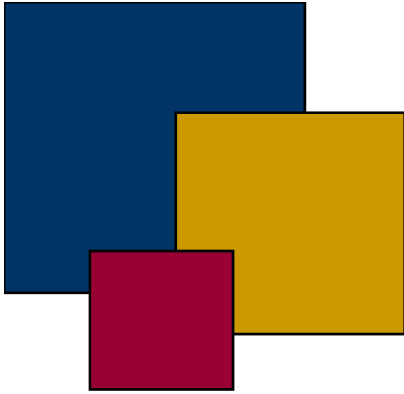




Financial Services
Commission
of Ontario

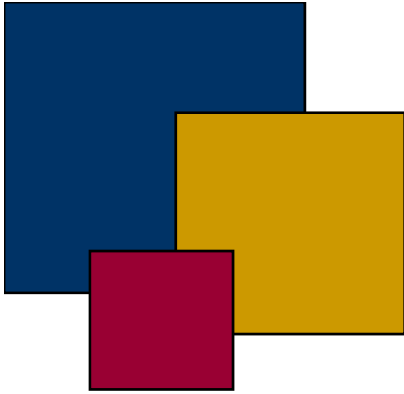
Commission des
services financiers
de l'Ontario

Why Complaints are Important to Your Mortgage Brokerage or Administrator



A Few Notes Before We Get Started

- **Minimum Screen Resolution - 1024 x 768**
- **How to Ask Questions**
 - Type in your question in the “chat” field
 - Send an e-mail to infosessions@fsco.gov.on.ca
- **When and How Questions Will be Answered**
- **Webinar Recording**



Overview

- **Why Complaints are Important**
- **Your Obligations Under the MBLAA**
- **FSCO's Role Regarding the Complaint Handling Process**
- **FSCO's Expectations**
- **Best Practices for Dealing with Complaints and Avoiding E&O Claims**



Overview (cont'd)

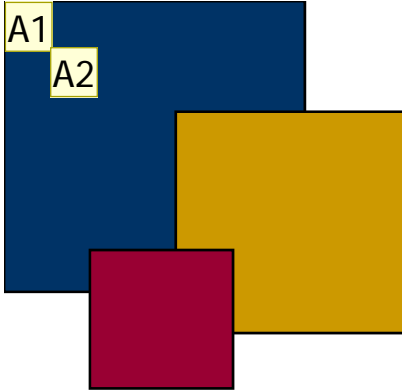
- **Ways to Improve Compliance with the MBLAA and Regulations**
- **The Connection Between Compliance and Fees**
- **Top Five Complaints from 2009**
- **Conclusion**
- **Q&A**



Why Complaints are Important

- An example of why complaints are important in marketing





Why Complaints are Important (cont'd)

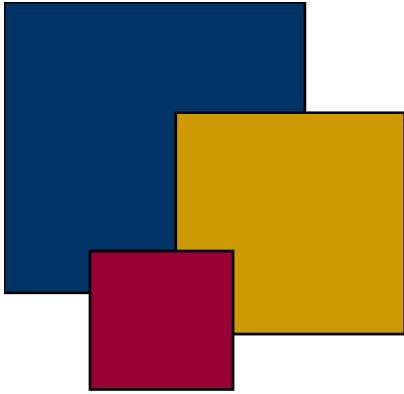
Dissatisfied customers will:

1. Remain silent and go to a competitor.
2. Complain to the police or FSCO.
3. Complain to friends and anybody else who will listen to them.
4. Complain to you.

Slide 6

A1 Administrator, 01/25/2010

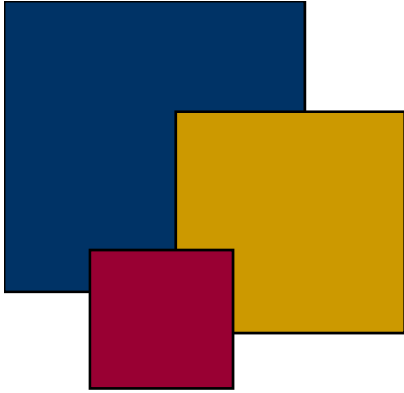
A2 Administrator, 01/25/2010



Why Complaints are Important (cont'd)

Reviewing complaints can help you:

- Identify areas in which you can improve your policies and procedures.
- Find training opportunities.
- Determine if another broker's or agent's files need to be reviewed.
- Spot systemic issues with your business.
- Recognize or avoid professional liabilities.



Your Obligations Under the MBLAA

Duty to establish a complaints process (*Ontario Regulation 188/08, sections 9 and 41*)

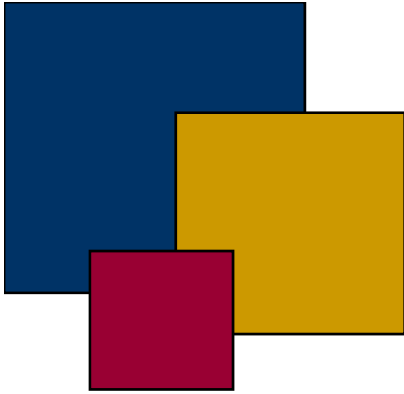
- Designate an employee to handle complaints.
- Provide timely written responses to written complaints.
- Ensure your response is in compliance with the MBLAA and includes the proposed resolution.
- Advise the complainant to write to FSCO if he/she believes there has been a contravention of the law.



Your Obligations Under the MBLAA (cont'd)

Duty to report unsuitable brokers/agents to FSCO's Superintendent (*Ontario Regulation 188/08 , section 43 (3)*)

- Use your common sense.
- Consider the degree or amount of harm and the number of parties that are affected.
- Determine if the conduct was accidental or intentional.



Your Obligations Under the MBLAA (cont'd)

- **Consider the three circumstances that the Superintendent is required to consider when determining lack of suitability:**
 1. Whether the individual will not deal or trade in mortgages in accordance with the law, and with integrity and honesty.
 2. Whether the individual is carrying on activities that contravene, or will contravene the law, if licensed.
 3. Whether the individual has provided false information to the Superintendent on his/her licence application.



Your Obligations Under the MBLAA (cont'd)

- **Keep a record of all complaints and responses from the brokerage or administrator.**
- **Report complaint information on the Annual Information Return.**



FSCO's Role Regarding the Complaint Handling Process

- FSCO tells consumers to first try and resolve their complaints with the mortgage brokerage or administrator.
- If they can't reach a resolution, they may fill out and submit a complaint form to FSCO.



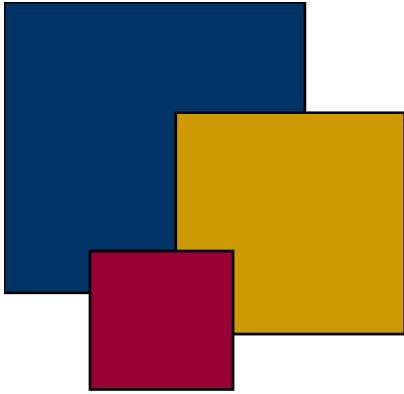
FSCO's Role Regarding the Complaint Handling Process (cont'd)

- **If the complaint form does not include a copy of the final position letter:**
 1. FSCO will send a letter to the brokerage or administrator.
 2. The brokerage or administrator needs to respond to the complainant and send a copy of the letter to FSCO.
 3. The brokerage or administrator needs to provide FSCO its final position letter within three weeks.



FSCO's Role Regarding the Complaint Handling Process (cont'd)

- **Make sure you address all allegations in your final position letter.**
- **Your response should demonstrate whether and how you are in compliance with the MBLAA and regulations.**
- **If there is a non-compliance issue, or your response is incomplete, the matter will be referred to a FSCO analyst for further review.**



FSCO's Expectations

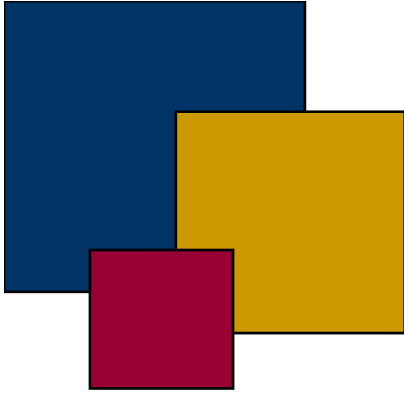
- **Mortgage brokerages and administrators need to comply with the MBLAA and regulations at all times.**
- **Refer to the following checklists on FSCO's website:**
 - Compliance Checklist for Managing the Mortgage Brokerage, Keeping Records and Trust Accounts
 - Compliance Checklist for Mortgage Administrators
 - Compliance Checklist for Managing the Mortgage Administrator, Keeping Records and Trust Accounts
 - Compliance Checklist for Mortgage Brokerages, Brokers and Agents



Best Practices for Dealing with Complaints and Avoiding E&O Claims

How to address a complaint

1. Don't ignore the customer.
2. Give the customer an opportunity to express him/herself.
3. Listen carefully to the problem.
4. Thank the customer for his/her feedback.
5. Agree with any true aspects of the complaint.
6. Stick to the facts when responding.
7. Offer solutions, if possible.



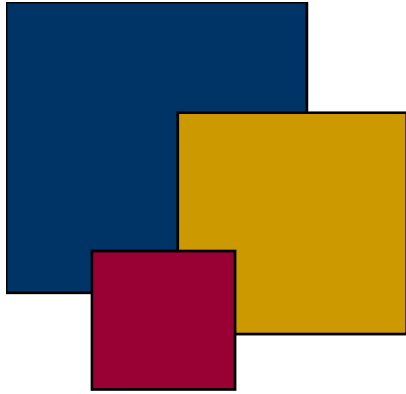
Best Practices for Dealing with Complaints and Avoiding E&O Claims (cont'd)

8. Review the solutions or options with your principal broker or administrator first.
9. Make sure your response is timely.
10. Report back to the customer on the progress of the proposed solution at regular intervals (if applicable).
11. Report the outcome of the issue to your superior, principal broker or administrator.
12. Review the responses and policies and procedures for gaps, determine if additional training is needed, and look for systemic issues.



Best Practices for Dealing with Complaints and Avoiding E&O Claims (cont'd)

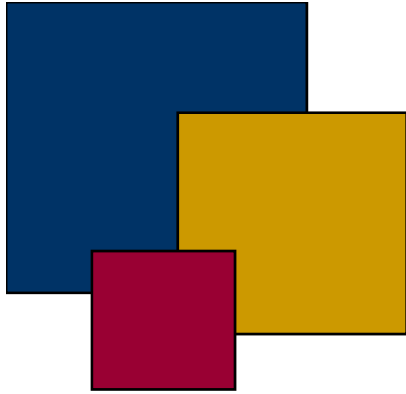
- Do you have additional best practices that you want to recommend to your fellow brokerages and administrators?
- E-mail your best practices to: infosessions@fsco.gov.on.ca.



Best Practices for Dealing with Complaints and Avoiding E&O Claims (cont'd)

When dealing with complaints, make sure you:

1. Keep a copy of all written/verbal complaints and your responses.
2. Review the file that pertains to the complaint.
3. Interview the broker/agent that worked on the file.
4. Use concise and plain language in all correspondence.
5. Address all allegations in the complaint.
6. Are transparent with all parties.
7. Comply with the MBLAA and regulations.



Best Practices for Dealing with Complaints and Avoiding E&O Claims (cont'd)

8. Get the opinion of a knowledgeable third party to determine if your proposed response is reasonable.
9. Read your E&O policy to see when and if a complaint needs to be reported.
10. Record all complaints in a complaint log and record any findings associated with their review.
11. Report an unsuitable broker/agent to FSCO.
12. Provide consumers access to a complaint officer, and post your complaint process in your office or on your website.
13. Send your response letter in a timely fashion.



Ways to Improve Compliance with the MBLAA and Regulations

FSCO's on-site field reviews of brokerages

- Random sample of 128 brokerages.
- Reviews were conducted to determine level of compliance with the MBLAA and regulations.
- Focus was on areas with the highest risk: corporate governance and oversight of brokerages.
- Examiners discussed required corrective actions and timeframe with principal brokers.
- The report will be posted on FSCO's website in spring 2010.



Ways to Improve Compliance with the MBLAA and Regulations (cont'd)

FSCO found that the majority of the 128 brokerages:

- had written policies and procedures
- obtained information from industry resources
- made policies and procedures available to brokers and agents
- had policies and procedures that dealt with sections 40 to 48 of Ontario Regulation 188/08
- had policies and procedures to ensure that brokers and agents were eligible for licensing and did not work for more than one brokerage



Ways to Improve Compliance with the MBLAA and Regulations (cont'd)

FSCO also found that the majority of brokerages:

- had signage that was non-compliant with legislation
- designated a complaints officer
- maintained a complaints log



Ways to Improve Compliance with the MBLAA and Regulations (cont'd)

- A small number of brokerages failed to have written policies and procedures.
- Approximately half of the brokerages did not have adequate policies for reporting unsuitable brokers or agents to the Superintendent.



Ways to Improve Compliance with the MBLAA and Regulations (cont'd)

Summary of FSCO's on-site field reviews of brokerages

- The reviews were a good first step in assessing the state of the industry's implementation of sections 40 to 48 of Ontario Regulation 188/08 (Managing the Brokerage).
- The majority of brokerages appear to be operating in compliance with most aspects of the law.
- Compared to other regulated sectors, the mortgage brokering industry is at a greater risk of non-compliance.



Ways to Improve Compliance with the MBLAA and Regulations (cont'd)

- **FSCO's website (www.fsco.gov.on.ca) has many resources to assist you:**
 - compliance checklists
 - webinar recordings
 - Mortgage Broker e-Info Newsletter
 - frequently asked questions
 - links to the MBLAA and Regulations
- **Check with your association for additional helpful resources and events.**



The Connection Between Compliance and Fees

- FSCO is a cost recoverable agency
- low level of compliance = higher fees
- high level of compliance = lower fees



Top Five Complaints from 2009

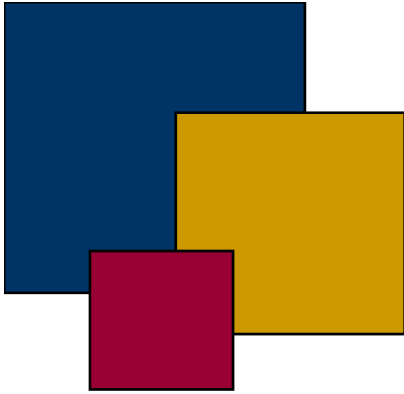
No.	Causes	% of Complaints*
1	Advertising/Public Relations	35%
2	Fraudulent/Illegal Activities	13%
3	False, Misleading, Deceptive Statements/Misrepresentation	6%
4	Representation of Fees/ Amount	5%
5	Policies and Procedures	3%

*Based on a total of 205 closed complaint files handled by FSCO's Market Conduct Analysis Section for the mortgage brokering sector in 2009.



Conclusion

- Look at complaints as an opportunity to improve your business.
- If you handle complaints correctly, you will ensure that they do not turn into two regulatory issues: non-compliance with the MBLAA and mishandling of complaints.



Questions and Answers



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Why Complaints are Important to Your Mortgage Brokerage or Administrator

Thank You