

A member may not allow a partnership or company that does not comply with the requirements of the Regulation respecting the practice of the chartered accountancy profession within a partnership or a joint stock company to use the Ordre's graphic symbol.

CHAPTER VII FIRM NAME

76. A member shall not carry on his profession within a partnership or company under a firm name or any other name or designation which is misleading, derogatory to the honour or dignity of the profession or is a numbered name.

A member may consult an advisor designated for this purpose by the Ordre to determine whether the use of a name or designation is in keeping with the honour or dignity of the profession.

CHAPTER VIII FINAL PROVISIONS

77. This Regulation replaces the Code of Ethics of Chartered Accountants (R.R.Q., 1981, c. C-48, r.2) and the Chartered Accountants (Advertising) Regulation approved by decree No. 2408-84 dated October 31, 1984.

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

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Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Chartered Accountants — Practice of the profession within a partnership or a joint stock company

Notice is hereby given in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) that the the Bureau of the Ordre des comptables agréés du Québec adopted the Regulation respecting the practice of the chartered accountancy profession within a partnership or a joint stock company.

The Regulation, the text of which is attached below, will be examined by the Office des professions du Québec pursuant to section 95 of the Professional Code. It will then be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment, upon the expiry of 45 days following this publication.

The main purpose of this regulation is to set out the terms, conditions and restrictions under which members of the Ordre may practise their profession within a joint stock company or limited liability partnership.

This new regulation contains specific provisions respecting the management of the partnership or company and the holding of partnership or company shares. Specific rules are established for a partnership or company holding itself out as a partnership or company of chartered accountants or within which one or more members offer assurance services.

According to Chapter VI.3 of the Professional Code, the conditions also include the obligation to take out insurance to cover the partnership's or company's liability arising from fault or negligence on the part of members in the practice of the profession within such partnership or company. Furthermore, members will be required to provide the Ordre, and to keep up to date, information concerning the partnership or company as well as the partners, directors and shareholders as the case may be.

This Regulation will have no impact on enterprises.

Further information may be obtained by contacting M^e Christiane Brizard, lawyer, Director of Legal Affairs, Ordre des comptables agréés du Québec, 680, rue Sherbrooke Ouest, 18^e étage, Montréal (Québec) H3A 2S3.

Any interested person having comments to make is requested to send them, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. These comments will be forwarded by the Office to the minister responsible for the administration of legislation respecting the professions. They may also be forwarded to the professional order that has adopted the regulation, as well as to the persons, departments and agencies concerned.

JEAN-K. SAMSON,
*Chairman of the Office des
professions du Québec*

Regulation respecting the practice of the chartered accountancy profession within a partnership or a joint stock company

Professional Code

(R.S.Q., c. C-26, par. *g* and *h*, s. 94, par. *p*;
2001, c. 34, s. 5 and 6)

CHAPTER I PURPOSE

1. Members of the Ordre des comptables agréés du Québec are authorized to practise their profession within a limited liability partnership or joint stock company holding itself out as a partnership or company of chartered accountants or within which one or more members offer assurance services provided the following conditions are met:

(1) at all times, more than 50% of the voting rights attached to the shares of the partnership or company are held:

(a) by members of the Ordre or members of the Canadian Institute of Chartered Accountants practising the profession within the partnership or company;

(b) by legal persons, trusts or any other enterprise, the voting rights or partnership shares of which are held wholly by one or more members of the Ordre or by members of the Canadian Institute of Chartered Accountants practising the profession within the partnership or company;

(c) by a combination of persons contemplated in *a* and *b*;

(2) a majority of the directors of the board of directors of the joint stock company, a majority of the partners or, where applicable, of the managers appointed by the partners to manage the affairs of the limited liability partnership, are members of the Ordre or members of the Canadian Institute of Chartered Accountants practising the profession within the partnership or company;

(3) the board of directors or a similar internal management board is made up of a majority of members of the Ordre or members of the Canadian Institute of Chartered Accountants who shall, at all times, constitute the majority of the quorum of such boards;

(4) one or more members of the Ordre practising the profession within the partnership or company hold a partnership share or company share with voting rights;

(5) the chair of the board of directors of the joint stock company, or in the case of a limited liability partnership, the person who performs similar functions, is a partner or shareholder with voting rights and a member of the Ordre or members of the Canadian Institute of Chartered Accountants;

(6) only a member of the Ordre or a member of the Canadian Institute of Chartered Accountants practising the profession within the partnership or company is granted, by voting agreement or proxy, the voting right attached to a company share or partnership share held by another member of the Ordre or another member of the Canadian Institute of Chartered Accountants, or by a legal person, a trust or another enterprise contemplated in paragraph 1(1)(b).

The member of the Ordre shall ensure that the conditions set out in the first paragraph are included in the articles of incorporation of the joint stock company or in the contract creating the limited liability partnership and that these documents also stipulate that the partnership or company is constituted for the purpose of carrying on professional activities.

2. In all other circumstances, members of the Ordre are authorized to practise their profession within a limited liability partnership or joint stock company provided the following conditions are met:

(1) at all times, more than 50% of the voting rights attached to the shares of the partnership or company are held:

(a) by persons governed by the Professional Code (R.S.Q., c. C-26), by real estate brokers or agents who are members in good standing of the Association des Courtiers et Agents Immobiliers du Québec and, provided they are duly accredited by a competent authority, by securities brokers or advisors, financial planners, life or group insurance representatives, damage insurance agents or brokers, or by persons governed by an act of another Canadian province recognizing and subjecting them to similar rules or by members in good standing of the corporation incorporated under An Act to Incorporate the Canadian Institute of Actuaries, S.C., 1964-65, c. 76 and practising within the partnership or company;

(b) by legal persons, trusts or any other enterprise, the voting rights or partnership shares of which are held wholly by one or more persons contemplated in *a*;

(c) by a combination of persons contemplated in *a* and *b*;

(2) a majority of the directors of the board of directors of the joint stock company as well as a majority of partners or managers appointed by the partners to manage the affairs of the limited liability partnership are persons contemplated in paragraph 2(1)(a);

(3) the board of directors or a similar internal management board is made up of a majority of persons contemplated in paragraph 2(1)(a) who shall, at all times, constitute the majority of the quorum of such boards.

The member of the Ordre shall ensure that the conditions set out in the first paragraph are included in the articles of incorporation of the joint stock company or in the contract creating the limited liability partnership and that these documents also stipulate that the partnership or company is constituted for the purpose of carrying on professional activities.

CHAPTER II OTHER CONDITIONS

DIVISION I TERMS AND CONDITIONS

3. A member of the Ordre may practise his profession within a partnership or company if he :

(1) has provided written confirmation to the Ordre from a competent authority attesting that the partnership or company has taken out professional liability coverage in accordance with Division II of this chapter;

(2) has provided written confirmation to the Ordre from a competent authority attesting to the existence of the company where the member practises within a joint stock company;

(3) where applicable, has provided to the Ordre a certified true copy of the declaration from the competent authority attesting to the continuance of the general partnership as a limited liability partnership;

(4) has provided written confirmation to the Ordre attesting that the partnership or company is duly registered in Quebec;

(5) has provided written confirmation to the Ordre attesting that the partnership or company maintains a place of business in Quebec;

(6) has provided an irrevocable written authorization to the Ordre from the partnership or company within which the member practises allowing a person, committee, disciplinary body, or tribunal referred to in section 192 of the Professional Code to obtain from any person any document referred to in section 15 or a copy thereof;

(7) has paid, where applicable, the fees determined by the Ordre pursuant to paragraph 93*h* of the Professional Code, amended by section 5 of chapter 34 of the statutes of 2001.

4. Furthermore, a member shall send the Ordre a sworn statement, duly completed on the form provided by the Ordre, which shall include the following information :

(1) the partnership or company name and the other names used in Quebec by every partnership or company within which the member practises the profession as well as the registration number issued by the Inspector General of Financial Institutions for such partnership or company;

(2) the legal form of the partnership or company;

(3) the address of the head office of the partnership or company and the addresses of its places of business in Quebec;

(4) the professional activities carried on by the member within the partnership or company;

(5) the name, home and business address of the member and his status within the partnership or company;

(6) where a member practises his profession within a joint stock company, the names and home addresses of the directors of such company and, where applicable, the professional order or equivalent to which they belong;

(7) where a member practises his profession within a limited liability partnership, the names and home addresses of all partners domiciled in Quebec and, where applicable, the names and home addresses of the managers appointed to manage the partnership's affairs, whether or not they be domiciled in Quebec, as well as the professional order or equivalent to which these partners or managers belong;

(8) a written confirmation provided by the member attesting that the holding of company or partnership shares and the rules respecting the management of the partnership or company satisfy the conditions set out in this Regulation;

(9) the names of the shareholders contemplated in subsection 1(1), specifying the percentage of voting rights held by each shareholder;

(10) where shareholders referred to in paragraph 1(1)(b) are concerned, a confirmation that the conditions set out in this paragraph are met.

5. A member who fails to satisfy the conditions set out in sections 3 and 4, prior to practising the profession within a partnership or company, shall not be authorized to practise his profession within a partnership or company.

6. Where two or more members practise their profession within a partnership or company, a representative may satisfy the conditions set out in sections 3 and 4 on behalf of the members of such partnership or company. Under this Regulation, the representative is thus mandated by these members to respond to requests made by the syndic, an inspector, an investigator or any other Ordre representative, and to provide, where applicable, the documents that Ordre members are required to submit.

Where a partnership or company contemplated in section 1 is concerned, a representative shall be designated.

The representative shall be a member of the Ordre, a partner or company director and a shareholder with voting rights.

Except for subsections 4(4) and (5), the representative shall ensure that the information provided in the statement is accurate.

7. A member shall be exempt from satisfying the conditions set out in sections 3 and 4 if another member or a representative of the partnership or company has already fulfilled these conditions.

8. The documents referred to in subsections 3(1), (4) and (5), together with the statement contemplated in section 4, shall be updated annually by the member or the representative no later than March 31 of each year.

9. A member who no longer satisfies one of the conditions set out in this Regulation or in Chapter VI.3 of the Professional Code shall immediately cease to be authorized to practise the profession within a partnership or company.

10. A member or his representative shall immediately inform the Ordre of the cancellation of the insurance coverage specified in Division II, of the striking off, dissolution, assignment of property or bankruptcy, or voluntary or forced liquidation of the partnership or company or of any other event that would prevent the partnership or company from carrying on its activities, and of any amendment to the information included in the statement that would contravene the conditions set out in section 1 or 2.

DIVISION II PROFESSIONAL LIABILITY COVERAGE

11. To be authorized to practise the profession in accordance with this Regulation, a member of the Ordre practising his profession within a partnership or company shall furnish and maintain, on behalf of the partnership or company, by means of an insurance or suretyship contract or by joining a group insurance plan contract entered into by the Ordre or by contributing to a professional liability insurance fund established in accordance with section 86.1 of the Professional Code, amended by section 4 of chapter 34 of the statutes of 2001, coverage for liabilities of the partnership or company arising from fault or negligence on the part of members in the practise of the profession within such partnership or company.

12. The following minimal conditions for such coverage shall be set out in a specific rider or contract:

(1) an undertaking by the insurer or surety to pay on behalf of the partnership or company any amount that the partnership or company may be legally bound to pay to injured third parties on a claim made during the period of coverage and arising from the member's fault or negligence in the practice of his profession, over and above the amount of the insurance coverage the member must take out in accordance with the Ordre des comptables agréés du Québec (Professional Liability Insurance) Regulation approved by decree No. 332-85 dated February 21, 1985 or the insurance coverage actually taken out by the member if it is higher; the insurer's obligation shall extend to all claims to which the member's liability insurance coverage does not apply as a result of the member's fault or negligence in the practice of the profession;

(2) an undertaking by the insurer or surety to take up the cause of the partnership or company and defend it in any lawsuit launched against it and to pay, in addition to the amounts covered by the liability insurance, all legal costs of lawsuits against the partnership or company, including the investigation and defence costs and interest on the amount of coverage;

(3) an undertaking that the coverage shall extend to all claims submitted in the five years following the period of coverage during which a member of the partnership or company dies, withdraws from the partnership or company or ceases to be a member of the Ordre, so as to maintain coverage for the partnership or company for the faults or negligence of the member while he practised the profession within the partnership or company;

(4) the coverage shall be at least \$1,000,000 per claim and for the aggregate of claims made against the partnership or company in a 12-month period of coverage;

(5) where a member is a sole practitioner, as the unique shareholder of a joint stock company in which no other member is an employee, the coverage shall be at least \$500,000 per claim and for the aggregate of claims made against the company in a 12-month period of coverage;

(6) an undertaking by the insurer or surety to provide the secretary of the Ordre with a 30-day notice of intent to cancel the insurance or suretyship contract, or to amend one of the conditions set out in this section;

(7) an undertaking by the insurer or surety to provide the secretary of the Ordre with a notice that the insurance or suretyship contract has not been renewed; such notice shall be sent within 15 days following the expiration of the contract.

13. The suretyship shall be granted by a bank, savings and credit union, trust or insurance company which shall be domiciled in Canada and hold and maintain sufficient property in Quebec to satisfy the liability coverage required under this division.

The institution referred to above shall undertake to provide the coverage in accordance with the conditions set out in this Division, without availing itself of the benefits of division and discussion.

DIVISION III ADDITIONAL INFORMATION

14. On the date when a general partnership continues as a limited liability partnership or when a joint stock company is constituted, the member of the Ordre shall send his clients a notice informing them of the nature and consequences of such change in status, particularly as concerns his professional liability and the liability of the partnership or company.

15. The documents which the Ordre member has been authorized by the partnership or company to communicate or copy in accordance with subsection 3(6) are as follows:

(1) if the member practises within a joint stock company:

(a) the up-to-date register of the company's articles and by-laws;

(b) the up-to-date share register;

(c) the up-to-date register of directors;

(d) any shareholder agreement, voting agreement and related amendments;

(e) the declaration of registration and any update thereof;

(f) the names and home addresses of the company's main officers;

(2) if the member practises within a limited liability partnership:

(a) the declaration of registration and any update thereof;

(b) the partnership agreement and amendments;

(c) the up-to-date register of partners;

(d) if applicable, the up-to-date register of managers;

(e) the names and home addresses of the partnership's main officers.

CHAPTER III DESIGNATIONS

16. In addition to the mention required under section 187.13 of the Professional Code and introduced by section 9 of chapter 34 of the statutes of 2001, a member of the Ordre who practises his profession within a limited liability partnership is authorized to include in or after its name the words "firm of professionals governed by the Professional Code" or the abbreviation "FPGPC."

A member of the Ordre who practises his profession within a joint stock company is also authorized to include such words in or after its name or use such abbreviation.

CHAPTER IV TRANSITIONAL AND FINAL PROVISIONS

17. A member of the Ordre who practises his profession within a joint stock company incorporated for that purpose before the coming into force of this Regulation shall, no later than in the year following such date, satisfy the conditions set out in this Regulation.

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