

Real Estate Council of Alberta,
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Calgary, Alberta T3C 0M9

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Mortgage Professionals Canada is the national mortgage industry association representing 11,500 individuals and 1,000 companies, including mortgage brokerages, lenders, insurers and industry service providers. Our members make up the largest and most respected network of mortgage professionals in the country whose interests we represent to government, regulators, media and consumers. Together with our members, we are dedicated to maintaining a high standard of industry ethics, consumer protection and best practices.

We are pleased to respond to the Real Estate Council of Alberta's (RECA) consultation paper, *Mortgage Brokerage – Proposed Standards of Practice and Rule Changes*. Our Alberta members are committed to working with RECA to ensure that consumer protection remains the priority for mortgage brokers in the province.. Therefore, we are supportive of the direction and intent of the new proposed standards of practice and rule changes. Our submission provides constructive feedback on how to improve the proposals to find the appropriate balance of administrative measures for our members , without decreasing consumer protection We look forward to continuing the constructive dialogue that RECA has started.

We are appreciative of the opportunity to provide our comments regarding the four areas of focus that RECA has identified.

1. Disclosure on material risk and suitability to consumers

Mortgage Professionals Canada supports RECA's proposal to seek written confirmation, using a new form, from a borrower regarding the material risks associated with their mortgage. We are confident that our Alberta members thoroughly discuss the suitability of a mortgage product with a borrower as a best practice. We therefore deem this to be an appropriate measure.

However, we do have concerns with the administrative burden that the draft form places on our membership. The documents, *Understanding Your Mortgage Material Risks*, and *Mortgage Product Suitability Disclosure* have a number of duplications which we believe can be simplified, while still meeting RECA's desired policy objective and maintaining the desired level of consumer protection.

The form, *Understanding Your Mortgage Material Risks* is quite long and can easily be simplified, especially since the *Mortgage Product Suitability Disclosure* form will also be required. We are proposing to consolidate some of the questions to better reflect the nature

of the discussions that brokers have with borrowers. We are not proposing that any of the questions be removed, but simply combined into fewer questions to better categorize the risk considerations. This will make the form easier to understand and more accessible for consumers. We would encourage RECA to consider further simplifying the language to make it more comprehensible for consumers. This will ensure the integrity of the questions RECA is seeking are fully understood by borrowers in a suitable and convenient format for our members.

We also recommend that the requirement of initialling throughout the form be removed and that the borrower's signature at the end of the document be sufficient.

We are recommending the number of questions be reduced from 23 to 11, without excluding any of the information that needs to be reviewed with a borrower, through three consolidated questions.

- A) First, questions #2-5 all pertain to suitability. These questions are discussed with the borrower when conducting the initial suitability assessment because the broker has a fiduciary duty to place a borrower in a loan that is suitable. We understand why these questions are included separately from the *Mortgage Product Suitability Disclosure* form but since they are already included, a consolidation seems logical.

Our recommendation would be to combine questions #2-#5 into one question, so the borrower can acknowledge that their broker discussed the product suitability with them. We recommend the following wording:

Is this mortgage suitable?

Ensure that you will be able to afford the mortgage, not just today, but that your financial position is not expected to worsen through the length of your mortgage term. Ensure that your income and employment are stable as a change in income or employment could impact your ability to afford your mortgage. Owning a home costs more than the amount of your mortgage, ensure that you are aware of all homeownership related expenses. Mortgage payments can impact your ability to manage other expenses, ensure that you have enough money to pay for things you may need in the future.

- B) We would also recommend that questions #9-11 be combined into one simplified question. Currently, all three cover costs associated with a mortgage, but asked in three different ways. The answers to all three questions are interrelated. We recommend the following wording:

Cost of the mortgage and interest rate

The total cost of the mortgage depends on the terms and conditions for paying it back, such as the interest rate and the amount of time it takes to pay off the entire mortgage or "amortization period". The total cost can be much more than the amount you are borrowing.

You need to determine if the rate, amortization period, and total cost of the mortgage are right for you. You can make mortgage payments every week, every two weeks, once a month, or twice a month. Make sure that you can handle the frequency, timing, and amount of the mortgage payments. The interest rate will also affect the total cost of the mortgage. Choosing a variable, fixed, or convertible rate will have an impact. Ask yourself if the interest rate is reasonable for you and if you can afford it. Your mortgage broker or lender must provide you with an estimate of the total cost of borrowing for the term.

- C) We recommend that questions #12-#15, #17-19 and #21 also be combined into one condensed question given that they all relate to ensuring the borrower understands fees and penalties. We do not intend to remove any of the specific items, but rather combine them into one question making it easier for a borrower to understand that they are all related and not separate. We recommend that the language in the material risk form be included to speak to the importance of reviewing the mortgage commitment letter the borrower receives from the lender.

We agree that this information is critical for borrowers to be aware of and are confident that our membership is already providing this information to their clients. We recommend the following language be used which maintains the integrity of RECA's objective, provides clear information to borrowers, and reduces administrative burdens for our members:

Understand fees, penalties, and mortgage commitment letter from your lender

Not all mortgages are the same. There are often fees and chargeable penalties included in a mortgage contract. Be sure to understand not only which fees and penalties may apply and when, but also how the lender calculates the fees. Lenders must provide you with information on fees and penalties. There may be fees for making changes to mortgage payments, tax accounts or switching bank accounts. Make sure you are aware of the following: pre-payment penalties; pre-payment privileges, whether your mortgage is portable; check whether changing the ownership of the property without prior permission of the lender could result in paying the mortgage in full, also known as due on sale; mortgage assumptions that allow homeowners to sell their property by allowing the purchaser to take over their mortgage contract; late payment penalties; pre-payment on sale only; and any change-in-use policies that might include restrictions on how you may use the property. Make sure you read and understand the commitment letter from your lender, which will outline the specific terms related to the mortgage.

If implemented, this recommendation condenses the number of questions by almost half without excluding any of the required information. . This will simplify the form while maintain the integrity and structure of RECA's proposal and facilitating the process for members. Each of the 23 proposed points is still covered in writing with our recommendations. and we strongly encourage RECO to simplify the language where possible.

2. Removal of intermediary relationship option

Mortgage Professionals Canada is concerned about the implications of removing this option and is seeking legal advice on the substantive policy proposal. Our members are concerned that they will be unable to truly fulfill obligations as sole representatives of the consumer or the lender in any transaction. The nature of the role requirement is to serve the customer's needs while also protecting the lender's interest through prudent underwriting making the agent/broker an intermediary in almost all cases.

We have engaged in preliminary discussions with our legal counsel and would ask that RECA delaying considering the elimination of the intermediary relationship status until we have had the opportunity to finalize our legal advice and formalize our position on this matter.

3. Document and Information Verification: Mortgage Fraud

Mortgage Professional's Canada expects zero tolerance for mortgage fraud in our industry and we expect all our members to report any and all instances of fraud they encounter. Everyone who is involved in sourcing, underwriting, or brokering a mortgage has a duty to suppress and report mortgage fraud. We agree that brokers have a duty to take reasonable steps to verify the information they collect from a borrower is accurate. As such, we believe that the proposed checklist is a useful tool for our members and we appreciate RECA's efforts to create this standardized process to be used internally by brokers. We would appreciate an opportunity to comment on the practice guide that RECA is creating for detecting mortgage fraud before it is posted online, but fully support its development.

4. Private Lending Procedures

We are supportive of implementing further measures to ensure that consistent private lending standards of practice exist within the industry, however, we would disagree that RECA currently does not have appropriate mortgage administrative rules in place. Any fraud or breaches of trust within our industry relate to individuals not following the proper rules, regulations and procedures, rather than the procedures themselves being inappropriate. That said, we believe that the current rules could be further enhanced to better protect consumers from any bad behaviour that exists within the industry.

We recommend that instead of developing new forms, RECA work with the Alberta Mortgage Brokers Association (AMBA) on licensing the Client Application Details form and the Private Investor/Lender Mortgage Risk Disclosure form that AMBA currently provides to their members.

Thank you once again for providing us with the opportunity to respond to this consultation paper. Should you have any questions regarding our submission, please reach out to me directly at ptaylor@mortgageproscan.ca or our Manager of Government and Policy, Samuel Duncan at sduncan@mortgageproscan.ca.

Sincerely,



Paul Taylor
President and CEO