

THE MORTGAGE DEALERS ACT) **Order No. 2458**
)
Section 55) **November 21, 2001**

**An Order Exempting
First Marathon Mortgage Corporation**

Background Information

(A) Application has been made on behalf of First Marathon Mortgage Corporation ("First Marathon") to The Manitoba Securities Commission (the "Commission") for an order under Section 55 of The Mortgage Dealers Act (Manitoba) (the "Act") exempting First Marathon and certain of its directors, officers and employees from the requirements of the Act and the regulations thereunder, subject to certain conditions.

(B) First Marathon has represented to the Commission that:

1. First Marathon is a wholly owned subsidiary of the National Bank of Canada incorporated under the laws of the Province of Ontario by Articles of Incorporation dated March 1, 1995 with its registered and head office located at 20 Toronto Street, Suite 1120, in Toronto, Ontario;
2. First Marathon was registered as an extra-provincial corporation in the Province of Manitoba on October 19, 2001;
3. First Marathon was established for the purpose of carrying on business as a mortgage lender, primarily in the \$300 billion residential mortgage market in Canada. In May 1995, First Marathon was granted Approved Lender status by Canada Mortgage and Housing Corporation ("CMHC") and, as of May 31, 2001, it had \$1.1 billion assets in mortgages under administration (both CMHC mortgages and conventional mortgages);
4. First Marathon carries on business as a mortgage lender in the Provinces of Ontario, British Columbia, Alberta, Saskatchewan, Quebec, Prince Edward Island, New Brunswick, Nova Scotia and the Northwest Territories (the "Jurisdictions"). It has branch offices in Ontario, British Columbia and Alberta and operates an electronic underwriting centre out of Ottawa, Ontario;
5. First Marathon has been registered as a mortgage lender under the Mortgage Brokers Act (Ontario) (the "Ontario Act") since September, 1995, and has obtained registrations as a mortgage lender under the applicable mortgage broker legislation in each of the other Jurisdictions (such legislation, together with the Ontario Act, is collectively referred to as the "Applicable Legislation");
6. First Marathon's business in the Jurisdictions involves sourcing single- and multi-family and commercial mortgages and selling such mortgages, or interests therein (collectively, "Mortgages") to clients whose registered and head offices are located in a Jurisdiction or to

individuals who are resident in a Jurisdiction ("Extra-Provincial Clients"). Extra-Provincial Clients include the following:

- (a) insurance companies;
- (b) banks;
- (c) trust companies and foundations;
- (d) corporations or agencies of the Crown in the right of Canada or a Jurisdiction (a) through (d) above are referred to collectively as the "Institutional Clients"); and
- (e) persons other than Institutional Clients ("Non-Institutional Clients");

7. First Marathon also provides ongoing administration and other services in connection with Mortgages for which it receives an annual fee, paid on a monthly basis;

8. The vast majority (currently over 99.9%) of First Marathon's business in the Jurisdictions involves the selling of Mortgages to Institutional Clients and administering Mortgages on their behalf. The remainder (currently less than 0.1%) of First Marathon's business in the other Jurisdictions involves the selling of Mortgages to Non-Institutional Clients, or administering Mortgages on their behalf;

9. First Marathon intends to restrict its business activities in Manitoba. First Marathon will lend money to Manitoba residents for the purchase of single- and multi-family residential and commercial properties and register a Mortgage (a "Manitoba Mortgage") in its name against such properties as security for the loan. First Marathon intends to sell Manitoba Mortgages to its Extra-Provincial Clients and administer Manitoba Mortgages on their behalf from its corporate offices situated in Toronto, Ontario. First Marathon may assign Manitoba Mortgages to (and accept reassignment of the Manitoba Mortgages from) its Extra-Provincial Clients. First Marathon does not intend to sell or assign Manitoba Mortgages to, or administer Manitoba Mortgages on behalf of, persons other than Extra-Provincial Clients;

10. First Marathon is registered as a mortgage lender under the Applicable Legislation in the Jurisdictions in which the Extra-Provincial Clients are resident and is subject to requirements of the Applicable Legislation relating to, among other things, minimum capital, bonding, trust accounting and record-keeping; and

11. The directors, officers and employees of First Marathon who are registered under the Ontario Act are subject to requirements under the Ontario Act, including proficiency requirements.

(C) The Commission is satisfied in the circumstances of this particular case that it would not be prejudicial to the public interest to grant the Order requested.

Order and Direction

The Commission orders that:

1. Pursuant to Section 55 of the Act, First Marathon and its directors, officers and employees are exempt from the requirements of the Act and the regulations thereunder on the following conditions:

(a) The registration of First Marathon as a mortgage lender under Ontario legislation be maintained and is in good standing;

(b) First Marathon provides the Commission with a copy of the certificate of registration issued under the Ontario Act within 60 days of receiving the certificate; and

(c) First Marathon does not sell or assign Manitoba Mortgages to, or administer Manitoba Mortgages on behalf of, firms other than Extra Provincial Clients;

2. The fee applicable to this Order shall be \$150.

Director – Legal