



Guide to Trust Assurance and Practice Review 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. These inspections are now referred to as practice reviews (previously referred to as audits).

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

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

Purpose of a Practice Review

RECA's trust assurance and practice review program has three main objectives:

1. to be of service to industry members

Practice reviewers 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 practice reviews reduce the occurrence of activities in violation of the *Real Estate Act* or the Rules.

3. to reduce the number of claims against the Assurance Fund

All industry members share the cost of claims made against the Assurance Fund. Identifying problems before they develop reduces the number of claims against the fund, which benefits everyone.

Understanding the Process

How are brokerages selected for practice review?

When selecting brokerages for practice review, RECA has two primary objectives:

1. **targeting brokerages that pose the greatest risk to the public and the assurance fund**
2. **assisting all brokerages on a regular basis. Brokerages with trust funds may be selected more frequently than those not holding trust funds**

Brokerages may also be selected according to any of the following criteria:

- time since the brokerage was last reviewed
- reliable information received from a third party (i.e. an investor who received an NSF deposit trust cheque)
- deficiencies in the annual accounting report
- changes to their business model
- previous practice review findings
- brokerages in their first year of operation
- size of the brokerage
- amount of trust monies held
- fiscal year end
- location

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

Whether trust funds are held or not, all brokerages must maintain adequate books and records and comply with all areas of the legislation.

What happens during a practice review?

Before the practice review begins, the practice reviewer will have a brief discussion with the broker about the review process i.e. brokerage's activities, policies and procedures

During the review, the practice reviewer may then review any or all of the following:

- the brokerage policies and procedures
- trust account details, including bank statements, cheques, deposit books, trust ledger and reconciliations
- other bank accounts to ensure
 - that commissions to associates have been paid appropriately and there are no improper commissions paid to unlicensed individuals
 - that the activity in the operating account is consistent with the records being reviewed
 - that there were no trust transactions through the general account
- a sample of open deal files
- a sample of closed deal files
- a sample of non-completed transactions

The practice reviewer may also reconcile the trust account at the date of the practice review 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 practice reviewer may review investor, borrower, and loan files, including cost of credit disclosure schedules.

Will I be notified of the practice review in advance?

RECA will normally contact the broker in advance and will attempt to be flexible in scheduling the practice review. In the case of a follow-up practice review, this may not always be possible. Every effort will be made to allow brokers to continue with normal business activities while the practice review is being completed. For brokerages that hold trust funds, whenever possible, RECA's practice reviews will not be performed during the year-end report process.

In remote locations, there may be less flexibility in scheduling a practice review since RECA's practice reviewers are located in Calgary and Edmonton and travel arrangements to other areas of the province are required.

In rare circumstances where RECA receives information of a significant risk to the public, a practice review may be unannounced.

How should I prepare for the practice review?

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. The practice reviewer will provide a brief summary of practice review requirements and questionnaire in advance.

What time period will the practice review cover?

As it is a statutory requirement for brokerages to keep records for a minimum of three years, the practice review time varies:

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

How can I benefit most from the practice review process?

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

Courtesy Practice Review

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

About the Practice Reviewer

What responsibilities do RECA's practice reviewers have?

RECA recognizes that undergoing a practice review can be a stressful experience and has adopted the following policies to make the process as positive as possible. RECA practice reviewer will:

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

How long does a practice review take?

Most practice reviews are completed in one day, but this may vary depending upon the complexity of the brokerage's operations and the quality of record keeping. Electronic records may add additional time to a review.

Do I need to be there the whole time?

It is not necessary for the broker to be present during the entire review; however, it is beneficial that the broker is available to discuss the review findings. The person who maintains the accounting records must be available in case questions arise during the course of the practice review.

Outcomes

Review of practice review results: The practice reviewer will review results with the broker and any administrative staff the broker feels should be present, in a constructive question-and-answer style session.

Recommendations: The practice reviewer will provide alternatives and possible strategies to prevent future problems with insufficiencies in protocol or procedures or reiterate interpretations relevant to the *Real Estate Act* and Rules.

Written Report: Practice Reviewer will send a written report summarizing the issues discussed and identified during the practice review.

Broker Response: Broker is required to prepare a signed, written response to the issues addressed in the written report.

Follow-up: To ensure that issues that are more serious have been corrected, a brokerage may be asked to submit subsequent months' trust account reconciliations or a follow-up practice review may be carried out.

Ongoing support: The practice reviewer will be available should the broker require support after the practice review is complete.

Are the results of a practice review confidential?

The practice review and its findings will be discussed only with the broker or others only at the broker's request. 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 Professional Conduct Review Unit. For further information, please see RECA's *Guide to Professional Conduct Reviews for Industry Members* www.reca.ca.

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

The intent of the practice review process is to resolve concerns in a timely, constructive way. Minor breaches of the *Real Estate Act* or the Rules are found in nearly all practice reviews, but penalties or sanctions are seldom assessed. Only in serious cases are referrals made to RECA's Professional Conduct Review unit.

What practice review findings would be referred to RECA's Professional Conduct Review unit?

The following criteria are used in identifying files to be forwarded to the professional conduct review unit:

- Failure to cooperate and provide requested documentation within the timeline specified in the written report For example: failure to provide complete bank reconciliations
- Similar concerns been brought to the broker's attention in the past
- When practice review findings indicate intent or recklessness on the part of the broker
- Review findings that have the potential for serious consequences to the public for example, unlicensed practice, a trust shortage

**FOR MORE INFORMATION, CONTACT REAL ESTATE COUNCIL OF ALBERTA
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