

REGULATION TO AMEND THE REGULATION RESPECTING THE REGISTRATION OF FIRMS, REPRESENTATIVES AND INDEPENDENT PARTNERSHIPS

Act respecting the distribution of financial products and services
(chapter D-9.2, s. 223)

1. The Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15) is amended by inserting the following before Division 1:

“DIVISION 0.1 “INTERPRETATION

“0.1. In this Regulation:

“responsible officer” means:

- (1) in the case of a legal person, the officer responsible for its principal establishment in Québec;
- (2) in the case of an independent representative, the representative;
- (3) in the case of a partnership, the partner responsible for its principal establishment.

2. Section 2 of the Regulation is amended:

- (1) by inserting the following after paragraph 2:

“(2.1) in the case of a legal person intending to register in the sector of mortgage brokerage, the names of the mortgage lenders that hold, directly or indirectly, interests in its ownership or in whose ownership the legal person holds direct or indirect interests;

- (2) by replacing “of the officer responsible for the principal establishment of the legal person in Québec” by “of its responsible officer” in paragraph 7;

- (3) by replacing “where the officer responsible for the principal establishment of the legal person in Québec” by “except in respect of a legal person intending to register in the sector of mortgage brokerage, where its responsible officer” in paragraph 13;

- (4) by deleting “of the principal establishment” in paragraph 14;

- (5) in paragraph 15:

- (a) by deleting “or by the Association des courtiers et agents immobiliers du Québec” in subparagraph *d*;

- (b) by inserting the following after subparagraph *d*:

“(d.1) has ever had a certificate issued by the Association des courtiers et agents immobiliers du Québec that has been cancelled or suspended, or has ever had his licence revoked or suspended by the Organisme d’autoréglementation du courtage immobilier du Québec;”;

- (6) by inserting the following after paragraph 15:

“(15.1) in the case of a legal person intending to register in the sector of mortgage brokerage, a declaration signed by the person generally or specially authorized, by resolution of the board of directors of the legal person, to sign the application for registration, confirming that its responsible officer satisfies the conditions prescribed in section 2.1;”;

(7) in paragraph 16:

(a) by deleting “or by the Association des courtiers et agents immobiliers du Québec” in subparagraph *b*;

(b) by inserting the following after subparagraph *b*:

“(b.1) has ever had a certificate issued by the Association des courtiers et agents immobiliers du Québec that has been cancelled or suspended, or has ever had his licence revoked or suspended by the Organisme d’autoréglementation du courtage immobilier du Québec;”;

(8) by deleting “in the case of a legal person intending to register in the sector of insurance of persons, group insurance of persons, damage insurance, claims adjustment or financial planning,” in paragraph 17.

3. The Regulation is amended by inserting the following after section 2:

“**2.1.** In order for a legal person to register as a firm in the sector of mortgage brokerage, its responsible officer must satisfy the following conditions:

(1) he holds a representative’s certificate in the sector of mortgage brokerage;

(2) in the 2 years preceding the application for registration, he passed the Authority’s examinations pertaining to the skills that must be possessed by the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in this sector, or he acted as the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or was registered as an independent representative in this sector;

(3) as the case may be, he is not in default of complying with the compulsory professional development requirements set out in section 5 of the Regulation respecting the compulsory professional development of mortgage brokers (*indiquer ici la référence au règlement*).”

4. Section 4 of the Regulation is amended:

(1) by inserting the following after paragraph 5:

“(5.1) in the case of a mortgage broker intending to register in the sector of mortgage brokerage, a signed declaration confirming that he satisfies the conditions prescribed in section 4.1.”;

(2) in paragraph 6:

(a) by deleting “or by the Association des courtiers et agents immobiliers du Québec” in subparagraph *a*;

(b) by inserting the following after subparagraph *a*:

“(a.1) has ever had a certificate issued by the Association des courtiers et agents immobiliers du Québec that has been cancelled or suspended, or has ever

had his licence revoked or suspended by the Organisme d'autoréglementation du courtage immobilier du Québec;”;

(c) by replacing subparagraph *e* by the following:

“(e) is in default of paying any fines, administrative penalties and legal costs imposed in a disciplinary decision rendered for a failure to comply with the Act respecting the distribution of financial products and services (chapter D-9.2), including the interest accrued at the rate established in accordance with section 28 of the Tax Administration Act (chapter A-6.002), as the case may be;”;

5. The Regulation is amended by inserting the following after section 4:

“4.1. In order for a mortgage broker to register as an independent representative in the sector of mortgage brokerage, he must satisfy the following conditions:

(1) in the 2 years preceding the application for registration, he passed the Authority’s examinations pertaining to the skills that must be possessed by the responsible officer of a firm or an independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in this sector, or he acted as the responsible officer of a firm or an independent partnership registered in the sector of mortgage brokerage or was registered as an independent representative in this sector;

(2) as the case may be, he is not in default of complying with the compulsory professional development requirements set out in section 5 of the Regulation respecting the compulsory professional development of mortgage brokers (*indiquer ici la référence au règlement*).”

6. Section 6 of the Regulation is amended:

(1) by replacing “the partner responsible for the principal establishment of the partnership” by “its responsible officer” in paragraph 5;

(2) by replacing “the partner responsible for the principal establishment of the partnership” by “the responsible officer” in paragraph 8;

(3) in paragraph 9:

(a) by deleting “or by the Association des courtiers et agents immobiliers du Québec” in subparagraph *d*;

(b) by inserting the following after subparagraph *d*:

“(d.1) has ever had a certificate issued by the Association des courtiers et agents immobiliers du Québec that has been cancelled or suspended, or has ever had his licence revoked or suspended by the Organisme d'autoréglementation du courtage immobilier du Québec;”;

(5) by inserting the following after paragraph 9:

“(9.1) in the case of a partnership intending to register in the sector of mortgage brokerage, a declaration signed by the partner generally or specially authorized, by resolution of the partnership, to sign the application for registration, confirming that its responsible officer satisfies the conditions prescribed in section 6.1.”;

(6) in paragraph 10:

(a) by deleting “or by the Association des courtiers et agents immobiliers du Québec” in subparagraph *b*;

(b) by inserting the following after subparagraph b:

“(b.1) has ever had a certificate issued by the Association des courtiers et agents immobiliers du Québec that has been cancelled or suspended, or has ever had his licence revoked or suspended by the Organisme d’autoréglementation du courtage immobilier du Québec;”.

7. The Regulation is amended by inserting the following after section 6:

“6.1. In order for a partnership to register as an independent partnership in the sector of mortgage brokerage, its responsible officer must satisfy the following conditions:

(1) he holds a representative’s certificate in the sector of mortgage brokerage;

(2) in the 2 years preceding the application for registration, he passed the Authority’s examinations pertaining to the skills that must be possessed by the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in this sector, or he acted as the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or was registered as an independent representative in this sector;

(3) as the case may be, he is not in default of complying with the compulsory professional development requirements set out in section 5 of the Regulation respecting the compulsory professional development of mortgage brokers (*indiquer ici la référence au règlement*).”

8. Section 10 of the Regulation is amended:

(1) by deleting “registered in the sector of insurance of persons, group insurance of persons, damage insurance, claims adjustment or financial planning,” in first paragraph of paragraph 1;

(2) by inserting the following subparagraphs after subparagraph h of paragraph 2:

“(i) in the case of a firm registered in the sector of mortgage brokerage, the names of the mortgage lenders holding, directly or indirectly, interests in its ownership, or in whose ownership the firm holds direct or indirect interests;

“(j) in the case of a firm, independent representative or independent partnership registered in the sector of mortgage brokerage:

i. the names of the lenders whose loans secured by immovable hypothec were proposed to a client during the most recent year ending 31 December;

ii. for each lender referred to in subparagraph i, the proportion that the lender’s loans secured by immovable hypothec referred to in this subparagraph are to the aggregate of the loans of this type proposed to clients during the most recent year ending 31 December;

iii. the number of brokerage transactions engaged in in relation to loans secured by immovable hypothec during the most recent year ending 31 December;

iv. a declaration signed by the independent representative or, in the case of a firm or independent partnership, by the person authorized to sign the application for registration, confirming that the responsible officer satisfies, as applicable, the conditions prescribed in section 2.1, 4.1 or 6.1;

v. copies of the certificates of participation and other supporting documents relating to each professional development activity in which the responsible officer

took part, including, in particular, copies of certificates of exam or test results or transcripts, demonstrating that the responsible officer is not in default of complying with the compulsory professional development requirements set out in section 5 of the Regulation respecting the compulsory professional development of mortgage brokers (*indiquer ici la référence au règlement*).”.

9. The Regulation is amended by inserting the following after section 10:

“**10.1.** In order for a firm, independent representative or independent partnership registered in the sector of mortgage brokerage to maintain its registration, its responsible officer must satisfy the conditions prescribed in section 2.1, 4.1 or 6.1, with the necessary modifications.

“**10.2.** In order to maintain its registration, a firm, independent representative or independent partnership registered in the sector of mortgage brokerage must, in accordance with sections 13 to 15 of the Regulation respecting firms, independent representatives and independent partnerships (chapter D-9.2, r. 2) and sections 15, 16 and 18 of the Regulation respecting the keeping and preservation of books and registers (chapter D-9.2, r. 19), with the necessary modifications, preserve and keep current in Québec a file relating to its responsible officer in which the following documents are to be placed and made accessible to the Authority:

(1) the document confirming that the responsible officer passed the Authority’s examinations pertaining to the skills that must be possessed by the responsible officer of a firm or an independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in this sector;

(2) copies of the certificates of participation and other supporting documents regarding each training activity in which the responsible officer has taken part, including copies of the certificates of exam or test results or transcripts.

10. Section 11 of the Regulation is amended by adding the following after paragraph 5:

“(5.1) “firm in mortgage brokerage”;”.

11. Section 12 of the Regulation is amended by inserting the following after paragraph 5:

“(6) “independent partnership in mortgage brokerage”.”.

12. Within 45 days of a request by the Authority, the legal person that holds an agency licence referred to in section 491 or in the second paragraph of section 493 of An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions (2018, chapter 23) must do the following as if it were not registered:

(1) designate a person to act as a correspondent with the Authority in accordance with section 1 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15);

(2) transmit or authorize to be transmitted to the Authority, in accordance with section 2 of the Regulation, amended by section 2 of this Regulation, the documents and information referred to in paragraphs 1, 4, 7, 8, 14 and 17 of this section.

13. Within 45 days of a request by the Authority, the holder of a mortgage broker’s licence referred to in the second paragraph of section 490 of An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions (2018, chapter 23) must do the following as if he were not registered:

(1) have a location which serves as an establishment in Québec, in accordance with section 3 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15);

(2) transmit to the Authority or authorize to be transmitted to the Authority, in accordance with section 4 of the Regulation, amended by section 4 of this Regulation, the documents and information referred to in paragraphs 1, 2, 4 and 7 of this section.

14. Within 45 days of a request by the Authority, the partnership that holds a mortgage agency licence referred to in section 491 or in the second paragraph of section 493 of An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions (2018, chapter 23) must do the following as if it were not registered:

(1) designate one of its partners to act as a correspondent with the Authority, in accordance with section 5 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15).

(2) transmit or authorize to be transmitted to the Authority, in accordance with section 6 of the Regulation, amended by section 6 of this Regulation, the documents and information referred to in paragraphs 1, 4, 5, 6, 8 and 11 of this section.

15. The holder of a mortgage broker's licence referred to in the second paragraph of section 490 of An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions (2018, chapter 23), other than the holder of a real estate broker's licence referred to in the second paragraph of section 493, is deemed to have passed, on 1 May 2020, the Authority's examinations pertaining to the skills that must be possessed by the responsible officer of a firm or an independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in this sector.

16. Notwithstanding section 10.1 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15), introduced by section 9 of this Regulation, the holder of a real estate broker's licence referred to in the second paragraph of section 493 of An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions and who, on 30 April 2020, does not satisfy the conditions set out in subparagraph 3 of the first paragraph of section 34 of the Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3), as it read on that date, has until 30 April 2022 to pass the Authority's examinations pertaining to the skills that must be possessed by the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in this sector.

17. A person, other than the person referred to in section 15, who, on 30 April 2020, satisfies the conditions set out in subparagraph 3 of the first paragraph of section 34 of the Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3), as it read on that date, is deemed to have passed, on 1 May 2020, the Authority's examinations pertaining to the skills that must be possessed by the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in this sector.

However, this presumption ceases to apply where this person has not, prior to 1 May 2021, acted as the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage and has not been registered as an independent representative in this sector.

18. Notwithstanding subparagraph 1 of section 10.2 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15), introduced by section 9 of this Regulation, the firm, independent representative or independent partnership whose responsible officer benefits from the presumption set out in

section 15 or section 17 of this Regulation, as applicable, does not have to keep, in the file on its responsible officer, a document confirming that he has passed the examinations that he is deemed to have passed.

19. The legal person or the partnership that holds a mortgage agency licence referred to in section 491 of An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions (2018, chapter 23) may continue to identify itself in accordance with the provisions of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising (chapter C-73.2, r. 1) as they read on 30 April 2020 for a period of 2 years, notwithstanding the provisions in sections 11 and 12 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15), amended by sections 10 and 11 of this Regulation.

20. This Regulation comes into force on 1 May 2020.