

SECURITIES REGULATION IN CANADA. By Mark R. Gillen. Carswell, 1992. Pp. 483. (\$78.00).

Securities Regulation in Canada represents an excellent introduction to the securities law field and will be of great assistance to students and others having an interest in the subject.¹ This reference work must be the natural result of the frustrations that would have been encountered by Professor Gillen in attempting to lecture in securities law to students without the benefit of an introductory reference text, and is as a result both well-organized and written in a style that is easily understood.

The author, in his preface to the work, notes that while the book is primarily directed to students of law it may also serve "as an introduction to Canadian securities law for lawyers who do not regularly practice in the area, but who need to have some means of obtaining a general knowledge of the area to serve a particular client or to be generally aware of securities law issues". This goal should not be minimized. Most commercial lawyers have a need for a basic understanding of securities law concepts. Like income taxation, however, a review of statutory sources, in isolation, is unlikely to further one's understanding of securities law. The publication of *Securities Regulation in Canada* fills a significant void in this regard and will likely be regularly consulted by business advisors in servicing their clients.

The author is to be commended for addressing the subject with a logical and understandable progression. Most importantly, the reader is not immediately overwhelmed with technical statutory law requirements, but instead treated to an introduction to corporate finance and the basic characteristics of securities, and in Chapter 3 of the text, an exploration of the history, purpose and sources of securities regulation. These introductory chapters are, from a securities law lecturer's point of view, perhaps the most important contribution of the text since it is the absence of an appreciation of these fundamentals that makes an attempt to understand substantive securities law requirements so difficult.

The text addresses the principal securities law components on a segregated chapter-by-chapter basis, with the appropriate level of detail to be expected of a reference work of this type. The book is not an all encompassing reference source and accordingly should not be compared with loose-leaf services otherwise available to practitioners in the field.² The principal purpose of the text is to explain the fundamental concepts and statutory provisions found in securities law and policy and thereby provide a basic understanding from which further inquiry can be undertaken. As a reference source the text would have benefitted from the inclusion of a table of cases.

Securities Regulation in Canada addresses prospectus and registration requirements, prospectus exemptions, statutory liability and due diligence, insider trading, takeover and issuer bids, and enforcement. The text also devotes a specific chapter to distributions by senior issuers and constitutes, in that connection, perhaps the only reference source to describe in an introductory format 'distributions under prompt offering prospectus',

¹ R.M. Mercier, in a review of *Securities Regulation in Canada* contained in the Canadian Bar Review [(1993) 72 C.B.R. 276], shares this reviewer's perspective.

² See V.P. Alboini, *Securities Law & Practice*, 2d ed. (Toronto: Carswell, 1984) or Can. Sec. L. Rep., 5 vols., (Toronto: CCH Canada Ltd., 1991).

including distributions under National Policy Statement No. 44.³ Additionally, *Securities Regulation in Canada* includes a chapter devoted to the structure, organization and distribution of mutual funds in Canada.

A departure from the basic focus of the work as a topical reference source is the inclusion, in the context of continuous disclosure, of a specific chapter dealing with theoretical analysis of the effects of disclosure requirements on securities pricing and, in the context of the chapter on insider trading, a policy discussion of the merits of insider trading prohibitions. While both of these elements are interesting, from an academic perspective, they appear to be included, in the reviewer's view, more in consequence of the interest of the subject matter to the author as opposed to their natural linkage to the areas to be addressed in an introductory text on substantive securities law matters. It is somewhat unusual, for example, that the author chooses to devote time to these topics, while at the same time devoting only scant attention to the question of the legitimacy of policy statements and other enactments made by securities regulatory authorities, which is the subject that has emerged to be perhaps the most significant policy issue facing the regulation of securities in this decade.⁴ Hopefully this area will be addressed by the author in a future edition.

Securities Regulation in Canada represents a significant contribution to the understanding of securities law in Canada. It is essential that students of Canadian securities law and commercial advisors have available to them a current reference source, and Professor Gillen's book will, if kept current through subsequent editions, more than adequately serve that purpose.

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³ See National Policy Statement No. 44 — "Rules for Self Prospectus Offerings and for Pricing Offerings after the Final Prospectus is receipted".

⁴ This topic has taken on considerable importance in Ontario, although the significance of the issue became apparent in the decision of the British Columbia Court of Appeal in *Pezim v. British Columbia (Superintendent of Brokers)* (1992), 66 B.C.L.R. (2d) 257 (C.A.), which is referred to in the text under the discussion of continuous disclosure. The Court of Appeal decision was subsequently reversed by the Supreme Court of Canada [1994] 2 S.C.R. 557, 114 D.L.R. (4th) 385. The Ontario Supreme Court, in *Ainsley Financial Corporation et al. v. Ontario Securities Commission* (1993), 14 O.R. (3d) 280, restrained the Ontario Securities Commission from acting on a policy aimed at regulating disclosure to investors by "penny stock" dealers. This decision led to the formation of an Ontario task force on securities regulation, which has proposed, among other things, the grant of specific rule making authority to the Ontario Securities Commission [see "Responsibility and Responsiveness: Final Report of the Ontario Task Force on Securities Regulation" (1994) 17 O.S.C.B. 3208].

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