “or in a class of security or derivatives” in the second-last and last lines and substituting “, in a class of securities or derivatives or in all classes of securities or derivatives”.

7 Subsection 141(1) of Chapter 418, as enacted by Chapter 34 of the Acts of 2012, is amended by

(a) striking out “and” at the end of clause (b); and

(b) adding immediately after clause (b) the following clause:

(ba) a purchaser of a prescribed investment fund security trading on an exchange or an alternative trading system to whom a prescribed disclosure document referred to in subsection (1C) of Section 76 was required to be sent or delivered but was not sent or delivered in compliance with the regulations; and

8 Section 146N of Chapter 418, as enacted by Chapter 46 of the Acts of 2006, is amended by

(a) adding “(1)” immediately after the Section number; and

(b) adding the following subsection:

(2) A limitation period established by subsection (1) in respect of an action is suspended on the date a notice of motion for leave under Section 146H is filed with the court and resumes running on the date

(a) the court grants leave or dismisses the motion and

(i) all appeals have been exhausted, or

(ii) the time for filing an appeal has expired without an appeal being filed; or

(b) the motion is abandoned or discontinued.

9 Section 150 of Chapter 418, as amended by Chapter 15 of the Acts of 1990, Chapter 32 of the Acts of 1996, Chapters 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, Chapter 32 of the Acts of 2008, Chapter 73 of the Acts of 2010, Chapter 34 of the Acts of 2012 and Chapter 28 of the Acts of 2014, is further amended by

(a) striking out clause (p) and substituting the following clauses:

(p) prescribing circumstances in which a person or company or a class of persons or companies is subject to an order imposing sanctions, conditions, restrictions, prohibitions or requirements, including the circumstance in which a securities regulatory authority in another jurisdiction has ordered that the person or company be subject to sanctions, conditions, restrictions, prohibitions or requirements;

(q) prescribing circumstances in which an order imposing sanctions, conditions, restrictions, prohibitions or requirements on a person or company may be varied or revoked, including the circumstance in which a securities regulatory authority in another jurisdiction has ordered the variation or revocation of an order imposing sanctions, conditions, restrictions, prohibitions or requirements on a person or company;

(b) adding immediately after subclause (ct)(ia) the following subclause:

(ib) prescribing

(A) investment fund securities trading on an exchange or an alternative trading system for the purpose of subsection (1B) of Section 76,

(B) the disclosure document that is required in respect of prescribed investment fund securities under subsection (1C) of Section 76,

(C) the time and manner for sending or delivering the disclosure document, and

(D) the circumstances in which a purchase is not binding on a purchaser for the purpose of subsection (2A) of Section 76,

(c) striking out subclause (dd)(ii) and substituting the following subclause:

(ii) designating a person or company for the purpose of the definitions of “insider”, “mutual fund” or “non-redeemable investment fund” to be, or not to be, an insider, mutual fund or non-redeemable investment fund;

(d) adding immediately after clause (dd) the following clause:

(dda) governing the designation or determination of issuers or a class of issuers to be, or not to be, reporting issuers and, without limiting the generality of the foregoing, circumstances in which

(i) an issuer or a class of issuers is deemed to be, or is deemed to cease to be, a reporting issuer, or

(ii) an issuer or a class of issuers is deemed to be, or is deemed to cease to be, a reporting issuer for the purpose of Nova Scotia securities laws,

including the circumstances in which an issuer or a class of issuers ceases to be a reporting issuer under the laws of another jurisdiction respecting trading in securities or derivatives;

10 Subsection 4(1) of Chapter 28 of the Acts of 2014, *An Act to Amend Chapter 418 of the Revised Statutes, 1989, the Securities Act*, is repealed and the following subsection substituted:

4 (1) Subsection 29C(1) of Chapter 481 is repealed and the following subsection substituted:

(1) Where the Commission considers it expedient for the due administration of Nova Scotia securities laws or the regulation of the capital markets in the Province or expedient to assist in the due administration of the securities or derivatives laws or the regulation of the capital markets in another jurisdiction, the Commission may

(a) direct a person or company having on deposit or under its control or for safekeeping any funds, securities, derivatives or property of any person or company to retain those funds, securities, derivatives or property;

(b) direct a person or company to refrain from withdrawing any funds, securities, derivatives or property from another person or company who has them on deposit, under control or for safekeeping; or

(c) direct a person or company to maintain funds, securities, derivatives or property and to refrain from disposing of, trans-

ferring, dissipating or otherwise dealing with or diminishing the value of those funds, securities, derivatives or property.

11 Sections 4, 6 and 7 come into force on such day as the Governor in Council orders and declares by proclamation.
