

## NOTICE RELATING TO DAMAGE INSURANCE WHOLESALERS AND THEIR EMPLOYEES<sup>1</sup>

The Autorité des marchés financiers (the “AMF”) has observed that certain businesses, commonly referred to as “wholesalers,” are pursuing activities in the damage insurance sector without being duly registered under the *Act respecting the distribution of financial products and services*, R.S.Q., c. D-9.2 (the “Act”). The AMF has also noted that several employees of these wholesalers do not hold certificates authorizing them to act as damage insurance representatives.

Damage insurance wholesalers are businesses that pursue brokerage and underwriting activities concurrently or separately.

The **brokerage activities** of wholesalers are usually limited to offering products and services to firms, independent representatives or independent partnerships. Such brokerage activities are also known as “sub-agency activities” or “second-line brokerage.” The AMF considers the following to be examples of brokerage activities:

- Solicitation of a firm, an independent representative or an independent partnership with a view to offering the public the products of insurers with which the wholesaler has an agency contract;
- Negotiation of insurance coverage with an insurer, in lieu of the firm, independent representative or independent partnership, on behalf of the insured;
- Placement of risk with an insurer;
- Insurance advice given directly to the insured, a firm, an independent representative or an independent partnership;
- Verification that the proposal or contract issued by an insurer meets the insured’s needs.

The AMF is issuing a reminder that, under the Act, an individual who offers damage insurance products from one or more insurers to a firm, an independent representative or an independent partnership must hold a certificate as a damage insurance broker. The Act further stipulates that a person may not act as a firm without being registered with the AMF.

Some insurers are outsourcing **underwriting activities** to wholesalers. The AMF considers the following to be examples of underwriting activities:

- Receipt of insurance proposals;
- Appraisal of risk;
- Contract pricing;
- Acceptance of risk.

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<sup>1</sup> “Employee” is used in its generic form, without regard to the legal nature of the contractual relationship between the wholesaler and the employee.

Underwriting activities carried out pursuant to an outsourcing agreement with an insurer do not constitute an offer of insurance products or acts reserved for representatives under the Act.

Therefore, in accordance with the Act, the AMF is of the opinion that wholesalers who pursue brokerage activities must be registered as firms and that employees assigned to brokerage activities must hold certificates as damage insurance brokers. However, in the AMF's opinion, these obligations do not apply to the above underwriting activities.

The AMF therefore requires the wholesalers concerned and their employees to comply with all their obligations by registering and obtaining the certificate required under the Act.

Wholesalers must register within 30 days of the publication of this Notice.

The AMF is, however, granting individuals who pursue brokerage activities on behalf of a wholesaler 12 months as of the publication of this Notice to obtain the necessary certificate. To benefit from this transition period, these individuals must identify themselves to the AMF within 30 days of the publication of this Notice.

Wholesalers employing individuals who are assigned exclusively to underwriting duties are required to file with the AMF, within 30 days of the publication of this Notice, a statement co-signed by each employee concerned certifying that the employee is not engaged in any brokerage activity. The form for this statement is attached to this Notice.

For further information, please contact our Information Centre at:

Telephone: 418-525-0337  
514-395-0337  
Toll-free: 1-877-525-0337  
[information@lautorite.qc.ca](mailto:information@lautorite.qc.ca)

**October 8, 2010.**

**STATEMENT RELATING TO THE DUTIES PERFORMED BY AN EMPLOYEE  
OF A DAMAGE INSURANCE WHOLESALER**

To: Autorité des marchés financiers  
Place de la Cité, Tour Cominar  
2640, boulevard Laurier, bureau 400, Québec (Québec) G1V 5C1

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Statement by: **(NAME OF FIRM)**, having an establishment  
at (address of establishment)

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Hereinafter the "Wholesaler"

And: **(NAME OF EMPLOYEE)**, domiciled and  
residing at (employee's home address)

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Hereinafter the "Employee"

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Pursuant to the *Act respecting the distribution of financial products and services*, R.S.Q.,  
c. D-9.2 (the "Act") and its regulations; and

Having read the *Notice relating to damage insurance wholesalers and their employees*,  
published in the AMF Bulletin dated October 8, 2010 (Vol. 7, No. 40, section 3.1);

we hereby declare as follows:

- ☐ The Employee is bound by contract to the Wholesaler
- ☐ The Employee is assigned exclusively to underwriting duties and does not  
perform any damage insurance brokerage activity within the meaning of the Act

**IN WITNESS WHEREOF, THE WHOLESALER, THROUGH ITS DULY AUTHORIZED MANDATARY, HAS  
SIGNED AT \_\_\_\_\_, this \_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_.**

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(Signature of Wholesaler's mandatary)

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(Name and title of signatory)

**IN WITNESS WHEREOF, THE EMPLOYEE HAS SIGNED AT \_\_\_\_\_, this \_\_ day of  
\_\_\_\_\_ in the year \_\_\_\_\_.**

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(Signature of Employee)