

## Notice of Publication

### *Regulation respecting Development Capital Investment Fund Continuous Disclosure*

### *Regulation to amend the Securities Regulation*

#### Introduction

The *Autorité des marchés financiers* (the "AMF" or the "Authority") is publishing the final versions of the following Regulations:

- *Regulation respecting Development Capital Investment Fund Continuous Disclosure, Form F1 Content of Management Discussion and Analysis, Form F2 Certification respecting Valuation of Development Capital Investments and Form F3 Content of Annual Information Form* (the "Regulation"),
- *Regulation to amend the Securities Regulation,*

(collectively the "Regulations").

The Regulations are published with this Notice in French and in English. The Notice and the Regulations are also available on the AMF website at [www.lautorite.qc.ca](http://www.lautorite.qc.ca).

In accordance with section 331.2 of the *Securities Act*, the Regulations were published as draft regulations in the AMF Bulletin dated March 21, 2008.<sup>1</sup>

#### Background

The purpose of the Regulation is to regulate the continuous disclosure requirements of the *Fonds de solidarité des travailleurs du Québec (F.T.Q.)*, *Fondaction*, the *Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi* and *Capital régional et coopératif Desjardins* (individually the "Fund" and collectively the "Funds").

The Regulation codifies the existing continuous disclosure practices of the Funds while introducing new requirements more in line with those set out in *Regulation 81-106 respecting Investment Fund Continuous Disclosure* ("Regulation 81-106") from which the Funds are currently excluded.<sup>2</sup> Furthermore, the Regulation harmonizes the continuous disclosure requirements of the Funds.

The Regulation sets out the continuous disclosure obligations of the Funds in respect of the financial statements, the auditor's report, the MD&A, the statement of development capital investments, the statement of other

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<sup>1</sup> See Vol. 5, No. 11, section 6.2.1

<sup>2</sup> See paragraph 1.2 (4) of Regulation 81-106

investments, the index of investments made by the specialized funds, the material change reports, the annual information form, the delivery of the financial statements and the MD&As, the sending of proxies, and other matters regarding continuous disclosure by the Funds.

### ***Principal Requirements under the Regulation***

- The comparative annual financial statements and auditor's report of a Fund must be filed on or before the 120<sup>th</sup> day after the Fund's most recently completed financial year.
- The interim financial statements and auditor's report of a Fund must be filed on or before the 90<sup>th</sup> day after the Fund's most recently completed interim period.
- A Fund must file, as at the end of each financial year or interim period, an audited statement of its development capital investments. The statement must be available upon request and on the Fund's website.
- A Fund must file, as at the end of each financial year or interim period, a statement of its other investments. The statement must be available upon request and on the Fund's website.
- A Fund must provide, as at the end of each financial year or interim period, an index of investments made by the specialized funds in which it holds an investment amount equal to or greater than 0.2% of its net assets or \$10 million, whichever is greater. The index of investments made by the specialized funds need not be audited. It must be available upon request and on the Fund's website.
- Disclosure regarding repurchase transactions and reverse repurchase transactions must be made in the statement of other investments. Information concerning securities lending transactions must be made in notes to the financial statements.
- A Fund must file an annual MD&A and an interim MD&A, prepared in accordance with Form F1 *Content of Management Discussion and Analysis*, at the same time that it files its annual financial statements or its interim financial statements.
- The chief executive officer and the chief financial officer of a Fund must certify that the fair value of each development capital investment was established through the procedure described in section 50 of the Regulation. This procedure requires that, excluding publicly traded entities, all information regarding the valuation of development capital investments be submitted to an independent valuation committee composed of a majority of members who are qualified valuers that are independent of the Funds. The independent valuation committee ensures compliance by the Fund with the valuation procedure described in section 50 of the Regulation and makes a written report of its review to the board of directors of the Fund or to any other body to whom the board has delegated

the responsibility of receiving the report. Certification by the chief executive officer and the chief financial officer of the Fund must comply with Form F2 *Certification respecting Valuation of Development Capital Investments*.

- The Regulation requires a Fund to send its security holders a business reply card allowing them to obtain, at no cost, the continuous disclosure documents filed with the AMF.
- A Fund must file an annual information form prepared in accordance with Form F3 *Content of Annual Information Form*.
- The Regulation requires a Fund to file a material change report when a material change occurs in the affairs of the Fund.
- The Regulation prescribes that section 4.11 of *Regulation 51-102 respecting Continuous Disclosure Obligations* should apply to a Fund that changes its auditor.
- The Regulation requires a Fund to calculate its total operating expense ratio.
- The Regulation contains transitional provisions to allow the Funds to implement the mechanisms necessary for complying with new requirements under the Regulation.

The *Regulation to amend the Securities Regulation* repeals certain regulatory provisions further to the incorporation of their content in the Regulation. Other sections are amended to better reflect current practices.

### **Amendments to the Regulation Stemming From Comments**

The AMF received comments from the *Fonds de solidarité des travailleurs du Québec (F.T.Q.), Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi* and *Capital régional et coopératif Desjardins*.

Further to the comments received, Division 3 - Index of Investments Made by the Specialized Funds (sections 30 to 35 of the Draft Regulation) was amended to require the disclosure of the share of the investment fund in all of the development capital investments of the specialized fund rather than all of the development capital investments of the specialized fund. This amendment is intended to ensure the confidentiality of information pertaining to the investments of other investors in the specialized fund.

### **COMING INTO FORCE OF REGULATIONS**

The Regulation is expected to come into force on June 1, 2008. However, section 76 of the Regulation provides for a transition period to give funds sufficient time to take the necessary measures to ensure compliance with the new requirements. The Regulation to amend the Securities Regulation will come into force concurrently with the Regulation.

The texts of the Regulations and Forms appear below and are available on the AMF website.

**May 30, 2008**