



Report on FSCO's Compliance Reviews of Mortgage Brokerages

**Financial Services Commission of Ontario
Licensing and Market Conduct Division**

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EXECUTIVE SUMMARY

The Financial Services Commission of Ontario (FSCO) utilizes a risk-based approach to regulation, which focuses on allocating valuable regulatory resources to those areas that are deemed to have the greatest risk. Under this regulatory approach, FSCO goes beyond just enforcing requirements that are set out in legislation. Instead of examining all risks, FSCO focuses its attention on those risks that have the potential to cause the greatest degree of harm. The benefit of this approach is that regulatory resources are maximized and compliance costs are minimized.

During the spring and summer of 2009, FSCO conducted a review of the mortgage brokering industry as part of its compliance review initiative. This review focused on how the overall industry – particularly at the individual brokerage level – had prepared itself to meet the compliance requirements under the Mortgage Brokerages, Lenders and Administrators Act, 2006 (MBLAA); with specific focus on sections 40 to 48 of Ontario Regulation 188/08 – Mortgage Brokerages: Standards of Practice.

FSCO's strategy for the review included the following:

- Consulting with key industry stakeholders about the compliance requirements and steps that would be taken to educate and promote compliance in the industry.
- Conducting significant outreach activities throughout Ontario that assisted in the development and direction of the reviews.
- Selecting a random sample of 128 mortgage brokerages (or approximately 10 per cent of all brokerages in Ontario) for the on-site reviews.
- Developing an examination program to test the sample's compliance with the MBLAA and Ontario Regulation 188/08.
- Having in-house training sessions for examiners who would conduct on-site field reviews at the selected brokerages.
- Following-up with brokerages after the reviews.
- Collecting and analyzing data once the reviews had concluded.

Through this process it was determined that the reviews would focus on specific standards under the MBLAA and regulations, particularly standards relating to policies and procedures, oversight and corporate governance. Although policies and procedures do not guarantee compliance with legislation, mortgage brokerages are expected to establish and implement policies and procedures that are reasonably designed to ensure compliance with the requirements under the MBLAA. The findings from FSCO's reviews indicate that most mortgage brokerages had established policies and procedures in accordance with the regulations. However, the quality of those policies and procedures was not sufficient to mitigate the risk of non-compliance with the law and the potential for harm to consumers.

The results of the reviews provide support for FSCO's risk-based approach to regulation and its positive impact on the mortgage brokering industry in promoting higher standards of practice for consumer protection in Ontario.

ABOUT FSCO

FSCO is an agency of Ontario's Ministry of Finance that is responsible for regulating mortgage brokerages, administrators, brokers and agents in the province of Ontario. It 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's broad mandate includes enhancing consumer confidence and public trust in the regulated sectors by conducting its activities in accordance with risk-based approaches, and making recommendations to the Minister of Finance on matters affecting the regulated sectors.

BACKGROUND

In recent years, the mortgage brokering industry has undergone many changes. The crisis that was created by sub-prime mortgages and mortgage credit markets in the United States further emphasizes the need for better regulation to protect consumers.

To enhance consumer protection and increase professionalism in the mortgage brokering industry, the Government of Ontario enacted the MBLAA, which went into effect on July 1, 2008. This was followed by several new regulations on standards of practice, which came into effect on January 1, 2009.

The MBLAA is a new act that replaced the old Mortgage Brokers Act and sets out a new framework for regulating the mortgage brokering industry in Ontario. Under the MBLAA and related regulations, the mortgage brokering industry must meet certain requirements in areas such as: education, licensing, policies and procedures, standards of practice, and errors and omissions insurance. With this new framework for regulation, consumers are better protected and will have greater confidence in the mortgage brokering industry in Ontario.

INTRODUCTION

In March 2009, FSCO announced that it would conduct on-site field reviews at a random sample of mortgage brokerages to ensure that they were in compliance with legislation. These on-site field reviews took place during the spring and summer of 2009 as part of FSCO's compliance review initiative. They focused on how the overall industry – particularly at the individual brokerage level – had prepared itself to meet the compliance requirements under the MBLAA; with specific, but not exclusive focus, on sections 40 to 48 of Ontario Regulation 188/08.

This report presents findings and conclusions that are based on the reviews that were conducted by examiners in FSCO's Licensing and Market Conduct Division.

PREPARING FOR THE REVIEWS

Soon after the new regulatory framework was introduced, FSCO consulted with industry stakeholders (e.g., the Canadian Association of Accredited Mortgage Professionals, the Independent Mortgage Brokers Association of Ontario, the Ontario Real Estate Association, etc.), and the Ministry of Finance about requirements in the new legislation, and the steps that would be taken to educate and promote compliance in the industry. During this stakeholder consultation, FSCO made the industry aware of the

mortgage brokerage's obligations regarding standards of practice. FSCO also conducted significant outreach activities to promote compliance with the MBLAA. These activities included:

- holding information sessions on the MBLAA;
- hosting webinars on complying with the MBLAA and regulations;
- having bi-weekly meetings with industry experts and key industry representatives;
- attending industry conferences;
- sponsoring trade show booths at industry conferences and trade shows;
- speaking at industry conferences and events; and
- providing regular updates and information to the industry through FSCO's website, Mortgage Broker e-Info Newsletter and e-mails.

FSCO's open and consultative approach provided useful information that assisted in the development and direction of the on-site reviews. It also informed and prepared the industry for the reviews.

STRATEGY FOR THE REVIEWS

Since the MBLAA and regulations only went into effect a few months before the on-site reviews were conducted, there was limited data on how the overall industry, at the individual brokerage level, had prepared itself to meet the compliance requirements under Ontario Regulation 188/08.

FSCO utilizes risk-based principles in its approach to regulation, which focuses on allocating valuable regulatory resources to those areas that are deemed to have the greatest risk. This approach gave FSCO the flexibility to maximize regulatory resources and minimize compliance costs. After considering key stakeholders' feedback and general perspectives on the state of the mortgage brokering industry in Ontario and the United States, FSCO decided to focus on mortgage brokerages' standards of practice since they relate to corporate governance and oversight. These areas were deemed to have the highest risk of harm to consumers if there was a significant degree of non-compliance, and therefore needed testing and monitoring.

FSCO's strategy for the on-site reviews included the following:

- Selecting a random sample of 128 mortgage brokerages (or approximately 10 per cent of all brokerages in Ontario) for the on-site reviews, in order to obtain a broad representation of the industry as a whole.
- Developing an examination program to test the sample's compliance with sections 40 to 48 of Ontario Regulation 188/08. Specific focus was given to requirements that deal with corporate governance, oversight, and policies and procedures.
- Having in-house training sessions for examiners who would conduct on-site field reviews at the selected brokerages. These training sessions ensured that the examiners were familiar with the examination program and regulatory requirements for mortgage brokerages.
- Assigning individual examiners to the selected brokerages. These examiners were responsible for preparing planning memorandums, setting up examinations, issuing letters to principal brokers, and completing the examination program.
- Discussing any issues and required corrective actions with each brokerage's principal broker.

- Following up with the brokerages after the on-site reviews. The examiners sent the brokerages letters that summarized the findings from the reviews, the actions that were required to address them, and the date that a response was expected. Each letter included an examination report that provided details about the areas that were reviewed in accordance with the examination program.
- Collecting and analyzing data once the reviews had concluded.

ABOUT THE REVIEWS

The scope of the risk-based reviews was to determine if mortgage brokerages had policies and procedures in place – particularly policies and procedures that met the requirements under sections 40 to 48 of Ontario Regulation 188/08. These sections deal with the duty to establish policies and procedures; the duty to have a complaints process; the duty to have insurance; the duty to ensure brokers and agents are eligible for licensing; duties concerning fees and incentives; and records management duties.

FSCO reviewed the selected mortgage brokerages' operational processes in regards to their corporate governance and oversight for compliance with legislative requirements. All of the brokerages' responses were collected and further analyzed. If an examiner detected weaknesses in a brokerage's operational processes, the issues and required actions for addressing them were discussed with the brokerage's principal broker.

The on-site reviews provided FSCO with the following information:

- How many of the selected mortgage brokerages had policies and procedures addressing the requirements under sections 40 to 48 of Ontario Regulation 188/08.
- Whether the brokerages' documented policies and procedures adequately addressed the areas that were deemed to have the highest risk of non-compliance.
- The state of implementation and/or degree of compliance with the MBLAA and related regulations since they went into effect.
- Whether the brokerages had adequately documented compensating internal controls over corporate governance and oversight in their policies and procedures.

As the MBLAA and regulations were recent changes that impacted mortgage brokerages, FSCO's on-site reviews focused on compliance education, not disciplinary action. Based on this philosophy, FSCO's examiners took the following approach:

1. If a mortgage brokerage demonstrated that it had done its best to comply with legislation, the examiner would help it meet its obligations.
2. If the brokerage misunderstood its obligations, consideration would be given to its circumstances (e.g., a sole proprietorship that does not have any other agents or brokers).
3. If the brokerage chose not to meet its compliance obligations, the examiner would provide the brokerage a letter that summarized the findings from the review, the actions that were required to address any issues, and a deadline for making the compliance changes.

The examiners will also follow-up with these brokerages in the future, to ensure that their compliance obligations have been met.

QUESTIONS

FSCO's examiners asked the selected mortgage brokerages a total of 58 questions, which are in Appendix D and described in the 13 sections below. For analytical purposes, explanations are provided for each question if 90 per cent or less of the respondents had a positive response. In cases where the responses were not positive, the mortgage brokerages were required to take corrective actions to address the issues.

The responses for each question were rated as low, medium or high risk. Low risk ratings were assigned to questions if 90 per cent or more of the brokerages had a positive response. Medium risk ratings were assigned to questions if 75 to 89 per cent of the brokerages had a positive response. High risk ratings were assigned to questions if less than 75 per cent of the brokerages had a positive response. If the majority of the responses to the questions in a particular section were high, medium or low risk, the section was ranked accordingly. This means there was a high, medium or low risk of non-compliance with legal requirements under those sections.

1. GENERAL REQUIREMENTS

There are six questions under the "general requirements" section, which cover general public relations and reporting requirements and business practices, such as:

- signage and public relations materials;
- who are the brokerage's officers and directors;
- whether the brokerage uses a computerized mortgage application system to submit mortgage applications; and
- whether the information that was provided to the examiner (e.g., the name of the principal broker and business address) was the same as the information that was listed in Licensing Link (FSCO's online licensing system).

Four of these questions were rated low risk, one question was rated high risk, and one question was not applicable since it did not affect the risk level. Since the majority of these questions had responses that were in the low risk category, this section was rated low risk.

2. DUTY TO ESTABLISH POLICIES AND PROCEDURES

There are 12 questions in the "duty to establish policies and procedures" section. These questions cover areas such as:

- whether the brokerage has written policies and procedures;
- whether policies and procedures have been made available to mortgage brokers and agents;
- whether the brokerage maintains a training log;
- whether the policies and procedures contain provisions to ensure that the brokerage and all of its brokers and agents comply with the MBLAA;
- whether the policies and procedures contain provisions for the adequate supervision of brokers and agents; and

- whether the policies and procedures include the following:
 - i. a description of the role of the brokerage in relation to borrowers and lenders and its disclosure to them;
 - ii. verification of the identity of borrowers, lenders and investors;
 - iii. determination of the suitability of a mortgage or investment for a borrower, lender or investor;
 - iv. identification of the material risks of a mortgage or investment;
 - v. identification of any real or potential conflict of interest;
 - vi. provisions for dealing with incentives.

Two of these questions were rated low risk, six questions were rated medium risk and four questions were rated high risk. Since the majority of these questions had responses that were in the medium risk category, this section was rated medium risk.

3. SYNDICATED MORTGAGES

The two questions in the “syndicated mortgages” section relate to whether brokerages syndicate mortgages. Brokerages that syndicate mortgages were asked whether they have policies and procedures in place to govern syndicated mortgages, for example in areas such as: disclosure, supporting documentation and time periods for providing information.

One of these questions was rated high risk and one question was not applicable since it did not affect the risk level. Since the majority of these questions had responses that were in the high risk category, this section was rated high risk.

4. DUTY TO ESTABLISH A COMPLAINTS PROCESS

There are three questions in the “duty to establish a complaints process” section, which cover the following areas:

- whether the brokerage has established a process for resolving complaints from the public;
- whether the brokerage has designated an individual to be its complaints officer; and
- whether the brokerage has a complaints log that tracks complaints from the public and that includes the brokerage’s written responses to complainants.

Three of these questions were rated low risk. Since the majority of these questions had responses that were in the low risk category, this section was rated low risk.

5. DUTY TO HAVE INSURANCE

The two questions in the “duty to have insurance” section relate to whether the brokerage has a current errors and omissions insurance policy.

One of these questions was rated low risk and one question about the insurer was not applicable since it does not affect the risk level. Since the majority of these questions had responses that were in the low risk category, this section was rated low risk.

6. DUTY REGARDING AUTHORIZATION OF BROKERS AND AGENTS

The four questions in the “duty regarding authorization of brokers and agents” section relate to whether the brokerage’s policies and procedures have provisions for determining whether an individual is eligible to be licensed as a mortgage broker or agent. These policies address, for example:

- verifying the identity of new mortgage brokers and agents;
- making sure that new agents and brokers do not work for more than one brokerage;
- notifying the Superintendent of any agents or brokers that are not suitable for licensing; and
- restricting access to the brokerage’s computerized mortgage application system once the agent or broker ceases to be employed by the brokerage.

Two of these questions were rated medium risk and two questions were rated high risk. Since the majority of these questions had responses that were in the medium risk category, this section was rated medium risk.

7. RESTRICTIONS ON PAYMENTS BY THE BROKERAGE

The two questions in the “restrictions on payments by the brokerage” section relate to whether the brokerage’s policies and procedures contain the following restrictions:

- that the brokerage will only pay fees or other remuneration to licensed brokerages, or other persons or entities that are exempt from the licensing requirements; and
- that the brokerage will not pay fees or other remuneration directly to another brokerage’s agents or brokers.

Both of these questions were rated high risk. Since the majority of these questions had responses that were in the high risk category, this section was rated high risk.

8. PAYMENTS OF INCENTIVES OTHER THAN MONEY

The five questions in the “payments of incentives other than money” section relate to the conditions that need to be satisfied if the brokerage provides an incentive, other than money, to another brokerage’s brokers or agents for dealing or trading in mortgages. These conditions include:

- whether the agent or broker has obtained the consent of its brokerage;
- whether both brokerages have a written agreement (for co-brokering) that governs the provisions of the incentive to the agent or broker;
- whether there is a written agreement with the other agent or broker that governs the provisions of the incentive to him or her; and
- whether both written agreements require the brokerage to give the other brokerage particulars of the incentives that were provided to the broker or agent, the time period they cover, and if the incentives entitle the broker or agent to exercise one or more options during the covered time period.

All five questions were rated high risk. Since the majority of these questions had responses that were in the high risk category, this section was rated high risk.

9. REQUIRED RECORDS

The five questions in the “required records” section relate to the brokerage’s maintenance of the following records:

- financial records of the brokerage’s licensed activities in Ontario;
- records of every mortgage application, mortgage instrument and mortgage renewal agreement that was received or arranged by the brokerage;
- records of every other agreement that was entered into by the brokerage in the course of dealing or trading in mortgages, or in the course of mortgage lending;
- records of all documents or written information that were given to or obtained from a current or prospective borrower, lender or investor; and
- records related to the brokerage’s trust account (if one is maintained) and if they distinguish between trust funds held by the brokerage and assets pertaining to other activities.

Four of these questions were rated low risk and one question was rated high risk. Since the majority of these questions had responses that were in the low risk category, this section was rated low risk.

10. SECURITY OF RECORDS

The “security of records” section has one question that relates to whether the brokerage’s policies and procedures require that the brokerage has taken precautions to guard against the falsification of records.

Since the majority of responses to this question were in the medium risk category, this section was rated medium risk.

11. RECORDS RETENTION

The four questions in the “records retention” section relate to whether the brokerage’s policies and procedures require the following:

- that the brokerage retain its mortgage documentation and financial records for at least six years after a mortgage or transaction expires;
- that the brokerage retain all records (that are described in question 9) at its principal place of business in Ontario, or at another location that the Superintendent has been notified of;
- that the records are being forwarded to the brokerage’s principal place of business, if they originate at another place of business; and
- that the brokerage will return documents to borrowers, lenders or investors.

One of these questions was rated medium risk and three questions were rated high risk. Since the majority of these questions had responses in the high risk category, this section was rated high risk.

12. OTHER MATTERS

The two questions in the “other matters” section relate to:

- whether the brokerage conducts any other concurrent business from its premises; and
- whether the brokerage's policies and procedures contain provisions that govern the use for other purposes of information that is gathered for mortgage broker purposes.

One of these questions was rated medium risk and one question was not applicable since it does not affect the risk level. Since the majority of these questions had responses that were in the medium risk category, this section was rated medium risk.

13. DISCLOSURE FORMS

Nine out of the 10 questions in the “disclosure forms” section relate to whether the brokerage is using its own borrower disclosure form, or one that that was provided by a software vendor. If the brokerage uses its own form, does it address the following suitability and disclosure requirements:

- the suitability and material risks of the mortgage or investment in a mortgage for the borrower, lender or investor;
- the disclosure of any relationships between the brokerage and the lender, the brokerage and the borrower, and the brokerage, borrower and investor;
- the disclosure of any real or potential conflict of interests that the brokerage may have in connection with the mortgage;
- the disclosure to the investor of any defaults by the borrower in the preceding twelve months; and
- calculations for the cost of borrowing.

There is also one question on whether the brokerage is using FSCO's Investor/Lender Disclosure Statement.

Since the majority of brokerages use a vendor's borrower disclosure form, nine out of the 10 questions are not applicable since their responses do not affect the risk level. The question on whether the brokerage uses FSCO's Investor/Lender Disclosure Statement was rated medium risk, since these responses affect the risk level. Since the majority of responses to this question were in the medium risk category, this section was rated medium risk.

FINDINGS

The on-site field reviews of the 128 mortgage brokerages provided FSCO useful data that allowed it to assess the brokerages' level of compliance with various regulatory requirements, particularly those standards contained in sections 40 to 48 of Ontario Regulation 188/08. In conjunction with the risk-based principles approach, FSCO was also able to assess how mortgage brokerages performed in certain high risk areas, such as the documentation of corporate governance requirements and oversight.

Since these on-site reviews were inspections – not audits – of the selected mortgage brokerages, their focus was limited to examining the existence and quality of the brokerages' written policies and procedures. The results of the reviews indicate that most of the mortgage brokerages have written policies and procedures that are generally in compliance with the standards of practice under Ontario

Regulation 188/08. The reviews also confirmed that in many cases, the brokerages had communicated their policies and procedures to their mortgage brokers and agents.

The majority of brokerages had adequately documented policies and procedures on the high risk areas of corporate governance and oversight, and the policies and procedures which contained adequate provisions for the following:

- supervision of brokers and agents;
- disclosure of the role of the brokerage to borrowers, lenders and investors;
- verification of the identities of borrowers, lenders and investors;
- suitability of a mortgage or investment in a mortgage;
- identification of material risks and conflicts of interest; and
- the complaints handling process.

Although the reviews indicated that most brokerages had policies and procedures in place, improvements are still required in certain areas, such as:

- syndicated mortgages;
- restrictions on payments by the brokerage;
- provisions covering payments of incentives other than money; and
- records retention.

If the identified areas of weakness are not adequately addressed by brokerages through improvements to their policies and procedures, as a whole, the mortgage brokering industry may be at a medium-to-high risk of non-compliance with Ontario Regulation 188/08.

CONCLUSION

Overall, the results from the reviews show that in general, mortgage brokerages have documented policies and procedures related to the standards of practice under sections 40 to 48 of Ontario Regulation 188/08. However, these brokerages still need to make improvements to their policies and procedures in certain areas, to achieve a better degree of compliance with legislation and reduce the potential risk of harm to consumers. In order to manage new and existing risks in an ever changing environment, these brokerages also need to refine, improve and adjust their internal controls on an ongoing basis.

These reviews cannot guarantee that there is compliance by all brokerages under Ontario Regulation 188/08. Nevertheless, they are useful in providing an assessment of the brokerages' risk of non-compliance with legislation. They also allow FSCO to communicate the corrective actions that need to be implemented to have a low risk of non-compliance.

The results from the reviews provide support for FSCO's risk-based approach to regulation and its positive impact on the mortgage brokering industry in promoting higher standards of practice for consumer protection in Ontario.

APPENDIX A: RISK RATINGS BY EXAMINATION PROGRAM SECTION

The table below provides risk ratings for each section of the examination program.

Examination Program Sections	Risk Ratings	
Section 1: General requirements	Low	
Section 2: Duty to establish policies and procedures	Medium	
Section 3: Syndicated mortgages	High	
Section 4: Duty to establish a complaints process	Low	
Section 5: Duty to have insurance	Low	
Section 6: Duty regarding authorization of brokers and agents	Medium	
Section 7: Restrictions on payments by the brokerage	High	
Section 8: Payments of incentives other than money	High	
Section 9: Required records	Low	
Section 10: Security of records	Medium	
Section 11: Records retention	High	
Section 12: Other matters	Medium	
Section 13: Disclosure Forms	Medium	

Risk Ratings Definitions:

- Low risk – 90 per cent or more of brokerages had a positive response. 
- Medium risk – between 75 and 89 per cent of brokerages had a positive response. 
- High risk – less than 75 per cent of brokerages had a positive response. 

APPENDIX B: RISK RATINGS BY BROKERAGE TYPE

The table below provides risk ratings by brokerage type.

Brokerage Type	Number (Percentage)	Risk Ratings	
Sole Proprietorship			
Sole Proprietorship	1 (or 9%)	Low	
Sole Proprietorship	8 (or 73%)	Medium	
Sole Proprietorship	2 (or 18%)	High	
Subtotal	11 sole proprietorships		
Partnership			
Partnership	0 (or 0%)	Low	
Partnership	0 (or 0%)	Medium	
Partnership	1 (or 100%)	High	
Subtotal	1 partnerships		
Corporation			
Corporation	13 (or 11%)	Low	
Corporation	42 (or 36%)	Medium	
Corporation	61 (or 53%)	High	
Subtotal	116 corporations		

Risk Ratings Definitions:

- Low risk – 90 per cent or more of brokerages had a positive response. 
- Medium risk – between 75 and 89 per cent of brokerages had a positive response. 
- High risk – less than 75 per cent of brokerages had a positive response. 

APPENDIX C: RISK RATINGS BY BROKERAGE SIZE

The table below provides risk ratings by brokerage size.

Brokerage Size	Number (Percentage)	Risk Ratings	
Small Brokerages			
10 or less agents/brokers	8 (or 12%)	Low	
10 or less agents/brokers	25 (or 37%)	Medium	
10 or less agents/brokers	35 (or 51%)	High	
Subtotal	68 small brokerages		
Medium Brokerages			
11 to 100 agents/brokers	6 (or 11%)	Low	
11 to 100 agents/brokers	20 (or 38%)	Medium	
11 to 100 agents/brokers	27 (or 51%)	High	
Subtotal	53 medium brokerages		
Large Brokerages			
101 to 490 agents/brokers	0 (or 0%)	Low	
101 to 490 agents/brokers	5 (or 71%)	Medium	
101 to 490 agents/brokers	2 (or 29%)	High	
Subtotal	7 large brokerages		

Risk Ratings Definitions:

- Low risk – 90 per cent or more of brokerages had a positive response. 
- Medium risk – between 75 and 89 per cent of brokerages had a positive response. 
- High risk – less than 75 per cent of brokerages had a positive response. 

APPENDIX D: RISK RATINGS BY QUESTION

The table below provides risk ratings for each question.

Questions	Number (Percentage)	Risk Ratings	
1. GENERAL REQUIREMENTS			
1 a. Does the brokerage's signage and other public relations materials, that is available to the public during examination, prominently disclose the brokerage's licence number and legal name/trade name? [O. Reg. 188/08, s. 6(1)]	61 (or 48%)	High	
1 b. Obtain the brokerage's list of officers and directors and provide it to FSCO Licensing section. Please make sure that the form has been properly filled out (i.e., the brokerage has indicated if the person is an officer or director, that the brokerage name and number is given, and that the form is signed and dated).	127 (or 99%)	Low	
1 c. Do you use a software provider to submit applications for mortgages?	115 (or 90%)	Low	
1 d. Is the principal broker the same as that listed on the Mortgage Broker System (MB system)?	128 (or 100%)	Low	
1 e. Is the address, the same as that listed on the Mortgage Broker System (MB system)?	123 (or 96%)	Low	
1 f. What resources did you use in preparing for compliance with the standards of practice? (select all that apply)	N/A	N/A	
2. DUTY TO ESTABLISH POLICIES AND PROCEDURES			
2 a. Has the brokerage established written policies and procedures? [O. Reg. 188/08, s. 40(1)]	121 (or 95%)	Low	
2 b. Have the policies and procedures been made available to the brokerage's brokers and agents?	110 (or 86%)	Medium	
2 c. Does the brokerage maintain a record of the training provided to its brokers and agents?	91 (or 71%)	High	
2 d. Do the policies and procedures contain provisions designed to ensure that the brokerage and every broker and agent complies with the requirements under the Mortgage Brokerages, Lenders and Administrators Act (MBLAA) [O. Reg. 188/08, s. 40(1)]	95 (or 74%)	High	
2 e. Do the policies and procedures contain provisions for the adequate supervision of every broker and agent authorized to deal or trade in mortgages on the brokerage's behalf? [O. Reg. 188/08, s. 40(2)] <u>Examples of supervisory techniques:</u> <ul style="list-style-type: none"> ▪ review of software vendors' reports ▪ review of credit bureau request ▪ review of mortgage files and principal broker sign off 	115 (or 90%)	Low	

2 f.	Do the policies and procedures include the following provisions listed in O. Reg. 188/08, s. 40(3)?	110 (or 86%)	Medium	
	i. The description of the role of the brokerage in relation to borrowers and lenders and its disclosure to borrowers and lenders.			
	ii. The verification of the identity of borrowers, lenders and investors.	104 (or 81%)	Medium	
	iii. The determination of the suitability of a mortgage or investment in a mortgage for a borrower, lender or investor.	98 (or 77%)	Medium	
	iv. The identification of the material risks of a mortgage, or investment in a mortgage for a borrower, lender or investor, and their disclosure to the borrower, lender or investor.	104 (or 81%)	Medium	
	v. The identification of any real or potential conflicts of interest between the brokerage, broker or agent and the borrower, lender or investor.	104 (or 81%)	Medium	
	vi. The provisions for incentives, other than money, for dealing or trading in mortgages to <u>its</u> brokers and agents by other persons and entities.	83 (or 65%)	High	
	vii. The provisions for incentives, other than money, for dealing or trading in mortgages to <u>another</u> brokerage's authorized agents or brokers.	61 (or 48%)	High	
3. SYNDICATED MORTGAGES				
3 a.	Does the brokerage syndicate mortgages?	N/A	N/A	
3 b.	If yes, do the policies and procedures include provisions governing this activity?	4 (or 45%)	High	
	i.e. Are the investors/lenders being provided with: <ul style="list-style-type: none"> ▪ Investor/Lender Disclosure Statements ▪ Supporting documentation ▪ Required time period 			
4. DUTY TO ESTABLISH A COMPLAINTS PROCESS				
4 a.	Has the brokerage established a process for resolving complaints from the public? [O. Reg. 188/08, s. 41(1)]	122 (or 95%)	Low	
4 b.	Has the brokerage designated an individual (i.e., a complaints officer) to receive and attempt to resolve complaints from the public? [O. Reg. 188/08, s. 41(2)]	127 (or 99%)	Low	
4 c.	Does the brokerage keep a record of all written complaints received from the public and all written responses to the complainants by the brokerage? [O. Reg. 188/08, s. 41(3)]	118 (or 92%)	Low	
5. DUTY TO HAVE INSURANCE				
	Obtain a copy of the brokerage's errors and omissions policy and answer the following:	N/A	N/A	
5.1	Who is the Insurer?			
5.2	Is the policy current?	128 (or 100%)	Low	

6. DUTY REGARDING AUTHORIZATION OF BROKERS AND AGENTS				
6 a.	Do the Policies and Procedures require that the brokerage conducts checks on all of the individuals hired as brokers or agents to determine whether they are eligible to be licensed? [O. Reg. 188/08, s. 43(1)] <u>Some verification examples would be:</u> <ul style="list-style-type: none"> ▪ verify the identity of the individual ▪ credit checks ▪ check references ▪ check education qualification ▪ application has been properly completed 	111 (or 87%)	Medium	
6 b.	Does the principal broker check to make sure that its new brokers or agents do not work for more than one brokerage? (The principal broker should check the FSCO website.) [O. Reg. 188/08, s. 43(2)]	103 (or 81%)	Medium	
6 c.	Do the policies and procedures require that the brokerage notify the Superintendent of any broker or agent that it believes is not suitable to be licensed? [O. Reg. 188/08, s. 43(3)]	62 (or 48%)	High	
6 d.	Do the policies and procedures require that the brokerage terminate the broker's or agent's access to their software provider when they cease to be employed by the brokerage?	72 (or 56%)	High	
7. RESTRICTIONS ON PAYMENTS BY THE BROKERAGE				
7 a.	Do the policies and procedures require that the brokerage pays fees or other remuneration for dealing or trading in mortgages on its behalf <u>only</u> to licensed brokerages or other persons or entities that are exempt from the requirements to be licensed? [O. Reg. 188/08, s. 44(1)]	64 (or 50%)	High	
7 b.	Do the policies and procedures require that the brokerage does not pay fees or other remuneration for dealing or trading in mortgages on its behalf <u>directly</u> to another brokerage's brokers or agents? [O. Reg. 188/08, s. 44(2)]	64 (or 50%)	High	
8. PAYMENTS OF INCENTIVES OTHER THAN MONEY				
8 a.	Do the policies and procedures require provisions that if the brokerage provides an incentive, other than money, to another brokerage's brokers or agents for dealing or trading in mortgages, all of the following conditions been satisfied: [O. Reg. 188/08, s. 45(1)] i. The broker or agent has obtained the consent of its brokerage.	42 (or 33%)	High	
	ii. Both brokerages have a written agreement governing the provisions of the incentive to the broker or agent.	43 (or 34%)	High	

iii.	The brokerage has a written agreement with the other broker or agent governing the provisions of the incentive to him or her.	40 (or 31%)	High	
iv.	Both agreements require the brokerage to give the other brokerage particulars of the following matters both periodically and upon request:	40 (or 31%)	High	
	a. the incentives provided by the brokerage to the broker or agent during the applicable period, and			
	b. if an incentive entitles the broker or agent to exercise one or more options in the future, particulars of the options exercised during the applicable period.	38 (or 30%)	High	
9. REQUIRED RECORDS				
9 a.	Is the brokerage maintaining the following records: [O. Reg. 188/08, s. 46(1)]	124 (or 97%)	Low	
	i. Financial records of its licensed activities in Ontario.			
	ii. Records of every mortgage application, mortgage instrument and mortgage renewal agreement received or arranged by the brokerage.	121 (or 95%)	Low	
	iii. Records of every other agreement entered into by the brokerage in the course of dealing or trading in mortgages or in the course of mortgage lending.	121 (or 95%)	Low	
	iv. Records of all documents or written information given to or obtained from a borrower, lender, or prospective borrower, lender or investor.	121 (or 95%)	Low	
	v. If the brokerage is maintaining a trust bank account, do its financial records distinguish between trust funds held by the brokerage and assets pertaining to any other activities? [O. Reg. 188/08, s. 46(2)]	13 (or 10%)	High	
10. SECURITY OF RECORDS				
10.	Do the policies and procedures require that the brokerage has taken precautions to guard against the falsification of the records? (i.e., the deliberate alteration of the brokerage's records) [O Reg. 188/08, s. 47]	108 (or 84%)	Medium	
11. RECORDS RETENTION				
11 a.	Do the policies and procedures require that the brokerage retains its mortgage documentation and financial records for at least six years after the expiry of the mortgage or transaction? [O. Reg. 188/08, s. 48 (1) (2) and (3)]	94 (or 73%)	High	
11 b i.	Do the policies and procedures require that the brokerage retains all records described in 9 (a) above at its principal place of business in Ontario or at a location that the Superintendent has been notified of? [O. Reg. 188/08, s. 48(4)]	92 (or 72%)	High	

11 b ii.	If the records originate at another place of business, are they being forwarded to the brokerage's principal place of business? (O. Reg. 188/08, s. 48(5))	101 (or 79%)	Medium	
11 c.	Do the policies and procedures contain provisions for returning the documents to the borrowers, lenders or investors when asked? (O. Reg. 188/08, s. 17)	82 (or 64%)	High	
12. OTHER MATTERS				
12 a.	Is the brokerage conducting any other concurrent business from its premises? (O. Reg. 188/08, s. 56.)	N/A	N/A	
12 b.	Do the policies and procedures contain provisions governing the use for any other purposes of information gathered for mortgage broker purposes? (O. Reg. 188/08, s. 57.)	103 (or 81%)	Medium	
13. DISCLOSURE FORMS (O. Reg. 188/08, s. 18, 19, 21 - 28 and 31 - 36) (O. Reg. 191/08, s. 6 and 7)				
13 a.	Is the brokerage using a <u>borrower disclosure form</u> that is provided by one of the following: <input type="checkbox"/> Company 1 <input type="checkbox"/> Company 2 <input type="checkbox"/> Other software provider <input type="checkbox"/> Brokerage's own form	N/A	N/A	
** NOTE: Steps i to viii are not applicable if the brokerage is using the borrower disclosure form provided by either application vendor.				
13 b.	Do the forms used by the brokerage address the following requirements?	N/A	N/A	
	i. The suitability of the mortgage or investment in a mortgage for the borrower, lender or investor: [O. Reg. 188/08, s. 24.]	N/A	N/A	
	ii. The disclosure of the material risks of the mortgage or investment in a mortgage to the borrower, lender or investor. [O. Reg. 188/08, s. 25.]	N/A	N/A	
	iii. The disclosure to the borrower of any relationship that the brokerage may have with the lender. [O. Reg. 188/08, s. 26(1)]	N/A	N/A	
	iv. The disclosure to the lender of any relationship that the brokerage may have with the borrower. [O. Reg. 188/08, s. 26(2)]	N/A	N/A	
	v. The disclosure to the investor of any relationship that the brokerage may have with each party to the trade in a mortgage. [O. Reg. 188/08, s. 26(3)]	N/A	N/A	
	vi. The disclosure to the borrower, lender or investor of any real or potential conflicts of interest that the brokerage may have in connection with the mortgage. [O. Reg. 188/08, s. 27]	N/A	N/A	
	vii. The disclosure to the investor of any defaults by the borrower in the preceding 12 months. [O.	N/A	N/A	

Reg. 188/08, s. 28]				
viii.	Is the brokerage calculating the cost of borrowing?	N/A	N/A	
13 c.	Is the brokerage using the <u>Investor/Lender Disclosure Statement</u> provided on the FSCO website? (O. Reg. 188/08, s. 31 and 32)	108 (or 84%)	Medium	
Subtotal		58 questions		

Risk Ratings Definitions:

- Low risk – 90 per cent or more of brokerages had a positive response. 
- Medium risk – between 75 and 89 per cent of brokerages had a positive response. 
- High risk – less than 75 per cent of brokerages had a positive response. 