

## **Notice regarding the offering of usage-based automobile insurance products**

*This Notice is intended for insurers licensed to transact automobile insurance business in Québec and damage insurance firms and representatives.*

The purpose of this Notice is to specify certain expectations of the *Autorité des marchés financiers* (the “AMF”) under the current framework in Québec governing the offering of usage-based automobile insurance products (“usage-based insurance” or “UBI programs”). These expectations stem from insurers’ obligations under *An Act respecting insurance*, CQLR, c. A-32, including the obligation to adhere to sound and prudent management practices and sound commercial practices.

The AMF is of the opinion that the different laws, regulations and guidelines applicable to insurers, firms and representatives offering damage insurance provide adequate oversight of the products and services available through financial institutions, including UBI programs.

### **Prudential oversight by the AMF**

Based on financial institutions’ primary legal obligations, the guidelines implemented by the AMF are intended mainly to ensure that financial institutions act fairly in their dealings with consumers.

Therefore, the prudential framework developed by the AMF, in particular the *Sound Commercial Practices Guideline* and the *Outsourcing Risk Management Guideline*, sets out the principles and expectations applicable to all products offered by insurers, including UBI programs.

### **AMF’s expectations regarding the fair treatment of consumers applicable to UBI programs**

Based on the principles and expectations set out in the *Sound Commercial Practices Guideline*, the AMF expects, in particular, consumers to have the information they need to be properly informed and make sound decisions about the UBI program offered to them and the changes made to it during the term of the contract. In addition, in terms of fair treatment of consumers, participation in such programs should be on a voluntary basis.

The AMF expects, in particular, insurers to provide consumers with information about the features of the UBI program, such as:

- program eligibility criteria;
- type of data collected;
- use of data (e.g., as part of an investigation for the settlement of a claim, where applicable);
- insurer's employees who could have access to collected data;
- impact of data on automobile insurance premium;
- period used for insurance premium reviews.

In addition, the AMF expects insurers to provide training to their sales teams so that they adequately understand the UBI programs and the related disclosure documents. In fact, certified representatives must be able to rely on the insurer’s information in order to suitably advise consumers based on their needs.

### **AMF’s risk management expectations regarding outsourcing of UBI programs**

As stipulated in the *Outsourcing Risk Management Guideline*, the AMF believes that insurers should remain responsible for the compliance of their outsourcing arrangements with the legal and regulatory requirements applicable to outsourced activities even where the execution and management of these activities are ensured by service providers (third parties).

To ensure sound and prudent management by insurers of the risks related to outsourcing UBI programs, the AMF expects, in particular, insurers to adopt a policy and procedures for managing the risks inherent in outsourcing such programs. For example, service contracts should include terms and conditions for overseeing the service provider and ensuring its ability to guarantee that the collection, holding, use, communication and destruction of the personal information associated with such a program comply with the insurer's requirements and with *An Act respecting the protection of personal information in the private sector*, CQLR, c. P-39.1.<sup>1</sup>

### **Other considerations**

The AMF expects consumers to be aware that the operation of the vehicle by a person other than the policyholder will affect their data and the calculation of their insurance premiums.

Moreover, the AMF considers that insurers should take all necessary steps to enable and facilitate access by consumers to UBI data concerning them that are used to calculate their automobile insurance premiums.

The AMF further expects insurers not to use UBI data to refuse an application for an automobile insurance policy, to terminate a policy that is in force or to refuse to renew a policy.

Lastly, all stakeholders involved in the offering of UBI programs should ensure that they no longer receive UBI data once a consumer has ended his participation in the program.

### **Personal information and privacy obligations**

The AMF is of the opinion that the data collected by insurers in connection with a UBI program must be treated as personal information. Therefore, insurers must ensure compliance of their practices with the provisions of *An Act respecting the protection of personal information in the private sector*.

Consequently, all stakeholders are required to ensure that their UBI programs, including the documents related to the consent, collection, holding, use, communication and destruction of personal information by the insurer or third parties, comply with all requirements under applicable legislation and reflect best practices in this area.

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<sup>1</sup> In Québec, the *Commission d'accès à l'information du Québec* is responsible for the enforcement of and compliance with *An Act respecting the protection of personal information in the private sector*.