



## Registrar of Mortgage Brokers

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# INFORMATION BULLETIN

<b>BULLETIN NUMBER:</b>	<b>MB 08-003</b>
<b>TITLE:</b>	<b>FORM 9 – INVESTOR/LENDER DISCLOSURE STATEMENT</b>
<b>LEGISLATION:</b>	<b>MORTGAGE BROKERS ACT</b>
<b>DATE:</b>	<b>September 12, 2008</b>

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### **Obligation to Provide Form 9 Disclosure**

Under section 17.1 of the *Mortgage Brokers Act* (the “Act”), a mortgage broker who:

- arranges a mortgage in which another person is to be the lender;
- arranges the sale of a mortgage lender’s interest in a mortgage to a new lender; or
- is a mortgage lender and sells its interest in the mortgage to another person who will be the new mortgage lender;

must provide the mortgage lender with an Investor/Lender Disclosure Statement in Form 9 with the attachments listed in Form 9.

The Form 9 must be provided to the mortgage lender prior to any mortgage funds being released from trust, or if there are no mortgage funds being held in trust, prior to the mortgage funds being advanced to the borrower.

### **Exemptions from Obligation to Provide Form 9 Disclosure**

A mortgage broker is exempt from the obligation to provide a mortgage lender with a Form 9 if the mortgage lender is a financial institution or another sophisticated person (\*see complete list of sophisticated persons below).

In addition, a mortgage broker is exempt from the obligation to provide a mortgage lender with a Form 9 if:

- the mortgage is part of a pool of mortgages and an interest in the pool is being offered by the mortgage broker as a security as defined in the *Securities Act*, and fully guaranteed by the government of Canada or by a province of Canada; or

- an offering memorandum or a prospectus has been provided to the mortgage lender in accordance with the requirements of the *Securities Act*.

\*A sophisticated person is defined to mean:

- (a) a government of Canada or any province of Canada or a crown corporation or agency of a Canadian federal or provincial government;
- (b) a municipal corporation, public board, or commission in Canada,
- (c) a savings institution;
- (d) a cooperative credit society as defined in the *Cooperative Credit Associations Act* (Canada) or a savings and credit union, federation or confederation as defined in the *Savings and Credit Unions Act* (Quebec);
- (e) the Business Development Bank of Canada;
- (f) a pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension supervisory authority;
- (g) an insurance company;
- (h) a trust company or insurer authorized under the laws of Canada or of a province of Canada other than British Columbia to carry on business in Canada or that province;
- (i) a mortgage broker acting as principal;
- (j) a subsidiary, as defined by the *Business Corporations Act*, of a person referred to in paragraph (a) to (i);
- (k) a person registered under the *Securities Act* or the securities legislation of another province in Canada as an investment dealer or equivalent, acting as principal or as an agent or trustee for accounts that are fully managed by it;
- (l) a person registered under the *Securities Act* or the securities legislation of another province in Canada as a portfolio manager or equivalent, acting as principal or as an agent or trustee for accounts that are fully managed by it;
- (m) a mutual fund or non-redeemable investment fund, if the investment portfolio of the fund is managed by a person that is registered under the *Securities Act* or the securities legislation of another province in Canada as a portfolio manager or equivalent; or
- (n) a person or trust that acquires mortgages or interests in mortgages for the purpose of offering, as a security as defined in the *Securities Act*, interests in a pool of those mortgages or interests in mortgages.

At the office of the Registrar of Mortgage Brokers, we issue information bulletins to provide technical interpretations and positions regarding certain provisions contained in the *Mortgage Brokers Act*, *Business Practices and Consumer Protection Act* and Regulations. While the comments in a particular part of an information bulletin may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, an interpretation or position contained in an information bulletin generally applies as of the date on which it was published, unless otherwise specified.