



March 7, 2008

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The advance application period began March 1, 2008, four months prior to the July 1, 2008, effective date of the new Act.

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 Mortgage Brokerage and Administrator Edition

The new Mortgage Brokerages, Lenders and Administrators Act, 2006 (MBLAA), comes into full effect on July 1, 2008. 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 the Financial Services Commission of Ontario (FSCO).

During this period, mortgage brokers registered under the Mortgage Brokers Act who wish to be licensed as a brokerage or administrator under the new Act will submit their licensing applications to FSCO. Once approved, licences will be issued and will take effect on July 1, 2008. Applications received after July 1, 2008, will be processed and licences issued after review and approval by FSCO.

The Advance Application Period

Applying for a mortgage brokerage licence

FSCO has mailed pre-populated mortgage brokerage application forms to all registered mortgage brokers.

To become licensed, a brokerage must complete the application form and return it to FSCO by mail or hand delivery.

The application form will request the email address of a Licensing Link primary user. The Licensing Link primary user will be the individual who initiates and approves agent and broker applications and officer, director and partner declarations on the Licensing Link system. Furthermore the application asks if key information about the brokerage has changed, such as the business name, as supporting documentation may need to be submitted with the application form.

FSCO will acknowledge receipt of the brokerage application via an email to the Licensing Link primary user.



Once FSCO approves an application, FSCO will send an email to the Licensing Link primary user. The email will provide a link to FSCO's online Licensing Link system to begin the application process for the principal broker. (Officers, directors, partners, brokers and agents are added later.)

Applying for an administrator licence

To become licenced, an administrator must complete a Mortgage Administrator Licence Application and return it to FSCO by mail or hand delivery. Beginning April 15, 2008, the form can be downloaded from FSCO's website. Go to www.fSCO.gov.on.ca, click *Mortgage Brokers, Application Process/Forms*.

The application form will request the email address of a Licensing Link primary user and key information about the administrator such as the business name. Supporting documentation may need to be submitted with the application form.

FSCO will acknowledge receipt of the administrator application via an email to the Licensing Link primary user listed on the application.

Once FSCO approves an application, FSCO will send an email to the Licensing Link primary user. The email will provide a link to FSCO's online Licensing Link system to begin the declaration process for the officers and directors, partners or the sole proprietor.

Mortgage administrators will use Licensing Link only to initiate declarations for officers or directors, partners or sole proprietors as applicable.

If you are registered with FSCO as a broker under the current Mortgage Brokers Act and are currently administering, you are required to apply for both a brokerage licence and an administrator licence.

Licence Fees

There will be no increase in fees for current brokers. However, the period covered by the fee will change, moving from a one-year to a two-year period.

The two-year fee for brokerages, brokers, agents and administrators is \$550 (current annual fee of \$275 x 2 years). During the first twenty-one month period, fees will be pro-rated (calculated proportionally by month) up to March 31, 2010.

Brokers designated by the brokerage as the principal broker will not be required to pay a fee. In this way, one-person brokerages (sole proprietors and corporations) will not pay duplicate fees.

*On July 1, 2008,
information about all
licensed brokerages and
administrators will
appear on an online
listing at
www.fSCO.gov.on.ca.*



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Agents and brokers will have a licence term of two years, with a common renewal date of April 1. Brokerages and administrators will have a continuous licence, and will be charged a fee every two years.

On April 1, 2010, the first two-year fee for licenced brokerages and administrators, and licence renewal fee for brokers and agents, will be due. This fee will cover the period from April 1, 2010 to March 31, 2012.

On March 31, 2012, fees will be due again, and every two years thereafter. For new applicants after July 1, 2008, fees will be pro-rated until the end of the following term (March 31, 2010), and every two years thereafter.

To simplify the payment and reconciliation processes, only brokerages will be able to submit fees on behalf of the agents and brokers authorized to deal in mortgages on their behalf.

Payment of fees can be made via credit card. Refunds will not be issued to unsuccessful applicants.



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Licensing Requirements for Brokerages and Administrators

The Brokerages and administrators must meet certain requirements in order to be licensed. The requirements are summarized as follows:

- ☑ A brokerage or administrator partnership or corporation must be incorporated or formed in Canada.
- ☑ A brokerage or administrator sole proprietor must be a resident of Canada.
- ☑ A brokerage or administrator must have a mailing address in Ontario that is not a post office box and that is suitable to permit service by registered mail.
- ☑ A brokerage must designate a proposed principal broker on the brokerage application form.
- ☑ A brokerage or administrator must have, on and after July 1, 2008, errors and omissions insurance with extended coverage for fraud in a form approved by the Superintendent. (More information on errors and omissions insurance below.)
- ☑ An administrator must have a financial guarantee in an amount equal to \$25,000. (More information on financial guarantees below.)



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Brokerage and Administrator Licensing Criteria

To determine suitability for a brokerage or administrator licence, the Superintendent will consider:

- Whether, having regard to its financial position, the brokerage or administrator cannot reasonably be expected to be financially responsible in the conduct of its business.
- Whether the past conduct of any director or officer (corporation) or partner (partnership), sole proprietor (sole proprietorship) of the brokerage or administrator affords reasonable grounds for belief that the business of the brokerage or administrator will not be carried on in accordance with the law and with integrity and honesty.
- Whether the brokerage is carrying on activities that contravene or will contravene the Act or the regulations if the brokerage or administrator is licensed.
- Whether a director or officer, partner or sole proprietor of the brokerage or administrator has made a false statement or has provided false information to the Superintendent with respect to the application for a licence.
- Other factors as considered appropriate by the Superintendent.

Errors and Omissions Insurance for Brokerages and Administrators under the MBLAA

Under the MBLAA, brokerages must have errors and omissions (E&O) insurance covering a minimum of \$500,000 in respect of any one occurrence and \$1 million in respect of all occurrences in a given year involving the corporation or any mortgage broker or agent authorized to deal or trade in mortgages on its behalf. If the brokerage is also applying for an administrator licence, the administrator must also have errors and omissions (E&O) insurance in the amounts noted above to separately cover the administrator licence.

Standardized forms of insurance approved by the Superintendent

FSCO has established guidelines for qualifying E&O insurance. The approved form of insurance is similar to what is currently available in the marketplace.



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FSCO will be releasing the guidelines to property and casualty insurers shortly and in the next few weeks will email brokerages and administrators the list of insurers that have undertaken to offer E&O insurance in the approved form. This information, as well as information about any other forms of assurance approved by the Superintendent, will be noted in a future newsletter and will be available on FSCO's website.

Note: No need to delay - potential licencees should complete the licence application and return to FSCO even if their E&O insurance coverage is not yet in place.

Financial guarantee for administrators

Administrators can account for a financial guarantee of \$25,000 as part of unimpaired working capital (the excess funds once current liabilities are deducted from current assets). Administrators should note that assets falling under general security agreements will not be considered unimpaired for the purposes of this guarantee; remaining funds must not be subject to any known charges or have a claim over it.

For licensing purposes, an opening balance sheet for new administrators and a most recent audited balance sheet for administrators already in business are required and must be approved by the board of directors, partners, or sole proprietor. The balance sheet must indicate that the administrator meets the guarantee requirements.

FSCO Information Session for Mortgage Brokers

If you are interested in learning about the licensing process under the new Act, FSCO recommends that you register to attend a free information session on **May 26, 2008** at 8:30am -12:00 pm in the Simcoe Room, Macdonald Block, 900 Bay Street, Queen's Park, Toronto. The session will be of primary interest to mortgage brokerages and their administrative staff. At the session you can:

- Find out how to apply for a mortgage brokerage licence.
- Learn about the Advance Application Period.
- Find out what education courses are approved.
- View a demonstration of the new online licensing system, Licensing Link.
- Ask FSCO questions.

To register for the free information session, please visit FSCO's website at www.fSCO.gov.on.ca and click on *Mortgage Brokers*.



Key Dates for Mortgage Brokerages and Administrators

February 2008

- Pre-populated brokerage application forms are mailed to mortgage brokers registered under the Mortgage Brokers Act.

March 1, 2008 to June 30, 2008

- Administrator application forms available for downloading at www.fSCO.gov.on.ca.
- Brokerage receives email with link to access FSCO's online Licensing Link.
- Brokerage initiates principal broker application via FSCO's online Licensing Link.
- FSCO reviews/approves principal broker licensing application.
- Brokerage initiates officer, director, broker and agent declarations and applications via FSCO's online Licensing Link.
- Approved licensing applications receive a licence number. No hard-copy paper licences will be issued.
- FSCO informs brokerages, administrators, brokers and agents of their new licence numbers by email.
- FSCO's Information Session on May 26 in the Simcoe Room, 900 Bay Street, Macdonald Block, Queen's Park, Toronto.

July 1, 2008

- New Act comes into full effect.
- All licences take effect.
- 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. (For information on exemptions please go to www.fSCO.gov.on.ca.)
- FSCO's online public registry of licensed brokerages, administrators, brokers and agents is available and posted on FSCO's website.



Frequently Asked Questions

Q: Can I be an officer/director for more than one brokerage or administrator under the MBLAA?

A: Yes, but you can be licensed as a broker or agent under only one brokerage.

Q: I currently work as an agent/broker for multiple mortgage brokers. Can I apply for a licence with all of them?

A: No. The MBLAA states that a mortgage broker or agent can only work for one mortgage brokerage. You will need to decide which brokerage you wish to work for and submit an application for a licence through that brokerage during the advance application period.

Q: Do I need to apply for both a brokerage and an administrator licence if I do both activities?

A: Yes.

Q: I want to apply as an administrator, what is an acceptable form of financial guarantee to the Superintendent?

A: The financial guarantee may be \$25,000 in unimpaired working capital, or some other form of financial guarantee approved by the Superintendent.

Q: I am currently approved as an administrator under the Mortgage Brokers Act. Will I need to complete a separate application form for an administrator licence?

A: Yes. The application form can be downloaded from FSCO's website.

Q: Is the brokerage application used for both my brokerage and broker's licence?

A: No. Once your brokerage has been approved for a licence you will receive an email with a link to an online broker application.

Industry Conferences

The Canadian Association of Accredited Mortgage Professionals (CAAMP) is holding the CAAMP Ontario Mortgage Symposium & Trade Show in Toronto on April 3, 2008. FSCO staff will be presenting at the symposium. Go to www.caamp.org for more information.

The Independent Mortgage Brokers Association of Ontario (IMBA) is holding seminars in cities across Ontario to help mortgage professionals learn about the requirements for full compliance with the new Act. IMBA will focus on borrower and investor disclosure requirements, new cost of borrowing calculations, and duties of the principal broker. FSCO staff will participate to present the licensing process and answer questions. To learn more about the seminars visit www.imba.ca.

For answers to more Frequently Asked Questions about applying for a licence, the advance application period, and other requirements of the new Act, go to www.fSCO.gov.on.ca.



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Important update:

Change to mortgage agent education & equivalency requirements

Mortgage Broker e-Info Newsletter # 4 (Mortgage Agent Edition) released December 7, 2007, stated that a mortgage agent would be eligible for a conditional Mortgage Agent licence if he or she agreed to complete a new Mortgage Agent education course by July 1, 2010.

Mortgage agents should note that this deadline has been moved up to July 1, 2009. For more information, please download the revised information sheet from the Mortgage Broker Toolkit at www.fsco.gov.on.ca (click on *Mortgage Brokers*).

Future Newsletters

- Principal Broker Duties
- Education Update
- Licensing Exemptions and Fees
- Using Licensing Link
- Regulations regarding standards of practice for brokerages, administrators, agents and brokers
- Regulations regarding administrative penalties, filing requirements.

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