



June 2007

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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.

The new Act

The new Mortgage Brokerages, Lenders and Administrators Act, 2006, received Royal Assent on December 20, 2006. The government will decide when the new law comes into effect.

The Act sets out the framework for regulating the mortgage brokerage industry in Ontario, while details and specific rules will be set out in regulations. Work to finalize the draft regulations is underway.

The new legislation will require individuals and businesses conducting any of the regulated activities (dealing in mortgages, trading in mortgages, carrying on business as a mortgage lender, carrying on business as a mortgage administrator) to be licensed by the Financial Services Commission of Ontario (FSCO). Each brokerage will need to designate a Principal Broker to act as the chief compliance officer for their organization.

Other provisions in the new Act update FSCO's enforcement powers and improve consumer protection.

Education requirements

In November 2006, the government released for consultation a number of draft regulations including proposals for new licensing requirements. The regulations would authorize the Superintendent to approve education requirements for mortgage agents and brokers for the purposes of issuing a licence under the new Act.

In support of the new Act and proposed regulations, FSCO undertook an education review. After significant contribution to the review by industry practitioners, FSCO released a consultation paper in the summer of 2006. A number of key decisions resulted from the education review.



Qualifying standards

One of the most critical decisions regarded the establishment of new Qualifying Standards for the industry. The basis for the Qualifying Standards was an inventory of tasks, duties and skills developed by industry practitioners. The plan for Qualifying Standards, along with other key decisions, will become operational once the final authorizing regulations are in place.

Education and assessment models balance the views expressed by stakeholders during consultation.

The new Qualifying Standards identify the minimum competencies that would be required for the purposes of obtaining a licence as an agent or broker once the new Act comes into effect. These competencies have a direct relationship to consumer protection measures and not necessarily to business skills aimed at improving the marketing and sales abilities of an individual. While marketing and sales abilities are important, they are not the responsibility of a regulator.

Qualifying Standards for agents focus on technical skills that are appropriate for an individual entering the profession and who will work under the supervision of a broker. The standards focus on the skills required by an agent to perform duties such as completing a mortgage application form and assessing a borrower. The standards represent a significant change as agents are currently not required to meet any education requirements.

Qualifying Standards for brokers focus on supervisory and compliance skills. They would ensure that a broker is equipped to perform tasks such as implementing policies and procedures to ensure agents are complying with the provisions of the new Act.

The selected assessment and delivery models balance the diverse views expressed by stakeholders during consultation.

The Qualifying Standards, along with other key decisions, would become operational only once the final authorizing regulations are in place. Transition arrangements to recognize relevant experience and training for people currently in the business are being developed.

Course providers and exams

Mortgage agent education would be delivered through multiple course providers to foster a competitive market, and accredited courses would include a final exam that meets standards to be established by FSCO. This will ensure that all final exams administered by course providers can be measured against an established benchmark.

For mortgage broker education there would be a single course provider. The provider would be selected through public tender as



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Course providers and exams (continued)

the anticipated number of brokers would not support an open market model. Broker competencies would be assessed through an exam created and administered by FSCO or its agent. This approach is consistent with the higher degree of accountability expected of brokers under the new regime.

It is anticipated that FSCO will consult further with the industry on the topic of mandatory continuing education. Complete details on the education review can be found at www.fSCO.gov.on.ca (click mortgage brokers, mortgage brokers and agents education review).

Decisions and plans regarding course providers and exams would become operational only once the final authorizing regulations are in place.

Transition

For mortgage agent education, FSCO is in the process of identifying and assessing existing mortgage agent courses that may be considered for the purpose of grandfathering mortgage agents during the period of transition. The names, dates and locations of approved courses will be posted on FSCO's website.

Stakeholders should note that plans for this transition are dependant on final authorizing regulations being in place.

For more information on the subject of courses, you may contact mbeducationreview@fSCO.gov.on.ca.

Industry Working Group

FSCO and industry stakeholders have formed a Mortgage Broker Industry Working Group to obtain industry advice on the implementation of the Mortgage Brokerages, Lenders and Administrators Act, 2006. Industry associations were requested to nominate experienced brokers to ensure a full spectrum of viewpoints and guidance from the industry.

The objective of the working group is to provide advice on operational issues arising during the transition process, implementation and the licensing process. Stakeholder input will help FSCO to develop systems and processes that work in real life.

The first meeting of the working group took place on April 13, 2007. Meetings will continue until the new Act is in place.

What to watch for

- Next steps in the education review.



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Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto, Ontario
M2N 6L9

Telephone: (416) 250-7250
Toll-free: 1-800-668-0128
TTY (416) 590-7108, 1-800-387-0584

www.fSCO.gov.on.ca

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ISSN 1913-519X



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