



NATIONAL ASSEMBLY

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Bill 127

(2005, chapter 35)

An Act to amend the Act respecting financial services cooperatives and the Act respecting the Mouvement Desjardins

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EXPLANATORY NOTES

This bill amends the Act respecting financial services cooperatives to redefine the functions of the board of audit and ethics of a credit union, focusing them on the supervision of the ethics, professional conduct and cooperative activity of the credit union. To that end, the name “board of audit and ethics” is replaced by “board of supervision”. The bill also provides that the board of directors of a credit union must constitute an audit committee whose functions are determined by the Act.

Under the bill, a financial services cooperative may determine the procedures applicable to members’ rights during a meeting and the conditions governing advance polls.

In addition, the bill introduces changes enabling a financial services cooperative to use a name outside Québec that is different from that currently used.

Lastly, the bill contains consequential amendments to the Act respecting financial services cooperatives and the Act respecting the Mouvement Desjardins.

Bill 127

AN ACT TO AMEND THE ACT RESPECTING FINANCIAL SERVICES COOPERATIVES AND THE ACT RESPECTING THE MOUVEMENT DESJARDINS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 5 of the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3) is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) to promote economic and social education and education in the cooperative field.”

2. Section 18 of the Act is amended

(1) by replacing “words “credit union” or” in the fourth paragraph by “word”;

(2) by adding the following paragraph at the end:

“Despite the first and second paragraphs, the name under which a financial services cooperative may identify itself in a language other than French when using that name outside Québec or on its instruments, invoices or goods or services purchase orders or in its contracts to be used outside Québec may contain solely a distinctive name and an expression describing its activities. It may also contain any expression authorized under this Act.”

3. Section 101 of the Act is amended by inserting “and professional conduct” after “ethics” in the third line of the second paragraph.

4. Section 124 of the Act is amended

(1) by replacing “rules adopted by the board of ethics” in the first paragraph by “rules of ethics and professional conduct adopted by the board of ethics and professional conduct” and by replacing “board of audit and ethics” in that paragraph by “board of supervision”;

(2) by replacing “rules adopted by the board of ethics” in the second paragraph by “rules of ethics and professional conduct adopted by the board of ethics and professional conduct”.

5. Section 130 of the Act is amended by inserting “and professional conduct” after “ethics” in the first and second paragraphs.

6. Section 131.4 of the Act is amended by replacing “258” in the first paragraph by “243.1”.

7. The Act is amended by inserting the following section after section 217:

“217.1. If authorized by the by-laws of the credit union, the board of directors may establish the terms and conditions under which members may participate in a meeting by means of communications equipment enabling them to communicate with each other instantaneously and vote, provided that equipment is authorized by the federation.

If authorized by the by-laws of the credit union, the board of directors may also establish the terms and conditions governing advance polling in the context of a decision to be made or an election to be held at a meeting.”

8. Section 243 of the Act is amended

(1) by replacing paragraph 1 by the following paragraph:

“(1) ensure that the operations of the credit union and the credit union itself are in compliance with the applicable Acts, regulations, standards, rules of ethics and professional conduct, orders and written instructions;”;

(2) by inserting “ensure that the credit union adheres to sound and prudent management practices and,” before “where” in paragraph 2;

(3) by replacing “board of audit and ethics” in paragraph 3 by “board of supervision”;

(4) by adding the following paragraphs at the end:

“(12) ensure that the internal affairs and the activities of the credit union are inspected in accordance with this Act; and

“(13) ensure that the executive committee, the audit committee and the special committees of the credit union act in accordance with their powers and duties and with any applicable Acts, regulations, standards and rules of ethics and professional conduct.”

9. The Act is amended by inserting the following section after section 243:

“243.1. The board of directors shall also receive complaints from members, inform the board of supervision when a complaint has to do with the rules of ethics or professional conduct, and reply to the complainant.

A complainant who is not satisfied with the board's reply may file a complaint with the federation.

The federation may make recommendations to the credit union in connection with a complaint filed with it."

10. The Act is amended by inserting the following section after section 253:

"253.1. The board of directors shall also establish an audit committee made up of at least three board members, excluding the director general of the credit union.

The functions of the audit committee are:

(1) to examine the reports of the federation's inspection and audit services and report to the board of directors;

(2) to follow up its recommendations and the implementation of measures taken under paragraph 1;

(3) to examine the audited annual financial statements and recommend their adoption by the board of directors.

The committee may also exercise any other function determined by the board of directors.

The committee is authorized to use any information relevant to the performance of its duties. For that purpose, section 263 applies to the audit committee."

11. Section 255 of the Act is amended by inserting "and professional conduct" after "ethics" in the second paragraph.

12. Section 257 of the Act is replaced by the following section:

"257. The function of the board of supervision is to oversee the operations of the credit union from an ethical, professional and cooperative point of view.

The board of supervision shall, in particular,

(1) ensure that the rules of ethics and professional conduct adopted by the board of ethics and professional conduct of the federation or, where the credit union is not a member of a federation, by the board of supervision itself, are observed;

(2) ensure that the credit union officers carry out their responsibilities properly;

(3) ensure that the rights of the members are respected;

(4) ensure that the credit union promotes economic and social education and education in the cooperative field;

(5) ensure that the credit union promotes cooperation between its members, between its members and the credit union and between the credit union and other cooperative bodies;

(6) ensure that the credit union's commitment to the community is carried out efficiently and in conformity with its cooperative values;

(7) ensure that cooperative values are integrated into the credit union's management and commercial practices;

(8) ensure that the admission of members and the suspension or expulsion of members are in compliance with the applicable legislative provisions and the by-laws of the credit union."

13. Section 258 of the Act is repealed.

14. Section 259 of the Act is amended

(1) by replacing "board of audit and ethics" in the first and second paragraphs by "board of supervision";

(2) by replacing "board of ethics" in the first paragraph by "board of ethics and professional conduct";

(3) by inserting "of ethics and professional conduct" after "rules" in the first line of the second paragraph.

15. The Act is amended by inserting the following section after section 260:

"260.1. The credit union may, by by-law, divide its members into groups and grant each group the right to elect a specified number of members of the board of supervision.

No member of the board of supervision thus elected shall be dismissed except by the members of the credit union who have the right to elect that member.

The by-laws of the credit union may also prescribe the number of members of the board of supervision elected by the members of such a group."

16. Section 266 of the Act is amended

(1) by replacing "board of audit and ethics" in the first paragraph by "board of supervision";

(2) by replacing “board of ethics” in the second paragraph by “board of ethics and professional conduct” and by striking out the last sentence of that paragraph;

(3) by replacing “board of ethics” in the third paragraph by “board of ethics and professional conduct” and by inserting “and professional conduct” after “rules of ethics” in that paragraph.

17. Section 267 of the Act is amended by replacing “rule of ethics, the board of audit and ethics” in the second line by “rule of ethics and professional conduct, the board of supervision” and by inserting “and professional conduct” after “rules of ethics” in the fourth line.

18. Section 268 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“268. The board of supervision shall notify the board of directors and the federation immediately, in writing, if it believes that the credit union is contravening a rule of ethics or professional conduct.”;

(2) by replacing “board of audit and ethics” in the second paragraph by “board of supervision”.

19. Section 270 of the Act is amended

(1) by replacing “board of audit and ethics” in the first paragraph by “board of supervision”;

(2) by replacing “rules of ethics and standards” in the second paragraph by “rules of ethics and professional conduct”.

20. The Act is amended by inserting the following section after section 294:

“294.1. If authorized by the by-laws of the federation, the board of directors may establish the terms and conditions under which members may participate in a meeting by means of communications equipment enabling them to communicate with each other instantaneously and vote.

If authorized by the by-laws of the federation, the board of directors may also establish the terms and conditions governing advance polling in the context of a decision to be made or an election to be held at a meeting.”

21. Section 325 of the Act is amended

(1) by inserting “and professional conduct” after “ethics” in paragraph 1;

(2) by replacing “board of ethics” in paragraph 3 by “board of ethics and professional conduct”.

22. Section 336 of the Act is amended

(1) by replacing “board of audit and ethics” in the second line by “board of supervision”;

(2) by inserting “or professional conduct” after “ethics” in the third line;

(3) by inserting “and professional conduct” after “rules of ethics” in the fourth line.

23. Section 343 of the Act is amended by inserting “and professional conduct” after “ethics” in the second paragraph.**24.** Section 345 of the Act is amended

(1) by replacing “board of ethics” in the first line by “board of ethics and professional conduct”;

(2) by inserting “of ethics and professional conduct” after “rules” in paragraph 2;

(3) by replacing “board of audit and ethics” in paragraph 3 by “board of supervision”;

(4) by inserting “or professional conduct” after “ethics” in paragraph 4.

25. Section 346 of the Act is amended

(1) by replacing “board of ethics” in the first and third paragraphs by “board of ethics and professional conduct”;

(2) by inserting “of ethics and professional conduct” after “rules” in the first paragraph;

(3) by replacing “board of audit and ethics” in the third paragraph by “board of supervision” and by inserting “or professional conduct” after “ethics” in the fourth line of that paragraph;

(4) by inserting “and professional conduct” after “rules of ethics” in the fourth paragraph.

26. Section 347 of the Act is amended

(1) by replacing “The board of ethics shall adopt rules” in the first paragraph by “The board of ethics and professional conduct shall adopt rules of ethics and professional conduct”;

(2) by replacing “board of ethics” in the second paragraph by “board of ethics and professional conduct” and by inserting “and professional conduct” after “rules of ethics” in that paragraph.

27. Section 348 of the Act is amended by replacing “The rules of ethics adopted by the board of ethics” in the first paragraph by “The rules of ethics and professional conduct adopted by the board of ethics and professional conduct”.

28. Section 350 of the Act is amended

(1) by replacing “board of ethics” in the first and second paragraphs by “board of ethics and professional conduct”;

(2) by inserting “or professional conduct” after “ethics” in subparagraph 1 of the first paragraph.

29. Section 353 of the Act is amended

(1) by replacing “board of ethics” in the first paragraph by “board of ethics and professional conduct” and by inserting “and professional conduct” after “matters of ethics” in that paragraph;

(2) by inserting “or professional conduct” after “ethics” in the second paragraph.

30. Section 354 of the Act is amended

(1) by replacing “board of ethics” in the first paragraph by “board of ethics and professional conduct” and by inserting “or professional conduct” after “rules of ethics” in that paragraph;

(2) by replacing “board of ethics” in the second paragraph by “board of ethics and professional conduct” and “board of audit and ethics” in the same paragraph by “board of supervision”.

31. Section 357 of the Act is amended

(1) by replacing “board of ethics” in the first paragraph by “board of ethics and professional conduct”;

(2) by replacing “ethics and” in the second paragraph by “ethics and professional conduct and the applicable”.

32. Section 358 of the Act is amended by replacing “rule of ethics, the board of ethics” by “rule of ethics or professional conduct, the board of ethics and professional conduct”.

33. Section 399 of the Act is amended by replacing “the Authority, the board of directors and the board of audit and ethics of the credit union of the results of the inspection” in the first paragraph by “the Authority and the board of directors of the credit union of the results of the inspection, and the board of supervision in respect of matters under its jurisdiction”.

34. Section 690 of the Act is amended

(1) by replacing “The” by “Notwithstanding the first and second paragraphs of section 18 and section 28, the”;

(2) by adding the following paragraph at the end:

“It may also identify itself under the name “Desjardins Financial Group” in English or under any other name in a language other than French when using that name outside Québec or on its instruments, invoices or goods or services purchase orders or in its contracts to be used outside Québec. It must also notify the Authority of each of the other names.”

35. Sections 36, 37, 92, 106, 112, 119, 125, 126, 132, 152, 200, 217, 220 to 222, 226, the heading of subdivision 3 of Division IV of Chapter VIII, and sections 260 to 265, 269, 271, 335, 369, 377, 393, 400, 403, 404, 557, 569 and 570 of the Act are amended by replacing “board of audit and ethics” wherever it appears by “board of supervision”, with the necessary modifications.

36. Sections 36, 37, 92, 106, 112, 119, 125, 126, 132, 152, 302 to 304, the heading of subdivision 1 of Division III of Chapter IX, sections 308 and 328, the heading of subdivision 3 of Division III of Chapter IX, and sections 349, 351, 352, 355, 356, 359 to 363, 387, 428, 569 and 570 of the Act are amended by replacing “board of ethics” wherever it appears by “board of ethics and professional conduct”, with the necessary modifications.

37. In section 211, paragraph 5 of section 294 and paragraph 8 of section 297, replace everything after “locations,” by “and the communications equipment that may be used to enable participants to communicate with each other instantaneously”, and in the first sentence of section 237 and the first sentence of section 318, replace “of telephone or other communications equipment enabling all participants to hear each other” by “of communications equipment enabling participants to communicate with each other instantaneously”.

38. Section 12 of the Act respecting the Mouvement Desjardins (2000, chapter 77) is amended by replacing “294, 295” by “294 to 295”.

39. Sections 37 to 39 of the Act are amended by replacing “board of ethics” wherever it appears by “board of ethics and professional conduct”.

40. For the purposes of section 253.1 of the Act respecting financial services cooperatives, credit union audit committees must be constituted not later than 1 July 2006.

41. This Act comes into force on 6 December 2005.