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## Part 2

# LAWS AND REGULATIONS

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8 March 2023 / Volume 155

### Summary

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Regulation respecting the *Gazette officielle du Québec*, section 4

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- (2) proclamations and Orders in Council for the coming into force of Acts;
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**PROVINCE OF QUÉBEC**

1ST SESSION

43RD LEGISLATURE

QUÉBEC, 16 FEBRUARY 2023

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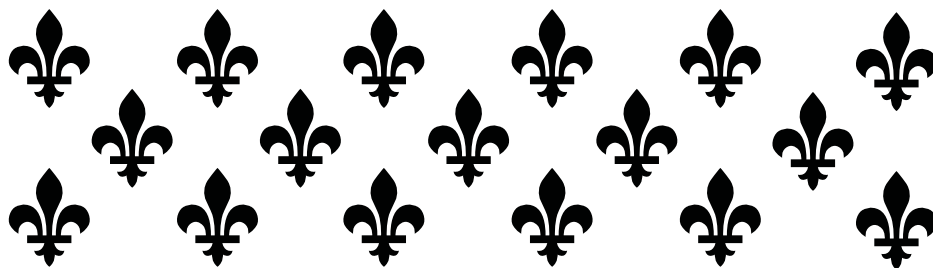
**OFFICE OF THE LIEUTENANT-GOVERNOR***Québec, 16 February 2023*

This day, at ten past one o'clock in the afternoon, His Excellency the Lieutenant-Governor was pleased to assent to the following bill:

- 2      An Act mainly to cap the indexation rate for Hydro-Québec domestic distribution rate prices and to further regulate the obligation to distribute electricity

To this bill the Royal assent was affixed by His Excellency the Lieutenant-Governor.





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# NATIONAL ASSEMBLY OF QUÉBEC

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FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 2  
(2023, chapter 1)

**An Act mainly to cap the indexation  
rate for Hydro-Québec domestic  
distribution rate prices and to further  
regulate the obligation to distribute  
electricity**

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**Introduced 2 December 2022  
Passed in principle 7 February 2023  
Passed 15 February 2023  
Assented to 16 February 2023**

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**Québec Official Publisher  
2023**

## EXPLANATORY NOTES

*This Act amends mainly the Hydro-Québec Act in order to cap the indexation rate for domestic electricity distribution rate prices. In addition, the Act provides that Hydro-Québec must financially compensate municipal electric power systems and the Coopérative régionale d'électricité de Saint-Jean-Baptiste de Rouville for financial losses caused by that cap.*

*The Act further amends the Hydro-Québec Act to specify that Hydro-Québec is to pay a charge into the Generations Fund for all the water powers it exploits in Québec. It also validates the charges paid into that fund by Hydro-Québec since 1 January 2007.*

*The Act amends the Act respecting the Régie de l'énergie to give the Government the power to determine by regulation the cases in which and conditions on which Hydro-Québec or another holder of exclusive rights does not have the obligation to distribute electricity. It empowers the Minister of Economy, Innovation and Energy to authorize the distribution of electricity to a person where that obligation does not apply and determines the criteria the Minister must take into account before issuing an authorization.*

*Lastly, the Act contains transitional provisions.*

## LEGISLATION AMENDED BY THIS ACT:

- Hydro-Québec Act (chapter H-5);
- Act to reduce the debt and establish the Generations Fund (chapter R-2.2.0.1);
- Act respecting the Régie de l'énergie (chapter R-6.01).



## Bill 2

### AN ACT MAINLY TO CAP THE INDEXATION RATE FOR HYDRO-QUÉBEC DOMESTIC DISTRIBUTION RATE PRICES AND TO FURTHER REGULATE THE OBLIGATION TO DISTRIBUTE ELECTRICITY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### CHAPTER I

#### AMENDING PROVISIONS

#### HYDRO-QUÉBEC ACT

**1.** Section 16 of the Hydro-Québec Act (chapter H-5) is amended by replacing “under the second paragraph of section 32” in the first paragraph by “under section 16.1 of this Act”.

**2.** The Act is amended by inserting the following section after section 16:

**“16.1.** The Company shall pay a charge into the Generations Fund for all the water powers it exploits in Québec, including those placed at its disposal under section 32.

The Company shall pay the charge according to the terms prescribed by section 69.3 of the Watercourses Act (chapter R-13).

The rate of the charge is \$0.88 per 1,000 kilowatt-hours computed on 1 January 2023 and is to be adjusted on 1 January each year according to the percentage of increase, in relation to the preceding year, in the Consumer Price Index for Canada, as published by Statistics Canada under the Statistics Act (Revised Statutes of Canada, 1985, chapter S-19). For that purpose, the Consumer Price Index for a year is the average monthly index for the 12 months ending on 30 September of the preceding year.

Where an annual average or the percentage computed under the third paragraph or where the rate of the charge thus adjusted has more than two decimals, only the first two decimals are kept and the second decimal is increased by one unit if the third decimal is 5 or over.

The Minister shall publish, in the *Gazette officielle du Québec*, the rate of the charge so adjusted.”

**3.** Section 22.0.1.1 of the Act is amended

(1) by inserting “, and the prices of Rates D, DM, DN, DP, DT, Additional electricity–Photosynthesis or Space Heating to Raise Crops, Winter Credit Option–Rate D and Flex D, of the Dual-Energy Domestic Rate–Inukjuak System and of the Credit for supply applicable to domestic rates” at the end of the first paragraph;

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

“The prices of Rates D, DM, DN, DP, DT, Additional electricity–Photosynthesis or Space Heating to Raise Crops, Winter Credit Option–Rate D and Flex D, of the Dual-Energy Domestic Rate–Inukjuak System and of the Credit for supply applicable to domestic rates are adjusted by operation of law on 1 April each year, according to the following formula:

$$A \times (1 + B).$$

In the formula in the third paragraph,

(1) the letter A represents a rate price as at the preceding 31 March;

(2) the letter B represents the lesser of

(a) the rate corresponding to the annual change in the overall average Québec consumer price index without alcoholic beverages, tobacco products and recreational cannabis for the 12-month period ending on 30 September of the year preceding that for which the price referred to in subparagraph 1 is to be adjusted; and

(b) the top rate of the Bank of Canada’s inflation-control range as at 30 September of the year preceding that for which the price referred to in subparagraph 1 is to be adjusted.”;

(3) by replacing “Notwithstanding the first paragraph” in the introductory clause of the third paragraph by “Despite the preceding paragraphs”.

**4.** The Act is amended by inserting the following section after section 22.0.1.2:

**“22.0.1.3.** The Company shall financially compensate a municipal electric power system governed by the Act respecting the Régie de l’énergie (chapter R-6.01) and the Coopérative régionale d’électricité de Saint-Jean-Baptiste de Rouville governed by the Act respecting the Coopérative régionale d’électricité de Saint-Jean-Baptiste de Rouville and repealing the Act to promote rural electrification by means of electricity cooperatives (1986, chapter 21) if the Company is shown, for a year, that the application of the rate provided for in subparagraph *b* of subparagraph 2 of the fourth paragraph of section 22.0.1.1 for the adjustment of the prices of Rates D, DM, DN, DP, DT, Additional electricity–Photosynthesis or Space Heating to Raise Crops, Winter Credit

Option—Rate D and Flex D, of the Dual-Energy Domestic Rate—Inukjuak System and of the Credit for supply applicable to domestic rates, compared to the rate provided for in subparagraph *a* of that subparagraph, for the adjustment of the prices of the electricity distribution rate at which that municipal system or the Coopérative purchases electricity from the Company, causes them a financial loss.”

**5.** Section 32 of the Act is amended by striking out the second, third, fourth and fifth paragraphs.

#### ACT TO REDUCE THE DEBT AND ESTABLISH THE GENERATIONS FUND

**6.** Section 3 of the Act to reduce the debt and establish the Generations Fund (chapter R-2.2.0.1) is amended by replacing “32” in subparagraph 1 of the first paragraph by “16.1”.

#### ACT RESPECTING THE RÉGIE DE L'ÉNERGIE

**7.** Section 76 of the Act respecting the Régie de l'énergie (chapter R-6.01) is amended

(1) by inserting “, except in the cases and on the conditions determined by regulation of the Government for each of those holders of exclusive rights” at the end of the first paragraph;

(2) by replacing the second paragraph by the following paragraphs:

“Where the obligation set out in the first paragraph does not apply, the holder of exclusive rights must obtain the authorization of the Minister to distribute electric power to a person or class of persons at the applicable rate set out in Schedule I to the Hydro-Québec Act (chapter H-5).

Before issuing a distribution authorization, the Minister shall take into account, among other things, the holder of exclusive rights' technical capabilities for connection as well as the economic benefits and social and environmental impacts of the use of the electric power requested.

The Minister may require from the holder of exclusive rights any information that is relevant for the purposes of the second paragraph.”

**8.** Section 112 of the Act is amended by inserting the following subparagraph after subparagraph 2.3 of the first paragraph:

“(2.4) the cases in which and conditions on which each holder of exclusive rights does not have an obligation to distribute electric power in accordance with the first paragraph of section 76;”.

## CHAPTER II

### TRANSITIONAL AND FINAL PROVISIONS

**9.** Despite any inconsistent provision, the charges paid into the Generations Fund by Hydro-Québec since 1 January 2007 under section 32 of the Hydro-Québec Act (chapter H-5), as it read on 15 February 2023, are deemed to have been validly paid into the Fund. Those sums belong to the Government.

**10.** Until the coming into force of the first regulation made by the Government under subparagraph 2.4 of the first paragraph of section 112 of the Act respecting the Régie de l'énergie (chapter R-6.01), enacted by section 8, the obligation to distribute electric power set out in the first paragraph of section 76 of the Act respecting the Régie de l'énergie does not apply to any new request, any request for an additional load or any request from a customer having a special contract, which is for 5,000 kilowatts or more of power and regarding which the holder of exclusive rights did not enter into an agreement before 2 December 2022 that provides for a financial commitment from the party having made the request.

Where the obligation referred to in the first paragraph does not apply, a holder of exclusive rights must obtain the authorization of the Minister to distribute electric power to a person or class of persons at the applicable rate set out in Schedule I to the Hydro-Québec Act.

Before issuing a distribution authorization, the Minister must take into account, among other things, the holder of exclusive rights' technical capabilities for connection as well as the economic benefits and social and environmental impacts of the use of the electric power requested.

The Minister may require from the holder of exclusive rights any information that is relevant for the purposes of the second paragraph.

This section has effect despite the decisions of the Régie de l'énergie in files R-4057-2018 and R-4045-2018.

**11.** This Act comes into force on 16 February 2023, except section 7, which comes into force on the date of coming into force of the first regulation made under subparagraph 2.4 of the first paragraph of section 112 of the Act respecting the Régie de l'énergie, enacted by section 8.

## Regulations and other Acts

Gouvernement du Québec

### **O.C. 160-2023, 22 February 2023**

Act respecting the process of negotiation of collective agreements and the settlement of disputes in the municipal sector (chapter R-8.3)

#### **Remuneration of members of a dispute settlement board and disputes arbitrators in the municipal sector — Amendment**

Regulation to amend the Regulation respecting the remuneration of members of a dispute settlement board and disputes arbitrators in the municipal sector

WHEREAS, under section 34 of the Act respecting the process of negotiation of collective agreements and the settlement of disputes in the municipal sector (chapter R-8.3), the costs of a dispute settlement board, including the fees of its members, are determined by government regulation;

WHEREAS section 47 of the Act provides that sections 13 to 25 and 27 to 36 apply to arbitration conducted under Division IV of the Act, with the necessary modifications;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting the remuneration of members of a dispute settlement board and disputes arbitrators in the municipal sector was published in Part 2 of the *Gazette officielle du Québec* of 17 August 2022 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs:

THAT the Regulation to amend the Regulation respecting the remuneration of members of a dispute settlement board and disputes arbitrators in the municipal sector, attached to this Order in Council, be made.

YVES OUELLET  
*Clerk of the Conseil exécutif*

### **Regulation to amend the Regulation respecting the remuneration of members of a dispute settlement board and disputes arbitrators in the municipal sector**

Act respecting the process of negotiation of collective agreements and the settlement of disputes in the municipal sector (chapter R-8.3, ss. 34 and 47)

**1.** The Regulation respecting the remuneration of members of a dispute settlement board and disputes arbitrators in the municipal sector (chapter R-8.3, r. 2 ) is amended, in the first paragraph of section 2,

(1) by replacing “180” by “255”;

(2) by replacing “205” by “282”.

**2.** The following is inserted after section 2:

“**2.1.** Each member of a dispute settlement board or disputes arbitrator is entitled to fees at the rates set in section 2 for each hour of a preparatory conference held with the parties.

**2.2.** Each member of a dispute settlement board is also entitled to a maximum of 1 hour of fees at the rates set in section 2 for the joint planning of each arbitration hearing held.”.

**3.** Sections 4 and 5 are replaced by the following:

“**4.** Where disputes arbitration requires prior disposal of issues on elements other than work and remuneration conditions that are the subject of the dispute, the chair of a dispute settlement board or a disputes arbitrator is entitled to an additional maximum number of 25 hours of fees, and the other members of a dispute settlement board are entitled to an additional maximum number of 5 hours of fees, at the rates set in section 2.

**5.** For all expenses related to arbitration, namely fees for opening files, telephone calls, correspondence and the drafting and filing of duplicates or copies of the arbitration award, a member of a dispute settlement board or disputes arbitrator is entitled, at the rates set in section 2, to fees determined as follows:

(1) the chair of a dispute settlement board is entitled to 3 hours of fees;

(2) the other members of a dispute settlement board are entitled to 1 hour of fees;

(3) a disputes arbitrator is entitled to 1.5 hours of fees.”.

**4.** Section 6 is amended by replacing “according to the Directive concernant les frais de déplacement des personnes engagées à honoraires par des organismes publics (C.T. 212379, 2013-03-26 amended by C.T. 214163, 2014-09-30)” by “according to the Directive concernant les frais de déplacement des personnes engagées à honoraires par des organismes publics made by the Conseil du trésor on 26 March 2013, as subsequently amended”.

**5.** Section 7 is amended by replacing “115” in the second paragraph by “144”.

**6.** Section 8 is replaced by the following:

“8. When a case is fully settled or postponed at the request of a party, each member of a dispute settlement board or a disputes arbitrator is entitled, as an indemnity and at the rates set in section 2, to fees determined as follows:

(1) 1 hour of fees if the settlement or postponement occurs between 45 and 31 days before the date of the arbitration hearing;

(2) 3 hours of fees if the settlement or postponement occurs between 30 and 11 days before the date of the arbitration hearing;

(3) 5 hours of fees if the settlement or postponement occurs 10 or fewer days before the date of the arbitration hearing.”.

**7.** The following is inserted after section 9:

“9. The fees provided for in section 2, as well as the travel allowance provided for in section 7, are adjusted on 1 January of each year by a rate corresponding to the annual change in the average all-items Consumer Price Index for Québec without alcoholic beverages, tobacco products, smoker’s supplies and recreational cannabis for the 12-month period ending on 30 September of the year preceding that for which the fees and travel allowance must be adjusted.

Such fees and travel allowance, so adjusted, are decreased to the nearest dollar if they include a dollar fraction under \$0.50; they are increased to the nearest dollar if they include a dollar fraction equal to or over \$0.50.

The Minister responsible for municipal affairs informs the public of the result of the adjustment made under this section in Part 1 of the *Gazette officielle du Québec* and by any other means the Minister considers appropriate.”.

**8.** This Regulation applies to disputes submitted to a dispute settlement board or disputes arbitrator whose activities commence on or after the date of coming into force of this Regulation.

**9.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

## O.C. 171-2023, 22 February 2023

Securities Act  
(chapter V-1.1)

### System Fees for SEDAR and NRD

#### — Regulation 13-102

#### — Amendment

CONCERNING the Regulation to amend Regulation 13-102 respecting System Fees for SEDAR and NRD

WHEREAS, under subparagraph 9 of the first paragraph of section 331 of the Securities Act (chapter V-1.1), the Autorité des marchés financiers may, by regulation, prescribe the fees payable for any formality provided for in the Act or the regulations and for services rendered by the Authority, and the terms and conditions of payment;

WHEREAS the second paragraph of section 331 of the Act provides that a regulation made under that section is to be submitted to the Government for approval, with or without amendment;

WHEREAS the Autorité des marchés financiers made the Regulation to amend Regulation 13-102 respecting System Fees for SEDAR and NRD by the decision no. 2021-PDG-0059 dated 17 November 2021;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), the draft regulation to amend Regulation 13-102 respecting System Fees for SEDAR and NRD was published in Part 2 of the *Gazette officielle du Québec* of 6 April 2022, with a notice that it could be submitted to the Government for approval, with or without amendment, on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation to amend Regulation 13-102 respecting System Fees for SEDAR and NRD, attached to this Order in Council, be approved.

YVES OUELLET  
*Clerk of the Conseil exécutif*

## REGULATION TO AMEND REGULATION 13-102 RESPECTING SYSTEM FEES FOR SEDAR AND NRD

Securities Act  
(chapter V-1.1, s. 331, 1<sup>st</sup> par., subpar. (9))

1. Appendix B of Regulation 13-102 respecting System Fees for SEDAR and NRD (chapter V-1.1, r. 2.1) is amended by replacing the third line of the table with the following:

“

|   |  |   |   |   |
|---|--|---|---|---|
| 3 | Investment fund issuers/securities offerings | Simplified prospectus and fund facts document (Regulation 81-101 respecting Mutual Fund Prospectus Disclosure (chapter V-1.1, r. 38)) | \$585.00, which applies in total to a combined filing, if one simplified prospectus is used to qualify the investment fund securities of more than one investment fund for distribution | \$162.50, which applies in total to a combined filing, if one simplified prospectus is used to qualify the investment fund securities of more than one investment fund for distribution |
|---|--|---|---|---|

”

2. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

**O.C. 172-2023, 22 February 2023**

Securities Act  
(chapter V-1.1)

**Securities  
— Amendment**

CONCERNING the Regulation to amend the Securities Regulation

WHEREAS, under subparagraph 9 of the first paragraph of section 331 of the Securities Act (chapter V-1.1), the Autorité des marchés financiers may, by regulation, prescribe the fees payable for any formality provided for in the Act or the regulations and for services rendered by the Authority, and the terms and conditions of payment;

WHEREAS the second paragraph of section 331 of the Act provides that a regulation made under that section is to be submitted to the Government for approval, with or without amendment;

WHEREAS the Autorité des marchés financiers made the Regulation to amend the Securities Regulation by the decision no. 2021-PDG-0060 dated 17 November 2021;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), the draft regulation to amend the Securities Regulation was published in Part 2 of the *Gazette officielle du Québec* of 6 April 2022, with a notice that it could be submitted to the Government for approval, with or without amendment, on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation to amend the Securities Regulation, attached to this Order in Council, be approved.

YVES OUELLET  
*Clerk of the Conseil exécutif*

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**REGULATION TO AMEND THE SECURITIES REGULATION**

Securities Act  
(chapter V-1.1, s. 331, 1<sup>st</sup> par., subpar. (9))

1. The Securities Regulation (chapter V-1.1, r. 50) is amended by replacing “all its assets” in the first paragraph of section 271 by “all or part of its assets”.
2. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

## O.C. 173-2023, 22 February 2023

Real Estate Brokerage Act  
(chapter C-73.2)

### Brokerage requirements, professional conduct of brokers and advertising

#### —Amendment

#### Contracts and forms

#### —Revocation

Regulation to amend the Regulation respecting brokerage requirements, professional conduct of brokers and advertising and to revoke the Regulation respecting contracts and forms

WHEREAS, under the second paragraph of section 21 of the Real Estate Brokerage Act (chapter C-73.2), the rules governing the disclosure of conflicts of interest are set out in the regulations of the Organisme d'autoréglementation du courtage immobilier du Québec;

WHEREAS, under the first paragraph of section 22 of the Act, representations made by licence holders, and the real estate advertising and information they disseminate to the public for promotional purposes, must comply with the rules set out in the regulations of the Organisme d'autoréglementation du courtage immobilier du Québec;

WHEREAS, under the first paragraph of section 22.1 of the Act, a broker's licence holder acting on behalf of an agency may carry on brokerage activities, in accordance with the terms, conditions and rules set out in the regulations of the Organisme d'autoréglementation du courtage immobilier du Québec, within a business corporation which he or she controls;

WHEREAS, under paragraph 5 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, the rules of professional conduct applicable to broker's licence holders or executive officers of agency licence holders;

WHEREAS, under paragraph 8 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, the requirements to be met in order to engage in a brokerage transaction described in section 3.1 of the Act;

WHEREAS, under section 49 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may, for the purposes of any regulation, establish special or supplementary rules for licence holders;

WHEREAS, under the third paragraph of section 129.1 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec determines, by regulation, the manner in which the mandatory forms must be completed;

WHEREAS, under section 130 of the Act, all regulations of the Organisme d'autoréglementation du courtage immobilier du Québec, except internal by-laws, must be submitted to the Government for approval with or without amendments;

WHEREAS the Organisme d'autoréglementation du courtage immobilier du Québec adopted the Regulation to amend the Regulation respecting brokerage requirements, professional conduct of brokers and advertising and revoking the Regulation respecting contracts and forms on 26 May 2022;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting brokerage requirements, professional conduct of brokers and advertising and to revoke the Regulation respecting contracts and forms was published in Part 2 of the *Gazette officielle du Québec* of 17 August 2022 with a notice that it could be approved by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation to amend the Regulation respecting brokerage requirements, professional conduct of brokers and advertising and to revoke the Regulation respecting contracts and forms, attached to this Order in Council, be approved.

YVES OUELLET  
*Clerk of the Conseil exécutif*

## **Regulation to amend the Regulation respecting brokerage requirements, professional conduct of brokers and advertising and to revoke the Regulation respecting contracts and forms**

Real Estate Brokerage Act  
(chapter C-73.2, ss. 21, 22, 22.1, 46, pars. 5 and 8,  
ss. 49 and 129.1)

**1.** The Regulation respecting brokerage requirements, professional conduct of brokers and advertising (chapter C-73.2, r. 1) is amended by inserting the following before Chapter I:

### **“CHAPTER 0.1 INTERPRETATION**

**0.1.** In this Regulation, unless the context indicates otherwise, the words “broker” and “agency” mean, respectively, a broker’s licence holder and an agency licence holder, and the expression “licence holder” means a broker’s licence holder and an agency licence holder.”

**2.** The heading of Chapter I is replaced by “REQUIREMENTS TO BE MET TO ENGAGE IN A BROKERAGE TRANSACTION”.

**3.** Section 1 is amended by replacing the first paragraph by the following:

“A licence holder must disclose to every person dealt with in a brokerage transaction described in section 3.1 of the Real Estate Brokerage Act (chapter C-73.2) that a broker’s or agency licence has been issued to the holder under the Act.”

**4.** Section 14 is amended

(1) by replacing “by a brokerage contract” in the first paragraph by “by a real estate brokerage contract”;

(2) by striking out the second paragraph.

**5.** Section 16 is replaced by the following:

“**16.** A licence holder must as soon as possible inform all unrepresented parties that the holder has an obligation to protect and promote the interests of the party represented and to act towards all other parties in a fair and equitable manner.”

**6.** The following is inserted after section 16:

“**16.1.** Where the party for whom a licence holder agrees to act as an intermediary does not receive a mandatory form containing an informative text in particular on the mission of the Organisme d’autoréglementation du courtage immobilier du Québec, the licence holder must, without delay, give that party a document containing such text.”

**7.** Section 17 is amended by replacing the words “by a brokerage contract” wherever they appear by the words “by a real estate brokerage contract”.

**8.** Section 18 is amended

(1) by replacing “or enterprise that is to be purchased, sold or exchanged” in the portion before subparagraph 1 of the first paragraph by “that is to be purchased or sold”;

(2) by striking out “, enterprise” in the third paragraph.

**9.** Section 19 is revoked.

**10.** Section 20 is amended by replacing “selling, exchanging or leasing an immovable or enterprise” by “selling or leasing an immovable”.

**11.** Section 21 is replaced by the following:

“**21.** A licence holder acquiring a direct or indirect interest in an immovable cannot represent the person who intends to sell or lease the immovable. The holder must without delay inform the person in writing that the holder is not acting as a representative and that the person may seek representation by a licence holder of his or her choice.”

**12.** Section 22 is amended by replacing “or enterprise to be sold, leased or exchanged by the holder pursuant to a brokerage contract” by “to be sold or leased by the holder pursuant to a real estate brokerage contract”.

**13.** Section 23 is replaced by the following:

“**23.** A licence holder may not claim or receive remuneration when the holder becomes a lessee or acquires an interest in an immovable for the holder, a partnership or legal person controlled by the holder, or if the married or civil union spouse of the holder, the person with whom the holder is in a de facto union or a legal person or a partnership controlled by that spouse or person becomes a lessee or acquires an interest in the immovable.”

**14.** The heading of Division IV of Chapter I is amended by replacing “A BROKER OR AGENCY BOUND BY A BROKERAGE CONTRACT” by “A LICENCE HOLDER BOUND BY A REAL ESTATE BROKERAGE CONTRACT”.

**15.** Section 25 is amended by replacing “Except in regard to a mortgage brokerage contract, the notice must state the right of the parties either to continue to deal with the broker if the broker is subsequently acting for an agency, with the name of the agency, or to terminate the brokerage contract.” by “The notice must state the right of the parties either to continue to deal with the broker if the broker is subsequently acting for an agency, with the name of the agency, or to terminate the real estate brokerage contract.”.

**16.** Section 26 is replaced by the following:

“**26.** If the broker ceases to act for an agency, the agency, or, failing that, the broker must, without delay, so notify in writing the parties represented by the broker. The notice must state the right of the parties either to continue to deal with the agency, to continue to deal with the broker if the broker is acting for his or her account or for a new agency, with the name of the agency, or to terminate the real estate brokerage contract.”.

**17.** Section 27 is amended by replacing “a brokerage contract” by “a real estate brokerage contract”.

**18.** Section 29 is amended

(1) by replacing “a licence holder” in the first paragraph by “another licence holder”;

(2) by replacing “represented party” in the second paragraph by “party whose identity is verified by the licence holder”.

**19.** Section 30 is amended by replacing “a licence holder” by “another licence holder”.

**20.** Section 34.1 is amended

(1) by replacing “Un courtier” in the portion before paragraph 1 of the French text by “Le courtier”;

(2) by replacing “Organisme d'autoréglementation du courtage immobilier du Québec” in paragraph 4 by “Organization”;

(3) by replacing “le nom usuel du courtier” in paragraph 7 of the French text by “son nom usuel”.

**21.** Section 34.3 is amended by replacing “every contract” and “referred to in section 1” by “every real estate brokerage contract” and “described in section 3.1”, respectively.

**22.** Section 36 is amended by replacing the first paragraph by the following:

“A licence holder who has entered into a real estate brokerage contract must, without delay and in writing, disclose to the represented party every remuneration agreement in the holder's favour related to the object of the contract.”.

**23.** Section 37 is amended

(1) by replacing “Un titulaire” in the first paragraph of the French text by “Le titulaire”;

(2) by replacing “section 1 of the Real Estate Brokerage Act (chapter C-73.2) outside Québec, or a person or a partnership authorized to engage in a brokerage transaction under sections 2 and 3 of that Act” in the second paragraph by “section 3.1 of the Real Estate Brokerage Act (chapter C-73.2) or a person referred to in section 3 of the Act”;

(3) by replacing the third paragraph by the following:

“Despite the first and second paragraphs, a licence holder may, in accordance with the conditions set out in the Act respecting the distribution of financial products and services (chapter D-9.2) and the regulations, share remuneration with a firm, an independent representative or an independent partnership within the meaning of the Act or with a dealer or adviser governed by the Securities Act (chapter V-1.1) or the Derivatives Act (chapter I-14.01).”.

**24.** Section 39 is amended

(1) by striking out “all or” in the second paragraph;

(2) in the third paragraph

(a) by striking out “all or any part of”;

(b) by replacing “the seller” at the end by “the person selling or leasing an immovable”.

**25.** Division VIII of Chapter I, including sections 41 and 42, is revoked.

**26.** Section 43 is amended

(1) by replacing “section 1” in the first paragraph by “section 3.1”;

(2) by replacing the second paragraph by the following:

“A licence holder who receives such deposit may only place it in a licence holder’s trust account.”.

**27.** Section 44 is replaced by the following:

“44. If a represented party wishes to use an information listing service in connection with an immovable, the licence holder must list the immovable with that service when the marketing of the immovable or performance of the real estate brokerage contract begins.”.

**28.** Section 45 is amended by replacing “, enterprise or loan secured by immovable hypothec covered by the brokerage contract” by “covered by the real estate brokerage contract”.

**29.** Section 46 is replaced by the following:

“46. A licence holder may offer to the represented party only the immovables that correspond to the party’s needs or criteria. The holder must also inform the party of the reasons for selecting the proposed immovables.”.

**30.** The following is inserted after section 46:

**“CHAPTER I.1**  
**MANNER IN WHICH MANDATORY FORMS MUST**  
**BE COMPLETED**

**46.1.** Real estate brokerage contracts and other acts related to a brokerage transaction described in section 3.1 of the Real Estate Brokerage Act (chapter C-73.2) recorded on a mandatory form must be completed clearly and legibly by the licence holder concerned. When a licence holder completes a form by hand, the licence holder must use ink.

**46.2.** When a licence holder uses an abbreviation in a mandatory form, the licence holder must write the term out in full at its first occurrence or in an appendix to the form.

**46.3.** A particular or stipulation may not leave any ambiguity about whether some of the terms and conditions of a mandatory form apply.

**46.4.** A licence holder who completes a mandatory form must use type that is different from the type used for the particulars or stipulations printed on the form, to enable the parties to easily distinguish those particulars and stipulations from any additions or amendments.

**46.5.** Any particular or stipulation printed on a mandatory form that is struck out must be struck out by the licence holder in a clearly visible way, and the consent of the parties to the strikeout must be indicated on the form before it is signed.

**46.6.** Any amendment made to a mandatory form by a licence holder must pertain only to the object of the terms and conditions of that form.

**46.7.** A licence holder must, before having a mandatory form that he or she has completed signed, allow the parties to take cognizance of its terms and conditions and provide all explanations and answers to questions that the parties may ask.

**46.8.** A licence holder must not add anything to, amend or strike out anything from a mandatory form after one of the parties has signed the form.

**46.9.** A mandatory form must bear a title and a unique identifying number.

**46.10.** A particular required by this Regulation to be indicated on a mandatory form may be indicated on an appendix to the form, and forms an integral part of it.

**46.11.** A licence holder must use a form prepared pursuant to section 129.1 or 129.2 of the Real Estate Brokerage Act (chapter C-73.2), including any appendix.

**46.12.** A licence holder must give a copy of the real estate brokerage contract, transaction proposal or form to the parties concerned once it has been completed and signed.

A mandatory form may be in the form of a paper document or in any other form that allows it to be printed and guarantees its integrity.”.

**31.** Chapter II, including sections 47 to 60, is revoked.

**32.** Section 68 is amended by replacing “Organisme d’autoréglementation du courtage immobilier du Québec” by “Organization”.

**33.** Section 73 is amended by replacing “section 1” by “section 3.1”.

**34.** Section 74 is amended by adding “, in particular by complying with Chapter IV of the Regulation respecting broker’s and agency licences (chapter C-73.2, r. 3)” at the end.

**35.** Section 76 is amended by striking out “, an enterprise”.

**36.** The heading of Division III of Chapter III is amended by striking out “AND OBLIGATIONS”.

**37.** Section 82 is amended by replacing “is published by the Organization, in accordance with section 11 of the Regulation respecting contracts and forms (chapter C-73.2, r. 2.1)” by “is mandatory”.

**38.** Section 83 is amended by replacing “qu’il, ou l’agence pour laquelle il agit, représente et toutes les parties à une transaction” in the first paragraph of the French text by “qu’il, ou que l’agence pour laquelle il agit, représente et toutes les autres parties à une transaction”.

**39.** Section 84 is amended by replacing “represented by them or the agency for which they act, the parties to the transaction” by “represented by them or the agency for which they act, the other parties to the”.

**40.** Section 85 is amended by replacing “represented and all other parties to a transaction” by “represented by them or the agency for which they act and all other parties to a transaction”.

**41.** Section 87 is replaced by the following:

“87. A broker or agency executive officer must, before visiting or arranging to have an immovable visited, first obtain the consent of the licence holder having an exclusive real estate brokerage contract or the seller if no exclusive real estate brokerage contract has been entered into for the immovable.”

**42.** Section 88 is amended by replacing “represented by them or the agency for which they act or a party” and “with those parties” by “represented by them or the agency for which they act or another party” and “with each party”, respectively.

**43.** Section 89 is replaced by the following:

“89. A broker or agency executive officer must inform the party with whom the broker or the agency for which they act has a dispute of the possibility under section 34 of the Real Estate Brokerage Act (chapter C-73.2) of referring the matter to conciliation or mediation, or to arbitration if conciliation or mediation fails.”

**44.** Section 90 is amended

(1) by inserting “real estate” before “brokerage contract”;

(2) by striking out “or an enterprise”.

**45.** Section 98 is amended

(1) by striking out “already”;

(2) by inserting the words “real estate” before the words “brokerage contract” wherever they appear.

**46.** Section 99 is amended

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

“A broker or agency executive officer must not perform any act that is incompatible with an exclusive real estate brokerage contract made with another licence holder. In particular, the broker or officer may not set appointments, present transaction proposals or conduct negotiations in relation to a proposed transaction otherwise than through the licence holder under the exclusive real estate brokerage contract, unless authorized to do so by that holder.”;

(2) in the second paragraph

(a) by replacing “Un courtier” in the French text by “Le courtier”;

(b) by replacing “an exclusive brokerage contract” by “an exclusive real estate brokerage contract”.

**47.** The heading of Division V of Chapter III is amended by striking out “AND OBLIGATIONS”.

**48.** The heading of subdivision 2 of Division V of Chapter III is amended by replacing “Organisation d’autoréglementation du courtage immobilier du Québec” by “Organization”.

**49.** The heading of Chapter IV is amended by replacing “REPRÉSENTATION” in the French text by “REPRÉSENTATIONS”.

**50.** Section 111 is amended by replacing “section 1” by “section 3.1”.

**51.** Section 112 is amended

(1) by striking out “or mortgage” in the first paragraph;

(2) in the second paragraph

(a) by replacing “brokers and agencies” in subparagraph 2 by “licence holders”;

(b) by striking out subparagraph 3;

(c) by inserting “real estate” before “brokerage contract” in subparagraph 4.



**52.** Section 113 is amended

(1) by striking out “or mortgage” in the portion before paragraph 1;

(2) by replacing “section 1” in paragraph 1 by “section 3.1”;

(3) by adding “with another name, trademark, slogan or logo likely to be confusing, in particular the activities engaged in, the type of goods and services offered or the geographical situation, or to falsely suggest that he or she practises a profession reserved to the members of a professional order” at the end of paragraph 3.

**53.** The heading of Division II of Chapter IV is amended by replacing “BROKERS AND AGENCIES” by “A LICENCE HOLDER”.

**54.** Section 114 is amended by striking out the second paragraph.

**55.** Section 115 is amended

(1) in the first paragraph

(a) by striking out “real estate” in the portion before subparagraph 1;

(b) by striking out subparagraph 4;

(2) in the second paragraph

(a) by striking out “real estate”;

(b) by replacing “the designation or designations in subparagraphs 2 and 3 that describe the broker’s legal qualification” by “the designation provided for in subparagraph 2 or 3 that describes the broker’s legal qualification”.

**56.** Section 115.1 is amended

(1) in the first paragraph

(a) by replacing “la publicité” in the French text by “les publicités”;

(b) by replacing “indications” by “designations”;

(2) by replacing “subparagraphs 1 and 2 of the first paragraph” by “paragraphs 1 and 2” and by striking out “as the case may be,” and “or “business corporation of a mortgage broker”” in the second paragraph.

**57.** Section 116 is amended by striking out the second paragraph.

**58.** Section 117 is amended

(1) by replacing “a real estate agency” in the portion before paragraph 1 by “an agency”;

(2) by striking out paragraph 4.

**59.** Sections 24 and 28, the heading of subdivision 3 of Division IV of Chapter III and section 118 are amended by replacing the words “brokerage contract” wherever they appear by the words “real estate brokerage contract”.

## REGULATION RESPECTING CONTRACTS AND FORMS

**60.** The Regulation respecting contracts and forms (chapter C-73.2, r. 2.1) is revoked.

**61.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

**O.C. 174-2023, 22 February 2023**

Real Estate Brokerage Act  
(chapter C-73.2)

**Issue of broker’s and agency licence  
—Amendment**

Regulation to amend the Regulation respecting the issue of broker’s and agency licences

WHEREAS, under paragraph 1 of section 46 of the Real Estate Brokerage Act (chapter C-73.2), the Organisme d’autoréglementation du courtage immobilier du Québec may determine, by regulation, rules governing the training required to become a broker’s licence holder or an executive officer of an agency licence holder and the examination to be taken by prospective brokers or executive officers;

WHEREAS, under paragraph 2 of section 46 of the Act, the Organisme d’autoréglementation du courtage immobilier du Québec may determine, by regulation, rules governing continuing or additional training, including the specific circumstances under which such training is compulsory for all or some of the broker’s licence holders or of the executive officers of agency licence holders;

WHEREAS, under paragraph 3 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, the terms and conditions governing the issue, suspension or revocation of a licence, and the cases in which restrictions or conditions may be imposed on a licence;

WHEREAS, under paragraph 4 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, the licence fees to be paid;

WHEREAS, under paragraph 6 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, the information and documents to be provided by a prospective broker or executive officer or by a licence holder;

WHEREAS, under paragraph 7 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, the particulars a licence must contain;

WHEREAS, under paragraph 11 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, the real estate brokerage contracts to which, on an ad hoc basis or occasionally, persons, partnerships or groups of persons or partnerships, other than licence holders, may be parties as intermediaries following a special authorization, the terms and conditions applicable to the resulting brokerage transactions and the fees chargeable for such transactions;

WHEREAS, under paragraph 12 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, the qualifications required of executive officers of an agency licence holder;

WHEREAS, under section 130 of the Act, all regulations of the Organisme d'autoréglementation du courtage immobilier du Québec, except internal by-laws, must be submitted to the Government for approval with or without amendments;

WHEREAS the Organisme d'autoréglementation du courtage immobilier du Québec adopted the Regulation to amend the Regulation respecting the issue of broker's and agency licences on 26 May 2022;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting the issue of broker's and agency licences was published in Part 2 of the *Gazette officielle du Québec* of 17 August 2022 with a notice that it could be approved by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation to amend the Regulation respecting the issue of broker's and agency licences, attached to this Order in Council, be approved.

YVES OUELLET

*Clerk of the Conseil exécutif*

## **Regulation to amend the Regulation respecting the issue of broker's and agency licences**

Real Estate Brokerage Act  
(chapter C-73.2, s. 46, pars. 1, 2, 3, 4, 6, 7, 11 and 12)

**1.** The Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3) is amended by replacing the title by the following:

“Regulation respecting broker's and agency licences”.

**2.** The following is inserted before Chapter I:

### **“CHAPTER 0.I INTERPRETATION**

**0.1.** In this Regulation, unless the context indicates otherwise, the words “broker” and “agency” mean, respectively, a broker's licence holder and an agency licence holder, and the expression “licence holder” means a broker's licence holder and an agency licence holder.”.

**3.** The heading of subdivision 1 of Division I of Chapter I is amended by striking out “and mortgage”.

**4.** Section 1 is amended

(1) in the first paragraph

(a) by striking out “or mortgage” in the portion before subparagraph 1;

(b) by replacing “according to the licence applied for or licence restrictions” in subparagraph 1.1 by “according to any licence restrictions”;

(c) by replacing “obtenir” in subparagraph *e* of subparagraph 4 of the French text by “avoir obtenu”;

(d) by replacing “fee” in subparagraph 5 by “contribution”;

(2) by replacing “brokerage transactions within the meaning of section 1” in the second paragraph by “brokerage transactions referred to in section 3.1”;

(3) in the fourth paragraph

(a) by striking out the words “a mortgage broker’s licence or” wherever they appear;

(b) by replacing “permis de courtiers immobiliers” at the end of the French text by “permis de courtier immobilier”.

**5.** Section 2 is amended by replacing the third paragraph by the following:

“A licence holder who passes the training program and passes the required examination may have the restricted licence modified to hold a real estate broker’s licence with no restriction.”

**6.** The following is inserted after section 2:

**“DIVISION 1.1  
RIGHTS GRANTED TO A HOLDER  
OF A RESTRICTED LICENCE”**

**7.** Section 3 is amended

(1) by replacing “authorizes its holder to act as an intermediary for the purchase, sale or exchange of” in the portion before subparagraph 1 of the first paragraph by “authorizes its holder to engage in a brokerage transaction described in section 3.1 of the Real Estate Brokerage Act (chapter C-73.2) respecting”;

(2) by inserting “, in accordance with the conditions set out in the Act respecting the distribution of financial products and services (chapter D-9.2) and the regulations,” after “client” in the third paragraph.

**8.** Section 4 is amended

(1) by replacing “to engage in the brokerage activities described in subparagraphs 1, 2 and 3 of the first paragraph of section 1 of the Real Estate Brokerage Act (chapter C-73.2), including activities involving a vacant commercial lot, but excluding activities” in paragraph 1 by “to engage in a brokerage transaction described in section 3.1 of the Real Estate Brokerage Act (chapter C-73.2), including a brokerage transaction involving a vacant commercial lot or an enterprise if the enterprise’s property, according to its market value, consists mainly of immovable property, but excluding a brokerage transaction”;

(2) by striking out paragraph 2;

(3) by inserting “, in accordance with the conditions set out in the Act respecting the distribution of financial products and services (chapter D-9.2) and the regulations,” after “client” in paragraph 3.

**9.** Section 5 is amended

(1) by replacing “in subparagraph *a* of subparagraph 4 of the first paragraph of section 1 in French, documents showing the applicant meets one of the requirements of subparagraph 4” in paragraph 5 by “in subparagraph *a* of subparagraph 4 of the first paragraph of section 1 in French, documents showing the applicant meets one of the other requirements of subparagraph 4”;

(2) by replacing paragraph 11 by the following:

“(11) if the prospective broker has previously been convicted by a court of, or has pleaded guilty to, an offence under an Act or regulation of Québec, an offence under a federal Act or regulation or an indictable offence, the relevant documents”;

(3) by replacing “brokerage transactions within the meaning of section 1” in paragraph 14 by “brokerage transactions described in section 3.1”.

**10.** The heading of subdivision 2 of Division I of Chapter I is amended by striking out “and mortgage”.

**11.** Section 6 is amended

(1) by striking out “or a mortgage agency licence” in the portion before paragraph 1 and “or a mortgage broker’s licence” in paragraph 1;

(2) by replacing “fee” in paragraph 4 by “contribution”.

**12.** Section 7 is amended

(1) by inserting “real estate” before “broker’s” in paragraph 1;

(2) by inserting “must in particular comply with paragraphs 2 and 3 of section 113 of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising (chapter C-73.2, r. 1), but” after “which name” in paragraph 2;

(3) by inserting “in Québec” after “principal establishment” in paragraph 3;



(4) by replacing paragraph 9 by the following:

“(9) if the applicant has previously been convicted by a court of, or has pleaded guilty to, an offence under an Act or regulation of Québec, an offence under a federal Act or regulation or an indictable offence, the relevant documents;”

**13.** Section 13 is amended in the first paragraph

(1) by striking out the words “or mortgage” wherever they appear in subparagraph 3;

(2) by replacing “the licence holder’s establishment” in subparagraph 6 by “the establishment within which the licence holder carries on activities”;

(3) by replacing “is certified to be an agency executive officer, if applicable” in subparagraph 7 by “qualifies to be an agency executive officer or acts as an agency executive officer, if applicable”;

(4) by adding the following at the end:

“(8) the specialist’s title granted to the broker, if applicable.”

**14.** Section 15 is amended by replacing “additional training” in paragraph 3 by “any continuing or additional training”.

**15.** Section 16 is amended by inserting “continuing or” before “additional training” in paragraph 3.

**16.** Section 17 is amended by striking out “or mortgage”.

**17.** Section 19 is amended by replacing “fees” in paragraph 2 by “contribution”.

**18.** Section 20 is amended by replacing “fees” in paragraph 2 by “contribution”.

**19.** Section 22 is amended by replacing “fees” by “contribution”.

**20.** The heading of Division VI of Chapter I is amended by adding “AND QUALIFICATION OF A BROKER WISHING TO ACT FOR HIS OR HER OWN ACCOUNT” at the end.

**21.** Section 34 is replaced by the following:

“**34.** A person is qualified as an executive officer of a real estate agency if the person

(1) holds a real estate broker’s licence that is neither suspended nor subject to restrictions or conditions unless it is a restriction referred to in section 2;

(2) meets either of the following conditions, showing that the person has the experience necessary to manage an agency:

(a) if the person is a person referred to in section 146 of the Real Estate Brokerage Act (chapter C-73.2), the person may act for his or her own account and has carried on the activity of real estate broker for at least 3 of the last 5 years;

(b) the person has carried on the activity of real estate broker in an agency for at least 3 of the last 5 years;

(3) meets any of the following conditions, showing that the person is qualified to manage the professional activities of a licence holder:

(a) has passed one of the training programs recognized in an agreement between the Organization and an educational institution and that deals with the skills an executive officer of a real estate agency must have, provided for in the system of reference available on the Organization’s official website and has passed, in accordance with Division VII, the examination for executive officers of real estate agencies;

(b) has qualified as an executive officer of a real estate agency for 3 of the last 5 years;

(c) is authorized to represent, direct or qualify a person or partnership that engages in brokerage transactions described in section 3.1 of the Real Estate Brokerage Act through the intermediary of natural persons authorized to engage in such transactions in a province, state or territory for which an agreement on the mutual recognition of professional qualifications has been entered into by the Gouvernement du Québec and another government; and

(4) after qualifying as an executive officer of a real estate agency, has taken and, where applicable, passed all continuing or additional training required for some or all brokers to qualify as agency executive officers.

To maintain qualification, an executive officer of a real estate agency must continue to meet the requirements of subparagraphs 1, 2 and 4 of the first paragraph.”

**22.** Section 35 is amended

(1) by replacing “the holder” in the first paragraph by “a holder”;

(2) by replacing “brokerage transactions within the meaning of section 1” in the second paragraph by “brokerage transactions described in section 3.1”.

**23.** Section 39 is amended

(1) by inserting “by the Organization” after “cancelled” in the second paragraph;

(2) by replacing the third paragraph by the following:

“A person may only be admitted to a new examination after a period of 12 months following the date of the cancellation of the person’s examination for any of the reasons referred to in the first paragraph or after a period of 3 months following the cancellation of the person’s examination under the second paragraph.”

**24.** Section 40 is amended

(1) by replacing “section 1” in the portion before paragraph 1 by “section 3.1”;

(2) in paragraph 1

(a) by replacing “section 1” in subparagraph *b* by “section 3.1”;

(b) by replacing “activities” in subparagraph *c* by “transactions”;

(3) by replacing “section 1” in paragraph 2 by “section 3.1”;

(4) by replacing “fee” in paragraph 4 by “contribution”.

**25.** Section 43 is amended

(1) by replacing “section 1” in subparagraph 1 of the first paragraph by “section 3.1”;

(2) by replacing “section 1” in the second paragraph by “section 3.1”.

**26.** Section 44 is amended

(1) in the first paragraph

(a) by replacing “section 1” in the portion before subparagraph 1 by “section 3.1”;

(b) by replacing “section 1” in subparagraph 2 by “section 3.1”;

(2) by replacing “activities” in the third paragraph by “transactions”.

**27.** Section 45 is amended by striking out subparagraphs 2 and 4 of the first paragraph.

**28.** The heading of Chapter IV is amended by inserting “CONTINUING OR” before “ADDITIONAL”.

**29.** Section 48 is amended by inserting “continuing or” before “additional”.

**30.** Section 49 is amended

(1) by inserting “continuing or” before “additional” in the portion before paragraph 1;

(2) by replacing “section 1” in paragraphs 1, 3 and 4 by “section 3.1”.

**31.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

**O.C. 175-2023, 22 February 2023**

Real Estate Brokerage Act  
(chapter C-73.2)

**Real Estate Indemnity Fund and determination  
of the professional liability insurance premium  
—Amendment**

Regulation to amend the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium

WHEREAS, under paragraph 15 of section 46 of the Real Estate Brokerage Act (chapter C-73.2), the *Organisme d'autoréglementation du courtage immobilier du Québec* may determine, by regulation, the terms and conditions governing the eligibility of claims submitted to the indemnity committee and the payment of indemnities;

WHEREAS, under paragraph 17 of section 46 of the Act, the *Organisme d'autoréglementation du courtage immobilier du Québec* may determine, by regulation, the contributions that must be paid by licence holders to the *Organisme d'autoréglementation du courtage immobilier du Québec* for payment into the Real Estate Indemnity Fund, according to the licence they hold and the date of their registration with the *Organisme d'autoréglementation du courtage immobilier du Québec*, as well as the terms of payment for those contributions;

WHEREAS, under the first paragraph of section 106 of the Act, the indemnity committee rules on the eligibility of claims submitted to it and decides the amount of the indemnities to be paid, in accordance with the rules set out in the regulations of the Organisme d'autoréglementation du courtage immobilier du Québec;

WHEREAS, under the first paragraph of section 109 of the Act, the Real Estate Indemnity Fund is made up, in particular, of the contributions paid by licence holders in accordance with the regulations of the Organisme d'autoréglementation du courtage immobilier du Québec;

WHEREAS, under section 130 of the Act, all regulations of the Organisme d'autoréglementation du courtage immobilier du Québec, except internal by-laws, must be submitted to the Government for approval with or without amendments;

WHEREAS the Organisme d'autoréglementation du courtage immobilier du Québec adopted the Regulation to amend the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium on 26 May 2022;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium was published in Part 2 of the *Gazette officielle du Québec* of 17 August 2022 with a notice that it could be approved by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation to amend the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium, attached to this Order in Council, be approved.

YVES OUELLET  
*Clerk of the Conseil exécutif*

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## **Regulation to amend the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium**

Real Estate Brokerage Act  
(chapter C-73.2, s. 46, pars. 15 and 17,  
and ss. 106 and 109)

**1.** The Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium (chapter C-73.2, r. 5) is amended by replacing the title by the following:

“Regulation respecting the Real Estate Indemnity Fund”.

**2.** The following is inserted before Chapter I:

### **“CHAPTER 0.I INTERPRETATION**

**0.1.** In this Regulation, unless the context indicates otherwise, the expression “licence holder” means a broker’s licence holder and an agency licence holder.”.

**3.** Section 9 is amended by replacing in the French text “titulaire d’un permis” by “titulaire de permis”.

**4.** The heading of Division III of Chapter I and sections 15 and 16 are amended by replacing the words “fee” and “fees” wherever they appear by the word “contribution”.

**5.** Chapter II, including section 17, is revoked.

**6.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

106154

Gouvernement du Québec

## O.C. 176-2023, 22 February 2023

Real Estate Brokerage Act  
(chapter C-73.2)

### **Records, books and registers, trust accounting and inspection of brokers and agencies —Amendment**

Regulation to amend the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies

WHEREAS, under the first paragraph of section 10 of the Real Estate Brokerage Act (chapter C-73.2), all money received by a broker's licence holder in the course of his or her functions that does not belong to him or her must be deposited in a trust account as specified in the regulations of the Organisme d'autoréglementation du courtage immobilier du Québec;

WHEREAS, under the second paragraph of section 10 of the Act, the interest earned on money held in trust that is not claimed by the person who is entitled to the interest must be paid to the Organisme d'autoréglementation du courtage immobilier du Québec, as specified in the Organization's regulations;

WHEREAS, under paragraph 9 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, the nature, form and tenor of the records, books and registers that must be kept by licence holders, as well as rules for the preservation, use and destruction of records, books and registers;

WHEREAS, under paragraph 10 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, rules for opening and maintaining a trust account, as well as the terms and conditions governing deposits and withdrawals;

WHEREAS, under section 49 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may, for the purposes of any regulation, establish special or supplementary rules for licence holders;

WHEREAS, under section 130 of the Act, all regulations of the Organisme d'autoréglementation du courtage immobilier du Québec, except internal by-laws, must be submitted to the Government for approval with or without amendments;

WHEREAS the Organisme d'autoréglementation du courtage immobilier du Québec adopted the Regulation to amend the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies on 26 May 2022;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies was published in Part 2 of the *Gazette officielle du Québec* of 17 August 2022 with a notice that it could be approved by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation to amend the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies, attached to this Order in Council, be approved.

YVES OUELLET  
*Clerk of the Conseil exécutif*

### **Regulation to amend the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies**

Real Estate Brokerage Act  
(chapter C-73.2, ss. 10, 46, pars. 9 and 10, and s. 49)

**1.** The Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies (chapter C-73.2, r. 4) is amended by inserting the following chapter before Chapter I:

#### **“CHAPTER 0.I INTERPRETATION**

**0.1.** In this Regulation, unless the context indicates otherwise, “broker” and “agency” mean respectively a broker's licence holder and an agency licence holder, and “licence holder” means a broker's licence holder and an agency licence holder.”.

#### **2.** Section 2 is amended

(1) by inserting “real estate” before “brokerage contract” in paragraph 1;

(2) by replacing paragraph 3 by the following:

“(3) if applicable, an accounting registers on the amounts held in trust by the broker or the agency;”.

**3.** Section 3 is amended

(1) by inserting “real estate” before “brokerage contracts” and “brokerage contract” in the part before paragraph 1;

(2) by striking out paragraph 2;

(3) by replacing “the contract was awarded to the” in paragraph 3 by “the contract was entered into with the”.

**4.** Section 9 is amended by replacing “section 1” by “section 3.1”.

**5.** Sections 10, 11 and 12 are amended by replacing “brokerage contract” wherever it appears by “real estate brokerage contract”.

**6.** Section 24 is amended

(1) by replacing “A broker” in the first paragraph by “A licence holder”;

(2) in the fourth paragraph

(a) by replacing “broker” in the part before subparagraph 1 of the fourth paragraph by “licence holder”;

(b) by replacing “section 1” in subparagraph 2 of the fourth paragraph by “section 3.1”;

(c) by inserting the following after subparagraph 2 of the fourth paragraph:

“(3) receives no deposit, advance on remuneration or costs from clients or any other sum for others.”;

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

“If a licence holder is no longer in the situation described in subparagraph 3 of the fourth paragraph, he or she must notify the Organization in writing without delay and comply with the obligations related to trust accounts provided for in this Chapter.”.

**7.** Section 28 is amended by replacing “into the Financing fund of the Organization” at the end of the third paragraph by “under section 44”.

**8.** Section 29 is amended by replacing “into the Financing fund of the Organization” and “to the Financing fund of the Organization” in subparagraphs 7 and 8 of the second paragraph by “to the Organization”.

**9.** The title of Chapter III is replaced by the following:

“INTEREST EARNED ON MONEY HELD IN TRUST”.

**10.** Sections 42 and 43 are repealed.

**11.** Section 44 is amended by replacing “to the financing fund, and any other agreement useful for the purposes of this Chapter” at the end by “to the Organization”.

**12.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

106155

Gouvernement du Québec

**O.C. 177-2023, 22 February 2023**

Real Estate Brokerage Act  
(chapter C-73.2)

**Disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec  
—Amendment**

Regulation to amend the Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec

WHEREAS, under section 82 of the Real Estate Brokerage Act (chapter C-73.2), the Organisme d'autoréglementation du courtage immobilier du Québec appoints a syndic and, if necessary, one or more assistant syndics, and the rules for appointing the syndic and assistant syndics and any replacements are set out in the Organization's regulations;

WHEREAS, under the first paragraph of section 95 of the Act, the discipline committee's operating rules 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 are set out in the regulations of the Organisme d'autoréglementation du courtage immobilier du Québec;

WHEREAS, under section 130 of the Act, all regulations of the Organisme d'autoréglementation du courtage immobilier du Québec, except internal by-laws, must be submitted to the Government for approval with or without amendments;

WHEREAS the Organisme d'autoréglementation du courtage immobilier du Québec adopted the Regulation to amend the Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec on 26 May 2022;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec was published in Part 2 of



the *Gazette officielle du Québec* of 17 August 2022 with a notice that it could be approved by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation to amend the Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec, attached to this Order in Council, be approved.

YVES OUELLET  
*Clerk of the Conseil exécutif*

## **Regulation to amend the Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec**

Real Estate Brokerage Act  
(chapter C-73.2, ss. 82 and 95)

**1.** The Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec (chapter C-73.2, r. 6) is amended by inserting the following before Chapter I:

### **“CHAPTER 0.1 INTERPRETATION**

**0.1.** In this Regulation, unless the context indicates otherwise, the expression “licence holder” means a broker’s licence holder and an agency licence holder.”

**2.** Section 1 is amended by replacing the first paragraph by the following:

“Neither the syndic nor an assistant syndic may, while in office, engage in a brokerage transaction described in section 3.1 of the Real Estate Brokerage Act (chapter C-73.2) or in a mortgage brokerage transaction as defined in the Act respecting the distribution of financial products and services (chapter D-9.2).”

**3.** Section 39 is revoked.

**4.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

106156

## **M.O., 2023-01**

### **Order number V-1.1-2023-01 of the Minister of Finance dated February 21, 2023**

Securities Act  
(chapter V-1.1, s. 331.1, par. (1), (2), (3), (4.1), (5), (8), (11), (14), (19), (20) and (34))

CONCERNING the Regulation respecting Real Estate Prospectus and Registration Exemptions

WHEREAS paragraphs 1, 2, 3, 4.1, 5, 8, 11, 14, 19, 20, and 34 of section 331.1 of the Securities Act (chapter V-1.1) provide that the *Autorité des marchés financiers* may make regulations concerning the matters referred to in those paragraphs;

WHEREAS the third and fourth paragraphs of section 331.2 of the said Act provide that a draft regulation shall be published in the *Bulletin de l'Autorité des marchés financiers*, accompanied with the notice required under section 10 of the Regulations Act (chapter R-18.1) and may not be submitted for approval or be made before 30 days have elapsed since its publication;

WHEREAS the first and fifth paragraphs of the said section provide that every regulation made under section 331.1 must be approved, with or without amendment, by the Minister of Finance and comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation;

WHEREAS the draft Regulation respecting Real Estate Prospectus and Registration Exemptions was published for a first consultation in the *Bulletin de l'Autorité des marchés financiers*, vol. 13, no. 47 of 24 November 2016;

WHEREAS the draft Regulation respecting Real Estate Prospectus and Registration Exemptions was published for a second consultation in the *Bulletin de l'Autorité des marchés financiers*, vol. 19, no. 37 of 22 September 2022;

WHEREAS the *Autorité des marchés financiers* made, on 1 February 2023, by the decision no. 2023-PDG-0005, Regulation respecting Real Estate Prospectus and Registration Exemptions;

WHEREAS there is cause to approve this Regulation without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment the Regulation respecting Real Estate Prospectus and Registration Exemptions appended hereto.

21 February 2023

ERIC GIRARD  
*Minister of Finance*

## **REGULATION RESPECTING REAL ESTATE PROSPECTUS AND REGISTRATION EXEMPTIONS**

Securities Act

(chapter V-1.1, s. 331.1, pars. (1), (2), (3), (4.1), (5), (8), (11), (14), (19), (20) and (34))

### **CHAPTER I SCOPE AND INTERPRETATION**

1. This Regulation applies to the distribution of the following forms of investment:

(1) an investment contract that consists of a real right in an immovable and a rental management agreement;

(2) a security of an issuer that owns an immovable, which security gives the holder a right of exclusive use of the immovable or a portion thereof.

2. The real estate offering document delivered to a purchaser hereunder is authorized by the Autorité des marchés financiers (“Authority”) for use in lieu of a prospectus.

### **CHAPTER II DISTRIBUTION OF AN INVESTMENT CONTRACT**

#### **DIVISION I PROSPECTUS EXEMPTION**

3. A distribution of an investment contract referred to in paragraph 1 of section 1 is exempt from the requirement to prepare a prospectus if

(1) the issuer delivers a real estate offering document to the purchaser that is prepared in accordance with Form F1 before accepting a commitment from the purchaser; and

(2) where the investment contract pertains to a real estate project that is in operation or has been in operation during the 12 months preceding the distribution, the real estate offering document presents the following statements of net revenue, as applicable:

(a) for a real estate project that has not completed a financial year, an audited statement of net revenue of the venture for the accounting period beginning on the date the venture began and ending on a date that is no more than 30 days before the date of the real estate offering document;

(b) for a real estate project that has completed one or more financial years:

(i) an audited annual statement of net revenue of the venture for each of the past two financial years, or such statement corresponding to the completed financial year, where the period is shorter;

(ii) an interim statement of net revenue of the venture for the period ending six months from the first day of the financial year and no more than 15 days before the date of the real estate offering document.

For the purposes of this Regulation, the statement of net revenue presents the net revenue of the venture and the allocation of revenues among the purchasers for each investment contract, the promoter and the persons in charge of the venture. It also indicates the balance of the amounts to be reimbursed to all purchasers and for each investment contract.

4. The issuer must deliver a copy of any material contract to a purchaser that requests it.

## **DIVISION II**

### **EXEMPTION FROM THE REGISTRATION REQUIREMENT**

5. An individual is exempt from the requirement to register as a broker for the distribution of an investment contract referred to in paragraph 1 of section 1, provided that the individual holds a broker's licence issued in accordance with the Real Estate Brokerage Act (chapter C-73.2).

## **DIVISION III**

### **FORWARD-LOOKING INFORMATION, FUTURE ORIENTED FINANCIAL INFORMATION AND FINANCIAL OUTLOOK**

6. An issuer may disclose forward-looking information only if there is a valid basis for that information.

7. Any material forward-looking information presented in the real estate offering document must include:

- (1) a statement identifying the forward-looking information as such;
- (2) a caution to users of the forward-looking information that actual results may vary from the forward-looking information, and identification of the material risk factors that could cause actual results to differ materially from that information;
- (3) the material factors or assumptions used to develop the forward-looking information; and
- (4) a description of the issuer's policy, if any, for updating forward-looking information.

8. Any future oriented financial information or financial outlook presented in the real estate offering document must meet the following conditions:

- (1) be based on assumptions that are reasonable in the circumstances;
  - (2) be limited to a period for which such information can be reasonably estimated;
- and
- (3) use the accounting policies the issuer expects to use to prepare its historical statement of net revenue for the period covered by such information.

9. Other than the information referred to in section 7, any future oriented financial information and financial outlook presented in the real estate offering document must include:



(1) the date management approved the future oriented financial information or financial outlook, unless the document in which the future oriented financial information or financial outlook is disclosed is dated; and

(2) an explanation of the purpose of the future oriented financial information or financial outlook and a caution to readers that the information may not be appropriate for other purposes.

**10.** During the period of distribution, no other forward-looking information, future oriented financial information or financial outlook than that disclosed in the real estate offering document may be disclosed.

#### **DIVISION IV DOCUMENTS TO BE FILED**

**11.** The issuer of an investment contract referred to in paragraph 1 of section 1 must file the offering document referred to in paragraph 1 of section 3 and any update thereto electronically with the Authority not later than 10 days after the distribution. It must also file one or more reports of exempt distribution in accordance with Form 45-106F1 of Regulation 45-106 respecting Prospectus Exemptions (chapter V-1.1, r. 21) no later than 10 days after any distribution.

#### **DIVISION V CERTIFICATES**

**12.** The real estate offering document or any change thereto must contain the following certificate:

“Dated [insert the date the certificate page of the real estate offering document is signed], this real estate offering document does not contain a misrepresentation.”

If the issuer is a corporation, this certificate must be signed:

(a) by the issuer’s chief executive officer and chief financial officer or, if the issuer does not have a chief executive officer or chief financial officer, each individual acting in that capacity, and

(b) on behalf of the directors of the issuer, by

(i) any two directors who are authorized to sign, other than the persons referred to in subparagraph a, or

(ii) all the directors of the issuer who are authorized to sign, and

(c) by each promoter of the issuer.

**13.** If the issuer is not a corporation, a certificate under section 12 must be signed by the persons that, in relation to the issuer, are in a similar position or perform a similar function to any of the persons referred to in subparagraph a, b or c of the second paragraph of section 12.

**14.** The certificate under section 12 must be true:

- (a) at the date the certificate is signed, and
- (b) at the date the real estate offering document is delivered to the purchaser.

**15.** If a certificate under section 12 ceases to be true after it is delivered to the purchaser, the issuer cannot accept an agreement to purchase the investment contract from the purchaser unless:

- (a) the purchaser receives an update of the real estate offering document,
- (b) the update of the real estate offering document contains a newly dated certificate signed in compliance with sections 12 and 13, and
- (c) the purchaser re-signs the agreement to purchase the investment contract and dates it with the date of the new signature.

## **DIVISION VI**

### **PERIODIC DISCLOSURES**

**16.** The issuer, the promoter, the person in charge of the venture or the person designated for such purpose by the Authority under section 66 of the Securities Act (chapter V-1.1) must deliver to the security holders:

- (1) the audited annual statement of net revenue of the venture no later than 120 days following the end of its financial year; and
- (2) the interim statement of net revenue of the venture for the period beginning on the first day of the financial year and ending six months before the end of that year no later than 60 days following the end of the interim period of the venture.

**17.** The Authority may, on the conditions as it may determine, terminate the special disclosure scheme through an exemption where it considers the decision not to be detrimental to the protection of investors.

## **DIVISION VII**

### **RESALE**

**18.** A prospectus is not required where an investment contract referred to in paragraph 1 of section 1 is distributed by a security holder to a purchaser and the security holder has notified the person in charge of the venture prior to the resale.

**19.** Upon notification from the security holder before the beginning of the venture, the person in charge of the venture must, within 30 days following such notification, deliver to the purchaser the updated real estate offering document, the audited statement of net revenue of the venture available for the past two financial years or, where the period is shorter, such statement corresponding to the completed year, and the statement of net revenue available for the past interim period, where applicable, ending six months after the past financial year.

However, if a financial year has not been completed, the information referred to in subparagraph (a) of the first paragraph of section 3 must be delivered.

If notification from the security holder takes place after the venture has begun, the person in charge of the venture must deliver to the purchaser the real estate offering document, the resale document prepared in accordance with Form F1, the audited statement of net revenue of the venture available for the past two financial years or such statement corresponding to the completed year where the period is shorter, and the statement of net revenue available for the past interim period, where applicable, ending six months after the past financial year.

However, if a financial year has not been completed, the information referred to in subparagraph 2(a) of the first paragraph of section 3 must be provided.

## **DIVISION VIII LANGUAGE**

**20.** The real estate offering document must be drafted in French only or in French and English.

## **CHAPTER III DISTRIBUTION OF A SECURITY GIVING A RIGHT OF EXCLUSIVE USE IN AN IMMOVABLE**

### **DIVISION I PROSPECTUS AND REGISTRATION EXEMPTION**

**21.** A person is exempt from the requirement to prepare a prospectus and to register as a broker in respect of the distribution of a security referred to in paragraph 2 of section 1 where the purchaser must sign a rental agreement giving the purchaser a right of exclusive use of an immovable or a portion thereof.

**22.** The distribution of a security of an issuer that owns an immovable, which security gives the holder a right of exclusive use of the immovable or a portion thereof, must not be made with an expectation of income or dividends or distributions, other than rental income or a capital gain resulting from an increase in the value of the immovable.

### **CHAPTER IV TRANSITION AND OTHER EXEMPTIONS**

**23.** At the date of the coming into force of this Regulation, any person who relies on a discretionary exemption with respect to the distribution of any form of investment referred to in section 1 is exempt from the requirements under this Regulation where the conditions of such exemption are met. However, such person may choose to comply with the requirements under this Regulation.

**24.** Despite the provisions that are otherwise applicable under Regulation 45-106 respecting Prospectus Exemptions (chapter V-1.1, r. 21), any person who purchased an investment contract or security referred to in section 1 under any of the exemptions listed in Appendix D of Regulation 45-102 respecting Resale of Securities (chapter V-1.1, r. 20) is exempt from the requirement to prepare a prospectus in connection with the resale of such person's investment contract or security and from the applicable restricted period where such person complies with the requirements under sections 18 and 19 of this Regulation, or with section 21 thereof, as the case may be.

## **CHAPTER V COMING INTO FORCE**

**25.** This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

### **FORM F1 REAL ESTATE OFFERING DOCUMENT AND RESALE DOCUMENT**

#### **A. General instructions**

- 1.** Draft the offering document so that it is easy to read and understand. Be concise and use clear, plain language. Avoid technical terms. If technical terms are necessary, provide definitions.
- 2.** Address the items required by this form in the order set out in the form. However, it is not necessary to provide disclosure about an item that does not apply.
- 3.** The issuer may include additional information in the real estate offering document other than that specifically required by this form. It must provide the purchaser with sufficient information to make an informed investment decision.
- 4.** It is an offence to make a misrepresentation in the real estate offering document. This applies both to information that is required by the form and to additional information that is provided. Include particulars of any material facts that have not been disclosed under any of the item numbers and for which failure to disclose would constitute a misrepresentation in the real estate offering document.

#### **B. Definitions**

- 1.** In this form,

“manager” means the person in charge of the venture in connection with a rental management agreement or a person acting in a similar capacity.

“principal holder” means each person that holds more than 10% of any class of voting securities of the issuer. If a principal holder is not an individual, in addition to the other disclosure requirements, provide the information required for any person that beneficially owns, or directly or indirectly has control or direction over, more than 50% of the voting rights of the principal holder.

“qualified appraiser” means an individual who

- (a) regularly performs property appraisals for compensation,
- (b) is a member of a professional association and holds the designation, certification or licence to act as an appraiser for the class of immovable appraised,
- (c) is in good standing with the professional association referred to in paragraph (b), and

(d) is independent of the issuer, promoter, manager and rental pool and there is no circumstance that, in the opinion of a reasonable person aware of all the relevant facts, could interfere with the qualified appraiser's judgment regarding the preparation of an appraisal for the immovable, the purchaser's interest in the immovable or the real estate project.

"related party" means any of the following:

- (a) a director, officer, promoter, manager or control person of the issuer;
- (b) in regard to a person referred to in (a), a child, parent, grandparent or sibling, or other relative living in the same residence;
- (c) in regard to a person referred to in (a) or (b), his or her spouse;
- (d) an insider of the issuer or manager;
- (e) a person controlled by a person referred to in (a), (b), (c) or (d);
- (f) in the case of a person referred to in (a) or (d) that is not an individual, any person that, alone or acting in concert with other persons, exercises control over the person.

[If the issuer is not a reporting issuer, the reference to "insider" includes persons or companies who would be insiders of the issuer if that issuer were a reporting issuer.]

"rental management agreement" means an agreement, other than a rental pool agreement, under which a person manages the generation of revenue from the immovable on behalf of the purchasers.

[if the real estate project includes several immovables, "immovable" refers to the immovables included in the real estate project.]

"rental pool" means an arrangement under which revenues derived from, or expenses relating to, at least two immovables are pooled and shared among the owners of the immovables in accordance with their proportionate interests in the pool.

"rental pool agreement" means an agreement creating a rental pool.

**Part I – Real estate offering document****Cover page****Required information on cover page**

**Date:** [insert date from the certificate page]

**The Issuer**

Name:

Head office:

Address:

Phone #:

E-mail address:

Website address:

**Reporting issuer?** [Yes/no. If yes, state jurisdiction.]

**The Offering**

Investment contract offered: [describe the investment contract offered]

Price per security:

Number of real estate units:

Minimum/maximum offering [If there is no minimum, state in bold type: “**There is no minimum.**” and also state in bold type “**You may be the only purchaser.**”]

Conditions for beginning the real estate project: [Describe the conditions for beginning the real estate project and the deadline for meeting them.] [If there are no conditions, state in bold type: “**There are no conditions for beginning the real estate project.**”]

Payment terms: [See item 5.1]

Proposed closing date(s):

**Income tax consequences:** State “There may be important tax consequences to this investment contract. You should consult your own professional advisers to obtain advice on the income tax consequences pertaining to your investment in the investment contract offered.”

**Intermediaries:** [State the names of the intermediaries and state: “See item 7”.]

If compensation is paid to the intermediaries, state:

“A person has or will receive compensation for the sale of investment contracts under this offering. See item 7.1.”

**Insufficient Funds**

If item 1.3 applies, state in bold type:

**“Funds available under the offering may not be sufficient to accomplish the proposed objectives. See item 1.3.”**

**Future Cash Calls**

If item 1.4 applies, state in bold type:

**“The purchaser could be required to contribute additional funds in the future. See item 1.4.”**

**Risk Factors**

State in bold type:

**“The Autorité des marchés financiers has not assessed the merits of the investment contract or reviewed this real estate offering document. Any representation to the contrary is an offence. This is a risky investment. You may not receive any return on the investment contract distributed under this real estate offering document. All real estate investments are subject to significant risk arising from changing market conditions. You could lose your entire investment. See item 11.”**

**Payments to Related Party**

If the issuer is disclosing payment to a related party under item 1.2, state the following, with the bracketed information completed as applicable:

**“[All of][Some of] your investment will be paid to a related party of the issuer. See item 1.2.”**

**Certain Related Party Transactions**

If the issuer is making disclosure under item 3.10, state the following with the bracketed information completed as applicable:

**“This real estate offering document contains disclosure with respect to one or more transactions between [name of issuer] and a related party, where [name of issuer] [paid more to a related party than the related party paid for a business, asset or real property] [and] [was paid less by a related party for a business, asset or immovable than [name of issuer] paid for it]. See item 3.10.”**

**Resale Restrictions**

State in bold type:

**“There is a resale notification condition [and specify any other resale condition]. See item 12.”**

**Purchaser’s Rights**

State in bold type:

**“You have two business days to cancel your agreement to subscribe for the investment contract. If there is a misrepresentation in this real estate offering document, you have a right to damages or to cancel the investment contract. See item 13.”**

*[All of the above information must appear on a single cover page.]*

**Item 1  
Use of Available Funds**

**1.1. Funds**

Using the following table, disclose the funds available as a result of the offering. If the issuer plans to combine additional sources of funding with the available funds from the offering to achieve its principal capital-raising purpose, provide details about each additional source of funding. If there is no minimum offering, state “\$0” as the minimum.

Disclose any working capital deficiency of the issuer as at a date not more than 30 days before the date of the real estate offering document. If the working capital deficiency will not be eliminated by the use of available funds, state how the issuer intends to eliminate or manage the deficiency.

|    |  | Assuming min.<br>offering | Assuming max. offering |
|----|--|---------------------------|------------------------|
| A. | Amount to be raised by this offering                             | \$                        | \$                     |
| B. | Selling commissions and fees                                     | \$                        | \$                     |
| C. | Estimated offering costs (including legal, accounting and audit) | \$                        | \$                     |
| D. | Available funds: $D = A - (B+C)$                                 | \$                        | \$                     |
| E. | Additional sources of funding required                           | \$                        | \$                     |
| F. | Working capital deficiency                                       | \$                        | \$                     |
| G. | Total: $G = (D+E) - F$   | \$                        | \$                     |

[Provide details about the additional sources of funding, including the amount, source and any conditions that must be satisfied to obtain the funding. Disclose the date on which the amount stated as working capital was determined.]



### 1.2. Use of Available Funds

Using the following table, provide a detailed breakdown of how the issuer will use the available funds. If any of the available funds will be paid to a related party, disclose in a note to the table the name of the related party, the relationship to the issuer, and the amount. If the issuer has a working capital deficiency, disclose the portion, if any, of the available funds to be applied against the working capital deficiency. If more than 10% of the available funds will be used by the issuer to pay debt and the issuer incurred the debt within the two preceding financial years, describe why the debt was incurred.

| Description of intended use of available funds listed in order of priority | Assuming minimum offering | Assuming maximum offering |
|--|---------------------------|---------------------------|
|  | \$                        | \$                        |
|  | \$                        | \$                        |
| Total: Equal to G in the Funds table above                                 | \$                        | \$                        |

### 1.3. Insufficient Funds

If applicable, disclose that the funds available as a result of the offering either may not or will not be sufficient to accomplish all of the issuer's proposed objectives and there is no assurance that alternative financing will be available. Also disclose the potential effect and consequences of the insufficient funds on the purchaser's investment.

### 1.4. Future Cash Calls

If the purchaser is required to contribute additional funds in the future, disclose the following:

- (a) the amount the purchaser is required to contribute;
- (b) when the purchaser will be required to contribute;
- (c) the effect on the purchaser's investment and, if applicable, the purchaser's interest in the immovable if:
  - (i) the purchaser fails to contribute;
  - (ii) the purchaser contributes, but other purchasers fail to contribute.

**Item 2**  
**Business of the Issuer****2.1. Structure**

State the business structure of the issuer, promoter, manager and rental pool (e.g., whether they are a partnership, corporation or trust), the statute under which they are incorporated or continued, and the date and location of their incorporation or continuance. State any material change to their constituting document or business structure.

**2.2. The Business**

Briefly describe the nature of the issuer's current and proposed business.

Describe the general development of the issuer's business over at least its two most recently completed financial years. Describe the issuer's experience in the real estate sector. Include any major events that have occurred or conditions that have influenced (favourably or unfavourably) the development or financial condition of the issuer.

State whether the issuer was incorporated specifically to develop the real estate project.

**Item 3**  
**Real Estate Project****3.1. The Real Estate Project**

Describe the real estate project related to the investment contract offered. Indicate the projected construction start and completion dates.

**3.2. Costs and Objectives**

Indicate the costs and objectives of the real estate project for the 24 months following the date of the real estate offering document, including the following:

(a) the estimated costs to complete the real estate project;  
(b) any significant assumptions that underlie the cost estimates;  
(c) when significant costs will be incurred;  
(d) the objectives of the real estate project that are expected to be met within the 24 months following the date of the real estate offering document, including the following:

(i) the expected timeline for meeting each objective;  
(ii) how the issuer will meet each objective;  
(iii) if the objectives are to be completed in phases, details about each phase;  
(iv) the estimated cost of meeting each objective;  
(v) how the issuer will fund the cost of meeting each objective.

Indicate the costs and objectives of the real estate project that are expected to be met after the 24-month period following the date of the real estate offering document, including the following:

- (a) the expected timeline for meeting each objective;
- (b) how the issuer will meet each objective;
- (c) if the objectives are to be completed in phases, details about each phase;
- (d) the estimated cost of meeting each objective;
- (e) how the issuer will fund the cost of meeting each objective.

Indicate what reasonably might happen if any of the stated objectives are not met, including the effect of not meeting the objective on the following:

- (a) the real estate project;
- (b) the purchaser's investment;
- (c) the purchaser's real rights in the immovable;
- (d) the purchaser's interest in the venture.

### 3.3. Description of the Immovable

Describe the following with respect to the immovable subject to the real estate project:

- (a) the immovable's location using an address or any other description;
- (b) the issuer's real rights in the immovable;
- (c) any encumbrances on the immovable;
- (d) the current use;
- (e) the proposed use and why the issuer considers the immovable to be suitable to the real estate project;
- (f) the stages of the real estate development, if the immovable will be constructed in stages, describing the aspects of the stages, including the number of stages and the total number of potential real estate units in each stage;
- (g) Disclose that a copy of the actual or proposed plans for the immovable showing the layout of the immovable and dimensions and areas of the lots, real estate units, common portions for exclusive use and other common portions, is made available for review to prospective purchasers and that a prospective purchaser can request a copy. Also disclose the address and hours during which the plans are available for review;
- (h) if utilities and other services are not currently being provided, describe how they will be provided and who will provide them;
- (i) any restriction on sale or disposition;
- (j) any environmental liabilities, hazards or contamination;
- (k) any tax arrears.

Describe any current legal proceedings, or legal proceedings that the issuer knows to be contemplated, relating to the immovable, that would be considered material to a reasonable investor, including, for each proceeding, the name of the court, the date instituted, the parties to the proceeding, the nature of the claim, any amount claimed, whether the proceeding is being contested and, the present status of the proceeding.

**3.4. Appraisal of the Immovable and Real Estate Project**

If the issuer includes the value of the immovable, the purchaser’s interest in the immovable or the real estate project in the real estate offering document, except for the values presented in the issuer’s financial statements, the issuer must, at the same time or before the issuer delivers a real estate offering document to the purchaser, deliver to the purchaser an appraisal of the immovable, of the purchaser’s interest in the immovable or of the real estate project that satisfies the following:

- (a) it includes a certificate signed by a qualified appraiser stating that the appraisal is prepared in accordance with the standards and the code of ethics established or endorsed by the professional association of which the qualified appraiser is a member;
- (b) it provides the fair market value of the immovable, appraised by the qualified appraiser, of the purchaser’s interest in the immovable or of real estate project, without considering any proposed improvements;
- (c) it provides the appraised fair market value referred to in paragraph (b) as at a date that is within six months preceding the date that the appraisal is delivered to the purchaser.

The issuer must not disclose in any communication related to the distribution a representation of, or opinion as to, the value of the immovable, the purchaser’s interest in the immovable or the real estate project, other than the appraised fair market value disclosed in the appraisal referred to above, unless the issuer has a reasonable basis for that value.

An issuer that discloses in any communication related to the distribution a representation of, or opinion as to, the value of the immovable, the purchaser’s interest in the immovable or the real estate project, other than the appraised fair market value disclosed in the appraisal referred to above, must also disclose the following in that communication:

- (a) the appraised fair market value of the immovable, of the purchaser’s interest in the immovable or of the real estate project that is the subject of the appraisal;
- (b) the effective date of the appraisal;
- (c) that the appraisal is required to be delivered to the purchaser at the same time or before the offering document is delivered to the purchaser.

**3.5. The History of the Immovable**

For the immovable that is the subject of the real estate project, using the following table and starting with the most recent transaction, provide the specified information for the past two years:

| Date of transfer | Legal name of seller | Legal name of buyer | Amount and form of consideration |
|------------------|----------------------|---------------------|----------------------------------|
|                  |                      |                     | \$                               |
|                  |                      |                     | \$                               |

### 3.6. Approvals

For the immovable that is the subject of the real estate project, disclose the following:

- (a) any approval required from a regulatory body or any level of government that would be material to a reasonable investor;
- (b) the anticipated cost and timing of the approval;
- (c) any reports required as part of the approval process, including the anticipated cost and timing of producing or procuring those reports;
- (d) what will happen if the approval is not obtained, including the effect on the following:
  - (i) the project;
  - (ii) the purchaser's investment;
  - (iii) if applicable, the purchaser's interest in the immovable.

### 3.7. Information on the Investment Contract

With respect to the purchaser's interest in the immovable, disclose the following:

- (a) the purchaser's real right;
- (b) how the interest will be evidenced in a public registry;
- (c) any existing or anticipated encumbrances on the interest;
- (d) any furnishings and equipment that are included, indicating the related warranties;
- (e) the facilities and common property of the real estate project, indicating the restrictions or privileges related to their use;
- (f) the fees associated to the purchaser's interest in the immovable, including annual fees and their allocation. Attach a copy of the budget, including a schedule showing how the budget will be allocated among the purchasers;
- (g) any commitments made by the issuer that will be met after the closing of the distribution, indicating whether the issuer has posted any security to meet the commitment;
- (h) the applicable zoning and permissible uses, stating whether certain real estate units may be used for commercial purposes or other purposes not ancillary to residential purposes. Provide information about where to obtain further information and details about zoning requirements and permissible uses;
- (i) the parking arrangements, if applicable, including the number and location of parking spaces and the method of allocating the right to use the spaces;
- (j) the construction warranties related to the real estate project.

### 3.8. Rental Management Agreement or Rental Pool Agreement

Attach a copy of any rental management agreement or rental pool agreement.

For each agreement, disclose the following:

(a) the key terms of the agreement, including those provisions dealing with when the agreement must be signed by the purchasers, the duration of the agreement, opting out of the agreement, termination of the agreement, the sharing of revenues and losses, the payment of expenses, and any management fees payable;

(b) the manager's and rental pool's experience managing rental management agreements and rental pool agreements. Include their successes and failures in managing such agreements over the past five years;

(c) the following statement:

“The success or failure of the arrangement resulting from the rental management agreement [and rental pool agreement] will depend in part on the abilities of the manager [and rental pool].”;

(d) if the purchaser will be responsible for paying any loss arising pursuant to the rental management agreement or rental pool agreement, the following statement:

“If the rental management agreement [or rental pool agreement] generates a loss, the purchaser must contribute further funds in addition to the purchaser's initial investment.”.

### 3.9. Material Agreements

If the information cannot be found elsewhere in the real estate offering document, disclose the key terms of all material agreements that are or will be related to the real estate project, including those to which the purchaser will be a party.

The key terms include the following:

(a) if the agreement is with a related party, the name of the related party and the relationship to the director, officer or control person of the issuer, promoter or manager;

(b) a description of any asset, property or interest acquired, disposed of, leased or under option or emphyteutic right;

(c) a description of any service provided;

(d) purchase price and payment terms, including payment by instalments, cash, securities or work commitments;

(e) the principal amount of any debenture or loan, the repayment terms, security, due date and interest rate;

(f) the date of the agreement;

(g) the amount of any finder's fee or commission paid or payable to a related party in connection with the agreement;

(h) any material outstanding obligations under the agreement.

Attach the material agreements to the real estate offering document or disclose the address and hours during which the agreements are available for review.

### **3.10. Related Party Transactions**

State and describe the approximate amount of any material interest, direct or indirect, of a related party in any transaction within 36 months before the date of the real estate offering document, or in any proposed transaction, which has materially affected or will materially affect the issuer, the immovable or the real estate project.

Include:

(a) a description of the transaction;

(b) the name of each related party;

(c) the nature of the relationship;

(d) for any transaction involving the purchase of assets by or sale of assets to the issuer or the real estate project, state the cost of the assets to the purchaser, and the cost of the assets to the seller if acquired by the seller within 36 months before the date of the real estate offering document;

(e) for any transaction involving the purchase or sale of an immovable of the real estate project, explain any material difference between the amount of consideration paid by the issuer and the amount of consideration paid by a related party to acquire or sell the immovable.

## **Item 4**

### **Compensation and Security Holdings by Directors, Officers, Promoters, Managers and Principal Holders**

#### **4.1. Name, Principal Residence, Compensation and Securities Held**

Using the following table, provide the specified information for the following:

(a) each director, officer, promoter and principal holder of the issuer;

(b) each manager;

(c) any other related party that received compensation in the most recently completed financial year or is expected by the issuer to receive compensation in the current financial year.



If a person identified in paragraph (a), (b) or (c) is not an individual, state in a note to the table the full legal name of any person that has beneficial ownership of, or direct or indirect control over, or a combination of beneficial ownership and direct or indirect control over, more than 50% of the voting rights of the person.

| Full legal name and place of residence or, if not an individual, jurisdiction of organization | Positions held (e.g., director, officer, manager, promoter or principal holder) and the date of obtaining that position<br><br>In the case of the other related parties, specify the relationship to the issuer | Compensation paid by issuer or related party in the most recently completed financial year and the compensation anticipated to be paid in the current financial year | Number, type and percentage of securities of the issuer held after completion of min. offering | Number, type and percentage of securities of the issuer held after completion of max. offering |
|---|---|--|--|--|
|   |   |  |  |  |
|   |   |  |  |  |

[If the issuer has not completed its first financial year, provide information for the period from inception to the date of the real estate offering document. Compensation includes any form of remuneration including cash, shares and options.]

#### 4.2. Management Experience

Using the following table, disclose the principal occupations of the directors, officers and promoters of the issuer over the past five years. For each individual, describe any relevant experience in a business similar to the issuer's and in a project similar to the real estate project.

| Full legal name and place of residence or, if not an individual, jurisdiction of organization | Principal occupation and related experience |
|---|---|
|   |   |
|   |   |

#### **4.3. Penalties, Sanctions, Bankruptcy, Insolvency and Criminal or Quasi-Criminal Matters**

If any of the following has occurred with respect to the issuer, director, officer, promoter or control person of the issuer or manager, or an issuer of which any of those persons was a director, officer or control person at the time, describe it, including the reason for it and whether it is currently in effect:

(a) a penalty or other sanction relating to a contravention of securities legislation that has been imposed by a court or regulatory body during the 10 years preceding the date of the real estate offering, or an order restricting trading in securities, not including an order that was in effect for less than 30 consecutive days;

(b) a declaration of bankruptcy, a voluntary assignment in bankruptcy, a proposal under bankruptcy or insolvency legislation or a proceeding, arrangement or compromise with creditors or appointment of a receiver, receiver manager or trustee to hold assets that has occurred during the 10 years before the date of the real estate offering document.

(c) the following offences, if the persons have pleaded guilty to or been found guilty of:

(i) a summary conviction or indictable offence under the *Criminal Code* (R.S. 1985, c. C-46);

(ii) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction;

(iii) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein;

(iv) an offence under the criminal legislation of any other foreign jurisdiction.

#### **4.4. Loans**

Disclose the principal amount of any debenture or loan, the repayment terms, any security, due date and interest rate due to or from the directors, officers or principal holders of the issuer, the promoter, the manager or the rental pool up to a date not more than 30 days before the date of the real estate offering document.

#### **4.5. Conflicts of Interest**

Describe any existing or potential conflicts of interest for the issuer, directors, officers or principal holders of the issuer, promoter, manager or rental pool, as well as any person called on to provide professional services in connection with the real estate project.

**Item 5**  
**Subscription Procedure****5.1. Subscription**

Describe how a purchaser can subscribe for the investment contract and the method of payment.

If the funds are to be raised through the offering in stages, disclose the period over which the funds will be raised and the factors that determine when they will be raised.

**5.2. Held in Trust**

State that the funds will be held in trust, the name of the trustee and the period that they will be held (refer at least to the mandatory two-day period).

**5.3. Closing**

Disclose any conditions to closing, including any receipt of additional funds from other sources.

If there is a minimum offering, disclose when consideration will be returned to purchasers if the minimum is not met, and whether the issuer will pay the purchasers interest on consideration. State the name and address of any person who will hold the subscription funds until the minimum amount is raised.

If there are any arrangements under which any part of the funds raised will only become available to the issuer if certain conditions are fulfilled, describe those conditions. Where the conditions are not met, state when the funds will be returned to purchasers and whether the issuer will pay the purchasers interest on the funds.

**Item 6**  
**Guarantees or Other Financial Commitments****6.1. Agreement**

Attach a copy of any guarantee or other financial commitment made to the purchaser by the issuer, promoter, manager or rental pool in connection with the investment contract.

**6.2. Summary**

Summarize the key terms of any guarantee or other financial commitment, including the duration, cost of the guarantee or premium, whether the guarantee or commitment is based on gross or net revenues, and whether the guarantee or commitment is inclusive or exclusive of certain costs, such as maintenance fees, ownership costs and income and other taxes.

### **6.3. Information about the Guarantor**

Describe the business experience and financial resources of the person providing the personal covenant, guarantee or other financial commitment. The description must enable a reasonable purchaser applying reasonable effort to understand the person's ability to meet the obligations under the personal covenant, guarantee or other financial commitment. Disclose whether the purchasers will be entitled to ongoing disclosure of the financial position of the person providing any personal covenant, guarantee or other financial commitment during the period of the personal covenant, guarantee or other financial commitment, and the nature, verification, timing and frequency of any disclosure that will be provided to purchasers.

#### **Item 7**

##### **Compensation Paid to Intermediaries**

**7.1.** Name the intermediaries involved in the distribution and provide a description of their activities and compensation in connection with the real estate project.

If any person has received or will receive any commission, corporate finance fee or finder's fee or any other compensation in connection with the offering, provide the following information:

(a) a description of each type of compensation and the estimated amount to be paid for each type;

(b) if a commission is being paid, the percentage that the commission will represent of the gross proceeds of the offering (assuming both the minimum and maximum offering);

(c) if any portion of the compensation will be paid in securities, details of the securities (including number, type and, if options or warrants, the exercise price and expiry date).

#### **Item 8**

##### **Income Tax Consequences**

**8.1.** State:

"You should consult your own professional advisers to obtain advice on the income tax consequences of investing in the investment contract."

#### **Item 9**

##### **Litigation**

**9.1.** Describe any litigation instituted against the issuer, promoter, manager or rental pool that could have a material impact on the investment contract.

**Item 10**  
**Risk Factors****10.1. State in bold type:**

**“Investments in investment contracts are speculative and involve a high degree of risk. Purchasers should be aware that this investment has not only the usual risks associated with ownership of an immovable, but also additional risks that are specific to investment contracts.”**

**10.2. Description of Risk Factors**

(1) Describe in order of importance, starting with the most important, the risk factors material to the issuer that a reasonable investor would consider important in deciding whether to subscribe for the investment contract.

(2) Risk factors will generally fall into the following categories:

(a) Investment Risk – risks that are specific to the investment contract. Examples include:

- economic conditions;
- fluctuations in the real estate and rental markets;
- fluctuations in mortgage rates;
- the guarantor’s financial viability.

(b) Issuer Risk – risks that are specific to the issuer. Examples include:

- insufficient sales/funds to begin the real estate project;
- no history or a limited history;
- lack of management expertise;
- management’s regulatory and business expertise pertaining to the activities of the real estate project;
- dependence on the manager or rental pool, including their skill and proficiency, and the inability to change the manager or rental pool, as applicable;
- whether there are liabilities secured against the immovable and their maturity schedule;
- whether any security has been posted to perform any commitment made by the issuer that will be met after the closing of the distribution;
- material litigation outstanding.

(c) Industry Risk – risks specific to real estate projects. Examples include:

- industry regulation;
- tourism;
- operational risks involving the rental management agreement;
- competition.

(d) risks associated with encumbrances, conditions, or covenants on the immovable that could affect the following:

- (i) the purchaser's interest in the immovable, if applicable;
- (ii) the completion of the real estate project.

(e) risks pertaining to real estate projects, including the following:

(i) a right or lack of right of the purchaser with respect to the management and control of the immovable;

(ii) a right or lack of right of the purchaser to change the developer of the immovable.

(f) risks pertaining to potential liability for the following:

- (i) environmental damage;
- (ii) unpaid obligations to builders, contractors and tradespersons.

**10.3.** State in bold type:

**“The success of the rental management will depend in part on the competence and abilities of the manager or rental pool. If gross revenue is less than operating costs, the purchaser may be required to make additional contributions over and above the initial investment.”**

**10.4.** Where the investment contract is attached to a guarantee or other financial commitment, state in bold type:

**“The ability of [guarantor] to honour its [guarantee or other financial commitment] will depend on its financial strength. There is no assurance that [guarantor's name] will have the financial ability to be able to satisfy its obligations under the [guarantee or other financial commitment] and therefore you may not receive any return from the investment contract distributed under this real estate offering document.”**

## **Item 11**

### **Reporting Obligations**

**11.1.** State that the audited annual statement of net revenue of the venture and the interim statement of net revenue of the venture for the period beginning on the first day of the financial year and ending six months before the end of that year will be delivered to the purchasers on an ongoing basis. State the name of the person who will be responsible for the delivery of those documents and the procedure to follow if the designated person resigns or fails to comply with the obligations.

**Item 12**  
**Resale Restrictions****12.1.** State the following:

“Where an investment contract is resold before the beginning of the venture, the purchaser must notify the person in charge of the venture prior to the resale. Upon notification from the holder, the person in charge of the venture must, within 30 days of the notification, deliver the updated real estate offering document to the purchaser in accordance with the Regulation respecting real estate prospectus and registration exemptions.”

“After the beginning of the venture, the purchaser must notify the person in charge of the venture prior to the resale. Upon notification from the purchaser, the person in charge of the venture must, within 30 days of the notification, deliver the real estate offering document, the statement of net revenue of the venture and the resale document to the purchaser in accordance with the Regulation respecting real estate prospectus and registration exemptions.”

**Item 13**  
**Purchasers’ Rights****13.1.** State the following:

“If you subscribed for the investment contract offered, you will have certain rights, some of which are described below. For information about your rights, you should consult a lawyer.

(1) **Two-Day Cancellation Right** – You can cancel your subscription for the investment contract. To do so, you must send a notice to us by midnight on the second business day after you sign the investment contract.

(2) **Statutory Rights of Action in the Event of a Misrepresentation** – If there is a misrepresentation in this offering document, you have a statutory right of action:

(a) against [name of issuer] to apply to have the investment contract cancelled, or

(b) for damages against [name of issuer and the title of any other person against whom a right may be exercised]

These statutory rights of action may be exercised whether or not you relied on the misrepresentation. However, the defendant may defeat the application through various means—in particular, by proving that you knew of the misrepresentation when you subscribed for the investment contract.

If you intend to rely on the rights of action described in (a) or (b) above, you must do so within statutory time limitations. Refer to the applicable legislation and consult a lawyer.”

**Item 14****Forward-looking Information**

**14.1.** An issuer disclosing forward-looking information must do so in accordance with Division III of Chapter II of the Regulation respecting real estate prospectus and registration exemptions (the “Regulation”).

**Item 15****Financial Statements**

**15.1.** Include the audited statements of net revenue of the venture immediately before the certificate page of the real estate offering document if the venture began in accordance with Divisions I and VI of Chapter II of the Regulation.

**Item 16****Signatures**

**16.1.** The certificate in section 12 of the Regulation must appear on the last page of the real estate offering document and be signed by the issuer and promoter in accordance with Division IV of Chapter II of the Regulation.

**Part II – Resale Document**

The update document is a document that must be prepared by the person in charge of the venture upon receiving a notification of resale. It updates the information in items 3.8, 4.1 and 4.3 to 4.5 of the real estate offering document relating to the manager and the rental pool.

State the following:

“Where an investment contract is resold before the beginning of the venture, the purchaser must notify the person in charge of the venture prior to the resale. Upon notification from the holder, the person in charge of the venture must, within 30 days of the notification, deliver the real estate offering document, the statement of net revenue of the venture and the resale document to the purchaser in accordance with the Regulation respecting real estate prospectus and registration exemptions.”

106146



**M.O., 2023-02**

**Order number V-1.1-2023-02 of the Minister of Finance  
dated February 21, 2023**

Securities Act  
(chapter V-1.1, s. 331.1, par. (1), 2(3), (8), (9), (11), (14),  
(19) and (34))

CONCERNING the Regulation to amend  
Regulation 45-106 respecting Prospectus Exemptions

WHEREAS paragraphs 1, 3, 8, 9, 11, 14, 19, and 34 of  
section 331.1 of the Securities Act (chapter V-1.1) pro-  
vide that the *Autorité des marchés financiers* may make  
regulations concerning the matters referred to in those  
paragraphs;

WHEREAS the third and fourth paragraphs of  
section 331.2 of the said Act provide that a draft regulation  
shall be published in the *Bulletin de l'Autorité des marchés  
financiers*, accompanied with the notice required under  
section 10 of the Regulations Act (chapter R-18.1) and may  
not be submitted for approval or be made before 30 days  
have elapsed since its publication;

WHEREAS the first and fifth paragraphs of the said  
section provide that every regulation made under sec-  
tion 331.1 must be approved, with or without amendment,  
by the Minister of Finance and comes into force on the  
date of its publication in the *Gazette officielle du Québec*  
or on any later date specified in the regulation;

WHEREAS the Regulation 45-106 respecting Prospectus  
Exemptions was approved by ministerial order  
no. 2009-05 dated 9 September 2009 (2009, G.O. 2,  
3362A);

WHEREAS there is cause to amend this Regulation;

WHEREAS the draft Regulation to amend  
Regulation 45-106 respecting Prospectus Exemptions was  
published for consultation in the *Bulletin de l'Autorité des  
marchés financiers*, vol. 17, no. 37 of 17 September 2020;

WHEREAS the *Autorité des marchés financiers* made,  
on 1 February 2023, by the decision no. 2023-PDG-0003,  
Regulation to amend Regulation 45-106 respecting  
Prospectus Exemptions;

WHEREAS there is cause to approve this Regulation  
without amendment;

CONSEQUENTLY, the Minister of Finance approves  
without amendment the Regulation to amend  
Regulation 45-106 respecting Prospectus Exemptions  
appended hereto.

21 February 2023

ERIC GIRARD  
*Minister of Finance*

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**REGULATION TO AMEND REGULATION 45-106 RESPECTING PROSPECTUS EXEMPTIONS**

Securities Act

(chapter V-1.1, s. 331.1, par. (1), (3), (8), (9), (11), (14), (19) and (34))

**1.** Section 1.1 of Regulation 45-106 respecting Prospectus Exemptions (chapter V-1.1, r. 21) is amended:

(1) by inserting, after the definition of the expression “Canadian financial institution”, the following:

““collective investment vehicle” means either of the following:

(a) an investment fund;

(b) any other issuer the primary purpose of which is to invest money provided by its security holders in a portfolio of securities other than securities of subsidiaries of the issuer;”;

(2) by replacing “public accountant who is a member in good standing of an institute or association of chartered accountants, certified general accountants or certified management accountants in a jurisdiction of Canada provided that the lawyer or public accountant must not”, in paragraph (b) of the definition of “eligibility adviser”, by “chartered professional accountant who is a member in good standing of an organization of chartered professional accountants in a jurisdiction of Canada provided that the lawyer or chartered professional accountant does not”;

(3) by inserting, after the definition of the expression “marketplace”, the following:

““material contract” means any contract that an issuer or any of its subsidiaries is a party to, that is material to the issuer;”;

(4) by inserting, after the definition of the expression “qualifying issuer”, the following:

““real estate activities” means activities, the primary purpose of which is to generate for security holders income or gain from the lease, sale or other disposition of real property but, for greater certainty, does not include any of the following:

(a) activities in respect of a “mineral project”, as defined in Regulation 43-101 respecting Standards of Disclosure for Mineral Projects (chapter V-1.1, r. 15);

(b) “oil and gas activities” as defined in Regulation 51-101 respecting Standards of Disclosure for Oil and Gas Activities (chapter V-1.1, r. 23);

(c) in Québec, activities relating to the forms of investments subject to Regulation respecting Real Estate Prospectus and Registration Exemptions (chapter V-1.1);”;

(5) by inserting, after the definition of the expression “related liabilities”, the following:

““related party” means any of the following:

(a) a director, officer, promoter or control person of an issuer;

(b) in regard to an individual referred to in paragraph (a), a child, parent, grandparent, sibling or other relative living in the same residence;

(c) in regard to an individual referred to in paragraph (a) or (b), the individual's spouse;

(d) an insider of an issuer;

(e) a person controlled by a person referred to in paragraphs (a) to (d), or controlled by a person referred to in paragraphs (a) to (d) acting jointly or in concert with another person;

(f) in the case of a person referred to in paragraph (a) or (d) that is not an individual, a person that, alone or together with one or more persons acting jointly or in concert, controls that person;"

2. Section 2.9 of the Regulation is amended:

(1) by replacing "(13)", in subparagraph (i) of subparagraph (b) of paragraph (1), subparagraph (i) of subparagraph (c) of paragraph (2) and subparagraph (i) of subparagraph (c) of paragraph (2.1), by "(13.3)"

(2) by inserting, in subparagraph (a) of paragraph (2.2) and after "non-redeemable investment fund", ",,";

(3) by replacing "A", in paragraph (5.2), by "In Alberta, New Brunswick, Nova Scotia, Ontario, Québec and Saskatchewan, a";

(4) by striking out paragraph (13);

(5) by inserting, after paragraph (13), the following:

"(13.1) An issuer must not make a misrepresentation in its offering memorandum.

"(13.2) If a material change with respect to the issuer occurs after the certificate under subsection (8) or (14.1) is signed, and before the issuer accepts an agreement to purchase the security from the purchaser, the issuer must amend the offering memorandum to reflect the material change, and deliver the amended offering memorandum to the purchaser.

"(13.3) An issuer must not deliver an offering memorandum under this section unless the offering memorandum contains sufficient information to enable a reasonable purchaser to make an informed investment decision.";

(6) by striking out paragraph (14);

(7) by inserting, after paragraph (14), the following:

"(14.1) An issuer that amends its offering memorandum must include in the amended offering memorandum a newly dated certificate signed in compliance with subsections (9), (10), (10.1), (10.2), (10.3), (11), (11.1) and (12), as applicable.";

(8) by replacing paragraph (17) by the following:

"(17) An issuer must file a copy of an offering memorandum delivered under this section and any amended offering memorandum on or before the 10th day after the distribution under the offering memorandum or the amended offering memorandum.";

- (9) by inserting, after paragraph (17), the following:

“(17.0.1) An offering memorandum or amended offering memorandum filed under this section must be in a format that allows for the searching of words electronically using reasonably available technology.”;

- (10) by replacing “subsections (19.1) and (19.3), a qualified appraiser is independent of an issuer of a syndicated mortgage”, in paragraph (19), by “subsections (19.1), (19.3), (19.6) and (19.7), a qualified appraiser is independent of an issuer”;

- (11) by adding, after paragraph (19.4), the following:

“(19.5) Subsection (19.6) does not apply to an issuer unless all of the following apply:

- (a) the issuer is relying on subsection (1), (2) or (2.1);
- (b) the issuer is engaged in real estate activities;
- (c) one or both of the following apply:
  - (i) the issuer proposes to acquire an interest in real property from a related party and a reasonable person would believe that the likelihood of the issuer completing the acquisition is high;
  - (ii) except in its financial statements contained in the offering memorandum, the issuer discloses in the offering memorandum a value for an interest in real property.

“(19.6) An issuer must, at the same time or before the issuer delivers an offering memorandum to the purchaser under subsection (1), (2) or (2.1), deliver to the purchaser an appraisal of the interest in real property referred to in paragraph (19.5)(c) to which all of the following apply:

- (a) the appraisal is prepared by a qualified appraiser that is independent of the issuer;
- (b) the appraisal includes a certificate signed by the qualified appraiser stating that the appraisal is prepared in accordance with the standards and the code of ethics established or endorsed by the professional association of which the qualified appraiser is a member;
- (c) the appraisal provides the appraised fair market value of the interest in real property without considering any proposed improvements to or proposed development of the interest;
- (d) the appraised fair market value referred to in paragraph (c) is as at a date that is within six months preceding the date that the appraisal is delivered to the purchaser.

“(19.7) If an issuer relying on subsection (1), (2) or (2.1) is engaged in real estate activities, the issuer must not disclose in any communication related to the distribution a representation of, or opinion as to, a value for an interest in real property referred to in paragraph (19.5)(c), other than the appraised fair market value disclosed in the appraisal referred to in subsection (19.6), unless the issuer has a reasonable basis for that value.

“(19.8) If an issuer relying on subsection (1), (2) or (2.1) is engaged in real estate activities, and discloses in any communication related to the distribution a representation of, or opinion as to, a value for an interest in real property referred to in paragraph (19.5)(c), other than the appraised fair market value disclosed in the appraisal referred to in subsection (19.6), the issuer must also disclose in that communication,

(a) with equal or greater prominence as the representation or opinion, the appraised fair market value referred to in subsection (19.6),

(b) the material factors or assumptions used to determine the representation or opinion, and

(c) whether or not the representation or opinion was determined by a qualified appraiser who is independent of the issuer.

“(19.9) An issuer must file a copy of any appraisal delivered under subsection (19.6) concurrently with the filing of the offering memorandum or any amended offering memorandum or, if the appraisal is produced after the filing of the offering memorandum or any amended offering memorandum, on or before the 10th day after the first distribution for which the appraisal was required to be delivered to a purchaser.”.

3. Section 6.4 of the Regulation is amended by adding, after paragraph (3), the following:

“(4) An issuer that is engaged in real estate activities must supplement its offering memorandum with Schedule 1 of Form 45-106F2, unless the offering memorandum is prepared under subsection (2).

“(5) An issuer that is a collective investment vehicle must supplement its offering memorandum with Schedule 2 of Form 45-106F2, unless the offering memorandum is prepared under subsection (2).”.

4. Form 45-106F2 of the Regulation is replaced by the following:

#### **“FORM 45-106F2**

#### **OFFERING MEMORANDUM FOR NON-QUALIFYING ISSUERS**

**Date:** [Insert the date from the certificate page.]

#### **The Issuer**

Name:

Head office:

Address:

Phone #:

Website address:

Email address:

Currently listed or quoted? [If no, state in bold type: **“These securities do not trade on any exchange or market.”**. If yes, identify the exchange or market.]

Reporting issuer? [Yes/No. If yes, state where.]

### **The Offering**

Securities offered:

Price per security:

Minimum/Maximum offering: [If there is no minimum, state in bold type: **“There is no minimum.”** and also state in bold type: **“You may be the only purchaser.”**]

Minimum subscription amount: [State the minimum amount each investor must invest, or state **“There is no minimum subscription amount an investor must invest.”**]

Payment terms:

Proposed closing date(s):

Income tax consequences: There are important tax consequences to these securities. See item 8. [If income tax consequences are not material, delete this item.]

### **Insufficient Funds**

If item 2.6 applies, state in bold type: **“Funds available under the offering may not be sufficient to accomplish the proposed objectives. See item 2.6.”**

### **Compensation Paid to Sellers and Finders**

If item 9 applies, state the following: **“A person has received or will receive compensation for the sale of securities under this offering. See item 9.”**

### **Underwriter(s)**

State the name of any underwriter.

Guidance: The requirements of Regulation 33-105 respecting Underwriting Conflicts (chapter V-1.1, r. 11) may be applicable.

### **Resale Restrictions**

State: **“You will be restricted from selling your securities for [four months and a day/an indefinite period]. See item 12.”**

### **Working Capital Deficiency**

If the issuer is disclosing a working capital deficiency under item 1.1, state the following, with the bracketed information completed: **“[name of issuer] has a working capital deficiency. See item 1.1.”**

### **Payments to Related Party**

If the issuer is disclosing payment to a related party under item 1.2, state the following, with the bracketed information completed as applicable: **“[All of][Some of] your investment will be paid to a related party of the issuer. See item 1.2.”**

**Certain Related Party Transactions**

If the issuer is making disclosure under item 2.9(b), or subsection 7(2) of Schedule 1, state the following with the bracketed information completed as applicable: “This offering memorandum contains disclosure with respect to one or more transactions between [name of issuer] and a related party, where [name of issuer] [paid more to a related party than the related party paid for a business, asset or real property] [and] [was paid less by a related party for a business, asset or real property than [name of issuer] paid for it]. See [item 2.9(b)] [and] [subsection 7(2) of Schedule 1].”.

**Certain Dividends or Distributions**

If the issuer is making disclosure under item 7, state the following with the bracketed information completed: “[name of issuer] has paid dividends or distributions that exceeded cash flow from operations. See item 7.”.

**Conditions on Repurchases**

If the purchaser will have a right to require the issuer to repurchase the securities and there is any restriction, fee or price associated with this right, state in bold type with the bracketed information completed, as applicable: **“You will have a right to require the issuer to repurchase the securities from you, but this right is qualified by [a specified price] [and] [restrictions] [and] [fees]. As a result, you might not receive the amount of proceeds that you want. See item 5.1.”.**

**Purchaser’s Rights**

State: “You have two business days to cancel your agreement to purchase these securities. If there is a misrepresentation in this offering memorandum, you have a right to damages or to cancel the agreement. See item 13.”.

State in bold type:

**“No securities regulatory authority or regulator has assessed the merits of these securities or reviewed this offering memorandum. Any representation to the contrary is an offence. This is a risky investment. See item 10.”.**

**Instructions**

1. Include all of the above information at the beginning of the offering memorandum.
2. After the above information, include a table of contents for the rest of the information in the offering memorandum.

**Guidance**

Regulation 52-112 respecting Non-GAAP and Other Financial Measures Disclosure (chapter V-1.1, r. 28.1) may be applicable to disclosure in the offering memorandum.

**Item 1 Use of Available Funds**

**1.1. Funds** – Using the following table, disclose the funds available as a result of the offering. If the issuer plans to combine additional sources of funding with the available funds from the offering to achieve its principal capital-raising purpose, provide details about each additional source of funding. If there is no minimum offering, state “\$0” as the minimum. Disclose any working capital deficiency of the issuer as at

a date not more than 30 days before the date of the offering memorandum. If the working capital deficiency will not be eliminated by the use of available funds, state how the issuer intends to eliminate or manage the deficiency.

|    |  | Assuming minimum offering | Assuming maximum offering |
|----|--|---------------------------|---------------------------|
| A. | Amount to be raised by this offering                             | \$                        | \$                        |
| B. | Selling commissions and fees                                     | \$                        | \$                        |
| C. | Estimated offering costs (including legal, accounting and audit) | \$                        | \$                        |
| D. | Available funds: $D = A - (B+C)$                                 | \$                        | \$                        |
| E. | Additional sources of funding required                           | \$                        | \$                        |
| F. | Working capital deficiency                                       | \$                        | \$                        |
| G. | Total: $G = (D+E) - F$   | \$                        | \$                        |

**1.2. Use of Available Funds** – Using the following table, provide a detailed breakdown of how the issuer will use the available funds. If any of the available funds will be paid to a related party, disclose in a note to the table the name of the related party, the relationship to the issuer, and the amount. If more than 10% of the available funds will be used by the issuer to pay debt and the issuer incurred the debt within the two preceding financial years, describe why the debt was incurred.

| Description of intended use of available funds listed in order of priority | Assuming minimum offering | Assuming maximum offering |
|--|---------------------------|---------------------------|
|  | \$                        | \$                        |
|  | \$                        | \$                        |
| Total: Equal to G in the Funds table above                                 | \$                        | \$                        |

**1.3. Proceeds Transferred to Other Issuers** – If a significant amount of the proceeds of the offering will be invested in, loaned to, or otherwise transferred to another issuer that is not a subsidiary controlled by the issuer, provide the disclosure specified by items 2, 3, 4.1, 4.2, 10 and 14 and, as applicable, Schedule 1 of this form if the other issuer is engaged in real estate activities, and Schedule 2 of this form if the other issuer is a collective investment vehicle, as if each of those other issuers were the issuer preparing the offering memorandum. In addition, describe the relationship between the issuer and each of those other issuers, and supplement the description with a diagram.



**Item 2 Business of the Issuer and Other Information and Transactions**

**2.1. Structure** – State whether the issuer is a partnership, corporation or trust, or if the issuer is not a corporation, partnership or trust then state what type of business association the issuer is. State any statute under which the issuer is incorporated, continued or organized, and the date of incorporation, continuance or organization.

**2.2. The Business** – Describe the issuer's business.

(a) For a non-resource issuer include in the description the following:

- (i) principal products or services;
- (ii) operations;
- (iii) market, marketing plans and strategies;
- (iv) a discussion of the issuer's current and prospective competitors.

(b) For a resource issuer include in the description the following:

- (i) a description of principal properties (including interest held);
- (ii) a summary of material information including, as applicable, the stage of development, reserves, geology, operations, production and mineral reserves or mineral resources being explored or developed.

**Guidance**

1. For a resource issuer disclosing scientific or technical information for a mineral project, see General Instruction A.8 of this Form.

2. For a resource issuer disclosing information about its oil and gas activities, see General Instruction A.9 of this Form.

**2.3. Development of Business** – Describe the general development of the issuer's business over at least its two most recently completed financial years and any subsequent period. Include any major events that have occurred or conditions that have influenced (favourably or unfavourably) the development or financial condition of the issuer.

**2.4. Long Term Objectives** – With respect to the issuer's objectives subsequent to the next 12 months after the date of the offering memorandum, describe each significant event associated with those objectives, state the specific time period in which each event is expected to occur, and the costs related to each event.

**2.5. Short Term Objectives**

(a) Disclose the issuer's objectives for the next 12 months after the date of the offering memorandum.

(b) Using the following table, disclose how the issuer intends to meet those objectives.

| Actions to be taken | Target completion date or, if not known, number of months to complete | Cost to complete |
|---------------------|---|------------------|
|                     |   | \$               |
|                     |   | \$               |

**2.6. Insufficient Funds** – If applicable, disclose that the funds available as a result of the offering either may not or will not be sufficient to accomplish all of the issuer’s proposed objectives and there is no assurance that alternative financing will be available. With respect to any alternative financing that has been arranged, disclose the amount, source and all outstanding conditions.

**2.7. Additional Disclosure for Issuers Without Significant Revenue**

(1) If the issuer has not had significant revenue from operations in either of its two most recently completed financial years, or has not had significant revenue from operations since inception, provide, for each period referred to in subsection (2), a breakdown of the material components of the following:

(a) exploration and evaluation assets or expenditures and, if the issuer’s business primarily involves mining exploration and development, provide the breakdown on a property-by-property basis;

(b) expensed research and development costs;

(c) intangible assets arising from development;

(d) general and administration expenses;

(e) any material costs, whether expensed or recognized as assets, not referred to in paragraphs (a) through (d).

(2) Include the disclosure in subsection (1) with respect to each period for which financial statements are included in the offering memorandum.

(3) Subsection (1) does not apply to any period for which the information specified under subsection (1) has been disclosed in the financial statements that are included in the offering memorandum.

**2.8. Material Contracts** – Disclose the key terms of all material contracts including, for certainty, the following:

(a) if the contract is with a related party, the name of the related party and the relationship to the issuer;

(b) a description of any asset, property or interest acquired, disposed of, leased or under option;

(c) a description of any service provided;

(d) purchase price and payment terms (including payment by instalments, cash, securities or work commitments);

- (e) the principal amount of any debenture or loan, the repayment terms, security, due date and interest rate;
- (f) the date of the contract;
- (g) the amount of any finder’s fee or commission paid or payable to a related party in connection with the contract;
- (h) any material outstanding obligations under the contract.

**2.9. Related Party Transactions**

With respect to any purchase and sale transaction between the issuer and a related party that does not relate to real property,

- (a) using the following table and starting with the most recent transaction, provide the specified information, and

| Description of business or asset | Date of transfer | Legal name of seller | Legal name of buyer | Amount and form of consideration exchanged in connection with transfer |
|----------------------------------|------------------|----------------------|---------------------|--|
|                                  |                  |                      |                     |  |

- (b) explain the reason for any material difference between the amount of consideration paid by the issuer and the amount of consideration paid by a related party for the business or asset.

**Item 3 Compensation and Security Holdings of Certain Parties**

**3.1. Compensation and Securities Held**

Using the following table, provide the specified information for the following:

- (a) each director, officer and promoter of the issuer;
- (b) each person that has beneficial ownership of, or direct or indirect control over, or a combination of beneficial ownership and direct or indirect control over, 10% or more of any class of voting securities of the issuer;
- (c) any related party not specified in paragraph (a) or (b) that received compensation in the most recently completed financial year or is expected by the issuer to receive compensation in the current financial year.

| Full legal name and place of residence or, if not an individual, jurisdiction of organization | If paragraph (a) or (b) applies, specify whether the person is a director, officer, promoter or person referred to in paragraph (b); if paragraph (c) applies, specify the person's relationship to the issuer; in all cases, specify the date that the person became a person identified in paragraph (a), (b) or (c) | Compensation paid by issuer or related party in the most recently completed financial year and the compensation expected to be paid in the current financial year | Number, type and percentage of securities of the issuer held after completion of minimum offering | Number, type and percentage of securities of the issuer held after completion of maximum offering |
|---|--|---|---|---|
|   |  |   |   |   |

### Instructions to Item 3.1

1. If the issuer has not completed its first financial year, disclose for the period from the date of the issuer's inception to the date of the offering memorandum.
2. Compensation includes any form of remuneration including, for certainty, cash, shares and options.
3. If a person identified in paragraph (a), (b) or (c) is not an individual, state in a note to the table the full legal name of any person that has beneficial ownership of, or direct or indirect control over, or a combination of beneficial ownership and direct or indirect control over, more than 50% of the voting rights of the person

**3.2. Management Experience** – Using the following table, provide the specified information for the directors and executive officers of the issuer for the five years preceding the date of the offering memorandum.

| Full Legal Name | Principal occupation and description of experience associated with the occupation |
|-----------------|---|
|                 |   |
|                 |   |

### 3.3. Penalties, Sanctions, Bankruptcy, Insolvency and Criminal or Quasi-Criminal Matters

(a) If any of the following have occurred during the 10 years preceding the date of the offering memorandum with respect to a director, executive officer or control person of the issuer, or an issuer of which any of those persons was a director, executive officer or control person at the time, describe the details of the penalty, other sanction or order, including the reason for it and whether it is currently in effect:

(i) a penalty or other sanction imposed by a court relating to a contravention of securities legislation;

(ii) a penalty or other sanction imposed by a regulatory body relating to a contravention of securities legislation;

(iii) an order restricting trading in securities, not including an order that was in effect for less than 30 consecutive days.

(b) If any of the following have occurred during the 10 years preceding the date of the offering memorandum with respect to a director, executive officer or control person of the issuer, or an issuer of which any of those persons was a director, executive officer or control person at the time, state that it has occurred:

(i) a declaration of bankruptcy;

(ii) a voluntary assignment in bankruptcy;

(iii) a proposal under bankruptcy or insolvency legislation;

(iv) a proceeding, arrangement or compromise with creditors or appointment of a receiver, receiver manager or trustee to hold assets.

(c) Disclose and describe the details of the offence, if the issuer or a director, executive officer or control person of the issuer has ever pled guilty to or been found guilty of any of the following:

(i) a summary conviction or indictable offence under the Criminal Code (R.S.C., 1985, c. C-46);

(ii) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction;

(iii) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory of the United States of America;

(iv) an offence under the criminal legislation of any other foreign jurisdiction.

### **3.4. Certain Loans**

For any debenture, bond or loan agreement between the issuer and a related party, disclose the following:

(a) as at a date not more than 30 days before the date of the offering memorandum, the parties to the agreement, including which party is lender and which party is borrower, the principal amount, the repayment terms, any security, due date and interest rate;

(b) during the two most recently completed financial years and up to a date not more than 30 days before the date of the offering memorandum, any material amendment to the agreement, or any release, cancellation or forgiveness.

## **Item 4 Capital Structure**

**4.1. Securities Except for Debt Securities** – Using the following table, provide the specified information about outstanding securities of the issuer, not including debt securities. Add notes to the table to describe the material terms of the securities, including, for certainty, voting rights or restrictions

on voting, exercise price and date of expiry, any right of the purchaser to require the issuer to repurchase the securities including any price, fee or restriction associated with that right, and any interest rate or dividend or distribution policy.

| Description of security | Number authorized to be issued | Price per security | Number outstanding as at a date not more than 30 days before the date of the offering memorandum | Number outstanding after minimum offering | Number outstanding after maximum offering |
|-------------------------|--------------------------------|--------------------|--|---|---|
|                         |                                |                    |  |   |   |
|                         |                                |                    |  |   |   |

**4.2. Long Term Debt** – Using the following table, provide the specified information about outstanding debt of the issuer for which all or a portion is due, or may be outstanding, more than 12 months from the date of the offering memorandum. Add notes to the table to disclose any amounts of the debt that are due within 12 months of the date of the offering memorandum. In addition, add notes to the table to describe any conversion terms. If the securities being offered are debt securities, complete the applicable parts of the table for the debt, and add columns to the table disclosing the amount of the debt that will be outstanding after both the minimum and maximum offering.

| Description of debt (including whether secured) | Interest rate | Repayment terms | Amount outstanding at a date not more than 30 days before the date of the offering memorandum |
|---|---------------|-----------------|---|
|   |               |                 | \$  |
|   |               |                 | \$  |

**4.3. Prior Sales** – If the issuer has issued any securities of the class being offered under the offering memorandum (or convertible or exchangeable into the class being offered under the offering memorandum) within the 12 months before the date of the offering memorandum, use the following table to provide the information specified. If securities were issued in exchange for assets or services, describe in a note to the table the assets or services that were provided.

| Date of issuance | Type of security issued | Number of securities issued | Price per security | Total funds received |
|------------------|-------------------------|-----------------------------|--------------------|----------------------|
|                  |                         |                             |                    |                      |
|                  |                         |                             |                    |                      |

**Item 5                    Securities Offered**

**5.1.     Terms of Securities**

- (a)     Describe the material terms of the securities being offered, including, for certainty, the following:
- (i)     voting rights or restrictions on voting;
  - (ii)    conversion or exercise price and date of expiry;
  - (iii)   any right of the purchaser to require the issuer to repurchase the securities, including any price, fee or restriction associated with that right;
  - (iv)    interest rate, and dividend or distribution policy.
- (b)     Provide a sample calculation in respect of any right of the purchaser to require the issuer to repurchase the securities.

**5.2.     Subscription Procedure**

- (a)     Describe how a purchaser can subscribe for the securities and the method of payment.
- (b)     State that the consideration will be held in trust and the period that it will be held (refer at least to the mandatory two day period).
- (c)     Disclose any conditions to closing, including any receipt of additional funds from other sources. If there is a minimum offering, disclose when consideration will be returned to purchasers if the minimum is not met, and whether the issuer will pay the purchasers interest on consideration.

**Item 6 Repurchase Requests**

- (1)     With respect to any securities of the issuer for which investors have a right to require the issuer to repurchase the securities, disclose the following:
- (a)     for each of the two most recently completed financial years, the information specified by the following table;

| Description of security | Date of end of financial year | Number of securities with outstanding repurchase requests on the first day of the year | Number of securities for which investors made repurchase requests during the year | Number of securities repurchased during the year | Average price paid for the repurchased securities | Source of funds used to complete the repurchases | Number of securities with outstanding repurchase requests on the last day of the year |
|-------------------------|-------------------------------|--|---|--|---|--|---|
|                         |                               |  |   |  |   |  |   |

(b) for the period after the end of the issuer's most recently completed financial year and up to a date not more than 30 days before the date of the offering memorandum, the information specified by the following table;

| Description of security | Beginning and end dates of the period | Number of securities with outstanding repurchase requests on the first day of the period | Number of securities for which investors made repurchase requests during the period | Number of securities repurchased during the period | Average price paid for the securities repurchased | Source of funds used to complete the repurchases | Number of securities with outstanding repurchase requests on the last day of the period |
|-------------------------|---------------------------------------|--|---|--|---|--|---|
|                         |                                       |  |   |  |   |  |   |

(c) with respect to the periods specified in (a) and (b), the reason for any non-fulfillment of investor repurchase requests, unless the non-fulfillment was in accordance with terms governing the right.

#### Item 7 Certain Dividends or Distributions

If in the two most recently completed financial years, or any subsequent interim period, the issuer paid dividends or distributions that exceeded cash flow from operations, disclose the source of those payments.

#### Item 8 Income Tax Consequences and RRSP Eligibility

**8.1.** State: "You should consult your own professional advisers to obtain advice on the income tax consequences that apply to you."

**8.2.** If income tax consequences are a material aspect of the securities being offered, provide

- (a) a summary of the significant income tax consequences to Canadian residents, and
- (b) the name of the person providing the income tax disclosure in (a).

**8.3.** Provide advice regarding the RRSP eligibility of the securities and the name of the person providing the advice or state "Not all securities are eligible for investment in a registered retirement savings plan (RRSP). You should consult your own professional advisers to obtain advice on the RRSP eligibility of these securities."

#### Item 9 Compensation Paid to Sellers and Finders

If any person has or will receive any commission, corporate finance fee or finder's fee or any other compensation in connection with the offering, provide the following information:

- (a) a description of each type of compensation and the estimated amount to be paid for each type;
- (b) if a commission is being paid, the percentage that the commission will represent of the gross proceeds of the offering (assuming both the minimum and maximum offering);



(c) details of any broker's warrants or agent's option (including number of securities under option, exercise price and expiry date);

(d) if any portion of the compensation will be paid in securities, details of the securities (including number, type and, if options or warrants, the exercise price and expiry date).

#### **Item 10 Risk Factors**

Describe in order of importance, starting with the most important, the risk factors material to the issuer that a reasonable investor would consider important in deciding whether to buy the issuer's securities.

Guidance: Risk factors will generally fall into the following three categories:

(a) Investment Risk – risks that are specific to the securities being offered. Some examples include:

- arbitrary determination of price,
- no market or an illiquid market for the securities,
- resale restrictions, and
- subordination of debt securities.

(b) Issuer Risk – risks that are specific to the issuer. Some examples include

- insufficient funds to accomplish the issuer's business objectives,
- no history or a limited history of revenue or profits,
- lack of specific management or technical expertise,
- management's regulatory and business track record,
- dependence on key employees, suppliers or agreements,
- dependence on financial viability of guarantor,
- pending and outstanding litigation, and
- political risk factors.

(c) Industry Risk – risks faced by the issuer because of the industry in which it operates. Some examples include

- environmental and industry regulation,
- product obsolescence, and
- competition.

#### **Item 11 Reporting Obligations**

**11.1.** Disclose the documents, including any financial information required by the issuer's corporate legislation, constating documents, or other documents under which the issuer is organized, that will be sent to purchasers on an annual or ongoing basis. If the issuer is not required to send any documents to the purchasers on an annual or ongoing basis, state in bold type: **"We are not required to send you any documents on an annual or ongoing basis."**

**11.2.** If corporate or securities information about the issuer is available from a government, securities regulatory authority or regulator, SRO or quotation and trade reporting system, disclose where that information can be located (including website address).

**Item 12      Resale Restrictions**

**12.1. Restricted Period** – For trades in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan and Yukon state one of the following, as applicable:

- (a) If the issuer is not a reporting issuer in a jurisdiction at the distribution date state:

“Unless permitted under securities legislation, you cannot trade the securities before the date that is four months and a day after the date [insert name of issuer] became a reporting issuer in any province or territory of Canada.”;

- (b) If the issuer is a reporting issuer in a jurisdiction at the distribution date state:

“Unless permitted under securities legislation, you cannot trade the securities before the date that is four months and a day after the distribution date.”.

**12.2. Manitoba Resale Restrictions** – For trades in Manitoba, if the issuer will not be a reporting issuer in a jurisdiction at the time the security is acquired by the purchaser state:

“Unless permitted under securities legislation, you must not trade the securities without the prior written consent of the regulator in Manitoba unless

(a) [name of issuer] has filed a prospectus with the regulator in Manitoba with respect to the securities you have purchased and the regulator in Manitoba has issued a receipt for that prospectus, or

- (b) you have held the securities for at least 12 months.

The regulator in Manitoba will consent to your trade if the regulator is of the opinion that to do so is not prejudicial to the public interest.”.

**Item 13      Purchasers’ Rights**

**13.1. Statements Regarding Purchasers’ Rights** – State the following:

“If you purchase these securities you will have certain rights, some of which are described below. For information about your rights you should consult a lawyer.

(1) **Two Day Cancellation Right** – You can cancel your agreement to purchase these securities. To do so, you must send a notice to us by midnight on the 2nd business day after you sign the agreement to buy the securities.

(2) **Statutory Rights of Action in the Event of a Misrepresentation** – [Insert this section only if the securities legislation of the jurisdiction in which the trade occurs provides purchasers with statutory rights in the event of a misrepresentation in an offering memorandum. Modify the language, if necessary, to conform to the statutory rights.] If there is a misrepresentation in this offering memorandum, you have a statutory right to sue:

- (a) [name of issuer] to cancel your agreement to buy these securities, or

(b) for damages against [state the name of issuer and the title of any other person against whom the rights are available].

This statutory right to sue is available to you whether or not you relied on the misrepresentation. However, there are various defences available to the persons that you have a right to sue. In particular, they have a defence if you knew of the misrepresentation when you purchased the securities.

If you intend to rely on the rights described in (a) or (b) above, you must do so within strict time limitations. You must commence your action to cancel the agreement within [state time period provided by the securities legislation]. You must commence your action for damages within [state time period provided by the securities legislation.]

(3) **Contractual Rights of Action in the Event of a Misrepresentation** – [Insert this section only if the securities legislation of the jurisdiction in which the purchaser is resident does not provide purchasers with statutory rights in the event of a misrepresentation in an offering memorandum.] If there is a misrepresentation in this offering memorandum, you have a contractual right to sue [name of issuer]:

- (a) to cancel your agreement to buy these securities, or
- (b) for damages.

This contractual right to sue is available to you whether or not you relied on the misrepresentation. However, in an action for damages, the amount you may recover will not exceed the price that you paid for your securities and will not include any part of the damages that [name of issuer] proves does not represent the depreciation in value of the securities resulting from the misrepresentation. [Name of issuer] has a defence if it proves that you knew of the misrepresentation when you purchased the securities.

If you intend to rely on the rights described in (a) or (b) above, you must do so within strict time limitations. You must commence your action to cancel the agreement within 180 days after you signed the agreement to purchase the securities. You must commence your action for damages within the earlier of 180 days after learning of the misrepresentation and three years after you signed the agreement to purchase the securities.”.

**13.2. Cautionary Statement Regarding Report, Statement or Opinion by Expert** – If a report, statement or opinion by a solicitor, auditor, accountant, engineer, appraiser, notary in Québec or other person whose profession or business could, to a reasonable person, be viewed as giving authority to a statement made by that person, is included or referenced in the offering memorandum, and purchasers do not have a statutory right of action in the local jurisdiction against that person for a misrepresentation in the offering memorandum, state the following, with the bracketed information completed, as applicable:

“This offering memorandum [includes][references] [describe any report, statement or opinion, the party that gave it, and the effective date of the document]. You do not have a statutory right of action against [this party][these parties] for a misrepresentation in the offering memorandum. You should consult with a legal adviser for further information.”.

#### **Item 14 Financial Statements**

Include in the offering memorandum immediately before the certificate page of the offering memorandum all financial statements specified in the Instructions.

**Item 15 Date and Certificate**

State the following on the certificate page of the offering memorandum:

“Dated [insert the date the certificate page of the offering memorandum is signed].

“This offering memorandum does not contain a misrepresentation.”.

**Instructions for Completing Form 45-106F2****Offering Memorandum for Non-Qualifying Issuers****A. General Instructions**

1. Refer to subsections 2.9(13.1), (13.2) and (13.3) of Regulation 45-106 respecting Prospectus Exemptions (chapter V-1.1, r. 21) (“Regulation 45-106”), which set out the standard of disclosure for an offering memorandum.
2. Draft the offering memorandum so that it is easy to read and understand. Be concise and use clear, plain language. Avoid technical terms. If technical terms are necessary, provide definitions.
3. Address the items required by the form in the order set out in the form. However, it is not necessary to provide disclosure in response to a requirement or part of a requirement that does not apply.
4. The issuer may include additional information in the offering memorandum other than that specifically required by the form.
5. The issuer may wrap the offering memorandum around a prospectus or similar document. However, all matters required to be disclosed by the offering memorandum must be addressed and the offering memorandum must provide a cross-reference to the page number or heading in the wrapped document where the relevant information is contained. The certificate to the offering memorandum must be modified to indicate that the offering memorandum, including the document around which it is wrapped, does not contain a misrepresentation.
6. It is an offence to make a misrepresentation in the offering memorandum. This applies to both information that is required by the form and additional information that is provided. Include particulars of any material facts, which have not been disclosed under any of the Item numbers and for which failure to disclose would constitute a misrepresentation in the offering memorandum. Refer also to subsection 3.8(3) of Policy Statement to Regulation 45-106 respecting Prospectus Exemptions for additional information.
7. Do not disclose a maximum offering amount unless the issuer reasonably expects, as at the date of the offering memorandum, to distribute that amount under the offering memorandum.
8. Refer to Regulation 43-101 respecting Standards of Disclosure for Mineral Projects (chapter V-1.1, r. 15) (“Regulation 43-101”) when disclosing scientific or technical information for a mineral project of the issuer.
9. If an oil and gas issuer is disclosing information about its oil and gas activities, it must ensure that the information is disclosed in accordance with Part 4 and Part 5 of Regulation 51-101 respecting Standards of Disclosure for Oil and Gas Activities (chapter V-1.1, r. 23) (“Regulation 51-101”). Under section 5.3 of Regulation 51-101, disclosure of reserves or resources must be consistent with the reserves and resources terminology and categories set out in the Canadian Oil and Gas Evaluation Handbook. For the purposes of this instruction, references to reporting issuer in Part 4 and Part 5 of Regulation 51-101 will be deemed to include all issuers.

10. Securities legislation restricts what can be told to investors about the issuer's intent to list or quote securities on an exchange or market. Refer to applicable securities legislation before making any such statements.

11. If an issuer uses this form in connection with a distribution under an exemption other than section 2.9 of Regulation, the issuer must modify the disclosure in item 13 to correctly describe the purchaser's rights. If a purchaser does not have statutory or contractual rights of action in the event of a misrepresentation in the offering memorandum, that fact must be stated in bold on the face page.

12. During the course of a distribution of securities, any material forward-looking information disseminated must only be that which is set out in the offering memorandum. If an extract of FOFI, as defined in Regulation 51-102 respecting Continuous Disclosure Obligations (chapter V-1.1, r. 24) ("Regulation 51-102"), is disseminated, the extract or summary must be reasonably balanced and have a cautionary note in boldface stating that the information presented is not complete and that complete FOFI is included in the offering memorandum.

13. The term "quasi-criminal offence" includes offences under tax, immigration or money laundering legislation.

#### **B. Financial Statements – General**

1. All financial statements, operating statements for an oil and gas property that is an acquired business or a business to be acquired, and summarized financial information as to the aggregated amounts of assets, liabilities, revenue and profit or loss of an acquired business or business to be acquired that is, or will be, an investment accounted for by the issuer using the equity method included in the offering memorandum must comply with Regulation 52-107 respecting Acceptable Accounting Principles and Auditing Standards (chapter V-1.1, r. 25) ("Regulation 52-107"), regardless of whether the issuer is a reporting issuer or not.

Under Regulation 52-107, financial statements are generally required to be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises. An issuer using this form cannot use Canadian GAAP applicable to private enterprises, except, subject to the requirements of Regulation 52-107, certain issuers may use Canadian GAAP applicable to private enterprises for financial statements for a business referred to in Instruction C.1. An issuer that is not a reporting issuer may prepare acquisition statements in accordance with the requirements of Regulation 52-107 as if the issuer were a venture issuer as defined in Regulation 51-102. For the purposes of this form, the "applicable time" in the definition of a venture issuer is the acquisition date.

2. Include all financial statements required by these instructions in the offering memorandum immediately before the certificate page of the offering memorandum.

3. If the issuer has not completed one financial year or its first financial year end is less than 120 days from the date of the offering memorandum, include in the offering memorandum financial statements of the issuer consisting of:

(a) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows for the period from inception to a date not more than 90 days before the date of the offering memorandum,

(b) a statement of financial position as at the end of the period referred to in paragraph (a),  
and

(c) notes to the financial statements.

4. If the issuer has completed one or more financial years, include in the offering memorandum annual financial statements of the issuer consisting of

(a) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows for

(i) the most recently completed financial year that ended more than 120 days before the date of the offering memorandum, and

(ii) the financial year immediately preceding the financial year in subparagraph (i), if any,

(b) a statement of financial position as at the end of each of the periods referred to in paragraph (a),

(c) a statement of financial position as at the beginning of the earliest comparative period for which financial statements that are included in the offering memorandum comply with IFRS in the case of an issuer that

(i) discloses in its annual financial statements an unreserved statement of compliance with IFRS, and

(ii) does any of the following:

(A) applies an accounting policy retrospectively in its annual financial statements;

(B) makes a retrospective restatement of items in its annual financial statements;

(C) reclassifies items in its annual financial statements,

(d) in the case of an issuer's first IFRS financial statements as defined in Regulation 51-102, the opening IFRS statement of financial position at the date of transition to IFRS as defined in Regulation 51-102, and

(e) notes to the financial statements.

5. If an issuer presents the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the statement of comprehensive income filed under Instruction B.4.

6. If the issuer has completed one or more financial years, include in the offering memorandum an interim financial report of the issuer comprised of

(a) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows for the most recently completed interim period that ended

(i) more than 60 days before the date of the offering memorandum, and

(ii) after the year-end date of the financial statements required under Instruction B.4(a)(i),

(b) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows for the corresponding period in the immediately preceding financial year, if any,

(c) a statement of financial position as at the end of the period required by paragraph (a) and the end of the immediately preceding financial year,

(d) a statement of financial position as at the beginning of the earliest comparative period for which financial statements that are included in the offering memorandum comply with IFRS in the case of an issuer that

(i) discloses in its interim financial report an unreserved statement of compliance with International Accounting Standard 34 Interim Financial Reporting, and

(ii) does any of the following:

(A) applies an accounting policy retrospectively in its interim financial report;

(B) makes a retrospective restatement of items in its interim financial report;

(C) reclassifies items in its interim financial report,

(e) in the case of the first interim financial report in the year of adopting IFRS, the opening IFRS statement of financial position at the date of transition to IFRS,

(f) for an issuer that is not a reporting issuer in at least one jurisdiction of Canada immediately before filing the offering memorandum, if the issuer is including an interim financial report of the issuer for the second or third interim period in the year of adopting IFRS,

(i) the issuer's first interim financial report in the year of adopting IFRS, or

(ii) both

(A) the opening IFRS statement of financial position at the date of transition to IFRS, and

(B) the annual and date of transition to IFRS reconciliations required by IFRS 1 First-time Adoption of International Financial Reporting Standards to explain how the transition from previous GAAP to IFRS affected the issuer's reported financial position, financial performance and cash flows, and

(g) notes to the financial statements.

7. If an issuer presents the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the statement of comprehensive income filed under Instruction B.6.

8. An issuer is not required to include the comparative financial information for the period in Instruction B.4.(a)(ii) in an offering memorandum if the issuer includes financial statements for a financial year ended less than 120 days before the date of the offering memorandum.

9. For an issuer that is not an investment fund, the term "interim period" has the meaning set out in Regulation 51-102. In most cases, an interim period is a period ending nine, six, or three months before the end of a financial year. For an issuer that is an investment fund, the term "interim period" has the meaning set out in Regulation 81-106 respecting Investment Fund Continuous Disclosure (chapter V-1.1, r. 42) ("Regulation 81-106").

10. The comparative financial information required under Instruction B.6(b) and (c) may be omitted if the issuer has not previously prepared financial statements in accordance with its current or, if applicable, its previous GAAP.
11. The financial statements required by Instructions B.3, B.4 and B.14(a) must be audited. The financial statements required by Instructions B.6, B.8, B.14(b) and the comparative financial information required by Instruction B.4 may be unaudited; however, if any of those financial statements have been audited, the auditor's report must be included in the offering memorandum.
12. Refer to Regulation 52-108 respecting Auditor Oversight (chapter V-1.1, r. 26.1) for requirements relating to reporting issuers and public accounting firms.
13. All unaudited financial statements and unaudited comparatives must be clearly labelled as unaudited.
14. If the distribution is ongoing, and the offering memorandum does not contain audited annual financial statements for the issuer's most recently completed financial year, the issuer must do the following:
  - (a) amend the offering memorandum to include the audited annual financial statements and the accompanying auditor's report as soon as the issuer has approved the audited financial statements, but in any event no later than the 120th day following the financial year end;
  - (b) present the amended offering memorandum and the audited annual financial statements in accordance with the instructions in Parts A, B and C and, for that purpose, the reference to the financial year in Instruction B.4(a)(i) shall mean the issuer's most recently completed financial year.
15. If the distribution is ongoing, and the offering memorandum is amended pursuant to subsection 2.9(13.2) of the Regulation to reflect a material change, the issuer must present the amended offering memorandum in accordance with the instructions in Parts A, B and C, including any interim financial report required by Instruction B.6(a).
16. In Ontario, if more than 60 days have elapsed since the end of the second interim period that commenced following the later of the issuer's inception and the issuer's most recently completed financial year, the offering memorandum does not comply with the requirements of this form unless
  - (a) the offering memorandum, as amended, includes the interim financial report for the most recently completed second interim period,
  - (b) the interim financial report required by paragraph (a) is presented in accordance with the instructions in Parts A, B and C and, for that purpose, Instruction B.6 shall apply regardless of whether the issuer has completed a financial year and the reference to the interim period in Instruction B.6(a) shall mean the issuer's most recently completed second interim period,
  - (c) the date of the offering memorandum, as amended, is after the end of this most recently completed second interim period, and
  - (d) the offering memorandum, as amended, contains all of the disclosure required by this form as of the date in paragraph (c).



17. In Ontario, Instruction B.16 does not apply if the issuer appends to the offering memorandum an additional certificate that

- (a) clearly identifies the offering memorandum,
- (b) forms part of the offering memorandum,
- (c) certifies all of the following to be true:
  - (i) the offering memorandum does not contain a misrepresentation when read as of the date in paragraph (d);
  - (ii) there has been no material change in relation to the issuer that is not disclosed in the offering memorandum;
  - (iii) the offering memorandum, when read as of the date in paragraph (d), provides a reasonable purchaser with sufficient information to make an informed investment decision,
- (d) is dated after the end of the issuer's most recently completed second interim period, and
- (e) is signed in accordance with subsections 2.9(9) to (12) of the Regulation.

18. In Ontario, if an issuer appends a certificate referred to in Instruction B.17 to its offering memorandum, it must file with the securities regulatory authority in Ontario a copy of the offering memorandum with the appended certificate on or before the 10<sup>th</sup> day after the distribution under the offering memorandum.

19. In Ontario, Instruction B.16 does not apply if the offering memorandum complies with all of the following:

- (a) the offering memorandum, as amended, includes the interim financial report for the issuer's most recently completed third interim period;
- (b) the interim financial report referred to in paragraph (a) is presented in accordance with the instructions in Parts A, B and C and, for that purpose, Instruction B.6 shall apply regardless of whether the issuer has completed a financial year and the reference to the interim period in Instruction B.6(a) shall mean the issuer's most recently completed third interim period;
- (c) the date of the offering memorandum, as amended, is after the end of this most recently completed third interim period;
- (d) the offering memorandum, as amended, contains all of the disclosure required by this form as of the date in paragraph (c).

20. Forward-looking information, as defined in Regulation 51-102, included in an offering memorandum must comply with section 4A.2 of Regulation 51-102 and must include the disclosure described in section 4A.3 of Regulation 51-102. In addition to the foregoing, FOFI or a financial outlook, each as defined in Regulation 51-102, included in an offering memorandum must comply with Part 4B of Regulation 51-102. For an issuer that is not a reporting issuer, references to "reporting issuer" in section 4A.2, section 4A.3 and Part 4B of Regulation 51-102 must be read as references to an "issuer".

Additional guidance may be found in Policy Statement to Regulation 51-102 respecting Continuous Disclosure Obligations.

**C. Financial Statements - Business Acquisitions**

1. If the issuer

(a) has acquired a business during the past two years and the audited financial statements of the issuer included in the offering memorandum do not include the results of the acquired business for nine consecutive months, or

(b) is proposing to acquire a business and the acquisition has progressed to a state where a reasonable person would believe that the likelihood of the acquisition being completed is high,

include the financial statements specified in Instruction C.4 for the business if either of the tests in Instruction C.2 is met, irrespective of how the issuer accounts, or will account, for the acquisition.

2. Include the financial statements specified in Instruction C.4 for a business referred to in Instruction C.1 if either

(a) the issuer's proportionate share of the consolidated assets of the business exceeds 100% of the consolidated assets of the issuer calculated using the annual financial statements of each of the issuer and the business for the most recently completed financial year of each that ended before the acquisition date or, for a proposed acquisition, the date of the offering memorandum, or

(b) the issuer's consolidated investments in and advances to the business as at the acquisition date or the proposed date of acquisition exceeds 100% of the consolidated assets of the issuer, excluding any investments in or advances to the business, as at the last day of the issuer's most recently completed financial year that ended before the date of acquisition or the date of the offering memorandum for a proposed acquisition. For information about how to perform the investment test in this paragraph, please refer to subsections 8.3(4.1) and (4.2) of Regulation 51-102. Additional guidance may be found in the Policy Statement to Regulation 51-102.

3. If an issuer or a business has not yet completed a financial year, or its first financial year ended within 120 days of the offering memorandum date, use the financial statements referred to in Instruction B.3 to make the calculations in Instruction C.2.

4. If under Instruction C.2 you must include in an offering memorandum financial statements for a business, the financial statements must include

(a) if the business has not completed one financial year or its first financial year end is less than 120 days from the date of the offering memorandum

(i) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows

(A) for the period from inception to a date not more than 90 days before the date of the offering memorandum, or

(B) if the date of acquisition precedes the ending date of the period referred to in clause (A), for the period from inception to the acquisition date or a date not more than 45 days before the acquisition date,

(ii) a statement of financial position dated as at the end of the period referred to in subparagraph (i), and

(iii) notes to the financial statements,

(b) if the business has completed one or more financial years

(i) annual financial statements comprised of

(A) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows for the following annual periods:

(I) the most recently completed financial year that ended before the acquisition date and more than 120 days before the date of the offering memorandum, and

(II) the financial year immediately preceding the most recently completed financial year specified in subclause (I), if any,

(B) a statement of financial position as at the end of each of the periods specified in clause (A),

(C) notes to the financial statements, and

(ii) an interim financial report comprised of

(A) either

(I) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows for the most recently completed year-to-date interim period ending on the last date of the interim period that ended before the acquisition date and more than 60 days before the date of the offering memorandum and ended after the date of the financial statements required under subclause (b)(i)(A)(I), and a statement of comprehensive income and a statement of changes in equity for the three-month period ending on the last date of the interim period that ended before the acquisition date and more than 60 days before the date of the offering memorandum and ended after the date of the financial statements required under subclause (b)(i)(A)(I), or

(II) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows for the period from the first day after the financial year referred to in subparagraph (b)(i) to a date before the acquisition date and after the period end in subclause (b)(ii)(A)(I),

(B) a statement of comprehensive income, a statement of changes in equity and a statement of cash flows for the corresponding period in the immediately preceding financial year, if any,

(C) a statement of financial position as at the end of the period required by clause (A) and the end of the immediately preceding financial year, and

(D) notes to the financial statements.

Refer to Instruction B.9 for the meaning of “interim period”.

5. The information for the most recently completed financial period referred to in Instruction C.4(b)(i) must be audited and accompanied by an auditor's report. The financial statements required under Instruction C.4(a), Instruction C.4(b)(ii) and the comparative financial information required by Instruction C.4(b)(i) may be unaudited; however, if those financial statements or comparative financial information have been audited, the auditor's report must be included in the offering memorandum.

6. If the offering memorandum does not contain audited financial statements for a business referred to in Instruction C.1 for the business's most recently completed financial year that ended before the acquisition date and the distribution is ongoing, update the offering memorandum to include those financial statements accompanied by an auditor's report when they are available, but in any event no later than the date 120 days following the year-end.

7. The term "business" should be evaluated in light of the facts and circumstances involved. Generally, a separate entity or a subsidiary or division of an entity is a business and, in certain circumstances, a lesser component of an entity may also constitute a business, whether or not the subject of the acquisition previously prepared financial statements. The subject of an acquisition should be considered a business where there is, or the issuer expects there will be, continuity of operations. The issuer should consider

(a) whether the nature of the revenue producing activity or potential revenue producing activity will remain generally the same after the acquisition, and

(b) whether any of the physical facilities, employees, marketing systems, sales forces, customers, operating rights, production techniques or trade names are acquired by the issuer instead of remaining with the vendor after the acquisition.

8. If a transaction or a proposed transaction for which the likelihood of the transaction being completed is high has been or will be a reverse takeover as defined in Regulation 51-102, include financial statements for the legal subsidiary in the offering memorandum in accordance with Part A. The legal parent is considered to be the business acquired. Instruction C.1 may also require financial statements of the legal parent.

9. An issuer satisfies the requirements in Instruction C.4 if the issuer includes in the offering memorandum the financial statements required in a business acquisition report under Regulation 51-102.

#### **D. Financial Statement - Exemptions**

1. Notwithstanding the requirements in subparagraph 3.3(1)(a)(i) of Regulation 52-107, an auditor's report that accompanies financial statements of an issuer or a business contained in an offering memorandum of a non-reporting issuer may express a qualification of opinion relating to inventory if

(a) the issuer includes in the offering memorandum a statement of financial position that is for a date that is after the date to which the qualification relates,

(b) the statement of financial position referred to in paragraph (a) is accompanied by an auditor's report that does not express a qualification of opinion relating to closing inventory, and

(c) the issuer has not previously filed financial statements for the same entity accompanied by an auditor's report for a prior year that expressed a qualification of opinion relating to inventory.

2. If an issuer has, or will account for a business referred to in Instruction C.1 using the equity method, then financial statements for a business required by Part C are not required to be included if

(a) the offering memorandum includes disclosure for the periods for which financial statements are otherwise required under Part C that

(i) summarizes information as to the aggregated amounts of assets, liabilities, revenue and profit or loss of the business, and

(ii) describes the issuer's proportionate interest in the business and any contingent issuance of securities by the business that might significantly affect the issuer's share of profit or loss,

(b) the financial information provided under paragraph (a) for the most recently completed financial year has been audited, or has been derived from audited financial statements of the business, and

(c) the offering memorandum discloses that

(i) the financial information provided under paragraph (a) for any completed financial year has been audited, or identifies the audited financial statements from which the financial information provided under paragraph (a) has been derived, and

(ii) the audit opinion with respect to the financial information or financial statements referred to in subparagraph (i) was an unmodified opinion.

3. Financial statements relating to the acquisition or proposed acquisition of a business that is an interest in an oil and gas property are not required to be included in an offering memorandum if either of the following apply:

(a) the acquisition is significant based only on the asset test;

(b) the issuer is unable to provide the financial statements in respect of the significant acquisition otherwise required because those financial statements do not exist or the issuer does not have access to those financial statements, and the following apply:

(i) the acquisition was not or will not be a reverse takeover, as defined in Regulation 51-102;

(ii) the following apply:

(A) the offering memorandum includes an operating statement for the business or related businesses for each of the financial periods for which financial statements would, but for this section, be required under Instruction C.4 prepared in accordance with subsection 3.11(5) of Regulation 52-107;

(B) the operating statement for the most recently completed financial period referred to in Instruction C.4(b)(i) is audited;

(C) the offering memorandum includes a description of the property or properties and the interest acquired by the issuer;

(D) the offering memorandum includes information with respect to the estimated reserves and related future net revenue attributable to the business, the material assumptions used in preparing the estimates and the identity and relationship to the issuer or to the seller of the person who prepared the estimates;

(E) the offering memorandum includes actual production volumes of the property for the most recently completed year;

(F) the offering memorandum includes estimated production volumes of the property for the first year reflected in the estimate disclosed under clause (D).

4. Financial statements for a business that is an interest in an oil and gas property, or for the acquisition or proposed acquisition by an issuer of an oil and gas property, are not required to be audited if, during the 12 months preceding the acquisition date or the proposed acquisition date, the average daily production of the property is less than 20% of the average daily production of the seller for the same or similar periods and

(a) despite reasonable efforts during the purchase negotiations, the issuer was prohibited from including in the purchase agreement the rights to obtain an audited operating statement of the property,

(b) the purchase agreement includes representations and warranties by the seller that the amounts presented in the operating statement agree to the seller's books and records, and

(c) the offering memorandum discloses

(i) that the issuer was unable to obtain an audited operating statement,

(ii) the reasons for that inability,

(iii) the fact that the purchase agreement includes the representations and warranties referred to in paragraph (b), and

(iv) that the results presented in the operating statements may have been materially different if the statements had been audited.

## **SCHEDULE 1 TO FORM 45-106F2**

### **ADDITIONAL DISCLOSURE REQUIREMENTS FOR AN ISSUER ENGAGED IN REAL ESTATE ACTIVITIES**

#### **Guidance**

For an issuer engaged in real estate activities, see subsection 6.4(4) of Regulation 45-106 with respect to the completion of this schedule.

#### **Instructions**

1. Despite General Instruction A.3, an issuer may choose where to integrate the disclosure specified by this schedule within the offering memorandum.

2. Information specified by this schedule that is disclosed in the offering memorandum in response to another provision of this form need not be repeated.

#### **1. Definitions**

In this schedule

“rental management agreement” means an agreement, other than a rental pool agreement, under which a person manages the generation of revenue from real property for another person;

“rental pool agreement” means an agreement creating a rental pool;

“rental pool” means an arrangement under which revenues derived from, or expenses relating to, two or more properties are pooled and shared among the owners of the properties in accordance with their proportionate interests in the pool.

## **2. Application**

(1) This schedule applies to the following:

- (a) each interest in real property held by the issuer;
- (b) each interest in real property proposed to be acquired by the issuer, if the proposed acquisition has progressed to a state where a reasonable person would believe that the likelihood of the issuer completing the acquisition is high.

(2) Despite subsection (1), and except in the circumstances described in sections 4, 5, 10 and 11, this schedule does not apply in respect of an interest in real property, or more than one interest in real property taken together, that when considered in relation to all interests in real property held by the issuer, is not significant enough to influence a decision by a reasonable investor to buy, hold or sell a security of the issuer.

## **3. Description of Real Property**

(1) Describe the following with respect to each interest in real property:

- (a) the real property’s location, by address or other description;
- (b) the nature of the interest;
- (c) any encumbrances that would be material to a reasonable investor;
- (d) any restriction on sale or disposition;
- (e) any environmental liabilities, hazards or contamination;
- (f) any tax arrears;
- (g) if utilities and other services are not currently being provided, describe how they will be provided and who will provide them;
- (h) the current use;
- (i) the proposed use and why the issuer considers the real property to be suitable for its plans;
- (j) with respect to any buildings affixed to the real property, the type of construction, age and condition, and a description of any units for sale or rental;
- (k) for real property that the issuer leases to others, the occupancy level as at a date not more than 60 days before the date of the offering memorandum.

(2) If the issuer is providing disclosure on 10 or more interests in real property, it may for the purposes of subsection (1) disclose the information on a summarized basis with respect to either of the following:

- (a) the portfolio of real property interests as a whole;
- (b) the portfolio of real property interests broken into subgroups.

(3) Describe any current legal proceedings, or legal proceedings that the issuer knows to be contemplated, relating to each interest in real property, that would be material to a reasonable investor, including, for each proceeding, the name of the court, the date instituted, the parties to the proceeding, the nature of the claim, any amount claimed, whether the proceeding is being contested, and the present status of the proceeding.

#### **Instruction to Section 3**

With respect to a proposed acquisition of one or more interests in real property, disclose the issuer's expectations regarding the matters set out in paragraphs (1)(b), (c) and (d).

#### **4. Appraisal**

(1) If subsection 2.9(19.6) of Regulation 45-106 applies, disclose the following for any appraisal:

- (a) the appraised fair market value of the interest in real property that is the subject of the appraisal;
- (b) the effective date of the appraisal;
- (c) that the appraisal is required to be delivered to the purchaser at the same time or before the offering memorandum is delivered to the purchaser.

(2) For each interest in real property to which subsection (1) applies, provide the most recent assessment by any assessing authority.

#### **5. Purchaser's Interest in Real Property**

If the purchaser will acquire an interest in real property, disclose the following:

- (a) a description of the interest;
- (b) how the interest will be evidenced in a public registry;
- (c) any existing or anticipated encumbrances on the interest.

#### **6. Developer, or Manager under a Rental Management Agreement or Rental Pool Agreement, Organization, Occupation and Experience, and Penalties, Sanctions, Bankruptcy, Insolvency and Criminal or Quasi-Criminal Matters**

(1) Subsection (2) applies for the following persons:

- (a) a person other than the issuer that is or will be acting in the role of developer in respect of an interest in real property;
- (b) in respect of real property in which the purchaser will acquire an interest, a person other than the issuer that will be acting in the role of manager under a rental management agreement, or manager under a rental pool agreement.



(2) For each person described in subsection (1)

(a) state the legal name of the person, describe the business of the person and any experience that the person has in similar projects or a similar business, and, if the person is not an individual, the laws under which the person is organized or incorporated and the date that the person was organized or incorporated,

(b) if the person is not an individual, in the form of the following table, provide the specified information for any directors and executive officers of the person for the five years preceding the date of the offering memorandum,

| Full legal name | Principal occupation and description of experience associated with the occupation |
|-----------------|---|
|                 |   |
|                 |   |

(c) if any of the following have occurred during the 10 years preceding the date of the offering memorandum with respect to the person, a director, executive officer or control person of the person, or an issuer of which any of those persons was a director, executive officer or control person at the time, describe the details of the penalty, sanction or order, including the reason for it and whether it is currently in effect:

(i) a penalty or other sanction imposed by a court relating to a contravention of securities legislation;

(ii) a penalty or other sanction imposed by a regulatory body relating to a contravention of securities legislation;

(iii) an order restricting trading in securities, not including an order that was in effect for less than 30 consecutive days,

(d) if any of the following have occurred during the 10 years preceding the date of the offering memorandum with respect to the person, a director, executive officer or control person of the person, or an issuer of which any of those persons was a director, executive officer or control person at the time, state that it has occurred:

(i) a declaration of bankruptcy;

(ii) a voluntary assignment in bankruptcy;

(iii) a proposal under bankruptcy or insolvency legislation;

(iv) a proceeding, arrangement or compromise with creditors or appointment of a receiver, receiver manager or trustee to hold assets, and

(e) disclose and describe the details of the offence, if the person, or a director, executive officer or control person of the person has ever pled guilty to or been found guilty of any of the following:

- (i) a summary conviction or indictable offence under the Criminal Code;
- (ii) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction;
- (iii) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory of the United States of America;
- (iv) an offence under the criminal legislation of any other foreign jurisdiction.

## 7. Transfers

(1) For each interest in real property, for any transaction that a related party was party to, using the following table, starting with the most recent transaction and specifying which party was the related party, disclose the following:

| Date of transfer | Legal name of seller | Legal name of buyer | Amount and form of consideration |
|------------------|----------------------|---------------------|----------------------------------|
|                  |                      |                     |                                  |

(2) Explain the reason for any material difference between the amount of consideration paid by the issuer and the amount of consideration paid by a related party for the interest in real property.

## 8. Approvals

For each interest in real property, if that real property is being developed, disclose the following:

- (a) any approval required from a regulatory body or any level of government that would be material to a reasonable investor;
- (b) the anticipated cost and timing of the approval;
- (c) any reports required as part of the approval process, including the anticipated cost and timing of producing or procuring those reports;
- (d) what will happen if the approval is not obtained, including the effect on the following:
  - (i) the project;
  - (ii) the purchaser's investment;
  - (iii) if applicable, the purchaser's interest in the real property.

**9. Costs and Objectives**

For each interest in real property, if that real property is being developed, disclose the following:

- (a) estimated costs to complete the development;
- (b) any significant assumptions that underlie the cost estimates;
- (c) when significant costs will be incurred;
- (d) the objectives of the project that are expected to be met within the 24 months following the date of the offering memorandum, including the following:
  - (i) the expected timeline for meeting each objective;
  - (ii) how the issuer will meet each objective;
  - (iii) the estimated cost of meeting each objective;
  - (iv) how the issuer will fund the cost of meeting each objective;
- (e) the objectives for the project that are expected to be met after the 24-month period following the date of the offering memorandum, including the following:
  - (i) the expected timeline for meeting each objective;
  - (ii) how the issuer will meet each objective;
  - (iii) if the objectives are to be completed in phases, details about each phase;
  - (iv) the estimated cost of meeting each objective;
  - (v) how the issuer will fund the cost of meeting each objective;
- (f) what reasonably might happen if any of the stated objectives are not met, including the effect of not meeting the objective on the following:
  - (i) the project;
  - (ii) the purchaser's investment;
  - (iii) if applicable, the purchaser's interest in the real property.

**10. Future Cash Calls**

If the purchaser is required to contribute additional funds in the future, disclose the following:

- (a) the amount the purchaser is required to contribute;
- (b) when the purchaser will be required to contribute;
- (c) the effect on the purchaser's investment and, if applicable, the purchaser's interest in the real property, if the purchaser fails to contribute;
- (d) the effect on the purchaser's investment and, if applicable, the purchaser's interest in the real property, if the purchaser contributes, but other purchasers fail to contribute.

### 11. Rental Pool Agreement or Rental Management Agreement

If the purchaser will acquire an interest in real property, and that interest will be or could be subject to a rental pool agreement or a rental management agreement, disclose the following:

(a) the key terms of the agreement, including, for certainty, those provisions dealing with whether the agreement is mandatory or optional, the duration of the agreement, opting out of the agreement, termination of the agreement, the sharing of revenues and losses, the payment of expenses, and any fees payable under the agreement;

(b) whether financial or other information about the rental pool or the results arising from the rental management agreement will be made available to purchasers, and if so, include the following:

(i) a description of the information;

(ii) if the information will include financial information, whether that financial information will be audited or subject to an independent review;

(iii) the frequency with which the information will be made available;

(iv) whether the information will be delivered to purchasers or whether access will be provided to it;

(v) if purchasers are to be provided access to the information, a description of the means of gaining access to it;

(c) the following statement, with the bracketed information completed as applicable:

“The success or failure of the [rental pool][arrangement] resulting from the rental management agreement] will depend in part on the abilities of the manager”;

(d) if the purchaser will be responsible for paying any loss arising pursuant to the rental pool agreement or rental management agreement, the following statement, with the bracketed information completed as applicable:

“If the [rental pool][rental management agreement] generates a loss, the purchaser must contribute further funds in addition to the purchaser’s initial investment.”.

### 12. Information Statements

If the purchaser will acquire an interest in real property, state the following in bold type:

**“Your rights relating to your interest in real property will be those provided under the laws of the jurisdiction in which the real property is located. Therefore, it is prudent to consult a lawyer who is familiar with the laws of that jurisdiction before making an investment.**

**“All real estate investments are subject to significant risk arising from changing market conditions.”.**

### 13. Risk Factors Relating to Real Property

With respect to the issuer’s interests in real property, and any interest in real property to be acquired by the purchaser, describe the risk factors that would influence a reasonable investor’s decision whether to invest, including, if applicable:

- (a) risks associated with the following:
  - (i) the development of undivided real property into subdivisions;
  - (ii) the leasing of real property;
  - (iii) the holding of real property for sale or development;
- (b) risks associated with encumbrances, conditions or covenants on the real property that could affect the following:
  - (i) the purchaser's interest in the real property, if applicable;
  - (ii) the completion of the development of real property;
- (c) risks pertaining to the development of real property, including the following:
  - (i) a right or lack of right of the purchaser with respect to the management and control of the real property;
  - (ii) a right or lack of right of the purchaser to change the developer of the property;
- (d) risks pertaining to potential liability for the following:
  - (i) environmental damage;
  - (ii) unpaid obligations to builders, contractors and tradespersons;
- (e) risks associated with litigation that relates to the real property.

## **SCHEDULE 2 TO FORM 45-106F2**

### **ADDITIONAL DISCLOSURE REQUIREMENTS FOR AN ISSUER THAT IS A COLLECTIVE INVESTMENT VEHICLE**

#### **Guidance**

For an issuer that is a collective investment vehicle, see subsection 6.4(5) of Regulation 45-106 with respect to the completion of this schedule.

#### **Instructions**

1. Despite General Instruction A.3, an issuer may choose where to integrate the disclosure specified by this schedule within the offering memorandum.
2. Information specified by this schedule that is disclosed in the offering memorandum in response to another provision of this form need not be repeated.

#### **1. Investment Objectives and Strategy**

- (1) Except with respect to mortgage lending, describe the following:
  - (a) the issuer's investment objectives, investment strategy and investment criteria;
  - (b) any limitations or restrictions on investments, including concentration limits and use of leverage;
  - (c) how securities are identified, selected and approved for purchase or sale.

- (2) For any mortgage lending by the issuer, describe the following:
- (a) the issuer's investment objectives with respect to the following:
- (i) the type of properties for which the issuer lends money;
  - (ii) the issuer's geographical focus;
  - (iii) the material mortgage terms, including range of interest rates and length of term;
  - (iv) the priority ranking of mortgages, in terms of first priority, second priority and third or lower priority;
- (b) any policies or practices of the issuer with respect to the following:
- (i) after initial funding of a mortgage, conducting any subsequent valuation of a property;
  - (ii) loaning money to a related party;
  - (iii) renewals;
  - (iv) concentrating funds in a single mortgage or lending funds to a single borrower or group of affiliated borrowers;
  - (v) determining that a borrower has the ability to repay a mortgage.

**2. Portfolio Management and Penalties, Sanctions, Bankruptcy, Insolvency and Criminal or Quasi-Criminal Matters**

- (1) Identify the person responsible for the following:
- (a) establishing and implementing the issuer's investment objectives and investment strategy;
  - (b) setting any limitations or restrictions on investments;
  - (c) monitoring the performance of the portfolio;
  - (d) making any adjustments to the issuer's portfolio.
- (2) For each person described in subsection (1) that is not registered under the securities legislation of a jurisdiction of Canada,
- (a) in the form of the following table, provide the specified information for the person and any directors and executive officers of the person for the five years preceding the date of the offering memorandum,

| Full legal name | Principal occupation and description of experience associated with the occupation |
|-----------------|---|
|                 |   |
|                 |   |

(b) if any of the following have occurred during the 10 years preceding the date of the offering memorandum with respect to the person, or an issuer of which the person was a director, executive officer or control person at the time, describe the penalty, sanction or order, including the reason for it and whether it is currently in effect:

(i) a penalty or other sanction imposed by a court relating to a contravention of securities legislation;

(ii) a penalty or other sanction imposed by a regulatory body relating to a contravention of securities legislation;

(iii) an order restricting trading in securities, not including an order that was in effect for less than 30 consecutive days,

(c) if any of the following have occurred during the 10 years preceding the date of the offering memorandum with respect to the person, or an issuer of which the person was a director, executive officer or control person at the time, state that it has occurred:

(i) a declaration of bankruptcy;

(ii) a voluntary assignment in bankruptcy;

(iii) a proposal under bankruptcy or insolvency legislation;

(iv) a proceeding, arrangement or compromise with creditors or appointment of a receiver, receiver manager or trustee to hold assets,

(d) disclose and describe the details of the offence, if the person has ever pled guilty to or been found guilty of any of the following:

(i) a summary conviction or indictable offence under the Criminal Code;

(ii) a quasi-criminal offence in any jurisdiction of Canada or a foreign jurisdiction;

(iii) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory of the United States of America;

(iv) an offence under the criminal legislation of any other foreign jurisdiction, and

(e) disclose any exemption relied on by the person from the requirement to be registered under the securities legislation of a jurisdiction of Canada.

(3) For any person identified in subsection (1) that is not an employee of the issuer, disclose any remuneration paid to the person, and how the remuneration is calculated.

(4) Identify any person that is not an employee of the issuer, other than a person identified under subsection (1), that performs a significant role or provides a significant service for the issuer with respect to the securities in the issuer's portfolio, and describe the following:

(a) the role performed or service provided;

(b) the remuneration paid to the person and how that remuneration is calculated.

### 3. Portfolio Summary

(1) Except with respect to mortgage lending, as at a date not more than 60 days before the date of the offering memorandum, disclose the following:

(a) a description of the portfolio, or a description of the portfolio divided into subgroups including the percentage of the net asset value in each subgroup;

(b) the percentage of the net asset value that is impaired;

(c) the total number of positions held in securities.

(2) Except with respect to mortgage lending, if a security comprises 10% or more of the issuer's net asset value, disclose the following with respect to the security:

(a) the percentage of net asset value represented;

(b) a description of the security;

(c) any security interest held against the security;

(d) the amount of any impairment assigned to the security.

(3) For any mortgage lending by the issuer, disclose the following:

(a) the average of the interest rates payable under the mortgages, weighted by the principal amount of the mortgages;

(b) the average of the terms to maturity of the mortgages, weighted by the principal amount of the mortgages;

(c) the average loan-to-value ratio of the mortgages, calculated for each mortgage by dividing the total principal amount of the issuer's mortgage and all other loans ranking in equal or greater priority to the issuer's mortgage by the fair market value of the property, weighted by the principal amount of each mortgage;

(d) the principal amount, and the percentage of the total principal amount of the mortgages, that rank in the following:

(i) first priority;

(ii) second priority;

(iii) third or lower priority;

(e) the principal amount, and the percentage of the total principal amount of the mortgages, that is attributable to each jurisdiction of Canada, each state or territory of the United States of America and each other foreign jurisdiction;

(f) a breakdown by property type, and the principal amount, and the percentage of the total principal amount of the mortgages, that is attributable to each property type;

(g) with respect to mortgages that will mature in less than one year of the date of the summary provided in subsection (1), the percentage that those mortgages represent of the total principal amount of the mortgages;



(h) with respect to mortgages with payments more than 90 days overdue, the number of those mortgages, the principal amount of those mortgages, and the percentage that those mortgages represent of the total principal amount of the mortgages;

(i) with respect to mortgages that have an impaired value, the principal amount, and the percentage that those mortgages represent of the total principal amount of the mortgages;

(j) for any mortgages that are not impaired or in default, but for which the issuer has made accommodations to respond to financial difficulties of the borrower, if the accommodations would be material to a reasonable investor, a summary of the accommodations, and the principal amount, and the percentage that those mortgages represent of the total principal amount of the mortgages;

(k) if known by the issuer, or if reasonably available to the issuer, the average credit score of the borrowers, weighted by the principal amount of the mortgages;

(l) if a mortgage comprises 10% or more of the total principal amount of the mortgages, disclose the following with respect to the mortgage:

(i) the principal amount, and the percentage of the total principal amount of the mortgages;

(ii) the interest rate payable;

(iii) the term to maturity;

(iv) the loan-to-value ratio, calculated by dividing the total principal amount of the issuer's mortgage and all other loans ranking in equal or greater priority to the issuer's mortgage by the fair market value of the property;

(v) whether the mortgage ranks in first, second, or third or lower priority;

(vi) the property type;

(vii) where the property is located;

(viii) any payment that is more than 90 days overdue;

(ix) any impairment of the mortgage;

(x) if known by the issuer, or if reasonably available to the issuer, the credit score of each borrower.

(4) If the issuer's portfolio includes self-liquidating financial assets other than mortgages, with respect to those assets, and for any subgroups identified in paragraph (1)(a), disclose the following:

(a) the collection rate for each of the issuer's two most recently completed financial years that ended more than 120 days before the date of the offering memorandum;

(b) the issuer's reasonably anticipated loss and collection rate for the current financial year.

### Instruction to Section 3

Calculate impairment in accordance with the accounting standards applicable to the issuer, and in a manner that is consistent with the disclosure in the issuer's financial statements.

**4. Portfolio Performance**

(1) For the 10 most recently completed financial years of the issuer ended more than 120 days before the date of the offering memorandum, provide performance data for the issuer's portfolio.

(2) Describe the methodology used with respect to the following:

(a) determining the value of the securities in the portfolio for the purposes of calculating the performance data;

(b) calculating the performance data of the portfolio.

**Instruction to Section 4**

The methodology described in paragraph (2)(a) must be the same as the methodology used in the issuer's financial statements.

**5. Ongoing Disclosure**

Describe any information that purchasers will receive on an ongoing basis about the issuer's portfolio. If none, state that fact.

**6. Conflicts of Interest**

Describe any conflicts of interest, including, for certainty, with respect to related parties, that a reasonable purchaser would need to be made aware of to make an informed investment decision."

5. Form 45-106F4 of the Regulation is amended:
- (1) by replacing the text preceding Schedule 1 by the following:

“FORM 45-106F4

RISK ACKNOWLEDGEMENT

**WARNING!**

**This investment is risky. Don’t invest unless you can afford to lose all the money you pay for this investment.**

| 1. Risks and other information   | Your Initials |
|--|---------------|
| The issuer must delete any rows required to be deleted   |               |
| The purchaser must initial each statement to confirm understanding   |               |
| <b>Risk of loss</b> – You could lose your entire investment of \$ _____. <i>[Instruction: Insert the total dollar amount of the investment.]</i>   |               |
| <b>No approval</b> – No securities regulatory authority or regulator has evaluated or approved the merits of these securities or the disclosure in the offering memorandum.  |               |
| <b>No registration</b> – The person selling you these securities is not registered with a securities regulatory authority or regulator and has no duty to tell you whether this investment is suitable for you. <i>[Instruction: Delete if sold by registrant]</i> |               |
| <b>Liquidity risk</b> – You will not be able to sell these securities except in very limited circumstances. You may never be able to sell these securities. <i>[Instruction: Delete if issuer is reporting]</i>  |               |
| <b>Repurchase</b> – You have a right to require the issuer to repurchase the securities, but there are limitations on this right. <i>[Instruction: Delete if inapplicable]</i>   |               |

|  |       |
|--|-------|
| <b>Four month hold</b> – You will not be able to sell these securities for four months. <i>[Instruction: Delete if issuer is not reporting or if the purchaser is a Manitoba resident]</i>   |       |
| <b>You are buying Exempt Market Securities</b><br><br>They are called <i>exempt market securities</i> because the issuer does not have to give you a prospectus (a document that describes the investment in detail and gives you some legal protections). <i>Exempt market securities</i> are more risky than other securities.   |       |
| <b>You will not receive advice</b> – <i>[Instruction: Delete if sold by registrant]</i><br><br>You will not get professional advice about whether the investment is suitable for you, but you can still seek that advice from a registered adviser or registered dealer. In Manitoba, Northwest Territories, Nunavut, Prince Edward Island and Yukon to qualify as an eligible investor, you may be required to obtain that advice.  |       |
| <b>The securities you are buying are not listed</b> <i>[Instruction: Delete if securities are listed or quoted]</i><br><br>The securities you are buying are not listed on any stock exchange, and they may never be listed.   |       |
| <b>The issuer of your securities is a non-reporting issuer</b> <i>[Instruction: Delete if issuer is reporting]</i><br><br>A <i>non-reporting issuer</i> does not have to publish financial information or notify the public of changes in its business. You may not receive ongoing information about this issuer.<br><br>For more information on the exempt market, contact your local securities regulator. You can find contact information at <a href="http://www.securities-administrators.ca">www.securities-administrators.ca</a> . |       |
| <b>Total investment</b> – You are investing \$ _____ <i>[Instruction: total consideration]</i> in total; this includes any amount you are obliged to pay in future. _____ <i>[Instruction: name of issuer]</i> will pay \$ _____ <i>[Instruction: amount of fee or commission]</i> of this to _____ <i>[Instruction: name of person selling the securities]</i> as a fee or commission.  |       |
| <b>Your name and signature</b>   |       |
| By signing this form, you confirm that you have read this form and you understand the risks of making this investment as identified in this form.  |       |
| First and last name (print):   |       |
| Signature:   | Date: |
| <i>[Instruction: Sign two copies of this document. Keep one copy for your records.]</i>  |       |

**2. Salesperson information**

Below information must be completed by the salesperson

*[Instruction: The salesperson is the person who meets with, or provides information to, the purchaser with respect to making this investment. That could include a representative of the issuer, a registrant or a person who is exempt from the registration requirement.]*

First and last name of salesperson (print):

Telephone:

Email:

Name of firm:

**3. Additional information**

The issuer must complete the required information in this section before giving the form to the purchaser

**You have two business days to cancel your purchase**

To do so, send a notice to [name of issuer] stating that you want to cancel your purchase. You must send the notice before midnight on the 2<sup>nd</sup> business day after you sign the agreement to purchase the securities. You can send the notice by fax or email or deliver it in person to [name of issuer] at its business address. Keep a copy of the notice for your records.

Issuer Name and Address:

Fax:

Email:

**You will receive an offering memorandum**

Read the offering memorandum carefully because it has important information about the issuer and its securities. Keep the offering memorandum because you have rights based on it. Talk to a lawyer for details about these rights.

”.

(2) by replacing “subsection 7.3(3)”, in the title of item B of Schedule 1 and item B of section 1 of Schedule 2, by “section 73.3”.

6. Form 45-106F18 of the Regulation is amended by striking out instruction 7.

**Transition**

7. Paragraphs (1), (4) and (5) of section 6.4 of the Regulation do not apply to an issuer in respect of an offering memorandum if both of the following apply:

(a) the date of the certificate required under paragraph (8) or (14.1) of section 2.9 of the Regulation is before 8 March 2023;

(b) the offering memorandum was prepared in accordance with the version of Form 45-106F2 in force on 7 March 2023.

**Effective date**

8. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

106145



## Draft Regulations

### Draft Regulation

Workers' Compensation Act  
(chapter A-3)

Act respecting industrial accidents  
and occupational diseases  
(chapter A-3.001)

#### **Designation of a specialized nurse practitioner as a health professional for the purposes of the Act respecting industrial accidents and occupational diseases and the Workers' Compensation Act**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to designate a specialized nurse practitioner as a health professional for the purposes of the Act respecting industrial accidents and occupational diseases and the Workers' Compensation Act, appearing below, may be made by the Commission des normes, de l'équité, de la santé et de la sécurité du travail and submitted to the Government for approval, in accordance with section 455 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001), on the expiry of 45 days following this publication.

The draft Regulation recognizes specialized nurse practitioners as health professionals within the meaning of those Acts. It also establishes the terms and conditions for the payment of services provided under those Acts by specialized nurse practitioners.

Additional revenues for private enterprises with specialized nurse practitioners that could take on industrial accident or occupational disease cases are estimated at approximately \$0.11 million per year.

Further information may be obtained by contacting Véronique Gagnon, strategic advisor and assistant, Direction générale de l'indemnisation et de la réadaptation, Commission des normes, de l'équité, de la santé et de la sécurité du travail, 1199 rue De Bleury, 8<sup>e</sup> étage, Montréal (Québec), H3B 3J1; telephone: 438-820-2044; email: veronique.gagnon@cnesst.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Claude Beauchamp, Vice-President for compensa-

tion and work reintegration, Commission des normes, de l'équité, de la santé et de la sécurité du travail, 1600, avenue d'Estimauville, Québec (Québec) G1H 0H7.

JULIE CERANTOLA

*General Secretary of the Commission des normes,  
de l'équité, de la santé et de la sécurité du travail*

#### **Regulation to designate a specialized nurse practitioner as a health professional for the purposes of the Act respecting industrial accidents and occupational diseases and the Workers' Compensation Act**

Act respecting industrial accidents  
and occupational diseases  
(chapter A-3.001, s.454, 1st par., subpar. 17, and 5th par.)

Workers' Compensation Act  
(chapter A-3, s.124, 1st par., subpar. c.1, and 2nd par.)

**1.** For the purposes of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) and the Workers' Compensation Act (chapter A-3), a specialized nurse practitioner within the meaning of the Nurses Act (chapter I-8) is a health professional.

**2.** The care and treatment provided by a specialized nurse practitioner who is an employee of an institution referred to in paragraph 2 of section 189 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) are covered by the standard agreement and the specific agreements made in accordance with section 195 of that Act.

**3.** The Commission pays directly to a specialized nurse practitioner who is not an employee of an institution referred to in paragraph 2 of section 189 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) or, where the specialized nurse practitioner is an employee of an employer, to the employer, the cost of the services provided according to the same terms and conditions as those provided for in the agreement made under section 195 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001).



To obtain a payment, the specialized nurse practitioner or, where the specialized nurse practitioner is an employee of an employer, the employer, must send an account to the Commission within 180 days after the service is provided.

**4.** The Commission publishes on its website the agreement respecting the cost of services that may be provided by specialized nurse practitioners.

**5.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

106160

## Draft Regulation

Professional Code  
(chapter C-26)

### Dentists

#### —Indemnity fund of the Ordre des dentistes du Québec

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the compensation fund of the Ordre des dentistes du Québec, made by the board of directors of the Ordre des dentistes du Québec and appearing below, is published as a draft and may be examined by the Office des professions du Québec then submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation establishes a compensation fund to compensate a claimant, in accordance with the compensation procedure of the Order, following the use of sums by a dentist for purposes other than those for which they were entrusted to the dentist in the practice of his or her profession.

The draft Regulation has no impact on the public or on enterprises, including small and medium-sized businesses.

Further information on the draft Regulation may be obtained by contacting Caroline Daoust, Director General and Secretary, Ordre des dentistes du Québec, 800, boulevard René-Lévesque Ouest, bureau 1640, Montréal (Québec) H3B 1X9; telephone: 514 875-8511 or 1 800 361-4887; email: Caroline.Daoust@odq.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Julie Adam, Acting Secretary, Office des professions du Québec, 800, place D'Youville,

10<sup>e</sup> étage, Québec (Québec) G1R 5Z3; email: secretariat@opq.gouv.qc.ca. The comments may be forwarded by the Office to the Minister Responsible for Government Administration and Chair of the Conseil du trésor and may also be sent to the Ordre des dentistes du Québec and to interested persons, departments and bodies.

JULIE ADAM

*Acting Secretary, Office des professions du Québec*

## Regulation respecting the indemnity fund of the Ordre des dentistes du Québec

Professional Code  
(chapter C-26, s. 89.1)

### DIVISION I

#### SETTING UP OF A COMPENSATION FUND

**1.** The board of directors of the Ordre des dentistes du Québec sets up a compensation fund to be used to compensate a claimant following the use by a dentist of funds for purposes other than those for which the claimant had entrusted them to the dentist under a regulation of the Order made under section 89 of the Professional Code (chapter C-26).

**2.** The compensation fund is maintained at a minimum amount of \$200,000.

It consists of

- (1) sums allocated to the fund by the board of directors;
- (2) assessments fixed for that purpose by the board of directors;
- (3) sums recovered from a dentist by subrogation pursuant to section 89.1 or 159 of the Professional Code (chapter C-26) following a payment made from the fund; and
- (4) income earned on the sums constituting the fund.

### DIVISION II

#### RULES FOR THE ADMINISTRATION AND INVESTMENT OF THE COMPENSATION FUND

**3.** The accounting for the fund must be kept separate from the accounting of the other funds of the Order.

**4.** The board of directors of the Order administers the fund and withdraws therefrom administration fees.

The sums constituting the fund are invested by the Order as follows:

(1) the portion of the sums the Order intends to use on a short-term basis is deposited in a financial institution governed by the Trust Companies and Savings Companies Act (chapter S-29.02), the Bank Act (S.C. 1991, c. 46), the Act respecting financial services cooperatives (chapter C-67.3) or the Trust and Loan Companies Act (S.C. 1991, c. 45) and whose deposits are covered by deposit insurance pursuant to the Canada Deposit Insurance Corporation Act (R.S.C. 1985, c. C-3) or guaranteed under the Deposit Institutions and Deposit Protection Act (chapter I-13.2.2);

(2) the other portion is constituted of investments presumed sound, within the meaning of article 1339 of the Civil Code.

#### **DIVISION III** **COMPENSATION FUND COMMITTEE**

**5.** The board of directors forms a committee charged with examining and deciding claims.

The committee is composed of at least 3 members, including 1 elected director and 1 director appointed by the Office des professions du Québec.

The board of directors designates the committee's chair, secretary, and, if necessary, an assistant secretary who performs the same duties as the secretary. The secretary and the assistant secretary are not members of the committee.

The quorum of the committee is a majority of its members.

**6.** Committee members remain in office at the end of their mandates until they are reappointed or replaced by the board of directors.

#### **DIVISION IV** **COMPENSATION PROCEDURE**

**7.** To be admissible, a claim must

(1) be sent by means of a sworn declaration signed by the claimant and addressed to the Order within 12 months of the claimant becoming aware that the funds have been used by the dentist for purposes other than those for which they were entrusted to the dentist;

(2) be accompanied by proof of the steps taken with the dentist to recover the funds;

(3) state the facts in support of the claim and be accompanied by all relevant documents; and

(4) indicate the amount claimed.

The period referred to in subparagraph 1 of the first paragraph may be extended by the committee if the claimant shows that, for a reason beyond the claimant's control, the claimant was unable to file the claim within that period.

**8.** A request made to the Order with regard to facts likely to give rise to a claim is deemed to be a claim if the request is filed within the period referred to in subparagraph 1 of the first paragraph of section 7.

The claim becomes admissible where the conditions set out in subparagraphs 2 to 4 of the first paragraph of section 7 are met.

**9.** The secretary of the Order sends every admissible claim to the committee and the dentist within 15 days following the date on which the claim becomes admissible.

**10.** Within 15 days preceding the date of the meeting during which the claim will be examined, the secretary of the Order notifies a notice to the dentist and the claimant informing them of the date of the meeting and of their right to make representations.

**11.** Within 90 days from the date on which the claim was sent to the committee, the committee decides whether it is expedient to accept the claim, in whole or in part. Where applicable, the committee determines the amount of the compensation.

The committee's substantiated decision is final. It is notified to the claimant and the dentist without delay.

**12.** The maximum compensation payable from the fund that may be paid for the period covering the fiscal year of the Order is

- (1) \$10,000 for a claim concerning a dentist;
- (2) \$50,000 for all claims concerning a dentist; and
- (3) \$200,000 for all claims.

Where all the claims filed for the period covering the fiscal year of the Order exceeds \$200,000, the amount paid to each claimant is paid in proportion to the amount of each claim.

**13.** Where the board of directors believes that a number of claims may be filed in respect of a dentist and that the total of the claims may exceed \$50,000, the board of directors must suspend the payment of compensations until it has reviewed all claims in respect of the dentist.

If the circumstances allow it, the board of directors must draw an inventory of the sums received by the dentist and notify in writing the persons likely to file a claim of the possibility of doing so.

**14.** Where the claimant is in a vulnerable situation, in particular because of age, physical or psychological state or social condition, the committee may, exceptionally and after having obtained the approval of the board of directors, fix a compensation amount greater than that provided for in section 12.

## **DIVISION V FINAL**

**15.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

106144

## **Draft Regulation**

Act respecting the protection of personal information in the private sector  
(chapter P-39.1)

Act to modernize legislative provisions as regards the protection of personal information  
(2021, chapter 25)

### **Payment of a recovery charge for a monetary administrative penalty**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the payment of a recovery charge for a monetary administrative penalty, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The Act to modernize legislative provisions as regards the protection of personal information (2021, chapter 25), assented to on 22 September 2021, introduces subdivision 4.1 entitled Monetary administrative penalties in Division VII of the Act respecting the protection of personal information in the private sector (chapter P-39.1). That subdivision, which comes into force on 22 September 2023, provides for the possibility to impose monetary administrative penalties and sets out the terms for recovering and claiming the amounts owing. The draft Regulation determines the cases in which and the con-

ditions under which a debtor of a monetary administrative penalty imposed under the Act respecting the protection of personal information in the private sector is required to pay a recovery charge. The draft Regulation also sets the amount of the charges.

The draft Regulation has no financial impact on enterprises. Only enterprises that do not pay their monetary administrative penalty following non-compliance with a requirement of the Act respecting the protection of personal information in the private sector could have to pay the recovery charges provided for in the Regulation. The draft Regulation has no impact on the public.

Further information on the draft Regulation may be obtained by contacting Christian Duquette, lawyer, Secrétariat à la réforme des institutions démocratiques, à l'accès à l'information et à la laïcité, Ministère du Conseil exécutif, 875, Grande Allée Est, bureau 3.263, Québec (Québec) G1R 4Y8; email: christian.duquette@mce.gouv.qc.ca; telephone: 418 528-8024, extension 5140.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Julie Samuël, Director, Direction de l'accès à l'information et de la protection des renseignements personnels, Secrétariat à la réforme des institutions démocratiques, à l'accès à l'information et à la laïcité, Ministère du Conseil exécutif, 875 Grande Allée Est, bureau 3.265, Québec (Québec) G1R 4Y8; email: daiprp@mce.gouv.qc.ca; telephone: 418 528-8024, extension 1241.

JEAN-FRANÇOIS ROBERGE

*Minister Responsible for Access to Information  
and the Protection of Personal Information*

## **Regulation respecting the payment of a recovery charge for a monetary administrative penalty**

Act respecting the protection of personal information in the private sector  
(chapter P-39.1, s. 90, 1st par., subpar. 3.3)

Act to modernize legislative provisions as regards the protection of personal information  
(2021, chapter 25, s. 158)

## **DIVISION I SCOPE**

**1.** This Regulation applies to a debtor who, following an enforceable decision that states the debtor's debt pursuant to section 90.16 of the Act respecting the protection of personal information in the private sector (chapter P-39.1), is required, in accordance with section 90.17 of the Act, to pay a recovery charge for a monetary administrative penalty.

## **DIVISION II**

### **RECOVERY CHARGES**

**2.** The debtor of a recoverable amount is required to pay the following recovery charges:

(1) \$50 for a recovery certificate filed pursuant to section 90.16 of the Act;

(2) \$175 for each measure to secure a claim taken under Title Three of Book Six of the Civil Code and for each execution measure taken under Book VIII of the Code of Civil Procedure (chapter C-25.01).

The charges form part of the recoverable amount.

## **DIVISION III**

### **FINAL**

**3.** This Regulation comes into force on 22 September 2023.

106148

## **Draft Regulation**

Act to modernize the occupational health and safety regime  
(2021, chapter 27)

Act respecting occupational health and safety  
(chapter S-2.1)

### **Registration, travel and accommodation expenses of training programs on prevention mechanisms specific to construction sites**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting registration, travel and accommodation expenses of training programs on prevention mechanisms specific to construction sites, appearing below, may be made by the Commission des normes, de l'équité, de la santé et de la sécurité du travail and submitted to the Government for approval, in accordance with section 224 of the Act respecting occupational health and safety (chapter S-2.1) on the expiry of 45 days following this publication.

The draft Regulation essentially provides the terms and conditions for the registration, travel and accommodation expenses that must be borne by the Commission pursuant to the amendments made by the Act to modernize the occupational health and safety regime (2021, chapter 27), which also enacts the Regulation respecting prevention mechanisms specific to construction sites, whose provisions concerning the obligation to participate in such training and obtain a certificate come into force on 1 January 2024.

The draft Regulation provides in particular that registration expenses for the training will be paid directly to instructors for persons designated in accordance with the Act to modernize the occupational health and safety regime or reimbursed to persons who are designated within 12 months of obtaining their certificate.

The draft Regulation also determines the indemnities for travel and accommodation expenses, where applicable, to which a person who has undergone the training is entitled according to the conditions provided for therein, as well as the terms and conditions for payment. The annual reevaluation of those indemnities is also provided for in the draft Regulation.

Study of the matter shows that the draft Regulation will have no financial impact on enterprises in Québec.

Further information on the draft Regulation may be obtained by contacting Marie-Josée Gravel, Commission des normes, de l'équité, de la santé et de la sécurité du travail, 1199, rue De Bleury, Montréal (Québec) H3B 3J1; telephone: 514 906-3010, extension 2142; email: marie-josee.gravel@cnesst.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Mohamed Aiyar, Vice President, Prevention, Commission des normes, de l'équité, de la santé et de la sécurité du travail, 1600, avenue D'Estimauville, Québec (Québec) G1J 0H7.

JULIE CERANTOLA

*Secretary General of the Commission des normes, de l'équité, de la santé et de la sécurité du travail*

## **Regulation respecting registration, travel and accommodation expenses of training programs on prevention mechanisms specific to construction sites**

Act to modernize the occupational health and safety regime  
(2021, chapter 27, ss. 224, 230, 232, 233, 241 and 308)

Act respecting occupational health and safety  
(chapter S-2.1, ss. 211 and 223, 1st par., subpar. 42)

## **DIVISION I**

### **SCOPE**

**1.** The standards set out in this Regulation apply to a person who must participate in a training program to obtain a certificate referred to in the Regulation respecting prevention mechanisms specific to construction sites (Act to modernize the occupational health and

safety regime, 2021, chapter 27, s. 243) by reason of that person's designation to exercise functions relating to prevention mechanisms on a construction site.

## **DIVISION II**

### **REGISTRATION EXPENSES**

**2.** The registration expenses to participate in a training program are borne by the Commission where a person shows within the scope of the registration, by providing a document from a principal contractor or a representative association, as the case may be, that he or she was designated on a construction site in accordance with the Act to exercise the functions relating to the program, and provided that the person obtains the certificate. In such a case, the Commission pays the expenses directly to the instructors according to the terms and conditions agreed on by them for the purpose of carrying out the training.

## **DIVISION III**

### **TRAVEL AND ACCOMODATION EXPENSES**

**3.** The following indemnities are granted to a person when the training program or a part of that program is not offered remotely and requires the person's presence at a place of training located outside the usual work place:

(1) \$0.590 per km for transportation expenses according to the shortest road distance between the person's domicile and the place of training for each day that travel is required between the two places to participate in the training;

(2) \$61.15 per day of training for meal expenses;

(3) \$15 per day of training for parking expenses.

**4.** In addition to the entitlement to indemnities provided for in section 3, a person is entitled to the following indemnities when the place of training is situated more than 120 km from the person's domicile:

(1) \$151 for each day requiring lodging to participate in the training where the lodging is required between 1 November and 31 May or \$166 where the lodging is required between 1 June and 31 October;

(2) \$7.75 for each day with an overnight stay;

(3) an indemnity corresponding to 10 km for each day of training, according to the rates set out in paragraph 1 of section 3, for travel between the place of lodging and the place of training.

However, if the place of training is more than 320 km from the place of domicile, the person is entitled to the indemnities in paragraphs 1 and 2 for an additional day.

## **DIVISION IV**

### **PAYMENT OF INDEMNITIES**

**5.** To be entitled to the payment of the indemnities provided for in this Regulation, a person who has followed a training program must, within 12 months of the issue of the training certificate, file an application by completing the form made available by the Commission on its website, supported by a document from a principal contractor or a representative association, as the case may be, showing that the person was designated on a construction site to exercise the functions relating to the program followed, as well as the certificate obtained.

The person must keep the supporting documents for the expenses incurred allowing the Commission to verify that the person meets the requirements of this Regulation for a period of 12 months from the moment the application is filed.

**6.** Within the scope of the application provided for in section 5, the Commission may, on presentation of the reasons and supporting documents, grant an additional amount to the indemnities provided for in Division III because of exceptional circumstances, in particular where the length of the journey or poor road conditions make the use of transportation on the required day of travel inadequate or dangerous.

**7.** Despite sections 1 and 2, a person who is admitted to a training program but has not been designated on a construction site to exercise the functions relating to that program at the time of registration may obtain the reimbursement by the Commission of the registration expenses incurred, as well as the payment of the indemnities provided for in Division III, where applicable, if the person shows that he or she was designated on a construction site in accordance with the Act within a period of 12 months of the issue of the training certificate.

The person who followed that training program within the scope of a more general program leading to a secondary school, college or university diploma is not entitled to the indemnities provided for in Division III, but may obtain the reimbursement of the registration expenses relating to the component of the training that led to the certificate.



A person referred to in this section must file an application according to section 5 that is also supported by the receipt for the registration expenses incurred that was issued by the instructor.

**8.** The indemnities provided for in paragraphs 1 and 2 of section 3 and section 4 are revalorized according to the amendments that the Conseil du trésor may make to the Règles sur les frais de déplacement des fonctionnaires concerning indemnities for kilometrage up to 8,000 km, meal expenses for each full day away and hotel lodging expenses for Ville de Montréal. However, for the application of this Regulation, such amendments will have effect only from the 1 January that follows their adoption by the Conseil du trésor and be applicable only with respect to the expenses incurred as of that date.

The indemnity provided for in paragraph 3 of section 3 is revalorized on 1 January of every year according to the method provided for sections 119 to 123 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001).

The Commission publishes the revalorized amounts in Part 1 of the *Gazette officielle du Québec*.

## **DIVISION V**

### **FINAL**

**9.** This Regulation comes into force on 1 January 2024.

106159

## **Draft Regulation**

Unclaimed Property Act  
(chapter B-5.1)

### **Application of the Unclaimed Property Act —Amendment**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the draft Regulation to amend the Regulation respecting the application of the Unclaimed Property Act, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation amends certain rules applicable to the provisional administration of unclaimed property. The amendments concern mainly,

—the information that may be required to establish whether property is subject to the Unclaimed Property Act (chapter B-5.1);

—the rules relating to the calculation of the sums payable under a public retirement plan that are considered to be unclaimed property;

—the information that the register of property under provisional administration contains;

—the fees that may be charged for the liquidation of financial products;

—the indexation of the fees that may be charged for the administration of property.

Further information on the draft Regulation may be obtained by contacting Johanne Forget, Senior Director, Direction principale de la rédaction des lois, Agence du revenu du Québec, 3800, rue de Marly, Québec (Québec) G1X 4A5; telephone: 418 652-6838; email: johanne.forget@revenuquebec.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Christyne Tremblay, President and Chief Executive Officer, Agence du revenu du Québec, 3800, rue de Marly, Québec (Québec) G1X 4A5. The comments will be forwarded by the Agence du revenu du Québec to the Minister of Finance.

ERIC GIRARD  
*Minister of Finance*

## **Regulation to amend the Regulation respecting the application of the Unclaimed Property Act**

Unclaimed Property Act  
(chapter B-5.1, s. 2, 2nd par., s. 3, 3rd par.,  
s. 18, 2nd par. and s. 56, 1st par.)

**1.** The Regulation respecting the application of the Unclaimed Property Act (chapter B-5.1, r. 1) is amended in section 1

(1) by replacing “the death certificate, if applicable” in paragraph 7 by “, if applicable, the death certificate or a copy of an act of death, issued by the registrar of civil status”;

(2) by replacing “it was impossible to identify or to find the owner or other right-holder” in paragraph 11 by “the owner or other right-holder could not be identified or found by reasonable means”.

**2.** Section 2 is amended by replacing “the death certificate of the deceased” in paragraph 4 by “a copy of an act of death or the death certificate of the deceased, issued by the registrar of civil status”.

**3.** Section 3 is amended

## (1) in the first paragraph

(a) by inserting “other than a retirement plan administered by Retraite Québec and referred to in section 4 of the Act respecting Retraite Québec (chapter R-26.3),” after “established by an Act in force in Québec,” in the portion before subparagraph *a* of subparagraph 1;

## (b) by inserting the following after subparagraph 1:

“(1.1) in the case of a retirement plan administered by Retraite Québec and referred to in section 4 of the Act respecting Retraite Québec,

(a) where the benefit is a pension, to the total of the following sums:

i. the value, on the date of the delivery, of the arrears and interest accrued, calculated in accordance with section 151 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10);

ii. the residual value of the pension, established on the date of the delivery and in accordance with the actuarial assumptions and methods referred to in section 79 of the Act respecting the Government and Public Employees Retirement Plan, taking into account the demographic assumptions applicable to the plan or, failing that, the demographic assumptions used in the most recent actuarial valuation of the plan that is available on the 31 December preceding the date of the delivery, except, in both cases, for the assumptions relating to mortality rates and the age of retirement;

(b) in other cases, to the value of the benefits accrued under the plan on the date of the delivery;”;

## (2) by striking out the second paragraph;

## (3) by replacing the fourth paragraph by the following:

“In case of a claim made to the Minister for sums referred to in the first paragraph that were delivered and initially came from a pension plan governed by the Supplemental Pension Plans Act (chapter R-15.1) or a retirement plan administered by Retraite Québec and referred to in section 4 of the Act respecting Retraite Québec, the rules applicable to a locked-in pension account under section 29 of the Regulation respecting supplemental pension plans (chapter R-15.1, r. 6) apply to the payment of the balance of the sum still locked-in at the time of the claim and delivered, with the necessary modifications.”.

**4.** Section 6 is amended

## (1) in the first paragraph

(a) by striking out subparagraph 5;

(b) by inserting “at the end of the administration” after “or succession” in subparagraph 7;

## (2) by replacing the second paragraph by the following:

“Despite the first paragraph, no information concerning property or a succession is entered in the register if

(1) the information provided with regard to the property or succession is insufficient to allow for delivery to its owner or right-holder;

(2) the owner or right-holder has indicated a refusal to recover the property or succession or its value;

(3) the amount of the fees, including taxes applicable, is equal to or greater than the net value of the property or succession.”.

**5.** Schedule I is amended by replacing “15%” and “\$5,624” in paragraph 2 of section 2 by “10%” and “\$1,124”, respectively.

**6.** Schedule I is amended by inserting the following after section 4:

“**4.1.** The fees prescribed in sections 1 to 4 are adjusted on 1 April of each year on the basis of the rate of increase in the general Consumer Price Index for Canada for the period ending on 31 December of the preceding year, as determined by Statistics Canada under the Statistics Act (Revised Statutes of Canada, 1985, chapter S-19).

Once adjusted, the fees are reduced to the nearest dollar where they include a dollar fraction under \$0.50; they are increased to the nearest dollar where they include a dollar fraction equal to or over \$0.50.

The fee adjustment has effect from 1 April.

The Minister informs the public of the annual adjustment by way of a notice published in the *Gazette officielle du Québec* or by such other means as the Minister considers appropriate.”.

**7.** Paragraphs 1 and 2 of section 3 apply to a delivery made after 31 December 2023 and section 6 applies from 1 April of the calendar year following the calendar year that includes the date of coming into force of this Regulation.

**8.** This Regulation comes into force 15 days after the date of its publication in the *Gazette officielle du Québec*.

106157



