

## GUIDE TO COMPLIANCE AUDIT FOR MORTGAGE INDUSTRY MEMBERS

The Real Estate Council of Alberta (RECA) is an independent, non-government agency, responsible for regulating industry professionals in the real estate, mortgage, and real estate appraisal industries under Alberta's *Real Estate Act*. Part of this responsibility is the periodic inspection of the books and records of mortgage brokers commonly referred to as audits.

RECA believes the audit process should provide positive and constructive assistance to industry members in:

- identifying and resolving potential problems
- developing effective record keeping and administrative procedures

### UNDERSTANDING THE PROCESS

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RECA's compliance audit program has four main objectives:

**1** to be of service to industry members

Auditors work constructively with brokers in developing sound accounting practices and procedures that comply with the Real Estate Act and the Rules.

**2** to promote compliance with the *Real Estate Act* and the Rules

A small percentage of mortgage brokers may work outside the laws and standards that govern the industry – this can adversely affect the public's view of our industry as a whole. RECA's audits reduce the occurrence of activities in violation of the Real Estate Act or the Rules.

**3** to safeguard the integrity of the licensing system

Auditors check to make sure brokerages are following policies associated with use of RECA's online licensing system.

**4** to reduce the number of claims against the Assurance Fund

The cost of claims made against the Assurance Fund is shared by all industry members. Identifying problems before they develop reduces the number of claims against the fund, which benefits everyone.

RECA will make reasonable efforts to minimize interference with the business activities of industry members.

### How are brokerages selected for audit?

Most audits are assigned at random. Brokerages may also be selected according to any of the following criteria:

- location
- size of the brokerage
- previous audit findings
- amount of trust monies held
- deficiencies in annual accountant's report
- brokerages in their first year of operation
- reliable information received from a third party (e.g. a solicitor who received an NSF trust cheque)

### What happens during an audit?

Before the audit begins, the auditor will have a brief discussion with the broker about the brokerage's activities, policies, and procedures. The auditor may then review any or all of the following:

- books and records for a selected period of time
- RECA online forms
- the brokerage policies and procedures
- trust account details, including bank statements, cheques, deposit books, trust ledger and reconciliations
- other bank accounts (to ensure that trust transactions have not been made through them)
- a sample of open transaction files
- a sample of closed transaction
- a sample of non-completed transactions

The auditor may also reconcile the trust account at the date of the audit to ensure it is fully funded. In addition to the above – where applicable – a sample of mortgages administered will be selected for detailed testing, including a review of the administration agreements and investor and borrower files. Where investors' funds are received, the auditor may review investor, borrower, and loan files, including cost of credit disclosure schedules and lender/investment disclosure statements.

### Will I be notified of the audit in advance?

Although audits are sometimes unannounced, RECA will normally contact the broker in advance and will attempt to be flexible in scheduling the audit. In the case of a follow-up audit, this may not be always be possible. Every effort will be made to allow brokers to continue with normal business activities while the audit is being completed.

Whenever possible, RECA's audits will not be performed during the year-end report process. Note: in remote locations, there may be less flexibility in scheduling an audit.

### What time period will the audit cover?

The audit is limited by the statutory requirement to keep records for a minimum of three years.

The time period varies:

- it usually covers the period from the last accountant's report to the present date, this may be increased if it is less than six months
- for a new brokerage, covers from the start of business to the present date
- for brokerages that do not hold monies in trust it may cover a period of up to three years

### Why is my brokerage being audited when we hold no trust funds?

All brokerages must maintain adequate books and records and comply with all areas of the legislation, whether trust funds are held or not. For example, the auditor may review:

- the general quality of books and records
- RECA online forms
- brokerage policies and procedures
- open and closed transaction files
- bank accounts (that commissions are paid properly and no trust transactions occur through general accounts)

### How should I prepare for the audit?

If records are kept at the brokerage's offices, little or no preparation should be required. The broker may wish to provide copies of this guide to staff members. If needed, the auditor will provide a brief summary of audit requirements in advance.

### How can I benefit most from the audit process?

You will learn most from the process if you are present and involved during the audit. RECA's audit of records is for the benefit of the brokerage.

## COURTESY AUDITS

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New brokers may ask RECA to conduct a courtesy audit. A courtesy audit is an educational resource to help ensure new brokers are aware of the provisions of the *Real Estate Act* that apply to brokerage accounting. An auditor will review your books and records and, if necessary, assist you in making changes to ensure compliance with the Act. Contact RECA's Compliance Audit unit to schedule your courtesy audit for the next time an auditor is in your region.

## ABOUT THE AUDITORS

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### What responsibilities do auditors have?

RECA recognizes that being audited can be a stressful experience and has adopted the following policies to make the process as positive as possible. RECA auditors will:

- conduct themselves in a courteous, professional, and approachable manner
- explain audit results in a constructive way
- keep audit results confidential

Note: occasionally serious concerns must be referred to RECA's investigation unit. If there is a finding of misconduct, the case summary may be published.

## HOW LONG DOES AN AUDIT TAKE

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Most audits are completed in one day, but this may vary depending upon the complexity of the brokerage's operations and the quality of record keeping. Property management audits often take longer than one day when there are a large number of accounts to review.

### Do I need to be there the whole time?

It is not necessary for the broker to be present, but the person who maintains the accounting records must be available in case questions arise during the course of the audit.

## OUTCOMES

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- 1** Review of audit results: The auditor will review audit results with the broker and any administrative staff the broker feels should be present, in a constructive question-and-answer style session.
- 2** Recommendations: The auditor will provide alternatives and possible strategies to prevent future problems and may interpret relevant sections of the *Real Estate Act* and Rules.
- 3** Written summary: The broker will be sent a written summary of the audit findings.
- 4** Follow-up: To ensure that more serious issues have been corrected, a brokerage may be asked to submit subsequent months' trust account reconciliations or a follow-up audit may be carried out.
- 5** Ongoing support: The auditor will be available should the broker require support after the audit is complete.

**Are the results of an audit confidential?**

The audit and its findings will be discussed only with the broker, unless they request that other staff be informed of the findings. Any information obtained is kept confidential and only disclosed in accordance with RECA's privacy policy and personal information code. Occasionally, serious concerns are referred to RECA's investigation unit. Note: if there is a finding of misconduct, the case summary may be published.

**Will I be penalized or sanctioned if the auditor finds a breach of the *Real Estate Act* or the Rules?**

The intent of the audit process is to resolve concerns in a constructive way. Minor breaches of the *Real Estate Act* or the Rules are found in nearly all audits, but penalties or sanctions are seldom assessed. Only in serious cases are referrals made to RECA's investigation unit. The majority of breaches related to the licensing system are referred to RECA's licensing unit.

**What audit findings would be referred to RECA's investigation unit?**

The following criteria are used in identifying files to be forwarded to the investigation unit:

- Do audit findings indicate intent or recklessness on the part of the broker?
- Have similar concerns been brought to the broker's attention in the past?
- Could the concerns result in serious consequences to the public (e.g. unlicensed practice, a trust shortage)?

FOR MORE INFORMATION, CONTACT THE  
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