

Canadian Association of Private Lenders

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Financial Services Regulatory Authority of Ontario
25 Sheppard Avenue West, Suite 100
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Submitted electronically via feedback form

Re: Feedback on Proposed Guidance No. MB0044INT – Mortgage Fraud

We write on behalf of the Canadian Association of Private Lenders, which represents the interests of private mortgage lenders, investors and administrators across Canada.

More specifically, we are writing to provide comments on the Financial Services Regulatory Authority of Ontario's (FSRA's) proposed guidance in MB0044INT, which sets out its interpretation of the "Mortgage Brokerages, Lenders and Administrators Act, 2006 (MBLAA) and its regulations as they apply to mortgage fraud." MB0044INT explains the nature of mortgage fraud and its many forms which occur in the context of mortgage lending.

We note that we reviewed and provided comments on a previous version of the new proposed guidance approximately one year ago. At that time, we recommended that the accompanying checklist be amended so that in the context of private lending, mortgage brokers and agents be guided to review documentary evidence of the borrower's ability to meet the mortgage payments *or a viable plan to repay the mortgage using an exit strategy*. We explained that prospective borrowers generally turn to private mortgage solutions when they do not have the required income to qualify for a conventional mortgage – for this reason, private mortgage underwriting generally assesses whether the private mortgage borrower has the capacity to make mortgage payments or has a viable exit strategy which will enable them to repay the mortgage. We are therefore pleased to see the addition of the "exit strategy" alternative to assessing capacity to repay in the new guidance.

We further support FSRA guidance on identify verification of clients, and believe this to be an essential component of servicing clients, in addition to satisfying anticipated FINTRAC compliance requirements. However, we do note that identification verification procedures are quickly expanding to encompass digital, automated processes, such as those offered by treefort. FSRA may wish to acknowledge those alternative processes in its guidance.

Deterring mortgage fraud and predatory lending activity is essential to a healthy and thriving private mortgage industry. Predatory lending activity which includes “mortgage churning” and “equity grinding” through successive short terms and charging excessive fees, costs and interest, is clearly a problematic and should be a focus of consumer protection rules. This predatory lending activity should however be distinguished from responsible private mortgage lending which frequently relies on borrower exit strategies to approve mortgages.

We appreciate FSRA’s focus on preventing mortgage fraud, and in particular, the goals and measures set out in MB0044INT. Thank you for the opportunity to provide comments on this important document.

Yours truly,

Samantha Gale