

De : Julia Szadkowski <[REDACTED]>
Envoyé : 7 décembre 2021 10:18
À : Consultation-en-cours <Consultation-en-cours@lautorite.qc.ca>
Cc : Jess Weiser <[REDACTED]>
Objet : Equifax Comments on Draft Regulation

ATTENTION : Ce courriel provient de l'extérieur de l'Autorité.

Évitez de cliquer sur un hyperlien, d'ouvrir une pièce jointe ou de transmettre des informations confidentielles si vous ne connaissez pas l'expéditeur du courriel. En cas de doute, communiquez verbalement avec lui.

M^r Philippe Lebel
Corporate Secretary and Executive Director, Legal Affaires
Autorité des marchés financiers
Place de la cite, tour Cominar
2640, boulevard Laurier 3^{ième} étage
Québec (Québec) G1V 5C1

DELIVERED BY EMAIL TO: consultation-en-cours@lautorite.qc.ca

RE: Comments regarding Draft Regulation respecting complaint processing and dispute resolution in the financial sector (the "Draft Regulation")

Dear Me Lebel,

Equifax Canada welcomes the opportunity to provide comments on the Draft Regulation. As a registered credit assessment agent in Quebec that is also registered as a credit agency in every other applicable Canadian jurisdiction, we take our role very seriously and serve as a consumer advocate, steward of financial literacy and champion of economic advancement.

Our comments are as follows:

Section 3 – Definition of Complaint

Division III sections 24, 25 and 26 of the *Credit Assessment Agents Act*, CQLR c. A-8.2 (the "Act") sets out the scope of jurisdiction for the AMF to review complaints. To help ensure efficient complaints processing, to facilitate effective consumer interactions and ensure transparency and clarity of this Regulation, the definition of complaints in the regulation should be clear and unambiguous. In our view, as it is worded, the definition is overly broad to the detriment of all parties in the ecosystem and likely to encourage confusion and complication in complaint processing. We strongly recommend the following clarifying revision to the definition of complaint:

English

“complaint” means any dissatisfaction or reproach in respect of a service or product offered by a financial institution or financial intermediary, or, in the case of credit assessment agent, any disagreement on the merits of a reason for refusing to grant a request for the exercise of a right conferred by the Act by a person concerns by a record held by the credit assessment agent, that cannot be remedied immediately and for which a final response is expected or has been provided but the dissatisfaction, reproach or disagreement pertains to commercial practices related to the delivery of the service or product offered by a financial institution or financial intermediary or, in the case of the credit assessment agent, the commercial practices related to the exercise of a right conferred by the Act.

French

« plainte » : Toute insatisfaction ou reproche à l’égard d’un service ou d’un produit offert par une institution financière ou un intermédiaire financier, ou à l’égard d’une pratique d’un agent d’évaluation du crédit, tout désaccord sur le bien-fondé d’un motif de refus d’accorder une demande d’exercice d’un droit conféré par la Loi qui lui est communiqué par une personne faisant partie de sa clientèle, ou, dans le cas d’un agent d’évaluation du crédit, par une personne concernée sur qui il détient un dossier, auquel on ne peut remédier dans l’immédiat et pour lequel une réponse finale est attendue ou a été fourni mais que l’insatisfaction, le reproche ou le désaccord porte sur les pratiques commerciales liées à la livraison du service ou du produit offert par une institution financière ou un intermédiaire financier ou, dans le cas de l’agent d’évaluation du crédit, les pratiques commerciales liées à l’exercice d’un droit conféré par la Loi.

Additionally, all members of the ecosystem would benefit from the regulation to outline how non-reviewable complaints will be managed. In the case of credit assessment agents, we understand that the AMF will forward all inquiries it receives to the applicable credit assessment agent, however, only those that are reviewable are required to be processed in accordance with the Act and the Regulation. We further understand that currently the AMF is performing a “mere screening” and the obligation and the right falls to the credit assessment agent to identify whether or not it meets the definition of complaint. It would be helpful to formally outline this process in the regulation. Moreover, it serves as another reason for the importance of clarity in the definition.

Sections 14 and 22 – “Offer to Resolve Complaint”

Whereas sections 13, 18(8) and 21(4) identify that offers to resolve the complaint are possible but not mandatory, sections 14 and 22 lack this clarity. This lack of clarity is particularly concerning as the implementation of an offer to resolve a consumer complaint in the case of a credit assessment agent is remote if not wholly inapplicable. The regulations should also clearly define when further exchanges are no longer required to facilitate the review process under the Act and Draft Regulation, as well as to ensure compliance with other legal processes.

14. The financial institution, financial intermediary or credit assessment agent must, in due time, continue to manage any further exchanges with the complainant until a final determination is issued to the complainant by [...]the credit assessment agent, which determination explains the completed analysis of the complaint or until the complainant files an application or motion pertaining to elements of the complaint with a court or an adjudicative body. Continued

exchanges must particularly continue in the following situations: (1) it does not present the complainant with an offer to resolve the complaint; or (2) it provides an offer but the complainant refuses the offer to resolve the complaint and no final determination has been issued. Once the final determination has been issued, further exchanges may stop except and unless required during the review of the complaint by the AMF in accordance with the Act and this Regulation.

22. For any complaint where an offer to resolve is accepted by the complainant within 10 days following the complaint registration date, the financial institution, financial intermediary or credit assessment agent may provide the complainant with a final response containing the information referred to in paragraphs 1, 2 and 3 of section 20 and paragraphs 1, 2, 3 and 5 of section 21, as well as a statement to the effect that the complainant has accepted the offer to resolve the complaint.

The acknowledgement of receipt referred to in section 19 will be considered to have been sent by a financial institution, financial intermediary or credit assessment agent where a final response is provided to the complainant in accordance with the first paragraph.

Sections 20(3) and 23(3)

While Equifax believes that appropriate complaints management and record-keeping necessitates identifying the specific member of staff processing the complaint, in order to ensure protection of our staff and their information, we strongly disagree that names and contact information of either our staff or the employee nominated as our complaints officer should be provided publicly or to the consumer directly and should only be provided to the Authority if absolutely required in the course of the Authority performing its duties and that the Authority should be responsible for confidentiality.

Identifying individuals expressly using personal information is not required in any other province under neither the applicable credit reporting legislation nor applicable privacy law. Withholding this personal information has not created any adverse impact on our ability to reply and respond to consumer inquiries, complaints or rights but has had the positive impact of providing a secure work environment free from harassment, threats, harm and spam.

Equifax Canada recommends a six-month time frame from the coming into force date six months after publication of the final regulation to enable implementation before compliance is required.

Best,
Julia

Julia L. Szadkowski (she/her) | VP Legal & General Counsel | **Equifax Canada Co.**
5700 Yonge St., Suite 1600, Toronto, Ontario Canada M2M 4K2
Office: [REDACTED] | Mobile: [REDACTED]