

Regulation to repeal Regulation Q-27 respecting protection of minority security holders in the course of certain transactions *

Securities Act

(R.S.Q., c. V-1.1, s. 331.1, par. (24); 2007, c. 15)

1. Regulation Q-27 respecting Protection of Minority Security holders in the Course of Certain Transactions is repealed.

2. This Regulation comes into force on February 1, 2008.

8542

M.O., 2008

Order number V-1.1-2008-03 of the Minister of Finance, dated 22 January 2008

Securities Act

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

CONCERNING Regulation to amend Regulation 62-103 respecting the early warning system and related take-over bid and insider reporting issues and Regulation to amend the Securities Regulation

WHEREAS subparagraphs 1, 8, 21, 22, 23, 32.1 and 34 of section 331.1 of the Securities Act (R.S.Q., c. V-1.1), amended by section 15 of chapter 15 of the statutes of 2007, 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 the Regulation 62-103 respecting the early warning system and related take-over bid and insider reporting issues has been made on March 18, 2003 pursuant to decision No. 2003-C-0109;

WHEREAS the government, by order-in-council no. 660-83 of March 30, 1983, enacted the Securities Regulation (1983, *G.O.* 2, 1269);

WHEREAS there is cause to amend those regulations;

WHEREAS the draft Regulation to amend Regulation 62-103 respecting the early warning system and related take-over bid and insider reporting issues was published in the Supplément au Bulletin sur les valeurs mobilières de l'Autorité des marchés financiers, volume 3, No. 17 of April 28, 2006;

WHEREAS the draft Regulation to amend the Securities Regulation was published in the Bulletin de l'Autorité des marchés financiers, volume 4, No. 45 of November 9, 2007 and volume 4, No. 48 of November 30, 2007;

WHEREAS the Authority made, on January 17 2008, by the decision No. 2008-PDG-0008, Regulation to amend Regulation 62-103 respecting the early warning system and related take-over bid and insider reporting issues and, by the decision No. 2008-PDG-0010, Regulation to amend the Securities Regulation;

WHEREAS there is cause to approve those regulations without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment Regulation to amend Regulation 62-103 respecting the early warning system and related take-over bid and insider reporting issues and Regulation to amend the Securities Regulation appended hereto.

January 22, 2008

MONIQUE JÉRÔME-FORGET,
Minister of Finance

* Regulation Q-27 respecting Protection of Minority Securityholders in the Course of Certain Transactions, adopted on June 12, 2001 pursuant to decision No. 2001-C-0257 and published in the Supplement to the Bulletin of the *Commission des valeurs mobilières du Québec*, vol. 32, No. 25, dated June 22, 2001, was amended solely by the Regulation to amend Policy Statement Q-27, Protection of Minority Securityholders in the Course of Certain Transactions, approved by Ministerial Order No. 2005-17 dated August 2, 2005 (2005, *G.O.* 2, 3523).

Regulation to amend Regulation 62-103 respecting the early warning system and related take-over bid and insider reporting issues *

Securities Act
(R.S.Q., c. V-1.1, s. 331.1, par. (1), (8), (22) and (34);
2007, c. 15)

1. Paragraph (1) of section 1.1 of Regulation 62-103 respecting the Early Warning System and Related Take-over Bid and Insider Reporting Issues is amended by:

(1) deleting, in the definition of “acting jointly or in concert”, the words “or company”;

(2) replacing the definition of “moratorium provisions” with the following:

“moratorium provisions” means the provisions set out in subsection 5.2(3) of Regulation 62-104 respecting Take-over Bids and Issuer Bids and, in Ontario, subsection 102.1(3) of the Securities Act (Ontario) (R.S.O., c. S.5);”;

(3) deleting, in the definition of “entity”, the words “or company”;

(4) replacing the definition of “offeror” with the following:

“offeror” has the meaning ascribed to that term in section 1.1 of Regulation 62-104 respecting Take-over Bids and Issuer Bids and, in Ontario, subsection 89(1) of the Securities Act (Ontario);”;

(5) adding the following definition after the definition of “applicable provisions”:

“associate” has same meaning ascribed to that term in section 1.1 of Regulation 62-104 respecting Take-over Bids and Issuer Bids approved by Ministerial Order no. 2008-02 dated January 22, 2008 and, in Ontario, has the meaning ascribed under paragraphs (a.1) to (f) of the definition of “associate” in subsection 1(1) of the Securities Act (Ontario);”;

(6) replacing the definition of “formal bid” with the following:

“formal bid”

(a) means a take-over bid or issuer bid made in accordance with Part 2 of Regulation 62-104 respecting Take-over Bids and Issuer Bids, and

(b) in Ontario, has the meaning ascribed to that term in subsection 89(1) of the Securities Act (Ontario);”;

(7) replacing the definition of “private mutual fund” with the following:

“private mutual fund” means

(a) a private investment club referred to in section 2.20 of Regulation 45-106 respecting Prospectus and Registration Exemptions approved by Ministerial Order no. 2005-20 dated August 12, 2005, or

(b) a private investment fund referred to in section 2.21 of Regulation 45-106 respecting Prospectus and Registration Exemptions;”;

(8) replacing the definition of “offeror’s securities” with the following:

“offeror’s securities” has the meaning ascribed to that term in section 1.1 of Regulation 62-104 respecting Take-over Bids and Issuer Bids and, in Ontario, subsection 89(1) of the Securities Act (Ontario);”;

(7) replacing the definition of “early warning requirements” with the following:

“early warning requirements” means the requirements set out in subsections 5.2(1) and 5.2(2) of Regulation 62-104 respecting Take-over Bids and Issuer Bids and, in Ontario, subsections 102.1(1) and 102.1(2) of the Securities Act (Ontario);”.

2. Paragraph (1) of section 2.1 of the Regulation is replaced with the following:

“(1) Subject to subsection (2), in determining its securityholding percentage in a class of securities for the purposes of the early warning requirements or Part 4, an entity may rely upon information most recently provided by the issuer of the securities in a material change report or under section 5.4 of Regulation 51-102 respecting Continuous Disclosure Obligations approved by Ministerial Order no. 2005-03 dated May 19, 2005, whichever contains the most recent information.”.

* Regulation 62-103 respecting the Early Warning System and Related Take-over Bid and Insider Reporting Issues, adopted on March 18, 2003 pursuant to decision No. 2003-C-0109 and published in the Supplement to the Bulletin of the Commission des valeurs mobilières du Québec, volume 34, No. 19, dated May 16, 2003, was amended solely by the regulations to amend this regulation approved by Ministerial Order No. 2005-04 dated May 19, 2005 (2005, G.O. 2, 2363) and by Ministerial Order No. 2005-22 dated August 17, 2005 (2005, G.O. 2, 4901).

3. Paragraph (b) of section 5.1 of the Regulation is replaced with the following:

“(b) the business unit is not a joint actor with any other business unit with respect to the securities, determined without regard to the provisions of securities legislation that deem an affiliate, and presume an associate, to be acting jointly or in concert with an offeror;”.

**“APPENDIX D
“BENEFICIAL OWNERSHIP**

JURISDICTION

Alberta

British Columbia

Manitoba

New Brunswick

Newfoundland and Labrador

Northwest Territories

Nova Scotia

Nunavut

Ontario

Prince Edward Island

Quebec

Saskatchewan

Yukon Territory

4. Section 8.3 of the Regulation is amended by deleting the words “or company” wherever they appear.

5. Appendices B and C to the Regulation are repealed.

6. Appendix D to the Regulation is replaced with the following:

SECURITIES LEGISLATION REFERENCE

Sections 5 and 6 of the Securities Act (R.S.A. 2000, c. S-4) and sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Subsection 1(4) of the Securities Act (R.S.B.C. 1996, ch. 418) and sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Subsections 1(6) and 1(7) of the Securities Act (C.C.S.M., c. S50) and sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Subsections 1(5) and 1(6) of the Securities Act (S.N.-B. 2004, c. S-5.5) and sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Subsections 2(5) and 2(6) of the Securities Act (R.S.N.L. 1990, c. S-13) and sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Subsections 2(5) and 2(6) of the Securities Act (R.S.N.S. 1989, c. 418) and sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Subsections 1(5) and 1(6) and sections 90 and 91 of the Securities Act (R.S.O., 1990, c. S.5)

Sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Subsections 2(5) and 2(6) of The Securities Act, 1988 (S.S. 1988-89, c. S-42.2) and sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids

Sections 1.8 and 1.9 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids”.

7. Appendix E to the Regulation is amended by:

- (1) adding the following after paragraph (e):

“(e.1) the value, in Canadian dollars, of any consideration offered per security if the offeror acquired ownership of a security in the transaction or occurrence giving rise to the obligation to file a news release;”;

(2) in paragraph (i), adding “, in Canadian dollars” after “value” and strike “and” at the end of the paragraph;

(3) replacing “.” at the end of paragraph (j) with”; and” and adding the following after paragraph (j):

“(k) if applicable, a description of the exemption from securities legislation being relied on by the offeror and the facts supporting that reliance.”.

8. The Regulation is amended by deleting the words “or company” and “or companies” wherever they appear.

9. This Regulation comes into force on February 1, 2008.

Regulation to amend the Securities Regulation*

Securities Act

(R.S.Q., c. V-1.1, s. 331.1, pars. (1), (8), (21), (22), (32.1) and (34); 2007, c. 15)

1. Sections 176 to 189.1.1 of the Securities Regulation are repealed.

2. Section 189.1.2 of the Regulation is replaced by the following:

“**189.1.2.** An offeror making a take-over bid or an issuer bid must file with the Authority the take-over or issuer bid circular prescribed in section 2.10 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids approved by Ministerial Order no. 2008-02 dated January 22, 2008 that is required at the time of filing the bid, and this take-over or issuer bid circular is deemed to be the report prescribed in section 271.4.

A person who makes an issuer bid in reliance on a normal course issuer bid exemption must file with the Authority the news release prescribed in section 4.8 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids, and this news release is deemed to be the report prescribed in section 271.4.”

3. Sections 189.1.3 to 189.15 of the Regulation are repealed.

4. The Regulation is amended by adding the following after section 252.1:

“TITLE V.1

“Civil actions for secondary market

“**252.2.** For the purposes of Division II of Chapter II of Title VIII of the Act:

“market capitalization” means the sum of the following amounts determined for each class of equity securities:

(1) for securities for which there is a published market, the amount determined by adding the number of outstanding securities of the class at the close of trading on each of the 10 trading days before the day on which the misrepresentation was made or the failure to make timely disclosure first occurred, by dividing the sum determined by 10, and by multiplying the quotient obtained by the trading price of the securities of the class on the principal market for the securities for the 10 trading days before the day on which the misrepresentation was made or the failure to make timely disclosure first occurred;

(2) for securities not traded on a published market, the amount determined by adding the fair market value of the outstanding securities of that class as of the day on which the misrepresentation was made or the failure to make timely disclosure first occurred;

“trading price” means, in respect of a security of a class of securities for which there is a published market, the following market prices:

(1) for securities on which there were no trades during the period for which the trading price is to be determined, the trading price is the fair market value of the security;

(2) for securities on which there was trading on fewer than half of the trading days during the period for which the trading price is to be determined, the trading price is determined by calculating the sum of the average of the

*The Securities Regulation, enacted by Order-in-Council 660-83 dated March 30, 1983 (1983, *G.O.* 2, 1269), was last amended by the regulation to amend this regulation approved by Ministerial Order No. 2007-09 dated December 14, 2007 (2007, *G.O.* 2, 4077). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2007, updated to September 1, 2007.

highest bid and lowest ask prices for each trading day in the period on which there were no trades in the securities, by dividing the sum determined by the number of trading days on which there were no trades, by adding to the quotient obtained the volume weighted average price of securities of that class on the published market for those trading days on which securities of that class were traded, and by dividing by two the amount determined;

(3) for all other securities, the trading price is the volume weighted average price of securities of that class on the published market during the period for which the trading price is to be determined;

“trading day” means a day during which the principal market for a security is open;

“principal market” means, in respect of a class of securities, the published market in Canada or, failing which, the foreign published market on which the greatest volume of trading in securities of that class occurred during the 10 trading days before the day on which the misrepresentation was made or the failure to make timely disclosure first occurred;

“equity security” means a security of an issuer that carries the residual right to participate in the earnings of the issuer and, on liquidation or winding-up of the issuer, in its assets.

252.3. Division II of Chapter II of Title VIII of the Act applies to any person who subscribes to or acquires a security pursuant to the prospectus exemption set out in section 2.8 of Regulation 45-102 respecting Resale of Securities approved by Ministerial Order no. 2005-21 dated August 12, 2005.

The Division also applies to any person who acquires or disposes of a security of an issuer in connection with or pursuant to a take-over bid contemplated under section 4.1, 4.4 or 4.5 of Regulation 62-104 respecting Take-Over Bids and Issuer Bids or in connection with or pursuant to an issuer bid contemplated under section 4.8, 4.10 or 4.11 of the Regulation.”

5. Schedules XI, XII, XIII and XIV to the Regulation are repealed.

6. This Regulation comes into force on February 1, 2008.

8543

M.O., 2008-02

Order number V-1.1-2008-02 of the Minister of Finance dated 22 January 2008

Securities Act
(R.S.Q., c. V-1.1; 2007, c. 15)

CONCERNING Regulation 62-104 respecting take-over bids and issuer bids

WHEREAS subparagraphs 1, 8, 11, 21, 22 and 34 of section 331.1 of the Securities Act (R.S.Q., c. V-1.1), amended by section 15 of chapter 15 of the statutes of 2007, 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 the draft Regulation 62-104 respecting take-over bids and issuer bids was published in the Supplément au Bulletin sur les valeurs mobilières de l’Autorité des marchés financiers, volume 3, No. 17 of April 28, 2006;

WHEREAS on January 17, 2008, by the decision No. 2008-PDG-0007, the Authority made Regulation 62-104 respecting take-over bids and issuer bids;

WHEREAS there is cause to approve this regulation without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment Regulation 62-104 respecting take-over bids and issuer bids appended hereto.

January 22, 2008

MONIQUE JÉRÔME-FORGET
Minister of Finance
