

BCREA Community of Practice – November 22, 2023

Additional Questions for BC Financial Services Authority with Answers

1. Can we see numbers for how many brokerages, pm, stratas, not just 15000 REALTORS®?

Brokerages (excluding Branches)*:



License Category	No.	%
Trading, Strata	1	0.09%
Trading, Rental, Strata	225	21.27%
Trading, Rental	512	48.39%
Trading	200	18.90%
Strata	33	3.12%
Rental, Strata	50	4.73%
Rental	37	3.50%
Total	1058	100.00%

Sole proprietorships*:

License Category	No.	%
Trading, Rental, Strata	5	20.00%
Trading, Rental	11	44.00%
Trading	6	24.00%
Rental, Strata	1	4.00%
Rental	2	8.00%
Total	25	100.00%

*Please note, these figures change as information on brokerages/sole proprietors are updated on a regular basis.

2. What is your definition of when "trading services" are offered?

Under the "Definitions" of the *Real Estate Services Act* ("RESA"), trading services are defined as:

Any of the following services provided to or on behalf of a party to a trade in real estate:

- (a) advising on the appropriate price for the real estate;*
- (b) making representations about the real estate;*
- (c) finding the real estate for a party to acquire;*
- (d) finding a party to acquire the real estate;*
- (e) showing the real estate*
- (f) negotiating the price of the real estate or the terms of the trade in real estate;*
- (g) presenting offers to dispose of or acquire the real estate;*
- (h) receiving deposit money paid in respect of the real estate*

but does not include an activity excluded by regulation;

BCFSA recommends seeking independent legal advice for further interpretation of this definition, if needed.

3. A recent audit of a brokerage resulted in the back-office software being deemed inadequate for BC storage requirements. What documents require BC storage, and is the problem of non-conforming software widespread?

Section 25 of RESA states that "*A brokerage must maintain proper books, accounts and other records in accordance with the rules, and must keep these records in British Columbia.*"

Section 25 of RESA is applicable to all documents maintained by the brokerage, specifically all documents maintained in hard copy must be stored within British Columbia.

However, section 91 of the Real Estate Services Rules pertaining to "*Electronic records*", states that "*a record required under Division 1 [Financial Records] or 2 [Other Records] may be retained as an electronic record if the record can be readily transferred to printed form*".

BCFSA's interpretation suggests that electronic documents maintained in a software are allowed to be maintained outside of BC, provided that the electronic documents can be readily generated and printed upon the request of BCFSA.

4. If a retired REALTOR® is referring past clients to a REALTOR®, are there any concerns?

Section 2.11 of the Real Estate Services Regulation, states:

Exemption for persons providing referral services

A person who is providing trading services only by referring a party to a trade in real estate to a licensee, or by referring a licensee to a party, for the purpose of the licensee providing trading services, is exempt from the requirement to be licensed under Part 2 of the Act in relation to the person's provision of those referral services if (a) the person does not engage, for the purpose of making a referral, in activities to solicit the names of persons who may be interested in acquiring or disposing of real estate, and (b) the practice of making referrals and receiving referral fees is incidental to the main business of the person.

As such, retired licensees can receive referrals if they are not soliciting the names of persons who wish to buy or sell real estate, and that receiving the referral is incidental (i.e. this is not a business for the former licensee).

BCFSA recommends that should licensees have any concerns with interpreting the above legislation to obtain independent legal advice for further interpretation.