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The Mortgage Broker e-Info Newsletter is produced and distributed by the Financial Services Commission of Ontario (FSCO). It provides updates on Ontario's Mortgage Brokerages, Lenders and Administrators Act, 2006, regulations and requirements.

All licensed mortgage brokerages, administrators, brokers and agents in Ontario automatically receive this newsletter from FSCO via the e-mail address provided in Licensing Link.

For more information, or to access past issues of this Newsletter, visit FSCO's website at www.fSCO.gov.on.ca.

Errors and Omissions Insurance

All licenced brokerages must maintain Errors and Omissions (E&O) insurance coverage as described in section 42 of Ontario Regulation 188/08 under the *Mortgage Brokerages, Lenders and Administrators Act* (MBLAA).

FSCO continues to take enforcement action against brokerages that fail to comply with this and all other provisions of the MBLAA.

During FSCO's first E&O audit in 2008, 30 per cent of brokerages did not maintain the required E&O coverage. At that time, the Superintendent proposed an Administrative Monetary Penalty (AMP) of \$1,000 for simple lack of coverage.

By 2010, non-compliance dropped to 6.1 per cent. However, as the industry had almost three years of awareness of the legislated requirement, the AMP was increased to \$1,500 for a first occurrence and \$3000 for a second one. That year, FSCO also sought licence revocations for brokerages that had engaged in several contraventions of the law.

What this means for you...

If FSCO contacts you for information to support an audit or compliance check, you must promptly provide the requested information. Your co-operation is required under the law. Brokerages finding difficulty complying with the law should consider surrendering their licences.

Remember - AMPs can also be imposed for:

- previously being in contravention;
- providing false information to the Superintendent;
- failing to co-operate with the Superintendent;
- excessive gaps in coverage.



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Broker and agent reviews: your conduct matters

By developing proper controls and procedures, brokers and agents can reduce opportunities for unsuitable conduct and fraudulent activity. Here are some successful approaches.

- Have strict screening and hiring processes. Meet all potential hires and verify education, references and previous employment.
- Have the Principal Broker or a senior delegate review transactions for compliance and product suitability until the new hire understands the products, policies, and procedures of the brokerage.
- Conduct regular reviews or spot audits of mortgage transactions post-closing or at renewal to ensure that all documentation has been properly completed and is accessible to the brokerage.
- Monitor the volume and type of business submitted so that you can see unexpected changes or unusual transactions.
- Provide training opportunities on the brokerage's policies and procedures.

By following good business practices, you will protect borrowers, lenders and investors. As well, you will protect your brokerage from complaints, law suits, E&O claims and regulatory action.

Annual Information Return: why you must file

All mortgage brokers and administrators must submit their Annual Information Returns (AIR) by March 31st of each year.

FSCO monitors AIR filings and initiates regulatory action for late filing/failure to file. The progressive regulatory approach escalates from Warning and/or Caution letters for late filers, to more severe penalties for non-filers.

Brokerages that have filed after May 1st, or have failed to file altogether, are subject to, at a minimum:

- AMP of \$1,000; and,
- on-site compliance examination to assess business practices and compliance oversight.

For brokerages that demonstrate a pattern of failure in meeting statutory filing requirements, FSCO's review will include the brokerage's/principal broker's/administrator's suitability to remain licensed. This detailed review could result in:

- additional AMPs;
- temporary suspension of the licence;
- licence revocation in serious situations.

[Compliance Checklists](#)

Example of minor infraction:

The first time a licensee files the AIR after the March 31st filing deadline but before April 15th. This results in a Warning Letter from FSCO reminding the licensee of its statutory obligations.

Example of serious infraction:

A longer delay in filing the AIR results in a Letter of Caution from FSCO to the licensee. The infraction establishes a permanent record of licensee non-compliance with FSCO.



Highlights of 2011 AIR

2011 AIRs

As of

June 20, 2012,

FSCO

- has issued 16
letters of caution

- is reviewing 34
late/non-filers
for further
regulatory action

- is making
recommendations
to the
Superintendent.

Ninety-eight percent of mortgage brokerages and administrators have submitted AIRs for 2011.

FSCO is reviewing the submissions and preliminary results show that at the end of 2011, brokerages in Ontario employed 14,408 individuals, 2,495 brokers, 10,477 agents and 1,436 other staff.

Once the 2011 AIR review is completed, FSCO will compile a Summary Report of the results and findings. As in earlier years, the report will be available on FSCO's website.

FSCO's field examinations

FSCO recently completed several on-site inspections and reviews of randomly selected mortgage brokerages.

Being aware of this year's examination focus can assist you in meeting the required compliance standards if your brokerage is selected for an examination.

Does your brokerage have effective agent hiring practices? Is valid E&O insurance coverage in place?

Is your brokerage concentrating on higher risk mortgage activities and complex or high value products? Examinations will include brokerages and administrators conducting mortgage syndication and securitizations.

For offices open to the public that are 100 km from the principal broker's location, is there any resulting reduced supervision? How effective is the principal broker's oversight of these offices?

Due to greater reliance on private lending, FSCO will review brokerages' procedures and activities to ensure that legal requirements protecting the interests of the borrowers and lenders are being met.

Are trust accounts being used as intended? There will be detailed information-gathering and compliance assessments to check for consistency with reporting requirements.

[MB Sector
Compliance
Reviews](#)

Relicensing audit underway

Mortgage agents and brokers who renewed their licences for 2012-14 attested to completing the Mortgage Broker Re-licensing Education 2012 course (RE) and on their renewal applications.

FSCO is now conducting an industry-wide audit on the RE completion and will be contacting those agents and brokers that attested to completing the RE but do not appear on the course provider records.

Ce bulletin est également disponible en français.

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