

Proposed Guidance: Mortgage Brokerage and Principal Broker Responsibilities to Ensure Compliance and Fair Consumer Outcomes

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Financial Services Regulatory
Authority of Ontario

Date: May 29, 2024

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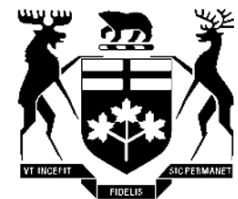
Ontario

Agenda

- Welcome & Land Acknowledgement
- Context: Why is FSRA proposing this Guidance?
- The Proposed Guidance:
 - How would it impact me – a **brokerage***?
 - How would it impact me – a **principal broker**?
 - How would it impact me – a **broker or agent**?
- Next Steps
- Q&A

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**Throughout this presentation, all expectations, requirements or obligations mentioned for the brokerage or owners apply to the brokerage's "controlling mind."*

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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Context

Why is FSRA proposing this Guidance?

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Strong conduct and compliance culture that focuses on good consumer outcomes **increases confidence and trust in the sector.**

Brokerage owners and principal brokers are **best placed to influence the conduct** of their licensed individuals.

You know your business, so you can put in place controls and structure that are fit for purpose based on the size and nature of your business.

Based on a survey of principal brokers, examinations and consumer complaints, FSRA observes that principal brokers have **varying degrees of effectiveness and understanding** of their responsibilities to supervise their licensed individuals.

What is a “strong conduct culture?”

- a) Compliance with laws
- b) Acting & making decisions that won't lead to poor/unfair client outcomes



The Proposed Guidance

**Mortgage Brokerage and Principal Broker
Responsibilities to Ensure Compliance and
Fair Consumer Outcomes**

1. Reinforce the shared responsibility and accountability of brokerages and PBs in promoting a strong conduct and compliance culture to prevent poor or unfair consumer outcomes.
2. Propose ways a brokerage can ensure its PB:
 - a) acts with integrity,
 - b) demonstrates professional competence, and
 - c) has necessary independence, authority and resources to satisfy their regulatory responsibilities.
3. Set out how PBs can demonstrate they are taking reasonable steps to ensure fair outcomes for consumers by effectively hiring, training and supervising brokers and agents.



This Guidance **does not create any new obligations** – it is simply more detailed explanation of the existing requirements and obligations upon licensees within MBLAA.

Outcome Focus

Ensure fair treatment of consumers to reduce poor or unfair outcomes for them.

Flexible and Risk-Based

Not prescriptive but offers suggestions and factors for consideration.

Dynamic

Can be adapted by each brokerage based on the size, complexity and nature of their business.

Poll Question 2

Under MBLAA, who is responsible for ensuring every broker/agent complies with applicable requirements?

- a) The brokerage
- b) The PB
- c) Both



How would it impact me – a brokerage owner?

A brokerage, i.e., its primary decision maker(s), is responsible for ensuring its principal broker can meet their obligations under MBLAA, which include their duty of compliance.

You are expected to:

- **Establish** a deliberate “**tone from the top**” and set out the brokerage’s conduct and compliance expectations, reinforcing the importance of **treating consumers fairly**.
- **Appoint** a person with the **right competence and integrity** to be a PB and **monitor** to ensure they are demonstrating such.
- **Provide** the PB with the **necessary independence to properly discharge their statutory duties**. To do this, PBs need:
 - Sufficient **authority and status**
 - Adequate **resources**

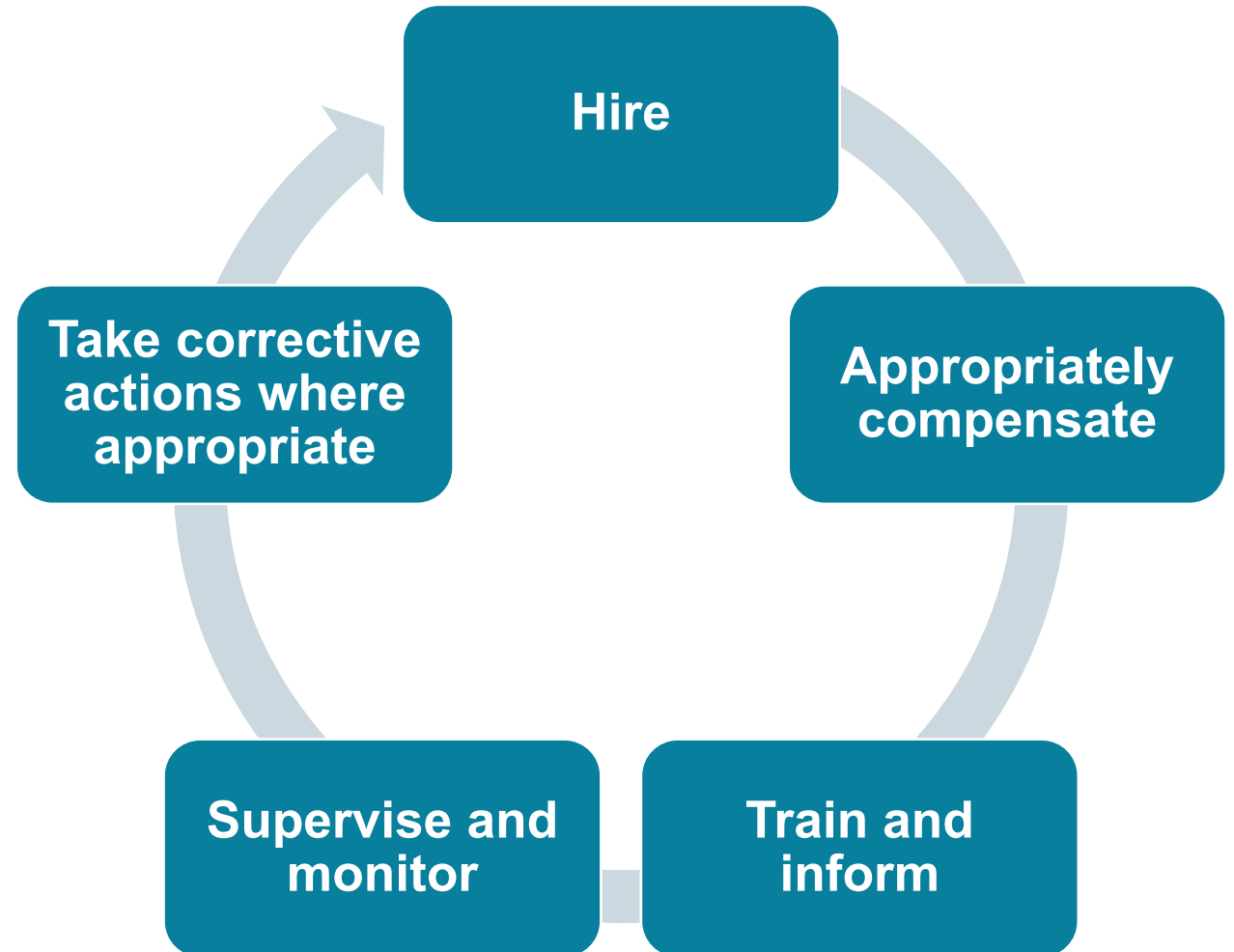


How would it impact me – a principal broker?

Gatekeeper for your brokerage and the sector broadly.

“Reasonable steps” that you take should ensure:

- **Compliance**
- Brokerage and licensed individuals **achieving the outcome of** suitable mortgage recommendations and understanding for clients



Poll Question 3

To adequately supervise a team, does a PB have to review every mortgage file and every mortgage recommendation?

a) Yes

b) No



Can a PB delegate their compliance responsibilities to others?

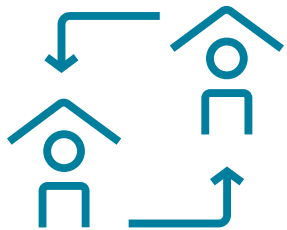
- a) Yes
- b) No



How would it impact me – a broker or agent?

Brokers and agents are authorized by the brokerage that sponsors them.

- Licensed brokers and agents are expected to:
 - Conduct themselves in accordance with all legislative and regulatory requirements, following all guidance and the code of conduct, **always keeping the fair treatment of consumers top of mind** in business dealings.
 - **Follow the direction, policies and procedures** set out for the brokerage, regardless of employee/contractor status.
 - **Report** individuals and/or activities which violate the outcomes and requirements of the MBLAA and its regulations.



*Your Principal Broker and compliance staff (if applicable) support you to ensure delivery of suitable mortgage recommendations and compliance, and to reduce the risk of consumer complaints, E&O claims and loss of reputation. **Let them.***

*Brokerages are required to establish policies and procedures for their agents/brokers to follow so the brokerage is compliant with the MBLAA. **Brokers and agents are required to follow them.***

1. Read the **Guidance** (posted on FSRA's website under 'Engagements and Consultations')

2. Provide any feedback or questions via the **consultation portal** before June 28, 2024

When responding, explain how or why you agree or disagree with the intended outcome(s) or how the interpretation, requirement or expectation may pose challenges on typical mortgage brokering operations.

3. For brokerage ownership/management and existing PBs:

- **Assess** your operations' alignment with the guidance, identify gaps
- **Plan** adjustments/improvements to better achieve alignment with the guidance
- Keep the **overarching outcome** in mind at all times when establishing policies and procedures: everything should drive toward ensuring that **all consumers receive only suitable recommendations and understand the impact of product choices**



Questions?

Thank you for attending!

A post-webinar page including a recording of this webinar, a transcript, a copy of this presentation and answers to questions will be posted to the FSRA website.

Please direct all questions through our Contact Centre at
1-800-668-0128 or ContactCentre@fsrao.ca.