

REGULATION TO AMEND THE REGULATION RESPECTING THE ISSUANCE AND RENEWAL OF REPRESENTATIVES' CERTIFICATES

Act respecting the distribution of financial products and services
(chapter D-9.2, ss. 200 and 203)

1. The Regulation respecting the issuance and renewal of representatives' certificates (chapter D-9.2, r. 7) is amended by inserting the following after section 12:

“DIVISION VI “MORTGAGE BROKERAGE

“12.1. A representative authorized to act in the mortgage brokerage sector uses the title of “mortgage broker”.”.

2. The Regulation is amended by inserting the following after section 16:

“§ 3.1. — *Mortgage brokerage*

“16.1. A candidate in the mortgage brokerage sector must complete, as minimum qualifications, a mortgage brokerage training program recognized by the Authority and subject to an agreement entered into between the Authority and an educational institution or a private course provider.

A list of the educational institutions, private course providers and recognized training programs referred to in the first paragraph is available on the Authority's website.

A document confirming that such training has been completed must be submitted along with the candidate's application for registration for an examination. This training is valid for a period of 2 years as of the date it is completed.”.

3. Section 17.1 of the Regulation is amended by adding the following paragraph at the end:

“Furthermore, a candidate in the mortgage brokerage sector is exempt from the minimum qualifications prescribed under section 16.1, subject to the same exception, and on the same conditions.”.

4. Section 18 of the Regulation is amended by adding the following paragraph at the end:

“Furthermore, a candidate in the mortgage brokerage sector is exempt from the minimum qualifications prescribed under section 16.1, under the same conditions.”.

5. Section 25 of the Regulation is amended by adding the following paragraph at the end:

“In the mortgage brokerage sector, an examination is valid for a period of 2 years from the date the candidate passes the examination.”.

6. The Regulation is amended by inserting the following after section 26.2:

“26.3. In the mortgage brokerage sector, a candidate who fails an initial examination is entitled to write 3 supplemental examinations, provided that the minimum qualifications prescribed under section 16.1 are valid.”.

7. Section 32 of the Regulation is amended by adding the following after subparagraph 4:

“(5) in the mortgage brokerage sector, assess the client’s financial situation, suggest to his supervisor the proposed loan and any other recommendation pertaining to the mortgage brokerage transaction before proposing the loan or making the recommendation to the client, and forward the mortgage loan application to the lender after it has been approved by the supervisor.”.

8. Section 45 of the Regulation is amended by deleting “by a discipline committee established” and “, or the Court of Québec sitting in appeal of a decision issued by such a committee” in subparagraph 1 of the first paragraph.

9. Section 48 of the Regulation is amended:

(1) by inserting “and the mortgage brokerage sector” after “personal-lines damage insurance” in the first paragraph;

(2) by adding the following paragraph at the end:

“For the mortgage brokerage sector, the supervisor must approve the proposed loan and any other recommendation pertaining to the mortgage brokerage transaction before the loan is proposed or recommendation is made to the client, approve the loan application before it is forwarded to the lender and record these approvals in the client record”.

10. Section 56 of the Regulation is amended by replacing subparagraphs 1 to 3 by the following:

“(1) he must not be the subject of a disciplinary sanction imposed under the Act respecting the distribution of financial products and services (chapter D-9.2), the Act respecting market intermediaries (chapter I-15.1), the Real Estate Brokerage Act (chapter C-73.2) or the Professional Code (chapter C-26);

“(2) he must not be in default of paying any fines, administrative penalties or legal costs imposed in a disciplinary decision rendered for a failure to comply with any of the Acts referred to in subparagraph 1, as well as any interest accrued at the rate established in accordance with section 28 of the Tax Administration Act (chapter A-6.002), as applicable;

“(3) he must have repaid any amount in principal, interest and costs that he was ordered to pay by final judgment owing to his liability for any of the reasons referred to in section 175 of the Act respecting market intermediaries, section 258 of the Act respecting the distribution of financial products and services or section 108 of the Real Estate Brokerage Act, and have repaid any amounts that were disbursed by the Fonds d’indemnisation des services financiers or by the Real Estate Indemnity Fund and that may be recovered by these Funds, as successors, by subrogation pursuant to any of these Acts.”.

11. A candidate in the mortgage brokerage sector who, on 1 May 2020, has completed the training recognized by the Organisme d’autoréglementation du courtage immobilier du Québec (the “Organization”) pertaining to the skills that must be possessed by a holder of a mortgage broker’s licence pursuant to subparagraph 1.1 of the first paragraph of section 1 of the Regulation respecting the issue of broker’s and agency licences (chapter C-73.2, r. 3) is deemed to have completed the minimum qualifications prescribed under section 16.1 of the Regulation respecting the issuance and renewal of representatives’ certificates, introduced by section 2 of this Regulation.

A document confirming that the training recognized by the Organization has been completed must be submitted along with the candidate’s application for registration for an examination of the Authority.

Moreover, the minimum qualifications that the candidate is deemed to have completed in accordance with the first paragraph are valid until 30 April 2022.

12. A candidate in the mortgage brokerage sector who, on 1 May 2020, has failed the Organization's examination pertaining to the skills that must be possessed by a holder of a mortgage broker's licence pursuant to Division VII of Chapter I of the Regulation respecting the issue of broker and agency licences or any supplemental examination must pass the examinations prescribed by the Authority in accordance with Division III of Chapter II of the Regulation respecting the issuance and renewal of representatives' certificates.

13. For purposes of section 26.3 of the Regulation, introduced by section 6 of this Regulation, where a candidate who is deemed to have completed the minimum qualifications in accordance with section 11 of this Regulation fails an initial examination, the deadline for registering for the supplemental examinations is 30 April 2022.

14. An applicant in the mortgage brokerage sector who, on 1 May 2020, has passed the Organization's examination is deemed to have passed the examinations prescribed by the Authority in accordance with Division III of Chapter II of the Regulation respecting the issuance and renewal of representatives' certificates.

For purposes of the third paragraph of section 25 of the Regulation, introduced by section 5 of this Regulation, the examination that the candidate is deemed to have passed pursuant to the first paragraph is valid for a period of 1 year from the date on which the candidate passed the examination.

15. An applicant referred to in the first paragraph of section 14 of this Regulation is exempted from the requirement to successfully complete the probationary period set out in Division IV of Chapter II of the Regulation respecting the issuance and renewal of representatives' certificates and to satisfy the condition set out in paragraph 3 of section 13 of the Regulation.

16. For purposes of section 44 of the Regulation, until not later than 30 April 2023, when a supervisor must be a representative authorized to act in the mortgage brokerage sector at the time of the probationary period, the length of time he was a holder of a licence and acted as a mortgage broker under the Real Estate Brokerage Act (chapter C-73.2) will be taken into account in calculating the minimum length of time he is required to have been a holder of a certificate and to have acted as a representative in the mortgage brokerage sector.

17. In addition to the conditions set out in section 45 of the Regulation, until 30 April 2025, a representative authorized to act in the mortgage brokerage sector must not, in the 5 years preceding the candidate's application, have been the subject of a disciplinary sanction imposed under the Real Estate Brokerage Act (chapter C-73.2).

18. The holder of a mortgage broker's licence referred to in section 490 and 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 (2018, chapter 23) must, no later than 60 days following a request by the Authority:

(1) provide any information and any document referred to in section 55.0.1 of the Regulation, with the necessary modifications;

(2) pay the fees payable under the Regulation respecting fees and contributions payable (chapter D-9.2, r. 9), prorated to the period from 1 May 2020 to the annual renewal date of his certificate.

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