

EMPIRE LIFE INFORMATION CIRCULAR

DATE: November 19, 2013
CATEGORY: INSURANCE
TO: Advisors doing business in Quebec
SUBJECT: **AMF Amendments**

Nº. 2013-25

Effective October 22, 2013, the Autorité des marchés financiers (AMF) amended two regulations under the *Act respecting the distribution of financial products and services*:

- *Regulation respecting the pursuit of activities as a representative (Regulation #2)*
- *Regulation respecting firms, independent representatives and independent partnerships (Regulation #9)*

The AMF is currently holding information sessions in Quebec to further explain the changes and how they impact your practice. We encourage you to attend.

Regulation #2 One of the most important amendments is to Section 6 of Regulation #2, which deals with needs analysis. There is an increased level of information gathering required and there is now a more direct focus on policies with an investment component, including individual variable insurance contracts.

Advisors must, in particular, analyze with the purchaser:

- The purchaser's (or insured's) policies or contracts in effect;
- The features of those policies or contracts and the name of the issuing insurers;
- The purchaser's investment objectives, risk tolerance and financial knowledge; and
- All other necessary elements, such as income, financial situation, number of dependents, and personal and family obligations of the purchaser.

Advisors are also required to record the collected information in a dated document and give that document to the client, no later than the date the policy is delivered. Advisors are expected to be able to demonstrate that the client received the document.

Another important amendment to Regulation #2 relates to policy replacement. Schedule II (notice of policy replacement) has been repealed and a new, significantly longer policy replacement form (new Schedule 1) has been added. It is available on the AMF website.

**Other notable
changes to
Regulation #2**

- Section 2 (incompatible occupations) has been amended to add more occupations and update some of the descriptions. The AMF has also advised that the list is not exhaustive and other occupations could be considered incompatible;
- Section 4 (the pursuit of activities) has been amended to replace the requirement that a representative "devote his time primarily" to activities relating to financial activities with an obligation to "demonstrate availability and diligence";
- Section 5 (contest and promotions) has been amended to remove the exception for low value benefits and property (see below the changes to Regulation #9 that relate to this change).

Regulation #9 Regulation #9 has been amended to add two new sections, 11.1 and 28.1, relating to incentives offered by firms and independent partnerships. These new sections should be read together with section 5 of Regulation #2.

New section 11.1 prohibits a firm or independent partnership from offering any incentive that could influence an advisor's performance of his or her obligations, to the detriment of his client. A contest or promotion to sell specific products is explicitly deemed to have such an influence. There is an exception for non-monetary benefits of a promotional nature that are not material (in terms of value or frequency) to influence the advisor. Firms or independent partnerships must keep a register of the incentives offered by them to their advisors. This register must include:

- Description of the terms and conditions of each incentive;
- Duration;
- Related benefits;
- Applicable products and services;
- Description of the advisors participating in the incentive; and
- Names of the winners.

The purpose of these changes is to protect the client from sales that do not meet their needs. The client's best interests must be the top priority.

Additional information Please note that there are other changes to these regulations not mentioned above. It is important that advisors educate themselves on the requirements of the Act and its regulations by reading them, accessing information documents on the AMF website, and attending AMF information sessions.

Read the AMF communication on these changes:

- The Bulletin : [July 25, 2013 - Vol. 10, no 29](#)
- [Notice of Interpretation](#)

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