



December 4, 2013

Honourable Bill Bennett
Minister of Energy and Mines and Responsible for Core Review
PO Box 9060 Stn Prov Govt
Parliament Buildings
Victoria, British Columbia
V8W 9E3

Dear Minister Bennett:

Submissions Re: Core Review and Self Regulation of Mortgage Brokers

On behalf of the Mortgage Brokers Association of BC (MBABC) and the Mortgage Brokers Institute of BC (MBIBC), I would like to make submissions to the Cabinet Working Group on Core Review regarding the proposed self-regulation of mortgage brokers in British Columbia.

By way of background, the MBABC was chartered in 1990 and is the oldest mortgage broker association in Canada, representing over 1600 mortgage professionals in British Columbia. The MBIBC is a non-profit society which creates specialized mortgage industry education, which has been approved for relicensing qualification by FICOM.

Mortgage brokers in BC have required licensing since 1972, following the implementation of the *Mortgage Brokers Act*. In addition, they make a significant contribution to the provincial economy, having, by our estimation, originated 15 billion dollars of mortgage funds in the current year. Mortgage brokers have also originated a staggering 84 billion dollars of the total residential mortgage credit in BC which was outstanding for the year 2012.¹

¹ Canadians shared a total outstanding mortgage balance of over 1.1 trillion dollars in 2012 as determined by Statistics Canada, Residential Mortgage Credit, with one third of those transactions occurring in BC and mortgage brokers originating 25% of new home purchases.

Goals of Core Review

I understand that two very important goals of the Core Review are to:

- reduce red-tape and unnecessary regulations that hinder economic development; and
- restructure government program delivery and governance models where costs can be reduced and outcomes improved for the public.

We have a proposal which we believe would accomplish both of these goals. In particular, we propose that the British Columbia government eliminate the current licensing system for mortgage brokers which is administered by the Ministry of Finance under the Financial Institutions Commission (FICOM) and enact in its stead, new legislation creating a self-regulatory organization (SRO) for mortgage brokers.

Current Government Regulation – the Ill Fit with FICOM

Currently mortgage brokers in BC are regulated under the *Mortgage Brokers Act* by the Registrar of Mortgage Brokers and her staff under the umbrella of a government agency, FICOM. FICOM is established by the *Financial Institutions Act*, which is legislation mandating the prudential regulation by FICOM of credit unions, trust companies and insurance companies. Technically FICOM and the *Financial Institutions Act* play no role in the licensing of mortgage brokers other than the Superintendent of Financial Institutions is, and historically has always been, the same appointee as the Registrar of Mortgage Brokers. There is of course a shared overhead and cost savings rationale for absorbing a small program like mortgage broker licensing into a significantly larger and more resourceful program involving the regulation of provincial financial institutions.

However, the regulation of mortgage brokers within FICOM is an ill fit. FICOM is setup as a prudential regulator, and thus employs staff with accounting and finance backgrounds, whose role is to ensure the stability of financial institutions. Mortgage broker licensing on the other hand, is clearly not prudential in nature, and requires a market conduct approach to regulation, which focusses on rules applied against individuals and rigorous enforcement of those rules. The enforcement function requires

specially trained investigation staff and can tax the resources of an organization. There is no other licensing program like that of mortgage broker regulation housed in FICOM. However, FICOM does have a real estate department which provides oversight of the Real Estate Council of BC, which is a self-regulatory organization for real estate licensees.

Mortgage Broker Self-Regulation

As industries mature and grow in both size and the sophistication of its participants, it is common for regulation of the industry to transfer from government to the industry itself. There are a number of reasons why self-regulation for mortgage brokers in British Columbia is the right regulatory model and why now is the right time to implement it, including the following:

- The industry in BC has grown to over 3,300 individuals and 1,000 entities. In addition, the industry has matured and developed its own ethical codes and standards of conduct. The expertise and resources to support a self-regulatory program exist within the industry.
- Both the industry and public desire that protection of consumers be paramount and that standards be raised - this can be accomplished through self-regulation. While there is always a challenge to finding the balance between a fair and open competitive environment and ensuring the fair treatment of and prevention of harm to consumers, a system of self regulation will position BC's mortgage brokers to do exactly that.
- British Columbia has for many years had labour mobility reciprocity with Alberta under the requirements of the New West Partnership Trade Agreement (NWPTA). Alberta currently has self-regulation of mortgage brokers. Harmonization of industry structures between BC and Alberta makes sense and will help fulfill the goals and requirements of NWPTA.
- Self-regulation provides an opportunity for government to reduce its burden by appropriately transferring that burden onto the private sector. In addition, FICOM can be more efficient by eliminating a licensing program which does not share staff and resources, such as licensing databases, with the other prudential programs administered by FICOM. It can therefore focus on what it does best.

What Would a Self-Regulatory Mortgage Broker Body Look Like?

We propose that a mortgage broker SRO be modelled after the Real Estate Council of BC by creating an organization with industry representation from elected council members. Full time paid staff would be responsible for:

- determining the suitability and licensing requirements for mortgage brokers;
- administering all licensing processes;
- investigating and disciplining licensees;
- adjudicating hearing matters; and
- performing audits of licensees.

In addition, by utilizing the same FICOM staff who currently provide oversight over the Real Estate Council of BC, FICOM should provide oversight of the SRO to ensure that it is meeting its mandate.

Satisfying Core Review Goals

The goals of the Core Review would be furthered by the creation of a mortgage broker SRO by:

- enabling the industry to raise standards or more adeptly change standards through rule making and other powers to reflect new industry practices. This would enhance public protection and support professionalization of the industry.
- creating a regulatory body that has greater flexibility than government to raise fees, create rules, remove red tape and proceed with enforcement. This would allow it to possess the necessary resources to effectively regulate mortgage brokers. This enhances public protection and promotes industry growth through efficient and relevant regulatory requirements.
- reducing government expense and burden through the elimination of Ministry of Finance resources, including staff which are currently allocated to the mortgage broker program.
- providing government oversight of the SRO through FICOM by utilizing the same staff who currently oversee the real estate industry SRO in BC.

- making FICOM more efficient by eliminating a market conduct program that does not fit within its prudential mandate to govern financial institutions.
- keeping the oversight of FICOM over the SRO to ensure its effectiveness. This will better ensure that the SRO is protecting the public interest.

Please know that as the provincial mortgage broker association which represents mortgage brokers in British Columbia, the MBABC is willing to leverage its resources to make certain that this proposal can be successfully implemented. We ask that you give this proposal due consideration. I have at this stage been able to provide a brief overview. Should you find it helpful, I would be pleased to discuss further details with you.

Yours truly,

A handwritten signature in black ink, appearing to read 'S. Gale', written in a cursive style.

Samantha Gale

CEO, MBABC and MBIBC

cc. The Honourable Mike De Jong

Carolyn Rogers, FICOM CEO