

November 30, 2015

Honourable Christy Clark
Premier
West Annex, Parliament Buildings
Victoria, BC V8V 1X4

Dear Premier:

We are writing on behalf of the Canadian mortgage industry to share our views and express our common position on the issue of the proposed changes to Form 10: Borrower Conflict of Interest Disclosure Statement under the *BC Mortgage Brokers Act*.

The Canadian mortgage industry is a pillar of the Canadian economy. The mortgage broker channel represents a significant part of this industry, with a 55% share of new mortgages during 2015 and a 30% share of the overall Canadian mortgage market. Within the channel, mortgage brokers play a significant role in empowering Canadians to become responsible homeowners. A mortgage broker offers much needed choice to consumers in meeting their mortgage financing requirements and provides recommendations on the product that best aligns with their needs and financial capabilities. In providing these services, a mortgage broker provides advice, information and disclosure to the borrower.

Background

In offering mortgages, all lenders and financial institutions incur origination and mortgage distribution costs. As an alternative to bearing fixed costs (including real estate, overhead, staffing costs, etc.) many lenders choose to pay a fee to a broker to undertake distribution. Whether funding their own internal costs or engaging a broker, these costs are among the many factors that determine the lender's interest rate.

FICOM Disclosure
Working Group

*Alberta Mortgage Brokers
Association*

Bridgewater Bank

Centum Financial Group

CMLS Financial

Dominion Lending Centres

Equitable Bank

First National Financial

Fisgard Asset Management

Home Trust

ICICI Bank

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Canada*

Multi-Prêts Hypothèques

Optimum Mortgage

Paradigm Quest

Radius Financial

Street Capital Financial

The Mortgage Centre

TMG The Mortgage Group

Verico Financial Group

Regardless of the distribution model, these fees are ***not payable by the borrower***¹, and therefore do not directly influence the rate offered, nor the most critical component, the total cost of borrowing. The fact that a lender has chosen to pay a broker is already a required disclosure to the borrower, as it should be.

The proposed changes to Form 10 require disclosure of the lender's exact cost in offering a mortgage, but only for transactions where a mortgage broker is used. This includes any compensation to a broker based on contingent or future events. By its very nature, contingent compensation is based on uncertain events, and attempting to force an exact calculation will result in inaccurate or misleading information. The proposed changes place the broker channel at an unfair disadvantage when compared with mortgages from lenders that do not need to make a similar disclosure.

Consultation and Process

We strongly believe that good public policy requires proper industry consultation and a clear understanding of the issue. To date, a clear policy rationale and/or statement of objectives has not been provided. Policy changes based on perceptions or conceptions of a problem will not lead to better standards. This is especially true if the proposed changes indicate adverse effects for consumers and the industry as a whole.

In the absence of industry consultation on the substance of the proposed changes, we took necessary steps to undertake our own comprehensive consultation.

Our ongoing efforts include:

- Thorough review of compensation disclosure practices, including other provinces;
- Survey of industry stakeholders both in BC and the rest of Canada;
- Survey of mortgage consumers;
- Consultation with brokers and lenders;
- Consultation with FICOM and government;
- Cooperation and exchange of information with MBABC and AMBA;
- Legal review of the intent of the Act and the proposed changes;
- Exchange of information with other interested parties;
- Preparation of a comprehensive position on disclosure, including all research and a review of options and recommendations (subject to receiving FICOM's policy rationale and objectives).

¹ The compensation discussed here refers exclusively to that arranged between a lender and a brokerage and not charged to the borrower. Complete and accurate disclosure is already required if fees are paid by the borrower.

Findings

According to the Bank of Canada, “borrowers who use a mortgage broker pay less, on average than borrowers who negotiate with lenders directly. The average discount is about an additional 19 basis points.” These savings **include** any broker compensation. Hence, the broker channel not only offers choice but also delivers significant savings to Canadians.

As the broker’s compensation is not paid by the borrower, the need to disclose the exact dollar amount will cause unnecessary and unwanted confusion for what most borrowers consider an already complex undertaking.

The proposed changes will have serious unintended consequences for consumers:

1. Borrowers will be distracted from the far more important terms and conditions of their mortgage, including their total cost of borrowing.
2. Disclosing the exact amounts will distort the borrower’s perception of their costs, and wrongly conclude that it is more expensive to use the broker channel.
3. The additional disclosure required only of the broker channel will naturally lead the consumer to make uneven comparisons and question the credibility of the channel.
4. Multi-channel lenders will avoid the broker channel as a distribution method.
5. Consumers will have less choice in meeting their mortgage needs and ultimately incur higher costs.

We support the provision of any information that will assist the borrower in making better decisions.

We do not support the provision of information that leads to misunderstanding and confusion.

Given the serious effect these proposed changes will have on consumers and our industry, we ask that you delay any regulatory and/or legislative change required to Form 10. We would be pleased to share our findings and discuss how we can strengthen consumer protection while preserving consumer choice and the critical role of the mortgage broker channel in the Canadian economy and mortgage market.

Please contact the association should you require further information.



Jared Dreyer
Chair and
BC Regional Director



Mark Kerzner
Vice Chair and
Chair, Government Relations Committee