

## Draft Regulation

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 209)

### Regulation to amend the Regulation respecting information to be provided to consumers

Notice is hereby given by the *Autorité des marchés financiers* (the "Authority") that the following Regulation, the text of which is published hereunder, may be made by the Authority and subsequently submitted to the Minister of Finance for approval, with or without amendment, after 30 days have elapsed since its publication in the Bulletin of the Authority:

- *Regulation to amend the Regulation respecting information to be provided to consumers.*

This draft Regulation is intended primarily to ensure the implementation of certain aspects of Framework 81-406 "Point of sale disclosure for mutual funds and segregated funds" in the insurance industry, in particular with respect to information to be provided to consumers by a representative and a consumer's cancellation right.

On September 4, 2009, a previous version of the draft Regulation was published for consultation along with the draft *Point of Sale Disclosure for Segregated Funds Guideline*. Several comments were received during this consultation period. The draft Regulation has been amended to reflect some of these comments.

Essentially, the requirement to deliver the Fund Facts in the case of a subsequent subscription and the rescission right where the Fund Facts is not delivered have been withdrawn. The appropriateness of these amendments will be evaluated at a later date. Lastly, the draft Regulation originally contained a Division covering the block transfer of damage insurance business. For the time being, this Division has been withdrawn given the comments received. This is still under review.

The draft Guideline has also been amended significantly. The new draft Guideline, entitled *Guideline on Individual Variable Insurance Contracts Relating to Segregated Funds*, is being published today for consultation as well.

The draft Regulation is also available on the website of the *Autorité des marchés financiers* at [www.lautorite.qc.ca](http://www.lautorite.qc.ca) under "Public Consultations."

### Request for comment

Comments regarding the above draft Regulation may be made in writing **before October 25, 2010** to:

M<sup>e</sup> Anne-Marie Beaudoin  
Corporate Secretary  
*Autorité des marchés financiers*  
800, square Victoria, 22<sup>e</sup> étage  
C.P. 246, tour de la Bourse  
Montréal (Québec) H4Z 1G3  
Fax: 514-864-6381  
E-mail: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

Comments will be made public unless otherwise noted.

## **Further information**

Further information is available from:

M<sup>e</sup> Louis Letellier  
Analyst, Distribution Practices  
*Autorité des marchés financiers*  
Telephone: 418- 525-0337, ext. 4814  
Toll-free: 1-877-525-0337  
E-mail: [louis.letellier@lautorite.qc.ca](mailto:louis.letellier@lautorite.qc.ca)

**September 24, 2010**

## 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 209)

1. Section 2 of the Regulation respecting information to be provided to consumers (R.R.Q., c. D-9.2, r. 18) is amended:

(1) by replacing, in the English text, the words “he may cancel” with the words “he has the right to rescind”;

(2) by replacing, in the English text, the words “cancel” and “cancellation” with the words “rescind” and “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” means a disclosure document which forms part of the information folder detailing the particulars of a segregated fund offered under an individual variable insurance contract;

“individual variable insurance contract” means an individual contract of life insurance, including an annuity, or an undertaking to provide an annuity, under which the liabilities vary in amount depending upon the market value of a segregated fund in which amounts are deposited by the contractholder, and includes a provision in an individual contract of life insurance under which policy dividends are deposited in such a fund;

“information folder” means a disclosure document in respect of an individual variable insurance contract, prepared by an insurer in compliance with the *Guideline on Individual Variable Insurance Contracts Relating to Segregated Funds*, which includes, in particular, Fund Facts;

“segregated fund” means a separate and distinct group of assets maintained by an insurer in respect of which the non-guaranteed benefits of a variable insurance contract are provided.

“§ 1. — *Scope*

« 4.15. This Division applies to a representative in insurance of persons who offers a client to enter into an individual variable insurance contract and to invest in a specific amount therein.

“§ 2. — *Information to provide to clients who enter into an individual variable insurance contract*

“4.16. A representative must, before an application for an individual variable insurance contract is signed, deliver to the client a copy of the most current information folder related to that contract and, where applicable, any addenda. In addition, the representative must deliver to the client the Fund Facts related to the segregated funds selected under the contract where such Fund Facts are not included within the information folder.

Where an insurance contractholder requests that the contract be amended to become an individual variable insurance contract, the representative must also deliver to the contractholder the documents referred to in the first paragraph.

“4.17. A representative must deliver to the client a paper or electronic copy of the documents referred to in section 4.16 or provide the client with the necessary real-time directions or

instructions to enable him to consult the documents on a website. In all cases, the choice of medium or technology rests with the client.

Consultation by the client of the documents on a website, based on the directions or instructions provided by the representative, is, for the purposes of this Division, considered to be a delivery of documents.

**“4.18.** A representative must, when giving documents to the client, present the contents and provide appropriate explanations so that the client has a proper understanding of the documents. In particular, he must bring to the client’s attention the Fund Facts relating to the selected segregated funds, regardless of whether the Fund Facts are included within the information folder or delivered to the client separately.

In addition, a representative must obtain from the client an acknowledgement of receipt of the delivery of each of these documents.

**“4.19.** A representative must, no later than when the individual variable insurance contract is entered into, inform the client that he may obtain from his insurer at any time the current version of the Fund Facts for all segregated funds still available for new deposits under the contract.

He provides the client with the necessary directions or instructions so that the client may obtain these documents from his insurer.

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

**“4.20.** A client may cancel an individual variable capital insurance contract or a subscription made at the time the contract was entered into within two days starting from the earlier of the date the client received the trade confirmation or from five days after the insurer mails the trade confirmation. The client may cancel any subsequent subscription relating to this contract under these same conditions.

Where a client seeks to exercise his cancellation right set out in the first paragraph, he must inform his insurer thereof in writing. The cancellation notice 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.

A client who cancels his contract or a subscription made under that contract is entitled, for either transaction, to the lesser of the amount invested or the amount corresponding to the value of the fund units attributed to him, determined no later than on the valuation day following the day the insurer received the cancellation request. The insurer is also required to restore to the client any amounts corresponding to the charges or fees collected at the time the contract was made or at the time of subscription, and may not collect any fees related to the exercise of the cancellation right.”.

**4.** Schedules 1 and 2 of the Regulation are amended by replacing, wherever they appear in the English text, the words “cancel” and “cancellation” with the words “rescind” and “rescission”.

**5.** This Regulation comes into force on January 1, 2011.