

Spotlight on Compliance

Notice of Replacement**

Modifications to the Regulation respecting the pursuit of activities as a representative came into effect October 22, 2013. Among these modifications is the new Notice of Replacement form for all types of insurance of persons contracts covered by the replacement procedure outlined in Division VII of the Regulation.

This form helps representatives better explain to their clients the advantages of replacing an existing policy. It also contains several open-ended questions that provide clients with information on certain factors specific to their situation.

The new form became mandatory as of October 22, 2014 and is available on the AMF website.

When and for who?

Section 18 of the Regulation states that a notice of replacement is necessary when replacing an existing insurance of persons contract. Furthermore, a notice of replacement is also required when representatives in insurance of persons secure the adhesion of a person to a group insurance contract that results in the termination, cancellation or reduction of benefits of an individual insurance policy.

In other words, these provisions apply to all representatives in insurance of persons who are going to replace a life insurance contract or who secure the adhesion of a person to a group insurance contract that impacts an individual insurance policy.

According to section 22 of the Regulation, where the purchase of an insurance contract is likely to result in termination, cancellation or reduction in benefits of another insurance contract, the representative must follow the replacement procedure.

Furthermore, section 25 of the Regulation states that the procedure applies to the replacement of a signed insurance proposal for which the mode premium (contractual) has been paid in full. The signatory of the proposal has given the authorization necessary to put the policy into effect.

Notwithstanding the above, the replacement procedure does not apply if a medical examination was required, but was not carried out on time.

The procedure also applies if the replacement is a signed insurance proposal providing for temporary coverage of not more than 1 year, for which the temporary insurance premium has been paid.

Finally, section 27 of the Regulation states that where an insurer, who has studied the proposal, is prepared to issue a contract, but is subject to payment of an additional premium, the representative must follow the replacement procedure before he obtains a similar contract without any additional or extra premium from another insurer.

Changes in the new form

The new form includes open-ended or essay-type questions intended to provide clients with reasons that justify the proposed replacement and give them information specific to their situation.

The following are additional changes that have been made:

- **The notice number must be the same as the insurance proposal number;**
- **An important message to consumers was added regarding the replacement's impact on incontestability and suicide clauses. The client must acknowledge this information, sign and date it;**
- **A copy of the completed form signed by the representative must be submitted to the client within 5 working days of signing the proposal.**
- **The client must sign the notice and initial each page of the document no later than the time of delivery of the new policy. A copy of the form signed by the representative and the client must be submitted to the client and another must be kept in the client's file.**

What remains the same in the new form

Despite the new modifications, most of the obligations remain the same when you plan to offer your client a new policy to replace the existing one. Here is a reminder of what you are obliged to do:

- **You must endeavour to ensure that the existing insurance contracts are maintained in effect;**
- **You must replace the insurance policy only when it is in the client's best interest;**
- **You must respect the replacement procedure when taking out a policy is likely to result in termination, cancellation or reduction in benefits of an existing insurance contract;**
- **You must complete a notice of replacement for each contract being replaced if the proposed contract replaces several of them;**
- **You must carry out a written analysis for the client's financial needs before proposing the replacement policy;**

- You must not encourage an insured or a purchaser who is not the insured, to cancel, cause to lapse or abandon one insurance contract in favour of another insurance contract, unless it complies with the replacement procedure;
- You must send a notice (signed by the representative) to the insurers and submit it to the clients within 5 working days of signing the proposal, despite the fact that the client must sign the policy no later than upon its delivery;
- You must not prevent an insurer who issued a contract that is likely to be replaced from contacting the insured or the policyholder with a view to dissuade such insured or policyholder from replacing the contract or with a view to offer an equivalent contract.

Why must we endeavour to ensure insurance contracts are maintained in effect?

Section 20 of the Regulation states that a representative must endeavour to insure that all insurance contracts are maintained in effect, unless the replacement of the contract is justified as being in the interest of the purchaser or the insured. The representative is responsible for proving that the replacement is in the consumer's best interest.

Furthermore, section 21 of the Regulation states that no representative may encourage an insured or a purchaser to cancel, cause to lapse or abandon one insurance contract in favour of another insurance contract, unless it complies with the replacement procedure set out in section 22.

Extra premium

A notice of replacement must also be prepared when an insurer is willing to issue a contract meeting conditions contained in the insurance proposition that includes an additional premium.

**** The source of information for this article was taken from the *Info-Déonto* section of the *Chambre de la Sécurité Financière* website.**