

Do You Plan to Distribute Insurance Products Other Than Through a Representative?

By Daniel Alain Dagenais



In general, only insurance representatives who hold a certificate issued by the Bureau des services financiers are authorized to offer insurance of persons or damage insurance contracts to the public. Such representatives are either agents or brokers, depending on whether they offer products from a single or many insurers.

However, the Act respecting the distribution of financial products and services (the "Act") includes an exception allowing several insurance products to be offered to the public by persons who are not insurance representatives, such persons being referred to in the Act as "distributors".

As this is an off-standard approach, the Act sets out specific criteria with respect to the type of insurance products that may be so distributed and the conditions under which such distribution may take place. Indeed, distributors do not hold representative's certificates and are not required to prove that they either received the training or possess the experience that would enable them to advise and inform their clients as fully as a certified representative would. The rules set out in the Act specifically aim

at restricting the exception to several specific categories of products and, by implementing disclosure mechanisms, ensure the best possible protection for the consumers of these products.

Possible cases

Three avenues are available for an insurer to offer insurance products to the public through a distributor.

One must first note that insurance distribution does not constitute the main activity of the distributor. In the first of the three categories, the distributor is a seller of goods who offers to his clients, as an accessory, an individual or group insurance product which relates solely to the goods sold by the distributor. For instance, an optometrist may offer to his clients insurance covering theft or loss of the eyeglasses that he sells.

Secondly, the Act authorizes the distribution other than through a representative in some specific instances, including debtor life, health and job loss insurance, travel insurance or vehicle rental insurance.

It is also exceptionally possible under the Act to request a special authorization, which is granted under a government order.

Conditions

First among the regulatory conditions to be complied with to distribute insurance through persons other than certified representatives is the requirement to prepare a "distribution guide", the purpose of which is to provide the consumer with information on the nature and content of the relevant insurance product to help him or her determine whether such product is suitable in the circumstances. The distribution guide is not a promotional document but rather an information document, the contents of which must be approved by the *Bureau des services financiers* under very strict review criteria.



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The guide must be used by each distributor, who must be sufficiently familiar therewith. Each consumer must of course be given a copy of the guide before purchasing the insurance product.

The distributor must also provide several other items of information, including, in certain cases, the percentage of remuneration he receives. The consumer must also be notified in writing that he or she may cancel the insurance contract within 10 days of signing it.

The *Lavery, de Billy* Insurance Law team members possess extensive experience in dealing with problems related to the distribution of insurance products other than through a representative and the drafting of distribution guides. As dedicated specialists, they can provide you with expert advice and help you implement relevant and effective solutions to the problems confronting you in respect of the above-mentioned matters.

This bulletin is provided for general information purposes only with respect to the distribution of insurance products other than through a representative. For advice tailored to your own specific needs and circumstances, do not hesitate to contact Mr. Daniel Alain Dagenais at (514) 877-2924.

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