

REGULATION UNDER THE MONEY-SERVICES BUSINESSES ACT

Money-Services Businesses Act

(S.Q., 2010, c. 40, Schedule I, s. 60 pars. (2), (3), (4), (5), (6), (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 (S.Q., 2010, c. 40, Schedule I), except for sections 9 to 13 and section 16, which do not apply to businesses licensed to operate automated teller machines.

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:

(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 paragraphs (1) and (6) of section 11, paragraph (1) of section 12 or section 14 of the Act, if applicable;

(3) a statement from the lender of the money-services business, other than a financial institution, and each of its officers, directors or partners, if applicable, indicating whether or not they are in any of the situations described in paragraph (5) of section 11 or in paragraph (3) of section 12 of the Act;

(4) a statement from the respondent 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;

(5) evidence of the security required under section 8;

(6) 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 will be 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 person responsible for keeping the automated teller machine supplied with cash;

(4) the method or means of transportation used to keep the automated teller machine supplied with cash.

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, if applicable.

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 within 30 days of such change.

However, the money-services business must notify the Authority no later than the last day of the month following the end of a calendar quarter of any addition or change during the quarter in respect of the name or domiciliary address or telephone number of an employee working in Québec whose functions do not relate to the offer of money services.

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, approved under Order-in-Council (*indicate number and date of O.C.*).

7. The money-services business must inform the Authority, by giving a 30-day prior notice, of any fact or change affecting the direct or indirect ownership or control of the money-services business.

Such prior notice must be sent together with any document evidencing the fact or change and, if applicable, 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.

8. To secure the performance of its obligations, the money-services business must provide security to the Authority in the form of a sum of money or bonds in the amount of \$10,000.

DIVISION IV
VERIFICATION OF IDENTITY

9. At the time of a transaction request, the money-services business must gather information on the customer's name, date of birth, if applicable, domiciliary address and telephone number and principal occupation or nature of professional or business activities.

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

(1) where the customer requests to carry out, on the same day, one or more transactions totalling \$3,000 or more involving the issuance or redemption by the money-services business of traveller's cheques, money orders or bank drafts;

(2) where the customer requests to carry out, on the same day, one or more currency exchange transactions totalling \$3,000 or more;

(3) where the customer requests to carry out, on the same day, one or more funds transfers totalling \$1,000 or more;

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

11. The money-services business must use one of the following methods to verify a customer's identity:

(1) where the customer is a natural person, require that the customer present 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;

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

The information gathered is recorded on the same day in the register of transactions.

12. To verify the identity of a customer who requests to carry out an off-site transaction, the money-services business must obtain the information prescribed in section 9 using one of the following methods:

(1) obtain the account or other document number that the money-services business has issued in connection with the customer and in respect of which the money-services business has verified the identity according to the method prescribed in section 11;

(2) obtain confirmation from a financial institution at which the customer holds a deposit account and in respect of which the customer's identity was verified by that institution.

13. The money-services business must also obtain, where the transaction is requested by a third party on behalf of the customer, the information on the third party prescribed in section 9 as well as a proxy document.

14. 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.

The money-services business must also gather, if applicable, the number and nature of the operating licences or other legal authorizations held by the co-contracting party to carry out its professional or business activities, as well as confirmation of their validity.

The information and documents gathered must be recorded in the register of co-contracting parties referred to in section 15.

DIVISION V
RECORDS, BOOKS AND REGISTERS

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

- (1) a record containing the original copies of all documents sent to the Authority;
- (2) a register containing co-contracting party identification information;
- (3) where the business is licensed to operate automated teller machines, a register of automated teller machines under operation.

16. The money-services business must include in the register of transactions, in addition to the information gathered under sections 9, 11, 12 and 13, a voucher that can be used for tracing transactions containing the following information in particular:

- (1) the date, time, amount and nature of the transaction;
- (2) the customer's name, date of birth, if applicable, domiciliary address and telephone number and, if a third party requested the transaction on behalf of the customer, this same information concerning the third party;
- (3) in the case of a currency exchange transaction, the currency and method of payment;
- (4) in the case of 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;
- (5) in the case of 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;
- (6) in the case of a funds transfer, the transfer instructions and the information identifying the recipient of the funds.

17. A money-services business with a licence to operate automated teller machines must keep a daily summary of transactions conducted at each automated teller machine in the register of transactions.

18. A money-services business with a licence to operate automated teller machines must record, in the register of automated teller machines, the following information for each 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 brand name, model and serial number of the automated teller machine;
- (4) the maximum amount of cash the automated teller machine may contain;
- (5) the name and domiciliary address and telephone number of the person responsible for keeping the automated teller machine supplied with cash;
- (6) the method or means of transportation used to keep the automated teller machine supplied with cash.

19. 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.

20. This Regulation comes into force on (*indicate the date on which this Regulation comes into force*).