

## ONTARIO REGULATION 187/08

made under the

### MORTGAGE BROKERAGES, LENDERS AND ADMINISTRATORS ACT, 2006

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### MORTGAGE BROKERS AND AGENTS: STANDARDS OF PRACTICE

#### Interpretation

1. (1) Expressions used in this Regulation have the same meaning as in the standards of practice prescribed for brokerage licences.

(2) In this Regulation,

“licensee name” means, in relation to a mortgage broker or agent, the name in which the licence is issued;

“public relations materials” means, in relation to a mortgage broker or agent,

(a) any advertisement by the broker or agent in connection with his or her status as a licensee or his or her dealing or trading in mortgages that is published, circulated or broadcast by any means, or

(b) any material that a broker or agent makes available to the public in connection with his or her status as a licensee or his or her dealing or trading in mortgages.

#### Standards of practice

2. The requirements set out in this Regulation are prescribed as standards of practice for every mortgage broker’s licence and mortgage agent’s licence that is issued under the Act.

#### Duty re authorizing brokerage

3. A mortgage broker or agent shall not do or omit to do anything that might reasonably be expected to result in the brokerage on whose behalf he or she is authorized to deal or trade in mortgages to contravene or fail to comply with a requirement established under the Act.

#### Restriction re remuneration

4. (1) A mortgage broker or agent shall not receive, directly or indirectly, any fee or other remuneration for dealing or trading in mortgages from a person or entity other than the brokerage on whose behalf he or she is authorized to deal or trade in mortgages.

(2) A broker or agent does not contravene subsection (1) by reason only that he or she receives a fee or remuneration from the brokerage on whose behalf he or she is authorized to deal or trade in mortgages that is paid from money received by the brokerage from another person or entity for services provided by the broker or agent.

#### Remuneration, non-monetary incentives

5. (1) In this section,

“home brokerage” means, in relation to a broker or agent, the brokerage on whose behalf the broker or agent is authorized to deal or trade in mortgages;

“outside brokerage” means, in relation to a broker or agent, a brokerage that is not his or her home brokerage.

(2) Despite section 4, a broker or agent may receive, directly or indirectly, an incentive other than money from an outside brokerage or a financial institution for dealing or trading in mortgages if all of the following conditions are satisfied:

1. The broker or agent has the consent of his or her home brokerage.
2. The home brokerage and the outside brokerage or financial institution have a written agreement governing the provision of the incentive to the broker or agent.
3. The broker or agent has a written agreement with the outside brokerage or financial institution governing the provision of the incentive to him or her.
4. Both agreements require the outside brokerage or financial institution to give the home brokerage particulars about the following matters both periodically and upon request:
  - i. the incentives provided by the outside brokerage or financial institution to the broker or agent during the applicable period, and
  - ii. if an incentive entitles the broker or agent to exercise one or more options in the future, particulars of the options exercised during the applicable period.

(3) Despite section 4, until December 31, 2008 a broker or agent may receive, directly or indirectly, an incentive other than money from an outside brokerage or a financial institution for dealing or trading in mortgages if the broker or agent has the written consent of his or her home brokerage.

(4) Subsection (3) is revoked on January 1, 2009.

#### **Remuneration, personal corporation**

6. Despite section 4, a broker or agent who is a shareholder or employee of a corporation that is exempted by section 8.1 of Ontario Regulation 407/07 (Exemptions from the Requirement to be Licensed) made under the Act from the requirement to have a brokerage licence is permitted to receive fees or other remuneration for dealing or trading in mortgages from the corporation if both of the following circumstances exist:

1. The brokerage on whose behalf the broker or agent is authorized to deal or trade in mortgages pays the applicable fees and other remuneration for the broker or agent to the corporation instead of the broker or agent.
2. The amount of the fees and other remuneration paid by the corporation to the broker or agent is not greater than the amount of the fees and other remuneration received from the brokerage for the broker or agent.

#### **Use of licensee name**

7. A mortgage broker or agent shall not deal or trade in mortgages in a name other than his or her licensee name.

#### **Use of name, etc., in public relations materials**

8. (1) In all of his or her public relations materials, a mortgage broker or agent shall disclose his or her licensee name and the authorized name and licence number of the brokerage on whose behalf he or she is authorized to deal or trade in mortgages, and the names and numbers must be clearly and prominently disclosed.

(2) If the authorized name of the brokerage is, or includes, a franchise name that the brokerage is permitted to use under a franchise agreement, the public relations materials must clearly indicate that the brokerage is independently owned and operated.

(3) In the public relations materials, at least one reference to the broker or agent must include one of the following titles and the materials may also include an equivalent title in another language:

1. When referring to a broker, the title “mortgage broker”, “broker”, “courtier en hypothèques” or “courtier” or an abbreviation of any of those titles.
2. When referring to an agent, the title “mortgage agent”, “agent” or “agent en hypothèques” or an abbreviation of any of those titles.

#### **Prohibition re public relations materials**

**9.** A mortgage broker or agent shall not include false, misleading or deceptive information in his or her public relations materials.

#### **Duty to provide licence information**

**10.** Upon request, a mortgage broker or agent shall give to a person the broker’s or agent’s licensee name, licence number and the authorized name and licence number of the brokerage on whose behalf the broker or agent is authorized to deal or trade in mortgages.

#### **Required addresses**

**11.** (1) A mortgage broker or agent shall maintain a mailing address in Ontario that is suitable to permit service by registered mail.

(2) A mortgage broker or agent shall maintain an e-mail address.

#### **Commencement**

**12. (1) Subject to subsection (2), this Regulation comes into force on July 1, 2008.**

**(2) Section 8 comes into force on January 1, 2009.**

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