

# Regulatory Statement

## Suitability Requirements for Submortgage Broker Applicants

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| <b>Regulatory Statement Number</b> | 24-001   |
| <b>Legislation:</b>                | Mortgage Brokers Act (“MBA”)                       |
| <b>Related Forms:</b>              | New Registration Information and Application Forms |
| <b>Date:</b>                       | January 9, 2024                                    |
| <b>Distribution:</b>               | All MBA Registrants                                |

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### PURPOSE

This Regulatory Statement provides requirements for individuals to qualify for registration by demonstrating that they are suitable for registration and that the proposed registration is not objectionable under the *Mortgage Brokers Act* (“MBA”). It repeals and replaces Information Bulletin MB 11-002.

### BACKGROUND INFORMATION

Section 4(a) of the MBA (British Columbia) requires an applicant for a new registration or a registration renewal to satisfy the Registrar of Mortgage Brokers (“Registrar”) of BC Financial Services Authority (“BCFSA”) that they are suitable for registration and that their registration is not otherwise objectionable.

### REQUIREMENTS

#### Education and Experience

Applicants must establish that they have met or exceeded the Registrar’s requirements pursuant to section 4 of the Mortgage Brokers Act Regulations. Those requirements are published in [Regulatory Statement 22-006](#) and additional information on these requirements is available on BCFSA’s website.

#### Honesty and Candour

Honesty and candour with the Registrar’s staff and their clients are core requirements of mortgage brokers. Registrants act to better their clients’ interests in some of the most important and financially impactful decisions they will make in their life. An honest person is truthful, trustworthy, genuine, and candid. A dishonest person deceives or manipulates the truth by lying, misrepresenting facts, or omitting important facts.

BCFSA and the Registrar require all mortgage broker applicants and registrants to:

- Answer questions truthfully and completely;
- Respond in a timely manner; and
- Disclose all relevant information when answering questions, even if not specifically requested.

#### Willingness to Act in Accordance with Regulatory and Industry Standards

Mortgage brokers are expected to conduct themselves in compliance with the standards of the mortgage broker industry and to comply with the *Mortgage Brokers Act*, the Mortgage Brokers Act Regulations, and the regulatory statements of the Registrar, as well as any other legislation and regulatory requirements of any other industry regulators with whom they are members.

Classification: **Public**

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When submitting a registration application, the Registrar requires applicants to disclose if they have:

- Been refused a licence by a regulatory body in British Columbia or another jurisdiction;
- Held a licence that was suspended or cancelled by a regulatory body in British Columbia or another jurisdiction; or
- Been disciplined by a regulatory body or are currently under investigation by a regulatory body in British Columbia or another jurisdiction.

The Registrar considers regulatory bodies to include any organization engaged in professional or industry licensing or regulation in any jurisdiction. This includes regulatory bodies (e.g., BCFSA, BC Securities Commission, Law Society of British Columbia, College of Physicians and Surgeons of BC), and where the government is the regulator (e.g., money service businesses in Quebec).

### **Bankruptcies / Consumer or Division I Proposals**

#### *Personal Bankruptcy, Consumer or Division I Proposal, Unpaid Judgments, and Arrears*

Mortgage brokers work with their clients to help them make decisions often involving significant amounts of money and can be involved in the actual handling of those funds. Therefore, an applicant's lack of financial responsibility may demonstrate a lack of suitability, depending on the circumstances.

If the applicant has been discharged from bankruptcy, BCFSA will require a copy of the certificate of discharge under the Canadian *Bankruptcy and Insolvency Act*. If the applicant has fully performed the proposal, BCFSA will require a copy of the certificate of full performance of proposal made under the Canadian *Bankruptcy and Insolvency Act*. If the discharge or performed proposal is more than seven years old and/or the applicant no longer has access to the necessary documents, they may be asked to provide a written disclosure of the date of discharge or certificate of completion.

Regardless of whether the applicant is discharged or whether they have completed their proposal, BCFSA will require them to provide a copy of their statement of affairs made under the Canadian *Bankruptcy and Insolvency Act*, which is available from the trustee or administrator. If the bankruptcy occurred in another country, BCFSA will require the equivalent of these documents from that jurisdiction.

#### *Business Bankruptcy*

If an applicant was an owner, director, officer, or partner of a business that was subject to bankruptcy, insolvency, receivership, or *Companies' Creditors Arrangement Act* proceedings while the applicant held that position, BCFSA may request further information regarding the applicant's involvement in the business and the circumstances of the bankruptcy, insolvency, or receivership to assess suitability.

### **Credit Checks**

If an applicant applies for registration as a Designated Individual or to act as a director, a consumer proposal or bankruptcy may reflect adversely on an applicant's suitability given the regulatory responsibilities of Designated Individuals and the corporate responsibilities of a director. Therefore, as part of the Registrar's assessment of an applicant's suitability to be registered as a Designated Individual or director, the applicant authorizes BCFSA to perform a credit check to assess the applicant's financial circumstances.

An applicant will **not** be registered as a Designated Individual or permitted to act as a director if the credit report indicates that the applicant has:

- An undischarged bankruptcy (note that the *Business Corporations Act* precludes undischarged bankrupts from acting as corporate directors);
- Not met in full the conditions of an outstanding proposal;
- Outstanding judgments against them; or
- Arrears on trade accounts.

### **Civil Judgments and Pending Litigation**

Applicants must disclose whether there are any pending legal proceedings against them, or they have had any judgments rendered against them, including any business in which they were an officer, director, or partner, for any reason whatsoever from any civil court, board, or tribunal in British Columbia or other jurisdictions. The applicant must describe the circumstances giving rise to the legal proceeding or

judgment, and BCFSA may undertake an inquiry into the circumstances to determine if they raise issues regarding the applicant's suitability or objectionability.

### **Criminal Record Checks and Criminal Charges**

Applicants for initial registration and registration renewal must provide BCFSA with a current criminal record check (also called a Police Information Check) dated not more than six months prior to the date of application.

An applicant may obtain a criminal record check based on their name and date of birth by applying online using [Triton Online Criminal Record Check](#) or by attending their local police station or a division of the Canadian Corps of Commissionaires. If an applicant is aware of a conviction, charge, or incident with the police on their record, they must obtain the criminal record check from their local RCMP or police department. In circumstances where a criminal record check based on the name and date of birth of the applicant shows a significant criminal record or the Registrar has concerns over the identity of the applicant, the applicant may be required to obtain a criminal record check based on the applicant's fingerprints.

Criminal charges are considered on a case-by-case basis, and BCFSA will investigate to determine the circumstances of the underlying conduct and how it was resolved.

### **ADDITIONAL INFORMATION**

For inquiries related to registration requirements, please email [mortgagebrokers@bcfsa.ca](mailto:mortgagebrokers@bcfsa.ca).

As the BC Financial Services Authority, we issue Regulatory Statements outlining how entities must operate, or the form and content required by the Regulator for mandatory regulatory filings identified in the Financial Institutions Act and Credit Union Incorporation Act, Regulations, and other pertinent legislation. While the comments in a particular part of a Regulatory Statements may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, instructions, definitions, and positions contained in a Regulatory Statements generally apply as of the date on which it was published, unless otherwise specified.