

(a) U.S. GAAS if the auditor's report contains an unqualified opinion;

(b) International Standards on Auditing, if the auditor's report is accompanied by a statement by the auditor that

i. describes any material differences in the form and content of the auditor's report as compared to an auditor's report prepared in accordance with Canadian GAAS; and

ii. indicates that an auditor's report prepared in accordance with Canadian GAAS would not contain a reservation; or

(c) auditing standards that meet the foreign disclosure requirements of the designated foreign jurisdiction to which the registrant is subject, if it is a foreign registrant incorporated or organized under the laws of that designated foreign jurisdiction,

if the financial statements are accompanied by an auditor's report prepared in accordance with the same auditing standards used to audit the financial statements and the auditor's report identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

## PART 9 EXEMPTIONS

### 9.1 Exemptions from this Regulation

(1) The securities regulatory authority may grant an exemption from this Regulation, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.

(3) In Québec, this exemption is granted under section 263 of the Securities Act (R.S.Q., C. V-1.1).

### 9.2 Certain Exemptions Evidenced by Receipt

(1) Subject to subsections (2) and (3), without limiting the manner in which an exemption may be evidenced, an exemption from this Regulation as it pertains to financial statements or auditor's reports included in a prospectus, may be evidenced by the issuance of a receipt for the prospectus or an amendment to the prospectus.

(2) A person or company must not rely on a receipt as evidence of an exemption unless the person or company

(a) sent to the securities regulatory authority, on or before the date the preliminary prospectus or the amendment to the preliminary prospectus or prospectus was filed, a letter or memorandum describing the matters relating to the exemption application, and indicating why consideration should be given to the granting of the exemption; or

(b) sent to the securities regulatory authority the letter or memorandum referred to in paragraph *a* after the date of the preliminary prospectus or the amendment to the preliminary prospectus or prospectus has been filed and receives a written acknowledgement from the securities regulatory authority that issuance of the receipt is evidence that the exemption is granted.

(3) A person or company must not rely on a receipt as evidence of an exemption if the securities regulatory authority has before, or concurrently with, the issuance of the receipt for the prospectus, sent notice to the person or company that the issuance of a receipt does not evidence the granting of the exemption.

(4) For the purpose of this section, a reference to a prospectus does not include a preliminary prospectus.

## PART 10 EFFECTIVE DATE

### 10.1 Effective Date

This Regulation comes into force on June 1, 2005.

6837

## M.O., 2005-07

### Order number V-1.1-2005-07 of the Minister of Finance dated 19 May 2005

Securities Act  
(R.S.Q., c. V-1.1; 2004, c. 37)

CONCERNING the Regulation 71-102 respecting continuous disclosure and other exemptions relating to foreign issuers

WHEREAS the Securities Act (R.S.Q., c. V-1.1) has been amended by the chapter 37 of the statutes of 2004;

WHEREAS paragraphs 3, 11, 20 and 34 of section 331.1 of the Securities Act stipulate that the Autorité des marchés financiers may make regulations concerning the matters referred to in those paragraphs;

WHEREAS the third and fourth paragraphs of section 331.2 of the said Act stipulate that a draft regulation shall be published in the Bulletin of the Authority, accompanied with the notice required under section 10 of the Regulations Act (R.S.Q., c. R-18.1) and may not be submitted for approval or be made before 30 days have elapsed since its publication;

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

WHEREAS sections 691 and 696 of chapter 45 of the statutes of 2002 stipulate, in particular, that sections 331.1 and 331.2 of the Securities Act are amended by replacing “Commission” wherever it appears by “Agency”, and making the necessary modifications;

WHEREAS sections 37 and 38 of chapter 37 of the statutes of 2004 stipulate, in particular, that sections 331.1 and 331.2 of the Securities Act are amended by replacing “Agency” wherever it appears by “Authority”;

WHEREAS the draft Regulation 71-102 respecting continuous disclosure and other exemptions relating to foreign issuers was published in the Supplement to the weekly Bulletin of the Commission des valeurs mobilières du Québec, volume 34, No. 50 of December 19, 2003;

WHEREAS on May 9, 2005, by the decision No. 2005-PDG-0115, the Authority made the Regulation 71-102 respecting continuous disclosure and other exemptions relating to foreign issuers;

WHEREAS there is cause to approve this regulation without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment the Regulation 71-102 respecting continuous disclosure and other exemptions relating to foreign issuers appended hereto.

May 19, 2005

MICHEL AUDET,  
*Minister of Finance*

## **Regulation 71-102 respecting continuous disclosure and other exemptions relating to foreign issuers**

Securities Act  
(R.S.Q., c. V-1.1, s. 331.1, par. 3, 11, 20 and 34;  
2004, c. 37)

### **PART 1 DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions and Interpretation**

In this Regulation:

“AIF” means a completed Form 51-102F2 Annual Information Form under Regulation 51-102 respecting Continuous Disclosure Obligations approved by Ministerial Order 2005-03 dated 19 May 2005 or, in the case of an SEC foreign issuer, a completed Form 51-102F2 or an annual report or transition report under the 1934 Act on Form 10-K, Form 10-KSB, or Form 20-F;

“board of directors” means, for a person or company that does not have a board of directors, an individual or group that acts in a capacity similar to a board of directors;

“business acquisition report” means a completed Form 51-102F4 Business Acquisition Report;

“class” includes a series of a class;

“convertible security” means a security of an issuer that is convertible into, or carries the right of the holder to acquire, or of the issuer to cause the acquisition of, a security of the same issuer;

“designated foreign issuer” means a foreign reporting issuer

(a) that does not have a class of securities registered under section 12 of the 1934 Act and is not required to file reports under section 15(d) of the 1934 Act;

(b) that is subject to foreign disclosure requirements; and

(c) for which the total number of equity securities owned, directly or indirectly, by residents of Canada does not exceed 10 per cent, on a fully-diluted basis, of the total number of equity securities of the issuer, calculated in accordance with sections 1.2 and 1.3;

“designated foreign jurisdiction” means Australia, France, Germany, Hong Kong, Italy, Japan, Mexico, the Netherlands, New Zealand, Singapore, South Africa, Spain, Sweden, Switzerland or the United Kingdom of Great Britain and Northern Ireland;

“exchangeable security” means a security of an issuer that is exchangeable for, or carries the right of the holder to acquire, or of the issuer to cause the acquisition of, a security of another issuer;

“exchange-traded security” means a security that is listed on a recognized exchange or is quoted on a recognized quotation and trade reporting system or is listed on an exchange or quoted on a quotation and trade reporting system that is recognized for the purposes of National Instrument 21-101 Marketplace Operation adopted by the Commission des valeurs mobilières du Québec pursuant to decision No. 2001-C-0409 dated August 28, 2001 and National Instrument 23-101 Trading Rules adopted by the Commission des valeurs mobilières du Québec pursuant to decision No. 2001-C-0411 dated August 28, 2001;

“executive officer” of a reporting issuer means an individual who is

- (a) a chair of the reporting issuer;
- (b) a vice-chair of the reporting issuer;
- (c) the president of the reporting issuer;
- (d) a vice-president of the reporting issuer in charge of a principal business unit, division or function including sales, finance or production;
- (e) an officer of the reporting issuer or any of its subsidiaries who performed a policy-making function in respect of the reporting issuer; or
- (f) an individual who performed a policy-making function in respect of the reporting issuer, excluding the individuals set out in paragraphs *a* to *e*;

“foreign disclosure requirements” means the requirements to which a foreign reporting issuer is subject concerning the disclosure made to the public, to securityholders of the issuer or to a foreign regulatory authority

(a) relating to the foreign reporting issuer and the trading in its securities; and

(b) that is made publicly available in the foreign jurisdiction under

i. the securities laws of the foreign jurisdiction in which the principal trading market of the foreign reporting issuer is located; or

ii. the rules of the marketplace that is the principal trading market of the foreign reporting issuer;

“foreign regulatory authority” means a securities commission, exchange or other securities market regulatory authority in a designated foreign jurisdiction;

“foreign reporting issuer” means a reporting issuer, other than an investment fund, that is incorporated or organized under the laws of a foreign jurisdiction, unless

(a) outstanding voting securities carrying more than 50 per cent of the votes for the election of directors are owned, directly or indirectly, by residents of Canada; and

(b) any one or more of the following is true:

i. the majority of the executive officers or directors of the issuer are residents of Canada;

ii. more than 50 per cent of the consolidated assets of the issuer are located in Canada; or

iii. the business of the issuer is administered principally in Canada;

“inter-dealer bond broker” means a person or company that is approved by the Investment Dealers Association under its By-Law No. 36 Inter-Dealer Bond Brokerage Systems, as amended, and is subject to its By-Law No. 36 and its Regulation 2100 Inter-Dealer Bond Brokerage Systems, as amended;

“interim period” means,

(a) in the case of a year other than a transition year, a period commencing on the first day of the financial year and ending nine, six or three months before the end of the financial year, or

(b) in the case of a transition year, a period commencing on the first day of the transition year and ending

i. three, six, nine or twelve months, if applicable, after the end of the old financial year; or

ii. twelve, nine, six or three months, if applicable, before the end of the transition year;

“investment fund” means an investment fund as defined in Regulation 51-102;

“marketplace” means

(a) an exchange;

(b) a quotation and trade reporting system;

(c) any other person or company that

i. constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities;

ii. brings together the orders for securities of multiple buyers and sellers; and

iii. uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of a trade; or

(d) a dealer that executes a trade of an exchange-traded security outside of a marketplace,

but does not include an inter-dealer bond broker;

“MD&A” means a completed Form 51-102F1 Management’s Discussion & Analysis or, in the case of an SEC foreign issuer, a completed Form 51-102F1 or management’s discussion and analysis prepared in accordance with Item 303 of Regulation S-K or Item 303 of Regulation S-B under the 1934 Act;

“multiple convertible security” means a security of an issuer that is convertible into, or exchangeable for, or carries the right of the holder to acquire, or of the issuer to cause the acquisition of, a convertible security, an exchangeable security or another multiple convertible security;

“Nasdaq” means Nasdaq National Market and Nasdaq SmallCap Market;

“old financial year” means the financial year of a reporting issuer that immediately precedes its transition year;

“principal trading market” means the published market on which the largest trading volume in the equity securities of the issuer occurred during the issuer’s most recent financial year that ended before the date the determination is being made;

“published market” means, for a class of securities, a marketplace on which the securities have traded that discloses regularly in a publication of general and regu-

lar paid circulation or in a form that is broadly distributed by electronic means the prices at which those securities have traded;

“recognized exchange” means

(a) in Ontario, an exchange recognized by the securities regulatory authority to carry on business as a stock exchange; and

(b) in every other jurisdiction, an exchange recognized by the securities regulatory authority as an exchange, self-regulatory organization or self-regulatory body, or a legal person, a partnership or any other entity authorized by the securities regulatory authority to carry on securities trading in accordance with securities legislation;

“recognized quotation and trade reporting system” means

(a) in every jurisdiction other than British Columbia, a quotation and trade reporting system recognized by the securities regulatory authority under securities legislation to carry on business as a quotation and trade reporting system; and

(b) in British Columbia, a quotation and trade reporting system recognized by the securities regulatory authority under securities legislation as a quotation and trade reporting system or as an exchange;

“SEC foreign issuer” means a foreign reporting issuer that

(a) has a class of securities registered under section 12 of the 1934 Act or is required to file reports under section 15(d) of the 1934 Act; and

(b) is not registered or required to be registered as an investment company under the Investment Company Act of 1940 of the United States of America, as amended;

“SEDI issuer” has the meaning ascribed to that term in National Instrument 55-102 System for Electronic Disclosure by Insiders (SEDI) adopted by the Commission des valeurs mobilières du Québec pursuant to decision No. 2003-C-0069 dated March 3, 2003;

“transition year” means the financial year of reporting issuer in which the issuer changes its financial year-end;

“TSX” means the Toronto Stock Exchange;

“underlying security” means a security issued or transferred, or to be issued or transferred, in accordance with the terms of a convertible security, an exchangeable security or a multiple convertible security;

“U.S. market” means an exchange in the United States of America or Nasdaq; and

“U.S. market requirements” means the requirements of the U.S. market on which the reporting issuer’s securities are listed or quoted.

### 1.2 Securities Owned by Canadian Shareholders

(1) For the purposes of section 4.14 and paragraph *c* of the definition of “designated foreign issuer”, a reference to equity securities owned, directly or indirectly, by residents of Canada, includes

(a) the underlying securities that are equity securities of the foreign reporting issuer; and

(b) the equity securities of the foreign reporting issuer represented by an American depository receipt or an American depository share issued by a depository holding equity securities of the foreign reporting issuer.

(2) For the purposes of paragraph *a* of the definition of “foreign reporting issuer”, securities represented by American depository receipts or American depository shares issued by a depository holding voting securities of the foreign reporting issuer must be included as outstanding in determining both the number of votes attached to securities owned, directly or indirectly, by residents of Canada and the number of votes attached to all of the issuer’s outstanding voting securities.

### 1.3 Status of Designated Foreign Issuer and Foreign Reporting Issuer

For the purposes of paragraph *c* of the definition of “designated foreign issuer”, paragraph *a* of the definition of “foreign reporting issuer” and section 4.14, the calculation is made,

(a) if the issuer has not completed a financial year since becoming a reporting issuer, at the date that the issuer became a reporting issuer; and

(b) for all other issuers,

i. for the purpose of financial statement and MD&A filings under this Regulation, on the first day of the most recent financial year or year-to-date interim period for which operating results are presented in the financial statements or MD&A; and

ii. for the purpose of other continuous disclosure filing obligations under this Regulation, on the first day of the issuer’s current financial year.

## PART 2 LANGUAGE OF DOCUMENTS

### 2.1 French or English

(1) A person or company must file a document required to be filed under this Regulation in either French or English.

(2) Notwithstanding subsection (1), if a person or company files a document only in French or only in English but delivers to securityholders of an issuer a version of the document in the other language, the person or company must file that other version not later than when it is first delivered to securityholders.

(3) In Québec, a reporting issuer must comply with linguistic obligations and rights prescribed by Québec law.

### 2.2 Filings Prepared in a Language other than French or English

(1) If a person or company files a document that is required to be filed under this Regulation that is a translation of a document prepared in a language other than French or English, the person or company must file the document upon which the translation was based.

(2) A foreign reporting issuer filing a document upon which the translation was based under subsection (1) must attach to the document a certificate as to the accuracy of the translation.

## PART 3 FILING AND SENDING OF DOCUMENTS

### 3.1 Timing of Filing of Documents

A person or company filing a document under this Regulation must file the document at the same time as, or as soon as practicable after, the filing or furnishing of the document to the SEC or to a foreign regulatory authority.

### 3.2 Sending of Documents to Canadian Securityholders

If a person or company sends a document to holders of securities of any class under U.S. federal securities law, or the laws or requirements of a designated foreign jurisdiction, and that document is required to be filed

under this Regulation, then the document must be sent in the same manner and at the same time, or as soon as practicable after, to holders of securities of that class in the local jurisdiction.

#### **PART 4** **SEC FOREIGN ISSUERS**

##### **4.1 Amendments and Supplements**

Any amendments or supplements to disclosure documents filed by an SEC foreign issuer under this Regulation must also be filed.

##### **4.2 Material Change Reporting**

An SEC foreign issuer is exempt from securities legislation requirements relating to disclosure of material changes if the issuer

(a) complies with the U.S. market requirements for making public disclosure of material information on a timely basis;

(b) complies with foreign disclosure requirements for making public disclosure of material information on a timely basis, if securities of the issuer are not listed or quoted on a U.S. market;

(c) promptly files each news release issued by it for the purpose of complying with the requirements referred to in paragraph *a* or *b*;

(d) complies with the requirements of U.S. federal securities law for filing or furnishing current reports to the SEC; and

(e) files the current reports filed with or furnished to the SEC.

##### **4.3 Financial Statements**

An SEC foreign issuer satisfies securities legislation requirements relating to the preparation, approval, filing and delivery of its interim financial statements, and annual financial statements and auditor's reports on annual financial statements if it

(a) complies with the requirements of U.S. federal securities law relating to interim financial statements, annual financial statements and auditor's reports on annual financial statements;

(b) complies with the U.S. market requirements relating to interim financial statements and annual financial statements, if securities of the issuer are listed or quoted on a U.S. market;

(c) files the interim financial statements, annual financial statements and auditor's reports on annual financial statements filed with or furnished to the SEC or a U.S. market;

(d) complies with section 3.2 of this Regulation; and

(e) complies with Regulation 52-107 respecting Acceptable Accounting Principles, Auditing Standards and Reporting Currency approved by Ministerial Order 2005-08 dated 19 May 2005 as it relates to financial statements of the issuer that are included in any documents specified in paragraph *c*.

##### **4.4 AIFs and MD&A**

An SEC foreign issuer satisfies securities legislation requirements relating to the preparation, approval, filing and delivery of AIFs and MD&A if it

(a) complies with the requirements of U.S. federal securities law relating to annual reports, quarterly reports, current reports and management's discussion and analysis;

(b) files each annual report, quarterly report, current report and management's discussion and analysis filed with or furnished to the SEC;

(c) complies with section 3.2 of this Regulation; and

(d) complies with Regulation 52-107 as it relates to financial statements of the issuer that are included in any documents specified in paragraph *b*.

##### **4.5 Business Acquisition Reports**

An SEC foreign issuer satisfies securities legislation requirements relating to the preparation and filing of business acquisition reports if it

(a) complies with the requirements of U.S. federal securities law relating to business acquisition reports;

(b) files each business acquisition report filed with or furnished to the SEC;

(c) complies with section 3.2 of this Regulation; and

(d) complies with Regulation 52-107 as it relates to financial statements that are included in any documents specified in paragraph *b*.

#### 4.6 Proxies and Proxy Solicitation by the Issuer and Information Circulars

An SEC foreign issuer satisfies securities legislation requirements relating to information circulars, proxies and proxy solicitation if it

(a) complies with the requirements of U.S. federal securities law relating to proxy statements, proxies and proxy solicitation;

(b) files all material relating to a meeting of securityholders that is filed with or furnished to the SEC;

(c) sends each document filed under paragraph *b* to securityholders in the local jurisdiction in the manner and at the time required by U.S. federal securities laws and U.S. market requirements; and

(d) complies with Regulation 52-107 as it relates to financial statements of the issuer that are included in any documents specified in paragraph *b*.

#### 4.7 Form of Proxy, Proxy Solicitation and Information Circular Sent by Another Person or Company

(1) A person or company, other than the SEC foreign issuer, satisfies securities legislation requirements relating to information circulars, proxies and proxy solicitation with respect to an SEC foreign issuer if the person or company complies with the requirements of subsection 4.6.

(2) If a proxy solicitation is made with respect to an SEC foreign issuer by a person or company other than the SEC foreign issuer and the person or company soliciting proxies lacks access to the relevant list of securityholders of the SEC foreign issuer, the exemption in subsection (1) is not available, if

(a) the aggregate published trading volume of the class on the TSX and the TSX Venture Exchange exceeded the aggregate published trading volume of the class on all U.S. markets

(b) for the 12 calendar month period before commencement of the proxy solicitation, if there is no other proxy solicitation for securities of the same class in progress, or

i. for the 12 calendar month period before commencement of the first proxy solicitation, if another proxy solicitation for securities of the same class is already in progress;

ii. the information disclosed by the SEC foreign issuer in its most recent Form 10-K, Form 10-KSB or Form 20-F filed with the SEC under the 1934 Act demonstrated that paragraph *a* of the definition of “foreign reporting issuer” applied to the SEC foreign issuer; or

(c) the person or company soliciting proxies reasonably believes that paragraph *a* of the definition of “foreign reporting issuer” applies to the SEC foreign issuer.

#### 4.8 Disclosure of Voting Results

An SEC foreign issuer is exempt from securities legislation requirements relating to disclosure of securityholder voting results if the issuer

(a) complies with the requirements of U.S. federal securities law relating to disclosure of securityholder voting results; and

(b) files a copy of all disclosure of securityholder voting results filed with or furnished to the SEC.

#### 4.9 Filing of Certain News Releases

An SEC foreign issuer is exempt from securities legislation requirements relating to the filing of news releases that disclose information regarding its results of operations or financial condition if the issuer

(a) complies with the requirements of U.S. federal securities laws relating to the filing of news releases disclosing financial information; and

(b) files a copy of each news release disclosing financial information that is filed with or furnished to the SEC.

#### 4.10 Filing of Certain Documents

An SEC foreign issuer is exempt from securities legislation requirements relating to the filing of documents affecting the rights of securityholders and the filing of material contracts.

#### 4.11 Early Warning

A person or company is exempt from the early warning requirements and acquisition announcement provisions of securities legislation in respect of securities of an SEC foreign issuer that has a class of securities registered under section 12 of the 1934 Act if the person or company

(a) complies with the requirements of U.S. federal securities law relating to the reporting of beneficial ownership of equity securities of the SEC foreign issuer; and

(b) files each report of beneficial ownership that is filed with or furnished to the SEC.

#### 4.12 Insider Reporting

The insider reporting requirement does not apply to an insider of an SEC foreign issuer that has a class of securities registered under section 12 of the 1934 Act if

(a) the SEC foreign issuer is not a SEDI issuer; and

(b) the insider complies with the requirements of U.S. federal securities law relating to insider reporting.

#### 4.13 Communication with Beneficial Owners of Securities

An SEC foreign issuer that has a class of securities registered under section 12 of the 1934 Act satisfies securities legislation requirements relating to communications with, delivery of materials to and conferring voting rights upon non-registered holders of its securities who hold their interests in the securities through one or more intermediaries if the issuer

(a) complies with the requirements of Rule 14a-13 under the 1934 Act for any depository and any intermediary whose last address as shown on the books of the issuer is in Canada; and

(b) complies with the requirements of Regulation 54-101 respecting Communication with Beneficial Owners of Securities of a Reporting Issuer adopted by the Commission des valeurs mobilières du Québec pursuant to decision No. 2301-C-0082 dated March 3, 2003 with respect to fees payable to intermediaries, for any depository and any intermediary whose last address as shown on the books of the issuer is in Canada.

#### 4.14 Going Private Transactions and Related Party Transactions

Securities legislation requirements relating to going private transactions and related party transactions, as those terms are used in securities legislation of the local jurisdiction, do not apply to an SEC foreign issuer carrying out a going private transaction or related party transaction if the total number of equity securities of the SEC foreign issuer owned, directly or indirectly, by residents of Canada, does not exceed 20 per cent, on a diluted basis, of the total number of equity securities of the SEC foreign issuer.

#### 4.15 Change of Auditor

An SEC foreign issuer satisfies securities legislation requirements relating to a change of auditor if the issuer

(a) complies with the requirements of U.S. federal securities laws relating to a change of auditor; and

(b) files a copy of all materials relating to a change of auditor that are filed with or furnished to the SEC.

#### 4.16 Restricted Securities

(1) Securities legislation continuous disclosure requirements relating to restricted securities do not apply in respect of SEC foreign issuers.

(2) Securities legislation minority approval requirements relating to restricted securities do not apply in respect of SEC foreign issuers.

### PART 5

#### DESIGNATED FOREIGN ISSUERS

##### 5.1 Amendments and Supplements

Any amendments or supplements to disclosure documents filed by a designated foreign issuer under this Regulation must also be filed.

##### 5.2 Mandatory Annual Disclosure by Designated Foreign Issuer

To rely on this Part, a designated foreign issuer must, at least once a year, disclose in, or as an appendix to, a document that it is required by foreign disclosure requirements to send to its securityholders and that it sends to its securityholders in Canada

(a) that it is a designated foreign issuer as defined in this Regulation;

(b) that it is subject to the foreign regulatory requirements of a foreign regulatory authority; and

(c) the name of the foreign regulatory authority referred to in paragraph *b*.

##### 5.3 Material Change Reporting

A designated foreign issuer is exempt from securities legislation requirements relating to disclosure of material changes if the issuer

(a) complies with foreign disclosure requirements for making public disclosure of material information on a timely basis;

(b) promptly files each news release issued by it for the purpose of complying with the requirements referred to in paragraph a; and

(c) files the documents disclosing the material information filed with or furnished to the foreign regulatory authority or disseminated to the public or securityholders of the issuer.

#### 5.4 Financial Statements

A designated foreign issuer satisfies securities legislation requirements relating to the preparation, approval, filing and delivery of its interim financial statements, annual financial statements and auditor's reports on annual financial statements if it

(a) complies with the foreign disclosure requirements relating to interim financial statements, annual financial statements and auditor's reports on annual financial statements;

(b) files the interim financial statements, annual financial statements and auditor's reports on annual financial statements required to be filed with or furnished to the foreign regulatory authority;

(c) complies with section 3.2 of this Regulation; and

(d) complies with Regulation 52-107 as it relates to financial statements of the issuer that are included in any documents specified in paragraph b.

#### 5.5 AIFs & MD&A

A designated foreign issuer satisfies securities legislation requirements relating to the preparation, approval, filing and delivery of AIFs and MD&A if it

(a) complies with the foreign disclosure requirements relating to annual reports, quarterly reports and management's discussion and analysis;

(b) files each annual report, quarterly report and management's discussion and analysis required to be filed with or furnished to the foreign regulatory authority;

(c) complies with section 3.2 of this Regulation; and

(d) complies with Regulation 52-107 as it relates to financial statements of the issuer that are included in any documents specified in paragraph b.

#### 5.6 Business Acquisition Reports

A designated foreign issuer satisfies securities legislation requirements relating to the preparation and filing of business acquisition reports if it

(a) complies with the foreign disclosure requirements relating to business acquisitions;

(b) files each report in respect of a business acquisition required to be filed with or furnished to the foreign regulatory authority;

(c) complies with section 3.2 of this Regulation; and

(d) complies with Regulation 52-107 as it relates to financial statements that are included in any documents specified in paragraph b.

#### 5.7 Form of Proxy, Proxy Solicitation and Information Circular Sent by the Issuer

A designated foreign issuer satisfies securities legislation requirements relating to information circulars, proxies and proxy solicitation if it

(a) complies with the foreign disclosure requirements relating to proxy statements, proxies and proxy solicitation;

(b) files all material relating to a meeting of securityholders that is filed with or furnished to the foreign regulatory authority;

(c) complies with section 3.2 of this Regulation; and

(d) complies with Regulation 52-107 as it relates to financial statements of the issuer that are included in any documents specified in paragraph b.

#### 5.8 Proxy Solicitation by Another Person or Company

(1) A person or company, other than the designated foreign issuer, satisfies securities legislation requirements relating to information circulars, proxies and proxy solicitation with respect to a designated foreign issuer if the person or company satisfies the requirements of section 5.7.

(2) If a proxy solicitation is made with respect to a designated foreign issuer by a person or company other than the designated foreign issuer and the person or company soliciting proxies lacks access to the relevant list of securityholders of the designated foreign issuer, the exemption in subsection (1) is not available, if

(a) the aggregate published trading volume of the class on the TSX and the TSX Venture Exchange exceeded the aggregate trading volume on securities marketplaces outside Canada

i. for the 12 calendar months before commencement of the proxy solicitation, if there is no other proxy solicitation for securities of the same class in progress, or

ii. for the 12 calendar month period before the commencement of the first proxy solicitation, if another proxy solicitation for securities of the same class is already in progress;

(b) the information disclosed by the designated foreign issuer in a document filed within the previous 12 months with a foreign regulatory authority, demonstrated that paragraph *a* of the definition of “foreign reporting issuer” applied to the designated foreign issuer; or

(c) the person or company soliciting proxies reasonably believes that paragraph *a* of the definition of “foreign reporting issuer” applies to the designated foreign issuer.

### 5.9 Disclosure of Voting Results

A designated foreign issuer is exempt from securities legislation requirements relating to disclosure of securityholder voting results if the issuer

(a) complies with the foreign disclosure requirements relating to disclosure of securityholder voting results; and

(b) files each report disclosing securityholder voting results that is filed with or furnished to a foreign regulatory authority.

### 5.10 Filing of Certain News Releases

A designated foreign issuer is exempt from securities legislation requirements relating to the filing of news releases that disclose information regarding its results of operations or financial condition if the issuer

(a) complies with the foreign disclosure requirements relating to the filing of news releases disclosing financial information; and

(b) files a copy of each news release disclosing financial information that is filed with or furnished to a foreign regulatory authority.

### 5.11 Filing of Certain Documents

A designated foreign issuer is exempt from securities legislation requirements relating to the filing of documents affecting the rights of securityholders and the filing of material contracts.

### 5.12 Early Warning

A person or company is exempt from the early warning requirements and acquisition announcement provisions of securities legislation in respect of securities of a designated foreign issuer if the person or company

(a) complies with the foreign disclosure requirements relating to reporting of beneficial ownership of equity securities of the designated foreign issuer; and

(b) files each report of beneficial ownership that is filed with or furnished to the foreign regulatory authority.

### 5.13 Insider Reporting

The insider reporting requirement does not apply to an insider of a designated foreign issuer if

(a) the designated foreign issuer is not a SEDI issuer; and

(b) the insider complies with the foreign disclosure requirements relating to insider reporting.

### 5.14 Communication with Beneficial Owners of Securities

A designated foreign issuer satisfies securities legislation requirements relating to communications with, delivery of materials to and conferring voting rights upon non-registered holders of its securities who hold their interests in the securities through one or more intermediaries if the issuer

(a) complies with foreign disclosure requirements relating to communication with beneficial owners of securities; and

(b) complies with the requirements of Regulation 54-101 Respecting Communication with Beneficial Owners of Securities of a Reporting Issuer with respect to fees payable to intermediaries, for any depositary and any intermediary whose last address as shown on the books of the issuer is in Canada.

### 5.15 Going Private Transactions and Related Party Transactions

Securities legislation requirements relating to going private transactions and related party transactions, as those terms are used in securities legislation of the local jurisdiction, do not apply to a designated foreign issuer carrying out a going private transaction or related party transaction.

### 5.16 Change in Year-End

A designated foreign issuer satisfies securities legislation requirements relating to a change in year-end if the issuer

(a) complies with foreign disclosure requirements relating to a change in year-end; and

(b) files a copy of all filings made under foreign disclosure requirements relating to the change in year-end.

### 5.17 Change of Auditor

A designated foreign issuer satisfies securities legislation requirements relating to a change of auditor if the issuer

(a) complies with foreign disclosure requirements relating to a change of auditor; and

(b) files a copy of all filings made under foreign disclosure requirements relating to the change of auditor.

### 5.18 Restricted Securities

(1) Securities legislation continuous disclosure requirements relating to restricted securities do not apply in respect of SEC foreign issuers;

(2) Securities legislation minority approval requirements relating to restricted securities do not apply in respect of designated foreign issuers.

## PART 6

### EFFECTIVE DATE

#### 6.1 Effective Date

This Regulation comes into force on June 1, 2005.

6838

## M.O., 2005-05

### Order number V-1.1-2005-05 of the Minister of Finance dated 19 May 2005

Securities Act  
(R.S.Q., c. V-1.1 ; 2004, c. 37)

CONCERNING the Regulation 81-106 respecting investment fund continuous disclosure

WHEREAS the Securities Act (R.S.Q., c. V-1.1) has been amended by the chapter 37 of the statutes of 2004;

WHEREAS paragraphs 1, 3, 8, 9, 11, 19, 19.1, 20, 27 and 34 of section 331.1 of the Securities Act stipulate that the Autorité des marchés financiers may make regulations concerning the matters referred to in those paragraphs;

WHEREAS the third and fourth paragraphs of section 331.2 of the said Act stipulate that a draft regulation shall be published in the Bulletin of the Authority, accompanied with the notice required under section 10 of the Regulations Act (R.S.Q., c. R-18.1) and may not be submitted for approval or be made before 30 days have elapsed since its publication;

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

WHEREAS sections 691 and 696 of chapter 45 of the statutes of 2002 stipulate, in particular, that sections 331.1 and 331.2 of the Securities Act are amended by replacing “Commission” wherever it appears by “Agency”, and making the necessary modifications;

WHEREAS sections 37 and 38 of chapter 37 of the statutes of 2004 stipulate, in particular, that sections 331.1 and 331.2 of the Securities Act are amended by replacing “Agency” wherever it appears by “Authority”;

WHEREAS the draft Regulation 81-106 respecting investment fund continuous disclosure was published in the Supplement to the weekly Bulletin concerning securities of the Agency, volume 1, No. 17 of May 28, 2004;

WHEREAS on May 9, 2005, by the No. decision 2005-PDG-0116, the Authority made the Regulation 81-106 respecting investment fund continuous disclosure;