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Inside this issue

- Licensing Highlights
- Advance Application Period
- Agent/Broker Education
- Frequently Asked Questions

The new Act will require individuals and businesses conducting any of the regulated activities to be licensed by the Financial Services Commission of Ontario.

The Mortgage Broker e-Info Newsletter provides updates on the implementation of Ontario's new Mortgage Brokerages, Lenders and Administrators Act, 2006, regulations, and new education requirements for mortgage brokers and agents.

The Newsletter is produced and distributed by the Financial Services Commission of Ontario.

Licensing Regulations Approved

The new Mortgage Brokerages, Lenders and Administrators Act, 2006, comes into full effect on July 1, 2008. Among the changes included in the new Act are the regulations governing licensing for members of the mortgage broker industry. These regulations were recently passed by the government of Ontario.

As of July 1, 2008, any person or entity carrying on the business, in Ontario, of dealing or trading in mortgages, administering mortgages or as mortgage lender, and any individual dealing or trading in mortgages in Ontario, must be licensed with the Financial Services Commission (FSCO), unless an exemption applies.

Four Month Advance Application Period

In order to facilitate the new licensing process, a four month advance application period (March 1, 2008 to June 30, 2008) has been approved by the government and will be administered by FSCO.

During this period, individuals and entities who wish to be licensed under the new Act will submit their licensing applications to FSCO. Once approved, a licence will be issued and will be effective July 1, 2008. Applications received after July 1, 2008, will be processed and licences issued after review and approval by FSCO.

Current Mortgage Brokers Act

The current Mortgage Brokers Act will remain in effect and continue to govern mortgage broker activities until the new Act comes into full effect on July 1, 2008.

Individuals/companies who are not currently registered and wish to deal in mortgages during the advance application period must apply to FSCO under the current Act.



Regulation Highlights

The licensing regulations (i.e. the group of regulations made in July and set out below) identify who needs to be licensed and who is exempt. Below is a description of the regulations.

Mortgage Brokerages: Licensing

- Identifies the eligibility, suitability, and other requirements for corporations, partnerships and sole proprietors to obtain a licence.

Mortgage Brokers and Agents: Licensing

- Identifies the eligibility, suitability, education, and other requirements for agents and brokers to obtain a licence.
- Identifies the transitional and ongoing education requirements for agents and brokers.

Principal Brokers: Eligibility, Powers and Duties

- Identifies the eligibility, powers and duties of a principal broker.
- Identifies the responsibilities of the principal broker in ensuring the brokerage complies with the Act and regulations.

Mortgage Administrators: Licensing

- Identifies the eligibility, suitability, and other requirements for administrators to obtain a licence.

Reporting Requirements for Licensees

- Identifies the reporting requirements of licensees. Licensees are required to report to FSCO any changes to their contact information, principal place of business, director/officer/partner/principal broker, within a set time frame.

Regulated Activities: Additional Prescribed Activities

- Defines the additional prescribed activities of administering mortgages, as taking steps on behalf of another person or entity, to enforce payment by a borrower under a mortgage.

Exemptions from the Requirements to be Licensed

- Identifies the individuals, entities, and circumstances for and in which there is an exemption from being licensed, such as for lawyers under certain circumstances, entities administering mortgages for finance companies/financial institutions, and simple referrals.

A link to the approved regulations (on e-Laws) is available on FSCO's website on the Mortgage Brokerages, Lenders and Administrators Act, 2006, page www.fSCO.gov.on.ca/english/regulate/mortgagebrokers/newmbact.asp.

Future Newsletters will focus on details of specific regulations.

An advance application period will commence on March 1, 2008, four months prior to the July 1, 2008, effective date of the new Act.



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Advance Application Period

To implement a smooth transition from the current Act to the new Act, FSCO will be implementing a four month advance application period from March 1, 2008, to June 30, 2008. The new Act will come into full effect on July 1, 2008.

Key Dates:

February to March 2008

- Brokers currently registered with FSCO are sent an application form to obtain a licence under the new Act.

March 1, 2008

- Start of advance application period.
- Brokerage or administrator submits an application to obtain a licence under the new Act on or after March 1. Once approved, a licence will be issued effective July 1, 2008.

March 1, 2008 to June 30, 2008

- Information/training sessions held for industry.
- FSCO reviews/approves brokerage and administrator applications.
- Brokerage initiates online licensing application for its Principal Broker.
- Brokerage or administrator initiates online declarations for their Officers and Directors.
- Brokerage initiates online licensing applications for their Agents/Brokers. NOTE: Agents/Brokers cannot apply directly to FSCO for a licence - the process can only be initiated by the brokerage.
- FSCO reviews/approves licensing applications.
- Notifications issued by FSCO to brokerage, administrator and individuals on status of applications.
- FSCO will also accept applications for brokerage and administrator licences from new applicants during this phase.

July 1, 2008

- New Act comes into full effect.
- All licences take effect.
- Ontario mortgage broker registrations under the current Mortgage Brokers Act expire on repeal of the Act.
- Any person or entity carrying on the regulated business, or any individual engaging in regulated activity, must be licensed with FSCO unless an exemption applies.
- FSCO's online registry of licensed brokerages, administrators, agents and brokers is available and posted on FSCO's website. No hard-copy licences will be issued.



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Agent/Broker Education

Some agents and brokers will meet or be exempted from the new educational requirements depending on their education or experience. FSCO is currently working on finalizing all the details.

On October 22, 2007, look for information on education requirements on FSCO's website on the Mortgage Brokerages, Lenders and Administrators Act, 2006, page www.fSCO.gov.on.ca/english/regulate/mortgagebrokers/newmbact.asp.

Current Application Forms

Reminder: The Application for Registration (of a mortgage broker) and Notification Form for New Officer/Director or Authorized Agent under the current Act have been updated. Effective immediately, these forms must be used when:

- Applying for a new mortgage broker registration.
- Renewing a mortgage broker registration.
- Adding a new officer/director or authorized agent.

These forms are to be used until June 30, 2008. The forms have been updated to reflect the pro-rated fee schedule that has been implemented to ensure registration fees are not paid past the effective date of the new Act (July 1, 2008).

Renewal packages sent by FSCO will include the new form. The application forms have been posted on the FSCO website under the Forms section.

Frequently Asked Questions

Q: Why is FSCO implementing the advance application period?

A: To ensure that individuals are licensed as of July 1, 2008, FSCO is encouraging people to apply as soon as the application period starts on March 1, 2008.

Q: What types of licences will be required under the new Act?

A: The new Act provides for four types of licences: Mortgage Administrator; Mortgage Brokerage; Mortgage Broker; and Mortgage Agent.



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Frequently Asked Questions (continued)

Q: Do real estate brokers have to be licensed in order to deal in mortgages?

A: The new Act does not deem real estate brokers to be licensed. It requires a real estate broker who engages in mortgage brokering activities to be licensed as a mortgage broker. If the real estate broker is only doing simple referrals (receiving a fee for referring a prospective borrower to a prospective mortgage lender) they do not have to be licensed, provided they comply with the regulations on simple referrals.

Q: What is a principal broker?

A: Under the new Act, each mortgage brokerage must appoint one principal broker. The principal broker serves as the compliance officer for that brokerage.

Q: What are the duties of the principal broker?

A: Some duties of the principal broker include:

- taking reasonable steps to ensure that the brokerage, and each of its brokers and agents, complies with the requirements under the new Act and regulations;
- ensuring that the brokerage takes reasonable steps to deal with any contravention of the requirements of the new Act and regulations;
- reviewing the policies and procedures of the brokerage to determine if they are reasonably designed to ensure that the brokerage, and each broker and agent authorized to deal or trade in mortgages, complies with the new Act and regulations; and each broker and agent is adequately supervised; and
- signing and dating any trust account reconciliation statement prepared by the brokerage to attest that it has been reviewed and is accurate.

Q: What qualifications must a principal broker have?

A: Each principal broker must be a licensed mortgage broker. In addition:

- if the brokerage is a corporation, the principal broker must be a director or officer;
- if the brokerage is a partnership (other than a limited partnership), the principal broker must be a partner;
- if the brokerage is a limited partnership, the principal broker must be the general partner or a director or officer of a corporation that is the general partner;
- if the brokerage is a sole proprietorship, the principal broker is the sole proprietor.

Frequently Asked Questions (continued)

Q: Can I apply to work as an Agent for 1 company and a Broker for another (hold 2 different licences)?

A. No. Individuals are only permitted to work for one brokerage and may only hold either a Mortgage Agent or a Mortgage Broker licence at any one time.

Q: I have qualifications as a Mortgage Broker but am currently listed as an Agent, can I apply during transition for a Mortgage Broker licence?

A: Yes. Your brokerage will initiate the application, if you want to be licensed as a Broker please notify your brokerage. As part of the application process you will be required to enter details of your successful completion of a Mortgage Broker course.

Q: If I apply for a licence under the new act during the March 1, 2008 - June 30, 2008, application period will the licence be effective immediately?

A. No. Licensing applications for the new Act will be effective as of July 1, 2008. If you want to conduct business as a mortgage broker prior to July 1, 2008, you must be registered with FSCO under the current Act.

Future Newsletters

- What Agents, Brokers, Brokerages, Administrators, will need to know to become licensed (application process, forms, supporting material required, etc.)
- Agent & Broker Education Update
- Licensing Exemptions
- Licensing Fees
- Information Sessions (February/March 2008)
- Information on remaining regulations:
 - Standards of Practice for Brokerages, Administrators, Agents and Brokers
 - Administrative Penalties, Filing Requirements

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