

Draft Regulation

Deposit Institutions and Deposit Protection Act

(chapter I-13.2.2, s. 1.1, 2nd par., subpar. (7), s. 27, 3rd par., subpar. (8), s. 27.3, par. (5) and ss. 37, 40.3, 41 and 43)

Regulation respecting the application of the Deposit Institutions and Deposit Protection Act

Notice is hereby given by the *Autorité des marchés financiers* (the "Authority") that, in accordance with section 45 of the *Deposit Institutions and Deposit Protection Act*, CQLR, c. I-13.2.2 (the "Act"), the following regulation, the text of which is published hereunder, may be made by the Authority and subsequently submitted to the Québec Minister of Finance for approval, with or without amendment, after 30 days have elapsed since its publication in the Bulletin of the Authority:

- *Regulation to amend the Regulation respecting the application of the Deposit Institutions and Deposit Protection Act.*

The draft regulation is also available under "Public consultations" on the Authority's website at www.lautorite.qc.ca.

Purpose of draft regulation

The draft regulation proposes amendments to align with the changes made to the Act by the *Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions*, S.Q. 2018, c. 23, but also to take into account evolving deposit activities and technology. Another objective of the proposed amendments is to provide Québec depositors with a deposit protection plan harmonized with and offering equivalent protection to the federal deposit insurance plan.

1- *Definition and place of a deposit of money*

The draft regulation maintains the scope of the definition of a deposit of money, while specifying, however, that a deposit of money may be made for investment purposes, but also for account transaction or safekeeping purposes. The proposed amendments also exclude traveller's cheques from the definition of a deposit of money, thereby removing them from the protection provided by the Authority. Moreover, it is proposed that funds repayable upon the expiry of a term exceeding five years be considered protected deposits of money, whether or not they are repayable on demand after five years. The draft regulation also specifies how the place of a deposit of money made electronically or by other technological means would be determined.

2- *Application for authorization to carry on deposit institution activities*

The draft regulation ensures alignment with the Act by, in particular, using the new legislative terminology and removing certain provisions from the current regulation that are now set out in the Act. Legal persons seeking to carry on deposit institution activities will have to apply for authorization. The draft regulation specifies the documents and information that must be submitted to the Authority when applying for authorization but does not prescribe a form for doing so.

3- *Deposit protection*

Deposit protection would now be separate for two new categories of deposits. Deposits in a registered education savings plan (RESP) and deposits in a registered disability savings plan (RDSP) would be protected separately from other deposits to a limit of \$100,000. This separate protection would come into

effect on April 30, 2021 to coordinate with the changes to the federal deposit insurance plan. The draft regulation also maintains separate protection for deposits held in trust or deposits held under a mandate to a limit of \$100,000 per beneficiary where the records of the deposit institution clearly indicate that the deposits are made in trust or under a mandate. However, the beneficiaries would not have to be noted in the records of the institution. The Authority would ask the trustees for the list of their beneficiaries in the event of an obligation to repay deposits.

4- Premiums payable by authorized deposit institutions

For the purposes of calculating the premiums payable, the draft regulation sets out the basis on which the amounts guaranteed for deposits held in trust or deposits under a mandate would be established and the basis on which the interest accrued on the deposits would be calculated. The dates and other terms and conditions of payment of the premiums would remain unchanged for authorized deposit institutions. However, the rate of the premium payable annually by the institutions would be increased from 1/25 of 1% (4 bps) to 1/20 of 1% (5 bps) of their guaranteed deposits in Québec as at April 30, 2021. It is also important to remember that the reduction of the premiums of financial services cooperatives by one half provided for in section 40.3.1 of the Act would be repealed for the accounting period for premiums following the coming into force of the draft regulation.

5- Data requirements for deposit repayment purposes

The draft regulation maintains the data requirements for deposit institutions. These requirements enable depositors' accounts to be restricted at the Authority's request and also apply to cooperative groups within the meaning of the *Act respecting financial services cooperatives*, CQLR, c. C-67.3. They also indicate the time frames within which the data on depositors and their accounts must be provided in accordance with the format provided in the requirement tables established by the Authority. These tables will be revised to reflect the amendments made by the draft regulation.

Federally chartered deposit institutions that meet the equivalent requirements of the Canada Deposit Insurance Corporation ("CDIC") would still benefit from a presumption of compliance with the data requirements for repayment purposes set out in the draft regulation.

6- Deposit protection awareness and advertising

Under the draft regulation, authorized deposit institutions would have to properly inform depositors about deposit protection. Institutions can fulfill this obligation by providing depositors with the Authority's deposit protection brochure or referring to its website. Any disclosure document or advertising would have to be clear, specific and not misleading for depositors. The documents evidencing a deposit would have to also include the statement set out in the draft regulation. Where a product offered appears similar to a deposit or could give rise to confusion, institutions would have to clearly inform depositors.

Under the draft regulation, institutions would have to continue to display the official logo evidencing the Authority's authorization at the entrance to and inside their establishments but would have to display it in digital form when the depositor makes a deposit through technological means. This last requirement is scheduled to come into force on April 30, 2021 to allow institutions time to make adjustments to their websites, applications and other digital means.

Federally chartered deposit institutions that meet the CDIC's display and disclosure requirements with respect to deposit insurance would be presumed to comply with the provisions of the draft regulation related to advertising and depositor awareness of deposit protection.

7- Disclosures and inspections of the business

Under the draft regulation, the disclosures and inspections of the business under the *Insurers Act*, CQLR, c. A-32.1, the *Act respecting trust companies and savings companies*, CQLR, c. S-29.02 or the *Act*

respecting financial services cooperatives, CQLR, c. C-67.3, would continue to stand in lieu of those provided for in the Act.

The draft regulation is scheduled to come into force on April 30, 2020, with the exception of certain provisions that are scheduled to come into force is on April 30, 2021.

Comments

Comments regarding this matter may be made in writing before **December 13, 2019** to the following:

Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
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Unless otherwise noted, comments will be posted on the Authority's website at www.lautorite.qc.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Additional Information

Additional information is available from the following:

Hugues Trépanier
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November 14, 2019