



Financial Services  
Commission  
of Ontario

# **Mandatory Continuing Education for the Mortgage Broker Sector in Ontario: A Proposal for Consultation**

**Financial Services Commission of Ontario  
December 17, 2010**

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## THIS CONSULTATION PROCESS

Mortgage broker industry stakeholders, the public, educators and other regulators are invited to provide written comments or suggestions regarding this consultation paper **on or before February 28, 2011**.

There are three options for submitting your comments to the Financial Services Commission of Ontario (FSCO):

- 1) Send an e-mail to [MBCE@fSCO.gov.on.ca](mailto:MBCE@fSCO.gov.on.ca) and include "CE Consultation for the Mortgage Broker Sector" in your e-mail's subject line.
- 2) Mail your comments to the following address:

Cara Melbye  
Senior Policy Analyst  
Licensing and Market Conduct Division  
Financial Services Commission of Ontario  
5160 Yonge Street, Box 85  
Toronto ON M2N 6L9

- 3) Send a fax to (416) 226-7870 and include "CE Consultation for the Mortgage Broker Sector" in your fax's subject line.

To access an electronic version of this consultation paper, visit FSCO's website at: [Mortgage Broker Continuing Education](#).

Please note that this is a public consultation process. All comments that are received in paper and electronic format will be posted on FSCO's website at the end of the consultation period. This includes any personal information that is part of any submission that is provided to FSCO (e.g., name, address, telephone number, e-mail address, or any other information that could be used to identify an individual). If for any reason, you do not want your submission or contact information to be made public, please clearly indicate this in your submission.

FSCO will contact you if clarification or further information about your comments is required.

If you have any questions about this consultation process, please contact:

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## **Next Steps**

After the comment period concludes, FSCO will notify participants and post stakeholders' submissions on its website. In spring 2011, FSCO plans to release its decision on its website.

## **ABOUT FSCO**

FSCO is an agency of Ontario's Ministry of Finance. FSCO is responsible for regulating mortgage brokerages, administrators, brokers and agents in the province of Ontario. FSCO is also responsible for regulating other financial sectors, including pension plans, credit unions, caisses populaires, insurance companies, loan and trust companies, and co-operatives.

FSCO is dedicated to being a vigilant, fair-minded and forward-looking regulatory agency with a constructive and responsive presence in Ontario's financial services marketplace. FSCO works to provide efficient and effective regulatory services that protect consumers and promote a stable, reliable and competitive mortgage broker industry in Ontario.

## **BACKGROUND**

On July 1, 2008, the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (MBLAA) replaced the *Mortgage Brokers Act*.

Under the MBLAA and Ontario Regulation 409/07, mortgage brokers and agents are both required to meet certain education standards that are set by the Superintendent of Financial Services, FSCO before they can qualify for a mortgage broker or agent licence in Ontario.

In Ontario, all mortgage brokers and agents are licensed for a common two-year licensing period. The current licensing period began on April 1, 2010 and ends on March 31, 2012.

### **Profile of Ontario's Mortgage Broker Sector**

As of December 17, 2010, there were 1,203 mortgage brokerages, 83 mortgage administrators, 2,666 mortgage brokers and 8,336 mortgage agents licensed in Ontario.

### **Current Pre-licensing Education Requirements in Ontario**

Beginning in 2006, FSCO conducted a detailed mortgage broker sector education review. In consultation with industry stakeholders and education experts, FSCO developed two sets of new qualifying standards for mortgage agents and brokers. These qualifying standards form the curricula for the education programs that are now mandatory before an individual can be licensed to deal or trade in mortgages in Ontario.

Provincial mortgage broker regulators are working towards a nationally harmonized set of entry-level education standards using a two-tiered approach — mortgage agent/associate and mortgage broker levels. This would be compatible with the system currently in place in Ontario.

## Education Requirements for Mortgage Agents

The Mortgage Agent Qualifying Standards (MAQS) address key technical knowledge that is required in order to attain a mortgage agent licence. They include information about how to properly complete a mortgage application form, how mortgage interest is calculated, how to understand appraisals and credit reports, etc. The MAQS are designed to train an individual who is entering the profession to provide quality service to the public. Mortgage agents are permitted to act only under the supervision of a licensed mortgage broker.

In January 2008, FSCO published criteria for approving new mortgage agent education programs. Under this policy, FSCO may approve multiple mortgage agent education providers. This policy sets out criteria that must be met to receive and maintain FSCO's approval for licensing purposes. Approved education providers derive income through the tuition and examination fees that are paid directly to them by students. No education fees are paid through FSCO. FSCO is responsible for the curriculum design document (the MAQS) and for monitoring the courses and enrolment statistics.

Today, mortgage agent pre-licensing education courses are available throughout Ontario in both English and French. The approved mortgage agent education providers are:

- the Canadian Association of Accredited Mortgage Professionals (CAAMP);
- the Independent Mortgage Brokers Association of Ontario (IMBA);
- the Real Estate and Mortgage Institute of Canada Inc. (REMIC);
- Seneca College of Applied Arts and Technology; and
- 22 other community colleges that are affiliated with Seneca through the OntarioLearn consortium.

Mortgage agent courses have been offered since July 2008. The following statistics provide the number of students who have completed an approved mortgage agent course as of March 31, 2010.

<b>Time period</b>	<b>Number of students – all providers</b>
August – December 2008 (5 months)	415
January – December 2009 (1 full year)	2,108
January – March 31, 2010 (3 months)	1,224

## Education Requirements for Mortgage Brokers

The Mortgage Broker Qualifying Standards (MBQS) focus on implementing policies and procedures to ensure that mortgage agents and brokers comply with the MBLAA, regulations and guidelines by providing detailed training in supervisory skills, ethics, conflicts of interest, best practices, etc. The MBQS are also designed to prepare every licensed mortgage broker to act as a mortgage brokerage's principal broker (compliance officer).

The Mortgage Broker Education Program is available throughout Ontario in English and French. Seneca College has provided the Mortgage Broker Education Program for licensing purposes since December 2008, after it was chosen as the successful candidate through a public tender process. To date, 398 students have graduated from the program and become licensed mortgage brokers. (In 2009 there were 297 graduates, and from January to March 2010 there were 101 graduates.)

## **CONTINUING EDUCATION**

To date, the Superintendent has not required continuing education (CE) for the mortgage broker sector in Ontario.

During its 2006 education review, FSCO asked stakeholders for their preliminary views about whether CE should be mandatory and if so, what approaches should be considered. The majority of stakeholders supported mandatory CE as a way to make agents and brokers aware of compliance issues and changes in the marketplace.

When the MBLAA came into effect, as for any new regulatory regime, FSCO focussed on implementing the new core proficiency standards (the MAQS and MBQS) and establishing training programs for licensing purposes. During the following two years, FSCO monitored and audited licensees' compliance with the new requirements. The results provide objective evidence that there is a need for mandatory CE.

Despite FSCO's year-long information and outreach campaign, and significantly improved new education standards, FSCO's audits revealed an unacceptably high level of non-compliance. Of particular concern – only 53 per cent of principal brokers had complied with the legal requirement to file information about their mortgage agents' education qualifications (as of October 29, 2009). In addition, only 70 per cent of mortgage brokerages met the legal requirement to maintain errors and omissions insurance.<sup>1</sup>

FSCO is committed to effectively enforcing requirements under the MBLAA and regulations, and protecting consumers' interests. To meet those goals, it is timely and

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<sup>1</sup> A sample of compliance rates for the mortgage broker industry in Ontario:

- 53 per cent of principal brokers complied with the obligation to file information about their mortgage agents' education requirements (based on the October 29, 2009 audit).
- 70 per cent of mortgage brokerages met the requirement to maintain errors and omissions insurance when FSCO conducted its audit in October 2008. (FSCO also conducted an errors and omissions insurance audit in October 2010. Results will be available in January 2011.)
- 80 per cent of mortgage agents with conditional licences completed the required mortgage agent education course by the June 30, 2009 deadline. (334 of 416 agents who were audited had taken the approved course by July 1, 2009.)
- 80 per cent of mortgage brokerages and administrators complied with the requirement to file an annual information return by the March 31, 2010 deadline.
- 100 per cent of the 128 brokerages who had on-site reviews conducted by FSCO had written policies and procedures in place. (A random sample of 128 brokerages was chosen for the on-site reviews, which took place in the spring and summer of 2009.)

appropriate to address the need for mandatory CE for the mortgage broker sector in Ontario.

## **FSCO's CE Goals and Principles**

In FSCO's view, mandatory CE is an important component of a complete regulatory scheme that addresses risks and meets FSCO's consumer protection goals.

By implementing mandatory CE for the mortgage broker sector in Ontario, FSCO's goals are to improve the sector's compliance with current legal requirements by increasing awareness of the rules and the importance of complying with those rules, and to improve consumer protection – without imposing unnecessarily onerous requirements on licensees.

FSCO has established five key CE principles for mortgage brokers and agents, which are consistent with the CE principles for life insurance agents:

- 1) **FSCO will not provide CE directly.** Experienced educators — such as industry associations, colleges, other regulators or commercial education providers — will provide CE for the mortgage broker sector privately. The content, length and frequency of CE programs will be determined by FSCO. In keeping with FSCO's risk-based approach to regulation, CE content requirements may change to suit current circumstances and ensure that FSCO continues to meet its consumer protection mandate.
- 2) **FSCO will seek to harmonize its requirements with those in other provinces,** in order to promote inter-provincial trade, in keeping with national and multi-province trade agreements. In 2009, Alberta was the first province to implement mandatory CE for its mortgage broker sector. British Columbia plans to implement mandatory CE effective January 2011.
- 3) **CE must be readily accessible to licensees** through the Internet, by correspondence, and perhaps also in a classroom setting, or some combination of these approaches.
- 4) **CE programs must be administratively efficient** — for CE providers, licensees and FSCO. FSCO must be able to efficiently and effectively meet its obligation to oversee CE programs.
- 5) **FSCO will not require licensees to duplicate CE training** that they have completed through a professional association, educational institution, other provincial regulator, or commercial education provider. This consultation process will explore how FSCO could recognize all or part of the education courses or programs that are provided by such organizations for CE and licence renewal purposes in Ontario.



Q1. Do you agree with these principles?

## PROPOSED NEW POLICY FOR MANDATORY CONTINUING EDUCATION

### Content of CE Programs

FSCO is responsible for determining the content of mandatory CE programs and for enforcing licensees' compliance with CE requirements, to ensure that CE will meet FSCO's consumer protection goals.

CE program content will address matters that are within FSCO's consumer protection mandate. Additional professional development, such as sales and marketing, are outside FSCO's mandate and remain the responsibility of industry members and associations.

To determine CE program subject matter, FSCO will consider submissions received from stakeholders and the public during this consultation process, ongoing compliance issue and complaint data, comments from FSCO's standing Mortgage Broker Industry Working Group, and consultations with other regulators. While FSCO's requirements may be modified as necessary to address current consumer protection risks, CE will always focus on some area of compliance. FSCO's CE requirements will apply to new entrants to the industry as well as to licensees with many years of experience.

Given the current rates of compliance, these topics are relevant for one or more upcoming CE programs:

- a refresher on compliance issues, to promote better understanding of the MBLAA and regulations;
- related legislation, such as Ontario's *Mortgages Act* and privacy laws;
- changes in the marketplace that affect core education standards (Ontario's Mortgage Broker and Mortgage Agent Qualifying Standards);
- best practices for giving advice about risks, product suitability, etc.;
- training in specialized areas, such as commercial mortgages, syndicated mortgages, etc.

Q2. Are there other topics that should be addressed in a mandatory CE program?

Q3. Should CE requirements in each two-year licensing period include one or more mandatory or recurring core topics, as well as one or more optional topics?

FSCO plans to consult an advisory body of stakeholders and education providers to design a schedule of topics that will be mandatory for CE programs during each two-year licensing period, for the next three licensing cycles (that is, for 2012 to 2018).

Q4. What are your comments about such a multi-cycle CE plan?

#### Frequency and Length of CE Programs

For ease of administration, one CE program will be mandatory during each two-year licensing period. To ensure compliance and protect the public interest, FSCO will require licensees to complete the CE program in order to renew their licences at the end of each two-year licensing period. FSCO will publicize new CE requirements well enough in advance to give licensees and education providers ample time to comply.

FSCO anticipates that, initially, CE programs would require approximately 3 to 5 hours to cover the necessary content, which is the lower end of the range of hours required by CE programs in related regulated professions. Compliance rates provide an objective measure of the success of CE programs. FSCO will monitor compliance and may revise the CE requirements as necessary.

Alberta was the first province to implement mandatory CE for its mortgage broker sector. No fixed minimum or maximum number of CE hours is required. Instead, re-licensing requirements are tailored to meet current needs. Currently in Alberta, registrants are required to complete one online re-licensing program, which focuses on compliance, in order to maintain his or her authorization to deal in mortgages.

Q5. Three to five hours of instruction might be an appropriate target for providers when they design a CE program. How many hours do you think would be necessary to teach the topics such as the ones mentioned above?

#### Delivery of CE Programs

FSCO will not deliver CE programs directly. CE will be delivered privately by professional associations, educational institutions, other regulators or commercial education providers that have established expertise in delivering quality education programs for the financial services sectors.

In addition, FSCO will continue to engage in outreach to keep the industry informed about current issues and FSCO's regulatory activities. This will be done through

FSCO's Mortgage Broker e-info Newsletter, e-mail blasts, webinars, attendance at industry events and booths at trade shows, etc.

Licensees live and work throughout Ontario. CE programs must be readily accessible to licensees to ensure that where they live and whether they speak French or English will not be a barrier. CE programs must be available either through the Internet or by correspondence, and perhaps also in a classroom setting, or some combination of these approaches. CE must be available in French.

FSCO expects that several educators will become accredited to provide CE for Ontario's mortgage broker sector but it may not be realistic to expect each provider to offer CE in French, nor for each accredited provider to offer all three of these delivery methods.

Q6. What are your comments about how to achieve these results, considering that the demand for services in some markets or languages may be significantly less than for others?

#### Accrediting CE Providers

To qualify for accreditation, FSCO must be satisfied that applicants are capable of delivering quality educational programs based upon what they have done in the past. Accredited CE providers must undertake to provide CE programs that teach the current topics identified by FSCO, and must meet FSCO's frequency and time requirements, delivery methods, and quality standards. Accredited CE providers must undertake to enforce rigorous attendance requirements, and must promptly notify FSCO when each licensee has completed CE using appropriate electronic means. CE programs should continue to be available for a further six months after the end of each two-year licensing cycle.

Educators will only need to apply for FSCO approval once and accreditation will remain in effect unless revoked. FSCO will monitor all CE program providers to ensure that they consistently meet FSCO's high standards.

Q7. Are there other criteria that an applicant should meet in order to be accredited by FSCO as a CE provider?

Q8. What monitoring and reporting measures should FSCO require to ensure that these requirements continue to be met?

## Professional Designations and Other Comparable CE

In addition to CE programs that will be newly-designed to meet FSCO's content and other requirements, comparable courses may be offered by industry associations and other educators.

FSCO will not require licensees to duplicate comparable CE programs they have successfully completed to maintain an industry association professional designation, or other comparable programs they have completed through another regulator, educational institution or commercial education provider.

For example, an industry association may require its members to complete its CE program in order to maintain membership in good standing. If that association's training covers the CE content required by FSCO, FSCO could recognize current membership in that association as evidence that a licensee has completed the required CE and qualifies for licence renewal in Ontario.

Similarly, FSCO could recognize education completed through another provincial regulator, college or commercial education provider if that training is comparable to FSCO's CE requirements.

In order to recognize a program for CE purposes, FSCO will have to be satisfied that it adequately covers the content required by FSCO. One approach would be to require a provider to teach the content identified by FSCO as a condition of being accredited as a CE provider. Accredited providers could be required to sign an undertaking agreeing to ensure that their programs cover the required content.

Q9. FSCO must be satisfied that a program adequately covers the required CE content in order to recognize it for licence renewal purposes and avoid duplicating requirements for licensees. To recognize existing programs – for example, CE provided by an industry association – are there approaches other than the accreditation approach mentioned above?

## Compliance

To ensure compliance and protect the public interest, FSCO must be able to efficiently and effectively monitor compliance with CE requirements. CE programs must also be administratively efficient for CE providers and licensees. In today's world, maximizing efficiency requires the ability to convey information by electronic means.

CE providers must be able to electronically report to FSCO information on which FSCO can rely to determine who has met the CE requirements during the course of each two-year licensing cycle. This will ensure that FSCO's records are kept up-to-

date, and will allow FSCO to remind licensees who have not completed the required CE of their obligation to do so.

FSCO will need to determine how to treat licensees who have completed CE in another province where there is a different licensing period. In Ontario, mortgage brokers and agents are licensed for a common two-year licensing period. The current licensing period began on April 1, 2010 and ends on March 31, 2012. In British Columbia, a mortgage broker's registration is in effect for two years from the date the registration became effective, so registrations are renewable on different dates, rather than on the same date, as in Ontario.

Assuming that the other province's CE program covers the content required by FSCO, FSCO will recognize CE that was completed during the current licensing cycle of the other province. For example, if a broker registered in BC becomes licensed in Ontario, FSCO would recognize CE completed during the current BC registration cycle. This approach is intended to ensure that a licensee has completed a CE program that is current.

The same principle would apply to a licensee who completes CE through an industry association whose membership renewal period is different from FSCO's licensing period. Assuming that the association's CE program covers the content required by FSCO, FSCO will recognize CE that was completed during the association's current membership period.

Q10. What are your comments about recognizing CE completed in another province, or through an industry association, during a time period that is different from FSCO's licensing cycle?

## **YOUR COMMENTS ARE WELCOME**

FSCO requests written comments from industry stakeholders, the public, educators and other regulators about this proposed policy for mandatory CE for the mortgage broker sector in Ontario. All comments are welcome. Please refer to page 3 for details about the ways you can send your comments to FSCO.

**THANK YOU.**