

Annex B

Proposed Changes to Companion Policy 45-106CP *Prospectus Exemptions*

1. *Companion Policy 45-106CP Prospectus Exemptions is changed by this Document.*
2. *Section 3.8 is changed by adding the following subsections:*

(11) Issuer of a syndicated mortgage

Where a borrower enters into a mortgage with two or more persons participating as lenders under the debt obligation secured by the mortgage, or enters into a mortgage with a view to the subsequent syndication of that mortgage to two or more purchasers, lenders or investors, we would generally consider the borrower to be the issuer of the syndicated mortgage. Consequently, the obligations to comply with the conditions of the exemption and reporting requirements (including the filing of a report of exempt distribution) would fall on the borrower.

There may be circumstances where we would consider a person other than the borrower to be an issuer of a syndicated mortgage. For example, where a borrower enters into a mortgage with a single lender, and that lender subsequently distributes interests in the mortgage, or assigns interests in the mortgage, to more than one lender, purchaser or investor, the original lender could be considered to be the issuer of the syndicated mortgage. The determination of the identity of the issuer, or issuers of a syndicated mortgage, will depend on the particular facts and circumstances of the transaction.

Where a person other than the borrower is the issuer of a syndicated mortgage, the ability of the issuer to rely on the offering memorandum exemption for the distribution of the syndicated mortgage will be dependent upon the issuer providing the required information regarding the borrower, including financial statements, in the offering memorandum. The issuer's certificate that the offering memorandum does not contain a misrepresentation will extend to any information provided about the borrower under the syndicated mortgage.

(12) Professional association

The definition of "qualified appraiser" in section 1.1 of the Instrument requires a qualified appraiser to be a member of a professional association. The Appraisal Institute of Canada, The Canadian National Association of Real Estate Appraisers and l'Ordre des évaluateurs agréés du Québec are examples of organizations that we consider to meet the definition of a professional association.

(13) Independent qualified appraiser for syndicated mortgages

Subsection 2.9(19) of the Instrument provides the test that the issuer of a syndicated mortgage and a qualified appraiser must apply to determine whether a qualified appraiser is independent of the issuer. The following are examples of when we would consider that a qualified appraiser is not independent. These examples are not a complete list. We would consider that a qualified appraiser is not independent of an issuer if the qualified appraiser:

- (a) is an employee, insider or director of the issuer,
- (b) is an employee, insider or director of a related party of the issuer,
- (c) is a partner of any person in paragraph (a) or (b),

(d) holds or expects to hold securities, either directly or indirectly, of the issuer or a related party of the issuer,

(e) holds or expects to hold securities, either directly or indirectly, in another issuer that has a direct or indirect interest in the property that is the subject of the appraisal or in an adjacent property,

(f) is an employee, insider or director of another issuer that has a direct or indirect interest in the property that is the subject of the appraisal or in an adjacent property,

(g) has or expects to have, directly or indirectly, an ownership, royalty or other interest in the property that is the subject of the appraisal or in an adjacent property, or

(h) has received the majority of their income, either directly or indirectly, in the three years preceding the date of the appraisal from the issuer or a related party of the issuer.

(14) Appraisals

Subsection 2.9(19.1) of the Instrument requires the issuer to deliver an appraisal of the property subject to a syndicated mortgage. The appraisal must disclose the fair market value of the property, without taking into account any proposed improvements or proposed development. The fair market value of the property, as it currently exists, is important information for prospective purchasers to understand the protection afforded by the security interest in the property subject to the syndicated mortgage in the event of a default by the borrower..

3. These changes become effective on ●.