

M.O., 2020-02**Order number D-9.2-2020-02 of the Minister of Finance, 27 March 2020**

An Act respecting the distribution of financial products and services
(chapter D-9.2)

CONCERNING Regulation to amend the Regulation respecting firms, independent representatives and independent partnerships

WHEREAS subparagraphs 8 and 13.1 of section 223 of the Act respecting the distribution of financial products and services (chapter D-9.2) provide that the Autorité des marchés financiers may, by regulation, determine for each sector the rules relating to the keeping of records and the register of commissions and other rules relating to the activities of a firm, an independent representative or an independent partnership;

WHEREAS the first and the second paragraphs of section 194 of the Act provide, in particular, that the Authority shall publish its draft regulations in the information bulletin and every draft regulation must be published with a notice stating the time that must elapse before the draft regulation may be made or be submitted for approval, and stating the fact that any interested person may, during that time, submit comments to the person designated in the notice;

WHEREAS the first and the third paragraphs of section 217 of the 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;

WHEREAS the Regulation to amend the Regulation respecting firms, independent representatives and independent partnerships was published in the *Bulletin de l'Autorité des marchés financiers*, volume 16, no. 39 of October 3, 2019;

WHEREAS the Autorité des marchés financiers made, on February 21, 2020, by the decision no. 2020-PDG-0011, Regulation to amend the Regulation respecting firms, independent representatives and independent partnerships;

WHEREAS there is cause to approve this regulation without amendment;

CONSEQUENTLY, the Minister of Finance approves without amendment the Regulation to amend the Regulation respecting firms, independent representatives and independent partnerships appended hereto.

27 March 2020

ERIC GIRARD,
Minister of Finance

Regulation to amend the Regulation respecting firms, independent representatives and independent partnerships

An 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 (chapter D-9.2, r. 10), 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 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 document in which the identity of the borrower is recorded in accordance with the second paragraph of section 9.8 of the Regulation respecting the pursuit of activities as a representative;

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

(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."

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

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