

**BY LAW NO .1**

A by-law relating generally to the management of the business  
and affairs of Alberta Treasury Branches and the conduct of the  
business of its Board of Directors

August 28, 2008

As recommended by the Governance and Conduct Review Committee August 14, 2008

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# BY-LAW NO. 1

## PREAMBLE

ATB Financial is established and operated pursuant to the Act. Under subsection 8 (1) of the Act, the Directors may make by-laws governing the management of the business and affairs of ATB and the conduct of the business of the Board. The following is therefore enacted as By-law No. 1 of the Board.

## ARTICLE 1 – DEFINITIONS

### 1.1 In this by-law:

- (a) Definitions in the Act  
Except where otherwise defined herein or where the context otherwise specifies or requires, words and phrases defined in the Act have the same meaning when used in this by-law.
- (b) Additional Definitions  
In addition, in this by-law:
  - (i) “Act” means the Alberta Treasury Branches Act, Chapter A-37.9, R.S.A. 2000, as amended together with any regulations passed pursuant to it;
  - (ii) “ATB Financial” includes Alberta Treasury Branches and its subsidiaries;
  - (iii) “Board” means the Board of Directors of ATB Financial appointed pursuant to subsection 3(1) of the Act;
  - (iv) “Business Day” means a day other than a Saturday, Sunday or statutory holiday in Alberta;
  - (v) “By-laws” means all the by-laws of the Board which are then in force, including this By-law;
  - (vi) “Chair” where used in relation to the Board, means the chair of the Board appointed by the Lieutenant Governor in Council and in relation to a Committee, means the chair appointed as the chair of the Committee;
  - (vii) “Committee” means a committee of directors established by the Board;
  - (viii) “Director” means a member of the Board;
  - (ix) “Resolution” means a resolution:
    - (a) passed by a majority of the votes cast by the Directors who voted in respect of that resolution at a meeting of the Board or a Committee, or
    - (b) signed by all of the Directors entitled to vote.

- (x) “Special Resolution” means a resolution:
  - (a) passed by a majority of not less than 2/3 of the votes cast by the Directors who voted in respect of that resolution at a meeting of the Board or a Committee, or
  - (b) signed by all the Directors entitled to vote.

### **Interpretation**

- (i) In the By-laws: words importing the singular shall include the plural and vice versa; words importing gender shall include the masculine, feminine or neuter gender as the context requires or permits; and words importing persons shall include individuals, partnerships, unincorporated associations, incorporated bodies, trustees, executors, administrators and legal representatives.

## **ARTICLE 2 – GOVERNANCE**

### **2.1 Restrictions Upon Persons Acting as Directors**

- (a) If any Director becomes aware that he is not eligible to become a Director pursuant to the Act, such Director shall promptly notify the Chair of the Board.
- (b) Where a person disputes allegations that he is ineligible to continue as a Director, such person shall submit the issue to the Board for a determination. The determination shall be made by the Board or, at the Board’s direction, the Governance and Conduct Review Committee, in accordance with the procedures approved by the Board for such purpose. Pending such determination, the Board may suspend the allegedly ineligible Director’s right to notice of, or to attend or participate in any meetings of the Board or any of its Committees, or to vote on any motions made at them.
- (c) Where the Board or the Committee, as the case may be, determines that a person appointed as a Director is ineligible to be a Director, that person ceases to be a Director. The Corporate Secretary shall record in the records of the Board the date on which such person ceased to be a Director and the Chair of the Board shall notify the Minister.
- (d) Notwithstanding any other provision of this By-law, the attendance and participation of any person as a Director at a meeting of Directors or of a Committee, and the vote of any such person in respect of any Resolution or Special Resolution or any decision of a Committee, shall be valid for all purposes although it is subsequently determined that the person was not eligible to be a Director or member of the Committee at the relevant time.

## **2.2 Vacancies on the Board**

Whenever a vacancy occurs on the Board, whether by reason of resignation, death, ineligibility or otherwise, the Board shall be entitled to continue to fulfil its duties and obligations through its remaining Directors pending the appointment of a replacement.

## **2.3 Annual Public Meetings**

An annual public meeting shall be held within three months after the conclusion of each fiscal year end of ATB Financial.

## **2.4 Meetings**

- (a) Regularly scheduled meetings of the Board or a Committee shall be held at the times and places established by the Board. Unscheduled meetings shall be held whenever called by the Chair on the provision of three business days prior written notice by the Corporate Secretary or her designate to each Director. Unscheduled meetings shall be called in like manner and notice on the written request to the Corporate Secretary by at least two Directors. Adequate notice for unscheduled meetings shall include the nature of the business to be transacted at such meeting.
- (b) In the absence of approval from the Committee Chair to the contrary, materials to assist the Board with respect to the matters to be dealt with at regularly scheduled Board and Committee meetings shall be provided five business days in advance. Reports and other information as may have been compiled in relation to an unscheduled meeting to assist the Board in dealing with such matters shall be provided as soon as practicable.
- (c) A meeting of the Board or a Committee may be held at any time without formal notice if all the Directors are present or if all Directors who are absent waive notice or consent in writing to the meeting proceeding in their absence.

## **2.5 Meeting by Telephone or Other Communication Facilities**

A meeting of the Board or a Committee may be held by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other.

## **2.6 Quorum**

- (a) A majority of the Directors shall constitute a quorum necessary for the transaction of business at any meeting of the Board. The required quorum for a Committee shall be determined by the Terms of Reference of that Committee.
- (b) In the event a quorum is established but is subsequently lost, the remaining Directors present at the meeting shall constitute a quorum in respect of matters on the agenda for that meeting, but the departing director shall be entitled to request that any matter on the agenda be dealt with prior to that director's departure from the meeting, if reasonably possible. Notwithstanding the above, those Directors present may also adjourn a meeting, from time to time, until a quorum is present. No notice of continuation of the adjourned meeting shall be required but no additional matters shall be added to the agenda after such adjournment.

## **2.7 Voting**

Each Director shall be entitled to one vote on each matter submitted to a vote at any meeting of the Board or a Committee. Unless the By-laws require a Special Resolution, all matters coming before the Board for decisions shall be determined by Resolution. In the case of an equality of votes in respect of a matter to be dealt with by Resolution of the Board, the Chair shall have a second or deciding vote.

## **2.8 Special Resolution**

In addition to any other matters required by the Act or By-laws to be dealt with by Special Resolution, the following shall require approval by Special Resolution:

- (a) any proposed new By-law of the Board;
- (b) an amendment to any of the By-laws.

## **2.9 Action Without a Directors' Meeting**

A Resolution or Special Resolution signed by all of the Directors entitled to vote or a resolution of a Committee signed by all of the members of that Committee entitled to vote on the resolution, including execution in counterparts, is as valid as if passed at a meeting of Directors or of that Committee.

## **2.10 No Delegation by Directors**

A Director shall not be entitled to delegate to any other person any of the rights or powers of that Director under the Act or the By-laws except where expressly provided in the Act or the By-laws.

## **2.11 Method of Giving Notice**

Any notice or other document required by the By-laws to be sent to any Director or Officer shall be delivered personally or sent by prepaid mail or by facsimile or electronic transmission to any such Director or Officer at the latest post address, electronic address, or facsimile number as shown in the register of the Board. A delivered notice shall be deemed to be given when it is delivered personally to such address as aforesaid. A mailed notice shall be deemed to have been given on the fourth day after it is deposited in the post. A notice sent by any means of facsimile or electronic transmission shall be deemed to have been given when dispatched, provided the sender is not notified on non-delivery.

In the event of disruption or threatened disruption of mail service, all notices shall be given by personal delivery or facsimile or electronic transmission in accordance with the foregoing paragraph.

## **2.12 Omissions and Errors**

The accidental omission to give any notice to any Director or Officer or the non-receipt of any notice by any such person or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice.

## **2.13 Waiver of Notice**

A Director or Officer may at any time waive any notice, or waive or abridge the time for any notice, required to be given to him or her under the By-laws. Any such waiver or

abridgement, whether given before or after the meeting or other event for which notice is required to be given, shall cure any default in the giving or in the time of such notice, as the case may be. Attendance of a Director or Committee member at a meeting of Directors or a Committee is waiver of notice of the meeting, except where a Director or Committee member attends the meeting for the express purpose of objecting to the transaction of any business on the grounds the meeting is not lawfully called.

## **ARTICLE 3 – DUTIES AND POWERS OF DIRECTORS**

### **3.1 General Powers**

The Board shall manage the business and affairs of ATB, provide direction to management and take such other actions as it deems appropriate to fulfil the requirements of the Act. The Board may adopt such policies, rules, recommendations and actions, as it deems advisable and which are consistent with the Act and the By-laws.

### **3.2 Delegation of Powers**

Other than as expressly prohibited by the Act, the Board may delegate to any Director, a Committee of Directors, or any Officer or employee of ATB, any of the Board's powers and duties under the Act, to such extent and in such manner as the Board determines at the time of such delegation. The Board may revoke or limit any such delegation at any time.

### **3.3 Execution of Instruments**

Signing authority for execution of contracts and other documents requiring execution by ATB shall be determined from time to time by resolution of the Board. All contracts and other documents so signed shall be binding upon ATB without any further authorization or formality.

### **3.4 Annual Report**

At the end of each fiscal year, the Board shall cause the preparation of an annual report, which will include:

- (a) those financial matters required under the Act and the Government Accountability Act;
- (b) the remuneration of Directors and selected Senior Officers, as may be determined by the Board in accordance with legislative requirements; and
- (c) any other information, which in the Board's opinion should be included.

### **3.5 Duties of Chair**

The Chair shall be appointed by Order in Council and shall perform the responsibilities set out in the role description to be approved by the Board, which shall include the following:

- a) call meetings of the Board;
- b) establish the agenda for meetings;
- c) when present, preside at meetings of the Board;



- d) generally be responsible for the management of the business and affairs of the Board;
- e) be entitled to serve as a member of any Committee or to attend Committee meetings in his capacity as Board Chair;
- f) decide all questions in dispute relating to the interpretation and application of this By-law #1; and
- g) perform any other duties set out in the position description for the Chair.

Any decision of the Chair on such matters shall be conclusive provided such decision does not conflict with the Act.

### **3.6 Duties of the Vice-Chair**

Subject to the overriding authority of the person (if any) appointed to act in place of the Chair by Order-in-Council, the Vice-Chair (if one is appointed by the Board) may exercise all the powers and shall perform all the duties of the Chair during any period when the Chair is absent or incapacitated. In the absence of both the Chair and the Vice-Chair (if one is appointed by the Board), the Chair may appoint a Director to act as Chair of a meeting and any Director so appointed may exercise all the powers and perform all the duties of Chair for that meeting.

### **3.7 Meeting Chair**

In the absence of both the Chair and the Vice-Chair (if one is appointed by the Board), the Chair may appoint a Director to act as Chair of a meeting and any Director so appointed may exercise all the powers and perform all the duties of Chair for that meeting.

## **ARTICLE 4 – COMMITTEES**

### **4.1 Creation of Committees**

In addition to those Committees specified in the Act and the By-laws, the Board may from time to time create, appoint Directors to, remove Directors from, and terminate Committees, as it deems appropriate. The Resolution establishing a Committee shall set out its purpose and responsibilities. The Board shall approve the terms of reference or charter of any standing Committee of the Board and any amendments thereto. Each such Committee shall report to and be subject at all times to the control and direction of the Board.

### **4.2 Function of the Committees**

Except as otherwise specified in the By-laws or by the Board, the general role of each Committee shall be to receive the reports and recommendations of Management, provide information, make recommendations to the Board for approval, and make decisions on behalf of the Board, in those areas of authority established by its Board.

### **4.3 Procedure**

Unless otherwise determined by the Board or provided in the Act or the By-laws to the contrary, each Committee shall determine and regulate its procedure in all respects.

### **4.4 Duties of Chair of Committee**

The Chair of a Committee shall, when present, preside at all meetings of the Committee, call meetings of the Committee, report to and submit any recommendations of the Committee to the Board and be responsible for the management of the business and affairs of the Committee.

#### **4.5 Duties of Secretary of a Committee**

The secretary of a Committee shall attend all meetings of the Committee, record all votes and keep and distribute to all Directors a record of all meetings of the Committee. The secretary of the Committee shall serve all notices and provide all information concerning the Committee required by law, by the By-laws and by Resolution to be given to the Directors or Committee members. Unless otherwise specified in the terms of reference of a Committee, the Corporate Secretary will act as the secretary of the Committee.

#### **4.6 Attendance at Committee Meetings**

Unless otherwise specified by the Board, attendance and participation at any Committee meetings shall be open to any Director. Except for in camera sessions of the Committee, the Chief Executive Officer and any other person authorized by a Committee may attend a meeting or meetings of that Committee. In the case of the Audit Committee, meetings, including in camera sessions, shall also be open to the Auditor General or the Auditor General's designate.

#### **4.7 Voting**

Any matter coming before a Committee shall be adopted for recommendation to the Board only if a majority of the Committee Directors participating in the meeting vote in favour of the matter. In the case of an equality of votes, the Chair of the Committee shall have a second or deciding vote.

## **ARTICLE 5 – PROTECTION OF DIRECTORS, OFFICERS AND OTHERS**

### **5.1 Limitation of Liability**

- (a) In exercising their powers and discharging their duties, every Director and Officer shall act honestly and in good faith, and shall exercise the care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances. Subject to the foregoing and the Act, no Director or Officer shall be liable for the acts, neglects or defaults of any other Director or Officer or of any other loss, damage or misfortune, whatever, which may happen in the execution of his duties. The Directors and Officers shall not be under any duty or responsibility in respect of any contract, act or transaction whether or not made, done or entered into in the name of or on behalf of ATB, except such as have been submitted to and authorized or approved by the Board in the manner provided for in this By-law.
- (b) Except as provided in the Act, no Director shall be liable to any other Director for any loss or damage to property, loss of earning, revenues, personal injury, or any other direct, indirect, punitive, exemplary, special or consequential damages or

injury which may occur or result from the performance or non-performance of the By-laws, including any negligence (whether active, passive or imputed) arising thereunder. Each Director releases each other Director from any such liability. Nothing in the By-laws is intended to expand or limit any Director's liability pursuant to any law, regulation, contract, or agreement other than as expressly set forth in the By-laws.

## **5.2 Indemnity**

ATB shall indemnify each Director and Officer in accordance with, and shall issue to each Director and Officer the indemnity in the form attached hereto as Schedule "A". Subject to the Act and upon approval by the Board, ATB may also indemnify the directors and officers of its wholly-owned subsidiaries and other employees or contractors of ATB or its subsidiaries, on such terms as may be approved by the Board.

# **ARTICLE 6 – OFFICERS**

## **6.1 Appointment of Officers**

### **(a) Generally**

The Board shall from time to time designate the offices of ATB and shall appoint the Officers, other than the Chief Executive Officer. Each Officer shall hold office until a successor is appointed or until such Officer resigns. Two or more offices may be held by the same person.

### **(b) Specified Offices**

In addition to the office of the Chief Executive Officer, the following Officers shall be appointed: the Chief Financial Officer; the Chief Risk Officer; the Corporate Secretary; and the Vice President, Internal Audit, who shall report directly to the Board. The Board may also appoint an Assistant Corporate Secretary to exercise the powers and perform the duties of the Corporate Secretary in his or her absence.

## **6.2 Removal of Officers**

With the exception of the Chief Executive Officer and the Chair (including any person appointed by Order-in-Council to act in place of the Chief Executive Officer or the Chair), any Officer may be terminated by the Board at any time.

## **6.3 Duties of Corporate Secretary**

### **(a) The Corporate Secretary shall:**

- (i)** assist the Chair, the Chairs of Committees and the Chief Executive Officer to establish agendas to ensure that the business of the Board is conducted in an efficient and timely manner;
- (ii)** work with Management to ensure that information required by the Board is prepared and provided in a timely manner;

- (iii) compile all information required by the Board or a Committee for meetings and, if practicable, deliver such information to each Director prior to the relevant meeting;
  - (iv) attend or ensure her designate attends all meetings of the Board and record all decisions and resolutions made and votes taken thereat;
  - (v) ensures minutes are kept of all Board and Committee meetings;
  - (vi) keep and distribute to all Directors a record of all meetings of the Board;
  - (vii) have general charge and supervision of the records of meetings and actions of the Board and its Committees;
  - (viii) serve all notices required by law and the By-law to be given to the Directors and Officers and others;
  - (ix) make a full report on all matters and business pertaining to the Corporate Secretary's office at the annual meeting of the Board;
  - (x) keep or cause to be kept a register in which shall be entered the names and addresses of all Directors, Officers, Committees and Committee members;
  - (xi) make or cause to be made all reports and filings required by the ATB Act and the By-laws;
  - (xii) unless otherwise specified in the terms of reference of a Committee, act as secretary for all Committees of the Board; and
  - (xiii) perform such other duties as may be specified by the Board from time to time or as may be required to support the efficient functioning of the Board and its Committees.
- (b) If the Corporate Secretary or any Assistant Corporate Secretary is unable to attend a Board meeting, the Directors present at such meeting shall appoint a person to act as Secretary at such meeting.

## **ARTICLE 7 – COMPENSATION AND COSTS**

### **7.1 Administration Costs**

All costs relating to the Board and its activities and Committees shall be paid by ATB.

### **7.2 Compensation of Directors**

Directors, including the Chair and any Vice-Chair and Officers shall be entitled to be reimbursed for all reasonable out-of-pocket expenses incurred in connection with acting in their capacity as Directors and Officers of ATB. Directors, including the Chair and any Vice-Chair, shall be entitled to receive such remuneration as is approved by the Board, and with respect to compensation, as approved by Order in Council.

### **7.3 Compensation of Officers**

The Chief Executive Officer shall be entitled to receive such base salary as is recommended by the Board and approved by the Minister and such other compensation and benefits as are approved by the Board. Officers, other than the CEO, shall be entitled to receive such base salary as is established from time to time by the Board.

### **7.4 Professional Advisors**

When requested by the Chair or the Board or a Committee, the Corporate Secretary shall assist the Directors in retaining independent professional advisors for the purposes of the Board or a Committee. The costs of all such independent professional advisors shall be paid by ATB.

## **ARTICLE 8 – EFFECT OF BY-LAWS**

### **8.1 Effective Date**

By-laws shall become effective upon passage of a Special Resolution approving such By-law.

### **8.2 Confidentiality**

Each Director shall, unless authorized by the Board, maintain the utmost confidentiality with respect to the business and affairs of ATB. The Board shall implement and maintain policies and procedures to ensure that all Officers, employees and agents are bound to observe a similar duty of confidentiality.

### **8.3 No Third-party Beneficiaries**

Nothing in this By-law shall be construed to create any duty to, any standard of care with reference to, or any liability to, any third party.

**SCHEDULE "A"**  
**INDEMNITY**

To:

In consideration of you agreeing to become or remain a member of the Board of Directors or an Officer of Alberta Treasury Branches, Alberta Treasury Branches hereby agrees that it shall indemnify you and hold you harmless from and against:

- (a) any liability and all costs, charges and expenses, including all amounts paid or incurred to settle an action or satisfy any judgement, you or your heirs and legal representatives may sustain, pay or incur (as the same becomes payable by you) in respect of any action, suit or proceeding whether of a criminal, civil or administrative nature, that is threatened or commenced against you (and whether during your tenure as a Director or Officer or subsequent thereto), for or in respect of anything done or omitted to be done by you in respect of the execution of your duties or powers as a Director or Officer of Alberta Treasury Branches; and
- (b) all other reasonable costs, charges and expenses that you sustain, pay or incur in your capacity as a Director or Officer in respect of the affairs of Alberta Treasury Branches.

Notwithstanding the above, you shall not be indemnified in respect of a matter if:

- (i) you failed to act honestly and in good faith and with a view to the best interests of Alberta Treasury Branches; or
- (ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, you did not have reasonable grounds for believing that your conduct was lawful;

In addition, any amount payable to you under this Indemnity shall be reduced by the amount to which you are entitled under any policy of insurance or under any separate indemnity in the nature of insurance provided to you by or through Alberta Treasury Branches or Her Majesty the Queen in Right of Alberta.

Before being entitled to payment under this Indemnity, you must comply with the Additional Conditions attached.

**DATED this** \_\_\_\_ **day of** \_\_\_\_\_

Alberta Treasury Branches

Per: \_\_\_\_\_

Per: \_\_\_\_\_

## ADDITIONAL CONDITIONS

Each indemnified person shall comply with the following terms and conditions except in the case of a criminal action or proceeding or an administrative action or proceeding that is enforced by a monetary penalty:

- (a) to the extent the person has a right of action against another person, whether for damages or indemnification or otherwise, the person shall assign that right to Alberta Treasury Branches ("ATB") and subrogate ATB to that right to the extent of the amounts paid by ATB or for which ATB is liable;
- (b) any barrister and solicitor who acts for the person shall be approved for that purpose by ATB;
- (c) the person shall promptly give ATB written notice, with all available particulars, of the action or proceeding and of all claims made in it;
- (d) the person shall promptly forward to ATB all documents, including letters, notices, advices, pleadings and orders, received by him from or on behalf of a claimant in respect of the action or proceeding;
- (e) the person shall not voluntarily assume any liability in respect of or settle the action or proceeding except at the person's own cost;
- (f) the person shall not interfere in any way in the action or proceeding or any negotiations for settlement of it;
- (g) the person shall, whenever requested by ATB, aid in securing information and evidence and the attendance of any witness and cooperate with ATB, except in a pecuniary way, in the defense of the action or proceeding and any appeal; and
- (h) if ATB is not also a party to the action or proceeding the person shall consent to any order or leave that may be applied for by ATB to be added as a party or to be allowed to make representations on its own behalf without being a party.

