



BC Interpretation Note 33-707

Registration and Prospectus Exemptions for Persons Registered under the Mortgage Brokers Act

On September 28, 2009, the Commission ordered that BC Instrument 33-517 *Registration and Prospectus Exemptions for Persons Registered under the Mortgage Brokers Act* comes into force and effect. This BC Interpretation Note explains how the Commission interprets and applies that instrument.

Mortgages are securities. Persons who trade in mortgages must register as dealers under the *Securities Act* and those who distribute mortgages must comply with the prospectus requirements in the Act, unless there is an exemption available from those requirements.

Section 8.12 of National Instrument 31-103 *Registration Requirements and Exemptions* provides an exemption from the dealer registration requirement for trades in a mortgage on real property in a jurisdiction in Canada by a person or company who is registered or licensed, or exempted from registration or licensing, under mortgage brokerage legislation of that jurisdiction.

Section 2.36 of National Instrument 45-106 *Prospectus and Registration Requirements* provides an exemption from the prospectus requirement for distributions of a mortgage on real property in a jurisdiction of Canada by a person who is registered or licensed, or exempted from registration or licensing, under mortgage brokerage or mortgage dealer legislation in that jurisdiction.

These exemptions permit mortgage brokers registered under the *BC Mortgage Brokers Act*, or persons exempted from registration under that Act, to trade in or distribute mortgages in real property in British Columbia where they are registered as mortgage brokers.

Sections 46(e) and 75(a) of the *Securities Act*, which were repealed in connection with NI 31-103, together with British Columbia Instrument 45-501 *Mortgages*, provided registration and prospectus exemptions for trades in, and distributions of, mortgages on real property located outside of British Columbia by mortgage brokers registered under the *BC Mortgage Brokers Act*.

The intention of the interim blanket order is to maintain the status quo and exempt mortgage brokers registered under the *BC Mortgage Brokers Act* from the registration and prospectus requirements when they trade in, or distribute, mortgages on real property located outside of British Columbia.

The exemptions in sections 46(e) and 75(a) of the Act did not apply to trades in syndicated mortgages, unless the purchaser of the security was an institutional investor, as defined in BC Instrument 45-501. The interim blanket exemption order similarly does not apply to trades in syndicated mortgages, unless the purchaser of the security is an institutional investor, as defined in BCI 45-501.

BC Instrument 45-501 also provides an exemption from the registration and prospectus requirements for trades and distributions of qualified syndicated mortgages, as defined in that instrument, on the conditions set out in that instrument.

In the near future, we will propose amending BC Instrument 45-501 to include the exemptions contained in this blanket order. To do so, we must publish the proposed amendments for comment and seek Ministerial approval of the changes. The interim blanket order will be in effect until we have completed that process.

September 25, 2009

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Acting Executive Director

Ref: BC Instrument 33-517 *Registration and Prospectus Exemptions for Persons Registered under the Mortgage Brokers Act*
National Instrument 31-103 *Registration Requirements and Exemptions*
National Instrument 45-106 *Prospectus and Registration Requirements*
British Columbia Instruments 45-501 *Mortgages*

This Notice may refer to other documents. These documents can be found at the B.C. Securities Commission public website at www.bcsc.bc.ca in the section Securities Law & Policy: Policies & Instruments.