



Professional People Professional Service

New Zealand Mortgage Brokers Association

New Zealand Mortgage Brokers Association

Membership Rules Code of Ethics and Standards

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Please Note:

Information contained in this document is authorised by and to be read in conjunction with, the Constitution of the New Zealand Mortgage Brokers Association.

These are the rules of the New Zealand Mortgage Brokers Association as determined by the Committee of the Association (the Committee) in accordance with the Constitution.

1.MEMBERSHIP CRITERIA

1.1)Definition of a ‘mortgage broker’

A mortgage broker is an individual person, who acting independently of any lending institution in the normal course of business may make application for mortgage funding on behalf of and at the request of a client,

1.2)Membership Categories

As provided for in Clause 4 of the Constitution the following categories of membership apply

A Standard Members

1. Individual Mortgage Brokers
2. Commercial/Rural Brokers

B Associate Members

Individuals who are directly involved in the Mortgage Broking industry but are not a practicing Mortgage Broker. To include Directors, General Managers, Finance and Business Managers of mortgage broking operations. To be an Associate Member, all active mortgage brokers operating within the Associate Member's business (either as owner/employee/contractor), must be Standard Members.

C Affiliate Members

1 Affiliate Members

Individuals from industry related organisations such as banks, valuers and other industry related professionals as agreed by the committee from time to time. Under this membership category, the Committee have specifically approved the following:

2 Affiliate Brokers.

Individuals with relevant and current experience in the mortgage industry who are involved in writing residential mortgages and who display a sound working knowledge of the home lending market. Affiliate Brokers falling within this category of membership are not required to represent a minimum of 6 different recognised residential lending institutions (Three of which are to be affiliate members of the Association) They must represent at least one recognised residential lending institutions and no more than five different recognised residential lending institutions.

[Minute 9c 16 March 2005]

3 Mortgage Broker Support

Individual “Broker Support” people who must not give advice to clients on matters such as loan structure and lender options. (Advice will be defined under regulation and this definition will reflect the new regulations, when settled. It

includes advice, recommendation and guidance on the suitability of a loan structure or home loan product to a client.)

[minute 25, 25 may 2006]

1.3)Approval of Membership

The Committee has absolute discretion to approve or decline any application for any membership category.

1.4)Status of Membership

All applicants shall become members of the Association, from the date the application is accepted by the NZMBA. Association membership may be granted subject to full satisfaction of the prevailing membership requirements. Every application for membership shall be subject to such conditions as may be made from time to time by the Committee. These conditions shall include and not be limited to the following:

A Conditions of Standard Membership

1 Standard Members – Individual Mortgage Brokers

1. Application for standard membership must be made on the Association application form. Three references are to be provided. One of the references must be from the applicant's immediate previous employer.
2. The applicant must have relevant and current experience in the mortgage industry, and /or be mentored by an existing Standard Member of the Association and be involved in the arranging of residential mortgages (evidence to be provided to and accepted by the committee)
3. The applicant must have completed and passed with a minimum score of 85%, the Associations pre-requisite "Essentials of Mortgage Broking Course", provided by the NZMBA or an NZMBA accredited and approved training provider that has demonstrated that the course meets the NZMBA's learning outcomes for the "Essentials of Mortgage Broking Course"
4. The applicant must have a current policy of a minimum of \$1,000,000 comprehensive professional indemnity insurance from an insurer, approved by the committee, to cover any Legal Liability arising out of any negligent act, error or omission in their capacity as a mortgage broker.
5. To be eligible for standard membership of the Association, individual mortgage brokers must be able to demonstrate that they represent a minimum of six different recognised residential lending institutions (Three of which are to be Affiliate members of the Association).
6. The Applicant's application fee must be attached with the application for membership. In the event of decline of membership, the application, fee previously paid, will not be refunded.
7. The Applicant must pay all subscription fees and levies from the date of acceptance as a member of the NZMBA. This is an annual non refundable subscription fee and the amount will be pro-rated.

8. All members must abide by the Association's Rules, Code of Ethics and Standards and Constitution.
9. Application for standard membership is made on the understanding that the Committee may, at its discretion, decline membership without reason being given to the applicant or apply conditions to their membership.
10. Standard Members shall promote themselves as mortgage brokers and display the Association's logo/ brand
11. **Exceptions:** Where an application for membership does not comply in all respects, the committee may, in certain circumstances and subject to its unanimous agreement approve full membership.
12. Standard Members may promote themselves as Accredited Members and display the Associations logo as desired, subject to **D) Special Membership Conditions 4. Display of NZMBA Logo.**
13. Before conducting business, a Standard Member must provide all clients and prospective clients with copies of:
 - a. the NZMBA Loan Application Authority and Declaration page and
 - b. NZMBA Personal Disclosure Statement and fully disclose to clients the contents of this statement. This includes the source of all commission payments received with respect to the client's financing transactions or the provision of any ancillary services associated with the transaction.
14. Where the member uses their own Loan Application form and Authority and Declaration, a copy of the Authority and Declaration is to be provided to the Committee of the Association for approval.

Education requirements *[Minute 44 , 27 July 2005]*

15. Standard Members must comply with the Continuing Professional Development (CPD) points requirements as set from time to time by the Committee.
16. Standard Members are required, as a condition of NZMBA membership, to undertake and obtain a minimum of 25 points per year.
17. 50 Continuing Professional CPD points can be spread over a two year period commencing 1st January 2006.
18. The requirement is effective immediately upon membership acceptance. The initial CPD requirement for new practitioner members will be pro-rated from the date of membership acceptance.
19. CPD points claimed must be earned in the same reporting period.
20. Credit can be earned in ways set by the Committee. These are contained in the CPD guidelines. The following schedule sets out the ways agreed by the Committee as 1 January 2006.

CPD Points - Continual Professional Development Schedule

Activity description	Total points per year 25
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NZMBA – NZMBA, NZMBA Approved and or NZMBA Business Solutions professional development courses Needs to be a clear mix of technical, compliance general, ethical/adviser, best practice.	Minimum 8 points 4 points per day course 1 point per 2 hour session
Documented and structured in-house/company mortgage broker training	3.5 per day course 1 point up to per 2 hour session
Documented and structured Lenders ongoing product and policy training	1 point up to 2 hour session or session 3.5 per day
NZMBA Conference	8 points for event
NZMBA Regional Meetings	4 points
In-house/company Mortgage Broker Conference	8 points for event
International Conference on mortgage industry and broking e.g. Attendance at MIAA conference etc.	8 points for the event
CPD Points from other Associations. Cross Credits NZMBA Members of other Associations that are already part of a documented and recognised CPD point scheme can transfer points gained with other associations to the NZMBA scheme. Document and evidence. – 40% transferable	Maximum of 40% of NZMBA points can be cross credited from other CPD point schemes Maximum 10 points
Passing relevant examination subjects from a recognised NZ tertiary institution. Documented and evidenced Bachelor of Business Bachelor of Finance Bachelor of Commerce Diploma	8 points
Structured and documented Mentoring programme – recipient and mentor	1 point per 2 hour session
Others will be considered on written application to the NZMBA	

2 Commercial/Rural Members

1. The applicant must have relevant and current experience in the mortgage industry and be involved in the arranging of commercial/rural mortgages (evidence to be provided to and accepted by the Board). That at any such time that they do become involved in arranging residential mortgages in the normal course of business, they then have to fulfil the requirements for

Individual membership. A statement is to be signed by the applicant to this effect.

2. To be eligible for membership of the Association, brokers must be able to demonstrate that they represent a minimum of six different commercial/rural lenders, who they place business with (Three of which are to be Affiliate members of the Association and mainstream lenders),
3. Standard Commercial/Rural Members will promote themselves as Commercial/Rural brokers and display the Associations logo/brand
4. With the exceptions of clauses 2,3,5,10,15,16,17,18,19,20 of A. Conditions of Standard Members – Individual Mortgage Brokers also apply to Commercial/Rural members.

B Conditions of Associate Membership

1.The Individual Associate member must be operating in the mortgage broking industry but not practicing as a mortgage broker (evidence to be provided to and accepted by the committee). That at any such time that they do become a practicing broker then they have to fulfil the requirements for Standard Membership. A statement is to be signed by the applicant to this effect.

2.The Mortgage brokers who works for the Individual Associate Member or the company, with whom the Associate Member is associated, must be Standard Members of the Association.

3.With the exceptions of clauses 2, 3, 4, 5 10, 12 13,14,15,16,17,18,19 20 of A. Conditions of Standard Members – Individual Mortgage Brokers also apply to Associate Members

4.In order to join the NZMBA as a “Corporate Associate Member”, the following definition of Corporate Associate Member shall apply:

- a) The Corporate Associate Member must be a broker firm or company with a head office structure based in NZ
- b) The broker firm or company must be an organisation involved directly in the mortgage broking industry in NZ

5.A broker firm or company may join as an Associate Corporate Member. This allows up to seven named individuals (e.g. head office staff) under one Corporate Associate Membership.

6.The cost of Corporate Associate Membership is set by the NZMBA Committee each year.

7. Corporate Associate Members have voting rights but may exercise only one vote. The CEO, head of the broker firm or company or nominee that holds corporate associate membership may exercise the one vote per Associate Corporate Membership.

8 All Mortgage brokers who work for or are contracted to or associated with the Corporate Associate Member must be Standard Members of the Association.

9. With the exceptions of clauses 2, 3, 4, 5, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20 of A.. Conditions of Standard Members – Individual Mortgage Brokers also apply to Corporate Associate Members

[Minute 25, 25 May 2006]

C Conditions of Affiliate Members

1. Affiliate Members

1. Affiliate members must be industry related professionals and may be an individual, a non-incorporated entity or an incorporated company.
2. Affiliate members must abide by the Code of Ethics and Standards of the Association
3. A firm or company may join as an Affiliate Corporate Member. This allows up to seven named individuals under one Corporate Affiliate Membership. The cost of Corporate Affiliate Membership is set by the NZMBA Committee each year.

[Minute 25, 25 May 2006]

2. Affiliate Broker Members

1. Individual applicants must have relevant and current experience in the mortgage industry, must be involved in writing residential mortgages and must display a sound working knowledge of that market.
2. Applicants must successfully complete and pass the NZMBA's approved pre requisite training and accreditation programme prior to acceptance as a member of the Association
3. Applicants must have a current policy of a minimum of \$1,000,000 comprehensive professional indemnity insurance from an insurer approved by the Committee to cover any legal liability arising out of any negligent act, error or omission, in their capacity as a mortgage writer.
4. The Association's application fee, which is the same as that of a full standard member, must be attached to the application for provisional membership. In the event that membership is declined, this fee is not refundable.
5. Before conducting business an affiliate broker member must provide a client or prospective client with the Association's approved Authority and Declaration and the Personal Disclosure Statement documents. The number of lenders they write business with must be clearly disclosed to the client or prospective client.
6. Affiliate Broker Members must disclose fully to clients the source of all commission payments received with respect to the clients financing transactions or the provision of any ancillary services associated with the transaction.
7. Affiliate Broker members are entitled to use the NZMBA's logo for advertising purposes in the normal course of their business.
8. Affiliate Broker Members must abide by the NZMBA Rules, Code of Ethics and Standards and Constitution. Failure to comply may result in disciplinary action.

9. Application for membership is made on the understanding that the Applicant must comply in all respects (other than demonstrating that they represent a minimum of six lenders) with the requirements of full standard membership of the Association. The Committee may, at its discretion, decline membership or apply conditions to their membership.

[Minute 9 c 16 march 2005]

Affiliate - Broker Support Individuals

1. The Broker Support individual must not be promoted or seen as a “mortgage broker” or adviser.
2. The Broker Support individual must work for an NZMBA standard member: individual mortgage broker (see Constitution 4.1.(a)) This means the NZMBA standard members: individual mortgage broker must be fully paid up, have met all ongoing accreditation requirements and not be a provisional member.
3. The Broker Support individual may assist the mortgage broker with collection and gathering of application information. If the broker support person comes into direct contact with a client or member of the public they must make it known to that person(s) that they are not a qualified mortgage broker and that they are assisting a named mortgage broker.
4. The annual fee is set by the NZMBA Committee and excludes an advertising fee. There is no joining fee. The NZMBA Committee sets this fee annually.
5. The application must be sponsored, supported and signed the individual mortgage broker that the broker support person works for. There is no credit check required at this stage.
6. The Committee may impose conditions on this category of membership at its discretion.
7. The Broker Support individual must abide by the Association’s Rules and Constitution
8. The Broker Support membership is transferable, subject to the above conditions, if an individual leaves the employ of a broker.

D Special Membership Conditions

1 Charging of Fees - Standard Members – Individual Mortgage Brokers and Affiliate Brokers

In the normal course of the members business of arranging residential mortgages, members must not:

- a) Charge non-refundable up front fees that are not performance and/or cost recovery based.
- b) Charge further up front fees that are not performance based and/or cost recovery based or not related in amount to the amount of the mortgage facility, either as part of the original financing transaction or as part of a mortgage maintenance programme. That is a programme where the broker/consultant undertakes to monitor the client’s progress using promoted debt minimisation techniques.

- c) Restructure or refinance a clients mortgage/finances without due consideration to the clients best interests as can be determined by a cost/benefit analysis of alternatives (for the client) in the market at that time.
- d) Advertise a free service if the client is being charged on a cost recovery basis.
- e) In the normal course of the members business of arranging mortgage facilities, any non-refundable fees that are charged must be agreed between parties in writing prior to making application for finance.

2 Standard Members - Commercial/Rural

In the normal course of the members business of arranging commercial/rural/business mortgage facilities, any non-refundable fees that are charged must be agreed between parties in writing prior to making application for finance and represent fair and reasonable value

3 Provision of Insurance and Other Services

Member brokers must fully disclose the receipt of commissions received either direct from the provider of the product (such as the insurance company) or, if an intermediary is involved, from that intermediary (such as a specialist insurance broker).

4. Conditions of Display of NZMBA Logo

- a) Standard Members – Individual Mortgage Broker will display the logo on personal stationery and marketing material. Display of the logo must include the words “Accredited Member”.
- b) Standard Members -Commercial/Rural Members will display the logo on personal stationery and marketing material. Display of the logo must include the words “Accredited Member”.
- c) Affiliate Broker - will display the logo on personal stationery and marketing material. Display of the logo must include the words “Affiliate Member”.
- d) Associate Members may display the logo on personal stationery and marketing material. Display of the logo must include the words “Associate Member”.
- e) Affiliate Members may display the logo on personal or business entity stationery and marketing material. Display of the logo must include the words “Affiliate Member”.
- f) For a business/trading entity to promote itself as a Member and to display the logo the following conditions apply: **All active mortgage brokers** operating under the name of the business/trading entity must be Standard Members, of the Association.

5. Disciplinary Procedure for Incorrect Display of NZMBA Logo

Members that allow the display of the NZMBA logo in contravention of D) **Special Membership Conditions clause 4** will be in breach of the Membership Rules of the New Zealand Mortgage Brokers' Association.

6. Compliance

Standard members and affiliate broker members shall permit the NZMBA and its officers to conduct random checks to ensure that the rules of the Association are being complied with. The Association and its officers may formerly notify a member requesting information and material. Members will provide the requested information and copies of material within 15 working days from the date of the written request. Members failing to provide the requested information and material within the specified period will be subject to disciplinary procedures.

2. DISCIPLINARY PROCEDURES

The Committee of the Association has the power to appoint a Disputes and Disciplinary Committee. The Disputes and Disciplinary Committee is to comprise two members of the NZMBA, either Standard Members or Associate Members who have paid all membership fees, and an independent person all of whom have, in the opinion of the Committee, the appropriate qualifications to hold enquires into all matters, questions and disputes. Such enquiries shall be conducted in such manner as the committee may deem proper and may be held:

[Agreed minute 33 26 July 2006]

1. At its absolute discretion and on its own motion
2. At the written request of any person, members or otherwise who in the opinion of the chairperson have cause to raise such matters, questions and disputes

The Disputes and Disciplinary Committee shall be responsible for:

1. The hearing of complaints and/or disputes or at its discretion reviewing the activities of any member that are brought to the attention of the Association
2. Recommending any appropriate disciplinary measures where a breach of the Rules or Constitution has occurred.

The Process

The disciplinary procedure will be determined by the appointed Disputes and Disciplinary Committee and advised to the parties prior to the commencement of any investigation.

Within 30 days of hearing the complaint/and or dispute, the Disputes and Disciplinary Committee may, if a breach of the Rules or Constitution has occurred, impose any one or more of the following penalties:

1. Impose any fine not exceeding \$5,000 on the Member; funds received from fines will be applied to the general funds of the association for the benefit of its Members

2. Suspend the membership of the Member
3. Terminate the Member's membership
4. Remove the name of a Member from the Register
5. Advise all members, lenders, and industry professionals of the termination of the member and to publish an advice in one or more appropriate major daily newspapers in the Public Notices section
6. Impose such conditions on the members membership relating to the conduct of the members practice
7. The Disputes and Disciplinary Committee may require the Member to reimburse the Association for any costs, charges and expenses incurred by the Association or Disciplinary Committee as a result of any complaint against the said member.

The Disputes and Disciplinary Committee shall give the Members written advice of its findings, decision and penalties.

The Member may within 30 days of the date of the decision of the Disputes and Disciplinary Committee appeal such decision. The appeal shall be in writing to the CEO of the Association and shall state the reasons for the appeal.

The Member's appeal shall be heard by the Committee of the Association.

The Member shall be required to reimburse the Association for any costs, charges or expenses incurred by the Association in respect of the appeal.

[Agreed minute 30 18 July 2007]

3.TERMINATION OF MEMBERSHIP

Termination of Membership of the Association may occur in the following manner:

- 1) By the committee in accordance with these rules
- 2) By the member voluntarily

To voluntarily terminate membership, members must:

- Give notice to the Committee, in writing, to the effect that they wish to retire or resign from the Association, and
- Have no outstanding complaints of disciplinary hearings lodged against them, and
- Have no outstanding debts due to the Association
- On termination of membership, the member shall cease to use, advertise, or promote that they are a member of the Association. The member will return all certificates and promotional material to the Association immediately.

Outstanding Complaints or Disciplinary Hearings

No member may retire or resign from the Association if:

- Any complaint is lodged against the member, whether before or after the giving of the notice of resignation, but prior to the resignation becoming effective
- Any disciplinary hearing is commenced against the member (whether
- Before or after the giving of the notice of resignation)

Any notice of retirement or resignation where a member is the subject of either or both of the above two events shall not take effect until:

- The hearing of an complaint or disciplinary proceedings has been disposed of, and
- Any resulting action disciplinary measure, fine or penalty has been imposed.

No notice of retirement or resignation shall take effect until all subscriptions; fines, penalties, levies and other payments due to the Association have been paid.

On termination of membership, the member shall cease to use, advertise, or promote that they are a member of the Association. The member will return all certificates and promotional material to the Association immediately.

4.CODE OF ETHICS & STANDARDS

Introduction

The rules governing the professional conduct of members of the Association shall be those contained in the Code of Ethics and Standards of the Association and read in conjunction with the Rules and Constitution of the Association. Provided that the Committee may from time to time amend the said Code of Ethics and Standards in such manner as it thinks fit, but no such amendment shall bind any member of the Association until notice thereof has been given.

Those who offer their skills and knowledge to others have responsibilities and obligations to those who rely on, and are affected by their work.

This Code provides a minimum level of business practice for various activities that form part of the service of offering advice to, and arranging mortgages for clients and potential clients.

The Code expresses the Association's recognition of it's the responsibility of its members to clients, lenders, colleagues and the public.

This Code of Ethics and Standards applies to all members of the New Zealand Mortgage Brokers Association.

1. Ethics

1. Integrity

Members shall be open, honest and sincere in all dealings

A Objectivity

Rules revised to include Rule changes agreed by the NZMBA committee under the constitution of the NZMBA. 2007.02.

Members shall be impartial and free from conflicts of interest. Members shall be fair and not allow prejudice or bias to override their objectivity.

B Competence

Members have a duty to maintain a high standard of professional competence in all dealings.

C Due Care and Responsibility

Members should conduct their business at all times with due care and in a proper and responsible manner refrain from any conduct which might bring themselves and/or the Mortgage Broking Industry into disrepute.

D Confidentiality

Members should respect the confidentiality of information acquired in the course of their work and should not disclose such information to a third party without specific authority unless there is a legal duty to disclose. All information provided is to be for the specific use intended

2. Standards

1. Members shall not deny equal professional services to any person for reasons of race, colour, religion, sex, handicap, age, family status or national origin nor shall they be party to any other such discrimination.
2. Members at all times are to avoid exaggeration, misrepresentation or concealment of pertinent facts relating to any transaction they may be involved in.
3. Members shall operate their business in a professional and 'businesslike' manner.
4. Every member has a duty to maintain their knowledge and skills at a level required to ensure that the member's clients receive competent service based on up-to-date knowledge and practice.
5. Members shall not undertake to provide specialised professional services outside their field of competence unless they engage the assistance of someone who is fully competent in that service. Any persons engaged to provide such assistance shall be identified to the client and their contribution to the assignment shall be set forth.
6. Members shall fully abide by such laws and regulations as are applicable to the mortgage broking industry.
7. Members have a duty to observe and maintain independence and objectivity in the conduct of their business at all times
8. Members must inform clients and lenders of the nature of any business connections, interests or affiliations which might impair the objective quality of their services or be considered a conflict of interest.
9. Members shall disclose all relevant information required to adequately assess any loan applications put forward for consideration.

10. Members shall disclose such relevant information that may be required to be made available under any statute or act.
11. Members shall disclose to the Association, within (14) days, details of any Agency termination or any other matters of an ethical or legal nature which in any way are likely to affect their standing with NZMBA.
12. A member shall not disclose any information that has been obtained in the course of providing services to clients unless such disclosure is made with the knowledge and consent of the client, or the member is required to do so by operation of law.
13. A member shall not improperly use for the member's own benefit, or permit to be used for the benefit of others, any information that has been obtained, or knowledge, which has been gained, in the course of providing services to clients.
14. Members shall ensure that all advertising and promotion is accurate and is not misleading.