



Compliance Checklist for Mortgage Administrators

as of January 1, 2009

This Compliance Checklist was developed by the Financial Services Commission of Ontario (FSCO) to assist Mortgage Administrators in complying with the new regulations relating to standards of practice (Ontario Regulation 189/08) and reporting requirements (Ontario Regulation 193/08) under the Mortgage Brokerages, Lenders and Administrators Act, 2006. All of these requirements are set out in the law – they are not suggestions.

Customer Relations

- Provide your full name and Mortgage Administrator licence number when asked.**
- Prominently disclose the Mortgage Administrator's authorized name and licence number in all public relations materials.** The public relations materials must clearly indicate that the company is independently owned and operated if the Mortgage Administrator's authorized name is the name of a franchise, or includes the name of a franchise.
- Verify the identity of each lender/investor before entering into an agreement with the lender/investor to administer the mortgage.** This does not apply if a Mortgage Brokerage is required by law to verify the lender's or investor's identity in connection with the mortgage.
- You must be clear, concise and logical in written disclosures, consents and acknowledgements.**
- Disclose whether fees will be received from others.** Disclose in writing to the lender/investor whether the Mortgage Administrator may/will receive a fee or other remuneration, directly or indirectly, from another person/entity in connection with administering the mortgage. Disclose the identity of the person/entity, the basis for receiving the fees, how that fee was calculated and, if a benefit other than money, the nature of that benefit. Get written acknowledgement that the lender/investor has received this disclosure.
- Disclose whether fees will be paid to others.** Disclose in writing to the lender/investor whether the Mortgage Administrator may/will pay a fee or other remuneration, directly or indirectly, to another person/entity in connection with administering the mortgage. Disclose the identity of the person/entity, the basis for paying the fees, how that fee was calculated, and if a benefit other than money, the nature of the benefit. Get written acknowledgement that the lender/investor has received this disclosure.
- Disclose whether referral fees will be received.** Disclose in writing whether any fees or other remuneration may/will be received, directly or indirectly, for referring the lender/investor or a prospective lender/investor to another person/entity. Describe in writing the nature of the relationship between the Mortgage Administrator and the other person/entity.
- Disclose the relationship with borrower.** Disclose in writing to each lender/investor the Mortgage Administrator's relationship with each borrower. This does not apply if the lender/investor is a Mortgage Brokerage, financial institution or another Mortgage Administrator. Get written acknowledgement that the lender/investor has received this disclosure.
- Disclose potential conflicts of interest.** Disclose in writing to each lender/investor, any conflict of interest that the Mortgage Administrator or an employee engaged in administering the mortgage may have in connection with the mortgage. This does not apply if the lender/investor is a Mortgage Brokerage, a financial institution or another Mortgage Administrator. Get written acknowledgement that the lender/investor has received this disclosure.
- Return original documents to their owners when requested, at no charge.**



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- Provide a written response to a written complaint.** Tell the client that he/she may contact FSCO if he/she is not satisfied with your response and believes the law has not been followed.
- Do not administer a mortgage for lender/investor if you have reason to believe the mortgage, its renewal, or the investment is unlawful.**

Mortgage Administration

- Include the following information in written agreements with lenders/investors:**
 - Name in which the mortgage is registered.
 - Details of the trust agreement if the mortgage is held in trust.
 - Circumstances in which the lender/investor may dispose of his/her interest in the mortgage.
 - What happens to payments, including penalties and bonuses.
 - Rights and duties of each lender/investor if a borrower defaults on the mortgage, and the costs for which each lender/investor will be responsible.
 - Procedures to follow in case of a foreclosure or power of sale.
 - Information on administration fees, including how they are calculated and paid.
 - Obligation of the Mortgage Administrator to promptly inform each lender/investor in case of mortgage default, new encumbrances, and other changes that affect the mortgage.
- Do not pay the lender/investor unless the borrower has made the mortgage payment.** The borrower's cheque must clear and funds must be received by the Mortgage Administrator before paying the lender/investor.
- Promptly pay the lender/investor redemption or partial redemption proceeds.**

Business Practices

- If you are operating another business,** make sure it does not jeopardize your integrity, independence or competence as a Mortgage Administrator.
- Do not use any information that was obtained while carrying on mortgage administration business for any other purpose, without first obtaining the written consent of the individual or business.**

Prohibited Activities

The Mortgage Brokerages, Lenders and Administrators Act, 2006 and regulations, prohibit:

- **Administering mortgages without a licence** – as of July 1, 2008, all Mortgage Administrators must be licensed with FSCO to carry on business in Ontario, unless an exemption applies.
- **Using an unauthorized name** – you can only use the name in which you are licensed.
- **Indicating that Mortgage Administration fees are approved by the government** – you cannot claim that Mortgage Administration fees are approved by a government authority. The only exception is fees under the Land Titles Act or the Registry Act.
- **Offering guarantees to lenders/investors** – you cannot offer a guarantee to a lender/investor regarding a mortgage loan or mortgage investment.
- **Engaging in tied selling** – lenders/investors cannot be required to obtain a product/service as a condition for obtaining another product or service from the Mortgage Administrator.

