

MORTGAGE BROKER CONFLICT OF INTEREST DISCLOSURE GUIDELINES

FREQUENTLY ASKED QUESTIONS

Q. When will I need to start disclosing compensation?

- A. To provide industry with a reasonable time period to adjust business processes and practices, the Registrar will not enforce improved disclosure requirements until after **June 30, 2017**.

The Registrar encourages early adoption of the guidelines before that date.

Q. What version for the Form 10 should I be using until June 30, 2017?

- A. Mortgage brokers can choose to use either the prescribed Form 10 (as set out in the Act Regulations and discussed in the guideline) or they may continue to use the existing enhanced Forms 10 and 11 until June 30, 2017.

After this date, mortgage brokers must use only the prescribed Form 10.

The Registrar encourages early adoption of the guidelines before June 30, 2017.

Q. Do commission splits between the mortgage broker and the submortgage broker need to be described, or is it sufficient to only disclose the total amount of compensation to be received by the mortgage broker?

- A. The amount each party receives must be disclosed. The prescribed Form 10 requires separate descriptions for the mortgage broker and the submortgage broker.

Q. How do I describe compensation for a particular transaction when a submortgage broker who acts in a transaction is paid a salary by the mortgage broker instead of any commission per transaction?

- A. The salary paid to a submortgage broker is not an “interest in the transaction,” and does not need to be disclosed. However, the compensation and potential volume bonus paid by the lender to the mortgage broker in relation to the transaction still must be described.

Q. I am an owner of a franchise or I am part of a mortgage broker network. How can I determine how much the head of the franchise or network is being paid by a lender?

A. The Act requires that direct or indirect payments received by related parties be described in the Form 10.

The Registrar expects that franchise and network corporate heads will provide information to related mortgage brokers to ensure related mortgage brokers are able to meet the Act's disclosure requirements.

Q. What if mortgage brokers, or mortgage broker franchisors or networks, have contracts with lenders that contain confidentiality provisions preventing disclosure of compensation information?

A. The Registrar expects that industry participants will make necessary adjustments to their businesses to enable full and complete disclosure.

Q. How do I disclose a possible volume bonus which may or may not be paid in the future, dependent on how much business I place with that lender for the year and/or dependent on what volume tier I might hit with different possible bonus amounts?

A. Volume bonus programs are considered an indirect interest which at the time of the transaction may be acquired, and therefore must be described to consumers.

The Registrar accepts that future payments may be difficult to predict with certainty. While the adequacy of disclosure will depend on the facts of the transaction, as a general practice, a description of each funding tier and what the *potential* bonus commission will be, in a dollar amount, for each funding tier, would be considered reasonable disclosure under the Act.

Mortgage brokers are expected to explain how the volume bonus works to consumers, and what is required in order for a mortgage broker to earn the volume bonus in the future.

Q. Some lenders award "points" for deals, which can be accumulated and exchanged for valuable goods or services. How do I describe loyalty programs to consumers?

A. Rewards points have a monetary value and can be quantified. Lenders are expected to provide this information to mortgage brokers to enable them to describe the value of the points earned in a dollar amount.

Q. Some technology providers pay mortgage brokers a fee for every deal processed through their system. Is this an interest in the transaction that needs to be included in Form 10 disclosure?

A. No. Fees from technology providers are separate and incidental to the mortgage transaction

Q. Do lenders who are registered as mortgage brokers under the Act also have to provide a Form 10 to borrowers?

A. No. Lenders with whom a third-party mortgage broker has arranged a mortgage on behalf of a borrower are not required to provide a Form 10 to the borrower. Only the originating mortgage broker, who is acting as an intermediary, must provide a Form 10 disclosure to borrowers and/or lenders as they are the mortgage broker "acting in the transaction" between the borrower and the lender.

Q. What if the lender in a transaction is a "private label" mortgage product exclusive to a particular mortgage broker or franchise or network? Are there any special conflict of interest disclosure requirements?

A. The disclosure requirements are the same for any transaction. The mortgage broker and submortgage broker must describe any interests acquired or that may be acquired.

Q. My brokerage firm, franchise or network offers group creditor life insurance to borrowers, incidental to the sale of the mortgage. Do I need to disclose compensation received from selling this in the Form 10?

A. No. Compensation from the sale of group creditor insurance is separate and incidental to the mortgage transaction. Only interests arising from the mortgage transaction itself are relevant to conflict of interest disclosure requirements under the Act.

Q. Sometimes a mortgage loan amount may vary from the time the Form 10 is provided to the consumer and the time it actually funds. How accurate does the compensation disclosure need to be?

A. The Registrar expects values to be determined in good faith, and to be reasonable and defensible, as contemplated at the time the disclosure is provided.

Major variations in the value disclosed and the actual compensation received that cannot be reasonably explained will attract the attention of the Registrar. Minor variations that, for example, result from adjustments at closing, are unlikely to attract the attention of the Registrar.

If there is a material change to the mortgage transaction after a Form 10 is provided, the Registrar will expect that a new Form 10 is provided to borrowers and/or lenders to reflect the change.