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Legislative Assembly of British Columbia

BILL 19

MONEY SERVICES BUSINESSES ACT

Honourable Katrine Conroy
Minister of Finance

Explanatory Note

This Bill establishes a registration regime for money services businesses.

BILL 19 – 2023

MONEY SERVICES BUSINESSES ACT

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

PART 1 – INTRODUCTORY PROVISIONS

Definitions

1 In this Act:

“**agent**”, except in section 2, means,

- (a) in relation to a registrant, a person who is authorized to provide money services on behalf of the registrant, but does not include an employee of the registrant, and
- (b) in relation to an applicant, a person who would, if the applicant became a registrant, be authorized to provide money services on behalf of that registrant, but does not include an employee of the applicant;

“**applicant**” means a person applying for registration or for renewal, amendment or reinstatement of a registration;

“**associate**”, in relation to an applicant, registrant or agent, means

- (a) a director or officer of the applicant, registrant or agent,
- (b) a partner of the applicant, registrant or agent,
- (c) a corporate interest holder of the applicant, registrant or agent, and
- (d) a person in a prescribed class of persons;

“**Authority**” means the BC Financial Services Authority established under section 2 of the *Financial Services Authority Act*;

“**corporate interest holder**” means an individual who is a corporate interest holder within the meaning of section 2;

“**money services**” means

- (a) foreign exchange dealing,
- (b) remitting funds or transmitting funds by any means or through any person, entity or electronic funds transfer network,
- (c) issuing or redeeming money orders, traveller’s cheques or other negotiable instruments, other than cheques payable to a named person, and
- (d) services included by regulation,

but does not include services excluded by regulation;

“person” includes

- (a) an individual,
- (b) a corporation,
- (c) a partnership, trust or fund,
- (d) an association, syndicate, organization or other organized group of persons, and
- (e) an individual or other person in that person’s capacity as a trustee, executor, administrator or personal or other legal representative;

“register” includes

- (a) renew a registration, and
- (b) reinstate a registration;

“registrant” means a person who is registered under Part 2 [*Registration*];

“remuneration” includes any form of remuneration, including any commission, fee, gain or reward, whether the remuneration is received, or is to be received, directly or indirectly;

“superintendent” means the Superintendent of Money Services Businesses appointed under section 3 (1).

Meaning of corporate interest holder

2 (1) In this section:

“beneficial owner” includes a person who owns through a trustee, personal or other legal representative, agent or other intermediary;

“business associate” means an associate within the meaning of paragraph (c) or (d) of the definition of “associate” in section 192 (1) [*liability of insiders*] of the *Business Corporations Act*;

“registered owner”, in relation to a share issued by a corporation, means a person who is a registered owner of the share within the meaning of the laws of the jurisdiction in which the corporation is incorporated, organized, formed, continued or transferred;

“significant number of shares”, in respect of a corporation, means either of the following:

- (a) 10% or more of the issued shares of the corporation;
- (b) issued shares of the corporation that carry 10% or more of the rights to vote at general meetings.

- (2) Subject to the exemptions, if any, in the regulations, an individual is a corporate interest holder in respect of a corporation if any of the following apply:
- (a) the individual has any of the following interests or rights, or any combination of them, in a significant number of shares of the corporation:
 - (i) an interest as a registered owner of one or more of the corporation's shares;
 - (ii) an interest as a beneficial owner of one or more of the corporation's shares, other than an interest that is contingent on the death of another individual;
 - (iii) indirect control, within the meaning of the regulations, of one or more of the corporation's shares;
 - (b) the individual has any of the following rights or abilities, or any combination of them, that, if exercised, would result in the election, appointment or removal of the majority of the directors of the corporation:
 - (i) the right to elect, appoint or remove one or more of the corporation's directors;
 - (ii) indirect control, within the meaning of the regulations, of the right to elect, appoint or remove one or more of the corporation's directors;
 - (iii) the ability to exercise direct and significant influence over an individual who has the right or indirect control described in subparagraph (i) or (ii);
 - (c) the individual has a prescribed interest, right or ability in relation to the corporation, or a prescribed criterion or circumstance applies to the individual in relation to the corporation.
- (3) If an interest or right referred to in subsection (2) in respect of a corporation is held jointly by 2 or more individuals, each individual is a corporate interest holder in respect of the corporation.
- (4) When 2 or more individuals have interests, rights or abilities that, when combined, meet a criterion described in subsection (2) (a), (b) or (c) in respect of a corporation, each individual is a corporate interest holder in respect of the corporation if
- (a) the interests, rights or abilities are subject to an agreement or arrangement under which the interests, rights or abilities are to be exercised jointly or in concert by those individuals, or
 - (b) each individual is a business associate of the other individuals.

Superintendent of Money Services Businesses

- 3 (1) The board of directors of the Authority must appoint a Superintendent of Money Services Businesses in accordance with section 10 [*statutory decision makers*] of the *Financial Services Authority Act*.
- (2) The superintendent may exercise the powers and must perform the duties vested in or imposed on the superintendent under this Act.
- (3) The superintendent may, in writing, delegate any of the superintendent's powers or duties under this Act.
- (4) The superintendent may impose conditions or restrictions on any delegation made under subsection (3).

Superintendent may advise and inform minister

- 4 The superintendent may, and on request of the minister must, provide to the minister responsible for the administration of this Act advice and information respecting the money services industry in British Columbia.

PART 2 – REGISTRATION

Division 1 – Registration Requirements

Registration required

- 5 A person must not carry on the business of providing money services unless the person is
- (a) registered under this Part as a registered money services business to carry on the business of providing those money services, or
 - (b) exempted by section 6 or the regulations from the requirement to be registered under this Part.

Exemptions

- 6 (1) In addition to any exemption provided by regulation, the following persons and entities are exempted from the requirement to be registered under this Part:
- (a) insurance companies;
 - (b) savings institutions;
 - (c) trust companies;
 - (d) a person or entity referred to in section 5 (g), (k), (k.1), (k.2), (k.3) or (l) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada).

- (2) Unless the regulations provide otherwise, a person is not required to be registered if the person provides money services only while acting as an agent for a registrant.

No recovery for remuneration by person required to be registered

- 7 No action may be brought or continued for remuneration in relation to money services unless, at the time the money services were provided, the person claiming the remuneration was
- (a) registered under this Part to provide those money services, or
 - (b) not required to be registered under this Part to provide those money services.

Effect of failure to be registered

- 8 A transaction is not rendered void, voidable or unenforceable solely because of the failure of any person to be registered under this Part, or because of any defect or irregularity in
- (a) an application for registration, or
 - (b) an application for renewal, amendment or reinstatement of a registration.

Division 2 – Registration Process

Applications for registration

- 9 In this Division, unless otherwise provided, an application for registration includes
- (a) an application for registration, and
 - (b) an application for renewal, amendment or reinstatement of a registration.

How to make application

- 10 (1) A person may apply for registration, or for the renewal, amendment or reinstatement of a registration, by submitting to the superintendent an application
- (a) in the form and manner required by the superintendent, and
 - (b) containing the information required by the superintendent.
- (2) The application must be accompanied by the following:
- (a) any other information or records required by the superintendent;
 - (b) any prescribed fee in relation to the application;
 - (c) any prescribed fee in relation to registration.
- (3) The superintendent may, on behalf of the Authority, refund all or part of a fee referred to in subsection (2) (c) if the registration in respect of which the application is made is not granted, renewed, amended or reinstated, as the case may be.

- (4) The superintendent may refuse to accept an application until any amount owed to the Authority by the applicant is paid.
- (5) If a person submits an application for the renewal of the person's registration on or after the earlier of the dates referred to in section 12 (1) (a) and (b), the superintendent may accept the application for renewal instead of requiring the person to submit an application for a new registration.
- (6) If a person's registration is suspended, the superintendent may authorize the person to apply for the renewal of the registration instead of applying for the reinstatement of the registration or for a new registration.

Superintendent's powers to evaluate applications

- 11 The superintendent may, to the extent the superintendent considers necessary for the evaluation of an application under section 10,
 - (a) conduct an investigation, or
 - (b) require the applicant to provide the superintendent with additional information, documents or verification.

Continuance of registration during renewal application process

- 12 (1) A registration continues in effect beyond the end of its term if a registrant has applied for the renewal of the registration in accordance with section 10 before the earlier of
 - (a) the end of the registration term, and
 - (b) if applicable, a date established under the regulations.
- (2) The registration continues in effect until the superintendent notifies the registrant of the superintendent's decision with respect to the application.

Superintendent's powers to register or amend or refuse registration or amendment

- 13 (1) The superintendent may, on application under section 10 [*how to make application*],
 - (a) register the applicant,
 - (b) refuse to register the applicant if, in the superintendent's opinion, the applicant is unsuitable to be registered, or
 - (c) amend or refuse to amend a registration.

- (2) Without limiting the superintendent's authority under subsection (1) (b), the superintendent may refuse to register an applicant if, in the superintendent's opinion, any of the following apply:
 - (a) the applicant, an agent of the applicant or an associate of the applicant or agent has, for a reason that reveals the applicant to be unfit to be registered,
 - (i) been refused registration or a licence under money services, real estate, insurance, mortgage services or securities legislation in British Columbia or another jurisdiction,
 - (ii) held a registration or licence that was suspended or cancelled under money services, real estate, insurance, mortgage services or securities legislation in British Columbia or another jurisdiction,
 - (iii) been disciplined by a professional body, or
 - (iv) been convicted of an offence under an enactment of British Columbia or a law of another jurisdiction;
 - (b) the applicant, an agent of the applicant or an associate of the applicant or agent is insolvent.
- (3) The superintendent may not register an individual unless the individual is at least 19 years of age.
- (4) Before refusing to register an applicant or amend an applicant's registration, the superintendent must give notice to the applicant and provide the applicant with an opportunity to be heard respecting the matter.
- (5) If the superintendent refuses to register an applicant or amend an applicant's registration, the superintendent must
 - (a) give the applicant written notice of the refusal and the reasons for it, and
 - (b) advise the applicant of the right to appeal under Division 7 [*Appeals to Financial Services Tribunal*] of Part 3.
- (6) The superintendent may, by order, require the applicant to pay the expenses, or part of the expenses, incurred by the Authority in relation to the applicant's opportunity to be heard under subsection (4).
- (7) Amounts required to be paid under subsection (6)
 - (a) must be for the matters, and must not exceed the amounts, set out in the regulations, and
 - (b) may include remuneration expenses for employees, officers or agents of the Authority engaged in providing the opportunity to be heard.

Temporary registration

- 14** The superintendent may grant a temporary registration that
- (a) requires the registrant to meet one or more specified conditions within a specified period of time or by a specified date, and
 - (b) is cancelled, effective at the end of that specified period or on that specified date, if the conditions are not met by that time.

Conditions and restrictions in relation to registration

- 15** (1) Subject to this section, the superintendent may, as the superintendent considers necessary or desirable in relation to a specific registration,
- (a) impose conditions and restrictions on the registration,
 - (b) vary a condition or restriction applicable to the registration, or
 - (c) remove a condition or restriction applicable to the registration.
- (2) The powers under subsection (1) (a) or (b) to impose or vary a condition or restriction may be exercised only
- (a) on or before the date on which the applicant is registered or the registration is reinstated, with effect on and after that date, or
 - (b) on the written application or with the written consent of the registrant.
- (3) Before imposing or varying a condition or restriction as referred to in subsection (2) (a), the superintendent must give notice to the applicant and provide the applicant with an opportunity to be heard respecting the matter.
- (4) If the superintendent imposes or varies a condition or restriction as referred to in subsection (2) (a), the superintendent must
- (a) give the applicant written notice of the condition or restriction and the reasons for it, and
 - (b) advise the applicant of the right to appeal under Division 7 [*Appeals to Financial Services Tribunal*] of Part 3.
- (5) The power under subsection (1) (c) to remove a condition or restriction may be exercised at any time on the superintendent's own initiative or on the written application of the registrant.
- (6) The superintendent may, by order, require the applicant to pay the expenses, or part of the expenses, incurred by the Authority in relation to the applicant's opportunity to be heard under subsection (3).
- (7) Amounts required to be paid under subsection (6)
- (a) must be for the matters, and must not exceed the amounts, set out in the regulations, and
 - (b) may include remuneration expenses for employees, officers or agents of the Authority engaged in providing the opportunity to be heard.

Conditions and restrictions are part of registration

- 16 A condition or restriction that applies to a registration applies to that registration, whether the condition or restriction is included in the register established under section 18 or contained in a separate document.

Amendment of registration

- 17 The superintendent may amend a registration in any of the following circumstances:
- (a) on the written application or with the written consent of the registrant;
 - (b) as provided in section 15;
 - (c) to give effect to an order under Division 3 [*Orders of Superintendent*] of Part 3.

Register of money services businesses

- 18 (1) The superintendent must establish and maintain a register that contains the following information for each registrant:
- (a) the name and contact information of the registrant;
 - (b) the address of the registrant's head office;
 - (c) the name and contact information of each agent of the registrant;
 - (d) the address of each location at which money services are provided by the registrant or by an agent on behalf of the registrant;
 - (e) any other information specified by the superintendent.
- (2) The superintendent must make the register publicly accessible.

Division 3 – Suspension and Cancellation of Registration

When registration may be suspended or cancelled

- 19 A registration may be suspended or cancelled in accordance with any of the following:
- (a) automatically in accordance with section 14 (b) [*cancellation of temporary registration*];
 - (b) by order of the superintendent under
 - (i) section 22 [*cancellation if registrant no longer suitable*], or
 - (ii) Division 3 [*Orders of Superintendent*] of Part 3.

Restriction on registrant if registration suspended

- 20 A registrant must not provide money services, and an agent must not provide money services on behalf of the registrant, at any time that the registrant's registration is suspended.

Effects if registration suspended or cancelled

- 21** A person whose registration is suspended or cancelled must immediately cease to hold themselves out as a registrant.

Cancellation if registrant no longer suitable

- 22** (1) In addition to determining whether an applicant is unsuitable to be registered for the purposes of section 13 [*superintendent's powers to register or amend or refuse registration or amendment*], the superintendent may at any time determine whether a registrant is unsuitable to remain registered.
- (2) Without limiting the superintendent's authority under subsection (1), for the purposes of making a determination under subsection (1), the superintendent may take into account whether, in the superintendent's opinion, any of the following apply:
- (a) the registrant, an agent of the registrant or an associate of the registrant or agent has, for a reason that reveals the registrant to be unfit to remain registered,
 - (i) been refused registration or a licence under money services, real estate, insurance, mortgage services or securities legislation in British Columbia or another jurisdiction,
 - (ii) held a registration or licence that was suspended or cancelled under money services, real estate, insurance, mortgage services or securities legislation in British Columbia or another jurisdiction,
 - (iii) been disciplined by a professional body, or
 - (iv) been convicted of an offence under an enactment of British Columbia or a law of another jurisdiction;
 - (b) the registrant, an agent of the registrant or an associate of the registrant or agent is insolvent.
- (3) If the superintendent determines that a registrant is unsuitable to remain registered, the superintendent may, by order, cancel the registrant's registration.
- (4) Before cancelling a registration under this section, the superintendent must give written notice to the registrant and provide the registrant with an opportunity to be heard respecting the matter.
- (5) If the superintendent makes an order under subsection (3), the superintendent must
- (a) give the registrant written notice of the order and the reasons for it, and
 - (b) advise the registrant of the right to appeal under Division 7 [*Appeals to Financial Services Tribunal*] of Part 3.

- (6) The superintendent may, by order, require the registrant to pay the expenses, or part of the expenses, incurred by the Authority in relation to any of the following:
 - (a) an investigation conducted by the superintendent to determine whether the registrant is unsuitable to remain registered;
 - (b) the registrant's opportunity to be heard under subsection (4).
- (7) Amounts required to be paid under subsection (6)
 - (a) must be for the matters, and must not exceed the amounts, set out in the regulations, and
 - (b) may include remuneration expenses for employees, officers or agents of the Authority engaged in providing the opportunity to be heard.

Division 4 – Duties of Registrants

Duty to report changes

- 23** (1) A registrant must give written notice to the superintendent
- (a) if there is a change in any of the information respecting the registrant that, under section 18 (1) [*register of money services businesses*], must be included in the register,
 - (b) if the registrant engages as an agent a person who is not specified in the register as an agent of the registrant,
 - (c) if the registrant ceases to carry on the business of providing money services,
 - (d) if any of the following apply respecting a person who is the registrant, an agent of the registrant or an associate of the registrant or agent:
 - (i) the person is refused registration or a licence under money services, real estate, insurance, mortgage services or securities legislation in British Columbia or another jurisdiction;
 - (ii) the person's registration or licence is cancelled or suspended under money services legislation in another jurisdiction;
 - (iii) the person is disciplined by a professional body;
 - (iv) the person is convicted of an offence under an enactment of British Columbia or a law of another jurisdiction;
 - (v) the person is insolvent, or
 - (e) in the prescribed circumstances.
- (2) A registrant that is a corporation must give written notice to the superintendent if there is a change in
- (a) the directors or officers of the corporation, or
 - (b) the corporate interest holders of the corporation.

- (3) A registrant that is a partnership must give written notice to the superintendent if
 - (a) there is a change in the partners in the partnership, or
 - (b) a partner in the partnership is a corporation and there is a change in
 - (i) the directors or officers of the corporation, or
 - (ii) the corporate interest holders of the corporation.
- (4) A registrant whose agent is a corporation must give written notice to the superintendent if there is a change in
 - (a) the directors or officers of the corporation, or
 - (b) the corporate interest holders of the corporation.
- (5) A registrant whose agent is a partnership must give written notice to the superintendent if
 - (a) there is a change in the partners in the partnership, or
 - (b) a partner in the partnership is a corporation and there is a change in
 - (i) the directors or officers of the corporation, or
 - (ii) the corporate interest holders of the corporation.
- (6) A notice under subsection (1) (b), (2), (3), (4) or (5) must be given to the superintendent
 - (a) at least 3 months before the engagement or change is to take effect, or
 - (b) if the registrant is not aware of the engagement or change 3 months before it is to take effect, as soon as practicable after the registrant becomes aware of the engagement or change.
- (7) Subject to the regulations, a notice under subsection (1) (a), (c), (d) or (e) must be given to the superintendent as soon as practicable after the registrant becomes aware of the matter that is the subject of the notice.

Additional reporting requirements

- 24**
- (1) A registrant must, after the end of each fiscal year of the registrant, provide to the superintendent a report respecting the registrant's activities in that fiscal year.
 - (2) A report under subsection (1) must
 - (a) include the prescribed content, and
 - (b) be provided within the period and in the form and manner required by the superintendent.
 - (3) In addition to the report required under subsection (1), a registrant must provide to the superintendent other reports and information as required under the regulations.

Duty to maintain records

- 25** (1) Registrants and former registrants must maintain books, accounts and other records in accordance with the regulations.
- (2) A registrant must ensure that the registrant's agents maintain books, accounts and records as required under subsection (1).

PART 3 – ENFORCEMENT

Division 1 – Definition for Part 3

Definition

- 26** In this Part, “**registrant**” includes a former registrant in relation to matters that occurred while the person was a registrant.

Division 2 – Investigations

Investigations

- 27** (1) The superintendent may conduct investigations for the following purposes:
- (a) to determine whether a person may have contravened this Act, the regulations or a condition or restriction of the person's registration;
 - (b) to assess an applicant for registration, or for renewal, amendment or reinstatement of a registration;
 - (c) to assess whether a registrant is unsuitable to remain registered.
- (2) For a purpose referred to in subsection (1) (a), the superintendent may investigate
- (a) the affairs of the person,
 - (b) the records, communications, negotiations, transactions, loans, borrowings and payments to, by, on behalf of or in relation to the person,
 - (c) the property, assets or things owned, acquired or alienated in whole or in part by the person or by any person acting on behalf of or as agent for that person, and
 - (d) the liabilities, debts, undertakings and obligations, and the financial or other conditions, of or related to the person.
- (3) For a purpose referred to in subsection (1) (b) or (c), the superintendent may investigate
- (a) the affairs of any of the following persons:
 - (i) the applicant or registrant;
 - (ii) an agent of the applicant or registrant;
 - (iii) an associate of a person referred to in subparagraph (i) or (ii),

- (b) the records, communications, negotiations, transactions, loans, borrowings and payments to, by, on behalf of or in relation to a person referred to in paragraph (a),
 - (c) the property, assets or things owned, acquired or alienated in whole or in part by a person referred to in paragraph (a) or by any person acting on behalf of or as agent for that person, and
 - (d) the liabilities, debts, undertakings and obligations, and the financial or other conditions, of or related to a person referred to in paragraph (a).
- (4) For the purposes of an investigation, the superintendent may do one or more of the following:
- (a) at any time during business hours, inspect and remove or copy records that are located on the business premises of any of the following persons:
 - (i) the person who is the subject of the investigation;
 - (ii) an agent of the person who is the subject of the investigation;
 - (iii) an associate of the person who is the subject of the investigation;
 - (iv) a controlling shareholder of the person who is the subject of the investigation;
 - (b) require a person referred to in paragraph (a) to
 - (i) answer, or meet with the superintendent to answer, inquiries relating to the investigation, and
 - (ii) produce information, records or other things in the person's possession or control for examination by the superintendent.

Witnesses in investigations

- 28** (1) For the purposes of an investigation, the superintendent has the same power that the Supreme Court has for the trial of civil actions
- (a) to summon and enforce the attendance of witnesses,
 - (b) to compel witnesses to give evidence on oath or in any other manner, and
 - (c) to compel witnesses to produce records and things.
- (2) On application to the Supreme Court, a person is liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court if the person fails or refuses
- (a) to attend,
 - (b) to take an oath,
 - (c) to answer questions, or
 - (d) to produce the records or things in that person's custody or possession.
- (3) Section 34 (5) [*financial institution records*] of the *Evidence Act* does not apply for the purposes of an investigation.

- (4) A person giving evidence in an investigation may be represented by legal counsel.

Order by justice for search and seizure

- 29**
- (1) If the superintendent has reasonable grounds to believe that a person may have contravened this Act, the regulations or a condition or restriction of the person's registration, the superintendent may make an application under subsection (2).
 - (2) In the circumstances described in subsection (1), the superintendent may apply to a justice for an order authorizing the seizure of records or other evidence, wherever located, belonging or relating to the person referred to in subsection (1) from the person named in the order.
 - (3) An application under subsection (2) may be made without notice to any other person unless otherwise ordered by the justice.
 - (4) An application under subsection (2) must be supported by an affidavit stating
 - (a) the grounds for believing that the person may have contravened this Act, the regulations or a condition or restriction of the person's registration, and
 - (b) the grounds for believing that the seizure will produce evidence relevant to that matter.
 - (5) On an application under subsection (2), the justice may make an order
 - (a) designating the person who will conduct the seizure and authorizing that person to conduct it,
 - (b) setting the time and place the seizure will take place, and
 - (c) giving any other directions necessary to carry out the seizure.
 - (6) This section does not apply to records or other evidence subject to solicitor-client privilege.

Prohibition against obstructing or interfering with investigation

- 30**
- A person must not do any of the following in relation to an investigation conducted by the superintendent:
- (a) obstruct, hinder or interfere with the investigation;
 - (b) provide or allow to be provided false or misleading information or records to, or fail to disclose a material fact to, the superintendent;
 - (c) withhold, destroy, conceal or refuse to provide any information or thing reasonably required for the purposes of the investigation;
 - (d) prevent or attempt to prevent the superintendent from exercising any of the powers under this Division.

Division 3 – Orders of Superintendent

Orders suspending, cancelling or imposing conditions or restrictions on registration

- 31** (1) If a registrant contravenes a provision of this Act, the regulations or a condition or restriction of the registrant's registration, the superintendent may, by order, do any of the following:
- (a) suspend the registrant's registration for the period of time the superintendent considers appropriate or until specified conditions are fulfilled;
 - (b) cancel the registrant's registration;
 - (c) impose conditions or restrictions on the registrant's registration or vary any conditions or restrictions applicable to the registration;
 - (d) prohibit the registrant from applying for registration for a specified period of time or until specified conditions are fulfilled.
- (2) Before making an order under subsection (1), the superintendent must give written notice to the registrant and provide the registrant with an opportunity to be heard respecting the matter.
- (3) If the superintendent makes an order under subsection (1), the superintendent must
- (a) give the registrant written notice of the order and the reasons for it, and
 - (b) advise the registrant of the right to appeal under Division 7 [*Appeals to Financial Services Tribunal*] of Part 3.
- (4) The superintendent may, by order, require the registrant to pay the expenses, or part of the expenses, incurred by the Authority in relation to any of the following:
- (a) an investigation conducted by the superintendent to determine whether the registrant has contravened a provision of this Act, the regulations or a condition or restriction of the registrant's registration;
 - (b) the registrant's opportunity to be heard under subsection (2).
- (5) Amounts required to be paid under subsection (4)
- (a) must be for the matters, and must not exceed the amounts, set out in the regulations, and
 - (b) may include remuneration expenses for employees, officers or agents of the Authority engaged in the investigation or providing the opportunity to be heard.

- (6) An order under subsection (1) may provide that the superintendent may suspend or cancel the registration under subsection (7) if the registrant fails to comply with
 - (a) the order, or
 - (b) one or more specified conditions or restrictions of the registrant's registration.
- (7) If the registrant fails to comply as specified by a provision under subsection (6), the superintendent may, by order, suspend or cancel the registrant's registration without giving the registrant further notice or the opportunity to be heard.
- (8) The superintendent may, by order, on the application of or with the consent of the registrant subject to the order, vary or rescind an order made under this section.

Orders in urgent circumstances

- 32** (1) The superintendent may act under this section if
- (a) the superintendent believes on reasonable grounds that a registrant has contravened a provision of this Act, the regulations or a condition or restriction of the registrant's registration, and
 - (b) the superintendent considers that
 - (i) the length of time that would be required to complete an investigation or give the registrant an opportunity to be heard, or both, in order to make an order under section 31 (1) would be detrimental to the public interest, and
 - (ii) it is in the public interest to make an order under this section against the registrant.
- (2) If the circumstances referred to in subsection (1) apply, the superintendent may, by order, do any of the following:
- (a) suspend the registrant's registration;
 - (b) impose restrictions or conditions on the registrant's registration or vary any restrictions or conditions applicable to the registration.
- (3) Despite any other provision of this Division, the superintendent may make an order under subsection (2) of this section
- (a) without giving notice to the registrant, and
 - (b) without providing the registrant an opportunity to be heard.
- (4) The superintendent may, by order,
- (a) on the superintendent's own initiative, rescind an order made under this section, or

- (b) on the application of or with the consent of the registrant subject to the order, vary or rescind an order made under this section.
- (5) Promptly after an order under subsection (2) is made, the superintendent must give to the registrant
 - (a) a copy of the order and written reasons for it, and
 - (b) written notice that the registrant has an opportunity to be heard respecting the matter.
- (6) A registrant who is the subject of an order under subsection (2) may, by giving written notice to the superintendent, request an opportunity to be heard respecting the matter.
- (7) Within a reasonable time after receiving a written notice under subsection (6), the superintendent must give the registrant an opportunity to be heard.
- (8) After giving the registrant an opportunity to be heard, the superintendent must
 - (a) rescind the order under this section and make an order under section 31 (1), if the superintendent determines that the registrant has contravened a provision of this Act, the regulations or a condition or restriction of the registrant's registration, or
 - (b) in any other case, rescind the order under this section.

Orders to cease provision of money services

- 33**
- (1) The superintendent may make an order under this section if the superintendent determines that a person was not registered under this Act at a time when the person did anything for which such registration was required.
 - (2) After giving the person an opportunity to be heard, the superintendent may, by order, require the person to cease carrying on the business of providing money services.
 - (3) If the superintendent makes an order under subsection (2), the superintendent must
 - (a) give the person to whom the order is directed written notice of the order and the reasons for it, and
 - (b) advise the person of the right to appeal under Division 7 [*Appeals to Financial Services Tribunal*] of Part 3.
 - (4) The superintendent may, by order, require the person to pay the expenses, or part of the expenses, incurred by the Authority in relation to any of the following:
 - (a) an investigation conducted by the superintendent to determine whether the person has done anything for which registration is required;
 - (b) the person's opportunity to be heard under subsection (2).

- (5) Amounts required to be paid under subsection (4)
 - (a) must be for the matters, and must not exceed the amounts, set out in the regulations, and
 - (b) may include remuneration expenses for employees, officers or agents of the Authority engaged in the investigation or providing the opportunity to be heard.

Division 4 – Administrative Penalties

Superintendent may impose administrative penalties

- 34**
- (1) The superintendent, in accordance with the regulations, may, by giving written notice to a person, impose an administrative penalty on the person if the superintendent is satisfied that the person has
 - (a) contravened a prescribed provision of this Act or the regulations,
 - (b) failed to comply with an order of the superintendent, or
 - (c) failed to comply with a condition or restriction of the person's registration.
 - (2) The maximum amount of an administrative penalty that may be imposed under subsection (1) is \$100 000.
 - (3) The notice under subsection (1) must do the following:
 - (a) specify the provision of this Act, the regulations, the order or the condition or restriction in relation to which the penalty is imposed;
 - (b) specify the amount of the penalty;
 - (c) advise the person of the person's right to be heard respecting the matter;
 - (d) advise the person that, if the person does not, within 30 days or a longer period allowed by the superintendent, request such an opportunity to be heard,
 - (i) the person is deemed to have acknowledged contravening the provision of this Act, or the regulation, order, condition or restriction, and
 - (ii) the administrative penalty becomes due and payable to the Authority.
 - (4) The superintendent must provide the person on whom a penalty is imposed with an opportunity to be heard if this is requested and, following the opportunity, may
 - (a) cancel the administrative penalty, or
 - (b) confirm the administrative penalty, in which case it becomes due and payable to the Authority.

- (5) The amount of an administrative penalty imposed under this section is a debt owing to the Authority and may be recovered as such.
- (6) Money received by the Authority on account of administrative penalties under this section may be expended by the Authority only for the purpose of educating the public, and registrants and other participants in the money services industry in British Columbia, about
 - (a) the operation and regulation of the industry, and
 - (b) issues related to money services and money services businesses.

Division 5 – Court Filing and Publication of Orders

Court filing of superintendent's orders

- 35 (1) If the superintendent considers that a person has failed to comply with an order of the superintendent under Division 3 [*Orders of Superintendent*] of this Part, the superintendent may file a certified copy of the order with the Supreme Court.
- (2) An order filed under subsection (1) has the same force and effect, and all proceedings may be taken on it, as if it were an order of the Supreme Court.

Publication of superintendent's orders

- 36 (1) Subject to the regulations, the superintendent may publish
 - (a) each order made under section 31 (1) [*orders suspending, cancelling or imposing conditions or restrictions on registration*],
 - (b) each order made under section 32 (2) [*orders in urgent circumstances*],
 - (c) each order made under section 33 (2) [*orders to cease provision of money services*],
 - (d) each notice of administrative penalty given under section 34 (1), and
 - (e) each decision made under section 34 (4) to confirm or cancel an administrative penalty.
- (2) The superintendent must provide a copy of an order, notice or decision published under subsection (1) to any person requesting the copy, on payment of the prescribed fee.

Division 6 – Injunctions

Application for injunction

- 37 (1) The superintendent may apply to the Supreme Court for an injunction restraining a person from contravening, or requiring a person to comply with,
 - (a) this Act or the regulations, or
 - (b) an order of the superintendent under this Part.

- (2) The court may grant an injunction sought under subsection (1) if the court is satisfied that there is reason to believe there has been or will be a contravention of this Act, the regulations or an order referred to in that subsection.
- (3) The court may grant an interim injunction until the outcome of an application under subsection (1).

Division 7 – Appeals to Financial Services Tribunal

Appeals

- 38** (1) In this section, “**tribunal**” means the Financial Services Tribunal under the *Financial Institutions Act*.
- (2) Appeals to the tribunal may be made as follows:
- (a) an applicant may appeal a refusal to register the applicant or to amend the applicant’s registration;
 - (b) the person subject to the order may appeal an order of the superintendent under Division 3 [*Orders of Superintendent*] of this Part;
 - (c) the person given notice of the administrative penalty may appeal an administrative penalty imposed by the superintendent under Division 4 [*Administrative Penalties*] of this Part.
- (3) Sections 242.2 [*practice and procedure*] and 242.3 [*judicial review*] of the *Financial Institutions Act* apply in relation to an appeal under this section.

PART 4 – GENERAL

Division 1 – Prohibition Against Providing False or Misleading Information

Prohibition against providing false or misleading information

- 39** A person must not do any of the following:
- (a) submit an application for registration that contains false or misleading information or fails to disclose a material fact;
 - (b) make or allow to be made a false or misleading statement in a record that is required or authorized to be submitted, given, provided or produced under this Act.

Division 2 – Offences

Duty to report commission of offence

- 40** A registrant must immediately notify the superintendent if the registrant has reason to believe that an offence may have been committed under section 41 (1) (a), (b) or (d).

Offences

- 41** (1) A person who does any of the following commits an offence:
- (a) contravenes section 5 *[registration required]*;
 - (b) contravenes section 20 *[restriction on registrant if registration suspended]*;
 - (c) contravenes section 21 *[effects if registration suspended or cancelled]*;
 - (d) represents or holds out that the person is authorized to carry on the business of providing money services when the person is not registered or exempted from the requirement to be registered under this Act;
 - (e) contravenes section 30 *[prohibition against obstructing or interfering with investigation]*;
 - (f) contravenes section 39;
 - (g) fails to comply with an order of the superintendent.
- (2) A person who authorizes, permits or acquiesces in the commission of an offence also commits that offence.
- (3) Section 5 *[offence to contravene any enactment]* of the *Offence Act* does not apply to this Act or the regulations.

Penalties for committing offences

- 42** (1) A corporation that commits an offence under section 41 is liable to a fine of not more than \$200 000.
- (2) An individual who commits an offence under section 41 is liable to a fine of not more than \$200 000, or to imprisonment for not more than 2 years, or to both.

Limitation period for commencing prosecution

- 43** (1) A prosecution under this Act must not commence later than 6 years after the date that the superintendent first had knowledge of the facts on which the prosecution is based.
- (2) A statement by the superintendent as to the date that the superintendent first had knowledge of the facts on which the prosecution is based is admissible in evidence in respect of the prosecution as proof of the facts in the statement without proof of the appointment or signature of the superintendent.

Other remedies preserved

- 44 A proceeding, conviction or penalty for an offence under this Act does not relieve a person from any other liability.

Division 3 – Other Matters

Information sharing and confidentiality

- 45 (1) If a person, in the course of exercising powers and performing duties under this Act, obtains information or records that are submitted in accordance with a request or obligation under this Act or under an agreement referred to in section 46, the person must not disclose the information or records to any person other than
- (a) for the purposes of administering or enforcing this Act or the regulations,
 - (b) for the purposes of administering or enforcing the *Securities Act* or the *Civil Forfeiture Act* or the regulations under those Acts,
 - (c) for the purposes of a proceeding for an offence,
 - (d) as permitted under an agreement referred to in section 46, or
 - (e) for a purpose authorized under the *Freedom of Information and Protection of Privacy Act* or as required by law.
- (2) Except in respect of a proceeding under this Act, a person to whom subsection (1) applies may not be compelled in a civil proceeding to disclose or give evidence respecting any information or records obtained in the course of exercising the person's powers or performing the person's duties under this Act.

Agreements with other jurisdictions

- 46 (1) Subject to the regulations, the Authority and the superintendent may each enter into an agreement with a regulatory authority of another jurisdiction in or outside Canada respecting the administration and enforcement of this Act or of comparable legislation of the other jurisdiction.
- (2) Without limiting subsection (1), an agreement may provide for the provision and exchange of information, including personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*.

Communications privileged

- 47 (1) Subject to subsection (2), all information supplied and all records and things produced to the superintendent with respect to a registrant, a former registrant or an applicant for registration are privileged to the same extent as if they were supplied or produced in proceedings in a court, and no action may be brought against a person as a consequence of the person having supplied or produced them.

- (2) Subsection (1) does not apply to a person who supplied information or produced records or things maliciously.

Giving and receiving documents

- 48** (1) Prescribed documents that are required or authorized to be given under this Act must be given in accordance with the regulations, if any.
- (2) A document given in accordance with subsection (1) is deemed to have been given or received as provided in the regulations.

Opportunities to be heard

- 49** An opportunity to be heard under this Act may be provided by receiving written submissions or conducting an oral hearing, or a combination of both, as specified by the superintendent.

Evidence of registration

- 50** A statement as to whether or not a person is registered, or as to the status of a person's registration, purporting to be certified by the superintendent is proof, in the absence of evidence to the contrary, of the fact so certified, without proof of the signature or official position of the superintendent.

Personal liability protection

- 51** (1) In this section, "**protected individual**" means an individual who is or was any of the following:
- (a) the superintendent;
 - (b) an individual acting on behalf of or under the direction of the superintendent.
- (2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a protected individual because of anything done or omitted
- (a) in the exercise or intended exercise of any power under this Act, or
 - (b) in the performance or intended performance of any duty under this Act.
- (3) Subsection (2) does not apply to a protected individual in relation to anything done or omitted in bad faith.
- (4) Subsection (2) does not absolve the Authority from vicarious liability arising out of anything done or omitted by a protected individual for which the Authority would be vicariously liable if this section were not in force.

Regulations

- 52** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act, including regulations as follows:
- (a) defining a word or expression used but not defined in this Act;
 - (b) providing for exemptions for the purposes of section 2 (2) [*meaning of corporate interest holder*] and prescribing circumstances in which the exemptions apply;
 - (c) for the purposes of section 2 (2) (a) (iii) or (b) (ii), respecting the meaning of “indirect control”, including regulations establishing criteria or circumstances that are based on the ownership of shares, even though the ownership of the shares does not result in control;
 - (d) exempting persons from the requirement to be registered under Part 2 [*Registration*] and
 - (i) establishing restrictions and conditions in relation to an exemption, and
 - (ii) prescribing circumstances in which an exemption applies;
 - (e) exempting persons from one or more provisions of this Act and
 - (i) establishing restrictions and conditions in relation to an exemption, and
 - (ii) prescribing circumstances in which an exemption applies;
 - (f) exempting one or more money services from the application of one or more provisions of this Act and prescribing circumstances in which an exemption applies;
 - (g) conferring additional powers and imposing additional duties and restrictions on the superintendent;
 - (h) establishing conditions and restrictions that apply to all registrations or to all registrations in a specified class of registration;
 - (i) providing for the temporary registration under section 14 [*temporary registration*] of personal representatives of deceased registrants, including regulations conferring discretion to establish conditions and restrictions applicable to a specific temporary registration;
 - (j) for the purposes of section 23 (7) [*duty to report changes*], prescribing the period within which a notice under section 23 (1) (a), (c), (d) or (e) must be given to the superintendent;

- (k) for the purposes of section 24 (2) *[additional reporting requirements]*, specifying the content that must be included in a report, which may include, without limitation, information respecting the following:
 - (i) the types of money services provided by the registrant;
 - (ii) the dollar value of money services provided by the registrant over a specified period;
 - (iii) the number of transactions carried out by the registrant over a specified period;
 - (iv) the agents who carry out transactions on behalf of the registrant;
 - (v) the bank accounts held by the registrant;
 - (vi) the jurisdictions in which the registrant carries out transactions;
- (l) for the purposes of section 24 (3), specifying information that must be provided to the superintendent, which may include, without limitation, information respecting the following:
 - (i) business practices;
 - (ii) the average or gross dollar value of money services transactions;
 - (iii) the jurisdictions in which specified money services transactions are carried out;
- (m) respecting fees to be paid by an applicant or registrant in relation to registration, renewal, amendment or reinstatement of registration, which fees may be different
 - (i) for different classes of applicants or registrants,
 - (ii) according to the number of addresses at or from which the applicant's or registrant's business is conducted,
 - (iii) according to the number of money services transactions carried out, or an estimated number of money services transactions to be carried out, by the applicant or registrant during a specified period,
 - (iv) according to the gross or average dollar value of money services transactions carried out, or an estimated gross or average dollar value of money services transactions to be carried out, by the applicant or registrant during a specified period, and
 - (v) according to the number of agents or persons who are associates of the applicant or registrant;
- (n) respecting fees to be paid by registrants in relation to the amendment of the register, which fees may be different for different amendments and different classes of registrants;
- (o) establishing penalties and interest charges to be paid on the late payment of a fee referred to in paragraph (m) or (n) or of any other amount due to the Authority;

- (p) prescribing provisions of this Act and the regulations in relation to the contravention of which an administrative penalty may be imposed;
 - (q) prescribing a schedule of administrative penalties for the purposes of section 34 (1) [*superintendent may impose administrative penalties*];
 - (r) prescribing matters that must be considered by the superintendent in establishing the amount of an administrative penalty;
 - (s) for the purposes of section 48 [*giving and receiving documents*], respecting
 - (i) the manner in which documents must or may be given, and
 - (ii) prescribing when documents given are deemed to have been given or received;
 - (t) respecting any other matter for which regulations of the Lieutenant Governor in Council are contemplated by this Act.
- (3) Regulations under this section may be different for different classes of persons, registrations, money services and circumstances and may establish classes for that purpose.

PART 5 – TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AND RELATED AMENDMENTS

Transitional Provisions

Transition – provision of money services

- 53**
- (1) In this section, “**transition period**” means the period that
 - (a) begins on the date this section comes into force, and
 - (b) ends on the prescribed date.
 - (2) Despite section 5 [*registration required*], a person who, on the date this section comes into force, is carrying on the business of providing money services may continue to carry on that business if, during the transition period, the person applies for registration under section 10 [*how to make application*].
 - (3) Subsection (2) applies in relation to a person until the superintendent gives the person written notice of the superintendent’s decision respecting the person’s application for registration.

**Transition – repeal of amendments that
may become inoperative**

- 54** The Lieutenant Governor in Council may, by regulation, repeal any of the following provisions of this Act:
- (a) section 55;
 - (b) section 56;
 - (c) section 58;
 - (d) section 59;
 - (e) section 64;
 - (f) section 65.

Consequential and Related Amendments

Credit Union Incorporation Act

- 55** *Section 84.12 of the Credit Union Incorporation Act, R.S.B.C. 1996, c. 82, is amended*

(a) by repealing subsection (1) (f) and substituting the following:

- (f) subject to subsection (1.1), a person
 - (i) whose registration in any capacity has been cancelled under the *Securities Act* by the British Columbia Securities Commission or the executive director,
 - (ii) whose registration in any capacity has been cancelled under the *Mortgage Brokers Act* by the Commercial Appeals Commission, the Financial Services Tribunal or the registrar under that Act, or
 - (iii) whose registration has been cancelled under the *Money Services Businesses Act* by the Superintendent of Money Services Businesses. ,

(b) by adding the following subsection:

- (1.1) Subsection (1) (f) does not apply in any of the following circumstances:
 - (a) the person or body that cancelled the registration makes an order to that effect at the time of cancellation;
 - (b) the cancellation is reversed;
 - (c) 5 years have elapsed since the cancellation. , ***and***

- (c) in subsection (2) by striking out “subsection (1) (e) and (f)” and substituting “subsection (1) (e) or (1.1) (a)”.***

- 56 ***Section 84.12 (1) (f) is amended by striking out “or” at the end of subparagraph (i), by adding “, or” at the end of subparagraph (ii) and by adding the following subparagraph:***

(iii) whose registration has been cancelled under the *Money Services Businesses Act* by the Superintendent of Money Services Businesses.

Financial Institutions Act

- 57 ***Section 1 (1) of the Financial Institutions Act, R.S.B.C. 1996, c. 141, is amended in the definition of “financial services” by adding “money services, and” after “trading in securities,”.***

- 58 ***Section 97 is amended***

(a) by repealing subsection (5) and substituting the following:

(5) Subject to subsection (5.1) and without limiting section 124 of the *Business Corporations Act*, an individual is not qualified to become or act as a director of a trust company or an insurance company if

- (a) the individual’s registration in any capacity has been cancelled under the *Securities Act* by the British Columbia Securities Commission or the executive director,
- (b) the individual’s registration in any capacity has been cancelled under the *Mortgage Brokers Act* by the Commercial Appeals Commission, the Financial Services Tribunal or the registrar under that Act, or
- (c) the individual’s registration has been cancelled under the *Money Services Businesses Act* by the Superintendent of Money Services Businesses.

(5.1) Subsection (5) does not apply in any of the following circumstances:

- (a) the person or body that cancelled the registration makes an order to that effect at the time of cancellation;
- (b) the cancellation is reversed;
- (c) 5 years have elapsed since the cancellation. , ***and***

(b) in subsection (6) by striking out “subsection (5) of this section” and substituting “subsection (5.1) (a)”.

- 59 ***Section 97 (5) is amended by striking out “or” at the end of paragraph (a), by adding “, or” at the end of paragraph (b) and by adding the following paragraph:***

(c) the individual’s registration has been cancelled under the *Money Services Businesses Act* by the Superintendent of Money Services Businesses.

Financial Services Authority Act

60 *Section 4 of the Financial Services Authority Act, S.B.C. 2019, c. 14, is amended by adding the following paragraph:*

(e.1) *Money Services Businesses Act*; .

61 *Section 8 (5) (d) is amended by adding “, the Superintendent of Money Services Businesses” before “and the Superintendent of Real Estate”.*

62 *Section 10 is amended by adding the following paragraph:*

(e) the Superintendent of Money Services Businesses appointed under section 3 of the *Money Services Businesses Act*.

63 *Section 12 is amended*

(a) in subsection (2) by striking out “subsections (3) to (5.2)” and substituting “subsections (3) to (5.3)”, and

(b) by adding the following subsection:

(5.3) Money received by the Authority under section 34 [*superintendent may impose administrative penalties*] of the *Money Services Businesses Act* may be expended only for the purpose referred to in section 34 (6) of that Act.

Mortgage Services Act

64 *Section 87 of the Mortgage Services Act, S.B.C. 2022, c. 27, is repealed and the following substituted:*

87 *Section 84.12 of the Credit Union Incorporation Act, R.S.B.C. 1996, c. 82, is amended*

(a) in subsection (1) (f) by repealing subparagraph (ii) and substituting the following:

(ii) whose licence under the *Mortgage Services Act* has been cancelled by the Superintendent of Mortgage Services, or , ***and***

(b) in subsection (1.1) (a) by adding “or the licence” after “the registration”.

65 *Section 89 is repealed and the following substituted:*

89 *Section 97 is amended*

(a) in subsection (5) by repealing paragraph (b) and substituting the following:

*(b) the individual's licence under the *Mortgage Services Act* has been cancelled by the Superintendent of Mortgage Services, or , and*

(b) in subsection (5.1) (a) by adding "or the licence" after "the registration".

Commencement

66 This Act comes into force by regulation of the Lieutenant Governor in Council.