MS. CAROLYN ROGERS
REGISTRAR OF MORTGAGE BROKERS
FINANCIAL INSTITUTIONS COMMISSION OF BRITISH COLUMBIA
2800 - 555 WEST HASTINGS
VANCOUVER BC V6B 4N6

February 19, 2016

Re: An Open Letter to Mortgage Brokers

Dear Ms. Rogers,

Thank you for your letter of invitation for comments and feedback on mortgage broker compensation disclosure dated January 6, 2016. I am responding on behalf of the membership of Mortgage Professionals Canada, the national organization representing Canada's mortgage broker channel. Established in 1994, our association has over 11,500 members drawn from every province and from all industry sectors, including approximately 2,500 in British Columbia.

Mortgage Professionals Canada functions as a conscientious consumer advocate, an educational resource for the public, and as a cooperative partner with all levels of government. We work diligently to educate and inform those interested in mortgage and related industries about both policy and regulatory issues facing the public and industry professionals. Through its extensive membership database, Mortgage Professionals Canada provides consumers with access to a cross-country network of the industry's most respected and ethical professionals as well as informational products and reports.

Mortgage brokers are small business owners. They live and work in local communities and the revenues their businesses generate also stay in local economies. Their businesses create jobs, provide consumers with choice, and create a competitive marketplace ensuring fair pricing and innovative products are continually developed. While these services are important across Canada, there is likely nowhere more sensitive to the need for competition in this arena today than in British Columbia.

Your Open Letter asks the mortgage industry to comment on the need for compensation disclosure between a mortgage broker and his or her client. In our conversations with your office, and in particular Chris Carter, Deputy Registrar, we have understood that your initial expectation of compensation disclosure would require a mortgage broker to present the specific dollar amount of the compensation he/she would receive from the lender with whom they place the mortgage. We have some specific concerns with this approach and your letter would appear to reflect the fact that you have likely heard these concerns. You included 5 bullet points. This letter will address each of the five bullet points in the order they were presented.

- *You want consumers to continue to receive quality mortgage advice*

Yes we do. It is in the best interest of consumers that a competitive mortgage marketplace persists. Without a strong and vibrant mortgage broker presence, it would be easy to see a landscape dominated by an oligopoly whereby the consumers' interest is secondary to the shareholders'.

Mortgage Professionals Canada conducts a consumer survey twice annually to elicit the thoughts and opinions of Canadians regarding the mortgage industry. These surveys are independently conducted on our behalf by Bond Research and reports are written following comprehensive analysis of the collected data by Will Dunning, Mortgage Professionals Canada's Chief Economist. Enclosed with this letter you will find a copy of our spring 2015 report as well as a summary prepared by Mr. Dunning (Appendix A). The table in the summary shows that mortgage brokers rate higher than all other non-broker mortgage providers 10 times out of 10 in categories related to service, information, competitive rates, timeliness, etc.

The business conducted by the mortgage broker channel has grown consistently year over year because mortgage brokers provide superior service, take the time to explain the provisions of various mortgage product offerings, and ultimately save consumers money. It is the presence of a robust broker channel that keeps interest rates competitive and to a large degree, protects consumers' interests through strong market forces.

> For these reasons, we believe promoting a strong mortgage broker channel ultimately protects consumer access to choice, competition and fair pricing.

- *You want consumers to understand the disclosure being provided, particularly any dollar amounts*

We do. We want to ensure that any disclosure of compensation is also meaningful. In your Open Letter you wrote the following:

I invite you to ask "what do consumers expect from a mortgage broker".

Answers to that question may vary, but I think we can agree that consumers believe a mortgage broker works in their best interests. They believe a mortgage broker has access to multiple lenders who compete for the consumer's business. Consumers believe that a mortgage broker's advice is driven solely by the consumer's interests.

Industry understands that lender compensation can influence a mortgage broker's advice to a consumer. That can result in advice that does not align with the consumer's best interests.

Conflict of interest disclosure reinforces the relationship of trust between consumers and mortgage brokers, and reduces the risk that consumers receive compromised advice.

However, for disclosure to be effective it must be clear and easy for consumers to understand.

We understand the sentiment and agree. The clear driver of your interest in compensation disclosure is to ensure the potential conflict of interest that may appear because of the broker's dual role as representative for both the lender and the borrower is made transparent to the borrower.

As already stated, FICOM has expressed a desire to have a mortgage broker disclose the specific dollar amount of compensation he/she would receive for a given transaction. We have two main concerns with this. Firstly, the dollar amount would be a gross income number, which would not show any of the required business deductions for taxes, administrative costs such as licensing, rent, office equipment, connectivity etc., and as such presents an overly inflated impression to the client of the real net revenues generated. Additionally, disclosure in this format does nothing to address the problem identified in the Open Letter: since it does not provide a consumer with any information regarding the broker's compensation potential with other lenders he or she represents, the broker's motivation for selecting any particular lender cannot be determined. Without some basis of comparison, this specific compensation disclosure will not indicate to a consumer whether the lender was selected with the borrower's best interest in mind or the broker's.

Specific dollar amounts are also very difficult, if not in some cases impossible, to provide at the point of application. Consumers are often approved to borrow up to a specific dollar amount with the expectation that their closing costs may vary. Actual amounts borrowed therefore are often not known until the transaction is finalized. Provision of a percentage or basis points calculation is, therefore, a much more accurate means to convey to a consumer what their compensation will actually be.

Requiring the disclosure of a single specific dollar amount does not address the conflict of interest concern raised in the open letter and is difficult if not impossible to provide prior to the mortgage closing.

With both of these points made, we begin to see a template for a meaningful disclosure document including potentially a schedule of lenders, along with an indication of the usual basis points compensation or range of basis points the broker has the potential to earn. At the point of the application, such a disclosure would equip the consumer with knowledge of the breadth of the marketplace a broker has access to as well as the compensation potential the broker has with each. This kind of disclosure would not be onerous for the brokerage to prepare, nor would it contain inaccuracies driven by assumptions made at the introduction of the broker/client relationship.

In a survey of disclosure protocols used by mortgage brokers across Canada, those operating in Saskatchewan seem to have a disclosure in place that would meet the desired goal of consumer awareness of potential conflicts of interest in British Columbia. It is our expectation that you are already familiar with this document.

Also included with this letter is a sample of a commission disclosure form and guidelines (Appendix B) required to be presented by all property and casualty insurance brokers in Ontario. The Registered Insurance Brokers of Ontario (RIBO) is the regulatory body for insurance brokers in that province. RIBO introduced a requirement for all licensed brokers to present a disclosure in December of 2004. RIBO amended the Registered Insurance Brokers Act, R.R.O. 1990, Regulation 991, section 14 to include the following paragraph:

> *7.1 A member shall disclose in writing to a client or prospective client any conflict of interest or potential conflict of interest of the member that is associated with a transaction or recommendation.*

This simple language addresses the concern we believe FICOM is trying to alleviate and the disclosure form developed addresses the issue adequately. This disclosure form is available to any consumer on request from any insurance broker in Ontario. Many even have this information, specific to their own business, available on their websites.

In summary, disclosing the commission potential available to a broker from lenders with which he or she can place a mortgage is a far more valuable and meaningful disclosure for a consumer.

- *You want to ensure that disclosure is not required to an unreasonable degree of accuracy, particularly when it comes to volume bonuses*

The very nature of volume bonuses makes them uncertain. While additional incentives or rewards may be available to the broker, they are not guaranteed, and the lender has the ability to change the structure of these programs at any time. For the purposes of alleviating the conflict of interest concern however, we recognize the need for consumers to be aware of the potential for the broker to benefit from these additional compensation structures. Mortgage Professionals Canada would suggest that appropriate language be used to ensure the potential conflict is disclosed to consumers. Mr. Carter stated that he would like to see a best efforts estimate of the impact of a transaction to the broker's eligibility or qualification for an incentive; however, we see two significant issues with this. If we assume that the majority of these incentives are based upon annualized results, initial commentary would be vagaries providing no real value. As the year progresses, we suggest the disclosure will create the appearance of a much larger conflict than actually exists, with many consumers likely believing automatically that a particular lender was selected solely because of the brokers proximity to their incentive target. This would create, at best, a significant sales hurdle to overcome and at worst, a momentous detractor of business for the mortgage broker channel.

Disclosure requirements already provide consumers with sufficient information to determine whether the offer created by the mortgage broker is overall more or less expensive than any competing offer they receive. APR and term length are very easy to compare and consumers are already conditioned to consider percentage calculations when determining which offer to accept. Requiring the inclusion of specifics of sales incentives to the independent channel will create a perceptional difference between brokered and non-brokered options. Individuals employed in non-brokered transaction businesses also receive incentives; however, no equivalent disclosure requirements are in place for their transactions. We would hate to see the inadvertent consequence of these transparency protocols steering business away from the broker channel. Ideally all mortgage transactions, regardless of the regulator in place, should be subject to the same disclosure requirements. In light of the fact that such a coordinated implementation is likely not possible, some consideration should be given to the disruption that the introduction of these disclosure rules into the broker channel will create.

> We would suggest that disclosing the nature of the incentives available from a lender and the potential for the broker to receive them is sufficient for a consumer to determine their level of comfort with a specific offer, especially when in tandem with the other disclosure requirements discussed.

- *You want to know how to disclose compensation splits between brokers and brokerages*

The explanation of commission splits does not appear to be overly complicated; however, the arrangements between individual brokers and sub-brokers can vary significantly. Exposure of specifics of these contractual arrangements between businesses may have significant consequences to the individual businesses. The implications here are therefore sizeable and could create other unintended consequences for the mortgage broker channel as a whole. The financial arrangements between brokers and brokerages do not have any direct impact to the eventual borrower, and some of these details would otherwise to date have potentially been considered sensitive information under various competition acts. FICOM may feel however, that there is a requirement to disclose partnerships between businesses where commission revenues are shared.

We would suggest a simple listing of businesses to which the broker or sub-broker shares commissions is sufficient.

- *You want to know when the changes are coming, how they will be rolled out, and how you can prepare.*

Understanding the intended timeline for implementation will be very important to our members. If the intent of FICOM is to draft regulations following this consultation, Mortgage Professionals Canada would welcome the opportunity to assist with the creation of guidelines or best practices for complying with regulations when released. We would expect the mortgage broker community be provided sufficient time to educate themselves and their staff on their responsibilities regarding the new requirements. Ideally, we'd like to see 180 days to ensure the community could discuss and coordinate a harmonized method of addressing them.

We'd also like to see clarification on where the responsibility would lie for the administration of the disclosure requirements. Again, in conversation with Mr. Carter, the suggestion has been that the responsibility would fall to the Designated Individual or D.I. at a mortgage brokerage. Initially this made sense to us but upon reflection, this may pose business challenges.

A large percentage of sub-brokers are entrepreneurs. They operate under the oversight of a D.I. and in many cases leverage the D.I.s' access to lenders to further assist their own clients. The sub-brokers are, however, the individuals making the decision about the placement of the mortgage with a specific lender. Indeed, their license empowers them to be that decision maker. Since the D.I. is not responsible for the specifics of an individual mortgage transaction or loan placement, he or she would be unreasonably burdened if FICOM's expectation is for the D.I. to complete the form. As such, upon further consideration, we believe the responsibility to complete the form 10 should remain with the individual broker, D.I. or sub-broker, that arranges the mortgage.

Additionally, there are lenders currently licensed as mortgage brokers in British Columbia. While these are considered administrators in common parlance, the Act itself draws no distinction between the class of license issued to these lenders or their practising mortgage broker counterparts. These lenders do not deal directly with the consumers and as such, consideration around the D.I. responsibility in these instances would need consideration. Additionally, if exemptions are to be granted, a clear understanding of when and how these would apply will be very important to the industry.

Placing the responsibility for accuracy of the disclosure with the individual licensee would be easier, more practical, and reflect the direct accountability of a licensed individual to a consumer.

In closing, I would like to thank you again for the invitation through your Open Letter to express our thoughts, concerns and suggestions as part of this consultation. If we at Mortgage Professionals Canada can be of any assistance to FICOM, or if you have any questions specific to the points contained in this letter, please do not hesitate to contact me. If I am unable to assist directly, I can quickly coordinate discussions with members of our association who are technical experts in their specific arenas as you may need their input.

We will also be publishing this correspondence publicly on our website and sharing its contents with various members of government in British Columbia.

Sincerely,

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Appendix A: Comments Related to BC Disclosure Requirement from Will Dunning, Mortgage Professionals Canada Chief Economist

Comment below are largely based on CAAMP's most recent consumer survey (Spring 2015), which focused on home owners who purchased their homes recently (during 2013 up to the date of the survey).

Mortgage Interest Rates Are Lower For Broker-Led Mortgages

The survey found that among these recent home buyers, the average mortgage interest rate was 2.96% for borrowers whose mortgage was obtained through a mortgage broker, below the average of 3.02% for mortgages obtained through other channels. In addition, in order to make a like-for-like comparison: for a subset of mortgages that have fixed interest rates for five-year terms, the average rates were 2.98% for broker-led mortgages and 3.08% for other mortgages. (The fixed rate, five-year mortgage is the most common type, accounting for 46% of mortgages in this survey.)

Higher Consumer Satisfaction for Broker-Led Mortgages

The table at the end of this note focuses on first-time buyers only (the least experienced mortgage borrowers, who are most likely to need the most assistance in the process, and are the most likely to use mortgage brokers). A set of questions asked about their satisfaction in various areas. Responses were given on a scale of 1 to 10, where 1 indicates "completely dissatisfied" and 10 indicates "completely satisfied". Results for key metrics (covering satisfaction with the outcome and satisfaction with the process) indicate greater satisfaction for broker-led mortgages than for non-broker mortgages, both in terms of average scores and in terms of the percentages of the mortgage borrowers who were highly satisfied (giving ratings of 9 or 10). While the broker and non-broker channels both result in high levels of satisfaction on a 10-point scale, the broker channel clearly has generated superior results.

Preserving Competition

Bank of Canada data indicates that out of $1.32 trillion of outstanding residential mortgage credit in Canada, 74% is with the chartered banks. The remainder is distributed across "Trust and mortgage loan companies" (2%) , "Life insurance company policy loans" (1%), "Non-depository credit intermediaries and other institutions" (4%), "Credit unions and caisses populaires" (13%), "Pension funds" (1%), "National Housing Act (NHA) mortgage backed securities" (4%), and "Special purpose corporations, securitization" (1%).

The Bank of Canada data further shows that during the past three years, the "chartered banks" have accounted for 72% of the growth of residential mortgage assets in Canada[1]. The balance of the growth is accounted for by "life insurance companies" (1%), "Non-depository credit intermediaries and other institutions" (7%), "Credit unions and caisses populaires" (16%), "Pension funds" (1%), and "National Housing Act (NHA) mortgage backed securities" (9%). For

[1] Shares of growth are difficult to determine for prior periods due to changes in accounting for assets in NHA MBS.

"Finance companies and other institutions" and "Special purpose corporations, securitization", no growth was recorded. For "Trust and mortgage loan companies", there was a 5% drop in mortgage assets.

On the other hand, data from CAAMP's fall 2014 consumer survey indicates that 36% of mortgage initiation (by dollar volume) occurs through mortgage brokers. 53% is through chartered banks, 8% is through credit unions, 3% is through life insurance and trust companies, and a negligible amount is through other categories of lenders.

The discrepancy between chartered banks' share of initiations (53%) versus 72% of the actual growth occurs for two major reasons:

- Some mortgage loans arranged via mortgage brokers are placed with the banks.
- Secondly, shares shift at renewal, as most borrowers renew with the institution that administers their loans, rather than with the professional that arranged the loan.

In short, mortgage lending in Canada is highly dominated by the five major chartered banks. If not for the role of mortgage brokers, there would be decidedly less competition and choice in the residential mortgage market.

The chartered banks do not compete vigorously on the basis of the prices (mortgage interest rates) that they publish. Data obtained from a variety of mortgage rate aggregators on the internet show that the major banks are far from being price leaders. As of October 1, the site ratesupermarket.ca shows the following rates (fixed rate mortgage with 5-year terms, and 5-year variable rate mortgages) for the chartered banks:

- Bank of Montreal: 2.69% and 2.70%.
- TD Canada Trust: 2.69% and 2.70%.
- Scotiabank: 4.49% and 2.85%.
- Royal Bank: 4.64% and 2.70%.
- CIBC 4.79% and 2.20%.

By contrast, smaller lenders (predominantly operating via the broker channel) are offering rates in the range of 2.39% to 2.54% (5-year fixed rate) and 1.85% to 2.05% (5-year variable).

Moreover, the pressure that results from mortgage brokers is forcing major lenders to be more competitive on price, both through the quotes that the banks provide to brokers and through the negotiation processes that occur when potentially borrowers come armed with quotes from other lenders.

If not for that pressure from the broker channel, it is easily arguable that major lenders would be enabled to compete less vigorously on pricing, to the disadvantage of consumers, who would end up paying higher mortgage interest rates.

Conclusion

Forcing mortgage brokers to reveal their actual commissions would put them at a disadvantage with lenders who do not make similar disclosures (by adding a dimension to the decision process via-a-vis use of a broker that is not present for other channels). The psychic cost of using a broker would be raised, distorting the decision process, certainly to the disadvantage of the brokers, and ultimately to the disadvantage of the consumers themselves.

The consumer evidence shown above indicates that use of mortgage brokers benefits consumers on issues that matter to them: by obtaining the best possible rates in their circumstances, by reducing the stress of navigating a complicated financial transaction, and by efficiently searching the market to find a mortgage product whose features best meet their needs and circumstances.

Consumers' Satisfaction Ratings (10-Point Scale) for Broker and Non-Broker Mortgages			
	Non-Broker	*Broker*	*Total*
Offering competitive mortgage interest rates			
Average	7.68	8.01	7.79
% 9 or 10	35%	47%	39%
Offering a wide selection of products			
Average	7.35	7.41	7.37
% 9 or 10	29%	34%	31%
Offering mortgage products I would be comfortable obtaining			
Average	7.63	7.77	7.68
% 9 or 10	33%	43%	37%
Understanding my needs			
Average	7.71	7.78	7.73
% 9 or 10	36%	40%	38%
Providing the information/advice I needed to make informed decisions			
Average	7.66	7.75	7.69
% 9 or 10	38%	41%	39%
Providing personalized service			
Average	7.67	7.74	7.69
% 9 or 10	37%	41%	38%
I feel I got the best mortgage deal for my needs			
Average	7.71	7.82	7.75
% 9 or 10	35%	41%	37
Responsiveness			
Average	7.73	7.78	7.75
% 9 or 10	38%	41%	39%
Timeliness			
Average	7.58	7.78	7.65
% 9 or 10	35%	42%	38%
Reliability			
Average	7.74	7.82	7.77
% 9 or 10	39%	44%	41%
Source: survey by Bond Brand Loyalty for CAAMP; analysis by Will Dunning.			

Sample Point of Sale Commission Protocol

Items that must be included:

1. Statement on Services Provided
   e.g. "Our role is to provide you with the best insurance value that combines coverage, service and price. We Also provide personalized, quality service that includes professional insurance advice, ongoing policy maintenance and claims support. When any issue arises regarding your insurance coverage, we are your advocate, using our professional experience to best represent your individual interest."

2. Personal Lines Automobile and Property
   Statement on broker compensation showing insurers by class and range of commissions provided along with a statement advising that should commissions be increased, the consumer will be notified, e.g. Brokerage compensation is part of your insurance premium. For your benefit, we have listed below Automobile insurers that we represent and have included the range of compensation each provides as a percentage of your overall premium that appears on your invoice.

   - Aviva* - X% to Y%
   - Dominion of Canada* - X% to Y%
   - Economical Mutual* - X% to Y%
   - Gore Mutual – X% to Y%
   - Intact* - X% to Y%
   - Royal SunAlliance* - X% to Y%

   This commission percentage is paid annually for both new business and renewals. Should there be an increase in the commission schedule we receive from your insurer, or, any other material change that affects compensation arrangements, we will notify you.

3. Commercial Lines
   A Point of Sale document for commercial insurance will include commission schedules for those companies writing the class of business being offered similar to a personal lines document.

4. Contingent (Profit) Commission
   Statement will include bases for contingent commission and how they're dependent primarily on entire book of business profit (loss ratio).

5. In order for us to maintain strong relationships with quality insurers, we work with each to provide the type of business they desire. The insurers with an asterisk (*) noted above recognize our efforts through a Contingent Commission contract. Payment of this Contingent Commission depends on a combination of growth, profitability (loss ratio), volume, retention and increased services that we provide on behalf of the Insurer. Contingent Commission is not guaranteed. For detailed information on Contingent Commission, please go to the individual company's website.

6. Information on Ownership and Other Financial Links
   Brokers will declare to their customer should they have any other financial links that could be considered a conflict of interest such as:
   - x Any direct or indirect ownership interest by an insurer or financial conglomerate
   - x Any loan, credit facility or other financial relationship direct or indirect

7. Working with Insurance Companies
   Our disclosure commitments are made in the best interest of consumers. We encourage you to also consult the commitments made by the insurance industry and individual companies by consulting their websites or other available information.

Broker Compensation – Commercial Lines

The following is provided in keeping with our ongoing practice of full disclosure and transparency

Unlike agents who act in the self-interest of the single company they represent, brokers are licensed professionals that represent many insurers and work on your behalf to arrange coverage best suited to your needs, at the best possible price. We believe an insurance broker better serves you because as a consumer you value choice and professional advice.

Brokerage earns income in to ways. We paid a fixed percentage of commission by insurers for policies we write, as shown in the table below. We can turn additional profit sharing commission contingent upon writing a profitable portfolio for a given Insurer. Profit commission is not a brokerage priority; it is not guaranteed and averages about one half of 1% of our annual income.

Commission income paid to a brokerage supports salaries, rents, taxes, computer systems, office supplies, insurance and all other expenses that any business incurs.

Brokerage provides a variety of services to our clients. We offer professional advice, find the best insurer to fit your needs, as well as other administrative services. Most importantly, we are your advocate if a problem ever arises.

If brokers weren't providing these services insurers would have to hire additional staff to perform them. We're not dependent on a single insurer so we provide these services more efficiently and effectively, with your interests in mind.

Insurer	Automobile Insurance Compensation	Property Casualty Insurance Compensation	Contingent Profit Compensation
Aviva	12.5%	20%	Yes
AXA	12.5%	20%	Yes
Creechurch	N/A	10%	No
Dominion of Canada	7.5% – 12.5%	20%	Yes
Echelon	13.5%	N/A	Yes
Economical Mutual	7.5% - 12.5%	20%	Yes
Facility Association	10%	N/A	No
GE Insurance Solutions	N/A	15%	No
GCAN	N/A	15% - 20%	Yes
ING	7.5% - 12.5%	20%	Yes
ENCON	N/A	10%	No
Kingsway Insurance	5% - 12.5%	20%	No
Pilot Insurance	7% - 17.5%	20%	Yes
RSA	7.5% - 12.5%	20%	Yes
South Western	N/A	10%	No
Wawanesa Mutual	7.5% - 12.5%	20%	Yes
Zurich Canada	7.5% - 12.5%	15% - 20%	No