

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 00 **394**, Approved and Ordered **JUN - 6 2008**



~~Lieutenant Governor~~
Administrator

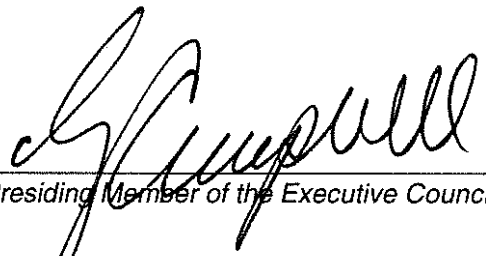
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ~~Lieutenant Governor~~ ^{Administrator}, by and with the advice and consent of the Executive Council, orders that the International Financial Activity Regulation, B.C. Reg. 327/2004, is amended as set out in the Schedule, and that

- (a) section 2 of the Schedule is effective February 20, 2008,
- (b) section 3 of the Schedule is effective September 1, 2004, and
- (c) section 4 of the Schedule is effective January 1, 2006.



Minister of Finance



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- International Financial Activity Act, S.B.C. 2004, c. 49, ss. 1, 2, 19 and 65

Other (specify):- OIC 704/2004

May 8, 2008

R/456/2008/12

SCHEDULE

I Section 1 of the International Financial Activity Regulation, B.C. Reg. 327/2004 is repealed and the following substituted:

Definitions

1 In this regulation:

“**Act**” means the *International Financial Activity Act*;

“**active business**” has the same meaning as in section 248 (1) of the federal Act;

“**salary and wages**” does not include remuneration that is the following:

- (a) profits;
- (b) bonuses;
- (c) amounts described in section 6 or 7 of the federal Act;
- (d) amounts deemed to be incurred under section 78 (4) of the federal Act.

Definition of qualifying business

1.1 (1) In the Act, “**qualifying business**”, in relation to a corporation, means

- (a) an active business carried on by the corporation,
- (b) a business carried on by the corporation
 - (i) that is separate from another business that is an active business carried on by the corporation,
 - (ii) for which the income or loss of the business is principally income or loss from a source that is property, and
 - (iii) for which the income or loss of the business does not include the income or loss from any source that is property that
 - (A) is incident to the active business carried on by the corporation,
or
 - (B) is used or held principally for the purpose of gaining or producing income from the active business carried on by the corporation, or
- (c) a business carried on by the corporation if that corporation
 - (i) is affiliated with or not dealing at arm’s length with another corporation that carries on an active business,
 - (ii) at the particular time for the purposes of this Act, has capital employed in British Columbia in an amount equal to or greater than \$10 000 000, and
 - (iii) for the particular taxation year, paid salary and wages to employees of the corporation employed in the active conduct of the business in British Columbia in an amount equal to or greater than
 - (A) \$300 000, or
 - (B) if the taxation year is less than 365 days, the amount that is that proportion of \$300 000 that the number of days in the taxation year bears to 365.

- (2) For the purposes of the definition of “qualifying business”, the amount of capital employed in British Columbia is the amount calculated by the following formula:

$$\text{amount} = \text{total capital} \times \left(\frac{\text{BC taxable income}}{\text{federal taxable income}} \right)$$

where

- total capital = the total capital stock of the corporation;
- BC taxable income = the corporation’s taxable income earned in the year in British Columbia, as defined in section 13.3 [definitions – corporation income tax] of the *Income Tax Act*, for the taxation year;
- federal taxable income = the corporation’s taxable income, as defined in section 248 (1) of the federal Act, for the taxation year.

2 Section 4 (2) is repealed and the following substituted:

- (2) In subsection (2.1), “**debt securities**” and “**derivatives**” have the same meaning as in the Handbook of The Canadian Institute of Chartered Accountants, as it read on February 19, 2008.
- (2.1) For the purposes of section 2 (2) (g) (ii) of the Act, prescribed securities are short term debt securities other than derivatives.

3 The following section is added:

Foreign currency transaction

- 6** For the purposes of paragraph (b) of the description of “IFB income” in section 19 (1) of the Act, a prescribed foreign currency agreement is an agreement that
- (a) provides for the purchase, sale or exchange of currency by the international financial business, and
 - (b) can reasonably be considered to have been made by the international financial business of the corporation to reduce its risk of fluctuations in the value of the currency in which an amount is denominated, if the amount is an asset or liability of the international financial business and is incident to an international financial activity referred to in that section.

4 Section 6 is amended

- (a) *by adding “and (1.1)” after “section 19 (1)”, and*
- (b) *in paragraph (b) by striking out “that section” and substituting “the applicable section”.*