

Instructions to Accountants

1. Independent Accountant's Opinion

As an independent accountant, you have been asked to provide an opinion on the brokerage's compliance with the trust accounting and other financial requirements as set out in the British Columbia *Real Estate Services Act* (appropriate sections attached). Section 1-1 of the Council Rules defines accountant as follows:

- (a) a person who is a member, or is a partnership whose partners are members, of
 - (i) a Provincial or Territorial Institute/Ordre of Chartered Accountants within Canada, or
 - (ii) The Certified General Accountants Association of British Columbia,
- (b) a person who is certified, under section 222 of the *Business Corporations Act*, by the Auditor Certification Board, or
- (c) as an alternative for a brokerage that is a reporting issuer within the meaning of the *Business Corporations Act*, a person who is authorized under the *Securities Act* to make an auditor's report.

2. General Requirements

The general requirements for filing an annual Accountant's Report are contained in section 7-7 of the Council Rules as follows:

"Section 7-7 Annual financial statements, accountant's report and brokerage activity report

- (1) A brokerage must, within 120 days after the end of each fiscal year of the brokerage, file with the council
 - (a) financial statements for that fiscal year,
 - (b) an accountant's report respecting that fiscal year, completed in accordance with the bylaws, and
 - (c) a brokerage activity report respecting that fiscal year, completed in accordance with the bylaws.
- (2) The financial statements must
 - (a) be audited by an accountant, in the case of a brokerage that is a public company as defined in the *Business Corporations Act*, or
 - (b) in any other case, have been subject, at a minimum, to
 - (i) a review engagement by an accountant, or
 - (ii) if authorized under subsection (2.1), a notice to reader prepared by an accountant.
- (2.1) The council may authorize a brokerage to file financial statements that have been subject to a notice to reader prepared by an accountant if all of the following conditions are met:
 - (a) for a minimum of 3 consecutive fiscal years immediately preceding the date of authorization, the brokerage has filed financial statements that comply with subsection (2) (a) or (b) (i) and has satisfied the other requirements of this section as applicable;
 - (b) during those 3 fiscal years there have been no significant trust account or general books and records exceptions
 - (i) reported in relation to the brokerage under section 4-9 [*annual accountant's report*] of the bylaws, or
 - (ii) discovered in relation to the brokerage in any review under section 7-6 [*council review of accounts and other records*] of these rules;
 - (c) the council is satisfied that at the end of each of those 3 fiscal years the brokerage's current assets exceeded its current liabilities.
- (3) An accountant who
 - (a) audits, reviews the financial statements or prepares a notice to reader in relation to the financial statements, as contemplated by subsection (2) or (2.1), or
 - (b) completes the accountant's reportmust be independent of the brokerage and of any director, officer or partner of the brokerage or a related licensee of the brokerage.
- (4) The brokerage must
 - (a) disclose to an accountant referred to in subsection (3) every savings institution account that was opened, closed or maintained by the brokerage during the fiscal year,
 - (b) provide the accountant with access to all financial and other records of the brokerage for the fiscal year, and
 - (c) provide the accountant with any other information the accountant considers necessary to enable the accountant to conduct the audit, review the financial statements, prepare the notice to reader or complete the accountant's report, as required by this section.
- (5) The council may withdraw an authorization given to a brokerage under subsection (2.1) if
 - (a) the brokerage does not file financial statements that comply with this section,
 - (b) a trust account or general books and records exception has been reported or discovered as described in subsection (2.1) (b) in relation to the brokerage, or
 - (c) the council is not satisfied that the brokerage's current assets exceed its current liabilities at the end of any fiscal year.
- (6) Before withdrawing an authorization given to a brokerage under subsection (2.1), the council must give the brokerage notice of its intention to do so and the reasons.
- (7) As an alternative to filing an accountant's report under subsection (1) (b), a brokerage that did not hold or receive any public trust money during the fiscal year to which the financial statements relate may file with the council a solemn declaration, completed in accordance with section 4-9.1 of the bylaws, respecting
 - (a) that fiscal year, or

- (b) if the brokerage did not carry on business for the entire fiscal year, that part of the fiscal year for which the brokerage did carry on business.”

3. Required Form

The Accountant's Report form approved by the Council must be used. A copy of this form is provided and is also available on the Council's website. Any other format WILL NOT be accepted (fax plus original to follow is acceptable).

4. Subordination Agreements

- (a) Ensure that the financial statements correctly reflect any subordination agreement that may be in place pursuant to the *Real Estate Services Act*.
- (b) Obtain copies of the subordination agreement from the brokerage if they have not been provided.

5. Qualifications or Exceptions

In completing Section 4 of Part B “Qualifications or Exceptions” of the Accountant's Report, if the space provided is insufficient, attach a schedule of qualifications or exceptions on your letterhead, signed and dated on each page. **Your working papers must FULLY document all your EXCEPTIONS.** If there are no “qualifications or exceptions,” please state “none”.

You should not exercise professional judgment in determining the materiality of any exceptions noted by you in the course of your work. Your responsibility is to report to the Council all exceptions that you discover in the course of your review. It is the Council's responsibility to evaluate the exceptions that you report.

If there are numerous minor exceptions of a similar nature, it is only necessary to report on the general situation: i.e. - the extent of exceptions of a similar nature, their dollar effect and the number of times the situation arose. For trust debit balances of less than \$50, only the number of times the situation arose need be noted.

EXAMPLES OF EXCEPTIONS

The requirements of a brokerage to maintain books, accounts and records are detailed in Part 3 [*Trust Accounts and Other Financial Matters*] of the *Real Estate Services Act*, Part 3 [*Trust Accounts and Other Financial Matters*] of the *Real Estate Services Regulation*, Part 5 Division 3 Section 15 [*Commissions and Other Remuneration*], Part 7 [*Brokerage Accounts and Financial Requirements*] and Part 8 Division 1 [*Brokerage Records-Financial Records*] and Division 3 [*General Recordkeeping*] of the Council Rules.

Common examples of exceptions to these requirements would include:

1) Maintaining Books, Accounts and Records

- a) Account records not posted promptly.
- b) Transfers between client subsidiary trust ledger accounts other than by way of cheque or other than in accordance with signing authority dictated by the bank mandate.
- c) Failure to account for all receipts to and disbursements from trust and general accounts.
- d) Failure to have a written service agreement in place, where applicable, authorizing withdrawals from trust.
- e) Trust deposit books, bank statements and cheques not designated as trust.
- f) Failure to maintain a list of trades in real estate, rental properties and strata corporations managed by the brokerage, during the reporting period.
- g) Failure to maintain a trade record sheet for each trade in real estate.
- h) Failure to authorize the savings institution to pay the interest earned in the brokerage trust account to the Real Estate Foundation.

2) Maintaining Sufficient Trust Funds to Discharge Gross Trust Liabilities

- a) Withdrawing trust funds for remuneration for licensees before the trading services transaction has closed, or in anticipation of the terms outlined in the service agreement, i.e. for rental or strata management, in advance at the beginning of the month.
- b) Overdrawing specific principal's trust ledger balances.
- c) Trust money deposited late or into the general bank account
- d) Bank service charges drawn against the pooled trust account.
- e) Excess funds on deposit in the trust account i.e. a float or a balance of funds retained in the pooled trust account pursuant to section 7-9(5) of the Council Rules.

3) Preparing Monthly Trust Reconciliations

- a) Monthly bank and trust liability reconciliations not prepared in a timely fashion and, in any case, no later than 5 weeks after the monthly accounting cut-off date for the account, prepared late or not prepared properly.
- b) Necessary corrections not made when first discovered (which should be when the monthly trust reconciliation is prepared).
- c) Reconciling differences carried over from one reconciliation date to the next (indicating a failure to prepare the reconciliations properly on a monthly basis).

Other Reporting Matters

In certain cases, you should consider expanding your procedures and examine additional material concerning transactions you consider to be exceptions. With permission from the brokerage, you should also consider independent verification from third parties. In some cases, you should consider reporting the results of your additional work to the Council, which may better explain the situation and assist the Council in its disposition of the matter.

Where you are unable to report as required, under Part B, you should clearly set forth, in the qualifications and exceptions section, details of those matters on which you are unable to report or state that no opinion can be given and the reasons for this.

Your report and explanatory letter, if any, are delivered to the Council by the managing broker. Therefore, the contents of your report and explanatory letter, if any, will be known to the managing broker. Where differences of opinion exist between you and the managing broker, the managing broker has the option of writing a letter to the Council in response. You should review your report and comments, if any, with the managing broker.

Accountant's Minimum Procedures

The independent accountant should exercise professional judgment in determining the scope of the specific procedures undertaken in examining the trust accounts as set out in the Accountant's Report. The following are the minimum procedures that must be carried out before the Accountant's Report can be signed. The detection of any exceptions may necessitate the extension to these minimum procedures. All procedures must be documented providing details of all exceptions detected.

Preliminary Procedures

- 1) Read Part 3 [*Trust Accounts and Other Financial Matters*] of the *Real Estate Services Act*, Part 3 [*Trust Accounts and Other Financial Matters*] of the *Real Estate Services Regulation*, Part 5 Division 3 Section 15 [*Commissions and Other Remuneration*], Part 7 [*Brokerage Accounts and Financial Requirements*] and Part 8 Division 1 [*Brokerage Records-Financial Records*] and Division 3 [*General Recordkeeping*] of the Council Rules.
- 2) Note, at the start of your engagement, the dates to which the trust and general books were written up and posted.
- 3) Scan the trust and general cash books for unusual and significant items which may require further review.
- 4) Review and document the adequacy of the accounting system (either manual or computerized) in relation to the requirements of Part 3 [*Trust Accounts and Other Financial Matters*] of the *Real Estate Services Act*, Part 3 [*Trust Accounts and Other Financial Matters*] of the *Real Estate Services Regulation*, Part 5 Division 3 Section 15 [*Commissions and Other Remuneration*], Part 7 [*Brokerage Accounts and Financial Requirements*] and Part 8 Division 1 [*Brokerage Records-Financial Records*] and Division 3 [*General Recordkeeping*] of the Council Rules.
- 5) Ensure compliance with section 26 of the *Real Estate Services Act* - all of the brokerage's trust accounts are to be maintained at a savings institution in the Province of British Columbia.
- 6) Ensure the brokerage has, on an annual basis, provided the appropriate documentation to its savings institution to ensure its trust accounts are properly designated for deposit insurance protection (usually a trust liability reconciliation must be provided to the savings institution).
- 7) Ensure the brokerage is in compliance with section 29 of the *Real Estate Services Act* - should a brokerage be credited by a savings institution with interest on money held in a brokerage trust account (a) holds the interest in trust for the foundation, and (b) must cause the savings institution to pay the interest to the foundation in accordance with the regulations.

Reconciliation Procedures for Trading and Rental Management Services

- 1) Obtain a listing of all savings institution accounts, including pooled and separate trust accounts (bank accounts, term deposits, G.I.C.'s, etc.) in existence during the reporting period.
- 2) Confirm all trust account balances agree to trust liability and asset reconciliations as at reporting period end.
- 3) Review all monthly trust liability and asset reconciliations, including those subsequent to the reporting period, and compare gross trust liabilities to the total of the reconciled trust assets.
 - a) Report all deficiencies to the Council and obtain an explanation from the brokerage, where appropriate.
 - b) Ensure reconciliations are prepared promptly, i.e. no later than 5 weeks after the monthly accounting cut-off date for the account.
 - c) On a test basis, review the subsidiary trust ledgers for unclaimed amounts and ensure these amounts are properly supported.
 - d) Review all brokerage and commission trust account depository statements, noting any overdraft or other unusual entries.
- 4) For each brokerage and commission trust account, examine in detail one month's trust liability and asset reconciliation(s).

Reconciliation Procedures for Strata Management Services

- 1) Obtain a listing of all savings institution accounts, including pooled and separately designated trust accounts (bank accounts, term deposits, G.I.C.'s, etc.) in existence during the reporting period.
- 2) Confirm that the brokerage maintains at least one separate trust account in the name of the strata corporation. If the brokerage is to hold contingency reserve fund money or special levy money on behalf of the strata corporation, at least one separate trust account in the name of the strata corporation for the contingency reserve fund money, the special levy money or both, is maintained.
- 3) On a test basis, confirm that trust depository account balances agree to trust reconciliations as at reporting period end and throughout the reporting period.
- 4) Select and review a random sample of strata corporations. Review all monthly trust depository reconciliations for each strata corporation selected, including those subsequent to the reporting period.
 - a) Obtain an explanation from the brokerage for exceptions and report all exceptions to the Council.
 - b) Ensure reconciliations are prepared promptly, i.e. no later than 5 weeks after the monthly accounting cut-off date for the account.
 - c) Review brokerage trust depository statements, noting any overdraft or other unusual entries.
- 5) On a test basis, review the brokerage trust depository accounts (and pooled trust account if maintained) for one or more strata corporations, and examine in detail one month's depository reconciliation(s).

Compliance Procedures for Trading Services

- 1) For trust receipts, on a test basis:
 - a) for all pooled and separate trust accounts, examine the timeliness and the accuracy of postings and allocations of deposits to deposit slips, cash books, subsidiary trust ledgers, trust liabilities and trading service file details;
 - b) select and review a random sample of trading service files and agree the details to the banking records, subsidiary trust ledger and trust liability.
- 2) For trust disbursements, on a test basis:
 - a) for all pooled and separate trust accounts, examine the timeliness and accuracy of postings and allocations of trust disbursements to banking records, cash books, subsidiary trust ledgers, trust liabilities and trading service file details;

- b) select and review a random sample of trading service files and agree the details to the banking records, subsidiary trust ledgers and trust liabilities;
- c) examine that the signatories for the trust account are in accordance with Part 7-4(1) of the Council Rules.
- 3) Ensure the remuneration for licensee transfer occurs after completion of the related transaction and the amount agrees to the written service agreement and is in accordance with sections 30 and 31 of the *Real Estate Services Act*.
- 4) Scan the subsidiary trust ledger for debit balances and for entries arising from other than banking transactions.
- 5) As necessary, on a test basis, ensure the additions and balancing of ledgers are correct.
- 6) Select a random sample of trading service files and check the numerical sequence of the files to ensure all numbers are sequentially accounted for.

Rental Property and Strata Management Services

Some real estate brokerages provide rental property and/or strata management services. The **Preliminary** and the **Reconciliation** procedures noted above apply equally to these brokerages. Rental property and strata management fees are a form of licensee remuneration.

Compliance Procedures for Rental Property Management Services

- 1) For trust receipts, on a test basis:
 - a) for all pooled and separate trust accounts, examine the timeliness and the accuracy of postings and allocations of deposits to deposit slips, cash books, subsidiary trust ledger, trust liability and statements and information sent to the principal;
 - b) select and review a random sample of rental properties managed and agree the details of information sent to the principal with the banking records, subsidiary trust ledger and trust liability.
- 2) For trust disbursements, on a test basis:
 - a) for all pooled and separate trust accounts, examine the timeliness and the accuracy of postings and allocations of trust disbursements to banking records, cash books, subsidiary trust ledger, trust liability and source documentation;
 - b) select and review a random sample of rental properties managed and agree the details of the information sent to the principal with the banking records, subsidiary trust ledger, trust liability and source documentation;
 - c) examine that the signatories for the trust account are in accordance with Part 7-4(1) of the Council Rules.
- 3) On a test basis, ensure the rental property management fee withdrawn is correct and the withdrawal has been authorized in a written service agreement and is in accordance with sections 30 and 31 of the *Real Estate Services Act*.
- 4) Scan the subsidiary trust ledger for debit balances and for entries arising from other than banking transactions.
- 5) As necessary, on a test basis, ensure the additions and balancing of ledgers are correct.
- 6) Security Deposits
 - a) review and document the brokerage's policy regarding security deposits;
 - b) where security deposits are retained by the brokerage, perform the procedures outlined in (1) and (2) above;
 - c) where security deposits are not retained by the brokerage, on a test basis, ensure the brokerage has properly accounted for the receipt and disbursement of the security deposit.

Compliance Procedures for Strata Management Services

- 1) For trust receipts, on a test basis:
 - a) for separate trust accounts, examine the timeliness and the accuracy of postings and allocations of deposits to deposit slips, cash books, strata owner records and statements and information sent to the strata corporation;
 - b) for receipts of contingency reserve fund money or special levy money or both, examine that it was paid within 7 days after the end of the month in which it was received, into an applicable trust account or to the strata corporation in accordance with Part 7-9(4) of the Council Rules;
 - c) select and review a random sample of strata corporations managed and agree the details of information contained in financial statements sent to the strata council with the banking records, source documents, general and subsidiary ledgers maintained by the brokerage for the strata corporation.
- 2) For the pooled trust account for one or more strata corporations, examine the timeliness and accuracy of postings and allocations of deposits in accordance with Part 7-9(5) of the Council Rules.
- 3) For trust disbursements, on a test basis:
 - a) for separate trust accounts, examine the timeliness and the accuracy of postings and allocations of trust disbursements to banking records, cash books, subsidiary trust ledger, trust liability, source documentation and to the information sent to the strata corporation;
 - b) select and review a random sample of strata corporations managed
 - (i) agree the details of the information contained in financial statements sent to the strata corporation with the banking records, source documents, general and subsidiary ledgers maintained by the brokerage for the strata corporation; and,
 - (ii) examine that the brokerage has arranged to provide a copy of the monthly statements received by the brokerage from the savings institution to the strata corporation within 30 days after the statement was issued in accordance with Part 7-9(7) of the Council Rules;
 - c) examine that the signatories for the trust account are in accordance with Part 7-4(1) and 7-9(6) of the Council Rules.
- 4) For a pooled trust account for one or more strata corporations, examine the timeliness and accuracy of postings and allocations of disbursements established under Part 7-9(5) of the Council Rules.
- 5) On a test basis, ensure the strata management fee withdrawn is correct and the withdrawal has been authorized in a written service agreement and is in accordance with sections 30 and 31 of the *Real Estate Services Act*.
- 6) Scan the cash ledger balances for debit balances (overdrawn balances) and for entries arising from other than banking transactions.
- 7) As necessary, on a test basis, ensure the additions and balancing of ledgers are correct.

EXTRACTS FROM THE REAL ESTATE SERVICES ACT, REGULATION AND COUNCIL RULES

Real Estate Services Act:

PART 3 – TRUST ACCOUNTS AND OTHER FINANCIAL MATTERS

Brokerage records

25 A brokerage must maintain proper books, accounts and other records in accordance with the rules, and must keep these records in British Columbia.

Obligation to maintain trust account

26 (1) A brokerage must maintain, in accordance with the rules, one or more interest bearing trust accounts with one or more savings institutions in British Columbia.

(2) An account required under subsection (1) must be designated as a trust account both in the brokerage's records and in the records of the savings institution holding the account.

Payment into trust account

27 (1) A licensee engaged by a brokerage must promptly pay or deliver to the brokerage

(a) all money held or received from, for or on behalf of a principal in relation to real estate services, and

(b) all money held or received on account of remuneration for real estate services, including a share of remuneration received from another brokerage and whether or not the remuneration has already been earned.

(2) A brokerage must promptly pay into a brokerage trust account

(a) all money held or received from, for or on behalf of a principal in relation to real estate services, and

(b) all money held or received on account of remuneration for real estate services, including a share of remuneration received from another brokerage and whether or not the remuneration has already been earned.

(3) For the purposes of this section, if money referred to in subsection (1) or (2) is held or received by a person who is

(a) an officer, director, controlling shareholder or partner of a brokerage,

(b) an employee of a brokerage or of a related licensee of a brokerage, or

(c) a person acting in an independent contractor relationship with a brokerage or with a related licensee of a brokerage, the money is deemed to be held or received by the brokerage or related licensee, as applicable.

(4) Subsections (1) and (2) do not apply to money held or received by a licensee providing trading services in relation to a trade in real estate if,

(a) by written agreement that is separate from any agreement giving effect to the trade in real estate, all principals in relation to the trading services agree that subsections (1) and (2) do not apply, and

(b) any conditions established by the rules are met.

(4.1) Despite subsection (2)(b), remuneration that has already been earned, as determined in accordance with the rules, by a brokerage may be paid,

(a) if none of the remuneration is payable to another brokerage, into a commission trust account maintained by the brokerage, or

(b) if none of the remuneration is payable to either another brokerage or a related licensee, into a brokerage account other than

(i) a brokerage trust account, or

(ii) a commission trust account maintained by the brokerage.

(5) Subject to the rules, a brokerage must ensure that no money, other than money referred to in subsection (1) or (2), is paid into its brokerage trust accounts.

Circumstances in which brokerage holds money as stakeholder

28 (1) Subject to subsection (3), this section applies to money held or received in respect of a trade in real estate for which there is an agreement between the parties for the acquisition and disposition of the real estate.

(2) If the brokerage holds the money in a brokerage trust account, then, despite any rule of law to the contrary, the brokerage holds that money as a stakeholder and not as agent for one of the parties to the trade in real estate,

(a) unless or until the parties agree otherwise in writing, or

(b) unless or until circumstances established by the regulations apply.

(3) This section does not apply to the following:

(a) rents or payments under an option to purchase, if collected on a periodic and regular basis;

(b) security deposits and pet damage deposits paid by tenants under the *Residential Tenancy Act*;

(c) payments prescribed by regulation.

Interest on trust account

29 (1) A brokerage that is credited by a savings institution with interest on money held in a brokerage trust account

(a) holds the interest in trust for the foundation, and

(b) must cause the savings institution to pay the interest to the foundation in accordance with the regulations.

(2) Subsection (1) does not apply if the brokerage holds the money under a duty under the *Residential Tenancy Act* to pay the interest to a tenant.

(3) Subject to subsection (4), subsection (1) does not apply to money deposited in a separate trust account maintained by a brokerage for a principal, in which case the interest is to be paid to or in accordance with the instructions of the principal.

(4) If money deposited in an account referred to in subsection (3) becomes held by the brokerage as a stakeholder, subsection (1) applies to that money unless the parties to the trade in real estate agree otherwise in writing, in which case the interest is to be paid in accordance with the agreement.

Regulation:

Interest on trust account

- 3.1 For the purposes of section 29(1)(b) [*interest on trust account*] of the Act, a brokerage that is credited by a savings institution with interest on money held in a brokerage trust account must
- (a) instruct the savings institution to pay the interest to the foundation, using the authorization form established by the foundation, and
 - (b) send a completed copy of the authorization form to the foundation.

Real Estate Services Act:

Withdrawals from trust account

- 30 (1) Money in a brokerage trust account, other than money that the brokerage holds as stakeholder, may be withdrawn only if it is one or more of the following:
- (a) money paid into the trust account by mistake;
 - (b) interest paid in accordance with section 29 [*interest on trust account*];
 - (c) money authorized to be withdrawn under section 31 [*payment of licensee remuneration*];
 - (d) unclaimed money transferred under section 32 [*unclaimed money held in trust*];
 - (e) money paid into court under section 33 [*payment of trust funds into court*];
 - (f) money paid in accordance with a court order;
 - (g) money paid to or in accordance with the instructions of the principal to whose credit the money was deposited.
- (2) Money in a brokerage trust account that the brokerage holds as stakeholder may be withdrawn only
- (a) as provided in subsection (1)(a) to (f),
 - (b) in accordance with a written agreement of the parties to the trade in real estate, or
 - (c) in accordance with the regulations.
- (3) This section does not apply to a deposit received by a brokerage under section 18 of the *Real Estate Development Marketing Act* and, instead, that deposit must be dealt with in accordance with that Act.

Payment of licensee remuneration

- 31 (1) Money in a brokerage trust account that is intended as remuneration for a licensee may be withdrawn from the account when it has been earned as determined in accordance with the rules.
- (2) Money withdrawn from a brokerage trust account under subsection (1) must be paid by the brokerage as follows:
- (a) any share of the remuneration that is payable by the brokerage to another brokerage must be paid to the other brokerage directly out of the brokerage trust account;
 - (b) any net share of the remuneration that is payable by the brokerage to a licensee engaged by the brokerage must be paid, at the brokerage's option,
 - (i) to that licensee directly out of the brokerage trust account, or
 - (ii) into a commission trust account maintained by the brokerage in accordance with the rules and, from that account, to or on behalf of the licensee.

Unclaimed money held in trust

- 32 (1) A brokerage may transfer money held in trust by a brokerage to the administrator appointed under the *Unclaimed Property Act*, if
- (a) the brokerage has made reasonable efforts to ascertain the identity of or to locate the person entitled to claim the money and to notify that person about the money, and
 - (b) despite those efforts, the money has been unclaimed for longer than one year after the applicable time prescribed for the purposes of this section.
- (2) Money transferred under subsection (1) is deemed to be an unclaimed money deposit under the *Unclaimed Property Act*.

Regulation:

Unclaimed money held in trust

- 3.2 For the purposes of section 32(1)(b) [*action if unclaimed for one year after prescribed time*] of the Act, the prescribed time is as follows:
- (a) if a communication or cheque sent to the person entitled to claim the money is returned undelivered to the brokerage, the date on which the returned communication or cheque is received by the brokerage;
 - (b) if an action required to be taken by the person entitled to claim the money by a specified date, as indicated in a communication by the brokerage to the person, is not taken by that date, the specified date indicated in the communication;
 - (c) if a cheque has been sent by the brokerage to the person entitled to claim the money, and a period of 3 years has passed since the date the cheque was sent and the cheque has not been cashed, the date of the day after the end of the 3 year period.

Real Estate Services Act:

Payment of trust funds into court

- 33 (1) If, in relation to money held in trust by a brokerage, it appears to the brokerage that
- (a) there are adverse claimants to the money,
 - (b) the identity of one or more of the persons entitled to it is unknown, or

- (c) there is no person capable of giving, or authorized to give, a valid discharge for it, the brokerage may apply to the Supreme Court for an order for payment of the money into court.
- (2) An application under this section must be accompanied by an affidavit setting out the following as applicable and to the extent possible:
- (a) the nature of the real estate services in respect of which the money was held or received;
 - (b) the names and addresses of the principals in relation to those real estate services;
 - (c) the date and terms on which the brokerage received the money;
 - (d) the names and addresses of all claimants to the money of whose claims the brokerage is aware;
 - (e) particulars of any claim for remuneration by the brokerage, or a related licensee of that brokerage, arising out of the real estate services.
- (3) An application under this section may be made without notice to any other person unless otherwise ordered by the court.
- (4) On an application under this section, the court may make an order for payment of the money into court, and payment into court under the order discharges the brokerage from liability for the amount paid.
- (5) Money paid into court under an order under this section must not be paid out of court except by order of the court, which may do one or more of the following:
- (a) order payment of all or part of the money to the person or persons entitled to it on terms the court considers appropriate;
 - (b) direct the trial of an issue;
 - (c) make any other order that the court considers appropriate, including an order for the payment of costs to the brokerage that made the application.

Rules:

1-1 DEFINITIONS

public trust money means all money held or received by a brokerage and to which section 27 (1), (2) or (3) [*payment into trust account*] of the Act applies, except remuneration that has already been earned, as determined in accordance with these rules, by the brokerage at the time it is held or received by the brokerage;

PART 5 – RELATIONSHIPS WITH PRINCIPALS AND PARTIES

5-1 Written service agreements required in some cases

- (4) **Specific content requirements** – In all cases, a service agreement required under subsection (1) must include the following:
- (a) the name of the client and the licensee name of the brokerage;
 - (b) the address of the real estate in relation to which services are provided under the agreement;
 - (c) the date on which the agreement is effective;
 - (d) in the case of a service agreement for trading services, the date on which the agreement expires and, in any other case, the duration of the agreement;
 - (e) a general description of services to be provided by the brokerage;
 - (f) the remuneration to be paid under the agreement and the circumstances in which it will be payable;
 - (g) provision respecting the use and disclosure of personal information.
- (5) **Rental property management agreements** – In the case of a service agreement required under subsection (1) respecting the provision of rental property management services, the service agreement must also include the following:
- (a) the circumstances in which the agreement may be terminated by either or both the client and the brokerage;
 - (b) the scope of the authority of the brokerage or a related licensee when acting on behalf of the owner, including any authority to
 - (i) sign cheques or make disbursements on behalf of the owner, and
 - (ii) enter into contracts on behalf of the owner;
 - (c) the timing, frequency and nature of accounting statements and other records to be provided by the brokerage to the owner;
 - (d) how security deposits, pet damage deposits and other deposits are to be dealt with;
 - (e) a description of the records to be kept by the brokerage on behalf of the owner.
- (5.1) **Strata management agreements** – In the case of a service agreement required under subsection (1) respecting the provision of strata management services, the service agreement must also include the following:
- (a) an indication of whether the brokerage will be holding one or more of
 - (i) contingency reserve fund money,
 - (ii) operating fund money,
 - (iii) special levy money, and
 - (iv) other amounts
 on behalf of the strata corporation;
 - (a.1) the circumstances, in addition to those set out in sections 24 (1) and 39 of the *Strata Property Act*, in which the agreement may be terminated by either or both of the client and the brokerage;
 - (b) any authority under section 30 (1) (g) [withdrawals from trust account] of the Act for the brokerage to transfer amounts
 - (i) between brokerage trust accounts maintained under section 7-9 (2) of these rules for the strata corporation, or
 - (ii) from such a brokerage trust account under section 7-9 (2) (a) of these rules to a pooled trust account for one or more strata corporations;
 - (c) the scope of the authority of the brokerage or a related licensee when acting on behalf of the strata corporation, including any authority to
 - (i) sign cheques or make disbursements on behalf of the strata corporation,
 - (ii) enter into contracts on behalf of the strata corporation, and
 - (iii) invest money held by the brokerage on behalf of the strata corporation;
 - (d) the timing, frequency and nature of accounting statements and other records to be provided by the brokerage to the strata corporation, in addition to those required to be provided under section 7-9 (7) of these rules;

(e) a description of the records that are to be kept by the brokerage on behalf of the strata corporation, including an indication of which, if any, of the records required under section 35 of the *Strata Property Act* that the brokerage will retain on behalf of the strata corporation;

(f) provision respecting the use and disclosure of information respecting the strata corporation, including the use and disclosure of personal information respecting owners who are the members of the strata corporation.

5-11 Disclosure of remuneration

- (1) This section applies if a licensee receives or anticipates receiving, directly or indirectly,
- (a) remuneration as a result of providing real estate services to or on behalf of a client, other than remuneration paid directly by the client,
 - (b) remuneration as a result of recommending
 - (i) a home inspector, mortgage broker, notary public, lawyer or savings institution, or
 - (ii) any other person providing real estate related products or services to a client, or
 - (c) remuneration as a result of recommending a client to a person referred to in paragraph (b)(i) or (ii).
- (2) The licensee must promptly disclose to the client, and to the licensee's related brokerage,
- (a) the source of the remuneration,
 - (b) the amount of the remuneration or, if the amount of the remuneration is unknown, the likely amount of the remuneration or the method of calculation of the remuneration, and
 - (c) all other relevant facts relating to the remuneration.

5-12 Benefits in relation to rental property management services and strata management services

To the extent that this is not already dealt with by section 5-11 [*disclosure of remuneration*] of these rules, if a licensee

- (a) anticipates receiving, directly or indirectly, a benefit from expenditures made by or on behalf of a principal to or on behalf of whom rental property management services or strata management services are or may be provided, or
- (b) anticipates that an associate of the licensee will receive, directly or indirectly, such a benefit, the licensee must disclose to the principal, and to the licensee's related brokerage, the nature and extent of the benefit before the benefit is accepted.

5-15 When licensee remuneration can be paid out of trust account

- (1) Money in a brokerage trust account that is intended as remuneration for a licensee is to be considered earned, for the purpose of authorizing withdrawal under section 31(1) [*withdrawal of remuneration from brokerage trust account*] of the Act, in the circumstances described in this section.
- (2) Subject to subsection (3), money that is held by the brokerage as a stakeholder under section 28 [*circumstances in which brokerage holds money as stakeholder*] of the Act may be withdrawn as follows:
- (a) if the money is held in respect of a transaction for the leasing of real estate, on the earlier of
 - (i) the date the lease or assignment of lease is submitted to the land title office for registration,
 - (ii) the date the tenant has the right to take possession of the real estate, and
 - (iii) the date the tenant lawfully occupies the real estate;
 - (b) in the case of a transfer that is not registrable in the land title office, other than a transfer related to a transaction referred to in paragraph (a), on the date on which the real estate is transferred;
 - (c) in any other case, on the date on which the documents effecting the transfer are submitted to the land title office for registration.
- (3) If, in relation to money that is held as referred to in subsection (2),
- (a) the service agreement establishes a time at which remuneration is earned by the licensee, and
 - (b) that time is later than the time that would otherwise apply under subsection (2), the money may be withdrawn at the time referred to in paragraph (a).
- (4) Money held by the brokerage other than as a stakeholder may be withdrawn
- (a) subject to paragraph (b), in accordance with the service agreement or other agreement under which the applicable real estate services are provided, or
 - (b) at a time otherwise agreed to in writing by the client.

5-15.1 Some remuneration not required to be paid into brokerage trust account

- (1) Money received by a brokerage on account of remuneration for real estate services is to be considered earned for the purposes of section 27(4.1) [*exceptions from payment into trust account*] of the Act in the circumstances described in this section.
- (2) Money that is received by a brokerage from a person other than a principal, on account of remuneration for real estate services may be paid in accordance with section 27(4.1)(a) or (b) of the Act as follows:
- (a) in the case of money received on account of remuneration for trading services, in accordance with the circumstances described in section 5-15(2) [*money held as a stakeholder*] of these rules;
 - (b) in the case of money received on account of remuneration for rental property management services or strata management services,
 - (i) after the services for which the money was received by the brokerage have been provided, or
 - (ii) at a time or upon the happening of an event otherwise agreed to in writing by the person paying the money to the brokerage.

PART 7 – BROKERAGE ACCOUNTS AND FINANCIAL REQUIREMENTS

7-1 Agreement to pay other than into brokerage trust account

Section 27(1) and (2) [*payment of money from principal*] of the Act does not apply to money held or received by a licensee if

- (a) the requirements set out in section 27(4)(a) of the Act are met, and

- (b) the licensee or brokerage, as applicable, ensures that the money is paid to, or is made payable to and immediately delivered to, the person to whom the principals agreed that the money is to be paid or made payable to.

7-2 Commission trust accounts

For the purposes of section 31(2) [*payment of licensee remuneration*] of the Act, a brokerage may maintain one or more commission trust accounts in accordance with the following rules:

- (a) a commission trust account must be designated as a trust account both in the brokerage's records and in the records of the savings institution holding the account;
- (b) the only money that may be paid into the account is money that
 - (i) is intended as remuneration for a licensee engaged by the brokerage, and
 - (ii) may be paid out of the trust account in accordance with section 5-15 [*when licensee remuneration can be paid out of trust account*] of these rules.

7-3 Requirement to notify savings institution of pooled trust accounts

If a brokerage has a pooled trust account with a savings institution other than a credit union, the brokerage must, within 30 days after April 30 of every year, provide to the institution

- (a) written notice that the account is a pooled account, and
- (b) a list identifying each person on whose behalf money is held in that account and specifying the amount held for each person as of April 30 of that year.

7-4 Other trust account requirements

- (1) At least one related managing broker must be a signing authority on each trust account maintained by a brokerage.
- (2) For each trust account of a brokerage, the monthly reconciliation under section 8-2(b) [*trust account and general account records*] and the monthly trust asset and liability reconciliation under section 8-3(b) [*pooled trust account records*] must be reviewed, dated, and initialed by a related managing broker or by a person designated by a related managing broker.
- (3) A brokerage must arrange for all banking documents, including cheques, statements and deposit slips, relating to a trust account to include an indication that they relate to a trust account.

7-5 Shortages in trust accounts

- (1) A brokerage must not make any payment out of a trust account if
 - (a) the payment would reduce the amount currently recorded in a trust account record or a trust ledger for the account to a negative balance, or
 - (b) the trust account record or trust ledger to which the payment relates is already at a negative balance.
- (2) If at any time there is a negative balance referred to in subsection (1), the brokerage must take immediate steps to eliminate the negative balance.
- (3) The brokerage must notify the council of a negative balance referred to in subsection (1) as follows:
 - (a) immediately, if a related managing broker considers that the negative balance may result in a person having a claim for a compensable loss in relation to the brokerage;
 - (b) in any other case, no later than 10 days after the day on which the negative balance arose, unless the brokerage is able to eliminate the negative balance in that time.

7-6 Council review of accounts and other records

- (1) A brokerage must allow the council to review the brokerage's accounts, financial records and any other records relating to the dealings of the brokerage as a licensee or to the dealings of its related licensees as licensees.
- (2) The authority to review under this section includes the authority to inspect and the authority to audit.
- (3) If a review under this section shows that the brokerage's books and other records are not in proper order or are not kept up to date, the council may require the brokerage to pay all or part of the costs of the review, subject to the same limits that apply under section 44(2) [*enforcement expenses*] of the Act.

7-7 Annual financial statements, accountant's report and brokerage activity report

- (1) A brokerage must, within 120 days after the end of each fiscal year of the brokerage, file with the council
 - (a) financial statements for that fiscal year,
 - (b) an accountant's report respecting that fiscal year, completed in accordance with the bylaws, and
 - (c) a brokerage activity report respecting that fiscal year, completed in accordance with the bylaws.
- (2) The financial statements must
 - (a) be audited by an accountant, in the case of a brokerage that is a public company as defined in the *Business Corporations Act*, or
 - (b) in any other case, have been subject, at a minimum, to
 - (i) a review engagement by an accountant, or
 - (ii) if authorized under subsection (2.1), a notice to reader prepared by an accountant.
- (2.1) The council may authorize a brokerage to file financial statements that have been subject to a notice to reader prepared by an accountant if all of the following conditions are met:
 - (a) for a minimum of 3 consecutive fiscal years immediately preceding the date of authorization, the brokerage has filed financial statements that comply with subsection (2) (a) or (b) (i) and has satisfied the other requirements of this section as applicable;
 - (b) during those 3 fiscal years there have been no significant trust account or general books and records exceptions
 - (i) reported in relation to the brokerage under section 4-9 [*annual accountant's report*] of the bylaws, or
 - (ii) discovered in relation to the brokerage in any review under section 7-6 [*council review of accounts and other records*] of these rules;
 - (c) the council is satisfied that at the end of each of those 3 fiscal years the brokerage's current assets exceeded its current liabilities.

- (3) An accountant who
 - (a) audits, reviews the financial statements or prepares a notice to reader in relation to the financial statements, as contemplated by subsection (2) or (2.1), or
 - (b) completes the accountant's report
 must be independent of the brokerage and of any director, officer or partner of the brokerage or a related licensee of the brokerage.
- (4) The brokerage must
 - (a) disclose to an accountant referred to in subsection (3) every savings institution account that was opened, closed or maintained by the brokerage during the fiscal year,
 - (b) provide the accountant with access to all financial and other records of the brokerage for the fiscal year, and
 - (c) provide the accountant with any other information the accountant considers necessary to enable the accountant to conduct the audit, review the financial statements, prepare the notice to reader or complete the accountant's report, as required by this section.
- (5) The council may withdraw an authorization given to a brokerage under subsection (2.1) if
 - (a) the brokerage does not file financial statements that comply with this section,
 - (b) a trust account or general books and records exception has been reported or discovered as described in subsection (2.1) (b) in relation to the brokerage, or
 - (c) the council is not satisfied that the brokerage's current assets exceed its current liabilities at the end of any fiscal year.
- (6) Before withdrawing an authorization given to a brokerage under subsection (2.1), the council must give the brokerage notice of its intention to do so and the reasons.
- (7) As an alternative to filing an accountant's report under subsection (1) (b), a brokerage that did not hold or receive any public trust money during the fiscal year to which the financial statements relate may file with the council a solemn declaration, completed in accordance with section 4-9.1 of the bylaws, respecting
 - (a) that fiscal year, or
 - (b) if the brokerage did not carry on business for the entire fiscal year, that part of the fiscal year for which the brokerage did carry on business."

7-8 Requirement to ensure solvency and cover shortages

- (1) This section applies in any of the following circumstances:
 - (a) if a brokerage notifies the council under section 2-20 [*notice respecting solvency*] of these rules that it is not able to pay its debts as they become due;
 - (b) if a brokerage notifies the council under section 7-5(3) [*notice respecting shortages*] of these rules that there is a negative balance in a trust account record or trust ledger;
 - (c) the annual financial reports under section 7-7 [*annual financial statements, accountant's report and brokerage activity report*] of these rules disclose that, as of the end of the brokerage's fiscal year,
 - (i) the brokerage's current liabilities exceed its current assets, or
 - (ii) the brokerage's total liabilities exceed its total assets; or
 - (d) a review under section 7-6 [*council review of accounts and other records*] of these rules indicates
 - (i) a circumstance for which notice is required as referred to in paragraph (a) or (b), or
 - (ii) either of the circumstances referred to in paragraph (c).
- (2) The council may require the brokerage to do one or more of the following:
 - (a) explain why the shortage or other deficiency arose;
 - (b) pay money into a trust account to cover a shortage in the trust account;
 - (c) re-establish the brokerage to a state of solvency;
 - (d) provide a bond or other form of security.
- (3) A requirement under subsection (2)(b) applies despite section 27(5) [*restriction on payment into brokerage trust accounts*] of the Act and section 7-2(b) [*restriction on payment into commission trust accounts*] of these rules.

7-9 Additional rules for strata management trust accounts and investments

- (1) This section applies to a brokerage that provides strata management services.
- (2) A brokerage must, for each strata corporation on behalf of which the brokerage holds or receives money, maintain the following brokerage trust accounts:
 - (a) at least one separate trust account in the name of the strata corporation;
 - (b) if the brokerage is to hold contingency reserve fund money or special levy money on behalf of the strata corporation, at least one separate trust account in the name of the strata corporation for the contingency reserve fund money, the special levy money or both.
- (2.1) If a brokerage receives money that is subject to subsection (2) by means of direct electronic deposit into a brokerage trust account that receives funds on behalf of more than one strata corporation, the money must be transferred to the applicable trust account under subsection (2) no later than 3 days after the day on which it was received.
- (3) Amounts received by the brokerage on behalf of a strata corporation must be paid into the trust accounts under subsection (2) as follows:
 - (a) if the amount received does not include contingency reserve fund or special levy money, it must be paid into an applicable trust account under subsection (2) (a);
 - (b) if the amount received is only contingency reserve fund money or special levy money or both, it must be paid into an applicable trust account under subsection (2) (b);
 - (c) if the amount received is partly contingency reserve fund money or special levy money or both,
 - (i) it must be paid into an applicable trust account under subsection (2) (a), and
 - (ii) the amount received in respect of contingency reserve fund money or special levy money must then be dealt with in accordance with subsection (4).

- (4) If subsection (3) (c) applies, within 7 days after the end of the month in which the contingency reserve fund money or special levy money was received, the brokerage must either
 - (a) pay the money over to the strata corporation, or
 - (b) if the brokerage is to hold the money on behalf of the strata corporation, transfer it to an applicable trust account under subsection (2) (b).
- (5) If money in a trust account under subsection (2) (a) is transferred to a pooled trust account for one or more strata corporations, the brokerage must promptly
 - (a) pay the money on behalf of the strata corporation, or
 - (b) transfer it to an applicable trust account under subsection (2) (a).
- (6) In the case of a trust account under subsection (2) (b), the brokerage must arrange for the trust account to be set up so that the signatures of at least two of the following are required in order for money to be withdrawn from the account:
 - (a) a related managing broker;
 - (b) a member of the council of the strata corporation;
 - (c) another related licensee of the brokerage;
 - (d) a director or officer of the brokerage;
 - (e) a person employed or engaged by the brokerage who is authorized to practice as
 - (i) a lawyer under the *Legal Profession Act*,
 - (ii) a certified general accountant under the *Accountants (Certified General) Act*,
 - (iii) a chartered accountant under the *Accountants (Chartered) Act*, or
 - (iv) a certified management accountant under the *Accountants (Management) Act*.
- (7) For each trust account under subsection (2), the brokerage must
 - (a) arrange for the savings institution to provide monthly statements respecting the account, and
 - (b) provide to the strata corporation, no later than 6 weeks after the end of the month for which a statement under this subsection was issued, a copy of
 - (i) that statement, and
 - (ii) the monthly reconciliation referred to in section 8-2(b) [*monthly reconciliations of bank statements*] of these rules in relation to that statement.
- (8) When making investments on behalf of a strata corporation, a licensee providing strata management services is subject to the same restrictions, if any, that apply under the *Strata Property Act* to the strata corporation in relation to its investments.
- (9) After the termination of a strata management service agreement, the brokerage must promptly transfer control of the strata corporation's money to the strata corporation or, if the strata corporation engages another brokerage to provide strata management services, to the other brokerage.
- (10) Despite subsection (9), the brokerage may retain sufficient funds to pay outstanding and anticipated invoices related to expenses incurred on behalf of the strata corporation before the termination of the service agreement.

PART 8 – BROKERAGE RECORDS

Division 1 – Financial Records

8-1 Financial records

- (1) A brokerage must prepare and retain such financial records in connection with its business as are necessary to ensure the appropriate and timely accounting of all transactions relating to real estate services provided by the brokerage and its related licensees.
- (2) The records required under subsection (1) must show and readily distinguish the following:
 - (a) the amount of money held or received by the brokerage on its own behalf;
 - (b) the amount of money paid by the brokerage on its own behalf;
 - (c) the amount of money held or received on behalf of each other person including, if applicable, an indication of whether it was held or received on behalf of the person as a principal or as a licensee;
 - (d) the amount of money paid to or on behalf of each other person including, if applicable, an indication of whether it was paid to the person as a principal or as a licensee;
 - (e) the total amount of money held or received for or on behalf of other persons;
 - (f) the total amount of money paid to or on behalf of other persons.

8-2 Trust account and general account records

For each account maintained by a brokerage, the brokerage must retain all banking records relating to account transactions, including statements, and cancelled cheques and other source documents making or confirming deposits or withdrawals, and must prepare and retain the following records:

- (a) a record showing amounts received and disbursed, the reason for the receipt or disbursement, and any unexpended balance;
- (b) monthly reconciliations of banking statements to the record referred to in subsection (a), prepared in a timely fashion and, in any case, no later than 5 weeks after the end of the month being reconciled.

8-3 Pooled trust account records

In addition to the records referred to in section 8-2 [*trust account and general account records*] of these rules, for each pooled trust account maintained by a brokerage, the brokerage must prepare and retain the following records:

- (a) separate trust ledgers as follows:
 - (i) *in respect of money held or received on account of trades in real estate*—a separate trust ledger for each trade in real estate showing all amounts received and disbursed in relation to the trade and any unexpended balance in relation to the trade;
 - (ii) *in respect of money held or received on account of rental property management services*—a separate trust ledger for each principal showing all amounts received and disbursed in relation to the principal and any unexpended balance in relation to that principal;

- (iii) *in respect of money held or received on account of strata management services*—a separate trust ledger for each principal showing all amounts received and disbursed in relation to the principal and any unexpended balance in relation to that principal;
- (iv) *in respect of money held or received on account of remuneration for real estate services*—a separate trust ledger for each licensee or other intended recipient showing all amounts received and disbursed in relation to the recipient and any unexpended balance in relation to the recipient;
- (b) a monthly trust liability and asset reconciliation,
 - (i) for money held by the brokerage as a stakeholder under section 28 [*circumstances in which brokerage holds money as stakeholder*] of the Act, listing each trade in real estate in relation to which the brokerage holds the trust money, and the amount being held in relation to each trade,
 - (ii) for money that is not held by the brokerage as a stakeholder, listing every person for which the brokerage holds trust money, and the amount being held for each person, and
 - (iii) reconciling the money held in the trust account to the unexpended balances in the trust ledgers for the account, prepared in a timely fashion and, in any case, no later than 5 weeks after the end of the month being reconciled.

8-3.1 Preparation of records after termination

After the termination of a service agreement respecting the provision of real estate services, the brokerage must continue to prepare all financial records required under this Part that relate to the services that were provided by the brokerage to the client.

Division 3 – General Recordkeeping

8-8 Specific obligations not limiting

The specific requirements established by this Part do not limit the requirements of section 25 [*brokerage records*] of the Act.

8-9 Records must be kept up to date

Records required under Division 1 [*Financial Records*] or 2 [*Other Records*] of this Part must be kept up to date.

8-9.1 Electronic Records

- (1) A record required under Division 1 [*Financial Records*] or 2 [*Other Records*] of this Part may be retained as an electronic record if the record can be readily transferred to printed form.
- (2) A person authorized under the Act, regulations, rules or bylaws to inspect, review or receive a record, may request, for the purpose of inspecting, reviewing or receiving the record, that the record be in printed form.
- (3) On receiving a request under subsection (2), a brokerage must promptly transfer the record to printed form.

8-10 Retention of records

- (1) Subject to subsection (1.1), a brokerage must retain the records required under Division 1 [*Financial Records*] or 2 [*Other Records*] of this Part for at least 7 years after their creation unless a shorter period is authorized in writing by the council.
- (1.1) A brokerage must retain the records required under section 8-6(1)(a) [*tenancy agreements*] and (2) [*tenants and deposits*] of these rules for at least 7 years after the earlier of
 - (a) the date on which the tenancy agreement or the tenancy to which the agreement pertains ends, and
 - (b) the date on which the rental property management service agreement with respect to which the records are being held terminates
 unless a shorter period is authorized in writing by the council.
- (2) The records referred to in subsections (1) and (1.1)
 - (a) may be retained as copies of the original records, and
 - (b) must be made available at the head office of the brokerage for the purposes of a review under section 7-6 [*council review of accounts and other records*] of these rules.

8-11 Brokerage obligations when winding up business

A brokerage that ceases to carry on the business of a brokerage must do the following:

- (a) immediately surrender to the council the brokerage's licences and the licences of all related licensees that are in the possession of the brokerage;
- (b) promptly submit to the council a report respecting the winding up, completed in accordance with the bylaws;
- (c) if requested by the council, submit to the council one or more of the financial statements and reports required under section 7-7 [*annual financial statements, accountant's report and brokerage activity report*] of these rules;
- (d) as requested by the council, provide to the council
 - (i) any other financial records of the brokerage, and
 - (ii) any further information about the business of the brokerage;
- (e) arrange for the records referred to in section 8-10 [*retention of records*] of these rules to be kept, for the period referred to in that section, by
 - (i) another brokerage,
 - (ii) an accountant, lawyer or notary public, or
 - (iii) another person acceptable to the council.