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**2**

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**Summary**

Table of Contents  
Regulations and other Acts  
Draft Regulations  
Index

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### Contents

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## Table of Contents

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Page

---

### Regulations and other Acts

---

Application of sections 40.15 to 40.17 of the Deposit Institutions and Deposit Protection Act to protected financial contracts and their transfer . . . . .	433
Classes of negotiable and transferable unsecured debts and the issuance of such debts and of shares . . . . .	437
Indemnification plan applicable pursuant to certain resolution operations . . . . .	429

---

### Draft Regulations

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Collective agreement decrees, An Act respecting... — Building service employees – Montréal . . . . .	441
Collective agreement decrees, An Act respecting... — Non-structural metalwork industry . . . . .	442



## Regulations and other Acts

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M.O., 2019-01

**Order number A-26-2019-01 of the Minister of Finance, March 7, 2019**

Deposit Insurance Act  
(chapter A-26)

CONCERNING Regulation respecting the indemnification plan applicable pursuant to certain resolution operations

WHEREAS that the first paragraph of section 40.51 of the Deposit Insurance Act (chapter A-26) provide the *Autorité des marchés financiers* must prescribe an indemnification plan by regulation and determine the holders of securities issued by deposit institutions belonging to the cooperative group and the creditors of those institutions that are eligible for the plan;

WHEREAS subparagraph s.3 of section 43 of such Act provide that the *Autorité des marchés financiers* may make regulations concerning the matters referred to in these subparagraph;

WHEREAS that the first paragraph of section 45 of such Act provide that a regulation made by the *Autorité des marchés financiers* is subject to the approval, with or without amendment, of the Minister of Finance;

WHEREAS that the third paragraph of this section stipulate that a draft regulation may not be submitted for approval or be made before 30 days have elapsed since the publication of the draft in the *Bulletin de l'Autorité des marchés financiers*, that it enters into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified therein and that sections 4, 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to the regulation;

WHEREAS the draft Regulation respecting the indemnification plan applicable pursuant to certain resolution operations was published in the *Bulletin de l'Autorité des marchés financiers*, volume 15, no. 42 of October 25, 2018;

WHEREAS on February 12, 2019, by the decision no. 2019-PDG-0013, the *Autorité des marchés financiers* made Regulation respecting the indemnification plan applicable pursuant to certain resolution operations;

WHEREAS there is cause to approve this regulation with amendments to correct some errors in writing;

CONSEQUENTLY, the Minister of Finance approves with amendments Regulation respecting the indemnification plan applicable pursuant to certain resolution operations appended hereto.

March 7, 2019

ERIC GIRARD,  
*Minister of Finance*

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### **Regulation respecting the indemnification plan applicable pursuant to certain resolution operations**

Deposit Insurance Act  
(chapter A-26, ss. 40.51 and 43, par. s.3)

#### **CHAPTER I** **DEFINITIONS**

**I.** In this Regulation:

“intermediary” means any person that, in the ordinary course of its business, holds or owns shares or liabilities on behalf of another person, other than trusts, partnerships and administrators or managers of pension funds, mutual funds, investment funds, development capital investment funds or similar investment entities;

“liability” means a negotiable and transferable unsecured debt, a subordinated debt obligation or a debt of at least \$100 that, immediately before the resolution operations under section 40.12 of the Deposit Institutions and Deposit Protection Act (chapter A-26), is owed by an authorized deposit institution belonging to a cooperative group and excludes any claim against the institution if:

(1) the value of the debt is too uncertain to be provable in a winding-up proceeding; or

(2) the debt is for a monetary loss resulting from the ownership, purchase or sale of contributed capital securities of the institution belonging to a cooperative group or from the annulment of a purchase or sale of contributed capital securities of the institution, or for a contribution or indemnity in respect of the claim;

“share” means any share of the capital stock issued by an authorized deposit institution belonging to a cooperative group;

“subordinated debt” means a debt owed by an authorized deposit institution belonging to a cooperative group that, by the terms of any instrument evidencing the debt, will, in the event of the insolvency or winding-up of the institution, be subordinate in right of payment to all deposit liabilities of the institution and all other liabilities of the institution except those that, by their terms, rank equally with or are subordinate to that debt.

## CHAPTER II ELIGIBLE PERSON

**2.** For the purposes of this Regulation, an eligible person is any person that, immediately before the resolution board orders the implementation of the resolution operations under section 40.12 of the Deposit Institutions and Deposit Protection Act (chapter A-26), holds, directly or through an intermediary, any of the following issued by an authorized deposit institution belonging to a cooperative group:

- (1) shares;
- (2) negotiable and transferable unsecured debts that, after the making of the order of the resolution board, have been converted in whole or in part into contributed capital securities in accordance with the second paragraph of section 40.50 of said Act or in accordance with their contractual terms or have been written off in accordance with said paragraph;
- (3) subordinated debt obligations, if, after the making of the order of the resolution board, the Authority decides to order their transfer in its favour, in favour of the bridge institution or in favour of the asset management company in accordance with the first paragraph of section 40.49 of said Act;
- (4) liabilities, if, after the making of the order of the resolution board, the authorized deposit institution belonging to a cooperative group or the cooperative group is wound up or amalgamated/wound up before the closing of the resolution operations, other than liabilities that are assumed by a bridge institution or transferred to a third party acquirer;
- (5) liabilities that, after the making of the order of the resolution board, are assumed by a bridge institution or transferred to an asset management company that, before the closing of the resolution operations, is wound up, other than liabilities that, after being assumed by the bridge institution or transferred to the asset management company, are transferred to a third party acquirer.

**3.** An eligible person referred to in section 2 includes the person’s successor in interest but does not include an assignee of rights.

**4.** An eligible person referred to in section 2 does not include:

- (1) a person that with respect to any liability receives payment in full of the amounts owing in accordance with the liability’s contractual terms; or
- (2) a person that, immediately before the order of the resolution board is made, holds shares or liabilities solely as an intermediary.

**5.** For the purposes of this Regulation, shares and liabilities of an authorized deposit institution belonging to a cooperative group are of the same class if:

- (1) in the event of a winding-up or an amalgamation/winding-up of the institution, they rank equally in right of payment; and
- (2) following an order of the resolution board, they receive treatment that is substantially equivalent as a result of the order of the resolution board or the implementation of the resolution operations or in accordance with their contractual terms, having regard to the manner in which their resolution value is estimated.

## CHAPTER III INDEMNITY

**6.** The Authority must determine the amount of the indemnity to which an eligible person is entitled and, for such purpose, estimate the liquidation value and resolution value of the eligible person’s shares or liabilities that are referred to in section 2.

**7.** The liquidation value of a share or liability is the estimated value that the eligible person would have received in respect of the share or liability if, immediately before the order of the resolution board, the authorized deposit institution belonging to a cooperative group or the cooperative group had been wound up in accordance with legislation applicable to the winding-up of insolvent companies or legal persons.

Moreover, the estimate is to be made as if no order of the resolution board has been made in respect of the authorized deposit institution belonging to a cooperative group or the cooperative group and without taking into consideration any assistance, financial or other, that is or may be provided to the institution or the cooperative group, directly or indirectly, by the Authority or by a government in Canada or any of its departments or agencies after the order of the resolution board to wind up the authorized deposit institution belonging to a cooperative group or the cooperative group has been made.

**8.** The resolution value of a share or liability is the total of the estimated value of the following:

(1) the share or liability, if it is not held by the Authority and it was not converted, after the making of the order of the resolution board, into contributed capital securities in accordance with its contractual terms or after the powers set out in section 40.50 of the Deposit Institutions and Deposit Protection Act (chapter A-26) are exercised;

(2) the contributed capital securities that, after the making of the order of the resolution board, are the result of the conversion of the share or liability carried out in accordance with their contractual terms or obtained after the powers set out in section 40.50 of said Act are exercised;

(3) any dividend or interest payments made with respect to the share, liability or contributed capital securities, after the making of the order of the resolution board, to any person other than the Authority; and

(4) any other cash, securities or other rights that are received or are to be received with respect to the share, the liability or the contributed capital security as a direct or indirect result of the making of the order of the resolution board or the implementation of the resolution operations, including cash, securities or other rights received or to be received from any of the following:

(a) the Authority or the authorized deposit institution belonging to a cooperative group;

(b) the liquidator of the authorized deposit institution belonging to a cooperative group, the liquidator of a cooperative group, an asset management company or a bridge institution, in the event of the winding-up or amalgamation/winding-up of any thereof.

**9.** The amount of the indemnity to which an eligible person is entitled with respect to each share or liability is determined by the formula:

$$A - B - C$$

where:

**A** is the estimated liquidation value;

**B** is the estimated resolution value; and

**C** is

(1) if the share or liability is converted into contributed capital securities in accordance with its contractual terms, an amount equal to an estimate of losses attributable to that conversion; or

(2) in any other case, zero.

For the purposes of the first paragraph, the Authority must consider the difference between the estimated date on which the liquidation value would be received and the estimated date on which the resolution value is, or would be, received.

An eligible person does not receive any indemnity if the amount of the indemnity determined under this section is zero or a negative value.

**10.** In determining the amount of the indemnity to which an eligible person is entitled under this chapter, the following must not be considered:

(1) any shares or other rights that a third party receives or retains as a result of an order of the resolution board; and

(2) the contributed capital securities that a third party receives as a result of the conversion of shares or liabilities in accordance with their contractual terms.

**11.** Every offer of an indemnity in respect of the shares or liabilities of an authorized deposit institution belonging to a cooperative group or the cooperative group that are of the same class must be calculated using the same indemnity amount per series of shares or, in the case of liabilities, per dollar of principal and accrued and unpaid interest, as the case may be.

#### CHAPTER IV OFFER OF AN INDEMNITY, DECISION AND POWERS OF THE AUTORITÉ DES MARCHÉS FINANCIERS

**12.** The Authority must give each eligible person a notice stating whether the eligible person is entitled to an indemnity or not and, if so, the amount of the indemnity.

For the purposes of the first paragraph, the notice must be given within a reasonable period of time after one of the following dates, as applicable:

(1) with respect to shares, unsecured debts and subordinated debt obligations referred to in paragraphs 1 to 3 of section 2, the earlier of the date of the closing of the resolution operations set out in section 40.53 of the Deposit Institutions and Deposit Protection Act (chapter A-26) or the date on which the decision is made to wind up or amalgamate/wind up an authorized deposit institution belonging to a cooperative group;

(2) with respect to the liabilities referred to in paragraphs 4 and 5 of section 2, the date on which the decision is made to wind up or amalgamate/wind up the authorized deposit institution belonging to a cooperative group or the cooperative group, or to wind up the bridge institution or the asset management company.

**13.** The notice referred to in section 12 must:

(1) state that the resolution board has ordered the implementation of the resolution operations in accordance with section 40.12 of the Deposit Institutions and Deposit Protection Act (chapter A-26);

(2) set out a description of the effects of the resolution board's order, including a summary of the effects referred to in sections 40.14 to 40.24 of said Act, as well as the indemnification rule set out in the second paragraph of section 40.51 of said Act;

(3) state that the eligible person has the right to apply for a review of the Authority's decision, in accordance with the first paragraph of section 17, and must exercise that right within 45 days, in accordance with the second paragraph of said section; and

(4) state that, if the eligible person referred to in the notice does not notify the Authority of their acceptance of the offer of an indemnity or if, where the eligible person objects to the offer or is not offered any indemnity, the eligible person does not present their observations within the 45-day period set out in the second paragraph of section 17, the eligible person will receive the indemnity offered or will receive no indemnity, as the case may be, and will not be permitted to apply for a review of the Authority's decision set out in the notice.

**14.** A summary of the notices given pursuant to section 12 must be published in the Bulletin of the Authority and on the website of an authorized deposit institution belonging to a cooperative group.

**15.** A person who believes that they are an eligible person but has not received the notice provided for in section 12 may apply to the Authority for a ruling on their eligibility and the amount of the indemnity, if any, to which they would be entitled.

The application must be sent to the Authority within 60 days of the date of publication of the summary referred to in section 14.

**16.** The Authority must send the applicant its written decision regarding the application sent under section 15.

In addition, if the Authority rules that the applicant is an eligible person, the decision must include the notice referred to in section 12.

**17.** An eligible person who receives the notice referred to in section 12 or the decision referred to in the first paragraph of section 16 may apply, under section 35.1 of the Act respecting the regulation of the financial sector (chapter E-6.1), for a review of the Authority's decision regarding the entitlement to an indemnity or the amount thereof.

The eligible person must present their observations to the Authority within 45 days of the date of publication of the summary referred to in section 14 or within 45 days of receipt of the documents referred to in section 16, as the case may be.

An eligible person who does not notify the Authority or present their observations within the prescribed period may not apply for a review of the Authority's decision set out in the notice.

## CHAPTER V REVIEW AND PAYMENT OF THE INDEMNITY

**18.** The review of a decision of the Authority in the situations referred to in section 17 must be delegated by the Authority's President and Chief Executive Officer, under section 24 of the Act respecting the regulation of the financial sector (chapter E-6.1), to a person other than a superintendent or a staff member of the Authority.

The person to whom the functions and powers are delegated must be impartial, have knowledge of the applicable legislation and have 10 years' relevant experience in the performance of such functions.

The President and Chief Executive Officer, when designating a person to whom to delegate the functions and powers, must consider the following criteria in determining the person's ability to perform the functions and exercise the powers:

- (1) the person's personal and intellectual qualities;
- (2) the person's experience and the relevance of the experience to the performance or exercise of the designated functions and powers;
- (3) the extent of the person's knowledge and skill;
- (4) the person's judgment, open-mindedness, insight, level-headedness, decision-making abilities and quality of expression; and
- (5) the person's conception of the functions and powers that would be delegated to them.

A person designated in accordance with this section is, for the purposes of this Regulation, called an "assessor".

**19.** Within 45 days of the designation of an assessor, the Authority must provide a notice of the designation to each eligible person who has applied for a review of a decision of the Authority in the situations referred to in section 17.



**20.** The review decision must be written in clear and concise terms, set out the reasons for the decision and be notified to the eligible person who applied for the review. It must also:

(1) state the amount that the assessor deems to correspond to the indemnity to which the eligible person is entitled; and

(2) state that the Authority is required to pay the indemnity within 90 days of the date of the review decision, except if the amount of the indemnity continues to be contested.

The assessor must provide the Authority with a copy of any decision sent pursuant to the first paragraph.

**21.** The Authority must pay to the eligible person the indemnity to which they are entitled within the following period of time:

(1) where the notice set out in section 12 is sent to an eligible person, within 90 days of the date of the notice; and

(2) in all other cases, within 135 days of the date on which the summary referred to in section 14 is published in the Bulletin of the Authority.

However, where a person applies for a review of a decision of the Authority in respect of the amount of the indemnity, the indemnity must not be paid until the amount ceases to be contested.

## CHAPTER VI TRANSITIONAL AND FINAL PROVISIONS

**22.** This Regulation is to be read, between the date it comes into force and 12 June 2019, by replacing:

(1) “Deposit Institutions and Deposit Protection Act” wherever it appears by “Deposit Insurance Act”; and

(2) “authorized deposit institution” and “authorized deposit institutions” wherever they appear by, respectively, “registered institution” and “registered institutions”.

**23.** This Regulation comes into force on 31 March 2019.

103852

## M.O., 2019-02

### Order number A-26-2019-02 of the Minister of Finance, March 7, 2019

Deposit Insurance Act  
(chapter A-26)

CONCERNING Regulation respecting the application of sections 40.15 to 40.17 of the Deposit Institutions and Deposit Protection Act to protected financial contracts and their transfer

WHEREAS that section 40.22 of the Deposit Insurance Act (chapter A-26) provide that a regulation of the *Autorité des marchés financiers* is to specify how sections 40.15 to 40.18 are to apply to the financial contracts the *Autorité des marchés financiers* determines by regulation;

WHEREAS subparagraphs *s.1* and *u* of section 43 of such Act provide that the *Autorité des marchés financiers* may make regulations concerning the matters referred to in those subparagraphs;

WHEREAS that the first paragraph of section 45 of such Act provide that a regulation made by the *Autorité des marchés financiers* is subject to the approval, with or without amendment, of the Minister of Finance;

WHEREAS that the third paragraph of this section stipulate that a draft regulation may not be submitted for approval or be made before 30 days have elapsed since the publication of the draft in the *Bulletin de l’Autorité des marchés financiers*, that it enters into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified therein and that sections 4, 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to the regulation;

WHEREAS the draft Regulation respecting the application of sections 40.15 to 40.17 of the Deposit Institutions and Deposit Protection Act to protected financial contracts and their transfer was published in the *Bulletin de l’Autorité des marchés financiers*, volume 15, no. 42 of October 25, 2018;

WHEREAS on February 12, 2019, by the decision no. 2019-PDG-0014, the *Autorité des marchés financiers* made Regulation respecting the application of sections 40.15 to 40.17 of the Deposit Institutions and Deposit Protection Act to protected financial contracts and their transfer;

WHEREAS there is cause to approve this regulation without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment Regulation respecting the application of sections 40.15 to 40.17 of the Deposit Institutions and Deposit Protection Act to protected financial contracts and their transfer appended hereto.

March 7, 2019

ERIC GIRARD,  
*Minister of Finance*

## **Regulation respecting the application of sections 40.15 to 40.17 of the Deposit Institutions and Deposit Protection Act to protected financial contracts and their transfer**

Deposit Insurance Act  
(chapter A-26, ss. 40.22 and 43, pars. s.1 and u)

### **CHAPTER I FINANCIAL GUARANTEES AND PROTECTED FINANCIAL CONTRACTS**

**1.** For the purposes of this Regulation, a “financial guarantee” means any of the following, when it is charged with a security interest securing payment of an amount or performance of an obligation in respect of a protected financial contract or when it is subject to a title transfer credit support agreement:

(1) a monetary claim within the meaning of the second paragraph of article 2713.1 of the Civil Code, cash or a cash equivalent, including a negotiable instrument and a demand deposit;

(2) a security, a securities account, a securities entitlement or a right to acquire securities;

(3) a futures contract or a futures account; or

(4) a right to payment or delivery against a clearing house within the meaning of section 2 of the Payment Clearing and Settlement Act (Statutes of Canada, 1996, chapter 6).

For the purposes of the first paragraph, a title transfer credit support agreement means an agreement under which title to property has been provided for the purpose of securing payment of an amount or performance of an obligation in respect of a protected financial contract.

**2.** The following are protected financial contracts:

(1) a derivative that is settled by payment or delivery and that trades on an options or a futures exchange or market or on any other regulated market;

(2) a derivative that is settled by payment or delivery and that is the subject of recurrent dealings in the derivatives markets or in the over-the-counter securities or commodities markets;

(3) an agreement to borrow or lend securities or commodities, including an agreement to transfer securities or commodities under which the borrower may repay the loan with other securities or commodities or with cash or cash equivalents;

(4) an agreement to clear or settle securities, futures, options or derivatives transactions;

(5) an agreement to act as a depository for securities;

(6) a securities or commodities repurchase, reverse repurchase or buy-sellback agreement;

(7) a margin loan insofar as it is in respect of a securities account or futures account maintained by a financial intermediary;

(8) any combination of agreements referred to in any of subparagraphs 1 to 7;

(9) a master agreement governing an agreement referred to in any of subparagraphs 1 to 8 and any other agreement governing such a master agreement;

(10) an agreement relating to a guarantee of, or an indemnity or reimbursement obligation with respect to, the obligations under an agreement referred to in any of subparagraphs 1 to 9; and

(11) an agreement relating to a financial guarantee with respect to an agreement referred to in any of subparagraphs 1 to 10.

For the purposes of the first paragraph:

(1) a “derivative” means a derivative within the meaning of the Derivatives Act (chapter I-14.01) or a spot; and

(2) a “financial intermediary” means, in addition to a clearing house, a dealer, a bank, a financial services cooperative, a trust company, a savings company or another person that, in the ordinary course of its business, maintains securities accounts or futures accounts for others when acting in that capacity.

**CHAPTER II****APPLICATION OF SECTIONS 40.15 TO 40.17 OF  
THE DEPOSIT INSTITUTIONS AND DEPOSIT  
PROTECTION ACT TO PROTECTED  
FINANCIAL CONTRACTS****3.** For the purposes of this Chapter:

“eligible acquirer” means an acquirer referred to in section 40.46 of the Deposit Institutions and Deposit Protection Act (chapter A-26), other than an eligible legal person, for which the Autorité des marchés financiers certifies in writing that:

(1) it maintains all material authorizations and registrations that are required for the continued operation of its business and, if applicable, that it is in good standing in respect of those authorizations and registrations;

(2) it has, on its balance sheet, assets that exceed its liabilities;

(3) it is able to discharge its obligations in respect of the protected financial contracts transferred to it as they become due; and

(4) its creditworthiness, taking into account any credit support or guarantee in respect of its obligations under the protected financial contracts transferred to it, is at least as good as the creditworthiness of the legal person belonging to the cooperative group that is a party to the contracts was immediately before the resolution board orders the implementation of resolution operations, taking into account any credit support or guarantee in respect of the legal person’s obligations under those contracts;

“eligible legal person” means a legal person constituted or resulting from an amalgamation/continuance or other conversion carried out for the purposes of the resolution, other than an asset management company within the meaning of the second paragraph of section 40.37 of the Deposit Institutions and Deposit Protection Act;

“measure in respect of the financial guarantee” includes, in particular:

(1) the sale or the surrender of the financial guarantee; and

(2) the netting, setting off or compensation of the financial guarantee or the application of the proceeds or value of the financial guarantee.

**4.** Nothing in sections 40.15 and 40.16 of the Deposit Institutions and Deposit Protection Act (chapter A-26) prevents, in accordance with the terms of a protected financial contract:

(1) any proceedings from being brought or any measures to be taken prior to the exercise of a right or power from being taken for a failure to satisfy an obligation under or in connection with the financial contract, including the payment of an amount payable, or the delivery of property, under or in connection with the financial contract;

(2) the netting, setting off or compensation of an amount payable under or in connection with the financial contract;

(3) any measure in respect of the financial guarantee.

**5.** Except for a reason referred to in the second or third paragraph, nothing in section 40.17 of the Deposit Institutions and Deposit Protection Act (chapter A-26) prevents, in accordance with the terms of a protected financial contract:

(1) its resiliation or amendment;

(2) the forfeiture of the term stipulated therein; or

(3) any measure in respect of the financial guarantee.

Except as otherwise provided in this Regulation, no measure referred to in the first paragraph may be taken only by reason of one or more of the following:

(1) the insolvency or deteriorated financial condition of any legal person belonging to the cooperative group, of the cooperative group or of any of the legal person’s providers of credit support or guarantors;

(2) the resolution board’s order to implement resolution operations;

(3) a resolution operation other than one that satisfies the following conditions:

(a) it is carried out under sections 40.40 to 40.46 of the Deposit Institutions and Deposit Protection Act;

(b) it involves a matter other than merely the transfer of the financial contract to an eligible legal person or an eligible acquirer;

(4) the conversion of any securities or liabilities of a legal person belonging to the cooperative group in accordance with their terms.

In addition to the reasons referred to in the second paragraph, no measure referred to in subparagraph 1 or 2 of the first paragraph may be taken in respect of a protected financial contract by reason of any resolution operation when the contract has been assumed by an eligible legal person or a third party or when an eligible legal person or an eligible acquirer has become a party to the contract.

The second paragraph does not apply to any measure in respect of a financial guarantee:

(1) to satisfy an amount payable, or the delivery of property, under or in connection with the financial contract; or

(2) for the purpose of calculating an amount payable under or in connection with the financial contract by way of netting, setting off or compensation of the financial guarantee or application of the proceeds or value of the financial guarantee; or

(3) as a remedy for a failure described in subparagraph 1 of section 4.

**6.** The Autorité des marchés financiers must, if it is necessary in its judgment for all or substantially all the assets of the legal persons belonging to the cooperative group to be transferred to one or more acquirers and for certain protected financial contracts not to be transferred, send a notice to the parties to the contracts.

Notwithstanding section 5, as of the date and time at which the notice is given, any measure referred to in the first paragraph of said section may be taken for a reason indicated in subparagraph 1 or 2 of its second paragraph in respect of such a protected financial contract.

**7.** Notwithstanding section 5, as of 5:00 p.m. on the second business day after the date on which the resolution board orders the implementation of resolution operations, any measure referred to in the first paragraph of said section may be taken for one of the reasons referred to in subparagraph 1 or 2 of its second paragraph in respect of a protected financial contract for which the Autorité des marchés financiers has not undertaken, before that time, for an eligible legal person to be a party thereto.

For the purposes of the first paragraph, “business day” means a day other than a Saturday or a statutory holiday in Québec.

**8.** A party to a protected financial contract referred to in both sections 6 and 7 may avail itself of the provisions thereof at the earlier of the times set out therein.

**9.** The reasons referred to in subparagraph 1 of the second paragraph of section 5 may be invoked under sections 6 and 7 only if the insolvency or deterioration referred to in that subparagraph exists at the time the reasons are invoked.

**10.** The second paragraph of section 5 applies to a protected financial contract between a clearing house and a legal person belonging to the cooperative group only insofar as the Autorité des marchés financiers has given an undertaking to provide the financial assistance that the legal person needs in order to discharge its obligations under the contract as they become due.

For the purposes of the first paragraph, “clearing house” means a clearing house designated as such under Part I of the Payment Clearing and Settlement Act (Statutes of Canada, 1996, chapter 6) as well as a securities and derivatives clearing house within the meaning of that Act.

**11.** The Autorité des marchés financiers may transfer a protected financial contract to which a legal person belonging to a cooperative group is a party only to an eligible acquirer or an eligible legal person.

If it transfers a protected financial contract entered into between a legal person belonging to a cooperative group and a counterparty, the Authority must also transfer to the acquirer of the contract all other protected financial contracts entered into between the legal person and the counterparty.

When it transfers a protected financial contract entered into by a legal person belonging to a cooperative group, the Authority must transfer to the acquirer:

(1) all the legal person’s obligations arising under the contract;

(2) all the rights securing the performance of the legal person’s obligations under the contract.

For the purposes of the second paragraph, protected financial contracts entered into with the same counterparty include any protected financial contracts entered into with any group affiliated with that counterparty.

### CHAPTER III TRANSITIONAL AND FINAL PROVISIONS

**12.** This Regulation is to be read, for the period from 31 March 2019 to 12 June 2019, by replacing:

(1) “Deposit Institutions and Deposit Protection Act” wherever it appears by “Deposit Insurance Act”; and

(2) “legal person belonging to the cooperative group”, “legal persons belonging to the cooperative group” and “legal person belonging to a cooperative group” wherever they appear by, respectively, “institution belonging to the cooperative group”, “institutions belonging to the cooperative group” and “institution belonging to a cooperative group”.

In addition, during that same period, the provisions of the fourth paragraph of section 11 are to be read as if sections 1.4 to 1.14 of the Deposit Insurance Act (chapter A-26), introduced by section 350 of An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions (2018, chapter 23), were in force.

**13.** This Regulation comes into force on 31 March 2019.

103853

### M.O., 2019-03

#### Order number A-26-2019-03 of the Minister of Finance, March 7, 2019

Deposit Insurance Act  
(chapter A-26)

An Act respecting financial services cooperatives  
(chapter C-67.3)

CONCERNING Regulation respecting the classes of negotiable and transferable unsecured debts and the issuance of such debts and of shares

WHEREAS that the second paragraph of section 40.50 of the Deposit Insurance Act (chapter A-26) provide that the *Autorité des marchés financiers* may write off any part of the negotiable and transferable unsecured debts that belong, at the time of issue, to a class prescribed by regulation of the *Autorité des marchés financiers* and it may also convert them into contributed capital securities of a legal person constituted or resulting from an amalgamation-continuance or other conversion carried out for the purposes of the resolution;

WHEREAS subparagraph s.2 of section 43 of such Act provide that the *Autorité des marchés financiers* may make regulations concerning the matters referred to in these subparagraph;

WHEREAS that section 601.1 of the Act respecting financial services cooperatives (chapter C-67.3) provide that the *Autorité des marchés financiers* may, by regulation, determine the standards applicable to financial services cooperatives in relation to their business and management practices;

WHEREAS that the first paragraph of section 45 of the Deposit Insurance Act and the first paragraph of section 601.2 of the Act respecting financial services cooperatives provide that a regulation made by the *Autorité des marchés financiers* is subject to the approval, with or without amendment, of the Minister of Finance;

WHEREAS that the third paragraph of section 45 of the Deposit Insurance Act and the fourth, fifth and sixth paragraphs of section 601.2 of the Act respecting financial services cooperatives stipulate that a draft regulation may not be submitted for approval or be made before 30 days have elapsed since the publication of the draft in the *Bulletin de l’Autorité des marchés financiers*, that it enters into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified therein and that sections 4, 8, 11 and 17 to 19 of the Regulations Act (chapter R-18.1) do not apply to the regulation;

WHEREAS the draft Regulation respecting the classes of negotiable and transferable unsecured debts and the issuance of such debts and of shares was published in the *Bulletin de l’Autorité des marchés financiers*, volume 15, no. 42 of October 25, 2018;

WHEREAS on February 12, 2019, by the decision no. 2019-PDG-0015, the *Autorité des marchés financiers* made Regulation respecting the classes of negotiable and transferable unsecured debts and the issuance of such debts and of shares;

WHEREAS there is cause to approve this regulation without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment Regulation respecting the classes of negotiable and transferable unsecured debts and the issuance of such debts and of shares appended hereto.

March 7, 2019

ERIC GIRARD,  
*Minister of Finance*

## Regulation respecting the classes of negotiable and transferable unsecured debts and the issuance of such debts and of shares

Deposit Insurance Act  
(chapter A-26, ss. 40.50 and 43, par. s.2)

An Act respecting financial services cooperatives  
(chapter C-67.3, s. 601.1)

### CHAPTER I PRESCRIBED DEBTS

**1.** A negotiable and transferable unsecured debt for the purposes of the second paragraph of section 40.50 of the Deposit Institutions and Deposit Protection Act (chapter A-26) is a debt represented by an instrument issued on or after 31 March 2019 by a deposit institution belonging to a cooperative group that, at the time of issue, belongs to either of the following classes:

(1) debt obligations, other than subordinated debt obligations, that:

(a) are perpetual, have a term to maturity of more than 400 days, have one or more explicit or embedded options that, if exercised by or on behalf of the issuer, would result in a maturity date that is more than 400 days from the date of issue of the debt obligation or have an explicit or embedded option that, if exercised by or on behalf of the holder, would by itself result in a maturity date that is more than 400 days from the maturity date that would apply if the option were not exercised; and

(b) have been assigned a Committee on Uniform Security Identification Procedures (CUSIP) number, International Securities Identification Number (ISIN) or other similar designation that identifies a security in order to facilitate its trading and settlement;

or

(2) subordinated debt obligations, other than a non-viability contingent capital security.

A debt referred to in the first paragraph is, for the purposes of this Regulation, a “prescribed debt”.

**2.** For the purposes of section 1:

(1) the unsecured portion of a partially secured debt is considered an unsecured debt;

(2) the instrument representing the prescribed debt does not cease to belong to one or the other class referred to in the first paragraph if the prescribed debt is due but unpaid on the date on which the resolution board orders the implementation of resolution operations under section 40.12 of the Deposit Institutions and Deposit Protection Act (chapter A-26) or if it becomes due after that date;

(3) in subparagraph 2, “non-viability contingent capital security” means any subordinated debt obligation that:

(a) expressly mentions that it is a non-viability contingent capital security;

and

(b) contains a feature providing for its conversion into shares of the share capital of the issuer in accordance with its terms upon a public announcement by the Autorité des marchés financiers regarding the issuer’s viability; and

(4) interest on a prescribed debt, including any type of coupon, even if the latter is detached from the instrument representing the principal, forms an integral part of the prescribed debt.

**3.** The following, including the debts resulting therefrom, are not prescribed debts:

(1) any covered bond, as defined in section 21.5 of the National Housing Act (Revised Statutes of Canada (1985), chapter N-11);

(2) any financial contract determined under section 40.22 of the Deposit Institutions and Deposit Protection Act (chapter A-26);

(3) any structured note; and

(4) any conversion or exchange privilege that is convertible at any time into shares of a deposit institution belonging to a cooperative group, including any option or right to purchase such shares or privileges.

**4.** For the purposes of subparagraph 3 of section 3, a “structured note” means a debt obligation that:

(1) specifies that the obligation’s stated term to maturity, or a payment to be made by its issuer, is determined in whole or principally by reference to an index or reference point, including:

(a) the performance or value of an entity or asset;

(b) the market price of a security, commodity, investment fund or financial instrument;

- (c) an interest rate; and
  - (d) the exchange rate applicable between two currencies;
- or
- (2) contains any other type of embedded derivative or similar feature.

However, a structured note does not mean:

- (1) a debt obligation in respect of which the stated term to maturity, or a payment to be made by its issuer, is determined in whole or principally by reference to the performance of a security of a deposit institution belonging to the cooperative group; or
- (2) a debt obligation that is payable in cash and that:
  - (a) specifies that the return is determined by a fixed or floating interest rate or a fixed spread above or below a fixed or floating interest rate, regardless of whether the return is subject to a minimum interest rate or whether the interest rate changes between fixed and floating; and
  - (b) has no other terms affecting the stated term to maturity or the return on the debt obligation, with the exception of the right of the issuer to redeem the debt obligation or the right of the holder or issuer to extend its term to maturity.

## CHAPTER II

### ISSUANCE OF PRESCRIBED DEBTS AND OF SHARES

**5.** When issuing a prescribed debt, a deposit institution belonging to a cooperative group must expressly specify in the terms governing the debt that:

- (1) the holder of the instrument representing the prescribed debt is bound, in respect of the prescribed debt, by the Deposit Institutions and Deposit Protection Act (chapter A-26), including the provisions dealing with the powers conferred on the Autorité des marchés financiers under the second paragraph of section 40.50 of that Act and its effects on the prescribed debt, and by the other laws applicable in Québec to the application of that Act to the debt;
- (2) the holder of the instrument representing the prescribed debt attorns to the jurisdiction of the courts of Québec and, where applicable, Canada with respect to the application of the Deposit Institutions and Deposit Protection Act and the other laws applicable in Québec; and

(3) the items mentioned in paragraphs 1 and 2 are binding on the holder of the instrument representing the prescribed debt despite any terms of the prescribed debt, any other law governing the debt or any agreement, arrangement or understanding between the parties with respect to the debt.

**6.** The prospectus, information circular, other offering document or similar document related to a prescribed debt or a share, other than a qualifying share, issued by a deposit institution belonging to a cooperative group must, as applicable:

- (1) expressly state that the share issued is subject to the powers of the Authority under the first paragraph of section 40.50 of the Deposit Institutions and Deposit Protection Act (chapter A-26) and set out a description of those powers; or
- (2) expressly state that the prescribed debt issued is subject to the powers of the Authority under the second paragraph of that section and set out a description of those powers.

In addition to the information provided for in the first paragraph, such a document must include the following statement, by reproducing it in full or incorporating it by reference:

#### “Cancellation, Write-off and Conversion Measures

In the event of the resolution of a cooperative group, the Autorité des marchés financiers may exercise several powers, including those conferred upon it under section 40.50 of the Deposit Institutions and Deposit Protection Act (chapter A-26).

The Autorité des marchés financiers is responsible for resolution operations. In accordance with section 40.9 of that Act, the objective of such operations is to ensure the sustainability of a cooperative group's deposit institution activities despite its failure and without recourse to public funds.

Based on the circumstances and the situation, the Autorité des marchés financiers will use its best efforts, when it exercises the powers conferred upon it under section 40.50 of that Act, to ensure fair treatment among the holders of debts and shares referred to in that section. In this regard, measures such as the following may be implemented by the Autorité des marchés financiers, as applicable:

(1) respect the respective ranks of the debts and shares referred to in section 40.50 of the Deposit Institutions and Deposit Protection Act (chapter A-26) that are still in existence, which ranks may be determined as if the cooperative group were the subject of an amalgamation/winding-up in accordance with the provisions of Chapter XIII.1 of the Act respecting financial services cooperatives (chapter C-67.3);

(2) ensure that such debts and shares are treated on a pro rata basis when they are of the same rank;

(3) ensure that an instrument subject to the powers set out in section 40.50 of the Deposit Institutions and Deposit Protection Act (chapter A-26) is treated more advantageously than another instrument subject to those powers that is subordinated to it.”

**7.** A deposit institution belonging to a cooperative group must not advertise or otherwise promote a prescribed debt, including in its name, as a deposit or any variation of that term.

### CHAPTER III TRANSITIONAL AND FINAL PROVISIONS

**8.** This Regulation is to be read, for the period from 31 March 2019 to 12 June 2019, by making the following amendments:

(1) in section 1, by replacing, in the text preceding subparagraph 1, “deposit institution” by “registered institution”;

(2) in sections 1, 2 and 3, by replacing “Deposit Institutions and Deposit Protection Act” by “Deposit Insurance Act”;

(3) by replacing, in subparagraph 4 of section 3 and in subparagraph 1 of the second paragraph of section 4, “deposit institution” by “registered institution”;

(4) in section 5:

(a) by replacing, in the text preceding subparagraph 1, “deposit institution” by “registered institution”;

(b) by replacing, in subparagraphs 1 and 2, “Deposit Institutions and Deposit Protection Act” by “Deposit Insurance Act”;

(5) in section 6:

(a) by replacing, in the text preceding subparagraph 1, “deposit institution” by “registered institution”;

(b) by replacing, in subparagraph 1, “Deposit Institutions and Deposit Protection Act” by “Deposit Insurance Act”; and

(c) by replacing the statement set out in the second paragraph by the following:

#### “Cancellation, Write-off and Conversion Measures

In the event of the resolution of a cooperative group, the Autorité des marchés financiers may exercise several powers, including those conferred on it under section 40.50 of the Deposit Insurance Act (chapter A-26), the title of which will be amended to read Deposit Institutions and Deposit Protection Act (chapter A-26) as of 13 June 2019.

The Autorité des marchés financiers is responsible for resolution operations. In accordance with section 40.9 of that Act, the objective of such operations is to ensure the sustainability of a cooperative group’s deposit institution activities despite its failure and without recourse to public funds.

Based on the circumstances and the situation, the Autorité des marchés financiers will use its best efforts, when it exercises the powers conferred upon it under section 40.50 of that Act, to ensure fair treatment among the holders of debts and shares referred to in that section. In this regard, measures such as the following may be implemented by the Autorité des marchés financiers, as applicable:

(1) respect the respective ranks of the debts and shares referred to in section 40.50 of the Deposit Insurance Act (chapter A-26) that are still in existence, which ranks may be determined as if the cooperative group were the subject of an amalgamation/winding-up in accordance with the provisions of Chapter XIII.1 of the Act respecting financial services cooperatives (chapter C-67.3);

(2) ensure that such debts and shares are treated on a pro rata basis when they are of the same rank;

(3) ensure that an instrument subject to the powers set out in section 40.50 of the Deposit Insurance Act (chapter A-26) is treated more advantageously than another instrument subject to those powers that is subordinated to it.”;

(6) by replacing, in section 7, “deposit institution” by “registered institution”.

**9.** This Regulation comes into force on 31 March 2019.



## Draft Regulations

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### Notice

An Act respecting collective agreement decrees (chapter D-2)

#### Building service employees – Montréal —Amendment

Notice is hereby given, in accordance with section 5 of the Act respecting collective agreement decrees (chapter D-2), that the Minister of Labour, Employment and Social Solidarity has received an application from the contracting parties to amend the Decree respecting building service employees in the Montréal region (chapter D-2, r. 15) and that, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), the Decree to amend the Decree respecting building service employees in the Montréal region, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Decree mainly provides for new minimum hourly rates and increases the duration of annual vacations with pay for employees who have 23 or 33 years of uninterrupted service.

Study of the regulatory impact shows that the amendments will have an acceptable impact on small and medium-sized businesses.

Further information may be obtained by contacting Louis-Philippe Roussel, Policy Development Advisor, Direction des politiques du travail, Ministère du Travail, de l'Emploi et de la Solidarité sociale, 200, chemin Sainte-Foy, 5<sup>e</sup> étage, Québec (Québec) G1R 5S1; telephone: 418 644-2206; fax: 418 643-9454; email: louis-philippe.roussel@mtess.gouv.qc.ca.

Any person wishing to comment on the draft Decree is requested to submit written comments within the 45-day period to the Deputy Minister of Labour, Employment and Social Solidarity, 425, rue Jacques-Parizeau, 4<sup>e</sup> étage, Québec (Québec) G1R 4Z1.

BRIGITTE PELLETIER,  
Deputy Minister of Labour,  
Employment and Social Solidarity

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### Decree to amend the Decree respecting building service employees in the Montréal region

An Act respecting collective agreement decrees (chapter D-2, ss. 4 and 6.1)

**1.** The Decree respecting building service employees in the Montréal region (chapter D-2, r. 15) is amended by replacing section 6.01 by the following:

“**6.01.** An employee receives at least the following hourly wage:

(1) as of [*insert the date of coming into force of this Decree*]:

(a) Class A: \$18.52;

(b) Class B: \$18.11;

(c) Class C: \$19.10;

(2) as of [*insert the date of the first anniversary of the date of coming into force of this Decree*]:

(a) Class A: \$18.97;

(b) Class B: \$18.62;

(c) Class C: \$19.55;

(3) as of [*insert the date of the second anniversary of the date of coming into force of this Decree*]:

(a) Class A: \$19.47;

(b) Class B: \$19.18;

(c) Class C: \$20.05;

(4) as of [*insert the date of the third anniversary of the date of coming into force of this Decree*]:

(a) Class A: \$19.97;

(b) Class B: \$19.74;

(c) Class C: \$20.55;

(5) as of [insert the date of the fourth anniversary of the date of coming into force of this Decree]:

- (a) Class A: \$20.47;
- (b) Class B: \$20.30;
- (c) Class C: \$21.05;

(6) as of [insert the date of the fifth anniversary of the date of coming into force of this Decree]:

- (a) Class A: \$21.02;
- (b) Class B: \$20.91;
- (c) Class C: \$21.60;

(7) as of 1 November 2024:

- (a) Class A: \$21.57;
- (b) Class B: \$21.52;
- (c) Class C: \$22.15.”.

**2.** Section 8.04 is amended by striking out the second paragraph.

**3.** The following is added after section 8.04:

“**8.04.1.** The employee who, at the end of a qualifying period, has 23 years of uninterrupted service shall be entitled to a vacation leave of 5 weeks. The vacation pay shall be equal to 10% of the employee’s total wages earned during the qualifying period.

**8.04.2.** The employee who, at the end of a qualifying period, has 33 years of uninterrupted service shall be entitled to a vacation leave of 6 weeks. The vacation pay shall be equal to 12% of the employee’s total wages earned during the qualifying period.

**8.04.3.** If an employee is absent owing to sickness, an organ or tissue donation for transplant, an accident, if the employee is the victim of domestic violence, sexual violence or of a criminal act or is on maternity or paternity leave during the reference year, and should that absence result in the reduction of that employee’s annual leave indemnity, the employee is then entitled to an indemnity equal, as the case may be, to 3, 4, 5 or 6 times the weekly average of the wages earned during the period worked, according to the number of weeks to which the employee is entitled. An employee referred to in section 8.02 is entitled to that amount in proportion to the days of leave credited to the employee’s account.”.

**4.** Section 14.01 is amended by replacing “30 October 2017”, “month of April of the year 2017” and “April” by “1 November 2024”, “month of February of the year 2024” and “February”, respectively.

**5.** This Decree comes into force on the date of its publication in the *Gazette officielle du Québec*.

103855

## Notice

An Act respecting collective agreement decrees (chapter D-2)

### Non-structural metalwork industry — Amendment

Notice is hereby given, in accordance with section 5 of the Act respecting collective agreement decrees (chapter D-2), that the Minister of Labour, Employment and Social Solidarity has received an application from the contracting parties to amend the Decree respecting the non-structural metalwork industry in the Montréal region (chapter D-2, r. 14) and that, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), the Decree to amend the Decree respecting the non-structural metalwork industry in the Montréal region, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Decree increases the contribution that employers and employees subject to the Decree contribute to the social security plan provided for in the Decree. It also reduces the amount that the employer pays into the pension plan of the non-structural metalwork industry.

Study of the regulatory impact shows that the amendments will have a moderate impact on small and medium-sized businesses.

Further information may be obtained by contacting Steven Brooks, Policy Development Advisor, Direction des politiques du travail, Ministère du Travail, de l’Emploi et de la Solidarité sociale, 200, chemin Sainte-Foy, 5<sup>e</sup> étage, Québec (Québec) G1R 5S1; telephone: 418 528-9738; fax: 418 643-9454; email: steven.brooks@mtess.gouv.qc.ca.

Any person wishing to comment on the draft Decree is requested to submit written comments within the 45-day period to the Deputy Minister of Labour, Employment and Social Solidarity, 425, rue Jacques-Parizeau, 4<sup>e</sup> étage, Québec (Québec) G1R 4Z1.

BRIGITTE PELLETIER,  
*Deputy Minister of Labour, Employment  
and Social Solidarity*

## **Decree to amend the Decree respecting the non-structural metalwork industry in the Montréal region**

An Act respecting collective agreement decrees  
(chapter D-2, ss. 4 and 6.1)

**1.** The Decree respecting the non-structural metalwork industry in the Montréal region (chapter D-2, r. 14) is amended in section 14.01 by replacing “\$0.76” by “\$0.96”.

**2.** Section 14.02 is amended by replacing “\$0.76” by “\$0.96”.

**3.** Section 14.06 is amended

(1) by replacing “\$1.05” in the first paragraph by “\$1.15”;

(2) by striking out the second paragraph.

**4.** Section 17.01 is amended by replacing “2016” wherever it appears by “2022”.

**5.** This Decree comes into force on the date of its publication in the *Gazette officielle du Québec*.

103851



## Index

Abbreviations: **A**: Abrogated, **N**: New, **M**: Modified

	<b>Page</b>	<b>Comments</b>
Building service employees – Montréal. . . . . (An Act respecting collective agreement decrees, chapter D-2)	441	Draft
Classes of negotiable and transferable unsecured debts and the issuance of such debts and of shares. . . . . (An Act respecting financial services cooperatives, chapter C-67.3)	437	N
Classes of negotiable and transferable unsecured debts and the issuance of such debts and of shares. . . . . (Deposit Insurance Act, chapter A-26)	437	N
Collective agreement decrees, An Act respecting... — Building service employees – Montréal. . . . . (chapter D-2)	441	Draft
Collective agreement decrees, An Act respecting... — Non-structural metalwork industry. . . . . (chapter D-2)	442	Draft
Deposit Institutions and Deposit Protection Act to protected financial contracts and their transfer — Application of sections 40.15 to 40.17 of the Act. . . . . (Deposit Insurance Act, chapter A-26)	433	N
Deposit Insurance Act — Classes of negotiable and transferable unsecured debts and the issuance of such debts and of shares . . . . . (chapter A-26)	437	N
Deposit Insurance Act — Deposit Institutions and Deposit Protection Act to protected financial contracts and their transfer — Application of sections 40.15 to 40.17 of the Act. . . . . (chapter A-26)	433	N
Deposit Insurance Act — Indemnification plan applicable pursuant to certain resolution operations . . . . . (chapter A-26)	429	N
Financial services cooperatives, An Act respecting... — Classes of negotiable and transferable unsecured debts and the issuance of such debts and of shares . . . . . (chapter C-67.3)	437	N
Indemnification plan applicable pursuant to certain resolution operations . . . . . (Deposit Insurance Act, chapter A-26)	429	N
Non-structural metalwork industry . . . . . (An Act respecting collective agreement decrees, chapter D-2)	442	Draft

