

FSRA's Guidance on Detecting and Preventing Mortgage Fraud

*The important role of the Mortgage Brokering
Industry*

FSRA

Financial Services Regulatory
Authority of Ontario

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Speaker:

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Land Acknowledgement

We acknowledge the land we are on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg (ah-nish-naw-bek), the Chippewa, the Haudenosaunee (hoodt-en-oh-show-nee) and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples.

We acknowledge that Toronto is covered by Treaty 13 with the Mississaugas of the Credit and the Williams Treaties signed with multiple Mississaugas and Chippewa bands.



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Agenda

1. Introductions
2. Land Acknowledgement
3. Prevalence of mortgage fraud in the current market environment
4. Why did FSRA release a guidance on preventing and detecting mortgage fraud?
5. How does the Detecting and Preventing Mortgage Fraud guidance support the sector?
6. What are the key outcomes FSRA aims to achieve with this Guidance?
7. What are **not** FSRA's expectations of the sector in taking reasonable steps to detect and prevent mortgage fraud?
8. Enforcement Activities Related to Mortgage Fraud
9. What are the key takeaways for the mortgage brokering sector?
10. Questions?



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Prevalence of mortgage fraud in the current market environment

January 23, 2023 - CBC News

How organized crime has mortgaged or sold at least 30 GTA homes without owners' knowledge

Future of title insurance could be at risk if this real estate fraud trend continues

March 31, 2023 - CBC News

'Elaborate scam' leaves seniors with high-interest mortgages they didn't want or understand

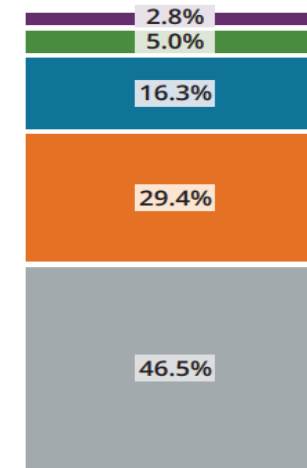
First-party mortgage fraud made up

54%

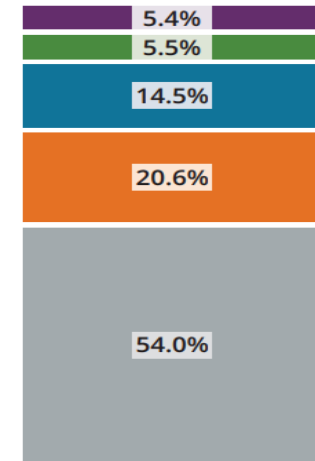
of fraud types in Q2 2023.



% Distribution of fraudulent applications



Q2-22



Q2-23

■ Other First Party Fraud
■ False employment & income
■ Falsified financials

■ Applications abandoned/declined
■ Conflicting information

Source: Equifax Canada

March 4, 2024, Equifax Canada Market Pulse Fraud Trends report (Q4 2023):

- Identity fraud has surged (~3/4 of all fraudulent applications across all sectors).
- ↑ 9.9% in mortgage applications fraud (Ontario seeing the highest amount).
- First-party mortgage fraud remains present.
- Slight increase in true-name fraud, where a real person's identity is stolen to commit fraud.

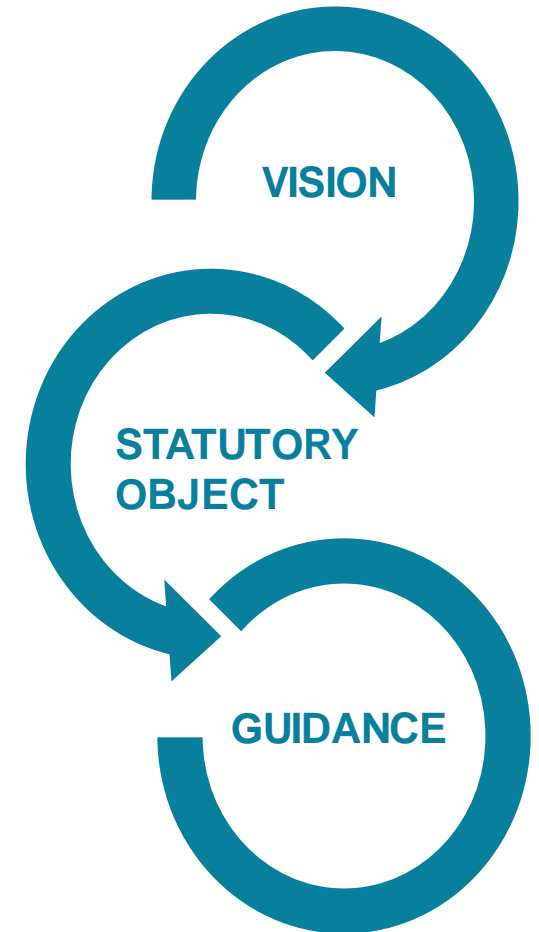
Why did FSRA release a guidance on preventing and detecting mortgage fraud?



Vision



- Ensure financial safety, fairness and choice for Ontarians.
- Promote high standards of business conduct and protect the rights and interests of consumers by preventing and discouraging deceptive or fraudulent conduct, practices and activities.
- Protect borrowers, lenders and investors, and licensees from mortgage fraud by providing enhanced processes in identity verification and proper mortgage documentation management.



How does the Detecting and Preventing Mortgage Fraud guidance support the sector?



Intent

- It is a contravention for a licensee to knowingly or unknowingly give or assist in providing false or deceptive information when conducting mortgage business.
- FSRA interprets this section as requiring licensees to take reasonable steps, based on their specific business model, to detect and prevent mortgage fraud. This supports FSRA's principles-based approach to supervision.



Purpose

- Clarify legislative business conduct requirements to prevent facilitating dishonesty, fraud or any other illegal conduct.
- Provide common business practices, fraud red flags and reasonable steps to combat mortgage fraud.



Scope

- Mortgage agents (Levels 1 and 2)
- Mortgage brokers
- Principal brokers
- Mortgage brokerages
- Mortgage administrators

What are the key outcomes FSRA aims to achieve with this Guidance?

Support licensees in fostering a strong conduct culture by meeting their regulatory requirements and industry best business practices related to detecting and preventing mortgage fraud.



Reinforce the key role that the mortgage brokering sector plays in detecting and preventing mortgage fraud.



Support information sharing between stakeholders in the sector (realtors, lawyers, title or default insurers, etc.) and regulators, which is critical in preventing and combating fraud.



Ensure compliance with the Mortgage Broker Regulators' Council of Canada ("MBRCC") [Code of Conduct](#) principles for the mortgage brokering sector to foster continued strong conduct culture in all aspects including combating mortgage fraud.



Promote public confidence in the sector and a high level of licensee due diligence, expertise and education.



Support upcoming anti-money laundering and anti-terrorist financing obligations of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act ("PCMLTFA") and its regulations by the sector starting on October 11, 2024.



Protect consumers from harm related to financial and emotional loss of investment funds and/or loss of homes.

What are **not** FSRA's expectations of the sector in taking reasonable steps to detect and prevent mortgage fraud?

Mortgage fraud is costly to consumers and industry alike – Financially and Reputationally.

Stop mortgage fraud.

Act as fraud investigators.

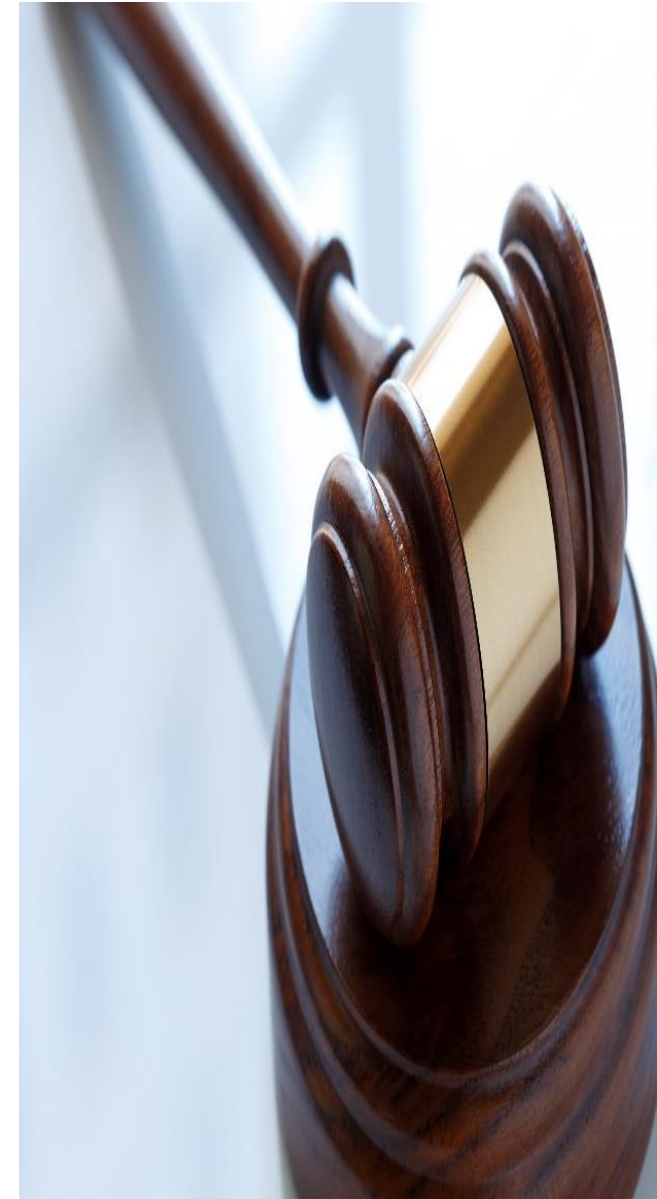
Guarantee identification and mortgage documentation provided.

Identify 100% of potential fraud activities.

Be knowledgeable of all identity verifications software offered.

Enforcement Activities Related to Mortgage Fraud

- Many of the mortgage fraud cases handled by Legal & Enforcement (L&E), depending on the factual circumstances, involve the contravention of Section 43 of the MBLAA.
 - Subsection 43(1) prohibits mortgage brokerages and mortgage administrators from giving, or assisting/including others to give, false or deceptive information or documents when dealing/trading in mortgages in Ontario.
 - Subsection 43(2) prohibits mortgage agents and brokers from doing the same.
- Section 43 imposes a strict liability on licensees.
- Licensees must therefore be vigilant and take reasonable steps to ascertain the veracity of all information and documents that are disseminated by them while dealing/trading in mortgages.



Enforcement Activities Related to Mortgage Fraud

- L&E has recently applied Section 43(2) in cases involving submission of altered and fabricated documents sent by agents and brokers to lenders in support of mortgage applications.
- Commonly altered/fabricated documents include bank statements, employment letters, and pay stubs.
- The altered/fabricated documents are used to meet mortgage commitment requirements and to show that mortgage applicants had sufficient down-payment funds.



Enforcement Activities Related to Mortgage Fraud

Example 1 (Pending): Mortgage Agent

- FSRA received a complaint from a lender that the agent submitted altered bank statements in support of 12 applications.
- FSRA's investigation found the allegations to be correct and that the alterations misrepresented client funds by up to \$100,000.
- The agent took no steps to confirm the veracity of the statements.
- Moreover, 1/3 of the agent's deals between January-July 2020 involved altered bank statements.
- FSRA issued a Notice of Proposal ("NOP") to impose a \$60,000 Administrative Monetary Penalty ("AMP"), taking into account that the agent did not take reasonable steps to verify the statements received and the volume of the misleading information received and shared.





Example 2 (Pending): Mortgage Brokerage / Broker and Principal Broker

The Principal Broker (“PB”) and owner of the brokerage sent altered and/or fabricated documents to his clients, lenders, and clients’ lawyer.

- The altered/fabricated documents included an employment letter, a letter of direction and a Top 5 Bank Mortgage Commitment.
- There was evidence that the PB had received unaltered versions of some of the documents from his client, making it likely that the PB knew of the alteration/fabrication.
- FSRA issued an NOP proposing revocation of the brokerage and the PB’s licences and commenced quasi-criminal proceedings under the Provincial Offences Act.
- FSRA also issued interim orders suspending the brokerage and the PB’s licences.

Example 3 (Settled): Mortgage Broker

- FSRA issued an NOP to the Broker proposing to impose penalties for, among other things, contravening 43(2) by submitting false and deceptive documents to a lender in support of a mortgage application.
- The Broker settled with FSRA and admitted to sending the false and deceptive documents. The Broker also admitted to not exercising due diligence prior to submitting the documents.
- In addition to admitting to the contravention, the brokerage settled to pay an AMP of \$7000.



Example #4 (Pending): 3 Inactive Mortgage Brokers and Agents

- There was evidence that all three licensees were brokering and receiving payments outside of the brokerage.
- FSRA issued an NOP proposing a total AMPs of \$740,000 (15 transactions) for:
 - Receiving remuneration outside of their brokerage.
 - Dealing in mortgage while being unlicensed.
 - Completing transactions without meeting borrowers.
 - Not verifying mortgage documents and identification received from referral sources.
 - Instructing lenders to send money to bank accounts outside of Canada, into accounts with different names than those of the borrowers and that were related to the referral source's relatives.





Example #5 (Completed): Mortgage brokerage and Principal Broker

- The Principal Broker (PB) relied on an unlicensed individual to provide information regarding a borrower.
- FSRA issued an NOP to impose a \$7,500 AMP, and required the hiring of an independent consultant by the mortgage brokerage (1 transaction)
 - No steps were taken to verify the identity of the borrower.
 - Failed to take any steps to verify the accuracy of the mortgage information provided about the borrower, lender, property and the borrower's ability to pay the mortgage.
 - Failed to meet with the lenders in respect of this transaction; and failed to obtain a signed Form 1 from the lenders.

What are the key takeaways for the mortgage brokering sector?

OUTCOMES

Policies & Procedures (P&P)

The P&P of a brokerage or administrator should include the steps licensees and their team must take to detect and prevent mortgage fraud, with key considerations to their unique business model, supporting FSRA's principles-based regulatory approach.

Mortgage Documentation

Brokerages, brokers and agents, as well as administrators must take reasonable steps to collect required documentation and verify documents received.

Principal Broker Role

Principal brokers must train, support and supervise brokers and agents to ensure compliance with MBLAA and regulations and applicable FSRA Guidance and Rules.

Reporting

Brokers (including principal broker), agents, brokerages and administrators should report potential or identified fraud activities to FSRA and applicable parties involved. See [FSRA's Whistle-Blower program](#) for more information.

Questions?

Thank You

If you have any questions, please email MBConduct@fsrao.ca