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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.

Important Advertising, Licensing and Insurance Requirements

This issue of the Mortgage Broker e-Info Newsletter outlines several important requirements relating to advertising, licensing, and errors and omissions insurance. All mortgage brokerages, administrators, brokers and agents should make sure they understand and meet these requirements, to:

- Ensure compliance with the Mortgage Brokerages, Lenders and Administrators Act, 2006 (MBLAA) and regulations;
- Help reduce the number of complaints from the public on these issues; and
- Promote consumer confidence in the mortgage brokering industry.

Errors and Omissions Insurance Requirements

Under the MBLAA, every mortgage brokerage and administrator is required to have errors and omissions insurance with extended fraud coverage, through a FSCO approved insurance provider.

This errors and omissions insurance must cover a minimum of \$500,000 in respect of any one occurrence and \$1 million in respect of all occurrences in a given year. This insurance requirement extends to all mortgage brokerages and administrators that hold a licence. There are no exceptions.

FSCO must be notified if a mortgage brokerage's or administrator's errors and omissions insurance policy is cancelled or not renewed.

In addition to these requirements, mortgage brokerages and administrators should note that the Real Estate Council of Ontario's (RECO) errors and omissions insurance policy for registered real estate brokers *does not cover* mortgage brokerages, administrators, brokers or agents.

For a list of approved insurance providers, please refer to [FSCO's errors and omissions insurance web page](#).



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FSCO's Upcoming Errors and Omissions Insurance Audit

Background on the 2008 Errors and Omissions Insurance Audit

In October 2008, FSCO conducted an audit to verify if mortgage brokerages were in compliance with the requirement to maintain errors and omissions insurance. As 30 per cent of brokerages were found to be non-compliant with this requirement, FSCO took enforcement action, such as issuing administrative monetary penalties and Notices of Proposal to revoke their licences.

The 2010 Errors and Omissions Insurance Audit

Early in the new year, FSCO plans to conduct another audit of all brokerages to determine if they have the required errors and omissions insurance. Similar to the last errors and omissions insurance audit, FSCO will be collecting data from insurance providers and contacting those brokerages that do not appear to have the required insurance in place. If a brokerage does not have an approved form of errors and omissions insurance, FSCO will take enforcement action.

It is imperative that all mortgage brokerages and administrators maintain errors and omissions insurance at all times. Non-compliance drives up FSCO's costs for regulating the mortgage brokering industry, which must be supported through fees that are collected from this sector.

Update on the Mortgage Agent Education Audit

On October 5, 2009, FSCO conducted an audit of all individuals who have conditional mortgage agent licences, to verify if they successfully completed an approved mortgage agent course by June 30, 2009. Principal brokers were required to provide FSCO this information by October 28, 2009.

FSCO requested information from 152 principal brokers who employ the 267 agents with conditional licences. Approximately 70 per cent of these principal brokers complied with FSCO's request for information by the due date.

The MBLAA requires licensed entities and individuals to respond promptly to all requests from FSCO on behalf of the Superintendent, whether the contact is made by email, letter or telephone. Enforcement action, such as administrative monetary penalties, may be imposed against those principal brokers that are non-compliant. In addition, agents that have not completed the required course will not be eligible to renew their licences.

Mortgage Broker and Agent Licences Need to be Renewed Before March 31, 2010

All mortgage broker and agent licences will expire on March 31, 2010, unless an application for renewal is made before then. If you are a mortgage broker or agent, and wish to continue conducting mortgage brokering activities after March 30, 2010, please contact your brokerage's principal broker in February 2010 and ensure your principal broker makes your licence renewal application before your licence expires.

Your mortgage broker or agent licence renewal will need to be initiated by your principal broker in [Licensing Link](#) between February 1 and March 30, 2010. If you do not apply to have your licence renewed in this period, you will not be authorized to deal or trade in mortgages.

More information on licence renewals will be communicated by email in January 2010.



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Principal brokers should ensure that their brokerages have an approved form of errors and omissions insurance at all times

Mortgage broker and agent licences need to be renewed before March 31, 2010 in Licensing Link

Advertising Issues and Requirements

FSCO has identified various advertising issues for mortgage brokerages, brokers and agents through examinations of brokerages, complaints, and reviews of newspapers, flyers and websites. The list below outlines some of the compliance issues that were seen by FSCO:

- The mortgage brokerage's licence number was not always listed on signage or advertising materials.
- The name of the mortgage brokerage was not always prominently displayed on advertising materials. (This issue was often noted where agents advertised their team, rather than their brokerage.)
- Some mortgage brokers and agents did not list the name of their mortgage brokerage on advertising materials.
- Public relations materials guaranteed the best interest rate or stated that consumers would never be turned down for a mortgage, regardless of their credit history.
- Principal brokers did not always review all advertising materials that were used by their brokers and agents.
- Mortgage brokerages, brokers and agents indirectly solicited information from potential borrowers or lenders, through the websites of unlicensed individuals (e.g. consultants, financial advisors, etc).

To avoid these types of issues, all mortgage brokerages need to ensure they are meeting the requirements in sections 6 and 7 of [Ontario Regulation 188/08 - Mortgage Brokerages: Standards of Practice](#). To help principal brokers ensure that their brokerages are complying with this regulation, a summary of the requirements is provided below:

- Clearly and prominently disclose the authorized name and licence number of the mortgage brokerage in all public relations materials. (Public relations materials are materials that your mortgage brokerage, broker or agent makes available to the public in connection with its business activities. Public relations materials include advertisements, public web pages and other materials that are published, circulated or broadcast by any means.)
- If your mortgage brokerage is a franchise, you may use your franchise name in public relations materials, if it's your brokerage's authorized name. Your public relations materials must also clearly and prominently indicate that your office is independently owned and operated.
- If your brokerage's public relations materials identify a specific mortgage broker or agent, they should list the name in which the broker or agent is licensed with FSCO.
- If your brokerage's public relations materials refer to a mortgage broker or agent, they must include at least one reference to the individual with one of the following titles:
 - For brokers the title "mortgage broker," "broker," "courtier en hypotheques," or "courtier."
 - For agents the title "mortgage agent", "agent", or "agent en hypotheques."
- Make sure that your public relations materials only include information that is true and honest.

If you're a principal broker, you need to be familiar with the advertising requirements in Ontario Regulation 188/08

For more information on advertising requirements, refer to [FSCO's frequently asked questions](#)



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For more information on these requirements, refer to [FSCO's frequently asked questions on public relations and advertising materials](#).

Top Complaints about the Mortgage Brokering Industry

From January 1 to September 30, 2009, FSCO received 313 complaints regarding mortgage brokerages, administrators, brokers and agents. Of these complaints:

- 296 fell under FSCO's jurisdiction, as they dealt with the mortgage brokering industry in Ontario.
- 17 were not under FSCO's jurisdiction, as they dealt with other laws (e.g., employment laws).
- 216 were reviewed and closed after being investigated by FSCO.

The vast majority of these complaints were from consumers (80 per cent), with a small proportion from other licensees (17 per cent) and lawyers (3 per cent).

No.	Reasons for Complaints	Number of Complaints	Percentage of Total Complaints
1	advertising	53	27%
2	unlicensed activities	44	22%
3	fraudulent/illegal activities	17	9%
4	other topics	12	6%
5	false, misleading or deceptive statements or misrepresentation	7	4%

FSCO reviews all complaints that are received from the public about mortgage brokerages and administrators to ensure there is compliance with the law. Principal brokers and administrators should ensure they are supervising their business activities and responding to complaints in accordance with the law.

How to Surrender Your Mortgage Brokerage or Administrator Licence

The MBLAA and regulations allow FSCO's Superintendent to approve the surrender of a mortgage brokerage or administrator licence, if it's determined to be in the public interest.

If you want to surrender your mortgage brokerage's or administrator's licence, please follow the steps below:

1. Contact FSCO to request a Surrender Declaration Form.
2. Complete the Surrender Declaration and return it to FSCO.
3. FSCO will review your Surrender Declaration and may contact you for additional information.

Your mortgage brokerage or administrator licence remains in effect until you receive written approval of your Surrender Declaration from FSCO. Until that occurs, you must comply with all licence requirements, including maintaining errors and omissions insurance and filing the annual information return.

Future Newsletters

- compliance tips
- licence renewals and fees
- annual information returns and financial statements



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