

CONSULTATION DOCUMENT



**AUTORITÉ
DES MARCHÉS
FINANCIERS**

Group insurance offered to members of a student association

Wednesday, June 15, 2022

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1. BACKGROUND

Role and responsibilities of the AMF

Part of the mission of the *Autorité des marchés financiers* (the “AMF”) is to ensure that financial institutions such as insurers comply with the obligations imposed on them by law in order to protect the interests of consumers of financial products and services.¹

In exercising its functions and powers, the AMF issues guidelines informing insurers of measures that may be established to satisfy their obligations.² Among their obligations, insurers must adhere to sound and prudent management practices and sound commercial practices.³

The obligation to adhere to sound commercial practices means, among other things, treating clients fairly. The insurer must provide its clients with appropriate information allowing them to make informed decisions about the products offered.

The AMF’s expectations regarding the fair treatment of clientele are set out in the *Sound Commercial Practices Guideline*.⁴ This guideline specifies that the information insurers provide to their clientele should:

- set out the product’s main features (e.g. the coverage offered, insured risks, exclusions, premium amount);
- be drafted in clear and plain language and be presented in a format that is easy to read and understand;
- identify any right of cancellation or rescission.

The AMF monitors and assesses insurers’ practices to ensure that they comply with their obligations.⁵

The AMF also monitors and assesses the practices of the firms registered pursuant to the *Act respecting the distribution of financial products and services*⁶ through which insurers offer their products.

1 <https://www.legisquebec.gouv.qc.ca/en/document/cs/E-6.1>

2 *Insurers Act*, ss. 463 and 464.

3 *Insurers Act*, ss. 50, 51, 74 and 75.

4 https://lautorite.qc.ca/fileadmin/lautorite/reglementation/lignes-directrices-assurance/ligne-directrice-saines-pratiques-commerciales_an.pdf

5 https://lautorite.qc.ca/fileadmin/lautorite/reglementation/assurances-inst-depot/2020/cadre-surveillance-2020_an.pdf

6 CQLR c. D 9.2.

Actions taken by the AMF in respect of insurers' practices relating to optional group insurance offered to members of student associations

The optional group insurance policies covered by this consultation (the "insurance plans") have been offered to university students and students of certain college-level institutions in Québec for nearly 30 years. The insurance plans provide coverage that may be useful to students and typically offer the option to also cover spouses and children.

In recent years, the AMF has taken an interest in certain "automatic enrollment" insurance products.

Such automatic enrollment insurance products include the optional group insurance offered to members of student associations. Work begun in 2015 with insurers offering such insurance plans identified and confirmed the existence of certain issues, including:

- automatic enrollment in the insurance plan without prior confirmation of the student's need for such insurance (e.g., many students already benefit from similar coverage under their parents' or spouse's insurance or through participation in an employer-provided insurance plan)
- level of information about the product and its cost
- when the opt-out right must be exercised and the length of time allotted to exercise an opt-out option (e.g. in the first month of the fall session only);
- premium refund mechanism.

Between 2015 and 2019, the AMF continued to work with those same insurers to find solutions to the above issues and to see that the insurers were complying with their obligations. Recommendations were then issued to the insurers in order to, among other things, improve:

- information for students (in the form of a brochure) on the features of the insurance plan, the opt-out right and the premium amount
- content of the invoice issued to each individual student
- coordination of the invoicing period and opt-out period (and dissemination of the information regarding such periods)
- length of the opt-out period and the opt-out process (improving the time duration for obtaining a premium refund)

The insurers concerned took certain remedial actions to give effect to those recommendations; however, they were not been able to act on all of them.

In addition, the *Insurers Act*⁷, which came into force in June 2019,⁸ specifies that, in the case of group insurance contracts in which a person may enroll as a participant without interacting with a certified insurance representative at the time of enrollment, which is the situation here, the insurer must see that the participant is provided with the information necessary to make an enlightened decision and for contract performance purposes.⁹

In this context and after several years of efforts, the AMF required, through instructions issued to the insurers concerned, that, effective the 2022 fall session, additional measures be implemented to ensure that each student:

- gives, in a timely manner and through a simple, positive action, his or her informed consent to the payment of a premium in consideration of his or her voluntary enrollment in the group insurance;
- is provided in sufficient time, either before or not later than the time of his or her enrollment, with the information necessary to make an enlightened decision.

After these actions were taken, various stakeholders expressed concern about the continued accessibility of such insurance plans for students. In light of these developments and with a view to seeing a sustainable solution implemented, on February 9, 2022, the AMF announced a full review of the matter.¹⁰

The AMF undertook to:

- **Suspend the implementation of the measures requested of insurers for September 2022**

This suspension is currently in effect and all the insurers concerned have been officially notified of the suspension by the AMF.

The AMF also requested that the insurers concerned suspend any decisions resulting from the measures requested for September 2022, so that this exercise can be carried out in a thorough manner.

- **Implement the consultation and comprehensive review process with respect to the offering of such insurance plans**

This is an important consultation, and the AMF is undertaking it with a view to engaging in inclusive and transparent dialogue with all stakeholders.

At the end of the consultation process, the AMF will prepare a report to the Minister of Finance.¹¹

The following sections provide a more detailed description of the objectives of the consultation and the process adopted.

7 CQLR, c. A 32.1.

8 The *Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions* SQ 2018, c. 23 ("Bill 141") was assented to in 2018, setting forth, in particular, the *Insurers Act*.

9 *Insurers Act*, s. 62.

10 <https://lautorite.qc.ca/grand-public/salle-de-presse/actualites/fiche-dactualite/assurances-offertes-par-les-associations-etudiantes-lautorite-annonce-un-reexamen-de-lensemble-du-dossier> (in French only)

11 The Minister of Finance is responsible for the application of the Act establishing the AMF, namely the *Act respecting the regulation of the financial sector*, RLRQ, c. E-6.1.

2. CONSULTATION OBJECTIVES AND PROCESS

2.1 Consultation objectives

The purpose of the consultation is to collect comments and proposals with respect to the following fundamental objectives:

- to maintain **access** to insurance products for the student clientele
- to ensure **adequate protection** of students as consumers of insurance products.

This consultation in no way challenges the right of student associations to act as policyholders of group insurance contracts.

2.2 Consultation process

The AMF wants the process to be inclusive and to be able to reach all stakeholders (e.g. students, parents, student associations, educational institutions, insurers, firms).

The AMF is therefore inviting interested stakeholders to provide their input on this matter in writing, setting out their thoughts and concerns, identifying advantages, disadvantages and issues and submitting proposals.

The insights gathered in this way will help inform the AMF's thought process and contribute to the development of recommendations that reconcile the two aforementioned objectives.

The AMF reserves the right to communicate directly with interested stakeholders for the purpose of understanding or further exploring the perspectives expressed by them.

The comments submitted will be made public after the consultation period, unless otherwise noted.

2.3 Consultation process timeline

- June 15, 2022: publication of the consultation paper
- June 15, 2022–October 17, 2022: period allotted to respond to the consultation paper and parallel collection of information by the AMF
- October 18, 2022–December 16, 2022: analysis of responses received and requests for clarification, if any.

2.4 Report to the Minister of Finance

At the end of the consultation exercise, the AMF will prepare a report to the Minister of Finance.

The AMF wishes to submit its report to the Minister of Finance as soon as possible after the response analysis period has ended.

The report submitted to the Minister of Finance will include, among other things:

- summary of the consultation process
- consultation participation summary
- portrait of the market
- summary of the comments and proposals received from consultation participants
- AMF's recommendations

The report will also be published on the AMF's website upon completion of the consultation exercise.

3. CONSULTATION SCOPE

The consultation focuses on insurance plans offered to college and university students.

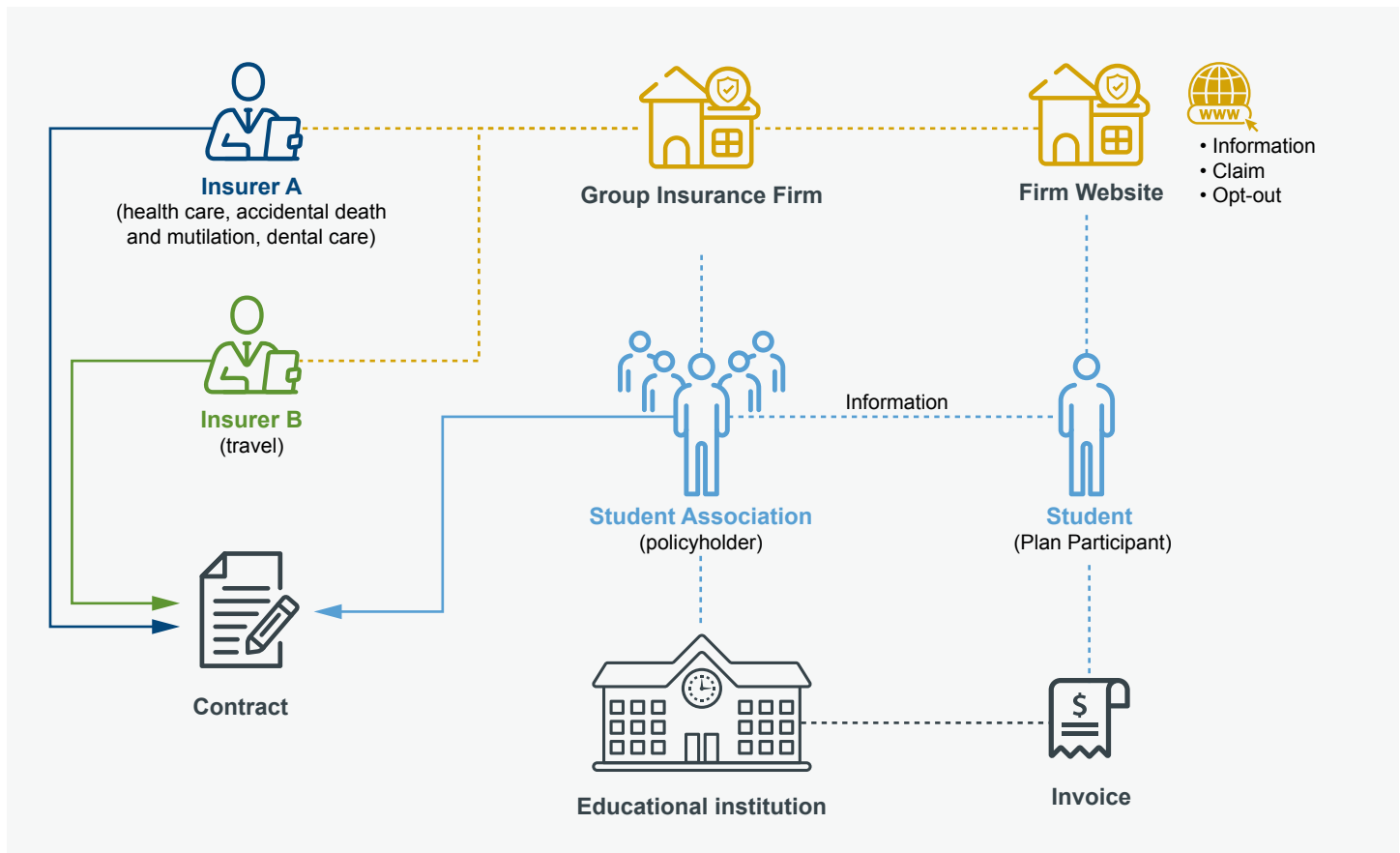
3.1 Types of insurance plans purchased by student associations

Each student association acts as the policyholder of the insurance contract. An insurance contract is established between the student association and the insurer. Students who are members of the student association are participants in the insurance contract.

Currently, students enroll in the group insurance plans through the payment of an insurance premium that is collected at the same time as the student contribution via the invoice issued to them by the educational institution.

The premium payable by each student is set by the insurer. The content and features of the group insurance contracts are negotiated with insurers through firms registered in the group insurance sector that act as intermediaries between the student associations and the insurers.

In the specific context of insurance plans offered to student association members, some firms also play an additional role with those members. For example, some insurance firms have set up websites on which all the information pertaining to the insurance plans is made available. Opt-out requests from students are also submitted via these websites.



Insurance plan features may differ across student associations (types of coverage, amounts reimbursed, number of claims allowed, etc.).

Examples of coverage commonly found in insurance plans offered to student association members include:

1. Health Care

Hospital costs

Prescription Drugs

RAMQ prescription drugs not covered
(e.g. oral contraceptives, hormonal intrauterine devices, contraceptive injections, contraceptive rings, contraceptive patches and antidepressants)

Preventive vaccines

Hospital care (short- and long-term)

Nursing care

Paramedical services

(acupuncturist, dietician, massage therapist, naturopath, osteopath, podiatrist, chiropractor, physiotherapist, psychologist, psychotherapist or social worker)

Vision care

Services of a private teacher

2. Accidental Death and Dismemberment

3. Dental Care

(e.g. preventive services, basic services, endodontics and periodontics)

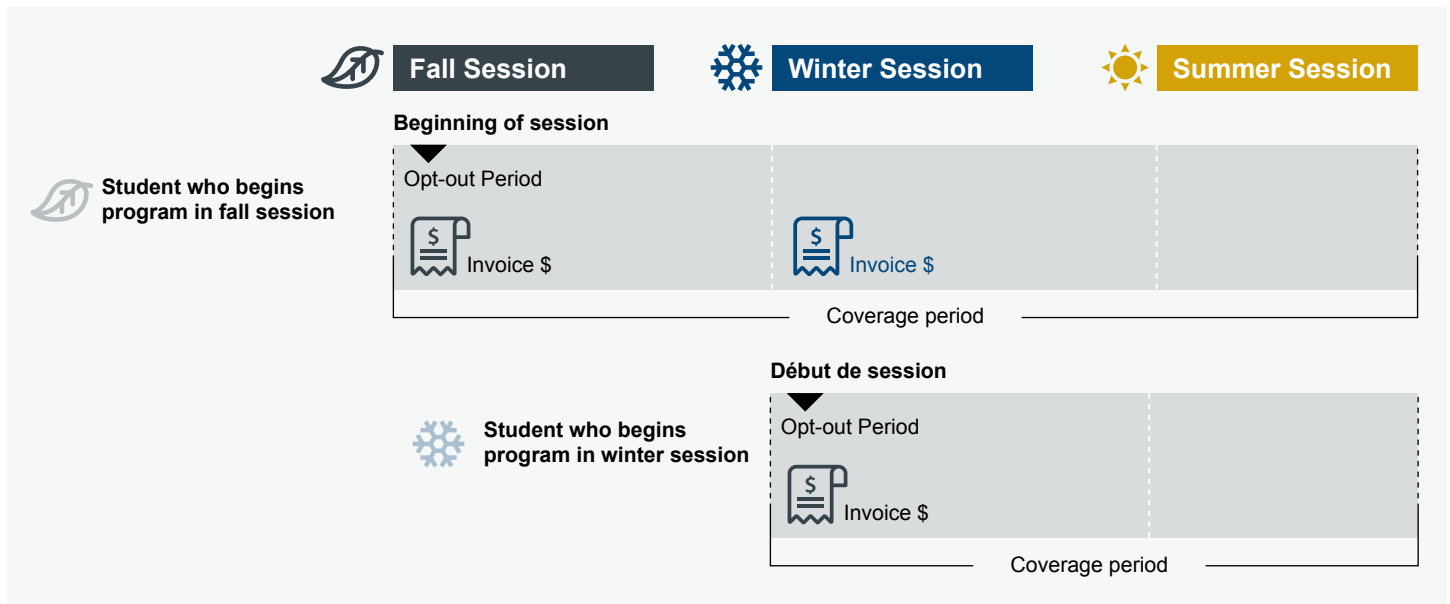
4. Travel

(e.g. medical coverage, trip cancellation, trip interruption, assistance services)

3.2 Insurance plan enrollment process

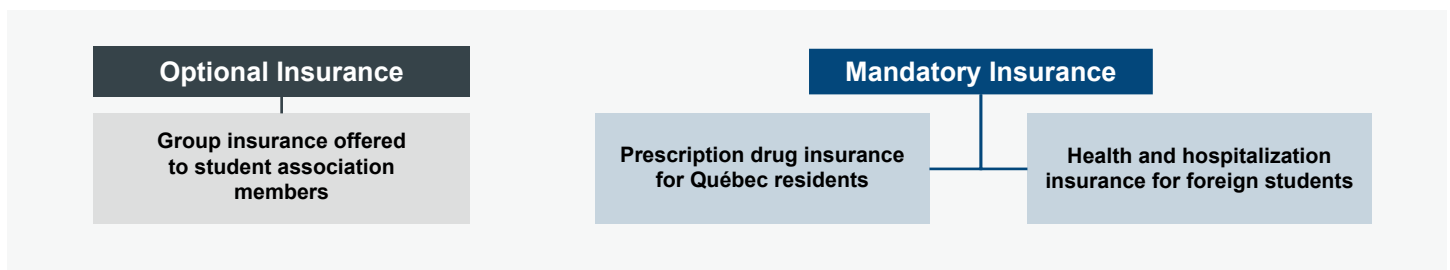
Currently, in most cases, students are enrolled automatically when they pay the invoice from the educational institution.

Enrollment in the insurance plan usually occurs at the beginning of the fall session and remains in effect throughout the year. Students are given the option to opt out of the plan, but the option is usually available to them only in the fall session and then only for a limited period of about two to four weeks (except in the case of students who start their programs in the winter session).



3.3 Clarification regarding insurance coverage under insurance plans offered to student association members

The insurance plans offered to student association members do not include mandatory prescription drug insurance coverage for Quebec residents or mandatory health and hospitalization insurance for foreign students.



A. Mandatory drug insurance for Quebec residents¹²

Anyone who is permanently settled in Québec must be covered at all times by a prescription drug insurance plan. Any child under 18 years of age temporarily staying in Québec for more than six months must also be covered.

Two types of plans provide such coverage:

- The public plan, administered by the Régie de l'assurance maladie du Québec (RAMQ);
- Private plans (group insurance or benefit plans).¹³

B. Mandatory health and hospitalization insurance for foreign students

Health and hospitalization insurance for foreign students is governed by special rules.

4. CONCLUSION

Anyone interested in participating in this consultation may do so in writing no later than October 17, 2022 by sending a submission or comment letter to the following address Consultation-en-cours@lautorite.qc.ca or by simply completing the on-line questionnaire available at the following address: https://www.surveymonkey.com/r/studentassociation_groupinsurance.

If you have any questions regarding this consultation, please contact us at the following address:

M^e Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs

E-mail: Philippe.Lebel@lautorite.qc.ca

Québec City: 418-525-0337, ext. 2501

Montréal: 514-395-0337, ext. 2501

Toll-free: 1-877-525-0337, ext. 2501

An electronic version of this paper is available on the AMF's website at www.lautorite.qc.ca.

¹² *Act respecting prescription drug insurance*, CQLR, c. A 29.01.

¹³ <https://www.ramq.gouv.qc.ca/en/citizens/prescription-drug-insurance/information-private-plans>

5. CONSULTATION COMPONENTS

5.1 Identification of participant

Name and e-mail

Status

- Student: College / University
Full-time / Part-time
- Parent of a: College student / University student
- Student association: College / University
- Educational institution
- Firm
- Insurer
- Other

Details:

Geographic location of student's educational institution (if applicable):

- Abitibi-Témiscamingue
- Bas-Saint-Laurent
- Capitale-Nationale
- Centre-du-Québec
- Chaudière-Appalaches
- Côte-Nord
- Estrie
- Gaspésie-Îles-de-la-Madeleine
- Lanaudière
- Laurentides
- Laval
- Mauricie
- Montérégie
- Montréal
- Nord-du-Québec
- Outaouais
- Saguenay-Lac-Saint-Jean

5.2 Questions about the current system – Automatic enrollment with opt-out right

5.2.1 Enrollment process

A.1 Do you believe that the current enrollment process (automatic enrollment with opt-out right) is working properly?

A.2 Are students adequately informed about the existence of the insurance plan and its main features?

- Prior to their enrollment in the insurance plan:
- When they pay their insurance premium:
- During the period allotted to opt out of the insurance plan:
- If you think improvements can be made to the information provided to students, share your suggestions with us while specifying the associated advantages and disadvantages.

A.3 Can improvements be made to the enrollment process to help students make an informed decision? If you have any suggestions you would like to share with us, please do so while specifying the associated advantages and disadvantages.

5.2.2 Opt-out process

B.1 What are the advantages of the current opt-out process (automatic enrollment and opt-out option that must be exercised by the student at the beginning of the session)?

What are current good practices for the opt-out process?

Does this opt-out process have certain disadvantages? If so, what are they?

B.2 Can improvements be made to this process? If you any suggestions you would like to share with us, please do so while specifying the associated advantages and disadvantages.

B.3 At what time(s) should students be able to exercise their right to opt out of the insurance plan (e.g. fall session only, fall and winter sessions) and what should be the minimum length of time allotted for each of these opt-out periods?

What are the advantages and disadvantages of these suggestions, if any?

5.2.3 Student access to the insurance plans

C.1 Can you suggest ways to ensure that students have access to these insurance plans at the best possible cost?

Do these suggestions have advantages or disadvantages?

5.2.4 Complaint process

D.1 Can you suggest ways to ensure a simple and efficient complaint process for the student clientele?

Do these suggestions have advantages or disadvantages?

5.3 Questions about other proposals

E.1 In addition to your answers to the preceding questions regarding the current system, do you have any other suggestions to make regarding these insurance plans and the enrollment method for students?

Do these solutions have advantages or disadvantages?

5.4 Other comments

F.1 Do you have any other comments regarding group insurance offered to student association members or this consultation?