

REGULATION RESPECTING COMPLAINT PROCESSING AND DISPUTE RESOLUTION IN THE FINANCIAL SECTOR

Credit Assessment Agents Act
(chapter A-8.2, ss. 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. *u*, 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 the 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 dissatisfaction or reproach 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, that cannot be remedied immediately and for which a final response is expected.

The following do not constitute complaints: a claim for an indemnity or any other insurance claim, a request to access or correct a record held by a credit assessment agent and an initial request for information or documents made, in the case of a credit assessment agent, by a person concerned by a record held by the credit assessment agent or, in the case of a financial institution or financial intermediary, by a person who is a member of the clientele of a financial institution or financial intermediary in respect of an offered product or service;

“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 establish a complaint process in its complaint processing and dispute resolution policy that:

- (1) objectively takes into account the interests of the complainant;
- (2) is simple to follow and without cost to the complainant; and
- (3) is documented in detail, including by procedures for analyzing complaints.

5. The complaint processing and dispute resolution policy must provide that the financial intermediary will identify needs for the implementation, application and periodic review of the complaint process and assign the required persons thereto.

For this purpose, the policy must include the following rules:

(1) to ensure that its complaint process is known and understood by the persons assigned to implement, apply and review it, the financial intermediary will provide such persons with training at least once a year and at the following times:

- (a) upon their assignment; and
- (b) when, following a review, a change is made to the complaint process;

(2) the financial intermediary will ensure that the complaints officer referred to in section 6 and the staff responsible for processing complaints referred to in section 7 are able, in carrying out their respective functions, to act with independence and avoid any situation in which they would be in a conflict of interest.

6. The financial intermediary must include in its complaint processing and dispute resolution policy elements pertaining to the designation and functions of the person acting as complaints officer within its organization, including:

(1) the integrity, competence and solvency requirements for such designation, in this case professional qualifications, knowledge of the laws and regulations governing the intermediary's activities, required work experience and the absence of a judicial or disciplinary record, as applicable;

(2) the functions of the complaints officer, including:

(a) ensuring that the complaint process is applied and reviewed and that the complaint processing and dispute resolution policy is applied;

(b) documenting and reporting the issues referred to in paragraph 3 of section 8, the common causes and issues referred to in section 9, and the reasons referred to in section 10;

(c) ensuring that complaints are assigned to the staff responsible for processing complaints;

(d) acting as official respondent with the financial intermediary's clientele and with the Autorité des marchés financiers for complaint records sent to it for examination.

7. The financial intermediary must include in its complaint processing and dispute resolution policy elements pertaining to staff responsible for processing complaints and to the assignment of complaints to them, including:

(1) the integrity, competence and experience requirements for staff responsible for processing complaints, in this case detailed knowledge of the products and services offered by the financial intermediary;

(2) access at all times to information essential to the performance of the functions of this staff;

(3) instructions to ensure that clear and plain language is used in any interactions with complainants and that complainants understand the complaint process.

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

(1) the number of complaints received and processed and the reasons for and underlying causes of the complaints;

(2) the outcomes of the complaints;

(3) issues related to the implementation, application and review of the complaint process.

9. The complaint processing and dispute resolution policy must provide that the underlying causes of complaints that are processed will be analyzed periodically to identify causes common to the complaints and address the issues that they raise.

10. The complaint processing and dispute resolution policy must provide that the reasons supporting a complaint will be analyzed to determine whether they may have repercussions for other persons who are members of the financial intermediary's clientele and to take measures to remedy them, if necessary.

CHAPTER III

COMPLAINT PROCESSING RULES AND PRACTICES

DIVISION I

GENERAL PROVISIONS

11. A financial institution or financial intermediary must provide a complaint drafting assistance service to any person expressing a need for it who is a member of the clientele of the financial institution or financial intermediary.

A credit assessment agent must do likewise in respect of any person concerned by a record that it holds.

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

Accordingly, it must, in particular:

(1) adequately 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 21 as soon as possible but not later than the 60th 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 minimum of 20 days to assess and respond to the offer.

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

If the complainant accepts the offer, the financial institution, financial intermediary or credit assessment agent must give effect to the offer no later than the 30th day following receipt of such acceptance.

14. The financial institution, financial intermediary or credit assessment agent must, in due time, continue to manage any further exchanges with the complainant until no further action is required with respect to the complaint.

It must particularly do so in the following situations:

(1) upon completing its analysis, it does not present the complainant with an offer to resolve the complaint;

(2) the complainant refuses the offer to resolve the complaint; or

(3) the complainant files an application or motion pertaining to elements of the complaint with a court or adjudicative body.

15. If a complaint concerns several financial institutions, financial intermediaries or credit assessment agents, the institution, intermediary or agent receiving the complaint must notify the complainant in writing within 10 days following receipt of the complaint, stating that the complainant must also file the complaint with the other financial institutions,

financial intermediaries or credit assessment agents concerned and providing the complainant with their contact information.

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 and, if the complainant requested the complaint drafting assistance service, the complainant's initial communication;
- (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) a copy of the final response provided to the complainant.

The complaint record must be established such 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 a period of at least 7 years from the date the complaint is received.

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

It must enter the following information in the complaints register as soon as it becomes available:

- (1) the complaint record identification code;
- (2) the date of receipt of the complaint and the complaint registration date;
- (3) the reason for the complaint;
- (4) the underlying cause of the complaint;
- (5) the product or service that is the subject of the complaint and the method of distribution thereof, or, in the case of a credit assessment agent, the practice that is the subject of the complaint;
- (6) if applicable, the class of insurance of the product that is the subject of the complaint;
- (7) the date the final response was provided to the complainant;
- (8) the outcome of the complaint and, if applicable, of the offer to resolve it;
- (9) if applicable, the date the complaint record was sent to its federation;
- (10) if applicable, the date the complaint record was sent to the Authority; and
- (11) the date the complaint record was closed.

DIVISION III

COMMUNICATIONS TO THE COMPLAINANT

19. For the purposes of this Regulation, the acknowledgement of receipt will constitute the notice stating the complaint registration date, 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, where 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;
- (3) the name and contact information of the member of the staff responsible for processing the complaint, referred to in section 7 or the Sound Commercial Practices Guideline or a guideline applicable to credit assessment agents in this matter (*indicate here the title of the guideline*) established by the Authority;
- (4) a statement to the effect that the complainant may contact the person referred to in paragraph (3) of this section to find out the status of the complaint;
- (5) the next steps in the complaint process and the date by which the final response must be sent to the complainant; and
- (6) the signature of the complaints officer referred to in section 6 or the Sound Commercial Practices Guideline or a guideline applicable to credit assessment agents in this matter (*indicate here the title of the guideline*) established by the Authority.

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

- (1) a summary of the complaint received;
- (2) the conclusion of the analysis, including the reasons for the conclusion, and the outcome of the complaint;
- (3) a statement of the complainant's right to request to have the complaint record examined by the Authority or, where applicable, by a federation;
- (4) if an offer to resolve the complaint is presented to the complainant, the time period within which the complainant may accept the offer;
- (5) the signature of the complaints officer.

22. For any complaint resolved within 10 days following the complaint registration date, the financial institution, financial intermediary or credit assessment agent may provide the complainant with a final response containing the information referred to in paragraphs 1, 2 and 3 of section 20 and paragraphs 1, 2, 3 and 5 of section 21, as well as a statement to the effect that the complainant has accepted the offer to resolve the complaint.

The acknowledgement of receipt referred to in section 19 will be considered to have been sent by a financial institution, financial intermediary or credit assessment agent where a final response is provided to the complainant in accordance with the first paragraph.

CHAPTER IV

SUMMARY OF THE COMPLAINT PROCESSING AND DISPUTE RESOLUTION POLICY

23. A financial institution's, financial intermediary's or credit assessment agent's summary of its complaint processing and dispute resolution policy must include, among other elements, the following information:

(1) a description of the procedure for filing a complaint and the complainant's right to obtain assistance in drafting the complaint;

(2) a statement 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;

(3) the name and contact information of the complaints officer;

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

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

24. A financial institution's, financial intermediary's or credit assessment agent's summary of its complaint processing and dispute resolution policy must be written in a clear and simple manner and using terms that are not confusing or misleading.

It must be readily accessible to any person who is a member 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

25. The financial institution, financial intermediary or credit assessment agent must send the complaint record, as established pursuant to section 16, to the Authority in accordance with the terms specified on the Authority's website and within 15 days following receipt of the complainant's request to have the complaint record examined by the Authority.

CHAPTER VI

PROHIBITIONS AND MONETARY ADMINISTRATIVE PENALTIES

26. 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;

(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 process or the persons assigned to implement, apply or review its complaint process 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.

27. 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 18, fails to enter in its complaints register the information referred to in that section;

(3) in contravention of section 20, sends the complainant 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 final response that does not include the detailed information set out in that section;

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

(6) whose complaint processing and dispute resolution policy summary does not include, in contravention of section 23, the information referred to in that section.

28. 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 first paragraph of section 11, fails to offer, in the case of a financial institution, a complaint drafting assistance service to any person expressing a need for it who is a member of its clientele;

(2) in contravention of the second paragraph of section 11, fails to offer, in the case of a credit assessment agent, a complaint drafting assistance service to any person expressing a need for it who is concerned by a record that the credit assessment agent holds;

(3) in contravention of the first paragraph of section 13, fails to give the complainant a minimum of 20 days to assess and respond to the offer to resolve the complaint;

(4) 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 offer no later than the 30th day following receipt of the offer;

(5) in contravention of section 15, fails to notify the complainant within 10 days following receipt of the complaint;

(6) in contravention of section 17, fails to keep a complaint record for a period of at least 7 years from the date the complaint is received;

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 25, fails to send the complaint record, as established pursuant to section 16, to the Authority in accordance with the terms and conditions set out on its website or within 15 days of receiving a request from the complainant to have the complaint record examined by the Authority.

29. 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 26, 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 26, 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 26, 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;

(4) in contravention of paragraph 2 of section 26, uses in referring to its complaint process or the persons assigned to implement, apply or review its complaint process, 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 paragraph 2(4) of section 12, fails to provide a final response to the complainant.

CHAPTER VII COMING INTO FORCE

30. This Regulation comes into force on (*indicate here the date of coming into force of this Regulation*).