September 17, 2020

Gina Stephens
Senior Policy Advisor
Financial Services Policy Division
Ministry of Finance
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Dear Ms. Stephens:

Re: Proposed Amendments to O. Reg. 188/08 and O. Reg. 407/07 under the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (MBLAA)

Thank you for consulting Mortgage Professionals Canada (MPC) and all industry stakeholders regarding the proposed transfer of regulatory authority for Non-Qualified Syndicated Mortgage Investments ("NQSMI").

MPC supports the Ontario Ministry of Finance ("Ministry"), Financial Services Regulatory Authority of Ontario ("FSRA") and the Ontario Securities Commission ("OSC") in a collective desire to improve consumer protections while ensuring minimal regulatory burden "for transactions involving financially sophisticated entities that do not need the same protections as a retail investor". MPC appreciates the balance regulators are trying to achieve through proposed changes to NQSMI regulatory oversight, changes which will more clearly delineate and distinguish the differences between sophisticated clients and retail clients. We note that in our past discussions a preference was stated by the Ministry to move all NQSMI oversight to the OSC; we are pleased that, eventually, a majority of NQSMI oversight will be retained by FSRA.

We were pleased that recommendations MPC made to the Ministry in 2019 were included in the report[1] submitted to Minister of Finance Rod Phillips by Mr. Stan Cho, Parliamentary Assistant to the Minister of Finance, and his immediate predecessor, Mr. Doug Downey. Reducing red tape and regulatory burden are priorities of our members; they are also expressed top priorities of the government, and the recommendations first mentioned in the MBLAA review report by Mr. Cho and Mr. Downey last September. The changes to NQSMI oversight are a strong example of the government making good on an opportunity to use FSRA as it had intended to, as expressed in the aforementioned report:

> "The creation of FSRA represents a significant transformation for the regulation of [the mortgage brokering sector] and offers abundant opportunities to reduce regulatory burden and "right-size" regulation for the sectors it oversees."

[1] *Protecting and Modernizing Ontario's Mortgage Broker Industry* - Report to The Minister of Finance on the Legislative Review of the Mortgage Brokerages, Lenders and Administrators Act, 2006 - September 2019 https://www.fin.gov.on.ca/en/consultations/mblaa-report-september2019.pdf

During the stakeholder roundtable the Ministry graciously hosted September 15, 2020, industry participants made important points which were acknowledged by government and agency participants. We agree with fellow industry participants that clarity is needed regarding certain perceived issues, including those related to regulatory duplication, appraisals, loan-to-value, and privacy. While supportive of the objectives the proposed changes aim to deliver, these issues should be discussed further, and clarified and addressed where required.

We will briefly comment on some of the discussed issues:

Loan-to-Value

We suggest further deliberation on the loan-to-value (LTV) concerns raised to both MPC and you by the community. We understand that there is a preference by the Ministry to use LTV because of regrettable instances of misrepresentation which created consumer protection issues, but using LTV in commercial and development mortgages can be problematic because “value” in this case, unlike a mortgage on a completed property, is a variable which is constantly changing when a project is under development and construction. Additionally, the issues raised by Evan Cooperman regarding repeated appraisal costs “every six months” and the liquidated values of properties at the time of such appraisals are noteworthy.

Duplication of Regulatory Coverage

There was discussion regarding potential regulatory burden duplication surrounding capital raising vs mortgage arranging. While acknowledging the need to ensure protections for all parties, and noting comments made by agency participants during the roundtable, we request that duplication be eliminated where possible, including in instances of mortgage arranging and distributions where regulatory coverage under FSRA may not be required because coverage may already exist under a regime covered by the OSC.

Fees and Data Collection

We appreciate the need for data collection for purposes consistent with FSRA’s supervisory plan (“data -driven, targeted compliance reviews”). We have been asked by affected members that the costs associated with conducting business should not be allowed to “pile up”. As this accumulated data will benefit FSRA, we ask that consideration be given to the dollar value of such data which industry is paying to send to FSRA, and that fees be lowered where possible.

We appreciate any efforts to harmonize fees across jurisdictions and note the collective efforts by governments and relevant agencies to achieve this.

We also ask that all data submitted by NQSMI participants be given the highest standard of protections by FSRA, the OSC and the government, and retained solely for purposes consistent with FSRA's supervisory plan, namely compliance and review of NQSMI related activities.

Request to Delay Implementation

We are concerned that the transition timeline is not long enough. Some industry participants inform us that it can take the OSC five to seven months to issue an Exempt Market Dealer (EMD) license. Realistically, by the time the community knows what the actual guidelines will be, March 1, 2021 will be arriving very quickly. Therefore, we request that the Transfer of Regulatory Authority for Syndicated Mortgage Investments completion date be moved to a slightly later date: July 1, 2021.

While cognizant of the fact the Ministry would like to complete a final transition as soon as possible, with so many other issues dominating our attention at the present time, and with July 1 being one of two Annual Effectiveness dates normally used by Ontario ministries[2], we hope there would be no great issue if four additional months were extended to the industry for this important transition. This brief amount of extra time would allow the aforementioned concerns and any additional legitimate concerns raised by all industry stakeholders to be fully and thoroughly discussed. This time would also be of great assistance to those members whose businesses will likely be altered considerably by the changes. It is likely several entities will decide to end their current hybrid rosters of clients to a roster which consists entirely of either Permitted Clients or non-Permitted Clients. Some may indeed wind up their affairs altogether.

Again, we are appreciative of the efforts made by the Ministry, FSRA and the OSC as they undertake necessary changes to NQSMI oversight, and thank you for your thorough outreach to MPC and other industry participants. We trust that these comments will be well received, and we look forward to further discussions to help push your objectives past the finish line.

Sincerely,

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[2] https://www.ontariocanada.com/registry/downloads/Ontario%20Regulatory%20Policy.pdf

About Mortgage Professionals Canada

Mortgage Professionals Canada (MPC) is the national mortgage industry association representing 12,000 individuals and 1,000 companies, including mortgage brokerages, lenders, insurers and industry service providers. Our members make up the largest and most respected network of mortgage professionals in Canada. MPC represents members' interests to government, regulators, media and consumers. Together, the association is dedicated to maintaining a high standard of industry ethics, consumer protection and best practices.

The mortgage broker channel originates over 35% of all mortgages in Canada and 55% of mortgages for first-time homebuyers, representing approximately $80 billion dollars in annual economic activity. With our diverse and strong national membership, Mortgage Professionals Canada is uniquely positioned to speak to issues impacting all aspects of the mortgage origination process, with all levels of government in Canada.