

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.  
104332

### **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

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 the pursuit of activities as a representative 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-0013, Regulation to amend the Regulation respecting the pursuit of activities as a representative;

WHEREAS there is cause to approve this regulation with amendments;

CONSEQUENTLY, the Minister of Finance approves with amendments the Regulation to amend the Regulation respecting the pursuit of activities as a representative appended hereto.

27 March 2020

ERIC GIRARD,  
*Minister of Finance*

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

An Act respecting the distribution of financial products and services (chapter D-9.2, ss. 200, par. (8), 202 and 202.1, par. (1))

**1.** Section 2 of the Regulation respecting the pursuit of activities as a representative (chapter D-9.2, r. 10) is amended:

(1) by deleting “, except in connection with brokerage activities relating to loans secured by immovable hypothec” in subparagraph 7 of the first paragraph;

(2) by replacing the second paragraph by the following:

“Notwithstanding the first paragraph, the pursuit of activities or professions referred to in any of the subparagraphs hereinbelow is not incompatible with the activities mentioned in such subparagraph:

(1) the activity or profession referred to in subparagraph 5 or 6 of that paragraph: the activities of a claims adjuster and financial planner;

(2) the activities referred to in subparagraph 7 of the that paragraph: the activities of a mortgage broker, provided the representative pursues activities only in the sector of mortgage brokerage.”

**2.** The Regulation is amended by inserting the following after the heading for Division III:

“§1. *General rules*”.

**3.** The Regulation is amended by inserting the following after section 5:

“§2. *Rules specific to representatives in insurance of persons, group insurance representatives and financial planners*”.

**4.** The Regulation is amended by inserting the following after section 9.1:

“§3. *Rules specific to mortgage brokers*”.

“9.2. A mortgage broker who receives or collects an amount referred to in paragraph 2 of section 4 must give the party from whom he receives or collects the amount a receipt containing the information indicated in section 28.2 of the Regulation respecting firms, independent representatives and independent partnerships (chapter D-9.2, r. 2).

9.3. A mortgage broker must, before services are rendered, make a written disclosure of his method of remuneration to the client, indicating:

(1) the compensation claimed for the services he renders to the client, if applicable, and the conditions on which the compensation may be claimed;

(2) the fact that he receives remuneration or any other benefit from the mortgage lender or any person for the services he renders to him, if applicable.

A mortgage broker must forthwith make a written disclosure to the client of any change in his method of remuneration.

**9.4.** When a mortgage broker proposes a loan secured by immovable hypothec to a client, he must make a written disclosure of the following information to the client:

(1) the nature of the remuneration or any other benefit that he will receive if the loan is made, if applicable;

(2) the nature of any other remuneration or any other benefit that he may receive with respect to the proposed loan; and

(3) the fact that he intends to share his commission, if applicable, and the name of the person sharing the commission.

**9.5.** When a mortgage broker refers a client, he must disclose in writing to the client that he may receive a share of a commission, if applicable.

**9.6.** A mortgage broker must forthwith make a written disclosure of the following information to the client:

(1) separately, the number of lenders that made loans secured by immovable hypothec for which:

(a) he engaged in a brokerage transaction in the previous 12 months; and

(b) the firm or independent partnership on behalf of which he acts, if applicable, engaged in a brokerage transaction in the previous 12 months;

(2) the name of the lender that, if applicable, made more than 50% of the total number of loans secured by immovable hypothec or loan renewals for which the mortgage broker, or the firm or independent partnership on behalf of which the mortgage broker acts, engaged in a brokerage transaction in the previous 12 months.

**9.7.** A mortgage broker must, before proposing a loan secured by immovable hypothec, collect and record in a dated document the information pertaining to the identification of the client's needs and the client's financial situation, including, in particular, the characteristics and terms and conditions of the proposed loan, the immovable that will be charged with the hypothec and the client's credit history, income, ability to repay the loan and level of financial knowledge.

**9.8.** A mortgage broker must identify and ascertain the identity of the borrower, the mortgage lender and, if applicable, of the surety and other parties to the proposed transaction.

He must record the information relating to the identity of the borrower.

**9.9.** A mortgage broker must verify and ascertain the legal capacity of the borrower or the borrower's representative to enter into the proposed transaction and the legal capacity of the mortgage lender and, if applicable, of the surety and other parties to the transaction.

**9.10.** When a mortgage broker engages in a brokerage transaction relating to a loan secured by reverse immovable hypothec, he must inform the borrower of the importance of obtaining the opinion of a lawyer or a notary concerning the proposed loan.”

**5.** The Regulation is amended by inserting the following after section 16:

**“DIVISION V.1  
RULES OF CONDUCT OF MORTGAGE  
BROKERS**

**16.1.** Mortgage brokers must take reasonable measures to ensure that the persons authorized to act on their behalf in the pursuit of their activities as a mortgage broker comply with the provisions of the Act respecting the distribution of financial products and services (chapter D-9.2) and its regulations, including those of this subdivision.

**16.2.** Mortgage brokers must act with respect and integrity.

They must also act with prudence, diligence, objectivity and discretion.

**16.3.** Mortgage brokers must act with competence. They must therefore develop and maintain their knowledge and abilities.

**16.4.** Mortgage brokers must take into account the limits of their skills and of the means at their disposal. When they do not have the necessary skills, they must not act on behalf of a client without obtaining the appropriate assistance.

**16.5.** Mortgage brokers must act with independence in respect of their clients and in their clients' best interests.

To that end, they must subordinate their personal interests and the interests of any other person or company to their clients' interests and must not let their judgment be subject to any pressure whatsoever.

**16.6.** Mortgage brokers must not place themselves in a conflict of interest.

**16.7.** Mortgage brokers must be transparent in respect of their clients.

They must, in particular, explain the nature and scope of their services and, if applicable, the services provided by the firm or independent partnership on behalf of which they act, to enable clients to understand and evaluate their services.

**16.8.** Mortgage brokers must appropriately advise their clients and give them all such information as may be necessary or useful.

They must explain to their clients the nature of the fees associated with the proposed loans secured by immovable hypothec and the nature, characteristics, advantages and disadvantages of the loans secured by immovable hypothec that they propose to their clients, including the penalties applicable in the event of failure to comply with the terms of the loan agreement.

**16.9.** Mortgage brokers must ensure that the loan secured by immovable hypothec that they propose is suited to the client's situation and needs.

**16.10.** Mortgage brokers must respect and ensure the confidentiality of all information obtained about their clients.

They must use the information only for the purposes for which it was obtained and may not use it for personal purposes.

Mortgage brokers may not be relieved of these obligations without the client's consent or unless otherwise permitted by a provision of a law or an order of a court.

**16.11.** Mortgage brokers must provide their clients with the explanations that they need to understand their remuneration.

**16.12.** The compensation claimed by the mortgage broker must be fair and reasonable given the services rendered.

**16.13.** Mortgage brokers must not make any false or misleading representations.

**16.14.** Mortgage brokers must not advise, encourage or in any way assist in the commission of an illegal or fraudulent act, such as the illegal pursuit of activities as a mortgage broker or mortgage fraud.

They must cease to act on behalf of a client when the client asks them to take an action that is in contravention of this rule.

**16.15.** Mortgage brokers must cooperate with the Authority in a transparent and diligent manner and must not mislead it.

Mortgage brokers must not encourage a person to not cooperate with or to mislead the Authority.

**16.16.** Mortgage brokers who are informed that their conduct is the subject of a complaint filed with or an investigation conducted by the Authority must not communicate with the complainant or the person who requested the investigation.”.

**6.** This Regulation comes into force on 1 May 2020.

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## M.O., 2020-05

### Order number D-9.2-2020-05 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 registration of firms, representatives and independent partnerships

WHEREAS section 223 of the Act respecting the distribution of financial products and services (chapter D-9.2) provides that the Autorité des marchés financiers may make regulations concerning the matters referred to in this section;

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