Clarifications regarding insurance products offered on the Internet

January 19, 2023

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In early 2022, the Autorité des marchés financiers (the "**AMF**") conducted specific consultations on financial products offered on the Internet. Further to these consultations, the AMF published explanations on the *Regulation respecting Alternative Distribution Methods* (the "**RADM**") in late December 2022.[1]

Here are some key points that the AMF has clarified:

Definitions

The AMF has elaborated on the meaning of certain terms and expressions included in the RADM, thereby clarifying the obligations incumbent on firms as concerns insurance products offered on the Internet:

> "Providing" or "presenting" information: This implies delivering, giving or handing over information to a client without them having to take any action. A client should not have to search for the information to find it. As such, making the information accessible or referring to a policy is not enough.[2]
> "Making visible at all times": The information should be visible to the client at all times, regardless of the page the client is on. A representative's contact information is the only information that must be visible on the digital transactional space at all times. Websites that are accessible to people who are blind or use a voice assistant must also have means to present this information.[3]
> "Making a representative available": The AMF only requires that representatives be available during regular business hours.[4]
> "Making information readily accessible": A client must have the option of taking cognizance of the information and be able to easily find it. The information must be accessible in one or two clicks. Including a hyperlink or an icon, for example, are ways of making information accessible.[5]

Under this obligation, a hyperlink may be used to redirect a client to a website or document external [6]

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to the digital space. External documents that are accessible through hyperlinks, such as sample insurance policies, must be up to date.

Summary of the complaint processing policy

The AMF specifies that the summary of the complaint processing policy referred to in the RADM must be that of the firm running the transactional website, not of a third party. Thus, a property and casualty insurance brokerage cannot refer to an insurer's policy summary.[7]

Identification of the firm

A firm may display partner logos on its digital space only if doing so does not cause confusion. A client must know which firm runs the space and must be able to distinguish it from partners that do not offer the products or services.[8]

Product coverage, exclusions and limitations

Further to its supervisory activities, the AMF has confirmed that product coverage appears to be well presented in digital spaces. However, exclusions and sometimes limitations are not as well presented.

Given that exclusions and limitations constitute information that is necessary for a client to make an informed decision, the AMF urges firms to pay attention to these and to select them based on a proper analysis.[9]

Suspension of transactions

The AMF has clarified how to apply the criteria under section 14 of the RADM, more specifically paragraph 3 of this section, which provides that a firm must suspend a transaction **initiated through a digital space when no representative can immediately intervene with a client who asks to deal with a representative and there is a risk that the client will not be able to make an informed decision.**

The AMF specifies that it is up to the firm to assess and manage its risk. In order to determine whether such a risk exists, the AMF has proposed the following solutions:

> The firm may caution the client as follows: "Do you wish to continue the process even though no representative is available at this time?"
> The firm could post its representatives' availability.
> If a client decides to enter into a contract through a digital space, the firm could ensure that a representative contacts them within 24 hours.

A transaction does not have to be suspended immediately; it can be done at the end of the transaction, before the contract is concluded.

Moreover, stopping or temporarily suspending a transaction may also be necessary if a contradiction or irregularity in the information the client provides could lead to an error.[10] The digital space must be set up to detect such a contradiction automatically.

The AMF considers it preferable to discontinue a transaction if contradictions are detected. It can also be temporarily suspended while the client is informed of the consequences of making false statements and the importance of knowing their entire situation, for example, and to allow them to make corrections, if necessary.[11]

To better understand the obligations of the RADM, we invite you to consult our bulletin Bill 141: Checklist on insurance products offered via the internet and distribution without a representative.

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1. These are only available in French at this time; *Regulation respecting Alternative Distribution Methods*, CQLR, c. D-9.2, r. 16.1.
2. Autorité des marchés financiers, *Explications à l'égard du règlement – Le RMAD expliqué article par article* (hereinafter the "**Explanations"**), ss. 7, 9, 11, 12 and 12.2. The terms "explaining information" or "providing information" under section 12.1 of the RADM should be interpreted in the same manner.
3. Explanations, s. 8.
4. Explanations, s. 8.
5. Explanations, ss. 8 and 10.
6. Explanations, ss. 8 and 10. A representative's contact information does not have to appear on external documents and websites at all times. It is important to note that under section 9 of the RADM, a document that is to be "provided" or "presented" to a client cannot be located on an external website.
7. Explanations, s. 8.
8. Explanations, s. 8, para. 1.
9. Explanations, s. 9.
10. For example, a client declaring they have no children yet selecting insurance for their children constitutes a contradiction.
11. Explanations, s. 14.

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