



Financial Institutions Act and Real Estate Services Act

FINANCIAL SERVICES AUTHORITY
RULE-MAKING PROCEDURE
REGULATION

B.C. Reg. 141/2020

Deposited and effective June 22, 2020
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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

B.C. Reg. 141/2020 (O.C. 341/2020), deposited and effective June 22, 2020, is made under the *Financial Institutions Act*, R.S.B.C. 1996, c. 141, s. 289 and the *Real Estate Services Act*, S.B.C. 2004, c. 42, s. 130.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

Prepared by:
Office of Legislative Counsel
Ministry of Attorney General
Victoria, B.C.

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Definitions

- 1** In this regulation:

“**publish**” includes posting information on a publicly accessible website maintained by or on behalf of the Authority;

“**rule**” means

- (a) a rule under section 201.1 of the *Financial Institutions Act*, or
- (b) a rule under section 89.2 of the *Real Estate Services Act*.
[am. B.C. Reg. 208/2021, App. 4.]

Approval in principle

- 2** (1) Except as provided in section 6 or 7, if the Authority proposes to make a rule, it must
- (a) provide to the minister a written explanation of the need for and the anticipated effect of the proposed rule,
 - (b) obtain the minister’s written approval in principle to the proposal, and
 - (c) otherwise comply with this regulation.
- (2) After receiving the explanation referred to in subsection (1) (a), the minister may
- (a) approve the proposal in principle, with or without conditions, or
 - (b) disapprove the proposal.

Publication of proposed rule

- 3** (1) If the minister gives written approval in principle to the proposed rule, the Authority must, before proceeding under section 5, publish
- (a) the text of the proposed rule,
 - (b) an explanation of the need for and the anticipated effect of the proposed rule, and

- (c) a notice that public comment on the proposed rule may be provided in written form to the Authority for a specified period of
 - (i) at least 30 days if the Authority is republishing the proposed rule under section 4 (a), or
 - (ii) at least 60 days in all other cases.
- (2) If the Authority has not received notice of a decision under section 2 (2) within 30 days after providing the explanation referred to in section 2 (1) (a), the Authority may publish the information referred to in subsection (1) of this section.
- (3) If a proposed rule is published under subsection (2), the publication must include a notice that the minister's approval in principle for the proposed rule had not been obtained by the date of the publication.
- (4) If, after a proposed rule is published under subsection (2), the minister notifies the Authority that the minister disapproves the proposal, the Authority must withdraw the proposed rule and must promptly publish notice of that withdrawal.

Alteration of proposed rule

- 4 If the Authority wishes to alter a proposed rule after its publication under section 3 but before its submission to the minister under section 5, the Authority must,
 - (a) if in its opinion the alteration changes the proposed rule in a material way, make the alteration to the proposed rule and proceed under sections 2 and 3 as if the proposed rule, as altered, were a new proposed rule, or
 - (b) in any other case, make the alteration to the proposed rule and proceed under section 5 as if the original publication under section 3 contained the alteration.

Consent to rule by minister

- 5 (1) After expiry of the period specified under section 3 (1) (c) and after considering the comments received during that period, the Authority must, before proceeding under section 8, obtain the minister's written consent to the proposed rule and, for that purpose, must provide to the minister
 - (a) the text of the proposed rule,
 - (b) a copy of the notice published under section 3,
 - (c) a copy of the written comments received in response to the notice, and
 - (d) the Authority's written analysis of the significant issues and concerns raised by those comments.
- (2) After receiving the material referred to in subsection (1) (a) to (d), the minister may
 - (a) consent to the proposed rule, with or without conditions, or
 - (b) reject the proposed rule.

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- (3) If the minister has neither consented to nor rejected the proposed rule within 60 days after receipt of the material referred to in subsection (1), the minister is deemed to have consented to the proposed rule.

Amendments to existing rules

- 6** (1) If the Authority proposes to amend a rule, the Authority must,
- (a) if in its opinion the proposed amendment will change the rule in a material way, proceed under sections 2, 3 and 5, or
 - (b) if in its opinion the proposed amendment will not change the rule in a material way, obtain the minister's written consent to the proposed amendment, and for that purpose must provide to the minister
 - (i) the text of the proposed amendment, and
 - (ii) an explanation of the need for and the anticipated effect of the proposed amendment.
- (2) After receiving a proposed amendment under subsection (1) (b), the minister may
- (a) consent to the proposed amendment, with or without conditions,
 - (b) reject the proposed amendment, or
 - (c) approve the proposed amendment in principle, with or without conditions, and direct the Authority to proceed under sections 3 and 5 with respect to the proposed amendment.
- (3) If the minister has not notified the Authority of a decision under subsection (2) within 60 days after receipt of the records referred to in subsection (1) (b), the minister is deemed to have consented to the proposed amendment.

Urgent rules

- 7** (1) In this section, "**proposed rule**" includes a proposed amendment to a rule.
- (2) If the Authority considers it necessary and in the public interest to make or amend a rule without delay, it must obtain the minister's written consent to the proposed rule and to the making of the proposed rule under this section and, for that purpose, must provide to the minister
- (a) the text of the proposed rule,
 - (b) an explanation of the need for and the anticipated effect of the proposed rule,
 - (c) the date on which the proposed rule is to come into force, and
 - (d) an explanation of the need for seeking the minister's consent under this section rather than under section 5 or 6.
- (3) If a proposed rule approved under this section is not published in accordance with section 8 within 10 days after the minister's consent under subsection (2) is obtained, the Authority must notify the minister that the proposed rule has not been published and must provide reasons for the delay.

- (4) Failure to receive the consent of the minister required under subsection (2) does not prevent the Authority from proceeding under sections 2 to 5 in respect of the proposed rule.
- (5) Unless earlier repealed or revoked, a rule made by the Authority and consented to by the minister under this section is revoked on the 275th day after the day it is published in accordance with section 8.

Publication of rule

- 8** (1) After obtaining the consent of the minister required by section 5, 6 or 7, as the case may be, the Authority, if it wishes to proceed with the making of the rule, must publish
 - (a) the text of the rule, and
 - (b) the date on which the rule comes into force.
- (2) Except for a rule consented to by the minister under section 7, a rule must not come into force before the day that is 30 days after the first day of its publication as required by subsection (1).

Repeal of rule

- 9** This regulation applies to the repeal of a rule.