



Governance and Compliance Guide

**for registrants under the Act respecting the
distribution of financial products and services**

THIRD EDITION



**AUTORITÉ
DES MARCHÉS
FINANCIERS**

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Legend:



INTERPRETATIONS

Interpretations or explanations intended to clarify or express in lay terms regulatory requirements applicable to registrants. Certain interpretations are based on case law.



GOOD PRACTICES

Good practices promoted by the Autorité des marchés financiers (the “AMF”) to enhance registrant governance and compliance. Good practices do not constitute regulatory requirements.



FORMS

References to forms, applications or declarations available on the AMF website. Such references are not exhaustive.



INDEPENDENT REPRESENTATIVE

An adaptation of an interpretation or good practice to the situation of an independent representative.



PRODUCTS AND SERVICES OFFERED VIA THE INTERNET

References to the obligations that apply specifically to a firm or independent partnership that offers financial products and services via a digital transaction space.

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LIST OF LAWS, REGULATIONS/CODES

LAWS:

Distribution Act	<i>Act respecting the distribution of financial products and services, CQLR, c. D-9.2</i>
Insurers Act	<i>Insurers Act, CQLR, c. A-32.1</i>
Real Estate Brokerage Act	<i>Real Estate Brokerage Act, CQLR, c. C-73.2</i>
Act respecting financial services cooperatives	<i>Act respecting financial services cooperatives, CQLR, c. C-67.3</i>
Derivatives Act	<i>Derivatives Act, CQLR, c. I-14.01</i>
Personal Information Protection Act	<i>Act respecting the protection of personal information in the private sector, CQLR, c. P-39.1</i>
Proceeds of Crime (Money Laundering) Act	<i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act, S.C. 2000, c. 17</i>
Securities Act	<i>Securities Act, CQLR, c. V-1.1</i>
Bankruptcy and Insolvency Act	<i>Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3</i>
Act to establish a legal framework for information technology	<i>Act to establish a legal framework for information technology, CQLR, c. C-1.1</i>
Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions	<i>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</i>

REGULATIONS/CODES:

Regulation respecting the eligibility of a claim submitted to the FISF	<i>Regulation respecting the eligibility of a claim submitted to the Fonds d'indemnisation des services financiers, CQLR, c. D-9.2, r. 1</i>
Regulation respecting firms	<i>Regulation respecting firms, independent representatives and independent partnerships, CQLR, c. D-9.2, r. 2</i>
CSF code	<i>Code of ethics of the Chambre de la sécurité financière, CQLR, c. D-9.2, r. 3</i>
Claims adjusters' code	<i>Code of ethics of claims adjusters, CQLR, c. D-9.2, r. 4</i>
Damage insurance representatives' code	<i>Code of ethics of damage insurance representatives, CQLR, c. D-9.2, r. 5</i>
Regulation respecting special brokerage	<i>Regulation respecting special brokerage in damage insurance, CQLR, c. D-9.2, r. 6</i>
Regulation respecting damage insurance brokerage	<i>Regulation respecting damage insurance brokerage, CQLR, c. D-9.2, r. 5.1</i>
Regulation respecting the issuance of certificates	<i>Regulation respecting the issuance and renewal of representatives' certificates, CQLR, c. D-9.2, r. 7</i>
Regulation respecting fees	<i>Regulation respecting fees and contributions payable, CQLR, c. D-9.2, r. 9</i>
Regulation respecting the pursuit of activities as a representative	<i>Regulation respecting the pursuit of activities as a representative, CQLR, c. D-9.2, r. 10</i>
Regulation respecting professional development	<i>Regulation respecting the compulsory professional development of mortgage brokers, CQLR, c. D-9.2, r. 13.2</i>
Regulation respecting registration	<i>Regulation respecting the registration of firms, representatives and independent partnerships, CQLR, c. D-9.2, r. 15</i>
Regulation respecting Alternative Distribution Methods	<i>Regulation respecting Alternative Distribution Methods, CQLR, c. D-9.2, r. 16.1</i>
Regulation respecting information to be provided	<i>Regulation respecting information to be provided to consumers, CQLR, c. D-9.2, r. 18</i>
Regulation respecting books and registers	<i>Regulation respecting the keeping and preservation of books and registers, CQLR, c. D-9.2, r. 19</i>
Regulation respecting financial planner titles	<i>Regulation respecting titles similar to the title of financial planner, CQLR, c. D-9.2, r. 20</i>
RARI	<i>Regulation under the Act respecting insurance, CQLR, c. A-32.1, r. 1</i>

PREAMBLE

This Governance and Compliance Guide is for individuals or businesses that are registered with the AMF under the Distribution Act as a **firm, independent representative** or **independent partnership** (the “registrant”). Certain points in the guide are specifically intended for firms to which an insurer has delegated certain tasks and that act as an intermediary between the insurer and other registrants (the “general agent”).

The guide sets out the AMF’s expectations for registrants and the good governance and compliance practices promoted by it. The core principles and guidance published by the International Association of Insurance Supervisors (IAIS),¹ which the AMF adheres to and has drawn on in drafting this Governance and Compliance Guide, call for, among other things, implementing sound governance and compliance practices that are based on the fair treatment of customers (FTC).

The AMF is also a member of the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO), which, in September 2018, jointly released the [Guidance Conduct of Insurance Business and Fair Treatment of Customers](#). In this Guidance, which is based on IAIS principles, the AMF and other Canadian regulators document a common vision and set of expectations regarding FTC.

The AMF is also a member of the [Mortgage Broker Regulators’ Council of Canada](#), a forum with a mandate to improve mortgage broker regulation and promote harmonized regulatory practices across Canada to serve the public interest.

For registrants, FTC means conducting business with honesty, loyalty, care, competence and diligence at all stages of their dealings with consumers. FTC rests, in particular, on the following principles:

- *Financial products and services are offered, marketed and distributed in a way that supports consumers’ interests and needs*
- *Consumers have information allowing them to be properly informed and make enlightened decisions*
- *regarding financial products and services, before, while and after purchasing them*
- *The financial products and services available to consumers are consistent with the registrants’ representations*

The framework governing the conduct of business and registrants’ and representatives’ commercial practices to ensure FTC includes the Distribution Act and its regulations and this Governance and Compliance Guide.

The objectives of this guide are to:

- Explain the regulatory framework relating to registrants’ practice in plain language
- Clarify the AMF’s expectations and interpretations regarding the regulatory framework
- Outline good governance and compliance practices promoted by the AMF

For registrants, governance means a business model based on compliance with existing regulations, sound risk management practices, sound commercial practices, ethical organizational behaviour, FTC, and board and senior management accountability. Good governance is essential to ensuring the viability of a registrant’s business and public trust in the financial system. Registrants should demonstrate their commitment to sound and effective governance through tangible actions that ensure, among other things, that:

- Directors or partners and senior management have the required competence, integrity and independence
- Directors or partners and senior management establish a governance framework formalized through evolving FTC-based strategies, guidance, policies and procedures. This governance framework should be tailored to the registrant’s size, nature, complexity and risk profile
- The board of directors or partners and senior management adequately discuss key decisions before they are made
- The registrant has adequate human resources to conduct its activities
- Appropriate internal controls are put in place

Compliance means the registrant's adherence to the regulatory framework. As long as they comply with the existing regulations, registrants have the necessary latitude to determine for themselves the strategies, policies and procedures they intend to adopt—tailored as necessary to their size, nature, complexity and risk profile—in order to implement governance that meets the AMF's expectations.

With the coming into force of *An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions* (better known as “Bill 141”), the Distribution Act has been amended, in particular, to include the new sector of mortgage brokerage. This update is primarily intended to add changes relating to this sector.

As mentioned in the first version of this guide, this is an evolving work tool that may be updated to reflect regulatory amendments, developments in governance, or observations made in the course of the AMF's inspection and supervisory work.

Registrants are solely and entirely responsible for complying with all laws and regulations. While many regulatory provisions are reproduced or paraphrased in this guide, the one and only official reference continues to be the legislative texts available on the *Publications du Québec* website.

References to statutes and regulations not administered by the AMF (e.g., the Personal Information Protection Act and the Proceeds of Crime (Money Laundering) Act) are provided for information purposes only.

This guide is not intended to provide legal advice or opinions. The lists and examples included herein are not exhaustive and are for information purposes only. Any use of this guide or its contents, in whole or in part, for commercial or marketing purposes is strictly prohibited.



1 Registering and Maintenance of Registration

Distribution Act:
[ss. 70 to 79, 81 to 83, 104, 106, 128, 131 to 136, 144 and 146](#)

Regulation respecting registration:
[ss. 1 to 10.2](#)

Registration with the AMF is required in order to act as a firm, independent partnership or independent representative. An application for registration must be made in writing and accompanied by various documents and information prescribed by regulation.



Forms

[Registration of Firm or Independent Partnership](#) or [Registration of Independent Representative](#)

Unlike a representative's certificate, which must be renewed annually (see [Section 3.1](#)), a registration is valid until it is cancelled. As explained in greater detail below, registrants will have to complete certain forms every year and pay fees and a contribution to the *Fonds d'indemnisation des services financiers* (financial services compensation fund) in order to maintain their registration.

Registrants must notify the AMF of any change to a document or information provided in connection with their registration file within 30 days following the change, subject to certain exceptions, such as when a registrant terminates its association with a representative, in which case the AMF must be notified immediately.



Forms

- [File Update](#) for any change to the registrant's name or separate account or to other information disclosed to the AMF (e.g., following a transaction involving a merger, sale or acquisition)
- [Manage Business Relationships](#) including modifying a shareholder, responsible officer or partner, director or partner, correspondent, correspondent's assistant or authorized signatory, as well as its business relationships with other registrants, insurers, general agents or wholesalers. (For more information and help completing this form, see the [Companion Guide – Managing business relationships](#) and the [Business relationships](#) page of the AMF website.)

In addition, registrants must forward any document or information the AMF requires concerning its activities when requested to do so by the AMF.

Each year, the AMF sends registrants a request to update previously provided information. In order to maintain their registration, registrants must provide the update within 45 days following the request by the AMF. At that same time, registrants must pay their annual registration fees and contribution to the *Fonds d'indemnisation des services financiers* (financial services compensation fund) (see [Section 1.6](#)). For more information about the maintenance of registration process, see the [Maintenance of registration](#) page of the AMF website.



Form

The AMF sends each registrant a personalized maintenance of registration form and the [Schedule – Declaration of Officers and Directors or Partners](#). (For more information and help completing these documents, see the [Companion Guide – Maintenance of registration \(Firm – Independent partnership\)](#) or the [Companion Guide – Renewal of Certificate/Maintenance of Registration \(Independent Representative\)](#), as applicable, and the [Companion Guide – Schedule – Declaration of officers and directors or partners](#).)

Distribution Act:
[s. 115.2](#)

The AMF may suspend a registration, subject it to restrictions or conditions or impose an administrative monetary penalty on a registrant that fails to file documents as required by the Distribution Act or the regulations.



Registration for AMF E-Services

Registrants can facilitate the filing of various forms and their transactions with the AMF by registering for AMF E-Services. They can use AMF E-Service to, in particular:

- Maintain their registration
- Enter documents and information specified by regulation or requested by the AMF directly in their file
- Attach or remove representatives (see [Section 1.4](#))
- Make payments related to their obligations (see [Section 1.6](#))
- Manage business relationships
- Update their contact information
- Modify their qualification in damage insurance (see [Section 1.3](#))

See the [E-Services](#) page of the AMF website for all the relevant information.

Where registrants have registered for AMF-Services, the AMF communicates with them—and sends all documents and information to them, including notices and decisions, solely via those services.



An independent representative has two files with the AMF:

1. A **representative file**, i.e., a “natural person” file containing all information related to his or her representative’s certificate;
2. A **registrant file**, i.e., a “legal person” file containing all information related to his or registration as an independent representative.

The diagram in [Appendix 2](#) illustrates the differences between these two types of files.



Products and services offered via the Internet

Firms or independent partnerships that offer products or services through a digital transaction space (see [Section 4.9](#)) must disclose certain information to the AMF without delay. Firms must also notify the AMF of any change to such information within 30 days following the change.

An annual disclosure must also be made via the maintenance of registration form. The disclosure covers, among other things, the number of transactions carried out entirely through the Internet and the number of cases where a client rescinded (cancelled) an insurance contract.



Form

The initial disclosure pertaining to products or services offered via the Internet, and any subsequent modifications to it, must be made through AMF E-Services by completing the [Product or service offered via the Internet](#) form. (For more information and help completing this form, see the [Companion Guide – Digital spaces \(product or services offered via the Internet\)](#)). The annual disclosure will be made using the personalized maintenance of registration form sent to the registrant.

1.1 Have an establishment in Québec

Distribution Act:
[ss. 72, 139 and 235](#)

Regulation respecting registration:
[ss. 2\(1\), 4\(1\), 6\(1\) and 10\(2\)](#)

In order to register and maintain its registration, a registrant must have an establishment in Québec.

At the time of registration, the registrant must disclose to the AMF the address of its principal establishment in Québec as well as of each of its other establishments in Québec. The list of these establishments will appear in the AMF's public register.



Establishment

A registrant must have an establishment in Québec. However, the establishment does not have to be a branch of the registrant. It can be the office of an attached representative or a lawyer's office, for example.

It must be possible to consult and obtain on the premises of the establishment all documents, information, books, accounts, records and registers that are required to be kept and preserved pursuant to the Distribution Act and its regulations (see [Section 6.1](#)).

The residences of representatives and employees who work remotely from home, whether as an exceptional measure or not, do not have to be declared as establishments by the registrant.

1.2 Provide the registrant's sectors

Distribution Act:
[ss. 75, 126, 127 and 146](#)

Regulation respecting registration:
[ss. 2\(5\) and 6\(2\)](#)

Registrants must inform the AMF of the sectors for which they are applying for registration. The sectors are:

- Insurance of persons
- Group insurance of persons
- Damage insurance (see [Section 1.3](#))
- Claims adjustment
- Mortgage brokerage
- Financial planning



Forms

Choice of sectors for the [Registration of Firm or Independent Partnership or Registration of Independent Representative](#) form.

Registrants wishing to terminate their activities in a given sector must apply to the AMF to have their registration revoked (withdrawn) for the sector. Conditions, determined by the AMF, could be attached to the revocation.



Forms

[Withdrawal from Sector or Withdrawal of Registration](#)

Registrants whose registration has been cancelled or revoked for a given sector must transfer all related records, books and registers to another firm, independent partnership or independent representative registered in that sector or to an insurer, and must inform the AMF beforehand.



PRODUCTS AND SERVICES OFFERED VIA THE INTERNET

A firm or independent partnership that offers financial products and services through a digital space must register in the sector enabling it to offer the products and services in question. Representatives acting on behalf of the firm or independent partnership in connection with products or services offered through a digital space must be attached to the firm or independent partnership and certified in the sector permitting them to offer the product or service.

1.3 Qualification in damage insurance

Distribution Act:
[ss. 6, 38, 75, 128, 146](#)
[and 150](#)

Regulation respecting damage insurance brokerage:
[s. 1](#)

A firm registering in the sector of damage insurance will have to choose if it wishes to be registered in that sector as a damage insurance agency or damage insurance brokerage firm.

An independent representative may not be a damage insurance agent and an independent partnership may not act through such agents. Therefore, to be registered in damage insurance, an independent representative and an independent partnership must satisfy the same requirements as a firm that wishes to register as a brokerage firm.

A firm that wishes to register as a damage insurance brokerage firm must meet the following criteria:

- not be an insurer
- no financial institution, financial group or legal person related to such a financial institution or such a financial group may hold an interest allowing it to exercise more than 20% of the votes attached to the firm's shares or an interest representing more than 50% of the value of the firm's equity capital (it being understood that "equity capital" excludes shares that do not carry the right to vote or the right to receive a share of the firm's remaining property on liquidation, usually referred to as "preferred" shares)
- where its representatives offer insurance products directly to the public, act through brokers who are able to obtain quotes from at least three insurers that do not belong to the same financial group each time they offer personal-lines automobile insurance or home insurance products to a client who is a natural person, as defined in section 1 of the Regulation respecting damage insurance brokerage

For more information, see the [Qualification of damage insurance registrants](#) page of the AMF website.



Forms

Choice of sectors for the [Registration of Firm or Independent Partnership](#) or [Registration of Independent Representative](#) form.

1.4 Provide information and documents concerning each representative through whom activities will be pursued

Distribution Act:

[ss. 74, 75, 82, 104, 128, 144 and 146](#)

Regulation respecting registration:

[ss. 2\(5\), 6\(2\) and 10\(2\)\(e\)](#)

A person wishing to register as a firm or independent partnership must provide the AMF with the names and residential addresses of the representatives, in each sector and class (see [Section 3.1](#)), through whom it intends to pursue its activities, specifying those who will be employed by it and those who will act on its behalf without being employed by it.



Form

List of representatives by sector as required in the Registration of Firm or Independent Partnership form.

A firm or independent partnership that terminates its association with a representative must inform the AMF without delay.



Form

[Withdrawal of representative](#)

Approximately one month before the maintenance date, the AMF sends the firm or independent partnership the lists of its representatives and its business relationships to verify the information on them, ensure that they are up-to-date and, if necessary, correct them by submitting the appropriate forms to the AMF.



Form

The following forms are to be used, as applicable:

- [Attachment of representative](#) for each new representative
- [Withdrawal of representative](#) for each representative who is no longer employed by the registrant or no longer acts on its behalf without being employed by it (see [Section 5.4](#))
- [Manage Business Relationships](#) for any change to the registrant's business relationships. (For more information and help completing this form, see the [Companion Guide – Managing business relationships](#).)



Firm without representatives

To pursue activities in a particular sector, a firm must always act through a representative certified in the sector, except under the rules governing products or services offered via the Internet. In the latter case, a firm or independent partnership may pursue its activities without the intermediary of a natural person provided representatives of its own who are certified in the appropriate sector are available to interact, in sufficient time, with clients who ask to interact with a representative (see [Sections 1.2](#) and [4.9](#) for more details).

Certain events (e.g., disability or death of a representative, termination of an agreement between a firm and its representatives or sale of a book of business) may result in a firm no longer having any representatives in one or more sectors for which it is registered. As soon as it finds itself in this situation, the firm may no longer act in those sector(s).

Whether the above situation is temporary or permanent, the firm must take prompt remedial action by attaching a representative, withdrawing from the sector concerned or withdrawing its registration. To address such a situation as quickly as possible, the firm should have a business continuity plan in place (see p. 23 for more details).



Forms

[Attachment of representative](#) or [Withdrawal from sector or withdrawal of registration](#), as applicable.

1.5 Carry liability insurance

Distribution Act:

[ss. 76, 82, 83, 131, 136 and s. 146, 2nd par.](#)

Regulation respecting registration:

[ss. 2\(1\) and \(11\), 4\(5\), 6\(7\) and 10\(2\) \(a\) and \(b\)](#)

Regulation respecting firms:

[s. 29](#)

Regulation respecting the pursuit of activities as a representative:

[s. 17](#)

In order to register and maintain its registration as a **firm** or **independent partnership**, a registrant must provide the AMF with proof that:

- It has liability insurance in accordance with regulatory requirements that covers liability for it and its employees and partners for acts performed in the course of their duties
- In the case of a firm, every representative acting on behalf of, but not employed by, the registrant is covered by liability insurance in accordance with regulatory requirements



Form

The AMF will provide the firm or independent partnership with a list of representatives whose liability insurance will expire within approximately 45 days, together with a request to provide the AMF with proof of insurance attached to the [Professional Liability Insurance](#) form. This proof must be sent to the AMF within 45 days following the request.

In order for **independent representatives** to register and maintain their registration, they must provide the AMF with proof that they hold liability insurance in accordance with regulatory requirements.



Liability insurance provides the insured registrants or representatives with protection against the financial consequences of liability arising from errors, fault, negligence or omissions committed by them or their mandataries, employees or trainees in the pursuit of their activities.

Liability insurance offers a form of protection to consumers of financial products and services if they are the victim of an error, a fault, negligence or an omission committed by a representative or registrant. Liability insurance can be used to compensate consumers, within the limits of the coverage provided.

The liability insurance contract must provide coverage in accordance with the requirements set out in the Regulation respecting firms or the Regulation respecting the pursuit of activities as a representative, as the case may be. In particular, the contract must cover all types of fault (excluding intentional fault) and the coverage must continue to apply for a further term of at least five years beyond the insurance period provided. The contract must not contain any exclusion that could result in a lapse or interruption of coverage.

Registrants and representatives must comply with these conditions. If they do not, their registration or certificate could be cancelled.

See the [Professional liability insurance](#) page of the AMF website for more information.

1.6 Pay fees and the contribution to the Fonds d'indemnisation des services financiers

Distribution Act:

[ss. 77, 81, 82, 133 and 135 and s. 146, 2nd par.](#)

Regulation respecting fees:

[ss. 2, 3 and 3.1](#)

In order to register and maintain their registration, registrants must pay the registration fees, the annual fees prescribed by regulation and the contribution to the *Fonds d'indemnisation des services financiers* (financial services compensation fund).



Form

Registrants must make their payments at the time of maintenance of registration using either AMF E-Services or the [Mail-in Payment form](#).

1.7 Show the required honesty, competence and solvency

Distribution Act:

[ss. 78, 79, 132 and 146](#)

In order to register, the legal or natural person applying for registration and its directors and officers or its partners must show, in the AMF's opinion, the required honesty, competence and solvency.

The AMF may refuse registration for a given sector or impose restrictions for registration, particularly where the applicant's or a director's or executive officer's registration has previously been cancelled.

Regulation respecting registration:

[ss. 2\(4\), \(7\), \(13\), \(14\), \(15\), \(15.1\) and \(16\) and 2.1](#)

In order to register as a **firm**, the applicant must send the AMF, among other things, the following information and documents:

- The names and addresses of its directors and officers
- The name of the legal person's responsible officer (see the [Responsible officer](#) page of the AMF website for more information)
- Declarations from the legal person, its directors and officers confirming certain information pertaining to their honesty, competence and solvency
- **In mortgage brokerage**, a declaration signed by an authorized person confirming that the firm's responsible officer meets the following criteria:
 - Holds a certificate in this sector
 - In the two years preceding the application for registration, passed the examinations pertaining to the skills that must be possessed by a responsible officer or have acted as the responsible officer of a firm or an independent partnership or was registered as an independent representative in this sector
 - Is not in default of complying with the compulsory professional development requirements set out in [section 5](#) of the Regulation respecting the compulsory professional development of mortgage brokers



Form

Declarations made using the [Registration of Firm or Independent Partnership](#) form.

Regulation respecting registration:

[ss. 6\(2\), \(5\), \(8\), \(9\),
\(9.1\) and \(10\) and 6.1](#)

In order to register as an **independent partnership**, the applicant must send the AMF, among other things, the following information and documents:

- The names and addresses of its partners
- The name of the partnership's responsible officer
- Declarations from the partnership and each of the partners confirming certain information pertaining to their honesty, competence and solvency
- **In mortgage brokerage**, a declaration signed by the authorized partner confirming that the responsible officer meets the following criteria:
 - Holds a certificate in this sector
 - In the two years preceding the application for registration, passed the examinations pertaining to the skills that must be possessed by a responsible officer or have acted as the responsible officer of a firm or an independent partnership or was registered as an independent representative in this sector
 - Is not in default of complying with the compulsory professional development requirements set out in section 5 of the Regulation respecting the compulsory professional development of mortgage brokers



Form

Declarations made using the [Registration of Firm or Independent Partnership](#) form.

Regulation respecting registration:

[ss. 4\(5.1\) and \(6\) and
4.1](#)

In order to register as an **independent representative**, the registrant must send the AMF a declaration confirming certain information pertaining to his or her honesty and competence and, in **mortgage brokerage**, a signed declaration confirming that he or she meets the following criteria:

- Holds a certificate in this sector
- In the two years preceding the application for registration, passed the examinations pertaining to the skills that must be possessed by a responsible officer or acted as a responsible officer or was registered as an independent representative in this sector
- Is not in default of complying with the compulsory professional development requirements set out in section 5 of the Regulation respecting the compulsory professional development of mortgage brokers



Form

Declarations made using the [Registration of Independent Representative](#) form.

Regulation respecting registration:

[ss. 10\(2\) \(g\) and \(h\) and \(j\)iv, 10.1 and 10.2](#)

When filing their maintenance of registration form, registrants must, as applicable, transmit declarations from the directors and executive officers of the firm or the partners of the independent partnership confirming certain information pertaining to their honesty, competence and solvency.



Form

Declarations made using the [Schedule – Declaration of Officers and Directors or Partners](#) form. (For more information and help completing this schedule, see the [Companion Guide – Schedule – Declaration of officers and directors or partners.](#))

In mortgage brokerage, “responsible officer” means the responsible officer of the firm or the independent representative, as the case may be.

To maintain his or her registration in mortgage brokerage, the responsible officer must meet the criteria prescribed by regulation (2.1, 4.1, 6.1) and this must be attested to in a declaration to this effect by the registrant.

The registrant must preserve and keep current a record relating to the responsible officer in which the following documents are filed:

- 1. The document confirming that the responsible officer passed the examinations pertaining to the skills that must be possessed by a responsible officer;
- 2. Copies of the certificates of participation and other supporting documents regarding each recognized professional development activity in which the responsible officer has taken part, including copies of the certificates of exam or test results and transcripts. Copies of the certificates of participation and other supporting documents regarding each recognized professional development activity in which the responsible officer has taken part, including copies of the certificates of exam or test results and transcripts.



The AMF conducts background checks relating to the honesty, competence and solvency of registrants in order to help protect the public

i. Honesty

The concept of honesty is described on pages [24](#), [35](#) and [36](#).

ii. Competence

Competence means knowledge of the financial sector and applicable regulations, understanding and ability to meet the needs of clients, and professional attitudes.²

iii. Solvency

Registrants must have adequate financial resources to ensure the viability of their business.³ Accordingly, applicants for registration with the AMF must be able to pay their debts when they become due.



Competence and integrity of officers and directors

A good practice for registrants is to ensure that their executive officers and directors have the competence and integrity required for sound management of the firm. The executive officers and directors must have the necessary competencies, demonstrated by an appropriate level of expertise, professional qualifications, knowledge or relevant experience, to work in the financial sector and also have good judgment. It is likewise critical that executive officers and directors possess integrity (term defined in [Section 3.2](#)). The registrant should carry out checks to ensure executive officers' and directors' integrity. Their integrity should be maintained throughout the time they serve as a director or executive officer.

1.8 Maintain a separate account

Distribution Act:

[ss. 79 and 146](#)

Regulation respecting registration:

[ss. 2\(17\), 4\(7\), 6\(11\) and 10\(1\)](#)

In order to register, an applicant must provide the AMF with a declaration respecting the opening or absence of a separate account as required under the Regulation respecting registration.

Registrants that hold amounts on behalf of others must keep an account separate from the account they keep for their day-to-day operations. All amounts they receive or collect in connection with their activities governed by the Distribution Act are deposited in this account. (For more information, see the document [Separate account](#) on the AMF website.)



Forms

Depending on the case, one of the following declarations must be provided at the time of registration or when making a change to the separate account:

- [Opening of a Separate Account schedule](#)
- [Absence of a Separate Account schedule](#)
- [Update of a Separate Account schedule](#)

Regulation respecting firms, independent representatives and independent partnerships: [ss. 21.1, 28.2 and 28.3](#)

Regulation respecting the pursuit of activities as a representative: [ss. 4 and 9.2](#)

In mortgage brokerage, all withdrawals from the separate account must be made by means of electronic transfer, cheque, other bill of exchange or transfer slip. The client record must contain a copy of the document evidencing an electronic transfer, the cheque, the other bill of exchange or the transfer slip used to make the withdrawal, and a copy of the cheque or the other bill of exchange cashed in, as the case may be.

A receipt must be given to the party from whom the amount is received or collected.



Advances on remuneration received by the representative must be deposited in the separate account because they do not belong to the representative.

1.9 Obligations relating to business relationships

When registering or maintaining their registration, firms, independent partnerships or independent representatives must disclose specific information to the AMF concerning their activities, including their business relationships.

[Manage Business Relationships](#) for any change to the registrant's business relationships. (For more information and help completing this form, see the [Companion Guide – Managing business relationships](#).)

1.9.1 Mortgage brokerage firms

Regulation respecting registration:

[ss. 2\(2.1\) and 10\(2\)\(i\)](#)

When registering or maintaining their registration in mortgage brokerage, a firm must disclose to the AMF:

- The names of the lenders holding, directly or indirectly, interests in its ownership, or in whose ownership the firm holds direct or indirect interests

When maintaining its registration, a firm, independent partnership or independent representative must disclose to the AMF:

- The names of the lenders whose loans secured by immovable hypothec were proposed to a client during the most recent year ending 31 December;
- For each lender referred to in the previous paragraph, the number of that lender's loans secured by immovable hypothec proposed to clients during the most recent year ending 31 December as a proportion of the aggregate of the loans secured by immovable hypothec proposed to clients during this period;
- The number of brokerage transactions engaged in in relation to loans secured by immovable hypothec during the most recent year ending 31 December.

1.9.2 Damage insurance brokerage firms and agencies

Distribution Act:

[ss. 83.1, 106, 147 to 157 and 235](#)

Regulation respecting registration:

[ss. 2\(3\) and 9](#)

A firm that wishes to be registered as a damage insurance brokerage firm must disclose the name of any financial institution, any financial group or any legal person that is related to such financial institution or such financial group and that holds an interest in shares representing more than 20% of the value of the firm's equity capital (see [Section 1.3](#) for more details about equity capital); if applicable, this information will be indicated in the AMF's public register (see [Section 4.6](#) for the firm's obligation to disclose this information).

A firm that wishes to register as a damage insurance brokerage firm must also disclose whether it pays to any one insurer more than 60% of the premiums stipulated in the contracts it enters into and that belong to the same class of products, either personal-lines automobile insurance products or personal-lines home insurance products. This information will also appear, if applicable, in the AMF's public register (see [Section 4.6](#) for the firm's obligation to disclose this information).

A damage insurance agency must disclose the name of any insurer to which it is bound by an exclusive contract and the products covered by that contract. This information will appear in the AMF's public register (see [Section 4.6](#) for the firm's obligation to disclose this information).



Form

Disclosures made using the [Registration of Firm or Independent Partnership](#) form. The AMF must also be notified within 30 days of any change to previously disclosed information, via the [Qualification in damage insurance](#) form.



Ownership of damage insurance firms

The notice [Avis du personnel relatif à la propriété des cabinets en assurance de dommages \(articles 147 et suivants de la Loi sur la distribution de produits et services financiers\)](#) provides an interpretation of what the AMF considers influence resulting in de facto control over firms by financial institutions, financial groups and legal persons related thereto.

1.10 Provide a copy of the security (special broker)

Distribution Act:
[ss. 41 to 43 and s. 77, 2nd par.](#)

Regulation respecting special brokerage:
[s. 2](#)

Regulation respecting registration:
[2\(12\) and 10\(2\)\(c\)](#)

To register as a damage insurance firm and offer products through a special broker, it is necessary to provide a copy of the security in the form of an insurance policy in accordance with regulatory requirements.



Form

Copy of the security attached to the [Application for Authorization – Special broker](#) form.



A special broker may offer the products of an outside insurer where justified by market scarcity. The AMF considers market scarcity to mean that at least three insurers holding a licence in Québec have refused to issue an insurance policy for a given risk.



2 General Obligations

Distribution Act:

[ss. 85, 86, 87, 137 and 138](#)

Regulation respecting the pursuit of activities as a representative:

[ss. 16.1 to 16.16](#)

CSF Code

Damage insurance representatives' code

Claims adjusters' code

Registrants must comply with the Distribution Act and its regulations.

Firms and independent partnerships must ensure that their representatives, executive officers and partners and employees comply with the Distribution Act and its regulations. Firms and their officers and independent partnerships must also oversee the conduct of their representatives.

In no case may a firm and its officers, an independent representative or a representative who is a partner in or employee of an independent partnership help or, by encouragement, advice or consent, or by an authorization or order, induce another representative, firm or independent partnership to infringe any provision of the Distribution Act or its regulations.

Distribution Act:

[s. 80](#)

Firms are responsible for any injury caused to a client by the fault of one of their representatives in the performance of the representative's functions.

However, the firm retains the remedies available to it against the representative concerned.

Distribution Act:

[ss. 84 and 146](#)

All firms and independent partnerships and their officers or partners are bound to act with honesty and loyalty in their dealings with clients. They must also act with care and competence.



Firms and independent partnerships act with **honesty** and **loyalty** in their dealings with clients when, among other things, they:

- Avoid, and ensure that their representatives avoid, conflict-of-interest situations (see [Section 4.1](#))
- Ensure that their and their representatives' advertising and representations comply with the applicable requirements and are not misleading⁴ (see [Section 4.2](#))
- Ensure that all mandatory disclosures are made to consumers and that consumers are given all other relevant and useful information (see [Section 4.6](#))

Firms and independent partnerships act with **care** and **competence** in their dealings with clients when, among other things, they:

- Ensure that their activities and those of their representatives are compliant (see [Section 2.2](#))
- Stay up-to-date on the latest regulatory developments, AMF notices, disciplinary notices and good practices promoted by the AMF, including by reading the [AMF Bulletin](#) and [Info-Conformité](#)
- Take account of all communications sent by the AMF via E-Services or other means
- Ensure proper record-keeping (see [Section 6.1](#))⁵
- Ensure proper bookkeeping (see [Sections 1.8](#) and [6.1](#))⁶
- Protect the personal information they hold, regardless of the medium it is kept on (e.g., electronic or paper files) (see [Sections 4.8](#) and [6.3](#))
- Adopt a business continuity plan. The [Business Continuity Management Guideline](#), applicable to financial institutions, could be useful in developing such a plan



Independent representatives must, as certified representatives, comply with all the laws and regulations that apply to them, including their obligations to act with honesty, loyalty, competence and professionalism. Please refer to [Section 2.2](#).

2.1 Outsourcing of registrant's activities



Outsourcing is where the performance of activities normally carried out by the registrant is entrusted to a third party. The outsourcing arrangement must be set out in a contractual agreement. The arrangement is for a defined period and may involve the third party receiving financial compensation for performing the activities outsourced to it.

Registrants can outsource some of their activities, such as:

- Keeping of books and registers
- Cybersecurity
- Pre-hire integrity screening of representatives

However, they cannot outsource activities that are reserved for or exclusive to them under the law such as offering financial products and services. In addition, registrants cannot completely outsource all activities to a third party.

Moreover, outsourcing does not relieve registrants of their obligations and responsibilities. They are still entirely responsible for ensuring that the outsourced activities are compliant. They must therefore take the steps needed to manage and supervise the risks related to the outsourced activities. These steps may, in particular, be set out in the registrants' policies and procedures or the outsourcing agreements entered into.

2.2 Compliance



Registrants should demonstrate their commitment to FTC and the promotion of a compliance culture through concrete actions. It is therefore a good practice to establish a compliance program and appoint an executive officer to supervise its application (CPO). See [Appendix 1](#) for reference and compliance assistance tools.

2.2.1 Compliance program



A good practice is to establish, assess and regularly update an FTC-based compliance program tailored to the registrant's size, the nature and complexity of its activities and its risk profile. The program should include policies and procedures instituting control and supervision measures enabling the registrant to:

- a) Ensure that it and its representatives, directors, executive officers, partners and employees comply with the applicable regulatory framework
- b) Manage the risks related to its activities, particularly recurring risks and those that may cause injury to clients

These **policies and procedures** should, in particular, cover:

- Selection of representatives, how business is to be conducted by them and the reporting of irregularities involving them (see [Section 3.2](#))
- Conflicts of interest (see [Section 4.1](#))
- Proper client record-keeping (see [Section 6.1](#))⁷
- Financial situation and client needs analysis (see [Section 4.4](#))⁸
- Disclosures to consumers, including those relating to remuneration and business relationships (see [Section 4.6](#))⁹
- Proper bookkeeping, including management of the separate account (see [Sections 1.8 and 6.1](#))¹⁰
- Complaint examination (see [Section 4.7](#))*
- Protection of personal information (see [Section 4.8](#))¹¹

Control and supervision measures should be documented in **writing** and made **accessible** to the registrant's representatives, directors, executive officers, partners and employees, and the form and **frequency of application of such measures should be specified**.¹²

Control and supervision measures can consist of random transaction or client record audits. They can also target activities that pose a greater compliance risk (such as policy replacements, leverage strategies or certain investment product acquisitions) or for which there have been recurring complaints.

* Adopting a complaint examination and dispute resolution policy is required under s. 103 of the Distribution Act.

The registrant should properly **document** and adequately monitor its control and supervision measures. The registrant's policies and procedures should require that more stringent monitoring be instituted for material deficiencies (such as sales of unsuitable products or incomplete needs analyses) and that such deficiencies presenting a significant risk for the registrant (for example, recurring deficiencies or deficiencies that may cause injury to clients) be brought to the attention of senior management or the board of directors.

The registrant should provide the required **training** to its representatives, directors, executive officers, partners and employees to foster a solid understanding of existing policies and procedures.

Moreover, the training program should include a mechanism for disseminating ongoing information regarding regulatory changes, AMF notices and relevant disciplinary notices.

General agent's compliance program

A good practice for a firm acting as a general agent is to enhance its compliance program to reflect the complexity of activities resulting from the tasks outsourced by the insurer and from its role as intermediary. In particular, the firm should establish control measures related to the business placed through it.

The expectations regarding the competencies and experience required of the officer in charge of supervising the application of the general agent's compliance program (CPO) could be adapted to include, for example, better training in management and relevant outsourcing experience.



Compliance of independent representatives

Independent representatives may adapt the above-recommended good compliance practices to their situation.

Instead of establishing policies and procedures, independent representatives can develop and use checklists to ensure they comply, as registrants and as representatives, with legislative and regulatory requirements.

Moreover, independent representatives can decide to outsource their compliance activities, particularly to a firm. However, if they do, they will continue to be responsible for those activities.

2.2.2 Compliance Program Officer (CPO)



A good practice is to designate an officer in charge of supervising the application of the registrant's compliance program (CPO). However, ensuring compliance should be the business of everyone, not just the CPO and compliance staff.

i. **Mandate**

The CPO should be tasked with:

- Establishing, maintaining and periodically reviewing compliance policies and procedures
- Applying the policies and procedures
- Conducting more stringent monitoring of material deficiencies
- Promptly reporting deficiencies presenting a significant risk for the registrant, including recurring deficiencies and deficiencies that may cause injury to clients, to senior management or the board of directors
- Submitting an annual compliance report on the registrant's activities to senior management or the board of directors

The registrant should provide for the replacement of the CPO in the event the latter is absent or unable to act.¹³ A registrant who pursues activities in the sector of mortgage brokerage must provide for the replacement of its responsible officer by a person who satisfies the criteria set out in the Regulation respecting registration (hold a mortgage brokerage certificate, pass an examination and compulsory professional development).

ii. **Competence**

The registrant's CPO should have sufficient experience and knowledge to carry out his or her mandate. At a minimum, the CPO should have extensive knowledge of the legislative and regulatory framework applicable to the registrant. Subject to the requirements specific to the responsible officer of a registrant in the sector of mortgage brokerage, the following criteria may also be considered in assessing a CPO's competence:

- The CPO holds a certificate issued by the AMF
- The CPO has relevant financial services or management experience

The level of experience and training sought will vary according to the complexity of the CPO's duties. For example, the CPO role in a small firm offering a single class of insurance products does not have the same level of complexity as in a large firm offering a diverse range of products and services.

Furthermore, in the mortgage brokerage sector, the responsible officer must accumulate 6 professional development units specific to his or her duties as a responsible officer that relate to compliance, ethics, professional conduct or professional practice, the keeping of records and registers, risk management, prevention of fraud and money laundering or firm start-up and management.

iii. **Independence**

The registrant's CPO should have the independence, powers and resources required to fulfill his or her mandate. He or she should also have access to the registrant's senior management or board of directors so that sufficient, relevant information on compliance management may be communicated when necessary.



3 Certification, Selection and Supervision of Representatives

3.1 Certification of representatives

Distribution Act:

[s. 12](#)

Regulation respecting the issuance of certificates

Only a natural person holding a certificate issued by the AMF may act as or purport to be a representative. To obtain a certificate, the person must comply with the requirements and conditions set out in the Distribution Act and its regulations, including:

- Meet the minimum qualifications
- Pass the examinations prescribed by the AMF
- Successfully complete a probationary period
- Apply for a certificate
- Pay the required fees for the issuance of the certificate

Some of these requirements do not apply to the financial planning sector.

The representative must notify the AMF of any change to the information or a document that he or she has furnished to the AMF within five days of such change.



Form

[Application for a representative's certificate](#)

Regulation respecting the issuance of certificates:

[ss. 61 to 64](#)

A representative must submit an application to renew his or her certificate annually. Representatives must satisfy certain requirements, including compulsory professional development (see the [Professional Development Units \(PDU\)](#) page of the AMF website and, for the sectors concerned, the websites of the [Chambre de la sécurité financière](#), the [Chambre de l'assurance dommages](#) and the [Institut Québécois de planification financière](#) for more information on this topic) and payment of their fees. Representatives are responsible for applying to renew their certificates and paying their fees before the certificate expiry date.

- For representatives attached to a firm or independent partnership, certificates are renewed using the personalized form sent by the AMF (See the [Renewal of certificate](#) page of the AMF website for more information on this topic.)
- For independent representatives, annual renewal and maintenance are done at the same time using the personalized form sent by the AMF (For more information and help completing the maintenance of registration form, see the [Companion Guide - Renewal of Certificate / Maintenance of Registration \(Independent Representative\)](#).)

A representative who has ceased to pursue activities and wishes to reinstate his or her certificate can consult the [Reinstatement](#) page of the AMF website for more information about the applicable terms and conditions.

Distribution Act:
[ss. 1 to 7, 10 to 11.2, 13, 41, 44 to 46, 56 and 57](#)

Regulation respecting the issuance of certificates:
[ss. 1 to 12.1](#)

Regulation respecting the pursuit of activities as a representative:
[s. 28](#)

A representative may hold a certificate in more than one of the following sectors or sector classes:

Sectors	Sector classes
• Insurance of persons	• Accident and sickness insurance
• Group insurance of persons	• Group insurance plans • Group annuity plans
• Damage insurance (agent or broker)	• Personal-lines damage insurance (agent or broker) • Commercial-lines damage insurance (agent or broker)
• Claims adjustment	• Claims adjustment for personal-lines damage insurance • Claims adjustment for commercial-lines damage insurance
• Mortgage brokerage	
• Financial planning	

However, a claims adjuster cannot be authorized to act in a sector other than claims adjustment, subject to certain exceptions (for an explanation and the conditions under which damage insurance agents and brokers may carry out activities exclusive to claims adjusters, see [Appendix 3](#) - Designation E).

See the [Add sector or sector class](#) page of the AMF website for more information on the requirements and the applicable process for certified representatives who wish to add a sector or sector class.

Distribution Act:
[s. 14](#)

Representatives must choose the way they will carry on business, i.e., they must choose to pursue activities in one of three ways:

- On behalf of one or more firms (as an attached employee or a representative attached to but not employed by the firm or firms)
- On behalf of an independent partnership (as a partner or employee)
- As an independent representative

The same way to carry on business must be used for all sectors indicated on the representative's certificate.



Claims adjustment

See the [Implementation Directive of the Autorité des marchés financiers pertaining to the definition and exclusive activities of claims adjusters](#) for more details about the AMF's interpretation of the framework applicable to the claims adjustment sector.



Probationary periods – Supervisor's obligations

The goal of the probationary period is to enable trainees to apply, in an actual work setting and under the supervision of a certified, qualified and experienced representative, the knowledge and hard and soft skills required to act as a representative. Trainee supervision must be carried out in the actual work setting; it cannot be done remotely or by telephone.¹⁴

The supervisor must obtain prior authorization from the AMF to act in such capacity.



Form

[Application for authorization of probationary period](#)

At the start of the probationary period, the supervisor meets with the trainee to present the objectives for the period and the respective tasks to be carried out by the supervisor and the trainee. The supervisor must provide the trainee with sufficient guidance to enable him or her to appropriately pursue the activities of a representative in the authorized sector. The supervisor must also provide the trainee with a working setting conducive to the gradual development of the competencies required to pursue the activities reserved for representatives. The supervisor must ensure that the tasks assigned to the trainee include all the activities that a representative carries out in the sector or sector class for which the trainee is seeking a certificate.

The supervisor must also ensure that the trainee complies with regulatory requirements, including the rules of ethics and rules of professional conduct.

The supervisor must open a file for each trainee and enter, in particular:

- The tasks that must be carried out by the trainee, including the time limits in which they must be completed
- The tasks carried out by the trainee that require supervisor verification, review or approval with respect to products and services offered¹⁵ or guidance and assistance
- His notes concerning the trainee's progress
- A summary of his or her meetings with the trainee

The file is to be maintained, by the firm or independent partnership where the supervisor pursues his or her activities or by the supervisor if the latter is an independent representative, for a period of five years from the date on which the probationary period is successfully completed or discontinued.

The supervisor's recommendation as to whether or not the probationary period has been successfully completed and a report containing the information required by the AMF must be sent by the supervisor to the AMF within 10 days following the end of the probationary period. The recommendation and the report must be approved by the management of the supervisor's firm or independent partnership, as applicable.

Supervision is required to ensure that the trainee does not commit errors during the probationary period. Consequently, the supervisor is responsible for all professional acts performed by the trainee during the probationary period.



Form

[Supervisor's Recommendation related to Representative's Certificate](#)

For more information on this topic, consult the [Probationary Period Guide – Practical advice for trainees and supervisors](#) and the [Probationary period](#) section of the AMF website.



Interruption of probationary period

A probationary period may be interrupted for one of only two reasons:

- The trainee is no longer under the supervision of an authorized person (supervisor or replacement supervisor)
- The trainee is unable to continue with the probationary period due to disability, preventive withdrawal, parental leave or exceptional circumstances

If a probationary period is interrupted for any other reason, it will be discontinued and the trainee will have to start the probationary period over again.

Where the probationary period is interrupted or discontinued, the trainee must immediately cease to perform the acts that he or she was authorized to carry out as a trainee. The probationary period may not be interrupted for more than four weeks. If the interruption lasts more than 28 days, the probationary period must be started over again and the registrant must submit another Application for Authorization of Probationary Period. The AMF must be informed within five days of such interruption or discontinuation.

When the probationary period is interrupted, the registrant must:

- Apply to extend the probationary certificate for its remaining duration

Vacation

Notwithstanding the above section concerning the interruption of the probationary period, the trainee is allowed to take vacation. He or she must, however, notify the AMF of this fact when submitting an application for authorization of probationary period or by submitting, before the start of his or her vacation, an application to modify the probationary period (paper) in order to add the vacation.

A trainee completing a 12-week probationary period is entitled to a maximum of two weeks of vacation; a trainee completing a six-week probationary period is entitled to one week of vacation.

If a trainee takes vacation during the probationary period without notifying the AMF, his or her probationary certificate may be revoked and the probationary period will have to be started over again.

A supervisor may also take vacation. If the trainee has two supervisors, there is no need to inform the AMF, because the other supervisor will take over. The supervisors may not take vacation at the same time.

If a trainee has only one supervisor, the latter must designate a replacement supervisor so that he or she can take vacation. This designation may be made in the initial Application for authorization of probationary period form or by completing this form again, in which case the AMF must receive the form at least 10 business days before the supervisor's vacation.



Form

The [*Application for authorization of probationary period, change in supervisor, extension of probationary certificate, add trainee's vacation*](#) must be used to notify the AMF of the trainee's or supervisor's vacation.

3.2 Selection and supervision of representatives

Distribution Act: [s. 16](#)

Representatives are bound to act with **honesty** and **loyalty** in their dealings with their clients. They must also act with **competence** and **professionalism**.

Distribution Act: [ss. 85 and 137](#) **Regulation respecting the pursuit of activities as a representative:** [ss. 16.1 to 16.16](#) [CSF Code](#) [Damage insurance representatives' code](#) [Claims adjusters' code](#)

Firms, their executive officers, and independent partnerships must oversee the conduct of the representatives acting on their behalf. They must also ensure that the representatives and employees (as well as the executive officers, in the case of a firm) comply with the Distribution Act and its regulations.

Distribution Act: [s. 80](#)

A firm is responsible for any injury caused to a client by the fault of one of its representatives in the performance of the representative's functions. However, the firm retains the remedies available to it against the representative concerned.

Distribution Act: [ss. 18 and 461 to 494](#)

Certain practices are specifically prohibited, including:

- Tied selling, i.e., making the making of a contract subject to the requirement that the client make an insurance contract
- Misrepresentations
- Undue pressure or fraudulent tactics
- Undue influence
- Contravention of trading instructions or failure to execute transactions requested by a client
- Premium rebates without the knowledge of the insurer

Distribution Act:
[ss. 218 to 220](#)

**Regulation
 respecting the
 issuance of
 certificates:**
[s. 62](#)

The AMF may cancel, suspend or impose restrictions on a certificate under certain circumstances, including where the holder has been convicted of an act or offence linked to the pursuit of activities as a representative

The AMF may refuse to issue or renew a certificate or may impose restrictions on it where, in its opinion, the person does not possess the degree of **honesty** or solvency it considers necessary to pursue activities as a representative, or is in a situation it considers to be incompatible with the pursuit of such activities.

Representatives are required to notify the AMF of any change to the information or to a document that they have furnished to the AMF within five days of such change. They must notify the AMF of any bankruptcy, assignment of property or receiving order pursuant to the Bankruptcy and Insolvency Act, and any guilty plea or conviction. For more information on how to disclose a bankruptcy and the consequences of bankruptcy, see the [Bankruptcy or proposal](#) page of the AMF website.



Forms

[Statement of Bankruptcy](#)

[Statement of Guilt](#)



Representatives act with **honesty** and **loyalty** in their dealings with clients when, in particular, they:

- Avoid conflict-of-interest situations (see [Section 4.1](#))
- Make all the mandatory disclosures to clients, give them the notices prescribed by regulation and send them any other useful and relevant information (see [Section 4.6](#))
- Do not engage in prohibited (e.g., tied selling, premium rebates) or unacceptable (e.g., churning) practices

Representatives act with **competence** and **professionalism** when, in particular, they:

- Ensure that their activities are compliant (see [Section 2.2](#))
- Keep up-to-date on the latest regulatory developments, AMF notices, relevant disciplinary notices and good practices recommended by the AMF (e.g., by reading the [AMF Bulletin](#) and [Info-Conformité](#))
- Take account of all communications sent by the AMF via E-Services or other means
- Demonstrate availability and diligence in the pursuit of their activities (see [Section 4.3](#))
- Ensure service continuity after the relationship between them and the client for whatever reason ends (See the [Notice relating to obligations of representatives and insurers with respect to service offered to clients under insurance of persons contracts – Orphan clients.](#))
- Comply with their professional development requirements



Integrity

Integrity may be defined as the observance of moral or legal rules and compliance with one's duties and obligations. The qualities of honesty, loyalty, professionalism and competence are key to interpreting and applying the notion of integrity.¹⁶

Integrity cannot be differentiated by sector. The lack of integrity an individual shows by contravening a regulatory requirement (under the *Securities Act*, for example) may be considered in assessing his or her integrity (degree of honesty) under the Distribution Act, because the same qualities (honesty, loyalty, competence and professionalism) are required for all activities related to the distribution of financial products and services.¹⁷

Representatives must act with integrity at every stage of their activities to ensure the protection of consumers.¹⁸

3.2.1 Selection of representatives



This section does not apply to independent representatives.



A good practice for registrants is to establish a process for selecting the representatives through whom it intends to act. The selection process should include checking the accuracy of the information provided by representatives and performing any other checks needed to ascertain representatives' integrity, such as:

- Competency check
- Reference check and employment background check
- Inquiry into the reasons for contract termination or dismissal by other registrants or insurers
- Criminal background check
- Disciplinary background check
- Financial-status check and bankruptcy background check

The registrant may conclude from the checks conducted as part of the selection process that the representative presents a risk. Depending on the assessment of that risk, the registrant could nevertheless enter into an agreement with the representative, but with the intention of monitoring the representative's activities.

3.2.2 Supervision of representatives



This section does not apply to independent representatives.



In order to provide ongoing supervision of all representatives through whom it pursues its activities, it is in the registrant's interest to ensure:

- Compliance with the requirements applicable to the renewal of representatives' certificates (e.g., professional development requirements and requirement to have liability insurance)
- Integrity (e.g., by monitoring ongoing investigations or unresolved disciplinary or criminal charges)
- Compliance in the way they conduct their activities, particularly regarding the expected competence based on products offered (see [Sections 2.2, 4 and 5](#))

Constant supervision should be conducted with representatives who are relatively inexperienced in the sectors in which they are practising.¹⁹ Moreover, when a deficiency or incident has been identified, the registrant must properly assess the resulting risk and take the necessary steps to limit it. The protection of consumers of financial products and services should guide the registrant in this assessment.

Follow-up, including closer supervision or coaching, should be done on all incidents. In some cases, a single incident may be enough to give a registrant cause to no longer carry on its activities through a representative. In other cases, recurring deficiencies or incidents may justify that a registrant put an end to its business relationship with a representative.



Form

[Withdrawal of Representative](#)



Supervision of a representative with a certificate to which conditions are attached

As the goal of imposing conditions on a representative's certificate is to ensure the protection of the public, the AMF's expectations regarding the supervision of representatives with certificates carrying such conditions are high.

i. Close supervision condition

Each transaction by a representative subject to a close supervision condition must be reviewed once a week by the firm or independent partnership. Each month, the responsible officer of the firm or the responsible partner of the independent partnership must complete a written statement describing the transactions carried out by the representative and enter it in its records. The responsible officer or responsible partner must submit the statement to the AMF upon request or if compliance- or complaint-related issues are identified in connection with the transactions concerned.



Form

[Statement Regarding Close Supervision](#)

ii. Strict supervision condition

Each transaction by a representative subject to a strict supervision condition must be pre-approved by the firm or independent partnership. Each month, the responsible officer of the firm or the responsible partner of the independent partnership must complete a written statement describing the transactions made by the representative, deliver it to the AMF and enter a copy in its records.



Form

[Statement Regarding Strict Supervision](#)

For further information on supervising representatives that have a certificate to which conditions are attached, see [Info-Conformité Vol. 4, No. 2](#).



4 Obligations to Clients and the Public

4.1 Conflicts of interest

Distribution Act: [ss. 16, 84 and 146](#)

All registrants and representatives are bound to act with honesty and loyalty in their dealings with clients.

Distribution Act: [s. 85](#)

A firm and its executive officers must oversee the conduct of the firm's representatives and ensure that they comply with the Distribution Act and its regulations, including the rules of conduct.

Regulation respecting the pursuit of activities as a representative: [ss. 16.5, 16.6](#)

Representatives must, in the practice of their profession, always remain independent and avoid placing themselves, directly or indirectly, in a situation in which they would be in an actual or potential conflict of interest. They must subordinate their personal interests to those of their clients.

CSF code: [ss. 18 to 22](#)

In this respect, the rules of conduct include certain specific prohibitions. In particular, a representative may not:

Damage insurance representatives code: [ss. 10 and 19](#)

- Advise a client to invest in a legal person, partnership or property in which he or she has, directly or indirectly, an interest
- Conduct any transaction or enter into any agreement, as an insurance of persons representative, with a client for whom he or she acts as dative tutor, curator or adviser to a person of full age within the meaning of the *Civil Code of Québec*

Claims adjusters' code: [ss. 9, 11 and 28](#)

Regulation respecting firms: [s. 11.1](#)

A firm or independent partnership may not introduce any incentives that could have an influence on the performance of a representative's obligations to the detriment of their clients. For example, a promotion or contest to sell specific products is deemed to have such an influence.

A firm or independent partnership may provide representatives with non-pecuniary benefits that are of a promotional nature and of low value where such benefits are not sufficiently material (in value or frequency) to have an adverse effect on the performance of their obligations.

Regulation respecting the pursuit of activities as a representative: [s. 5](#)

Representatives may not take part, directly or indirectly, in contests or promotions that could influence them in the performance of their obligations to clients.

Representatives may be reimbursed for the direct costs incurred by attending a conference or a convention concerning activities governed by the Distribution Act.

Regulation respecting the pursuit of activities as a representative: [ss. 2 and 3](#)

Moreover, representatives must disclose to the AMF for analysis any activity that they carry out in a field other than that which is related to their practice as representatives (see [Section 4.2.2](#)). In all cases, representatives may not pursue incompatible activities and occupations, as listed in the Regulation respecting the pursuit of activities as a representative, for which a position of influence, conflict of interest or appearance of conflict of interest is clear and obvious.



Conflict of interest

A conflict of interest arises where the personal or professional interests of different persons are inconsistent or divergent. Any conflict between the interests of a registrant and those of a consumer can create a risk that the registrant will not act in the best interests of the consumer. However, the registrant must subordinate its interests to those of their clients.

Avoiding conflicts of interest is an obligation that is fundamental to ensuring FTC. Except for certain specific situations that must be disclosed to clients (see [Section 4.6](#)), the registrant must avoid and, consequently, resolve any conflict-of-interest situation in the appropriate manner, up to and including ceasing to serve a client.

The existence of a conflict of interest is a question of fact. A situation must be assessed objectively to determine whether there is an actual or potential conflict of interest. Moreover, some situations create the appearance of an apparent conflict of interest and should also be avoided.

The distribution of financial products and services can give rise to conflicts between the interests of a consumer and those of a registrant and its directors, executive officers, partners, employees or representatives. The following can result in actual or apparent conflicts of interest:

- **Financial incentives (or compensation arrangements** (see [Section 5.1](#))) **and non-financial incentives** (see [Section 5.2](#)), e.g.:
 - A product with a higher commission rate that leads the registrant to promote the sale of that product even if it may not be suited to the client's needs
 - A bonus program that influences a registrant's choice regarding the products or insurer that it proposes to clients
 - A contest tied to the sale of a specific product, to a product category or to the representative's or registrant's performance that motivates the representative or registrant to focus their production in a single area

The conflict-of-interest risks associated with financial and non-financial incentives are described at greater length in the AMF's issues paper [Managing Conflict of Interest Risk in Relation to Incentives](#).

- **Relationships between different entities within a financial group** (including registrants, insurers, financial services cooperatives, banks and other affiliated legal persons) that offer financial products and services to the same group of consumers. Although this business model meets the objectives of efficiency and client convenience, it can sometimes result in commercial practices that could create conflicts of interest (e.g., an insurer requiring a certain volume of business to be placed with it in exchange for services provided to registrants from the same financial group (e.g., use of a computer system).
- **Other commercial agreements**, e.g.:
 - Outsourcing contract under which an insurer pays outsourcing fees greater than the true cost of the outsourced services in order to attract more sales from the sub-contractor firm (or general agent)
 - Loan granted by an insurer to a registrant at terms (e.g., applicable interest rate) tied to the attainment of volumes of business placed with the insurer
 - Agreement of purchase and sale of shares or client base that includes an undertaking to transfer a book of business to the purchaser on penalty of a sale price adjustment²⁰
- **Personal financial transactions with clients**, e.g.:
 - Loan from²¹ or to²² a client
 - A private investment project with a client, such as an investment by a client in a business in which the registrant has a significant interest²³ or a joint investment by a representative and client in an investment club
 - A pecuniary or non-pecuniary benefit offered to a client, such as a gift or charitable donation in exchange for client referrals or, conversely, a pecuniary or non-pecuniary benefit offered by a client to a representative
- **Dual employment** that may give rise to an actual or apparent conflict of interest (e.g., an insurance of persons representative who acts as liquidator of a deceased client's succession (executor of his or her estate).²⁴ Any activity that representatives carry out in a field other than the one in which they practise as a representative must be disclosed to the AMF for analysis (see [Section 4.2.2](#))



Prevent, detect and avoid conflicts of interest

Registrants should prevent actual or potential conflicts of interest by:

- Analyzing their agreements, practices and activities (e.g., established or agreed-upon financial and non-financial incentives, relationships with other entities that belong to the same financial group, other commercial agreements and, if applicable, dual employment situations) to determine which ones could give rise to conflicts of interest
- Establishing clear guidelines and standards (e.g., maximum thresholds for financial incentives) to mitigate conflict-of-interest risk. These guidelines and standards should be reassessed frequently
- Ensuring that the commercial agreements they negotiate and sign (particularly distribution agreements) and their practices and activities are aligned with established guidelines and standards

Firms and independent partnerships should develop, implement and apply conflict-of-interest **policies and procedures** intended for their representatives, directors, officers, partners and employees. These policies and procedures should include:

- A description of what constitutes a conflict of interest and examples of situations that could give rise to actual or apparent conflicts of interest, so as to facilitate comprehension and detection
- A process for **escalating** identified actual or potential conflict-of-interest situations to the **senior ranks**
- A procedure setting out how the registrant plans to **resolve** identified conflict-of-interest situations. The procedure should set out concrete actions to be taken to terminate such situations, including what a representative can do to cease to serve the client
- A requirement to **document** the identified conflict-of-interest situations and to explain how they were resolved
- Regular **reporting** of documented situations of conflict of interest to senior management or the board of directors
- A **training program** offered to representatives, directors, officers, partners and/or employees to promote a good understanding of the policies and procedures regarding conflicts of interest
- **Internal controls** to ensure compliance with conflict-of-interest policies and procedures by, for example, conducting random or risk-based reviews of client records and representatives' practices

4.2 Advertising, representations and client solicitation

4.2.1 Mandatory information and general obligations

Regulation respecting firms:

[ss. 1 to 10](#)

Regulation respecting registration:

[ss. 2\(1\), 4\(1\), 6\(1\) and 11 to 14.6](#)

Regulation under the Act respecting insurance:

[ss. 35 and 37](#)

Regulation respecting the pursuit of activities as a representative:

[ss. 10 to 15 and 16.13](#)

Regulation respecting the issuance of certificates:

[ss. 1 to 12.1](#)

Regulation respecting financial planner titles:

[s. 1](#)

CSF code:

[s. 16](#)

Damage insurance representatives code:

[s. 15](#)

Claims adjusters' code:

[s. 16](#)

Registrants must, in their advertising and representations and when soliciting clients, use their name or, if applicable, the other names they use in Québec in pursuing their activities that have been disclosed to the AMF and appear in the AMF's register.

Firms and independent partnerships must present themselves using the titles prescribed by regulation, depending on the sectors for which they are registered. Certain exceptions nonetheless exist for those registered in more than one sector (e.g., a firm registered in more than one sector, for example, may use the title "financial services firm"). A damage insurance agency must, however, still present itself as a "damage insurance agency" even if, as a firm, it is registered in more than one sector and can also present itself using the other titles.

Independent representatives use the titles of the sectors or sector classes indicated on their certificates.

Upon first meeting a client, a representative must give the client a document (usually a business card) indicating:

- His or her name, main business address, telephone number and, if applicable, e mail address
- The titles and abbreviations he or she is authorized to use
- The name of the firm or independent partnership on whose behalf he or she is acting, or the description "independent representative"

The document, or any other written representation (including on social media), may also contain other information, provided it is not likely to cause confusion, is related to the pursuit of activities as a representative and is not incompatible with the pursuit of those activities.

False, misleading or deceptive representations are prohibited.



Publication of interest rates in mortgage brokerage

Registrants in the mortgage brokerage sector may indicate interest rates in their advertising material, representations or solicitation. They must ensure that the interest rates shown, by them or their mortgage brokers, are displayed in accordance with the rules on advertising, representations and client solicitation. In particular, no registrants may, by any means whatsoever, make false, misleading or deceptive representations or engage in false, misleading or deceptive advertising or appear to promise results that they are unable to provide. Registrants must also ensure that the advertising and representations are consistent with what they are offering. For example, registrants who offer an interest rate that is accessible to only a small number of people would not be in compliance with these requirements.

Also, registrants or representatives who wish to identify the lender offering an interest rate that is shown must obtain the lender's authorization to do so. (Notice [Avis relatif à l'application du Règlement sur l'exercice des activités des représentants, R.R.Q., c. 9.2, r. 10](#) Regulation respecting firms: [ss. 1 to 10](#) Regulation respecting the pursuit of activities as a representative: [s. 14](#)).



The [Representations Guide](#) is intended for registrants (firms, independent partnerships and independent representatives), representatives and candidates undertaking a probationary (or training) period that carry on activities governed by the *Act respecting the distribution of financial products and services*. The guide explains the rules governing representations and client solicitation.

4.2.2 Activities not governed by the Distribution Act

Regulation respecting firms: [s. 11](#)

Where, in respect of an activity not governed by the Distribution Act, a firm or independent partnership, through a representative, engages in advertising or client solicitation for the purpose of selling a financial product or providing a financial service, the firm or independent partnership must state its title or the fact that it is a distributor of financial products and services.

Distribution Act: [s. 106](#)

The firm or independent partnership must, when registering and when maintaining its registration, disclose any activity pursued by it that is not governed by the Distribution Act and for which it reports income.



Forms

[Registration of Firm or Independent Partnership](#) form or [Registration of Independent Representative](#) form or personalized maintenance of registration form sent by the AMF. (For more information and help completing the maintenance of registration form, see the [Companion Guide – Maintenance of registration \(Firm – Independent partnership\)](#).)

Regulation respecting the pursuit of activities as a representative: [ss. 2 and 3](#)

Representatives must not pursue activities and occupations that are incompatible with their activities as a representative.



Form

Regulation respecting the issuance of certificates: [s. 62](#)

A representative must declare any activity, remunerated or not, that he or she carries out in a field other than that which is related to his or her practice as a representative using the [Dual Employment](#) form.



Registrants' other activities

There are no regulatory restrictions on the other activities that a firm or independent partnership may carry out. However, it must not identify itself as a firm or independent partnership when it carries out activities not governed by the Distribution Act. The representations that a firm or independent partnership may make in the capacity of a firm or independent partnership can be used only to pursue activities under the Distribution Act, to the exclusion of all other activities.

Representatives' other activities (dual employment)

The pursuit by a representative of other activities, whether remunerated or not, is limited by:

- The representative's obligation to not place him or herself, directly or indirectly, in a conflict-of-interest situation (see [Section 4.1](#))
- The incompatible activities and occupations provided by regulation. An interpretation regarding incompatible activities and occupations is provided in the notice [Avis relatif à l'application du Règlement sur l'exercice des activités des représentants, R.R.Q., c. 9.2, r. 10](#)

Representatives who wish to pursue "other activities" must notify the AMF of those activities using the [Dual Employment form](#). After analyzing the form, the AMF will send the representative one of the following responses:

- Acceptance of the other activity
- A warning regarding the other activity, in which case, a copy of the warning will be sent to the firm or independent partnership on behalf of which the representative is acting. Moreover, the AMF will require that the firm sign an undertaking requiring it to ensure that the other activity does not conflict with the pursuit of the person's activities as a representative
- Refusal of the other activity

The AMF will determine whether the representative's other activity is acceptable or not by, in particular, assessing whether it:

1. Gives the representative access to confidential information
2. Places the representative in a position of influence or in a conflict of interest
3. Is being carried out with the same clients as those with whom he or she is carrying out activities as a representative

See the [Dual employment or other occupation - representative or applicant](#) page of the AMF website for more information on this topic.

4.3 Demonstrate availability and diligence

Regulation respecting the pursuit of activities as a representative:

[ss. 4\(1\) and 16.2](#)

CSF code:

[ss. 23, 24, 42 and 43](#)

Damage insurance representatives' code:

[ss. 8, 26, 34 and 34.1](#)

Claims adjusters' code:

[ss. 33, 54 and 55](#)

During the period of validity of their certificate, representatives must demonstrate availability and diligence in pursuing their activities.



Requirement to demonstrate availability and diligence

An interpretation of the requirement to demonstrate availability and diligence is provided in the notice [Avis relatif à l'application du Règlement sur l'exercice des activités des représentants, R.R.Q., c. 9.2, r. 10.](#)

4.4 Information collection, advice and suitability

Distribution Act:

[ss. 27 and 28](#)

CSF code:

[ss. 12 to 15](#)

Insurance representatives

Insurance representatives must inquire into their clients' situation in order to assess their needs. They must also appropriately advise their clients regarding matters that fall within the sectors in which they are authorized to act and, if they can, offer their clients a product that meets their needs.

Representatives can delegate the collection of information to a person who is not certified. However, if they do, responsibility for this activity will remain with them. They must therefore ensure that the information is collected properly.

Conversely, representatives may not delegate their duty to advise to an uncertified person. Consumers who contact a registrant can therefore expect to receive advice from a certified representative. In particular, the AMF considers discussing the choice of coverage with clients, recommending an insurance product to clients and presenting clients with the results of their needs analysis to constitute "insurance advice."

For further clarification on this topic, more examples of what the AMF considers "insurance advice" and examples of activities that are specific to certified representatives or, conversely, that may be carried out by uncertified persons, see the [Notice regarding information collection and insurance advice.](#)

Before making an insurance contract, representatives must describe the proposed product to clients in relation to their needs and specify the nature of the coverage offered as well as specific exclusions.

Regulation respecting the pursuit of activities as a representative:
[ss. 9.7, 16.8 and 16.9](#)

Regulation respecting firms:
[s. 21.1](#)

Mortgage brokers

Mortgage brokers are bound by substantially the same obligations as insurance representatives, with the necessary modifications to take into account aspects specific to the mortgage brokerage sector.

Mortgage brokers must collect information pertaining to the identification of the client's needs and the client's financial situation, including:

- the characteristics and terms and conditions of the proposed loan
- the immovable that will be charged with the hypothec
- the client's credit history
- income
- ability to repay the loan and
- level of financial knowledge

This information must be recorded in the client record.

When they propose a loan to a client, they must ensure that the loan is suited to the client's situation and needs. Mortgage brokers must appropriately advise their clients and give them all such information as may be necessary or useful.

They must explain to their clients the nature of the fees associated with the proposed loans secured by immovable hypothec and the nature, characteristics, advantages and disadvantages of the loans secured by immovable hypothec that they propose to their clients, including the penalties applicable in the event of failure to comply with the terms of the loan agreement.

Brokers must provide their clients with sufficient information to enable them to anticipate the costs related to the loan being applied for. Mortgage brokers must inform their clients that fees other than interest may be charged by the mortgage lender or otherwise required to obtain the loan being applied for, such as the mortgage insurance or title insurance premium. Mortgage broker should also inform clients that they may have to pay land surveyor fees, if a certificate of location is required, and notary fees to have the mortgage registered in the Land Register.

Mortgage brokers must explain their recommendations to the client. Although it is not mandatory to provide the client with a written report of their recommendations, the recommendations must be inscribed in the client record as they constitute information concerning the services rendered to the client.

The AMF considers "mortgage brokerage advice" to include proposing a loan to a client, recommending to a client that he or she not take out a loan and describing the proposed loan to a client in relation to the needs identified and the client's situation. Recommending one lender over another also constitutes mortgage brokerage advice.

4.4.1 Specific requirements for damage insurance representatives

Distribution Act:
[ss. 5, 6, 38, 39, 71.1, 86.0.1 and 146](#)

Regulation respecting damage insurance brokerage:
[s. 1](#)

Damage insurance is distributed by a broker or an agent, or directly via the Internet by a firm, as a damage insurance brokerage firm or agency, or by an independent partnership (see [Section 4.9](#) for more details about offering financial products and services without the intermediary of a natural person).

Brokers, brokerage firms or independent partnerships, as the case may be, must offer clients a choice of different damage insurance products from several insurers. Specifically, where personal-lines automobile insurance or home insurance products, as defined in section 1 of the Regulation respecting damage insurance brokerage, are offered directly to the public by representatives, the latter must, each time they offer such a product to a client who is a natural person, be able to obtain quotes from at least three insurers that do not belong to the same financial group.

When the renewal of an insurance policy includes a change other than to the premium, damage insurance agents and brokers must take the necessary steps to ensure that the coverage provided corresponds to the client's needs.

4.4.2 Specific requirements for insurance of persons representatives

Regulation respecting the pursuit of activities as a representative:
[s. 6](#)

In analyzing a client's needs, an insurance of persons representative must consider the following elements, in particular, depending on the client and the nature of the product offered:

- The policies or contracts in effect held by the purchaser or the insured, as the case may be
- The features of those policies or contracts and the names of the issuing insurers
- The client's investment objectives
- The client's risk tolerance
- The client's financial knowledge

The representative must record the information gathered for this analysis in a dated document, a copy of which must be given to the client on the date the policy is delivered.



Needs analysis by insurance of persons representatives

An interpretation of insurance of persons representatives' obligations relating to the needs analysis is provided in the notice [Avis relatif à l'application du Règlement sur l'exercice des activités des représentants, R.R.Q., c. 9.2, r. 10.](#)

4.5 Policy replacements

Regulation respecting the pursuit of activities as a representative:

[ss. 18 to 27](#)

Specific rules apply to insurance of persons representatives who replace an insurance contract. Where the purchase of an insurance contract or adhesion to a group insurance contract is likely to result in the termination, cancellation or reduction of benefits of another insurance of persons contract, the representative must follow the steps described in the Regulation respecting the pursuit of activities as a representative.



Form

[*Notice of Replacement of Insurance of Persons Contract*](#)



Replacement of policies

An insurance representative must endeavour to ensure that all insurance contracts are maintained in effect, unless the replacement of the contract is justified as being in the interest of the purchaser or the insured. The representative must explain the consequences of the policy replacement to the client and how the transaction is relevant to him.²⁵

An interpretation of the provisions of the Regulation respecting the pursuit of activities as a representative that relate to the replacement of policies is provided in the notice [Avis relatif à l'application du Règlement sur l'exercice des activités des représentants, R.R.Q., c. 9.2, r. 10](#). For more information, also see the [Procedure for the replacement of insurance contracts](#) page of the AMF website.



Replacement of individual variable insurance contracts (segregated fund contracts)

A good practice when replacing an individual variable insurance contract (segregated fund contracts) is to present and explain to the client, before or when proposing the replacement, a document containing the following:

- Name of contract holder
- Name of beneficiary
- Current contract number
- Name of current insurer
- Name of insurer of the proposed contract
- Reasons why the current contract no longer meets the client's needs
- Reasons why the proposed contract is better suited to the client's needs than the current contract
- Current contract's guarantees, i.e., maturity guarantee, death benefit guarantee and any other guarantees and options (including guaranteed minimum withdrawal benefit, guaranteed lifetime withdrawal benefit, reset options and periodic bonuses), by clearly describing their value based on time elapsed and time to maturity
- Comparison of the various guarantees and features of the current contract with those of the proposed contract (using illustrations, for example)
- Impact of the replacement on surrender fees and sales charges
- Tax impact of the replacement
- Other risks related to the proposed replacement

The explanations provided should demonstrate the representative's concern for maintaining the current contract and should cover all aspects justifying the replacement as being in the client's interests. The advantages should not be emphasized to the detriment of its disadvantages.

The document should be signed and dated by the client and kept in the client's file.

Leveraged investing

Leveraged investing involves risk: it magnifies not only gains, but also losses. Before recommending the use of leveraged investing for an individual variable insurance contract, a good practice for representatives is to check, among other things:

- the client's risk tolerance, investment time horizon and level of investment knowledge
- whether the client is financially able to repay the loan and interest
- if the client's tax rate is high enough to deduct the borrowing costs

Representatives should ensure regular file follow-up and document the client file carefully.

For more details about good practices pertaining to the use of leveraged investing, refer to the notice [*Avis de l'Autorité des marchés financiers concernant les prêts à effet de levier lors d'achat de titres d'organismes de placement collectif et de fonds distincts*](#). The guidance provided in this notice is relevant for the purchase of both cash surrender life insurance contracts and universal life insurance policies.

4.6 Information concerning remuneration

Distribution Act:

[s. 17](#)

Regulation respecting information to be provided:

[ss. 4.1 to 4.4](#)

Where representatives require compensation from the client, they must disclose to the client the fact that they also receive remuneration (including a commission, a splitting of a commission or any other benefit) for the products sold and the services rendered. The disclosure must be given in writing before or at the time services are rendered.

4.6.1 Disclosure to clients regarding the mortgage broker's remuneration

Regulation respecting the pursuit of activities as a representative:

[ss. 9.3 to 9.5, 16.11 and 16.12](#)

Before services are rendered, mortgage brokers must make a disclosure of their method of remuneration to the client, indicating:

1. the compensation claimed for the services they render to the client, if applicable, and the conditions on which the compensation may be claimed;
2. the fact that they receive remuneration or any other benefit from the mortgage lender or any person for the services they render to the client, if applicable.

Mortgage brokers must forthwith make a disclosure to the client of any change in their method of remuneration.

When mortgage brokers propose a loan secured by immovable hypothec, they must disclose the following information to the client:

1. the nature of the remuneration or any other benefit that they will receive if the loan is made, if applicable;
2. the nature of any other remuneration or any other benefit that they may receive with respect to the proposed loan;
3. the fact that they intend to share the commission, if applicable, and the name of the person sharing the commission.

When mortgage brokers refer a client, they must disclose to the client that they may receive a share of a commission, if applicable.

All of these disclosures must be made in writing to the client and brokers must provide their clients with all the explanations that they need to understand their remuneration.



Advances on remuneration

Mortgage brokers who require compensation from their clients may request that it be paid in whole or in part as an advance, i.e., before any services are rendered. The amounts so paid by the client, because they do not yet belong to the mortgage broker, must be deposited in the registrant's separate account.

Such compensation is also part of the remuneration that must be disclosed to clients and explained to them so that it is understood by them.

4.7 Information to be provided to clients

Depending on the circumstances, representatives have disclosure and information obligations to their clients. In particular, depending on the sector, they must:

Distribution Act: [s. 17](#)

Regulation respecting information to be provided: [ss. 4.1 to 4.4](#)

Regulation respecting the pursuit of activities as a representative: [ss. 9.3 and 16.12](#)

- Disclose their remuneration when they require compensation
- Where mortgage brokers require compensation from the client, they must disclose this fact to the client and the conditions on which such compensation may be claimed
- Such compensation must be fair and reasonable given the services rendered

Distribution Act: [ss. 19 and 20](#)

Regulation respecting information to be provided: [s. 2 and Schedule 1](#)

- Give a notice of rescission of an insurance contract

Distribution Act: [s. 22](#)

Regulation respecting information to be provided: [s. 3 and Schedule 2](#)

- Give clients a notice informing them that they are free to transact business with the insurer and representative of their choice when purchasing insurance coverage to secure the repayment of a loan

Distribution Act: [s. 26](#)

Regulation respecting information to be provided: [ss. 4.8 to 4.13 and Schedule 4](#)

- Disclose their business relationships

Distribution Act:
[s. 31](#)

Regulation respecting information to be provided:
[ss. 4.5 and 4.6](#)

Regulation respecting the pursuit of activities as a representative:
[s. 9.6](#)

- Disclose the names of the insurers whose products they are authorized to offer
- Disclose the names of the insurers whose products they are authorized to offer, upon request by request by the client
- A mortgage broker must forthwith make a written disclosure of the following information to the client:
 1. separately, the number of lenders that made loans secured by immovable hypothec for which:
 - (a) he engaged in a brokerage transaction in the previous 12 months; and
 - (b) the firm of the independent partnership on behalf of which he acts, if applicable, engaged in a brokerage transaction in the previous 12 months;
 2. the name of the lender that, if applicable, made more than 50% of the total number of loans secured by immovable hypothec or loan renewals for which the mortgage broker, or the firm or independent partnership on behalf of which the mortgage broker acts, engaged in a brokerage transaction in the previous 12 months.

Distribution Act:
[s. 83.1](#)

Regulation respecting damage insurance brokerage:
[s. 1](#)

Damage insurance agencies and damage insurance brokerage firms also have an obligation to disclose the information below on their websites and in their written communications with their clients.

For more information, see the [List of applicable disclosures](#).

It is also advisable to consult the [AMF's expectations regarding disclosures applicable to damage insurance brokerage firms and brokers](#) section of the AMF website.

Damage insurance agencies and damage insurance brokerage firms must disclose:

- The names of the insurers for which they offer insurance products

Damage insurance agencies must also disclose:

- The name of any insurer to which they are bound by an exclusive contract and the products covered by that contract

Where applicable, damage insurance brokerage firms must disclose:

- the name of any financial institution, financial group or legal person related thereto that holds an interest representing more than 20% of the value of their equity capital (see [Section 1.3](#) for more details about equity capital)
- the name of any insurer to which are paid more than 60% of the premiums stipulated in the contracts entered into by them and belonging to a single class of automobile insurance or home insurance, as defined in the Regulation respecting damage insurance brokerage

Distribution Act:

[s. 14](#)

- Disclose the name of the firm for which they are acting

Distribution Act:

[s. 32](#)

- Disclose the fact that they are acting for a firm that is an insurer or that is bound by an exclusive contract with a single insurer

Regulation respecting the pursuit of activities as a representative:

[s. 6](#)

- Disclose, in a dated document, the information gathered for a needs analysis

Regulation respecting information to be provided:

[ss. 4.14 to 4.20](#)

- Deliver to the client the documents and information specifically required when entering into an individual variable insurance contract

Regulation respecting the pursuit of activities as a representative:

[ss. 8 and 9](#)

- Give the client a mandate and a financial planning report

Regulation respecting the pursuit of activities as a representative:

[ss. 8.1 and 9.1](#)

- Give the client a mandate and a report (for representatives in group insurance of persons)

Regulation respecting the pursuit of activities as a representative:

[s. 22 and Schedule 1](#)

- Give a notice of policy replacement of insurance contract, as necessary

Regulation respecting the pursuit of activities as a representative:
[s. 16.8](#)

CSF code:
[ss. 12 to 14](#)

Damage insurance representatives code:
[ss. 37\(6\) and \(7\)](#)

In general, representatives must provide their clients with all necessary or useful information.



Information to be provided to clients

A good practice is to develop a compliance system capable of ensuring that representatives provide clients with:

- All the information required (as indicated above)
- Any other relevant and useful information that helps them make informed decisions

Therefore, a registrant should keep all evidence that the required information has been provided.

To ensure the fair treatment of consumers, the level of information provided can vary depending on:

- Consumer's level of knowledge and experience or
- Complexity of the product offered

Information should be communicated to consumers in a timely manner and should be clear, simple and not misleading.

4.8 Complaints



Definition of a complaint

A complaint is the expression of one of the following three elements that persists after being considered and examined at the operational level capable of making a decision on the matter:

- A reproach against the registrant
- Identification of a real or potential harm that a consumer has sustained or may sustain
- A request for remedial action

The initial expression of dissatisfaction by a consumer, whether in writing or otherwise, will not be considered a complaint where the issue is settled in the registrant's regular course of business. However, as a guide, if the consumer remains dissatisfied and such dissatisfaction is referred to the person who is responsible for the processing of complaints, then it will be considered as a complaint.

A complaint must be recorded in writing, in a manner enabling it to be kept on file. The registrant must document a consumer's verbal complaint so that it can be kept on file.

The registrant must refrain from any undue delay in referring a complaint to a higher level solely for the purpose of avoiding reporting requirements.

A registrant without a multi-level complaint processing structure is considered to have received a complaint where a consumer remains dissatisfied after a reasonable attempt has been made to settle the issue.

4.8.1 Deal fairly with complaints

Distribution Act:
[ss. 103 and 146](#)

Registrants must examine the complaints filed with them in a fair manner.



The AMF's expectations regarding the fair examination of complaints are described on the [Complaint examination](#) page of its website.

Registrants must keep a register of the complaints they receive. For each complaint, a separate file must be opened containing the following:

- A description of the complaint
- The outcome of the complaint process (the analysis and the supporting documents)
- The final written response to the complainant with justifying reasons

The complaint must be examined in an impartial manner and within a reasonable period of time, i.e., within 90 days following receipt of the complaint, regardless of the different complaint processing levels involved.

4.8.2 Have a written complaint processing and dispute resolution policy

Distribution Act:
[ss. 103, 103.1 and 146](#)

In order to ensure FTC, registrants must adopt an internal policy regarding complaint processing and dispute resolution.

Each registrant should make a summary of its complaint processing policy publicly available on its website, if it has one, and disseminate it by any appropriate means to reach the clientele concerned.



A good practice is to establish an FTC-based complaint processing and dispute resolution policy. The policy may include the following:

- Its purpose
- Contact information of the person responsible
- Definition of a complaint
- Steps to follow upon receiving a complaint
- Contents of a complaint file
- Complaint process
- Procedure for transferring a complaint file to the AMF
- Complaint report to be submitted to the AMF

4.8.3 Transfer a complaint file to the AMF at the complainant's request

Distribution Act:
[ss. 103.2, 103.3 and 146](#)

Within 10 days after a complaint is registered in the complaints register, the registrant must send the complainant a notice stating the complaint registration date (acknowledgment of receipt) and that a complainant may, if dissatisfied with the examination of his or her complaint or the outcome, request to have the complaint examined by the AMF.

When requested by a complainant, the registrant must send a copy of the complaint file to the AMF.



The file containing all the information relating to the complaint must be sent by the registrant to the AMF within a reasonable period of time not exceeding 30 days.

4.8.4 Disclose the complaints received by it to the AMF

Distribution Act:
[ss. 103.7 and 146](#)

The registrant must disclose the complaints received by it to the AMF.



Terms and conditions of complaint report

Registrants must submit a report to the AMF on complaints received from clients during the following periods:

- From January 1 to June 30 inclusive: Report to be submitted no later than July 30 of the current year
- From July 1 to December 31 inclusive: Report to be submitted no later than January 30 of the following year

Registrants must report the fact that they did not receive any complaints from clients during the period, except if the registrant is an independent representative or a firm with only one representative (see the administrative relief below). Reports must be filed through the automated Complaint Reporting System (CRS). To use the CRS, registrants must have a user code and password issued by the AMF. For information on how the CRS works, registrants can consult the User Guide on the [CRS website](#).



Administrative relief for independent representatives and firms with only one representative

Independent representatives or firms with only one representative are not required to file a report if no complaints have been received during a given period. However, as soon as they receive a complaint, they must submit a report in accordance with established procedures. This administrative relief is explained in greater detail in the AMF's [Guidance intended for independent representatives and firms with only one representative - all sectors](#).

4.9 Protection of information provided by clients

[Act respecting the protection of personal information in the private sector](#)

All registrants and representatives have obligations regarding the protection of personal information.

Personal information is any information relating to a natural person that allows that person to be identified (e.g., names and address, e-mail address). It may be accessible in written, graphic, taped, filmed, computerized or other form.

Registrants must comply with the requirements of the Personal Information Protection Act when they collect, hold, use, communicate or destroy personal information on their clients.

Registrants wanting more information about these requirements should consult the website of the [Commission d'accès à l'information](#), which is responsible for overseeing the application of the Personal Information Protection Act.

[Distribution Act](#)

The Distribution Act and its regulations contain requirements relating to the protection of any information provided by a client. These requirements are described in greater detail in [Sections 4.8.1](#) to [4.8.3](#).

Regulation respecting the pursuit of activities as a representative: [s. 16.10](#)

CSF code:
[ss. 26 and 27](#)

Damage insurance representatives code:
[ss. 23 and 24](#)

Claims adjusters' code:
[ss. 22 to 24 and 28](#)

Representatives must also comply with the confidentiality obligations set out in their respective rules of conduct.



Confidential information is information of a personal, financial, medical or other nature that must be handled confidentially. A good practice for registrants is to take the necessary security measures to ensure the protection of any confidential information that they hold concerning their clients. Given the importance and sensitivity of confidential information, registrants should:

- Develop **policies and procedures** relating to the protection of personal information in order to ensure compliance with the requirements of the Personal Information Protection Act and the Distribution Act, along with good practices for the protection of confidential information
- Provide their staff and representatives with the required **training** to promote a good understanding of the policies and procedures relating to the protection of confidential information
- Have non-certified employees and service providers with access to confidential information (e.g., IT service providers) sign **confidentiality undertakings**
- Implement **internal controls** to verify compliance with policies and procedures relating to the protection of confidential information and take action if necessary. For example, registrants can enhance the supervision of representatives who work remotely from home, including through inspections at their homes, to ensure personal information is being protected and client files are being kept under lock and key²⁶
- Adopt sound cybersecurity practices, as described in greater detail in [Section 6.2](#)

4.9.1 Collection of client information

Distribution Act: [s. 23](#)

Representatives acting on behalf of a firm or independent partnership must disclose all the personal information they gather about clients to the firm or independent partnership to which they are attached. Representatives acting for several firms must disclose such information to the firm for which they are acting at the time.

4.9.2 Access to client records by representatives

Distribution Act: [ss. 25, 89, 91 to 94 and 146\(2\)](#)

Regulation respecting information to be provided: [s. 4 and Schedule 3](#)

Firms and independent partnerships must ensure that their representatives have access only to the information necessary for the pursuit of their activities.

When a firm wishes to give any of its representatives access to information on a client held by the firm for purposes unrelated to the object of the file for which the information was collected, it must obtain the client's specific consent. Such specific consent to this effect must be obtained in writing. The firm must then give the client a notice, drawn up in the manner prescribed by regulation, stating that the client is free to give consent and may revoke it at any time.

No firm may refuse to do business with a client on the ground that the client refuses to provide it with specific consent.

4.9.3 Medical or lifestyle-related information

Distribution Act:
[ss. 23 and 33 to 37](#)

Specific rules apply to medical or lifestyle-related information.

Where an insurer requires personal information of a medical or lifestyle-related nature in order to process an insurance proposal, the information must be collected using a form that is separate from the form used to collect the other information needed by the insurer.

A representative acting for a firm, other than an insurer, offering both credit and insurance cannot forward a client's information of a medical or lifestyle-related nature to any other person than the insurer concerned. The representative may not keep a copy of the form containing such information in the client's file or in any other of the registrant's books or registers, and may not disclose any information contained in the form to any other person.

4.10 Offering of financial products and services through a digital space

4.10.1 Background

Distribution Act:
[ss. 71.1 and 146](#)

Regulation respecting Alternative Distribution Methods:
[s. 2](#)

Insurers Act:
[s. 64](#)

Since June 13, 2019, firms and independent partnerships have been allowed to offer financial products and services without the intermediary of a natural person, i.e., through a digital space such as a website or mobile application ("products and services offered via the Internet"). Independent representatives are not allowed to offer products and services via the Internet.

Firms or independent partnerships that offer products and services via the Internet do so through a digital space used to interact directly with clients and enter into contracts. Therefore, only firms or independent partnerships whose digital space (or digital transaction space) allows clients who wish to enter into a contract to do so without having to go through a representative must comply with the Regulation respecting Alternative Distribution Methods.

Financial products and services may be offered via the Internet in all sectors subject to the Distribution Act: insurance, mortgage brokerage, financial planning and claims adjustment.

Any insurer that wishes to offer financial products and services via the Internet must do so as a firm and comply with all the requirements set out in the Distribution Act and the Regulation respecting Alternative Distribution Methods.

One of the features of products and services offered via the Internet is that, in insurance, a client entering into a contract without the involvement of a representative has the right to rescind the contract within 10 days of entering into it.

4.10.2 Main legal obligations of firms or independent partnerships offering financial products and services via the Internet

Distribution Act: [ss. 71.1 and 86.0.1](#)

Firms or independent partnerships offering financial products and services via the Internet must mainly comply with the following legal obligations:

- They must take the necessary steps to ensure that representatives of their own interact, in sufficient time, with clients who express the need. They must also inform their clients.
- They must comply with certain obligations applicable to representatives, including disclosure obligations and the obligation to advise. For information about insurance advice, see [Section 4.4](#).

4.10.3 Main regulatory obligations of firms or independent partnerships offering financial products and services via the Internet

Regulation respecting Alternative Distribution Methods: [ss. 4 to 18](#)

Firms or independent partnerships offering financial products and services via the Internet must mainly comply with the following regulatory obligations in regard to their digital space:

- They must provide the AMF with the required information (see p. 11 for more details).
- The information presented must be clear, readable, specific and not misleading, highlighting the key elements required for informed decision-making, and not cause confusion or misunderstanding.
- They must provide clients with the same required information and documents as a representative would (e.g., information gathered for the needs analysis).
- They must make the means to interact with a representative visible at all times.
- In the insurance and mortgage brokerage sectors, they must provide clients with specific information and documents at the time they are required to provide them.
- They must make a specimen of the policy and any available endorsement readily accessible, if applicable.
- They must ensure the proper operation and reliability of their digital space. They must, in particular, ensure that the information presented on it is accurate. They must ensure that the information provided by the client is collected, used, delivered and kept in a manner that ensures its confidentiality and security.
- They must document their processes.
- They must ensure that their digital space can detect certain situations where a transaction must be automatically suspended or terminated (e.g., a situation where the client is not eligible).
- They must comply with the specific requirements pertaining to the replacement of an insurance of persons contract.
- They must comply with the requirement to have a representative available to interact immediately with a client who asks to interact with a representative.

See the [Products and services offered via the Internet](#) page of the AMF website for more information on this topic.



5 **Obligations to other Registrants**

5.1 Remuneration and commission sharing



Remuneration

Remuneration is the amount a registrant or a representative is entitled to receive for selling a financial product or providing a financial service, regardless of the form such remuneration takes. Examples of remuneration include:

- Salary (remuneration received by a person bound by an employment contract)
- Fees (remuneration paid by a client in exchange for services rendered)
- Commissions (remuneration calculated as a percentage of the premium or invested amount. Commissions usually vary according to the type of financial product sold/ financial service provided or the coverage options included)
- Bonus (remuneration, fixed or calculated as a percentage of the premium, amount invested or commission, paid as a reward or incentive for sales performance)

The various types of financial and non-financial incentives are described at greater length in the AMF's issues paper [Managing Conflict of Interest Risk in Relation to Incentives](#).

To be entitled to remuneration for a product sold or service rendered under the Distribution Act, the following conditions must be met:

- First, one has to hold a right to practise from the AMF, i.e. either have a certificate (representative) or be registered (independent representative, firm or independent partnership) in the sector relating to the products sold or services rendered.
- A representative must all have a way of carrying on business (be registered as an independent representative or be attached to a firm or independent partnership) and have personally sold the product or rendered the service
- Representatives attached to a firm or independent partnership may receive remuneration only through the firm or independent partnership. Representatives registered as independent representatives may receive remuneration directly.
- Firms and independent partnerships can receive such remuneration if the product is sold or the service is performed through a representative who is attached to the firm or independent partnership in the sector relating to the product sold or service rendered

Commission sharing

Commission sharing is where a registrant splits a commission and gives part of it to another person authorized to receive it under the Distribution Act.

Distribution Act:

[ss. 12, 14, 15, 24, 100 and 143](#)

CSF code:

[s. 22](#)

Damage insurance representatives code:

[ss. 3 to 7](#)

Claim adjusters code:

[ss. 3 to 8](#)

A firm may share a commission only with the following persons:

- Another firm
- An independent representative
- An independent partnership
- A broker or agency governed by the *Real Estate Brokerage Act*
- A securities dealer or securities adviser governed by the *Derivatives Act* or the *Securities Act*
- An authorized deposit institution
- A bank, authorized foreign bank or authorized trust company
- An insurer
- A federation within the meaning of the *Act respecting financial services cooperatives*

An independent representative or independent partnership may share a commission only with the following persons:

- Another independent representative or independent partnership
- A firm that is not a deposit institution or trust company
- A broker or agency governed by the *Real Estate Brokerage Act*

Representatives may claim or receive remuneration for products sold or services rendered. When acting on behalf of a firm or independent partnership, representatives may receive their remuneration (including an amount deriving from a sharing of a commission, for example) only through the firm or independent partnership.



Payment for client referrals

A client referral is the act of referring a client to a representative or registrant. A person who refers a client can be paid for the referral. If the referring person is a registrant or representative, that person can receive a share of a commission, i.e., the referral commission can be based on the sale of insurance products or the provision of financial services to the referred client. A share of a commission is subject to the rules governing the sharing of commissions.

If the referring person is not a registrant, representative or person authorized to receive a share of a commission, the amount that person receives cannot be based on the sale of a product or the provision of a service.

However, where, in exchange for referring one or more clients to a registrant or representative, a person (registrant, representative or other person) receives a fixed amount regardless of whether the referral leads to the sale of a product or the provision of a service, such payment is not a share of a commission. The referring person is considered to have sold the name of a potential client or names of potential clients.

For additional information on client referrals, see the notice [Avis relatif à l'indication de clients en application de la Loi sur la distribution de produits et services financiers](#) (in French only).

Payment of commission at the same time as the commission is shared

To streamline back-office operations, in certain situations registrants may request to have part of their commission paid to a third party where a commission sharing arrangement has been agreed upon.

To benefit from this streamlined procedure, a registrant must:

- Submit a written request to the payer of the commission (in most cases, an insurer) for such purpose. This request constitutes proof that a request was made for payment to a third party
- Ensure that the third party is authorized to receive a share of commissions

The registrant must then enter all the particulars of the sharing of the commission (see [Section 6.1](#) for more details).

See the [Payment of remuneration](#) and [Sharing of commissions – Rules](#) pages of the AMF website for more information on these topics.

Commission payment linked to payments other than shared commissions

Under certain circumstances, registrants can ask for part of their commission to be paid to a third party to whom they owe money or to whom they wish to make a gift. In such cases, the rules applicable to the payment and sharing of commissions must be followed. Such payments to a third party must not constitute a disguised sharing of a commission.

Therefore, a registrant must:

- Submit a written request to the payer of the commission (in most cases, an insurer) for such purpose. This request constitutes proof that a request has been made for payment to a third party
- Retain proof of the authenticity of the expense or gift that the registrant asked the third party to pay on his or her behalf. The registrant must be able to demonstrate the cause, accuracy, origin, allocation and veracity of the expense or gift. If there is any doubt, the AMF may presume that the payment is a sharing of a commission not authorized under the law

The registrant must enter all the particulars of this procedure in the commissions register (see [Section 6.1](#) for more details). The registrant must not take into account only what he or she actually received as a result of the “invoice payment procedure” he or she asked the payer to carry out.

Remuneration of trainees

A trainee may receive any form of remuneration (salary or commission) and participate in the sharing of a commission when he or she holds a valid probationary certificate. For purposes of the rules relating to remuneration, the trainee in this case is considered a representative who holds a certificate.

5.2 Management of non-financial incentives

Regulation respecting firms:

[s. 11.1](#)

Firms and independent partnerships may not introduce any incentives that could have an influence on the performance of a representative’s obligations to the detriment of his or her clients. For example, a promotion or contest focused on selling specific products would be considered to have such an influence.

A firm or independent partnership may, however, provide representatives with non-pecuniary benefits that are of a promotional nature and of low value where such benefits are not sufficiently material, in value or frequency, to have an influence on the performance of their obligations.

Regulation respecting the pursuit of activities as a representative:

[s. 5](#)

Representatives may not take part directly or indirectly in contests or promotions that could influence them in the performance of their obligations to their clients.

Representatives may be reimbursed for the direct costs incurred by attending a conference or a convention concerning activities governed by the Distribution Act.



Incentives

An interpretation of the provisions of the Regulation respecting the pursuit of activities as a representative is provided in the notice [Avis relatif à l'application du Règlement sur l'exercice des activités des représentants, R.R.Q., c. 9.2, r. 10.](#)

5.3 Operation of a franchise

Distribution Act:
[ss. 97 and 224](#)

**Regulation
respecting firms:**
[ss. 30 to 32](#)

A firm may grant a franchise to another firm only in a sector for which the franchisee is registered.

A firm that wishes to act as franchiser must send the AMF a list of the firms to which it intends to give a franchise as well as their registration numbers. It must advise the AMF of its trademarks, graphic symbols, logos and names that it will allow its franchisees to use. The franchiser must also send the AMF an amended list as soon as it grants another franchise or if a firm ceases to operate as a franchise.

5.4 Termination of association and cessation of business relationships

Distribution Act:
[ss. 104 and 105](#)

A firm that terminates its association with a representative must notify the AMF in writing immediately.

Likewise, when a firm terminates its association with a representative or ceases to do business with another registrant for reasons relating to the representative's or other registrant's activities, it must inform the AMF of those reasons.



Form

The firm must inform the AMF using the [Cessation of Business](#) form.

A firm that informs the AMF of such reasons incurs no civil liability by doing so.



6 Operational and Administrative Management

6.1 Mandatory books and records

Distribution Act: [ss. 88 and 139](#)

All registrants must keep and update the following books and registers, the contents of which are prescribed by regulation:

Regulation respecting books and registers: [ss. 1\(1\), 4 and 5](#)

- **Accounting books and other accounting registers** required for the registration of transactions they effect in connection with their activities

Regulation respecting books and registers: [ss. 1\(2\), 6 and 7](#)

- Where applicable, a **register pertaining to the separate account** in which the amounts received or collected on behalf of others are deposited. The register must contain the following information:
 - The client's name
 - The number of the insurance contract or any other contract in respect of which the representative has received an amount, as the case may be
 - The amount
 - The object of the transaction
 - In the case of a firm or an independent partnership, the name of the representative involved in the transaction
 - In the case of the separate account kept by a firm, an independent representative or an independent partnership registered in the sector of mortgage brokerage:
 - a) the date of the deposit to the separate account;
 - b) the date of the withdrawal from the separate account;
 - c) the name of the recipient of the amount paid out of the separate account.

Regulation respecting firms: [ss. 12, 17 to 21](#)

Regulation respecting books and registers: [s. 7\(5\)](#)

- **Client records**

Distribution Act:
[ss. 100 and 143](#)

**Regulation
respecting firms:**
[ss. 22 to 25](#)

- **Commissions register** that includes information on the sharing of commissions

**Regulation
respecting firms:**
[s. 28.1](#)

- **Register of incentives**

**Regulation
respecting
registration:** [s. 10.2](#)

- In mortgage brokerage, a record relating to the responsible officer

Distribution Act:
[ss. 89, 92 and 140](#)

Each firm or independent partnership must, unless it has obtained consent from a client, keep its insurance records separately from its other records. This requirement, however, does not require a firm or independent partnership to maintain separate computer systems.

**[Act to establish a
legal framework
for information
technology](#)**

**Regulation
respecting books
and registers:** [s. 3](#)

**Regulation
respecting firms:**
[ss. 13 to 15](#)

Registrants may, for the keeping of their books and registers, use computers or any other data-processing techniques, provided that:

- They take all necessary security measures to prevent the loss, destruction or falsification of the entries
- They can provide the information upon request and in an accurate form that is comprehensible to any person authorized by the Distribution Act to verify it

Distribution Act:
[ss. 90 and 146, 2nd par](#)

**Regulation
respecting books
and registers:** [ss. 13
to 18](#)

- Books and registers must be preserved for at least five (5) years from their closing.
- Client records must be preserved for at least five (5) years from the last of the following events:
 1. the final closing of the client record;
 2. the date the last service was rendered to the client;
 3. the expiration without renewal or the replacement of the last product sold to the client, as the case may be.



Register pertaining to separate account

The firm must ensure that the separate account is used only for the purposes set out in regulation and that it **does not go into deficit**.²⁷

An interpretation of the regulatory provisions relating to the separate account is provided in the notice [Avis relatif à la gestion des comptes séparés](#), with supplemental information in [Info-Conformité Vol. 3, No. 4](#) and in the Notice relating to the regulatory framework applicable to mortgage brokerage.



Content of client records

Client records must include the following information:

- Thorough analysis of the client's needs²⁸
- All information needed to understand the global picture of the client's situation
- The representative's notes following any meetings or discussions with the client

An interpretation of the regulatory provisions relating to the keeping of client records is provided in [Info-Conformité Vol. 5, No. 2](#).



Firms and independent partnerships that offer products and services through a digital transaction space must enter in the client file the information needed to retrace the entire process followed by the client and understand his interactions with a representative, if applicable.



Content of commissions register

When the statement pertaining to each commission received contains all the information prescribed by regulation, it is sufficient to enter the statement in the commissions register.

The commissions register must also contain the information prescribed by the Regulation respecting firms regarding each sharing of a commission.²⁹

6.2 Cybersecurity



Cybersecurity pertains to the measures taken by registrants to protect themselves from the risk of a cyberattack. For example, when a computer virus spreads or when digital information is stolen for purposes of identity theft, it undermines the availability, confidentiality and integrity of computer systems and data and, in some cases, the financial security and physical safety of individuals. Cyber risk could have major consequences, such as a confidentiality breach, embezzlement or disrupted operations.

The nature of the computer services used by registrants can have an impact on cyber-risk exposure. Services such as remote computer system access, the use of social media for registrants' activities, the electronic delivery of documents and the development of online platforms for offering products and services increase the attack surface and must be sufficiently secure to properly manage this risk.

Given the importance of cyber risk, registrants should implement mechanisms to prevent and minimize the consequences of such risk by ensuring, in particular, that personal information held on clients is protected (see [Section 4.8](#)) and by adopting good cybersecurity practices such as those described below. These measures should be adapted to the registrant's size, the nature and complexity of its activities, and its risk profile.

Registrants should periodically review their cybersecurity practices in order to develop an action plan for correcting observed vulnerabilities that is tailored to their situation. Specifically, registrants should:

- **Identify risks and review the measures in place** to prevent, manage and mitigate them in the event of an incident, including by implementing a regular process for identifying and assessing cyber and other risks related to the use of technology, electronic devices, communications, systems and networks. This process should provide a clearer picture of the impact of a risk occurrence and the registrant's level of preparedness to deal with it. The process could be carried out through a risk self-assessment (see [Appendix 3](#)), enabling the following actions to be taken:
 - **Know what data is being held and how it is being stored** by periodically identifying held data and where it is located. Registrants should determine the most appropriate ways to keep all held data based on the associated risk
 - **Classify held data** based on level of importance and sensitivity, including by segregating the data registrants are required to keep (see [Section 6.1](#)) in connection with their activities. Classifying information in this way makes it possible to subsequently determine the security requirements of the systems supporting the data
 - **Know and identify the storage systems and security solutions being used** as well as the tools and users authorized to access the network and databases

- **Determine the measures required to protect against cyber risk and manage the vulnerabilities detected** as a result of the exercise described in the previous point and devote sufficient financial resources to their implementation, taking the following needs into account:
 - **Use security solutions** adapted to the registrant's information security needs and the risks detected on the registrant's systems
 - **Protect the integrity of the IT perimeter** through measures enabling network flow monitoring. More advanced safeguards can, for example, trigger an alert in the event of unauthorized activity. Monitoring perimeter integrity makes it possible to rapidly detect unusual activity
 - **Check network activity in real time** to mitigate the risk of unauthorized system access, where feasible. For registrants with broader attack surfaces, network monitoring can ensure timely cyberattack detection and a prompt response
 - **Establish a framework for the transmission of electronic communications** to limit data access and **circumscribe the use of mobile devices**, including to determine appropriate measures to be implemented in case of data loss or destruction

Moreover, firms and independent partnerships should **develop and implement cybersecurity policies and procedures** for both their representatives and their employees, directors, officers and partners ("personnel"), as applicable. Senior management and the board of directors should be responsible for the development and implementation of such policies and procedures, which should be reviewed periodically and include the following components:

- A cybersecurity **awareness and training program** for personnel to ensure that they are familiar with and **understand the cyber risk** related, for example, to opening a virus-infected email from an unknown sender or a phishing e-mail
- A cybersecurity **compliance monitoring program** to ensure the effective implementation of cybersecurity policies and procedures. This program should also be used to manage and mitigate known vulnerabilities, including the application of appropriate, timely updates to computer networks and endpoints
- A **business continuity** and cyber incident response plan in case of a cyberattack or systems failure, including a process for timely reporting of an incident to senior management and its disclosure to persons likely to suffer injury as a result of the incident. This plan should be reviewed periodically and disseminated to personnel. If it provides for computer system recovery from back-up data, a simulation should be run to ensure data integrity

Registrants should also attend to **cybersecurity issues in their relationships with third parties**, particularly when outsourcing certain activities such as the use of cloud storage space and the use of compliance automation tools in new technology-based business models. In such situations, registrants should assess the risks associated with the service providers they use in order to determine where the service provider's responsibilities for cybersecurity in operating the outsourced service end and where the registrant's responsibilities begin. Contracts entered into with service providers should require the disclosure of any incident, including a proven or potential data breach. In some situations, registrants should also know the location of the servers used to store their data.

Cyber risk insurance might also be relevant in minimizing the consequences of a cyberattack. However, such coverage is often limited to financial losses resulting from an incident. It will not protect the registrant against cyberattacks and should not be the only measure used to manage cyber risk.

Registrants can also consult the following references:

- [*Info-Conformité Vol. 4, No. 4*](#) and [*Info-Conformité Vol. 6, No. 4*](#)
- [*Cyber Security in Securities Markets – An International Perspective: Report on IOSCO's cyber risk coordination efforts - International Organization of Securities Commissions*](#)
- [*Cybersecurity Framework - National Institute of Standards and Technology \(NIST\)*](#)
- [*G7 Fundamental Elements for Effective Assessment of Cybersecurity in the Financial Sector*](#)
- [*ISO/IEC 27032:2012 Information technology – Security techniques – Guidelines for cybersecurity*](#)

6.3 Compliance with the Proceeds of Crime (Money Laundering) Act

Proceeds of Crime (Money Laundering) Act

All registrants in the insurance of persons sector are subject to the federal money laundering and terrorist activity financing rules.

Under those rules, certain types of transactions, such as suspicious or large cash transactions, must be reported to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

The rules also require a compliance program be established to ensure compliance with reporting, record keeping and client identification requirements.

The rules is described in full on [FINTRAC](#) website.



In addition to complying with the requirements to deposit amounts received or collected on behalf of others in a separate account (see [Sections 1.7](#) and [6.1](#)), registrants should ensure sound financial crime risk management, including:

- A compliance structure that is sufficiently robust to detect suspicious transactions
- A procedure for reporting suspicious transactions

For example, registrants should be able to determine whether a transaction is suspicious or inconsistent with a client's risk profile. To do this, they need to have a good knowledge of the client.

If registrants are unsure about certain deposits, they should take appropriate measures to determine the source of funds and possibly refuse to proceed with a suspicious transaction.

Moreover, the AMF has published the [Financial Crime Risk Management Guideline](#). The guideline is for financial institutions; however, other registrants can draw on it in establishing sound financial crime risk management policies and procedures.

APPENDIX 1

COMPLIANCE REFERENCE AND ASSISTANCE TOOLS

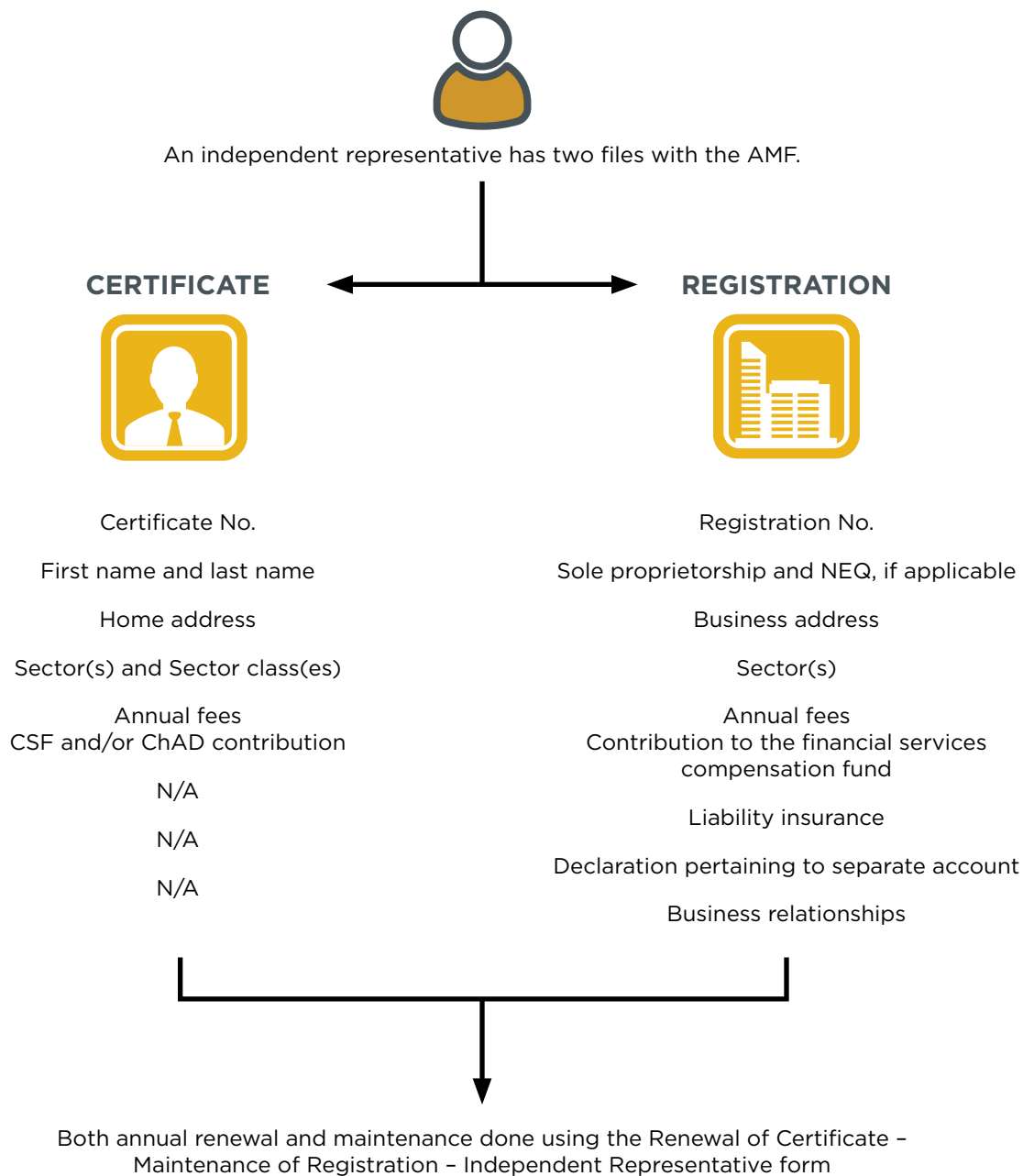
- AMF Bulletin
 - The [Bulletin of the Authority](#) is the AMF's official means of communication. It contains information that is required to be published pursuant to the applicable laws. The Bulletin is where you will find draft and final regulations or amendments to regulations and AMF notices.
- AMF's E-mail Info
 - The AMF regularly publishes E-mail Info newsletters for the public, certified representatives and future professionals. The link to [subscribe](#) to E-mail Info is at the bottom of each page of the AMF website.
 - [Info-Conformité](#) – This newsletter is without a doubt the most relevant for representatives. The publication covers the AMF's inspection activities and various compliance-related topics.
- Websites
 - The [AMF website](#) contains a wealth of useful and practical information. For registrants under the Distribution Act, the [Representatives](#) section and [Firms, independent partnerships and independent representatives](#) section are chock-full of information and contain all the forms you may need. They are added to regularly. The [Distribution of financial products and services](#) page of the Regulations and obligations section provides quick access to all the regulations applicable to registrants and to the interpretation notices issued by the AMF. You also access [AMF E-Services](#) from the site.
 - The websites of the *Chambre de l'assurance de dommages* and the *Chambre de la sécurité financière* provide a tremendous amount of useful information for representatives, particularly concerning ethics and professional development. The website of the *Institut québécois de planification financière* also offers resources for financial planners, including about the professional development requirements applicable to them.
- A practical guide for protecting vulnerable clients
 - The AMF is asking registrants' help in protecting vulnerable clients' financial well-being and insisting on the significant contribution they can make in this regard. Registrants can learn about the important role they can play with these clients by consulting the guide [Protecting vulnerable clients – A practical guide for the financial services industry](#).

The guide suggests various tools and practices to prevent situations that could jeopardize the financial well-being of clients. When clients are in a vulnerable situation, they are sometimes unable to properly assess the consequences of a decision or situation and may therefore need someone to make them aware of, and assist them in protecting themselves from, those consequences. Among other things, the guide proposes various practices to optimize effective communication with vulnerable clients and ensuring they understand explanations that are provided to them.
- Information Centre
 - Specially trained agents at the AMF Information Centre are available to answer questions from the public and industry representatives. You can contact them at:

Québec City: 418-525-0337
 Montréal: 514-395-0337
 Toll-free: 1-877-525-0337

APPENDIX 2

ILLUSTRATION OF AN INDEPENDENT REPRESENTATIVE'S TWO FILES WITH THE AMF



APPENDIX 3

DESIGNATION E

No claims adjuster may be authorized to act in a sector other than claims adjustment.

However, there is an exception: a damage insurance agent or broker may qualify to act as a claims adjuster in respect of policies purchased through the firm for which he or she acts. The damage insurance agent or broker must meet the claims adjuster designation requirements and have Designation E added to his or her certificate. For more information concerning these requirements, see the [Add a sector class - Damage insurance - Required examinations](#) page of the AMF website.

An agent or broker who holds Designation E is authorized, exceptionally, to act as a claims adjuster. However, if his or her intention is to act more frequently as a claim adjuster, he or she must obtain a claims adjuster certificate and relinquish the agent or broker designation.

An insurance agent or broker who holds Designation E must act according to the following circumstances and conditions:

1. Pursue activities as a claims adjuster in a way that is **incidental** to the pursuit of activities as a damage insurance broker or agent.
2. Comply with the rules applicable to the activities of a claims adjuster, with the necessary modifications, when using Designation E
3. Disclose, in writing, to each client with whom he or she transacts business the type of remuneration he or she receives for services rendered as a claims adjuster

The following excerpt from the notice [Avis relatif à l'application du Règlement sur l'exercice des activités des représentants, R.R.Q., c. 9.2, r. 10](#) defines and explains the meaning of "incidental":

[Translation] "Incidental in this context means 'secondary' and is reflected:

- In the time spent:

It is an incidental activity that must be carried out on an exceptional basis in the pursuit of his or her primary activities as a damage insurance broker or agent.

- In the damage insurance class for which the broker or agent is authorized to practise:

Damage insurance brokers or agents who are identified as such, i.e., who hold Designation E, may act as claims adjusters only in the damage insurance sector class in which they are authorized to practise. For example, a personal-lines damage insurance broker may act as a claims adjuster only in personal-lines damage insurance cases.

For further clarification, see the full text of the notice [Avis relatif à l'application du Règlement sur l'exercice des activités des représentants, R.R.Q., c. 9.2, r. 10](#).

APPENDIX 4

CYBER RISK SELF-ASSESSMENT

The following list of self-assessment questions, which is not exhaustive, reflects the good practices described in the Cybersecurity section of this guide. These questions will help you to identify risks and assess the measures that are in place to prevent, manage and mitigate them in the event of an incident. We recommend conducting a cyber risk assessment on a periodic basis.

PREMISE

- Has a cybersecurity threat and risk analysis been completed? If so, when?
- Has the situation changed since the last analysis (business activities, systems, service providers, etc.)?
- Have identified threats and risks been prioritized and are they monitored so that their scope may be mitigated?

GOVERNANCE

- Do policies and procedures contain a cybersecurity component?
- Do policies and procedures cover the following?
 - Equipment theft, loss or breakage
 - Data unavailability
 - Personal information breach
 - Security vulnerability or gap
 - Sharing of information
 - Mobile devices
- Has a business continuity plan been developed?
- Is a member of personnel responsible for cybersecurity?
- Do the cybersecurity resource persons have the competencies required to assess risks and implement the necessary measures? Is management and/or the board of directors involved in cybersecurity-related processes?
- Do you have a process to permanently destroy information held on electronic media?
- Is cybersecurity training available and frequently updated?
- Do personnel receive guidance for working in a secure manner when travelling on business?

INFORMATION TECHNOLOGY SECURITY

- Have you identified all of the data you hold? Has the identified data been classified by level of sensitivity?
- Is the wireless network secure?
- Do you have a list of devices and users authorized to connect to the network?
- Do you have a process for managing access to computer resources (e.g., reviewing how long access rights are in effect for, when someone changes roles, leaves, etc.)?
- What secure means of transmission do you use for sending confidential information via e-mail?
- Do you use spam filtering or blocking tools, a firewall and anti-malware protection?
- Are information technology assets updated in a timely manner? Is there a process for managing vulnerabilities?
- Is access to premises, servers and computer equipment secure?
- Are data backups done regularly?
- Are data restoration tests conducted?
- Does the organization have a password management policy based on good practices?

RELATIONSHIPS WITH THIRD PARTIES

- Are third parties reliable in terms of cybersecurity (certification)? Has their reputation been verified by such means as reference checks and Web searches?
- Do the agreements entered into:
 - Require service providers to disclose incidents?
 - Include provisions to ensure data continuity and access to or the transfer of data where, for example a contract is terminated and the data related to the contract is stored at the premises of the service provider?
- Where cloud services are used to store the organization's data, does the registrant know where the servers used to store the data are located?
- Is the limitation of the service provider's liability with respect to information confidentiality the protection of information protection known?

INSURANCE

- Has cyber risk insurance been purchased?
- If so, what coverage does it provide? Is the insurance adapted to identified risks and business activities?

Notes de fin

- 1 International Association of Insurance Supervisors, Insurance Core Principles, November 2017
- 2 Autorité des marchés financiers c. Abeco courtiers d'assurances inc., 2014 QCBDR 141; Autorité des marchés financiers c. Sherpa Holding Inc., 2012 QCBDR 138; Autorité des marchés financiers c. Belzile, 2013 QCBDR 61
- 3 Autorité des marchés financiers c. FD De Leeuw & Associés inc., 2012 QCBDR 135, par. 35
- 4 Autorité des marchés financiers c. Assurances Michel Gauthier inc., 2017 QCTMF 22; Autorité des marchés financiers c. Abeco courtiers d'assurances inc., supra, note 2
- 5 Autorité des marchés financiers c. Denis Blondeau Assurances inc., 2015 QCBDR 150
- 6 Autorité des marchés financiers c. Assurexperts Pierre Auchu inc., 2014 QCBDR 102, par. 23
- 7 Autorité des marchés financiers c. Lajeunesse, 2016 QCBDR 15
- 8 Idem
- 9 Autorité des marchés financiers c. Assurance Accomodex inc, 2015 QCBDR 149
- 10 Autorité des marchés financiers c. Assurexperts Pierre Auchu inc., supra, note 6
- 11 Autorité des marchés financiers c. Satel, 2013 QCBDR 21
- 12 Autorité des marchés financiers c. Les services financiers Surtech inc, 2015 QCBDR 71; Autorité des marchés financiers c. Lajeunesse, supra, note 7
- 13 Idem
- 14 Chambre de l'assurance de dommages c. Guay, (November 1, 2016), 2015-12-05(E), par. 11
- 15 Autorité des marchés financiers c. Agence d'assurance Groupe financier mondial du Canada inc., 2012 QCBDR 102, par. 4, points 18-21 4
- 16 Murphy c. Autorité des marchés financiers, 2013 QCCS 5764, conf. by Murphy c. Autorité des marchés financiers, 2016 QCCA 878
- 17 Mastrocola c. Autorité des marchés financiers, 2011 QCCA 995; Champagne c. CIBC, 2015 QCCS 1890
- 18 Autorité des marchés financiers c. FD De Leeuw & Associés inc., supra, note 3
- 19 Chambre de l'assurance de dommages c. Roy Morissette & associés, (February 19, 2004), 2001-04-03 (E), par. 2
- 20 Chambre de la sécurité financière c. Davidson, 2009 CanLII 48551 (QC CDCSF)
- 21 Chambre de la sécurité financière c. Laliberté, 2010 CanLII 99835 (QC CDCSF); Chambre de la sécurité financière c. Marapin, 2014 CanLII 54812 (QC CDCSF); Chambre de la sécurité financière c. Malenfant, 2015 QCCDCSF 27 (CanLII); Chambre de la sécurité financière c. L'Heureux, 2011 CanLII 99532 (QC CDCSF); Chambre de la sécurité financière c. Torabizadeh, 2010 CanLII 58 (QC CDCSF); Chambre de la sécurité financière c. Fortin, 2009 CanLII 6861 (QC CDCSF)
- 22 Chambre de l'assurance de dommages c. Lareau, 2013 CanLII 33424 (QC CDCHAD), par. 28, 29, 88
- 23 Chambre de la sécurité financière c. Forest, 2011 CanLII 99472 (QC CDCSF); Chambre de la sécurité financière c. Baril, 2009 CanLII 293 (QC CDCSF); Chambre de la sécurité financière c. Dion, 2009 CanLII 11281 (QC CDCSF)
- 24 Chambre de la sécurité financière c. Torabizadeh, supra, note 21, par. 1
- 25 Autorité des marchés financiers c. Groupe financier Lemieux inc., 2013 QCBDR 103, par. 92
- 26 Autorité des marchés financiers c. Satel, supra, note 11, par. 3
- 27 Autorité des marchés financiers c. Assurexperts Pierre Auchu inc., supra, note 6
- 28 Autorité des marchés financiers c. Groupe financier Lemieux inc., supra, note 25
- 29 Idem



**AUTORITÉ
DES MARCHÉS
FINANCIERS**

QUEBEC

Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1
418-525-0337

Toll-free: 1-877-525-0337
www.lautorite.qc.ca

MONTRÉAL

800, rue du Square-Victoria, 22^e étage
C.P. 246, Place Victoria
Montréal (Québec) H4Z 1G3
514-395-0337