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Bill No. 65 – The Securities Amendment Act, 2012

Mr. Forbes: — Thank you very much, Mr. Speaker. I rise today to speak to Bill No. 65, An Act to amend The Securities Act, 1988 and to make consequential amendments to other Acts. And this is a very technical bill dealing with securities and those related matters. And as I've read through it, of course, it is one that needs to clearly be well-thought-out, well-articulated, and I appreciate the comments that have been made to date on it.

Fortunately, Mr. Deputy Speaker, I don't have my stories about buying pots and pans or getting my lawn fertilized and that type of thing that would relate to this bill. I don't have the same kind of experience going on on a Saturday afternoon, buying some over-the-counter derivatives. But I will do my best because I think what you want to do is have bills that work for every person.

And I think that, as the minister in his opening comments alluded to, that a lot of the things that happened in the financial crisis of 2008, there were many causes, but one of the things that played a role was over-the-counter derivatives. And he talked about the role it played in the financial crisis of 2008. And it's important, and I quote:

In 2008 the OTC market and the complexity of OTC derivative contracts was compounded by a lack of transparency. This made it challenging for regulators to identify the risk before the crisis. This is contrast to the trading of derivatives on regulated exchanges which did not experience any significant failures during the financial crisis of 2008.

So it's important that we get it right as we see, in Saskatchewan and across the world and throughout North America particularly, the interest in securities and online investing and this type of thing and how it's important that there be some level of transparency and that people who are investing have confidence in this system. And clearly in 2008 confidence in the system was severely, severely shaken as we saw particularly what happened in the

United States. And they're still recovering, and of course what happens in the United States has a major, major chilling effect here in Canada.

And so this is an important piece of legislation, and it's important that we get it right. And so we'll be making sure that we talk to the stakeholders and those in the know about this type of thing to say, does this meet the test? Does it meet the needs of investors, ordinary people who are looking to invest their money to make sure they're not at risk, that they're going to see some return, and that you don't have the large, systemic computer-driven collapses of what happened.

We often think back now about the marketplace. And clearly it's got to be, now it's becoming one of the most complex areas for anybody to try to understand when you're investing money, when you're talking about particularly relating it to the housing market, when people were hedging their mortgages and mortgages were grouped together and the impact of that. Boy, it does make your head spin to try to keep track of all the details.

So we're glad that this is being taken on and we hope that it's the right thing. And of course, as I said, we'll be looking at it further with those in the know. And you know, when we think back and we think back about some of the stories that came out, particularly from Wall Street where this kind of investment and people who were able to benefit greatly by the kind of things that were unethical, but clearly they were able to do it because of the lack of transparency that the minister speaks about.

And so I think this is very, very important that we see this kind of work be done, that it's transparent, that it's clear, and people can understand what the risks are, and when they're investing, what will happen to their money. So we're glad to see this. And of course when the minister talks about jurisdictions where many of our Canadian firm counterparties are based, such as the European Union, the United States, they are . . . [inaudible] . . . ready to impose a new regulation on the OTC [over-the-counter] derivative market. And of course when they have those rules set out, there has to be consistency across the marketplace internationally, nationally, and provincially. And so we hope that those meet that test. This is very important.

As he talked, he says, “. . . regulatory inaction is not an option given the commitments Canada has made as part of the G20.” And that's very important that we do live up to those obligations.

You know, one of the things, and we take a lot of pride . . . You know, on one hand we often hear about getting rid of regulations and regulations are bad, that somehow the less regulations, the better the marketplace can play.

But you know, one of the things that we sure are proud of in Canada is our banking regulations, and the things that we can take a lot of pride in that have been balanced over the course of the years that meets the need of the marketplace so people can do their business but they do it ethically and that people are safe and not left in vulnerable positions. And so this kind of thing, and of course when our national government takes leadership at the G20 [Group of Twenty] and says, these are the regulations and

hopefully they're meeting the needs at the international level, and then down to the national, as I said. And now down to the provincial level, it's our obligation to follow suit as soon as we can. So we hope that these are sufficient to meet those tests.

Clearly it's an important area and we cannot, we can't all fall behind. We just don't want to hear the horror stories of what happened in 2008 repeat itself. Just too many families, particularly in the United States, we can see were left in positions that they're still trying to recover from. And so while that was limited in Canada and even more limited here in Saskatchewan, it's one that we just don't want to see again. So it's a lesson learned, I guess, at the school of hard knocks. And of course, unfortunately for those who did lose significant amount of monies, particularly in their retirement funds, it was a hard, hard, hard lesson.

So we will be watching this one very closely. It's an important one and a complex one. I mean it's one that when I look at... The legal terminology is dizzying if you're not familiar with it. But I'm glad that there are people within the public sector, within the public service who know this area. And that's part of the consumer protection authority, it references that. And I think that's a good thing because people need to, as I said, have that confidence in the system, that there's the leadership of the government, the provincial government's there to protect everyone.

And more and more we know that while it's a tough thing, it's a tough thing to deal with debt, but if you're fortunate to have some savings, fortunate to have some securities, you want to make sure that you're not at risk of losing it because it took a lot of work to get your savings, to get your investments together. You sure don't want to have it be lost because of something you couldn't see. And I guess that's the ultimate test, or the transparency test, isn't it? You couldn't see it. You didn't think of it. It was too opaque, a term that the minister uses. So we think this is important.

He also talks about that:

this bill also provides that certain confidential records and information gathered by officials with the Financial and Consumer Affairs Authority may not be publicly disclosed. These include records relating to examination of market participants and self-regulatory organizations...

And he goes through, he says, "Protecting the confidentiality these records is critical to ensure the effective enforcement of securities legislation."

And I think I appreciate that in a sense of, you know, in terms of the business climate, you want to be competitive but yet you have to have some transparency. And so when you have our agency, the Financial Consumer Affairs Authority, being able to do a thorough investigation, that there's some confidence in terms of the business marketplace that there will be some confidentiality that these records will not be bandied about and that there will be an ability to keep some of their practices, their records, what they do in a confidential manner, is important.

So I think this is an important bill. Clearly if they said that when we look back to the

crisis of 2008 and how it manifested itself in so many different ways — whether it was in the manufacturing sector in Ontario, whether it was the housing collapse in the States, or the financial sector with the collapse in terms of investments for people, particularly in terms of pensions — it was so widely felt and how it's all interconnected. And so it's important to make sure all links in the chain are strong, and whatever we can do to make that as strong as possible, that's very important. And I do appreciate the fact that this is largely driven through a national, international response to make sure we don't have that kind of thing happen again.

And as I said, we can take a lot of pride in the fact that we do believe in the importance of government regulatory frameworks so that business can have a level playing field, so everybody knows what the deals are, but that the consumers, the individuals are protected and they're not left in vulnerable positions because of a lack of transparency.

It's only fair that people can have confidence in the marketplace, especially when, as I said, you're investing what to individual people may be large amounts of money. To others it may be small, but when you lose your investments and your pensions and you have to work several years more, this can be a crushing, crushing life experience at a time when you want to . . . when you're looking forward to retirement and something comes along and essentially just blows you right out of the water because of some unethical behaviour and a chain of events that's launched and that were within the legal framework, but unfortunately it was not transparent and it wasn't as well thought out as it might have been. And so I hope that this fits the bill, that it actually meets the need that it's trying to do.

We also hope that there are no unintended consequences. We hope that people do have confidence in the marketplace, will invest, will look at over-the-counter derivatives as a financial product that they can have confidence in. We think this is important that when they do this kind of thing, that it will be fair.

Now I know the minister in his remarks . . . And they were very technical and so I appreciate that. And of course I can't match that technical knowledge and I won't try to. So we'll have to leave this to the experts to really comb through and say, yes, this is the right answer; this is the way it should be. Or if there are things that are left out, if there's some glaring omissions, we clearly will be raising those questions about why isn't this part of the issue. So I think this is an important issue to go forward.

He does talk about the fine collection branch that will be operating and collecting financial compensation orders and how that will proceed, and I think that it seems to be all part of the package.

And so with that I know that many other people will want to speak to this, and of course we hope that we will have a chance to speak more in committees and different venues about this issue. Because clearly, as I said, when you're dealing a consumer protection area like this, this is an important one, that people say it meets the needs. It's the right thing. It allows for the marketplace to offer a wide range of products, including the OTC derivatives, but that they're fair and that they meet and do what they say they're going to

do and not anything more.

And so it's not making people accept the risk that shouldn't be there. It shouldn't be there, and that it then, you know, is part of a larger collapse as we saw with the financial crisis of 2008. You know, when I think about some of the stories and of course the films, the narratives of some of the things that happened in 2008 where people lost so much money, and yet some people were able to walk out of that with a whole lot of money, millions of dollars, because they happened to be at the right place or it seemed like the money fell from the heavens. Now how did that work? I don't know. So it's a bit of a mystery, but I think this goes a long way to solving that. I think that, again as I said, we'll be talking to people in the know who can assure us of that. That's what we'll be asking. I would want to know more about that.

So with that, Mr. Deputy Speaker, we'll be asking a lot more questions about it. We'll be having . . . I know many more people will want to talk a bit about this. But at the time being right now, it's a very thick bill. It's not a small one. Like some of the other bills will have one page or something. This again is some 40, 50 pages, 49 sections, very thorough. But it has to be. It has to be when we're talking about contracts and financial contracts, some 49 sections. So a lot of work here that needs to be gone through and a very thorough, thorough combing of all the details to make sure that all the pieces fit and that it actually sets out to do what it means to do and that there won't be any unintended consequences. It doesn't create any more loopholes or weaknesses in the legislation so problems can arise.

So with that, Mr. Deputy Speaker, I would like to move adjournment for Bill No. 65, An Act to amend The Securities Act, 1988 and to make consequential amendments to other Acts. Thank you, Mr. Deputy Speaker.