

## The British Columbia Securities Commission Obtains Significant New Enforcement Powers

The British Columbia Securities Commission (BCSC) can now impose market bans and financial penalties of up to \$1 million for the failure or refusal to attend an investigative interview or for the failure or refusal to comply with a demand for records or information. As of July 17, 2023, amendments to the British Columbia Securities Act (the Act) permit staff to take administrative enforcement action against those who refuse to comply with orders issued during the course of an investigation.

Before these amendments came into force, the commission's only option to address refusal to comply was to apply to court for a finding of contempt. A contempt application is an expensive, time-consuming, and unwieldy process. Historically, the Commission rarely pursued them and in only the clearest of cases.

The new provisions will likely result in more prosecutions for failure to comply. The Act now permits either the executive director or the commission to issue market conduct orders, including cease trade orders and officer/director bans, as well as fines of up to \$1 million per contravention.

It is important to understand that these sanctions can be imposed without a full hearing on the merits. Before issuing an order, the executive director or commission need only provide an opportunity to be heard; this could be written arguments only. There will likely not be an opportunity to call witnesses, cross-examine staff, or make oral arguments, making effective written arguments an important part of the process.

### Takeaways

Market participants should expect the commission to take action under these new provisions as they are much more efficient, from the commission's perspective than initiating contempt proceedings in court. Market participants should also understand under what circumstances staff can compel a person to submit to an investigative interview or to turn over records and other information. In some circumstances, the information demanded is not lawfully required to be produced. Cozen O'Connor can help our clients understand when those circumstances arise.

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**If you have any questions or need assistance navigating the regulatory requirements as they relate to investigations under Canadian securities laws, please do not hesitate to contact any member of our team.**



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