

## E-DISTRIBUTION OF INSURANCE PRODUCTS: THE AMF WANTS YOUR INPUT!

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On February 24, 2012, the Autorité des marchés financiers (the “AMF”) published, on its website, a notice of consultation entitled *Notice and Request and Comment on Internet Insurance Offerings in Québec* (the “Notice”).

This process follows the AMF’s analysis, initiated a few years ago, on the issues relating to e-distribution of insurance products.

It is a public consultation on certain proposals developed by the AMF in the context of its work on the evolution of online offering and distribution of insurance, the legal framework applicable in Quebec and elsewhere in the world and the current practices in the industry in Quebec. It will end on May 24, 2012.

### INTRODUCTION

Following the example of the latest developments in matters of governance and commercial practices, the AMF’s main concern in the context of this consultation is the equitable treatment of consumers.

From the outset, the AMF reiterates its principal objective: that the consultation makes it possible to bring about some changes to the current framework within which insurance products are distributed online in order to adequately protect consumers, whatever network they use to buy an insurance product.

The e-distribution of insurance products is a topical issue that is at the heart of regulatory current affairs. On February 6, 2012, the Canadian Council of Insurance Regulators (the “CCIR”), a group having the facilitation of cross-border harmonization of insurance regulations as its main aim, released a related paper entitled *Electronic Commerce in Insurance Products*.<sup>1</sup> Just like the AMF’s consultation, the purpose of this CCIR initiative is to provoke discussion concerning online distribution of insurance products on a national scale.

In the context of its Notice, the AMF tackles the following points:

1. The growth in online distribution of insurance products (statistics for Canada, Quebec and the United States);
2. Internet insurance offerings in Quebec (report on current practices);
3. The advantages and risks for consumers;
4. The current regulatory framework (in Quebec and elsewhere in the world);
5. The proposed framework (13 proposals by the AMF).

### CONSULTATION

The main proposals put forward by the AMF are as follows:

#### “Proposal 2

Stakeholders should have input in determining the role of certified representatives in online insurance offerings.

#### Proposal 3

The following information must be brought to the consumer’s attention before he completes an application or gives the provider the information needed to complete it:

- The type of consumer for whom the product is intended;
- Main product features;

- Product options and coverage, as applicable;
- Product exclusions and limitations;
- The total premium and other fees and expenses that the consumer will have to pay (...) or the basis for the calculation of the amount so that the consumer can verify it;
- In the case of a firm, the name of any insurer with which it does business and its business relationship with that insurer;
- The consumer's right of rescission or cancellation, if applicable, its duration and the procedures for exercising it;
- The existence on the market of any insurance products that may offer similar coverage;
- Any time limit on the validity of the information provided;
- A warning to consumers about the consequences of making false statements, and a notice that they may already have similar coverage under another policy.

Proposal 5

The information made available to consumers before they complete an application must be written in clear, simple language.

Proposal 6

Before a contract is drawn up, providers must give the consumer a summary of the information used to prepare the quote, as well as the essential information concerning the insurance product the consumer wishes to purchase.

Proposal 7

For all insurance applications completed on-line, the provider must send the contract documents to the consumer on a durable medium via the Internet or by mail, at the consumer's choice. At any time thereafter, the consumer may request to receive a paper copy of these documents.

Proposal 11

This consultation seeks the views of stakeholders regarding the suitability of the existing framework to comparison shopping websites.

Proposal 12

Providers may not place any advertising on website pages where the consumer completes an on-line insurance application.

Proposal 13

Insurers and firms should adopt social media policies and procedures to be able to monitor the content that they or their representatives post online and to ensure compliance with current regulations.”

## THE LEGAL FRAMEWORK OF E-DISTRIBUTION

Although this process constitutes only a consultation for the time being, a mere reading of the Notice indicates already that a new kind of framework is in gestation at the AMF, in particular concerning the content of Internet websites and the information to be communicated to consumers.

One of the issues raised by the new framework is the involvement, or not, of a certified representative in the process of online distribution of insurance products, a point on which the AMF clearly states its intentions:

“This paper has mentioned the information imbalance that puts consumers at a disadvantage in the field of insurance. The Act prescribes various measures intended to remedy that imbalance. One of those measures is to require the intervention of an insurance representative when insurance products are distributed. The only exception to that rule is the *distribution other than through a representative*, a distribution mode that applies only to a limited number of products.

The protection of consumers and their need to be guided through the process of buying insurance justify the intervention by a certified representative. (...)

However, the intervention by a certified representative may not be essential at every step of the buying process when it is carried out via the Internet (for example, it is probably not necessary that a representative personally collect information about the consumer).

Still, the AMF believes that the representative should be involved when the time comes to give advice to clients and ensure that the products they have chosen suit their needs.

(...) Therefore, if a provider is offering insurance products on the Internet, consumers should be able to contact a certified representative at any time.”

Thus, the involvement of a certified representative would remain necessary, even in the context of the process of online distribution of insurance products. However, the AMF seems willing to exercise a certain flexibility in terms of the representative’s ethical obligations, in particular as regards the collection of information about the client. It will be interesting to follow the trend that will be developed in this respect.

The outcome of the public consultation with respect to the proposals concerning the mandatory content of Internet websites, the disclosure of business relationships and advantages, comparison sites (aggregators), and the supervision, by insurers and firms, of their representatives’ practices on social media, will also be of particular interest to the industry and its professionals.

Given that the AMF indicates that it does not intend to make the Internet a new mode of distribution, but rather to adapt its rules so as to promote consumer protection regardless of the method used, it is likely that the planned framework will be manifested in the adoption of amendments of a general character to the present framework rather than a specific set of legislative or regulatory provisions that would apply specifically to internet insurance offerings and distribution.

The schedule foreseen by the AMF for the development of the framework for the e-distribution of insurance products is not yet known.

The Notice constitutes a notable step toward the supervision of online distribution of insurance products, a field that has evolved considerably over the last year in Quebec. It will certainly be very interesting to read the industry’s comments on the proposals stated by the AMF, which comments will be published on the AMF’s website after May 24, 2012.

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<sup>1</sup> This document is also available online on the CCIR website (<http://www.ccir-ccrra.org>). It discusses similar issues to those addressed in the AMF’s Notice.

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