

# Report on the Application of the *Money-Services Businesses Act*

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Mr. Jacques Chagnon  
President of the National Assembly  
Parliament Building  
Québec (Québec) G1A 1A4

Dear Sir,

Pursuant to section 83 of the *Money-Services Businesses Act* (CQLR, chapter D-12.000001), I have the honour to submit to you for tabling in the National Assembly this *Report on the Application of the Money-Services Businesses Act*.

Yours truly,

A handwritten signature in black ink, appearing to read 'Carlos Leitão', written in a cursive style.

Carlos Leitão  
Minister of Finance  
Québec City, March 2017



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## MESSAGE FROM THE MINISTER

Tax losses stemming from illegal activities, in particular money laundering and tax evasion, cost Québec several million dollars. Such tax losses significantly affect Québec's entire economy and directly affect all Quebecers.

For this reason, in 2004, the government established the committee Actions concertées contre les crimes économiques et financiers<sup>1</sup>, which pinpointed several money laundering and tax evasion schemes and the lines of business often involved. It concluded that money services businesses were often at the forefront of such schemes.

Accordingly, five years ago Québec implemented a major legislative framework to facilitate the fight against tax evasion and money laundering in the money-services businesses sector.

Québec was thus the first province to subject the delivery of certain money services not provided by financial institutions to the obligation of holding a licence and compliance with certain obligations, in particular concerning the identification of individuals acting for money-services businesses.

The report that we are tabling today shows that the *Money-Services Businesses Act* has had a positive effect on the fight against tax evasion and money laundering. It also shows that ill-intentioned individuals are finding it harder to use money-services businesses for fraudulent activities.

The five years of experience have made it possible to target problems of application, of which this report takes stock. It is, therefore, timely to engage in collective reflection to enhance the existing legal framework to make the *Money-Services Businesses Act* more effective.



Carlos Leitão  
Minister of Finance

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<sup>1</sup> Formerly known as the Committee contre les crimes économiques et financiers à incidence fiscale



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## **ACKNOWLEDGEMENTS**

The Ministère des Finances wishes to thank for their collaboration the Autorité des marchés financiers, the Ministère de la Sécurité publique and the members of the committee Actions concertées contre les crimes économiques et financiers. The information that they provided greatly facilitated the production of this report.



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## TABLE OF CONTENTS

<b>INTRODUCTION</b> .....	<b>1</b>
The purpose of this report.....	2
<b>CHAPTER 1</b> .....	<b>3</b>
<b><i>Money-Services Businesses Act: Context and Objectives</i></b> .....	<b>3</b>
<b>CHAPTER 2</b> .....	<b>5</b>
<b><i>Money-Services Business Act: Industry Profile and Summary</i></b> ...	<b>5</b>
Industry profile .....	5
Summary .....	6
<b>CHAPTER 3</b> .....	<b>9</b>
<b><i>Money-Services Businesses Act: Specific Challenges and Issues</i></b> .....	<b>9</b>
Disclosure of information for individuals whose duties are related to providing money services.....	9
Issuance of a security clearance report.....	9
The use of nominees .....	10
Problems stemming from bank accounts .....	11
<b>CHAPTER 4</b> .....	<b>13</b>
<b><i>Money-Services Businesses Act: Administration of the Act</i></b> .....	<b>13</b>
<b>CONCLUSION</b> .....	<b>15</b>
<b>APPENDIX 1</b> .....	<b>17</b>
<b>Summary of the Recommendations</b> .....	<b>17</b>
<b>APPENDIX 2</b> .....	<b>19</b>
<b>Summary of the consultation questions</b> .....	<b>19</b>
<b>APPENDIX 3</b> .....	<b>21</b>
<b><i>Money-Services Business Act (chapter E-12.000001)</i></b> .....	<b>21</b>



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## INTRODUCTION

The money-services businesses (MSB) industry is vast and heterogeneous. Certain enterprises are primarily engaged in the delivery of one or more money services and do or do not announce themselves accordingly.<sup>2</sup> Other firms in varied industry segments such as travel agencies, grocery stores, convenience stores, jewellery stores and telecommunications boutiques can incidentally offer one or more money services.

However, it is obvious that such businesses are often used, sometimes against their better judgment, for illegal activities such as tax evasion and money laundering.

The effectiveness and success of the fight against money laundering and tax evasion schemes, especially from the standpoint of prevention, depend on analysis capacity of upstream risks. On December 10, 2010, the National Assembly adopted legislation intended to facilitate the fight against money laundering and tax evasion, the *Money-Services Businesses Act* (CQLR, chapter E-12.000001) (MSBA).

The Act governs all persons or entities that operate for remuneration an MSB, i.e. that provide services including currency exchange, funds transfer, the issue or redemption of traveller's cheques, money orders or bank drafts, cheque cashing, and the operation of automatic teller machines.<sup>3</sup> Accordingly, the MSBs play an important role in the functioning of the Québec economy.

Section 83 of the MSBA stipulates that “[n]ot later than 1 April 2017 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.”

Since sections 8, 9, 49 and the second paragraph of section 76 of the MSBA are the responsibility of the Minister of Public Security, the collaboration of the Ministère de la Sécurité publique (MSP) was sought to prepare the five-year report, as well as the collaboration of the Autorité des marchés financiers (AMF), which is responsible for the administration of the Act.

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<sup>2</sup> The sign on the front of a business.

<sup>3</sup> 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.

### **The purpose of this report**

This initial Report on the application of the *Money-Services Businesses Act* seeks to take stock of the implementation of the Act since its adoption to propose enhancements, if need be.

The report comprises four chapters.

Chapter 1 describes the context and objectives of the Act.

Chapter 2 presents a profile of MSBs and a summary of the application of the Act.

Chapter 3 focuses on the challenges and issues specific to the Act.

Chapter 4 focuses on the administration of the Act.

An appendix presents summaries of the recommendations and the consultation questions.

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## CHAPTER 1

### ***MONEY-SERVICES BUSINESSES ACT: CONTEXT AND OBJECTIVES***

In a sweeping offensive by the Québec government aimed at fighting tax-related economic and financial crime, the committee Actions concertées contre les crimes économiques et financiers (ACCEF) was established in 2004 to plan and monitor the concerted action program against economic and financial crime. Made up of representatives of the Ministère des Finances, Revenu Québec, the director of criminal prosecutions, the Service de police de la Ville de Montréal (SPVM) and the Sûreté du Québec (SQ) the committee was an integrated solution aimed at more effectively suppressing economic and financial crime.

The committee's deliberations revealed that MSBs were often at the root of fraudulent schemes or money laundering activities. The lack of knowledge about this industry, combined with the absence of control over the delivery of money services, facilitated frequent recourse to such firms in the elaboration of economic crime schemes.

In the wake of the committee's recommendations, the Québec government decided to adopt a genuine tool to combat money laundering and tax evasion by adopting the MSBA in 2010.

The MSBA introduces a licence system for MSBs, establishes conditions respecting probity for their executive officers and major shareholders, imposes obligations concerning the identification of clients and the disclosure of certain transactions.

The MSBA does not seek to protect consumers. Moreover, it does not make provision for any obligation in this respect.

The administration of the MSBA has been assigned to the AMF because of its expertise in the management of registration systems even though MSBs are not part of the regulated financial sector. The AMF's role is essentially to administer the licence system.

Moreover, it updates the information required by the MSBA and transmits all information to the police and tax authorities when it has reason to believe that an MSB is being used for unlawful activities. If need be, it can also inspect and investigate to ensure compliance with the MSBA.

While it plays a crucial role in the licence issuance process, the AMF acts in cooperation with its partners to properly fulfil its mandate.

Accordingly, the AMF collaborates with police forces, including the SQ, which must issue security clearance reports (SCRs) that give recommendations on whether or not to grant a licence.

The AMF recently concluded a partnership agreement with Revenu Québec under which the agency transmits to it relevant information concerning compliance with the MSBA by the operators of automatic teller machines following its own tax inspection visits. Such collaboration is essential to detect illegal operations.

Since its adoption, the MSBA has been amended once, in June 2013 by the *Act to amend various legislative provisions mainly concerning the financial sector*<sup>4</sup>. The amendments sought to clarify the collaboration process between the AMF, the SQ and the other police forces, add obligations related to the display of the licence, and add as a reason for refusing to issue a licence a prior refusal to grant a right to operate.

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<sup>4</sup> S.Q. 2013, chapter 18

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## CHAPTER 2

### ***MONEY-SERVICES BUSINESS ACT: INDUSTRY PROFILE AND SUMMARY***

#### **Industry profile**

Prior to the adoption of the MSBA, it was difficult to establish a clear picture of the MSB industry despite the obligation for certain businesses to register with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

The FINTRAC administers the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (S.C. 2000, chapter 17). The federal Act seeks to impose obligations to maintain documents and identify clients and to establish a compulsory disclosure system for dubious operations. The field of application of the Québec Act includes the MSBs subject to the FINTRAC<sup>5</sup> in addition to cheque-cashing centres and private automatic teller machine operators.

Accordingly, since April 1, 2012,<sup>6</sup> the AMF has received 2590 licence applications, of which the vast majority (2332) are in the “automatic teller machine operator” category.

As of November 28, 2016, 1748 businesses held a valid licence, including 1593 in the “automatic teller machine operator” category in respect of the operation of roughly 4500 automatic teller machines and 155 firms in one or more of the other categories.

Certain merchants were unable to comply with the new requirements and did not ultimately obtain a licence. It is also reasonable to believe that other merchants simply decided to cease operating their MSBs and to withdraw from the market having observed that it would be difficult for them to obtain a licence in accordance with the MSBA.

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<sup>5</sup> The MSBs covered by the federal legislation are businesses that engage in the transfer of funds by any means, through a person or an electronic funds transfer network, the issuing and redemption of postal money orders, traveller’s cheques or other similar negotiable instruments, excluding cheques payable to a person or an entity.

<sup>6</sup> The MSBA came into force on April 1, 2012, except for enterprises in the automatic teller machine operator category, in respect of which the coming into force was set at January 1, 2013. The MSBs had a six-month transitional period following the coming into force of the provisions respecting their category in which to submit a licence application to the AMF. See section 82 of the MSBA in Appendix 3.

The following table provides a statistical profile of the number of licences issued, in force, abandoned, revoked or refused as at November 28, 2016.

**TABLE 1**

**SUMMARY TABLE OF DATA ON APPLICATIONS FOR LICENCES**  
as at November 28, 2016

	Category related to the operation of automatic teller machines	Other categories
Number of licences issued	1704	204
Number of licences in force	1593	155
Number of licences abandoned at the request of the MSB	102	38
Number of licences revoked	0	7
Number of licences refused	10	8

Source: Data provided by the AMF.

## Summary

Several positive effects of the fight against economic and financial crime are attributable to the coming into force of the MSBA. Indeed, the MSBA has contributed to making economic and financial crime involving an MSB more difficult to commit, which has discouraged certain criminals.

Inspections and criminal background checks that the SQ and other police forces have conducted when SCRs are issued have led the police to focus more extensively on this area of activity, obtain more information on the enterprises and target those that are at greater risk of being linked to criminal networks.

Accordingly, more stringent control of MSBs, combined with the checks conducted for the purposes of the SCRs have certainly served as a deterrent and have exerted pressure on the MSBs, since the operation of their enterprises is from now on subject to a series of requirements that did not exist previously.

According to the MSP, the coming into force of the MSBA appears to have had a deterrent effect on certain “opportunistic delinquents,” who can be defined as merchants who are not career delinquents but who commit indictable offences to take advantage of a business

opportunity or who facilitate them by displaying wilful blindness. In this instance, the opportunity was worthwhile because, prior to the MSBA, the risks linked to crime in the MSB sector were fairly low and allowed for a substantial profit. Guided by their immediate financial interests, the delinquents act occasionally and are especially likely to be influenced by their environment. Individuals likely to be deemed “opportunistic delinquents” are not usually linked to criminal groups. Consequently, by modifying the environment surrounding MSBs, the MSBA has led them to review their assessment of the risks to which they expose themselves by engaging in criminal activity in this area of activity and to comply with the new requirements on penalty of losing their licence.

Different investigations conducted by the SPVM between 2007 and 2012 highlighted the role played by “opportunistic delinquents” who took advantage of a business opportunity to carry out a major transaction with a client whose conduct is dubious in order to make an unusual profit. Since the operation of MSBs is not usually a highly lucrative business activity, this type of activity seemed all the more attractive.

However, the investigations that the SPVM has conducted recently tend to confirm that the coming into force of the MSBA and its implementation appears to have discouraged a number of such delinquents. The investigations have, in fact, revealed that most MSBs were complying with the MSBA, while in the years preceding its coming into force, virtually all enterprises of this type targeted by SPVM investigations participated directly or contributed indirectly in fraudulent activities. A number of MSB operators now appear to be wary of dubious clients and no longer wish to actively or tacitly participate in their schemes. However, it should be noted that the numerous investigations conducted by the SPVM concerning laundering proceeds of crime since 2007 may well have contributed to the overall deterrent effect observed on crime associated with the MSB sector in Montréal.

If the foregoing observations suggest that several positive aspects are attributable to the coming into force of the MSBA, the review of the links between the MSB sector and criminal networks is more nuanced. Indeed, while it appears that the MSBA has contributed to making crime more difficult to commit, it has not, for all that, discouraged certain career criminals.

Essentially, recalcitrant operators can opt for two types of offences. First, they can opt to act anonymously and thus engage in the illegal operation of an unregistered business. This option is not risk-free since the operator will infringe the MSBA and thus be more likely to attract the attention of the authorities. He will be liable to penal

sanctions and may be ordered to pay a considerable fine if caught. Furthermore, if the operation of the MSB occurs at the same time as criminal activity such as narcotics trafficking, money laundering, tax evasion or unreported work, such activities also risk being uncovered by the authorities.

The second option for the recalcitrant merchants consists in resorting to different schemes to obtain a licence despite the operator's links with certain criminal networks. On this account, it bears noting that the "moral character" criterion stipulated in the MSBA complicates the task for an operator who maintains such ties. Consequently, recourse to subterfuges such, for example, as a nominee, to achieve this end requires time and obliges the operator to take risks and further expose himself.

Several other investigations conducted under the ACCEF again reveal that the use by criminal networks of cheque-cashing outlets persists despite the coming into force of the MSBA. Many penal cases handled by the AMF concern illegal operations by unregistered enterprises, while a number of investigations conducted by the SPVM and SQ, in particular, target registered MSBs that are participating in and facilitating criminal activity.

In short, the MSBA offers the authorities levers to intervene with respect to enterprises that operate clandestinely and those whose operations do not comply with the requirements of their licence. It is, therefore, possible to conclude, in light of the foregoing observations, that the implementation of the MSBA has, on the whole, had a positive effect and that the measures stipulated therein are contributing to the fight against money laundering and tax evasion.

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## CHAPTER 3

### ***MONEY-SERVICES BUSINESSES ACT: SPECIFIC CHALLENGES AND ISSUES***

#### **Disclosure of information for individuals whose duties are related to providing money services**

Generally speaking, a business that applies for a licence pursuant to the MSBA must disclose the name, date of birth, domiciliary address and home telephone number of all of its employees and of any person or entity mentioned in section 6. The MSBA makes provision for only one exception for enterprises that apply for a licence in the “automatic teller machine” category. The MSBA requires such applicants to provide information solely on employees whose duties relate to the operation of automatic teller machines.

Accordingly, a hotel that applies for a licence in the “currency exchange” category, for example, must disclose the information on all of its employees, including kitchen and housekeeping staff. A balance should be struck between control measures aimed at preventing economic crime and the disclosure requirements of MSBs.

#### **Question 1**

In your opinion, should businesses that apply for a licence in one of the categories listed in the MSBA be allowed to provide information only on the employees whose duties are directly linked to the money services offered?

#### **Issuance of a security clearance report**

Generally speaking, the MSBA makes provision for the issuance of an SCR for the individuals covered by subparagraphs 1 and 2 of the first paragraph of section 6 and section 8 completes the list. Since the SCR is the keystone of the Act, it is important that it be issued about the right persons.

There are different business models in the industry, which means that the SCR is not always issued to the person or the firm that in point of fact has a significant influence on the money services provided.

For example, a MSB that engages in funds transfer can directly offer this service in respect of which it holds a licence. On the other hand, it may decide to do so instead through mandataries. In all cases, it is the MSB that must hold the licence, while, in point of fact, it is possible that the business does not directly offer the money service for which it holds a licence. Consequently, the employees of the business (mandatary) whose work is directly linked to providing money services are not covered by the verification measures stipulated in the MSBA.

The same reflection could apply to the executive officers, directors and associates of the MSB lender or to any person who supplies the automatic teller machine without being an executive officer or an employee. All of these individuals can have a significant influence on the service offer and the management of the activities of an MSB.

**Question 2**

In your opinion, should the MSBA require the issuance of an SCR to individuals other than those already stipulated? If so, which ones?

**The use of nominees**

A nominee is a person whose name is used to conclude business or a contract on behalf of the true beneficiary who cannot or does not want to do so himself.

While section 65 of the MSBA prohibits a person from acting as nominee for a person or an entity and the prohibition is accompanied by a penal offence, the MSBA does not prohibit seeking the services of a nominee.

According to the MSP, the use of nominees ranks first among possible schemes that allow career delinquents to obtain an MSB licence. Licence applications that resort to this scheme can seem entirely compliant, which explains the relevance of using a nominee. Consequently, it is hard for the authorities concerned to detect them without obtaining privileged information that allows them to pursue in greater depth their investigation. Furthermore, since no offence is now tied to the use of a nominee for the purpose of obtaining a licence, the authorities have, in practical terms, few tools to deal vigorously with this situation.

The problem is a significant one, which could, at least in part, be remedied by introducing a penal offence for the use of a nominee in conjunction with a licence application.

The use of a nominee in this context could also be added to the grounds that allow the AMF to refuse to grant a licence. The penal offence would certainly dissuade individuals who believe that they can use a nominee without repercussions. What is more, it would provide the authorities with a much more robust tool to combat this scheme.

#### **First recommendation**

- Introduce into the MSBA a penal offence linked to the use of a nominee.

### **Problems stemming from bank accounts**

The MSBA stipulates that an MSB must, in particular, submit a list of the financial institutions with which it does business and that it must keep up-to-date bank reconciliation reports. The documents must be maintained such that they can be audited. Although the law does not specify this clearly, the MSB must possess a bank account with a financial institution in order to comply with this obligation.

Inspections conducted by the AMF have revealed that certain licence holders did not possess a bank account or that the bank account for the day-to-day activities of the MSB was opened in the name of a shareholder of the licence holder, one of its directors, its respondent or a third party.

The absence of a bank account in the name of the MSB leads to a broader risk of money laundering and makes it harder to monitor transactions and identify the sources of liquid assets, which is the very objective of the MSBA. Moreover, the fact that the licence holder does not possess a bank account in his name raises concerns about the MSB's capacity to honour its obligations or pursue its activities in the event of the seizure of the assets of the holder of the account in which the MSB's assets are found.

Generally, it is small businesses that engage exclusively in currency exchange operations that are the most likely not to possess a bank account. It is easier for bigger currency exchange bureaus, which also operate elsewhere than in Québec, to comply with this requirement. As for businesses whose currency exchange activities

are accessory to another activity, such as the jewellery trade, they, too, seem to find it easier to satisfy this requirement.

Some MSBs report that their financial institution apparently closed their account after ascertaining that it was used in conjunction with an MSB or refused to open an account. The financial institutions usually justify the decision because their compliance departments deem the type of activity to represent a high financial risk or, as a result of a business decision, the opening of an account for this type of business is not authorized.

To corroborate the foregoing observations, an article published in the July 22, 2016 *National Post*<sup>7</sup> mentioned the frustration and difficulties that the owners of MSBs encounter in respect of conventional banks, which refused to open bank accounts for their businesses. The problem is a serious one and warrants thorough reflection.

#### **Second recommendation**

- Specify in the MSBA the obligation to possess a bank account in the name of the MSB to avoid any possible interpretation.

#### **Question 3**

In your opinion, are there solutions that can be implemented to facilitate access by MSBs to bank accounts?

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<sup>7</sup> <http://business.financialpost.com/news/fp-street/sector-wide-sweep-money-service-firms-say-banks-are-giving-them-the-boot>

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## CHAPTER 4

### ***MONEY-SERVICES BUSINESSES ACT: ADMINISTRATION OF THE ACT***

The AMF was asked to administer the MSBA because of the need to regulate MSBs as soon as possible and because of its expertise in registration system management. However, it is clear that the Act does not conform to the AMF's key mission, which is to protect and assist the consumers of products and the users of financial services. Indeed, the MSBA does not target consumer protection. Its objective is to combat money laundering and tax evasion.

The AMF is properly performing its role as a registrar but since it does not have a mandate to combat tax evasion and money laundering we recommend that Revenu Québec administer the MSBA.

We believe that it is preferable that the organization responsible for the administration of the MSBA be directly concerned by the fight against money laundering and tax evasion. Through its front-line role and mandate respecting tax evasion, Revenu Québec has the resources necessary to ensure compliance with the statutes that it administers. The option of assigning its administration to Revenu Québec was raised when the MSBA was drafted. The option was rejected at the time because the Ministère du Revenu had neither expertise in the management of permit registries nor any system to administer one. Revenu Québec has acquired such expertise since then.

#### **Third recommendation**

- Assign to Revenu Québec the administration of the Money-Services Businesses Act.



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## **CONCLUSION**

An examination of the implementation of the MSBA has revealed that the measures adopted to bolster the fight against economic crime in the MSB sector have produced positive effects.

It is, therefore, necessary for the MSBA to remain in force. Several adjustments, such as the transfer of its administration to another entity whose mission includes combatting money laundering and tax evasion, would nevertheless be desirable to make it more effective in the attainment of its objectives. To make the changes deemed necessary, the Ministère des Finances will take into consideration the comments submitted to it within the framework of the consultation pertaining to this report.



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## APPENDIX 1

### SUMMARY OF THE RECOMMENDATIONS

#### First recommendation

- Introduce into the MSBA a penal offence linked to the use of a nominee.

#### Second recommendation

- Specify in the MSBA the obligation to possess a bank account in the name of the MSB to avoid any possible interpretation.

#### Third recommendation

- Assign to Revenu Québec the administration of the Money-Services Businesses Act.



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## APPENDIX 2

### SUMMARY OF THE CONSULTATION QUESTIONS

#### Question 1

In your opinion, should businesses that apply for a licence in one of the categories listed in the MSBA be allowed to provide information only on the employees whose duties are directly linked to the money services offered?

#### Question 2

In your opinion, should the MSBA require the issuance of an SCR to individuals other than those already stipulated? If so, which ones?

#### Question 3

In your opinion, are there solutions that can be implemented to facilitate access by MSBs to bank accounts?





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## **APPENDIX 3**

***MONEY-SERVICES BUSINESS ACT***  
**(CHAPTER E-12.000001)**

chapter E-12.000001

**MONEY-SERVICES BUSINESSES ACT**

**TABLE OF CONTENTS**

**CHAPTER I**  
SCOPE AND INTERPRETATION..... 1

**CHAPTER II**  
LICENCES

**DIVISION I**  
ISSUE..... 3

**DIVISION II**  
DECISIONS REGARDING LICENCES..... 11

**CHAPTER III**  
OBLIGATIONS OF MONEY-SERVICES BUSINESSES

**DIVISION I**  
GENERAL OBLIGATIONS..... 22

**DIVISION II**  
CESSATION OF ACTIVITIES..... 34

**CHAPTER IV**  
FUNCTIONS AND POWERS OF AUTORITÉ DES MARCHÉS FINANCIERS

**DIVISION I**  
GENERAL PROVISIONS..... 36

**DIVISION II**  
INSPECTIONS AND INVESTIGATIONS..... 45

**DIVISION III**  
CONSERVATORY MEASURES..... 50

**DIVISION IV**  
MONEY-SERVICES BUSINESS REGISTER..... 58

**CHAPTER V**  
REGULATORY POWERS..... 60

**CHAPTER VI**  
MISCELLANEOUS PROHIBITIONS..... 63

**CHAPTER VII**  
PENAL PROVISIONS..... 66

**CHAPTER VIII**  
ADMINISTRATION OF THE ACT..... 76

**CHAPTER IX**  
AMENDING PROVISIONS..... 79

**CHAPTER X**  
TRANSITIONAL AND FINAL PROVISIONS..... **82**

## 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.

2010, c. 40, Sch. I, s. 1.

**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 (chapter A-32), the Act respecting financial services cooperatives (chapter C-67.3), the Derivatives Act (chapter I-14.01), the Act respecting trust companies and savings companies (chapter S-29.01), the Securities Act (chapter V-1.1), except persons or entities who are subject to that Act only as reporting issuers, the Bank Act (S.C. 1991, c. 46), the Cooperative Credit Associations Act (S.C. 1991, c. 48), the Canadian Payments Act (R.S.C. 1985, c. C-21) or the Payment Clearing and Settlement Act (S.C. 1996, c. 6, s. 162, Sch.).

2010, c. 40, Sch. I, s. 2.

## 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.

2010, c. 40, Sch. I, s. 3.

**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.

2010, c. 40, Sch. I, s. 4.

**5.** A licence application must be filed together with the fee determined by regulation and filed by a person acting as the business's respondent for the purposes of this Act.

The respondent must

- (0.1) be a director, officer or partner of the money-services business;
- (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.

The money-services business must give the 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.

The respondent for a money-services business that is not constituted under the laws of Québec and does not have its head office or an establishment in Québec need not be a director, officer or partner of the business but must be able to properly exercise a respondent's functions with the Authority.

2010, c. 40, Sch. I, s. 5; 2013, c. 18, s. 67.

**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.

2010, c. 40, Sch. I, s. 6.

**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 obtained so that the notified police forces may make such checks as they consider necessary for the purposes set out in sections 8 and 9.

2010, c. 40, Sch. I, s. 7; 2013, c. 18, s. 68.

**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 the grounds on which, if such is the case, a recommendation is made 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 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.

2010, c. 40, Sch. I, s. 8; 2013, c. 18, s. 69.

**9.** Within 30 days after receiving the notice sent by the Authority, a police force may send a notice to the Authority stating the grounds on which it recommends the refusal of a licence under sections 11 to 17. The Authority sends this notice to the Sûreté du Québec.

2010, c. 40, Sch. I, s. 9; 2013, c. 18, s. 70.

**10.** *(Repealed).*

2010, c. 40, Sch. I, s. 10; 2013, c. 18, s. 71.

## 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 an offence under Part II.1, IV, IX, X, XII or XII.2 or any of sections 467.11 to 467.13 of the Criminal Code (R.S.C. 1985, c. C-46), or an offence under the Controlled Drugs and Substances Act (S.C., 1996, c. 19), other than an offence under subsection 1 of section 4 of that Act, or an attempt or conspiracy to commit such an offence, or counselling the commission of such an offence, 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 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 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.

2010, c. 40, Sch. I, s. 11; 2013, c. 18, s. 72.

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

(1) has been convicted of an offence under this Act or an offence under any of the Acts referred to in section 7 of the Act respecting the Autorité des marchés financiers (chapter A-33.2) or any similar legislation of a Canadian province or territory or of another jurisdiction, a fiscal law, the Corruption of Foreign Public Officials Act (S.C. 1998, c. 34), the Excise Act, 2001 (S.C. 2002, c. 22), subsection 1 of section 4 of the Controlled Drugs and Substances Act (S.C. 1996, c. 19) or the Export and Import Permits Act (R.S.C. 1985, c. E-19), unless a pardon has been obtained;

(2) has been refused the right to operate or has had its right to operate revoked, 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 an indictable offence under a fiscal law.

2010, c. 40, Sch. I, s. 12; 2013, c. 18, s. 73.

**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.

2010, c. 40, Sch. I, s. 13.

**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 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 which, in the last three years, has been refused the right to operate or 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.

2010, c. 40, Sch. I, s. 14; 2013, c. 18, s. 74, s. 84.

**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 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.

2010, c. 40, Sch. I, s. 15; 2013, c. 18, s. 84.

**16.** The Authority may refuse to issue a licence to a money-services business if any of the following persons or mandataries is in a situation described in paragraph 4 or 6 of section 11 or in paragraph 1 of section 12:

(1) employees of the business who work in Québec and whose functions are related to the offer of money services;

(2) mandataries of the business;

(3) officers of a mandatory described in subparagraph 2 who are responsible for money services offered on behalf of the business.

The Authority refuses to issue a licence if a person or a mandatory described in the first paragraph is in any of the situations described in paragraph 1 of section 11.

2010, c. 40, Sch. I, s. 16; 2013, c. 18, s. 75.

**17.** The Authority suspends or revokes the licence of a money-services business on a ground specified in section 11 or 13, or if a person or entity described in the first paragraph of section 16 is in any of the situations described in paragraph 1 of section 11.

Based on any other grounds specified in this Act, the Authority requests the Financial Markets Administrative Tribunal established by section 92 of the Act respecting the Autorité des marchés financiers (chapter A-33.2) to suspend or revoke the licence of a money-services business. The Authority may also request the Tribunal to impose an administrative penalty on the money-services business, which may not exceed \$200,000 for each offence.

2010, c. 40, Sch. I, s. 17; 2013, c. 18, s. 76; 2016, c. 7, s. 179.

**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.

2010, c. 40, Sch. I, s. 18.

**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 (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.

2010, c. 40, Sch. I, s. 19.

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

2010, c. 40, Sch. I, s. 20; 2010, c. 31, s. 175.

**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.

2010, c. 40, Sch. I, s. 21.

**21.1.** A money-services business whose licence was revoked must return the licence, and any copy of it, to the Authority within 15 days of the decision.

If a licence to operate automatic teller machines is revoked, the money-services business must remove and destroy the copy of the licence that is displayed on each of the machines it operates.

The Authority may, in cases where the licence is suspended, require that the licence and any copies be returned, or withdrawn from display.

2013, c. 18, s. 77.

## CHAPTER III

### OBLIGATIONS OF MONEY-SERVICES BUSINESSES

#### DIVISION I

##### GENERAL OBLIGATIONS

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

2010, c. 40, Sch. I, s. 22.

**22.1.** Licence holders must display their licence or a copy of the licence so that it is clearly legible, in a conspicuous place in each establishment in which they offer money services, even through a mandatory and, in the case of licence holders licensed to operate automated teller machines, on each of the automated teller machines they operate.

2013, c. 18, s. 78.

**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 (R.S.C. 1985, c. 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 (S.C. 1996, c. 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.

2010, c. 40, Sch. I, s. 23.

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

2010, c. 40, Sch. I, s. 24.

**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.

2010, c. 40, Sch. I, s. 25.

**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.

2010, c. 40, Sch. I, s. 26.

**27.** When informed of a fact likely to affect the validity of a money-services business's licence or to render any of sections 11 to 17 applicable, the Authority notifies the Sûreté du Québec and the police force of the local municipality in which the business offers money services.

The Sûreté du Québec must then carry out further checks so as to provide the Authority with new security clearance reports stating the grounds on which a licence should be suspended or revoked, if that is the case.

The police force of the local municipality in which the business offers money services may also send a notice to the Authority stating the grounds for which it recommends that a licence be suspended or revoked. The Authority sends this notice to the Sûreté du Québec.

2010, c. 40, Sch. I, s. 27; 2013, c. 18, s. 79.

**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.

2010, c. 40, Sch. I, s. 28.

**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.

2010, c. 40, Sch. I, s. 29.

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

2010, c. 40, Sch. I, s. 30.

**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.

2010, c. 40, Sch. I, s. 31.

**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.

2010, c. 40, Sch. I, s. 32.

**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.

2010, c. 40, Sch. I, s. 33.

## 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.

2010, c. 40, Sch. I, s. 34.

**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 Agence du revenu du Québec, 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.

2010, c. 40, Sch. I, s. 35; 2010, c. 31, s. 175.

### 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 (chapter A-33.2) exercises the functions and powers assigned to it by this Act.

2010, c. 40, Sch. I, s. 36.

**37.** The Authority may, by an agreement entered into under section 33 of the Act respecting the Autorité des marchés financiers (chapter A-33.2), 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.

2010, c. 40, Sch. I, s. 37.

**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.

2010, c. 40, Sch. I, s. 38.

**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 an affidavit 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.

2010, c. 40, Sch. I, s. 39; I.N. 2016-01-01 (NCCP).

**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 (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 (R.S.C. 1985, c. 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.

2010, c. 40, Sch. I, s. 40.

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

The application for an injunction is a proceeding in itself.

The procedure prescribed in the Code of Civil Procedure (chapter C-25.01) applies, except that the Authority cannot be required to give security.

2010, c. 40, Sch. I, s. 41; I.N. 2016-01-01 (NCCP).

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

An application 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.

2010, c. 40, Sch. I, s. 42; I.N. 2016-01-01 (NCCP).

**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.

2010, c. 40, Sch. I, s. 43.

**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.

2010, c. 40, Sch. I, s. 44.

## 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 (chapter A-33.2), 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.

2010, c. 40, Sch. I, s. 45.

**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.

2010, c. 40, Sch. I, s. 46.

**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 (R.S.C. 1985, c. C-5).

2010, c. 40, Sch. I, s. 47.

**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.

2010, c. 40, Sch. I, s. 48.

**49.** The Sûreté du Québec or any police force may at any reasonable hour enter an establishment of a money-services business or of one of its mandataries to verify whether the 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.

2010, c. 40, Sch. I, s. 49; 2013, c. 18, s. 81.

### **DIVISION III**

#### **CONSERVATORY MEASURES**

**50.** The Authority may, for the purposes or in the course of an investigation, request the Financial Markets Administrative Tribunal

(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.

2010, c. 40, Sch. I, s. 50; 2016, c. 7, s. 179.

**51.** The person or entity concerned must be notified at least 15 days before any hearing during which the Financial Markets Administrative Tribunal is to consider an application for the renewal of an order under this

division. The Tribunal 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.

2010, c. 40, Sch. I, s. 51; 2016, c. 7, s. 179.

**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.

2010, c. 40, Sch. I, s. 52.

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

2010, c. 40, Sch. I, s. 53; 2013, c. 18, s. 82.

**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 Financial Markets Administrative Tribunal for clarification.

2010, c. 40, Sch. I, s. 54; 2016, c. 7, s. 179.

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

2010, c. 40, Sch. I, s. 55.

**56.** In addition to any measure imposed in an order made under this division, the Financial Markets Administrative Tribunal 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.

2010, c. 40, Sch. I, s. 56; 2016, c. 7, s. 179.

**57.** The Financial Markets Administrative Tribunal 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 Financial Markets Administrative Tribunal may not exceed five years.

The Financial Markets Administrative Tribunal may, at the request of the person concerned, lift the prohibition on such conditions as it considers appropriate.

2010, c. 40, Sch. I, s. 57; 2016, c. 7, s. 179.

## 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;

(3) contact information for its head office and each of its establishments in which money services are offered; and

(4) contact information for the establishments of the mandataries through which the money-services business offers its services.

2010, c. 40, Sch. I, s. 58; 2013, c. 18, s. 83.

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

2010, c. 40, Sch. I, s. 59.

## 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.

2010, c. 40, Sch. I, s. 60.

**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 (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.

2010, c. 40, Sch. I, s. 61.

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

2010, c. 40, Sch. I, s. 62.

### 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.

2010, c. 40, Sch. I, s. 63.

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

2010, c. 40, Sch. I, s. 64.

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

2010, c. 40, Sch. I, s. 65.

### 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 Financial Markets Administrative Tribunal,

(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.

2010, c. 40, Sch. I, s. 66; 2016, c. 7, s. 179.

**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.

2010, c. 40, Sch. I, s. 67.

**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 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 (R.S.C. 1985, c. 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.

2010, c. 40, Sch. I, s. 68; 2013, c. 18, s. 84.

**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.

2010, c. 40, Sch. I, s. 69.

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

2010, c. 40, Sch. I, s. 70.

**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.

2010, c. 40, Sch. I, s. 71.

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

2010, c. 40, Sch. I, s. 72.

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

2010, c. 40, Sch. I, s. 73.

**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.

2010, c. 40, Sch. I, s. 74.

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

2010, c. 40, Sch. I, s. 75; I.N. 2016-01-01 (NCCP).

## 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 (chapter P-13.1).

2010, c. 40, Sch. I, s. 76.

**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.

2010, c. 40, Sch. I, s. 77.

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

2010, c. 40, Sch. I, s. 78.

## CHAPTER IX

### AMENDING PROVISIONS

**79.** (*Amendment integrated into c. A-33.2, s. 93*).

2010, c. 40, Sch. I, s. 79.

**80.** (*Amendment integrated into c. A-33.2, s. 94*).

2010, c. 40, Sch. I, s. 80.

**81.** *(Amendment integrated into c. A-33.2, s. 115.1).*

2010, c. 40, Sch. I, s. 81.

**CHAPTER X**

**TRANSITIONAL AND FINAL PROVISIONS**

**82.** A person or entity who, on 1 April 2012, 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.

2010, c. 40, Sch. I, s. 82.



*To the extent that it concerns the operation of automated teller machines, this section applies as of 1 January 2013. (2010, c. 40, Sch. I, s. 86; Order in Council 151-2012 dated 29 February 2012, (2012) 144 G.O. 2, 669).*

**83.** Not later than 1 April 2017 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.

2010, c. 40, Sch. I, s. 83.

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

2010, c. 40, Sch. I, s. 84.

**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.

2010, c. 40, Sch. I, s. 85.



*The Minister for Finance exercises, under the supervision of the Minister of Finance, the functions related to the administration of this Act, as regards the regulation of the financial sector. Order in Council 109-2016 dated 22 February 2016, (2016) 148 G.O. 2, 1582.*

**86.** *(Omitted).*

2010, c. 40, Sch. I, s. 86.





