

M.O., 2010-18**Order number D-9.2-2010-18 of the Minister of Finance, dated December 3, 2010**

An Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2)

CONCERNING Regulation to amend the Regulation respecting information to be provided to consumers and Regulation to amend the Regulation respecting distribution without a representative

WHEREAS sections 19, 20.1, 22, subparagraph 4 of section 202, 209, 423, 440 and 443 of the Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2), provide that the Autorité des marchés financiers may make regulations concerning the matters referred to in those paragraphs or sections;

WHEREAS the first and the third paragraphs of section 217 of such Act provide, in particular, that a regulation made by the Autorité des marchés financiers under this Act must be submitted to the Minister of Finance for approval with or without amendment and that a draft of a regulation referred to in the first paragraph may not be submitted for approval and the regulation may not be made before 30 days have elapsed since the publication of the draft, that the regulation comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation and that sections 4, 8, 11 and 17 of the Regulations Act (R.S.Q., R-18.1) do not apply to the regulation;

WHEREAS the following regulations have been made by the Autorité des marchés financiers:

— Regulation respecting information to be provided to consumers adopted on July 23, 1999 by Resolution no. 99.07.22;

— Regulation respecting distribution without a representative adopted on June 22, 1999 by Resolution no. 99.06.45;

WHEREAS there is cause to amend those regulations;

WHEREAS the following draft regulations were published in the Bulletin de l'Autorité des marchés financiers, volume 7, no. 38 of September 24, 2010:

— Regulation to amend the Regulation respecting information to be provided to consumers;

— Regulation to amend the Regulation respecting distribution without a representative;

WHEREAS the Autorité des marchés financiers made, on November 22, 2010, by the decision no. 2010-PDG-0204, Regulation to amend the Regulation respecting information to be provided to consumers and, by the decision no. 2010-PDG-0205, Regulation to amend the Regulation respecting distribution without a representative;

WHEREAS there is cause to approve those regulations without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment the following regulations appended hereto:

— Regulation to amend the Regulation respecting information to be provided to consumers;

— Regulation to amend the Regulation respecting distribution without a representative.

December 3, 2010

RAYMOND BACHAND,
Minister of Finance

Regulation to amend the Regulation respecting information to be provided to consumers

An Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2, ss. 19, 20.1, 22, 202 par. 4, and 209)

1. Section 2 of the Regulation respecting information to be provided to consumers (R.R.Q., c. D-9.2, r. 18) is amended:

(1) by replacing, in the English text, the words “he may” with the words “he has the right to”;

(2) by replacing, in the English text, the words “cancel” and “cancellation” with the words “rescind” and “rescission”.

2. Section 3 of the Regulation is amended by replacing, in the English text, the word “repayment” with the word “reimbursement”.

3. The Regulation is amended by adding the following after Division 3:

**“DIVISION IV
INDIVIDUAL VARIABLE INSURANCE
CONTRACT**

“4.14. In this Division

“confirmation” means a document evidencing a subscription;

“Fund Facts” means a disclosure document which forms part of the information folder detailing the particulars of a segregated fund offered under an individual variable insurance contract;

“individual variable insurance contract” means an individual contract of life insurance, including an annuity, or an undertaking to provide an annuity, under which the liabilities vary in amount depending upon the market value of a segregated fund in which amounts are allocated by the contractholder, and includes a provision in an individual contract of life insurance under which policy dividends are allocated to such a fund;

“information folder” means a disclosure document in respect of an individual variable insurance contract, prepared by an insurer in compliance with the *Guideline on Individual Variable Insurance Contracts Relating to Segregated Funds*, which includes, in particular, Fund Facts;

“segregated fund” means a separate and distinct group of assets maintained by an insurer in respect of which the non-guaranteed benefits of a variable insurance contract are provided;

“subscription” means allocation to a segregated fund by an insurer of the amounts invested by a client, in accordance with the client’s instructions; these amounts and the corresponding benefits under the individual variable insurance contract are measured by means of a unit of the segregated fund.

“§1. — *Scope*

« **4.15.** This Division applies to a representative in insurance of persons who offers to a client that the latter enter into an individual variable insurance contract and subscribe for specific amounts therein.

“§2. — *Information to provide to clients who enter into an individual variable insurance contract*

“4.16. A representative must, before an application for an individual variable insurance contract is signed, deliver to the client a copy of the most current information folder related to that contract and, where applicable, any addenda. In addition, the representative must deliver

to the client the Fund Facts related to the segregated funds selected under the contract where such Fund Facts are not included within the information folder.

Where an insurance contractholder requests that the contract be amended to become an individual variable insurance contract, the representative must also deliver to the contractholder the documents referred to in the first paragraph.

“4.17. A representative must deliver to the client a paper or electronic copy of the documents referred to in section 4.16 or provide the client with the necessary real-time directions or instructions to enable him to consult the documents on a website. In all cases, the choice of medium or technology rests with the client.

Consultation by the client of the documents on a website, based on the directions or instructions provided by the representative, is, for the purposes of this Division, considered to be a delivery of documents.

“4.18. A representative must, when delivering documents to the client, present the contents thereof and provide appropriate explanations so that the client has a proper understanding of the documents. In particular, he must bring to the client’s attention the Fund Facts relating to the selected segregated funds, regardless of whether the Fund Facts are included within the information folder or delivered to the client separately.

In addition, a representative must obtain from the client an acknowledgement of receipt of the proper delivery of each of these documents.

“4.19. A representative must, no later than when the individual variable insurance contract is entered into, inform the client that he may obtain from his insurer at any time a copy of the most current Fund Facts for all segregated funds still available for new allocations under the contract.

He must provide the client with the necessary directions or instructions so that the client may obtain these documents from his insurer.

“§3. — *Circumstances giving rise to the cancellation of an individual variable insurance contract or a subscription relating to such a contract*

“4.20. A client may cancel an individual variable insurance contract or a subscription made at the time the contract was entered into within two days starting from the earlier of the date the client received the confirmation or five days after the insurer mails the confirmation. The client may cancel any subsequent subscription relating to this contract under these same conditions.

Where a client seeks to exercise his cancellation right set out in the first paragraph, he must notify his insurer thereof in writing. The cancellation notice may be delivered by hand or sent by any means whereby proof of receipt may be established, such as registered or certified mail as well as fax or e-mail.

A client who cancels his contract or a subscription made under that contract is entitled, for either transaction, to the lesser of the amount invested or the amount corresponding to the value of the fund units attributed to him, such value to be determined no later than on the valuation day following the day the insurer received the cancellation notice. The insurer is also required to restore to the client any amounts corresponding to the charges or fees collected at the time the contract was made or at the time of subscription, and may not collect any fees related to the exercise of the cancellation right.”.

4. Schedules 1 and 2 of the Regulation are amended by replacing, wherever they appear in the English text, the words “cancel” and “cancellation” with the words “rescind” and “rescission”.

5. This Regulation comes into force on January 1, 2011.

Regulation to amend the Regulation respecting distribution without a representative

An Act respecting the distribution of financial products and services
(R.S.Q., c. D-9.2, ss. 423, 440, and 443)

1. The Regulation respecting distribution without a representative (R.R.Q., c. D-9.2, r. 8) is amended by replacing, in the English text of the heading of subdivision 2, the word “cancellation” with the word “rescission”.

2. Section 2 of the Regulation is amended:

(1) by replacing the words “is permitted to cancel” with the words “has the right to rescind”;

(2) replacing, in the English text, the words “cancel” and “cancellation” with the words “rescind” and “rescission”.

3. Section 3 of the Regulation is amended by replacing, in the English text, the words “cover the repayment” with the words “guarantee the reimbursement”.

4. Schedules 1 and 2 of the Regulation are amended by replacing, wherever they appear in the English text, the words “cancel” and “cancellation” with the words “rescind” and “rescission”.

5. This Regulation comes into force on January 1, 2011.

1162