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Checklist on Detecting and Preventing Mortgage Fraud

This checklist was developed by the Financial Services Commission of Ontario (FSCO) to assist mortgage brokerages, brokers, agents and administrators in detecting and preventing mortgage fraud. It was developed in consultation with members of the mortgage brokering industry. Mortgage brokerages, brokers, agents and administrators should use the parts of this checklist that are relevant to their work in their day-to-day business.

Practices You Should Always Follow

- Read your mortgage brokerage's or mortgage administrator's policies and procedures on detecting and preventing fraud.
- Review any other information that provides tips on detecting and preventing mortgage fraud. This may include brochures or fact sheets from mortgage insurers, mortgage broker industry associations and other industry experts.
- Be proactive in looking for possible signs of mortgage fraud. Do not ignore any red flags and do not allow yourself to be used to facilitate mortgage fraud.
- Keep detailed records.
- Follow your mortgage brokerage's or mortgage administrator's policies and procedures on what you should do if you suspect mortgage fraud.
- If you have any suspicions, report them to your principal broker.

When Taking and Reviewing an Application

This section applies when mortgage brokerages, brokers and agents take and review an application.

- If you have reasonable grounds to believe a mortgage is unlawful, you may not act as a representative of a borrower, lender or investor.

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Verify the borrower's legal authority to mortgage the property. If you have reason to doubt the borrower's legal authority, advise each prospective lender in writing as soon as possible.

- Validate any Powers of Attorney and include the validation information on the borrower's application and investor/lender disclosure form.
- Requalify the borrowers, if at refinancing someone is added or taken off the property's title.
- Verify information that is on the borrower's application. If you have reason to doubt the accuracy of information on the borrower's application or supporting documentation, advise each prospective lender in writing as soon as possible.
 - Establish a link between the borrower and supporting documents by asking the borrower to sign the supporting documents.

Verify Identification

- Ensure the correct form of identification is used. Do not accept OHIP cards.
- Check if the identification is valid. If the identification is expired or is being used by someone other than the person whose name is on it, it is not valid. If it is not valid, ask for valid identification.
- Verify driver's licences with the Ministry of Transportation.

Confirm Other Information

- Verify the employer and income that is listed on the borrower's application.
- Check the borrower's marital status and dependents, including whether spousal or child support is being paid or received.
- Verify the source of funds being used for the down payment. Check financial statements and gift letters (if the down payment is a gift) to ensure the borrower has the required funds for the down payment.
- Check rental agreements and verify rental income.
- Verify the purpose of the mortgage. Determine if the property will be owner-occupied or an investment. Find out whether the mortgage is for a purchase, refinancing the borrower's existing property or another reason.

Disclosure

When you are disclosing the material risks of the mortgage, describe the measures you have taken to detect mortgage fraud.

- When disclosing an actual or potential conflict of interest, explain what measures you have taken to minimize the risk of fraud that could arise from the actual or potential conflict of interest.
- Ensure the client understands the risks of the mortgage — including the risk of mortgage fraud.

FSCO will not consider a client's signature on disclosure documents, on its own, as sufficient proof the client was adequately informed about the mortgage and its risks. Keep records of all disclosure information you provide your clients — this includes details of client discussions.

Private Investing and Lending

This section applies to mortgage brokers and agents who are involved in private mortgage investments or lending transactions.

Review the following documents or information with potential private lenders and investors:

- Ensure they understand the **Investor/Lender Disclosure Statement for Brokered Transactions (Form 1)** and if applicable, the **Investor/Lender Disclosure Statement for Brokered Transactions: Addendum for Construction and Development Loans (Form 1.1)**.
- The purpose of the two business day waiting period is to enable them to thoroughly review Form 1 and obtain independent legal advice. If they choose to reduce the waiting period, they must sign the **Investor/Lender Disclosure Statement for Brokered Transactions: Waiver for Reducing the Waiting Period (Form 1.2)**.
- Documentary evidence of the borrower's ability to meet the mortgage payments.
- If it's a construction loan, documents that confirm your due diligence in researching the developers and property to reduce the risk of mortgage fraud. You must also complete **Form 1.1**.
- The risks of the rank of the mortgage (i.e. whether it is a first, second, or third mortgage).
- Situations where the investor may be required to put in more money.

Note: Forms 1 and 1.1 must be signed by a licensed mortgage broker.

Appraisals

- If there is no appraisal for the property, explain why.
- If the appraisal does not have a CRA (Canadian Residential Appraiser), AACI (Accredited Appraiser Canadian Institute), DAR (Designated Appraiser Residential), or DAC (Designated Appraiser Commercial) designation, explain why.
- For private lenders and investors who are considering an investment in a construction loan, explain the property's "as is" value compared to the projected value on completion.

After a Mortgage Closes

After a mortgage deal closes, continue to be on the lookout for mortgage fraud. Inform the lender in writing if you have reason to doubt the mortgage is lawful, the borrower's legal authority to mortgage the property, or the accuracy of information on the borrower's application.

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