



**AUTORITÉ
DES MARCHÉS
FINANCIERS**

COMMERCIAL PRACTICES GUIDELINE

March 2011

TABLE OF CONTENTS

	Page	Section	Subsection
Preamble	3		
Introduction	4		
Guideline approach	6		
Scope	7		
Coming into effect and updating	8		
Supervision of commercial practices	9		
Scope of commercial practices	10		

PART A - GENERAL EXPECTATIONS

Roles and responsibilities of the board of directors and senior management	A1
Incentives management framework	A2
Product design and marketing	A3
Information for consumers	A4
Product advertising	A5
Complaint examination and dispute settlement	A6
Protection of personal information	A7

PART B - EXPECTATIONS SPECIFIC TO A SECTOR OR TYPE OF INSTITUTION

DEPOSITS SECTOR	B1	
Principal protected notes		B1-1
Direct selling		B1-2
FINANCIAL SERVICES COOPERATIVES	B2	
TRUST COMPANIES AND SAVINGS COMPANIES	B3	
INSURANCE SECTOR	B4	
Claims examination and settlement		
DAMAGE INSURERS		B4-1
INSURERS OF PERSONS (LIFE AND HEALTH)	B6	
Individual variable insurance contracts relating to segregated funds		B6-1

Preamble

The *Autorité des marchés financiers* (“AMF”) has established this guideline setting out its expectations with respect to financial institutions’ legal requirement to follow sound commercial practices. The guideline covers the interpretation, application and execution of this requirement.

In setting out its expectations, the AMF favours a principles-based approach rather than a specific rules-based approach. As such, the guidelines provide financial institutions with the necessary latitude to determine the strategies, policies and procedures needed to implement sound commercial principles and to apply them based on the nature, size and complexity of their activities.

AMF Notes:

The AMF considers corporate governance, integrated risk management and compliance (GRC) as the foundation stones for sound commercial practices and, consequently, as the basis for the prudential framework provided by the AMF.

The Commercial Practices Guideline is part of this approach and sets out the AMF’s expectations regarding financial institutions’ sound commercial practices.

Introduction

A number of factors have contributed to creating a higher-risk environment for financial institutions, including the globalization of financial markets, the integration of financial product and service offerings,¹ complex organizational structures, a reliance on financial engineering and changes in information technologies. Ethics, integrity and competence are also important issues in an industry that relies on trust and confidence. Consequently, the firm commitment of board members and senior officers to manage all risks, and therefore reputational risk, is a determining factor in ensuring the proper conduct of an institution's affairs. This commitment requires, among other things, that the institution adhere to sound commercial practices; failure to do so could affect its reputation and threaten its solvency.

The AMF's oversight and prudential supervision of financial institutions is primarily intended to ensure their solvency and the stability of markets. The AMF must also safeguard the interests of Québec consumers of financial products and services,² thereby maintaining the public's confidence in the financial industry.

Consequently, pursuant to the powers conferred on it under the various sector-based laws³ it administers, the AMF sets out its expectations regarding institutions' legal requirement to adhere to sound commercial practices and provide equitable resolution of complaints filed with them.⁴ These requirements are intended to ensure that the fair treatment of consumers is a key component of each institution's business culture.

The AMF's expectations draw on the core principles and guidance for sound commercial practices issued by international bodies, as well as on numerous documents published by various regulators, self-regulatory organizations and industry associations. However, while commercial practices oversight extends beyond financial institutions and must include an individual or entity that could become part of the institution-client relationship, this guideline does not cover insurers' specific activities related to the distribution of financial products and services, as these fall under the purview of *An Act respecting the distribution of financial products and services*.⁵

¹ The generic term "product" used in this guideline refers both to financial products and financial services.

² The generic term "consumer" used in this guideline refers both to consumers of financial products and users of financial services.

³ *An Act respecting insurance*, R.S.Q., c. A-32, ss. 325.0.1 and 325.0.2;
An Act respecting financial services cooperatives, R.S.Q., c. C-67.3, s. 565;
An Act respecting trust companies and savings companies, R.S.Q., c. S-29.01, s. 314.1.

⁴ *An Act respecting insurance*, R.S.Q., c. A-32, ss. 222.2 and 285.29;
An Act respecting financial services cooperatives, R.S.Q., c. C-67.3, ss. 66.1 and 131.1;
An Act respecting trust companies and savings companies, R.S.Q., c. S-29.01, ss. 153.1 and 177.3.

⁵ R.S.Q., c. D-9.2.

Guideline approach

In order to develop a consistent commercial practices framework for the deposits and insurance sectors, this guideline is divided into two parts.

Part A emphasizes an intersectorial approach and sets out the AMF's general expectations regarding such aspects as the design and marketing of financial products, the equitable resolution of complaints and the protection of personal information.

Part B is subdivided according to sector or type of institution. It sets out more specific expectations with respect to a given product or activity, elaborating on the items covered in Part A or on provisions contained in existing laws and regulations.

This structure allows for amendments or additions to the guideline as needed, in particular to address specific situations.

Scope⁶

This Commercial Practices Guideline is intended for insurers of persons (life and health), damage (P&C) insurers, holding companies controlled by an insurer, mutual insurance associations, financial services cooperatives as well as trust and savings companies, which are governed by the following Acts:

- *An Act respecting insurance, R.S.Q., c. A-32;*
- *An Act respecting financial services cooperatives, R.S.Q., c. C-67.3;*
- *An Act respecting trust companies and savings companies, R.S.Q., c. S-29.01.*

This guideline applies to financial institutions operating independently as well as to financial institutions operating as part of a financial group.⁷ As regards financial services cooperatives and mutual insurance associations that are members of a federation, the standards or policies adopted by the federation should be consistent with—and even converge on—the principles of sound commercial practices prescribed by law and the expectations set out in this guideline.

The generic terms “financial institution” and “institution” refer to all entities covered by the scope of this guideline.

AMF Notes:

This guideline does not cover insurers’ specific activities related to the distribution of financial products and services, as these fall under the purview of *An Act respecting the distribution of financial products and services*.⁸

⁶ This guideline does not apply to insurers that are engaged only in reinsurance.

⁷ For purposes of this guideline, “financial group” refers to any group of legal persons composed of a parent company (financial institution or holding company) and legal persons affiliated therewith.

⁸ R.S.Q., c. D-9.2.

Coming into effect and updating

This Commercial Practices Guideline will come into effect on Month xx, 201X.

With respect to the legal requirement of institutions to adhere to sound commercial practices and provide equitable resolution of complaints filed with them, the AMF expects each institution concerned to comply with this requirement by developing strategies, policies and procedures commensurate with its nature, size, complexity and risk profile.

Subject to the following, the AMF expects institutions to implement such policies and procedures by Month xx, 201X (2 years after the date of coming into effect). As regards financial institutions subject to section A6 (complaint examination and dispute settlement) and subsection B1-1 (principal protected notes), the AMF expects them to ensure that such policies and procedures are implemented as of the effective date of this guideline.

Where an institution has already implemented such a framework, the AMF may verify whether this framework enables the institution to satisfy the requirements prescribed by law.

This guideline will be updated in response to developments in commercial practices and issues relating to the fair treatment of Québec consumers. It will also be updated in light of the AMF's observations in the course of its supervision of financial institutions, complaint data collected and surveys carried out with institutions and consumers.

Supervision of commercial practices

To foster the establishment of sound commercial practices within financial institutions, the AMF, acting within the scope of its supervisory activities, intends to assess the degree of compliance with the expectations set forth in this guideline in light of the specific attributes of each institution. Consequently, it will examine the effectiveness and relevance of the strategies, policies and procedures adopted by financial institutions in order to achieve the expected results based on sound commercial practices as well as the quality of the independent oversight exercised by their boards of directors and senior management to ensure compliance on an operational level.

Commercial practices are numerous and constantly evolving. The AMF therefore expects decision makers at financial institutions to remain current with sound practices and to adopt such practices, to the extent that they address their needs.

Scope of commercial practices

Commercial practices principally refer to the conduct or attitude of those acting on the institution's behalf towards consumers and any other market participant with an interest in the institution (e.g., shareholders, partners, counterparties, debtors, market analysts, regulatory bodies).

Commercial practices encompass all marketing activities that could affect the institution's reputation or market participants' confidence in the financial sector. They specifically include all activities needed for product offerings, but also encompass financial disclosures to markets and commercial relations.

PART A

GENERAL EXPECTATIONS

	Sections
Roles and responsibilities of the board of directors and senior management	A1
Incentives management framework	A2
Product design and marketing	
Information for consumers	A4
Product advertising	A5
Complaint examination and dispute settlement	A6
Protection of personal information	A7

A1. Roles and responsibilities of the board of directors and senior management

The AMF expects the institution's board of directors and senior management to establish, document and implement strategies, policies and procedures that make the fair treatment of consumers a core component of the institution's corporate culture.

In view of its roles and responsibilities under the Governance Guideline,⁹ the board of directors is responsible for approving the institution's strategies and policies on the fair treatment of consumers and for overseeing the management of such policies and strategies by senior management, which must ensure their implementation.

The board of directors and senior management are responsible for establishing the institution's corporate culture and orienting its commercial practices to ensure the fair treatment of consumers. This involves the attitudes and conduct of employees at all levels of the organization and requires extensive concerted action.

To integrate the fair treatment of consumers into the institution's corporate culture, the board of directors and senior management should, among other things:

- assign responsibility to a senior officer for developing, implementing and ensuring adherence to policies and procedures to ensure the fair treatment of consumers;
- develop business strategies that translate this culture and implementation plans;
- establish internal reports that include the most useful information and indicators;
- establish mechanisms and controls to ensure monitoring of any departure from the institution's policies and procedures or any other situation that jeopardizes the fair treatment of consumers;
- formalize hiring and training practices to ensure that employees meet and maintain high standards of ethics, integrity and competence;
- evaluate employee performance by considering such aspects as the employee's role in achieving expected results regarding the fair treatment of consumers;

⁹ AMF Governance Guideline, April 2009.

- formalize external partner selection practices for all activities needed for product offerings to ensure that they meet and maintain high standards of ethics, integrity and competence, and establish policies and procedures to ensure that outsourced activities are carried out properly;¹⁰
- ensure that strategies for the overall compensation of management and sales forces and any other individual or entity that could be part of the institution-client relationship do not prejudice the fair treatment of consumers; (see section A2)
- communicate to employees and external stakeholders acting on behalf of or with an interest in the institution, that the fair treatment of consumers is a priority for the institution.

The board of directors and senior management should be able to demonstrate that implemented strategies, policies and procedures will enable the institution to achieve the expected results with respect to the fair treatment of consumers, in particular as regards:

- designing and marketing products commensurate with target consumers' interests; (see section A3)
- equitable resolution of consumer complaints (see section A6).

The board of directors and senior management should also be attentive to issues related to the protection of consumers' personal information. In this regard, employees should be aware of the importance of information privacy and of the measures put in place by the institution to ensure that consumers' personal information is protected. (see section A7)

¹⁰ AMF Outsourcing Risk Management Guideline, January 2011

A2. Incentives management framework

The AMF expects the financial institution to establish overall compensation strategies to ensure that incentives do not prejudice the fair treatment of consumers.

For purposes of this section, an incentive is defined as a benefit offered by the institution to its managers and sales force, as well as to any individual or entity that could be part of the institution-client relationship and could influence their attitude and conduct.

To foster the fair treatment of consumers, the institution should develop and implement overall compensation strategies, policies and procedures that enable it to identify incentives and manage them in a sound manner.

To ensure that incentives do not prejudice the fair treatment of consumers, the institution's policies and procedures should provide, in particular, for the following:

- Periodic review of:
 - compensation strategies (e.g., commissions and bonuses) based on generated sales volumes or minimum performance;
 - business models that could be principally based on commissions and short-term sales objectives;
 - sales contests or promotions that could encourage sales forces to offer or sell specific products;
 - the different types of product-based compensation that could influence the sale of one product over another or the replacement of one product by another product, thereby adversely affecting the fair treatment of consumers;
 - non-cash awards, such as tickets for cultural or sporting events, and trips;
- Promotion of profit-sharing measures (e.g., variable compensation) focusing on consumer satisfaction rather than product sales;
- Disclosure on their websites of the different types of compensation offered.

A3. Product design and marketing¹¹

The AMF expects the financial institution to develop and market its products commensurate with target consumers' interests.

The design of new products (including the selection of third-party products) should be based on an analysis of different information sources determined by the institution that enable it to identify consumers' needs.

Prior to marketing a new product, an in-depth assessment should be conducted by the competent persons from the sectors concerned¹² of the institution.

This assessment should consider context and sector changes that could have an impact on the product and the institution's business profile. It should be documented and provide assurance that the institution fully understands:

- the type of product and its features;
- the nature and scope of the risks that could influence the institution's short- and near-term performance;
- the operating and management resources needed to market the product;
- the target consumer group to which the product's features are likely to appeal.

Once the commercial potential of the new product is clearly determined, the marketing process should include at least the following steps:

- drafting of appropriate disclosure documents about the product to enable consumers to make informed decisions;¹³ (see section A4)
- delivery of training to ensure that sales forces are knowledgeable about the product, the related documents and the target consumers;

¹¹ Excludes group contracts.

¹² For example, Compliance, Integrated Risk Management, Finance, Sales, Taxation.

¹³ The institution should consider consumers when developing product disclosure documents to ensure that the documents will be meaningful.

- ensuring that the information in advertising material is accurate, clear and not misleading; (see section A5)
- tracking the product after its launch to ensure that it continues to meet the needs of the target consumer group;
- anticipating appropriate levels of delegation to approve product changes.

A4. Information for consumers

The AMF expects the financial institution to draft appropriate disclosure documents on its products to enable consumers to make informed decisions.

Products may have the same basic features but also significant differences, which must be contemplated by the institution's disclosure regime to ensure that consumers receive the appropriate information on the products they intend to purchase.

Consumer information should in particular:

- clearly identify the institution;
- be drafted in clear simple language, be limited to the essential elements and be presented in a format that is easy to read and understand;
- be available on paper or any other easily accessible durable medium;
- enable the consumer to understand a product and its main features, as well as its advantages and risks;
- focus on the potential advantages, while accurately and clearly identifying the potential related risks;
- list terms, exclusions, restrictions and limitations applicable to the product, any fees and expenses to be borne by consumers, the consumer's rights and obligations and any tax consequences;
- reflect any regulatory requirements and specific expectations¹⁴ regarding the type of product;
- disclose any situation that could place the institution in a conflict of interest;

¹⁴ For example, the AMF's expectations regarding principal protected notes and individual variable contracts relating to segregated funds.

Information for consumers

- disclose the changes the institution may make and in what circumstances;
- describe the information the consumer will periodically receive;
- disclose the existence of a complaints examination service and describe how consumer's can access the service;
- provide the institution's contact information so that consumers know how they can obtain further information or assistance.

The AMF expects the financial institution to disclose to its clients any change affecting the institution that is of concern to them, all periodic product information and any change to the products they hold or in respect of which they have rights or obligations.

Additional client disclosures should include:

- any change in the institution's contact information or legal structure;
- any acquisition by another party that results in an organizational change;
- any information about a portfolio transfer, including clients' rights in this regard;
- any periodic information about a product.

Where a product's terms are changed, the institution should provide information that will help clients to understand the changes, inform them of their rights and obligations and, if necessary, obtain their consent.

A5. Product advertising

The AMF expects the financial institution to ensure that the information in advertising material is accurate, clear and not misleading.

The institution should ensure that advertising material is reviewed independently of the individual or organization that prepared or designed it for the institution.

This review should enable the institution to ensure that:

- the full name of the institution is clearly printed on all material;
- the information meets the expectations of most target consumers;
- when the advertising mentions a specific advantage, it also fairly discloses, in close proximity and in the same manner, any restrictions, exceptions, limitations or risks that could affect the advantage;
- the source of the statistics used is identified;
- testimonials used in advertising are authentic;
- written advertising is understandable and clearly visible;
- messages sent electronically, including disclaimers and warnings, are clearly visible and remain visible and audible for a reasonable period of time;
- advertising provides the institution's contact information to enable consumers to obtain additional information;
- advertising complies with Québec legislation¹⁵ or the expectations of the AMF stipulated in its guidelines.¹⁶

¹⁵ In particular, the *Consumer Protection Act*, R.S.Q., c. P-40.1.

¹⁶ For example, the AMF's expectations regarding principal protected notes and individual variable insurance contracts.

A6. Complaint examination and dispute settlement

The financial institution¹⁷ must provide equitable resolution of complaints filed with it.

Pursuant to the legislative provisions in the laws administered by the AMF,¹⁸ institutions have certain complaint examination obligations. They can be summarized as follows:

- adopt a complaint examination and dispute settlement policy;
- receive complaints from any interested party and examine them in an impartial manner;
- send the complainant an acknowledgement of receipt and a written notice informing him that if he is not satisfied with how his complaint was handled or the settlement, he may request that his file be transferred to the AMF;
- send the complaint file to the AMF at the complainant's request;
- prepare and submit complaint reports to the AMF.

For more information on an institution's complaint examination obligations, consult the AMF website at <http://www.lautorite.qc.ca/en/complaint-examination.html>.

¹⁷ Except holding companies controlled by an insurer.

¹⁸ *An Act respecting insurance*, R.S.Q., c. A-32, sections 285.29 to 285.36;
An Act respecting financial services cooperatives, R.S.Q., c. C-67.3, sections 131.1 to 131.7;
An Act respecting trust companies and savings companies, R.S.Q., c. S-29.01, sections 153.1 to 153.7.

A7. Protection of personal information

The AMF expects the financial institution to have a policy and procedures that protect the confidentiality of the personal information obtained from consumers.

The theft, loss or inappropriate use of information obtained from consumers represent a risk to consumers and a threat to the reputation of institutions and the financial sector as a whole. The protection of the personal information obtained from consumers is therefore, not only a legal obligation, but also a major responsibility for maintaining the public's confidence in the financial services industry.

As part of an evaluation and ongoing management of the risks associated with information security and confidentiality, the institution should be able to demonstrate to the AMF its ability to prevent the improper use or inappropriate disclosure of the personal information it holds.

The institution should develop and implement a personal information protection policy, procedures and mechanisms that enable it to:

- demonstrate that it is in compliance with application legislation;¹⁹
- establish information security and confidentiality awareness programs for staff at all levels of the organization;
- have the appropriate technology to adequately manage the personal information held on consumers;
- identify the risks and threats stemming from breaches of confidentiality, and determine and implement the measures to be taken to mitigate the potential impact on its resources, operations, environment and reputation;
- ensure that institutions that are part of the same group do not contravene the prohibitions on the sharing of personal information;
- establish intervention measures that include:
 - informing responsible individuals (including the board of directors and senior management) of any breach in confidentiality on a timely basis;
 - disclose, on a timely basis, any breach in confidentiality to the consumers concerned;

¹⁹ In particular, *An Act respecting the protection of information in the private sector*, R.S.Q., c. P-39.1.

Protection of personal information

- inform the AMF of any significant violation of the protection of information held on consumers;
- identify areas that need improvement and take the appropriate remedial action.

Institutions seeking to disclose personal information to a third party are required to obtain the prior consent of the consumer in writing. This consent must respect the requirements of applicable legislation.

Measures to protect personal information should evolve with the institution's organizational changes and information technologies. They should also reflect new emerging threats to the security of information.

PART B**EXPECTATIONS SPECIFIC TO A SECTOR OR TYPE OF INSTITUTION**

	Section	Subsection
DEPOSITS SECTOR	B1	
Principal protected notes		B1-1
Direct selling		B1-2
FINANCIAL SERVICES COOPERATIVES	B2	
TRUST COMPANIES AND SAVINGS COMPANIES	B3	
INSURANCE SECTOR	B4	
Claims examination and settlement		B4-1
DAMAGE INSURANCE (P&C)	B5	
INSURANCE OF PERSONS (LIFE AND HEALTH)	B6	
Individual variable insurance contracts relating to segregated funds		B6-1

B1-1. Principal protected notes**Background**

Over the past few years, principal protected notes (“PPNs”) have become increasingly complex, with various risk/return profiles. At present, a broad range of underlying assets are associated with PPNs, such as unmanaged investments (e.g., baskets of shares, bonds, currencies) and actively managed funds (e.g., mutual funds). Consumers may therefore have trouble understanding the risks, costs and return associated with PPNs.

To ensure that consumers have all the information they need to make informed decisions when contemplating purchasing such products, the AMF is setting out its expectations regarding the information which institutions should disclose according to various sales channels (in person, by telephone and on-line), as well as the manner in which they should do so and when. The AMF also expects institutions to provide consumers who so request with certain other current information to help them monitor their investments.

For the sake of consistency, the AMF’s expectations set out in subsection B1-1 are harmonized with federal regulations (“Principal Protected Notes Regulations”).²⁰

The AMF expects all disclosures provided by an institution to a consumer in accordance with subsection B1-1 to be made in language that is clear and simple and in a manner that is not misleading.

Definitions

For the purposes of subsection B1-1:

A principal-protected note is a financial instrument that is issued by an institution to a consumer and that:

- provides for one or more payments to be made by the institution that is determined, in whole or in part, by reference to an index or reference point, including:
 - the market price of a security, commodity, investment fund or other financial instrument; or
 - the exchange rate between any two currencies; and;
- provides that the principal amount that the institution is obligated to repay at or before the note’s maturity is equal to or more than the total paid by the consumer for the note.

²⁰ SOR/2008-180 (Canada Gazette Part II).

The term “interest,” in relation to a principal protected note, includes any return payable under the note by an institution in respect of the principal.

1. Disclosure before purchase

The AMF expects consumers to have any information that is likely to influence their decision to invest in a PPN.

Subject to the specific conditions set out in item 2 of this subsection, the AMF expects an institution to provide the consumer with a synopsis, at least two days before entering into an agreement for the issuance of a PPN, of the following information orally, by means of a person who is knowledgeable about the terms and conditions of the note, and in writing:

- the term of the note, and how and when the principal is to be repaid and the interest, if any, is to be paid;
- any charges and their impact on the interest payable;
- how interest is accrued, and any limitations in respect of the interest payable;
- any risks associated with the note, including, if applicable, the risk that no interest may accrue;
- the distinction between PPNs and fixed-rate investments with respect to the levels of risk and return;
- the circumstances in which a PPN could be an appropriate investment;
- the terms and conditions of any secondary market offered by the institution;
- if applicable:
 - the fact that the note relates to a deposit that is not guaranteed by the AMF within the meaning of the *Deposit Insurance Act*,²¹
 - whether the note may be redeemed before its maturity and, if so, that redemption before maturity may result in the consumer receiving less than the principal amount;
 - whether the consumer has the right to rescind the agreement for the purchase of a PPN and, if so, how he can exercise that right;

²¹ R.S.Q., c. A-26.

- whether the note provides that the institution may amend the note and, if so, in what circumstances; and
- whether the manner in which the note is structured or administered may place the institution in a conflict of interest;
- any other information that could reasonably be expected to affect a consumer's decision to invest in the PPN; and
- the fact that the information referred to in item 3.1 of this subsection is available on request and that the information referred to in item 3.2 is also available on request after the PPN is issued.

If the institution provides the written disclosure by mail, the AMF will consider the disclosure to have been provided five business days after the postmark date.

2. Specific conditions

2.1 Agreement entered into in person

The AMF expects that the oral and written disclosure referred to in item 1 of this subsection may be provided at any time before entering into the agreement for the issuance of a PPN if the institution and the consumer expressly consent to it and the agreement is entered into in person.

2.2 Agreement entered into by electronic means

Agreement without right of rescission

The AMF expects that the agreement for the issuance of a PPN entered into by electronic means may be made without the oral disclosure referred to in item 1 of this subsection. However, the institution should, at least two days before entering into the agreement, provide the written disclosure referred to in item 1 of this subsection and disclose to the consumer the telephone number of a person who is knowledgeable about the terms and conditions of the note.

Agreement with right of rescission

If the agreement to issue a PPN is entered into by electronic means and it allows the consumer to rescind the purchase within two or more days after the day on which the agreement is entered into, the AMF expects the institution to make the minimum written disclosure referred to in item 1 of this subsection at least two days before entering into the agreement.

Furthermore, the AMF expects the institution to disclose to the consumer, before entering into the agreement or without delay thereafter, the telephone number of a person who is knowledgeable about the terms and conditions of the note. However, if disclosure of the contact information for such person is provided after entering into the agreement, the time period of at least two days given to the consumer for rescinding the agreement should only begin to elapse starting on the day following such disclosure.

2.3 Agreement entered into by telephone with right of rescission

If the agreement to issue a PPN is entered into by telephone and it allows the consumer to rescind the purchase within two or more days after the day on which the agreement is entered into, the AMF expects the institution to make the oral disclosure referred to in item 1 of this subsection at least two days before entering into the agreement.

The AMF further expects the institution to provide, before entering into the agreement or without delay thereafter, the written disclosure referred to in item 1 of this subsection. However, if such written disclosure is provided after entering into the agreement, the time period of at least two days given to the consumer for rescinding the agreement should only begin to elapse starting on the day following such disclosure.

3. Additional disclosure

3.1 Detailed information on PPNs

The AMF expects the institution to disclose the information referred to in item 1 of this subsection respecting the PPNs offered by it in a full and complete manner on its websites and in written format to be sent to any person who requests it.

3.2 Additional information following the issuance of a PPN

Information about the value of the note

If a consumer makes an inquiry concerning the value of his PPN on a specified day, the AMF expects the institution to disclose the following information to him without delay:

- the net asset value of the PPN on the specified day and how that value is related to the interest payable under the PPN; or
- the last available measure, before the specified day, of the index or reference point on which the interest on the PPN is determined and how that measure is related to the interest payable under the note.

Information about early redemption of the note

Before redeeming or purchasing a PPN before its maturity at the request of a consumer, the AMF expects an institution to disclose to the consumer:

- a) the value of the note on the last business day before the day that the consumer requests the purchase or redemption, or the value of the note based on the last available measure of the index or reference point on which the interest is determined;
- b) the amount of any penalty or charge;
- c) the net amount that the consumer would have received for the purchase or redemption, after deducting the amount referred to in paragraph b) from the value of the note referred to in paragraph a); and
- d) when and how the value of the PPN will be calculated, and the fact that the value of the note may differ from the value referred to in paragraph a) above).

Information about amendments to the note

Before making an amendment to a PPN that may have an impact on the interest payable under the note, the AMF expects the institution to disclose the amendment, and its potential impact on the interest payable, in writing to the consumers concerned. If it is not possible to disclose this information in advance, the AMF expects the institution to make such disclosure without delay after the amendment is made.

Information about reference points

If a PPN ceases to be linked to an index or reference point that was to be used to determine the interest payable under the PPN and, as a result, no interest will be paid, the AMF expects the institution to disclose that fact to the consumer without delay.

4. Advertisement content

In each of its advertisements for PPNs, the AMF expects an institution to disclose clearly how the public may obtain information about the notes.

In any advertisement that refers to features of PPNs or the interest payable under them, the AMF expects an institution to also disclose:

- the manner in which interest is to be accrued, and any limitations in respect of the interest payable;
- if the advertisement gives an example of a situation in which interest would be payable, an example of another situation in which no interest would be payable;

- if the advertisement gives an example of a situation in which interest would be payable that is in addition to any minimum interest that is guaranteed, an example of another situation in which only the minimum interest would be payable; and
- if applicable, the fact that the notes relate to deposits that are not guaranteed within the meaning of the *Deposit Insurance Act*.²²

The AMF expects an institution that uses past market performance in an advertisement for a PPN to represent that performance fairly and, if hypothetical examples are used, the assumptions underlying those examples must be realistic and must be disclosed in the advertisement. The AMF also expects the institution to disclose in the advertisement that past market performance is not an indicator of future market performance.

²² R.S.Q., c A-26.

B1-2. Direct selling

The AMF expects a deposit institution to adapt its procedures in line with the particularities of the disclosure or sales channels it intends to use for its product.

Direct selling can take place in person, or by phone, mail or electronically using the deposit institution's employees or an external organization. Direct selling can be conducted by call centres or over the Internet. Deposit institutions should consider the circumstances and specific particularities of activities related to product offerings to ensure that consumers are properly informed and that the institution acts fairly in its relations with consumers.

Information disclosure channels

Where the sale is to be concluded in person, the deposit institution should consider whether it is preferable to have the requisite written documentation completed prior to concluding the agreement or immediately thereafter.

Where written disclosure is sent by mail, the deposit institution will presume that the addressee will receive this disclosure on the fifth business day after the postmark date.

Where written disclosure is in the form of an electronic document publicly accessible on a website, it is not necessary to send the document to the information system designated by the addressee when he is provided in writing with a notice, in paper or electronic form, of the availability and location of the electronic document.

Where written disclosure is in the form of an electronic document that must be sent to an information system designated by the addressee, the document will be presumed to have been received by the addressee when it enters the information system designated by the addressee.

Where the sale is intended to be concluded electronically, in addition to the above written disclosure, the deposit institution should consider the possibility of sending the addressee, before concluding the contract, the contact information of a person who is highly knowledgeable about the product.

Sales channelsTelemarketing

Telemarketing activities may be conducted by the deposit institution or be outsourced to an external organization. Telemarketing activities involve interaction with the consumer.

The deposit institution should ensure that telemarketers:

- have the requisite skills for conducting telemarketing activities;
- understand that their role is limited to providing information and not offering advice based on needs;
- have sufficient knowledge of the products they are presenting and the institution they are representing;
- do not deviate from the wording of the call scripts provided by the institution. Scripts should be limited to a description of the product and responses to anticipated questions from consumers;
- promptly transfer calls or assure consumers that they will be contacted by a person who is highly knowledgeable about the product, when a question is not covered in the call script.

The institution should record calls to ensure that the information given about its products is correct and appropriate and that telemarketers are acting in a professional manner.

Internet

If the institution offers products on-line, it should disclose certain additional information on its website, such as:

- contact information of its head office and its regulator;
- contact information of the institution in Québec, if different than above;
- statement that it holds a licence from the AMF to carry on activities in Québec;
- complaint examination information and procedures;
- contact information of the AMF, indicating that the AMF can provide dispute settlement services if a client is not satisfied with the how his complaint was handled or the settlement;

- statement that the institution is registered under the *Deposit Insurance Act*²³ and holds a licence issued by the AMF.

The institution should also obtain from the consumer, prior to concluding the sale, confirmation in writing, on paper or electronically, that the consumer acknowledges having read the product's terms and accepts them.

In addition to the AMF's expectation set out in section A6, to protect the confidentiality of the information disclosed by consumers, the institution should put at least the following measures in place:

- procedures to collect only personal information relevant to the product in question;
- procedures to ensure that consumers will not, under any circumstance, be asked to disclose passwords giving access to personal information;
- information security awareness program for consumers focusing on actions they can take to protect themselves against fraud and identity theft when carrying out financial transactions over the Internet.

²³ R.S.Q., c. A-26.

B4-1. Claims examination and settlement

The AMF expects an insurer to examine and settle claims filed with it in an equitable manner using a procedure that is simple and accessible for claimants.

The examination and settlement of claims help determine whether dealings with consumers are fair. Insurers should inform consumers about their claims examination and settlement services and how they can access the service in point of sale information and on their websites.

Insurers should designate an officer or employee to examine and settle claims. They should also implement policies, procedures and controls that:

- resolve claims in a manner that is effective, equitable and transparent for the claimant;
- inform the claimant of his rights and obligations prior to the examination of his complaint;
- comply with the insurer's policies and procedures regarding the protection of personal information and the examination of complaints;
- ensure that the individuals or firms acting on its behalf are knowledgeable about and comply with the insurer's claims examination and settlement policies and procedures;
- foster the objective judgment by the claims adjuster, where applicable;
- do not:
 - refuse a claim without a reasonable examination;
 - conceal policy clauses that are relevant to the claim;
 - dissuade the claimant from retaining the services of a lawyer or claims adjuster of his choice, where applicable;
 - settle for a lower amount than the claimant is entitled to receive, in particular through compensation incentives for claims employees;
- use reasonable methods for evaluating claims and losses, where applicable;
- examine consecutive claims following a catastrophe affecting several insureds concurrently;

- document claim files, including justification supporting a decision, in the event of a dispute;
- review decisions resulting in a total or partial rejection of a claim according to the appropriate levels of delegation;
- communicate and explain clearly and attentively to claimants the determining factors of the assessment and the reasons for the total or partial rejection of the claim, where applicable;
- inform the claimant about the procedure for filing a complaint with the insurer if he is dissatisfied with the examination or proposed settlement of his claim;
- draft management reports that show the insurer's performance regarding claims examination times and the degree of satisfaction of claimants with the settlement of claims, and indicate any improvements needed.

B6-1. Individual variable insurance contracts relating to segregated funds**AMF Notes:**

The Guideline on Individual Variable Insurance Contracts Relating to Segregated Funds is an integral part of this guideline. It is available in French and English on the AMF website at www.lautorite.gc.ca under “Insurance and Financial Planning,” “Guidelines.”

This guideline came into effect on January 1, 2011.