

Regulation to amend the Regulation respecting Distribution without a Representative

Notice is hereby given by the *Autorité des marchés financiers* that the draft *Regulation to amend the Regulation respecting Distribution without a Representative* is being published for comment.

The Regulation enables the implementation 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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Fax: 514-864-6381
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Further information

Further information is available from:

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Autorité des marchés financiers
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September 4, 2009

REGULATION TO AMEND THE REGULATION RESPECTING DISTRIBUTION WITHOUT A REPRESENTATIVE*

An Act respecting the distribution of financial products and services
(R.S.Q., c. D-9.2, ss. 209, 210, 437, 440, 443; S.Q. 2009, c. 25, s. 106)

1. The Regulation respecting Distribution without a Representative is amended by replacing, in the English text of the heading of subdivision 2, the word "Cancellation" with the word "Rescission".
2. Section 2 of the Regulation is amended by:
 - (1) replacing the words "is permitted to cancel" with the words "has the right to rescind";
 - (2) replacing, in the English text, the word "CANCELLATION" with the word "RESCISSION".
3. Section 3 of the Regulation is amended by replacing, in the English text, the words "cover the repayment" with the words "guarantee the reimbursement".
4. Schedules 1 to 4 of the Regulation are replaced by the following:

"SCHEDULE I (section 2)

NOTICE OF RESCISSION OF AN INSURANCE CONTRACT

NOTICE GIVEN BY A DISTRIBUTOR

Section 440 de 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 delay. 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 distributor 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).

* The Regulation respecting distribution without a representative, adopted on June 22, 1999 pursuant to Resolution No. 99.06.45 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, and by the regulation adopted on March 28, 2002 pursuant to Resolution No. 2002.03.10 and published on April 10, 2002 in BSF Bulletin No. 23.

NOTICE OF RESCISSION OF AN INSURANCE CONTRACT

To: _____
(insurer's name)

(insurer's address)

Date: _____
(date notice sent)

Pursuant to section 441 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 distributor must first complete this section.

This document must be sent by registered mail.

Sections 439, 440, 441, 442 and 443 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 443 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 441 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 distributor)

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

- damage insurance:

in an amount of: \$

(coverage)

(details)

- insurance of persons of the following type:

(life, disability, other)

in an amount of: \$

(coverage)

NOTICE OF RESCISSION OF AN INSURANCE CONTRACT

To: _____
(insurer’s name)

(insurer’s address)

Date: _____
(date notice sent)

Pursuant to section 441 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 distributor must first complete this section.

This document must be sent by registered mail.

Sections 439, 440, 441, 442 and 443 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

Sections 92 and 437 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 staff members to have access to this information.
- These staff members will also have access to any information updated during the consent validity period.
- These staff members will use the information available in order to solicit you for the purchase of new financial products and services.

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 distributor may not use this information for a purpose other than the purpose for which it was collected. **The distributor 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 staff members 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	For which products	Client's	Initials ⁴
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information required to be communicated ¹	or services? ²	authorization ³	
To be filled out by the distributor	To be filled out by the distributor		
		<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	

Instructions for the distributor (duplication not required):

1. The distributor must describe each category on the back hereof.
2. The distributor 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 distributor 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 also read the detailed description of each category to the client. The distributor 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 distributor 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 DISTRIBUTOR BY THE FOLLOWING NOTICE

To: _____
(distributor's name)

(distributor's address)

On: _____

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

- amount of the protection (ip);
- property or risks covered by the insurance (di);
- amount of the coverage (di);
- procedure involved in designating a beneficiary (ip);
- person to whom the benefit will be paid (di);
- premiums to be paid by the insured, whether guaranteed or not, and the payment frequency (di and ip);
- deductible applicable to claims (di);
- waiting period in the event of a claim (ip);
- benefits table (di);
- term of the contract (di and ip);
- the effective date or the expiry date of the insurance contract and the conditions attached thereto, if any, for example, a medical examination (ip);
- confirmation of the insurer set out in section 444 of the Act (ip);
- renewal procedures or conditions (di and ip);
- if the renewal of the contract (or the coverage offered) is guaranteed or not (di and ip);
- grace period pertaining to premium non-payment (di and ip);
- any other item that is likely to influence a client's decision (di or ip).

A reference to specific clauses in the policy may be made after the guide has highlighted the coverage provided.

Exclusions, restrictions or reduction in coverage

Clearly state the rules and events that may give rise to exclusions, restrictions or reductions in coverage of the insurance dealt with in the distribution guide. The exclusions must be drafted so as to allow the client to ascertain if he falls within an exclusion situation.

In addition to being in bold-face characters, the exclusions must be presented in boxes preceded by the word “Caution”.

A reference to specific clauses in the policy may be made after the guide has highlighted the exclusions.

To facilitate comprehension on the part of the client, the exclusions may, at the option of the insurer, be placed immediately following each type of coverage provided.

Cancellation

Indicate the procedure to be followed in order to cancel the insurance contract, including, in particular, the documents required, the time limit provided for the cancellation, the penalties applicable, if any, the name and address of the person to whom the notice is to be sent, and the effect of the cancellation;

(c) End of the Insurance Coverage

Explain the other circumstances that can put an end to the insurance coverage;

(d) Other Information

Indicate how a client may obtain additional information on the product offered. Indicate that he may contact the insurer or the distributor and how he may obtain a copy of the insurance contract discussed in the distribution guide.

Item 2: Proof of loss or claim

Explain the various steps involved in submitting a claim, namely:

(a) Submission of a Claim

Indicate the procedure that must be followed by an insured or a beneficiary in order to submit a claim and, in particular, specify the nature of the documents to be transmitted, the number of copies, the method of completing a claim, and the person or persons authorized to submit the claim.

Also indicate the period during which the claim or the notice of loss must be sent to an insurer.

Indicate the specific measures that must be taken by a loss victim.

(b) Insurer's Reply

Indicate the period during which the insurer must inform the insured or a beneficiary that his claim is accepted as well as the period during which the insurer must pay the benefit. Also indicate the period during which the insurer must inform an insured or a beneficiary that his claim is refused and the reasons that warranted the decision.

(c) Appeal of an Insurer's Decision and Recourses

Describe the procedure to be followed by an insured or a beneficiary in the event of the refusal of his claim or non-settlement by an insurer.

Specify, in general terms, the rights of an insured in the event that an insurer fails to respect its commitments and, in particular, include a reference to the effect that the consumer may consult the *Autorité des marchés financiers* or his own legal adviser.

Item 3: Similar products

Indicate whether other insurance that may include coverage similar to the insurance discussed in the distribution guide is available on the market.

Item 4: Referral to the Autorité des marchés financiers

For additional information on the obligations of insurers and distributors toward clients, indicate the name, address, etc., of the *Autorité des marchés financiers*.

PERSONAL NOTES:

Coverage amount:

Premium:

Other:

OPTIONAL

ACKNOWLEDGMENT OF RECEIPT:

You acknowledge receipt of this distribution guide in connection with your subscription for the following insurance product:

(name of the insurance product)

Date: _____
(date of acknowledgment of receipt)

Per: _____
(distributor's name)

(client's signature)

(client's name)

(client's address)".

5. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.