

# MORTGAGE BROKERAGE – ACTING AS AN INTERMEDIARY

Purpose: To explain the brokerage requirements when acting as an Intermediary.

**This bulletin applies to all mortgage brokerages, brokers, and associates.**

A mortgage brokerage and its licensees must disclose, in writing, to borrowers:

- the service relationship
- the nature of the relationship with the lender
- the range of lenders the brokerage uses
- how the brokerage will receive compensation for the transaction
- the nature of any additional money or benefits the brokerage will receive from the lender
- any factors that influence payment of any additional money or benefits
- any additional fees payable by the borrower

Best practice is to make these disclosures in a Written service agreement.

Mortgage brokerages may choose a business model in which they have an impartial relationship with borrowers and lenders.

## Intermediary Relationship

Acting as an intermediary means providing services where the interests of the borrower and the lender are met in an even-handed, objective, and impartial manner.

Intermediaries do not:

- provide confidential advice,
- advocate on behalf of either the borrower or lender,
- use discretion or judgment that benefits the borrower or lender to the prejudice of the other.

Any advice or information given to one party will be disclosed to the other.

The brokerage will act as intermediary between the borrower and lender(s) who have authorized the brokerage to offer their mortgage products to borrowers.

The brokerage's duties to the borrower include the requirements to:

- be honest;
- exercise reasonable care and skill;
- gather the borrower's intended property and financial information to determine the lending options available to the borrower;
- disclose and explain suitable options for the borrower's consideration;
- complete and submit documentation to the lender; and,
- keep the borrower informed of the progress of the application.

The brokerage's duties to the lender are to:

- be honest;
- exercise reasonable care and skill;
- complete and submit documentation to the lender;
- disclose what steps were taken to verify information and documentation as part of the application process; and,
- keep the lender informed of the progress of the application

A brokerage must also disclose to the borrower whether the brokerage:

- deals with a single lender or multiple lenders;
- is an affiliate or subsidiary of the lender;
- or anyone associated with the brokerage has a direct or indirect interest in the transaction; and,
- must give a lender the first right of refusal to consider the borrower's application prior to any other lenders.

Mortgage brokerages must only undertake activities that match the type of relationship the brokerage has chosen to have with lenders and/or borrowers. For example, if a mortgage brokerage business model is to act as an intermediary, an advertisement that indicates "we ensure borrowers get the best mortgage rate/deal" may be false and/or misleading as it could lead a borrower to believe that the mortgage brokerage is working on his or her behalf. Appropriate wording could be "we work with borrowers to provide appropriate options for their consideration."

## Compensation Disclosure

Mortgage brokerages must disclose to borrowers how the brokerage will receive compensation for the transaction including all other money or benefits it may receive and any factors that may influence payment of money or benefits.

Some possible compensation disclosure requirements are:

- the lender pays a fee
- the lender pays a salary
- the lender pays a renewal fee if the borrower renews the mortgage
- the length of the term or the amount of the mortgage affects the compensation
- the brokerage charges the borrower a fee.

The brokerage or its representatives may also receive money or non-monetary benefits from the lender that include:

- the greater volume of business with the lender will increase the commission
- the greater the efficiency with the lender will increase the commission
- increase in commission because the borrower is paying a higher rate than otherwise is available if the benefit was applied to the borrower's mortgage
- travel/gifts
- attendance at seminars or conferences
- equity shares with the lender

RECA has developed a written service agreement – Service Agreement – Acting as an Intermediary to assist brokerages in meeting the requirements when acting as an Intermediary.

When a mortgage broker completes this document and uses it with their borrower client, it will provide the necessary disclosures and consents including:

- disclosure of compensation
- credit bureau consent
- relationship disclosure
- protection of personal information

## Related information

### Legislation

- *Real Estate Act* Rules – s.41, 43, 44, 65(c), 71

### Information Bulletins

- [Conflict of Interest](#)
- [Disclose – Conflicts of Interest](#)
- [Disclose – Cost of Services](#)
- [Mortgage Brokerage Relationship Options](#)
- [Prohibitions – Mortgage Brokers and Associates](#)
- [Responsibilities – Mortgage Broker](#)

### Tools

- Acting as an Intermediary Service Agreement (explanation sheet and service agreement)

INFORMATION  
BULLETINS

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