ASSOCIATION CANADIENNE DU COMMERCE DES VALEURS MOBILIÈRES
INVESTMENT INDUSTRY ASSOCIATION OF CANADA

**Carole Foster**
**Vice-Présidente**

June 4, 2008

Monsieur Raymond Bachand
Président du Comité ministériel de la Prospérité économique
et du développement durable
Ministère du Développement économique, de l'innovation
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Monsieur le Président:

**Re: Recommendations on Regulatory Streamlining**

On behalf of the Investment Industry Association of Canada (IIAC), I would like to thank you very much for your letter of April 22 and the opportunity to meet to discuss a number of issues related to regulatory streamlining with you. The IIAC is a member-based, professional association that advances the growth and development of the Canadian investment industry. The IIAC acts as a strong, proactive voice to represent the interests of the investment industry for all market participants. Our member firms range in size from small regional firms – about half our members are small businesses – to large organizations that employ thousands of individuals across the country.

Our members head-quartered in Quebec total 35 – 17% of our total membership – and they hold over $100 billion in client assets. Our members work with 800,000 Quebecers to help build prosperity and investment security for investors and their families. They help manage the portfolios of or issue equity and debt for new and expanded lines of products and services for 4,000 Quebec businesses. They also work with the Quebec government to underwrite and serve as primary distributors of government debt. Finally, our members create markets by trading on their own accounts, benefiting individual, institutional, non-profit or public sector clients.

We very much appreciate the efforts your Ministry is taking as removing unnecessary regulation and administration should free up resources, both within our member firms and in the issuing companies and other businesses that our members serve, so that they can more productively devote their attention to expansion and innovation. In preparation for our meeting and to assist in further discussions, we have put forward views in the following areas:

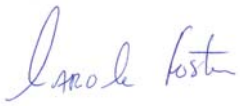
1. What administrative requirements and information obligations can be eliminated or simplified
2. What can be done to avoid the build-up of further unproductive administrative requirements in future
3. What further steps the Quebec government might take to improve productivity and competitiveness within Quebec from a regulatory efficiency perspective.

In our analysis, we include not only unproductive or less-than-ideal administrative workload that arises between our members and parts of the Quebec government and its agencies, but also between, in the case of our industry, different firms in the capital markets/financial services sector, and between these entities and their individual and business clients due to requirements of Quebec and/or the federal governments and, in some cases, due to differences between requirements of different provinces, including Ontario. The primary sources of problems are in the securities regulation and tax areas.

This said, we believe that our recommendations will have no or virtually no impacts on government revenues or expenses and will improve the integrity and efficiency of securities regulation, tax system and elsewhere. Making the recommended changes – which require regulatory, legislative or administrative amendments – will also improve service for business and individual clients; encourage further investment, innovation and expansion by our members and other businesses; and ensure dynamic capital markets for Quebec within the Canadian and global marketplaces. We believe that the other organizations with which you are meeting will similarly contribute ways to free up resources to improve Quebec's competitiveness within Canada and abroad, benefitting the people and economy of Quebec.

We would be pleased to work with you or your team to further flesh out opportunities at your convenience following the consultation period and look forward to seeing the results of your efforts come to fruition.

Yours truly,



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# RECOMMENDED ADMINISTRATIVE AND PAPERWORK BURDEN REDUCTION MEASURES

Broker/dealer members of the Investment Industry Association of Canada (IIAC) are most impacted by two types of regulatory requirements: securities-related regulation and tax rules. Both are areas where there are regulations and administrative requirements that can be eliminated, streamlined or otherwise improved to free up resources for further Quebec development, innovation and expansion within other parts of Canada and beyond.

With the focus on investor protection, the securities regulatory requirements of brokers have been increasing significantly. For the last year on record, our members paid an estimated $120 million in regulatory fees and possibly an equivalent amount in the indirect costs of compliance.

While tax rates have been dropping, the complexity and costs of tax compliance have been increasing substantially. Apart from the costs investment dealers incur with all businesses in Quebec in terms of income, payroll, sales, business occupancy and other taxes, investment dealers pay in the vicinity of $4 million ($20 million nationally) in additional costs annually (arguably another form of "tax"), as they represent a material part of the government's un-reimbursed tax reporting facilitators. Moreover, these firms risk incurring penalties and interest if requirements are not adhered to properly, even when clear answers are not available and if delays are caused by incidents outside the intermediaries' control.

Regulatory burden goes beyond the direct cost of complying with regulatory requirements – it is also the the difficulty and/or delay in getting answers or changes, it is the challenge of dealing with two or more parts of government that may not be synchronized fully and it is the additional costs incurred when insufficient implementation time means systems and operational changes must be rushed, leading to overtime expense and greater likelihood of errors.

Other countries have recognized the significant costs of regulation in its broadest sense and the negative effects of requlatory expense. The United Kingdom, Australia and the Netherlands have estimated that freeing up businesses from even a small proportion of regulatory costs will have significant economic benefits:

**"Compliance burdens are substantial… Modelling work undertaken by the Productivity Commission for COAG [Council of Australian Governments] suggests that the economic gains from reducing such compliance burdens could be large. For example, if regulatory reforms lowered compliance costs by one-fifth from conservatively estimated levels, a cost saving of around $7 billion (and a greater resultant increase in GDP) could be achievable.**

**Red tape reduction programs overseas are also estimated to have yielded substantial benefits. The Ministry of Finance in the Netherlands, for example, estimated cumulative savings of €900 million [CAD $1.4 billion] over 2003 and 2004 from reduced administrative burdens on business. In the United Kingdom, it is claimed that reductions to administrative burdens obtained through the use of the Standard Cost Model will potentially increase GDP by £16 billion [CAD$37 billion]."**

*– "Productivity Commission Research Report" (Australia), February 19, 2007*

We hope that the Quebec government can obtain the successes and consequential benefits that other countries are experiencing and that our suggestions can help achieve this. We have brought a number of these securities regulatory issues to the attention of the securities regulators in Quebec and in other parts of Canada; we have raised many of the tax issues with the federal Department of Finance and Canada Revenue Agency and look to work effectively with the Quebec Ministère du Revenu du Quebec (MRQ) on these issues as well.

## 1. ADMINISTRATIVE REQUIREMENTS AND INFORMATION OBLIGATIONS TO ELIMINATE OR SIMPLIFY

There are a range of issues at the Quebec level where administrative and/or paper burden can be reduced with minimal to no to slightly positive impacts on government revenues and with improvements in securities regulatory or tax or system efficiency/integrity and/or benefits for investors, issuers and/or Quebec's and Canada's capital markets. Some of these issues relate to the federal government and the help of the Quebec government to effect changes would be much appreciated; some relate to Quebec requirements alone; and some to the fact that there is a difference between Quebec and federal requirements. Details of the issues below are appended:



## 2. FRAMEWORK TO AVOID REGULATORY CREEP/UNPRODUCTIVE IMPACTS OF REGULATION

Legislators, regulators and equivalent organizations aim to achieve public interest objectives, such as consumer protection and efficiency. However, the magnitude and scope of regulation often outpace the scope of the problems the legislation and regulation seek to address. New regulation may be enacted without a complete analysis of the need for it, the related implications including costs, an effective search for more reasonable alternatives or whether other existing rules can be simplified or reduced at the same time. Elimination of regulations is rare. Consumer and investor protection is held to be a public policy objective that cannot be questioned, when, in fact, the growing costs of regulation are a hidden tax on consumers and investors and on the businesses and issuers that create jobs and pay taxes. The impact of costs on firms – large and small – can reduce competition and innovation, also contrary to Quebecers', Quebec businesses' and the province's economic interests.

A number of simple approaches could be considered to reduce a net increase in unproductive or less than optimal regulation:

1. ***Cost-benefit analysis:*** Frequently governments prepare a regulatory impact analysis for internal use that contains all the necessary components of a cost-benefit analysis, but these analyses may rarely be made public and are almost invariably completed by

government staff independently of those impacted (although consultation with those affected is undertaken). Both limitations can be addressed:

- The rigour of the structured cost-benefit analysis, including analysis of possibly better alternatives, can easily be brought in almost all cases to apply to reviews of proposed legislative and regulatory administrative burdens, one exception being matters that may have financial market impacts, for example, a regulatory constraint on investment products or new tax or elimination of a tax on a type of investment.
- Government and industry should complete the cost-benefit analyses together (using a simple format that could be developed jointly), so that both sides can better understand the challenges the other faces and hopefully develop a solution satisfactory to all parties, saving time spent on sequential consultation and avoiding either party getting so firmly entrenched in a position that change to a better solution is not possible. Where different industry groups are involved, the government should consider using a mutually agreeable facilitator to help move an issue forward. In the case of regulatory reduction committees or task forces, the government should invite greater involvement of operations and systems people and not simply accountants and lawyers. The IIAC appreciates very much that the MRQ has been making efforts to understand and address our members' concerns, with tangible benefits to be had, we believe, for all members, the MRQ, issuers and investors.

2. **Sunset clauses:** Not workable in all cases, sunset clauses on regulatory requirements would mandate reviews of regulation on a periodic basis, allowing new approaches to be introduced and out-of-date regulations to be eliminated with greater likelihood than by trying to make changes on an ad hoc basis.

3. **Swift passage of legislation/time for implementation/option for administrative relief needed:** An often-overlooked part of regulatory burden is the challenge of implementation. Despite apparent views otherwise, businesses cannot afford to implement systems changes until specifications are very clear and there is absolute certainty that a change will be made. Moreover, once a rushed implementation has been forced on a firm, any inefficiency built in by necessity due to time pressures is often perpetuated as funding for new projects is limited and is likely to be allocated first to initiatives aimed at expanding new businesses/services or new federal or provincial regulatory requirements. In particular, information on changes to tax reporting must be finalized and conveyed to the firms or industry no later than August 31 each year to allow for reasonable implementation by reporting firms of systems, procedural and communications changes – efforts to do this in the case of TFSAs at the federal level are much appreciated and show what is possible. If this August 31 schedule cannot be met, we believe that legislation should provide for the MRQ and CRA to accord administrative relief in an implementation year provided it is evident that intermediaries have made reasonable efforts to comply. This is particularly important in the case of Quebec – one of the few remaining province that have not reached an agreement with the federal government to manage the collection of corporate and individual income taxes.

4. **Permit unless prohibited:** A member has noted a difference in U.S. and Canadian tax approaches in some areas. Canadian firms are limited from as easy moves into new businesses as American firms enjoy because the U.S. has taken a "permitted unless prohibited" approach to legislation rather than "prohibited unless permitted" (an example relates to foreign-exchange-traded mutual fund trust units).

## 3. FURTHER STEPS THE QUEBEC GOVERNMENT CAN CONSIDER TAKING

1. **"What is not measured is not managed"** – Ensure each ministry provides an at-a-glance, plain-language review of its regulatory reduction plans, work underway and

expected results on its website, ideally accessible through a single portal.

Publish a list of increases and decreases in regulatory burden. Provide it in concert with a "managed" bulletin-board, that is, allow businesses to input comments and ask questions online so that there is a clear way to report unnecessary or unnecessarily complex regulatory requirements so that the relevant parts of government can assess and address the greatest irritants. Include a brief summary of net changes in regulatory burden in each provincial budget – the issue is very much related to productivity and to fiscal and economic matters considered for and addressed in the budget.

An interesting measurement tool to investigate is participation in and measurement under the World Bank's and International Financing Corporation's *Doing Business* Project. While there are flaws in the processes the organizations use, it is a benchmark that is watched and reported on and could be considered as a way to promote efforts at regulatory efficiency improvement (and to show Quebec's improving competitiveness assuming the current regulatory reduction initiative is successful).

2. **Service level targets and reporting:** On a broad level, the government could agree on targets with constituent groups and report against them. For example, while the MRQ is more timely in its release of certain information than the CRA, it could set standards and report to intermediaries on the timeliness of providing intermediaries with tax guides, computer specs and tax forms; making available documentation in English; and providing responses at implementation time with respect to changes.

3. **Harmonize unless there is a compelling reason not to, as opposed to the contrary:** We respect the many things that are effective and efficient in the Quebec context, however, all our Quebec members are subject to both federal and provincial tax measures and harmonizing wherever possible stands to avoid significant problems.
   - A recent example was the implementation dates of the federal and Quebec introduction of tax measures to eliminate the double taxation of the dividends of Canadian listed companies: the federal government implemented this measure effective January 1, 2006; the Quebec government on March 24, 2006. We understand that there would have been a tax cost to the Quebec government from the difference, however, was it sufficiently material to warrant the additional programming, testing, verification, etc. and related costs for intermediaries that having two dates caused?
   - Another example is the tolerance levels assigned – our members work very hard to be as accurate as possible but at times, small errors do occur. In one recent instance, a variance of only five cents or less was accepted for RL-3, RL-16 and RL-25 slips and due to a service bureau error member firms were told to send clients amended slips or they would receive a notice of assessment from the MRQ stating that the amount appearing on the original slip was wrong. Research indicated that moving the tolerance level to $1.12 would have had a significant impact on the amount of slips that needed to be re-printed and mailed and this case certainly cost our members more to fix than the MRQ would have receive in tax revenue on the difference.

4. **"Issues not discussed are not resolved"** – Ensure that regulatory burden is a standing item on the agendas of relevant federal-provincial meetings. This ideally would help improve co-ordination where there are federal and provincial regulatory components (e.g., between MRQ and the CRA). Share best practices (at least three provinces have regulation control or reduction policies and the federal government has committed to a 20 per cent reduction between November 2006 and November 2008)

and ideally generate some healthy competition between jurisdictions to reduce unnecessary regulatory burdens.

## Securities Industry Regulatory Rationalization

**Problem:** The problems that all or some issuers, investors and intermediaries face in terms of Canadian capital markets include:

1. ***Competing and conflicting demands; duplication, gaps and confusion:*** Canada's investment dealers fully support the requirement for *investor* protection but do not believe that the current system meets certain investor needs as it is confusing, overwhelms them with paper that they may not need or want, and treats investors in different ways in different provinces. Also, we believe that some increases in customer protection regulation is not justified by evidence – the number of investor complaints has remained remarkably flat despite increases in the number of transaction, values and information on how to carry forward complaints. We have yet to hear from an investor who expects to be treated differently depending on where he or she lives. Further, we believe that some would be more concerned if they knew they may not be able to keep their broker if they moved to another province where their advisor was not registered or if they were aware that regulation was preventing them from buying into an initial public offering (IPO) available only to residents of another Canadian province.

2. ***Slow and cumbersome:*** With speed being critical in markets where innovation and responsiveness help determine success, decision-making in the current multi-jurisdictional environment is too slow in areas that present manageable, little or no risk. For example:
   - National Instrument 24-101, Institutional Trade-Matching and Settlement, took effect on October 1, 2007, but answers from the Canadian Securities Administrators (CSA)-Industry Working Group – including Autorité des marches financiers (AMF) representation – needed for smooth implementation were generally agreed to by early August, but were only released as final in mid-December. This is essentially three months after the rule went into effect and well after systems changes would have had to be implemented, leading to unnecessary costs. Indeed, the IIAC's Quebec-based committee members asked if they could get even an English version of the answers first to avoid the time required for translation.
   - One Quebec broker reported a two-month backlog in approving registrations. As a result, business for some parties was at a standstill until the situation was fixed. The explanation for the delay was that regulatory staff were at the time insufficiently trained on the National Registration Database (NRD) and that there was a "crunch" of registration filings.
   - Members recognize the importance of being able to serve their clients in Quebec's official language, however, Quebec residents may miss out on access to initial public offerings due to the time required for audited translation, during which period the market may shift – it is for this reason that Maple bonds have to date exclusively been issued as exempt instruments, not accessible to non-accredited investors who would might otherwise like them as a high-quality, internationally-diversified addition to their portfolio.
   - Organizations subject to recognition orders sometimes have to wait excessively long for approvals on matters that are operational in nature and aimed at improving efficiency. As an example, last year brokers using Canadian Depository for Securities Limited (CDS) services had to wait a minimum of 78 days for CDS to get regulatory approval for a new file feed on dividend eligibility for tax purposes. By any practical standard, this was at best a technical change, and, if anything, the delay increased the risk of brokers that required the file feed as early as possible to be better prepared for tax reporting season effective January 1.
   - Short prospectuses were introduced to provide investors with issue information that was more accessible to readers – in fact, short-form prospectuses are increasingly long; long-form prospectuses are getting longer and they are still rarely read by investors – indeed, investor clients are more likely to complain that they are overwhelmed by paper that they believe they do not need or want. Many would read and understand more about their investments if they were given two pages with the key information: pays what, when, how and what are the main risks.

3. ***Costly:*** Direct fees paid to regulators have been increasing – one small Quebec registrant reported a five-fold increase in fees between 1999 and 2007. Revenues raised by securities commissions almost always exceed the costs of providing regulatory services. These excess revenues, which can be interpreted as an undisclosed tax on issuers, investors and intermediaries, contrasts with the fee approaches of other regulators, such as the Office of the Superintendent of Financial Institutions

(OSFI), which operates on a cost-recovery-only basis. On average over the past five years, surpluses at the Ontario, Quebec and Alberta regulators totalled $77 million in aggregate – approaching 10 per cent of these regulators' total revenue.

4. ***"One-size-fits-all" does not "fit all":*** The "tick-and-bob" checklist approach often associated with rules-based regulation means the application of rules in situations that may be inconsistent with common sense and good business practice. Applying solutions to protect retail investors to firms that have no unaccredited retail investors in an effort to appear even-handed is not, in fact, equitable and may distort effective decision-making.

5. ***Unlevel playing field:*** Rules governing securities and Canada's capital markets are in some cases not consistent with equivalent legislation and regulations in the U.S., European Union and other key competing capital markets. This may leave Canadian firms at a disadvantage. In terms of the spot foreign exchange (FX) market, a number of IIAC members point to the AMF and OSC not enforcing regulations preventing unfair competition in the provinces' jurisdiction from an estimated 10 non-regulated foreign entities that operate via internet and phone. As well, IDA capital rules place IDA firms facilitating spot FX transactions at a disadvantage to unregistered foreign and domestic non-IDA-regulated firms that are subject to lower margin rates on the business. For example, the U.S. National Futures Association's margin requirements are a third to a tenth of those in Canada for similar currency pairings. Further, U.S. firms can mitigate the margin requirements by doubling the typical risk-adjusted regulatory capital requirement, essentially using their capital to reduce client requirements. Although the IDA believes their regulatory capital requirements are appropriate, combined with the ability for lesser and un-regulated firms to come into the Quebec and Ontario markets, this has the effect of making better-regulated IIAC members the higher-cost alternative. This is contrary to investor, intermediary and regulator interests. Also, the International Swaps and Derivatives Association until late last year associated Canada with having an antiquated *Personal Property Security Act* regime (in the age of electronic ways of holding securities) with remaining uncertainties in netting. These shortcomings were rectified at the federal level, and now must be reflected in the legislation of Quebec and other provinces.

6. ***Uncertainty/lack of predictability:*** The uncertainties caused by multiple jurisdictions can dissuade Canadian and foreign issuers and investors in some cases from providing providing investments opportunities or making investments from which they and Quebec would benefit. As confidence and certainty are critical in capital markets, governments must work together, and with the industry, to ensure clarity. Prime examples of the need for this are a late 2007 article in *Protégez-vous* on a survey funded by the AMF and the news release and reporting on a CSA-sponsored survey on investment fraud (which did not define the term "financial advisors"), both of which show that the understanding of differences between those who provide investment advice across the country and those that regulate them is unclear at best and non-existent in many cases. Investment advice can be regulated by the federal or provincial governments… or not at all. This may lead to a lack of confidence in regulation and, also bad, the viewing of all in the industry on a par with the worst. Neither the *Protégez-vous* article nor the CSA survey nor material on commission websites clarified that IDA-registered firms and IDA-regulated investment advisors are subject to more stringent oversight and IDA investment advisors are required to undertake continuing education courses and have the broadest scope of investment service offerings. In the U.S., the Financial Industry Regulatory Authority (FINRA) is looking at the proliferation of designations, particularly those requiring no meaningful training or specialised knowledge but that imply a knowledge that the individual may or may not have. They will be recommending statutory changes to harmonize the regulation of brokers and investment advisors offering similar products.

7. ***Passport system*:** While the prevalence of a problem that regulation is designed to address may vary across the country, we are not sure why rules regarding investor protection, fair competition and other priorities should differ across the country. The provincial securities commissions (except Ontario) and, in Quebec's case, the Autorité des marches financiers (AMF), have introduced two phases of a "passport system" so that financing and registration in Canada no longer require dealing with 13 regulators and 13 different sets of laws: a public company is to get a decision from the regulator in its home province to grant a prospectus receipt or a discretionary exemption, and firms will not have to wait for other regulators to opt in. However, we would like to see more and faster movement on the passport system for it to have a meaningful impact on unnecessary regulatory costs, which are ultimately borne by investors, issuers and intermediaries. For issuers, for investors and for our

members, we would like to see advances made in and for the AMF to work with its counterparts on, the following areas, specifically:

- Expedite work with Ontario to provide the effect of a single regulator when dealing internationally – a May 29 announcement from the CSA and SEC shows that progress has been made in this area.
- Speed up response times, particularly when delays in answering have potentially material cost impacts for registrants or provide administrative relief for/grandfather methods adopted due to lack of answers.
- Expedite turnarounds/answers on policy matters – as a minimum, report on these to enable more focus to be placed on this challenge.
- Adopt a more principles-based approach to regulation, allowing firms greater flexibility and hence speed in dealing with emerging risk areas.
- Rely on objective cost-benefit analyses to consider the acceptability of regulatory changes.
- Revisit approval timelines or definitions of technical versus material changes for entities subject to recognition orders.
- Make or encourage the IDA to make greater use of risk-based approaches, to allow a carve-out from relevant regulatory requirements for firms that do not deal in a particular business (e.g., with retail investors) and consider alternatives allowing a more appropriate risk-based cost-recovery.
- Work with other regulators to rationalize audit processes so that IIAC members are not subjected to multiple audits of the same areas (e.g., some Quebec firms report being examined by the IDA – Toronto, IDA – Montreal, the AMF (for which costs were reportedly charged back), Market Regulation Services Inc., Bourse de Montréal and, for bank-owned dealers, OSFI).
- Eliminate the requirement of firms wanting to issue in the exempt market to file with and pay as many as 13 commissions if they want to distribute an issue in each jurisdiction – if they choose *not* to issue in all jurisdictions, residents of certain jurisdictions will not have access to the security at the time of issuance; rationalize the requirement to pay most other types of fees to all jurisdictions – pay centrally or to one regulator and have the CSA or relevant regulator distribute payments between them.
- Remove limits on the broker mobility exemption contained in the passport system (subsequently to be moved into National Instrument 31-103 – *Registration Requirements*); namely, that individual brokers are limited to servicing only five inter-provincial clients and an entire firm to ten such clients. These thresholds are too low to deal with typical client mobility in today's market and contrary to investors' best interests.
- Ensure AMF fees reflect only the estimated cost (plus some appropriate contingency) of the various services provided by the regulators, particularly for smaller issuers wanting to issue in the larger jurisdictions of B.C., Alberta and Quebec (note that a number of CSA members have commented that the logic of their fee structure is not based on the cost of the service but rather on a methodology of raising revenues to cover expenses – the AMF has said that this policy is to be revisited as part of the next round of Passport System discussions).
- Consider, as we believe to be the case in Europe, allowing foreign issuers into the exempt market to provide issuing documentation in the language(s) of their choice.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • Should lead to a slower increase in regulatory costs and no net decrease in the integrity of the securities regulatory systems | • Issuers will be able to issue more cost-effectively in Quebec and to foreign issuers<br>• Intermediaries will be able to operate more cost-effectively, and be able to compete more on service and innovation<br>• The benefits of the foregoing should translate to lower fees and/or better service for investors |

**Conclusion:** Adopting the changes noted above will help clearly demonstrate that Quebec capital markets are clearly open for business – benefiting issuers, investors and intermediaries without any decrease in investor protection.

## Non-Drivers' Drivers' Licenses

**Problem:** Quebec investors may experience challenges in opening accounts due to lack of, or insufficient, identification. There is an additional problem for investors and intermediaries, namely, that the Internal Revenue Service (IRS) only accepts certain government-source identification for U.S. tax purposes at a time that Canadians have been able to invest more in the U.S. and globally since 2005 with elimination of foreign property limits. This limitation on acceptable ID for U.S. tax purposes can be problematic for senior citizens who may have neither a drivers' license nor a passport; it can equally be frustrating for younger people just starting out in their investing life. It is a particular problem in Quebec where intermediaries cannot record health card numbers as recording of government ID is a particular requirement for IRS purposes.

**Solution:** Making the new drivers' license accessible to non-drivers would help Quebec residents who do not drive meet stringent ID requirements to open accounts and obtain financial services. The IRS now accepts non-drivers' drivers' licenses from all Canadian provinces except Ontario (and Ontario has just announced legislation to implement such a card on June 3 to help four million drivers'-license-less Ontarians), Quebec and Manitoba, which have not yet made drivers' licenses accessible to their non-driver residents (refer attached web references). The new Quebec drivers' license incorporates important security features that meet higher North-American standards and would be acceptable to the IRS, helping Quebec broker/dealers accommodate their clients and at the same time avoid the potential for interest and penalties.

1. For the Alberta Drivers' License and Voluntary Photo Identification Card, see:
   http://www3.gov.ab.ca/gs/driverslicence/documents.html
   http://www.servicealberta.gov.ab.ca/driverslicence/features_flash.html

2. For the B.C. Identification card, see:
   http://www.qp.gov.bc.ca/statreg/reg/m/motorvehicle/465%5F88.htm
   http://www.icbc.com/licensing/lic_utility_id_cardpu.asp
   http://healthnet.hnet.bc.ca/hds/approved_standards/document.html#primary_doc

3. For the Government of Newfoundland and Labrador Photo Identification Card (ID Card), see:
   http://www.gov.nf.ca/gs/gs/mr/photo-id.stm

4. For the Nova Scotia Photo Identification Card, see:
   http://www.gov.ns.ca/snsmr/RMV/other/idcard.asp

5. For the Prince Edward Island Voluntary ID, see: http://www.gov.pe.ca/photos/original/tpw_volid.pdf

6. For the Saskatchewan identification card, refer to the Saskatchewan Government Insurance website at http://www.sgi.sk.ca/sgi_pub/drivers_licences/photo_id.htm
   http://www.sgi.sk.ca/sgi_pub/drivers_licences/new_residents.htm

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **Neutral impact on government as cost of ID cards can be recovered from those requesting them** | • Investors who do not drive and increasingly need to show two forms of ID for many purposes will avoid frustration and difficulties in opening accounts<br>• Intermediaries will avoid the risk of penalties and interest charged by the Internal Revenue Service due to accounts that their auditors consider to be insufficiently documented |

**Conclusion:** Benefits clearly outweigh net costs.

# Level Playing Field for Creditor Protection for Non-Insurance Registered Products

**Problem:** The savings of Canadians, including Quebec residents, held in insurance product plans registered for income tax purposes (such as RRSPs, RRIFs, RESPs, DPSPs, LIRAs, LIFs, LRIFs, RDSPs and TFSAs) and registered pension plans are generally exempt or immune from the remedies of creditors (i.e., are "creditor-proof"). In contrast, registered savings plans of Canadians for the same retirement purposes, but held in non-insurance products, do not enjoy the same creditor-proof status in Quebec and other provinces with the exception of Manitoba, Saskatchewan and P.E.I. Moreover, the legal factors that determine whether a product is to any degree immune from creditor remedies are based on a confusing mix of provincial statutes as interpreted by inconsistent decisions of Canadian courts at all levels. In the province of Quebec, the interpretation by the Supreme Court of Canada of provisions of the Civil Code of Québec has contributed to the uncertainty relating to registered plans that can benefit from protection against creditors. The federal government has implemented amendments to the *Bankruptcy and Insolvency Act* (Canada) to protect RRSP savings in the circumstance of a bankruptcy. However, the federal legislative reforms only apply in the event of an insolvency or bankruptcy under that legislation.

The result of the foregoing is unfairness and confusion for Canadians saving for their future retirement income – many may be unaware of the poorer protection afforded them and the segment of Quebecers and other Canadians who are particularly affected are self-employed entrepreneurs who do not have employer pension plans (exempt from seizure) and who contribute significantly to Canada's economic activity and well-being. As well, non-insurance company intermediaries and other advisors who distribute non-insurance retirement savings products are at a competitive disadvantage in being unable to offer creditor-proof-enhanced products.

**Solution:** Review and amend legislation that is relevant to ensure fair and uniform protections for registered products – notably RRSPs and TFSAs – of Quebecers to give savers with securities or deposit accounts similar protection without regard to the status of their intermediary or the product in which they invest.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • No expected impact on government revenues | • Fairer treatment of investors, so that the savings of RRSP and soon TFSA holders that are clients of investment dealers and other intermediaries will receive the same protection in a bankruptcy as those holding insurance products<br>• Enhanced competition among intermediaries providing RRSP, TFSA and other product offerings |

**Conclusion:** Benefits will outweigh net costs.

## Corporate Income Tax Reporting

**Problem:** Quebec manages its income tax system separately from the federal government and there are a number of reasons for this. This imposes a cost on Quebec businesses, however, that is not incurred by businesses in other provinces or by Quebec businesses doing business in other provinces.

**Solution:** Make the MRQ and federal income tax forms, timelines, etc. identical for business, with an addendum for any differences required for economic priorities (e.g., sector-specific credits or deductions). Ontario and the federal government have claimed annual savings of $100 million for businesses from having one set of rules, one point of contact and one tax return, which will reduce the time and money Ontario businesses spend on meeting their tax obligations and enabling businesses to focus on growth and development. Even if Quebec were to simply adopt a single form with the federal government, with the same form and a short Quebec addendum to go to Quebec, we believe that all Quebec businesses would benefit substantially.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **No impact on government revenues (as differences can be addressed in an addendum)**<br>• Proposed legislation will require minor changes | • **Tax system integrity and efficiency are unchanged or may improve**<br>• Lower costs of audit as fewer parameters differ<br>• Greater efficiency and cost-effectiveness for all Quebec businesses; reduced legal and accounting advice costs, etc. |

**Conclusion:** Benefits expected to outweigh net costs.

# Relevé 15 and 16/T5013 and T3 Filing Process Improvements

***Note: This is mainly a federal issue where Quebec's support would be welcome.***

**Problem:** Federal legislative and regulatory changes introduced last year, requiring issuers of publicly listed income and capital trusts and limited partnerships (LPs) to file information centrally and electronically, did not extend to privately issued investment vehicles due to an oversight in industry representations. Private income trusts and capital trusts, as well as private limited partnerships, need only file their tax breakdowns by the end of March whereas IIAC members and other intermediaries need to report these breakdowns to holders, also by the end of March. Additionally, while the mandated filing of publicly listed income trusts, capital trusts and LPs was very helpful, it was less successful than hoped as some publicly listed income and capital trusts and LPs hold private trusts and LPs in their portfolio and they needed to wait for tax information from these private entities before filing. Moreover, one member reported hearing from an issuer, when the member followed up to obtain the information that still had not been filed at March 31, that "the CRA will never charge a penalty." The overlapping deadlines (and potentially attitudes of some filers) means clients receive their tax slips late, they may be inaccurate in the first instance and thus investors may experience delays in filing their tax returns and receiving their refunds, causing problems for clients and complaints for brokers and other tax-reporting forms. This has meant that reporting income associated with privately issued trusts and LPs is less timely and investors continue to receive possibly inaccurate or late tax information and will need to refile.

**Solution:** Encourage the federal government to expedite and the Quebec government to mirror as necessary:

1. Mandating the filing on the CDS Innovations Inc. website by 60 or 67 days after year-end of income from *private* income and capital trusts/limited partnerships that issuers must provide to investors and the CRA as publicly listed income and capital trusts and limited partnerships are now mandated to do.
2. Eliminating the requirement of issuers also to file with the CRA (and MRQ if required).
3. Using the filing dates as a basis to apply late filing penalties to any issuers that are more than two weeks past due as an incentive for more timely filing by issuers.

***Note:*** Going forward, the MRQ should continue to urge the federal government to ensure that any new tax measures should similarly require central electronic reporting of all non-client-specific tax information.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **No material impact on government revenues;** any impact would be slightly positive<br>• Some potential, although transitional, impact on private income and capital trusts and LPs as they arrange for earlier audits to allow them to complete their tax filings<br>• Legislative change required, but should be minor with minor related cost | • **Tax system integrity is unaffected and its efficiency is improved**<br>• Investors should receive tax slips earlier and they should be more accurate, reducing the need to refile<br>• The MRQ should have a reduced need to input corrections and pursue client refilings<br>• Issuers should, after a transition period, receive less calls and questions from tax reporting firms<br>• Issuers would benefit from no longer having to file with the MRQ on top of on the website<br>• The MRQ would have an independent easily verifiable way to ensure that filing deadlines are adhered to<br>• Tax reporting firms will experience reduced costs of data collection and repeat tax slip mailing |

**Conclusion:** Benefits clearly outweigh costs; the recommended change is only required to correct an oversight.

# Tax-Free Savings Accounts (TFSAs) Reporting and Process Simplification

**Problem:** Proposed legislation for the new TFSA requires use of a trust structure, which is more costly than contractual relations. A number of the parameters of the TFSA, based on a review of the legislation and/or discussions with the CRA, seem to differ from those of registered retirement savings plans, which would add to the complexities of implementation and maintenance of the accounts, notably different eligible and prohibited investments, different reporting requirements, different procedures upon the death of a plan holder, etc. This would mean more investor complexity, greater technology costs, more training costs, greater risk of error, etc. The Civil Code adds additional complexities.

**Solution:**

1. Allow brokers to offer TFSAs directly, under an account agreement and not just as a trust from the perspective of efficiency and fairness
2. Mandate annual reporting by TFSA providers to the CRA and do not require reporting of transfers between the same TFSA-holder – this is for efficiency, without diminishing the CRA's ability to manage the integrity of the tax base
3. Treat TFSAs like RRSPs in the event of a TFSA-holder's death by providing an exempt transition period and transfer to spouses without triggering extensive tax monitoring and reporting
4. Allow TFSA providers to open accounts before the New Year, while still preventing contributions until January 1, and allow the Revenue Minister to provide administrative relief if situations warrant.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **No material impact on government revenues** (any potential loss of revenue through over-contributions should be discouraged by penalties)<br>• Proposed legislation will require minor changes | • **Tax system integrity and efficiency are unchanged**<br>• Simpler for investors to understand a common set of parameters for RRSPs and TFSAs<br>• Lower costs for MRQ and CRA audits simplified as fewer parameters differ<br>• Greater efficiency and cost-effectiveness for intermediaries |

**Conclusion:** Benefits outweigh net costs.

## Dividend Eligibility Process Improvements

***Note: This is a federal issue where Quebec's support would be welcome.***

**Problem:** While the 2006 elimination of the double taxation of large corporate dividends represents a major step forward for investors, administering the eligible dividend legislation continues to impose unnecessary costs on issuers and significant costs on tax reporting firms. The legislation requires *all* issuers to file whether their dividends are eligible or not, although our estimates before implementation, confirmed since, are that well over 95 per cent of dividends from publicly listed companies are eligible. As well, tax reporting firms must spend considerable time trying to locate and obtain information on thousands of issuers' dividends – information that may not easily be found and irrelevant, as noted, in more than 95 per cent of cases. Moreover, the federal and Quebec government tax credits and gross-ups differ, compounding programming and testing work required.

**Solution:** Encourage the federal government to expedite:

1. Requiring firms with ineligible dividends to file notice of this with the publicly accessible Canadian Depository for Securities Limited Innovations (already mandated by Finance as the filing location for issuers to file income trust, capital trust and limited partnership information) and mandate that this be sufficient for issuer filing purposes.
2. To prevent the leakage that this may seem to allow, requiring issuers to confirm in a return to the CRA and MRQ that their issues are eligible or other than eligible.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **No impact on government revenues** (except possibly where an issuer with eligible dividends did not indicate this and by default the dividends were treated as other than eligible – an inappropriate outcome for investors)<br>• Issuers with other-than-eligible dividends will likely have no net change in overall reporting costs – many may experience savings and, for others, for any additional workload associated with filing centrally in electronic form, there will likely be a more-than-corresponding reduction in contacts from multiple tax-reporting firms to confirm the dividend information<br>• Legislative change required, but minor with little cost | • **Tax system efficiency and integrity will be improved**<br>• Investors will be able to more easily verify the tax status of their dividends<br>• Issuers will have on average a net reduction in overall reporting costs<br>• The MRQ will be able to identify more easily the eligible and other-than-eligible dividends for audit purposes, reducing time and taxpayer cost, as well as monitor and if necessary penalize late filers<br>• Tax reporting firms will experience reduced costs of search and monitoring |

**Conclusion:** From an economic perspective, there will be a net good as net savings are redirected to developing new services, increasing returns, etc.

## Issuer Tax Reporting Errors and Tax Slip Preparation/Re-mailing

**Problem:** The current process requires tax reporting firms to bear all costs of issuer filing errors. Based on a review of the data on the CDS Innovations Inc. Tax Breakdown Posting website facility, it is estimated that 25 per cent of Relevé 16s/T3s are filed with errors that require amendment. As an example, an issuer that had filed March 29, 2008 submitted a revision on April 29, well after tax slips had been mailed. While this leads to the costs of remailings, problematic in itself, it is all the more difficult and costly for tax reporting firms when the errors are from previous tax years (in April 2008, a number of revisions from issuers relating to the *2006* tax year were received) and it will be hugely frustrating for investors, most of whom direct their dissatisfaction towards the messenger – the tax reporting firms – rather than towards the issuers who made the mistakes. We understand that the CRA has advised that there is no option within the *Income Tax Act* or *Regulations* to address this ongoing problem. We are not certain if a solution exists within the Quebec context.

**Solution:** Implement a "user-pay" principle to govern the tax slip re-issuance process – either the MRQ/CRA or the issuer are "using" the services of the tax reporting firms and should bear the related costs, especially for re-issuance of slips from preceding years which requires even more work. There are a number of options that the Ministère des finances, Finance Canada, the MRQ, CRA and issuers should discuss, predominantly the following:

- Where the amount to be collected from individual investors/taxpayers due to an issuer or intermediary error is below a *de minimis* amount, waive the need for investors to refile and for intermediaries to re-mail (there is a $100 limit per before a requirement to re-mail T3s at the federal level, but no limit for T5013s and T5008s) – in particular, the Quebec rule establishing a permissible variance of not more than five cents is impractical and should be set at a higher amount (member firms were told to send clients amended slips for amounts of as little as six cents variance for RL-3, RL-16 and RL-25 slips or have the clients receive a notice of assessment from MRQ stating that the amount appearing on the original slip was wrong; research indicated that moving the tolerance level to $1.12 would have had a significant impact on the number of slips that needed to be reprinted and re-mailed.
- For amounts above the threshold where an error is issuer-caused, require the issuer to absorb the costs, that is, pay the tax or re-imburse tax reporting firms for the related costs (for example, possibly on a flat-recovery-per-xx-slips basis to be determined by the MRQ, CRA and intermediaries, according to an agreed-upon process, which will include a letter from the issuer explaining the reason for the tax slip re-issuance.
- Work on a communication strategy with the law societies, accountant and law firms, Canadian Investor Relations Institute (CIRI), Canadian Society for Corporate Secretaries (CSCS), transfer agents and other relevant groups and the MRQ and CRA to discuss and promote better, more timely and more accurate reporting.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **Slightly positive impact on government revenues**<br>• Minimal time required for small legislative and/or regulatory change<br>• Some issuers will pay more, however, this is the appropriate outcome from a user-pay basis | • **Tax system integrity and efficiency are improved – the user-pay approach applies the correct incentives/disincentives to ensure accuracy the first time**<br>• Investors will avoid the need to refile due to no fault of their own<br>• Credibility of the MRQ is enhanced<br>• Tax reporting firms will avoid costs for work correcting errors |

**Conclusion:** Benefits clearly outweigh costs.

## Receipt Too Late of Tax Change Requirements

***Note: This is mainly a federal issue where Quebec's support would be welcome; we encourage thee MRQ to continue providing notification of changes early on and, where possible, that the federal and Quebec tax systems be harmonized***

**Problem:** It has been rare in recent years that changes announced in the federal budget have lead to information being provided to tax reporting firms in sufficient time for a cost-effective implementation of systems changes. The CRA has advised that details are late in coming to them from Finance and that there is no provision for grace. In the past few years, final guides and sometimes specifications have not even been ready prior to the tax season for which changes apply (the T5013 guide for the 2007 tax year was made available on March 18, 2008). This not only exposes tax reporting firms to the risk of penalties for errors and late filing, but leads to significantly greater costs due to an increased volume of questions from issuers, possible need to replace interim "quick-and-dirty" processes later and a greater number of errors. It causes significant cost and frustration for taxpayers, issuers and tax reporting firms. A recent federal example relates to the change in T5013 forms, where members and the IIAC itself fielded hundreds of calls due to the lack of a guide or quick-enough access to CRA advice.

**Solution:** Provide for administrative relief in all cases in the first year of tax change implementation.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **Likely minimal to no impact on government revenues – possibly slightly positive** | • **Tax system integrity and efficiency are improved**<br>• Would reduce the need for investors to refile, with consequential additional savings for the tax authorities<br>• Would provide significantly greater value to issuers and tax reporting firms, and expedite filing |

**Conclusion:** Benefits outweigh costs.

## Withholding Improvements

**Note:** A number of these issues are currently under review with the CRA.

**Problems:** The CRA requires withholding tax on registered plan withdrawals by the third business day of the New Year. With many branch staff on holiday before the end of the year, it is impossible to get everything correct by the third business day.

**Solution:** Provide intermediaries with the option only to remit withholding tax on registered plan withdrawals by the middle of January on the previous year's transactions and remittances.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **Minimal impact on government revenues** (timing only or government was collecting tax that it should not have been) | • **Improvement in tax system integrity and efficiency due to reduced risk of error through rushing, less need to refile**<br>• CRA and MRQ will benefit from a reduced need to manage refilings<br>• Intermediaries will make fewer errors and have less of a need to re-file/duplicate efforts |

**Conclusion:** Benefits outweigh costs.

# Trust Identification Numbers (TINs) Needed Before Tax Season

***Note: This is a federal issue where Quebec's support would be welcome.***

**Problem:** The lack of easy access to TINs for CRA filing purposes has regularly caused filing problems and additional administrative costs. Unlike Business Numbers (BNs) that are easily available in at most a few business days, the TINs are only being assigned *after* income statements are filed. While a work-around is to file a nil income tax return, the process for this is not well-known or understood and is cause for concern for issuers who have been advised to do this. The interim measure used to date within the CRA has lead to the creation of a TIN or temporary TIN for each trust *per tax reporting firm*, that is, each trust ends up with multiple reference numbers. The MRQ is apparently also asking for a number.

**Solution:** We understand that the federal government will be switching from TINs to Business Numbers (BNs) with a specific subcode for trusts and partnerships, which should be very helpful and we recommend that this be used for MRQ purposes as well. In the absence of this, the federal and Quebec government should work on a common or simple numbering system.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **No impact on government revenues** | • **Tax system integrity and efficiency are improved**<br>• Would reduce the need for investors to refile, with a consequential reduction in costs for the CRA and MRQ<br>• Would provide significantly greater value to issuers and tax reporting firms and expedite filing |

**Conclusion:** Benefits outweigh costs.

# Locked-In Account Transfers (LIRA)/Registered Education Savings Plans (RESPs) Paper Elimination

***Note: This is mainly a federal issue where Quebec's support would be welcome.***

**Problem:** It is understood that the transfer of locked-in accounts requires the transfer of paper locked-in agreements. Also, we understand that the transfer of notional information for RESPs must be made by paper. Reliance on paperwork can cause significant delays – the ability to process all data through ATON, the investment industry's electronic account transfer utility, means a less than 10-day transfer time compared to, on average, at least a month. Moreover, the need for paperwork increases risk, causing additional problems for intermediaries, investors and, we presume, the CRA and MRQ. With respect to RESPs, the lack of a systems solutions increases the risk of error and prevents errors from being detected and corrected earlier.

**Solution:**

1. Identify and assign a task force of appropriate persons for each of LIRAs and RESPs to develop processes for the electronic exchange of, respectively, LIRA and RESP information.
2. With respect to RESPs, work with Human Resources Development Canada (HRDC) on a systems solution, at RESP offerors' option, to address the problem of "unmatched" entries.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **No impact on government revenues**<br>• Cost of HRDC systems changes, however, this should be offset by staff time savings over time | • **Tax system integrity and efficiency are improved**<br>• Investor transfers will proceed more quickly as ATON enables transfers to be completed within 10 days – transactions involving paper regularly take over a month to process fully<br>• ATON, the investment industry's electronic account transfer utility that processes over half of Canadian securities and mutual fund account transfers, will be able to be used fully, providing an excellent systems-generated audit trail for any necessary CRA or MRQ verification related to these products<br>• Environmentally friendly – paper use is reduced<br>• Intermediary efficiency is improved and intermediary costs are reduced in the long run due to reduced paper handling, filing, etc. |

**Conclusion:** Benefits significantly outweigh net costs, although implementation may take some time due to the requirement for some systems development.

# Registered Retirement Income Fund (RRIF) Transfer Process Improvements

***Note: This is a federal issue where Quebec's support would be welcome.***

**Problem:** The *Income Tax Act* requires intermediaries transferring client RRIFs to another institution to withhold a residual amount – the minimum amount that must be withdrawn each year after RRIF set-up based on the RRIF-holder's age and the RRIF's fair market value at the beginning of the year. This can cause cash flow difficulties for investors and may require investors to liquidate securities at an inopportune time or be unable to trade for a period while the transfer is occurring.

**Solution:** Allow intermediaries the option of transmitting the necessary information between transferring and receiving institutions; for the broker/dealers that process over half of the account transfers in this country, this means the ability to transfer information, including the minimum payment obligation, to the receiving institution electronically through ATON, a system funded by the investment dealer community to transfer accounts electronically as a way to speed transfers and better serve clients.

**Cost-benefit analysis:**

| Costs | Benefits |
|---|---|
| • **No impact on government revenues as there is no tax withheld on the residual payment**<br>• Legislative change required, but should be minor with minor related cost<br>• No hard costs for any intermediary that chooses not to transmit information if they do not want to incur systems changes (some time will be needed for a system implementation for firms choosing to transmit electronically) | • **Improved fairness and perceived fairness of tax system; no change to efficiency and integrity of the tax system**<br>• Seniors:<br>  • Can manage their cash flow better, important for those on a fixed income<br>  • Do not risk having to cash in investments when markets are down<br>  • Are not shut out of the market while investments are redeemed before transfer<br>  • Can transfer their account assets more quickly through ATON<br>• Improved intermediary transfer efficiency through unified use of ATON |

**Conclusion:** Benefit of greater fairness clearly outweigh costs of what is essentially a timing difference and cost of drafting a small legislative change – no difference in risk of intermediary error and no impact on tax system efficiency/integrity.