



## NOTICE OF ADOPTION

### COMMISSION LOCAL RULE MB-001 *MORTGAGE BROKERS LICENSING AND ONGOING OBLIGATIONS*

AND

### COMMISSION LOCAL RULE MB-002 *MORTGAGE BROKERS FEES*

#### **Introduction**

On 16 May 2018, the Financial and Consumer Services Commission (Commission) approved Amendments to Commission Rule MB-001 *Mortgage Brokers Licensing and Ongoing Obligations* (Rule MB-001) and Rule MB-002 *Mortgage Brokers Fees* (Rule MB-002). (together, the Amendments)

The Amendments to Rule MB-001 and Rule MB-002 came into effect on **1 October 2018**. Pursuant to section 8 of New Brunswick Regulation 2014-21 under the *Financial and Consumer Services Commission Act*, S.N.B. 2013, c. 30, a rule comes into force on the day the rule is published electronically by the Commission as required under paragraph 90(1)(a) of the *Mortgage Brokers Act*, S.N.B. 2014, c. 41, or on such later date as is specified in the rule.

#### **Background**

The purpose of Rule MB-001 and Rule MB-002 is to provide the regulatory framework to support the *Mortgage Brokers Act* (the Act). The Act imposes standards of practice, minimum educational requirements and enhanced disclosure obligations on licence holders. Rule MB-001 *Mortgage Brokers Licensing and Ongoing Obligations* establishes the specific requirements which are set out in the Act; while Rule MB-002 *Mortgage Brokers Fees* establishes the regulatory fees for applicants and licence holders.

On 3 October 2017, the Financial and Consumer Services Commission approved publication for comment proposed amendments to Rule MB-001 and proposed amendments to Rule MB-002, all of which were published electronically on the Commission web site on 4 October 2017 and in the October 18, 2017 edition of The Royal Gazette. The 60-day consultation period ended on 4 December 2017. There were no comment letters submitted during the comment period.

#### **Substance and Purpose of the Amendments**

The purpose of the Amendments is to update the regulatory framework which supports the *Mortgage Brokers Act* to: reflect the anniversary date of licensing; remove duplication in reporting a change in circumstances notification requirement; amend the prohibition on advanced fees to clarify the type of

advanced fees payable to third parties; and remove the restriction of advanced fees on commercial mortgage transactions.

On 4 July 2018, the Minister of Finance consented to the Amendments of Rule MB-001 and Rule MB-002.

### **Questions**

If you have any questions, please refer them to:

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### **Contents of Annexes**

Annex A	Amendment Instrument to Rule MB-001
Annex B	Amendment Instrument to Rule MB-002



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

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

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

5. Subsection 31(3) is amended by replacing “subsection 3(3)” with “paragraph 3(d)”.
6. Subsection 36(2) is amended by replacing “brokerage” with “administrator” wherever it occurs.
7. Section 54 is amended by replacing “prior to January 1<sup>st</sup>” with “on or before March 31<sup>st</sup>”.
8. This Instrument comes into force on 1 October 2018.



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

1. Rule MB-002 *Mortgage Brokers Fees* is amended by this instrument.
2. Subsections 2(4) and 2(6) are amended by replacing “January 1<sup>st</sup>” with “March 31<sup>st</sup>”.
3. Section 3 is amended by replacing “sections 58(8)” with “subsection 58(8)”.
4. This Instrument comes into force on 1 October 2018.