

## **Notice regarding Q.P.F. No. 5 – Complementary Insurance for Damage to Insured Automobile Form – Replacement insurance**

The *Autorité des marchés financiers* (the “Authority” or the “AMF”) would like to point out certain requirements to insurers licensed to transact automobile insurance business in Québec as well as persons through whom the replacement insurance product is distributed.

Since October 1, 2010, replacement insurance has been an automobile insurance product subject to a form approved by the AMF, in accordance with the second paragraph of section 422 of *An Act respecting insurance*, R.S.Q., c. A-32 (the “Insurance Act”). This product is distributed through insurance representatives and distributors within the meaning of *An Act respecting the distribution of financial products and services*, R.S.Q., c. D-9.2 (the “Distribution Act”).

### **Price indicated in the purchase contract, long-term lease or contract of leasing**

The AMF has recently been informed of a non-compliant practice set up by certain persons who distribute replacement insurance. This problem seems to stem from a poor understanding of the replacement insurance product.

The practice consists of indicating in the purchase contract, long-term lease or contract of leasing (the “Contract”) and in the replacement insurance policy, an amount as “purchase price” which includes both:

- the price charged by the dealer for a new or used automobile; **and**
- the outstanding balance related to the damaged automobile (in the event of total loss) or the outstanding balance related to the automobile accepted as a trade in.

Because the purchase price is generally used to determine the value of the replacement vehicle in the event of total loss, this practice distorts the replacement insurance product and can even be an incentive for fraud. Also, as the purchase price is used to determine the insurance premium, indicating a price that is greater than the price actually charged by the dealer increases the premium charged to the consumer.

The AMF is of the opinion that this practice goes against the compensatory nature of damage insurance since the insurer must bear greater costs than the harm suffered by the insured in the event of total loss. In such a case, the insured would receive a vehicle worth more than the vehicle it is replacing.

Against this background, the AMF considers that, before issuing a replacement insurance policy, insurers should ensure that the value of the vehicle indicated in the contract corresponds to the price actually charged by the dealer for the new vehicle by excluding, where applicable, the balance of the debt related to the damaged automobile (in the event of total loss) or the balance of the debt related to the automobile accepted as a trade in.

The AMF reminds automobile insurers that they must take all appropriate steps to ensure that their distributors are sufficiently familiar with the replacement insurance product, in accordance with section 420 of the Distribution Act.

The AMF also reminds insurers that the Insurance Act and the Distribution Act allow it to take steps to cause any practice not in compliance with these Acts to cease, including an administrative penalty or order.

### **Further information**

Further information is available from:

Benoit Vaillancourt

*Direction adjointe des normes prudentielles et pratiques commerciales*

*Autorité des marchés financiers*

Telephone: 418-525-0337, ext. 4593

Toll-free: 1-877-395-0337, ext. 4593

E-mail: [benoit.vaillancourt@lautorite.qc.ca](mailto:benoit.vaillancourt@lautorite.qc.ca)

**June 7, 2012**