

INCENTIVES

Purpose: To help industry professionals understand brokerage incentives.

This bulletin applies to all real estate broker and mortgage broker industry professionals.

Only a brokerage can advertise incentives to the public. Industry professionals must not directly or indirectly, advertise, communicate or offer to any person their own incentives whose sole purpose is to attract business to them personally.

An "incentive" is anything a brokerage advertises, communicates or offers to the public to attract business. Examples of incentives include travel miles, gifts, contests, gift certificates, games of chance or anything else of value.

Brokerages may advertise or communicate incentives in any way. This includes word of mouth, television, internet advertising, websites, newspapers, flyers, brochures, radio and mail outs. A brokerage incentive must be available to all clients or potential clients of a brokerage.

To determine if an offering is a brokerage incentive, the Real Estate Council of Alberta (RECA) considers the following:

- did the broker approve this incentive?
- does the brokerage advertise the incentive?
- is the incentive available to all clients?
- is the incentive available through all industry professionals of the brokerage?
- can industry professionals opt out from participating?
- does the brokerage have an incentive-marketing plan?
- what are the rules and conditions to qualify for an incentive?
- who purchases, lends or gives the incentive?
- who deals with incentive problems?
- who pays for the incentive?

What is the difference between an "incentive" and an "inducement"?

Some industry professionals confuse "incentives" and "inducements." An incentive is something a brokerage offers to consumers to attract business. It does not relate to an actual or particular real estate transaction or mortgage deal. An inducement is anything a brokerage offers to a person who is a party (or potential party) to a real estate transaction or mortgage deal. An inducement is to assist, persuade or cause that person to enter into a specific transaction or deal. One

example of an inducement is when a real estate brokerage offers to pay a buyer's legal fees to induce a buyer to proceed with the purchase of a particular property. Another example is when a mortgage broker offers to pay for an appraisal to induce a borrower to enter into a mortgage deal.

Examples

- ABC Realty has a large newspaper advertisement stating any seller who lists his property with the brokerage within the next 60 days will be in a draw for a trip for two to Hawaii. This is an incentive.
- Kick Real Estate sends out a flyer to a community stating for each home bought or sold over the next four months through the brokerage, the brokerage will donate \$500 towards equipment for a children's playground at the community center. This is an incentive.
- the following incentives are examples of individual incentives, not brokerage incentives:
 - "Let me sell your house and I will give you free use of my moving van"
 - "If you hire me to find your next home, you'll receive a \$500 gift certificate for ABC Depot"
 - "If you hire me to find you a new mortgage, I will donate \$200 to XYZ Charity"
 - Like my Facebook page and I will enter you in a draw to win a \$50 gift certificate!

An incentive is an offer of something of value to attract a consumer. An incentive is not tied to a consumer proceeding with a transaction or entering into a service agreement. Even if the offer is only on social media and simply encourages a consumer to do something on social media – such as retweet or "like" a page – it is still an incentive and the usual rules apply. If it's the personal account/Facebook page of the individual industry professional, and the wording is "like *my* page and *I'll* enter you into a draw..." – that incentive isn't offered by the brokerage and therefore, it's not acceptable.

Someone "liking" a social media post where there is nothing of value attached to the act of "liking" – such as entering them into a draw – is not considered an incentive.

Practice tip

When a brokerage offers an incentive, the brokerage should have written policies and procedures regarding the incentive offering. The brokerage must communicate all policies and procedures to the industry professionals and applicable brokerage staff. The broker should have a system in place to ensure compliance with the incentive policies and procedures.

The policies and procedures should require a clear description of the incentive program including details, advertising, terms, conditions and exclusions.

- **Terms and conditions examples**
 - geographical offering area
 - time period of the incentive
 - do they have to list a property
 - does the property have to sell/conditions removed/possession
 - did they have to buy a property/conditions removed/possession
 - do they have to buy and sell through the brokerage
 - when does the brokerage pay/deliver the incentive
 - do they have to apply for a mortgage
 - does the mortgage have to be approved
 - does the mortgage have to fund
- **Target audience examples**
 - buyers or sellers dealing with a new branch office
 - members of a specific club or organization
 - first time borrowers/buyers
 - seniors
 - open to everyone who qualifies
- **Advertising**
 - who will communicate the incentive
 - how to communicate the incentive
 - the wording, logos or graphics used to advertise or communicate
 - who approves the advertising
- **Other**
 - documents given to participants in the program
 - the brokerage contact person for client complaints about the program
 - any checklists or documents the brokerage staff must complete to ensure the incentive policies and procedures are followed
 - financial or cost procedures associated with the incentive

Related information

Legislation

- *Real Estate Act Rules* - sections 1(1)(o)(q), s.54(1)(d), s.70(1)(d)

Information bulletins

- Inducements