

Gouvernement du Québec

O.C. 30-96, 10 January 1996

Securities Act
(R.S.Q., c. V-1.1)

Securities
— **Amendments**

Regulation to amend the Regulation respecting securities

WHEREAS under the Securities Act, the Government may make regulations for the application of the Act;

WHEREAS in accordance with the Act, the Government made, by Order in Council 660-83 dated 30 March 1983, the Regulation respecting securities;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a Draft of the Regulation to amend the Regulation respecting securities was published in Part 2 of the *Gazette officielle du Québec* dated 16 August 1995, with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS in accordance with the Securities Act, the Draft Regulation was also published in the Bulletin de la Commission of 4 August 1995;

WHEREAS it is expedient to make the Draft Regulation published on 16 August 1995, with amendments;

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

THAT the Regulation to amend the Regulation respecting securities, attached to this Order in Council, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting securities

Securities Act
(R.S.Q., c. V-1.1, ss. 48.1, 81, 150 and 232,
and s. 331, pars. 1, 3, 6, 9, 21.1, 23, 27 and 27.1)

1. The Regulation respecting securities, made by Order in Council 660-83 of March 30, 1983 and amended by the Regulations made by Orders in Council 1758-84 of August 8, 1984, 1263-85 of June 26, 1985, 697-87 of

May 6, 1987, 977-88 of June 22, 1988, 1493-89 of September 13, 1989, 1622-90 of November 21, 1990, 680-92 of May 6, 1992, 980-92 of June 30, 1992, 1145-92 of August 5, 1992, 226-93 of February 24, 1993 and 1346-93 of September 22, 1993 is again amended by striking out in section 13 the figures “66, 67, 69”.

2. Sections 70.4 and 70.5 are revoked.

3. Section 137 is amended by adding, at the end, the words “directly related to exploration activities”.

4. The Regulation is amended by inserting, after section 98, the following:

“**98.1** In the case of a medium term notes program distribution, a report containing a summary of pricing supplements must be filed with the Commission at the end of each of two twelve month periods following the date of receipt of the preliminary shelf prospectus.

The report shall include the following information: the supplement number, the distribution date, the gross value and the interest rate of the notes.”.

5. Section 139 is revoked.

6. Section 188 is revoked.

7. Section 189.1.2 of the Regulation is amended by striking out, in the first paragraph, the figure “121”.

8. The Regulation is amended by inserting, after section 191, the following:

“**191.1** The introducing broker who solicits orders from his clients in order to have those orders executed on a stock exchange or on the over-the-counter market by a carrying broker shall apply for registration as a dealer with an unrestricted practice.

191.2 A person who intends to limit his activity as a dealer to that which is permitted at an International Financial Centre as prescribed by the Regulation respecting the Taxation Act (R.R.Q., 1981, c. I-3, r. 1) shall apply for registration as a dealer with an unrestricted practice.”.

9. Section 192 is amended:

(1) by striking out, in subparagraph (4) of the first paragraph, the words “offering research services with respect to investment or”;

(2) by substituting the following for the second paragraph:

“The dealer with a restricted practice, except for the ones in the categories provided for in subparagraphs 6 and 7, must always present himself using the specific designation of the category to which he belongs, in particular in printed documents and in advertising.”

10. The Regulation is amended by inserting, after section 193, the following:

“**193.1** A person who intends to limit his activity as adviser to that which is permitted at an International Financial Centre as prescribed by the Regulation respecting the Taxation Act (R.R.Q., 1981, c. I-3, r. 1) must apply for registration as an unrestricted practice adviser.”

11. The Regulation is amended by inserting, after section 197, the following:

“**197.1** The representative who carries on business as a discount broker, as a mutual fund dealer, as an investment contract dealer or as a scholarship plan dealer must always present himself as a representative and mention the category to which he belongs.”

12. Section 200 is amended by adding, at the end, the following paragraph:

“The suspension is lifted when the fees are paid to the Commission.”

13. Section 201 is amended by deleting the third paragraph.

14. The Regulation is amended by inserting, after section 201, the following:

“**201.1** The Commission may automatically cancel a registration of a dealer or an adviser when the period of suspension exceeds one year.”

15. Section 205 is amended by substituting the following for the second paragraph:

“In addition, a person who wishes to carry out the duties of a senior executive must possess the knowledge and experience which, in the opinion of the Commission, would adequately prepare him for his duties.”

16. The following is substituted for section 207:

“**207.** A dealer with an unrestricted practice or a discount broker must possess a minimum capital of \$250 000.

An introducing broker must possess a minimum capital of \$75 000.

A dealer with an unrestricted practice or a discount broker must possess a risk adjusted capital, which is not less than zero, calculated according to the method prescribed by The Montreal Exchange. The deductible under the insurance policy or the bonding prescribed by section 213 must be included.”

17. Section 208 is amended:

(1) by inserting, in the first paragraph, after the words “discount dealer” the words “the security issuer or the independent trader”;

(2) by deleting the second paragraph.

18. The following is substituted for section 212:

“**212.** A dealer or an adviser may, with the authorization of the Commission, borrow funds that will be included in its risk adjusted capital, its net free capital or its working capital, provided that their repayment is subordinated to the repayment of other creditors, and fills in the form prescribed by the policy statements of the Commission.”

19. Section 220 is amended by substituting the following for the first paragraph:

“A dealer or adviser must keep the accounting books and registers necessary for its activities and must retain them for a period of at least five years, except for the opening of account form which must be retained for a period of at least five years from the closing of the account.”

20. Section 222 is amended:

(1) by adding, in paragraph 6, the following subparagraphs:

“(e) the opening account form and its updates;

(f) the document required at the time of the opening of an account by a dealer authorized to act as a financial planner;

(g) the form “Declaration of Funds” used for important cash transactions;”;

(2) by substituting the following for paragraph 9:

“(9) a monthly trial balance and a monthly computation of the risk adjusted capital or net free capital;”;

(3) by adding, after paragraph 10, the following:

“(11) a register of commission sharing where the following information is recorded with respect to each share: the identity of those sharing the commission with their address and industry segment, the object and date of the transaction, the identity of the persons who are parties thereto, the percentage of the commission or its amount and the way it is allocated between those sharing it.”.

21. Section 224 is amended:

(1) by substituting the following for paragraph 3:

“(3) a file for each customer containing:

(a) the opening account form;

(b) management contracts made with its customers;

(c) the document required at the time of the opening of an account by a dealer authorized to act as a financial planner.

(d) the form “Declaration of Funds” used for important cash transactions;

(e) options or futures trading agreement.”;

(2) by adding, after paragraph 5, the following:

“(6) books and registers showing in detail all the assets and liabilities, proceeds and expenses as well as capital;

(7) a monthly trial balance and a monthly computation of working capital.”.

22. The Regulation is amended by inserting, after section 224, the following:

“**224.1** The dealer or the adviser keeps a complaints register which includes the following information:

(1) the date of the complaint;

(2) the plaintiff’s name;

(3) the name of the person who is the object of the complaint;

(4) the security or services which are the object of the complaint;

(5) the date and conclusions of the decision rendered in connection with the complaint.

224.2 The dealer or the adviser shall establish in writing rules of internal control allowing the senior executive in charge of the principal place of business in Québec to:

(1) oversee the opening and management of clients’ accounts;

(2) supervise representatives and office staff;

(3) ensure compliance with the Act, the Regulation, the policy statements of the Commission and the rules of the self-regulatory organization of which it is a member.

224.3 The introducing broker with a head office in Québec is exempted from the obligations under paragraphs 1, 2, 3, 5 and 7 of section 222, which are incumbent upon the carrying broker.

224.4 The introducing broker with a head office outside Québec is exempted from the obligations under paragraph 5 of section 222 and paragraphs 1 and 2 of section 223, which are incumbent upon the carrying broker.”.

23. Section 225 is amended by inserting, after paragraph 4, the following paragraph:

“(5) change in the ending date of a financial year.”.

24. Section 227 is amended by inserting, in the introductory paragraph of the section, after the word “representative”, the words “or an officer”.

25. Section 232 is amended by substituting, in the first paragraph, the words “a dealer or an adviser” for the words “a dealer in any category or an adviser with an unrestricted practice”.

26. The Regulation is amended by inserting, after section 236.3, the following:

“**236.4** Any portfolio management agreement entered into between a client and a dealer or adviser with an unrestricted practice:

(1) shall contain a clause stipulating that the client retains the right to cancel the agreement at any time;

(2) shall indicate the name of the custodian responsible for the safekeeping of securities and cash belonging to the client and, in the case of a third party, the address.”.

27. Section 237.1 is amended by adding the following paragraph at the end:

“This prohibition does not apply to recommendations made by a firm underwriter or a principal best effort underwriter when the provisions of sections 236.1 or 236.2 are otherwise respected.”.

28. Section 239 is amended by striking out the word “audited”.

29. Section 267 of the Regulation is amended:

(1) by substituting, in paragraph 1, the figure “\$5 000” for the figure “\$2 000”;

(2) by adding, at the end of subparagraph *c* of paragraph 6, the words “or, if the offering memorandum is not required, at the time of filing the information prescribed by section 107;”;

(3) by adding, after paragraph 10, the following:

“(11) at the time of filing an escrow agreement, \$500.”.

30. The following is substituted for section 268:

“**268.** As a departure from the requirements of paragraph 3 of section 267:

(1) in the case of a continuous distribution, except in the case of the distribution of medium term notes, the fee to be paid at the time of filing the prospectus in its final form is equal to the amount by which 0.04 % of the gross value of the securities distributed in Québec during the last financial year exceeds \$1 000 or \$5 000 in the case of a money market fund.

However, in the case of a money market fund, the calculation of the fees is made pursuant to the net distribution, that is the purchases less the redemptions.

In the case where an issuer decides not to file a new prospectus, the fees payable with respect to securities distributed during the last financial year are paid at the time of filing the report prescribed in section 98.

(2) in the case of a medium term notes program distribution, the fee is equal to 0.04 % of the value of the notes distributed where the distribution takes place only in Québec and in other cases to 0.04 % of 25 % of the value of the notes distributed in Canada.

The fees shall be paid at the time of filing the report prescribed in section 98.1.

The total fees paid shall be equal to the amount exceeding the \$5 000 paid at the time of filing the preliminary shelf prospectus.”.

31. The Regulation is amended by inserting, after section 268, the following:

“**268.1** As a departure from the requirements of paragraph 3 of section 267, in the case of a distribution of units comprised of securities that give the right to receive distributions and to benefit from all other attributes of ownership of an underlying security and securities that give the right to benefit from the potential capital appreciation of an underlying security, the fee to be paid at the time of filing the report prescribed by section 94 is equal to the amount by which 0.004 % of the value of the securities distributed in Québec exceeds \$1 000.”.

32. The Regulation is amended by substituting the following for section 270:

“**270.** The fees payable under paragraphs 1, 3, 6 and 8 of section 267 with respect to the issuing by a savings and credit union of permanent shares referred to in section 73 of the Savings and Credit Unions Act (R.S.Q., c. C-4.1) shall be determined on the following basis:

(1) distributions of permanent shares or, as the case may be, amendments to prospectuses, are deemed to constitute a single distribution or, as the case may be, a single amendment, if carried out simultaneously or within the context of a similar operation during a period not exceeding twelve months by savings and credit unions affiliated with a federation belonging to a confederation;

(2) the confederation is deemed to be the person intending to carry out the distribution of the aggregate value of the shares thereby distributed by these savings and credit unions.”.

33. Section 271.1 is amended by substituting “3, 5 or 8” for “3 or 8”.

34. Section 271.2 is amended by adding, after paragraph 8, the following:

“(9) at the time of filing a copy of the press release pursuant to section 73 of the Act, \$100.”.

35. Section 271.4 is amended by inserting, in subparagraph *b* of paragraph 1, the words “in Canada” after the word “offered”.

36. The Regulation is amended by inserting, after section 271.4, the following:

“**271.4.1** A fee of \$1 000 is payable by the offeror at the time of filing the documents prescribed in subparagraph 3 of the first paragraph of section 121 of the Act.”.

37. Section 271.5 of the Regulation is amended:

(1) by substituting, in subparagraph *a* of paragraph 2, the figure “\$150” for the figure “\$100”;

(2) by substituting, in subparagraph *b* of paragraph 3, the words “who ceased their activity” for the words “whose rights granted by registration are suspended”;

(3) by adding, after subparagraph *b* of paragraph 3, the following:

“(c) \$75 for each establishment, an establishment being a location where a registered dealer carries on its activities.”;

(4) by substituting, in subparagraph *b* of paragraph 4, the words “who ceased their activity” for the words “whose rights granted by registration are suspended”;

(5) by adding, after subparagraph *b* of paragraph 4, the following:

“(c) \$75 for each establishment, an establishment being a location where a registered dealer carries on its activities.”;

(6) by substituting, in subparagraph *b* of paragraph 5, the words “who ceased their activity” for the words “whose rights granted by registration are suspended”;

(7) by striking out, in paragraph 7, the number “4”;

(8) by substituting the following for paragraph 8:

“(8) with respect to the preparation of an inspection, the inspection itself and the follow-up of the recommendations, \$85 per hour per inspector within 30 days from the date of the statement of fees.”;

(9) by adding, after paragraph 8, the following:

“(9) at the time of filing the notice, prescribed in section 202, by a dealer which is not a member of a self-regulatory organization to which the Commission has delegated the provisions concerning the registration of representatives, or by an adviser, to the effect that it has hired a representative, \$50;

(10) at the time of filing, by a representative of a dealer with a restricted practice, an application pursuant to section 202 to move to a dealer with an unrestricted practice or to a dealer with a restricted practice of another category, \$125;

(11) at the time of filing the notice prescribed by paragraph 4 of section 228, \$500.”;

(10) by substituting the following for the last paragraph:

“The total capital represents the aggregate of the amounts shown in line total capital of Statement A, and in line standby subordinated loan of Statement B of the Joint Regulatory Financial Questionnaire and Report adopted by self-regulatory organizations.”.

38. The Regulation is amended by inserting, after section 271.5, the following:

“**271.5.1** A fee of \$85 per hour per inspector is payable by any investment fund incorporated or organized under an Act that provides for an inspection by the Commission, within 30 days of the date of the statement of fees regarding the preparation of the inspection, the inspection itself and the follow-up of the recommendations.”.

39. Section 271.7 is amended:

(1) by striking out, in the second paragraph, after the word “if” the words “the address of”;

(2) by substituting the following for the fourth paragraph:

“The monies are remitted to the Commission within a delay of 30 days after March 31, June 30, September 30 and December 31 of each year. The monies are deposited in a trust account when they exceed \$1 000. Interest earned may be kept by the dealer.”;

(3) by striking out, in the fifth paragraph, the words “accumulated in the account”.

40. Section 271.8 of the Regulation is amended:

(1) by inserting, after paragraph 2, the following:

“(2.1) a trade in debt security issued or guaranteed by a foreign country or by a political subdivision of a foreign country;

(2.2) a trade in debt security issued or guaranteed by a trust company licensed under the Act respecting trust companies and savings companies (R.S.Q., c. S-29.01) or by an insurance company licensed under the Act respecting insurance (R.S.Q., c. A-32)”;

(2) by substituting the following for paragraph 3:

“(3) a trade in debt security which has a maturity date of not more than 365 days from its issue;”;

(3) by striking out, in paragraph 6, the following words “including redemption by a mutual fund of its own securities”;

(4) by adding, after paragraph 6, the following:

“(7) the redemption, or any other purchase, by an issuer of securities issued by it, as well as the sale of securities so redeemed or purchased.”.

41. The Regulation is amended by adding, after section 271.8, the following:

“**271.9** For the purpose of calculating the fees prescribed in section 271.7, all purchases of securities of the same class or series of an issuer, made by a dealer as principal on the same day, shall be deemed to be a single purchase and the same rule applies to sales.

271.10 For the purpose of calculating the fees prescribed in section 271.7, all purchases of securities of the same class or series of an issuer, made by a dealer as agent on the same day and pursuant to one purchase order, shall be deemed to be a single purchase and the same rule applies to sales.”.

42. Section 283 is amended by substituting, in paragraph 1, the word “net” for the word “total”.

43. Schedule I is amended by substituting the figure “164” for “160” in the last subparagraph of paragraph “4. Other remuneration” of Item 22.

44. Schedule IV is amended by substituting the references to “paragraphs 1 and 2 of section 164 or of section 165 or 166” for the references “paragraphs 1 and 2 of section 160 or of section 161 or 162” in Item 9.1.

45. Schedule VI is amended by substituting the figure “164” for “160” in the last subparagraph of paragraph “4. Other remuneration” of Item 10.

46. Schedule VIII is amended by replacing, in the last paragraph of section 4 entitled “Other remuneration” in Item 6, the number “160” by the number “164”.

47. Schedule XV is amended by striking out, in the title, the word “audited”.

48. Schedule XVI to the Regulation is amended by substituting, in the first paragraph of Item 11, the words “offering memorandum” for the word “prospectus”.

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

9551

Gouvernement du Québec

O.C. 35-96, 10 January 1996

Taxation Act
(R.S.Q., c. I-3)

Regulation — Amendments

Regulation to amend the Regulation respecting the Taxation Act

WHEREAS under subparagraph *f* of the first paragraph of section 1086 of the Taxation Act (R.S.Q., c. I-3), the Government may make regulations to generally prescribe the measures required for the application of the Act;

WHEREAS the Regulation respecting the Taxation Act (R.R.Q., 1981, c. I-3, r. 1) was made under that Act;

WHEREAS the Taxation Act was amended by Chapter 77 of the Statutes of 1989 and by Chapter 59 of the Statutes of 1990 in order to implement fiscal measures announced on 30 April 1987, 18 December 1987, 12 May 1988, 30 June 1988 and 19 December 1989 by the Minister of Finance in Budget Speeches, in Minister’s Statements and in a press release;

WHEREAS it is expedient to amend the Regulation respecting the Taxation Act, principally in order to implement those fiscal measures of the Gouvernement du Québec;

WHEREAS under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made without prior publication as provided for in section 8 of that Act if the authority making it is of the opinion that the fiscal nature of the norms established, amended or repealed therein warrants it;

WHEREAS under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the fiscal nature of the norms established, amended or repealed therein warrants it;