

M.O., 2020-03**Order number D-9.2-2020-03 of the Minister of Finance, 27 March 2020**

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

CONCERNING the Regulation to amend the Regulation respecting the issuance and renewal of representatives' certificates

WHEREAS sections 200 and 203 of the Act respecting the distribution of financial products and services (chapter D-9.2) provide that the Autorité des marchés financiers may make regulations concerning the matters referred to in those sections;

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 draft Regulation to amend the Regulation respecting the issuance and renewal of representatives' certificates was published in the Bulletin de l'Autorité des marchés financiers, volume 16, no. 39 of October 3, 2019;

WHEREAS on February 21, 2020, by the decision no. 2020-PDG-0012, the Autorité des marchés financiers made the Regulation to amend Regulation respecting the issuance and renewal of representatives' certificates;

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 the issuance and renewal of representatives' certificates appended hereto.

27 March 2020

ERIC GIRARD,
Minister of Finance

Regulation to amend the Regulation respecting the issuance and renewal of representatives' certificates

An 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 will be 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 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, subject to 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, 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 paragraphs 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 paragraph 1, as well as any accrued interest 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 those 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.

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 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 pertaining to the skills that must be possessed by a holder of a mortgage broker's licence 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 exempt 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 is 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, be the subject of a disciplinary sanction imposed under the Real Estate Brokerage Act (chapter C-73.2).

18. Representatives who became holders of a certificate in the sector of mortgage brokerage pursuant to the first paragraph of section 490 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 submit, not later than 1 July 2020, an initial application to renew their certificate in the mortgage brokerage sector in accordance with section 63 of the Regulation respecting the issuance and renewal of representatives' certificates (chapter D-9.2, r. 7), with the necessary modifications.

This section applies notwithstanding section 61 of the Regulation respecting the issuance and renewal of representatives' certificates.

19. This Regulation comes into force on 1 May 2020.
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M.O., 2020-04

Order number D-9.2-2020-04 of the Minister of Finance dated 27 March 2020

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

CONCERNING Regulation to amend the Regulation respecting the pursuit of activities as a representative

WHEREAS subparagraph 8 of section 200, section 202 and subparagraph 13.1 of section 202.1 of the Act respecting the distribution of financial products and services (chapter D-9.2) provide that the Autorité des marchés financiers may make regulations concerning the matters referred to in those subparagraphs and sections;

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