

**REGULATION TO AMEND THE SECURITIES REGULATION\***

## Securities Act

(R.S.Q., c. V-1.1, s. 331.1, pars. (1), (2), (3), (6), (7), (8), (9), (11), (12), (13), (15), (25), (26), (27), (29) and (34); 2008, c. 24; s. 225, 2009, c. 25, s. 45)

- 1.** Section 1.7 of the Securities Regulation is amended by replacing the words "to which the Act" with the words "to which the Securities Act (R.S.Q., c. V-1.1)".
- 2.** Sections 20, 24 and 25 of the Regulation are repealed.
- 3.** Title V of the Regulation, consisting of sections 190 to 252.1, is replaced by the following:

**"TITLE V**

"Dealers, advisers, representatives, investment fund managers, chief compliance officer and ultimate designated person

**"CHAPTER I**

"Conditions and effects of registration

**"190.** An applicant for registration as a dealer, adviser, representative, investment fund manager, chief compliance officer or ultimate designated person must include with their application for registration the fees prescribed by Chapter II of Title VI.

**"191.** Registration is valid until it is revoked. It requires the annual payment of the fees prescribed by Chapter II of Title VI.

**"192.** Registration as a dealer or as a representative of a dealer is not required for the following:

(1) an issuer that limits its activities as a dealer to the distribution, under a prospectus exemption pursuant to section 41 of the Act, of securities of its own issue, provided that such distributions are only a secondary activity of the issuer;

(2) a bank or an authorized foreign bank listed in Schedules I, II and III to the Bank Act (Statutes of Canada 1991, c. 46), the Caisse centrale Desjardins du Québec established under the Act respecting the Mouvement Desjardins (S.Q. 1989, c. 113), a

---

\* The Securities Regulation, enacted by Order-in-Council No. 660-83 dated March 30, 1983 (1983, G.O. 2, 1269), was last amended by the Regulation approved by Order-in-Council No. 429-2009 dated April 8, 2009. For previous amendments, refer to the "Tableau des modifications et Index sommaire," *Éditeur officiel du Québec*, 2009, updated to April 1, 2009.

financial services cooperative within the meaning of the Act respecting financial services cooperatives (R.S.Q., c. C-67.3) or a société d'entraide économique or federation of sociétés d'entraide économique governed by the Act respecting the sociétés d'entraide économique (R.S.Q., c. S-25.1) to the extent that it distributes or sells securities pursuant to paragraphs (1) and (2) of section 41 of the Act;

(3) a bank or a foreign bank, the Caisse centrale Desjardins du Québec or a financial services cooperative contemplated in paragraph (2) or a trust company licensed under the Act respecting trust companies and savings companies (R.S.Q., c. S-29.01) to the extent that its activities as a dealer are solely to execute on an exchange or on the over-the-counter market, through a registered dealer, orders received without solicitation or advertisement;

(4) a bank or an authorized foreign bank listed in Schedules I, II and III to the Bank Act (S.C. 1991, c. 46 [R.S.C. c. B-1.01]) or a trust company licensed under the Act respecting trust companies and savings companies (chapter S-29.01) to the extent that it transacts bonds on its premises in response to unsolicited orders, by buying or selling and carrying out the order for its own account with a registered dealer.

**"193.** A mutual fund or scholarship plan dealer must, while registered, maintain liability insurance that is consistent with the requirements in section 194. It must also ensure that every representative acting on its behalf without being an employee carries liability insurance that is consistent with the requirements in section 195.

**"194.** The insurance contract covering the professional liability insurance of a mutual fund or scholarship plan dealer must satisfy the following requirements:

(1) The coverage amount must not be less than \$500,000 per claim and, for each 12-month period, not less than the following amounts:

(a) \$1,000,000 for a dealer having 3 representatives or less acting on its behalf;

(b) \$2,000,000 for a dealer having more than 3 representatives acting on its behalf;

(2) The insurance contract may stipulate a deductible not exceeding the following amounts:

(a) \$10,000 for a dealer having 3 representatives or less acting on its behalf;

(b) \$25,000 for a dealer having more than 3 representatives acting on its behalf;

(3) The insurance contract must also contain provisions relating to the following elements:

(a) coverage is provided for liability arising from the fault, errors, negligence, or omissions committed by it in pursuing activities as a dealer, or arising from the fault, errors, negligence, or omissions committed by its mandataries, its employees or the trainees of its representatives in the performance of their duties, regardless of whether or not such persons are still so engaged on the date of the claim;

(b) the coverage provided in respect of the activities of the dealer for the period during which the contract is in effect extends beyond the period of insurance provided for therein in respect of the activities contemplated by such coverage for a further term of five years from the date the dealer's registration was cancelled or suspended;

(c) the time within which an insurer must notify the Authority of its intention not to renew the contract or to cancel the contract is 30 days prior to the date of non-renewal or cancellation;

(d) the insurer must notify the Authority upon receiving notice of non-renewal or cancellation of the insurance contract;

(e) the insurer must notify the Authority of the receipt of any claim, regardless of whether or not the insurer decides to honour the claim.

The deductible amount stipulated in the insurance contract may nevertheless be greater than the amount set out in subparagraphs (a) and (b) of subparagraph (2) of the first paragraph, provided that the insured maintains at all times liquid assets at least equal to the amount stipulated in the contract. For purposes of this section, "liquid assets" means the total of cash and securities immediately convertible into cash.

**"195.** The insurance contract covering the professional liability of a representative acting on behalf of, but not employed by, a dealer contemplated in section 194, must satisfy the following requirements:

(1) The coverage amount must not be less than \$500,000 per claim and \$1,000,000 per year;

(2) No deductible amount stipulated in the contract may exceed \$10,000;

(3) The insurance contract must also contain provisions relating to the following elements and to those set out in subparagraphs (c) to (e) of subparagraph (3) of section 194 to the effect that:

(a) coverage is provided for liability arising from the fault, errors, negligence, or omissions committed by him in pursuing activities as a representative, or arising from the fault, errors, negligence, or omissions committed by his mandataries, employees or trainees in the performance of their duties, regardless of whether or not such persons are still so engaged on the date of the claim;

(b) the coverage provided in respect of his activities during the period for which the contract is in effect extends beyond the period of insurance provided for therein for a further term of 5 years from the date the representative ceases to pursue activities, regardless of whether or not he is still alive.

**"196.** An investment dealer and, where applicable, an exempt market dealer and a restricted dealer, must participate in a contingency fund deemed acceptable to the Authority.

## **"CHAPTER II**

### **"TRANSACTIONS INTENDED TO FIX OR STABILIZE THE MARKET PRICE OF A SECURITY**

**"197.** Any transaction intended to fix or stabilize the market price of a security is prohibited except where it is made by the firm underwriter from the time of the receipt for the prospectus in its final form to the end of the distribution or by the firm purchaser during a secondary distribution for the sole purpose of facilitating the distribution or the secondary distribution, and in accordance with the following conditions:

(1) the transaction is made at a market price that is not higher than the bid price of the securities that are the object of the distribution or of the secondary distribution;

(2) the transaction is made only for the purpose of preventing or delaying a decline in the open market price of a security;

(3) the dealer who effects the transaction does not have priority over another person who wishes to buy at the same price;

(4) the transaction is not made on a security being distributed during a distribution or a secondary distribution made through the facilities of a recognized securities exchange.

**"198.** The requirements of section 197 do not apply in the case of transactions made through the facilities of a securities exchange recognized by the Authority in accordance with the operating rules of that exchange by a specialist acting within the scope of his function.

"199. Any transaction intended to fix or stabilize the market price of the securities proposed in exchange is prohibited during a take-over bid by way of exchange."

4. Form 2 of the Regulation is repealed.

5. Registration as an adviser is not required for a person that acts as an adviser only to accredited investors referred to in paragraph *a, b, c, d, f, g, i, p*, in subparagraph *i* of paragraph *q* or in paragraph *v* of the definition of "accredited investor" provided for in section 1.1 of Regulation 45-106 respecting Prospectus and Registration Exemptions approved by Ministerial Order no. 2009-05 dated September 9, 2009 and in respect of whom the exemption provided for in section 3.3 thereof applies.

The first paragraph does not apply to a person that carries on business in respect of a trust company or trust corporation registered or authorized to carry on business in a foreign jurisdiction referred to in paragraph *p* of the definition of "accredited investor" or in respect of a person registered or authorized to carry on business as an adviser or the equivalent under the securities legislation of a foreign jurisdiction referred to in subparagraph *i* of paragraph *q* of this definition.

This section ceases to have any effect on December 28, 2009.

6. This Regulation comes into force on September 28, 2009.

9454