From: Maurice Forget [mailto:mforget@fasken.com]
Sent: Friday, August 30, 2013 5:26 PM
To: Aubin, Henry (Montreal Gazette)
Subject: "Securities Act Marginalizes Quebec"

Dear Mr. Aubin – I hope your friend "John" is more knowledgeable about his own business than he is as an investor. Because he should know that Quebec investors may buy and hold whatever securities they wish, from anywhere in the world, including Ontario. This is true even if the issuer has not qualified those securities in Quebec by filing a prospectus here. Purchases are made perfectly legally thousands of times each day: Quebec investors instruct their brokers to buy and hold the securities they want of US, European or Asian issuers, most of whom have never considered filing a prospectus in Quebec (or in Canada, for that matter). That rule applies even to real estate trusts from Mississauga. This is how investors here put together balanced portfolios of international securities, given the rather narrow selection of investments offered in Canada. What cannot be done legally in the absence of a prospectus filed in Québec, is to sell or offer to sell the securities in question in this province. As a result, some feel that Quebecers are unfairly deprived of the ability to purchase "hot" new issues at what are seen as "ground floor" new issue prices. It also means that when John resells his shares because they fail to produce the anticipated 8.5% dividends, he must do so on a market outside Quebec. None of this is terribly burdensome, it should be stressed, in this era of international news coverage of new issues, electronic trades, certificate-free holding and trading, and global market intermediaries. The proof is that John found out about his "sure bet" without any assistance from his broker. Obviously, those who purchase securities in other markets do not receive the protection afforded by the Quebec Securities Act, but that is not fatal: foreign securities markets, in many cases at least as sophisticated as our own, provide legal recourses to all investors, as do our own to foreigners who invest in Canadian securities..

In fact, the rule that prospectuses must be available in French in Quebec flows from Bill 101, enacted almost 40 years ago. By law, prospectuses represent a key element of the contract between the investor and the issuer or seller of a security. Because they are not negotiated between those parties, prospectuses are treated as "form" contracts, like car rental agreements. If in the requirement that form contracts used in Quebec be available in French, you see evidence of Quebec marginalizing itself, you are questioning what others have long seen as a valid political and social choice for which the positive consequences (purchaser comprehension and protection) outweigh any disadvantages. I am amazed that anyone could advocate a francophone entering into a contract on the basis of summary terms in French, or oral advice from someone who understands English (!). As stated at the outset, Quebecers' investment choices are not curtailed and the securities industry has long since adapted to the translation requirements. That the costs and perceived inconveniences flowing from various legal rules mandating the compulsory use of French are raised from time is only healthy in a democracy, but current concerns are not prompted by any new developments and do not justify a change in the rules. The statistic you quote, that over 50% of new offerings in Canada are purportedly bypassing Quebec, is highly misleading, since most of the offerings avoiding Quebec are those of small mining companies and tax-driven entities, which represent a sizable number of offerings, but a very small portion of the total amount raised in Canada. In fact only 8% in value of all securities offered in Canada are NOT offered in Quebec.

So, no great unfairness, no cataclysmic situation – except in John's ill-informed view, as now propagated by you. Perhaps it would be worthwhile to reconsider your position. And to tell John that he can go ahead with his purchase and hope that those 8.5% dividends materialize.

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