

REGULATION RESPECTING COMPLAINT PROCESSING AND DISPUTE RESOLUTION IN THE FINANCIAL SECTOR

Credit Assessment Agents Act
(chapter A-8.2, ss. 38, 66 and 73)

Insurers Act
(chapter A-32.1, s. 485, par. 1, and s. 496)

Act respecting financial services cooperatives
(chapter C-67.3, ss. 601.1 and 601.9)

Act respecting the distribution of financial products and services
(chapter D-9.2, ss. 216.1, 223, pars. 8, 11, 12 and 13.1)

Deposit Institutions and Deposit Protection Act
(chapter I-13.2.2, s. 43, par. 4, and s. 45.9)

Derivatives Act
(chapter I-14.01, s. 175, pars. 13, 16 and 19.1)

Trust Companies and Savings Companies Act
(chapter S-29.02, ss. 277 and 286)

Securities Act
(chapter V-1.1, s. 331.1, pars. 8, 26 and 27.0.4)

CHAPTER I **PURPOSE, SCOPE AND INTERPRETATION**

1. The purpose of this Regulation is to ensure the fair processing of consumer complaints in the financial sector. It sets out elements that must be included in the complaint processing and dispute resolution policy adopted under subparagraph 3 of the second paragraph of section 35 of the Credit Assessment Agents Act (chapter A-8.2), subparagraph 2 of the second paragraph of section 50 of the Insurers Act (chapter A-32.1), subparagraph 2 of the second paragraph of section 66.1 of the Act respecting financial services cooperatives (chapter C-67.3), subparagraph 1 of the first paragraph of section 103 of the Act respecting the distribution of financial products and services (chapter D-9.2), subparagraph 2 of the second paragraph of section 28.11 of the Deposit Institutions and Deposit Protection Act (chapter I-13.2.2), subparagraph 1 of the first paragraph of section 74 of the Derivatives Act (chapter I-14.01), subparagraph 2 of the second paragraph of section 34 of the Trust Companies and Savings Companies Act (chapter S-29.02) or subparagraph 1 of the first paragraph of section 168.1.1 of the Securities Act (chapter V-1.1), as the case may be.

This Regulation also sets out the rules governing complaint processing activities and practices.

2. This Regulation applies, with the necessary modifications, to persons and partnerships registered as firms, independent partnerships or independent representatives under the Act respecting the distribution of financial products and services and to legal persons registered as dealers or advisers under the Derivatives Act or the Securities Act.

Except for the provisions of Chapter II, it also applies to credit assessment agents designated under the Credit Assessment Agents Act, insurers authorized under the Insurers Act, financial services cooperatives within the meaning of the Act respecting financial services cooperatives, deposit institutions authorized under the Deposit Institutions and Deposit Protection Act, and trust companies authorized under the Trust Companies and Savings Companies Act.

3. For the purposes of this Regulation,

“complaint” means any reproach or dissatisfaction in respect of a service or product offered by a financial institution or financial intermediary, or in respect of a practice of a credit assessment agent, that is communicated by a person who is a member of the clientele of the financial institution or financial intermediary, or, in the case of a credit assessment agent, by a person concerned by a record held by the credit assessment agent, for which a final response is expected.

“financial institution” means an insurer authorized under the Insurers Act, a financial services cooperative within the meaning of the Act respecting financial services cooperatives, a deposit institution authorized under the Deposit Institutions and Deposit Protection Act, and a trust company authorized under the Trust Companies and Savings Companies Act;

“financial intermediary” means a person or partnership registered as a firm, independent partnership or independent representative under the Act respecting the distribution of financial products and services and a legal person registered as a dealer or adviser under the Derivatives Act or the Securities Act.

CHAPTER II

COMPLAINT PROCESSING AND DISPUTE RESOLUTION POLICY

4. A financial intermediary must adopt a complaint processing and dispute resolution policy that details how the complaints that it receives are processed, including how they are received, assigned, and analyzed and how responses and offers to resolve them are provided to the complainant.

In addition, it must provide that the processing of complaints:

- (1) is to objectively take into account the interests of the complainant; and
- (2) is to be kept simple and free of charge for the complainant.

5. The complaint processing and dispute resolution policy must set out the measures put in place by the financial intermediary to ensure the implementation and dissemination of the policy, as well as compliance therewith, across the organization, including the measure to designate a person to act as a complaints officer who has the necessary authority and competence to perform the functions of a complaints officer.

6. The complaint processing and dispute resolution policy must set out the measures put in place by the financial intermediary to properly assist the complainant throughout complaint processing and inform the complainant in a timely manner of the status of the complaint.

7. The complaint processing and dispute resolution policy must set out the measures for assigning complaints to the staff responsible for processing complaints who are under the functional supervision of the complaints officer and have the necessary competence to process the complaints assigned to them.

As for the processing of the complaints contemplated in Division IV of Chapter III, it must also set out the measures for the assignment of such complaints by the financial intermediary to other staff who have the necessary competence to process them, where such complaints have not been assigned to the staff under the functional supervision of the complaints officer. If applicable, the policy must detail how such complaints are reviewed by the staff referred to in the previous paragraph.

Lastly, it must set out the measures put in place by the financial intermediary to ensure anytime access to information essential for the processing of the complaints received by the staff referred to in the previous paragraphs.

8. The complaint processing and dispute resolution policy must provide that periodic reports covering the following items shall be made to the financial intermediary's officers:

- (1) the number of complaints received and processed and common causes thereof;
- (2) the outcomes of the complaints;
- (3) issues related to the implementation and dissemination of, and compliance with, the policy; and
- (4) issues identified when ascertaining the common causes of processed complaints.

9. The complaint processing and dispute resolution policy must set out the measures put in place by the financial intermediary to develop a comprehensive view of the complaints received, particularly in order to ascertain the common causes of those complaints and address the issues that they raise.

CHAPTER III

COMPLAINT PROCESSING RULES AND PRACTICES

DIVISION I

GENERAL PROVISIONS

10. A financial institution, financial intermediary or credit assessment agent must draft any disclosure documents relating to complaint processing and dispute resolution in a form that is clear, readable, specific and not misleading so as to highlight the key elements required for informed decision making and in such a way as to not cause confusion or misunderstanding.

Furthermore, the financial institution, financial intermediary or credit assessment agent must ensure that staff use clear and plain language in any interactions with complainants.

11. A financial institution, financial intermediary or credit assessment agent must take the necessary actions to understand the complaints filed with it and, to this end, must, when necessary, assist complainants in making their complaints.

When a financial institution, financial intermediary or credit assessment agent determines, in the course of its analysis, that a complaint it has received may have repercussions on other persons who are part of its clientele, it must take the necessary actions to remedy the complaint.

12. A financial institution, financial intermediary or credit assessment agent must process any complaint it receives in a diligent manner.

The same applies to reviews, if applicable, of the complaints contemplated in Division IV of this chapter.

To this end, it must, in particular:

- (1) properly document the processing of the complaint and establish a complaint record in accordance with section 16;
- (2) enter the complaint in the complaints register and update the register based on the information set out in section 18;
- (3) provide the complainant, in the manner set out in section 20, with the acknowledgement of receipt referred to in section 19;

(4) provide the complainant with a final response referred to in section 22 as soon as possible but not later than the 60th day following receipt of the complaint; and

(5) despite subparagraph 4 and where warranted by circumstances that are exceptional or beyond its control, provide the complainant with a final response referred to in section 22, in writing, as soon as possible but no later than the 90th day following receipt of the complaint.

13. If, upon completing its analysis, the financial institution, financial intermediary or credit assessment agent presents the complainant with an offer to resolve the complaint, it must give the complainant a reasonable amount of time to assess and respond to the offer.

The amount of time given must be sufficient to give the complainant the opportunity to seek advice for the purpose of making an enlightened decision.

If an agreement is reached with the complainant, the financial institution, financial intermediary or credit assessment agent must give effect to the offer no later than on the 30th day following acceptance of the offer.

14. A financial institution, financial intermediary or credit assessment agent must, after it has provided a complainant with the final response referred to in section 22 or the information referred to in section 25, continue to manage any further exchanges with the complainant in order to, in particular, allow the complainant to submit, if applicable, any new relevant facts, answer the complainant's questions or follow up on the complainant's comments.

15. If a financial institution, financial intermediary or credit assessment agent notices that a complaint involves several institutions, intermediaries or agents, it must notify the complainant, explaining the extent to which the complaint involves them. The institution, intermediary or agent must also inform the complainant of his or her right to file a complaint about it and must provide the complainant with any information held by it that would allow the complainant to file such a complaint.

DIVISION II

COMPLAINT RECORDS AND COMPLAINTS REGISTER

16. The complaint record that the financial institution, financial intermediary or credit assessment agent must open for any complaint received by it must contain the following documents and information:

- (1) the complaint;
- (2) a copy of the acknowledgement of receipt referred to in section 19 sent to the complainant;
- (3) any document or information used in analyzing the complaint, including any exchanges with the complainant; and
- (4) if applicable, a copy of the written notice referred to in section 21; and
- (5) a copy of the final response provided to the complainant.

The complaint record must be kept up to date and be established so that the documents and information it contains are in a precise form that is comprehensible to any person who is allowed to access it.

17. The financial institution, financial intermediary or credit assessment agent must keep the complaint record for the same retention period as applies to any information relating to the complainant.

18. A financial institution, financial intermediary or credit assessment agent must enter in its complaints register any complaints received by it, without delay.

It must enter therein, as soon as it is available to it, the information enabling it to act on the elements of the complaint processing and dispute resolution policy set out in sections 8 and 9 or in the equivalent expectations established by the Authority in its Sound Commercial Practices Guideline or, as the case may be, its Guideline applicable to credit assessment agents.

DIVISION III

COMMUNICATIONS TO THE COMPLAINANT

19. For the purposes of this Regulation, the acknowledgement of receipt of a complaint will constitute the notice stating the date of registration of the complaint, sent to the complainant under section 39 of the Credit Assessment Agents Act, section 53 of the Insurers Act, section 131.2 of the Act respecting financial services cooperatives, section 103.2 of the Act respecting the distribution of financial products and services, section 28.14 of the Deposit Institutions and Deposit Protection Act, section 76 of the Derivatives Act, section 37 of the Trust Companies and Savings Companies Act, and section 168.1.3 of the Securities Act, as the case may be.

20. The acknowledgement of receipt must be sent in written form to the complainant and, in addition to stating the complainant's right to request to have the complaint record examined by the Authority or, if applicable, a federation, include the following information:

- (1) the complaint record identification code;
- (2) the date on which the complaint was received by the financial institution, financial intermediary or credit assessment agent, if it is different than the date on which the complaint was registered;
- (3) the means by which the complainant may obtain information about the processing of the complaint;
- (4) the expected timeframe for processing the complaint and the date by which the final response must be sent to the complainant; and
- (5) a hyperlink providing access to the summary of the complaint processing and dispute resolution policy or a copy thereof.

21. Under subparagraph 5 of the third paragraph of section 12, the financial institution, financial intermediary or credit assessment agent must send, as soon as possible but not later than the 60th day following receipt of the complaint, a written notice containing the following information:

- (1) the circumstances warranting the application of subparagraph 5 of the third paragraph of section 12;
- (2) the date by which the final response must be sent to the complainant;
- (3) a statement of the complainant's right to request to have the complaint record examined by the Authority or, if applicable, by a federation; and
- (4) the business contact information of the person referred to in section 29.

22. The financial institution, financial intermediary or credit assessment agent must be detailed in the final response referred to in subparagraph 4 or 5 of the third paragraph of section 12, which must include such information as the following:

- (1) a statement to the effect that it is a final response;

- (2) a summary of the complaint received;
- (3) the conclusion of the analysis, including the reasons for the conclusion, and the outcome of the complaint;
- (4) a statement of the complainant's right to request to have the complaint record examined by the Authority or, if applicable, by a federation;
- (5) if an offer to resolve the complaint is presented to the complainant, the time period within which the complainant may accept the offer; and
- (6) the business contact information of the person referred to in section 29, as well as the signature of the person who processed the complaint.

DIVISION IV

PROCESS FOR CERTAIN COMPLAINTS

23. This section applies to the processing of complaints for which the information contemplated in section 25 may be communicated within 10 days following receipt of the complaint.

24. A financial institution or credit assessment agent may assign the complaints contemplated in this division to other staff with the necessary competence to process them where they have not been assigned to staff under the functional supervision of the complaints officer.

25. Despite subparagraph 4 of the third paragraph of section 12 and sections 20 and 22, a financial institution, financial intermediary or credit assessment agent may, upon completing its analysis of a complaint, provide to the complainant, verbally or in writing, information relating to the processing of the complaint. If applicable, it must provide the following:

- (1) the conclusion of the analysis, with the reasons for it, and the outcome of the complaint;
- (2) if an offer to resolve the complaint is presented to the complainant, how much time the complainant has to accept it; and
- (3) a statement to the effect that the complainant may request to have the complaint reviewed by staff under the functional supervision of the complaints officer, where the complaint has not been processed by such staff.

26. Despite subparagraphs 2 and 4 of the first paragraph of section 16, a financial institution, financial intermediary or credit assessment agent may add to the complaint record a document summarizing the elements provided to the complainant pursuant to the sections enumerated in section 19, if applicable, and section 25.

CHAPTER IV

SUMMARY OF THE COMPLAINT PROCESSING AND DISPUTE RESOLUTION POLICY

27. A financial institution's, financial intermediary's or credit assessment agent's summary of its complaint processing and dispute resolution policy must include:

- (1) a description of the procedure for filing a complaint and the complainant's right to obtain assistance in making the complaint;
- (2) a description of the various steps in the complaint process;

(3) a statement to the effect that a complaint may be validly filed with it using the complaint form available on the Authority's website, together with a reference or link to the form;

(4) the means for obtaining information regarding complaint processing;

(5) the complaint processing time period specified in subparagraph 4 of the third paragraph of section 12;

(6) if applicable, the complaint processing time period specified in subparagraph 5 of the third paragraph of section 12; and

(7) a statement of the complainant's right to request to have the complaint record examined by the Authority or, if applicable, a federation.

28. A financial institution's, financial intermediary's or credit assessment agent's summary of its complaint processing and dispute resolution policy must, when posted on its website, be displayed in a place that can be easily identified by any person who is part of its clientele or, in the case of a credit assessment agent, to any person concerned by a record that it holds.

CHAPTER V

SENDING A COMPLAINT RECORD TO THE AUTORITÉ DES MARCHÉS FINANCIERS FOR EXAMINATION

29. A financial institution, financial intermediary or credit assessment agent must, within 15 days following receipt of a request from a complainant to have the complaint record examined by the Authority, send the complaint record, as established under section 16, to the Authority, in accordance with the terms and conditions specified on the Authority's website, providing the name and business contact information of the person officially designated to respond to the Authority.

CHAPTER VI

PROHIBITIONS AND MONETARY ADMINISTRATIVE PENALTIES

30. A financial institution, financial intermediary or credit assessment agent may not:

(1) when it presents the complainant with an offer to resolve the complaint, attach a condition to the offer that:

(a) prevents the complainant from exercising the right to request to have the complaint record examined by the Authority or, where applicable, its federation;

(b) requires the complainant to withdraw any other complaint that the complainant has filed; or

(c) prevents a complainant from communicating with the Authority, a self-regulatory organization recognized under section 59 of the Act respecting the regulation of the financial sector (chapter E-6.1) or with the Chambre de la sécurité financière or the Chambre de l'assurance de dommages, established under section 284 of the Act respecting the distribution of financial products and services.

(2) in any representation or communication intended for the public, use in referring to its complaint processing department or the persons assigned to it the term "ombudsman" or any other qualifier of the same nature that suggests that such persons are not acting on behalf of the financial institution, financial intermediary or credit assessment agent.

31. A monetary administrative penalty in the amount of \$1,000 may be imposed on an authorized financial institution that:

(1) in contravention of the first paragraph of section 16, fails to establish a complaint record containing the documents and information referred to in that paragraph;

(2) in contravention of the second paragraph of section 16, fails to keep the complaint record up to date;

(3) in contravention of section 20, fails to send the complainant an acknowledgement of receipt or sends an acknowledgement of receipt that does not include the information set out in that section;

(4) in contravention of section 21, provides the complainant with a written notice that does not include the information set out in that section;

(5) in contravention of section 22, provides the complainant with a final response that does not include the detailed information set out in that section;

(6) in contravention of section 26, fails to enter in the complaint record a document summarizing the items provided to the complainant pursuant to the sections indicated in section 19, as applicable, and pursuant to section 25; or

(7) in contravention of section 27, disseminates a summary of the complaint processing and dispute resolution policy summary that does not include the information referred to in that section.

32. A monetary administrative penalty in the amount of \$2,500 may be imposed on a financial institution or a credit assessment agent that:

(1) in contravention of the third paragraph of section 13, fails, where a complainant accepts an offer to resolve the complaint, to give effect to the agreement no later than on the 30th day following acceptance of the offer; or

(2) in contravention of section 17, fails to keep a complaint record for the same retention period as applies to any information relating to the complainant;

A monetary administrative penalty in the same amount may also be imposed on a financial institution or credit assessment agent that, in contravention of section 29, fails to send the complaint record, as established under section 16, to the Authority in accordance with the terms and conditions specified on the Authority's website or within 15 days of receiving a request from the complainant to have the complaint record examined by the Authority.

33. A monetary administrative penalty in the amount of \$5,000 may be imposed on a financial institution or credit assessment agent that:

(1) in contravention of subparagraph a of paragraph 1 of section 30, attaches a condition to its offer that prevents the complainant from exercising the right to have the complaint record examined by the Authority or, where applicable, its federation;

(2) in contravention of subparagraph b of paragraph 1 of section 30, attaches a condition to its offer that requires the complainant to withdraw any other complaint that the complainant has filed;

(3) in contravention of subparagraph c of paragraph 1 of section 30, attaches a condition to its offer that prevents the complainant from communicating with the Authority, a recognized self-regulatory organization, the Chambre de sécurité financière or the Chambre de l'assurance de dommages; or

(4) in contravention of paragraph 2 of section 30, uses in referring to its complaint processing department or the persons assigned to it, in any representation or communication intended for the public, the term “ombudsman” or any other qualifier of the same nature that suggests that that such persons are not acting on behalf of the financial institution or credit assessment agent.

A monetary administrative penalty in the same amount may also be imposed on a financial institution or a credit assessment agent that, in contravention of subparagraph 4 or 5 of the third paragraph of section 12, fails to provide a final response to the complainant.

CHAPTER VII

COMING INTO FORCE

34. This Regulation will comes into force on 1 January 2024.