Financial Services Regulatory Authority of Ontario

Guidance

☑ Interpretation | ☑ Approach | ☐ Information | ☐ Decision

Effective date: June 19, 2024
Identifier: No. MB0054INT

Mortgage Product Suitability Assessment

Purpose

This Interpretation Guidance ("**Guidance**") outlines the Financial Service Regulatory Authority of Ontario's ("**FSRA**") interpretation of section 24 of Ontario Regulation 188/08: Mortgage Brokerages: Standards of Practice ("**O. Reg. 188/08**") under the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (the "***Act***").

Section 24 of O. Reg. 188/08 requires that a mortgage brokerage take reasonable steps to ensure that any mortgage or investment in a mortgage that they present for consideration to a client is suitable based on the unique needs and circumstances of the client (i.e., borrower and/or lender or investor), as the case may be.

This Guidance outlines FSRA's interpretation of whether a brokerage has taken the "reasonable steps," required by section 24 of O. Reg. 188/08, which is informed by the extent to which a brokerage has taken necessary efforts or actions to achieve the consumer protection outcomes identified in this Guidance. Failure to achieve these outcomes may be indicative, though not determinative, of a brokerage's non-compliance with section 24 of O. Reg. 188/08.

This Guidance further outlines FSRA's approach in conducting supervisory reviews by transparently outlining the key indicators FSRA looks for when determining if a brokerage has achieved consumer-protection outcomes necessary to demonstrate compliance with section 24 of O. Reg. 188/08.

Scope

This Guidance relates to a regulatory obligation of:

- mortgage brokerages

This Guidance affects how the following licensees conduct their business: consumers

- mortgage brokers
- mortgage agents

Rationale and background

The brokerage's obligation to present only mortgages/mortgage investments that are suitable for their clients, based on the specific needs of the clients, is a fundamental element of the *Act's* consumer protection regime. Further, licensees should be able to demonstrate how the mortgage product was deemed suitable for the client[1].

[1] In 2022, FSRA reviewed a sample of private mortgages arranged by mortgage brokerages. The review found that most of these transactions did not have appropriate documentation to demonstrate the suitability assessment.

Without an understanding of what mortgage brokerages can do to demonstrate they have taken "reasonable steps" to ensure their product is suitable for consumers on a case-by-case basis, there exists the real potential for consumer harm.

Ensuring mortgage suitability for consumers can be more challenging in some situations, for example, where:

- a client is financially vulnerable or has unique circumstances and must rely on non-traditional private mortgages to finance their homes during periods of economic uncertainty, such as a changing interest rate environment and/or correction in the real estate market

- a brokerage is a lender that deals with borrowers directly but only offers its own products

- a brokerage works with borrowers and lenders related to the brokerage

- a brokerage is limited in the range of mortgages that it can offer

Mortgage Broker Regulators' Council of Canada's principles for conducting mortgage product suitability assessments

FSRA's outcomes-focused approach to determining whether a mortgage brokerage is compliant with section 24 of O. Reg. 188/08 is informed by the Mortgage Broker Regulators' Council of Canada ("MBRCC's") Principles for Conducting Mortgage Product Suitability Assessments ("MBRCC Suitability Principles").

In November 2023, the MBRCC published six MBRCC Suitability Principles. The MBRCC Suitability Principles help brokerages, brokers and agents to meet their suitability assessment obligation and assist principal brokers and regulators with supervision of licensees.

FSRA considers whether certain consumer protection outcomes are met when assessing whether a mortgage brokerage has taken reasonable steps to ensure the mortgage products it has presented are suitable for consumers on a case-by-case basis. These outcomes include, for example, whether a mortgage brokerage can demonstrate an understanding of a client's unique needs and circumstances.

Failure of a mortgage brokerage to be able to clearly demonstrate they have met the consumer-protection outcomes outlined in this Guidance may inform FSRA's finding of non-compliance with s. 24 of O. Reg. 188/08. As such, having practices in place to identify that the brokerage consistently meets these outcomes is prudent to promote fair treatment of consumers and regulatory compliance.

Mortgage financing and mortgage investments

The Guidance distinguishes between mortgage financing and mortgage investments as two distinct types of mortgage products that have unique key indicators for each of the consumer protection outcomes.

Mortgage financing is typically required by borrowers because they have already committed to purchasing a property or they must renegotiate as their current mortgage term approaches maturity. The borrower may have a sense of urgency to obtaining the mortgage.

In contrast, investing in a mortgage/lending funds for a mortgage is optional for investors because they can defer investing their capital or can invest in other financial products.

Acknowledging these differences, this Guidance sets out unique sets of indicators for each of the consumer protection outcomes as they relate to mortgages and mortgage investments, respectively.

This Guidance will help mortgage brokerages, brokers, and agents understand what FSRA looks at when determining if a brokerage has taken reasonable steps designed to ensure any mortgage/mortgage investment recommended to a client is suitable based on the unique needs and circumstances (e.g., the level of financial sophistication of the client) and the mortgage product options available to the brokerage. This supports the fair treatment of consumers, encourages good conduct by licensees, and instills public confidence in the sector.

FSRA’s statutory objects

In supervising and regulating the mortgage brokering sector, FSRA is guided by its statutory objects. With respect to the Guidance, FSRA’s relevant statutory objects include FSRA’s duties to:

- regulate and generally supervise the mortgage brokering sector
- contribute to public confidence in the mortgage brokering sector
- promote transparency and disclosure of information by the mortgage brokering sector
- promote high standards of business conduct
- protect the rights and interests of consumers

Interpretation

Section 24 of O. Reg. 188/08 requires that brokerages take reasonable steps to ensure that any mortgage or investment in a mortgage that they present for consideration to a client is suitable based on the unique needs and circumstances of the client (i.e., borrower and/or lender or investor), as the case may be.

Whether a brokerage has taken the "reasonable steps" required is informed by the extent to which necessary efforts or actions were taken to achieve the consumer protection outcomes identified in this Guidance. The more that a brokerage can demonstrate they achieve these consumer protection outcomes, the more likely the brokerage will be found to be in compliance with section 24 of O. Reg. 188/08.

Consumer protection outcomes for suitability assessments

When determining if a brokerage has taken “reasonable steps” to ensure a mortgage product (including mortgage renewals) is “suitable” for a particular client, FSRA considers the extent to which a brokerage achieves the following six outcomes.

FSRA considers the extent to which mortgage brokerages organize their business to best achieve these expected outcomes.

FSRA looks for the following outcomes to be achieved:

Outcome #1 – Know Your Client (“KYC")

- The mortgage brokerage understands the unique needs and circumstances of their client.

Outcome #2 – Know Your Product (“KYP”):

- The mortgage brokerage understands its products and can explain the mortgage products that are available (e.g., features and risks of a product).

Outcome #3 – Options are assessed and suitable recommendation(s) made:

- The mortgage brokerage is able to demonstrate how a mortgage product option(s) presented to a client meets their client’s unique needs and circumstances.

Outcome #4 – Recommended option(s) and rationale for it/them are clearly communicated and explained to the client both verbally and in writing:

- The mortgage brokerage is able to clearly explain to their client any mortgage product option(s) it selects to present for the client’s consideration.

- The explanations should include a documented rationale for the option(s) presented to the client. The rationale should be based on the client’s unique needs and circumstances, lender’s practices, availability of products and other material subjective/circumstantial factors (e.g., including turnaround time needed, service levels, complexity, relationship, likelihood of exception requirements, relationships.)

- Regulated persons and entities should obtain written acknowledgement from their client that the client understands the options(s) and that the mortgage application is being submitted through the mortgage brokerage by their licensed agent/broker.

Outcome #5 – Adequate oversight and accountability:

- The mortgage brokerage should have reasonable processes in place to ensure regulated persons authorized by the brokerage conduct adequate suitability assessments of mortgage product options and present only the option(s), if any, that are suitable for a client.

Outcome #6 – Documented suitability assessment and oversight:

- The mortgage brokerage should adequately document their suitability assessments. Documentation should, at a minimum, include the mortgage product recommendation provided to the client and the rationale for how the recommendation meets the client's unique needs and circumstances.

- Further, regulated entities should document (a) their approach to reviewing the suitability assessments conducted by their authorized regulated persons, and (b) implementation of such approach.

Approach

Key indicators associated with outcomes

This Guidance outlines the indicators that FSRA considers when determining whether the brokerage has achieved the outcomes outlined above.

FSRA looks for key indicators to determine if the consumer-focused outcomes have been achieved. However, the presence of these indicators alone is not sufficient if the outcomes are not met.

The following is a list of non-exhaustive indicators to transparently outline what FSRA considers during its supervisory reviews. This list is intended to assist mortgage brokerages with understanding and achieving the outcomes listed above.

The determination of whether a brokerage has taken reasonable steps to identify suitability of a mortgage product can differ based on the mortgage specificities such as the type of mortgage products (financial institution versus private lender mortgage) and level of financial sophistication of the consumer.

Consumer protection outcomes and key indicators that FSRA considers when conducting supervisory reviews

Outcome #1 – Know Your Client ("KYC")

Mortgage financing for a borrower client

Key indicators of whether a brokerage knows its borrower's needs and circumstances include but are not limited to the broker's and agent's understanding of their client's:

a) employment status and stability (e.g., full-time, part-time, contract, probation, unemployed)

b) income type and stability (e.g., salary, commission, base plus commission, bonus, dividend, retirement, social assistance)

c) property details (e.g., single-family house, multi-unit house, condo, co-operative) and any current mortgages or encumbrances (e.g., HELOC, municipal by-law requirements, easements, positive or restrictive covenants)

d) financial knowledge (e.g., experience with mortgages and financing)

e) short- and long- term financing objectives, risk tolerance (e.g., tolerance to increasing payments on variable and/or adjustable-rate mortgage products) and housing plan[2]

f) additional factors of financial vulnerability, such as language/communication barriers

[2] For example, how long does the client plan to hold this property, will their housing need change in the short or medium term (e.g., due to growing household or planned job-related relocation).

g) prior experience with consumer proposal, bankruptcy, power of sale, foreclosure, or other mortgage enforcement or debt recovery activities.

Mortgage investment for a private lender/investor client

Key indicators of whether a brokerage knows its private lender's/investor's needs and circumstances include but are not limited to the broker's and agent's understanding of the client's:[3]

a) personal circumstances

b) financial circumstances

c) investment needs and objectives

d) risk tolerance

e) experience in mortgage investments and related real estate transactions

f) source of funds being invested (e.g., registered funds that may be impacted by adverse tax rules, cash, equity from home refinancing)

g) beneficial owner(s) if lender/investor is a corporation

h) mortgage administrator (i.e., who will administer the mortgage) and whether the mortgage administrator has a business or other relationship with the borrower.

[3]Reflects requirements in the Canadian Securities Administrators' ("CSA's") National Instrument 31-103, s. 13.2 and National Instrument 31-103 CP.

Outcome # 2: Know Your Product ("KYP")

Mortgage financing for a borrower client

Key indicators of whether a brokerage knows the mortgage product option(s) being considered for a borrower include but are not limited to the broker's and agent's understanding of:

a) the limitations, if any, in the range of products it is able to offer, and

b) the recommended product's features, risks and limitations including:

- cost of borrowing, including how the rate is compounded, and any trigger points (for variable rate mortgages (VRM) and adjustable-rate mortgages (ARM))
- repayment plan and whether regular mortgage payments include principal repayment or interest only
- prepayment options and costs (i.e., renewal, renegotiation or discharge of mortgage prior to maturity date, and basis for calculation of prepayment costs)
- extension or renewal options and costs (e.g., lender may not extend or renew and not at the same interest rate)
- any additional costs paid to lenders, brokers or other parties (e.g., administration costs)
- how costs are paid (e.g., deducted off the committed amount)
- other restrictive or unique options/clauses (e.g., portability, assumability, lump-sum payment privileges, payment increase/decrease allowances, convertible to another product)

- rules regarding subsequent financing using the same property as collateral or maximum combined LTV restrictions

c) lender's/investor's mortgage underwriting/approval requirements including pre-approval conditions, documentation, common conditions to be fulfilled, and processing timelines

d) impact of the product recommendation on the client's situation (e.g., impact to the borrower if the mortgage cannot be renewed)

In cases where the brokerage is not the lender, brokers and agents should consider various mortgage options and not automatically funnel all borrowers to a single lender. Brokers and agents should ensure any recommendation is suitable for the needs and circumstances of the borrower.

In cases where a mortgage option being considered for a borrower is a private mortgage, brokers and agents should understand and be able to explain the following non-exhaustive factors:

a) private lender's identity, experience, source of funds

b) in addition to standard conflict of interest (COI) disclosures[4] required, description of the relevance of the COI and any management strategies in place to manage the COI. Examples of COI situations include: the transaction involves related parties, brokerage staff as lender, etc.

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[4]As per O. Reg. 188/08 s. 27, brokerages must disclose in writing to a client (borrower, lender or investor) any conflict of interest or potential conflict of interest that the brokerage or any if its licensed representatives have in connection with a mortgage. As per O. Reg. 188/08 s. 27(2), the client must acknowledge this disclosure in writing. As per O. Reg. 188/08, s. 27(3), this requirement for disclosure of conflicts of interest or potential conflicts of interest does not apply if

1. The lender is another brokerage.
2. The investor is another brokerage or a financial institution.
3. The borrower, lender or investor, as the case may be, is a permitted client that is not an individual and the mortgage in question is a syndicated mortgage that is not a qualified syndicated mortgage. O. Reg. 695/20, s. 9 (1).

c) triggers and timelines for power of sale, foreclosure, or other mortgage enforcement remedies

d) fees/costs for services such as payment date changes, statements, discharge documents, renewal fees, etc.

e) method of payment (direct debit, e-transfer, post-dated cheques, etc.)

Mortgage investment for a private lender/investor client

Key indicators of whether a brokerage knows the mortgage product option(s) being considered for a private lender/investor include but are not limited to the broker's and agent's understanding of:

a) the characteristics of the property being mortgaged, such as type, location, appraised[5] valuation and any material factors that may impact the property value (such as market disruption, environmental issues, unique zoning, building restrictions, and if there are any property tax arrears).

b) the borrower's track record or borrowing history (as available), such as whether it has defaulted in the recent past.

c) the track record of the developer (for mortgages that fund construction / development).

d) the characteristics and material risks of the mortgage, including but not limited to:

- whether there are other mortgages or encumbrances with higher priority on the property

[5] Independent third-party appraisal prepared and signed by an appraiser with a Canadian Residential Appraiser (CRA), Accredited Appraiser Canadian Institute (AACI), Designated Appraiser Residential (DAR), or Designated Appraiser Commercial (DAC) designation. If not, explain why.

- whether the mortgage includes a subordination clause
- the relationships between parties in the transactions (MB, MA, lender/investors, borrower/developer, appraiser, real estate agent, etc.) that may lead to actual or potential conflicts of interest
- how missed mortgage payments can be handled, the associated procedures (e.g., under the *Mortgages Act*) and the investor's rights in such situations
- which party is responsible for paying any fees or interest on prior ranking mortgages if the mortgage goes into default

e) whether the investment in the mortgage can be redeemed before the end of the term and under which conditions.

Outcome # 3: Options are assessed and suitable recommendation(s) made

Mortgage financing for a borrower client.

Key indicators of whether a brokerage has assessed its options for a suitable recommendation for a borrower client include but are not limited to:

a) Brokers and agents can demonstrate completion of a comparison/analysis of the borrower's key needs and circumstances and the product's features which correspond to them, or comparison/analysis of other available offerings they have access to and for which the client qualifies.

b) Brokers and agents can demonstrate proactive and early disclosure about any benefits or incentives (monetary or non-monetary[6]) they received or will receive in connection with the mortgage, and that the incentives were not a motivating factor for

[6]Examples of non-monetary benefits or incentives include tickets to events (e.g., sporting, musical, etc.) and free or discounted access/membership (e.g., golf clubs, gyms, etc.).

the recommendation.[7]

Brokers and agents should obtain written acknowledgement by the client of the disclosure.

Mortgage investment for a private lender/investor client

Key indicators of whether a brokerage has assessed its options for a suitable recommendation for a lender/investor client include but are not limited to:

a) Brokers and agents can demonstrate a comparison analysis with other available offerings they have access to and for which the client qualifies was conducted and documented.

Brokers and agents may accept client directed investment solutions in cases where the client is a sophisticated entity (i.e., not a natural person, meets the definition of a "permitted client") and acknowledges, in writing, that they are declining any recommendations by the broker or agent.

Outcome # 4: Recommended option(s) and the rationale for it/them are clearly communicated and explained to the client both verbally and in writing.

Mortgage financing for borrower client

Key indicators of whether a brokerage has clearly communicated and explained the rationale for its recommendation include but are not limited to:

[7] See O. Reg. 188/08, s. 21, 22 and 23 re fees payable and receivable. In this document, proactive disclosure means brokerages provide borrowers, lenders and investors with the required disclosures at the earliest opportunity. See s. 35 and 36 of O. Reg. 188/08 re deadline for disclosure to borrowers and lenders and investors. Early provision of disclosures ensures borrowers and lenders receive the required disclosures in a timely manner to inform their decisions about a mortgage/investment in a mortgage.

a) Brokers and agents should be able to explain to the client why the recommended mortgage is suitable, given the client's personal and financial needs and circumstances.

The explanation may include use of visual representations such as graphs and scenario analysis/cases, in addition to the required amortization schedule.[8]

Brokers and agents should also be able to explain what other mortgage options were considered and not recommended.

b) Brokers and agents should be able to demonstrate that they have provided the above communication and reasonably ensured their client's understanding (e.g., in writing with client's acknowledgement)

c) In cases where the recommended mortgage is a private mortgage, brokers and agents should be able to:

- articulate why a private mortgage was required or why the client does not qualify for a mortgage from a financial institution, NHA-approved lender, or other lower-cost financing options
- discuss with the client how sustainable and affordable the recommended mortgage is based on the client's ability to pay, consequences of not meeting payment obligations.
- discuss with the client a feasible and realistic plan to get back to more traditional financing, or otherwise out of private lending (also known as an "exit strategy" or "exit plan") (e.g., improving credit score, completing renovations, preparing the property for sale, etc.). If the product recommendation is

[8]While interest-only payment and pre-collected payment loans do not amortize, it is recommended that a statement indicating the application of payments over the term, opening and closing mortgage balance, and maturity date be provided to ensure borrowers understand the impact of the payment type. This practice should also be followed in cases where amounts (such as fees and/or costs) are capitalized into the mortgage balance or when the committed amount is less than the amount advanced due to holdbacks.

contingent on such actions, the presentation of the product must include reference to such enabling factors

- discuss with the client how sustainable the recommended mortgage is (e.g., when the equity in the home would be fully depleted due to interest and other costs accruing over time)

Mortgage investment for a private investor/lender client

Key indicators of whether a brokerage has clearly communicated and explained the rationale for its recommendation include but are not limited to:

a) Brokers and agents can demonstrate they explained to the client the mortgage options that were considered, and why the recommended mortgage is suitable given the client's investment objectives and risk tolerance

b) Brokers and agents can demonstrate that they have provided the above communication and reasonably ensured the client's understanding (e.g., obtained client's acknowledgement of the communication and explanation in writing)

Outcome # 5: Adequate oversight and accountability

Key indicators of whether a brokerage has ensured adequate oversight and accountability include but are not limited to:

a) Brokerage has and can demonstrate adherence to documented internal policies and procedures that help ensure its licensed individuals recommend only suitable mortgage products to clients based on their needs and circumstances.

These policies may address:

- criteria for conducting suitability assessments

- training requirements for brokers and agents (e.g., more detailed training for less experienced agents, when new products are being introduced, periodic refreshers for more complicated/restrictive products or client situations, etc.)

b) Principal brokers demonstrate an established and effectively implemented supervision, monitoring and feedback process, which may be risk-based, that addresses:

- how the brokerage reviews the suitability assessments conducted by its authorized regulated persons
- how to address/correct for unsuitable mortgage recommendations provided to a client
- how licensed individuals who are not meeting expectations for conducting proper suitability assessments would be identified, further trained and supervised
- ensuring that only staff holding a Mortgage Agent Level 2 or Broker licence are responsible for clients requiring financing from lenders that are not financial institutions or approved lenders under the National Housing Act (NHA-approved lenders)

Outcome # 6: Documented suitability assessments and oversight

Key indicators of whether a brokerage ensures that suitability assessments and its oversight of how the assessments are conducted are documented include but are not limited to:

a) Principal brokers, brokers and agents maintain sufficient documentation to demonstrate how they are meeting the expectations with respect to mortgage product suitability, including relevant requirements set out in legislation and FSRA Guidance.

b) Adequate documentation processes are evident when a third party who has not been involved in a particular mortgage transaction or the principal broker's supervision activities can re-perform the suitability assessment or supervisory activities respectively and be able to describe the rationale.

Compliance requirements

Mortgage brokerages, brokers and agents are required to comply with the *Act* and its regulations, including O. Reg. 188/08 as outlined in this Guidance.

Failure to comply may result in enforcement or supervisory action including, as appropriate, letters of warning, license conditions, license revocation or suspension, and administrative monetary penalties of up to $100,000 for individuals and $500,000 for entities, per contravention. Further, FSRA has the authority to lay quasi-criminal charges under the *Act* which are prosecuted in the Ontario Court of Justice under the *Ontario Provincial Offences Act*.

Effective date and future review

This Interpretation Guidance becomes effective on June 19, 2024. The latest possible date for FSRA to initiate a review of this Interpretation Guidance will be June 19, 2027.

About this Guidance

This document is consistent with FSRA's Guidance Framework. As Interpretation Guidance, it describes FSRA's view of requirements under its legislative mandate (i.e., legislation, regulations and rules) so that non-compliance can lead to enforcement or supervisory action. As Approach Guidance, it describes FSRA's internal principles, processes and practices for supervisory work, action and application of Chief Executive Officer discretion.

Scenarios and sample documentation included in the appendix are for illustrative purposes only. These are not prescribed forms and may not include all information required for a particular borrower's or lender's individual circumstances.

Appendix 1: Scenario A – Financial institution lender

Sample documentation of suitability assessment for borrower that qualifies for a mortgage with a traditional lender (i.e., financial institution)

For illustrative purposes only

Mortgage product suitability assessment summary [Scenario A 28-Sep-2023]

File #:	12345	Borrower:	Mark Kim	Broker/Agent:	Rhonda Baker
Date:	01-Sep-2023	Borrower:	Yae Gi Jeong	Brokerage:	ABC Mortgages Inc. #54321

Section I: Recommendation

Lender name: **SKED-ONE Bank of Canada, Inc.** **Lender type:** **Bank**

5-year term, fixed interest rate, closed, 25-year amortization

The reference section at the end of this form provides information on the key mortgage details and disclosures you should receive from your broker or agent.

Section II: Key needs and circumstances summary

Key personal and financial needs and circumstances include, but are not limited to:

- Credit scores (700, 715)
- Incomes ($122k, $115k/yr)
- Employment (salary, stable)
- Debts (1 auto, 3 c-cards)
- Down pymnt (25%, savings)
- Financial assets (RRSP, GIC)

These are the most important feature(s) in a mortgage solution, as indicated by you:

- Low interest rate
- Reasonable payout penalty

Other factors that may impact your ability to access and/or qualify for certain products and lenders:

- n/a – no other concerns

Section II: Rationale

How the recommended product meets your needs. If not lowest (overall) cost, key decision factors. Other options considered. Etc.

- Your excellent credit and payment history, significant savings, few debts, and additional financial assets mean that you are well-qualified at all financial institutions.
- Key features of recommended product that align with your needs and preferences:
  - Competitive 5.05% interest rate with a rate hold guarantee of 90 days
  - Pre-payment penalty calculation does not deduct discounts (reduced rate will not negatively affect penalty calculation).

***Exit strategy** – **Required** for private mortgages. Plan for return to traditional financing at end of term. Sustainability of solution if exit not achieved. Etc.*

- n/a

Section III: Cautions

Unique and/or limiting product terms/conditions. Payout options, penalty, fees, etc.

- **Potential payout penalty:** Mortgage payout before the term's maturity date is subject to a prepayment cost (penalty) of "the greater of 3 months' interest or interest rate differential (IRD)".
  – Depending on rates at pay out, **you may be subject to a costly penalty** given the size of the mortgage.

Section IV: Acknowledgement

Brokerage: *Info accuracy and suitability attestation. If product selected by borrower is NOT recommended/suitable, clear explanation. Etc.*

Information noted in this *Mortgage Product Suitability Assessment* is true to the best of my knowledge. It is informed by the clients' mortgage application, conversations, financial information/ documentation reviewed. Based on clients' personal & financial needs and circumstances, this is suitable and my best recommendation, of the products/ lenders available to me.

ABC Mortgages Inc. #54321	Rhonda Baker	Rhonda Baker	01-Sep-2023
Brokerage Name and Licence #	Name of Broker/Agent	Broker/Agent Signature	Date

Borrower[9]*: Agreement w/ product & rationale. If selecting a product NOT recommended/suitable, clear acknowledgement of risks. Etc.*

My broker/agent discussed my mortgage financing options with me and explained both why and how this mortgage product recommendation suits my personal and financial needs and circumstances. I agree that this recommendation is appropriate and that I understand the mortgage's features and limitations.

n/a	Mark Kim	Mark Kim	01-Sep-2023
Company (if applicable)	Borrower Name	Borrower Signature	Date
n/a	Yae Gi Jeong	Yae Gi Jeong	01-Sep-2023
Company (if applicable)	Borrower Name	Borrower Signature	Date

For your reference: Additional documentation and information

Together with your broker or agent, review the **disclosure to borrower**, **mortgage commitment** letter, and/or other mortgage document(s) for materially relevant information about your mortgage product, such as*:

Mortgage particulars

- Property details (e.g., address, value, mortgage rank/position, loan to value (LTV), etc.)
- Mortgage specifics (e.g., amount, term, maturity date, and amortization, etc.)
- Interest rate details (e.g., fixed/variable, compounding, reference index, etc.)
- Payment details (amount, constant/adjusting, frequency, payment method, etc.)

Cost of borrowing details

- Fees and costs breakdown (e.g., to/from details, type/purpose, calculation method, etc.)
- Interest calculation (total interest paid over term)
- Amortization details (e.g., schedule of payments, balance at maturity, etc.)
- Cost of borrowing (annual percentage rate, including interest costs plus applicable fees and charges)

[9] ***Disclosures:*** *In addition to this summary, you, as borrower(s), are entitled to receive full disclosure information (often referred to as the "disclosure to borrowers" or the "signing package"). This information must be presented to you in writing at the earliest opportunity, and in any case, no later than 2 business days before entering into a mortgage agreement or signing the mortgage instrument, whichever is first. You, the borrower(s) can consent in writing to waive this waiting period.* ***Caution:*** *Waiving the 2 business days waiting period [between receiving disclosure information and signing/entering into a mortgage agreement] means you agree to receive the disclosures at any time before signing a mortgage instrument. (O. Reg. 188/08, s. 35).*

Terms and conditions	**Disclosures**
• Renewal options or conditions • Prepayment privileges and payout penalties • Transferability, assumability, portability • Fee schedule and optional services **This is not an exhaustive list.*	• Brokerage relationships, representation details • Fees/other remuneration payable **by** or **to** brokerage • Actual or potential conflicts of interest • Material risks of the recommended product

Financial Services Regulatory Authority of Ontario (FSRA) contact information
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Phone: 416-250-7250 | Toll free: 1-800-668-0128
E-mail: contactcentre@fsrao.ca

Appendix 2: Scenario B – Private mortgage lender

Sample documentation of suitability assessment for borrower obtaining a mortgage from a private lender

For illustrative purposes only

Mortgage product suitability assessment summary [Scenario A 28-Sep-2023]					
File #:	12345	Borrower:	Jane Doe	Broker/Agent:	John Q. Broker
Date:	01-Sep-2023	Borrower:	John Doe	Brokerage:	ABC Mortgages Inc. #54321

Section I: Recommendation

Lender name: **Mr. N. Vestor** **Lender type:** **Private Lender – Individual**

Private 12-month term @ 9.25% fixed – $2,505/mo interest only – Closing 07-Sep-2023

The reference section at the end of this form provides information on the key mortgage details and disclosures you should receive from your broker or agent.

Section II: Key Needs and circumstances summary

Key personal and financial needs and circumstances include, but are not limited to:

- Credit scores (542, 550)
- Incomes (~$65,000/y gross each)
- Property value $410,000
- Loan payments: $1,200/m
- Credit card payments: $650/m

These are the most important feature(s) in a mortgage solution, as indicated by you:

- Quick close 07-Sep-2023
- Low document requirements
- Considers renewal
- Flexible debt-to-income ratios
- Payout maturing 1st of ~$320,000
- Min. takeout of $45,000

Mortgage product suitability assessment summary [Scenario A 28-Sep-2023]

Other factors that may impact your ability to access and/or qualify for certain products and lenders:

- Both <2 years at current job
- Both credit scores <550
- LTV 79%

Section II: Rationale

How the recommended product meets your needs. If not lowest (overall) cost, key decision factors. Other options considered. Etc.

- Credit scores <550, limited job history, high debt-to-income ratios would not qualify for traditional bank mortgage product. Once at job 2 yrs+ & credit scores 600+, switch to alt lender may be possible
- For now, particularly due to tight closing requirement, most appropriate solution to accommodate your key criteria/critical needs is a private mortgage
- The recommended private mortgage meets the following key needs:
  - Quick closing by 7-Sep-2023 (4 business days), renewals are considered case-by-case
  - Lender's primary focus is property value & condition, 2 year average income not required
  - Loan amount of $360,000 represents 88% LTV with current property value $410,000 – meets need to payout 1st mortgage ~$320,000 + requested takeout of $40,000; lender max is 90% LTV
  - Interest-only payments provide "breathing room" for monthly cash flow [but no principal reduction]
- Compared to other privates available to me, this offers better rate (9.25% comp. monthly) & lower fees – lowest overall cost of borrowing (APR) I could find. Few lenders offering 90% in this market.

Exit strategy *– Required for private mortgages. Plan for return to traditional financing at end of term. Sustainability of solution if exit not achieved. Etc.*

- Use this time while in a private mortgage to get into a better place financially, allowing for negotiation with alternative or more traditional lenders once this term has ended
- Maintain stable employment (2 yrs+ same employer; for contractors – same industry).
- Increase credit scores – min 600 for alt, min 680 for banks. General activities to improve credit include (not limited to)
  - pay bills on time, reduce credit use, pay down balances, avoid major expenses on credit

Mortgage product suitability assessment summary [Scenario A 28-Sep-2023]
• Consider consulting with a Financial Planner or Advisor for help with budgeting and finances etc.

Section III: Cautions

Unique and/or limiting product terms/conditions. Payout options, penalty, fees, etc.

- This is a **short-term** solution only. Borrowing nearly 90% of property value leaves little room for future refinancing, particularly if property values decrease.
- Lender collects monthly payment by post-dated cheques (provide to lawyer at closing). Ensure you have funds in account: $150 non-sufficient-funds charge for each dishonoured cheque
- Do not get behind on payments. Lender will consider starting mortgage enforcement (such as demand letter or power of sale) after 3 (three) missed payments
    - If you run into challenges during the term, reach out to me or the lender directly to make arrangements or to restructure. Do not avoid these discussions.
- If finances not ready for alt or traditional lender after the 1-year term, I can only recommend renewal/ extension **once** for **max of 12 months** (more renewal may deplete equity past what a sale can recover).

Section IV: Acknowledgement

Brokerage: *Info accuracy and suitability attestation. If product selected by borrower is NOT recommended/suitable, clear explanation. Etc.*

Information noted in this *Mortgage Product Suitability Assessment* is true to the best of my knowledge. It is informed by the clients' mortgage application, conversations, financial information/ documentation reviewed. Based on clients' personal & financial needs and circumstances, this is suitable and my best recommendation, of the products/ lenders available to me.

ABC Mortgages Inc. #54321	John Q. Broker	John Q. Broker	01-Sep-2023
Brokerage Name and Licence #	Name of Broker/Agent	Broker/Agent Signature	Date

Ontario

Mortgage product suitability assessment summary [Scenario A 28-Sep-2023]			
Borrower*[10]*: *Agreement w/ product & rationale. If selecting a product NOT recommended/suitable, clear acknowledgement of risks. Etc.*			
My broker/agent has discussed my mortgage options with me and explained both why and how this mortgage product recommendation suits my personal and financial needs and circumstances. I agree that this recommendation is appropriate and that I understand the mortgage's features and limitations. I understand that the recommended mortgage product is a private mortgage. My broker/agent discussed with me the reasons for a private mortgage. I understand what to do during the term to improve my financial situation to transition to more traditional financing options in future. I recognize that this is a short-term solution that may not be sustainable long-term and could result in depletion of my equity in my property. I understand if I continue to finance with private mortgages, what I owe may equal or exceed the property value. I understand these risks and agree to move forward with this recommendation.			
n/a	Jane Doe	Jane Doe	01-Sep-2023
Company (if applicable)	Borrower Name	Borrower Signature	Date
n/a	John Doe	John Doe	01-Sep-2023
Company (if applicable)	Borrower Name	Borrower Signature	Date
Additional information you should receive from your broker or agent is listed on next page.			

[10] ***Disclosures:*** *In addition to this summary, you, as borrower(s), are entitled to receive full disclosure information (often referred to as the "disclosure to borrowers" or the "signing package"). This information must be presented to you in writing at the earliest opportunity, and in any case, no later than 2 business days before entering into a mortgage agreement or signing the mortgage instrument, whichever is first. You, the borrower(s) can consent in writing to waive this waiting period.* ***Caution:*** *Waiving the 2 business days waiting period [between receiving disclosure information and signing/entering into a mortgage agreement] means you agree to receive the disclosures at any time before signing a mortgage instrument. (O. Reg. 188/08, s. 35).*

For your reference: Additional documentation and information

Together with your broker or agent, review the Disclosure to Borrower, Mortgage Commitment letter, and/or other mortgage document(s) for materially relevant information about your mortgage product, such as:*

Mortgage particulars

- Property details (e.g., address, value, mortgage rank/position, loan to value (LTV), etc.)
- Mortgage specifics (e.g., amount, term, maturity date, and amortization, etc.)
- Interest rate details (e.g., fixed/variable, compounding, reference index, etc.)
- Payment details (amount, constant/adjusting, frequency, payment method, etc.)

Cost of borrowing details

- Fees and costs breakdown (e.g., to/from details, type/purpose, calculation method, etc.)
- Interest calculation (total interest paid over term)
- Amortization details (e.g., schedule of payments, balance at maturity, etc.)
- Cost of borrowing (annual percentage rate, including interest costs plus applicable fees and charges)

Terms and conditions

- Renewal options or conditions
- Prepayment privileges and payout penalties
- Transferability, assumability, portability
- Fee schedule and optional services

Disclosures

- Brokerage relationships, representation details
- Fees/other remuneration payable **by** or **to** brokerage
- Actual or potential conflicts of interest
- Material risks of the recommended product

**This is not an exhaustive list.*

Financial Services Regulatory Authority of Ontario (FSRA) contact information

25 Sheppard Avenue West, Suite 100, Toronto, ON M2N 6S6

Phone: 416-250-7250 | Toll free: 1-800-668-0128

E-mail: contactcentre@fsrao.ca

Reference: Useful resources

FCAC Guideline on Appropriate Products and Services for Banks and Authorized Foreign Banks

FCAC Guideline on Existing Consumer Mortgage Loans in Exceptional Circumstances