

Consultation Paper: Proposed Standards of Practice and Rule Changes for Mortgage Brokerage

Based on industry trends, emerging issues, and industry feedback, RECA is proposing amendments to the *Real Estate Act* Rules and mandatory form content to aid mortgage professionals in adequately protecting the public.

This consultation paper outlines these proposed changes and forms, and asks for your feedback and suggestions, and for how to implement these changes in the most effective and least disruptive manner.

Stakeholders can provide their feedback on these Rule amendments, forms, and the implementation of the changes through the online surveys below, or by sending their direct feedback to consultation@reca.ca.

[One survey is directed at all mortgage professionals](#) and deals with consumer understanding of mortgages, document verification, and standards for acting as an intermediary, representing a borrower, and representing a private lender.

There is a [separate survey for mortgage professionals who deal with private lenders](#), syndicated mortgages, and/or mortgage administration. Only complete this survey if dealing directly with private lenders, syndicated mortgages, and/or mortgage administration is an established or growing part of your business.

We strongly encourage stakeholders to review the complete consultation paper before providing feedback. **Please provide your feedback on or before October 31, 2019.**

Background

This consultation paper resulted from the first round of consultation about proposed standards of practice and rules changes in the spring of 2018. Read the original consultation paper in its entirety, [here](#).

Here is a brief summary of the reasons for the proposed changes in the original paper:

- conflict of interest disclosure rule changes in British Columbia prompted RECA to consider its disclosure rules as a whole

- increased scrutiny from governments, the media, and consumers have led to the possibility of the loss of self-regulation. RECA must ensure our standards of practice adequately protect consumers
- RECA is committed to harmonizing its regulatory practices, when possible and practical, with other provincial mortgage broker regulators, some of whom have standards in place that Alberta does not. There is a gap between consumer expectations and RECA's Rules and standards of practice
- Private lenders have filled the void in the market left by stricter federal mortgage rules. The rules regulating private lending in Alberta need updating, and many mortgage brokerages professionals may not have any experience dealing with private lenders, and look to the Rules for direction.
- The increase in consumer-driven mortgage fraud since the federal mortgage rules made qualification more difficult has meant mortgage professionals must be more diligent in their document verification

How we got here:

- The Mortgage Broker Regulators' Council of Canada (MBRCC) and RECA's Mortgage Brokers' Advisory Committee (MBAC) researched disclosure rules across the country and MBAC made a number of recommendations to Council for revised standards of practice and Rule changes.
- Council directed RECA Administration to consult with stakeholders on these important topics.

The first consultation paper asked stakeholders for input on:

1. Disclosures of material risk and product suitability to consumers
2. Removal of intermediary relationship option
3. Document and Information Verification: Mortgage Fraud
4. Private lending procedures

Feedback from first round of consultation

Material Mortgage Risk and Product Suitability Disclosure

- The vast majority of professionals indicated they discussed material risks with borrowers, and were generally supportive of a requirement to have an informed consumer with enough information to select a suitable mortgage product.
- Respondents felt the proposed disclosure form was too long and duplicated content from other forms and documents
- Material risk and product suitability disclosures are not a good fit for the commercial mortgage sector, and should not be mandatory for commercial mortgage practitioners

Removal of the Intermediary Option

- Most professionals disagreed with removing this option
- There is concern that agency creates increased legal liability
- Responses indicated confusion with definition of acting as an intermediary vs. responsibilities of an agent

Document Verification

- Most professionals agreed they have a role in suppressing mortgage fraud and an obligation to verify information in an application
- Some disagreement over fraud checklist provided by RECA and the potential increase in workload for mortgage professionals
- Support for more tools for professionals, but not necessarily for a mandatory checklist or tool

Private Lenders

- Brokerages whose activity requires Alberta Securities Commission (ASC) Exempt Market Dealer status already use forms similar to those proposed by RECA and find them useful
- Professionals acknowledge that inexperienced brokers dealing with inexperienced private lenders is a concern
- Those new to private lending found the forms useful
- No consensus on best route forward for best protecting the public

Assessing and Including the Feedback

The RECA Mortgage Brokers Advisory Committee (MBAC) and the MBAC forms sub-committee reviewed industry feedback from the first round of consultation, and agreed in principle on Rule changes.

MBAC amended the proposed Rules and mandatory forms including:

- RECA heard the feedback that “material risks” and “forms” have negative connotations for consumers. In response, RECA has changed the *Material Risks Disclosure Form* to the more consumer-friendly *Understanding Your Mortgage*
- Condensing the forms
- Eliminating the need to initial each section of the Understanding Your Mortgage Form
- Adding guides to some of the forms to better explain their purpose and use

New Consultation Topics

Based on the feedback from the first round of consultations, RECA has revised or expanded the proposed standards, Rules, and forms, and is soliciting feedback on these and on the most efficient and effective methods to implement these proposed changes.

The complete proposed Rules are in Schedule A, forms with the mandatory content are in Schedule B, and the Explanation Guides and Checklists for the Forms are in Schedule C. Please refer to them as you provide feedback.

A. Disclosures of material risk and product suitability to consumers

Research shows that many Alberta mortgage brokerage professionals are often talking to borrowers about mortgage features, options, and risks, and product suitability, but they are not documenting those discussions, and it creates inconsistencies in the industry.

Rule Changes: Part 2, Division 3, 72 (c) (i) and 75.3 (a) of the *Real Estate Act* Rules require mortgage brokerages to disclose in writing, and seek written confirmation from the borrower, of the risks, issues, and options of the borrower's mortgage using a new consumer-oriented form, [Understanding Your Mortgage](#), with mandatory content.

Additionally, Part 2, Division 3, 72 (c)(ii) and 75.3(b) of the Rules to require mortgage brokerages to:

- disclose in writing a suitable mortgage for a borrower and the reason for the selection
- seek written confirmation from the borrower using a [Mortgage Suitability Disclosure document](#) that contains mandatory content.

Questions:

1. Does the wording in the proposed Rules in Schedule A adequately explain the necessary disclosures and requirements for mortgage professionals when discussing mortgage features, options, risks and product suitability?
2. Is there anything missing from the explanations in the [Understanding Your Mortgage](#) document in Schedule B?
3. Is there anything missing from the draft [Mortgage Suitability Disclosure document](#) in Schedule B?
4. Are there additional tools (checklists, brochures, etc.) you would like RECA to provide to assist you in discussing material risks, mortgage options, and product suitability with borrowers?
5. What is a reasonable time frame for brokerages to adjust their procedures to include the mandatory content and documents?

B. When are certain types of relationships formed and what are a mortgage professional's duties and responsibilities for each type of relationship?

Making the required disclosures in Part A creates a fiduciary relationship between that borrower and the mortgage broker. MBAC previously recommended eliminating the intermediary status for this reason. Feedback from stakeholders indicated opposition to the recommendation. The new rules provide an Intermediary Relationship option and clarify the roles and responsibilities of each available relationship option.

Rule Changes: Interpretation (r.1), (r.2), (ee.1), (ee.2) add definitions of intermediary and agency and respective relationships. Part 2, Division 3, 65(b)(d), 66(c), 72, 75.01, 75.06, 75.07, 75.08, 75.09, and 75.1, 75.3 of the *Real Estate Act* Rules ensure a mortgage professional's role is understood implicitly by a consumer, and mortgage professionals understand when certain relationships are created.

RECA would amend the Rules and create mandatory content within the following documents:

- Sole Agency with a Borrower Service Agreement
- Sole Agency with a Private Lender Service Agreement
- Intermediary Relationship with a Borrower Service Agreement
- Customer Acknowledgement & Consent Form

RECA would also provide explanation documents to guide professionals on how to use these forms.

Questions:

1. Does the wording in the proposed Rules in Schedule A adequately explain when relationships are created between the professional and borrowers?
2. Does the wording in the proposed Rules in Schedule A adequately explain the standards of practice expected of a mortgage professional?
3. Is there anything missing from the explanations in the relationship agreements in Schedule C?
4. Are there additional tools (checklists, brochures, etc.) you would like RECA to provide to assist you in using these agreements?
5. What is a reasonable time frame for brokerages to adjust their procedures to include the mandatory content in these agreements?

C. Document and Information Verification: Mortgage Fraud

Currently, mortgage brokerages must disclose in writing what steps, if any, they have taken to verify the information contained in the mortgage application, but they are not required to verify the information.

Rule Change: RECA will amend Part 2, Division 3, section 72 (now 75.05) of the *Real Estate Act* Rules to require mortgage brokers to take reasonable steps to determine the accuracy of information included in a mortgage application.

Questions:

1. Does the wording in the proposed Rules in Schedule A adequately explain a mortgage professional's requirement to take reasonable steps to determine the accuracy of information included in a mortgage application?
2. Are there tools (checklists, brochures, etc.) you would like RECA to provide to assist you in using these agreements?
3. What is a reasonable time frame for brokerages to adjust their procedures to include the verification requirements in the proposed Rules?

D. Private Lending Procedures and Syndicated Mortgage Administration

Only review this section if dealing directly with private lenders, syndicated mortgages, or performing mortgage administration is an established or growing part of your business.

Private lenders often lack the knowledge to properly assess the risks of lending proposals. Strengthening the rules around brokerage practices when dealing with private lending and syndicated mortgages will clarify roles and responsibilities, provide a consistent standard of practice within the industry, and give private lenders better information.

Rule Change: Clarify various private lending terms in Interpretations (n.2), (p.1), (s.1), (u.1), (v.1), (ff.1). Part 2, Division 3, 73, 75.01, 75.02, 75.03, 75.07, 75.1, 75.2, 75.4, 75.5, 75.6, 75.7 of the *Real Estate Act* Rules include new requirements for mortgage brokers when representing lender clients and administering mortgages. Part 4, Division 4, 118 (3)

requires \$1,000,000 employee fraud coverage for mortgage brokerages negotiating, selling, or administering syndicated mortgages.

Additionally, create a new Private Lender Disclosure Statement with mandatory content to disclose to private lenders the material risks of that loan, and create a new Know Your Client – Private Lender Clients form with mandatory content to ensure the mortgage brokerage knows its client and determines the suitability of the mortgage investment for the private lender.

Questions:

1. Does the wording in the proposed Rules in Schedule A adequately explain the requirements for mortgage brokers when representing private lender clients?
2. Is there anything missing from the Know Your Client Form – Private Lender Clients in Schedule B?
3. Is there anything missing from the Private Lender Disclosure Statement in Schedule B?
4. Are there additional tools (checklists, brochures, etc.) you would like RECA to provide to assist you in using these agreements?
5. What is a reasonable time frame for brokerages to adjust their procedures to include the mandatory content in these agreements?

E. Mandatory Content

Mandatory content provides for consistent consumer experiences. Both the initial consultation and this consultation propose certain forms be designated mandatory content.

Rule Change Part 2, Division 2, 60.1, and Part 2, Division 3, 75.91, and Schedule 1 specify the mandatory content forms and their use.

F. Commercial Mortgages

Consultation feedback pointed out that some proposed changes do not apply to commercial mortgages.

Rule Change Division 1, 43 (1) residential real estate mortgage deals must have a written service agreement while commercial real estate mortgage deals should have a written service agreement.

Part 2, Division 3, 72 (c) stipulates disclosure of possible risks, issues and options and mortgage suitability applies to dealing in residential real estate mortgages.

Part 2, Division 3, 75.91 specifies mandatory content for forms when industry members deal in residential real estate mortgages.

What next?

This formal consultation will end on **October 31, 2019**, and following that, Council will review the feedback and will decide if the proposed Rule changes and Forms will come into effect, when they will come into effect, and how they will come into effect.

Please continue to watch for updates via RECA News emails and via the November 2019 and February 2020 Regulator newsletters.

Schedule A

Proposed New Rules for Division 3 of the *Real Estate Act Rules* - Highlighted sections are the updated and amended Rules.

Division 3 – Mortgage Brokerage Standards Definition

- 64 This division applies to all classes of mortgage brokers and a reference to an industry member includes a mortgage brokerage, broker or associate.
- 65 For the purposes of this division:
- (a) an agency relationship is established when the borrower or private lender expressly consents that the industry member is authorized to act on his or her behalf and the industry member consents so to act or so acts in a deal in mortgages;
 - (b) an intermediary relationship is established when the borrower expressly consents that the industry member is authorized to represent the borrower as an intermediary with a financial institution and the industry member consents so to act and so acts in a deal in mortgages;
 - (c) a borrower or private lender who is in an agency relationship is a client of the industry member; and
 - (d) a borrower who is not in an agency relationship or intermediary relationship with the industry member is a customer.

Mortgage Brokerage Responsibilities

- 66 A mortgage brokerage must:
- (a) only deal in mortgages, as the case may be, in the name that appears on the brokerage's licence;
 - (b) ensure the name of the brokerage is clearly indicated in the course of dealing in mortgages, including any related advertisements; and
 - (c) ensure that the service relationship is clearly explained to the private lender or borrower, as applicable, and act in accordance with that service relationship.

Mortgage Brokerage Prohibitions

- 67 A mortgage brokerage must not:
- (a) employ, permit or engage a broker or associate registered with another brokerage to deal in mortgages in its name or on its behalf, directly or indirectly, as the case may be;

- (b) employ a person to deal in mortgages unless that person meets the requirements of the Act, Regulations, Rules, and Bylaws, and all levies, fees, premiums, fines, administrative penalties and other amounts that are payable under or pursuant to the Act, Regulations, Rules, Bylaws or under any predecessor enactments in respect of that person have been paid;
- (c) pay a commission or other remuneration, directly or indirectly, in connection with a mortgage dealing except:
 - (i) to a broker or associate employed by the brokerage or to not more than one corporation of which that broker or associate, as the case may be, owns not less than fifty percent (50%) of the shares issued by that corporation;
 - (ii) to a brokerage that is licensed under these Rules or under similar legislation in a jurisdiction outside of Alberta; or
- (d) pay, offer to pay, agree, or allow to be paid a referral fee or any remuneration to a person in relation to dealing in mortgage if the person is required to be licensed in relation to those services but is not licensed;
- (e) pay a commission or other remuneration directly or indirectly in connection with a dealing in mortgages to a brokerage that is licensed under these Rules or under similar legislation in a jurisdiction outside of Alberta when the brokerage has knowledge that the commission or remuneration will be paid to or shared with a person who is required to be licensed in relation to those services but is not licensed; or
- (f) offer a private lender a mortgage loan guarantee on behalf of the mortgage brokerage or on behalf of any other industry member.

Mortgage Broker Responsibilities

68 (1) A mortgage broker must:

- (a) be actively engaged in the management of the brokerage with which the broker is registered;
- (b) deal in mortgages only in the name that appears on the individual's licence and in the name of the brokerage with which the broker is registered;
- (c) ensure the name of the brokerage is clearly indicated in the course of dealing in mortgages, including any related advertisements;
- (d) provide all industry members of the brokerage and other personnel with written policies and procedures by which they are expected to operate, including written policies and procedures for personal deals;
- (e) ensure the business of the brokerage is carried out competently and in accordance with the Act, the Bylaws, and these Rules;
- (f) ensure there is an adequate level of supervision for associates within the brokerage and employees who perform duties on behalf of the brokerage;
- (g) ensure that for all monies held in trust, the bank records are maintained in accordance with the Act, the Bylaws, these Rules and the law as it relates to trustees;

- (h) ensure adequate control over any access to an automated bank machine ("ABM") or ABM cards used for electronic deposits and transfers and any access codes used for Internet banking or ABM cards;
- (i) ensure proper management and control of documents or records related to licensing, registrations and related regulatory requirements;
- (j) ensure all documents and records related to deals in mortgages required under the Act and these Rules are maintained or made available by the brokerage for the purposes of a review at the registered business office of the brokerage; and
- (k) review all mortgage agreements in a timely manner.

(2) When a mortgage broker does not have a controlling interest in the ownership of the mortgage brokerage, the broker must have a written agreement with the brokerage giving the broker authority to carry out the duties and responsibilities of a broker under these Rules.

(3) A mortgage broker is accountable for the conduct of an associate or employee, as the case may be, if the broker:

- (a) was not actively involved in the management of the brokerage;
- (b) failed to ensure an adequate level of supervision was in place for the associate or employee, as the case may be;
- (c) was willfully blind to the conduct of the associate or employee, as the case may be;
- (d) was a participant in the misconduct;
- (e) had knowledge of the misconduct of the associate or employee, as the case may be, and failed to take reasonable steps to stop such misconduct;
- (f) upon becoming aware of the misconduct failed to take reasonable steps to correct the misconduct or reduce any harm that may have resulted from the misconduct; or
- (g) failed to notify the executive director upon becoming aware of misconduct relating to fraud, deception, theft, or unlawful activities on the part of the associate or employee.

Delegation by broker

69 (1) A mortgage broker may delegate the broker's duties and responsibilities to an industry member associated with the mortgage brokerage if:

- (a) the delegate is registered with the brokerage and is qualified to carry out the responsibilities;
- (b) the particulars of the delegation of responsibilities by the broker to the delegate are clear and in writing, and are agreed to and understood by the broker and the delegate;
- (c) the particulars of the delegation are communicated to the employees and associates, as the case may be; and
- (d) the broker has a system in place to monitor the delegate and verify that adequate supervision is being maintained.

(2) In the event a mortgage broker delegates the broker's duties and responsibilities to a delegate, the broker remains accountable for the conduct of the delegate and all associates or employees of the brokerage.

Mortgage associate responsibilities

70 A mortgage associate must:

- (a) deal in mortgages only in the name that appears on that individual's licence and in the name of the mortgage brokerage with which that individual is registered;
- (b) ensure that all dealings in mortgages and the relevant documentation meet legislative requirements found under the Act, Regulations, Rules, and Bylaws;
- (c) provide the broker in a timely manner all original documentation and copies of original documents provided to the parties or maintained by other brokerages:
 - (i) related to dealings in mortgages; and
 - (ii) required under the Act and these Rules;
- (d) keep the broker informed of the activities being performed by the associate on behalf of the brokerage;
- (e) ensure there is an adequate level of supervision for the mortgage brokerage employees and others who perform duties on the associates' behalf;
- (f) respond promptly to any inquiry that is addressed to them by the broker; and
- (g) notify the broker upon learning of a violation of the Act, Regulations, Rules, or Bylaws by any broker, associate or employee associated with a brokerage.

Mortgage broker and associate prohibitions

71 (1) A mortgage broker or associate, as the case may be, must not:

- (a) deal in mortgages on behalf of a brokerage other than the brokerage with which they are registered;
- (b) promise to pay or pay a commission or other remuneration, directly or indirectly, to any person resulting from or in connection with a dealing in a mortgage except through the brokerage with which they are registered;
- (c) accept a commission, referral fee or other remuneration, directly or indirectly, for dealing in a mortgage from any person except the brokerage with which they are registered; or
- (d) directly or indirectly, advertise, communicate or offer to any person an incentive except an incentive that is provided by and on behalf of the brokerage with which they are registered;

(2) A mortgage broker or associate, as the case may be, must not directly or indirectly, provide an inducement unless the inducement is provided by and on behalf of the brokerage with which the mortgage broker or associate is registered, details of the inducement are provided in writing, and the broker has provided written approval.

Industry Member Responsibilities

72 Industry members must:

- (a) act as agent for a borrower unless
 - (i) the industry member acts as an intermediary for a borrower and the lender is a financial institution; or
 - (ii) the industry member acts as agent for a private lender;
- (b) understand any service relationship with a financial institution;
- (c) when dealing in residential real estate mortgages, obtain written acknowledgement and disclose in writing to a borrower:
 - (i) the possible risks, issues, and options of the mortgage and implications prior to signing a mortgage commitment; and
 - (ii) a suitable mortgage loan, including the suitability assessment, prior to signing a mortgage commitment and before a borrower pays any mortgage application fees;
- (d) return all original documents to the private lender and borrower when requested, at no charge to the private lender or borrower;
- (e) unless the private lender or borrower's lawyer does so, ensure the private lender and borrower are provided with:
 - (i) a copy of the registered mortgage;
 - (ii) a copy of the certificate of title for the property affected by the mortgage; and
 - (iii) a copy of the lawyer's report, if any, with respect to the registration and the effect of the transaction;
- (f) when acting as sole agent or intermediary for the borrower, disclose:
 - (i) all conflicts of interest in writing immediately after they become known;
 - (ii) where applicable, all legal fees, real estate appraisal fees and all other fees the borrower may incur; and
 - (iii) all remuneration to be received by the mortgage brokerage from the borrower or any other parties.

73 Industry members acting for a private lender considering purchasing an undivided interest in a mortgage or who is intending to sell an undivided interest in a mortgage to a private lender must:

- (a) provide competent underwriting services including:
 - (i) a description of the purpose of the loan;
 - (ii) relevant, reliable and independent information about the value of the real estate to be encumbered by the mortgage, including the underlying assumptions used to determine the value of the real estate;
 - (iii) relevant information about the land;
 - (iv) all relevant financial information about the borrower and guarantors; and
 - (v) descriptions of the loan and mortgage terms;
- (b) ensure that the private lender:

- (i) has been provided with a copy of the mortgage agreement;
- (ii) through the best efforts of the industry member understands the mortgage agreement and its clauses pertaining to:
 - A. the process and conditions under which the mortgage loan will be renewed;
 - B. whether the mortgage agreement allows mortgage lenders to sell their undivided interest in the mortgage and if so, under what conditions;
 - C. the process to raise foreclosure funding from each syndicated mortgage lender;
 - D. whether there are any prioritized interests within the mortgage or among mortgage participants;
 - E. the process to be followed by the participants in the syndicated mortgage should the syndicated mortgage agreement require changes or amendments;
 - F. the syndication terms; and
 - G. if the syndicated mortgage lenders are required to administer in full or in part the mortgage loan agreement and if so the persons responsible for the administration and the costs associate with it;
- (c) disclose to the private lender:
 - (i) whether the mortgage broker will be paying a referral fee, the amount of referral to be paid and the name of the person to whom the referral is being paid; and
 - (ii) the types of costs, the potential costs and processes required to deal with the borrower's possible default.

74 Industry members must ensure that a private lender complies with the written disclosure requirements to be provided to the parties pursuant to the *Consumer Protection Act* and Regulations.

General Prohibitions

75.01 Industry members must not

- (a) act as agent for a borrower and a private lender at the same time;
- (b) act as an intermediary for a private lender; or
- (c) act as an intermediary for a borrower unless the lender is a financial institution.

75.02 (1) Industry members must not sell undivided interests in mortgages, represent private lenders in relation to syndicated mortgages or other mortgage investment entities where the funded mortgage amount exceeds 90 per cent of the fair market value of the property relating to the mortgage, excluding any value that may be attributed to proposed or pending development of the property.

(2) Industry members who carry out the activity outlined in subsection (1) are not acting in the business of industry members and the *Securities Act* and Regulations applies.

(3) Written notice with respect to subsection (2) must be provided to all parties involved in the circumstances outlined in subsection (1).

75.03 Industry members must not represent private lenders in a deal in syndicated mortgages if the mortgage brokerage, a shareholder having more than 10% of the mortgage brokerage's shares, the mortgage broker or any mortgage associate is a borrower or has a direct or indirect interest as the borrower, either personally, or through the ownership in another corporation or through an immediate family relationship or as guarantor.

Collection of fees

75.04 (1) Subject to subsection (2), a mortgage brokerage must not charge, collect or attempt to collect a fee from a borrower for assisting the borrower in obtaining a mortgage from a lender until the following conditions have been met:

- (a) the lender has provided a written confirmation to fund the mortgage, accepted by the borrower and the commitment has been provided to the borrower or the borrower's industry member; and
- (b) the lender or the lender's representative has provided the borrower with an initial disclosure statement and at least two business days have passed since the initial disclosure statement was received by the borrower or the borrower has waived the time period for delivery in accordance with the *Consumer Protection Act*.

(2) Section 75.04(1),

- (a) only applies to a mortgage where the borrower is an individual who enters into a credit arrangement primarily for personal, family, or household purposes; and
- (b) does not apply to actual fees disbursed by the mortgage brokerage to third parties for credit reports, Alberta Registries, courier and appraisal services if a written agreement exists between the brokerage and the borrower where the borrower agrees to compensate the brokerage for these costs.

Verification of Information Disclosure

75.05 (1) An industry member must take reasonable steps to confirm the accuracy of information included in a mortgage application, supporting documentation, and other information or representations.

(2) Information for purposes of (3) includes information contained in the mortgage application, supporting documentation, other information or representations made by the borrower or lender, any unresolved inconsistencies in the information, and the identities of the parties to the deal in mortgages.

(3) If requested by the borrower or lender, an industry member must disclose in writing what steps were taken to verify the information obtained and supplied by the industry member to the borrower and lender.

(4) An industry member must maintain in the mortgage brokerage file documentation outlining the industry member's reasonable efforts to confirm accuracy and verify the information.

Disclosure Requirements

75.06 (1) Before eliciting or as soon as possible upon receiving confidential information from any borrower or private lender concerning that borrower's mortgage needs, motivation, financial qualifications or the private lender's ability to lend and other material information or in any event before entering into a service agreement with a borrower or private lender, an industry member must disclose in writing to that borrower or private lender:

- (a) the nature of the services the industry member will provide;
- (b) whether the industry member is acting in the deal in mortgages or anticipated deal in mortgages on behalf of any other person, in any capacity;
- (c) any conflict of interest that may exist; and
- (d) any other facts that may be likely to influence the borrower or private lender's decision.

(2) If subsequent to the disclosure, there is any material change in the facts which have been disclosed, the industry member must immediately disclose the change to the borrower or private lender.

(3) The industry member must use his or her best efforts to obtain written acknowledgement of disclosures made pursuant to this section.

(4) The industry member's duty of disclosure is not triggered merely by:

- (a) preliminary conversations or "small talk"; or
- (b) responding to general factual questions from a potential borrower or private lender.

Sole Agency with a Private Lender

75.07 The basic obligations of an industry member who is in a sole agency relationship with a private lender are:

- (a) to advocate for and to promote the best interests of the private lender;
- (b) to use best efforts to determine the private lender's risk tolerances and investment objectives to ensure the mortgage product presented to the private lender is suitable for the private lender;
- (c) to review the private lender's risk tolerances and investment objectives with private lender on an annual basis;
- (d) at the earliest reasonable opportunity, to advise the borrower that the industry member is the private lender's agent;
- (e) to act only for the private lender;
- (f) to obey the private lender's lawful and reasonable instructions;

- (g) to fulfill their fiduciary duties of loyalty, confidentiality and of full disclosure of all conflicts of interest that may arise between the private lender's interests and those of the industry member or borrowers;
- (h) to use best efforts to verify the identity of the private lender and borrower;
- (i) to not appoint another brokerage to act on behalf of the private lender as sub-agent without the private lender's prior written consent;
- (j) to exercise reasonable care and skill to complete the deal;
- (k) to disclose to the private lender the risks associated with the mortgage deal;
- (l) to disclose, in a timely manner, to the private lender all relevant facts affecting the mortgage deal known to the industry member;
- (m) to keep the private lender fully informed regarding the progress of the mortgage deal;
- (n) to advise the private lender to obtain expert advice on matters of importance to the private lender;
- (o) to provide a full accounting of all money and property they receive while acting for the private lender;
- (p) to disclose to the private lender:
 - (i) the actual and potential costs;
 - (ii) the loan terms, property description and analysis;
 and
- (q) to comply with the provisions of the Act, Regulations, Rules and Bylaws.

Sole Agency with a Borrower

75.08 The basic obligations of an industry member who is in a sole agency relationship with a borrower are:

- (a) to use best efforts to find suitable mortgage products that meet the material requirements identified by the borrower and to recommend only suitable products;
- (b) to advocate for and to promote the best interests of the borrower;
- (c) at the earliest reasonable opportunity, advise any lender in whose mortgage product the borrower is interested that the industry member is the borrower's agent;
- (d) to act only as the borrower's agent;
- (e) to obey all lawful instructions of the borrower;
- (f) to fulfill his or her fiduciary duties of loyalty, confidentiality and of full disclosure of all conflicts of interest that may arise between the borrower's interests and those of the industry member or private lenders;
- (g) not appoint another brokerage to act on behalf of the borrower as sub-agent without the borrower's prior written consent;
- (h) to exercise reasonable care and skill in arranging the mortgage deal for the borrower;
- (i) to gather information from the borrower on the intended property and the borrower's finances to determine the mortgage products available to the

- borrower and advise the borrower of available mortgage products from different lenders which meet the borrowers requirements;
- (j) to take reasonable steps to discover relevant facts pertaining to any mortgage product the borrower is considering and any risks;
- (k) to disclose, in a timely manner, to the borrower all relevant facts known to the industry member affecting a proposed mortgage product being considered by a borrower;
- (l) to complete and submit documentation to the lender;
- (m) to advise the borrower to obtain expert advice on matters of importance to the borrower;
- (n) to keep the borrower fully informed regarding the progress of the mortgage deal;
- (o) to assist the borrower in negotiating favorable terms and conditions with lenders and in preparing and complying with a legally binding mortgage agreement;
- (p) to provide a full accounting of all money received on behalf of the borrower; and
- (q) to comply with the provisions of the Act, Regulations, Rules and Bylaws.

Intermediary Relationship with a Borrower

- 75.09 (1) When a lender is a financial institution, industry members may enter into an intermediary relationship with a borrower.
- (2) Industry members will explain the intermediary agreement and will provide the borrower with the opportunity to review the intermediary agreement and request further information before signing the agreement.
- (3) If the borrower does not agree to enter an intermediary relationship, the industry member will offer the borrower the option to:
- (a) treat the borrower as a customer; or
 - (b) act as agent for the borrower; or
 - (c) recommend the borrower to another brokerage.
- (4) If the borrower agrees to enter into an intermediary relationship with the mortgage brokerage, in addition to s. 43 (1), (1.1), (2) and (3), the intermediary agreement will indicate how the mortgage brokerage will be remunerated and provide that industry members will:
- (a) treat the interests of both the borrower and the financial institution in an even handed, objective and impartial manner, including but not limited to, any advice or information given to one party will be disclosed to the other;
 - (b) exercise reasonable care and skill in the performance of its mandate under the acknowledgement;
 - (c) obey the instructions of the borrower and the financial institution in so far as they are consistent with other terms of the agreement;

- (d) perform for the borrower and the financial institution all necessary intermediary services, that is, services by which the interests of the borrower and the financial institution are met in an even handed, objective and impartial manner without providing confidential advice, advocating on behalf of either the borrower or financial institution, or using discretion or judgement that benefits the borrower or financial institution to the prejudice of the other, and as required, industry members will:
- (i) assist the borrower and the financial institution in negotiating a mutually acceptable agreement;
 - (ii) provide information on the mortgage product;
 - (iii) provide mortgage agreements or other relevant documents;
 - (iv) prepare all necessary documents in accordance with the instructions of the borrower and financial institution;
 - (v) provide the names of real estate associates, real estate appraisers, insurance agents, and other, but industry members will not recommend any particular professional to the borrower or the financial institution;
 - (vi) convey to the borrower and the financial institution in a timely manner all information that either wishes to have communicated to the other; and
 - (vii) keep the borrower and financial institution fully informed regarding the progress on the transaction.

(5) When dealing in residential real estate mortgages, industry members will:

- (a) disclose to the borrower, all material facts relating to the suitability of the financial institution's mortgage product known to the industry member; and
- (b) disclose to the financial institution, all material facts relating to the borrower's ability to pay the mortgage known to the industry member.

(6) The mortgage brokerage must:

- (a) ensure that broker and associates providing services to the borrower and financial institution in the deal:
 - (i) comply with the mortgage brokerage policies and procedures governing intermediary relationships; and
 - (ii) treat the interests of both the borrowers and the financial institution in an even handed, objective and impartial manner;
- (b) supervise brokers and associates and support staff providing services to the borrower and financial institution to ensure that they properly complete the deal;
- (c) hold all monies received in accordance with the provisions of the Act;
- (d) ensure industry members do not give false or misleading information to the borrower or the financial institution; and
- (e) not disclose without the informed written consent of the borrower or financial institution, as the case may be, and subject to subsection (5), personal information relating to the borrower or the financial institution and other information disclosed at any time in confidence by either to brokerage industry members.

Customer Status

75.1 (1) If circumstances arise where an industry member acts as agent for a borrower and as agent for a private lender, the brokerage must either:

- (a) cease to act as an agent for the borrower in which case:
 - (i) the borrower may become the mortgage brokerage's customer and they may acknowledge customer status by signing the customer status acknowledgment & consent form; or
 - (ii) the mortgage brokerage may refer the borrower to a different mortgage brokerage;
- (b) cease to act as an agent for the private lender in which case the mortgage brokerage may refer the private lender to a different mortgage brokerage.

(2) Where the mortgage brokerage ceases to represent the borrower or private lender, the mortgage brokerage must keep all information received during the agency relationship with the party it has ceased to represent strictly confidential and not disclose it to the borrower or private lender, as applies, or any other party without the consent of the borrower or private lender.

(3) The customer status acknowledgement will provide that the customer has received and read the acknowledgement and has been given the opportunity to request further information and independent advice concerning the acknowledgement and the representation relationships described and that the customer:

- (a) has chosen to forgo any agency representation, together with its advantages, protections and services;
- (b) understands that the mortgage brokerage does not owe the customer any agency obligations and, in particular, any fiduciary obligations; and
- (c) understands that the mortgage brokerage will not provide the customer with any services that require the exercise of discretion or judgement, the giving of confidential advice, or the mortgage brokerage advocating on behalf of the customer.

(4) The customer status acknowledgement will provide that the mortgage brokerage's obligations to the customer are limited to:

- (a) the exercise of reasonable care and skill in relation to activities outlined in this section;
- (b) not negligently or knowingly providing the customer with false or misleading information;
- (c) holding all monies received from the customer in accordance with the provisions of the Act; and
- (d) complying with the provisions of the Act, Regulations, Rules, and Bylaws.

(5) Industry members may:

- (a) provide information on the mortgage products to customers;

- (b) provide mortgage agreements or other relevant documents to customers;
- (c) prepare all necessary documents in accordance with the instructions of the customer and client;
- (d) provide the names of real estate associates, real estate appraisers, insurance agents, or other, but the brokerage will not recommend any particular professional to the customer;
- (e) convey, in a timely manner, all information that the customer wishes to have communicated; and
- (f) keep the customer informed regarding the progress of the deal.

Written Service Agreements

75.2 In addition to the requirements outlined in s.43(1)(1.1)(2) and (3), every service agreement with a private lender must clearly show all terms and conditions of the agreement, which must include:

- (a) the risk tolerances of the private lender, respecting priority on title, ratio of loan to property value, nature and type of the property used as security for the loan, costs and outcomes associated with foreclosures, and source of loan capital;
- (b) the process for the collection, use, safekeeping and distribution of confidential and personal information;
- (c) if the brokerage is expected to hold trust funds, the terms of trust;
- (d) if the agreement is of an ongoing basis, the terms of renewal, including a term which provides for an annual review of the private lender's risk tolerances and investment objectives; and
- (e) the role of the mortgage broker, if any, in the event the borrower defaults on the mortgage deal.

75.3 In addition to the requirements outlined s. 43(1)(1.1)(2) and (3), every service agreement with a borrower must clearly show all terms and conditions of the agreement, which must include:

- (a) when dealing in residential real estate mortgages, agreement to disclose the possible risks, issues, and options of the mortgage and any implications prior to signing a mortgage commitment;
- (b) when dealing in residential real estate mortgages, agreement to disclose a suitable mortgage loan, including the suitability assessment, prior to signing a mortgage commitment and before a borrower pays any mortgage application fees;
- (c) how the mortgage brokerage will be compensated;
- (d) if the brokerage expects to hold trust funds, the terms of trust; and
- (e) that the borrower will be provided with a copy of the registered mortgage, unless the borrower's lawyer, financial institution, or other does so.

Syndicated Mortgage Agreements

75.4 In addition to the written service agreement requirements outlined in these Rules, industry members who negotiate, sell or administer syndicated mortgages must ensure that all syndicated mortgage agreements state:

- (a) the process and conditions under which the mortgage loan will be renewed;
- (b) the process to be followed should the borrower default; whether syndicated mortgage lenders can sell their undivided interest in the mortgage and, if so, under what conditions;
- (c) the process to raise foreclosure funding from each syndicated mortgage lender should the mortgage go into default;
- (d) whether there are any prioritized interests within the mortgage or among the participants and the nature of the priority interests; and
- (e) the process to be followed by the participants in the syndicated mortgage should the syndicated mortgage agreement require changes to:
 - (i) the syndication terms; and
 - (ii) if the syndicated mortgage lenders are required to administer in full or in part the mortgage loan agreement and if so the persons responsible for the administration and the costs associated with it.

Mortgage Administration

75.5 In addition to the written service requirements outlined in these Rules, an industry member who administers mortgages for a private lender must:

- (a) enter into a written mortgage administration agreement with the private lender;
- (b) prepare and maintain a ledger for each borrower from whom the mortgage brokerage receives loan payments;
- (c) prepare periodically or upon request a statement of receipts and disbursement in accordance with the terms of the loan that includes the following:
 - (i) any balance carried over from the previous period;
 - (ii) all funds received as loan payments or to be used towards the repayment of the loan;
 - (iii) the amount of each disbursement and to whom it was made;
 - (iv) the balance at the end of each period; and
 - (v) the outstanding balance of the mortgage loan including but not limited to, accrued interest, late payments, and any penalties;
- (d) disburse all trust funds in accordance with the terms of trust; and
- (e) immediately advise the private lender of any missed payments, encumbrances or other types of defaults, or of any other relevant information.

75.6 (1) In addition to the written service agreement requirements outlined in these Rules, every written mortgage administration agreement must:

- (a) identify the property in which the mortgage is registered;
- (b) contain the terms of trust under which funds will be disbursed;
- (c) provide for the information to be reported to the private lender on a periodic basis;

- (d) provide for the frequency of the reports to be provided under sub-section (c);
- (e) identify who is responsible to ensure that the borrower complies with the terms of the mortgage loan agreement;
- (f) the services to be provided by the brokerage; and
- (g) if the mortgage administration agreement relates to a syndicated mortgage, the administration agreement must also include the cost and the process for private lenders to obtain the documents outlined in section 75.7 of these Rules.

75.7 (1) Industry members who administer syndicated mortgages must:

- (a) ensure that all syndicated mortgage lenders who have purchased an undivided interest in a mortgage have entered into a written syndicated mortgage agreement;
- (b) maintain, on behalf of all syndicated mortgage lenders participating in the syndicated mortgage agreement, all documentation obtained for underwriting purposes and all contracts or agreements;
- (c) provide copies of all underwriting and administration documents and contracts to the syndicated mortgage lenders in accordance with the mortgage administration agreement;
- (d) upon request provide, to each syndicated mortgage lender, a report of all syndicated mortgage lenders participating in the mortgage and the amount of undivided interest held by each syndicated mortgage lender; and
- (e) provide immediate notification to all syndicated mortgage lenders when the mortgage brokerage, a mortgage investment corporation, or other entity administered or controlled by the mortgage brokerage sells or disposes of part or all of its undivided interest in the mortgage.

(2) Under sub-section (1)(d), a syndicated mortgage lender may request that his or her name not appear in the report.

(3) Sub-section (2) does not apply if the syndicated mortgage lender is the mortgage brokerage, the mortgage broker, a mortgage associate or any entity administered by the mortgage brokerage or under the control of the mortgage broker or a mortgage associate, or any person that has a prioritized interest.

Personal Deals in Mortgages

75.8 An industry member dealing in mortgages on the industry member's own behalf, either directly or indirectly, must disclose in writing to the borrower, lender, vendor or purchaser of the mortgage, as the case may be:

- (a) any interest, direct or indirect, that the industry member has in the transaction;
- (b) that the industry member is authorized under the Act;
- (c) the name of the brokerage with which the industry member is registered;
- (d) complete details of any negotiations for a further disposition of the mortgage or the industry member's interest in it; and

- (e) any information within the knowledge of the industry member that could materially affect the acceptance, issuance, sale or purchase of the mortgage.

Delivery of Documents

75.9 (1) Where a mortgage brokerage acts as agent for a private lender who is providing the loan to the borrower, a mortgage brokerage must provide the borrower or the borrower's agent:

- (a) prior to the mortgage commitment being agreed to by the borrower, a copy of the disclosure statement pursuant to the *Consumer Protection Act*; and
- (b) as soon as practical after funding, a copy of:
 - (i) the registered mortgage;
 - (ii) the certificate of title for the property affected by the mortgage;
 - (iii) the solicitor's report, if any, with respect to the registration and the effect of the transaction; and
 - (iv) any title insurance policy or real property report obtained.

(2) The requirements listed in sub-section (1)(b) above apply only if the borrower has not already received this information.

Forms

75.91 (1) Subject to the Rules, the content of the Real Estate Council of Alberta forms contained in section C of Schedule 1 is mandatory for use when industry members deal in residential real estate mortgages effective XX.

(2) If industry members use forms with additional content than those set out in section C of Schedule 1, the forms used must contain the mandatory content set out in section C of Schedule 1 which mandatory content must not be directly or indirectly altered by the industry member.

(3) Any forms used by industry members may, in addition to the mandatory content, include additional or supplementary content; however, such additional or supplementary content must not directly or indirectly alter the meaning or effect of the mandatory content and must not alter the obligations or requirements of industry members outlined in the Act or these Rules.

(4) Notwithstanding subsection (2), upon the initiative and request of a client, an industry member may by hand add to, strikeout, or alter any content of the mandatory forms and, if agreed to by all the parties, such change must be clearly indicated on the form and initialed by the client and industry member.

Draft additional Rules requiring amendments

- Interpretation 1 (1) In these Rules,
- (a) "agent" means an industry member who is expressly or implicitly authorized to act for or represent another person;

- (b) "appraiser associations" means the Alberta Association of the Appraisal Institute of Canada, Alberta Assessors' Association, and Canadian National Association of Real Estate Appraisers;
- (c) "automated banking machine," "automated teller," "ABM" or similar references refers to automated machines used by banks and other financial institutions to facilitate banking activities by their customers;
- (d) "bank account" means money maintained in a bank, loan corporation, credit union or treasury branch;
- (e) "bank reconciliation" means a schedule drawn as of a specific date to identify the differences, if any, between a brokerage's records and the bank, trust corporation, loan corporation, credit union or treasury branch statements;
- (f) "buyer" means a person acquiring or attempting to acquire an interest in real estate by purchase;
- (g) "client" means a person who has entered into a service agreement with an industry member in accordance with these rules, whether or not that service agreement is in writing;
- (g.01) "commercial real estate" means real estate used or intended to be used to generate income and includes real estate used for retail, office, industrial, investment, institutional purposes and residential real estate comprising of more than four residential premises."

Council Resolution 2015-2

- (g.1) "confidential information" includes any information concerning the client including the client's financial or personal situation, the client's real estate and the transaction involving the client;
- (h) "conflict of interest" means a real or apparent incompatibility between an industry member's interests and the interests of the client or potential client;
- (i) "customer" means a person who has contacted, but not engaged or employed, an industry member to provide services;
- (i.1) "designated agency" means a relationship in which one or more industry members, licensed with the same brokerage, are designated in writing by the brokerage to act as sole agents for a buyer or a seller;
- (i.2) "designated agent" means an individual industry member who is designated in writing by a brokerage to serve as a sole agent for a buyer or a seller in a trade in real estate;
- (i.3) "designated brokerage agreement" means a written service agreement between a brokerage and a buyer or a seller which sets out the terms and conditions under which one or more different individual industry

members registered with the brokerage are designated as the sole agent of the seller or of the buyer, respectively;

- (j) "discipline" includes a warning, reprimand, penalty, fine, educational requirement, suspension or cancellation, resignation, withdrawal, agreement, order, or an award of costs, arising from a disciplinary matter;
- (k) "dual agency" means a situation in which an industry member or brokerage represents both seller and buyer in a transaction;
- (l) "electronic" includes created, recorded, transmitted or stored in digital form or in any other tangible form by electronic, magnetic or optical means or by any other means that have similar capabilities for creation, recording, transmission or storage;
- (m) "exclusive buyer brokerage agreement" means a written service agreement between a brokerage and a buyer under which the buyer grants the brokerage exclusive authority to act as agent for the buyer and the exclusive right to locate for the buyer an interest in real estate and by which the buyer may agree to compensate the brokerage on any purchase effected by the brokerage, another brokerage or the buyer;
- (n) "exclusive seller brokerage agreement" means a written service agreement between a brokerage and a seller under which the seller grants the brokerage exclusive authority to act as agent for the seller and the exclusive right to offer for sale the seller's interest in real estate and by which the seller agrees to compensate the brokerage on any sale effected by the brokerage, another brokerage or the seller;
- (n.1) "facilitation services" means services by which the interests of the buyer and seller are met in an even handed, objective and impartial manner without providing confidential advice, advocating on behalf of either the buyer or seller, or using discretion or judgment that benefits the buyer or seller to the prejudice of the other, and will include:
 - (i) assist the buyer and the seller in negotiating a mutually acceptable agreement;
 - (ii) providing real estate statistics and information on property including comparable property information available through listing services or other local databases;
 - (iii) providing standard form agreements of purchase and sale, lease and other relevant documents;
 - (iv) preparing all necessary documents in accordance with the instructions of the client(s);
 - (v) providing the names of real estate appraisers, mortgage brokers, surveyors, building inspectors, lenders, insurance agents, architects, engineers and the like, but will not recommend any particular professional to the client(s);

- (vi) presenting in a timely manner, all offers and counter-offers to and from the client(s) regardless of whether the property is already the subject of a contract;
- (vii) conveying to the client(s) in a timely manner all information that either wishes to have communicated to the other;
- (viii) keeping the client(s) informed regarding the progress of the transaction; and
- (ix) complying with the provisions of the *Real Estate Act* and its regulations and the rules and bylaws of the Real Estate Council of Alberta

(n.2) "financial institution" means a bank, loan corporation, trust corporation, credit union or treasury branch or other body whose business includes the lending of money by way of mortgage security or otherwise, or a subsidiary, within the meaning of section 2 of the *Business Corporations Act*;

(o) "incentive" means anything that is advertised, communicated or offered by a brokerage to the public or a person for the purpose of attracting business to the brokerage and includes a promise, good, service, game of chance, contest, or anything else of value;

(p) "individual" means a natural person;

(p.1) "individual private lender" is an individual or corporation solely owned by an individual that lends money secured by a mortgage;

(q) "inducement" means anything that is offered or provided by a brokerage to a person who is, or could be, a party to a real estate or mortgage transaction and is intended to either assist, persuade or cause that person to enter into a particular real estate or mortgage transaction;

(r) "industry member" means any person who holds a licence issued under these Rules;

(r.1) "intermediary" means an industry member who serves the interests of a borrower and a financial institution in an even handed, objective and impartial manner without providing confidential advice, advocating on behalf of either a borrower or a financial institution, or using discretion or judgement that benefits a borrower or a financial institution to the prejudice of the other and does not act as an agent

(r.2) "intermediary relationship with a borrower agreement" means a written service agreement between a brokerage and the borrower in which the brokerage acts as an intermediary between the borrower and the financial institution and assists the borrower and financial institution in negotiating a mutually acceptable financing agreement and by which the borrower may agree that the brokerage will be compensated by the financial institution;

- (s) "lease" includes a residential tenancy agreement under the *Residential Tenancies Act*;
- (s.1) "lender" means a financial institution or private lender
- (t) "material latent defect" means a defect that cannot be discerned through a reasonable inspection of the property and:
 - (i) includes a defect that renders the real estate:
 - (A) dangerous or potentially dangerous to the occupants,
 - (B) unfit for habitation, or
 - (C) unfit for the purpose for which a party is acquiring it if the industry member has become or been made aware of this purpose; and
 - (ii) may include:
 - (A) a defect that would involve great expense to remedy;
 - (B) a circumstance that affects the real estate in respect of which a local government or other local authority has given a notice to the client or the industry member, indicating that the circumstance must or should be remedied; or
 - (C) a lack of appropriate municipal building and other permits respecting the real estate
- (u) "money received in trust," "money held in trust" and other similar references to trust money received or held by an industry member include money that:
 - (i) is paid to the industry member by a party to a trade or dealing, and
 - (ii) is paid on the express or implied agreement or condition that it will be used for a specific purpose or returned to the party in accordance with the agreement or condition.
- (u.1) "mortgage investment entity" means a person or other:
 - (i) who invests substantially all of their assets in debts owing to them that are secured by one or more mortgages, hypothecs, or other instruments secured on real property; and
 - (ii) whose primary purpose or business activity is originating and administering mortgages, hypothecs or other instruments secured on real property, with the intent of holding the same for the entire term and using the revenues generated from them to provide a return for its investors;
- (v) "party" means a person who is a legal party to a transaction;

- (v.1) "private lender" means an individual private lender, mortgage investment entity, or a syndicated mortgage lender and does not include
- (w) "property management" includes:
- (i) leasing, negotiating, approving or offering to lease, negotiate or approve a lease or rental of real estate;
 - (ii) collecting or offering or attempting to collect money payable for the use of real estate;
 - (iii) holding money received in connection with a lease or rental of real estate; and
 - (iv) advertising, negotiating, or any other act, directly or indirectly for the purpose of furthering an activity described in sub-clauses (i) to (iii).
- (x) "pooled disbursement trust account" means a bank account maintained by a brokerage to facilitate payment of disbursements on behalf of more than one client;
- (y) "pooled trust account" means a bank account maintained by a brokerage to deposit, hold and disburse money received on behalf of more than one client or several accounts for the same client;
- (z) "purchase" includes an exchange, option, lease or other acquisition of an interest in real estate;
- (aa) "records" includes:
- (i) accounts, books, returns, statements, reports, financial documents or other memoranda of financial or non-financial information, whether in writing or in electronic form or represented or reproduced by other means; and
 - (ii) the results of the recording of details of electronic data processing systems and programs to illustrate what the systems and programs do and how they operate.
- (bb) "referral" means the act of recommending or directing a person for service, assistance, or business to another person or business;
- (bb.1) "residential real estate" means real estate used for residential purposes, or intended to be used for residential purposes, comprising of or to be comprised of not more than four residential premises."
- Council Resolution 2015-2
- (bb.2) "rural real estate" means real estate that has as its primary purpose farming, but does not include;
- (i) minerals in, on or under the real estate; or

- (ii) real estate used primarily for extracting, processing, storing or transporting minerals.

Council Resolution 2015-2

- (cc) "sale" includes an exchange, option, lease, or other disposition of an interest in real estate;
- (dd) "seller" means a person disposing or attempting to dispose of an interest in real estate by sale;
- (ee) "sole agency" means a relationship in which an industry member acts as the agent of only one party in a trade or deal;
- (ee.1) "sole agency with a borrower agreement" means a written service agreement between a brokerage and a borrower under which the borrower grants the brokerage sole authority to act as agent for the borrower and the sole right to locate for and to recommend to the borrower suitable mortgage products and by which the borrower may agree that the brokerage may be compensated for a successful mortgage transaction by the lender;
- (ee.2) "sole agency with a private lender agreement" means a written service agreement between a brokerage and a private lender under which the private lender grants the brokerage sole authority to act as agent for the private lender and the sole right to locate and recommend mortgage proposals suitable to the private lender's investment objectives and risk tolerances and by which the private lender may agree that the brokerage will be compensated on any successful mortgage transaction from the borrower;
- (ff) "supporting documentation" means any document the brokerage or real estate appraiser created, caused to be created or was received by the brokerage or real estate appraiser in relation to a trade in real estate, mortgage dealing or appraisal service;
- (ff.1) "syndicated mortgage" means when two or more persons participate, directly or indirectly, as lenders in a debt obligation that is secured by a mortgage;
- (gg) "terminate" means to come to an end through an application process or a deeming provision in these Rules; and
- (gg.1) "transaction brokerage" means a relationship in which a brokerage or industry member provides facilitation services to the buyer and the seller in the same trade;
- (gg.2) "transaction brokerage agreement" means a written service agreement between a brokerage and the buyer and the seller in a trade which sets out the terms and conditions under which the brokerage will provide facilitation services to the seller and the buyer in the same trade;
- (gg.3) "transaction facilitator" is an industry member who has been engaged under a transaction brokerage agreement to provide facilitation services to the buyer and the seller in the same trade;

- (hh) "trust ledger" means a record of the money held in trust for a client.
- (2) Terms defined in the Act have the same meaning when they are used in these Rules, unless otherwise set out in these Rules.
- (3) In these Rules, words importing male persons include female persons.

43 (1) Subject to these rules, an industry member who establishes a client relationship when trading in residential real estate, property management, or when dealing in residential real estate mortgages must enter into a written service agreement with that prospective client.

(1.1) Subject to these rules, an industry member who establishes a client relationship when trading in commercial real estate, **dealing in commercial real estate mortgages**, or who acts as a real estate appraiser should enter into a written service agreement with that prospective client.

Resolution 2013-2 approved by Council Oct 23/13

(2) Every written service agreement shall:

- (a) be signed by the relevant parties;
- (b) clearly show all terms and conditions of the agreement and shall include:
 - (i) the names of the parties to the agreement;
 - (ii) if applicable, the address or legal description of the property affected by the agreement;
 - (iii) if applicable, the date on which the agreement will become effective;
 - (iv) the duration of the agreement;
 - (v) the services to be provided by the brokerage or real estate appraiser;
 - (vi) the responsibilities of each party to the agreement;
 - (vii) the use and distribution of personal or confidential information;
 - (viii) the amount or method of calculating the remuneration or alternate compensation to be paid and the circumstances on which it will be payable;
 - (ix) provisions for the termination of the agreement; and
- (c) provide that any amendment or addition to the terms of the agreement shall be in writing and signed by the relevant parties.

(3) An industry member must deliver to the client a true copy of a service agreement and of any amendment or addition, immediately upon its signature.

60.1 (1) Subject to the Rules,

- (a) The content of the Real Estate Council of Alberta forms contained in section A of Schedule 1 is mandatory for use when industry members trade in residential real estate effective February 4, 2014.

- (b) The Consumer Relationships Guide of the Real Estate Council of Alberta contained in section A.1 of Schedule 1 is mandatory for use when industry members trade in residential real estate.

(2) If industry members use forms with additional content than those set out in section A of Schedule 1, the forms used must contain the mandatory content set out in Schedule 1 which mandatory content must not be directly or indirectly altered by the industry member.

(3) Any forms used by industry members may, in addition to the mandatory content, include additional or supplementary content; however, such additional or supplementary content must not directly or indirectly alter the meaning or effect of the mandatory content and must not alter the obligations or requirements of industry members outlined in the Act or these Rules.

(4) Notwithstanding 60.1(2), upon the initiative and request of a client, and industry member may by hand add to, strikeout, or alter any content of the mandatory forms and, if agreed to by all the parties, such change must be clearly indicated on the form and initialed by the client and industry member.

Duty to Carry Insurance

118(1) Every brokerage must have insurance against liability for errors and omissions and additional coverage for loss resulting from fraudulent acts in the carrying on of the business of a mortgage broker in accordance with these Rules. The errors and omissions insurance must:

- (a) be in a form of insurance and terms and conditions approved by the executive director;
- (b) include extended coverage for loss from fraudulent acts; and
- (c) be sufficient to pay a minimum of:
 - (i) \$500,000 with respect to any one occurrence involving the mortgage brokerage or any broker or associate authorized to deal in mortgages on behalf of the mortgage brokerage; and
 - (ii) \$1,000,000 with respect to all occurrences during a 365-day period involving the mortgage brokerage or any broker or associate authorized to deal in mortgages on behalf of the mortgage brokerage.

(2) Every mortgage brokerage shall, at all times while it holds an authorization, maintain errors and omissions insurance in the form of insurance and terms and conditions approved by the executive director.

(3) Every brokerage must, when negotiating, selling or administering syndicated mortgages, maintain employee fraud insurance with minimum coverage limit of \$1,000,000.

Schedule 1 – Real Estate Council of Alberta Forms

- A. The content of the following forms referred to in section 60.1 of the Rules has been approved by Council and is mandatory for industry members when industry members trade in residential real estate:
1. Repealed
 2. Exclusive Seller Representation Agreement (common law)
 3. Exclusive Buyer Representation Agreement (common law)
 4. Agreement to Represent both the Buyer and Seller (common law)
 5. Exclusive Seller Representation Agreement (designated agency)
 6. Exclusive Buyer Representation Agreement (designated agency)
 7. Agreement to Represent both the Buyer and Seller (designated agency)
 8. Customer Acknowledgement (Buyers and Sellers)
 9. Seller Customer Acknowledgement and Fee Agreement
- A1. The Consumer Relationships Guide referred to in section 60.1 of the Rules has been approved by Council and this form is mandatory for industry members trading in residential real estate. The content must not be altered by the industry member.
- B. Notwithstanding the above requirement, the members of the REALTORS® Association of Lloydminster and District may use the content of the forms and guide as modified and approved from time to time by the Real Estate Council of Alberta.

The content of the following forms and guide referred to in section 60.1 of the Rules has been approved by Council and may be used by members of the REALTORS® Association of Lloydminster and District when such industry members trade in residential real estate:

1. REALTORS® Association of Lloydminster and District – Consumer Relationships Guide
2. REALTORS® Association of Lloydminster and District – Exclusive Seller Representation Agreement
3. REALTORS® Association of Lloydminster and District – Exclusive Buyer Representation Agreement
4. REALTORS® Association of Lloydminster and District – Agreement to Represent Both the Buyer and Seller

- C. The content of the following forms referred to in section 75.91 of the Rules has been approved by Council and is mandatory for industry members when industry members deal in residential mortgages effective XX:
10. Sole Agency with a Private Lender Agreement

11. Sole Agency with a Borrower Agreement
12. Intermediary Relationship with a Borrower Agreement
13. Customer Status Acknowledgment & Consent Form
14. Understanding Your Mortgage Form
15. Mortgage Suitability Disclosure Form
16. Know Your Client Form – Private Lender Clients
17. Private Lender Disclosure Statement

End of Draft Rules

Schedule B - Draft Forms

UNDERSTANDING YOUR MORTGAGE

When applying for a mortgage, it is important to know and understand what you are committing to, and if it's right for you. Before signing a mortgage contract, you need to be sure that you understand all of the terms and conditions.

This list explains some of the possible risks, issues, and options you should consider before signing a mortgage. Your mortgage broker should discuss each of the applicable points with you. This list is not all-inclusive, but includes the most common things to consider.

1. Preapproval vs. Mortgage Contract

- A preapproval means the lender is interested in offering you a mortgage. It is not a guarantee that a lender will enter into a mortgage contract with you
- A lender might choose not to offer you the mortgage after more closely assessing you and/or the property

2. How stable is your income and employment?

- this is especially important for borrowers where a significant portion of income is variable (commission, bonus, overtime, seasonal and contract workers, etc.)
- a decrease in pay or losing your job could seriously change the affordability of the mortgage and your ability to pay the mortgage payments

3. How will the ongoing mortgage costs affect your finances?

- once the home is yours, there will be property taxes, insurance, home repairs, condominium fees (if applicable) and other recurring expenses
- make sure to include all of these expenses as part of the total monthly cost when you are considering if you can afford a mortgage (household budget)
- will you have difficulties making sure you have enough left for other things you need?

4. What happens if you can't pay for the mortgage?

- not paying your mortgage on time and in full can lead to penalty fees, default costs, and even foreclosure
- if you default, the lender has the right to take possession of the property to recover the money still owed
- you may never get the home back and the lender may sell the home
- if this happens, you may lose all of the mortgage payments you made, all of the money you invested into the home, and any equity (value beyond what is owed on the mortgage) in the home
- if the lender sells the home for a price that is less than what you owe on the mortgage, you might have to pay the difference
- it will be very difficult in the future to find a lender that will offer you another mortgage

5. What other costs will I have at closing?

- closing costs include legal fees and disbursements, property tax adjustments, appraisal fees, and land transfer taxes
- other costs include moving expenses, home maintenance equipment and furniture/décor purchases

6. Total cost of the mortgage

- the total cost of the mortgage depends on the interest rate, the amount of time it takes to pay off the entire mortgage (amortization period), and payment frequency
- your mortgage broker or lender must provide you with an estimate of the total cost
- your mortgage broker can help you with strategies to reduce your total cost

7. Interest rate

- choosing a variable, fixed, or convertible rate mortgage will have an impact on costs and affordability
- if the interest rate is variable, there is the risk that it might go up increasing your interest costs
- some variable rate mortgages allow converting to a fixed rate when you think rates may rise
- fixed rates depend on the term and can increase when you renew the mortgage
- mortgages are available with a portion fixed and a portion variable

- a Home Equity Line of Credit (HELOC) operates similar to a credit card where you can use it to a limit and use it again when it has been paid down. It is usually interest only payments and the rate can change at any time at the discretion of your lender. HELOCs may also show as consumer debt on your credit report.

8. Pre-payment privileges/payment frequency

- many mortgages allow some form of pre-payment without penalty
- this could be a lump sum up to an annual maximum amount and/or an increase in monthly payments
- you can make mortgage payments every week, every two weeks, once a month, or twice a month
- each of these can help reduce the total cost of the mortgage

9. Fees and penalties

- if you prepay more than your allowable amount there will be a penalty
- prepayment penalties vary significantly and it is important to know in advance how they are calculated
- there may be fees for making changes to mortgage payments, tax accounts or switching bank accounts
- your lender may charge you fees and penalties if you are late making a mortgage payment and if they have to pay overdue property taxes, property insurance and condominium fees
- if you have a history of delinquencies, your lender may not want to renew the mortgage

10. Portable mortgages

- if you move, a portable mortgage allows you to move your current mortgage terms to another property, saving you prepayment penalties. You and the new property must qualify when you apply to port your mortgage, as the lender must assess the new property
- portability features, particularly the amount of time allowed to move the mortgage, differ from lender to lender. Make sure you know how much time you have to avoid the penalties

11. Change in use

- some mortgages may not allow you to change how the property is used (e.g. changing your property from a residence to business or a rental property, or a tear down and build). The lender may have the right to foreclose when there is a change of use

12. Due on sale (assumable mortgage)

- changing the ownership of the property, without the prior permission of the lender, may trigger the lender's right to demand full repayment. You may be able to have a new owner assume your mortgage with the lender's and mortgage default insurer's (if applicable) permission. They will qualify the prospective purchaser

13. Standard charge or collateral charge registration

- the type of registered mortgage document varies by lender and mortgage type
- a standard charge contains the specific mortgage terms, i.e. the amount, interest rate and payment. The specific terms of a collateral charge are contained in a separate document that is not registered. The registered collateral charge document can secure any number of present and future borrowings such as different mortgage options, line of credit and credit cards
- you can transfer a standard charge to another lender with little or no cost at maturity, but you will incur legal fees if want to refinance. A collateral charge is more difficult/costly to transfer to another lender. Lenders often register a collateral charge for a higher amount than what you actually borrow so you can refinance with the same lender without incurring legal fees
- you can usually register a second mortgage, if needed, behind a standard charge but not as easily behind a collateral charge

14. Will your property value increase or decrease?

- A home is often a good asset but the value can fluctuate
- decreases in value can result in loss of equity
- increases in value build equity

15. Additional services

- the mortgage agreement may include additional services that usually come at a cost such as creditor insurance or other types of credit facilities such as credit cards and unsecured loans
- find out what the costs are and if you can cancel the ones you do not need

Borrower Acknowledgement

I/We acknowledge that we have reviewed and understand the contents in this document including the material risks and we are aware of the potential consequences.

Date: _____, 20_____.

Borrower Signature _____

Borrower Name _____

Borrower Signature _____

Borrower Name _____

Brokerage Acknowledgement

We acknowledge that we have reviewed and discussed with the borrower(s) the contents in this document including the material mortgage risks.

Date: _____, 20_____.

Brokerage _____

Brokerage Representative Signature _____

Brokerage Representative Name _____



Mortgage Suitability Disclosure

Name of mortgage brokerage _____

Borrower(s) _____

Property _____

Notice to Borrowers

Your service agreement sets out the representation relationship with your mortgage brokerage. If the mortgage brokerage is acting for a lender, they cannot represent you, and must inform you in writing. Mortgage brokerages are required to provide you with suitable mortgage options. Mortgage brokerages must evaluate your requirements before giving you a written commitment for the available mortgage option(s) (i.e. It's available if the brokerage can access a lender that offers the mortgage, it's suitable and you meet the lender's requirements).

Mortgage brokerages must inform you of additional lender information, and describe any interest the mortgage brokerage or related person has in the mortgage transaction. This includes the nature of any payments the brokerage receives.

The mortgage brokerage must provide this information to you in writing at least one (1) business day before you either agree to enter into the mortgage; or make any payment in connection with the mortgage, including fees or charges paid for mortgage brokerage services. You should keep a copy of this document for your records.

Once you have discussed your situation and needs, the brokerage will determine suitable mortgage option(s). You will make a suitable mortgage selection. The mortgage brokerage will deliver a commitment from a lender and will review the commitment with you. Please ensure you understand why it is suitable for you.

1. Description of the borrower's selected suitable mortgage:

- Name of mortgage lender
Name of mortgage product (if applicable)
Mortgage amount: \$ The mortgage is conventional or high ratio [choose one]
The interest rate is fixed or variable [choose one]
Initial interest rate of the mortgage is [choose one]
if a fixed mortgage, %;
if a variable rate mortgage: % The formula to calculate rate [describe]:
The interest rate for a fixed mortgage, or the formula for calculating the interest rate for a variable rate mortgage, may change during the mortgage term?
YES NO IF YES, EXPLAIN:
Term of mortgage: Amortization period:
The mortgage is: [choose one]
closed (no prepayment privileges) partially open (some prepayment privileges)
fully open (full prepayment privileges)

If partially open, the prepayment privileges are [describe]:

NOTE: The above description highlights the terms of the selected suitable mortgage commitment. If there is a discrepancy between this description and the lender's commitment, the lender's commitment document overrides the above description.

2. The primary reason(s) for your selection of this mortgage is: [must include at least one]

- whether the mortgage is conventional or high ratio
- the interest rate
- whether the interest rate is fixed or variable
- whether the interest rate may change during the term of the mortgage
- the term of the mortgage
- whether the mortgage is closed
- your ability to qualify or the type of property mortgaged [describe]:
- partially open or fully open
- pre-payment privileges
- pay out penalties
- the amortization period
- the mortgage is portable
- the mortgage may be re-advanced (line of credit, skip a pay, etc.)

-
- Other features of this mortgage (e.g. cash back, rebates, fee waivers, other benefits, etc.) [describe]:

3. The mortgage brokerage took the following steps to confirm the identity of the lender [describe]:

The mortgage brokerage was able to confirm the identity of the lender: Yes No

4. The mortgage brokerage or any related person will receive a direct or indirect benefit if the mortgage closes. The benefit includes any fees paid to the brokerage.

(The brokerage does not need to include fees it collects directly from the borrower and separately disclosed.)

- Yes No If Yes, the nature of that interest [describe both who has it and the nature of each interest]:

-
- We will receive our fee for this mortgage transaction from the lender.
 - We may (will) also receive monies or non-monetary benefits from the lender that include:
 - additional fees based on our volume of business with the lender,
 - our efficiency with the lender,
 - because you are paying a higher rate than
 - travel/gifts,
 - attendance at seminars or conferences,
 - equity shares with the lender and
 - other: _____

5. Additional Comments

6. Acknowledgement

I/We hereby acknowledge that I/We received a copy of this Mortgage Suitability Disclosure Form on _____, 20_____.

Borrower Signature _____

Borrower Name _____

Borrower Signature _____

Borrower Name _____



Sole Agency with a Borrower Agreement

An Agreement between

the Mortgage Brokerage (we)

and

the Borrower(s) (you)

1. Term of Agreement

1.1 This Agreement begins on _____, 20__ at ____ a.m./p.m. It ends on the funding of the loan, mortgage or other financing.

2. Services

- 2.1 We will collect your personal and/or confidential information to determine your identity and credit eligibility.
- 2.2 We will submit your financing application and other documentation to the lender(s).

3. Personal and confidential information

Personal Information is defined in the *Personal Information Protection Act* (PIPA) of Alberta and, if applicable, the *Personal Information Protection and Electronic Documents Act* (PIPEDA). Confidential information is defined in the *Real Estate Act* (REA) Rules. Your confidential information may include personal information.

- 3.1 You give your consent to us to collect, maintain, use, and disclose your personal and/or confidential information for the purpose of this Agreement and for all uses consistent with arranging and/or renewing loans, mortgages or other financing.
- 3.2 You agree, we will collect your personal and/or confidential information from any person or source that has personal and/or confidential information about you. You authorize them to release your personal and/or confidential information to us.
- 3.3 You agree we can provide your personal information and financing application to each potential lender, insurer, insurance agent/broker or service provider, and they may receive this information, maintain records relating to you, including your Social Insurance Number if you provide it.
- 3.4 You agree that we, and each potential lender, can verify any information from any source for the purposes of this agreement and arranging and/or renewing loans, mortgages or other financing.

- 3.5 You agree we will retain your personal and/or confidential information for safe keeping in accordance with the *Real Estate Act*, Rules, and Regulations, the *Personal Information Protection Act* (PIPA) and, if applicable, the *Personal Information Protection and Electronic Documents Act* (PIPEDA), whether or not your financing is approved or funded. You agree we may send the application and personal and/or confidential information to a corporate office of the brokerage and hold the information securely with access restricted to individuals having a need to deal with the information.
- 3.6 We will not:
- a) Other than the purposes in 3.1, give out any of your confidential information without your consent, unless required by law.
 - b) use confidential information we receive from you or that we get from performing under this agreement for any other purpose than those in this agreement unless you agree in writing.
- 3.7 Our duty to keep your information confidential continues after this agreement ends.
- 3.8 You understand the use of the information is to determine your credit eligibility.
- 3.9 You agree we may advise _____ about the progress of your application.
- 3.10 You agree we may add your name and contact information to our client lists at the end of the term of this service agreement to tell you about our services through electronic means.
- I/we agree _____ (Initials) I/we do not agree _____ (Initials)

4. Our responsibilities

- 4.1 We will review your personal and/or confidential information and documents received to confirm your identity and your credit eligibility. If further verification is required, we will notify all parties to any potential transaction of any changes.
- 4.2 We may provide related financial services.
- 4.3 We will only represent you.
- a) Our responsibilities to you include:
 - i. to be honest
 - ii. to exercise reasonable care and skill
 - iii. to advocate for you and to promote your best interests
 - iv. to not appoint another brokerage as sub-agent without your prior written consent
 - v. to advise the lender of any product you are interested in that we are your agent
 - vi. to assist you in negotiating favourable terms and conditions with lenders and with preparing and complying with a legally binding mortgage agreement
 - vii. to disclose the possible risks, issues, and options of the mortgage before you sign a mortgage commitment
 - viii. to be loyal, to hold your information confidential, and to tell you of all conflicts of interests that may arise between your interests and those of the lender
 - ix. to obey your lawful instructions

- x. to gather your intended property and financial information to determine the mortgage options available to you
- xi. to disclose, explain, and recommend suitable mortgage options for your consideration
- xii. advise you when you should obtain independent advice on matters of importance to you
- xiii. to complete and submit documentation to the lender; and
- xiv. to keep you informed of the progress of your application
- xv. to account to you for all money you give us

b) Our responsibilities to the lender are:

- i. to be honest; and
- ii. exercise reasonable care and skill

5. Your responsibilities:

- 5.1 Communicate and cooperate with us.
- 5.2 Be honest.
- 5.3 Give us personal and/or confidential information and financial information and keep us updated on any changes.
- 5.4 Pay all applicable expenses for:
 - a credit report,
 - appraisal,
 - Alberta Registries report
 - courier charges
 - other _____

for the purpose of this agreement whether or not you receive approval or funding. We will discuss these expenses with you.

- 5.5 Pay for any costs we incur to verify your personal and/or confidential information.

6. Credit Report Consent:

- 6.1 You authorize us to obtain credit report(s) from Equifax, TransUnion or _____.

7. Our fee

- 7.1 We will receive our fee for this mortgage transaction from the lender.
- 7.2 We may (will) also receive monies or non-monetary benefits from the lender that include
 - additional fees based on our volume of business with the lender,
 - our efficiency with the lender,
 - travel/gifts,
 - attendance at seminars or conferences,
 - equity shares with the lender

other: _____.

8. Trust money

8.1 Choose one:

- we will not be holding any money in trust for you under this agreement.

- we will be holding money in trust for you. The terms of trust are in Schedule A to this agreement.

9. Early end to this agreement

9.1 Despite the end date listed at the beginning of this agreement, the agreement ends immediately if any of these things happen:

- a) our licence to deal in mortgages is suspended or cancelled
- b) we are bankrupt, insolvent, or we are in receivership
- c) we represent the private lender in whose product you are interested
- d) we both agree in writing to an earlier end date
- e) you materially breach this agreement and we give you written notice to end it, or we materially breach this agreement and you give us written notice to end it

If the agreement ends for any of these reasons, there will be no effect on our rights and your rights under this agreement.

10. Other details about this agreement

- 10.1. The laws of the Province of Alberta govern this agreement.
- 10.2. Words in the singular meaning may be read as plural when required by the context.
- 10.3. The clause numbers will change as necessary, if there are changes in this agreement.
- 10.4. Any future changes to this agreement must be in writing and signed by both of us to be effective.
- 10.5. You agree the information provided to us and your financing application is true and correct.
- 10.6. You acknowledge this document accurately sets out our agreement.
- 10.7. You acknowledge that you have read and received a copy of this Agreement.

11. Contact information

- 11.1 We may communicate and deliver documents and information to each other in person, by mail, or electronically. Both parties acknowledge there are risks with each of these methods and we have explained these risks to you.

11.2 We will use the following contact information for all written communications between both of us. Both parties must tell each other in writing within two business days of the change of this information.

Borrower Name	_____	Brokerage Name	_____
Name	_____	Address	_____
Address	_____	Phone	_____ Fax _____
Phone	_____ Fax _____	Email	_____
Email	_____		

12. SIGNED AND DATED

This _____ day of _____, 20_____

Borrower Signature _____ Borrower Name _____

Borrower Signature _____ Borrower Name _____

Brokerage Representative Signature _____

Brokerage Representative Name _____



Sole Agency with a Private Lender Agreement

An Agreement between

 the Mortgage Brokerage (we)

and

the Private Lender (you)

1. Term of Agreement

Choose one of the following:

- This Agreement begins on _____, 20__ at ____ a.m./p.m. It ends upon the funding of the loan, mortgage or other financing.
- This Agreement begins on _____, 20__ at ____ a.m./p.m. It will end when either we or you provide at least thirty (30) days written notice to end the Agreement.

2. Services

- 2.1 We will collect your personal and/or confidential information to determine your identity and risk tolerances.
- 2.2 We will submit your loan proposal and other documentation to the borrower or borrower’s representative.

3. Personal and confidential information

Personal Information is defined in the *Personal Information Protection Act* (PIPA) of Alberta and, if applicable, the *Personal Information Protection and Electronic Documents Act* (PIPEDA). Confidential information is defined in the *Real Estate Act* (REA) Rules. Your confidential information may include personal information.

- 3.1 You give your consent to us to collect, maintain, use, and disclose your personal and/or confidential information for the purpose of this Agreement and for all uses consistent with arranging and/or renewing loans, mortgages or other financing.
- 3.2 You agree, we will collect personal and/or confidential information from any person or source that has personal and/or confidential information about you. You authorize them to release your personal and/or confidential information to us.
- 3.3 You agree we will retain your personal and/or confidential information for safe keeping in accordance with the *Real Estate Act*, Rules, and Regulations, the *Personal*

Information Protection Act (PIPA) and, if applicable, the Personal Information Protection and Electronic Documents Act (PIPEDA), whether or not the financing is approved or funded. You agree we may send the application and personal and/or confidential information to a corporate office of the brokerage and hold the information securely with access restricted to individuals having a need to deal with the information.

3.4 We will not:

- a) Other for the purposes in 3.1, give out any of your personal and/or confidential information without your consent, unless required by law.
- b) use personal and/or confidential information we receive from you or that we get from performing under this agreement for any other purpose than those in this agreement unless you agree in writing.

3.5 Our duty to keep your information confidential continues after this agreement ends.

3.6 You understand the use of the information is to determine your risk tolerances and present suitable mortgage lending proposals to you.

3.7 You agree we may add your name and contact information to our client lists at the end of the term of this service agreement to tell you about our services through electronic means.

I/we agree _____ (Initials) I/we do not agree _____ (initials)

4. Our responsibilities

4.1 We will review your personal and/or confidential information and documents received to confirm your identity and your risk tolerances. If further verification is required, we will notify you.

4.2 We will only represent you.

a) Our responsibilities to you include:

- i. be honest
- ii. to exercise reasonable care and skill
- iii. to advocate for you and to promote your best interests
- iv. to advise the borrower(s) that we are your agent
- v. to not appoint another brokerage as sub-agent without your prior written consent
- vi. to use best efforts to recommend mortgage proposals suitable to your investment objectives and risk tolerances; and if the agreement is of an ongoing basis, to review your investment objectives and risk tolerances annually
- vii. to obey your lawful instructions
- viii. to be loyal, to hold your information confidential, and to tell you of all conflicts of interests that may arise between your interests and those of the borrower(s)
- ix. to use our best efforts to verify you and the borrower's(s') identities

- x. disclose and explain all relevant facts and risks about mortgage lending proposals, and recommend suitable mortgage lending proposals for your consideration
 - xi. complete and submit documentation to the borrower; and
 - xii. keep you informed of the progress of your financing proposal
 - xiii. provide a full accounting of all the money we receive relating to the transaction(s) including fees we receive from the borrower
 - xiv. disclose actual and potential costs, loan terms, property description, and analysis
 - xv. advise you when you should obtain independent advice on matters of importance to you
 - xvi. provide competent underwriting services as specified by you
- b) Our responsibilities to the borrower are:
- i. to be honest; and
 - ii. exercise reasonable care and skill

4.3 We will ensure you receive:

- a) A copy of the registered mortgage
- b) A copy of the certificate of title for the property affected by the mortgage
- c) A copy of the solicitor's report, if any, with respect to the registration and the effect of the registration

5. Your responsibilities:

5.1 Communicate and cooperate with us.

5.2 Be honest.

5.3 Give us personal and/or confidential information and financial information and keep us updated on any changes.

5.4 Pay all applicable expenses for:

- a credit report,
- appraisal,
- Alberta Registries report
- courier charges
- legal fees
- other _____

for the purpose of this agreement whether or not you actually fund the loan. We will discuss these expenses with you.

5.5 Pay for any costs we incur to verify your personal and/or confidential information.

6. Credit Report Consent

6.1 You authorize us to obtain credit report(s) from Equifax, TransUnion or _____.

7. Our fee

7.1 we will receive our fee for this mortgage transaction from the borrower.

8. Trust money

8.1 Choose one:

we will not be holding any money in trust for you under this agreement.

we will be holding money in trust for you in accordance with the terms of trust in your mortgage administration agreement.

9. Borrower default

9.1 Choose one:

we do not have any responsibilities to you if the borrower defaults

we have responsibilities to you if the borrower defaults. Our responsibilities are found in our mortgage administration agreement with you

10. Early end to this agreement

10.1 Despite the end date listed at the beginning of this agreement, the agreement ends immediately if any of these things happen:

a) we both agree in writing to an earlier end date

b) our licence to deal in mortgages is suspended or cancelled

c) we are bankrupt, insolvent, or we are in receivership

d) you materially breach this agreement and we give you written notice to end it, or we materially breach this agreement and you give us written notice to end it

If the agreement ends for any of these reasons, there will be no effect on our rights and your rights under this agreement.

11. Other details about this agreement

11.1 The laws of the Province of Alberta govern this agreement.

11.2 Words in the singular meaning may be read as plural when required by the context.

11.3 The clause numbers will change as necessary, if there are changes in this agreement.

11.4 Any future changes to this agreement must be in writing and signed by both of us to be effective.

11.5 You agree the information provided to us and your Know Your Client application is true and correct.

11.6 You acknowledge this document accurately sets out our agreement.

11.7 You acknowledge that you have read and received a copy of this Agreement.

12. Contact information

- 12.1 We may communicate and deliver documents and information to each other in person, by mail, or electronically. Both parties acknowledge there are risks with each of these methods and we have explained these risks to you.
- 12.2 We will use the following contact information for all written communications between both of us. Both parties must tell each other in writing within two business days of the change of this information.

Private lender	Brokerage
Name _____	Name _____
Name _____	Address _____
Address _____	_____
_____	Phone _____ Fax _____
Phone _____ Fax _____	Email _____
Email _____	

SIGNED AND DATED

This _____ day of _____, 20_____.

Private lender Signature _____

Private lender Name _____

Brokerage Representative Signature _____

Print Name _____



Intermediary Relationship with a Borrower Agreement

An agreement between

_____ the Mortgage Brokerage (we)

and

_____ the Borrower(s) (you)

1. Term of Agreement

1.1 This Agreement begins on _____, 20__ at _____ a.m./p.m. It ends on the funding of the loan, mortgage or other financing.

2. Services

- 2.1 We will collect your personal and/or confidential information to determine your identity and credit eligibility.
- 2.2 We will submit your financing application and other documentation to the financial institution.

3. Personal and confidential information

Personal Information is defined in the *Personal Information Protection Act* (PIPA) of Alberta and, if applicable, the *Personal Information Protection and Electronic Documents Act* (PIPEDA). Confidential information is defined in the *Real Estate Act* (REA) Rules. Your confidential information may include personal information.

- 3.1 You give us your consent to collect, maintain, use, and disclose your personal and/or confidential information for the purpose of this Agreement and for all uses consistent with arranging and/or renewing loans, mortgages or other financing.
- 3.2 You agree, we will collect your personal and/or confidential information from any person or source that has personal and/or confidential information about you. You authorize them to release your personal and/or confidential information to us.
- 3.3 You agree we can provide your personal and/or confidential information and financing application to each potential financial institution, insurer, insurance agent/broker or service provider, and they may receive this information, maintain records relating to you, including your Social Insurance Number if you provide it.
- 3.4 You agree that we, and each potential financial institution, can verify any information from any source for the purposes of this agreement and arranging and/or renewing loans, mortgages or other financing.

- 3.5 You agree we will retain your personal and/or confidential information for safe keeping in accordance with the *Real Estate Act*, Rules, and Regulations, the *Personal Information Protection Act* (PIPA) and, if applicable, the *Personal Information Protection and Electronic Documents Act* (PIPEDA), whether or not your financing is approved or funded. You agree, we may send the application and personal and/or confidential information to a corporate office of the brokerage and hold the information securely with access restricted to individuals having a need to deal with the information.
- 3.6 We will not:
- a) Other than the purposes in 3.1, give out any of your personal and/or confidential information without your consent, unless required by law.
 - b) use personal and/or confidential information we receive from you or that we get from performing under this agreement for any other purpose than those in this agreement unless you agree in writing.
- 3.7 Our duty to keep your information confidential continues after this agreement ends.
- 3.8 You understand the use of the information is to determine your credit eligibility.
- 3.9 You agree we may advise _____ about the progress of your application.
- 3.10 You agree we may add your name and contact information to our client lists at the end of the term of this service agreement to tell you about our services through electronic means.

I/we agree _____ (Initials)

I/we do not agree _____ (Initials)

4. Our responsibilities

- 4.1 We will review your personal and/or confidential information and documents received to confirm your identity and your credit eligibility. If further verification is required, we will notify all parties to any potential transaction of any changes.
- 4.2 We may provide related financial services.
- 4.3 We will act as an intermediary between you and the financial institution(s) to assist in negotiating a mutually acceptable financing agreement. We will treat the interests of you and the financial institution in an even handed, objective and impartial manner. Any advice or information given to one party will be disclosed to the other.
- a) Our responsibilities to you in an intermediary relationship include:
 - i. be honest
 - ii. exercise reasonable care and skill
 - iii. to obey your instructions as long as they are consistent with the terms of the agreement

- iv. gather your intended property and financial information to determine the mortgage options available to you
- v. disclose and explain mortgage options for your consideration
- vi. to tell you all material facts that we know relating to the suitability of the financial institution's product
- vii. to provide mortgage agreements and other important documents to you
- viii. complete and submit documentation to the financial institution
- ix. provide the names of real estate associates, real estate appraisers, insurance agents, or other, but we will not recommend any particular professional to you, and
- x. to tell the financial institution as quickly as possible all information you wish to have us tell them, and
- xi. to keep you informed of the progress of your application

b) Our responsibilities to the financial institution are:

- i. be honest
- ii. exercise reasonable care and skill
- iii. to obey their instructions as long as they are consistent with the terms of the agreement
- iv. complete and submit documentation to the financial institution
- v. take reasonable steps to verify information and documentation as part of the application process
- xii. to tell them all material facts that we know relating to your ability to pay the mortgage
- xiii. to tell you as quickly as possible all information they wish to have us tell you, and
- xiv. to keep them informed of the progress of your application

5. Your responsibilities:

5.1 Communicate and cooperate with us.

5.2 Be honest.

5.3 Give us personal and/or confidential information and financial information and keep us updated on any changes.

5.4 Pay all applicable expenses for a

- credit report
- Alberta Registries report
- other _____
- appraisal,
- courier charges

for the purpose of this agreement whether or not you receive approval or funding. We will discuss these expenses with you.

5.5 Pay for any costs we incur to verify your personal and/or confidential information.

6. Credit Report Consent:

6.1 You authorize us to obtain credit report(s) from Equifax, TransUnion or _____.

7. Our fee

7.1 We will receive our fee for this mortgage transaction from the financial institution.

7.2 We may (will) also receive monies or non-monetary benefits from the financial institution that include:

additional fees based on our volume of business with the financial institution,

our efficiency with the financial institution,

because you are paying a higher rate than otherwise is available with this financial institution,

travel/gifts,

attendance at seminars or conferences,

equity shares with the financial institution

other: _____

8. Early end to this agreement

8.1 Despite the end date listed at the beginning of this agreement, the agreement ends immediately if any of these things happen:

a) we both agree in writing to an earlier end date

b) our licence to deal in mortgages is suspended or cancelled

c) we are bankrupt, insolvent, or we are in receivership

d) you materially breach this agreement and we give you written notice to end it, or we materially breach this agreement and you give us written notice to end it

e) we advise, in writing, we are unable to complete your financing request

If the agreement ends for any of these reasons, there will be no effect on our rights and your rights under this agreement.

9. Other details about this agreement

9.1 The laws of the Province of Alberta govern this agreement

9.2 Words in the singular meaning may be read as plural when required by the context

9.3 The clause numbers will change as necessary, if there are changes in this agreement

- 9.4 Any future changes to this agreement must be in writing and signed by both of us to be effective
- 9.5 You agree the information provided to us and your financing application is true and correct
- 9.6 You acknowledge this document accurately sets out our agreement
- 9.7 You acknowledge that you have read and received a copy of this Agreement.

10. Contact information

- 10.1 We may communicate and deliver documents and information to each other in person, by mail, or electronically. Both parties acknowledge there are risks with each of these methods and we have explained these risks to you.
- 10.2 We will use the following contact information for all written communications between us. Both parties must tell each other in writing within two business days of the change of this information.

Borrower Name _____	Brokerage Name _____
Name _____	
Address _____	Address _____
Phone _____	Phone _____
Fax _____	Fax _____
Email _____	Email _____

SIGNED AND DATED

This _____ day of _____, 20_____

Borrower Signature _____ Borrower Name _____

Borrower Signature _____ Borrower Name _____

Brokerage Representative Signature _____

Brokerage Representative Name _____



Customer Status Acknowledgment and Consent

Mortgage Brokerage is Sole Agent for the private lender
Borrower is a customer

the Mortgage Brokerage (we)

and

the Borrower(s) (you)

1. Services

- 1.1 We will collect your personal and/or confidential information to determine your identity and credit eligibility.
- 1.2 We will submit your financing application and other documentation to the private lender.
- 1.3 If requested, provide the names of real estate associates, real estate appraisers, insurance agents, or other, but we will not recommend any particular professional to you

2. Personal and confidential information

- 2.1 You give your consent to us to collect, maintain, use, and disclose your personal and/or confidential information for the purpose of this Agreement and for all uses consistent with arranging and/or renewing loans, mortgages or other financing.
- 2.2 You agree, we will collect your personal and/or confidential information from any person or source that has personal and/or confidential information about you. You authorize them to release your personal and/or confidential information to us.
- 2.3 You agree we can provide your personal and/or confidential information and financing application to each potential private lender, insurer, insurance agent/broker or service provider, and they may receive this information, maintain records relating to you, including your Social Insurance Number if you provide it.
- 2.4 You agree, each potential private lender, and we can verify any information from any source for the purposes of this agreement and arranging and/or renewing loans, mortgages or other financing.
- 2.5 You agree we will retain your personal and/or confidential information for safe keeping in accordance with the *Real Estate Act*, Rules, and Regulations, the *Personal Information Protection Act* (PIPA) and, if applicable, the *Personal Information Protection and Electronic Documents Act* (PIPEDA), whether or not

your financing is approved or funded. You agree, we may send the application and personal and/or confidential information to a corporate office of the brokerage and hold the information securely with access restricted to individuals having a need to deal with the information.

2.6 We will not:

- a) other than the purposes in 2.1, give out any of your personal and/or confidential information without your consent, unless required by law.
- b) use personal and/or confidential information we receive from you or that we get from performing under this agreement for any other purpose than those in this agreement unless you agree in writing

2.7 Our duty to keep your information confidential continues after this agreement ends.

2.8 You understand the use of the information is to determine your credit eligibility.

2.9 You agree we may advise _____ about the progress of your application.

2.10 You agree we may add your name and contact information to our client lists at the end of the term of this service agreement to tell you about our services through electronic means. I/we agree _____ Initials I/we do not agree _____

3. Our role

3.1 You have decided not to have an agent represent you. This means that you will not have the advantages, protection, and services that go with agency. You understand that:

- a) we have no agency obligations to you, especially fiduciary ones. In a fiduciary relationship, you rely on someone to act in your best interests
- b) we cannot use our judgment on your behalf, give you advice, or act in your best interests

3.2 We are the agent of the private lender (our client) in whose product you are interested. Therefore, we must:

- a) be loyal to our client
- b) act in our client's best interests
- c) give our client all information you give to us, even if it is confidential, unless we received the personal and/or confidential information from you while we were your agent
- d) not give you information or advice that is not in our client's interests

4. Our responsibilities

4.1 We will review your personal and/or confidential information and documents received to confirm your identity and your credit eligibility. If further verification is required, we will notify all parties to any contemplated transaction of any changes.

4.2 We may provide related financial services.

4.3 We will only represent the private lender.

a) Our responsibilities to you are:

- i. be honest
- ii. exercise reasonable care and skill
- iii. provide you with correct information
- iv. gather information on the property you want to finance and your financial situation
- v. explain the private lender'(s) mortgage options
- vi. complete and submit documentation to the private lender as you instruct
- vii. keep you informed of the progress of the transaction, and
- viii. communicate information between the private lender and you in a timely way
- ix. hold all money received from you under the provisions of the *Real Estate Act*
- x. provide you with a copy of this acknowledgment at signing.

b) Our responsibilities to the private lender are:

- i. exercise reasonable care and skill
- ii. Act honestly
- iii. negotiate favourable terms
- iv. maintain confidentiality
- v. disclose information
- vi. act in person
- vii. obey lawful instructions
- viii. perform mandate
- ix. and include the fiduciary duties of

- utmost loyalty
- avoid conflicts of interest
- disclose conflicts of interest
- not make secret profits
- handle confidential information properly
- to make a full accounting

5. Your responsibilities:

- 5.1 Communicate and cooperate with us.
- 5.2 Be honest.
- 5.3 Give us personal and/or confidential information and financial information and keep us updated on any changes.
- 5.4 Pay all applicable expenses for a:
- credit report
 - appraisal
 - Alberta Registries report
 - courier charges
- for the purpose of this agreement whether or not you receive approval or funding. We will discuss these expenses with you.
- 5.5 Pay for any costs we incur to verify your personal and/or confidential information.

6. Credit Report Consent:

- 6.1 You authorize us to obtain credit report(s) from Equifax, TransUnion or _____.

7. Our fee

- 8.1 You will pay us a fee of _____ for arranging your mortgage, either:
- from the proceeds of the mortgage advance or
 - directly to our brokerage after you accept and receive the private lender's final commitment to fund the mortgage and you have received the Cost of Credit Disclosure required under the Consumer Protection Act. The Cost of Credit Disclosure must be signed two business days before you pay the fee or you may waive the two day time period.
- 8.2 We will receive our fee for this mortgage transaction from the private lender.

9. Your acknowledgment

9.1 You acknowledge that:

- (a) you have read this acknowledgement
- (b) this acknowledgement does not make us your agent
- (c) you had the opportunity to get independent advice before signing this acknowledgement
- (d) this acknowledgement accurately sets out what we and you understand.

10. Other details about this acknowledgment and consent

10.1 The laws of the Province of Alberta govern this acknowledgement.

11. Contact information

11.1 The following contact information must be used for all written communications between us and you. If this contact information changes, we and you must tell each other in writing within two business days of the change.

Borrower Name _____	Brokerage Name _____
Name _____	
Address _____	Address _____

Phone _____	Phone _____
Fax _____	Email _____
Fax _____	Email _____

SIGNED AND DATED

This _____ day of _____, 20____

Borrower Signature _____ Borrower Name _____

Borrower Signature _____ Borrower Name _____

Brokerage Representative Signature _____

Brokerage Representative Name _____

Know Your Client Form – Private Lender Clients

Personal and Confidential Information

Please complete the following information regarding your personal circumstances. You give your consent to us to collect, maintain, use, and disclose your personal and/or confidential information for the purpose of this private mortgage. We will use this information to help ensure that any recommendations we make are suitable for you.

Personal Information is defined in the *Personal Information Protection Act* (PIPA) of Alberta and, if applicable, the *Personal Information Protection and Electronic Documents Act* (PIPEDA). Confidential information is defined in the *Real Estate Act* (REA) Rules. Your confidential information may include personal information. You agree we will retain your personal and/or confidential information for safe keeping in accordance with the *Real Estate Act*, Rules, and Regulations, the *Personal Information Protection Act* (PIPA) and, if applicable, the *Personal Information Protection and Electronic Documents Act* (PIPEDA). You agree we may send the application and personal and/or confidential information to a corporate office of the brokerage and hold the information securely with access restricted to individuals having a need to deal with the information. We will not: a) give out any of your personal and/or confidential information without your consent, unless required by law b) use personal and/or confidential information we receive from you or that we get from performing under our service agreement for any other purpose than those in that agreement unless you agree in writing. Our duty to keep your information confidential continues after the service agreement ends.

If an individual, your:

FULL NAME: _____	PHONES: cell _____
HOME ADDRESS: _____	home _____
BIRTH DATE: (DD/MM/YYYY) _____	business _____
EMAIL ADDRESS: _____	
SIN: _____	CITIZENSHIP: _____
EMPLOYER: _____	OCCUPATION: _____
SPOUSE'S NAME: _____	NO. OF DEPENDENTS: _____
SPOUSE'S EMPLOYER: _____	SPOUSE'S OCCUPATION: _____

If a corporation or other, the:

Name of Corporation, Partnership, Sole Proprietorship, or Other:

Description of Client's Business: _____

Registered Address: _____

Alberta or Extra-Provincial Corporation: _____

Authorized Representative/Title: _____

Contact Information: _____

List of Any Individual:

- a) who is a beneficial owner of, or exercises direct or indirect control or direction over, more than 25% of the voting rights attached to the outstanding voting securities of the corporation, or
- b) in the case of a partnership or trust, exercises control over the affairs of the partnership or trust

Are you a senior officer or director, or otherwise an insider of a company whose shares are publicly traded?

- Yes No

Do other persons have a financial interest in this mortgage?

- Yes No

Are you a politically exposed person or a head of an international organization?

- Yes No

Investment Knowledge

Which of the following categories best describes your knowledge of investing?

- Extensive - you have good business and economic knowledge, follow the markets regularly and have traded in and understand most types of investment securities, including securities sold by way of exemption from prospectus requirements.
- Good – you have some knowledge of the basic characteristics of both fixed income securities and common shares, as well as a basic understanding of the degree of risk and reward inherent in these types of securities.
- Limited – you have only invested in simple securities such as GICs (guaranteed investment certificates) or well-known common shares traded on an exchange, largely based on the advice of others.
- Nil.

Investment Experience

- Stocks Bonds GICs Mutual Funds Exempt Securities Derivatives
 Mortgage backed securities Segregated funds (insurance product) Nil Other

Notes:

Lending Experience

Do you have any previous private mortgage lending experience?

- Yes No

Notes:

Client Income

What is your approximate gross annual income from all sources?

\$ _____

- My annual income is relatively stable
 My annual income is variable.

Notes:

Spousal Income (if applicable)

What is your spouse's approximate annual income from all sources?

\$ _____

- Annual income is relatively stable
 Annual income is variable.

Notes:

Client Net Worth (includes spouse) Please provide an estimate of the value of your assets and Liabilities.

Estimated Financial Assets - Examples – cash/savings accounts; GICs; mutual funds, stocks, exempt securities, other: List type of financial asset and estimate of amount owned:

	\$ _____
	\$ _____
	\$ _____
	\$ _____
(A) Total Financial Assets	\$ _____

Line of credit or other debt to facilitate investments or secured against financial assets

	\$ _____
	\$ _____
	\$ _____
	\$ _____
(B) Liabilities related to Financial Assets	\$ _____

Estimated Net Financial Assets (A-B) **\$ _____**

Estimated Non-Financial Assets

Home	\$ _____
Other Real Estate	\$ _____
Autos	\$ _____
Business Assets	\$ _____
Other – list	
	\$ _____
	\$ _____
	\$ _____
	\$ _____
(C) Total Non-Financial Assets	\$ _____

Estimated Other Liabilities

Mortgage	\$ _____
Car loan	\$ _____
Credit Card Debt	\$ _____
Other – list	
	\$ _____
	\$ _____
	\$ _____
	\$ _____
(D) Total Other Liabilities	\$ _____

(E) Estimated Net Worth(A-B)+(C-D) \$ _____

CONCENTRATION: current transaction as a percentage of estimated Net Financial Assets _____%

Risk Tolerance - This section documents your willingness and ability to assume risk.

- Low I am comfortable accepting lower returns for a higher degree of liquidity and/or stability. I am seeking to minimize risk and loss of principal.
- Medium I value higher long-term returns and I am willing to accept the risk of moderate losses. The ability to sell or liquidate the mortgage (liquidity) is a secondary concern.
- High I wish to maximize returns and I can accept the significant risk that private mortgage lending entails. I can endure significant potential for loss. Liquidity is generally not a concern to me.

My General Risk Tolerance

_____ % Low _____ % Medium _____ % High

This Mortgage Risk

_____ % Low _____ % Medium _____ % High

Notes:

TIME HORIZON FOR THIS MORTGAGE - Indicate the period from now to when you will need to access a significant portion of the money you lend for this mortgage.

- Need these funds in case of emergency
- Less than 1 yr. 1 – 3 yrs. 4 – 5 yrs. 6 – 9 yrs. 10 yrs. or more

Notes:

INVESTMENT OBJECTIVES FOR THIS MORTGAGE

- Income - My objective is to generate fixed income. I am less concerned with an increase in value.
- Growth - My objective is capital gains over time.
- Balanced - My objective is a blend of growth and income.
- Capital Preservation – My objective is to save money with the least risk of loss.
- Other _____

Notes:

Source of Funds: _____ Use of Leverage? Yes No

Checklist of additional information to be collected/delivered if applicable:

Identity Verification Information:

ID type, reference number and place of issue: _____

ID expiry date: _____

- Was a service agreement including relationship disclosure signed and provided to the client?
- If leverage used, did you discuss the additional risk?
- If a referral was made, was the appropriate referral arrangement disclosure provided to the client?
- Has the client been informed about direct and indirect fees applicable to the proposed mortgage?
- If joint account then document spousal investment knowledge, investment experience, lending experience and who is primary instruction provider.

ACKNOWLEDGEMENT:

We acknowledge that we have discussed the risks and characteristics of mortgage lending and the client’s situation including concentration in all mortgages funded by client inside and outside the brokerage, suitability as it relates to risk tolerance, financial circumstances, investment objectives, time horizon, age, income, etc.

The brokerage is required to set out conclusions concerning their suitability decision.

Mortgage lending is recommended:

- Yes
- No

The reasons mortgage lending is suitable or not suitable for the client:

Client agrees that the information provided in this form is true and accurate, and agrees to promptly notify the brokerage of any material changes in the client information.

Date _____

Client Signature _____

Print Client Name _____

Date _____

Brokerage Representative Signature _____

Print Name of Brokerage Representative: _____

Private Lender Disclosure Statement

This document provides disclosure regarding the risks of being a private lender or buying a mortgage in Alberta. A private lender is an individual private lender, a mortgage investment entity, or a syndicated mortgage lender. The mortgage broker and private lender must complete this document before the mortgage is advanced. Please retains copies of the completed document for your records.

Mortgage Brokerage Information

Brokerage

Address

City _____ Province _____ Postal Code _____

Phone _____ Fax _____ Email _____

Name of associate representing brokerage _____

Private lender Information

Name

Address

City _____ Province _____ Postal Code _____

Phone _____ Fax _____ Email _____

Private lender Acknowledgement

I, _____ (Private lender Name) am a private lender in a mortgage transaction, disclosed in this document, and brokered by the above named mortgage brokerage. I acknowledge receipt of this Private Lender Disclosure Statement (hereinafter called the "Disclosure Statement") which has been signed by the Mortgage Brokerage and consists of three parts:

- (1) Acknowledgement of Risk;
- (2) Declaration by the Mortgage Brokerage; and
- (3) Mortgage summary and documentation.

Date _____

Private lender Signature _____

Private lender Name _____

Date _____

Witness Signature _____

Witness Name _____

Part 1. Acknowledgement of Risk

1. All mortgages carry a risk. Carefully assess the risk of this mortgage before making a commitment.
2. Persons without a comprehensive understanding or work experience in the mortgage industry are not advised to become private lenders.
3. You are strongly advised to obtain independent legal advice before committing to lending.
4. Repayment of this mortgage is not insured by any Government.
5. This mortgage cannot be guaranteed by the mortgage brokerage. If you are not prepared to risk a loss, you should not consider lending.
6. Mortgages are not liquid, consider mortgages as a long term commitment.
7. If the mortgage is to fund a development, construction or commercial project, the repayment may depend on the successful completion of the project, within budget, and its successful leasing or sale.
8. If you are one of several private lenders in this mortgage, you may not be able to enforce repayment of your funds on your own if the borrower defaults.
9. You should inspect the property or project and the surrounding area before funding.
10. Environmental risk associated with a property can significantly impact the value and/or liability therefore legal advice should be consulted prior to funding a mortgage.
11. You should obtain an appraisal from an independent and licensed appraiser before funding.
12. In general, the higher the rate of return, the higher the risk.
13. The information in this Disclosure Statement is not intended to be a comprehensive list of factors to consider in making a decision concerning this mortgage. You should satisfy yourself regarding all factors relevant to this mortgage before you commit to lending.

Some of the risks associated with this mortgage include, but are not limited to, the following:

1. Repayment of the mortgage is dependent on the borrower's ability to make payments under the mortgage and on the financial strength of any person offering a personal covenant, guarantee or financial commitment; there is no assurance that the obligations will be satisfied and therefore you may not receive any return on your money, including any initial amount advanced.
2. Market values may change between the date of the most recent property assessment or appraisal and the date you complete the transaction set out in this Disclosure Statement.
3. Property values may change over time, which may result in you incurring losses in the event of a foreclosure.
4. The insurance coverage on the property secured by the mortgage may be inadequate, cancelled or expire and expose you to potential losses.
5. There is no assurance that there will be a market for the resale or transfer of the mortgage.

The mortgage brokerage is required to provide you with all possible risks, issues, and options specific to the proposed mortgage in writing.

I, _____ (Private lender Name) acknowledge that I have read and understand the risks associated with being a private mortgage lender.

Date _____

Date _____

Private Lender Signature _____

Witness Signature _____

Print Private lender Name _____

Print Witness Name _____

Part 2. Declaration by the Mortgage Brokerage

1. For the purpose of this declaration, two persons are "related" if:
 - A) They share any relationship other than an arm's length business relationship. Any person who is a shareholder, director, officer, partner or employee of a mortgage brokerage is related to a mortgage broker or mortgage associate authorized to deal in mortgages on behalf of the mortgage brokerage.
 - B) Any of the mortgage brokers or mortgage associates authorized to deal in mortgages on behalf of the mortgage brokerage has a financial interest in the borrower/mortgagor, guarantees the obligations of the borrower/mortgagor or has any right to acquire the property, or any interest therein, which is the subject of the mortgage, then such persons are related to the borrower/mortgagor.
 - C) They are family members, including children, parents, siblings, spouses, and grandparents.

2. This declaration is made by

Name of Mortgage Brokerage, Mortgage Broker, and Mortgage Associate representing the brokerage

3. Does the Mortgage Broker and/or Mortgage Associate authorized to deal in mortgages on its behalf expect to have a direct or indirect interest in the property that is the subject of this mortgage loan?

YES

NO

If YES, please explain:

4. Is the borrower related to the Mortgage Broker and/or Mortgage Associate?

YES

NO

If YES, please explain how they are related:

5. Does the individual or company that appraised the property have a direct or indirect relationship with the Mortgage Broker and/or Mortgage Associate?

YES

NO

If YES, please explain who appraised the property and why this person appraised the property instead of an independent licensed appraiser:

I, _____ (Private lender Name), acknowledge and agree that an appraisal from an independent licensed professional appraiser is not required for the property.

Initial _____ (Private lender initial if independent appraisal is not required)

6. Are the proceeds of this mortgage to be used to refinance, payout, or redeem an existing mortgage on the subject property?

YES NO

If YES, please explain:

7. Is this mortgage a purchase of an existing mortgage or a portion of an existing mortgage?

YES NO

8. Is the mortgage in default?

YES NO

If YES, please explain:

9. Does the Mortgage Broker and/or Mortgage Associate expect to gain any interest or benefit from this transaction other than the fees disclosed in the Mortgage Summary contained in Part 3 of this Disclosure Statement?

YES NO

If YES, please explain:

10. Is the Mortgage Broker and/or Mortgage Associate aware of any possible risks, issues, and options about the mortgage other than those risks disclosed in the Mortgage Summary contained in Part 3 of this Disclosure Statement?

YES NO

If YES, please explain:

11. The Mortgage Broker and/or Mortgage Associate confirms that they will provide the following mortgage administration services for the mortgage (including any cost or associated fees in relation to managing):

The mortgage brokerage has fully complied with all requirements of the *Real Estate Act*, Rules and its regulations. I have fully completed the above *Declaration by the Mortgage Brokerage* in accordance with the *Real Estate Act* (Alberta), Rules, and regulations and declare it to be accurate in every respect.

Date _____

Mortgage Broker Signature _____

Mortgage Broker Name _____

Date _____

Mortgage Associate Signature _____

Mortgage Associate Name _____

I, _____ (Private lender Name) acknowledge receipt of the Declaration of Mortgage Brokerage.

Date _____

Private lender Signature

Private lender Name

Date _____

Witness Signature _____

Witness Name _____

Part 3. Mortgage summary and documentation

Section A. Property/Security

1. Municipal and legal address of security

1	
2	
3	
	If applicable, attach a separate listing of additional security

2. Property type (description- check all that apply for multiple properties)

- Property with existing buildings Construction Commercial
 Single family residential Development Industrial
 Half duplex residential Acreage Rental
 One to four unit residential Farm/Agricultural Vacant
 Five or more unit residential Bare Land Other: _____

Details of the property:

3. Property Taxes

Property tax assessment value: \$ _____ Annual property taxes: \$ _____

Property tax arrears: \$ _____ None

4. Zoning:

Is the zoning on the property appropriate for the proposed use?

YES NO

If the above answer is NO please explain:

5. Appraisal

No appraisal has been done on the property. I, _____ (Private lender Name) acknowledge and agree that no appraisal is required on the property;

OR

An appraisal has been done on the property

For all properties, the appraised "as is" value is:

\$ _____.

For development and construction projects, the projected market value when the project is complete:

\$ _____

Appraisal date: _____

Name of the Appraiser: _____.

Section B. Details of Mortgage

1. Type of mortgage

Your funds of \$ _____ represent:

Entire mortgage

OR

A portion of the mortgage

Your portion represents _____% of the total mortgage amount

There are _____ other persons that have an interest in the mortgage

The mortgage will be registered in the following name:

2. Existing or new mortgage

An existing registered mortgage or portion of an existing registered mortgage is being purchased,

OR

You will fund a new mortgage or portion of a new mortgage that has not yet been registered

3. Terms of the mortgage

Face value of the mortgage \$ _____

Amount of your funds \$ _____

Private lender fee \$ _____

Mortgage Brokerage fee \$ _____

Approximate legal fees: \$ _____

Administration fees \$ _____

Any other charges \$ _____

Net advanced to the borrower \$ _____

Term: \$ _____

Amortization \$ _____

Advance date: \$ _____

Maturity date: \$ _____

Balance outstanding on Maturity \$ _____

Borrowers first payment due: \$ _____

Monthly payments by the borrower \$ _____

4. Mortgage position

The mortgage to be advanced/purchased will be registered as a:

- First mortgage
- Second mortgage
- Third mortgage
- Other:

Encumbrances	Mortgage Balance	As of date
First		
Second		
Other		

Other information related to the priority of the mortgage charge:

5. Loan to Value calculation

Total of prior encumbrances: A _ \$ _____

Amount of this mortgage: B _ \$ _____

Total amount of mortgages (A+B): C _ \$ _____

Appraised "as is" value (from Section A): D _ \$ _____

Loan to "as is" value: (C/D X 100): _____ %

Projected value: (where appropriate): F _ \$ _____

Loan to "projected value" ratio: (C/F X 100): _ _____ %

Section C. The Borrower

(Note: reasonable steps have been made to confirm the identity of the borrower; further details as to what steps have been taken are outlined in Section E of this document. –for multiple borrowers please include as an attachment.)

Name of the borrower: _____

Address: _____

Phone: _____ Cell: _____ Email: _____

Section D. Attached documents

IMPORTANT: You should review the following documents carefully and assess the risks before committing to fund this mortgage. You should check that all documents are consistent with this Disclosure Statement. The following documents must be attached:

1. Written Service Agreement – Sole Agency with a Private Lender Agreement
2. If this Disclosure Statement concerns an existing mortgage, a copy of the mortgage statement.
3. If an appraisal of the property has been done in the preceding twelve months and is available to the mortgage brokerage, a copy of the appraisal.
4. If an agreement of purchase and sale in respect of the property has been entered into in the preceding twelve months and is available to the mortgage brokerage, a copy of the agreement of purchase and sale.
5. If a copy of an appraisal of the property is not delivered to you, documentary evidence of the property's value, other than an agreement of purchase and sale.
6. Documentary evidence respecting the borrower's ability to meet the mortgage payments, such as a credit bureau report or a letter from an employer disclosing the borrower's earnings.
7. If you request, a copy of the borrower's application for a mortgage.
8. If the mortgage is a new mortgage, documentary evidence of any down payment made by the borrower for the purchase of the property.
9. A copy of any agreement that you may be asked to enter into with the mortgage broker.

IMPORTANT: The mortgage brokerage is also required to provide you with all other information a private lender of ordinary prudence would consider to be material to a decision whether to lend money on the security of the property, so that you can make an informed decision before you commit to lend. This information might include (but is not limited to) the following:

1. If the mortgage is for a construction or development project:
 - i. a detailed description of the project
 - ii. a schedule of the funds that have been advanced or are to be advanced to the borrower, and
 - iii. the identity of any person who will monitor the disbursements of funds to the borrower and the use of those funds by the borrower
2. If the property is a rental property, details of leasing arrangements and vacancy status.
3. Environmental considerations affecting the value and use of the property.

Check list of documents provided:

- | | |
|--|---|
| <input type="checkbox"/> Land title documentation | <input type="checkbox"/> Borrowers credit bureau report |
| <input type="checkbox"/> Construction Advance Schedules | <input type="checkbox"/> Verification of income |
| <input type="checkbox"/> Rental/lease agreements | <input type="checkbox"/> Borrowers net worth statement |
| <input type="checkbox"/> Signed mortgage documents | <input type="checkbox"/> Statement of prior encumbrances |
| <input type="checkbox"/> Environmental report phase 1 | <input type="checkbox"/> Verification of identity |
| <input type="checkbox"/> Environmental report phase 2 | <input type="checkbox"/> Mortgage Brokerage commitment letter |
| <input type="checkbox"/> Property appraisal | <input type="checkbox"/> Construction budget |
| <input type="checkbox"/> Legal documentation | <input type="checkbox"/> Other (describe): |
| <input type="checkbox"/> Rent roll | |
| <input type="checkbox"/> Purchase/sale agreement on property | |
-

Section E. Certification

This mortgage summary has been completed by:

Mortgage Broker (print): _____

Mortgage Associate (print): _____

I have fully completed the above mortgage summary and believe all information to be accurate to the best of my abilities.

Date _____

Date _____

Mortgage Broker Signature

Mortgage Associate Signature

Acknowledgement by the Private lender

I, _____ (Name of Private lender) acknowledge and understand the information that has been presented to me in this Disclosure Statement and confirm and accept the risks associated with being a mortgage private lender.

Date _____

Date _____

Private lender Signature

Witness Signature

Private lender Name

Witness Name

The following is written disclosure as to what information has been verified and the steps that the brokerage has taken to verify information obtained or supplied by the brokerage to the private lender including information contained in the mortgage application, other representations made by the borrower or private lender and the identity of the parties to the mortgages:

Date _____

Mortgage Broker Signature _____

Mortgage Broker Name _____

Schedule 1 – Real Estate Council of Alberta Forms

A. The content of the following forms referred to in section 60.1 of the Rules has been approved by Council and is mandatory for industry members when industry members trade in residential real estate:

1. Repealed
2. Exclusive Seller Representation Agreement (common law)
3. Exclusive Buyer Representation Agreement (common law)
4. Agreement to Represent both the Buyer and Seller (common law)
5. Exclusive Seller Representation Agreement (designated agency)
6. Exclusive Buyer Representation Agreement (designated agency)
7. Agreement to Represent both the Buyer and Seller (designated agency)
8. Customer Acknowledgement (Buyers and Sellers)
9. Seller Customer Acknowledgement and Fee Agreement

A1. The Consumer Relationships Guide referred to in section 60.1 of the Rules has been approved by Council and this form is mandatory for industry members trading in residential real estate. The content must not be altered by the industry member.

B. Notwithstanding the above requirement, the members of the REALTORS® Association of Lloydminster and District may use the content of the forms and guide as modified and approved from time to time by the Real Estate Council of Alberta.

The content of the following forms and guide referred to in section 60.1 of the Rules has been approved by Council and may be used by members of the REALTORS® Association of Lloydminster and District when such industry members trade in residential real estate:

1. REALTORS® Association of Lloydminster and District – Consumer Relationships Guide
2. REALTORS® Association of Lloydminster and District – Exclusive Seller Representation Agreement
3. REALTORS® Association of Lloydminster and District – Exclusive Buyer Representation Agreement
4. REALTORS® Association of Lloydminster and District – Agreement to Represent Both the Buyer and Seller

C. The content of the following forms referred to in section 75.91 of the Rules has been approved by Council and is mandatory for industry members when industry members deal in residential mortgages effective XX:

10. Sole Agency with a Private Lender Agreement
11. Sole Agency with a Borrower Agreement
12. Intermediary Relationship with a Borrower Agreement
13. Customer Status Acknowledgment & Consent Form
14. Understanding Your Mortgage Form
15. Mortgage Suitability Disclosure Form
16. Know Your Client Form – Private Lender Clients
17. Private Lender Disclosure Statement

Schedule C - Checklists and Completion Guides

Checklist for Detecting and Preventing Mortgage Fraud

Not every step applies to each file. Select the ones that relate to your file and check the steps you took

Borrower Profile
<input type="checkbox"/> ID verified according to lender standards
<input type="checkbox"/> Credit report information matches other documentation
<input type="checkbox"/> Credit report shows many recent mortgage transactions and addresses
<input type="checkbox"/> Does all documentation contain consistent information
<input type="checkbox"/> Did the borrower sign the application confirming the information is true/correct?
Employment/Income
<input type="checkbox"/> Is the Income consistent with the occupation? e.g. www.jobbank.gc.ca or www.payscale.com
<input type="checkbox"/> Does YTD verified income project to the reported annual income?
<input type="checkbox"/> Is the employment information on the credit bureau consistent with the application details?
<input type="checkbox"/> Business For Self – ask for and verify GST#. BBB member? Trade organization member?
Employer
<input type="checkbox"/> Does the job letter format/wording look similar to others from a different employer?
<input type="checkbox"/> Does the employer exist? Do they have a website? Corporate registry records? Social media presence? Google street view of place of employment?
<input type="checkbox"/> BBB member? Trade organization member?
Loan Purpose
<input type="checkbox"/> Is the stated loan purpose consistent with the borrower profile? E.g. buying an inferior home as a principal residence and retaining the existing home for rental purposes
Down Payment
<input type="checkbox"/> RRSP – are they eligible for the Home Buyer's plan? Any previous home ownership on Credit Report?
<input type="checkbox"/> Gift – Will the gift-giver deposit into borrower's bank account prior to closing? What will the gift-giver say when the lender calls to ask about the source of the gift?
<input type="checkbox"/> Bank statements appear to be legitimate
Source of Business
<input type="checkbox"/> Is it a referral from a trusted business partner? Is it a repeat customer or referral from a past customer?
<input type="checkbox"/> Did the referral come from a lead generator, your website, a new referral source?
<input type="checkbox"/> Is the condition removal time normal for the market (rush deals can be a ploy to reduce the due diligence)?
<input type="checkbox"/> Was the offer acceptance recent? If not, where has the application been before you got it?
Property
<input type="checkbox"/> Does the value seem consistent with your knowledge of the area?
<input type="checkbox"/> Did you do a Google Street View?
<input type="checkbox"/> Does the property tax assessment line up with purchase price or stated value (refinance)?
<input type="checkbox"/> If a real estate appraisal is required, did the real estate appraisal raise any red flags – area comments, condition, zoning, recent comparable sales, number/size of adjustments, etc.?

Review this list prior to submitting to a lender. Carry out further due diligence if there are any areas of concern. There are many more tools for more detailed reviews and verification on the RECA website – see Appendix for links.

I have completed the review of the file in all of the aspects checked above.

File # _____ Borrower(s) Name: _____

Address: _____

Brokerage _____ Associate _____

Date: _____

Appendix – Fraud Detection Tools

Mortgage Brokerage Tools

Originated Applications Guidelines

Checklist: Mortgage Fraud Information for Borrowers (Representing the Borrower)

Checklist: Mortgage Fraud Information for Borrowers (Representing the Lender or Acting as Intermediary)

Tip Sheet: Mortgage Fraud Red Flags Indicating Unusual Transactions

Tip Sheet: Mortgage Fraud Red Flags Regarding Borrower/Buyer

Tip Sheet: Mortgage Fraud Red Flags Regarding Brokerage Operations

Tip Sheet: Mortgage Fraud Red Flags Regarding Industry Professional Conduct

Tip Sheet: Mortgage Fraud Red Flags Regarding Property Value

Tip Sheet: Mortgage Fraud Red Flags Regarding Real Estate Appraisal

Consumer Awareness Tools

Avoiding Mortgage Fraud: What Consumers Need to Know (available in Punjabi & Mandarin)

Mortgage Fraud: Protect Yourself!

Straw Buyer Fraud

Debt Rescue Fraud

Mortgage Fraud FAQs

Mortgage Fraud Red Flags

- All industries (pdf)
- Mortgage Brokerage Professionals (pdf)
- Real Estate Appraisal Professionals (pdf)
- Real Estate Professionals (pdf)

Checklist: Mortgage Fraud Information for Borrowers (Representing the Borrower)

Completion Guide - Checklist for Detecting and Preventing Mortgage Fraud

General Comments

- what did you do to verify the authenticity of the documentation?
- lenders expect mortgage brokers to do some reasonable document verification
- the intention of the checklist is not to duplicate lender's processes, but take a few simple steps that could reveal potential inconsistencies or relevant information that the lender will want to know.
- you will do more due diligence if it is a new customer, comes from a new referral source or you sense the applicant is not being truthful
- the checklist is divided into segments that are "quick" checks in areas that are often misrepresented
- not intended for borrower signature – it is a method of recording your activity to validate the information before submitting to a lender
- this completed checklist or similar documentation must be retained on each brokerage file
- if fraud is indicated, the brokerage must send the file to RECA conductreview@reca.ca

Borrower Profile

- lenders have different standards for ID check – best practice is to do some ID verification to save yourself and lender time. There are ways to verify identity even if you don't meet in person (Origination guide – non wallet questions)
- other documents might contain previous addresses, employment, education, etc. – does that match the credit report
- many recent mortgage transactions might mean straw buyer activity
- do all other documents show the same information – address, former address, employment, telephone numbers, etc.
- did the borrower sign the application certifying it to be true and accurate?

Best practice recommendations:

- have the borrower sign (or initial) and date the documents provided in support of the application; and/or
- ask the borrower to sign and date the application, and/or
- save the email containing copies of the documents, and the email forwarding the documents to the lender

Employment/Income/Employer

- If you are uncertain about reasonable income for an occupation, check some websites such as www.jobbank.gc.ca
- do the math – does the YTD income project to the reported income?
- do the employment details on the credit report match the income information supplied by the borrower?
- Business for self or unknown company employer – ways to verify that the company exists such as member of BBB, Chamber of Commerce, trade organization (do they have some footprint), web presence, corporate registry, GST#
- falsified Letters of employment are often templates with similar wording – do you recall another letter that sounded the same but came from a different employer?

Down payment

- RRSP as a down payment must be first time buyer – does Credit Report show previous mortgage?
- Some lenders actually call the gift giver – do you know what they will say to the lender? Is it repayable?
- bank statements showing savings for the down payment are often falsified – check formatting, alignment, inconsistent commas, dollar signs, and item descriptions. Does the math actually add/subtract correctly?

Source of Business

- more due diligence is required if the referral source and /or client is new to you
- an in person meeting with the customer is recommended in these cases

Property

- falsely inflated sales price is common in "fraud for profit" schemes
- you are not an appraiser, but likely have a feel for the market and some checks for value will give an indication if the value is grossly misrepresented e.g. Realtor.ca, city property tax assessment, talk with your appraisal contacts

Completion Guide

Mortgage Suitability Disclosure Form

The purpose of the form is to get written acknowledgement from borrowers that the product selection has been discussed and agree with the brokerage's assessment of the suitability.

The form is required to be discussed with and signed by the client one day before they accept a mortgage commitment requiring the borrower to pay a fee, penalty or other charge (appraisal or other costs incurred by the lender), for withdrawing from the transaction. If the commitment does not contain any fees or other charges, the form can be signed at the same time as the lender commitment.

The section "Description of the borrower's selected suitable mortgage:" describes the main features of the mortgage. This will ensure there is no confusion which commitment is presented as a suitable mortgage.

The required explanations have blank lines to complete.

The formula for calculating how a mortgage rate might change during the mortgage term is required.

Fixed rate mortgages seldom change during the term; however, examples of products where the fixed rate changes are "teaser rate" mortgages and graduated payment mortgages

Mortgage prepayment privileges/penalties should be explained.

There may be more than one reason the mortgage is suitable – select all that apply.

Lender identity is generally for private lenders to ensure commitments are funded. This could also apply to new lenders emerging into the market. Brokerages should conduct due diligence when the lender is not one they know.

If the brokerage did not get any information about the lender, this must be disclosed.

Section 4 discloses the benefits, including compensation the brokerage will receive if the mortgage closes. Similar information is in the current Service Agreements which are signed before a lender is identified. This disclosure should provide better information on the actual expected compensation.

Section 5 is for comments such as explaining fees and other charges that may apply if the borrower withdraws. There might be disagreement on suitability. For example the brokerage suggested a mortgage with a higher rate and lower penalties but the borrower insisted their number one priority is the lowest rate.