



May 3, 2023

Janice Harrington, COO
Real Estate Council of Alberta
202, 1506 11 Avenue SW
Calgary, AB T3C 0M9

Dear Janice:

RE: Real Estate Act Rules Review Phase One

On behalf of the Board of Governors and staff of the Alberta Real Estate Foundation (AREF), please let me thank you for the opportunity to participate in Phase One of the Real Estate Act Rules Review. While Real Estate Act Rules have particular applicability to licensees, the Foundation's privileged work in grantmaking results from the consumer and licensee sales transaction. Our comments therefore, focus exclusively on the intersection of this work, specifically regarding accounting, records, and reporting, with a focus on consumer protection and regulatory excellence.

AREF would like to submit the following as feedback to the Rules Review Committee:

The interest earned from money placed in trust through a real estate transaction is forwarded to the Foundation, with these funds in turn being invested in important projects across the province aligned with the Foundation's statutory mandate. Alberta is one of only two provinces who mobilizes this funding in such a creative and impactful way. There are issues associated with this transaction however:

- Despite occurring since inception of the Act, consumers are largely unaware of the use of these funds
- The most recent audit of the Foundation included a note on the qualified opinion. This is because the auditors have no access to reconciling the remittance paid from trust accounts to AREF, against funds received into the trust accounts.
- To best reconcile these funds and remittances, both the Foundation & RECA ask licensees for information, but are unable to qualify it

With all of this in mind, and in support of regulatory excellence and red-tape reduction, the Foundation would like to recommend that RECA and AREF enter into discussion about the potential of RECA mandating one trust account for licensees.

This solution could include broker sub-accounts to preserve broker autonomy. By instituting one account, licensees would not be required to provide duplicate information to the Foundation and RECA, and consumer awareness and protection would be enhanced. We look forward to discussing this further.

Thank you again for the opportunity to participate in the Real Estate Act rule review.

Sincerely, *P Morris*

Patti Morris, Executive Director

May 9, 2023

Via email to consultation@reca.ca

Real Estate Council of Alberta
Suite 202, 1506 11 Avenue SW
Calgary, AB T3C 0M9

Attention: Mr. Russ Morrow, CEO

Dear Mr. Morrow,

Re: Real Estate Act Rules: Review Phase 1

Thank you for allowing REIX the opportunity to participate in RECA's Rule Review.

Our response focuses on two areas. The first, is the section of the *Real Estate Act* that pertains to REIX directly. Secondly, with respect to the entirety of the Rules, REIX focused on areas where the Rules potentially impact liability which is the section on licensing.

Errors and Omissions Insurance

Our comments pertain to REIX. REIX is a unique entity created over 30 years ago by the industry. REIX's goal has always been strong fiscal and risk management at a very modest premium.

REIX has had the opportunity to work with RECA to draft a Bylaw which establishes REIX and Rules which continue REIX's role as the mandatory professional liability insurer for all real estate licensees of all licence classes, including property managers. The new Bylaw and Rules ensure that REIX will continue to provide consistent, efficient, and effective claims and risk management which ultimately protects the consumer.

Our work with RECA and Service Alberta on this initiative aligns with RECA's goals of red tape reduction and consumer protection.


License Structure

One of REIX's key strategic priorities is risk management for our subscribers. We believe that a strong focus on risk management increases the professionalism of our subscribers which, in turn, protects the consumers that they serve.

Although we appreciate the opportunity to be asked for input about licensing and do favor initiatives that lessen the risk for our subscribers and the public, as this is not something that REIX has a specific perspective on, or a requirement to influence, input specific to that topic may carry greater validity if it comes directly from the licensees and their respective industry associations as they will better understand the merits and challenges of different approaches.

Again, thank you for this opportunity and please do not hesitate to contact me if you have any questions or would like further information.

Regards,



Lisa Sabo, CEO

cc: Brad Krizan, Chair, Advisory Board



ATTN: Janice Harrington, COO
Real Estate Council of Alberta
202, 1506 11 Avenue SW
Calgary, AB, T3C 0M9
consultation@reca.ca

CCI South Alberta
PO BOX 38107
Calgary, AB T3K 4Y0
Abbie@threebythree.ca

April 27, 2023

RECA - Stakeholder Engagement, Rules Review

Janice Harrington,

Thank you for including CCI Alberta South in the shareholder engagement request related to the Real Estate Act Rules. Through my position as Vice President of CCI South Alberta, my team and I at Three By Three Inc. agreed to spearhead the documentation review. I am pleased to present the following revisions/suggestions and am open for a discussion in either my capacity as Vice President of CCI-SAB or as an Associate Broker for Three By Three Inc.

- [Council Framework](#)
- [Condominium Management vs Property Management](#)
- [License Specializations](#)
- [Rules Additions/Recommendations](#)
- [Rules Review](#)
- [RECA Audits](#)
- [Educational Partnership Recommendations](#)
- [Conclusion](#)

Council Framework

Currently, the framework for RECA is broken down into four industries:

1. Residential Real Estate
2. Commercial Real Estate Broker and Commercial Property Manager Industry Council (includes rural/agri-business)
3. Residential Property Manager Industry Council (includes condominium management)
4. Mortgage Broker Industry Council

Our recommended framework for the council industries and silos is as follows:

1. Residential Real Estate Broker & Commercial Real Estate Broker (includes rural/agri-business)
2. Residential Property Manager Industry Council & Commercial Property Manager Industry Council (includes rural/agri-business)
3. Mortgage Broker Industry Council
4. Condominium Management

Within the four silos, the regulations and similarities are complementary to one another, allowing true self-governance of each class of licensee. For the councils listed above, our recommendation is two members of the public, and four industry members, with the industry members voted in by licensees. We suggest the industry members put their names forward of their own volition. This ensures that the individuals putting their names forward do so without the detrimental need to crowdsource votes or nominations.

Condominium Management Vs Property Management

Condominium Management and Property Management have been placed in the same realm, but the details and scope between property management and condominium management have extreme differences and should be housed in their respective silos. The responsibilities, projects, information and maintenance between industries have significant differences that should be seen through separate lenses. From a consumer perspective, it would allow individuals to clarify further which silo their complaint or compliment may go to and have confidence the council is well-versed in the appropriate industry. Internally, RECA consistently confuses both roles. If RECA, the governing body, struggles with these differences, how can we expect the public to grasp the concept?

License Specializations:

We believe there are not enough variances to expect or mandate a specialized license between the silos in place. The similarities can be combined, thus keeping the cost of business redevelopment to a minimum for both RECA, licensees and Albertans. Breaking out specializations creates a niche realm that is unnecessary and can lead to increased costs for the Albertan.

Rules Additions

- Airbnb / Short-term Rental Management
 - With the evolution of home sharing via sites such as AirBnB or VRBO, individuals have widely adjusted the property management spectrum by managing multiple

short-term units. As such, a large number of these individuals are unlicensed. Multiple third parties are labeling themselves as property managers for short-term rentals and are not found on the MyRECA licensing tool. The addition of short-term rental management will clarify the appropriate usage of the “Property Manager” title and license requirements. Ontario has drafted a guide sheet for licensing. This information can be found in the bullet points below.

- Owner-managed short-term rental vs. third-party “property manager” should be clarified in the same heading.
- The Government of Alberta introduced the Electronic Transactions Act, which should be discussed in the rules and exam material to ensure compliance is captured.
- Industry Email Signature Requirements
 - All written correspondence should contain an email signature with a name and position and listing whether the representative is licensed or unlicensed.
 - We have encountered many instances where firms are not signing off on email correspondence.
 - Multiple firms utilize singular email addresses that do not provide the responder confidence or clarity.
- Digital Footprints
 - All parties should be cognizant of the moral/ethical requirements and ensure their digital footprint is appropriate both professionally and personally
- Digital Storage/Server Locations Specifications to be removed.
 - Any firm that utilizes Microsoft, Google, Zoom, Outlook or any major software platform will have no say in where a server is based, or information is routed through. In fact, RECA itself not only utilizes such platforms but also requires a broker to agree to allow their information to be run through servers in Europe. Cloud technology and at least 2FA should be considered and implemented for digital storage.
- Two-Factor Authentication
 - This should be a minimum requirement for anything requiring computer-based access.
- Unlicensed Industry Members
 - Rules specifying tasks unlicensed representatives can and cannot complete. More transparency is required. This comes into play for individuals such as site supervisors or concierges.
 - Ontario has created a wonderful flow chart to determine responsibilities: [Do I Need a License: Interpreting the Definition of “Providing Condo Management Services”](#)
 - Recommended that a reference document is created for all industries.
 - Concierge duties - in many instances, these individuals are not licensed and are third-party contractors (not an employee of the condominium corporation or Brokerage). The allowed actions by a concierge or site supervisor should be clearly defined.
- Graduated License Program
 - It has become painfully obvious in BC and Ontario that finding, recruiting and hiring staff for property or condo management is near impossible, with BC anticipating a catastrophic decline in licenced members. We recommend that RECA immediately introduce an apprenticeship license class to the current condominium manager

license structure. In the average Alberta condominium management brokerage, an apprentice would work primarily in the office as a resident service representative. Other duties would be to work in a support role for a condominium management associate. An apprentice would be supervised by a condominium management associate.

- Professional Development
 - Professional development is an important part of maintaining competency in all industries. Professional development allows licensees to continuously assess their professional skills and learn about changes in the industry. Professional development also lets licensees casually discuss challenges, complexities, and risks with colleagues. This would be through webinars, keynote speakers or monthly meetings designed to provide additional knowledge to licensees across the board. This should be coordinated and run by RECA to ensure compliance with meetings and information.
- Designated Agency or Sole Agency
 - This concept doesn't apply to Condominium Management or property management.
- Brokerage vs Broker
 - There seems to be confusion relating to what a brokerage and broker are. In typical use, a brokerage is an incorporated company owned by shareholders. A human would not be considered a brokerage, but they'd be considered a shareholder of the incorporated company and perhaps hold a broker's license. Terminology relating to this should be adjusted to reflect that a brokerage is a company accurately. In addition, for liability, a brokerage should be required to be an incorporated or extra-provincial corporation registered in Alberta.
- Gender specifications - remove he/she, update to they/them as required.
- Condominium management for solely financial management is a common item not currently addressed in the documentation. The cost of full management is often too substantial for smaller condominium corporations, and as such, they self-manage the site except for the financials. This concept should be added to the contract section relating to what RECA would like to see in said contract.
- Some individuals and condominium management firms offer a consulting program for those corporations that don't require continuous monitoring. Several unlicensed individuals have offered this as they feel it is outside the scope of RECA due to "providing advice only." The new guidelines must address this business model, allowing only licensees to provide consulting services.
- While this comment is not necessarily for the rules section, it would be in the best interest of all parties if realtor.ca could be updated to require who the management firm is for all condominium corporations via a drop-down screen. If a realtor lists a property for sale and the management firm is not listed, they may choose "other" which could, in turn, trigger an automated message to RECA to determine if the management company is legitimate or unlicensed. As a licensee, a stigma is attached to whistle-blowing other individuals who are not licensed. This would assist in ensuring that peers are not placed in an unwanted position.
- Firmer language is required as it relates to clients willfully ignoring legislation. It is our opinion that RECA should not only be responsible for ensuring the Albertan is looked after but also the licensees. Should a frivolous claim be brought against any licensee, it needs to be mandated that the licensee is made aware of the file and the generalized contents.
- Document Review Companies and licensing requirements. All document review companies

should acquire a separate license to provide their recommendations for condominiums in Alberta. Licenses are required for these review companies in other provinces. This can be a separate silo/license and include home inspections. Recommendation for real estate licensee to obtain this proposed license if providing a document review for condominium sale.

Rules Review:

- Section 10 - Addition of Termination of License upon Death
 - This requires a clearly defined procedure related to the unexpected or unplanned passing of a Broker and what that Brokerage can expect.
 - Our suggestion is to create a timeline for or appoint a proxy as an interim measure to allow the business to continue operating if there is no succession plan. A next of kin to a deceased should be granted some grace from RECA while handling a death.
 - Any termination of the license upon death should be announced empathetically as opposed to what was seen last year for a real estate broker who passed.
- Section 13 - Must maintain a registered business office in Alberta of Lloydminster
 - Recommend to be proactive and draft rules regarding entirely virtual options. With online meetings, virtual storage, keyless entry systems, and online presence, the requirement for a physical office address/space continues to diminish.
- Section 20 (1.C) - Identification as prescribed by the Registrar
 - This section is intentionally vague and requires updating to align with FOIP. There is no reason for RECA to retain copies of personal information. There is currently no training within RECA for the staff to determine the validity and authenticity of foundation documents such as birth certificates, marriage certificates, divorce documents, citizenship certificates, passports, out-of-country documentation etc. In addition, requesting items such as marriage documentation provides RECA with the spouses' information and, in some cases, details of the marriage. This is unnecessary and irrelevant to the process at hand. Moving forward, the ideal path for identification would be for RECA to develop an affidavit that licensees are required to complete and swear in front of a commissioner of oaths. Thus, it places its contents' accountability on the signatory as opposed to RECA struggling to confirm validity or authenticity. In addition, the internal processes at RECA relating to the retention of documents are muddy at best and not in alignment with FOIP or PIPA.
- Section 30 - Brokerage
 - Terminology review recommended - Brokerage should be the incorporated company, currently listed as a registered company/person. Define the difference between:
 - Brokerage - Incorporated Company
 - Broker - A person who oversees/ is responsible for the Brokerage
 - On the RECA licensing page, the contact information should be for the brokerage (the company) instead of the direct contact of the broker.
- Section 31
 - There is no instance where a director/shareholder of an incorporated company should not be held responsible for their firm's actions and utilize their designated Broker as a scapegoat. Under current documentation, no shareholder or director of a brokerage

must be licensed. This oversight allows an individual to own a brokerage without liability for what brokers, associate brokers, or associates do. This is a significant loophole that should be closed. Consumers should expect accountability from the company in question and by closing this loop hole, this goal would be accomplished.

- Section 32 - Notice Requirements
 - As the term immediate is vague, it would be best to define immediate and timely throughout the document. These time frames should be reasonable and clear. An example would be immediate within 5 business days and timely within 10 business days.
- Section 34.E
 - What is the definition of - “the person is not of good character and reputation or is otherwise unfit to be licensed”
 - What is being done to confirm the above? Who determines what good character and reputation is? A significant clause relating to morals and ethics would be welcome. It should include items relating to personal and professional morals and ethics as it relates to the classification of license.
- Section 35 (2.C) - Suspension of Brokerage License
 - Recommend additional information regarding a Broker being deceased (sudden/unplanned death).
- Section 40
 - Define “immediately” notify. Provide a time frame.
- Section 40 (1.G)
 - There is no reason for a licensee to provide notification of a charge. Divulging this information is inappropriate as we follow the "innocent until proven guilty" model in Alberta. We recommend the removal of this clause and maintaining the requirement to notify on conviction only immediately.
- Section 41
 - It should include further clarification of moral and ethical clauses. What RECA considers appropriate may not align with everyone else's version.
- Section 42 (g)
 - It is too vague and relies solely on the opinion of a person to determine whether or not it is in breach.
- Sections 43 (3) - Deliver a client a true copy of the client service agreement.
 - Documents are signed digitally, and we recommend adjustment of verbiage to include electronically signed
- Section 44 (1)
 - We recommend adding verbiage relating to a licensee interacting with another licensee; the above-mentioned requirements are in force and effect.
 - Recently, a licensee approached a management firm and indicated that they were representing the owner. They requested a disclosure document, statement of account and condo docs. Shortly after, the owner contacted the management company and stated that the licensee was not working on their behalf and demanded further details from the management firm. A management firm will never request a copy of the signed agreement with another licensee, thus causing a gray area of formality.
 - Ideally, the verbiage for this section would include clarity around the responsibilities of both licensees when in contact with one another.

- Section 44
 - FOIP supersedes this section. Individual licensees are required to know this legislation.
- Section 46.1
 - Recommend further detail regarding non-licensed support staff and their responsibilities/restrictions on tasks that may/may not be performed.
- Section 61
 - Define “timely manner”
- Section 80.84 (1.H)
 - Not all funds are required to be held in trust. Recommend verbiage adjustment and reference to the section that discusses when the corp has its own account.
- Section 80.80/80.88
 - This section dictates that a management firm must disclose a conflict of interest as far as ownership or direct relationship to the company or situation. A common theme in condominium management is that companies force contractors to pay to be on their recommended list or are using companies that kick back a percentage of the overall job. Both practices need to be clarified. Recommended additional verbiage regarding conflict of interest and exclusive use of vendors on a “preferred contractor list” where contractors are required to pay to participate, or are required to provide monies based on a percentage of the contract.
- S82(1)(e)
 - is antiquated “maintains a copy of the computer program ...” This is from when software was always installed on a computer (from disks, or CD). Now with “web services” (like Yardi, etc) there is no copy that can be maintained. This needs to be removed in reference to Software as a Service (SAAS). This concerns also extends to (f) and (g), and S82(2)(d),(f),(g)
- S82(1)(d) and S82(2)(e)
 - “the document in electronic form is safeguarded by password or security codes controlled by the broker so that the records cannot be altered” is invalid. There is NO KNOWN system where a document provided to another party can be protected (do a quick Google search on “remove PDF protection”) or simply duplicated with the allowance of changes. What they really want is a system where the original documents are held in a state that they can be compared to the distributed document for proof of authenticity.
- Section 81 (1.F)
 - Section is redundant.
- Section 82.1 - (F & G) & 82.2 (D, F, & G)
 - No longer applicable, recommend removal of reference to Software as a Service (SASS)
- Section 82 (2.F)
 - Section is redundant.

RECA Audits

- The current audit process is inferior and does not accurately audit what it should. We recommend an overhaul of the audit process and a thorough review of what is being asked for, a clear process for all parties and clear results.
- We recommend contacting the audit team within Service Alberta to assist with a full redesign.

Please let me know if you require an introduction to the team.

- An audit should be all-encompassing, with the requested information sent to the broker before the meeting and timelines made available.

Educational Recommendations:

It would benefit RECA to allow additional/continued educational information where industries may experience crossover:

- Property Manager vs. Condominium Manager
 - Far too many instances of these two titles being confused.
- Condominium Sales - A Realtor's Guide, Setting Expectations and Meeting Deadlines
 - There are many instances of realtors requesting last-minute documentation, not understanding roles and Act requirements/allowances.
- RECA Exams
 - Recommended to include Condominium Management exam questions in the exams for all other silos. The condominium management exams are deeply flawed and include details meant for realtors. Realtors, mortgage brokers and property managers should be required to have general knowledge of the condominium industry if it is being made a requirement for condo management to know details of the other silos.
 - In this day and age, there is no reason for exams to be in person. This is an old-school mentality that is out of date and irrelevant. Universities utilize proxy services to watch exams online for final exams for doctors, lawyers, nurses and MBAs. The licensees in this situation are not at that level; there is no reason to force them to attend a space in person. Please let me know if you require further information on current technology related to online exams.

Conclusion

There have been many changes and updates to the digital and business environments since the inception of the rules documentation. Updating the Rules is a welcome step to modernize the regulation and practices of these industries. We hope this review of rules will set the industry members up for success through additional transparency, detail and accountability.

We would be remiss if we failed to mention the power struggle between RECA and its licensees. There is an understanding of RECA's oversight to protect the public, but we can not negate that this has also created a RECA vs the Licensee atmosphere. This is not healthy or conducive to the industries RECA represents, the licensees in their practice, or RECA itself. While RECA is in the consumer's corner, having RECA's support when frivolous complaints are made by consumers would restore trust and accountability to our industry members. This would set the stage for licensees to be together *with* RECA rather than *opposed* to its licensees.

A robust update to the Rules is a much-needed rise into the ever-changing and evolving 21st century and should be carefully, thoughtfully and systemically reviewed.

I can confirm that I would be happy to assist with this project, and the broker for my firm has offered the same in multiple instances. We strongly suggest utilizing industry members/licensees more predominantly in this process. Please contact the undersigned for any questions or clarifications.

On behalf of CCI South Alberta and Three by Three Inc,

Abbie Thurgood

CCI Alberta South, Vice President

Three **By** Three Inc, Associate Broker

Cc: Elaina Kutz, Three **By** Three Inc, Broker





May 12, 2023

Janice Harrington, COO
Real Estate Council of Alberta
202, 1506 11 Avenue SW Calgary, AB, T3C 0M9

Re: *Written Submission – Real Estate Act Rules Review Phase 1*

Dear Ms. Harrington:

On behalf of the Building Owners and Managers Association of Calgary and Edmonton (BOMA Calgary and BOMA Edmonton), we would like to thank you for including us in RECA's *Real Estate Act* (the Act) Rules Review Phase 1. We are pleased to collaborate with you in this process to modernize the industry, and we share in your goal of upholding the quality and standards that consumers expect and deserve when dealing with any real estate professional.

BOMA Calgary and BOMA Edmonton represent the commercial real estate ownership and management sector in Alberta. Our corporate members are significant contributors to Alberta's GDP and provide essential services to the businesses that drive our economy. A considerable number of our individual members are governed under the Act and have entrusted us to represent their ideas for the future of the industry.

This Review is an important undertaking. We commend RECA for providing a comprehensive list of questions to facilitate submissions such as this one. When consulting with BOMA members, three sections of the Review stood out as having the most opportunity for improvements: Licensing Structure, Education, and Reporting & Administrative Penalties.

At a high level, our members know, based on their experience, that consumers are generally best served when the professionals serving them are educated, licensed in, and dedicated to professional development and consumer excellence their respective area of expertise. In this case, that area of expertise is primarily either in residential or in commercial real estate. Our members would thus like to see adjustments to the licensing structure that align with the new RECA governance model. The shift would better represent both the residential and commercial real estate sectors for the benefit of Albertan consumers. Concurrently, our members also voiced concerns around the misalignment between pre-licensing education as well as the significant administrative burden RECA's current brokerage reporting requirements place on them and the connection of these requirements to meaningful consumer protection.

1. LICENSING STRUCTURE

Current Status

Currently, RECA does not license professionals by sector and instead issues licenses in the broad categories of real estate brokerage, mortgage brokerage, and condominium management. The current real estate brokerage license combines three practice areas: residential, commercial, rural, or property management. This means that a residential professional and a commercial professional hold the same license, and the same ability to practice in various areas despite the significant differences in the two roles.

Proposed Change

BOMA would like to see the licensing structure amended to align with the new RECA governance model. This would mean creating a separate license for residential practitioners and another for commercial practitioners that are represented on the current Commercial Industry Council: commercial brokers, commercial property managers, and agri-business. This license would then enable more relevant pre-licensing education, as well as reasonable thresholds to ensure a licensee practice in the area they seek a license for, while also addressing the distinct needs of rural communities.

Rationale

Our members, some of whom have practiced in both residential and commercial real estate, know that residential and commercial real estate are very different. The public or the consumer does not necessarily. We do a disservice to the real estate industry in general, and to the consumer, when we lump these two distinct sectors together in licensing. It confuses the consumer and risks them engaging with a real estate professional who does not have the required expertise to serve them best in two distinct fields: residential real estate and commercial real estate. It also makes it difficult to explain real estate to non-industry people when the public thinks anyone can deal in any kind of property, regardless of what it is. Real estate is a major asset for an individual or a business and they take great risk in obtaining and maintaining any real estate asset. The separation in licensing is an important step in ensuring greater service.

While not the focus on this submission, the status quo of the licensing structure poses governance concerns that would be alleviated by alignment of the licensing to the Industry Councils that form the governance structure of RECA and improve the education levels and qualifications of all practitioners in real estate. Modernizing the licensing structure in Alberta is overdue. Real estate has evolved as an industry. The total impact of this outdated structure is that there is a disconnect between regulation and practice. Creating a separate license for commercial practitioners and a separate license for residential practitioners would allow for the creation of relevant education that keeps up with industry trends and promotes high standards, industry councils comprised of and elected by those active in that sector, and a regulatory environment that ensures public protection for consumers.

2. EDUCATION

Current Status

Under the amended governance structure, RECA has divested from pre-licensing education, including the Fundamentals of Real Estate course and education specific to the practice area. There is also an ability for annual re-licensing education, although this has not occurred for some time.

Proposed Change

While RECA's divestment of pre-licensing education is a positive step and a delivery model that should lead to better industry education and consumer protection, its long-term success depends on the educational competencies. These competencies need a more thorough review than has occurred to bring them up to the current standards of the industry. BOMA believes that as a part of the Rules Review, Industry Councils should be leading a collaborative process to update these competencies in partnership with stakeholder groups and educational experts.

Rationale

In 2021, as a part of the RECA Governance review, industry, including BOMA provided feedback on the core competencies that were then used to create the various pre-licensing course syllabus. The existing competencies provided at the time were severely outdated, and while the BOMA submission identified several changes for consideration to the Property Management sections, it was noted that very few of these were reflected in the final document. BOMA believes that education is key to a well-regulated sector, and that the positive impact on the public interest of any changes made elsewhere within the rules could be hampered by a failure to address educational competencies.

3. LICENSING DECISIONS, NOTIFYING RECA, AND STANDARDS OF PRACTICE

Current Status

RECA currently has in place a number of rules that licensees must abide by in areas such as standards of practice, brokerage reporting requirements, conflict of interest disclosure, among others. In general, the onus is on the licensee to report changes to RECA within a prescribed time period. Should a licensee be in contravention of the rules around Standards of Practice, there are associated sanctions as well as a notification provided to licensees.

Proposed Change

RECA should consider simplifying reporting requirements for licensees to help increase overall compliance. In particular, an annual reporting requirement could replace event notifications, and could be designed to help capture the necessary information that RECA requires in a more streamlined way.

BOMA further believes that there needs to be additional thought regarding the sanctions and notifications stemming from a Standards of Practice infraction by a licensee. Sanctions should be

appropriate to the infraction, and the rules ought to recognize that not all infractions are equal. An approach that identifies harm to the public interest and aligns sanctions accordingly would be an improvement.

Rationale

Industry members unanimously agreed that RECA reporting requirements are a significant administrative burden, often with little or no consumer benefit. An annual reporting requirement to capture licensing changes, as is used in other regulatory contexts, could ease the reporting burden on licensees while ensuring regulatory compliance and capturing updates.

Industry members also identified an inequity in sanctions for infractions and the communication of those infractions to licensees. It does not make sense from a fairness or a consumer protection lens to communicate a failure to report a corporate address change within 5 days in the same way as objectively more serious infractions like conflict-of-interest violations and other infractions that undermine public confidence in the industry and/or cause real harm to the consumer.

Thank you once again for the opportunity to comment on the improvements that can be made to the *Real Estate Act*, and by extension the Real Estate Council of Alberta, to better represent the current state of the real estate industry.

Sincerely,



Lloyd Suchet
Executive Director
BOMA Calgary



Lisa Baroldi
President and Chief Executive Officer
BOMA Edmonton



May 9, 2023

Janice Harrington, COO
Real Estate Council of Alberta
202, 1506 11 Avenue SW
Calgary, AB,
T3C0M9

Delivered via email to: consultation@reca.ca

Dear Ms. Harrington,

Re: Request for Comment - *Real Estate Act* Rules Review Phase 1

About the Canadian Alternative Mortgage Lending Association (CAMLA)

The Canadian Alternative Mortgage Lenders Association (CAMLA) is a not-for-profit whose mission is to provide a collective national voice for the alternative mortgage lending industry. We aim to ensure that our industry can operate harmoniously with real estate professionals, regulators, stakeholders, and partners.

CAMLA represents the diverse needs of lenders. We act as a platform for alternative mortgage lenders to exchange ideas and explore ways to improve the sector. Our membership comprises approximately 63 corporate members of varying sizes, and we are growing every month to include more members across the country. Our members are alternative mortgage lenders and managers of mortgage investment entities operating in the alternative lending space.

We strive to encourage principled and professional practices among our members. Our objectives are to develop sound practices, enhance industry transparency and education, and liaise with the broader financial community, institutional investors, the media, regulators, governments, and other policymakers.

Additionally, we support the growth of alternative mortgage lending companies across Canada and aim to represent the industry on compliance, regulation, consumer protection, education, industry performance, and trends.

Comments

We are writing in response to **Real Estate Act Rules Review Phase 1**, and we appreciate the opportunity to share our views on behalf of our members. Our response represents comments received from various member firms and focuses on the mortgage lending aspects of the Rules. We do not have any comments on the rules associated with real estate brokerage or condominium management, as these are not the focus of our members.

Licensing Structure

Should RECA amend the Rules to better align the licensing structure to the current governance model? If so, what is the best way to align them?

At the time of the creation of the Rules, RECA was governed by a single Council. Under the modernized governance model, licensing and standards of practice are the domain of four Industry Councils, so the Rules should be amended to better align with the current structure.

There have been a lot of governance challenges over the last several years with RECA and particular sectors of industry members. The ability to self-regulate is a privilege and one that all of the industry should recognize as valuable.

It is not in the best interest of our industry or consumers to have one industry sector operate or behave in a manner that disrupts others committed to proactively managing industry compliance and achieving the highest standard of compliance and ethical behaviour. We recommend better governance alignment to the licensing structure so that if one sector is not complying, how that is addressed does not negatively impact how other sectors are governed. Each sector should be given an opportunity to be recognized for its own merits and efforts to serve its clients/consumers best. This requires a deep understanding of the industry by regulators to ensure that the industry and consumers are properly cared for.

Any amendments to the Rules should (a) simplify for consumers and (b) clarify obligations for industry participants as much as possible. Amending the Rules to clarify differences between respective licence classes further is likely to be beneficial to consumers and the industry, and this could be either through further distinctions between (i) real estate, mortgage, and condo management licensing structure; or (ii) licensing classes in accordance with the current governance model.

Within the mortgage brokerage licensing, the “mortgage broker” and “mortgage associate” licence classes should remain, provided that Alberta maintains its high standards for education and training. This allows Albertans to be served by educated and knowledgeable professionals. We need to maintain these standards while encouraging other jurisdictions to continue to improve theirs. Regarding mortgage brokers, in an ever-complicated world, it may be appropriate to increase the requirement to become a broker from 2 years to 5 years.

RECA should consider a “mortgage associate broker” licence class for more experienced mortgage associates and, if instituted, would focus on delegating mortgage broker responsibilities. There could be clear descriptions of which mortgage broker responsibilities can be delegated to a “mortgage associate broker.” Consideration should be given to the “mortgage associate broker” licence having a 2-year requirement (same education) and be used as a pathway to becoming a “Broker.” If the rules on delegating tasks were changed to only allowing the delegation to a “mortgage associate broker,” it would create a training ground for new brokers and better succession planning. Encouraging and improving mentorship within the industry will increase protection for the consumer (more experience in decision-making).

It will be important for RECA to recognize that not all mortgage brokerages have the same business model, and various size constraints may not allow for as much independence in role duties as larger firms. Ideally, as with any education which is created in the mortgage broker industry, we should be looking to encourage more mentorship and practical experience. Unfortunately, classroom education will have limitations, and we need the industry to have more formal mentorship to ensure that what is taught in the classroom is implemented in practice.

In addition, we encourage RECA to consider providing a mortgage broker course to assist owners in understanding their responsibilities with compliance and oversight. There is a lot of change in the real estate industry, which will require thought and consideration to protect the consumer.

• Should RECA move to single-sector licensing? For example, should each practice area under real estate be a separate licence?

Yes, each practice area should have a separate licence so the regulations align more with the industry's challenges and business model. The more we attempt to create generalists in our industry, the less able we are to identify and focus on the parts of the business working or not working well.

By separating the licences, it will be easier to read the sections of the Act that apply to our particular business practice. It is difficult today to read and understand what licence responsibilities apply.

• Does single-sector or specialized licensing increase consumer protection by ensuring licensees are fully competent in the specific sector or specialization?

Yes, single-sector or special licensing will increase protection as the industry is better able to customize the licensing requirements and have better knowledge from a governance

perspective to ensure that we are being thoughtful in how we manage, oversee and respond to breaches in licensing.

• Should RECA consider a special license class for “team” leads, and/or require special qualifications for them?

No, we are not in favour of having team leads require a special license. There are so many different industry structures, and the complexity of doing so would unlikely be a net benefit. Regulators should not focus on “the how” but instead continue to take a “principle-based” approach and let the industry determine how best to manage operations.

However, using a “mortgage associate broker” model noted above could be helpful. Again it is important that we as an industry look for methods of providing more mentorship opportunities to assist mortgage associates in getting practical experience. This is especially important for more complicated transactions such as alternative lending, private lending, construction mortgages and commercial mortgages.

• Are there any other issues with Part 1 of the Rules you would like to bring to RECA’s attention?

CAMLA strongly recommends the Rules differentiate between lenders within an OSFI-regulated entity, an alternative Mortgage Investment Entity, and a private mortgage lender. The latter group, in particular, requires customization to recognize and address applicable consumer protection issues.

There are significant risks in mortgage brokers that are underwriting private mortgages for individuals who are not knowledgeable in making investments in mortgages. Typically, these individuals do not have E&O insurance, cyber-insurance, mortgage impairment insurance, or privacy policies available with alternative mortgages and which are there to help protect consumers. Most insurers who service mortgage brokers are limiting or not providing insurance to mortgage brokers who place mortgages with private individuals. Both borrowers and lenders are unaware of these risks, and mortgage brokers are not disclosing them. We need more disclosure and education in this area.

Licensing Decisions and Notification

Given changes in technology, society, and the industry since 2006, should there be any changes to the authority of the Registrar in Rules 34-39, or changes to the types of situations that require Registrar intervention in those Rules?

The recent move towards publishing names and details of reporting breaches when in the public interest is a move in the right direction, as this encourages compliance.

Should there be any changes, removals, or additions to the types of events individuals or brokerages are required to report to the Registrar under Rules 32, 40 and 51(3)(g)? Should the timeframe for notification change?

Notice requirements in section 32 should be specified as a number of days, such as 10 days. Even though “immediately” is generally interpreted as 5 days, a number of days should replace “immediately.” Further, “notify the registrar” should be replaced with a more clearly defined point of contact (i.e., department to be emailed or if such notice should be made in the myRECA portal).

When there is a change in directors of a registered brokerage, a lawyer must sign the Business Summary, which is time-consuming and does not add value to the process. We would encourage RECA to consider simplifying the process to make it a self-declaration.

Are there any other issues with Part 1 of the Rules you would like to bring to RECA's attention?

No additional comments or recommended changes.

Standards of Practice

• **Given changes in communications technology, including the expansion of the Internet and social media in our society, should changes be made to Rules concerning advertising, who is responsible for them, what disclosures have to be made in them, or how incentives and inducements or guaranteed sales programs work?**

No comments or recommended changes.

• **Some jurisdictions, including B.C., have banned dual agency (transaction brokerage). Are the Rules around transaction brokerage working in Alberta? Should they continue, be modified, removed?**

Yes, we would say that, generally, the Rules regarding transaction brokerage are working. To work well, it is important, however, that brokerages provide the necessary disclosure.

• **Rules 49-52, 65-68, 80.2-80.5, and 80.82-80.85 outline brokerage and broker responsibilities and prohibitions for each industry, including limits to whom brokerages can pay commissions, how referral payments work, and how broker delegation works. In light of the increase in “teams” within a brokerage, particularly in residential real estate and mortgage brokerage, and in light of the fact that some brokerages have hundreds of responsibilities and prohibitions? Or for associate and associate broker responsibilities and prohibitions? Should brokerages with more associates have more requirements to ensure appropriate associate supervision?**

CAMLA encourages regulators to take a principle-based approach to regulation and allow the brokerages to manage their business.

• **Rules 62 and 75 outline requirements for personal trades in real estate and deals in mortgages, respectively. Many licensees trade in real estate or deal in mortgages on their**

own behalf or on behalf of family members or other close associates. Are the current disclosure Rules adequate for consumer protection?

Yes, there are sufficient disclosure rules regarding personal trades.

• In 2018, RECA consulted stakeholders concerning potential changes to mortgage standards of practice, including changes to the intermediary relationship, private lending, document verification to prevent mortgage fraud, and mortgage risk and product suitability disclosures. Are any Rules missing in these areas that may improve consumer protection without creating any red tape?

Yes, with respect to individual private lenders, there needs to be more disclosure. Individual private lenders need to understand the risks better, and borrowers need to understand if lenders have privacy policies, adequate insurance, and the financial capabilities to own and manage these financial structures. In addition to increased disclosure, suitability requirements for individual private lenders need to be strengthened. Current regulation is out of step with suitability requirements when investing in Mortgage Investment Entities.

• Are there any other issues with Part 2 of the Rules you would like to bring to RECA's Attention?

General 73(3)- it is not relevant for a mortgage broker to provide these items to an OSFI-regulated entity or an Alternative Mortgage Entity.

Accounting, Records, and Reporting

Should the Rules be amended to allow the listing brokerage to transfer the deposit being held in trust into their general or commission account once the transaction has completed and pay the co-operating brokerage with one a single cheque? A completed transaction would in theory require performance from all parties and possession to have taken place.

No comment or recommended changes.

• Currently, given changes in document storage technology (the cloud) and the proliferation of electronic agreements and contracts, physical storage in Alberta has become more challenging. Should the Rules be changed to Rules require brokerages to keep copies of all records physically within Alberta? This is so RECA's power to demand the production of documents in investigations remains viable and within RECA's jurisdiction. accommodate these technologies more fully, without being detrimental to consumer accommodate these technologies more fully, without being detrimental to consumer protection? Please keep in mind that electronic storage location is also governed by privacy legislation outside of RECA's jurisdiction.

Yes, the Rules should be changed to no longer require brokerages to keep copies of all records physically within Alberta. The solutions used by non-resident brokerages to accommodate the

current rules are outdated, such as sending a CD to an Alberta law firm and do not take advantage of advancements in technology. Electronic records should be permissible, provided they are kept on servers within Canada and are readily accessible.

Cloud computing provides many advantages over local servers. Security, retention, backup, and business continuity features (important to both the consumer and the brokerage) are often well above the level available on a locally hosted server in a broker's or lawyer's office. Changing the rule to allow storage outside Alberta but within Canada, so long as data is accessible within Alberta, would increase consumer data protection. Understandably, you can't walk into Amazon and pick up a server, but the pros outweigh the cons, and there's no guarantee RECA can physically collect data from a server these days.

Cloud computing also allows for failovers where hardware without property backups can make data irretrievable in the case of a hardware failure. There should be standards to ensure that data remains within Canada or, where allowed elsewhere, proper disclosure exists.

• Electronic money transfers are becoming the standard for many deposit transactions, commission payments and more. Should the Rules be updated to better reflect this reality?

Yes, the Rules should be updated to reflect the prevalence of electronic money transfers and mandate that brokerages confirm the source of funds, including the sender's identity being verified according to FINTRAC standards, particularly if from a third party.

• To ensure consumer money is protected, the Rules require brokerages to report on their trust accounting annually, including review by a licensed accountant, and requires brokerage records, including accounting records, to be accessible and reviewed by the RECA Practice Review team. Are there any Rules surrounding trust reporting or RECA Practice Reviews that could be changed to reduce red tape without sacrificing consumer protection?

It is expensive and time-consuming to complete, but it does assist in keeping brokerages accountable for a process. As always, it does not stop the bad actors from doing bad things, but it does keep the good industry members on track to doing it right and mitigating the risk of making mistakes.

Errors and Omissions Insurance

General comment: We feel the questions regarding insurance requirements and whether current requirements are appropriate can be best answered by insurers and take into account the size of today's claims. We encourage RECA to contact their insurance broker panel members for input.

On that note, CAMLA contacted insurance providers supporting CAMLA members to seek their input regarding the following errors and omissions questions.

- **Should there be any changes to the required coverage amounts for errors and omissions insurance?**

Mortgage brokerage licensees with greater than 20 mortgage associates should be required to purchase a minimum coverage amount of \$1M per claim with a \$1M aggregate limit per year.

In addition, consideration should be given to \$1M occurrence / \$1M aggregate with the recognition that many brokers are also engaged in private lending and mortgage investment corporations, with the former driving higher risk for insurers. These activities also drive higher premiums and are subject to insurer capacity issues. RECA's insurance broker panel will be able to provide valuable insight into what the average and maximum covered losses have been to see where/if the current limits have been insufficient.

- **Specific to “tail” coverage (coverage that extends beyond a brokerage closing), the mortgage brokerage industry has operated with 60 days tail coverage required under RECA’s Errors and Omissions Guidelines, however, recent feedback has indicated this is not adequate. Should RECA consider Rules setting required tail coverage? And if so, how long should that coverage requirement be for?**

The current requirement for “tail” coverage, referred to in the insurance industry as Extended Reporting Period, is insufficient.

Few claims will be uncovered within 60 days, and therefore, E&O claims are often filed more than 60 days after the borrower or lender recognize a loss on a mortgage transaction. The current 60-day provision, therefore, does not provide adequate protection for the licensee or the third party experiencing financial loss on mortgages arranged within 24 months of the mortgage brokerage terminating their license.

RECA is encouraged to consider requiring mortgage brokerage licensees to maintain a minimum of 1 year of Extended Reporting Period coverage and perhaps even 2 or 3 years. More awareness as to claims being experienced would be helpful to inform both regulators and lenders as to the need for such coverage.

- **Currently mortgage and condominium manager licensee errors and omissions insurance must contain terms and conditions approved by the Registrar. Should this continue?**

Yes, prescribed requirements limit the incidence of inadequate policies. However, regulators are encouraged to consult with the insurance industry as to what those requirements should be. Imposing terms and conditions that are not readily available invites problems (such as was seen in Nova Scotia when new lending insurance regulations were imposed without appropriate industry consultation). Engaging with insurers/insurance brokers prior to a change allows for a discovery period and time to build up the market.

In addition, the Registrar should also ensure that only approved E&O providers are permitted to offer E&O insurance to licensees.

- **Are there any other issues with Part 4 of the Rules you would like to bring to RECA's attention?**

Data Security and Privacy Breach Liability ("Cyber," "Crime," and "Social Engineering Fraud") insurance should be considered a mandatory form of insurance for mortgage brokerage (and condominium manager) licensees. The minimum requirement should be \$500,000 limit per claim with an annual aggregate limit of \$500,000.

Forms and Consumer Relationships

- **Should there be a document equivalent to the Consumer Relationships Guide for mortgage brokerages?**

Yes, this level of relationship disclosure information should be required.

- **Are there any other issues with Schedule 1 of the Rules you would like to bring to RECA's attention?**

No additional comments or recommended changes.

Education Code of Conduct for Learners

- **Are there any changes to the Education Code of Conduct that could be made to enhance consumer protection?**

No comments or recommended changes.

Administrative Penalties

- **Do the Administrative Penalty amounts in Schedule 5 continue to make sense in 2023 and beyond?**

CAMLA encourages RECA to consider if the penalties need to be adjusted, such as for inflation. They need to be meaningful in today's world to maintain a deterrent effect.

Rules Harmonization and Labour Mobility

- **Should RECA work with other jurisdictions to further ensure Rules harmonization?**

Yes, generally, RECA should work with other jurisdictions. It will likely benefit all industry participants because several mortgage brokerages operate across Canada. One set of rules likely helps these mortgage brokerages remain compliant and follow the rules, whereas, in the alternative, it is more likely for something to get missed by a mortgage broker in a particular province, where rules differ.

Rules harmonization is likely better for consumers, as there is interprovincial migration, providing a better understanding of rules and clearer expectations. In addition, it will be easier

for industry participants and consumers to understand and interpret rules when they're more harmonized. When there are exceptions, for example, specific rules that cannot work across the country, ideally, those rules are the exceptions and highlighted in Alberta (or the respective jurisdiction(s)).

In addition to providing a more consistent regulatory framework for industry members and consumers, collaboration amongst regulators encourages sharing of learnings and best practices. An area in which CAMLA would appreciate RECA's focus is to encourage other jurisdictions to also provide its licensees with valuable support materials such as RECA's Mortgage Brokerage Policies and Procedures manual template. Aside from being greatly appreciated by CAMLA members, such valuable support material from regulators encourages an understanding of regulatory expectations and a consistent approach amongst licensees.

• Should RECA consider moving towards the way other jurisdictions have enacted Rules to apply to certain situations that are currently different in Alberta?

CAMLA encourages RECA to focus on what is best for Alberta but continue to look for best practices in regulation. The focus should be on what is best for consumers in Alberta and using principle-based rules, generally, while considering best practices in other provinces that support and enhance the rules.

Although CAMLA encourages harmonization where it makes sense, we encourage RECA to not just harmonize for the sake of harmonizing (i.e., avoid just "following the leader") as it's unlikely to be valuable to follow certain directions, such as Ontario's new license class system.

An area that could immediately benefit from standardization is terminology, i.e. a (sub)broker in BC is an Associate in AB and an Agent in ON, which is confusing for the public and even industry participants. A standardized list of industry jargon with standardized definitions would benefit all.

In closing, CAMLA appreciates the opportunity to provide our views on *Real Estate Rules Review Phase 1*. We look forward to also participating in Phase 2 and 3. Please do not hesitate to contact the undersigned with any comments or questions that you might have. We would be pleased to meet with you to discuss our comments and concerns further.

Yours truly,

CANADIAN ALTERNATIVE MORTGAGE LENDERS ASSOCIATION

Martha Kane, Chair, Compliance Committee

Dean Koeller, President, CAMLA

November 28, 2023

Via email to consultation@reca.ca

Real Estate Council of Alberta

Suite 202, 1506 11 Avenue SW
Calgary, AB T3C 0M9

Attention: Mr. Russ Morrow, CEO

Dear Mr. Morrow,

Re: *Real Estate Act* Rules Review – Phase 2, Part 1

Thank you for providing REIX with the opportunity to participate in RECA's Rule Review.


As conveyed in our response to Phase 1 of the Rules Review, one of REIX's key strategic priorities is risk management for our subscribers. We believe that a strong focus on risk management increases the professionalism of our subscribers which, in turn, protects the consumers that they serve.

Although we appreciate the opportunity to be asked for input with respect to licensing framework, practice standards, records, reporting, and remaining Rules, REIX does not have a specific perspective nor a requirement to influence.

We reiterate that REIX favors initiatives that lessen the risk for our subscribers and the public. As to the details of changes and how those should be implemented, we support RECA in its endeavors to continue to seek input from the licensees and their respective industry associations as they will better understand the merits and challenges of different approaches.

Again, thank you for this opportunity and please do not hesitate to contact me if you have any questions or would like further information.

Regards,



Lisa Sabo, CEO

cc: Brad Krizan, Chair, Advisory Board



November 30, 2023

Russ Morrow

CEO

Real Estate Council of Alberta

Please see our recommendations and commentary on Phase 2 of the Consultation regarding the Real Estate Act Rule Changes.

Item 1: Align the Licensing Framework with the Industry Council Governance Structure.

Commentary: Though this change does not directly impact the mortgage sector or the mortgage industry council, we are aware that at some point, the same diversification of specializations may be considered in our industry, particularly related to commercial mortgages. Through robust discussion with our focus group and industry thought leaders, we support the proposed recommendation to establish seven distinct industry sectors, with the assumption that RECA will fully consider that implications to additional administration, resourcing, and costs – particularly the impact on practitioners with relation to costs. We therefore support this proposal.

Item 2: Changing “Rural Real Estate” to “Agribusiness” in the Real Estate Rules.

Commentary: In principle, we support this change; but our members asked that assurance be provided that this change would not trickle down to MLS listings, as this would have a significant detrimental impact on the ability to secure lender financing for rural properties that cannot easily be categorized as only residential or only agribusiness. Such a change in how these properties are listed would cause significant upheaval in lending procedures and practices across the province, impacting Real Estate Agents, Mortgage Brokers, Lenders, and the consumer. We tentatively support this change pending assurance/consultation with the real estate sector regarding MLS listings.

Item 3: Allowing licensees who hold licences in multiple industry sectors to register with different brokerages for each sector, should the choose to.

Commentary: While we strongly believe that practitioners should specialize in one industry (i.e. mortgage industry or real estate), recognizing the diversification of sectors as proposed, we would support this change as it would allow other sectors to be licenced in different specializations within their industry (i.e. commercial and residential) should they so choose. However, we would like to reiterate that we oppose the allowance of cross-industry licensing (i.e. mortgage brokerage & residential real estate).

Item 4: Allowing licensees to be licensed with multiple brokerages in the same industry sector.

Commentary: We strongly oppose any Rule that allows registration at more than one brokerage in the mortgage sector. There is extensive potential and indeed, likelihood, of conflict of interest and advertising issues – at the minimum – both of which present significant risk to the consumer. As such, we strongly oppose this proposal as it is currently defined and explained in the whitepaper.

Item 5: Change the license classes in the mortgage brokerage industry to prevent confusion.

Commentary: We strongly support this change and believe it is long overdue! In principle, we are in favor of the mortgage broker licence class becoming principal broker class. We support the addition of an associate broker licence class, including the requirement of 2 years of experience within the last 5 years, and the requirement to complete principal broker education. We would further support the removal of the term “mortgage associate” and recognition of the term “mortgage broker”: therefore, the licensing levels would be a) principal mortgage broker; b) associate mortgage broker; and c) mortgage broker.

Item 6: Require all licensees who act as ‘team leads’ to be licenced as Associate Brokers.

Commentary: While we support the need for team leads to have greater education, training, and supervision, we do not believe that it is necessary to require an advanced licence (i.e. associate broker licence) in order to act as a team lead. Generally, the roles and responsibilities of a team lead vary significantly from brokerage to brokerage and have only occasional and at times minimal overlap with the role and responsibilities of an associate broker or principal broker. As such, we do not support this recommendation. However, we would support a requirement for brokerages to include a robust section on team leads within their policy and procedure manuals, or the requirement for a separate policy and procedure manual for team leads at brokerages.

Item 7: Requiring teams to register with RECA, for all team members to be from the same brokerage, to display team names in advertising, and/or to restrict licensees to one team.

Commentary: We do not see the necessity for teams to register with RECA, particularly as we don’t recommend that they require licenses. However, we do support teams being required to be from the same brokerage and restricting licensees to one team, as to do otherwise would risk significant confusion for consumers. With reference to displaying team names in advertising, we support this only in conjunction with the existing requirement (which we believe requires clarity and possibly expansion) of clearly displayed information on the brokerage with which a licensee holds their license.



Item 8: Remove the requirement for a registered business office for brokerages.

Commentary: We support this recommendation, provided that RECA can continue to be able to serve documents on brokerages when necessary.

Item 9: Extending the time for brokerages to immediately notify the Registrar.

Commentary: We support prescribing a requirement for brokerages to notify the registrar of certain events within 10 business days, as well as the discretion for RECA to extend the 10-day requirement when extenuating circumstances are proven and extending a similar 10-day notification requirement for individuals under Rule 40.

Item 10: Clerical amendments

Commentary: We have no issue with any of the clerical amendments.

Item 11: Incentives and inducements

Commentary: We support the removal of all rules around incentives and inducements. We believe that brokers should be allowed to manage incentives in their brokerage as they see fit. We do not support RECA prescribing certain dollar amounts under which incentive rules would not apply. We do support allowing brokers to approve individual incentives, rather than requiring brokerage-wide incentives.

Should you have any additional questions or require clarification on these items and commentary, please don't hesitate to reach out.

Sincerely,

A handwritten signature in black ink that reads "Mary Swaffield". The signature is written in a cursive, flowing style.

Mary Swaffield, CAE®, CSEP
Chief Executive Officer
Alberta Mortgage Brokers Association

May 17, 2024

Russ Morrow

CEO

Real Estate Council of Alberta

Please see our recommendations and commentary on Phase 2, Part 3 of the Consultation regarding the Real Estate Act Rule Changes.

Item 1: Commission Payments and Trust Accounts

Commentary: The focus group recognized that this rule pertains more directly to the Real Estate side of the transaction and is not as impactful for a mortgage brokerage. However, if the rule would minimize the administrative work for brokerages, it is reasonable to make the change.

Item 2: Modernizing Electronic Record Keeping/Depositing Fund Electronically

Commentary: **#2a** We felt that this should be included in the rules as a general guiding principle (vs. providing explicit details) as the technology will likely change over time. The user will need to ensure the preferred technology meets any criteria identified in the rule such as keeping information secure, having it available when needed and maintaining a secondary backup system. The focus group identified that it might be useful to defer to the federal and provincial laws regarding technology and record keeping.

#2b We are in agreement re: removal of the redundant rule.

Item 3: Bank Reconciliation

Commentary: The consensus from the group was that additional clarification in the rule with the regards to resolving any discrepancies would be beneficial.

Item 4: Trust Balance/Trust Shortage

Commentary: We felt additional thought needs to go into this question with regards to the timing differences of a brokerage's monthly reconciliation. The amount of \$100 seems too low of a threshold for reporting and would cause potential administrative challenges – both to the brokerage and to RECA. The group was also curious as to what the Registrar would do if a discrepancy were reported- would it trigger a practice review?

Item 5: Sequentially Coded Records

Commentary: The general consensus was that as long as a number system is identifiable, logical, and the brokerage can provide information on records within the range of that numbering system - then the brokerage should be able to determine what numbering system they use.

Item 6: Positive Balance in Pooled Trust Accounts

Commentary: This was not applicable to our industry.

Item 7: Property Title

Commentary: We felt this recommendation should be required, specifically on the Real Estate side, as it gives protection to both the lender and the client.

Item 8: Schedule 5: Administrative Penalties

Commentary: The focus group felt the fines should be increased for serious or repeat infractions. These should be determined categorically for things like fraud, and client misconduct. There should be a range that can be updated over time to reflect inflation, without requiring an official change to the Rules. The penalties should act as a deterrent; the max should be high enough to impact the behaviour of licensees. Some discussion was had on proportionate fines for the most serious of offenses (i.e. proportionate to the volume of deals).

Item 9: Clerical amendments

Commentary: We have no issue with any of the clerical amendments.

Item 10: Advertising in Licensed Name and License Class

Commentary: We felt the introduction of classes would clarify professional roles for the consumer. Having an Associate class would be beneficial for succession planning within a brokerage. We don't feel licensees should be required to only identify within their classification. For example, if a Principal Broker wants to have a title of Mortgage Broker listed on their business card, that should be allowed. However, a licensee should only be able to identify with one of those three classes.

Item 11: Providing Suitable Mortgage Products

Commentary: The focus group disagreed with the wording of this question. The consensus was there should be a requirement for the client to *acknowledge* that options were presented to them. Ideally, this would be a part of the practitioner's service agreement or consent form. An example shared was that the service agreement could be amended to include verbiage similar to this, "by signing this agreement you acknowledge that your mortgage agent went through all of the suitable options with you

and you are agreeing that this product is proper for you”. The group felt having a prescriptive rule with explicit requirements would add a need to monitor and ensure compliance in turn adding additional work for the Broker Owners to ensure compliance, as well as the Registrar. It was also noted that sometimes, there is only one option for a client, and in such cases, complying with a rule for presenting *multiple* options may not be possible. Additionally, it was recommended that there be best practice recommendations made to practitioners that identifies ways to document how/what options are presented to clients in a process that is not administratively burdensome.

Item 12: Collection of Fees

Commentary: In principle, we felt there should be changes to the rules. However, this is not reflective of the entire industry and should be broken down between residential and commercial. A fee is standard, for example, within commercial financing, but not as common with residential mortgages. On the commercial side, the brokerages already do a good job of disclaiming and disclosing fees. We feel it should be up to the brokerage house to set their own policies and procedures with some guidelines. Additionally, there should be a definition associated with what is considered a commercial deal. We feel there needs to be deeper consideration and consultation with this question.

Item 13: Addressing Industry Changes in Customer/Client Relationships

Commentary: The general consensus was to add the definitions. There was concern around the definition of an “individual private lender” and the relationship with an “intermediary”. The group indicated there should be additional clarity added, perhaps indicating an “intermediary” can only represent one unlicensed entity at a time. The thought was that it is possible a broker could be asked to be an intermediary between an “individual private lender” and a client on the same deal, in which case there could be a conflict with whose interests are best being represented.

Item 14: Duty to Carry Errors and Omissions Insurance

Commentary: The focus group that this was a complicated question with far-reaching implications that may require further discussion. However, in general, we support the ability for the Registrar to set the aggregate and per occurrence amount IF there is extensive consideration given to ensuring that the cost does not become prohibitive. We also support mandatory reporting that includes the reason for any cancellation of an E&O policy.

Item 15: Changes to Rule 1 (Interpretation)

Commentary: We are in support of the proposed changes.

Item 16: Changes to Incentive Rules

Commentary: #16a We don’t feel there are any additional risks that need to be identified.



#16b: We have no additional concerns or feedback.

Should you have any additional questions or require clarification on these items and commentary, please don't hesitate to reach out.

Sincerely,

A handwritten signature in black ink that reads 'Mary Swaffield'. The signature is written in a cursive, flowing style.

Mary Swaffield, CAE®, CSEP
Chief Executive Officer
Alberta Mortgage Brokers Association

ATTN: Janice Harrington, COO
Real Estate Council of Alberta
202, 1506 11 Avenue SW
Calgary, AB, T3C 0M9
consultation@reca.ca



CCI South Alberta
PO BOX 38107
Calgary, AB T3K 4Y0
Abbie@threebythree.ca



November 30, 2023

RECA - Stakeholder Engagement, Rules Review - Phase II

Janice Harrington,

Thank you for including CCI Alberta South in the shareholder engagement request related to the Real Estate Act Rules Phase II. Through my position as Vice President of CCI South Alberta, my team and I at Three By Three Inc. agreed to continue with the documentation review. I am pleased to present the following feedback and am open for a discussion in either my capacity as Vice President of CCI-SAB or as an Associate Broker for Three By Three Inc. I understand my broker Elaina Kutz is actively working alongside the Registrar to review competencies relating to RECA and we are all happy to be of assistance with this evolving process.

Please see our responses below for Phase II of the rules review.

1. [Licensing Framework](#)
2. [Multiple Licenses in Same Sector](#)
3. [Principal and Associate Mortgage Brokers](#)
4. [Teams](#)
5. [Registered Business Office](#)
6. [Notification Questions](#)
7. [Clerifcal Ammendments](#)
8. [Incentive Rules Options](#)

On behalf of CCI South Alberta and Three by Three Inc,

Abbie Thurgood
CCI Alberta South, Vice President
Three **By** Three Inc, Associate Broker

Cc: Elaina Kutz, Three **By** Three Inc, Founder & Broker

Licensing Framework

- 1. Do you support aligning the licensing framework to the industry council governance structure, by creating seven industry sectors, each requiring a separate license?**

5 - Strongly Agree. There are significant differences between Property Management and Condominium Management, having Condominium Management in it's separate sector is strongly recommended.

The following concerns were noted:

Costs: While RECA itself may not intend to charge additional fees, they do set course requirements, including annual course update requirements. There could still be an additional cost to licensees if the 3rd party service providers charge additional for specific courses. There was also discussion surrounding licensing fees and potential increases for seven sectors/licenses set by RECA. Support for seven sectors was noted under RECA's proposed "revenue neutral" plan.

- 2. Do you support changing 'rural real estate' to 'agribusiness' in the Real Estate Act Rules?**

5 - Strongly Support. On multiple occasions, there has been confusion regarding 'rural real estate' and what that entails. Renaming to 'agribusiness' would be a clear distinction for licensees.

- 3. Do you support allowing licensees who hold licenses in multiple industry sectors to register with different brokerages for each sector, should they choose?**

3 - Neutral. There is a risk of the average Albertan being confused if a licensee is representing multiple brokerages.

Multiple Licenses in Same Sector

- 1. Do you support allowing licensees to register with multiple brokerages within the same industry sector?**

1 - Strongly Opposed. Allowing licensees to represent multiple Brokerages under one license can be cause for confusion for the consumer.

Principal and Associate Mortgage Brokers

- 1. Do you support these license class changes in the mortgage brokerage sector?**

5 - Strongly Support.

Teams

1. Do you support requiring team leads to be associate brokers?

1 - Strongly Opposed. No. I don't believe RECA should be overstepping into the daily functions of a business. In addition, the skillset to be a team lead is not necessarily the same as an associate broker.

2. Do you support further regulation of teams in the industry, including requiring teams to register with RECA, for all team members to be from the same brokerage, to display team names in advertising, or to restrict licensees to one team?

For transparency it would be helpful if there is no way for the Albertan to be confused about who they're working with. Consistency is key and keeping the individuals under one banner would certainly make it easier for the average person to comprehend.

Registered Business Office

1. Do you support removing the requirement for brokerages to maintain a physical office, bring a location from which the brokerage exclusively conducts business, as it's registered business address?

Yes and no. The business corporations act in Alberta requires companies to have an address where an individual can physically attend to review the corporate records and/or be served. Adjusting this to "any physical address in Alberta" would be in alignment with that. Whether it is a home, office or warehouse should be irrelevant.

Notification Questions

1. Do you support prescribing a requirements for brokerages to notify the registrate of certain events within 10 business days?

Depending on the time of year, this could be difficult to navigate. I'd recommend 14 days.

2. Do you support giving the registrar the discretion to extend the 10-day requirement when extenuating circumstances are proven?

5 - Strongly Agree. Absolutely yes. Things like a brokers death should be dealt with in an appropriate manner and the spouse may not know about things like the notification requirements.

3. Should a similar 10-day notification requirement be extended for individuals and their notification requirements under rule 40.

5 - Strongly Agree. There should be a similar clause giving the Registrar the discretion to extend when extenuating circumstances are proven.

Clerical Amendments

1. Do you have an issues of concerns with these clerical amendments?

5 - Strongly Agree.

Incentive Rules Options

1. Should RECA remove the rules around incentives, allowing Brokerages to manage incentives in their Brokerages as they see fit?

3 - Neutral. Perhaps removed is a strong word. It might be prudent to put parameters for a broker to work within. For example a minimum or maximum incentive.

2. Should RECA prescribe certain dollar amounts under which incentive rules would not apply?

4 - Support. Yes, but in keeping with Albertas transparency requests of late, id recommend this to be a low and inconsequential number.

3. Should RECA allow Brokers to approve individual incentives, rather than Brokerage-wide incentives?

1 - Strongly Opposed. No. This concept is fraught with loop holes and potential misuse.

4. Should RECA keep the current incentive rules?

2 - Opposed. I believe they can be amended to reflect the current economic standards.



November 30, 2024

Real Estate Council of Alberta
Suite 202, 1506 11 Avenue SW
Calgary, AB T3C 0M9

RE: *Real Estate Act* Rules Review Phase 2, Part 1, BOMA, NAIOP, CREW Feedback

On behalf of the BOMA Calgary, BOMA Edmonton, NAIOP Calgary, NAIOP Edmonton and CREW Calgary, we would like to thank you for involving us in this important work to review the *Real Estate Act* Rules. Our organizations and our members share in your goal of upholding the quality and standards that businesses and consumers expect and deserve when dealing with any real estate professional.

Together, our organizations represent the commercial real estate sector in Alberta, with many of our members holding a Real Estate license from RECA.

To best represent our members and provide this submission, BOMA and NAIOP hosted two workshops in November with industry members from across the province (hereto referred to as stakeholders). Stakeholders worked through the discussion paper and its questions and determined industry positions through consensus. On the issues, we noted a high level of agreement among industry members and strong feedback on the questions.

Licensing Framework

1. *Do you support aligning the licensing framework to the Industry Council governance structure, by creating seven industry sectors, each requiring a separate license?*

The Commercial Real Estate Sector has long advocated for a more segmented licensing structure that better recognizes and represents the distinct nature of the wide range of professions within commercial real estate. Commercial professionals have not been adequately represented by their peers in the previous RECA governance structure, with licensing education being of little relevance to their profession. The Commercial sector is characterized by business-to-business transactions and relationships. This crucial difference emphasizes the need for more specialized licensing with relevant and strong educational requirements. While the amended *Real Estate Act* was a step in the right direction, the commercial sector remains hampered by the current, outdated licensing structure. As such, we **strongly support (5)** aligning the licensing framework to the Industry Council Governance structure.

Stakeholders did raise some questions for RECA to consider related to this proposed change. Specifically, attendees were seeking clarity on precisely how this impacts a broker and the number of licenses they need to hold. While the discussion paper does suggest how this would be approached, it emphasizes the need for a transition period with strong communication and education for licensees.

2. *Do you support changing “Rural Real Estate” to “Agribusiness” in the Real Estate Act Rules?*

Stakeholders **support (4)** the proposal to change “Rural Real Estate” to “Agribusiness” to improve clarity for licensees and consumers. That said, there is some confusion over what transactions are considered Agribusiness and we suggest that this be addressed in any licensing transition period as new Rules are implemented, as well as RECA communications and education.

3. *Do you support allowing licensees who hold licenses in multiple industry sectors to register with different brokerages for each sector, should they choose to?*

Stakeholders are **strongly supportive (5)** of allowing licensees to hold licenses in multiple sectors with different brokerages for each sector. Participants did not see a compelling regulatory requirement to restrict this ability, and believed that this decision should be rightly left to each respective brokerage’s discretion.

Multiple Licenses in the Same Sector

1. *Do you support allowing licensees to register with multiple brokerages within the same industry sector?*

Stakeholders expressed **support (4)** for allowing licensees to register with multiple brokerages within the same industry sector. Similar to question 3 in the section above, stakeholders could identify no clear downside to enabling this, and felt that it was reasonable to provide a brokerage the discretion to allow it. There is no rigidly set model for commercial brokerages and stakeholder saw the value in allowing brokerages this flexibility.

Principal and Associate Mortgage Brokers

1. *Do you support these license class changes in the mortgage brokerage sector?*

Stakeholders discussed saw no issues with the class change suggested. Stakeholders **support (4)** the changes as outlined.

Teams

1. *Do you support requiring Team Leads to be associate brokers?*

Stakeholders were **strongly opposed (1)** to requiring that Team Leads be Associate Brokers. This is because there is no clear way to define a Team Lead within commercial real estate, and the activities that a Team Lead is responsible for do not generally require them to be an Associate

Broker. Stakeholders further pointed out the great value Teams provide in the market, and that this change would likely deter brokerages from creating them.

2. *Do you support further regulation of Teams in the industry, including requiring Teams to register with RECA, for all Team members to be from the same brokerage, to display team names in advertising, or to restrict licensees to one team?*

Stakeholders are **opposed (2)** to this proposal for the same reason as they were opposed to the proposal in the previous question. RECA's practice is to license professionals that are involved in certain transactions or activities, and the existence of Teams does not alter the activities of the brokerage. Stakeholders were unclear as to how this promotes consumer protection or a well-regulated sector in the commercial context, and again expressed a concern that this would lead to less Teams, which would be detrimental.

Registered Business Office

1. *Do you support removing the requirement for brokerages to maintain a physical office, being a location from which the brokerage exclusively conduct business, as its registered business address?*

Stakeholders understood and **agreed (4)** with the principal of enabling a more flexible regulatory environment, but had **some concerns** with the proposal as outlined in the discussion paper. First, it was recognized that rules should be flexible enough to enable hybrid of more irregular in-person office hours. In particular, there are smaller brokerages involved in leasing or property management type activities that could benefit from this change. However, stakeholders also believe this needs to be balanced against practical considerations, as well as maintaining a high level of professionalism. For example, licensed professionals are dealing with large deposits and trusts accounts, and stakeholders were not comfortable with these being delivered to home addresses, or having to deliver cheques to physical bank branches. To address these trade-offs, stakeholder agreed that removing the word "exclusively" would require a physical office location but be less restrictive in requiring employees to only work out of that location.

Notification

1. Do you support prescribing a requirement for brokerages to notify the registrar of certain events within 10 business days?

Stakeholders **support (4)** extending the current notification period from the current 5 days, which has for years been a challenge for licensees to comply with. While certainly 10 days are preferable to 5 days, stakeholders believe that a process of regular reporting at set intervals would be far easier to comply with while still ensuring RECA has accurate information.

2. *Do you support giving the registrar the discretion to extend the 10-day requirement when extenuating circumstances are proven?*

Stakeholders **strongly support (5)** providing the registrar with discretion to extend the 10-day requirement. This notification requirement continues to be a challenge for licensees, adding further administrative burden to the licensing regime. As stated in the prior response, we believe that a process of regular reporting at set intervals on these changes would represent a positive change on notification requirements.

3. *Should a similar 10-day notification requirement be extended for individuals and their notification requirements under Rule 40?*

Stakeholders **agree (4)** that the 5-day requirement for notifications under Rule 40 should also be extended to 10-days. While we recognize that the term *immediately* is in the Act, we encourage RECA to consider a reporting-based approach whereby licensee are expected to update RECA of any changes at regularly scheduled intervals.

Incentive Rule Options

1. *Assign the number 1 through 4 to these four options, with '1' being your most preferred option, and '4' being your least preferred. Please explain your reasoning.*

Stakeholders' most preferred option was that **RECA remove the rules around incentives and allow Brokers to manage incentive rules in their brokerage as they see fit (1)**. In the commercial sector there was no identifiable consumer protection or public benefit to these rules, and stakeholders felt it was best left to allow the brokerage to manage. Transactions in the commercial sectors are subject to contracts and commercial law in a way that other sectors are not, making regulations like this unnecessary. This change would also complement the spirit of other proposal in this discussion paper that enable Brokerages to operate more flexibly while still provide strong regulatory goal posts.

While prescribing certain dollar amounts under which incentive rules would not apply, or allowing brokers to approve individual incentives rather than brokerage wide incentives is an improvement to the status quo, there is no compelling regulatory need to be so prescriptive.

Education

While not a topic in the discussion paper, stakeholders discussed RECA licensing education extensively as it and the licensing structure are closely related. There continues to be concern that RECA's educational competencies have little relevance to actual professional practice, and that the recent educational divestment has done little to solve this. Stakeholders would welcome the opportunity to work with RECA and Industry Councils to improve the educational environment for licensees. On that same note, we continue to hear from educational providers that rules preventing them from seeing exam questions are making it difficult to provide relevant education, particularly when the competencies that inform the syllabus lacks context. It is our view that educational provider involvement in both the education, and the corresponding testing, would help lead to the desired outcomes.

Brokerage Eligibility

Industry members have expressed concern with certain Rules that have caused unnecessary red tape for long standing industry members. For example, current RECA rules require a Broker or an Associate to have two years of experience within the last five years to eligible to open a brokerage. While certainly industry experience is an important factor and an appropriate prerequisite, the requirement for that experience to all be in the past five years is proving onerous, and unnecessary limits the ability of professionals to practice in the sector. Our recommendation is to remove the wording "within the last five year."

Thank you again for providing our organizations with the opportunity to provide feedback to this critical work. Please do not hesitate to reach out if you have any further questions.

Signed,



Lloyd Suchet
Executive Director
BOMA Calgary



Paige Magnussen
President of the Board
NAIOP Calgary



Lisa Baroldi
President & CEO
BOMA Edmonton



Kris Augustson
President of the Board
NAIOP Edmonton



Brittany Block
President
CREW Calgary



November 30, 2023

Janice Harrington, COO
Real Estate Council of Alberta
202, 1506 11 Avenue SW
Calgary, AB,
T3C0M9

Delivered via email to: consultation@reca.ca

Dear Ms. Harrington,

Re: Request for Comment - Real Estate Act Rules Review Phase 2- Part 1

About the Canadian Alternative Mortgage Lending Association (CAMLA)

The Canadian Alternative Mortgage Lenders Association (CAMLA) is a not-for-profit whose mission is to provide a collective national voice for the alternative mortgage lending industry. We aim to ensure that our industry can operate harmoniously with real estate professionals, regulators, stakeholders, and partners. CAMLA represents the diverse needs of lenders. We act as a platform for alternative mortgage lenders to exchange ideas and explore ways to improve the sector. Our membership comprises over 60 corporate members of varying sizes, and we continue to include more members across the country. Our members are alternative mortgage lenders and managers of mortgage investment entities operating in the alternative lending space.

We strive to encourage principled and professional practices among our members. Our objectives are to develop sound practices, enhance industry transparency and education, and liaise with the broader financial community, institutional investors, the media, regulators, governments, and other policymakers.

Additionally, we support the growth of alternative mortgage lending companies across Canada and aim to represent the industry on compliance, regulation, consumer protection, education, industry performance, and trends.

Comments

We are writing in response to **Real Estate Act Rules Review Phase 2- Part 1**, and we appreciate the opportunity to share our views on behalf of our members. Our response represents feedback received from various member firms, focusing on the mortgage lending aspects of the Rules and is **presented in a format that aligns with your online survey**.

Consolidated Results from CAMLA Members completing RECA's survey

Questions: Licensing Framework

RECA is considering transitioning from a system where licensees are accountable to multiple industry councils to a streamlined framework where each licensee would report to only one council. RECA is proposing a shift to seven distinct license sectors to enhance specialization, lower entry barriers, and better identify underserved areas. This would also transition education from a generic to a sector specific model. Despite a reduced base license fee, most licensees wouldn't see increased costs. Feedback on this proposal, its merits, concerns, and suggestions for refinement is sought.

1. Do you support aligning the licensing framework to the industry council governance structure by creating seven industry sectors, each requiring a separate licence?

Strongly Opposed	Opposed	Neutral/I don't know	Support	Strongly Support
		33%		67%

2. Do you support changing 'rural real estate' to 'agribusiness' in the real estate act rules?

Strongly Opposed	Opposed	Neutral/I don't know	Support	Strongly Support
	17%	33%	33%	17%

3. Do you support allowing licensees who hold licences in multiple industry sectors to register with different brokerages for each sector, should they choose to?

Strongly Opposed	Opposed	Neutral/I don't know	Support	Strongly Support
	17%	33%	50%	

CAMLA Member comments regarding licensing framework

Please explain your reasoning for your ratings above. Feel free to offer alternative changes.

Implementing such a transition can be challenging and might cause disruptions, but in the long run, it allows for a more focused expertise in improving service quality in each sector.

"Agribusiness" is less confusing and self-explanatory.

There appears to be confusion as to whether rural is only agribusiness and whether it can include rural residential, etc. Ensuring actual practice reflects the scope of the licensee's practice is a concern.

The mortgage brokerage industry sector should be broken down into two parts: Commercial Mortgage Brokerage and Residential Mortgage Brokerage. This would align with the two types of real estate brokerages (commercial and residential), as proposed. Further, commercial mortgage brokerage activities require a higher level of sophistication, which is also extremely different from residential mortgage brokerage activities, and therefore, there should be a distinction between the two.

While understanding the rationale behind allowing licensees with licences in multiple sectors to register with different brokerages, it could be very confusing for the public. It makes sense to hold for both mortgage associate and residential real estate but not for different real estate sectors.

As consumer needs become more specific, specialization would be beneficial.

Question: Multiple licences in the same sector

RECA is considering allowing licensees to work for more than one brokerage in the same sector and to operate in multiple sectors. This potential change aims to offer licensees more professional options.

1. Do you support allowing licensees to register with multiple brokerages within the same industry sector?

Strongly Opposed	Opposed	Neutral/I don't know	Support	Strongly Support
	17%	50%	30%	

CAMLA Member comments regarding multiple licences in the same sector

Please explain your reasoning for your rating above. Feel free to offer alternative changes.

This change can be beneficial to the licensees, but implementing this change will require guidelines and regulatory frameworks to address potential conflicts.

It allows licensees to practice where they want to, and as to their license, it has complicated results for costs but reflects reality better, so this is a good change.

It's likely okay if it is an option that is consented to by each respective brokerage. However, on the other hand, it is easy to perceive challenges with respect to conflicts of interest and competing obligations.

While understanding the rationale behind allowing licensees with licences in multiple sectors to register with different brokerages, it could be very confusing for the public. It makes sense to hold for both mortgage associate and residential real estate but not for different real estate sectors.

With the right training and conflict of interest disclosure, it should be allowed.

Question: Principal and associate mortgage brokers

RECA is contemplating renaming the single class of "brokers" under its rules. Proposed names are "Principal broker" for those managing a mortgage brokerage company and "Associate broker" for those with the education but not in a managerial role. This change aims to provide clarity for consumers and promote succession planning in brokerages. The prompt seeks feedback on the proposed change, its benefits, drawbacks, concerns, and potential improvements.

1. Do you support these licence class changes in the mortgage brokerage sector?



CAMLA Member comments regarding principal and associate mortgage brokers

Please explain your reasoning for your rating above. Feel free to offer alternative changes.

This provides clearer distinctions about the roles and responsibilities within brokerages.

There is support for this change, however, "principal broker" should include the term "mortgage" - i.e. "Principal Mortgage Broker," which would alleviate the probability of confusion in the real estate industry - there are multiple types of "brokers" already. Further, "associate broker" as a term is unclear, and while the concept of a new class is generally supported, it should be replaced with different terminology that includes "mortgage," such as "Associate Principal Mortgage Broker."

It's good to provide a path for business continuity and the Associate Broker as a training ground for the next Principal Broker. However, there is doubt that it would provide any clarity for consumers, given the default to calling any mortgage professional a "broker," which is not expected to change.

There is support for more training.

Question: Teams

RECA currently mandates licensees to display their brokerage's name during business dealings but lacks rules for "teams" (groups of licensees representing as a single entity). RECA is contemplating introducing rules for better oversight of these teams. Team leads would need to register as associate brokers, ensuring consumer protection, especially regarding confidential information. RECA seeks feedback on this proposed changes and their potential implications.

1. Do you support requiring team leads to be associate brokers?

Strongly Opposed	Opposed	Neutral/I don't know	Support	Strongly Support
		50%	50%	

2. Do you support further regulation of teams in the industry, including requiring teams to register with RECA, for all team members to be from the same brokerage, to display team names in advertising, or to restrict licensees to one team?

Strongly Opposed	Opposed	Neutral/I don't know	Support	Strongly Support
	17%	50%	33%	

CAMLA Member comments regarding teams

Please explain your reasoning for your ratings above. Feel free to offer alternative changes.

There is agreement that a team lead should have experience but concern that it will be hard to regulate.

There is concern about unintentional consequences if having an effective double regulation on teams within brokerages causes a larger burden in future.

While there is some support for this proposal, RECA is encouraged to ensure it doesn't lead to inefficiency and duplication of burden on teams and double admin within brokerages.

If the "mortgage brokerage" class is split into two parts, commercial mortgage brokerage and residential mortgage brokerage, then this proposal is supported. In that case, there should be the opportunity to have team "leads" who can have principal mortgage broker obligations delegated to them.

Given that teams almost run like a brokerage within a brokerage, this proposed change makes sense. Frankly, with some of the teams in play today, looking at their advertising as a consumer, it would be hard to tell they are not a brokerage.

The Broker should be able to delegate specific responsibilities to the team lead and as an Associate Broker, they should have the skillset to manage these.

Questions: Registered Business Office

Currently, RECA licensees must maintain a physical office from which they conduct their business. RECA is considering removing this requirement. Licensees would still be required to maintain a registered business office where records are kept or made available and which complies with the requirements of the municipality where they are located. But they would no longer be required to maintain an office where they conduct business.

1. Do you support removing the requirement for brokerages to maintain a physical office, being a location from which the brokerage exclusively conducts business, as its registered business address?

Strongly Opposed	Opposed	Neutral/I don't know	Support	Strongly Support
	17%	17%	50%	17%

CAMLA Member comments registered business office

Please explain your reasoning for your rating above. Feel free to offer alternative changes.

This proposed change provides flexibility in work arrangements and reduces the cost associated with having an office space, but some consumers might perceive licensees without an office space as less trustworthy.

Providing guidelines and support to licensees to ensure they understand and comply with the requirements for maintaining records and accessibility even without a physical office is crucial.

There is support to generally align with the current state of businesses as it shifts into more digital operations.

There should be a push for similar changes across Canada in all provincial jurisdictions. This would simplify business operations and requirements for brokerages which operate in more than one province and align with digital business operations that are more common in the industry.

On the surface, given the increase in online business in general these days, consumers are increasingly comfortable with businesses not having a physical office. In some situations today, if you went to a physical office, you wouldn't find anyone in any case, as they are all working from home already.

As the world changes to an online model, the industry and regulations should adapt to the times.

Notification Questions

RECA currently requires licensees to "immediately notify the registrar" under specific circumstances. The organization is considering changing this to a specific timeframe, such as "notify within ten (10) days", to eliminate uncertainties about what "immediately" means.

2. Do you support prescribing a requirement for brokerages to notify the registrar of certain events within 10 business days?

Strongly Opposed	Opposed	Neutral/I don't know	Support	Strongly Support
			83%	17%

3. Do you support giving the registrar the discretion to extend the 10-day requirement when extenuating circumstances are proven?

Strongly Opposed	Opposed	Neutral/I don't know	Support	Strongly Support
			83%	17%

4. Should a similar 10-day notification requirement be extended for individuals and their notification requirements under rule 40?

Strongly Opposed	Opposed	Neutral/I don't know	Support	Strongly Support
		17%	67%	17%

CAMLA Member comments regarding notification

Please explain your reasoning for your ratings above. Feel free to offer alternative changes.

Open-Ended Response

The clarity provided with a "10 days" timeline is better than the vagueness of "immediate." 10 days is still a reasonably tight timeframe.

Extensions when there is a proven extenuating circumstance are also a good idea but could be a burden for all involved.

The securities industry had a "10-day" timeline and just moved to 15 and 30 days as there were issues with a 10-day timeline. Providing appropriate timelines would be more helpful (and less work for RECA) than being able to, or needing to, seek an extension.

A specific timeline provides more clarity and reduces ambiguity.

Question: Incentive Rules Options

1. Rank the following four options, with the first one being your most preferred option and last one being your least preferred

Should RECA remove the rules around incentives, allowing brokers to manage incentives in their brokerage as they see fit?	Should RECA prescribe certain dollar amounts under which incentive rules would not apply?	Should RECA allow brokers to approve individual incentives rather than brokerage-wide incentives?	Should RECA keep the current incentive rules?
60% - 2	40% - 4	40% - 2	40% - 3
40% - 3	60% - 1	20% - 3	60% - 4
		40% - 1	

CAMLA Member comments incentive rules options

Please explain your reasoning for your ranking above

Providing a cap under which incentive rules don't apply would remove some unnecessary red tape.

Allowing for individual incentives within a brokerage allows for micro variations on the business model within the brokerage.

If we reform "teams" as proposed, having them register with RECA and perhaps even have an associate broker running them, then it would make sense to at least allow that team to decide their own incentives.

In closing, CAMLA appreciates the opportunity to provide our views on Real Estate Rules Review Phase 2-Part 1. We look forward to also participating in Phase 3. Please do not hesitate to contact the undersigned with any comments or questions that you might have. We would be pleased to meet with you to discuss our comments and concerns further.

Yours truly

CANADIAN ALTERNATIVE MORTGAGE LENDERS ASSOCIATION

Martha Kane, Chair, Compliance Committee

Dean Koeller, President, CAMLA

Alberta Real Estate Association
Industry Submission:
Part 2: Industry Standards of Practice
Response to Discussion Paper
April 2024



The Alberta Real Estate Association (AREA) and its 10 member Boards/Associations are pleased to provide the following input into Phase 2 of RECA's Rules review process, pertaining specifically to Part 2: Industry Standards of Practice.

For the purposes of this response, we reconvened the working group that participated in Phase 1. This working group is comprised of an appointed representative from each local Board/Association, tasked with refining and communicating our joint recommendations to RECA. Each Board/Association was updated throughout the process to ensure alignment and consensus. This submission can and should be seen as the collective work of our organizations on behalf of the 13,500+ licensees we represent.

It is our hope that these recommendations can lead to amendments that reduce the regulatory burden on licensees without increasing the public safety risks surrounding trade in real estate.

Thank you,

Part 2 Standards Working Group

Rule 41(b): competent service

QUESTION: Should Rule 41 provide examples of “competent service” to enhance enforcement mechanisms, increase public protection, and to ensure licensees possess the knowledge, skills, and abilities necessary to provide service, to give appropriate advice, and to comply with fiduciary duties?

Yes

No

Please explain your reasoning. Feel free to also offer alternatives.

We consider a definition of “competent” or “incompetent” to provide better direction than examples. A definition could address industry concerns around the inconsistent application of the Rule.

In our view, one mistake does not equal incompetence. Instead, we see competence/incompetence to be a pattern of behaviour.

In the recent Fleming appeal (Case 011341.001), dated February 23, 2022, the RECA hearing panel referred to *Mason v. Registered Nurses' Association of British Columbia* in its decision, which states “*a single act of negligence unaccompanied by circumstances tending to show incompetency will not of itself amount to incompetence.*”



Client/Customer Relationship

QUESTION: Should the Rules be amended to include a licensee’s legal obligations to a customer, providing further protection to the public, for example, an inclusion “Licensees must [...] (e) fulfill their legal obligations to customers”?

Yes

No

Please explain your reasoning. Feel free to also offer alternative changes.

QUESTION: Should the Rules be amended to require the completion of a *Customer Acknowledgement* form, to ensure the role of the licensee is clearly understood by the customer, client, and third parties?

Yes

No

Please explain your reasoning. Feel free to also offer alternative changes.

The protections a customer needs – and the licensee’s obligations to the customer – are clearly outlined in the Customer Acknowledgement form, which is a legal agreement. Requiring a Customer Acknowledgement form obligates the licensee to the customer already, making the insertion of the proposed Rule 41(e) redundant.

Rule 42(g): undermining public confidence

QUESTION: Should the obligation to “demonstrate good character” be placed on the licensee under Rule 41, to complement Rule 42(g) that a licensee must not “engage in conduct that undermines public confidence in the industry, harms the integrity of the industry, or brings the industry into disrepute”?

Yes

No

Please explain your reasoning. Feel free to also offer alternative ideas.

This Rule addition as proposed is a redundancy of Rule 42(g), not complementary to it. We do not favour RECA moralizing over conduct unrelated to a trade in real estate, which the policy does. Adding an additional Rule also does not solve the issue industry has with Rule 42(g), which is that 42(g) is currently an administrative penalty, leaving its interpretation to the Registrar.



While there has not been recent misuse of Rule 42(g), industry remains concerned that its nebulous nature makes it a Rule that can be wielded unscrupulously.

One way to relieve industry concerns about the misapplication of Rule 42(g) would be to remove Rule 42 – in its entirety – from the list of administrative penalties detailed in Schedule 5. Making licensee prohibitions subject to Hearing Panel decisions in all cases would ensure a balanced application of the Rule.

Service Agreements/Customer Acknowledgements

QUESTION: Should a licensee who establishes a client relationship when trading in real estate or dealing in mortgages be required to enter into a written service agreement / provide a written statement of services with that client prior to providing services?

Yes
No

Please explain your reasoning. Feel free to also offer alternative ideas.

QUESTION: When dealing with a self-represented consumer, should a licensee be required to provide a customer acknowledgement prior to providing services?

Yes
No

Please explain your reasoning. Feel free to also offer alternative ideas.

We agree that service agreements and customer acknowledgements should not be signed after the work is completed. But we see an issue with the proposed solution in that it requires a definition of when “service” starts. Does it begin before a first showing? After the first conversation? With the sharing of confidential information?

We also notice, when looking at Rules 43(1) and 43(1.1), that the agreement is with a “prospective client.” Prospective means “expected to be something particular in the future.” We read the Rule to already require signature early in the transaction process. Therefore, we do not see a reason to change the Rules, and instead encourage enforcement of the existing Rules.

Protection of Personal Information

QUESTION: In the interest of transparency, if licensees provide client information to a third-party service provider for the purposes of a referral, should the licensee provide notice to the client and collect the client's consent (provided the consent must comply with the *Personal Information Protection Act* [PIPA])?

Yes

No

Please explain your reasoning. Feel free to also offer alternative ideas.

We do not see a reason to change Rule 45 because RECA does not enforce the *Personal Information Protection Act*. Industry already adheres to PIPA through its current forms usage.

Unlicensed Activity by Support Personnel

QUESTION: Should Rule 46(3)&(4) be removed in the interest of red tape reduction, as unlicensed activity by support personnel is sufficiently addressed in Rule 46(1)&(2)?

Yes

No

Please explain your reasoning. Feel free to also offer alternative ideas.

We do not see Rules 46(3) & 46(4) to be iterative of Rules 46(1) & 46(2). While the need to inform consumers may be implied in the first two subsections, we see value in making the requirements clear. We see subsections 3 & 4 to fulfill an important role in consumer protection.

If there are concerns about including condo management in these requirements, "provide condominium management services" can be removed from Rule 46(4) without losing any benefit of the subsections within the other practices.

Advertising Standards Set by Brokerage

QUESTION: While RECA believes it is important for the consumer to understand the brokerage the licensee is registered with, should Rules and Guidelines related to the requirement for clearly advertising the brokerage name be amended to allow more brokerage flexibility?

Yes – Please elaborate on how the Rules and Guidelines should be amended

No

We do not want the Rules to change. We do, however, think greater latitude should be given to brokers in how the Rules are applied. While practical advice can be helpful, the guidelines are too prescriptive and do not keep up to date with marketing trends. If the guidelines are kept, we ask that they be opened for revision by a committee of industry professionals and that the practice of enforcing the guidelines as Rules cease.

Payment of Brokerage Commission

QUESTION: Should the payment of commission or other remuneration under Rules 50(c)(i), 66(c)(i), 80.3(c)(i) and 80.83(c)(i), to not more than one corporation of which a broker, associate broker or associate owns not less than fifty percent (50%) of the shares issued by the corporation, be removed to allow more flexibility for the payout of brokerage commissions for licensed activity?

Yes

No

Please explain your reasoning. Feel free to also offer alternative ideas.

We think the payment of commission or remuneration is the brokerage's responsibility and that RECA should not restrict the payout of commissions to a licensee for licensed activity. That said, we consider it prudent for the committee to explore with a tax lawyer expert whether there may be unintended liability consequences to the proposed change.

Brokerage Oversight

QUESTION: Under the Rules, a broker must be actively engaged in the management of the brokerage. Should examples of the standard of being actively engaged be provided to increase accountability, to enhance public protection, and to improve enforcement mechanisms?

Yes

No

Please explain your reasoning. Feel free to also offer alternative ideas.

QUESTION: Should there be a limit on the amount of licensees a broker may supervise/manage, or alternatively, a limit on the number of transactions a broker may supervise/manage to ensure effective oversight?

Yes

No

Please explain your reasoning. Feel free to also offer alternative ideas.

The broker is responsible for the brokerage and what happens in the brokerage. RECA has extensive powers to enforce proper oversight through Rule 51 and through 41(b) (competent service).

RECA shouldn't tell licensees how to manage their business or what their business model should look like. RECA does not have a line of sight into how brokers have structured their businesses – from how or who they have appointed as managing brokers to how they utilize support staff – nor should it.

That said, it would be best practice for brokerages only to appoint licensed broker associates as “managing brokers” or “broker delegates.”

Promise to Pay Commission – Referral Fees

QUESTION: Do the payments and receipt of referral fees need to flow through the brokerage?

Yes

No

Please explain your reasoning. Feel free to also offer alternative ideas.



Payments and receipt of referral fees should flow through the brokerage because the broker is responsible under the Act and Rules for the activities within the brokerage.

This approach is also a protection against money laundering.

Rules 59 & 59.1: Transaction Brokerage

QUESTION: Should the practice of transaction brokerage be discontinued?

Yes

No

Please explain your reasoning. Feel free to also offer alternative ideas.

QUESTION: Should licensees be prohibited from representing another party while representing themselves in the same trade/deal?

Yes

No

Please explain your reasoning. Feel free to also offer alternative ideas.

Alberta's current use of transaction brokerage has been an important way to accommodate consumer choice, while protecting consumers.

The geographical spread of Alberta means that in many rural municipalities and counties, consumers have limited access to licensed professionals with local expertise. The use of transaction brokerage allows all Alberta consumers to access the professional they feel will best serve their needs, even in remote regions.

RECA's record of decisions & appeals, going back five years, lists no contraventions of Rules 59 or 59.1. This suggests that RECA has not found the existing system to be abused or consumers to be endangered through the practice of transaction brokerage. We recommend leaving the transaction brokerage Rules in place and unmodified.

That said, we agree that licensees should be prohibited from representing another party while representing themselves in the same trade. This is a policy that many brokerages already have in place because of the inherent conflict of interest. We do not see formalizing a Rule to cause an issue.

Clerical Amendments

We do not consider the additions proposed as Rules 57(o) and 58(q) to be clerical in nature. Reviewing current title deserves to be treated separately. While we agree that it is best practice, we can point to instances where title cannot be pulled. For example, an offer made outside of SPIN 2's limited hours of operation cannot involve the pulling of title. In these instances, consumers avail themselves of title insurance. In markets with limited supply, like Calgary's right now, this is not an unusual situation. Until such time as reliable access to title has 24/7 availability, we do not think an addition to the Rules is fair to licensees.

We also note what appears to be a clerical error in the proposed amendments: Rule 51(1)(k) is referenced as 51(1)(j).

We have no concerns with the rest of the clerical items listed.





MORTGAGE
PROFESSIONALS
CANADA

**Real Estate Act Rules Review Phase 2, Part 2 – Standards of Conduct
Policy Recommendations prepared by Mortgage Professionals of Canada**

Prepared by:

Joe Jacobs, Board Chair of Mortgage Professionals Canada

Lauren van den Berg, President and CEO of Mortgage Professionals Canada

Introduction

Mortgage Professionals Canada (MPC) is committed to improving housing affordability and bringing the dream of home ownership to life for Albertans. With interest rates now at the highest levels in more than a decade, Ontarians are facing challenges in the housing market, particularly young people considering whether they will be able to afford a home.

Alberta has tackled housing supply issues head on with the Stronger Foundations strategy to ensure all Albertans have access to safe and stable housing, which are measures we welcome and support.

At MPC our members strive to provide Canadians with flexibility and power of choice, so they can feel secure and confident in the mortgage that fits them, their budget, and their personal circumstances. We believe the following recommendations support the Ontario government's commitment to put more money back into Ontarians pockets, increase housing supply, and protect consumers.

About Mortgage Professionals Canada

We are Canada's mortgage industry association with over 15,000 members, with more than 1,000 member firms nationally. We are a non-profit association representing mortgage brokers and agents, as well as banks, lenders, insurers, and service providers, making up the largest network across the country. Forty-five percent of first-time home buyers in Canada choose brokers for their mortgage. We are proud to be the industry that provides Canadians with choice when making the most important financial decision of their lives and help people achieve the dream of home ownership.

Responses to the Real Estate Act Rules Review Phase 2, Part 2 – Standards of Conduct

Competent Service

Question: Should Rule 41 provide examples of “competent service” to enhance enforcement mechanisms, increase public protection, and to ensure licensees possess the knowledge, skills, and abilities necessary to provide service, to give appropriate advice, and to comply with fiduciary duties?

Response: No

Reasoning: The bulletin provides sufficient insight into the rule's essence, while actual behaviors will remain subject to open interpretation.

Client/Customer Relationship

Question: Should the Rules be amended to include a licensee's legal obligations to a customer, providing further protection to the public, for example, an inclusion “Licensees must [...] (e) fulfill their legal obligations to customers”?

Response: Yes

Reasoning: Brokers are required to do this regardless, and it offers additional clarity and reassurance for the consumer.

Question: Should the Rules be amended to require the completion of a Customer Acknowledgement form, to ensure the role of the licensee is clearly understood by the customer, client, and third parties?

Response: No

Reasoning: This is specified in the current disclosure documents, although possibly not with sufficient detail. An alternative is to include 1-2 additional line items in the existing disclosure or service agreement forms.

Undermining Public Confidence in the Industry

Question: Should the obligation to “demonstrate good character” be placed on the licensee under Rule 41, to complement Rule 42(g) that a licensee must not “engage in conduct that undermines public confidence in the industry, harms the integrity of the industry, or brings the industry into disrepute”?

Response: Yes

Reasoning: Good character extends beyond financial considerations and should be comprehensive in scope. The responsibility should lie with the licensee.

Service Agreements/Customer Acknowledgements

Question: Should a licensee who establishes a client relationship when trading in real estate or dealing in mortgages be required to enter into a written service agreement / provide a written statement of services with that client prior to providing services?

Response: Yes

Reasoning: It should be incorporated into the initial application process. The challenge arises when the required service may evolve, for instance, a file initially considered as an A file may transition to private status with an associated fee. In such cases, a new service agreement should be required to recognize and disclose the change and fee.

Question: When dealing with a self-represented consumer, should a licensee be required to provide a customer acknowledgement prior to providing services?

Response: No

Reasoning: N/A in mortgage brokering space Self representation is a real estate issue.

Protection of Personal Information

Question: In the interest of transparency, if licensees provide client information to a third-party service provider for the purposes of a referral, should the licensee provide notice to the client and collect the client’s consent (provided the consent must comply with the Personal Information Protection Act [PIPA])?

Response: Yes

Reasoning: The Disclosure/Service agreement should recognize this, or if this occurs afterward, a distinct referral acknowledgment form should be signed. RECA shouldn't provide the exact wording but should offer examples of what it should contain. The rationale is that many third-party providers already have their own forms that address this issue.

Unlicensed Activity by Support Personnel

Question: Should Rule 46(3)&(4) be removed in the interest of red tape reduction, as unlicensed activity by support personnel is sufficiently addressed in Rule 46(1)&(2)?

Response: Yes

Reasoning: It is outlined and clear in 1-2. Further details are not required and redundant.

Advertising Standards Set by Brokerage

Question: While RECA believes it is important for the consumer to understand the brokerage the licensee is registered with, should Rules and Guidelines related to the requirement for clearly advertising the brokerage name be amended to allow more brokerage flexibility?

Response: No

Reasoning: Only the name of the licensee and brokerage should be permitted. Sub-brands, team names, etc., contribute to confusion. This approach would also be more consistent with other jurisdictions where licensees may hold multiple provincial licenses.

Payment of Brokerage Commission - 50% Shares Issued by Corporation

Question: Should the payment of commission or other remuneration under Rules 50(c)(i), 66(c)(i), 80.3(c)(i) and 80.83(c)(i), to not more than one corporation of which a broker, associate broker or associate owns not less than fifty percent (50%) of the shares issued by the corporation, be removed to allow more flexibility for the payout of brokerage commissions for licensed activity?

Response: No

Reasoning: This could lead to additional complexities regarding the recipient of funds. A 50% threshold indicates that mortgage brokering is a primary function of the corporate entity receiving commissions.

Brokerage Oversight

Question: Under the Rules, a broker must be actively engaged in the management of the brokerage. Should examples of the standard of being actively engaged be provided to increase accountability, to enhance public protection, and to improve enforcement mechanisms?

Response: Yes

Reasoning: Clear guidelines are necessary, as many brokerages and their broker of record currently lack direction. This would establish a clear baseline.

Promise to Pay Commission - Referral Fees

Question: Do the payments and receipt of referral fees need to flow through the brokerage?

Response: No

Reasoning: There should be a designated sub-broker capable of assuming responsibilities, particularly for larger firms or transactions. This is crucial in situations such as health or death scenarios, as it can endanger both the public and licensees. MPC's recommendation would be for a sub-broker to possess a similar level of education and expertise as the broker of record to manage these responsibilities, mirroring the setup in Alberta's real estate sector.

Transaction Brokerage

Question: Should the practice of transaction brokerage be discontinued?

Response: Yes

Reasoning: Another realtor should be required to step in, even if they are from the same brokerage, but with individual representation for each party. Alternatively, at minimum, one agent should only represent either the buyer or seller, with the other party signing an acknowledgment that they are self-represented.

Question: Should licensees be prohibited from representing another party while representing themselves in the same trade/deal?

Response: Yes

Reasoning: Same as above question.

Verification of Income Disclosure

Question: Should the responsibility on brokerages to validate the information they are collecting and submitting to lenders be strengthened to enhance consumer protection and improve fraud detection?

Response: No

Reasoning: Brokers are already expected to do this with lenders. Most brokers do this to make sure they have a well overwritten file.

Mandatory Relationships and Private Lenders

Question: Should a mandatory relationship be established when a licensee is managing an individual private lender and, if so, under what circumstances?

Response: Yes

Reasoning: Disclosure is necessary if representing the lender. Nonetheless, you may engage with a private lender without formal representation. This aspect should also be addressed in the disclosure/service agreement.

Orderly Transfer between Condominium Management Companies

Question: Should these proposed Rules be implemented to regulate the orderly transfer from one condominium or property management company to another before the management agreement's termination?

Response: Yes

Reasoning: To ensure efficient and timely transactions for the public and facilitate access to frequently needed transactional information.

Clerical Amendments

Question: Are you in support of these clerical amendments?

Response: Yes

Reasoning: No further comments needed.

Alberta Real Estate Association
Industry Submission:
Part 3: Accounting, Records & Reporting
Response to Discussion Paper
May 2024



The Alberta Real Estate Association (AREA) and its 10 member Boards/Associations are pleased to provide the following input into Phase 2 of RECA's Rules review process, pertaining specifically to Part 3: Accounting, Records & Reporting Requirements.

For the purposes of this submission, we reconvened the working group that participated in Phase 1. This working group is comprised of an appointed representative from each local Board/Association, tasked with refining and communicating our joint recommendations to RECA. Each Board/Association was updated throughout the process to ensure alignment and consensus.

This submission can and should be seen as the collective work of our organizations on behalf of the 13,500+ licensees we represent. We have replied to the general inquiries and to the property management, as the association that represents 3,700+ property management licensees.

It is our hope that these recommendations can lead to amendments that reduce the regulatory burden on licensees without increasing the public safety risks surrounding trade in real estate.

Thank you,

Part 3 Reporting Working Group

Commission Payments and Trust Accounts

QUESTION: Should a brokerage be permitted/be required to move commission funds from trust to their general or other account, when payable, before the brokerage pays the co-operating brokerage, to avoid the need to issue two separate checks?

- Permit brokerages to do so
- Require brokerages to do so
- Do not change this Rule

Please explain your reasoning. Feel free to also offer alternatives.

This change was one we advocated for in Phase 1 of these consultations. The current state was intended to protect licensee commissions, which it does not do. Permitting brokers to approach commission payment in the manner they see fit is preferable.

We also note that AREA has a Commission Protection Fund in place which is set up to detect early instances of commission non-payment and protect the licensee.

Modernizing Electronic Record Keeping

QUESTION: Should the Rules relating to electronic record keeping, specifically Rules 82, 84 and 85, provide for updated, current information technology standards and protocols?

Yes - Please provide any suggestions/specifics to be included in an amendment.
No

QUESTION: Should redundant Rules be removed, for example, Rule 85 is redundant to Rules 51(1)(h), 67(1)(h), 80.4(1)(h), and 80.84(1)(i), which sets out the broker's responsibility to oversee electronic transfers of trust funds, and management of automatic banking machine ("ABM") cards that access those trust accounts.

Yes
No

Please explain your reasoning. Feel free to also offer alternatives.

Modernizing electronic record keeping language is another change we requested in Phase 1 of these consultations. We encourage RECA to keep the language general to accommodate the future technological changes we have yet to see.

We are also in favour of removing redundant Rules, so long as they are truly redundant. We would like to see any examples of redundancy in advance of a change being made. For example, in the Part 2 discussion of Phase 2 of these consultations, there was a proposed redundancy that we considered not redundant at all, and its removal would remove existing consumer protections.

Bank Reconciliation

QUESTION: Should Rule 86 be more prescriptive to clarify the monthly requirement to identify the balances owing to each client or customer held in trust, reconcile the trust liability to the reconciled bank balance as of the date of the bank reconciliation, and to include a new subsection which requires the brokerage to, on a monthly basis, prepare, review, investigate and take reasonable measures to resolve discrepancies on a bank reconciliation?

Yes
No

Please explain your reasoning. Feel free to also offer alternatives.

The prescriptive language proposed sounds like it requires a monthly audit, not a basic bank reconciliation, and we do not think it adds extra protection for consumers. We feel the current language adequately reflects what is required monthly, without adding unnecessary red tape.

Trust Balance / Trust Shortage

QUESTION: Should the Rules require that a broker must notify the Registrar in writing of all trust fund/balance discrepancies under \$100 even if the broker can fund the discrepancy?

Yes

No

Please explain your reasoning. Feel free to also offer alternatives.

We recognize the importance of ensuring that trust accounts are sacrosanct

Typically, a discrepancy of under \$100 is because the bank pulled banking fees from the wrong account, which happens at many brokerages on occasion. We do not view this as a regulatory problem, as it has a simple solution.

When there are discrepancies over \$100, it makes more sense to notify the Registrar as it is an indicator of bigger problems. But we want to understand what the Registrar would do with this information. Would it automatically trigger an investigation? We question whether brokerages with more than \$100 discrepancy would self-report.

Sequentially Coded Records

QUESTION: Should the Rules requiring a sequential coding system be replaced with a unique identifier, as set by the brokerage?

Yes

No

Please explain your reasoning. Feel free to also offer alternatives.

Giving brokerages the opportunity to use their own unique identifiers, which many use in addition to sequential coding, is another way to allow for industry to keep up with technological practices.

Positive Balance in Pooled Trust Accounts

QUESTION: Should Rules permitting a loan from a pooled trust account be removed?

Yes

No

Please explain your reasoning. Feel free to also offer alternatives.

We see no reason to permit a loan from a pooled trust account.

Property Title

QUESTION: Should residential real estate Rules require that a current title be pulled and reviewed as part of a transaction?

Yes

No

Please explain your reasoning. Feel free to also offer alternatives.

We agree that it is best practice for each party in a transaction to pull title. We feel that the obligation to pull title at the earliest reasonably possible is likely already covered via Rule 41(b) "competent service." We do not feel that there needs to be a rule change to accommodate enforcement as the need arises.

If a rule were to be written, it would need to consider the timing of when it would require title be pulled and reviewed, especially because:

- Title is not available 24/7 and offers are made in those off hours
- Consumers have the option of purchasing title insurance where needed
- No transaction can be completed already without title being pulled
- When title is pulled it is a snapshot in time, and it can change
- Title is sometimes shared within a transaction, once pulled (not best practice)



Schedule 5: Administrative Penalties

QUESTION: Should Administrative Penalties provide a maximum for contravention, meaning the penalty could span from \$0 to the set maximum, to allow for greater flexibility?

Yes

No

Please explain your reasoning. Feel free to also offer alternatives.

QUESTION: Should Administrative Penalties be increased?

Yes - Please explain your reasoning and suggest fine amounts.

No

QUESTION: Should Rule 42, "Licensee prohibitions", be removed from Schedule 5, as licensee prohibitions are not simple, objective, or administrative matters?

Yes

No

Please explain your reasoning. Feel free to also offer alternatives.

We agree that the fines for every contravention should be set as maximums to allow for the Registrar to use their discretion in administrative penalties. We do not think the administrative penalties need to be increased. The more egregious contraventions go to Hearing Panels for judgment, which has more latitude when divvying up fines.

The removal of Rule 42 from Schedule 5 was one of our requests in Phase 1 of these consultations and we still support that change for the same reasons.

Clerical Amendments

QUESTION: Do you support these clerical amendments?

Yes

No

Please explain your reasoning. Feel free to also offer alternatives.



Pooled Trust Accounts in Property Management

QUESTION: Should the use of pooled trust accounts for property managers be prohibited?

Yes
No

Please explain your reasoning. Feel free to also offer alternative ideas.

Property managers can handle hundreds to thousands of doors. Prohibiting pooled trust accounts would create undue paperwork and significantly raise banking fees.

Property Management Financial Statements

QUESTION: Should property management Rules relating to Financial Statements be amended to allow the property manager to set the schedule in which records are disclosed to their client, on agreement with their client?

Yes
No

Please explain your reasoning. Feel free to also offer alternative ideas.

The client should be able to set the schedule in which they receive records, not the regulator.

Interpretation Amendments

QUESTION: Are you in support of these interpretation amendments?

Yes
No

Please explain your reasoning. Feel free to also offer alternative ideas.

ATTN: Janice Harrington, COO
Real Estate Council of Alberta
202, 1506 11 Avenue SW
Calgary, AB, T3C 0M9
consultation@reca.ca



CCI South Alberta
PO BOX 38107
Calgary, AB T3K 4Y0
Abbie@threebythree.ca

May 17, 2024

RECA - Stakeholder Engagement, Rules Review - Phase II, Part III

Janice Harrington,

Thank you for including CCI Alberta South in the shareholder engagement request related to the Real Estate Act Rules Phase II, part III. Through my position as Vice President of CCI South Alberta, my team and I at Three By Three Inc. agreed to continue with the documentation review. I am pleased to present the following feedback and am open for a discussion in either my capacity as Vice President of CCI-SAB or as an Associate Broker for Three By Three Inc. I understand my broker Elaina Kutz is actively working alongside the Registrar to review competencies relating to RECA and we are all happy to be of assistance with this evolving process.

Please see our responses below for Phase II of the rules review.

1. [Commission Payments and Trust Accounts](#)
2. [Modernizing Electronic Record Keeping/ Depositing Funds Electronically](#)
3. [Bank Reconciliation](#)
4. [Trust Balance/Trust Shortage](#)
5. [Sequentially Coded Records](#)
6. [Positive Balance in Pooled Trust Accounts](#)
7. [Property Title](#)
8. [Schedule 5: Administrative Penalties](#)
9. [Clerical Amendments](#)

On behalf of CCI South Alberta and Three by Three Inc,

Abbie Thurgood
CCI Alberta South, Vice President
Three **By** Three Inc, Associate Broker

Commission Payments and Trust Accounts

- 1. Should a brokerage be permitted/be required to move commission funds from trust to their general or other account, when payable, before the brokerage pays the co-operating brokerage, to avoid the need to issue two separate checks?**

When payable, yes.

Modernizing Electronic Record Keeping/ Depositing Funds Electronically

- 1. Should the Rules relating to electronic record keeping, specifically Rules 82, 84 and 85, provide for updated, current information technology standards and protocols?**

Yes.

Digital Storage/Server Locations Specifications to be removed.

- Any firm that utilizes Microsoft, Google, Zoom, Outlook or any major software platform will have no say in where a server is based, or information is routed through. In fact, RECA itself not only utilizes such platforms but also requires a broker to agree to allow their information to be run through servers in Europe. Cloud technology and at least 2FA should be considered and implemented for digital storage.

Two-Factor Authentication

- This should be a minimum requirement for anything requiring computer-based access.

- 2. Should redundant Rules be removed, for example, Rule 85 is redundant to Rules 51(1)(h), 67(1)(h), 80.4(1)(h), and 80.84(1)(i), which sets out the broker's responsibility to oversee electronic transfers of trust funds, and management of automatic banking machine ("ABM") cards that access those trust accounts.**

Yes, remove any redundancies.

Bank Reconciliation

- 1. Should Rule 86 be more prescriptive to clarify the monthly requirement to identify the balances owing to each client or customer held in trust, reconcile the trust liability to the reconciled bank balance as of the date of the bank reconciliation, and to include a new subsection which requires the brokerage to, on a monthly basis, prepare, review,**

investigate and take reasonable measures to resolve discrepancies on a bank reconciliation?

Yes.

Trust Balance/Trust Shortage

- 1. Should the Rules require that a broker must notify the Registrar in writing of all trust fund/balance discrepancies under \$100 even if the broker can fund the discrepancy?**

Feedback received at the Townhall noted that discrepancies under \$100 may be too tedious. The round table discussion noted that discrepancies over \$100 should be reported.

Sequentially Coded Records

- 1. Should the Rules requiring a sequential coding system be replaced with a unique identifier, as set by the brokerage?**

No, how a broker chooses to run their financials is their prerogative. To require a firm to adapt to a methodology that RECA is suggesting, is overreach.

Positive Balance in Pooled Trust Accounts

- 1. Should Rules permitting a loan from a pooled trust account be removed?**

A brokerage should not be permitted to obtain a loan on trust accounts

Property Title

- 1. Should residential real estate Rules require that a current title be pulled and reviewed as part of a transaction?**

Absolutely.

Schedule 5: Administrative Penalties

- 1. Should Administrative Penalties provide a maximum for contravention, meaning the penalty could span from \$0 to the set maximum, to allow for greater flexibility?**

Yes, the penalty should reflect the severity of the breach.

2. Should Administrative Penalties be increased?

Yes and implemented as above.

3. Should Rule 42, "Licensee prohibitions", be removed from Schedule 5, as licensee prohibitions are not simple, objective, or administrative matters?

While they are not simple, they set precedent for industry standards. We support keeping these in place and additionally recommend that a code of conduct/ethics form should be signed/mandatory.

Clerical Amendments

1. Do you support these clerical amendments?

Yes.



May 17, 2024
Real Estate Council of Alberta
Suite 202, 1506 11 Avenue SW
Calgary, AB T3C 0M9

RE: Real Estate Act Rules Review Phase 2, Part 3, BOMA in Alberta Feedback

On behalf of the BOMA Calgary and BOMA Edmonton, we would like to thank you for involving us in this important work to review the Real Estate Act Rules. Our organizations and our members share in your goal of upholding the quality and standards that businesses and consumers expect and deserve when dealing with any real estate professional. Together, our organizations represent the commercial real estate sector in Alberta, with many of our members holding a Real Estate license from RECA.

A number of the topics being covered in this phase of the Rules Review are not relevant to BOMA's expertise, and so we only sought to respond to the questions that impact our members and where we have on the ground knowledge in. We also have provided additional commentary on the area of the Rules Review that we are most interested in and are most impactful to our members, particularly around the overall licensing framework as well the education therein.

Modernizing Electronic Record Keeping/Depositing Funds Electronically

1. *Should the Rules relating to electronic record keeping, specifically Rules 82, 84 and 85, provide for updated, current information technology standards and protocols?*

Yes, the Rules related to electronic record keeping should be updated to reflect technological changes and new industry practices.

2. *Should redundant Rules be removed, for example, Rule 85 is redundant to Rules 51(1)(h), 67(1)(h), 80.4(1)(h), and 80.84(1)(i), which sets out the broker's responsibility to oversee electronic transfers of trust funds, and management of automatic banking machine ("ABM") cards that access those trust accounts.*

Yes, redundant Rules should be removed with the aim of improving the clarity to increase compliance.

Schedule 5: Administrative Penalties

3. *Should Administrative Penalties provide a maximum for contravention, meaning the penalty could span from \$0 to the set maximum, to allow for greater flexibility?*

Yes, with some additional considerations. Providing greater flexibility on Administrative Penalties can certainly lead to more equitable and fair treatment of contraventions, provided that there are clear and transparent goalposts to guide disciplinary decisions. Clear guidelines on decision making would be crucial to ensuring that there is consistent application of the penalties, and that the penalty severity matches that of the infraction. BOMA has long expressed concern with relatively minor administrative infractions, which generally do not impact the public, receiving the same treatment as much more serious infractions that directly impact consumer protection.

4. *Should Administrative Penalties be increased?*

While it is difficult to make a generalized response to this question, we believe it would be prudent to review any penalty adjustments in the context of the above question on flexibility of penalties. For example, there is a perception that the penalties for many minor infractions are inappropriate and fail to distinguish between those more serious, public facing infractions. A comprehensive review of the entire Administrative Penalty framework could serve to clarify many of these concerns.

Pooled Trust Accounts in Property Management

5. *Should the use of pooled trust accounts for property managers be prohibited?*

Given the current nature of the industry and the reality that some landlords require a large quantity of trust accounts, there are clear benefits to allowing pooled trust accounts. While there can be challenges to pooled funds as mentioned in RECA Discussion Paper, particularly around auditing, we feel that this can best be ameliorated through clear rules and guidelines as well as a discipline regime to further promote compliance.

Property Management Financial Statements

6. *Should property management Rules relating to Financial Statements be amended to allow the property manager to set the schedule in which records are disclosed to their client, on agreement with their client?*

Yes. Through successive RECA engagements BOMA has long emphasized that the business-to-business nature of the relationships in the commercial sector often requires different rules and regulations. Given this, we believe that the Rules should enable alternative arrangements to Financial Statements should both parties consent.

Clerical and Interpretive Amendments

7. *Do you support these clerical amendments? Are you in support of these interpretation amendments?*

BOMA supports all the clerical and interpretation amendments as outlined in the discussion paper.

As you know, BOMA remains staunch advocates of updating the licensing framework for licensed professionals in a way that better recognizes and represents the distinct nature of the wide range of professions within commercial real estate. Commercial professionals have not been adequately represented by their peers in the previous RECA governance structure, with licensing education being of little relevance to their profession. With that in mind, we wish to re-emphasize our strong support for better aligning the licensing and educational framework to the Industry Council governance structure. We believe this change alone would lead to a significantly improved regulatory framework for all commercial practitioners, with education and re-licensing that is directly relevant to their roles.

Thank you again for providing our organizations with the opportunity to provide feedback to this critical work. Please do not hesitate to reach out if you have any further questions.

Signed,



Lloyd Suchet
Executive Director
BOMA Calgary



Lisa Baroldi
President & CEO
BOMA Edmonton