



**MPC's Recommendations to FSRA's Mortgage Agent & Mortgage Broker
Licensing Suitability
May 6, 2024**

Executive Summary

The proposed guidelines are commendable but raises concerns about the practical implementation of FSRA's guidance on license transfers between brokerages, highlighting potential confidentiality and proprietary data risks when agents switch affiliations before completing the off-boarding process. While acknowledging FSRA's commendable move towards fairness in license suitability reviews, the proposed guidelines should include clearer examples to make understanding and compliance easier. It emphasizes the need for clarity on the terms "flexible" and "reasonable" within FSRA's regulations, questioning whether brokerages can selectively omit suggestions and how FSRA would handle disagreements during reviews or investigations. The proposed guidelines also point out the redundancy of certain requirements like duplicate criminal record checks and seeks guidance on FSRA's stance in such scenarios, aiming for increased transparency and alignment between regulatory expectations and brokerage practices. Lastly, clarity on the definitions of "reasonable" and "flexible" would offer brokerages a clearer understanding of regulatory expectations and facilitate smoother compliance with FSRA standards.

Implementation

The intent behind the guidance is commendable, but there is a gap in practical implementation. For example, the transfer of licenses between brokerages by agents poses serious data risks and potential breach of confidentiality. The current policy allows for the transfer of a license to a new brokerage before the full off-boarding process is completed at the original brokerage. This poses serious challenges because the transferring licensee still has access to all the files and client information that belong to their old brokerage. Once the licence has transferred to the new brokerage, the original brokerage has no leverage to get client info/proprietary information/etc. from the agent.

Licence Suitability

While it is positive that FSRA is embracing fairness in its approach to license suitability reviews, it is recommended that specific examples be provided to enhance clarity regarding fairness standards.

Brokerages should have the ability to establish and implement policies and procedures that align with FSRA's interpretation of the regulations. However, there is a need for a clearer understanding of what "flexible" entails within this context. For instance, FSRA reiterates that since the regulations are principles based, brokerages have flexibility to apply the regulations as they understand matters. The guidelines should be made clearer, and a clearer definition with examples should be included for easy reference for mortgage agents to ensure compliance.

For instance, does flexibility imply that a brokerage can selectively omit certain suggestions to a 'reasonable' extent based on their business practices? Would a review or investigation give a brokerage latitude if they disagree on certain steps taken by a brokerage or would it require to be exactly what was outlined in the guidance?

In addition, FSRA mandates criminal record checks (CRC) as part of the suitability requirements. Many brokerages rely on FSRA to conduct mandatory CRCs, thus foregoing individual CRC checks. In such cases, it may appear redundant for a brokerage to duplicate this process. The proposed guidelines should outline what the consequences are if a brokerage did not conduct a CRC during a suitability review or investigation.