

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.

104334

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;

WHEREAS the Autorité des marchés financiers made, on February 21, 2020, by the decision no. 2020-PDG-0014, Regulation to amend the Regulation respecting the registration of firms, 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 the registration of firms, representatives and independent partnerships appended hereto.

27 March 2020

ERIC GIRARD,
Minister of Finance

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

An Act respecting the distribution of financial products and services
(chapter D-9.2, s. 223)

1. The Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15) is amended by inserting the following before Division 1:

“DIVISION 0.1 INTERPRETATION

0.1. In this Regulation:

“responsible officer” means:

(1) in the case of a legal person, the officer responsible for its principal establishment in Québec;

(2) in the case of an independent representative, the representative;

(3) in the case of a partnership, the partner responsible for its principal establishment.”.

2. Section 2 of the Regulation is amended:

(1) by inserting the following after paragraph 2:

“(2.1) in the case of a legal person intending to register in the sector of mortgage brokerage, the names of the mortgage lenders that hold, directly or indirectly, interests in its ownership or in whose ownership the legal person holds direct or indirect interests;”;

(2) by replacing “of the officer responsible for the principal establishment of the legal person in Québec” by “of its responsible officer” in paragraph 7;

(3) by replacing “where the officer responsible for the principal establishment of the legal person in Québec” by “except in respect of a legal person intending to register in the sector of mortgage brokerage, where its responsible officer” in paragraph 13;

(4) by deleting “of the principal establishment” in paragraph 14;

(5) in paragraph 15:

(a) by deleting “or by the Association des courtiers et agents immobiliers du Québec” in subparagraph *d*;

(b) by inserting the following after subparagraph *d*:

“(d.1) has ever had a certificate issued by the Association des courtiers et agents immobiliers du Québec that has been cancelled or suspended, or has ever had his licence revoked or suspended by the Organisme d’autoréglementation du courtage immobilier du Québec;”;

(6) by inserting the following after paragraph 15:

“(15.1) in the case of a legal person intending to register in the sector of mortgage brokerage, a declaration signed by the person generally or specially authorized, by resolution of the board of directors of the legal person, to sign the application for registration, confirming that its responsible officer satisfies the conditions prescribed in section 2.1;”;

(7) in paragraph 16:

(a) by deleting “or by the Association des courtiers et agents immobiliers du Québec” in subparagraph *b*;

(b) by inserting the following after subparagraph *b*:

“(b.1) has ever had a certificate issued by the Association des courtiers et agents immobiliers du Québec that has been cancelled or suspended, or has ever had his licence revoked or suspended by the Organisme d’autoréglementation du courtage immobilier du Québec;”;

(8) by deleting “in the case of a legal person intending to register in the sector of insurance of persons, group insurance of persons, damage insurance, claims adjustment or financial planning,” and “such” in paragraph 17.

(9) by inserting the following after paragraph 18:

“(19) in the case of a legal person intending to register in the sector of mortgage brokerage, the number and names of the mortgage lenders with which the legal person has entered into an agreement allowing it to propose loans from those lenders.”

3. The Regulation is amended by inserting the following after section 2:

“**2.1.** In order for a legal person to register as a firm in the sector of mortgage brokerage, its responsible officer must satisfy the following conditions:

(1) he holds a representative’s certificate in the sector of mortgage brokerage;

(2) in the 2 years preceding the application for registration, he passed the Authority’s examinations pertaining to the skills that must be possessed by the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in the sector, or he acted as the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or was registered as an independent representative in the sector;

(3) he is not in default of complying with the compulsory professional development requirements set out in section 5 of the Regulation respecting the compulsory professional development of mortgage brokers (*indiquer ici la référence au règlement*).”

4. Section 4 of the Regulation is amended:

(1) by inserting the following after paragraph 5:

“(5.1) in the case of a representative intending to register in the sector of mortgage brokerage, a signed declaration confirming that he satisfies the conditions prescribed in section 4.1.”;

(2) in paragraph 6:

(a) by deleting “or by the Association des courtiers et agents immobiliers du Québec” in subparagraph *a*;

(b) by inserting the following after subparagraph *a*:

“(a.1) has ever had a certificate issued by the Association des courtiers et agents immobiliers du Québec that has been cancelled or suspended, or has ever had his licence revoked or suspended by the Organisme d’autoréglementation du courtage immobilier du Québec;”;

(c) by replacing subparagraph *e* by the following:

“(e) is in default of paying any fines, administrative penalties and legal costs imposed in a disciplinary decision rendered for a failure to comply with the Act respecting the distribution of financial products and services (chapter D-9.2) or the Act respecting market intermediaries (chapter I-15.1), including the accrued interest at the rate established in accordance with section 28 of the Tax Administration Act (chapter A-6.002), as the case may be.”.

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

“**4.1.** In order for a mortgage broker to register as an independent representative in the sector of mortgage brokerage, he must satisfy the following conditions:

(1) in the 2 years preceding the application for registration, he passed the Authority’s examinations pertaining to the skills that must be possessed by the responsible officer of a firm or an independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in the sector, or he acted as the responsible officer of a firm or an independent partnership registered in the sector of mortgage brokerage or was registered as an independent representative in the sector;

(2) he is not in default of complying with the compulsory professional development requirements set out in section 5 of the Regulation respecting the compulsory professional development of mortgage brokers (*indiquer ici la référence au règlement*).”

6. Section 6 of the Regulation is amended:

(1) by replacing “the partner responsible for the principal establishment of the partnership” by “its responsible officer” in paragraph 5;

(2) by replacing “the partner responsible for the principal establishment of the partnership” by “the responsible officer” in paragraph 8;

(3) in paragraph 9:

(a) by deleting “or by the Association des courtiers et agents immobiliers du Québec” in subparagraph *d*;

(b) by inserting the following after subparagraph *d*:

“(d.1) has ever had a certificate issued by the Association des courtiers et agents immobiliers du Québec that has been cancelled or suspended, or has ever had his licence revoked or suspended by the Organisme d’autoréglementation du courtage immobilier du Québec;”;

(4) by inserting the following after paragraph 9:

“(9.1) in the case of a partnership intending to register in the sector of mortgage brokerage, a declaration signed by the partner generally or specially authorized, by resolution of the partnership, to sign the application for registration, confirming that its responsible officer satisfies the conditions prescribed in section 6.1.”;

(5) in paragraph 10:

(a) by deleting “or by the Association des courtiers et agents immobiliers du Québec” in subparagraph *b*;

(b) by inserting the following after subparagraph *b*:

“(b.1) has ever had a certificate issued by the Association des courtiers et agents immobiliers du Québec that has been cancelled or suspended, or has ever had his licence revoked or suspended by the Organisme d’autoréglementation du courtage immobilier du Québec;”.

7. The Regulation is amended by inserting the following after section 6:

“6.1. In order for a partnership to register as an independent partnership in the sector of mortgage brokerage, its responsible officer must satisfy the following conditions:

(1) he holds a representative’s certificate in the sector of mortgage brokerage;

(2) in the 2 years preceding the application for registration, he passed the Authority’s examinations pertaining to the skills that must be possessed by the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in the sector, or he acted as the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or was registered as an independent representative in the sector;

(3) he is not in default of complying with the compulsory professional development requirements set out in section 5 of the Regulation respecting the compulsory professional development of mortgage brokers (*indiquer ici la référence au règlement*).”.

8. Section 10 of the Regulation is amended:

(1) by deleting “registered in the sector of insurance of persons, group insurance of persons, damage insurance, claims adjustment or financial planning,” in first paragraph of paragraph 1;

(2) by inserting the following subparagraphs after subparagraph *h* of paragraph 2:

“(i) in the case of a firm registered in the sector of mortgage brokerage, the names of the mortgage lenders holding, directly or indirectly, interests in its ownership, or in whose ownership the firm holds direct or indirect interests;

(j) in the case of a firm, independent representative or independent partnership registered in the sector of mortgage brokerage:

i. the names of the lenders whose loans secured by immovable hypothec were proposed to a client during the most recent year ending 31 December;

ii. for each lender referred to in subparagraph *i*, the number of that lender’s loans secured by immovable hypothec proposed to clients during the most recent year ending 31 December as a proportion of the aggregate of the loans secured by immovable hypothec proposed to clients during this period;

iii. the number of brokerage transactions engaged in in relation to loans secured by immovable hypothec during the most recent year ending 31 December;

iv. a declaration signed by the independent representative or, in the case of a firm or independent partnership, by the person authorized to sign the application for registration, confirming that during the most recent year, the responsible officer satisfied the conditions prescribed in section 2.1, 4.1 or 6.1 at all times;”.

9. The Regulation is amended by inserting the following after section 10:

“10.1. In order for a firm, independent representative or independent partnership registered in the sector of mortgage brokerage to maintain its registration, its responsible officer must satisfy the conditions prescribed in section 2.1, 4.1 or 6.1, as applicable, with the necessary modifications.

10.2. In order to maintain its registration, a firm, independent representative or independent partnership registered in the sector of mortgage brokerage must, in accordance with sections 13 to 15 of the Regulation

respecting firms, independent representatives and independent partnerships (chapter D-9.2, r. 2) and sections 15, 16 and 18 of the Regulation respecting the keeping and preservation of books and registers (chapter D-9.2, r. 19), with the necessary modifications, preserve and keep current in Québec a record relating to its responsible officer in which the following documents are to be filed and made accessible to the Authority:

(1) the document confirming that the responsible officer passed the Authority's examinations pertaining to the skills that must be possessed by the responsible officer of a firm or an independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in the sector;

(2) copies of the certificates of participation and other supporting documents regarding each recognized professional development activity in which the responsible officer has taken part, including copies of the certificates of exam or test results and transcripts.”

10. Section 11 of the Regulation is amended by adding the following after paragraph 5:

“(5.1) “firm in mortgage brokerage”;

11. Section 12 of the Regulation is amended by inserting the following after paragraph 5:

“(6) “independent partnership in mortgage brokerage”;

12. Within 45 days of a request by the Authority, the legal person that holds an agency licence referred to in section 491 or in the second paragraph of section 493 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 do the following as if it were not registered:

(1) designate a person to act as a correspondent with the Authority in accordance with section 1 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15);

(2) transmit or authorize to be transmitted to the Authority, in accordance with section 2 of the Regulation, amended by section 2 of this Regulation, the documents and information referred to in paragraphs 1, 4, 7, 8, 14 and 17 of this section.

13. Within 45 days of a request by the Authority, a representative who became the holder 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) and registered as an independent representative must do the following as if he were not registered:

(1) have a location which serves as an establishment in Québec, in accordance with section 3 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15);

(2) transmit or authorize to be transmitted to the Authority, in accordance with section 4 of the Regulation, amended by section 4 of this Regulation, the documents and information referred to in paragraphs 1, 2, 4 and 7 of this section.

14. Within 45 days of a request by the Authority, the partnership that holds a mortgage agency licence referred to in section 491 or in the second paragraph of section 493 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 do the following as if it were not registered:

(1) designate one of its partners to act as a correspondent with the Authority, in accordance with section 5 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15);

(2) transmit or authorize to be transmitted to the Authority, in accordance with section 6 of the Regulation, amended by section 6 of this Regulation, the documents and information referred to in paragraphs 1, 4, 5, 6, 8 and 11 of this section.

15. A representative who became the holder 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 and registered as an independent representative is deemed to have passed, on 1 May 2020, the Authority's examinations pertaining to the skills that must be possessed by the responsible officer of a firm or an independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in the sector if he was, on 30 April 2020, the holder of a mortgage broker's licence who was not acting on behalf of an agency licence holder.

16. For the registration of a legal person, a mortgage broker or a partnership in the sector of mortgage brokerage as a firm, an independent representative or an independent partnership, as applicable, and for the maintenance of such registration, a representative who became the holder of a certificate in the sector 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 is deemed to have passed, on 1 May 2020, the Authority's examinations pertaining to the skills that must be possessed by the responsible officer of a firm or an independent partnership registered in the sector or by an independent representative registered in the sector where that representative, on 30 April 2020, satisfied any of the conditions set out in subparagraph 3 of the first paragraph of section 34 of the Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3), as it read on that date, and he was either:

(1) the holder of a mortgage broker's licence who was acting on behalf of an agency licence holder; or

(2) the holder of a real estate broker's licence authorizing him to engage in mortgage brokerage transactions.

The first paragraph does not have any effect in respect of a person referred to in its paragraph 1 or 2 who is not the responsible officer of a firm or an independent partnership registered in the sector of mortgage brokerage or an independent representative registered in the sector at any time between 1 May 2020 and 30 April 2022.

17. Until 30 April 2021, a business corporation may be registered in the sector of mortgage brokerage as a firm and this registration may be maintained even if its responsible officer has not passed the Authority's examinations pertaining to the skills that must be possessed by the responsible officer of a firm or an independent partnership registered in the sector or by an independent representative registered in the sector, where the responsible officer satisfies the following conditions:

(1) he became a representative holding 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;

(2) on 30 April 2020, he was the holder of a mortgage broker's licence or a real estate broker's licence authorizing him to engage in mortgage brokerage transactions who:

(a) was acting on behalf of an agency licence holder;

(b) was pursuing his activities within the business corporation in accordance with Division IV of Chapter II of the Real Estate Brokerage Act (chapter C-73.2), as it read on that date;

(c) did not satisfy the conditions set out in subparagraph 3 of the first paragraph of section 34 of the Regulation respecting the issue of broker's and agency licences, as it read on that date.

18. Until 30 April 2021, a legal person, a mortgage broker or a partnership may be registered in the sector of mortgage brokerage as a firm, an independent representative or an independent partnership, as applicable, and this registration may be maintained even where the responsible officer has not passed the Authority's examinations pertaining to the skills that must be possessed by the responsible officer of a firm or independent partnership registered in the sector or by an independent representative registered in the sector, where the responsible officer satisfies the following conditions:

(1) he became a representative holding 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;

(2) on 30 April 2020:

(a) he was the holder of a mortgage broker's licence or the holder of a real estate broker's licence authorizing him to engage in mortgage brokerage transactions;

(b) he did not satisfy the conditions set out in subparagraph 3 of the first paragraph of section 34 of the Regulation respecting the issue of broker's and agency licences, as it read on that date;

(c) he was acting on behalf of an agency licence holder that, on 1 May 2020, is not a firm or an independent partnership registered in the sector of mortgage brokerage.

19. Until 1 May 2022, a mortgage broker may be registered in the sector of mortgage brokerage as an independent representative and this registration may be maintained even where the representative has not passed the Authority's examinations pertaining to the skills that must be possessed by the responsible officer of a firm or independent partnership registered in the sector of mortgage brokerage or by an independent representative registered in the sector, where the responsible officer satisfies the following conditions:

(1) he became a representative holding 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;

(2) on 30 April 2020:

(a) he was the holder of a mortgage broker's licence authorizing him to engage in mortgage brokerage transactions;

(b) he did not satisfy the conditions set out in subparagraph 3 of the first paragraph of section 34 of the Regulation respecting the issue of broker's and agency licences, as it read on that date;

(c) he was not acting on behalf of an agency licence holder.

20. Notwithstanding paragraph 1 of section 10.2 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15), introduced by section 9 of this Regulation, a firm, an independent representative or an independent partnership whose responsible officer benefits from the presumption set out in section 14.1 or 15 of this Regulation, as applicable, does not have to keep, in the record relating to its responsible officer, a document confirming that he has passed the examinations that he is deemed to have passed.

The same applies to firms, independent representatives and independent partnerships whose responsible officer is not required to pass those examinations under section 17, 18 or 19 until the date specified therein.

21. A legal person or partnership that holds a mortgage agency licence referred to in section 491 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) may continue to identify itself in accordance with the provisions of the Regulation respecting brokerage requirements, professional conduct of brokers and advertising (chapter C-73.2, r. 1) as they read on 30 April 2020 for a period of 2 years, notwithstanding the provisions of sections 11 and 12 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15), amended by sections 10 and 11 of this Regulation.

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

104335

M.O., 2020-06

Order number D-9.2-2020-06 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 keeping and preservation of books and registers

WHEREAS subparagraphs 11 and 12 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 nature, form and content of the books and other registers to be kept by firms, independent representatives and independent partnerships and the rules relating to the use, conservation and destruction of the records, books and registers to be kept by firms, independent representatives and independent partnerships;

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 keeping and preservation of books and registers 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-0017, Regulation to amend the Regulation respecting the keeping and preservation of books and registers;