

Notice of publication relating to the application of the Regulation respecting damage insurance brokerage

This notice is for all firms, independent partnerships and independent representatives registered for the damage insurance sector.

Its purpose is to explain how the *Autorité des marchés financiers* (the “Authority”) intends to apply certain provisions of the Regulation respecting damage insurance brokerage (the “Regulation”), made under the *Act respecting the distribution of financial products and services*, CQLR, c. D-9.2 (ss. 31, 38, 202, par. (2), 208, 223, pars. (1), (5), (13) and (13.1)) (the “Distribution Act”) as well as the related sections of the Distribution Act, further to the public consultation held from July 25 to September 23, 2019. These provisions will come into force on December 13, 2019.

The new provisions of the Distribution Act set out requirements for damage insurance brokers, the new titles of *damage insurance brokerage firm* and *damage insurance agency* and the conditions for registration as a damage insurance brokerage firm. This notice presents the changes that were made between the Draft Regulation put forward for comment and the Regulation. The other expectations and interpretations of provisions of the law set out by the Authority in the notice and request for comment remain unchanged.

Damage insurance agency

In light of the many comments received during the comment period for the Draft Regulation regarding the possibility for a damage insurance agency to act through personal-lines damage insurance agents and commercial-lines damage insurance brokers, and in order to maintain a clear distinction between agents and brokers and address repeatedly raised concerns about potential confusion, the Authority has removed this possibility from the Regulation.

Therefore, a damage insurance agency must act only through agents.

Disclosures

The Authority has taken note of the many comments from the industry concerning disclosures and has decided to ease the requirements as initially proposed. The Regulation was amended to make the requested disclosure simpler and faster for brokers while maintaining the benefit for consumers. This disclosure has been adjusted on the basis of the disclosures set out in the Distribution Act and regulations.

Accordingly, the Regulation stipulates that a broker who offers an automobile or home (principal residence) insurance product directly to the public must, before inquiring into the client’s situation in accordance with the first paragraph of section 27 of the Distribution Act, disclose to the client the name of any insurer with which the aggregate of risks placed represents 60% or more of the total volume of risks placed by his or her firm, as well as the percentage of this volume.

A broker who makes this disclosure is exempted from the obligation under section 4.8 of the Regulation respecting information to be provided to consumers (CQLR, chapter D-9.2, r. 18) to disclose the business relationship referred to in the second paragraph of section 4.10 of this Regulation (premium volume). However, the broker is not exempted from disclosing the other business relationships specified in the first paragraph of section 4.10 of this Regulation, such as those resulting from loans and other forms of financing.

For example, a brokerage firm that places 72% of its premium volume in personal-lines damage insurance (all product classes combined) with insurer ABC must ensure that its brokers, when they offer automobile or home insurance products, disclose to clients that 72% of personal-lines

damage insurance premiums are placed with insurer ABC. If the brokerage firm has received loans from insurer ABC, the brokers must also disclose that business relationship, provided for in the first paragraph of section 4.10 of the Regulation respecting information to be provided to consumers, in accordance with section 4.8 of that Regulation.

Titles and representations

In damage insurance, the Distribution Act now provides for two separate titles: damage insurance brokerage firm and damage insurance agency.

The Authority has accordingly adjusted the titles that a firm may use when presenting itself and that are provided for in the Regulation respecting the registration of firms, representatives and independent partnerships (CQLR, chapter D-9.2, r. 15).

Sections 11, 13 and 14.6 of this Regulation set out the various titles that firms may use in their representations, particularly when they are registered for more than one sector. However, damage insurance agencies must always use this title in their representations. In other words, a damage insurance agency registered for one or more other sectors with the Authority must always present itself as a damage insurance agency, although it may also use the title “financial services firm” in addition to the title of damage insurance agency.

A damage insurance agency may not use the title “damage insurance firm”.

Transition

As of December 13, 2019, a dedicated team will be available to support registrants in damage insurance and assist them in understanding and complying with the new requirements. This team will be able to answer registrants’ questions about the new rules and support them through the qualification process and, where applicable, the change in registration. It will also collect information on market developments, issues and existing difficulties. The Authority will, if necessary, use the information collected to clarify its expectations on a timely basis. This team will remain available for as long as it takes for firms and other registrants to adapt their models to the new rules.

Also as of December 13, 2019, the Authority will make a qualification form available to registrants in damage insurance that will have to be completed in E-Services or mailed to the Authority before March 1, 2020. This information will then have to be confirmed annually by the firm during its maintenance of registration.

The information to be submitted to the Authority via this form includes the information that a damage insurance brokerage firm must provide to demonstrate that the conditions in section 75 of the Distribution Act are met and the information to be disclosed under sections 83.1 and 235 of the Distribution Act.

In the event of a change in registration, a firm registered as a damage insurance brokerage firm will have to comply with the registration requirements for a damage insurance agency and act through agents within 90 days of receipt of the notice from the Authority informing it that, upon expiry of this period, it will be registered as a damage insurance agency.

Relationship between insurers and intermediaries

In response to certain comments received during the comment period, the Authority has initiated a review of the standards governing incentive management practices for financial institutions and insurance intermediaries. After completing the review, the Authority may propose amendments, particularly to the current framework for insurers, firms and brokers in damage insurance.

Additional Information

Further information may be obtained from the Authority's Information Centre at:

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Toll-free: 1-877-525-0337

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