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SECURITIES INDUSTRY (AMENDMENT) ACT, 2021

Arrangement of Sections

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No. 12 of 2021

SECURITIES INDUSTRY (AMENDMENT) ACT, 2021

AN ACT TO AMEND THE SECURITIES INDUSTRY ACT

(Date of Assent - 25th May, 2021)

Enacted by the Parliament of The Bahamas

1. Short title.

This Act may be cited as the Securities Industry (Amendment) Act, 2021.

2. Amendment of section 58 of the principal Act.

Section 58 of the principal Act is amended by the insertion immediately after subsection 5 of the following new subsections —

“(5A) The registration of a person under this section shall be automatically revoked where that regulated person fails to —

- (a) renew the registration prior to the annual renewal date;
- (b) submit the prescribed Annual Update and Declaration Form;
- (c) where applicable, submit a current copy of the regulated person’s insurance policy to the Commission; or
- (d) pay the prescribed annual fee for more than thirty days after the annual renewal date.

(5B) An automatic penalty of ten percent of the prescribed annual fee, which shall not be set off against the prescribed annual fee, shall be payable to the Commission by a regulated person whose registration is revoked pursuant to subsection (5A)(a).

(5C) Where a registration has been revoked pursuant to subsection (5A), the Commission may restore the registration if, within thirty days of the revocation date, the regulated person —

- (a) applies in writing to the Commission for restoration;
- (b) pays an administrative penalty of twenty percent of the annual fee due; and

- (c) as applicable —
 - (i) submits the annual update and declaration form;
 - (ii) submits a copy of the regulated person’s insurance policy; or
 - (iii) pays the outstanding annual fee.”.

3. Amendment of section 69 of the principal Act.

Section 69 of the principal Act is amended by the insertion immediately after subsection 11 of the following new subsection —

“(11A) The registration of a person under this section shall be automatically revoked where that person fails to —

- (e) renew the registration prior to the annual renewal date;
- (f) submit the prescribed Annual Update and Declaration Form;
- (g) where applicable, submit a current copy of the registrant’s insurance policy to the Commission; or
- (h) pay the prescribed annual fee for more than thirty days after the annual renewal date.

(11B) An automatic penalty of ten percent of the prescribed annual fee, which shall not be set off against the prescribed annual fee, shall be payable to the Commission by a registrant whose registration is revoked pursuant to subsection (11A)(a).

(11C) Where a registration has been revoked pursuant to subsection (11A), the Commission may restore the registration if, within thirty days of the revocation date, the registrant —

- (d) applies in writing to the Commission for restoration;
- (e) pays an administrative penalty of twenty percent of the annual fee due; and
- (f) as applicable —
 - i. submits the annual update and declaration form;
 - ii. submits a copy of the registrant’s insurance policy; or
 - iii. pays the outstanding annual fee.”.

4. Repeal and replacement of section 99 of the principal Act.

Section 99 of the principal Act is repealed and replaced as follows —

“99. Timely disclosure of material changes and material contract.

“(1) Subject to subsection (2) —

- (a) where a material change occurs in the affairs of a public issuer; or

- (b) where a material contract is entered into with a public issuer and a director of the issuer is a party or beneficiary to that contract, the issuer shall —
 - (i) immediately, and in any event within one day of the material change occurring or upon becoming aware of the director's interest in the material contract, issue a press release that discloses the nature and substance of the contract and the director's connection thereto; and
 - (ii) file a report with the Commission in the prescribed form within five days of issuing the press release.
- (2) If the public issuer is of the opinion that the disclosure required by subsection (1), would be unduly detrimental to its interests, it must immediately advise the Commission in writing of the material change and the reasons why the issuer is of the opinion that public disclosure should be withheld.
- (3) Where the Commission is of the opinion that the disclosure of the material change would not be unduly detrimental to the interests of a public issuer, the Commission may, after giving the public issuer an opportunity to be heard —
 - (a) require disclosure to the public of the material change in accordance with subsection (1); or
 - (b) permit non-disclosure of the material change by the public issuer provided non-disclosure does not continue beyond the time set out in subsection (5).
- (4) A decision of the Commission under subsection (3) is final and no appeal from such a decision shall be available.
- (5) Notwithstanding any permitted non-disclosure under subsection (2) or (3)(b), the public issuer shall disclose such material change no later than the thirtieth day following the date on which the public issuer would have been required to issue a press release in respect of the material change under subsection (1).
- (6) The public issuer shall, notwithstanding a report has been given to the Commission under subsection (2), promptly disclose the material change in the manner referred to in subsection (1), upon the public issuer becoming aware, or having reasonable grounds to believe, that persons are purchasing or selling securities of the issuer with knowledge of the undisclosed material change.

- (7) For the purpose of this section —
- (a) a “material change” means any change in any material information regarding the public issuer that impacts —
 - (i) corporate governance matters of the issuer;
 - (ii) the price of the shares; or
 - (iii) investors decision to buy or to sell shares.
 - (b) a “material contract” means a contract that has a transaction value of more than two percent of the revenues of a company.”.

5. Amendment of section 101 of the principal Act.

Section 101 of the principal Act is amended by the deletion and substitution of in subsection (2) as follows —

“(2) Every financial statement referred to in subsection (1), shall be accompanied by a report of the auditor of the public issuer and the public issuer shall, upon filing the annual financial statements and auditor’s report with the Commission, cause the financial statements to be posted on the company’s website or in the newspaper.”.

6. Amendment of section 166 of the principal Act.

Section 166 of the Principal Act is amended in subsection (2) by the deletion of the word “may” and the substitution therefor of the word “shall”.