CONSEIL DES FONDS D'INVESTISSEMENT DU QUÉBEC

La voix au Québec de l'Institut des fonds d'investissement du Canada

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ERIC HALLÉ
Chairman of the Board of Governors

October 4, 2021

BY EMAIL

Me Philippe Lebel
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Subject: CFIQ comments on CSA Position Paper 25–404, *New Self-Regulatory Organization Framework*

Dear Mr. Lebel,

The Conseil des fonds d'investissement du Québec (CFIQ) is presenting its comments on Canadian Securities Administrators (CSA) Position Paper 25-404, New Self-Regulatory Organization Framework (Paper).

The CFIQ is the Quebec voice of the Investment Funds Institute of Canada (IFIC), which is the voice of Canada's investment funds industry. IFIC brings together 150 organizations, including fund managers, distributors and industry service organizations, to foster a strong, stable investment sector where investors can realize their financial goals.

The CFIQ operates within a governance framework that gathers member contributions through working committees. The recommendations of the working committees are submitted to the committees of the CFIQ and IFIC and to the CFIQ board of governors. This process gives rise to a submission that reflects the contribution and orientation of a wide range of industry members.

Scope and structure of our comments

Our comments are intended to present specific issues for the investment fund industry in Quebec as part of the recognition by the Autorité des marchés financiers (AMF) of the new self-regulatory organization (new SRO) described in the Paper. The CFIQ thanks the AMF for the opportunity to comment on such an important project, which will significantly change the industry's oversight structure. The CFIQ encourages any initiative that facilitates investor services and clarifies industry expectations. This Paper involved a tremendous amount of work done by various stakeholders to promote our industry, and we applaud these efforts.

Given that the Paper was released in the summer with a very short consultation period of only 60 days, our comments cannot be as detailed as we would like. So we are raising some issues here that need to be thought through, and we would be happy to discuss them with you at the appropriate time. In addition, it is highly likely that we will identify other issues after the consultation period. Consequently, the comments in this letter do not potentially present a complete list of considerations necessary for the success of the new SRO in Quebec. We would appreciate an ongoing dialogue with the AMF on the comments presented in this letter as well as those that may be raised later.

Our comments are structured as follows:

I. Governance issues

II. Structural Issues

III. Regulatory issues

IV. Timeline for implementation

I. Governance issues

1. Adequate representation for Quebec

We submit that the board of directors of the new SRO should have adequate representation for Quebec. This is a simple and transparent way to ensure that Quebec's interests are protected in the guidance of the new SRO.

2. Composition of the board

Generally, the board should have representation that includes members from the financial sector with different types of business models and different types of ownership structures to ensure representation of firms of all sizes. We understand that the CSA wants a workable board size of no more than 15 directors. Efficiency is an important goal; so too is representation. The new SRO will bring together members from different registration categories, of different sizes and with business models from different regions across Canada with their share of local issues. With a requirement of a majority of independent directors, there would be no more than seven seats left for industry members. We do not see how this formula can fairly represent the various interests that are part of the Canadian and Quebec reality and that must essentially be taken into account. We therefore recommend that the CSA ensure an appropriate composition of the board and increase the number of seats.

3. Director term limits

We support the CSA's proposal that appropriate term limits be maintained for the board members of the new SRO. We would add that director terms should be non-renewable in order to allow for a healthy rotation among members and the arrival of new ideas in the work of the board. The board should have a staggered term expiry formula to ensure business continuity. In the CSA's determination of director term limits, we recommend that these term limits take into account the fact that directors will need a learning period.

4. Quebec industry participation in the IWC

We also recommend that the investment fund industry, including members from Quebec, be represented on the Integrated Working Committee (IWC) to provide on-the-ground expertise on future guidance. This will also make it easier for the CSA to have formulas that make sense and that can be reasonably implemented.

II. Structural Issues

1. French language services

The new SRO must ensure high quality service in French in all its divisions. This would facilitate communications for investors and industry members who wish to communicate in French.

2. Head office location

From a broader perspective, given that the CSA is creating a new organization, we recommend that Montreal be considered for the head office of the new SRO. Montreal has all the assets in terms of expertise and a pool of bilingual professionals to meet the needs of the new SRO.

In the event that the head office is not based in Quebec, it is essential to establish a strong section office for Quebec, similar to the current section office in Quebec of the Investment Industry Regulatory Organization of Canada (IIROC).

The head office or branch office in Quebec should have clearly defined responsibilities for regulating members and membership.

3. Clarification of the roles of the AMF, the CSF and the new SRO

We understand from the Paper that the new SRO will have jurisdiction in Quebec. With its implementation, Quebec will have three organizations that will oversee the mutual fund industry: the AMF, the Chambre de la sécurité financière (CSF) and the new SRO. It is essential for the AMF to clarify the respective roles of each of these organizations in order to avoid unintended consequences. The industry should be consulted before these clarifications are published in order to test their practical application. In addition, the CSF will need to adapt and coordinate its activities with those of the new SRO. The CSF will not be able to operate in a silo within its framework. A communication mechanism should be established between the CSF and the new SRO as part of the implementation of the new SRO.

We are also seeking clarification on the operation and interaction of this new SRO with the regulatory structure in place in Quebec. Given that the Mutual Fund Dealers Association of Canada (MFDA) does not have jurisdiction in Quebec, how will mutual fund representatives and dealers be supervised and overseen in this new environment? We also want to know the impact for certain dealers who have never interacted with IIROC or the MFDA. Will they be gradually integrated into this new environment?

4. Achieving beneficial effects in Quebec

The Paper states that the CSA has chosen to implement a new SRO to achieve outcomes such *as "eliminating duplicative costs and minimizing regulatory inefficiencies; reducing investor confusion.*" These are laudable goals. However, the industry has concerns about achieving these beneficial effects in Quebec. More specifically, our concerns are:

- The possibility of confusion among investors with a framework provided by three organizations (the AMF, the CSF and the new SRO)
- How can investors clearly know where to find out about their rights, the registrations of their dealers and their representative, and the complaint process?
- Potential for duplicative costs where representatives will be required to be a member and pay an annual fee to the CSF and to the new SRO
- If the AMF decides to maintain the Fonds d'indemnisation des services financiers (financial services compensation fund) (FISF) in addition to the protection fund of the new SRO, will Quebec mutual fund dealers have to contribute to two protection funds versus one for dealers elsewhere in Canada? Does this mean that it will cost more for a dealer registered in Quebec than for its registered counterparts elsewhere in Canada?

There are also concerns about how the implementation of the new SRO would be equitable for all types of registrants. Some dual-platform dealers who act as both mutual fund dealers and investment dealers could benefit from economies of scale (for example, merging compliance functions, consolidating within the same entity, merging platforms, etc.). For independent or regional mutual fund dealers, there is a risk of significant cost increases. For example, based on MFDA's current membership cost structure, membership costs would be significantly higher than current costs. There are also questions about the cost structure of the inspections of the new SRO and whether this could significantly increase for mutual fund dealers.

We should also point out that cost models based on the imposition of minimum fees hinder the entry of new players. Whatever cost structure is chosen, it should, among other things:

- Be adapted to the different business models
- Reduce the cost for the industry
- Enable healthy market competition

All these issues concerning investor and industry interests show the importance of including all stakeholders, including the industry, in the design of all facets of the new SRO and ensuring that it complements the functions of the AMF and the CSF. Ultimately, the implementation of the new SRO should result in a more effective and efficient system in Quebec than the one we have today. This will only be achieved with the active participation of Quebec stakeholders in the implementation of the new SRO.

III. Regulatory issues

1. Regulatory approach

We would appreciate more clarity on the approach that the CSA will provide for the application of the new SRO rules. We recommend that regulatory application be flexible and takes into account the business models and risk management put in place by dealers.

2. Alignment of rules with Quebec's reality

It is essential to ensure that the rules of the new SRO are aligned with the reality in Quebec, particularly civil law. The new SRO will need to recognize and explicitly comply with Quebec law as IIROC has done. The idea here is to avoid adopting rules that are incompatible with the laws of Quebec. We strongly recommend that the rules of the new SRO be drafted so as to be flexible enough to avoid exceptions for Quebec.

3. Consistent and fair application of the rules

The new SRO must also ensure consistent and fair application of the rules across Canada. This fairness should take into account members' business models. For example, dealers could manage their risks differently. Some might be stricter than others on certain issues and less strict on other matters, but at the end of the day, they all meet the regulatory requirements. For example, the MFDA has a mechanism that requires that any transaction over a certain amount be automatically reviewed by compliance. Some Quebec-only dealers have their own way of managing transaction risk that is better suited to their business model and reduces transaction times, while adhering to regulatory objectives. The specific means to achieve the regulatory objective should be left in the hands of the dealers as long as they meet the regulatory objectives. What is important is that the new SRO be consistent and ensure that clients are adequately protected despite the different business models.

This consistency and fairness should be maintained in all the services of the new SRO. For example, based on industry experience, different comments may be made to dealers during inspections on the same issue, which may lead to different application of the rules by dealers. It is essential that the regulatory interpretations issued by the new SRO be consistent across firms and Canada.

It is also possible that, as a result of exemptions granted to individual dealers, the rules will be applied differently in the long term for different dealers. The new SRO should have a mechanism in place to ensure that frequent exemptions are incorporated into the rules to ensure consistency and fairness.

4. Transitional regime

We understand that the CSA plans to implement the new SRO and then move forward with regulatory harmonization. We submit that, as of the effective date of the new SRO, mutual fund dealers operating only in Quebec should be able to continue their activities under the rules of the AMF (and not those of the MFDA) until the new SRO rules are finalized and formally adopted.

5. Areas of jurisdiction of the new SRO

The new SRO should <u>only</u> have jurisdiction in the securities sector provided in National Instrument 31–103 and should not interfere with other dealer registration categories such as life and health insurance or financial planning.

6. Title harmonization

With the creation of the new SRO, we feel it is timely for the CSA to finalize the project to harmonize titles used in the securities industry. The CSA has indicated in the past that this project will be part of Phase 2 of the Client Focused Reforms (CFRs). As Phase 1 of the CFRs will be fully implemented in December 2021, we recommend that the CSA address this important issue as soon as possible. This is all the more urgent, given that different provinces have passed legislation or are in consultation on titles used in the financial services field. This trend runs counter to the CSA's intention to harmonize titles across Canada.

7. Reform of registration categories

The Paper proposes on page 16 to "Consider proposing more nuanced proficiency-based registration categories to ensure consistent quality of standards for clients." If registration categories become more nuanced, it is important that investors clearly understand the service that the representative is offering them. Also, how does the CSA plan to define the registration categories for representatives? This would have a significant impact on the harmonization of titles mentioned above. This initiative would require a lot of thought.

8. Harmonizing directed commissions

We would like to thank the CSA for their focus on harmonizing directed commissions. This is a very important issue in Quebec that the CFIQ looked at very recently.

The history of commission sharing in Quebec is presented in Appendix 1.

With the passage of Bill 141, Quebec's Securities Act (SA) was amended[1] to allow, in particular, a mutual fund registrant to share his or her commissions with a firm registered under the Act respecting the distribution of financial products and services (ARDFPS). The government of the day was responding to a request from a number of industry stakeholders to restore a practice that had been going on for many years. The SA was amended accordingly and the AMF published its guidelines governing the practice.

However, in 2020 and 2021, Revenu Québec (RQ) issued notices of assessment to many representatives who had shared commissions, on the grounds that it did not recognize the validity of such sharing. This RQ position is contrary to the provisions of the SA. Another factor to consider is the RQ opinion issued in October 2018 (Interpretation Letter 18-043523-001 released on October 31, 2019 in Appendix 2).

These notices of assessment, sometimes for large amounts, threaten the very continuation of the professional activities of these representatives, who acted in good faith and within the parameters of the SA.

We held a clarification meeting with RQ on June 1, 2021 to bring the inconsistencies to their attention. In their view, the sharing of commissions by a mutual fund representative with an insurance firm is not valid since the firm did not provide the service. With respect to the interpretation letter 18-043523-001, which seemed to indicate that a sharing was possible if the proportion of the commissions corresponded to the level of service, RQ verbally clarified to CFIQ that the firm can receive fees from the representative but only after the representative has declared all of their commissions as personal income. These fees paid to the firm would be of the same nature as fees paid for other services.

It is clear from this meeting that a conflict exists between Revenu Québec's interpretation of the *Taxation Act* and the will of lawmakers when they passed Bill 141, which amended the SA.

Consequently, the benefit that lawmakers intended to give to mutual fund representatives by allowing commission sharing through an amendment to the SA is no longer a valid option.

We submit that the only comprehensive, effective, clear and predictable way to address this issue is to allow mutual fund representatives to incorporate their activities. The incorporation of representatives would have the great benefit of resolving, definitively and unequivocally, the problematic situation we are experiencing with the tax interpretation on commission sharing in Quebec. CIFQ members are anxious to provide meaningful industry participation on this matter.

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[1] http://www.legisquebec.gouv.qc.ca/en/pdf/cs/V-1.1.pdf Section 160.1.1

Quebec taxpayers deserve a predictable and reasonable environment. These are even essential criteria for the proper and prosperous conduct of business.

IV. Implementation timeline

The Paper states that once the corporate structure of the new SRO is finalized, the CSA will issue a public news release that will include an implementation schedule. We urge the CSA not to make overly hasty decisions and to establish timelines that include further consultation at each key stage of implementation. The establishment of such an important new organization will only happen once in a generation. We believe that it is useful, even necessary, to take appropriate time for the initial implementation of the new SRO in order to establish from the outset an optimal mode of operation to increase the chances of success of the new SRO and ensure its sustainability.

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Should you require any additional information, please do not hesitate to contact Kia Rassekh, Regional Director, CFIQ by email at krassekh@ific.ca or by telephone at 514-985-7025.

Yours truly,

Eric Hallé
Chair of the Board of Governors
CFIQ

Appendix 1: History of Commission Sharing in Quebec

In 1998, under the leadership of the then Minister of Finance, Bernard Landry, the Quebec National Assembly passed the *Act respecting the distribution of financial products and services*. The main idea behind this bill was to give Quebec a strong and forward-looking regulatory framework by combining various categories of registration under the same enabling legislation.

In doing so, licensed advisors in insurance, financial planning and mutual funds found themselves within the same regulatory framework, which allowed for commission sharing among registrants.

This made perfect sense since so many advisors hold more than one certification and are simultaneously registered in insurance, planning and mutual funds.

However, the federal government's desire to impose a single securities commission drove the provinces to hold discussions among themselves in order to maintain their jurisdiction at the turn of the 2000s. These discussions led to the passport system as we know it today and, in 2009, to the implementation of National Instrument 31–103, which shifted the regulation of mutual funds from the *Act respecting the distribution of financial products and services* (hereinafter the ARDFPS) to the *Securities Act* (hereinafter the SA).

This change, while somewhat logical, had the effect that the same professional with two licences would now be governed by two different laws.

It also had the effect of putting an end to the sharing of commissions generated by mutual funds with a firm registered under the ARDFPS, thus jeopardizing a practice that had been established in the industry for more than 10 years and had simplified the management of many firms and advisors' operations.

In practice, many mutual fund dealers continued to accept that representatives share commissions with a registered firm. An industry practice even took hold where, with a few exceptions, all dealers who accepted commission sharing remained within recognized standards, which were known and accepted by both the AMF and Revenu Québec. However, a memo from AMF staff published in January 2016[2] stated that sharing was prohibited.

In the 2016 budget speech, Quebec's finance minister at the time, Carlos Leitao, indicated that legislative amendments were planned to reinstate commission sharing. This came about with Bill 141.

[2] https://lautorite.qc.ca/fileadmin/lautorite/bulletin/2016/vol13no1/vol13no1_3-1.pdf

Unofficial translation to English

REVENU
QUÉBEC

Direction générale de la législation

Direction principale des lois sur les impôts

Memo

TO	**:**	*****
FROM	**:**	***** DIRECTION DE L'INTERPRÉTATION RELATIVE AUX ENTREPRISES
DATE	**:**	OCTOBER 5, 2018
RE	**:**	**COMMISSION SHARING – MUTUAL FUND DEALER REPRESENTATIVE** **OUR/REF.: 18-043523-001**

We are hereby responding to the interpretation request you sent us regarding the above-mentioned subject.

I- BACKGROUND

You are currently handling several commission-sharing files (through a firm duly registered as a mutual fund dealer with the Autorité des marchés financiers (the "AMF")) involving mutual fund dealer representatives. In this respect, you would like to obtain our comments regarding the potential tax implications from such commission sharing.

This request is submitted in the context where *An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions* (S.Q. 2018, c. 23), assented to on June 13, 2019, has just introduced various amendments to the *Securities Act* (CQLR, c. V-1.1), in particular with respect to commission sharing[1].

[1] The AMF is responsible for administering the *Securities Act* and the *Act respecting the distribution of financial products and services* (CQLR, c. D-9.2). Therefore, do not hesitate to contact an AMF representative to obtain more information on the enforcement of these acts.

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II- FACTS

There are currently many files with major tax implications related to the sharing of commissions involving mutual fund dealer representatives.

Subsequent to our conversations and the information and documents you sent us, our understanding of the main facts representing the most commonly encountered "typical situation" is as follows:

1. Mr. X is a representative in insurance of persons (individual) registered with the AMF and associated with firm X (corporation) of which he is the sole shareholder.

2. Firm X is registered with the AMF in the insurance of persons sector and operates a business that sells products related to the insurance of persons.

3. Mr. X is also registered with the AMF as a mutual fund dealer representative (individual).

4. Mr. X sells mutual fund products for firm Y (corporation), to which he is bound by contract, as a self-employed worker[2].

5. Mr. X is not a shareholder of firm Y.

6. Firm Y is registered as a mutual fund dealer with the AMF.

7. When Mr. X sells mutual fund products for firm Y, the latter receives a commission from a third party.

8. Firm Y shares the commission received from said third party by paying part of the commission to firm X (with Mr. X's consent), before paying the balance of the commission to Mr. X as a dealer.

[2] This opinion does not put into question the self-employed status of mutual fund dealer representatives in the situation being described.

III- QUESTIONS

With respect to the facts being presented, you would like to know the tax implications that may result from commission sharing involving a mutual fund dealer representative.

More specifically, your questions are:

A. Is the fact that commissions were shared between firm X and Mr. X (through firm Y), whether in compliance with the *Securities Act* and its regulations or not, sufficient for tax purposes to deduct this income from that of Mr. X?

B. Can Mr. X use firm X on an accounting basis to deduct from his personal income, through commission sharing, the revenue from the sale of mutual fund products?

C. Can the revenue from the sale of mutual fund products be considered a source of income for firm X?

D. Insofar as there is a sharing of commissions between firm X and Mr. X (through firm Y), does Revenu Québec have to agree to such sharing for tax purposes?

E. Between September 27, 2009 and July 13, 2018, since commission sharing was not permitted under the *Securities Act* and associated regulations, does revenue from the sale of mutual fund products as well as associated expenses had to be included for this period of time in computing the income or Mr. X?

F. In the event that there was a failure to keep records related to commission sharing provided under the *Securities Act* and associated regulations in connection with the sharing of a commission resulting from the sale of a mutual fund product, is this sufficient for said sharing to be refused for tax purposes?

IV- Interpretation

The facts, according to the information and documents that you sent us, are not precise enough to allow us to respond with certainty to your questions[3]. However, we can provide the following general comments below, which must, however, be adapted based on the facts specific to each case.

A. *Is the fact that commissions were shared between firm X and Mr. X (through firm Y), whether in compliance with the Securities Act and its regulations or not, sufficient for tax purposes to deduct this income from that of Mr. X?*

Commission sharing between firm X and Mr. X (through firm Y), whether in compliance or not with the *Securities Act* and associated regulations, is not sufficient to deduct the portion of income allocated to firm X from that of the mutual fund dealer representative (Mr. X).

In this respect, although the *Securities Act* and associated regulations do not appear to require a reason for commission sharing, it is necessary to justify the appropriateness of the transaction between the mutual fund dealer representative (who is in fact entitled to income for services rendered), the firm through which the income is transiting and the other person authorized to receive the commission for such sharing to be recognized under applicable tax rules[4].

[3] We are unable to make any specific comments regarding a particular situation since we do not have all of the necessary information, including the contractual relations between the various persons involved.

[4] For instance, an agreement stipulating that clients will be referred by firm X to Mr. X in consideration for part of the revenue generated by the sale of various products to said clients, may constitute a valid reason for sharing for tax purposes.

Insofar as there is no valid reason for sharing commissions between firm X and Mr. X (through firm Y), said commissions must normally be included in the income of the mutual fund dealer representative (Mr. X), in accordance with sections 80, 87 and 314[5] of the *Taxation Act* (CQLR, c. I-3).

Lastly, it should be mentioned that the *Taxation Act* does not include any rules on the validity of commission sharing or particular limits for such sharing. Therefore, in the event that a mutual fund dealer representative shares his commission with another person (through a firm), the main concern of the *Taxation Act* is not so much to determine whether such sharing is valid as to determine whether it corresponds to compensation earned by said other person for services which the latter actually provided.

B. *Can Mr. X use firm X on an accounting basis to deduct from his personal income, through commission sharing, the revenue from the sale of mutual fund products?*

Based on our understanding of the facts submitted, the mutual fund dealer representative is the one who is entitled to the income for services provided in relation to the sale of mutual fund products and not firm X. Hence, the comments made regarding Question A apply to potential commission sharing between firm X and Mr. X (through firm Y).

[5] Section 314 of the *Taxation Act* basically intends to prevent a taxpayer from avoiding to pay taxes by paying income which said taxpayer would have otherwise received to a third party. *McClurg* v. *Canada*, [1990] 3 R.C.S. 1020 and *Neuman* v. *M.R.N.*, [1998] 1 R.C.S. 770, par. 32.
Moreover, Section 316 of the *Taxation Act* could also be applied in lieu of Section 314 of said Act in certain cases. This section is an anti-avoidance provision dealing with the indirect receipt of income in situations where a taxpayer transfers or assigns entitlement to income to a non-arm's length third party. For an application example, see: *Boutilier* v. *R.*, [2007] TCC 96 (Tax Court of Canada [General Procedure]).

[6] See: *Hamel* v. *Québec (Sous-ministre du Revenu)*, [2009] QCCQ 5791. Appealed on other matters in 2010 QCCA 1094; *Chevrette* c. *Québec (Sous-ministre du Revenu)*, 500-32-053348-001 (August 13, 2001), Cour du Québec [Petites créances]; *Goldblatt* v. *Minister of National Revenue*, 64 DTC 5118 (Exchequer Court); *Adams* v. *Minister of National Revenue*, 1960 CarswellNat 116 (Tax Appeal Board) and CRA, Interpretation Bulletin2001-0116385, "Commission Sharing" (August 14, 2002).

...6

Moreover, it should be pointed out that a mutual fund dealer representative may receive, in the operation of his business, various services from a corporation of which he is the sole shareholder and director.

Therefore, insofar as services are actually provided by said corporation to the mutual fund dealer representative, reasonable fees can be paid to the corporation. Said fees can be deducted in computing the mutual fund dealer representative's income only to the extent that they are made to earn an income from said business and are reasonable under the circumstances,
in accordance with sections 80, 128 and 420 of the *Taxation Act*[7].

C. *Can the revenue from the sale of mutual fund products be considered a source of income for firm X?*

The identification of the person operating a business is a question of mixed fact and law which must be answered in order to determine who must pay taxes on the income generated by a business during its operation. To do so, a multitude of elements and criteria must be considered.

In this respect, we refer you to interpretation letter 15-026918-001[8], which amply deals with this issue.

D. *Insofar as there is a sharing of commissions between firm X and Mr. X (through firm Y), does Revenu Québec have to agree to such sharing for tax purposes?*

The comments made in relation to Question A apply here as well.

E. *Between September 27, 2009 and July 13, 2018, since commission sharing was not permitted under the Securities Act and associated regulations, does revenue from the sale of mutual fund products as well as associated expenses had to be included for this period of time in computing the income or Mr. X?*

[7] See in particular: *Welch* v. *R.*, 2010 CCI 449, par. 51 to 53 conf. by 2011 FCA 330; *Trudel-Leblanc* c. *R.*, 2003 CCI 7, par. 18, 23, 42. conf. by 2004 CAF 115; *Bessette* c. *ARQ*, 2014 QCCQ 4329, par. 28.

[8] Revenu Québec, Interpretation Letter 15-026918-001 "*Revenus d'un représentant en assurance de personnes transférés dans une société*," July 21, 2016.

As previously stated, the *Taxation Act* does not include any rules on the validity of commission sharing or particular limits for such sharing.

Hence, in the event that a mutual fund dealer representative shares his commission with another person (through a firm), the main concern of the *Taxation Act* is not so much to determine whether such sharing is valid than to determine whether it corresponds to compensation earned by said other person for services that the person actually provided.

Moreover, the person operating a business is the one who must usually pay taxes on the revenues generated by said business. Likewise, this same person is the one that can generally deduct expenses that were incurred during the year in relation with the operation of said business under the meaning of Sections 80, 128 and 420 of the *Taxation Act*, among others.

In this respect, we refer you to Interpretation Letter 18-041555-001[9], which specifically covers this issue.

F. *<u>In the event that there was a failure to keep records related to commission sharing provided under the Securities Act and associated regulations in connection with the sharing of a commission resulting from the sale of a mutual fund product, is this sufficient for said sharing to be refused for tax purposes?</u>*

Failure to keep records on commission sharing required under the *Securities Act* and associated regulations in connection with the sale of a mutual fund product should not be the sole reason for the refusal of such sharing for tax purposes insofar as the taxpayer is able to prove that commission sharing actually took place and that the taxpayer is justified under applicable tax rules.

[9] Revenu Québec, Interpretation Letter 18-041555-001 – *Conséquences fiscales liées à l'attribution des revenus générés par l'exploitation d'une entreprise de vente de produits financiers d'un contribuable à un autre*, July 3, 2018.