

Draft Regulation

Act to amend various provisions mainly with respect to the financial sector

Regulatory consultation on the eligibility of a claim submitted to the Fonds d'indemnisation des services financiers and the contribution payable

Notice is hereby given by the Autorité des marchés financiers (the "AMF") that, in accordance with sections 58.0.2 and 58.0.3 of the *Act respecting the regulation of the financial sector*, as enacted by section 46 of the *Act to amend various provisions mainly with respect to the financial sector* (2025, c. 16), the following draft regulation, the text of which is published hereunder, may be made by the AMF and subsequently submitted to the Québec Minister of Finance for approval, with or without amendment, on September 19, 2025:

- *Regulation to amend the Regulation respecting the eligibility of a claim submitted to the Fonds d'indemnisation des services financiers* ("Draft Regulation").

Pursuant to section 52 of the *Act to amend various provisions mainly with respect to the financial sector*, the Regulation respecting the eligibility of a claim submitted to the Fonds d'indemnisation des services financiers (chapter D-9.2, r.1) will be deemed to be made under section 58.0.2 of the *Act respecting the regulation of the financial sector* (CQLR, c. E-6.1).

The Draft Regulation is also available on the homepage of the AMF website, in the "Public Consultations" section. Moreover, for ease of reading, the AMF offers an administrative version of the complete text of the regulation, including the proposed amendments.

Background

The provisions of Chapter II of the *Act to amend various provisions mainly with respect to the financial sector* transfer the provisions establishing the Fonds d'indemnisation des services financiers (financial services compensation fund) (the "Fund") from the *Act respecting the distribution of financial products and services* (chapter D-9.2) ("Distribution Act") to the *Act respecting the regulation of the financial sector* ("ARFS") and broaden the scope of the Fund to include fraud, fraudulent tactics or embezzlement committed by a representative, a dealer or an adviser registered under the *Derivatives Act* (chapter I-14.01) or the *Securities Act* (chapter V-1.1).

The Draft Regulation changes some of the rules governing the claims submitted to the Fund and includes the contribution amounts payable.

Purposes of the proposed amendments

a) Claim process – sections 1 to 4, 6 and 12

These sections, as proposed, are intended to describe the claim process and explain the eligibility criteria. They also describe the documents and other information that must be provided. The proposed amendments mainly clarify and simplify the requirements for claimants. For example:

- The AMF proposes to change the wording "reasons beyond his control" to "unable to act" in section 3. The new wording is more closely aligned with what is used by the courts, but does not increase the burden on the claimant.

- The AMF would also require the compensated claimant to sign an acquittance in favour of the AMF with subrogation of the claimant's rights in respect of the claim. This formality is needed to facilitate action by the AMF against the perpetrator of the fraud by avoiding a legal debate over the validity of the subrogation afforded by law. This clarification is also made to provide transparency for the claimant.
- The AMF proposes to amend section 4 to align it with the legislative amendments introduced by the *Act to amend various provisions mainly with respect to the financial sector*.

b) Compensation – sections 8 to 11

The AMF is not proposing to change the maximum compensation payable per claimant, which is set at \$200,000, the highest amount under the fund protection mechanisms for fraud committed by persons that provide services to the public in Québec.

This compensation limit applies whether the amounts are held by the claimant personally or through a partnership or entity belonging to the claimant.

The maximum amount of compensation per claim has applied in only 2.9% of the claims that have been accepted since 1999.

To compensate claimants for the entirety of their losses in these situations, the maximum amount of compensation would have to be increased by several hundreds of thousands of dollars. The AMF is of the opinion that an increase of such magnitude could require a substantial contribution hike and even affect the sufficiency of the Fund's assets.

In the context of broadening the Fund's scope to include the securities and derivatives sectors, the AMF is proposing to cap the maximum amount of compensation payable for the totality of eligible claims arising from the same event at \$75 million. If an event gives rise to the application of this cap, then all the victims would share this amount, subject to the maximum amount per claim per victim.

This measure is intended to strike a balance between protecting defrauded consumers and ensuring Fund sustainability.

Were an event to occur for which the cap would apply, a mechanism is provided that would be implemented before compensation was paid.

The proposed mechanism would structure the submission of claims to the AMF and ensure that all victims receive proportionally the compensation to which they are entitled. The turnaround time for processing claims involving major events often depends on external factors (e.g., receivership, investigation).

A victim who files a proven claim within the time limit is compensated. A victim who was not able to act, as contemplated in section 3, is also entitled to compensation.

For purposes of clarity, the Draft Regulation also explains the types of losses that are compensable.

c) Contributions – sections 13 to 23

Contributions are determined by the AMF based on whatever criteria it considers relevant. They are payable by the partnership or entity with which the representative is authorized to practise.

The required level of funding is determined by performing an analysis based on, among other things, the Fund's financial statements and claims history (e.g., compensation, sectors involved) as well as financial forecasts.

The AMF relied on past experience, considering the nature of the products that were being offered at the times frauds were committed, in order to properly assess the contribution based on the risk associated with each sector or registration category.

To provide stakeholders with predictability and propose a contribution regime adapted to the accumulated surplus of the Fund, a model tying contributions to the Fund's accumulated surplus is established for each sector and registration category based on the risks associated with each sector and category. The calculations take into account the \$75 million cap per event and a funding target between \$150 million and \$225 million.

Table 1 below summarizes the proposed amounts payable per representative, given the current accumulated surplus of the Fund.

Table 1

Sectors or registration categories	Amount of contribution payable for each representative*
Claims adjustment Financial planning Scholarship plan brokerage	\$90
Group insurance of persons Mortgage brokerage	\$100
Damage insurance Insurance of persons	\$130
Mutual fund dealer	\$180
Investment dealer Exempt market dealer Restricted dealer Portfolio manager Restricted dealer Derivatives	\$180 + \$60** (\$240)

* If a representative acts in more than one sector for the same partnership or entity, the contribution payable for the representative is discounted by \$75 per additional sector.

**In fairness to those who have contributed to the Fund since the time it was set up, a higher contribution is payable for the new registration categories in securities.

The current contribution is \$160 for each representative in damage insurance, each representative in insurance of persons and each dealing representative of a mutual fund dealer. It is \$100 for the other sectors.

A fixed contribution is proposed for trainees in the sectors covered by the Distribution Act and for persons who are authorized to perform acts in claims adjustment in accordance with subparagraph 3 of the second paragraph of section 10 of the Distribution Act, as such trainees and persons are now included within the scope of the Fund. This contribution would not be adjusted based on the accumulated surplus but would be adjusted annually. However, the discount for representatives acting in more than one sector does not apply in this case. **Table 2** below summarizes the related proposals:

Table 2

Trainees under the Distribution Act	\$30
Person referred to in subparagraph 3 of the second paragraph of section 10 of the Distribution Act	\$90

As stated above, the contributions payable are adjusted on January 1 of each year, based on where the Fund's accumulated surplus Fund is from among the following:

- The accumulated surplus of the Fund is less than \$50 million.
- The accumulated surplus of the Fund is \$50 million and more but less than \$75 million.
- The accumulated surplus of the Fund is \$75 million and more but less than \$150 million.
- The accumulated surplus of the Fund is \$150 million and more but less than \$225 million.

If ever the amount of the accumulated surplus were to exceed the funding cap of \$225 million, there would be an across-the-board contribution holiday.

The Draft Regulation also proposes an annual adjustment.

The annually adjusted amounts would be published in the AMF Bulletin.

d) Deferral for the first three years – second paragraph of section 15

To ensure that contributions remain stable in the first years following deployment of the new contribution model, provision is made for a deferral of three years from the date of coming into force of the regulation.

As a result of the deferral, the contribution payable would remain the same as that provided for when the Fund surplus is between \$75 million and \$150 million even if the surplus drops below that amount. The contribution payable would therefore remain stable during that period as long as the excess surplus was above \$50 million.

e) On-line platforms – Order execution only (OEO) accounts and digital spaces – sections 20 and 21

In the securities sector, an investment dealer may be authorized to offer OEO account services to clients, in accordance with the rules of the Canadian Investment Regulatory Organization. In this case, the dealer may allow investors to buy and sell financial products via an on-line trading platform without the intermediary of a natural person. The same currently applies in the case of crypto asset platforms, many of which are registered as restricted dealers under exemptions granted by the AMF.

In the insurance, claims adjustment, financial planning and mortgage brokerage sectors, a firm that offers products or services through a digital space (or a platform) without the intermediary of a natural person must comply with the Regulation respecting Alternative Distribution Methods (chapter D-9.2, r. 16.1).

Since the Fund's contribution model is based on the number of attached representatives acting with the same partnership or entity, it is not adapted to businesses operating an on-line platform. To ensure fairness among the various modes of distribution, the Draft Regulation proposes that a specific contribution be set for such platforms.

The risk of fraud being perpetrated via a platform on a frequent basis is low, but the severity of the impacts of such fraud may be material (e.g., amount of the fraud, number of victims).

On-line platforms related to insurance of persons, damage insurance and mortgage brokerage appear to be at lower risk of fraud than those related to securities.

The Draft Regulation proposes a fixed contribution for such platforms. In the securities sector, this amount would be \$5,000. In the sectors covered by the Distribution Act, the amount would be \$500.

Comments

Comments regarding the proposed regulatory amendments may be made in writing before **September 19, 2025**, to:

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Please note that the Draft Regulation currently under consideration is subject to the government approval process provided for in section 58.0.4 of the ARFS. Under this process, the Draft Regulation will be published for consultation purposes in the Gazette officielle du Québec prior to potential adoption.

Unless otherwise noted, comments will be posted on the AMF's website at www.lautorite.qc.ca. Please do not include personal information directly in comments to be published and state on whose behalf you are making the comments.

Additional information

Additional information may be obtained from:

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