

Questions and Answers

FSRA Rule 2019-001 (“Assessments and Fees”) Subsection 6.3

1. Does FSRA have the authority to make rules?

Section 21 of the *Financial Services Regulatory Authority of Ontario Act, 2016*, or the FSRA Act, provides FSRA with the authority to make Rules regarding the regulated sectors under its jurisdiction. In particular, the FSRA Act provides FSRA with the authority to make rules governing fees, levies, sector assessments and other charges that it may deem appropriate for its operation.

The FSRA Act outlines a Rule making process, which among other things requires the publication on its website a notice on any Rule that it proposes. The process includes a mandatory consultation period during which stakeholders are encouraged to comment and provide feedback on the proposed new rule or change. Please subscribe to our mailing list to be notified of consultations and other FSRA news.

2. What is this Fee Rule and what is its purpose?

The Fee Rule, which became effective on June 8, 2019, established a framework for FSRA to assess and mandate fees for the regulated sectors under its jurisdiction.

One of the mandated fees is the \$200 fee associated with Form 3.2 for non-qualified syndicated mortgages. This new fee is required as a result of the oversight activities required for non-qualified syndicated mortgage investments to help ensure consumers are protected.

3. How can the fees and forms be filed with FSRA?



The filing of disclosure form 3.2 and the \$200 fee is required for **each non-qualified syndicated mortgage**. When a non-qualified syndicated mortgage is identified as being high-risk, the brokerage may end up submitting to FSRA forms 3.2.1 and 3.2 together along with the \$200 fee.

The fee is payable by cheque to: *Financial Services Regulatory Authority of Ontario* or *FSRA*.

All forms and any applicable documentation should be sent to SMI@fsrao.ca.

A scanned copy of the cheque should accompany the electronic submission of the Form 3.2 prior to it being mailed to FSRA's attention at:

Financial Services Regulatory Authority of Ontario
Market Conduct, 16th floor
5160 Yonge St
Toronto, ON, M2N 6L9

Please note that the submission will **NOT** be considered complete up until the related cheque has been received via mail.

If you would like to pay by credit card, please submit your Form 3.2 together with a completed [credit card authorization form](#) to smi@fsrao.ca. Please do not provide your entire credit card number. A FSRA representative will contact you to process the transaction. You may provide an electronic signature on your credit card authorization form. A FSRA representative may reach out to confirm the signature.

4. Are Mortgage Brokerages required to pay a \$200 fee and submit Form 3.2 to FSRA every time they fill out an investor disclosure form?

As per subsection 6.3(3) of the Fee Rule, the fee must be paid within five calendar days following the date on which any prescribed disclosure documentation was **first provided** by or on behalf of the brokerage to the **first potential or actual lender or investor** in a non-qualified syndicated mortgage. The fee must be accompanied by a copy of the non-qualified syndicated mortgage disclosure form provided to such first potential or actual lender or investor in respect





of that non-qualified syndicated mortgage.

The fee is not payable and the Form 3.2 do not need to be filed in respect of each subsequent potential or actual lender or investor in such non-qualified syndicated mortgage and to whom such same non-qualified syndicated mortgage disclosure form is also provided.

5. In the case that the Form 3.2 is issued but the deal falls through, is there any obligation to file and pay the fees on a “dead” deal?

The fee is payable within the first five calendar days following the date on which any prescribed disclosure documentation is provided to the first potential or actual lender/investor. If the deal falls through within this five-day period, there is no obligation to file the Form 3.2 and pay the \$200 fee.

6. When does the five-day timeline start? Once Form 3.2 is issued or five days from the date the mortgage transaction closed?

The five-day timeline starts when the Form 3.2 is first provided by or on behalf of the brokerage to the first potential or actual lender or investor in a non-qualified syndicated mortgage.

For each of the non-qualified syndicated mortgages brokered between June 8, 2019 and August 13, 2019, the payment of the fee and Form 3.2 filing requirement are required to be completed by August 23, 2019. This grace period is a temporary exception. For non-qualified syndicated mortgages brokered after August 13th, the five-day timeline required by the Fee Rule is to be followed by all brokerages dealing in non-qualified syndicated mortgages.

Note: The timelines mentioned herein are calendar days, not business days.

7. Are Mortgage Brokerages required to file Form 3.2 and pay the mandatory fee for the renewal of a non-qualified syndicated mortgage after the effective date of the Fee Rule?

As of July 1, 2018, each re-investment or rolling over of funds that comes due is considered a new investment/loan in the non-qualified syndicated mortgage, not a renewal. The forms (Form 3.0 – Investor/Lender Information, Form 3.1 – Suitability Assessment and Form 3.2 – Disclosure Statement) must be used to complete all non-qualified syndicated mortgage





transactions.

For the purpose of the Fee Rule, the filing of Form 3.2 and payment of the \$200 fee is only required in instances where the terms of the mortgage have materially changed and might result, for example, in a change in the risk assessment of the mortgage.

This will be in situations involving, for example, a change in the registered mortgage amount, an equity take-out, a change in the loan purpose, additional fees, a change in the rights/duties of the parties involved, additional actual or potential conflicts of interest, or any such changes that will make the mortgage an entirely different transaction from the original one.

8. If a retail investor who originally invested over the \$60,000 investment limit in a non-qualified syndicated mortgage is interested in participating in the renewal, will they be limited to the \$60,000 investment limit ...

for retail investors?

Effective July 1, 2018, investors/lenders that are not part of a designated class of investors/lenders are subject to an investment limit of \$60,000 in a non-qualified syndicated mortgage transaction per 12-month period, as per subsection 24.2(1) of Ontario Regulation 188/08.

