

## Notice regarding the merger of segregated funds

Bill C-63, assented to on December 14, 2017, amended the federal *Income Tax Act* to allow segregated funds to merge on a tax-deferred basis, in a similar manner as mutual funds.

Some insurers of persons have recently contacted the *Autorité des marchés financiers* (the "AMF") to find out how to apply the AMF's expectations relating to the merger of segregated funds, as set out in the *Guideline on Individual Variable Insurance Contracts Relating to Segregated Funds* (the "Guideline"), in light of this amendment.

Considering that the framework for segregated funds and the one for mutual funds have similar objectives for the fair treatment of consumers of financial products and services, the AMF is of the opinion that its expectations need to be modified in a manner that ensures consistency and does not create a discrepancy with the applicable securities rules.

Therefore, the expectations expressed in the Guideline for mergers with another segregated fund of the same insurer or of a different insurer must be adjusted to allow contractholders of segregated funds to benefit from the possible tax deferral.

Consequently, the AMF is notifying insurers of persons subject to the Guideline that, from this moment forward, the expectations set out in section 8.3 of the Guideline for the closing of a segregated fund and other fundamental changes will apply, with any necessary modifications, to the merger of segregated funds, in place of sections 8.1 and 8.2, with the addition of the following clarifications:

- Where two or more insurers wish to merge their segregated funds (the "terminating funds") into a "continuing fund" arising from the merger of the insurers themselves, or as part of the sale of a block of insurance business, the AMF's expectations are as follows:
  - The insurer assuming the continuing fund shall assume all guarantees and maturity dates in the continuing fund that arise from the terminating fund and shall disclose to the contractholders any income tax implications resulting from the proposed merger;
  - The notice set out in section 8.3 of the Guideline shall be sent to the affected contractholders of the terminating funds by each respective insurer;
- In the case of a merger of segregated funds, the AMF's expectations with respect to the notice required in section 8.3 of the Guideline are as follows:
  - The notice shall be written in clear and plain language and shall indicate the benefits and rights that accrue to the contractholders under the continuing fund, including all details surrounding the assumption of guarantee rights, and the assumption of maturity dates for the continuing fund;
  - The notice shall state that, if the contractholder chooses the "cash-out" option, rather than proceed with the merger, the contractholder will receive the fair market value of the terminating fund held under the individual variable

insurance contract (“IVIC”), but will not receive the guarantee benefit, unless the IVIC has reached maturity, or it coincides with the death benefit;

- The notice shall urge the contractholders to consult their representative, if necessary, in order to assess the effects of the transaction in view of their needs and circumstances;
- The AMF expects information regarding the planned merger to be forwarded to the representatives of the affected contractholders by each respective insurer so that the representatives, in earning the trailing commissions they receive, can meet the contractholders’ information needs and give them advice relevant to their situation.

Lastly, the AMF wishes to clarify that these new expectations will be incorporated into its Guideline when it is revised. The revision of the Guideline is expected to be initiated in the course of the year, unless other modifications are required in the interim.

### **Additional Information**

Additional information is available from:

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