

CANADIAN REGULATORS GROUP

Supplementary Paper No. 2

**LICENSEE DUTIES
WITHIN THE REAL
ESTATE INDUSTRY
REGULATORY
FRAMEWORKS**

**A Review of the Obligations Owed
Clients and Customers
and Incidental Issues**

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EXECUTIVE SUMMARY

Introduction (Section 1)

The primary purpose of this second report is to provide an overview of, and to comment on the treatment of agency issues within the industry's regulatory frameworks which are comprised of: (a) relevant provincial and territorial statutes governing the industry; (b) the regulations enacted pursuant to these statutes; (c) the by-laws, rules and codes of ethics and/or conduct adopted by the provincial Industry Councils; and (d) the Code of Ethics and Standards of Business Practice of the Canadian Real Estate Association (CREA).

Definitions (Section 2)

The terminology used by the industry to describe the various "actors" in real estate transactions and the different categories representation relationships that are commonly encountered are here considered. Not all regulatory frameworks provide definitions of these actors and relationships; and the definitions that do exist are not necessarily uniform between jurisdictions.

Who Must Be Licensed (Section 3)

Briefly considered is the question: who must be licensed to trade in real estate? This question must be answered to know who is subject to the industry regulatory frameworks. The review of the frameworks suggests that there are two answers: in some jurisdictions all who trade in real estate must be licensed (unless exempt); in other jurisdictions all who trade in real estate in a representative capacity must be licensed (again, unless exempt). Of these approaches the first appears to provide more scope for addressing industry concerns relating to unregulated competition.

Agency Relationships and Agreements (Section 4)

Considered here is the degree to which the various regulatory frameworks, (a) expressly recognize and treat the various agency relationships that may be encountered in the industry; and (b) regulate agreements. While a few jurisdictions provide definitions of the more common representation relationships encountered in the industry (e.g. "buyer" and "seller agency," "agency agreement," "brokerage agreements", "listing agreements"), fewer attempt expressly to regulate any of these common relationships. Where regulation does exist, with one exception (Quebec), it is concerned more with matters of form than substance.

Disclosure of Representative Capacity (Section 5)

While at common law there is no obligation for licensees to disclose the representative capacity in which they are acting, there is evident a trend in the regulatory frameworks for such disclosure to be required to both clients and customers. There are a number of advantages associated with such disclosure, especially that of reducing the incidence of inadvertent dual agency relationships.

Duties to Clients (Section 6)

The regulatory frameworks of the various jurisdictions impose on licensees a range of obligations owed to their clients. In addition to a number of general obligations, more particular obligations relating to licensees' fiduciary status, the treatment of confidential information, and the conduct of appraisals and evaluations are to be found. There is no uniformity in the regulatory frameworks as to nature or number of obligations imposed; where commonality exists, it is in a number of obligations imposed by the statutes governing the industry. Moreover, with one exception (Alberta), no attempt has been made to group licensee obligations according to the party to whom they are owed, nor is explicit reference made to the fiduciary nature of licensee relationships with their clients.

Duties to Customers (Section 7)

In keeping with the approach of the general law of agency, the regulatory frameworks impose few licensee duties to customers. However, this is somewhat misleading given that most frameworks impose a

number of obligations that are owed, not particularly to clients or customers, but either to both parties or to “buyers” or “sellers,” irrespective of whether they are clients or customers.

Common Duties (Section 8)

As noted above the regulatory frameworks contain a number of licensee obligations owed to both parties in a transaction; in particular, obligations relating to the standard of conduct expected of licensees, the preparation and delivery of documents, disclosure of transaction costs and the handling of transaction moneys. However, again, not all obligations are to be found in all frameworks, nor is there uniformity in the treatment of particular obligations in the frameworks that do address them.

Remuneration and Fees (Section 9)

All frameworks address the manner in which licensee remuneration can be established. Similarly all impose restrictions on the right of licensees to sue for their remuneration in the event of non-payment. However, the only common restriction is that of licensing; and this is the only restriction in some frameworks. Other frameworks impose additional restrictions, which differ amongst jurisdictions, on licensees’ right to sue. But, despite the differences in the wording of these constraints, the case law suggests that there is similarity in their effect. A number of frameworks also require licensees to disclose all remuneration and certain fees to their clients.

Disclosures (Section 10)

The obligation of disclosure is a recurring, and important, theme in the regulatory frameworks. There is no agreement, however, as to the circumstances that call for disclosure; nor as to how the obligation should be discharged; nor as to the need for acknowledgement of, and client consent to, the disclosure. It is suggested that there is a need for (a) greater uniformity in the treatment of this issue, particular within individual frameworks, and (b) guidance to licensees as to what an effective disclosure entails.

Regulatory Powers (Section 11)

In the final substantive section of the report the regulatory powers of the relevant “government agency” (department, Minister, etc.) and of the industry’s governing councils are reviewed to determine the degree to which they are imbued with authority to regulate licensee conduct and other matters relevant to agency issues covered in the previous section of this report. The delegation of regulatory power varies considerably between jurisdictions – in part because in a number of jurisdictions there appears to be no industry body to which such powers have been assigned. However, even in those jurisdictions with industry bodies there is no consistent approach to this matter.

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1. INTRODUCTION

The purpose of this second report to the ATF is to review the treatment of “agency issues” within the regulatory frameworks governing members of the real estate brokerage industry in Canada. More particularly, this report seeks to determine the degree to which the regulatory frameworks treat:

- the agency relationships and representation agreements between industry members [hereafter “licensees”] and clients;
- the need for disclosure of representative capacity by licensees;
- the obligations owed by licensees to clients and customers (or, indeed, both);
- other licensees’ obligations of disclosure (of which they are several);
- the obligations of licensees with regard to the costs of transactions and the constraints imposed on their right to remuneration; and
- the regulatory powers of delegated bodies (the relevant government department or Minister [hereafter “government agency”] and/or industry governing bodies [hereafter “Industry Councils”] to regulate agency relationships and the conduct of licensees particularly when acting in a representative capacity.

Where appropriate, the obligations of licensees under the regulatory frameworks are compared to those to which they would be subject under the general law of agency to indicate the extent to which the former has modified the latter.

1.1 The Regulatory Framework

For present purposes, the regulatory framework is seen to comprise of four elements:

- the provincial and territorial statutes governing the industry;
- the regulations enacted pursuant to these statutes;
- the by-laws, rules and codes of ethics and/or conduct adopted by the Industry Councils in Alberta, Nova Scotia, Ontario, and Saskatchewan; and
- the Code of Ethics and Standards of Business Practice of the Canadian Real Estate Association (CREA) (which has been expressly adopted, for example, as the Code governing licensees in Saskatchewan).

It should be noted that in Ontario the industry is in throes of transition, moving from the old to a new statutory framework. Given that the new statutory scheme has been enacted by the provincial legislature, and merely awaits proclamation to take effect, the new (2002) Act has been used for the purposes of this report. The new statute in this jurisdiction does not treat a number of licensee obligations that were present in the previous enactment, leaving these matters, and others, to be dealt with by the relevant government agency or the Industry Council under their regulatory powers (discussed below in section 11).

Finally, it is important to keep in mind that licensees in Quebec are not considered to be agents (“mandataries”); nor are they considered to be fiduciaries when representing clients. Nevertheless, the Quebec regulatory framework subjects licensees to a range of obligations owed to clients and customers. Indeed, this jurisdiction has, perhaps, the most comprehensive regulatory scheme, at least with respect to residential real estate transactions.

1.2 Organization and Presentation of Material

To simplify, and compress, the information disclosed by the review of the regulatory framework, rather than dealing with it on a jurisdiction by jurisdiction basis, an attempt has been made to organize it under various main themes and sub-themes, and to present data in tabular form accompanied by discussion. These themes are:

- Definitions;
- Who must be a “licensee;”
- Agency relationships and agreements;
- Disclosure of representative capacity;
- Duties to clients;
- Duties to customers;
- Common duties (those owed to both clients and customers);
- Regulation of licensee remuneration;
- Disclosure (generally); and
- Regulatory powers of the relevant government agencies and Industry Councils.

A summary of the provisions is presented in the Tables found in the report. The provisions summarized are then reproduced (in some instances in abridged form) in the Schedules attached to this report. The Schedules also permit the reader to compare the details of the various provisions adopted by the different jurisdictions.

Finally, to simplify pinpoint references to the provinces and territories in the ensuing discussion and Tables, the following abbreviations listed below, have been used:

Table 1: Jurisdiction Abbreviations

Jurisdiction	Abbreviation
Alberta	AB
British Columbia	BC
Manitoba	MB
New Brunswick	NB
Newfoundland	NF
Nova Scotia	NS
Northwest Territories/Nunavut*	NT/NU
Ontario	ON
Prince Edward Island	PE
Quebec	QC
Saskatchewan	SK
Yukon Territory	YT
* The Northwest Territories and Nunavut are combined since their regulatory frameworks appear to be identical.	

1.3 Limitations of this Report

This report does not seek to deal with the myriad of provisions in the regulatory frameworks that have no direct bearing on agency matters although they may be of great import to the professional lives of licensees. Consequently, no regard is had to the requirements that treat such matters as:

- licensing and renewal of licences;

- the various classes of licensees and the obligations associated with those designations;
- the constraints imposed on the activities of particular classes of licensees;
- the books, records and accounts licensees must keep; and
- the rules governing how licensees must conduct themselves with respect to other industry members.

2. DEFINITIONS

Not all jurisdictions explicitly define of key terms commonly encountered in the industry (though such definitions as are provided are found in Schedule A). The reasons for this, in part, are that in many jurisdictions the terminology used by industry members on a daily basis and in standard form documents, does not reflect that used in the regulatory frameworks; and, in part, because the meanings of many of the terms used (e.g. buyer seller, listing agreement, and the like) are clear and require no definition.

Nevertheless, some matters call for comment. First, not all definitions of broker and agent stress the representative nature of their role – a feature true of all definitions of salespersons (see Schedule A-1). Second, with the exceptions of AB, MB and SK, whose statutes define “brokerage agreement,” “listing agreement” and “agency agreement” respectively, the only explicit references to agency, agency relationships and categories of representation agreements, are to be found in the regulatory frameworks established by Industry Councils, and even here there is no uniformity amongst jurisdictions with respect to the agency relationships and agreements defined (see Table 2, below).

Table 2: Representation Agreements

Term	Jurisdiction
Agency agreement	SK
Brokerage agreement	AB
Buyer agency [agreement]	ON
Consensual dual agency	ON
Dual agency	AB
Exclusive listing agreement	MB, ON
Listing agreement	MB, NS, ON, SK
Representation agreement	ON
Seller agency	ON

Note: Relevant provisions are reproduced in **Schedule A-2**

Third, it should be observed that in ON, while both “buyer agency” and “seller agency” are defined as “legal relationships,” “consensual dual agency” and “representation agreements” are not so qualified. Why such a distinction is made in the definitions of these relationships is not obvious, since all would appear to create legal relationships between licensees and clients.

Fourth, as discussed below in section 4 below, while a number of jurisdictions define “listing agreement” and “exclusive listing agreements,” no regulatory framework, but that of QC, specifies what a “listing” entails; although (again, as discussed below in section 4), a number specify the form and minimum contents of a valid listing agreement.

Fifth, several jurisdictions provide definitions of “client,” “customer,” “buyer” and “seller” (see

Schedule A-1). Of those that do, two definitions of “client” deserve a word. On the one hand, the NS definition of “client” usefully suggests the duration of the client-agent relationship, and establishes that relationship as the “default setting” in the absence of disclosure of representative capacity (i.e. licensees are assumed to be agents of the person with who they deal). The BC definition of “client,” on the other hand, states that a client is a person “on whose behalf an agent receives money in connection with the agent’s business.” This definition is potentially problematical because it suggests that, if a seller’s agent receives a deposit from a customer, the latter must also be considered a client. If this is the import of the definition then a dual agency relationship will result. While it is doubtful that this is the intent of the definition, it appears to be its effect.

3. WHO MUST BE LICENSED

While it is not the purpose of this report to comment in detail on the licensing requirements of each jurisdiction, it is useful to determine who must be licensed under the different regulatory frameworks, that is, to whom do the frameworks (and their attendant duties) apply. In addition, in light of the concerns expressed at the last meeting relating to activities of unlicensed parties, it was also thought useful briefly to review the reach of the various frameworks.

Two broad approaches are evident in the statutes (see provisions in Schedule B):

- the first is to prohibit “trading” in real estate unless one is licensed or exempt there from; and,
- the second is to prohibit “trading as an industry member” unless one is licensed or exempt there from.

Table 3: Activity Proscribed

Provision	Jurisdiction
Trading in real estate	NS, NT/NU, ON, YT
Trading in real estate as licensee	AB, BC, MB, NB, NF, QC, PE, SK

Note: Relevant provisions are reproduced in **Schedule B**

The different approaches have potentially significant consequences. As noted above, the first approach prohibits all persons from trading in real estate unless licensed or exempt from licensing. This prohibition applies whether or not a person is acting in a representative capacity. Thus, it would appear that all persons who undertake any of the activities embraced by the definition of “trade” (such as advertising real estate: see Schedule A-3) need to be licensed unless specifically exempted. The broad reach of this approach is clearly evident from the fact that a specific exemption from the licensing requirements is provided for, what may be termed, “sale by owner.”

The second approach focuses attention, not simply on trading in real estate, but on trading as a broker, agent or salesperson. Thus, licensing appears to be necessary only for those persons who act in a representative capacity (as broker, agent or salesperson as defined in relevant the regulatory framework). Consequently, if persons are not acting in a representative capacity when they undertake any of the activities embraced by the definition of trade (such as advertising), it would appear that they may do so with impunity.

Thus, one approach to addressing industry concerns relating to unregulated competition in, say, the advertisement of real estate for sale, is: first, to ensure that the definition of the term “trade” is sufficiently broad to catch all activities of concern; and, second, to prohibit trading unless licensed or exempt there from.

4. AGENCY RELATIONSHIPS AND AGREEMENTS

This section of the report deals with the degree to which the regulatory frameworks of the various jurisdictions, first, expressly recognize and treat the various agency relationships that may be encountered by licensees; and second, regulate agency agreements. The relevant provisions of the regulatory framework are to be found in Schedule C).

4.1 Agency Relationships

As noted above, few jurisdictions provide definitions of certain commonly encountered industry representation relationships such as “buyer” and “seller agency,” “agency agreement,” “brokerage agreements,” “listing agreements” and “dual agency” (see Table 2, above). However, no framework, other than that of QC with respect to residential listing agreements, attempts expressly to regulate any of these common relationships. Moreover, no regulatory framework recognizes, let alone seeks to define, other representation relationships, such as those of “presumed buyer agency,” “limited dual agency,” “designated broker” and “transaction broker,” notwithstanding that the first two relationships appear to be recognized by the industry.

On the positive side, neither the regulatory frameworks, nor the general law of agency, proscribe the foregoing relationships. Thus, resort may be had by the industry, if it so wishes, to:

- “**designated broker**” relationships to avoid the problems associated with dual agency in “in firm” transactions. However, this would require, as is appears to be implicit in the regulatory frameworks of the U.S. jurisdictions that use this designation, the establishment of a “Chinese Wall” between the licensees designated to represent the buyer, on the one hand, and the seller, on the other (as is discussed in the first report to the ATF, pp. 19-21). In fact, a form of the “designated broker” relationship already appears to be recognized by the industry under multiple listing arrangements in which the cooperating licensee is “presumed” to be (i.e. “designated” as) the buyer’s representative.
- “**transaction broker**” relationships to avoid the problems associated with dual agency where a single licensee represents both buyer and seller in a transaction. Again, a form of this representation relationship already exists in the “limited dual agency” and “middlemen” relationships that are already available to industry members (and discussed in the first report to the ATF, pp. 14-16).

No legislative approval is required to establish such relationships. However, some legislative change may be required to ensure that transaction brokers fall within some regulatory frameworks. The reason for this is that, if a transaction broker is not an agent (that is, does not act in a representative capacity), then such brokers, though engaged in trading (as that term is defined), do not strictly fall within the ambit of the definitions of broker or agent in frameworks that require licensing of only those persons:

- who trade as licensees (brokers or agents or salespersons), and

- whose definitions of these industry members stress their representative capacity.

In these jurisdictions, it may be argued that since transaction brokers do not trade in a representative capacity, they do not need to be licensed to trade. This argument would, of course, be open only to persons who trade solely as transaction brokers and, thus, may not create a significant problem. But it is an issue to which thought should be given. As suggested above, it could be simply resolved either by requiring that all who trade in real estate be licensed (unless exempted there from); or, in the alternative, by modifying the definitions of broker or agent to remove the requirement that they act in a representative capacity.

However, even if legislative recognition is given to the relationships of designated broker and transaction broker, and even if this recognition is accompanied with the rider that such relationships do not constitute “agency” relationships, or do not attract fiduciary obligations, the problems associated with dual agency will not necessarily be foreclosed.

Such riders will only be effective if licensees act strictly in accordance with the requirements of the particular representative role they have assumed. If they step beyond the boundaries of that role, they will again be confronted with the harsh reality of dual agency. Thus, in the final analysis, little will have changed. The designation attributed to a particular licensee by the court in the case of a dispute, will not necessarily be that which a licensee has selected for himself (and declared to the parties); rather, it will be the representation designation which most appropriately reflects the facts, how the licensee has in fact conducted himself or herself in a transaction. For, as noted in the first report to the ATF (at p. 11):

What [licensees] may intend, indeed, what [licensees] may have told the parties to a transaction, is not determinative. It is how [licensees] act and how their acts are perceived that is determinative. Nor is the label attached by sellers or buyers to their relationship with [licensees] conclusive where their representative capacity is called into question.

Consequently, it should not be assumed that mere legislative recognition of various alternate types of representation relationship is the answer to the current problems posed by dual agency.

Given the virtual absence of any recognition of different representation relationships in the regulatory frameworks it is not surprising that none seeks to list the obligations of licensees to clients and customers associated with these various possible relationships. All licensees, whatever the particular designation assigned to their relationship with client or customer, are subjected to the same obligations, unless these obligations are expressly excluded or modified by the parties to the representation agreement (as is presently the situation with “limited dual agency” agreements). However, in QC the ability of licensees seek a modification of clients’ rights in residential transactions is severely constrained.

However, and notwithstanding what has been said above, there is an advantage in regulatory frameworks explicitly recognizing the various representation relationships and setting out the (minimum) obligations and “services” associated with each. Such treatment would explicitly draw the attention of licensees and clients and customers to level of service and the obligations owed by the former to the latter.

4.2 Agency Agreements

While no regulatory frameworks, other than that of QC, regulate the various types of agency relationships that can exist between licensees and clients, as is shown in Table 4 below, a number do specify the form and minimum requirements of agency agreements, on the one hand, and listing agreements, on the other. However, with one exception (QC), no framework pays particular attention to the substantive contents of these agreements, merely requiring that, to be valid, they be in writing, contain an expiry date (and not more than one expiry date), and be delivered immediately on their execution to clients.

Table 4: Form & Contents

Provision	Jurisdiction
1. Prescribe minimum requirements for valid agency agreement	NS, SK
2. Prescribe minimum requirements for valid listing agreement	AB, MB, NB, NF, NT/NU, PE, YT
3. Prescribe minimum requirements for exclusive listing agreement	BC, MB, YT
4. Prescribe form and all substantive terms of residential listing agreements	QC

Note: Relevant provisions are reproduced in **Schedule C**

QC is an exception. Its regulatory framework specifies in considerable detail both the form and contents of, at least, listing agreements for residential properties. In essence, QC has legislated comprehensive standard form exclusive and non-exclusive contract, dealing even with issues such as: licensee obligations (in detail); licensee entitlement to remuneration; the rate of remuneration; the maximum duration of listings (30 days) if no expiry date is inserted; the maximum duration of over-holding periods (180 days); the inability of clients to waive the rights conferred by the framework; and “cooling-off” periods for clients.¹

While the frameworks of some jurisdictions provide for the adoption of various standard form agency agreements (see Table 11.2, below in section 11, which treats the regulatory powers of different industry bodies), it is unclear whether these must be utilized by licensees in their dealings with clients or whether they are merely to serve as model agreements. The assumption is that use of standard forms may be made mandatory.

In conclusion, given the growth in buyer agency relationships, those common law jurisdictions that regulate the form and minimum content of only listing agreements, should extend their frameworks to embrace buyer agency agreements. This could be simply achieved, as is the situation in NS and SK, by specifying in one provision the form and minimum requirements for all agency agreements. Of course, if a need is seen to prescribe the substantive terms of both seller and buyer agency agreements, then each agreement would have to be dealt with separately in the regulatory framework.

¹ Given the length of the relevant provisions they have not been reproduced in the schedule hereto but may be accessed at <http://www.acaiq.com/cgi-bin/WebObjects/AAVisuel.woa>.

5. DISCLOSURE OF REPRESENTATIVE CAPACITY

At common law, there is no obligation on agents to disclose to both parties to a transaction the representative capacity in which they are acting; indeed, undisclosed agency relationships (those in which customers are unaware that they are dealing with an agent) may exist. Nevertheless, there seems to be general agreement in the industry that there are benefits to requiring licensees to disclose to the parties to transaction the representative capacity in which the former are acting in relation to the latter. Such disclosure ensures that both clients and customers are put on notice as to who licensees represent and, thus, should be aware of the level of service that may be expected of them by each. Further, it directs the mind of licensees as to who are their clients and, therefore, whose interests should be of paramount importance. Finally, disclosure reduces (but does not foreclose) the risk that licensees will inadvertently find themselves in dual agency relationships.

Despite these advantages of disclosure, this matter is directly addressed in only few regulatory frameworks (see Table 5, below). Only three jurisdictions (AB, NS, ON) have imposed on licensees a general obligation (one owed to both client and customer) to disclose their representative capacity; in addition, in one (AB) licensees are under an obligation not to proceed with a transaction if there is any misunderstanding as to their role. This latter obligation is both wise and logical because, for licensees to proceed in such circumstances is almost to invite allegations of dual agency and litigation.

It will be noted from Table 5 that the only obligation that impacts on the issue of disclosure, that is the almost universal, is that to deliver to a seller a true copy of the listing agreement, an obligation that pre-dates the current concerns with respect to the disclosure of a licensee's representative capacity. This obligation was imposed to minimize the risks of disputes between sellers and licensees as to what they had actually agreed to (some persons, it seems, were tempted to modify, in their favour, the terms of listings). While these provisions may have been adopted for other purposes, it also serves to advise sellers of who are their representatives. However, buyers who have entered into representation agreements with licensees do not have the benefit of a parallel provision other than in NS (see # 3), and in AB, ON, where licensees are required to ensure that they obtain written representation agreement whenever possible (# 2).

Oddly, despite the considerable concern that dual agency has caused in the industry, it appears that only one common law jurisdiction (AB) (and QC in which licensees are not agents) has seen fit expressly to deal with it in its regulatory framework. Nevertheless, it is implicitly covered in the frameworks of those jurisdictions, referred to above (AB, BC, NS, ON), that have imposed on licensees a general obligation to disclose their representative capacity.

Table 5: Disclosure of Representative Capacity

Provision	Jurisdiction
1. Ensure written representation agreement when possible	AB, NS, ON, [CREA]
2. Not proceed with transaction where role of licensee unclear to a party	AB
3. Deliver true copy of agency agreement	NS, SK

4. Deliver true copy of listing agreement	AB,BC, NB, NF, NS, NT/NU, ON, YT
5. Act as dual agent only where full disclosure, implications understood and parties give written consent	AB, QC
6. Disclose change in representative status	BC
7. Disclose in writing part-time status of licensee prior to entering into agency	SK

Note: Relevant provisions are reproduced in **Schedule D**

It should be noted, in passing, that it would be unfair to licensees to make written representation agreements a mandatory pre-condition to representing clients or recovering remuneration. It is a fact of life that not all sellers and buyers are prepared to enter into such agreements, some hoping, no doubt, to benefit from licensees' efforts while not paying for them. Consequently, if it is felt desirable to make written representation agreements one of the conditions for recovery of remuneration, allowance should be made (as is the case in NS) for those situations in which licensees, through no fault of theirs, are unable to obtain such agreements from clients.

Finally, in one jurisdiction (SK), licensees who work only part-time in the industry are required to disclose this fact in writing. If clients and customers are entitled to know any limitations in the experience and expertise of the licensees with whom they are dealing, such a requirement serves a useful purpose.

6. DUTIES OWED TO CLIENT

The regulatory frameworks of most jurisdictions impose on licensees a range of duties to their clients (see Schedule E for the provisions of each jurisdiction). However, again, little uniformity is evident in the specific substantive matters dealt with or in the manner in which they are treated. In fact, only the AB Industry Council has chosen to group in one place in its rules the main obligations owed to clients, but even here additional obligations are found elsewhere in the legislation and rules.

In this review, an attempt has been made to distinguish between licensees' fiduciary obligations (Table 6.1, below) and other obligations (see Tables 6.2 to 6.4, below) to clients. As will be evident, a broad range of obligations are recognized, but few are common to all, or even nearly all, jurisdictions.

However, before proceeding to a consideration of these obligations, it should also be noted that certain of these obligations are dealt with elsewhere in this report given they are also owed, in whole or in part to customers. These obligations are those concerning:

- disclosure of representative capacity (see section 5, above);
- common duties (those owed to clients and customers: see section 8, below); and
- licensee remuneration and costs (see section 9, below).

6.1 Fiduciary Obligations

In Table 6.1, below, are grouped those obligations which are more traditionally viewed as “fiduciary obligations,” with the exception of disclosure of dual agency which, as noted, has already been dealt with (in section 5) under the general rubric of disclosure of representative capacity.

Only in one, the AB regulatory framework, is specific reference made to licensees’ “fiduciary obligations,” and is there an attempt to group them in one place. While one may quibble with whether all of the obligations identified as such strictly qualify as “fiduciary obligations,” there is much to be said for listing separately licensee obligations: (i) to clients; (ii) to customers; and (iii) common to both parties. Such an approach helps to under-score and clarify both the range and intensity of the obligations owed licensees to the different parties.

All of the fiduciary obligations found in the various regulatory frameworks reflect obligations found in the general law of agency. The only notable differences concern the form in which disclosure must be made and the need for client consent. At common law no particular form of disclosure is required as long as the necessary disclosures are made; however, in most situations calling for disclosure in the frameworks, the disclosure must be made in writing. There is much to be said for this “amendment” to the common law as it reduces the risk of dispute as to whether disclosure was in fact made.

Table 6.1: Fiduciary Obligations

Provision	Jurisdiction
1 Fulfill fiduciary obligations to client	AB
2. Primary responsibility is to promote interests of client	AB, NS, ON, QC, SK, [CREA]
3. Ensure client in vulnerable position receives independent advice	AB
4. Disclosure on purchase of interest in property listed with licensee	AB, BC, MB, NB, NF, NS, NT/NU, ON, PE, QC, SK, YT, [CREA]
5. Disclosure on sale of property owned by licensee to client	AB, MB, NB, NS, NT/NU, SK, YT, [CREA]
6. Ensure any trade by licensee with client is fair, conflict of interest disclosed & client given reasonable opportunity to obtain independent advice	AB
7. Disclose any associations licensee may have with any other person involved in transaction	AB, BC
8. Disclose any direct or indirect conflict of interest with client	AB
9. Disclose financial details and any personal interest licensee may have so	ON

client may make informed decision	
10. Not accept compensation from party other than client without latter's consent	AB, BC, NS, SK, [CREA]
11. Not accept rebates on expenditures made for client without latter's consent	NS, [CREA]
12. Exclusive licensee to use cooperating brokers only at client's request	NS, QC SK
13. Co-operating licensee must deal only with client's agent	NS, SK

Note: Relevant provisions are reproduced in **Schedule E-1**

Moreover, at common law mere disclosure, in whatever form, is not sufficient to meet an agent's fiduciary obligation of disclosure; the disclosure must also be accompanied by the consent of the client to the proposed "conflict" situation. The need for clients' consent is not consistently found in the regulatory frameworks. This could result in licensees misunderstanding the full scope of their obligations in conflict situations. Thus, for example, where one provision calls for both written disclosure and consent, and another merely calls for written disclosure, licensees may (incorrectly) believe in the latter instance that, provided they have made the necessary disclosure, they may proceed in conflict with their clients' interests in the absence of consent.

The first two obligations (## 1 & 2) in Table 6.1, (one of which is only mentioned in the AB regulatory framework), state the obvious. They nevertheless serve a useful purpose in reminding licensees of their most important, all embracing, duty clients. The third (# 3), again only found in AB, touches on an issue that is not so apparent; that licensees should recommend clients seek independent advice when it is reasonably obvious to the former that the latter are vulnerable to exploitation in a transaction and licensees are not in a position to protect them. Such may arise, for example, where a client appears not to understand fully the nature or the terms of a transaction or questions arise as to the legal competency of the client.

The next eight obligations (## 4-11) all address real or potential conflicts of interest that may arise between licensees and their clients. These obligations, in the main, address particular conflict situations that are recognized in the common law of agency that appear to be of particular concern to the few jurisdictions that have felt they are of sufficient significance to expressly include them in their regulatory frameworks. Only two (## 4 & 5) are to be found in the regulatory frameworks of most jurisdictions. Licensees' obligation of disclosure on the purchase of clients' properties are found in all jurisdictions; however, only eight jurisdictions impose an obligation of disclosure where licensees sell property, in which they have an interest, to clients. What is noteworthy is the difference in treatment of these obligations in the various regulatory frameworks:

- in some, the issue of disclosure on licensee purchases and sale is covered in great detail;
- in other jurisdictions the frameworks specify what must be disclosed as a minimum;
- yet in others, the obligations are stated in very general terms.

Whatever the approach, the case law suggests that the disclosure requirements found in the regulatory frameworks do not displace licensees' common law fiduciary duty of disclosure.

Thus, at best, the frameworks merely provide some guidance as to the situations in which, and the matters of which, disclosure must be made.

The last two obligations (## 12 & 13), found only in three jurisdictions (NS, QC, SK), are consistent with the common law duty of agents personally to perform their mandates unless authorized by their clients to delegate, in whole or in part, their duties. For licensees to use the services of co-operating licensees without the authorization of their clients *prima facie* constitutes a breach of their obligation not to delegate performance of their mandates. The additional requirement that co-operating licensees deal only with sellers' (listing) licensee assists in avoiding the claim that co-operating licensees are the sub-agents, and fiduciaries, of the seller and, therefore, dual agents if they are representing buyers in transactions. By dealing only with sellers' licensees the risk that co-operating licensees will acquire confidential information from or be seen to be the trusted advisor of sellers is minimized. Indeed, this latter obligation (# 13) should be uniformly imposed to reduce the potential for dual agency situations to arise in MLS transactions (a potential problem identified in the first report to the ATF).

6.2 Confidential Information

Table 6.2: Confidential Information

Provision	Jurisdiction
1. Preserve confidential information unless legally obliged to disclose or has client's consent	AB, NS, ON, QC
2. Not misuse confidential information	AB, QC

Note: Relevant provisions are reproduced in **Schedule E-2**

Although licensees obligations to preserve confidential information and not to misuse (whether for their or a third party's advantage) such information, constitute part of licensees fiduciary obligations, they have been dealt with separately given their importance. However, as is evident from Table 6.2, above, these obligations, are found in only few regulatory frameworks. As formulated, they reflect the rules of common law agency on this issue. Nevertheless, they again serve the useful purpose of drawing the attention of licensees to the matter of confidential information and, in # 1, indicate the situations in which such information may be disclosed to third parties.

6.3 Appraisals and Evaluations

A few regulatory regimes single out for special attention the obligations owed by licensees to clients when requested to undertake an appraisal or evaluation of property (see Table 6.3, below). The first three (## 11-3) are simply specific proscriptions that reflect the standard of care owed by licensees when asked to engage in such activities; even where the regulatory frameworks do not treat these issues, licensees are expected by the general law of agency to conduct themselves in such a manner.

The last obligation (# 4), flows from licensees general fiduciary obligation to avoid all potential conflicts of interest with clients. As worded, licensees appear to be prohibited from providing appraisals and evaluations for other industry members where a conflict arises even though they

have made disclosure of the conflict to their clients and received their clients’ consent to such appraisal or evaluation. This clearly extends the common law rules governing licensee conduct in conflict of interest situations; an extension that may well be warranted given the experiences of the jurisdictions that have adopted the proscription.

Table 6.3: Appraisals and Evaluations

Provision	Jurisdiction
1. Not undertake appraisal/evaluation if beyond expertise without another’s assistance	NS, ON, [CREA]
2. Not undertake appraisal/evaluation if beyond expertise without client consent	NS, SK, [CREA]
3. Provide appraisal/evaluation only after careful analysis and interpretation of all factors	NS, QC
4. Not undertake appraisal/evaluation for another licensee where conflict of interest	AB, NS, SK, [CREA]

Note: Relevant provisions are reproduced in **Schedule E-3**

6.4 General Obligations to Clients

A few regulatory frameworks identify a number of, what are here termed, “general obligations,” for want of a better descriptor, owed by licensees to clients (see Table 6.4, below).

Most of these duties reflect what, at common law, would be expected of a reasonable, competent industry member according to the rules of agency law. All, but one, require no particular comment. The exception is # 7, the NS requirement that licensees disclose latent defects to other licensees. The generality of this obligation suggests that disclosure must be made to all other licensees, irrespective of whom they represent; and of all latent defects, irrespective of whether a seller would, or would not, be legally obliged to disclose them. As suggested in the first report to the ATF (pp. 31-37), such a broad obligation of disclosure may place licensees in a position of conflict with their seller clients. If the obligation is restricted in application to disclosure to co-operating licensees who are acting as sub-agents, and fiduciaries, of sellers, there is no problem (unless the co-operating licensees are acting as dual agents). However, if the obligation is owed to buyers’ licensees then the problem raised with respect to Property Disclosure Statements in the first report to the ATF must again be confronted. Such an obligation can only be viewed as an attempt to modify the common law obligation of disclosure of sellers and, by extension, their licensees. Such “reform” of the common law is, arguably, beyond the authority of Industry Councils as it affects not only the rights and obligations of industry members but also those (sellers) who interact with them; and Councils would appear to have no authority over the latter.

Table 6.4: General Obligations to Clients

Provision	Jurisdiction
1. Obey lawful instructions	AB
2. Act within scope of authority	AB
3. Be informed of essential facts to be able to counsel client	NS, QC, [CREA]
4. Discover facts pertaining to property	NS, ON, SK
5. Disclose relevant information	AB
6. Disclose latent defects to client	NS
7. Disclose latent defects to other licensees	NS
8. Present offers, etc. promptly unless otherwise instructed	AB, NS, QC
9. Not knowingly permit illegal use of property within licensee control	NS, [CREA]
10. Not allow unauthorized access to property within licensee control	AB
11. Assign work only to competent and authorized staff	AB, QC
12. Not advertise without seller's consent	BC, NS, SK [CREA]
13. Not erect signs without seller's consent	BC, NS, SK

Note: Relevant provisions are reproduced in **Schedule E-4**

7. DUTIES TO CUSTOMERS

At first sight, the regulatory frameworks appear to impose few obligations on licensees that are owed specifically to customers (see Schedule F). This, however, is misleading as the frameworks impose a range of obligations on licensees that are owed to the parties to real estate transactions, no differentiation being made between “clients” and “customers.” What differentiation exists is between “buyers” and “sellers.” The, what may be termed, “common duties” are considered in section 8, below. The obligations identified as “customer” obligations are to be found in Tables 7.1 and 7.2, below.

Again, it should be observed that the duty of licensees to disclose their representative capacity, a duty owed to both parties to a transaction, is treated separately in section 5, above.

7.1 General Duties to Customers

Table 7.1: General Duties to Customers

Provision	Jurisdiction
1. To act fairly, honestly & with integrity	AB, NS, ON, SK, [CREA]
2. Be informed of pertinent facts to assist customer	NS, [CREA]
3. Avoid error, misrepresentation, etc.	NS, ON, SK, [CREA]
4. Disclose existence, but not terms, of multiple offers	AB, NS

Note: Relevant provisions are reproduced in **Schedule F**

These obligations, in the main reflect those imposed on agents by the common law. The only obligation in Table 7.1, above, that requires some comment is the last (# 4), namely, to disclose only the existence, but not the terms, of competing offers. The limited nature of this obligation prompts the question: is a licensee acting in the best interests of a client by withholding from competing customers the highest price offered to date for the client’s property? Surely it is in the interests of clients for a licensee in effect to conduct an “auction” of the property – with the property going to the highest bidder.

7.2 Disclosure on Purchase or Sale

The only other duties that may be identified as customer duties are those that concern licensees’ obligations of disclosure when acquiring property from, or selling their property to, persons other than their clients. The treatment of these issues in the regulatory frameworks, as is evident from Table 7.2, below, is neither universal nor uniform.

Table 7.2: Disclosure on Purchase or Sale

Provision	Jurisdiction
1. Disclosure on acquiring or seeking to acquire interest in property whether or not for resale	AB, BC, NB, NS, NT/NU, ON, SK, [CREA]
2. Disclosure on acquiring or seeking to acquire interest in property for resale	QC, SK
3. Disclosure on sale of property in which licensee has interest	AB, MB, NS, NT/NU, ON, SK, [CREA]
4. Disclose when representing another licensee in a transaction	AB

Note: Relevant provisions are those already reproduced in **Schedule E-1**

While the disclosure called for must be in writing, in some jurisdictions it is imposed whenever a licensee is selling property to, or buying property from, non-clients; in others it only applies when licensees are buying property whether or not for resale; and in two jurisdictions (QC, SK)

the obligation appears to arise only arises when licensees are buying property for resale.

Finally, in one (AB), a licensee, representing another industry member in a transaction, must disclose that fact that he is thereby preventing licensees attempting an end-run around the disclosure requirements by appointing a colleague to act for him with instructions not to disclose the purchaser's name.

All of these provisions extend the common law obligations of agents. Under the general law of agency, licensees would not be required to make any special disclosures when purchasing property either for their own use or resale, or for undisclosed clients.

8. COMMON DUTIES (OWED TO BOTH CLIENT & CUSTOMER)

The regulatory frameworks contain a range of common obligations, that is, obligations owed to both clients and customers. These are considered below, an attempt having been made to group the obligations imposed according to subject matter. (The relevant provisions are reproduced in Schedule G.)

8.1 Standards of Conduct

Table 8.1: General Standards of Conduct

Provision	Jurisdiction
1. Render skilled and competent service	AB, NS, ON, QC, [CREA]
2. Seek assistance or refuse to act if unable to provide appropriate service	AB, NS, QC, [CREA]
3. Take reasonable steps to discover facts pertinent to property to avoid error, misrepresentation, etc.	NS, ON, QC, SK, [CREA]
4. Perform functions with prudence, diligence and competence	QC
5. Disclose any fact unfavourable to the parties	QC

Note: Relevant provisions are reproduced in **Schedule G-1**

The standard of conduct expected of licensees (how they must act) when interacting with clients or customers are specified in some of the frameworks. The standards imposed are consistent with the common law standard of care demanded of licensees, namely, to conduct themselves as would ordinary and prudent licensees, or “knowledgeable and well trained” licensees in the same or similar circumstances. The standard is the same whether a licensee is dealing with a client or customer. Thus, these provisions can be seen as “codifications” of a common law obligation.

Worthy of particular note is the QC requirement that licensees disclose to seller and buyer any fact that is unfavourable to them. However, it must be understood that licensees in this jurisdiction are not considered to be agents. Such a broad obligation in a common law

jurisdiction, as discussed in the first report to the ATF in relation to Property Disclosure Statements, would potentially place licensees in a “Catch-22” situation given their fiduciary duty to act solely in their clients’ best interests. For such a broad duty of disclosure to be effective in all other jurisdictions it would have to be enacted by statute or regulation as they are the only regulatory instruments through which an amendment to the common law principles of agency, and the law of vendor and purchaser, can be effectively accomplished (in the absence of express delegation of this power to an Industry Council).

8.2 Obligations Respecting Documents

Some may describe the obligations found in Table 8.2, below, as “common sense” obligations; nevertheless, there is a useful purpose to be served in having such provisions even though they may state the obvious (such as # 5). With few exceptions (see ## 7 & 8), such obligations are to be found in the rules of Industry Councils.

Table 8.2: Obligations Respecting Documents

Provision	Jurisdiction
1. Ensure all agreements are in clear and understandable language	NS, SK, [CREA]
2. Not create documents that are confusing and not legally binding	AB
3. Ensure that agreements express specific terms, obligations and commitments of the parties	NS, ON, [CREA]
4. Not dictate terms of an agreement	AB
5. Not to make or assist in making any fraudulent or misleading document or representation	AB, NS, ON, SK
6. Use approved forms	MB, NS, ON, SK
7. Present all offers promptly	AB, BC, MB, NB, NS, NF, NS, NT/NU, ON, SK, YT, [CREA]
8. Delivery of certain documents on sale of business	BC, NF, PE

Note: Relevant provisions are reproduced in **Schedule G-2**

The importance of clear, unambiguous and understandable language must not be under-estimated for it is accepted that, where uncertainty exists in the meaning of the terms of contracts and other documents, the documents will be interpreted *contra proferentum* – that is, they will be given the interpretation that is most favourable to the party not responsible for their drafting. Thus, ambiguities and uncertainties in: representation agreements will be given an interpretation that favours the client(s); and, agreements of purchase and sale an interpretation that favours the customer(s). In either event the end result for licensees could be loss of their right to remuneration and, as the case law suggests, even liability to their clients or customers.

To minimize the risk of lack of clarity in the everyday documents used by licensees, there is

much to be said for mandating the use of standard forms. However, rarely can these forms be “writ in stone” since they must be able to accommodate the requirements of particular transactions. One such form that is virtually “writ in stone,” is the listing agreement used in residential transactions in QC (discussed above, in section 4.2). Other jurisdictions provide in their regulatory frameworks for the adoption of a range of standard forms. An alternative, compromise, approach is for the framework to provide a list of the matters that particular forms must, at a minimum, address. However, if there is a desire to minimize disputes over the contents and interpretation of forms, then recourse should be had to mandated forms that permit the parties to introduce certain modifications.

8.3 Disclosure of Transactions Costs

Some regulatory frameworks impose on licensees a range of particular obligations with respect to the matters of transaction costs and referrals. Those dealing specifically with licensee remuneration and referral fees are considered below in section 9. In Table 8.3, below, several obligations of licensees concerning disclosure of various costs associated with transactions are identified.

Table 8.3: Disclosure of Transactions Costs

Provision	Jurisdiction
1. Disclose cost of services	AB, ON, SK
2. Disclose any fees, etc. payable by a party prior to signing of any agreement	AB, NS, ON, SK, [CREA]
3. Written disclosure of non-refundable fees prior to payment	AB

Note: Relevant provisions are reproduced in **Schedule G-3**

While at common law, most such obligations would normally be owed solely to clients, their formulations in the frameworks appear not to be so restricted, the wording suggesting that they are owed to both clients and customers. With respect to the latter, these provisions impose obligations on licensees that are not imposed by the common law of agency; however, they do not appear to place licensees in a position of conflict with their clients.

The lack of uniformity in the matters addressed by the different regulatory frameworks under this rubric, and the fact that few have seen fit to deal with these issues, is notable. Perhaps, the provisions reflect recurring local problems.

8.4 Transaction Funds

All regulatory frameworks impose a range of obligations on licensees with respect to the handling of transaction moneys (see Table 8.4, below). These provisions constitute a significant departure from the common law principles of agency under which, absent a special arrangement to the contrary, all moneys coming into a licensee’s possession are generally deemed to be the money of the client. Thus, at common law, as a general rule, it would be the client who both bears the risk of loss or misappropriation of those funds by licensees, and is answerable to the customer should the latter be entitled to recover the moneys.

All frameworks require licensees to maintain trust accounts, pay transaction moneys there into, and disburse the moneys only to the party (client or customer), entitled to it. In essence licensees are made trustees, or to use BC terminology, stakeholders, of the funds.

In addition, most jurisdictions (the exceptions appear to be PE and YT) also expressly treat the matter of interest earned on trust moneys. Licensees liability to the parties for this money is limited, turning on whether an agreement has been reached regarding entitlement to interest or whether the transaction moneys have been deposited in a separate account. One framework (NB) requires licensees to advise parties in certain transactions that the transaction moneys may be deposited in an interest bearing account for their benefit

Table 8.4: Transaction Funds

Provision	Jurisdiction
1. Deposit transaction moneys in trust account	AB, BC, MB, NB, NF, NS, NT/NU, ON, PE, QC, SK, YT
2. Disbursement of moneys to party entitled	AB, BC, MB, NB, NF, NS, NT/NU, ON, PE, QC, SK, YT
3. Disburse interest to party in certain limited situations.	AB, BC, MB, NB, NF, NS, NT/NU, ON, QC, SK
4. Advise party that money may be deposited in interest bearing account in certain cases	NB

Note: Relevant provisions are reproduced in **Schedule G-4**

8.5 Miscellaneous Obligations

The regulatory frameworks also contain a number of, what may be termed, miscellaneous common obligations (see Table 8.5, below). Again these obligations are self-explanatory, although two (## 2 & 3) clearly constitute modifications of the common law rules of agency in which there are no rules that address these matters.

The first obligation (# 1), which is a restatement of the common law rule that prohibits wrongful interference with contractual relations, is to be found in the statutes regulating the industry in all jurisdictions but NT/NU and YT; and the second (# 2) in all jurisdictions but NT/NU. Licensee obligations with respect to “guaranteed sales” (# 3) are also to be found in the frameworks of five jurisdictions (AB, NT/NU, SK, YT). The remaining obligations are to be found in the rules of a few of the Industry Councils.

Table 8.5: Miscellaneous Obligations

Provision	Jurisdiction
1. Not to induce breach of contract	AB, BC, MB, NB, NF, NS, ON, PE, SK
2. Not to make certain promises unless in writing	AB, BC, MB, NB, NF, NS, ON, PE, QC, SK, YT
3. Not to guarantee sales unless certain requirements met	AB, NT/NU, SK, YT

4. Not engage in misleading advertising	BC, NS, ON, SK
5. Ensure referral is to authorized person	AB, QC
6. Not to recommend only one specific service provider	NS
7. Not conceal latent defects or pertinent facts	AB, QC
8. Not discourage a party from seeking professional (legal) advice	AB, NS, ON, SK, [CREA]
9. Not to discriminate	NS, ON, QC, [CREA]
10. Not to engage in abusive behaviour	NS, ON, QC

Note: Relevant provisions are reproduced in **Schedule G-5**

It may be noted with respect to # 7 (duty not to conceal latent defects), that under the common law such concealment would constitute fraud on the part of a licensee. However, the duty does not require disclosure of all such defects and is thus consistent with the common law.

Finally, with respect to # 9 (the prohibition of discrimination), it may be observed that it only applies to the provision of services by licensees; it does not, of course, necessarily prohibit discrimination by clients, at least in the domestic residential market, who may decide who they wish to deal with.

9. REGULATION OF REMUNERATION AND COSTS

One of the few obligations that clients owe licensees is to remunerate the latter on the fulfillment of their mandates. At common law, the only prerequisites to recovery of commission by licensees is that they be able to establish the existence of a contract of agency and the occurrence of the event on which payment of their remuneration was contingent. Moreover, the common law placed no constraints on the manner in which licensee remuneration may be established.

This, however, is not the situation in any jurisdiction – the regulatory frameworks of all impose a number of constraints, in addition to those that exist at common law, in relation to:

- the manner in which licensees’ remuneration may be established;
 - the rights of licensees to recover commission;
 - the events on which a remuneration otherwise earned may be with-held from licensees;
- and
- the disclosure of the costs of transactions.

As is evident from the following discussion there is no uniformity amongst jurisdictions as to the nature and number of constraints imposed. The full text of the regulatory framework of each jurisdiction relevant to the following discussion is to be found in Schedule H.

9.1 Constraints on Computation of Commissions

The greatest uniformity of treatment evident amongst jurisdictions is in the treatment of the computations of commissions. However, no provisions dealing with this issue exists, as yet, in the new Ontario regulatory framework.

Table 9.1: Computation of Remuneration

Provision	Jurisdiction
1. Percentage of sale or agreed amount	AB, BC, MB, NB, NF, NS, NT/NU, ON, PE, SK, YT
2 Express prohibition on commission being difference between listing and sale price	AB, BC, MB, NB, NF, NT/NU, ON, PE, QC, SK, YT
3. Rate where no agreement	AB, BC, NB, NF, NT/NU, ON, PE

Note: Relevant provisions are reproduced in **Schedule H-1**

As is evident from the Table 9.1, above, all require that licensee remuneration be determined either as a fixed amount or a percentage of the sale price. This limitation is also implicit in the QC framework given the legislated listing agreement only allows for licensee remuneration to be determined by one of these methods. In addition a number expressly proscribe agreements whereby licensees receive by way of remuneration any excess over the listing price that may be realized on the sale of a client's property.

A number of jurisdictions also establish the manner in which licensees' remuneration is to be established if they and their clients have not turned their minds to the matter. In such event the remuneration payable by clients is that which is usual or customary in the locality for that type of transaction. In YT it is expressly provided that the remuneration may not exceed five percent of the sale price.

An interesting question that arises from the foregoing provisions is whether they implicitly have the effect of precluding "fee for service" arrangements where the fee is to be determined by the level of the services provided to a particular client.

9.2 Constraints on Recovery of Commissions

As is evident from Table 9.2, below, considerable variance exists amongst jurisdictions with regard to the pre-requisites that licensees must establish before they can seek the assistance of the courts in the recovery of remuneration in the event of a dispute with a client.

Table 9.2: Constraints on Recovery of Remuneration

Provision	Jurisdiction
1. Licensed or registered when services rendered (unless exempt)	AB, BC, NB, NF, NT/NU, PE, SK, YT
AND at least one of the following	
2A(i). Written agreement	AB, NB, NF, NS, PE, SK, YT

2A(i). Written agreement and transaction completed or client defaults	SK
2A(ii). Listing agreement, buyer's agency agreement, some other form of written agreement	NS
2A(iii). Commission sharing agreement	AB, NS
2B(i). Obtained a binding agreement between seller and purchaser	NF, NS, PE
2B(ii). Obtained a binding agreement between seller and purchaser and transaction completed or client defaults	AB, SK, YT
2C(i). (Expired) listing but introduced purchaser to seller or property during currency	NF
2C(ii). (Expired) listing but introduced purchaser to seller or property during currency and transaction completed	NB, PE

Note: Relevant provisions are reproduced in **Schedule H-2**

9.2.1 Licensing

As the summary in Table 9.2, above, discloses the only pre-requisite, of universal application to licensees instituting actions for the recovery of remuneration is that of licensing. Although there appears to be no equivalent provision in MB, ON, NS and QC, it is implicit in their regulatory frameworks that licensing is a prerequisite to recovery of remuneration. It may also be noted that the BC framework also expressly provides that licensing is a prerequisite to the recovery of any expenditures made by a licensee in relation to a transaction (although this arguably is implicit in the provisions of other jurisdictions).

In BC and NT/NU possession of a valid license appears to be the only explicit formal pre-requisite imposed by their regulatory frameworks on a licensee's right to initiate an action for remuneration.

It may be noted that the case law suggests that both the person rendering the services for which a remuneration is sought and the person bringing the action (where different as where the services are rendered by a salesperson and the action is brought by the employer) must either have been licensed (or exempt there from) at the appropriate time.

9.2.2 Other pre-requisites to recovery

Beyond the requirement of licensing, there is little uniformity in the provisions of the regulatory frameworks governing licensees' entitlement to sue for remuneration. In only a few jurisdictions are licensees and their clients provided with the option to determine for themselves the event(s) on which remuneration will be payable; they are those (AB, NB, NF, NS, PE, YT, and, with respect to commercial/business transactions, SK) in which an action for remuneration can be based simply on a written agency agreement between licensee and client. It is implicit, if not explicit, in some provisions that the written agreement may be with seller or buyer.

In NB it is implicit that licensees must at least also have a written agreement to bring an action for remuneration. The reason for this is that the framework in this jurisdiction expressly regulates the circumstances under which licensees can seek to recover remuneration under expired listing agreements. There are no references to other forms of representation or representation agreements in the framework. Thus, it is open to speculation as to what is the position of licensees who represent buyers; and, indeed, whether listing agreements are the only form of representation agreement that are recognized in this jurisdiction.

In situations where licensees are not relying on a written representation agreement, the regulatory frameworks specify the circumstances in which an action for remuneration may be instituted. On their face these other pre-requisites vary considerably. The discrepancies, however, are more apparent than real since there is a tendency in remuneration disputes, other than those based on written agency agreements referred to above, for the courts to add the additional requirements that the transaction either be completed or fail due to the fault of the client. These additional requirements are expressly reflected in the frameworks of a number of jurisdictions (AB, SK, YT). Perhaps thought should be given to amending the requirements in other jurisdictions to reflect this reality.

It should be noted that three regulatory frameworks (NB, NF, PE) allow for the recovery of remuneration under “expired” listing agreements. These provisions provide some protection to licensees who cannot benefit from an “over-holding” clause. Again these provision have been interpreted by the courts to also necessitate completion of the transaction or its failure due to the client’s fault; requirements expressly reflected in part in the PE framework. In light of the near universal use of “over-holding” clauses in representation agreements, one can question the continued utility of this provision since express “over-holding” clauses in representation agreements appear to take precedence over the regulatory frameworks. However, if such provisions are to be retained, thought should be given to (in NB, NF) to their extension to buyer agency agreements (since at present they only benefit sellers’ agents), and (in NF) their amendment to reflect the need for completion of the transaction or its failure due to the client’s default before remuneration can be recovered.

It should also be noted that the QC framework also explicitly regulates the rights of licensees to recover remuneration on the cancellation of a listing agreement.

9.3 Other Constraints on Recovery

Some regulatory frameworks impose certain additional constraints on the rights of licensees to recover remuneration. These, shown in Table 9.3, below, are self-explanatory.

Table 9.3: Other Constraints on Recovery

Provision	Jurisdiction
1. Constraints if property subject to exclusive listing agreement	MB, NF, NS, NT/NU, PE, SK
2. No recovery on guaranteed sales	NT/NU
3. No recovery on purchase of, or sale to, client	MB

Note: Relevant provisions are reproduced in **Schedule H-3**

9.4 Disclosure of Remuneration and Fees

In addition to the imposing constraints on the right of licensees to recover remuneration from their clients, a number of regulatory frameworks, as shown in Table 9.4, below, impose: first, additional obligations concerning the disclosure to clients, or potential clients, of a range of financial issues, some involving the need for consent; and, second, constrain or define the circumstances in which licensees can seek and retain remuneration or fees from persons other than their clients.

It will be noted that in most, but not all, instances the disclosure of information must be made in writing; however, there is no reciprocal requirement that in all situations clients acknowledge receipt of the information or consent in writing. Such would be advisable to avoid the risk of disputes as to whether disclosure was made or of the facts disclosed.

Finally, the NB provision, treating the matter in # 6, is somewhat limited in scope as it appears to deal only with arrangements reached by licensees with lawyers and lenders and unconditionally prohibits referral arrangements with the former.

Table 9.4: Disclosure of Remuneration & Fees

Provision	Jurisdiction
1. Disclosure of commission in offer	MB
2. Written disclosure of commission sharing arrangement and receipt of referral fees	BC, QC
3. Disclose details concerning referral fees	AB, BC
4. Disclose financial benefits received for recommending products, services	BC, NS, ON, [CREA]
5. Not accept rebates without client's consent	NS, [CREA]
6. Written disclosure of and consent to receipt of remuneration from party other than client	AB, MB, NB, NS, SK, [CREA]
7. Written disclosure of any compensation arrangement that creates conflict of interest with client	ON, QC
Note: Prohibition of misrepresentations as to how commissions established etc.	AB

Note: Relevant provisions are reproduced in **Schedule H-4**

10. DISCLOSURES: SOME COMMENTS

As is evident from the discussion and the various Tables, the obligation of disclosure is a recurring, and important, theme in the regulatory frameworks. Disclosure is required of licensees

with respect to a range of matters, such as:

- their representative capacity;
- on purchase of property by licensees;
- on sale of property owned by licensees ;
- various conflicts of interests situations;
- the costs of services; and
- the commission to be charged.

However, there is no uniformity in the treatment of this issue between regulatory frameworks, and even within individual frameworks. For example, one can find provisions that require:

- that licensees merely disclose certain information (without more);
- the disclosure to be in writing;
- the disclosure to be in writing and specify what must, at a minimum, be disclosed;
- licensees obtain an acknowledgement of the disclosure, sometimes written, from their clients; and
- licensees also obtain the consent, sometimes written, of their clients.

This lack of uniformity, especially within a single regulatory framework, can lead to confusion in licensees as to what is required in particular situations calling for disclosure. Moreover, no framework informs licensees that its disclosure requirements do not displace the common law disclosure requirements, which may be (considerably) more exacting. This again may lead to licensees believing, not unreasonably, that the scope of their duty of disclosure is exhaustively defined by the provisions in the framework.

Similarly, with the exception of BC, no regulatory framework, advises licensees that the duty of disclosure is an on-going duty requiring continuing disclosure as facts and circumstances change with regard to the matter of which disclosure must be made. However, the ongoing duty of disclosure in the BC framework appears to be limited to disclosure of changes in information that licensees are required by the framework to disclose.

Consequently, it would appear to be advisable for all regulatory frameworks to contain a general provision that specifically addresses the matter of disclosure and sets out, at least, the minimum requirements for an effective disclosure. Thus, for example, the provision could specify the need for:

- all disclosures to be in writing;
- disclosure be of all facts that may be likely to influence a client's decision in the matter in question;
- all disclosures to be acknowledged in writing, whenever possible, by the party to whom it is made (thus allowing for situations in which clients or customers may refuse to sign an acknowledgement);
- clients' written and informed consents before proceeding in any situation involving conflicts of interest (again allowing for situations in which clients refuse to give their consent in writing);
- the need for consent before proceeding when, at least, a conflict of interest may exist;
- on-going disclosure of all relevant matters that arise after the initial disclosure has been made, accompanied by written acknowledgement and, where necessary, renewed consent; and

- compliance with any additional requirements that may be called for by the common law rules governing disclosure.

Such a provision would inform licensees not only of the importance of the issue of disclosure, but would also guide them as to what is required for disclosure to be effective. Compliance with the provision would also reduce the potential for disputes between clients and licensees as to whether disclosure was made and as to the matters disclosed.

Moreover, thought might be given to specifying, in provisions imposing a duty of disclosure with respect to particular issues, the types of facts that, at a minimum, must be disclosed (as is done in some of frameworks with respect to the purchase or sale of property in which licensees have an interest).

11. REGULATORY POWERS OF GOVERNMENT AGENCIES AND COUNCILS

In the following discussion regard is had, first, to the locus of delegated power to regulate the activities and conduct of licensees when acting in a representative capacity (Table 11.1, below); and, second, to the matters with regard to which these powers may be exercised (Table 11.2, below). Again the full text of the relevant provisions is to be found in Schedule I.

As is evident from Table 11.1 all regulatory schemes, with two exceptions (NT/NU) delegate powers to a government agency, Industry Council or both, to regulate explicitly some matters relevant to the present discussion. (However, as is seen below there is considerable variance between jurisdictions as to the matters explicitly addressed by these powers.)

Table 11.1: Distribution of Regulatory Powers

Provision	Jurisdiction
1. No specific relevant powers treated in regulatory framework	NT/NU
2. Powers vested in government agency	MB, NB, NF, ON, PE, YT
3. Powers vested in Industry Council	AB, NS, QC
4. Powers vested in both government agency & Industry Council	BC, SK

The source of the power is important when regard is had to the issue of amendments to the frameworks. While all amendments have to follow an appropriate procedure, it is usually quicker and simpler for an Industry body to effect changes itself than to seek change from a government agency that has to deal with a number of constituencies and a broader range of, sometimes more pressing, concerns. In addition, having regulatory powers vested in Industry Councils ensures that a body that possesses intimate knowledge of and expertise in matters requiring regulation, and who are in a position to react to issues as the need arises, is given control.

In Table 11.2, below, an attempt has been made to identify the division of powers between

regulatory bodies – who has authority over what matters. There appear to be no situations in which both bodies have authority over the same matter; indeed it appears that in the four jurisdictions that have well established Industry Councils (AB, NS, QC, SK), the relevant regulatory powers have been delegated to the Council.

The matters over which regulatory powers are conferred on government agencies and Industry Councils are identified in Table 11.2, below. These matters range from the very general (## 1-3) to the very specific (e.g. ## 6, 7, 12-14). This occurs within regulatory frameworks such as, for example, those in AB, NS, SK all of which confer on their Industry Councils the authority to establish standards of conduct and codes of ethics (# 1), as well as the authority, say, to prescribe standards for agency relationships and agreements (# 3 - NS, SK), and to prescribe forms (# 5 - AB, NS, SK) and regulate advertising (# 7 - AB, NS, SK). The conferral of general and specific powers is useful to avoid unnecessary disputes as to the precise reach of the general provisions.

Table 11.2: Matters Subject to Regulation

Provision	Govt. Agency	Industry Council
1. Standards of conduct, codes of ethics	ON	AB, NS, QC, SK
2. Regulation of trading generally	NB, NF, ON, PE	
3. Prescribing standards for agency relationships/agreements		NS, SK
4. Prescribing requirements for agreements	ON	NS, SK
5. Prescribing forms	BC, NB, NF, PE, YT	AB, NS, QC, SK
6. Dual agency	ON	
7. Advertising	NB, NF, ON	AB, NS, QC, SK
8. Disclosure of information in different situations	BC, ON,	AB, SK
9. Disclosure of information in particular situations	BC	QC
10. Obligations upon acceptance of offers	ON	
11. Trust accounts	ON	AB, QC, SK
12. Fraud prevention	MB	
13. Amount or rates of commission	NF, ON, PE	
14. Pre-requisites for recovery of commission	ON	
15. Sharing of commissions		QC
16. Amount of deposit in particular cases	NB	

Note: Relevant provisions are reproduced in **Schedule I**

It is again noteworthy that there is no uniformity between regulatory frameworks as to the particular matters that are deemed worthy of specific regulation. However, the differences may be more apparent than real in some instances because some of the matters that are left to regulation by a government agency or Industry Council are currently expressly (and, one assumes, adequately) dealt with in the statutes governing the industry in other jurisdictions (as is the case for ## 10, 11, 13, 14).

It will be noted that no regulatory framework appears to confer on either government agencies or Industry Councils the authority to affect the common law principles in general or the common law of agency, in particular. Thus, while these bodies may implement provisions and impose duties on licensees with a view to increasing their professionalism and to afford greater protections to clients and customers, this must be achieved within the basic framework of the common law. That is, rules adopted may enhance the rights of clients and customers; but they cannot impinge on their pre-existing rights (or those of third parties where relevant). Consequently, the rules and by-laws adopted by such bodies cannot confer rights, or impose obligations, on licensees that directly or indirectly conflict with the common law or statutory rights of clients, customers and third parties with whom licensees have dealings.² In brief, the government agencies and Industry Councils must take care not to “trespass” inadvertently on matters beyond their jurisdictions.

Similarly, any rules or codes should be consistent with the common law and statutory rights of brokers although it would appear possible for a governing body to establish rules, breach of which would subject a broker to disciplinary action, but which do not confer any rights on clients or customers *vis-a-vis* brokers.

Thus, for example, if a “statute” requires, say, “written disclosure” by licensees of a certain conflict of interest, nothing less will do. Any other form of disclosure (though sufficient according to common law rules) will be tantamount to non-disclosure and licensees will be exposed to both disciplinary action and liability to clients for breach of their duty of disclosure. However, if it is only an Industry Council “rule” that calls for written disclosure, disclosure in any other form will expose licensees to disciplinary action for breach of this internal norm; but, provided the disclosure otherwise meets the requirements of the common law, licensees will not be exposed to liability to clients.

Finally, it must be remembered that licensees, in their capacity as agents, owe a duty of care to clients and customers. The content of this duty, as noted in the first report to the ATF, pp. 22-25) is set by the prevailing standards of conduct required of licensees. In deciding what constitutes such conduct, courts often look at industry rules of conduct and codes of ethics. Thus, as these industry norms become more exacting, it is reasonable to expect that courts will find that the prevailing standard of conduct has also become more exacting. But the converse does not hold. There is nothing in the existing case law to suggest that courts would reduce established standards care expected of licensees where explicit industry norms are few or non-existent.

² For a discussion of this issue see *Toronto Dominion Bank v. Real Estate Council of Alberta*, [2002] A.J. No. 75 (Q.B.).

12. CONCLUSIONS

This review of the treatment of “agency issues,” especially that of licensee obligations to clients, customers or both, within the regulatory frameworks governing members of the real estate brokerage industry in Canada has disclosed a considerable lack of uniformity both as to issues dealt with and the manner in which they have been treated.

Agency Relationships, Agreements & Disclosure

With respect to these matters (considered in sections 4 and 5), it appears that a number of jurisdictions still rely primarily on the traditional, primarily statutory, regulatory frameworks that still reflect the era in which the popular and legal perception was that licensees were the representatives (or under an MLS arrangement, sub-agents) of sellers. The idea of buyer agency (of other types of representation relationships), even though it has existed for many years, appear to be viewed as “exceptions” to the norm and, thus, are still ignored by a number of the frameworks.

In other jurisdictions, traditional statutory regulatory frameworks have been supplemented (though not yet supplanted) by industry regulatory frameworks that appear to be more responsive to the realities of buyer agency and, to a lesser degree, other forms of representation relationships.

Nevertheless, it appears that thought should be given to certain basic questions:

- Should all representation relationships and agreements be subjected to regulation?
- Do any particular relationships or agreements require specific regulation?
- Should regulators be concerned, not only with the formal requirements, but also with the substantive provisions of representation agreements? (This question has clearly been answered in the affirmative in QC).
- Should more be done with respect to the disclosure of representative capacity?
- Should possession of a written agency agreement be the default setting for remuneration claims?

These questions have been addressed, at least in part, in a number of frameworks; in others it appears that they have yet to be confronted.

As a minimum it would appear important that all agency relationships and agreements receive, at least, even-handed treatment. They should all be placed on the same footing so that one does not have a situation in which, as is currently the case in a number of jurisdictions that: certain formalities are required for listing (seller representation) agreements, but not for buyer agency agreements; or licensees’ rights to remuneration are broader under one form of agreement than another.

However, it must always be kept in mind, that regulation is not a panacea for all agency related problems confronting the industry; licensees must still act in accordance with all regulatory prescriptions for problems to be avoided.

Licensee Obligations

The review of licensees’ agency-related duties in sections 6 through 8, at first sight, suggests that the regulatory frameworks subject licensees to a plethora of obligations owed to clients,

customers of both. This, however, is somewhat misleading since not all of the obligations identified are imposed on all licensees of any one jurisdiction – different obligations are imposed by the different frameworks. In fact, most frameworks at present subject their licensees to relatively few obligations. The exceptions are those jurisdictions (AB, NS, ON, SK, QC), whose Industry Councils have adopted rules or codes of conduct applicable to their members; and even in these jurisdictions there is no uniformity in approach.

However, it may be pointed out that, with few exceptions, the particular duties to which licensees are expressly subjected by their Industry Councils are, in the main, particular instances (or examples) of duties licensees owe their clients and customers under general agency law principles – and thus, are also owed by licensees who are operating under the more traditional, sparser, statutory frameworks.

The only explicit duties common to most regulatory frameworks are those imposed by the statutes governing the industry; but here again, with certain well defined exceptions (e.g. those concerning the computation of licensee remuneration, disclosure on purchases and sale by licensees, prohibition on inducing breaches of contract, the handling of transaction funds, etc.), none are of universal application nor are the obligations necessarily framed in the same manner.

Finally, no regulatory frameworks, (with the exception of that in AB), attempt to provide a comprehensive list of licensees' obligations to clients and others; and only in AB is it explicitly recognized that licensees owe fiduciary obligations to clients. Although this may be implicit in those frameworks (NS, ON, SK) that state that licensees "primary obligations" are to their clients, this "fudges" the issue as it does not necessarily follow that because a person owes primary obligations to another, that these obligations are fiduciary in nature attracting all of the baggage of such obligations. In addition, it is not always clear from the wording of the provisions to whom - client or customer or both - some obligations are owed. Thus, as observed elsewhere, it would be helpful to licensees if the obligations owed (a) to clients and (b) customers, and (c) those common to both, were grouped (or at least clearly signalled) in the framework.

Rules versus Principles

The review of licensee obligations suggests that an issue that should be addressed is whether industry rules of conduct and codes should be comprised of:

- a series of detailed rules proscribing or constraining licensee behaviour in particular situations; or
- principles of broad application supported by interpretations that illustrate the scope and application of the principles, as is the case with the ON and CREA Code of Ethics.

The disadvantage of the first approach is that it is nigh impossible to foresee all situations that will likely require regulation at the time of drafting the rules or code. There will inevitably be situations that call for the (possibly regular) amendment of the framework to ensure its application to the new problem and continuing relevance. Amendment can not always be simply accomplished. In addition, it has been asserted that frameworks that attempt to provide a specific rule for each "problem," lead to the belief in persons subject to it that, unless a particular course of conduct or activity is prohibited by the regulatory framework, it is permitted.

These difficulties are not present in the second approach. The only time an amendment to a code would be required is where existing principles do not cover the conduct or activity in question;

this should not be a frequent occurrence where care is taken in the formulation of the principles. Thus, “new” situations will most often fall within an existing principle, calling only for a new interpretation to be issued (rather than for the code to be formally amended). Moreover, statements of general principles require licensees to reflect on whether their proposed course of conduct falls within or without the code.

Indeed, the use of a code containing broad principles together with the “concrete” interpretations of the principles can be seen as providing a judicious mix of the two approaches.

Finally, a word may be said about language of rules of conduct and codes and their interpretations. Care must be taken to ensure that the message being conveyed is consistent. If certain conduct is prohibited or only allowed under specific conditions, it is important that this be clearly conveyed. Consequently, if a principle, say, in a code is expressed in mandatory language (a licensee “**shall**”), the interpretations must reflect the mandatory nature of the requirement. For the interpretation to be expressed in permissive language (a licensee “**should**”), is to send out the conflicting message that some breaches of the principle may be permitted. If the principle treats matters in which a course of conduct is not mandatory but strongly advisable, then the permissive “**should**” would be appropriate.

Remuneration

As noted above in section 9, all the regulatory frameworks treat in some detail the matters of licensee remuneration and fees, etc. However, there is a need in some frameworks to ensure that the relevant provisions apply uniformly to all licensee-client relationships, whatever their nature. In addition, thought should be given, on the one hand, to the degree of “freedom of contract” licensees and clients should enjoy in establishing the events, on the happening of which, licensees become entitled to remuneration; and, on the other, the degree to which the regulatory frameworks should reflect the view of the courts as to the circumstances in which licensees are entitled to their remuneration when a transaction is not completed.

Disclosure

As discussed in section 10, there is a lack of uniformity in the treatment of the issue of disclosure (both as to the circumstances attracting the duty and, in some jurisdictions, in the formulation of the duty). If certain matters are sufficiently important to attract a duty of disclosure then, as suggested, the basic requirements for an effective disclosure should be clearly articulated. This is particularly important given no particular form of disclosure, acknowledgement of disclosure or consent are required by the common law. The statutory provisions that treat disclosure are limited to particular “transactions” and, even then, do not always address the issue of client acknowledgment of and consent. Moreover, treatment of the general principles relevant to disclosure would provide valuable guidance to licensees as to what is required of them in disclosure situations.

Regulatory Powers

In section 11 the powers of the relevant government agency and Industry Councils were considered to determine the nature and scope of their powers with respect to the regulation of licensee conduct especially with regard to agency related matters. There is no uniformity in the bodies to which these powers are delegated, nor in the particular matters over which these powers may be exercised. A number of Industry Councils are conferred broad regulatory powers over licensees, including the power to establish rules and codes of conduct for, and to take disciplinary action against, members.

It should be noted that in the absence of express statutory language to the contrary, the powers of government agencies and Industry Councils do not extend to affecting changes to the laws of agency or of vendor and purchaser. However, there is nothing to preclude industry governing bodies from enhancing, if they so wish, the protection afforded by the law to clients and customers, provided care is taken not to “trespass” inadvertently on matters beyond their jurisdiction.

SCHEDULE A-1: DEFINITIONS OF KEY ACTORS

SCHEDULE A: DEFINITIONS

SCHEDULE A-1: DEFINITIONS OF KEY ACTORS

Prov.	Source	Provision
AB	REA, s. 1(f), (v)	<p>(f) "client" means a person who has entered into a brokerage agreement with an industry member;</p> <p>(v) "real estate broker" means</p> <p>(i) a person who, for another or others and for consideration or other compensation, either alone or through one or more persons, trades in real estate, and</p> <p>(ii) a person who holds out that the person is a person referred to in subclause (i);</p>
	REAR, Schedule 1, s. 1(b)-(c), (f)	<p>(b) "buyer" includes a purchaser, lessee or prospective purchaser or lessee;</p> <p>(c) "dual agency" means a relationship where a licensed brokerage or an industry member represents both the buyer and seller or represents more than one party in a transaction;</p> <p>(f) "seller" includes a vendor, lessor or prospective vendor or lessor;</p>
BC	REA, s. 1	<p>"agent" means a person who, on behalf of another, for or in expectation of a fee, gain or reward, direct or indirect, from any person,</p> <p>(a) in any manner acquires or disposes of real estate,</p> <p>(b) in any manner offers, or attempts, to acquire or dispose of real estate,</p> <p>(c) negotiates or offers to negotiate a loan secured, or to be secured, by a charge on, or transfer of, real estate,</p> <p>(d) collects or attempts to collect money secured by a charge on, or transfer of, real estate, or money payable as rent for the use of real estate,</p> <p>(e) offers to collect money secured by a charge on, or transfer of, real estate, or money payable as rent for the use of real estate,</p> <p>(f) is not exempted by the superintendent and solicits, for listing, real estate for sale or lease, or</p> <p>(g) is not exempted by the superintendent and solicits or procures publication, or promises to publish or procure the publication, of any printed advertisement or circular concerning real estate transactions, but does not include a listing service operated by and for licensed agents;</p> <p>"client" means a person or body of persons on whose behalf an agent receives money in connection with the agent's business;</p> <p>"real estate salesman" or "salesman" or "salesperson" means an individual, other than an authorized official, who is employed or engaged by a broker (whether registered or not) to take part on behalf of the broker in any of the activities mentioned in the definition of broker;</p>

MB	REBA, s. 1	<p>"broker" means a person, other than an authorized official or a registered real estate salesman, who, in Manitoba, acquisition (a) for a reward, or hope or promise thereof, negotiates, or attempts or offers to negotiate, for another or others any trade in real estate wherever situated, or (b) for a reward, or hope or promise thereof, advertises the real estate of others for sale, lease or other disposition by any method of advertising, or (c) subject to section 41, sells or leases, or attempts or offers to sell or lease, otherwise than through a registered broker, any real estate, wherever situated, or any estate or interest therein, or (d) for a reward, or hope or promise thereof, acts as an agent to manage property or collect rents, or (e) holds himself out as doing any of the things mentioned in clauses (a) to (d);</p> <p>"real estate salesman" or "salesman" or "salesperson" means an individual, other than an authorized official, who is employed or engaged by a broker (whether registered or not) to take part on behalf of the broker in any of the activities mentioned in the definition of broker;</p>
NF	RETA, s. 2(a), (d)-(e), (j),	<p>(a) "agent" means a person who by himself or herself or through 1 or more officials or salespersons trades or purports to trade in real estate on behalf of himself, herself or another;</p> <p>(d) "licensed agent" means an agent who holds a valid agent's licence issued under section 5;</p> <p>(e) "licensed salesperson" means a person who holds a valid salesperson's licence issued under section 5;</p> <p>(j) "salesperson" means a real estate salesperson and includes any person employed, appointed or authorized by an agent to trade in real estate;</p>
NS	<p>RETA, s. 1(b), (f), (v), (w)</p> <p>NSREA, By-law, ss 106, 110</p>	<p>(b) "broker" means an individual who holds a broker's licence;</p> <p>(f) "buyer" means a person acquiring an interest in real estate by purchase, exchange, option, lease or otherwise;</p> <p>(v) "salesperson" means a person who is licensed as a salesperson;</p> <p>(w) "seller" means a person disposing of an interest in real estate by sale, exchange, lease, option or otherwise;</p> <p>106 "Client" - A client is any person that is in an agency relationship with a licensed person. This relationship may be formalized, as in a Listing Agreement or Buyer's Contract, or it may be verbal or as a result of actions of the licensed person. The client relationship ends once the purchase or lease negotiated closes. If a Licensee does not provide disclosure as per Article 3, then it will be assumed you are in a client relationship.</p> <p>110 "Customer" is a person who receives services from a Licensee, but who is not in an agency relationship with the Licensee.</p>
NT/NU	REALA, s. 1	<p>"agent" means a person who, either alone or through a salesperson or official, trades on behalf of another person for or on the hope or promise of compensation, gain or reward, and includes a person who holds himself or herself out to be a real estate agent;</p> <p>"salesperson" means an individual who is employed by an agent to trade;</p>

SCHEDULE A-1: DEFINITIONS OF KEY ACTORS

ON	REBBA, s 1	<p>“broker” means an individual who has the prescribed qualifications to be registered as a broker under this Act and who is employed by a brokerage to trade in real estate; (“courtier”)</p> <p>“salesperson” means an individual who has the prescribed qualifications to be registered as a salesperson under this Act and who is employed by a brokerage to trade in real estate; (“agent immobilier”)</p>
	Reg. 986	43. “principal” - The person or company who employs the agent;
PE	RETA, s. 1(a), (n)	<p>(a) “agent” means a person who by himself or through one or more officials or salesmen and for a consideration, trades or purports to trade in real estate on behalf of another;</p> <p>(n) “salesman” means a real estate salesman and includes any person employed, appointed or authorized by an agent to trade in real estate;</p>
SK	REA, s. 2 (c), (f), (y)-(z)	<p>(c) “broker” means an individual employed, appointed or authorized by a brokerage to manage its main office and named as the broker in the certificate of registration of the brokerage;</p> <p>(f) “buyer” means a person acquiring an interest in real estate by purchase, exchange, option, lease or otherwise;</p> <p>(y) “salesperson” means an individual employed, appointed or authorized by a brokerage to trade in real estate, but does not include a broker, a branch manager or an individual who is not required to be registered;</p> <p>(z) “seller” means a person disposing of an interest in real estate by sale, exchange, option, lease or otherwise;</p>
YT	REAA, s. 1(1)	<p>"agent" means a real estate agent and includes a person who holds himself out as a real estate agent and any person who, for another or others, for compensation, gain or reward, or hope or promise thereof, trades in real estate either alone or through one or more officials or salespersons;</p> <p>"salesperson" means a real estate salesperson, and includes a person employed, appointed or authorized by a real estate agent to trade in real estate;</p>
NT/NU	REALA, s. 1	<p>"agent" means a person who, either alone or through a salesperson or official, trades on behalf of another person for or on the hope or promise of compensation, gain or reward, and includes a person who holds himself or herself out to be a real estate agent;</p> <p>"salesperson" means an individual who is employed by an agent to trade;</p>
CREA		

SCHEDULE A-2: DEFINITIONS OF AGENCY AGREEMENTS & RELATIONSHIPS

Prov.	Source	Provision
AB	REA, s 1(b)	(b) “brokerage agreement” means a contract that is in writing and that establishes the relationship between the parties as to the brokerage services to be performed by the industry member.
	REAR, Schedule 1, s 1(c)	(c) “dual agency” means a relationship where a licensed brokerage or an industry member represents both the buyer and seller or represents more than one party in a transaction.
BC		
MB	REBA, s. 1	<p>“exclusive listing” means an agreement in writing between a broker and a vendor of real estate, under which the broker has the exclusive right to negotiate a sale or lease of the real estate described therein;</p> <p>“listing agreement” means any agreement or arrangement, whether written or oral, authorizing a person, for a reward or hope or promise thereof, to negotiate a sale, lease or other disposition of real estate;</p>
NB		
NF		
NS	NSREC, By-law, ss 103, 117	<p>103 “Agreement” means a legal contract between two or more parties and includes a Listing Agreement, a Buyer Agency Agreement, an Agreement of Purchase and Sale (includes offer, counter offer, addendum(s), and amendment(s)), price changes on an existing Agreement and a completed Transaction.</p> <p>117 “Listing” is an agency agreement between a seller and a Brokerage to market the seller's property.</p>
NT/NU		
ON	Reg. 986, s 23	Reg. 986, s 23 “exclusive listing” - The giving of the sole right to sell the described property according to the terms of the agency agreement.
	RECO, CofE, Definitions	<p>“Buyer agency” refers to a legal relationship between a Member and a Client who is a Buyer.</p> <p>“Consensual dual agency” refers to a relationship where the Member represents both the Buyer and the Seller in a Transaction as the Member’s Clients with the Informed Consent of the Buyer and the Seller.</p> <p>“Representative agreement” is an Agreement to represent a Client and includes a Buyer Agency Agreement and a Listing Agreement.</p> <p>“Seller agency” refers to a legal relationship between a member and a Client who is a Seller.</p>
QC		
PE		

SCHEDULE A-2: DEFINITIONS OF AGENCY AGREEMENTS & RELATIONSHIPS

SK	<i>REA, 2(a)</i> s.	2. (a) “agency agreement” means an agreement between a brokerage and a seller or buyer for a trade in real estate;
	<i>SREC, Bylaws, 104</i> s	104. “Listing” is an agency agreement between a seller and a brokerage to market the seller's property.
YT		
CREA		

SCHEDULE A-3: TRADE

Prov.	Source	Provision
AB	REA, s 1(x)	<p>(x) "trade" means</p> <p>(i) a disposition or acquisition of, or transaction in, real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise,</p> <p>(ii) an offer or attempt to list real estate for a disposition or transaction referred to in subclause (i),</p> <p>(iii) assisting or offering to assist a person in disposing of, acquiring or entering into a transaction in real estate referred to in subclause (i), other than through a listing, in circumstances in which that person pays a fee or other consideration for that assistance,</p> <p>(iv) collecting, or offering or attempting to collect, on behalf of the owner or other person in charge of real estate, money payable as</p> <p>(A) rent for the use of the real estate, or</p> <p>(B) contributions for the control, management or administration of the real estate, or</p> <p>(v) any act, advertisement, conduct or negotiation, directly or indirectly in furtherance of any activity referred to in subclauses (i) to (iv).</p>
BC	REA, s 1	<p>"real estate transaction" means a transaction for the acquisition, disposal, exchange or renting of real estate, or for the negotiation of a loan secured by a charge on or transfer of real estate, or for the collection of money so secured or money payable as rent for the use of real estate;</p>
MB	REBA, s 1	<p>"trade" as a noun means, except in Part VI, any sale, purchase, lease or other acquisition or disposition for value of real estate or any estate or interest therein, whether completed or only attempted and "trade" as a verb has a corresponding meaning; ("commerce", "operation commerciale")</p> <p>"transaction", "transaction in real estate" or "real estate transaction" means</p> <p>(a) the negotiation for another or others of any trade in real estate wherever situated, or</p> <p>(b) any advertising by a broker, authorized official or salesman, whether of real estate for sale or lease or for real estate to purchase or take on lease, or</p> <p>(c) the showing of real estate for sale or lease to potential purchasers or tenants, or</p> <p>(d) the collection by a broker, authorized official or salesman of rent, mortgage payments or instalments of purchase money payable under a lease, mortgage or agreement for sale of real estate, except real estate of which he is himself the owner, mortgagee or vendor, as the case may be, or</p> <p>(e) the solicitation or obtaining of a listing agreement,</p> <p>and includes any conduct, act or negotiation, directly or indirectly, in the furtherance or attempted furtherance of any one or more of the things mentioned in this clause; ("transaction", "transaction de biens immeubles" et "transaction immobilière")</p>
NB	REAA, s 1	<p>"trade" or "trading" includes a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise and any offer or attempt to list real estate for the purpose of such a disposition or transaction, and any act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of any disposition, acquisition, transaction, offer or attempt, but does not include a listing service operated by or for an organized real estate board in any community, and the verb "trade" has a corresponding meaning.</p>

SCHEDULE A-3: TRADE

NF	RETA, s 2(k)	(k) "trade" or "trading" includes (i) a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise, (ii) an offer or attempt to list real estate for the purpose of a disposition, acquisition or transaction, (iii) an act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of a disposition, acquisition, transaction, offer or attempt, and (iv) real property management and the collection or rent for others.
NS	RETA, s 2(y)	(y) "trade" or "trading" includes a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise and any offer or attempt to list real estate for the purpose of such a disposition or transaction, and any act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of any disposition, acquisition, transaction, offer or attempt.
NT/NU	REALA, s 1	"trade" means (a) a transaction in real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise, (b) an offer or attempt to list real estate for a transaction referred to in paragraph (a), or (c) an advertisement, negotiation or other act which directly or indirectly furthers a transaction, offer or attempt referred to in paragraph (a) or (b), and the verb "trade" has a corresponding meaning. (<i>opération immobilière</i>)
ON	REBBA, s 1	"trade" includes a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for purchase and sale, exchange, option, lease, rental or otherwise and any offer or attempt to list real estate for the purpose of such a disposition, acquisition or transaction, and any act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of any disposition, acquisition, transaction, offer or attempt, and the verb "trade" has a corresponding meaning; (<i>"opération", "mener des opérations"</i>)
QC	REBA, s 1	1. For the purposes of this Act, a person who, for compensation and for others, engages in a brokerage transaction relating either to the purchase, sale, lease or exchange of immovable property, to the purchase or sale of such promises, to a loan secured by immovable hypothec, to the purchase or sale of an enterprise, to promises of purchase or sale of an enterprise or to the purchase or sale of such promises, except a transaction involving a security within the meaning of the Securities Act (chapter V-1.1), is pursuing the activity of real estate broker.
PE	RETA, s 1(s)	(s) "trade" includes (i) a disposition or acquisition of or transaction in real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise, (ii) any offer or attempt to list real estate for the purpose of any such disposition, acquisition or transaction, and (iii) any act, advertisement, conduct or negotiation, directly or indirectly, in furtherance of any such disposition, acquisition, transaction, offer or attempt.
SK	REA, s 2(bb)	2(bb) "trade" means one or more of the following: (i) a disposition of, an acquisition of or a transaction in real estate by sale, purchase, exchange, option, lease, or otherwise; (ii) an offering, advertisement, listing or showing of real estate for sale, purchase, exchange, option, lease or otherwise; (iii) an offer to purchase; (iv) property management; (v) the solicitation, negotiation or obtaining of a contract, agreement or any other arrangements to advertise real estate for sale, exchange, option, lease or other disposition of the real estate, either directly or indirectly, through any medium of advertising; (vi) holding oneself out as trading in real estate; (vii) any conduct, act or negotiation, in the furtherance or attempted furtherance of any one or more of the things mentioned in this clause;

YT	REAA, s 1	"trade" means a transaction in a real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise and includes any offer or attempt to list real estate for the purpose of such transaction and any act, advertisement, conduct or negotiation directly or indirectly in furtherance of such a transaction, offer or attempt. (« <i>opération immobilière</i> »)
CREA		

SCHEDULE B: WHO MUST BE LICENSED

SCHEDULE B: WHO MUST BE LICENSED

Prov.	Source	Provision
AB	REA, ss 17-18	17 No person shall (a) trade in real estate as a real estate broker, (b) deal as a mortgage broker, or (c) advertise the person as or in any way hold out that the person is a mortgage broker or real estate broker unless that person holds the appropriate authorization for that purpose issued by the Council.
BC	REA, s 3(1)-(3)	3 (1) A person must not act or hold himself, herself or itself out as an agent without being the holder of a valid and subsisting agent's licence issued to the person under this Act by the superintendent. (2) A person must not act or hold himself, herself or itself out as a salesperson without being the holder of a valid and subsisting salesperson's licence or agent's licence issued to the person under this Act by the superintendent, and without being employed by an agent. (3) A person must not act or hold himself, herself or itself out as a nominee without being the holder of a valid and subsisting nominee's licence issued to the person under this Act by the superintendent.
MB	REBA, s 40(1)	40(1) Except where permitted by this Act, no person shall act as a broker or salesman or otherwise engage in any transaction in real estate unless such person is duly registered under this Act.
NB	REAA, s 2	2 No person shall trade or hold himself out as trading in real estate (a) as an agent unless he holds a valid and subsisting licence as an agent; (b) as a manager of an agent unless he holds a valid and subsisting licence as a manager; or (c) as a salesman of an agent unless he holds a valid and subsisting licence as a salesman or manager.
NF	RETA, ss 20, 21	20. A person shall not (a) trade in real estate as an agent, unless that person holds a valid agent's licence issued under section 5; (b) trade in real estate as a salesperson, unless that person holds a valid salesperson's licence issued under section 5; (c) act as an official of or on behalf of a partnership or corporation in connection with a trade in real estate by a partnership or corporation unless that person or the partnership or corporation holds a valid agent's licence; or (d) act as a salesperson of or on behalf of a partnership or corporation in connection with a trade in real estate by the partnership or corporation unless that person holds a valid salesperson's licence of that partnership or corporation and the partnership or corporation holds a valid agent's licence. 21. A person shall neither act nor hold himself or herself out as (a) a licensed agent, unless the person holds a valid agent's licence; or (b) a licensed salesperson, unless the person holds a valid salesperson's licence.
NS	RETA, s 4	4 (1) No person shall trade in real estate or hold out as being available to trade in real estate unless that person is licensed to do so, but only to the extent that the person is permitted to do so by the licence and subject to any restrictions, terms and conditions contained in the licence or under which the licence was issued. (2) No brokerage shall trade in real estate except through a broker, a manager or a salesperson. (3) Every brokerage shall maintain in a bank an interest-bearing trust account, of a type specified in the by-laws. (4) Every trust account maintained pursuant to subsection (3) shall be under the supervision of a broker designated by the brokerage that maintains the account. (5) Each office from which a brokerage trades in real estate shall be under the supervision of a broker or a manager.

NT/NU	REALA, ss 3-4	<p>3. (1) No person shall trade unless the person is licensed as an agent or licensed as a salesperson. (2) No agent shall employ a salesperson unless that individual is licensed as a salesperson.</p> <p>4. No person who is not licensed as an agent or salesperson shall act as an agent or a salesperson or allow others to believe that he or she is acting as an agent or a salesperson.</p>
ON	REBBA, s 4	<p>4. (1) No person shall, (a) trade in real estate as a brokerage unless the person is registered as a brokerage; (b) trade in real estate as a broker unless he or she is registered as a broker of a brokerage; (c) trade in real estate as a salesperson unless he or she is registered as a salesperson of a brokerage; or (d) trade in real estate unless registered under this Act.</p>
QC	REBA, s 3	<p>3. No person may pursue the activity of real estate broker or use the title of real estate broker unless he is the holder of a real estate broker's certificate issued by the Association des courtiers et agents immobiliers du Quebec.</p>
PE	RETA, ss 17-18	<p>17. No person shall (a) trade in real estate as an agent, unless he holds a valid agent's license issued under section 4; (b) trade in real estate as a salesman, unless he holds a valid salesman's license issued under section 4; (c) act as an official of or on behalf of a partnership or corporation in connection with any trade in real estate by the partnership or corporation unless he or the partnership or corporation holds a valid agent's license; or (d) act as a salesman of or on behalf of a partnership or corporation in connection with any trade in real estate by the partnership or corporation unless he holds a valid salesman's license of that partnership or corporation and the partnership or corporation holds a valid agent's license.</p> <p>18. No person shall either act or hold himself out as (a) a licensed agent, unless he holds a valid agent's license; or (b) a licensed salesman, unless he holds a valid salesman's license.</p>
SK	REA, s 18	<p>18(1) No person shall trade in real estate: (a) as a brokerage, unless the person is registered as a brokerage; (b) as a broker, unless the person is registered as a broker; (c) as a branch manager, unless the person is registered as a branch manager; or (d) as a salesperson, unless the person is registered as a salesperson. (2) No person shall trade in real estate for or on behalf of a brokerage unless the person is registered as a salesperson, a branch manager or the broker of that brokerage.</p>
YT	REAA, s 3	<p>3.(1) No person shall (a) trade in real estate unless he is licensed as an agent or as a salesperson of a licensed agent, or (b) act as an official of or on behalf of an agent that is a partnership or corporation in connection with a trade in real estate by that agent, unless he is licensed as a salesperson of that agent or that agent has designated him as its representative under section 6. (2) A change in the membership of a partnership shall be deemed to create a new partnership and to extinguish an existing licence. (3) No person who is not the holder of a subsisting licence under this Act shall act or directly or indirectly hold himself out as an agent or salesperson in the Yukon.</p>
CREA		

SCHEDULE C: AGENCY AGREEMENTS

SCHEDULE C: AGENCY AGREEMENTS

Prov.	Source	Provision
AB	<i>REAR, s 26(1)</i>	26 (1) When an agreement to list real estate with a brokerage is in writing, a true copy of that agreement shall be delivered by the brokerage as soon as practicable to the owner of that real estate or to the person entering into that agreement on behalf of that owner. (2) An agreement under subsection (1) is void if it (a) provides for more than one date on which it expires; (b) does not specify a date on which it expires; (c) does not provide for the amount of or the rate of commission payable in respect of the trade; or (d) does not provide for the terms or conditions on which the commission is payable in respect of the trade.
BC	<i>REA, s 57</i>	57 An agreement purporting to be or being an exclusive listing of real estate for sale, exchange, lease or rental is not valid unless (a) it is in writing and a true copy is delivered to each party to it immediately after its execution, and (b) it contains a provision that it will expire on a specified date.
MB	<i>REBA, ss 20, 31</i>	20 Two or more copies of each exclusive listing shall be completed and executed, and shall clearly show (a) the date on which it was executed; (b) the date on which it expires; and an executed copy thereof, immediately upon execution shall be furnished by the broker, salesman or authorized official to the person granting the listing. 31 (1) Where any person enters into a written listing agreement with a broker, a signed copy thereof shall be delivered at the time of execution to that person by the broker, or by the authorized official or salesman of the broker who obtained it, as the case may be. (2) Every agreement under subsection (1) (a) which does not contain an expiry date therein, or a method of terminating the agreement; or (b) which contains more than one expiry date; or (c) a true copy whereof has not been delivered as provided under subsection is invalid.
NB	<i>REAA, s 22(1)</i>	22 (1) No person is bound by an agreement with an agent to list real estate for sale, exchange or lease (a) if the agreement is not in writing and signed by that person or by some person whom he has authorized to sign the agreement, (a.1) if the agent or the manager or salesman or any other person representing the agent in respect of that agreement did not hold a licence under this Act at the time the agreement was entered into, (b) if the agreement does not contain a provision that it will expire on a certain date specified therein, (c) if the agreement contains more than one date on which it may expire, or (d) if the agent does not deliver a true copy of the agreement to the person who signs the agreement immediately after its execution.
NF	<i>RETA, s 45</i>	45 (1) An agent and salesperson shall, immediately after the execution of an agreement to list real estate for sale, exchange, lease or rent with the agent, deliver to the person who has signed the agreement a true copy of the agreement. (2) An agreement with an agent to list real estate for sale, exchange, lease or rental is not valid, where (a) it does not contain a provision that it will end on a certain date specified in the agreement; (b) it contains a provision for more than 1 date on which it may end; or (c) a true copy of it is not delivered by the agent or his or her salesperson to the other party immediately after its execution.

NS	RETA, s 31	<p>31 (1) Every agreement entered into by a licensed person for the purchase or sale of real estate shall</p> <p>(a) contain an expiry date; and</p> <p>(b) be executed by all parties to the agreement, and the licensed person shall, upon execution, provide a true copy of the agreement to each party to the agreement.</p> <p>(2) An agreement is not invalid by reason only that it does not comply with subsection (1) but, where a licensed person, acting in bad faith, does not comply, the licensed person may not recover any commission under the agreement with respect to the trade.</p>
	NSREC, s 702 (Article 11)	<p>702 Article 11 The Licensee shall ensure that agreements regarding real estate transactions are in writing in clear and understandable language, expressing the specific terms, conditions, obligations and commitments of the parties to the agreement. A copy of each final agreement shall be furnished to each party upon their signing or initialling, and shall be dealt with in accordance with the instructions of the parties involved.</p>
NT/NU	REALA, s 59	<p>59. (1) Where an agreement to list real estate with an agent is in writing an agent shall, as soon as is practicable, deliver a true copy of the agreement to the owner of the real estate or to the person entering into the agreement on behalf of the owner.</p> <p>(2) An agreement under subsection (1) is void where it</p> <p>(a) provides for more than one date on which it expires;</p> <p>(b) does not specify a date on which it expires;</p> <p>(c) does not provide for the amount of or the rate of commission payable in respect of the trade; or</p> <p>(d) does not provide for the terms or conditions on which the commission is payable in respect of the trade.</p>
ON		
QC	REBA, ss 35-43	<p>35. The contract must set out</p> <p>(1) the name and address of the parties in legible script;</p> <p>(2) the date of the contract and the address of the place where it was signed;</p> <p>(3) the nature of the transaction involved;</p> <p>(4) the cadastral designation of the immovable property involved and the address of any building erected thereon, if any;</p> <p>(5) if such is the case, its irrevocability;</p> <p>(6) if such is the case, its exclusivity;</p> <p>(7) the date and time of its expiry;</p>

SCHEDULE C: AGENCY AGREEMENTS

	<p>(8) the price of sale, exchange, or, as the case may be, leasing of the immovable property;</p> <p>(9) the nature and manner of payment of the broker's compensation;</p> <p>(10) where applicable, any obligation on the part of the broker to send the particulars of the contract to a multiple listing service or a similar service of a real estate board or of any other agency for the purpose of distributing them to members subscribing to such a service;</p> <p>(11) any other particulars determined by government regulation.</p> <p>36. Where there is no stipulation as to the date and time of expiry of the contract, the contract shall expire 30 days after being concluded.</p> <p>37. No contract may contain a stipulation for automatic renewal.</p> <p>38. Any agreement binding a natural person, for a fixed period after the expiry of the contract, to compensate the broker even if the sale, leasing or exchange of an immovable property is effected after such expiry, is without effect.</p> <p>The first paragraph does not apply if the agreement provides that compensation is due where</p> <p>(1) the contract is exclusive;</p> <p>(2) the sale, leasing or exchange is made with a person who became interested in the immovable property while the contract was in force;</p> <p>(3) the transaction occurs not more than 180 days after the date of expiry of the contract and during that period, the natural person did not enter into an exclusive contract for the sale, leasing or exchange of the immovable property with another broker.</p> <p>39. The contract must specify that the broker has an obligation to submit to the natural person every promise to purchase, lease or exchange the immovable property in question.</p> <p>40. Notwithstanding any stipulation to the contrary, the natural person may, at his own discretion, cancel the contract within the three days which follow the day on which he receives a duplicate of the contract signed by both parties, unless a waiver is written in its entirety by the person and signed.</p> <p>The contract is cancelled by operation of law from the sending or giving of a written notice to the broker.</p> <p>41. The broker may claim no compensation following the cancellation of a contract in accordance with section 40, unless a sale, leasing or exchange which meets the conditions specified in section 38 occurs.</p> <p>42. No contract may be cancelled on the sole ground that one of its provisions contravenes this chapter.</p> <p>43. No natural person may, by special agreement, waive the rights conferred on him by this chapter.</p>
ACAIQ	<p>Quebec legislation can be accessed from the Association des courtiers et agents immobiliers du Québec website: http://www.acaiq.com/cgi-bin/WebObjects/AAVisuel.woa</p>

PE	RETA, s 43	<p>43. (1) Every agent and salesman shall, immediately after the execution of an agreement to list real estate for sale, exchange, lease or rent with the agent, deliver to the person who has signed the agreement a true copy thereof.</p> <p>(2) An agreement with an agent to list real estate for sale, exchange, lease or rental is not valid, if</p> <p>(a) it does not contain a provision that it will expire on a certain date specified therein;</p> <p>(b) it contains a provision for more than one date on which it may expire; or</p> <p>(c) a true copy of it is not delivered by the agent or his salesman to the other party immediately after its execution.</p>
SK	REA, s 57	<p>57(1) Every written agency agreement is to be executed in the presence of a witness.</p> <p>(2) A written agency agreement is not valid unless:</p> <p>(a) it contains an expiry date;</p> <p>(b) it contains only one expiry date;</p> <p>(c) the expiry date is less than 12 months from the date of the agency agreement;</p> <p>(d) it shows the total amount of commission, as a lump sum or as a percentage, to be paid to the brokerage; and</p> <p>(e) a true copy of the agency agreement is immediately delivered to the seller or buyer who signed the agency agreement.</p>
YT	REAA, ss 34-35	<p>34. An agreement purporting to be or being an exclusive listing of real estate for sale, exchange, lease, or rental is not valid unless it is in writing.</p> <p>35.(1) Where an agreement to list real estate with an agent for the purpose of a trade is in writing, a true copy of that agreement shall be delivered by that agent as soon as practicable to the owner of that real estate or to the person entering that agreement on behalf of that owner.</p> <p>(2) An agreement under subsection (1) is void if it</p> <p>(a) provides for more than one date upon which it expires,</p> <p>(b) does not specify a date on which it expires,</p> <p>(c) does not provide for the amount of or the rate of commission payable in respect of the trade, or</p> <p>(d) does not provide for the terms or conditions upon which the commission is payable in respect of the trade.</p>
CREA		

SCHEDULE D: DISCLOSURE OF REPRESENTATIVE CAPACITY

SCHEDULE D: DISCLOSURE OF REPRESENTATIVE CAPACITY

Prov.	Source	Provision
AB	<i>REAR, s 26(1), Schedule 1 (CCIM), s 3</i>	<p>26(1) When an agreement to list real estate with a brokerage is in writing, a true copy of that agreement shall be delivered by the brokerage as soon as practicable to the owner of that real estate or to the person entering that agreement on behalf of that owner.</p> <p>Schedule 1</p> <p>3 Industry members must use their best efforts to ensure the role of the industry member in real estate or mortgage transaction is clearly understood by the parties to the transaction. This includes the following:</p> <p>(a) An industry member not proceed to act in a transaction knowing the role of the industry member is unclear to the parties affected.</p> <p>(b) An industry member must only act for one party in a transaction, unless there is full disclosure to all parties, and the dual agency is agreed to in writing.</p> <p>(c) The onus is upon the industry member to use best efforts to ensure the client fully understands the implications of a dual agency and to obtain an informed consent in writing prior to entering into a real estate or mortgage transaction.</p> <p>(d) At the commencement of negotiations, an industry member must disclose any association the industry member may have with buyers, sellers or lenders to the client. This association includes immediate family members and business associates.</p>
BC	REA, ss 36, 57(a)	<p>36 (1) Before assisting or representing any person in a real estate transaction, a licensee must disclose to that person</p> <p>(a) the nature of the assistance or representation that the licensee will provide to the person,</p> <p>(b) whether the licensee is, or will be, acting in the real estate transaction on behalf of any other person, in any capacity,</p> <p>(c) whether the licensee is, or will be, receiving remuneration relating to the real estate transaction from any other person,</p> <p>(d) the nature of the licensee's relationship with any other person from whom the licensee is, or will be, receiving remuneration relating to the real estate transaction, and</p> <p>(e) any other particulars that may be prescribed by the Lieutenant Governor in Council.</p> <p>(2) If, during the course of a real estate transaction in which a licensee is assisting any person, there is any material change in the facts that the licensee has disclosed under subsection (1) to that person, the licensee must disclose the change to that person immediately</p> <p>57 An agreement purporting to be or being an exclusive listing of real estate for sale, exchange, lease or rental is not valid unless</p> <p>(a) it is in writing and a true copy is delivered to each party to it immediately after its execution,</p>
MB	REBA, s 31(1)	<p>31(1) Where any person enters into a written listing agreement with a broker, a signed copy thereof shall be delivered at the time of execution to that person by the broker, or by the authorized official or salesman of the broker who obtained it, as the case may be.</p>
NB	REAA, s 22(1)(a), (d)	<p>22(1) No person is bound by an agreement with an agent to list real estate for sale, exchange or lease</p> <p>(a) if the agreement is not in writing and signed by that person or by some person whom he has authorized to sign the agreement,</p> <p>(d) if the agent does not deliver a true copy of the agreement to the person who signs the agreement immediately after its execution.</p>
NF	RETA, s 45(1), (2)(c)	<p>45. (1) An agent and salesperson shall, immediately after the execution of an agreement to list real estate for sale, exchange, lease or rent with the agent, deliver to the person who has signed the agreement a true copy of the agreement.</p> <p>(2) An agreement with an agent to list real estate for sale, exchange, lease or rental is not valid, where</p> <p>(c) a true copy of it is not delivered by the agent or his or her salesperson to the other party immediately after its execution.</p>

NS	RETA, ss 26, 31	<p>26 (1) In this Section, "agency agreement" means</p> <p>(a) a written agreement entered into by a licensed person respecting the listing of real estate for sale; or</p> <p>(b) an agreement entered into by a licensed person respecting the finding by the licensed person of real estate for purchase by another person.</p> <p>(2) Where a licensed person has entered into an agency agreement, the licensed person shall disclose in writing to each other party to the agreement any other agency obligation that the licenced person has that relates to the agreement.</p> <p>31 (1) Every agreement entered into by a licensed person for the purchase or sale of real estate shall</p> <p>(a) contain an expiry date; and</p> <p>(b) be executed by all parties to the agreement,</p> <p>and the licensed person shall, upon execution, provide a true copy of the agreement to each party to the agreement.</p> <p>(2) An agreement is not invalid by reason only that it does not comply with subsection (1) but, where a licensed person, acting in bad faith, does not comply, the licensed person may not recover any commission under the agreement with respect to the trade.</p>
	NSREC By-law, s 702 (Article 4)	<p>702 Article 4 The Licensee shall, prior to the signing of any agreement, fully inform the signing party regarding the type of expenses for which he/she may be normally liable.</p> <p>Article 11 The Licensee shall ensure that agreements regarding real estate transactions are in writing in clear and understandable language, expressing the specific terms, conditions, obligations and commitments of the parties to the agreement. A copy of each final agreement shall be furnished to each party upon their signing or initialling, and shall be dealt with in accordance with the instructions of the parties involved.</p>
NT/NU	REALA, s 59	59. (1) Where an agreement to list real estate with an agent is in writing an agent shall, as soon as is practicable, deliver a true copy of the agreement to the owner of the real estate or to the person entering into the agreement on behalf of the owner.
ON	RECO, CoE, s 4	Rule 4 A Member shall enter into a written Representation Agreement with a Client at the earliest practical opportunity, and in all cases before any Offer to Purchase is submitted.
QC	RPEACAIQ, s 37	37. A member shall inform his client as soon as possible of the fact that he is also representing the other party to a transaction referred to in section 1 of the Act.
PE	RETA, s 43(1)	43. (1) Every agent and salesman shall, immediately after the execution of an agreement to list real estate for sale, exchange, lease or rent with the agent, deliver to the person who has signed the agreement a true copy thereof.
SK	REA, s 57(1), 2(e)	<p>57(1) Every written agency agreement is to be executed in the presence of a witness.</p> <p>(2) A written agency agreement is not valid unless:</p> <p>(e) a true copy of the agency agreement is immediately delivered to the seller or buyer who signed the agency agreement.</p>
	SREC Bylaws, s 713	713 No registrant shall trade in real estate as a part-time registrant unless he or she disclosed this fact in writing to a buyer or seller prior to the establishment of an agency agreement. All business cards and letterhead must also indicate part-time
YT	REAA, s 35(1)	35. (1) Where an agreement to list real estate with an agent for the purpose of a trade is in writing, a true copy of that agreement shall be delivered by that agent as soon as practicable to the owner of that real estate or to the person entering that agreement on behalf of that owner.
CREA	CofE, s 5	Article 5 Realtors should ensure written representation agreements whenever possible in order to avoid misunderstandings with their clients and customers.

SCHEDULE E-1: FIDUCIARY OBLIGATIONS

SCHEDULE E: DUTIES TO CLIENT

SCHEDULE-1: FIDUCIARY OBLIGATIONS

Prov.	Source	Provision
AB	REAR, s, 28, Schedule 1 (CCIM) ss 2(a), (e), (g)-(h), (j)-(m), 3(d), 7(g)	<p>28 An industry member shall not</p> <ul style="list-style-type: none"> (a) trade in real estate on behalf of himself or another person until the industry member has first disclosed in writing to the parties to the trade (i) any interest, direct or indirect, that the industry member or any other industry member has in the real estate as seller or buyer; and (ii) that the industry member is licensed under these Rules or is employed or associated with a licensed brokerage, as the case may be; (b) trade in real estate on behalf of another industry member until he has disclosed in writing to the parties he is dealing with that he and that other person are industry members; or (c) directly or indirectly, acquire any interest in real estate for himself without first disclosing in writing to the owner of the real estate, or the legal representative of that owner, complete details of any negotiations for its trade to another person. <p>2 Industry members must fulfill their fiduciary duties to their clients. This includes the following:</p> <ul style="list-style-type: none"> (a) An industry member must act in the client’s best interests. (e) An industry member must disclose all relevant information to a client. (g) An industry member must not delay the presentation of any offer or counter offer to a client for the purpose of obtaining another offer or counteroffer. (h) An industry member must not accept compensation from any other party to a transaction without first obtaining the client’s written consent. (j) When there are multiple offers, an industry member acting on behalf of the seller must disclose to all potential buyers or their agents that there are multiple offers, but must not disclose to any other person the specific terms and conditions of other offers. (k) An industry member must use best efforts to ensure a client has independent advice when a prudent industry member would conclude a client may be in a vulnerable position, lacks the mental capacity, or lacks the ability to understand the nature or consequences of entering into a real estate or mortgage transaction. (l) An industry member must disclose, at the earliest practical opportunity, and direct or indirect interest the industry member may have as a result of a business or family association with a potential buyer or seller. (m) An industry member who enters into a trade in real estate with a client must not take advantage of the client and must ensure the transaction is fair in every respect. The industry member must disclose the conflict of interest and the client must be given a reasonable opportunity to obtain independent advice.

	<p>3 Industry members must use their best efforts to ensure the role of the industry member in a real estate or mortgage transaction is clearly understood by the parties to the transaction. This includes the following:</p> <p>(d) At the commencement of negotiations, an industry member must disclose any association the industry member may have with buyers, sellers or lenders to the client. This association includes immediate family and business associates</p> <p>7 An industry member must be professional in dealings with the public and other industry members. This includes the following:</p> <p>(g) If an industry member intends to buy a property that is listed with the industry member's brokerage, in addition to disclosing they are an industry member, they must disclose in writing that the industry member is registered with the brokerage in question.</p>
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SCHEDULE E-1: FIDUCIARY OBLIGATIONS

<p>BC</p>	<p>REA, ss 36(1)(c)-(d), 38</p>	<p>36 (1) Before assisting or representing any person in a real estate transaction, a licensee must disclose to that person</p> <ul style="list-style-type: none"> (c) whether the licensee is, or will be, receiving remuneration relating to the real estate transaction from any other person, (d) the nature of the licensee's relationship with any other person from whom the licensee is, or will be, receiving remuneration relating to the real estate transaction, <p>38 (1) A licensee must not, directly or indirectly,</p> <ul style="list-style-type: none"> (a) for the licensee's own account or use, (b) on behalf of a corporation of which the licensee is a shareholder, director or officer, or (c) on behalf of a partnership of which the licensee is a partner, <p>acquire, offer to acquire or present an offer to acquire real estate, except by way of mortgage, unless, before acquiring, offering to acquire or presenting an offer to acquire, whichever first occurs, the licensee has disclosed in writing, in the form and manner prescribed by the superintendent, to the owner of the real estate, each of the following wherever it applies:</p> <ul style="list-style-type: none"> (d) that the licensee is a licensee acquiring or offering to acquire the real estate for the licensee's own account or use; (e) that the licensee is a licensee acquiring, offering to acquire or presenting an offer to acquire the real estate for a named person referred to in paragraph (b) or (c), and the licensee's relationship to that person; (f) that it is the licensee's intention or the intention of the person named under paragraph (e) to resell the real estate; (g) that the licensee or the person named under paragraph (e) is about to negotiate, is negotiating or has negotiated for the disposition of that real estate, and gives full details of the negotiations; (h) the amount of any commission which the licensee or the person named under paragraph (e) will receive in respect of the real estate to be acquired. <p>(2) A licensee must not knowingly, directly or indirectly, on behalf of an unlicensed</p> <ul style="list-style-type: none"> (a) shareholder, director or officer of a licensed corporation, (b) partner in a licensed partnership, (c) corporation controlled by an unlicensed person who is <ul style="list-style-type: none"> (i) a shareholder, director or officer of another licensed corporation, or (ii) a partner in a licensed partnership, or (d) partnership of which an unlicensed partner is <ul style="list-style-type: none"> (i) a partner in another licensed partnership, or (ii) a shareholder, director or officer of a licensed corporation, <p>acquire, offer to acquire or present an offer to acquire real estate, except by way of mortgage, unless, before acquiring, offering to acquire or presenting an offer to acquire, whichever first occurs, the licensee has disclosed in writing, in the form and manner prescribed by the superintendent, to the owner of the real estate, each of the following whenever it applies:</p> <ul style="list-style-type: none"> (e) that the licensee is acquiring, offering to acquire or presenting an offer to acquire the real estate for a named person referred to in paragraphs (a) to (d); (e) that the licensee is acquiring, offering to acquire or presenting an offer to acquire the real estate for a named person referred to in paragraphs (a) to (d);
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		<p>(f) the relationship of the person named under paragraph (e) to the licensed person referred to in paragraphs (a) to (d);</p> <p>(g) that it is the intention of the person named under paragraph (e) to resell the real estate;</p> <p>(h) that the person named under paragraph (e) is about to negotiate, is negotiating or has negotiated for the disposition of that real estate, and gives full details of the negotiations.</p> <p>(3) For the purposes of subsection (2), "shareholder" means a person who beneficially owns, directly or indirectly, equity shares of a corporation carrying more than 10% of the voting rights attached to all equity shares of the corporation for the time being outstanding.</p>
	Reg 75/01, s 9.06	9.06 No licensee shall claim or take any secret or undisclosed amount of compensation, commission or profit or fail to reveal to the employer or principal of such licensee the full amount of such licensee's compensation, commission or profit in respect of a real estate transaction.
MB	REBA, s 19(1)-(5), (9)	<p>19(1) In this section "associate" when used to refer to an associate of a broker, means</p> <p>(a) if the broker is a partnership, any partner therein;</p> <p>(b) if the broker is a corporation, any director or officer of, or person who has a material interest in, the corporation;</p> <p>(c) any authorized official or salesman of the broker;</p> <p>(d) the spouse of the broker or of any individual included in clause (a), (b) or (c); and</p> <p>(e) any corporation, firm, partnership, association, syndicate or other unincorporated organization which the broker or any person included in clauses (a) to (d), inclusive, has a material interest;</p> <p>and, for the purposes of this section,</p> <p>(f) a person has a material interest in a corporation if he holds not less than 5%, in market value, of its capital stock; and</p> <p>(g) a person has a material interest in a firm, partnership, association, syndicate, or other association unincorporated organization if he holds not less than 5% of its capital or is entitled to receive not than 5% of its profits.</p> <p>19(2) Where any real estate which is listed with a broker for sale, or any interest therein, is purchased by that broker or by an associate of that broker or by any nominee for that broker or for any associate of that broker, the vendor is not liable to pay any commission on the sale.</p> <p>19(3) Where any real estate is listed with a broker for sale under any system or arrangement whereby another broker who obtained an acceptable offer would be entitled to receive a share of the commission, if any such other broker, or any associate of any such other broker, or any nominee for any such other broker or associate thereof, purchases the real estate or any interest therein</p> <p>(a) that other broker is not entitled to receive any share of the commission; and</p> <p>(b) the commission that would otherwise be payable by the vendor shall be reduced by the amount that would normally be payable under that system or arrangement to the broker who obtained the offer.</p>

SCHEDULE E-1: FIDUCIARY OBLIGATIONS

		<p>19(4) Where any broker or associate of a broker, or any nominee for a broker or for an associate of a courtier, broker, makes or offers to make a purchase to which subsection (2) or (3) applies, the broker or the associate, as the case may be, shall disclose to the vendor or owner in writing</p> <ul style="list-style-type: none"> (a) the identity of the purchaser or the offeror; (b) the circumstances that make subsection (2) or (3) applicable; and (c) the fact that no commission, or a reduced commission, as the case may be, is payable; <p>and the disclosure shall be made, or, if previously made, shall be repeated, in the offer to purchase or other written agreement for the sale of the property.</p> <p>19(5) If the disclosure required by subsection (4) is duly made, and the vendor, after the completion of the sale, voluntarily pays any commission which he is not liable to pay, he cannot thereafter recover it; but in any other case a vendor who has paid any commission for which he is not liable under subsection (2), or has paid a commission of a larger amount than is payable under subsection (3), shall be entitled to recover that commission or the excess, as the case may be, whether the required disclosure has been made or not.</p> <p>19(9) No broker shall show to a prospective purchaser or otherwise solicit an offer to purchase any real estate owned by him or by his associate without disclosing that it is so owned, and no authorized official or salesman shall show to a prospective purchaser otherwise solicit an offer to purchase any real estate owned by the broker by whom he is recorded in the register to be employed, or by an associate of that broker, without disclosing that it is so owned.</p>
<p>NB</p>	<p>REAA, s 23(1)-(5)</p>	<p>23(1) Except where subsection (2) applies, where an agent or an associate of an agent intends to acquire real estate or any interest therein, the agent or the associate shall, before either directly or indirectly acquiring or attempting to acquire any interest in the real estate, disclose to the owner that he is an agent or an associate of an agent, as the case may be.</p> <p>23(2) Where an agent or an associate of the agent intends to acquire real estate or any interest therein and the owner has listed the real estate with the agent, or has discussed with the agent or the associate the listing of the real estate with the agent, that agent or that associate shall, before either directly or indirectly acquiring or attempting to acquire any interest in the real estate, disclose to the owner</p> <ul style="list-style-type: none"> (a) whether he intends to sell or dispose of any interest that he acquires in the real estate and, if so, the details of all negotiations to that end; (b) any information within his special knowledge that could materially affect the value of the real estate; and (c) any other information within his special knowledge that could reasonably affect the owner in making a decision in relation to the real estate; <p>and shall inform the owner that he is advised to obtain independent advice regarding the real estate and its value.</p> <p>23(3) Where an agent or an associate of an agent owns real estate or any interest therein, he shall, before selling any interest in the real estate, disclose to the prospective purchaser</p> <ul style="list-style-type: none"> (a) that he owns the real estate or an interest therein; and (b) that he is an agent or an associate of an agent, as the case may be. <p>23(4) The disclosure required by subsections (1) and (3) shall be made in a separate written statement the receipt of which is acknowledged in writing by the owner or prospective purchaser, as the case may be.</p> <p>23(5) The disclosure required by subsection (2) shall be made</p> <ul style="list-style-type: none"> (a) in a separate written statement the receipt of which is acknowledged in writing by the owner, and (b) not less than twenty-four hours before the agent or the associate, as the case may be, acquires an interest in the real estate.

NF	RETA, s 41	<p>41. (1) An agent or salesperson shall not, either directly or indirectly</p> <ul style="list-style-type: none"> (a) purchase for himself or herself; (b) make an offer to purchase for himself or herself; or (c) acquire for himself or herself an interest in, real estate listed with the agent or salesperson for sale, until the agent or salesperson has clearly disclosed in writing to the listing owner that (d) he or she is purchasing the real estate or acquiring an interest in the real estate for himself or herself; (e) he or she is about to negotiate, is negotiating or has negotiated for the resale or other disposition of the real estate giving full details of the negotiation; and (f) it is his or her intention to resell the real estate for his or her own account, if he or she intends to do so. <p>(2) A vendor is not liable for the payment of a commission to an agent when disclosure is not made to the vendor in accordance with subsection (1).</p>
NS	NSREC By-law, s 702 (Articles 2, 13, 18, 20-21, 28)	<p>702 Article 2 The Licensee shall protect and promote the interests of his or her client. This primary obligation does not relieve the Licensee of the responsibility of dealing fairly with all other parties to the transaction.</p> <p>Article 13 A Licensee, at the time of signing an exclusive written agreement, must have written notification from the seller that the seller requests his/her Brokerage to co-operate or to not co-operate with other Brokerages in the marketing of the seller's property.</p> <p>Article 18 The Licensee shall not accept compensation from more than one party to a transaction without the written consent of his or her client(s).</p> <p>Article 20 The Licensee shall not accept any rebate or profit on expenditures made for a client without the client's consent or accept any rebate or profit on expenditures for a customer without the customer's knowledge.</p> <p>Article 21 The Licensee shall not present an offer or acquire an interest in property either directly or indirectly for himself or herself, any member of his or her immediate family or any entity in which the Licensee has a financial interest, without making the Licensee's status as a Licensed person and their intent for the purchase known to the seller in writing. In selling/leasing property owned by the Licensee, or in which the Licensee has interest, the interest shall be revealed to the buyer/tenant in writing.</p> <p>Article 28 The agency or other contractual relationship of a competitor shall be respected by all Licensees. Negotiations concerning exclusively listed property or with any other party who is exclusively represented shall be carried on with the client's agent and not with the client directly, except with the consent of the client's agent. Prospecting tenant is not a breach of this Article.</p>
NT/N U	REALA, ss 52-53	<p>52. No agent or salesperson shall trade</p> <ul style="list-style-type: none"> (a) on behalf of himself or herself or on behalf of another person unless the agent or salesperson discloses in writing to the parties involved in the trade <ul style="list-style-type: none"> (i) any direct or indirect interest that he or she or any other agent or salesperson has in the real estate as vendor or purchaser, and (ii) that he or she is licensed under this Act as an agent or as a salesperson; or (b) on behalf of another agent or salesperson without disclosing in writing to the parties involved in the trade that he or she and the other agent or salesperson are licensed under this Act as agents or salesperson. <p>53. No agent or salesperson shall either directly or indirectly acquire any interest in real estate until the agent or salesperson has disclosed in writing to the owner of the real estate complete details of any negotiations for its trade to another person.</p>

SCHEDULE E-1: FIDUCIARY OBLIGATIONS

ON	REBBA, s 32	<p>32(1) Unless the registrant first delivers to all other parties to the agreement a written statement that he, she or it is a brokerage, broker or salesperson, as the case may be, and the other parties have acknowledged receipt of the statement in writing, no registrant shall, either directly or indirectly,</p> <p>(a) purchase, lease, exchange or otherwise acquire for himself, herself, or itself, any interest in real estate or make an offer to do so; or</p> <p>(b) divest himself, herself, or itself of any interest in real estate, or make an offer to do so.</p> <p>(2) If real estate in respect of which a registrant is required to give a statement under subsection (1) is listed with the brokerage or, in the case of broker or salesperson, is listed with the brokerage by which the broker or salesperson is employed, the statement shall include,</p> <p>(a) a full disclose of all facts with the registrant’s knowledge that affect or will affect the value of the real estate; and</p> <p>(b) the particulars of any negotiation or agreement by or on behalf of the registrant for the sale, exchange, lease or other disposition of any interest in the real estate to any other person.</p>
	RECO, CoE, ss 1(1), 2, 5	<p>Rule 1 A Member shall:</p> <p>(1) endeavour to protect and promote the best interests of the Member's Client,</p> <p>Rule 2 A Member shall endeavour to protect and promote the best interests of the Member's Client. This primary obligation does not relieve the Member of the responsibility of dealing fairly, honestly and with integrity with others involved in each Transaction.</p> <p>Rule5 A Member shall disclose the financial aspects of a Transaction and any personal interest of the Member in a matter to the Parties sufficient to enable them to make an informed decision.</p>
QC	REBA, s 22	<p>22. Every broker or agent, whether in the course of his duties or not, who holds or intends to acquire, directly or indirectly, an interest in immovable property that is being purchased, sold or exchanged must, without delay and in writing, disclose his quality as broker or agent to the perspective contracting party, in the manner prescribed in the by-laws of the Association.</p>
	RPEACIQ, ss 5, 24	<p>5. A member shall avoid any situation which could place him in a conflict of interest and, where such is the case, he shall denounce it to the parties concerned.</p> <p>24. A member shall protect and promote the interests of his client while providing fair treatment to all parties to a transaction referred to in section 1 of the Act.</p>
PE	RETA, s 39	<p>39. No agent or salesman shall, either directly or indirectly,</p> <p>(a) purchase for himself;</p> <p>(b) make an offer to purchase for himself; or</p> <p>(c) acquire for himself any interest in, real estate listed with him for sale, until he has clearly disclosed in writing to the listing owner that</p> <p>(d) he is purchasing the real estate or acquiring an interest therein for himself;</p> <p>(e) he is about to negotiate, is negotiating or has negotiated for the resale or other disposition of the real estate, if such is the case, giving full details of the negotiation; and</p> <p>(f) it is his intention to resell the real estate for his own account, if he intends so to do.</p>

SK	REA, s 65	<p>65(1) In this section:</p> <p>(a) “associate” of a brokerage means:</p> <p>(i) where the brokerage is a partnership of individuals, a partner, other than a limited partner;</p> <p>(ii) where the brokerage is a corporation or a partnership of corporations, an officer or director of any of the corporations or any person that beneficially owns, directly or indirectly, more than 5% of any class of voting equity securities, for the time being outstanding, of any of the corporations;</p> <p>(iii) a broker, branch manager or salesperson of the brokerage;</p> <p>(iv) a corporation, firm, partnership, association, syndicate or other unincorporated organization in which the brokerage or any person mentioned in subclauses (i) to (iii) holds not less than 5% of its capital or is entitled to receive not less than 5% of its profits;</p> <p>(v) the spouse of an individual mentioned in subclauses (i) to (iii);</p> <p>(b) “spouse” means:</p> <p>(i) the husband or wife of a person; or</p> <p>(ii) a person with whom that person cohabits and has cohabited:</p> <p>(A) continuously for a period of not less than two years; or</p> <p>(B) in a relationship of some permanence, if they are the parents of a child.</p> <p>(2) Where a brokerage or an associate of a brokerage directly or indirectly purchases or offers to purchase real estate or an interest in real estate, the brokerage or the associate, as the case may be, shall disclose to the seller, in writing, at the time of the offer:</p> <p>(a) that:</p> <p>(i) it is a brokerage; or</p> <p>(ii) he or she is an associate of a brokerage and the details of the relationship;</p> <p>(b) any information within the knowledge of the brokerage or associate that could materially affect the value of the real estate;</p> <p>(c) whether or not the brokerage or associate, as the case may be, intends to negotiate, is negotiating or has negotiated a further trade of the real estate or his or her interest in it and, if so, details of those negotiations; and</p> <p>(d) the amount, less any commission payable by the seller to the brokerage, that is being offered for the real estate..</p>
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SCHEDULE E-1: FIDUCIARY OBLIGATIONS

		<p>(3) Clauses (2)(b) and (c) do not apply where a brokerage purchases or offers to purchase real estate or an interest in real estate as agent for another person, and:</p> <p>(a) the other person is not a brokerage or an associate of a brokerage;</p> <p>(b) the compensation paid or payable to the brokerage does not exceed that usually paid for that service; and</p> <p>(c) the brokerage discloses to the seller that it is acting as agent for a principal, whether or not the name of the principal is disclosed</p> <p>(4) Where a brokerage or an associate of a brokerage trades in real estate owned by the brokerage or by the associate, or where a brokerage or an associate of a brokerage trades in real estate in which the brokerage or the associate has a material interest, the brokerage or the associate, as the case may be, shall disclose, in writing, to a buyer prior to receiving an offer to purchase:</p> <p>(a) that the real estate is so owned;</p> <p>(b) that:</p> <p>(i) it is a brokerage; or</p> <p>(ii) he or she is an associate of a brokerage and the details of the relationship; and</p> <p>(c) any information within the knowledge of the brokerage or associate that could materially affect the value of the real estate.</p> <p>(5) Where a brokerage fails to comply with subsection (2) or (4), the brokerage is liable to compensate the buyer or seller for any loss suffered as a direct result of the failure to comply with subsection (2) or (4).</p> <p>(6) Where an associate fails to comply with subsection (2) or (4), he or she is liable to compensate the buyer or seller for any loss suffered as a direct result of the failure to comply with subsection (2) or (4).</p>
	<p>SREC Bylaws, ss 702, 708- 709, 716, 725.2, 725.3</p>	<p>702 A registrant shall protect and promote the interests of his or her client. This primary obligation does not relieve the registrant from the obligation of dealing fairly with all other parties to the transaction.</p> <p>708 A registrant, at the time of signing an in-house exclusive written agreement, must have written notification from the seller that the seller requests the registrant’s brokerage to co-operate or to not co-operate with other brokerages in the marketing of the seller’s property. If the seller directs he brokerage not to co-operate with other brokerages, the brokerage shall state the implications of this arrangement to the seller in writing.</p> <p>709 Negotiations concerning exclusively listed property or negotiations with any party who is exclusively represented shall be carried on with the client’s agent and not with the client directly, except with the consent of the client’s agent.</p> <p>716 A registrant shall not accept compensation from more than one party to a trade without first making full disclosure in writing of the intent to do so to all parties involved in the trade.</p> <p>725.2 Prior to the seller accepting an offer to purchase, a broker, branch manager or salesperson shall disclose in writing to a seller the registrant’s relationship to the buyer when the buyer is an immediate family member of the registrant.</p> <p>725.3 Prior to the seller receiving an offer to purchase, a broker, branch manager or salesperson shall disclose in writing to a buyer the registrant’s relationship to the seller when the seller is an immediate family member of the registrant.</p>
<p>YT</p>	<p>REAA, s 31</p>	<p>31. No agent or salesperson shall purchase for himself either directly or indirectly real estate listed with him for sale, nor shall he acquire any interest therein either directly or indirectly, unless he has clearly disclosed in writing to the listing owner complete details of any negotiations for the sale of the said property to another person.</p>

<p>CREA</p>	<p>CofE, ss 2, 8, 10, 13</p>	<p>Article 2 A Realtor shall protect and promote the interests of his or her client. This primary obligation does not relieve the Realtor of the responsibility of dealing fairly with all parties to the transaction.</p> <p>Article 8 A Realtor shall not accept compensation from more than one party to a transaction without written consent of his or her client(s).</p> <p>Article 10 A Realtor shall not accept any rebate or profit on expenditures made for a client without the client’s consent or accept any rebate or profit on expenditures for a customer without the customer’s knowledge.</p> <p>Article 13 A Realtor shall not present and offer or acquire an interest in property either directly or indirectly for himself or herself, any member of his or her immediate family or any entity in which the Realtor has a financial interest, without making the Realtor’s position known to the seller in writing. In selling/leasing property owned by the Realtor, or in which the Realtor has an interest, the interest shall be revealed to the buyer/tenant in writing.</p>
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SCHEDULE E-2: CONFIDENTIAL INFORMATION

SCHEDULE E-2: CONFIDENTIAL INFORMATION

Prov.	Source	Provision
AB	REAR, Schedule 1 (CCIM), 2(d), (f)	<p>2 Industry members must fulfill their fiduciary duties to their clients. This includes the following:</p> <p>(d) An industry member must not reveal a client’s confidential information, unless the industry member has the client’s prior consent.</p> <p>(f) An industry member must not use confidential information obtained from a client for personal gain nor should that information be used for purpose other than for which it was obtained.</p>
BC		
MB		
NB		
NF		
NS	NSREC By-law, s 702 (Article 37)	702 Article 37 A Licensee shall not disclose confidential information about their Client except with the informed consent of the Client or as required or authorized by law. The duty of confidentiality continues after the professional relationship with the Client has ended. A Licensee may disclose confidential information without consent in order to prevent or assist authorities to prevent, investigate or prosecute an offence, to defend the Licensee against an allegation by the Client of negligent or improper conduct.
NT/NU		
ON	RECO, CoE, s 8	Rule 8 A Member shall not disclose confidential information about the Client except with the Informed Consent of the Client or as required or authorized by law. The duty of confidentiality continues after the professional relationship with the Client has ended. A Member may disclose confidential information without consent in order to prevent or assist authorities to prevent, investigate or prosecute an offence, to defend the Member against an allegation by the Client of negligent or improper conduct.
QC	RPEACAIMQ, ss 32, 33	<p>32. A member shall respect the secrecy of all confidential information on his client obtained in pursuing his activities, unless a provision of an Act, a court order or the pursuit of his activities relieves him of that obligation.</p> <p>33. A member shall not make use of confidential information obtained from a client for purposes other than those for which the latter has recourse to his services.</p>
PE		
SK		
YT		
CREA		

SCHEDULE E-3: APPRAISALS AND EVALUATION

Prov.	Source	Provision
AB	REAR, Schedule 1 (CCIM) s 7(k)	<p>7 An industry member must be professional in dealings with the public and other industry members. This includes the following:</p> <p>(k) An industry member must not obtain an appraisal from another industry member where conflict or perceived conflict of interest results, unless the conflict of interest is disclosed in writing to the client.</p>
BC		
MB		
NB		
NF		
NS	NSREC, By-law, s 702 (Articles 8, 9)	<p>702 Article 8 In providing an opinion of value of real property, a Licensee shall not undertake to provide such an opinion if it is outside the Licensee’s field of experience to do so, unless this fact is disclosed to the client or unless assistance is obtained from another person who has experience in this area. In all other circumstances, the Licensee shall not provide an opinion of value on property in which the Licensee has a present or contemplated interest without first disclosing this fact to the client. Fees charged for providing an opinion of value shall not be based on the amount of value reported.</p> <p>Article 9 When asked to make an appraisal or give an opinion of value of real property, the Licensee shall advise the client only after careful and thorough analysis and interpretation of all factors affecting the value of the property.</p>
NT/NU		
ON	RECO, CofE, s 41	Rule 41 A Member shall not give an opinion or advice about the value of Property unless the Member has the knowledge, skill and training to do so for that type of opinion or advice and for that type of Property and the Member has done the necessary research.
QC	RPEACAIMQ, s 21	21. A member shall express his opinion on the value of an immovable or a stock-in-trade only if that opinion is based on and supported by accepted rules of good practice.
PE		
SK	SREC, Bylaws, s 705	705 In providing an opinion of the value of real property, a registrant shall not undertake to provide such an opinion if it is outside the registrant's field of experience to do so, unless this fact is disclosed to the client. A registrant shall not provide an opinion of the value on a property in which the registrant has a present or contemplated interest without disclosing this fact to the client.
YT		
CREA	CoE, s 14	Article 14 In providing an opinion of value of real property, a Realtor shall not undertake to provide such an opinion if it is outside the Realtor’s field of experience to do so, unless this fact is disclosed to the client or unless assistance is obtained from another person who has experience in this area. A Realtor shall not perform an appraisal contrary to the terms and conditions of any designation the Realtor holds through The Canadian Real Estate Association. In all other circumstances, the Realtor shall not provide an opinion of value on property in which the Realtor has a present or contemplated interest without first disclosing this fact to the client. Fees charged for providing an opinion of value shall not be based on the amount of value reported.

SCHEDULE E-4: GENERAL OBLIGATIONS TO CLIENTS

SCHEDULE E-4: GENERAL OBLIGATIONS TO CLIENTS

Prov.	Source	Provision
AB	REAR, Schedule 1 (CCIM) ss 2(b)-(c), (e), (g), (i), 6(d)-(g)	<p>2 Industry members must fulfill their fiduciary duties to their clients. This includes the following:</p> <ul style="list-style-type: none"> (b) An industry member must act in accordance with the client’s lawful instructions. (c) An industry member must not act outside the scope of authority given to the industry member by the client. (e) An industry member must disclose all relevant information to a client. (g) An industry member must not delay the presentation of any offer or counter offer to a client for the purpose of obtaining another offer or counteroffer. (i) An industry member must not allow unauthorized access to or control of a client’s property to third parties. <p>6 An industry member must render a competent service. This includes the following:</p> <ul style="list-style-type: none"> (d) An industry member must only assign to support personnel, or assistants, tasks they are competent to perform and must ensure they are properly trained and supervised. (e) An industry member must not delegate, assign, request, direct or in any way allow an unlicensed or unregistered assistant to perform tasks that must only be performed by an industry member. (f) In the case of an unlicensed or unregistered assistant, the industry member must ensure clients, non-clients and the public have full knowledge that the assistant is unlicensed or unregistered. (g) An industry member must ensure in any communication, advertising or marketing material that there is no suggestion, implication or statement that may suggest or lead the public to believe an unlicensed or unregistered assistant is qualified to trade in real estate or deal in mortgages, as the case may be.
BC	Reg. 75/61, s 5.03	5.03 No licensee shall place a "For Rent" or "For Sale" sign on property without the consent of the owner or the authorized agent of the owner.
MB		
NB		
NF		

NS	NSREC By-Law, ss 702 (Articles 7, 10, 12, 15, 17, 23) , 709-710	<p>702 Article 7 The Licensee shall endeavour to be informed regarding the essential facts which affect current market conditions in order to be in a position to counsel their clients and/or to assist customers in a responsible manner.</p> <p>Article 10 The Licensee has an obligation to discover facts pertaining to every property for which the Licensee accepts an agency which a reasonably prudent Licensee would discover in order to fulfil the obligation to avoid error, misrepresentation, or concealment of pertinent facts. The Licensee shall disclose any known latent defects to his or her clients or other Licensees involved in a transaction.</p> <p>Article 12 A Licensee shall present all written offers and counter-offers as objectively and quickly as possible. This must be done within the specified timeframes or a written extension must be obtained. A Licensee shall not withhold or delay the presentation of an offer without the express written consent of the client. When there are multiple offers, a Licensee acting on behalf of the seller must disclose to all potential buyers or their agents that there are multiple offers, unless otherwise instructed by the seller in writing, but must not disclose to any other person the specific terms and conditions of other offers.</p> <p>Article 15 The Licensee shall not advertise a property without the seller's/landlord's written authority, nor shall the advertised or offered price of a property be other than that which was agreed upon with the seller/landlord.</p> <p>Article 17 Signs in respect of the sale, rent, lease, development or exchange should not be placed on any property by more than one Licensee, unless authorized by the owner/landlord. Licensees shall not interfere with another real estate Brokerage's sign.</p> <p>Article 23 The Licensee shall not knowingly permit any property in the Licensee's charge to be used for unlawful purposes.</p> <p>709 A Licensee shall only advertise properties for sale or for lease when written authority has been obtained from the seller or the seller's lawful designate. The advertisement shall be in accordance with the lawful instructions of the seller or his lawful designate.</p> <p>710 Signs which designate property as being on the market, such as for sale, for rent, will develop to suit, etc. may not be placed on the property without the direct consent of the seller of that property or an authorized representative of the seller. Said advertising shall only be carried out during the currency of the agreement, and must be removed by the expiry date of the listing agreement or other written authority.</p>
NT/NU		
ON	RECO, CofE, s 11	<p>Rule 11 A Member shall discover and verify the pertinent facts relating to the Property and Transaction relevant to the Member's Client that a reasonably prudent Member would discover in order to fulfill the obligation to avoid error, misrepresentation or concealment of pertinent facts.</p>

SCHEDULE E-4: GENERAL OBLIGATIONS TO CLIENTS

QC	RPEACIQ, s 15, 23, 28	<p>15. A member holding a chartered real estate broker’s certificate or a real estate broker’s certificate restricted to loans secured by immovable shall take any reasonable means to ensure that the persons in his employ or authorized to act on his behalf comply with the provisions of the Act and the regulations thereunder.</p> <p>23. A member shall provide the necessary explanations to enable a client to understand and evaluate the services he renders or agrees to render.</p> <p>28. A member shall inform his client and all parties to a transaction referred to in section 1 of the Act of any factor of which he has knowledge that could unfavourably affect the parties or the very object of the transaction.</p>
PE		
SK	SREC, Bylaws, ss 710, 714- 716, 727- 728	<p>710 A registrant shall present all written offers in an objective and unbiased manner.</p> <p>714 A registrant shall take reasonable steps to discover facts pertaining to every property for which the registrant accepts an agency agreement that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.</p> <p>715 Prior to obtaining an offer to purchase on a property from a client, a registrant shall take reasonable steps to discover facts pertaining to the property that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.</p> <p>716 A registrant shall not accept compensation from more than one party to a trade without first making full disclosure in writing of the intent to do so to all parties involved in the trade.</p> <p>727 A registrant shall only advertise properties for sale or lease, or properties sold or leased when written authorization has been obtained from the owner or the owner's lawful representative. The advertisement shall be in accordance with the lawful instructions of the owner or his or her lawful representative.</p> <p>728 Signs which designate property as being on the market, such as “for sale”, “sold”, “for rent”, “will develop to suit”, etc. may not be placed on the property without the written consent of the owner of that property or an authorized representative of the owner.</p>
YT		

<p>CREA</p>	<p>CofE, ss 1, 4, 12, 17</p>	<p>Article 1 Realtors shall endeavour to be informed regarding the essential facts which assist current market conditions in order to be in a position to counsel their clients and/or to assist customers in a responsible manner.</p> <p>Article 4 A Realtor has an obligation to discover facts pertaining to every property for which the Realtor accepts an agency which a reasonably prudent Realtor would discover in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.</p> <p>Article 12 The Realtor shall not knowingly permit any property in his or her charge to be used for unlawful purposes.</p> <p>Article 17 A Realtor is obliged to render a skilled and conscientious service, in conformity with standards of competence which are reasonably expected in the specific real estate disciplines in which the Realtor engages. When a Realtor is unable to render such service, either alone or with the aid of other Realtors, the Realtor should not accept the assignment or otherwise provide assistance in connection with the transaction.</p>
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SCHEDULE F: DUTIES TO CUSTOMERS

SCHEDULE F: DUTIES TO CUSTOMERS

Prov.	Source	Provision
AB	REAR, s 28, Schedule 1 (CCIM), ss, 2(j), 3(d), 7(b)-(c)	<p>28 An industry member shall not</p> <p>(a) trade in real estate on behalf of himself or another person until the industry member has first disclosed in writing to the parties to the trade</p> <p>(i) any interest, direct or indirect, that the industry member or any other industry member has in real estate as seller or buyer; and</p> <p>(ii) that the industry member is licensed under these Rules or is employed or associated with a licensed brokerage, as the case may be;</p> <p>(b) trade in real estate on behalf of another industry member until he has disclosed in writing to the parties he is dealing with that he and that other person are industry members; or</p> <p>(c) directly or indirectly, acquire any interest in real estate for himself without first disclosing in writing to the owner of the real estate, or the legal representative of that owner, complete of any negotiations for its trade to another person.</p> <p>Schedule 1</p> <p>2 Industry members must fulfill their fiduciary duties to their client. This includes the following:</p> <p>(j) When there are multiple offers, an industry member acting on behalf of the seller must disclose to all potential buyers or their agents that there are multiple offers, but must not disclose to any other person the specific terms and conditions of other offers.</p> <p>3 Industry members must use their best efforts to ensure the role of the industry member in a real estate or mortgage transaction is clearly understood by the parties to the transaction. This includes the following:</p> <p>(d) At the commencement of negotiations, an industry member must disclose any association the industry member may have with buyers, sellers or lenders to the client. This association includes immediately family and business associates.</p> <p>7 An industry member must be professional in dealings with the public and other industry members. This includes the following:</p> <p>(b) An industry member must act fairly, honestly and with integrity when dealing with non-clients.</p> <p>(c) An industry member must not participate in fraudulent or unlawful activities in connection with real estate or mortgage transactions.</p>

BC	REA, s 38	<p>38 (1) A licensee must not, directly or indirectly,</p> <ul style="list-style-type: none"> (a) for the licensee's own account or use, (b) on behalf of a corporation of which the licensee is a shareholder, director or officer, or (c) on behalf of a partnership of which the licensee is a partner, <p>acquire, offer to acquire or present an offer to acquire real estate, except by way of mortgage, unless, before acquiring, offering to acquire or presenting an offer to acquire, whichever first occurs, the licensee has disclosed in writing, in the form and manner prescribed by the superintendent, to the owner of the real estate, each of the following wherever it applies:</p> <ul style="list-style-type: none"> (d) that the licensee is a licensee acquiring or offering to acquire the real estate for the licensee's own account or use; (e) that the licensee is a licensee acquiring, offering to acquire or presenting an offer to acquire the real estate for a named person referred to in paragraph (b) or (c), and the licensee's relationship to that person; (f) that it is the licensee's intention or the intention of the person named under paragraph (e) to resell the real estate; (g) that the licensee or the person named under paragraph (e) is about to negotiate, is negotiating or has negotiated for the disposition of that real estate, and gives full details of the negotiations; (h) the amount of any commission which the licensee or the person named under paragraph (e) will receive in respect of the real estate to be acquired. <p>(2) A licensee must not knowingly, directly or indirectly, on behalf of an unlicensed</p> <ul style="list-style-type: none"> (a) shareholder, director or officer of a licensed corporation, (b) partner in a licensed partnership, (c) corporation controlled by an unlicensed person who is <ul style="list-style-type: none"> (i) a shareholder, director or officer of another licensed corporation, or (ii) a partner in a licensed partnership, or (d) partnership of which an unlicensed partner is <ul style="list-style-type: none"> (i) a partner in another licensed partnership, or (ii) a shareholder, director or officer of a licensed corporation, <p>acquire, offer to acquire or present an offer to acquire real estate, except by way of mortgage, unless, before acquiring, offering to acquire or presenting an offer to acquire, whichever first occurs, the licensee has disclosed in writing, in the form and manner prescribed by the superintendent, to the owner of the real estate, each of the following whenever it applies:</p> <ul style="list-style-type: none"> (e) that the licensee is acquiring, offering to acquire or presenting an offer to acquire the real estate for a named person referred to in paragraphs (a) to (d); (f) the relationship of the person named under paragraph (e) to the licensed person referred to in paragraphs (a) to (d); (g) that it is the intention of the person named under paragraph (e) to resell the real estate; (h) that the person named under paragraph (e) is about to negotiate, is negotiating or has negotiated for the disposition of that real estate, and gives full details of the negotiations. <p>(3) For the purposes of subsection (2), "shareholder" means a person who beneficially owns, directly or indirectly, equity shares of a corporation carrying more than 10% of the voting rights attached to all equity shares of the corporation for the time being outstanding.</p>
MB	REBA, s 19(9)	<p>19(9) No broker shall show to a prospective purchaser or otherwise solicit an offer to purchase any real estate owned by him or by his associate without disclosing that it is so owned, and no authorized official or salesman shall show to a prospective purchaser or otherwise solicit an offer to purchase any real estate owned by the broker by whom he is recorded in the register to be employed, or by an associate of that broker, without disclosing that it is so owned.</p>

SCHEDULE F: DUTIES TO CUSTOMERS

NB	REAA, s 23	<p>23(1) Except where subsection (2) applies, where an agent or an associate of an agent intends to acquire real estate or any interest therein, the agent or the associate shall, before either directly or indirectly acquiring or attempting to acquire any interest in the real estate, disclose to the owner that he is an agent or an associate of an agent, as the case may be.</p> <p>(2) Where an agent or an associate of the agent intends to acquire real estate or any interest therein and the owner has listed the real estate with the agent, or has discussed with the agent or the associate the listing of the real estate with the agent, that agent or that associate shall, before either directly or indirectly acquiring or attempting to acquire any interest in the real estate, disclose to the owner</p> <p>(a) whether he intends to sell or dispose of any interest that he acquires in the real estate and, if so, the details of all negotiations to that end;</p> <p>(b) any information within his special knowledge that could materially affect the value of the real estate; and</p> <p>(c) any other information within his special knowledge that could reasonably affect the owner in making a decision in relation to the real estate;</p> <p>and shall inform the owner that he is advised to obtain independent advice regarding the real estate and its value.</p> <p>(3) Where an agent or an associate of an agent owns real estate or any interest therein, he shall, before selling any interest in the real estate, disclose to the prospective purchaser</p> <p>(a) that he owns the real estate or an interest therein; and</p> <p>(b) that he is an agent or an associate of an agent, as the case may be.</p> <p>(4) The disclosure required by subsections (1) and (3) shall be made in a separate written statement the receipt of which is acknowledged in writing by the owner or prospective purchaser, as the case may be.</p> <p>(5) The disclosure required by subsection (2) shall be made</p> <p>(a) in a separate written statement the receipt of which is acknowledged in writing by the owner, and</p> <p>(b) not less than twenty-four hours before the agent or the associate, as the case may be, acquires an interest in the real estate.</p> <p>(6) Where an agent or an associate is in breach of this section he is liable for any reasonably foreseeable loss that was caused by the breach.</p> <p>(7) In this section, "associate" means</p> <p>(a) any salesman of the agent;</p> <p>(b) any manager or official of the agent;</p> <p>(c) any sub-agent or salesman, manager or official of a sub-agent;</p> <p>(d) if the agent or any person included in paragraphs (a) to (c) is a corporation, any director, officer or nominee of the corporation or any person who has a material interest in the corporation;</p> <p>(e) if the agent is a partnership, any partner;</p> <p>(f) the spouse of the agent or of any individual included in paragraphs (a) to (e); or</p> <p>(g) any corporation, firm, partnership, association, syndicate or other unincorporated organization in which the agent or any person included in paragraphs (a) to (f) has a material interest.</p> <p>(8) For the purposes of this section, a person has a material interest</p> <p>(a) in a corporation if he holds five per cent or more of any class of its issued shares; and</p> <p>(b) in a firm, partnership, association, syndicate or other unincorporated organization, if he holds five per cent or more of its capital or is entitled to receive five per cent or more of its profits.</p>
NF		

NS	RETA, s 38	<p>38 (1) For the purpose of this Section, a person is an associate of a licensed person where</p> <ul style="list-style-type: none"> (a) the licensed person is a partnership, that person is a member of the partnership; (b) the licensed person is a corporation, that person is a director or officer of the corporation or has a material interest in the corporation; (c) that person is a manager or a salesperson employed by the licensed person; (d) that person is the spouse of the licensed person; or (e) if that person is a corporation or an unincorporated organization including a sole proprietorship, a partnership, association or syndicate, the licensed person has a material interest in the organization or corporation. <p>(2) For the purpose of this Section, a person has a material interest in a corporation or an unincorporated organization, including a sole proprietorship, partnership, association, syndicate or other unincorporated organization</p> <ul style="list-style-type: none"> (a) in the case of a corporation, if that person beneficially owns not less than five per cent of its issued shares; (b) in the case of an unincorporated organization, including a sole proprietorship, partnership, association, syndicate or other unincorporated organization, if that person holds not less than five per cent of its capital or is entitled to receive not less than five per cent of its profits. <p>(3) Where either a licensed person or the associate of a licensed person directly or indirectly purchases, offers to purchase, sells or offers to sell real estate or an interest in real estate, the licensed person or associate, as the case may be, shall disclose to the buyer or seller in writing</p> <ul style="list-style-type: none"> (a) that the licensed person or associate, as the case may be, is either the licensed person or an associate of the licensed person; (b) any information within the knowledge of the licensed person, or associate, as the case may be, that could materially affect the value of the real estate; (c) whether or not the licensed person or associate, as the case may be, intends to negotiate, is negotiating or has negotiated a resale of the real estate and, if so, details of such negotiations; and (d) the amount that is being offered for the real estate. <p>(4) Clauses (3)(b) and (c) do not apply where a licensed person purchases or offers to purchase real estate as agent for another person and</p> <ul style="list-style-type: none"> (a) the other person is not a licensed person or an associate of the licensed person; (b) the compensation paid or payable to the licensed person does not exceed that usually paid for the service; and (c) the licensed person discloses to the seller that the licensed person is acting as agent for a principal, whether or not the name of the principal is disclosed. <p>(5) Subject to subsection (4), where a licensed person or an associate of the licensed person fails to comply with subsection (3) or (4), the licensed person or the associate, as the case may be, is liable to compensate the seller or buyer for any direct loss suffered by the seller or buyer by reason of the failure to comply.</p>
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SCHEDULE F: DUTIES TO CUSTOMERS

	<p>NSREA, By-law, s 702 (Articles 2, 7, 10, 12, 21)</p>	<p>702 Article 2 The Licensee shall protect and promote the interests of his or her client. This primary obligation does not relieve the Licensee of the responsibility of dealing fairly with all other parties to the transaction.</p> <p>Article 7 The Licensee shall endeavour to be informed regarding the essential facts which affect current market conditions in order to be in a position to counsel their clients and/or to assist customers in a responsible manner.</p> <p>Article 10 The Licensee has an obligation to discover facts pertaining to every property for which the Licensee accepts an agency which a reasonably prudent Licensee would discover in order to fulfil the obligation to avoid error, misrepresentation, or concealment of pertinent facts. The Licensee shall disclose any known latent defects to his or her clients or other Licensees involved in a transaction.</p> <p>Article 12 A Licensee shall present all written offers and counter-offers as objectively and quickly as possible. This must be done within the specified timeframes or a written extension must be obtained. A Licensee shall not withhold or delay the presentation of an offer without the express written consent of the client. When there are multiple offers, a Licensee acting on behalf of the seller must disclose to all potential buyers or their agents that there are multiple offers, unless otherwise instructed by the seller in writing, but must not disclose to any other person the specific terms and conditions of other offers.</p> <p>Article 21 The Licensee shall not present an offer or acquire an interest in property either directly or indirectly for himself or herself, any member of his or her immediate family or any entity in which the Licensee has a financial interest, without making the Licensee's status as a Licensed person and their intent for the purchase known to the seller in writing. In selling/leasing property owned by the Licensee, or in which the Licensee has interest, the interest shall be revealed to the buyer/tenant in writing.</p>
<p>NT/NU</p>	<p>RELA, ss 52-53</p>	<p>52. No agent or salesperson shall trade (a) on behalf of himself or herself or on behalf of another person unless the agent or salesperson discloses in writing to the parties involved in the trade (i) any direct or indirect interest that he or she or any other agent or salesperson has in the real estate as vendor or purchaser, and (ii) that he or she is licensed under this Act as an agent or as a salesperson; or (b) on behalf of another agent or salesperson without disclosing in writing to the parties involved in the trade that he or she and the other agent or salesperson are licensed under this Act as agents or salesperson.</p> <p>53. No agent or salesperson shall either directly or indirectly acquire any interest in real estate until the agent or salesperson has disclosed in writing to the owner of the real estate complete details of any negotiations for its trade to another person.</p>
<p>ON</p>	<p>REBBA, ss 31(1), 32(1)</p>	<p>31. (1) No broker or salesperson shall trade in real estate on behalf of any brokerage other than the brokerage which employs the broker or salesperson.</p> <p>32. (2) If real estate in respect of which a registrant is required to give a statement under subsection (1) is listed with the brokerage or, in the case of a broker or salesperson, is listed with the brokerage by which the broker or salesperson is employed, the statement shall include, (a) full disclosure of all facts within the registrant's knowledge that affect or will affect the value of the real estate; and (b) the particulars of any negotiation or agreement by or on behalf of the registrant for the sale, exchange, lease or other disposition of any interest in the real estate to any other person.</p>

	RECO, CofE, ss 1, 2	<p>Rule 1 A Member shall: 2. endeavour to protect the public from fraud, misrepresentation or unethical practice in connection with real estate Transactions</p> <p>Rule 2 A Member shall endeavour to protect and promote the best interests of the Member's Client. This primary obligation does not relieve the Member of the responsibility of dealing fairly, honestly and with integrity with others involved in each Transaction.</p>
QC	REBA, s 22	<p>22. Every broker or agent, whether in the course of his duties or not, who holds or intends to acquire, directly or indirectly, an interest in immovable property that is being purchased, sold or exchanged must, without delay and in writing, disclose his quality as broker or agent to the prospective contracting party, in the manner prescribed in the by-laws of the Association.</p> <p>In case of failure to do so, the person entitled to such information may, as long as the contract evidencing the transaction has not been signed by the parties, withdraw, without penalty, from any offer or promise, whether accepted or not, concerning the immovable property, by sending or giving a written notice to the other party.</p>
PE		
SK	REA, s 65	<p>65(1) In this section:</p> <p>(a) “associate” of a brokerage means:</p> <p>(i) where the brokerage is a partnership of individuals, a partner, other than a limited partner;</p> <p>(ii) where the brokerage is a corporation or a partnership of corporations, an officer or director of any of the corporations or any person that beneficially owns, directly or indirectly, more than 5% of any class of voting equity securities, for the time being outstanding, of any of the corporations;</p> <p>(iii) a broker, branch manager or salesperson of the brokerage;</p> <p>(iv) a corporation, firm, partnership, association, syndicate or other unincorporated organization in which the brokerage or any person mentioned in subclauses (i) to (iii) holds not less than 5% of its capital or is entitled to receive not less than 5% of its profits;</p> <p>(v) the spouse of an individual mentioned in subclauses (i) to (iii);</p> <p>(b) “spouse” means:</p> <p>(i) the husband or wife of a person; or</p> <p>(ii) a person with whom that person cohabits and has cohabited:</p> <p>(A) continuously for a period of not less than two years; or</p> <p>(B) in a relationship of some permanence, if they are the parents of a child.</p>

SCHEDULE F: DUTIES TO CUSTOMERS

		<p>(2) Where a brokerage or an associate of a brokerage directly or indirectly purchases or offers to purchase real estate or an interest in real estate, the brokerage or the associate, as the case may be, shall disclose to the seller, in writing, at the time of the offer:</p> <p>(a) that:</p> <p>(i) it is a brokerage; or</p> <p>(ii) he or she is an associate of a brokerage and the details of the relationship;</p> <p>(b) any information within the knowledge of the brokerage or associate that could materially affect the value of the real estate;</p> <p>(c) whether or not the brokerage or associate, as the case may be, intends to negotiate, is negotiating or has negotiated a further trade of the real estate or his or her interest in it and, if so, details of those negotiations; and</p> <p>(d) the amount, less any commission payable by the seller to the brokerage, that is being offered for the real estate.</p> <p>(3) Clauses (2)(b) and (c) do not apply where a brokerage purchases or offers to purchase real estate or an interest in real estate as agent for another person, and:</p> <p>(a) the other person is not a brokerage or an associate of a brokerage;</p> <p>(b) the compensation paid or payable to the brokerage does not exceed that usually paid for that service; and</p> <p>(c) the brokerage discloses to the seller that it is acting as agent for a principal, whether or not the name of the principal is disclosed.</p> <p>(4) Where a brokerage or an associate of a brokerage trades in real estate owned by the brokerage or by the associate, or where a brokerage or an associate of a brokerage trades in real estate in which the brokerage or the associate has a material interest, the brokerage or the associate, as the case may be, shall disclose, in writing, to a buyer prior to receiving an offer to purchase:</p> <p>(a) that the real estate is so owned;</p> <p>(b) that:</p> <p>(i) it is a brokerage; or</p> <p>(ii) he or she is an associate of a brokerage and the details of the relationship; and</p> <p>(c) any information within the knowledge of the brokerage or associate that could materially affect the value of the real estate.</p> <p>(5) Where a brokerage fails to comply with subsection (2) or (4), the brokerage is liable to compensate the buyer or seller for any loss suffered as a direct result of the failure to comply with subsection (2) or (4).</p> <p>(6) Where an associate fails to comply with subsection (2) or (4), he or she is liable to compensate the buyer or seller for any loss suffered as a direct result of the failure to comply with subsection (2) or (4).</p>
YT	<p>SREC, Bylaws, ss 702, 714, 715</p>	<p>702 A registrant shall protect and promote the interests of his or her client. This primary obligation does not relieve the registrant from the obligation of dealing fairly with all other parties to the transaction.</p> <p>714 A registrant shall take reasonable steps to discover facts pertaining to every property for which the registrant accepts an agency agreement that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.</p> <p>715 Prior to obtaining an offer to purchase on a property from a client, a registrant shall take reasonable steps to discover facts pertaining to the property that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.</p>

CREA	CofE, ss 1, 2, 4	<p>Article 1 Realtors shall endeavour to be informed regarding the essential facts with affect current market conditions in order to be in a position to counsel their clients and/or assist customers in a responsible manner.</p> <p>Article 2 Realtor shall protect and promote the interests of his or her client. This primary obligation does not relieve the Realtor of the responsibility of dealing fairly with all parties to the transaction.</p> <p>Article 4 A Realtor has an obligation to discover facts pertaining to every property for which the Realtor accepts an agency which a reasonably prudent Realtor would discover in order to fulfill the obligation to avoid error, misrepresentation or concealment of pertinent facts.</p>
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SCHEDULE G-1: STANDARDS OF CONDUCT

SCHEDULE G: COMMON DUTIES (OWED TO CLIENT & CUSTOMER)

SCHEDULE G-1: STANDARDS OF CONDUCT

Prov.	Source	Provision
AB	REAR, Schedule 1 (CCFIM), s 6(a), (b)	6 An industry member must render a competent service. This includes the following: (a) An industry member must maintain a state of competency on a continuing basis in all areas in which the industry members renders services. (b) When an industry member is unable to render such a service, either alone or with the assistance of other industry members, the industry member must decline to ac.
BC		
MB		
NB		
NF		
NS	NSREC By-law, s 702 (Article 6)	Article 6 The Licensee is obliged to render a skilled and conscientious service, in conformity with standards if competence which are reasonably expected in the specific real estate disciplines in which the Licensee engages. When the Licensee is unable to render such service, either alone or with the aid of other Licensees, the Licensee should not accept the assignment or otherwise provide assistance in connection with the transaction.
NT/NU		
ON	RECO, CoE, ss 1(3)-(5), 11	Rule 1 A member shall: (3) maintain and enhance the Member's degree of skill and competence, (4) render services, including giving advice and opinions, based upon the Member's knowledge, training, qualifications and expertise, (5) deal fairly, honestly and with integrity with the public, other Members and third parties, Rule 11 A Member shall discover and verify pertinent facts relating to the Property and the Transaction relevant to the Member's Client that a reasonably prudent Member would discover in order to fulfill the obligation to avoid error, misrepresentation or concealment of pertinent facts.
QC	RPEACAIQ, ss 1, 11, 18, 20, 22, 28	1. A member of the Association des courtiers et agents immobiliers du Quebec shall practice his profession with prudence, diligence and competence, and he shall demonstrate integrity, courtesy and a spirit of cooperation. He shall not commit acts that are degaratory to the honour and dignity of the profession. 11. A member shall verify, in accordance with generally accepted practice, the information that he provides to the public or to another member. He shall be in position to prove the accuracy of that information at all times.

		<p>18. In pursuing the activities of a real estate broker or real estate agent, a member shall bear in mind his aptitudes, the limits of his knowledge and of the means at his disposal. He shall not agree to engage in a transaction referred to in section 1 of the Act that is outside his field of expertise without seeking help, in particular from another member who has the required expertise.</p> <p>22. A member shall perform the obligations he has agreed to perform with prudence, diligence and competence. To that end, he shall demonstrate a reasonable degree of availability or otherwise designate another member to replace him.</p> <p>28. A member shall inform his client and all parties to a transaction referred to in section 1 of the Act of any factor of which he has knowledge that could unfavourably affect the parties or the very object of the transaction.</p>
PE		
SK	SREAC, Bylaws, 714, 715 s	<p>714 A registrant shall take reasonable steps to discover facts pertaining to every property for which the registrant accepts an agency agreement that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.</p> <p>715 Prior to obtaining an offer to purchase on a property from a client, a registrant shall take reasonable steps to discover facts pertaining to the property that a prudent registrant would take in order to fulfil the obligation to avoid error, misrepresentation or concealment of pertinent facts.</p>
YT		
CREA	CofE, ss 4, 17	<p>Article 4 A Realtor has an obligation to discover facts pertaining to every property for which the Realtor accepts an agency which a reasonably prudent Realtor would discover in order to fulfill the obligation to avoid error, misrepresentation or concealment of pertinent facts.</p> <p>Article 17 A Realtor is obliged to render a skilled and conscientious service, in conformity with standards of competence which are reasonably expected in the specific real estate disciplines in which the Realtor engages. When a Realtor is unable to render such service, either alone or with the aid of other Realtors, the Realtor should not accept the assignment or otherwise provide assistance in connection with the transaction.</p>

SCHEDULE G-2: OBLIGATIONS RESPECTING DOCUMENTS

SCHEDULE G-2: OBLIGATIONS RESPECTING DOCUMENTS

Prov.	Source	Provision
AB	REAR, s 27, Schedule 1 (CCIM), ss 4(d), 6(c), 7(e)	<p>27 When an industry member receives an offer or an acceptance of an offer in writing from a party to a trade in real estate, the industry member shall, as soon as practicable,</p> <p>(a) provide that party with a true copy of that offer or acceptance; and</p> <p>(b) deliver a true copy of that offer or acceptance to the other parties to that trade.</p> <p>Schedule 1</p> <p>4 An industry member must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so. This includes the following:</p> <p>(d) An industry member shall not participate in the creation of any contract, document or form of communication that the member knows or ought to know is false or misleading.</p> <p>6 An industry member must render a competent service. This includes the following:</p> <p>(c) An industry member must not misrepresent commissions or fees being charged in a particular market or use that information to suggest that commissions or fees are not negotiable.</p> <p>7 An industry member must be professional in dealings with the public and other industry members. This includes the following:</p> <p>(e) An industry member must not attempt to dictate the price, terms of trust, or other terms of an offer, counter offer, or terms of a mortgage contract that should be accepted by that person.</p>
BC	REA, ss 37, 39	<p>37 (1) When a licensee has secured a signed acceptance of an offer to sell, purchase, exchange, lease or rent real estate, the licensee must without delay deliver to each of the parties to the transaction a copy of the acceptance signed by the acceptor.</p> <p>(2) A licensee must not induce any party to a contract for purchase and sale or rental of real estate to break the contract for the purpose of entering into a contract with another principal.</p> <p>39 (1) If a transaction with respect to a business is negotiated by a licensee, the licensee must, before a binding agreement of purchase or sale is signed by the parties, deliver to the person acquiring the business all of the following:</p> <p>(a) a profit and loss statement or statement showing the revenue and expenses of the business for a period of 12 months ending not more than 120 days before the signing of the agreement, or for the period from the acquisition of the business by the person disposing of it to a date not more than 120 days before the signing of the agreement;</p> <p>(b) statement of the assets and liabilities of the business;</p>

		<p>(c) a statement containing a list of all fixtures, goods, chattels, rights and other assets relating to or connected with the business that are included in the transaction. (2) A statement under subsection (1) must be dated and signed by the person disposing of the business or the person's authorized agent.</p> <p>(3) If the licensee delivers to the person acquiring the business an affidavit of the person disposing of the business setting out</p> <p>(a) the terms and conditions under which the person disposing of the business holds possession of the premises in which the business is being carried on,</p> <p>(b) the terms and conditions under which the person disposing of the business has sublet any part of the premises in which the business is being carried on,</p> <p>(c) all liabilities of the business, and</p> <p>(d) that the person disposing of the business has made available such books of account of the business as the person possesses, for inspection by the person acquiring the business, or that the person disposing of the business has no books of account of the business, as the case may be,</p> <p>the person acquiring the business may waive compliance with subsection (1) (a) and (b) by signing and delivering to the licensee a statement that the person has received and read the affidavit of the person disposing of the business.</p> <p>(4) Unless the statement mentioned in subsection (1) (c) is delivered in accordance with subsection (1), all fixtures, goods, chattels and rights and other assets relating to or connected with the business are deemed to be included in the transaction.</p> <p>(5) This section does not apply to a licensee if the licensee is acting on behalf of a purchaser</p>
MB	REBA, ss 21, 22	<p>21(1) Every offer to purchase real estate, obtained by a broker, salesman or authorized official, shall be in writing, completed in not less than quadruplicate if there is only one broker involved in the transaction, and otherwise in not less than quintuplicate, executed by the offeror in the presence of a witness, and the broker, salesman or authorized official as the case may be shall deliver the duplicate copy thereof immediately upon execution to the offeror.</p> <p>21(2) Where a broker, authorized official or salesman presents an offer to purchase real estate to a vendor for his acceptance and the vendor accepts the offer, the broker, authorized official or salesman, as the case may be, shall obtain the acceptance in writing signed by the vendor and duly witnessed, in not less than duplicate, leave one copy thereof with the vendor and immediately notify the purchaser of the acceptance by delivering a copy of the acceptance to the purchaser.</p> <p>21(3) Every offer obtained by a broker, authorized official or salesman to purchase real estate consisting of a single family residential house or a single family residential unit in a condominium shall be on a printed form as prescribed by the regulations and shall have appended thereto a printed form of acceptance as prescribed by the regulations.</p> <p>21(4) Subsection (3) does not apply</p> <p>(a) where the offer is prepared for use in respect of the trade in respect of which it is used, by a solicitor entitled to practise in the Province of Manitoba acting on behalf of the offerer or the offeree;</p> <p>(b) where the offer is an offer to purchase real Manitoba estate from Canada Mortgage and Housing Corporation; or</p> <p>(c) where the offer includes an offer respecting the construction of a building on the real estate in respect of which the offer is made and provides that the deposit, if any, shall be paid either to a registered real estate broker or to a member of the Law Society of Manitoba entitled to practise as a solicitor in the province; or</p> <p>(d) where the offer is an offer to purchase real estate on which a building is under construction and provides that the deposit, if any, shall be paid either to a registered real estate broker or to a member of the Law Society of Manitoba entitled to practise as a solicitor in the province.</p> <p>[Section 22 lists in detail the necessary contents of an offer.]</p>

SCHEDULE G-2: OBLIGATIONS RESPECTING DOCUMENTS

NB	REAA, s 23.5	<p>23.5(1) Where an agent receives an offer in writing, he shall as soon as practicable</p> <ul style="list-style-type: none"> (a) provide the offeror with a true copy of the offer, and (b) present the offer to the offeree. <p>(2) Where an agent receives an acceptance in writing, he shall as soon as practicable</p> <ul style="list-style-type: none"> (a) provide the offeree with a true copy of the acceptance, and (b) notify the offeror of the acceptance and provide him with a true copy of the acceptance.
NF	RETA, ss 43, 46	<p>43. (1) Where a trade in a business is negotiated by an agent or the agent's salesperson, the person negotiating the trade shall, before a binding agreement of purchase and sale is signed by the parties, deliver to the person acquiring the business,</p> <ul style="list-style-type: none"> (a) a profit and loss statement or a statement showing the revenue and expenditure of the business, during the preceding 12 months or since the acquisition of the business by the person disposing of it; (b) a statement of the assets and liabilities of the business; and (c) a statement containing a list of fixtures, goods, chattels, rights and other assets relating to or connected with the business that are not included in the trade, <p>and a statement shall be signed by the person disposing of the business or his or her agent lawfully authorized in that behalf.</p> <p>(2) Where an agent or a licensed salesperson of that agent delivers to the person acquiring the business an affidavit of the person disposing of the business setting out</p> <ul style="list-style-type: none"> (a) the terms and conditions under which the person disposing of the business holds possession of the premises in which the business is being carried on; (b) where the person disposing of the business has sublet a part of the premises in which the business is being carried on, the terms and conditions of the sublease; (c) liabilities of the business; and (d) that the person disposing of the business has made available those books of account of the business that the person possesses for inspection by the person acquiring the business, or that the person disposing of the business has no books of account of the business, the person acquiring the business may waive compliance with paragraphs (1)(a) and (b) by signing and delivering to that agent or salesperson a statement that he or she has received and read the affidavit of the person disposing of the business. <p>(3) Unless the statement mentioned in paragraph (1)(c) is delivered under that subsection, fixtures, goods, chattels and rights and other assets relating to or connected with the business shall be considered to be included in the transaction..</p> <p>46. Where an agent or salesperson has secured an acceptance of an offer to sell, purchase, exchange, lease or rent real estate, the agent or salesperson shall require each of the parties to sign a sufficient number of copies of the agreement, and the agent or salesperson shall retain 1 signed copy and shall immediately deliver 1 signed copy to each of the parties</p>
NS	RETA, s 29 NSREC By-law, ss 702 (Articles, 11, 12, 34),	<p>29 Every offer to purchase real estate obtained by a licensed person shall be in writing.</p> <p>702 Article 11 The Licensee shall ensure that agreements regarding real estate transactions are in writing in clear and understandable language, expressing the specific terms, conditions, obligations and commitments of the parties to the agreement. A copy of each final agreement shall be furnished to each party upon their signing or initialing, and shall be dealt with in accordance with the instructions of the parties involved.</p>

		<p>Article 12 A Licensee shall present all written offers and counter-offers as objectively and quickly as possible. This must be done within the specified timeframes or a written extension must be obtained. A Licensee shall not withhold or delay the presentation of an offer without the express written consent of the client. When there are multiple offers, a Licensee acting on behalf of the seller must disclose to all potential buyers or their agents that there are multiple offers, unless otherwise instructed by the seller in writing, but must not disclose to any other person the specific terms and conditions of other offers.</p> <p>Article 34 A Licensee shall not make any statement or participate in the creation of any document or statement that the Licensee knows or ought to know is false or misleading.</p> <p>713 A Brokerage shall ensure that an Amendment to Agreement of Purchase and Sale and/or Notice/Waiver/Release form, if required under the terms of the Agreement, is properly completed to remove the applicable terms and conditions on or before the expiry date of the terms and conditions of an offer. A copy of the Amendment to Agreement of Purchase and Sale and/or Notice/Waiver/Release form must be delivered to all parties to the transaction as soon as possible after the execution of the document.</p>
NT/NU	REALA, s 60	<p>60. Where an agent or salesperson receives a written offer or acceptance of an offer from a party to a trade, the agent or salesperson shall, as soon as practicable,</p> <p>(a) provide that party with a true copy of the offer or acceptance; and</p> <p>(b) deliver a true copy of the offer or acceptance to the other party to the trade.</p>
ON	RECO, CoE, ss 6, 10, 12, 14	<p>Rule 6 A Member shall ensure that Agreements regarding Transactions are in writing, expressing the specific terms, conditions, obligations and commitments of the Parties to the Agreement. A copy of each accepted Agreement shall be furnished to each Party upon its final Acceptance.</p> <p>Rule 10 A Member shall not make any statements or participate in the creation of any document or statement that the Member knows or ought to know is false or misleading.</p> <p>Rule 12 A Member shall ensure that all documents and forms used are current and, where applicable, are in the form approved by the Council, and the Member shall explain to a Client or Customer, in reasonable detail, the documents and forms used in the Transaction.</p> <p>Rule 14 A Member shall present all written Offers, including counter-offers, as objectively and quickly as possible. The Member shall establish a system to ensure that all Offers are received and presented on a timely basis, including in the absence of the Member.</p>
QC	REBA, s 39	<p>39. The contract must specify that the broker has an obligation to submit to the natural person every promise to purchase, lease or exchange the immovable property in question.</p>
PE	RETA, s 41	<p>41. (1) Where a trade in a business is negotiated by an agent or his salesman, the person negotiating the trade shall, before a binding agreement of purchase and sale is signed by the parties, deliver to the person acquiring the business</p> <p>(a) a profit and loss statement or a statement showing the revenue and expenditure of the business, during the preceding twelve months or since the acquisition of the business by the person disposing of it;</p> <p>(b) a statement of the assets and liabilities of the business; and</p> <p>(c) a statement containing a list of all fixtures, goods, chattels, rights and other assets relating to or connected with the business that are not included in the trade,</p> <p>and every such statement shall be signed by the person disposing of the business or his agent lawfully authorized in that behalf.</p>

SCHEDULE G-2: OBLIGATIONS RESPECTING DOCUMENTS

		<p>(2) Where an agent or licensed salesman of that agent delivers to the person acquiring the business an affidavit of the person disposing of the business setting forth</p> <p>(a) the terms and conditions under which the person disposing of the business holds possession of the premises in which the business is being carried on;</p> <p>(b) if the person disposing of the business has sublet a part of the premises in which the business is being carried on, the terms and conditions of the sublease;</p> <p>(c) all liabilities of the business; and</p> <p>(d) that the person disposing of the business has made available such books of account of the business as he possesses for inspection by the person acquiring the business, or that the person disposing of the business, has no books of account of the business, the person acquiring the business may waive compliance with clauses (1)(a) and (b) by signing and delivering to that agent or salesman a statement that he has received and read the affidavit of the person disposing of the business.</p> <p>(3) Unless the statement mentioned in clause (1)(c) is delivered in accordance with that subsection, all fixtures, goods, chattels and rights and other assets relating to or connected with the business shall be deemed to be included in the transaction.</p> <p>(4) The provisions of this section are in addition to the provisions of the <i>Bulk Sales Act R.S.P.E.I. 1988, Cap. B-6</i>.</p>
<p>SK</p>	<p>REA, ss 57, 58</p>	<p>57(1) Every written agency agreement is to be executed in the presence of a witness.</p> <p>(2) A written agency agreement is not valid unless:</p> <p>(a) it contains an expiry date;</p> <p>(b) it contains only one expiry date;</p> <p>(c) the expiry date is less than 12 months from the date of the agency agreement;</p> <p>(d) it shows the total amount of commission, as a lump sum or as a percentage, to be paid to the brokerage; and</p> <p>(e) a true copy of the agency agreement is immediately delivered to the seller or buyer who signed the agency agreement.</p> <p>58(1) An offer to purchase obtained by a registrant:</p> <p>(a) is to be in writing, dated and signed by the buyer in the presence of a witness; and</p> <p>(b) is to clearly show, prior to execution by the buyer:</p> <p>(i) the date on which the offer is made;</p> <p>(ii) the names and addresses of the buyer and seller;</p> <p>(iii) the street address or legal description of the real estate;</p> <p>(iv) the price offered by the buyer and the terms and conditions of the offer;</p> <p>(v) the amount of deposit, if any, made at the time of the offer and whether or not that deposit is to form part of the price;</p> <p>(vi) a brief description and list of any chattels that are to be included in the price;</p> <p>(vii) the date of possession by the buyer and whether possession is to be vacant or otherwise;</p> <p>(viii) the date of adjustments;</p> <p>(ix) the time and date by which the offer is to be accepted;</p> <p>(x) the name, address and telephone number of the brokerage; and</p> <p>(xi) any other information prescribed in the bylaws.</p>

		<p>(2) A registrant who obtains an offer mentioned in subsection (1) shall immediately deliver a copy of the offer to the seller or to his or her agent, in accordance with the bylaws.</p> <p>(3) Where a registrant presents an offer mentioned in subsection (1) and the offer is accepted:</p> <p>(a) the acceptance is to be in writing, and to be dated and signed by the seller in the presence of a witness who shall also sign the acceptance;</p> <p>(b) the registrant shall leave one copy of the acceptance with the seller; and</p> <p>(c) the registrant shall immediately deliver a copy of the acceptance to the buyer.</p> <p>(4) Where a registrant presents an offer mentioned in subsection (1) to a seller and the seller does not accept the offer, subsections (2) and (3) apply with respect to any amendment to the offer or counter offer, with any necessary modification.</p>
	<p>SREC Bylaws, ss 701, 710, 720, 730</p>	<p>701. No registrant shall make or permit to be made, whether orally or otherwise, a statement, record, report, notice or other document required by this Act, the regulations or the bylaws that:</p> <p>(a) contains an untrue statement of a material fact; or</p> <p>(b) omits to state a material fact.</p> <p>710. A registrant shall present all written offers in an objective and unbiased manner.</p> <p>720. A registrant shall not make an affidavit that contains false information.</p> <p>730. The following approved forms, provided by the Saskatchewan Real Estate Association, shall be mandatory:</p> <p>(a) Residential Contract of Purchase and Sale (does not apply to the sale of new condominiums);</p> <p>(b) Schedule "C": Special Conditions for Contract of Purchase and Sale of a Condominium Unit (does not apply to the sale of new condominiums);</p> <p>(c) Counter Offer to Contract of Purchase and Sale;</p> <p>(d) Amendment to Contract of Purchase and Sale and/or Notice to Remove Conditions;</p> <p>(e) Statement of Disclosure.</p>
<p>YT</p>		<p>36. Where a licensed person receives an offer or an acceptance of an offer in writing from a party to a trade in real estate, he shall, as soon as practicable,</p> <p>(a) provide that party with a true copy of that offer or acceptance, and</p> <p>(b) deliver a true copy of that offer or acceptance to the other parties to that trade.</p>
<p>CREA</p>	<p>CoE, ss 6, 15</p>	<p>Article 6 Realtors shall ensure that agreements regarding real estate transactions are in writing in clear and understandable language, expressing the specific terms, conditions, obligations and commitments of the parties to the agreement. A copy of each final agreement shall be furnished to each party upon their signing or initialing, and shall be dealt with in accordance with the instructions of the parties involved.</p> <p>Article 15 A Realtor shall present all written offers and counter-offers as objectively and as quickly as possible.</p>

SCHEDULE G-3: DISCLOSURE OF TRANSACTION COSTS

SCHEDULE G-3: DISCLOSURE OF TRANSACTION COSTS

Prov.	Source	Provision
AB	REAR, s 30, Schedule 1 (CCIM) s 5	<p>30 An industry member cannot accept a fee or other remuneration for the referral of a party to a trade in real estate to another person unless, before the referral is made, the industry member discloses in writing to that party</p> <p>(a) the nature of the referral;</p> <p>(b) that a referral fee will be paid or is likely to be paid;</p> <p>(c) the amount of the fee or, if the amount of the fee is unknown, the likely amount of the fee or method of calculation of the fee.</p> <p>Schedule 1</p> <p>5 An industry member must clearly disclose the cost of their services to clients. This includes the following:</p> <p>(a) Prior to signing an agreement, an industry member must fully inform clients what the fees for providing services will be or provide a reasonable estimate with an explanation disclosing the factors that will affect the estimate.</p> <p>(b) An industry member must not suggest that commissions or fees are fixed throughout the industry or make any representation that any council, board, association or other industry body sets a minimum amount of fees that can be charged.</p> <p>(c) An industry member must not misrepresent commissions or fees being charged in a particular market or use that information to suggest that commissions or fees are not negotiable.</p> <p>(d) An industry member who is a mortgage broker must make disclosure in writing of any fees that are non-refundable prior to the fee being paid or prior to any agreement causing the fee to be paid.</p>
BC		
MB		
NB		
NF		
NS	NSREAC, By-law, s 702 (Article 5)	<p>702 Article 5 The Licensee shall, prior to the signing of any agreement, fully inform the signing party regarding the type of expenses for which he/she may be normally liable.</p>
NT/NU		
ON	RECO, CofE, s 5	<p>Rule 5 A Member shall disclose the financial aspects of a Transaction and any personal interest of the Member in a matter to the Parties sufficient to enable them to make an informed decision.</p>
QC		
PE		
SK	SREC, Bylaws, s 704	<p>704 A registrant shall, prior to the execution of an agreement, inform the buyer or seller, as the case may be, of the nature of the expenses for which that party may normally pay to the registrant.</p>
YT		
CREA	CofE, s 9	<p>Article 9 Realtors shall disclose to a client or customer if there is any financial benefit the Realtor or his/her firm may receive as a result of recommending real estate products or services to that party.</p>

SCHEDULE G-4: TRANSACTION FUNDS

Prov.	Source	Provision
AB	REA, s 25(1)(b), (c)-(d), 2, 11	<p>25(1) An industry member who is required by the rules to keep and operate a trust account shall</p> <p>(b) deposit money received in trust in respect of a dealing or trade within 2 banking days after receipt of the money, or within any longer period agreed to in writing by the parties to the dealing or trade, in an interest-bearing account...</p> <p>(c) keep money received or held in trust in respect of a dealing or trade separate from money that belongs to the industry member or any industry members the industry member employs, and</p> <p>(d) disburse money received or held in trust in respect of a dealing or trade only in accordance with the rules and with the terms of the trust governing the use of that money.</p> <p>(2) Where an industry member receives money in trust in respect of a dealing or trade, the industry member shall ensure that the terms of the trust governing the use of the money are in writing and agreed to by the industry member and the client and any other parties.</p> <p>(11) Any waiver or release by a client on whose behalf the industry member is acting of the rights, benefits or protections provided to the client under this section is void.</p>
	REAR, s 37(a), 46(1)	<p>37 A brokerage shall</p> <p>(a) open and maintain at least one trust or pooled trust account for deposit of funds on behalf of clients or owners of real estate managed under real estate management agreements;</p> <p>46 (1) All payments received by a brokerage as or on account of commission or other remuneration for a trade in real estate shall be classified as trust money and shall be paid into the brokerage's trust account notwithstanding that the commission or remuneration may already have been earned, and, where applicable, the payments shall be recorded as being received in trust for the person liable to pay the commission or other remuneration.</p>
BC	REA, ss 16(1), 17(a)-(b), 18, 23 (1), (3)-(4)	<p>16 (1) An agent must, on receipt pay into a trust account maintained in British Columbia in accordance with section 15</p> <p>(a) all money held for or received on behalf of a client or otherwise in respect of a real estate transaction, and</p> <p>(b) money a part of which belongs to the client and is to be held on the client's behalf and part of which belongs to the agent.</p> <p>17 No money may be drawn from a trust account, except the following:</p> <p>(a) money paid to or on behalf of a client from funds which have been deposited in a trust account to the client's credit;</p> <p>(b) money required for payment to the agent for or on account of services rendered to or disbursements made on behalf of a client from money belonging to the client;</p>

SCHEDULE G-4: TRANSACTION FUNDS

		<p>18 Sections 16 and 17 do not apply to money that the agent pays into a separate trust account opened in the name of the client or other person named by the client in writing</p> <p>23 (1) An agent is not liable, because of the relation between agent and principal or between the agent and a client or because of the trust relationship between the agent, as trustee, and the beneficiary of the trust, to account to a client or beneficiary for interest received by the agent on money received or held in a trust account referred to in section 16 (1).</p> <p>(3) Nothing in this section or in the rules under section 24 applies to money deposited in a separate account for a client, and interest paid on money in that account is the property of the client.</p> <p>(4) Subsection (2) does not apply if the agent holds the money under a duty under the <i>Residential Tenancy Act</i> to pay the interest to a tenant</p>
MB	REBA, s 26(1), (1.1), (1.3)-(1.6)	<p>26(1) Every broker shall maintain in a bank an account designated as a trust account and shall deposit in the account any trust money received in connection with a trade or transaction, and shall at all times keep trust money separate and apart from other money and shall disburse trust money only in accordance with the terms upon which it is received.</p> <p>26(1.1) Subject to subsection (1.4), all trust moneys received by a broker from or for any person in respect of a transaction or trade in real estate shall be deposited in an interest-bearing bank account kept by the broker.</p> <p>26(1.3) A broker is not required to account to any person other than the commission for interest remitted to the commission under subsection (1.2).</p> <p>26(1.4) Notwithstanding subsection (1.1), trust money received by a broker from or for any person in respect of a transaction or trade in real estate may be deposited in an interest-bearing account separate from any other account kept by the broker or be invested in a term plan or a guaranteed term plan of a bank, where the broker has written instructions to do so from all persons having an interest in the money at the time of the deposit or the investment.</p> <p>26(1.5) A broker acting under subsection (1.4) is deemed to hold the money and the interest earned thereon as trustee for the persons on whose behalf the money is held and the broker shall account to such persons.</p> <p>26(1.6) A broker acting under subsection (1.4) shall exercise the judgment and care that a person of prudence, discretion and intelligence would exercise in administering the property of others and receipt of the written instructions mentioned in subsection (1.4) does not relieve the broker of the duty to exercise such judgment and care.</p>

<p>NB</p>	<p>REAA, ss 11, 12, 13.1, 13.11(1), 13.4(3)-(6)</p>	<p>11 An agent shall have at least one interest bearing account for deposits</p> <p>12(1) Subject to subsection (2), an agent shall forthwith pay into his trust account all money received in connection with a trade other than money which belongs to the agent.</p> <p>12(2) Where an agent receives a cheque as a deposit with an offer, he shall not be required to place the cheque into his trust account before the offer is accepted, but he shall place the cheque into his trust account forthwith on the acceptance of the offer.</p> <p>12(4) Where an agent receives money representing in part money belonging to another person and in part money due to the agent, he may, if practicable, divide the money and pay into the trust account that part only which belongs to the other person, but otherwise he shall pay the whole of the money into the trust account.</p> <p>13.1(1) Subject to subsection (2), an agent who receives a deposit on any trade in real estate shall hold it as trustee on behalf of all the parties to the trade in accordance with their respective rights under the offer or contract, and not as agent for any one of them, and he shall have the responsibility to pay or account for it to the proper party, and in the event of any dispute between the parties in respect of the deposit, he may, and if it is necessary to resolve the dispute he shall, pay the deposit into court on an interpleader.</p> <p>13.1(2) Notwithstanding subsection (1), an agent may receive a deposit as agent for one party to a trade in real estate if the offer or contract under which the deposit is received so provides and every other party acknowledges this provision in writing, either in a separate document or in a separate part of the offer or contract.</p> <p>13.11(1) Notwithstanding section 13.1, an agent who receives a deposit referred to in subsection 13.1(1) may, in the event of a dispute between the parties in respect of the deposit and with the agreement of the parties, apply to the Minister to resolve the dispute between the parties.</p> <p>13.4(3) Subject to subsection (4), an agent who deposits funds under this section shall not be required to account to any party except the Association for any interest earned on money deposited pursuant to this section.</p> <p>13.4(4) Notwithstanding anything in this section, an agent may on the written instructions of all parties to a trade hold any deposit received on the trade in a separate interest bearing trust account and, if the agent is so instructed, he shall pay any interest on the account in accordance with the written instructions.</p> <p>13.4(5) Any written instructions referred to in subsection (4) shall be acknowledged separately and shall state the person to whom any interest is to be paid.</p> <p>13.4(6) Every agent who receives from a person money which he is required to deposit in trust, or which he is instructed by the person to hold in trust for that person, whenever he has reasonable and probable grounds to believe that the money will not be required within ninety days, shall advise the person that the money may be deposited in a separate interest bearing trust account pursuant to subsection (4).</p>
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SCHEDULE G-4: TRANSACTION FUNDS

<p>NF</p>	<p>RETA, ss 29, 63-64</p>	<p>29. (1) An agent shall maintain at least 1 interest-bearing trust account of a type approved by the superintendent in a financial institution that is authorized to receive money on deposit. (2) An agent shall deposit in a trust account money received by the agent in trust for other persons in connection with real estate transactions and shall make deposits within 2 banking days of their receipt by the agent. (3) An agent shall not disburse money from a trust account unless (a) the offer of purchase has not been accepted by the vendor; (b) the sale has been completed; (c) written notice from the vendor and purchaser has been received by the agent authorizing the return of the deposit to the purchaser; (d) a court has given a direction as to the disbursement of the proceeds; or (e) the money has been deposited into the trust account in error.</p> <p>63. An agent is not liable, by virtue of the relationship between the agent and a client or the relationship between the agent as a trustee and a beneficiary under a trust, to account to the client or the beneficiary for interest received by the agent on money on deposit in an account referred to in section 29</p> <p>64. (1) Nothing in this Part affects a written arrangement, whenever made, between an agent and another person as to the application of that person's money or interest on the money, or applies to money deposited in a separate account for a person bearing interest that shall be and remain the property of that person. (2) Nothing in this Part applies to a security deposit held by an agent to which section 15 of the <i>Residential Tenancies Act</i> applies.</p>
<p>NS</p>	<p>RETA, ss 32(1)-(2), 4, 33</p>	<p>32 (1) Every licensed person who receives money to be held in trust by a brokerage with respect to a trade in real estate shall deposit the money in an interest-bearing trust account that is opened and maintained in accordance with this Act and shall instruct the bank to remit the interest earned thereon to the Commission semi-annually and such interest, including interest accruing due, is the property of the Commission. (2) A brokerage is not liable by virtue of the relationship between the broker and a party to a trade in real estate or the licensed person and a <i>cestui que trust</i> to account to any party to a real estate trade for interest earned on money deposited in a bank pursuant to subsection (1). (4) Where a dispute between a buyer and a seller over trust money is not resolved at the closing, the brokerage holding the money in trust may ask an arbitrator to settle the dispute.</p> <p>33 Notwithstanding anything contained in this Act, an agreement for purchase and sale may provide that interest on any funds held in trust for any party to the agreement shall be held in an individual trust account opened and maintained by the brokerage that is acting as the licensed person in the transaction and be payable to that party, and subsections 32(1) and (2) do not apply.</p>
	<p>NSREC By-law,</p>	<p>SEE PART SIX</p>

NT/NU	REALA, ss 40, 41(a), (c)-(e), 44(2)-(3)	<p>40. An agent shall</p> <ul style="list-style-type: none"> (a) keep a trust ledger with a separate record for each person on whose behalf the agent is acting in respect of a trade; and (b) enter in that record an account of <ul style="list-style-type: none"> (i) money received in trust, (ii) money held in trust, (iii) interest on money held in trust, and (iv) disbursements made from money held in trust. <p>41. An agent shall</p> <ul style="list-style-type: none"> (a) immediately deposit all money received in trust into an account maintained in a bank or credit union; (c) keep money received or held in trust separate from money which belongs to the agent; (d) only disburse money received or held in trust in accordance with the terms of the trust governing the use of that money; and (e) clearly mark all cheques drawn on a trust account. <p>44. (2) An agent shall instruct the bank or credit union in which the agent maintains a trust account to remit any interest earned on the account to the Minister for deposit to the Consolidated Revenue Fund.</p> <p>(3) Notwithstanding subsection (2), the agent may arrange with a purchaser or vendor to deposit money to which that purchaser or vendor is entitled in a separate trust account at interest, which interest shall be the property of that purchaser or vendor.</p>
ON	REBBA, s 27(1)-(3)	<p>27.(1) Every brokerage shall maintain in Ontario an account designated as a trust account in a bank or authorized foreign bank within the meaning of section 2 of the <i>Bank Act</i> (Canada), a loan or trust corporation, a credit union, as defined in the <i>Credit Unions and Caisses Populaires Act, 1994</i> or the Province of Ontario Savings Office in which shall be deposited all money that comes into the brokerage's hands in trust for other persons in connection with the brokerage's business, and shall at all times keep the money separate and apart from money belonging to the brokerage and shall disburse the money only in accordance with the terms of the trust.</p> <p>(2) Brokerages shall fully and clearly disclose in writing to a person depositing trust money the terms on which the brokerage deposits the money, including whether the money is deposited in an interest bearing account and the interest rate that the brokerage receives on the money.</p> <p>(3) Unless otherwise provided by contract, all interest on the trust money referred to in subsection (1) shall be paid to the beneficial owner of the trust money.</p>
QC	REBA, s 11	<p>11. Any sum of money received on behalf of others by a broker in the course of his duties must be deposited into a trust account, in a manner prescribed by the by-laws of the Association.</p> <p>Interest generated by the sums of money held in trust, unless claimed by the client, must be paid into the financing fund established under the second paragraph of section 74, on the conditions and in the manner prescribed in the by-laws of the Association.</p>
	ACAIQ, ly-law, ss 108-126	Chapter IX – Rules Relating to the Opening and Maintenance of a Trust Account

SCHEDULE G-4: TRANSACTION FUNDS

PE	RETA, s 26(2), 27	<p>26.(2) Every agent shall maintain a trust account for every person from whom trust moneys are received in which shall be entered full details of all trust moneys so received and disbursements made therefrom.</p> <p>27. Every agent shall maintain an account designated as a trust account in a chartered bank or in a loan or trust company in which shall be deposited all moneys that come into his hands in trust for other persons in connection with his business, and he shall at all times keep such moneys separate and apart from moneys belonging to himself and shall disburse such moneys only in accordance with the terms of the trust.</p>
SK	REA, ss 70-71	<p>70 On receipt of money tendered in connection with a trade in real estate, every broker, branch manager and salesperson shall immediately pay that money to his or her brokerage.</p> <p>71(1) Every brokerage shall:</p> <ul style="list-style-type: none"> (a) maintain one or more interest-bearing trust accounts in a financial institution in Saskatchewan; (b) deposit into a trust account all money received by the brokerage in trust for other persons in connection with a trade in real estate, within two business days after the day on which an offer to purchase is accepted; (c) at all times, keep the money that it receives in trust for other persons in connection with a trade in real estate separate and apart from other money; and (d) disburse trust money only in accordance with the terms of the trust pursuant to which the money is received. <p>(2) In accordance with the requirements set out in the bylaws, every brokerage shall instruct its financial institution to remit the interest earned on its trust accounts to the Commission, less any charges of the financial institution for servicing the accounts.</p> <p>(3) Interest earned on a trust account is the property of the Commission and is recoverable as a debt owing to the Commission.</p> <p>(4) A brokerage that deposits money in a trust account pursuant to subsection (1) is not required to account to any person, other than the Commission, for the interest earned on the account.</p> <p>(5) Nothing in this section relating to interest applies to interest earned on money held in trust by a brokerage after the brokerage removes the money from a trust account and invests it in accordance with an arrangement, in writing, between a buyer and a seller regarding the application of interest on that money.</p> <p>(6) Where a brokerage holds money in trust pursuant to subsection (5), the brokerage may, where payment of a fee has been agreed to in writing between the brokerage and the buyer or seller, charge the buyer or seller, as the case may be, an administration fee in the amount prescribed in the regulations.</p> <p>(7) Where pursuant to subsection (5) a brokerage removes money held in trust from a trust account to invest the money pursuant to the arrangement between the buyer and the seller, that amount of money must be returned to that trust account before being paid out of trust.</p> <p>(8) This section does not apply to a security deposit within the meaning of <i>The Residential Tenancies Act</i>.</p>

	Reg. 16, 17	<p>16 Where more than one person claims entitlement to the same funds held in trust by a brokerage pursuant to section 71 of the Act, the brokerage shall, subject to section 73 of the Act, hold the funds in the trust account until the earliest of the date:</p> <p>(a) an agreement, in writing, is signed by all parties to the trade respecting how the money is to be disbursed;</p> <p>(b) the brokerage pays the money into court; and</p> <p>(c) the brokerage is ordered by the court to disburse the trust funds in a specified manner.</p> <p>17 A broker or branch manager shall only disburse trust money from the brokerage' trust account pursuant to subsection 71(1) of the Act for:</p> <p>(a) repayment of funds received in trust from a buyer;</p> <p>(b) payment to a brokerage on account of services rendered pursuant to the Act, these regulations or the bylaws;</p> <p>(c) repayment to a party to a transaction for any amount that is in excess of the amount required by the brokerage for services rendered;</p> <p>(d) payment to a seller for forfeiture of a deposit;</p> <p>(e) repayment of money paid into the trust account by mistake;</p> <p>(f) payment of interest to the Commission pursuant to subsection 71(3) of the Act; or</p> <p>(g) payment to the Minister of Finance in accordance with section 73 of the Act.</p>
	SREC, bylaws	See Part Six
YT	REAA, s 21(2)(a)-(d)	<p>21.(2) Every agent shall</p> <p>(a) keep a trust ledger in which he shall maintain a separate record for each person on whose behalf he is acting of all</p> <p>(i) money that he receives in trust,</p> <p>(ii) money that he holds in trust, and</p> <p>(iii) disbursements he makes from money he receives or holds in trust,</p> <p>in respect of a trade in real estate for that person,</p> <p>(b) forthwith deposit all money he receives in trust in respect of a trade in real estate into an account</p> <p>(c) keep money he receives or holds in trust in respect of a trade in real estate separate from money which belongs to the agent,</p> <p>(d) only disburse money he receives or holds in trust in respect of a trade in real estate in accordance with the terms of the trust governing the use of that money,</p>
CREA		

SCHEDULE G-5: MISCELLANEOUS OBLIGATIONS

SCHEDULE G:5 MISCELLANEOUS OBLIGATIONS

Prov.	Source	Provision
AB	REA, ss 19, 20	<p>19 Except in accordance with section 20, no industry member shall make a representation to a seller of real estate that the industry member or another person on the industry member's behalf will pay to the seller a fixed or determinable amount of money within a fixed or determinable period of time.</p> <p>20(1) In this section, "guaranteed sale agreement" means an agreement in writing under which an industry member or another person on behalf of or to the benefit of an industry member undertakes to pay to the seller of real estate within a fixed or determinable period of time a fixed or determinable amount of money in respect of that seller's real estate.</p> <p>(2) An industry member who enters into a guaranteed sale agreement or has another person enter into a guaranteed sale agreement on behalf of or to the benefit of that industry member shall maintain a separate trust account in a bank, loan corporation, trust corporation, credit union or treasury branch in which money payable under this section must be deposited.</p> <p>(3) When a guaranteed sale agreement is entered into by an industry member or other person on behalf of or to the benefit of an industry member, that industry member shall deposit into the trust account maintained under subsection (2) not less than 5% of the total amount that may be payable under the guaranteed sale agreement.</p> <p>(4) When money is deposited under subsection (3), it must be held in trust for the seller and must be</p> <p>(a) paid to the seller or to some other person as directed by that seller as part of the total amount payable under the guaranteed sale agreement,</p> <p>(b) forfeited to the seller if the seller is not paid in accordance with the guaranteed sale agreement, or</p> <p>(c) returned to the industry member when, pursuant to the terms of the guaranteed sale agreement, there is no longer any money payable to the seller under that guaranteed sale agreement.</p> <p>(5) Subject to subsection (6), money deposited under subsection (3) must remain on deposit in Alberta until it is paid out under subsection (4).</p> <p>(6) Section 25(4) applies in respect of a trust account under this section.</p> <p>(7) When a deposit is forfeited under subsection (4)(b),</p> <p>(a) the forfeiture does not prejudice any action that the seller may have against the industry member or other parties to the guaranteed sale agreement, and</p> <p>(b) the money forfeited may be applied toward any sum that the seller may be entitled to receive as damages arising out of the non-performance of the guaranteed sale agreement.</p> <p>(8) When an industry member or other person who enters into a guaranteed sale agreement with a seller purchases the seller's real estate pursuant to that sale agreement, no commission is payable to that industry member or other person by that seller in respect of that trade.</p>

	<p>REAR, s 29, Schedule 1 (CCIM), ss 4, 7(f), (h), (j)</p>	<p>29 No broker, associate broker or agent shall advertise, offer or enter into a guaranteed sale agreement except on behalf of the brokerage which that broker, associate broker or agent is registered.</p> <p>Schedule 1</p> <p>4 An industry member must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so. This includes the following:</p> <p>(a) An industry member must not knowingly or recklessly make any representations in the course of advertising or marketing properties or mortgages that are untrue in any material respect.</p> <p>(b) An industry member must not advertise or market a property without the seller’s knowledge and consent.</p> <p>(c) An industry member must not be party to any agreement or conspiracy to conceal any latent defects or patent facts in relation to any property or mortgage.</p> <p>(d) An industry member shall not participate in the creation of any contract, document or form of communication that the member knows or ought to know is false or misleading.</p> <p>(e) An industry member must not knowingly misrepresent the potential market value, the revenue potential of properties or mortgage benefits.</p> <p>7 An industry member must be professional in dealings with the public and other industry members. This includes the following:</p> <p>(f) An industry member must not prevent or discourage any person from seeking legal advice or expert opinions.</p> <p>(h) An industry member must not induce or attempt to induce a party to a contract to breach a contract, or in any way interfere with any other contractual arrangement related to a real estate or mortgage transaction.</p> <p>(j) If an industry member makes a referral to another person they believe to be an industry member, the industry member must take reasonable steps to ensure the person is in fact authorized to carry out the activities for which the referral is made.</p>
<p>BC</p>	<p>REA, ss 35, 37(2)</p>	<p>35 A licensee must not, as an inducement to purchase, sell or exchange real estate, make any representation or promise that the licensee or any other person will do any of the following unless at the time of making the representation or promise the licensee making it delivers to the person to whom the representation or promise is made a statement signed by the licensee clearly setting out all the details of the representation or promise:</p> <p>(a) resell, or in any way guarantee or promise to resell, any real estate offered for sale by the licensee;</p> <p>(b) purchase or sell any of the purchaser's real estate;</p> <p>(c) procure a mortgage, extension of a mortgage, lease or extension of a lease;</p> <p>(d) purchase or sell a mortgage or procure a loan.</p> <p>37 (2) A licensee must not induce any party to a contract for purchase and sale or rental of real estate to break the contract for the purpose of entering into a contract with another principal.</p>
	<p>Reg 75/61, s 5.02</p>	<p>5.02 No person shall knowingly authorize, direct or aid in the publication, advertisement, distribution or circulation of any false statement or representation concerning a real estate transaction or, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any real estate transaction contains any written statement that is false or fraudulent, shall issue, circulate, publish or distribute the same or cause the same to be issued, circulated, published or distributed.</p>

SCHEDULE G-5: MISCELLANEOUS OBLIGATIONS

MB	REBA, ss 29, 30(2)	<p>29(1) No broker, authorized official or salesman shall, as an inducement to procure a trade or transaction in real estate, make or give any promise, undertaking or guarantee that he will</p> <ul style="list-style-type: none"> (a) arrange a resale of any real estate for a person who offers to purchase it; (b) purchase, or obtain a purchaser for, any real estate; or (c) procure or arrange a mortgage, or an extension or renewal of a mortgage or lease; or (d) purchase, or obtain a purchaser for, a mortgage, or in any other way obtain a loan for any person; <p>unless the promise, undertaking or guarantee is made or given in writing, signed by the broker, authorized official or salesman, and delivered to the person induced, or intended to be induced, thereby.</p> <p>29(2) Nothing in subsection (1) affects the right of a person to whom a verbal promise, undertaking or guarantee has been made or given to enforce the same.</p> <p>30(2) No broker, authorized official or salesman shall, directly or indirectly, induce any person to break or procure a breach of any contract for sale, purchase, rental or lease or other contract concerning real estate.</p>
NB	REAA, ss 23.1, 23.4	<p>23.1 No licensee shall induce any party to a contract for sale, exchange or lease of real estate to break the contract for the purpose of entering into another such contract.</p> <p>23.4 No licensee shall, as an inducement to purchase, sell, lease or exchange real estate, make any representation or promise that he or any other person will</p> <ul style="list-style-type: none"> (a) resell or exchange, or in any way guarantee or promise to sell or exchange, any real estate offered for sale by him, (b) purchase, sell or exchange any of the purchaser's real estate, (c) procure a mortgage, extension of a mortgage, lease or extension of a lease, or (d) purchase or sell a mortgage or procure a loan, <p>unless at the time of making the representation or promise the person making it delivers to the person to whom the representation or promise is made a signed statement clearly setting forth all the details of the representation or promise made.</p>
NF	RETA, ss, 34, 42(1)	<p>34. An agent or salesperson shall not, as an inducement to purchase, sell or exchange real estate, make a representation or promise that he or she or another person will</p> <ul style="list-style-type: none"> (a) resell or in any way guarantee or promise to resell real estate offered for sale by him or her; (b) purchase or sell the purchaser's real estate; (c) obtain a mortgage, extension of a mortgage, lease or extension of a lease; or (d) purchase or sell a mortgage or obtain a loan, <p>unless the agent or salesperson making it delivers to the person to whom the representation or promise is made, when it is made, a statement signed by that agent or salesperson clearly setting out the details of that representation or promise.</p> <p>42. (1) An agent or salesperson shall not induce a party to a contract for sale or rental of real estate to break the contract for the purpose of entering into another contract for its sale or rental.</p>

NS	<p>RETA, ss 35, 36</p>	<p>35 (1) No licensed person shall, as an inducement to purchase, sell or exchange real estate, make any representation or promise unless, at the time of making the representation or promise, the licensed person delivers to the person to whom the representation or promise is made a statement, signed by the licensed person and the broker or manager, fairly setting forth all the details of the representation or promise made.</p> <p>(2) The statement referred to in subsection (1) shall be signed by the person to whom the representation or promise is made.</p> <p>36 No licensed person shall induce any party to an agreement for listing, sale, purchase or rental of real estate to break the agreement for the purpose of entering into another such agreement for listing, sale, purchase or rental of real estate.</p>
	<p>NSREC By-law, ss 702 (Articles 4, 16, 22, 24-5, 36, 38), 708</p>	<p>702 Article 4 The Licensee should ensure written representation agreements whenever possible in order to avoid misunderstanding with their clients and customers. Releases, promises and guarantees of specific service(s) must also be in writing.</p> <p>Article 16 The Licensee shall ensure a true presentation in all advertising. Properties and services shall not be advertised without identifying the firm, or where applicable, the individual Licensee, in accordance with the Act.</p> <p>Article 22 The Licensee shall not knowingly permit any property in the Licensee’s charge to be used for unlawful purposes.</p> <p>Article 24 The Licensee shall not deny professional services to any person for reasons of race, creed, colour, sex, familial status, marital status, age, or national origin. The Licensee shall not be party to any plan or agreement to discriminate against a person or persons on the basis of race, creed, colour, sex, familial status, age or national origin.</p> <p>Article 25 A Licensee, when acting in a professional capacity, shall not physically, sexually, emotionally or verbally abuse a Client, Customer, a member of the public, another Licensee or any other third party.</p> <p>Article 36 No licensed person shall induce any party to a lease, to break the existing tenancy agreement, except when terms satisfactory to both the landlord and a tenant have been agreed to in writing.</p> <p>Article 38 Licensees shall not recommend the services of one specific service provider only. When making suggestions, Licensees should provide information on three or more service providers and let the client decide which service provider they use.</p> <p>708 Any advertisement or incentive or the offering of any incentive or the participation in an incentive program to the public as an inducement to trade in real estate undertaken or authorized by a Licensee must not be:</p> <ul style="list-style-type: none"> (a) false; (b) inaccurate; (c) reasonably capable of misleading the recipient or intended recipient; (d) in bad taste; offensive or harmful to the best interests of the public or harmful to the image of the real estate industry; or (e) prohibited by law.

SCHEDULE G-5: MISCELLANEOUS OBLIGATIONS

NT/NU	REALA, ss 45-48	<p>45. (1) In this section and in sections 46 to 48 "guaranteed sale agreement" means an agreement in writing under which an agent or a person acting on behalf of the agent undertakes to pay to the vendor of real estate a fixed or determinable amount of money in respect of the real estate within a fixed or determinable period of time.</p> <p>(2) An agent who enters into a guaranteed sale agreement or has another person enter into a guaranteed sale agreement on his or her behalf shall maintain a separate trust account in a bank or credit union in the Territories.</p> <p>46. (1) Money deposited under subsection 45(3) shall be held in trust for the vendor and shall be</p> <p>(a) paid to the vendor as part of the total amount payable under the guaranteed sale agreement;</p> <p>(b) forfeited to the vendor if the vendor is not paid in accordance with the guaranteed sale agreement; or</p> <p>(c) returned to the agent where, under the terms of the guaranteed sale agreement, there is no longer any money payable to the vendor under that guaranteed sale agreement.</p> <p>(2) Where a deposit is forfeited under paragraph (1)(b),</p> <p>(a) the forfeiture does not prejudice any action that the vendor may have against the agent or other parties to the guaranteed sale agreement; and</p> <p>(b) the money forfeited may be applied toward any sum which that vendor may be entitled to receive as damages arising out of the non-performance of the guaranteed sale agreement.</p> <p>47. Where an agent or other person who entered into a guaranteed sale agreement with a vendor purchases the real estate of the vendor under the guaranteed sale agreement, no commission is payable to that agent or other person by that vendor in respect of the trade.</p> <p>48. A salesperson shall only enter into a guaranteed sale agreement on behalf of the agent who employs that salesperson.</p>
ON	REBBA, ss 33(1), 34-35	<p>33.(1) No registrant shall induce any party to an agreement for purchase and sale or an agreement for rental of real estate to break the agreement for the purpose of entering into another such agreement</p> <p>34. No registrant shall falsify, assist in falsifying or induce or counsel another person to falsify or assist in falsifying any information or document relating to a trade in real estate.</p> <p>35. No registrant shall furnish, assist in furnishing or induce or counsel another person to furnish or assist in furnishing any false or deceptive information or documents relating to a trade in real estate.</p>
	RECO, CoE, ss 7, 9, 21, 22	<p>Rule 7 A Member shall not discourage the Parties to a Transaction from seeking outside professional advice.</p> <p>Rule 9 A Member, when acting in a professional capacity, shall not physically, sexually, emotionally or verbally abuse a Client, a Customer, a member of the public, another Member, or any other third party.</p> <p>Rule 21 A Member shall ensure that all advertising and promotion by or on behalf of the Member, including for Properties and services, is not false, misleading or deceptive.</p> <p>Rule 22 A Member shall not, when acting in a professional capacity, discriminate or participate in discriminating against any Person.</p>

QC	RPEACAIQ, ss 12, 25, 25	<p>8. A member shall offer his professional services without distinction, exclusion or preference based on race, colour, sex, pregnancy, number or age of children, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.</p> <p>12. A member shall not attempt to intimidate a person with whom he is dealing within the context of his professional practice, in particular to incite that person to withdraw a request for a disciplinary inquiry or to alter his testimony.</p> <p>25. Where the protection of the interests of his client or one of his parties to a transaction referred to in section 1 of the Act so requires, a member shall refer that person to an expert recognized by law.</p>
PE	RETA, ss 32, 40(1)	<p>32. No agent or salesman shall, as an inducement to purchase, sell or exchange real estate, make any representation or promise that he or any other person will</p> <p>(a) resell or in any way guarantee or promise to resell any real estate offered for sale by him;</p> <p>(b) purchase or sell any of the purchaser's real estate;</p> <p>(c) procure a mortgage, extension of a mortgage, lease or extension of a lease; or</p> <p>(d) purchase or sell a mortgage or procure a loan,</p> <p>unless the agent or salesman making it delivers to the person to whom the representation or promise is made, when it is made, a statement signed by the agent or salesman clearly setting forth all of the details of the representation or promise.</p> <p>40. (1) No agent or salesman shall induce any party to a contract for sale or rental of real estate to break the contract for the purpose of entering into another contract for its sale or rental.</p>
SK	REA, ss 60, 64(1)	<p>60(1) Where a registrant, as an inducement to a person to trade in real estate, makes any representation or promise described in subsection (2), the registrant shall sign and deliver to the person to whom the representation or promise is made a statement clearly setting out all the details of the representation or promise, prior to the person executing any document with respect to the trade.</p> <p>(2) Subsection (1) applies to a representation or promise that a registrant or any other person will:</p> <p>(a) trade or guarantee or promise to trade any of that person's real estate;</p> <p>(b) procure a loan, mortgage, extension of a mortgage, lease or extension of a lease; or</p> <p>(c) purchase or sell a mortgage or an agreement for sale.</p> <p>(3) Any advertising with respect to a representation or promise mentioned in this section is to be in accordance with any requirements that may be set out in the bylaws.</p> <p>64(1) No registrant shall induce a party to a written agency agreement to break the agreement for the purpose of entering into another agency agreement.</p>

SCHEDULE G-5: MISCELLANEOUS OBLIGATIONS

	<p>SREC Bylaws, ss 703, 719, 721, 726, (a)- (c), (f)</p>	<p>703 A registrant shall not discharge parties to a transaction from seeking legal counsel.</p> <p>719 A registrant shall not, in any manner by specific direction or suggestion, advise a party to a contract that the party should attempt to breach a contract.</p> <p>721 In addition to subsection 60(1) of the Real Estate Act, any registrant who makes any promises guarantees or undertakings to a buyer or seller must do so in writing.</p> <p>726 Any advertisement or incentive or the offering of any incentive or the participation in an incentive program to the public as an inducement to trade in real estate undertaken or authorized by a registrant shall not be:</p> <ul style="list-style-type: none">(a) false;(b) inaccurate;(c) reasonably capable of misleading the recipient or intended recipient;(f) prohibited by law.
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YT	REAA, ss 24-25	<p>24. A licensed person shall not,</p> <p>(a) subject to section 25, make a representation to a vendor that he or another person on his behalf will pay to the vendor of real estate within a fixed or determinable period of time, a fixed or determinable amount of money, or</p> <p>(b) subject to section 26, make a representation to a person that he or another person will</p> <p>(i) obtain a mortgage, lease or loan,</p> <p>(ii) have the term of a mortgage or lease altered, or</p> <p>(iii) assume or assign a mortgage or an agreement for sale.</p> <p>25.(1) In this section, "guaranteed sale agreement" means an agreement in writing whereby a licensed agent or other person on behalf of or to the benefit of a licensed agent undertakes to pay to the vendor of real estate within a fixed or determinable period of time a fixed or determinable amount of money in respect of that vendor's real estate.</p> <p>(2) Every licensed agent who enters into a guaranteed sale agreement or has another person enter into a guaranteed sale agreement on behalf of or to the benefit of that licensed agent, shall maintain a separate trust account in a chartered bank or trust company in which money payable under this section shall be deposited.</p> <p>(3) Where a guaranteed sale agreement is entered into by a licensed agent or other person on behalf of or to the benefit of a licensed agent, that agent shall deposit into the trust account maintained under subsection (2) not less than five percent of the total amount that may be payable under the guaranteed sale agreement.</p> <p>(4) Where money is deposited under subsection (3), it shall be held in trust for the vendor and shall be</p> <p>(a) paid to the vendor or to such other person as that vendor directs as part of the total amount payable under the guaranteed sale agreement,</p> <p>(b) forfeited to the vendor where he is not paid in accordance with the guaranteed sale agreement, or</p> <p>(c) returned to the agent where, pursuant to the terms of the guaranteed sale agreement, there is no longer any money payable to the vendor under that guaranteed sale agreement.</p> <p>(5) Any money deposited under subsection (3) shall remain on deposit in the Yukon until it is paid out under subsection (4).</p> <p>(6) Where a deposit is forfeited under paragraph (4)(b),</p> <p>(a) a forfeiture shall not prejudice any action that the vendor may have against the agent or other parties to the guaranteed sale agreement, and</p> <p>(b) the money forfeited may be applied toward any sums which that vendor may be entitled to receive as damages arising out of the non-performance of the guaranteed sale agreement.</p> <p>(7) Where a licensed agent or other person who entered into a guaranteed sale agreement with a vendor purchases the vendor's real estate pursuant to that sale agreement, no commission shall be payable to that licensed agent or other person by that vendor in respect of that trade.</p> <p>(8) A licensed salesperson or a designated representative shall not enter into a guaranteed sales agreement except in the course of his employment on behalf of the agent by whom that licensed salesperson or designated representative is employed.</p>
CREA	CoE, ss 11, 19	<p>Article 11 The Realtor shall not discourage parties to a transaction from seeking legal help.</p> <p>Article 19 The Realtor shall not deny professional services to any person for reasons of race, creed, colour, sex, familial status, age, or national origin. The Realtor shall not be party to any plan or agreement to discriminate against a person or persons on the basis of race, creed, colour, sex, familial status, age or national origin,</p>

SCHEDULE H-1: COMPUTATION OF REMUNERATION

SCHEDULE H: REGULATION OF REMUNERATION AND COSTS

SCHEDULE H-1: COMPUTATION OF REMUNERATION

Prov.	Source	Provision
AB	REA, s 24	<p>24(1) No real estate broker</p> <p>(a) shall request or enter into a brokerage agreement or other arrangement for the payment to the broker of a commission or other remuneration based on the difference between the price at which real estate is listed for sale and the actual sale price of it, or</p> <p>(b) shall retain a commission or other remuneration computed on the basis referred to in clause (a).</p> <p>(2) A commission or other remuneration payable to a real estate broker in respect of the sale or purchase of real estate must be an agreed amount or based on a percentage of the sale price.</p> <p>(3) If no agreement as to the amount of commission has been entered into, the rate of commission or other basis or amount of remuneration is that generally prevailing in the community where the real estate is situated.</p>
BC	REA, ss 45-46	<p>45 All commission or other remuneration payable to an agent in respect of the sale of any real estate must be on an agreed amount or percentage of the sale price; and if no agreement as to the amount of the commission has been entered into, the rate of commission or other basis or amount of remuneration is to be that generally prevailing in the community where the real estate is located.</p> <p>46 A licensee must not request or enter into an agreement for the payment to the licensee of commission or other remuneration based on the difference between the price at which any real estate is listed for sale and the actual sale price of it, and a licensee is not entitled to retain any commission or other remuneration so computed.</p>
MB	REBA, s 31(1)-(2)	<p>32(1) Any commission or remuneration payable to a broker in respect of the negotiation of a sale or lease of real estate shall be an agreed sum or a sum based on a percentage of the sale price or rental value of the real estate.</p> <p>32(2) No broker, authorized official or salesman shall</p> <p>(a) request or demand from any person, or enter into any arrangement with any person, for the payment of a commission or remuneration based on the difference between the price at which the real estate concerned was listed with the broker for sale or otherwise and the actual sale price thereof; or</p> <p>(b) retain any commission or remuneration computed in a manner described in clause (a).</p>
NB	REAA, s 22(2)-(3)	<p>22(2) All commission or other remuneration payable to an agent in respect of the sale of any real estate shall be upon an agreed amount or percentage of the sale price; and where no agreement as to the amount of the commission has been entered into, the rate of commission or other basis or amount of remuneration shall be that generally prevailing in the community where the real estate is situated.</p> <p>(3) No agent, manager or salesman shall request or enter into an agreement for the payment to him of a commission or other remuneration based on the difference between the price at which any real estate is listed for sale and the actual sale price thereof, and no agent, manager or salesman is entitled to retain any commission or other remuneration so computed.</p>

NF	RETA, s 41(1)-(2)	44. (1) An agent or salesperson shall not request or enter into an agreement for the payment to the agent or salesperson of commission or other remuneration based on the difference between the price at which real estate is listed for sale and the actual sale price of the real estate, and an agent or salesperson is not entitled to retain a commission or other remuneration so calculated. (2) A commission or other remuneration payable to an agent in respect of a trade in real estate shall be upon an agreed amount or percentage of the sale price or rental and, where no agreement as to the amount of the commission has been entered into, the rate of commission or other basis or amount of remuneration shall be that generally prevailing in the community where the real estate is situated.
NS	RETA, s 27	27 Any commission or remuneration payable to a brokerage for a trade in real estate shall be a fixed amount or a fixed percentage of the sale price or the rental, as the case may be.
NT/NU	REALA, ss, 57-58	57. (1) No person shall accept a commission or other remuneration in respect of a trade unless that person is licensed under this Act. (2) A commission or other remuneration payable in respect of the sale or lease of real estate shall be fixed as either an agreed amount or an agreed percentage of the sale price. (3) If no agreement as to amount of or the rate of commission has been entered into, the amount of or the rate of commission is that generally prevailing in the community where the real estate is situated. 58. No agent or salesperson shall accept a commission or other remuneration based on the difference between the price at which the real estate is listed for sale and the actual sale price of the real estate.
ON	REBBA, s 36	36 (1) All commission or other remuneration payable to a brokerage in respect of a trade in real estate shall be either an agreed amount or percentage of the sale price or rental price, as the case may be, but no both and, if there is no agreement as to amount of the commission, the rate of commission or other remuneration or othe basis of remuneration shall be that generally prevailing in the community where the real estate is located. (2) If the commission payable in respect of a trade in real estate is expressed as a percentage of the sale price or rental price, the percentage does not have to be fixed but may be expressed as a series of percentages that decrease at specified amounts as the sale price or rental price increases. (3) No registrant shall request or enter into an arrangement for the payment of a commission or any other remuneration based on the difference between the price at which real estate is listed for sale or rental and the actual sale price or rental price, as the case may be, of the real estate, nor is a registrant entitled to retain any commission or other remuneration computed upon any such basis.
QC	RPEACAIQ, s 15	36. A member shall not withdraw or agree to withdraw any compensation established on the basis of the difference between the price indicated by his client and that agreed to by the other party to the transaction.
PE	RETA, s 42	42. (1) All commission or other remuneration payable to an agent in respect of a trade in real estate shall be an amount based upon an agreed percentage of the actual sale price or rental and where no percentage has been agreed upon the commission or remuneration payable shall be an amount based upon a percentage of the actual sale price or rental generally prevailing in the community where the real estate is situated. (2) No agent or salesman shall request or enter into an agreement for the payment to him of commission or other remuneration based on the difference between the price at which any real estate is listed for sale and the actual sale price thereof, and no agent or salesman is entitled to retain any commission or other remuneration so computed.

SCHEDULE H-1: COMPUTATION OF REMUNERATION

SK	REA, s 66	<p>66(1) In this section:</p> <p>(a) “lump sum” means an amount of commission or remuneration to be paid to a brokerage by a buyer or seller with respect to a trade in real estate that is not based directly on the price at which the real estate is listed for sale, its sale price or any combination of the price at which it is listed for sale and its sale price;</p> <p>(b) “sale price” means the payment agreed on between a buyer and a seller with respect to a trade in real estate.</p> <p>(2) Any commission or other remuneration payable to a brokerage with respect to a trade in real estate is to be expressed as a lump sum or as a percentage of the sale price.</p> <p>(3) No brokerage shall enter into an arrangement for or retain any commission or other remuneration unless it is computed in a manner permitted by this section and is agreed to in writing by the person liable to pay it.</p>
YT	REAA, s 33	<p>33.(1) No agent or salesperson</p> <p>(a) shall request or enter into an arrangement for the payment to him of commission or other remuneration based on the difference between the price at which real estate is listed for sale and the actual sale price thereof, or</p> <p>(b) may retain a commission or other remuneration computed on a basis referred to in paragraph (a).</p> <p>(2) Commission or other remuneration payable to an agent in respect of the sale of real estate shall be on an agreed amount or percentage of the sale price.</p> <p>(3) Where no agreement as to the amount of commission has been entered into, the rate of commission or other basis or amount of remuneration shall not exceed five percent of the sale price.</p>
CREA		

SCHEDULE H-2: CONSTRAINTS ON RECOVERY OF REMUNERATION

Prov.	Source	Provision
AB	REA, ss18, 21(1), 22-23	<p>18(1) No industry member shall solicit, accept or receive from the public or from the industry member's client money or other consideration except in the usual course of carrying on the business of an industry member.</p> <p>(2) No industry member shall receive money in the course of carrying on business as an industry member unless, before receiving the money, the industry member has entered into a brokerage agreement with the person who provides the money or on whose behalf it is to be held that expressly acknowledges the trust arrangement between them and sets out the terms on which the money will be received, held and disbursed.</p> <p>(3) Before accepting any money in connection with the carrying on of the business of an industry member, an industry member shall provide to the person on whose behalf the industry member is acting and any other person who is providing the money full particulars in writing of</p> <p>(a) any direct or indirect interest that the industry member or any associate within the meaning of the Securities Act or any officer, director or manager of the industry member or associate or, where the industry member is a partnership, any partner in the partnership, has or may acquire in the transaction, and</p> <p>(b) any intention on the industry member's part to have the industry member or another person referred to in clause (a) named in any document that would tend to indicate that the industry member or that person had such an interest.</p> <p>(4) This section does not apply to the soliciting, acceptance or receipt of money or other consideration that represents remuneration or expenses paid to an industry member for carrying on the business of an industry member or security provided for remuneration or expenses.</p> <p>21(1) No action may be brought for a commission or for other remuneration for services rendered in connection with a dealing or trade unless, at the time of rendering the services, the person bringing the action</p> <p>(a) was the holder of the appropriate authorization issued by the Council authorizing that person to render those services, or</p> <p>(b) was exempt from the authorization requirements.</p> <p>22 No action shall be brought to charge a person by commission or otherwise for services rendered in connection with the sale of land or an interest in land unless</p> <p>(a) the brokerage agreement on which recovery is sought in the action or some note or memorandum of it is in writing signed by the party to be charged or by that person's agent lawfully authorized in writing, or</p> <p>(b) in the case of a trade in real estate, the person sought to be charged</p> <p>(i) has as a result of the services of a real estate broker employed by that person for the purpose effected a sale or lease of land or an interest in it, and</p> <p>(ii) has either executed a transfer or lease signed by all other necessary parties and delivered it to the buyer or lessee, or has executed an agreement of sale of land, or an interest in it, signed by all necessary parties, entitling the buyer to possession of the land or any interest in it, as specified in the agreement, and has delivered the agreement to the buyer.</p> <p>23 Where there is an agreement between 2 or more industry members providing for the sharing of a commission or remuneration payable in respect of a dealing or trade, only the industry member who, by virtue of a brokerage agreement between that industry member and a party to the dealing or trade, is entitled to the commission or remuneration, or an assignee of that industry member, may bring an action for recovery of the commission or remuneration against the person who is liable to pay it.</p>

SCHEDULE H-2: CONSTRAINTS ON RECOVERY OF REMUNERATION

	<p>REAR , ss 20(g)-(h), 24(1)(b)-(c)</p>	<p>20 A brokerage must</p> <p>(g) not pay a commission or other remuneration, directly or indirectly, in connection with a trade or dealing except</p> <p>(i) to a broker, associate broker or agent employed by the brokerage or to not more than one corporation of which that broker, associate broker or agent, as the case may be, is the majority shareholder and through which that broker, associate broker or agent trades or deals;</p> <p>(ii) to a brokerage that is licensed under these Rules or similar legislation in a jurisdiction outside of Alberta; or</p> <p>(iii) to an auctioneer qualified under the regulations under the Fair Trading Act, where the trade is made in the course of and as part of that person’s duties as auctioneer.</p> <p>(h) not pay a commission or other remuneration directly or indirectly in connection with a trade or dealing to a brokerage that is licensed under these Rules or under similar legislation in a jurisdiction outside of Alberta when the brokerage has knowledge that the commission or remuneration will be paid to or shared with an licensed person.</p> <p>24(1) A broker, associate broker or agent, as the case may be, must not</p> <p>(b) pay a commission or other remuneration, directly or indirectly, to any person resulting from or in connection with a trade in real estate or a deal in mortgages;</p> <p>(c) accept a commission or other remuneration, directly or indirectly, for a trade or dealing from any person except the brokerage with which they are registered; and</p> <p>[see also (2) and (3)]</p>
<p>BC</p>	<p>REA, ss 40, 47</p>	<p>40 (1) A licensee, or an officer, agent or employee of a licensee, must not directly or indirectly pay or allow, or offer or agree to pay or allow, any commission or other compensation or thing of value to any person for acting, or attempting or assuming to act, as an agent or salesperson, unless at the time the person so acts, or attempts or assumes to act, that person holds a licence as may be appropriate under this Act.</p> <p>(2) A person who contravenes this section, or who knowingly receives any commission, compensation or thing of value paid or allowed in contravention of this section, commits an offence.</p> <p>(3) Nothing in this section applies to the payment by an authorized agent to an agent licensed or otherwise authorized by law as such in a jurisdiction other than British Columbia of a commission or other compensation with respect to the sale of real estate in British Columbia. .</p> <p>47 (1) A person must not maintain an action in any court for the recovery of compensation for any act done or expenditure incurred by him or her as an agent or salesperson without proving that the person was licensed under this Act as an agent or salesperson at the time the alleged cause of action arose.</p> <p>(2) This section does not apply to an action brought against a licensed agent by an agent duly licensed or otherwise authorized by law as such in a jurisdiction other than British Columbia for the recovery of any commission or other compensation, the payment of which is not prohibited by section 40</p>
<p>MB</p>		

NB	REAA, s 21.1, 22.1	<p>21.1 No agent shall collect, or attempt or be entitled to collect, any commission or other remuneration for services rendered in connection with a trade in real estate unless at the time of rendering the services</p> <ul style="list-style-type: none"> (a) he was licensed as an agent, or (b) where the services were rendered by another person, both he and that person were licensed. <p>22.1(1) Subject to subsection (2), an agent is not entitled to a commission where real estate is sold, exchanged or leased after the expiry of a listing agreement.</p> <p>(2) Where real estate is sold, exchanged or leased after the expiry of a listing agreement as a result of services performed by the agent before the expiry, the agent is entitled to recover his commission notwithstanding the expiry if the other conditions of the listing agreement have been satisfied and the owner knew that the real estate was sold, exchanged or leased as a result of the services performed by the agent.</p> <p>(3) Where an agent is entitled to recover a commission under subsection (2), no other agent is entitled to a commission from the owner notwithstanding any agreement to the contrary.</p>
NF	RETA, ss 32-33	<p>32. An action shall not be brought for commission or for remuneration for services in connection with a trade in real estate, unless at the time of rendering the services the person bringing the action was licensed or exempt from licensing, and, where an action is brought, the court may stay it at any stage.</p> <p>33. An action shall not be brought to charge a person for the payment of a commission or other remuneration for the sale, purchase, exchange or lease of real estate, unless</p> <ul style="list-style-type: none"> (a) the agreement upon which the action is brought is in writing and signed by the party to be charged or some person by him or her lawfully authorized; (b) the agent or his or her salesperson has obtained a written offer that is accepted; or (c) the agent having been authorized in writing to list the property <ul style="list-style-type: none"> (i) shows the property to the purchaser, or (ii) introduces the purchaser to the vendor for the purpose of discussing the proposed sale, purchase, exchange or lease.
NS	NSREC By-law, s 715	<p>715 A Licensee may make claim for a commission when one of the following is in place, which specifies the commission to be paid:</p> <ul style="list-style-type: none"> (a) a listing agreement; (b) an Agreement of Purchase and Sale; (c) a Buyer's Agency Agreement; (d) a commission sharing agreement; or (e) some other form of written agreement.
NT/NU	REALA, ss, 55, 57	<p>55. No agent shall pay a commission or other remuneration for services rendered in respect of a trade to any person other than a salesperson employed by that agent or to another agent who is licensed under this Act or similar legislation in a jurisdiction outside the Territories.</p> <p>57. (1) No person shall accept a commission or other remuneration in respect of a trade unless that person is licensed under this Act.</p> <p>(2) A commission or other remuneration payable in respect of the sale or lease of real estate shall be fixed as either an agreed amount or an agreed percentage of the sale price.</p> <p>(3) If no agreement as to amount of or the rate of commission has been entered into, the amount of or the rate of commission is that generally prevailing in the community where the real estate is situated.</p>
ON		

SCHEDULE H-2: CONSTRAINTS ON RECOVERY OF REMUNERATION

QC	REBA, ss 38, 41	<p>38. Any agreement binding a natural person, for a fixed period after the expiry of the contract, to compensate the broker even if the sale, leasing or exchange of an immovable property is effected after such expiry, is without effect.</p> <p>The first paragraph does not apply if the agreement provides that compensation is due where</p> <ul style="list-style-type: none"> (1) the contract is exclusive; (2) the sale, leasing or exchange is made with a person who became interested in the immovable property while the contract was in force; (3) the transaction occurs not more than 180 days after the date of expiry of the contract and during that period, the natural person did not enter into an exclusive contract for the sale, leasing or exchange of the immovable property with another broker. <p>41. The broker may claim no compensation following the cancellation of a contract in accordance with section 40, unless a sale, leasing or exchange which meets the conditions specified in section 38 occurs.</p>
	REBA, s 3	<p>3. No person may pursue the activity of real estate broker or use the title of real estate broker unless he is the holder of a real estate broker's certificate issued by the Association des courtiers et agents immobiliers du Quebec.</p>
PE		<p>30. No action shall be brought for commission or for remuneration for services in connection with a trade in real estate, unless at the time of rendering the services the person bringing the action was licensed or exempt from licensing, and, if any such action is brought, the court may stay it at any stage.</p> <p>31. An action shall not be brought to charge any person for the payment of a commission or other remuneration for the sale, purchase, exchange or lease of real estate unless</p> <ul style="list-style-type: none"> (a) the agreement upon which the action is brought is in writing and signed by the party to be charged therewith or some person thereunto by him lawfully authorized; (b) the agent or his salesman has obtained an offer in writing that is accepted; or (c) the agent having been authorized in writing to list the property <ul style="list-style-type: none"> (i) shows the property to the purchaser, or (ii) introduces the purchaser to the vendor for the purpose of discussing the proposed sale, purchase, exchange or lease, and (iii) the property is sold, purchased, exchanged or leased as between such purchaser and vendor.

SK	REA, ss 67-69	<p>67 No brokerage shall collect or attempt to collect any commission or other remuneration for services rendered in connection with a trade in real estate unless at the time of rendering the services:</p> <ul style="list-style-type: none"> (a) it was registered as a brokerage; and (b) where the services were rendered by a broker, branch manager or salesperson of that brokerage, the broker, branch manager or salesperson and the brokerage were registered. <p>68(1) This section does not apply to real estate that is:</p> <ul style="list-style-type: none"> (a) a business with premises; or (b) real or leasehold property used for a business. <p>(2) No brokerage shall collect or attempt to collect any commission or other remuneration for services in connection with a trade in real estate unless:</p> <ul style="list-style-type: none"> (a) any one of the following applies: <ul style="list-style-type: none"> (i) a written agency agreement has been entered into with the buyer or seller; (ii) the brokerage has obtained a written offer to purchase that is accepted in writing by the person liable to pay the commission or other remuneration; or (iii) the brokerage has obtained a written acceptance of an offer to purchase signed by the person liable to pay the commission or other remuneration; and (b) subject to subsection (3), the trade in the real estate has been completed by the parties.
		<p>(3) Clause (2)(b) does not apply:</p> <ul style="list-style-type: none"> (a) where the person liable for the payment of the commission or other remuneration refuses or fails to execute any instrument necessary to complete the trade; or (b) where: <ul style="list-style-type: none"> (i) the person who submitted the offer mentioned in subclause (2)(a)(ii) forfeits the deposit by reason of that person's refusal or failure to complete the trade; and (ii) the commission or other remuneration sought to be collected by the brokerage does not exceed one-half of the forfeited deposit. <p>69 No action or proceeding shall be commenced for the recovery of any commission or other remuneration for services in connection with a trade in real estate mentioned in subsection 68(1) unless the contract on which recovery is sought or some note or memorandum of the trade:</p> <ul style="list-style-type: none"> (a) has been obtained; and (b) is in writing signed by the person liable for the payment of the commission or other remuneration or by some person authorized to sign on behalf of the person liable for payment of the commission or other remuneration.

SCHEDULE H-2: CONSTRAINTS ON RECOVERY OF REMUNERATION

	<p>SREC Bylaws, ss 704, 722</p>	<p>704 A registrant shall, prior to the execution of an agreement, inform the buyer or seller, as the case may be, of the nature of the expenses for which that party may normally pay to the registrant.</p> <p>722 For the purposes of clause 68(2)(b) of the Act, no brokerage shall attempt to collect any commission or remuneration unless the trade in real estate has been completed which:</p> <p>(a) in the case of a sale of real estate, when the title has been registered at Land Titles:</p> <p>(i) when the title has been registered at Land Titles; or</p> <p>(ii) when the commissions have been released to the brokerage and/or the brokerage receives notification to release the commissions from a lawyer who is registered with the Law Society of Saskatchewan and represents the buyer or seller, as the case may be and the buyer has taken possession;</p> <p>(b) in the case of a sale by an agreement for sale:</p> <p>(i) when a buyer’s caveat with respect to the agreement for sale has been registered at Land Titles; or</p> <p>(ii) when the final agreement for sale documentation has been signed by the buyer and seller and the buyer has taken possession;</p> <p>(c) in the case of a lease, when final lease documentation has been signed by all parties to the transaction; or</p> <p>(d) in the case where the brokerage has obtained special written agreement from the parties to the transaction.</p>
<p>YT</p>	<p>REAA, ss 23, 30</p>	<p>23. No action shall be brought to charge a person by commission or otherwise for services rendered in connection with the sale of real estate, or any interest therein, unless</p> <p>(a) the contract upon which recovery is sought in the action or some note or memorandum thereof is in writing signed by the party to be charged or by his agent lawfully authorized in writing signed by the party to be charged or by his agent lawfully authorized in writing, or</p> <p>(b) the person sought to be charged</p> <p>(i) has as a result of the services of an agent employed by him for the purpose effected a sale or lease of real estate or any interest therein, and</p> <p>(ii) has either executed a transfer or lease signed by all other necessary parties and delivered it to the purchaser, or has executed an agreement of sale of real estate or an interest therein, signed by all necessary parties, entitling the purchaser to possession of the real estate or any interest therein, as specified in the agreement, and has delivered the agreement to the purchaser.</p> <p>30. A licensed agent shall not pay a commission or other fee for services rendered in connection with a trade in real estate except to a licensed salesperson employed by him or to an agent who is licensed pursuant to this Act or comparable legislation in another jurisdiction.</p>
<p>CREA</p>		

SCHEDULE H-3: OTHER CONSTRAINTS ON RECOVERY

Prov.	Source	Provision
AB		
BC		
MB	REBA, ss 19(2), 31(1)	<p>19(2) Where any real estate which is listed with a broker for sale, or any interest therein, is purchased by that broker or by an associate of that broker or by any nominee for that broker or for any associate of that broker, the vendor is not liable to pay any commission on the sale.</p> <p>30(1) Where a broker, authorized official or salesman negotiates a trade in real estate which he knows is listed with another broker under an unexpired exclusive listing agreement, neither he nor his employer is, unless otherwise agreed to in writing by the vendor, entitled to a commission or other remuneration from the vendor.</p>
NB		
NF	RETA, s 42(2)	42.(2) Unless agreed to in writing by the vendor, an agent is not entitled to claim commission from a vendor in respect of a trade in real estate, where the real estate is to the knowledge of that agent covered by an unexpired exclusive listing agreement with another licensed agent.
NS		
NT/NU		47. Where an agent or other person who entered into a guaranteed sale agreement with a vendor purchases the real estate of the vendor under the guaranteed sale agreement, no commission is payable to that agent or other person by that vendor in respect of the trade.
ON		
QC		
PE	RETA, s 40	40. (2) Unless agreed to in writing by the vendor, an agent is not entitled to claim commission from a vendor in respect of a trade in real estate, if the real estate is to the knowledge of that agent covered by an unexpired exclusive listing agreement with another licensed agent.
SK	REA, s 64(2)	64.(2) Unless agreed to in writing by the buyer or seller, as the case may be, no brokerage is entitled to claim any commission or other remuneration from a buyer or seller with respect to a trade in real estate if the real estate is, to the knowledge of the brokerage, covered by an unexpired exclusive agency agreement with another brokerage.
YT		
CREA		

SCHEDULE H-4: DISCLOSURE OF REMUNERATION & FEES

SCHEDULE H-4: DISCLOSURE OF REMUNERATION & FEES

Prov.	Source	Provision
AB	REAR, s 30, Schedule 1 (CCIM), s 2(h), 6(c)	<p>30 An industry member cannot accept a fee or other remuneration for the referral of a party to a trade in real estate to another person unless, before the referral is made, the industry discloses in writing to that party</p> <p>(a) the nature of the referral;</p> <p>(b) that a referral fee will be paid or is likely to be paid;</p> <p>(c) the amount of the fee, if the amount of the fee is unknown, the likely amount of the fee or method of calculation of the fee.</p> <p>Schedule 1</p> <p>2 Industry members must fulfill their fiduciary duties to their clients. This includes the following:</p> <p>(h) An industry member must not accept compensation from any other party to a transaction without first obtaining the client’s written consent.</p> <p>6 An industry member must render a competent service. This includes the following:</p> <p>An industry member shall not participate in the creation of any contract or document that the member knows or ought to know is not legally binding, confusing or does not reflect any agreements already in place.</p>
BC	REA, s 36	<p>36 (1) Before assisting or representing any person in a real estate transaction, a licensee must disclose to that person</p> <p>(a) the nature of the assistance or representation that the licensee will provide to the person,</p> <p>(b) whether the licensee is, or will be, acting in the real estate transaction on behalf of any other person, in any capacity,</p> <p>(c) whether the licensee is, or will be, receiving remuneration relating to the real estate transaction from any other person,</p> <p>(d) the nature of the licensee's relationship with any other person from whom the licensee is, or will be, receiving remuneration relating to the real estate transaction, and</p> <p>(e) any other particulars that may be prescribed by the Lieutenant Governor in Council.</p> <p>(2) If, during the course of a real estate transaction in which a licensee is assisting any person, there is any material change in the facts that the licensee has disclosed under subsection (1) to that person, the licensee must disclose the change to that person immediately.</p>
	Reg 56/61, s 9.06	<p>9.06 No licensee shall claim or take any secret or undisclosed amount of compensation, commission or profit or fail to reveal to the employer or principal of such licensee the full amount of such licensee's compensation, commission or profit in respect of a real estate transaction.</p>
MB	REAA, s 22(2)	<p>22(2) Where an offer to purchase real estate submitted through a broker, authorized official or salesman, is accepted by the offeree the acceptance shall show</p> <p>(a) the date of the acceptance; and</p> <p>(b) the total amount of commission, if any, to be paid to the broker, by the offeree, stated either as a lump sum or as a percentage of the sale price.</p>
NB	REAA, s 23.2	<p>23.2 (1) No licensee shall make any arrangement with a barrister or solicitor for the referral of business to the barrister or solicitor in return for the payment of a finder's fee or any other benefit.</p> <p>(2) No licensee shall refer a person to any lender with whom the licensee has an arrangement for the referral of business in return for the payment of a finder's fee or any other benefit, unless before or at the time of making the referral the licensee discloses in writing to that person that he has such an arrangement.</p>

NF		
NS		
	NSREC By-law, ss 792 (Articles 18-20), 716	<p>702 Article 18 The Licensee shall not accept compensation from more than one party to a transaction without the written consent of his or her client(s).</p> <p>Article 19 Licensees shall disclose to a client or customer if there is any financial benefit the Licensee or his/her firm may receive as a result of recommending real estate products or services to that party.</p> <p>Article 20 The Licensee shall not accept any rebate or profit on expenditures made for a client without the client's consent or accept any rebate or profit on expenditures for a customer without the customer's knowledge.</p> <p>716 (a) An incentive, inducement or gift cannot be money or a sharing of commission or remuneration. (b) A Broker, Associate Broker or Salesperson must not, directly or indirectly, advertise, communicate or offer to any person an incentive except an incentive that is provided by and on behalf of the Brokerage with which they are licensed. (c) An Associate Broker and Salesperson must not, directly or indirectly, provide an inducement unless the details of the inducement are provided in writing and the Broker has provided written approval.</p>
NT/NU		
ON	RECO, CofE, s 5	Rule 5 A Member shall disclose the financial aspects of a Transaction and any personal interest of the Member in a matter to the Parties sufficient to enable them to make an informed decision.
QC	REBA, ss 24, 26	<p>24. Any compensation agreement in favour of a broker or agent which may place the interest of the broker or agent in conflict with that of his client must be disclosed in writing to the client.</p> <p>26. A broker may share his compensation only with a firm, independent representative or independent partnership within the meaning of the Act respecting the distribution of financial products and services, another broker or with the broker pursuing his activities outside of Quebec under another jurisdiction.</p>
PE		
SK	SREAC, Bylaws, s 716	716 A registrant shall not accept compensation from more than one party to a trade without first making full disclosure in writing of the intent to do so to all parties involved in the trade.
YT		
CREA	CofE, ss 8-10	<p>Article 8 A Realtor shall not accept compensation from more than one party to a transaction without written consent of his or her client(s).</p> <p>Article 9 Realtors shall disclose to a client or customers if there is any financial benefit the Realtor or his/her firm may receive as a result of recommending real estate products or services to that party.</p> <p>Article 10 A Realtor shall not accept any rebate or profit on expenditures made for a client without the client's consent or accept any rebate or profit on expenditures for a customer without the customer's knowledge.</p>

SCHEDULE I: REGULATORY POWERS OF GOVERNMENT AGENCIES & INDUSTRY COUNCILS

SCHEDULE I: REGULATORY POWERS OF GOVERNMENT AGENCIES & INDUSTRY COUNCILS

Prov.	Source	Provision
AB	REA, ss 5, 12, 15(1)	<p>Alberta Real Estate Council:</p> <p>5 The purposes of the Council are</p> <p>(a) to set and enforce standards of conduct for the industry and the business of industry members as the Council determines necessary in order to promote the integrity of the industry and to protect consumers affected by the industry;</p> <p>12 The Council may make rules</p> <p>(a) prescribing or adopting standards of conduct and business standards for industry members;</p> <p>(b) respecting the form and contents of advertising carried out by industry members;</p> <p>(d) requiring the use of standard forms for matters related to the industry and prescribing or providing for the establishment of those forms;</p> <p>(e) requiring that specified types of trades or dealings be evidenced by an agreement in writing and that such an agreement contain specified provisions;</p> <p>(g) respecting the disclosure of information by industry members to parties and potential parties to deals and trades;</p> <p>(n) respecting the keeping and operation of trust accounts by industry members;</p>
BC	REA, s 55(1), (2)(h)-(j), (p)	<p>The Lieutenant Governor in Council:</p> <p>55 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the <i>Interpretation Act</i>.</p> <p>(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:</p> <p>(h) prescribing the forms of disclosures that, under section 36 or under the regulations, must be made by licensees to the persons entitled to receive the disclosures;</p> <p>(i) prescribing the particulars referred to in section 36 (1) (e);</p> <p>(j) requiring licensees to disclose prescribed types of information to persons who are or may be involved in a real estate transaction in which the licensee is or may be also involved, in any prescribed capacity;</p> <p>(p) prescribing forms for use under this Act and the regulations;</p>
MB	REBA, s 49(a)	<p>The Lieutenant Governor in Council:</p> <p>49 For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make such regulations and orders as are ancillary thereto and are not inconsistent therewith; and every regulation or order made pursuant to, and in accordance with, the authority granted by this section has the force of law; and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations and orders,</p> <p>(a) for the prevention of fraud in connection with transactions in real estate;</p>

NB	REAA, s 26(1)(a), (c), (g), (m.3)- (m.4), (n)	<p>The Lieutenant Governor in Council:</p> <p>26(1) The Lieutenant-Governor in Council may make, amend, alter or repeal regulations not inconsistent with this Act</p> <p>(a) in order to ensure compliance with this Act and the regulations and the payment of money held for the account of any person by an agent, providing for the furnishing of security or proof of financial responsibility by agents in such amounts and in such form and upon such conditions as may be considered necessary to obtain the said objects, which regulations may discriminate between persons required to furnish security or proof of financial responsibility in accordance with the number of salesmen employed by them and the volume of business done by them;</p> <p>(c) respecting forms for use under this Act and the regulations;</p> <p>(g) providing for the regulation of trading by agents including the particulars to be contained in advertisements for the purchase, sale or exchange of real estate;</p> <p>(m.3) respecting the use of a standard form of a listing agreement in the trade of real estate, and prescribing the form and the size, type and colour of lettering used in any provision thereof;</p> <p>(m.4) prescribing the amount of deposit for the purposes of subsection 13.11(9);</p> <p>(n) for the better carrying out of the provisions of this Act and for the more efficient administration thereof.</p>
NF	RETA, s 51(g), (i), (k)-(l), (o)	<p>The Lieutenant Governor in Council:</p> <p>51. The Lieutenant-Governor in Council may make regulations</p> <p>(g) providing for the regulation of trading by agents;</p> <p>(i) fixing or limiting the commission or rates of commission that may be charged and collected by agents; and</p> <p>(k) prescribing the form of an offer to purchase and agreement of sale;</p> <p>(l) respecting the advertising of real estate for sale by agents;</p> <p>(o) generally, to give effect to the purpose of this Act.</p>

SCHEDULE I: REGULATORY POWERS OF GOVERNMENT AGENCIES & INDUSTRY COUNCILS

NS	<p>RETA, s 8(1)(n)-(o), (w), (z)(ab)-(ac), (ao), 44(1)(e)-(f)</p>	<p>The Nova Scotia Real Estate Commission: 8 (1) The Commission may make by-laws</p> <p>(n) prescribing standards of professional conduct, competency and proficiency for licensed persons; (o) providing for a code of ethics for licensed persons;</p> <p>(w) regulating advertising by licensed persons;</p> <p>(z) (ab) establishing the rights and responsibilities for each type of licence and establishing additional types of licence; (aba) prescribing standards for agency relationships; (ac) respecting the requirements for agreements in addition to those prescribed in this Act;</p> <p>(ao) prescribing any other matter or thing that the Commission considers necessary or advisable to carry out effectively the intent and purpose of this Act.</p> <p>The Governor in Council: 44 (1) The Governor in Council may make regulations</p> <p>(e) defining any word or expression used but not defined in this Act; (f) respecting any matter deemed necessary or advisable to carry out effectively the intent and purpose of this Act.</p>
NT/NU		
ON	<p>REBBA, ss 50(1)(a), (5), 51(1), (18)(i), (iii)-(vii), (19)</p>	<p>The Minister of Consumer and Business Services 50. (1) The Minister may make regulations, (a) establishing a code of ethics for the purposes of subsection 21 (1); (5) If there is a conflict between a regulation made under this section and a regulation made by the Lieutenant Governor in Council under section 51, the latter prevails.</p>

		<p>The Lieutenant Governor in Council: 51.(1) The Lieutenant Governor in Council may make regulations,</p> <p>(18) governing the activities of registrants including, (i) prescribing matters that must be disclosed and when they must be disclosed in the course of a trade in real estate, including matters related to any holdings in brokerages other than the brokerage by which they are employed, in the case of salespersons and brokers, or in other brokerages, in the case of brokerages and the conditions under which such disclosures may be required,</p> <p>(iii) regulating advertising and representations or promises intended to induce a trade in real estate, (iv) regulating listing agreements, representation agreements and specific types of representation agreements, (v) prescribing conditions that must be met before commissions or other remuneration may be charged or collected, (vi) prescribing statements that are to be provided in respect of any trade in real estate, the content of the statement, the manner in which the statement is to be provided, the circumstances under which a statement is not required and the consequences of failing to provide a statement, (vii) setting out obligations of a brokerage, broker and salesperson that follow the acceptance of an offer to sell, purchase, exchange, lease or rent real estate;</p> <p>(19) governing the conduct of registrants when they represent more than one party in a trade;</p>
QC	REBA, ss 74(9)-(11), (13), (17), 75(1)	<p>The Board of Directors of the Association des courtiers et agents immobiliers du Québec: 74. The board of directors must determine, by by-laws subject to government approval</p> <p>(9) the rules stating the conditions, obligations and, where applicable, prohibitions concerning advertising, customer solicitation or representations by a member; (10) the rules relating to the disclosure of the sharing of a broker’s compensation with a firm, independent representative or independent partnership; (11) the manner in which disclosure is made under section 22;</p> <p>(13) the rules relating to the setting up and maintenance of a trust account;</p> <p>(17) the content, form and use of the mandatory forms designated by government regulation;</p> <p>The Association des courtiers et agents immobiliers du Québec: 75. The Association must determine, by by-law subject to government approval, (1) the rule of professional ethics applicable to its members;</p>

SCHEDULE I: REGULATORY POWERS OF GOVERNMENT AGENCIES & INDUSTRY COUNCILS

PE	RETA, s 47(c), (g), (i)	<p>The Lieutenant Governor in Council: 47. The Lieutenant Governor in Council may make such regulations, not inconsistent with this Act, as he considers necessary or desirable for the more effective carrying out of the purposes of this Act according to its true spirit, intent and meaning and for dealing with any matters for which no express provision has been made or in respect of which only partial or imperfect provision has been made, and, without limiting the generality of the foregoing, may make regulations</p> <p>(c) prescribing forms of licenses, applications therefor and all other forms for use under this Act and the regulations;</p> <p>(g) providing for the regulation of trading by agents;</p> <p>(i) fixing or limiting the commissions or rates of commission that may be charged and collected by agents;</p>
SK	REA, s 14(1)(t)-(v.1), (z)((dd), (hh), (kk), (mm)-(nn), (vv)-(ww)	<p>The Saskatchewan Real Estate Commission: 14(1) Subject to this Act and the regulations, the Commission may make bylaws:</p> <p>(t) setting standards of professional conduct, competency and proficiency of registrants;</p> <p>(u) providing for a code of ethics for registrants;</p> <p>(v) setting standards regarding the manner and method of practice of registrants;</p> <p>(v.1) requiring registrants to disclose information to parties and potential parties to trades in real estate, including respecting the information to be disclosed and the manner of disclosure;</p> <p>(z)...</p> <p>(dd) regulating advertising by registrants;</p> <p>(hh) prescribing the forms to be used by registrants when trading in real estate;</p> <p>(kk) respecting property management agreements;</p> <p>(mm) respecting requirements for agency agreements in addition to those prescribed in this Act and the regulations;</p> <p>(nn) respecting the keeping of trust money and trust accounts, including:</p> <p>(vv) respecting payment to the Commission of interest on trust accounts by financial institutions;</p> <p>(ww) prescribing any other matter or thing that the Commission considers necessary to better carry out the purposes of this Act.</p>
YT	REAA, s 56(c)	<p>The Commissioner in Executive Council: 56. For the purpose of carrying into effect the provisions of this Act according to the true intent and meaning thereof, the Commissioner in Executive Council may make such regulations, as he deems necessary, not inconsistent with the spirit of this Act, and without restricting the generality of the foregoing,</p> <p>(c) prescribing forms;</p>
CREA		