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# Ruling

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**Category:** Business and Powers

**NOTICE\***

**Subject:** Classes of Insurance – Reverse mortgage loan insurance

**No:** 2008 - 02

**Issue:** The issue is to determine within which class or classes of insurance, as defined in the Schedule to the *Insurance Companies Act* (the ICA), falls insurance that would protect a lender against the risk of loss under a reverse mortgage loan (a RML).

**Background:** RMLs enable homeowners to convert part of the equity in their homes into money without having to sell their homes or take on new monthly mortgage payments. They are loans secured by a mortgage on, or other security interest in, real property where the payment stream is “reversed” (i.e., instead of making monthly payments to a lender, as with a conventional mortgage, the homeowner receives a stream of money or a one-time sum from the lender). Based on the RML agreement that was submitted to OSFI for review, other key differentiating characteristics of the RML vis-à-vis a conventional mortgage loan are as follows:

1. The homeowner or his/her estate does not have to pay any amount on the RML (including interest) until the occurrence of the first of the following dates (i.e., the due date):
  - (a) the date the property is sold;
  - (b) the first anniversary of the date the homeowner has moved into a long-term care facility or a retirement residence;
  - (c) 120 days after the death of the homeowner; and
  - (d) the date the lender demands payment of the outstanding balance of the RML plus related expenses after the occurrence of an event of default on the part of the homeowner or his/her estate (e.g., failure to pay taxes applicable to the property, failure to keep the property in good condition or failure to pay the amount required to be paid by a due date referred to in any of (a) to (c) above).
2. The amount required to be paid to discharge the homeowner’s or his/her estate’s obligation under the RML by a due date referred to in:
  - (a) any of subparagraphs (1)(a) to (c) above (a Non-Default Context) is equal to the fair market value of the property if that value is less than the outstanding balance of the RML; and
  - (b) subparagraph 1(d) above (a Default Context) is equal to the entire outstanding balance of the RML plus related expenses incurred by the lender.
3. In a Default Context, the lender also has the right to realize its security over the property and be paid from the proceeds of its sale up to the aggregate amount owed to it.



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**Considerations:** It appears from the RML agreement that OSFI reviewed that a lender can suffer a loss in:

- (a) a Non-Default Context, where the fair market value of the property is less than the outstanding balance of the RML; and
- (b) a Default Context, where the lender does not recover the entire outstanding balance of the RML plus related expenses.

From a prudential perspective, since the risks inherent to RML insurance are different than those relating to conventional mortgage insurance (e.g., the outstanding balance increases, rather than decreases, over time), it is expected that requirements regarding earning patterns for unearned premiums and minimum regulatory capital requirements would be different than those relating to conventional mortgage insurance.

**Conclusion:** OSFI concludes that insurance that protects a lender against the risk of loss under a RML in a Default Context falls within the class of “mortgage insurance” since that class refers to a loss caused by default on the part of a borrower. OSFI also concludes that insurance that protects a lender against the risk of monetary loss under a RML in a Non-Default Context falls within the broad class of “property insurance”.

**Legislative References:** Schedule to the ICA:

“mortgage insurance” means insurance against loss caused by default on the part of a borrower under a loan secured by a mortgage or charge on, or other security interest in, real property.

“property insurance” means insurance against the loss of, or damage to, property and includes insurance against loss caused by forgery.

**Table of Concordance:** The *Bank Act*, the *Trust and Loan Companies Act* and the *Cooperative Credit Associations Act* do not contain similar provisions.

\* Rulings describe how OSFI has applied or interpreted provisions of the federal financial institutions legislation, regulations or guidelines to specific circumstances. They do not negate the need to obtain any necessary approval of the transaction under the relevant federal financial institutions legislation. Rulings are not necessarily binding on OSFI’s consideration of subsequent transactions as these transactions may raise additional or different considerations. Legislative references in a Ruling are not meant to substitute provisions of the law; readers should refer to the relevant provisions of the legislation, regulation or guideline, including any amendments that came into effect subsequent to the Ruling’s publication.