

Draft Regulation

Derivatives Act
(2008, c. 24)

Tariffs for costs and fees payable

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 tariffs for costs and fees payable, appearing below, may be submitted to the Government for approval with or without amendment on the expiry of 45 days following this publication.

The draft Regulation proposes to set the tariff of the costs incurred in connection with an inspection or investigation that established non-compliance with a provision of the Derivatives Act and the investigation costs that the Autorité des marchés financiers may recover from any person found guilty of an offence under the Act or under the derivatives legislation of another legislative authority. It also proposes to set a tariff for the actual costs incurred by the Authority for the administration of the provisions of the Act concerning the obligations of recognized regulated entities.

The draft Regulation also proposes to set the tariff of the fees payable for any formality required by the Act or for services rendered by the Authority, as well as the terms of payment for those fees.

Consequently, fees will be payable by a regulated entity at the time of an application for recognition or for the modification of a recognition decision. Fees will be payable by a dealer, adviser or representative at the time of an application for registration, once a year and upon filing certain documents. Fees will also be required from a market participant with respect to the preparation of an inspection, the inspection itself and the follow-up on the recommendations. Fees will be charged to a person who creates or markets a derivative at the time of an application for qualification to the Authority and at the time of an application for authorization with respect to a derivative or upon filing the annual information. Lastly, fees will be payable at the time of an application for exemption and at the time of an application to designate a person as an accredited counterparty.

Further information on the draft Regulation may be obtained by contacting Daniel Laurion, Director General – special mandates, Autorité des marchés financiers, 800, Square Victoria, 22^e étage, C. P. 246, Tour de la Bourse, Montréal (Québec) H4Z 1G3; telephone: 514 395-0558, extension 2121; fax: 514 873-3090; e-mail: daniel.laurion@lautorite.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister of Finance, 12, rue Saint-Louis, 1^{er} étage, Québec (Québec) G1R 5L3.

MONIQUE JÉRÔME-FORGET,
Minister of Finance

Regulation respecting tariffs for costs and fees payable

Derivatives Act
(2008, c. 24, s. 174 subpars. (3) and (5))

DIVISION I TARIFFS FOR COSTS

- 1.** The costs incurred in connection with an inspection or investigation referred to in section 135 of the Derivatives Act (2008, c. 24) are \$85 an hour per inspector or investigator.
- 2.** The actual costs incurred by the Authority referred to in section 143 of the Act are determined on the basis of a tariff of \$85 an hour per professional agent.
- 3.** The Authority's investigation costs referred to in section 170 of the Act are \$85 an hour per investigator.

DIVISION II TARIFFS FOR FEES PAYABLE

- 4.** A fee in the amount of \$5,000 is payable by a regulated entity at the time of an application referred to in section 14 of the Act.
- 5.** The following fees are payable by a dealer, an adviser or a representative unless the dealer, the adviser or the representative is deemed to be registered pursuant to section 57 of the Act:

(1) at the time of an application for registration as a dealer or an adviser, \$1,500;

(2) at the time of an application for registration as a representative:

(a) of a dealer that is a member of a self-regulatory organization to which the Authority has delegated enforcement of the provisions concerning the registration of representatives, \$150;

(b) of a dealer that is not a member of such a self-regulatory organization, \$375;

(c) of an adviser, \$375.

(3) on December 31 of each year, in the case of a dealer:

(a) \$1,500;

(b) for each of its representatives registered on December 31, excluding representatives who ceased activities:

i. \$175 in the case of a dealer that is a member of a self-regulatory organization to which the Authority has delegated the enforcement of the provisions concerning the registration of representatives;

ii. \$375 in the case of a dealer that is not a member of such a self-regulatory organization;

(c) \$75 for each of its establishments, an establishment being the location where the registered dealer carries on its activities;

(4) on the first day of the fourth month following the end of the financial year of a dealer, the amount exceeding 0.14% of the capital employed in Québec and the fee prescribed in subparagraph (a) of subparagraph (3). The capital employed in Québec is calculated in accordance with the following formula, where the total capital represents the amount shown by the dealer on the line “total financial statement capital” of Statement A of the Joint Regulatory Financial Questionnaire and Report adopted by self-regulatory organizations:

total capital X	salaries and wages paid in Québec	+	revenue earned in Québec
	total salaries and wages		total revenue earned
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(5) on December 31 of each year, in the case of an adviser:

(a) \$1,500;

(b) \$375 for each of its representatives registered on December 31, excluding representatives who ceased activities;

(6) at the time of filing, by a dealer that is not a member of a self-regulatory organization to which the Authority has delegated the enforcement of the provisions concerning the registration of representatives or by an adviser, of the notice to the effect that it has hired a representative, \$50;

(7) at the time of filing the notice relating to the acquisition of a dealer’s or adviser’s securities or assets prescribed by regulation, \$500;

(8) at the time of filing the form provided for in Form 33-109F4 of Regulation 33-109 respecting Registration Information approved by Ministerial Order No. 2007-05 dated July 11, 2007 for or on behalf of a permitted individual, as defined in the Regulation:

(a) \$375 for the permitted individual acting on behalf of a dealer, except where the dealer is a member of a self-regulatory organization to which the Authority has delegated approval of such individual;

(b) \$375 for the permitted individual acting on behalf of an adviser.

6. An hourly fee of \$85 per inspector is payable by a market participant with respect to the preparation of an inspection, the inspection itself and the follow-up on the recommendations, within 30 days from the date of the statement of fees.

7. A fee in the amount of \$5,000 is payable by a person applying for qualification under section 82 of the Act.

8. The following fees are payable by a qualified person:

(1) at the time of an application for authorization with respect to a derivative under section 83 of the Act, \$1,250;

(2) at the time of filing the annual information required under section 85 of the Act, \$0.005 per contract entered into in Québec, subject to a minimum of \$500.

9. A fee in the amount of \$500 is payable at the time of an application for exemption under section 86 of the Act.

10. A fee in the amount of \$500 is payable at the time of an application to designate a person as an accredited counterparty under section 87 of the Act.

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