

CONSUMER ADVISORY PANEL

February 28, 2024

Delivered electronically

Financial Services Regulatory Authority of Ontario

25 Sheppard Ave W, Suite 100

Toronto, ON M2N 6S6

Re: Consultation on Interpretation Guidance: Mortgage Product Suitability Assessments

The Consumer Advisory Panel (CAP) welcomes the opportunity to respond to the consultation on FSRA's Interpretation Guidance: Mortgage Product Suitability Assessments (Proposed Guidance). The CAP was established to offer advice and provide input to FSRA from a consumer perspective regarding its strategic planning, rulemaking, guidance development, research, supervisory and consumer education activities.

The CAP appreciates FSRA's efforts to clarify the expectations for mortgage brokerages, brokers and agents in ensuring the suitability of mortgage products for their clients. We are especially thankful for the opportunity we were afforded to participate in the early development of this Proposed Guidance. While we acknowledge that some of our recommendations are reflected in the Proposed Guidance, we believe that to better protect consumers, some additional provisions should be incorporated.

First, in our view, the Proposed Guidance does not adequately address the potential conflicts of interest that will inevitably arise when a brokerage acts as both a lender and a broker, or when a brokerage has a limited range of products to offer. The guidance states that brokers and agents should consider various mortgage options and not automatically funnel all borrowers to a single lender, but it does not specify how this should be done or monitored. The guidance also states that brokers and agents should disclose any benefits or incentives they receive in connection with the mortgage, but it does not indicate how these disclosures should be verified or enforced. We suggest that FSRA impose more stringent requirements and oversight for brokerages that have these types of conflicts of interest, such as requiring them to obtain independent third-party verification of the suitability of their recommendations or prohibiting them from acting as both lenders and brokers.

Second, we are concerned that the Proposed Guidance does not adequately address the risks and challenges associated with private mortgages, especially for financially vulnerable or unsophisticated borrowers. The guidance acknowledges that ensuring mortgage suitability for consumers can be more challenging in some situations, such as when a client relies on non-traditional private mortgages, but it does not provide any specific guidance or best practices for dealing with these situations. The guidance also does not address the issue of predatory lending practices, such as charging excessive fees, interest

rates, or penalties, or imposing unfair or abusive terms or conditions. We suggest that FSRA develop more robust and tailored guidance for private mortgages, such as setting minimum standards for affordability, disclosure, and transparency, or establishing a registry or database of private lenders and their products.

Third, we believe that the Proposed Guidance does not adequately empower consumers to make informed and independent decisions about their mortgage options. It relies almost entirely on the broker's and agent's ability to explain and demonstrate the suitability of their recommendations, but it does not require them to provide consumers with any tools or resources to compare or evaluate different mortgage products on their own. The guidance also does not address the issue of consumer education or financial literacy, which are essential for consumers to understand their rights and responsibilities, and to protect themselves from fraud or misconduct. We suggest that FSRA address these shortcomings by requiring brokerages to provide consumers with standardized and user-friendly information and tools, such as comparison tables, calculators, checklists, or brochures, that enable them to assess and compare different mortgage products. FSRA should also collaborate with other stakeholders, such as consumer groups, educators, or community organizations, to develop and deliver consumer education and financial literacy programs that target the needs and circumstances of different consumer segments.

In conclusion, we urge FSRA to revise and improve the Proposed Guidance, addressing consumer protection more robustly and directly. We believe that FSRA has an important role and responsibility to ensure that consumers are appropriately empowered, are treated fairly and transparently, and have access to suitable and affordable mortgage products that meet their needs and circumstances.

Thank you for your consideration of our feedback.

Sincerely,

Consumer Advisory Panel