

An order that is made regarding a licence holder reflects a situation at a particular point in time. The status of a licence holder can change. Readers should check the current status of a person's or entity's licence on the [Licensing Link](#) section of FSCO's website. Readers may also wish to contact the person or entity directly to get additional information or clarification about the events that resulted in the order.



REGARDING the *Mortgage Brokerages, Lenders and Administrators Act, 2006*, S.O. 2006, c.29 (the “Act”), in particular sections 10, 19 and 21, and Ontario Regulations 193/08 189/08

AND REGARDING Lexxco Investment Services Corporation

INTERIM ORDER TO SUSPEND LICENCE
and
NOTICE OF PROPOSAL TO REVOKE LICENCE

Lexxco Investment Services Corporation (“Lexxco Investment”) was issued a mortgage administrator licence on January 30, 2009 under the Act.

INTERIM ORDER TO SUSPEND LICENCE

Section 19(1) of the Act provides that the Superintendent of Financial Services (“Superintendent”) may, in appropriate circumstances, revoke a mortgage administrator licence. Section 21 of the Act provides that where the Superintendent proposes to revoke a licence, the Superintendent shall give written notice of the proposal to the mortgage administrator, including reasons for the proposal. A notice of proposal to revoke Lexxco Investment’s licence is set out below.

Section 19(3) of the Act provides that, if in the Superintendent’s opinion the interests of the public may be adversely affected by any delay in the revocation of a licence as result of the steps required by section 21, the Superintendent may, without notice, make an interim order suspending the licence and may do so before or after giving the notice required by section 21.

In the Superintendent’s opinion, the interests of the public may be adversely affected by any delay in the revocation of Lexxco Investment’s licence for the following reasons:

1. Mortgage administrators are required to have errors and omissions (“E&O”) insurance pursuant to section 10(4) of the Act and section 27 of Regulation 189/08;

2. The Superintendent has approved a number of insurers for providing E&O coverage to mortgage administrators under the Act. The list can be found at:
http://www.fsco.gov.on.ca/english/licensing/MB_EOinsurance.asp;
3. The Superintendent conducted an audit and found that Lexxco Investment does not have the required E&O insurance coverage from one of the approved providers;
4. The Superintendent informed the sole officer, director and principal broker of Lexxco Investment orally and in writing that its E&O insurance coverage does not comply with the requirements under the Act and section 27 of Regulation 189/08 because it does not have extended coverage for loss resulting from fraudulent acts, and does not have E&O insurance from a provider approved by the Superintendent;
5. The sole officer, director and principal broker of Lexxco Investment informed the Superintendent on July 19, 2011 that Lexxco Investment is unable to obtain E&O insurance coverage that has extended coverage for loss resulting from fraudulent acts, and that it is unable to obtain E&O insurance coverage from a provider approved by the Superintendent.
6. Lexxco Investment does not have the required E&O insurance and has thereby contravened a requirement established under the Act.
7. E&O insurance is a statutorily-mandated measure to protect the public against loss resulting from errors and omissions and fraudulent acts committed by a mortgage administrator and its brokers and agents. The absence of E&O insurance during any period in time puts the public directly at risk of not being able to recover for losses arising from errors and omissions and fraudulent acts occurring during that period.
8. As long as the licence is not suspended, Lexxco Investment continues to be authorized to administer mortgages for the public.
9. Accordingly, the Superintendent is of the opinion that the public is at risk and will continue to be at risk until Lexxco Investment's licence is suspended or revoked, because Lexxco has informed the Superintendent that it is unable to obtain E&O insurance coverage that has extended coverage for loss resulting from fraudulent acts, and it is unable to obtain E&O insurance coverage from a provider approved by the Superintendent.
10. Further, the Superintendent has reasonable grounds to believe that Lexxco Investment is no longer suitable to be licensed, because it is unwilling or unable to comply with the standards of practice for financial reporting that are prescribed for its licence.

11. For all of the above reasons, the Superintendent is of the opinion a delay in the revocation of Lexxco Investment's licence would adversely affect the public interest.

ORDER

It is ordered that Lexxco Investment Services Corporation's licence is immediately suspended, pursuant to section 19(3) of the Act.

During the suspension Lexxco Investment is not authorized to carry on the business of administering mortgages in Ontario.

The Interim Order takes effect immediately and will remain in effect until the expiry of the period for requesting a hearing about the Superintendent's Notice of Proposal to Revoke Licence (15 days after the Notice is received, or deemed to have been received). If Lexxco Investment requests a hearing before the Financial Services Tribunal ("Tribunal"), the Superintendent may extend the Interim Order until the proposal is finally determined.

Pursuant to sections 48(4) and 49(1) and (2) of the Act, every person who fails to comply with an order made under this Act is guilty of an offence and every individual convicted of an offence under the Act is liable to a fine of not more than \$100,000 or imprisonment for a term of not more than a year or both a fine and imprisonment. Every corporation convicted of an offence under the Act is liable to a fine of not more than \$200,000.00.

Pursuant to section 48(5) of the Act, every director or officer of a corporation that commits an offence under this Act who directed, authorized, assented to, acquiesced in or participated in the commission of the offence, or who failed to take reasonable care to prevent the corporation from committing the offence, is guilty of an offence, whether or not the corporation is prosecuted or convicted.

NOTICE OF PROPOSAL TO REVOKE LICENCE

TAKE NOTICE THAT pursuant to sections 19 and 21 of the Act, the Superintendent is proposing to revoke Lexxco Investment's mortgage administrator licence, because Lexxco Investment is contravening or failing, or has contravened or failed, to comply with the requirement to maintain E&O insurance in a form approved by the Superintendent. The Superintendent also believes that Lexxco Investment is no longer suitable to be licensed because it is unwilling to comply with the standards of practice for financial reporting that are prescribed for its licence.

The reasons for the proposal to revoke the licence will be served with this Notice.

AND TAKE NOTICE THAT section 21(3) of the Act provides that the mortgage administrator may request a hearing before the Tribunal in respect of this Notice **within 15 days** after this Notice is received, or deemed to have been received. The request for a hearing shall be in writing (Form 1, Request for Hearing, sent to you along with this Notice) and shall be mailed or delivered:

TO: Financial Services Tribunal
14th Floor
5160 Yonge Street, Box 85
Toronto, ON M2N 6L9
Attention: Registrar Fax: 416.226.7750

AND TO: Superintendent of Financial Services
Senior Manager, Market Conduct Compliance
Licensing and Marketing Conduct Division
5160 Yonge Street, Box 85
Toronto, ON M2N 6L9

If you do not request a hearing or do not make the request in accordance with section 21(3), section 21(7) of the Act provides that the Superintendent may carry out the proposal to revoke the licence.

If you request a hearing, section 21(4) of the Act provides that the Tribunal may, by order, direct the Superintendent to carry out the proposal, with or without changes, or substitute its opinion for that of the Superintendent and the Tribunal may impose such conditions as it considers appropriate in the circumstances.

At the hearing, the good character, propriety of conduct or competence of the officers or directors of the mortgage administrator may be in issue.

The hearing before the Tribunal will proceed in accordance with the Rules of Practice and Procedure of the Tribunal made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S. 22. The Rules of Practice and Procedure are available at the website of the Tribunal: www.fstontario.ca. Alternatively, a copy can be obtained by telephoning the Registrar of the Tribunal at 416.590.7294, or toll free at 1.800.668.0128 ext. 7294.

DATED at Toronto, Ontario, July 29, 2011.

Philip Howell
Superintendent of Financial Services

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