

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

Act respecting the distribution of financial products and services
(chapter D-9.2, s. 223, pars. (8) and (13.1))

1. Section 17 of the Regulation respecting firms, independent representatives and independent partnerships (chapter D-9.2, r. 2) is amended by replacing “sectors of damage insurance” by “sector of damage insurance or mortgage brokerage” in the introductory clause.

2. The Regulation is amended by inserting the following after section 21:

“**21.1.** The client records that must be kept by firms, independent representatives or independent partnerships registered in the sector of mortgage brokerage in respect of each of their clients in the pursuit of their activities must include the following information:

- (1) the client’s name;
- (2) the client’s address, telephone number, and facsimile number or electronic mail address, if any;
- (3) the name of the mortgage broker involved in the transaction;
- (4) the address of the immovable to which the transaction pertains, or its cadastral description if there is no address;
- (5) the date on which their services were retained;
- (6) where a document evidencing a loan application is submitted to a mortgage lender through them, a copy of the document;
- (7) where a document evidencing the acceptance or refusal of a loan is received from a mortgage lender through them, a copy of the document;
- (8) the method of payment and date of payment of the services rendered, if applicable;
- (9) a copy of:
 - (a) the receipt provided in accordance with section 28.2 of this Regulation or section 9.2 of the Regulation respecting the pursuit of activities as a representative, as applicable;
 - (b) the documents delivered in accordance with sections 9.3 to 9.6 of the Regulation respecting the pursuit of activities as a representative, as applicable;
 - (c) the document in which the information pertaining to the identification of the client’s needs and the assessment of the client’s financial situation is recorded in accordance with section 9.7 of the Regulation respecting the pursuit of activities as a representative;
 - (d) the written report forwarded in accordance with section 9.8 of the Regulation respecting the pursuit of activities as a representative;
 - (e) the document in which the identity of the borrower is recorded in accordance with the second paragraph of section 9.9 of the Regulation respecting the pursuit of activities as a representative;

(f) the documents enabling the identification of the borrower, where the mortgage broker involved in the transaction was unable to meet the borrower in person;

(g) the declaration received in accordance with section 9.11 of the Regulation respecting the pursuit of activities as a representative, as applicable;

(10) for the withdrawal from the separate account of an amount deposited therein in accordance with paragraph 1 of section 10 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15) or paragraph 2 of section 4 of the Regulation respecting the pursuit of activities as a representative, a copy of the document evidencing an electronic transfer, the cheque, the other bill of exchange or the transfer slip used to make the withdrawal, and a copy of the cheque or the other bill of exchange cashed in, as the case may be.

All other information or documents concerning the services rendered to the client or obtained from him must also be inscribed on or filed in the client's record.”.

3. Section 22 of the Regulation is amended by inserting “, the mortgage lender” after “the insurer” in subparagraph 2 of the first paragraph.

4. The Regulation is amended by inserting the following after section 28.1:

“DIVISION II.1

“RULES SPECIFIC TO MORTGAGE BROKERAGE

“28.2. When firms, independent representatives or independent partnerships registered in the sector of mortgage brokerage receive or collect an amount on behalf of others in connection with their activities governed by the Act, they must give to the party from whom they receive or collect the amount a receipt indicating:

- (1) the date of receipt or collection of the amount;
- (2) the date the receipt is prepared;
- (3) the amount received or collected, the form in which the amount is received or collected and the currency the amount is in;
- (4) the name and address of the party from whom they received or collected the amount;
- (5) the name of the mortgage broker involved in the transaction;
- (6) the name and signature of a person authorized to sign the receipt for them;
- (7) that the amount received or collected has been or will be deposited in their separate account;
- (8) the purposes for which the amount is received or collected.

“28.3. When firms, independent representatives or independent partnerships registered in the sector of mortgage brokerage withdraw an amount deposited in the separate account in accordance with paragraph 1 of section 10 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15) or paragraph 2 of section 4 of the Regulation respecting the pursuit of activities as a representative (chapter D-9.2, r. 10), the withdrawal must be made by means of electronic transfer, cheque, other bill of exchange or transfer slip.

“28.4. Firms, independent representatives or independent partnerships registered in the sector of mortgage brokerage whose services are retained by a client for whom they engage in a brokerage transaction may not, for a period of 12 months from the date on which their services are rendered, act also as a lender to the client.”.

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