

Draft Regulation

An Act respecting the distribution of financial products and services
(R.S.Q., c. D-9.2, s. 194, s. 200, par. (5.1), s. 217)

Regulation respecting the compulsory professional development of financial planners

Notice is hereby given by the *Autorité des marchés financiers* (the “Authority” or the “AMF”) that, in accordance with section 217 of *An Act respecting the distribution of financial products and services* (R.S.Q., c. D-9.2) (the “Distribution Act”), the draft *Regulation respecting the compulsory professional development of financial planners* (the “Regulation”) may be made by the AMF and subsequently submitted to the Minister of Finance for approval, with or without amendment, after 30 days have elapsed since the present publication.

Made under section 200 of the Distribution Act, the Regulation is intended to replace the current version of the *Regulation respecting the compulsory professional development of financial planners* through certain amendments and clarifications.

Under the draft Regulation, the AMF may, where a major legislative or regulatory amendment affects the pursuit of the activities of financial planners, require financial planners to take part in training activities to ensure their knowledge is up to date, as well as specify the activities in question and the time limit for taking part in the activities.

The Regulation also sets out the terms for exemption applications and the cessation of exemptions.

In addition, the Regulation specifies the consequences in the event of failure by a financial planner to comply with the professional development requirements or to send, as necessary, the supporting documents regarding the training activities in which the financial planner took part.

Request for comment

Comments regarding the above should be made in writing before **August 21, 2011** to:

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Comments will be made public unless otherwise noted.

Further information

Further information is available from:

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July 22, 2011

REGULATION RESPECTING THE COMPULSORY PROFESSIONAL DEVELOPMENT OF FINANCIAL PLANNERS

An Act respecting the distribution of financial products and services
(R.S.Q., c. D-9.2, s. 200)

DIVISION I SCOPE AND INTERPRETATION

1. This Regulation applies to every natural person who holds a certificate issued by the Autorité des marchés financiers (the “Authority”) authorizing the person to use the title of financial planner.

2. In this Regulation,

“PDU” means a professional development unit consisting of one hour of training activity developed and provided by or in partnership with the Institut québécois de planification financière (the “IQPF”) or recognized by the Authority pursuant to Division III;

“reference period” means any 24-month period beginning on December 1 of an odd-numbered year;

“trainer” means a natural person who acts as an instructor or facilitator and who provides a training activity.

DIVISION II TRAINING

§1. Period, frequency and content of training

3. A financial planner must, in respect of any reference period, take part in professional development activities and accumulate 40 PDUs apportioned as follows:

(1) 15 PDUs related to training activities developed and provided by or in partnership with the IQPF involving integrated financial planning in the following seven areas:

- (a) finance;
- (b) taxation;
- (c) legal aspects;
- (d) retirement planning;
- (e) estate planning;
- (f) investment;
- (g) insurance;

(2) 15 PDUs related to training activities recognized by the Authority in one or more of the seven areas listed in paragraph 1; and

(3) 10 PDUs related to training activities recognized by the Authority in subjects pertaining to compliance with standards, ethics and business conduct, including five PDUs related directly to financial planning.

4. Where a major legislative or regulatory amendment affects the pursuit of the activities of financial planners, the Authority must publish a notice in the Bulletin informing financial planners that they are to take part in training activities to ensure their knowledge is up to date.

The notice must specify, in particular, the training activities in question and the time limit for taking part in these activities.

§2. Variations in the training requirement and exemptions

5. A financial planner who is issued a certificate by the Authority during a reference period that has already begun must accumulate, according to the apportionment in section 3, a number of PDUs equal to the proportion that the number of full months for which the certificate has been held is to a reference period. In computing such proportion, the number of PDUs is rounded up to the nearest unit.

6. A financial planner who is issued a certificate by the Authority during the first year following the awarding of the IQPF diploma is exempt from the requirement to take part in professional development activities for a 12-month period following the date on which the diploma was awarded.

7. A financial planner is exempt from professional development requirements if he is absent or on leave during a period of at least four consecutive weeks, in particular owing to sickness or accident, or for family or parental reasons. For purposes of this section, the causes and terms of an absence are those set out in Divisions V.0.1 and V.1 of Chapter IV of An Act respecting labour standards (R.S.Q., c. N-1.1).

A financial planner may obtain an exemption in accordance with the first paragraph if he submits a written application to the Authority outlining the reasons for the exemption together with an explanatory document or medical certificate in support of the alleged situation.

Before refusing in whole or in part an application for an exemption, the Authority must give the financial planner written notice of his right to submit written observations within the time limit indicated by it.

8. The financial planner must notify the Authority in writing as soon as the situation giving rise to the exemption ceases to exist. He must then comply with the requirements prescribed by this Regulation and accumulate a number of PDUs equal to the proportion that the number of full months, whether or not elapsed, during which he was not exempted from the requirements during a reference period is to that reference period. In computing such proportion, the number of PDUs is rounded up to the nearest unit.

9. A financial planner who has been suspended or struck off the roll temporarily or whose certificate includes conditions or restrictions is not exempted from the requirements prescribed by this Regulation.

However, if the financial planner has been suspended or struck off the roll temporarily for more than one year, he is exempted from these requirements for the portion of such period that exceeds one year.

§3. Accumulation and assignment of PDUs

10. A financial planner who acts as an activity trainer is entitled, only once for the activity, to double the number of PDUs awarded for the activity.

A financial planner who has been suspended or struck off the roll or whose certificate has been cancelled, has not been renewed or includes conditions or restrictions may not provide professional development activities and be awarded PDUs as an activity trainer for such activities.

11. A financial planner who, in respect of a reference period, has accumulated more PDUs than the number required under paragraphs 2 and 3 of section 3 may not carry the excess PDUs over to a subsequent reference period.

However, a financial planner who, in respect of a reference period, has accumulated more PDUs than the number required under paragraph 1 of section 3 may include the excess PDUs as PDUs referred to under paragraph 2 of section 3, but solely in respect of the same period.

12. A financial planner who, at the end of a reference period or upon the expiry of the time limit provided for in the notice under section 4, has failed to comply with the professional development requirements prescribed by this Regulation, may not, for the purpose of remedying such failure, assign to the period in respect of which he is in default PDUs accumulated during the subsequent reference period or after the expiry of such time limit until the Authority has rendered a suspension decision under the second paragraph of section 218 of An Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2), and such decision has been fully executed.

§4. Notice from the Authority

13. At least 30 days before the end of a reference period or the expiry of the time limit indicated in the notice under section 4, the Authority must send a notice to each financial planner who has not accumulated the required number of PDUs informing the financial planner of the consequences under the second paragraph of section 218 of An Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2) or under sections 57 or 63 of the Regulation respecting the issuance and renewal of representatives' certificates (D-9.2, r.7).

14. Within 30 days after the end of the reference period or the expiry of the time limit indicated in the notice under section 4, the Authority must send a notice to each financial planner who has not accumulated the required number of PDUs informing the financial planner of the consequences of his failure under the second paragraph of section 218 of An Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2) or under sections 57 or 63 of the Regulation respecting the issuance and renewal of representatives' certificates (D-9.2, r.7).

§5. Keeping and sending of documents

15. A financial planner must keep, for a 24-month period following the end of a reference period, the supporting documents regarding each training activity in which he took part, in particular attendance vouchers, certificates of exam or test results or transcripts issued by the trainer, organization or educational institution that provided the professional development activities.

16. During a reference period or within 20 days after receipt of the notice referred to in section 14, a financial planner must, personally or through the firm for which the financial planner is acting or the independent partnership of which the financial planner is a partner or employee, send to the Authority a copy of the supporting documents for the activities in which he took part. If the financial planner fails to send the Authority a copy of the required supporting documents, the PDUs for the recognized activities in question

are not to be considered valid for purposes of the professional development requirements prescribed by this Regulation.

However, a financial planner is exempt from the requirement under the first paragraph if the financial planner or the firm for which the financial planner is acting or the independent partnership of which the financial planner is a partner or employee registers his attendance at the professional development activities by means of secured access to the IQPF's website. The financial planner must send a copy of supporting documents only if the Authority so requires for data verification purposes, in which case paper copies must be provided within 30 days of the Authority's request.

DIVISION III

RECOGNITION OF TRAINING ACTIVITIES

17. The Authority recognizes a training activity if it enables the following skills and competencies to be developed:

(1) development and betterment of a comprehensive and integrated vision of personal financial planning;

(2) acquisition, comprehension and application of theoretical and technical knowledge in the areas related to personal financial planning; and

(3) acquisition, comprehension and application of theoretical and technical knowledge in subjects pertaining to compliance with standards, ethics and business conduct.

However, the Authority does not recognize activities pertaining to the sale of specific financial products or services, including securities.

18. An application for recognition must be submitted to the Authority before or not more than six months after the activity is held, but not later than the last day of the reference period during which the activity is held, by the trainer, organization or educational institution providing the activity.

No later than the last day of the reference period in effect, a financial planner may, in accordance with section 19, submit an application for recognition of a training activity in which he took part and which has not already been recognized. The recognition decision rendered further to such an application is valid only for the financial planner in question.

19. The application for recognition must include:

- (1) a description of the training activity in question;
- (2) the procedure for the activity and its duration;
- (3) the number of PDUs requested for the training activity;
- (4) a document explaining how the activity develops the skills and competencies referred to in the first paragraph of section 17;
- (5) if the application is submitted before the activity is held, the name and address of the person responsible for the activity;
- (6) if the application is submitted after the activity is held, by the financial planner personally, any supporting documents for the activity;
- (7) if the application is submitted after the activity is held, by the trainer, organization or educational institution providing the activity, a list of participants.

The application must be accompanied by payment of the fees determined by the Authority for an application for recognition.

20. The Authority must recognize or refuse to recognize an activity within 30 days of receipt of the application. If the recognition is refused or the activity is recognized for fewer PDUs than requested, the Authority must give written reasons therefor to the applicant.

21. The recognition is valid in respect of the reference period in effect when the activity is held. A person who wishes to renew the recognition must submit a new application to the Authority.

22. The person responsible for an activity must inform the Authority of any change in any of the items listed in section 19.

Further to the notice of change referred to in the first paragraph, the Authority may terminate recognition of the activity or increase or decrease the number of PDUs awarded for the activity. The Authority must then send its decision to the applicant.

23. The Authority may terminate recognition of an activity or increase or decrease the number of PDUs awarded for such activity if it becomes aware that the activity being provided is different from the activity that was recognized.

If the Authority terminates recognition of the activity or increases or decreases the number of PDUs awarded for such activity, it must give written notice thereof to the applicant concerned.

DIVISION IV

TRANSITIONAL AND FINAL PROVISIONS

24. Section 9 of this Regulation applies to financial planners who, as at December 1, 2011, are suspended or struck off the roll temporarily or whose certificate includes conditions or restrictions.

25. This Regulation replaces the Regulation respecting the compulsory professional development of financial planners, approved by Order in Council 970-2007 dated November 14, 2007.

26. This Regulation comes into force on December 1, 2011.