

Draft Regulation respecting complaint processing and dispute resolution in the financial sector

Points for discussion

June 2023

Agenda

1. Definition of « complaint »
2. Information on complaints
3. Simplified process of complaints
4. Transition period
5. Varia

Background

Purpose of the Draft Regulation

- A regulatory framework that applies to:
 - Financial institutions;
 - Financial intermediaries;
 - Credit assessment agents.
- Proposes a framework complementing the already existing obligations under the law.
- Simplify the complaint handling process for all consumers of Quebec financial services.
- Enhance complaint handling practices.

Reminder

Obligations under the law

- Adopting a complaint processing and dispute resolution policy.
- Publishing a summary of the policy.
- Keeping a complaints register.
- Notifying clients of the date of the registration of their complaint.
- Notifying clients of their rights to request the examination of their complaint by the AMF.
- Send the AMF a report on complaints.

Reference : *Insurers Act*, s. 50, 52 to 58
Act respecting the distribution of financial products and services, s. 103 to 103,7.

Definition of « complaint »

Financial institutions and Financial intermediaries

The Draft Regulation proposes a definition of a complaint that enumerates the conditions under which a communication is a complaint regarding a financial institution or financial intermediary :

- it expresses a reproach or dissatisfaction in respect of a service or product offered by the financial institution or financial intermediary;
- it is communicated by a person who is a member of the clientele of the financial institution or financial intermediary; and
- the complainant expects a final response within the meaning of section 12 of the Draft Regulation.

Definition of « complaint »

Financial institutions and Financial intermediaries

The AMF plans to review the definition of « complaint » by:

- Clarifying the concept of the final response;
- Specifically excluding certain situations from the scope of the definition.

The process that would be put in place by financial institutions and financial intermediaries to determine whether a communication should be treated in accordance with the requirements of the Draft Regulation should favor an approach where, when in doubt as to the characterization of a communication, it should be treated as a complaint.

Definition of « complaint »

Financial institutions and Financial intermediaries

Final response

The AMF intends to clarify that a final response is expected where the client's communication implies that steps need to be taken by the financial institution or financial intermediary to remedy the situation raised by the client.

The expectation of a response does not have to be expressly expressed by the client.

Definition of « complaint »

Financial institutions and Financial intermediaries

Exclusions

The AMF plans, under certain conditions, to exclude from the definition of « complaint » the communication which would consist in:

- Obtaining information or requesting documents;
- Requesting the correction of an administrative error.

However, a communication would become a complaint if clients have to submit their communication again or if, for example, they express a reproach or dissatisfaction with the follow-up of their communication.

The communication requesting the correction of an administrative error would be a complaint if an expectation of a final response is nevertheless expected.

Definition of « complaint »

Financial institutions and Financial intermediaries

Exclusions

The AMF intends to clarify that the definition of complaint would not cover communication which consists in formulating:

- A comment or feedback;
- A request to information or rectification under the Act respecting the protection of personal information in the private sector.

Also, submitting an insurance claim would not be considered a complaint. The consumer may express a reproach or dissatisfaction in respect of the process itself (expecting a final response) , which would therefore make it a complaint to be processed in accordance with the Regulation.

Information on complaints

Financial institutions and Financial intermediaries

The law specifies that financial institutions and financial intermediaries must register complaints in the complaints register they are required to keep and send a report to the AMF about those complaints.

The Draft Regulation did not include any requirement relating to the transmission of the complaint report or its content.

Insurers expressed their wish that the definition of a complaint corresponds to the definition established by the CCIR for the purposes of providing information on complaints in the Annual statement on market conduct.

As for securities intermediaries, they would like the definition to match the one established by CRO in the rules governing the activities of investment dealers and the rules governing the activities of mutual fund dealers.

Information on complaints

Financial institutions and Financial intermediaries

The AMF is considering requesting:

1) Detailed information on complaints as follows:

- Insurers could continue to provide detailed information on complaints as per the characteristics of a complaint established by CCIR for the purpose of the Annual statement on marked conduct.
- Other financial institutions and credit assessment agents could continue providing information on complaints as per the characteristics of a complaint established for the purpose of the annual statement they have to provide the AMF.
- Investment dealers could continue to provide information on complaints as per the characteristics of a complaint of CIRO. A similar approach could be put in place for mutual fund dealers.
- The AMF is also considering a similar characteristics of a complaint for other financial intermediaries.

2) For other complaints, the AMF is considering limiting the information to the number of those and their nature.

Simplified process of complaints

Financial institutions and Financial intermediaries

The Draft Regulation proposed rules and practices for the simplified processing of certain complaints under the following conditions :

- They are processed within 10 days of their receipt;
- They can be processed by the customer service employees on condition that the possibility is provided for the client to request a review by the complaints officer or a person, under his supervision, in charge of handling complaints..

The Draft Regulation provided that complaints whose processing could not be completed within this time period should be handled by the complaints officer or by a person, under his supervision, in charge of handling complaints.

Simplified process of complaints

Financial institutions and Financial intermediaries

The AMF is considering allowing a period of 20 days for the application of these rules and practices.

The AMF does not plan to provide for measures that would suspend the calculation of the time period for processing complaints between different levels and is considering:

- Removing the requirement of review of the complaints handled by customer service employees;
- Requiring that a final written response must be sent to the client by the complaints officer or a person, under his supervision, in charge of handling complaints if the complaint cannot be processed with to the client's satisfaction within 20 days following receipt of the complaint.

Financial institutions and financial intermediaries, for example, could choose, to ensure that the complaint is processed within 60 days, to set up a complaint review process that would be done prior to the communication of the final written response.

Transition period

Financial institutions and Financial intermediaries

The AMF plans to provide for a transition period of 18 to 24 months which would allow the entire financial sector, in particular the largest companies, financial groups and companies operating in several Canadian jurisdictions, to ensure the adequate implementation of the requirements established by the Draft Regulation.

Varia

Financial institutions and Financial intermediaries

The AMF is considering making other changes to the Proposed Regulations, including

- Removing the reference to the person officially designated to respond to the AMF in the communications sent to the client, but impose an obligation for financial institutions, financial intermediaries and credit assessment agents to provide the contact information of the latter at the request of the AMF.
- Providing for the possibility of agreeing on a different deadline with the client to respond to the offer he or she has accepted when it is in the interest of said client;
- Requiring that a statement be added to the complaints processing policy summary explaining how consumers can request a review of their complaint by the AMF.

Thank you!