

## **Draft Regulation**

### **Credit Assessment Agents Act**

(chapter A-8.2, ss. 38, 66 and 73)

### **Insurers Act**

(chapter A-32.1, s. 485, par. 1, and s. 496)

### **Act respecting financial services cooperatives**

(chapter C-67.3, ss. 601.1 and 601.9)

### **Act respecting the distribution of financial products and services**

(chapter D-9.2, ss. 216.1, 223, pars. 8, 11, 12 and 13.1)

### **Deposit Institutions and Deposit Protection Act**

(chapter I-13.2.2, s. 43, par. u, and s. 45.9)

### **Derivatives Act**

(chapter I-14.01, s. 175, pars. 13, 16 and 19.1)

### **Trust Companies and Savings Companies Act**

(chapter S-29.02, ss. 277 and 286)

### **Securities Act**

(chapter V-1.1, s. 331.1, pars. 8, 26 and 27.0.4)

## **Regulation respecting complaint processing and dispute resolution in the financial sector**

Notice is hereby given by the Autorité des marchés financiers (the “AMF” or the “Authority”) that, in accordance with section 67 of the *Credit Assessment Agents Act*, CQLR, c. A-8.2 (the “CAAA”), section 486 of the *Insurers Act*, CQLR, c. A-32.1, section 601.2 of the *Act respecting financial services cooperatives*, CQLR, c. C-67.3 (the “AFSC”), section 217 of the *Act respecting the distribution of financial products and services*, CQLR, c. D-9.2 (the “Distribution Act”), section 45 of the *Deposit Institutions and Deposit Protection Act*, CQLR, c. I-13.2.2 (the “DIDPA”), section 175 of the *Derivatives Act*, CQLR, c. I-14.01, section 278 of the *Trust Companies and Savings Companies Act*, CQLR, c. S-29.02 (the “TCSCA”) and section 331.2 of the *Securities Act*, CQLR, c. V-1.1, the following regulation (the “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, after 60 days have elapsed since its publication in the Bulletin of the Authority:

- *Regulation respecting complaint processing and dispute resolution in the financial sector*

The Draft Regulation is also available under “Public consultations” on the Authority’s website at [www.lautorite.qc.ca](http://www.lautorite.qc.ca).

## **Background**

On September 9, 2021, the Authority published for comment in the Bulletin of the Authority<sup>1</sup> a draft regulation to harmonize and support the fair processing of complaints in Québec’s financial sector.

After analyzing the comments made in the course of the consultation, the Authority is publishing for comment an updated Draft Regulation by which it is reiterating its objective of establishing a common set

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<sup>1</sup> [Bulletin of the Authority](#), sections 3.2.1, 5.2.1 and 6.2.1.

of rules and practices to be followed by financial institutions, financial intermediaries and credit assessment agents.

The proposed amendments are in keeping with the initial objective of the Draft Regulation, namely to ensure that all consumer complaints are processed fairly and diligently and, more specifically, that the analysis of such complaints enables financial institutions, financial intermediaries and credit assessment agents to identify recurring issues relating to their activities and take appropriate action to address them.<sup>2</sup> These amendments also take into account concerns expressed by the financial sector about the impact of the initially proposed requirements on the complaint process that is already in place.

The Draft Regulation proposes a different, slightly broader definition of a complaint than one in the version previously published for comment. However, it changes the rules and practices relating to the simplified process for certain complaints, giving the financial sector greater flexibility and allowing for efficient processing of complaints that can be handled within 10 days following receipt of the complaint. It also provides for the possibility, under conditions determined by regulation, of extending the time period for processing a complaint beyond 60 days following receipt of the complaint.

### **1. Definition of “complaint”**

The Draft Regulation proposes a definition of a complaint that enumerates the conditions under which a communication should be entered in the complaint register of financial institutions, financial intermediaries and credit assessment agents and processed in accordance with the proposed regulatory framework. These conditions are cumulative, which means that a communication that does not meet one of the conditions is not a complaint subject to the Draft Regulation.

Consequently, a communication that meets the following conditions is considered a complaint regarding a financial institution or financial intermediary:

- it expresses a reproach or dissatisfaction in respect of a service or product offered by the financial institution or financial intermediary;
- it is communicated by a person who is a member of the clientele of the financial institution or financial intermediary; and
- the complainant expects a final response within the meaning of section 12 of the Draft Regulation.

A communication that meets the following conditions is considered a complaint regarding a credit assessment agent:

- it expresses a reproach or dissatisfaction in respect of a practice of the credit assessment agent;
- it is communicated to the credit assessment agent by a person concerned by a record held by the agent; and
- the complainant expects a final response within the meaning of section 12 of the Draft Regulation.

Certain communications are not considered complaints and are therefore not subject to the Draft Regulation (e.g., when a consumer submits a request for information or documents or provides feedback to a financial institution, financial intermediary or credit assessment agent). A claim filed with a financial institution (e.g., an insurer) is also not considered a complaint.

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<sup>2</sup> Refer to the expectations set out for financial institutions in the *Sound Commercial Practices Guideline* and to those set out for credit assessment agents in the draft version of the *Guideline applicable to credit assessment agents* published in sections 5.2.1 and 5.2.2 of the [Bulletin of the Authority](#) of November 17, 2022.

For example, a consumer who communicates with a financial institution to obtain a copy of a statement is not expressing a reproach or dissatisfaction and does not expect to receive a final response within the meaning of section 12 of the Draft Regulation. The financial institution can therefore act on the consumer's request without further formality. Similarly, expressing dissatisfaction with the parking provided by a financial intermediary is not expressing a reproach or dissatisfaction in respect of the services or products offered by the financial intermediary. The financial intermediary can therefore act on the dissatisfaction without further formality.

With regard to the practices of credit assessment agents, the Draft Regulation does not apply to requests for access to or the correction of personal information in a credit report or an application for the examination of a disagreement on the merits of a reason for a credit assessments agent's refusal of such a request, made in accordance with the *Act respecting the protection of personal information in the private sector*, CQLR, c. P-39.1, or, in this instance, the *Credit Assessment Agents Act*.

## **2. Simplified process for certain complaints**

The Authority proposes rules and practices for the processing of complaints that can be processed by the complaints officer, members of the complaint officer's team or any other person tasked with processing complaints within the organization within 10 days of receipt of the complaint.

These rules and practices allow, among other things, for the possibility for financial institutions, financial intermediaries and credit assessment agents to process certain complaints verbally, including within the framework of a call centre. They also provide for the option of entrusting the processing of such complaints to dedicated customer services teams, for instance, under the condition that consumers may request to have their complaints reviewed by the complaints officer or a person under the complaints officer's supervision to whom the complaints officer assigns the task of processing the complaint.

However, complaints for which processing cannot be completed within 10 days following receipt must be processed by the complaints officer or a person under the complaints officer's supervision to whom the complaints officer assigns the task of processing them. Such complaints continue to be subject, in particular, to the requirement to provide an acknowledgement of receipt and the requirement to provide a final response in writing within the time period prescribed by the Draft Regulation.

The proposed rules and practices are intended to strike a balance between the administrative burden imposed on financial institutions, financial intermediaries and credit assessment agents and the fair processing of consumer complaints.

## **3. Time period for processing a complaint**

The time period for processing a complaint is calculated from the time the financial institution, financial intermediary or credit assessment agent receives the complaint until the time the final response is provided to the consumer.

The Authority proposes maintaining the 60-day complaint processing period, applicable across Québec's financial sector, but proposes to allow this time period to be extended under certain conditions.

The Authority recognizes that, in order to process certain complaints fairly, a processing period of more than 60 days may be necessary (e.g., when the analysis of a complaint requires the receipt of documents or information from persons who are not parties to the complaint or when a one-time large-scale event results in an unusually high volume of complaints).

In this case, the Authority proposes that financial institutions, financial intermediaries and credit assessment agents be able, under circumstances that are exceptional or beyond their control, to take up to an additional 30 days to process a complaint.

A financial institution, financial intermediary or credit assessment agent that wishes to extend the processing time period beyond 60 days must notify the consumer in writing, explaining the circumstances that are exceptional or beyond its control and indicating the date before which it expects to provide the final response. The response must also state that the complainant has the right to request to have the complaint record examined by the Authority.

Given that the amendments proposed by the Authority are centred on the interests of consumers, any comment proposing other reasons than those proposed by the Draft Regulation must explain how those reasons are in the interests of consumers.

#### **4. Coming into force of the Regulation**

The Authority is aware that financial institutions, financial intermediaries and credit assessment agents will have to make certain adjustments to their policies, processes and procedures relating to complaint processing and dispute resolution in order to comply with the requirements of the Draft Regulation. It is therefore proposing a transition period between the publication and coming into force of the regulation.

The Authority is of the opinion that it is important to coordinate the date of coming into force of the regulation with the beginning of the period for reporting complaints to the Authority, which runs from January 1 to December 31. This approach would prevent overlap between applicable frameworks during a complaint reporting period, should another coming into force date be set.

The Authority is of the view that a coming into force date of January 1, 2024 would provide financial institutions, financial intermediaries and credit assessment agents with a sufficient transition period. It asks the financial sector to provide evidence corroborating any comments proposing a different transition period.

The Authority will roll out various initiatives to promote this new framework and provide the financial sector with assistance in implementing it. It also plans to propose a complaint processing and dispute resolution policy template reflecting the elements to be covered by the policy adopted by financial intermediaries.

#### **Comments**

Comments regarding this Draft Regulation may be made in writing before **February 6, 2023** to:

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Unless otherwise noted, comments will be posted on the Authority's website at [www.lautorite.qc.ca](http://www.lautorite.qc.ca). Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

## **Additional Information**

Additional information may be obtained from:

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**December 8, 2022**