

**MBRCC Code of Conduct  
Consultation Feedback**

	<b>Current text</b>	<b>Feedback</b>	<b>Proposed Action</b>
<b>Title</b>	National Code of Conduct for Mortgage Brokering	Perhaps it is worth clarifying whether this proposed Code is only intended to apply to mortgage brokers? MBRCC National Code of Conduct for Mortgage Brokering Sector	MBRCC Code of Conduct for the Mortgage Brokering Sector
<b>Principle 1</b>	Compliance / Outcomes: Regulated persons and entities must comply with the letter of legislative / regulatory requirements. They should also ensure their employees and third-party partners comply. Their conduct should reflect industry best practices and achieve the outcomes intended by these requirements.	Letter of the law vs. spirit of the law; asking mbs to "ensure" compliance; must vs. should Should be the spirit of the regulations. It is the regulators duty to clarify the "letter of" versus "spirit of". Regulated persons, entities, their employees and third parties shall conduct business in accordance with the legislative/regulatory requirements and industry best practices.  Best practices is undefined. Perhaps amend to require adherence to this code, and regulatory/legislative requirements  Regulated persons and entities must comply with the letter of legislative / regulatory requirements. Principals/DI's <del>They should also ensure their employees and third party partners comply.</del> Best efforts should be used to ensure third parties comply. Their conduct should reflect industry best practices and achieve the outcomes intended by these requirements * trying to impose a standard of care on brokers to somehow force a 3rd party who may be governed outside of the parameters of each provincial Act may be too high a bar?	Compliance / Outcomes: Regulated persons and entites must comply with legislative and regulatory requirements. They should take reasonable steps to ensure their employees and third-party partners also comply. Their conduct should embody the principles included in this Code.
<b>Principle 2</b>	Accountability: Regulated persons and entities must act in a responsible / accountable manner. They must exercise care, due diligence and sound judgement in providing their products and services.	Drop "their" as the products are 99% someone elses.  Wouldn't this be strengthened by stating that the "MB acts in the best interest of their client". This is a step towards a fiduciary responsibility which is recognized as a stronger level of accountability	Accountability: Regulated persons and entities must act in a responsible / accountable manner. They must exercise care, due diligence and sound judgement in providing products and services.

Principle 3

Honesty: Regulated persons and entities must conduct their activities in a truthful, clear and transparent manner. They must not mislead, hide or obscure material information.

s/b activities truthfully, clearly and transparently

Honesty: Regulated persons and entities must conduct their activities in a truthful, clear and transparent manner. They must not mislead, hide or obscure material information.

Principle 4

Competence: Regulated persons must develop and maintain the skills, knowledge and aptitudes necessary for their business activities. They should decline to act when they are unable to provide products / services in accordance with this Code.

The MBRCC may wish to add a reference to the rules which govern mortgage brokers under their licensing statute, so that they should act in accordance with this Code and those rules.

Competence: Regulated persons must have and maintain the skills, knowledge and aptitudes necessary for their business activities. They should decline to act when they are unable to provide products / services in accordance with this Code.

develop, renew and maintain .... Regulated persons must develop and maintain the skills, knowledge and aptitudes necessary for their business activities. They should decline to act when they are unable to provide products/services in accordance with this Code and the legislative/regulatory requirements."

Amend the words must and should to align with regulations and legislation. Must where required by re/leg, should when not.

Not a high enough bar. Low barriers to entry, no rigorous academic minimums set. Yes, this should be a national standard.

Principle 5

Suitability: Regulated persons and entities must provide options for products / services that are suitable for their client(s). They must have a sound understanding of how the products / services match the circumstances of their client(s).

Incorporating a reasonable person standard; qualify the phrase "circumstances of their client" circumstances "and needs"

Suitability: Regulated persons and entities must take reasonable steps to present products / services that are suitable for their client(s). They must have a sound understanding of how the products / services match the disclosed circumstances of their client(s).

Regulated persons and entities must offer reasonable options for products/services that are suitable to their client'(s) disclosed circumstances and needs. Include the word "disclosed" It would help to add "They must inform the client of the reasons for selecting the product based on their suitability". I often find that brokers fail to address the less tangible issues of suitability when talking to clients. They often just talk about investment returns.

Disclosure: Regulated persons and entities must disclose material information to applicable parties in a transaction. Disclosures must be made in an honest and timely manner. Disclosures are required for transactions completed in traditional or digital format.

May wish to further clarify that disclosure must be meaningful

Disclosure: Regulated persons and entities must fully disclose material information to applicable parties in a transaction. Disclosures must be meaningful and made in an honest and timely manner.

Principle 6

Delete "Disclosures are required for transactions completed in traditional or digital format."

Regulated persons and entities must disclose pertinent information in an honest and timely manner to applicable parties in a transaction. Disclosures are required for transactions completed in traditional, digital or similar conventionally approved format(s).  
Include the word "complete"  
disclosures must be made "honestly and timely"

Principle 7

Management of Conflicts of Interest: Regulated persons and entities must identify and disclose actual or potential / perceived conflicts of interest to applicable parties in a transaction. They should have documented strategies for managing such conflicts.

change strategies to "policies" or another word  
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Management of Conflicts of Interest: Regulated persons and entities must identify and disclose actual, potential and/or perceived conflicts of interest to applicable parties in a transaction. They should have documented policies for managing such conflicts.

Principle 8

Security and Confidentiality: Regulated persons and entities must protect their clients' information. They must use the information only for purposes for which the client has given consent.

May wish to clarify that the information protected is "personal" information

Security and Confidentiality: Regulated persons and entities must protect their clients' information. They must use and disclose it only for purposes for which the client has given consent or as compelled by law.

Regulated persons and entities must protect their clients' information acquired in the course of the business relationship and use the information only for purposes for which the client has given consent, is required by law or in conducting negotiations on behalf of the client. This echoes the EU approach and it is quite good. The second sentence is often amended to read "... consent unless compelled by legal or regulatory authorities."

Principle 9

Stewardship: Regulated persons and entities should act with integrity and respect. They must not engage in any act or omission that would bring disrepute to or undermine the public's confidence in the industry.

May wish to identify specific industry referenced

Stewardship: Regulated persons and entities should act ethically, with integrity and respect. They should foster a culture of compliance. Their conduct should not undermine the public's confidence in the mortgage brokering sector.

act "ethically, with integrity and respect" public's confidence "of the broker, agent and the industry."

Principle 10

Co-operation with Regulators: Regulated persons and entities must co-operate with mortgage brokering regulators. They should report possible violations of laws, regulations or this Code to the appropriate authority. They must not retaliate against those who make or intend to make such reports.

In order to have a vibrant community of brokers, agents and regulators there must be a reciprocal respect for and cooperation with each and all parties. The industry relies on integrity, self-compliance and reporting of misconduct. Reporting of non-compliance is beneficial to the branding and trust of the industry and each of its players. Initiation of punitive actions will not be tolerated by the regulators nor the Association(s)

Co-operation with Regulators: Regulated persons and entities must co-operate with mortgage brokering regulators. They should report possible violations of laws, regulations or this Code to the appropriate authority.

If we do not connect all the parties that can be involved when something goes wrong, then there will be holes that people who desire to misrepresent or hide from their activity can get through. There has been a big GAP for years and it is with E&O claims. When an agent , broker, or Brokerage has to admit to Fraud or misrepresentation and a claim is paid , the Insurer should have been informing FSCO now FSRA. If the practice of no tell is continued then that will harm the industry and consumers we serve.

Suggest a more meaningful standard might aligned along the concept of self-reporting

Change title of principle to "cooperation"

Regulated persons and entities must co-operate with mortgage brokering regulators. They should report possible violations of laws, regulations or this Code to the appropriate authority. They should have documented reporting protocols in place. They must not retaliate against those who make or intend to make such reports.

The mortgage broker industry as a whole does not report violations as they should. A more FINTRAC like approach, a "duty to report" for violations, and fines for not reporting, would add teeth in an area that desperately needs it. We see too many violations, such as mortgage fraud, continuing because entities are not *required* to report.

Not applicable

How will Code be enforced?

This Code is a plain-language presentation of common conduct principles for the Canadian mortgage brokering sector. Provincial regulators will continue to enforce all applicable laws, regulations, rules or regulatory codes, including those that mandate a stricter or more specific standard of conduct.

Licencees shall not, when acting in a professional capacity, discriminate or participate in the discrimination against any person based on age, gender, race, religion, sexual orientation, political beliefs, citizenship, marital status, family status, disability or any additional ground protected by law. This commitment applies to all interactions with individuals doing business with the licencee.

Licencees shall not discriminate or participate in the discrimination against any person when acting in a professional capacity.

Licencees shall not, when acting in a professional capacity, participate in the racial discrimination against any person. Racial Discrimination, as defined by the Ontario Human Rights Commission, includes any action, intentional or not, that has the effect of singling out persons based on their race, and imposing burdens on them and not on others, or withholding or limiting access to benefits available to other members of society.

Principles apply regardless of format

The principles apply to transactions completed in traditional or digital format.

Will Brokerage's be required to produce/provide/display the code to consumers or will the dissemination of the code be the sole responsibility of the regulator?

Industry representatives are encouraged but not required to provide or display the Code. Any regulatory requirements related to this Code will be communicated to licensees by the regulator.

Reflect feedback from #10? In order to have a vibrant community of brokers, agents and regulators there must be a reciprocal respect for and cooperation with each and all parties. The industry relies on integrity, self-compliance and reporting of misconduct. Reporting of non-compliance is beneficial to the branding and trust of the industry and each of its players.