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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 74  
(2009, chapter 58)

**An Act to amend various legislative provisions principally to tighten the regulation of the financial sector**

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**Introduced 12 November 2009  
Passed in principle 25 November 2009  
Passed 3 December 2009  
Assented to 4 December 2009**

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**Québec Official Publisher  
2009**

## **EXPLANATORY NOTES**

*This Act amends several Acts that regulate financial institutions and other players in the financial markets in order to reinforce investor confidence in Québec.*

*More specifically, the Deposit Insurance Act is amended so as to, among other things, eliminate the cap on the financial commitments made by the Autorité des marchés financiers that can be guaranteed by the Government, clarify the responsibilities of a security fund established under the Act respecting financial services cooperatives and confer new special powers on the Authority regarding the administration of the deposit insurance scheme.*

*The provisions of the Act respecting insurance that relate to the adequacy of assets, management practices and business practices are amended to make them applicable to all insurers operating in Québec.*

*The Act respecting the Autorité des marchés financiers is also amended, among other things, to grant new powers to the Bureau de décision et de révision en valeurs mobilières with respect to the distribution of financial products and services.*

*The Code of Penal Procedure is amended in order to provide expressly that a judge may impose consecutive prison terms.*

*In addition, the Act modifies certain provisions of the Act respecting the distribution of financial products and services that govern a distribution carried out otherwise than through a representative, and harmonizes the offence system under that Act with the offence system applicable under the Securities Act and the Derivatives Act.*

*Amendments to the Securities Act include provisions to regulate credit rating organizations.*

*Administrative penalties and fines under the Act respecting the distribution of financial products and services, the Securities Act and the Derivatives Act are increased. Those Acts are also amended to confer new special powers on the Authority, particularly for the purposes of pan-Canadian harmonization.*

*Finally, the Act makes technical and consequential amendments to several other statutes.*

**LEGISLATION AMENDED BY THIS ACT:**

- Financial Administration Act (R.S.Q., chapter A-6.001);
- Deposit Insurance Act (R.S.Q., chapter A-26);
- Act respecting insurance (R.S.Q., chapter A-32);
- Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2);
- Act respecting international financial centres (R.S.Q., chapter C-8.3);
- Code of Penal Procedure (R.S.Q., chapter C-25.1);
- Act respecting financial services cooperatives (R.S.Q., chapter C-67.3);
- Real Estate Brokerage Act (R.S.Q., chapter C-73.1);
- Act respecting the distribution of financial products and services (R.S.Q., chapter D-9.2);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting labour standards (R.S.Q., chapter N-1.1);
- Notaries Act (R.S.Q., chapter N-3);
- Securities Act (R.S.Q., chapter V-1.1);
- Real Estate Brokerage Act (2008, chapter 9);
- Derivatives Act (2008, chapter 24);
- Act to amend the Securities Act and other legislative provisions (2009, chapter 25).



## **Bill 74**

### **AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS PRINCIPALLY TO TIGHTEN THE REGULATION OF THE FINANCIAL SECTOR**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### **FINANCIAL ADMINISTRATION ACT**

**1.** Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001), amended by section 44 of chapter 7 of the statutes of 2009 and section 24 of chapter 32 of the statutes of 2009, is again amended by replacing “Bureau de décision et de révision en valeurs mobilières” by “Bureau de décision et de révision”.

#### **DEPOSIT INSURANCE ACT**

**2.** The heading of Division I of the Deposit Insurance Act (R.S.Q., chapter A-26) is replaced by the following heading:

“PURPOSE, SCOPE AND DEFINITIONS”.

**3.** Section 1 of the Act is replaced by the following sections:

“**1.** The purpose of this Act is to foster the stability of the financial system in Québec by establishing a plan to protect deposits of money in the event of the actual or apprehended insolvency of a registered institution.

“**1.1.** This Act applies to all deposits of money made in Québec.

However, this Act does not apply to the following deposits, funds, sums or instruments:

(1) deposits that are not payable in Canada or in Canadian currency;

(2) deposits made with banks that are not member institutions of the Canada Deposit Insurance Corporation established by the Canada Deposit Insurance Corporation Act (Revised Statutes of Canada, 1985, chapter C-3);

(3) deposits whose term exceeds that prescribed by the regulations;

(4) funds obtained at the time of an issue of securities in accordance with the Securities Act (chapter V-1.1), unless otherwise provided by the regulations;

(5) sums payable under an insurance or annuity contract issued by an insurer carrying on business in Québec, in accordance with the Insurance Act (chapter A-32);

(6) a promissory note payable in one year or less and, if distributed to a natural person, evidencing a debt of \$50,000 or more;

(7) any other deposit determined by regulation.

**“1.2.** In this Act, unless the context indicates a different meaning,

“bank” means a bank listed in Schedule I or II of the Bank Act (Statutes of Canada, 1991, chapter 46);

“equivalent scheme” means any law providing protection to depositors that is similar to the protection provided by this Act;

“institution” means a legal person other than a bank;

“registered institution” means an insurer that holds a licence under the Act respecting insurance (chapter A-32), a financial services cooperative within the meaning of the Act respecting financial services cooperatives (chapter C-67.3), a trust company or a savings company that holds a licence under the Act respecting trust companies and savings companies (chapter S-29.01) or any other institution determined by regulation that holds a permit under this Act.”

**4.** Sections 17, 18, 25 and 26 of the Act are repealed.

**5.** Section 27 of the Act is amended

(1) by inserting “fees payable and the” after “accompanied by the” in subsection 1;

(2) by adding the following subsection at the end:

“(3) The decision must be published in the Authority’s bulletin and in the *Gazette officielle du Québec*.”

**6.** Section 28 of the Act is amended by replacing “savings and credit union” by “financial services cooperative, an insurer”.

**7.** Section 31.3 of the Act is amended

(1) by inserting the following paragraphs after paragraph *a*:

“(a.1) the institution’s no longer holding an insurer’s licence under the Act respecting insurance or a trust company or savings company licence under the Act respecting trust companies and savings companies, or its no longer being a financial services cooperative within the meaning of the Act respecting financial services cooperatives;

“(a.2) the institution’s not having received deposits of money for over three years;

“(a.3) the institution’s having, in the opinion of the Authority, inadequate assets, which compromises repayment to depositors of guaranteed deposits of money;”;

(2) by striking out paragraph *e*.

**8.** Section 31.4 of the Act is amended by striking out the first paragraph.

**9.** Section 32.1 of the Act is replaced by the following section:

**“32.1.** The Authority shall publish the suspension or cancellation of the permit of a registered institution in the Authority’s bulletin and in the *Gazette officielle du Québec*.”

**10.** Section 33.1 of the Act is amended by inserting “34.4,” after “34,” in the fifth paragraph.

**11.** Section 34.1 of the Act is replaced by the following section:

**“34.1.** The Authority shall execute its obligation under a guarantee if the institution is unable to make a payment covered by the guarantee when the payment becomes due because

(a) the institution is under a court order;

(b) the institution is being dissolved;

(c) the institution is being liquidated or wound up following the adoption or approval by its shareholders or members of a resolution ordering its liquidation or winding-up, other than a resolution requesting the issue of an order referred to in subparagraph *e*;

(d) the institution is under a liquidation or winding-up order for any reason other than bankruptcy or insolvency; or

(e) the institution is under a winding-up order issued under the Winding-up Act (Revised Statutes of Canada, 1985, chapter W-11).

For the purposes of the first paragraph, the word “institution” includes a bank.

In the case of a financial services cooperative that is a member, within the meaning of the Act respecting financial services cooperatives (chapter C-67.3), of a security fund, the Authority's obligation under a guarantee is enforceable only if the fund is exhausted."

**12.** Section 34.2 of the Act is amended by striking out the first paragraph.

**13.** The Act is amended by inserting the following section after section 34.3:

**“34.4.** The Authority may, with the authorization of the Minister, if the institution is being liquidated or wound-up within the meaning of subparagraphs *d* and *e* of the first paragraph of section 34.1, grant a depositor interest on the deposit of money, at a rate determined by regulation, for the period beginning on the date of liquidation or winding-up and ending on the date of the final payment in respect of the deposit of money. The total paid by the Authority must not exceed \$100,000.”

**14.** Section 35 of the Act is amended

(1) by replacing “of the depository” and “the depository” in the first paragraph by “of the registered institution” and “the institution”, respectively;

(2) by replacing “the depository” in the second paragraph by “the registered institution”.

**15.** The Act is amended by inserting the following section after section 35:

**“35.1.** Where the Authority repays part of a guaranteed deposit of money, the Authority ranks equally with the depositor in respect of the amount so repaid and the interest accrued and payable under section 34.4.”

**16.** Section 40 of the Act is amended

(1) by inserting the following subparagraphs after subparagraph *e* of the first paragraph:

“(f) obtain the authorization of the Minister to

i. constitute a legal person or a partnership under an Act of Québec to carry out the winding-up of the assets acquired from a registered institution; or

ii. acquire any security issued by a registered institution; and

“(g) apply to the Superior Court for an order to force the sale or amalgamation of a registered institution whose permit has been suspended or cancelled.”;



(2) by replacing “savings and credit union” in the third paragraph by “financial services cooperative”.

**17.** The Act is amended by inserting the following sections after section 40:

**“40.0.1.** The Authority may, after consulting the Minister, provide guidelines to registered institutions concerning the advertising of, and information supplied about, the guarantee covering money deposit products.

If the registered institutions are financial services cooperatives, the Authority shall also consult the federation to which they belong.

Guidelines are not regulations. They may pertain to the development, interpretation or use of the advertising or information referred to in the first paragraph, whether or not it is dealt with in a regulation under this Act.

**“40.0.2.** A registered institution that does not comply with the guidelines is presumed not to be adhering to sound commercial practices.

**“40.0.3.** The Authority may, if it considers it expedient, give written directions to a registered institution concerning the advertising or information referred to in the first paragraph of section 40.0.1.

Before exercising that power, the Authority must notify the registered institution and give it an opportunity to present observations.

**“40.0.4.** The Authority may order a registered institution to cease a course of action or to implement measures specified by the Authority if, in its opinion, the registered institution is not adhering to sound commercial practices, in particular as regards the advertising or information referred to in the first paragraph of section 40.0.1.

**“40.0.5.** The Authority may also order a registered institution to cease a course of action or to implement measures specified by the Authority if, in its opinion, the registered institution is not complying with a provision of this Act, a regulation or a written instruction.

At least 15 days before issuing an order, the Authority shall notify the registered institution concerned as prescribed in section 5 of the Act respecting administrative justice (chapter J-3), stating the grounds which appear to justify the order, the date on which the order is to take effect and the right of the institution to submit observations.

**“40.0.6.** The order of the Authority must state the reasons which support it, and be sent to all the persons to whom it applies. It must also be sent to every director of the registered institution concerned. The order becomes effective on the day it is served or on any later date indicated in the order.

**“40.0.7.** The Authority may, without prior notice, issue a provisional order valid for a period not exceeding 15 days if, in its opinion, any period of time allowed to the registered institution concerned to submit observations may be detrimental.

Such an order must state the reasons on which it is based and becomes effective on the day it is served on the institution to which it applies. The institution may submit observations to the Authority within six days of receiving the order.

**“40.0.8.** The Authority may revoke an order issued under this Act.

**“40.0.9.** The Authority may, by a motion, apply to a judge of the Superior Court for an injunction in respect of any matter relating to this Act or a regulation under this Act.

The motion for an injunction constitutes an action.

The procedure prescribed in the Code of Civil Procedure (chapter C-25) applies, except that the Authority shall not be ordered to give security.”

**18.** The Act is amended by inserting the following section after section 40.2:

**“40.2.1.** For the purpose of calculating the premium payable, a registered institution must file the declaration of guaranteed deposits on the form prescribed by the Authority, after determining the actual sum of the deposits of money it holds.

Despite the first paragraph, a registered institution may file its declaration of guaranteed deposits after estimating the deposits of money using a method determined by regulation of the Authority.”

**19.** Section 40.3.1 of the Act is replaced by the following section:

**“40.3.1.** The premium of a financial services cooperative is reduced by one half if the cooperative is a member, within the meaning of the Act respecting financial services cooperatives (chapter C-67.3), of a security fund whose mission is to avoid or reduce disbursements by the Authority under this Act.

At the Authority’s request, the Government may fix a different reduction.”

**20.** Sections 40.3.2 and 40.3.3 of the Act are repealed.

**21.** The Act is amended by inserting the following section after section 41.2:

**“41.3.** The Authority may audit or commission an audit of any book, register, account, contract, record or other document of a registered institution if, in its opinion, the execution of its obligation under a guarantee seems unavoidable. It must notify the Minister of the audit.

The expenses incurred for the audit are determined by the Authority and charged to the registered institution.”

**22.** Section 42 of the Act is amended by replacing “examine”, “examined” and “examination” wherever they appear by “inspect”, “inspected” and “inspection”, respectively.

**23.** Section 43 of the Act is amended

(1) by inserting the following paragraph after paragraph *c*:

“(c.1) establishing a fee scale for the issue of permits;”;

(2) by inserting the following paragraph after paragraph *e*:

“(e.0.1) determining, for the purposes of the second paragraph of section 40.2.1, a method for estimating deposits of money;”;

(3) by striking out paragraphs *e.2* and *e.3*;

(4) by replacing “savings and credit unions” in paragraph *h* by “financial services cooperatives”;

(5) by inserting the following paragraph after paragraph *h*:

“(h.1) determining the rate of interest applicable to a deposit of money for the purposes of section 34.4;”;

(6) by replacing paragraph *k* by the following paragraph:

“(k) determining the form and tenor of the information that a security fund must provide for the purposes of the second paragraph of section 40.3.1, and when it must be provided;”;

(7) by inserting the following paragraph after paragraph *l*:

“(l.1) determining audit expenses for the purposes of section 41.3;”;

(8) by replacing “examination” in paragraph *m.1* by “inspection”.

**24.** Section 45 of the Act is replaced by the following section:

**“45.** A regulation of the Authority under this Act must be submitted for approval to the Minister, who may approve it with or without amendment.

However, a regulation of the Authority under paragraph *c.1*, *l.1*, *m.1* or *s* of section 43 must be submitted for approval to the Government, which may approve it with or without amendment.

A draft of a regulation referred to in the first paragraph may not be submitted for approval and the regulation may not be made before the expiry of 30 days after the publication of the draft regulation. The regulation comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date determined in the regulation. Sections 4, 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to the regulation.

The Minister may make a regulation referred to in the first paragraph if the Authority fails to act within the prescribed time.

The Government may make a regulation referred to in the second paragraph if the Authority fails to act within the prescribed time.”

**25.** The Act is amended by inserting the following section after section 45:

“**45.1.** The Authority may prescribe forms for the purposes of this Act.”

**26.** Sections 51 and 55 of the Act are repealed.

**27.** Section 57 of the Act is amended by replacing “a similar plan” and “any similar plan” wherever they appear by “an equivalent scheme” and “any equivalent scheme”, respectively.

#### ACT RESPECTING INSURANCE

**28.** Section 243 of the Act respecting insurance (R.S.Q., chapter A-32) is amended by adding the following paragraph at the end:

“Sections 269, 275, 275.0.0.1, 275.3 and 275.3.1 also apply to insurers constituted under an Act of a jurisdiction other than Québec.”

**29.** Section 269 of the Act is replaced by the following section:

“**269.** Every insurer shall maintain adequate assets to guarantee the performance of its obligations in Québec.”

**30.** The Act is amended by inserting the following section after section 285.36:

“**285.37.** Sections 285.30 to 285.36 do not apply to an insurer that transacts exclusively in reinsurance.”

**31.** Section 325.0.2 of the Act is amended by replacing subparagraph 1 of the first paragraph by the following subparagraphs:

“(1) the maintenance of assets for the purposes of section 269;

“(1.1) the adequacy of the capital;”.

## ACT RESPECTING THE AUTORITÉ DES MARCHÉS FINANCIERS

**32.** The Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2) is amended by inserting the following section after section 35:

**“35.1.** Subject to a recourse under section 322 of the Securities Act (chapter V-1.1) or section 113 of the Derivatives Act (2008, chapter 24), the Authority may review its decisions at any time, except in the event of an error in law.

A person having rendered a decision under delegated powers may review it if justified by a new fact.”

**33.** Section 38.2 of the Act is amended by replacing “section 115” in the first paragraph by “the second paragraph of section 115 and section 419”.

**34.** Section 61 of the Act, amended by section 114 of chapter 50 of the statutes of 2006, is again amended by inserting “where it concerns an exchange or clearing house that is subject to section 17 of the Derivatives Act (2008, chapter 24) or” after “except” in the second paragraph.

**35.** Section 73 of the Act, amended by section 116 of chapter 50 of the statutes of 2006, is again amended by inserting “where it concerns an exchange or clearing house that is subject to section 17 of the Derivatives Act (2008, chapter 24) or” after “except” in the second paragraph.

**36.** The heading of Title IV of the Act is amended by striking out “EN VALEURS MOBILIÈRES”.

**37.** The Act is amended by inserting the following after the heading of Title IV:

### “CHAPTER I

“ESTABLISHMENT, OPERATION AND POWERS”.

**38.** Section 92 of the Act is amended by striking out “en valeurs mobilières”.

**39.** Section 93 of the Act, amended by section 192 of chapter 24 of the statutes of 2008, is again amended by inserting “this Act, the Act respecting the distribution of financial products and services (chapter D-9.2),” after “under” in the first paragraph.

**40.** Section 94 of the Act, amended by section 193 of chapter 24 of the statutes of 2008, is again amended by inserting “this Act, the Act respecting the distribution of financial products and services (chapter D-9.2),” after “under”.

**41.** Section 95 of the Act is amended by replacing “Bureau de décision et de révision en valeurs mobilières” by “board”.

**42.** Section 96 of the Act is repealed.

**43.** Section 114 of the Act is amended by replacing “Bureau de décision et de révision en valeurs mobilières” in the first paragraph by “board”.

**44.** Section 115 of the Act is amended by replacing “Bureau de décision et de révision en valeurs mobilières” by “board”.

**45.** The Act is amended by inserting the following after section 115:

## **“CHAPTER II**

### **“RULES APPLICABLE TO HEARINGS AND DECISIONS OF THE BOARD**

**“115.1.** The board may, within the scope of its powers, hold hearings in conjunction with and consult with any authority responsible for supervising the distribution of financial products and services, or the marketing or distribution of derivatives or securities.

**“115.2.** The board shall determine the rules of procedure applicable to its hearings.

**“115.3.** The first paragraph of section 6 and sections 9, 10, 11, 12, 13 and 16 of the Act respecting public inquiry commissions (chapter C-37) apply to the hearings, with the necessary modifications.

The board has, for the purposes of a hearing, all the powers of a judge of the Superior Court, except the power to order imprisonment.

**“115.4.** No person called upon to testify in the course of a hearing or being examined under oath may refuse to answer or to produce any document on the ground that he or she might thereby be incriminated or exposed to a penalty or civil proceedings, subject to the Canada Evidence Act (Revised Statutes of Canada, 1985, chapter C-5).

**“115.5.** The board may require the submission or delivery of any document related to the object of the hearing. The board has the power to return such documents or to determine what should be done with them.

A person who has delivered documents to the board may inspect them or copy them at the person’s own expense, by arrangement with the board.

**“115.6.** By way of exception, the board may suspend the holding of a hearing until the applicant undertakes to pay the cost of the research work that the board considers necessary in order to rule on the issue submitted to it.

Similarly, the board may require one of the parties to pay the representation costs incurred by investors or clients or, if it is in the public interest, it may pay such costs itself.

**“115.7.** Any person appearing before the board may request that the hearing be recorded, at the person’s own expense. If the person requests that the hearing be transcribed, the person is required, at the request of the board, to provide it with a copy of the transcript.

**“115.8.** The board, before rendering a decision that adversely affects the rights of a person, must give the person an opportunity to be heard.

**“115.9.** A decision adversely affecting the rights of a person may, where it is imperative to do so, be rendered without a prior hearing.

In such a case, the board must give the person concerned the opportunity to be heard within 15 days.

**“115.10.** For the purpose of rendering a decision, the board may, within the scope of a consultation mechanism established by a regulation under the Derivatives Act (2008, chapter 24) or the Securities Act (chapter V-1.1) or by an agreement under the second paragraph of section 33, consider a factual analysis prepared by the personnel of an organization pursuing similar objects.

**“115.11.** The board must give reasons for every decision that adversely affects the rights of a person.

**“115.12.** The board may file an authentic copy of each of its decisions at the office of the clerk of the Superior Court of the district in which the residence or domicile of the person concerned is situated or, if the person has neither residence nor domicile in Québec, at the office of the Superior Court of the district of Montréal.

The decision on being filed becomes enforceable in the same way as, and has all the effects of, a decision of the Superior Court.

**“115.13.** On its own initiative or at the request of one of the parties, the board may rectify a decision containing a clerical error, a mistake in calculation or any other error of form.

**“115.14.** The board may review its decisions at any time, except in the case of an error in law.

**“115.15.** An application to the board for a review of a decision does not suspend the execution of the decision, unless the board decides otherwise.

### **“CHAPTER III**

#### **“APPEAL**

**“115.16.** Any person directly interested in a final decision of the board may appeal the decision to the Court of Québec.

**“115.17.** The appeal is brought by filing a notice to that effect with the secretary of the board within 30 days from the date of the contested decision.

Filing of the notice is in lieu of service on the board.

**“115.18.** The secretary shall immediately send the notice to the office of the Court of Québec, together with two copies of the contested decision.

**“115.19.** The appeal is governed by articles 491 to 524 of the Code of Civil Procedure (chapter C-25), with the necessary modifications. However, the parties are required to file only two copies of the factum of their pretensions.

**“115.20.** The rules of practice of the Court of Appeal in civil matters also apply, except that the secretary of the board is substituted for the clerk of the Superior Court.

**“115.21.** An appeal does not suspend the execution of the contested decision, unless the board or a judge of the Court of Québec decides otherwise.

**“115.22.** The decision of the Court of Québec may be appealed to the Court of Appeal with leave of a judge of that court.”

### **ACT RESPECTING INTERNATIONAL FINANCIAL CENTRES**

**46.** Section 4 of the Act respecting international financial centres (R.S.Q., chapter C-8.3), amended by section 1 of chapter 15 of the statutes of 2009 and section 52 of chapter 25 of the statutes of 2009, is again amended

(1) by replacing the definitions of “adviser” and “dealer” by the following definitions:

““adviser” means an adviser within the meaning of section 3 of the Derivatives Act (2008, chapter 24) or section 5 of the Securities Act (chapter V-1.1), authorized to act in that capacity under those Acts;

““dealer” means a dealer within the meaning of section 3 of the Derivatives Act or section 5 of the Securities Act, authorized to act in that capacity under those Acts;”;



(2) by inserting “a derivative within the meaning of section 3 of the Derivatives Act or” after “means” in the definition of “security”.

#### CODE OF PENAL PROCEDURE

**47.** Article 241 of the Code of Penal Procedure (R.S.Q., chapter C-25.1) is replaced by the following article:

**“241.** Subject to sections 350 and 351, when imposing more than one term of imprisonment on a defendant or imposing a term of imprisonment on a defendant who is already in detention, a judge may order that the terms be served consecutively.”

#### ACT RESPECTING FINANCIAL SERVICES COOPERATIVES

**48.** Section 487 of the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3) is amended by inserting the following subparagraph after subparagraph 3 of the first paragraph:

“(4) to avoid or reduce disbursements by the Authority with respect to the Deposit Insurance Act.”

#### REAL ESTATE BROKERAGE ACT

**49.** Section 1 of the Real Estate Brokerage Act (R.S.Q., chapter C-73.1) is amended by inserting “a transaction involving a derivative within the meaning of the Derivatives Act (2008, chapter 24) or” after “except”.

**50.** Section 2 of the Act is amended by replacing paragraph 7 by the following paragraph:

“(7) receivers appointed under the Act respecting the Autorité des marchés financiers (chapter A-33.2);”.

**51.** Section 20 of the Act, amended by section 53 of chapter 25 of the statutes of 2009, is again amended by inserting “the Derivatives Act (2008, chapter 24) or” after “within the meaning of” in paragraph 2.

#### ACT RESPECTING THE DISTRIBUTION OF FINANCIAL PRODUCTS AND SERVICES

**52.** Section 59 of the Act respecting the distribution of financial products and services (R.S.Q., chapter D-9.2), amended by section 61 of chapter 25 of the statutes of 2009 and section 76 of chapter 35 of the statutes of 2009, is again amended by inserting “Title III of the Derivatives Act (2008, chapter 24) or” after “in accordance with” in the third paragraph.

**53.** Section 72 of the Act, amended by section 62 of chapter 25 of the statutes of 2009, is again amended by inserting “the Derivatives Act (2008, chapter 24) or” after “under” after the last dash in the second paragraph.

**54.** Section 83 of the Act, amended by section 64 of chapter 25 of the statutes of 2009, is again amended by striking out the second and third paragraphs.

**55.** Section 100 of the Act is amended by inserting “the Derivatives Act (2008, chapter 24) or” after “a securities dealer or securities adviser governed by” in the first paragraph.

**56.** Section 105 of the Act is amended by replacing “an independent representative or independent” in the first paragraph by “another firm, an independent representative or an independent”.

**57.** Section 115 of the Act is replaced by the following section:

**“115.** The Authority may request the Bureau de décision et de révision to cancel a firm’s registration for a given sector, suspend registration or subject it to restrictions or conditions if, in its opinion, the firm is not complying with this Act or the regulations, or if necessary in order to protect the public. The Authority may also request the Bureau to impose a penalty not exceeding \$2,000,000 on the firm.

The Authority may suspend a firm’s registration, subject it to restrictions or conditions or impose an administrative monetary penalty not exceeding \$5,000 on the firm, if it does not comply with section 81, 82, 83 or 103.1 or fails to file documents as required by regulation. The Authority may also cancel a firm’s registration if it does not comply with section 82 or with section 81, 83 or 103.1 if it is not the first instance of non-compliance.”

**58.** Sections 117, 119, 121, 122 and 124 of the Act are repealed.

**59.** Section 127 of the Act is replaced by the following section:

**“127.** A firm whose registration has been cancelled or revoked for a given sector must transfer all related records, books and registers to another firm, an independent partnership or an independent representative that is registered for that sector. The firm must inform the Authority in writing beforehand.

The Authority may object to the transfer or make it subject to the conditions it considers appropriate.

With the authorization of the Authority, the firm may, rather than transferring the records, books and registers, dispose of them otherwise.

If the firm refuses or is unable to transfer or dispose of the records, books and registers, the Authority shall take possession and determine the manner of disposing of them.”

**60.** Section 136 of the Act is amended by striking out the third paragraph.

**61.** Section 146 of the Act, amended by section 70 of chapter 25 of the statutes of 2009, is again amended

(1) by replacing the first paragraph by the following paragraph:

“**146.** Sections 74, 75, 79, 102, 103 to 103.4, 106 to 113, 114.1, 126 and 127, adapted as required, apply to independent representatives.”;

(2) by replacing “103.2, 106 to 113, 114.1, 115, 117, 119, 121, 122, 124” in the second paragraph by “103.4, 106 to 113, 114.1”.

**62.** The Act is amended by inserting the following section after section 146:

“**146.1.** The first paragraph of section 115 applies to an independent representative or independent partnership that does not comply with this Act or the regulations, or if necessary in order to protect the public. The second paragraph of that section applies, with the necessary modifications, if an independent representative or independent partnership does not comply with section 103.1, 128, 135 or 136 of this Act or fails to file documents as required by regulation.”

**63.** Section 210 of the Act is repealed.

**64.** Section 217 of the Act is amended by replacing “, 278, 423 and 443” in the second paragraph by “and 278, paragraph 3 of section 423”.

**65.** Section 376 of the Act is amended

(1) by replacing “, adapted as required, apply” by “, except subparagraph c of the first paragraph of section 156, apply, adapted as required,”;

(2) by adding the following paragraph at the end:

“The discipline committee may impose a fine of not less than \$2,000 nor more than \$50,000 for each offence. In determining the fine, the committee shall consider the damage caused to clients and the benefits derived from the commission of the offence.”

**66.** Section 378 of the Act is amended by replacing “\$2,000” by “\$5,000”.

**67.** Section 379 of the Act is amended by replacing “326 to 328 and 330 of the Securities Act (chapter V-1.1)” in the second paragraph by “115.16 to 115.22 of the Act respecting the Autorité des marchés financiers (chapter A-33.2)”.

**68.** Sections 381 to 383 of the Act are repealed.

**69.** The Act is amended by inserting the following section after section 408:

“**408.1.** The only insurance products relating to a vehicle or an immovable sold by a distributor that may be offered by the distributor are those described in section 424.

An automobile within the meaning of the Automobile Insurance Act (chapter A-25) and a vehicle to which the Act respecting off-highway vehicles (chapter V-1.2) applies are considered to be vehicles.”

**70.** Section 414 of the Act is replaced by the following section:

“**414.** The insurer must, before offering an insurance product through a distributor, forward to the Authority a copy of the distribution guide that will be given to the client, and the documents prescribed by regulation. The same applies any time a change is made to the guide or one of those documents.”

**71.** Section 419 of the Act is replaced by the following section:

“**419.** The Authority may, if it considers that an insurer or distributor is not complying with this Title or a regulation under section 226 or 423, impose an administrative penalty not exceeding \$100,000 on the insurer or distributor.

Moreover, the Authority may order an insurer to cease distributing an insurance product through distributors.”

**72.** Section 423 of the Act is replaced by the following section:

“**423.** The Authority may, by regulation, determine

(1) the procedure for filing and reviewing distribution guides and related documents;

(2) the documents that must accompany the distribution guide pursuant to section 414;

(3) the fees to be paid by an insurer for the examination of a distribution guide;

(4) the nature, form and tenor of a compliance return, a list of insurance product distributors and a distribution guide;

(5) the notices and other information that must be provided to a client by a distributor or a person who distributes an insurance product on behalf of a distributor and the manner in which they must be provided;

(6) the steps a distributor must take to ensure that every person assigned to distributing an insurance product is sufficiently familiar with it; and

(7) the measures an insurer must take to ensure that its distributors are sufficiently familiar with any insurance product they offer.”

**73.** Section 424 of the Act, amended by section 105 of chapter 25 of the statutes of 2009, is again amended by inserting the following paragraph after paragraph 4:

“(5) replacement insurance, that is, property insurance under which the insurer guarantees the replacement of the insured vehicle or insured parts and the form and conditions of which are approved by the Authority pursuant to section 422 of the Act respecting insurance (chapter A-32).”

**74.** Section 426 of the Act is amended by inserting “, health and employment” after “life” in paragraph 2.

**75.** Section 434 of the Act is repealed.

**76.** Section 436 of the Act is amended

(1) by inserting “or prescribed by a regulation under section 423” after “section 431”;

(2) by adding the following paragraph at the end:

“The insurer is also liable if the distributor’s non-compliance results from the insurer’s failure to comply with this Title or a regulation referred to in the first paragraph.”

**77.** Section 453 of the Act is amended by replacing “and 219” by “to 220”.

**78.** Sections 455 and 456 of the Act are repealed.

**79.** The Act is amended by inserting the following section after section 466:

“**466.1.** Every person that pays a commission in connection with the sale of a financial product or the provision of a financial service in contravention of section 100 or 143 is guilty of an offence.”

**80.** Section 468 of the Act is replaced by the following section:

“**468.** Every person that

(1) contravenes a decision of the Authority or the Bureau de décision et de révision,

(2) fails to provide, within the prescribed time, information or documents required under this Act or the regulations,

(3) fails to appear after summons, refuses to testify or refuses to communicate or deliver a document or thing required by the Authority or an agent appointed by it, in the course of an investigation or inspection, or

(4) attempts, in any manner, to hinder a representative of the Authority in the exercise of his or her functions in the course or for the purposes of an investigation or inspection

is guilty of an offence.”

**81.** The Act is amended by inserting the following sections after section 469:

“**469.1.** Every person that in any manner makes a misrepresentation to the Authority, an insured, a client or any other person when pursuing activities governed by this Act or the regulations is guilty of an offence.

“**469.2.** Every representative who contravenes the trading instructions of a client or fails to execute transactions requested by a client is guilty of an offence.

“**469.3.** Every firm, independent representative, independent partnership or representative that grants a premium rebate that does not appear in the insurance contract issued by or on behalf of the insurer is guilty of an offence.”

**82.** The Act is amended by inserting the following section after section 470:

“**470.1.** Every firm, independent representative or independent partnership that employs as a representative a person who does not hold a representative’s certificate issued by the Authority is guilty of an offence.”

**83.** Section 483 of the Act is repealed.

**84.** Sections 485 to 490 of the Act are replaced by the following sections:

“**485.** Unless otherwise specially provided, every person that contravenes a provision of this Act or the regulations is guilty of an offence and is liable to a minimum fine of \$2,000 in the case of a natural person and \$3,000 in other cases, double the profit realized or one fifth of the sums entrusted to or collected by the person, whichever is the greatest amount. The maximum fine is \$150,000 in the case of a natural person and \$200,000 in other cases, four times the profit realized or half the sums entrusted to or collected by the person, whichever is the greatest amount.

In the case of an offence under section 468, 469.1 or 469.3, the minimum fine is \$5,000 or any other minimum fine determined under the first paragraph, whichever is the greatest amount.

In the case of an offence under section 469.1 or 469.3, the maximum fine is \$1,000,000 or any other maximum fine determined under the first paragraph, whichever is the greatest amount.

In the case of a second or subsequent conviction, the minimum and maximum fines are doubled.

**“486.** A legal person convicted of an offence under any of sections 463, 464, 477 and 478 is liable to a minimum fine of \$4,000, double the profit realized or one fifth of the sums entrusted to or collected by the legal person, whichever is the greatest amount. The maximum fine is \$200,000, four times the profit realized or half the sums entrusted to or collected by the legal person, whichever is the greatest amount.

In the case of a second or subsequent conviction, the minimum and maximum fines are doubled.

**“487.** An insurer convicted of an offence under section 480 or 482 is liable to a minimum fine of \$10,000, double the profit realized or one fifth of the sums entrusted to or collected by the insurer, whichever is the greatest amount. The maximum fine is \$200,000, four times the profit realized or half the sums entrusted to or collected by the insurer, whichever is the greatest amount.

In the case of a second or subsequent conviction, the minimum and maximum fines are doubled.

**“488.** An executive officer, director or employee of the principal offender, including a person remunerated on commission, who authorizes or permits an offence under this Act is liable to the same penalties as the principal offender.

**“489.** The contravention of a regulation made under this Act constitutes an offence that is subject to the same provisions as offences under this Act.”

**85.** Section 491 of the Act is replaced by the following section:

**“491.** A person who, by an act or omission, helps or induces another person to commit an offence is guilty of the offence as if the person had committed it. The person is liable to the same penalty as that prescribed for the commission of the offence.

The same applies to a person who, by encouragement or advice or by an order, induces another person to commit an offence.”

**86.** Section 566 of the Act is amended by replacing “117, 119, 121, 122, 124, 126 and 127” in the second paragraph by “126 and 127 of this Act and sections 115.1 to 115.22 of the Act respecting the Autorité des marchés financiers (chapter A-33.2)”.

## TAXATION ACT

**87.** Section 737.18.29 of the Taxation Act (R.S.Q., chapter I-3) is amended by inserting “section 17 of the Derivatives Act (2008, chapter 24) or under” after “under” in the definition of “recognized business” in the first paragraph.

**88.** Section 965.55 of the Act, amended by section 107 of chapter 25 of the statutes of 2009, is again amended, in the first paragraph,

(1) by inserting “section 3 of the Derivatives Act (2008, chapter 24) or within the meaning of” after “within the meaning of” in the definition of “dealer”;

(2) by inserting “any standardized derivative within the meaning of section 3 of the Derivatives Act (2008, chapter 24) or” after “means” in the definition of “negotiable instrument”.

## ACT RESPECTING LABOUR STANDARDS

**89.** Section 77 of the Act respecting labour standards (R.S.Q., chapter N-1.1), amended by section 108 of chapter 25 of the statutes of 2009, is again amended by inserting “section 56 of the Derivatives Act (2008, chapter 24) or of” after “within the meaning of” in subparagraph 4 of the first paragraph.

## NOTARIES ACT

**90.** Section 18 of the Notaries Act (R.S.Q., chapter N-3) is amended by replacing “Securities Act (chapter V-1.1) or the regulations” in paragraph *b* by “Derivatives Act (2008, chapter 24), the Securities Act (chapter V-1.1) or any regulation under those Acts”.

## SECURITIES ACT

**91.** Section 5 of the Securities Act (R.S.Q., chapter V-1.1), amended by section 2 of chapter 25 of the statutes of 2009, is again amended

(1) by inserting the following definition in alphabetical order:

““credit rating organization” means any person that issues credit ratings;”;

(2) by inserting the following definition in alphabetical order:

““credit rating” means an assessment, disclosed publicly or distributed by subscription, of the creditworthiness of an issuer as an entity or with respect to specific securities or a specific portfolio of securities or assets;”.



**92.** The Act is amended by inserting the following sections after section 71:

“**71.1.** In accordance with the rules applicable to an accountant’s audit of the affairs of any person subject to this Act, an accounting firm that audits the financial statements of a reporting issuer must participate in the inspection program of a body that has entered into an agreement to that effect with the Authority.

“**71.2.** Sections 74 to 84 and 86 to 91 of the Act respecting the Autorité des marchés financiers (chapter A-33.2) apply to the body described in section 71.1, with the necessary modifications and in accordance with the terms of the agreement mentioned in section 71.1.

“**71.3.** An accounting firm that is directly affected by a decision made by a body described in section 71.1 may, within 30 days, apply for a review of the decision to the Bureau de décision et de révision established under section 92 of the Act respecting the Autorité des marchés financiers (chapter A-33.2).”

**93.** The heading of Chapter II of Title III of the Act is amended by adding “AND GOVERNANCE” at the end.

**94.** Section 73 of the Act is amended by inserting “including its governance practices,” after “internal affairs,”.

**95.** The Act is amended by inserting the following section after section 73:

“**73.1.** A reporting issuer must organize its affairs in accordance with the governance rules prescribed by regulation.”

**96.** Section 152 of the Act, amended by section 19 of chapter 25 of the statutes of 2009, is again amended by striking out “en valeurs mobilières”.

**97.** Section 166 of the Act is amended by replacing “and conflicts” by “and conflicts of interest”.

**98.** The heading of Title VI of the Act is replaced by the following heading:

“SELF-REGULATORY ORGANIZATIONS, SECURITIES EXCHANGE OR CLEARING ACTIVITIES AND CREDIT RATING ORGANIZATIONS”.

**99.** Section 172 of the Act, amended by section 208 of chapter 24 of the statutes of 2008, is again amended by striking out “en valeurs mobilières”.

**100.** The Act is amended by inserting the following sections after section 186:

**“186.1.** The Authority may, in accordance with the criteria and conditions determined by regulation, designate a credit rating organization as being subject to this Act.

**“186.2.** A designated credit rating organization must comply with the requirements set by regulation, including requirements relating to

(1) the establishment, publication and enforcement of a code of conduct applicable to its directors, officers and employees, including the minimum requirements for such a code;

(2) a prohibition to issue or maintain a credit rating;

(3) procedures regarding conflicts of interest between the designated credit rating organization and the person whose securities are being rated;

(4) the keeping of the books and registers necessary for the conduct of its business;

(5) the disclosure of information to the Authority, the public and the person whose securities are being rated; and

(6) the appointment of a compliance officer.

**“186.3.** The Authority has the power to inspect the affairs of a designated credit rating organization to verify compliance with the law.

Sections 151.2 to 151.4 apply, with the necessary modifications, to such an inspection.

**“186.4.** A designated credit rating organization or another person acting on its behalf may not make any representation, written or oral, that the Authority has in any way passed upon the merits of the designated credit rating organization.

**“186.5.** The Authority may not regulate the content of a credit rating or the methodology used by a designated credit rating organization.

**“186.6.** The Authority may impose changes in the practices and procedures of a designated credit rating organization if it considers that such a measure is necessary to protect the public.”

**101.** Section 188 of the Act is amended by replacing the portion before paragraph 1 by the following:

“**188.** No insider of a reporting issuer having privileged information relating to securities of the issuer may disclose that information or recommend that another party trade in the securities of the issuer, except in the following cases:”.

**102.** The Act is amended by inserting the following section after section 191:

“**191.1.** No person with knowledge of material order information may trade in a security that is the subject of the material order information, recommend that another party do so or disclose the information to anyone, except in the following cases:

(1) the person is justified in believing that the other party already knew of the material order information;

(2) the person must disclose the material order information in the course of business, and there are no grounds for the person to be justified in believing the material order information will be used or disclosed contrary to this section;

(3) the person enters into a transaction under a written automatic dividend reinvestment plan, written automatic purchase plan or other similar written automatic plan in which the person agreed to participate before obtaining knowledge of the material order information;

(4) the person entered into a transaction as a result of a written obligation that the person entered into before obtaining knowledge of the material order information; or

(5) the person entered into a sale or purchase as agent under the specific unsolicited instructions of the principal, or under instructions that the agent solicited from the principal before obtaining knowledge of the material order information.

For the purposes of this section, “material order information” means any information relating to an order, a projected or unexecuted order to purchase or trade a security, or even an intention to place such an order, that is likely to have a significant effect on the market price of the security.”

**103.** Section 195 of the Act is amended by striking out “en valeurs mobilières” in paragraphs 1 and 2.

**104.** Section 199 of the Act is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) to declare that the security will be listed or that an application has been or will be made to that end, except in the following cases:

(a) the Authority expressly authorized such a declaration;

(b) the declaration appears in a preliminary or final prospectus for which the Authority has issued a receipt;

(c) the declaration appears in an offering memorandum prescribed by this Act or the regulations;

(d) an application to have the security listed has been made and securities of the same issuer are already listed; or

(e) the stock exchange has already conditionally or otherwise approved the listing of the issuer’s securities or agreed to their being traded, or consented or indicated that it did not object to such a declaration.”

**105.** Section 204 of the Act, amended by section 211 of chapter 24 of the statutes of 2008, is again amended by replacing “190” in the first paragraph by “191.1”.

**106.** Section 207 of the Act is amended by replacing “or 204” by “, 204 or 204.1”.

**107.** Section 208 of the Act is amended by replacing “or 204” in the first paragraph by “, 204 or 204.1”.

**108.** Section 208.1 of the Act is amended by replacing “190” by “191.1”.

**109.** Section 211 of the Act, amended by section 152 of chapter 7 of the statutes of 2008, is again amended by replacing “190” in the first paragraph by “191.1”.

**110.** Section 233.2 of the Act is amended by striking out “en valeurs mobilières” in the portion before paragraph 1.

**111.** Section 237 of the Act is amended by adding the following subparagraph after subparagraph 6 of the first paragraph:

“(7) a designated credit rating organization”.

**112.** Section 249 of the Act is amended by striking out “en valeurs mobilières” in the portion before paragraph 1.

**113.** Section 250 of the Act, amended by section 213 of chapter 24 of the statutes of 2008, is again amended by striking out “en valeurs mobilières” wherever it appears in the second paragraph.

**114.** Section 255 of the Act is amended by striking out “en valeurs mobilières”.

**115.** Section 262.1 of the Act is amended by striking out “en valeurs mobilières” in the portion before paragraph 1.

**116.** The heading of Chapter III of Title IX of the Act is amended by striking out “EN VALEURS MOBILIÈRES”.

**117.** Sections 264 and 265 of the Act are amended by striking out “en valeurs mobilières” wherever it appears.

**118.** Section 266 of the Act, amended by section 39 of chapter 25 of the statutes of 2009, is again amended by striking out “en valeurs mobilières”.

**119.** Sections 270 and 273 of the Act are amended by striking out “en valeurs mobilières” wherever it appears.

**120.** Section 273.1 of the Act is amended

(1) by striking out “en valeurs mobilières” in the first and second paragraphs;

(2) by replacing “\$1,000,000” in the third paragraph by “\$2,000,000”.

**121.** Section 273.2 of the Act is amended by striking out “en valeurs mobilières”.

**122.** Section 273.3 of the Act, amended by section 111 of chapter 50 of the statutes of 2006 and section 40 of chapter 25 of the statutes of 2009, is again amended by striking out “en valeurs mobilières” wherever it appears.

**123.** Section 274.1 of the Act is amended by replacing “the provisions of Title III” by “the provisions of, or a regulation under, Title II or III”.

**124.** Section 305.1 of the Act, amended by section 216 of chapter 24 of the statutes of 2008, is again amended by striking out “en valeurs mobilières” in the definition of “Québec authority” and in paragraph 4 of the definition of “Québec securities laws” in the first paragraph.

**125.** Section 307.4 of the Act is amended by striking out “en valeurs mobilières”.

**126.** Sections 307.6 and 307.8 of the Act are amended by striking out “en valeurs mobilières” in the first paragraph.

**127.** Section 308.0.3 of the Act is amended by striking out “en valeurs mobilières” wherever it appears.

**128.** Sections 308.2.2 and 320.1 of the Act are amended by striking out “en valeurs mobilières”.

**129.** Section 321 of the Act is amended by striking out the first paragraph.

**130.** Section 322 of the Act, amended by section 222 of chapter 24 of the statutes of 2008, and the heading of Chapter V of Title X of the Act are amended by striking out “en valeurs mobilières” and “EN VALEURS MOBILIÈRES”, respectively.

**131.** Sections 323 to 323.4 of the Act are repealed.

**132.** Section 323.5 of the Act is amended by replacing “third” by “second”.

**133.** Sections 323.6 to 323.8 of the Act are repealed.

**134.** Section 323.8.1 of the Act is amended by replacing “sections 323.3, 323.4 and 323.6 to 323.8” in the first paragraph by “sections 115.1 to 115.10 of the Act respecting the Autorité des marchés financiers (chapter A-33.2)”.

**135.** Sections 323.9 to 323.13 of the Act are repealed.

**136.** Chapter VI of Title X of the Act, comprising sections 324 to 330, is repealed.

**137.** Section 331 of the Act, amended by section 44 of chapter 25 of the statutes of 2009, is again amended by replacing “Title III” in subparagraph 11.1 of the first paragraph by “Title II, Title III”.

**138.** Section 331.1 of the Act, amended by section 225 of chapter 24 of the statutes of 2008 and sections 45 and 115 of chapter 25 of the statutes of 2009, is again amended

(1) by inserting “, including governance rules,” after “management rules” in paragraph 8;

(2) by inserting the following paragraphs after paragraph 9.1:

“(9.2) determine the criteria and conditions in accordance with which the Authority may designate a credit rating organization;

“(9.3) determine the rules applicable to designated credit rating organizations and to the disclosure of information to the Authority, the public and the person whose securities are being rated;

“(9.4) prescribe requirements in respect of designated credit rating organizations, including requirements relating to the code of conduct, a prohibition to issue or maintain a credit rating, procedures regarding conflicts of interest between a designated credit rating organization and the person whose securities are being rated, the keeping of the books and registers necessary for the conduct of its business, and the appointment of a compliance officer and of its officers;”;

(3) by striking out paragraph 18;

(4) by inserting the following paragraph after paragraph 19.4:

“(19.5) establish rules pertaining to reporting issuer governance;”;

(5) by striking out “en valeurs mobilières” in paragraph 33.4.

#### REAL ESTATE BROKERAGE ACT

**139.** Section 1 of the Real Estate Brokerage Act (2008, chapter 9) is amended by inserting “to a transaction involving a derivative within the meaning of the Derivatives Act (2008, chapter 24) or” after “does not apply” in the second paragraph.

**140.** Section 40 of the Act is repealed.

**141.** Section 41 of the Act is amended by replacing “, 38 and 40” by “and 38”.

**142.** Section 42 of the Act is amended by replacing “The operating rules of such a committee, including those concerning its composition and decision-making,” in the second paragraph by “The operating and decision-making rules of such a committee”.

**143.** Section 43 of the Act is amended by replacing “, 38 or 40” in the first paragraph by “or 38”.

**144.** The Act is amended by inserting the following section after section 44:

“**44.1.** Decisions of the Organization to suspend or revoke a licence or to impose conditions or restrictions on a licence must be made public according to the terms and conditions prescribed by regulation.”

**145.** Section 46 of the Act is amended

(1) by replacing “additional training and” in paragraph 2 by “rules governing additional training, including”;

(2) by replacing “form and tenor of the” in paragraph 9 by “form and tenor of the records,”;

(3) by inserting the following paragraph after paragraph 10:

“(10.1) what measures may be taken to safeguard money entrusted to a licence holder or held in trust, and who may take such measures;”.

**146.** Section 76 of the Act is amended by striking out “, including those applicable to its composition,”.

**147.** Section 84 of the Act is amended

(1) by adding the following sentence at the end of the first paragraph: “The syndic may retain the services of any person needed to carry out an investigation.”;

(2) by inserting the following sentence at the end of the second paragraph: “The complaint may also require a provisional measure.”

**148.** Section 95 of the Act is amended by replacing “, including those applicable to the filing and hearing of complaints, and, in particular, those providing for the committee’s sitting in divisions, and those to be applied when a committee member must be replaced or becomes disqualified,” in the first paragraph by “—including those applicable to the filing and hearing of complaints and those applicable to its decision-making process, such as the imposition of provisional measures—”.

**149.** Section 97 of the Act is amended by adding the following sentence at the end of the second paragraph: “The discipline committee has jurisdiction to the exclusion of any court, in first instance.”

**150.** Section 98 of the Act is amended

(1) by inserting “, after giving them the opportunity to present their case,” after “discipline committee” in the second sentence of the first paragraph;

(2) by striking out the last three paragraphs.

**151.** The Act is amended by inserting the following section after section 98:

**“98.1.** The discipline committee must, on rendering a decision to suspend, revoke or impose restrictions or conditions on a licence, decide whether or not it will publish a notice of the decision in a newspaper distributed in the place where the broker’s or agency’s establishment is located. If the discipline committee orders the publication of such a notice, it must, in addition, decide whether the publication costs are to be paid by the broker or agency, by the Organization, or divided as specified between the broker or agency and the Organization.



The notice must include the name of the broker or agency found guilty, the location of the establishment, the date and nature of the offence, and the date and summary of the decision.

A decision of the discipline committee ordering the broker or agency to pay costs, imposing a fine on the broker or agency, or ordering the broker, the agency or the Organization to pay the publication costs referred to in the first paragraph may, if not complied with, be homologated by the Superior Court or the Court of Québec, according to their respective jurisdictions, and becomes enforceable as a judgment of that Court.”

**152.** Section 101 of the Act is amended by adding the following paragraph at the end:

“The discipline committee may at any time rectify a decision so long as it has not become enforceable, unless it is being appealed.”

**153.** Section 107 of the Act is amended by replacing “including those applicable to its composition” by “including those applicable to its decision-making process”.

#### DERIVATIVES ACT

**154.** Section 3 of the Derivatives Act (2008, chapter 24) is amended by replacing “accredited investors within the meaning of the Securities Act” in paragraph 11 of the definition of “accredited counterparty” by “accredited counterparties within the meaning of this Act”.

**155.** Section 14 of the Act is amended by replacing “publishes a notice of the application in its Bulletin and invites” in the second paragraph by “may publish a notice of the application inviting”.

**156.** Section 49 of the Act is amended by striking out “en valeurs mobilières” in the first paragraph.

**157.** Section 81 of the Act is amended by striking out “en valeurs mobilières” in the French text.

**158.** Section 82 of the Act is amended by replacing “public” in the third paragraph by “public, or may impose restrictions or conditions on a person’s qualification”.

**159.** Section 85 of the Act is replaced by the following section:

“**85.** A qualified person must provide periodic disclosure about its business and internal affairs, timely disclosure of a material change and any other disclosure prescribed by regulation, in accordance with the conditions and in the manner determined by regulation.”

**160.** Section 86 of the Act is amended by replacing “on its own initiative or on application by an interested person” in the first paragraph by “on the conditions it determines”.

**161.** Section 111 of the Act is amended by striking out the first paragraph.

**162.** Sections 113 and 114 of the Act are amended by striking out “en valeurs mobilières” in the French text.

**163.** Section 119 of the Act is amended by striking out “en valeurs mobilières” in the portion before paragraph 1 in the French text.

**164.** Section 120 of the Act is amended by striking out “en valeurs mobilières” in the second paragraph in the French text.

**165.** Section 125 of the Act is amended by striking out “en valeurs mobilières” in the French text.

**166.** Section 127 of the Act is amended by striking out “en valeurs mobilières” in the portion before paragraph 1 in the French text.

**167.** The heading of Chapter II of Title V of the Act is amended by striking out “EN VALEURS MOBILIÈRES”.

**168.** Section 130 of the Act is amended by striking out “en valeurs mobilières” in the first paragraph in the French text.

**169.** Section 134 of the Act is amended by replacing “\$1,000,000” in the third paragraph by “\$2,000,000”.

**170.** Sections 136 to 138 of the Act are repealed.

**171.** Division II of Chapter II of Title V of the Act, comprising sections 139 and 140, is repealed.

**172.** The Act is amended by inserting the following section after section 145:

“**145.1.** No person with knowledge of material order information may trade in a standardized derivative that is the subject of the material order information, recommend that another party do so, or disclose the information to anyone, except in the following cases:

(1) the person is justified in believing that the other party already knew of the material order information;

(2) the person must disclose the material order information in the course of business, and there are no grounds for the person to be justified in believing the material order information will be used or disclosed contrary to this section;

(3) the person enters into a transaction under a written automatic standardized derivatives purchase plan or other similar written automatic plan in which the person agreed to participate before obtaining knowledge of the material order information;

(4) the person entered into a transaction as a result of a written obligation that the person entered into before obtaining knowledge of the material order information; or

(5) the person entered into a transaction as agent under the specific unsolicited instructions of the principal, or under instructions that the agent solicited from the principal before obtaining knowledge of the material order information.

For the purposes of this section, “material order information” means any information relating to an order, a projected or unexecuted order to purchase or trade a standardized derivative or underlying interest, or even an intention to place such an order, that is likely to have a significant effect on the market price of the standardized derivative.”

**173.** Section 148 of the Act is amended by striking out “en valeurs mobilières” in paragraph 1 in the French text.

**174.** Section 162 of the Act is amended by inserting “145.1,” after “offence under section”.

**175.** Section 166 of the Act is amended by inserting “145.1,” after “sections”.

**176.** Section 169 of the Act is amended by inserting “, 145.1” after “144” in the first paragraph.

**177.** Section 175 of the Act, amended by section 123 of chapter 25 of the statutes of 2009, is again amended by replacing subparagraph 22 of the first paragraph by the following subparagraph:

“(22) prescribe any other disclosure for the purposes of section 85, and the conditions and manner of any disclosure required under that section;”.

**178.** Section 235 of the Act is amended by striking out “en valeurs mobilières” in the French text.

## ACT TO AMEND THE SECURITIES ACT AND OTHER LEGISLATIVE PROVISIONS

**179.** Section 130 of the Act to amend the Securities Act and other legislative provisions (2009, chapter 25) is amended by replacing “A complaint,” by “A”.

**180.** Section 131 of the Act is amended by replacing “Bureau de décision et de révision en valeurs mobilières” by “Bureau de décision et de révision”.

### TRANSITIONAL AND FINAL PROVISIONS

**181.** A proceeding regarding a firm, an independent representative or an independent partnership commenced before 1 April 2010 by the Autorité des marchés financiers for the purposes of section 115 of the Act respecting the distribution of financial products and services (R.S.Q., chapter D-9.2) is continued in accordance with that Act as it read before that date.

**182.** The Bureau de décision et de révision exercises its powers under section 115 of the Act respecting the distribution of financial products and services with respect to a person registered in accordance with that Act from 1 April 2010, even if the person contravened that Act or a regulation before that date.

**183.** The Bureau de décision et de révision may use the name “Bureau de décision et de révision en valeurs mobilières” until 1 April 2010.

**184.** The rules of procedure determined by the Bureau de décision et de révision en valeurs mobilières in accordance with section 323.1 of the Securities Act (R.S.Q., chapter V-1.1) and in force on 3 December 2009, are deemed to have been determined by the Bureau de décision et de révision in accordance with section 115.2 of the Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2). They continue to apply, with the necessary modifications, until replaced or repealed by new rules determined by the Bureau de décision et de révision in accordance with that section 115.2.

**185.** Unless the context indicates a different meaning, in any statutory instrument or other document, the words “Bureau de décision et de révision en valeurs mobilières”, or “Bureau” or “Board” when pertaining to the Bureau de décision et de révision en valeurs mobilières, refer to the Bureau de décision et de révision.

**186.** Regulations made by the Authority under section 210 of the Act respecting the distribution of financial products and services are deemed to have been made by the Authority under section 423 of that Act. The regulations continue to apply, with the necessary modifications, until replaced or repealed by a regulation made under that section 423.

**187.** This Act comes into force on 4 December 2009, except sections 28 to 31, which come into force on 1 January 2010, and paragraph 1 of section 5, section 13, section 18 to the extent that it enacts the second paragraph of section 40.2.1 of the Deposit Insurance Act (R.S.Q., chapter A-26), sections 75, 91, 92, 100, 111, paragraph 2 of section 138 and sections 139 to 153, 158, 159 and 177, which come into force on the date or dates to be set by the Government.





