

CSA Notice of**Amendments to National Instrument 45-106 *Prospectus Exemptions*
and National Instrument 31-103 *Registration Requirements,
Exemptions and Ongoing Registrant Obligations*****and****Changes to Companion Policy 45-106CP *Prospectus Exemptions* and
Companion Policy 31-103CP *Registration Requirements, Exemptions
and Ongoing Registrant Obligations*****relating to Syndicated Mortgages****August 6, 2020****Introduction**

The Canadian Securities Administrators (the CSA or we) are making the following amendments and changes relating to syndicated mortgages (collectively, the Amendments):

- National Instrument 45-106 *Prospectus Exemptions* (NI 45-106) and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103); and
- Companion Policy 45-106CP *Prospectus Exemptions* (45-106CP) and Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

The Amendments were originally published for comment on March 8, 2018 (the 2018 Proposal) and revised proposals were published for a second comment period on March 15, 2019 (the 2019 Proposal).

Substance and Purpose

The Amendments include changes to certain prospectus and registration exemptions available for the distribution of syndicated mortgages, including the following:

- removing the prospectus and registration exemptions under sections 2.36 of NI 45-106 and 8.12 of NI 31-103 (the Mortgage Exemptions) respectively for the distribution of syndicated mortgages in Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island and Yukon;¹

¹ Syndicated mortgages are already excluded from the Mortgage Exemptions in Alberta, British Columbia, Manitoba, New Brunswick, Québec and Saskatchewan.

- introducing additional requirements to the offering memorandum prospectus exemption under section 2.9 of NI 45-106 (the OM Exemption) that will apply when the exemption is used to distribute syndicated mortgages; and
- amending the private issuer prospectus exemption under section 2.4 of NI 45-106 (the Private Issuer Exemption) so that it is not available for the distribution of syndicated mortgages.

Summary of Changes to the 2018 Proposal

We received 26 comment letters in response to the 2018 Proposal.

As a result of the comments:

- Ontario, New Brunswick, Nova Scotia, and Newfoundland and Labrador proposed dealer registration and prospectus exemptions, and Alberta and Québec proposed a prospectus exemption, for qualified syndicated mortgages, similar to the exemptions already available in British Columbia under British Columbia Rule 45-501 *Mortgages* (BCI 45-501);
- Alberta proposed a prospectus exemption for syndicated mortgages distributed to permitted clients similar to the prospectus exemption for distributions of syndicated mortgages to “institutional investors” under BCI 45-501;
- we proposed changes to the Amendments related to the OM Exemption, including:
 - changing the date of a property appraisal to be within 6 months preceding the date the appraisal is delivered to the purchaser instead of 12 months;
 - eliminating the proposed mortgage broker certificate; and
 - providing additional guidance as to the identity of the issuer of a syndicated mortgage; and
- we changed the proposed effective dates so that all the amendments will come into effect at the same time, instead of having the prospectus-related amendments come into effect before the registration-related amendments.

These proposed changes were published for comment in the 2019 Proposal and are substantially included in the Amendments.

Summary of Changes to the 2019 Proposal

We received 11 comment letters in response to the 2019 Proposal. The comments are summarized in Annex A to this notice.

The Amendments are substantially the same as the 2019 Proposal. As a result of the comments:

- we clarified the definition of a professional association;
- we included additional examples of potential risk factors in the instructions to Item 3 of Form 45-106F18 *Supplemental Disclosure for Syndicated Mortgages* (Form 45-106F18);
- we revised Item 7 of Form 45-106F18 to include disclosure of the potential subordination of the syndicated mortgage and to clarify the calculation of the loan-to-value ratio;
- we changed the effective date to March 1, 2021; and
- certain jurisdictions are proposing additional changes to their local exemptions for syndicated mortgages, as described in Annex F for those jurisdictions.

Impact on Investors

Investors in syndicated mortgages who purchase under the OM Exemption will be entitled to enhanced disclosure relating to their investment. We anticipate that this additional disclosure would result in more informed investment decisions and enable registrants involved in the distribution to better fulfil their obligations related to the distribution.

Investors will also benefit from the protections associated with the involvement of a registrant in the distribution in all jurisdictions.

Anticipated Costs and Benefits of the Amendments

The anticipated costs and benefits of the Amendments are expected to be substantially the same as described in the March 2018 Proposal. In those jurisdictions that are adopting local amendments or changes, including an exemption for qualified syndicated mortgages, Annex F may contain further discussion.

Alternatives Considered

We considered adopting the 2019 Proposal in the original form as well as the alternatives suggested by the commenters as detailed in Annex A.

Local Matters

Annex F is being published in any local jurisdiction that is proposing related changes to local securities laws, including local notices or other policy instruments in that jurisdiction. It may also include additional information that is relevant to that jurisdiction only.

In some jurisdictions, ministerial approvals are required for the implementation of the Amendments. Provided all ministerial approvals are obtained, the Amendments will come into force on March 1, 2021.

Annexes

Annex A – Summary of Comments and Responses

Annex B – Amendments to National Instrument 45-106 *Prospectus Exemptions*

Annex C – Changes to Companion Policy 45-106CP *Prospectus Exemptions*

Annex D – Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

Annex E – Changes to Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

Annex F – Local Matters

Questions

Please refer your questions to any of the following:

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