



## **Response to comments received as part of the public consultation on the draft Regulation respecting complaint processing and dispute resolution in the financial sector**

On February 15, 2024, the Autorité des marchés financiers (the "AMF") published the final version of the Regulation respecting complaint processing and dispute resolution in the financial sector (the "Regulation"), which will come into force on July 1, 2025.

The AMF would like to thank the stakeholders who provided comments as part of the public consultation that ended February 6, 2023. This document provides explanations of how comments were addressed by the AMF.

*Business* is used in this document in referring to all persons covered by the Regulation.

### **Consultation summary**

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The AMF received 21 comment letters from consumer organizations, industry associations, businesses covered by the proposed Regulation, and a dispute resolution service provider.

The AMF has carefully reviewed the received comments and addressed some of them by making changes to the draft Regulation. The AMF has taken note of the comments focused on comprehension and implementation of the obligations set out in the Regulation and will provide the requested explanations in the complaint examination section of its website. These explanations will be published in the coming months.

In general, the AMF's stated objective of enhancing the fair processing of consumer complaints was welcomed. Certain requirements set out in the draft Regulation were also the subject of positive feedback, while some adjustments were requested, particularly to the definition of "complaint", the rules and practices relating to the simplified process for certain complaints, and the date of coming into force of the Regulation. The administrative burden resulting from this new framework was also raised in the comments. The details of how the AMF has chosen to address the comments are set forth below.

### **Definition of "complaint"**

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The draft Regulation sets out the conditions that would need to be met for a communication to be considered a complaint. Under the proposal, a communication is considered a complaint regarding a financial institution or financial intermediary if it meets the following conditions: (1) it expresses a dissatisfaction or reproach in respect of a product or service offered by the financial institution or financial intermediary; (2) it is



communicated by a person who is a member of the clientele of the institution or intermediary; and (3) the complainant expects a final response.

With respect to credit assessment agents, a communication is considered a complaint under the proposal if: (1) it expresses dissatisfaction or a reproach in respect of a practice of a credit assessment agent; (2) it is communicated to the agent by any person concerned by a record that the agent holds; and (3) the complainant expects a final response.

Under the proposed definition, any communication that meets these conditions would be considered a complaint that must be entered in the complaints register and processed in accordance with the requirements set out in the Regulation.

The comments regarding the definition of “complaint” pertain mainly to the following concepts.

**The concept of “final response”:** Some comments express the need for the concept of “final response” to be clarified to assist businesses’ in interpreting and applying the concept.

**Response:** The AMF is adding clarification to the definition of a complaint. Accordingly, a final response is expected when the complainant’s communication implies that action must be taken by the business to address the complaint. The added clarification also specifies that the complainant’s expectation may be expressed explicitly or implicitly.

**Communications that are not considered complaints:** Several comments suggest that certain client requests and communications be expressly excluded from the definition of a complaint. Some suggest that the exclusions initially proposed in the first version of the draft Regulation (claim for an indemnity or any other insurance claim, request for access to or rectification of a record, request made for information or materials) be reintroduced to the definition of a complaint. It is further suggested that other requests be excluded, including those that can be resolved with an explanation or by sending documents and those covered by the concept of “service complaint” in the securities sector.<sup>1</sup>

**Response:** The AMF agrees that many consumer communications are not complaints. In light of the comments received, the AMF is revising the definition of a complaint by reintroducing examples of requests and communications that do not constitute complaints.

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<sup>1</sup> The [Corporation Investment Dealer and Partially Consolidated Rules](#) of the Canadian Investment Regulatory Organization (“CIRO”) specify that “a service complaint by a client is one that is related to service issues and is not the subject of any domestic or foreign securities law.” According to CIRO’s [rules applicable to mutual fund dealers](#), a service complaint means “any complaint by a client which is founded on customer service issues and is not the subject of any securities legislation or regulatory requirements; or any complaint by a client as a result of a good faith trading error or omission.”



**Administrative burden:** A number of comments pertain to the inclusion of the concept of dissatisfaction in the definition of a complaint (this concept is not currently considered a complaint) and stress that this modification would entail significant changes to the existing complaint process, particularly because many dissatisfactions currently resolved in the normal course of business would henceforth be processed in accordance with the requirements of the draft Regulation and entered in the business's complaints register.

**Response:** The AMF reiterates that the complaint definition has been developed to address the needs of consumers, who want their dissatisfactions or reproaches to be processed fairly and diligently. It underscores that the definition is drawn from national and international complaint processing principles and adds that it is similar to the definition set out in, among other things, *Guidance: Conduct of Insurance Business and Fair Treatment of Customers*, published by the AMF in conjunction with the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations, *Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations*, and the CISO rules applicable to its members.

With a view to further reducing the regulatory compliance burden arising from the Regulation, the AMF is making changes to the Regulation to give businesses more flexibility in determining how certain complaints are handled and the level of formality with which they are handled. Businesses will be able to process a significant percentage of complaints under the rules for the simplified process set out in the Regulation. To this same end, the AMF has also simplified the requirements relating to the information to be entered in the complaints register.

**The complaint report that must be submitted to the AMF:** The Regulation does not include any requirements relating to the complaint report that businesses must submit to the AMF through the system made available to them.

However, the AMF received several comments regarding the administrative burden associated with the complaint report and submission of the report. These comments underscore that businesses are anticipating a larger number of complaints to be entered in their complaints registers. The comments point out that this increase would represent an additional administrative burden for businesses if they were required to include all such complaints in the system. Consequently, it is suggested that complaints resolved using the simplified process be reported to the AMF on an aggregate basis while being limited to the number of complaints received by category of complaints. Moreover, there is a desire for alignment with the information requested under the CCIR Annual Statement on Market Conduct.

**Response:** The AMF reiterates that the Regulation sets down the rules for how businesses are to process and document complaints from clients and is distinct from the obligation to keep a complaints register and the obligation to report the complaints entered in the register to the AMF.



The AMF plans to reevaluate the information that businesses will be required to disclose in their complaint reports in preparation for the coming into force of the Regulation. The AMF wishes to find a balance between the collection, by the AMF, of the data it needs to fulfil its mission and businesses' administrative burden.

The AMF plans to hold discussions with businesses before updating the requirements relating to the complaint report. These discussions will take place before the coming into force of the Regulation.

The AMF has already engaged in discussions with insurers, through work undertaken by the CCIR, concerning information to be provided on the number and nature of the complaints to be reported in the Annual Statement on Market Conduct. These discussions will continue over the coming months.

The AMF will also be entering into discussions with financial intermediaries and CIRO to identify the information to be provided on complaints entered in the complaints register. The AMF is being guided by the desire not to impose an additional burden on businesses and wishes to align the requirements for the complaint report as much as possible with the complaint processing requirements in the Regulation. Accordingly, the AMF is contemplating providing, for financial intermediaries, that the information regarding complaints resolved to clients' satisfaction according to the rules of the simplified complaint process be limited to the number of complaints resolved through those rules. The only information to be provided in the complaint reporting system would be that relating to other complaints.

The AMF will support businesses through the transition period leading up to, and during the complaint reporting periods preceding, the coming into force of the Regulation, in preparation for the complaint reporting period beginning on January 1, 2026. (see the section "Coming into force" below for additional information on this topic).

### **Complaint processing rules and practices**

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The Regulation sets down a common set of complaint processing and dispute resolution rules and practices for financial institutions, financial intermediaries and credit assessment agents. The comments on this topic focus mainly on the following elements.

**Assistance to be provided to complainants:** The draft Regulation required that businesses take the necessary actions to understand the complaints that are communicated to them and, when necessary, provide assistance to consumers in filing their complaints.

The comments show that the obligation to provide assistance is seen as an essential consumer protection tool but also that assistance raises conflict of interest concerns.



**Response:** Given the requirement's significant impact for consumer protection and the fact that it aligns with the AMF's desire to enhance the fair processing of consumer complaints, the AMF is maintaining the obligation for businesses to, when necessary, provide assistance to consumers in filing their complaints. Explanations will be provided by the AMF, particularly on its website. Businesses are asked to please stay updated.

**The timeframe for processing a complaint:** This is a flagship element of the draft Regulation. Under the draft regulation, businesses would be required to provide complainants with a final response within 60 days following receipt of the complaint. The AMF proposed, however, that where warranted by exceptional circumstances or circumstances beyond the business's control, a final response could be provided within an additional 30 days, that is, not later than on the 90th day following receipt of the complaint.

Some comments suggest different conditions than those proposed by the AMF to allow the complaint processing timeframe to be extended. Some suggest replacing the expression "exceptional circumstances" with "where circumstances warrant" or providing the parties with the possibility of agreeing to a timeframe exceeding 90 days.

**Response:** The primary objective of the Regulation is that complaints are processed fairly and diligently. Upon analyzing the suggestions, the AMF is choosing to maintain as proposed the conditions under which businesses may extend the complaint processing timeframe (i.e., where warranted by exceptional circumstances or circumstances beyond the business's control).

**The timeframe to give effect to the offer presented to the complainant:** Under the draft Regulation, a business presenting an offer to resolve a complaint would have to do so in accordance with the requirements established in the draft Regulation. Specifically, where a complainant accepts the offer presented by the business, the business would have to give effect to the offer within 30 days following its acceptance.

Some comments point out that the timeframe proposed by the AMF to give effect to an offer may prove to be too short in some cases and that it may be in the complainant's interest to agree on another timeframe with the business.

**Response:** The AMF is changing its requirement in order to allow the parties to agree upon a timeframe of more than 30 days within which the business must give effect to an offer where the complainant's interest warrants it.



**The person officially designated to respond to the AMF:** The AMF introduced in the draft Regulation the concept of “person officially designated to respond to the AMF”. It proposed that the business contact information of that person be included in certain communications sent to the complainant and that the information be sent to the AMF when the complaint record is sent for examination by the AMF.

The comments raise the potential for confusion between the role of the person designated to respond to the AMF and the role of the person who processed the complaint or even the complaints officer. It is proposed that the business contact information of the person officially designated to respond to the AMF not be included in communications sent to the complainant.

**Response:** In response to the above comments, the AMF has replaced these requirements with an obligation for businesses to provide, not later than on the 10 days after the AMF requests it, the name and business contact information of the person officially designated to respond to the AMF.

#### **Simplified process for certain complaints**

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The AMF proposed rules for the processing of complaints that can be processed within 10 days following receipt of the complaint. These rules were intended to give businesses greater flexibility in how such complaints are handled and encourage the efficient processing of them. Under the rules, a business could, for example, process certain complaints verbally, including during a phone call to its call centre.

It was proposed that businesses wishing to assign the processing of such complaints to client service staff provide complainants with the possibility of requesting that their complaints be reviewed by the complaints officer or a person under the complaints officer's supervision.

It was also proposed that complaints that cannot be processed in full within the prescribed timeframe be finalized by the complaints officer or a person under the complaints officer's supervision. The AMF proposed that an acknowledgment of receipt be provided to the consumer and that a final response be sent within the timeframe prescribed in the draft Regulation.

**Rules relating to the simplified process for certain complaints:** The objective of these rules is generally well received. There are nevertheless a number of comments that relate to the simplified process for certain complaints. Some comments maintain that the rules are not aligned with the reality of the securities sector owing to the compliance requirements that apply to the sector. Certain comments suspect that the rules would significantly impact the complaint process and contend that the rules would alter the nature of the duties of staff assigned to client service.



Other comments maintain that the 10-day timeframe proposed for the application of these rules is too short. They ask that the timeframe be 30 days and that the calculation of the deadline be suspended between the time a response is given to the client by client service and the time the client's request for review by the complaints officer and the complaints officer's team is received.

It is also noted that entering such complaints in a business's complaints register is a good way for the AMF to verify that the industry is not abusing the discretion granted to it in applying these rules. Moreover, it is noted that consumers must not be faced with the additional burden of having to contest fast decisions.

**Response:** The proposed rules seek a balance between the administrative burden imposed by the Regulation and the fair processing of consumer complaints. The rules are also linked to an objective of simplifying the complaint process for consumers and making it more accessible. Upon analyzing the comments, the AMF concludes that it is not in the interest of consumers to allow for a suspension of the calculation of the complaint processing deadline as proposed in the comments and is removing the requirement relating to the review of complaints that are not processed by the complaints officer.

However, the AMF is of the opinion that providing a longer timeframe for the application of these rules may help reduce administrative compliance burden and limit the impact of the rules on the processes implemented by businesses for assigning the handling of certain complaints to client service staff. Consumers may benefit from businesses being provided with a longer timeframe to resolve a complaint to the client's satisfaction in accordance with these rules. The timeframe applicable to these rules is 20 days.

### **Coming into force**

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The AMF, conscious of the fact that businesses would have to make adjustments to their complaint processing and dispute resolution policies, processes and procedures in order to comply with the proposed regulatory framework, provided a transition period between when the Regulation is published in the AMF Bulletin and when it comes into force on January 1, 2024.

**The date of coming into force of the Regulation:** Several comments explain that this new regulatory framework will require changes to businesses' complaint processing and dispute resolution policies and IT procedures, processes and systems and will involve staff training planning. It is noted that a longer transition period will be required to implement these changes than the one proposed by the AMF and that some businesses will need to provide for additional staff. A transition period of 12 to 24 months is proposed.

**Response:** To ensure this new framework is properly implemented, the AMF is setting a date of coming into force of July 1, 2025, thereby providing businesses with a 14-month transition period.



## **Exemption**

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The Regulation is in keeping with the AMF's desire to establish a harmonized framework for the processing of complaints in Québec's financial sector and enhance the fair processing of consumer complaints in Québec. The Regulation establishes complaint processing and dispute resolution requirements that complement those already provided for in the laws that govern the activities of financial intermediaries, financial institutions and credit assessment agents. The AMF therefore did not provide for the possibility of certain businesses not being subject to the requirements of this new framework.

**The exemption:** The comments underscore that the securities sector is already subject to complaint handling and dispute resolution requirements under *Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations* and the rules established by CIRO. It is also noted that the AMF's approach to developing this regulation is contrary to its involvement in the SRO project.

**Response:** The AMF believes that establishing a common set of complaint processing and dispute resolution rules for the whole of the financial sector is in the interest of Québec consumers. As CIRO has agreed to abide by, promote and partner in the application of the complaint processing and dispute resolution regime established in Québec in accordance with the *Securities Act* and the *Derivatives Act*, the AMF is introducing an exemption that would allow investment dealers and mutual fund dealers that are members of CIRO to be exempt from the application of the Regulation where they are subject to equivalent rules of CIRO that have been approved by the AMF.