

# Consumer Credit Division

## Mortgage Disclosure Form Guidance



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## **Mortgage Disclosure Form Guidance**

This document has been prepared to assist Saskatchewan licensed mortgage brokerages, brokers and associates in completing the mortgage disclosure form to comply with the requirements of *The Mortgage Brokerages and Mortgage Administrators Act* “Act” and *The Mortgage Brokerages and Mortgage Administrators Regulations* “Regulations”.

### **MORTGAGE DISCLOSURE FORM**

#### **Section 1 – Description of the selected mortgage**

##### What we have seen in industry

The objective of this section is to summarize the key aspects of the selected mortgage. We have found that this is, generally, completed appropriately. However, sometimes the selected mortgage changes after the mortgage disclosure form is issued and an updated form is not provided.

##### Guidance

If the mortgage product has changed after the mortgage disclosure form is issued, a new form must be provided at the earliest opportunity and at least 1 day before the borrower commits or makes a payment in connection to the mortgage.

#### **Section 2 - Rationale for mortgage selection**

##### What we have seen in industry

The objective of this section is to set out the primary reasons why the mortgage was determined to be most suitable. We have found that this section, generally, has been completed incorrectly. Some incomplete answers we have seen are a “%” sign, or the words “best rate”.

## Guidance

This section now contains checkboxes that a brokerage selects from to convey to the borrower the primary reason why the mortgage was determined to be most suitable for them. Each checkbox represents a mortgage loan feature that correlates to a borrower need. If a mortgage feature and or need of the borrower is not covered in the listing, there is an “other” checkbox, with space to provide a description.

Disclosing this information provides the borrower an opportunity to take a second look at their decision, ask any clarifying questions to ensure it makes sense for them.

The brokerage’s suitability assessment must be documented and retained in the borrower file. The assessment needs to include what the borrower considered as their most important needs given their personal and / or financial situation and the broker’s analysis of how the features of the determined mortgage product fulfill those needs. The assessment should clearly link the borrower’s needs to features of the mortgage so that it’s possible for a third party (e.g. principal broker, regulator) to determine if the mortgage product is the most suitable.

In summary, the brokerage must determine the most suitable available mortgage loan, document their assessment and disclose to the borrower the primary reasons why the mortgage was determined to be most suitable for them.

## **Section 3 - Identification of the lender**

### What we have seen in industry

The objective of this section is to inform the borrower who the lender is. We have often seen this area left blank, or an answer such as “FCAA approved list” given. This is not an optimal answer, while there is a listing of licensees, there is not an approved lender list on our website.

## Guidance

This section now contains two parts, the first part asks for the lender’s authorization to lend in Saskatchewan. To disclose this, the brokerage must select a checkbox which states whether the lender is a Saskatchewan credit union, an entity licensed pursuant to *The Trust and Loan Corporations Act, 1997*, a bank, private investor, or undetermined.

The second part needs to be completed if the lender is a private investor or if the brokerage was not able to determine the lender’s authorization. This part asks for a description of the steps that were taken to identify the lender. If a brokerage is not able to determine the lender’s authorization, it can contact the Consumer Credit Division for steps that can be taken to identify the lender’s authorization.

## **Section 4 - Disclosure of Interests**

### What we have seen in industry

The objective of this section is to inform the borrower whether the brokerage, broker or associate is receiving payments or benefits from the mortgage transaction. We have seen a number of instances in which the borrower is informed there is no interest when a finder's fee is being paid.

### Guidance

The first part of this section sets out whether there is an interest in the mortgage transaction. Under this section, a brokerage, broker, associate or any other related person has an interest if they will receive any type of payment or benefit. A benefit or payment includes, but is not limited to: finder's fees, trailer fees, renewal fees, borrower paid broker fees, volume bonuses, points, etc. To complete the first part of this section the brokerage must answer yes or no, that there may be an interest in the mortgage transaction.

The only scenario in which "No" is an appropriate answer is when the mortgage is being brokered and no payments or benefits are being received by the brokerage, broker or associate. As this is a rare circumstance, substantially all situations will require the answer to be "Yes."

If the answer to the first part is "Yes," then the second and third part of the section needs to be completed disclosing who has an interest and the nature of the interest.

In the second part of this section, if the brokerage and the broker, or brokerage and associate, and / or a related person, have an interest, this needs to be indicated by selecting the appropriate checkbox.

The third part of the section asks for the nature of the interest. Generally, the answer would be remuneration, and no other information would need to be given. However, there are certain instances where there is a relationship or arrangement (i.e. a conflict of interest) that would need to be explained. For example, if the private investor funding the mortgage is related to the broker arranging the mortgage or if the broker's spouse works for the lender that is funding the mortgage then the conflict of interest needs to be disclosed.

## **Section 5 - Identification of Remuneration**

### What we have seen in industry

The objective of this section is to inform the borrower how the brokerage, broker or associate is compensated. Often, section four of the mortgage disclosure form is completed incorrectly and this carries forward to section five, resulting in this section being left blank.

## Guidance

Section four identifies whether the brokerage has an interest in the mortgage. As the brokerage will generally have an interest and receive remuneration, section five needs to be filled out. This section has three parts. The first part is identifying who is providing remuneration, including borrowers, if applicable.

If the remuneration is in the form of money the second part needs to be completed and must include a description of how the remuneration is calculated. For all types of fees (e.g. finder's fees, volume bonuses) the brokerage needs to identify the fee and explain how it is calculated. If there is more than one fee, a description of each fee must be provided. Numbers only need to be included in the description for a fee charged to the borrower.

When a borrower is charged a broker fee, the amount of the broker fee must be disclosed in the mortgage disclosure form. In addition, there must be a description of how the fee will be paid (e.g. the fee is paid from the mortgage proceeds). Please ensure borrower paid broker fees comply with section 31 of the Regulations, which describes when a broker fee can be charged.

The third part needs to be completed if the remuneration is in a form other than money. This part asks for an identification and description of the non-monetary remuneration. Specifics such as the number of points or the value of a gift are not required to be included.