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Major reform of the Companies Act

Québec, October 7, 2009 – “A modern and simplified statute that will provide minority shareholders with better protection. That is what we are proposing today to offer Québec companies the most attractive and most competitive legislative framework in Canada,” the Minister of Finance, Raymond Bachand, said while tabling Bill 63, Business Corporations Act. The Minister pointed out that more than 300 000 businesses in Québec are covered by the bill, virtually all of which are SMEs.

The bill is designed to equip Québec with one of the most modern pieces of legislation in terms of corporation law by replacing parts I and IA of the Companies Act. Minister Bachand noted the importance and the necessity of reforming the legislative framework applicable to Québec businesses. “The Companies Act has not been updated in a significant way since 1981. Passing this bill will enable us not only to catch up, but to make Québec a leader in terms of the legislative framework of businesses,” Minister Bachand said.

Shareholder protection

One of the main aspects of the bill concerns protection of minority shareholders. Under the proposed provisions, they will have new remedies in the event of abuse or iniquity. Shareholders will also have the possibility of tabling a shareholder proposal at company meetings. Lastly, if the bill is passed, a minority shareholder who disagrees with a major change made to the structure or the activities of the corporation will be able to demand that his shares be repurchased.

“Balance between the interests of controlling shareholders, on the one hand, and protection of the interests of minority shareholders, on the other, had to be reviewed,” the Minister observed. Moreover, to limit excesses, only the board of directors will be responsible for setting the remuneration of senior officers.

Administrative streamlining

A substantial reduction in the administrative burden on businesses is a central objective of this bill. Accordingly, the excessive number of administrative formalities are giving way to flexible and simplified rules. To that end, the operation of the unanimous shareholder agreement, frequently used by SMEs, has been clarified. In addition, the bill exempts the single shareholder from certain formalities, in particular the obligation to hold an annual meeting.

According to the Minister, the many streamlining initiatives proposed will do more to satisfy the needs of Québec businesses, which should encourage them to incorporate under Québec law rather than under federal law, which is less suitable for SMEs.

Modernization

The bill is also designed to enable entrepreneurs and shareholders to make use of the possibilities offered by new technologies. Accordingly, the proposed new framework will authorize remote voting and participation in meetings of directors or shareholders, by means of new technologies. In addition, many administrative transactions will now be carried out online with the enterprise registrar, once its new electronic platform is up and running.

Consultation

Broad consultation, initiated in December 2007, preceded the tabling of the bill and provided an opportunity to collect comments from many groups and organizations. Twenty-five briefs were received from professional orders, law firms, organizations dedicated to the protection of shareholder rights, business groups and university professors. An expert panel also advised the department of the many issues at stake.

“By launching the consultation on the reform of the Companies Act, our intention was to make this statute a modern tool for economic development. The bill tabled today is consistent with that intent and I am convinced that it will meet the many expectations of the business community,” Minister Bachand concluded.

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