



**ANGUILLA**

**DRAFT**

**INVESTMENT BUSINESS ACT 2014**

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I Assent

Christina Scott  
Governor

Date

ANGUILLA

No. ?/2013

**INVESTMENT BUSINESS ACT, 2014**

An Act to regulate the activities of persons who carry out investment business, to forbid insider dealing and market manipulation and for connected purposes.

[Gazetted: ....., 2014] [Commencement: Assent under section 57 of the Constitution]

ENACTED by the legislature of Anguilla

**Part 1 – General interpretive provisions**

**1 Interpretation**

(1) In this Act -

“approval” means approval in writing;

“associate” has the same meaning as is given to the expression “connected person” by Schedule 3 to the Financial Services Commission Act;

“Commission” means the Financial Services Commission established by section 2 of the Financial Services Commission Act;

“company” “means a company, limited partnership, or other business entity wherever incorporated, registered or otherwise established;

“director” means -

(a) a director of a company;

- (b) a general partner of a partnership;
- (c) a manager of a limited liability company; and
- (d) an individual performing a similar function or occupying a similar position for a company;

“investment” has the meaning given to that expression by section 2;

“investment business” has the meaning given to that expression by section 3;

“licence” means a licence granted under section 8;

"licensee" means a person who has been granted a licence that is for the time being valid and “licensed” shall be construed accordingly;

“record” means information recorded in any form;

“regulations” means regulations made under section 35;

“securities exchange” means a market, exchange, place or facility that provides for the bringing together on a regular basis purchasers and sellers of securities and that sets rules for the execution of transactions in securities or for the negotiation or conclusion of sales and purchases of securities but does not include—

- (a) the office or facilities of a member of a securities exchange; or
- (b) the office or facilities of a clearing agency or securities depository;

“senior officer”, in respect of a licensee, means an individual -

- (a) who is its chief executive officer, chief operating officer, chief financial officer, secretary, assistant secretary, treasurer, assistant treasurer or general manager; or
- (c) who performs a similar function for the licensee.

## **2 Interpretation of “investment”**

(1) In this Act, “investment” means:

- (a) a share;
- (b) a debenture;
- (c) an entitling instrument;
- (d) a representative certificate;
- (e) an option;
- (f) a future;
- (g) a contract for a difference;

- (h) a long term insurance contract.
- (2) A share means a share or stock in the share capital of a company.
- (3) A debenture means a debenture that includes debenture stock, loan stock, bond, certificate of deposit and any other instrument of the same kind creating or acknowledging indebtedness.
- (4) A representative certificate means a certificate that confers on a person:
  - (a) property rights in respect of shares, debentures or entitling instruments;
  - (b) a right to acquire, dispose of, underwrite or convert an investment, being a right that the holder would be entitled to if the holder held any such investment to which the certificate or instrument relates; or
  - (c) a contractual right (other than an option) to acquire any such investment otherwise than by subscription.
- (5) A future means a right under a contract for the sale of property that is entered into for investment, not commercial, purposes, and under which delivery is to be made at a future date and at a price agreed upon when the contract is made.
- (6) A contract for a difference means a right under a contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in the value or price of property or in an index or other factor specified in the contract.
- (7) A long term insurance contract means a right under a contract the effecting and carrying out of which constitutes long term business as defined in the Insurance Act or would do so but for the fact that the long term contract enjoys the benefit of an exemption from that Act, and includes any similar right under a long term insurance contract entered into in a jurisdiction outside Anguilla.

### **3 Interpretation of “investment business”**

- (1) For the purposes of this Act, a person carries on investment business if the person, by way of business, arranges deals in investments, including -
  - (a) making arrangements for another person (whether as principal or as agent for a third person) to buy, sell, subscribe for or underwrite investments; and
  - (b) making arrangements with a view to a person who participates in the arrangement buying, selling, subscribing for or underwriting investments (whether as principal or as agent for a third person).
- (2) A person also carries on investment business if the person, by way of business, deals in investments, that is, the person buys, sells,

subscribes for or underwrites investments, either as principal or as agent.

- (3) A person also carries on investment business if the person, by way of business, undertakes discretionary investment management, that is, the person decides as agent to buy, sell, subscribe for or underwrite investments on behalf of a principal.
- (4) A person also carries on investment business if the person, by way of business, gives investment advice, that is, the person gives to persons in their capacity as investors or potential investors advice on the merits of -
  - (a) the purchase, sale, subscription for or underwriting of a particular investment; or
  - (b) the exercise of a right conferred by an investment to acquire, dispose of, underwrite or convert the investment.
- (5) A person also carries on investment business if the person, by way of business, provides administration and safeguarding of investments under a contractual arrangement, including arranging for one or more other persons to safeguard and administer the investments.
- (6) A person also carries on investment business if the person acts as or operates as a securities exchange.

## **Part 2 -- Regulation of investment business**

### **4 Carrying on unauthorised investment business**

- (1) A person who is not licensed must not carry on investment business in or from within Anguilla.
- (2) A person who holds himself or herself out as carrying on investment business in or from within Anguilla is to be taken for the purposes of this Act as carrying on investment business.
- (3) A person who contravenes subsection (1) is guilty of an offence.

### **5 Carrying on investment business contrary to licence**

- (1) A licensee must not carry on investment business in or from within Anguilla otherwise than in accordance with the terms of the licensee's licence.
- (2) A licensee who contravenes subsection (1) is guilty of an offence.

### **6 Companies carrying on unauthorised investment business**

- (1) A company incorporated in Anguilla that is not licensed must not carry on investment business in any part of the world.
- (2) A company incorporated in Anguilla that is licensed must not carry on investment business in any part of the world otherwise than in accordance with the terms of its licence.
- (3) A company incorporated in Anguilla that holds itself out as carrying on investment business in a part of the world is to be taken for the

purposes of this Act as carrying on investment business in that part of the world.

- (4) A company that contravenes subsection (1) or (2) is guilty of an offence.

## **7 Application for a licence**

- (1) A person who wishes to carry on investment business may apply to the Commission for a licence.

- (2) The application must -

- (a) be in a form determined by the Commission;
- (b) contain or be accompanied by such information and records as the Commission may require; and
- (c) be accompanied by the prescribed fee.

- (3) The Commission may, before determining an application for a licence, require -

- (a) the applicant; or
- (b) a person who is or is to be a director or senior officer of the applicant'

to provide such additional information or records as the Commission may reasonably require.

- (4) The Commission may, before determining an application for a licence, require -

- (a) the applicant; or
- (b) a person who is to be a director or senior officer of the applicant,

to provide a report by an auditor or accountant, or other qualified person approved by the Commission, on such aspects of any information and records provided to the Commission as the Commission may specify.

## **8 Grant or refusal to grant a licence**

The Commission may either grant or refuse to grant a licence.

## **9 Refusal of licence**

- (1) The Commission must refuse to grant a licence unless the Commission is satisfied that an applicant is -

- (a) a fit and proper person, and
- (b) is qualified,

to carry on investment business.

- (2) The Commission must also refuse to grant a licence unless the Commission is satisfied that the persons having any share or other interest, whether legal or equitable, in the applicant and its directors and senior officers are fit and proper persons to have an interest in or

be concerned with the management of a licensee.

- (3) The Commission must also refuse to grant a licence unless the Commission is satisfied that the applicant intends, if granted the licence, to carry on investment business in or from within Anguilla.
- (4) The Commission must also refuse to grant a licence unless the Commission is satisfied that the applicant satisfies the requirements of this Act in respect of the application and will, upon the grant of the licence, be in compliance with this Act in respect of licensing.
- (5) The Commission must also refuse to grant a licence unless the Commission is satisfied that granting the licence is not against the public interest.

#### **10 No appeal against refusal to grant licence**

If the Commission decides to refuse to grant a licence -

- (a) the Commission is not bound to assign a reason for its decision; and
- (b) except as provided by the Financial Services Commission Act, the decision is not subject to appeal or review.

#### **11 Appointment of directors and senior officers**

- (1) A person may not become a director or senior officer of a licensee unless -
  - (a) the Commission has been notified by the licensee of the person's intention to become a director or senior officer of the licensee; and
  - (b) the Commission has notified its approval to the licensee.
- (2) The Commission must not give its approval until it is satisfied that the person is a fit and proper person to be a director or senior officer of the licensee.
- (3) A licensee who fails to give a notice required to be given by this section is guilty of an offence.

#### **12 Shares in licensee not to be held, issued or transferred without approval**

- (1) A person must not -
  - (a) acquire or hold, legally or beneficially, directly or indirectly, or jointly with an associate;
  - (b) or dispose of,  
10% or more of the issued share capital of a licensee unless the licensee has notified the Commission and the Commission has given its approval.
- (2) If the shares of the licensee or of any holding company of the licensee (as defined by the Companies Act) are publicly traded on a securities exchange approved by the Commission, the percentage mentioned in

subsection (1) is 25%.

- (3) If the Commission decides not to give its approval it must serve a notice of objection on the person and on the licensee.
- (4) The notice must -
  - (a) state that that the Commission has decided to withhold its approval; and
  - (b) specify the Commission's reason for its decision.
- (5) A licensee who fails to give a notice under subsection (1) or a person who acts contrary to that subsection is guilty of an offence.

### **13 Licensees to file audited accounts**

- (1) A licensee must submit audited accounts to the Commission -
  - (a) for the financial year beginning on the day on which the licensee commences to carry on investment business; and
  - (b) for each subsequent year.
- (2) The accounts must be submitted within the 90 days after the end of the financial year and must be prepared in accordance with international financial reporting standards.
- (3) The accounts must contain such additional information as may be prescribed.
- (4) The accounts must have been audited by—
  - (a) a person who is qualified as an accountant by examination conducted by an institute or body of accountants approved by the Commission and is a practising member in good standing of that institute or body; or
  - (b) a person approved by a supervisory body of the accounting profession recognised under the law of Anguilla
- (5) A licensee who fails to submit audited accounts in accordance with subsection (1) is guilty of an offence.

### **14 Auditors**

- (1) Regulations may require a person who is or has been an auditor in relation to the accounts of a licensee to communicate to the Commission in specified circumstance any matter to which this section applies.
- (2) This section applies to any matter -
  - (a) that the auditor becomes aware of in the auditor's capacity as auditor; and
  - (b) that relates to the business or affairs of the licensee or of any company that is a holding company or subsidiary company in relation to the licensee (as defined by the Companies Act).

**15 Protection of clients' assets**

- (1) A licensee who has responsibility for assets of a client must arrange for their proper protection.
- (2) This may be done by way of segregation and identification of the assets or otherwise in accordance with the responsibilities the licensee has accepted.

**16 No breach of duty**

If a person discloses information or produces a record as permitted or required by this Act, doing so does not -

- (a) contravene any enactment, rule of law, agreement or professional code of conduct to which the person is subject; or
- (b) make the person liable for any civil, criminal or disciplinary proceedings.

**17 Giving notice**

- (1) Where this Part provides for notice to be given, the notice must be given in writing.
- (2) However, the notice may be given -
  - (a) by email;
  - (b) by facsimile;
  - (c) by electronic transmission; or
  - (d) by any similar means that produces a record containing the text of the communication in legible form or is capable of doing so.
- (3) A notice given to the Commission is to be taken as having been given when it is received by the Commission.

**18 Licence may not be assigned or transferred**

A licence may not be assigned or transferred and any purported assignment or transfer is of no effect.

**19 Offence of false or misleading statements or practices**

- (1) This section applies to a person, whether or not a licensee, who is carrying on investment business.
- (2) The person is guilty of an offence if, in the course of the business, the person -
  - (a) makes to a client or to a prospective client of the business a statement, promise or forecast that the person knows to be misleading, false or deceptive;
  - (b) dishonestly conceals a material fact from a client or from a prospective client of the business; or

- (c) recklessly makes (dishonestly or otherwise) to a client or to a prospective client of the business a statement, promise or forecast that is misleading, false or deceptive.

### **Part 3 — Insider trading and market manipulation**

#### **20 “Inside information” defined**

- (1) For the purpose of this Part, information is inside information if -
  - (a) it relates to particular securities or to a particular issuer of securities or to particular issuers of securities and not to securities generally or to issuers of securities generally;
  - (b) it is specific or precise;
  - (c) it has not been made public; and
  - (d) making it public would be likely to have a significant effect on the price or value of any securities.
- (2) If the issuer of securities is a company, information is to be treated as relating to the company not only if it is about the company but also if it may affect the company’s business prospects.

#### **21 Price-sensitive and price-affected information defined**

For the purposes of this Part -

- (a) securities are price-affected securities in relation to inside information; and
- (b) inside information is price-sensitive information in relation to securities,

if the information would, if made public, be likely to have a significant effect on the price or value of the securities.

#### **22 “Having information as an insider” defined**

- (1) For the purposes of this Part, a person has information as an insider if -
  - (a) it is inside information and the person knows that it is inside information; and
  - (b) the person has the information from an inside source and the person knows that it is from such a source.
- (2) A person has information from an inside source if the person has the information through -
  - (a) being a director, employee or shareholder of an issuer of securities, or
  - (b) having access to the information by virtue of his or her employment, office or profession,
- (3) A person also has information from an inside source if the direct or indirect source of the person’s information is -

- (a) a director, employee or shareholder of an issuer of securities, or
- (b) a person who has access to the information by virtue of the person's employment, office or profession.

### **23 "Made public" defined**

- (1) For the purposes of this Part, information is made public if -
  - (a) it is published in accordance with the rules of a securities exchange to inform investors and their professional advisers;
  - (b) it is contained in records that, by virtue of any legislation of the jurisdiction that hosts the securities exchange, are open to inspection by the public; or
  - (c) it is derived from information that has been made public.
- (2) Information is also made public if it can be readily acquired by those likely to deal in any securities -
  - (a) to which the information relates, or
  - (b) of an issuer to which the information relates.
- (3) Information may be treated as made public even though:
  - (a) it can be acquired only by persons exercising diligence or expertise;
  - (b) it is communicated to a section of the public and not to the public at large;
  - (c) it can be acquired only by observation;
  - (d) it is communicated only on payment of a fee; or
  - (e) it is published only outside the jurisdiction in which is situated the securities exchange to which the information relates.
- (4) This section is not exhaustive of how made public may be construed.

### **24 "Professional intermediary" defined**

- (1) For purposes of this Part, a professional intermediary -
  - (a) is a person who carries on a business activity to which this section applies and who holds himself or herself out to the public or to a section of the public as willing to engage in the business; or
  - (b) is an employee of such a person, employed to carry out the activity.
- (2) This section applies to the activity of -
  - (a) acquiring or disposing of securities (whether as principal or agent); or
  - (b) acting as an intermediary between persons taking part in any dealing in securities.
- (3) A person is not to be treated as carrying on a business activity to

which this section applies:

- (a) if the activity is merely incidental to some other activity that is not an activity to which this section applies or
  - (b) merely because the person occasionally conducts the activity.
- (4) A person dealing in securities is to be taken as relying on a professional intermediary if a person who is acting as a professional intermediary carries on an activity to which this section applies in relation to the dealing.

## **25 Insider dealing - first circumstance**

- (1) A person who has information as an insider is guilty of the offence of insider dealing if, in the circumstances to which this section applies, the person deals in securities that are price-affected securities in relation to the information.
- (2) This section applies in the following circumstances -
- (a) if the acquisition or disposal occurs on a securities exchange; or
  - (b) if, to effect the acquisition or disposal, the person relies on a professional intermediary or acts as a professional intermediary.
- (3) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence -
- (a) the person or professional intermediary, as the case may be, was outside Anguilla;
  - (b) the person did not expect the dealing to result in a profit attributable to the fact that the information was price-sensitive information in relation to the securities;
  - (c) the person believed, on reasonable grounds, that the information had been disclosed widely enough to ensure that none of those taking part in the dealing would be prejudiced by not having the information;
  - (d) the person would still have dealt in the securities even if the person had not had the price-sensitive information in relation to the securities;
  - (e) the person acted in good faith in the course of the person's business as a market maker or the person's employment in the business of a market maker; or
  - (f) the person acted in conformity with the relevant market rules.
- (4) A reference in this section to a profit includes avoidance of a loss.

## **26 Insider dealing - second circumstance**

- (1) A person who has information as an insider is guilty of the offence of insider dealing if the person encourages another person to deal in securities that are (whether or not the other person knows it) price-affected securities in relation to the information, knowing or having

reasonable cause to believe that the deal -

- (a) would occur on a securities exchange; or
  - (b) would be affected by a professional intermediary or by the other person as a professional intermediary.
- (2) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence -
- (a) the person or the recipient of the encouragement was outside Anguilla;
  - (b) the person did not expect the dealing to result in a profit attributable to the fact that the information in question was price-sensitive information in relation to the securities;
  - (c) the person believed on reasonable grounds that the information had been or would be disclosed widely enough to ensure that none of those taking part in the dealing would be prejudiced by not having the information;
  - (d) the person would still have given the encouragement even if the person had not had the price-sensitive information in relation to the securities;
  - (e) the person acted in good faith in the course of the person's business as a market maker or the person's employment in the business of a market maker; or
  - (f) the person acted in conformity with the relevant market rules.
- (3) A reference in this section to a profit includes avoidance of a loss.

## **27 Insider dealing - third circumstance**

- (1) A person who, as an insider, has price-sensitive information in respect of securities is guilty of the offence of insider dealing if the person discloses the information to another person otherwise than in the proper performance of the functions of the person's employment, office or profession.
- (2) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence -
- (a) the person or the recipient of the information was outside Anguilla;
  - (b) the person did not expect any person to deal in the securities as a result of the disclosure;
  - (c) the person did expect that a person would deal in the securities as a result of the disclosure but did not expect the dealing to result in a profit attributable to the fact that the information was price-sensitive information in relation to the securities.
- (3) A reference in this section to a profit includes avoidance of a loss.

## 28 Defence

- (1) It is a defence for a person charged with the offence of insider dealing to prove that at the time of the alleged offence -
  - (a) the information the person had as an insider was market information; and
  - (b) it was reasonable for a person in the person's position to have acted as the person did despite having the information as an insider.
- (2) To determine if the person's act was reasonable the court may take into account -
  - (a) the content of the information;
  - (b) the circumstances in which the person first had the information and in what capacity; and
  - (c) the capacity in which the person acted.
- (3) It is a defence for a person charged with the offence of insider dealing to prove that at the time of the alleged offence -
  - (a) the person was acting in connection with or with a view to facilitating an acquisition or disposal of securities that was under consideration or the subject of negotiation; and
  - (b) the information that the person had was market information arising directly out of the person's involvement in the acquisition or disposal of the securities.
- (4) Information is market information if it is knowledge of at least one of the following facts -
  - (a) that securities of a particular kind have been or are to be acquired or disposed of, or their acquisition or disposal is under consideration or the subject of negotiation;
  - (b) that securities of a particular kind have not been or are not to be acquired or disposed of;
  - (c) if securities of a particular kind have been or are to be acquired or disposed of, or their acquisition or disposal is under consideration or the subject of negotiation, - the number of such securities or their price or price range;
  - (d) if securities of a particular kind have been or are to be acquired or disposed of, or their acquisition or disposal is under consideration or the subject of negotiation, - the identity of any persons involved or likely to be involved in any capacity in the acquisition or disposal.

## 29 Exemptions

- (1) Nothing done by a person acting on behalf of a public sector body in pursuit of -
  - (a) a monetary policy; or
  - (b) a policy with respect to exchange rates or the management of

public debt or foreign exchange reserves,  
makes the person guilty of the offence of insider dealing.

- (2) A body is a public sector body if it is -
- (a) the government of Anguilla or of a jurisdiction outside Anguilla;
  - (b) a local government body in Anguilla or in a jurisdiction outside Anguilla;
  - (c) an international organization; or
  - (d) the Eastern Caribbean Central Bank or a bank regulated by a jurisdiction outside Anguilla.

### **30 Insider dealing contract not unenforceable**

The fact that a person may have been guilty of the offence of insider dealing does not, of itself, make any contract void or unenforceable.

### **31 Market manipulation**

- (1) A person is guilty of the offence of market manipulation if the person does an act or engages in a course of conduct that creates a false or misleading impression as to the market in or the price or value of a security with the intention of inducing a person -
- (a) to acquire, dispose of, subscribe for or underwrite the security;
  - (b) to refrain from acquiring, disposing of, subscribing for or underwriting the security; or
  - (c) to exercise, or refrain from exercising, a right conferred by the security.
- (2) It is a defence for a person charged with the offence of market manipulation to prove that at the time of the alleged offence -
- (a) the person intended to be induced to take or not take any action was outside Anguilla and that any action taken as a result of the inducement took place outside Anguilla;
  - (b) the person acted in conformity with the relevant market rules;
  - (c) the act or course of conduct took place in respect of a securities exchange and the person reasonably believed that the act or conduct would not create a false or misleading impression as to the market in or the price or value of a security.

### **32 Self-benefitting advice**

- (1) A person is guilty of the offence of giving self-benefitting advice if, in the course of carrying on investment business, the person gives investment advice knowing or believing that if the advice were to be followed the sole or main beneficiary would be the person giving the advice.

- (2) It is a defence for a person charged with the offence of giving self-benefitting advice to prove that at the time of the alleged offence -
- (a) the person given the advice was outside Anguilla and that any action taken as a result of the advice given took place outside Anguilla; or
  - (b) the person acted in conformity with the relevant market rules.
- (3) In this section “investment advice” has the same meaning as in section 3(4)

#### Part 4 -Final provisions

### 33 Penalties

- (1) Where this Act provides that any action taken by a person makes the person guilty of an offence, the person shall be liable on conviction for the offence to the penalty set out in the Table at the end of this section.
- (2) If the person is an individual the person shall be liable to the penalty set out in column 3 of the Table.
- (3) In any other case the person shall be liable to the penalty set out in column 4 of the table.
- (4) However, if after the conviction of a person for an offence under this Act the person continues to commit the offence or commits the offence a second or subsequent time, the person may again be convicted of the offence in respect of any period after the previous conviction and shall be liable for the penalty set out in column 5 in the case of an individual or column 6 in any other case.
- (5) If an offence under this Act committed by a licensee is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of a director or senior officer, the director or senior officer shall also be guilty of the offence and liable in the same manner as the licensee to the penalty provided for the offence.
- (6) If the words “triable either way” appear in Column 2 of the Table after the general description of an offence, notwithstanding the Criminal Code, the offence may be proceeded with summarily or by indictment.
- (7) In the Table “\$” means a dollar in the currency of the United States of America.

Table

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>
<b>Section</b>	<b>Offence</b>	<b>First offence</b>		<b>Second and subsequent offence</b>	
		<b>Penalty Individual</b>	<b>Penalty Other</b>	<b>Penalty Individual</b>	<b>Penalty Other</b>
4(3)	Carrying on unauthorised	\$10,000, imprisonment	\$50,000	\$20,000, imprisonment	\$100,000

	investment business Triable either way	for 12 months or both		for 2 years or both	
5(2)	Carrying on investment business contrary to licence Triable either way	\$5,000, imprisonment for 6 months or both	\$25,000	\$10,000, imprisonment for 12 months or both	\$50,000
6(4)	Company carrying on unauthorised investment business Triable either way		\$50,000		\$100,000
12(5)	Shares in licensee held, issued or transferred without approval Triable either way	\$5,000, imprisonment for 6 months or both	\$25,000	\$10,000, imprisonment for 12 months or both	\$50,000
13(5)	Licensee failing to file audited accounts Triable either way	\$5,000, imprisonment for 6 months or both	\$25,000	\$10,000, imprisonment for 12 months or both	\$50,000
19(2)	Dishonesty to clients Triable either way	\$50,000 or imprisonment 3 years, or both	\$250,000	\$100,000 or imprisonment 5 years, or both	\$500,000
25(1), 26(1) and 27(1)	Insider dealing	Unlimited fine, imprisonment for 3 years or both	Unlimited fine	Unlimited fine, imprisonment for 10 years or both	Unlimited fine
31	Market manipulation	Unlimited fine, imprisonment for 3 years or both	Unlimited fine	Unlimited fine, imprisonment for 10 years or both	Unlimited fine
32(1)	Giving self- benefitting advice	Unlimited fine, imprisonment for 12 months or both	Unlimited fine	Unlimited fine, imprisonment for 5 years or both	Unlimited fine
35(8)	Failure to comply with regulations Triable either way	\$10,000, imprisonment for 12 months or both	\$50,000	\$20,000, imprisonment for 2 years or both	\$100,000

### 34 Court to have jurisdiction

- (1) The court has jurisdiction in any proceedings arising under this Act.
- (2) The Attorney General may institute proceedings to prevent and restrain a breach of a provision of this Act and may prosecute an offence committed under this Act.
- (3) The court may, at any time during the course of any proceedings arising under this Act and before giving judgement, make such temporary restraining order or prohibition as it considers just in the circumstances.
- (4) This section does not limit the powers of the High Court.

### 35 Regulations

- (1) The Governor in Council may, on the advice of the Commission, make regulations prescribing all matters required or permitted by this Act to be prescribed or provided, or are necessary or convenient to be prescribed for the carrying out or giving effect to this Act and its due

administration.

(2) Regulations may, in particular, provide that -

- (a) the whole or any part of this Act shall not apply to a person or to a class of persons specified in the regulations; or
- (b) the whole or any part of this Act shall not apply to a class or any type of investment business specified in the regulations or to any activity carried on as part of such a business.

and may provide that the exemption only applies if a specified condition, limitation or restriction is complied with or observed.

- (3) Regulations may require licensees to give to the Commission within any prescribed time notice of any prescribed changes in respect of licensees or their investment businesses;
- (4) Regulation may prescribe the manner in which any class of client assets is to be protected.
- (5) Regulations may prescribe provisions that enable a person who has entered, or who has offered to enter, into an agreement with a licensee relating to investment business, to rescind the agreement or withdraw the offer.
- (6) Regulations may prescribe provisions that require licensees to insure in respect of prescribed liabilities and to provide proof of that insurance to the Commission.
- (7) Regulations may prescribe the fees payable under this Act;
- (8) Regulations may provide that a person who fails to comply with a requirement of the regulations that imposes an obligation on the person is guilty of an offence.
- (9) Regulations made under this Act must be laid before the Assembly within 14 days after the date of their making if the legislature is then in Session, or if the legislature is not then in Session, must be laid before the legislature at the commencement of the next ensuing Session.

### **36 Commission to make compliance arrangements**

- (1) Sections 4, 5 and 6 shall come into force 6 months after this Act receives assent.
- (2) The Commission must make arrangements to ensure that persons carrying on investment business when this Act receives assent have the opportunity to become licensed by the time sections 4, 5 and 6 come into force.

### **37 Short title**

This Act may be cited as the Investment Business Act 2014