



Syndicate of Co-owners Insurance Supervisory Report

December 2022

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Background

In May 2021, the Autorité des marchés financiers (the “AMF”) launched a cross-sectional analysis of syndicate of co-owners insurance in Québec (“syndicates insurance”).¹ The goal was to develop an overall portrait of syndicates insurance in terms of profitability and current commercial practices in the industry and, specifically, to find out what adjustments insurers have made to those practices as a result of the recent changes to the divided co-ownership insurance framework and the divided co-ownership framework in general.² The AMF also looked at the prevalence in Québec of the practice of using best terms pricing (BTP) for subscription insurance policies.

This analysis was confined to syndicates insurance and did not extend to co-owners insurance. The analysis also did not cover the activities of insurance representatives duly certified with the AMF. Issues reported by certain stakeholders concerning co-owner liability and claims settlement were therefore not considered in this analysis and are not included in this report.

This work was performed by the AMF as part of off-site supervisory activities conducted pursuant to the *Insurers Act* and in accordance with the AMF’s *Financial Institutions Supervisory Framework*.³ The analysis was carried out by means of a request for information sent to insurers in ten financial groups. They were identified using criteria such as commercial property insurance market share and other information collected by the AMF relating to syndicates insurance. Note that the AMF’s role is to make certain that insurers comply with the obligations imposed on them by law with a view to protecting the interests of consumers of financial products and services, and to take any measures provided by law for such purposes. The AMF does not have the power to impose a new premium or deductible or compel insurers to underwrite certain risks, but it expects insurers to implement appropriate mechanisms enabling them to fulfill their obligations.

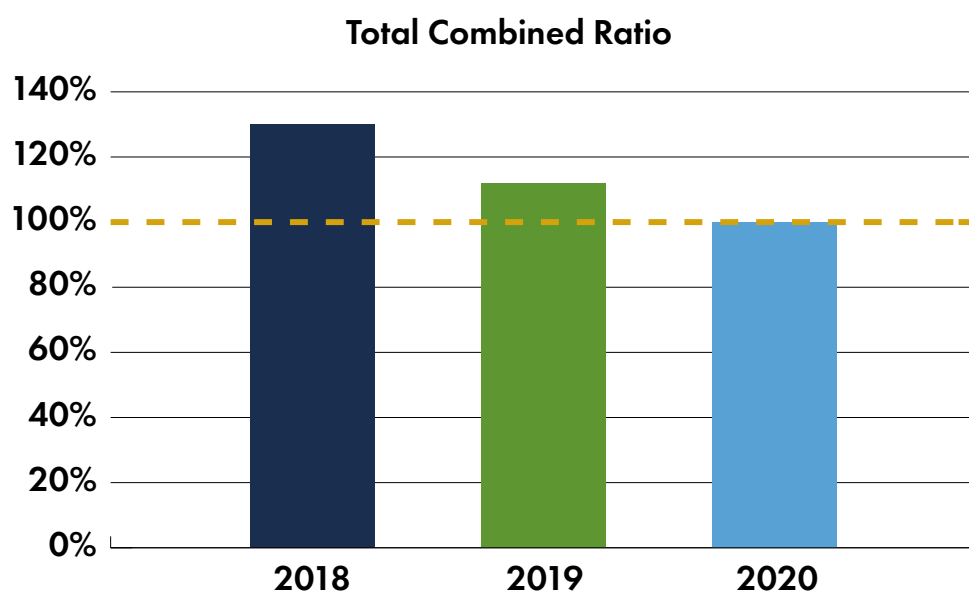
- 1 The analysis was performed as part of the AMF’s off-site supervisory activities conducted pursuant to the *Insurers Act*, CQLR, c. A-32.1 (the *Insurers Act*). The AMF relied on the *Sound Commercial Practices Guideline* (the “Guideline”), which applies to all authorized insurers, as well as the federations of which such insurers are members governed by the *Insurers Act*. https://lautorite.qc.ca/fileadmin/lautorite/reglementation/lignes-directrices-assurance/ligne-directrice-saines-pratiques-commerciales_an.pdf
- 2 In the past few years, the framework for divided co-ownerships has undergone a number of amendments (some of which are not yet in force at the time of publication of this report). In this regard, the reader may refer to the following laws: *An 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; *An Act mainly to regulate building inspections and divided co-ownership, to replace the name and improve the rules of operation of the Régie du logement and to amend the Act respecting the Société d’habitation du Québec and various legislative provisions concerning municipal affairs*, SQ 2019, c. 28; and *An Act respecting mainly the implementation of certain provisions of the Budget Speeches of 17 March 2016, 28 March 2017, 27 March 2018 and 21 March 2019*, SQ 2020, c. 5. These amendments were partially completed in 2020 when the government enacted the *Regulation to establish various measures in matters of divided co-ownership insurance*, CQLR, c. CCCQ-1991, r. 4.1.
- 3 https://lautorite.qc.ca/fileadmin/lautorite/reglementation/assurances-inst-depot/2020/cadre-surveillance-2020_an.pdf

The AMF's overall findings

The AMF received a large amount of data from insurers that enabled it to make several findings. This report presents its key findings and, in particular, reminds insurers that they have an obligation to adhere to sound commercial practices. It also presents some good practices that insurers should implement to address certain sectoral issues associated with syndicates insurance in Québec. The figures presented in this report are based on information collected from insurers surveyed in May 2021 for the years 2018 to 2020. The figures have not been verified by the AMF.

PROFITABILITY PROBLEMS IN THIS INSURANCE SEGMENT

First, the AMF found that, overall, this insurance segment experienced profitability problems during the period from 2018 to 2020. The total combined ratio⁴ estimated by the insurers surveyed exceeded 100% during that period, declining from 130% in 2018 to 101% in 2020. In other words, for several insurers, costs incurred in this insurance segment exceeded the sum of premiums earned. These profitability problems led several insurers to increase their premiums and deductibles.



PREMIUMS

The average premium increased approximately 8% from 2018 to 2019 and approximately 11% from 2019 to 2020. In addition to the rate increases implemented by insurers in response to the large number of claims received, this growth in the average premium may also be partly due to rising insurance amounts.

⁴ The total combined ratio is the ratio of net claims costs and expenditures allocated to the syndicates insurance business to net premiums generated by the business for all the insurers surveyed.

DEDUCTIBLES

The average deductible rose approximately 13% from 2018 to 2019 and approximately 11% from 2019 to 2020. It should be noted that the deductible for a loss caused by water damage is, on average, two times the deductible for a loss in the event of fire, for example. This is due to there being a higher frequency of claims for water damage.

The AMF also found that, over the last few years, a number of insurers have raised the lowest deductibles offered to syndicates of co-owners. These deductibles vary from one insurer to the next depending on criteria such as the age and value of the building, the number of co-ownership units and the number of past claims.

Syndicates may be offered more attractive deductibles by maintaining the building and implementing preventive measures to reduce the risk of loss. However, they may opt for a higher deductible in order to reduce their premium, while taking into consideration their ability to pay in the event of a loss.

The AMF will therefore continue to pay close attention to the insurers' process for determining deductibles in this segment.

ACCESSIBILITY OF SYNDICATES INSURANCE

As part of this analysis, the AMF collected the underwriting standards that the surveyed insurers apply when insuring syndicates of co-owners. An analysis of the materials received revealed that a number of insurers prohibit certain risks, which could limit insurance accessibility for certain syndicates.

Some insurers have reduced their appetite for syndicates insurance or left the syndicates insurance market altogether in recent years, decreasing the supply of insurance.

Other insurers have tightened their underwriting standards for **newer buildings**, even going so far as to refuse to cover this type of risk owing to the many claims with causes that, according to the insurers, are directly related to construction defects.

In addition, some insurers that systematically prohibit this type of risk may refuse to insure **buildings with certain commercial occupancies**. This may include buildings in which certain types of commercial activity may be carried out, including bars, restaurants, garages, cannabis-related activities and so forth. The AMF has noted that some insurers either refuse to cover these risks or accept them only following a more exhaustive analysis.

Generally speaking, insurers impose significant additional premiums on syndicates that have sustained a **high number of losses**, and some even refuse to insure them. On the one hand, insurers continue to be present for rigorously maintained buildings. The availability of insurance at more attractive terms is therefore not a problem for such syndicates unless the insurer's risk analysis is influenced by other factors.

On the other hand, certain types of syndicates, such as those for **horizontal phased or rowhouse-type condos**, have very specific features that can make the steps leading up to the purchase of insurance more complex.

The AMF also noted that syndicates that have had an **insurance policy cancelled by an insurer** or an **application rejected by an insurer** may have more difficulty obtaining insurance.

GOVERNANCE – MANAGEMENT INFORMATION

In the course of its work, the AMF noted that some insurers are not tracking a sufficient number of sound commercial practice indicators that would enable them to generate findings, detect trends, identify risks and causes likely to negatively impact their clients and the insurer (e.g., reputational risk), and respond in a timely manner. The AMF is of the opinion that the following are good examples of such indicators:

- The application rejection rate
- The claim denial rate
- The reasons for closing claims without making a payment and, specifically, the reasons for denial (e.g., claim below the deductible; claim abandoned by the insured; risk not covered; fraud; continuous, repeated or gradual damage)
- The percentage of policies not renewed at the insurer's initiative.

The AMF is of the view that tracking this information and reporting it to senior management and the board of directors provides insurers with an overall picture of commercial practices within their business, thereby enabling them to properly monitor their performance with respect to the fair treatment of customers (FTC).

PRICING PRACTICE FOR SUBSCRIPTION INSURANCE POLICIES

The AMF's analysis also confirmed that certain insurers are using the practice of best terms pricing (BTP) for subscription insurance policies. Under this practice, the premium payable to participating insurers is set based on the best terms offered. In other words, it is uniformly based on a rate that is higher than the rates offered at the beginning by some of these insurers, regardless of the rates initially submitted by them on an individual basis or the risk allocation.

The AMF believes that this practice is not aligned with FTC.

On April 14, 2022, the AMF issued a notice requiring insurers to cease this practice as soon as possible or no later than January 1, 2023. As of that date, they must be able to demonstrate that best terms pricing is no longer used in their activities, failing which the AMF may use the enforcement measures provided for by the laws it administers in order to ensure compliance with the obligation to adhere to sound commercial practices.

INFORMATION FOR CONSUMERS

Co-ownership insurance is specific and complex because it involves more than one insurance policy—namely the syndicate’s policy, the policies of the co-owners and, where applicable, the policies of the tenants. As a result, a co-ownership may have multiple insurers, particularly for buildings with many co-ownership units.

In recent years, a number of changes have been made to the legislative framework governing co-ownerships. As a result of these changes, insurers have generally modified the information they provide to their sales forces, claims adjusters, syndicates of co-owners and co-owners.

However, the AMF has analyzed the information requests, complaints and reports it has received and has found a strong need to help syndicates and co-owners deepen their knowledge of co-ownership insurance, including with regard to the recent legislative changes.

New aspects that are not well understood by directors and co-owners of some syndicates include:

- The new claim settlement mechanisms, possible inter-party remedies, and the syndicate’s obligation to assume repairs;
- The obligation to produce a description of the private portions that is sufficiently precise to allow identification of any improvements made by the co-owners;
- The obligation to obtain, at least every five years, an evaluation by a chartered appraiser of the amount that the insurance taken out by the syndicate must provide for the replacement of the immovable; and
- The creation of a self-insurance fund to be used to pay the deductibles provided for by the insurance taken out by the syndicate and to repair the immovable.

In order to better support and assist consumers and, in particular, provide information to syndicate directors and co-owners, the AMF has completely overhauled its web page on insurance for syndicates and co-owners.⁵ This revised page provides a wealth of information for syndicate directors and current and future co-owners.

Consumers can also contact an agent at the AMF Information Centre, by phone or via an online form,⁶ with any questions they may have or to report an inappropriate practice or file a complaint.

5 [Insuring your condo unit and building | AMF \(lautorite.qc.ca\)](#)

6 [Assistance and complaints | AMF \(lautorite.qc.ca\)](#)

Conclusion

In light of the findings presented in this report, the AMF reminds that they have an obligation to adhere to sound commercial practices, including fair treatment of their clients. Insurers also have an obligation to apply sound and prudent management practices, which, among other things, must ensure sound governance and compliance with the laws that govern their activities. Given the findings in this report, here are some good practices that should be implemented by insurers:

- Establish a formalized method for determining deductibles that is based on a risk analysis that takes relevant factors into account,
- Maintain up-to-date underwriting standards based on well-established risk factors, and
- Establish and track management indicators to identify FTC issues or trends and, if necessary, take corrective action.

In addition, the AMF encourages insurers to continue their information efforts so that syndicates of co-owners better understand their obligations and responsibilities and the actions they must take to improve their insurability while limiting insurance premium increases.

The AMF also encourages syndicates to take appropriate measures to reduce the risk of loss and properly evaluate the deductible options offered by their insurers.

The AMF will continue to pay attention to special situations that are brought to its attention through complaints and reports from consumers or that it learns about in the course of its supervisory activities or from reports or publications in various media.

The AMF is of the opinion that the implementation of good practices, both by insurers and syndicates of co-owners, will help mitigate the occurrence of such situations and strengthen consumer confidence in the insurance industry.

The AMF encourages all insurers to become acquainted with the good practices set out in this report in order to proactively incorporate them, where applicable and with the necessary adjustments, into the activities of all their lines of business.

The AMF will continue to track practices in syndicate of co-owners insurance and, in particular, the short and long-term effects of the latest legislative changes.

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