

45-501 Mortgages [BCI - Rescinded]

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- 45-501CP (BC) Mortgages

Definitions

1 In this rule:

“institutional investor” means

(a) a government of Canada or any province of Canada or a crown corporation or agency of a Canadian federal or provincial government,

(b) a municipal corporation, public board or commission in Canada,

(c) a savings institution,

(d) a cooperative credit society as defined in the *Cooperative Credit Associations Act* (Canada) or a savings and credit union, federation or confederation as defined in the *Savings and Credit Unions Act* (Quebec),

(e) the Business Development Bank of Canada,

(f) a pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension supervisory authority,

(g) an insurance company,

(h) a trust company or insurer authorized under the laws of Canada or the laws of a province other than British Columbia to carry on business in Canada or that province,

(i) a mortgage broker acting as principal,

(j) a person registered under the *Securities Act* or the securities legislation of another province as an investment dealer or equivalent, acting as principal or as an agent or trustee for accounts that are fully managed by it,

(k) a person registered under the *Securities Act* or the securities legislation of another province as a portfolio manager or equivalent, acting as principal or as an agent or trustee for accounts that are fully managed by it,

(l) a mutual fund or non-redeemable investment fund, if the investment portfolio of the fund is managed by a person that is registered under the *Securities Act* or the securities legislation of another province as a portfolio manager or equivalent, or

(m) such other person as may be designated by order of the commission;

“mortgage broker” means a person who is registered under the *Mortgage Brokers Act*;

“qualified syndicated mortgage” means a syndicated mortgage if

(a) the syndicated mortgage is not contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations,

(b) the syndicated mortgage is sold through a mortgage broker,

(c) the syndicated mortgage secures a debt obligation on property used solely for residential purposes and containing no more than four residential dwelling units,

(d) the syndicated mortgage does not secure a debt obligation incurred for the construction or development of property,

(e) at the time of issue, the amount of the debt secured by the syndicated mortgage, together with all other debt secured by mortgages on the property that have priority over, or the same priority as, the syndicated mortgage, does not exceed 90 percent of the fair market value of the property, excluding any value that may be attributed to proposed or pending development on the property,

(f) the syndicated mortgage is limited to one identified debt obligation,

(g) the rate of interest payable under the syndicated mortgage is equal to the rate of interest payable under the identified debt obligation,

(h) any amount charged for the administration of the syndicated mortgage is disclosed to the purchaser, and

(i) the term of the syndicated mortgage is not different from the term of the identified debt obligation;

“syndicated mortgage” means a security that provides an investment arrangement in which a person participates, together with others, as a mortgagee through the acquisition of a portion of a debt obligation that is secured by a mortgage.

Interpretation

2 Unless otherwise defined in this rule, a term used in this rule that is defined or interpreted in the *Securities Act*, the Securities Rules or National Instrument 14-101 Definitions has the meaning set out in the *Securities Act*, Securities Rules or National Instrument, respectively.

Restriction on exemption under section 46 (e) of the Act

3 Unless the purchaser of the securities is an institutional investor, the exemption under section 46 (e) of the *Securities Act* does not apply to a person making a trade of a security if

(a) the security is a debt obligation that is secured by a mortgage, or other encumbrance, on property that is not real property, or

(b) the security is a syndicated mortgage.

Restriction on exemption under section 75 (a) of the Act

4 Unless the purchaser of the securities is an institutional investor, the exemption under section 75 (a) of the *Securities Act* does not apply to a person making a distribution of a security described in section 46 (e) of the *Securities Act* if

(a) the security is a debt obligation that is secured by a mortgage, or other encumbrance, on property that is not real property, or

(b) the security is a syndicated mortgage.

Exemption from registration and prospectus requirements

5 Sections 34 and 61 of the *Securities Act* do not apply to a trade in a qualified syndicated mortgage if, before the agreement of purchase and sale is entered into, the purchaser is provided with the form of investor disclosure required by the *Mortgage Brokers Act*.

Effective Date

6 This rule comes into force on September 1, 2000.