

Please find hereafter, a letter which was sent to all independent representatives, firms and independent partnerships, in August 2003, by the Bureau des services financiers (the BSF). The Autorité des marchés financiers has adopted a similar position to that of the BSF. Please note that the telephone numbers mentioned in the letter have been changed and that you can now reach the Information Center at the following numbers:

Québec: 525-0337
Montreal: 395-0337
elsewhere: 1-877-525-0337

Montreal, August 8, 2003

Monsieur «PRENOM» «NOM»
«RAISON_SOCIAL»
«ADRESSE»«BUREAU»
«VILLE» «PROVINCE» «CP»

Subject: Obligation to file a written copy of the analysis of your clients' financial needs

Dear Mr. / Ms. «NOM»,

As you are undoubtedly aware, the Service de l'inspection et des enquêtes of the Bureau des services financiers is inspecting firms, independent representatives, and independent partnerships (hereafter referred to as the "registrants") in order to ensure that their practices comply with the requirements of the law.

In the performance of our duties, we have noted that many registrants operating in the insurance of persons sector do not make sure that their representatives analyze their clients' financial needs before taking out an insurance proposal for them or fail to keep a copy of this analysis in their client records.

This practice contravenes Section 6 of the *Regulation respecting the pursuit of activities as a representative* and Section 17, subparagraph 8 of the *Regulation respecting firm, independent representative and independent partnership*, which state that:

“6. A representative in insurance of persons must, before completing an insurance proposal, analyse the insurance needs with the purchaser or the insured, the existing policies or contracts held by such purchaser or the insured, the features thereof, the name of the issuing insurers, and all other necessary elements such as the income, financial situation, number of dependants, and personal and family obligations of the purchaser or the insured. The representative must record all such information in writing.”

“17. The client records that must be kept by firms, independent representatives and independent partnerships in respect of each client in connection with the pursuit of their activities, save those relating to the sectors of damage insurance or real estate brokerage, must include the following information:

(...)

8° a copy, in any medium, of the needs analysis prescribed in section 6 of the Regulation respecting the pursuit of activities as a representative, approved by Order-in-Council No 830-99 of July 7, 1999;

(...)”

(our underlining)

We have therefore decided to issue a letter to all firms, independent representatives, and independent partnerships registered in the insurance of persons sector in order to remind them of their obligations in this matter.

While you are required to file a written copy of the analysis of your clients' financial needs in their records, we are of the opinion that this analysis need not be the same for all your clients.

For instance, when a client wishes to obtain life insurance to cover the balance owing on his or her mortgage, you must note this information in his or her record, in order to make sure that the insurance product that you are proposing accurately reflects his or her situation. If your client wishes to obtain life insurance to protect his or her young children, a more thorough analysis of financial needs must be carried out and filed in his or her record.

Furthermore, situations could arise in which:

- a client does not want to provide you with the information required to adequately analyze his or her financial needs, under the pretext that a professional (e.g., tax expert, accountant, etc.) has already done this; **or**
- a client is willing to sign a waiver of an analysis of his or her financial needs.

It is our belief that a client can not free you from a regulatory obligation and that it is incumbent on you, in all situations, to make sure that the insurance product that you are proposing to your client truly corresponds to his or her financial needs. This responsibility cannot be delegated to a third party. Nonetheless, in cases where a third party has analyzed your clients' financial needs, we could accept your filing this analysis in your client's record, provided that you personally familiarized yourself with it before proposing an insurance product to him or her.

Finally, this letter is intended to serve as formal notification that should the Service de l'inspection et des enquêtes find, at any time in the future, that you have failed to file a written copy of the analysis of your clients' financial needs in their records, it will forward your file to the Service du contentieux (Litigation unit) for follow-up, and this body will then take the measures that it deems appropriate.

Please note that the Disciplinary Committee of the Chambre de la sécurité financière has already imposed disciplinary sanctions on insurance of persons representatives who failed to analyze the financial needs of their clients before taking out an insurance proposal for them.

Should you require any further information, I invite you to speak directly with an agent of the Bureau des services financiers's Information and Referral Centre, at one of the following phone numbers: (418) 525-6273 or 1-877-525-6273,.

Sincerely yours,

Coordinator of the Service
de l'inspection et des enquêtes,

Claudine Chaloux
Claudine Chaloux, Notary

For further information:
Information and Referral Centre
(418) 525-6273 or
1-877-525-6273