



**AUTORITÉ
DES MARCHÉS
FINANCIERS**

RESULTS OF THE COMMERCIAL PRACTICES SELF-ASSESSMENT – INSURERS

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Original text in french

Background

In June 2013, the *Autorité des marchés financiers* (the “Authority” or the “AMF”) published the *Sound Commercial Practices Guideline*¹ (the “Guideline”), which applies, in particular, to all insurers governed by *An Act respecting insurance*, CQLR, c. A-32 (the “Insurance Act”).

Under this guideline, the AMF communicates its expectations regarding results in matters of sound commercial practices.² Each financial institution must develop strategies, policies and procedures commensurate with the nature, size and complexity of its activities in order to promote the achievement of such results. Furthermore, commercial practices are an integral part of each insurer’s risk profile, as stated in the AMF’s *Financial Institutions Supervisory Framework*³ (“Supervisory Framework”), revised in 2014.

In May 2014, the AMF sent to 219 insurers licensed to operate in Québec a request for information relating to the Guideline. This request included a self-assessment questionnaire based on the expectations set out in the Guideline. All insurers were required to assess themselves by selecting a score on a scale from 0 to 4.

This report presents the results of the commercial practices self-assessment carried out by the insurers. As well, it highlights the findings for each of the eight main themes of the Guideline. It should be noted that this analysis does not constitute an assessment by the AMF of the quality of commercial practices that prevail in the insurance industry. The findings reported here are the result of self-assessments, and the AMF has not validated the data submitted. In fact, the activities set out in the Supervisory Framework could lead to different conclusions.

Furthermore, the findings focus mainly on those practices for which a document had to be submitted, or on which numerous comments were received. Consequently, the practices that are not mentioned should not be construed as being, or as not being, to the AMF’s satisfaction.

¹ http://www.lautorite.qc.ca/files/pdf/reglementation/lignes-directrices-assurance/g_scp_2013.pdf

² Section 222.2 of *An Act respecting insurance*, CQLR, c. A-32.

³ <http://www.lautorite.qc.ca/files/pdf/reglementation/assurances-inst-depot/cadre-surveillance-2014-an.pdf>

Self-assessment

The self-assessment questionnaire for insurers covered the eight main themes of the Guideline, i.e.:

- Q1 Governance and corporate culture
- Q2 Design and marketing of products
- Q3 Incentives management
- Q4A Disclosure to consumers before or at the time a product is purchased
- Q4B Disclosure to consumers after a product is purchased
- Q5 Product advertising
- Q6 Claims examination and settlement
- Q7 Complaint examination and dispute resolution
- Q8 Protection of personal information

The assessment scale to be used by insurers for this self-assessment was as follows:

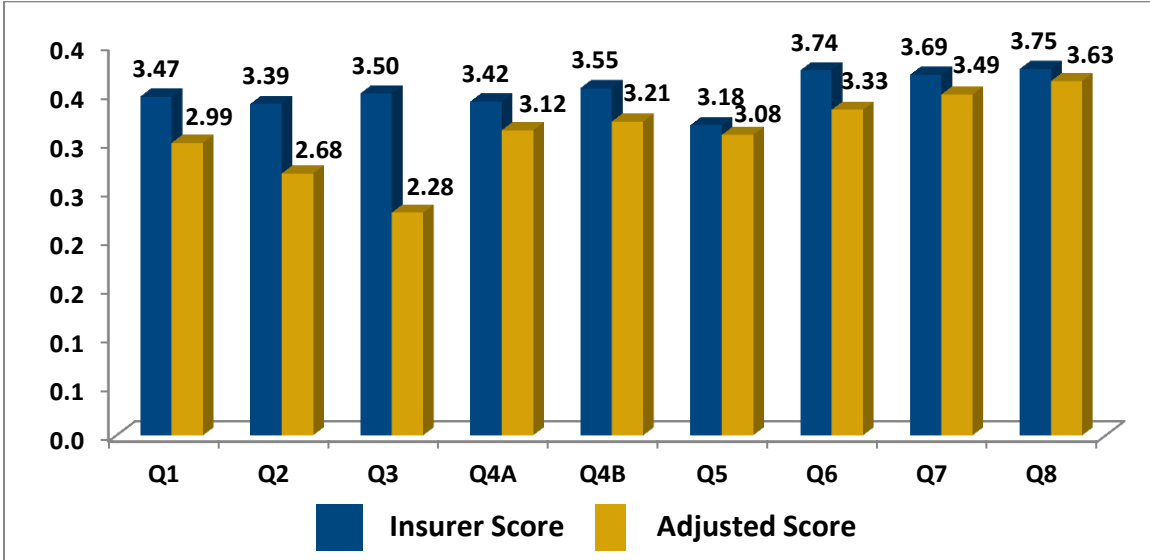
Score	Meaning
0	Not applicable to the insurer's activities.
1	The insurer has not implemented the process.
2	The insurer has implemented a process, but it is informal and not documented.
3	The insurer has implemented a formal process that is documented.
4	The insurer has implemented a formal and documented process and applies control mechanisms to ensure compliance.

Graph 1, below, presents the results of each section, comparing the self-assessment score (Insurer Score) against the score as adjusted by the AMF (Adjusted Score). This adjustment stems from the fact that, for a given practice, as illustrated by similar documentation and comments, insurers sometimes assigned themselves different scores. In order to remedy the insurers' varying interpretations of a given practice, the AMF adopted a process to standardize the results from one insurer to another. Arriving at comprehensive results therefore required adjustments, to the extent possible, to the variations in perception among insurers.

General findings

The results of the self-assessment and the documents submitted show that the scores vary greatly from one insurer to another, as does the quality of the self-assessment exercise.

Graph 1 – Self-assessment scores



While the insurers have adopted some initiatives, the self-assessment has highlighted certain areas requiring vigilance and shown that the implementation process is still in progress for many insurers. The main aspects that bear watching are Governance and corporate culture (Q1), Design and marketing of products (Q2) and Incentives management (Q3).

Lastly, while examples of sound practices are given in this report, it should be mentioned that each insurer can use its own strategies, policies and procedures to meet the AMF's expectations in terms of sound commercial practices. The strategies, policies and procedures adopted by an insurer must take into account its own products and clientele, as well as the nature, size and complexity of its activities.

Detailed findings

Q1 - Governance and corporate culture

(Insurer Score 3.47 - Adjusted Score 2.99)

The AMF expects fair treatment of consumers to be a core component of the financial institution's governance and corporate culture.

The AMF requested various documents in this section of the self-assessment. The majority of the documents received did not demonstrate achievement of the expected results set out in the Guideline. For example:

- Few codes of ethics and professional conduct stated clear objectives relating to the fair treatment of consumers (FTC).
- Few insurers have clearly designated a senior officer to be responsible for the fair treatment of consumers, and in cases where a senior officer was identified, he or she generally did not have specific and documented terms of reference.

However, the AMF noted that many insurers did have management information that could be used to assess whether the expected results stated in the Guideline had been achieved, and which could be useful to them in matters of FTC.

Examples of sound practices:

- A weekly review of comments received from clients was in place and was brought to the attention of the appropriate decision-making authority.
- The code of ethics provided examples of sound FTC practices. These practices were explained in various scenarios linked to tasks carried out by the majority of the insurer's employees.
- FTC objectives were integrated in the insurer's governance program.
- The annual employee performance appraisal included FTC objectives.

Q2 - Design and marketing of products

(Insurer Score 3.39 - Adjusted Score 2.68)

The AMF expects the design and marketing of new products to take into account the needs of the various target consumer groups.

Of all the sections in the questionnaire, this one posted the second lowest Adjusted Score. While insurers assessed themselves as doing well, the majority of the documents received were mainly focused on profitability, and did not cover any matters specific to FTC.

Furthermore, few respondents confirmed that follow-up mechanisms were in place to verify whether the products being marketed actually met the needs of target consumers.

Examples of sound practices reported:

- Comments received from brokers were read and analyzed for the purpose of finding possible improvements to the products sold by the insurer.
- The product design policy included FTC concepts.
- Client surveys included questions on satisfaction with the features of the purchased product.
- The product design policy included a “consumer” section in which minimum standards were set for client satisfaction and product quality, and these were to be taken into account when designing a new product or making related changes.

Q3 - Incentives management

(Insurer Score 3.50 - Adjusted Score 2.28)

The AMF expects that incentives do not affect the fair treatment of consumers.

This section produced the greatest deviation between the Insurer Score and the Adjusted Score. There appears to be divergence between the definition of an incentive from the viewpoint of the insurance industry, and that set out in the Guideline.

The AMF wishes to remind insurers that the term "incentive" is used in its broad sense and includes, in particular, bonuses, commissions, salaries, premiums and fees in compensation programs, as well as other benefits (sales contests, promotions, privileges and gifts).

Any incentives adopted must not interfere with the obligation of the institution, or of any intermediary between the institution and the client, to act fairly when dealing with consumers.

What emerges from the self-assessment is that in many cases the insurers' incentive system was based solely on the volume of written premiums. Generally speaking, the AMF was not able to find incentives that took the fair treatment of consumers into account.

Moreover, in the AMF's opinion, some of the incentives were such that they created an appearance of conflict of interest. For example, sales contests targeting a particular product can stimulate product sales at the expense of meeting consumers' real needs. The AMF expects consumers to be confident that recommended products truly meet their needs.

Examples of sound practices reported:

- All of the insurer's incentive programs had a performance threshold linked to client satisfaction, i.e. the probability that a client would recommend the insurer and the representative to a friend. If that objective was not met, no incentive was paid out.
- The incentives management policy stipulated that infringement of the underwriting rules or of the Code of Ethics, which included FTC components, could lead to the suspension of incentive payments.

Q4 - Disclosure to consumers

(Section 4A: Insurer Score 3.42 - Adjusted Score 3.12)

(Section 4B: Insurer Score 3.55 - Adjusted Score 3.21)

The AMF expects consumers to have information allowing them to be properly informed and make appropriate decisions regarding products before, during and after their purchase.

No specific document was requested by the AMF; thus in the majority of cases, the findings are based entirely on the comments provided by the insurers, although few comments were made. Therefore, barring inconsistencies, the Insurer Score was adopted as is, which explains the absence of any significant variation between the Insurer Score and the Adjusted Score.

However, we noted that a few insurers that distribute their products exclusively through a brokerage network excluded themselves from this section, assigning the responsibility for informing consumers entirely to their distribution network. This does not satisfy the AMF's expectations on this matter.

The AMF wishes to remind insurers that they are responsible for setting up an appropriate disclosure system to allow consumers to make appropriate decisions. This responsibility includes an obligation to ensure that the representatives who are entrusted with selling their products have access to a disclosure system and that they use it properly when dispensing advice. This disclosure system must be applied during all phases of the product's life, i.e. before, during and after the product is purchased.

Q5 - Product advertising

(Insurer Score 3.18 - Adjusted Score 3.08)

The AMF expects product advertising to be accurate, clear and not misleading.

No specific document was requested in this section so, in the majority of cases, the AMF's findings are based entirely on comments provided by the insurers, if any. Therefore, barring inconsistencies, the Insurer Score was adopted as is, which explains the slight variation between the Insurer Score and the Adjusted Score.

Based on the comments submitted, we noted that some insurers had an informal and undocumented process for managing advertising materials.

Q6 - Claims examination and settlement

(Insurer Score 3.74 - Adjusted Score 3.33)

The AMF expects claims to be examined diligently and settled fairly, using a procedure that is simple and accessible to claimants.

Based on the various monitoring systems reported, the AMF found that the majority of insurers had access to detailed claims records, and that many insurers had a process in place for tracking client satisfaction.

Also, while few insurers submitted claims handling policies, the procedures guides and descriptions of settlement processes were considered as such by the AMF.

Q7 - Complaint examination and dispute resolution

(Insurer Score 3.69 – Adjusted Score 3.49)

The AMF expects complaints to be examined diligently and fairly, using a procedure that is simple and accessible to consumers.

It was noted that the insurers generally satisfied the obligations set out on the AMF's website.⁴ However, the AMF found that:

- Some insurers' complaint examination policy did not mention that the complaint file must, at the complainant's request, be transferred to the AMF at the end of the examination process.
- Many insurers refer only to ombudsman services and to the CLHIA.

The AMF wishes to remind insurers of the importance of mentioning the AMF's services on their website; that reference should precede any reference to other organizations.

Examples of sound practices reported:

- A detailed procedure was attached to the complaint examination policy, specifying the procedure to be followed according to the type of complaint; this ensured greater consistency in resolving disputes, regardless of which employee dealt with the complaint.

⁴ <http://www.lautorite.qc.ca/en/complaint-examination-obligations.html>

Q8 - Protection of personal information

(Insurer Score 3.75 – Adjusted Score 3.63)

The AMF expects the protection of the confidentiality of personal information policy adopted by an institution to ensure compliance with the provisions of An Act respecting the protection of personal information in the private sector and reflect best practices in this area.

This section posted the highest scores. In the AMF's view, these high scores are due to the legislative framework governing the protection of personal information, which has been in place in Québec for over 20 years.

Most insurers did have policies on the protection of personal information. However, it was noted that many policies did not contain provisions for informing the AMF in the event of any failure to protect personal information that could adversely impact the interests and rights of consumers and the reputation of the institution. The AMF expects to be promptly notified of any significant breach of confidentiality regarding personal information.

Examples of sound practices reported:

- Every employee, consultant or supplier must follow training on the protection of personal information within six months of being hired/engaged.
- A security analysis was conducted annually by an external firm on an insurer's systems and those of its managing general agents (MGAs).
- A security incident management policy was in place, and it called for the AMF to be notified in the event of any incident that could affect the protection of personal information.

Conclusions

The findings presented in this report will help shape the AMF's future actions related to sound commercial practices, in particular with regard to off-site and on-site supervisory activities carried out under its Supervisory Framework. Indeed, the Framework includes the evaluation of commercial practices as a component of the risk profile of each financial institution.

Furthermore, the AMF will undertake specific work as well as conduct industry consultations in the coming months in regard to some of the themes discussed in this report such as incentives management, design and marketing of products and disclosures to consumers. Various initiatives of the AMF may result from this.

In conclusion, the AMF wishes to stress that an insurer's commercial practices must take the fair treatment of consumers into account at every phase of a product's life cycle. It is therefore incumbent upon every insurer to determine the best practices for achieving the expected results.