PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 352 *, Approved and Ordered* July 14, 2025

Wendy Cocchia
Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective October 13, 2026, the attached Mortgage Services Rules are made.

Minister of Finance

Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Mortgage Services Act*, S.B.C. 2022, c. 27, s. 63 (8) (a)

Other:

R10852243

MORTGAGE SERVICES RULES

Contents

PART 1 – INTERPRETATION

Definitions and interpretive provisions

1 (1) In these rules:

"accountant" means

(a) a person who is

(i) a member of a provincial organization of chartered professional accountants within Canada who is authorized by that organization to perform an audit,

(ii) a professional accounting corporation, as defined in the *Chartered Professional Accountants Act*, that is authorized by the Chartered Professional Accountants of British Columbia to perform an audit, or

(iii) a registered firm, as defined in the *Chartered Professional Accountants Act*, that is authorized by the Chartered Professional Accountants of British Columbia to perform an audit, or

(b) in relation to a mortgage brokerage that is a reporting issuer within the meaning of the *Securities Act*, a person referred to in paragraph (a) or a person who is authorized under the *Securities Act* to sign an auditor's report;

"Act" means the *Mortgage Services Act*;

"application for a licence" has the same meaning as in section 13 *[applications in relation to licences]* of the Act;

"associate" means, in relation to a licensee,

(a) another licensee engaged by the licensee's related mortgage brokerage,

(b) a partner of the licensee,

(c) in the case of a licensee who is a partnership or corporation, a partner, officer, director or shareholder of the licensee,

(d) in the case of a licensee who is not an individual, partnership or corporation, an individual who directly or indirectly controls the licensee,

(e) any of the following persons in relation to the licensee's related mortgage brokerage:

(i) in the case of a mortgage brokerage that is a partnership or corporation, a partner, officer, director or controlling shareholder of the mortgage brokerage;

(ii) in the case of a mortgage brokerage that is a sole proprietorship, the sole proprietor;

(iii) in any other case, an individual who directly or indirectly controls the licensee,

(f) a corporation in respect of which the licensee beneficially owns or controls, directly or indirectly, voting securities carrying more than 10% of the voting rights attached to all outstanding voting securities of the corporation,

(g) a partnership in which the licensee is a partner,

(h) a trust or estate in which the licensee has a beneficial interest or for which the licensee serves as trustee or in a similar capacity,

(i) a spouse, parent, grandparent, child, grandchild, sibling, aunt, uncle, niece or nephew of the licensee, or

(j) a parent, grandparent, child, grandchild, sibling, aunt, uncle, niece or nephew of the licensee's spouse;

"borrower" includes a prospective borrower;

"branch office" means the premises that are identified in a mortgage brokerage licence as the branch office from which the mortgage brokerage may provide mortgage services under the licence;

"business day" means a day other than a Saturday or a holiday;

"client" means, in relation to a licensee, the person who has engaged the licensee to provide one or more of the following mortgage services to or on behalf of the person:

(a) dealing in mortgages;

(b) trading in mortgages;

(c) administering mortgages;

"controlling person" means any of the following persons:

(a) in the case of a corporation, a director or officer of the corporation;

(b) in the case of a partnership, other than a limited partnership,

(i) a partner of the partnership, and

(ii) if the partner is a corporation, a director or officer of the corporation;

(c) in the case of a limited partnership,

(i) a general partner of the limited partnership, and

(ii) if the general partner is a corporation, a director or officer of the corporation;

(d) in the case of a person who is not an individual, partnership or corporation, another person who directly or indirectly controls the person;

"designated agent" means one or more licensees designated by the licensee's or licensees' related mortgage brokerage as the exclusive licensee or licensees, of all of the licensees related to that mortgage brokerage, to provide mortgage services to or on behalf of a client of the mortgage brokerage in respect of a potential mortgage or mortgage transaction;

"dual agency" means the representation, in respect of a mortgage or mortgage transaction, by a mortgage brokerage of any of the following:

(a) both a borrower and a lender as clients;

(b) both

(i) the buyer or prospective buyer of a mortgage, and

(ii) the seller or prospective seller of a mortgage

as clients;

(c) 2 or more borrowers or lenders, as the case may be, as clients who have conflicting interests in respect of the mortgage or mortgage transaction;

"head office" means the premises that are identified in a mortgage brokerage licence as the office, other than a branch office, from which the mortgage brokerage may provide mortgage services under the licence;

"lender" includes a prospective lender;

"licensee name", in relation to a licensee, means the licensee name within the meaning of section 53 *[licensee names]*;

"mortgage administrator" means a licensee who administers mortgages;

"mortgage brokerage governance policy" means a mortgage brokerage's governance policy referred to in section 13 (1) *[governance policy for mortgage brokerages]*;

"mortgage services advertising" means any form of identification, promotion, solicitation or representation, including a sign or other notice, relating to

(a) mortgages,

(b) a mortgage transaction, or

(c) the provision of mortgage services;

"mortgage services team" means a group of two or more licensees that is registered as a mortgage services team under Division 4 of Part 4;

"mortgage transaction" includes a potential mortgage transaction;

"party",

(a) in relation to a mortgage transaction, means a party to the mortgage transaction but does not include a licensee acting solely as a licensee when providing any of the following mortgage services:

(i) dealing in mortgages;

(ii) trading in mortgages;

(iii) administering mortgages, and

(b) in relation to a potential mortgage transaction, includes a potential party to the mortgage transaction;

"permitted person" means any of the following:

(a) the government of Canada or the government of a province or an agency of any of those governments;

(b) a municipality, regional district, 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 financial services cooperative as defined in the *Act Respecting Financial Services Cooperatives* (Quebec);

(e) the Business Development Bank of Canada;

(f) a pension fund that is regulated by 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 other than British Columbia to carry on business in Canada or that province;

(i) a person registered under the *Securities Act* or the securities legislation of another province as a dealer or its equivalent, acting as principal or as an agent or trustee for accounts that are fully managed by the person;

(j) a person registered under the *Securities Act* or the securities legislation of another province as a portfolio manager or its equivalent, acting as principal or as an agent or trustee for accounts that are fully managed by the person;

(k) an investment fund, if the investment portfolio of the fund is managed by a person who is registered under the *Securities Act* or the securities legislation of another province as a portfolio manager or its equivalent;

(l) 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;

(m) a subsidiary, as defined in the *Business Corporations Act*, of a person or entity referred to in any of paragraphs (c) to (l);

(n) a person or entity in a foreign jurisdiction that is analogous to an entity referred to in any of paragraphs (c) to (m);

(o) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any agency of that government;

"personal information" has the same meaning as in section 1 of the *Personal Information Protection Act*;

"pooled trust account" means a trust account in which money is held on behalf of more than one person;

"publish", in relation to mortgage services advertising, includes

(a) causing or permitting mortgage services advertising to be published, and

(b) displaying mortgage services advertising, or causing or permitting mortgage services advertising to be displayed;

"related mortgage brokerage office", in relation to a licensee, means the mortgage brokerage head office or branch office that is identified in the licensee's licence;

"related party" means, in relation to a person, any other person who is

(a) related to the person under subsections (2) to (4) of this section, or

(b) deemed to be a related party under subsection (5) of this section;

"service agreement" means an agreement between a mortgage brokerage and a client under which a licensee provides mortgage services to or on behalf of the client;

"significant interest holder" means any of the following persons:

(a) in the case of a corporation with issued shares,

(i) a person who is the registered or beneficial owner of, or who directly or indirectly controls, 10% or more of the issued shares of the corporation, or

(ii) a person who is the registered or beneficial owner of, or who directly or indirectly controls, issued shares of the corporation that carry 10% or more of the rights to vote at general meetings;

(b) in the case of a partnership, other than a limited partnership, a partner of the partnership;

(c) in the case of any other person,

(i) a person who is entitled, directly or indirectly, to 10% or more of the profits of the other person,

(ii) a person who is entitled, directly or indirectly, to 10% or more of the assets of the other person on winding up or dissolution of the other person, or

(iii) a person who holds, owns or controls, directly or indirectly, 10% or more of the voting rights in respect of the other person;

"spouse" means a person who

(a) is married to another person, or

(b) is living with another person in a marriage-like relationship;

"trust account" means a trust account maintained under section 33 *[trust accounts]* of the Act;

"trust account record" means a record referred to in section 97 (a) *[trust account and general account records]* as it applies to a trust account;

"trust ledger" means a trust ledger required under section 98 (a) *[pooled trust account records]*;

"trust money" means all money held or received by a brokerage and to which section 88 (1) or (2) *[payment into trust account]* applies, except remuneration that has already been earned by the mortgage brokerage at the time it is held or received by the mortgage brokerage.

(2) For the purposes of paragraph (a) of the definition of "related party", each of 2 persons is related to the other if

(a) either influences the other,

(b) both influence the same third person, or

(c) both are influenced by the same third person.

(3) For the purposes of subsection (2), a person influences another person if, through the beneficial ownership of or exercise of control or direction over, or through a combination of such ownership of or control or direction over,

(a) voting securities of that other person,

(b) securities currently convertible or exchangeable into voting securities of that other person, or

(c) securities carrying a currently exercisable right to acquire voting securities of that other person or to acquire convertible or exchangeable securities referred to in paragraph (b),

whether directly or indirectly and whether alone or in combination with one or more persons, the person exercises a controlling influence over the management and policies of that other person.

(4) For the purposes of subsection (2) and without limiting the generality of subsection (3), a person, in the absence of evidence to the contrary, is deemed to influence another person if the first person

(a) beneficially owns or exercises control or direction over securities that constitute in the aggregate more than 20% of the outstanding securities of any class or series of voting securities of that other person, or

(b) would, upon conversion, exchange or exercise of any security or right referred to in subsection (3) (b) or (c), beneficially own or exercise control or direction over securities that would constitute in the aggregate more than 20% of the outstanding securities of any class or series of voting securities of that other person,

whether directly or indirectly and whether alone or in combination with one or more persons.

(5) For the purposes of paragraph (b) of the definition of "related party", if any 2 persons are related parties of the same other person, the 2 persons are deemed to be related parties of each other.

PART 2 – LICENSING

Division 1 – Licence Categories

Licence categories

2 For each of the levels set out in section 9 (1) (a) to (c) *[licence levels and categories]* of the Act, the following licence categories are established to permit the provision of the mortgage services referred to:

(a) dealing in mortgages;

(b) trading in mortgages;

(c) administering mortgages;

(d) mortgage lending and, in relation to that mortgage service, dealing in, trading in and administering mortgages

(i) only on behalf of the licensee's related mortgage brokerage, and

(ii) only when that mortgage brokerage is a party to the mortgage or mortgage transaction.

Division 2 – Mortgage Brokerage Relationships and Offices

Mortgage brokerage must have principal broker – exception

3 (1) Section 10 (1) (a) and (b) *[mortgage brokerage must have principal broker]* of the Act does not apply to a mortgage brokerage if

(a) the mortgage brokerage ceases to have a principal broker licensed in relation to the mortgage brokerage because the licence of the principal broker

(i) has not been renewed,

(ii) is suspended or cancelled, or

(iii) has become inoperative for any reason, and

(b) the superintendent permits the mortgage brokerage to continue to provide the mortgage services that were permitted by the licence of the principal broker.

(2) The exception under this section applies for the period specified by the superintendent in giving permission under subsection (1) (b).

(3) If the superintendent has given permission under subsection (1) (b), section 29 (3) *[effect on related licensees if licence becomes inoperative]* of the Act does not apply to the licences of the mortgage brokerage and its related licensees until the end of the period referred to in subsection (2) of this section.

Principal broker may be licensed in relation to a maximum number of affiliated mortgage brokerages

4 (1) For the purposes of section 11 (2) *[relationships between mortgage brokerages, principal brokers and mortgage brokers]* of the Act, a principal broker may, subject to subsection (2) of this section,

(a) be licensed in relation to

(i) a maximum of 4 mortgage brokerages, or

(ii) a greater maximum, approved by the superintendent, of mortgage brokerages

that are related parties of each other, and

(b) provide mortgage services in relation to the licence of each of those mortgage brokerages.

(2) The total of all mortgage brokerage licences in relation to which a principal broker is licensed under this section and section 5 must not exceed 4 or a greater maximum approved by the superintendent.

(3) For certainty, section 11 (4) of the Act applies to the principal broker in relation to the specific brokerage licence in relation to which the principal broker is acting at any particular time.

Related licensees of mortgage brokerages with branch offices

5 (1) If a mortgage brokerage holds one or more branch office licences in addition to its head office licence, a related principal broker or mortgage broker must be licensed in relation to a single licence of the mortgage brokerage.

(2) Despite subsection (1), a principal broker may, subject to section 4 (2),

(a) be licensed in relation to a maximum of 4 licences of a mortgage brokerage or a greater maximum, approved by the superintendent, of licences of a mortgage brokerage, and

(b) provide mortgage services in relation to each of those mortgage brokerage licences.

Residential mortgage brokerage offices

6 (1) A mortgage brokerage may have a residential office as its head office or as a branch office if

(a) the office is located in the residence of a related principal broker, and

(b) the local government bylaws applicable to the residence permit the mortgage brokerage business to be conducted from the residence.

(2) In addition to the requirements of subsection (1), a mortgage brokerage may have a residential office as its head office if the principal broker referred to in subsection (1) (a) is,

(a) in the case of a mortgage brokerage that is a sole proprietorship, the sole proprietor,

(b) in the case of a mortgage brokerage that is a partnership, a partner,

(c) in the case of a mortgage brokerage that is a corporation, either

(i) a controlling shareholder of the corporation, or

(ii) one of only 2 shareholders of the corporation, the other of whom is the spouse of the principal broker, or

(d) in the case of a mortgage brokerage that is not a sole proprietorship, partnership or corporation, an individual who directly or indirectly controls the mortgage brokerage.

(3) Subject to any further restrictions or conditions contained in any local government bylaws that regulate residential business activities, only 2 licensees may be licensed in relation to a residential head office or residential branch office.

Division 3 – Qualification Requirements

English language proficiency requirement

7 (1) In addition to any other requirements set out in section 15 *[qualifications for obtaining licence]* of the Act and established by these rules, an applicant for a new licence who is an individual must demonstrate English language proficiency

(a) by achieving a level 7 or higher on each of the parts applicable to reading, writing, speaking and listening, as tested by the Canadian English Language Proficiency Index Program – General Test, or

(b) in any other manner specified by the superintendent.

(2) An applicant is deemed to have satisfied the requirement to demonstrate English language proficiency under subsection (1) if the applicant

(a) has graduated with a bachelor's degree or higher from a degree program at an accredited university, college or technical institute where English is the primary language of instruction, or

(b) has been licensed to provide mortgage services in another Canadian jurisdiction with an English language proficiency requirement after satisfying that jurisdiction's requirement for English language proficiency.

Educational requirements

8 (1) The courses referred to in this Division are the courses established by or on behalf of the superintendent for the purposes of licensee qualification.

(2) An applicant who fails an examination required under these rules must wait a minimum of 90 days before again attempting the examination.

(3) An applicant who fails an examination required under these rules twice in succession must retake and successfully complete the applicable licensing course before again attempting the examination.

(4) The superintendent may waive, on the basis of an applicant's previous knowledge or training, some or all of the requirements of this Division in relation to

(a) a course,

(b) a corresponding examination, or

(c) a course and its corresponding examination.

Educational requirements for new licensees

9 (1) In order to be issued a licence, an applicant for a new licence who is an individual must

(a) have taken the applicable licensing courses, specified by the superintendent, respecting the mortgage services in relation to which the application is made,

(b) have successfully completed any assignments corresponding to those courses, and

(c) have passed the examinations corresponding to those courses, no longer than one year before the date of the application.

(2) Subject to subsection (3), in order to be issued a licence, an applicant for a new licence who is an individual must have taken the applicable applied practice courses specified by the superintendent, if any, respecting the mortgage services in relation to which the application is made, no longer than 2 years before the date of the application.

(3) An applicant who has not completed the applied practice courses referred to in subsection (2) may be issued a temporary licence under section 19 *[temporary licences]* of the Act that is conditional on taking those courses, or having them waived by the superintendent, within the period specified in the licence.

(4) In addition to the other requirements under this section, an applicant for a new licence as a principal broker, who is an individual, must

(a) have taken the applicable principal broker courses specified by the superintendent, if any, respecting the mortgage services in relation to which the application is made, and

(b) have passed the examinations, if any, corresponding to those courses, no longer than 5 years before the date of the application.

Education requalification on reinstatement

10 (1) This section applies to a principal broker licence or a mortgage broker licence that has

(a) become inoperative under section 28 (1) *[licence inoperative if licensee ceases to be engaged by mortgage brokerage]* of the Act, or

(b) been voluntarily surrendered to the superintendent.

(2) In order to have the licence reinstated, an applicant who has less than 5 years of continuous licensing at any time before the licence became inoperative or was surrendered must meet the requirements of section 9 (1) (c) and (2) of these rules.

(3) In order to have the licence reinstated, an applicant who has 5 or more years of continuous licensing at any time before the licence became inoperative or was surrendered must meet the educational requirements specified by the superintendent.

(4) For the purposes of this section, an applicant is deemed to have continued to be licensed during any of the following periods for which the applicant ceased to be licensed:

(a) a period of 30 days or less;

(b) a period approved by the superintendent during which the applicant was on parental leave or medical leave or on another type of leave approved by the superintendent.

Experience qualifications for principal brokers

11 (1) In order for an individual to be licensed for the first time as a principal broker, the applicant must have been providing mortgage services as a licensee for at least 2 years during the 5 years before the date of the application.

(2) The superintendent may waive the requirement of subsection (1) if satisfied that

(a) the applicant has had experience and training equivalent to that which the applicant would have obtained if the applicant had provided mortgage services as a licensee as required by subsection (1), or

(b) there is an immediate need for a principal broker in the location where the applicant proposes to carry on business.

(3) Without limiting subsection (2) (a), an applicant is considered to have the experience and training referred to in that subsection if the applicant

(a) previously provided mortgage services in a capacity equivalent to a mortgage brokerage or principal broker,

(b) provided the mortgage services referred to in paragraph (a), for a continuous period of at least 2 years during the 5 years before the date of the application, in

(i) another jurisdiction of Canada, or

(ii) another jurisdiction acceptable to the superintendent, and

(c) was licensed or otherwise authorized, under the laws of the other jurisdiction, to provide the mortgage services referred to in paragraph (a).

(4) Without limiting subsection (2) (a), an applicant is considered to have the experience and training referred to in that subsection if the applicant

(a) previously provided mortgage services in a capacity equivalent to a mortgage broker,

(b) provided the mortgage services referred to in paragraph (a) in a jurisdiction referred to in subsection (3) (b) for a continuous period of at least 2 years during the 5 years before the date of the application,

(c) was licensed or otherwise authorized, under the laws of the other jurisdiction, to provide the mortgage services referred to in paragraph (a), and

(d) provided mortgage services as a licensee in British Columbia for a period of not less than one year during the 5 years before the date of the application.

Financial qualification for mortgage brokerages

12 In order to be licensed, an applicant for a new licence as a mortgage brokerage must satisfy the superintendent that the applicant is in sound financial circumstances.

Governance policy for mortgage brokerages

13 (1) In order to be licensed, an applicant for a new licence as a mortgage brokerage or for the renewal of such a licence must satisfy the superintendent that the applicant has established a mortgage brokerage governance policy respecting the structure and processes for overseeing, managing and administering the mortgage brokerage.

(2) The mortgage brokerage governance policy must meet the requirements specified by the superintendent.

Division 4 – Licences

Licence certificates

14 (1) A licence issued by the superintendent must be in the form of a paper or electronic licence certificate.

(2) A licence certificate must indicate the following:

(a) the licence level as referred to in section 9 (1) *[licence levels and categories]* of the Act;

(b) the licence category as referred to in section 2 *[licence categories]* of these rules;

(c) the effective date of the licence;

(d) the date that the term of the licence ends;

(e) in the case of a mortgage brokerage licence,

(i) the legal name of the mortgage brokerage,

(ii) the licensee name of the mortgage brokerage, if it is different from the legal name, and

(iii) the head office or branch office from which the licensee is authorized to provide mortgage services under the licence;

(f) in the case of a principal broker or mortgage broker,

(i) the legal name of the licensee,

(ii) the licensee name of the related mortgage brokerage of the licensee, and

(iii) the related mortgage brokerage office of the licensee.

Term of licence

15 The term of a licence is

(a) 2 years beginning on the effective date of the licence and ending at the end of the day before the second anniversary of that date, or

(b) in the case of a temporary licence, as specified in the licence.

Change in controlling persons of mortgage brokerage

16 (1) If there is a change in the controlling persons of a mortgage brokerage, a new controlling person must not have any involvement in the business of the mortgage brokerage before the superintendent has approved the new controlling person.

(2) If there is a change in all of the controlling persons of a mortgage brokerage and the superintendent does not approve any of the new controlling persons under subsection (1), the superintendent may cancel the licence of the mortgage brokerage.

Trust account authorization – amendment to licence

17 (1) In order to obtain the superintendent's authorization, under section 33 (1) of the Act, to maintain a trust account, a mortgage brokerage must submit to the superintendent an application to amend the mortgage brokerage's licence.

(2) The application referred to in subsection (1) must be in a form approved by the superintendent that contains the information required by the superintendent.

Temporary licences for executors, administrators and committees of estates

18 (1) The superintendent may issue a temporary licence to

(a) the executor or administrator of the estate of a deceased individual who was licensed as a mortgage brokerage or principal broker, or

(b) the committee of the estate of an incapacitated individual who was licensed as a mortgage brokerage or principal broker.

(2) A licence under this section permits the executor, administrator or committee to carry on the mortgage services business formerly carried on by the deceased or incapacitated individual for the purpose of winding up the business or for the purpose of transferring or selling the business as a going concern.

(3) The maximum term for a licence under this section is 12 months.

(4) A licence under this section may be made subject to any conditions and restrictions that the superintendent considers appropriate in the circumstances.

Voluntary surrender

19 (1) A licensee may voluntarily surrender the licensee's licence to the superintendent.

(2) A licence surrendered under subsection (1) is inoperative unless the superintendent reinstates it before the end of its term.

Destruction of inoperative, suspended or cancelled licence

20 If the licence of a person whose licence becomes inoperative or is suspended or cancelled is in the possession of the related mortgage brokerage, that mortgage brokerage must immediately destroy the licence and delete any electronic version of the licence.

Division 5 – Communications with Superintendent

Mailing address for delivery

21 (1) The mailing address for delivery to a licensee is the address of the licensee's related mortgage brokerage office unless the licensee provides the superintendent with a different mailing address for delivery.

(2) If, under subsection (1), a licensee provides the superintendent with a mailing address for delivery that is different from the address of the licensee's related mortgage brokerage office, the licensee must promptly notify the superintendent in writing of any change to the licensee's mailing address for delivery.

Email address for delivery

22 (1) The email address for delivery to a licensee is the email address that the licensee provided to the superintendent in the licensee's most recent application for a licence unless the licensee provides the superintendent with a different email address for delivery.

(2) A licensee must promptly notify the superintendent in writing of any change to the licensee's email address for delivery.

Effective delivery to licensees

23 All notices required under the Act to be given to a licensee are effectively delivered to the licensee if

(a) mailed to the licensee at the licensee's latest mailing address for delivery, or

(b) sent by email to the licensee's latest email address for delivery.

Licensee must reply promptly to superintendent

24 (1) A licensee must respond promptly to any inquiry addressed to the licensee by the superintendent.

(2) The licensee's response

(a) must be in writing, unless the superintendent allows it to be provided otherwise, and

(b) if applicable, must be provided to the superintendent no later than the date set by the superintendent.

Mortgage brokerage must give immediate notice respecting insolvency

25 A mortgage brokerage must immediately notify the superintendent in writing if it is not able to pay its debts as they become due.

Licensee must give notice of discipline, bankruptcy, criminal or other proceedings

26 (1) In this section, **"disciplinary or regulatory sanction"** means a fine, administrative penalty, warning, reprimand, educational requirement, imposed restriction or condition, suspension or cancellation.

(2) A licensee must promptly notify the superintendent in writing if any of the following circumstances apply:

(a) the licensee or a controlling person of the licensee is subject to any regulatory investigation as a result of which, or any regulatory proceedings in which, the licensee or the controlling person may be or has been made subject to a disciplinary or regulatory sanction

(i) under legislation in British Columbia or another jurisdiction within or outside Canada regulating

(A) mortgages, real estate, insurance, financial services, money services or securities activities, or

(B) mortgage brokers, accountants, notaries or lawyers, or

(ii) by a professional body in British Columbia or another jurisdiction within or outside Canada that governs any of the activities referred to in subparagraph (i) (A) or any of the persons referred to in subparagraph (i) (B);

(b) a complaint against the licensee or a controlling person of the licensee is accepted for filing under the *Human Rights Code* or similar legislation in another jurisdiction within or outside Canada, or a decision or order is made in respect of such a complaint;

(c) any court proceeding is commenced against the licensee or a controlling person of the licensee, or any court order or judgment is made against the licensee or a controlling person of the licensee, in relation to

  (i) mortgage services,

  (ii) real estate services,

  (iii) a dealing in real estate, insurance, financial services, money services, securities or derivatives, or

  (iv) misappropriation, fraud or breach of trust;

(d) any court proceeding is commenced against a significant interest holder of the licensee, or any court order or judgment is made against a significant interest holder of the licensee, in relation to misappropriation, fraud or breach of trust;

(e) any business that the licensee or a controlling person of the licensee owns, or of which the licensee or a controlling person of the licensee has been a controlling person at any time during the past 2 years, has any court order or judgment made against the business in relation to

  (i) mortgage services,

  (ii) real estate services,

  (iii) a dealing in real estate, insurance, financial services, money services, securities or derivatives, or

  (iv) misappropriation, fraud or breach of trust;

(f) any business that a significant interest holder of the licensee owns, or of which a significant interest holder of the licensee has been a controlling person at any time during the past 2 years, has any court order or judgment made against the business in relation to misappropriation, fraud or breach of trust;

(g) a proceeding is commenced under section 3 *[application for forfeiture order]* of the *Civil Forfeiture Act* in which the licensee knows, or reasonably ought to know, that any of the following are named as a party or have filed a response to the proceeding:

  (i) the licensee;

  (ii) a controlling person of the licensee;

  (iii) a significant interest holder of the licensee;

  (iv) a person of which the licensee has been a controlling person or significant interest holder at any time during the past 2 years;

(h) the licensee knows, or reasonably ought to know, that an application has been made under section 22 of the *Civil Forfeiture Act* for an unexplained wealth order in respect of a respondent or responsible officer that is any of the persons referred to in paragraph (g) (i) to (iv) of this subsection;

(i) the licensee knows, or reasonably ought to know, that any of the persons referred to in paragraph (g) (i) to (iv) have been given notice of forfeiture under section 32 (1) (b) *[notice of administrative forfeiture]* of the *Civil Forfeiture Act*;

(j) the licensee knows, or reasonably ought to know, that any of the persons referred to in paragraph (g) (i) to (iv) have delivered a notice of dispute under section 35 *[notice of dispute by claimed interest holder]* of the *Civil Forfeiture Act*;

(k) the licensee, a controlling person of the licensee or a significant interest holder of the licensee is charged with or convicted of an offence under a federal enactment or an enactment of the province or another province or under a law of any foreign jurisdiction, other than

  (i) highway traffic offences resulting only in monetary fines or point penalties, or both, and

  (ii) contraventions in respect of which proceedings were commenced by means of a violation ticket under the *Offence Act* or a ticket under the *Contraventions Act* (Canada);

(l) the licensee or a controlling person of the licensee is the subject of any bankruptcy, insolvency or receivership proceedings, including

  (i) an application for a bankruptcy order filed against the licensee or a controlling person of the licensee,

  (ii) an assignment in bankruptcy made by the licensee or a controlling person of the licensee,

  (iii) a bankruptcy order made against the licensee or a controlling person of the licensee,

  (iv) a proposal made under Division I of Part III, or a consumer proposal made under Division II of Part III, of the *Bankruptcy and Insolvency Act* (Canada), or

  (v) an insolvency proceeding, including a receivership or an arrangement under the *Companies' Creditors Arrangement Act* (Canada);

(m) any business that the licensee or a controlling person of the licensee owns, or of which the licensee or a controlling person of the licensee has been a controlling person at any time during the past 2 years, is the subject of any bankruptcy, insolvency or receivership proceedings, including

  (i) an application for a bankruptcy order filed against the business,

  (ii) an assignment in bankruptcy made by the business,

  (iii) a bankruptcy order made against the business,

  (iv) a proposal made under Division I of Part III, or a consumer proposal made under Division II of Part III, of the *Bankruptcy and Insolvency Act* (Canada), or

  (v) an insolvency proceeding, including a receivership or an arrangement under the *Companies' Creditors Arrangement Act* (Canada).

(3) In addition to providing a written notice, the licensee must provide particulars and any additional information or records as requested by the superintendent.

(4) In the case of notice required to be provided by a mortgage broker, the mortgage broker must give a copy of the notice under subsection (2) to the principal broker of the related mortgage brokerage.

Mortgage brokerage must give notice of business changes

27 (1) A mortgage brokerage must promptly notify the superintendent in writing of the following:

(a) a change in the telephone number, fax number or email address of the head office or a branch office of the mortgage brokerage;

(b) a change in the legal name or licensee name of the mortgage brokerage or of any related principal broker or mortgage broker;

(c) any related principal broker or mortgage broker who ceases to be engaged by the mortgage brokerage and the reasons for that cessation;

(d) in the case of a mortgage brokerage that is a partnership, any change in the nature of the partnership, such as registration as a limited liability partnership;

(e) in the case of a mortgage brokerage that is a corporation, any fundamental change to the corporation, such as an amalgamation or continuation;

(f) any proposed change in the controlling persons of the mortgage brokerage;

(g) any change in the significant interest holders of the mortgage brokerage;

(h) a change in the end date of the mortgage brokerage's fiscal year;

(i) a change in the savings institutions, or branch location of a savings institution, at which the mortgage brokerage maintains accounts;

(j) a change in the accounts maintained by the mortgage brokerage at a savings institution or a change in the account numbers of those accounts.

(2) If notice is required under subsection (1) (f), the mortgage brokerage must, as soon as practicable before the change in its controlling persons, submit to the superintendent the information and statements specified by the superintendent for each proposed controlling person.

Personal mortgage corporation must give notice of business changes

28 A personal mortgage corporation must promptly notify the superintendent in writing if it does not continue to maintain the attributes described in section 24 *[corporate qualifications]* of the Mortgage Services Regulation.

PART 3 – LICENSEE STANDARDS OF CONDUCT

Division 1 – General Responsibilities and Duties of Licensees

Mortgage brokerage responsibilities

29 (1) A mortgage brokerage must establish and implement policies and procedures that are designed to ensure that the mortgage brokerage and its related licensees comply with the following:

(a) the Act, the regulations and these rules;

(b) the requirements established under the Act;

(c) any other applicable legislation.

(2) A mortgage brokerage must establish and implement policies and procedures that provide for the adequate supervision and training of its related licensees.

(3) Without limiting the generality of subsections (1) and (2), a mortgage brokerage must establish and implement policies and procedures in respect of the following matters:

(a) the duties and responsibilities of the mortgage brokerage to clients and unrepresented parties and the disclosures required by the following provisions:

(i) section 68 *[disclosure of representation – dealing in or trading in mortgages]*;

(ii) section 69 *[disclosure of risks to unrepresented parties]*;

(b) the verification of the identity of parties and any personal or legal representatives of parties, as required by the following provisions:

(i) section 41 *[duty to verify identity of borrowers and lenders and their representatives]*;

(ii) section 42 *[duty to verify other party's identity]*;

(iii) section 65 (1) *[duty to verify identity of client and client's representative]*;

(c) the determination of the suitability of a mortgage or mortgage transaction for a borrower or lender, as the case may be, including the identification of the material risks of the mortgage or mortgage transaction to the borrower or lender, and the disclosure of those risks to the borrower or lender, as required by section 70 *[duty and disclosure – suitability of mortgage or mortgage transaction]*;

(d) the identification of conflicts of interest or potential conflicts of interest between the mortgage brokerage or any of its related licensees and a client who is represented by the mortgage brokerage, and their disclosure to the client, as required by the following provisions:

(i) section 38 (h) *[promptly and fully disclose conflict of interest to client]*;

(ii) section 74 *[conflict of interest – disclosure statement to borrowers]*;

(iii) section 75 *[conflict of interest – disclosure statement to lenders]*;

(iv) section 79 (3) *[addressing conflicts of interest when acting for multiple clients]*;

(e) the provision of incentives, other than money, for dealing in or trading in mortgages to its related licensees by other persons, if the mortgage brokerage permits any of its related licensees to receive such incentives;

(f) the provision of incentives, other than money, for dealing in or trading in mortgages to the related licensees of another mortgage brokerage, if the mortgage brokerage provides incentives to any related licensees of other mortgage brokerages;

(g) fraud prevention, including ensuring compliance with sections 43 to 47;

(h) the maintenance and retention of records, including for the purpose of ensuring compliance with Part 7 *[Mortgage Brokerage Records]*;

(i) the verification of a party's status as a permitted person;

(j) the resolution of complaints made to the mortgage brokerage by clients, borrowers, lenders or members of the public.

(4) A mortgage brokerage must conduct a review of its policies and procedures under this section at least once a year and whenever there is a significant breach of its policies and procedures.

(5) A mortgage brokerage must prepare and retain records that document each review of its policies and procedures conducted under subsection (4).

Mortgage brokerage – concurrent businesses

30 A mortgage brokerage that engages in another business concurrently with carrying on the business of providing mortgage services must not allow the other business to jeopardize the integrity, independence, competence or compliance of the mortgage brokerage or its related licensees when providing mortgage services.

Principal broker responsibilities

31 (1) A principal broker must

(a) be actively engaged in the management of the principal broker's related mortgage brokerage,

(b) ensure that the business of the mortgage brokerage is carried out competently and in accordance with the following:

(i) the Act, the regulations and these rules;

(ii) the requirements established under the Act;

(iii) any other applicable legislation;

(iv) the mortgage brokerage governance policy;

(v) the mortgage brokerage's policies and procedures established under section 29 (1) to (3), and

(c) ensure that there is an adequate level of supervision for related mortgage brokers of the mortgage brokerage and for employees and others who perform duties on behalf of the mortgage brokerage.

(2) A principal broker must not do or omit to do anything that might reasonably be expected to result in the principal broker's related mortgage brokerage contravening or failing to comply with the Act, the regulations, these rules or the requirements established under the Act.

(3) A principal broker must promptly notify the superintendent in writing on learning of conduct that the principal broker considers may constitute

(a) a contravention of any of the following provisions of the Act by any licensee:

(i) section 34 *[wrongful taking]*;

(ii) section 35 *[deceptive dealing]*,

(b) misconduct, as described in any of the following provisions of the Act, by any licensee:

(i) section 37 (1) (b) *[breaches condition or restriction of licence]*;

(ii) section 37 (1) (c) *[incompetence]*;

(iii) section 37 (1) (e) *[fails to comply with superintendent's order]*;

(iv) section 37 (1) (f) *[fails to comply with undertaking]*;

(v) section 37 (1) (g) *[false or misleading statement]*,

(c) the provision of mortgage services by a person who requires but does not hold a licence to provide those mortgage services, or

(d) the provision of real estate services, within the meaning of the *Real Estate Services Act*, by a person who requires but does not hold a licence under that Act to provide those real estate services.

(4) A principal broker must take reasonable steps to deal with any matter in which the principal broker has knowledge of conduct referred to in subsection (3) (a) or (b) or other conduct that the principal broker considers may constitute

(a) misconduct, as described in section 37 (1) of the Act, by a related licensee of the principal broker's mortgage brokerage,

(b) conduct unbecoming a licensee, as described in section 37 (2) of the Act, by a related licensee of the principal broker's mortgage brokerage, or

(c) improper or negligent conduct, in relation to the provision of mortgage services, by

(i) a related licensee of the principal broker's mortgage brokerage, or

(ii) an employee of the mortgage brokerage or any other person connected with the mortgage brokerage.

(5) Conduct referred to in subsection (3) or (4) includes the principal broker's own conduct.

(6) If a principal broker takes steps under subsection (4) in relation to conduct referred to in subsection (3) (a) or (b), the principal broker must promptly notify the superintendent in writing of the steps taken.

(7) A principal broker must

(a) ensure that the records of the mortgage brokerage are maintained in accordance with the Act, the regulations, these rules and the requirements established under the Act, and

(b) ensure proper management and control of documents and other records related to licensing and regulatory requirements.

(8) A principal broker must ensure that any trust accounts of the mortgage brokerage are maintained in accordance with the Act, the regulations, these rules and the requirements established under the Act.

Mortgage broker responsibilities

32 (1) A mortgage broker must not do or omit to do anything that might reasonably be expected to result in the mortgage broker's related mortgage brokerage contravening or failing to comply with the Act, the regulations, these rules or the requirements established under the Act.

(2) A mortgage broker must promptly provide to the principal broker the original or a copy of all records referred to in any of the following sections that are in the possession of the mortgage broker and that were prepared by or on behalf of the mortgage broker, or received from or on behalf of a client or party:

(a) section 100 *[general records]*;

(b) section 101 *[mortgage records]*;

(c) section 102 *[records related to administering mortgages]*.

(3) A mortgage broker must keep the principal broker informed of the mortgage services being provided, and other activities being performed, by the mortgage broker on behalf of the mortgage brokerage.

(4) A mortgage broker must promptly respond to any inquiry that is addressed to the mortgage broker by the principal broker.

(5) A mortgage broker must ensure that there is an adequate level of supervision for the mortgage broker's employees and others who perform duties on the mortgage broker's behalf.

(6) Subject to subsection (7), a mortgage broker must promptly notify the principal broker on learning of conduct that the mortgage broker considers may be conduct referred to in section 31 (3) or (4), whether that conduct is

(a) the mortgage broker's own conduct,

(b) the conduct of an employee of the mortgage broker or of another person who performs duties on the mortgage broker's behalf, or

(c) the conduct of any other person.

(7) A mortgage broker must promptly notify the superintendent on learning of conduct of the principal broker that the mortgage broker considers may be conduct referred to in section 31 (3).

Duty to act with reasonable care and skill

33 When providing mortgage services, a licensee must act with reasonable care and skill.

Duties under *Business Practices and Consumer Protection Act*

34 When providing mortgage services, a licensee must comply with the following provisions of the *Business Practices and Consumer Protection Act*:

(a) section 5 (1) *[deceptive acts or practices]*;

(b) section 6 (3) *[record of advertisement]*;

(c) section 9 (1) *[unconscionable acts or practices]*;

(d) sections 59, 60, 62 and 64 *[advertising]*;

(e) sections 66 and 67 *[disclosure requirements applicable to all credit agreements]*;

(f) sections 71, 72 (3), 75 and 76 *[rights and obligations of borrowers and credit grantors]*;

(g) sections 72 (2) and 73 *[rights of borrowers]*;

(h) sections 79 and 80 *[credit arranged by loan brokers]*;

(i) sections 83 to 89 *[disclosure required in relation to fixed credit]*;

(j) sections 91 to 93 *[disclosure required in relation to open credit]*;

(k) sections 104 and 105 *[general]*.

Payment to unlicensed persons prohibited

35 A licensee must not pay, offer to pay or agree or allow to be paid remuneration to another person for dealing in, trading in or administering mortgages unless the other person is any of the following:

(a) licensed to provide that mortgage service;

(b) exempted from the requirement to be licensed to provide that mortgage service;

(c) licensed or otherwise authorized, under the laws of a jurisdiction other than British Columbia, to provide the equivalent of that mortgage service in the other jurisdiction and the person provides the equivalent of that mortgage service in relation to real property in the other jurisdiction.

Mortgage lending – acting for unlicensed persons prohibited

36 A licensee must not provide mortgage services to or on behalf of any person who is providing the mortgage service of mortgage lending unless the person is any of the following:

(a) licensed to provide that mortgage service;

(b) exempted from the requirement to be licensed to provide that mortgage service;

(c) licensed or otherwise authorized, under the laws of a jurisdiction other than British Columbia, to provide the equivalent of that mortgage service in the other jurisdiction and the person provides the equivalent of that mortgage service in relation to real property in the other jurisdiction.

Engaging unlicensed persons prohibited

37 (1) A licensee must not engage another person to provide the mortgage service of dealing in, trading in or administering mortgages unless the other person is any of the following:

(a) licensed to provide that mortgage service;

(b) exempted from the requirement to be licensed to provide that mortgage service;

(c) licensed or otherwise authorized, under the laws of a jurisdiction other than British Columbia, to provide the equivalent of that mortgage service in the other jurisdiction and the person provides the equivalent of that mortgage service in relation to real property in the other jurisdiction.

(2) A licensee must not act in a mortgage transaction if a party to the mortgage transaction has engaged another person to provide the mortgage service of dealing in, trading in or administering mortgages on the party's behalf unless the other person is any of the following:

(a) licensed to provide that mortgage service;

(b) exempted from the requirement to be licensed to provide that mortgage service;

(c) licensed or otherwise authorized, under the laws of a jurisdiction other than British Columbia, to provide the equivalent of that mortgage service in the other jurisdiction and the person provides the equivalent of that mortgage service in relation to real property in the other jurisdiction.

Division 2 – Duties to Clients

Duties to clients

38 Subject to sections 39 *[modification of duties]* and 40 *[designated agent]*, if a client engages a mortgage brokerage to provide mortgage services to or on behalf of the client, the mortgage brokerage and its related licensees must do all of the following:

(a) act in the best interests of the client;

(b) act in accordance with the lawful instructions of the client;

(c) act only within the scope of the authority given by the client;

(d) advise the client to seek independent professional advice on matters outside of the expertise of the licensee;

(e) maintain the confidentiality of information respecting the client;

(f) without limiting the requirements of Division 2 *[Disclosures]* of Part 5 *[Relationships with Clients]*, conduct due diligence and disclose to the client all known material information respecting the mortgage services and the mortgage or mortgage transaction to which those mortgage services relate;

(g) take reasonable steps to avoid any conflict of interest;

(h) without limiting the requirements of Division 2 of Part 5, if a conflict of interest does exist, promptly and fully disclose the conflict to the client in a form approved by the superintendent.

Modification of duties

39 (1) By agreement between the mortgage brokerage and the client, one or more of the duties under section 38 may be modified or made inapplicable

(a) for the purposes of section 77 *[dual agency in under-served remote location]*,

(b) for the purposes of section 78 *[dual agency for affiliates or related parties]*, or

(c) in circumstances specified by the superintendent.

(2) An agreement under subsection (1) must be

(a) in a written service agreement, or

(b) if there is no written service agreement, preceded by a written disclosure made under section 68 (1) *[disclosure of representation]*.

(3) The written document referred to in subsection (2) (a) or (b) must clearly indicate the duties of the mortgage brokerage and its related licensees

(a) that have been modified and how they have been modified, and

(b) that have been made inapplicable.

(4) Despite an agreement under subsection (1), the mortgage brokerage must

(a) supervise its related licensees to ensure that they fulfill their duties under section 38, and

(b) not disclose any confidential information respecting a client to any other person unless

(i) authorized by that client, or

(ii) required by law.

Designated agent

40 (1) By agreement between the mortgage brokerage and the client, the mortgage brokerage may designate one or more licensees to provide mortgage services to or on behalf of a client as a designated agent, and in such a case, the duties referred to in section 38

(a) do not apply to any of the related licensees of the mortgage brokerage other than the designated agent or agents, and

(b) subject to subsection (4), do not apply to the mortgage brokerage unless the mortgage brokerage and client have agreed that they will continue to apply.

(2) An agreement under subsection (1) must be

(a) in a written service agreement, or

(b) if there is no written service agreement, preceded by a written disclosure made under section 68 (1) *[disclosure of representation]*.

(3) The written document referred to in subsection (2) (a) or (b) must clearly indicate that none of the related licensees of the mortgage brokerage, other than the designated agent or agents, owes duties to the client under section 38.

(4) Despite an agreement under subsection (1), the mortgage brokerage must

(a) supervise the designated agent or agents to ensure that they fulfill their duties under section 38,

(b) not disclose any confidential information respecting a client to any other person unless

(i) authorized by that client, or

(ii) required by law, and

(c) treat the interests of all clients in an even-handed, objective and impartial manner.

Division 3 – Duties Respecting Borrowers and Lenders

Duty to verify identity

41 (1) A licensee must take reasonable steps to verify the identity of each borrower and lender to whom the licensee intends to present a mortgage transaction for consideration.

(2) A licensee must

(a) take reasonable steps to verify the identity of any personal or legal representative of a borrower or lender referred to in subsection (1), and

(b) verify the authority of the representative to represent and act on behalf of the borrower or lender.

(3) Subsections (1) and (2) do not apply if the borrower or lender is a client of another licensee.

Duty to verify other party's identity

42 (1) Before a licensee presents a mortgage transaction to a borrower for consideration, the licensee must take reasonable steps to verify the identity of each lender.

(2) Before a licensee presents a mortgage transaction to a lender for consideration, the licensee must take reasonable steps to verify the identity of each borrower.

(3) Subsection (2) does not apply if the lender is otherwise required by law to verify the borrower's identity.

(4) If the licensee has not verified the identity of a party to the mortgage transaction by any of the following times, the licensee must so advise the other parties to the mortgage transaction in writing at that time:

(a) immediately before submitting the borrower's mortgage application to the lender or arranging for a mortgage renewal agreement with the lender;

(b) immediately before the borrower enters into the mortgage agreement, or signs a mortgage instrument or a mortgage renewal agreement, with the lender;

(c) immediately before the lender enters into an agreement to buy, sell or exchange the mortgage;

(d) immediately before the mortgage transaction is completed.

Duty respecting unlawful transactions

43 A licensee must not act as a representative of a borrower or lender in respect of a mortgage or mortgage transaction if the licensee has reason to doubt that the mortgage or the mortgage transaction is lawful.

Duty respecting borrower's or seller's legal authority

44 (1) A licensee must take reasonable steps to verify a borrower's legal authority to mortgage a property or a seller's legal authority to sell a mortgage.

(2) If the licensee has reason to doubt the borrower's or seller's legal authority, as the case may be, the licensee must so advise each prospective lender in writing at the earliest opportunity.

Duty respecting accuracy of mortgage application or sale document

45 If a licensee has reason to doubt the accuracy of information contained in

(a) a borrower's mortgage application,

(b) a document submitted in support of a mortgage application, or

(c) a document submitted in relation to the sale of a mortgage,

the licensee must so advise each prospective lender in writing at the earliest opportunity.

Continuation of duty

46 The duty to advise a lender under sections 44 and 45 continues with respect to the lender after

(a) the borrower enters into the mortgage agreement or signs the mortgage instrument or a mortgage renewal agreement, as the case may be, with the lender, or

(b) the seller signs the sales agreement with the lender.

Dishonesty, fraud, etc.

47 A licensee must not act, or do anything or omit to do anything, in circumstances in which the licensee knows, or reasonably ought to know, that by acting, doing the thing or omitting to do the thing, the licensee is being used by a borrower, lender or any other person to facilitate dishonesty, fraud, crime or illegal conduct.

Restriction on tied selling

48 (1) A licensee must not place undue pressure on, or coerce, a borrower or lender to obtain a product or service from a particular person, including the licensee, as a condition for obtaining another service from the licensee.

(2) For the purposes of subsection (1), a licensee does not place undue pressure on, or coerce, a borrower or lender, as the case may be, by virtue of offering a service to the borrower or lender on more favourable terms than it would otherwise offer, if the more favourable terms are offered on the condition that the borrower or lender obtain another product or service from a particular person, including the licensee.

Receiving money for mortgage lending – conditions

49 A licensee must not receive money to be held on behalf of a lender for the purposes of mortgage lending unless

(a) an application or offer has been received by or on behalf of the lender for a mortgage on a specific property, or

(b) an existing mortgage is available for purchase.

PART 4 – BUSINESS PRACTICES

Division 1 – General

Display and keeping of licences

50 A mortgage brokerage must

(a) keep the mortgage brokerage licence for its head office prominently displayed in the head office,

(b) if applicable, keep any branch office licence prominently displayed in the branch office, and

(c) keep the licence of each related licensee available for public inspection at the licensee's related mortgage brokerage office.

Business signs required

51 A mortgage brokerage must

(a) display, on or near the door of its head office and any branch offices, a sign that clearly shows the mortgage brokerage's licensee name, and

(b) have its licensee name listed in the building directory, if any, for the places where the offices are located.

Restrictions relating to home and other personal offices

52 (1) In this section, **"personal office"**, in relation to a licensee, means an office, other than a related mortgage brokerage office, from which the licensee provides mortgage services, including an office that is in the residence of the licensee or any other person.

(2) The following rules apply if a licensee maintains a personal office:

(a) no sign indicating that mortgage services are provided from the office may be placed

(i) outside the office or the building in which the office is located, or

(ii) where it is visible from outside the office or building;

(b) the phone for the office must not be answered in the name of the related mortgage brokerage of the licensee;

(c) the licensee must not indicate the office address on any mortgage services advertising or on any other records relating to the provision of mortgage services.

Division 2 – Licensee Names

Licensee names

53 (1) The licensee name of a mortgage brokerage is either of the following:

(a) the legal name of the mortgage brokerage, unless another name is indicated on the mortgage brokerage licence under paragraph (b);

(b) the trade name of the mortgage brokerage, if that name has been approved by the superintendent, has been registered with the Registrar of Companies and is indicated on the mortgage brokerage licence.

(2) The licensee name of a principal broker or mortgage broker who is an individual is either of the following:

(a) the individual's legal name or a recognizable short form of the individual's legal name, unless another name is approved under paragraph (b);

(b) the name that is approved by the superintendent.

(3) The licensee name of a personal mortgage corporation is the legal name of the corporation.

Licensee names must be indicated

54 (1) A licensee must ensure that the licensee name is clearly indicated in the course of providing mortgage services.

(2) A principal broker or mortgage broker must also clearly indicate the licensee name of the related mortgage brokerage in the course of providing mortgage services.

Division 3 – Advertising

Restrictions and requirements

55 (1) A licensee must not publish mortgage services advertising unless the advertising complies with this section.

(2) In all cases, the licensee name of the mortgage brokerage must be displayed in a prominent and easily readable way.

(3) Mortgage services advertising that identifies a principal broker or mortgage broker must do so,

(a) if that person is an individual, by using the licensee name of the individual, or

(b) if that person is a personal mortgage corporation or a controlling individual, as defined in section 22 of the Mortgage Services Regulation, of a personal mortgage corporation, by using the licensee name of the personal mortgage corporation only.

(4) If mortgage services advertising includes an office address for the licensee, that address must be the address of the related mortgage brokerage office.

(5) If a mortgage services team or a member of a mortgage services team publishes mortgage services advertising, the advertising must identify the team's name.

False or misleading advertising prohibited

56 A licensee must not publish mortgage services advertising that the licensee knows, or reasonably ought to know, contains a false or misleading statement or misrepresentation concerning

(a) mortgages,

(b) a mortgage transaction, or

(c) the provision of mortgage services.

Division 4 – Mortgage Services Teams

Requirement to register

57 (1) Effective April 1, 2027, a group of two or more licensees must register with the superintendent as a mortgage services team if the licensees in the group do any of the following in the course of dealing in or trading in mortgages:

(a) subject to subsection (2), represent themselves to the public as a single entity;

(b) are regularly engaged as designated agents of the same client;

(c) regularly work together in a manner that is consistent with the licensees being implied agents of the same party.

(2) Subsection (1) (a) does not apply if the single entity is a mortgage brokerage.

Registration

58 (1) In order to register as a mortgage services team, as required under section 57, a group of two or more licensees must submit to the superintendent an application in a form approved by the superintendent that contains the information required by the superintendent.

(2) In order to change the name or membership of a mortgage services team, a licensee must submit to the superintendent an application in a form approved by the superintendent that contains the information required by the superintendent.

Restrictions and requirements

59 (1) A licensee may be a member of only one mortgage services team at any time.

(2) A member of a mortgage services team must provide mortgage services through the team only.

(3) A licensee must not provide mortgage services through a mortgage services team unless the licensee is a member of the team.

(4) All members of a mortgage services team must be related to the same mortgage brokerage.

(5) The related mortgage brokerage of the members of a mortgage services team must, under section 40 *[designated agent]*, designate all members of the mortgage services team to provide, as designated agents, mortgage services to or on behalf of any client of any member of the team.

(6) A mortgage services team must ensure that the team's name is clearly indicated in the course of providing mortgage services.

Division 5 – Co-Brokering

Co-brokering with unlicensed person prohibited

60 A licensee must not co-broker a mortgage or mortgage transaction with another person unless the person is any of the following:

(a) licensed to provide the mortgage services that are required to co-broker the mortgage or mortgage transaction;

(b) exempted from the requirement to be licensed to provide those mortgage services;

(c) licensed or otherwise authorized, under the laws of a jurisdiction other than British Columbia, to provide the equivalent of those mortgage services in the other jurisdiction and the person provides the equivalent of those mortgage services in relation to real property in the other jurisdiction.

Responsibility for compliance

61 If a licensee co-brokers a mortgage or mortgage transaction with another licensee, both licensees are responsible, in relation to that mortgage or mortgage transaction, for compliance with the following:

(a) the Act, the regulations and these rules;

(b) the requirements established under the Act;

(c) any other applicable legislation.

Division 6 – Errors and Omissions Insurance

Requirement to maintain errors and omissions insurance

62 (1) A mortgage brokerage must maintain the errors and omissions insurance that is required by the superintendent with extended coverage for loss resulting from fraudulent acts.

(2) The errors and omissions insurance must be sufficient to pay a minimum of

(a) $500 000 in respect of any single occurrence involving the mortgage brokerage or any related principal broker or mortgage broker, and

(b) $1 000 000 in respect of all occurrences during a 365-day period involving the mortgage brokerage or any related principal broker or mortgage broker.

(3) A mortgage brokerage must immediately notify the superintendent in any of the following circumstances:

(a) the errors and omissions insurance is cancelled or not renewed;

(b) the coverage provided by the errors and omissions insurance falls below the minimum required under subsection (2);

(c) the mortgage brokerage makes a claim under the errors and omissions insurance policy.

PART 5 – RELATIONSHIPS WITH CLIENTS AND OTHER PARTIES

Division 1 – General

No dealing in, trading in or administering mortgages without client

63 A licensee must not provide the mortgage service of

(a) dealing in mortgages,

(b) trading in mortgages, or

(c) administering mortgages

to or on behalf of another person in respect of a mortgage or mortgage transaction unless the licensee is representing a client in relation to that mortgage or mortgage transaction.

No mortgage lending to or on behalf of client

64 (1) Subject to subsection (2), a licensee must not provide the mortgage service of mortgage lending to or on behalf of another person who is a client of the licensee.

(2) A licensee may provide the mortgage service of mortgage lending on behalf of a client of the licensee if the client is the related mortgage brokerage of the licensee.

Duty to verify identity of client and representative of client

65 (1) Before providing mortgage services to or on behalf of a client, a licensee must verify the identity of the client and of any personal or legal representative of that client.

(2) If a client of a licensee has a personal or legal representative, the licensee must, before providing mortgage services to or on behalf of the client, verify the authority of that representative to represent and act on behalf of the client.

No signing of documents on behalf of clients

66 A licensee must not sign any document on behalf of a client.

Division 2 – Disclosures

Disclosures under this Division

67 (1) Disclosures, including disclosure statements and information statements, under this Division must

(a) be in writing, and

(b) subject to subsection (2), be separate from a service agreement or any other agreement under which mortgage services are provided and separate from any agreement giving effect to a mortgage transaction.

(2) The disclosure of remuneration that is required under section 71 (2) *[disclosure to client of remuneration]* in respect of mortgage services referred to in section 71 (1) (a) may be made in either or both of

(a) a service agreement, and

(b) a record, other than an agreement giving effect to a mortgage transaction, that is separate from the service agreement.

(3) If, during the course of providing mortgage services, there is any substantive change in the information that the licensee is required to disclose to a person under this Division, the licensee must promptly disclose the change to the person in accordance with subsection (1).

Disclosure of representation – dealing in or trading in mortgages

68 (1) Before providing the mortgage service of dealing in or trading in mortgages to or on behalf of a party in respect of a mortgage or mortgage transaction, a licensee must disclose to the party whether or not the licensee will represent the party as a client.

(2) A disclosure made under subsection (1) must be in a form approved by the superintendent and include the following information:

(a) the duties and responsibilities of licensees to clients and unrepresented parties;

(b) how to file a complaint about a licensee's conduct;

(c) any other information or documents required by the superintendent.

(3) Unless a licensee solicits or receives information from a party about the party's motivation, financial qualifications or needs in respect of mortgage services, a disclosure to the party is not required under subsection (1) when the licensee is only providing factual responses to general questions from the party.

Disclosure of risks to unrepresented parties

69 (1) In this section, **"unrepresented party"**, in relation to a mortgage transaction, means a party to the mortgage transaction who is not a client of a licensee for the mortgage transaction.

(2) Before providing mortgage services to or on behalf of an unrepresented party in respect of a mortgage or mortgage transaction, the licensee must disclose to the unrepresented party, in a form approved by the superintendent,

(a) the risks to an unrepresented party of receiving assistance from the licensee due to the licensee's duties and responsibilities to the client whom the licensee is representing in relation to the mortgage or mortgage transaction,

(b) the limited assistance that the licensee may provide to the unrepresented party, and

(c) a recommendation that the unrepresented party seek independent professional advice in respect of the mortgage or mortgage transaction.

(3) Subsection (2) does not apply if the unrepresented party is a permitted person.

Duty and disclosure – suitability of mortgage or mortgage transaction

70 (1) A licensee must take reasonable steps to ensure that any mortgage or mortgage transaction that the licensee presents for the consideration of a borrower or lender, as the case may be, is suitable for the borrower or lender, having regard to

(a) the needs and circumstances of the borrower or lender, and

(b) the identification of material risks of the mortgage or mortgage transaction to the borrower or lender.

(2) A licensee must disclose to the borrower or lender, as the case may be, the material risks referred to in subsection (1) (b).

(3) Subsections (1) and (2) do not apply if

(a) the borrower or lender, as the case may be,

(i) is not a client of the licensee but is a client of another licensee,

(ii) is another licensee who agrees in a form approved by the superintendent that subsections (1) and (2) do not apply, or

(iii) is a permitted person who is not an individual, or

(b) the borrower or lender, as the case may be, is a permitted person who is an individual and the mortgage in question is a syndicated mortgage, as defined in section 3 (1) of the Mortgage Services Regulation, that is not a qualified syndicated mortgage, as defined in that section.

Disclosure to client of remuneration

71 (1) This section applies if a licensee receives or anticipates receiving, directly or indirectly, remuneration, other than remuneration paid directly by a client, for any of the following:

(a) providing the mortgage service of dealing in mortgages, trading in mortgages or mortgage lending to or on behalf of the client;

(b) recommending to the client

(i) a notary public, lawyer or savings institution,

(ii) a licensee under the *Real Estate Services Act*, or

(iii) any other person providing products or services related to mortgages or mortgage transactions;

(c) referring the client to a person referred to in paragraph (b) (i), (ii) or (iii).

(2) Subject to subsections (3) and (4), the licensee must promptly disclose to the client all remuneration paid, and all remuneration that the licensee anticipates will be payable, to the licensee's related mortgage brokerage in relation to the mortgage services provided, and the disclosure must include the following information:

(a) the source of the remuneration;

(b) the amount of the remuneration or, if the amount of the remuneration is unknown, the likely amount of the remuneration or the method of calculating the remuneration;

(c) any other relevant facts relating to the remuneration.

(3) If mortgage services are provided by a licensee who has been designated to provide those mortgage services as a designated agent to or on behalf of only one party to a mortgage transaction,

(a) the only remuneration that must be disclosed is the remuneration paid or payable to the licensee's related mortgage brokerage in relation to the services provided by that licensee to or on behalf of that party, and

(b) the disclosure must be made in accordance with subsection (2).

(4) No disclosure is required under subsection (2) if the client of the licensee is the related mortgage brokerage of the licensee.

Disclosure to borrower of expected remuneration

72 (1) When a licensee who is providing mortgage services to or on behalf of a borrower presents to the borrower one or more potential mortgage commitments, the licensee must make a disclosure to the borrower in accordance with this section.

(2) The disclosure under subsection (1) must be in a form approved by the superintendent and include the following information:

(a) the remuneration to be paid to the licensee's related mortgage brokerage and the source of that remuneration;

(b) if applicable, the remuneration to be paid by the licensee's related mortgage brokerage to any other mortgage brokerage;

(c) the remuneration to be retained by the licensee's related mortgage brokerage;

(d) the amount of any remuneration referred to in paragraph (a), (b) or (c) or, if the amount of the remuneration is unknown, the likely amount of the remuneration or the method of calculating the remuneration;

(e) any remuneration the licensee receives or anticipates receiving, as referred to in section 71 (1) (a), in relation to the potential mortgage commitments;

(f) any other relevant facts relating to the remuneration.

(3) If the remuneration referred to in subsection (2) is to be received as money, the remuneration must be expressed as a dollar amount.

Information statement to lender

73 (1) Subject to subsection (4), a licensee who does one of the things set out in section 8 (1) (a) (i), (ii) or (iii) *[effect of failure to provide information statement – certain transactions]* of the Act must provide the other person referred to in that provision with an information statement that meets the requirements of subsection (3) of this section.

(2) A licensee must provide the information statement under subsection (1) to the other person

(a) if the funds under the mortgage transaction are paid into trust, on or before the release of the funds from trust at the direction of the other person, or

(b) if the funds under the mortgage transaction are not paid into trust, on or before the advancement of the funds by the other person.

(3) The information statement referred to in subsection (1) must

(a) be in a form approved by the superintendent,

(b) contain the information required by the superintendent,

(c) be accompanied by any documents required by the superintendent,

(d) be dated and signed by the licensee, and

(e) contain disclosure that is true, plain and not misleading of the matters in the information referred to in paragraph (b).

(4) Subsection (1) does not apply to a licensee in respect of a mortgage transaction in any of the following circumstances:

(a) the other person referred to in subsection (1) is a permitted person or the licensee's related mortgage brokerage;

(b) the obligation secured by the mortgage

(i) is part of a pool of obligations secured by mortgages and an interest in the pool is being offered by the licensee as a security as defined in the *Securities Act*, and

(ii) is fully guaranteed by the government of Canada or the government of a province;

(c) an offering memorandum or a prospectus has been provided, in accordance with the *Securities Act*, to the other person referred to in subsection (1).

Conflict of interest – disclosure statement to borrowers

74 (1) A licensee who acts in a mortgage transaction in which there is an interest as described in subsection (3) (a) must provide to every borrower under a mortgage in that transaction a disclosure statement that meets the requirements of subsection (3).

(2) A licensee must provide the disclosure statement under subsection (1) to the borrower at the earliest opportunity and, in any case, no later than 2 business days before the borrower enters into a mortgage agreement or signs a mortgage instrument in respect of the mortgage transaction, whichever is earlier.

(3) The disclosure statement referred to in subsection (1) must

(a) disclose any direct or indirect interest that the licensee or any associate or related party of the licensee has or may acquire in the transaction,

(b) be in a form approved by the superintendent,

(c) contain the information required by the superintendent,

(d) be accompanied by any documents required by the superintendent,

(e) be dated and signed by the licensee, and

(f) contain disclosure that is true, plain and not misleading of the matters in the information referred to in paragraph (c).

Conflict of interest – disclosure statement to lenders

75 (1) Subject to subsection (4), a licensee who acts in a mortgage transaction in which there is an interest as described in subsection (3) (a) must provide to every lender under a mortgage in that transaction a disclosure statement that meets the requirements of subsection (3).

(2) A licensee must provide the disclosure statement under subsection (1) to the lender at one of the following times, as the case may be:

(a) before or at the time that a licensee delivers to a borrower the lender's offer to lend to the borrower;

(b) before or at the time that a licensee delivers to the lender a borrower's offer to borrow from the lender;

(c) before or at the time that a licensee delivers an offer by the lender to purchase an interest in a mortgage from a seller;

(d) before or at the time that a licensee delivers an offer to sell an interest in a mortgage to the lender.

(3) The disclosure statement referred to in subsection (1) must

(a) disclose any direct or indirect interest that the licensee or any associate or related party of the licensee has or may acquire in the transaction,

(b) be in a form approved by the superintendent,

(c) contain the information required by the superintendent,

(d) be accompanied by any documents required by the superintendent,

(e) be dated and signed by the licensee, and

(f) contain disclosure that is true, plain and not misleading of the matters in the information referred to in paragraph (c).

(4) Subsection (1) does not apply to a licensee in respect of a mortgage transaction if an offering memorandum or a prospectus has been provided, in accordance with the *Securities Act*, to every lender under a mortgage in that transaction.

Division 3 – Dual Agency

Restriction on dual agency

76 (1) Subject to sections 77 and 78,

(a) a mortgage brokerage must not engage in dual agency, and

(b) a licensee must not cause the licensee's related mortgage brokerage to engage in dual agency.

(2) The designation of one or more licensees as a designated agent does not constitute dual agency under this section unless the licensee designated as the designated agent represents the parties referred to in paragraph (a), (b) or (c) of the definition of "dual agency" as clients in respect of a mortgage or mortgage transaction.

Dual agency in under-served remote location

77 (1) A mortgage brokerage may engage in dual agency in respect of a mortgage or mortgage transaction if the clients are in a remote location that is under-served by licensees and where it is impracticable for the clients to be provided mortgage services by different licensees.

(2) Before providing any mortgage services that constitute dual agency under subsection (1), a licensee must

(a) make a disclosure to each client, in a form approved by the superintendent, that includes

(i) a statement of the mortgage brokerage, signed by the principal broker, clearly setting out the reasons why subsection (1) applies, and

(ii) the following terms and information:

(A) the duties and responsibilities of the licensee to the clients of the licensee in a dual agency relationship;

(B) the risks associated with a dual agency relationship, and

(b) enter into a written agreement of dual agency with each client under section 39 *[modification of duties]* after making a disclosure under paragraph (a) of this subsection.

(3) A mortgage brokerage must provide the superintendent with the disclosure made under subsection (2) (a) promptly after entering into a written agreement of dual agency under subsection (2) (b).

Dual agency for affiliates or related parties

78 (1) A mortgage brokerage may engage in dual agency in respect of a mortgage or mortgage transaction if the clients are affiliated within the meaning of the *Business Corporations Act* or are related parties.

(2) Before providing any mortgage services that constitute dual agency under subsection (1), a licensee must

(a) make a disclosure to each client, in a form approved by the superintendent, that includes the following terms and information:

(i) the duties and responsibilities of the licensee to the clients of the licensee in a dual agency relationship;

(ii) the risks associated with a dual agency relationship, and

(b) enter into a written agreement of dual agency with each client under section 39 *[modification of duties]* after making a disclosure under paragraph (a) of this subsection.

(3) A mortgage brokerage must provide the superintendent with the disclosure made under subsection (2) (a) promptly after entering into a written agreement of dual agency under subsection (2) (b).

Addressing conflicts of interest when acting for multiple clients

79 (1) If the provision of mortgage services by a licensee to or on behalf of multiple clients in respect of a mortgage or mortgage transaction would constitute dual agency, other than under section 77 or 78, the licensee must either

(a) not provide mortgage services to or on behalf of any client in respect of that mortgage or mortgage transaction, or

(b) represent only one of the clients, as a client, in respect of that mortgage or mortgage transaction.

(2) A licensee must not represent a client under subsection (1) (b) unless the licensee has obtained written agreement from all clients in respect of the mortgage or mortgage transaction that meets the requirements of subsection (3).

(3) The written agreement referred to in subsection (2) must be in a form approved by the superintendent and include the following information:

(a) a description of the conflict of interest;

(b) a description of the duties and responsibilities that the licensee will no longer have to the client with whom the licensee is terminating client representation;

(c) a statement that the licensee may have confidential information about the client with whom the licensee is terminating client representation, and that the licensee is prohibited from disclosing any of that information;

(d) a statement that the advice and information that the licensee may provide to the client whom the licensee will continue to represent may be limited due to the licensee's ongoing duty to maintain the confidentiality of the information of the client with whom the licensee is terminating client representation;

(e) a recommendation that the clients seek independent professional advice in respect of the mortgage or mortgage transaction.

Division 4 – Administering Mortgages

Written service agreement required in some cases

80 (1) Subject to subsection (3), a licensee must not administer, or arrange for a person to administer, a mortgage on behalf of one or more persons who have an interest in the mortgage unless the licensee has a written service agreement with them that

(a) contains the full agreement of the parties respecting the following:

(i) the remuneration of the licensee or any other person for all services relating to the administration of the mortgage;

(ii) other expenses and costs that are related to the mortgage, and

(b) specifies the extent of the responsibilities of the licensee, of any other person receiving remuneration for services relating to the administration of the mortgage and of each of the other parties to the service agreement for decisions respecting the following:

(i) the collection of money under the mortgage;

(ii) the prepayment of principal under the mortgage;

(iii) the discharges and partial discharges of the mortgage on satisfaction of indebtedness under it;

(iv) the commencement or continuation of enforcement proceedings in the event of default under the mortgage.

(2) The written service agreement referred to in subsection (1) must

(a) be in a form approved by the superintendent,

(b) contain the information required by the superintendent,

(c) be accompanied by any documents required by the superintendent, and

(d) be dated and signed by the licensee and the other parties.

(3) Subsection (1) does not apply to a licensee if the licensee is administering, or arranging for a person to administer, a mortgage on behalf of a permitted person or the licensee's related mortgage brokerage.

Restrictions on payments to lender

81 (1) A mortgage administrator must not make a payment to a lender in connection with the administration of a mortgage unless the payment is made from the funds paid under the mortgage by or on behalf of a borrower.

(2) If an amount is paid by or on behalf of a borrower by cheque, other than a certified cheque, to the mortgage administrator, the mortgage administrator must not make a payment from the amount to a lender until after the cheque has cleared and the mortgage administrator has received the funds.

Amount of payment to lender

82 If a mortgage administrator receives funds paid by or on behalf of a borrower under a mortgage, the mortgage administrator must promptly pay to the lender the full amount received less any amount that the mortgage administrator is entitled to retain under its service agreement with the lender.

PART 6 – MORTGAGE BROKERAGE ACCOUNTS AND FINANCIAL REQUIREMENTS

Division 1 – Mortgage Brokerage Reporting

Superintendent review of accounts and other records

83 (1) A mortgage brokerage must allow the superintendent to review the mortgage brokerage's accounts, financial records and any other records relating to the dealings of the mortgage brokerage as a licensee or to the dealings of its related licensees as licensees.

(2) The authority to review under this section includes the authority to inspect and the authority to audit.

(3) The superintendent may remove records referred to in subsection (1) only for the purpose of making copies of the records.

(4) The superintendent must provide a receipt for the removed records.

(5) If a review under this section shows that a mortgage brokerage's books or other records are not in proper order or are not kept up to date, the superintendent may require the mortgage brokerage to pay all or part of the costs of the review, subject to the same limits that apply under section 46 (2) *[enforcement expenses]* of the Act.

Annual financial statements and accountant's report

84 (1) A mortgage brokerage that provides the mortgage service of administering mortgages or mortgage lending or that maintains a trust account must, within 120 days after the end of each fiscal year of the mortgage brokerage, file with the superintendent the following annual financial reports:

(a) financial statements for that fiscal year;

(b) an accountant's report respecting that fiscal year, completed in accordance with any requirements specified by the superintendent.

(2) The financial statements referred to in subsection (1) (a) must

(a) be audited by an accountant, in the case of a mortgage brokerage that is a public company as defined in the *Business Corporations Act*, or

(b) in any other case, have been subject, at a minimum, to

(i) a review engagement by an accountant, or

(ii) if authorized under subsection (3), a compilation engagement report prepared by an accountant.

(3) The superintendent may authorize a mortgage brokerage to file financial statements that have been subject to a compilation engagement report prepared by an accountant if all of the following conditions are met:

(a) for a minimum of 3 consecutive fiscal years immediately preceding the date of authorization, the mortgage brokerage has filed financial statements that comply with subsection (2) (a) or (b) (i) and has satisfied the other requirements of this section;

(b) during those 3 fiscal years there have been no significant trust account or general books and records exceptions

(i) reported in relation to the mortgage brokerage, as required by the superintendent, or

(ii) discovered in relation to the mortgage brokerage in any review under section 83;

(c) the superintendent is satisfied that at the end of each of those 3 fiscal years the mortgage brokerage's current assets exceeded its current liabilities.

(4) An accountant who, under subsection (2), audits or reviews the financial statements or prepares a compilation engagement report in relation to the financial statements, or who completes the accountant's report referred to in subsection (1) (b), must be independent of the mortgage brokerage, any related licensee and any controlling person or significant interest holder of the mortgage brokerage.

(5) A mortgage brokerage must

(a) disclose to an accountant referred to in subsection (4) every savings institution account that was opened, closed or maintained by the mortgage brokerage during the fiscal year,

(b) provide the accountant with access to all financial and other records of the mortgage brokerage for the fiscal year, and

(c) provide the accountant with any other information the accountant considers necessary to enable the accountant to conduct the audit, review the financial statements, prepare the compilation engagement report or complete the accountant's report, as required by this section.

(6) The superintendent may withdraw an authorization given to a mortgage brokerage under subsection (3) if

(a) the mortgage brokerage does not file financial statements that comply with this section,

(b) a trust account or general books and records exception has been reported or discovered as described in subsection (3) (b) in relation to the mortgage brokerage, or

(c) the superintendent is not satisfied that the mortgage brokerage's current assets exceed its current liabilities at the end of any fiscal year.

(7) Before withdrawing an authorization given to a mortgage brokerage under subsection (3), the superintendent must give the mortgage brokerage notice of the superintendent's intention to do so and the reasons.

(8) As an alternative to filing an accountant's report under subsection (1) (b), a mortgage brokerage that did not hold or receive any trust money during the fiscal year to which the financial statements relate may file with the superintendent a solemn declaration, completed in accordance with any requirements specified by the superintendent, respecting

(a) that fiscal year, or

(b) if the mortgage brokerage carried on business for only part of the fiscal year, that part of the fiscal year for which the mortgage brokerage carried on business.

Periodic report on mortgage brokerage activity

85 A mortgage brokerage must, at intervals specified by the superintendent, file with the superintendent a mortgage brokerage activity report, completed in accordance with any requirements specified by the superintendent.

Requirement to ensure solvency and cover negative balances

86 (1) This section applies in any of the following circumstances:

(a) a mortgage brokerage notifies the superintendent under section 25 *[notice respecting insolvency]* that it is not able to pay its debts as they become due;

(b) a mortgage brokerage notifies the superintendent under section 95 (3) *[negative balances in trust accounts and trust records]* that there is a negative balance in a trust account record or trust ledger;

(c) the annual financial reports under section 84 (1) *[annual financial statements and accountant's report]* disclose that, at the end of the mortgage brokerage's fiscal year,

(i) the mortgage brokerage's current liabilities exceed its current assets, or

(ii) the mortgage brokerage's total liabilities exceed its total assets;

(d) a review under section 83 *[superintendent review of accounts and other records]* indicates

(i) a circumstance for which notice referred to in paragraph (a) or (b) of this subsection is required, or

(ii) either of the circumstances referred to in paragraph (c) of this subsection.

(2) The superintendent may require a mortgage brokerage to do one or more of the following:

(a) explain why a shortage or other deficiency arose;

(b) pay money into a trust account to cover a negative balance in the trust account;

(c) re-establish the mortgage brokerage to a state of solvency;

(d) provide a bond or other form of security.

Division 2 – Money Received by Licensee

Payment or delivery of money to mortgage brokerage

87 (1) A licensee engaged by a mortgage brokerage must, promptly but no more than 2 business days after the date of receipt,

(a) pay or deliver to the mortgage brokerage all money held or received in relation to mortgage services, and

(b) record the receipt of the money and deliver that record to the mortgage brokerage.

(2) Subsection (1) (a) does not apply to money held or received by a licensee if

(a) the money is in the form of a cheque, draft or money order payable to a person other than the licensee or the related mortgage brokerage of the licensee, and

(b) the licensee takes no action in relation to the cheque, draft or money order other than delivering it to the person to whom it is payable.

Division 3 – Trust Accounts

Payment into trust account

88 (1) A mortgage brokerage must, promptly but no more than 2 business days after the date of receipt, pay into a mortgage brokerage trust account all money held or received in trust from, for or on behalf of a client in relation to mortgage services.

(2) For the purposes of this section, if money referred to in subsection (1) is held or received by a person who is

(a) a controlling person of a mortgage brokerage,

(b) a significant interest holder of a mortgage brokerage,

(c) an employee of a mortgage brokerage or of a related licensee of a mortgage brokerage, or

(d) a person acting in an independent contractor relationship with a mortgage brokerage or with a related licensee of a mortgage brokerage,

the money is deemed to be held or received by the mortgage brokerage.

(3) Subsection (1) does not apply to money held or received in trust by a mortgage brokerage if

(a) by written agreement, all clients in relation to the mortgage services agree that subsection (1) does not apply,

(b) the mortgage brokerage ensures that the money is paid to, or is made payable to and immediately delivered to, the person to whom the clients agreed that the money is to be paid or made payable, and

(c) the mortgage brokerage records the receipt of the money.

(4) Subsection (1) does not apply to money held or received in trust by a mortgage brokerage if

(a) the money is in the form of a cheque, draft or money order payable to a person other than the mortgage brokerage or a related licensee of the mortgage brokerage,

(b) the mortgage brokerage takes no action in relation to the cheque, draft or money order other than delivering it to the person to whom it is payable, and

(c) the mortgage brokerage records the receipt of the money.

(5) A mortgage brokerage must ensure that no money, other than money referred to in subsection (1), is paid into its mortgage brokerage trust accounts.

Interest on trust account

89 A mortgage brokerage that is credited by a savings institution with interest on money held in a mortgage brokerage trust account must,

(a) in the case of a separate trust account maintained for a client, pay the interest to the client, and

(b) in the case of a pooled trust account maintained for clients, pay the interest in accordance with the written instructions of each of those clients.

Withdrawals from trust account

90 Money in a mortgage brokerage trust account may be withdrawn only if it is one or more of the following:

(a) money paid into the trust account by mistake;

(b) interest paid in accordance with section 89 *[interest on trust account]*;

(c) money authorized to be withdrawn under section 91 *[payment of licensee remuneration]* or 92 *[payment to licensee of proceeds from mortgage sale]*;

(d) money authorized to be withdrawn under a service agreement between a mortgage administrator and a lender in order to reimburse the mortgage administrator for any expenses incurred and disbursements made on behalf of the lender;

(e) unclaimed money transferred under section 93 *[unclaimed money held in trust]*;

(f) money paid in accordance with a court order;

(g) money paid to or in accordance with the instructions of the client to whose credit the money was deposited.

Payment of licensee remuneration

91 (1) Money in a mortgage brokerage trust account that is intended as remuneration for a licensee may be withdrawn from the account when it has been earned.

(2) Money withdrawn from a mortgage brokerage trust account under subsection (1) must be paid by the mortgage brokerage as follows:

(a) any share of the remuneration that is payable by the mortgage brokerage to another mortgage brokerage must be paid to the other mortgage brokerage directly out of the mortgage brokerage trust account;

(b) any net share of the remuneration that is payable by the mortgage brokerage to a licensee engaged by the mortgage brokerage must be paid to that licensee directly out of the mortgage brokerage trust account.

Payment to licensee of proceeds from mortgage sale

92 If a licensee sells a mortgage to a person and money in a mortgage brokerage trust account is the proceeds from the sale, that money may be withdrawn from the account when the mortgage is transferred to the person or the person's nominee.

Unclaimed money held in trust

93 (1) A mortgage brokerage may transfer money held in trust by the mortgage brokerage to the administrator appointed under the *Unclaimed Property Act* if

(a) the mortgage brokerage has made reasonable efforts to ascertain the identity of or to locate the person entitled to claim the money and to notify that person about the money, and

(b) despite those efforts, the money has been unclaimed for longer than one year after the applicable day, as determined in accordance with subsection (2).

(2) For the purposes of subsection (1) (b), the applicable day is determined as follows:

(a) if a communication or cheque sent to the person entitled to claim the money is returned undelivered to the mortgage brokerage, the day on which the returned communication or cheque is received by the mortgage brokerage;

(b) if an action required to be taken by the person entitled to claim the money by a specified day, as indicated in a communication by the mortgage brokerage to the person, is not taken by that day, the specified day indicated in the communication;

(c) if a cheque has been sent by the mortgage brokerage to the person entitled to claim the money, and a period of 3 years has passed since the day the cheque was sent and the cheque has not been cashed, the day after the end of the 3-year period.

(3) Money transferred under subsection (1) is deemed to be an unclaimed money deposit under the *Unclaimed Property Act*.

Trust account requirements

94 (1) At least one related principal broker must be a signing authority on each trust account maintained by a mortgage brokerage.

(2) For each trust account maintained by a mortgage brokerage, the monthly reconciliation under section 97 (c) *[trust account and general account records]* and the monthly trust liability and asset reconciliation under section 98 (b) *[pooled trust account records]* must be reviewed, dated, and initialled by a related principal broker or a person designated by a related principal broker.

(3) A mortgage brokerage must arrange for all banking documents, including cheques, statements and deposit slips, relating to a trust account to include an indication that they relate to a trust account.

Negative balances in trust accounts and trust records

95 (1) A mortgage brokerage must not make any payment out of a trust account if

(a) the payment would reduce the amount currently recorded in a trust account record or a trust ledger for the account to a negative balance, or

(b) the trust account record or trust ledger to which the payment relates already has a negative balance.

(2) If at any time there is a negative balance referred to in subsection (1) (b), the mortgage brokerage must take immediate steps to eliminate the negative balance.

(3) A mortgage brokerage must notify the superintendent of a negative balance referred to in subsection (1) (b) as follows:

(a) immediately, if a related principal broker considers that the negative balance may result in a person having a claim for a compensable loss in relation to the mortgage brokerage;

(b) in any other case, no later than 10 days after the day on which the negative balance arose, unless the mortgage brokerage is able to eliminate the negative balance in that time.

PART 7 – MORTGAGE BROKERAGE RECORDS

Division 1 – Financial Records

Financial records

96 (1) A mortgage brokerage must prepare and retain financial records in connection with its business that are necessary to ensure the appropriate and timely accounting of all transactions relating to mortgage services provided by the mortgage brokerage and its related licensees.

(2) The records required under subsection (1) must show and readily distinguish the following:

(a) the amount of money held or received by the mortgage brokerage on its own behalf;

(b) the amount of money paid by the mortgage brokerage on its own behalf;

(c) the amount of money held or received on behalf of each other person, the identity of the person on whose behalf the money was held or received, the source of the money and the purpose for which the money was held or received;

(d) the amount of money paid to or on behalf of each other person, the identity of the person to whom the money was paid, the identity of the person on whose behalf the money was paid and the purpose of the payment;

(e) the total amount of money held or received for or on behalf of other persons;

(f) the total amount of money paid to or on behalf of other persons.

Trust account and general account records

97 For each account maintained by a mortgage brokerage, the mortgage brokerage must

(a) retain all banking records relating to account transactions, including statements, cancelled cheques and other source documents making or confirming deposits or withdrawals,

(b) prepare and retain a record that shows amounts received and disbursed, the reason for the receipt or disbursement, and any unexpended balance, and

(c) prepare and retain monthly reconciliations of banking statements with the record referred to in paragraph (b), prepared in a timely manner but no later than 5 weeks after the end of the month being reconciled.

Pooled trust account records

98 In addition to the records referred to in section 97, for each pooled trust account maintained by a mortgage brokerage, the mortgage brokerage must prepare and retain the following records:

(a) separate trust ledgers as follows:

(i) in respect of money held or received on account of mortgages or mortgage transactions, a separate trust ledger for each mortgage or mortgage transaction that shows all amounts received and disbursed in relation to the mortgage or mortgage transaction and any unexpended balance in relation to the mortgage or mortgage transaction;

(ii) in respect of money held or received on account of remuneration for mortgage services, a separate trust ledger for each licensee or other intended recipient that shows all amounts received and disbursed in relation to the recipient and any unexpended balance in relation to the recipient;

(b) a monthly trust liability and asset reconciliation, prepared in a timely manner but no later than 5 weeks after the end of the month being reconciled,

(i) that lists each mortgage or mortgage transaction in relation to which the mortgage brokerage holds trust money and the amount being held in relation to each mortgage or mortgage transaction,

(ii) that lists each person for whom the mortgage brokerage holds trust money and the amount being held for each person, and

(iii) that reconciles the money held in the trust account with the unexpended balances in the trust ledgers for the account.

Preparation of records after mortgage services provided

99 After providing mortgage services to or on behalf of a client, a mortgage brokerage must continue to prepare all financial records required under this Part that relate to the mortgage services that were provided by the mortgage brokerage to or on behalf of the client.

Division 2 – Other Records

General records

100 (1) A mortgage brokerage must retain the following records:

(a) written disclosures under Division 2 *[Disclosures]* or 3 *[Dual Agency]* of Part 5 *[Relationships with Clients]* and any related acknowledgments;

(b) written service agreements and any other records that establish the scope of authority of the mortgage brokerage respecting the provision of mortgage services to or on behalf of a client;

(c) subject to subsection (2), records related to each mortgage transaction in respect of which the mortgage brokerage has provided mortgage services;

(d) policies and procedures established under section 29 (1) to (3) *[mortgage brokerage responsibilities]* and records under section 29 (5) that document each review of those policies and procedures;

(e) annual financial reports under section 84 (1) *[annual financial statements and accountant's report]*;

(f) reports under section 85 *[periodic report on mortgage brokerage activity]*;

(g) reports under section 114 *[periodic report on mortgage brokerage governance policy]*.

(2) For the purposes of subsection (1) (c) of this section, the superintendent may specify classes of records that a mortgage brokerage must retain and classes of records that a mortgage brokerage is not required to retain.

Mortgage records

101 A mortgage brokerage must prepare and retain records that show

(a) the repayment terms of each mortgage in respect of which the mortgage brokerage has provided mortgage services,

(b) the total amount actually paid or to be paid to the borrower of each mortgage referred to in paragraph (a), and

(c) the fees, expenses, costs and other charges required to be paid by the borrower in respect of each mortgage transaction.

Records related to administering mortgages

102 (1) Each month, a mortgage brokerage that administers mortgages must prepare and retain a monthly record of payments that sets out the following:

(a) a reconciliation of the following with respect to mortgages being administered, as the balances appear in the records of the mortgage brokerage for the month:

(i) the total of outstanding principal balances due from borrowers;

(ii) the total amount of principal balances owing to the lenders;

(b) any difference between the balances referred to in paragraph (a) on the last day of the month and a description of the reasons for the difference.

(2) A related principal broker of the mortgage brokerage must sign and date the monthly record of payments to indicate that the principal broker has reviewed the record and certifies that it is accurate.

(3) A mortgage brokerage that administers mortgages must prepare and retain mortgage records that show the following:

(a) all mortgages being administered on behalf of lenders by the mortgage brokerage and the original amount of each mortgage;

(b) separately for each mortgage being administered, all receipts and disbursements of funds and all liabilities, income and expenses with respect to the mortgage;

(c) for each mortgage being administered, the fractional interest or percentage owned by any person.

(4) As part of its mortgage records, a mortgage brokerage that administers mortgages must prepare and retain a record for each mortgage being administered that shows the following in chronological order:

(a) the amount of trust money received from each person who has an interest in the mortgage, the form or manner the trust money was received in and the date the trust money was received;

(b) the amount of trust money advanced on the mortgage or the purchase price of the mortgage, the form and manner the trust money was advanced or paid in and the date the trust money was advanced or paid;

(c) the dates and amounts of any repayments received on the mortgage and the name of the person from whom the repayments were received;

(d) the date and amount of any disbursement of trust money received under the mortgage and the name of the person to whom it was disbursed;

(e) any liabilities, income and expenses relating to the mortgage other than those referred to in paragraphs (a) to (d);

(f) the receipt or disbursement of any other trust money in connection with the mortgage other than those referred to in paragraphs (a) to (d);

(g) the outstanding balance of the mortgage

(i) in total, and

(ii) separately for each person who has an interest in the mortgage.

Records related to referral fees received by a licensee

103 (1) In this section, **"referral fee"** means remuneration referred to in section 71 (1) (b) or (c) *[disclosure to client of remuneration]* that is received by a licensee.

(2) Subsection (3) applies when a referral fee is received by a mortgage brokerage in relation to mortgage services and the only mortgage service provided by the mortgage brokerage is the referral of a person to a licensee, or of a licensee to a person, for the purposes of the licensee providing mortgage services.

(3) If a mortgage brokerage receives a referral fee, the mortgage brokerage must prepare and retain a record in a form approved by the superintendent that includes the following information:

(a) the amount of the referral fee;

(b) the date on which the mortgage brokerage received the referral fee;

(c) a description sufficient to identify the activity undertaken by the mortgage brokerage or its related licensee for which the referral fee was received;

(d) the name of the person who paid the referral fee;

(e) the name of each person to whom any amount of the referral fee is paid and the date of the payment.

Records related to referral fees paid

104 (1) In this section, **"referral fee"** means remuneration paid to any person who refers another person to a licensee, or refers a licensee to another person, for the purposes of the licensee providing mortgage services.

(2) If a referral fee is paid by a mortgage brokerage, the mortgage brokerage must prepare and retain a record in a form approved by the superintendent that includes the following information:

(a) the amount of the referral fee;

(b) the date on which the mortgage brokerage paid the referral fee;

(c) a description sufficient to identify the purpose for which the referral fee was paid;

(d) the name of the licensee on whose behalf the referral fee was paid;

(e) the name of the person to whom the referral fee was paid.

Records related to co-brokering

105 If a mortgage brokerage or a related licensee of a mortgage brokerage co-brokers a mortgage or mortgage transaction, the mortgage brokerage must prepare and retain a record in a form approved by the superintendent that contains the information required by the superintendent.

Division 3 – General Record Keeping

Records must be kept up to date

106 Records required under Division 1 *[Financial Records]* or 2 *[Other Records]* must be kept up to date.

Electronic records

107 (1) A record required under Division 1 *[Financial Records]* or 2 *[Other Records]* may be retained as an electronic record if the record can be readily transferred to printed form.

(2) A person authorized under the Act to review, inspect, audit, investigate or receive a record, may request, for that purpose, that the record be transferred

(a) from electronic form to printed form, or

(b) from printed form to electronic form.

(3) On receiving a request under subsection (2) (a), a mortgage brokerage must promptly transfer the record to printed form.

(4) On receiving a request under subsection (2) (b), a mortgage brokerage must promptly transfer the record to electronic form.

Control of records

108 A mortgage brokerage must keep all records required under Division 1 *[Financial Records]* or 2 *[Other Records]* under the direct control of the mortgage brokerage only.

Security of records

109 (1) A licensee must protect all records obtained by the licensee in the course of providing mortgage services, and the information contained in those records, by making reasonable security arrangements against all risks of loss, destruction and unauthorized access, use or disclosure.

(2) A licensee must immediately notify the superintendent in writing of all the relevant circumstances if the licensee has reason to believe that

(a) the licensee has, for any reason, lost custody or control of any records obtained by the licensee in the course of providing mortgage services,

(b) any person has improperly accessed or copied any of the licensee's records, or

(c) a person has failed to destroy records completely and permanently despite instructions from the licensee to do so.

Retention of records

110 (1) Subject to subsection (2), a mortgage brokerage must retain the records required under Division 1 *[Financial Records]* or 2 *[Other Records]* for at least 7 years after their creation unless a shorter period is authorized in writing by the superintendent.

(2) A mortgage brokerage must retain the records required under section 101 *[mortgage records]* or 102 *[records related to administering mortgages]* for at least 7 years, or any shorter period authorized in writing by the superintendent, after the last transaction in respect of the mortgage.

(3) The records referred to in subsections (1) and (2)

(a) may be retained as copies of the original records, and

(b) must be made available at the head office of the mortgage brokerage for the purposes of a review under section 83 *[superintendent review of accounts and other records]*.

Mortgage brokerage obligations when winding up business

111 A mortgage brokerage that ceases to carry on the business of a mortgage brokerage must do all of the following:

(a) immediately destroy the mortgage brokerage's licences and the licences of all related licensees and delete any electronic version of those licences;

(b) promptly submit to the superintendent a report respecting the winding up, completed in accordance with any requirements specified by the superintendent;

(c) if requested by the superintendent, submit to the superintendent one or more of the annual financial reports required under section 84 (1) *[annual financial statements and accountant's report]* and one or more of the reports required under section 85 *[periodic report on mortgage brokerage activity]*;

(d) as requested by the superintendent, provide to the superintendent

(i) any other financial records of the mortgage brokerage, and

(ii) any further information about the business of the mortgage brokerage;

(e) arrange for the records referred to in section 110 to be retained for the applicable periods referred to in that section by

(i) another mortgage brokerage,

(ii) an accountant, lawyer or notary public, or

(iii) another person acceptable to the superintendent.

Division 4 – Records or Information Provided to Superintendent

Records or information provided on request

112 As requested by the superintendent and in accordance with any requirements specified by the superintendent, a licensee must provide to the superintendent records or information, including personal information, in the possession or control of the licensee.

Records or information provided after specified events

113 Within a period specified by the superintendent after the occurrence of an event specified by the superintendent, a licensee must provide to the superintendent records or information, including personal information, specified by the superintendent.

Periodic report on mortgage brokerage governance policy

114 A mortgage brokerage must, at intervals specified by the superintendent, file with the superintendent a report on its mortgage brokerage governance policy, completed in accordance with any requirements specified by the superintendent.

PART 8 – REGULATORY ENFORCEMENT

Division 1 – Notice of Hearing to Unlicensed Persons

Effective delivery to unlicensed persons

115 A notice of hearing issued under section 51 (2) of the Act to an unlicensed person is effectively delivered to the person if

(a) mailed to the person at the person's last known mailing address, or

(b) sent by email to the person's last known email address.

Division 2 – Administrative Penalties

Administrative penalties

116 (1) For the purposes of section 58 (1) *[designated contraventions and penalty amounts]* of the Act, contraventions of the provisions listed in subsection (2) of this section are designated contraventions to which Division 7 *[Administrative Penalties]* of Part 3 *[Discipline Proceedings and Other Regulatory Enforcement]* of the Act applies.

(2) For the purpose of determining the amount of an administrative penalty, designated contraventions are divided into Categories A to F as follows:

(a) the following provisions of these rules are in Category A:

(i) section 6 *[residential mortgage brokerage offices]*;

(ii) section 31 (2) *[principal broker's act or omission – contravention by mortgage brokerage]* in relation to a contravention of another provision in Category A;

(iii) section 31 (7) *[principal broker responsibilities – records]*;

(iv) section 100 *[general records]*;

(v) section 103 *[records related to referral fees received by a licensee]*;

(vi) section 104 *[records related to referral fees paid]*;

(vii) section 109 *[security of records]*;

(viii) section 110 *[retention of records]*;

(ix) section 111 *[mortgage brokerage obligations when winding up business]*;

(x) section 112 *[records or information provided on request]*;

(b) section 11 (3) *[principal broker or mortgage broker must not provide mortgage services outside of mortgage brokerage]* of the Act is in Category B;

(c) the following provisions of the Mortgage Services Regulation are in Category B:

(i) section 27 (1) *[controlling individual must meet all requirements to receive remuneration from personal mortgage corporation]*;

(ii) section 27 (2) *[no engagement of controlling individual by a mortgage brokerage]*;

(iii) section 28 *[personal mortgage corporation must maintain attributes]*;

(d) the following provisions of these rules are in Category B:

(i) section 25 *[mortgage brokerage must give immediate notice respecting insolvency]*;

(ii) section 26 *[licensee must give notice of discipline, bankruptcy, criminal or other proceedings]*;

(iii) section 27 *[mortgage brokerage must give notice of business changes]*;

(iv) section 28 *[personal mortgage corporation must give notice of business changes]*;

(v) section 31 (1) *[principal broker responsibilities]*;

(vi) section 31 (2) *[principal broker's act or omission – contravention by mortgage brokerage]* in relation to a contravention of another provision in Category B;

(vii) section 32 (3) *[mortgage broker responsibilities – keeping principal broker informed]*;

(viii) section 32 (5) *[mortgage broker responsibilities – supervision of employees]*;

(ix) section 32 (6) *[mortgage broker responsibilities – notify principal broker of improper conduct]*;

(x) section 40 *[designated agent]*;

(xi) section 67 (3) *[promptly disclose changes to information in required disclosures]*;

(xii) section 68 *[disclosure of representation – dealing in or trading in mortgages]*;

(xiii) section 76 *[restriction on dual agency]*;

(xiv) section 81 (2) *[no payment by mortgage administrator to lender until cheque clears or funds received]*;

(xv) section 95 (3) *[notification to superintendent of negative balance in trust account]*;

(e) section 31 *[duty to act in good faith]* of the Act is in Category C;

(f) the following provisions of these rules are in Category C:

(i) section 29 *[mortgage brokerage responsibilities – policies and procedures]*;

(ii) section 30 *[mortgage brokerage – concurrent businesses]*;

(iii) section 31 (2) *[principal broker's act or omission – contravention by mortgage brokerage]* in relation to a contravention of another provision in Category C;

(iv) section 31 (3) *[principal broker responsibilities – notify superintendent of improper conduct]*;

(v) section 32 (7) *[mortgage broker responsibilities – notify superintendent of principal broker's improper conduct]*;

(vi) section 33 *[duty to act with reasonable care and skill]*;

(vii) section 34 (a) *[duties under the Business Practices and Consumer Protection Act – deceptive acts or practices]*;

(viii) section 34 (b) *[duties under the Business Practices and Consumer Protection Act – record of advertisement]*;

(ix) section 34 (c) *[duties under the Business Practices and Consumer Protection Act – unconscionable acts or practices]*;

(x) section 34 (e) *[duties under the Business Practices and Consumer Protection Act – disclosure requirements applicable to all credit agreements]*;

(xi) section 34 (g) *[duties under the Business Practices and Consumer Protection Act – rights of borrowers]*;

(xii) section 34 (h) *[duties under the Business Practices and Consumer Protection Act – credit arranged by loan brokers]*;

(xiii) section 34 (i) *[duties under the Business Practices and Consumer Protection Act – disclosure required in relation to fixed credit]*;

(xiv) section 34 (j) *[duties under the Business Practices and Consumer Protection Act – disclosure required in relation to open credit]*;

(xv) section 38 (a) *[act in best interests of client]*;

(xvi) section 38 (b) *[act in accordance with lawful instructions of client]*;

(xvii) section 38 (c) *[act only within scope of authority of client]*;

(xviii) section 38 (d) *[advise client to seek independent professional advice on matters outside of expertise of licensee]*;

(xix) section 38 (e) *[maintain confidentiality of information respecting client]*;

(xx) section 38 (f) *[disclose to client all known material information respecting the mortgage services and the mortgage or mortgage transaction to which the services relate]*;

(xxi) section 38 (g) *[take reasonable steps to avoid any conflict of interest]*;

(xxii) section 38 (h) *[promptly and fully disclose conflict of interest to client]*;

(xxiii) section 39 (4) (b) *[no unauthorized disclosure of confidential information respecting client]*;

(xxiv) section 41 *[duty to verify identity of borrowers and lenders and their representatives]*;

(xxv) section 42 *[duty to verify other party's identity]*;

(xxvi) section 43 *[duty respecting unlawful transactions]*;

(xxvii) section 44 *[duty respecting borrower's or seller's legal authority]*;

(xxviii) section 45 *[duty respecting accuracy of mortgage application or sale document]*;

(xxix) section 47 *[dishonesty, fraud, etc.]*;

(xxx) section 48 *[restriction on tied selling]*;

(xxxi) section 49 *[receiving money for mortgage lending – conditions]*;

(xxxii) section 59 (1) *[mortgage services team – member of only one team]*;

(xxxiii) section 59 (2) *[mortgage services team – members' mortgage services provided through team only]*;

(xxxiv) section 59 (3) *[mortgage services team – team's mortgage services provided by members only]*;

(xxxv) section 59 (4) *[mortgage services team – members related to same mortgage brokerage]*;

(xxxvi) section 59 (5) *[mortgage services team – designated agents]*;

(xxxvii) section 63 *[no dealing in, trading in or administering mortgages without client]*;

(xxxviii) section 64 (1) *[no mortgage lending to client]*;

(xxxix) section 65 (1) *[duty to verify identity of client and client's representative]*;

(xl) section 66 *[no signing of documents on behalf of clients]*;

(xli) section 69 (2) *[disclosure of risks to unrepresented parties]*;

(xlii) section 70 *[duty and disclosure – suitability of mortgage or mortgage transaction]*;

(xliii) section 71 *[disclosure to client of remuneration]*;

(xliv) section 73 *[information statement to lender]*;

(xlv) section 74 *[conflict of interest – disclosure statement to borrowers]*;

(xlvi) section 75 *[conflict of interest – disclosure statement to lenders]*;

(xlvii) section 77 (2) (a) *[dual representation in under-served remote location – disclosure to parties]*;

(xlviii) section 77 (3) *[dual representation in under-served remote location – promptly provide superintendent with copy of dual representation disclosure]*;

(xlix) section 79 *[addressing conflicts of interest when acting for multiple clients]*;

(l) section 88 (1) *[payment into trust account]*;

(li) section 88 (5) *[no payment of other money into trust account]*;

(g) the following provisions of the Act are in Category D:

(i) section 32 *[maintain records in accordance with the rules and keep those records in British Columbia]*;

(ii) section 33 (1) *[unauthorized trust account]*;

(iii) section 33 (2) *[maintenance of trust account]*;

(iv) section 33 (3) *[designation of trust account]*;

(h) the following provisions of these rules are in Category D:

(i) section 20 *[destruction of inoperative, suspended or cancelled licence]*;

(ii) section 21 (2) *[mailing address for delivery]*;

(iii) section 22 (2) *[email address for licensees]*;

(iv) section 24 *[licensee must reply promptly to superintendent]*;

(v) section 31 (2) *[principal broker's act or omission – contravention by mortgage brokerage]* in relation to a contravention of another provision in Category D;

(vi) section 31 (8) *[principal broker responsibilities – maintenance of trust accounts]*;

(vii) section 32 (2) *[mortgage broker responsibilities – records]*;

(viii) section 32 (4) *[mortgage broker responsibilities – prompt response to principal broker inquiry]*;

(ix) section 34 (d) *[duties under the Business Practices and Consumer Protection Act – advertising]*;

(x) section 34 (f) *[duties under the Business Practices and Consumer Protection Act – rights and obligations of borrowers and credit grantors]*;

(xi) section 34 (k) *[duties under the Business Practices and Consumer Protection Act – general]*;

(xii) section 50 *[display and keeping of licences]*;

(xiii) section 51 *[business signs required]*;

(xiv) section 52 *[restrictions relating to home and other personal offices]*;

(xv) section 54 *[licensee names must be indicated]*;

(xvi) section 55 *[advertising restrictions and requirements]*;

(xvii) section 56 *[false or misleading advertising prohibited]*;

(xviii) section 57 (1) *[mortgage services team – registration requirement]*;

(xix) section 58 (2) *[mortgage services team – notification of change]*;

(xx) section 59 (6) *[mortgage services team – clear indication of name]*;

(xxi) section 80 *[administering mortgages – written service agreement required in some cases]*;

(xxii) section 82 *[administering mortgages – prompt payment to lender]*;

(xxiii) section 84 *[annual financial statements and accountant's report]*;

(xxiv) section 85 *[periodic report on mortgage brokerage activity]*;

(xxv) section 89 *[interest on trust account]*;

(xxvi) section 90 *[withdrawals from trust account]*;

(xxvii) section 96 *[financial records]*;

(xxviii) section 97 *[trust account and general account records]*;

(xxix) section 98 *[pooled trust account records]*;

(xxx) section 99 *[preparation of records after mortgage services provided]*;

(xxxi) section 106 *[records must be kept up to date]*;

(xxxii) section 107 *[electronic records]*;

(xxxiii) section 113 *[records or information provided after specified events]*;

(i) the following provisions are in Category E:

(i) section 39 (4) *[cooperation with superintendent's investigation]* of the Act;

(ii) section 31 (2) *[principal broker's act or omission – contravention by mortgage brokerage]* of these rules in relation to a contravention of another provision in Category E;

(iii) section 83 (1) *[superintendent review of mortgage brokerage accounts and other records]* of these rules;

(j) the following provisions of the Act are in Category F:

(i) section 3 *[licence required to provide mortgage services]*;

(ii) section 11 (5) (a) *[mortgage brokerage relationship with other licensees]*;

(iii) section 11 (5) (b) *[mortgage brokerage relationship with licensee licensed in relation to another mortgage brokerage]*;

(iv) section 26 *[no mortgage services if licence is inoperative or suspended]*;

(v) section 27 (1) *[if licence inoperative, suspended or cancelled, licensee must cease holding themselves out as licensee]*;

(k) the following provisions of these rules are in Category F:

(i) section 31 (2) *[principal broker's act or omission – contravention by mortgage brokerage]* in relation to a contravention of another provision in Category F;

(ii) section 35 *[payment to unlicensed person]*;

(iii) section 36 *[mortgage lending – acting for unlicensed person]*;

(iv) section 37 (1) *[engaging unlicensed person]*;

(v) section 37 (2) *[acting in mortgage transaction when party has engaged unlicensed person]*.

Amount of administrative penalty

117 (1) For each contravention of a provision in Category A set out in section 116 (2) (a), the amount of the administrative penalty is as follows:

(a) $1 000 for a first contravention;

(b) $2 000 for a subsequent contravention.

(2) For each contravention of a provision in Category B set out in section 116 (2) (b), (c) or (d), the amount of the administrative penalty is as follows:

(a) $2 500 for a first contravention;

(b) $5 000 for a subsequent contravention.

(3) For each contravention of a provision in Category C set out in section 116 (2) (e) or (f), the amount of the administrative penalty is as follows:

(a) $5 000 for a first contravention;

(b) $10 000 for a subsequent contravention.

(4) For each contravention of a provision in Category D set out in section 116 (2) (g) or (h), the amount of the administrative penalty is as follows:

(a) a base penalty amount as follows:

(i) $1 000 for a first contravention;

(ii) $2 000 for a subsequent contravention;

(b) an additional $250 for each day or part of a day on which the contravention of the specified provision continues up to the maximum amount set out in section 58 (3) *[designated contraventions and penalty amounts]* of the Act.

(5) For each contravention of a provision in Category E set out in section 116 (2) (i), the amount of the administrative penalty is as follows:

(a) a base penalty amount as follows:

(i) $1 000 for a first contravention;

(ii) $5 000 for a subsequent contravention;

(b) an additional $1 000 for each day or part of a day on which the contravention of the specified provision continues up to the maximum amount set out in section 58 (3) of the Act.

(6) For each contravention of a provision in Category F set out in section 116 (2) (j) or (k), the range of amounts of the administrative penalty is as follows:

(a) between $5 000 and the maximum amount set out in section 58 (3) of the Act, for a first contravention;

(b) between $10 000 and the maximum amount set out in section 58 (3) of the Act, for a subsequent contravention.

PART 9 – TRANSITIONAL PROVISIONS

Mortgage brokerage must have principal broker – transitional exception for former registrants

118 (1) In this section, **"former Act"** means the *Mortgage Brokers Act*, R.S.B.C. 1996, c. 313, as it read immediately before its repeal.

(2) Section 10 (1) (a) and (b) *[mortgage brokerage must have principal broker]* of the Act does not apply to a mortgage brokerage if

(a) the mortgage brokerage does not have a principal broker licensed in relation to the mortgage brokerage because the mortgage brokerage is a person who was registered as a mortgage broker or submortgage broker under the former Act, and

(b) the superintendent permits the mortgage brokerage, without having a principal broker, to provide the mortgage services specified by the superintendent.

(3) The exception under this section applies for the period specified by the superintendent in giving permission under subsection (2) (b).

Repeal of this Part

119 This Part is repealed on April 13, 2027.