

# Form 3.2.1 – Supplemental Disclosure for Retail Investor in a High-risk Syndicated Mortgage

*Mortgage Brokerages, Lenders and Administrators Act, 2006*

**Consumer Warning:  
A syndicated mortgage could be a risky investment.**

## Are you considering investing in a syndicated mortgage?

Have you been approached to pool your money with other investors in order to build a condo, low-rise or single family home or a commercial development?

If so, this type of investment is known as a syndicated mortgage and you should know the risks of this investment.

## What is a syndicated mortgage?

A syndicated mortgage is a mortgage where a borrower finds more than one private lender to invest money in a property (e.g., a condominium or commercial building). A standard non-qualified syndicated mortgage funds property development where the mortgage has a loan-to-value of significantly less than 100%, considering all possible subordinations and prior ranking debt, and where the mortgage administrator does not have a conflict of interest.

If your investment funds the pre-construction costs of a project – such as advertising, taxes, legal fees, loan interest, land and real estate costs, zoning permits, architectural and design  that is an indicator of a high-risk non-qualified syndicated mortgage and not a standard one. The proceeds of this type of mortgage will not be used for the actual construction of the building project.

## Understanding the risks

As an investor, we want to help you understand the risks that can be associated with this type of investment. Your mortgage broker is required to review with you, in detail, all the risks associated with this investment, so you can decide if this is the right type of investment for you. After this review, you will be asked to initial that you understand the risks. Several general risks associated with high-risk syndicated mortgages are described in **Table 1 - General Risks for Non - Qualified Syndicated Mortgages**, of Form 3.1 – Suitability Assessment for Investor/Lender in a Non-Qualified Syndicated Mortgage.

## Factors to consider in a syndicated mortgage that may limit your protection:

1. There is a **lineup for repayment**. Often, at minimum, you are second  line to be paid and will be behind any other lenders, such as banks or other private lenders that provide a loan for the project. If the project fails, there may not be any money left to recover your investment. In addition, in some cases, your investment loan may be pushed further back in line behind other investors. This is why we consider a loan to value of greater than 100%, after all subordinations and draws on senior debt, to be an indicia of a high-risk syndicated mortgage.
2. **'Secured' does NOT mean guaranteed**. Some advertisements promote syndicated mortgage investments as 'safe' or 'fully secured'. It is true that your investment will be used to create a mortgage that is registered and secured directly with the land and buildings associated with that mortgage. However, if something goes wrong with the project, you may rank behind other lenders and investors and may not get your money back. This is because the value of the land may only be enough to repay higher-ranking lenders.
3. **No investor protection fund**. Syndicated mortgage investments are not backed by the Government of Ontario or any other investor protection fund. As such, there is no way to guarantee you will get your money back, and you need to protect yourself.

Learn more about your rights: <https://www.fsco.gov.on.ca/en/mortgage/Pages/smi.aspx>

Investor initials: \_\_\_\_\_

## Instructions on how to complete this form

### This form **MUST** be:

1. Completed by the mortgage broker. The broker must present the form to the investor and acknowledge that he/she has done so by signing the form, as indicated. The investor must review and acknowledge receipt of the form by initialling and signing the form, as indicated. It is also strongly recommended that the investor obtain appropriate independent legal advice while completing the form.
2. Completed before finalizing the investor's purchase of a syndicated mortgage that may be a high-risk transaction (i.e., a syndicated mortgage that has any one of the three features listed on this page).
3. Completed for each investor that is NOT part of a designated class of investors (designated class investors are generally knowledgeable and experienced with complex investments).

The designated classes of investors are defined in section 2 of Ontario Regulation 188/08 Mortgage Brokerages: Standards of Practice. There are 13 classes of designated investors. These include classes for individuals who have net income before taxes and net financial assets above a defined limit.

4. Completed in addition to all the other forms required for syndicated mortgages that were introduced on July 1, 2018.
5. Kept by the mortgage brokerage (original copy) for at least six years.
6. Completed in full, without changing any of the content. An incomplete, altered or unsigned form may result in disciplinary action by the Financial Services Regulatory Authority of Ontario against the mortgage brokerage and its principal broker, as well as the mortgage broker or agent who sold the investment.
7. Filed (along with disclosure form 3.2) within five (5) days following the date on which it is provided by or on behalf of the brokerage to the first potential or actual retail investor in a syndicated mortgage that may be a high-risk transaction. This filing may be in conjunction with payment of a \$200 fee, if applicable.
8. Legible. This form does not mandate the use of specific font size or style but the font must be legible

## Definition: High-Risk Syndicated Mortgage

### A high-risk syndicated mortgage is one to which any of the following applies:

1. The loan is worth more than the value of the property to which it applies (known as a "loan-to-value" ratio of over 100%). The value of the property must be the value of the property based on its current condition, use and zoning as of the appraisal date.
2. A clause that allows the priority of the syndicated mortgage to be lowered (i.e., subordinated) relative to other debt, without the investors' consent. This means other debt could be repaid before the syndicated mortgage.
3. A conflict of interest between the borrower or developer and the mortgage administrator for the syndicated mortgage (e.g., where the borrower or developer and the administrator are related). This could mean the administrator may favour the interests of the borrower or developer over those of the investors (e.g., may not fully enforce the obligations of the borrower to the investors).

For the purposes of this form, two persons/entities are "related" if they share any relationship other than an arm's length business relationship. For example, a borrower who is a shareholder, director, officer or employee of the mortgage administrator is related to the administrator.

Investor initials:

## Section 1: Information about the Syndicated Mortgage

1. Provide the information requested, in this section. All dollar amounts must be in Canadian dollars.

- A** 'As is' appraised value of the property as defined in Ontario Regulation 188/08 s. 31.1 (1) 2 iv and v
- B** Maximum amount of all debt (as if fully drawn) with equal or greater priority to the syndicated mortgage
- C** Total amount of the syndicated mortgage registered/charged against the property
- D** Loan-to-value Ratio [Calculated as  $((B+C)/A)$ ]
- E** Total amount paid or expected to be paid (including amounts paid in kind) as commission, fees or other amounts over the life of the syndicated mortgage, calculated as if the entire syndicated mortgage amount is funded, to the:

Mortgage Brokerage

Mortgage Broker

Mortgage Agent

Any party related to the Brokerage, Broker, Agent or Mortgage Administrator

"For the purposes of this form, two persons are "related" if they share any relationship other than an arm's length business relationship. For example, a shareholder, director, officer, partner or employee of a mortgage brokerage is related to the mortgage brokerage and to any mortgage broker or agent authorized to deal or trade in mortgages on behalf of the mortgage brokerage (this group of related parties is referred to as the mortgage brokerage and "its related parties" in this form)."

2. Select all the risks that apply to the syndicated mortgage:

- A loan-to-value of more than 100%
- A subordination clause that allows for the priority of the syndicated mortgage to fall behind other lenders
- The borrower or developer has a conflict of interest because they are related to the mortgage administrator

Investor initials:

**The regulator for syndicated mortgages has received complaints from investors in high-risk syndicated mortgages that have lost money invested in these products**

If you have a complaint about a Mortgage Broker or Mortgage Agent, and have not been able to resolve your complaint about those individuals with the brokerage that they work for, you may write to the Financial Services Regulatory Authority of Ontario and request assistance. The address is:

Financial Services Regulatory Authority of Ontario  
Mortgage Brokerage/Administrator Complaints  
5160 Yonge Street, 4th Floor  
Toronto, ON M2N 6L9

If you require additional information on how to file a complaint, please call FSRA at (416) 250-7250 or toll free at 1-800-668-0128 and ask for the Contact Centre.

**Section 2: Acknowledgement (Completed by Mortgage Broker and Investor)**

I confirm that I have presented the information in this form to the Investor named in this Acknowledgement.

_____	_____
Name of Mortgage Broker	Licence number of Mortgage Broker
_____	_____
Signature of Mortgage Broker	Date (yyyy-mm-dd)
_____	_____
Mortgage Brokerage Name	Licence number of Mortgage Brokerage

**Acknowledgement by Investor**

I confirm that I have read and understand all of the information contained in this form.

_____	_____	_____
Investor Name	Signature of Investor	Date (yyyy-mm-dd)

Investor initials: