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## Inside this issue

- Role of the Principal Broker
- Establishing Policies and Procedures
- What Does Supervision Mean?
- Creating a Complaint Handling Process
- Public Relations Materials

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*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 (FSCO).*

## The Importance of Supervision

An essential part of the new Mortgage Brokerages, Lenders and Administrator's Act, 2006 (the Act) is the more significant role of supervision. As the Mortgage Brokerage's Chief Compliance Officer, the Principal Broker is responsible for:

- Ensuring that the Mortgage Brokerage and all of its Brokers and Agents comply with the Act;
- Establishing and reviewing policies and procedures;
- Recommending changes to policies and procedures;
- Creating a complaint handling process; and
- Approving public relations materials.

Mortgage Administrators, while not required to have Principal Brokers, must establish policies and procedures to ensure the Administrator's compliance with the Act and regulations.

## Role of the Principal Broker

Under the Act, each Mortgage Brokerage must appoint a Principal Broker who is responsible and accountable for the conduct of the Mortgage Brokerage and all of its Brokers and Agents. As the Mortgage Brokerage's Chief Compliance Officer, the Principal Broker needs to ensure compliance with the Act and regulations. A Principal Broker may be held accountable along with the Mortgage Brokerage/Broker/Agent for contraventions of the Act. Therefore, it is important for the Principal Broker to be able to demonstrate that he/she has taken reasonable steps to supervise Mortgage Brokers and Agents, and ensure compliance with the Act.

If a Mortgage Broker/Agent is involved in unsuitable activities and there are reasonable grounds to believe that the Broker/Agent should no longer be licensed, the Principal Broker has a duty to report these activities to FSCO.

## Establishing Policies and Procedures

Each Mortgage Brokerage is required to establish policies and procedures to ensure the Brokerage and its Brokers and Agents comply with the Act. The Principal Broker must review the Mortgage Brokerage's policies and procedures to ensure that Brokers and Agents are adequately supervised, and to recommend any necessary changes.



Your Mortgage Brokerage's policies and procedures need to fit the scope, size and complexity of its business.

- **Step 1 - Identify what the law requires you to do.**
  - Identify the required standards expected under the Act.
  - Consider your type of business.
  - Use common sense.
  - Decide how compliance with the law can best be achieved.
- **Step 2 - Write your policies and procedures.**
  - Use plain language that is clear and concise.
- **Step 3 - Make policies and procedures available to Mortgage Brokers and Agents.**
  - Provide an explanation.
  - Ensure Mortgage Brokers and Agents understand the policies and procedures.

## What Does Supervision Mean?

The Principal Broker needs to take proactive steps to avoid potential issues. This includes:

1. **Hiring the right people.**
  - Recent examples of fraud and identity theft rings suggest that Mortgage Brokerages need better scouting and screening measures for potential candidates.
  - Principal Brokers need to take reasonable steps to ensure Mortgage Brokers and Agents have acquired the education and experience necessary for licensing.
  - Principal Brokers should refer to the [Suitability Assessment Principles for Mortgage Broker and Mortgage Agent Licence Applicants](#) on FSCO's website.
2. **Establishing policies and procedures.**
  - Review existing policies and procedures and make changes changes/additions to ensure compliance with the required standards.
  - Engage and motivate your staff to follow policies and procedures.
3. **Training Mortgage Brokers and Agents.**
  - Ensure that Mortgage Brokers and Agents are trained on standards of conduct for your business requirements. They need to:
    - Be familiar with your policies and procedures and know where to find them;
    - Be aware of the potential conflicts of interest that may exist; and
    - Know what disclosures are required and when they are required.
4. **Monitoring Mortgage Brokers and Agents.**
  - To ensure compliance, you need to monitor your staff to make sure they are up-to-date on any changes in your procedures and Ontario's laws.



- Follow a regular education and training program that establishes your due diligence in this regard.
- Maintain records for all training that is delivered to your Mortgage Brokers and Agents.

## Creating a Complaint Handling Process

Each Mortgage Brokerage is required to:

- Establish a complaint handling process;
- Designate one or more individuals to receive and respond to complaints from the public;  
**Note:** The designated Complaint Officer does not need to be the Principal Broker. However, the individual(s) must be authorized to act on behalf of the Mortgage Brokerage.
- Provide a written response to each written complaint;  
**Note:** If an individual is not satisfied with the response he/she received and believes the law has been contravened, the individual may refer the complaint to FSCO.
- Maintain records for all complaints received.

The Complaint Officer has a duty to notify the Principal Broker of any unsuitable activities that are discovered from reviewing complaints.

## Public Relations Materials

Each Mortgage Brokerage is required to ensure that all of its public relations materials prominently and clearly disclose its authorized name and licence number. A Mortgage Brokerage must ensure that its public relations materials are not false, misleading or deceptive in any way.

If a Mortgage Brokerage's public relations materials refer to a Mortgage Broker/Agent by name, they must use the name in which the Broker/Agent is licensed and include at least one reference to the type of licence that is held (e.g. "Mortgage Broker" or "Mortgage Agent").

## Webinar Recordings

If you are a Principal Broker you need to ensure that your Mortgage Brokerage and all of its Mortgage Brokers and Agents comply with the Act and regulations.

If you did not get a chance to attend FSCO's Webinars for Principal Brokers, you can now access them online. Visit FSCO's website at [www.fSCO.gov.on.ca/english/regulate/mortgagebrokers/mbcomplying.asp](http://www.fSCO.gov.on.ca/english/regulate/mortgagebrokers/mbcomplying.asp) to access the following webinar recordings:

- Webinar # 1 - Disclosure of Potential Conflicts of Interest
- Webinar # 2 - Disclosure of Suitability and Risks to Borrowers, Lenders and Investors
- Webinar # 3 - Requirements for Supervising Mortgage Brokers and Agents



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