

Version Anglaise

Code of ethics of damage insurance representatives

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DIVISION I - GENERAL PROVISIONS

1. The provisions of this Code are designed to promote the protection of the public and the honest and competent practice of the activities of a damage insurance representative.
In this Code, the expression “damage insurance representative” means a damage insurance agent and a damage insurance broker.

2. A damage insurance representative shall insure that he, his mandataries and his employees comply with the provisions of the Act respecting the distribution of financial products and services (chapter D-9.2) and the regulations thereunder.
3. A damage insurance representative must not, directly or indirectly, pay, compensate or give an advantage or allow the payment, compensation or giving of any advantage to a person who is not a representative in order for that person to act in that capacity or use that title.
4. A damage insurance representative must not, directly or indirectly, be promised or receive a payment, compensation or advantage from a person who is not a damage insurance representative and who acts or attempts to act in that capacity.
5. A damage insurance representative must not, directly or indirectly, be promised or receive a payment, compensation or advantage not authorized by the Act or the regulations thereunder from a person other than the person who used his services.
6. A damage insurance representative must not pay, offer to pay or undertake to pay to a person who is not a representative any payment, compensation or advantage, except where permitted by the Act.
7. A damage insurance representative must not pay or promise to pay any remuneration, compensation or advantage in order for his services to be used, except as permitted by the Act or the regulations thereunder.
8. A damage insurance representative must make himself available.
9. A damage insurance representative must not neglect the professional duties relating to the carrying on of his activities; he must carry out such duties with integrity.

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10. A damage insurance representative must avoid placing himself, directly or indirectly, in a situation in which he would have a conflict of interest. Without limiting the generality of the foregoing, a representative would be in a situation of conflict of interest where:
 - 1) the existing interests are such that he might favour some of them over those of his client or his judgment and loyalty towards his client might be adversely affected;
 - 2) he obtains a current or future personal benefit, directly or indirectly, for a given act.

DIVISION II - DUTIES AND OBLIGATIONS TOWARDS THE PUBLIC

11. A damage insurance representative must support any measure designed to protect the public.
12. A damage insurance representative must support any measure likely to improve the quality of service in the field in which he carries on his activities.
13. A damage insurance representative must promote measures designed to provide education and information in the field in which he carries on his activities.
14. The conduct of a damage insurance representative must be characterized by objectivity, discretion, moderation and dignity.
15. No representative shall, in any manner whatsoever, make any representations which are false, misleading or liable to be misleading.
16. A damage insurance representative must avoid any misrepresentations as to his level of competence or the effectiveness of his services or those of his firm or independent partnership.

DIVISION III - DUTIES AND OBLIGATIONS TOWARDS CLIENTS

17. Before accepting a mandate, a damage insurance representative must take into account the limits of his abilities and knowledge and the means available to him. He must not undertake or continue a mandate for which he does not have the necessary skills, without obtaining the proper assistance.
18. A damage insurance representative must not advise his client not to consult another representative or another person of his choosing.
19. A damage insurance representative must always place the interests of the insured and of all prospective clients before his own interests and those of any other person or institution.
20. A damage insurance representative must not, through fraud, trickery or other deceitful means, avoid or attempt to avoid his professional civil liability or that of the firm or independent partnership within which he carries on his activities.
21. Where he is not paid exclusively on a percentage basis, a damage insurance representative must charge and accept remuneration or compensation that is fair and reasonable given the services rendered. In particular, he must take into account the following factors in determining his remuneration or compensation:
 - 1) his experience;
 - 2) the time devoted to the matter;
 - 3) the difficulty of the problem submitted;
 - 4) the importance of the matter;
 - 5) the responsibility assumed;
 - 6) the provision of unusual services or services requiring exceptional competence or speed;
 - 7) the result obtained.

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22. A damage insurance representative must notify his client of all costs which are not included in the amount of the insurance premium.
23. A damage insurance representative must respect the secrecy of any personal information that he obtains about a client and use the personal information for the purposes for which he obtained it, unless he is relieved of that obligation by a provision of law or an order of a competent court.
24. A damage insurance representative must not disclose personal or confidential information he has obtained, other than in accordance with the Act, and he must not use such information to the detriment of his client or with a view to obtaining a benefit for himself or for another person.
25. A damage insurance representative must carry out the mandate accepted by him in a transparent manner.
26. A damage insurance representative must, without delay, follow up on the instructions that he receives from a client or notify him that he is unable to do so. He must also inform his client of any impediment to the continuation of his mandate.

26.1. A damage insurance representative must promptly give to his client, or to any other person his client designates, the books and documents belonging to the client, even though the latter owes him sums of money.

DIVISION IV - DUTIES AND OBLIGATIONS TOWARDS INSURERS

27. A damage insurance representative must not abuse the good faith of an insurer or use unfair practices in dealing with it.
28. A damage insurance representative must not, without good cause, fail to pay an insurer, upon requestor upon the expiry of a prescribed period, the premiums that he collects on its behalf.
29. A damage insurance representative must give insurers the information that it is common practice for him to provide.

DIVISION V - DUTIES AND OBLIGATIONS TOWARDS REPRESENTATIVES

30. A damage insurance representative must not, directly or indirectly, publish or distribute a report or comments which he knows to be false regarding another representative, a firm or an independent partnership carrying on activities governed by the Act.
31. A damage insurance representative must not denigrate, depreciate or discredit another representative.
32. A damage insurance representative must not abuse the good faith of another representative or use unfair practices in dealing with him.
33. A damage insurance representative must not file a malicious complaint or make a malicious accusation against another representative.

DIVISION VI - DUTIES AND OBLIGATIONS TOWARDS THE AUTORITÉ DES MARCHÉS FINANCIERS AND THE CHAMBRE DE L'ASSURANCE

34. A damage insurance representative must answer without delay any correspondence from the syndic, the co-syndic or an assistant to the syndic in the performance of the duties devolved upon them under the Act and the regulations thereunder.

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- 34.1. A damage insurance representative must, in particular, appear before the syndic, an assistant of the syndic or a member of their staff as soon as he is required to do so.
35. A damage insurance representative must not, directly or indirectly, obstruct the work of the Authority, the Chamber, one of its committees, the syndic, the co-syndic, an assistant to the syndic of the Chamber or a member of their personnel.
36. Where a damage insurance representative has been informed of an investigation or a complaint concerning him, he must not intervene vis-à-vis the complainant or the person having requested the investigation, except within the scope of performing his mandate, where applicable.

DIVISION VII - BREACHES OF THE CODE OF ETHICS

37. The fact that a damage insurance representative acts contrary to the honour and dignity of the profession constitutes a breach of the Code of ethics, including:
- 1) carrying on activities dishonestly or negligently;
 - 2) carrying on activities under conditions or in situations likely to compromise the quality of his services;
 - 3) taking into account the intervention of a third party that could affect the carrying out of his professional duties to the detriment of his client or the insured;
 - 4) failing to report on the carrying out of any mandate;
 - 5) failing to act with integrity towards his clients;
 - 6) failing to act as a conscientious advisor by not informing his clients of their rights and obligations and not giving them all necessary or useful informations;
 - 7) making a statement which is false, misleading or liable to be misleading;
 - 8) using or appropriating, for personal purposes, money or securities entrusted to him in the carrying out of any mandate, whether the activities carried on by the representative are in the sector of damage insurance or in another sector contemplated in the Act;
 - 9) participating in gathering or in conserving evidence or a document that he knows is false;
 - 10) concealing or knowingly withholding that which a legislative or regulatory provision requires him to disclose;
 - 11) advising or encouraging a client to do something that the representative knows is illegal or fraudulent;
 - 12) carrying on activities with persons not authorized to carry on such activities by the Act or the regulations thereunder, or using their services to do so;
 - 13) charging for professional services not rendered or falsely described;
 - 14) insistently or repeatedly urging a person to use his professional services.