

Regulatory Framework for the Money-Services Businesses Act Follow-up to the June 10, 2011 Consultation

Background

On June 10, 2011, the *Autorité des marchés financiers* (the “AMF”) published, for comment, the draft *Regulation under the Money-Services Businesses Act* (the “Implementing Regulation”), the draft *Regulation respecting Fees and Tariffs* and the draft *Policy Statement to the Money-Services Businesses Act*.¹

These documents relate to the *Money-Services Businesses Act* (the “Act”), whose administration was conferred on the AMF.

The Act will require any person or entity who operates a money-services business for remuneration to hold a licence issued by the AMF. For purposes of the Act, the following services are considered to be money services:

- Currency exchange;
- Funds transfers;
- The issue or redemption of traveller’s cheques, money orders or bank drafts;
- Cheque cashing; and
- The operation of automated teller machines.

During the consultation period, the AMF received 19 comment letters. These comments, combined with an additional analysis of certain industry practices, led the AMF to re-examine the proposed regulatory framework and make a number of adjustments. These adjustments should meet the industry’s needs while respecting the Act’s objectives.

Regulation under the Money-Services Businesses Act

The draft Implementing Regulation stipulates some of the obligations of money-services businesses, including with respect to:

- The form and content of licence applications;
- Additional documents to be filed at the time of the licence application;
- The time limit and manner in which a money-services business must inform the AMF of any change in the information filed at the time of the licence application;
- The nature, form and content of the books, registers and records that a money-services business must maintain and the rules relating to their preservation;
- The cases, conditions and manner in which the identity of customers must be verified; and
- The cases, conditions and manner in which the identity of co-contracting parties must be verified.

¹ http://lautorite.qc.ca/files/pdf/bulletin/2011/vol8no23/vol8no23_3-2.pdf

Amendments to the draft Implementing Regulation following the consultation

The AMF is proposing several amendments to the Implementing Regulation as a result of the consultation.

Among other things, the AMF will eliminate the security requirement. The need to require security for certain classes of licence, other than the class relating to the operation of automated teller machines, may be re-evaluated at a later date.

The AMF will also specify that money-services businesses that operate automated teller machines will have to be able to provide, upon request, information on their daily transactions, but will not be required to record such information in a daily summary.

Furthermore, the AMF will modify the time limit within which a money-services business must inform the AMF of any change in the information regarding employees whose functions are not related to the money services offered. Money-services businesses will be required to report these changes annually.

Lastly, other adjustments will be made to the Implementing Regulation so as to reduce the administrative burden on money-services businesses and facilitate the regulation's application in light of industry business practices.

In the coming weeks, the AMF will be in a position to submit the Implementing Regulation to the Minister of Finance, who may approve it with or without amendment.

Regulation respecting Fees and Tariffs under the Money-Services Businesses Act

The *Regulation respecting Fees and Tariffs under the Money-Services Businesses Act* (the "Regulation respecting Fees and Tariffs") sets forth the fees and tariffs applicable to money-services businesses. They include the fees and tariffs payable with respect to the issue of licences and security clearance reports.

Certain amendments were made following the consultation. In particular, the annual fee exigible for the operation of an automated teller machine will decrease from \$350 per machine to \$200. Certain administrative fees will also be removed. The AMF submitted the draft *Regulation respecting Fees and Tariffs* to the government for approval and forthcoming publication in the *Gazette officielle du Québec*, accompanied by a notice indicating, in particular, the period in which the draft Regulation will be pending submission for approval and during which interested parties may submit comments to the person designated therein. Upon expiry of this 45-day period following its publication in the *Gazette officielle du Québec*, the draft Regulation will be submitted for approval to the government, which may approve it with or without amendment.

A notice of publication will also appear in the AMF Bulletin.

Dates of coming into force

The regulatory framework for money-services businesses will come into force progressively.

It is anticipated that the Act, the Implementing Regulation and the Regulation respecting Fees and Tariffs will come into force on April 1, 2012, by order-in-council of the government. The *Policy Statement to the Money-Services Businesses Act* is also expected to come into force on that date.

However, it is anticipated that all statutory and regulatory provisions dealing with the operation of automated teller machines will come into force on January 1, 2013, by order-in-council of the government.

As of each of these dates, money-services businesses will have a six-month transition period within which to file an application for a licence with the AMF.

All of the amendments to the regulations will be published in the AMF Bulletin and the *Gazette officielle du Québec* before they come into force.

In order to stay informed about these publications, we suggest you subscribe to our [E-mail Info](#).

For further information, contact the [AMF Information Centre](#) as follows or consult the [AMF website](#) on a regular basis.

Québec City: 418-525-0337

Montréal: 514-395-0337

Toll-free: 1-877-525-0337

Fax: 418-647-9963

information@lautorite.qc.ca