



Province of Alberta

# **FINANCIAL STATUTES AMENDMENT ACT, 2020**

Statutes of Alberta, 2020  
Chapter 33

Assented to December 9, 2020

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## **FINANCIAL STATUTES AMENDMENT ACT, 2020**

### Chapter 33

*(Assented to December 9, 2020)*

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### **ATB Financial Act**

##### **Amends RSA 2000 cA-45.2**

**1(1) The *ATB Financial Act* is amended by this section.**

**(2) Section 1 is amended**

**(a) by adding the following after clause (a):**

- (a.1) “branch” means a branch established under section 10, whether the branch carries on business with the public directly or serves as an administrative or head office;
- (a.2) “branch facility” means real property that is used or intended to be used in connection with or incidental to the operations of ATB Financial;

**(b) by repealing clause (g.1) and substituting the following:**

- (g.1) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act* or the *Personal Information Protection Act*, or both, as applicable;
- (g.2) “prescribed” means prescribed or otherwise provided for by the regulations;

**(c) by adding the following after clause (j):**

- (j.1) “Superintendent” means the Superintendent of Financial Institutions appointed under section 29.1.

(d) by repealing clauses (k) and (l).

(3) Section 25(1)(a) and (3) are amended by striking out “section 34(b)” and substituting “section 34(1)(b)”.

(4) The following is added after section 29:

#### **Administration**

##### **Superintendent of Financial Institutions**

**29.1(1)** The Minister may appoint a Superintendent of Financial Institutions.

(2) The Superintendent may delegate any power, duty or function conferred or imposed on the Superintendent by this Act or the regulations to any person and may authorize the person to further delegate the power, duty or function.

##### **Objects of Superintendent**

**29.2(1)** The objects of the Superintendent in respect of ATB Financial and its subsidiaries are as follows:

- (a) to promote the adoption by the officers, the board and the management of policies and procedures designed to control and manage risk;
- (b) to regulate ATB Financial and its subsidiaries in accordance with this Act;
- (c) any additional objects prescribed.

(2) The Superintendent shall, in pursuing the objects set out in subsection (1), consider the following where appropriate:

- (a) the rights and interests of the depositors and creditors of ATB Financial and its subsidiaries;
- (b) the interests of the Province, having due regard to
  - (i) the need to allow ATB Financial and its subsidiaries to compete effectively and to pursue the business objectives set out in section 11.1, and
  - (ii) the obligation of the board under section 3(2) to manage the business and affairs of ATB Financial;
- (c) in the case of a subsidiary of ATB Financial, any oversight of the subsidiary conducted by other regulatory organizations.

**Powers and duties of Superintendent**

**29.3(1)** The powers and duties of the Superintendent in respect of ATB Financial and its subsidiaries include the following:

- (a) the Superintendent may, in writing, issue direction in the form of supervisory bulletins that the Superintendent considers appropriate in connection with any matter pertaining to the objects set out in section 29.2(1) to the officers, the board and the management of ATB Financial and its subsidiaries;
- (b) the Superintendent may make any examination and inquiry into the business and affairs of ATB Financial and its subsidiaries that the Superintendent considers necessary or expedient to determine whether ATB Financial or one or more of its subsidiaries is operating in a safe and sound manner and is
  - (i) complying or has complied with this Act, the regulations, the Minister's guidelines, the Superintendent's supervisory bulletins and directions and any other legislation that applies to ATB Financial or its subsidiaries,
  - (ii) maintaining a sound financial condition, and
  - (iii) following or has followed sound business and financial practices;
- (c) the Superintendent may request information with respect to ATB Financial or one or more of its subsidiaries, including personal information, and the requested information shall be provided by ATB Financial and its subsidiaries at the times and in the form that the Superintendent requires;
- (d) where there are reasonable grounds to believe that ATB Financial or one or more of its subsidiaries is not
  - (i) complying or has not complied with this Act, the regulations or the Minister's guidelines,
  - (ii) maintaining a sound financial condition, or
  - (iii) following or has not followed sound business and financial practices,

the Superintendent shall promptly advise ATB Financial, its officers, the board and the Minister, and may require ATB Financial, its officers, the board or the management or the

subsidiary, its officers, its board or its management to take corrective measures in accordance with subsection (2);

(e) any additional powers and duties prescribed.

**(2)** The Superintendent may issue a temporary direction to ATB Financial, one or more of its subsidiaries or a person in accordance with this section if a delay would be prejudicial to the public interest and

(a) subsection (1)(d) applies, or

(b) in the opinion of the Superintendent, ATB Financial, one or more of its subsidiaries or a person with respect to ATB Financial or one or more of its subsidiaries is about to commit an act or pursue a course of conduct that is an unsafe or unsound business practice.

**(3)** A temporary direction referred to in subsection (2) may direct ATB Financial, one or more of its subsidiaries or a person to do one or more of the following:

(a) cease or refrain from committing an act or pursuing a course of conduct;

(b) perform such acts as the Superintendent considers appropriate to remedy the situation.

**(4)** Subject to subsection (5), no temporary direction shall be made under this section unless ATB Financial and the subsidiaries or persons, if any, to be subject to the temporary direction are provided with a reasonable opportunity to make representations in respect of the matter.

**(5)** If, in the opinion of the Superintendent, the length of time required for representations to be made under subsection (4) might be prejudicial to the public interest, the Superintendent may make a temporary direction referred to in subsection (2) that must specify the time for compliance and shall have effect for an initial period of 15 days from the date on which the temporary direction is made.

**(6)** A temporary direction under subsection (5) continues to have effect after the expiration of the period of 15 days referred to in that subsection, and for a maximum period of 90 days in total, if no representations are made to the Superintendent within that period or if representations have been made and the Superintendent notifies ATB Financial and the subsidiaries or persons, if any, that the Superintendent is not satisfied that there are sufficient grounds for revoking the direction.

**(7)** If no temporary direction is issued under subsection (5), and

- (a) no representations are made to the Superintendent under subsection (4), or
- (b) representations have been made and the Superintendent is not satisfied that an act, course of conduct or matter of concern under subsection (2) is resolved,

the Superintendent may make a temporary direction referred to in subsection (2) that must specify the time for compliance and shall have effect for a maximum period of 90 days from the date on which the temporary direction is made.

#### **Confidentiality of banking information**

**29.4(1)** Subject to this Act, where, in the course of administering or enforcing sections 29.2, 29.3 and any related regulations, the Superintendent collects or produces documents or information, including personal information, the Superintendent shall not, except as provided in this section,

- (a) disclose the documents or information, or
- (b) permit a person to access or inspect the documents or information.

**(2)** Subject to subsection (3), the Superintendent may in any manner disclose or allow a person to access or inspect documents or information referred to in subsection (1), if the Superintendent considers the disclosure, access or inspection to be required for one or more of the following purposes:

- (a) for the proper administration or enforcement of this Act and any other legislation that applies,
  - (i) to persons acting under the Superintendent's direction or authority in the administration or enforcement of this Act and the regulations, or
  - (ii) to a government, including the government of any province or territory or of Canada, or to an agency of any government in accordance with this Act and any other legislation that applies;
- (b) for the purpose of enabling the auditor of ATB Financial or any of its branches or subsidiaries to fulfil the auditor's functions, to that auditor;
- (c) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body having jurisdiction in Alberta to compel the production of information or with a rule of court binding in Alberta that

relates to the production of information, to that court, person or body;

- (d) for law enforcement purposes, to a law enforcement authority;
- (e) for a prescribed purpose, to a person or entity prescribed for that purpose.

**(3)** For the purposes of subsection (2)(a)(ii), when the Superintendent authorizes a disclosure to a person or allows a person to access or inspect documents or information, the Superintendent shall prepare a written record and acknowledgement concerning the disclosure, access or inspection of the documents or information and provide it to that person.

**(4)** Subject to subsection (5), a person to whom documents or information is disclosed, or who is authorized to access or inspect documents or information in accordance with subsection (2)(a), (b) or (d), shall comply with subsection (1) in respect of the information or document.

**(5)** Subsection (4) does not apply to a disclosure, access or inspection made by the person referred to in that subsection

- (a) for a purpose referred to in subsection (2), or
- (b) to a person acting under that person's direction or authority.

**(6)** Where, for the purpose of the administration of this Act and the regulations, the Minister or the Superintendent

- (a) receives documents or information from, or
- (b) is authorized to access or inspect documents or information by

a government, including the government of any province or territory or of Canada, or an agency of any government, the Minister or the Superintendent shall not disclose the documents or information other than with the written consent of that government or agency.

**(7)** Duties that apply to a person under this section apply to a person acting under the direction or authority of that person or to a person who receives or has access to a document or information as the result of any relationship with that person.



**(8)** This section prevails to the extent of any inconsistency or conflict with the *Freedom of Information and Protection of Privacy Act*.

**(9)** This section does not apply in respect of documents that have been or information that has been in existence for 50 years or more.

**(5)** Section 30(1) and (2) are amended by striking out “section 34(b)” and substituting “section 34(1)(b)”.

**(6)** Section 34(1) is amended by adding the following after clause (j.1):

- (j.2) prescribing for the purpose of section 29.2(1)(c) or further clarifying the objects of the Superintendent;
- (j.3) prescribing for the purpose of section 29.3(1)(e) or further clarifying the powers and duties of the Superintendent;
- (j.4) respecting a temporary direction referred to in section 29.3(2), (3) and (4);
- (j.5) prescribing purposes and persons or entities referred to in section 29.4(2)(e);
- (j.6) respecting a written record and acknowledgement referred to in section 29.4(3);

### **Credit Union Act**

#### **Amends RSA 2000 cC-32**

**2(1)** The *Credit Union Act* is amended by this section.

**(2)** Section 8(1) is repealed and the following is substituted:

#### **Corporation’s board and terms of office**

**8(1)** The Lieutenant Governor in Council shall appoint a board of directors for the Corporation consisting of a maximum of 7 individuals, including

- (a) a maximum of 2 individuals appointed on the nomination of Central, and
- (b) a maximum of 5 other individuals.

**(1.1)** An individual who is a director, officer or employee of a credit union that is under supervision or administration is not eligible for appointment under subsection (1).

**(3) Section 16(3)(a) is amended by adding** “or an agency of any of those governments,” **after** “Canada,”.

**(4) Section 46 is amended**

**(a) in subsection (2) by striking out** “Subsections (3) to (5) and (7)” **and substituting** “Subsections (3) to (5), (7) and (8)”;

**(b) by adding the following after subsection (7):**

**(8)** A credit union may, with the prior approval of the Corporation and subject to any other law, carry on business as an information management corporation that is a corporation whose activities are limited to either or both of the following:

- (a) the collection, manipulation and transmission of information that is primarily financial or economic in nature;
- (b) the sale or licensing of related software.

**(5) Section 60.1(1) is repealed and the following is substituted:**

**Participation in general meetings involving non-physical presence**

**60.1(1)** Unless the articles or bylaws of a credit union provide otherwise, a credit union may hold a general meeting by telephonic, electronic or other means of communication that permit all persons participating in the meeting to communicate adequately with each other during the meeting and that comply with the regulations, if any, provided that

- (a) a member or any other person who is entitled to attend a general meeting may participate in the meeting (including voting) to the same but to no greater extent than if personally present, and
- (b) the credit union provides for such a means of communication.

**(6) Section 145(1) is amended by striking out** “, with the prior approval of the Lieutenant Governor in Council,”.

**(7) Section 162(1) is amended by striking out** “Sections 55, 56 and 58(1), (2) and (4)” **and substituting** “Sections 55, 56, 58(1), (2) and (4) and 60.1”.

**(8) Section 165(1.3) is amended by striking out** “Lieutenant Governor in Council” **and substituting** “Minister”.

**(9) Section 174 is amended**

(a) in subsections (1) and (2) by striking out “Lieutenant Governor in Council” wherever it occurs and substituting “Minister”;

(b) by repealing subsections (8) and (9) and substituting the following:

(8) Where the Minister revokes the administration order, the Minister shall forthwith serve written notice of the revocation on Central and the administrator.

(9) Where a notice has been served under subsection (8) but the Minister considers that Central is still in need of assistance within the meaning of section 176(a), (b) or (f), the Minister may make an order placing it under supervision.

(10) Where the Minister places Central under supervision under subsection (9), section 173 applies.

**(10) Section 175.2(1) and (2) are amended by striking out “Lieutenant Governor in Council” and substituting “Minister”.**

**Credit Union Amendment Act, 2016****Amends SA 2016 c27**

**3(1) The *Credit Union Amendment Act, 2016* is amended by this section.**

**(2) Section 2(a) is repealed.**

**(3) Section 4(c) is repealed.**

**(4) Section 24(1) is amended by striking out “section 2(a)”.**

**Financial Administration Act****Amends RSA 2000 cF-12**

**4(1) The *Financial Administration Act* is amended by this section.**

**(2) Section 2(2) is repealed and the following is substituted:**

(2) The Lieutenant Governor in Council, on the recommendation of the Minister responsible, may by regulation exempt a Provincial agency, fund administrator, revenue officer or class of any Provincial agency, fund administrator or revenue officer from this Act to the extent prescribed in the regulation in respect of that Provincial agency, fund administrator, revenue officer or class.

**Freedom of Information and  
Protection of Privacy Act****Amends RSA 2000 cF-25**

**5(1)** The *Freedom of Information and Protection of Privacy Act* is amended by this section.

**(2)** Section 4(1)(r) is amended by striking out “a treasury branch” and substituting “ATB Financial”.

**Loan and Trust Corporations Act****Amends RSA 2000 cL-20**

**6(1)** The *Loan and Trust Corporations Act* is amended by this section.

**(2)** Section 5 is repealed and the following is substituted:

**Manner of issuing letters patent**

**5** Notwithstanding section 4 of Schedule 9 to the *Government Organization Act*, letters patent, supplementary letters patent, letters patent of continuance and letters patent of dissolution issued under this Act need not be issued under the Great Seal of the Province.

**(3)** Section 6(1) is amended by striking out “Lieutenant Governor in Council may, on the recommendation of the Minister,” and substituting “Minister may”.

**(4)** Section 8 is amended by striking out “Lieutenant Governor in Council” and substituting “Minister”.

**(5)** Section 10 is amended by striking out “Lieutenant Governor in Council” wherever it occurs and substituting “Minister”.

**(6)** The following is added after section 35:

**Minister may dissolve**

**35.1(1)** This section applies in respect of an application for registration if

- (a) the Minister rejects the application for registration under section 35, or
- (b) the time limit for registration set out in section 38 has expired and the provincial corporation to which the application relates is not registered.

**(2)** Notwithstanding section 38, the Minister may do one or more of the following:

- (a) issue in the prescribed form a certificate of intent to dissolve the provincial corporation;
- (b) issue a certificate of dissolution of the provincial corporation without complying with any provisions of Part 13;
- (c) apply to the Court under section 236(1) for an order for a liquidation under the supervision of the Court.

**(3)** Where the Minister issues a certificate of intent to dissolve under subsection (2)(a) in respect of a provincial corporation,

- (a) the provincial corporation shall not carry on business except to the extent necessary to complete its liquidation, and
- (b) section 232 does not apply.

**(4)** Where the Minister issues a certificate of dissolution of a provincial corporation under subsection (2)(b) the provincial corporation is dissolved and ceases to exist on the date stated in the letters patent.

**(7) Section 227(2) is amended by striking out** “On the recommendation of the Minister that all the circumstances so warrant, the Lieutenant Governor in Council” **and substituting** “If satisfied that all the circumstances so warrant, the Minister”.

**(8) Section 234 is repealed and the following is substituted:**

**Letters patent of dissolution**

**234** Unless the Court has made an order in accordance with section 236, the Minister may, if satisfied that the provincial corporation has complied with section 233 and that all the circumstances so warrant, issue letters patent dissolving the corporation.

**(9) Section 236 is repealed and the following is substituted:**

**Application for Court supervision**

**236(1)** The Minister may apply to the Court for an order for a liquidation under the supervision of the Court in accordance with this Part, and on the application the Court may so order and make any further order it considers appropriate.

**(2)** Any interested person may, at any time during the liquidation of a provincial corporation, apply to the Court for an order that the liquidation be continued under the supervision of the Court in

accordance with this Part, and on the application the Court may so order and make any further order it considers appropriate.

(3) An application to the Court to supervise a liquidation under this section shall state the reasons, verified by an affidavit of the applicant, why the Court should supervise the liquidation.

**(10) Section 252(1) is repealed and the following is substituted:**

**Letters patent of dissolution**

**252(1)** On receiving an application under section 250(5), the Minister shall issue letters patent dissolving the provincial corporation.

**Local Authorities Capital Financing Act**

**Amends SA 2019 cL-20.8**

**7(1) The *Local Authorities Capital Financing Act* is amended by this section.**

**(2) Section 2(1) is repealed and the following is substituted:**

**Loans and financial services**

**2(1)** Subject to the regulations, the Minister may make a loan to the following:

- (a) a local authority for the purpose of financing or refinancing new or existing capital projects or assets, public works, buildings or structures;
- (b) a regional airports authority for the purpose of alleviating financial consequences arising from the COVID-19 pandemic that threaten the viability of the regional airports authority, provided that the loan is made on or before December 31, 2023.



