

Legal update

Bill 141: significant support for Quebec's InsurTech industry

August 2018

Insurance

FinTech

Financial services and regulation

On June 13, the Quebec National Assembly passed Bill 141, *An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions* (the Act). This legislation is meant to modernize the regulation of the financial sector, and more specifically to enable financial institutions to adapt to an evolving market and the changing needs of their users, while improving consumer protection.¹ This omnibus act – the final version of which was recently made public – has proven controversial in the financial sector over the last few months. It aims to adapt the *Act respecting the distribution of financial products and services*² to emerging business practices regarding the online distribution of financial products and services.³

The Act's adoption and coming into force undoubtedly represent an important step forward in developing Quebec's InsurTech industry as it sets regulatory foundations upon which this industry will both rely on and develop in the coming years. "InsurTech," an expression derived from the "FinTech" movement, refers to all innovative business models that offer a revamped customer experience through integrating innovative technology in the insurance sector.

Pursuant to the Act's new regulatory framework, from June 13, 2019 onwards,⁴ insurers will be authorized to distribute certain insurance products without the involvement of a representative.⁵ This widens the door to the digital distribution of insurance. To that end, however, an insurer will have to meet certain criteria.

First, it will need to have an insurance representative, who is licensed by the *Autorité des marchés financiers* (the AMF), available and ready to interact on a timely basis with users that express a need for assistance.⁶

Second, it also must inform its customers of the existence and availability of such representative.⁷

Third, the insurer will have to ensure the customer obtains all the necessary information to make informed decisions and fulfill its obligations under the insurance contract.⁸ The customer must be informed by the insurer, among other things, of the extent of the considered coverage, its exclusions, the time limits for the insured party to make a claim and for the insurer to pay the compensation or insured amounts, and the procedure to file a complaint against the insurer, including the time limits to file such complaint.⁹ It should also be noted that such complaints will need to be logged into the registry of complaints contemplated by the Act.¹⁰

This new regulatory framework is designed to adjust to the evolution of technology, market practices and consumers' needs and concerns.¹¹ This legislative flexibility provides insurers with the opportunity to modernize their insurance product offering. Insurers will be able to reinvent their products and distribution methods in order to enhance customer experience and tailor their business models to their customers' digital consumption habits.

Stakeholders hoping to capitalize on this legislative opening may draw on the experience of their counterparts in the United Kingdom, where the InsurTech industry is burgeoning, as evidenced by the significant investments of some major insurance companies that are looking to modernize their services.¹² In fact, this "future" standard of insurance is already well integrated into many British start-ups' realities: automated management of insurance policies, telematic sensors for home insurance, robot advisers, or pay-as-you-go microinsurance. This handful of examples illustrates how InsurTech is already revolutionizing the industry.¹³

Finally, it should be noted the Act grants the AMF the power to enact guidelines for all insurers or for a category of them.¹⁴ It will be interesting to see how the AMF will exercise this power with respect to the online distribution of insurance products. It is reasonable to think that, in carrying out its mandate of protecting the public, the AMF will set additional criteria. We should find out more in this regard before the Act comes into effect on June 13, 2019.

Simon Du Perron
 Marc Duquette
 Pier-Olivier Poisson
 Catherine Simard

Footnotes

¹ *An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions*, SQ 2018, c. 23, art. 1 (hereinafter "the Act").

² *Act respecting the distribution of financial products and services*, CQLR, c. D-9.2. (hereinafter **ADFPS**).

³ Art. 2 (2) of the Act, *supra* note 1.

⁴ Art. 814 (4) of the Act, *supra* note 1.

⁵ Art. 3 of the Act, *supra* note 1; art. 59 and 67 of the *Loi sur les assureurs*; art. 525 of the Act, *supra* note 1; art. 71.1 of the ADFPS, *supra* note 2.

⁶ Art. 525 of the Act, *supra* note 1; art. 71.1 of the ADFPS, *supra* note 2; art. 3 of the Act, *supra* note 1; art. 60 of the *Loi sur les assureurs*, *supra* note 5.

⁷ Art. 525 of the Act, *supra* note 1; art. 71.1 of the ADFPS *in fine*, *supra* note 2.

⁸ Art. 3 of the Act, *supra* note 1; para. 1 (1) of art. 62 of the *Loi sur les assureurs*, *supra* note 5.

⁹ Art. 3 of the Act, *supra* note 1; para. 2 of art. 62 of the *Loi sur les assureurs*, *supra* note 5.

¹⁰ Art. 3 of the Act, *supra* note 1; art. 50 (3) of the *Loi sur les assureurs*, *supra* note 5.

¹¹ Journal des débats de l'Assemblée nationale, 41e législature, 1re session, Tuesday, June 12, 2018 - Vol. 44 N° 349.

¹² US\$ 2.6 billion in 2015. See: Norton Rose Fulbright, *InsurTech: where are we now?*, February 2017, online: <http://www.nortonrosefulbright.com/knowledge/publications/146348/insurtech-where-are-we-now>.

¹³ See : Brean Horne, *Bots, AI and smart home sensors – the future of insuring the things you own*, January 11, 2018, online : www.which.co.uk/news/2018/01/bots-ai-and-smart-home-sensors-the-future-of-insuring-the-things-you-own/

¹⁴ Art. 3 of the Act, *supra* note 1; art. 463 of the *Loi sur les assureurs*, *supra* note 5.

For further information, please contact one of the following lawyers:

> Christine Dubé	Montréal	+1 514.847.4829	christine.dube@nortonrosefulbright.com
> Marc Duquette	Montréal	+1 514.847.4508	marc.duquette@nortonrosefulbright.com
> Charles A. Foucreault	Montréal	+1 514.847.6072	charles.foucreault@nortonrosefulbright.com

> Pier-Olivier Poisson	Montréal	+1 514.847.4278	pier-olivier.poisson@nortonrosefulbright.com
> Catherine Simard	Montréal	+1 514.847.4622	catherine.m.simard@nortonrosefulbright.com

Norton Rose Fulbright Canada LLP, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright South Africa Inc and Norton Rose Fulbright US LLP are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients.

References to "Norton Rose Fulbright", "the law firm", and "legal practice" are to one or more of the Norton Rose Fulbright members or to one of their respective affiliates (together "Norton Rose Fulbright entity/entities"). No individual who is a member, partner, shareholder, director, employee or consultant of, in or to any Norton Rose Fulbright entity (whether or not such individual is described as a "partner") accepts or assumes responsibility, or has any liability, to any person in respect of this communication. Any reference to a partner or director is to a member, employee or consultant with equivalent standing and qualifications of the relevant Norton Rose Fulbright entity.

The purpose of this communication is to provide general information of a legal nature. It does not contain a full analysis of the law nor does it constitute an opinion of any Norton Rose Fulbright entity on the points of law discussed. You must take specific legal advice on any particular matter which concerns you. If you require any advice or further information, please speak to your usual contact at Norton Rose Fulbright.