



**AUTORITÉ
DES MARCHÉS
FINANCIERS**

**Reminder of certain obligations that
certified representatives and firms
have when offering insurance products
in partnership with automobile and
recreational and leisure vehicle dealers
in Québec**

Prepared in consultation with the Chambre de l'assurance de dommages

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This document reiterates some of the obligations that representatives and firms¹ have, particularly when offering insurance products in partnership with automobile and recreational and leisure vehicle dealers (the “dealers”). It is not exhaustive. For a complete and comprehensive overview of the obligations of representatives and firms, please refer to the [Governance and Compliance Guide for registrants](#) and the [Firms and representatives](#) web page. For the related statutory provisions, refer to the [Act respecting the distribution of financial products and services and its regulations](#).²

The Autorité des marchés financiers (the “Authority” or the “AMF”) has been made aware of certain consumer dissatisfactions and situations reported by consumers regarding insurance products offered through or in partnership with dealers. Because dealers have developed partnerships with certified representatives and firms in Québec, the AMF wishes to remind the latter of some of their obligations related to the offering of insurance products. The AMF also wants to make dealers aware of those obligations.

INCENTIVES MANAGEMENT

Apparent conflicts of interest

The distribution of financial products and services can give rise to actual or potential conflicts between a consumer’s interests and those of a firm, its directors, executive officers, partners, employees or representatives. That is why it is important to be well informed and comply with the [Act respecting the distribution of financial products and services](#) (the “Distribution Act”) as well as the code of ethics relevant to the sector involved.

AVOIDING CONFLICTS OF INTEREST IS AN OBLIGATION THAT IS FUNDAMENTAL TO ENSURING THE FAIR TREATMENT OF CUSTOMERS (FTC).

Firms and representatives are asked to refer to:

- the [Distribution Act](#) and its regulations
- the relevant code of ethics for the sector involved ([Code of ethics of the Chambre de la sécurité financière](#)³, or [Code of ethics of damage insurance representatives](#)⁴)
- the [Governance and Compliance Guide for registrants](#)

Client referrals and commission sharing

A client referral is the act of referring a client to a representative or firm. It can involve providing a representative’s contact information to a client or vice versa. A person who refers a client may be paid for the referral. If the referring person is a firm or representative, that person may receive a share of a commission.

¹ For ease of reading, “**firm**” in this document refers to a firm, an independent partnership or an independent representative.

² CQLR, c. D-9.2

³ CQLR, c. D-9.2, r.3

⁴ CQLR, c. D-9.2, r.5

Commission sharing is subject to certain rules. A representative or firm wishing to share the remuneration received from the sale of a financial product or service may do so only with persons who are authorized under the Distribution Act to receive a portion of that remuneration. Representatives offering their services to consumers in partnership with a dealer are no exception. They are not allowed to share their remuneration with an employee or director of a dealer, among others. The employee or director of the dealer can be remunerated for the client referral; however, the remuneration cannot be contingent on the outcome of the referral or vary based on the sale or the profit from the sale of a product.

In the specific context of a client referral, the AMF believes that it is appropriate and necessary for representatives to be transparent and disclose to a client any referral agreement between themselves and a client referral agent such as a dealer.

All agreements with client referral agents must be specifically indicated in the firm's maintenance of registration form.

Firms and representatives are asked to refer to:

- the [Sharing of commissions – Rules](#) page
- the [Payment of remuneration – Representatives and Registrants](#) page
- the [Avis relatif à l'indication de clients en application de la Loi sur la distribution de produits et services financiers](#) [Notice regarding client referrals in application of the *Act respecting the distribution of financial products and services*] (available in French only)
- the [Companion Guide – Maintenance of registration \(Firm – Independent partnership\)](#)
- the [Governance and Compliance Guide for registrants](#)

DISCLOSURE OF PARTNERSHIPS

Any partnership between a firm and a dealer must be specifically indicated in the firm's maintenance of registration form. Partnerships or business relationships include client referral agreements.

Firms and representatives are asked to refer to:

- the [Companion Guide – Maintenance of registration \(Firm – Independent partnership\)](#)

INFORMATION TO BE PROVIDED TO CLIENTS

Acting in partnership with a dealer in no way affects a representative's obligations regarding the information to be provided to clients. In particular, the AMF expects representatives to exercise their functions with diligence and ensure that clients benefit from all the information they are entitled to receive. Representatives must provide their clients with all necessary and useful information.

The AMF expects representatives to adopt good practices for ensuring that all the information to be provided to clients has been sent to them. Moreover, information should be communicated to consumers in a timely manner and be clear and not misleading.

Firms and representatives are asked to refer to:

- the [Regulation respecting information to be provided to consumers](#)⁵
- the [Governance and Compliance Guide for registrants](#)

⁵ CQLR, c. D-9.2, r. 18

PROTECTION OF PERSONAL INFORMATION

The obligations set out in the [Act respecting the protection of personal information in the private sector](#)⁶ apply to all firms and certified representatives and cover the collection, retention, use and communication of client information.

Insurance representatives working in partnership with dealers must pay special attention to the protection of personal information due, in particular, to the fact that they share clients in common.

Firms and representatives are asked to refer to:

- the [Protection of data and personal information](#) page (in French only)
- the [Act respecting the protection of personal information in the private sector](#)
- the [Governance and Compliance Guide for registrants](#)

COMMERCIAL PRACTICES

In response to dissatisfactions expressed by certain consumers and some situations reported by them relating to insurance products offered by certified representatives in partnership with automobile dealers, the AMF is insisting on the importance of adhering to sound commercial practices that promote FTC. For representatives and firms, FTC means conducting business with honesty, loyalty, competence, care and diligence at all stages of their dealings with consumers.

Even with all the tools available, guidance provided, educational efforts made and energy devoted to prevention and oversight, sometimes the law has to be applied. In the event of non-compliance, the Distribution Act states that:

461. *Subject to the provisions of the second paragraph of section 12 and of Title VIII, every person that, without authorization from the Authority, acts as a representative, uses the title or abbreviated title of a representative, or purports to be a representative is guilty of an offence.*

462. *Every person that, without being registered with the Authority, acts as a firm in a given sector, or purports to be a registered firm, is guilty of an offence.*

462.1. *Every person that offers products and services in a given sector directly to the public, without the intermediary of a natural person, is guilty of an offence, unless the person is a firm or an independent partnership registered with the Authority, or a distributor.*

463. *Every person that, without being a representative, subordinates the making of a contract to a requirement that the client make an insurance contract is guilty of an offence.*

464. *Every person that, without being a representative, exercises undue pressure on a client or uses fraudulent tactics to induce the client to purchase a financial product or service is guilty of an offence.*

Firms and representatives are asked to refer to:

- the [Distribution Act](#) and its regulations

⁶ CQLR, c. P-39.1

OBLIGATION TO ASSESS CLIENT NEEDS AND APPROPRIATELY ADVISE CLIENTS

Damage insurance representatives must ensure that they appropriately advise their clients regarding matters that fall within the sectors in which they are authorized to act.

Consequently, they must inquire into their clients' situation in order to identify their needs.

After collecting the required information and assessing the client's needs, representatives must, if they can, offer the clients a product that meets their needs. Conversely, representatives must inform their clients when none of the products they are authorized to offer meet their needs.

The AMF reminds insurance representatives who work in partnership with dealers that they, like all representatives, may not exert undue pressure on a client or use fraudulent tactics to induce the client to purchase an insurance product.

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.

Representatives are asked to refer to:

- the [Assessing client needs page](#)
- the [Distribution Act and its regulations](#)
- the [Regulation respecting the pursuit of activities as a representative](#)⁷
- the [Governance and Compliance Guide for registrants](#)

AVAILABILITY AND DILIGENCE OF REPRESENTATIVES

Representatives must ensure that they are available and effective in serving their clients. In so doing:

- Certified representatives cannot outsource activities that are exclusive to them under the law.
- During the period of validity of their certificate, representatives must demonstrate availability and diligence in pursuing their activities as representatives. This availability rule also applies in cases where individuals do not devote their time exclusively to activities as a representative.
- Representatives can work part-time and have a small number of clients, provided they are available and effective in serving them.

Firms and representatives are asked to refer to:

- the [Avis relatif à l'application du Règlement sur l'exercice des activités des représentants](#) [Notice regarding the application of the Regulation respecting the pursuit of activities as a representative] (in French only)
- the [Governance and Compliance Guide for registrants](#)

PROHIBITED DUAL EMPLOYMENT

Certified damage insurance representatives, be they agents or brokers, cannot hold the occupation of vendor, lessor or repairer of vehicles, among others.

Representatives are asked to refer to:

- the [Dual employment or other occupation – representative or applicant page](#)
- the [Regulation respecting the pursuit of activities as a representative](#)
- the [Governance and Compliance Guide for registrants](#)

⁷ CQLR, c. D-9.2, r. 10

SKILLS AND TRAINING

In order to maintain a right to practise issued by the AMF, all representatives must meet their professional development requirements.

It is all the more necessary for representatives to make sure that they fulfill their obligation to continuously improve their knowledge and skills when acting in the context of a partnership. Those who do not meet the professional development requirements may have their right to practise suspended.

Representatives are asked to refer to:

- the [Professional Development Units](#) (PDU) page
- the [Governance and Compliance Guide for registrants](#)