Financial Services
Commission
of Ontario

Ontario

Commission des
services financiers
de l'Ontario

Mortgage Brokerages and Administrators
2015 Annual Information Return
Results Summary Report

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Executive summary

The Mortgage Brokerages, Lenders and Administrators Act, 2006 (MBLAA) requires mortgage brokerages and administrators to file their Annual Information Return (AIR) with the Financial Services Commission of Ontario (FSCO), on or before March 31 each year.

All mortgage brokerages and administrators that were licensed with FSCO at December 31, 2015, were required to complete and submit the AIR on or before March 31, 2016. The 2015 AIR collected information from mortgage brokerages and administrators about their business practices and internal controls for the 2015 calendar year (January to December 2015).

The AIR filings help FSCO to obtain a better understanding of the mortgage brokering sector as a whole and to assess mortgage brokerages' and administrators' overall compliance with the MBLAA. The filings also help FSCO with risk assessment of the sector and support FSCO's on-site examination planning process.

This report provides a summary of the responses that were received from 1,165 mortgage brokerages and 139 mortgage administrators, which represents 99 per cent of mortgage brokerages and mortgage administrators that were required to file the 2015 AIR.

Key findings

For **mortgage brokerages**, the key findings were:

- There was a high level of compliance with errors and omissions (E&O) insurance requirements, with only one per cent of mortgage brokerages reporting they did not meet the requirements.
- Thirty-three per cent of offices in Ontario did not have a licensed broker assigned in a supervisory capacity.
- From 2014 to 2015, there was a 20 per cent increase in the number of offices located more than 100 kilometres away from the principal broker's primary place of work.
- Almost half of mortgage agents and 35 per cent of mortgage brokers work part time in the sector.
- The top source of mortgage funding was banks followed by self-funding (funding for the brokerage's business provided by brokerage itself).
- The number of brokerages that use mortgage investment corporations (MICs) as lenders more than doubled since 2013, increasing from 104 in 2013 to 225 in 2015.
- Year-over-year, the number of syndicated mortgage transactions doubled and the dollar value increased by 60 per cent.

For **mortgage administrators**, the key findings were:

- Fourteen per cent of mortgage administrators reported they did not have a trust account.
- One mortgage administrator did not maintain the required $25,000 financial guarantee.

Regulatory action

While compliance with the AIR filing is very high, it should be noted that only 95 per cent of mortgage brokerages and 91 per cent of mortgage administrators filed by the March 31, 2016 due date. In response, FSCO is taking appropriate regulatory action to address this non-compliance.

FSCO monitors areas of non-compliance, including filing of the AIR, and takes appropriate regulatory action where there is evidence of non-compliance, which could include:

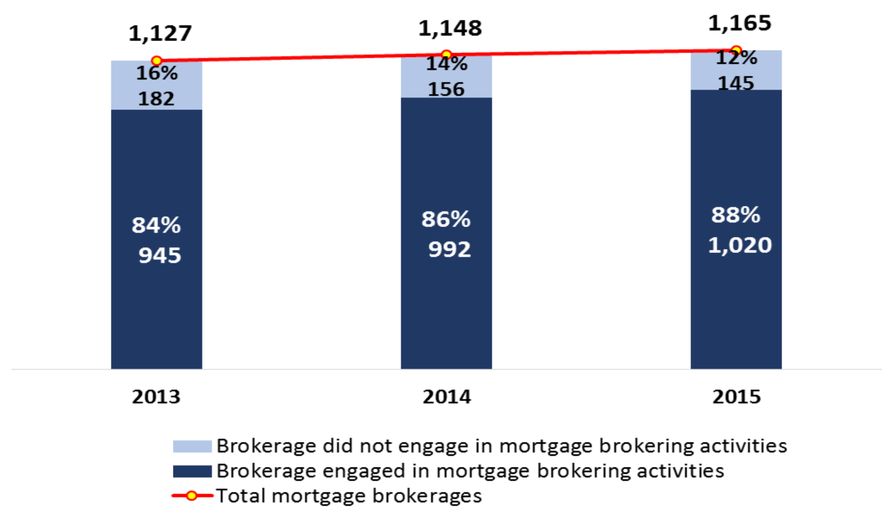
- licence suspension;
- licence revocation; and/or
- administrative monetary penalties.

Detailed findings: Mortgage brokerages

Mortgage brokerage sector profile

The number of mortgage brokerages that file the AIR has remained relatively stable over the past three years. Between 2013 and 2015, the number of mortgage brokerages that filed the AIR increased by less than two per cent each year. The majority of these brokerages reported that they actively engaged in mortgage brokering activities (dealing, trading or lending in mortgages). However, there remains a small number of brokerages that reported they did not engage in mortgage brokering activities. This number has been steadily declining over the past three years.

Figure 1: Mortgage brokerages by type of activity



Real estate continued to be the main alternate activity for mortgage brokerages. For those brokerages that said they were not engaged primarily in mortgage brokering, 50 per cent indicated they were engaged in real estate, a small decline from the 53 per cent reported in 2014.

Key topics

1. Errors and omissions (E&O) insurance

Under the MBLAA, each mortgage brokerage must have E&O insurance, including extended coverage for fraud, to protect the brokerage and its brokers and agents from acts arising from the business of dealing, trading or lending in mortgages (e.g., negligence, misrepresentation, fraud, etc.). The coverage must be provided by a FSCO-approved insurer and should cover at least $500,000 per occurrence, and $1 million for all occurrences in a year.

Overall, there was a high level of compliance with E&O insurance requirements. In 2015, 99 per cent of mortgage brokerages reported having at least the minimum mandatory coverages.

The 2015 AIR revealed the following non-compliance with E&O insurance requirements:

- Four mortgage brokerages reported that their E&O insurance policy provided less than the required $500,000 per occurrence, which is the same as reported in 2014.
- Seven mortgage brokerages reported they did not have the required $1 million for all occurrences, which is almost double the four reported in 2014.
- In 2015, 34 E&O claims were made against 27 brokerages or the brokerages' brokers/agents. Twelve claims against the brokerages and 14 claims against the brokerages' brokers and agents were paid by their E&O insurance carriers. Some of the claims paid related to issues such as wrong interest penalty calculation; discrepancy on the appraisal; private mortgage loss; and closing/funding delayed.

2. Supervision of operations

Mortgage brokerages are required to organize their operations in a way that facilitates adequate supervision of their brokers and agents, as well as FSCO's on-site examinations.

The 2015 AIR identified the following supervisory risks, which are of growing concern to FSCO:

- brokerages without a supervising broker;
- offices more than 100 kilometres away from the primary location of the principal broker; and
- a high percentage of part-time brokers and agents.

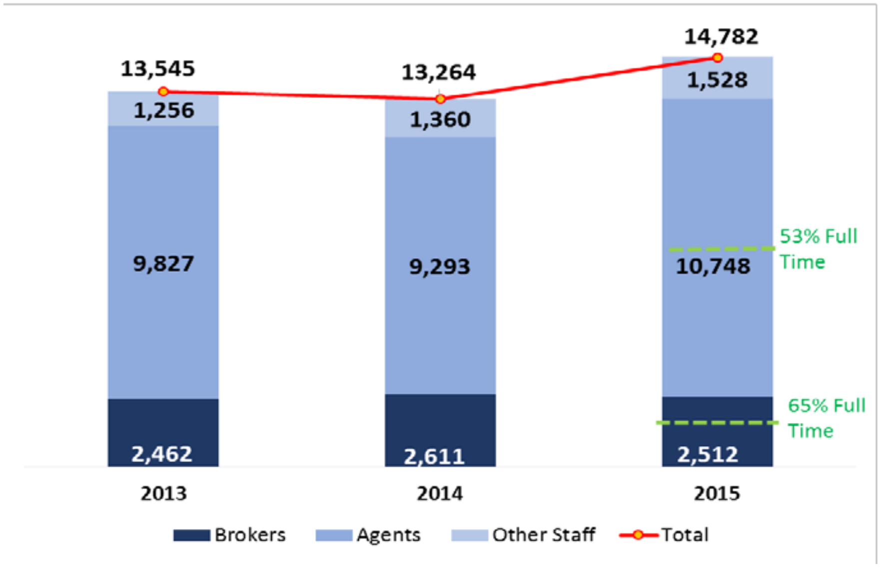
Similar to previous years, in 2015 the vast majority of mortgage brokerages (96 per cent) reported that their head office was in Ontario. Outside of Ontario, British Columbia had the most head offices (two per cent) followed by Alberta (one per cent).

Between 2013 and 2015, there was a small increase in the number of brokerage offices in Ontario (from 1,820 to 1,876). Of the offices in Ontario, 91 per cent were open to the public. However, only 67 per cent had a licensed broker assigned in a supervisory capacity. Eastern Ontario region had the highest percentage of offices without a broker assigned as a supervisor (41 per cent).

From 2014 to 2015, there was a significant increase (20 per cent) in the number of offices located more than 100 kilometres away from the principal broker's primary location of work. This distance potentially could lead to inadequate supervision and is a concern to FSCO, especially since there was also a 16 per cent increase from 2013 to 2014.

While there was a year-over-year reduction in the number of mortgage agents and total staff reported by brokerages in 2014, the reverse was true for 2015. In 2015, there was a notable year-over-year increase in the number of mortgage agents (16 per cent) and total staff (11 per cent). Almost half (47 per cent) of mortgage agents and 35 per cent of mortgage brokers were part time. A high percentage of part time brokers and agents are of concern to FSCO as they may potentially receive inadequate supervision and their part-time nature may lead to lapses in consistent standards of practice. Figure 2 provides more detail on staff composition.

Figure 2: Total number of mortgage brokers, agents and other staff



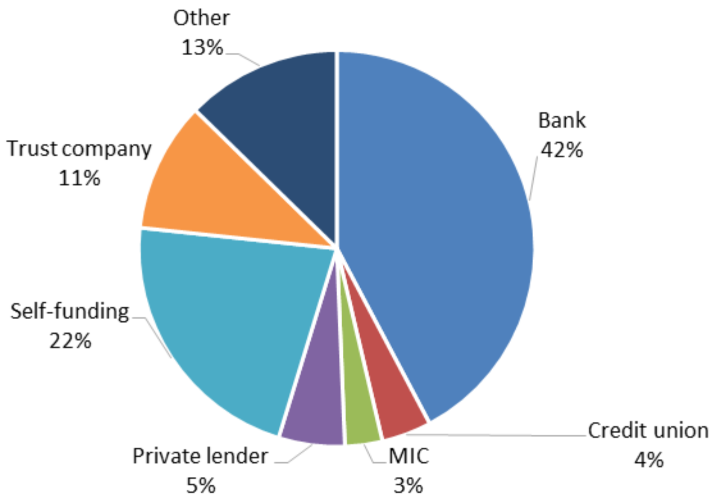
3. Lending sources and volume of mortgages

The 2015 AIR data revealed the following regarding the sources of funding and volume of mortgages in Ontario:

- The number of mortgages reported by mortgage brokerages (334,760) was 14 per cent higher than the number reported in 2014 (293,738).
- For 2015, mortgage brokerages reported a total of $142 billion in mortgages, which is a 21 per cent increase in the value reported in 2014.

Banks and self-funders were the top two sources of funding in 2015, accounting for 64 per cent of the total dollar value of mortgages. The distribution of the sources of funding is shown in Figure 3.

Figure 3: Percentage of mortgage value funded by type of lender



Mortgage brokerages were increasingly engaging in mortgage lending activities. **In 2015, the value of mortgages funded by brokerages engaged in mortgage lending activities doubled from the amount in 2013.**

Figure 4: Number of mortgages funded by the brokerage

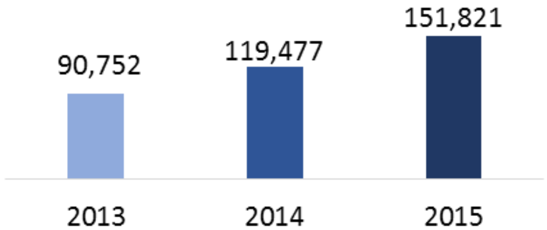
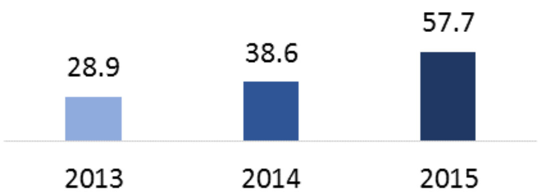


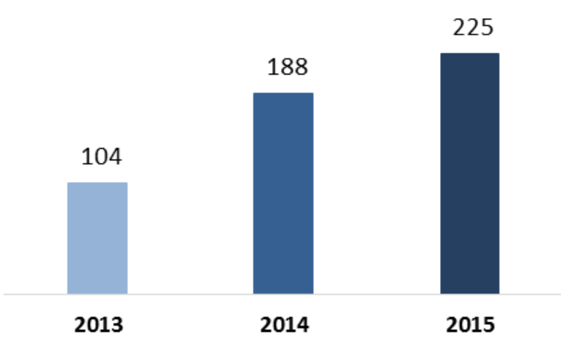
Figure 5: Value of mortgages funded by the brokerage (In $ billions)



4. Mortgage investment corporations (MICs)

There continued to be a significant increase in the number of brokerages that use MICs to fund mortgages. **The number of brokerages that used MICs as lenders has more than doubled since 2013.** In 2015, MIC funded mortgages totalled $4.3 billion.

Figure 6: Mortgage brokerages that reported MIC(s) as a lender



In 2015, five per cent of mortgage brokerages reported that their principal broker, officer or director had an equity interest in a MIC. This amount has gradually increased from three per cent in 2013 and four per cent in 2014.

5. Syndicated mortgages

The number of mortgage brokerages engaged in syndicated mortgage transactions continued to increase. In 2015, a total of 94 mortgage brokerages reported syndicated mortgages, which is 16 per cent higher than the 81 reported in 2014. Of this amount, 27 (29 per cent) appeared to focus mainly on syndicated mortgages, as these mortgages represented more than 90 per cent of their mortgage portfolio.

During the reporting period, syndicated mortgages represented four per cent of the total dollar value of mortgages that was reported in the 2015 AIR by mortgage brokerages. Although this is a small percentage, it is of great significance as it represents an increasingly high-risk area for the sector. In the last year alone, the number of syndicated mortgage transactions doubled and the dollar value increased by 62 per cent, as illustrated in Figures 7 and 8.

Figure7: Number of syndicated mortgage transactions

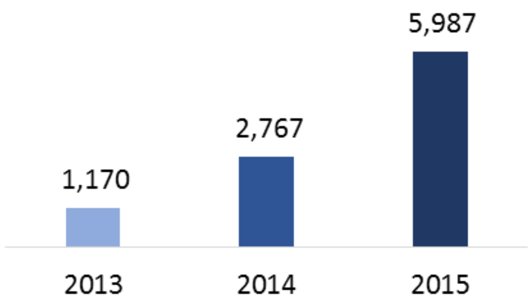
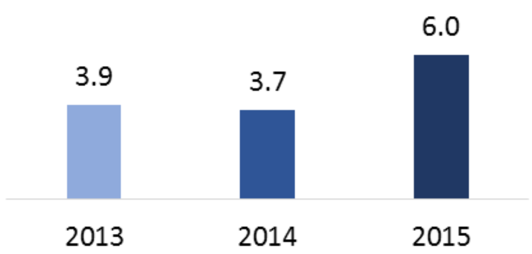


Figure 8: Value of syndicated mortgage transactions (In $ billions)



FSCO considers certain types of syndicated mortgages to be a high-risk investment that may not be suitable for all investors. Mortgage brokerages that are engaged in this activity are encouraged to review [FSCO Bulletin no. M-01/15: Requirements for Promoting Syndicated Mortgage Investments] to ensure they are able to demonstrate they have met their suitability and disclosure obligations to investors.

6. Remuneration

FSCO observed the following from the data collected on payments and/or incentives, other than money, that mortgage brokerages received from lenders or paid to mortgage brokers and/or agents that were registered with another brokerage:

- 25 per cent of mortgage brokerages accepted non-monetary incentives from lenders. Reward points were the most common incentive followed by event tickets.
- 41 per cent of mortgage brokerages had a contingency commission or payment arrangement with lenders.
- Four per cent of brokerages offered credit cards or gift cards as remuneration, including incentives.

Detailed findings: Mortgage administrators

1. *E&O insurance and financial guarantee*

Mortgage administrators are required to maintain E&O insurance with or including extended coverage for fraud, from a FSCO-approved insurance company. Mortgage administrators must also maintain a $25,000 financial guarantee (i.e. unimpaired working capital).

Responses to the AIR revealed that, in 2015:

- Three E&O claims were made against two mortgage administrators. None of the claims were paid by the insurance company and details of the claims were not available.
- Two mortgage administrators did not maintain the required $25,000 financial guarantee (unimpaired working capital) required by law. This is an increase from one mortgage administrator in 2014.
- Three mortgage administrators were fined by regulators other than FSCO. The fines were for not having the required licence, late filing of annual financial statements and administrative deficiencies found during a compliance review.

2. *Trust accounts*

Under the MBLAA, mortgage administrators are required to maintain a trust account to hold money received from a borrower or lender in connection with the administration of a mortgage.

Responses to the 2015 AIR revealed the following areas of non-compliance with respect to trust account requirements:

- 20 mortgage administrators (14 per cent) reported they did not have a trust account.
- 21 mortgage administrators opened trust accounts without prior written consent from the Superintendent.
- One mortgage administrator did not reconcile all of its MBLAA trust accounts.

FSCO monitors areas of non-compliance by mortgage administrators and takes appropriate regulatory action where there is evidence of non-compliance.

3. *Supervision of operations*

Mortgage administrators are required to organize their operations in a way that facilitates adequate supervision of their staff, as well as FSCO's on-site examinations.

The 2015 AIR data revealed the following regarding mortgage administrators' supervision of operations:

- 123 administrators (88 per cent) had head offices in Ontario. British Columbia had the most head offices outside of Ontario (five per cent) followed by Alberta (three per cent).
- 111 administrators (80 per cent) had an office in Toronto. The next top location was Ottawa (six per cent) and then Barrie (three per cent).

Appendix 1: Mortgage brokerages data

Figure 9: Additional mortgage brokerage data from the 2015 AIR

Total number of mortgage brokerages that filed the AIR: 1,165

Response topics	2015	
	#[1]	%[2]
Mortgage brokerage information		
The mortgage brokerage is a franchise	336	29%
The mortgage brokerage also had a mortgage administrator (dual) licence	84	7%
The mortgage brokerage or its related persons/entities is a member of Mutual Fund Dealers Association (MFDA)	27	2%
The mortgage brokerage or its related persons/entities is registered as an insurance brokerage under insurance legislation in any Canadian jurisdiction	51	4%
The mortgage brokerage or its related persons/entities is registered as a dealer or adviser under securities regulation in any Canadian jurisdiction	40	3%
The mortgage brokerage or its related persons/entities is registered as a real estate brokerage under the Real Estate Business Brokerage Act	260	22%
The mortgage brokerage or its related persons/entities holds other licences	340	29%
Trust account information		
The mortgage brokerage has a trust account(s) under the MBLAA	107	9%
The mortgage brokerage obtained prior written consent from the Superintendent to open a trust account pursuant to O. Reg. 188/08, s. 50 (2)	17	1%
The mortgage brokerage reconciled all of its MBLAA trust accounts	105	9%
Supervision of operations		
The mortgage brokerage reviewed its policies and procedures	1,088	93%
The brokerage used on-site supervisor/manager to provide adequate supervision	1,011	87%
The brokerage used policies and procedures/best practices to provide adequate supervision	1,021	88%
The brokerage used file review/file audit to provide adequate supervision	973	84%
The brokerage used regular meetings (monthly, quarterly etc.) to provide adequate supervision	890	76%
The brokerage used training/support (phone/email/fax/online) to provide adequate supervision	883	76%

[1] Number of mortgage brokerages that answered “yes” to each question.

[2] Percentage of mortgage brokerages that filed the AIR.

Response topics	2015	
	#[1]	%[2]
Records information		
The mortgage brokerage retains records at its principal place of business in Ontario	1,088	93%
If records were stored somewhere else, the mortgage brokerage notified the Superintendent	56	5%
The mortgage brokerage took adequate precautions to ensure the security of its records	1,162	99.7%
Format for records storage: electronic and paper	598	51%
Format for records storage: paper	269	23%
Format for records storage: electronic	298	26%
Securitization		
The mortgage brokerage arranged or participated in arranging securitization facilities	8	0.7%
The mortgage brokerage made securitization sales	7	0.6%
Complaints and complaints handling		
The person designated to receive complaints at the mortgage brokerage is the principal broker	1,072	92%
Licence suitability		
The mortgage brokerage reported complaint(s) made against the mortgage brokerage to a regulatory body in any Canadian jurisdiction that was based, in whole or in part, on allegations of fraud, theft, deceit, misrepresentation, forgery, or similar conduct	14	1.2%
The mortgage brokerage was fined or there were monetary penalties imposed by a Canadian financial services regulator excluding FSCO	5	0.4%
The mortgage brokerage had unpaid fines/monetary penalties owing to a Canadian financial services regulator, other than FSCO	0	0%
The mortgage brokerage was fined or there were monetary penalties imposed by a Provincial/Federal court	1	0.08%
The mortgage brokerage was subject to charges laid under the laws of a Canadian province/ territory	0	0%
The mortgage brokerage held licences from other regulatory bodies/professional organizations that were revoked or suspended	3	0.3%

Appendix 2: Mortgage administrators data

Figure 10: Additional mortgage administrator data from the 2015 AIR

Total number of mortgage administrators that filed the AIR: 139

Response topics	2015	
	#[1]	%[2]
Mortgage administrator information		
The mortgage administrator filed financial information pursuant to O. Reg. 193/08 s. 3	91	65%
Trust account information		
The mortgage administrator had a trust account(s) under the MBLAA	119	86%
The mortgage administrator obtained prior written consent from the Superintendent to open a trust account	7	5%
The mortgage administrator reconciled all of its MBLAA trust accounts	118	85%
The mortgage administrator reported a shortfall, at any time, in any of the MBLAA trust accounts	4	3%
Portfolio details/information		
The mortgage administrator operated a MIC during the reporting period	34	24%
The mortgage administrator administered private mortgages	67	48%
The mortgage administrator administered syndicated mortgages	64	46%
Securitization		
The mortgage administrator arranged or participated in arranging securitization facilities	5	4%
The mortgage administrator made securitization sales	5	4%
Records information		
The mortgage administrator retained required records at its principal place of business in Ontario	120	86%
If records were stored somewhere else, the mortgage administrator notified the Superintendent	15	11%
Format for records storage: electronic and paper	108	78%
Format for records storage: paper	5	4%
Format for records storage: electronic	26	19%

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[1] Number of mortgage administrators that answered “yes” to each question.

[2] Percentage of mortgage administrators that filed the AIR.

Response topics	2015	
	#[1]	%[2]
Unimpaired working capital		
The mortgage administrator maintained the required $25,000 of unimpaired working capital (or another arrangement, as approved by the Superintendent), at all times throughout the year	137	99%
Suitability		
E&O claim(s) were made against the mortage administrator during the reporting period, in any Canadian jurisdiction	2	1%
E&O claim(s) made against the mortgage administrator were paid by its E&O insurance carrier or bonding company, in any Canadian jurisdiction	0	0%
Complaint(s) were made against the mortage administrator to a regulatory body in any Canadian jurisdiction, that was based, in whole or in part, on fraud, theft, deceit, misrepresentation, forgery or similar conduct	0	0%
The mortgage administrator was fined or there were monetary penalties imposed by another Canadian financial services regulator, excluding FSCO	3	2%
The mortgage administrator had unpaid fines/monetary penalties owing to another Canadian financial services regulator, other than FSCO	0	0%
The mortgage administrator was subject to charges that were laid under the laws of a Canadian province/territory	0	0%
The mortgage administrator had its licence(s) from another regulatory body/professional organization revoked or suspended	0	0%
The mortgage administrator conducted other business from its premises	34	24%
Reporting changes		
The mortgage administrator opened new offices during the reporting period	8	6%
The mortgage administrator closed offices during the reporting period	2	1%
Remuneration/payments		
The mortgage administrator had contingency commission payment arrangements with another person or entity	4	3%