

Regulatory Impact Analysis Statement :

**An analysis of the impact of the Canada Cooperatives Act
which replaces the Canada Cooperative Associations Act, R.S.C.
1970, c. C-40**



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REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Description

The *Canada Cooperatives Act* (the "Coops Act") which received Royal Assent on March 31, 1998 replaces the *Canada Cooperative Associations Act*, R.S.C. 1970, c. C-40. The Coops Act modernizes the corporate governance rules relating to cooperatives and is largely modelled on the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 (the "CBCA").

While no regulations were enacted under the former Act, regulations are required under the Coops Act primarily because of the new provisions borrowed from the CBCA. Specifically, the Coops Act allows cooperatives to issue investment shares to non-members if authorized by members. It also permits cooperatives to constrain investment shares. Consequently, the proposed Coops Act Regulations are similar to the *Canada Business Corporations Regulations* SOR/79-316, as amended (the "CBCR").

The Regulations are divided into eight parts according to subject area.

Part 1, Electronic Transmission: This regulation establishes the regulatory framework for electronic transmission of documents, notices and other information for the purposes of the Act. This includes transmission of information by and to a cooperative. This regulation does not apply to documents or notices to be sent to or issued by the Director appointed under the Coops Act. Specifically, the regulations describe the conditions that must apply if information is to be transmitted electronically. For example, the recipient must ask or consent to receive the information electronically and the method chosen for sending it allows the recipient to access the information and to retain it in a permanent form.

The proposed regulations originally included provisions on electronic filing of documents required to be sent to, or issued by, the Director appointed under the Act. These regulations were identical to proposed regulations for electronic filing under the CBCA. Separate consultations were held with both Coops Act and CBCA stakeholders. While no substantive comments were received during the Coops Act consultation, several were received in the CBCA consultation. The result is that the electronic filing regulations are being redrafted. Rather than delay the passing of the regulations under the Coops Act, the electronic filing regulations have been removed. It is anticipated that they will become part of the Coops Act regulations at the same time that they become regulations under the CBCA. Concurrent consultations on the redrafted regulations will be held with both Coops Act and CBCA stakeholders as required.

Part 2, Corporate Names: The Coops Act does not allow cooperatives to be incorporated with names that are prohibited. These regulations describe names that are prohibited as cooperative names. For example, a proposed name that is confusing with an existing trade name or trade mark is prohibited.

Part 3, Proxies and Proxy Solicitation: These regulations establish the content and form of the proxy, and the content of the management proxy circular and the dissident's proxy circular required by the Coops Act to be sent to shareholders when soliciting proxies. Proxy documents must be sent to the investment shareholders before an investment shareholders' meeting and must be filed with the Director. Investment shareholders are holders of shares in the capital of a cooperative which are not membership shares. These documents must provide sufficient information to allow investment shareholders to make an informed decision at the meeting, must include the name of any director of the cooperative who intends to oppose any proposed action and must include the name of any person who controls, directly or indirectly, more than 10% of the voting investment shares.

Part 4, Financial Disclosure: These regulations list the financial statements that must be sent to members and shareholders and, if required, filed with the Director. The financial statements must at least include (a) a balance sheet, (b) a statement of retained earnings, (c) an income statement and (d) a statement of changes in financial position. They must also be prepared in accordance with the generally accepted accounting principles as set out in the Handbook of the Canadian Institute of Chartered Accountants.

Part 5, Constrained Share Cooperatives: The Coops Act permits cooperatives to constrain or restrict the issue, transfer or ownership of investment shares to persons who are not resident in Canada in order to comply with any prescribed law to receive a benefit, such as a licence, permit or grant. These regulations establish disclosure requirements, issue and transfer restrictions, and voting rights related to constrained investment shares. They also prescribe the laws under which a cooperative can constrain investment shares.

Part 6, Rules of Procedure for Applications for Exemptions: The Coops Act allows cooperatives and other interested parties to apply for an exemption from complying with certain provisions. For example, the Director can exempt a cooperative from sending a form of proxy and proxy circular to shareholders and can authorize a cooperative to dispense with an audit committee. The regulations set out the application procedure and the rights of the applicant.

Part 7, Prescribed Fees: Schedule 1 of the regulations sets out the prescribed fees related to any action that the Director is required or authorized to take under the Coops Act. These actions include: the issuance of certificates on receipt of articles of incorporation, amalgamation, amendment, etc.; the examination of applications for exemptions; and providing any person with a copy or certified copy of a document required by the Act or regulations to be filed with the Director. Fees are also prescribed for the filing of annual returns. Since the administrative responsibilities given to the Director under the Coops Act and the CBCA are similar, the processing of applications under the Coops Act require at least the same amount of resources as under the CBCA. For this reason, the fees to be prescribed under the Coops Act will be the same as those under the CBCA.

Part 8, Prescribed Interest: Under the Coops Act, the directors of the cooperative determine if payment to a dissenting member would adversely affect the financial well-being of the cooperative. In such cases, payment of the value of those members' membership shares may be made over a period of not more than ten years. The regulations prescribe the rate of interest that these payments must bear. The regulation sets the interest payable at the Bank of Canada rate plus three percent to reflect prevailing economic conditions.

Alternatives

In order for the Coops Act to be implemented in an effective and workable manner, the Coops Act requires regulations to be made. The Coops Act, itself, refers to the need for these regulations in requiring certain rules or procedures to be prescribed. For example, the Coops Act requires management proxy circulars to follow a prescribed form. The regulations set out the contents of these documents and are consistent, where applicable, with disclosure requirements under the various securities legislation in Canada.

Benefits and Costs

Since the regulations are similar to the CBCR, the benefits and costs are also similar. The changes that are brought by the Coops Act and these regulations will impose certain costs on the cooperatives. However, some of these costs were imposed by the previous legislation and are continuing, rather than new, costs. Currently, there are approximately 50 federal cooperatives. With the new Coops Act, the expected rate of incorporation is five per year. The rate of incorporation under the former Act is two per year. Since the requirement that a cooperative must carry on business in more than one province is maintained under the new Act, we do not expect a large number of cooperatives to incorporate federally. Larger cooperatives wanting to operate under a corporate framework which is similar to the corporation model are likely to be attracted to the new Act. The regulations, therefore, will attract a small percentage of Canadian non-financial cooperatives of which there are more than 7,300.

The regulations dealing with corporate names will impose costs on the incorporators and cooperatives since they must pay \$75 to a private firm for a name search report. This cost is a continuing one since cooperatives are required to file a name search report under the former Act. Given the importance of a cooperative name, the cooperatives benefit from the name regulations to the extent that their names are protected from any future registration of a similar and confusing name by another business entity. In addition,

the cooperative has the right to use its name throughout Canada. Given the expected small increase in the rate of incorporation, the impact on government resources required to make name decisions is minimal, amounting to less than 1% of one staff member's time per year.

The regulations requiring disclosure of information will impose costs on cooperatives incorporated under the Coops Act. The costs arise from the collection, presentation and distribution of information. The main beneficiaries are members and investment shareholders. Overall, however, accessible and adequate information contributes to the integrity of the marketplace. With respect to constrained investment shares, disclosure of the constraints is necessary, particularly where a cooperative is allowed to sell these shares without the investment shareholders' approval. The costs related to financial disclosure are continuing costs since the former legislation also required financial disclosure. The regulations dealing with proxy solicitation and constrained shares will have little impact on the existing federal cooperatives, as only a few have issued investment shares and none engage in an activity that would require constraints on shares.

Cooperatives would also bear the costs of applying for exemptions from certain provisions of the Coops Act. Under the CBCA the application fee for most exemptions is \$250. This cost is minimal and is outweighed by the benefit of a flexible legislation and, where the exemption is granted, the benefit of the exemption. Less than 0.01% of CBCA corporations apply for exemptions. Therefore, given the number of existing cooperatives, few exemption applications are expected. Consequently, the demand on government resources is minimal.

Consultation

The cooperatives sector through the two national cooperatives associations, the Canadian Co-operative Association (CCA) and Conseil Canadien de la Coopération (CCC), contributed greatly to the modernization of the federal coops legislation. They were also significant participants in the development of these regulations. The two associations along with the Co-operatives Secretariat of Agriculture and Agri-Food Canada assisted in ensuring that the proposed regulations package was distributed as extensively as the Coops Act was when it was introduced as a bill. The proposed regulations were sent to a considerable number of cooperatives, including the 50 federally incorporated cooperatives, cooperative federations, credit unions, professional associations, academics, provincial registrars and other officials responsible for cooperatives, and provincial securities regulators. Each recipient was asked to submit written comments within the 60-day consultation period.

Many of the submissions proposed minor drafting suggestions or made comments with respect to the Coops Act which was still in bill form. Three regulatory issues, however, emerged from the responses.

The first issue related to the use of an individual's name in the cooperative name. The proposed regulations required that in order to use an individual's name, the individual's written consent must be submitted with the incorporation documents and, in addition, the individual must have a material interest in the cooperative. A comment stated that some cooperatives may want to use the name of a leader of the cooperative movement to identify their objectives with the philosophies attached to that person rather than to suggest that that person has material interest in the cooperative. The regulations have been revised to allow for the use of a recognized cooperative leader in a cooperative name without that person having material interest in the cooperative.

The second issue relates to the requirement under the proposed regulations that financial statements be prepared in accordance with the generally accepted accounting principles (GAAP) as set out in the Handbook of the Canadian Institute of Chartered Accountants (CICA Handbook). While they accept that reference should be made to the CICA Handbook, CCC and its members, supported by CCA, submitted that cooperatives should be exempted from certain generally accepted accounting principles with respect to the treatment of patronage allocations and membership shares. Instead, they propose that the regulations set out alternative disclosure rules similar to those found in the Québec cooperatives legislation on how patronage allocations and membership shares should be disclosed in the financial statements. The CICA also commented on the regulations during consultations. It submitted that it is appropriate that the proposed regulations refer to GAAP and that alternate disclosure rules should not be prescribed in the regulations.

The purpose in referring to the CICA Handbook in the proposed regulations is to ensure the quality and credibility of financial statements. Financial statements are used to assess an organization's financial health and are relied upon by members, shareholders, creditors and other interested parties. To prescribe alternate

disclosure rules for financial statements in the regulations could result in a distortion of marketplace information and would hinder important comparative performance analysis by interested parties. A lack of comparability would be confusing or even misleading to users of financial statements. Furthermore, unlike most other provincial cooperative legislation, the Coops Act gives cooperatives the ability to issue shares to non-members, which underscores the importance of reliable and comparable financial statements.

The CICA is an independent body whose mandate is to enhance the quality and credibility of financial information; the CICA Handbook has been formulated with a view to ensure that financial information is understandable, relevant, reliable and comparable. It is appropriate that we rely on its expertise as does the CBCA and the *Cooperative Credit Associations Act*. Any changes to the treatment of patronage allocation and membership shares should come from the CICA. CCC along with CCA and the financial cooperative associations are currently discussing their concerns with CICA directly.

The third issue deals with the prescribed interest rate for payments made to dissenting members. A submission was made that the rate was too high since most cooperatives have the ability to borrow funds at lower rates. It was also submitted that, rather than a variable rate, a rate based on the 10-year Canada bond yield represented a reasonable and balanced interest rate. It was argued that a fixed rate would recognize the unique nature of member equity as being a commitment to the cooperative and not simply an investment vehicle for the member. The regulations have been revised to lower the prescribed interest rate from 3.5 to 3 percent plus the Bank of Canada rate but will continue to be a variable rate. While member equity is unique, it must be recognized that a member who has exercised dissent rights is no longer a member of the cooperative. The certainty of a fixed rate may be appealing to a cooperative but it may not serve the interests of the former member. A variable interest rate, on the other hand, achieves a better balance between the interests of the former member and those of the cooperative.

Compliance

Under the Coops Act, the Director appointed under the legislation is given the authority to take such enforcement action as is required to ensure equity and fairness in the co-operative environment. This authority extends to the regulations enacted under the Coops Act. The Coops Act is, however, intended to be primarily self-enforcing, meaning that it provides aggrieved parties direct access to remedial actions. Generally, only in extraordinary circumstances where the public interest is affected will the Director be likely to intervene.

With respect to mandatory filings and the requirement to include certain information in documents sent to the shareholders and the Director, the Director already has systems in place for the processing of similar requirements under the CBCA. For example, the Director has in place mechanisms to deal with applications for exemptions, the filing of financial statements, and the handling of complaints made by shareholders and members of improper conduct by a co-operative. Minor changes to internal policies and standardized documents will be required to reflect the new Coops Act and Regulations. Because of the small number of co-operatives (there are currently 50 federal cooperatives compared to 111,365 CBCA corporations; no more than 5 new cooperatives are expected to incorporate per year), there should be minimal impact on compliance and enforcement activities.

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CANADA COOPERATIVES REGULATIONS

INTERPRETATION

1. In these Regulations, "Act" means the *Canada Cooperatives Act*.

PART 1

ELECTRONIC TRANSMISSION

2. For the purpose of subsection 2(3) of the Act, a document, notice or other information, other than a document or notice to be sent to or issued by the Director, may be sent or otherwise given electronically if

(a) the recipient asks to receive it electronically or consents to receiving it electronically;

(b) in the case of electronic sending or giving that does not include direct delivery to the recipient, the recipient is advised of the availability and the location of the information; and

(c) the way of sending or giving permits the recipient to have access to the information and to retain it in a permanent form.

PART 2

NAMES

Interpretation

3. The definitions in this section apply in this Part.

"confusing", in relation to a cooperative name, means a name the use of which causes confusion with a trade-mark or trade-name in the manner described in section 4. (*prêter à confusion*)

"distinctive", in relation to a trade-name, means a trade-name that actually distinguishes the business in association with which it is used by its owner from the business of others or that is adapted so as to distinguish them. (*distinctif*)

"secondary meaning", in relation to a trade-name, means a trade-name that has been used in Canada or elsewhere by any applicant or the applicant's predecessors so as to have become distinctive in Canada as of the date of filing an application for a cooperative name. (*sens dérivé*)

"trade-mark" means a trade-mark as defined by the *Trade-marks Act*. (*marque de commerce*)

"trade-name" means the name under which any business is carried on, whether it is the name of a cooperative or any other body corporate, a trust, a partnership, a proprietorship or an individual. (*nom commercial*)

"use" means actual use by a person that carries on business in Canada or elsewhere. (*emploi*)

Confusion of Names

4. A cooperative name is confusing with

(a) a trade-mark if the use of both the cooperative name and the trade-mark is likely to lead to the inference that the business carried on or intended to be carried on under the cooperative name and the business connected with the trade-mark are one business, whether or not the nature of the business of each is generally the same; or

(b) a trade-name if the use of both names is likely to lead to the inference that the business carried on or intended to be carried on under the cooperative name and the business carried on under the trade-name are one business, whether or not the nature of the business of each is generally the same.

Consideration of Whole Name

5. When determining whether a trade-name is distinctive, the name as a whole and not only its separate elements shall be considered.

Prohibited Names

6. For the purposes of paragraph 23(a) of the Act, a cooperative name is prohibited in respect of a request to reserve a name including a request in respect of an application for revival under section 308 of the Act, if it is the same as, or confusing with, a name that has, before the date of the request, been reserved by the Director for another person, unless

(a) written consent has been obtained from the person for whom the name was reserved; or

(b) the 90-day reservation period referred to in section 22 of the Act has expired without the person for whom the name was reserved having renewed the request to reserve the cooperative name.

7. For the purposes of paragraph 23(a) of the Act, a cooperative name is prohibited if the name contains any of the following:

(a) "Air Canada";

(b) "Canada Standard" or "CS";

(c) "Parliament Hill" or "Colline du Parlement";

(d) "Royal Canadian Mounted Police", "Gendarmerie royale du Canada", "RCMP" or "GRC"; or

(e) "United Nations", "Nations Unies", "UN" or "ONU".

8. For the purposes of paragraph 23(a) of the Act, a cooperative name is prohibited if the cooperative name connotes that the cooperative

(a) carries on business under royal, vice-regal or governmental patronage, approval or authority unless the appropriate government department or agency consents in writing to the use of the name;

(b) is sponsored or controlled by or is affiliated with the Government of Canada, the government of a province, the government of a country other than Canada or a political subdivision or agency of any such government unless the appropriate government, political subdivision or agency consents in writing to the use of the name;

(c) is sponsored or controlled by or is affiliated with a university or an association of accountants, architects, engineers, lawyers, physicians, surgeons or any other professional association recognized by the laws of Canada or a province unless the appropriate university or professional association consents in writing to the use of the name; or

(d) carries on the business of a bank, loan company, insurance company, trust company or other financial intermediary or a stock exchange that is regulated by a law of Canada or a province unless the appropriate government department or agency consents in writing to the use of the name.

9. For the purposes of paragraph 23(a) of the Act, a cooperative name is prohibited if the name contains a

word or phrase, or connotes a business, that is obscene.

10. (1) Subject to subsection (2), and for the purposes of paragraph 23(a) of the Act and these Regulations, a cooperative name is prohibited if the cooperative name

(a) is not distinctive;

(b) is only descriptive, in any language, of the quality, function or other characteristic of the goods or services in which the cooperative deals or intends to deal;

(c) is primarily or only the name or surname used alone of an individual who is living or has died within 30 years preceding the date of the request to the Director to reserve that cooperative name; or

(d) is primarily or only a geographic name used alone.

(2) Subsection (1) does not apply if a person requesting the reservation of a cooperative name establishes that it has, through use, acquired and continues at the time of the request to have secondary meaning.

11. For the purposes of paragraph 23(a) of the Act, a cooperative name is prohibited if the cooperative name is confusing having regard to all the circumstances, including

(a) the inherent distinctiveness of the whole or any elements of any trade-mark or trade-name and the extent to which it has become known;

(b) the length of time the trade-mark or trade-name has been in use;

(c) the nature of the goods or services associated with a trade-mark or the nature of the business carried on under or associated with a trade-name, including the likelihood of any competition among businesses using the trade-mark or trade-name;

(d) the nature of the trade with which a trade-mark or trade-name is associated, including the nature of the products or services and the means by which they are offered or distributed;

(e) the degree of resemblance between the proposed cooperative name and any trade-mark or trade-name in appearance or sound or in the ideas suggested by them; and

(f) the territorial area in Canada in which the proposed cooperative name or an existing trade-name is likely to be used.

12. (1) For the purposes of paragraph 23(a) of the Act, a cooperative name is prohibited if an element of the name is the family name of an individual, whether or not preceded by the individual's given name or initials unless the individual, or the individual's heir or legal representative, consents in writing to the use of the name and, subject to subsection (2), the individual has or had a material interest in the cooperative.

(2) The individual is not required to have a material interest in the cooperative if Part 20 of the Act applies to the cooperative or if the individual is a recognized cooperative leader.

13. For the purposes of paragraph 23(a) of the Act,

(a) a cooperative name is prohibited if its use is likely to lead to the inference that the business carried on or intended to be carried on under it and the business of a body corporate that is dissolved are one business, whether or not the nature of their businesses is generally the same; and

(b) the name of a cooperative that is revived under section 308 of the Act is prohibited if it is confusing with a name acquired by another body corporate during the period beginning on the date of dissolution and ending on the date of revival of the revived cooperative.

14. For the purposes of paragraph 23(a) of the Act, a cooperative name that is confusing with the name of a body corporate that has not carried on business in the two years immediately preceding the date of a request for a cooperative name is prohibited unless the body corporate that has that name

(a) consents in writing to the use of the name; and

(b) undertakes in writing to dissolve immediately or to change its name before the cooperative proposing to use the name commences to use it.

15. For the purposes of paragraph 23(a) of the Act, a cooperative name containing a word that is the same as or similar to a distinctive element of an existing trade-mark or trade-name and, for that reason, is confusing with the trade-mark or trade-name is prohibited unless the person who owns the trade-mark or trade-name consents in writing to the use of the cooperative name.

16. (1) For the purposes of paragraph 23(a) of the Act, a cooperative name that is confusing with the name of a body corporate is prohibited unless

(a) the cooperative name is the name of an existing or proposed cooperative that is the successor to the business of the body corporate and the body corporate has ceased or will, in the immediate future, cease to carry on business under that corporate name and undertakes in writing to dissolve or to change its corporate name before the successor cooperative commences carrying on business under that name; and

(b) subject to subsection (2), the cooperative name of the existing or proposed cooperative sets out in numerals the year of incorporation, or the year of the most recent amendment to the cooperative name, in parentheses.

(2) The reference in a cooperative name to the year of incorporation or the year of the most recent amendment to the cooperative name may be deleted two years after its use is introduced, if the cooperative name so changed is not confusing.

17. (1) For the purposes of paragraph 23(a) of the Act, where two or more cooperatives amalgamate, the cooperative name of the amalgamated cooperative is prohibited if the new name is confusing or any of the criteria set out in subsection 10(1) apply.

(2) Notwithstanding subsection (1), the new cooperative name may be the same as the name of one of the amalgamating cooperatives.

(3) For the purposes of paragraph 23(a) of the Act, where an existing cooperative has acquired or will, in the immediate future, acquire all or substantially all of the property of an affiliated body corporate, the use by the cooperative of the corporate name of the affiliated body corporate is prohibited unless

(a) the body corporate undertakes in writing to dissolve, or to change its corporate name, before the cooperative begins using the corporate name as a cooperative name; and

(b) the cooperative name is not otherwise prohibited.

(4) For the purposes of paragraph 23(a) of the Act, where a proposed cooperative will, in the immediate future, acquire all or substantially all of the property of a body corporate that is to be an affiliate of the proposed cooperative, the use by the proposed cooperative of the corporate name of the affiliated body corporate is prohibited unless

(a) the body corporate undertakes in writing to dissolve, or to change its corporate name, before the proposed cooperative begins using the corporate name as a cooperative name; and

(b) the cooperative name is not otherwise prohibited.

Deceptively Misdescriptive Names

18. For the purposes of paragraph 23(a) of the Act, a cooperative name is deceptively misdescriptive if it is likely to mislead the public, in any language, with respect to

(a) the business, goods or services in association with which it is proposed to be used;

(b) the conditions under which the goods or services will be produced or supplied or the persons to be

employed in the production or supply of those goods or services; or

(c) the place of origin of those goods or services.

PART 3

PROXIES AND PROXY SOLICITATION

Form of Proxy

19. (1) A form of proxy under Part 9 of the Act shall indicate, in bold-faced type,

(a) the meeting at which it is to be used; and

(b) whether the proxy is solicited by or on behalf of the management of the cooperative.

(2) A form of proxy shall contain a designated blank space for a date and shall state that, if it is not dated in the space, it is deemed to bear the date on which it is mailed by the person making the solicitation.

(3) A form of proxy, an accompanying management proxy circular or a dissident's proxy circular shall state, in bold type, that the shareholder may appoint a proxyholder other than a person designated in the form of proxy to attend and act on the shareholder's behalf at the meeting, and shall contain instructions as to the manner in which the shareholder may make the appointment.

(4) If a form of proxy designates a person as proxyholder, it shall provide a means for the shareholder to designate another person as proxyholder.

(5) A form of proxy shall provide a means for the shareholder to specify that the shares registered in the shareholder's name are to be voted for or against each matter or group of related matters identified in the notice of meeting, a management proxy circular, a dissident's proxy circular or a proposal under section 58 of the Act, other than the election of directors who are to be elected by the shareholders.

(6) A form of proxy may confer authority with respect to matters for which a choice is not provided in accordance with subsection (5) if the form of proxy, the management proxy circular or the dissident's proxy circular states in bold-faced type how the proxyholder will vote the shares in respect of each matter or group of related matters.

(7) A form of proxy shall provide a means for the shareholder to specify that the shares registered in the shareholder's name are to be voted or withheld from voting in respect of the election of directors who are to be elected by the shareholders.

(8) A form of proxy, an accompanying management proxy circular or a dissident's proxy circular shall state that the investment shares represented by the proxy will be voted or withheld from voting, in accordance with the instructions of the shareholder, on any ballot that may be called for and that, if the shareholder specifies a choice under subsection (5) or (7) with respect to any matter to be acted upon, the shares will be voted accordingly.

20. A form of proxy may confer discretionary authority in respect of amendments to matters identified in the notice of meeting or other matters that may properly come before the meeting, if

(a) the person by or on whose behalf the solicitation is made is not aware within a reasonable time before the solicitation that the amendments or other matters are to be presented for action at the meeting; and

(b) the form of proxy, the management proxy circular or the dissident's proxy circular specifically confers the discretionary authority.

21. A form of proxy may not confer authority to vote in respect of the election of a director unless a *bona fide* proposed nominee for the election is named in the form of proxy, a management proxy circular, a dissident's proxy circular or a proposal under section 58 of the Act.

Contents of Management Proxy Circular

22. (1) A management proxy circular shall contain the following information:

(a) a statement of the right of a shareholder to revoke a proxy under subsection 164(4) of the Act and of the method by which the shareholder may exercise that right as set out in that subsection;

(b) a statement to the effect that the solicitation is made by or on behalf of the management of the cooperative;

(c) the name of any director of the cooperative who has informed the management, in writing, that the director intends to oppose any action intended to be taken by the management and the nature of the action that the director intends to oppose;

(d) the method of solicitation, if otherwise than by mail, and if the solicitation is to be made by specially engaged employees or agents, the material features of any contract or arrangement for the solicitation, the parties to the contract or arrangement and its cost or anticipated cost;

(e) the name of the person by whom the cost of the solicitation has been or will be borne, directly or indirectly;

(f) the number of investment shares of each class of shares of the cooperative entitled to be voted at the meeting and the number of votes to which each investment share of each class is entitled;

(g) the record date as of which the shareholders entitled to vote at the meeting will be determined or particulars as to the closing of the security transfer register, as the case may be, and, if the right to vote is not limited to shareholders of record as at a specified record date, any conditions in respect of that right to vote;

(h) if the giving of any financial assistance, other than financial assistance given to members, or members of members, in accordance with paragraph 160(2)(e) of the Act, in the circumstances not prohibited by subsection 160(1) of the Act or referred to in paragraph 160(2)(d) of the Act, was material to the cooperative or any of its affiliates or to the recipient of the assistance, details of that financial assistance by the cooperative since the beginning of its last completed financial year in relation to

(i) a shareholder of the cooperative or any of its affiliates who is not a director, officer or employee of the cooperative or affiliate, or to an associate of the shareholder, or

(ii) any person in connection with a purchase of shares issued or to be issued by the cooperative;

(j) if indemnification under section 113 of the Act is paid or becomes payable in the financial period,

(i) the amount paid or payable,

(ii) the name and title of the individual indemnified or to be indemnified, and

(iii) the circumstances that gave rise to the indemnity;

(j) if insurance referred to in subsection 113(6) of the Act is purchased,

(i) the amount or, where there is a comprehensive liability policy, the approximate amount of premium paid by the cooperative in respect of directors as a group and officers as a group or for both groups on an aggregate basis,

(ii) the aggregate amount of premium, if any, paid by the individuals in each group,

(iii) the total amount of insurance purchased in respect of each group or for both groups on an aggregate basis, and

(iv) a summary of any deductibility or co-insurance clause or other provision in the insurance contract that exposes the cooperative to liability in addition to the payment of the premiums;

(k) the name of each person who, to the knowledge of the directors or officers of the cooperative, beneficially

owns, directly or indirectly, or exercises control or direction over, investment shares carrying more than 10 per cent of the votes attached to any class of investment shares of the cooperative entitled to vote in connection with any matters being proposed for consideration at the meeting, the approximate number of the investment shares so owned, controlled or directed by each person and the percentage of the class of voting investment shares of the cooperative represented by the number of investment shares owned, controlled or directed;

(l) the percentage of votes required for the approval of any matter that is to be submitted to a vote of shareholders at the meeting other than the election of directors;

(m) if directors are to be elected by the shareholders, a statement of the right of any class of shareholders to elect a specified number of directors or to cumulate their votes and a statement of any conditions precedent to the exercise thereof;

(n) in tabular form, so far as feasible, if directors are to be elected by the shareholders with respect to each person proposed to be nominated by management for election as a director and each director who has been elected by the shareholders whose term of office will continue after the meeting;

(i) the name of each person, the time when the person's term of office or the term of office for which the person is a proposed nominee will expire and the last major position or office with the cooperative or the cooperative's holding body corporate held by the person, indicating whether the person is a proposed nominee for election as a director at the meeting,

(ii) the present principal occupation or employment of each person, giving the name and principal business of any body corporate or other organization in which the occupation or employment is carried on and the same information in respect of all principal occupations or employments held by the person within the five preceding years unless the person is now a director and was elected to the present term of office by a vote of shareholders at a meeting the notice of which was accompanied by a proxy circular containing that information,

(iii) if the person is or has been a director of the cooperative, the period or periods during which the person has so served,

(iv) the number of investment shares of each class of voting investment shares of the cooperative and the cooperative's holding body corporate and any of the cooperative's subsidiaries beneficially owned, directly or indirectly, or over which control or direction is exercised, by each person, and

(v) if the voting investment shares beneficially owned, directly or indirectly or subject to control or direction by the person and the person's associates, carry more than 10 per cent of the votes attached to all voting investment shares of the cooperative, the cooperative's holding body corporate or any of the cooperative's subsidiaries, the approximate number of each class of investment shares owned, directly or indirectly or subject to the control or direction of the associates and the name of each associate;

(o) whether the cooperative has an executive committee of its board of directors or is required to have an audit committee and, if so, the names of those directors who are members of each committee;

(p) the details of any contract, arrangement or understanding between any proposed management nominee and any other person, except the directors and officers of the cooperative acting solely in their capacity as such, pursuant to which the nominee is to be elected, including the name of the other person;

(q) where the cooperative is required by the laws of a jurisdiction that is set out in column 1 of an item of Schedule 2 to file the form or information with respect to executive remuneration that is set out in column 2 of that item, the form or information, where action is to be taken with respect to

(i) the election of directors,

(ii) any bonus, profit-sharing or other plan of remuneration, contract or arrangement in which any director or officer of the cooperative will participate,

(iii) any pension or retirement plan of the cooperative in which any director or officer of the cooperative will

participate, or

(iv) the granting to any director or officer of the cooperative of any option or right to purchase any securities, other than rights issued rateably to all shareholders or to all shareholders resident in Canada;

(r) where action is to be taken with respect to any of the matters referred to in subparagraphs (q)(i) to (iv),

(i) a statement setting out the largest aggregate amount of debt, except for indebtedness that has been entirely repaid on or before the date of the management proxy circular and for routine indebtedness, that has been outstanding since the beginning of the cooperative's last completed financial year, the nature of the indebtedness, the amount of debt that is currently outstanding, details of the transaction in which it was incurred, and the rate of interest paid or charged on it, in respect of the following persons who are or have been indebted to the cooperative or any of its subsidiaries since the beginning of the last completed financial year in an amount that exceeds \$25,000, namely,

(A) a director or officer of the cooperative,

(B) a person proposed by management as a nominee for election as a director of the cooperative, and

(C) an associate of any person referred to in clause (A) or (B), or

(ii) where the cooperative is required by the laws of a jurisdiction that is set out in column 1 of an item of Schedule 3 to file the form or information with respect to indebtedness of directors and officers that is set out in column 2 of that item, that form or information;

(s) in any transaction since the beginning of the cooperative's last completed financial year or in any proposed transaction that has materially affected or could materially affect the cooperative or any of its subsidiaries,

(i) where not previously disclosed, the details, including, where feasible, the approximate amount of any material interest, direct or indirect, of

(A) a director or officer of the cooperative,

(B) a director or officer of a body corporate that is itself an insider or subsidiary of the cooperative,

(C) a person proposed by management as a nominee for election as a director of the cooperative,

(D) a person required to be named under paragraph (k), or

(E) an associate or affiliate of any of the persons referred to in clauses (A) to (D), and

(ii) unless the interest of the person arises solely from the beneficial ownership, direct or indirect, of less than 10 per cent of any class of voting investment shares of another body corporate, or one of its subsidiaries, furnishing services to the cooperative, the amounts and other details of transactions not referred to in subparagraph (i) that involve remuneration paid, directly or indirectly, to any of the persons referred to in clauses (i)(A) to (E) for services in any capacity,

(iii) an interest arising from the ownership of securities of the cooperative where the security holder receives an advantage not shared rateably by all holders of the same class of security or all holders of the same class of security who are resident in Canada, but the interest may be omitted, if

(A) the rate or charges involved are fixed by law or determined by competitive bids,

(B) the interest of the person in the transaction is solely that of a director of another body corporate that is a party to the transaction,

(C) the transaction involves services as a bank or other depository of funds, transfer agent, registrar, trustee under a trust indenture or under similar services, or

(D) the transaction does not involve, directly or indirectly, remuneration for services and the interest of the

person results from the beneficial ownership, direct or indirect, of less than 10 per cent of any class of voting investment shares of another body corporate that is a party to the transaction, the transaction is in the ordinary course of business of the cooperative or one of its subsidiaries and the amount of the transaction or series of transactions is less than 10 per cent of the total sales or purchases, as the case may be, of the cooperative and its subsidiaries for their last completed financial year;

(f) details of each transaction referred to in paragraph (s), the name and address of each person whose interest in the transaction is disclosed and the nature of the relationship by reason of which the interest is required to be disclosed;

(u) where a transaction referred to in paragraph (s) involves the purchase or sale of assets by the cooperative or any of its subsidiaries or holding bodies corporate otherwise than in the ordinary course of business, the cost of the assets to the purchaser and the cost of the assets to the seller, if the assets were acquired by the seller within the two years prior to the transaction;

(v) details of a material underwriting discount or commission with respect to the sale of securities by the cooperative where any person referred to in paragraph (s) has contracted or will contract with the cooperative in respect of an underwriting or is an associate or affiliate of a person that has contracted or will contract with the cooperative;

(w) subject to subparagraphs (vi) to (viii), where a person, other than a director or officer of the cooperative, or any of its subsidiaries or holding bodies corporate, is a member who manages the cooperative or any of its subsidiaries,

(i) details of the management agreement or arrangement, including the name and address of every person who is a party to the agreement or arrangement or who is responsible for its performance,

(ii) the name and full address, or alternatively, solely the municipality of residence or postal address, of each insider of every body corporate with which the cooperative or any of its subsidiaries has a management agreement or arrangement,

(iii) the amounts paid or payable by the cooperative and any of its subsidiaries to each person named pursuant to subparagraph (i) since the beginning of the cooperative's last completed financial year,

(iv) details of any debt owed to the cooperative or any of its subsidiaries by a person referred to in this paragraph, or by that person's associates or affiliates, that was outstanding at any time since the beginning of the cooperative's last completed financial year, if

(v) details of any agreement or arrangement, other than one referred to in subparagraphs (i) to (iv), entered into with the cooperative or any of its subsidiaries or holding bodies corporate since the beginning of the cooperative's last completed financial year, in which a person referred to in subparagraph (i) or (ii) has a material interest that is required to be disclosed under subparagraphs (i) to (iv), and

for the purposes of this paragraph,

(vi) details of debt include the largest aggregate amount of debt outstanding at any time during the cooperative's last completed financial year, the nature of the indebtedness, details of the transaction in which it was incurred, the amount presently outstanding and the rate of interest paid or charged on it,

(vii) an amount owing for purchases, subject to usual trade terms, for ordinary travel and expense advances or for other transactions in the ordinary course of business may be omitted in determining debt, and

(viii) any matter that is not material may be omitted;

(x) in any matter to be acted on at the meeting other than the election by the shareholders of directors, details of any material interest, direct or indirect, by way of beneficial ownership of securities or otherwise, of

(i) each person who was a director or officer of the cooperative at any time since the beginning of its last completed financial year,

- (ii) each person proposed by management as a nominee for election as a director of the cooperative, and
 - (iii) each affiliate or associate of any of the persons referred to in subparagraph (i) or (ii);
- (y) If action is to be taken with respect to the authorization or issue of securities, except to exchange the securities for other securities of the cooperative,
- (i) the designation and number or amount of securities to be authorized or issued,
 - (ii) a description of the securities, but
 - (A) if the terms of securities to be authorized cannot be stated because no issue thereof is contemplated in the immediate future and if no further authorization by shareholders for their issue is to be obtained, a statement that the terms of the securities to be authorized, including dividend or interest rates, conversion prices, voting rights, redemption prices, maturity dates and other matters will be determined by the directors, and
 - (B) if the securities are investment shares of an existing class, the description required, except for a statement of any pre-emptive rights, may be omitted,
 - (iii) details of the transaction in which the securities are to be issued including the nature and approximate amount of the consideration received or to be received by the cooperative, and the purpose for which the consideration has been or is to be used,
 - (iv) if it is not feasible to furnish the details required under subparagraph (iii), a statement of the reason why it is not feasible, the purpose of the authorization and whether shareholders' approval for the issue of the securities will be sought, and
 - (v) if the securities are to be issued other than in a general public offering for money or other than ratably to all holders of the same class of securities or all holders of the same class of securities who are resident in Canada, the reasons for the proposed authorization or issue and its effect on the rights of present security holders;
- (z) if action is to be taken under section 130 or 289 of the Act to modify the rights, privileges, restrictions or conditions attached to any class of investment shares of the cooperative or to authorize or issue securities in order to exchange them for other securities of the cooperative,
- (i) the designation and number or amount of outstanding securities that are to be modified, and, if securities are to be issued in exchange, the designation and number or amount of securities to be exchanged and the basis of the exchange,
 - (ii) details of material differences between the outstanding securities and the modified or new securities,
 - (iii) the reasons for the proposed modification or exchange and the general effect on the rights of existing security holders,
 - (iv) a brief statement of arrears in dividends or of defaults in principal or interest in respect of the outstanding securities that are to be modified or exchanged, and
 - (v) all other information material to the proposed modification or exchange, including, where the cooperative is a distributing cooperative, information required to be included in a prospectus or other similar document under the securities laws of any of the provinces, unless an exemption from those laws is available or a waiver of those laws or similar relief is granted by the relevant provincial securities regulator;
- (z.1) the material features of a plan, including the reasons for it and its general effect on the rights of existing security holders if action is to be taken with respect to that plan and if the plan is for
- (i) an amalgamation with another cooperative otherwise than under section 298 of the Act,
 - (ii) a sale, lease or exchange of all or substantially all of the property of the cooperative under subsection 301(1) of the Act,

(iii) a continuance under the laws of another jurisdiction under section 287 of the Act, or

(iv) the liquidation or dissolution of the cooperative;

(z.2) if action is to be taken with respect to a plan referred to in subparagraph (z.1)(i), a statement containing, with respect to the cooperative and the other body corporate,

(i) a brief description of the business,

(ii) the location and general character of the plants and other important assets,

(iii) a brief description of arrears in dividends or defaults in principal or interest in respect of securities of the cooperative or body corporate and of the effect of the plan,

(iv) the existing and *pro forma* share and loan capital in tabular form,

(v) an historical summary of earnings in tabular form for each of the last five fiscal years including per investment share amounts of net earnings, dividends declared for each year and book value per investment share at the end of the most recent period,

(vi) a combined *pro forma* summary of earnings in tabular form for each of the last five fiscal years indicating the aggregate and per investment share earnings for each year and the *pro forma* book value per investment share at the end of the most recent period, but if the transaction will establish a new basis of accounting for the assets of the cooperative or body corporate, the *pro forma* summary of earnings may be furnished only for the most recent fiscal year and interim period and shall reflect appropriate *pro forma* adjustments resulting from the new basis of accounting,

(vii) the high and low sale prices for each quarterly period within the previous two years for each class of securities of the cooperative and of the other body corporate that is traded on a stock exchange and that will be materially affected by the plan, and

(viii) an introductory summary, not exceeding six pages in length, of the contents of the proxy circular that highlights the salient features of the transaction, including a summary of the financial information, with appropriate cross-references to the more detailed information in the circular;

(z.3) if action is to be taken with respect to a plan referred to in paragraph (z.1), the financial statements of the cooperative as would be required to be included in a prospectus under the relevant laws of a province or the United States, unless an exemption from those laws is available or a waiver of those laws or similar relief is granted by the relevant securities regulator;

z.4) if action is to be taken with respect to a plan referred to in paragraph (z.2), the financial statements of the other cooperative that would be required to be included in a prospectus under the laws of a jurisdiction referred to in paragraph (z.3), unless an exemption from those laws is available or a waiver of those laws or similar relief is granted by the relevant securities regulator;

(z.5) a statement of the right of a shareholder to dissent under section 302 of the Act with respect to any matter to be acted upon at the meeting and a brief summary of the procedure to be followed;

(z.6) if action is to be taken with respect to any matter, other than the approval of financial statements, including alterations of investment share capital, amendments to articles, property disposition, amalgamation, rearrangements or reorganizations, the substance of the matter or group of related matters, to the extent it has not been described pursuant to paragraphs (a) to (z.5) in sufficient detail to permit shareholders to form a reasoned judgment concerning the matter, and if the matter is not required to be submitted to a vote of the shareholders, the reasons for so submitting it and the action intended to be taken by management in the event of a negative vote by the shareholders; and

(z.7) a statement, signed by a director or officer of the cooperative, that the contents and the sending of the circular have been approved by the directors.

(2) For the purposes of paragraph (1)(f), "routine indebtedness" means

(a) loans made by the cooperative to members, or members of members, in accordance with paragraph 160(2)(e) of the Act,

(b) if the cooperative makes loans to employees of the cooperative generally, whether or not in the ordinary course of business, loans made on terms, including those as to interest rate and collateral, no more favourable to the borrower than the terms on which loans are made by the cooperative to employees generally, but the amount of any remaining unpaid loans to any one director, officer or person proposed as a nominee, and his or her associates, that is considered as routine indebtedness under this paragraph during the last completed financial year may not exceed \$25,000,

(c) whether or not the cooperative makes loans in the ordinary course of business, a loan made by it to one of its directors or officers if

(i) the borrower is a full-time employee of the cooperative,

(ii) the loan is fully secured against the residence of the borrower, and

(iii) the amount of the loan does not exceed the annual salary of the borrower,

(d) if the cooperative makes loans in the ordinary course of business, a loan that is made to a person other than a full-time employee of the cooperative or to any other body corporate, and that

(i) is made on substantially the same terms, including those as to interest rate and collateral, as loans made to members, or members of members, of the cooperative, and

(ii) involves no more than usual risks of collectibility, or

e) indebtedness arising from purchases made on usual trade terms or from ordinary travel or expense advances, or for similar reasons, if the repayment arrangements are in accord with usual commercial practice.

23. A management proxy circular that is sent to the Director shall be submitted with a statement, signed by a director or officer, that a copy of the circular has been sent to each director and shareholder whose proxy is solicited and to the auditor of the cooperative.

Dissident's Proxy Circular

24. For the purposes of section 25, "dissident" means any person, other than the management of the cooperative or its affiliates and associates, by or on behalf of whom a solicitation is made, and includes a committee or group that solicits proxies, any member of the committee or group, and any person whether or not named as a member who, acting alone or with one or more other persons, directly or indirectly, takes the initiative or engages in organizing, directing or financing the committee or group, except

(a) a person who contributes not more than \$250 and who is not otherwise a person by whom or on whose behalf the solicitation is made;

(b) a bank or other lending institution or a broker or dealer that, in the ordinary course of business, lends money or executes orders for the purchase or sale of shares and is not otherwise a person by whom or on whose behalf the solicitation is made;

(c) a person, retained or employed by a person by whom or on whose behalf a solicitation is made to solicit proxies, who is not otherwise a person by whom or on whose behalf a solicitation is made whose activities are limited to the performance of duties in the course of the employment or retainment;

(d) a person who only transmits proxy soliciting material or performs administrative or clerical duties in connection with the solicitation;

(e) a person, retained or employed by a person by whom or on whose behalf a solicitation is made in the capacity of lawyer, accountant, publicity agent, financial or public relations adviser;

(f) a person regularly employed as an officer or employee of the cooperative or any of its affiliates who is not otherwise a person by whom or on whose behalf a solicitation is made; and

(g) an officer or director of, or person employed by, a person by or on behalf of whom a solicitation is made, if the officer, director or employee is not otherwise a person by whom or on whose behalf a solicitation is made.

Contents of Dissident's Proxy Circular

25. A dissident's proxy circular shall contain the following information:

(a) the name of the cooperative to which the solicitation relates;

(b) the information required by paragraphs 22(a), (d) and (e);

(c) details of the identity and background of each dissident, including

(i) the dissident's name and address,

(ii) the dissident's present principal occupation or employment and the name, principal business and address of any body corporate or other person in which the occupation or employment is carried on, and

(iii) all convictions in connection with violations of any corporate or securities laws or criminal convictions in a matter of an economic nature, such as fraud or market manipulation, during the preceding 10 years, for which a pardon has not been granted, and the date and nature of each conviction, the name and location of the court or tribunal and the sentence imposed;

(d) details of any material interest of the dissident, direct or indirect, by way of beneficial ownership of securities or otherwise, in any matter to be acted upon and the interest of the dissident in the securities of the cooperative to which the solicitation relates, including

(i) the number of shares in each class of investment shares of the cooperative and of the cooperative's affiliates and associates that the dissident beneficially owns or over which the dissident exercises control or direction,

(ii) the dates on which securities of the cooperative were purchased or sold during the preceding two years, the amount purchased or sold on each date and the price at which they were purchased or sold,

(iii) if any part of the purchase price or market value of any of the securities referred to in subparagraph (ii) is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding the securities, the amount of the indebtedness as of the latest practicable date and a brief description of the transaction including the names of the parties, other than a bank, broker or dealer acting in the transaction in the ordinary course of business,

(iv) whether the dissident is or was within the preceding year a party to a contract, arrangement or understanding with any person in respect of securities of the cooperative, including joint ventures, loans or option arrangements, puts or calls, guarantees against loss or guarantees of profit, division of losses or profits and the giving or withholding of proxies, and, if so, the names of the parties to, and the details of the contract, arrangement or understanding, and

(v) the number of shares in each class of investment shares of the cooperative or an affiliate of the cooperative that any associate of the dissident beneficially owns, directly or indirectly, or exercises control or direction over, as well as the name and address of each associate;

(e) if directors are to be elected by the shareholders, information required by paragraphs 22(n), (p), (s) and (x), in respect of each nominee proposed by the dissident for election as a director and in respect of the associates of the nominee;

(f) the information required by paragraphs 22(s) and (x), in respect of each dissident and each dissident's associates; and

(g) the details of any contract, arrangement or understanding, including the names of the parties, between a dissident, or any of the dissident's associates, and any other person, with respect to

(i) future employment by the cooperative or any of its affiliates, or

(ii) future transactions to which the cooperative or any of its affiliates will or may be a party.

26. If a dissident is a partnership, body corporate, association or other organization, the information required by paragraphs 25(c) and (f) to be included in a dissident's proxy circular shall be given in respect of each partner, officer and director of, and each person who controls, the dissident but who is not a dissident.

27. Information that is not known to a dissident and that cannot be ascertained by the dissident on reasonable enquiry may be omitted from a dissident's proxy circular, but the circumstances that render the information unavailable shall be disclosed in it.

28. (1) A dissident's proxy circular shall contain a statement, signed by the dissident or a person authorized by the dissident, that the contents and the sending of the circular have been approved by the dissident.

(2) A copy of a dissident's proxy circular that is sent to the Director pursuant to subsection 166(3) of the Act shall be accompanied by a statement signed by the dissident or a person authorized by the dissident to the effect that

(a) the circular complies with these Regulations; and

(b) a copy of the circular has been sent to each director, to each shareholder whose proxy has been solicited, and to the auditor of the cooperative.

Date of Proxy Circular and Information

29. A proxy circular shall be dated as of a date not more than 30 days before the date on which it is first sent to a shareholder of the cooperative and the information, other than financial statements, required to be contained in it shall be given as of the date of the circular.

Financial Statements in Proxy Circular

30. (1) Where financial statements accompany or form part of a management proxy circular, the statements shall be prepared in accordance with Part 4.

(2) The financial statements referred to in subsection (1), if not reported upon by the auditor of the cooperative, shall be accompanied by a report of the chief financial officer of the cooperative stating that the financial statements have not been audited but have been prepared in accordance with Part 4.

PART 4

FINANCIAL DISCLOSURE

General

31. The financial statements referred to in paragraph 247(1)(a) of the Act shall, except as otherwise provided by this Part, be prepared in accordance with the generally accepted accounting principles that are set out in the Handbook of the Canadian Institute of Chartered Accountants.

32. The auditor's report referred to in section 261 of the Act shall, except as otherwise provided by this Part, be prepared in accordance with the generally accepted auditing standards that are set out in the Handbook of the Canadian Institute of Chartered Accountants.

Contents of Financial Statements

33. (1) The financial statements referred to in section 247 of the Act shall include at least

- (a) a balance sheet;
 - (b) a statement of retained earnings;
 - (c) an income statement; and
 - (d) a statement of changes in financial position.
- (2) Financial statements need not be designated by the names set out in paragraphs (1)(a) to (d).

PART 5

CONSTRAINED SHARE COOPERATIVES

Interpretation

34. The definitions in this section apply in this Part.

"Canadian" means,

- (a) a resident of Canada;
- (b) a partnership of which a majority of the members are resident in Canada and in which interests representing in value more than 50 per cent of the total value of the partnership property are owned by residents in Canada;
- (c) a trust established by a resident of Canada
 - (i) a majority of the trustees of which are resident in Canada, or
 - (ii) in which beneficial interests representing in value more than 50 per cent of the total value of the trust property are owned by residents in Canada;
- (d) Her Majesty in right of Canada or of a province or a municipal corporation or public board or commission in Canada; or
- (e) a body corporate
 - (i) incorporated under the laws of Canada or a province,
 - (ii) of which a majority of the directors are residents in Canada, and
 - (iii) over which persons described in any of paragraphs (a) to (d) or in this paragraph exercise control or direction or of which the persons beneficially own investment shares or securities currently convertible into investment shares carrying more than 50 per cent of the voting rights under all circumstances or by reason of the occurrence of an event that has occurred and that is continuing, including currently exercisable options or rights to acquire the investment shares or convertible securities. (*canadien*)

"constrained class" means the class of persons specified in the articles of a constrained share cooperative as being ineligible to hold, as a class, more than the maximum aggregate holdings. (*catégorie restreinte*)

"constrained share cooperative" means a cooperative that has provisions in its articles imposing a constraint. (*coopérative à participation restreinte*)

"constraint" means a restriction on

- (a) the issue or transfer of investment shares of any class or series to persons who are not residents in Canada;
- (b) the issue or transfer of investment shares of any class or series to enable a cooperative or any of its

affiliates or associates to qualify under the laws of Canada or a province referred to in paragraph 48(1)(a)

(i) to obtain a licence to carry on any business,

(ii) to become a publisher of a Canadian newspaper or periodical, or

(iii) to acquire investment shares of a financial intermediary as defined in paragraph 48(1)(b); or

(c) the issue, transfer or ownership of investment shares of any class or series in order to assist a cooperative or any of its affiliates or associates to qualify under the laws of Canada referred to in subsection 48(2) to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control. (*restriction*)

"control" means control in any manner that results in control in fact, whether directly through the ownership of investment shares or indirectly through a trust, a contract, the ownership of investment shares of any other body corporate or otherwise. (*contrôle*)

"maximum aggregate holdings" means the total number of voting investment shares of a constrained share cooperative that may be held by or on behalf of persons in the constrained class and their associates in accordance with the articles of the cooperative. (*avoir maximum total*)

"maximum individual holdings" means the total number of voting investment shares of a constrained share cooperative that may be held by or on behalf of any one person in the constrained class and the person's associates in accordance with the articles of the cooperative. (*avoir maximum individuel*)

"resident of Canada" means an individual who

(a) is a citizen of Canada, as determined in accordance with the *Citizenship Act*, and who is ordinarily resident in Canada;

(b) a citizen of Canada, as determined in accordance with the *Citizenship Act*, and who is not ordinarily resident in Canada and who

(i) is a full-time employee of the Government of Canada or a province, of an agency of any such government or of a federal or provincial crown corporation,

(ii) is a full time employee of a body corporate

(A) of which more than 50 per cent of the voting investment shares are beneficially owned or over which control or direction is exercised by a resident of Canada,

(B) a majority of the directors of which are residents of Canada, or

(C) that is a subsidiary or a wholly owned subsidiary of a body corporate described in clause (A) or (B), where the principal reason for the residence of the employee outside Canada is to act as such an employee,

(iii) is a full-time student at a university or other educational institution recognized by the educational authorities of a majority of the provinces and who has been resident outside Canada less than 10 consecutive years,

(iv) is a full-time employee of an international association or organization of which Canada is a member, or

(v) was, on the date of their sixtieth birthday, ordinarily resident in Canada and has been resident outside Canada less than 10 consecutive years; or

(c) is a permanent resident within the meaning of the *Immigration Act* and ordinarily resident in Canada, except a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he first became eligible to apply for Canadian citizenship. (*résident canadien*)

"voting investment share" means an investment share that is subject to a constraint referred to in paragraph (a) or (b) of the definition "constraint" and that carries voting rights under all circumstances or by reason of

the occurrence of an event that has occurred and that is continuing and includes a security currently convertible into such an investment share and a currently exercisable option or right to acquire the investment share or the convertible security. (*part de placement conférant un droit de vote*)

Disclosure Required

35. Each of the following documents issued or published by a constrained share cooperative shall indicate conspicuously the general nature of its constrained investment share provisions:

- (a) a certificate evidencing a voting investment share;
- (b) a management proxy circular; and
- (c) a prospectus, statement of material facts, registration statement or similar document.

Powers and Duties of Directors

36. (1) The directors of a constrained share cooperative that has provisions in its articles imposing a constraint referred to in paragraph (a) or (b) of the definition "constraint" in section 34, shall refuse to register a transfer of a voting investment share of the cooperative in accordance with the articles if

- (a) the total number of voting investment shares held by or on behalf of persons in the constrained class exceeds the maximum aggregate holdings and the transfer is to a person in the constrained class;
- (b) the total number of voting investment shares held by or on behalf of persons in the constrained class does not exceed the maximum aggregate holdings and the transfer would cause the number of the investment shares held by persons in the constrained class to exceed the maximum aggregate holdings;
- (c) the total number of voting investment shares held by or on behalf of a person in the constrained class exceeds the maximum individual holdings and the transfer is to that person; or
- (d) the total number of voting investment shares held by or on behalf of a person in the constrained class does not exceed the maximum individual holdings and the transfer would cause the number of the investment shares held by that person to exceed the maximum individual holdings.

(2) Notwithstanding subsection (1), the directors of a constrained share cooperative that is described in that subsection shall register a transfer of a voting investment share of the cooperative to a person in the constrained class if the person establishes that the person was the beneficial owner of that investment share on the day on which the cooperative became a constrained share cooperative.

(3) The directors of a constrained share cooperative that is referred to in subsection (1) shall refuse to issue a voting investment share of the cooperative to a person in the constrained class in circumstances where the directors are required to refuse to register a transfer of the investment share by that subsection.

(4) For the purposes of subsection (3), the directors may count as issued investment shares the voting investment shares that it is currently offering to its shareholders or prospective shareholders.

37. The directors of a constrained share cooperative that has provisions in its articles imposing a constraint referred to in paragraph (c) of the definition "constraint" in section 34,

- (a) shall refuse to issue an investment share of the cooperative to a person
 - (i) whose ownership of the share would be contrary to the constraint,
 - (ii) who, in respect of the issue of the share, has been requested by the cooperative to furnish it with information referred to in subsection 41(7) and has not furnished the information, or
 - (iii) whose ownership of the share the directors have determined, on the basis of information furnished to the cooperative by that person pursuant to a request referred to in subparagraph (ii), may be contrary to the constraint; and

- (b) shall refuse to register a transfer of a share of the cooperative if the transfer is to a person
- (i) whose ownership of the share is contrary to the constraint,
- (ii) who, in respect of the registration of the share, has been requested by the cooperative to furnish it with information referred to in subsection 41(7) and has not furnished the information, or
- (iii) whose ownership of the share the directors have determined, on the basis of information furnished to the cooperative by that person pursuant to a request referred to in subparagraph (ii), may be contrary to the constraint.

Limitation on Voting Rights

38. Sections 39 and 40 apply to a constrained share cooperative that has provisions in its articles imposing a constraint referred to in paragraph (a) or (b) of the definition of "constraint" in section 34.

39. (1) Where on the day on which a cooperative becomes a constrained share cooperative the total number of voting investment shares of the cooperative held by or on behalf of a person in the constrained class exceeds the maximum individual holdings, the person or the person's nominee may, in person or by proxy, only exercise the voting rights attached to the maximum individual holdings held on that day or on any subsequent day.

(2) After the total number of investment shares held by or on behalf of the person referred to in subsection (1) is reduced below the maximum individual holdings, the person or the person's nominee may, in person or by proxy, exercise the voting rights attached to investment shares held.

40. (1) Except as provided in subsection 39(1), where the total number of voting investment shares of a constrained share cooperative held by or on behalf of a person in the constrained class exceeds the maximum individual holdings, no person may, in person or by proxy, exercise the voting rights attached to those investment shares.

(2) Where it appears from the investment share register of a constrained share cooperative that the total number of voting investment shares held by a shareholder is less than the maximum individual holdings, a proxyholder for the shareholder may vote those investment shares unless the proxyholder has knowledge that the investment shares beneficially owned by the shareholder exceed the maximum individual holdings.

(3) Where, after the day on which a cooperative becomes a constrained share cooperative, a cooperative or trust that was not a person in the constrained class becomes a person in the constrained class, the cooperative or trust shall not exercise the voting rights attached to any investment shares it holds in the constrained share cooperative while it is a person in the constrained class.

Sale of Constrained Investment Shares

41. (1) For the purposes of subsection 131(1) of the Act, before a constrained share cooperative concludes that investment shares of the cooperative are owned contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34 or the directors of the cooperative determine that investment shares of the cooperative may be owned contrary to the constraint, the cooperative shall send by registered mail a written notice in accordance with subsection (5) to the person shown in the securities register of the cooperative as the holder of the investment shares.

(2) For the purposes of subsection 131(1) of the Act, investment shares of a constrained share cooperative that are owned contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34 may only be sold after the directors of the cooperative

(a) have ascertained whether or not the cooperative has received a reply to a request for information referred to in subsection (7) respecting the shares and considered the reply, if any; and

(b) have examined and considered any other records of the cooperative containing information that would indicate whether the shares are owned contrary to the constraint.

- (3) For the purposes of subsection 131(1) of the Act, where a constrained share cooperative has sent a notice referred to in subsection (1) to a person shown in the securities register of the cooperative as the holder of investment shares, the cooperative shall, not less than 90 days but not more than 150 days after the sending of the notice, send to the person by registered mail a further written notice in accordance with subsection (6) respecting the investment shares that the cooperative intends to sell if
- (a) the cooperative has concluded that investment shares in respect of which the notice was sent are owned contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34; or
 - (b) the directors of the cooperative have determined that investment shares in respect of which the notice was sent may be owned contrary to the constraint, and the cooperative intends to sell all or some of the investment shares pursuant to subsection 131(1) of the Act.
- (4) Where a cooperative sends a notice under subsection (1) or (3), the cooperative shall, at the time the notice is sent, enter or cause to be entered in the securities register of the cooperative the particulars of the notice including the date on which it was sent.
- (5) The notice referred to in subsection (1) shall contain
- (a) the name and address of the holder of the investment shares as shown in the securities register of the cooperative;
 - (b) a statement identifying the certificate representing the investment shares by certificate number or otherwise;
 - (c) a statement indicating that all or some of the investment shares may be sold by the cooperative pursuant to subsection 131(1) of the Act if the shares are owned, or the directors of the cooperative determine that the shares may be owned, contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34;
 - (d) a statement indicating that the cooperative may conclude that all or some of the investment shares are owned contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34;
 - (e) a statement indicating that the directors of the cooperative may determine that all or some of the investment shares may be owned contrary to a constraint referred to in paragraph (c) of the definition "constraint" and that for the purpose of making the determination the directors of the cooperative will
 - (i) consider the reply, if any, to a request for information referred to in subsection (7) respecting the shares, and
 - (ii) examine and consider any other records of the cooperative containing information that would indicate whether the shares are owned contrary to the constraint;
 - (f) a statement indicating that no investment share in respect of which the notice is sent may be sold pursuant to subsection 131(1) of the Act if a transfer of the share is registered in the securities register of the cooperative after the notice was sent unless the cooperative again complies with the requirements set out in this Part respecting the sale of the share;
 - (g) a statement indicating that no investment share in respect of which the notice is sent may be sold pursuant to subsection 131(1) of the Act unless not less than 60 days but not more than 150 days have elapsed from the day on which a notice referred to in subsection (3) is sent to the holder of the share;
 - (h) a statement indicating the earliest date and the latest date on which the cooperative may sell the investment shares, having regard to the requirements set out in section 43;
 - (i) a statement indicating that the investment shares may only be sold on an exchange on which investment shares of the cooperative are listed and posted for trading or, where investment shares of the cooperative are not listed and posted for trading on an exchange, in such a way as to obtain the best sale price available in the circumstances at the time of sale.

(j) a statement indicating that, if not all the investment shares of the holder evidenced by a certificate are sold pursuant to subsection 131(1) of the Act, a certificate evidencing the investment shares that are not sold will be issued upon surrender for cancellation of the certificate representing the investment shares sold; and

(k) a statement indicating that, forthwith upon the sale of the investment shares pursuant to subsection 131(1) of the Act, the cooperative will

(i) register the transfer or a notice of the sale of the investment shares or cause the transfer or a notice of the sale of the shares to be registered in the securities register of the cooperative, and

(ii) send a notice of the sale to the person shown in the securities register of the cooperative as the holder of the shares at the time of sale.

(6) The notice referred to in subsection (3) shall contain

(a) the name and address of the holder of the investment shares as shown in the securities register of the cooperative;

(b) a statement identifying the certificate evidencing the investment shares by certificate number or otherwise;

(c) a statement indicating that all or some of the investment shares may be sold by the cooperative pursuant to subsection 131(1) of the Act if the shares are owned, or the directors of the cooperative determine that the shares may be owned, contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34;

(d) a statement indicating that the cooperative has concluded that the investment shares are owned, or that the directors of the cooperative have determined that the investment shares may be owned, contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34 and indicating the reason for the conclusion or determination, as the case may be;

(e) a statement indicating that the cooperative intends to sell all or a specified number of the investment shares pursuant to subsection 131(1) of the Act;

(f) a statement indicating that if, before the sale, the cooperative changes its conclusion that the investment shares are owned, or the directors of the cooperative change their determination that the investment shares may be owned contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34 or there is a change in the reason for the conclusion or determination, the cooperative will send a notice in accordance with subsection 42(1) to the person shown in the securities register of the cooperative as the holder of the investment shares;

(g) a statement advising that, unless the person shown in the securities register of the cooperative as the holder of the investment shares receives a notice referred to in paragraph (f), that person and all other interested persons should not assume

(i) that the cooperative has changed its conclusion that the investment shares are owned, or the directors of the cooperative have changed their determination that the investment shares may be owned, contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34,

(ii) that there has been a change in the reason for the conclusion or determination, or

(iii) that the cooperative no longer intends to sell the investment shares pursuant to subsection 131(1) of the Act;

(h) a statement indicating that no investment share in respect of which the notice is sent may be sold pursuant to subsection 131(1) of the Act if a transfer of the share is registered in the securities register of the cooperative after the notice referred to in subsection (1) was sent unless the cooperative again complies with the requirements set out in this Part respecting the sale of the share;

(i) a statement indicating that no investment share in respect of which the notice is sent may be sold pursuant

to subsection 131(1) of the Act unless not less than 60 days but not more than 150 days have elapsed from the day on which the notice was sent to the holder of the share; and

(j) a statement indicating each of the matters referred to in paragraphs (5)(h) to (k).

(7) The notice referred to in subsection (1) shall be accompanied by a request for information, including a request for the completion of the forms, that would indicate whether the investment shares are owned contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34.

(3) The notice referred to in subsection (3) shall be accompanied by a request for information referred to in subsection (7) unless the cooperative has received the requested information before the notice is sent.

(9) A request for information referred to in subsection (7) shall be accompanied by instructions for the furnishing of the information and the completion of the forms referred to in that subsection and by a sufficient number of copies of the forms.

42. (1) A constrained share cooperative that has not sold an investment share in respect of which a further notice was sent to a person under subsection 41(3) shall, without delay, send to the person, by registered mail, a notice of any change, with reasons, in respect of the conclusion or determination referred to in that subsection, or of a change concerning the reasons for the conclusion or determination.

(2) Where a cooperative sends a notice under subsection (1), the cooperative shall, at the time the notice is sent, enter or cause to be entered in the securities register of the cooperative the particulars of the notice including the date on which it was sent.

43. (1) No investment share shall be sold by a constrained share cooperative pursuant to subsection 131(1) of the Act unless

(a) the cooperative has sent the notices referred to in subsections 41(1) and (3) to the person shown in the securities register of the cooperative as the holder of the investment share;

(b) not less than 150 days but not more than 300 days have elapsed from the day on which the notice referred to in subsection 41(1) was sent to the holder of the investment share;

(c) not less than 60 days but not more than 150 days have elapsed from the day on which the notice referred to in subsection 41(3) was sent to the holder of the investment share;

(d) the cooperative has concluded that the investment share is owned, or the directors of the cooperative have determined that the investment share may be owned, contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34 and, at the time of sale, the cooperative has no reasonable grounds on which to change its conclusion or the directors of the cooperative have no reasonable grounds on which to change their determination, as the case may be;

(e) the sale takes place

(i) on a stock exchange on which investment shares of the cooperative are listed and posted for trading, or

(ii) where investment shares of the cooperative are not listed and posted for trading on any stock exchange, in such a way as to obtain the best sale price available in the circumstances at the time of sale; and

(f) the cooperative sells the investment share with a view to obtaining the best sale price available in the circumstances at the time of sale.

(2) No investment share in respect of which a notice is sent in accordance with subsection 41(1) shall be sold by a constrained share cooperative pursuant to subsection 131(1) of the Act if a transfer of the share is registered in the securities register of the cooperative after the notice was sent unless the cooperative again complies with the requirements set out in this Part respecting the sale of the share.

44. (1) Immediately on a sale of investment shares by a constrained share cooperative pursuant to subsection 131(1) of the Act, the cooperative shall

(a) register the transfer or a notice of the sale of the shares or cause the transfer or a notice of the sale of the shares to be registered in the securities register of the cooperative; and

(b) send a notice of the sale to the person shown in the securities register of the cooperative as the holder of the shares at the time of the sale.

(2) The notice referred to in paragraph (1)(b) shall

(a) state the number of investment shares sold;

(b) identify the certificate evidencing the investment shares sold, by certificate number or otherwise;

(c) state the date and manner of sale;

(d) state the manner in which the person entitled to receive the net proceeds of the sale pursuant to subsection 131(1) of the Act may obtain the proceeds;

(e) state that the cooperative has concluded that the investment shares were owned, or that the directors determined that the investment shares may be owned, contrary to a constraint referred to in paragraph (c) of the definition "constraint" in section 34 and state the reason why the cooperative so concluded or the directors so determined, as the case may be; and

(f) contain a statement, if not all of the investment shares of the holder evidenced by a certificate were sold, that not all of the shares were sold and that a certificate evidencing the investment shares that were not sold will be issued upon surrender for cancellation of the certificate evidencing the investment shares sold.

45. The proceeds of a sale by a constrained share cooperative under subsection 131(1) of the Act must be invested in an interest bearing account in a body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation or guaranteed by the Quebec Deposit Insurance Board or by any other similar entity created by the laws of another province.

Disclosure of Beneficial Ownership

46. Section 47 applies to a constrained share cooperative that has provisions in its articles imposing a constraint referred to in paragraph (a) or (b) of the definition "constraint" in section 34.

47. (1) In order to ascertain the beneficial ownership of investment shares of a constrained share cooperative, its directors may

(a) require any person in whose name the investment shares are registered to furnish a statutory declaration under the *Canada Evidence Act*

(i) declaring whether

(A) the shareholder is the beneficial owner of the investment shares or holds them for a beneficial owner,

(B) the shareholder is an associate of any other shareholder, and

(C) the shareholder or beneficial owner is a Canadian, and

(ii) setting out any further relevant facts; and

(b) require any person seeking to have a transfer of a voting investment share registered in the person's name or to have a voting investment share issued to that person to furnish a declaration similar to that referred to in paragraph (a).

(2) Where a person is required to furnish a declaration under subsection (1), the directors may refuse to register a transfer of a voting investment share in the person's name or to issue a voting investment share to the person until that person has furnished the declaration.

(3) In administering the constrained investment share provisions set out in the articles of a constrained share

cooperative, the directors of the cooperative may rely upon a statement made in a declaration referred to in subsection (1) or (2).

(4) Where the directors are required to determine the total number of voting investment shares of a constrained share cooperative that are held by or on behalf of residents of Canada, the directors may rely on the latest address shown in the investment share register to conclude

(a) in respect of an address that is in Canada, that an individual is a resident of Canada; and

(b) in the case of an address that is outside Canada, that an individual is not a resident of Canada.

(5) For the purposes of subsection (4), the directors may only rely upon the investment share register of the constrained share cooperative as of any date after the day on which the cooperative became a constrained share cooperative but that date shall not be more than four months before the day on which the determination is made.

References and Definitions for the Purposes of Section 130 of the Act

48. (1) For the purposes of paragraph 130(1)(b) of the Act,

(a) the following laws of Canada or a province are prescribed, namely,

(i) the *Canadian Aviation Regulations* under the *Aeronautics Act*,

(ii) the *Canada Transportation Act* and any regulations made under it,

(iii) the *Canada Oil and Gas Land Regulations* and *Canada Oil and Gas Drilling and Production Regulations* under the *Territorial Lands Act*,

(iv) the *Broadcasting Act*,

(v) the *Northern Mineral Exploration Assistance Regulations* under the *Appropriation Act No. 9, 1966*

(vi) section 19 of the *Income Tax Act*,

(vii) the *Securities Act* of Ontario and any regulations made under it,

(viii) the *Securities Act* of Quebec and any regulations made under it, and

(ix) any other laws of Canada or of a province that has requirements in relation to Canadian ownership; and

(b) "financial intermediary" means a bank, trust company, loan company, insurance company, investment company, association and a body corporate carrying on business as a securities broker, dealer or underwriter.

(2) For the purposes of paragraph 130(1)(c) of the Act, the following laws of Canada are prescribed:

(a) the *Canada Petroleum Resources Act* and any regulations made under it; and

(b) the *Petroleum Incentives Program Act* and any regulations made under it.

PART 6

RULES OF PROCEDURE FOR APPLICATIONS FOR EXEMPTIONS

Application

49. This Part applies to every application for an exemption under subsection 4(6) or 167(1), section 248 or subsection 263(2) or 267(2) of the Act.

Time of Filing Applications

50. (1) An application for an exemption under

(a) subsection 4(6) of the Act may be made at any time;

(b) subsection 167(1) of the Act shall be made before the date of the notice referred to in subsection 165(1) of the Act;

(c) section 248 of the Act shall be made at least 60 days before the documents in respect of which the exemption is requested are to be sent to the Director;

(d) subsection 263(2) of the Act may be made at any time; and

(e) subsection 267(2) of the Act shall be made at least 30 days before the cooperative is required to comply with Part 8 of the Act.

(2) Notwithstanding subsection (1), the Director shall extend the time for making an application for an exemption if the applicant establishes that no prejudice will result from it.

Notice by Director of Decision

51. The Director shall, within 30 days after receipt of an application for an exemption, grant the exemption requested or send to the applicant written notice of the refusal together with reasons for the refusal.

General

52. The Director may request that an applicant for an exemption furnish the Director with further information or that any other person furnish the Director with information in writing that is relevant to the application.

53. The Director shall furnish the applicant for an exemption with a copy of any information received from any other person under section 52 and shall allow the applicant a reasonable opportunity to respond in writing.

54. Where an applicant for an exemption or a person from whom the Director has requested information under section 52 does not provide the information within a time specified by the Director, the Director may deal with the application without regard to the information.

55. For the purposes of section 345 of the Act, the Director is deemed to have refused to grant an exemption if the exemption is not granted or the written notice of the refusal is not sent within the time specified in section 51.

Prescribed Fees

56. The fee in respect of the filing, verification or copying of any document or in respect of any service that is set out in an item of column 1 of Schedule 1 that is provided by the Director under the Act shall be the fee set out in column 2 of that item and shall be paid to the Director on the filing, verification or copying of the document or before the Director provides the service in respect of which the fee is payable.

PART 9

PRESCRIBED INTEREST

57. For the purposes of subsection 302(25) of the Act,

(a) the rate of interest for any month is the rate per annum that is the aggregate of three per cent per annum and the Bank of Canada rate in effect on the third Wednesday of the month preceding the month in respect of which the interest is computed; and

(b) the interest shall be calculated on a monthly basis for each month or part thereof starting on the day on which the resolution is adopted and ending on the day on which full payment is made.

coming into force

56. These Regulations come into force on < >.

SCHEDULE 1

FEEES (s. 56)

Column 1 Item/Activity	Column 2 Fee (\$)
1. Issuance by the Director of	
(a) a certificate of incorporation issued pursuant to section 12 of the Act	500
(b) a certificate of amendment issued pursuant to subsection 126(6) or 303(6) of the Act	200
(c) a certificate of amendment issued pursuant to section 292 of the Act, other than a certificate of amendment the purpose of which is to add an English or French version to a cooperative's name, or to replace a corporate name that the Director has directed be changed pursuant to subsection 24(1) of the Act	200
(d) a restated certificate of incorporation issued pursuant to subsection 294(3) of the Act, unless issued with certificate of amendment	50
(e) a certificate of amalgamation issued pursuant to paragraph 285(6)(b) or subsection 299(4) of the Act	200
(f) a certificate of continuance issued pursuant to subsection 285(6) of the Act	200
(g) a document evidencing satisfaction of the Director, as required under subsection 287(1) of the Act	200
(h) a certificate of arrangement issued pursuant to subsection 305(1) of the Act	200
(i) a certificate of revival issued pursuant to subsection 308(3) of the Act	200
(j) a certificate of intent to dissolve issued pursuant to subsection 310(5) of the Act	50
(k) a corrected certificate issued pursuant to subsection 378(2) of the Act	200
(l) a corrected certificate, where the error was made solely by the Director's staff	0
2. Sending the annual return to the Director under section 374 of the Act	50
3. Examination by the Director of the cooperative's file in connection with a request for a certificate of compliance pursuant to subsection 375 of the Act	35
4. Application to the Director for an exemption under subsections 4(6), 167(1), 263(2) or 267(2) of the Act	250
5. Application to the Director for an exemption under section 248 of the Act	100
6. Uncertified copies of documents provided by the Director under subsection 377(2) of the Act	\$ 1 per page
7. Certified copies of documents provided by the Director under subsection 377(2) of the Act	\$ 35 per certified copy

SCHEDULE 2 (Paragraph 22(q))

EXECUTIVE REMUNERATION

Column 1 Item/Jurisdiction	Column 2 Form or Information
1. Ontario	Form 40 of Regulation 1015, as amended from time to time, made under the <i>Securities Act</i> , R.S.O. 1990, c. S-5
2. Quebec	Item 6 of Schedule VIII to the <i>Securities Regulations</i> , as amended from time to time, made under the <i>Securities Act</i> , R.S.Q., c. V-1.1
3. Nova Scotia	Form 41 of the <i>Securities Regulations</i> , 1991, as amended from time to time, made

- under the *Securities Act*, R.S.N.S. 1989, c. 418
4. British Columbia Form 41 of the *Securities Regulations*, as amended from time to time, made under the *Securities Act*, R.S.B.C. 1996, c. 418
 5. Saskatchewan Form 38 of the *Securities Regulations*, as amended from time to time, made under the *Securities Act*, 1988, S.S. 1988, c. S-42.2
 6. Alberta Form 40 of the Schedule to the *Alberta Securities Commission Rules*, as amended from time to time, made under the *Securities Act*, S.A. 1981, c. S-6.1
 7. Newfoundland Form 39 of the *Securities Regulations*, as amended from time to time, made under the *Securities Act*, R.S.N. 1990, c. S-13
 8. United States Items 402, 403 and 404 of Regulation S-K, as amended from time to time, made under the *Securities Exchange Act of 1934* of the United States

SCHEDULE 3
(Paragraph 22(r))

INDEBTEDNESS OF DIRECTORS AND OFFICERS

Column 1 Item Jurisdiction	Column 2 Form or Information
1. Ontario	Item 7 of Form 30 of Regulation 1015, as amended from time to time, made under the <i>Securities Act</i> , R.S.O. 1990, c. S-5
2. Quebec	Item 7 of Schedule VIII to the <i>Securities Regulations</i> , as amended from time to time, made under the <i>Securities Act</i> , R.S.Q., c. V-1.1
3. Nova Scotia	Item 7 of Form 30 of the <i>Securities Regulations</i> , 1991, as amended from time to time, made under the <i>Securities Act</i> , R.S.N.S. 1989, c. 418
4. British Columbia	Item 7 of Form 30 of the <i>Securities Regulations</i> , as amended from time to time, made under the <i>Securities Act</i> , R.S.B.C. 1996, c. 418
5. Saskatchewan	Item 7 of Form 28 of the <i>Securities Regulations</i> , as amended from time to time, made under the <i>Securities Act</i> , 1988, S.S. 1988, c. S-42.2
6. Alberta	Item 7 of Form 30 of the Schedule to the <i>Alberta Securities Commission Rules</i> , as amended from time to time, made under the <i>Securities Act</i> , S.A. 1981, c. S-6.1
7. Newfoundland	Item 7 of Form 29 of the <i>Securities Regulations</i> , as amended from time to time, made under the <i>Securities Act</i> , R.S.N. 1990, c. S-13
8. United States	Items 402, 403 and 404 of Regulation S-K, as amended from time to time, made under the <i>Securities Exchange Act of 1934</i> of the United States

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BENCHMARKING STUDY

CORPORATIONS DIRECTORATE

EXECUTIVE SUMMARY

Most government organizations are seeking ways of improving the delivery of their services while operating under reduced monetary allocations. As part of its ongoing re-engineering efforts to deliver efficient and effective services to its clients, the Corporations Directorate of Industry Canada (ICCD) undertook a Benchmarking study during fiscal year 1997-98. Through this exercise, ICCD identified best practices within other corporate law administrations which represent promising innovations to the current processing of business incorporation applications, certificates of compliance requests, and related work processes at ICCD.

ICCD sent a Benchmarking questionnaire to 64 jurisdictions mainly in North America, but included other selected countries around the world. Thirty two completed questionnaires were returned, including responses from the UK and South Africa. From the results of these questionnaires, ICCD identified its relative strengths and weaknesses, and identified critical success factors that contributed to efficiencies in other corporate law administrators' processes.

The following are ICCD's strengths in comparison with all other surveyed jurisdictions:

- ICCD offers four service levels at no additional cost to clients;
- ICCD has the longest hours of operation in Canada;
- Volumes of "after incorporation services" (such as certificates of compliance, or amendments) are much higher at ICCD than any other jurisdiction;
- With the planned development and implementation of an Electronic Business Environment (EBE), ICCD will have leading edge technology in Canada in terms of an electronic environment which will integrate images of files with an automated workflow.

After this initial comparison, ICCD pursued an in-depth comparative analysis with three organizations who became the "benchmarking partners":

- The Corporate Registry in British Columbia
- The Division of Corporations in Delaware
- The Registry of Joint Stock Companies in Nova Scotia

All three of these Benchmarking partners demonstrated promising practices that were adaptable to ICCD's processes. They were viewed as successful organizations in that they had a high ratio of applications per examiner, they had commercialized parts of their business processes through third party agents, and they relied on leading edge technology to carry out their program. Two of the three jurisdictions also had their budget determined in large part from access to revenues, or in relation to their total revenues.

The comparative analysis indicated that all three partners also have a strong client service orientation, priority service levels for which they charge additional fees, a low rejection rate, resulting in higher client and staff satisfaction, and very high volumes of name pre-approvals which translate into real efficiencies in the incorporation process.

As a result of these findings, the Benchmarking team formulated 41 recommendations which target the performance gaps identified within ICCD. The recommendations are grouped under the following headings:

- Reorganization
- Use of Agents
- Processes
- Access to Services
- Fees and Services
- Forms and Covering Letters
- Promotion of Services
- Human Resources
- Continuous Improvement through Benchmarking

The recommendations also elaborate on the physical layout of the workflow, and emphasize the need to implement an Electronic Business Environment (EBE) as soon as possible. The EBE is a condition precedent to the successful and cost effective implementation of many other recommended service improvements and innovations.

An initial assessment of the recommendations indicates that there are significant costs associated with their implementation, specifically, costs associated with the physical redesign and relocation of offices, costs related to training of staff, clients and/or external agents on new or expanded functions, costs associated with promotional activities and materials, and, most significantly planned expenditures for implementation of the EBE and imaging of all files. The report also contains recommendations to conduct two (2) feasibility or cost/benefit analyses, at an estimated cost of between 85K\$ - 155K\$, in order to better understand the net value of proceeding with the following 2 recommended initiatives:

- use of "authorized agents"
- impact on clients of requesting 2-3 names

The preliminary analysis of costs and benefits related to the recommendations indicates that their implementation would result in important service delivery enhancements, a more diversified job mix for staff as well as internal efficiencies which are roughly estimated to produce a savings of ten (10) FTEs. The recommendations also identify other critical functions within ICCD to which seven (7) of these FTEs would be redeployed to further improve service delivery; train, certify and monitor third party agents; and promote or market ICCD's services. The combined net result would be lower budget expenditures and increased attractiveness of federal incorporation which will, in turn, produce increased revenues for the Government.

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