



REQUEST FOR COMMENTS

Notice and Request for Comment – Publication of Proposed Amendments to the Financial and Consumer Services Commission Rule MB-001 *Mortgage Brokers Licensing and Ongoing Obligations* and Rule MB –002 *Mortgage Brokers Fees* (collectively the “Proposed Rules”).

Introduction

On 3 October 2017, the Financial and Consumer Services Commission (Commission) approved publication in order to obtain comments on the Proposed Amendments.

Substance and Purpose of Proposed Rules and Proposed Amendments

The purpose of the Proposed Amendments is to update the regulatory framework which supports the *Mortgage Brokers Act* to: reflect the anniversary date of licensing; remove duplication in reporting a change in circumstances notification requirement; and amend the prohibition on advanced fees to clarify the type of advanced fees payable to third parties that are permitted and remove the restriction of advanced fees on commercial mortgage transactions.

Request for Comment

The Commission welcomes your comments on the Proposed Amendments.

How to Obtain a Copy and Provide your Comments

The texts of the Proposed Amendments are included with this notice (**Annex A** and **Annex B**).

A paper copy of the proposed materials may be obtained by writing, telephoning or emailing the Commission. Comments are to be provided, in writing, by no later than **4 December 2017** to:

Secretary

Financial and Consumer Services Commission

85 Charlotte Street, Suite 300

Saint John, N.B. E2L 2J2

Telephone: 506-658-3060

Toll Free: 866-933-2222 (within NB only)

Fax: 506-658-3059

E-mail: information@fcnb.ca

A summary of the written comments received during the comment period may be published.

Questions

If you have any questions, please refer them to:

Alaina Nicholson
Acting Director of Mortgage Brokers
Financial and Consumer Services Commission
Tel: 506-444-3156
Email: alaina.nicholson@fcnb.ca



**Amendment Instrument to
Financial and Consumer Services Commission Rule MB-001
*Mortgage Brokers Licensing and Ongoing Obligations***

1. Rule MB-001 *Mortgage Brokers Licensing and Ongoing Obligations* is amended by this instrument.
2. Paragraph 10(3)(d) is repealed.
3. Section 26 is replaced with the following:
 26. (1) Except as provided in subsection (2), a mortgage brokerage must not charge, collect or attempt to collect a fee or other remuneration from a borrower in relation to a mortgage obtained by an individual for primarily personal, family or household purposes until:
 - (a) an investor has provided a written confirmation to fund a mortgage to the borrower;
 - (b) a mortgage agreement has been entered into; and
 - (c) the mortgage contemplated in the mortgage agreement has been funded and secured by a mortgage as set out in the written confirmation.
 - (2) This section does not apply with respect to actual fees disbursed by a mortgage brokerage to third parties for credit reports, registration fees, courier services or appraisal services if there is an existing written agreement between the mortgage brokerage and the borrower that provides for the borrower to reimburse the mortgage brokerage these costs.
4. Subsection 29(3) is replaced with the following:
 - (3) A mortgage brokerage must immediately notify the Director if the mortgage brokerage believes that there may be reasonable grounds upon which the Director could determine that:
 - (a) a mortgage broker or mortgage associate is not suitable to be licensed pursuant to the Act; or

(b) the continued licensing of a mortgage broker or mortgage associate pursuant to the Act would be objectionable.

5. Subsection 31(3) is amended by replacing “subsection 3(3)” with “paragraph 3(d)”.
6. Subsection 36(2) is amended by replacing “brokerage” with “administrator” wherever it occurs.
7. Section 54 is amended by replacing “prior to January 1st” with “on or before March 31st”.
8. This Instrument comes into force on (date).



**Amendment Instrument to
Financial and Consumer Services Commission Rule MB-002
*Mortgage Brokers Fees***

1. Rule MB-002 *Mortgage Brokers Fees* is amended by this instrument.
2. Subsections 2(4) and 2(6) are amended by replacing “January 1st” with “March 31st”.
3. Section 3 is amended by replacing “sections 58(8)” with “subsection 58(8)”.
4. This Instrument comes into force on (date).