

# Proposed Guidance: Mortgage Agent and Mortgage Broker Licensing Suitability

## Webinar

The logo for the Financial Services Regulatory Authority of Ontario (FSRA) features the letters "FSRA" in a large, bold, blue sans-serif font.

Financial Services Regulatory  
Authority of Ontario

**Date:** Wednesday, April 17, 2024 @ 11:00am – 11:45am

**Speakers:**

Jelena Pejic, Head, Licensing and Risk Assessment, Market Conduct, FSRA  
Rocca D'Angela, Senior Manager – Mortgage Brokering Policy, FSRA



Ontario

# Land Acknowledgement

We acknowledge the land we are on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee 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.

# Agenda

- Background
- The Law
- FSRA's Licensing Process
- Case Studies
- Next Steps
- Q&A



# FSRA

Financial Services Regulatory  
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# Why is FSRA publishing Guidance for Licensing Suitability?

- **Confirm standards:** Set out the requirements to be suitable to hold a mortgage agent or mortgage broker licence in Ontario
- **Better protect consumers:** Ensure all licensees have the necessary skills, treat customers fairly, and comply with the law
- **Communicate FSRA's gatekeeping role:** Past and current conduct may affect a licensee's suitability to hold a licence in Ontario



- Licensing is a fundamental control for protecting consumers
- All agents, brokers and applicants are required to provide complete and accurate information to FSRA
- Brokerages and principal brokers are required by law to screen and monitor agents and brokers for suitability



**FSRA relies on brokerages and principal brokers to screen and monitor their agents & brokers on an ongoing basis and holds them accountable for these obligations.**

1. FSRA has **broad authority** to determine matters that are relevant to whether a mortgage agent or broker is suitable to be licensed under subsections 14(1) and 16(4) of the MBLAA
2. Ontario Regulation 409/07: Sets out **eligibility** requirements for licensing and circumstances that FSRA considers when assessing licensing **suitability**
3. FSRA's assessment of licensing suitability is guided by its **statutory mandate** under the FSRA Act



## Guiding principles

- **Consumer-centric:** FSRA's approach to regulating individuals and entities focuses on the impact on consumers
- **Risk-based:** FSRA directs its resources to the regulated individuals and entities that pose the highest risk of harm

## Gatekeeping Role

- A strong gatekeeping role is a cornerstone of FSRA's licensing activities
- FSRA ensures market participants are suitable and qualified, which reduces the risk of non-compliance and consumer harm



1. Sponsoring brokerage screening and certification
2. Application and eligibility assessment
3. Suitability assessment
4. Disclosure and attestation
5. Actions resulting from suitability assessments
6. Suitability assessment during licensing term





Conduct or activities that create a risk that a licensee may fail to comply with the law, treat customers fairly, or act contrary to legal and regulatory obligations

**Includes the following (but not limited to):**

- Criminal charges
- Breaches of laws, regulations or FSRA rules
- Insolvency (bankruptcy, consumer proposal)
- Non-disclosure on an application
- Dishonesty to FSRA or others
- Providing a false or misleading statement or information to FSRA



FSRA evaluates the risk of the conduct or activity based on various factors

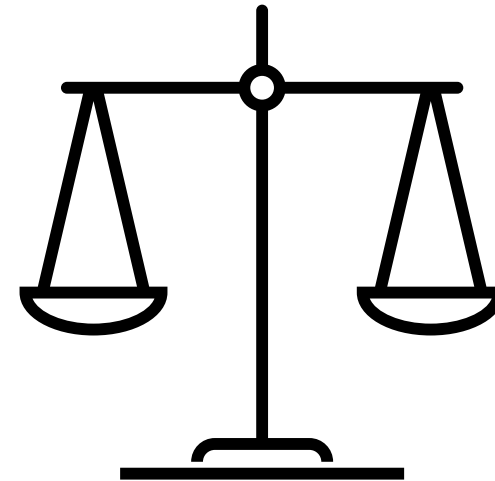
**Includes the following (but not limited to):**

- Nature of the conduct
- Patterns of behaviour
- Time since conduct occurred
- External factors that would explain the misconduct is likely to reoccur
- Whether past conduct resulted in a proceeding or sanction, etc.
- Whether the activity or conduct was disclosed in full



- **Take reasonable steps** to satisfy themselves that those they authorize to deal or trade in mortgages are eligible to be licensed as an agent or broker
- Responsible for the licensing process, including **verifying suitability** for licensing & interacting with FSRA staff during reviews
- Required to **report to FSRA** if there are reasonable grounds to believe that a broker or agent is not suitable for licensing
- **Establish, implement, and review policies and procedures** that ensure that the brokerage and its agents and brokers comply with the law

- Licence issued
- Conditions or restrictions
- Monetary penalty
- Refusal
- Revocation
- Surrender
- Suspension



This is not an exhaustive list. Outcomes may be one or more of the above.

FSRA may attempt to achieve outcomes on consent with licensees to mitigate risk of misconduct and suitability concerns

**Includes the following (but not limited to):**

- **Condition** to be supervised for a specified period, with reassessment to follow
- **Restriction** from acting as a principal broker, or as a director, officer, or principal representative
- **Monetary Penalty** for failure to disclose information to FSRA, or other breaches
- **Undertaking** to ensure licensees report the outcome of ongoing matters or changes to circumstances

### Example 1 (Pending):

- An individual applied to FSRA for a Level 1 Mortgage Agent licence
- The applicant provided false information on their FSRA licence application
- The applicant failed to disclose:
  - Disciplined and received a \$7,000 penalty by another regulator, Real Estate Council of Ontario (RECO), for violating its Code of Ethics
  - Criminal charges
  - Breach of court orders

**Outcome:** FSRA issued a Notice of Proposal to **refuse to issue** a Level 1 Mortgage Agent licence

### Example 2 (Pending):

- Mortgage Agent applying to reinstate their licence
- The licensee provided false information on multiple (8) licensing applications
- Received a warning letter from FSRA to provide full disclosure on future applications
- Failed to disclose on reinstatement application:
  - Outstanding default judgment
  - Bankruptcy filed and discharged in the past

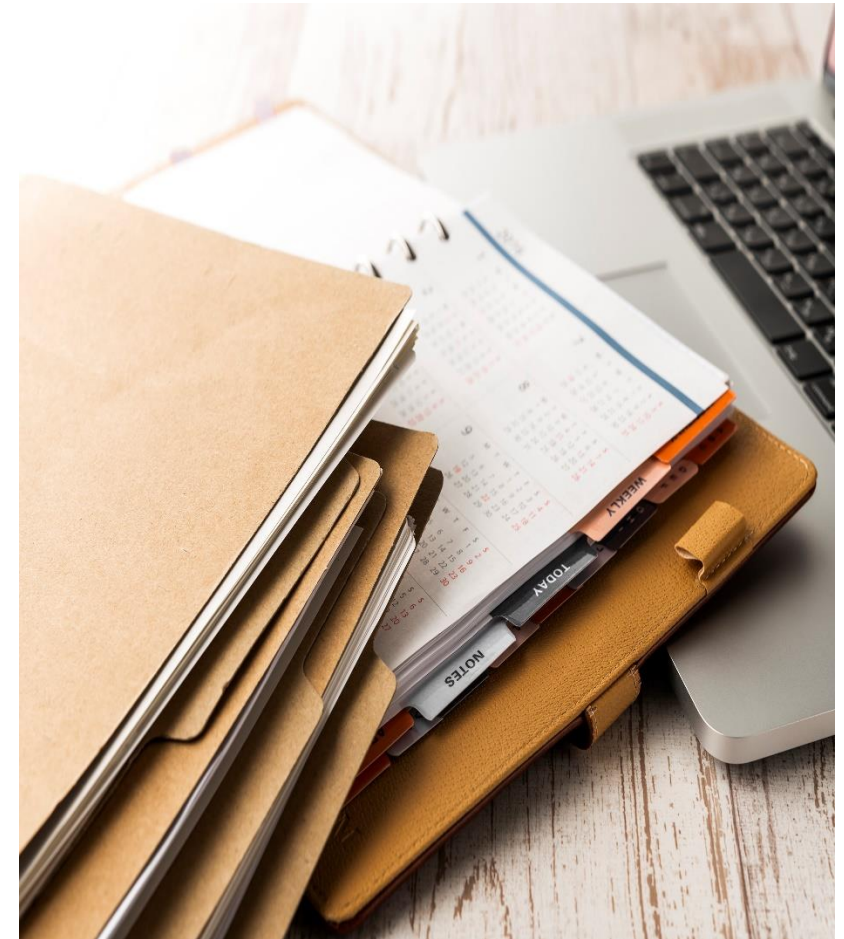
**Outcome:** FSRA issued a Notice of Proposal to **refuse** the Level 2 Mortgage Agent Licence

## **Example 3:**

- An individual applied for Level 1 mortgage agent licence
- The applicant disclosed a recently discharged bankruptcy

**Outcome:** FSRA placed supervision conditions on the licence for two years

This outcome was reached on consent with the applicant.





### Example 4:

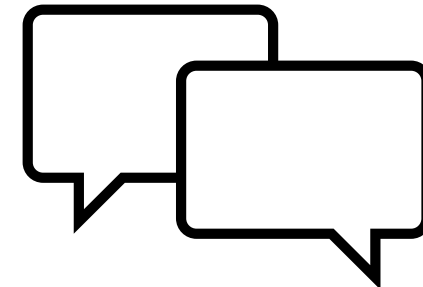
- An individual applied for Level 1 mortgage agent licence
- The applicant disclosed they were subject of an investigation with another regulatory agency

**Outcome:** FSRA placed supervision conditions on the licence, with an obligation to report to FSRA the outcome of the disciplinary matter within 5 days

This outcome was reached on consent with the applicant.



- You have an opportunity to comment on the proposed guidance
- Submissions will be accepted on FSRA's website until May 6, 2024
- FSRA will consider feedback received and publish final Guidance



# Questions?

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# Thank You