



**AUTORITÉ
DES MARCHÉS
FINANCIERS**

**INTERVENTION GUIDELINES FOR
QUÉBEC-CHARTERED DEPOSIT
INSTITUTIONS REGISTERED
UNDER THE
*DEPOSIT INSURANCE ACT***

February 2014

1. Preface

The purpose of the *Intervention Guidelines for Québec-Chartered Deposit Institutions Registered under the Deposit Insurance Act* (the “Guidelines”) is to provide a transparent overview of the principal activities and responsibilities of the *Autorité des marchés financiers* (the “AMF”) as regards interventions with Québec-chartered deposit institutions¹ registered under the *Deposit Insurance Act*² (an “institution”) that are experiencing difficulties likely to raise doubts about their survival and, eventually, their ability to meet their commitments to depositors or clients.

This document presents and describes the five intervention stages used to classify institutions based on their risk of insolvency or non-viability. Each stage sets out various types of interventions available to the AMF, in particular under the laws it administers.³

2. Functions of the AMF

As an integrated regulator, the AMF is responsible for supervising institutions, and in its capacity as deposit insurer and resolution authority,⁴ it is responsible for protecting depositors and fostering the continued stability of the financial system. The Guidelines provide an overview of the actions likely to be undertaken in the exercise of these functions at each intervention stage.

At stages 1 and 2, the supervisory function predominates, while, generally speaking, the exercise of the deposit insurance function does not result in direct interventions with the institution. At stage 3, the deposit insurer responsibilities increase and converge with the supervisory responsibilities. At stages 4 and 5, the deposit insurance function becomes predominant. It should be noted, however, that these two functions are exercised in concert at every stage. It should also be noted that certain actions and responsibilities that recur at several stages are only mentioned once.

3. Interpretation of the Guidelines

Although the Guidelines are presented sequentially, it is important to note that there may be some flexibility in the implementation of interventions. Given the multitude of

¹ Deposit institutions are composed of financial services cooperatives within the meaning of *An Act respecting financial services cooperatives* (R.S.Q., c. C-67.3) and trust companies or savings companies within the meaning of *An Act respecting trust companies and savings companies* (R.S.Q., c. S-29.01). Interventions involving insurers within the meaning of *An Act respecting insurance* (R.S.Q., c. A-32) are described in the *Intervention Guidelines for Quebec-Chartered Life Insurers and Assuris Member Companies* and are therefore not covered by the present Guidelines.

² R.S.Q., c. A-26.

³ *An Act respecting the Autorité des marchés financiers* (R.S.Q., c. A-33.2), *Deposit Insurance Act*, *An Act respecting financial services cooperatives*, *An Act respecting trust companies and savings companies*.

⁴ Within the meaning of the *Key Attributes of Effective Resolution Regimes for Financial Institutions*, Financial Stability Board, October 2011.

scenarios that can give rise to a risk of insolvency or non-viability, each case is unique and requires an intervention tailored to the context and characteristics of the particular institution. If the situation justifies it, the AMF may accelerate, delay or skip a type of intervention, regardless of the stage attributed to the institution.

Furthermore, implementation of the Guidelines must be adapted based on the type of institution involved, namely, for financial services cooperatives that are members of a federation and for security funds within the meaning of *An Act respecting financial services cooperatives*. Moreover, where an institution is part of a financial conglomerate, the AMF may ask for additional requirements.

Stage 1: No Significant Problems

An institution is at the “No Significant Problems” stage if the AMF considers its financial condition to be satisfactory, its policies and procedures to be adequate, its management practices to be sound and prudent and its commercial practices to be sound (the “management practices”). Observed deficiencies, if any, are minor and will have no impact on its solvency or viability.

Based on aggregate net risk and indicators such as capital, liquidity or profitability, the institution could withstand most economic and commercial conditions.

Actions and responsibilities related to the supervisory function⁵	Actions and responsibilities related to the deposit insurance function
<p>Evaluate the risk profile of each institution by determining its major activities, assessing the net risk of those activities and the institution’s aggregate net risk (based on its inherent risks and the quality of its risk management) and analyzing its financial condition. This analysis will focus in particular on the quality of its assets, its profitability, its liquidity and its compliance with capital adequacy requirements.</p> <p>Analyze information contained in statutory disclosures.</p> <p>Establish a supervisory plan, carry out supervisory activities, whether off-site or on-site, and inform the institution of the findings of its supervisory report, where applicable.</p> <p>Meet with the institution’s decision-making bodies, if deemed advisable.</p> <p>Ensure that corrective actions are implemented, where applicable.</p>	<p>Monitor institutions regularly by relying, among other things, on the supervisory activities.</p> <p>Analyze the annual reports of inspections of institutions’ affairs and their statutory disclosures.</p> <p>Ensure compliance with the <i>Deposit Insurance Act</i> and the regulation respecting its application.</p> <p>Monitor macroeconomic and cyclical risks as well as public information regarding institutions.</p>

⁵ Some of the actions set out in the Guidelines are described in the *Financial Institutions Supervisory Framework*, available on the AMF’s website.

Stage 2: Early Warning – Viability or Solvency At Risk

An institution is at the “Early Warning” stage if the AMF considers its financial condition to be acceptable, but at least one deficiency in its management practices, its policies or its procedures could put its viability or solvency at risk if the situation is not diligently remedied.

Based on aggregate net risk and indicators such as capital, liquidity or profitability, the institution could have difficulties withstanding adverse economic and commercial conditions.

Actions and responsibilities related to the supervisory function	Actions and responsibilities related to the deposit insurance function
<p>Inform the institution that it will be subject to increased supervision, as regards both frequency and scope.</p> <p>Meet with the institution’s senior management, attend board of directors meetings and hold discussions with the institution’s audit service, if deemed advisable.</p> <p>Ask the institution to diligently remedy the deficiency (ies) likely to put its viability or solvency at risk and inform it that if it fails to do so, its intervention stage may be downgraded.</p> <p>Ask the institution to limit the pursuit of some of its activities, if deemed advisable.</p>	<p>Monitor the institution more closely for risks incurred under the <i>Deposit Insurance Act</i>.</p> <p>Evaluate the long-term advantages and disadvantages of the various intervention options which may be required for the institution.</p> <p>Analyze various supervisory documents in order to determine the deposit insurance risk.</p> <p>Prepare a report on the evaluation of the institution’s risk profile. This report will contain, in particular, a financial analysis, an evaluation of supervisory issues and an analysis of the impact of the economic environment on the institution.</p>

Stage 3: Watch Condition - Viability or Solvency Threatened

An institution is at the “Watch Condition” stage if the AMF considers its financial condition to be inadequate or if there are substantial deficiencies in its management practices, its policies or its procedures which could threaten its viability or solvency. The institution will have to take remedial measures in order to rectify the situation within the prescribed timeframe.

At this stage, based on aggregate net risk as well as indicators such as capital, liquidity or profitability, the institution can be considered to be vulnerable to economic and commercial conditions.

Actions and responsibilities related to the supervisory function	Actions and responsibilities related to the deposit insurance function
<p>Inform the institution of its intervention stage and place it on the increased supervision list.</p> <p>Require the institution to adopt a compliance plan that includes concrete measures to remedy the deficiencies threatening its viability or solvency within the prescribed timeframe and inform it that if it fails to do so, its intervention stage may be downgraded.</p> <p>Increase the frequency of interactions with the institution’s senior management and board of directors and, if necessary, with the institution’s audit service.</p> <p>Impose additional limits or give written instructions regarding the pursuit of certain activities, if deemed advisable.</p> <p>Issue orders or ask the Superior Court for an injunction to remedy a situation or put a stop to certain practices, if deemed advisable.</p> <p>Retain the services of outside specialists or professionals for estimates or reviews, if deemed advisable.</p>	<p>Prepare to intervene under the special powers⁶ or in order to repay deposits.</p> <p>Track carefully the results of the remedial measures the institution is expected to take.</p> <p>Conduct or have someone conduct a preparatory review to obtain the information needed for the repayment of deposits, if the execution of the guarantee obligation is deemed unavoidable.</p> <p>Conduct stress tests specific to the institution and the deposit insurance risk.</p> <p>Analyze intervention options in order to determine the one best suited to the circumstances.</p>

⁶ These powers are set forth in Division VI of the *Deposit Insurance Act*.

Stage 4: Imminent Non-Viability or Solvency Seriously Compromised

At this stage, the AMF considers the institution's financial condition to be critical based on indicators such as capital, liquidity or profitability. Consequently, its non-viability is imminent or its solvency has been seriously compromised.

Since the institution has not been able to remedy the situation, the AMF's intervention is required in order to protect depositors or clients and foster the continued stability of Québec's financial system.

Actions and responsibilities related to the supervisory function	Actions and responsibilities related to the deposit insurance function
<p>Inform the institution's senior management and board of directors that due to the institution's inability to remedy the observed deficiencies, the AMF's intervention is required in order to protect depositors or clients and foster the continued stability of Québec's financial system.</p> <p>Require the institution to provide all necessary information and documents within the prescribed timeframe.</p> <p>Ensure that the institution cooperates so as to facilitate an orderly intervention.</p>	<p>Intervene in order to protect the institution's depositors and clients and in order to establish a resolution method to foster the continued stability of Québec's financial system.</p> <p>Ask the Superior Court to appoint a receiver.</p> <p>Exercise certain special powers in order to reduce a risk to the AMF or avert or reduce a threatened loss to the AMF. Thus, it may offer financial assistance to the institution by:</p> <ul style="list-style-type: none">• advancing money;• guaranteeing the payment of debts;• making or guaranteeing a deposit;• acquiring certain assets of the institution;• acquiring any security issued by the institution. <p>Facilitate the transfer of the institution's assets or liabilities to another institution.</p> <p>Cancel or suspend the institution's deposit insurance permit.</p> <p>Retain the services of outside specialists or professionals for estimates or reviews, if deemed advisable.</p>

Stage 5: Non-Viability Ascertained or Insolvent

At this stage, the AMF confirms that the institution is not viable or is insolvent, which includes situations in which the institution's assets are insufficient to meet its obligations.

The institution ceases operations and the AMF intervenes to proceed with its resolution. The institution is then wound up or sold with the help of the AMF.

Actions and responsibilities related to the supervisory function	Actions and responsibilities related to the deposit insurance function
<p>Inform the institution's senior management and board of directors that it is now considered non-viable or insolvent.</p> <p>The AMF may be required to control and direct the liquidator and to act before the courts with respect to the winding-up and exercise, on behalf of clients or creditors of the institution, the rights they have against the institution.</p>	<p>Intervene in order to cause the institution to cease its operations and in order to proceed with the institution's resolution.</p> <p>Facilitate the transfer of the institution's assets and liabilities by:</p> <ul style="list-style-type: none">• acquiring the assets;• guaranteeing a purchaser against certain losses the AMF could incur following an acquisition;• applying to the Superior Court for an order to force the sale or amalgamation of the institution. <p>Cancel the institution's deposit insurance permit as of right.</p> <p>Repay guaranteed deposits in order to execute the guarantee obligation, where applicable.</p> <p>Act as the institution's liquidator or receiver, where applicable.</p> <p>Constitute a legal person or a partnership to carry out the winding-up of the assets acquired from the institution, if deemed advisable, with the authorization of the Minister of Finance and the Economy.</p> <p>Monitor closely the institution's winding-up process, where applicable. The AMF may act before the courts with respect to the winding-up and in order to collect the sums paid when it has been subrogated in the rights of depositors who have been repaid.</p>