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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

## **Bill 128**

(2010, chapter 40)

### **An Act to enact the Money-Services Businesses Act and to amend various legislative provisions**

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**Introduced 10 November 2010  
Passed in principle 23 November 2010  
Passed 10 December 2010  
Assented to 10 December 2010**

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## EXPLANATORY NOTES

*First, this Act enacts the Money-Services Businesses Act. The new Act requires that persons operating automated teller machines or offering such services as currency exchange, funds transfer, the issue or redemption of travellers' cheques, money orders or bank drafts, or cheque cashing, obtain a licence from Québec's financial markets authority, the Autorité des marchés financiers, and disclose information about their directors, officers and associates and certain types of lenders they deal with. Persons already governed by certain other laws are not, however, subject to the requirements of the new Act.*

*The Money-Services Businesses Act confers the responsibility for its administration and enforcement on the Authority. It also gives police forces certain powers, including, in the case of the Sûreté du Québec, the power to issue security clearance reports. These reports essentially consist in criminal background checks on the key figures in a money-services business and will provide the Authority with all the information it needs to decide whether or not to issue a licence.*

*Various legislative amendments are introduced. More specifically,*

*(1) the Act respecting financial services cooperatives is amended to require that the annual report of the Mouvement des caisses Desjardins include a statement of the remuneration paid to the Mouvement's five most highly remunerated officers, and to allow the Mouvement to comply with new international accounting standards;*

*(2) the Real Estate Brokerage Act is amended to allow brokers acting on behalf of an agency to engage in brokerage activities within a business corporation;*

*(3) the Business Corporations Act is amended to make various technical adjustments; and*

*(4) the Act respecting the legal publicity of enterprises is amended to make trusts carrying on a commercial enterprise in Québec subject to the registration requirement, and to make terminological and technical amendments for greater consistency.*

*This Act contains consequential amendments and transitional provisions.*

**LEGISLATION AMENDED BY THIS ACT:**

- Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2);
- Act respecting financial services cooperatives (R.S.Q., chapter C-67.3);
- Real Estate Brokerage Act (R.S.Q., chapter C-73.2);
- Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1);
- Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1);
- Business Corporations Act (2009, chapter 52).

**LEGISLATION REPEALED BY THIS ACT:**

- Act respecting the disclosure of the compensation received by the executive officers of certain legal persons (R.S.Q., chapter I-8.01).

**LEGISLATION ENACTED BY THIS ACT:**

- Money-Services Businesses Act (2010, chapter 40, Schedule I).



## **Bill 128**

### **AN ACT TO ENACT THE MONEY-SERVICES BUSINESSES ACT AND TO AMEND VARIOUS LEGISLATIVE PROVISIONS**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### **CHAPTER I**

##### **MONEY-SERVICES BUSINESSES ACT**

**1.** The Money-Services Businesses Act, the text of which appears in Schedule I, is enacted.

#### **CHAPTER II**

##### **LEGISLATIVE AMENDMENTS MAINLY CONCERNING THE FINANCIAL SECTOR**

#### **DIVISION I**

##### **FINANCIAL SECTOR**

##### **ACT RESPECTING FINANCIAL SERVICES COOPERATIVES**

**2.** Section 63 of the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3) is amended by adding “or on those issued by the federation to a member referred to in subparagraph 4 of the first paragraph of section 46” at the end.

**3.** Section 87 of the Act is amended

(1) by inserting the following paragraph after the first paragraph:

“The following may also be allocated to the reserve, as determined by by-law of the federation:

(1) any asset or liability that is unrealized, is subject to market fluctuations and, according to the applicable accounting principles and standards, would otherwise be added to the surplus earnings to be allocated;

(2) the variation in the value of the assets and liabilities described in subparagraph 1, determined according to the applicable accounting principles;

(3) any other element, with the authorization of the Authority.”;

(2) in the second paragraph,

(a) by replacing “cette caisse” in the portion before subparagraph 1 in the French text by “la caisse”;

(b) by adding the following subparagraph after subparagraph 2:

“(3) the realization of any element allocated to the reserve.”

**4.** The Act is amended by inserting the following section after section 87:

“**87.1.** A federation may, by by-law, establish a reserve to which the elements referred to in the second paragraph of section 87 are to be allocated.

The federation may draw upon the reserve to increase the surplus earnings it may apportion after realizing an element allocated to the reserve.”

**5.** Section 227 of the Act is amended

(1) by inserting the following paragraph after paragraph 2:

“(2.1) the director general of the credit union;”;

(2) by striking out “, save that the director general of the credit union can be a member of the board of directors” in paragraph 3.

**6.** Section 253.1 of the Act is amended by striking out “, excluding the director general of the credit union” in the first paragraph.

**7.** Section 364 of the Act is amended by adding the following paragraph at the end:

“For the purposes of subparagraph 3 of the first paragraph, a service may be developed or provided by a legal person or partnership controlled by the federation.”

**8.** Section 365 of the Act is amended by replacing “paragraph 3” by “subparagraph 3 of the first paragraph”.

**9.** Section 366 of the Act is amended by inserting “or, if applicable, a legal person or partnership controlled by the federation” after the first occurrence of “the federation”.

**10.** Section 420 of the Act is amended by inserting the following paragraph after the first paragraph:

“The fund may also be used to purchase capital shares or investment shares already issued by the federation to a member described in subparagraph 4 of the first paragraph of section 46. Shares so purchased cannot be resold except to a member described in that subparagraph.”

**11.** Section 424 of the Act is amended by adding the following subparagraph after subparagraph 5 of the first paragraph:

“(6) a statement of the compensation, bonuses and any other form of remuneration received by the group’s five most highly compensated officers.”

#### ACT RESPECTING THE DISCLOSURE OF THE COMPENSATION RECEIVED BY THE EXECUTIVE OFFICERS OF CERTAIN LEGAL PERSONS

**12.** The Act respecting the disclosure of the compensation received by the executive officers of certain legal persons (R.S.Q., chapter I-8.01) is repealed.

#### ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

**13.** Section 97 of the Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1) is amended by inserting “and, if applicable, a legal person or partnership controlled by the federation” after “the federation of which they are members” in the first paragraph.

### DIVISION II

#### OTHER SECTORS

#### REAL ESTATE BROKERAGE ACT

**14.** Section 3 of the Real Estate Brokerage Act (R.S.Q., chapter C-73.2) is amended by replacing paragraph 6 by the following paragraph:

“(6) chartered administrators who engage in a brokerage transaction, other than a transaction described in section 23, as an ancillary activity in the course of their real estate management function;”.

**15.** Section 4 of the Act is amended by replacing “A person” in the fourth paragraph by “Subject to Division IV of Chapter II, a person”.

**16.** The Act is amended by inserting the following division after Division III of Chapter II:

**“DIVISION IV****“BROKERAGE ACTIVITIES WITHIN A BUSINESS CORPORATION**

**“22.1.** A broker acting on behalf of an agency may carry on brokerage activities, in accordance with the terms, conditions and rules set out in the Organization’s regulations, within a business corporation which the broker controls.

The business corporation is solidarily liable with the broker for the performance of the obligations imposed by this Act and for any fault committed by the broker.

**“22.2.** The civil liability insurance provided by an insurance fund to a broker who carries on brokerage activities within a business corporation must also designate the business corporation as an insured.

If no insurance fund exists, the civil liability insurance the broker must take out, or the security or guarantee in lieu of insurance the broker must give, must also designate the business corporation as an insured.

**“22.3.** A broker who carries on brokerage activities within a business corporation must ensure that its directors, executive officers and employees comply with this Act.

**“22.4.** A broker may not invoke decisions or acts of the business corporation within which the broker carries on activities, or its status as a legal person, to justify a contravention of this Act or the regulations or to limit or exclude the broker’s personal responsibility.

**“22.5.** Subject to special authorizations from the Organization, a broker acting on behalf of an agency may carry on brokerage activities in Québec within a business corporation constituted under an Act other than an Act of the Parliament of Québec if the broker meets all the other conditions prescribed in this chapter.

The personal liability of the broker, including that relating to the obligations of the corporation, continues to be governed by the laws of Québec for all matters concerning brokerage activities carried on in Québec, as if the corporation had been constituted under an Act of the Parliament of Québec.

**“22.6.** The remuneration relating to the services provided by a broker while carrying on brokerage activities within a business corporation belongs to the corporation.”

**17.** Section 38 of the Act is replaced by the following section:



**“38.** The Organization may suspend, revoke, or impose restrictions or conditions on a licence if the licence holder or, in the case of a broker, the business corporation within which the broker carries on brokerage activities,

(1) has previously had a licence revoked, suspended or made subject to restrictions or conditions by the discipline committee, by a body in Québec responsible for overseeing and monitoring real estate brokerage, or by such a body in another province or State;

(2) has made an assignment of property or been placed under a receiving order pursuant to the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3);

(3) has previously been convicted by a court of law of an offence or act which, in the Organization’s opinion, is brokerage-related, or has pleaded guilty to such an offence or act; or

(4) has been assigned a tutor, curator or adviser.”

**18.** Section 46 of the Act is amended by striking out “prévoir” in paragraph 10.1 in the French text.

**19.** Section 52 of the Act is amended

(1) by replacing “establish an insurance fund” in the first paragraph by “establish an insurance fund made up of premiums and the income they generate,”;

(2) by replacing the third paragraph by the following paragraph:

“The provisions of the Act respecting insurance (chapter A-32) that apply to professional orders and insurance funds established under the Professional Code (chapter C-26) apply, with the necessary modifications, to the Organization and to an insurance fund established by it.”

**20.** Section 58 of the Act is amended by striking out “and various groups in the socioeconomic sector” in the first paragraph.

**21.** Section 63 of the Act is amended by inserting “, a statement that the broker carries on brokerage activities within a business corporation, the name of the business corporation” after “the name of the agency the broker represents” in the second paragraph.

**22.** Section 74 of the Act is amended by adding “and, if applicable, those of business corporations within which brokers carry on brokerage activities” at the end.

**23.** Section 78 of the Act is amended by inserting “, or, if applicable, the establishment of the business corporation within which the broker carries on

brokerage activities,” after “concerned” in subparagraph 1 of the first paragraph.

**24.** Section 88 of the Act is amended by inserting “, the business corporation within which a broker carries on brokerage activities” after “Canadian court finding a broker”.

#### ACT RESPECTING THE LEGAL PUBLICITY OF ENTERPRISES

**25.** Section 3 of the Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1) is amended

(1) by replacing “who operate a sole proprietorship” in paragraph 2 by “and trusts who operate an enterprise”;

(2) by striking out “ou” in paragraph 3 in the French text.

**26.** The heading of Chapter II of the Act is replaced by the following heading:

“ENTERPRISE REGISTER”.

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

“**12.** The registrar keeps the enterprise register.”

**28.** Section 13 of the Act is amended by inserting “fiducie,” after “personne,” in the French text.

**29.** Section 17 of the Act is amended

(1) by striking out “particularly” in subparagraph 4 of the first paragraph;

(2) by replacing “partnership or group of persons, particularly” in subparagraph 7 of the first paragraph by “trust, partnership or group of persons,”;

(3) by inserting “trust,” after “person,” in subparagraph 8 of the first paragraph and by striking out “particularly” in that subparagraph;

(4) by inserting “or to a trust registered under the name of the settlor, trustee or beneficiary” after “given name” in the third paragraph.

**30.** Section 18 of the Act is amended by inserting “, trust” after “or any person”.

**31.** Section 21 of the Act is amended, in the first paragraph,

(1) by inserting “de personnes” after “société” in subparagraph 3 in the French text;

(2) by adding the following subparagraph:

“(8) trusts operating a commercial enterprise in Québec, other than a trust administered by a registered registrant.”

**32.** Section 25 of the Act is amended by inserting “, trust” after “person”.

**33.** Section 33 of the Act is amended

(1) by inserting “and by which the registrant is identified, either” after “Québec” in subparagraph 2 of the first paragraph;

(2) by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) the registrant’s juridical form; and”;

(3) by inserting the following subparagraphs after subparagraph 1 of the second paragraph:

“(1.1) the title of and reference to the statute under which the registrant was constituted;

“(1.2) the name of the State, province or territory in which the registrant was constituted;

“(1.3) the registrant’s date of constitution;”;

(4) by replacing subparagraph 3 of the second paragraph by the following subparagraph:

“(3) the date of entry into office and the date of cessation of office of the persons referred to in subparagraphs 2 and 6;”;

(5) by adding the following paragraphs:

“For the purposes of subparagraph 4 of the first paragraph, if not expressly designated in the statute or act by which it was constituted, the domicile of the trust is the location of its principal establishment in Québec.

For the purposes of subparagraph 1.3 of the second paragraph, the date of constitution of a trust is the date on which the trustee, or the first trustee in the case of two or more trustees, accepts the office of trustee.”

**34.** Section 35 of the Act is amended by striking out paragraph 1.

**35.** The Act is amended by inserting the following section after section 35:

**“35.1.** The registration declaration of a trust must also contain, if applicable,

(1) the statute, designated in the constituting act, under which it is governed; and

(2) the object pursued by the trust.”

**36.** Section 36 of the Act is amended by replacing “, in the case of a partnership or legal person constituted in Québec, whose registration has been cancelled ex officio by the registrar” in the second paragraph by “whose registration is cancelled if the cancellation may be revoked under subdivision 3 of Division III”.

**37.** Sections 41 and 45 of the Act are amended by replacing “35” in the first paragraph by “35.1”.

**38.** Section 46 of the Act is amended by inserting “or a trust” after “sole proprietorship” in the first paragraph, and by replacing “35” in that paragraph by “35.1”.

**39.** Sections 47 and 48 of the Act are amended by inserting “or a trust” after all occurrences of “legal person”.

**40.** Section 49 of the Act is amended by replacing “35” by “35.1”.

**41.** Section 61 of the Act is amended by inserting “trust,” after “registration of a”.

**42.** Section 84 of the Act is amended by replacing “who is a legal person” by “who is a legal person or trust”.

**43.** Section 97 of the Act is amended by replacing “informs the registrant of the cancellation” in the second paragraph by “records the cancellation in the register and informs the registrant”.

**44.** Section 98 of the Act is amended, in the first paragraph,

(1) by inserting “for identification” after “by the registrant” in subparagraph 2;

(2) by striking out “the registrant’s status as a natural person operating an enterprise or” in subparagraph 3;

(3) by replacing “in subparagraph 2 of the second paragraph of section 33” in subparagraph 7 by “in subparagraphs 6 and 10”;

- (4) by inserting “trust or” after “pursued by the” in subparagraph 13;
- (5) by striking out “as a legal person” in subparagraph 14;
- (6) by adding the following subparagraph after subparagraph 16:

“(17) the statute, designated in the trust deed, under which the trust is governed.”

**45.** Section 101 of the Act is amended by replacing “a government department or body for the purposes set out in any of subparagraphs 1 to 3, 5 and 8 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in the second paragraph by “a person or a body referred to in any of subparagraphs 1 to 3 and 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) or section 67 or 68 of that Act, for the purposes set out in those provisions”.

**46.** Section 107 of the Act is amended by replacing “charges prescribed by regulation of the Government” by “fee set out in this Act”.

**47.** Section 108 of the Act is amended

- (1) by inserting “trust,” after “person,” in the first paragraph;
- (2) by replacing “a legal person” and “the legal person” in the third paragraph by “a legal person or trust” and “the legal person or trust”, respectively.

**48.** Section 117 of the Act is amended

- (1) by inserting “trust,” after “person,” in the first paragraph;
- (2) by inserting “trust,” after “person,” in the fourth paragraph.

**49.** Section 119 of the Act is amended by inserting “trust,” after “natural person,” in the first paragraph.

**50.** Section 121 of the Act is amended by replacing “, 5 and 8 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in subparagraph 2 of the third paragraph by “or 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) or section 67 or 68 of that Act”.

**51.** Section 149 of the Act is amended by replacing “35” in paragraph 2 by “35.1”.

**52.** Section 150 of the Act is amended by inserting “trust,” after “person,” in paragraph 3.

**53.** Section 151 of the Act is amended by striking out “and certifying” in paragraph 4.

**54.** Section 159 of the Act is amended by replacing “A person guilty of an offence” in the first paragraph by “An offender” and by replacing “in the case of a legal person” in that paragraph by “in other cases”.

**55.** Section 161 of the Act is amended by inserting “, administrator of the property of others,” after “director” in the first paragraph.

**56.** Section 287 of the Act is amended

(1) by striking out paragraph 2;

(2) by inserting the following paragraph after paragraph 4:

“(4.1) the information required under paragraph 6 of section 35;”;

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

“Despite any other provision of this Act, a registrant is required to declare the information required under subparagraph 3 of the second paragraph of section 33 only if the date of entry into office or the date of cessation of office occurs after 13 February 2011.”

**57.** Section 299 of the Act is amended by replacing “18” in the second paragraph by “8”.

**58.** Schedule I to the Act is amended

(1) by inserting “, trust” after “operating for profit” under the heading “Registration declaration”;

(2) by inserting “, trust” after “operating for profit” under the heading “Annual registration fee”.

#### BUSINESS CORPORATIONS ACT

**59.** Section 2 of the Business Corporations Act (2009, chapter 52) is amended by replacing “any group of persons or properties, endowed with juridical personality or not” in the definition of “group” by “any legal person, any group of persons or any group of properties”.

**60.** Section 27 of the Act is amended by striking out the second paragraph.

**61.** Section 32 of the Act is amended by inserting “mentioned in section 31” after “corporation’s records” in the first paragraph.

**62.** Section 34 of the Act is amended by replacing “referred to in this section” in the third paragraph by “referred to in the first paragraph”.

**63.** Section 52 of the Act is amended by adding the following paragraph at the end:

“Par value shares may not be issued for a consideration less than their par value.”

**64.** Section 65 of the Act is amended

(1) by replacing “that the corporation is constituted under” in the first paragraph by “that the corporation is governed by”;

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

“Furthermore, the existence of a unanimous shareholder agreement must be clearly stated on the share certificates, or, in the case of uncertificated shares, notice of its existence must be given without delay to the shareholder.”

**65.** Section 66 of the Act is amended by striking out the third paragraph.

**66.** Section 72 of the Act is amended by replacing “at the time of issue” in paragraph 2 by “immediately before the redemption”.

**67.** Section 118 of the Act is amended by replacing “articles of amendment” in paragraph 14 by “an amendment to the articles”.

**68.** Section 120 of the Act is amended by replacing “a director” by “directors”.

**69.** Section 121 of the Act is amended by replacing “expert competence or” in paragraph 2 by “expert competence and”.

**70.** Section 148 of the Act is amended by replacing “all the shareholders” by “the shareholders entitled to vote”.

**71.** Section 160 of the Act is amended by adding the following paragraph at the end:

“Furthermore, the corporation may not indemnify a person referred to in section 159 if the court determines that the person has committed an intentional or gross fault. In such a case, the person must repay to the corporation any moneys advanced.”

**72.** Section 178 of the Act is amended by replacing “meeting” in the second paragraph by “meetings”.

**73.** Section 184 of the Act is amended by striking out “secret”.

**74.** Section 185 of the Act is amended by replacing “that an entry to that effect has been made” by “an entry to that effect” and by replacing “is” by “constitute”.

**75.** Section 215 of the Act is amended by adding “that restricts, in whole or in part, the powers of the directors” at the end.

**76.** Section 218 of the Act is amended

(1) by striking out “by its existence being stated or a reference to the agreement being noted on the share certificate or otherwise,” in the second paragraph;

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

“The person is presumed not to have been aware of the unanimous shareholder agreement if its existence is not stated on the share certificate or, in the case of uncertificated shares, if the person was not given notice of its existence.”

**77.** Section 223 of the Act is amended by striking out “Even” in the first paragraph.

**78.** Section 281 of the Act is amended by inserting “all” before “cancelled” in subparagraph 3 of the second paragraph.

**79.** Section 287 of the Act is amended by replacing “that amalgamated” by “who voted for or consented to an amalgamation” and by replacing “des dettes de la société issue de la fusion subsistant” in the French text by “des dettes de cette société subsistant”.

**80.** Section 289 of the Act is amended by replacing “constituting instrument” in the second paragraph by “incorporation document”.

**81.** Section 373 of the Act is amended by replacing “there is only one class of shares” in the second paragraph by “all the shares held by the shareholders are of the same class”.

**82.** The Act is amended by inserting the following section after section 373:

**“373.1.** Despite section 93, non fully paid shares also confer the right to demand a repurchase.”



**83.** Section 379 of the Act is amended by adding the following paragraphs at the end:

“However, in the case of a shareholder holding non-fully paid shares, the corporation must subtract the unpaid portion of the shares from the repurchase price offered or, if it cannot pay the full repurchase price offered, the maximum amount that it can legally pay for those shares.

The repurchase notice must mention the subtraction and show the amount that can be paid to the shareholder.”

**84.** Section 445 of the Act is amended

(1) by replacing both occurrences of “affiliate” by “subsidiary”;

(2) by replacing “a corporation or any of its subsidiaries” by “a corporation or a corporation that is one of its subsidiaries”.

**85.** Section 451 of the Act is amended by replacing “or setting aside” in subparagraph 8 of the first paragraph by “, setting aside or annulling”.

**86.** Section 513 of the Act is amended by striking out paragraph 3.

**87.** Section 556 of the Act, and the heading before it, are repealed.

**88.** The Act is amended by inserting the following section after section 715:

“**715.1.** A company constituted under the Mining Companies Act (R.S.Q., chapter C-47) must, before 14 February 2016, send articles of continuance to the enterprise registrar in accordance with this Act. Otherwise, it is dissolved as of that date.”

**89.** Section 724 of the Act is amended

(1) by replacing “section 215” by “sections 215 and 216”;

(2) by inserting “and the names and domiciles of the persons who have assumed the powers of the board of directors” after “unanimous shareholder agreement”.

**90.** Section 727 of the Act is amended by replacing the first paragraph by the following paragraph:

“**727.** The Government may, by a regulation made before 14 February 2012, enact any other transitional measure necessary for the carrying out of this Act.”

### CHAPTER III

#### TRANSITIONAL AND FINAL PROVISIONS

**91.** Any director general who is a member of the board of directors of a credit union may remain in office until his or her term expires.

**92.** In any other Act, including any Act amended by this Act, and in any regulation, by-law or other document, unless the context indicates otherwise and with the necessary modifications, “register of sole proprietorships, partnerships and legal persons” is replaced by “enterprise register”.

**93.** This Act comes into force on 10 December 2010, except

(1) sections 15 to 17, 21 to 24, paragraph 1 of section 25, section 28, paragraphs 2 to 4 of section 29 except where paragraphs 2 and 3 of that section cause “particularly” to be struck from subparagraphs 7 and 8 of the first paragraph of section 17 of the Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1), section 30, paragraph 2 of section 31, section 32, paragraph 5 of section 33, sections 35, 37 to 42, paragraphs 4 and 6 of section 44 and sections 47 to 49, 51, 52 and 58, which come into force on the date or dates to be set by the Government; and

(2) paragraph 2 of section 25, sections 26 and 27, paragraph 1 of section 29 and paragraphs 2 and 3 of that section where they cause “particularly” to be struck from subparagraphs 7 and 8 of the first paragraph of section 17 of the Act respecting the legal publicity of enterprises, paragraph 1 of section 31, paragraphs 1 to 4 of section 33, sections 34, 36 and 43, paragraphs 1 to 3 and 5 of section 44 and sections 45, 46, 50, 53 to 57, 59 to 89 and 92, which come into force on 14 February 2011.

SCHEDULE I  
(Section 1)

MONEY-SERVICES BUSINESSES ACT

**CHAPTER I**

SCOPE AND INTERPRETATION

**1.** This Act applies to any person or entity who operates a money-services business for remuneration.

The following services are considered to be money services:

- (1) currency exchange;
- (2) funds transfer;
- (3) the issue or redemption of traveller's cheques, money orders or bank drafts;
- (4) cheque cashing; and
- (5) the operation of automated teller machines, including the leasing of a commercial space intended as a location for an automated teller machine if the lessor is responsible for keeping the machine supplied with cash.

**2.** This Act does not apply to the National Assembly, to the Gouvernement du Québec or any other government in Canada, to a department or an agency of those governments or to a municipality or a metropolitan community or an agency of a municipality or a metropolitan community.

Nor does it apply to persons or entities who, whether as money-services businesses or mandataries of such businesses, offer money services as part of their activities if those activities are governed by the Act respecting insurance (R.S.Q., chapter A-32), the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3), the Derivatives Act (R.S.Q., chapter I-14.01), the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01), the Securities Act (R.S.Q., chapter V-1.1), except persons or entities who are subject to that Act only as reporting issuers, the Bank Act (Statutes of Canada, 1991, chapter 46), the Cooperative Credit Associations Act (Statutes of Canada, 1991, chapter 48), the Canadian Payments Act (Revised Statutes of Canada, 1985, chapter C-21) or the Payment Clearing and Settlement Act (Statutes of Canada, 1996, chapter 6, s. 162, Sch.).

## CHAPTER II

### LICENCES

#### DIVISION I

##### ISSUE

**3.** A person or entity operating a money-services business for remuneration must hold a licence of the appropriate class.

**4.** Licences of one or more of the following classes are issued by the Autorité des marchés financiers (the Authority):

- (1) currency exchange;
- (2) funds transfer;
- (3) the issue or redemption of traveller's cheques, money orders or bank drafts;
- (4) cheque cashing; and
- (5) the operation of automated teller machines.

The lessor of a commercial space intended as a location for an automated teller machine must be licensed to operate automated teller machines if the lessor is responsible for keeping the machine supplied with cash.

**5.** A licence application must be filed together with the fee determined by regulation and filed by the director, officer or partner of the money-services business who is acting as the business's respondent for the purposes of this Act.

The respondent must

- (1) be 18 years of age or over;
- (2) not be under tutorship, curatorship or advisership;
- (3) be domiciled in Québec or have a place of business or a place of work in Québec; and
- (4) meet any other condition set by regulation.

If the money-services business is not constituted under the laws of Québec and does not have its head office or an establishment in Québec, it must appoint a respondent in Québec who meets the requirements of the second paragraph. Such a respondent need not be a director, an officer or a partner of the business but must be able to properly exercise a respondent's functions with the Authority.

The money-services business must give such a respondent access, at the business's head office and in all its establishments, to the information and documents needed to exercise the respondent's functions.

**6.** When filing a licence application, a money-services business must provide

(1) a document describing its legal structure together with a list containing the name, date of birth, if applicable, domiciliary address and telephone number of each of its officers, directors or partners and branch managers, of any person or entity who directly or indirectly owns or controls the money-services business, of each of its employees working in Québec, stating the employee's functions, and of any other person specified by regulation;

(2) a list containing the name, date of birth, if applicable, domiciliary address and telephone number of each of its mandataries and of each of the officers of its mandataries who are responsible for the money services offered on behalf of the money-services business;

(3) a list of the financial institutions with which it deals;

(4) a list containing the name, date of birth, if applicable, domiciliary address and telephone number of each of its lenders other than the financial institutions referred to in subparagraph 3 and, if a lender is not a natural person, of each of its officers, directors or partners, along with the documents evidencing the loans;

(5) its business plan, its financial statements for the last fiscal year, a list of its establishments and, if applicable, the name of its subsidiaries and the names of its parent company and all subsidiaries of its parent company; and

(6) any other document with respect to any person specified by regulation.

The money-services business must also, for every natural person mentioned in the first paragraph, provide a copy of photo identification issued by a government or a government department or agency and showing the person's name and date of birth.

A money-services business applying for a licence only for the class relating to the operation of automated teller machines must, for the purposes of subparagraph 1 of the first paragraph, provide information concerning only those of its employees whose functions are related to the operation of automated teller machines. The business need not provide the business plan or financial statements required under subparagraph 5 of the first paragraph.

**7.** When a money-services business files a licence application, the Authority sends a notice to the Sûreté du Québec and the police force in the local municipal territory where the money-services business plans to offer money services and

encloses the information the Sûreté du Québec needs in order to issue a security clearance report.

**8.** Within 30 days after receiving the notice from the Authority, the Sûreté du Québec sends the Authority a security clearance report for the money-services business and for each of the persons referred to in subparagraphs 1 and 2 of the first paragraph of section 6 who exercise their functions in Québec, except employees of the money-services business whose functions are not related to the money services offered. Only one security clearance report is required for a person or entity referred to in both subparagraphs 1 and 2 of the first paragraph of section 6.

A security clearance report must also be issued for each of the lenders of the money-services business other than the financial institutions referred to in subparagraph 3 of the first paragraph of section 6, and for any other person specified by the Authority.

The security clearance report must state whether or not the person concerned has previous convictions and is of good moral character. For that purpose, it must specify whether there are grounds for the Authority to refuse to issue a licence under paragraph 1 of section 11 that relate to the applicant's moral character, or under paragraph 4 or 5 of that section or under section 13, the first paragraph of section 15 or section 16, to the extent that those provisions do not refer to paragraph 6 of section 11 or to paragraph 1 of section 12.

**9.** The Sûreté du Québec or a police force may object to the issue of a licence within 30 days after receiving notice of it under section 7. The objection must be filed in writing and include reasons.

Likewise, the Sûreté du Québec or the police force may at any time request that a licence be suspended or revoked.

**10.** When a request is filed with the Authority under section 9, the Authority asks the Bureau de décision et de révision established under section 92 of the Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2) to call the interested persons and entities to a hearing.

Not less than 10 days before the hearing is to be held, the Bureau sends the persons and entities a notice, by registered or certified mail or by personal service, of the hearing date, place and time.

Once the hearing has been held, the Bureau addresses its recommendations to the Authority.

**DIVISION II****DECISIONS REGARDING LICENCES**

**11.** The Authority refuses to issue a licence to a money-services business if it

(1) does not meet the requirements of this Act and, in particular, is not of good moral character as determined under section 23;

(2) has made an assignment of property or is insolvent or bankrupt;

(3) has had its right to operate revoked by a Canadian or foreign money-services regulator in the last 10 years;

(4) has, in the last 10 years, been convicted of or pleaded guilty to a penal or indictable offence under Part II.1, IV, IX, X, XII, XII.2 or XIII of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or an offence under the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19), other than an offence under subsection 1 of section 4 of that Act, unless a pardon has been obtained;

(5) has entered into a contract for the loan of money with a lender, other than a financial institution referred to in subparagraph 3 of the first paragraph of section 6, who or one of whose officers, directors or partners has, in the last 10 years, been convicted of or pleaded guilty to an indictable offence in connection with the activities carried on by the lender, or an indictable offence under sections 467.11 to 467.13 of the Criminal Code, unless a pardon has been obtained; or

(6) has, in the last 10 years, been convicted by a foreign court of or pleaded guilty before a foreign court to an offence which, if committed in Canada, could have resulted in criminal or penal proceedings under any Part of the Criminal Code or of the Act referred to in paragraph 4, unless a pardon has been obtained.

**12.** The Authority may refuse to issue a licence to a money-services business, if the money-services business

(1) has been convicted of or pleaded guilty to an offence under this Act or an offence under any of the Acts listed in Schedule 1 to the Act respecting the Autorité des marchés financiers or any similar legislation of a Canadian province or territory or of another jurisdiction, a fiscal law, the Corruption of Foreign Public Officials Act (Statutes of Canada, 1998, chapter 34), the Excise Act, 2001 (Statutes of Canada, 2002, chapter 22), subsection 1 of section 4 of the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19) or the Export and Import Permits Act (Revised Statutes of Canada, 1985, chapter E-19), unless a pardon has been obtained;

(2) has had its right to operate suspended or conditions or restrictions imposed on it by a Canadian or foreign money-services regulator; or

(3) has entered into a contract for the loan of money with a lender, other than a financial institution referred to in subparagraph 3 of the first paragraph of section 6, who or one of whose officers, directors or partners has, in the last 10 years, been convicted of or pleaded guilty to an indictable offence under a fiscal law.

**13.** The Authority refuses to issue a licence to a money-services business if one of its officers, directors, partners or branch managers, a person or entity who directly or indirectly owns or controls the money-services business or any other person specified by regulation, is in any of the situations described in paragraphs 1 to 4 and 6 of section 11.

**14.** The Authority may refuse to issue a licence to a money-services business if one of its officers, directors, partners, branch managers or any other person specified by regulation

(1) has made an assignment of property or is an undischarged bankrupt;

(2) is under tutorship, curatorship or advisership;

(3) is not 18 years of age or over;

(4) has been convicted of or pleaded guilty to an offence under any of the Acts referred to in paragraph 1 of section 12, unless a pardon has been obtained;

(5) served in any of those capacities with a money-services business in the 12 months preceding its bankruptcy and the bankruptcy occurred less than three years before the person's appointment;

(6) served in any of those capacities with a money-services business whose right to operate has, in the last three years, been revoked, suspended or made subject to conditions or restrictions by a Canadian or foreign money-services regulator; or

(7) has served in any of those capacities with a money-services business in the 12 months preceding the cessation of its activities if, in the Authority's opinion, the cessation is attributable to unlawful acts or practices.

**15.** The Authority may refuse to issue a licence to a money-services business if a person or an entity who directly or indirectly owns or controls the money-services business has been convicted of or pleaded guilty to an offence under any of the Acts referred to in paragraph 1 of section 12, unless a pardon has been obtained.



The same applies if that person or entity has directly or indirectly owned or controlled another money-services business in any situation described in paragraphs 5 to 7 of section 14.

**16.** The Authority may refuse to issue a licence to a money-services business if one of its employees whose functions are related to the money services offered by the money-services business is in a situation described in paragraph 1, 4 or 6 of section 11 or paragraph 1 of section 12.

**17.** The Authority suspends or revokes the licence of a money-services business on a ground specified in section 11 or 13.

Based on any other grounds specified in this Act, the Authority requests the Bureau de décision et de révision to suspend or revoke the licence of a money-services business. The Authority may also request the Bureau to impose an administrative penalty on the money-services business, which may not exceed \$200,000 for each offence.

**18.** Before suspending or revoking a licence, the Authority may order the money-services business concerned to take the necessary corrective measures within the time the Authority specifies.

**19.** Before refusing to issue a licence or suspending or cancelling a licence, the Authority must notify the money-services business concerned in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., chapter J-3) and allow the business at least 10 days to submit observations and provide additional documents to complete the file.

The Authority may make a decision without complying with that prior obligation if urgent action is required or to prevent irreparable harm. In such a case, the money-services business concerned may, within the time specified in the decision, submit written observations and provide additional documents to the Authority for the purposes of a review of the decision.

**20.** Notice of a decision relating to a licence must be given to the Ministère du Revenu, the Sûreté du Québec and the police force in the local municipal territory where the money-services business concerned operates.

**21.** A money-services business whose licence has been suspended by the Authority may have the suspension lifted if it takes the necessary corrective measures within the time specified by the Authority.

If the money-services business fails to take the necessary corrective measures within the time specified, the Authority must revoke the licence.

## CHAPTER III

### OBLIGATIONS OF MONEY-SERVICES BUSINESSES

#### DIVISION I

##### GENERAL OBLIGATIONS

**22.** A money-services business must pay the fees determined by regulation.

**23.** A money-services business, and the persons or entities referred to in subparagraph 1, 2 or 4 of the first paragraph of section 6, must be of good moral character and show the integrity needed to carry on their activities and perform their functions.

A lack of good moral character is determined in light of such factors as the connections the persons or entities referred to in the first paragraph maintain with a criminal organization within the meaning of subsection 1 of section 467.1 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or with any other person or entity who engages in money laundering for criminal activities or in trafficking in a substance included in any of Schedules I to IV to the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19). It is also determined in light of any other event of such a nature as to affect the validity of the licence or give the Authority cause to act under any of sections 11 to 17.

**24.** A money-services business must ensure that its officers, directors, partners and employees comply with this Act.

**25.** A money-services business must notify the Authority without delay of any change likely to affect the validity of its licence or give the Authority cause to act under any of sections 11 to 17.

**26.** A money-services business must inform the Authority in writing, within the time prescribed by regulation, of any change in the information that it has filed with the Authority, including any change in the lists required under section 6.

**27.** If a change to be reported under section 25 or under section 26 affects the security clearance report issued for a money-services business or any other person or entity referred to in section 8, a new background check must be conducted so that a new report can be issued. The same applies if the Authority otherwise becomes aware of such a change.

**28.** A money-services business must verify the identity of its customers and, as part of its business dealings, the identity of its other co-contracting parties, in the cases and in the manner prescribed by regulation.

**29.** A money-services business must maintain and update the following records and registers:

- (1) a register of the transactions it has conducted containing, among other things, customer identification information;
- (2) the records needed to identify its sources of liquidity;
- (3) an accounting register containing a balance sheet and an income statement;
- (4) a register of accounts and bank reconciliation reports;
- (5) a record containing the name, domiciliary address and telephone number, and function of each of its officers, directors, partners and employees; and
- (6) any other record or register prescribed by regulation.

The records and registers must be kept in Québec and be readily available to the Authority. If they are kept by another person, such as a mandatary or a goods or services provider, who provides a service to the money-services business, they must be available to the Authority as if they were kept at the head office or an establishment of the money-services business.

However, a money-services business whose head office is situated outside Québec may keep its records and registers outside Québec, but the information they contain must be available for inspection, in an appropriate medium, at an establishment of the money-services business in Québec or in any other place designated by the Authority, and the money-services business must provide technical assistance to facilitate inspection of the information.

The records and registers must be maintained in such a manner so as to allow auditing.

**30.** A money-services business must keep the customer information it has on file for six years after the information is gathered.

**31.** A money-services business must, in the manner prescribed by regulation, notify the Authority of a financial transaction if there is reasonable cause to believe that the transaction or its purpose constitutes an offence under this Act or may give the Authority cause to act under any of sections 11 to 16.

A money-services business who notifies the Authority under the first paragraph does not incur any civil liability as a result.

**32.** A money-services business or any person or entity who provides a money-services business with goods or services related to the design or operation of systems providing access to funds through automated teller machines or point-of-sale terminals for the purposes of the money-services

business's activities must, on the Authority's request and within the time the Authority specifies, provide any information or document the Authority considers relevant for the purposes of this Act.

**33.** A money-services business must file with the Authority the reports, documents and statements prescribed by this Act, in the form and within the time specified by regulation.

## **DIVISION II**

### **CESSATION OF ACTIVITIES**

**34.** A money-services business wishing to cease its activities must, 15 days before the projected cessation date, apply to the Authority for the withdrawal of its licence.

The Authority may impose such conditions as it may determine on the withdrawal of the licence.

**35.** A money-services business that ceases its activities or whose licence is revoked must hand its records, books and registers over to the Authority, which determines how it will dispose of them.

However, the records, books and registers may be disposed of otherwise with the authorization of the Authority.

The Authority notifies the Ministère du Revenu, the Sûreté du Québec and the police force in the local municipal territory concerned that the money-services business has ceased its activities. It must also notify them before the money-services business's records, books and registers are disposed of.

## **CHAPTER IV**

### **FUNCTIONS AND POWERS OF AUTORITÉ DES MARCHÉS FINANCIERS**

#### **DIVISION I**

##### **GENERAL PROVISIONS**

**36.** The Authority established under section 1 of the Act respecting the Autorité des marchés financiers exercises the functions and powers assigned to it by this Act.

**37.** The Authority may, by an agreement entered into under section 33 of the Act respecting the Autorité des marchés financiers, allow the communication of any personal information to facilitate the administration or enforcement of this Act, of fiscal, criminal or penal legislation or of any similar legislation outside Québec.

**38.** The Authority may, without the consent of the money-services business or the person or entity concerned, communicate any information, including personal information, to a police force if there is reasonable cause to believe that the money-services business, person or entity has committed or is about to commit a criminal or penal offence under an Act enforceable in or outside Québec in relation to this Act or against the Authority or one of its employees, and that the information is required for the purposes of the investigation.

The Authority may also, without the consent of the money-services business or the person or entity concerned, communicate any information, including personal information, to the Minister of Revenue if there is reasonable cause to believe that the money-services business, person or entity has committed or is about to commit an offence that may have an impact on the administration or enforcement of a fiscal law.

**39.** In a case not provided for in section 38, the Authority may, with the authorization of a judge of the Court of Québec, communicate any information, including personal information, to a police force without the consent of the person concerned.

The application for authorization must be made in writing and contain a sworn statement that there is reasonable cause to believe that the information may serve to prevent, detect or repress the commission of an indictable offence that has been or is about to be committed against an Act applicable in or outside Québec.

The application and the record pertaining to the hearing are confidential. The clerk of the Court of Québec must take the necessary measures to preserve their confidentiality.

The judge to whom the application for authorization is made shall hear the application outside the presence of the person concerned and in camera. The judge may make any order to preserve the confidentiality of the application, the record and personal information. The record must be sealed and kept in a place not open to the public.

**40.** In addition to the situations described in section 41.2 or 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), a police force may communicate any information to the Authority for the purposes of this Act without the consent of the money-services business, person or entity concerned if the money-services business, person or entity is a member of a criminal organization within the meaning of subsection 1 of section 467.1 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or participates or has participated in the activities of such a criminal organization, whether or not the money-services business, person or entity has been convicted in relation to such participation.

**41.** The Authority may, by a motion, apply to a judge of the Superior Court for an injunction in respect of any matter relating to this Act.

The motion for an injunction is a proceeding in itself.

The procedure prescribed in the Code of Civil Procedure (R.S.Q., chapter C-25) applies, except that the Authority cannot be required to give security.

**42.** The Authority may, on its own initiative and without notice, intervene in any proceeding relating to a provision of this Act.

A motion by the Authority under this section is filed in the district in which the residence or principal establishment of the person or entity concerned is situated or, if the person or entity has no residence or establishment in Québec, in the district of Montréal.

**43.** The Authority may, on its own initiative or on the request of an interested person, take any steps to ensure compliance with this Act.

It may, in particular, require that the respondent of a money-services business be replaced or require changes to any document prepared under this Act.

**44.** The Authority may make policy statements relating to the administration of this Act.

The policy statements set out how the Authority intends to exercise its discretionary powers for the purposes of this Act.

## **DIVISION II**

### **INSPECTIONS AND INVESTIGATIONS**

**45.** The Authority may, in accordance with Chapter III of Title I of the Act respecting the Autorité des marchés financiers, inspect the affairs of a money-services business in order to verify compliance with this Act, or conduct an investigation into any matter relating to this Act.

In addition, the Authority may, on its own initiative or on request, conduct an investigation

(1) to repress any contravention of the legislation adopted by another legislative authority to regulate money services; and

(2) within the scope of an agreement entered into under the second paragraph of section 33 of the Act respecting the Autorité des marchés financiers.

**46.** The Authority or its appointed agent may require any person or entity or the officers, directors, partners or employees of a person or entity to submit to examination under oath.

**47.** No person called on to testify in the course of an investigation or being examined under oath may refuse to answer or refuse to produce a document on the grounds that the person might, by doing so, be incriminated or exposed to a penalty or to civil proceedings, subject to the Canada Evidence Act (Revised Statutes of Canada, 1985, chapter C-5).

**48.** The Authority may require the communication or delivery of any document that is relevant to an investigation. It may return documents to those who provided them or otherwise decide how documents are to be disposed of.

A person who has provided documents to the Authority may inspect them or copy them at the person's own expense, by arrangement with the Authority.

**49.** The Sûreté du Québec or any police force may at any reasonable hour enter an establishment governed by this Act to verify whether the money-services business holds a licence or to verify any other thing that may affect the validity of the licence or give the Authority cause to act under any of sections 11 to 17.

### **DIVISION III**

#### **CONSERVATORY MEASURES**

**50.** The Authority may, for the purposes or in the course of an investigation, request the Bureau de décision et de révision

(1) to order a person or entity not to dispose of funds, securities or other property in their possession; and

(2) to order the person or entity to refrain from withdrawing funds, securities or other property on deposit with or under the control or in the safekeeping of any other person.

Such an order is effective for a renewable period of 120 days from the time the person or entity concerned is notified.

**51.** The person or entity concerned must be notified at least 15 days before any hearing during which the Bureau de décision et de révision is to consider an application for the renewal of an order under this division. The Bureau may grant the application if the person or entity concerned has not requested to be heard or has failed to establish that the reasons for the initial order have ceased to exist.

**52.** A person or entity named in an order made under this division who has put a safety deposit box at the disposal of a third person or has allowed a third person to use a safety deposit box must immediately notify the Authority.

On the Authority's request, the person or entity must open the safety deposit box in the presence of an agent of the Authority, draw up an inventory of the contents in triplicate, and give one copy to the Authority and another to the person or entity actually or potentially under investigation.

**53.** An order made under this division that names a Canadian financial institution applies only to the agencies or branches specified.

**54.** A person or entity directly affected by an order made under this division, if in doubt as to the application of the order to particular funds, securities or other property, may apply to the Bureau de décision et de révision for clarification.

**55.** The Authority may publish an order made under this division in the register of personal and movable real rights.

**56.** In addition to any measure imposed in an order made under this division, the Bureau de décision et de révision may require the person or entity named in the order to repay to the Authority the costs incurred in connection with the inspection or investigation that established non-compliance with a provision of this Act, according to the tariff set by regulation.

**57.** The Bureau de décision et de révision may prohibit a person from acting as a director or officer of a money-services business on the grounds set out in article 329 of the Civil Code or if a penalty has been imposed on the person under this Act.

The prohibition imposed by the Bureau de décision et de révision may not exceed five years.

The Bureau de décision et de révision may, at the request of the person concerned, lift the prohibition on such conditions as it considers appropriate.

#### **DIVISION IV**

##### **MONEY-SERVICES BUSINESS REGISTER**

**58.** The Authority maintains a public register of licence-holding money-services businesses containing the following information concerning each money-services business:

- (1) its name and its licence number;
- (2) the class of the licence it holds; and
- (3) contact information for its head office and each of its establishments.

**59.** The Authority may require that a money-services business communicate any information needed to maintain the register.



## CHAPTER V

### REGULATORY POWERS

#### **60.** The Authority may make regulations determining

(1) the fees and tariffs payable for any formality required by this Act and for the services provided by the Authority, and payment terms and time limits;

(2) the form and content of licence applications;

(3) documents and persons for the purposes of the first paragraph of section 6;

(4) the time limit and procedure for informing the Authority of any change in the information filed with the Authority by a money-services business, including any change to the lists and other documents provided;

(5) the nature, form and content of the books, registers and records that a money-services business must maintain and rules relating to their preservation, use and destruction;

(6) which money-services businesses must provide security for the performance of their obligations, and the amount and form of the security;

(7) time limits for the purposes of this Act;

(8) the cases and manner in which the identity of a customer or a co-contracting party must be verified for the purposes of section 28;

(9) the manner in which notification of a financial transaction is to be given for the purposes of section 31; and

(10) the nature, form and content of the reports, documents and statements required to be filed under section 33.

#### **61.** A regulation of the Authority under this Act must be submitted for approval to the Minister, who may approve it with or without amendment.

However, a regulation of the Authority under paragraph 1 of section 60 must be submitted for approval to the Government, which may approve it with or without amendment.

A draft of a regulation referred to in the first paragraph may not be submitted for approval and the regulation may not be made before 30 days have elapsed since the publication of the draft in the Authority's bulletin. The regulation comes into force on the date of its publication in the *Gazette officielle du Québec*

or on any later date specified in the regulation. Sections 4 to 8, 11 and 17 to 19 of the Regulations Act (R.S.Q., chapter R-18.1) do not apply to the regulation.

The Minister may make a regulation referred to in the first paragraph if the Authority fails to make such a regulation within the time determined by the Minister.

The Government may make a regulation referred to in the second paragraph if the Authority fails to make such a regulation within the time determined by the Government.

**62.** Regulatory provisions made under this chapter may vary according to the class of licence to which they apply.

## CHAPTER VI

### MISCELLANEOUS PROHIBITIONS

**63.** No person may make any representation that the Authority has passed upon the merits of a money-services business or its conduct.

**64.** No person may represent that the person holds a licence under this Act unless the representation is true.

**65.** No person may act as nominee for another person or for an entity.

## CHAPTER VII

### PENAL PROVISIONS

**66.** A person who

(1) in any manner makes a misrepresentation to the Authority or another person or entity when pursuing activities governed by this Act,

(2) hinders or attempts to hinder a person acting on behalf of the Authority,

(3) hinders or attempts to hinder an inspector or an investigator, refuses to provide an inspector or an investigator with information or a document the inspector or investigator is entitled to require or examine, or conceals or destroys a document or property relevant to an inspection or investigation,

(4) acts as nominee, uses the name of another person or an entity who holds a licence or uses that person's or entity's licence number to operate a money-services business,

(5) contravenes a decision of the Authority or the Bureau de décision et de révision,

(6) fails to provide information or documents required under this Act, or

(7) fails to appear after summons, refuses to testify or refuses to communicate or deliver a document or thing required by the Authority or an appointed agent of the Authority, in the course of an investigation or inspection,

is guilty of an offence.

A person who contravenes any subparagraph of the first paragraph is liable to a fine of not less than \$5,000 nor more than \$50,000 in the case of a natural person and not less than \$15,000 nor more than \$200,000 in the case of a legal person or an entity.

**67.** A person who contravenes any of sections 3, 22 to 35 and 63 to 65 is guilty of an offence and liable to a fine of not less than \$5,000 nor more than \$50,000 in the case of a natural person and not less than \$15,000 nor more than \$200,000 in the case of a legal person or other entity.

If the offender is a money-services business whose licence has been suspended or revoked under section 17, it is liable to an additional fine of not less than \$10,000 nor more than \$100,000.

**68.** A money-services business that has entered into a contract for the loan of money with a lender, other than a financial institution, who or one of whose officers, directors or partners, in the 10 years preceding the loan, was convicted of or pleaded guilty to an indictable offence in connection with the activities carried on by the lender or an indictable offence under sections 467.11 to 467.13 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) is guilty of an offence and liable to a fine of not less than \$15,000 nor more than \$150,000 in the case of a natural person and not less than \$45,000 nor more than \$450,000 in the case of a legal person or other entity.

**69.** A person or entity who helps or, by encouragement, advice or consent or by an authorization or order, induces another person or entity to commit an offence under this Act is guilty of an offence.

A person or entity found guilty under this section is liable to the same penalty as prescribed for the offence committed by the other person or entity.

**70.** In the case of a second or subsequent offence, the minimum and maximum fines prescribed in this Act are doubled.

**71.** The contravention of a regulation made under this Act constitutes an offence that is subject to the same provisions as offences under this Act.

**72.** Penal proceedings for an offence under this Act may be instituted by the Authority.

**73.** When the Authority takes charge of the prosecution, the fine imposed by the court belongs to the Authority.

**74.** Penal proceedings for an offence under any of sections 3, 22 to 35 and 66 to 69 are prescribed five years from the date on which the investigation record relating to the offence was opened.

A certificate of the secretary of the Authority stating the date on which the investigation record was opened constitutes conclusive proof of that date in the absence of any evidence to the contrary.

**75.** The Authority may recover its investigation costs from any person found guilty of an offence under this Act, according to the tariff set by regulation.

The Authority prepares a statement of costs and presents it to a judge of the Court of Québec after giving the interested parties five days' prior notice of the date of presentation.

The judge taxes the costs. The judge's decision may be appealed with leave of a judge of the Court of Appeal.

## **CHAPTER VIII**

### **ADMINISTRATION OF THE ACT**

**76.** The costs incurred by the Government for the administration of this Act, as determined each year by the Government, are borne by the Authority.

The charges payable for the issue of a security clearance report must be determined by an agreement between the Authority and the Sûreté du Québec, as allowed under the second paragraph of section 51 of the Police Act (R.S.Q., chapter P-13.1).

**77.** A document issued by the Authority to attest the issue of a licence, the filing of a document, the time when facts having given rise to proceedings came to the knowledge of the Authority and any other matter relating to the administration of this Act constitutes proof of its content in any proceeding without further proof of the signature or authority of the signatory.

**78.** The Authority may appoint any expert whose assistance it considers useful for the administration of this Act.

## CHAPTER IX

### AMENDING PROVISIONS

**79.** Section 93 of the Act respecting the Autorité des marchés financiers (R.S.Q., chapter A-33.2) is amended by inserting “the Money-Services Businesses Act (2010, chapter 40, Schedule I),” after “the Act respecting the distribution of financial products and services (chapter D-9.2),” in the first paragraph.

**80.** Section 94 of the Act is amended by inserting “the Money-Services Businesses Act (2010, chapter 40, Schedule I),” after “the Act respecting the distribution of financial products and services (chapter D-9.2),”.

**81.** Section 115.1 of the Act is amended by replacing “or the marketing” by “, regulating money-services businesses or supervising the marketing”.

## CHAPTER X

### TRANSITIONAL AND FINAL PROVISIONS

**82.** A person or entity who, on (*insert the date of coming into force of section 3*), operates a money-services business for which a licence is required under this Act must, within six months after that date, file an application for a licence of the appropriate class in accordance with this Act. The person or entity may continue operating their money-services business until the Authority renders a decision on the licence application.

The business plan referred to in subparagraph 5 of the first paragraph of section 6 need not be submitted with the application.

**83.** Not later than (*insert the date that occurs five years after the coming into force of section 1*) and subsequently every five years, the Minister must report to the Government on the carrying out of this Act and on the advisability of maintaining or amending it.

The report is tabled in the National Assembly within the next 15 days or, if the Assembly is not sitting, within 15 days of resumption.

**84.** The Authority is responsible for the administration of this Act.

**85.** The Minister of Finance is responsible for the carrying out of this Act, except sections 8 and 9, section 49 and the second paragraph of section 76, the carrying out of which is under the responsibility of the Minister of Public Security.

**86.** The provisions of this Act come into force on the date or dates set by the Government.