

MORTGAGE BROKERAGE RELATIONSHIP OPTIONS

Purpose: This bulletin explains the relationship options mortgage brokerages can have with borrowers and lenders and the requirement to clearly explain their role to borrowers and lenders.

This bulletin applies to mortgage brokerages, brokers and associates.

Clearly explain your role and working relationships in a transaction

Clients often do not understand their relationship with their mortgage brokerage, the role of the brokerage, or the relationship their brokerage may have with lenders. You must make sure that everyone involved in a mortgage transaction understands your role, why you have to do certain things, and who you represent.

Acting as an agent

When you agree to act for someone else, you become the agent for that person.

Your brokerage may choose one of three relationship options

Your mortgage brokerage may choose one of the following relationship options:

- acting as an agent for the lender
- acting as an agent for the borrower
- acting as an intermediary

Depending on the situation, your brokerage may have different relationships with different lenders and borrowers. Each relationship carries different roles and obligations.

When you act for the lender

When your mortgage brokerage represents the lender, you must act in the lender's best interests at all times. Your brokerage will owe general, fiduciary, and regulatory obligations to the lender. You must not act for a borrower when you act for a lender in the same mortgage deal.

You may treat the borrower as your customer. The *Real Estate Act* Rules (Rules) considers a customer as a person who contacts an industry professional but does not engage or employ them to deliver services to the customer. When the borrower is a customer, you must:

- treat the borrower honestly and act with reasonable care and skill
- gather information on the property the borrower wants to finance and the borrower's financial situation

- explain the lender's options to the borrower
- complete the necessary documents and submit them to the lender
- inform the borrower about the transaction's progress and any communications to them from the lender

When you act for the borrower

When your mortgage brokerage represents the borrower, it must act in the borrower's best interests at all times. Your brokerage will owe general, fiduciary, and regulatory obligations to the borrower. Your brokerage will recommend financing options to the borrower, advocate on their behalf, and provide them with confidential advice.

You must treat the lender honestly and act with reasonable care and skill.

When you act as an intermediary between the lender and borrower

When your mortgage brokerage is not representing the lender or the borrower, it can act as an intermediary between them, offering mortgage products from multiple lenders to the borrower.

When dealing with the borrower as an intermediary, you must:

- treat the borrower honestly and act with reasonable care and skill
- gather information on the property the borrower wants to finance and the borrower's financial situation
- determine the lending options available to the borrower
- explain the available options to the borrower
- complete the necessary documents and submit them to the lender
- inform the borrower about the applications progress

When dealing with the lender as an intermediary, you must:

- treat the lender honestly and act with reasonable care and skill
- complete the necessary documents and submit them to the lender
- explain how your brokerage verified information and supporting documents in the application process
- inform the lender about the application's progress

You cannot represent the lender and borrower at the same time

Do not try to represent both the lender and the borrower in the same transaction. When you try to represent the lender and borrower at the same time, it is impossible to meet your obligations, to be loyal, and act in their best interests. This will put you in a conflict of interest, particularly when disclosing relevant information and keeping other information confidential.

You must explain your relationships to borrowers

Make sure all borrowers you work with, either as clients or customers, understand their relationship to your brokerage and its mortgage professionals. This applies to whatever relationship option you choose.

RECA has created sample service agreements and explanation sheets to help mortgage brokerage professionals explain these relationships to borrowers. If you use these documents, you will meet the disclosure requirements in section 65(c)(i)(ii) of the Rules. These sample agreements are available on the Relationship Forms page within RECA's website, www.reca.ca.

Related information

Legislation

- *Real Estate Act* Rules - sections 41(e) and 65(c)(i)(ii)

Information bulletins

- Mortgage Brokerage – Acting as an Intermediary
- Mortgage Brokerage – Agent for Borrower
- Mortgage Brokerage – Agent for Lender

Tools

- Representing the Borrower Service Agreement (explanation sheet and service agreement)
- Acting as an Intermediary Service Agreement
- Borrower Consent and Disclosure When you Represent the Lender