

2012

CHAPTER F-13.5

An Act respecting the Financial and Consumer Affairs Authority of Saskatchewan and making consequential amendments to other Acts

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(Assented to May 16, 2012)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART I
Preliminary Matters

Short title

1 This Act may be cited as *The Financial and Consumer Affairs Authority of Saskatchewan Act*.

Interpretation

2 In this Act:

- (a) **“authority”** means the Financial and Consumer Affairs Authority of Saskatchewan continued pursuant to section 3;
- (b) **“board”** means the board of directors of the authority established pursuant to section 9;
- (c) **“commission”** means the Saskatchewan Financial Services Commission established pursuant to *The Saskatchewan Financial Services Commission Act* as that Act existed on the day before the coming into force of this Act;
- (d) **“consumer protection legislation”** means:
 - (i) *The Auctioneers Act*;
 - (ii) *The Cemeteries Act, 1999*;
 - (iii) *The Charitable Fund-raising Businesses Act*;
 - (iv) *The Collection Agents Act*;
 - (v) *The Consumer and Commercial Affairs Act*;
 - (vi) *The Consumer Protection Act*;
 - (vii) *The Cost of Credit Disclosure Act, 2002*;
 - (viii) *The Credit Reporting Act*;
 - (ix) *The Direct Sellers Act*;
 - (x) *The Film and Video Classification Act*;
 - (xi) *The Funeral and Cremation Services Act*;
 - (xii) *The Motor Dealers Act*;
 - (xiii) *The Sale of Goods Act*;

- (xiv) *The Ticket Sales Act*;
 - (xv) any other Act or part of any other Act relating to consumer protection that is designated in the regulations; or
 - (xvi) any regulations made pursuant to the Acts mentioned in subclauses (i) to (xv), unless any part of those regulations is, by regulation, excluded from this definition;
- (e) **“consumer protection regulator”** means:
- (i) the registrar designated pursuant to *The Auctioneers Act*;
 - (ii) the registrar appointed pursuant to *The Cemeteries Act, 1999*;
 - (iii) the registrar of charities appointed pursuant to *The Charitable Fund-raising Businesses Act*;
 - (iv) the registrar designated pursuant to *The Collection Agents Act*;
 - (v) the director appointed pursuant to *The Consumer Protection Act*;
 - (vi) the registrar appointed pursuant to *The Credit Reporting Act*;
 - (vii) the registrar appointed pursuant to *The Direct Sellers Act*;
 - (viii) the Saskatchewan Film Classification Board;
 - (ix) the appeal committee appointed pursuant to *The Film and Video Classification Act*;
 - (x) the Superintendent of Funeral and Cremation Services;
 - (xi) the registrar designated pursuant to *The Motor Dealers Act*; or
 - (xii) any other person who or authority or body that:
 - (A) is given responsibilities or powers pursuant to consumer protection legislation; and
 - (B) is designated in the regulations;
- (f) **“executive director”** means the executive director of the authority appointed pursuant to section 13 and includes any director of the authority appointed pursuant to that section;
- (g) **“financial services”** means doing any or all of the following things:
- (i) carrying on business as a credit union;
 - (ii) carrying on business as a mortgage brokerage or mortgage administrator, or brokering mortgages on behalf of a mortgage brokerage;
 - (iii) administering pension plans;
 - (iv) investing and dealing with pension funds;
 - (v) selling or providing insurance or related services;

- (vi) carrying on business as a payday lender;
 - (vii) trading in or advising with respect to securities;
 - (viii) lending money;
 - (ix) dealing in or purchasing:
 - (A) mortgages on real property;
 - (B) security interests within the meaning of *The Personal Property Security Act, 1993*; or
 - (C) accounts receivable;
 - (x) trading in real estate;
 - (xi) acting as an investment fund manager;
 - (xii) carrying out any similar activity that is designated in the regulations;
- (h) **“financial services legislation”** means:
- (i) Part XIX of *The Co-operatives Act, 1996*;
 - (ii) *The Credit Union Act, 1985*;
 - (iii) *The Credit Union Act, 1998*;
 - (iv) *The Mortgage Brokerages and Mortgage Administrators Act*;
 - (v) Part XXII of *The New Generation Co-operatives Act*;
 - (vi) *The Payday Loans Act*;
 - (vii) *The Pension Benefits Act, 1992*;
 - (viii) *The Real Estate Act*;
 - (ix) *The Saskatchewan Insurance Act*;
 - (x) *The Securities Act, 1988*;
 - (xi) *The Trust and Loan Corporations Act, 1997*;
 - (xii) any other Act or part of any other Act designated in the regulations that:
 - (A) regulates financial services; or
 - (B) regulates any persons who, or associations or groups of persons that, provide financial services; or
 - (xiii) any regulations made pursuant to the Acts mentioned in subclauses (i) to (xii) unless any part of those regulations is, by regulation, excluded from this definition;

- (i) **“financial services regulator”** means:
- (i) the Registrar of Credit Unions;
 - (ii) the Superintendent of Insurance;
 - (iii) the superintendent of pensions;
 - (iv) the director appointed pursuant to *The Payday Loans Act*;
 - (v) the superintendent of real estate;
 - (vi) the Saskatchewan Superintendent of Financial Institutions; or
 - (vii) any other person who, or authority or body that:
 - (A) is given responsibilities or powers pursuant to financial services legislation; and
 - (B) is designated in the regulations;
- (j) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (k) **“panel”** means a panel of the authority appointed pursuant to section 17.

PART II Authority

DIVISION 1 Authority Continued

Authority

- 3(1) The commission is continued as the Financial and Consumer Affairs Authority of Saskatchewan.
- (2) The authority is a corporation.
- (3) The authority is a Treasury Board Crown corporation within the meaning of *The Crown Corporations Act, 1993*.
- (4) The head office of the authority is to be in Regina.
- (5) The authority is to have a common seal.

Membership

- 4(1) The authority consists of:
- (a) those persons appointed by the Lieutenant Governor in Council; and
 - (b) one person appointed by the minister.
- (2) Each member of the authority, other than the member appointed pursuant to clause (1)(b), holds office at pleasure for a term not to exceed three years and until a successor is appointed.
- (3) A member of the authority may be reappointed for a second or subsequent term.

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- (4) If a member of the authority dies or resigns, the person ceases to be a member of the authority on the date of death or on the date on which a written resignation is received by the authority, as the case may be.
- (5) If the office of a member of the authority appointed pursuant to clause (1)(a) becomes vacant, the Lieutenant Governor in Council may:
- (a) appoint another person for the remainder of the term of the person who vacated the office; or
 - (b) appoint another person for the term mentioned in subsection (2).
- (6) If the office of the member appointed pursuant to clause (1)(b) becomes vacant, the minister may appoint another person to fill the vacancy.
- (7) A vacancy in the office of a member of the authority does not impair the power of the remaining members of the authority to act.
- (8) The member of the authority appointed pursuant to clause (1)(b) is not eligible to be appointed to serve on a panel or to otherwise participate in hearing any matter that the authority is authorized or required to hear pursuant to this Act, the regulations or any financial services legislation.

Responsibilities of authority

5(1) The authority is responsible to the minister:

- (a) in the exercise of the powers conferred on the authority and in the performance of the duties imposed on the authority for the purpose of administering and enforcing this Act, consumer protection legislation, financial services legislation and any other Act that imposes or confers a duty, power or function on a consumer protection regulator or a financial services regulator; and
 - (b) in carrying out and providing the structure for the administration and enforcement of this Act, consumer protection legislation, financial services legislation and any other Act that imposes or confers a duty, power or function on a consumer protection regulator or a financial services regulator.
- (2) The authority may undertake any other activities or functions assigned to it by the Lieutenant Governor in Council.

Crown agent

6(1) The authority is an agent of the Crown, and all its powers may be exercised only as an agent of the Crown.

- (2) All property of the authority, all moneys acquired, administered, possessed or received from any source and all profits earned by the authority are the property of the Crown and are, for all purposes including taxation of whatever nature and description, deemed to be the property of the Crown.

Capacity to contract

7(1) The authority has the capacity to contract and to sue and be sued in its corporate name with respect to any right or obligation acquired or incurred by it on behalf of the Crown as if the right or obligation were acquired or incurred on its own behalf.

(2) The authority, on behalf of the Crown, may contract in its corporate name without specific reference to the Crown.

Liability in tort

8 The authority may:

- (a) sue with respect to any tort; and
- (b) be sued with respect to liabilities in tort to the extent to which the Crown is subject pursuant to *The Proceedings against the Crown Act*.

DIVISION 2
Organization of Authority

Board of directors

9(1) The board of directors for the authority is established consisting of those persons appointed pursuant to subsection 4(1).

(2) The board shall manage the affairs and business of the authority.

(3) The Lieutenant Governor in Council shall fix the remuneration for members of the board.

(4) Members of the board are entitled to be reimbursed for travel and incidental living expenses incurred in the performance of their responsibilities as members at rates that may be approved for members of the public service of Saskatchewan.

(5) A vacancy in the office of a member does not impair the powers of the remaining members of the board to act.

Chairperson

10(1) The Lieutenant Governor in Council shall designate one member of the board as chairperson of the board and another member of the board as vice-chairperson.

(2) The chairperson shall perform the responsibilities imposed on, and may exercise the powers given to, the chairperson by this Act or the regulations.

(3) If the chairperson is absent or unable to act for any reason or if the position of chairperson is vacant, the vice-chairperson shall act as chairperson and, while so acting, shall perform all the responsibilities imposed on, and may exercise all the powers given to, the chairperson.

(4) If, in the circumstances mentioned in subsection (3), the vice-chairperson is absent or unable to act for any reason or if the position of vice-chairperson is vacant, another member of the board designated by resolution of the board is to act as chairperson and, while so acting, shall perform all the responsibilities imposed on, and may exercise all the powers given to, the chairperson.

When chairperson or other member of authority may act for authority

- 11(1) Subject to the regulations, the chairperson shall perform the responsibilities imposed on, and may exercise the powers given to, the authority by this Act, the regulations, any financial services legislation and any consumer protection legislation.
- (2) Subject to the regulations, the vice-chairperson or any member of the authority shall perform the responsibilities and may exercise the powers that are:
- (a) imposed on or given to the authority by this Act, the regulations, any financial services legislation and any consumer protection legislation; and
 - (b) delegated to the vice-chairperson or member, as the case may be, by the authority.
- (3) The chairperson or any other member of the authority may sign on behalf of the authority all orders of the authority or other documents required to be signed by the authority, and all orders or documents so signed are admissible in evidence without proof of the office or signature of the person purporting to have signed the order or document.

Meetings

- 12(1) The authority may:
- (a) subject to subsection (2), meet at those times and at those places that the chairperson may designate; and
 - (b) conduct its proceedings in any manner that it considers convenient.
- (2) On receipt of the written request of any two members of the authority, the chairperson shall call a meeting of the authority.

DIVISION 3
Executive Director and Employees

Executive director and other employees of authority

- 13(1) An executive director for the authority must be appointed.
- (2) Subject to the approval of the Lieutenant Governor in Council, the authority may appoint the executive director.
- (3) Notwithstanding *The Public Service Act, 1998*, the authority may:
- (a) appoint any directors, deputy directors and other employees required to conduct the business of the authority; and
 - (b) determine the respective duties and powers, the conditions of employment and the remuneration of those directors, deputy directors and employees.
- (4) The executive director shall perform the responsibilities and may exercise the powers that:
- (a) are imposed on or assigned to the executive director by this Act, the regulations, any financial services legislation or any consumer protection legislation;

(b) subject to subsection (6), are imposed on or assigned to the authority by this Act, the regulations, any financial services legislation or any consumer protection legislation and that are delegated to the executive director by the authority; or

(c) are imposed on or assigned to the authority and that are assigned to the executive director by the regulations.

(5) The executive director may delegate to any director or deputy director any responsibility or power that is imposed on, assigned to or delegated to the executive director pursuant to subsection (4).

(6) The authority may not delegate to the executive director any of the following responsibilities if the authority is required to perform those responsibilities pursuant to this Act, the regulations, any financial services legislation or any consumer protection legislation:

(a) the responsibility to hear any matter on appeal from a decision of the executive director, a director or a deputy director;

(b) the responsibility to order an investigation of any matter pursuant to section 25 or subsection 27(2);

(c) the responsibility to report to the Lieutenant Governor in Council or the minister.

Remuneration, superannuation and benefits

14(1) The authority shall pay the employees of the authority any remuneration determined pursuant to clause 13(3)(b).

(2) *The Public Service Superannuation Act, The Superannuation (Supplementary Provisions) Act* and *The Public Employees Pension Plan Act* apply, with any necessary modification, to the employees of the authority.

(3) The authority may establish or provide for the following for the benefit of the employees of the authority and the dependants of those employees:

(a) a group insurance program;

(b) any other employee benefit program.

PART III

Financial Services Legislation

Responsibilities of authority re financial services

15(1) The authority is responsible for the following:

(a) co-ordinating financial services regulators;

(b) providing for the administration, coordination, development, promotion, implementation and enforcement of policies related to financial services;

(c) providing for the development of policies to regulate financial services and any persons who, or associations or groups of persons that, provide financial services;

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- (d) performing any responsibilities of a financial services regulator pursuant to any financial services legislation that are assigned to the authority by the regulations;
 - (e) administering *The Securities Act, 1988*;
 - (f) performing responsibilities assigned to it pursuant to *The Co-operatives Act, 1996*, *The Credit Union Act, 1998* and *The New Generation Co-operatives Act*;
 - (g) performing any other responsibilities that are assigned to the authority by the regulations.
- (2) If the authority has been assigned any responsibilities of a financial services regulator, the financial services regulator ceases to be under a duty to perform that responsibility.
- (3) If requested to do so, the authority shall report to the minister respecting any matter that the minister has inquired about within the time set by the minister.

Powers of authority re financial services and general matters**16(1)** The authority may:

- (a) exercise any of the powers of a financial services regulator pursuant to any financial services legislation that are assigned to the authority by the regulations;
 - (b) exercise any powers given to the authority by this Act or the regulations;
 - (c) exercise the powers given to the authority by *The Securities Act, 1988*;
 - (d) exercise the powers given to the authority by *The Co-operatives Act, 1996*, *The Credit Union Act, 1998* and *The New Generation Co-operatives Act*;
 - (e) subject to subsection (2), make grants to any person, agency, organization, association, institution or body, on any terms and conditions that the authority considers appropriate, for any purpose relating to its responsibilities for financial services; and
 - (f) do any other thing that it considers necessary, incidental or conducive to carry out its responsibilities.
- (2) The authority shall obtain the approval of the Lieutenant Governor in Council before making any grant pursuant to clause (1)(e) in any fiscal year of the authority that is greater than \$50,000.
- (3) If the authority has been assigned any powers of a financial services regulator:
- (a) the financial services regulator shall cease exercising that power; and
 - (b) in the case of any conflict between a decision, order or direction issued by the authority and a decision, order or direction issued by a financial services regulator, the decision, order or direction of the authority prevails.

(4) Without limiting the powers of the authority that may be given to it by this Act, the regulations or financial services legislation, if the authority undertakes an inquiry, the authority:

- (a) has the powers of a commissioner pursuant to *The Public Inquiries Act*;
- (b) may receive and accept any evidence and information under oath or declaration, by affidavit or by any other means that the authority considers proper; and
- (c) may engage the services of any experts that the authority considers necessary and advisable to assist it in conducting the inquiry.

(5) If a consumer protection regulator, a financial services regulator or the authority considers it appropriate or necessary, a consumer protection regulator, a financial services regulator or the authority may:

- (a) waive, in whole or in part, the payment of any fee, tax, rate or other charge imposed pursuant to this Act, consumer protection legislation or financial services legislation; or
- (b) refund, in whole or in part, the amount of any fee, tax, rate or other charge imposed pursuant to this Act, consumer protection legislation or financial services legislation.

(6) All revenues derived from fees, taxes, rates and other charges imposed or collected pursuant to this Act, consumer protection legislation or financial services legislation are to be paid to and are the property of the authority, unless the Lieutenant Governor in Council directs that all or any of the revenues be paid to the general revenue fund.

Panels

17(1) The minister may, by order, establish a list of persons to serve on a panel appointed pursuant to this section.

(2) If the authority considers it advisable, the chairperson may appoint a panel to hear any matter that the authority is authorized or required to hear pursuant to this Act, the regulations or any financial services legislation.

(3) If the authority appoints a panel, the authority:

- (a) shall appoint at least one of its members to the panel; and
- (b) may appoint one or more persons from the list established pursuant to subsection (1) to the panel.

(4) The chairperson of the authority shall designate a member of the authority who is appointed to a panel to act as the chairperson for that panel, and while so acting that member shall perform all of the responsibilities and may exercise any of the powers of the chairperson of the authority with respect to that panel.

(5) A panel may not sit concurrently with the authority, but any number of panels may sit concurrently.

- (6) A majority of members of a panel constitute a quorum of the panel.
- (7) A decision or action of a panel in relation to any matter for which the panel is appointed is the decision or action of the authority.
- (8) The chairperson of a panel is entitled to vote on all matters before the panel.

References to Securities Commission or commission

18(1) A reference in any Act, regulation, order, contract, legal process, proceeding or other document to the Saskatchewan Securities Commission or the commission is deemed to be a reference to the authority.

(2) A reference in any Act, regulation, order, contract, legal process, proceeding or other document to a deputy within the meaning of *The Saskatchewan Financial Services Commission Act*, as that Act read before the coming into force of this Act, is deemed to be a reference to a director appointed pursuant to section 13.

PART IV
Consumer Protection

Responsibilities of authority respecting consumer protection

19(1) The authority is responsible for the following:

- (a) co-ordinating consumer protection regulators;
 - (b) providing for the administration, co-ordination, development, promotion, implementation and enforcement of programs and policies related to consumer protection;
 - (c) providing for the administration, co-ordination, development, promotion, implementation and enforcement of programs and policies related to consumer protection legislation;
 - (d) performing any responsibilities of a consumer protection regulator pursuant to any consumer protection legislation that are assigned to the authority by the regulations;
 - (e) performing any other responsibilities respecting consumer protection that are assigned to the authority by the regulations.
- (2) If the authority has been assigned any responsibilities of a consumer protection regulator, the consumer protection regulator ceases to be under a duty to perform that responsibility.

Powers of authority respecting consumer protection

20(1) Subject to the regulations, the authority may exercise any of the powers of a consumer protection regulator pursuant to any consumer protection legislation that are assigned to the authority by the regulations.

(2) Subject to subsection (3), the authority may make grants to any person, agency, organization, association, institution or body, on any terms and conditions that the authority considers appropriate, for any purpose relating to its responsibilities for consumer protection.

- (3) The authority shall obtain the approval of the Lieutenant Governor in Council before making any grant pursuant to subsection (2) in any fiscal year of the authority that is greater than \$50,000.
- (4) If the authority has been assigned any powers of a consumer protection regulator:
- (a) the consumer protection regulator shall cease exercising that power; and
 - (b) in the case of any conflict between a decision, order or direction issued by the authority and a decision, order or direction issued by a consumer protection regulator, the decision, order or direction of the authority prevails.
- (5) The authority may exercise any powers pursuant to:
- (a) consumer protection legislation; and
 - (b) this Act or the regulations.
- (6) Without limiting the powers of the authority that may be given to it by this Act, the regulations or consumer protection legislation, if the authority undertakes an inquiry, the authority:
- (a) has the powers of a commissioner pursuant to *The Public Inquiries Act*;
 - (b) may receive and accept any evidence and information under oath or declaration, by affidavit or by any other means that the authority considers proper; and
 - (c) may engage the services of any experts that the authority considers necessary and advisable to assist it in conducting the inquiry.

PART V General Powers and Matters

Evidence

21 The authority may:

- (a) authorize any person to obtain evidence outside Saskatchewan for the purposes of this Act, the regulations, any financial services legislation or any consumer protection legislation; and
- (b) for the purpose of obtaining evidence, make any order it considers proper for the return and use of the evidence so obtained.

Joint hearings and consultations

22 The authority may:

- (a) hold hearings in conjunction with any other body empowered by a statute of Canada or of any province or territory of Canada to administer or regulate financial services or consumer protection; and
- (b) consult with that other body in arriving at its decisions.

Rules respecting hearings

23 The authority may make rules:

- (a) governing the management and conduct of its business and the conduct of the meetings, investigations, inquiries and any other proceedings of the authority and its panels;
- (b) if authorized by the regulations and subject to any terms and conditions prescribed in the regulations, governing the management and conduct of hearings before the authority and its panels; and
- (c) respecting forms, applications and other documents required to be used and the procedures to be followed in the conduct of its affairs.

Inquiries and reports

24(1) The authority may authorize or direct any one of the members of the authority or may appoint any other person to inquire into and report on behalf of the authority on any question or matter before the authority or over which it has jurisdiction pursuant to this Act, the regulations, any financial services legislation or any consumer protection legislation.

(2) A member or person mentioned in subsection (1), when authorized or directed by the authority, has all the powers of the authority for taking evidence, acquiring the necessary information and otherwise conducting an inquiry.

(3) A report of a member or a person mentioned in subsection (1) may:

- (a) by the direction of the authority, be made or presented to any party to a hearing before the authority, who may examine the report or the person making the report;
- (b) be adopted as the decision and order of the authority; or
- (c) be otherwise dealt with as the authority considers advisable.

(4) The authority is not limited to considering the contents of any report mentioned in subsection (3) and may require and hear further evidence.

Investigations

25(1) The authority may appoint any person to make any investigations that it considers necessary respecting any or all of the following:

- (a) any matter related to the administration of this Act or the regulations;
- (b) any matter related to the responsibilities of the authority for financial services;
- (c) any matter related to the administration of any legislation of another jurisdiction that governs financial services;
- (d) any matter related to the responsibilities of the authority for consumer protection;
- (e) any matter related to the administration of any legislation of another jurisdiction that governs consumer protection.

(2) The authority shall prescribe the scope of an investigation to be carried out pursuant to this section.

(3) Without limiting the powers of the person appointed to make an investigation pursuant to this section, that person, for the purposes of the investigation:

- (a) has the powers of a commissioner pursuant to *The Public Inquiries Act*;
- (b) may receive and accept any evidence and information under oath or declaration, by affidavit or by any other means that the person considers proper; and
- (c) may engage the services of any experts that the person considers necessary and advisable to assist him or her in conducting the investigation.

Decisions, quorum

26(1) A decision or action of a majority of the members of the authority or panel present and constituting a quorum is a decision or action of the authority or panel.

(2) In the case of a tie vote, the vote is deemed to be a negative vote and, if the vote is with respect to a matter on appeal, the appeal is deemed to be lost.

(3) A majority of members of the authority constitute a quorum of the authority.

When the authority may act

27(1) The authority may, on its own motion, and shall, at the direction of the Lieutenant Governor in Council, inquire into, hear and determine any matter or thing that it is responsible to inquire into, hear and determine.

(2) In addition to any responsibilities imposed on it by this Act, the regulations, any financial services legislation or any consumer protection legislation, the authority shall:

- (a) conduct any investigations and make any reports that the Lieutenant Governor in Council or the minister may direct; and
- (b) perform any responsibilities that may be assigned to it by the Lieutenant Governor in Council or the minister.

Conflict of interest

28 The authority, every member of the authority, the executive director, every employee of the authority, every member of a panel, every person appointed to make an inquiry and report pursuant to section 24 and every person appointed to make an investigation pursuant to section 25 shall comply with any provisions respecting conflict of interest that are prescribed in the regulations.

Non-compellability

29 Subject to section 30, a member of the authority, the executive director, any employee of the authority, a person authorized pursuant to section 21 to obtain evidence, a member of a panel, a person appointed to make an inquiry and report pursuant to section 24 and a person appointed to make an investigation pursuant to section 25 are not compellable to give evidence in any court or in a proceeding of a judicial nature concerning any information that comes to the knowledge of that person in the exercise of the powers, the performance of the responsibilities or the carrying out of the functions of that person pursuant to this Act, the regulations, any financial services legislation or any consumer protection legislation.

Disclosure

30(1) Notwithstanding section 29, if the authority considers it in the public interest to do so, the authority may authorize the disclosure of any information, testimony, record, document or thing obtained pursuant to this Act, the regulations, any financial services legislation or any consumer protection legislation subject to those terms and conditions that the authority may impose.

(2) Notwithstanding subsection (1) and *The Freedom of Information and Protection of Privacy Act* but subject to the regulations, if the authority considers it necessary for the purposes of this Act, the authority may provide personal information within the meaning of *The Freedom of Information and Protection of Privacy Act* to:

- (a) a securities authority, financial services regulatory authority, consumer protection regulatory authority, law enforcement agency or other governmental or regulatory authority inside or outside Canada;
- (b) an exchange or self-regulatory organization; or
- (c) a person acting on behalf of or providing services to any of the persons or bodies mentioned in clauses (a) and (b).

Immunity

31 No action or proceeding lies or shall be commenced against the minister, the authority, the board, any member of the authority, any member of the board, the executive director, any employee of the authority, a person authorized pursuant to section 21 to obtain evidence, a member of a panel, any person appointed to make an inquiry and report pursuant to section 24 or any person appointed to make an investigation pursuant to section 25, where that person is acting pursuant to the authority of this Act, the regulations, any financial services legislation or any consumer protection legislation, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power given by this Act, the regulations, any financial services legislation or any consumer protection legislation or in the carrying out or supposed carrying out of any order made pursuant to this Act, the regulations, any financial services legislation or any consumer protection legislation or any responsibility imposed by this Act, the regulations, any financial services legislation or any consumer protection legislation.

PART VI

Financial Matters and Regulations**Borrowing powers of Minister of Finance**

32(1) The Minister of Finance may advance moneys to the authority out of the general revenue fund for the purposes of the authority in the amounts, at the times, and on the terms and conditions that the Lieutenant Governor in Council may determine.

(2) In order to provide the moneys mentioned in subsection (1), the Lieutenant Governor in Council may authorize the Minister of Finance to borrow on the credit of the Government of Saskatchewan in accordance with *The Financial Administration Act, 1993*.

Temporary borrowing

33(1) Subject to the approval of the Lieutenant Governor in Council, the authority may borrow, by way of temporary loans from any bank, credit union or person, any moneys, on any terms and conditions and for any purpose that the authority may determine:

- (a) by way of bank overdraft or line of credit; or
- (b) in any other manner that the authority may determine.

(2) The authority may execute any cheques, promissory notes or other instruments that may be necessary or desirable in connection with the borrowing of moneys and the obtaining of advances by way of temporary loans pursuant to subsection (1) in any manner that the authority may determine.

Investments

34(1) The authority may, from time to time:

- (a) invest any part of its capital or operating moneys in any security or class of securities that is authorized for the investment of moneys in the general revenue fund pursuant to *The Financial Administration Act, 1993*; and
- (b) dispose of the investments in any manner, on any terms and in any amount that the authority considers expedient.

(2) The Lieutenant Governor in Council may appoint the Minister of Finance or any other person to be the agent of the authority for the purposes of making investments pursuant to subsection (1) or disposing of those investments.

(3) The Minister of Finance or other person appointed pursuant to subsection (2) may arrange all details and do, transact and execute all those deeds, matters and things that may be required for the purpose of making investments or disposing of investments pursuant to this section.

Treasury Board orders and directives

35(1) The authority is subject to any orders made and any directives issued by Treasury Board pursuant to *The Financial Administration Act, 1993*.

(2) Treasury Board may, at any time, direct that all or any portion of the assets of the authority be transferred to the general revenue fund.

(3) The authority shall pay to the Minister of Finance, on the requisition of Treasury Board, the moneys directed to be transferred pursuant to subsection (2).

Fiscal year

36 The fiscal year of the authority is the period commencing on April 1 in one year and ending on March 31 in the following year.

Audit

37 The Provincial Auditor or any other auditor or firm of auditors that the Lieutenant Governor in Council may appoint shall audit the accounts and financial statements of the authority:

- (a) annually; and
- (b) at any other times that the Lieutenant Governor in Council may require.

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Annual report

38(1) In each fiscal year, the authority shall, in accordance with *The Tabling of Documents Act, 1991*, submit to the minister:

- (a) a report on the activities of the authority for the preceding fiscal year; and
- (b) a financial statement showing the business of the authority for the preceding fiscal year, in any form that Treasury Board may require.

(2) The minister shall, in accordance with *The Tabling of Documents Act, 1991*, lay before the Legislative Assembly each report received by the minister pursuant to this section.

Regulations

39 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) designating Acts, parts of Acts, regulations or parts of regulations as consumer protection legislation;
- (c) for the purposes of subclause 2(e)(xii), designating a person as a consumer protection regulator;
- (d) assigning responsibilities and powers of a consumer protection regulator pursuant to consumer protection legislation to the authority;
- (e) designating activities that constitute financial services;
- (f) designating Acts, parts of Acts, regulations or parts of regulations as financial services legislation;
- (g) for the purposes of subclause 2(i)(vii), designating a person as a financial services regulator;
- (h) assigning responsibilities and powers of a financial services regulator pursuant to financial services legislation to the authority;
- (i) for the purposes of section 11, respecting the responsibilities and powers of the authority that the chairperson or vice-chairperson of the authority may perform or exercise;
- (j) for the purposes of clause 15(1)(g), respecting any other responsibilities related to financial services that the authority shall perform;
- (k) delegating to a financial services regulator any responsibilities of the authority pursuant to financial services legislation and prescribing the terms and conditions of the delegation, including authorizing the minister to set any additional terms and conditions;
- (l) delegating to a financial services regulator any powers of the authority pursuant to financial services legislation and prescribing the terms and conditions of the delegation, including authorizing the minister to set any additional terms and conditions;

- (m) authorizing the authority to delegate the fulfilling of any of its responsibilities or the exercising of any of its powers to a financial services regulator, any organization prescribed in the regulations or any class of organizations prescribed in the regulations subject to any limitations, terms and conditions that may be prescribed in the regulations;
- (n) for the purposes of clause 19(1)(e), respecting any other responsibilities related to consumer protection that the authority shall perform;
- (o) delegating to a consumer protection regulator any responsibilities of the authority pursuant to consumer protection legislation and prescribing the terms and conditions of the delegation, including authorizing the minister to set any additional terms and conditions;
- (p) delegating to a consumer protection regulator any powers of the authority pursuant to consumer protection legislation and prescribing the terms and conditions of the delegation, including authorizing the minister to set any additional terms and conditions;
- (q) authorizing the authority to delegate the fulfilling of any of its responsibilities or the exercising of any of its powers to a consumer protection regulator, any organization prescribed in the regulations or any class of organizations prescribed in the regulations subject to any limitations, terms and conditions that may be prescribed in the regulations;
- (r) respecting the responsibilities and powers pursuant to consumer protection legislation that the authority may exercise;
- (s) for the purposes of section 28, prescribing conflict of interest rules for the authority, members of the authority, the executive director, employees of the authority, members of panels, persons appointed to make an inquiry and report pursuant to section 24 and persons appointed to make an investigation pursuant to section 25 and, for that purpose, may prescribe different conflict of interest rules for the authority, members of the authority, the executive director, employees of the authority, members of panels, persons appointed to make an inquiry and report pursuant to section 24 and persons appointed to make an investigation pursuant to section 25;
- (t) assigning responsibilities and powers of the authority to the executive director;
- (u) respecting the circumstances in which the authority may provide personal information within the meaning of *The Freedom of Information and Protection of Privacy Act* pursuant to subsection 30(2);
- (v) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (w) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

Act to prevail

40 The provisions of this Act and the regulations prevail if there is any conflict between any provision of this Act or the regulations and the provisions of any other Act, regulation or law.

PART VII
Repeal, Transitional and Other Matters

S.S. 2002, c.S-17.2 repealed

41 *The Saskatchewan Financial Services Commission Act* is repealed.

Limitation of actions

42 No action or proceeding lies or shall be commenced against the Government of Saskatchewan, any member of the Executive Council, the authority or any officer, employee or agent of the Government of Saskatchewan or the authority because of the enactment of this Act.

Transitional – transfer of employees

43(1) Notwithstanding any Act, law or provision of a contract, for the purpose of facilitating the administration and enforcement of this Act, consumer protection legislation, financial services legislation and any other Act that imposes or confers a duty, power or function on a consumer protection regulator or a financial services regulator, the chairperson of the Public Service Commission may transfer any employees in the public service within the meaning of *The Public Service Act, 1998* to, and cause them to become employees of, the authority.

(2) Notwithstanding any Act, law or provision of a contract, any transfer described in subsection (1):

- (a) does not constitute the abolition or termination of any position or job;
- (b) does not require any advance notice, including any notice that may be required pursuant to any Act, law or provision of a contract; and
- (c) does not constitute constructive dismissal of any person or a breach of contract.

(3) If *The Public Service Superannuation Act* applies to a person who is transferred pursuant to this section, that Act continues to apply, with any necessary modification, to the person while the person is employed by the authority.

Transitional – former fund

44(1) In this section and in section 45:

- (a) **“former Act”** means *The Saskatchewan Financial Services Commission Act*, as that Act existed before the coming into force of this Act;
- (b) **“former fund”** means the Saskatchewan Financial Services Commission Fund established pursuant to the former Act.

(2) On the day on which this Act comes into force:

- (a) the assets and liabilities of the former fund are transferred to and become the assets and liabilities of the authority; and
- (b) the former fund is wound up.

(3) Notwithstanding the winding-up of the former fund pursuant to subsection (2), the Provincial Auditor or any other auditor or firm of auditors that the Lieutenant Governor in Council may appoint shall audit the accounts and financial statements of the former fund:

- (a) for the fiscal year ending on March 31, 2012; and
- (b) for the period ending on the date on which the former fund is wound up.

(4) Notwithstanding the winding-up of the former fund pursuant to subsection (2), the authority shall, in accordance with *The Tabling of Documents Act, 1991*, submit to the minister a report on the activities of the former fund and a financial statement showing the business of the former fund:

- (a) for the fiscal year ending on March 31, 2012; and
- (b) for the period ending on the date on which the former fund is wound up.

(5) The financial statement mentioned in subsection (4) is to be in a form required by Treasury Board.

(6) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Legislative Assembly each report and financial statement received by the minister pursuant to subsection (4).

Transitional – transfer of assets and liabilities

45(1) Notwithstanding any other Act or law, the Lieutenant Governor in Council may transfer to and vest in the authority any assets in addition to the former fund, liabilities, contracts and causes of action of the commission or arising from the administration or enforcement of this Act, consumer protection legislation, financial services legislation or any other Act that imposes or confers a duty, power or function on a consumer protection regulator or a financial services regulator, subject to any terms and conditions that the Lieutenant Governor in Council may set.

(2) The authority may exercise all the powers, rights and privileges over or with respect to the things and matters mentioned in subsection (1) that the Government of Saskatchewan could have exercised pursuant to the former Act, and may:

- (a) sell, release, discharge, assign, transfer, convey, dispose of or otherwise deal with all or any of those things and matters;
- (b) execute all requisite assignments, transfers, discharges, releases, grants or other conveyances or documents that may be required; and
- (c) exercise all powers in connection with those things and matters in the name of the authority as if they stood in the name of, or had been made to or in favour of, the authority.

(3) No action, appeal, application or other proceeding being carried on or power or remedy being exercised with respect to the things and matters mentioned in subsection (1) is to be discontinued or abated on account of this Act, but may be continued in the name of the authority, and the authority has the same rights, is subject to the same liabilities, and shall pay or receive the same costs as if the action, appeal, application or other proceeding had been commenced or defended in the name of the authority.

(4) With respect to the things and matters mentioned in subsection (1), the authority may bring, maintain and exercise in its own name any action, appeal, application or other proceeding, or exercise any power, right or remedy or right of distress that the Government of Saskatchewan could have brought, maintained or exercised pursuant to the former Act.

(5) Subject to subsection (6), the authority is responsible for all debts, liabilities and obligations of the Government of Saskatchewan with respect to the matters and things mentioned in subsection (1), and nothing in this Act affects the rights of any creditor of, or any person having a claim against, the Government of Saskatchewan with respect to those matters and things, and all those rights may be asserted against the authority.

(6) If a claim is made or an action is brought against the authority respecting an error or omission made in the administration or enforcement of this Act, the former Act, consumer protection legislation, financial services legislation or any other Act that imposes or confers a duty, power or function on a consumer protection regulator or a financial services regulator, any payment to be made respecting the claim or action is to be made:

- (a) by the Minister of Finance from the general revenue fund if the error or omission occurred before the coming into force of section 1 of this Act; and
- (b) by the authority if the error or omission occurred on or after the coming into force of section 1 of this Act.

Transitional – members, directors, executive director

46(1) Those persons who were members of the commission on the day before the coming into force of this Act:

- (a) constitute the members of the authority and members of the board;
- (b) are deemed to have been appointed pursuant to clause 4(1)(a); and
- (c) hold office for the remainder of the terms for which they were appointed pursuant to *The Saskatchewan Financial Services Commission Act*, as that Act existed on the day before the coming into force of this Act, until they resign or are replaced pursuant to this Act.

(2) The persons who held office as chairperson or vice-chairperson of the commission on the day before the coming into force of this Act:

- (a) are deemed to have been designated as chairperson or vice-chairperson pursuant to section 10; and
- (b) continue to hold office as chairperson or vice-chairperson until they resign or are replaced pursuant to this Act.

(3) The person who was the executive director of the commission on the day before the coming into force of this Act:

- (a) is deemed to have been appointed pursuant to section 13; and
- (b) continues to be the executive director until he or she resigns or is replaced pursuant to this Act.

PART VIII
Consequential and Coming into Force

R.S.S. 1978, c.B-10, section 2 amended

47 Clause 2(1)(i) of *The Business Corporations Act* is repealed and the following substituted:

“(i) ‘**Commission**’ means the Financial and Consumer Affairs Authority of Saskatchewan”.

R.S.S. 1978, c.C-23 amended

48(1) *The Companies Act* is amended in the manner set forth in this section.

(2) Subsection 117(7) is repealed and the following substituted:

“(7) If a company files a prospectus pursuant to *The Securities Act, 1988*, it shall also file a copy of the prospectus with the registrar within seven days after the date of the receipt for the prospectus obtained from the Financial and Consumer Affairs Authority of Saskatchewan, and, on that filing, the foregoing subsections of this section and sections 118, 119, 120, 132, 134, 135, 136 and 137 do not apply”.

(3) Subsection 205(4) is repealed and the following substituted:

“(4) Every extra-provincial company registered pursuant to this Act or any former *Companies Act* of Saskatchewan that files a prospectus pursuant to *The Securities Act, 1988* shall also file a copy of the prospectus with the registrar within seven days from the date of the receipt for the prospectus obtained from the Financial and Consumer Affairs Authority of Saskatchewan, and, on that filing, the foregoing subsections do not apply”.

S.S. 1984-85-86, c.C-45.1, section 2 amended

49 Subsection 2(1.1) of *The Credit Union Act, 1985* is repealed and the following substituted:

“(1.1) Notwithstanding any other provision of this Act or the regulations or of any other Act or law, if, pursuant to *The Financial and Consumer Affairs Authority of Saskatchewan Act*, the Financial and Consumer Affairs Authority of Saskatchewan is assigned the performance of all or any of the responsibilities imposed on the registrar and the exercise of all or any of the powers given to the registrar by this Act or the regulations:

(a) any reference with respect to those responsibilities or powers in this Act or the regulations to the registrar is to be interpreted as a reference to the Financial and Consumer Affairs Authority of Saskatchewan; and

(b) this Act and the regulations are to be interpreted subject to the provisions of *The Financial and Consumer Affairs Authority of Saskatchewan Act*”.

S.S. 1998, c.C-45.2 amended

50(1) *The Credit Union Act, 1998* is amended in the manner set forth in this section.

(2) Subsection 2(1.1) is repealed and the following substituted:

“(1.1) Notwithstanding any other provision of this Act or the regulations or of any other Act or law, if, pursuant to *The Financial and Consumer Affairs Authority of Saskatchewan Act*, the Financial and Consumer Affairs Authority of Saskatchewan is assigned the performance of all or any of the responsibilities imposed on the registrar and the exercise of all or any of the powers given to the registrar by this Act or the regulations:

(a) any reference with respect to those responsibilities or powers in this Act or the regulations to the registrar is to be interpreted as a reference to the Financial and Consumer Affairs Authority of Saskatchewan; and

(b) this Act and the regulations are to be interpreted subject to the provisions of *The Financial and Consumer Affairs Authority of Saskatchewan Act*”.

(3) Subsection 5(4) is repealed and the following substituted:

“(4) Unless ordered otherwise by the registrar, a distribution of membership shares or securities pursuant to the approval of the Financial and Consumer Affairs Authority of Saskatchewan in accordance with Part XX is not a distribution to the public”.

(4) Clause 359(b) is repealed and the following substituted:

“(b) ‘**securities board**’ means the Financial and Consumer Affairs Authority of Saskatchewan”.

S.S. 1986, c.L-0.2, section 24 amended

51 Subsection 24(2) of *The Labour-sponsored Venture Capital Corporations Act* is repealed and the following substituted:

“(2) Clause (1)(a) does not apply to the communication of information:

(a) to employees of the Ministry of Finance or other persons designated by the Minister of Finance for the purposes of evaluating and formulating tax policy or administering this Act and the regulations; and

(b) to the Financial and Consumer Affairs Authority of Saskatchewan in order to assist in the administration of this Act”.

S.S. 2007, c.M-20.1, section 2 amended

52 Subsection 2(2) of *The Mortgage Brokerages and Mortgage Administrators Act* is repealed and the following substituted:

“(2) Notwithstanding any other provision of this Act or the regulations or of any other Act or law, if, pursuant to *The Financial and Consumer Affairs Authority of Saskatchewan Act*, the Financial and Consumer Affairs Authority of Saskatchewan is assigned the performance of all or any of the responsibilities imposed on the superintendent and the exercise of all or any of the powers given to the superintendent by this Act or the regulations:

(a) any reference with respect to those responsibilities or powers in this Act or the regulations to the superintendent is to be interpreted as a reference to the Financial and Consumer Affairs Authority of Saskatchewan; and

(b) this Act and the regulations are to be interpreted subject to the provisions of *The Financial and Consumer Affairs Authority of Saskatchewan Act*”.

S.S. 1999, c.N-4.001 amended

53(1) *The New Generation Co-operatives Act* is amended in the manner set forth in this section.

(2) Subclause 2(1)(r)(ii) is repealed and the following substituted:

“(ii) any co-operative that has issued a security that is subject to approval by the Financial and Consumer Affairs Authority of Saskatchewan pursuant to Part XXII or that is subject to *The Securities Act, 1988*”.

(3) Subsection 46(1) is repealed and the following substituted:

“(1) In this section, ‘**board**’ means the Financial and Consumer Affairs Authority of Saskatchewan”.

(4) Clause 316(1)(a) is repealed and the following substituted:

“(a) ‘**board**’ means the Financial and Consumer Affairs Authority of Saskatchewan”.

(5) Clause 350(f) is repealed and the following substituted:

“(f) removing any exemption on trades or securities granted by Part XXII or the regulations, and for that purpose, may prescribe any conditions or restrictions on removal of the exemption and require that those trades or trades in those securities be subject to review by the Financial and Consumer Affairs Authority of Saskatchewan”.

S.S. 1992, c.P-6.001, section 2 amended

54 Subsection 2(1.1) of *The Pension Benefits Act, 1992* is repealed and the following substituted:

“(1.1) Notwithstanding any other provision of this Act or the regulations or of any other Act or law, if, pursuant to *The Financial and Consumer Affairs Authority of Saskatchewan Act*, the Financial and Consumer Affairs Authority of Saskatchewan is assigned the performance of all or any of the responsibilities imposed on the superintendent and the exercise of all or any of the powers given to the superintendent by this Act or the regulations:

(a) any reference with respect to those responsibilities or powers in this Act or the regulations to the superintendent is to be interpreted as a reference to the Financial and Consumer Affairs Authority of Saskatchewan; and

(b) this Act and the regulations are to be interpreted subject to the provisions of *The Financial and Consumer Affairs Authority of Saskatchewan Act*”.

S.S. 1993, c.P-6.2, section 2 amended

55 Subsection 2(1) of *The Personal Property Security Act, 1993* is amended:

(a) by repealing subclause (t.2)(i) and substituting the following:

“(i) traded on or subject to the rules of a futures exchange recognized or otherwise regulated by the Financial and Consumer Affairs Authority of Saskatchewan or by a securities regulatory authority of another province or territory of Canada”;

(b) by repealing subclause (t.5)(ii) and substituting the following:

“(ii) is a clearing house recognized or otherwise regulated by the Financial and Consumer Affairs Authority of Saskatchewan or by a securities regulatory authority of another province or territory of Canada”.

R.S.S. 1978, c.S-26, section 2 amended

56 Subsection 2(2) of *The Saskatchewan Insurance Act* is repealed and the following substituted:

“(2) Notwithstanding any other provision of this Act or the regulations or of any other Act or law, if, pursuant to *The Financial and Consumer Affairs Authority of Saskatchewan Act*, the Financial and Consumer Affairs Authority of Saskatchewan is assigned the performance of all or any of the responsibilities imposed on the superintendent and the exercise of all or any of the powers given to the superintendent by this Act or the regulations:

(a) any reference with respect to those responsibilities or powers in this Act or the regulations to the superintendent is to be interpreted as a reference to the Financial and Consumer Affairs Authority of Saskatchewan; and

(b) this Act and the regulations are to be interpreted subject to the provisions of *The Financial and Consumer Affairs Authority of Saskatchewan Act*”.

S.S. 1988-89, c.S-42.2 amended

57(1) *The Securities Act, 1988* is amended in the manner set forth in this section.

(2) Subsection 2(1) is amended:**(a) by adding the following clause before clause (c):**

“(b.2) ‘**Authority**’ means the Financial and Consumer Affairs Authority of Saskatchewan”;

(b) in clause (d) by striking out “Commission” and substituting “Authority”; and**(c) by repealing clause (e) and substituting the following:**

“(e) ‘**Commission**’ means the Authority”.

(3) Subsection 2(1.1) is amended by striking out “*The Saskatchewan Financial Services Commission Act*” and substituting “*The Financial and Consumer Affairs Authority of Saskatchewan Act*”.

S.S. 2007, c.S-42.3, section 1 amended

58 Subclause 1(2)(f)(ii) of *The Securities Transfer Act* is repealed and the following substituted:

“(ii) that is recognized or otherwise regulated as a clearing agency or clearing house by the Financial and Consumer Affairs Authority of Saskatchewan or by a securities regulatory authority of another province or territory in Canada”.

S.S. 1997, c.T-22.2, section 2 amended

59 Subsection 2(1.1) of *The Trust and Loan Corporations Act, 1997* is repealed and the following substituted:

“(1.1) Notwithstanding any other provision of this Act or the regulations or of any other Act or law, if, pursuant to *The Financial and Consumer Affairs Authority of Saskatchewan Act*, the Financial and Consumer Affairs Authority of Saskatchewan is assigned the performance of all or any of the responsibilities imposed on the superintendent and the exercise of all or any of the powers given to the superintendent by this Act or the regulations:

(a) any reference with respect to those responsibilities or powers in this Act or the regulations to the superintendent is to be interpreted as a reference to the Financial and Consumer Affairs Authority of Saskatchewan; and

(b) this Act and the regulations are to be interpreted subject to the provisions of *The Financial and Consumer Affairs Authority of Saskatchewan Act*”.

Coming into force

60 This Act comes into force on proclamation.

