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Inside this issue:

- New Reporting Requirements for Mortgage Administrators
- Brokering Industry's New Cost of Borrowing Forms
- FSCO's Forms Reference Chart
- Updated Investor/Lender Disclosure Statement and Renewal Form
- Deadline for Mortgage Agents with Conditional Licences
- Compliance Rates for Mortgage Brokerages and Administrators
- Update on FSCO's Compliance Field Visits
- FAQs are a Valuable Resource
- FAQs on Financial Statements

The Mortgage Broker e-Info Newsletter provides updates on Ontario's Mortgage Brokerages, Lenders and Administrators Act, 2006 and regulations.

The Newsletter is produced and distributed by the Financial Services Commission of Ontario (FSCO). For more information, visit FSCO's website at www.fSCO.gov.on.ca.

Reporting Requirements Under the MBLA Act and Regulations

An important responsibility of mortgage brokerages and administrators under the [Mortgage Brokerages, Lenders and Administrators Act, 2006](#) (MBLA Act) and regulations is the requirement to report specific information to the Financial Services Commission of Ontario (FSCO) on an annual basis. To ensure compliance with this requirement, all mortgage brokerages and administrators should ensure they are familiar with their reporting responsibilities under the new legislation.

New Reporting Requirements for Mortgage Administrators

Mortgage administrators need to be aware of the new requirements to report information to FSCO under the MBLA Act and regulations. To ensure compliance with [Ontario Regulation 193/08 - Reporting Requirements for Licensees](#), mortgage administrators should:

- Read [FSCO's letter on financial reporting requirements for mortgage administrators](#). It provides clarification on the reporting requirements and a sample report.
- Review FSCO's [frequently asked questions on financial statements](#) (available online and on page five of this newsletter).
- Visit FSCO's website to access the following compliance resources:
 - [Compliance Checklist for Mortgage Administrators](#)
 - [Compliance Checklist for Managing the Mortgage Administrator, Keeping Records and Trust Accounts](#)
 - [Webinar recordings](#)

Brokering Industry's New Cost of Borrowing Forms

The mortgage brokering industry service providers have developed new cost of borrowing disclosure forms in consultation with FSCO. To obtain updated industry cost of borrowing disclosure forms, please contact your service provider.



Financial Services
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FSCO's Forms Reference Chart

The chart below includes descriptions of the old forms used under the repealed Mortgage Brokers Act (MBA), the current forms used under the MBLA Act, and the implications of forms changes to licensees.

Form Name	As used under the repealed <i>MBA</i>	As used under the current MBLA Act	What this means to licensees
Statement of Mortgage	<ul style="list-style-type: none"> The form was approved for use in providing disclosure under the repealed MBA, and under the MBLAA until Jan. 1, 2009. 	<ul style="list-style-type: none"> After Jan. 1, 2009 the Statement of Mortgage is no longer an approved form. 	<ul style="list-style-type: none"> Mortgage brokerages are required to meet the disclosure requirements for cost of borrowing and other disclosure requirements under the MBLA Act. There is no disclosure form approved for this purpose by the Superintendent, but industry cost of borrowing forms are available from service providers. For more information you can: <ul style="list-style-type: none"> Regularly check FSCO's FAQs web page Contact an industry association Contact a mortgage system service provider
Investor/Lender Disclosure Statement	<ul style="list-style-type: none"> The form was approved for use under the MBA. 	<ul style="list-style-type: none"> An interim form has been approved by FSCO's Superintendent. The form is available on FSCO's website. 	<ul style="list-style-type: none"> FSCO has updated the Investor/Lender Disclosure Statement to meet the requirements of the MBLA Act and section 31 of Regulation 188/08. The interim form is available on FSCO's website. The final form will be developed with the industry and is expected to be ready by 2010.
Investor/Lender Disclosure Statement Renewal Form	<ul style="list-style-type: none"> The form was approved for use under the MBA. 	<ul style="list-style-type: none"> An interim form has been approved by FSCO's Superintendent. The form is available on FSCO's website. 	<ul style="list-style-type: none"> FSCO has updated the form to meet the requirements of the MBLA Act and section 32 of Regulation 188/08. The interim form is available on FSCO's website. The final form will be developed with the industry and is expected to be ready by 2010.
Form A: Registered Mortgage Broker Certificate of Compliance Under the Mortgage Brokers Act and Related Regulations and Form B: Report of Public Accountant to the Financial Services Commission of Ontario	<ul style="list-style-type: none"> The forms were approved for use under the MBA. 	<ul style="list-style-type: none"> Forms A and B are no longer approved forms. 	<ul style="list-style-type: none"> Forms A and B have been eliminated. There is a new requirement for administrators to provide an auditor's report. A sample auditor's report and instructions, developed in conjunction with the Ontario Institute of Chartered Accountants, are available on FSCO's website. The auditor's report must be filed with FSCO within 90 days of the mortgage administrator's fiscal year end (under section 3 of Regulation 193/08).
Financial Statements	<ul style="list-style-type: none"> Need to be submitted annually under the MBA. 	<ul style="list-style-type: none"> No approved form. 	<ul style="list-style-type: none"> Only mortgage administrators need to submit financial statements, along with an auditor's report, within 90 days of the mortgage administrator's fiscal year end (under section 3 of Regulation 193/08). A sample auditor's report and instructions are available on FSCO's website.
Trust Accounts	<ul style="list-style-type: none"> No approved form. 	<ul style="list-style-type: none"> No approved form. 	<ul style="list-style-type: none"> Only mortgage administrators need to submit financial statements, along with an auditor's report, that includes information about an administrator's trust account, within 90 days of the mortgage administrator's fiscal year end (under section 3 of Regulation 193/08). A sample auditor's report and instructions are available on FSCO's website.
Annual Information Return	<ul style="list-style-type: none"> N/A - this form did not exist. 	<ul style="list-style-type: none"> Available through Licensing Link as of March 1, 2009. 	<ul style="list-style-type: none"> All mortgage brokerages and administrators must file an Annual Information Return (AIR) by March 31st each year (under section 2 of Regulation 193/08). Visit FSCO's website to view sample AIR questions.
Other Disclosures	<ul style="list-style-type: none"> The Statement of Mortgage satisfied the MBA disclosure requirements. 	<ul style="list-style-type: none"> Mortgage brokerages and administrators must satisfy all disclosure requirements under the MBLA Act and regulations. There is no form approved for these required disclosures. Refer to FSCO's Compliance Checklists for disclosure requirements. For more information contact an industry association or mortgage system service provider. 	

Updated Investor/Lender Disclosure Statement and Renewal Form

FSCO has modified the [Investor/Lender Disclosure Statement for Brokered Transactions](#) and [Renewal Form](#) which outline the new disclosure duties (effective January 1, 2009) for mortgage brokerages and administrators.

These updated forms replace the previous versions that were available online between December 29, 2008 and January 16, 2009. To ensure you use the correct forms, please [download the modified versions](#) on FSCO's website, or check that you are using the latest versions. The latest forms say "updated (2009/01/16)" or "updated (2009/01/13)" in the bottom left-hand corner.

The final versions of these forms will be developed with the industry and are expected to be ready by 2010.

Visit FSCO's website at www.fSCO.gov.on.ca to download the latest mortgage brokering forms.

Deadline for Mortgage Agents with Conditional Licences

If you were issued a conditional mortgage agent licence in 2008, please be aware that you must successfully complete an approved mortgage agent course by June 30, 2009.

If you do not meet this education requirement by June 30, 2009, you will no longer be authorized to deal or trade in mortgages.

How to find a mortgage agent course provider

If you still need to complete a mortgage agent course, visit [FSCO's website](#) for a list of approved mortgage agent course providers.

Your principal broker may require proof

Under [Ontario Regulation 410/07](#) your principal broker must:

- Take reasonable steps to ensure that each mortgage agent complies with all of the requirements under the MBLA Act; and
- Deal with any contraventions of the MBLA Act.

To comply with this regulation, your principal broker may require proof that you have passed an approved mortgage agent course.

Update on FSCO's Compliance Field Visits

If your mortgage brokerage has been selected for an onsite inspection to determine whether it is in compliance with the MBLA Act, your brokerage can prepare for FSCO's visit by having the following documents readily available:

- the brokerage's written policies and procedures;
- a sample copy of the brokerage's disclosure forms for borrowers, lenders and investors;
- a complete list of all officers and directors who work for the brokerage.

To ensure that expectations are met in the inspection, the brokerage's policies and procedures should meet the requirements of the MBLA Act.



Compliance Rates for Mortgage Brokerages and Administrators

The chart below shows the rates of compliance for two very important licensing requirements:

- Having errors and omissions insurance with an approved insurance provider; and
- Submitting an Annual Information Return (AIR) by March 31, 2009.

Although errors and omissions insurance and AIRs are required under the MBLA Act:

- Only 70 per cent of all mortgage brokerages and administrators had errors and omissions insurance when FSCO conducted its insurance audit on October 15, 2008.
- Only 79 per cent of all mortgage brokerages and administrators submitted an AIR on or before March 31, 2009.

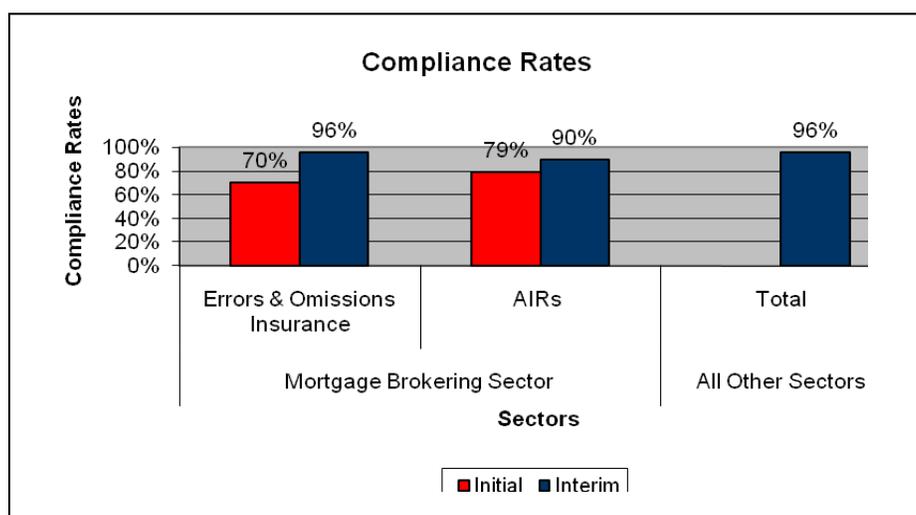
After numerous communications with mortgage brokerages and administrators that did not meet these requirements on time, the compliance rates have increased. As of April 20, 2009:

- 96 per cent of all mortgage brokerages and administrators have errors and omissions insurance with an approved insurance provider.
- 90 per cent of all mortgage brokerages and administrators have submitted an AIR.

Although the compliance rates have increased, non-compliance is a cause of concern that is receiving FSCO's attention. As a result of these activities, 124 mortgage brokerages have surrendered their licences. FSCO has also revoked the licences of 20 mortgage brokerages and issued 91 notices of administrative monetary penalties to mortgage brokerages for failing to have errors and omissions insurance. In other sectors regulated by FSCO, compliance generally exceeds 96 per cent.

Make sure your mortgage brokerage or administrator has submitted its Annual Information Return to FSCO

Check out FSCO's Frequently Asked Questions web page for answers to questions on the MBLA Act and regulations



Frequently Asked Questions are a Valuable Resource

If you're looking for an answer to a question related to the MBLA Act and regulations, make sure you check out [FSCO's frequently asked questions web page](#). The web page is a valuable resource for finding questions and answers on the following topics:

- [types of licences and requirements](#)
- [getting licensed](#)
- [licensing requirements](#)
- [business requirements](#)
- [real estate brokers and agents](#)

Frequently Asked Questions on Financial Statements

Q: Who needs to submit audited financial statements?

A: Only mortgage administrators are required to submit audited financial statements.

Q: When must financial statements be submitted?

A: Mortgage administrators are required to submit audited financial statements within 90 days of the end of their fiscal year.

Q: Where can I find the forms required to submit the financial statements?

A: A sample auditor's report and instructions are available on FSCO's [Forms web page](#), but there is no form approved by FSCO for this purpose.

Q: If a mortgage brokerage holds a trust account, is it required to submit audited financial statements?

A: No. Only mortgage administrators are required to file audited financial statements.

A mortgage brokerage that is required to prepare monthly reconciliation statements during the fiscal year must also prepare an annual reconciliation statement for that year within 90 days of the fiscal year end. The annual reconciliation statement must summarize the contents of each monthly reconciliation statement.

The annual reconciliation is not required to be filed with FSCO but must be available if requested.

Q: My mortgage brokerage has trust accounts. What does it need to do?

Your mortgage brokerage must prepare monthly reconciliation statements 30 days after it receives its monthly account statement, or 30 days after the end of the month. After the reconciliation statements are prepared, they must be signed by the principal broker to certify accuracy.

Your brokerage also needs to prepare an annual reconciliation statement for the year, within 90 days of its fiscal year end. The annual reconciliation statement must summarize the contents of each monthly reconciliation statement. The requirements about trust funds are contained in sections 49 to 55 of Ontario Regulation 188/08 - Mortgage Brokerages: Standards of Practice.



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