



## POSITION PAPER

*Issued July 8, 2011*

Position: ATMIA<sup>1</sup> Canada believes that the Money Services Business Act (MSBA), which is expected to come into effect in the spring or summer of 2012, could have negative impacts on ATM/ABM operators in Quebec, as well as thousands of retailers there who operate ATMs/ABMs as an essential customer service.

This position adopted by ATMIA is based on the belief that anti-money laundering (“**AML**”) measures arising from the MSBA will duplicate stringent AML measures already imposed by INTERAC. In some cases, this duplication will result in different, and even, conflicting procedures which may, in turn, cause confusion. In addition, the association believes the situation will lead to extra costs and time-consuming labour by our members as well as by ATM/ABM-operating merchants.

Such INTERAC AML measures require ATMIA members to submit all “cash owners” to INTERAC mandated registrations and background screenings. Interac also has a strict compliance mechanism in place, requiring third party annual audits by Qualified Auditors. Significant penalties will be imposed if deficiencies are discovered or if these audits are not conducted on time, for example, disconnecting ATMs from the Interac network for non-compliance.

It is ATMIA’s view that, if the MSBA is implemented as it is currently written, then many smaller ATMIA members will not be able to afford to continue their ATM operations business in Quebec. In this regard, the current draft of the MSBA will result in reduced competition in Quebec, which will lower convenience levels for consumers, leaving them with fewer choices and higher service/transaction fees compared to other regions.

Accordingly, ATMIA recommends certain amendments to the MSBA to avoid merchant confusion and to minimize the associated financial and operational burden on ATM operators affected by MSBA. Furthermore, the association recommends alignment with Interac.

---

<sup>1</sup> ATM Industry Association (“ATMIA”) is a global non-profit trade association with over 2,200 members in 60 countries whose mission is to promote ATM convenience, growth and usage worldwide, to protect the ATM industry’s assets, interests, good name and public trust; and to provide education, best practices, political voice and networking opportunities for member organizations.

Given the extensive work done by Interac in the field of AML regulations, under the direction of the Federal Ministry of Finance and in cooperation with ATMIA Canada, the SQ, RCMP, OPP, Mastercard, Visa, AMEX, and FINTRAC, we would like to highlight the benefits of this proposed alignment, including:

- (i) **Accelerate compliance** of the ATM industry with the requirements of the MSBA as the industry is currently 50% completed in terms of implementation of the Interac AML rules;
- (ii) **Provide consistent and clear operational requirements** to the ATM Industry and the merchant community
- (iii) **Provide strong, well developed AML regulations for Quebec**, that are consistent with the rest of Canada;
- (iv) **Significantly reduce AML administration costs** and labour of the licensing requirements.

ATMIA Canada welcomes the opportunity to collaboratively work with the Autorite Des Marches Financiers (“**AMF**”) in an effort to align the MSBA with Interac regulations upon its implementation. This will result in higher overall compliance by ATM operators and dramatically the reduce administrative burden for the AMF. In this regard, ATMIA Canada proposes the following amendments to the MSBA for AMF’s consideration:

1. ATMIA and its members recognize the importance of mitigating criminal money laundering activities, and as a result, ATMIA members are required to comply with INTERAC’s stringent AML measures that have been in place since March 1<sup>st</sup> 2009. It is recommended that the implementation of the MSBA be amended to exempt cash owners who have been screened and approved under INTERAC’s AML measures. This will reduce the operational AML compliance cost for the AMF, will reduce the burden and confusion to merchants and leverage the work already being conducted on behalf of Interac to applicable ATMIA’s members while improving the efficiency of AMF’s licensing efforts in connection with the MSBA.
2. Given the intent and purpose of MSBA, which is to identify the source of the cash owners’ funds, ATMIA recommends that the implementation of the MSBA be aligned with Interac regulations and that the screening/background checking requirements be limited to only the cash owners (as defined by the person or entity that controls the bank account that the ATM settlement funds are deposited into), and not include the employees of ATM operators who are not cash owners. For example, in some cases where ATMs are placed at businesses with multiple locations, such businesses would likely have a significant number of employees. These employees are screened for employment purposes, so requiring these businesses to screen all their employees again for MBSA purposes would impose a significant financial and operational burden on them, one we believe would be redundant.

In the event the MSBA cannot be amended to rely directly on the Interac regulations as suggested above, then we recommend that the MSBA be amended to reflect the following two changes:

- (i) limit the need for criminal/character checks to the cash owner only and to define cash owner as the bank account owner and
- (ii) to restrict the requirement to the high risk operator per Interac guidelines which are established at 50% of the level that is used for screening at the Bank branch level (e.g. can deposit up to \$10,000 cash per day at a branch, if ATM or single cash owner has \$5,000 per day they have to complete the checks).

Support for the above recommendations is derived from the more than one year of work leading up to the Interac Anti-Money Laundering Regulations. In drafting and implementing the Interac regulations, many working sessions were held between the ATM Industry, Interac and Law Enforcement led by the RCMP. Much discussion and analysis was conducted over who should

be required to complete criminal checks and who was really presenting risk for criminal money laundering in the system. After this deep analysis and working sessions, it was mutually agreed that the owner of the bank account was the appropriate target for the criminal checks, as an individual or for shareholders owning 25% or more of a corporate entity. While others may touch or handle the cash to load in the ATM, it is difficult to practically track or identify these people and, more important, it was generally agreed that since any cash going into the ATM was being deposited into the ATM bank account, that the criminal had to control that bank account (e.g. Law enforcement confirmed it was rare and unlikely to have criminals money go to someone else's bank account). On this basis, for both effectiveness of capturing the right people and for efficiency of managing the program at the AMF, we strongly recommend that the definition of those required for criminal checks on ATMs only be amended to match the definition in the Interac Regulations.

In addition, and as part of the above mentioned work sessions and analysis, it was agreed that a risk based approach to compliance be applied, just as it is for money laundering in Bank accounts. In Bank accounts, individuals depositing \$10,000 or more are required to complete additional information including source of funds declarations. In an effort to have the efficiency of a risk based approach, while recognizing the electronic nature of an ATM deposit vs. a teller deposit, it was agreed to use the risk based approach but at a level fully 50% lower than the bank branch deposit limit. Interac rules for high risk are set at \$5,000 daily deposit with an added computation for any bank account holder/cash owner with 5 or more ATMs, even if depositing less than \$5,000 daily. Accordingly to ensure effectiveness of the program against money laundering in ATMs at a level lower than current bank deposit levels, and to ensure efficiency in managing the program for Merchants, ATM operators and the AMF, we strongly recommend that the definition of those requiring criminal checks on ATMs be further aligned with Interac Regulations for high risk and low risk definitions.

In a communiqué issued by AMF on the June 10, 2011 (Policy statement draft) there is a listing of Fees and Tariffs which are of serious concern for our collective membership.

- We fail to grasp the rationale of a fee for every ATM Machine regardless of ownership.
- The requirement of a \$10,000.00 for each machine, we feel is unwarranted and is not required in any other province in Canada, We have also canvassed out global members to find this practice to be nonexistent.
- All white label machines operating in Quebec are subject to comprehensive AML regulations through Interac and as such rules outlined in the draft would be a duplication of effort and costs which would eventually be passed on to the consumer for this essential service.

ATMs are sufficiently regulated in Quebec and the act as presented does not provide any additional value toward AML. ATMIA Strongly recommends that ATM's that meet Interac regulations be exempt from the Act.

Senior members of our association are willing to meet to further discuss ways in which MSBA can be confident that white label ABMs are not a threat to money laundering.

ATMIA Canada looks forward to hearing AMF's comments to our recommendations and working together with AMF to ensure that not only the interests of the ATM operators are considered for the final draft of the MSBA, but also, the interests of merchants and consumers in Quebec.

P.C. (Curt) Binns  
ATMIA Canada Executive Director  
10520 Yonge Street  
Unit 35B, Suite 218  
Richmond Hill, Ontario L4C 3C7  
Canada

curt.binns@atmia.com  
Phone 416-970-7954  
Fax 905-770-6230  
[www.atmia.com](http://www.atmia.com)  
[www.atmiacanada.com](http://www.atmiacanada.com)