

Interpretation



Effective date: [TBD]
Identifier: No. MB0055INT

Proposed Guidance: Use of team names in the mortgage brokering sector

Purpose

This Interpretation Guidance (“Guidance”) provides the Financial Services Regulatory Authority of Ontario’s (“FSRA”) interpretation of sections 5, 6 (1) and 7 of Ontario Regulation 188/08 *Mortgage Brokerages: Standards of Practice* (“O. Reg. 188/08”) and sections 7, 8(1) and 9 of Ontario Regulation 187/08 *Mortgage Brokers and Agents: Standards of Practice* (“O. Reg. 187/08”) under the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (“the Act”). It clarifies that, as per FSRA’s updated interpretation of these provisions, in limited circumstances outlined in this Guidance, the use of any unauthorized name (or team names^[1]) in public relations materials is not prohibited when it would not:

- result in harm to consumers (borrowers and/or lenders/investors),
- create confusion for consumers,
- reduce accountability of the authorizing brokerage.^[2]

Adherence to this Guidance will help ensure fair outcomes for consumers.

^[1] “Team names” is a term commonly used in the sector. In this Guidance, it refers to any unauthorized names.

^[2] With the introduction of these criteria, FSRA has updated its interpretation of the noted provisions.

Scope

This Guidance affects how the following licensees conduct their business:

- mortgage brokerages
- mortgage brokers, including principal brokers
- mortgage agents

Rationale and background

In the mortgage brokering sector, a team name refers to a name that represents one or more individuals working together as a group within a mortgage brokerage. There may be more than one team operating within a brokerage. A team typically consists of mortgage agents and/or brokers. It may also include unlicensed individuals to assist the agents and brokers with business aspects that do not require licensing (e.g., scheduling, data entry).

While mortgage transactions are ultimately completed under the brokerage's name, stakeholders have noted that consumers often prefer to work with familiar team members (e.g., familiar names and brands), especially in markets where shared language and culture can better inform and support consumers' financial decision-making. The use of team names in the sector is inconsistent and without guiding principles for the use of team names, this practice may result in a lack of clarity and consumer confusion about the brokerage that is accountable to the consumer (e.g., consumers may not be aware that the team works for a brokerage and that the brokerage has ultimate accountability for the conduct of the team's members and the business).

To help ensure an appropriate approach to the use of team names across the sector, this Guidance outlines criteria which would ensure consistency, clarity and transparency in the required information about a team (i.e., its members) and the sponsoring brokerage (i.e., consumers would know who to contact if they have complaints).

FSRA's statutory objects

In supervising and regulating the mortgage brokering sector, FSRA is guided by its statutory objects. With respect to this Guidance, FSRA's relevant statutory objects include FSRA's duties to:

- Protect the rights and interests of consumers
- Promote high standards of business conduct
- Promote transparency and disclosure of information by the regulated sectors
- Deter deceptive or fraudulent conduct, practices and activities by the regulated sectors
- Foster strong, sustainable, competitive and innovative financial services sectors

Interpretation

The Act and its regulations set out provisions for the use of names in public relations materials. It is the brokerage's and principal broker's obligation to ensure compliance with these provisions. FSRA's interpretation of these provisions is that they do not prohibit the use of team names when used in a manner consistent with this Guidance.

Brokerages that allow the use of team names should establish and implement "reasonably designed" policies and procedures to approve such use to prevent consumer confusion and ensure their accountability. ^[3]

When determining whether licensees are using team names in a manner compliant with the Act and its regulations, FSRA's considerations include, but are not limited to, the following factors:

- 1. Whether the licensee is complying with the Act's requirements for public relations materials relating to authorized and licensee name, prominent disclosure and the prohibition against including false, misleading or deceptive information. ^[4]**

^[3] A brokerage has a duty to establish policies and procedures under section 40 of O. Reg. 188/08.

^[4] The relevant provisions are O. Reg. 188/08, s. 5, 6(1) and 7 and O. Reg. 187/08, s. 7, 8(1) and 9.

Authorized name and licensee name

- O. Reg. 188/08, s.5 - “A brokerage shall not carry on business in a name other than its authorized name.”
- O. Reg. 187/08, s.7 - “A mortgage broker or agent shall not deal or trade in mortgages in a name other than his or her licensee name.”

FSRA’s interpretation of the above provisions is that they do not prohibit the use of a team name in public relations materials, provided both of the following conditions are met:

1. the team name is used alongside the brokerage’s authorized name and licence number, and the licensee’s name with their authorized title, and
2. all mortgage documentation is completed using only the authorized name of the brokerage and signed using the licensee’s name, as required.

Prominent disclosure

- O. Reg. 188/08, s.6(1) - “A brokerage shall disclose its authorized name and its licence number in all of its public relations materials and the name and number must be clearly and prominently disclosed.”
- O. Reg. 187/08, s 8(1) - “A mortgage broker or agent shall clearly and prominently disclose, in all of the broker’s or agent’s public relations materials, the following information:
 - a) the broker’s or agent’s licensee name.
 - b) whether the individual has a Mortgage Agent Level 1 licence or a Mortgage Agent Level 2 licence.
 - c) the authorized name and licence number of the brokerage on whose behalf the individual is authorized to deal or trade in mortgages.”

Licensees must ensure consumers can easily identify the authorized name and licence number of the accountable brokerage. The authorized name and licence number of the authorized brokerage should not be less prominent than a team name. Where agents and brokers are also listed in a brokerage's public relations materials, the agents' and brokers' licensee names and licence type (e.g. broker, agents level 1 or 2) must be included.

False, misleading or deceptive information

- O. Reg. 188/08, s. 7 - "A brokerage shall not include false, misleading or deceptive information in its public relations materials."
- O. Reg. 187/08, s. 9 - "A mortgage broker or agent shall not include false, misleading or deceptive information in his or her public relations materials."

Licensees must ensure that public relations materials do not include false, misleading or deceptive information. When using a team name, licensees must ensure the team name does not appear or present as if it is an independent licensed mortgage brokerage.

2. Whether the principal broker approved the team names and monitors their use.

- Principal brokers failing to adequately monitor public relations materials would constitute non-compliance with s. 2(1) of Ontario Reg. 410/07 Principal Brokers: Eligibility, Powers and Duties, which requires principal brokers to take reasonable steps to ensure that the brokerage and its authorized agents and brokers comply with every requirement established under the Act.

Compliance expectations

FSRA can take enforcement actions to enforce compliance with the Act and its regulations including issuing a compliance order, suspending or revoking a licence, placing conditions on a licence and/or imposing administrative monetary penalties. ^[5] Further, "every person who contravenes or fails to comply with a standard of practice that is applicable to his, her or its licence is guilty of an offence." ^[6]

^[5] The Act, ss. 18, 19, 35, 38 to 39.

^[6] The Act, ss. 48(2).

Effective date and future review

This Guidance became effective on [TBD] and will be reviewed no later than [TBD].

This Guidance was updated on:

- February 11, 2025, to omit the effective date and future review date, which will be determined following the consultation for this proposed guidance.

About this Guidance

While the Guidance does not set out mandatory requirements, depending on the facts of a particular case, it may assist a licensee in assessing whether they have met their obligations under the Act and regulations, and provides insight into how FSRA may choose to take enforcement or supervisory action.