

REPEALED ON SEPTEMBER 28, 2009

Note : Sections 8 to 11 of this Regulation, as they read on September 27, 2009, apply, with the necessary modifications, to dealers registered in accordance with Title V of the Securities Act in the category of mutual fund dealer or scholarship plan dealer, until rules equivalent to those prescribed in the sections mentioned above are determined in their respect in a regulation made under section 331.1 of that Act.
(Q.A. 2009, c. 25, s. 134)

UNOFFICIAL VERSION : IN FORCE FROM OCTOBER 13, 1999 TO SEPTEMBER 27, 2009 - *This version is provided for your convenience and should not be relied on as authoritative. The specific references are available at the end of this document.*

REGULATION RESPECTING THE TRUST ACCOUNTS AND FINANCIAL RESOURCES OF SECURITIES FIRMS

(REPEALED)

An Act respecting the distribution of financial products and services
(1998, c.37, s. 227)

Division 1 Purpose and scope

1. This regulation applies to firms acting through the securities representatives referred to under the first paragraph of section 9 of the Act respecting the distribution of financial products and services (1998, c. 37) and sets forth the rules pertaining to the opening and maintenance of the trust account and the maintenance of sufficient financial resources by such firms.

Division 2 Trust account

§1. Opening and maintenance of the account

2. The firm shall open and maintain an interest-bearing trust account with a financial institution for the purpose of holding money received on behalf of third parties as the result of carrying on operations in a securities sector.

3. All interest received from the trust account, net of applicable banking fees, shall be paid no less frequently than monthly to the mutual funds or the subscribers or purchasers, pro rated on cash flow.

§2. Firm registered in the group savings brokerage sector

4. In this Division:

« distributing firm » means a firm acting through group sales representatives and participating with a mutual fund or with a principal distributor in the distribution of the securities of a mutual fund;

« principal distributor » means a group savings firm through which the securities of a mutual fund are distributed under a contract with the mutual fund, its trustee or another legal representative or its manager under which it holds the exclusive right to distribute the securities of the mutual fund in a jurisdiction or any other right that provides or seeks to provide to the principal distributor a significant competitive advantage with respect to the distribution of the securities of the mutual fund.

5. Subject to section 7, the principal distributor of a mutual fund must comply with the following rules:

(1) all money received by the principal distributor for investment in, or redemption of, securities of the mutual fund, shall be accounted for separately, remitted to the mutual fund and shall not be commingled with his own assets;

(2) the principal distributor shall not use such money to finance his own or any other operations;

(3) the principal distributor may withdraw funds from the trust account for the purpose either of remitting to the mutual fund the net amount to be invested in securities of the mutual fund, remitting redemption proceeds to relevant subscribers or purchasers, or paying investors fees to which the principal distributor may be entitled;

(4) unless the interest is paid to the subscribers or purchasers on a pro rata basis, interest earned in the trust account, net of applicable banking fees, shall be paid to the mutual fund no less frequently than monthly, and when the deposited funds are held in this account for more than one mutual fund, the interest shall be divided pro rated on cash flow; the principal distributor is under no circumstances entitled to the interest earned in the trust account;

(5) all money received by the principal distributor for investment in the securities of the mutual fund shall be remitted to the mutual fund no later than the second business day following receipt of such money.

6. The principal distributor may offset and pay the balance in cash when he has commingled in the trust account the money received for investment purposes with the money received for redemption purposes.

7. The firm participating with the distributor of a mutual fund or the principal distributor of a mutual fund in the distribution of securities of a mutual fund must comply with the following rules:

(1) all money received for the distribution of securities of a mutual fund, or redemption of, shall be accounted for separately, deposited in an interest-bearing trust account and shall not be commingled with its own assets;

(2) the distributing firm shall not use such money to finance its own or any other operations;

(3) the distributing firm may withdraw funds from the trust account for the purpose of either remitting to the mutual fund or to the principal distributor the net amount to be invested in securities of the mutual fund or paying investors or service fees or other similar amounts to which the distributing firm or principal distributor may be entitled;

(4) unless the interest is paid to subscribers or purchasers on a pro rata basis, interest earned in the trust account, net of applicable banking fees, shall be paid to the mutual fund no less frequently than monthly and when the deposited funds are held in this account for more than one mutual fund, the interest shall be divided pro rated on cash flow;

(5) all money received by the distributing firm for investment in the securities of the mutual fund shall be remitted to the mutual fund or its principal distributor no later than on the settlement date.

Division 3

Maintenance of financial resources

8. The firm must maintain a net free capital at least equal to the sum obtained by adding \$50,000 to the deductible applicable to the firm's liability insurance policy provided for in the second paragraph of section 29 of the Regulation respecting firms, independent representatives and independent partnership approved by Order in Council 832-99 dated July 7, 1999.

The firm carrying on activities in more than one Canadian province shall add to this amount, where appropriate, the deductible for the bond required by the laws of the other provinces to which it is also subject.

The net free capital shall be calculated as set out in Appendix I.

9. For the purpose of calculating the net free capital, the following conditions apply:

(1) the firm excludes from the calculation of its net free capital any financial guarantee given by a person holding a major position in the meaning of the second subparagraph of section 228 of the Regulation respecting securities enacted by Order of Council N° 660-83 of March 30, 1983, unless if its repayment is subordinated to the repayment of other creditors;

(2) the firm shall deduct from its net free capital any financial guarantee given by the firm to a person holding a major position.

10. The firm may borrow funds to be included in its net free capital provided that repayment of such funds is subordinated to the repayment of other creditors and the loan agreement provides that any repayment of this loan by the firm to the lender is conditional that in any such repayment, the firm respects the conditions of section 8.

11. Within 30 days of the end of each two-month period, the firm must file with the Bureau des services financiers the bimonthly report on net free capital set out in Appendix I.

12. This regulation comes into force on the day of its publication in the Gazette officielle du Québec.

APPENDIX I -MONTHLY REPORT ON NET FREE CAPITAL
[s.8 and 11]

NOTE : THIS REPORT IS PREPARED ON THE ACCRUAL BASIS OF ACCOUNTING.

FIRM'S NAME: _____

Person to contact: _____ Telephone: _____

Title: _____

Current month: _____

		Current Month (\$)	Previous Month (\$)
1. NET FREE CAPITAL			
Quick assets (A)			
Cash			
Securities owned and negotiable at any time (B)			
Commissions receivable (30 days or less)			
Income tax recoverable or overpaid (C)			
Other assets receivable (30 days or less) (explain)			
Quick assets	(1)		
Liabilities (D)			
Loans and bank overdrafts			
Other loans (E)			
Accounts payable and accrued liabilities			
Commissions payable			
Provision for income tax payable			
Other liabilities (explain)			
Liabilities	(2)		
NET FREE CAPITAL	(3)=(1)-(2)		
NET FREE CAPITAL REQUIRED (F)	(4)		
Amount receivable under a standby subordinated loan from a Canadian chartered bank	(5)		
EXCESS (DEFICIT) OF NET FREE CAPITAL	(3)-(4)+(5)		
		Current Month (\$)	Previous Month (\$)
2. TRUST ACCOUNT			
Cash at the end of the period:			
Amount payable to mutual funds at the end of the period			

0 - 10 days

11 - 30 days

over 30 days

Cash and the amount payable to mutual funds shall not be included in Part 1 of the report.

(Signature - President)

(Signature – Chief Financial Officer)

(date)

(date)

NOTES

(A) Do not include the following items:

- contribution to the financial services compensation fund of another Canadian province;
- prepaid expenses;
- deferred charges;
- investments in and advances to subsidiaries and affiliated companies;
- advances to shareholders, senior executives, representatives and other employees.

(B) Do not include investment contracts.

- Include all other securities negotiable at any time including deposit certificates. · Indicate securities at market value.

(C) Take a provision of 25% from the receivable amount.

(D) Do not include the following items:

- long-term portion of loans guaranteed by other than quick assets;
- long-term portion of capital leases;
- deferred income taxes payable for other than quick assets.

(E) Include all short-term and long-term loans except in the case of subordinate

(F) The firm always has the net free capital provided for in section 8.

O.C. 1123-99, 1999-09-29, G.O. 1999-10-13

Amendment

Decision 2009-PDG-0124 -- 2009-09-04

Bulletin de l'Autorité : 2009-09-25, Vol. 6, no. 38

M.O. 2009-06, 2005-05-19, G.O. 2009-09-25

(Regulation Repealed)
