

Approach



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Mortgage Broker Regulators' Council of Canada Code of Conduct for the Mortgage Brokering Sector

Purpose

This Approach Guidance outlines the Financial Services Regulatory Authority of Ontario's (FRSA's) principles, processes and practices for incorporating the [Mortgage Broker Regulators' Council of Canada's \("MBRCC"\) Code of Conduct for the Mortgage Brokering Sector \(Code\)](#) into FSRA's regulatory framework.

The Code promotes high standards of business conduct to protect consumers of mortgage brokering services. The principles of the Code largely correspond to existing conduct requirements in the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (MBLAA) and its regulations. The Code includes conduct standards required under the MBLAA and complementary practices for consumer protection.

Scope

This guidance affects the following entities regulated by FSRA:

- Mortgage agents
- Mortgage brokers
- Mortgage brokerages
- Mortgage administrators

Rationale and background

The MBRCC developed the Code in response to industry feedback from the Canadian Mortgage Brokers Association–Ontario (CMBA-ON) and Mortgage Professionals Canada (MPC). MBRCC and the industry believe consumers benefit from consistent minimum conduct standards for mortgage professionals across Canada.

The MBLAA and its regulations govern mortgage brokering activities in Ontario. The Code is a plain-language guide to help licensees comply with the MBLAA and its regulations. It also helps consumers understand licensees' obligations. It promotes regulatory compliance, confidence in the sector, and the interests of consumers who deal with licensees.

For the industry

The Code provides simple, clear guidance on how to conduct mortgage brokering activities that protect consumers' interests. It does this by reminding licensees to:

- Provide products and services that are suitable for each client.
- Provide services in a transparent and effective manner.
- Comply with all applicable legal and regulatory requirements.

For the consumer

The Code outlines behaviour that consumers should expect from mortgage brokering licensees. By doing so, the Code:

- Raises awareness of consumers' rights when dealing with a licensee.

- Provides consumers with a reference / education tool for appropriate conduct.

Consumers of mortgage brokering services can use the Code to learn more about their rights and what appropriate service looks like.

FSRA mandate

In supervising and regulating the mortgage brokering sector, FSRA administers and enforces the MBLAA and its regulations. FSRA aims to achieve the following statutory objects:

- Contribute to public confidence in the mortgage brokering sector.
- Monitor and evaluate trends in the mortgage brokering sector.
- Cooperate and collaborate with other regulators where appropriate.
- Promote high standards of business conduct.
- Deter deceptive or fraudulent conduct, practices, and activities in the mortgage brokering sector.
- Protect the rights and interests of consumers.
- Foster a strong, sustainable, and innovative sector.

Principles

FSRA uses a general supervision approach to achieve its statutory objects:

- *Proactive, risk-based approach* – FSRA focuses its supervision on high-risk licensees and their activities.
- *Focus on governance* – FSRA expects brokerages and administrators to have effective internal controls and supervision to promote a strong compliance culture and mindset among licensees to identify and manage risks arising from their dealings with consumers.
- *Proportionate approach to discipline* – FSRA uses a range of compliance and enforcement tools to influence marketplace behaviour. The tools used depend on, for example, the nature and extent of risks to consumers, mitigating actions taken by licensees, and past supervisory findings.

Processes and practices

The following processes and practices help raise licensees' awareness of, and compliance with, the Code.

1. All applicants for licensing and renewal are required to acknowledge that they are aware of and understand the Code.
2. Principal Brokers are required to declare, as part of the '[Mortgage Brokerage Declaration of Compliance](#)', that the brokerage has implemented policies and procedures to ensure that the brokerage and its agents and brokers adhere to the MBLAA requirements reflected in the Code.
3. Brokerages and administrators should incorporate the principles of the Code into their policies and procedures.
4. Brokerages and administrators should record non-adherence to the Code and identify and implement actions to rectify non-adherence. This information should be made available to FSRA upon request.

As the Code is principles-based, licensees can implement processes, practices and controls in a way that is most effective and efficient for their business. They can assess themselves against the Code when setting or revising policies and procedures and operating their businesses. Licensees should be able to demonstrate application of the principles in ways appropriate to the nature, size and complexity of their business operations and activities.

Supervision

This section presents FSRA's supervision approach for the Code. Significant differences between conduct promoted by the Code and a licensee's practices may be an indicator of a breach of the MBLAA. In its supervisory reviews, FSRA will highlight non-compliance with all aspects of the Code and may enforce against those that align with requirements in the MBLAA.

The following are approaches that FSRA may take to assess adherence:

- *Comprehensive desk reviews / onsite examinations* – When reviewing transactions completed by mortgage brokers, agents, and staff of mortgage administrators, FSRA assesses the documents and practices used to complete the transactions against the principles of the Code.
- *Targeted reviews* – FSRA may focus on specific principles of the Code, for example, complaint-handling activities.
- *Thematic reviews* – FSRA may also conduct reviews of a large number of licensees to assess overall trends in industry implementation of or adherence to the Code.

FSRA's reviews may include an examination of the brokerages' or administrators' record of non-adherence to the Code and corrective actions taken.

Complaints handling

FSRA expects that licensees and their principal broker should be the first points of contact, as appropriate, for consumer concerns.

Brokerages and administrators must have a process for tracking all complaints from the public and how they resolve them^{1, 2}. Processes for filing and resolving complaints should be easy to access and use by the public. Complaints should be responded to in a timely, transparent, effective, and fair manner. FSRA may request to review the brokerage's or administrator's complaint handling policies and procedures, complaint resolution outcomes and statistics.

FSRA reviews unresolved complaints submitted about a licensee's conduct against the Code. Where non-compliance with the Code reflects non-compliance with the MBLAA, FSRA acts to address the issue (see Enforcement section below).

¹ Section 41 of Ontario Regulation 188/08: Mortgage Brokerages: Standards of Practice

² Section 26 of Ontario Regulation 189/08: Mortgage Administrators: Standards of Practice

Complaints should be submitted to FSRA:

- According to the directions on the [FSRA website](#).
- Using the Complaint Form.

The Code is posted on the [for industry](#) and [for consumer](#) sections of FSRA's website.

Supervisory and complaints findings

FSRA relies on data and analysis of Code complaints, inquiries, examinations and filings to:

- Inform licensee risk assessments.
- Identify risks (e.g., failures in processes that result in consumer harm, repeat patterns of misconduct).
- Validate environmental trends.
- Drive evidence-based decision-making for next steps in the supervisory process.

Feedback to licensees from supervisory findings will refer to the Code, relevant requirements of MBLAA, FSRA guidance or related best practices.

Enforcement and suitability

FSRA considers adherence to the Code, where it aligns with the MBLAA, as a factor in its assessment of whether an individual or entity is suitable for licensing. FSRA has authority to refuse, impose conditions, revoke or suspend a licence based on suitability.

FSRA may take enforcement action to address breaches of licensee obligations under MBLAA and its regulations, most of which are reflected in the Code. FSRA takes into consideration the nature and extent of risks to consumers, mitigating actions taken by licensees, and past supervisory findings.

Enforcement actions include:

- Warning or cautionary letters.
- Imposition of licence conditions.
- Licence suspension.
- Licence revocation.
- Imposition of administrative penalties.

- Prosecution in the courts.

Effective date and future review

This Guidance is effective **August 5, 2021** and will be reviewed no later than **August 5, 2024**.

Effective March 31, 2021, [Guideline No. 03/18: Treating Financial Services Consumers Fairly](#) [Guideline](#) no longer applies to licensees in the mortgage brokering sector. It is replaced by this Approach Guidance.

About this guidance

This Guidance is an Approach. Approach Guidance describes FSRA's internal principles, processes and practices for supervisory action and application of Chief Executive Officer discretion. Approach Guidance may refer to compliance obligations but does not in and of itself create a compliance obligation. Visit [FSRA's Guidance Framework](#) to learn more.