

# Firm Capital Corporation

Mortgage Banking • Real Estate Capital

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Wednesday, September 23, 2020

The Secretary, Ontario Securities Commission  
20 Queen Street West, 22nd Floor  
Toronto, ON M5H 3S8  
[comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca)

**RE: 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.**

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Further to our letter dated September 21, 2020, an additional matter has been brought to our attention. We respectfully request to add an additional suggestion and recommendation to our letter with regards to what is defined as a Permitted Client.

**DEFINITION OF A PERMITTED CLIENT:**

We understand that if a NQSMI is funded by principles of a Mortgage Brokerage and they are registered internal Mortgage Brokers and Agents that would fall under the NQSMI rules. However, if any participant in that mortgage syndication is not a Permitted Client, they would need to fall under the new rules administered by the OSC.

When the syndicated investors are not external third parties, rather members of the brokerage, they should not be governed by any rules as they relate to investor protection, as the funders of the mortgage are principals within the Brokerage.

By way of two examples, assuming a \$1 million construction loan is syndicated and the investor structure is as follows;

1. A Mortgage Trust or MIC administered by the Brokerage takes \$500,000, and the principal (President) of the Brokerage through their company takes \$250,000, and a Mortgage Agent of the Brokerage who is not a Permitted Client takes \$250,000; or
2. \$500,000 is taken by the Principal of the Brokerage (through their company), and \$250,000 is taken by a licensed Broker of the Brokerage, and the remaining \$250,000 by a Mortgage Agent of the Brokerage who is not a Permitted Client.

In both examples, we can not see any exemption in the proposed regulations to permit this to happen.

When a Brokerage acts as a principal lender, FSRA's roll should be to protect the Borrower consumer and the rules require a principal lender to go through a licensed Brokerage. When that lender is the actual principals and registered Brokers and Agents (or there respective companies) of the Brokerage, there should be an exclusion and those principals of the Brokerage should not be classified as investors in a NQSMI.

The intent of the new regulations is to protect third party investors that a Brokerage would solicit to invest in NQSMI.

In both examples, the Brokerage is acting as a principal lender and is not syndicating to external third-party investors. As such, there should not be any need for investor protection from the OSC or FSRA.

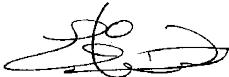
In order to address this matter, we would recommend that the definition of Permitted Client be expanded to include;

1. A Mortgage Brokerage, its officers and directors, and their associated and related companies and family;
2. Mortgage Brokers and Mortgage Agents registered with the Brokerage and their associated and related companies and family;
3. Any entity, including a Limited Partnership, Mutual Fund Trust or Corporation whose officer and director is the same officer and director of the Mortgage Brokerage.

Please add this letter as part of our September 21, 2020 letter. Thank you for considering the request outlined in this letter.

**FIRM CAPITAL CORPORATION**

**PER:**



Eli Dadouch  
President & CEO  
ED/ns

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