

M.O., 2012**Order number E-12.000001-2012-02 of the Minister for Finance dated 1st March 2012**

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

CONCERNING Regulation under the Money-Services Businesses Act

WHEREAS section 60 of the Money-Services Businesses Act (2010, c. 40, Schedule I) provides that the Autorité des marchés financiers may make regulations on the matters set forth therein;

WHEREAS the first and the third paragraphs of section 61 of such Act provide, in particular, that a regulation made by the Autorité des marchés financiers under this Act must be submitted to the Minister of Finance for approval with or without amendment, that a draft of a regulation referred to in the first paragraph may not be submitted for approval, that the regulation may not be made before 30 days have elapsed since the publication of the draft, that 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 and that sections 4 to 8, 11 and 17 to 19 of the Regulations Act (R.S.Q., R-18.1) do not apply to the regulation;

WHEREAS section 62 of such Act provides that the Regulatory provisions made under the chapter V may vary according to the class of licence to which they apply;

WHEREAS Order-in-Council no. 930-2011 of September 14, 2011 concerning the Minister for Finance provides that the Minister for Finance exercises, under the supervision of the Minister of Finance, the functions for the application of the Securities Act;

WHEREAS the draft Regulation under the Money-Services Businesses Act was published in the Bulletin de l'Autorité des marchés financiers, volume 8, no. 23 of June 10, 2011;

WHEREAS the Autorité des marchés financiers made, on January 30, 2012, by the decision no. 2012-PDG-0015, Regulation under the Money-Services Businesses Act;

WHEREAS there is cause to approve this regulation without amendment;

CONSEQUENTLY, the Minister for Finance approves without amendment Regulation under the Money-Services Businesses Act appended hereto.

1st March 2012

ALAIN PAQUET,
Minister for Finance

Regulation under the Money-Services Businesses Act

Money-Services Businesses Act
(2010, c. 40, Schedule I, s. 60, pars. (2), (3), (4), (5), (7), (8) and (10), and s. 62)

DIVISION I
SCOPE

1. This Regulation applies to all money-services businesses governed by the Money-Services Businesses Act (2010, c. 40, Schedule I), except for sections 7 to 11, which do not apply to businesses licensed to operate automated teller machines in respect of this class of licence.

DIVISION II
LICENCE

2. The respondent of a money-services business must file a licence application using the form provided by the Autorité des marchés financiers (the "Authority").

This application must contain the following information in particular:

(1) the name of the money-services business, its Québec enterprise number assigned by the registrar and the name under which the business carries on activities;

(2) the address and telephone number of the head office of the money-services business and of each of its establishments;

(3) the name, date of birth and domiciliary address of the respondent and his place of business or place of work in Québec, if applicable;

(4) the mailing address of the money-services business;

(5) the class or classes of licence requested.

3. The licence application must be filed together with, in addition to the documents prescribed under the Act, the following documents:

(1) an official document of the money-services business confirming the appointment of the respondent acting in such capacity;

(2) a statement from each officer of the money-services business, its directors or partners, its branch managers, its employees whose functions are related to the money services offered, and the persons or entities who, directly or indirectly, own or control the business, indicating whether or not they are in any of the situations described in paragraph (6) of section 11, paragraph (1) of section 12 or section 14 of the Act, if applicable;

(3) a statement indicating whether or not the money-services business is in any of the situations described in paragraphs (3) and (6) of section 11 or in paragraphs (1) and (2) of section 12 of the Act;

(4) a list, including the address and telephone number, of the establishments of the mandataries of the money-services business in which money services are offered.

4. The licence application for the class relating to the operation of automated teller machines must also be filed together with a list of the commercial spaces where the automated teller machines are operated by the money-services business. This list must contain the following information in respect of each automated teller machine:

(1) the address and description of the commercial space where the automated teller machine is operated;

(2) the name and domiciliary address and telephone number of the lessor of the commercial space, if applicable;

(3) the name and domiciliary address and telephone number of the persons whose functions include keeping the automated teller machine supplied with cash;

(4) the brand name, model and serial number of the automated teller machine;

(5) the maximum amount of cash that the automated teller machine may contain.

5. Where the money-services business is not constituted under the laws of Québec and does not have its head office or an establishment in Québec and its respondent is not a director, officer or partner of the money-services business, the licence application must also be filed together with the following documents:

(1) a copy of photo identification issued by a government or a government department or agency and showing the respondent's name and date of birth;

(2) a statement from the respondent containing the information in respect of the respondent for the purposes of sections 13 and 14 of the Act.

DIVISION III

GENERAL OBLIGATIONS

6. The money-services business must notify the Authority of any change in the information that it has filed with the Authority no later than 15 days following the end of the month in which such change took place.

However, the money-services business must notify the Authority no later than March 31 of each year of any addition or change made during the previous year to the list of employees working in Québec whose functions are not related to the money services offered.

These notices must be sent using the forms provided by the Authority and, if applicable, together with the information needed to issue a new security clearance report and the charges payable according to the tariff set by the Regulation respecting fees and tariffs under the Money-Services Businesses Act, approved under Order in Council no. 152-2012 of February 29, 2012.

DIVISION IV

VERIFICATION OF IDENTITY

7. At the time of a transaction request, the money-services business must gather information on the customer's name as well as domiciliary address and telephone number.

8. The money-services business must verify a customer's identity in the following cases:

(1) where the customer requests to carry out a transaction totalling \$3,000 or more involving the issuance or redemption of traveller's cheques, money orders or bank drafts;

(2) where the customer requests to carry out a currency exchange transaction totalling \$3,000 or more;

(3) where the customer requests to carry out a funds transfer transaction totalling \$1,000 or more;

(4) where the customer requests to cash a cheque, irrespective of the amount.

9. To verify the identity of a customer, the money-services business must gather, in addition to the information referred to in section 7, the customer's date of birth, if applicable, as well as his principal occupation or nature of professional or business activities, and must use one of the following methods:

(1) where the customer is a natural person, require that the customer present the original copy of photo identification issued by a government or a government department or agency and showing the person's name and date of birth;

(2) where the customer is a legal person, obtain confirmation of its legal existence, including by verifying its registration in the enterprise register.

10. To verify the identity of a customer who requests to carry out an off-site transaction, the money-services business must gather the information prescribed in section 7 using one of the following methods:

(1) obtain the account or other document number that the money-services business has issued in the name of the customer and in respect of which the money-services business has verified the identity according to the method prescribed in section 9;

(2) obtain confirmation that the customer holds a deposit account with a financial institution in respect of which the customer's identity was verified by that institution at the time the account was opened;

(3) obtain confirmation of a transaction using a bank card issued by a financial institution in the name of the customer and in respect of which the customer's identity was verified by that institution at the time the card was issued.

11. The money-services business must also gather, where the transaction is requested by a third party on behalf of the customer, the information on the third party prescribed in sections 7 and 9, as the case may be, as well as a proxy document.

12. The money-services business must verify, in the same manner as for a customer, the identity of all co-contracting parties with which it has business dealings as part of its money-services business activities, irrespective of the amount or nature of the contract.

DIVISION V **RECORDS AND REGISTERS**

13. The money-services business must keep updated, in addition to the records prescribed under section 29 of the Act, the following records:

(1) a record containing the original copies of all documents sent to the Authority;

(2) a record containing co-contracting party identification information.

14. The register of transactions must contain, in addition to the information gathered and the documents obtained under sections 7, 9, 10 and 11, information that can be used for tracing transactions, including:

(1) the date, time, amount and nature of the transaction;

(2) in the case of a currency exchange transaction, the currency and method of payment;

(3) in the case of a transaction for the issue of a traveller's cheque, money order or bank draft, indication as to whether the amount was received in cash or in another form;

(4) in the case of a transaction for the redemption of a traveller's cheque, money order or bank draft, the name of the issuer of the traveller's cheque, money order or bank draft;

(5) in the case of a transaction for a funds transfer totalling \$1,000 or more, the transfer instructions and the name of the recipient of the funds.

15. To the extent provided by law, the records and registers that must be maintained may be combined into a single record or register, as the case may be, or divided into several records or registers, provided the required information is entered therein in an adequate format and the information may be furnished on request, in an understandable form, to any person authorized by law to verify such information.

16. The money-services business must keep the information and documents contained in the records and registers prescribed by this Regulation for six years after such information and documents are gathered.

17. This Regulation comes into force on April 1, 2012.