Gouvernement du Québec

O.C. 74-2016, 3 February 2016

An Act respecting the civil aspects of international and interprovincial child abduction
(chapter A-23.01)

Application of the Act respecting the civil aspects of international and interprovincial child abduction to the Central Authority of Nunavut

WHEREAS, under Order in Council 1406-84 dated 13 June 1984, the Gouvernement du Québec declared itself bound by the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction;

WHEREAS the Convention came into force in Québec on 1 January 1985 and the Act respecting the civil aspects of international and interprovincial child abduction (chapter A-23.01) is to ensure the implementation of the Convention;

WHEREAS the Convention came into force in Nunavut on 1 January 2001;

WHEREAS, under Orders in Council 2843-84 dated 19 December 1984, 487-85 dated 13 March 1985, 542-86 dated 23 April 1986, 1496-86 dated 1 October 1986, 33-87 dated 14 January 1987 and 1147-88 dated 20 July 1988, the Central Authority of Canada, that of each of the provinces and that of each of the other territories of Canada are considered as the Central Authorities of the designated States for the purposes of that Act in respect of applications made under the Convention;

WHEREAS those Orders in Council facilitate the application of the Convention between a contracting State designated by the Gouvernement du Québec under section 41 of that Act, on the one hand, and Québec and another province or a Canadian territory, on the other hand, by allowing the Central Authority of Québec, when a child is not in Québec but elsewhere in Canada, to send the application to the Central Authority of the province or territory where the child is located, instead of returning the application to its State of origin, and, inversely, when the child is in Québec, by allowing the Central Authority of Québec to receive the application from another Central Authority in Canada, instead of returning the application to its State of origin;

WHEREAS it is expedient to also facilitate the application of the Convention between a contracting State designated by the Gouvernement du Québec under section 41 of that Act, on the one hand, and Québec and Nunavut, on the other hand, by considering the Central Authority of Nunavut as the Central Authority of a designated State for the purposes of that Act in respect of applications made under the Convention;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice and the Minister responsible for Canadian Relations and the Canadian Francophonie:

THAT the Minister of Justice of Nunavut be considered as the Central Authority of a designated State for the purposes of the Act respecting the civil aspects of international and interprovincial child abduction in respect of applications made under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

102488

M.O., 2016-03

Order number V-1.1-2016-03 of the Minister of Finance dated 2 February 2016

Securities Act
(chapter V-1.1)

CONCERNING the Regulation 24-102 respecting Clearing Agency Requirements

WHEREAS subparagraphs 1, 2, 3, 4.1, 9.1, 11, 19, 32.0.1 and 34 of section 331.1 of the Securities Act (chapter V-1.1) 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 (chapter 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 24-102 respecting Clearing Agency Requirements was published in the *Bulletin de l'Autorité des marchés financiers*, volume 11, no. 47 of November 27, 2014;

WHEREAS the Authority made, on January 13, 2016, by the decision no. 2016-PDG-0005, Regulation 24-102 respecting Clearing Agency Requirements;

WHEREAS there is cause to approve this regulation without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment Regulation 24-102 respecting Clearing Agency Requirements appended hereto.

February 2, 2016

CARLOS LEITÃO,
Minister of Finance

REGULATION 24-102 RESPECTING CLEARING AGENCY REQUIREMENTS

Securities Act
(chapter V-1.1, s. 331.1, par. (1), (2), (3), (4.1), (9.1), (11), (19), (32.0.1) and (34))

PART 1
DEFINITIONS, INTERPRETATION AND APPLICATION

Definitions

1.1. In this Regulation

"accounting principles" means accounting principles as defined in Regulation 52-107 respecting Acceptable Accounting Principles and Auditing Standards (chapter V-1.1, r. 25);

"auditing standards" means auditing standards as defined in Regulation 52-107 respecting Acceptable Accounting Principles and Auditing Standards;

"board of directors" means, in the case of a recognized clearing agency that does not have a board of directors, a group of individuals that acts for the clearing agency in a capacity similar to a board of directors;

"central counterparty" means a person that interposes itself between the counterparties to securities or derivatives transactions in one or more financial markets, acting functionally as the buyer to every seller and the seller to every buyer or the counterparty to every party;

"central securities depository" means a person that provides centralized facilities as a depository of securities, including securities accounts, central safekeeping services and asset services, which may include the administration of corporate actions and redemptions;

"exempt clearing agency" means a clearing agency that has been granted a decision of the securities regulatory authority pursuant to securities legislation exempting it from the requirement in such legislation to be recognized by the securities regulatory authority as a clearing agency;

"link" means, in relation to a clearing agency, contractual and operational arrangements that directly or indirectly through an intermediary connect the clearing agency and one or more other systems for the clearing, settlement or recording of securities or derivatives transactions;

"participant" means a person that has entered into an agreement with a clearing agency to access the services of the clearing agency and is bound by the clearing agency's rules and procedures;

"PFMI Disclosure Framework Document" means a disclosure document completed substantially in the form of *Annex A: FMI disclosure template* of the December 2012 report *Principles for financial market infrastructures: Disclosure framework and Assessment methodology* published by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions, as amended, supplemented or superseded from time to time, or a similar disclosure document required to be completed regularly and disclosed publicly by a clearing agency in accordance with the regulatory requirements of a foreign jurisdiction in which the clearing agency is located;

"PFMI Principle" means a principle, including applicable key considerations, in the April 2012 report *Principles for financial market infrastructures* published by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions, as amended from time to time;

"publicly accountable enterprise" means a publicly accountable enterprise as defined in Part 3 of Regulation 52-107 respecting Acceptable Accounting Principles and Auditing Standards;

"securities settlement system" means a system that enables securities to be transferred and settled by book entry according to a set of predetermined multilateral rules.

Interpretation – Affiliated Entity, Controlled Entity and Subsidiary Entity

1.2. (1) In this Regulation, a person is considered to be an affiliated entity of another person if one is a subsidiary entity of the other or if both are subsidiary entities of the same person, or if each of them is a controlled entity of the same person.

(2) In this Regulation, a person is considered to be controlled by a person if

(a) in the case of a person,

(i) voting securities of the first-mentioned person carrying more than 50% of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person, and

(ii) the votes carried by the securities are entitled, if exercised, to elect a majority of the directors of the first-mentioned person;

(b) in the case of a partnership that does not have directors, other than a limited partnership, the second-mentioned person holds more than 50% of the interests in the partnership; or

(c) in the case of a limited partnership, the general partner is the second-mentioned person.

(3) In this Regulation, a person is considered to be a subsidiary entity of another person if

(a) it is a controlled entity of

(i) that other,

(ii) that other and one or more persons, each of which is a controlled entity of that other, or

(iii) two or more persons, each of which is a controlled entity of that other; or

(b) it is a subsidiary entity of a person that is the other's subsidiary entity.

Interpretation – Extended Meaning of Affiliated Entity

1.3. For the purposes of the PFMI Principles, a person is considered to be an affiliate of a participant, the person and the participant each being described in this section as a "party", where,

(a) a party holds, otherwise than by way of security only, voting securities of the other party carrying more than 20% of the votes for the election of directors, or

(b) in the event paragraph (a) is not applicable,

(i) a party holds, otherwise than by way of security only, an interest in the other party that allows it to direct the management or operations of the other party; or

(ii) financial information in respect of both parties is consolidated for financial reporting purposes.

Interpretation – Clearing Agency

1.4. For the purposes of this Regulation, in Québec, a clearing agency includes a clearing house, a central securities depository and a settlement system within the meaning of the Securities Act (chapter V-1.1) and a clearing house and a settlement system within the meaning of the Derivatives Act (chapter I-14.01).

Application

1.5. (1) Part 3 applies to a recognized clearing agency that operates as any of the following:

(a) a central counterparty;

(b) a central securities depository;

(c) a securities settlement system.

(2) Unless the context otherwise indicates, Part 4 applies to a recognized clearing agency whether or not it operates as a central counterparty, central securities depository or securities settlement system.

(3) In Québec, if there is a conflict or an inconsistency between section 2.2 and the provisions of the Derivatives Act governing the self-certification process with respect to a clearing agency implementing a significant change or a fee change, the provisions of the Derivatives Act prevail.

(4) The requirements of section 2.2 or 2.5 apply only to the extent that the subject matters of the section are not otherwise governed by the terms and conditions of a decision of the securities regulatory authority that recognizes a clearing agency or that exempts a clearing agency from a recognition requirement.

PART 2
CLEARING AGENCY RECOGNITION OR EXEMPTION FROM RECOGNITION

Application and initial filing of information

2.1. (1) An applicant for recognition as a clearing agency under securities legislation, or for exemption from the requirement to be recognized as a clearing agency under securities legislation, must include in its application all of the following:

(a) if applicable, the applicant's most recently completed PFMI Disclosure Framework Document;

(b) sufficient information to demonstrate that the applicant is in compliance with

(i) provincial and territorial securities legislation, or

(ii) the regulatory regime of a foreign jurisdiction in which the applicant's head office or principal place of business is located;

(c) any additional relevant information sufficient to demonstrate that it is in the public interest for the securities regulatory authority to recognize or exempt the applicant, as the case may be.

(2) In addition to the requirement set out in subsection (1), an applicant that has a head office or principal place of business located in a foreign jurisdiction must

(a) certify that it will assist the securities regulatory authority in accessing the applicant's books and records and in undertaking an onsite inspection and examination at the applicant's premises, and

(b) certify that it will provide the securities regulatory authority, if requested by such authority, with an opinion of legal counsel that the applicant has, as a matter of law, the power and authority to

(i) provide the securities regulatory authority with prompt access to its books and records, and

(ii) submit to onsite inspection and examination by the securities regulatory authority.

(3) In addition to the requirements set out in subsections (1) and (2), an applicant whose head office or principal place of business is located in a foreign jurisdiction must file a completed Form 24-102F1.

(4) An applicant must inform the securities regulatory authority in writing of any material change to the information provided in its application, or if any of the information becomes materially inaccurate for any reason, as soon as the change occurs or the applicant becomes aware of any inaccuracy.

Significant changes, fee changes and other changes in information

2.2. (1) In this section, for greater certainty, a "significant change" includes, in relation to a clearing agency,

(a) any change to the clearing agency's constating documents or by-laws;

(b) any change to the clearing agency's corporate governance or corporate structure, including any change of control of the clearing agency, whether direct or indirect;

(c) any material change to an agreement among the clearing agency and participants in connection with the clearing agency's operations and services, including those agreements to which the clearing agency is a party and those agreements among participants to which the clearing agency is not a party, but that are expressly referred to in the clearing agency's rules or procedures and are made available by participants to the clearing agency;

(d) any material change to the clearing agency's rules, operating procedures, user guides, manuals, or other documentation governing or establishing the rights, obligations and relationships among the clearing agency and participants in connection with the clearing agency's operations and services;

(e) any material change to the design, operation or functionality of any of the clearing agency's operations and services;

(f) the establishment or removal of a link or any material change to an existing link;

(g) commencing to engage in a new type of business activity or ceasing to engage in a business activity in which the clearing agency is then engaged;

(h) any other matter identified as a significant change in the recognition terms and conditions.

(2) Subject to subsection (4), a recognized clearing agency must not implement a significant change unless it has filed a written notice of the significant change with the securities regulatory authority at least 45 days before implementing the change.

(3) If a proposed significant change referred to in subsection (2) would affect the information set out in its PFMI Disclosure Framework Document filed with the securities regulatory authority, a recognized clearing agency must complete and file with the securities regulatory authority, concurrently with providing the written notice referred to in subsection (2), an appropriate amendment to its PFMI Disclosure Framework Document.

(4) If a recognized clearing agency proposes to modify a fee or introduce a new fee for any of its clearing, settlement or depository services, the clearing agency must notify in writing the securities regulatory authority of such fee change before implementing the fee change within a period stipulated by the terms and conditions of a decision of the securities regulatory authority that recognizes the clearing agency.

(5) An exempt clearing agency must notify in writing the securities regulatory authority of any material change to the information provided to the securities regulatory authority in its PFMI Disclosure Framework Document and related application materials, or if any of the information becomes materially inaccurate for any reason, as soon as the change occurs or the exempt clearing agency becomes aware of any inaccuracy.

Ceasing to carry on business

2.3. (1) A recognized clearing agency or exempt clearing agency that intends to cease carrying on business in the local jurisdiction as a clearing agency must file a report on Form 24-102F2 with the securities regulatory authority

(a) at least 180 days before ceasing to carry on business if a significant reason for ceasing to carry on business relates to the clearing agency's financial viability or any other matter that is preventing, or may potentially prevent, it from being able to provide its operations and services as a going concern, or

(b) at least 90 days before ceasing to carry on business for any other reason.

(2) A recognized clearing agency or exempt clearing agency that involuntarily ceases to carry on business in the local jurisdiction as a clearing agency must file a report on Form 24-102F2 with the securities regulatory authority as soon as practicable after it ceases to carry on that business.

Filing of initial audited financial statements

2.4. (1) An applicant must file audited financial statements for its most recently completed financial year with the securities regulatory authority as part of its application under section 2.1.

(2) The financial statements referred to in subsection (1) must

(a) be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises, IFRS or the generally accepted accounting principles of the foreign jurisdiction in which the person is incorporated, organized or located,

(b) identify in the notes to the financial statements the accounting principles used to prepare the financial statements,

(c) disclose the presentation currency, and

(d) be audited in accordance with Canadian GAAS, International Standards on Auditing or the generally accepted auditing standards of the foreign jurisdiction in which the person is incorporated, organized or located.

(3) The financial statements referred to in subsection (1) must be accompanied by an auditor's report that

(a) expresses an unmodified or unqualified opinion,

(b) identifies all financial periods presented for which the auditor's report applies,

(c) identifies the auditing standards used to conduct the audit,

(d) identifies the accounting principles used to prepare the financial statements,

(e) is prepared in accordance with the same auditing standards used to conduct the audit, and

(f) is prepared and signed by a person that is authorized to sign an auditor's report under the laws of a jurisdiction of Canada or a foreign jurisdiction, and that meets the professional standards of that jurisdiction.

Filing of annual audited and interim financial statements

2.5. (1) A recognized clearing agency or exempt clearing agency must file annual audited financial statements that comply with the requirements set out in subsections 2.4(2) and (3) with the securities regulatory authority no later than the 90th day after the end of the recognized clearing agency or exempt clearing agency's financial year.

(2) A recognized clearing agency or exempt clearing agency must file interim financial statements that comply with the requirements set out in paragraphs 2.4(2)(a) and (2)(b) with the securities regulatory authority no later than the 45th day after the end of each interim period.

PART 3
PFMI PRINCIPLES APPLICABLE TO RECOGNIZED CLEARING AGENCIES

PFMI Principles

3.1. A recognized clearing agency must establish, implement and maintain rules, procedures, policies or operations designed to ensure that it meets or exceeds PFMI Principles 1 to 3, 10, 13, 15 to 19, 20 other than key consideration 9, 21 to 23 and the following:

(a) if the clearing agency operates as a central counterparty, PFMI Principles 4 to 9, 12 and 14;

(b) if the clearing agency operates as a securities settlement system, PFMI Principles 4, 5, 7 to 9 and12; and

(c) if the clearing agency operates as a central securities depository, PFMI Principle 11.

PART 4
OTHER REQUIREMENTS OF RECOGNIZED CLEARING AGENCIES

DIVISION 1 Governance

Board of directors

4.1. (1) A recognized clearing agency must have a board of directors.

(2) The board of directors must include appropriate representation by individuals who are

(a) independent of the clearing agency, and

(b) not employees or executive officers of a participant or their immediate family members.

(3) For the purposes of paragraph (2)(a), an individual is independent of a clearing agency if he or she has no direct or indirect material relationship with the clearing agency.

(4) For the purposes of subsection (3), a "material relationship" is a relationship that could, in the view of the clearing agency's board of directors, be reasonably expected to interfere with the exercise of a member's independent judgment.

Documented procedures regarding risk spill-overs

4.2. The board of directors and management of a recognized clearing agency must have documented procedures to manage possible risk spill over where the clearing agency provides services with a different risk profile than its depository, clearing and settlement services.

Chief Risk Officer and Chief Compliance Officer

4.3. (1) A recognized clearing agency must designate a chief risk officer and a chief compliance officer, who must report directly to the board of directors or, if determined by the board of directors, to the chief executive officer of the clearing agency.

(2) The chief risk officer must

(a) have full responsibility and authority to maintain, implement and enforce the risk management framework established by the clearing agency,

(b) make recommendations to the clearing agency's board of directors regarding the clearing agency's risk management framework,

(c) monitor the effectiveness of the clearing agency's risk management framework, and

(d) report to the clearing agency's board of directors on a timely basis upon becoming aware of any significant deficiency with the risk management framework.

(3) The chief compliance officer must

(a) establish, implement, maintain and enforce written policies and procedures to identify and resolve conflicts of interest and ensure that the clearing agency complies with securities legislation,

(b) monitor compliance with the policies and procedures described in paragraph (a),

(c) report to the board of directors of the clearing agency as soon as practicable upon becoming aware of any circumstance indicating that the clearing agency, or any individual acting on its behalf, is not in compliance with securities legislation and one or more of the following apply:

(i) the non-compliance creates a risk of harm to a participant,

(ii) the non-compliance creates a risk of harm to the broader financial system,

(iii) the non-compliance is part of a pattern of non-compliance, or

(iv) the non-compliance may have an impact on the ability of the clearing agency to carry on business in compliance with securities legislation,

(d) prepare and certify an annual report assessing compliance by the clearing agency, and individuals acting on its behalf, with securities legislation and submit the report to the board of directors,

(e) report to the clearing agency's board of directors as soon as practicable upon becoming aware of a conflict of interest that creates a risk of harm to a participant or to the capital markets, and

(f) concurrently with submitting a report under paragraphs (c), (d) or (e), file a copy of such report with the securities regulatory authority.

Board or advisory committees

4.4. (1) The board of directors of a recognized clearing agency must, at a minimum, establish and maintain committees on risk management, finance and audit.

(2) If a committee is a board committee, it must be chaired by a sufficiently knowledgeable individual who is independent of the clearing agency.

(3) Subject to subsection (4), a committee must have an appropriate representation by individuals who are independent of the clearing agency.

(4) An audit or risk committee must have an appropriate representation by individuals who are

(a) independent of the clearing agency, and

(b) not employees or executive officers of a participant or their immediate family members.

DIVISION 2 Default management

Use of own capital

4.5. A recognized clearing agency that operates as a central counterparty must dedicate and use a reasonable portion of its own capital to cover losses resulting from one or more participant defaults.

DIVISION 3 Operational risk

Systems requirements

4.6. For each system operated by or on behalf of a recognized clearing agency that supports the clearing agency's clearing, settlement and depository functions, the clearing agency must

(a) develop and maintain

(i) an adequate system of internal controls over that system, and

(ii) adequate information technology general controls, including, without limitation, controls relating to information systems operations, information security, change management, problem management, network support and system software support,

(b) in accordance with prudent business practice, on a reasonably frequent basis and, in any event, at least annually

(i) make reasonable current and future capacity estimates, and

(ii) conduct capacity stress tests to determine the ability of that system to process transactions in an accurate, timely and efficient manner, and

(c) promptly notify the regulator or, in Québec, the securities regulatory authority of any material systems failure, malfunction, delay or security breach, and provide timely updates on the status of the failure, malfunction, delay or security breach, the resumption of service, and the results of the clearing agency's internal review of the failure, malfunction, delay or security breach.

Systems reviews

4.7. (1) A recognized clearing agency must annually engage a qualified party to conduct an independent systems review and vulnerability assessment and prepare a report in accordance with established audit standards and best industry practices to ensure that the clearing agency is in compliance with paragraph 4.6(a) and section 4.9.

(2) The clearing agency must provide the report resulting from the review conducted under subsection (1) to

(a) its board of directors, or audit committee, promptly upon the report's completion, and

(b) the regulator or, in Québec, the securities regulatory authority, by the earlier of the 30th day after providing the report to its board of directors or the audit committee or the 60th day after the calendar year end.

Clearing agency technology requirements and testing facilities

4.8. (1) A recognized clearing agency must make available to participants, in their final form, all technology requirements regarding interfacing with or accessing the clearing agency

(a) if operations have not begun, sufficiently in advance of operations to allow a reasonable period for testing and system modification by participants, and

(b) if operations have begun, sufficiently in advance of implementing a material change to technology requirements to allow a reasonable period for testing and system modification by participants.

(2) After complying with subsection (1), the clearing agency must make available testing facilities for interfacing with or accessing the clearing agency

(a) if operations have not begun, sufficiently in advance of operations to allow a reasonable period for testing and system modification by participants, and

(b) if operations have begun, sufficiently in advance of implementing a material change to technology requirements to allow a reasonable period for testing and system modification by participants.

(3) The clearing agency must not begin operations before

(a) it has complied with paragraphs (1)(a) and (2)(a), and

(b) the chief information officer of the clearing agency, or an individual performing a similar function, has certified in writing to the regulator or, in Québec, the securities regulatory authority, that all information technology systems used by the clearing agency have been tested according to prudent business practices and are operating as designed.

(4) The clearing agency must not implement a material change to the systems referred to in section 4.6 before

(a) it has complied with paragraphs (1)(b) and (2)(b), and

(b) the chief information officer of the clearing agency, or an individual performing a similar function, has certified in writing to the regulator or, in Québec, the securities regulatory authority, that the change has been tested according to prudent business practices and is operating as designed.

(5) Subsection (4) does not apply to the clearing agency if the change must be made immediately to address a failure, malfunction or material delay of its systems or equipment and if

(a) the clearing agency immediately notifies the regulator or, in Québec, the securities regulatory authority, of its intention to make the change, and

(b) the clearing agency discloses to its participants the changed technology requirements as soon as practicable.

Testing of business continuity plans

4.9. A recognized clearing agency must

(a) develop and maintain reasonable business continuity plans, including disaster recovery plans, and

(b) test its business continuity plans, including its disaster recovery plans, according to prudent business practices and on a reasonably frequent basis and, in any event, at least annually.

Outsourcing

4.10. If a recognized clearing agency outsources a critical service or system to a service provider, including to an affiliated entity of the clearing agency, the clearing agency must do all of the following:

(a) establish, implement, maintain and enforce written policies and procedures to conduct suitable due diligence for selecting service providers to which a critical service and system may be outsourced and for the evaluation and approval of those outsourcing arrangements;

(b) identify any conflicts of interest between the clearing agency and the service provider to which a critical service and system is outsourced, and establish, implement, maintain and enforce written policies and procedures to mitigate and manage those conflicts of interest;

(c) enter into a written contract with the service provider to which a critical service or system is outsourced that

(i) is appropriate for the materiality and nature of the outsourced activities,

(ii) includes service level provisions, and

(iii) provides for adequate termination procedures;

(d) maintain access to the books and records of the service provider relating to the outsourced activities;

(e) ensure that the securities regulatory authority has the same access to all data, information and systems maintained by the service provider on behalf of the clearing agency that it would have absent the outsourcing arrangements;

(f) ensure that all persons conducting audits or independent reviews of the clearing agency under this Regulation have appropriate access to all data, information and systems maintained by the service provider on behalf of the clearing agency that such persons would have absent the outsourcing arrangements;

(g) take appropriate measures to determine that the service provider to which a critical service or system is outsourced establishes, maintains and periodically tests an appropriate business continuity plan, including a disaster recovery plan;

(h) take appropriate measures to ensure that the service provider protects the clearing agency's proprietary information and participants' confidential information, including taking measures to protect information from loss, thefts, vulnerabilities, threats, unauthorized access, copying, use and modification, and discloses it only in circumstances where legislation or an order of a court or tribunal of competent jurisdiction requires the disclosure of such information;

(i) establish, implement, maintain and enforce written policies and procedures to monitor the ongoing performance of the service provider's contractual obligations under the outsourcing arrangements.

DIVISION 4 Participation requirements

Access requirements and due process

4.11. (1) A recognized clearing agency must not

(a) unreasonably prohibit, condition or limit access by a person to the services offered by the clearing agency,

(b) unreasonably discriminate among its participants or indirect participants,

(c) impose any burden on competition that is not reasonably necessary and appropriate,

(d) unreasonably require the use or purchase of another service for a person to utilize the clearing agency's services offered by it, and

(e) impose fees or other material costs on its participants that are unfairly or inequitably allocated among the participants.

(2) For any decision made by the clearing agency that terminates, suspends or restricts a participant's membership in the clearing agency or that declines entry to membership to an applicant that applies to become a participant, the clearing agency must ensure that

(a) the participant or applicant is given an opportunity to be heard or make representations, and

(b) it keeps records of, gives reasons for, and provides for reviews of its decisions, including, for each applicant, the reasons for granting access or for denying or limiting access to the applicant, as the case may be.

(3) Nothing in subsection (2) limits or prevents the clearing agency from taking timely action in accordance with its rules and procedures to manage the default of one or more participants or in connection with the clearing agency's recovery or orderly wind-down, whether or not such action adversely affects a participant.

PART 5
BOOKS AND RECORDS AND LEGAL ENTITY IDENTIFIER

Books and records

5.1. (1) A recognized clearing agency or exempt clearing agency must keep books, records and other documents as are necessary to account for the conduct of its clearing, settlement and depository activities, business transactions and financial affairs and must keep those other books, records and documents as may otherwise be required under securities legislation.

(2) The clearing agency must retain the books and records maintained under this section

(a) for a period of seven years from the date the record was made or received, whichever is later,

(b) in a safe location and a durable form, and

(c) in a manner that permits them to be provided promptly to the securities regulatory authority.

Legal Entity Identifier

5.2. (1) In this section,

"Global Legal Entity Identifier System" means the system for unique identification of parties to financial transactions developed by the LEI Regulatory Oversight Committee, and

"LEI Regulatory Oversight Committee" means the international working group established by the Finance Ministers and the Central Bank Governors of the Group of Twenty nations and the Financial Stability Board, under the Charter of the Regulatory Oversight Committee for the Global Legal Entity Identifier System dated November 5, 2012.

(2) For the purposes of any recordkeeping and reporting requirements required under securities legislation, a recognized clearing agency or exempt clearing agency must identify itself by means of a single legal entity identifier assigned to the clearing agency in accordance with the standards set by the Global Legal Entity Identifier System.

(3) If the Global Legal Entity Identifier System is unavailable to the clearing agency, all of the following apply:

(a) the clearing agency must obtain a substitute legal entity identifier that complies with the standards established by the LEI Regulatory Oversight Committee for pre-legal entity identifiers;

(b) the clearing agency must use the substitute legal entity identifier until a legal entity identifier is assigned to the clearing agency in accordance with the standards set by the Global Legal Entity Identifier System;

(c) after the holder of a substitute legal entity identifier is assigned a legal entity identifier in accordance with the standards set by the Global Legal Entity Identifier System, the clearing agency must ensure that it is identified only by the assigned identifier.

PART 6
EXEMPTIONS

Exemption

6.1. (1) The regulator, except in Québec, or the securities regulatory authority may grant an exemption from the provisions of this Regulation, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario, only the regulator may grant an exemption.

(3) Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of Regulation 14-101 respecting Definitions (chapter V-1.1, r. 3) opposite the name of the local jurisdiction.

PART 7
EFFECTIVE DATE AND TRANSITION

Effective date and transition

7.1. (1) This Regulation comes into force on February 17, 2016.

(2) Despite section 3.1, until December 31, 2016, a recognized clearing agency is not required to implement rules, procedures, policies or operations designed to ensure that a recognized clearing agency meets or exceeds the following:

(a) PFMI Principle 14;

(b) key consideration 4 of PFMI Principle 3 and key consideration 3 of PFMI Principle 15 with respect to a clearing agency's recovery and orderly wind-down plans; and

(c) PFMI Principle 19.

(3) In Saskatchewan, despite subsection (1), if these regulations are filed with the Registrar of Regulations after February 17, 2016, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

FORM 24-102F1
CLEARING AGENCY SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

1. Name of clearing agency (the "Clearing Agency"):

_____

2. Jurisdiction of incorporation, or equivalent, of Clearing Agency:

_____

3. Address of principal place of business of Clearing Agency:

_____

4. Name of the agent for service of process (the "Agent") for the Clearing Agency:

_____

5. Address of the Agent in _____ [name of local jurisdiction]:

_____

6. The _____ [name of securities regulatory authority] ("securities regulatory authority") issued an order recognizing the Clearing Agency as a clearing agency pursuant to securities legislation, or the securities regulatory authority issued an order exempting the Clearing Agency from the requirement to be recognized as a clearing agency pursuant to such legislation, on _____.

7. The Clearing Agency designates and appoints the Agent as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the activities of the Clearing Agency in _____ [province of local jurisdiction]. The Clearing Agency hereby irrevocably waives any right to challenge service upon its Agent as not binding upon the Clearing Agency.

8. The Clearing Agency agrees to unconditionally and irrevocably attorn to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of _____ [name of local jurisdiction] and (ii) any proceeding in any province or territory arising out of, related to, concerning or in any other manner connected with the regulation and oversight of the activities of the Clearing Agency in _____ [name of local jurisdiction].

9. The Clearing Agency must file a new submission to jurisdiction and appointment of agent for service of process in this form at least 30 days before the Clearing Agency ceases to be recognized or exempted by the securities regulatory authority, to be in effect for six years from the date it ceases to be recognized or exempted unless otherwise amended in accordance with section 10.

10. Until six years after it has ceased to be a recognized or exempted by the securities regulatory authority, the Clearing Agency must file an amended submission to jurisdiction and appointment of agent for service of process at least 30 days before any change in the name or above address of the Agent.

11. The Clearing Agency agrees that this submission to jurisdiction and appointment of agent for service of process is to be governed by and construed in accordance with the laws of _____ [name of local jurisdiction].

Dated: _____

_____
Signature of the Clearing Agency

_____
Print name and title of signing officer of the Clearing Agency

AGENT

CONSENT TO ACT AS AGENT FOR SERVICE

I, _____ [name of Agent in full; if a corporation, full corporate name] of _____ [business address], hereby accept the appointment as agent for service of process of _____ [insert name of Clearing Agency] and hereby consent to act as agent for service pursuant to the terms of the appointment executed by _____ [insert name of Clearing Agency] on _____ [insert date].

Dated: _____

_____
Signature of Agent

_____
Print name of person signing and,
if Agent is not an individual,
the title of the person

FORM 24-102F2
CESSATION OF OPERATIONS REPORT FOR CLEARING AGENCY

1. Identification:

A. Full name of the recognized or exempted clearing agency:

B. Name(s) under which business is conducted, if different from item 1A:

2. Date clearing agency proposes to cease carrying on business as a clearing agency:

3. If cessation of business was involuntary, date clearing agency has ceased to carry on business as a clearing agency:

Exhibits

File all exhibits with the Cessation of Operations Report. For each exhibit, include the name of the clearing agency, the date of filing of the exhibit and the date as of which the information is accurate (if different from the date of the filing). If any exhibit required is inapplicable, a statement to that effect must be provided instead of the exhibit.

Exhibit A

The reasons for the clearing agency ceasing to carry on business as a clearing agency.

Exhibit B

A list of all participants in Canada during the last 30 days prior to ceasing business as a clearing agency.

Exhibit C

A description of the alternative arrangements available to participants in respect of the services offered by the clearing agency immediately before the cessation of business as a clearing agency.

Exhibit D

A description of all links the clearing agency had immediately before the cessation of business as a clearing agency with other clearing agencies or trade repositories.

CERTIFICATE OF CLEARING AGENCY

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this _____ day of _____ 20 _____

_____
(Name of clearing agency)

_____
(Name of director, officer or partner – please type or print)

_____
(Signature of director, officer or partner)

_____
(Official capacity – please type or print)

102480

M.O., 2016-04

Order number I-14.01-2016-04 of the Minister of Finance dated 2 February 2016

Derivatives Act
(chapter I-14.01)

CONCERNING the Regulation to amend the Derivatives Regulation

WHEREAS subparagraphs 1, 2, 3, 9, 11, 26, 27 and 29 of section 175 of paragraph 1 of the Derivatives Act (chapter I-14.01) stipulates that the *Autorité des marchés financiers* may make regulations concerning the matters referred to in those paragraphs;

WHEREAS the fourth and fifth paragraphs of section 175 of the said Act stipulate that a draft regulation shall be published in the *Bulletin de l'Autorité des marchés financiers*, accompanied 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 the said section stipulate that every regulation made under section 175 must be submitted to the Minister of Finance for approval with or without amendment 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 Derivatives Regulation has been approved by ministerial order no. 2009-01 dated January 15, 2009 (2009, *G.O.* 2, 33A);

WHEREAS there is cause to amend this regulation;

WHEREAS the draft Regulation to amend the Derivatives Regulation was published in the *Bulletin de l'Autorité des marchés financiers*, volume 11, no. 47 of November 27, 2014;

WHEREAS the Authority made, on January 13, 2016, by the decision no. 2016-PDG-0006, Regulation to amend the Derivatives Regulation;

WHEREAS there is cause to approve this regulation without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment Regulation to amend the Derivatives Regulation appended hereto.

February 2, 2016

CARLOS LEITÃO,
Minister of Finance