



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 72

(2004, chapter 37)

An Act to amend the Securities Act and other legislative provisions

Introduced 11 November 2004
Passage in principle 3 December 2004
Passage 16 December 2004
Assented to 17 December 2004

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EXPLANATORY NOTES

This bill amends the Securities Act to establish a process of mutual recognition between Québec and the other Canadian provinces and territories regarding securities regulation. To that end, it introduces provisions enabling the Government to make an agreement with the Government of another province or a territory so that their respective powers may be recognized in the other province or the territory.

The bill provides for the implementation of a compliance program and the designation of a compliance supervisor. The content of the program and the conditions applicable to the compliance supervisor are to be determined by regulation of the Agency. The bill includes amendments authorizing the Agency to share in a national database and to communicate information for that purpose. It also authorizes the communication of confidential information in order to give effect to measures concerning the repression of tax-related economic and financial crime that were announced in the Budget Speech delivered on 30 March 2004.

As well, the bill makes amendments to the Securities Act concerning the establishment of exemptions. It amends several other related Acts, including the Act respecting the Agence nationale d'encadrement du secteur financier, the Act respecting the distribution of financial products and services and the Real Estate Brokerage Act. Included in the proposed changes are provisions to replace the name of the Agence nationale d'encadrement du secteur financier by "Autorité des marchés financiers" and new rules concerning the administrative organization of the Chambre de l'assurance de dommages and the Chambre de la sécurité financière.

The Act respecting trust companies and savings companies is also amended to allow companies governed by the Act to continue under the Trust and Loan Companies Act. The Real Estate Brokerage Act is further amended to allow the establishment of a liability insurance fund for real estate brokers and agents.

Lastly, the bill repeals the Act respecting certain investments of insurance companies and contains consequential amendments to several Acts as well as transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Civil Code of Québec (1991, chapter 64);
- Financial Administration Act (R.S.Q., chapter A-6.001);
- Act respecting the Agence nationale d’encadrement du secteur financier (R.S.Q., chapter A-7.03);
- Automobile Insurance Act (R.S.Q., chapter A-25);
- Deposit Insurance Act (R.S.Q., chapter A-26);
- Act respecting prescription drug insurance (R.S.Q., chapter A-29.01);
- Act respecting insurance (R.S.Q., chapter A-32);
- Act respecting the caisses d’entraide économique (R.S.Q., chapter C-3);
- Act respecting certain caisses d’entraide économique (R.S.Q., chapter C-3.1);
- Act constituting Capital régional et coopératif Desjardins (R.S.Q., chapter C-6.1);
- Act respecting international financial centres (R.S.Q., chapter C-8.3);
- Cinema Act (R.S.Q., chapter C-18.1);
- Cities and Towns Act (R.S.Q., chapter C-19);
- Professional Code (R.S.Q., chapter C-26);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Companies Act (R.S.Q., chapter C-38);
- Act respecting the Conseil des arts et des lettres du Québec (R.S.Q., chapter C-57.02);
- Act respecting the Conservatoire de musique et d’art dramatique du Québec (R.S.Q., chapter C-62.1);
- Act respecting financial services cooperatives (R.S.Q., chapter C-67.3);
- Real Estate Brokerage Act (R.S.Q., chapter C-73.1);

- Forestry Credit Act (R.S.Q., chapter C-78);
- Act to promote forest credit by private institutions (R.S.Q., chapter C-78.1);
- Act respecting the distribution of financial products and services (R.S.Q., chapter D-9.2);
- Act respecting Nasdaq stock exchange activities in Québec (R.S.Q., chapter E-20.01);
- Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., chapter F-3.1.2);
- Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (R.S.Q., chapter F-3.2.1);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the disclosure of the compensation received by the executive officers of certain legal persons (R.S.Q., chapter I-8.01);
- Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Public Protector Act (R.S.Q., chapter P-32);
- Consumer Protection Act (R.S.Q., chapter P-40.1);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1);
- Act respecting the entreprise registrar (R.S.Q., chapter R-17.1);
- Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);

- Act respecting the Société des loteries du Québec (R.S.Q., chapter S-13.1);
- Act respecting the sociétés d'entraide économique (R.S.Q., chapter S-25.1);
- Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01);
- Act respecting public transit authorities (R.S.Q., chapter S-30.01);
- Professional Syndicates Act (R.S.Q., chapter S-40);
- Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);
- Securities Act (R.S.Q., chapter V-1.1);
- Act respecting the Mouvement Desjardins (2000, chapter 77).

LEGISLATION REPEALED BY THIS BILL:

- Act respecting certain investments of insurance companies (1973, chapter 68).

Bill 72

AN ACT TO AMEND THE SECURITIES ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 3 of the Securities Act (R.S.Q., chapter V-1.1) is amended

(1) by replacing “of a Canadian province” in paragraph 1 by “of a Canadian province or territory”;

(2) by striking out paragraph 2;

(3) by replacing paragraph 12 by the following paragraph:

“(12) a share in an investment club defined by regulation;”;

(4) by inserting the following paragraph after paragraph 15:

“(15.1) any other form of investment prescribed by regulation.”

2. Section 4 of the said Act is amended by replacing “of any Canadian province” in the first paragraph by “of any Canadian province or territory” and “Agency” in that paragraph by “Autorité des marchés financiers”.

3. Section 5 of the said Act, amended by section 5 of chapter 38 of the statutes of 2001, is again amended

(1) by striking out the definition of “investment club”;

(2) by replacing “under sections 43 to 56” in paragraph 3 of the definition of “distribution” by “for in section 43 or in a regulation”;

(3) by inserting the following paragraph after paragraph 4 of the definition of “distribution”:

“(4.1) the endeavour to obtain or the obtaining of purchasers for securities acquired from a company whose constituting documents provide for restrictions on the free transfer of shares, prohibit the distribution of securities to the public and limit the number of shareholders to 50, exclusive of present or former employees of the company or a subsidiary, by a subscriber or purchaser of such securities;”;

(4) by replacing paragraph 6 of the definition of “distribution” by the following paragraph:

“(6) the endeavour to obtain or the obtaining of purchasers for securities, not previously the subject of a prospectus, of a company whose constituting documents provided for restrictions on the free transfer of shares, prohibited the distribution of securities to the public and limited the number of shareholders to 50, exclusive of present or former employees of the company or a subsidiary;”;

(5) by replacing paragraph 9 of the definition of “distribution” by the following paragraph:

“(9) the disposal, by a person or group of persons having control of an issuer or holding more than a determined portion of an issuer’s securities, of the securities held by that person or group or a determined portion of them according to the portion and in the manner prescribed by regulation;”;

(6) by replacing the definition of “closed company” by the following definition:

““closed company”, for the purposes of paragraph 5 of section 141 of the Charter of the French language (chapter C-11), means a company, other than a mutual fund, that is not a reporting issuer and that meets the conditions determined by regulation;”.

4. Section 40.1 of the said Act is amended

(1) by replacing “Agency” by “Authority”;

(2) by inserting “, risk acknowledgment form prescribed by regulation” after “regulations”.

5. Section 41 of the said Act is amended

(1) by replacing “of a Canadian province” in paragraph 1 by “of a Canadian province or territory”;

(2) by replacing “a regional board within the meaning of the Act respecting health services and social services (chapter S-4.2)” in subparagraph *c* of paragraph 2 by “an agency within the meaning of the Act respecting local health and social services network development agencies (chapter A-8.1)”.

6. Section 42 of the said Act is amended

(1) by inserting “or territory” after “province” in paragraph 1;

(2) by replacing “or a Canadian province” in paragraph 2 by “or of a Canadian province or territory”.

7. Section 43 of the said Act is replaced by the following section:

“43. No prospectus is required where a distribution of securities is made to an accredited investor determined by regulation and the distribution meets the conditions prescribed by regulation.

Likewise, no prospectus is required where a distribution of securities is made to the Gouvernement du Québec, its departments or mandataries of the State, to the Government of Canada or the government of a Canadian province or territory, or to any of their departments or mandataries.”

8. Sections 44 to 63 of the said Act are repealed.

9. Section 68 of the said Act is amended

(1) by replacing “, having made a distribution of securities to the public;” in the first paragraph by “has made a distribution of securities to the public; a reporting issuer”;

(2) by inserting the following subparagraphs after subparagraph 6 of the second paragraph:

“(7) it is so determined by regulation;

“(8) it is so designated by the Authority in accordance with criteria determined by regulation.”;

(3) by replacing “Agency” wherever it appears by “Authority”.

10. Section 68.1 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by striking out “in the other province” in the second paragraph;

(3) by replacing “in virtue of sections 58 to 61” in the third paragraph by “prescribed by regulation”;

(4) by inserting “or a territory” after “another province” in the third paragraph.

11. Section 80.1 of the said Act is repealed.

12. Section 147.21 of the said Act is amended by striking out “where”, by inserting “where” at the beginning of paragraphs 1 and 2, and by replacing paragraph 3 by the following paragraph:

“(3) in any other case prescribed by regulation.”

13. Sections 155.1 to 157 of the said Act are repealed.

14. Section 159 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by inserting “and within the time” after “cases” in the first paragraph, and by striking out “within 10 days” in that paragraph.

15. The said Act is amended by inserting the following sections after section 160.1:

“**160.2.** Dealers and advisers shall ensure that their senior executives, representatives and employees act in compliance with this Act and the regulations.

“**160.3.** Dealers and advisers shall set up a compliance program and designate a senior executive, or a person holding a management position under a senior executive’s authority, to supervise enforcement of the program.

The content of the program, the mandate and powers of the compliance supervisor and the measures to ensure the compliance supervisor’s independence are determined by regulation of the Authority.”

16. Section 168.1.3 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by adding the following sentence at the end of the third paragraph: “It may also retain the services of a natural person to act as a mediator or, with the authorization of the Government, enter into an agreement for that purpose with a body or a legal person.”

17. The said Act is amended by inserting the following section after section 171:

“**171.1.** Sections 74 to 79 and 81 to 91 of the Act respecting the Autorité des marchés financiers apply, with the necessary modifications, to legal persons, partnerships and other entities referred to in sections 169 to 171.

Section 80 of the Act respecting the Autorité des marchés financiers applies to legal persons, partnerships and other entities referred to in section 171.”

18. Section 204 of the said Act is amended by replacing “\$1 000 000” wherever it appears in the first paragraph by “\$5,000,000”.

19. Section 213 of the said Act is amended by inserting “or a territory” after “another province” in the first paragraph, and “or territory” after “that province” in that paragraph.

20. Section 229 of the said Act is amended by replacing “holders of shares” in the first paragraph by “persons entitled to the action”.

21. Section 237 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by adding the following subparagraph after subparagraph 5 of the first paragraph:

“(6) a body, a person or any other participant referred to in section 151.1.1.”

22. The heading of Chapter III of Title IX of the said Act is amended by replacing “THE AGENCY” by “THE AUTHORITY AND THE BUREAU DE DÉCISION ET DE RÉVISION EN VALEURS MOBILIÈRES”.

23. Section 273.1 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by replacing “under sections 43 to 56” in the first paragraph by “under section 43 or a regulation”;

(3) by replacing “person” at the end of the second paragraph by “senior executive or insider”.

24. The said Act is amended by inserting the following section after section 274:

“**274.1.** The Authority may impose an administrative monetary penalty for a contravention of or failure to comply with a provision of Title III, except the first paragraph of section 73, in the cases, on the conditions and in the amounts prescribed by regulation.”

25. Section 283 of the said Act is amended by replacing “Agency” by “Authority”, and “or any person exercising a delegated power” by “, a person or body exercising a delegated power or a power referred to in sections 308.1 and 308.2”.

26. Sections 284 to 286 of the said Act are replaced by the following section:

“**284.** Except on a question of jurisdiction, no recourse provided under article 33 of the Code of Civil Procedure (chapter C-25) or extraordinary

recourse within the meaning of that Code may be exercised, or any injunction granted against the Authority, the members of its personnel, a person or body exercising a delegated power or a power referred to in sections 308.1 and 308.2 or its agents acting in their official capacity.

A judge of the Court of Appeal may, on a motion, summarily annul any decision, order or injunction issued or granted contrary to the first paragraph.”

27. Section 297.1 of the said Act is amended

(1) by replacing “The Agency may communicate” in the first paragraph by “The Authority may communicate any information, including”;

(2) by replacing “The Agency may also communicate personal information” in the second paragraph by “The Authority may also communicate any information, including personal information,” and by inserting “, including for the purposes of a common database containing personal information” at the end of that paragraph;

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

“Likewise, the Authority may communicate any information, including personal information, without the consent of the person concerned, to a police force if there is reasonable cause to believe that the person has committed or is about to commit a criminal or penal offence against an Act applicable in or outside Québec with respect to the Authority or one of its employees or relating to a securities provision and the information is required for the related investigation.

The Authority may also communicate any information, including personal information, to the Minister of Revenue, without the consent of the person concerned, if there is reasonable cause to believe that the person has committed or is about to commit an offence under this Act that may have an impact on the administration or enforcement of a fiscal law.”

28. The said Act is amended by inserting the following sections after section 297.1:

“297.2. In a case not provided for in section 297.1, with the authorization of a judge of the Court of Québec, the Authority may communicate any information, including personal information, without the consent of the person concerned, to a member of a police force.

The application for authorization must be made in writing and contain a sworn statement that there is reasonable cause to believe the information may serve to prevent, detect or repress the commission of an indictable offence against an Act applicable in or outside Québec.

The application and the record pertaining to the hearing are confidential. The clerk of the Court of Québec shall take the necessary measures to preserve their confidentiality.

The judge to whom the application for authorization is made shall hear the application *ex parte* and *in camera*. The judge may make any order to preserve the confidentiality of the application, the record and the personal information. The record shall be sealed and kept in a place inaccessible to the public.

“297.3. The Authority may communicate any information, including personal information, without the consent of the person concerned, to a person or body pursuant to an agreement or treaty entered into under an Act.

“297.4. The Authority may, in accordance with section 68 of the Act respecting Access to documents held by public bodies and the Protection of personal information, enter into an agreement with a department or a body for the communication of personal information to facilitate the administration or enforcement of securities and fiscal legislation and penal or criminal legislation.

“297.5. Sections 297.1 to 297.4 apply, with the necessary modifications, to any information, including personal information, relating to a securities representative or a securities firm acting through such a representative referred to in the Act respecting the distribution of financial products and services.

“297.6. Sections 297.1 to 297.5 apply despite sections 23 and 24 and subparagraphs 5 and 9 of the first paragraph of section 28 of the Act respecting Access to documents held by public bodies and the Protection of personal information, and sections 297.1, 297.2 and 297.5 apply despite section 59 of that Act.”

29. The heading of Chapter II of Title X of the said Act is replaced by the following heading:

“DELEGATION OF POWERS AND MUTUAL RECOGNITION”.

30. Section 306 of the said Act is amended by replacing “conferred on the Agency by this Act” by “conferred on the Authority or the Bureau de décision et de révision en valeurs mobilières by this Act, the provisions of the Act respecting the distribution of financial products and services relating to securities firms and representatives or the provisions of the Act respecting the Autorité des marchés financiers relating to the board”.

31. Section 308 of the said Act is amended

(1) by replacing “Agency” by “Authority”;

(2) by replacing “only delegate to a superintendent the powers to review its decisions, to order an investigation under section 239, to institute court proceedings under this Act in the name of the Agency and to render a decision

pursuant to Title VI” by “delegate the power to review its decisions, to order an investigation under section 239, to institute court proceedings under this Act in the name of the Authority or to render a decision pursuant to Title VI only to a superintendent or to another senior executive reporting directly to the president and director general of the Authority”.

32. The said Act is amended by inserting the following sections after section 308:

“308.1. The Government may, according to law, make an agreement with the government of another province or territory to allow, in the areas specifically listed in the agreement, the powers of an authority of that province or that territory in the securities sectors governed by this Act, the Act respecting the distribution of financial products and services as it concerns securities firms or representatives or the Act respecting the Autorité des marchés financiers to be recognized in Québec with respect to persons or bodies subject to such powers.

The agreement shall also provide for reciprocity, allowing the powers of a Québec authority, in the same areas and sectors and with respect to persons or bodies subject to such powers, to be recognized in that other province or that territory.

“308.2. Section 308.1 allows the parties to stipulate in the agreement, in the areas listed in the agreement,

(1) that the acts or decisions of an authority having jurisdiction in a province or territory are recognized in the other province or territory;

(2) that the powers exercised or the decisions made in a province or territory are presumed or deemed, as the case may be, to have been exercised or made in the other province or territory; and

(3) that the persons or bodies having fulfilled certain obligations in a province or territory are exempted from fulfilling them in the other province or territory.

“308.3. The Government may, by regulation, make any provision for the carrying out of this chapter, including provisions that differ from those set out in the Acts referred to in section 308.1.

“308.4. An agreement made under this chapter shall be published in the *Gazette officielle du Québec*.”

33. Section 310 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by inserting “, by a legal person, partnership or other entity authorized under sections 169 to 171” after “power” in the first paragraph;

(3) by inserting “, partnership, other entity” after “person” in the second paragraph.

34. Section 318 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by replacing “becomes effective on the day it is served on the person to whom it applies” in the third paragraph by “is effective as of the time the Authority sends the notice to the person concerned”.

35. Section 322 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by replacing “or by a self-regulatory organization” in the first paragraph by “, by a legal person, partnership or other entity authorized under sections 169 to 171 or by a recognized self-regulatory organization”, and “Act respecting the Agence nationale d’encadrement du secteur financier” in that paragraph by “Act respecting the Autorité des marchés financiers”;

(3) by replacing “A self-regulatory organization” in the second paragraph by “A legal person, partnership or other entity authorized under sections 169 to 171 or a recognized self-regulatory organization”;

(4) by adding “or under section 172 of this Act as regards a legal person, partnership or other entity authorized under section 169” at the end of the second paragraph.

36. Section 330.6 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by replacing “or of another Canadian province” in paragraph 1 by “, of another Canadian province or of a Canadian territory”.

37. Section 331 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by inserting the following subparagraph after subparagraph 1 of the first paragraph:

“(1.1) determine the conditions to be met by a company for the purposes of the definition of “closed company” set out in section 5;”;

(3) by striking out subparagraphs 2 to 5 of the first paragraph;

(4) by inserting the following subparagraph after subparagraph 11 of the first paragraph:

“(11.1) determine the provisions of Title III the contravention of which may be sanctioned by an administrative monetary penalty, and prescribe the amounts and conditions of such a penalty for the purposes of section 274.1;”.

38. Section 331.1 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by replacing “percentages of securities of a class or series” in paragraph 4 by “the portion”;

(3) by inserting the following paragraph after paragraph 11:

“(11.1) define the expression “accredited investor” and determine the conditions for the distribution of securities made to an accredited investor for the purposes of section 43;”;

(4) by inserting the following paragraphs after paragraph 18:

“(18.1) determine the issuers to which subparagraph 7 of the second paragraph of section 68 applies;

“(18.2) determine the criteria to be used by the Authority to designate an issuer as an issuer deemed to have made a distribution of securities to the public under subparagraph 8 of the second paragraph of section 68;”;

(5) by inserting the following paragraph after paragraph 27:

“(27.1) determine the content of the program, the mandate and powers of the compliance supervisor as well as the measures to ensure the compliance supervisor’s independence for the purposes of section 160.3;”.

39. Section 338.1 of the said Act is amended by replacing “the Commission” wherever it appears by “the Authority”.

FINANCIAL ADMINISTRATION ACT

40. Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended

(1) by replacing “Agence nationale d’encadrement du secteur financier” by “Autorité des marchés financiers”;

(2) by inserting “Bureau de décision et de révision en valeurs mobilières” in alphabetical order.

ACT RESPECTING THE AGENCE NATIONALE D'ENCADREMENT DU
SECTEUR FINANCIER

41. Section 16 of the Act respecting the Agence nationale d'encadrement du secteur financier (R.S.Q., chapter A-7.03) is amended

- (1) by replacing "Agency" wherever it appears by "Authority";
- (2) by striking out the third paragraph.

42. The said Act is amended by inserting the following section after section 25:

"25.1. Subject to the conditions determined by by-law, the Authority may allow the signature of the president and director general or a delegate referred to in section 24 to be affixed by means of an automatic device on the documents determined in the by-law."

43. Section 32 of the said Act is amended

- (1) by replacing "Agency" wherever it appears by "Authority";
- (2) by replacing "or any other member of the staff" in the first paragraph by "a staff member or an appointed agent";
- (3) by replacing the second paragraph by the following paragraph:

"The same applies to any person or body exercising a function or power delegated by the Authority or a power delegated under section 306 of the Securities Act (chapter V-1.1) or a power referred to in sections 308.1 and 308.2 of that Act."

44. The said Act is amended by inserting the following sections after section 32:

"32.1. If the president and director general, a staff member or an appointed agent of the Authority is prosecuted by a third party for an act done in the exercise of the functions of office, the Authority shall assume the person's defence and shall pay any damages awarded as compensation for the injury resulting from that act, unless the person committed a gross fault or a personal fault separable from those functions.

In penal or criminal proceedings, however, the Authority shall pay the defence costs of the president and director general, a staff member or an appointed agent only if the person had reasonable grounds to believe that his or her conduct was in conformity with the law, or was discharged or acquitted.

"32.2. If the Authority prosecutes the president and director general, a staff member or an appointed agent for an act done in the exercise of the

functions of office and loses its case, it shall pay the person's defence costs if the court so decides.

If the Authority wins its case only in part, the court may determine the amount of the defence costs it must pay."

45. Section 85 of the said Act is amended

(1) by replacing "Agency" by "Authority";

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

"The Authority may review such a decision on its own initiative."

46. Section 104 of the said Act is amended by replacing "the secretary or staff members" in the second paragraph by "the board, the chair, a deputy chair, the members, the secretary or another staff member or a person or body exercising a power delegated in accordance with section 306 of the Securities Act or a power referred to in sections 308.1 and 308.2 of that Act".

47. The said Act is amended by inserting the following sections after section 104:

"104.1. Except on a question of jurisdiction, no recourse under article 33 of the Code of Civil Procedure or extraordinary recourse within the meaning of that Code may be exercised and no injunction may be granted against the board or a person or body referred to in section 104.

A judge of the Court of Appeal may, on a motion, summarily annul any decision rendered or order or injunction issued contrary to the first paragraph.

"104.2. If the chair, a deputy chair or another member of the board is prosecuted by a third party for an act done in the exercise of the functions of office, the board shall assume the person's defence and shall pay any damages awarded as compensation for the injury resulting from that act, unless the person committed a gross fault or a personal fault separable from those functions.

In penal or criminal proceedings, however, the board shall pay the defence costs of the chair, a deputy chair or another member of the board only if the person had reasonable grounds to believe that the conduct was in conformity with the law, or was discharged or acquitted.

"104.3. If the board prosecutes the chair, a deputy chair or another member of the board for an act done in the exercise of the functions of office and loses its case, it shall pay the person's defence costs if the court so decides.

If the board wins its case only in part, the court may determine the amount of the defence costs it must pay."

ACT RESPECTING INSURANCE

48. Section 285.33 of the Act respecting insurance (R.S.Q., chapter A-32) is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by adding the following sentence at the end of the third paragraph: “It may also retain the services of any natural person to act as a mediator or, with the authorization of the Government, enter into an agreement for that purpose with a body or a legal person.”

49. The said Act is amended by inserting the following section after section 422.1:

“**422.2.** The costs incurred by the Government for the administration of this Act, as determined each year by the Government, shall be borne by the Authority.”

ACT RESPECTING FINANCIAL SERVICES COOPERATIVES

50. Section 131.4 of the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3) is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by adding the following sentence at the end of the fourth paragraph: “It may also retain the services of any natural person to act as a mediator or, with the authorization of the Government, enter into an agreement for that purpose with a body or a legal person.”

51. The said Act is amended by inserting the following section after section 589:

“**589.1.** No person may be prosecuted on the basis of information given in good faith to the Authority in accordance with this Act.”

52. The said Act is amended by inserting the following section after section 726:

“**726.1.** The costs incurred by the Government for the administration of this Act, as determined each year by the Government, shall be borne by the Authority.”

REAL ESTATE BROKERAGE ACT

53. Section 5 of the Real Estate Brokerage Act (R.S.Q., chapter C-73.1) is amended by adding the following paragraph at the end:

“On the other hand, if an insurance fund has been established, the broker must pay the insurance premium prescribed by a by-law of the Association.”

54. Section 74 of the said Act is amended by inserting the following paragraph after paragraph 7:

“(7.1) the premium a broker must pay to the insurance fund and the related criteria;”.

55. The said Act is amended by inserting the following sections after section 79:

“**79.1.** The Association may establish an insurance fund and require brokers to subscribe to it.

The Association shall determine by by-law the premium a broker must pay on the basis of any criteria set out in the by-law.

The by-law is submitted to the Government for approval with or without amendment.

Sections 174.1 to 174.11 and 174.13 to 174.18 of the Act respecting insurance, with the necessary modifications, apply to the insurance fund established by the Association.

If it establishes an insurance fund, the Association is an insurer within the meaning of the Act respecting insurance.

“**79.2.** The insurance fund established by the Association is authorized to provide liability insurance to any person whose activities are governed by this Act.”

ACT RESPECTING THE DISTRIBUTION OF FINANCIAL PRODUCTS AND SERVICES

56. The Act respecting the distribution of financial products and services (R.S.Q., chapter D-9.2) is amended by inserting the following section after section 86:

“**86.1.** A firm shall set up a compliance program and designate an executive officer, or a person holding a management position under an executive officer’s authority, to supervise enforcement of the program.

The content of the program, the mandate and powers of the compliance supervisor and the measures to ensure the compliance supervisor’s independence are determined by regulation of the Authority, based on criteria specified in the regulation.”

57. Section 103.2 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by adding the following sentence at the end of the third paragraph: “It may also retain the services of any natural person to act as a mediator or, with the authorization of the Government, enter into an agreement for that purpose with a body or a legal person.”

58. Section 137 of the said Act is amended by adding the following paragraphs at the end:

“The independent partnership shall set up a compliance program and designate an executive officer, or a person holding a management position under an executive officer’s authority, to supervise enforcement of the program.

The content of the program, the mandate and powers of the compliance supervisor and the measures to ensure the compliance supervisor’s independence are determined by regulation of the Authority, based on criteria specified in the regulation.”

59. Section 198 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by replacing “and” in the third line of the first paragraph by “or”;

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

“The Authority shall determine by regulation those required to subscribe to the insurance fund, on the basis of any criteria set out in the regulation.”

60. The said Act is amended by inserting the following section after section 217:

“**217.1.** The Authority may, by regulation, conditionally or unconditionally exempt a group of persons from some or all of the requirements of this Act or of the regulations applicable to a securities sector.”

61. The said Act is amended by inserting the following section after section 224.1:

“**224.2.** The Authority shall determine by regulation based on criteria specified in the regulation, the content of the compliance program to be set up by a firm or an independent partnership, as well as the powers and mandate of the compliance supervisor and measures to ensure the compliance supervisor’s independence.

A regulation under the first paragraph may prescribe different rules according to the number of representatives acting for a firm or an independent partnership; it may also prescribe that the requirements relating to the designation, powers and mandate of the compliance supervisor and to the measures to ensure the compliance supervisor's independence do not apply."

62. The said Act is amended by inserting the following sections after section 228:

"228.1. The Authority may, on the conditions it determines, exempt a person or a group of persons from some or all of the requirements prescribed by this Act or by regulation that are applicable to a securities sector if it considers that the exemption does not undermine the protection of investors.

The decision is without appeal.

"228.2. The Authority may deny the benefit of an exemption under a regulation whenever it considers it necessary to do so to protect investors.

In particular, it may deny the benefit of an exemption to any person who has

- (1) made improper use of such an exemption;
- (2) contravened this Act or the regulations; or
- (3) contravened any other securities provision."

63. Section 278 of the said Act is amended

- (1) by replacing "Agency" in the first paragraph by "Authority";
- (2) by adding the following paragraph at the end:

"In the event of insufficient assets, the contribution must be determined so as to make up the insufficiency over a maximum period of five years."

64. Section 279 of the said Act is amended by adding " , unless they are made in the form of deposits with the Caisse de dépôt et placement du Québec, to be administered by the Caisse according to the investment policy determined by the Authority" at the end.

65. Section 288 of the said Act is replaced by the following section:

"288. The affairs of the Chambre de l'assurance de dommages shall be administered by a board consisting of 13 members, two of whom shall be appointed by the Minister to represent the general public for a term of three years.

The affairs of the Chambre de la sécurité financière shall be administered by a board consisting of 11 members, two of whom shall be appointed by the Minister to represent the general public for a term of three years.”

66. Section 290 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Eleven members shall be elected to the board by the damage insurance agents, damage insurance brokers and claims adjusters in the employ of an insurer and the claims adjusters not in the employ of an insurer, in proportion to the number of representatives in each group and in accordance with the procedure determined by the internal management by-law of the Chamber.”

67. Section 294 of the said Act is amended by replacing “and financial planners” by “, financial planners, damage insurance agents and claims adjusters”.

68. Section 296 of the said Act is amended

(1) by replacing “a president from among their number. They shall also designate” in the second line by “, from among their number, a president.”;

(2) by adding “, according to the procedure set out in the internal management by-law” at the end.

69. Section 297 of the said Act is amended by replacing “from among their number” by “and a vice-president from among their number according to the procedure set out in the internal management by-law”, and by striking out the second sentence.

70. Section 298 of the said Act is amended by replacing the first paragraph by the following paragraph:

“~~298.~~ The term of office of the members of the board of a Chamber other than those appointed by the Minister is determined by the Chamber, according to the procedure set out in the internal management by-law.”

71. Section 300 of the said Act is amended by replacing “Minister” in the second paragraph by “board”.

72. Section 301 of the said Act is amended by replacing “of the Chamber” by “of the board”.

73. Section 303 of the said Act is amended by replacing the first paragraph by the following paragraph:

“~~303.~~ The president shall chair the meetings of the board and see to the proper functioning of the board, in accordance with the internal management

by-law. The president shall also exercise the other responsibilities and powers assigned by the board.”

74. The said Act is amended by inserting the following section after section 303:

“303.1. The board shall appoint a chief executive officer in the case of the Chambre de la sécurité financière, and a president and director general in the case of the Chambre de l’assurance de dommages.

The chief executive officer and the president and director general are responsible for the administration and management of their respective Chambers within the framework of the internal management by-law adopted by their respective Chambers.

Their remuneration and other conditions of office are determined by a contract binding them to their Chamber. They may also exercise other responsibilities and powers determined by the board.”

75. Section 305 of the said Act is amended by replacing “is six” by “is the majority of its”.

76. Section 309 of the said Act is replaced by the following section:

“309. The board of each Chamber shall appoint a secretary.

Any other personnel member a Chamber needs to pursue its activities shall be appointed by the chief executive officer in the case of the Chambre de la sécurité financière, and by the president and director general in the case of the Chambre de l’assurance de dommages, in accordance with the staffing plan and the standards established by regulation of the Chamber. The regulation shall also determine the standards and scales of remuneration, employment benefits and other employment conditions of the personnel members.

Section 217 does not apply to a regulation made under this section.”

77. Section 310 of the said Act is replaced by the following section:

“310. Each Chamber shall determine, by regulation, the rules of ethics and the sanctions applicable to its board members and personnel.

Section 217 does not apply to a regulation made under this section.”

78. The said Act is amended by inserting the following section after section 310:

“310.1. Section 217 does not apply to the internal management by-law of a Chamber.”

79. Section 327 of the said Act is replaced by the following section:

“327. The board of each Chamber shall appoint a syndic.

The Chamber shall, according to the staffing plan and standards determined by regulation of the Chamber, fix the syndic’s remuneration, employment benefits and other conditions of employment, all of which shall be borne by the Chamber.”

80. Section 328 of the said Act is repealed.

81. Section 331 of the said Act is amended by replacing “The Minister” in the first paragraph by “The board of a Chamber”, by adding “according to the staffing plan and standards determined by regulation of the Chamber” at the end of that paragraph and by striking out “concerned” at the end of the second paragraph.

ACT RESPECTING ADMINISTRATIVE JUSTICE

82. Schedule IV to the Act respecting administrative justice (R.S.Q., chapter J-3), amended by section 72 of chapter 23 of the statutes of 2003, is again amended by inserting the following paragraph after paragraph 7:

“(7.1) section 25.1 of the Act respecting financial services cooperatives (chapter C-67.3);”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

83. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by Conseil du trésor Decisions 200976 dated 20 April 2004 and 201230 dated 14 June 2004, is again amended

(1) by striking out the following in paragraph 1:

“The Agence nationale d’encadrement du secteur financier, in respect of employees who were transferred from the Commission des valeurs mobilières du Québec, from the Inspector General of Financial Institutions and from the Régie de l’assurance-dépôts du Québec pursuant to the Act respecting the Agence nationale d’encadrement du secteur financier (chapter A-7.03);”

(2) by inserting the following in alphabetical order in paragraph 1:

“the Autorité des marchés financiers”.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT
PERSONNEL

84. Schedule II to the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1), amended by Conseil du trésor Decisions 200976 dated 20 April 2004 and 201230 dated 14 June 2004, is again amended

(1) by striking out the following in paragraph 1:

“the Agence nationale d’encadrement du secteur financier, in regard to the employees transferred from the Commission des valeurs mobilières du Québec, the Inspector General of Financial Institutions and the Régie de l’assurance-dépôts du Québec for application of the Act respecting the Agence nationale d’encadrement du secteur financier (chapter A-7.03)”;

(2) by inserting the following in alphabetical order in paragraph 1:

“the Autorité des marchés financiers”.

ACT RESPECTING THE ENTERPRISE REGISTRAR

85. Schedule I to the Act respecting the enterprise registrar (R.S.Q., chapter R-17.1) is amended by striking out the following:

“Act respecting certain investments of insurance companies (1973, chapter 68)”.

ACT RESPECTING TRUST COMPANIES AND SAVINGS COMPANIES

86. The Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01) is amended by inserting the following after section 58:

“CHAPTER VI.1

“PROROGATION

“**58.1.** The Minister may authorize a company referred to in sections 1 and 2 to file for letters patent so that it may continue under the Trust and Loan Companies Act (Statutes of Canada, 1991, chapter 45).”

87. Section 153.4 of the said Act is amended

(1) by replacing “Agency” wherever it appears by “Authority”;

(2) by adding the following sentence at the end of the third paragraph: “It may also retain the services of a natural person to act as a mediator or, with the authorization of the Government, enter into an agreement for that purpose with a body or a legal person.”

88. The said Act is amended by inserting the following section after section 406:

“**406.1.** The costs incurred by the Government for the administration of this Act, as determined each year by the Government, shall be borne by the Authority.”

ACT RESPECTING CERTAIN INVESTMENTS OF INSURANCE COMPANIES

89. The Act respecting certain investments of insurance companies (1973, chapter 68) is repealed.

TRANSITIONAL AND FINAL PROVISIONS

90. The words “Agence nationale d’encadrement du secteur financier” and “Agency”, wherever they appear in the following provisions, are replaced respectively by the words “Autorité des marchés financiers” and “Authority”:

(1) articles 1339, 1341 and 2442 of the Civil Code of Québec (1991, chapter 64);

(2) the title of the Act respecting the Agence nationale d’encadrement du secteur financier, the heading of Title I, sections 1 to 15, 16 to 31, 33 to 48, 57 to 69 and 71 to 73, the heading of Chapter II of Title III and sections 74 to 78, 80, 83, 86 to 91, 93, 94, 114, 131, 132, 146 to 149, 152, 707 to 726, 728, 733 to 739, 742 to 744 and 747 of the Act respecting the Agence nationale d’encadrement du secteur financier (R.S.Q., chapter A-7.03), as amended by Regulation 5 under section 746 of the Act respecting the Agence nationale d’encadrement du secteur financier, enacted by Order in Council 495-2004 (2004, G.O. 2, 1823);

(3) sections 93, 97.1, 156, 161, the heading of Title VII and sections 177 to 179.2 and 180 to 183 of the Automobile Insurance Act (R.S.Q., chapter A-25);

(4) sections 1, 2.1, 17, 18, 20, 26, 27, 31 to 31.2, 31.4, 32.1 to 33.1, 34 to 35, the heading of Division VI and sections 40, 40.2 to 40.3.2, 40.4 to 43, 45, 46, 51 to 54, 56 and 57 of the Deposit Insurance Act (R.S.Q., chapter A-26);

(5) section 4 of the Act respecting prescription drug insurance (R.S.Q., chapter A-29.01);

(6) sections 1, 5, 10 to 13, 15, 16, 19, 21 to 23, 29, 31, 32, 35.2, 37, 39, 41, 46, 48, 50.1 to 50.3, 62, 66.2, 68, 75 to 77, 79, 80, 93.1, 93.7, 93.10, 93.17, 93.19, 93.20, 93.25 to 93.27.4, 93.30, 93.34, 93.36, 93.48, 93.56, 93.88, 93.89, 93.108, 93.110, 93.111, 93.114 to 93.118, 93.120, 93.125, 93.126, 93.130 to 93.133, 93.154.3, 93.160, 93.165.1, 93.167, 93.168, 93.180, 93.184, 93.186 to 93.189, 93.191, 93.192, 93.197, 93.202, 93.204, 93.205, 93.208,

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(7) sections 17, 22 and 31 of the Act respecting the caisses d'entraide économique (R.S.Q., chapter C-3);

(8) sections 105, 106, 109 and 146.1 of the Act respecting certain caisses d'entraide économique (R.S.Q., chapter C-3.1);

(9) sections 20, 33 and 43 of the Act constituting Capital régional et coopératif Desjardins (R.S.Q., chapter C-6.1);

(10) section 4 of the Act respecting international financial centres (R.S.Q., chapter C-8.3);

(11) section 144.4 of the Cinema Act (R.S.Q., chapter C-18.1);

(12) sections 465.5, 465.6, 465.13 and 465.15 of the Cities and Towns Act (R.S.Q., chapter C-19);

(13) section 16.8 of the Professional Code (R.S.Q., chapter C-26);

(14) articles 711.6, 711.7, 711.9, 711.10, 711.14 and 711.16 of the Municipal Code of Québec (R.S.Q., chapter C-27.1);

(15) sections 31 and 134 of the Companies Act (R.S.Q., chapter C-38);

(16) section 25 of the Act respecting the Conseil des arts et des lettres du Québec (R.S.Q., chapter C-57.02);

(17) section 61 of the Act respecting the Conservatoire de musique et d'art dramatique du Québec (R.S.Q., chapter C-62.1);

(18) sections 11, 13 to 15, 20, 21 to 25.1, 25.3 to 27, 31, 37, 39, 42, 43, 61, 71, 81, 82, 100, 113, 120, 122, 123, 127, 131.2, 131.3, 131.5, 131.6, 132, 135, 136, 138, 142, 146, 147, 151, 152, 157, 158, 160, 162, 163, 166, 167, 170, 171, 175 to 185, 187 to 192, 194, 231, 243, 259, 265, 266, 268, 277 to 280, 283, 292, 314, 316, 325, 333, 348, 350, 353, 355, 376, 377, 379 to 381, 387, 389 to 391, 399, 403, 404, 406, 413, 424, 426, 427, 433 to 436, 442, 443, 445

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(19) section 25 of the Real Estate Brokerage Act (R.S.Q., chapter C-73.1);

(20) section 46.5 of the Forestry Credit Act (R.S.Q., chapter C-78);

(21) section 58 of the Act to promote forest credit by private institutions (R.S.Q., chapter C-78.1);

(22) sections 5, 12, 13, 17, 19, 22, 29, 41, 44, 46, 53 to 57, 59, 64, 69, 71 to 74, 76 to 79, 81, 83, 88, 93, 98, 99, 103.1, 103.3, 104 to 108, 112, 115, 117, 119, 122, 124, 126 to 128, 130 to 132, 135, 136, 139, 144 and 157.2 to 157.6, the heading of Title III, the heading of Chapter II of Title III and sections 184 to 194, 196, 197, 199 to 220, 222 to 232, 234 to 236, 238 to 244, 248, 249, 256, 274, 274.1, 276 to 277, 286, 295, 312, 314, 317 to 319, 320.2 to 320.5, 335, 336, 344, 346, 347, 351, 351.1, 368 to 370, 413, 414, 416 to 419, 422, 423, 428, 432, 440, 443, 445, 447, 449 to 452, 454 to 462, 465, 474, 476, 492, 494, 535, 539, 540, 545, 549, 553, 554, 559 to 561, 566, 567 and 580.1 of the Act respecting the distribution of financial products and services (R.S.Q., chapter D-9.2) as amended by Regulation 5 under section 746 of the Act respecting the Agence nationale d'encadrement du secteur financier, enacted by Order in Council 495-2004 (2004, G.O. 2, 1823);

(23) sections 6, 7 and 8 of the Act respecting Nasdaq stock exchange activities in Québec (R.S.Q., chapter E-20.01);

(24) section 37 of the Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., chapter F-3.1.2);

(25) sections 29 and 30 of the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (R.S.Q., chapter F-3.2.1);

(26) sections 1, 158.14, 346.2, 737.18.29, 895, 897, 965.1, 965.6.23.1, 965.7, 965.9.7.0.2, 965.9.7.1, 965.9.7.2, 965.9.7.3, 965.24.2, 965.28.1, 965.28.2, 965.31.5, 979.1, 998, 999.0.1, 1029.8.36.95, 1029.8.36.147, 1049.2.8, 1049.2.9 and 1175.1 of the Taxation Act (R.S.Q., chapter I-3);

(27) sections 6 and 7 of the Act respecting the disclosure of the compensation received by the executive officers of certain legal persons (R.S.Q., chapter I-8.01);

(28) section 233 of the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14);

(29) section 15 of the Public Protector Act (R.S.Q., chapter P-32);

(30) section 321 of the Consumer Protection Act (R.S.Q., chapter P-40.1);

(31) Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2);

(32) section 134 of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);

(33) section 18 of the Act respecting the Société des loteries du Québec (R.S.Q., chapter S-13.1);

(34) sections 37, 40, 41, 91, 101 to 104, 108, 110, 111, 113, 116, 118, 121, 122, 125, 131, 133 to 135, 137, 144, 145, 147, 149 to 153, 155, 157, 158, 160, 161, 169, 170, 175, 190, 192 and 202 of the Act respecting the sociétés d'entraide économique (R.S.Q., chapter S-25.1);

(35) sections 2, 13 to 15, 16, 18, 19, 24 to 28, 30, 37 to 41, 43, 50 to 52, 54, 56, 67, 71, 75, 77, 96 to 98, 102, 108, 118, 119, 121 to 123, 125, 130, 133, 137, 148, 149, 153.2, 153.3, 153.5, 153.6, 155, 156, 163 to 167, 169 to 169.2, 172, 177, 192, 194 to 199, 203, 210 to 212, 214, 216, 222, 226 to 228, 233 to 238, 240 to 248, 251, 264, 265, 270, 271, 276, 280, 285 and 286, the heading of Division IV of Chapter XVI, sections 293, 296 to 298, 302 to 310 and 312, the heading of Division VI of Chapter XVI, sections 313, 314, the heading of Division VII of Chapter XVI and sections 314.1, 315 to 329, 331, 335 to 337, 339, 341, 344 to 346, 351, 356, 361, 382, 385, 388 to 395, 401, 406 and 407 of the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01);

(36) section 71 of the Act respecting public transit authorities (R.S.Q., chapter S-30.01);

(37) sections 9 and 20 of the Professional Syndicates Act (R.S.Q., chapter S-40);

(38) sections 1 and 519 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);

(39) sections 7, 7.1, 10.2, 10.5, 10.6, 11, 12, 14, 15, 20, 27, 28, 34, 35, 37 to 40, 44, 46, 47, 48, 48.1, 49, 50, 53, 53.1, 59.1, 64, 66, 67, 69 to 71, 73, 75 to 79, 80.1, 82, 84, 85, 92, 96, 104, 108, 119 to 121, 128, 130, 133, 139, 140, 142, 145, 147, 147.10, 147.11, 147.15, 147.16, 148 to 149, 151 to 151.1.1 and 153, the heading of Chapter III of Title V, sections 158, 168.1, 168.1.2, 168.1.4, 169, 170, 171, 192, 195, 195.1, 197, 199, 210 to 212, 221, 233, 236, 238 to 240, 242, 243, 245, 247 to 249, 251, 256, 258, 259.1, 260, 263, 265, 268 to 269.2, 271 to 272.1, 273.2, 274, 276, 276.2 to 276.4, 284, 285, 292 to 298, 302 to 303 and 306, the heading of Chapter III of Title X, sections 309 and 311, the heading of Chapter IV of Title X and sections 312 to 313, 314.1, 316, 318.1

to 321.1, 323.5, 330.1 to 330.5, 330.9, 330.10, 331.2 and 333 to 335 of the Securities Act (R.S.Q., chapter V-1.1);

(40) sections 9, 15, 46, 48, 49, 51, 53, 65 and 70 of the Act respecting the Mouvement Desjardins (2000, chapter 77).

91. Unless the context indicates otherwise, in any Act, statutory instrument or other document, the words “Agence nationale d’encadrement du secteur financier”, and the word “Agency” when it concerns the Agence nationale d’encadrement du secteur financier, refer respectively to the “Autorité des marchés financiers” and to the “Authority”.

92. The Government may, by regulation, adopt any transitional provision to ensure that exemption provisions set out in the Securities Act (R.S.Q., chapter V-1.1) and amended or repealed by paragraph 2 of section 1 and sections 5 to 8, 12 and 13 are transferred to the regulations.

93. The persons referred to in the first paragraph of section 104 of the Act respecting the Agence nationale d’encadrement du secteur financier (R.S.Q., chapter A-7.03) who were in the employ of the Bureau de décision et de révision en valeurs mobilières and held the positions of secretary to the chair, secretary within the secretarial and legal departments and jurist within the legal department on 1 August 2004 are deemed to have been appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

94. Within three months after the Association des courtiers et agents immobiliers du Québec establishes an insurance fund in accordance with section 79.1 of the Real Estate Brokerage Act (R.S.Q., chapter C-73.1) enacted by section 55, the Fonds d’indemnisation du courtage immobilier must pay to that insurance fund, in a single lump sum, any amount of its net equity that exceeds \$2,500,000, as determined on the fifteenth day prior to the payment.

95. Section 2 as regards the replacement of “Agency” by “Autorité des marchés financiers”, paragraph 1 of section 4, paragraph 2 of section 9, paragraphs 1 of sections 10, 14, 16, 21 and 23, paragraphs 1 of sections 31, 33 to 38, 40, 41, 43, 45, 48, 50, 57, 59, 63 and 87 and sections 90 and 91 have effect from 11 December 2002 or the date of coming into force of the provisions they respectively amend. Sections 83 and 84 have effect from 1 February 2004.

96. The provisions of this Act come into force on 17 December 2004, except paragraphs 2 to 4 of section 1, paragraphs 1 to 4 and 6 of section 3, paragraph 2 of section 4, sections 7 and 8, paragraph 1 of section 9, paragraph 3 of section 10, sections 11 to 13, 15 and 22, paragraph 2 of section 23, sections 25, 26, 29 and 30, paragraph 2 of section 31, section 32, paragraphs 2 and 3 of section 37, paragraph 4 of section 38, paragraph 3 of section 43 and sections 46, 56, 58, 61 and 86, which come into force on the date or dates to be set by the Government.