

M.O., 2005-09**Order number V-1.1-2005-09 of the Minister of Finance dated 7 June 2005**

Securities Act
(R.S.Q., c. V-1.1 ; 2004, c. 37)

CONCERNING the Regulation 52-109 respecting certification of disclosure in issuers annual and interim filings

WHEREAS the Securities Act (R.S.Q., c. V-1.1) has been amended by the chapter 37 of the statutes of 2004;

WHEREAS paragraphs 1, 2, 3, 9, 11, 20 and 34 of section 331.1 of the Securities Act 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 (R.S.Q., c. 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 sections 691 and 696 of chapter 45 of the statutes of 2002 stipulate, in particular, that sections 331.1 and 331.2 of the Securities Act are amended by replacing “Commission” wherever it appears by “Agency”, and making the necessary modifications;

WHEREAS sections 37 and 38 of chapter 37 of the statutes of 2004 stipulate, in particular, that sections 331.1 and 331.2 of the Securities Act are amended by replacing “Agency” wherever it appears by “Authority”;

WHEREAS the draft Regulation 52-109 respecting certification of disclosure in issuers annual and interim filings was published in the Supplement to the weekly Bulletin of the Commission des valeurs mobilières du Québec, volume 35, No. 2 of January 16, 2004;

WHEREAS on June 3, 2005, by the decision no. 2005-PDG-0153, the Authority made the Regulation 52-109 respecting certification of disclosure in issuers annual and interim filings;

WHEREAS there is cause to approve this regulation without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment the Regulation 52-109 respecting certification of disclosure in issuers annual and interim filings appended hereto.

June 7, 2005

MICHEL AUDET,
Minister of Finance

Regulation 52-109 respecting certification of disclosure in issuers' annual and interim filings

Securities Act
(R.S.Q., c. V-1.1, s. 331.1, par. (1), (2), (3), (9), (11), (20) and (34); 2004, c. 37)

PART 1 **DEFINITIONS AND APPLICATION**

1.1 Definitions

In this Regulation,

“AIF” has the meaning ascribed to it in Regulation 51-102 respecting Continuous Disclosure Obligations approved by Minister's Order No. 2005-03 dated May 19, 2005;

“annual certificate” means the certificate required to be filed pursuant to Part 2;

“annual filings” means the issuer's AIF, if any, and annual financial statements and annual MD&A filed under provincial and territorial securities legislation for the most recently completed financial year, including for greater certainty all documents and information that are incorporated by reference in the AIF;

“annual financial statements” means the annual financial statements required to be filed under Regulation 51-102;

“disclosure controls and procedures” means controls and other procedures of an issuer that are designed to provide reasonable assurance that information required to be disclosed by the issuer in its annual filings, interim filings or other reports filed or submitted by it under provincial and territorial securities legislation is recorded, processed, summarized and reported within the time periods specified in the provincial and territorial securities legislation and include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in its annual filings, interim filings or other reports filed or submitted under provincial and territorial securities legislation is accumulated and communicated to the issuer's management, including its chief executive officers and chief financial officers (or persons who perform similar functions to a chief executive officer or a chief financial officer), as appropriate to allow timely decisions regarding required disclosure;

“interim certificate” means the certificate required to be filed pursuant to Part 3;

“interim filings” means the issuer's interim financial statements and interim MD&A filed under provincial and territorial securities legislation for the most recently completed interim period;

“interim financial statements” means the interim financial statements required to be filed under Regulation 51-102;

“interim period” has the meaning ascribed to it in Regulation 51-102;

“internal control over financial reporting” means a process designed by, or under the supervision of, the issuer's chief executive officers and chief financial officers, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP and includes those policies and procedures that:

(a) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer,

(b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with the issuer's GAAP, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer, and

(c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the annual financial statements or interim financial statements;

"investment fund" has the meaning ascribed to it in Regulation 51-102;

"issuer's GAAP" has the meaning ascribed to it in Regulation 52-107;

"MD&A" has the meaning ascribed to it in Regulation 51-102;

"Sarbanes-Oxley Act" means the Sarbanes-Oxley Act of 2002, Pub.L. No. 107-204, 116 Stat. 745 (2002), of the United States of America;

"SEDAR" means the computer system for the transmission, receipt, acceptance, review and dissemination of documents filed in electronic format pursuant to Regulation 13-101 respecting the System for Electronic Document Analysis and Retrieval (SEDAR) adopted by the Commission des valeurs mobilières du Québec pursuant to decision No. 2001-C-0272 dated June 12, 2001;

"subsidiary" has the meaning ascribed to it in Section 1590 of the CICA Handbook; and

"US GAAP" has the meaning ascribed to it in Regulation 52-107 respecting Acceptable Accounting Principles, Auditing Standards and Reporting Currency approved by Minister's Order No. 2005-08 dated May 19, 2005.

1.2 Application

This Regulation applies to all reporting issuers other than investment funds.

PART 2 CERTIFICATION OF ANNUAL FILINGS

2.1 Every issuer must file a separate annual certificate, in Form 52-109F1, in respect of and personally signed by each person who, at the time of filing the annual certificate:

(a) is a chief executive officer;

(b) is a chief financial officer; and

(c) in the case of an issuer that does not have a chief executive officer or chief financial officer, performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

2.2 The annual certificates must be filed by the issuer separately but concurrently with the latest of the following:

(a) if it files an AIF, the filing of its AIF; and

(b) the filing of its annual financial statements and annual MD&A.

PART 3 CERTIFICATION OF INTERIM FILINGS

3.1 Every issuer must file for each interim period a separate interim certificate, in Form 52-109F2, in respect of and personally signed by each person who, at the time of the filing of the interim certificate:

(a) is a chief executive officer;

(b) is a chief financial officer; and

(c) in the case of an issuer that does not have a chief executive officer or chief financial officer, performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

3.2 The interim certificates must be filed by the issuer separately but concurrently with the filing of its interim filings.

PART 4 EXEMPTIONS

4.1 Exemption for Issuers that Comply with U.S. Laws

(1) An issuer is exempt from Part 2 with respect to the most recently completed financial year if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's signed certificates relating to its annual report for its most recently completed financial year are filed through SEDAR as soon as reasonably practicable after they are filed with the SEC.

(2) An issuer is exempt from Part 3 with respect to the most recently completed interim period if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's signed certificates relating to its quarterly report for its most recently completed quarter are filed through SEDAR as soon as reasonably practicable after they are filed with the SEC.

(3) An issuer is exempt from Part 3 with respect to the most recently completed interim period if:

(a) the issuer furnishes to the SEC a current report on Form 6-K under the 1934 Act containing the issuer's quarterly financial statements and MD&A;

(b) the Form 6-K is accompanied by signed certificates that are furnished to the SEC in the same form required by U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(c) the signed certificates relating to the quarterly report filed under cover of the Form 6-K are filed through SEDAR as soon as reasonably practicable after they are furnished to the SEC.

(4) Notwithstanding subsection 4.1(1), Part 2 of this Regulation applies to an issuer with respect to the most recently completed financial year if the issuer files annual financial statements prepared in accordance with Canadian GAAP, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

(5) Notwithstanding subsection 4.1(2), Part 3 of this Regulation applies to an issuer with respect to the most recently completed interim period if the issuer files interim financial statements prepared in accordance with Canadian GAAP, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

4.2 Exemption for Foreign Issuers

An issuer is exempt from the requirements in this Regulation so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, sections 5.4 and 5.5 of Regula-

tion 71-102 respecting Continuous Disclosure and Other Exemptions Relating to Foreign Issuers approved by Minister's Order No. 2005-07 dated May 19, 2005.

4.3 Exemption for Certain Exchangeable Security Issuers

An issuer is exempt from the requirements in this Regulation so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of Regulation 51-102.

4.4 Exemption for Certain Credit Support Issuers

An issuer is exempt from the requirements in this Regulation so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of Regulation 51-102.

4.5 General Exemption

(1) The securities regulatory authority may grant an exemption from 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 such an exemption.

(3) In Québec, this exemption is granted pursuant to section 263 of the Securities Act (R.S.Q., c. V-1.1).

PART 5

EFFECTIVE DATE AND TRANSITION

5.1 Effective Date

This Regulation comes into force on June 30, 2005.

5.2 Transition

(1) Annual Certificates

(a) The provisions of this Regulation concerning annual certificates apply for financial years ended on or after June 30, 2005.

(b) Notwithstanding Part 2 or paragraph (1)(a), an issuer may file annual certificates in Form 52-109FT1 in respect of any financial year ending on or before March 30, 2005.

(c) Notwithstanding Part 2 or paragraph (1)(a), an issuer that files an annual certificate in Form 52-109F1 in respect of a financial year ending on or before June 29, 2006 may omit from Form 52-109F1

i. the words “and internal control over financial reporting” in the introductory language in paragraph 4;

ii. paragraph 4(b); and

iii. paragraph 5.

(2) Interim Certificates

(a) The provisions of this Regulation concerning interim certificates apply for interim periods ended on or after June 30, 2005.

(b) Notwithstanding Part 3 or paragraph (2)(a), an issuer may file interim certificates in Form 52-109FT2 in respect of any interim period that occurs prior to the end of the first financial year in respect of which the issuer is required to file an annual certificate in Form 52-109F1.

(c) Notwithstanding Part 3 or paragraph (2)(a), an issuer that files an interim certificate in Form 52-109F2 for a permitted interim period may omit from Form 52-109F2

i. the words “and internal control over financial reporting” in the introductory language in paragraph 4;

ii. paragraph 4(b); and

iii. paragraph 5.

(d) For the purpose of paragraph (2)(c), a permitted interim period is an interim period that occurs prior to the end of the issuer’s first financial year ending after June 29, 2006.

FORM 52-109F1
CERTIFICATION OF ANNUAL FILINGS

I, <identify the certifying officer, the issuer, and his or her position at the issuer>, certify that:

1. I have reviewed the annual filings (as this term is defined in Regulation 52-109 respecting Certification of Disclosure in Issuers’ Annual and Interim Filings) of <identify issuer> (the issuer) for the period ending <state the relevant date>;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings;

4. The issuer’s other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:

(a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared;

(b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer’s GAAP; and

(c) evaluated the effectiveness of the issuer’s disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation; and

5. I have caused the issuer to disclose in the annual MD&A any change in the issuer’s internal control over financial reporting that occurred during the issuer’s most recent interim period that has materially affected, or is reasonably likely to materially affect, the issuer’s internal control over financial reporting.

Date: _____

[Signature]
[Title]

FORM 52-109FT1
CERTIFICATION OF ANNUAL FILINGS DURING
TRANSITION PERIOD

I, <identify the certifying officer, the issuer, and his or her position at the issuer>, certify that:

1. I have reviewed the annual filings (as this term is defined in Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings) of <identify issuer> (the issuer) for the period ending <state the relevant date>;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings; and

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings.

Date: _____

[Signature]

[Title]

FORM 52-109F2

CERTIFICATION OF INTERIM FILINGS

I <identify the certifying officer, the issuer, and his or her position at the issuer>, certify that:

1. I have reviewed the interim filings (as this term is defined in Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings) of <identify the issuer>, (the issuer) for the interim period ending <state the relevant date>;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings;

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:

(a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared; and

(b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP; and

5. I have caused the issuer to disclose in the interim MD&A any change in the issuer's internal control over financial reporting that occurred during the issuer's most recent interim period that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: _____

[Signature]

[Title]

FORM 52-109FT2

CERTIFICATION OF INTERIM FILINGS DURING TRANSITION PERIOD

I <identify the certifying officer, the issuer, and his or her position at the issuer>, certify that:

1. I have reviewed the interim filings (as this term is defined in Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings) of <identify the issuer>, (the issuer) for the interim period ending <state the relevant date>;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings; and

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings.

Date: _____

[Signature]

[Title]

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