

Gouvernement du Québec

O.C. 656-2022, 6 April 2022

Civil Code of Québec

Categories of insurance contracts and classes of insureds that may derogate from the rules of articles 2500 and 2503

Regulation respecting categories of insurance contracts and classes of insureds that may derogate from the rules of articles 2500 and 2503 of the Civil Code

WHEREAS, under article 2500 of the Civil Code of Québec, the proceeds of the liability insurance are applied exclusively to the payment of injured third persons;

WHEREAS, under the first and second paragraphs of article 2503 of the Code, the insurer is bound to take up the interest of any person entitled to the benefit of the insurance and assume his or her defence in any action brought against him or her, and legal costs and expenses resulting from actions against the insured, including those of the defence, and interest on the proceeds of the insurance are borne by the insurer over and above the proceeds of the insurance;

WHEREAS, under the third paragraph of article 2503 of the Code, the Government may, by regulation, determine categories of insurance contracts that may depart from the rules set out in the first and second paragraphs of that article and in article 2500 of that Code, as well as classes of insureds that may be covered by such contracts, and the Government may also prescribe any standard applicable to those contracts;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting categories of insurance contracts and insured parties that may derogate from the rules of articles 2500 and 2503 of the Civil Code was published in Part 2 of the *Gazette officielle du Québec* of 8 September 2021 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation respecting categories of insurance contracts and classes of insureds that may derogate from the rules of articles 2500 and 2503 of the Civil Code, attached to this Order in Council, be made.

YVES OUELLET
Clerk of the Conseil exécutif

Regulation respecting categories of insurance contracts and classes of insureds that may derogate from the rules of articles 2500 and 2503 of the Civil Code

Civil Code of Québec
(Civil Code, art. 2503)

1. In any civil liability insurance contract, an insured that meets one of the following conditions at the time of subscription may be covered by a contract that departs from the rules set out in article 2500 and the first and second paragraphs of article 2503 of the Civil Code:

(1) the insured is a drug manufacturer under the Act respecting prescription drug insurance (chapter A-29.01);

(2) the insured is a legal person established under one of the following Acts or one of its subsidiaries within the meaning of those Acts:

(a) Act constituting Capital régional et coopératif Desjardins (chapter C-6.1);

(b) Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (chapter F-3.1.2);

(c) Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1);

(3) the insured is a director, officer or trustee of any entity referred to in paragraph 1 or 2, even one not insured under such a contract.

2. In any civil liability insurance contract, an insured that is not referred to in section 1 but meets one of the following conditions at the time of subscription may be covered by a contract that departs from the rules set out in article 2500 and the first and second paragraphs of article 2503 of the Civil Code where the total coverage under all the civil liability insurance contracts subscribed by that insured is at least \$5,000,000:

(1) the insured is considered to be a large business for the purposes of the Act respecting the Québec sales tax (chapter T-0.1) or is a person related to a large business within the meaning of the Taxation Act (chapter I-3);

(2) the insured is a reporting issuer or a subsidiary of such a reporting issuer within the meaning of the Securities Act (chapter V-1.1);

(3) the insured is a foreign business corporation within the meaning of the Taxation Act (chapter I-3) or the Income Tax Act (R.S.C. 1985, c. 1 (5th Suppl.));

(4) the insured is a director, officer or trustee of any entity referred to in any of paragraphs 1 to 3, even one not insured under such a contract.

3. The duration of a contract referred to in section 1 or 2 may not be more than 1 year. In the case of renewal, the insured must meet the conditions set out in those sections at the time of renewal, as the case may be.

4. When a director, officer or trustee referred to in paragraph 3 of section 1 or paragraph 4 of section 2 also pursues activities as a member of a pension committee, those activities must be covered under a contract that does not depart from the rules set out in article 2500 and the first and second paragraphs of article 2503 of the Civil Code.

5. Where a minimum amount of civil liability insurance coverage is specified by law, proceeds must be applied to the payment of injured third persons before any other payment.

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

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M.O., 2022-07

Order number I-14.01-2022-07 of the Minister of Finance dated 1 April 2022

Derivatives Act
(chapter I-14.01)

CONCERNING the Regulation to amend Regulation 94-101 respecting Mandatory Central Counterparty Clearing of Derivatives

WHEREAS subparagraphs 2, 3, 9, 11, 12 and 29 of the first paragraph of section 175 of the Derivatives Act (chapter I-14.01) provide that the *Autorité des marchés financiers* may make regulations concerning the matters referred to in those subparagraphs;

WHEREAS the fourth and fifth paragraphs of that section provide that a draft regulation under that section must be published in the *Bulletin de l'Autorité des marchés financiers* with the notice required under section 10 of the Regulations Act (chapter R-18.1) and may not be submitted for approval or be made before 30 days have elapsed since its publication;

WHEREAS the second and sixth paragraphs of that section provide that a regulation under the first paragraph of that section must be submitted to the Minister of Finance, who may approve it with or without amendment, and comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation;

WHEREAS the Regulation 94-101 respecting Mandatory Central Counterparty Clearing of Derivatives was approved by ministerial order no. 2017-01 dated 16 March 2017 (2017, *G.O.* 2, 633);

WHEREAS there is cause to amend this Regulation;

WHEREAS the draft Regulation to amend Regulation 94-101 respecting Mandatory Central Counterparty Clearing of Derivatives was published for a first consultation in the *Bulletin de l'Autorité des marchés financiers*, vol. 14, no. 40 of 12 October 2017;

WHEREAS the draft Regulation to amend Regulation 94-101 respecting Mandatory Central Counterparty Clearing of Derivatives was published for a second consultation in the *Bulletin de l'Autorité des marchés financiers*, vol. 17, no. 35 of 3 September 2020;

WHEREAS the *Autorité des marchés financiers* made, on 23 March 2022, by the decision no. 2022-PDG-0019, Regulation to amend Regulation 94-101 respecting Mandatory Central Counterparty Clearing of Derivatives;

WHEREAS there is cause to approve this Regulation with amendment;

CONSEQUENTLY, the Minister of Finance approves with amendment the Regulation to amend Regulation 94-101 respecting Mandatory Central Counterparty Clearing of Derivatives appended hereto.

April 1, 2022

ERIC GIRARD
Minister of Finance
