

## Draft Regulation

An Act respecting the distribution of financial products and services  
(chapter D-9.2, s. 200, pars. (1) to (5), (6), (7) and (9), and s. 203, pars. (1) and (3) to (6))

### Regulation to amend the Regulation respecting the issuance and renewal of representatives' certificates

Notice is hereby given by the *Autorité des marchés financiers* (the "Authority") that, in accordance with section 217 of *An Act respecting the distribution of financial products and services* (chapter D-9.2), the following draft Regulation, the text of which is published hereunder, may be made by the Authority and subsequently submitted to the Québec Minister of Finance and the Economy for approval, with or without amendment, after 30 days have elapsed since this publication in the Bulletin of the Authority:

- *Regulation to amend the Regulation respecting the issuance and renewal of representatives' certificates.*

The draft Regulation is also available under "Public consultations" on the website of the Authority at [www.lautorite.qc.ca](http://www.lautorite.qc.ca).

### REGULATION TO AMEND THE REGULATION RESPECTING THE ISSUANCE AND RENEWAL OF REPRESENTATIVES' CERTIFICATES

#### PURPOSE OF DRAFT REGULATION

This draft Regulation to amend the Regulation respecting the issuance and renewal of representatives' certificates (the "Regulation") is made under paragraphs 1 to 5, 6, 7 and 9 of section 200 and paragraphs 1 and 3 to 6 of section 203 of *An Act respecting the distribution of financial products and services*, chapter D-9.2, which came into force on March 1, 2010. These amendments are intended to provide details regarding the application of the Regulation, the use of new technologies and additional conditions for obtaining the financial planner certificate.

#### PROPOSED AMENDMENTS

##### CERTIFICATE IN FINANCIAL PLANNING (sections 13.1 and 13.2)

At present, a candidate need only hold a diploma from the *Institut québécois de planification financière* (IQPF) in order to obtain a certificate from the Authority to pursue activities as a financial planner. There are currently no other prerequisites.

Amendments are proposed to add conditions for obtaining a certificate to use the financial planner title. These amendments aim to ensure that candidates who obtained a diploma from the IQPF more than six years prior to applying for a certificate demonstrate that they have applied the competencies acquired through this diploma.

Therefore, in order for a candidate to obtain a certificate from the Authority, he must have passed the exam leading to the IQPF diploma within the past six years.

Failing this, in addition to holding a diploma from the IQPF, the candidate must:

- have held a certificate from the Authority in the financial planning sector for two years in the past six years and have satisfied the compulsory professional development requirements;

- provide proof that he has accumulated the equivalent of 40 professional development units in the past six years, in accordance with the Regulation respecting compulsory professional development of financial planners (D-9.2, r. 14.1); or
- have been authorized to use the financial planner title, pursuant to an agreement entered into between his professional order and the Authority, for at least two of the past six years.

Otherwise, the candidate must re-sit the IQPF exam.

These new conditions would apply one year after the Regulation comes into force. In the interim, candidates can take advantage of the conditions currently in effect.

#### **REQUIREMENT TO HOLD A CERTIFICATE AND ACT AS A REPRESENTATIVE** (sections 16, 17, 23 and 42)

Several provisions of the Regulation stipulate that candidates must have held a certificate under certain circumstances; for example, to be exempted from writing some examinations or from undertaking the probationary period.

To specify how the Authority applies these provisions, the requirement to have pursued activities as a representative would be added to the requirement to hold a certificate. In the same way, section 16 was amended so as to replace the requirement to have been employed by the requirement to have actually worked.

#### **PROBATIONARY PERIOD** (sections 29.1, 44, 45.1, and 47 to 49.1)

The rules governing the work of the supervisor and those applicable when a probationary period must be repeated will ensure more effective oversight. By introducing these rules, the Authority wishes to prevent candidates from repeatedly undertaking probationary periods and ensure that supervisors continue to be representatives that are qualified to assume this supervisory role.

#### **TERMS AND CONDITIONS OF APPLICATIONS SUBMITTED TO THE AUTHORITY** (sections 23, 28, 29, 39, 41, 42, 45, 64 and 65)

Section 65 was amended to specify the requirements governing applications submitted to the Authority. This amendment ensures continuity in the process and reflects, among other things, changes related to new technologies.

Therefore, all applications must be submitted using the form provided by the Authority and must be received in the specified time limits.

In addition, the application for probationary period eligibility must now be submitted by the firm or independent partnership where the candidate will act as a trainee (section 29 *in fine*).

#### **FOREIGN NATIONALS** (section 56.1)

Candidates who apply to renew their work permits issued by an authority outside of Québec under the Immigration and Refugee Protection Regulations (SOR/2002-227) must, in addition to the other conditions set out in the Regulations, act on behalf of a firm or an independent partnership in order to obtain a representative's certificate.

#### **OTHER AMENDMENTS**

The Authority is proposing other amendments to clarify the interpretation of a number of provisions.

Certain sections have been clarified to better explain their application or ensure consistency throughout the Regulation.

For example:

- section 20, as proposed, explicitly stipulates that a candidate may register for exams as soon as he successfully completes his courses; and
- proposed section 55.1 more clearly explains the current context of the certificate application process and the time limits to be respected.

#### **TRANSITIONAL PROVISIONS – REGULATION OF 2010 (sections 69 to 72)**

Transitional provisions added to the Regulation of 2010 are now obsolete, as the period covered by these provisions has now expired. These provisions will be withdrawn.

#### **Comments**

Comments regarding the above Regulation may be made in writing before the 30-day period for this publication elapses, on January 10, 2013, and sent to the following:

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Comments will be made public unless otherwise noted.

#### **Further information**

Further information is available from:

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**January 10, 2013**

## **REGULATION TO AMEND THE REGULATION RESPECTING THE ISSUANCE AND RENEWAL OF REPRESENTATIVES' CERTIFICATES**

An Act respecting the distribution of financial products and services

(R.S.Q., c. D-9.2, s. 200, pars. (1) to (5), (6), (7) and (9), and s. 203, pars. (1) and (3) to (6))

**1.** Section 12 of the Regulation respecting the issuance and renewal of representatives' certificates (c. D-9.2, r. 7) is replaced by the following:

**“12.** A representative authorized to act in the financial planning sector under a certificate issued by the Authority, in accordance with section 57 of An Act respecting the distribution of financial products and services (chapter D-9.2), uses the title “financial planner” or the abbreviation “F. Pl.”.

With the exception of paragraphs 4 to 6 of section 13 and sections 13.1 and 13.2, Divisions I to VI of Chapter II and the first, second and fourth paragraphs of section 55 hereof do not apply to financial planners.”.

**2.** Section 13 of the Regulation is replaced by the following:

**“13.** The Authority issues a certificate to a candidate who satisfies the following conditions:

(1) he holds the minimum qualifications under Division II of this Chapter, where applicable;

(2) he has passed the examinations prescribed by the Authority in accordance with Division III of this Chapter, where applicable;

(3) he has successfully completed the probationary period under Division IV of this Chapter, where applicable;

(4) he has submitted an application for a certificate in accordance with section 55;

(5) he has complied with the requirements and conditions of issuance of a certificate prescribed in Divisions VII and VIII of this Chapter;

(6) in the case of a foreign national, he holds a work permit issued by a competent authority allowing him to hold employment in Québec for which a certificate from the Authority is required.

**“13.1.** In addition to the conditions mentioned in paragraphs 4 to 6 of section 13 and section 57 of the Act, a candidate in the financial planning sector must have passed the examination of the Institut québécois de planification financière leading to the diploma referred to in section 57 of the Act in the 6 years preceding his application for a certificate.

**13.2.** Where an application for a certificate is received by the Authority more than 6 years after the examination referred to in section 13.1 is passed, a candidate holding a diploma conferred by the Institut québécois de planification financière is exempt from having to pass the examination again, provided that he satisfies the following conditions:

(1) he held a certificate issued by the Authority in the “financial planning” sector for at least 2 years in the 6 years preceding his application for a certificate, and he satisfied the requirements pertaining to compulsory professional development;

(2) he took part in professional development activities corresponding to those provided for under the Regulation respecting the compulsory professional development of financial planners (c. D-9.2, r. 14.1) and accumulated the equivalent of at least 40 professional development units, apportioned in the manner set out in section 3 thereof, in the 6 years preceding his application for a certificate;

(3) he was a member of a professional order with which the Authority entered into an agreement pursuant to section 59 of the Act, and he was authorized, under such agreement, to use the title of “financial planner” for at least 2 years in the 6 years preceding his application for a certificate.”.

**3.** Section 16 of the Regulation is amended by replacing the words “at least 3 years of prior full-time employment” in paragraph 4 with the words “have worked full-time for at least 3 years within the past 10 years”.

**4.** Section 17 of the Regulation is amended:

(1) by replacing the words “if he held a certificate for a period of at least 1 year” with the words “if, for a period of at least 1 year, he held a certificate”;

(2) by adding “and he acted as a representative” after “2002”.

**5.** Section 19 of the Regulation is replaced by the following:

**“19.** A candidate must, for each sector or sector class for which he is applying for a certificate, pass the examinations prescribed by the Authority to demonstrate that he has the required competencies to comply with the legislation applicable to pursuing activities as a representative and, depending on the sector, that he has the following competencies:

(1) for the damage insurance sector, the insurance of persons sector or the group insurance of persons sector or any sector class thereof, recommend or propose, as applicable, a product adapted to the client's needs;

(2) for the insurance of persons sector or the group insurance of persons sector or any sector class thereof, evaluate the tax impacts of an insurance contract or an annuity contract, as applicable;

(3) for the claims adjustment sector or any sector class thereof, settle a claim based on the coverage subscribed for by the client.”.

**6.** Section 20 of the Regulation is replaced by the following:

**“20.** A candidate who submits an application and satisfies the following conditions may take the examinations pertaining to a sector or sector class:

(1) he holds the minimum qualifications hereunder, as applicable;

(2) he is not in any of the situations set out in sections 219 and 220 of the Act;

(3) he has paid the fees prescribed under the Regulation respecting fees and contributions payable (c. D-9.2, r. 9).

As soon as a candidate referred to in the second paragraph of section 14 has completed a course recognized in an agreement entered into for that purpose between the

Authority and a training body, he may register for the examination corresponding to that course.”.

**7.** Section 22 of the Regulation is amended:

- (1) by deleting the words “duly completed and”;
- (2) by replacing the words “previously issued by the Authority authorizing him to act as a representative” with the words “held by him”.

**8.** Section 23 of the Regulation is amended:

- (1) by replacing the words “he forwards his application for a certificate to the Authority” with the words “his application for a certificate is received by the Authority”;
- (2) by replacing the words “held for at least 1 year authorizing him to act as a representative” with the words “and he acted as a representative for at least 1 year”.

**9.** Section 24 of the Regulation is amended by replacing the word “in” with the words “to pass”.

**10.** Section 28 of the Regulation is amended by replacing the word “forward” in the second paragraph with the word “submit”.

**11.** Section 29 of the Regulation is replaced by the following:

**“29.** A candidate who submits an application and satisfies the following conditions may undertake a probationary period pertaining to a sector or sector class if:

- (1) he has passed each of the examinations prescribed by the Authority and such examinations are valid at the time the probationary period is undertaken;
- (2) he is not in any of the situations set out in sections 219 and 220 of the Act;
- (3) in the case of a foreign national, he holds a work permit issued by a competent authority allowing him to hold employment in Québec for which a certificate from the Authority is required;
- (4) he has paid the fees prescribed under the Regulation respecting fees and contributions payable (c. D-9.2, r. 9).

However, a candidate whose examinations are no longer valid at the beginning of the probationary period may undertake a probationary period where warranted by exceptional circumstances.

An application for probationary period eligibility must be submitted to the Authority by the firm, independent representative or independent partnership with which the candidate undertakes such probationary period.

**“29.1.** To be eligible for a new probationary period, a candidate who has not successfully completed his probationary period must submit to the Authority the means he intends to use to correct the shortfalls noted in the supervisor’s report or by the Authority.

After completing 2 probationary periods unsuccessfully, a candidate may only undertake a new probationary period under the responsibility of another supervisor.”.

**12.** Section 31 of the Regulation is replaced by the following:

“**31.** The Authority issues a probationary certificate to a candidate who meets the conditions set out in sections 29 and 29.1.

The certificate includes the information necessary to identify the candidate and the information related to the validity period of the probationary certificate.”.

**13.** Section 32 of the Regulation is amended:

(1) by replacing the words “holder of a probationary certificate” in the introductory portion of section 32 with the word “trainee”;

(2) by replacing paragraph 1 with the following:

“(1) in the insurance of persons sector or the group insurance of persons sector or any sector class thereof, gather information, conduct needs analyses and propose to his supervisor the products or services that may be adapted to the client's needs, before proposing and selling them to the client;”;

(3) by replacing the words “and recommend and sell them to the client” in paragraph 3 with the words “before proposing and selling them to the client”;

(4) by replacing paragraph 4 with the following:

“(4) in the claims adjustment sector or any sector class thereof, gather information, propose to his supervisor the components of a claims investigation, the assessment of damage or the negotiation of a settlement, present to the insured the components of the negotiation of a settlement once they are approved by his supervisor and assist his supervisor in negotiating a settlement.”.

**14.** Section 33 of the Regulation is amended:

(1) by replacing the first paragraph with the following:

“A trainee must, upon first meeting a client, give the client a document, such as a business card, which must indicate the following”;

(2) by replacing subparagraph (2) with the following:

“(2) his business address, business telephone number and electronic mail address, if any;”;

(3) by replacing the words “pursues activities” in subparagraph 4 with the word “acts”;

(4) by replacing subparagraph 5 with the following:

“(5) his title as trainee.”

(5) by replacing the word “holder” in the second paragraph with the word “trainee”.

**15.** Section 36 of the Regulation is amended by replacing the word “candidate” with the word “trainee”.

**16.** Section 37 of the Regulation is amended:

(1) by replacing the words “holder of a probationary certificate” in the first paragraph with the word “trainee”;

(2) by replacing the word “holder” in the second paragraph with the word “trainee”.

**17.** Section 38 of the Regulation is amended:

(1) by replacing the words “holder of a probationary certificate” in the first paragraph with the word “trainee”;

(2) by replacing the word “abandoned” with the word “discontinued”.

**18.** Section 39 of the French version of the Regulation is amended by replacing the word “transmettant” in the second paragraph with the word “présentant”.

**19.** Section 40 is amended by replacing the words “holder of a probationary certificate” with the word “trainee”.

**20.** Section 41 of the Regulation is amended:

(1) by deleting the words “duly completed and”;

(2) by replacing the words “issued to him by the Authority whereby he was authorized to act as a representative” with the words “held”.

**21.** Section 42 of the Regulation is amended:

(1) by deleting the words “duly completed and”;

(2) by replacing the words “held for at least 1 year as a representative” with the words “and he has acted as a representative for at least 1 year”.

**22.** Section 44 of the Regulation is replaced by the following:

**“44.** A supervisor is a representative authorized to act at the time of the probationary period who, for at least 24 of the 36 months preceding the probationary period, was the holder of a certificate and acted as a representative in the same sector or sector class as that covered by the probationary period applied for.”.

**23.** Section 45 of the Regulation is amended by replacing the words “completes the prescribed form” in the introductory portion of section 45 with the words “submits his application”.

**24.** The Regulation is amended by inserting the following after section 45:



**“45.1.** A supervisor who has received 2 written notices from the Authority for failing to fulfill the obligations prescribed in sections 46 to 50 hereof may not act as a supervisor for 1 year as of the date of the last notice.”.

**25.** Section 47 of the Regulation is replaced by the following:

**“47.** Where a supervisor is absent, he is replaced by a replacement supervisor who must have submitted an application to this effect in accordance with section 45. The replacement supervisor must have the same qualifications and fulfill the same obligations as those imposed on the supervisor.

A supervisor registered with the Authority as an independent representative may not be replaced by a replacement supervisor unless the Authority so consents in writing.”.

**26.** Section 48 of the Regulation is amended:

(1) by replacing the words “holder of a probationary certificate” in the first paragraph with the word “trainee”;

(2) by replacing the words “client’s file” in the first paragraph with the words “client file”;

(3) by replacing the second paragraph with the following:

“For the damage insurance sector, where products and services pertaining to personal-lines damage insurance are offered, or for the personal-lines damage insurance sector class, the supervisor must, within the next business day, review the trainee’s work and enter the review in the client file.

“For the claims adjustment sector or any sector class thereof, the supervisor must verify the information gathered by the trainee, approve the components of a claims investigation, the assessment of damage or the negotiation of a settlement, enter the approval in the client file, accompany and assist the trainee when presenting these components to the insured and may be assisted by the trainee during the negotiation of the settlement.”.

**27.** The Regulation is amended by inserting the following after section 48:

**“48.1.** The supervisor must provide the trainee with the guidance he needs to adequately pursue activities as a representative in the sector or sector class for which he is applying.

To this effect, the supervisor must ensure that the trainee complies with the legislation, rules of ethics and rules of professional conduct and that he has the knowledge, skills, behaviours and attitudes necessary to pursue activities as a representative.

The supervisor must also provide the trainee with a working environment conducive to learning and developing his competencies and help him to gradually pursue the activities reserved for representatives, as set out in section 32.”.

**28.** Section 49 of the Regulation is replaced by the following:

**“49.** The supervisor must personally perform the tasks set out in section 48 as well as any other task related to his role as supervisor, including the following:

(1) determine the tasks the trainee must carry out, specifying the time limits in which they must be completed;

(2) at least once a week, evaluate and review the tasks carried out by the trainee;

(3) make a recommendation as to whether or not the probationary period has been successfully completed.

The recommendation referred to in subparagraph 3 is received by the Authority within 10 days following the end of the probationary period, along with a report containing the information required by the Authority.

The report covers, among other things, whether the expectations set out in section 48.1 were met and what shortfalls were noted, as applicable. The recommendation and report must be approved by management of the supervisor's firm or independent partnership, as applicable."

**29.** Section 50 of the Regulation is amended by replacing the word "holder" with the word "trainee".

**30.** Section 53 of the Regulation is amended:

(1) by replacing the words "subparagraphs 2 of the first and second paragraphs" in the introductory portion of section 53 with the words "paragraphs 1 and 3";

(2) by replacing the words "referred to in subparagraphs 1 of the first and second paragraphs" in subparagraph 2 with the words "prescribed by the Authority to demonstrate that he has the required competencies to comply with the legislation applicable to pursuing activities as a representative and that he has the competency prescribed in paragraph 2";

(3) by adding the word "successfully" before the word "completed" in subparagraph 3;

(4) by replacing subparagraph 4 with the following:

"(4) he has submitted an application for a certificate to the Authority."

**31.** Section 55 of the Regulation is amended:

(1) by replacing the first and second paragraphs with the following:

"A candidate's application for a representative's certificate under paragraph 4 of section 13 must be received by the Authority prior to the expiry of the validity period of his examinations.

Where the validity period of the examinations expires during the probationary period, the certificate application must be received by the Authority within 30 days following the end of the probationary period.";

(2) by deleting the words “forward the prescribed form and” in the third paragraph.

**32.** The Regulation is amended by inserting the following after section 55:

“**55.1.** For the purpose of section 55, the probationary certificate remains in effect for 30 days as of the end of the probationary period.

During the processing of the certificate application and if the certificate application is received by the Authority within 30 days following the end of the probationary period, the probationary certificate remains in effect for up to an additional 15 days.

Upon issuance of a representative’s certificate or where the probationary period was not successfully completed, the corresponding probationary certificate expires.”.

**33.** The Regulation is amended by inserting the following after section 56:

“**56.1.** To be issued a certificate, a candidate referred to in paragraph 6 of section 13 who is in the situation set out in paragraph *u* of section 186 of the Immigration and Refugee Protection Regulations (SOR/2002-227) must act on behalf of a firm or be employed by an independent partnership.”.

**34.** Section 57 of the Regulation is amended by replacing the words “held as a representative” with the words “he held”.

**35.** Sections 58 and 59 of the Regulation are repealed.

**36.** Section 60 of the Regulation is amended by replacing the words “professional titles he is authorized to use” with the words “titles he is authorized to use under the Act”.

**37.** Section 63 of the Regulation is replaced by the following:

“**63.** The Authority renews the certificate of a representative who has submitted a renewal application and who satisfies the conditions prescribed under paragraphs 4 to 6 of section 13, section 13.1 and the provisions of Division VII of Chapter II.”.

**38.** Section 64 of the Regulation is amended:

(1) by replacing the words “A representative must renew his certificate prior to expiry thereof” in the first paragraph with the words “A certificate renewal application must be received by the Authority prior to expiry of the certificate”;

(2) by adding, following the word “renewal” at the end of the second paragraph, the words “or until a decision of the Authority refusing the renewal.”.

**39.** Section 65 of the Regulation is replaced by the following:

“**65.** To be admissible, any application referred to hereunder must be duly submitted on the form provided by the Authority and received by it within the prescribed time period. The application must be accompanied, as applicable, by the required

documents and information stipulated in the form and the related fees and contributions required by the Authority under the Regulation respecting fees and contributions payable (c. D-9.2, r. 9).”

**40.** Sections 69 to 72 of the Regulation are repealed.

**41.** The Regulation is amended by replacing the words “skill” and “skills” with, respectively, “competency” and “competencies”, wherever they appear.

**42.** The provisions of this Regulation will come into effect on the date of their publication in the *Gazette officielle du Québec*, except for those under sections 13.1 and 13.2, which will come into effect 1 year from the date of publication.