

Corporate Securities

APRIL 3, 2003

Securities Act Amendments Coming Into Force On April 7, 2003

In our Corporate Securities Update dated November 7, 2002, we outlined certain proposed amendments to the *Securities Act* (Ontario) contained in Bill 198. These amendments form part of the response of the Ontario Government and the Ontario Securities Commission (OSC) to the passing of the *Sarbanes-Oxley Act* in the United States and are intended to bolster the protection of investors and improve investor confidence in the integrity of Ontario's capital markets.

The Government has just announced that certain of the *Securities Act* amendments will come into force on April 7, 2003.

Amendments Coming Into Force On April 7th

The amendments coming into force on April 7th will:

- strengthen the OSC's enforcement capabilities by:
 - giving the OSC the power to impose an "administrative penalty" on a person or company of up to \$1 million for each failure to comply with Ontario securities law;
 - giving the OSC the power to order a person or company to disgorge amounts obtained as a result of non-compliance with Ontario securities law;
 - increasing the maximum penalties that can be imposed by a Court for *Securities Act* offences from a fine of \$1 million and imprisonment for two years to a fine of \$5 million and imprisonment for five years less a day; and
 - deeming directors or officers of a company that has breached Ontario securities law to have personally failed to comply with Ontario securities law if they authorized, permitted or acquiesced in the company's non-compliance;
- authorize the OSC to conduct reviews of disclosures that have been made, or ought to have been made, by reporting issuers; and
- empower the OSC to make rules:
 - requiring reporting issuers to appoint audit committees;
 - prescribing requirements relating to the functioning and responsibilities of audit committees;
 - requiring reporting issuers to devise and maintain a system of internal controls related to the effectiveness and efficiency of their operations;

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- requiring reporting issuers to devise and maintain disclosure controls and procedures;
- requiring chief executive officers and chief financial officers to provide certifications related to internal controls and disclosure controls and procedures; and
- defining auditing standards for reporting on internal controls.
- providing secondary market investors with a limited right of action for damages resulting from an issuer's misrepresentation in public disclosure or a failure to make timely disclosure of a material change; and
- creating new offences for securities fraud, market manipulation and making misleading or untrue statements.

Amendments **Not** Coming Into Force on April 7th

Two of the more controversial *Securities Act* amendments will not come into force on April 7th. These include amendments:

The Government intends to propose "minor technical changes" to these important amendments before reintroducing them at a later date.

Please contact any member of the Goodmans securities team to discuss the legislation.

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