

(2) a document issued by the international organization and indicating the start and end dates of the contract of employment and, where applicable, the identity of the persons covered by the agreement who accompany the employee;

(3) the employment authorization issued by Canadian immigration authorities.

In addition to the registration form required under the first paragraph of this section, a person referred to in the second paragraph of section 8 must provide the Board with

(1) the document of Le Protocole attesting to the person's registration with the Ministère des Relations internationales;

(2) a copy of the document issued to the employee by the international organization and indicating the start and end dates of the employee's contract of employment;

(3) the authorization of stay issued by Canadian immigration authorities.

Entitlement to the benefits of the plan granted to the employee and the persons covered by the agreement who accompany the employee takes effect on the start date stipulated in the contract, the date on which the authorization of stay is issued or the date of arrival to Québec, whichever is latest. Entitlement to benefits ends on the end date of the contract of employment, the date on which the authorization of stay expires or the date of departure from Québec, whichever comes first.

10. An employee referred to in section 8 who stays outside Québec in the course of the employee's duties on behalf of the employing international organization remains entitled to the benefits for the duration of the stay.

A person referred to in the second paragraph of section 8 who accompanies the employee during such a stay also remains entitled to benefits.

11. An employee who stays outside Québec during a leave authorized by the employer, excluding a stay referred to in section 10, or the person referred to in the second paragraph of section 8 remains entitled to benefits provided that the total duration of the stays for the year does not exceed 12 weeks, without taking into account stays of 21 consecutive days or less.

12. A child without a spouse of an employee referred to in section 8 who is under 25 years of age and who is a duly registered full-time student in a college-level or

university-level educational institution located in Canada is presumed to live permanently with the employee. That presumption applies for no more than 5 consecutive school years if the institution is located outside Québec.

13. In the event of inconsistencies, the provisions of this Regulation and those of the agreement concerned prevail over the provisions of the Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance maladie du Québec.

14. The Minister draws up a list of the non-government international organizations referred to in this Chapter and keeps it up-to-date.

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

8732

Draft Regulation

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

Administrateurs agréés — Trust accounting by chartered administrators and the indemnity fund of the Ordre

Notice is hereby given in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the "Regulation respecting trust accounting by chartered administrators and the indemnity fund of the Ordre des administrateurs agréés du Québec" has been adopted by the Bureau of the Ordre des administrateurs agréés and will be submitted to the government, which may approve it with or without amendment upon the expiry of 45 days following this publication.

The purpose of this draft regulation is to update the rules governing the indemnity fund, to implement rules regarding trust accounting by the chartered administrators, and to monitor cash transactions made by a chartered administrator in order to fight money laundering, by, notably, limiting said transactions to 7 500\$.

According to the Ordre des administrateurs agréés du Québec, these modifications have no impact on enterprises, including small and medium enterprises.

Further information may be obtained by contacting M^e Denise Brosseau, general manager and secretary of the Ordre des administrateurs agréés du Québec,

910, Sherbrooke West street, suite 100, Montréal (Québec) H3A 1G3, phone number: 514 499-0880 or 1 800 465-0880; fax number: 514 499-0892.

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

JEAN PAUL DUTRISAC
Chairman of the Office des professions du Québec,

Regulation respecting trust accounting by chartered administrators and the indemnity fund of the Ordre des administrateurs agréés du Québec

Professional Code
(R.S.Q., c. C-26, s. 89)

CHAPTER I ACCOUNTING OF THE TRUST ACCOUNT

SECTION I GENERAL PROVISIONS

1. The chartered administrator shall record and account for all funds, securities and other property entrusted to him in the practice of his profession, and use them only for the purposes for which they were entrusted.

2. The chartered administrator may not deposit, or leave on deposit, his own funds, securities or other personal property in a trust account, nor confuse them with those of his client.

3. The chartered administrator may withdraw from the trust account only:

1° the funds, securities and other property which he shall remit to the client or a third party in his name;

2° the amount of his fees and disbursements made in the name of the client as evidenced in writing and sent to the client or accepted by him;

3° the funds, securities and other property which are directly transferred to another trust account.

4. The funds, securities and other property entrusted to the chartered administrator include cash, negotiable instruments payable to the chartered administrator or to the chartered administrator in trust, and all other instruments and securities payable to bearer or registered in the name of the chartered administrator or to the chartered administrator in trust.

5. The chartered administrator may not endorse a cheque or other negotiable instrument made to the order of a client without the client's written authorization and unless the endorsement is solely for deposit in the trust account of the chartered administrator.

6. The chartered administrator shall take necessary steps to ensure that the funds, securities and other property entrusted to him are related to the performance of a contract of services or to a lawful mandate clearly defined and related to the exercise of his profession.

SECTION II GENERAL TRUST ACCOUNT AND SPECIAL TRUST ACCOUNT

7. The funds, securities and other property entrusted on behalf of a client to a chartered administrator shall, without delay after receipt, be deposited in a general trust account opened in the name of the chartered administrator and for which he is the only one authorized to withdraw. Said account may also be held jointly by more than one chartered administrators.

8. A general trust account includes any account opened for this purpose in the name of a chartered administrator, made up of deposits covered by the deposit insurance pursuant to the Canada Deposit Insurance Corporation Act (R.S. 1985, c. C-3) or guaranteed under the Deposit Insurance Act (R.S.Q., c. A-26).

This account must be open in Quebec in a financial institution governed by the Act respecting trust companies and savings companies (R.S.Q., c. S-29.01), the Bank Act (S.C. 1991, c. 46), by the Act respecting financial services cooperatives (R.S.Q., c. C-67.3) or by the Trust and Loan Companies Act (S.C. 1991, c. 45).

9. Upon opening a general trust account, the chartered administrator shall submit to the Ordre without delay a sworn declaration duly completed on the form provided by the Ordre indicating:

1° the name, address, postal code, transit number of the depositary financial institution, as well as the account number and the date of its opening;

2° the name of the persons authorized to sign the documents related to the current account transactions;

3° an irrevocable waiver in favor of the Ordre of the interest or other income from such account and authorization for the financial institution to directly transfer to the Ordre the interest and other income from such account, less administration costs, if any, for payment into the indemnity fund;

4° an irrevocable authorization entitling the Bureau, the Administrative Committee, the Professional Inspection Committee, the person in charge of professional inspection appointed in accordance with section 90 of the Professional Code (R.S.Q., c. C-26), an inspector, or a syndic, to take any action contemplated in section 32;

5° an irrevocable authorization entitling the Bureau, the Administrative Committee, upon recommendation by a syndic, by the Professional Inspection Committee or by the person in charge of professional inspection appointed in accordance with section 90 of the Professional Code, to require that he obtain, at the expense of the member, the cosignature of another member designated by the Professional Inspection Committee or by a syndic, to draw cheques and other payment orders on the account.

In addition, the chartered administrator shall submit, without delay, a copy of the sworn declaration duly completed to the financial institution or to the securities broker where the account has been opened. He shall keep a copy thereof.

10. Where required by the interest of the person, or where the person expressly requests the remittance of the interest or other income from the funds, or where so required by provincial or federal legislation, the chartered administrator shall deposit the funds in a special trust account, and have the name of the person requiring such account to be opened indicated therein.

11. A special trust account includes any account opened for this purpose in the name of a chartered administrator, made up of deposits covered by the deposit insurance pursuant to the Canada Deposit Insurance Corporation Act, or of any investments that are presumed sound within the meaning of section 1339, paragraphs 2 and 3 of the Civil Code of Quebec (S.Q. 1991, c. 64) registered in the name of the chartered administrator in trust for the benefit of a client.

This account must be open in Quebec in a financial institution contemplated in the second paragraph of section 8. In the case of a presumed sound investment, the account may also be opened with a securities broker who is acting as principal, is duly agreed by the Autorité

des marches financiers or by a similar body and who is a member of the Investment Dealers Association of Canada.

In the case of a presumed sound investment, the chartered administrator shall obtain the prior written authorization of the client specifying the nature, date of maturity, and terms and conditions of the investment, unless he holds a general power of attorney which authorizes him to make such an investment.

12. Upon opening a special trust account, the chartered administrator shall submit to the Ordre without delay a sworn declaration duly completed on the form provided by the Ordre indicating, in addition to the information and requirements contemplated in the paragraphs 1, 2 and 5 of section 9, that:

1° the interest and other income from this account belongs to the client;

2° he obtained from the client an irrevocable authorization entitling the Bureau, the Administrative Committee, the Professional Inspection Committee, the person in charge of professional inspection appointed in accordance with section 90 of the Professional Code (R.S.Q., c. C-26), an inspector, or a syndic, to take any action contemplated in section 32;

In addition, the chartered administrator shall submit, without delay, a copy of the sworn declaration duly completed to the financial institution or to the securities broker where the account has been opened. He shall keep a copy thereof.

13. When closing the special trust account, the chartered administrator shall immediately notify the secretary of the Ordre. He shall submit to the secretary of the Ordre the form approved for this purpose by the Bureau. The form must contain the name, address, postal code and transit number of the depository institution, as well as the account number, the date on which it was opened, and the effective date on which it was closed.

This section applies with the necessary modification where a chartered administrator withdraws as joint holder of a trust account.

SECTION III CASH TRANSACTIONS

14. The chartered administrator may not receive in trust, on behalf of a client, a total cash amount exceeding 7 500\$ with respect to contract of services or a mandate.

15. The term “cash” used in the present regulation means the coins contemplated in section 7 of the Currency Act (R.S., 1985, c. C-52) and banknotes issued by the Bank of Canada in accordance with the Bank Act intended for use in Canada, as well as coins or banknotes from other countries.

16. Notwithstanding section 14, the chartered administrator may receive in trust a total cash amount of 7 500\$ or more in the following cases:

1° from a financial institution;

2° from a ministry or an agent of Her Majesty the Queen chief of Canada or a province;

3° from a local or territorial authority governed by the Cities and Towns Act (R.S.Q., c. C-19), the Municipal Code (R.S.Q, c. C-27.1), the Act respecting municipal territorial organization (R.S.Q, c. 0-9), or by any decree or letters patent or by another particular act;

4° pursuant to a court order or to pay a fine;

5° as professional fees, or for payment of expenses incurred on behalf of the client.

17. The chartered administrator who is required to pay a sum which he received in cash pursuant to paragraph 5 of section 16 must make this payment in cash.

In this case, the chartered administrator shall obtain from the person to whom he remits the sum a receipt bearing the signature of that person and the following information:

1° the name of the client;

2° the name of the person who receives the sum;

3° the sum remitted;

4° the date of the remittance of the sum;

5° the number of the file related.

18. For the purposes of section 14, a sum in foreign cash is deemed to have been received at its value in Canadian dollars at the official exchange rate published daily in the bulletin of the exchange rate of the Bank of Canada.

The rate applied is the one into force at noon on the day of receipt of a sum, or, in the case of a public holiday, on the previous business day.

19. The chartered administrator shall remit a receipt to the person from whom he receives cash, a receipt of which he keeps a copy and which indicates:

1° the date of the remittance of the sum;

2° the name of the person from whom he receives the sum;

3° the sum remitted;

4° the name of the client for whom it is received;

5° the number of the file related.

This receipt must be signed by the chartered administrator who receives the sum, or by the person authorized by him to receive it.

20. The chartered administrator who receives the amount of cash of 7 500\$ and more in accordance with section 16 shall, within thirty (30) days of its receipt, submit to the syndic of the Ordre a declaration indicating the amount received, the receipt number corresponding with it, and, for each case, the exception provided for in section 16 which enabled him to accept that sum in cash.

SECTION IV KEEPING OF TRUST ACCOUNT AND ADMINISTRATION OF THE PROPERTY OF THIRD PARTIES

21. The chartered administrator must hold a separate accounting record for all trust accounts.

22. The accounting record of the trust account shall be kept up to date and the reconciliation of accounts shall be done monthly.

23. The accounting record must comply with generally accepted standards and principles respecting bookkeeping and trust accounting, and with current scientific knowledge.

24. Upon receipt of funds, securities or property, other than cash amounts, entrusted to him on behalf of a client in the exercise of his profession, the chartered administrator shall remit to the client a receipt drafted in conformity with the form furnished for this purpose by the Bureau. This form indicates the name and address of the chartered administrator, the receipt number, the name and address of the client, the date of receipt of the funds, securities or other property and, if applicable, the amount or a description of the property, the file to which they are related and an indication that they are deposited in the trust account.

25. The receipts must be pre-numbered and made at least in duplicate. The copy of receipt must be kept by the chartered administrator.

26. The cheques and other payment orders drawn against a general or a special trust account must bear the mention "trust account"; les cheques must be consecutively pre-numbered.

27. Trust accounting must:

1° ensure data and information confidentiality, its security and integrity;

2° allow the chartered administrator and the Ordre access at all times to readable data;

3° include all information relevant for the control and administration of the funds securities or other property received.

28. When the trust accounting is made with technologic support, the data transmission and the transmission of the forms mentioned in the present regulation must be possible with such technologic support.

All information collected with such support must be subject to transcription on paper.

29. The chartered administrator shall transfer to the Minister of Revenue any funds, securities and other property that, in the 3 years following its becoming payable or claimable, was not the subject of a claim, transaction or written instruction as to its use from any successor, unless another provincial or federal act provides otherwise.

SECTION V REPORT TO THE ORDRE

30. Each year, on or before March 31, the chartered administrator shall forward to the Ordre, using the form provided by the latter, a sworn statement attesting that the funds, securities and other property entrusted to him during the year ending December 31 have been deposited, accounted and used in accordance with the provisions of the present regulation.

The chartered administrator who has not been entrusted with any funds, securities and other property during the year ending December 31, shall submit to the Ordre, on or before March 31, a sworn statement to that effect.

The chartered administrator who ceases to be registered on the roll of the Ordre must comply with the obligations mentioned in the first paragraph within three months of said cessation.

A single declaration shall suffice for the chartered administrators who have a common trust account, provided that it indicates the names of all the chartered administrators concerned.

31. The member must keep updated and forward to the Ordre, upon request, the readable the information and documents related to:

1° the trust accounting, including:

a) the list of funds, securities and other property which he holds;

b) the list of the general and special trust accounts held, indicating for each, where appropriate, the name of the securities broker or depositary financial institution, the account number and the balance at the end of each fiscal period identified by the Ordre;

c) the accounting books and the accounts pertaining to the said accounting.

2° the administration of the property of third parties, including:

a) the nature of the administration mandate;

b) the date on which the mandate was entrusted and, if applicable, the date on which it ends;

c) a brief description of the property administrated, its value and the location of such property;

d) the accounting books, accounts and records pertaining to said administration.

A member shall keep the accounting books, documents, records and statements of account of the financial institution or securities broker, or any other document pertaining to trust accounting or to the administration of the property of third parties, for a period of five years following the end of the contract.

SECTION VI MISCELLANEOUS PROVISIONS

32. The Bureau, the Administrative Committee, the Professional Inspection Committee, the person in charge of professional inspection appointed in accordance with section 90 of the Professional Code (R.S.Q., c. C-26), an inspector, or a syndic of the Ordre is authorized to:

1° unless a provincial or federal act or a regulation thereunder provides otherwise, block the funds in deposit;

2° unless a provincial or federal act or a regulation thereunder provides otherwise, take possession of funds, securities and other property entrusted to the chartered administrator, revoke the signature of the chartered administrator or close the trust account;

3° unless a provincial or federal act or a regulation thereunder provides otherwise, dispose of the funds, securities and other property entrusted to the chartered administrator, if he is subject to a revocation of permit, to a striking off the roll or a limitation of his right to practice, if he ceases to practice, if he is in a situation where a provisional guardian or an assignee may be appointed, or when the interest of the person so requires.

33. When the Ordre is informed that a chartered administrator does not comply with either one of the obligations mentioned in the present regulation, it may designate an accountant of his choice and mandate him to verify, at the expenses of the chartered administrator, the latter's accounting record of the trust account and compel him to provide the information required for such audit, including the information contemplated in section 31, even though he is no longer registered to the roll of the Ordre.

CHAPTER II INDEMNITY FUND

SECTION I CONSTITUTION OF FUND

34. The Bureau establishes an indemnity fund that must be used to repay the funds, securities or other property used by a chartered administrator for purposes other than those for which they were entrusted to him in the exercise of his profession.

35. The fund shall be maintained at a minimum amount of 100,000 \$. Less any administrative expenses related to this fund, it consists of:

1° the sums already allocated for this purpose at the date on which this regulation comes into force;

2° the sums allocated therefore by the Bureau;

3° the assessments fixed for that purpose;

4° the sums recovered from the offending member under a subrogation or pursuant to section 159 of the Professional Code;

5° interests and other income generated by the sums constituting the fund;

6° the sums of money which may be paid by an insurance or reinsurance company under an insurance policy subscribed by the Ordre for all its members;

7° sums received by the Ordre for the fund;

8° interest and other income generated by the chartered administrator general trust accounts.

SECTION II ADMINISTRATION OF THE FUND

36. The Administrative Committee administers the indemnity fund. It is authorized to enter into a group insurance or reinsurance contract for the purposes of the fund and to pay the premiums thereof out of the fund.

37. The accounting of the fund shall be separate from the general accounting of the Ordre.

38. The sums constituting the fund are invested by the Administrative Committee as follows:

1° the portion of those sums which the Administrative Committee intends to use on a short-term basis is deposited in a financial institution contemplated in section 8;

2° the balance is invested in accordance with section 1339 of the Civil Code of Quebec.

SECTION III CLAIMS

39. A claim must be forwarded to the secretary of the Ordre at its head office.

40. The secretary of the Ordre enters the claim on the agenda for the first meeting of the Administrative Committee following its receipt.

41. A claim must:

1° be submitted in writing and under oath;

2° state all facts in support of the claim and be accompanied by all relevant documents;

3° indicate the amount claimed.

42. A claim in respect of a chartered administrator may be filed whether or not a decision of the Committee of Discipline, the Professions Tribunal or any other competent tribunal has been rendered.

43. In order for a claim to be receivable, it must be filed within twelve months from the time the claimant becomes aware that the funds, securities and other property have been used for purposes other than those for which they were entrusted to a chartered administrator in the practice of his profession.

44. The Administrative Committee may extend the delay provided for in section 43 if the claimant demonstrates that, for a reason beyond his control, he was unable to file his claim within the required delay.

45. A request made to the Ordre by a person for an inquiry with regard to facts likely to give rise to a claim against the fund is deemed to be a claim within the meaning of section 41 if the request for an inquiry is filed within the time period contemplated in section 43.

SECTION IV INDEMNITY

46. The Administrative Committee may designate a person or a committee to hold an inquiry in accordance and submit a report to it in respect of a claim.

47. Upon the request of the Administrative Committee, of the person designated or committee designated to hold an inquiry, the claimant or the chartered administrator concerned shall provide all the details and documents relating to the claim and produce any relevant proof.

48. The Administrative Committee decides on a timely basis whether it is expedient to accept a claim in whole or in part and, where applicable, fixes the indemnity. Its decision is final.

49. The maximum indemnity payable from the indemnity fund for the period covering the fiscal year of the Ordre is limited to 100,000\$ for all claims concerning a chartered administrator.

When the Administrative Committee believes that claims in excess of this amount may be presented with regards to the same chartered administrator, it shall suspend the payment of indemnities until it has reviewed all claims concerning this member. It shall prepare an inventory of the funds, securities and other property entrusted to this chartered administrator and advise in writing the persons likely to file a claim.

When the total of the claims accepted by the Administrative Committee exceeds the maximum indemnity provided for in this section, the indemnity is divided on a prorata basis according to the amounts of these claims.

50. The balance of a member's trust account, the funds of which have been blocked or otherwise disposed of in accordance with section 32, is distributed by the secretary of the Ordre at the expiry of 60 days following the publication of a notice to that effect in a newspaper having general circulation in the location where the member has or had his professional domicile, among the claimants on a prorata basis according to the amounts of their claims allowed, up to the amount of the claim, less the indemnity under section 48.

51. Before receiving the indemnity set by the Administrative Committee, the claimant must sign a discharge in favor of the Ordre of his claim up to the amount of the indemnity, against the offending member, his successors and any person, partnership or legal person that is or might be held liable for such payment.

SECTION V FINAL AND TRANSITORY PROVISIONS

52. This regulation replaces the Regulation respecting the indemnity fund of the Ordre des administrateurs agréés du Québec (R.R.Q., 1981, c. C-26, r.12).

However, the Regulation respecting the indemnity fund of the Ordre des administrateurs agréés du Québec continues to apply to the claims filed to the fund before the date on which the present regulation came into force as well as to the claims filed against the fund after that date but which relate to events that took place prior to that date.

53. This regulation comes into force on the fifteenth day which follows the date of its publication in the *Gazette Officielle du Québec*.

8729