

## REGULATION TO AMEND THE REGULATION RESPECTING THE PURSUIT OF ACTIVITIES AS A REPRESENTATIVE

Act respecting the distribution of financial products and services  
(chapter D-9.2, s. 196 and s. 202, par. (2))

1. Division II of the Regulation respecting the pursuit of activities as a representative (chapter D 9.2, r. 10), consisting of sections 2 and 3, is repealed.
2. The Regulation is amended by inserting the following after section 5:

“§ 1.1. — *Rules specific to the pursuit of outside activities by a representative*

“5.1. A representative may pursue an outside activity only in the following circumstances:

- (1) the outside activity is unlikely to be confused with the activities of a representative;
- (2) if applicable, the representative has reported the outside activity in writing to the firm or independent partnership on whose behalf he acts.

For purposes of this subdivision, “outside activity” means any occupation, function or activity, other than the activity of representative, that involves dealing with the public.

“5.2. Despite section 5.1, a representative in insurance of persons or financial planner may not offer financial products and services to:

- (1) any natural person with whom the representative or financial planner has a relationship arising from an outside activity that, due to its nature or the training or specialized knowledge it requires, places the representative in a position of influence;
- (2) the natural person’s spouse or child, the spouse’s child, the natural person’s mother, father, brother or sister, the spouse of the natural person’s father or mother, the father or mother of the natural person’s spouse or the spouse of the natural person’s child.

For the purposes of the first paragraph, a representative in insurance of persons is considered to be in a position of influence when he has a relationship with a person referred to in that paragraph that arises from an outside activity as a member of the Ordre des comptables professionnels agréés, to the extent that pursuing that activity requires him to hold a public accountancy permit. Moreover, a representative in insurance of persons or a financial planner is considered to be in a position of influence when he has a relationship with a person referred to in that paragraph that arises from the outside activity of:

- (1) judge or police officer;
- (2) minister of religion or leader in a religious organization;
- (3) member of the Ordre professionnel des avocats du Québec or the Ordre professionnel des notaires du Québec, except with respect to the activities of a financial planner;
- (4) member of the Ordre professionnel des infirmières et infirmiers du Québec or the Ordre professionnel des médecins du Québec;
- (5) teacher in an educational institution at the secondary, college or university level;

- (6) funeral director or any other similar duties in the funeral services industry, except with respect to the activities of a financial planner;
- (7) immigration and citizenship consultant;
- (8) bankruptcy trustee;
- (9) management of a union, other than a union formed of representatives, or management of a professional association, or employee of any such organization; or
- (10) real estate broker.

**“5.3.** Despite section 5.1, a financial product or service may not be offered to a natural person, the natural person’s spouse or child, the spouse’s child, the natural person’s mother, father, brother or sister, the spouse of the natural person’s father or mother, the father or mother of the natural person’s spouse or the spouse of the natural person’s child in the following circumstances:

(1) when a mortgage broker, representative in group insurance, damage insurance agent, damage insurance broker or claims adjuster has a relationship with that person that arises from an outside activity referred to in subparagraphs 1, 2, 5 and 7 to 9 of the second paragraph of section 5.2;

(2) when a mortgage broker, representative in group insurance, damage insurance agent or damage insurance broker has a relationship with that person arising from an outside activity as a member of the Ordre des comptables professionnels agréés, to the extent that pursuing that activity requires him to hold a public accountancy permit, or as a member of the Ordre professionnel des avocats du Québec or the Ordre professionnel des notaires du Québec;

(3) when a representative in group insurance, damage insurance agent, damage insurance broker or claims adjuster has a relationship with that person that arises from an outside activity as a real estate broker;

(4) when a mortgage broker has a relationship with the natural person that arises from the outside activity of:

(a) money lender;

(b) loan administrator, except where the broker acts on behalf of a natural person who wishes to enter into, or has entered into, a loan secured by immovable hypothec;

(c) member of the Ordre professionnel des évaluateurs agréés du Québec; or

(d) building inspector;

(5) when a damage insurance agent, damage insurance broker or claims adjuster has a relationship with that person that arises from the outside activity of:

(a) vendor, lessor or repairer of road vehicles, off-road vehicles or boats;

(b) vendor, lessor or repairer of movable property, to the extent that the product or service is specifically related to the property;

(c) contractor within the meaning of section 7 of the Building Act (chapter B-1.1); or

(d) provider of services required when there is an insurance loss.

“5.4. Representatives who pursue an outside activity may not use privileged or confidential information to which they have access in the course of the outside activity, unless the person concerned has consented in writing to such use.”.

3. Section 17 of the Regulation is amended in paragraph 3:

(1) by inserting, in subparagraph *a*, “including gross fault,” after “fault,”;

(2) by replacing, in subparagraph *b*, “extends beyond the period of insurance provided for therein for a further term of 5 years from the date the representative ceases to pursue activities, irrespective of whether or not he is still alive” by “will continue to apply beyond the period of insurance provided for in the contract for a further term of five years, in respect of all the activities contemplated by such coverage, from the date on which the representative ceases, temporarily or permanently, to pursue activities, whether or not he has died.”;

(3) by adding the following subparagraph at the end:

“(f) the contract will be considered to include coverage at least equal to the coverage required by the law applicable in Québec and to satisfy the requirements set out in this Regulation.”.

4. A professional liability insurance contract made or renewed by a firm, independent representative or independent partnership must be compliant with section 17 of the Regulation respecting the pursuit of activities as a representative (chapter D-9.2, r. 10), as amended by section 3 of this Regulation, as of one of the following dates, as the case may be:

(1) the date that immediately follows the date that is 12 months after the making or renewal of the contract, in cases where the contract is made or renewed between 1 June 2023 and 30 September 2023;

(2) 1 June 2024, in all other cases.

5. This Regulation comes into force on 1 June 2023.