

Regulation to amend the Regulation respecting Information to be Provided to Consumers

Notice is hereby given by the *Autorité des marchés financiers* that the draft *Regulation to amend the Regulation respecting Information to be Provided to Consumers* is being published for comment.

The Regulation is intended, in particular, to implement certain elements of Framework 81-406 "Point of sale disclosure for mutual funds and segregated funds" in the insurance sector, including those with respect to information to be given to consumers by a representative and the cancellation and rescission rights of consumers.

In addition, the Regulation creates a cancellation right applicable to block transfers of insurance business from one insurer to another.

Lastly, the Regulation enables the introduction of certain technical amendments to ensure concordance with the recent amendments made to *An Act respecting the distribution of financial products and services*, R.S.Q., c. D-9.2, by *An Act to amend the Securities Act and other legislative provisions*, S.Q. 2009, c. 25.

Comments must be made no later than **October 5, 2009**. Comments will be made public unless otherwise noted.

The draft Regulation is also available on the website of the *Autorité des marchés financiers* at www.lautorite.qc.ca under "Public Consultations."

Request for comment

Comments regarding the above Regulation may be made in writing to the following:

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Further information

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September 4, 2009

REGULATION TO AMEND THE REGULATION RESPECTING INFORMATION TO BE PROVIDED TO CONSUMERS*

An Act respecting the distribution of financial products and services
(R.S.Q., c. D-9.2, ss. 19, 20.1, 22, 202 par. (4) and s. 209; S.Q. 2009, c. 25, s. 106)

1. Section 2 of the Regulation respecting Information to be Provided to Consumers is amended by:

(1) replacing the words “may cancel” with the words “has the right to rescind”;

(2) replacing, in the English text, the word "CANCELLATION" with the word "RESCISSION".

2. Section 3 of the Regulation is amended by replacing, in the English text, the word "repayment" with the word "reimbursement".

3. The Regulation is amended by adding the following after Division 3:

“DIVISION IV

“INDIVIDUAL VARIABLE INSURANCE CONTRACT

“4.14. In this Division

“fund facts document” means an information sheet containing the essential facts about the segregated fund for which a client is asked to subscribe;

“individual variable insurance contract” means a life insurance or annuity contract under which the liabilities vary in amount depending upon the market value of a segregated fund and includes a provision in a life insurance or annuity contract under which policy dividends or amounts owed under the policy may be deposited in such a fund;

“information folder” means a document containing information relating to the individual variable insurance contract;

“key facts document” means a fact sheet incorporated in the information folder summarizing the main features of the individual variable insurance contract under which the segregated funds are offered;

“segregated fund” means a specific group of assets held separately from the other property of an insurer used for the sole purpose of fulfilling the insurer’s commitments under an individual variable insurance contract.

“§ 1. — *Scope*

“4.15. This Division applies to an insurance of persons representative who recommends that a client enter into an individual variable insurance contract and invest a specific amount therein to be retained and placed in a segregated fund of the insurer. It also applies to any additional subscription for a segregated fund under the contract which is offered to or requested by such client.

* The Regulation respecting Information to be Provided to Consumers, adopted on July 23, 1999 pursuant to Resolution No. 99.07.22 and published on November 11, 1999 in Bulletin No. 5 of the *Bureau des services financiers* (BSF), was amended by the regulation adopted on February 8, 2001 pursuant to Resolution No. 2001.02.28 and published on March 5, 2001 in BSF Bulletin No. 12, by the regulation adopted on February 13, 2003 pursuant to Resolution No. 2003.02.11 and published on March 6, 2003 in BSF Bulletin No. 32 and by the regulation approved under Order-in-Council No. 587-2007 dated August 1, 2007 published in the *Gazette officielle du Québec* (2007 G.O. 2, 2373).

For the purposes of this Division, a transfer of units of a segregated fund is considered to be part of a subscription.

“§ 2. — Information to be given to a client who subscribes for segregated funds under an individual variable insurance contract

“4.16. A representative must, before an individual variable insurance contract is entered into, give the client a copy of the information folder and key facts document relating to such contract. He must also give him a copy of the fund facts document for each segregated fund he recommends under such contract.

In addition, he must give a copy of the fund facts document to a client holding an individual variable insurance contract for any additional subscription relating to such contract, not later than at the time of the subscription, except in the cases set out in section 4.17.

Where the subscription recommended to a client pertains to segregated funds linked to the money market or where it is made at the request of the client, without a recommendation from the representative, the fund facts document may be given only with the trade confirmation, if the client so agrees.

“4.17. A representative is not required to give a client the fund facts document for a subscription pertaining to a segregated fund in which the client has already made an investment under his individual variable insurance contract.

However, if the client so requests, the representative must give the client, annually and at no charge, a copy of the most recent version of the fund facts document for each fund held by him.

“4.18. When giving a client an information folder, a key facts document or a fund facts document, the representative must bring these documents to the attention of the client and take the necessary steps to provide him with all the explanations he requires for understanding such documents, in particular with respect to their purposes and content.

“4.19. A representative may not, in any written or oral representations made to a client, minimize the importance or reliability of a fund facts document or otherwise belittle its scope. He may not use for such purpose promotional materials prepared by his firm or an insurer.

“4.20. A representative may not incorporate or attach promotional materials to a fund facts document, a key facts document or an information folder.

“4.21. The obligation of a representative to give a client the information folder, the key facts document or the fund facts document is met if he gives the client a paper or electronic copy of the most recent version of such documents or if he provides the client in real time with the indications or instructions necessary to view them on a website and he points out to him the essential aspects of such documents.

“4.22. A representative must obtain from the client an acknowledgment that he has received the fund facts document relating to an individual variable insurance contract, for any subscription made when such contract is entered into.

“§ 3. — Circumstances giving rise to the cancellation or rescission of an individual variable insurance contract or a subscription relating to such contract

“4.23. A client may cancel an individual variable insurance contract or a subscription made when such contract was entered into within two days of receiving the trade confirmation if it is delivered in accordance with section 4.25, or otherwise within seven days of its mailing. He may cancel any additional subscription which relates to such contract on the same conditions.

A client who wishes to take advantage of the cancellation right set out in the first paragraph must notify his insurer thereof.

A client who cancels his contract or a subscription is entitled to the lesser of the net value of the amounts invested at the time of any such transactions or their net value at the time his cancellation right is exercised. The insurer must also restore to him the amounts corresponding to the fees it collected when the contract or subscription was entered into and may not charge a fee for the exercise of the cancellation right.

“4.24. A client may rescind a subscription if the fund facts document required under this Regulation is not given to him in accordance with section 4.16. Such rescission right must be exercised by notice to the insurer within 180 days of receipt of the trade confirmation relating to the subscription covered by such right or, if the client becomes aware within such 180-day period that the fund facts document was not given to him, not later than 10 days following his awareness thereof. A client will be deemed to be aware thereof when the fund facts document relating to the initial subscription or any additional subscription in the same segregated fund is given to him.

The individual variable insurance contract as well as any other subscription entered into by the client retain their effects.

“4.25. Any trade confirmation, cancellation notice or rescission notice referred to in sections 4.23 and 4.24 must be given in writing and may be delivered by hand or sent by any means whereby proof of receipt may be established, such as registered or certified mail as well as fax or e-mail.”.

"DIVISION 5

"BLOCK TRANSFER OF DAMAGE INSURANCE BUSINESS

"§ 1. — *Interpretation*

"4.26. In this Division:

"block transfer of business": the transfer of a volume of business subscribed for with one or more insurers to one or more other insurers by a firm, an independent representative or an independent partnership.

"notice": a document given to a client to inform him of a block transfer of business, along with the documentation related to the new insurance contract;

"representative": a damage insurance agent or broker referred to respectively in sections 5 and 6 of the Act respecting the distribution of financial products and services (chapter D-9.2) who pursues his activities in the damage insurance sector or in the personal-lines damage insurance sector class;

"§ 2. — *Scope*

"4.27. The provisions under this Division apply to a representative who offers a client a new insurance contract following a block transfer of business.

"§ 3. — *Documents to be given to a client at the time of a block transfer of business and the procedure applicable to the cancellation of an insurance contract*

"4.28. A representative must give the client the documentation related to the new insurance contract, along with a notice informing the client of the consequences of such transfer for the client, the effective date of the new contract and the conditions whereby the new contract may be cancelled.

Such notice must be given to the client at least 30 days but no more than 60 days before the effective date of the new insurance contract, which date may not be later than the expiry date of the contract in force.

"4.29. A client may cancel the new contract by notifying the insurer within 10 days following the effective date of the contract. The insurer is required to restore to him the portion of the premium collected for any period subsequent to the cancellation.

The insurer may not charge a fee for the exercise of the cancellation right.

"4.30. The cancellation notice must be given in writing and may be delivered by hand or sent by any means whereby proof of receipt may be established, such as registered or certified mail as well as fax or e-mail."

4. Schedules 1 to 3 of the Regulation are replaced by the following:

“SCHEDULE I
(section 2)

NOTICE OF RESCISSION OF AN INSURANCE CONTRACT

NOTICE GIVEN BY A REPRESENTATIVE

Section 19 of the *Act respecting the distribution of financial products and services* (chapter D-9.2)

THE ACT RESPECTING THE DISTRIBUTION OF FINANCIAL PRODUCTS AND SERVICES GIVES YOU IMPORTANT RIGHTS.

- The Act allows you to put an end to an insurance contract you have just signed when signing another contract, **without penalty, within 10 days of its signature**. To do so, you must give the insurer notice by registered or certified mail within that time. You may use the attached model for this purpose.
- The contract thus rescinded will be deemed to have never existed and the insurer will be required, as the case may be, to restore to you any amounts you may have paid.
- The first contract you entered into will retain all its effects and will remain in force, even if you avail yourself of the right to rescind the insurance contract.
- You could lose advantageous conditions extended to you as a result of this insurance contract; contact your representative or read your contract before exercising your right to rescind the contract.
- After the expiry of the 10-day period, you may put an end to the insurance at any time; however, penalties may apply.

For further information, contact the *Autorité des marchés financiers* at 418-525-0337 (Québec City), 514-395-0337 (Montréal) or 1-877-525-0337 (toll-free number).

NOTICE OF RESCISSION OF AN INSURANCE CONTRACT

To: _____
(insurer's name)

(insurer's address)

Date: _____
(date notice sent)

Pursuant to section 20 of the *Act respecting the distribution of financial products and services*, I hereby rescind insurance contract no.:

_____ (contract number, if indicated)

entered into on: _____

_____ (date contract signed)

in: _____

_____ (place contract signed)

(client's name)

(client's signature)

The representative must first complete this section.

This document must be sent by registered mail.

Sections 18, 19, 20, 21 and 22 of the *Act respecting the distribution of financial products and services* must be reproduced on the back of this notice.

SCHEDULE II

(section 3)

NOTICE OF FREE CHOICE OF INSURER OR REPRESENTATIVE

Section 22 of the *Act respecting the distribution of financial products and services* (chapter D-9.2)

THE ACT RESPECTING THE DISTRIBUTION OF FINANCIAL PRODUCTS AND SERVICES GIVES YOU IMPORTANT RIGHTS

- You are required to subscribe for insurance to guarantee the reimbursement of a loan.
- However, you are free to subscribe for this insurance from the insurer or representative of your choice. **You can thus obtain the required insurance in three different ways:**

1. By subscribing for the insurance offered to you

If you choose this option, you will benefit from the application of section 19 of the Act whereby you may rescind an insurance contract that you have just signed when signing another contract, without penalty, within 10 days of signing it. However, you must then subscribe for another equivalent insurance considered satisfactory by the creditor, who may not refuse it without reasonable grounds;

2. By subscribing for other insurance that is equivalent to the insurance required, considered satisfactory by the creditor, who may not refuse it without reasonable grounds;

3. By demonstrating that you already have insurance that is equivalent to the insurance required, considered satisfactory by the creditor, who may not refuse it without reasonable grounds.

You may change insurer or representative at any time, provided that you maintain, during the term of the loan agreement, insurance equivalent to the insurance required, considered satisfactory by the creditor, who may not refuse it without reasonable grounds. You cannot be forced to choose or keep an insurance contract with a particular insurer, nor can you be refused credit or have your loan called for this reason.

To exercise your right of rescission, you may use the section below entitled “Notice of rescission of an insurance contract”.

For further information, contact the *Autorité des marchés financiers* at 418-525-0337 (Québec City), 514-395-0337 (Montréal) or at 1-877-525-0337 (toll-free number).

DESCRIPTION OF REQUIRED COVERAGE

(section completed by the representative, financial institution, firm or enterprise financing the purchase of goods or services)

To guarantee the reimbursement of your loan, we have required that you subscribe for:

- o damage insurance: _____

in the amount of: \$ _____ (details)
(coverage)

- o insurance of persons of the following type: _____
(life, disability, other)

in the amount of: \$ _____
(coverage)

NOTICE OF RESCISSION OF AN INSURANCE CONTRACT

Section 19 of the *Act respecting the distribution of financial products and services* (chapter c. D-9.2)

To: _____
(insurer’s name)

(insurer’s address)

Date: _____
(date notice sent)

Pursuant to section 20 of the *Act respecting the distribution of financial products and services*, I hereby rescind insurance contract no.: _____
(contract number, if indicated)

entered into on: _____
(date contract signed)

in: _____
(place contract signed)

(client’s name)

(client’s signature)

The representative must first complete this section.

This document must be sent by registered mail.

Sections 18, 19, 20, 21 and 22 of the *Act respecting the distribution of financial products and services* must be reproduced on the back of this notice.

SCHEDULE III
(section 4)

NOTICE OF SPECIFIC CONSENT

YOU ARE FREE TO GRANT OR REFUSE THIS CONSENT

Section 92 of the *Act respecting the distribution of financial products and services* (chapter D-9.2)

WHAT YOU SHOULD KNOW

- We currently hold certain information about you.
- We need your consent to allow some of our representatives to have access to this information.
- These representatives will also have access to any information updated during the consent validity period.
- These representatives will use the information available in order to solicit you for the purchase of new financial products and services.
- By giving your consent, you also give us the right to keep your insurance files with your other files.

YOU ARE FREE TO SET THE PERIOD OF VALIDITY OF YOUR CONSENT

- If you grant consent for an indefinite period of time, you may always withdraw it by revoking it. At the end of this form, you will find a model revocation notice that you may use for this purpose, or as a basis for preparing your own notice.
- If you wish to grant consent for a limited period of time, you may do so by determining this period yourself. This form provides, in the “specific consent” section, a place where you may enter the validity period you wish to choose.

THE ACT RESPECTING THE DISTRIBUTION OF FINANCIAL PRODUCTS AND SERVICES GIVES YOU IMPORTANT RIGHTS

Without this specific consent, the firm may not use this information for a purpose other than the purpose for which it was collected. **The firm cannot force you to give your consent or refuse to do business with you if you refuse to give it. Section 94 of the Act protects you.** For further information, contact the *Autorité des marchés financiers* at 418-525-0337 (Québec City), 514-395-0337 (Montréal) or 1-877-525-0337 (toll-free number).

The information we currently hold about you was collected in relation to:

(purpose(s) of the file)

The following are the required categories of information that we would like one of our representatives to use and the products and services he may offer you. For a more complete description of each category, see the back hereof.

Please authorize each category to which you consent.

Categories of information required to be communicated ¹	For which products or services? ²	Client's authorization ³	Initials ⁴
To be filled out by the firm	To be filled out by the firm		
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>Instructions for the firm (duplication not required):</p> <ol style="list-style-type: none"> 1. The firm must describe each category on the back hereof. 2. The firm must specify the nature of the products and services it wishes to offer the client. Each information category must be associated with a specific purpose. Where a category serves several purposes, the firm must repeat it for each purpose. 3. The client may give his authorization by telephone, provided both parties can identify each other. In such a case, this form will serve as a script for the staff member, who will read the detailed description of each category to the client. The firm must fill out this form and send it to the client within ten (10) days of obtaining his oral consent. 4. In the case of an electronic form, the initials may be replaced by a confirmation window. However, the notice of consent must be made available to the client by any means allowing the reading or printing thereof. 			

In accordance with the *Act respecting the protection of personal information in the private sector* (chapter P-39.1) **you may request access to the information that we hold about you.**

SPECIFIC CONSENT

Having read the above, I, the undersigned, _____
(client's name)
 consent to the use of the information held by the firm for the purposes indicated above.

This consent will be valid until revoked or for the following period:

 DD/MM/YY (to be filled out by the client)

I may revoke this consent at any time by sending a notice. I may use the attached model notice for this purpose or as a basis for preparing my own notice.

 (client's signature)

 (date consent signed)

 (client identification, address, folio or contract no., etc.)

I HEREBY REVOKE THE SPECIFIC CONSENT GIVEN TO THE FIRM BY THE FOLLOWING NOTICE

To: _____

(firm's name)

(firm's address)

On: _____

I, the undersigned, _____ hereby notify you that
(client's name)

I am withdrawing the specific consent authorizing the communication of my personal information for new purposes.

Consent given to you on: _____
(date of consent)

(client's name)

(client's signature)

(client identification, address, folio or contract no., etc.)”.

5. This Regulation will come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.