



## New Powers for the AMF to Restructure Certain Financially Distressed Québec FI's

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- In 2017, Québec's Autorité des marchés financiers ("AMF") filed a Report on the history and evolution of the deposit insurance plan for Québec deposit-taking financial institutions ("FI's") entitled [Deposit Insurance in Québec 1967 to 2017](#).
- The Report referred to the possibility of establishing a plan and process through which a non-viable Québec FI could be made viable again.
- Bill 141, [An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions](#) has now received Royal Assent and, as of July 13, 2018, is partially in force. (See new sections 40.6 – 40.57 at pp. 275–286, or in the [French version](#) at pp. 281-293).
- Among other changes, the *Deposit Institutions and Deposit Protection Act* (the "Act") will replace the [Deposit Insurance Act](#) and establish a new Québec "Resolution Process" (modelled on the [Canada Deposit Insurance Act](#) resolution regime) for "cooperative groups".

## What Are "Cooperative Groups"?

"Cooperative groups" is newly defined in the amended Québec [Act respecting financial services cooperatives](#), as:

### financial services cooperatives

forming a **network**

, together with any **security fund**

the members of whose board of directors are appointed by the federation belonging to that network.

A **federation and its member credit unions** form a "**network**" of financial services cooperatives and the cooperative group to which the Fédération des caisses Desjardins du Québec belongs is called the "Groupe coopératif Desjardins". Bill 141 repeals *The Act respecting the Mouvement Desjardins* which has been replaced by new Chapter XIII.1, "Groupe coopératif Desjardins", in the amended *Act respecting financial services cooperatives*.

Basically, the new Resolution Process was formulated with the Desjardins Group in mind. The Desjardins Group includes, among others, the network of Desjardins caisses populaires and caisses d'économie (credit unions) in Quebec and Ontario, the Fédération des caisses Desjardins du Québec and its subsidiaries and the Fonds de sécurité Desjardins.

# The Resolution Process

The new Resolution Process provides the AMF with the power to, among others:

- Amalgamate and continue or amalgamate and wind-up the financial services cooperatives and its security fund;
- Transfer and/or sell the cooperative group's assets and liabilities;
- Establish a temporary bridge institution and asset management company; and
- Write-down certain debt or convert it to equity.

## Eligible Financial Contracts

There is no exemption in the Act for eligible financial contracts but section 40.22 provides that the AMF will pass a regulation specifying how the new Resolution Process will apply to specified financial contracts. In addition, new section 185.2 of the amended [Act respecting financial services cooperatives](#) expressly provides that neither the winding-up nor dissolution of a federation prevents performance of a financial contract determined under section 40.22 of the Act and which has been entered into by the federation, or compensation against an amount payable under such a contract, in accordance with the terms of the contract.

There is no indication of when this regulation will be promulgated and no publicly available information on what financial contracts will be specified. We hope that the fact that the AMF and CDIC have recently signed a [Memorandum of Understanding](#) on deposit insurance and resolution issues indicates that the specified financial contracts will be consistent with those set out in federal insolvency legislation.

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